

Town of Red Hook

Agriculture and Open Space Committee

Minutes of June 12, 2014

Special Meeting #2 with Zoning Review Committee's Meeting

Attendance: Co-chairperson Norman Greig, Co-chairperson Pete Hubbell, Richard Biezynski, John Hardeman, Ken Migliorelli, Town Board Councilman William O'Neill (liaison) and Linda Keeling, secretary.

Absent: Michael Robertson, Marina Michahelles and Maryanne Johnson

Guests: ZRC: Chairman Susan Simon, Steve Cole (ZEO), Brent Kovalchik, Chuck Simmons (At-large), Sam Phelan, Ann Rubin and Town Board Councilman William O'Neill (liaison)

Absent: John Douglas and Chris Klose (EDC)

Meeting Opened: The AOSC and the ZRC met jointly to discuss the Ag fencing issue again. Correspondence was exchanged with the chairmen of each group.

The meeting was called to order by *Chairman Susan Simon* at 7:09 pm.

Minutes: There was a quorum of the AOSC but no direct minutes were addressed.

There was a quorum of the ZRC and minutes were voted on.

ZRC Motion: *Sam Phelan* motioned to accept the minutes of April 10, 2014, *Brent Kovalchik* seconded, all agreed.

Note: There was no secretary for the ZRC. *Chairman Susan Simon* could not get her tape recorder to work so AOSC secretary was asked to allow her digital format to serve both groups.

Chairman Susan Simon indicated the reason for this meeting was to further continue discussion on the fencing issue originating with the AOSC concerns as it relates to the farms in Red Hook.

1. Spite Fence: *Steve Cole (ZEO)* was still concerned about spite fences and wanted the narrative to include the requirement of a building permit. *Co-chairman Norman Greig* agreed and suggested the wording: "All spite fences require a building permit."

2. Height Inquiry: *Sam Phelan* questioned why the 8 ft. height is being changed. Farmers *Rich Biezynski, Ken Migliorelli and Norman Greig* explained that certain crops like hops can be 10 to 20 ft. high. Sam questioned about a "reasonable height" determination.

3. Analyzing Written Narratives: *Brent Kovalchik* questioned about paragraph 1. *Rich Biezynski* indicated multiple zoning references and *John Hardeman* added the need to be in conjunction with Ag & Markets narrative.

4. Future Fencing: *Sam Phelan* believed Ag fencing needs a definition. *Rich Biezynski* agreed that the present zoning narrative does not address the potential future need requirements of farmers in addressing their food and animal crop productions.

5. Drawing on Model Ordinance: *Chairman Susan Simon* distributed a one page of AOSC's written description and a two page hand-out compiled by *Ann Rubin* entitled: "Model Ordinance Fencing to Support Agricultural Production":

"Fencing is a major management element for many types of farms as well as a significant expense. For livestock farms, fencing is necessary to keep animals inside the farm and to protect them from the public. The requirements for fencing vary, depending upon the species, numbers, and ages of the animals. Other fencing is intended to keep out wildlife or unwanted trespassers. Often it is useful to include fencing in the buffers that separate farms from other land uses, especially residential development. Other types of fencing include temporary electrified fencing used for pasture management and fencing to keep livestock from water bodies.

Review of the fencing provisions of many municipal ordinances shows that many do not recognize the special and varied fencing requirements for farms in that section of their ordinances. Protection of a crop is permitted by the Right to Farm statute, and this preempts municipal ordinances. Requiring farmers to get a variance when the ordinance is insensitive to farming requirements, and Right to Farm encourages crop protection, creates more expense for the farm operation, in addition to the time and stress of having to educate the municipal government and the public as to their needs.

Municipalities seeking to preserve many acres of farmland must support the agricultural industry as well as protecting the land. Because farmland preservation is forever, a general provision that differentiates agricultural fencing from residential or other types, but is flexible enough to cover many types of fencing would serve to enable the wide variety of fencing that may be necessary long into the future as agriculture changes."

Fencing, Section 1. Definitions

"A more narrow eligibility standard for this exemption might be use of the definition of the Commercial Farm from the Right to Farm Act (see Ordinance under Agriculture Protection and Viability in the Hunterdon County Environmental Toolbox) rather than merely the standard for Farmland Assessment:

(1) A farm management unit of no less than five acres producing agricultural or horticultural products worth \$2,500 or more annually and satisfying the eligibility criteria for differential property taxation pursuant to the “Farmland Assessment Act of 1964” or

(2) A farm management unit less than five acres producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility for differential property taxation, etc.”

5. Definition: Rich Biezynski felt we should endorse this definition because Webster’s definition can be thrown out in court.

Co-chairman Pete Hubbell felt the definition should relate to what is defined in the Red Hook zoning code as to what a farm is.

Rich Biezynski states Ag & Market defines it as 7 acres and \$50,000 annually. He posed the question of how do we define agriculture versus residential fences.

Ann Rubin added there is a definition of fence which includes: “*A structure constructed of wood, masonry, stone, wire, metal or any other material or combination of materials serving as an enclosure, barrier or boundary.*” They don’t say that it is permanent.

Co-chairman Norman Greig was concerned about trellises made of poles with wires will be considered a fence. *Sam Phelan* added it does not contain or keep out anything therefore it is not a fence. *John Hardeman* felt that if it is an accepted agricultural practice under Ag & Markets then it should be no problem.

Rich Biezynski wanted to know if his wording will be included in the definition.

Chairman Susan Simon was uncertain as to what the final wording would include. It has to be voted on by the ZRC then submitted to the town board for their review and then sent over for legal review. She proposed the question of how we were going to accomplish the new verbiage.

It was generally agreed by both groups that the definition should incorporate all the best aspects of what has been presented so far. A rough draft will be resubmitted to AOSC and additions and corrections will be sent back to the ZRC.

Steve Cole would like to eliminate “inspection” from the AOSC submission so he has the authority to inspect fencing impinging on the property rights of adjoining property owners. He felt that the zoning law needs to clarify and make a distinction between Agricultural and Residential fencing. The intent is to eliminate small non-farm parcels (ie: 1 acre of home grown hops for home brewing or 5 acre of hobby goats) from claiming Agricultural fencing exemption status. *Steve Cole* added at present horses are allowed on 3 acre zoning. *John Hardeman*

indicated the distinction between hobby and commercial farming is defined by the Ag & Markets Law. *Chairman Susan Simon* added that a horse on a 5 acre parcel would require a fence permit.

Brent Kovalchik felt residential law would define fencing requirements based on land surveys as the Village has had problems with garages built on neighboring property causing great difficulties when trying to sell the house.

6. Next Meeting: All were in agreement to meet again with a definition in place which will be presented to AOSC. Most of the AOSC members left at 7:35 pm. It was agreed that a few ZRC members would meet at the AOSC's June 24th meeting and the AOSC would attend the ZRC's July 10th meeting.

Chairman Susan Simon suggested another meeting of the ZRC to further discuss the issues. To expedite the process and better use the participant's time, the ZRC members remained along with the new AOSC liaison, Ken Migliorelli, with voting privileges.

Motion: *Ann Rubin* motioned to adjourn, *Chuck Simmons* seconded, all agreed.

There was a suggestion to meet now instead of holding a special meeting. All agreed to continue. The next official meeting of the ZRC for the vote will be in July. After some discussion as to whether a workshop meeting is a meeting. It was agreed to not adjourn this meeting but to continue without members of the AOSC.

7. Language: Steve Cole consulted the definition in the zoning code 143-4 and 143-28 so creating a subset of 143-28.1 as an example of distinguishing Residential and Agricultural. He is not concerned with trellises, an agricultural structure to support plants. He did note though that all structures built need a building permit. He has never dealt with 15 ft. trellises. Steve felt he needed more time to think about the various components of the fencing issue before finalizing a written submission. Sam Phelan will assist with the wording by consulting the Ag & Markets law's definition.

Brent Kovalchik mentioned he's seen vertical gardens on the sides of buildings on the sides of buildings. *Linda Keeling* added you can have roof gardens, too. *Brent Kovalchik* said they are considering using vertical garden trellising in the Village to screen parking lots so a permit would be required. *Sam Phelan* referred back to the section of the law and there was more discussion on the definition. It was mentioned that one more line would be needed in regard to barriers. Discussion mentioned barbed-wire fencing and open fencing. It was felt there was no need to distinguish open fencing. They referenced 305-a of the Ag & Markets law. It is limited to Ag business.

Ken Migliorelli commented that ultimately fencing encroachment on adjoining properties involves surveyors and lawyers, not the ZEO.

Chairman Susan Simon thanked everyone for their diligence, thoughtfulness and perseverance with this issue.

Motion: *Ann Rubin* motioned to adjourn. *Chuck Simmons* seconded. All agreed.

8. Adjournment: The meeting adjourned at 8:07 pm.

9. Next Meeting: The next regular meeting of the AOSC will be **Tuesday, June 24th, 2014** with guests from the ZRC. The next meeting of the **ZRC is Thursday, July 10th, 2014** with AOSC guests.

Respectfully submitted,

Linda J. Keeling, AOSC secretary & ZRC substitute secretary

APPROVED 6-24-14