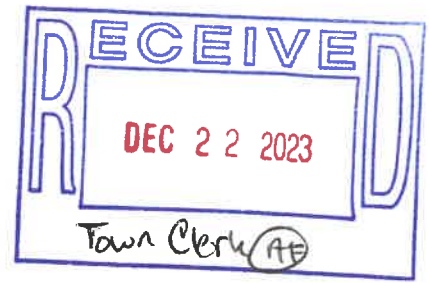


Town of Red Hook ZBA
Approved Meeting Minutes
November 08, 2023



Preliminaries

Roll Call

Chairperson Karakassis calls the meeting to order at 7:01 pm.

Present are Chairperson Karakassis, George Jahn, Chris Klose, and Chris Carney. Absent is John Bonavita-Goldman. Also present are ZBA Attorney, Janis Gomez-Anderson, Deputy Building Inspector, Brandon Mullins, for ZEO Bob Fennell, and Town Board Liaison, Bill Hamel.

Approval of Draft Minutes 9-13-23

At 7:02pm Chairperson Karakassis asks for a motion to approve the September 13, 2023 meeting minutes, noting the final paragraph is mistakenly included from previous minutes. Chris Carney so moves, Chairperson Karakassis seconds, and Chairperson Karkassis, George Jahn, Chris Klose, and Chris Carney vote in favor of approving the revised minutes of September 13, 2023.

Chairperson Karakassis notes there is not a quorum of Board members, who were present at the October 11, 2023 meeting, to vote on the draft minutes.

Planning Board Minutes and Comments from the Chair

There are no comments from the Chair at this time.

Review

ZBA 23-09 Michael Levy of MK Levy Properties, LLC, and Route 9G Properties, LLC, represented by Karen Hagstrom of Stenger, Diamond, & Glass, LLP, application for an Interpretation, regarding a Town of Red Hook Notice of Violation/Order to Remedy/Compliance Order, dated August 8, 2023, regarding the violation of Use Varaince #5-98, and violation of site plan approval, #SP-98-11, and a violation regarding the occupancy of a model home. One of the two subject parcels is located at 3944 Route 9G, in the Town of Red Hook. The second subject parcel is the adjacent parcel to the north, containing a shared lot line with the subject parcel at 3944 Route 9G, in the Town of Red Hook. Both Parcels are located in the RD3 Zoning District.

ZBA 23-10 Michael Levy of MK Levy Properties, LLC, and Route 9G Properties, LLC, represented by Karen Hagstrom of Stenger, Diamond, & Glass, LLP, application for a Use Variance, regarding the residential use of a model home on the subject parcel.

Town of Red Hook Planning Board site plan approval, #SP-98-11, does not permit a residential use of this model home. One of the two subject parcels is located at 3944 Route 9G, in the Town of Red Hook. The second subject parcel is the adjacent parcel to the north, containing a shared lot line with the subject parcel at 3944 Route 9G, in the Town of Red Hook. Both Parcels are located in the RD3 Zoning District.

Chairperson Karakassis reads the agenda item, and confirms with Karen Hagstrom she is representing applicant Michael Levy. Ms. Hagstrom refers to Exhibit A, the Notice of Violation/Order to Remedy/Order of Compliance letter, dated August 8, 2023, and states the ZBA Use Variance 5-98 allows for an expansion of use, and states residential uses are permitted in the [RD3] Zoning District. Ms. Hagstrom describes the residential use as more conforming, and states it was the office, in the third, southernmost building, which was non-conforming. Ms. Hagstrom states the tenants have moved out of the building.

Ms. Hagstrom also states the violation regarding the two parcels has been cured, via a merging of the two parcels into a single parcel, with the parcel number 515038.

Chairperson Karakassis asks if there is a sewer and or septic issue, and further states the Board of Health, and Dutchess County received the same violation letter, and did not seem too interested.

Ms. Hagstrom states when the 5-98 Use Variance occurred, a Certificate of Occupancy was issued, dated 8-9-1999, which stated it was for one family, and one bathroom. The Board reviews this document, included with the application, Ms. Hagstrom states Mr. Levy installed a family in the residence based on this Certificate of Occupancy. Ms. Hagstrom states it is her understanding a model home is intended for sale, to be occupied, and often includes an office, which is a commercial use.

Chairperson Karakassis reviews the meeting minutes of 5-98, and states at the time it was used as an office, and notes the use as a residence was subsequent to that. Chairperson Karakassis states a ZBA can condition a use variance, and states Use Variance 5-98 contemplates only the three uses contained therein. Chairperson Karakassis states the discussion can not go back to residential.

Ms. Hagstrom states the applicant's intent is to abandon the non-conforming use for one building, making it more conforming, with the zoning district, with a residential use. Ms. Hagstrom asks if the third, southernmost structure can be used for commercial uses, to which ZBA Attorney, Janis Gomez Anderson asks if an office use would be contemplated in the third building. Ms. Gomez Anderson states it was her understanding the third building was for display purposes only, and the offices were in the two other buildings. Ms. Hagstrom states the standard definition of a display model does include and office, and further states she finds the 5-98 Use Variance was not drafted well.

Ms. Gomez Anderson states there is a difference between a Certificate of Occupancy for an intended use, versus a Certificate of Compliance, and further states the third, southernmost building was not supposed to have water and sewer, and reads from a Dutchess County document stating such. Ms. Hagstrom states a family lived in the southernmost building for five years. Chairperson Karakassis states the Town is not going out and inspecting every building. Ms. Hagstrom states since residential uses are permitted in the RD3 Zoning District, the residential use complies with zoning.

Chairperson Karakassis states Use Variance 5-98 limits the uses on the parcel, and notes it was priorly zoned residential, and further states the limited use, contained in the use variance is based on limiting noise and traffic. Chairperson Karakassis states the Use Variance 5-98 did not anticipate the current uses of an accounting and financial services office, an Indian food distribution center, and a residence. Chris Klose asks if the intent of the ZBA 25 years ago included residential, to which Chairperson Karakassis replies it did not. Chairperson Karakassis states the financial services office could be considered a conforming use, since it is commercial, and further notes the third, southernmost building as a residence is non-compliant, according to the ZEO.

Ms. Hagstrom states the applicant could always revert to a conforming, permitted use. Mr. Levy states the Indian food distribution center, in the second building has no commercial kitchen, no food preparation, is a wholesale business, and further states the food is manufactured in other facilities. Chris Klose asks for confirmation that the first building is also used commercially, and asks the applicant if he wants to revert a commercial building to a residence, to which Ms. Hagstrom affirms, and states it is a permitted use in a residential zone.

Chairperson Karakassis states a change in use from a display model home to an office building may require a lower standard of review, and lead to a cleaner and more elegant solution. Chairperson Karakassis further states if the ZBA upholds the Interpretation of "No Residential Use", the applicant would need a Use Variance to obtain a residential use. Chairperson Karakassis states a different commercial use, however, would be a lower standard of review, and more likely to be permitted as an extension of the original commercial use. Chairperson Karakassis states the Board cannot confirm this in advance.

Deputy Building Inspector, Brandon Mullins states Section 143-10 F of the Town of Red Hook Zoning Code is the basis for the principle use as commercial, based on the Site Plan approval from the Planning Board. Mr. Levy states he is not opposed to a commercial activity in the third, southernmost building. Ms. Hagstrom states her client wants to be able to use the building. Ms. Gomez Anderson states there cannot be two principle uses on a property allowing a commercial use. Chairperson Karakassis states the applicant can re-apply for a modification of the existing conditions of Use Variance 5-98, to allow a similar commercial use, for the second and third structures. George Jahn states the applicant wishes to derive income from the property. Ms. Hagstrom asks if her client can pause the application, to which Chairperson Karakassis replies the Board will adjourn the matter to the next meeting, at which the applicant will have

submitted an application for a modification of the Use Variance 5-98. Mr. Mullins states the Zoning Code requires use must be a less intensive use than the current [permitted] use, in order for the applicant to not need to submit an application.

At 7:50pm George Jahn moves to adjourn the meeting. Chris Klose seconds, and Chairperson Karakassis, George Jahn, Chris Klose, and Chris Carney vote in favor of adjourning the meeting.

The next regularly scheduled ZBA meeting is December 13, 2023.

The submission deadline for this meeting is noon of Tuesday, December 5, 2023