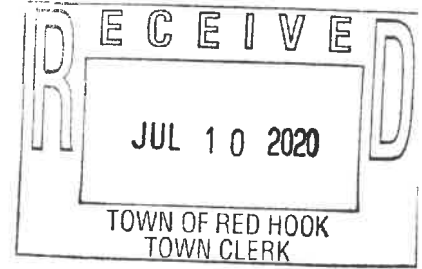


Town of Red Hook
Zoning Board of Appeals Meeting Minutes (Approved)

June 10, 2020



CALL TO ORDER

The meeting was called to order at 7:00 pm by Chairman Nick Annas.

ROLL CALL

Members Present: Chairman Nick Annas, Kate Karakassis, Chris Carney, Chris Klose, Jim Hegstetter.

Members Absent: No members are absent

Also Present: Victoria Polidoro, ZBA Attorney, Applicant Fredrique Linnea Brown, her daughter, Jennifer Philipson, David Borenstein, Architect for Applicant Fredrique Linnea Brown, and Thomas Markunas, next door neighbor of the applicant.

PRELIMINARY BUSINESS

May 13, 2020 Meeting Minutes

At 7:04pm Chairman Annas asks for a motion to approve the May 13, 2020 meeting minutes. Chris Klose so moves, Kate Karakassis seconds. Chairman Annas notes there are a few typos, which do not change the substance of the minutes. Clerk Anne Rubin agrees to correct them, and asks the Board if it wants to wait to vote on the minutes, to which Chairman Annas replies it is not necessary, since these changes will not change the content of the minutes.

At 7:05pm Chris Klose votes YES, Chairman Annas votes YES, Kate Karakassis votes YES, Chris Carney votes YES, and Jim Hegstetter votes YES to approve the May 13, 2020 meeting minutes with the typos corrected.

Planning Board Minutes/Comments from the Chair

There are no comments from the Chair or the Board.

Public Hearing (continued from the 5-13-20 ZBA meeting)

ZBA 20-01 Brown Amended Appeal for an Area Variance

Fredrique Linnea Brown application for an area variance to construct a 480 SF addition on the subject parcel, which would result in a 12.8% building coverage on the lot. Town of Red Hook Zoning Law, District Schedule of Area and Bulk Regulations, limits the maximum building

coverage, in the RD3 Zone to 7%. The subject parcel is located at 155 Country Club Drive, in the RD3 Zoning District of the Town of Red Hook.

Chairman Annas reads the agenda item and asks the applicant if she has any comments. Jennifer Philipson states she has emailed a letter to the Board today, addressing her neighbor's concerns. Chairman Annas asks the Board members if they have had a chance to read it, and asks Clerk Anne Rubin to read the letter into the record [See Exhibit A]. After the letter has been read, Chairman Annas asks Ms. Philipson if she has any further comments. Victoria Polidoro recommends the applicants explain the changes they have made, since the last meeting, and discuss the revised plans with the Board. Ms. Philipson states she will defer to her architect, David Borenstein, to explain it.

Mr. Borenstein states the plans have not changed, but the site of the proposed addition has been moved over so that the side yard setbacks, on either side of the addition, meet the 35' setback requirement on either side. Mr. Borenstein further states it is his understanding that the applicants could also reduce the setback to 21'. Mr. Borenstein notes the height of the proposed addition, at 26' from grade to pitch, is well under the permitted maximum height limit, and further notes the two-story structure covers less of the lot, than if the same amount of square footage were all on one floor. Mr. Borenstein states the drawing that was submitted to the Board was done by a surveyor, and not by him.

Chairman Annas asks if Tom Markunas and/or his legal counsel are at the meeting. Clerk Anne Rubin displays a letter from Mr. Markunas' attorney, John Marvin, on the screen. [See Exhibit B]. Victoria Polidoro states because the letter is displayed on the screen, and because all Board members have seen it, it does not have to be read into the record, but the record should show it was received and entered into the record. Chairman Annas asks if the applicant has seen the record, to which Ms. Philipson replies they have, and further comments her and her mother's letter, referred to above, is a response to the letter from Mr. Markunas' attorney.

Before hearing comments from the public, at 7:17pm, Chairman Annas asks the Board for a motion to open the public hearing. Chris Klose so moves, and Jim Hegstetter seconds. Chris Klose votes YES, Kate Karakassis votes YES, Chris Carney votes YES, Chairman Annas votes YES, Jim Hegstetter votes YES.

Chairman Annas asks Mr. Markunas if he has any comments regarding the letter his attorney sent to the Board, to which Mr. Markunas replies he would like for the letter to be read aloud into the record, just as the applicants' letter was. Chairman Annas replies every Board member has seen it, the applicant has seen it, and Victoria Polidoro states it has been noted for the record and displayed on the screen, and states Mr. Markunas can read it as part of his public comment. Clerk Anne Rubin asks Mr. Markunas, for the record, if his attorney is present, to which Mr. Markunas replies he is not. Mr. Markunas reads the letter, noting the proper street name is "Country Club Drive" and not "Country Club Lane", as stated in the letter. [See Exhibit B].

Chairman Annas asks the Board for comments. Victoria Polidoro asks Mr. Markunas what the standards for preparing a sun study, and further asks if any credentials are required for preparing one, and if an architect is qualified to do this. Ms. Polidoro further asks if the applicants' architect has seen it. Mr. Markunas replies he has modeled these properties with very sophisticated architectural modeling software, and further states as a licensed architect in New York State, he stands by what is represented in the sun studies. Mr. Markunas states a challenge to them would have to show different calibrations. Ms. Polidoro asks Mr. Markunas if he can

explain how he created the sun studies, to which Mr. Markunas replies he modeled his own home in great detail as part of his home renovation a year ago, and further comments when his neighbor proposed their own addition, he based his sun studies on the drawings they submitted. Ms. Polidoro asks Mr. Markunas if the sun studies take into account existing vegetation, to which Mr. Markunas replies they do not. Ms. Polidoro asks if the applicants' architect has reviewed the sun studies and if he has any comments regarding them.

David Borenstein states he has reviewed them, and notes they [a series of videos] seem to go by very quickly. He further comments he does not have, or use, this type of software, and further notes that in the past he has done a version of a sun study using a quarter scale model and flashlights. Mr. Borenstein states he finds the site is predominantly obscured on the southern border of the neighbor's property, by large trees, an approximately 60' high maple, and arbor vitae. He further states he finds the trees are taller than the house, and notes he has been at the site several times, but was not overly focused on the trees, at the time. Mr. Markunas states if Mr. Borenstein does not have the software, and did not do a sun study, he did not consider shadowing on Mr. Markunas' home in his design for the applicant. Victoria Polidoro reminds everyone comments must only be directed at the Board. Mr. Markunas states he will direct the same comments to the Board, and adds sun studies may not be very common in the Town of Red Hook, further stating they are used, and sometimes required, in many other municipalities. Mr. Markunas states a sun study may be relevant, especially if [the proposed addition] is casting a shadow on his house in such a way as to cause a negative effect.

Mr. Markunas further states he finds the 12.8% increase [of building coverage] on the Brown's property is not a big deal, and states he does not dispute this. Mr. Markunas states the applicants' lot is 90' wide, and further comments it could be argued that an addition on a 90' wide lot is a big deal for the neighbor who is that close. Mr. Markunas states if the proposed addition were to be sited near the edge of the property, as one enters it from the private road, no one would take exception to it. Mr. Markunas states there are some minor design changes that would go a long way to making this a better project for him and everyone else, with very little impact to the applicant. Chairman Annas asks Mr. Markunas to state these minor changes to which he is referring. Mr. Markunas states a reduction of the roof pitch from 45° to 30°, and rotating the proposed addition 90° so that the gable end is facing his home, instead of the eve end. Mr. Markunas states he finds these are minor changes that do not affect the utility or function of the proposed addition.

Chairman Annas states he finds the changes Mr. Markunas is suggesting are very personal preferences, and further notes what a homeowner chooses in terms of roof pitch, roof material, wood or masonry siding, and the like, is a big deal to a homeowner, and further comments he knows these things are important to Mr. Markunas regarding his own home. Chairman Annas states he does not find Mr. Markunas can argue the suggested changes are minor. Mr. Markunas states there is a question on the ZBA application regarding whether or not the proposal is in character with the neighborhood, and further states he has submitted some 20 photographs of homes in the neighborhood that are substantially different than a 45° roof pitch.

Jennifer Philipson states she and her mother have gotten approval from the Red Hook Country Club Board of Directors for their proposed design, and further comments if that board felt the proposal was in conflict with the neighborhood, they would certainly not have approved the design.

Victoria Polidoro states design is important, and the Board has to consider the impact of the proposed variance on the character of the neighborhood. Ms. Polidoro further notes the requested variance is for lot coverage, and states the Board will be looking at whether or not the lot coverage is going to have an impact on the character of the community. Ms. Polidoro further states if the applicant had applied for a height variance, then the design of the building might come into play a little more, and she continues, stating the same would be true for a side yard setback variance request, since the proposed structure is going to be closer to someone's side yard lot line. Ms. Polidoro concludes stating the Board has to decide whether the increase in lot coverage is consistent or inconsistent with the character of the neighborhood, and if the requested lot coverage will have a deleterious effect on the community, and apply the criteria that question.

Kate Karakassis notes the Board is allowed to impose certain conditions when it grants an area variance for lot coverage, and asks Ms. Polidoro if it is allowed to consider character of the neighborhood, if it is consistent with what the Board feels is the character of the neighborhood, to which Ms. Polidoro replies the conditions have to be reasonably related to the impact of the variance. Chris Klose states, he finds, in other words, the matter at hand is strictly about lot coverage, further noting he finds, in the photographs submitted by Mr. Markunas, there really is an undefinable character in the series of houses that began as bungalows, some without even electricity or running water. Mr. Klose further states he wants to maintain the Board's endeavor in looking at the specific application, and focus on the lot coverage issue, and not focus on aspects that are matters of personal preference.

Kate Karakassis states she finds Victoria Polidoro's questions, at the beginning of the meeting, regarding the sun studies interesting, and further comments she reviewed the studies and checked the sunset times on January 1, April 1, July 1, and October 1, and found the following: On January 1 there were 9.2 hours of daylight, and according to Mr. Markunas' sun study, he would receive 39 minutes less of full sun through his south facing windows; on April 1 there were 12 hours 49 minutes of daylight, and Mr. Markunas would receive 2.5 hours less of full sun through his south facing windows; on July 1 there were 15 hours of daylight, and Mr. Markunas would receive 2.5 hours less of full sun through his south facing windows; on October 1 there were 11 hours and 42 minutes of daylight, and Mr. Markunas would receive 2.5 hours less of full sun through his south facing windows. Ms. Karakassis states this represents the sum impact on Mr. Markunas' south facing windows, adding Mr. Markunas invited her into his home, and during that visit, Ms. Karakassis states, she noted the south facing windows in his living room, a storage room, and the entryway would be affected. Ms. Karakassis notes the main living areas of his home, the living room and bedroom would not be affected by any shade that was cast from the proposed, new structure.

Chris Klose asks Ms. Karakassis if she noted the trees in question, when she visited Mr. Markunas' home, and asks her if they were casting shadows in the house, to which Ms. Karakassis replies there is an existing stand of tall trees, which do not have foliage low to the ground, and further notes there is a line of what appears to be arbor vitae, which divides the two lots, and which would cast some shadow when the sun was low to Mr. Markunas' house.

Victoria Polidoro asks both Mr. Markunas and Mr. Borenstein if the applicant were to shrink the proposed addition, so that no lot coverage variance was needed, maintaining the same height, roof pitch and configuration, would the shade impact to the neighbor be the same. Mr. Markunas replies for every foot the addition is reduced, the impact is reduced, and further states this is why he has requested the applicant reduce the roof pitch and re-orient the addition, to which Ms.

Polidoro asks Mr. Markunas to confirm a smaller version of what is being proposed would, however, have the same impact on shade, which he states he cannot.

Mr. Borenstein states he is trying to create sufficient space for his client, noting the upstairs bathroom is arranged in a stairwell of a 20' wide space, with a bridge that connects to the Master Bedroom. Mr. Borenstein states shaving off a foot or two would not reduce the shading by very much, and notes the walls the roof springs from are only 6' high in order to keep the height lower, and further notes the applicants are inhabiting the underside of the roof as part of the design process, such that the pitch of the roof is not merely aesthetic. Mr. Borenstein states the drawing that shows the section illustrates this. Victoria Polidoro states she was not suggesting the applicant shrink the project, and further notes she was trying to understand, if the proposed structure were within the required lot coverage, whether or not it would have the same impacts to the neighbor. David Borenstein states, with the exception of the [lot coverage] area variance, the project is well within the maximum dimensions permitted by the code, noting the height will well below the maximum permitted height. Mr. Borenstein states he finds the neighbor has received a variance for greater lot coverage than his client, and further notes there are a number of houses and other structures very close to lot lines in the neighborhood, and also he finds the houses in the neighborhood have more differences in appearance than similarities.

Mr. Markunas asks what would be the negative impacts to the applicant, were they to agree to his requests for a reduction in roof pitch and 90° rotation of the addition, to which Mr. Borenstein replies the design of the proposed addition was considered at great length, and further notes the applicant chose to have no second story windows on the side facing Mr. Markunas' property, and also moved a dormer, originally on the north side, facing Mr. Markunas' property, to the south side, facing away from him. Mr. Borenstein states he finds the structure is very well planned, and that the longitudinal section is 24' x 30', which Ms. Philipson corrects to 24' x 20'. Mr. Borenstein states the length is from the road to the lake, and further comments by rotating that it would diminish the whole upper story plan, since it would have to be 4' shorter in that dimension. Mr. Borenstein states it is an integral part of the design to have the collar ties at that height, springing from a 6' wall, noting this is code-compliant. Mr. Markunas states Mr. Borenstein could raise the collar ties to 1/3rd from the peak. Mr. Borenstein states this has been done elsewhere.

Chairman Annas states he finds there has been sufficient discussion on that and notes anyone familiar with the neighborhood could look to the north of the Markunas property and see the Curthoys house, which pushes the limits what is allowed in terms of height and roof pitch in the neighborhood. Chairman Annas further notes he wants to limit the discussion to the lot coverage, and notes, regarding the applicant's letter, ZEO Bob Fennell has reviewed the average lot coverage in the area and ten years ago calculated this as 19%. Chairman Annas further comments other homes have received variances since then, and notes the Board has heard arguments regarding architectural preferences, which are not in its purview. Victoria Polidoro states the Board should not consider architectural preferences, and further notes, there is some sense in which the size/sides of the building and its height does have an impact, and she further comments if the lot coverage is very high, and a building is 3 stories, for example, this is more of an impact than a smaller lot coverage at one story. Ms. Polidoro further states these factors do play in to each other, but the Board has to be careful to keep purely aesthetic choices out of the discussion. Chris Klose asks Ms. Polidoro to confirm the current application is for a two-story structure, which she does.

Ms. Polidoro asks Chairman Annas if he wants to close the public hearing tonight and give the Board some time to think about the new information it has received since the May meeting. Chairman Annas asks Clerk Anne Rubin if there are any further questions or comments from the public, to which Ms. Rubin replies at this time, 7:56pm, she has received no emails or phone messages other than what has already been noted and distributed to the Board. Chairman Annas asks for a motion to close the public hearing.

At 7:56pm Chris Klose moves to close the public hearing, and Kate Karakassis seconds. Chris Klose votes YES, Kate Karakassis votes YES, Chris Carney votes YES, Jim Hegstetter votes YES, Chairman Annas votes YES.

Victoria Polidoro asks the Board if it wants to take some time to digest everything it has heard tonight. Jim Hegstetter states he does not need more time, Chris Klose agrees, Chris Carney states he is all set, Kate Karakassis states she is comfortable with everything she has heard, and Chairman Annas states he has not heard anything tonight that would affect his opinion, and further states at the May 13 meeting he asked the applicant to move the structure at least an additional 10' away from the shared lot line with Mr. Markunas, and he further comments the applicant has moved it some 23' away from the original proposed site, thereby removing it from a grandfathered setback to the current required setback of 35' from the side yard lot line.

Clerk Anne Rubin states she can display a draft variance resolution form, partially completed with the applicant's information, which the Board can use as a template to draft a new variance resolution. Kate Karakassis confirms that none of the information on that document, other than the applicant's information, will be used in the new resolution. Victoria Polidoro states the Board can go through the questions and findings, and then she can draft a resolution, which the Board can vote on at the July meeting, or at a Special Meeting. Ms. Polidoro states the resolution she will draft will be based on the Board's discussion tonight. Kate Karakassis states she supports having Ms. Polidoro draft a resolution, Chairman Annas agrees, Chris Klose agrees, and Jim Hegstetter states he would like to have Ms. Polidoro draft the resolution, and have the Board vote on it at a Special Meeting. Clerk Anne Rubin displays the form. Chairman Annas reminds the Board the applicant's requested variance is to increase her lot coverage to 12.8%.

1. The variance requested will not produce an undesirable change to the neighborhood or a detriment to nearby properties.

Chris Klose agrees – no undesirable change. Chris Carney agrees – no change to the character of the neighborhood. Jim Hegstetter agrees with both Chris Klose and Chris Carney. Kate Karakassis finds no detriment to the neighborhood, and a slight detriment to Mr. Markunas' property. Chairman Annas finds no detriment to the neighborhood, and no change to the character of the neighborhood.

2. The needs of the applicant cannot be achieved by other than an area variance.

Chris Klose agrees. Chris Carney agrees. Jim Hegstetter agrees. Kate Karakassis agrees. Chairman Annas agrees.

3. The requested variance is not substantial

Chris Klose states the variance is not substantial within the bounds set by the precedent of an average of 19% lot coverage in the neighborhood ten years ago. Chris Carney states he finds the

variance is substantial in numeric terms, but not historically substantial. Jim Hegstetter states he finds the variance no more substantial than the other variances the Board has granted at Red Hook Country Club. Kate Karakassis states the requested variance is an 80% increase over the permitted lot coverage, which she finds substantial, and further states in light of the surrounding properties, the requested variance is not inconsistent with lot coverages in the neighborhood. Chairman Annas states the requested variance is numerically substantial, but relative to the other properties in the neighborhood, it is not substantial.

4. The requested variance will not affect the physical or environmental conditions in the neighborhood.

Chris Klose agrees. Chris Carney agrees. Jim Hegstetter agrees. Kate Karakassis agrees. Chairman Annas agrees.

5. The hardship for which the variance is sought to rectify was not self-created.

Chris Klose – it is self-created, Chris Carney – agrees, Jim Hegstetter – agrees, but states the question really does not make sense, Kate Karakassis – agrees, Chairman Annas – agrees.

6. The variance being granted is the minimum variance to meet the needs of the applicant.

Chris Klose – YES, Chris Carney – YES, Jim Hegstetter – YES, Kate Karakassis – YES, but states this is based on what the applicant has told the Board, Chairman Annas – YES.

Victoria Polidoro states the Board makes payment of fees and escrow a condition of all variances, and notes Kate Karakassis had asked about other conditions earlier in the evening. Kate Karakassis responds stating Mr. Markunas has asked for two things, a reduction of the roof pitch, and a rotation of the addition 90°, so that the gable end of the structure faces his property. Ms. Karakassis further states she has looked at the sun studies, presented by Mr. Markunas, and noted the daylight hours on those dates, which, she states, are what she understands to be the impact on Mr. Markunas' property from increased shade. Ms. Karakassis states balancing this with the stated needs and desires of the applicant, she does not find any other conditions are appropriate. Chris Klose states he agrees.

Jim Hegstetter states Red Hook Country Club, which Mr. Hegstetter describes as a Homeowner's Association, has not indicated any concerns with the project. Victoria Polidoro states the comments from the Red Hook Country Club should go into the record, as received, distributed to the Board, and recorded[See Exhibit C]. Kate Karakassis states she is not familiar with the Red Hook Country Club, the standards they use, and further notes their approval of the project in no way influenced her decision on the project. Tom Markunas asks to make a comment regarding the Red Hook Country Club, further stating he was not contacted or consulted by this body regarding their decision to approve the project, and states he finds this was not appropriate. Chairman Annas states the Board really has nothing to do with Homeowner's Associations.

Chairman Annas asks Victoria Polidoro if she has enough information from the Board to draft a resolution. Ms. Polidoro states she can draft the resolution and circulate it to the Board, and further comments the Board can vote on it at its July meeting, or at a Special Meeting. Chairman Annas asks Ms. Polidoro how soon the resolution can be ready for the Board, to which Ms. Polidoro replies a few days. Chairman Annas suggests scheduling a Special Meeting for later in

the month, and the Board members, ZBA Attorney, and applicants agree on June 23rd, 2020 at 7:00pm.

At 8:18pm Chairman Annas asks for a motion to declare the action Type II under SEQRA.

Chris Klose so moves, and Jim Hegstetter seconds.

Chris Klose – YES, Chris Carney – YES, Jim Hegstetter – YES, Kate Karakassis – YES, Chairman Annas – YES.

At 8:19 Chairman Annas asks for a motion to adjourn the meeting.

Jim Hegstetter so moves, and Chris Carney seconds.

Chris Klose – YES, Chris Carney – YES, Jim Hegstetter – YES, Kate Karakassis – YES, Chairman Annas – YES.

The meeting is adjourned. The next regular ZBA meeting is Wednesday, July 8, 2020.

Zimbra

ZBA Approved Zimbra

6-10-20 Minutes

Exhibit A

(11 pages)

arubin@redhook.org

Markunas, Thomas - Red Hook ZBA; Brown for Two Area Variances

From : John R. Marvin, Esq. <jmarvin@marvinandmarvin.com> Tue, Jun 09, 2020 04:15 PM
Subject : Markunas, Thomas - Red Hook ZBA; Brown for Two Area Variances 1 attachment
To : arubin@redhook.org
Cc : Thomas Markunas <lagodue@gmail.com>

Dear Ms. Rubin:

Attached is a letter for submission as part of the public hearing for the Brown application on for tomorrow evening. My client, Tom Markunas, will be submitting directly a sun study and some photographs to be included in the record.

John R. Marvin
Marvin and Marvin, PLLC
PO Box 151
44 West Market Street
Rhinebeck, NY 12572
Telephone: 845.876.3024

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 **6-9-20 ltr to RHZBA.pdf**
158 KB



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John R. Marvin

Gayle K. Zelazny

Michael A. DiFalco

Tuesday, June 9, 2020
File no. 6179/15.01.19

By e-mail, arubin@redhook.org

Nick Annas, Chairperson

Red Hook Zoning Board of Appeals

7430 Broadway

Red Hook, NY 12571

Re: Linnea Brown Application for Variance/ Markunas

Dear Chairperson Annas and Members of the ZBA:

This letter is provided as written comment on the application for variance of Linnea Brown, for property located at 155 Country Club Lane on for continued public hearing June 10, 2020. My office represents Thomas Markunas, an adjoining property owner, 161 Country Club Lane. The present application involves a proposed addition to the northerly side of the Brown residence which is the side of her property that is closest to the boundary line with Markunas. The original application sought two variances; one to increase allowable lot coverage and the other to reduce the side yard setback requirements.

Mr. Markunas presented and submitted objections at the initial public hearing with evidence of impact of both variances, most notably in the amount of sunlight blockage the addition would have on the Markunas property. In cooperative spirit, the applicant has redesigned the addition to be within existing side yard setback requirements and seeks only the coverage variance. Mr. Markunas is appreciative of that but will still see a substantial negative impact from the coverage increase which can be mitigated by some simple design changes set forth below. It is his hope that the applicant will volunteer those changes, absent which we request that they be made conditions of any grant of a variance. *See Perlman v. Board of Appeals of the Village of Great Neck Estates*, 173 A.D. 2d 832, 570 N.Y.S.2d 656 (2nd Dept. 1991)(ZBA may impose conditions in conjunction with granting of variance reasonably related to property at issue. Conditions including fence placement, height limitation and screening to mitigate impact on neighbor were reasonable conditions for variance in connection with erection of a wall.)

The coverage variance sought seeks an increase in allowable coverage from the permitted 7% to 12.8%. This is almost double the permitted lot coverage that is arguably too narrow not have a negative impact on adjacent property. In any case, the size of the variance must be deemed substantial.

The redesign by the applicant was a step in the right direction toward mitigating the impact on the Markunas property, but did not go far enough. Mr. Markunas prepared a second sun study based on the revised plans he is submitting directly to the Board. This second study shows that the plan will still have a substantial negative impact on the Markunas residence by casting shadows on his home due to the direction of the roof and pitch of the roof, which is at a very steep 45 degrees. These design elements also cause a negative visual impact for the neighborhood which includes predominately flatter roof lines in the 20 degree range. While the steep roof line, alone, can be aesthetically appealing, it is less so in the context of the neighborhood style. Photos showing other neighborhood properties are being submitted directly by Mr. Markunas. Board members can also visit the neighborhood to see the predominant styles.

Two simple modifications in the current design can mitigate these negative impacts. First, the applicant could rotate the roof such that the gable end is facing the Markunas property. In addition, the applicant could reduce the roof pitch from 45 degrees to 30 degrees, which would make it less incompatible with other roof lines in the neighborhood. The applicant could also consider dormers in connection with the reduced roof pitch. I understand that these design changes were raised at the initial public hearing by Member Kate Karakassis. We maintain that these recommendations are both reasonable conditions for the variance and necessary to balance the interests of the applicant on the one hand with Mr. Markunas and the neighbors on the other.

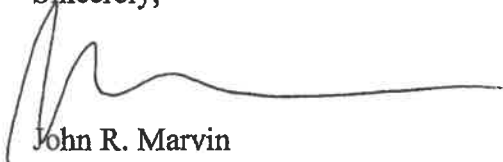
If the applicant accepts either or both of these design changes, the variance will not be opposed by Mr. Markunas. If the applicant rejects them, the ZBA can deny the variance or add the design changes as conditions of an approval. Such conditions would be consistent with the review criteria for granting a variance:

1. A variance without condition would produce an undesirable change in the character of the neighborhood by including a tall, steep pitched roof, unlike the style that predominates the neighborhood. It would also create an undesirable impact directly on Mr. Markunas's property by blocking more sunlight than it would with the changes.
2. The desired result of having an addition to the home can be achieved by another means by incorporating the design changes requested by Mr. Markunas.
3. The variance request is substantial, so conditioning the variance on the design changes is well within the authority of the ZBA.
4. The variance without design change will have an adverse effect as discussed above, while incorporating them will have no material impact on the applicant. In applying the required "balancing of interests" analysis, the scale tips decidedly in favor of requiring the changes. (*See Sasso v. Osgood*, 86 N.Y.2d 374 (1995)(ZBA must balance benefit to applicant against negative impact on neighbors and neighborhood.)
5. The need for the variance is self-created from the mere fact that the applicant wants to put on and addition on a non-conforming lot. Here the roof design and direction are personal preferences of the applicant, which negatively effects Mr. Markunas's property. The

applicant can modify the design to mitigate the negative impacts and still have an architecturally pleasing and functional addition.

Not incorporating these changes would make an approval arbitrary and in contravention of the evidence put before board. Based on the foregoing Mr. Markunas respectfully requests that any approval of the variance sought be conditioned on the design changes referred to above.

Sincerely,



John R. Marvin
CC: Thomas Markunas

Zimbra**arubin@redhook.org**

ZBA hearing June 10

From : Th <lagodue@gmail.com>
Subject : ZBA hearing June 10
To : Anne Rubin <arubin@redhook.org>

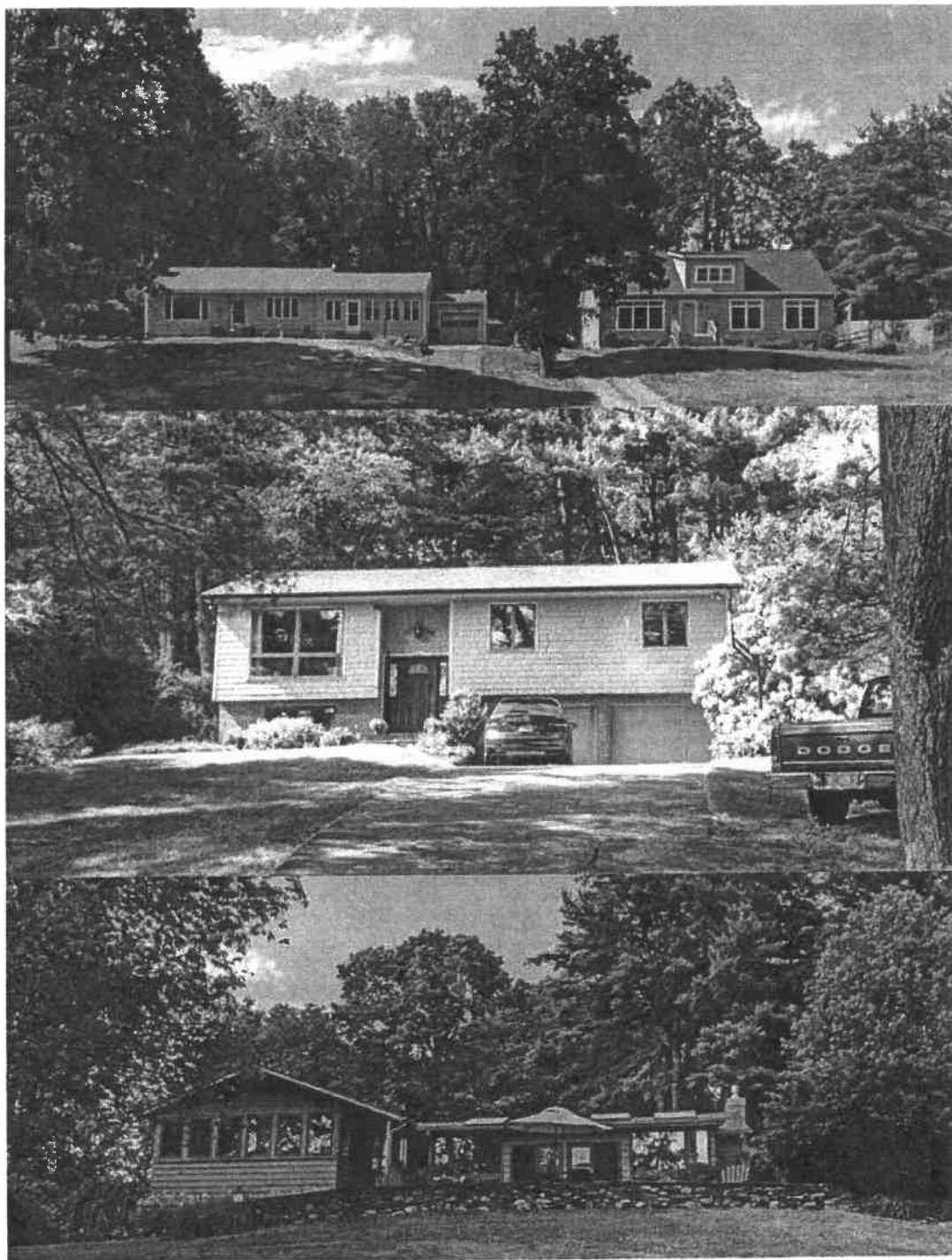
Tue, Jun 09, 2020 07:19 PM

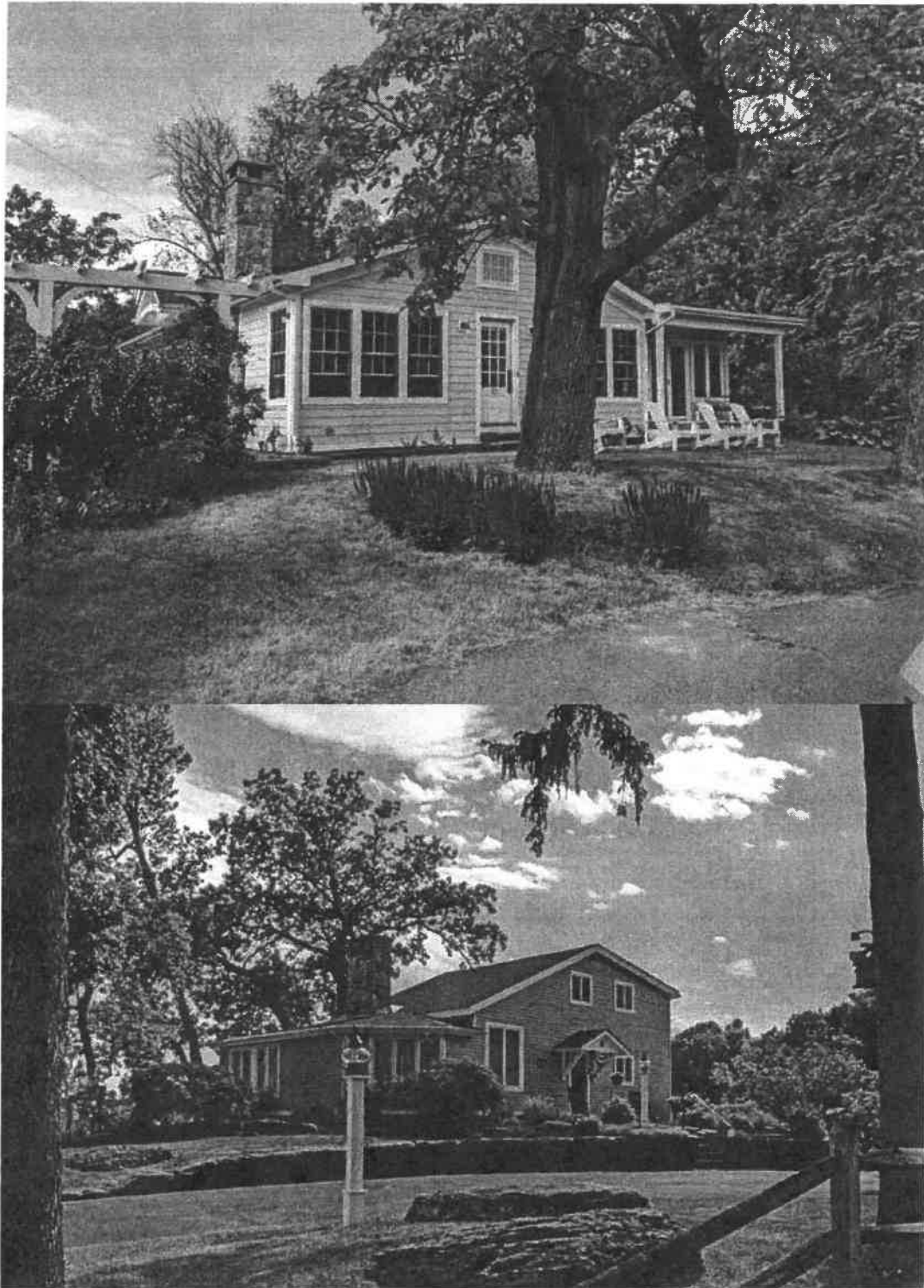
📎 20 attachments

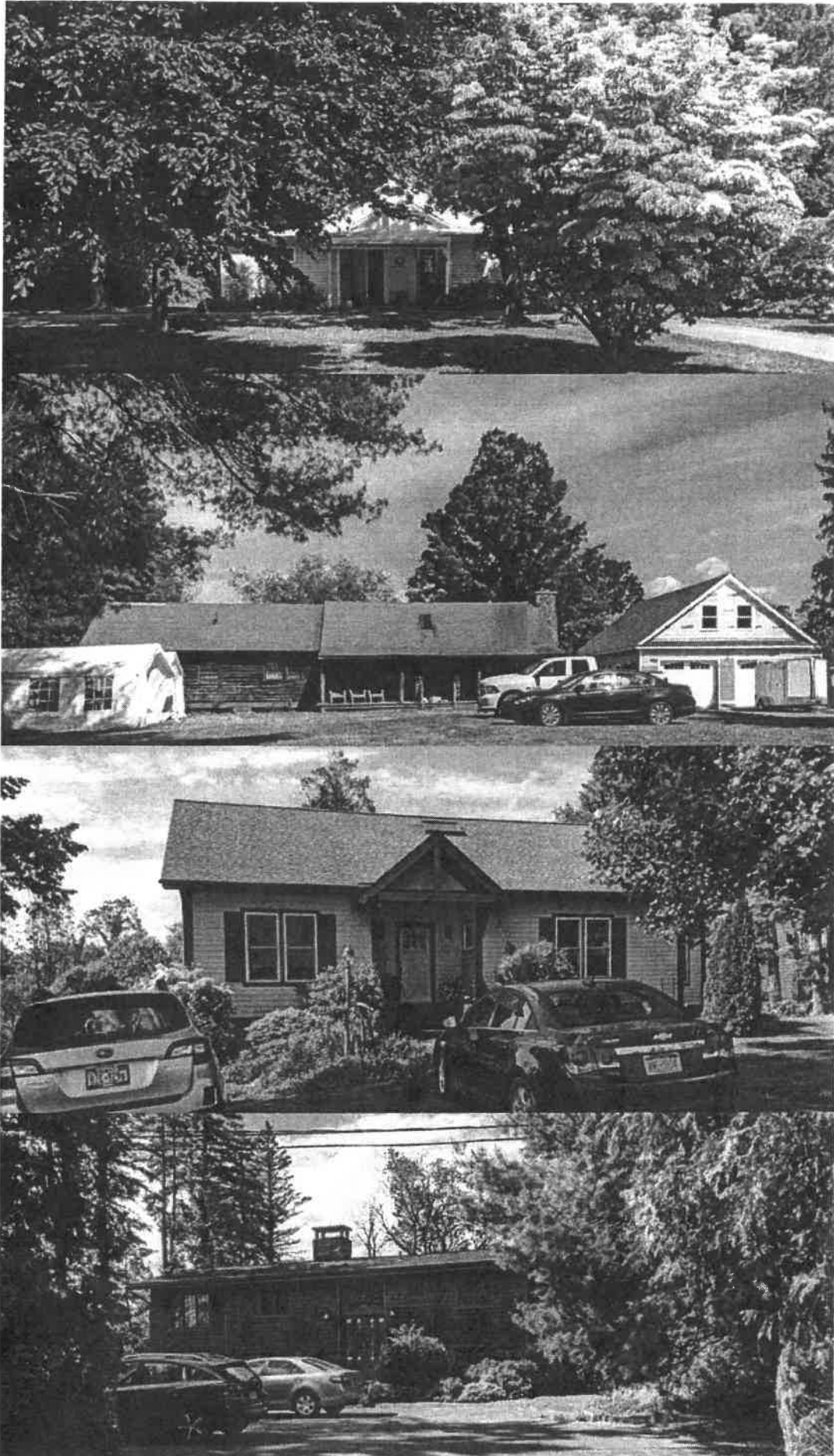
Dear Anne,
Kindly see attached sun studies and photos of neighborhood home rooflines relative to the June 10 ZBA hearing for Brown's application for variance. These are referenced in the letter from my attorney John Marvin dated June 9, 2019 sent to your good self on my behalf and for the ZBA committee.

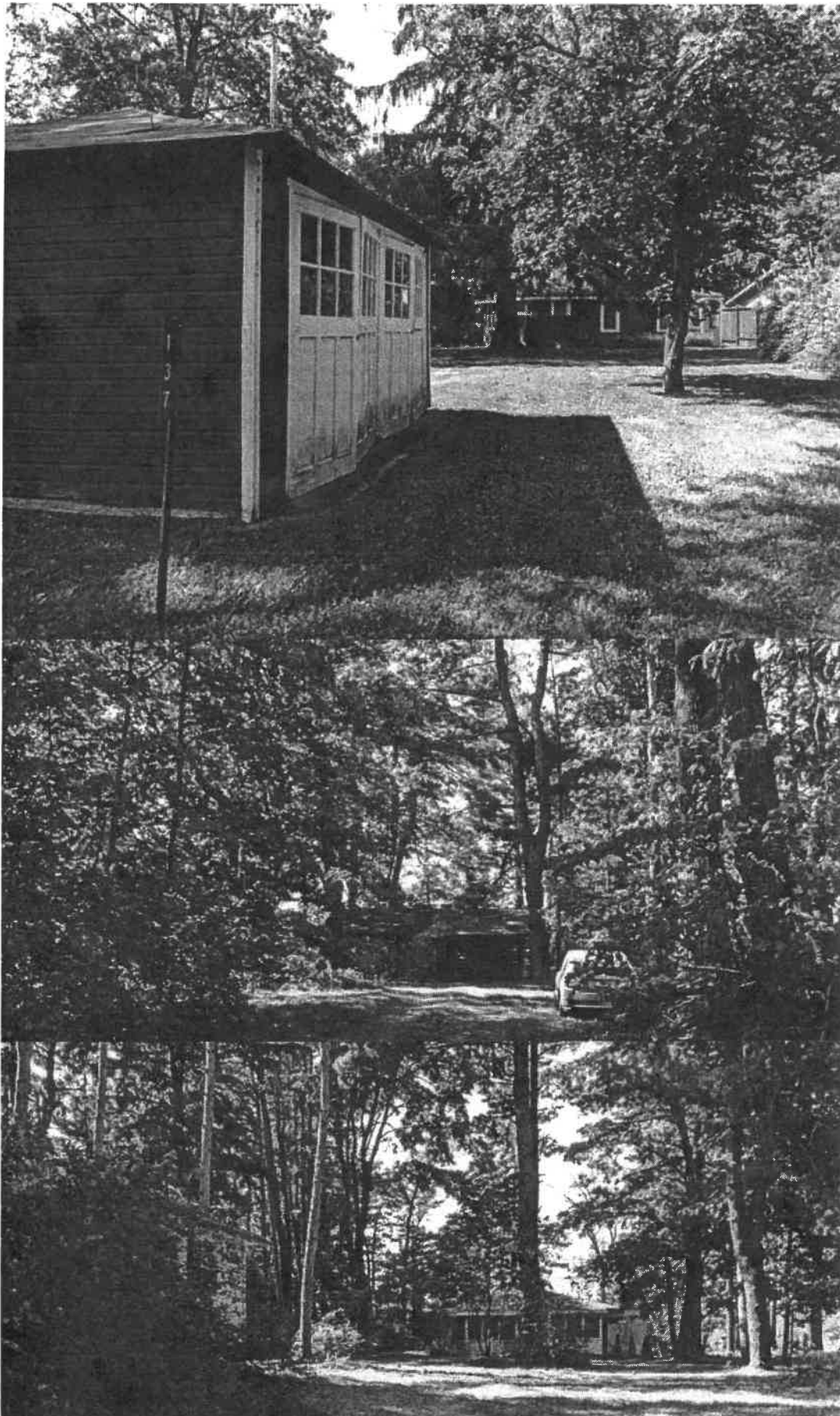
Best rgds,
Thomas Markunas

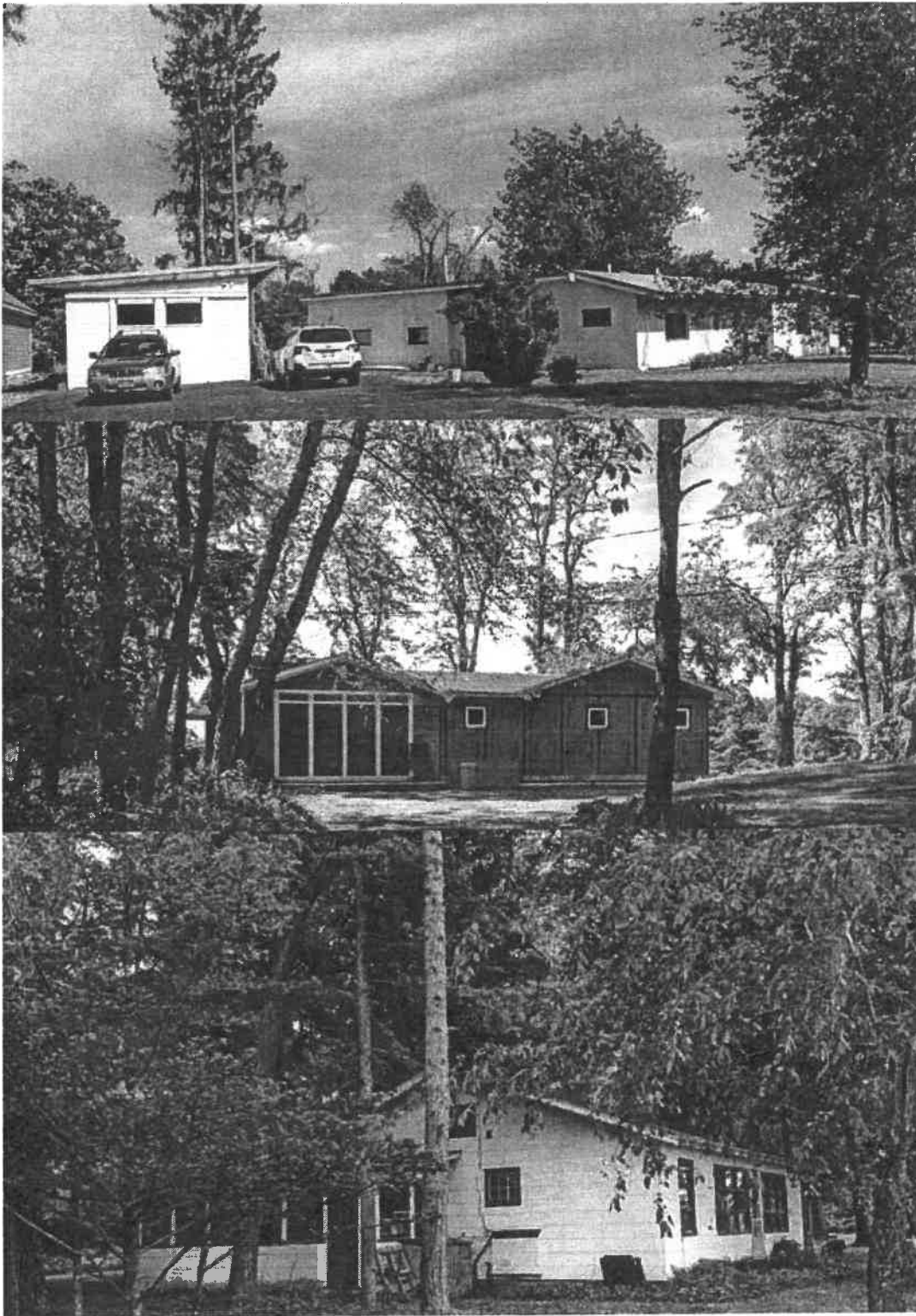












- **Lago 4.23 Sun study Apr 1.mp4**
593 KB
- **Lago 4.23 Sun study July 1.mp4**
554 KB
- **Lago 4.23 Sun study Oct 1.mp4**
634 KB



Lago 4.23 Sun study Jan 1.mp4
596 KB

Frederique Linnea Brown
Jennifer Philipson
155 Country Club Drive
Red Hook, NY 12571

ZBA 6-10-20 Approved
Minutes Exhibit B
(1 page)

June 10, 2020

Attention Zoning Board of Appeals
Re: concerns of Thomas Markunas

Our family has been living in this house since it was built in the 20s. My great grandfather is a founding member of the Red Hook Country Club. This community was created as a place for people to build summer homes on the lake. Much of the architecture still reflects the original intention of the community, our house is one example. However, this is an evolving community and most of the homes are now full time residences. The architecture is changing to reflect this status.

The request for variance on lot coverage has a number of precedents around our lake. In fact, in the May 12, 2010 hearing for Mr. Frick, Bob Fennell stated he had done a study of the area and that the average lot coverage is 19% around the lake. Keep in mind that we are 10 years from that decision. Mr. Markunas's lawyer stated in his letter that our variance request is substantial at 12.8%, but Mr. Markunas himself has a lot coverage of 13.8% so it would seem that we are well within what he deems as acceptable lot coverage for a home in this neighborhood.

The sun study submitted by Mr. Markunas is not relevant. There already exists a 60 foot maple tree on the north side of the house which casts a much more significant shadow than the proposed addition. Also, Mr. Markunas has planted a row of evergreen trees along this border of the property which create significant year-round shade. We have already moved the structure to decrease the impact. His sun study shows only 5 hours of each day on a side of the house without many windows and with no view, and for much of the year the study shows the shadow barely touches his house in those 5 hours. The new structure does not block his sunset.

Since the board of the country club has approved the plans as they exist, and since the design is well within the height limitations set by zoning, it seems Mr. Markunas is simply asking us to accommodate his taste. We are not asking for anything more than the accommodations that have been made for others in our neighborhood, including Mr. Markunas. Thank you for your time and consideration in this matter.

Sincerely,
Fredrique Linnea Brown
Jennifer Philipson

Zimbra

arubin@redhook.org

Fwd: Approval of your additionZBA 6-10-20 Approved
Minutes Exhibit C (2 page)**From :** Jennifer Philipson <jlphilipson@gmail.com>

Wed, Jun 10, 2020 12:30 PM

Subject : Fwd: Approval of your addition**To :** A Rubin <arubin@redhook.org>

Hi Anne,

I just wanted to forward this to you in case you did not receive it from the Red Hook Country Club board of directors. they have given their approval for the intended addition.

Thank you,
Jennifer

----- Forwarded message -----

From: Dan Brown <danandlinnea@aol.com>**Date:** Wed, Jun 10, 2020, 10:34 AM**Subject:** Fwd: Approval of your addition**To:** jlphilipson@gmail.com <jlphilipson@gmail.com>

-----Original Message-----

From: Jon Hutchens <jwhutchens@gmail.com>**To:** Linnea & Dan Brown <danandlinnea@aol.com>**Cc:** Dennis McGettigan <dmm@gordiangroup.com>; Huck Hill <hhhll@citlink.net>; Victor Basile <vbasile1@icloud.com>; Bob & Diane Janelli <bob@janelli.net>; Rachel Simon <rachelsimon275@gmail.com>**Sent:** Tue, Jun 9, 2020 11:15 am**Subject:** Approval of your addition

Dan and Linnea;

I wanted to let you know that the Red Hook CC Board of Directors, via email, approved your upcoming construction. I wanted to let you know since you are going to the Zoning meeting this week. I sent the Zoning Board a note that we had approved and they will enter it into their public comment record.

Please contact me with any questions.

Good luck on your construction.

Jon Hutchens

--

J. W. Hutchens

jwhutchens@gmail.com

cell - 703-798-7868

Zimbra

arubin@redhook.org

Browns Variance June 10th

From : Jon Hutchens <jwhutchens@gmail.com>

Tue, Jun 02, 2020 10:45 AM

Subject : Browns Variance June 10th 1 attachment**To :** arubin@redhook.org**Cc :** Victor Basile <vbasile1@icloud.com>

Red Hook Zoning Board;

Wanted to make you aware that as of June 2nd 2020, the Red Hook Country Club (RHCC) Board of Directors has not received architectural drawings or content from the Browns to approve their construction. Please be advised that according to the Red Hook Country Club by-laws, the Board of Directors needs to approve all new construction. As of this writing the Board has not been notified or approved the construction.

By-Laws excerpt:

"All excavation and construction shall be pursuant to the applicable building and zoning codes and Health Department regulations. Any member desiring to build a new structure or to construct an addition to an existing structure on his/her club property must first obtain approval of the Board of Directors. All new construction shall be commenced only after obtaining a Building Permit. A Certificate of Occupancy shall be obtained if required under the Red Hook Code."

We are sending additional communication to the Browns requesting details on their activities for RHCC Board to review / approve.

If you have any questions, please feel free to contact me.

Jon Hutchens
RHCC President

--

J. W. Hutchens
jwhutchens@gmail.com
cell - 703-798-7868

 **Brown variance June 10.pdf**
13 MB
