

Approved September 27, 2021

Village of Kinderhook
Zoning Board of Appeals
Minutes of August 23, 2021

- Attending:** Chair Jerry Callahan, David Sullivan, Greg Seaman, Kim Gray, Bill Barford, Liaison David Flaherty, Secretary Carol van Denburgh, Attorney Rob Fitzsimmons, CEO Peter Bujanow, Applicant Barry Herbold, Chrissy Wills, and Nikki Canuteson. In addition to the ZBA meeting agenda, all applications and corresponding documents for this meeting were posted on the Village of Kinderhook website for review.
- Call to Order:** Chairman J.Callahan opens the meeting at 7:03pm. ZBA Members introduce themselves as well as P.Bujanow, R.Fitzsimmons, C.van Denburgh and D.Flaherty.
- Minutes:** B.Barford motions to approve minutes of January 25, 2021 and the minutes of February 2, 2021. K.Gray seconds, all in favor. D.Sullivan asks about any discussions that have happened with the Village Board and The School. D.Flaherty states that Trustee M. Browne is the liaison who has been having conversations with J.Shainman and his staff.
- Funds Remaining:** \$1964.45
- Correspondence:** Village Attorney's opinion letter (information only) regarding §130-26 (Discontinuance) as it applies to The Carolina House, 59 Broad Street. This is for information only and no action is required by the ZBA. N.Canuteson states they are trying to extend the period of time before the property turns back to residential as the restaurant has been closed for 18 months. R.Fitzsimmons wrote an opinion letter which favored the request for the property. D.Sullivan asks R.Fitzsimmons if the 18 month period is permanently tolled. R.Fitzsimmons states as long as an owner can document their efforts through the COVID mandates, that would sustain the continuance.
- Old Business:** NONE
- New Business:** Barry Herbold, Area Variance, 30 Rothermel Lane, Lot#43.20-1-83.200. The ZBA received an extensive application along with a survey map of the lot. B.Herbold states that this is the survey map that was given to him when he purchased the property.

P. VanAlstyne (surveyor) drew in the Lot Line Adjustment that will be done with the neighbor's, the Van Allen's, and will be applied for through the Planning Board. J.Callahan reads the overview of the request:

The subject property was created 80+- years ago as a defacto subdivided parcel from the Burgoyne Mansion property via the construction of Rothermel Lane. I purchased the property in 2003 to protect the rear yard privacy of my residence at 30 Broad Street, fearing that someone would construct a two story dwelling, overlooking my swimming pool.

I plan to construct a single story cottage of 1,000+- square feet. The parcel presents several difficulties for such development. First, the property is within the Historic District Overlay zone. Secondly, the shape of the parcel is more square than rectangular, with a depth of only 150+ feet, unlike others on Rothermel Lane/Avenue. Most historic residential designs are multi-story, and those that are single story are oriented with the narrow elevation toward the street, extending back toward the rear. Finding a suitable design has been challenging.

The proposed cottage has an overall square footprint of 45 feet. By orienting it toward the rear of the lot, with 25' setback, the enlarged front yard will offer a more pleasing esthetic, allow for a circular driveway, and be farther removed from the pre-existing commercial shop use across the street.

The contiguous land at the rear, owned by the Sherman's, is a narrow, unbuildable strip of excess land between the subject property and my existing residence. The Sherman's have no objection to the requested variance, nor do the adjacent rear yard owners, Mark Davis and Robert Collanino.

B.Herbold speaks about why he purchased this adjacent property to protect the privacy of his backyard pool area. C.Wills, B.Herbold's significant other, would like to move into the Village and build a one-story, two bedroom cottage. The tax map shows a thin strip of land between the subject property and his current residence owned by the Shermans, which is unbuildable due to its shape. Pushing the rear yard setback from 50' to 25' will have no adverse effect on any contiguous property. Increasing the front setback from 50' to 75' will help further reduce the noise. J.Callahan confirms that C.Wills is a co-owner and confirms with R.Fitzsimmons that it is appropriate for her name to be on the application. J.Callahan confirms with P.Bujanow that this request is consistent with how the code is written. K.Gray asks if section 130-32 (existing undersized lots) is the correct code section to be sitting for the variance. The lot is 24,000 sq ft and the minimum sized lot in this R' district is 20,000 sq ft. The correct code section referenced is in fact section 130: Attachment 1 (VOK Density Control Schedule).

D.Sullivan asks B.Herbold about the orientation of the house. B.Herbold discusses the plan assuming that HPC approves. HPC is the next step in the process and the written application is online. Once HPC approves the application, a building permit can be issued by CEO P. Bujanow. The

variance will be considered as the property currently exists with the full .55 acres. The future subdivision should not affect the application at this point unless the building size changes and the side yard variances need to be considered. All that is being asked now is a change in the front and rear yard setbacks. J.Callahan asks about the leaching fields and utilities. B.Herbold states that a septic system has already been approved by the CCDOH and the driveway cut is complete. The property is ready to build upon. The placement of the building will not affect the septic system as the footprint of the building is only 45' x 45'. K.Gray states that two of the neighbors have endorsed the project but what about the Van Allen's? B.Herbold has sent an email to both the Van Allen's and the Peckner's but no response has been received. We will wait until the Public Hearing to hear from them. B.Herbold states that over the years, the Van Allen's have encroached upon the property and the property line goes to their garage. B.Herbold said to N.Van Allen that he would give him 20', a triangle shaped piece, N.Van Allen would put up a fence, and they would call it even.

G.Seaman makes a motion to accept the amended application, B.Barford seconds, all in favor. The next step is a Public Hearing on Monday, September 27, 2021 at 7:00 pm. Secretary C. Van Denburgh will send a copy of the application to the Planning Board which complies with the code. By code, every application once accepted by the ZBA, goes to the Planning Board and they have an opportunity to comment on it. A copy of the application will also be sent to the HPC. Public Hearing notices will be sent out to all of the neighbors within a 300' radius of all of the property lines notifying them of the Public Hearing. Comments will be accepted; the Public Hearing will close and then the ZBA will deliberate on the variance request.

Next Meeting: September 27, 2021

Adjournment: K.Gray makes a motion to adjourn the meeting at 7:32pm, B.Barford seconds, all in favor.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Carol van Denburgh", with a long horizontal flourish extending to the right.

Carol van Denburgh
Secretary to Zoning Board of Appeals