

**Town of Red Hook
Zoning Board of Appeals Meeting Minutes
May 14, 2008**

CALL TO ORDER

The meeting was called to order at 7:05 P.M. by Chairman Timothy Ross.

ROLL CALL

Members Present: Timothy Ross, Kenneth Anderson, Nick Annas, John Douglas,
Jim Hegstetter

Members Absent: Michael Mosher, Corinne Weber

Also Present: Bob Fennell, Zoning Enforcement Officer; Jim Ross, Town Board
Liaison

PRELIMINARY BUSINESS

Minutes of April 9, 2008: Chairman Ross asked for any comments, additions, deletions or changes to these Minutes. Hearing none, he made a motion for approval. The motion was seconded by Jim Hegstetter and all were in favor.

Planning Board Minutes and Letters: The Chairman ascertained that the members of the Board were now receiving the Planning Board Minutes electronically. There were no comments on the Minutes.

Building Inspector/ZEO Permits and Memos: The current Permits and memos were reviewed by the Board.

Other Comments: John Douglas said that now that members will be required to take a certain number of hours of classes per year, the Town Board has been deciding upon which entities will be approved to give classes for ZBA and Planning Board members. He recommended that any training classes which have been approved by the N.Y.S. Department of State be approved by the Town. Chairman Ross said that the Town Board has passed a resolution iterating which classes they will accept. This included all the classes sponsored by the Association of Towns as well as other entities. However, he said, if you attend a class and submit your certificate of attendance to the Town Clerk, that will go before the Town Board and they will determine if the class fulfills the requirement. He also suggested that John ask the Town Clerk for a copy of the Board's resolution. If an entity is not on that list, the Town Board has to make a resolution to accept it.

Chairman Ross added that he wanted to make sure the Board was aware of the four hours per year training requirement. There is a list of Planning and Zoning summer schools.

Once you complete them, he said, please get the notification to Sue McCann. If there is a fee, fill out an expense voucher and turn it in to Debbie Marks for reimbursement. Jim Hegstetter asked if there were any local classes. Chairman Ross said that most of the local classes are in Millbrook or Poughkeepsie.

REVIEW OF APPEAL

7:10 Appeal 08-04, Vrooman application to approve a six foot side yard setback for an existing prefab storage building where a minimum of twenty feet is required. The applicant's lot is located at 61 St. Paul Road in the RD3 zoning district. As the applicant was not present, Chairman Ross rescheduled the Review for 7:15 P.M. on June 11, 2008.

DISCUSSION OF PREVIOUS MOTION ON ESPIE APPEAL

7:15 Espie application to construct a garage which would reduce the side yard setback from the required twenty feet to seven feet. The applicant's lot is located at 42 Kalina Drive in the R1.5 zoning district. Chairman Ross said that following the non-decision last month, he had consulted with the town attorney and was advised that if the Board does nothing, i.e. takes no further action, it becomes a default denial. The attorney advised that the Board discuss it further at this meeting and either make a definitive decision or leave it as a default denial. With that, he said that the Public Hearing was closed and he could not take any further comment from the public; however, he asked for comments from the Board.

Jim Hegstetter said that the Board had discussed the size of the parcel and the concerns regarding the size of the building, the impact on the neighborhood, the fact that there already was a garage and that there was a lot of public opposition. Nick Annas said that he had no change in attitude from the previous meeting. Ken Anderson said that given the information he has, and after reviewing the site, he would have voted for a denial. John Douglas had no comment. Chairman Ross said that the Board would again entertain the previous motion because it was not carried at the last meeting. The previous vote yielded a non-decision. A majority of the whole Board is required for a decision to be binding.

The motion was to deny the variance on the grounds that it would produce an undesirable change in the character of the neighborhood. The motion was made by Nick Annas and seconded by Jim Hegstetter. Chairman Ross suggested that the Board discuss it and then vote on the motion again. He asked if the benefit could be achieved by other means. A few members said they felt it could, because the garage could be attached. Several members felt it created an undesirable change in the neighborhood. Is it substantial? It was not a big side yard variance and that was the only issue. It is self-created because he has the option of attaching the garage. Chairman Ross said that he would add to the motion that those tenets were not met.

Vote on Motion to Deny Variance

Jim Hegstetter	Yea
Nick Annas	Yea
Tim Ross	Nay
John Douglas	Yea
Ken Anderson	Yea

Chairman Ross confirmed that the 4-1 vote constitutes a denial of the variance; however, the applicant can come back with some other alternative.

7:30 Appeal 08-03, Brocchetti application to construct a swimming pool which would increase coverage from the present 22.7% to 25.6% where the required maximum is 7% and would reduce open space from the minimum of 80% to 74.4%. A side yard setback of 10 feet is requested while the requirement is a minimum of twenty feet. The applicant's lot is located at 26 Country Club Drive in the RD3 zoning district. Chairman Ross opened the Public Hearing and invited the neighbors who were present to review the drawings with the Board. Neighbor *Karen Campbell* said that personally she does not care about the pool. She is concerned about all the discussion regarding variances and maximum coverage. Where do you draw the line, she asked. We have other property. Someone could purchase that and come and ask for additional variances. You have to make a decision and draw a line in the sand.

Chairman Ross said that although it is one community, these lots are unique because they back up to a buffer in the rear. They do not go out to the lake. *Don Campbell* said that the issue is the coverage. We are concerned that if he gets 25% or 26%, then other people will come back and ask for more. The limit must be set at some point and 25% or 26% is not realistic. Mr. Marrapodi, the architect for the applicant, said that you have to weigh in the fact that it is a pool, not a building. But it is covering the property, Mr. Campbell said. Mrs. Campbell again stressed that the issue is coverage. We are looking at the future, she said. People will buy property and, if this variance is granted, they will ask for as much or more coverage. Mr. Brocchetti said that he appreciates everyone's interest; but 25% is still meager on these little lots.

Mrs. Campbell said that we have been talking about 15% as the threshold. John Douglas asked about the property behind, which is owned by the golf course. He ascertained that a portion of that property is under a conservation easement; it must be kept forever green. Mrs. Campbell said that before you get to the Golf Club property there is a buffer of about twenty feet which is Country Club property. Bob Fennell asked what the detriment would be to the neighborhood. It probably doesn't make any difference on our side of the lake, Mrs. Campbell responded. It will make a big difference on the other side. There are thirty lot owners around the lake, she continued. Some of them, on the northwest side, have the buffer. But across the way, where Mr. Stortini is building, the southeast corner by the Golf Club, you have relatively flat parcels which slope down to the lake and there are DEC issues relative to putting anything in. Someone could come in and buy that, knock the summer house down and come to the ZBA to build something else.

Chairman Ross agreed that the pool will not hurt anyone; but it is a consistency issue. He felt that it is unique because it is a pool and not a structure. What is being requested is an additional 2.9% coverage. John said he had no problem with the pool, but understands the issue of the lot coverage.

Bob Fennell again asked if there was a detriment to the neighborhood. *Don Campbell* said that there was concern about more runoff into the lake. Chairman Ross clarified that the issue would be the silting up of the lake.

Chairman Ross said that the coverage is based on having a narrow walk around the pool and no decking at all. He said that the DEC has expanded their area of interest around that lake; therefore if this is granted, he advised the applicant to send them the site plans. Mr. Marrapodi said that he has already contacted the DEC. They said that the pool area does encroach 20 feet on the buffer area. It is 80 feet from the designated wetland, not the lake. A freshwater wetlands permit will be needed. The permitting process will require engineer drawings and will take time. Mr. Marrapodi presented a wetlands map which the Board and neighbors reviewed.

Chairman Ross asked for comments from the Board. Ken said he did not like what he sees. He inquired about the precedent for maximum variances. Chairman Ross said that it is difficult to give an exact maximum as everyone has different circumstances and differently situated parcels. *Mr. Campbell* said that 24% was the largest variance discussed at the last meeting. Chairman Ross confirmed that 24.2% existing construction was the largest discussed. Ken responded that his concern is that the next application could be for something over that. He asked if there is any alternative means for Mr. Brocchetti to accomplish his goal. Mr. Brocchetti responded that there is not much room on the property. The only other recourse would be to put it inside the house. Ken asked if there were any other pools in the area. *Mrs. Campbell* responded that there no other pools on a property. The Curthoys have an in house lap pool.

Nick Annas expressed his concern about the process of continually adding on and said he would be against granting the variance. He asked what part of the structure Mr. Brocchetti would be willing to trade for the swimming pool. Mr. Brocchetti responded that he does not have enough to trade for. He has a modest house and a small garage on a small piece of property. When Nick referred to the 7% coverage, Chairman Ross stated that 7% is unrealistic and he didn't think that there was one property in the area which is under that. These lots were all built and subdivided before zoning. Most of the additions to this lot, he said, predated zoning and a variance was obtained for the one addition after that. The coverage already exceeded 7% when the zoning law was enacted.

Jim stated that the decision of the Board must be a balance between the benefit to the applicant and the detriment to the health and welfare of the community. No one here has stated any opposition to the pool. While this variance will have some impact given the size of the lot, he said that he did not see a detriment. I understand the concern with the coverage and the fact that some of the existing buildings are larger; however I am looking at the land use and we are looking at a pool, not a building. Nick said that it will be hard

to deny the next person who comes in and wants 25% coverage. Jim responded that you cannot use any one case as a precedent; every appeal the Board looks at is completely different from the last one. That is why we have a Board, to look at these issues and weigh them individually. It is our purview to make these decisions and they are a one off each time.

John said that each variance is unique and it is unique to the parcel. You may have a variance issue on parcel A and parcel B may present something similar, but it is still different in some aspects. You have to look at each individual parcel. He stated that in this situation, with the parcel located in the northwest corner of the property on the opposite side of the road from the lake, I really do not think that there is a detriment.

Chairman Ross said that his only other comment would be that the reason which this Board exists is exactly for this type of situation, viz. for people who have parcels that can't meet the zoning law. While this one is up against the edge with the coverage, on balance I am in lockstep with Jim. If you go through, maybe one of the tenets is met. It is substantial. However, let's look at the rest. Can the benefits be obtained by any other feasible means? The only other means would be for the applicant not to have the benefit of the pool. Is there any undesirable change in the neighborhood? Even the neighbors have said that they do not think that the well being of the neighborhood is endangered. Is it substantial? Not for this little piece; however the cumulative effect certainly is. We do not think that it will have an adverse environmental effect. It is only self created because of the fact that you want a pool.

Ken said that the fact that he is requesting to put this pool in a specific location on his property is creating the need for three different variances: coverage; open space; setback. He said that he did not like the fact that the Board will be voting on three different variances. Upon questioning, it was ascertained that there will not be a deck; there will be lawn up to the edge of the pool.

John said that you have to keep in mind that the property behind Mr. Brocchetti's property will be forever under easement, i.e. no construction. If you look at the property, there is no other location for a pool. No one can build behind them because the property behind them is part of the easement that went into effect when they built the town homes in the 1990's. It will be woods, forever green. Because it is in that corner of the property, I do not think that this is a problem. It is pool, not a structure.

Chairman Ross asked for any other comments from the public. Hearing none, he closed the Public Hearing and made a motion to grant the variance.

Motion to Grant Variance

Chairman Ross moved to grant a variance allowing construction of a pool with rear setback reduced to ten feet, maximum coverage of 25.6% and minimum open space of 74.4% based on the fact that it cannot realistically be achieved by other means on this parcel. It will not produce an undesirable change in the character of the neighborhood. There will be no

undesirable physical or environmental effect and the alleged difficulty is not self created. Further, it is not a roofed structure but a swimming pool. As such, it has less visual impact than typical coverage. The motion was seconded by Jim Hegstetter. John Douglas added that there will be no deck or paved walkway around the pool; there will be grass around the pool. Also, the space adjacent to the rear of the property will be forever green space. The vote was as follows:

Tim Ross	Yea
Jim Hegstetter	Yea
Nick Annas	Nay
Ken Anderson	Nay
John Douglas	Yea

As there was a failure to attain a majority of the entire Board, the variance was not granted. Chairman Ross stated that he would check with Chris Chale, the town attorney, to be sure that this was not a non-decision.

8:05 Continuation of Public Hearing for Appeal 07-20, Stortini application to erect a single family dwelling which would increase the coverage from the required maximum of seven percent to fifteen percent, reduce the front setback from the required sixty feet to thirty feet and the side setback from twenty feet to ten feet. The applicant's property is Lot 16, Red Hook Country Club Estates, in the RD3 zoning district. The Public Hearing was opened by the Chairman and the neighbors were invited to come forward and review the drawings presented by the applicant. Dick Jones was present to represent the applicant. He expressed the willingness of the applicant to take off anything which the Board wishes removed, e.g. the garage, the porch, etc. He said that the house is 10.1% and the decks add 4.7%. The garage is 4.5%, if we have a garage, which would bring the coverage up to 19.3%. He said that the garage setback could be improved. We could make twenty feet on each side. He said that he understood, from conversations with Bob Fennell, that 20% coverage was typical in the area. The Board and the neighbors reviewed the drawings with Mr. Jones.

Chairman Ross asked if the house could be moved one foot forward. Mr. Jones said that it could be moved forward fifteen feet, if the Board wishes. Chairman Ross said that if you go to 21 feet, you don't need a rear yard setback. We can do that, Mr. Jones said. The porch on the left side is about 14 feet, 8 inches from the property line. Chairman Ross said that without a variance the principal structure can be 14 feet, so that part of the plan is alright. It is coming down to a coverage and open space issue, he concluded. Ken Anderson asked if the garage could be moved to the left to increase the side yard. Mr. Jones said that it could be moved about four feet. Nick Annas asked if modifications could be made to decrease the side setbacks and Mr. Jones said that he could consider that. Nick said that he would be willing to accept the house without the garage. Mr. Jones said that Mr. Stortini is willing to give up the garage.

Chairman Ross asked for comments from the public. *Mr. Henry Hill* asked about the coverage of Ken Giek's home and how different it was from the present request. John Douglas responded that it was 21.8%. Mr. Curthoys was just given a variance of 19% and Mr. Stortini is now asking for 19.3%. He went on to present some of the local coverage figures discussed at the previous meeting. John summarized the discussion thus far, saying that Mr. Stortini is willing to change the side yard from ten feet to 14 feet and set the house back to 21 feet, one foot closer to the road and shift the house to the right.

Bob Fennell asked what the detriment to the neighborhood would be if he kept the garage. Chairman Ross said that moving it ten feet from the line is farther than a lot of the structures there. Ken said that he could move it 14 feet. But, Chairman Ross said, then it would be right in front of the residence. These are narrow lots. Mr. Jones said that Mr. Stortini would be willing to consider that, but pointed out that neighboring garages are closer to the line. Mr. Jones said that the lot is flat and goes down in the back to a steep drop off. He offered to redo the garage figures and come back next month with a revised plan.

Chairman Ross asked for comments from the Board. Jim said that moving the garage is a gesture which he would view in a favorable light. Nick asked if the garage could be incorporated into the house, keeping the total footprint within 15%. Jim said that everyone seems to be at 19% in that area. In response to Nick Annas' request to review the coverage numbers in the area, John reiterated the figures previously compiled by Bob Fennell. The Board and the neighbors reviewed these figures in relation to the map of the area.

Chairman Ross said that he would like to see the decks trimmed down to get the 19%. Relative to the garage, he said that he did not think that ten feet from the line was an issue because putting it in front of the house would look worse than having it closer to the property line. If you trim the one deck on the left side of the house and shorten them slightly, you could get under the 19% comfortably. Any variance which is granted allows for some flexibility up to that maximum limit; however he told Mr. Jones to make sure it does not come out to 22%. Mr. Jones said that 14 by 4 ft. could come off the deck.

Mrs. Campbell asked about the size of the decks on the left and right. Mr. Jones said that they are 14 by 16, with the 14 by 4 reduction. John said that the garage would not look good if it were moved four feet to the left. Four feet will not make a difference relative to the side yard; it will only make a difference in how it will look from the road. He proposed that the Public Hearing be kept open and let Mr. Jones go back to the drawing board and make a more realistic diagram for the next meeting. Mr. Jones said that since we are taking four feet off the deck, we could move the garage four feet to the south and still maintain an 18 foot 8 inch setback. Chairman Ross said he needs 21 feet to the deck. Mr. Jones said that he can make it 21 feet.

Chairman Ross continued the Hearing until June 11, 2008 at 7:20 PM. Mr. Jones will check with Mr. Stortini and clean up the numbers.

ADJOURNMENT

A motion to adjourn was made by Jim Hegstetter, seconded by Tim Ross and all were in favor. The meeting was adjourned at 8:45 P.M.

FINDINGS AND DECISION

Appeal #08-02, Espie application for a variance from the district Schedule of Area and Bulk Regulations to reduce side yard setback from the required 20 feet to seven feet for proposed garage.

FINDINGS:

1. The property is located in the R1.5 Zoning District at 42 Kalina Drive, Red Hook.
2. Tax Map # 6171-07-700923.
3. The zoning law requires a 20 foot side yard setback for proposed garage.
4. The applicant wishes to reduce the setback to seven feet.
5. There were objections from several neighbors regarding the size of the proposed garage and the impact on the neighborhood.
6. In addition to the objections of the neighbors, several members of the Board felt that construction of the garage would produce an undesirable change in the character of the neighborhood.
7. The benefit could be achieved by other means, viz. by attaching the garage to the house.
8. The difficulty is self-created because the applicant has the option of attaching the garage.
9. The only tenet met by the proposal was that of substantiality as the side yard variance requested was not large.

DECISION: Nick Annas made a motion to deny the variance based upon the above findings. The motion was seconded by Jim Hegstetter. The vote was as follows:

Tim Ross	Nay
Jim Hegstetter	Yea
Nick Annas	Yea
John Douglas	Yea
Ken Anderson	Yea

The 4-1 vote constituted a denial of the variance.

Dated: May 14, 2007

FINDINGS AND DECISION

Appeal #08-03, Brocchetti application to construct a swimming pool which would increase coverage from the present 22.7 % to 25.6% where the required maximum is 7% and would reduce open space from the minimum of 80% to 74.4%. A side yard setback of 10 feet is requested while the requirement is a minimum of twenty feet.

FINDINGS:

1. The property is located in the RD3 Zoning District at 26 Country Club Drive, Red Hook.
2. Tax Map # 6372-19-703182.
3. The zoning law requires:
 - 1) Maximum coverage of 7%.
 - 2) Minimum open space of 80%.
 - 3) Side yard setback of 20 feet.
4. The applicant is requesting:
 - 1) 25.6% coverage, an increase of 2.9% over the present 22.7%.
 - 2) 74.4% open space
 - 3) A 10 foot side yard setback.
5. There were objections from several neighbors regarding the coverage requested and the impact on the neighborhood.
6. In addition to the objections of the neighbors, some members of the Board felt that construction of the swimming pool would produce an undesirable change in the character of the neighborhood.
7. The benefit cannot realistically be achieved by other means.
8. The difficulty is not self-created.
9. There will be no undesirable physical or environmental effects on the neighborhood.
10. The proposal is for a pool, not a roofed structure and it will therefore have less visual impact than the typical coverage.
11. There will be no deck or paved walkway around the pool. It will be surrounded by grass.
12. The space adjacent to the rear of the property will be forever green space.

DECISION: Tim Ross made a motion to grant the variance based upon the above findings. The motion was seconded by Jim Hegstetter. The vote was as follows:

Tim Ross	Yea
Jim Hegstetter	Yea
Nick Annas	Nay
John Douglas	Yea
Ken Anderson	Nay

As there was a failure to attain a majority of the entire Board, the variance was not granted.

Dated: May 14, 2007