

**Town of Red Hook  
Zoning Board of Appeals Meeting Minutes  
December 9, 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, Paul Marienthal,  
Jim Hegstetter, alternate Trilby Sieverding  
Absent: John Douglas, Tim Ross, Corinne Weber  
Also Present: Bob Fennell, ZEO; Christine Chale, Town Attorney

**PRELIMINARY BUSINESS**

Minutes of November 9, 2009 and November 21, 2009: Chairman Annas asked if everyone had read the Minutes of the November 9, 2009 and November 21, 2009 meetings and invited comments or questions. Hearing none, Ken made a motion to accept the Minutes as written. The motion was seconded by Paul 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.

**PUBLIC HEARINGS**

8:25 Public Hearing for 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. Mr. David Vosburgh was present as well as his consulting engineer, Mr. Mark Graminski. Chairman Annas said that the complexity of the project results from the conflict between the farmland protection saying to get housing off the farm and the right to farm saying to keep the housing away from existing farms. Chris said that the written findings should establish a balance between these two issues.

Chris asked if the properties are in the Agricultural District. If so, she said, a referral to the County is required. Mr. Graminski confirmed that the property is in the Ag District. Chris asked Mr. Graminski why he is presently in front of the Planning Board. Mr. Graminski replied that the original application was for a lot line alteration for Kesicke Farm Inc. The reason for that lot line alteration was to portion properties for the various children of the owners, Barbara and John Vosburgh. Sheet 2 of that application was the

Farmland Protection Plan. As the application handled all of Kesicke Farm, it established multiple building envelopes. The building envelopes established general sizes and acreages. If any further subdivision were to take place on these parcels, two things would have to occur: 1) the Farmland Protection Plan would have to serve as a blueprint for development and 2) any of the lands being subdivided would have to be placed in a conservation easement.

In developing the subdivision plan for MC Acres, one of the children, David Vosburgh, went to the Planning Board and requested to move the location of one of the house sites in order to provide better preservation of farm land. However, this change resulted in there not being enough lot width at the building line. That is the reason we are now before this Board, Mr. Graminski said.

In response to questioning, Mr. Graminski said that the Planning Board has reviewed this project. The letter of support which the Planning Board had sent to the Zoning Board and which had been distributed to all the Zoning Board members, was read. Mr. Graminski said that they have sketch plan approval and are ready to make preliminary application for approval of the subdivision. However that cannot be done if there is an area variance pending with this Board.

The Board reviewed the map with Mr. Graminski. He said that there is a one acre building envelope and the intention was for the house to be on the hill. Paul Mariantal asked if there was any verification that the land is actually good farmland. Mr. Graminski replied that the original farmland protection plan was based on soil boundaries. Those soil boundaries are based on the Dutchess County soil and water maps. Chairman Annas asked if this was tillable soil. Mr. Vosburgh replied that it is all tillable. Where I want to put the house is hay fields, he said.

Mr. Graminski handed out to the Board copies of a letter which he was submitting in response to the questions raised by Mr. Paul Vosburgh. In response to the latter's complaint that the house would be less than 500 feet from his farm, Mr. Graminski said that the Code only requires reasonable notice to prospective owners that farming activities may occur on neighboring lands. It does not specify restrictive distances. He also pointed out that the required note, indicating that this is agricultural land, has already been placed on both the lot line alteration plan and the Farmland Protection Plan and has been approved by the Planning Board. Chris asked if both properties are in agricultural production. Mr. David Vosburgh said that Paul Vosburgh's land is pasture and his is hayfields.

Mr. Graminski then moved on to point two in Mr. Paul Vosburgh's letter, viz. that the proposed house would be on land which is currently being used as a pasture. Mr. Graminski said that the proposed building envelope will preserve more important, contiguous agricultural land. He concluded that there will be no loss of agricultural land.

Point number three in the Paul Vosburgh letter claimed that the value of his property would be decreased due to the proximity of the residence. Mr. Graminski replied that the

residence would be consistent with the existing development along Middle Road. Density and proximity to neighboring properties will be in keeping with development along this corridor and will not create economic hardship for the complainant, he concluded.

Mr. Paul Vosburgh's next point was that a 200 foot wide strip of property was transferred to the applicant by the complainant for the purpose of providing suitable access to the 58 acre lot owned by MC Acres, which otherwise would have no legal access to Middle Road. Mr. David Vosburgh denied this claim, stating that the transfer was from Kesicke Farm to him. Mr. Graminski said that Mr. Paul Vosburgh goes on to claim that, since the applicant can locate the building envelope on its original site, where it would not require a variance, the hardship is self-created. Mr. Graminski explained that all existing lines were developed during the creation of the Farmland Protection Plan and they provide less development impact than the original building envelope location. Chairman Annas asked if the Planning Board has taken into consideration the impact on the right to farm. Mr. Graminski responded that right from the beginning that has been the factor which has driven the location of development on the entire farm.

Paul Marienthal asked Mr. David Vosburgh why Paul Vosburgh does not want the house located on the proposed site. *Ms. Anna Kirshner*, neighbor, responded that where David wants to place the house it will be visible from Paul's residence, whereas it would not have been visible from the previously proposed site. Paul has planted trees in the front to shield his house; however there are no trees planted in the back. If the house is placed where David wants to place it, Paul will be able to see the house from his back yard. She said that there a number of springs on the flat land in the middle of the field. The top of the hill is a better location for the residence because the soil drains well and the septic system can be handled better. The top of the hill is also better environmentally because it will be tight against the tree line rather than in the middle of a working field. She concluded that this location minimizes the disturbance to the farm land.

In response to a question by Trilby, Mr. Graminski said that the soil in the proposed site is more freely draining soil. Ground water is not an issue. The previous site had more silt and clay. In reviewing the map, it was determined that the soils in both the previous and current locations are labeled as silty soils. Mr. Graminski said that his field testing indicates that the whole septic system can be put under ground in the proposed location. This location is better for sewage, but both sites are approvable.

In response to questioning, Mr. Graminski said that, per the farmland protection plan, four parcels are currently approved for development for Fox Woods and three for MC Acres. Chairman Annas asked Mr. Vosburgh if his intent was to subdivide and sell. Mr. Vosburgh replied that he wants to subdivide and keep the parcels. Chairman Annas asked for the reasoning behind this plan. Mr. Graminski said that in the future the land could be zoned agricultural business district. He would then not be able to implement the lot line alteration and the farmland protection plan for the three parcels.

Chairman Annas asked Mr. Vosburgh if he planned to put a house on the lot. He said that he did and he has two children for the other two lots. Mr. Graminski said that his argument for the project is basically that it provides better protection for the farmland.

*Ms. Kirshner* said that the towns of Red Hook and Rhinebeck both have an interest in protecting the rail trail which is on the property. The valley and the whole area are very scenic and to be forced to put a house on one of the fields is a travesty of the concept of open land, she said.

Paul Marienthal asked if can be scientifically ascertained that the land is really worth preserving. Mr. Graminski said that the Planning Board did not require soil sampling. In response to Mr. Graminski's question, Mr. David Vosburgh said that the land produced a couple of hundred bales of hay. Paul said that he would really like to hear the opinion of someone who is a farmer in that area and the Board asked Ken his opinion. Ken said that some of the land is good; some of it is the best in this part of Dutchess County. Paul asked Ken if that field is worth preserving. Ken responded that the field is very flat and the soil types are pretty consistent throughout, mostly sandy loam. Bob Fennell asked if that was good agricultural soil. Ken said that it one of the better soils.

Chairman Annas asked if there were any further comments from the public. Hearing none, he made a motion to close the hearing. Ken Anderson then recused himself for personal reasons. Trilby Sieverding also recused herself. This left the Board without a quorum. In view of this situation, Chairman Annas withdrew his motion to close the hearing and said that it would have to be continued. However he also said that prior to the next meeting, the Board would be ascertaining that there would be enough members present and willing to vote. Chris said that the Minutes and the letter submitted by Mr. Graminski should be sent to all the Board members for review prior to the next meeting.

Chairman Annas then continued the hearing until January 6, 2010 at 7:15 P.M.

#### **ADJOURNMENT**

A motion to adjourn was made by Paul Marienthal, seconded by Jim Hegstetter and all were in favor. The meeting was adjourned at 8:20 P.M.