

# TOWN OF ROSENDALE

## Zoning Board of Appeals

### Final Minutes

Tuesday, June 21<sup>st</sup>, 2016

Rondout Municipal Center

1915 Lucas Ave.

Cottkill, NY 12419

Chair, Ann Houghtaling called the meeting to order with the Pledge of Allegiance at 7:03pm.

#### ROLL CALL:

Ann Houghtaling, Chairwoman	Present
David Soman	Excused
Richard Hermance	Present
Frank Klepeis	Present
Kelleigh Mckenzie	Present
Michael Camargo (Alt.)	Excused
Stacy Lipari, Town Board Liaison	Present
Brisa Casas, Zoning Board Clerk	Present

#### Minutes:

Motion made by Chair Ann Houghtaling, seconded by Kelleigh Mckenzie, to accept the minutes from the May 17<sup>th</sup> 2016 meeting with the following amendments:

Page 3, Line 33 – addition to the sentence - “due to the parcel being previously granted a Use Variance and following that approval the structures floor plan was renovated and converted into a business layout.”

Page 5, Line 13 – remove Chair Houghtaling from the roll vote, replace with Kelleigh Mckenzie

Roll Vote: Chair Ann Houghtaling- Yes, Richard Hermance – Yes, Frank Klepeis – Yes, Kelleigh Mckenzie – Yes

Motion Carried.

Public Hearing: None

#### Old Business:

#2016-2-Area Variance- K, Kellerman

Location: 14 Quaker Street

Mr. Kellerman is present at this time.

Chair Houghtaling and the board draft a resolution for this application, when the board is satisfied with their draft Chair Houghtaling reads the entire resolution out loud.

## RESOLUTION # 3 - 2016

WHEREAS, Ken Kellerman (Applicant) submitted application #2016-2 for an area variance for height and setbacks of fencing on property located at 14 Quaker Street Tillson, NY 12486, in Zoning District R-2 , Tax Map Identification #70.43-3-52; and

WHEREAS, the variance was referred to the town of Rosendale Highway Department for its review and who had no objections to the application; and

WHEREAS, the ZBA conducted a public hearing on May 17<sup>th</sup> 2016 in regards to the above referenced application where all those wishing to be heard were heard; and

WHEREAS; the ZBA has reviewed, considered and deliberated about the variances requested and the written and verbal comments received in connection with the variance application;

NOW, THEREFORE, BE IT RESOLVED, that the ZBA hereby determines that the application meets the requirements of the Zoning Code as set forth below.

1. An undesirable change will not be produced in the character of the neighborhood. The applicant proposes to construct fencing with quality materials; additionally other neighboring properties have fences of the same or similar heights as proposed.
2. The benefit sought by the applicant cannot be achieved by some method other than the requested variance. The issues faced by this particular applicant include adverse effects of the neighboring or stray cat population in the neighborhood. Fencing or border plantings of the kind allowable will not alleviate the nuisance for this applicant.
3. The requested area variance is not substantial. The section of fencing requiring the variance in both height and setback is only 17% of the total frontage of the property which is a corner lot parcel.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. There are no impacts.
5. The alleged hardship is not self-created. The applicant did not create this hardship; the purpose of the fence is to keep out nuisance animals that the applicant has no control over. Additionally a neighboring property has been in violation of Town Code for an extended period of time by accumulating trash and rubbish making the property visually unappealing.

BE IT FURTHER RESOLVED, the proposed variance is the minimum variance that is necessary and adequate to achieve the applicant's goal and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

BE IT FURTHER RESOLVED, that the ZBA therefore grants the requested area variance subject to the following conditions:

1. Applicant must coordinate with the Town of Rosendale Highway Superintendent and follow recommendations on the placement of the fence, keeping in mind that fencing placed in this particular manner may be damaged in times of heavy snowfall and the applicant will need to incur the costs of fixing or replacing fencing under those circumstances.

Duly adopted this 21st day of June, 2016 by the following vote:

Chair Ann Houghtaling - Yes  
Richard Hermance - Yes  
Frank Klepeis - Yes  
Kelleigh McKenzie – Yes

Motion made by Kelleigh Mckenzie, seconded by Richard Hermance, to accept Resolution #3 of 2016.

Roll Vote: Chair Ann Houghtaling- Yes, Richard Hermance – Yes, Frank Klepeis – Yes, Kelleigh Mckenzie – Yes,

Motion Carried.

#2016-3-Use Variance- L. Loza  
Location: 885 Route 32

Mr. Loza is present for this meeting.

The board discusses with the applicant the purchase price of the parcel. Mr. Loza states that the asking purchase price is \$140,000 and the estimated cost of renovating the structure back to a residential use is \$93,000.

Chair Houghtaling and the board draft a resolution for this application, when the board is satisfied with their draft Chair Houghtaling reads the entire resolution out loud.

### RESOLUTION # 4 - 2016

WHEREAS, Leonard Loza (Applicant) submitted application #2016-3 for a Use Variance for Offices and Clinics of Health Practitioners on property located in a Zoning District R-2; 885 Route 32 North Rosendale NY 12472, Tax Map Identification # 70.43-2-18; and

WHEREAS, the variance was referred to the Ulster County Planning Board for its review and at its meeting on May 4, 2016 the Ulster County Planning Board decided there was no county impact; and

WHEREAS, the ZBA conducted a public hearing on May 17 2016 in regards to the above referenced application where all those wishing to be heard were heard; and

WHEREAS; the ZBA has reviewed, considered and deliberated about the variances requested and the written and verbal comments received in connection with the variance application;

NOW, THEREFORE, BE IT RESOLVED, that the ZBA hereby determines that the application meets the requirements of the Zoning Code as set forth below.

1. The applicant cannot realize a reasonable return on his property – this inability must be substantial as shown by competent financial documentation. The property cannot be utilized as a residential property. Converting the building and property with the floor plan and exterior dedicated for medical office use into residential housing would be cost prohibitive. Estimated cost of renovation exceeds 66% of the purchase price of the property.
2. The alleged hardship is unique and does not apply to a substantial portion of the neighborhood or district. Unlike surrounding properties, this property is established as a medical office building with an interior office floor plan, fixtures and exterior parking lot with handicap accessibility to accommodate such.
3. The requested variance will not alter the essential character of the neighborhood. The applicant will be improving the condition of the site by putting into use an otherwise unusable building. In addition, the hours of operation are consistent with other businesses located within a mile of the parcel.
4. The alleged hardship is not self-created. There was a Use Variance granted on this parcel in 1991 and the applicant had no reason to believe a use variance, for the same use, would not be granted again.

BE IT FURTHER RESOLVED, that the ZBA therefore grants the requested use variance subject to the following conditions:

1. The use variance is granted specifically for the use of Offices and Clinics as defined by the Standard Industrial Classification Code #8049- Offices and Clinics of Health Practitioners.
2. Applicant will submit a site plan to the Town of Rosendale Planning Board for review. The site plan shall include the proposed location for any exterior lighting, parking lot layout and hours of operation.

Duly adopted this 21<sup>st</sup> day of June, 2016 by the following vote:

Chair Ann Houghtaling - Yes  
Richard Hermance- Yes  
Frank Klepeis- Yes  
Kelleigh McKenzie- Yes

Motion made by Kelleigh Mckenzie, seconded by Richard Hermance, to accept Resolution #4 of 2016.

Roll Vote: Chair Ann Houghtaling- Yes, Richard Hermance – Yes, Frank Klepeis – Yes, Kelleigh Mckenzie – Yes,

Motion Carried.

#2016-4-Use Variance- Rosendale Realty Corp.  
Location: 423 Main Street

The applicant, David Dilardi is present at this meeting.

The board reviews and discusses the following with the applicant:

- Review of response from referral to Rosendale Water & Sewer Superintendent Terry Johnson. Superintendent Johnson had questions and concerns about specific details of the work that was done. Including that both sewer and water lines require permits and on-site inspection by a Rosendale Water & Sewer District employee. He is also concerned about the roof gutters possibly connecting to the sewer line. Superintendent Johnson requests a site visit with the owner. Mr. Dilardi is advised to contact Superintendent Johnson and set up an on-site visit.
- Review of response from referral to Rosendale Highway Department Superintendent Bob Gallagher. Superintendent Gallagher had no comments from his department on the proposed variance.
- Review of response from referral to the Ulster County Planning Board. Response is that the proposed variance will have no county impact.
- Rosendale Building Inspector Tom Fiore is present at this meeting. He discusses with the board and the applicant his comments, questions and concerns.
  - Town of Rosendale Building Department permits were not obtained for the renovation of the existing shed into the current dwelling. Permits include fees and interval inspections.
  - Electric – Electrical upgrades require a third party New York State Certified Electrical Inspectors on-site inspection and issuance of a certificate as proof that it is in compliance.
  - How many electrical meters are there? Mr. Dilardi responds that there are currently four meters on the main building.
  - Density- According to Rosendale Town Code §75-11-Density Control Schedule, the parcel is over the allowable density in an R-3 Zoning District. The addition of the new structure further increases the percentage of coverage.
  - Review of the Rosendale Building Department records on the existing shed structure that was converted into the dwelling. The Building Department has on record a 12 x 20 shed built in 1994. Mr. Dilardi claims the shed already had electric and forced air propane heating with a vent. The Building Department has nothing on record that indicates there was electric or heat in the existing shed.
  - New York State Fire Code – Inspector Fiore is concerned about the Rosendale Fire Department’s accessibility to the new structure if a fire were to occur.
  - Mr. Dilardi is advised to contact the Town of Rosendale Fire Marshal and the Rosendale Fire Chief to set up an on-site visit.
  - Heating – The main structure has one furnace to heat all four apartment units. The new dwelling has its own heating device separate from the principal building.
  - Mr. Dilardi is advised to contact Building Inspector Tom Fiore and set up an on-site visit.

- The Building Department has a letter on file from previous Code Enforcement Officer Ryan Howells for this parcel. The notice of apparent violation, dated 10/21/2015, indicates that a building was being constructed at 423 Main Street with no permit on record. The letter requests a response to his department and that the property owner take immediate steps to acquire a building permit.
- Mr. Dilardi tells the board that he responded to Mr. Howells letter as soon as he received it. Mr. Howells told him he had to get back to him about what the necessary steps were to obtain his permit and what other review may be involved in the permit process.
- The board asks Mr. Dilardi if he submitted an application for building permit ? Mr. Dilardi responds that he did not apply for a permit or submit an application.
- The board asks Mr. Dilardi why he didn't apply for a permit as requested by Mr. Howells in the letter ? Mr. Dilardi states that Mr. Howells never got back to him; he thought everything was ok and continued to build his structure.

The applicant is required to do the following for further review:

1. Answer questions and comments made by Rosendale Water and Sewer Department by contacting Superintendent Terry Johnson to set up an on-site visit.
2. Answer questions and comments made by Rosendale Building and Codes Department by contacting Building Inspector Tom Fiore to set up an on-site visit.
3. Answer questions and comments on the New York State Fire Code by contacting Deputy Fire Marshal Kevin Hines and the Rosendale Fire Department Chief to set up an on-site visit.
4. Update the parcel survey to show all current structures including the existing principal building and the new dwelling.

Motion made by Chair Ann Houghtaling, seconded by Kelleigh Mckenzie, to set a Public Hearing for this application on July 19<sup>th</sup> 2016, at 7:00pm.

Roll Vote: Chair Ann Houghtaling- Yes, Richard Hermance – Yes, Frank Klepeis – Yes, Kelleigh Mckenzie – Yes,

Motion Carried.

**New Business:** None

**Misc. Business:** None

**Correspondence:** None

**Adjournment:**

Motion made by Richard Hermance, to adjourn the meeting at 8:33pm

Respectfully Submitted,  
 Brisa Casas  
 Zoning Board of Appeals Clerk