

Public Hearing

A public hearing meeting of the Town Board of the Town of Red Hook, Dutchess County, New York was convened in public session at the Town Hall, 7340 South Broadway, Red Hook on July 26, 2006 at 7:30 p.m.

Present: Deputy Supervisor Bill O'Neill
Councilman James Ross
Councilwoman Sue Crane
Councilwoman Jean Bordewich
Councilman Harold Ramsey
Town Clerk Susan McCann

Absent: Supervisor Marirose Blum Bump

Also present: Joel Sachs, Land Use Attorney.

Deputy Supervisor Bill O'Neill called the meeting to order with the reading of the public hearing notice for Richard and Lee Ann Hansen. He announces there will be a presentation from the Hansen's attorney. Deputy Supervisor O'Neill read section 6 of Local Law 2, 2006- relief from provisions.

Paul Freeman from Connor, Curran & Schram, P.C –attorney for the Hansen's in their request for a waiver begins by answering questions about the property, the address, size, zoning district, what buildings & structures are on property, who resides there, use of the property and compliance of the property. The Hansen's have a pending application before the Planning Board for approval of 3 lot subdivision.

Mr. Freeman also displays large area map of the Hansen property and surrounding area which shows approved driveway cuts. The Hansen's examined the existing zoning code and when they made their applications took into account the clustering provision in the code. Their intent for this property is to create a lot just over 3 acres for a house for their son and they have no other intention for the property other than what it is already being used for. They hired an engineer and the property has been surveyed. According to the code they have the right to have 6 additional lots, they choose voluntarily not to do that. The Hansen's have looked at modular homes with their son, hired an engineer and have expended \$15,000 for purposes of satisfying the Planning Board, then the moratorium came. The cost of the modular home will increase by \$25,000 if they wait the six months. Potential costs will increase during the moratorium. Their design does preserve the open space in the middle. We are here to gain relief from the moratorium. The whole concept of their plan is to preserve open space.

Councilwoman Crane... asks how many acres are in each lot.

Mr. Freeman...3.18 acres for new lot for their son, 12.57 acres which will be retained by the Hansen's and 7.3 acres that will have the Hansen's existing house on. The son's lot was chosen because it is near other existing homes, and it's already in the nature of a residential area. The code compels the Hansen's to have the 3rd lot. The Planning Board is receptive to the manner in which this has been proposed.

Councilwoman Bordewich...what is the date that they first submitted their proposed subdivision to the Planning Board.

Richard Hansen...we were on the agenda the first meeting in March.

The Hansen's are voluntarily keeping lot 3 from being subdivided.

Attorney Joel Sachs clarifies that if your client gets the 3 lot subdivision they are willing to represent to the Planning Board that the 12.57 acre will not be further re-subdivided and make it a condition of approval.

Mr. Hansen...I don't want neighbors.

Councilwoman Bordewich...is this in the agricultural district and are you getting an agricultural exemption on this property.

Mr. Hansen...I have never taken any tax abatement.

Councilwoman Bordewich...if we grant the hardship waiver you still have to go before the Planning Board. The area that was included in the moratorium wasn't just looking at parcel by parcel but looking at the whole region. What is on the surrounding properties?

Richard Hansen...explains the other residences surrounding them such as the Sheehan Farm.

Councilman Ramsey...I don't really have any questions. The waiver allows you to go forward with the Planning Board. It appears you are trying to keep open space.

Councilman Ross...I have no questions

Lee Ann Hansen...the moratorium will put a financial hardship on us due to the expenses for engineers, lawyers, applications and the overriding costs of construction. We will have to help our son financially for which we will have to dig into our nest egg. We are seniors and with the remaining years we have left we would like our son to have the all American dream of owning his own house. Nothing would give us more pleasure. We just want to give him a lot and we don't want to sell the second lot, we like our privacy and the open space. We would only sell if forced to due to financial reasons beyond our control otherwise it is our intention to give the second lot to our son for his retirement. We are not wealthy just hard working people and trying to do the right thing. I hope this Board will have compassion and let us move on with our project in front of the Planning Board.

Councilwoman Bordewich...where does your son currently reside?

Lee Ann Hansen...in an apartment in Red Hook. He just wants his own home.
Hansen's son...I just want to get a house built so I can move in.

Michael Horkan...the Hansen's are good people from Red Hook who truly love this Town who are trying to do something reasonable for a family member. It would be a disgrace to the Town if you don't let them proceed.

Richard Franklin...I thought if plans were in place in front of the Planning Board they should not even be here. I support the Hansen's. Their plan was in place before the moratorium. I see no reason not to support the Hansen's plan, just let them go forward.

Councilwoman Bordewich...I'd like to clarify; any application for a minor subdivision that has a sketch plan endorsement or final subdivision approval or any application for a major subdivision that has received preliminary or final subdivision approval from the Planning Board would be exempt from the moratorium.

Jim Sheehan...I am a neighbor of the Hansen's and have helped farm their property since 1981. When the Hansen's purchased the property they wanted to maintain open property and it continues to be used as agricultural. They have kept their word. I still maintain the existing property there.

Jeff Ackerly...I am in favor of the Hansen's relief from the Local Law. They have demonstrated financial hardship. I'd like to remind Jean that the only reason there was inclusion for those applications with preliminary sketch plan was a compromise that the other Board members would go along for the vote on the moratorium, and it was a compromise. I am very concerned about the climate in the Town regarding people affording to stay here. A year ago there were 36 homes for sale in Red Hook now there are 94, people are leaving this Town for many reasons political climate notwithstanding, taxes, affordability the driver of affordability are land prices. Not that long ago a 3 acre lot would sell for \$65,000, now people are generally seeking \$120,000 to \$150,000. I'm

sure Mr. Hansen Jr. has some money put aside but I know he doesn't have a \$150,000 to buy a building lot to stay close to the family property. For that reason alone these people should be granted relief from the moratorium which if continues beyond the 6 months, a year, year and a half may results in only very wealthy people affording building lots in the Town of Red Hook. There is no economic engine in our community to support these prices, no jobs created. People are leaving. There is no threat of sprawl as has been proven. We have to create some affordability for people who grew up in this community. I helped Woody Klose author the proposal for the bond act to preserve farms in Red Hook. One of the things we worked on was a farm plan for everybody's property who want to subdivide. This is a model for what we were seeking at that time; that is the kind of development we intended 5 years ago and the kind of development that would allow taxpayers and long time landowners to keep their land and their children in the community. What we are doing now is completely eliminating that possibility. Please grant them relief.

Clay Laugier...I'm the executive director of volunteer group and also resident. First I think you should grant the Hansen's relief, second I'm against the moratorium and the way you are going about your zoning. My classmates who are just graduating college will not be able to come back to Red Hook. Why the Town Board was worrying about the moratorium we had four drug overdoses in the high school. You have nothing set up for community outreach and for seniors. Other concerns need to be addressed.

Kathy Stewart...I'm concerned for the Hansen's, we should concentrate on them; this is a hearing for them not for us.

Eleanor Davis...I am a neighbor of the Hansen's. My property borders two sides of there property. I am strongly in favor of the Hansen's it's an ideal use for that land. It satisfies open space. I'd love to have their family member as my neighbor. They have designed a great plan. This is great for extended families. In the years I have been here it's been wonderful to see extended families in Red Hook. I agree with Jeff Ackerly and his assessment. I strongly support the idea of preserving open space, what is it we are trying to preserve; are we trying to break up families. The Hansen's have been wonderful stewards of this land, great neighbors and have encouraged me to plant trees and appreciate what we have there. They want to create what the moratorium is calling for- open space.

Leo Sieverding...I support the Hansen's. I'm curious about the extraordinary financial standard or is that something to make it difficult for people to continue on with the planning. The whole agricultural reserve has no criteria. The Hansen's are trying to get out of an agricultural reserve for which you have no criteria. They have to come plead before the Board. Is there a criteria for extreme financial hardship? This is unbelievable that they should have to go through this. Let these people go on with their lives.

Trilby Sieverding... I'm glad to see that there are no police officers on duty. It is a very sorry day when the Town government creates such an adversarial position with it town's people that they require police officers at public hearings. The Hansen's have worked very hard to keep their property and they have legal rights and could have sold 8 lots long before the moratorium took their property rights away. Please let these people go forward with their very conservative request, I support the Hansen's.

Councilwoman Bordewich...this hearing is about their request and not the broader issue of whether or not you are for or against the moratorium. We appreciate everyone coming but if we are going to fight that battle every time we have a public hearing you are welcome to do that but some of the things you said are inaccurate. Every statement should not be accepted as fact. The exemption provision is there to look at individual cases, the Hansen's have been willing to come before this Board and talk about their situation.

Deputy Supervisor reads note at the bottom of the criteria questions.

NOTE: Please note that under the law to get a relief from the moratorium, you must present "clear and convincing evidence that an unjust result and extraordinary financial hardship will occur to the property owner if such relief is not granted".

Attorney Joel Sachs...moratorium law whether people like it or not it is in effect and must contain a provision where someone can apply for relief from the moratorium on the ground of hardship or unjust result. No moratorium law that I know ever defined what constitutes a hardship or unjust result. I think you have heard tonight a fair amount of evidence as to financial hardship and personal hardship if the moratorium waiver is not granted.

Mr. Freeman...the only other comment, looking at the actual language of the moratorium itself there is a provision in there that expressly states that it is designed to protect vulnerable farmland and provide for a more limited scale of development and I think that is what we are going to do on our own.

On a motion of Councilwoman Crane, seconded by Councilman Ramsey move to close the public hearing.

Adopted	Ayes 4	Ross, Crane, Bordewich, Ramsey
	Nays 0	
	Absent 1	Blum Bump

Public Hearing

Deputy Supervisor O'Neill read public hearing notice concerning Debra and Patrick Murphy relief from the moratorium. Deputy Supervisor O'Neill declared the public hearing open at 8:17 pm.

Attorney Freeman...The application for the Murphy's is striking similar to the Hansen's that it involves a project application that was previously before the Planning Board. It involves a request for 3 lots and it also involves family members. Some of the arguments made including those made by Mr. Ackerly I could not have stated them any better and the same situation applies in this particular scenario. Mr. Murphy's father is very elderly; his parents intend to move onto this property. The reason they went to the Planning Board is so they could divide their property and build a house for his parents. Mr. Freeman describes the location of the property. The size of the property as it exists today is 11.06 acres. The buildings are the Murphy's house with existing garage, the zoning district is R3. Patrick and Debbie along with 2 daughters reside in the home. The present use of the property is essentially residential, it is not farmed.

Mr. Freeman presents a map and explains the layout of the property. They want to subdivide for a house for his parents on a 3 acre parcel. The balance of the property they had no plans for and because the nature of the code they set it up as a building lot. They are trying to move their family back, Mr. Murphy's father is sick that is the urgency. The cost of building construction is going up. The one thing that is significant to this application in terms of the purposes for the moratorium, that it says protect vulnerable farmland. Vulnerable farmland is the important part of the statement. Mr. Sheehan has attempted to farm this property and he sold the property because he could not farm it. Mr. Freeman shows the Board pictures of the soil. This is actually designated as property of statewide farming significance. I think these photos depict anything but that. It is now essentially a residence with a large yard. In terms of the financial hardship one of the same factors as the Hansen's by waiting another 6 months, possibly a year and the cost will escalate. They are giving the property to the parents and helping with the construction of the house. Their estimate of the escalation costs is about \$35,000. As far as expenses they went through with the perimeter survey and taken the sketch plan to the Planning Board, had received Planning Board comments and in the process of proceeding forward with that when the moratorium was enacted. In summary in terms of the financial hardship we are talking about the increased cost for a family project to move their elderly parents who are retired without a steady income. They want to be able to look after their parents. This is not the type of land the moratorium is designed to protect.

Attorney Sachs...what is the size of the lots in the 3 lot subdivision.

Attorney Freeman...the existing parcel that the Murphy's are going to retain is with house is 4.8 acres, 3.15 acres and 3.02 acres.

Attorney Sachs...tells the Board that this is 3 acre zoning and even if the Planning Board grants them their subdivision the property can not be further subdivided under the current zoning.

Attorney Freeman...there are no outstanding violations on the property, they are in compliance and the current proposal would meet code.

Councilwoman Crane...I don't really have any questions, other than are the Sheehan's direct neighbors or are the Hansen's? I'm trying to understand the Sheehan's location as to this lot.

Attorney Freeman...they are across Hapeman Hill Road.

Councilwoman Bordewich asks if they are getting the agricultural exemption. What is being actively farmed there?

Response- nothing

The Murphy's respond they are not receiving an agricultural exemption.

Attorney Freeman...they would have to actively farm 5 acres.

Councilwoman Bordewich...when did you purchase the property, how old are your parents and who will maintain the property.

Mr. Murphy...we purchased in 2000, my father is 70 my mom is 66 and I will maintain the property. We began the process in April, actually it started last summer and our surveyor was working on other projects. We have done some engineering work and have invested \$10,000 so far.

Councilman Ramsey...I don't have any questions they have been in front of the Planning Board and expended money.

Councilman Ross...no questions.

Councilwoman Crane...this is a case where you can almost project financial hardship should they not be able to get their Dad moved. Both of these cases demonstrate hardship.

Michael Horkan...They are trying to take care of family and that is what Red Hook is all about, families.

Clay Laugier...you should not hold these people up. Public opinion is important.

Dick Franklin...we should support them, no farming can be done. They have clearly demonstrated hardship.

Leo Sieverding...they have demonstrated hardship these people shouldn't even have to be here. Mr. Sheehan has tried to farm this property and yet he couldn't do it so what does that say about the age. reserve map.

Neighbor...property doesn't even look like agricultural land. I would support their subdivision for their parents.

On a motion of Councilman Ross, seconded by Councilwoman Crane move to close public hearing at 8:40 pm.

Adopted	Ayes 4	Ross, Crane, Bordewich, Ramsey
	Nays 0	
	Absent 1	Blum Bump

Deputy O'Neill announces the Board will discuss the Pilot for the Perx Property and the website. The Board will vote whether to go into executive session for personnel exemption under the moratorium law.

Councilman Ross...I don't see the need for an executive session to discuss what has just taken place.

On a motion of Councilman Ross, seconded by Councilman Ramsey move that we grant the Murphy's and the Hansen's relief from our moratorium law

Councilwoman Bordewich...I spoke with our Supervisor, Planning Board chair and our Attorney and while I think there are a lot of good reasons to vote I feel we should reflect and vote at a later time. It doesn't mean I'm against it I don't want to be hasty.

Councilman Ross...every comment from the public was favorable and we owe it to the applicants to grant this. This has been a scheduled public meeting with notice

Councilwoman Bordewich...do we want to discuss and reflect; I don't want to rush into this.

Councilman Ramsey...they have answered all our criteria and I find it funny that you want to hold off when the night of the moratorium we had piles of papers in front of us and the moratorium was rushed through and we did not take the time to look at that important paperwork. They have shown us above and beyond their hardship. I see no reason to delay this.

Councilwoman Bordewich asks Attorney Joel Sachs is there any reason to delay.

Attorney Joel Sachs...I don't see any legal issues that have been raised tonight that would require any further discussion so I have no problems with the vote tonight.

On a motion of Councilman Ross, seconded by Councilman Ramsey move to approve the Hansen's application for hardship from the moratorium.

Adopted	Ayes 4	Ross, Crane, Bordewich, Ramsey
	Nays 0	
	Absent 1	Blum Bump

On a motion of Councilman Ross, seconded by Councilman Ramsey move to approve the Murphy's application for hardship from the moratorium.

Adopted	Ayes 4	Ross, Crane, Bordewich, Ramsey
	Nays 0	
	Absent 1	Blum Bump

This allows the Hansen's and the Murphy's to continue with the Planning Board.

Mr. Kalina is advised to submit his letter with the correct parcel number and than a public hearing date will be set.

Pilot for Perx Property discussion:

Councilwoman Bordewich...I would like to vote on August 1st; would like some questions answered.

Councilwoman Crane...the Town and Village both need to sign; language was added to protect the Town. The Town is the assessing authority.

Councilwoman Bordewich and Councilman Ross question the 40 year term of the Pilot Agreement.

Board will discuss this with Attorney Chale and make a decision on August 1st.

Councilman Ramsey...we need to move forward on our website. We have some proposals and presentations and we need to go back and look at the plan in front of us and come up with some kind of policy to keep website updated. We need to get our agenda's done earlier so they can be sent to the website.

Councilwoman Crane...as far as the agenda's we should do what the Planning Board does, have a deadline for agenda items. I did not receive my agenda today until this afternoon.

Deputy O'Neill...we'll put this on the next workshop.

Councilman Ramsey...Clay Laugier is the executive director of a community outreach program named Crazy Idea who have put together in our school a volunteer group who have come up with youth against poverty in America program.

On a motion of Councilwoman Bordewich, seconded by Councilman Ramsey move to adjourn the meeting at 9:05 pm.

Adopted	Ayes 4	Ross, Crane, Bordewich, Ramsey
	Nays 0	
	Absent 1	Blum Bump

Respectfully submitted,

Susan McCann, Town Clerk