

**Town of Red Hook
Zoning Board of Appeals Meeting Minutes
July 8, 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, Jim Hegstetter, Paul Marienthal, Tim Ross, Corinne Weber

Also Present: Jim Ross, TB Liaison

PRELIMINARY BUSINESS

Minutes of June 10, 2009: Chairman Annas asked if everyone had read the Minutes and invited comments or questions. Hearing none, Corinne 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 noted that the Tasciotti appeal has gone before the Town Board. He stated that Mr. Tasciotti paid a \$150 variance fee to the Town and in order to return that fee the Board must take a vote.

Motion to Return Variance Fee

A motion to return the variance fee to Mr. Tasciotti was made by Chairman Annas. It was seconded by Paul Marienthal. A roll call vote was taken and all were in favor.

Chairman Annas stated that the next item of business was in regard to the Vrooman variance, which was granted on the contingency that the property be cleaned up by the end of May and various items be housed in the shed. However, Mr. Vrooman has encountered financial problems and has therefore been unable to meet the May deadline. Chairman Annas stated that he, Bob Fennell and Steve Cole went out to the property and there has been a major effort to clean it up. The materials for the new structure are on site. The foundation is poured, but Mr. Vrooman has been unable to fund any further work. However, the property looks a thousand percent better than it did. The Board had approved the structure in exchange for cleaning up the property; Mr. Vrooman has cleaned up the property but does not have the structure. He is asking for a one year stay and I recommend granting that, Chairman Annas stated.

John noted that this past winter we had almost forty days of really cold weather, during which construction was not possible. He suggested extending the deadline to one year from today. Ken agreed, saying that he had been to the property and had spoken to the Vroomans. He said that a lot of work has been done. He has landscaped around the foundation and it looks good. An access ramp has been put in. He agreed with the extension, but suggested that Mr. Vrooman clean the area by the road. Mr. Vrooman stated that he has already started to do that.

Motion to Extend Deadline for Contingencies on Vrooman Variance

John made a motion to extend the deadline to July 8, 2010. The motion was seconded by Corinne. A roll call vote was taken and all were in favor.

PUBLIC HEARINGS

7:15 Continuation of Public Hearing for 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. and Mrs. Cort were both present.

Chairman Annas opened the Hearing. He stated that the Planning Board feels that this issue should go before them first before it can go the Zoning Board of Appeals. John said that it should not go before the Planning Board; it should be heard here. It is a benefit and not a detriment to the Town. Corinne said that they have to go before the Planning Board in order to get the subdivision; however the ZBA has to give them the variance. The Planning Board has nothing to do with the variance. Ken asked how the Board can consider a variance before there is a recorded subdivision.

Tim stated that the Planning Board cannot act on a subdivision until they have a variance from all the required setbacks. They cannot grant a subdivision unless it is permitted and the ZBA is the only body which can permit the variances. They have to get the variances first and then go to the Planning Board. Corinne said that they cannot legally make a subdivision of their lot without the variances. Tim said that it is not changing the intensity of use. Even the County said it was a matter of local concern. Hearing no further discussion, Chairman Annas closed the Public Hearing.

Motion to Grant Variances

Tim made a motion to grant the variances as listed because they do not change anything. They do not change the intensity of use. There is no detriment to the

neighborhood or the health and safety of those in the area and it is a benefit to the applicant. The motion was seconded by Corinne. A roll call vote was taken and all were in favor.

The applicants were advised to apply to the Planning Board for the subdivision as soon as possible.

7:30 Continuation of Public Hearing for 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 property is located at 82 Hapeman Hill Road in the RD3 zoning district. The applicant was not present.

Chairman Annas asked if anyone had visited the Nussbaum property. John said that he had spent a considerable amount of time there and had taken measurements from the macadam. If you look at that driveway, he said, to the right you have a flat section of about four feet. But then it dips down and that is where he wants to put the fence. Tim said that the fence has to be four to six feet off the driveway or you can't maintain it. John said that he talked to the neighbor and they do not have a problem with the fence. They said that everything which Dr. Nussbaum has done has been very nice and they are sure that the fence will be nice as well. John said that, per his measurements, the fence should start twelve feet back; eight is a little too tight.

Chairman Annas said that the drive is really on the outside of the turn; so the fence is far less of a hindrance than if it were on the inside. Tim agreed, saying that you are on the apex and therefore the visibility is good. Chairman Annas said that he did not see what the fence is going to do. If you are coming from Rt. 199, you drive by the neighbor's house anyway. Tim said that he felt that the fence would be an improvement and would make the neighbor's property look nicer.

Ken asked if a sketch had been received from Dr. Nussbaum as the Board had requested. The Clerk of the Board said that she had spoken to Mr. Nussbaum, advised him of what the Board had requested and had also sent a detailed letter to this effect. The letter was reviewed by the Chairman. Corinne noted that Dr. Nussbaum is being asked for the same type of material which is requested of anyone appearing before the Board. The Board felt that the Hearing should be continued until such time as the materials requested are submitted. After discussion, the Board decided to wait until the end of the meeting before continuing the hearing in case the applicant arrived late.

7:45 Public Hearing for Appeal 09-06, John Riker application to reduce rear yard setback from 20 feet to 8.5 feet for 250 square foot addition to pole barn. The addition was constructed without a Building Permit. The applicant's lot is located at 4223 Route 9G in the RD5 zoning district. Mr. and Mrs. Riker were both present.

Chairman Annas opened the Hearing. He ascertained that the shed of the neighbor behind Mr. Riker is right on the property line. In response to Tim's question, Mr. Riker said that the addition is ten feet wide. He confirmed that the neighbor who complained about the

structure cannot see it unless he walks around the back on Mr. Riker's property. Mr. Riker said that he painted the structure last week and presented photographs to the Board.

Chairman Annas noted that there were stacks of car parts on the lawn and asked if those parts were normally there. Mr. Riker responded in the negative, saying that he was taking pictures of them which he sent to the car show. Jim cautioned Mr. Riker that he needs a Building Permit for this structure and any others he might build.

Chairman Annas expressed concern about the possibility of a fire hazard with two structures so close to each other. Corinne said that both sides of the property can be accessed. Mr. Riker said that he did not know what his neighbor stored in his building, but he (Mr. Riker) has a lawn mower and a tractor in his. Tim said that the Fire Department can get between the two buildings and he therefore did not feel that fire safety was a problem. He added that neither of the structures in question was an occupied structure. Chairman Annas closed the Hearing.

Motion to Grant Variance

John made a motion to approve the application for the 8.5 foot setback for the extension. It is not a detriment to the neighborhood and the neighbors cannot see it. The motion was seconded by Jim. Tim added that it is a benefit to the applicant with no detriment to the neighborhood. Chairman Annas added that the structure cannot be seen unless you walk behind on Mr. Riker's property. A roll call vote was taken and all were in favor.

7:50 Continuation of Public Hearing for Appeal 09-05, Abraham Nussbaum application to erect a six foot front yard fence where the maximum height allowed is four feet.

Motion to Continue Hearing

Tim made a motion to continue the Hearing until August unless it is the only item on the agenda, in which case it will be continued until September. The motion was seconded by Corinne. A roll call vote was taken and all were in favor.

ADJOURNMENT

A motion to adjourn was made by John, seconded by Paul and all were in favor. The meeting was adjourned at 7:55 P.M.

FINDINGS AND DECISION

Appeal 09-04, Ralph and Grace Cort application to subdivide parcel into two lots.

FINDINGS:

1. The property is located at 186 W. Market St. in the R1.5 Zoning District, Red Hook.
2. Tax Map #6172-00-968816.
3. In order to subdivide the parcel into two lots, the following variances are required for Lot A:
 - a. The minimum lot area be reduced from the required 1.5 acres to 1.183 acres.
 - b. The minimum lot width be reduced from the required 180 feet to 160 feet.
 - c. The required front yard setback of 50 feet be reduced to 11 feet.
4. For Lot B, the following variances are required:
 - a. The minimum lot area be reduced from the required 1.5 acres to 1.003 acres.
 - b. 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.
5. There were no objections from the audience.
6. The variances requested do not change anything and do not increase the intensity of use.
7. The variances would be of benefit to the applicant with no detriment to the community.
8. There will be no change in the character of the neighborhood.
9. There will be no impact on the health, welfare or safety of the community.

DECISION: Tim Ross made a motion to grant the variance based upon the above findings. The motion was seconded by Corinne Weber and carried by a 7-0 roll call vote.

Dated: July 8, 2009

FINDINGS AND DECISION

Appeal 09-06, John Riker application to reduce rear yard setback from 20 feet to 8.5 feet for 250 square foot addition to pole barn.

FINDINGS:

1. The property is located in the RD5 Zoning District at 4223 Route 9G, Red Hook.
2. Tax Map #6172-00-469762.
3. The zoning law requires a 20 foot rear yard setback.
4. The applicant wishes to reduce the setback to 8.5 feet.
5. 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. The structure cannot be seen by the neighbors.
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 Jim Hegstetter and carried by a 7-0 roll call vote.

Dated: July 8, 2009