

Town of Red Hook ZBA
Approved Meeting Minutes
January 10, 2024

Preliminaries

Roll Call

Acting Chair Chris Carney calls the meeting to order at 7:00 pm, and conducts a roll call. Present are Chris Carney, John Bonavita-Goldman, George Jahn, and Chris Klose. Absent is Chairperson Kate Karakassis. Also, present are ZBA Attorney, Janis Gomez Anderson, and Town Board Liaison, Bill Hamel. Jackie Fenaroli, Building and Zoning Office Secretary, is filling in for ZBA Clerk Anne Rubin, who is also absent.

Approval of Draft Minutes 10-11-2023, 12-13-2023

At 7:01pm Acting Chair Carney moves to approve the October 11, 2023 draft meeting minutes. John Bonavita-Goldman seconds, and all Board members present vote in favor of approving the October 11, 2023 meeting minutes.

At 7:01pm Acting Chair Carney asks for a motion to approve the December 13, 2023 draft meeting minutes. Chris Klose so moves, George Jahn seconds, and all Board members present vote in favor of approving the December 13, 2023 meeting minutes.

Planning Board Minutes and Comments from the Chair

Acting Chair Carney informs the Board the Planning Board has sent the ZBA a Lead Agency Request for the proposed telecommunications tower at 3944 Route 9G, in the Town of Red Hook, and asks for a motion to grant lead agency status to the Planning Board. At 7:02 Pm Chris Klose so moves, George Jahn seconds, and all Board members present vote in favor of granting the Planning Board lead agency status for the project.

Acting Chair Carney informs the Board the ZBA has received a letter from Wireless Edge on January 8, 2024, regarding the proposed telecommunications tower in the Town of Rhinebeck. The letter states the tower will have a co-locator. Janis Gomez Anderson recommends the Board make the letter available to read on request [See Exhibit A].

Review

ZBA 24-01 George Allen, representing Red Hook Golf Course, Inc., application for an area variance to install an internally-illuminated, double identity sign, with a combined

square footage of approximately 30 square feet. Town of Red Hook Zoning Law, Section 143-27 (D) (2) Sign Standards, permits a single identity sign, measuring a maximum area of 12 square feet, and Section 143-27 B (6) prohibits internally illuminated signs in the Zoning District. The subject parcel is located 650 Route 199, in the Town of Red Hook, in the RD3 Zoning District.

Acting Chair Carney reads the agenda item, and Janis Gomez Anderson states there is a correction to the agenda item, since Town of Red Hook Zoning Code Section 143-27 (B) (6) allows internally illuminated signs in the RD3 District, measuring up to eight square feet. Ms. Gomez Anderson states the applicant will still need a variance, since he has requested 30 square feet of signage. Ms. Gomez Anderson also states she will make the correction for the public hearing notice.

Acting Chair Carney asks the applicant to step forward and present his proposal. Mr. Allen introduces himself, and states he is on the Board of the Red Hook Golf Club. Mr. Allen states in the past year, the Board has made the decision to upgrade the restaurant by bringing in the woman who created the Copake Lake Golf Course Restaurant, and further states the Red Hook Golf Course Restaurant has always struggled, even with some 120 houses nearby. Mr. Allen states the intent is to improve the approach to the golf course and restaurant, and further states the approach is a pretty dark corridor, at the moment. Mr. Allen states the Board desires a sign commensurate with the size of the facility, and further states the internal illumination is functionally important for anyone driving by at night, and notes if the sign is off, it will signal the restaurant is closed, and if the sign is on, it will signal the restaurant is open. Mr. Allen states the restaurant is not visible from the road, so the sign will act as a trigger for potential customers.

Mr. Allen states the golf club is open to the public, and further states most of the people who play there are from Red Hook or Rhinebeck. Mr. Allen states it's a community place and they are trying to make the experience there better for everyone involved. George Jahn asks the applicant who owns the RH Golf Club, to which Mr. Allen replies it is a stock corporation, and further notes, there is no requirement to purchase stock, and states about 50% current members are owners, and 50% of total owners are still members of the golf club. George Jahn asks the applicant what are the operating hours of the restaurant, to which Mr. Allen replies the restaurant is expected to open April 1, 2024, and operate seven days a week, for lunch and dinner, through Labor Day. Mr. Allen states this has always been the goal for the restaurant, and further notes, no one has been able to make it work. Mr. Allen states the woman creating the restaurant is investing a considerable amount in the restaurant itself, and further states the golf club is just trying to support her. George Jahn asks the applicant what will happen with the restaurant during the other months, to which Mr. Allen replies she will still be open for business, but hasn't decided what the hours of operation will be. Mr. Allen states he expects it will be based on demand.

Chris Klose asks the applicant if the RH Golf Club has an interest in the business, to which Mr. Allen replies the RH Golf Club is a landlord and has a potential revenue share from the restaurant, if it generates above a certain amount of revenue. Mr. Allen states if the restaurant is rented out for larger events such as weddings, the RH Golf Club will participate in that.

Chris Klose asks the applicant if the internally illuminated sign will have the wording "Open" or "Closed", to which Mr. Allen replies it will not. Mr. Allen states the proposed sign will be similar to the photograph he submitted to the Board, with a black face, or a covered face, with an illuminated outline. Mr. Allen states internal illumination is more efficient from a light perspective and also states it creates a sense of openness. Mr. Allen states there is a top-down light over a diminutive sign right now, and further states it is too close to the road. George Jahn states there are a number of signs on that stretch of road, and further notes the proposed sign will be the nicest one, if it gets approved. Mr. Jahn confirms with the applicant the sign proposed is the one shown in the photograph submitted by Mr. Allen.

Acting Chair Carney asks the applicant how he decided a 30 SF sign was needed, to which Mr. Allen replies, there are two buildings on the location, the restaurant and the golf course, and further states there needs to be a sign for each one, even though the Zoning Code only permits one sign per parcel. Mr. Allen states if they could get permission to have two signs, each measuring 12 SF, he thinks it would be acceptable, and further states he could live with that. Mr. Allen states he sized up some other signs at golf courses in order to approximate what he came up with.

Chris Klose asks the applicant how much light is going to come out of the proposed sign, to which Mr. Allen replies the internal illumination is more of a glow than a beam of light. Mr. Klose asks the applicant if the light is more yellow, to which Mr. Allen replies it is. Acting Chair Carney confirms with the applicant it would be a warm color. Acting Chair Carney asks the Board if there are any more questions for the applicant, to which the Board members reply there are none. Acting Chair Carney asks the applicant if he is fine with the Board members making site visits, to which Mr. Allen replies he is.

Mr. Allen notes there are some 115 neighbors, who must be notified of the public hearing, and asks if the notification may be done through the Homeowners Association, to which the ZBA Attorney replies the Town Code requires each neighbor to be notified individually. Mr. Allen asks if a mention of the new restaurant may be included in the public hearing notice. Ms. Gomez Anderson states she is not sure. Chris Klose asks the applicant how many members are there in the RH Golf Club, to which Mr. Allen replies there are some 294 members, 44% of which are in Red Hook. Ms. Gomez Anderson states Mr. Allen must bring a check to cover the cost of the certified mailing to his

neighbors, by Monday, and informs Mr. Allen the public hearing will be on February 14, 2024.

At 7:18 pm Chris Klose moves to set a public hearing for ZBA 24-01 Allen – RH Golf Club, at the ZBA meeting of February 14, 2024. John Bonavita-Goldman seconds, and all Board members present vote in favor of setting the public hearing.

Public Hearing

ZBA 23-11 Philip J. Williams Jr., application for an area variance to construct a single - family dwelling 33' from the front property line, which is also the centerline of Stone Church Road, and 22' from the edge of pavement. Town of Red Hook Zoning Law, Section 143-12, The District Schedule of Area and Bulk Regulations, requires a minimum 60' front yard setback, in the Zoning District. The subject parcel is located at 251 Stone Church Road, in the Town of Red Hook, in the RD3 Zoning District.

Acting Chair Carney reads the agenda item, and notes it is his understanding that the applicant has adjusted the variance request, since last month. Acting Chair Carney invites the applicant to step forward and tell the Board what has changed in his variance request. Mr. Phil Williams Jr. states he is going to have his father address the question, since he has been handling it. Mr. Phil Williams Sr. states when he and his son applied, they didn't understand the setbacks, exactly, and further states they submitted the application with the original setback requests. Mr. Williams Sr. states he and his son actually want a location 33' from the white line, and not from the center line, of the roadway, which is also the property line. Mr. Williams Sr. states the actual variance request would be 44' from the property line. Mr. Williams Sr. states he was also made aware of a 60% requirement, for the rear yard setback, since the lot is an existing, non-conforming lot, instead of the 100% requirement for new lots. Mr. Williams Sr. states they can move the requested location back from the front property line, and still be well within the allowed rear setback, due to the 60% rule for existing, non-conforming lots.

Acting Chair Carney states by moving to a location 44' from the front property line, the applicant will not be encroaching at all on the rear setback. Janis Gomez Anderson states there are special provisions in the Code for existing, non-conforming lots, as defined in Section 143-13 of the Town of Red Hook Zoning Law, and further states the subject parcel falls within these provisions. Ms. Gomez Anderson states the rear setback is not what it would normally be, but it is also not anything that would require a variance. Mr. Williams Sr. states they could go further back, but it would mean the proposed building would be over the hill, since the lot slopes. Mr. Williams further states they would rather have a little bit of both lot sections. Ms. Gomez Anderson asks Mr. Williams Sr. to confirm the "white line" to which he refers is at the edge of the pavement. Mr. Williams Sr. confirms this.

Chris Klose asks Mr. Williams Sr. to confirm they own the lot to the rear of the subject parcel. Mr. Williams Sr. states it is owned by his son. Chris Klose states as such it is a matter of common sense. Acting Chair Carney asks the Board if there are any further questions or concerns prior to opening the public hearing. Chris Klose asks Mr. Williams Sr. if there is going to be a driveway, and where it would be. Mr. Williams Sr. states he and his son have already applied for the permit, and states the driveway location is in a drawing they submitted, and states it will be just east of a neighbor's driveway, across the street. Mr. Williams Sr. states the original location of the driveway was just past the telephone pole, and further there was 340' of sight distance. Mr. Williams Sr. states the Town requires 350' of site distance.

Janis Gomez Anderson asks Mr. Williams Sr. to state the distance from the edge of the pavement to the requested location of the building. Mr. Williams Sr. states it is 33' from the white line at the edge of the pavement.

At 7:23 pm Acting Chair Carney asks for a motion to open the public hearing. Chris Klose so moves. John Bonavita-Goldman seconds, and all Board members present vote in favor of opening the public hearing. Acting Chair Carney asks if there are any members of the public who wish to comment. There are no comments. At 7:24 pm Acting Chair Carney asks for a motion to close the public hearing. George Jahn moves to close the public hearing, Chris Klose seconds, and all Board members present vote in favor of closing the public hearing.

Janis Gomez Anderson states she has a draft resolution for the Board for Appeal 23-11 Williams AV. [See Exhibit B]. The Board reviews and discusses the six criteria for area variances [See Exhibit B]. The Board states the hardship for which the variance is sought to rectify is not self-created, the lot became non-conforming, after it was created. Ms. Gomez Anderson states this is one of very few instances in which the hardship is not self-created, because the lot existed, and then the zoning law changed. At 7:29 Acting Chair Carney asks for a motion to approve the variance request. John Bonavita-Goldman so moves, Chris Klose seconds, and all Board members present vote in favor of approving the variance resolution for ZBA 23-11 Williams AV.

Public Hearing

ZBA 23-10 Michael Levy of MK Levy Properties, LLC, and Route 9G Properties, LLC, represented by Karen Hagstrom of Stenger, Diamond, & Glass, LLP, revised application for a Use Variance, regarding the commercial and/or office building use of a display-only, model home on the subject parcel. Town of Red Hook Planning Board site plan approval, #SP-98-11, limits the use to a display-only, model home. The formerly two subject parcels, 515038 and 512069 have been combined into a single subject parcel, 515038, which is located at 3944 Route 9G, in the Town of Red Hook, in the RD3 Zoning District.

Acting Chair Carney reads the agenda item, and states the Board received a letter from a member of the public, Mr. Verderber, who had various questions regarding the existing use of the parcel [See Exhibit C]. Mr. Carney states the ZBA Chair sent a response, yesterday, and hopefully alleviated those concerns [See Exhibit C]. Acting Chair Carney asks Ms. Hagstrom if there is any new information regarding the subject parcel, to which Ms. Hagstrom replies she filled out a new NYSDEC Environmental Assessment Short Form [EAF-S], and further states a few of the responses were different from the form originally submitted by the applicant. Ms. Hagstrom asks the Board to accept the new form, signed by the applicant, in place of the old one [See Exhibit D]. Ms. Hagstrom states, for the record, her client has merged the two parcels resulting in a single, subject parcel. Ms. Hagstrom also asks for a copy of the letter from Mr. Verderber, and the ZBA Chairperson's response. Ms. Gomez Anderson states the Chairperson Karakassis's response amounted to a description of the past few meetings, as they pertain to the applicant, and Mr. Verderber emailed the Chairperson, stating his questions had been answered.

Ms. Hagstrom states the parcel obtained a use variance in 1998, at which time the applicant had a business partner with a modular home business – and further states this is why there are three modular homes on the subject parcel. Ms. Hagstrom states one of these is the applicant's own business, one is an office, and the third, southernmost modular home the reason her client is before the Board. Ms. Hagstrom states this building was approved for a commercial use as a model display home, and further states this is a very restrictive use. Ms. Hagstrom states since the modular home business no longer exists, and because her client purchased his business partner's interest, her client is still requesting a commercial use, as a modification of the original use variance. Ms. Hagstrom

Ms. Hagstrom states the case law she submitted with the application indicates the standard is not the typical use variance standard, but rather standard of "sufficient reason". Ms. Hagstrom states the "sufficient reason" she is proposing, on her client's behalf is the use as a model display home is so restrictive, the building cannot effectively be used for anything, since the modular home business no longer exists. Ms. Hagstrom states she discussed with the Board, at the last meeting, a commercial use similar in intensity, such as an office, or office building, as defined in the Town Code. Ms. Hagstrom also states she and the Board discussed a limitation in the number of parking spaces, as stated by Chairperson Karakassis.

Chris Klose states the Board agreed to seven parking spaces. Ms. Hagstrom states the ZBA Attorney emailed her with a question regarding the square footage of the third, southernmost building. Chris Klose states it is 12 SF. Ms. Gomez Anderson states that is the footprint, and the overall square footage is 2303. Mr. Levy states the loft is kind of unfinished. Ms. Gomez Anderson states the Board wants to make sure, if it is limiting the number of parking spaces, the applicant will not have to revisit the issue with the Planning Board.

Ms. Hagstrom asks the Board if there are any questions, to which ZBA Attorney Janis Gomez Anderson replies she has some matters she wants to put on the record, regarding this appeal, before the Board opens the public hearing. Ms. Gomez states when the 1998 use variance was granted, it was subject to the following conditions:

1. The two parcels in question, 515038, and 512069, are to be combined.
2. There is to be no further expansion of the property.
3. The proposed changes to the property must obtain site plan approval.
4. The variance limits the number of structures to three, as described to the ZBA, two offices and one model, display home.
5. The structures are to remain residential in appearance.
6. The footprint of the structures is not to exceed 8000 SF.

Ms. Gomez Anderson states the applicant subsequently got site plan approval, with the following conditions from the Town of Red Hook Planning Board:

1. Approval from the Dutchess County Health Department.
2. No water connection or septic connection to the 1200' SF model display house.
3. New York Department of Transportation Approval.

Ms. Gomez Anderson states the site plan, as accepted, required the two parcels to be combined, and further notes this matter has been resolved. Ms. Gomez Anderson states the applicant is seeking to modify the existing use variance to "business or office establishment", as defined by the Red Hook Town Code. Ms. Gomez Anderson states the modification request also includes seven parking spaces. Ms. Gomez Anderson states typically use variances are rarely sought, but in this case, the applicant's attorney has provided her with some case law [Jackson v. ZBA of City of Long Beach 270 A.D. 2d 267], which indicates a modification of an existing use variance requires a less stringent process than applying for a use variance.

Acting Chair Carney asks if the Board has any questions before opening the public hearing. There are none. At 7:40 pm Acting Chair Carney asks for a motion to open the public hearing. George Jahn so moves, John Bonavita-Goldman seconds, and all Board members present vote in favor of opening the public hearing.

Chris Klose states he has a question regarding the intended use of the third, southernmost building. Ms. Hagstrom states it will be a professional office or office building, as defined by the Town Code. At 7:41pm Acting Chair Carney asks for a motion to close the public hearing. George Jahn so moves, John Bonavita Goldman seconds, and all Board members present vote in favor of closing the public hearing. Acting Chair Carney asks the Board members if they have enough information to move forward with a vote on the variance request. George Jahn and Chris Klose state they do.

Janis Gomez Anderson states before the Board votes on the resolution, it has to do SEQR. Ms. Gomez Anderson states the action is an unlisted action, and further states the Board must declare itself lead agency in an uncoordinated review. Ms. Gomez

Anderson states because the action is unlisted, the ZBA does not have to coordinate with the other Boards.

At 7:42pm George Jahn moves for the ZBA to act as Lead Agency, in an uncoordinated review of an unlisted action. John Bonavita-Goldman seconds, and all Board members vote in favor of the ZBA acting as Lead Agency in an uncoordinated review of an unlisted action. Acting Chair Carney reviews the 11 questions on the Short Environmental Assessment Form (EAF-S) Part 2 – Impact Assessment [See Exhibit E]. Ms. Gomez Anderson states she drafted the paragraph for the EAF-S Part 3 – Determination of Significance, and further notes the Board may make changes to it [See Exhibit F].

At 7:47pm Acting Chair Carney asks for a motion to make a SEQR Negative Declaration. John Bonavita-Goldman so moves, Chris Klose seconds, and all Board members present vote in favor of a SEQR Negative Declaration. Acting Chair Carney asks the Board members if they have any further questions before the vote on the variance resolution. There are no questions. Acting Chair Carney asks the ZBA Attorney if he should read the resolution into the record, to which Ms. Gomez Anderson replies she has included in the resolution facts and conditions which are a summation of the past three meetings, with the intent the document be clear and complete, if someone wished to seek a future variance, in the immediate or far distant future. Ms. Gomez Anderson also notes the resolution states five to seven parking spaces, and also noted the Board has agreed to seven parking spaces. Acting Chair Carney reads the resolution [See Exhibit G].

At 7:51pm Acting Chair Carney asks for a motion to approve the resolution for ZBA 23-10 Hagstrom-Levy for a modification to an existing use variance. Chris Klose so moves, George Jahn seconds, and all Board members present vote in favor of granting the modification to an existing use variance.

At 7:52pm Acting Chair Carney asks for a motion to adjourn the meeting. Chris Klose so moves, George Jahn seconds, and all Board members present vote in favor of adjourning the meeting.

The next ZBA meeting is at 7:00pm, on Wednesday, February 14, 2024. The submission deadline for which is **noon** Tuesday, February 6, 2024. Please contact Brandon Mullins in the Building & Zoning Office to apply to the Town of Red Hook ZBA.



EXHIBIT

A

38 West Market Street
Rhinebeck, New York 12572
Office: (914) 712-0000
Fax: (914) 712-9005

January 8, 2024

Hon. Chair Robert McKeon
and Members of the Planning Board
Town of Red Hook
7340 S. Broadway
Red Hook, NY 12571

Re: AT&T Cell Tower Application located at Route 9G, Red Hook

Dear Hon. Chair McKeon and
Members of the Planning Board:

I am writing this letter to clarify statements made by the above applicant at the last planning board meeting. Contrary to what was stated, Wireless Edge's application for a cell tower in the Town of Rhinebeck is not withdrawn - the application is active and in process.

At the last Town of Rhinebeck Planning Board meeting, the Town requested an alternate location at the Ruge's Automotive Property located at 3718 Route 9G, Rhinebeck. Based on the Planning Board's straw vote recommending the Ruge's property, Wireless Edge has submitted an alternate site application at this property for a 200' high monopole. Our application has been filed and is scheduled for a January 16th hearing before the Planning Board and a January 17th hearing before the Zoning Board.

We have notified AT&T of the site's availability for co-location.

In addition, AT&T stated the Chang property was not available, but it has been since 2021 and is the subject of the pending application. Moreover, Wireless Edge informed AT&T that this site is available for co-location upon, similar to Ruge's.

Very truly yours,

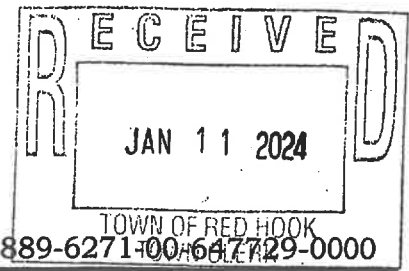
John Arthur

John E. Arthur, P.E.
President & CEO

EXHIBIT
B

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

VARIANCE RESOLUTION



Application #: ZBA 23-11 Williams Front Setback AV

Grid #: 134889-6271-00-647729-0000

Introduced by: **John Bonavita-Goldman**

Date: **January 10, 2024**

Seconded by: **Christopher Klose**

The Town of Red Hook Zoning Board of Appeals, at meetings duly convened on **December 13, 2023, and January 10, 2024**, reviewed the facts in Application # **23-11** as submitted by Philip J. Williams, Jr., 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 the setback from the front property line, and

WHEREAS, the Board held a Public Hearing on **January 10, 2024**, notice of which was duly published in the Poughkeepsie Journal on **December 29, 2023**, 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 applicant is the owner of an existing lot of record as defined in §143-13.
2. The applicant seeks to construct a single-family dwelling with a setback of 44 feet from the front property line where 60 feet is required.
3. The front property line for the parcel is the center line of the road.
4. The proposed dwelling would be 33 feet from the white line at the edge of the pavement.
5. The property adjacent to this parcel is owned by the applicant but is located in the Town of Rhinebeck.
6. The applicant initially asked for a setback of 33 feet from the property line but adjusted the plan to make it more conforming and is now asking for a setback of 44 feet or a 16-foot variance.

NOW THEREFORE BE IT RESOLVED by the Zoning Board of Appeals, that Application **#23-11 Williams** a request for a variance the setback requirements of the Town of Red Hook Zoning Code, as set forth above, be **granted** on the following grounds, conditional on payment of any and all outstanding fees and ZBA consultant invoices:

1. **The variance requested will not produce an undesirable change to the character of the neighborhood or a detriment to nearby properties.**
2. **The needs of the applicant cannot be achieved by other than an area variance given that the lot is an existing lot of record under Zoning Code §143-13.**
3. **The requested variance 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 not self-created. The property is an existing lot of record under §143-13. Furthermore, the adjacent property is in the Town of Rhinebeck.**
6. **The variance being granted is the minimum variance to meet the needs of the applicant.**

Adopted:

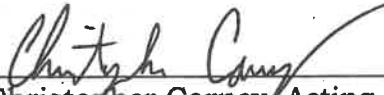
Absent Kathleen Karakassis

Yes Christopher Carney

Yes Christopher Klose

Yes George Jahn

Yes John Bonavita-Goldman



Christopher Carney, Acting Chairperson



Jacqueline A. Fenaroli, Acting Clerk

Letter to Red Hook, NY Town Zoning Board

12-27-2023

From Carl J. Verderber, 3925 Route 9G, Rhinebeck, NY 12572

Subject: Notice of Public Hearing, received 12-23-2023, and pertaining to the Michael Levy property at 3944 Route 9G, Red Hook, NY

I am puzzled as to why Mr. Levy wants to change one of the model homes (or both model homes) to commercial (and or office building) use since it appears there are already one or more families residing in one or parts of both houses. Can you tell me when Zoning gave authorization for this use? In addition, in the last few years, the Red Hook School Bus picks up and drops off a small number of young children each school day at the above location.

Also, can the zoning board explain why a business called "Mayakaimal Fine Indian Foods" who advertise and have a web site that defines their address as "3942 Route 9G, Red Hook, NY 12571" – with phone number as 845-876-8200. Is this not business-commercial use? I do not know if food preparation is performed at that location but if so – has a Dutchess County commercial kitchen license been issued?

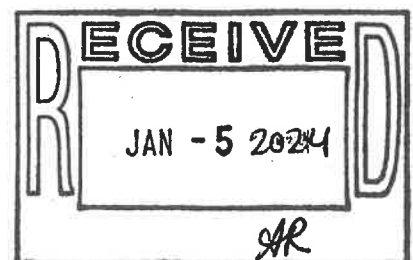
Additionally, a Google search for 3942 Route 9G finds in Statista.Com, a company called Hardscrabble Modular homes, Inc. established in 2013. 3942 Route 9G defines the model homes – while 3944 is the address for the larger business building.

When the two display-only model homes were allowed to be placed on the property, they were considered temporary structures. I presume using these homes as residences was not allowed. Once not useful as "models" they should have been sold/moved or destroyed as they were placed on marginal foundations, and were placed 8 – 10 feet apart which is very close for any other purpose. In my opinion there should not have been water nor sewer services allowed to be connected to a "display-only model home".

I disagree with allowing these display-only models to stay on that property and used as "commercial" facilities.

I can't understand why Mr. Levy needs to have this property re-zoned as commercial-business use because it seems it already is.

Carl J. Verderber



Anne Rubin

From: Kate Karakassis <kate.karakassis@gmail.com>
Sent: Monday, January 8, 2024 3:05 PM
To: Anne Rubin; Janis Anderson
Subject: Fwd: 3944 Rt. 9G - Levy Property Variance Requests

Okay guys - here's Mr. Verderber's message. Anne, thanks for prompting me to respond. I trust your judgment on dealing with our residents.

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

From: Carl J. Verderber <carlandkaren67@gmail.com>
Date: Mon, Jan 8, 2024 at 2:35 PM
Subject: Re: 3944 Rt. 9G - Levy Property Variance Requests
To: Kate Karakassis <kate.karakassis@gmail.com>

Thankyou Kate for the quick response to my concerns. I now feel confident the zoning board will be able to make the most correct decisions - for the town and for the neighborhood. You have a very good handle of events from 1998 till now - thanks for making me aware of that. Carl J. Verderber

On Mon, Jan 8, 2024 at 1:22 PM Kate Karakassis <kate.karakassis@gmail.com> wrote:
Dear Mr. Verderber;

I am the chair of Red Hook's Zoning Board of Appeals and am writing in response to your December 27, 2023 letter to the Board. The history of the Levy property is a bit complicated, but I'll do my best to explain where we are at and how the ZBA expects the matter to progress in the future. The only question the ZBA will be considering at the January 10, 2023 public hearing is Mr. Levy's request to modify the conditions set by the ZBA in 1998 when it granted a use variance to allow specific commercial uses on 2 parcels zoned only for residential use.

Until recently Mr. Levy owned two adjacent parcels on 9G. The southern property, 3944 Rt. 9G, is the site of 3 buildings, and the adjacent property to the north was unoccupied. The parcels have very recently been combined into one which, as mentioned above, is located in the RD3 district which allows only residential uses.

In 1998 the Red Hook ZBA granted the then owner of the two original parcels a use variance which allowed the parcels to be used only for commercial purposes limited to an office building and two model homes on the southern parcel. The owner's request wasn't for a re-zoning, but for an exception to use the properties in a way the zoning did not permit. The 1998 variance also required the two parcels to be combined into one. The variance did not require that the model homes be temporary or that they be removed when no longer used for that purpose.

Mr. Levy acquired the parcels shortly after the use variance was granted, but did not combine the parcels. At some point he rented the two model homes out for residential and office use, and that continued until 2023. An Indian food distribution business was a tenant in 2023, but the space was used only as an office and no food preparation occurred at the site.

In 2023 Mr. Levy and AT&T, along with its developer, applied to the ZBA for variances which would allow construction of a cell phone tower on the northern parcel. In the course of examining the application the non-compliance with the original 1998 use variance conditions was discovered. Mr. Levy has now combined the parcels into one and ended the unpermitted residential and commercial use of the two model homes.

Mr. Levy is currently applying for a modification of the 1998 use variance to allow him to use the model homes for limited office use. The combined parcel is still zoned RD3, residential use only, but the 1998 use variance permits commercial use of the parcel. The modification is the only matter that the ZBA will be considering at the January meeting. If the ZBA votes to allow limited commercial use of the model homes, Mr. Levy will then need to get site plan approval from Red Hook's Planning Board and will have to comply with all Town and Dutchess County building code requirements. The Planning Board and the County will address any structural, water, sewage, or building location issues of the type you mention in your letter.

AT&T will be applying for variances to allow construction of the cell tower and that will be considered at a future public hearing, for which you will receive notice. I hope this information is helpful.

Very truly yours,
Kate Karakassis

EXHIBIT

D

Short Environmental Assessment Form

Part 1 - Project Information

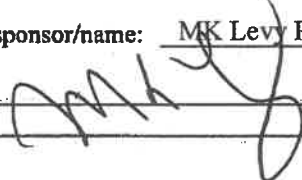
Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: MK Levy Properties LLC			
Project Location (describe, and attach a location map): 3944 Route 9G, Red Hook, NY 12571			
Brief Description of Proposed Action: Modification of use variance to permit use of southernmost building 1) as a business and/or professional office or establishment and 2) as an office building. See attached letter with exhibits for additional information.			
Name of Applicant or Sponsor: MK Levy Properties LLC		Telephone: (845) 298-2000 E-Mail: khagstrom@sdglaw.com	
Address: c/o Karen E. Hagstrom, Esq., Stenger, Diamond & Glass, LLP, 1136 Route 9			
City/PO: Wappingers Falls	State: NY	Zip Code: 12590	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO ☒	YES ☐
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:		NO ☒	YES ☐
3. a. Total acreage of the site of the proposed action?		6.79 acres	
b. Total acreage to be physically disturbed?		0 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		6.79 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. ☐ Urban ☐ Rural (non-agriculture) ☐ Industrial ☒ Commercial ☒ Residential (suburban) ☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other(Specify): ☐ Parkland			

		NO	YES	N/A
5. Is the proposed action,				
a. A permitted use under the zoning regulations? **See 1998 Use Variance		☒	☐	☐
b. Consistent with the adopted comprehensive plan?		☐	☒	☐
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?			☒	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?		NO	YES	
If Yes, identify: _____		☒	☐	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?		☒	☐	
b. Are public transportation services available at or near the site of the proposed action?		☐	☒	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?		☒	☐	
9. Does the proposed action meet or exceed the state energy code requirements?		NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____		☐	☒	
10. Will the proposed action connect to an existing public/private water supply?		NO	YES	
If No, describe method for providing potable water: _____		☐	☒	
11. Will the proposed action connect to existing wastewater utilities?		NO	YES	
If No, describe method for providing wastewater treatment: _____		☐	☒	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?		NO	YES	
		☐	☒	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?		☐	☒	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?		NO	YES	
		☐	☒	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?		☒	☐	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____				

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: ☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional ☒ Wetland ☐ Urban ☒ Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered? Northern Long-Eared Bat	NO	YES
	☐	☒
16. Is the project site located in the 100-year flood plan?	NO	YES
	☒	☐
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	NO	YES
	☒	☐
	☒	☐
	☒	☐
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	☒	☐
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	☒	☐
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	☒	☐
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>MK Levy Properties LLC</u> Date: <u>1/10/24</u> Signature: <u></u> Title: <u>Member</u>		

PRINT FORM

Project: Date:

Short Environmental Assessment Form

Part 2 - Impact Assessment

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?	☒	☐

EXHIBIT
F

Agency Use Only [If applicable]

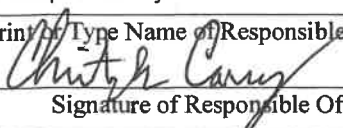
Project:

Date:

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.

The applicant seeks to amend a use variance granted for the Property in 1998. No new construction is proposed on the Property. The allowance for the 1200 square foot structure to be used as office or professional space with a limit of ~~5~~ parking spaces will not create a use that is significantly more intense than the use as a model home which anticipated that potential buyers would come to and from the property to view and tour the model home.

☐	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	January 10, 2024
Name of Lead Agency	Date
Christopher Carney	Acting 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)

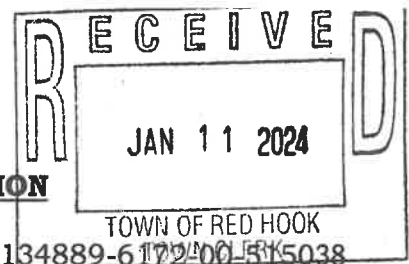
PRINT FORM

EXHIBIT

G

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

AMENDMENT TO USE VARIANCE RESOLUTION



Application #: ZBA 23-10 MK Levy Amendment to Use Variance Grid #: 134889-6172-00-515038
Introduced by: **John Bonavita-Goldman** Date: **January 10, 2024**
Seconded by: **George Jahn**

The Town of Red Hook Zoning Board of Appeals, at meetings duly convened on **November 8, 2023, December 13, 2023, and January 10, 2024**, reviewed the facts in Application # **23-11** as submitted by MK Levy Properties LLC and Route 9G Properties, LLC, and

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

WHEREAS, the Board acted as Lead Agency in an uncoordinated review and issued a Negative Declaration on **January 10, 2024**.

WHEREAS, said application requests an amendment to a use variance granted on September 9, 1998, and

WHEREAS, the Board held a Public Hearing on **January 10, 2024**, notice of which was duly published in the Poughkeepsie Journal on **December 29, 2023**, 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. A use variance was granted for the property on September 9, 1998.
2. The use variance allowed the erection of three modular buildings. Two were to be used as office space, and a third was to be limited to use as a model home.
3. The 1998 Use Variance Approval was subject to the following conditions:
 - a. Parcels -515038 and -512069 will be consolidated into one parcel.
 - b. No further expansion of the property.
 - c. Site plan approval must be obtained.
 - d. Only three structures as described to the ZBA (2 offices and 1 model home) will be erected on the Property.
 - e. The structures are to remain residential in appearance.
 - f. The footprint of the three structures is not to exceed a total of 8,000 square feet.

4. The 1998 Site Plan Approval was subject to the following conditions:
 - a. Dutchess County Health Department approval must be obtained.
 - i) Note 17 on the Sewage Disposal System Plan dated January [3]¹, 1999, and approved by the Dutchess County Health Department stated that "No water or sewer service connections shall be made to the 1200 square foot model."
 - b. State Department of Transportation approval must be obtained.
 - c. Site Plan revised as per the recommendations of the Board at the January 4th [1999] meeting.
 - i) One of the revisions to the site plan required by the Planning Board was the consolidation by legal instrument of the 3.704 acre parcel (515038) the 3.09 acre parcel (512069) as cited in the notes on the final site plan dated March 24, 1999.
5. The applicant seeks to modify the condition that the 1200 square foot model be limited to use as a model home and seeks to amend the variance to permit use of that structure as "business or professional office establishment."
6. The business that used the model home went out of business in 2011. Limiting the 1200 square foot structure to use as a model home would mean that it would likely remain vacant in perpetuity.
7. A small-scale office use would be similar to the use of the other two structures on the property and would not change the character of the neighborhood.
8. The applicant has agreed to limit the number of parking spaces allotted for the 1200 square foot building to 7 parking spaces for employees and customer/guests as a means of limiting the types of office use that would be permitted in the 1200 square foot structure.

NOW THEREFORE BE IT RESOLVED by the Zoning Board of Appeals, that Application **#23-10** a request for a to amend the use variance granted in 1998 **granted** with the following conditions:

1. Payment of any and all outstanding fees and ZBA consultant invoices.
2. Parcel -515038 (the consolidated parcel) shall not be subdivided.
2. Site plan approval must be obtained from the Town of Red Hook Planning Board.
3. Application for and approval of the water connection and septic or sewer connection to the 1200 square foot building from the Dutchess County Department of Health.
4. Application for and receipt of any other required permits and approvals from Town of Red Hook, Dutchess County or New York State departments or agencies.
5. The Property must always be in full compliance with all applicable statutes of the State of New York and the laws of the Town of Red Hook.
6. Only three structures as currently erected are permitted on the Property without obtaining an amendment to these conditions.
7. The three structures are to remain residential in appearance.

¹ The copy provided by the Dutchess County Department of Health to the Red Hook Building Department is somewhat faded, but the date appears to be January 3, 1999.

8. The footprint of the three structures is not to exceed the total of the existing footprints as evidenced in the Town's records on January 10, 2024.
9. The number of parking spaces allotted for the 1200 square foot building to 5 to 7 parking spaces as determined by the Town of Red Hook Planning Board during the site plan approval process.

Adopted: January 10, 2024

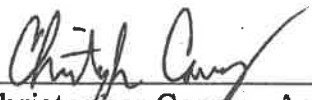
Absent Kathleen Karakassis

Yes Christopher Carney

Yes Christopher Klose

Yes George Jahn

Yes John Bonavita-Goldman



Christopher Carney, Acting Chairperson



Jacqueline A. Fenaroli, Acting Clerk

AFFIDAVIT OF PUBLICATION

State of New York
County of Dutchess

Laura Tuttle being duly sworn, deposes and says she is the Principal Clerk of **The Poughkeepsie Journal**, Division of Gannett Newspaper Subsidiary, publishers of following newspaper and published in the County of Dutchess and the State of New York, of which annexed is a printed copy, out from said newspaper has been published in said newspaper editions dated:

12/29/2023

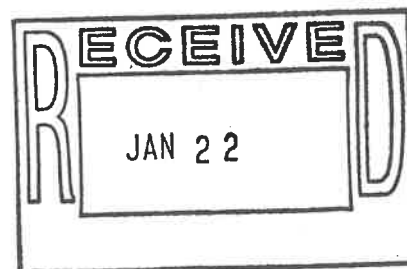
Laura Tuttle

Subscribed and sworn to before me this 29 day of December, 2023

Nicole Jacobs
exp: 8-21-26

Notary Public
State of Wisconsin, County of Brown

NICOLE JACOBS
Notary Public
State of Wisconsin



**NOTICE OF PUBLIC
HEARING
ZONING BOARD OF APPEALS
TOWN OF RED HOOK**

NOTICE IS HEREBY GIVEN that pursuant to Section 143-136C of the Zoning Law of the Town of Red Hook, New York, a public hearing will be held by the Zoning Board of Appeals of the Town of Red Hook, Dutchess County, New York at the Town Hall, 7340 South Broadway, Red Hook, New York, meeting to commence at 7:00 pm, on the 10th day of January, 2024 on the following matter:

Public Hearing

ZBA 23-11 Philip J. Williams Jr., application for an area variance to construct a single -family dwelling 33' from the front property line, which is also the centerline of Stone Church Road, and 22' from the edge of pavement. Town of Red Hook Zoning Law, Section 143-12, The District Schedule of Area and Bulk Regulations, requires a minimum 60' front yard setback, in the Zoning District. The subject parcel is located at 251 Stone Church Road, in the Town of Red Hook, in the RD3 Zoning District.

All interested persons will be given an opportunity to be heard in person or by directing comments in writing to the Zoning Board of Appeals, 7340 South Broadway, Red Hook, New York 12571. All reasonable accommodations will be made for persons with disabilities. In such a case, please notify the Zoning Board Clerk in advance at the above address or by phone 845-758-4624 so that arrangements can be made.

9660965

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State of New York
County of Dutchess

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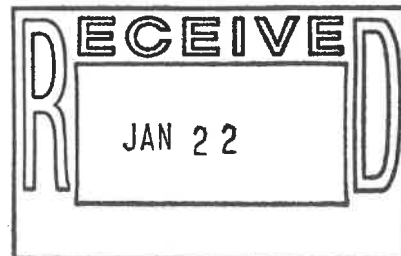
Linda Tuttle

Subscribed and sworn to before me this 29 day of December, 2023

Nicole Jacobs
exp. 8-21-26

Notary Public
State of Wisconsin, County of Brown

NICOLE JACOBS
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State of Wisconsin



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Public Hearing

ZBA 23-10 Michael Levy of MK Levy Properties, LLC, and Route 9G Properties, LLC, represented by Karen Hagstrom of Stenger, Diamond, & Glass, LLP, revised application for a Use Variance, regarding the commercial and/or office building use of a display-only, model home on the subject parcel. Town of Red Hook Planning Board site plan approval, #SP-98-11, limits the use to a display-only, model home. The formerly two subject parcels, 515038 and 512069 have been combined into a single subject parcel, 515038, which is located at 3944 Route 9G, in the Town of Red Hook, in the RD3 Zoning District.

All interested persons will be given an opportunity to be heard in person or by directing comments in writing to the Zoning Board of Appeals, 7340 South Broadway, Red Hook, New York 12571. All reasonable accommodations will be made for persons with disabilities. In such a case, please notify the Zoning Board Clerk in advance at the above address or by phone 845-758-4624 so that arrangements can be made.

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