

**Town of Red Hook  
Zoning Board of Appeals Meeting Minutes  
May 13, 2009**

**CALL TO ORDER**

The meeting was called to order at 7:05 P.M. by Chairman Nick Annas.

**ROLL CALL**

Members Present: Nick Annas, Kenneth Anderson, John Douglas, Paul Marienthal, Tim Ross, alternate Trilby Sieverding  
Absent: Corinne Weber, Jim Hegstetter  
Also Present: Bob Fennell, ZEO

**PRELIMINARY BUSINESS**

Minutes of April 8, 2009: Chairman Annas asked if everyone had read the Minutes and invited comments or questions. Hearing none, he made a motion to accept the Minutes. The motion was seconded by Ken and all were in favor.

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

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

Comments: Chairman Annas reviewed the Vrooman property variance. The three acre property appears to have become more like a commercial than a residential property, he said. Although he has not broken any laws, Mr. Vrooman has pushed the envelope in terms of the looks of his property and this has disturbed his adjacent neighbors. Therefore he was granted a variance allowing him to erect an additional building on the property on the condition that he use it to house most of what is out in the open. According to the letter recently received from Mr. Vrooman, he says that the slab has been poured and he has planted two trees. He was to have met all the conditions of the variance by May 15th; however he is asking for a one year extension because he has some serious health problems. He is in his seventies and has been bedridden for several months due to a blood clot in his leg. His retirement is pegged to the stock market and he is running short of money. He has the building components, but does not have the money to get the construction done.

Ken expressed concern about granting an extension for a year. He questioned whether the situation would be much different a year from now than it is today. Chairman Annas agreed, noting that it has been about six months since the variance was granted. Ken said that he felt that Mr. Vrooman was trying to retain all his stuff, but reposition it and he wondered whether Mr. Vrooman would be able to handle that financially. Chairman Annas agreed and added that he may not be able to handle it physically either, as he was

planning to do much of it himself. The agreement of the neighbors to accept the building of the fourth structure had been based on the condition that Mr. Vrooman house all the material scattered about the yard in the new building.

Bob said that it would seem to him that the Board would be satisfied if Mr. Vrooman went through with the clean up and the planting of the trees. They were never that interested in his completing the building. After discussion, it was decided that Chairman Annas and Bob or Steve Cole would go to the property to see if Mr. Vrooman has made a sufficient effort and possibly talk to him as well. Chairman Annas will report his findings to the Board next month, at which time a decision can be made.

## **PUBLIC HEARINGS**

7:15 Public Hearing for Appeal 09-03, Ilka LoMonaco application to build a deck and sunroom eight feet from the rear property line where 25 feet is required. The applicant's lot is located at 72 Manor Road in the R1.5 zoning district. Chairman Annas noted that the Board had received one response from the neighbor across the street who has no objection to the project. Ms. LoMonaco said that the neighbor at 70 Manor Road had also told her that they were fine with the project. Ms. LoMonaco presented a preliminary drawing which was reviewed by the Board. Bob asked why the sunroom had be pushed so far back. Ms. LoMonaco replied that the septic is to the south and building to the south would also cut off the light to the living areas of the house, which are dark already. To the north, she said, I have the big deck and the garage and to the east is the entrance. Thus, there is only the west which already has a door.

Chairman Annas asked where the leach field begins, but Ms. LoMonaco said that no one has been able to tell her. He said that the only neighbor who would really be affected would be the one on the west end and the Board has no response from them. The people across the street have no objection and they will not be able to see it anyway. Paul said that he walked the property and he felt that no one would ever build close to it in the back. Bob noted that even if there were construction, they would have to meet the required setbacks. Bob asked what the harm to the neighborhood would be in allowing the variance. Trilby felt that it would set a precedent whereby anyone coming into the neighborhood could ask for the same thing. Bob said that it is not a matter of precedent; every case is based on its own merits. The test is the benefit to the applicant as opposed to the detriment to the neighborhood. If she can demonstrate that it is not a detriment to the neighborhood and it is going to benefit her, then she merits the variance and it should be given to her. Chairman Annas, however, continued to express concern.

Ms. LoMonaco said that the size of the house and the parcel relative to the other parcels, which are smaller and have larger houses on them, should be considered. She said that the same situation is not likely to occur again as most houses in the area are not set back as far as hers. Trilby asked why the sunroom has to come out 22 feet from the existing kitchen. Ms. LoMonaco said that she is making a hallway in between where she can put a washer and dryer and then have the sunroom. She said that the second reason for this plan is that her husband is 87 years old and has Parkinsons. She has no bedroom on the ground floor and, although she is not planning to use this as a bedroom, she has to plan for the

future. He might end up in a wheelchair, maybe even quite soon. Then she would have to put him somewhere where everything is accessible on one level.

Chairman Annas asked if anyone had any further questions. Ken asked if the back of the lot is wooded. Ms. LoMonaco said that it was and no one would be building behind the property because it is very wet. There is an intermittent stream in the back. She said that only the end of the deck would be eight feet from the property line, not the whole length of the deck. Chairman Annas said that the property behind Ms. LoMonaco slopes down and then rises and if there were future construction, the place to build would be on the top of the hill. Ken asked if there were any structures on the lot. Ms. LoMonaco said that there is one shed, which is actually partially on the property of Mr. Chen. However, the previous owners had gotten a variance for that. Thus, she said, there already is a structure which is further out than the addition would go.

Bob asked how big the property is. One acre, Ms. LoMonaco responded. Bob said that an error had been made in the denial. This is a standard lot because it has water, even though it is in a 1.5 acre zone. If you have an undersized lot, he said, you can reduce your rear yard setback to 60% of the required size. If it is 25, it can go down to 15. But because she has central water, the standard lot is one acre, rather than 1.5 acres. Applying the formula set down in Section 143.13 of the Code, Bob said that the minimum setback should be 15 feet.

Hearing no further comments or questions from the Board, Chairman Annas suggested that the Hearing be continued because only four of the seven members were present and all four would have to vote for the variance in order for it to pass. (John Douglas and Tim Ross came to the meeting after this appeal was discussed.) As Ms. LoMonaco said that she would not be in the country next month, she was given the choice of sending a representative to the June meeting, having the Hearing resume in June without a representative or delaying the continuation of the Hearing until July, when she could be present. She will notify the Board within two weeks of her decision.

Discussion resumed briefly as John Douglas arrived at the meeting. Bob said that the property could be considered a corner lot and another section of the law would then apply to it. The front yard requirement for each front yard would then be fifty feet and the rear yard setback would be 25 feet. Bob determined that it is not an existing lot of record. It is a standard lot because Ms. LoMonaco has water and she doesn't get to take advantage of the 60% reduction. In sum, the reduction being requested is 25 feet to eight feet. Ms. LoMonaco will advise the Board whether she wants to continue the Hearing to the June 10<sup>th</sup> meeting or the July 8<sup>th</sup> meeting.

## **REVIEW OF APPEALS**

7:30 Appeal 09-04, Ralph & Grace Cort application to subdivide parcel into two lots. This proposal would require the following variances:

- Lot A: A variance from the 1.5 acre minimum lot area to 1.183 acres
- A variance from the 180 foot minimum lot width to 160 feet.
- A variance from the 50 feet front yard setback to 11 feet.

Lot B: A variance from the 1.5 acre minimum lot area to 1.003 acres  
A variance from the requirements of Section 143.21C(2) which requires  
that the building line be setback 50 feet from the line at which the  
minimum lot width for the Zone is achieved.

The applicant's lot is located at 186 W. Market St. in the R1.5 zoning district.

Mr. Cort said that he had built an additional house in the back twenty five years ago and now he wants to subdivide the old house off the property in order to transfer the ownership to his son. It was initially two lots. Chairman Annas ascertained that Mr. Cort wished to keep the house built on the back of the lot and create a flag lot. Both houses exist and are occupied. There will be no further construction. The front home was built in 1890 and the rear home about twenty five years ago. Mr. Cort said that he had gone to a meeting like this when he built the second house and was told that it met the current requirements of the law. He obtained a Building Permit for the newer house and has a CO for both houses. He said that at the time of purchase he put the lots into one parcel for tax reasons.

Ken asked what type of water Mr. Cort has. Chairman Annas ascertained that each house has its own septic system, leach field and well. He set the Public Hearing for June 10, 2009 at 7:15 PM.

7:45 Appeal 09-05, Abraham Nussbaum application to erect a six foot front yard fence where the maximum height allowed is four feet. The applicant's lot is located at 82 Hapeman Hill Road in the RD3 zoning district. Dr. Nussbaum said that it really is not a front yard fence, but rather a property line fence between two properties. He said that his neighbor's house is falling into greater and greater disrepair and he therefore would like to have greater visual separation between the two properties. We want to start the fence about eight feet from the road because the neighbor's house is very close to the road. The fence would go perpendicular to the road and would therefore not affect any view from the road.

Dr. Nussbaum said that his driveway is parallel to that of his neighbor with about a ten foot separation between the two driveways. The fence would be parallel to the driveway, which is about eight to ten feet from the property line. There would be no fence along the street. It would start about eight feet from the road and go back one hundred feet. It has to go back that far in order to extend beyond the old shed on the neighbor's side which is now just rubble. In response to questioning from John, Bob said that the front setback is sixty feet and anything that occurs in the front setback has to be four feet high. Beyond the sixty feet, it can be six feet high.

Chairman Annas expressed concern about sight distance in pulling out of the driveway. Dr. Nussbaum said that the beginning of the fence was sighted to make sure that when anyone came down the driveway, their visibility would not be affected. Chairman Annas suggested that this may be a permanent solution to a temporary problem. Dr. Nussbaum said that they had thought of that and have delayed this for ten years. He does not foresee any changes in the future. Additionally, he said, this fence will not detract from the

property; it will only improve it. It is what is called the good neighbor fence. It is a wooden fence which is finished on both sides. Dr. Nussbaum presented pictures of the proposed type of fence.

After some discussion about the possibility of getting the neighbor to clean up her property, Dr. Nussbaum said that she does try to clean it up but she is not a young woman. She does what she can, but it is a small and uninteresting house with a dirt driveway. John concluded that Dr. Nussbaum was not interested in trying to go in that direction. Dr. Nussbaum said that this is an aesthetic consideration; he thinks that his property would look better with a fence and it will not detract from the neighbor's property. Over the years, he said, we have done everything we can with the vegetation to improve the appearance of the house. It will not impact the appearance of the house from the road. Most people will not even notice that there is a fence.

Tim asked if there was an opportunity for doing this with vegetation. Dr. Nussbaum said that they had tried that, but the deer eat too much of it. Dr. Nussbaum said that he plans to put up a six foot high fence sixty feet back, but would like to have it be uniform with the forty feet in front. However if the Zoning Board does not find that six feet is acceptable, he said he would put in whatever is acceptable for the first forty feet. He said that the problem is that the driveway drops down about eighteen inches to two feet. Therefore a six foot fence gets us up to four feet, whereas a four foot fence doesn't get us very far.

Chairman Annas ascertained that Dr. Nussbaum had no objections to the members of the Board visiting the property. He set the Public Hearing for June 10, 2009 at 7:30 PM.

## **ADJOURNMENT**

A motion to adjourn was made by John, seconded by Paul and all were in favor. The meeting was adjourned at 8:25 P.M.