

**Town of Red Hook
Zoning Board of Appeals Meeting Minutes
July 2, 2008**

CALL TO ORDER

The meeting was called to order at 7:10 P.M. by Chairman Timothy Ross.

ROLL CALL

Members Present: Timothy Ross, Kenneth Anderson, Corinne Weber,
alternate Craig Christensen

Members Absent: Nick Annas, John Douglas, Jim Hegstetter, Michael Mosher

PRELIMINARY BUSINESS

Planning Board Minutes and Letters: There were no comments on the Minutes.

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

Comments: Chairman Ross explained that a quorum of four Board members is needed to open the meeting. Although that requirement was met, Chairman Ross gave all the applicants present for a Hearing the option of having the Board act or continuing the Hearing until next month because only four of the seven Board members were present.

PUBLIC HEARINGS

7:35 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. Chairman Ross asked if anyone was present with comments on this appeal. Hearing none, he explained that Mr. Jones, Mr. Stortini's representative, has presented more information to the Board. Mr. Jones will update his data for the next meeting, showing the wetland delineation and a few other minor changes. The Public Hearing was continued to Aug. 13, 2008 at 7:20 P.M.

7:40 Appeal 08-06, Willms application to install two storage buildings, reducing the rear setback of the rear building from the required 50 ft. to 29.5 ft. and the front setback of the front building from 80 ft. to 31 ft. The applicant's property is located at 7320 South Broadway in the B1 zoning district. Chairman Ross ascertained that no one was present relative this appeal. He noted that the Board is in receipt of a response from the County

Planning Department which is not in favor of this proposal. That means that for Mr. Willms to be granted a variance, he needs a super majority, i.e. four members plus one. Clearly, therefore, the Board cannot act on this appeal tonight he said. He continued the Public Hearing until Aug. 13, 2008 at 7:40 P.M.

7:45 Appeal 08-05, Apap application to construct an eight foot high fence where the maximum height permitted is four feet. The applicant's property is located at 367 E. Kerley Corners Rd., Tivoli, in the RD3 zoning district. Chairman Ross stated that the Board had received Mr. Apap's e-mail which explained the proposal very well. He said that he had driven by and understands why Mr. Apap wants the fence. If you are coming from Elizaville towards Route 9, there is one place where you come down the hill and turn left and the house is right there. While you don't want to see eight foot fences lining roads, he continued, the need is obvious in this case.

Chairman Ross asked Mr. Apap to make a decision as to whether to continue the Hearing or have the Board act because in order for the variance to be granted all four members present would have to be in favor. Mr. Apap asked if he could take his chances and then come back if he is voted down three to one. Chairman Ross replied that if it were an affirmative motion and it did not receive four positive votes, Mr. Apap would lose the appeal and would have to reapply with something different. It could be heard again if there were a unanimous vote by the Board to rehear. If there were a negative motion, i.e. a motion not to grant the variance, that would require four votes to pass. If there were not four votes, the Board would hear the appeal again.

In response to questioning, Mr. Apap said the fence would be 250 feet long. It would be made of either 1 x 6 boards, 1 x 8's or a mixture of both. The boards would be rough cut and sprayed with a clear sealer.

Chairman Ross asked opened the Hearing, asking if anyone were present to speak for or against Mr. Apap's fence. *Richard Wayne Thompson*, who lives directly across the street, said that he had spoken to Mr. Apap and feels that, given the location, the fence is the best thing for him. The privacy on that corner is really hindered by oncoming traffic, especially on the westbound side. He said that he has been living there since 1993 and he has told Mr. Apap that a lot of people have hit that house and he may well have a problem. Also, he felt that the fence could be an asset to the community in that it may help to give people a visual barrier. He said that Mr. Apap really has no privacy because the lights are shining into the house. The lights even shine into my house, he said. Because of the way that the road surface is designed, building the fence would be a good thing for him to do. Chairman Ross added that he thought it would also look better.

Chairman Ross asked if anyone else wanted to speak to this issue. Hearing no further responses, he asked the Board members if they had any specific questions for Mr. Apap. Ken asked about the layout of the fence and the Board then reviewed the drawings. Mr. Apap said that the proposal did not require taking out any trees. Chairman Ross asked why Mr. Apap was asking for eight feet rather than six. Mr. Apap said that he had double checked the measurements to see where the lights come in and found that if it is not eight

feet high, it does not really cut off the traffic from the hill. The height is also needed because the house is set up a little bit. Corinne asked if it needs to be eight feet all across. Mr. Apap said that it would be nice to keep it an even length. He felt that otherwise, it would look awkward. Corinne stated that she was not opposed to the eight feet all across if it is necessary. There was discussion about reducing the fence to six feet around the corner to where the house is. Mr. Apap said that he thought that was reasonable, but he had wanted a buffer against the big trucks which travel that road.

Mr. Thompson said that a lot of sand and gravel trucks speed by and many cars have rolled onto his property. He emphasized that it is just a very bad corner and any way you can improve it would be good. He said that one day he would like to put up a stone wall to keep people on the road rather than going off the road. The road is starting to deteriorate and people go off the shoulder. Anything which can be done to improve that situation should be done. He said that two people had died going past that turn and noted that there is more heavy traffic than when he moved in. Chairman Ross ascertained that if the fence were eight feet for the entire length, Mr. Thompson would have no issue with that. Corinne asked if Mr. Thompson had the same problem with noise as was mentioned by Mr. Apap. He responded that he did. He also said that when he had small children, he fenced in the back for them. Mr. Apap, he continued, does not have any area to protect his young children. Mr. Apap said that the problem is a combination of safety, noise, privacy and seeing the oncoming traffic.

Chairman Ross stated that before he closes the Public Hearing, he needs a decision from Mr. Apap as to whether he wants to continue the Hearing or have the Board make a decision tonight. Mr. Apap opted to have the Board act. Hearing no further comments from the public, Chairman Ross closed the Public Hearing.

Motion to Grant Variance

Chairman Ross made a motion to grant Mr. Apap a variance to construct a 250 foot eight foot high board fence as indicated in his submission. It will be a benefit to the applicant and not a detriment to the health, welfare or safety of the neighborhood as indicated by the most impacted neighbor who has no problem with this proposal. The motion was seconded by Corinne and all were in favor.

8:20 Appeal 08-07, Bonnans/Tran application to construct a deck requiring the following variances: increase 7% coverage allowance to 13.8%; reduce rear yard setback from 35 feet to 4 feet; reduce side yard setback from 35 feet to 30 feet. The applicant's property is located at 141 Country Club Drive, Red Hook in the RD3 zoning district. Bob Frick, representing the applicants, presented a letter from neighbor Peg Hutchens saying that she has no objections to the proposal. The Board reviewed the drawings with Mr. Frick. The deck will be 300 square feet. The distances are: twenty five feet to the Hutchens property; 30 to Dill; 80 to the road and four to the Country Club. The existing rear yard setback is eight feet now and would therefore be reduced only another four feet.

Chairman Ross asked if *Mr. Dill*, the closest neighbor, had any comments. He said it looks pretty good and he was not unhappy with the 30 feet setback from his property. Mr.

Frick said that it would be a simple deck with five quarter by six decking. Chairman Ross asked if there were any other comments relative to the deck proposal. There were no further comments from the public or the Board. He then gave Mr. Frick the option of either continuing the Hearing or having the Board take action tonight. Mr. Frick opted to have the Board take action.

Motion to Grant Variance

Corinne moved that the Board grant the variance. It is in keeping with other decks in the neighborhood. It is not a detriment to the health, safety or welfare of the neighborhood and will be a significant help to the owners. The motion was seconded by Ken. Chairman Ross added that the most impacted neighbor is in favor of the proposal and the variances are for a thirty foot sideyard setback, a four foot rear setback and to increase coverage to 14%. A roll call vote was taken and all were in favor.

REVIEW OF APPEAL

8:30 Appeal 08-08, Remenek application to construct a 12 foot extension to existing dwelling and reduce the side yard setback from 75 feet to 41 feet. The applicant's property is located at 121 North Road, Red Hook in the LD zoning district. Mr. Remenek stated that his daughter, who lives with him, is getting married and he wants the extension in order to widen the kitchen and the living room. He said that the house is very small. The left side of the house is only 17 ½ by 28 and the right side is 20 by 30. The existing sideyard setback is 53 feet and Mr. Remenek wishes to reduce that to 41 feet. The Board reviewed the layouts with Mr. Remenek. There was discussion about the driveway and access to the house. Mr. Remenek said that one can drive around the house on either side. There will not be a new entrance door. There is a rear door to the right side of the house and there will be a rear door on the left side.

Chairman Ross asked the Board if there is any additional, specific information they would like to have for the Public Hearing. Corinne asked how many square feet is the section to which Mr. Remenek would like to make the addition. He said it was 20 by 20, 560 square feet on the ground floor. We are going to add 12 by 28, which is an additional 336 square feet on the ground floor. She asked if it is an approved two family house now. He said that they are all one family. Chairman Ross asked if there are two kitchens and Mr. Remenek responded in the affirmative. Then it is a two family house, he said. He asked how long it has been the way it is and Mr. Remenek said for as long as they have been there, viz. 36 years. His mother had stayed there as well as his wife's aunt.

Chairman Ross said that if this variance is granted, the assessment might become an issue. If the present situation existed prior to the 1993 law, my understanding is that it would be grandfathered in. However if you are not assessed as a two family house, with completion of this project you will be. Chairman Ross said that he does not know how Mr. Remenek is presently assessed as he does not have the full information on the parcel. He suggested that Mr. Remenek check that because the closing of a Certificate of

Occupancy after a Building Permit triggers the assessor to make sure that the assessor's records match the Building Department's.

Chairman Ross told Mr. Remenek that the Board members like to drive by and walk in the back yard and look at it. Mr. Remenek had no problem with that. He said that the house next door might pose a problem as it is within six feet of his property line. The lot to the left had another building on it which I bought, he said, and then tore down because it had been set on fire. Last year I joined it to my property to avoid being taxed for another lot. If a fire engine is going to get through, someone will have to move that house, he said. The corner of it is only six and a half feet off my property line. From house to house, it is 63 to 65 feet away. Coming twelve feet into that forty foot clear space you have, Chairman Ross said, you'd still have forty feet. He therefore did not think that would be an issue. He set the Public Hearing for August 13, 2008 at 8:00 P. M.

ADJOURNMENT

A motion to adjourn was made by Corinne Weber, seconded by Craig Christensen and all were in favor. The meeting was adjourned at 9:05 P.M.

FINDINGS AND DECISION

Appeal 08-05, Apap application to construct an eight foot high fence where the maximum height permitted is four feet.

FINDINGS:

1. The property is located in the RD3 Zoning District at 367 E. Kerley Corners Road, Tivoli.
2. Tax Map # 6374-00-866649.
3. The zoning law requires that fences be a maximum of 4 feet high.
4. The applicant wishes to erect a 250 foot fence which will be eight feet high.
5. There were no objections and the most impacted neighbor has no problem with the fence.
6. A variance would be of benefit to the applicant with no detriment to the health or welfare of the community.
7. The fence may increase the safety of the community inasmuch as it will provide a visual barrier at a dangerous curve in the road in front of the applicant's house.

DECISION: Chairman Ross made a motion to grant the variance based upon the above findings. The motion was seconded by Corinne Weber and carried by a 4-0 roll call vote.

Dated: July 2, 2008

FINDINGS AND DECISION

Appeal 08-07, Bonnans/Tran application to construct a deck requiring the following variances: increase 7% coverage allowance to 13.8%; reduce rear yard setback from 35 feet to 4 feet; reduce side yard setback from 35 feet to 30 feet.

FINDINGS:

1. The property is located in the RD3 Zoning District at 141 Country Club Drive, Red Hook, Red Hook.
2. Tax Map # 6372-19-669084.
3. The zoning law requires:
 - a. Maximum coverage of 7%.
 - b. Rear yard setback of 35 feet.
 - c. Side yard setback of 35 feet.
4. The applicant wishes to:
 - a. Increase coverage to 13.8%.
 - b. Reduce rear yard setback to 4 feet.
 - c. Reduce side yard setback to 30 feet.
5. There were no objections from the neighbors.
6. A variance would be of benefit to the applicant with no detriment to the community.
6. There will be no change in the character of the neighborhood.
7. There will be no impact on the health, welfare or safety of the community.

DECISION: Corinne Weber made a motion to grant the variance based upon the above findings. The motion was seconded by Ken Anderson and carried by a 4-0 roll call vote.

Dated: July 2, 2008