

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 August 15, 2006 at 7:30 p.m.

Present: Supervisor Marirose Blum Bump
Councilman James Ross
Councilwoman Sue Crane
Councilwoman Jean Bordewich
Councilman Harold Ramsey
Town Clerk Susan McCann

Supervisor Blum Bump opened the meeting at 7:45 p.m. with the Pledge Allegiance to the Flag. The public hearing notice for the Kesicke Farm, Inc. was read. Supervisor Blum Bump read section 6 of Local Law #2, 2006 - relief from provisions.

Frank Vosburgh showed where the property is on the Town of Red Hook Zoning map. There are 4 parcels involved with one corporate address, no residences except mobile home of William Wentzel. The parcels are actively farmed and in the ag. district.

192 acres total- 6172-00-822110-0000 - 43.86 acres R3
6172-00-980140-0000 – 48.56 acres 1.5 & R3 (mobile home & pump house)
6271-00-057991-0000 – 58.63 acres R3
6171-00-895945-0000 – 41.41 acres R3

The Kalina Farm is to the north and the Mosher property is to the south. Mr. Vosburgh proceeds to show where their own homes are on other parcels of the farm. The parcels in question are all actively farmed. The overall acreage is about 192 acres.

Councilwoman Crane asks about the second parcel. Is it unusual for a parcel to be in two different zoning districts?

Frank Vosburgh said one field was zoned for future expansion. Is not sure exactly where the zoning line is.

Supervisor Blum Bump asks about clustering in future development.

Robert McKeon said it would need clustering.

Frank Vosburgh...that is not the subject of this application.

Barbara Vosburgh explained that her family has owned Kesicke farm since 1940 and their intention has been to give the land to their children. That's why the farm is owned by the children. Our intention is for them to pass it on to their children. She just wanted to make that clear.

Supervisor Blum Bump asks about the plan that went before the Planning Board because she wants to take that into account.

Frank Vosburgh said that he, his brothers, and sister want to divide it among five people. They spent two years figuring this out. That's why the lines, they worked out a plan for everyone to have equal value to their piece of property. They plan on keeping it that way.

Supervisor Blum Bump asks what houses go with the farm.

Frank Vosburgh said there are no houses on that farmland. The farmland is independent of the houses.

Councilman Ramsey asks if the property is disjointed from the residences.

Frank answers that with 4 of them they can't all own property next to them. He shows what parcel each sibling will hopefully get.

The parcels are utilized for agricultural purposes. The Kesicke Farm parcels are in compliance and there are no outstanding violations on the property. While continuing to utilize the parcels for agricultural purposes we would like to subdivide among family members for estate planning purposes.

Councilwoman Bordewich asks if they are planning to continue farming. She said they recently sold off equipment, so what kind of farming?

Frank Vosburgh answered they are haying. It requires different equipment.

Supervisor Blum Bump asks if they might possibly subdivide and develop.

Frank Vosburgh answered not to his knowledge; they plan on keeping it in the family. The Vosburgh family is doing estate planning.

Supervisor Blum Bump ... you have been before the Planning Board on April 17, 2006, and read a section of planning board minutes. She asked the Vosburgh's if they scheduled the May 15th meeting.

Paul Vosburgh said that because of the public hearing for the moratorium on May 8th, they were not put on the agenda for May 15. The Vosburghs are prepared to put a Farmland Protection Plan into effect, but they have spent a considerable amount of money to date and decline to invest more into the application if their application for hardship be denied.

Councilwoman Bordewich...no land that's been subdivided is located in the town of Rhinebeck.

Councilwoman Crane... the Planning Board minutes should read 4 parcels not 5 parcels.

Ms. Vosburgh...prior to the moratorium, Kesicke Farm had already submitted a minor sub-division application. The goal was not to develop the property, but rather to distribute the assets among the family members for purposes of estate planning. The hardship includes: our efforts in estate planning are halted leaving the future of the farm vulnerable if something should happen to one of the family members. If we aren't able to proceed with our estate planning we will be left with four parcels of land and five family members leaving us no way to equally distribute among the family members. This situation will only grow more difficult. We have spent approximately \$27,000 and a significant amount of each family member's time in pursuing an equitable division of our inheritance. This \$27,000 is in addition to the contribution required on a yearly basis to keep the farm operational while still operating at a loss. \$27,000 has been spent on accountants, engineering, appraisals, surveying, and legal fees.

Councilwoman Bordewich said each family member also contributes to operating the farm at a loss and that is in addition to the \$27,000 you have spent on estate planning; the moratorium isn't affecting the cost of running the farm.

Mr. Vosburgh ...no, but not only do we pay for the privilege of farming every year, but we've spent \$27,000 in estate planning on top of it.

Supervisor Blum Bump asks if the farm always operates at a loss and what would the cost of estate planning be if there was not a moratorium.

Mr. Vosburgh answered, yes it generally operates at a loss and the cost would be the same.

Councilman Ross explains that the moratorium holds up the estate planning and they have money tied up. That's the hardship.

Supervisor Blum Bump...the cost of the estate planning would not be altered by the time left for the moratorium. Would you anticipate operating at a loss even after the subdivision?

Mr. Vosburgh answers that depends on how successful we are at farming.

Supervisor Blum Bump...the moratorium is not the cause for those financial losses. We are trying to establish a loss for you until the moratorium is ended. She does not understand what the hardship is.

Councilman Ross...time is money. The moratorium has delayed them 3 months already, and it will be another 3 months until the moratorium is ended. They have that money tied up in estate planning.

Mr. Vosburgh...the cost of everything continues to grow

Councilwoman Bordewich...what remains to be done to move this forward?

Mr. Vosburgh... as you can see we are well along in the plan; we need to do the farmland protection plan even though it is a minor subdivision. The Town is insisting we do a full build out proposal even though that is not what we are asking for.

Supervisor Blum Bump asks Robert McKeon about the referral to the Ag Advisory Committee. The Board has to consider what every board or committee has to say. She reads a letter from the Ag & Open Space Committee.

Robert McKeon said that when we considered a recommendation to the Town Board it was in February. Their application came in at the end of March, well after we made our recommendations. Estate planning is an important event in their lives. The moratorium impacts some of us negatively and others positively. The moratorium is to see if we can explore options other than selling off land. Once the Vosburgh's 200 acres are split up into 4 or 5 pieces, other potential development scenarios exist.

Councilman Ramsey asks to hear from Mr. Mosher and Mr. Kalina who own neighboring farms; will this application impact your farms negatively?

Darryl Mosher said that he's lived there for 25 years and this is very logical; the family has protected the land for 60 years. He's afraid that if something happens to any of these family members and the estate planning hasn't gone through we could wind up with no one owning and having to sell the whole piece. He feels that the Board should act quickly and allow the Vosburghs to go through with this. It would have no impact on my own farm. These parcels are still 50 acres.

Councilman Ramsey then asks Mr. Kalina if it would impact his farm. Mr. Kalina answered that the Vosburghs have been wonderful neighbors and that it has no impact on his farm.

Paul Vosburgh said that what happens during the moratorium will determine whether or not his money has been wasted. It could alter our plan. Their process started over 3 years ago.

Ann Marie Vosburgh...we believe that we are entitled to a waiver from the moratorium for the following reasons: 1. we have diligently been pursuing estate planning since August 2003; long before the moratorium issue.

2. We were present at the Town Board meeting where it was discussed that current applications before the Planning Board would be allowed to proceed. We proceeded in good faith on this assumption. This decision was later changed so that only current applications with preliminary approval would be allowed to proceed under the moratorium. This results in our application for a minor subdivision to be dormant in the Planning Board process in spite of the fees and money already spent.

3. In 2002 the Town passed the Farmland Protection Local Law #3 which requires that approx 50% of land be retained as open space.

Councilman Ramsey commented that there is something inherently wrong with our planning and our laws when we're not allowing a family to divide their land amongst their children and keep farming. I think dividing their land is the right thing to do for them as a family.

Councilwoman Bordewich asks if they want to get this through because you are afraid of what the zoning changes may be.

Mr. Vosburgh answered that they started this process over three years ago. There are many reasons they're here.

PRIVILEGE OF THE FLOOR

Daryl Mosher... a neighbor, fully supports the Vosburgh's. If anything should happen to one of the family members the whole farm may have to be sold. This way their children will stay in the community and it seems very logical.

Robert McKeon doesn't understand how not allowing them to go forward would force them out of the community. He is working to try to provide other options for landowners instead of converting agricultural into residential

Frank Vosburgh...no one said anything about residential, we want to keep this a farm, are you hard of hearing, no one said anything about residential.

Councilman Ramsey said his statement stands. He thinks there is something wrong when a family is not allowed to divide his farm for estate planning.

Leo Sieverding...I wish the criteria for hardship would have been as rigorous for the supposed criteria for the agriculture reserve. It amazes him that nobody bats an eyelash when told the farmer is operating at a loss. Is it really about preserving farming or is it about preserving open space. I think it's the latter. This is a farmland protection plan, they plan on continuing farming. The Vosburgh's are talking about estate planning; they are not talking about development.

Susan Elias feels that there was tremendous support for the moratorium. There is no guarantee. This is not a no; this is about having the time to examine everything thoroughly. We are concerned about over development and putting pressure on the schools. If you let this go through, there will be a flood of others trying.

Barbara Vosburgh ...I've heard a lot of discussion tonight and the point is that we have 6 children and want to pass our land on. They have a right to each own a portion of this. We could have sold this property a million times over and sees no point to this discussion.

Lee Ann Hansen feels the Board should grant the hardship. \$27,000 plus is a lot of money. It's their property and they should do what they want. They are the ones paying the taxes on it.

Richard Hansen...we were responded to favorably about a month ago. They should be granted the relief for the same reasons they were. \$27,000 is a lot of money put it in limbo for 6 months and you get nothing out of it. This is family business and their hardship should be granted.

Trilby Sieverding...the family has been here since 1944 and she doesn't understand how any honorable townspeople could feel they have the right to take their property rights away from them. It is un-American. \$27,000 loss is a terrible hardship and if anything did happen to them, the whole place could go up for sale.

Beth Mead...every law has been subject to a Public Hearing. It should be judged on the law. I understand the Vosburgh's point; if I were in their position I would pursue the same thing.

Robert McKeon...when it comes to protecting agricultural land, this is not a minor objective. This is a focal point for this community. He suggests taking their parcels and showing us how they propose to preserve which portion of their land, get feedback from the Planning Board, then come back. There are options and the PDR is one of them.

Lisa Vosburgh is one of the grandchildren, I'm the future generation and \$27,000 is a lot of money to her family. Her parents are putting children through college. We all hold an interest in this land and she asks that the Board grant this hardship.

Nathan Kalina ... he too, loses money on his farm. Their loss is justified.

Supervisor Blum Bump suggests that we continue the Public Hearing until we hear from the Planning Board.

Councilman Ross said that is not acceptable to him and he plans on bringing a motion forward.

Councilwoman Crane is ready to vote tonight.

Councilman Ramsey feels the Planning Board could have been here tonight. There was notice.

Councilwoman Bordewich feels she heard a lot and would prefer a little more time to process this. She did not come here with her mind made up.

On a motion by Councilman Ross, seconded by Councilman Ramsey move to close the Public Hearing.

Supervisor Blum Bump clarifies that the money the Vosburgh family spent is not an expenditure that the moratorium has caused. She feels the application is motivated not by financial hardship, but by fear that something might happen to the code changes that they wouldn't like. The Town wants to protect the farmland and strengthen the residential and commercial base in the Town. We want smart growth and development.

Councilman Ross is incensed as a member of this Board that we try to delay this Public Hearing when this very same Board voted for the moratorium the same night we had lots of public comments and legal questions that were never answered.

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

On a motion by Councilman Ross, seconded by Councilman Ramsey, move to provide the necessary relief for the Kesicke application so that they can proceed before our Planning Board, in other words, relief from our moratorium.

Councilwoman Crane has tremendous respect for family farming and understands estate planning. Local Law #3 of 2002 protects us. From the Vosburgh's point of view three months is a hardship and she believes them. The sooner they move forward, the better for them. I don't believe the community will suffer from that.

Councilman Ramsey understands the Planning Boards concern. These people have shown a financial hardship. A certain dollar amount might be a hardship for one person but not for another. It's not for us to decide. I think they've shown they are meeting the character of the law. They are keeping the farmland and as Councilwoman Crane pointed out, Local Law #3 of 2002 will protect us.

Councilwoman Bordewich feels this is harder than the others because they are adjacent to significant farming areas. I appreciate that the family has worked hard to keep farming. Local Law #3, 2002 might reveal better options for the family and the community. We are not here to vent our opinions on property rights and family rights. There is so much

information to absorb. I am concerned about the loss of a corporate farm and our mandate is very narrow.

Supervisor Blum Bump said the Town has been working on the goal of protecting land use. The moratorium's purpose would be to put off for six months subdivisions of certain farmlands. I want to support this. The fear of zoning changes is shared by everyone in the ag. reserve.

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

On a motion by Councilman Ramsey, seconded by Supervisor Blum Bump the public hearing is closed at 9:40 p.m.

Adopted	Ayes 5	Ross, Crane, Blum Bump, Bordewich, Ramsey
	Nays 0	

Respectfully submitted,

Susan McCann, Town Clerk