

To: Kinderhook Village Board

January 10, 2024

Good Evening. I have questions about the status of the former Carolina House restaurant which is a nonconforming use in a residential district.

In August 2021 the previous owner of the restaurant received a letter from the village attorney stating that, because of the pandemic, the restaurant was not deemed discontinued or abandoned. So the 18 month discontinuance, which would have meant the property reverts to residential, was set aside.

Effective Sept. 12, 2022 Gov. Hochul declared the COVID State Disaster Emergency at an end.

My questions are

1. At what point did the exemption for the Carolina House property end?
2. Because of Gov. Hochul's announcement, will 18 months have officially elapsed in February or does the board consider the clock is ticking or is not ticking at all?
3. If the exemption is not at an end, at what point does 18 months elapse?
4. If not the Governor's declaration of the end date, what is the board using as an end date to the public health emergency?
5. What guidance has the village attorney given the Code Enforcement Officer who issued a building permit in December to the current owner?

Thank you for your time and I hope to receive clarification before the next board meeting.

PS on a related topic: Past owners of the restaurant, who closed it for lengthy periods, would reopen for one day and then close the next day for several more months, which apparently kickstarted a new 18-month discontinuance period. The statute states "discontinuance of active and continuous use."

In my opinion those actions violated the letter and the spirit of section 130-26B. I recommend the language in that section should be strengthened to prevent this type of evasion of the law.



Ellen Sullivan