

**Town of Red Hook  
Zoning Board of Appeals Meeting Minutes  
October 14, 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, Corinne Weber, alternate Trilby Sieverding

Absent: Jim Hegstetter

Also Present: Bob Fennell, ZEO

**PRELIMINARY BUSINESS**

Minutes of July 8, 2009: Chairman Annas asked if everyone had read the Minutes of the July 8, 2009 meeting and invited comments or questions. Hearing none, Corinne made a motion to accept the Minutes as written. The motion was seconded by Trilby (as a quorum was not yet present without an alternate) and all present 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.

Preliminary Discussion: The Board reviewed the Vosburgh map. Bob explained that on a flag lot, the building line is at a point at which the lot first achieves its minimum lot width. The setback is therefore sixty feet from that point. The Planning Board, he continued, wants the house placed where it is in order to preserve the soils. When the house is built, the Planning Board wants it built there so that the rest of the lot will be maintained for farming in the future. The owner is amenable to this plan. Chairman Annas asked what would prevent future subdivision in that area. Tim and Bob replied that the conservation easement would be enforced.

**REVIEW OF APPEAL**

7:15 Appeal 09-08, Michael Anderson application to erect a six foot fence in the required front yard where a maximum of four feet is allowed. The applicant's lot is located at 60 Station Hill Road in the Barrytown Hamlet zoning district. Mr. Anderson was represented by his builder, Steve Dunning. Mr. Dunning said that there is already a six foot fence on three sides which is pretty much on the lot line. Extending the fence across the front, including the driveway, would complete the enclosure. Mr. Anderson wants the fence to

keep out deer. Pillars with gates, he continued, usually taper up so that they are as high at the center as the lantern height. However, if necessary Mr. Anderson could do a customized gate which would be six feet high all across. Mr. Dunning presented photographs of the proposed gate to the Board and said that his client is going to put in wrought iron rather than aluminum. He wants the gate to be as inconspicuous as possible and it will be planted on the front and back.

John asked how far off the macadam the fence would be. Mr. Dunning responded that there is a twelve foot right of way from the pavement to where Mr. Anderson's property begins. The fence would sit about twelve feet, six inches away, so that it is on his property. Starting at about fifteen or sixteen feet off the pavement, the grading would taper down to the existing grade. Mr. Anderson has spoken to the neighbor's wife about this project and she does not seem to have a problem with it.

In response to Chairman Annas' question regarding the effectiveness of fencing in keeping out deer, Mr. Dunning said that six feet does not guarantee that deer will be kept out; however it is a big inhibitor. If deer do not have a view of what is on the back side, they are very unlikely to jump over. They also have very poor depth perception and if they sense that they do not have a good landing area, they are very hesitant to jump over. Therefore, Mr. Dunning continued, the plan is to landscape the area heavily.

Mr. Dunning asked what factors are involved in the decision of the Board. He said that he has seen a lot of six foot fences in the area, although some may have been pre-code. Chairman Annas replied that the impact on the surrounding area is a very important factor. Mr. Dunning said that the fence will be invisible as it will go through a heavily landscaped zone. It will not change anything that is there. Mr. Anderson wants it to look good and has tried to maintain the historic aspects of the house.

Mr. Dunning said that he went through the first Planning Board meeting last week and they deferred until the third week in November so that the matter could be put before this Board. They felt that it was pointless to continue with the Planning Board process before the Zoning Board of Appeals made a decision. Chairman Annas asked if the members of the Board had any further questions. Ken inquired about the area which is fenced off from the driveway. Mr. Dunning said that this is a parking area for two cars.

There will be two thirty inch pillars on either side of the gate and the gate itself will go from six feet to seven feet in the center. It was ascertained that the application was for a six foot fence and it should therefore be amended to reflect the seven foot center. In response to Ken's question, Mr. Dunning said that there will be a walk through gate located in the driveway area and another about in the center of the road frontage. They will be the same height as the fence. Chairman Annas scheduled the Hearing for 7:15 P.M. on November 11, 2009.

7:35 Appeal 09-09, Jim & Lynn Gallagher application to permit an existing six foot fence in the required front yard where a maximum of four feet is allowed. The applicant's lot is located at 1 Knox Rd. in the R1.5 zoning district. Mr. Gallagher said that he is planning

to build a four foot fence across the front of the yard which looks like wrought iron. The purpose is to keep animals out and the dog in. Chairman Annas noted that as Mr. Gallagher's house is a corner house, there are two front yards. The driveway splits the property in half, Mr. Gallagher continued, and the house is on the right side. The fence is on the left side. Chairman Annas asked Mr. Gallagher about the purpose of the fence. He said that one reason is visual. He used to have dense hemlocks across the width of the property, but they were destroyed by a blight and had to be removed. Additional reasons are for privacy, to buffer noise and keep out the neighbor's dogs. Chairman Annas asked why a four foot fence would not serve Mr. Gallagher's purposes. Mr. Gallagher said that a dog could jump over a four foot fence.

Chairman Annas questioned whether there were precedents in the neighborhood for a six foot fence. Mr. Gallagher responded that there is such a fence at the corner of Beech and Aspinwall. John said that that fence predates the Code. Tim asked how close the fence is to the pavement. Mr. Gallagher said that it is about 21 feet from the center of the road. Five panels have been put up and Mr. Gallagher is planning to put up two more. The area is landscaped with bushes. The Board reviewed some photographs and a map provided by Mr. Gallagher. John advised Mr. Gallagher to take additional photographs for the Board to review at the Hearing.

Mr. Gallagher said that he has spoken with the neighbors and they do not have a problem with the fence. Chairman Annas asked Mr. Gallagher if he had any objections to the Board members walking the property. He was agreeable. For the Hearing, Mr. Gallagher was asked to provide a schematic showing where the fence is, its height and measurements from the edge of the pavement to the fence line. Chairman Annas asked if the Board had any further questions. Hearing none, he scheduled the Hearing for 7:30 P.M. on Nov. 11, 2009.

7:45 Appeal 09-10, Susan Simon & Elizabeth Jones application to build an office in an existing barn. The following variances are requested:

1. Reduce required lot area from 1.5 acres to .852 acres
2. Reduce required front setback from 50 feet to 18.7 feet.
3. Increase office area from maximum of 500 square feet to 1265 square feet.

The applicants' lot is located at 38 Spring Lake Road in the Upper Red Hook Hamlet zoning district. Ms. Jones said that the intention is to renovate the barn and create 1265 square feet of office space for the business, Third Eye Associates financial and life planners. Their intention is to keep it looking like a barn. She presented photographs and a copy of her map.

Bob Fennell reviewed the code requirements for home occupations in an outbuilding. Chairman Annas inquired about the number of employees in the business. Ms. Jones said that it was just herself, Ms. Simon and Ms. Simon's daughter. Bob stated that home occupations can have one person from outside the home working in the home occupation.

John asked how often customers come to the business. Once or twice a month, Ms. Jones responded. Customers generally go to the other office locations or conduct their business over the phone.

The Board reviewed the plans provided by the applicants. Ms. Jones said that the building will be secured, there will be a new door and a support system will be put in for the floor. The windows will have to be adjusted slightly because a staircase has to be put in. Chairman Annas asked what he will notice if he goes down the street. Ms. Jones replied that the barn will look exactly the same, except it will be restored. Chairman Annas asked if one would have any reason to know that there was a business inside. Ms. Jones replied in the negative, saying that there will be no signage.

Ken asked about the present use of the barn. Ms. Jones responded that it is used as a garage and for storage. In response to Tim's question, Ms. Jones said that the office space for the business is now in the house. John asked if there would be a maximum of three employees and if there is enough parking space for them. Ms. Jones responded in the affirmative. Bob said that, per the Code, parking spaces cannot exceed four in number.

Chairman Annas inquired as to whether another bathroom would be added. Ms. Jones said she understood that if the same people who work in the house also work in the barn, there would be no problem. The house is big enough for six and only two people occupy it. In response to Tim's question, Ms. Jones said that the barn does not have a separate septic system. The septic system is between the house and the barn. Both Tim and Chairman Annas suggested that the applicants check with the County Board of Health. They will view this as an expansion and this could affect the size of the required leach field. Tim said that the problem is how to get the waste to the existing septic system and make the bathroom work with the existing system.

Corinne questioned the need for two meeting rooms and three offices. Ms. Jones said that she knows the kind of space they need to do their work. Also they want to utilize all the space they have. All the offices will be upstairs. John ascertained that there will be three employees and three cars during the work week. They are closed on the week-end. Ms. Jones said they are not really open to the public. There is no walk-in traffic. They are open by appointment only. Chairman Annas expressed concern that the business might grow/evolve. John responded that stipulations can be written into the variance to prevent that.

Chairman Annas questioned the setback figures for the barn. After examination of the map, it was determined that the requested front setback should be 7.3 feet and not 18.7 feet. The rear setback is correct. Chairman Annas asked if the Board members can come by. Ms. Jones responded in the affirmative, but expressed concern about anyone entering the building as it might be unsafe due to the sagging of the floor. In response to Chairman Annas' questions, Ms. Jones said that the house and the barn date to about 1840. When the house was expanded, it was redone as post and beam. Tim said that there should be no kitchen so that there is no possibility of the space being converted into apartments in the future.

Ms. Jones was asked to bring a set of plans and photographs to the Hearing. Chairman Annas strongly suggested that the applicants contact the County Department of Health and speak to them about the septic system. The Hearing was set for 7:45 P.M. on November 11, 2009.

8:25 Appeal 09-11, David Vosburgh application to create a new parcel with a proposed dwelling to be placed at a point at which the flag lot is 209 feet wide. The Code requires that a dwelling on a flag lot be placed 60 feet behind the point at which the lot achieves the required 240 foot minimum lot width. The applicant's lot is located on Middle Road in the RD3 zoning district. The applicant was present, but was represented by Mark Graminski, surveyor. He said that Mr. Vosburgh is President of MC Acres, which owns the 64 acre parcel. He has an application for subdivision and lot line alteration before the Planning Board. Mr. Graminski presented his map to the Board. He explained that the lot is on the south side of Middle Road, near an intersection with Rokeby Road. The proposal before the Planning Board is to subdivide the 64 acres into three parcels which would all be flag lots. He outlined the location of these lots on the map.

Mr. Graminski said that the three proposed lots are oddly configured; however there is a rationale. Prior to the subdivision, a series of lot line alterations was done for Kesicke Farm. He then presented to the Board a map showing those lot line alterations. One of the things which the Planning Board required, he continued, was development of a farmland protection plan. The reason for that plan was to preserve all the open space farmland on Kesicke Farm. He then pointed out to the Board the similar configuration on the map for his proposed subdivision. In doing the lot line alteration, the Planning Board had specified certain areas where building could take place. Building envelopes were established in three different locations. Mr. Vosburgh intends to build Lot 1, which is 37 acres, for himself.

There is a high knoll on the lot which provides a great location for a house, Mr. Graminski said. It preserves the farmland and there is adequate area for a well and onsite sewage disposal for a building lot. This proposal has been presented to the Planning Board; however, the Code requires that there be 240 feet of width in front of the building. Bob clarified that the house has to be sixty feet in back of the point at which the lot first meets its minimum lot width. Mr. Graminski said that the proposed site for the house does not meet that minimum lot width. At sixty feet back, the dimension is 211.85 feet which decreases to 208.85 and then increases as you go further back.

Mr. Graminski stated that the Planning Board endorses the present proposal and requires that this property be a conservation easement. There can be no further subdivision and no more residences on the lot (although there can be farm structures, i.e. barns, etc.). Winikee Land Trust is going to hold an easement on all 64 acres, minus the residence.

Mr. Graminski said that they have sketch plan endorsement from the Planning Board but they need the approval of the Zoning Board of Appeals in order to proceed with the Planning Board. Chairman Annas scheduled the Hearing for November 11, 2009 at 8:00

P.M. Tim noted that November 11<sup>th</sup> is Veterans Day. The Clerk of the Board will find out if the Town Hall is closed for the holiday and will notify everyone involved if a new date must be established.

**ADJOURNMENT**

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