

Town of Red Hook ZBA
Draft Meeting Minutes
December 08, 2021

Preliminaries

Roll Call

Chairperson Karakassis calls the meeting to order at 7:00pm. Present are Chairperson Karakassis, Chris Carney, Jim Hegstetter, and Chris Klose. No Board members are absent. Also Present are: Patrick Logan, associate of ZBA Attorney Victoria Polidoro, standing in for Ms. Polidoro, and Town of Red Hook ZEO, Bob Fennell.

At 7:03pm Chairperson Karakassis opens the meeting.

Approval of Draft Minutes: 7-14-21, 11-10-21

At 7:04 pm Chairperson Karakassis asks for a motion to adopt the November 10, 2021 Draft Minutes. Chris Klose so moves, Chairperson Karakassis seconds and all Board members vote in favor of adopting the November 10, 2021 meeting minutes. At 7:04 pm Chairperson Karakassis asks for a motion to approve the July 14, 2021 meeting minutes. Chris Klose so moves, Chris Carney seconds, and Chris Klose, Chris Carney, and Jim Hegstetter vote in favor of adopting the July 14, 2021 meeting minutes. Chairperson Karakassis abstains from the vote, since she had recused herself for the portion of the meeting regarding ZBA 21-03 Greig Interpretation.

Planning Board Minutes

Chairperson Karakassis states she has no comments regarding the Planning Board meeting, and informs the Board members that she had spoken with Supervisor McKeon regarding the empty Board member seat, and the lack of ZBA alternates, noting that for four meetings, the Board had the minimum quorum. Chairperson Karakassis notes the Town Supervisor stated he is aware of the situation, and further stated he has one or two leads for a prospective ZBA Board member, but no leads for ZBA Board member alternates. Jim Hegstetter states he finds the Board should not have been reduced from seven members to five members.

Comments from the Chair

Chairperson Karakassis notes the ZBA Clerk has requested the Board consider asking for an initial escrow deposit of \$750.00 from each applicant, to replace the current \$500.00 escrow deposit, in light of increased costs regarding certified mailings, publication of public hearing notices in the Poughkeepsie Journal, and increased attorney fees, from 2015, which is when the Town Board charged the ZBA with requesting escrow payments from applicants. Ms. Rubin also notes the Board currently asks each applicant to make a separate payment for the costs associated with the

public hearing notices, mailed via certified letter, to neighbors within a 300' radius of the subject property, and municipalities within a 500' radius of the subject property. Ms. Rubin suggests the ZBA Office could streamline the process by asking for additional escrow initially, and simply deduct the costs associated with the public hearing notices directly from the applicant's escrow account, instead of requesting a second payment. Chairperson Karakassis notes this is what the Planning Board does, and states she thinks the ZBA should, for the sake of consistency, follow the same procedure. Chris Klose states he agrees with this proposal. Jim Hegstetter states he does not agree with asking applicants for more money. Ms. Rubin states the amount an applicant would pay, would not change, and further notes, asking for a higher amount up front would, in most cases, avoid the necessity of coming back to the applicant and asking for an additional escrow deposit later on. Chris Klose states he withdraws his agreement. Chairperson Karakassis recommends tabling the discussion for the present, and asks Ms. Rubin to provide the Board with an accounting of the relative costs, to justify asking the applicants for higher escrow. Patrick Logan states the Board could raise its fees to cover the costs associated with the public hearing notices. Chairperson Karakassis notes this would be unfair to applicants with fewer neighbors, or a shorter public hearing notice, and further states in asking each applicant for a higher escrow amount, each applicant is still only paying for costs associated with their appeal, instead of a higher fee, which would be paid by every applicant, regardless of costs associated with their appeal. The Board agrees to table the discussion to the next meeting, where it can review the information, it has requested from the Clerk.

Board Review of a Previous Decision Regarding an Interpretation

ZBA 21-06 Jane Levi, represented by Richard Croughan, application for an Interpretation by Town of Red Hook ZEO, Bob Fennell's Notice of Violation, dated August 31, 2021, specifically regarding a Building Permit #4-84, issued February 14, 1984, allowing for the construction of a three-unit apartment, as an addition to a non-conforming use. The owner at the time, Rancich, ignored the limits of the permit, and constructed a six-unit apartment; a violation of the terms of the permit. Section 143-56A of the Town of Red Hook Zoning Law limits the number of living units on the subject parcel to three. The subject parcel is located at 30 Blue Echo Road, in the Town of Red Hook, in the R1.5 Zoning District.

At 7:27 pm Chairperson Karakassis reads the agenda item and asks for a motion to adopt the resolution, drafted, and read in to the record by Patrick Logan [see Exhibit A], to uphold the ZEO, which the Board voted on at the November 10, 2021 meeting. Jim Hegstetter so moves, Chris Klose seconds, and all Board members vote in favor of adopting the resolution to uphold the ZEO, pursuant to ZBA Appeal 21-06 Croughan-Levi, for an Interpretation.

Public Hearing

ZBA 21-07 Eversleigh, LLC, represented by Loreen Harvey of Kasselmann Solar, LLC, application for an Area Variance to install a ground-mounted, medium solar energy system in the front yard of the subject parcel. Section 143-37D(2)(f) of the Town of Red Hook Zoning Law prohibits ground-mounted, medium solar energy systems in the front yard. The subject parcel is located at 245 Woods Road, in the Town of Red Hook, in the LD, HL-O, and SC-O Zoning Districts.

At 7:28 pm Chairperson Karakassis reads the agenda item and asks for a motion to open the public hearing. Jim Hegstetter so moves, Chris Klose seconds, and all Board members vote in favor of opening the public hearing. Chairperson Karakassis asks Loreen Harvey of Kasselmann Solar to present the project. Ms. Harvey states the location chosen for the proposed solar installation does not encroach on the 1000' buffers, required in the Overlay Zoning Districts, and is screen by mature vegetation, which Ms. Harvey shows in drawings and aerial photographs on the remote meeting screen. Jim Hegstetter states there are no public comments, and further notes he reviewed the application documents, but did not have a chance to visit the subject property. Chairperson Karakassis notes she did visit the subject property, and states it is a large parcel.

At 7:31 pm Chairperson Karakassis asks for a motion to close the public hearing, there being no comments from members of the public. Clerk Rubin confirms the ZBA Office has received no comments, via letter, email, or voicemail. Chris Klose so moves, Chairperson Karakassis seconds, and all Board members vote in favor of closing the public hearing. Jim Hegstetter asks which direction the proposed solar installation will face, to which Ms. Harvey replies it will face South. Jim Hegstetter asks if the proposed installation will be visible from the [Hudson] river, to which Ms. Harvey replies it will not due to natural screening. Chris Klose asks how high the bank to the river is, to which Ms. Harvey responds by displaying a topographical map and an aerial photograph showing the vegetation screening the proposed solar installation.

Chairperson Karakassis reads Variance Resolution 21-07 Kasselmann Solar-Eversleigh, LLC of 12-08-2021 to the Board, and the Board notes the following facts:

1. The proposed array will not be visible to neighbors. It is located in the middle of the subject parcel, which is 19.22 acres.
2. The proposed array is well-buffered by mature vegetation on three sides. Existing topography also provides a buffer.
3. The location is the only area of the parcel that gets enough sun, and is compliant with the 1000' buffer requirement in the Zoning District, and compliant with the Overlay Zoning District requirements.

1. The Board members agree unanimously that the variance requested will not produce an undesirable change to the character of the neighborhood or a detriment to nearby properties, since the proposed array will not be visible to neighbors, nor to recreational boaters on the Hudson River.

2. The Board members agree unanimously that the needs of the applicant can not be achieved by other than an area variance, since the proposed array is to be located in the front yard, which is the only feasible location, due to Overlay Zoning Requirements.
3. The Board members agree unanimously that the requested variance is substantial, insofar as the location is entirely in the front yard, but also agree that the impacts of such a location are not substantial.
4. The Board members agree unanimously that the requested variance will not affect the physical or environmental conditions in the neighborhood. The project involves an insignificant disturbance and will be largely screened from neighbors.
5. The Board members agree unanimously that the hardship for which the variance is sought to rectify was self-created, since the applicant elected to place a medium, ground-mounted solar energy system in his front yard.
6. The Board members agree unanimously that the variance being granted is the minimum variance to meet the needs of the applicant, since the applicant has presented a detailed description and technical specifications of the proposed installation, which the Board has reviewed.

At 7:39 pm Chairperson Karakassis asks for a motion to grant the requested variance, contingent on payment of all ZBA fees and escrow, and granting of Planning Board approvals. Chris Klose so moves, Jim Hegstetter seconds, and all Board members vote in favor of granting the requested variance for ZBA Appeal 21-07.

Public Hearing

ZBA 21-08 Jane Levi, represented by Richard Croughan, application for an Area Variance to remedy Town of Red Hook ZEO, Bob Fennell's Notice of Violation, dated August 31, 2021, specifically regarding a Building Permit #4-84, issued February 14, 1984, allowing for the construction of a three-unit apartment, as an addition to a non-conforming use. The owner at the time, Rancich, ignored the limits of the permit, and constructed a six-unit apartment; a violation of the terms of the permit. Section 143-56A of the Town of Red Hook Zoning Law limits the number of living units on the subject parcel to three. The subject parcel is located at 30 Blue Echo Road, in the Town of Red Hook, in the R1.5 Zoning District.

Chairperson Karakassis reads the agenda item, and, at 7:41 pm asks for a motion to open the public hearing. Jim Hegstetter so moves, Chris Klose seconds, and all Board members vote in favor of opening the public hearing. The Board establishes, and Clerk Rubin confirms, there is no public comment regarding this appeal. Chairperson Karakassis notes the Board received a submission from Mr. Richard Croughan beyond the stipulated submission deadline, and asks Mr. Croughan if he would like to continue the public hearing, in order to give the Board time to review the submission, or if he would like to proceed without the review. Mr. Croughan states he would like to proceed.

At 7:43 pm Chairperson Karakassis asks for a motion to close the public hearing. Chris Klose so moves, Jim Hegstetter seconds, and all Board members vote in favor of closing the public hearing.

Mr. Croughan further states his client was a good-faith purchaser, who purchased the property in 2015, and pursuant to that purchase, a title search revealed no violations. Chairperson Karakassis states the Board cannot speak to the efficacy of the title search, and further notes the violation existed, even if the title company did not turn it up. Chris Klose states New York is a *caveat emptor* [buyer beware] State, in which the responsibility is on the purchaser to make sure there are no violations or property liens at the time of purchase. Mr. Klose further notes the fact a party is ignorant of the law, does not excuse them from it.

Chairperson Karakassis asks Ms. Levi what the rents are on the apartment units on the subject parcel, to which Mr. Croughan replies he is not sure of the relevance of the question. Chairperson Karakassis states it is her understanding that the apartment units on the subject parcel are in the category of affordable housing, and that as such, it is pertinent to a long history of various issues, including the availability of affordable housing in the Town. Chris Klose asks Ms. Levi to confirm each apartment unit has a kitchen, bathroom, living room and bedroom, which Ms. Levi confirms. Ms. Levi states there are a total of 12 apartment units on the subject parcel, and states they rent for between \$500.00 and \$1,000.00 a month. Ms. Levi further states the apartment units have been fully occupied by mostly the same people, over a period of years. Patrick Logan states all but three of the apartment units, on the subject parcel, were grandfathered in.

ZEO, Bob Fennell states he responded to the applicant or the title company there was a violation, because he was unaware of it at the time. Mr. Fennell states the information was not in the computer system, and further notes he was made aware of the violation by accessing the hard copy file in the archives.

Chairperson Karakassis reads Variance Resolution 21-08 Croughan-Levi for an Area Variance, of 12-08-2021, to the Board, and the Board notes the following facts:

1. The six-unit, two-story building at the Property was constructed in violation of the 1984 Building Permit, which only permitted a three-unit, single-story building.
2. The six-unit, two-story building at the Property was also constructed and used in contravention of the Zoning Law, which, among other things, only permitted a density of up to one dwelling unit per acre. The Property was already non-conforming in this regard in 1984, as it contained six dwelling units.
3. The violation at the Property was never remedied as the six-unit, two-story structure remains, and is still in use as a six-unit building.

4. As these additional six dwelling units were never permitted in the first instance, they do not constitute a legally non-conforming use.
5. To the extent that the ZBA never issued an area variance to allow the additional units, and the building on the Property still contains six units, while a maximum of three units are permitted on the Property, it is in violation of Zoning Law Section 143-56A.
6. The dwelling units' rents on the subject parcel are in line with what would be considered affordable housing in the area, and the applicant has stated the tenants are long-term.

1. The Board members agree that the variance requested will not produce an undesirable change to the character of the neighborhood or a detriment to nearby properties. The building containing the three extra units has been in place for decades. The apartments are small and the presence of six smaller apartments is not significantly different than three larger apartments. The twelve existing dwelling units on a five and a half-acre parcel is well above what zoning permits, and the existence of these units for almost forty years is an undesirable continuation, rather than a change. The existence of all but the three additional units have been grandfathered in. The apartments are relatively isolated from nearby properties and the use of the building for six units, rather than three units, will not have a significant impact on neighboring properties.

2. The Board members agree that the needs of the applicant cannot be achieved by other than an area variance, if the applicant is to keep the three non-permitted units, and bring them into compliance.

3. The Board members agree that the requested variance is substantial, since it represents an additional 33% density on an already non-conforming parcel, as regards density.

4. The Board members agree that the requested variance will not affect the physical or environmental conditions in the neighborhood, since the additional three dwelling units have been in place for almost 40 years. Furthermore, the use of the existing building for six units rather than three units involves no significant ground disturbance.

5. The Board members agree that the hardship for which the variance is sought to rectify was not self-created, to the extent that the current owners did not create the violation, but is self-created, to the extent that they wish to continue the use.

7. The Board members agree that the variance being granted is the minimum variance to meet the needs of the applicant, since it will bring the additional three dwelling units into compliance.

Chris Klose asks Ms. Levi if she is planning on any short-term rentals for the apartment units on the subject parcel, to which Ms. Levi replies she is not.

At 7:58 pm Chairperson Karakassis asks for a motion to grant the requested variance, contingent on payment of all ZBA fees and escrow, and granting of Planning Board approvals. Jim Hegstetter so moves, Chris Klose seconds, and, at 8:00 pm all Board members vote in favor of granting the requested variance for ZBA Appeal 21-08.

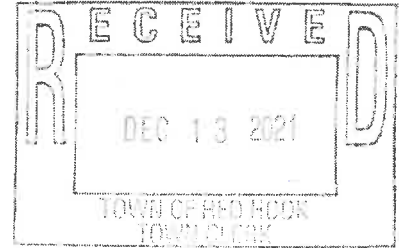
At 8:04 pm Chairperson Karakassis moves to adjourn the meeting. Chris Klose seconds, and all Board members vote in favor of adjourning the meeting.

The next regularly scheduled ZBA meeting is January 12, 2022. The submission deadline for this meeting is Tuesday, January 4, 2022. In accordance with State and Local directives this meeting will be held remotely. Instructions for attending the meeting will be on the meeting agenda, published one week before the meeting.

Exhibit

A

**TOWN OF RED HOOK
ZONING BOARD OF APPEALS**



**RESOLUTION TO UPHOLD THE DETERMINATION OF THE ZONING
ENFORCEMENT OFFICER**

30 Blue Echo Road

WHEREAS, on September 12, 1983, the previous owners of an approximately 5.50-acre property located at 30 Blue Echo Road, identified as parcel no. 6272-00-703751 (the "Property"), submitted an application for area variances to the Town of Red Hook Zoning Board of Appeals ("ZBA") in order to construct a new 2-story, 6-unit building thereon, which required an area variance for increased density (a density of up to one dwelling unit per acre was required) and for the expansion of a nonconforming use by more than 50% because the Property already contained 6 dwelling units at the time; and

WHEREAS, on November 2, 1983, the ZBA denied the request for area variances; and

WHEREAS, on February 14, 1984, the Town of Red Hook Building Department issued a building permit (the "1984 Building Permit") to allow the construction of a 1-story, 3-unit building on the Property, which did not require any area variances; and

WHEREAS, the prior owners of the Property constructed a 2-story, 6-unit building in the spring of 1984 in violation of the 1984 Building Permit; and

WHEREAS, on June 8 and July 11, 1984, the Zoning Enforcement Officer ("ZEO") issued two Orders to Remedy, alleging that the construction of the new 2-story, 6-unit building was in violation of the 1984 Building Permit and the Zoning Law; and

WHEREAS, on February 14, 1985, via an Information dated February 11, 1985, the Town commenced legal proceedings against the prior owners of the Property in the Town of Red Hook Justice Court, alleging that the owners erected a structure not in conformity with zoning regulations and occupied a structure without a certificate of occupancy; and

WHEREAS, the prior owners of the Property appeared in Justice Court and plead guilty to both counts and were ordered by the Court to remedy the violation; and

WHEREAS, the violation of the 1984 Building Permit was never remedied and the 6-unit, 2-story building remains in use; and

WHEREAS, on August 31, 2021, the ZEO issued a Notice of Violation – Order to Remedy alleging the Property was in violation of the density requirements of the Zoning Law (the "Notice of Violation"); and

WHEREAS, the applicant, Jane Levi, has submitted an appeal of the Notice of Violation (the "Appeal"); and

WHEREAS, pursuant to 6 NYCRR 617.5, the Appeal is a Type II action under the State Environmental Quality Review Act and no further review under the Act is required; and

WHEREAS, a duly noticed public hearing for the Appeal was held on November 10, 2021, during a remote meeting held by the Zoning Board of Appeals in accordance with New York State Chapter 417 of the Laws of 2021, during which all those who wished to speak were heard; and

WHEREAS, pursuant to Town Law 267-b(1), upon an appeal of a determination of the Town of Red Hook Zoning Enforcement Officer, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the determination appealed from and shall make such determination as in its opinion ought to have been made in the matter by the Zoning Enforcement Officer and to that end shall have all the powers of the Zoning Enforcement Officer; and

WHEREAS, the Zoning Board of Appeals has reviewed all relevant submissions, information, and documents pertaining to the Appeal.

NOW THEREFORE BE IT RESOLVED, that the Zoning Board of Appeals makes the following findings in accordance with Section 267-b(1) of the Town Law regarding the Appeal of the Notice of Violation:

1. The 6-unit, 2-story building at the Property was constructed in violation of the 1984 Building Permit, which only permitted a 3-unit, 1-story building.
2. The 6-unit, 2-story building at the Property was also constructed and used in contravention of the Zoning Law, which, among other things, only permitted a density of up to one dwelling unit per acre. The Property was already nonconforming in this regard in 1984, as it contained 6 dwelling units.
3. The violation at the Property was never remedied as the 6-unit, 2-story structure remains and is still in use as a 6-unit building.
4. As these additional 6 dwelling units were never permitted in the first instance, they do not constitute a legally nonconforming use.
5. To the extent that the ZBA never issued an area variance to allow the additional units and the building on the Property still contains 6 units while a maximum of 3 units are permitted on the Property, it is in violation of Zoning Law § 143-56A.

6. The Notice of Violation is upheld and modified to the extent it may be inconsistent with the findings herein.

Date:

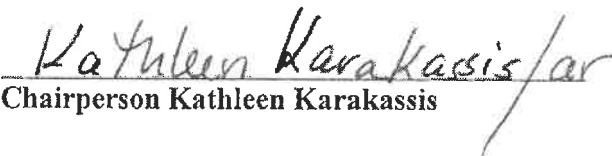
Adopted: 12-08-2021

Chairperson Kathleen Karakassis YES

Christopher Carney YES

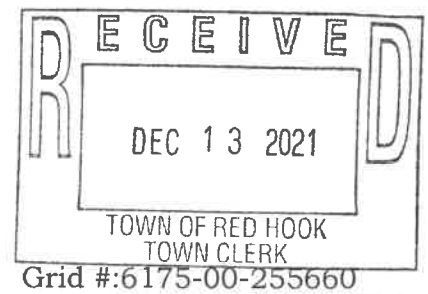
James Hegstetter YES

Christopher Klose YES


Chairperson Kathleen Karakassis

**TOWN OF RED HOOK
Zoning Board of Appeals**

VARIANCE RESOLUTION



Application #: 21-07 Kasselmann Solar-Eversleigh LLC

Introduced by: **Chris Klose**
Seconded by: **Jim Hegstetter**

Date: December 08, 2021

The Town of Red Hook Zoning Board of Appeals, at a meeting duly convened on **November 10, 2021** reviewed the facts in Application #21-07 as submitted by **Loreen Harvey of Kasselmann Solar, LLC and Craig Nevill-Manning of Eversleigh, LLC**, and

WHEREAS, the application was determined to be a **Type II Action** under the State Environmental Quality Review Act, Section 6NYCRR Part 617, and

WHEREAS, said application requests a variance or adjustment to the strict application of the Zoning Code, specifically regarding a **ground-mounted, medium solar system, to be installed in the front yard**, in the **LD, HL-O, and SC-O** districts of the Town, where Zoning Law 143-37D(2)(f) prohibits such arrays in front yards and

WHEREAS, the Board held a Public Hearing, on December 8, 2021, in a remoted meeting held in accordance with New York State Chapter 417 of the laws of 2021, notice of which was duly published in the Poughkeepsie Journal on **November 26, 2021** and posted as required by law, and

WHEREAS, at said Public Hearing all who desired to be heard were heard and their testimony recorded, and

WHEREAS, all testimony has been carefully considered and the following pertinent facts noted:

1. The proposed array will not be visible to neighbors. It is located in the middle of the subject parcel, which is 19.22 acres.

2. The proposed array is well-buffered by mature vegetation on three sides. Existing topography also provides a buffer.

3. The location is the only are of the parcel that gets enough sun, and is compliant with the 1000' buffer requirement in the Zoning District, and compliant with the Overlay Zoning District requirements.

NOW THEREFORE BE IT RESOLVED by the Zoning Board of Appeals, that Application #21-07 a request for a variance from **Section 143-37D(2)(f)**, as set forth above, be **granted** on the following grounds, conditional on payment of any and all outstanding fees and ZBA consultant invoices, and pending approvals to be granted by the Town of Red Hook Planning Board:

1. The Board members agree unanimously that the variance requested will not produce an undesirable change to the character of the neighborhood or a detriment to nearby properties, since the proposed array will not be visible to neighbors, nor to recreational boaters on the Hudson River.

2. The Board members agree unanimously that the needs of the applicant can not be achieved by other than an area variance, since the proposed array is to be located in the front yard, which is the only feasible location due to Overlay Zoning requirements.

3. The Board members agree unanimously that the requested variance is substantial, insofar as the location is entirely in the front yard, but also agree that the impacts of such a location are not substantial.

4. The Board members agree unanimously that the requested variance will not affect the physical or environmental conditions in the neighborhood. The project involves an insignificant disturbance and will be largely screened from neighbors.

5. The Board members agree unanimously that the hardship for which the variance is sought to rectify was self-created, since the applicant elected to place a medium, ground-mounted solar energy system in his front yard.

6. The Board members agree unanimously that the variance being granted is the minimum variance to meet the needs of the applicant, since the applicant has presented a detailed description and technical specifications of the proposed installation, which the Board has reviewed.

Adopted: December 08, 2021

YES James Hegstetter

YES Christopher Carney

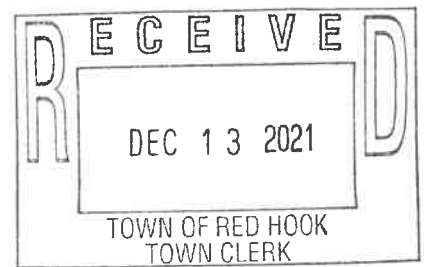
YES Christopher Klose

YES Chairperson, Kathleen Karakassis


Chairperson Kathleen Karakassis

**TOWN OF RED HOOK
Zoning Board of Appeals**

VARIANCE RESOLUTION



Application #: **21-08 Croughan-Levi**

Grid #: **6272-00-703751**

Introduced by: **Jim Hegstetter**

Date: **December 08, 2021**

Seconded by: **Chris Klose**

The Town of Red Hook Zoning Board of Appeals, at a meeting duly convened on **November 10, 2021** reviewed the facts in Application #**21-08** as submitted by **Richard Croughan representing Jane Levi**, and

WHEREAS, the application was determined to be a **Type II Action** under the State Environmental Quality Review Act, Section 6NYCRR Part 617, and

WHEREAS, said application requests a variance or adjustment to the strict application of the Zoning Code, specifically regarding a **remedy to an existing violation of six dwelling units in an existing apartment building, when permission was given by the Town to construct only three apartments, pursuant to Building Permit #4-84, of February 14, 1984**, on property located at 30 Blue Echo Road (The "Property") in the **R1.5** district of the Town, and

WHEREAS, the Board held a Public Hearing, at a remote meeting, held in accordance with New York State Chapter 417 of the Laws of 2021, notice of which was duly published in the Poughkeepsie Journal on **November 26, 2021** and posted as required by law, and

WHEREAS, at said Public Hearing all who desired to be heard were heard and their testimony recorded, and

WHEREAS, all testimony has been carefully considered and the following pertinent facts noted:

- 1. The six-unit, two-story building at the Property was constructed in violation of the 1984 Building Permit, which only permitted a three-unit, single-story building.**
- 2. The six-unit, two-story building at the Property was also constructed and used in contravention of the Zoning Law, which, among other things, only permitted a density of up to one dwelling unit per acre. The Property was already non-conforming in this regard in 1984, as it contained six dwelling units.**
- 3. The violation at the Property was never remedied as the six-unit, two-story structure remains, and is still in use as a six-unit building.**
- 4. As these additional six dwelling units were never permitted in the first instance, they do not constitute a legally non-conforming use.**
- 5. To the extent that the ZBA never issued an area variance to allow the additional units, and the building on the Property still contains six units, while a maximum of three units are permitted on the Property, it is in violation of Zoning Law Section 143-56A**
- 6. The dwelling units' rents on the subject parcel are in line with what would be considered affordable housing in the area, and the applicant has stated the tenants are long-term.**

NOW THEREFORE BE IT RESOLVED by the Zoning Board of Appeals, that Application #**21-07** a request for a variance from **Section 143-56A**, as set forth above, be **granted** on the following grounds, conditional on payment of any and all outstanding fees and ZBA consultant invoices, and pending approvals to be granted by the Town of Red Hook Planning Board:

1. The Board members agree that the variance requested will not produce an undesirable change to the character of the neighborhood or a detriment to nearby properties. The building containing the three extra units has been in place for decades. The apartments are small and the presence of six smaller apartments is not significantly different than three larger apartments. The twelve existing dwelling units on a five and a half acre parcel is well above what zoning permits, and the existence of these units for almost forty years is an undesirable continuation, rather than a change. The existence of all but the three additional units have been grandfathered in. The apartments are relatively isolated from nearby properties and the use of the building for six units, rather than three units, will not have a significant impact on neighboring properties.
2. The Board members agree that the needs of the applicant can not be achieved by other than an area variance, if the applicant is to keep the three non-permitted units, and bring them into compliance.
3. The Board members agree that the requested variance is substantial, since it represents an additional 33% density on an already non-conforming parcel, as regards density.
4. The Board members agree that the requested variance will not affect the physical or environmental conditions in the neighborhood, since the additional three dwelling units have been in place for almost 40 years. Furthermore, the use of the existing building for six units rather than three units involves no significant ground disturbance.
5. The Board members agree that the hardship for which the variance is sought to rectify was not self-created, to the extent that the current owners did not create the violation, but is self-created, to the extent that they wish to continue the use.
6. The Board members agree that the variance being granted is the minimum variance to meet the needs of the applicant, since it will bring the additional three dwelling units into compliance.

Adopted:

YES James Hegstetter

YES Christopher Carney

YES Christopher Klose

YES Chairperson, Kathleen Karakassis


Chairperson Kathleen Karakassis