

Town of Red Hook ZBA
Draft Meeting Minutes
June 14, 2023



Preliminaries

Roll Call

Chairperson Karakassis moves to call the meeting to order at 7:02pm. Present are Chairperson Karakassis, Chris Carney, Chris Klose, and George Jahn. John Bonavita-Goldman is absent. Also Present are ZBA Attorney, Janis Gomez Anderson, and Town of Red Hook ZEO, Bob Fennell. Chris Klose seconds the motion, and all Board members present vote in favor of opening the meeting.

Approval of Draft Minutes

At 7:03pm Chairperson Karakassis asks for a motion to approve the May 10, 2023 draft meeting minutes. There is no discussion. Chris Klose so moves and Chris Carney seconds. Chairperson Karakassis, Chris Carney, George Jahn, and Chris Klose vote in favor of approving the May 10 meeting minutes, as drafted.

Planning Board Minutes

There are no comments regarding the Planning Board minutes. Chairperson Karakassis states the Planning Board will be taking Lead Agency status for the cellular communications tower project [ZBA 23-03, 23-04, 23-05]. There is no vote at this time.

Comments from the Chair

Chairperson Karakassis states the ZBA has a late meetings policy, and requests public remarks be kept short and to the point.

Public Hearing (continued from May 10, 2023)

ZBA 23-02 Bard College, represented by Coleen Murphy Alexander application an area variance to construct four student residence halls as follows, Building A1 41' in height, Building B 47' 6" in height, Building C 46' in height, Building HH 43' in height. Section 143-12, The District Schedule of Area and Bulk Regulations, of the Town of Red Hook Zoning Law, limits the maximum height of buildings in the Institutional Zoning District to 35'. See also, 143-Attachment 2 of the Town of Red Hook Zoning Law. The subject parcel is located at 30 Campus Road, Annandale on Hudson, NY, in the Town of Red Hook, in the Institutional Zoning District.

At 7:05pm Chairperson Karakassis reads the agenda item, and asks for a motion to continue the public hearing to the July 12, 2023 ZBA meeting, or the first subsequent meeting after the present meeting. George Jahn so moves, Chris Klose seconds, and all Board members present vote in favor of continuing the public hearing to the July 12, 2023, or first subsequent meeting.

Public Hearing (continued from May 10, 2023)

ZBA 23-01 Devereaux Foundation, represented by John Lopez, application for an area variance to install a chain link fence, eight feet in height, around the entire perimeter of the Devereaux Campus. The Town of Red Hook Zoning Law, Section 143-28A limits the heights of fences to six feet in the side and rear yards, and four feet in height in the front yard. The subject parcel is located at 40 Devereaux Way, in the Town of Red Hook, in the Institutional Zoning District.

Chairperson Karakassis reads the agenda item and states to the Board it needs to vote on SEQR.

Chairperson Karakassis revisits the following, unresolved questions from Part 2 of the Short Environmental Assessment Form, and the Board responds as follows:

3. Will the proposed action impair the character or quality of the existing community?

Chairperson Karakassis asks the Board for discussion, and Chris Klose states he has nothing to add. All Board members present agree there will be no, or small impact.

8. Will the proposed action impair the character or quality of important historic, archaeological, architectural, or aesthetic resources? John Bonavita Goldman states the aesthetic resource is impaired. Chairperson Karakassis advises all Board members to wait to respond until they have each made a site visit.

Chairperson Karakassis notes there were two abstentions at the May 10, 2023 meeting, and asks the Board if it thinks there could be a large or moderate impact of an eight-foot high fence. All Board members present agree there will be no impact for the additional two feet in height in the rear and side yards, and the additional four feet in height in the front yard.

9. Will the proposed action result in an adverse change to natural resources (e.g. wetlands, waterbodies, groundwater, air quality, flora and fauna)? George Jahn and Chris Klose state there could be a disruption to the migration patterns of turtles. Chairperson Karakassis states small animals will go through the fence, and larger ones will go around, further stating she is satisfied with a "No".

Chairperson Karakassis states Board member George Jahn voiced concerns with faunal migration routes being impacted by the proposed fence, and further states she consulted with Erik Kiviat, Executive Director of Hudsonia. Chairperson Karakassis states Mr. Kiviat did not believe there would be impacts to mid-size, non-burrowing animals, and further states Mr. Kiviat had no additional concerns. All Board members present agree there will be no impacts.

At 7:11pm Chairperson Karakassis asks for a motion to vote on a SEQR Negative Declaration.

At 7:13pm Chris Klose moves to adopt a SEQR Negative Declaration. George Jahn and Chris Carney second. Chairperson Karakassis reads the document into the record [see attachment A], and notes the Board is adopting Parts Two and Three of the SEQR document.

At 7:15pm all Board members present vote in favor of adopting a SEQR Negative Declaration and Parts Two and Three of the SEQR document.

Chairperson Karakassis states the public hearing for ZBA 23-01 Devereux Fence AV is continued from the May 10, 2023 ZBA meeting, and further notes some ground clearing has taken place, as well as an extension of a parking area adjacent to the neighboring property line, where the clearing has taken place. Clerk Rubin displays two photographs, taken by Chairperson Karakassis, during a site visit, on the smart screen for all present to view.

Chairperson Karakassis states she cannot remember what was in the area prior to clearing. John Lopez states there were brush and scrub trees at the site, previously. Chairperson Karakassis confirms with Mr. Lopez the edge of the parking area is where the fence will be installed. Mr. Lopez notes at the time of the phone call from ZEO, Bob Fennell, to stop clearing, the clearing had already been completed.

Mr. Fennell states he has reviewed aerial photographs from 2017, and has determined the parking lot was created without Planning Board approvals. Mr. Fennell further states the applicant will have to seal the parking lot off, and states it may not be used until it has approval from the Planning Board. Chairperson Karakassis states there are currently no open violations on the parcel. Chris Klose asks if the entire parking area is cleared.

ZBA Attorney, Janis Gomez Anderson states Mr. Fennell, and Deputy ZEO, Brandon Mullins, are investigating the matter. Ms. Anderson further states the parking area may require a separate application to the Planning Board for Site Plan Approval.

Pam Mullen, parcel number 165340, states she has a complaint that the extension of the parking lot is visible from half of her property, and further states she can see cars parked from her property. Ms. Mullen states she has been told Devereux can install the fence, but they cannot upset the peaceful enjoyment of her home. Chairperson Karakassis confirms with Ms. Mullen, she is referring to the removal of brush, and further states

confirms with Ms. Mullen, she is referring to the removal of brush, and further states aspects of mitigation must be referred to the Planning Board. Ms. Mullen asks whether or not mitigation is done by the ZBA, to which Chairperson Karakassis states the ZBA remit concerns the height of the fence. Ms. Mullen states her property is the only one damaged by the fence, and also states she maintains her yard in immaculate condition. Chairperson Karakassis asks the Board if it has any questions for Ms. Mullen.

Chris Klose asks Ms. Mullen if some form of landscaping, with evergreens and bushes, would mitigate the rear view from her property. Ms. Mullen states the parking area is some seven feet higher than her property, and further states, as such, it is so high in the air she cannot screen it. Ms. Mullen states the trees and brush, which impeded parking, are now cleared, and further states she will have to remove her six-foot fence, and install an eight-foot wood fence to restore her shade. Chris Klose states the ZBA is only looking at the height of the fence, and not the aesthetics. Mr. Klose further notes appropriate natural plantings could mitigate the impacts of the clearing. Ms. Mullen states she is looking at a seven-foot-high wall of dirt from her property.

At 7:25pm Chairperson Karakassis asks for a motion to close the public hearing. Chris Klose so moves, and George Jahn seconds. All Board members vote in favor of closing the public hearing.

Chairperson Karakassis asks the Board for comments. Chris Klose suggests recommending landscaping the berm with native plants, to cover the fence on this neighbor's property line, to make it more natural looking. Chairperson Karakassis notes the ZBA does not have had a chance to review an application to the Town of Red Hook Planning Board, since the applicant has not yet applied, and further notes the proposed fence is closest to Ms. Mullens' property. ZBA Attorney, Janis Gomez Anderson informs the Board it can make aesthetic mitigation, as required by the Planning Board, a condition of ZBA approval of the variance. Ms. Gomez Anderson notes this will signal to the Planning Board the matter of aesthetic mitigation is of particular importance to the ZBA.

Chris Klose asks if the ZBA can require positioning the fence in front of the berm, to which Ms. Gomez Anderson replies the positioning of the fence is part of the Site Plan Approval process, and further notes the Board may also postpone its vote until Site Plan Approval is completed by the Planning Board. Ms. Gomez Anderson informs the Board it can stipulate as a condition to granting the variance the applicant install appropriate landscaping to mitigate the effects on the neighbors, according to Planning Board Site Plan Approval.

Chairperson Karakassis states she visited the site, and does not find the impact on Ms. Mullens' property as great as she is stating, and further notes she had to scramble through woods and bushes on Ms. Mullens' property to get to the berm. Chairperson Karakassis further states she does not find a two-foot difference in fence height to be significant. Chris Carney, Chris Klose, and George Jahn agree. Mr. Jahn states the embankment along the property line, with a seven-foot elevation difference, is where the difficulty

The Board reviews the six variance questions, the facts of the appeal, and lists four conditions for approval of the variance [see attachment B] and at 7:40 pm, Chairperson Karakassis asks for a motion to adopt a resolution granting the requested variance. Chris Klose so moves, Chairperson Karakassis seconds, and all Board members present vote in favor of adopting the resolution to grant variance appeal 23-01 Devereux Fence AV.

Review

ZBA 23-06 Rhinebeck Solar and Carson Power, application for an Interpretation of Town of Red Hook Zoning Enforcement Officer, Robert Fennell's Determination of April 27, 2023, interpreting The Town of Red Hook Zoning Law, Section 143-37(E)(1)(a) prohibiting the installation of a ground mounted solar system in a NYSDEC, or US Army Corps of Engineers, designated wetland. The Town of Red Hook Zoning Law Section 143-37E(1)(b) prohibits the installation of a ground mounted solar system in the AB District, on Important Farmland, as defined in Section 143-4. The subject parcel is located at 7099 Albany Post Road, in the Town of Red Hook, in the AB, EP-O, and FF-O Zoning Districts.

ZBA 23-07 Rhinebeck Solar and Carson Power, application for two area variances of Town of Red Hook Zoning Enforcement Officer, Robert Fennell's Determination of April 27, 2023, interpreting The Town of Red Hook Zoning Law, Section 143-37(E)(1)(a) prohibiting the installation of a ground mounted solar system in a NYSDEC, or US Army Corps of Engineers, designated wetland. The Town of Red Hook Zoning Law Section 143-37E(1)(b) prohibits the installation of a ground mounted solar system in the AB District, on Important Farmland, as defined in Section 143-4. The subject parcel is located at 7099 Albany Post Road, in the Town of Red Hook, in the AB, EP-O, and FF-O Zoning Districts.

Chairperson Karakassis reads the agenda item for ZBA appeal 23-06, and states the Board will only be reviewing that appeal, for an Interpretation, at the meeting, and asks the applicant to step forward and state his name for the record. Mr. Andrew Gordon, of Carson Power, LLC steps forward and identifies himself as the representative for Carson Power and Rhinebeck Solar, and further states Rhinebeck Solar, LLC is a spin-off from Carson Power. Chris Klose asks the applicant when Carson Power was set up, to which Mr. Gordon states Carson Power was established in 2021, and further states Rhinebeck Solar, LLC was established in late 2021. Mr. Gordon describes Carson Power as a renewable energy project, which advertises to landowners via mass mailing campaigns. Chris Klose confirms with the applicant the objective is a contractual relationship with the owners of the farms, in which both sides make money.

Mr. Gordon states Carson Power is in contract to purchase the Mosher farm. Chairperson Karakassis informs the Board there is an adjacent parcel to the south, in the Town of Rhinebeck, on which Carson Power is also proposing to place a ground-mounted solar energy system, and regarding which, there are concurrent proceedings in the Town of Rhinebeck. Mr. Gordon responds he hopes to move forward on this, but the local law is not currently supportive of the project. Chris Klose asks where the two companies based, to which Mr. Gordon replies they are based in New York City.

Chairperson Karakassis reads the April 27, 2023 Denial Letter from ZEO, Bob Fennell, and states Mr. Fennell quoted from the Town of Red Hook Zoning Law correctly. Assisting Mr. Gordon is Jim Muscato, of Young Sommer, who states he finds the ZBA believes the applicant's position is strained, and further states, regarding the purpose and intent of the Town, the Town Board acknowledges the importance of solar energy, and further notes the existence of New York State mandates for renewable energy. Mr. Muscato states the avoidance of important farmland, in the Town, is in direct conflict with the development of solar energy in the Town. Mr. Muscato states the Town has stated it supports solar energy, but the important farmland Overlay is in the same locations that work for solar.

Chris Klose states 40% or more of the project is on current wetlands.

Mr. Muscato states *Important Farmland* is a category, and *Farm* is a category, and further states this amounts to a ban on solar energy, hence the need for a variance. Chairperson Karakassis reads from the Town of Red Hook Zoning Law **[get Sections from recording]**. Mr. Muscato states many communities are supporting co-use with solar and farmland, and further states a ground-mounted solar installation is a permitted use, with a Special Permit, and states there are specific standards, which would require an area variance. Mr. Muscato states the project represents a public utility, recognized by the U.S. Supreme Court, which provides for a relaxed zoning standard, in which the test for a Use Variance and an Area Variance is the same, to which Ms. Gomez Anderson replies the decision is not binding, but can be considered. Chairperson Karakassis asks Mr. Gordon if he wishes to withdraw the application for an Interpretation. Mr. Gordon states he does. Chairperson Karakassis states the Board will continue to review the variance applications at the next meeting, and specifically, discuss whether or not the project represents a public utility, and whether the variance the applicant must seek is a Use Variance, or an Area Variance. ZBA Attorney, Janis Gomez Anderson states the applicant is withdrawing the request for an Interpretation with prejudice, and further states if the applicant does not wish to do so, the Board will set a public hearing for the Interpretation request. Mr. Gordon confirms he is withdrawing the application for an Interpretation with prejudice.

Review

ZBA 23-03 New Cingular Wireless, represented by George Santoire of Airosmith Development, application for an Interpretation of Town of Red Hook Zoning Enforcement

Officer, Robert Fennell's Determination of April 4, 2023, determining the Use Variance granted under ZBA Appeal 5-98, on September 9, 1998, applies to the Site, consisting of two parcels, numbered 515038 and 512069, and to the proposed wireless facility("the Project"), and prohibits further development of the Site. The subject parcels are located at 3499 Route 9G, and adjacent vacant land on 9G, respectively, in the Town of Red Hook, in the RD-3 Zoning District.

ZBA 23-04 New Cingular Wireless, represented by George Santoire of Airosmith Development, application for an amendment to the Use Variance granted under ZBA Appeal 5-98, on September 9, 1998, to authorize development of permitted uses, including the proposed wireless facility, at the Site, consisting of two parcels, numbered 515038 and 512069. The subject parcels are located at 3499 Route 9G, and adjacent vacant land on 9G, respectively, in the Town of Red Hook, in the RD-3 Zoning District.

ZBA 23-05 New Cingular Wireless, represented by George Santoire of Airosmith Development, application for an Area Variance to install a new AT&T telecommunications transmissions tower 66' from the property line, at the Site, consisting of two parcels, numbered 515038 and 512069. Section 143-103(A)(1) of the Town of Red Hook Zoning Law, regarding Commercial Communications Transmitting facilities, requires a setback of 150' from the property line. The subject parcels are located at 3499 Route 9G, and adjacent vacant land on 9G, respectively, in the Town of Red Hook, in the RD-3 Zoning District.

Chairperson Karakassis reads the agenda item for ZBA 23-03, and states the Board will be reviewing the request for an Interpretation of ZEO Bob Fennell's April 4, 2023 Denial Letter. Chairperson Karakassis asks the person representing the applicant to step forward. Ms. Lindsay Haubenreich, of Phillips, Lytle steps forward and states she represents the applicant. Chairperson Karakassis identifies the subject parcels, and Clerk Rubin displays the parcel map from Dutchess County on the smart screen.

Chairperson Karakassis notes a Use Variance was granted in 1998, to combine the two parcels, to a Charles Bellanca (ZBA 5-98), based on Mr. Bellanca's assertion the property had no reasonable return as a residential property. Chairperson Karakassis further states the use was changed from a residential to a commercial use, and notes the Use Variance applies to the two parcels, 515038 and 512069, and stipulates they be combined into a single parcel. Chairperson Karakassis states the 1998 Use Variance was granted against the advice of the Town, and Dutchess County, and notes it permitted the installation of three modular homes for commercial use. Chris Klose states he agrees with Chairperson Karakassis.

Ms. Haubenreich states the Town has effectively waived the conditions of the 5-98 Use Variance, and asserts it only applies to parcel 515038, due to the passage of time, no common owners, and a lack of enforcement by the Town. Chairperson Karakassis states the variance runs with the land, and asks Ms. Haubenreich if she has case law supporting an expiration of a Use Variance. Chairperson Karakassis further states Mr. Bellanca was

the property owner in 1998, and states it was purchased by Levy and Hourihan. Chairperson Karakassis states M.K. Levy properties changed the name of the owner of parcel 512069 to Route 9G Properties, LLC, and further states Mr. Levy has been involved all along, so there is no innocent third party who had no idea of the conditions.

Chairperson Karakassis asks Ms. Haubenreich why she believes a lack of enforcement would preclude the conditions stipulated by the 5-98 Use Variance, to which Ms. Haubenreich replies the Town has essentially waived its right, due to a lack of enforcement over time. Chairperson Karakassis states the Town employs a part-time ZEO, and if this officer had become aware of the non-adherence to the conditions of the Use Variance, he would have instituted enforcement.

Ms. Haubenreich states the intent of the conditions of the Use Variance was to restrict other uses, and asks the Board how a Use Variance can restrict permitted uses. Ms. Haubenreich states a broader reading of the conditions would allow for future expansion of unpermitted uses, as opposed to a narrower reading, which is literally the statement on the Variance Resolution "...three structures only...". Chris Klose states the restrictions apply even 24 years later. Chairperson Karakassis states the intent of the ZBA, in 1998, is clearly stated in the language of the Variance Resolution 5-98.

Chris Klose states he agrees with Chairperson Karakassis, and further states the parcels are adjacent to an Historic District, and further states a 100' high cell tower is not aesthetically pleasing. Ms. Haubenreich states the proposed tower is largely unseeable. Clerk Rubin displays a photograph of a balloon test, with a view from one of the modular homes, currently on the site. Ms. Haubenreich states the State Historic Preservation and Parks Office is aware of the proposed tower.

Chairperson Karakassis states the applicant is seeking a modification of the conditions of the 1998 Use Variance, and further states the courts have considered the proposed use, not a Use Variance, or an Area Variance. Chairperson Karakassis states the applicant needs a Use Variance to amend the conditions of the 5-98 Use Variance to allow the proposed use, and further states she does not know if this is the best vehicle.

ZBA Attorney, Janis Gomez Anderson states the two lots were never legally combined, and further states there is a deed on record, which describes the combined parcels, and further states the property owner would have had to seek Site Plan Approval from the Town Planning Board, since a subdivision can not simply be combined on a deed. Ms. Gomez Anderson states subsequent deeds stated two parcels, and notes subsequent to that there was a conveyance of one parcel, either by estoppel or not. Ms. Haubenreich acknowledges the situation with the two parcels.

At 8:43pm Chairperson Karakassis asks for a motion to schedule a public hearing for the next ZBA meeting, for Appeal 23-03, for an Interpretation. Chris Klose so moves, Chris Carney seconds, and all Board members present vote in favor of setting a public hearing for ZBA 23-03 New Cingular Wireless AT&T-Airosmith Development, for an Interpretation.

Chairperson Karakassis states there is an easement on the northern parcel, dating from 1999, for Frontier Communications. Ms. Haubenreich states the project proposes an access road over a 30' road. Ms. Gomez Anderson states if the ZBA decides the two lots are a single parcel, per the conditions of the 5-98 Use Variance, the property owner must combine the lots, by seeking Site Plan Approval from the Town Planning Board. Ms. Gomez Anderson states if the lots are combined, it takes away the need for an Area Variance. Ms. Haubenreich states the applicant has a lease with the property owner, but does not represent the property owner.

Chairperson Karakassis states there are violations on the lower lot for people living on the property. Ms. Haubenreich states she understands people were living in a temporary trailer. Ms. Gomez Anderson states there are, or were, people living in the modular home, which has no Board of Health approvals for septic. Ms. Haubenreich states she is aware of underlying violations with the Town, and understands the property owner is addressing this. Ms. Haubenreich states the proposed tower would employ co-location, in which there is more than one carrier on a tower. George Jahn states the Board could require co-location.

Chairperson Karakassis asks the Board members if they have any further questions. George Jahn and Chris Klose each state they will be away for the July 12, 2023 meeting.

At 8:53 Chairperson Karakassis asks for a motion to adjourn. George so moves, and Chris Klose seconds. All Board members vote in favor of adjourning.

The Board moves in to an Attorney-Client Session, with ZBA Attorney, Janis Gomez Anderson.

The next regularly scheduled ZBA meeting is July 12, 2023.

Due to the Independence Day holiday, the submission deadline for this meeting is noon of Thursday, June 29, 2023

Attachment

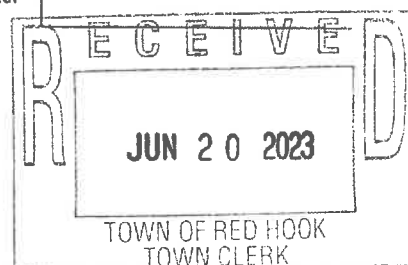
A

**Short Environmental Assessment Form
Part 2 - Impact Assessment**

Agency Use Only [If applicable]

Project: ZBA #23-01
Devereux Fence Height Variance

Date: 6/14/2023



Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	☒	☐
2. Will the proposed action result in a change in the use or intensity of use of land?	☒	☐
3. Will the proposed action impair the character or quality of the existing community?	☒	☐
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	☒	☐
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	☒	☐
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	☒	☐
7. Will the proposed action impact existing:		
a. public / private water supplies?	☒	☐
b. public / private wastewater treatment utilities?	☒	☐
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	☒	☐
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	☒	☐
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	☒	☐
11. Will the proposed action create a hazard to environmental resources or human health?	☒	☐

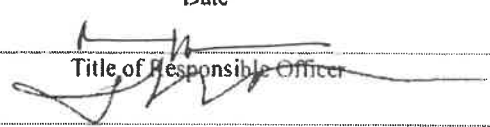
PRINT FORM

Agency Use Only (If applicable)
Project: ZBA #23-01 Devereux
Date: 06/14/2023

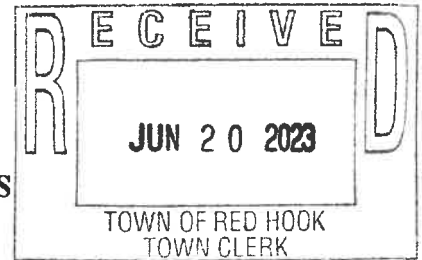
Short Environmental Assessment Form Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

N/A

☐	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
☒	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
Town of Red Hook Zoning Board of Appeals	06/14/2023
Name of Lead Agency	Date
Kate Karakassis,	Chair
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
	
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT FORM



TOWN OF RED HOOK ZONING BOARD OF APPEALS

RESOLUTION

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

NEGATIVE DECLARATION

Application #: 23-01

Grid #: 134889-6374-00-244300-0000

Introduced by: Chris Klose

Date: June 14, 2023

Seconded by: George Jahn

WHEREAS, the applicant, Devereux Foundation, has submitted an application for a variance from the strict application of 143-28(A) of Chapter 143 of the Code of the Town of Red Hook (Zoning) to allow the installation of a perimeter fence of eight feet in height where §143-28(A) limits the height of a fence to the six feet when erected in a required side or rear yard and four feet in height when erected within the required front yard.

WHEREAS, the action is an unlisted action pursuant to the New York State Environmental Quality Review Law; and

WHEREAS, this Board has declared itself Lead Agency in an uncoordinated review; and

NOW THEREFORE BE IT RESOLVED, that the Zoning Board of Appeals determines that the granting or denial of an area variance as described in the application herein **will not** have a significant adverse impact on the environment and adopts Part 2 and Part 3 of the Short Environmental Assessment Form attached hereto.

Member	Aye	Nay	Abstain	Absent
Kate Karakassis, Chair	X			
John Bonavita-Goldman				X
Chris Carney	X			
George Jahn	X			
Chris Klose	X			

Adopted: June 16, 2023

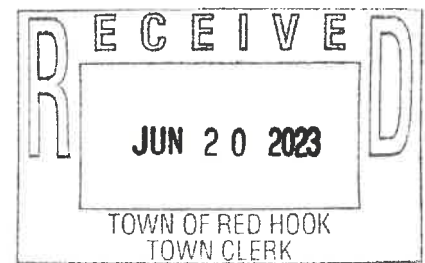
Zoning Board Chairperson:

KATE KARAKASSIS

Secretary:

Attachment

B



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

VARIANCE RESOLUTION

Application #: 23-01

Grid #: 134889-6374-00-244300-0000

Introduced by: Chris Klose

Date: June 14, 2023

Seconded by: Kate Karakassis

The Town of Red Hook Zoning Board of Appeals, at meetings duly convened on March 8, 2022, April 12, 2022, May 10, 2022 and June 14, 2023, reviewed the facts in Application #23-01 as submitted by the Devereux Foundation, owner of the property identified as Tax Map # 134889-6374-244300-0000 ("the Property").

WHEREAS, said application requests a variance from the strict application of 143-28(A) of Chapter 143 of the Code of the Town of Red Hook (Zoning) to allow the installation of a perimeter fence of eight feet in height where §143-28(A) limits the height of a fence to the six feet when erected in a required side or rear yard and four feet in height when erected within the required front yard.

WHEREAS, the application was determined to be an Unlisted Action under the State Environmental Quality Review Act, Section 6NYCRR Part 617, and

WHEREAS, the Zoning Board of Appeals issued a Negative Declaration on June 14, 2023; and

WHEREAS, the application was referred to the Dutchess County Planning Department pursuant to GML §239-m, and the County responded that the application is a matter of local concern.

WHEREAS, the Board held a Public Hearing on May 10, 2023 and June 14, 2023, notice of which was duly published in the Poughkeepsie Journal on April 30, 2023 and posted as required by law, and

WHEREAS, at said Public Hearing all who wished 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 fence is chain link and will permit passage of light, air, and water; and
2. installation will involve minimal disruption of surface soil; and
3. the metal fence will be sheathed in black plastic making it less noticeable, and portions of it will be shielded from neighbors view by a line of trees and bushes; and

4. the easterly portion that will extend into the woods is to replace existing fence where the area was already cleared for that purpose; and
5. roadway at Vosburg property is only for emergency access, that will be a keyed gate provided to emergency personnel; and
6. the fence is located far off State Route 9 and will not be visible to traffic on the road; and
7. on a visit to the property, there was significant vegetation between the proposed area of the fence and residential properties.

NOW THEREFORE BE IT RESOLVED by the Zoning Board of Appeals, that
Application

#23-01 a request for a variance from 143-28(A) of Chapter 143 of the Code of the Town of Red Hook (Zoning) to allow the installation of a perimeter fence of eight feet in height where §143-28(A) limits the height of a fence to the six feet when erected in a required side or rear yard and four feet in height when erected within the required front yard.

be **granted** on the following grounds:

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

It would produce only a minimal detriment to nearby properties.

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

The applicant believes a fence will provide more security for residents. The immediate need is for a fence, and the applicant has determined that 8 feet is the necessary height achieve security.

3. The requested variance **is not** substantial.

The requested variance in the side yards from 6 feet to 8 feet in fence height is 33% and is numerically substantial but not substantial in impact. The requested variance in front yard from 4 feet to 8 feet in fence height is 50% and is numerically substantial but not substantial in impact.

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

5. The hardship for which the variance is sought to rectify **was** self-created.

The hardship is self-created

BE IT FURTHER RESOLVED, the variance granted is the minimum variance necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community.

BE IT FURTHER RESOLVED, the grant of the Requested Variance shall be subject to the following condition(s):

1. Obtaining Site Plan approval for the proposed fence from the Planning Board.
2. Mitigate the aesthetic impacts of the fence by appropriate landscaping as determined by the Planning Board.
3. Payment of all fees and escrow; and
4. Application for and receipt of any other approvals required by the Town of Red Hook Code and New York State Building Code including but not limited to any and all building permits and certificates of occupancy; and

Member	Aye	Nay	Abstain	Absent
Kate Karakassis, Chair	X			
John Bonavita-Goldman				X
Chris Carney	X			
George Jahn	X			
Chris Klose	X			

Adopted: June 16, 2023

Zoning Board Chairperson: 
KATE KARAKASSIS

Secretary: 