

TOWN OF ESOPUS
P.O. BOX 700
PORT EWEN, NEW YORK 12466

ZONING BOARD OF APPEALS

DATE: January 14, 2025

CASE NUMBER:08-23-24-01

APPLICANT: Lorine & Derrick Karabec

ATTORNEY: Kenneth Stenger, Esq.

PROJECT NAME & DESCRIPTION: Appeal CEO determination re §123-24A

WHEREAS, the Town of Esopus Zoning Board of Appeals (the ZBA") received an appeal of the Code Enforcement Officer (the "CEO") determination regarding the inapplicability of §123-24A to a proposed summer cottage / tourist cabin development from Lorine and Derrick Karabec (the "Appellants"); and

WHEREAS, the ZBA is authorized pursuant to Town of Esopus Zoning Code (the "Zoning Code") §123-43 and New York State Town Law (the "Town Law") §267-a to consider appeals of any decision made by an administrative official; and

WHEREAS, Zoning Code §123-24A states that the "All detached one-family dwellings shall be a minimum of 18 feet in width. Any detached one-family dwelling less than 18 feet in width shall only be permitted within the Manufactured Home Overlay District;" and

WHEREAS, the ZBA opened a duly noticed public hearing on the appeal on November 19, 2024 and closed the public hearing on December 17, 2024, incorporating comments into the ZBA's decision making and determination; and

WHEREAS, pursuant to 6 NYCRR 617.5(c)(37) the "interpretation of an existing code" is a Type II Action for SEQR purposes that does not require additional environmental review; and

WHEREAS, the ZBA has reviewed the complete record and made a reasoned decision based on the available information.

NOW THEREFORE BE IT RESOLVED, that the appeal against the Code Enforcement Officer's determination is denied where no affirmative vote to reverse the Code Enforcement Officer's determination carried by a majority of the ZBA; and

BE IT FURTHER RESOLVED that the ZBA also moved to uphold the Code Enforcement Officer's determination, finding that the building width requirement does not apply to summer cottages / tourist cabins based on the following findings:

- Summer cottage colony structures, including tourist cabins, are excluded from the definition of one-family dwellings:
 - ☐ One-family dwellings are defined as detached dwelling units.

- ☐ Dwelling units exclude any "boardinghouse, convalescent home, dormitory, fraternity or sorority house, hotel, inn, lodging or rooming house, nursing or other similar home or other similar structure shall not be deemed to constitute a dwelling unit."
- ☐ Lodging has etymology in the French term "Logge" which is interpreted as a hut or cabin.
- ☐ The CEO uses the phrase "dwelling unit" as a term of art for New York State Uniform Fire Prevention and Building Code (the "Building Code"), separate from zoning, that differentiates sleeping units from dwelling units but either may be permanent or transient.

; and

BE IT FURTHER RESOLVED, the initial motion to deny the appeal failed to carry by a majority of the ZBA, which resulted in a second motion being made to grant the appeal of the Code Enforcement Officer's determination; and

BE IT FURTHER RESOLVED, the motion to grant the appeal also failed to result in a majority affirmative vote, which triggered Town Law § 267-a(13)(b), resulting in the denial of the appeal; and

BE IT FURTHER RESOLVED, that if any part of this resolution is annulled by a court of competent jurisdiction, the remainder of this resolution shall remain in full force and effect; and

BE IT FURTHER RESOLVED, that this decision shall take effect immediately and a copy shall be filed with the Town Clerk.


Chairman Wick entertained a Motion to grant the appeal of the Esopus Code Officer's June 28, 2024 Determination, where in said motion failed by the following vote:

	YES	NO	ABSTAIN	ABSENT
Karl Wick	_____	_____	_____	_____
Katie Zahedi	_____	_____	_____	_____
Jim Tomassetti	_____	_____	_____	_____
Guy Brought	_____	_____	_____	_____
Gloria VanVliet	_____	_____	_____	_____
Mike Pittner	_____	_____	_____	_____
Kathy Kiernan	_____	_____	_____	_____

Decision: Motion to grant the appeal of CEO's Determination failed to pass pursuant to Town Law 267-a(13)(b), where an affirmative vote of a majority of all members of the board is required to reverse a determination of the enforcement official and absent said majority affirmative vote to reverse the determination, said appeal is denied.

Submitted by: Lisa K. Mance, Administrative Assistant

I HEREBY CERTIFY RECEIPT OF THIS DECISION ON THE 21ST DAY OF JANUARY, 2025


Holly Netter, Town Clerk