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# VILLAGE OF HILTON

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Village of Hilton Zoning Board  
Meeting Minutes of October 10<sup>th</sup>, 2023  
Approved

**Member's Present:** Chairman Kim Fay, Nicole Pennock, Joe Ruta, Harry Reiter, Elaine Begy, Paul Cliff (Alternate)

**Administration Present:** Code Enforcement Officer; Mark Mazzucco, Recording Secretary; Debbie Jones, Office Clerk; Aimee Doser

**Guests:** Todd Mertzke, Daniel Lash, Ken Sixt, Lora Semple, Shanti Marquardt

**Chairman Kim Fay** called the meeting to order at 6:30 p.m. with the Pledge of Allegiance and a moment of silence.

**Minutes:** **Chairman Fay** made the motion to accept the July 11th, 2023 Village of Hilton Zoning Board meeting minutes, seconded by **Member Begy** and approved 4-0-1 (Member Reiter absent July 2023 meeting).

**Reports:**

Village Board Liaison      Mark Mazzucco  
Code Enforcement Officer    Mark Mazzucco  
Mayor                              Joe Lee

**Member Ruta** read and explained the procedures of the Zoning Board.

**PUBLIC HEARING OPENED AT 6:37 P.M.**

**ZONING SEGMENT – 7 UPTON STREET – CONDITONAL USE PERMIT – KEN SIXT**

- Application of Ken Sixt, property owner of 7 Upton Street for a Conditional Use Permit to allow Retail Sales of Baked Goods. Per Section 275-16C (3), a Conditional Use Permit-- Conditional Uses. Upon site approval and in accordance with Article [IV](#), the following uses are permitted: Any use permitted in residential, multiple residence and commercial zones.  
This property is zoned Industrial District.

Ken Sixt stated has a new tenant where Bozza Pasta used to be. A bakery by the name of “Something Delicious”.

Shanti Marquardt & Lora Semple stated they will be utilizing the space for their bakery, and would like to have pop-up sales, possibly twice each week, to sell and provide samples of their baked goods to the public, therefore, they are seeking a conditional use permit for the retail sale of baked goods.

Ken Sixt explained that the former tenant/business, Bozza Pasta, was open 7 days a week, so parking was and will not be an issue.

**Code Enforcement Officer Mark Mazzucco** stated that wholesale IS allowed there for retail sales, as that is what Bozza Pasta used that space for as well.

### **BOARD QUESTIONS/COMMENTS:**

**Member Begy** Asked the owners to clarify that they will be baking there onsite and then selling there as well.

**Shanti Marquardt** confirmed that yes that is the plan. Hoping to open by the end of October.

**Member Reiter** stated that we should change the code to state Food prep and Retail. If Bozza Pasta used it for the same purpose, why are we here?

**Member Pennock** stated it is due to it being zoned Industrial, so any retail sales must come before the board to obtain a Conditional use Permit.

**Member Reiter** Said if we change it to Food Prep & Retail and apply it to this property instead of each business, the owner, Ken Sixt, would not have to keep coming back for the permit for each of his tenants.

**Member Ruta** thinks the bakery is a great idea to utilize the space.

**Member Pennock** stated that Bozza Pasta was there, so they might as well.

**Ken Sixt** asked if we could make the Conditional Use Permit a blanket for all sales in his building to prevent having to keep coming back?

**PUBLIC COMMENT:** Open and closed at 6:48 p.m. – No Public Comment

**Member Reiter** made the motion to approve the Application of Ken Sixt, property owner of 7 Upton Street for a Conditional Use Permit to allow Retail Sale of Goods. Per Section 275-16C (3), a Conditional Use Permit-- Conditional Uses. Upon site approval and in accordance with Article **IV**, the following uses are permitted: Any use permitted in residential, multiple residence and commercial zones.

**Member Pennock** seconded the motion.

Motion Approved 5-0.

### **PUBLIC HEARING – 74 PARKWOOD LANE – SITE PLAN REVIEW & 7-FT AREA VARIANCE – TODD MERZKE**

- Application of Todd Merzke, for property located at 74 Parkwood Lane for a Site Plan Review and a 7-foot Area Variance to allow a Hot Tub with an enclosure in the backyard.

Section 275-14(H)-Approval by the Zoning Board of Appeals shall be required in a Multiple Residential District for all new uses, changes in use, and new construction or alteration.

Section 275-9(B) in part states---Private swimming pools are permitted in the Residential, Multiple Residential and the Limited Commercial Districts, provided that there is an existing residence on said lot and that said pool is located in the rear yard no closer than eight feet to the side or rear property lines.

This property is zoned Multiple-Residential District.

### **PUBLIC HEARING OPENED AT 6:51 P.M.**

Todd Merzke is the homeowner and stated the hot tub was already there when he moved in, and he was not aware that he was doing something wrong when he built the enclosure around the hot tub as he was just looking for some privacy and due to some safety issues.

### **BOARD QUESTIONS/COMMENTS:**

**Code Enforcement Officer Mark Mazzucco** requested that the board waive the site plan review.

**Chairman Fay** made the motion to waive Site Plan review on this application.

**Member Pennock** asked if the top of structure was already there at move in with the hot tub? Todd Merzke stated that yes, the hot tub was there on the concrete patio, with the roof over it.

**Member Pennock** asked if it had an electrical inspection.

Todd Merzke said yes it has.

**Chairman Fay** asked if the outlet on the outside of the structure is up to code.

**Code Enforcement Officer Mark Mazzucco** said he would have to ask the inspector, but he does have the certificate that it passed inspection.

Todd Merzke mentioned that the hot tub cover is where it is supposed to be too.

**Code Enforcement Officer Mark Mazzucco** confirmed that Mr. Merzke has a code compliant safety cover.

**Member Begy** asked where on the patio? Is there no setback?

**Code Enforcement Officer Mark Mazzucco** stated No, all as is. Code was when it was built and allowed back then.

**Member Ruta** asked if homeowner is asking for 7-foot area variance, and it is only one-foot off the property line

**Code Enforcement Officer Mark Mazzucco** said we are here for two things – the hot tub and the enclosure.

**Chairman Fay** asked if there are any permits for any of this.

Todd Merzke stated that the hot tub was there when he moved in.

Daniel Lash asked if the previous owner should have gotten the permits before the sale of the home.

The Board informed him that the attorney should have.

**Chairman Fay** asked about the fence being partial lattice material.

Todd Merzke stated that he had to extend the fence with lattice for the dog, but the dog has since passed away, so he can finish the fence all around if needed.

**Member Reiter** asked for confirmation of the concrete pad being approved in the 70's but now a permit is needed to put something on the pad.

**Code Enforcement Officer Mark Mazzucco** stated that now a structure is being put on it, not something temporary like a grill.

**Member Pennock** said she thinks the setback limits are on single family homes, not multi residential.

**Chairman Fay** stated that the hot tub can be slid down 8-feet to make it compliant with his double yard, to the East.

**Member Pennock** feels that will not work because there is no concrete pad there.

Todd Merzke stated that if he were to do that it would all need to be rewired as the hot tub was already there when he moved in.

**Chairman Fay** Stated that his hot tub is 10-feet out in front of his back door and that Todd could do the same as he has the depth in his yard. He thinks blocking the neighbors sliding glass door and being one foot away is just not right.

**Chairman Fay** asked if it is an asphalt roof

Todd Merzke said no, it is metal.

**Member Begy** asked which property is his in the provided picture, and if the shed is his?

Todd Merzke showed her his townhome and stated the shed is his.

**Chairman Fay** asked if the homeowner could move everything down 8-feet and leave the side walls of the structure off.

Todd Merzke stated all walls are attached. Removing the walls would take away from the security and privacy.

**Member Begy** asked if the hot tub was moved out into the yard, would a variance be needed as the hot tub was considered an accessory structure and that its size, in addition to the existing shed, would put the property over the square footage allowed for accessory structures?

**Code Enforcement Officer Mark Mazzucco** said yes.

**Member Reiter** feels the structure gives the neighbor privacy with the walls, but if they allow it to stay, he would like to see it spruced up and the lattice fence fixed to match stockade fence.

**Member Pennock** said that she doesn't like to put undue stress on a homeowner trying to improve an existing structure. He came here voluntarily trying to do the right thing due to the previous owner not doing it right.

**Chairman Fay** feels that there should be a condition if approved, that the structure be painted and look like part of the home, not something just nailed on to the outside.

**Member Ruta** agreed and stated it should look like an addition.

**Chairman Fay** revisited the idea of the option to keep the structure but remove the walls and put-up curtains instead, as he would hate to have the neighbors looking outside at a wall.

**Member Begy** asked when is it considered an addition?

**Code Enforcement Officer Mark Mazzucco** stated there is no code for this as it is not a living space.

**Member Pennock** suggested they put a condition on where if he sells the home, the structure will have to come down.

**Chairman Fay** stated he doesn't know if he would do that.

Todd Merzke feels it would decrease the value of his home if that were to happen.

**PUBLIC COMMENTS:**

A letter was submitted from a neighbor at 76 Parkwood Lane, Dan Iatomasi stating he does not have an issue with the structure or hot tub. This letter will be kept on file.

**Chairman Fay** started a motion for there to be no variance to allow it to stay, only if moved to new zoning codes.

No one seconded the motion.

**Member Pennock** made the motion to approve the Application of Todd Merzke, for property located at 74 Parkwood Lane for a 7-foot Area Variance to allow a Hot Tub with an enclosure in the backyard, with the condition that it be painted to match/complement the existing housing structure, and the lattice fence be removed, and the stockade fence be extended.

**Member Reiter** seconded the motion.

**Motion Approved 3-2-0 (Nay Members Fay & Ruta)**

**DATES:**

Next Scheduled Meeting	Tuesday, November 14, 2023
Public Agenda Deadline	Tuesday, October 24, 2023

There being no further business, **Chairman Fay** made the motion to adjourn the meeting at 7:33 p.m.

Respectfully Submitted,  
Aimee Doser, Office Clerk

To whom it may concern;

My name is Dan Latomasi, I reside at 76 Parkwood Lane. I understand there is a problem with Todd Merzke's hot tub area not being 8 foot from the property line. I have no problem with where it is or how it looks. It actually provides more privacy to my yard. The 8 foot from the property line doesn't bother me at all. Any questions, please feel free to call me at (585) 503-7570.