

1 STATE OF NEW YORK : COUNTY OF ROCKLAND
2 TOWN OF STONY POINT : ZONING BOARD OF APPEALS

3 - - - - - X

4 REQUEST OF
SANDRA AND RICHARD KATT
APPLICATION #21-14

5 - - - - - X

6 Town of Stony Point
RHO Building
7 5 Clubhouse Lane
Stony Point, New York
October 7, 2021
8 8:12 p.m.

9

10 BEFORE:

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- 12 THOMAS WRIGHT, CHAIRMAN
- 13 JOSEPH ANGINOLI, BOARD MEMBER
- 14 LOU ANN DAVIS, BOARD MEMBER
- 15 JOHN GAZZOLA, BOARD MEMBER
- 16 EDWARD KEEGAN, BOARD MEMBER
- 17 JOHN LYNCH, BOARD MEMBER
- 18 TODD STRIETER, BOARD MEMBER

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3 CHAIRMAN WRIGHT: All right. So we have
4 a public hearing, then. Request of -- let's
5 see. Request of Sandra and Richard Katt,
6 area variance from the requirements of
7 Chapter 215, Article Five, Section 15 A-h.2
8 Section 15 A and h.2, Column 2, minimum of
9 25,000 square foot lot area; required 18,664
10 square feet lot area, provided 6,336 square
11 foot for a two-family residence, and Chapter
12 215, Article Five, Section 15 A, h.2, Column
13 7, minimum of ten foot rear and side yard
14 depth; required 2.9 foot rear yard depth,
15 provided 7.1 foot necessary for a shed
16 located at 31 East Main Street. Is the
17 applicant or representative present?

18 MR. ZIGLER: I fell asleep, I'm sorry.

19 CHAIRMAN WRIGHT: You're here for the
20 Richard Katt one?

21 MR. ZIGLER: Yes.

22 CHAIRMAN WRIGHT: So I'll make a motion
23 to open the public hearing.

24 BOARD MEMBER LYNCH: I'll make a motion.

25 BOARD MEMBER STRIETER: Second.

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2 CHAIRMAN WRIGHT: All in favor?

3 (Response of aye was given.)

4 MR. ZIGLER: Would you like me to do a
5 presentation?6 CHAIRMAN WRIGHT: Please, yes. If you
7 could just identify yourself.8 MR. ZIGLER: Yes. I'm Dave Zigler from
9 Atzl, Nasher and Zigler. And I'm
10 representing the Katt family with a request
11 to reinstate a two-family home.12 This house is on East Main Street at the
13 corner of Wood. So if you're going from 9W
14 towards the river, Wood Avenue is the last
15 one on your left, and it's red. It's the red
16 house, and in the back is the red barn.17 In mid-1975 or '76, Ronald Katt
18 purchased the house. Then immediately, if
19 you look at the documents that I provided, he
20 went to the ZBA for a special permit. It
21 received approval. And he applied for a
22 building permit for a special permit to
23 convert a single-family home to a two-family
24 home. And that's what happened.

25 At that time in 1975, the code was a

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2 little different. It was 7500 square foot
3 for a single-family lot, and I think 12,000
4 for a two-family. So this house met the
5 code. So only thing that the ZBA was voting
6 for was a special permit for this house.

7 Unfortunately, they're now selling the
8 house. The son and his wife is now selling
9 the house. And there's no documentation that
10 it was ever executed. By that, I mean
11 there's no certificate of occupancy given for
12 the two-family home. So there's just an open
13 building permit.

14 So that sent us back to the Planning
15 Board. With the new code from the late 80s,
16 90s, 1990, a two-family in the R1 zone, which
17 we are -- you know, the guts of Stony Point
18 is R1, and around 9W in the village area.
19 And it's 15,000 now. And you have to have
20 22,000.

21 So we did approach the Planning Board.
22 And we have to get variances. Now we have to
23 get variances for the bulk. So it's a little
24 bit different that we're here for the bulk
25 variances for the two-family.

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2 Then we'll going back to the Planning
3 Board. If granted here the variances, we'd
4 go back to the Planning Board for the permit
5 to reestablish it as a two-family. It's been
6 a two-family, a three-family, four-family.
7 But right now, it's been reduced to a
8 two-family legally, and if we get these
9 variances.

10 The variances we're requesting are for
11 the yards. The front yard, and the side
12 yard, and the garage. And the area.

13 The house itself met the code back in
14 the 70s. But now the code is 30 foot. And
15 as you see along Main Street, most of the
16 houses are closer than 30 foot, basically
17 from the back of the sidewalk. So it needs a
18 variance for that on both Main Street side
19 and Wood.

20 The garage in the back, the red garage,
21 is very close to the property. Always been,
22 it's been there forever. So that needs a
23 variance, for the front yard.

24 And then we have two sheds. So one shed
25 actually looks like an old chicken coop, but

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2 it's a sturdy shed. Both of those sheds are
3 about two foot from the property line. They
4 have to be about ten foot.

5 So to add that up, and to add up the
6 difference in the area that you now need, we
7 have variances for three yards and the total
8 area. This plan is standing as it is today
9 in front of the Planning Board. There's no
10 changes. There's no additions to the house.
11 There's no expansion. There's nothing. So
12 when you went out to do your site visit, you
13 seen the product that we have in front of
14 you. So we're requesting that the variances
15 be granted because if you go through your
16 five or six -- five or six?

17 CHAIRMAN WRIGHT: Five.

18 MR. ZIGLER: Regulations for, to address
19 for a bulk request, you'll see that this
20 doesn't hit any of them. There's no
21 increase. There's no change in the
22 neighborhood. It's been there for -- and
23 there's a lot of multi-family homes on that
24 stretch of East Main Street. Undersized but,
25 you know, unfortunately, this one did not

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2 execute it completely.

3 So there's no change. There's no, no --
4 nothing that would make you go by, if this is
5 granted and you drive past it tomorrow,
6 there's no different than it was 30 years
7 ago. So there's no, no -- nothing's being
8 done that would impact the neighbors.

9 The first thing is if this is held to a
10 strict interpretation and was denied, would
11 it be a hardship. And I think it would be a
12 hardship because everybody in the world until
13 about three months ago thought it was a legal
14 two-family. And maybe it was inspected,
15 maybe it wasn't inspected. But the fact is
16 the certificate is not in the folder, so
17 that's why we're here. So we're requesting
18 the Board to honorably approve the variances
19 so that we can go back to the Planning Board.

20 BOARD MEMBER STRIETER: You said there
21 was never a CO?

22 MR. ZIGLER: No. If they would have had
23 the C of O for the two-family, I wouldn't be
24 here. I'd be home watching TV with my wife.
25 So that's what kicked it off, when they

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2 searched -- you do a violations search, and
3 they didn't find it.

4 BOARD MEMBER STRIETER: Okay. So, and
5 then from the time that they had the open
6 permit, was there ever any title search or
7 anything like that done on the property?

8 MR. ZIGLER: No. It's been the same
9 owners. It was --

10 BOARD MEMBER STRIETER: Like, if they
11 refinanced or anything like that?

12 MR. ZIGLER: No. It's been the same
13 owners. The father, then it was into a
14 trust, and then come out to this. So this is
15 actually since 1976, this is the first time
16 the house is going to change hands. Which is
17 an oddity, too.

18 BOARD MEMBER ANGINOLI: Mr. Zigler --

19 MR. ZIGLER: Yes.

20 BOARD MEMBER ANGINOLI: -- and Counsel
21 are making reference to a Rockland County
22 letter, specifically items Three and Four.

23 MR. ZIGLER: Is that the Planning Board
24 or the Highway?

25 BOARD MEMBER ANGINOLI: This is from the

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2 Acting Commissioner of Planning.

3 MR. ZIGLER: Yeah. I think the Planning
4 Board was questioning at the time I had two
5 cars parked in the barn or the garage, and it
6 was questioning that. And we actually
7 changed that to one. And we don't even count
8 that because really, nobody uses it. So if
9 we look at the parking, there's plenty of
10 parking on-site as it stands. I don't know
11 what the fourth item was.

12 BOARD MEMBER ANGINOLI: This was more of
13 a technical issue --

14 MR. ZIGLER: Yeah, we answered them all.

15 BOARD MEMBER ANGINOLI: -- in terms of
16 notice of public hearing.

17 MR. ZIGLER: Right.

18 MR. MacCARTNEY: Yes. Have you seen the
19 County Planning letter? It came out -- is
20 today the sixth or the seventh?

21 BOARD MEMBER ANGINOLI: Yesterday.

22 MR. MacCARTNEY: Came out yesterday.

23 MR. ZIGLER: No, I didn't. I've seen
24 the one from the Planning Board.

25 MR. MacCARTNEY: Yeah, they --

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BOARD MEMBER ANGINOLI: But you may not have seen it yet.

MR. MacCARTNEY: Yeah. I can give it to you.

MR. ZIGLER: Sure.

MR. MacCARTNEY: They've identified a procedural snafu. Not really substantive.

MR. ZIGLER: Three?

MR. MacCARTNEY: Yeah.

MR. ZIGLER: Yeah. We, we changed the bulk table.

MR. MacCARTNEY: So I guess the real, the real key is what variances do you actually need. Because I see your -- the narrative that you did dated June 14th identifies four variances that don't seem to add up to the referral letter for, that we got from the Department of Planning. And so, and they're not all reflected in what went out in the public hearing notice. So I think this bulk table was what I've got. Is that the same as this?

MR. ZIGLER: Yes. If the date is -- yeah, it should be two revisions.

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2 MR. MacCARTNEY: This is -- yeah. Last
3 revised July 8th, so I --

4 MR. ZIGLER: We changed the bulk table
5 when it first went out to the Planning Board,
6 from the Planning Board to the County
7 Planning and the County Highway. That was
8 revised. But I haven't seen that letter, so
9 I don't know.

10 MR. MacCARTNEY: So the Planning Board
11 sent this Board, or sent your clients the
12 letter that's the referral letter. That's
13 August 26, 2021. And it has, it looks like
14 it lists three variances that you need. One
15 is lot area, right.

16 MR. ZIGLER: Right.

17 MR. MacCARTNEY: Minimum 25,000, and
18 provided 18,664.

19 MR. ZIGLER: Right.

20 MR. MacCARTNEY: Everybody knows that's
21 one of them.

22 MR. ZIGLER: Yes.

23 MR. MacCARTNEY: The next thing that
24 they told, that they referred to this Board
25 was, looks like a two and one. They said a

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2 minimum ten foot rear yard and side yard
3 required. And they said 2.9 rear yard
4 provided by the shed.

5 And it's unclear. What I'm reading is
6 kind of unclear. But it looks like it's a
7 total of three variances. And I see -- I
8 don't have the public hearing notice in front
9 of me, but I know they usually mirror what we
10 have on the agenda. So the agenda mirrors
11 what we got in the referral letter. But it
12 looks to me, by looking at your bulk table
13 and, you know, per County Planning's letter,
14 that there's actually a couple variances that
15 you're asking for here that didn't make their
16 way into the public hearing notice.

17 MR. ZIGLER: All right. So we need a
18 total of four variances. We need the total
19 area, as you said. Then we need the front
20 setback to the garage, which is 1.5 foot.
21 And it should be 35 foot. And then we need a
22 variance for the rear yard, 19.7. And 19.7
23 is to the, again, to the garage.

24 MR. MacCARTNEY: Give me those
25 dimensions again so I --

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2 MR. ZIGLER: Yeah. The rear yard --

3 MR. HAGER: Dave. Dave, let me
4 interrupt before we get into all this. I
5 think the reason for this is I had
6 interpreted that the house and the barn and
7 the shed that's on the northern end of the
8 property all predate the code. And there's
9 no intent to increase the level of
10 nonconformity. So it was my interpretation
11 that they only need the area variance for the
12 lot area because they're changing to the
13 two-family use and they need that for the
14 conditional use permit.

15 And the other variance, if they choose,
16 they had discussed removing or relocating the
17 newer shed that's closer to the house. That,
18 I believe, does not predate. So I think that
19 need a variance, or it needs to be relocated.

20 So that's the reason that you're only
21 seeing two variances here. So unless the
22 Board disagrees with that, that I believe the
23 Planning Board is on board with that
24 interpretation.

25 MR. MacCARTNEY: Okay. I'm not sure

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2 I -- I have, like, five different things
3 circled on the plan. And I can't tell which
4 one is which versus what you just said.

5 MR. ZIGLER: That's the front yard
6 variance.

7 MR. MacCARTNEY: So this one for sure,
8 1.5 front yard for sure.

9 MR. ZIGLER: Yes.

10 MR. MacCARTNEY: Okay.

11 MR. ZIGLER: And this, this shed would
12 be moved, because this is a newer shed. So
13 it would be moved to conform to the, adhere
14 to the regulations.

15 MR. MacCARTNEY: We'll move it. So you
16 don't need that. We don't need that.

17 MR. ZIGLER: Right. And then it would
18 be just the code there.

19 MR. MacCARTNEY: So what about -- so on
20 your bulk table, I think part of the problem
21 is we've got a lot of asterisks, variances
22 you requested.

23 MR. ZIGLER: Right.

24 MR. MacCARTNEY: So this one, yes.

25 MR. ZIGLER: Yes.

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MR. MacCARTNEY: Lot area, yes.

MR. ZIGLER: Right.

MR. MacCARTNEY: We've got the 1.5 feet.
That's a yes.

MR. ZIGLER: That's a yes.

MR. MacCARTNEY: We need that.

MR. ZIGLER: And the other two would be
no because they're pre-existing code.

MR. MacCARTNEY: So whatever else is in,
so it's just those two.

MR. ZIGLER: Yes.

MR. MacCARTNEY: Or is there three?

MR. ZIGLER: No. It would be two.

MR. MacCARTNEY: And also, everywhere
else where you have a, an asterisk, the
determination is no variance is necessary
because those were existing conditions,
pre-existed way back when.

MR. ZIGLER: Yes.

MR. MacCARTNEY: They didn't change.

MR. ZIGLER: I'm glad you said that
word, because when I say that word, it sounds
not the same.

BOARD MEMBER ANGINOLI: Where are we

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2 with Number Three on this letter? Is the
3 public hearing notice accurate or inaccurate?

4 CHAIRMAN WRIGHT: I would say it's
5 accurate at this point. Does anybody have a
6 different opinion?

7 MR. MacCARTNEY: So it seems to me that
8 it's accurate because the Planning, the
9 Rockland County Planning was unaware that
10 there's been a determination that no variance
11 is required. And so it seems like it's
12 accurate. But we would have to, if you were
13 inclined to grant the variances, there would
14 have to be an override with an explanation of
15 that. So you'd need a supermajority and an
16 explanation.

17 But I also wrote down, you said three.
18 There's area, there's front yard setback. So
19 I have those two. But I also wrote down
20 rear. Is there a rear that you do need?

21 MR. ZIGLER: That would be just the
22 shed, so no.

23 MR. MacCARTNEY: Oh. So that you're
24 now -- so originally, yes, but you're
25 eliminating that one. Okay.

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2 MR. ZIGLER: Right. We're going to move
3 the shed.

4 MR. MacCARTNEY: Now I got it.

5 MR. ZIGLER: This is almost as confusing
6 as the first item.

7 MR. MacCARTNEY: I'll take this
8 confusion any day.

9 CHAIRMAN WRIGHT: Any other questions
10 for Mr. Zigler? I'll open it up. Are there
11 any questions from the public?

12 MS. NOLAN: I just have one question.

13 CHAIRMAN WRIGHT: Yes, ma'am. Come up
14 and identify yourself.

15 MS. NOLAN: Jennifer Nolan, East Main
16 Street.

17 CHAIRMAN WRIGHT: Okay.

18 MS. NOLAN: I was under the impression
19 they were asking for a three-family, or just
20 keep it a two-family?

21 MR. ZIGLER: Two.

22 CHAIRMAN WRIGHT: I believe it's a
23 two-family.

24 MS. NOLAN: Two. Okay. Then no more
25 questions.

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2 CHAIRMAN WRIGHT: Anyone else? Sir?

3 MR. BRENNER: John Brenner, 55 East Main
4 Street. So question number one is, is it a
5 legal two-family now, or is it still a single
6 residence? Or is the question that in order,
7 they want the variance so that it could be
8 confirmed two-family.

9 CHAIRMAN WRIGHT: I believe the latter.

10 MR. BRENNER: Okay.

11 CHAIRMAN WRIGHT: They're looking to --

12 MR. BRENNER: So currently, for all
13 standards, it's a single-family residence.
14 So my question here is that, you know, we've
15 seen this story before in Stony Point, where
16 we have multiple single-family homes that are
17 multiple families. Most of them probably
18 illegal.19 And here we are in a situation because
20 at 55, at 53 East Main Street, back in 1997
21 when Erazio (ph) owned it, he had three
22 apartments in the big building, and living
23 space in the garage slash barn. He tried to
24 sell it. And he -- same thing. Went before
25 the ZBA. Oh, we got the permit, we're okay,

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2 we got the approval. 20 years later, oops,
3 sorry, we don't have it.

4 So again, we've seen this story before.
5 And here we are, sitting in a situation where
6 okay, let's say in their mind they, that this
7 residence had a two-family. Well, then they
8 added two, three, four apartments in that
9 house. There are three meters on the main
10 house and a meter on the barn.

11 Okay, so my point is by approving the
12 variance, you give them the two-family
13 status. Are we rewarding somebody for
14 ignoring the law over the last 20 years?
15 That doesn't seem right, particularly to the
16 single-family homeowners in East Main Street
17 corridor, who have been living and abiding by
18 the law, have come before you when we need to
19 do something, as opposed to okay, put an
20 apartment here, apartment there, whatever.
21 Oh, it only becomes a problem when I put my
22 house on the market. Someone wants to buy
23 it. Oh, sorry it's not what it is. It's not
24 a four-family. It's, well, a two-family.
25 No, really, it's a single-family.

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2 So I think in this situation, where if
3 you walk from Town Hall two blocks, you can
4 pass anywhere from six to seven homes with
5 multiple apartments in them. I dare say that
6 most of them are illegal.

7 So does this open up the Pandora's box
8 of if you approve this, does everybody else
9 who has that same situation now who wants to
10 sell can go before the Planning and/or Zoning
11 Board to get an approval, oh, it's a
12 two-family. Oh, we can do this. Here we
13 are.

14 We have a residential one mailing in
15 Stony Point. You've got the East Main Street
16 corridor, which we have -- it's a -- I mean,
17 we all know it's a beautiful area. Now do we
18 want seven R2s plus in that area? Now, are
19 they assessed different? Do the single
20 residents, are they going to get lower taxes
21 because people have been skating the tax
22 issue for over the years? I dare not.

23 So I request, and I know I've spoken to
24 my neighbors, that you do not approve this
25 variance so that this can remain a

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2 single-family home. And let them go about it
3 the right way, okay. And not do it oh,
4 sorry, because we want to sell the house.

5 So with that, I thank you all for your
6 time. And have a nice night. Thank you.

7 CHAIRMAN WRIGHT: Any other comments
8 from the public? If not --

9 MR. ZIGLER: I'd just like to make one
10 statement, please.

11 CHAIRMAN WRIGHT: Sure, Mr. Zigler.

12 MR. ZIGLER: Basically, anybody can
13 approach either Board with any application,
14 whether it's two-family, three-family, or up
15 on 9W where you have a six-family. Which is
16 three times the zone.

17 This was in front of the ZBA. It did
18 receive approval. We don't know if the C of
19 O was ever issued. Things have been lost.
20 They lost some of my information. We lose
21 stuff in the office all the time. I find it
22 hard that Pete Anderson signed the plans, and
23 yet nobody went down and inspected it,
24 because everybody knows Pete Anderson used to
25 leave Town Hall and go to the Highway

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2 Department, and you almost go right past
3 that.

4 So we're not stopping anybody else,
5 whether an illegal, legal, or as further down
6 on Main Street, we did multi-families. We're
7 not trying to stop anybody else from coming
8 in to the Board and making the same
9 presentation, and have the Board look at the
10 facts.

11 The fact is this did receive a special
12 permit from the ZBA in '76, and it just never
13 seemed to be executed. And it's a
14 two-family. It was illegal. It's been
15 straightened out. It's been inspected by the
16 Building Inspector and Tom Larkin I think at
17 least twice. And it was made to conform to
18 two-family if it receives the approval. If
19 it doesn't, then it would go back to one. We
20 would like the Board to realize that we're
21 not trying to skirt the issue. Thank you.

22 CHAIRMAN WRIGHT: Thank you. Any
23 questions? Mr. MacCartney, anything else?

24 MR. MacCARTNEY: I have nothing else.

25 MS. NOLAN: I have a question. I'm

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1
2 sorry.

3 CHAIRMAN WRIGHT: Yes, ma'am.

4 MS. NOLAN: Are the meters going to be
5 reduced -- are the meters on the side of the
6 house going to be reduced to two meters?

7 MR. ZIGLER: Yes.

8 CHAIRMAN WRIGHT: You can just make the
9 comment and we'll consider it as part of our
10 recommendation.

11 MS. NOLAN: Okay.

12 CHAIRMAN WRIGHT: Thank you. All right.
13 With that, unless there's any other reasons,
14 I'll go ahead and move closure of the public
15 hearing.

16 BOARD MEMBER ANGINOLI: So moved.

17 CHAIRMAN WRIGHT: Second? All in favor?

18 (Response of aye was given.)

19 (Time noted: 8:34 p.m.)

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THE FOREGOING IS CERTIFIED to be a true
and correct transcription of the original
stenographic minutes to the best of my ability.

Jennifer L. Johnson