VILLAGE OF RED HOOK
Zoning Board of Appeals Meeting
August 25, 2011

Present: Chairman, George Beekman, Member Cliff Gubler, Member Roger Husted, Member Paul Duntz, Member Erik Cuthell & Secretary Lara Hart

Chairman George Beekman opened the Village of Red Hook Zoning Board of Appeals meeting at 7:00pm.

Chairman Beekman asked the Board if they have all reviewed the amended July 28, 2011 ZBA Minutes. Member Gubler made a motion to accept the minutes from the Zoning Board of Appeals meeting dated July 28, 2011. Seconded by member Erik Cuthell. All in favor. Zoning Board of Appeals Minutes of July 28, 2011 approved.

George Beekman firstly wanted to advise all applicants present that there will be no public hearing this evening due to the applications being received too late for mailings to be sent out.

#1.
Bruce Troy, ECP Holdings, LLC 7461 South Broadway Zoning – Area Variance
Tax Grid #6272-10-392686
Represented by Marie Welch of Welch Surveying

Marie Welch spoke at this time to advise she had submitted an application for area variance, but was advised by Lara Hart, that per CEO Harkins said application would need to be for a use variance. Marie Welch advised that owner, Bruce Troy, owns the property where an accessory apartment already exists upstairs in the building and wanted to come before the planning board for an apartment downstairs and the planning board advised that they would need to first obtain a variance because only one accessory apartment could be in a detached structure. Marie feels that this is not a change in use because it is already being used as a residence. Chairman Beekman advised that the zoning reads only allowed one accessory apartment - Chairman Beekman stated he would agree if they wanted one larger apartment – expanded upstairs to the downstairs it would not be changing the use as far as one apartment. Marie stated it is a matter of numbers from one to two – still same use and use is already permitted. Chairman Beekman stated because only permitted use is one. Marie feels that the variance should only for more than one accessory apartment. Marie feels that the reason in coming in front of the zoning board is that having more than one apartment is not out of character. There are multiple properties in the business district here you have owners that do not live and have multiple apartments – may not be detached buildings, but having multiple apartments is not out of character. Marie indicated there would be no way to prove financial hardship which is a requirement. Chairman Beekman indicated we will proceed with the tests, but that there is also an issue of having a unique situation which would not be unique at all either. Chairman

Beekman indicated that the reason for doing this is to get additional income and obviously you can do it as a rental as a commercial location. Marie asked what allows them to do that. Chairman Beekman referred to zoning which states that only one accessory apartment is Allowed. The reason for a use variance is to change what is allowed under the code. Marie indicated that a use variance usually means if they wanted to use it as a residential building and then they would want to use it for commercial purposes – that would be a change in use. If it is already a residential building in a commercial business then we are not changing the use of residence we are just changing the quantity of use. Chairman Beekman again stated that he understands, but the board, ZEO and attorney have looked it over and requires that because it is going from one to two requires a use variance. Marie said she sees no change in use. Member Husted said he felt we were arguing over schematics, and bottom line it is not allowed as is and you would need a variance. Marie said schematics is the significant difference in getting a use variance as to an area variance. Member Husted said that this does not fall under area variance because applicant was not asking for an alternation of a line, set back or an increase space in usage.

Marie asked if the Village attorney weighed in on this? Secretary Hart advised that she was not sure if CEO Harkins spoke with attorney. Secretary Hart indicated CEO Harkin's reference to the zoning law - Section 200-6 which applied to law and Section 200-10-C. Chairman Beekman believed CEO Harkins did speak with attorney.

Member Cuthell asked what the space is now that they want to make an apartment out of? Marie indicated she believed it was just storage space. Member Cuthell asked if it had a Bathroom – kitchen… secretary Hart advised that it did have a bathroom. Member Cuthell asked how big the space was? Marie did not know square footage. Secretary Hart advised that it is spacious and that Village did maintain their offices in that building during renovation process. Member Cuthell stated that this was basically tying into an existing structure to make an apartment out of space. Member Husted indicated we did not need to concern ourselves with the size of the space, unless they wanted to exceed size of space. Member Cuthell just wanted to know what the conditions of the area were. Site plan that was prepared for planning board was shown to the Board. Member Cuthell just wanted to know which building was the issue. Chairman Beekman indicated zoning Section 200-19-B-2 (page 254). The issue of the septic was raised and Marie advised that this would be a planning board and board of health matter. Member Duntz asked if anyone resided in the funeral home. Marie indicated that yes someone does live upstairs in the funeral home. Member Duntz said no that was the apartment, but asked if the people that own the funeral home reside there? Marie indicated no. Chairman Beekman read aloud Section 200-19-B-2. Chairman Beekman stated that their interpretation of that so far is that the overall residence of the premises, as far as the funeral home, is combined

use. Marie indicated it was in the business. Chairman Beekman said this was the accessory that we are talking about and it is specific under the zoning law that only one is allowed. Member Paul Duntz indicated that this was another thing because the owner does not even live there. Member Cuthell indicated that the next paragraph describes owners of the residential premises shall occupy at least one of the dwellings. Member Cuthell asked if it was then already non-conforming to begin with. Chairman Beekman indicated no, they are allowed one apartment. Marie Welch said based on the fact that owners do not live there, that was the non-conforming part. Chairman Beekman said that was specific to the apartments as far as zoning.

Member Duntz asked Marie is the apartment below would match the apartment above as far as square footage. Marie indicated yes same as below, but did not know for sure, but did not assume they were using the entire building due to the back part being storage. It was asked where the entrance would be – Marie indicated the side facing Prince Street.

Chairman Beekman read from Zoning Board of Appeals book – page 11- which gives a more detailed description as to a use variance.

Member Cuthell asked if the garage that faces Prince Street – if that property has Prince Street frontage? Marie indicated yes.

Chairman Beekman also read from the Zoning and Comprehensive Plan book – page 104 – a more detailed description of a use variance.

Marie Welch indicated that she thought she was in front of the board for an area variance, and being told tonight that it would have to be a use variance. Marie indicated that she will be speaking with CEO Harkins. Marie asked if she speaks with her client, is it correct to say that he can apply for a business. Member Gubler advised that the section in questions was already used as a business when the Village conducted their offices in there – so we alreay set a precedence on that. Chairman Beekman said as a business it would probably not be an issue, but the issue is an apartment.

Chairman Beekman did reference that this agenda item was for Bruce Troy of ECP Holdings, LLC of 7461 South Broadway – Tax Grid #272-10-392686.

Chairman Beekman did advised that we will hold off on SEQR to see the outcome of this – and that way only one public hearing would need to be held and it can addresses the way it has to be. Chairman Beekman did advise Marie that they were aware that she had no knowledge of the Board advising that it would need to be a use variance application. Marie said that she feels that the addition of another did not change the use, but only the quantity. Chairman Beekman said that he was told from higher authority that this is what it is. Chairman Beekman advised that there will be no public hearing set. Chairman Beekman advised that Marie will need to speak with her client. Marie said proving financial hardship would be difficult.

Marie advised that she will speak with her client, Bruce Troy of ECP Holdings, LLC, and advise the board of the outcome.

#2.
James & Kristine Byrne 14 Prince Street Zoning – Area Variance
Tax Grid #6272-10-371702

Chairman Beekman did advise again that a public hearing was not set because paper work was received in the building department too late.

Chairman Beekman advised that application is seeking relief from section 200-9-D-7. Chairman Beekman read aloud Village of Red Hook Zoning Code (page 20031).

James Byrne was present and advised the Board of his intention of (Board was previously provided with copy of proposed site plan) of taking an 80 year old garage in the back of his house and putting another garage off the side of his kitchen. This would be a 2-car garage. Chairman Beekman asked if it would be attached to the house or free standing. Mr. Byrne said it would be attached to the house. Mr. Byrne indicated that he has already spoke with his neighbors. Chairman Beekman advised that a public hearing would be set and residents would be notified. Chairman Beekman asked if he had consulted with an architect on the garage because of barriers. Mr. Byrne indicated that there will be a wall between the kitchen and garage which will be sided with 5 inch sheet rock on one side and 5 inch on the other side, which is code. Mr. Byrne advised that he was a contractor, and his nephew doing the work is a builder.

Chairman Beekman asked about the trees – Mr. Byrne indicated that the trees were remaining. Chairman Beekman said an issue would be property line and access to the back yard for septic problems. Mr. Byrne said that there would be access, and he indicated that in the back there would another garage door. Chairman Beekman said ok. Chairman ZBeekman asked if he had a drawing of the garage

structure. Mr. Byrne said the garage would be 3 sided. Chairman Beekman asked about height. Mr. Byrne said height would be garage standard which is 9.6 feet high. Member Duntz asked if it was a slant roof – Mr. Byrne said yes. Chairman Beekman asked if it would tie into roof line on the house (pointing to an area on site plan) Mr. Byrne said it would tie into the roof line so that it would be one continuous roof (would tie into the porch roof line). Chairman Beekman said if we move forward with public hearing he would like a drawing showing the exact location of the trees. Mr. Byrne said ok. Chairman Beekman advised that some conditions would need to be added to state that it would remain as a garage. Mr. Byrne said ok. Member Cuthell asked if his intention was to park two cars side by side. Mr. Byrne said yes. Chairman Beekman said that neighbors would need the opportunity to attend meeting and speak.

Member Duntz asked about the driveway and his concern of trees, therefore wanted to know where the trees were located. Mr. Byrne indicated on site plan the location of the trees. Member Duntz how deep do you have to go to put the proper bedding in. Mr. Byrne advised that they will sink pylons in (showed location on site plan to board members) and pour the concrete in (showed location on site plan to board member).

Chairman Beekman asked the board for any further comments. No comment.

Chairman Beekman indicated for applicant to submit new drawing and that public hearing mailings will be sent out by building department.

Chairman Beekman read aloud the zoning board of appeals test requirement sheet (copy on file in building department). Sheet was not completed by the Board – only read aloud for the applicant. This matter will be tabled to the next meeting on October 22, 2011 - SEQR will be completed and test sheet will be completed.

Member Duntz asked about septic and that the garage is approximately 9 ½ feet high – Mr. Byrne said that 9 ½ feet will be the dead end –top end will be about 12. Back garage door will be dead center, same as the front. Member Duntz asked if there ever were to be septic problem, would there be enough height for a truck to drive through garage. Mr. Byrne said yes. Chairman Beekman said the board's concern would be if they had to replace it and getting a back hoe in (getting through the garage) - Mr. Byrne said a back hoe could get through there.

Secretary Hart advised Mr. & Mrs. Byrne that the next meeting would be September 22, 2011 at 7:00pm. The new drawings should be submitted by the applicant to the building department by September 8, 2011.

Chairman Beekman made a motion to set the public hearing for September 22, 2011 at 7:00pm. Seconded by member Duntz. All in favor.

Chairman Beekman asked Member Roger Husted if he would be willing to be appointed as Co-Chairman of the Zonoing Board of Appeals. The Board is also looking for alternate members. Member Husted indicated that he would be willing to be appointed as co-chairman. Chairman Beekman also made the suggestion that applications go for two meetings rather than one – to give applicants more information on what is needed – or give them time to possibly pull-out, if needed. Member Gubler also reminded that three members cannot get together to discuss any issues outside of board meetings.

Chairman Beekman said it is important that the Board keep a good communication line open. Members should complete the test booklets that were prepared by Secretary Hart to keep updated on procedure. If a member does not have the NMU zone, please advise secretary. The board is in the process of updating the zoning – hopefully this will be on-line soon.

Member Cuthell wanted to reference back to the last applicant and wanted to know if Sam had looked at application. Secretary was not sure, but indicated that applicants do speak with CEP Harkins when prior to submitting their applications. Member Cuthell indicated that he recently wanted to do a side yard bump on my house and go within a couple feet of his property line to build a kitchen – build a room for his mother to move in. CEO Harkins advised Erik that he could not do because of the requirement of having 5ft within fire code. Erik is questioning the applicant's 2ft. on his application. Chairman Beekman said to Erik that he was taking about his house, this application is talking about his garage. Erik stated it was the same thing-a structure on the property - his contention was that you have to allow room for a fireman to get through.

Chairman Beekman made a motion to adjourn meeting at 8:05pm. Seconded by Member Duntz. All in favor. Zoning Board of Appeals Meeting adjourned at 8:05pm.

Submitted by,

Lara Hart
Building Department Secretary