

**DRAFT COPY**  
**VILLAGE OF RED HOOK**  
**ZONING BOARD OF APPEALS MEETING**  
**November 21, 2024**

Present: Chair Erik Cuthell, Member Maarten Reilingh, Member David Javscas, Member Kirstin Luks and Member Janice Potter

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Chair Cuthell opened the November 21, 2024 Zoning Board of Appeals Meeting at 6:30pm.

Chair Cuthell announced members present and that there was a quorum for tonight's meeting.

**Chair Cuthell made a motion to approve the Minutes of ZBA Meeting dated November 7, 2024. Motion seconded by Member Luks. All in Favor. Motion approved.**

**Agenda Item #1:**

Francisco Pujol  
15 Church Street  
Tax Parcel ID 6272-10-358703

Present: Francisco Pujol – Owner  
David Ruff – Architect

Chair Cuthell advised that there was one thing that the Board requested from the applicant at the November 7<sup>th</sup> meeting and a public hearing was scheduled. Chair Cuthell advised that the report requested was a structural report which was received dated November 8, 2024 and forwarded to all Board members for review (copy of report on file in the building department).

**Chair Cuthell made a motion to open the public hearing for the area variance application of 15 Church Street at 6:34pm. Motion seconded by Member Potter. All in favor. Motion approved.**

Chair Cuthell advised if anyone was present this evening to speak to please sign in on the sign-in sheet.

Chair Cuthell said the only thing that we as the zoning board can deal with is the physical attributes of the application which are area coverage and setbacks. Chair Cuthell said anything else is beyond their ability and they are not a building board and do not have the right to refuse or discuss anything on an aesthetic nature and that this is strictly on the merits of wanting to move some lines around on the property.

Chair Cuthell advised that the legal notice for the public hearing has been completed and applicant has sent all legal notices to residents within 200 feet via certified mail.

Chair Cuthell advised that 6 emails have been received by Secretary Hart in the building department for tonight's public hearing all of which will be read into record.

1. Catherine Mondello dated November 19, 2024
2. Brenda Elsey dated November 20, 2024
3. Lisa & Jim Ross dated November 20, 2024
4. Vincent Stelmach dated November 20, 2024
5. Brendan McCann dated November 20, 2024
6. Margaret Mondello dated November 21, 2024

All letters were in favor of the applicant's request. All letters are on file in the building department.

Chair Cuthell asked for public comment at this time:

#1. RAY KEELER – 20 PRINCE STREET, RED HOOK

Mr. Keeler addressed the Board asking if this only has to do with the variance and nothing about how the house came down. Chair Cuthell said unfortunately no and that is not what we can address but you are welcome to say whatever you want. Mr. Keeler said with the original variance he was not present because he was told that the roof line was just getting squared off and asked if the roof line was changing with the original variance. Mr. Cuthell said this Board did not see a plan with the first variance. Mr. Keeler said in considering a variance there are things to consider like it is an undesirable change to neighborhood; is it substantial; can it be achieved by some other method; was it self-inflicted; and said when he spoke to the owner outside of their house and asked what they were going to do he said they didn't even tell him and felt they could have said we are squaring off the front and that he was elusive about it. Mr. Keeler said he was asking about the roof because it came off so early in the process; and that they took off the siding and then started tearing off the roof and within a couple of days they got the roof off, second floor and then part of the first floor and it wasn't until then that you called the Village to say there was an issue and it was one day before the house was completely gone.

Mr. Keeler said with looking at the new house it will be 3 feet taller, wider and 2 entrances now; roof line has changed and it looks like a contemporary duplex where an old farmhouse stood so it is changing the look of the Village tremendously. Mr. Keeler said they have looked at this house for 50 years and it was fine to rent to renters for years and all of a sudden it has to be town down. Mr. Keeler said it seems to be a little after the fact and does not agree with the new design. Mr. Keeler said he would not agree to granting the variance.

#2. BONNIE JOY – 17 CHURCH STREET, RED HOOK

Ms. Joy said she agreed with everything that Mr. Keeler said and that the house was there and then it wasn't. Ms. Joy said if the picture is what it is going to be it doesn't fit at all and feels with the roof the snow will slide down onto her house. Ms. Joy said spoke about the Village project with piping and that it caused her house to shake and had concerns about foundation work and with heavy equipment it will shake the houses and not fair to bring upon us. Mr. Joy said she saw what Mr. Keeler say in that the roof went first and then it came all the way down and does not see how an engineer could have been there that same day that quick, and would like to have it not come any closer to my house or to Ray's property and does not know where those variances are going but that there is room to go back into the back yard.

Chair Cuthell said he will answer that question in that it was part of the first application, and they are actually going to pull away from the property line and not go closer to it. Chair Cuthell said the variance they are seeking will be explained and addressed.

Mr. Keeler asked if he could speak again. Chair Cuthell said ok.

Mr. Keeler said he noticed on the new plan for the house that the first floor isn't even totally bumped out and they went through all that trouble just to bump out the second floor all together but on the first floor it is not bumped out and there is a door there, and it just seems like a lot of trouble to go through in the beginning just to bump out the second floor.

Chair Cuthell said the application was 2-part – changing side yard setback and an overall lot coverage.

### #3. MARK CHENKUS – 21 CHURCH STREET, RED HOOK

Mr. Chenkus spoke and said most of those houses were built in the 1870's and why they have rubble basements and his concern is that these are traditional almost like farm houses and now we are going to put a duplex in the middle of it and cannot see how that enhances our whole neighborhood. Mr. Chenkus said it will be a duplex and commercial.

Member Luks said it is not commercial and not a duplex and looks like two separate volumes but is one.

Mr. Chenkus said no one else on the street has 2 doors and those houses there all have the same architecture, and this will ruin that section of Church Street.

No other people were present to speak.

Chair Cuthell said this Board heard everything that was said, and this concludes the public hearing.

Owner Francisco Pujol asked if he could speak before closing the public hearing.

Mr. Ruff, Architect, said he would like to talk and clarify some history and sequence.

Mr. Ruff said they were before this board prior and are asking for the same variances today, which were previously granted and that they went to the building department with the house plan which included the design before you today. Mr. Ruff said this was designed as a single-family home and a good addition to the housing stock. Mr. Ruff said the roof line and entire design of the house including a mudroom entrance at the north side of the house and porch front door entrances on the west side of the house were presented as part of the building plans prior to any demolition occurring. Mr. Ruff said the roof was part of that proposed demolition and not done under any kind of spurious or secretive means in any way shape or form. Mr. Ruff said they went through the channels as guided by the Village to perform the work.

Chair Cuthell asked if a site plan approval was needed. Secretary Hart advised no.

Mr. Ruff said in performing the demolition we started, as one would, with the roof from the top down. Chair Cuthell said you always knew that would change and you were squaring off the house and always the plan. Mr. Ruff said it was the plan and what was presented which variances were approved by this Board and which the drawings were bid and then entered into a demolition phase for the project. Mr. Ruff said per Mr. Clapper's (engineer's) letter they had him come and inspect the demolition progress the day after they we had performed the full extent of the demo as approved by the building inspector in the building plans, and when he inspected the remaining walls and foundation it was determined at that point, and per his letter, that it was not reasonable salvageable (or what was stated in his letter) and never the intent from an expense point of view, timing point of view or scope of work point of view, or for Francisco or himself to expand the scope of work and its only been unfortunate.

Mr. Pujol spoke and said this was not the plan and with original plans they tried to incorporate the old style with update version and with the variances themselves did not want to make a lot of changes or disrupt the lot so with the proposal they were improving and actually getting away from the houses next door and it is a little bit bigger than 15% but rooms are small and there are two doors because of a mudroom and a bigger porch entrance. Mr. Pujol said he would like to continue with the project.

**Chair Cuthell made a motion to close the public hearing at 6:51pm. Motion seconded by Member Javicas. All in favor. Motion approved.**

Chair Cuthell said after review of Part I of SEQR this would be a TYPE II Action which does not require any further environmental review. Board agreed.

**Chair Cuthell made a motion to classify the area variance application for 15 Church Street as a Type II Action requiring no further environmental review. Motion seconded by Member Luks. All in favor. Motion approved.**

Chair Cuthell said the Board will now complete the test sheets.

Chair Cuthell said to reiterate he said he finds the change to be aesthetically disappointing and thinks the only question asked at the first meeting and looking at the plans that they wanted to square it off and his only concern was that you weren't going to get rid of the street view and but this Board cannot debate whether they think it is pretty but will consider the impact on the neighborhood and the community because that is part of what we have to go through.

**Chair Cuthell started with test sheet:**

#1. Whether undesirable change would be produced in character of neighborhood or a determinant to nearby properties.

Chair Cuthell asked the Board for comments.

Member Reilingh said he is not sure he has any questions and with the issue of distances and proportions we were ok with that and still ok with those physical facts.

Chair Cuthell said that is literally the question that the variances we are giving - side yard setback and overall area coverage – and they are not proposing to put a roof over the whole lot or move closer to neighbors which would be significantly impactful changes.

Member Reilingh asked the precise line we are talking about moving. Chair Cuthell referred to the plans – Lot & Plan Page 9 – left hand image. Chair Cuthell said they are bringing it square from that front corner which tails off and in making it square they are also getting rid of a little bit of overhang at the driveway creating that front covered area where the mudroom access will be and bumping along the back giving it a square foundation. Member Reiling said ok.

Chair Cuthell said that is what resulted in the coverage increasing. Chair Cuthell said they are getting rid of the side yard and making it more compliant and increasing the coverage.

Member Reilingh said they are actually pulling the edge of house away from near property and also away from property on the other side. Chair Cuthell said yes.

Member Javicas said the one thing is from their conversation the last time is the reason we made the exceptions for the coverage had to do with the fact of the existing bumps that stuck out of the building that it was basically taking the building as it was and in some ways not really extending it because there was already a bump on the second floor so it was pulling it out there and kind of like adapting the building as it was, and feels to the extent that we granted

variances like lot coverage based on the logic of working with the existing structure. Member Javscias said so his question would be, in a vacuum the difference between 15% to 16% is really small and with a lot of things it is hard to make an argument with a difference between 15 and 16% and feels 16 would a dramatic effect in a neighborhood, but as far as what the logic would be as to why it is necessary to exceed that 15% is what the zoning says and our mandate is what the zoning says; unless there is a compelling reason to not follow zoning. Member Javscias said the only reason we had it before was because it was going to look more sensible when there was a wall instead of a blob sticking out on the top. Member Javscias said that was the logic we used before. Member Javscias in terms of a lot of the concerns that people have it is not our job to weigh in about what we think it should look like, and it sounds like we gave those variance based on what the building looked like there and without any knowledge of what it would look like going forward which is what we are supposed to do and we are not supposed to weigh in on what it ends up looking like. Member Javscias said his only hesitation is that the difference between 15 and 16% isn't big anywhere and that he is not totally clearly of why we exceed other than it would just be nice to have a bigger house.

Member Kristin Luks spoke said what she was she is hearing from every one tonight and what she feel personally is that the Village Code has come serious oversight to it in that if you are doing any work for building a new single family house in the Village, or a two family house, you do not have to submit a site plan for approval, so basically that means you can build whatever you want, and does not have to meet this lovely book (referencing the Pattern Book) about why buildings should blend in with their surroundings. Member Luks said we have this historic Village, and we all care about it. Member Luks said she feels there should be a new law made that says 1 and 2 family houses have to have some kind of planning board review where they get to talk about the design and fitting into the surroundings because we don't have that here.

Member Luks thinks we should alter that Law and they should go through the process of getting the design approved and come back to us and we will give the variances.

Chair Cuthell said he hears that but we cannot reject it on that basis. Member Luks said we could make it provisional. Chair Cuthell said it is outside. Member Luks said then how do we get the Law changed. Chair Cuthell said by talking to the Village Trustees at a Village meeting. Member Luks said ok. Chair Cuthell said unfortunately for this case its past. Member Luks said she completely understands but this opens a whole can a worms for people buying historic homes in the Village. Chair Cuthell said yes and he agrees.

Chair Cuthell referenced about 11-12 years ago there was what he thought was a green scape book with a master plan suggesting what we wanted the Village to look like or develop into, but apparently is not codified in our Village Laws.

Member Luks said what we should do then is make a memo to the Trustees saying that we want this change to the Village Code, which won't affect you (applicant present) but would protect other properties going forward which is very important and important to everybody who spoke this evening. Chair Cuthell said he agrees. Member Luks said while we might not be

able to comment on what your building looks like this will allow other parts of the Village to comment on what other new construction and new additions would look like. Chair Cuthell said he will draft something for the next meeting for the Board to review together.

Member Javicas said one thing in addressing the folks who had concerns about the variances he thinks one of the things that is confusing about this is that in the context of asking questions about the variances and asking about the character of the community and of course when all of us think about the character of the community we think about 1870's farmhouses, but in this context what's meant by the character of the community is strictly in terms of how far away are you from the property. Chair Cuthell said it is strictly dimensional. Member Luks said it is zoning things and not beauty.

Member Reiling said so what he is hearing is that in a way because if someone were to build a new house they would start with the planning board and those plans would be approved but because this house was torn down. Member Luks said single family and two-family homes do not require planning board review which is a huge mistake.

Chair Cuthell said for this house it doesn't matter what is being built the only thing in front of us is side yard set back and overall lot coverage but beyond it is not up to us.

Member Potter said one of our mandates is that the proposed buildings fit into the character of the community so how does that only refer to the coverage and setbacks?

Chair Cuthell said these are area variance and these questions and we can say any answer we want and still make our own conclusion at the end but being does it make an undesirable change doesn't make it unprovable.

Member Javicas said the undesirable change being just how far away and the only aspect of the desirability that we are allowed to weigh in on are the things that they are asking for a variance about so is it a desirable change to have the side yard be 4' instead of 10' and a undesirable change to have 16.46% from 15% in lot coverage.

Chair Cuthell asked each member to vote on Question #1.

Member Javicas said he is a little stuck in terms of how we vote on this is because for anybody that says I would rather build a house that takes up 16.46% rather than 15% most people given the choice, would rather have a slightly bigger house and its not a big difference so before thinking about yes or no is it our purview to say 1.46% isn't that big of deal.

Chair Cuthell said do keep in mind if you look at this application all of the lots in the Village are labeled, these are some of the smallest lots in the village so honestly if the plan they wanted took up more than 16% it would still be worth the consideration because it is such a small lot.

Member Javicas said ok and that is the logic we have to look at. Chair Cuthell said right.

**Chair Cuthell asked each member to vote on Question #1.**

Chair Cuthell said when you see the photographs and elevations he is saying yes and in his personal aesthetic opinion it represents an undesirable change but we cannot reject it out of that and yes the language is vague because what are we considering undesirable is out of hands and we are tied to the side yard and overall area variance and he wants to vote yes, but **Voted NO.**

Member Reilingh – **NO**

Member Javicas – it's a really small lot but what is important is that we clarify why it is and prior house footprint.

Votes **NO**

Member Luks – **YES.** You are changing the volume of the house.

Member Potter – **YES**

MAJORITY VOTE: NO

**QUESTION #2:**

BOARD ALL VOTED YES

**QUESTION #3**

BOARD ALL VOTED NO

**QUESTION #4.**

BOARD ALL VOTED NO

**QUESTION #5.**

BOARD ALL VOTED YES

The Board discussed factors in decision if request DOES NOT or DOES outweigh the Detriment to the Neighborhood or Community.

**VOTE:**

Reiling – AYE (in favor)

Javicas – AYE (in favor)

Luks – NAY

Potter – AYE (in favor)

Cuthell – AYE (in favor)

After discussions it was decided that applicant's request DOES outweigh the Detriment to the Neighborhood or Community.

Board added to Reasons: small lot size & that we are increasing compliance of side yard setback.

Member Reiling felt another reason is that it maintains the general layout of the lot that was historically there. Chair Cuthell said yes for most part and on top of original foundation.

Chair Cuthell said this Board is granting a minimal variance and no further conditions to be set, but this Board will address Member Luks prior discussed concerns.

**Chair Cuthell said vote has been completed: 4 to1 in favor of variances being granted.**

**Chair Cuthell made a motion to adjourn the November 21, 2024 ZBA Meeting at 7:27pm. Motion seconded by Member Potter. All in favor. Motion approved.**

Lara Hart,  
Secretary, Village of Red Hook ZBA