

**Town of Red Hook  
Zoning Board of Appeals Meeting Minutes  
November 12, 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,  
Corinne Weber, alternate Craig Christenson

Members Absent: Jim Hegstetter, Michael Mosher

Also Present: Bob Fennell, ZEO

**PRELIMINARY BUSINESS**

Minutes of October 1, 2008: Chairman Ross ascertained that everyone had a chance to review the Minutes. He asked for any additions, deletions, corrections or alterations. Hearing none, Ken made a motion to approve the Minutes as submitted. The motion was seconded by Nick and all were in favor.

Planning Board Minutes and Letters: There were no comments from the Board. Chairman Ross ascertained that everyone was receiving the Planning Board Minutes in their e-mail.

Building Inspector/ZEO Permits and Memos: The current Permits were reviewed by the Board. There were no memos this month.

Comments: Chairman Ross welcomed alternate Craig Christenson. However he said that since there is a quorum, Craig may ask questions but he cannot vote unless a super majority or a quorum (should a member have to recuse him/herself) is needed.

Chairman Ross said that everyone received a letter in their monthly mailing from Dan Vrooman relative to his construction of the larger garage. He said that Mr. Vrooman has called him twice because he is very concerned that the May 15<sup>th</sup> deadline to have everything in the building may be difficult for him. Due to the market situation and his personal finances, he is moving a little more slowly and his contractor cannot start until January. Chairman Ross said that he told Mr. Vrooman that when May comes he should see how much progress he has made and if he needs an extension, he should come before the Board and we will discuss it. If he has made substantial progress, we will not have an issue. If he has done nothing, then we will have an issue.

Chairman Ross said that a few of the members of the Board had attended the training session in Millbrook. He asked those who attended to get their Continuing Education Certificates to Sue McCann, who tracks them for the Zoning Board. He said that there will be another training next week in Millbrook and Corinne will be attending.

Chairman Ross reminded everyone to update their Code Books and also to check the sheets to be sure that they have received everything they are supposed to receive.

## **PUBLIC HEARING**

7:15 Public Hearing for Appeal 08-09, Brocchetti application to construct a swimming pool which would increase coverage from the present 22.7% to 25% where the required maximum is 7%. Open space would be decreased from the minimum of 80% to 75%. The applicant's lot is located at 26 Country Club Drive in the RD3 zoning district. Chairman Ross opened the Hearing, but continued it and proceeded to the Eckert Review as Mr. Brocchetti had not yet arrived.

## **REVIEW OF APPEAL**

7:15 Appeal 08-13, Eckert application to construct an addition which will increase coverage from the current 10.1% to 10.8% where the maximum allowed is 7%. The applicant's lot is located at 32 Country Club Drive in the RD3 Zoning District. Mr. Eckert brought a site plan and some pictures, which he handed to the members of the Board. He said that he has been to the Town Planning Board as well as the Board of the Red Hook Country Club. He stated that his coverage is going from 10.1% to 10.8% as the addition he wishes to make is a relatively small one. He wants to square out the building and move the driveway and terrace so that they are level. He said that there have been a lot of requests from his community and he wants to go on record to say that he would like his project to be one of the lower boundaries relative to coverage so that the area is not overbuilt.

The Board then reviewed the plans provided by Mr. Eckert. Chairman Ross noted that the denial letter from Bob Fennell, ZEO, said that the coverage would be a total of 11.3% for the garage and the house. In response to questioning, Mr. Eckert reviewed his plans for the patio area and the removal of the driveway. Nick asked if Mr. Eckert was going to change the roof line. He responded that he would only change it enough to make it consistent. The total area of disturbance was delineated, especially as that relates to the wetlands. Chairman Ross asked if the Board had any further questions. Hearing none, he said that he found the application quite complete and he did not think any additional information would be required for the Public Hearing. He asked Mr. Eckert if it would be alright if the members of the Board were to drive by and walk around the house. Mr. Eckert agreed. The Public Hearing was set for December 10, 2008 at 7:15 P.M.

## **PUBLIC HEARINGS**

7:25 Continuation of Public Hearing for Appeal 08-09, Brocchetti application to construct a swimming pool which would increase coverage from the present 22.7% to 25% where the required maximum is 7%. Open space would be decreased from the minimum of 80% to 75%. The applicant's lot is located at 26 Country Club Drive in the RD3 zoning district. Chairman Ross asked if anyone was present to speak relative to this

application. *Dan Eckert*, Mr. Brocchetti's neighbor on the right, stated that he had no objection. Chairman Ross stated that Mr. Brocchetti has submitted a different application. He was before the Board several months ago with an application which placed the pool closer to the rear. At that time, the neighbor on the left did not object. Mr. Brocchetti has now modified his proposal and reapplied. Chairman Ross asked if the Board had any questions for Mr. Brocchetti. Nick asked if there were still no objections from the neighbor on the left. Mr. Brocchetti replied that there were no objections whatsoever. He asked how the present application is different from the previous one. Chairman Ross replied that the pool is twisted and moved closer to the building and farther away from the rear line. The pool therefore does not require a variance as it will be 20 feet from the rear line. The only issue is coverage. Chairman Ross asked if there were any further comments from the Board. Hearing none, he asked if anyone would like to make a motion.

#### Motion to Approve Variance

John Douglas made a motion to allow Mr. Brocchetti's pool per the current application, especially as both neighbors (on the right and left of his dwelling) have no objection. The pool will not pose a height problem. You will not be able to see it from the road as it will be in the ground, not above ground and will be tucked in behind the house. It should be an attribute and not a detriment to the neighborhood. The motion was seconded by Corinne Weber. Chairman Ross amended the motion to include the following: Mr. Brocchetti will be allowed to increase the coverage from 22.7% to 25%. It is no detriment to the neighborhood or to the public safety and welfare and will be a benefit to the applicant. A roll call vote was taken and all were in favor.

Bob Fennell pointed out that Mr. Brocchetti's property is within the hundred foot wetlands buffer. Chairman Ross stated that this was addressed with the previous application and it will be Mr. Brocchetti's responsibility to make sure that the proper permitting is obtained. A Special Permit from the Planning Board will be required as well as a DEC Disturbance Permit. A Building Permit will not be issued until these permits are obtained.

7:35 Continuation of Public Hearing for Appeal 08-09, Raymond application to expand a non-conforming accessory dwelling unit by 100% of gross floor area where the size of such expansion is limited to 50%. The applicant's lot is located at 5098 Route 9G in the RD3 zoning district. Chairman Ross opened the Hearing and invited neighbors *Sandra* and *Edward Carroll* and *Tom Gilbert* to come forward to join in the discussion. Nevien Sidarous of the David Borenstein architectural firm was present to represent the applicant. She summarized the proposal. It is an existing structure. The roof was in bad shape and was repaired to match the original house. This created additional space which the owner would like to use for two additional bedrooms upstairs. There had been two bedrooms on the bottom. One was eliminated to make room for the stairs and three are now proposed for upstairs. The number of bedrooms will therefore be increased from two to four.

Bob Fennell, ZEO, stated that it is important to note that the owner applied for a Building Permit just to change the roof line, not to do anything on the second floor and not to create any additional space. They went ahead and did that without any permission. Corinne said that the space which was created was supposed to have been an attic storage space. She asked if now they are asking to have bedrooms in that area. Bob replied that they have, in fact, put the bedrooms in. They created a living space up there and that is when we stopped them.

Ms. Sidarous then presented to the Board the interior pictures which they had requested. She said that the owner wanted to recoup the space lost to the stairs by adding the bedrooms. Chairman Ross asked Ms. Sidarous to go through the calculations of actual usable floor space which the Board had requested at the Review. She said that the floor area on the inside of the structure is 770 square feet. The area of the upper floor would be 707 square feet. If we calculate the area which is at 7 feet 6 inches, it would be 460 square feet. The rest would be eaves. If you subtract the stairway, it would be 320 square feet. Bob Fennell pointed out that the zoning law refers to gross floor area.

In response to Chairman Ross' question, Ms. Sidarous said that the Planning Board has not yet asked for a long EAF. Chairman Ross said that the Hearing would be continued because we are within 500 feet of the Village of Tivoli and the variance application therefore has to be forwarded to Dutchess County Planning. They will need either a short or a long EAF. The Planning Board will do a coordinated review relative to the Site Plan. Bob Fennell asked if the Hearing notices had been sent to the neighbors in Tivoli and it was ascertained that this had been done.

Chairman Ross invited comments from the neighbors. *Sandra Carroll* asked what is the purpose of the building. Ms. Sidarous replied that it is a rental property. The income is the owner's livelihood. *Edward Carroll* said that since they have lived there they have seen multiple cars, people wandering on the property and accidents on the highway. There is loud music at night. He complained that the noise makes it difficult for his child to sleep. Bob Fennell asked Mr. Carroll how many apartments he believes are in the house. Mrs. Carroll said that when they first moved in they thought it was a bar with music. Mr. Carroll responded to Bob's question, saying that he would guess there were eight to ten apartments, if not more. My objection to this site, he continued, is that there is a large occupancy on that property.

The building is an upgrade over what was there. I have no objections about that, *Mr. Carroll* continued. However, there is garbage strewn everywhere and the music is extremely loud, even with the windows in the house closed. My problem is that now you are going to increase the occupancy. Let's say they put in four new bedrooms with two people to a bedroom. That's eight more people on that property. I think that that is beyond what a residential area should be. I am asking you to set a reduced occupancy for that building. It might be three or four people in that building, whatever you decide. But it can't be open to as many people as he wants to put in there. I'd also like to see you state there will be no more rental units on that property and no more expansion. It is a residential area and there should be a limit. They are treating it almost like a dormitory.

People come and go in there constantly. This is far beyond what I think is reasonable for a residential area. *Mrs. Carroll* reinforced the arguments made by her husband. In response to questioning, Ms. Sidarous said she did not know how many people live there.

Chairman Ross said that he would like the owner to produce a copy of his leases with a layout of the main house so that we will have a feel for how many bedrooms are on this property, downstairs as well as upstairs. Ms. Sidarous said that there are six bedrooms in the main house, three upstairs and three downstairs. Chairman Ross said that he would like to see a copy of the lease to see if there is any limit on the number of people that he rents to. There is a concern here with maintenance and control of the site. Sound is an issue and there is an ordinance relative to sound. However that is an enforcement issue and this Board does not do that. The Carrolls expressed their intention of contacting the owner.

In regard to the proposed new dry well, Chairman Ross said that Board of Health approval would have to be obtained. Ms. Sidarous said that it is an upgrade of an existing system. However Chairman Ross explained that it is an increase in usage which would need Board of Health approval. If you go from two to four bedrooms, it needs to be submitted to the Board of Health for approval. Bob Fennell agreed that this needs to be done. Ms. Sidarous said that she has all the required tests. Chairman Ross advised Ms. Sidarous that she should submit that to the Board of Health in a timely manner. However, he added, she might want to wait to see if she gets the variance first.

Chairman Ross asked the neighbors if they need any other information. He recapped their concerns, viz. noise and building maintenance of the general property. *Edward Carroll* said that it is more the occupancy of the property. Nick asked what is the allowable use of this property. Bob Fennell responded that it is a non-conforming use. He did not know when the two apartments were created; however it was agreed that they have been there for a long time. It was a garage at one time, not a residence. It was converted and has been rented to Bard students, almost like a dormitory. John said that the building has been a tenement since the '70's.

Nick expressed his concern about conformity to the law. Bob Fennell said that, in defense of Borenstein, he was called in after the fact. Ms. Sidarous confirmed that the firm had no prior involvement. Bob said that they came to him and said that they were spending less than \$20,000 and they were simply going to raise the roof line a little bit and put a little porch area out in front. Nick asked if they submitted plans and Bob responded that they had not.

Chairman Ross said that the Board will need to continue the Hearing until 7:45 P.M. on December 10, 2008. The application will be forwarded tomorrow to County Planning for review. He again asked Ms. Sidarous to provide the owner's leases so that the Board can get a better understanding of the occupancy limits, if there are any, on these apartments. The Board also needs to know if there is a lease upstairs and downstairs or are there individual leases. The Board does not have an idea if there are any limits at all on the property and that is the real concern.

Corinne suggested that the neighbors contact the owner since they are having so many problems. Chairman Ross said that he agrees with the density of use issue, but added that the building is now much nicer. In response to Mr. Carroll's expressed concern regarding occupancy, Chairman Ross said that if the Board grants a variance a lot of conditions can be put on it. Bob Fennell added that this is the most egregious case where someone has gotten a Building Permit to do a little bit and done a tremendous amount. He added, in defense of the Building Department, that the Building Code in Red Hook is enforced diligently.

## **REVIEW OF APPEAL**

8:05 Appeal 08-12, Hobson/Spire Architecture application to construct a garage and an addition which would increase coverage to 20% where the required maximum is 15% and would reduce the front yard setback from the required minimum of 35 feet to 18.5 feet. The applicant's lot is located at 18 Rokeby Road in the R1 zoning district. Architect Chris Colby and owners Chris Hobson and Anthony Crandall were present for the Review. Mr. Colby reviewed the plans with the Board. Mr. Crandall said that the property is at the intersection of two town roads. Technically, therefore, because the property is a corner lot there are two front yards. One is set back 35 feet and the other is set back 18 ½ feet. If the latter were a side yard, a variance would not be needed; however it is considered a front yard. The second variance would be a 5% increase in coverage, from fifteen to twenty percent. That includes the shed, which does not need a variance because it is pre-existing. The house was built in 1971.

Mr. Crandall pointed out that the neighbor's front porch is quite close to the line. Bob Fennell said that there are a lot of houses on Adams road which are very close to the road. Nick asked if the project would change the character of the neighborhood. Mr. Crandall assured him that it would not. Chairman Ross asked if there were any further questions. Hearing none he continued, saying that he has driven by and you can see everything from the road. He asked the applicants to find out the distance of the neighbor's porch from the road. Mr. Crandall said that he had a survey done and he has the lot lines. Chairman Ross set the Hearing for 7:30 P.M. on December 10, 2008.

## **ADJOURNMENT**

A motion to adjourn was made by Tim Ross, seconded by John Douglas and all were in favor. The meeting was adjourned at 8:15 P.M.

## **FINDINGS AND DECISION**

Appeal 08-09, Brocchetti application to construct a swimming pool which would increase coverage from the present 22.7% to 25% where the required maximum is 7%. Open space would be decreased from the minimum of 80% to 75%.

### **FINDINGS:**

1. The applicant's property is located at 26 Country Club Drive in the RD3 Zoning District.
2. Tax Map #: 6372-19-703182.
3. The zoning law requires a maximum coverage of 7%.
4. The applicant currently has a coverage of 22.7% and wishes to increase the coverage to 25%.
5. A variance would be of benefit to the applicant and is not a problem for the neighbors.
6. The variance is similar to other variances granted in the immediate neighborhood and there will be no change in the character of the neighborhood. The pool will be in ground and will not be visible from the road.
7. There will be no impact on the health, welfare or safety of the community.

**DECISION:** John Douglas made a motion to grant the variance based upon the above findings. The motion was seconded by Corinne Weber and all were in favor.

Dated: Nov. 12, 2008