

**Town of Red Hook
Zoning Board of Appeals Meeting Minutes
April 14, 2010**

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, Christopher Carney, John Douglas,
Jim Hegstetter, Paul Marienthal

Absent: Tim Ross

Also Present: Alternate Trilby Sieverding; Bob Fennell, ZEO; Bill O'Neill, TB
Liaison

PRELIMINARY BUSINESS

Minutes of Jan. 6, 2010: Chairman Annas asked if everyone had read the Minutes of the Jan. 6, 2010 meeting and invited comments or questions. Hearing none, John made a motion to accept the Minutes as written. 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. In response to the Chairman's question, Bob Fennell stated that there have been applications for three new dwellings this year.

Comments: Chairman Annas noted that Corinne Weber is no longer a member of the Board. In her place, he welcomed Chris Carney who is now starting his seven year term.

REVIEW OF APPLICATIONS

7:15 Appeal 10-01, Gonzalez-Stewart application to erect a solar PV array 35 feet from the front property line where the Code requires a 60 foot front setback. The applicants' lot is located at 162 Spring Lake Road in the RD3 zoning district. The applicants were represented by Andres Gonzalez-Stewart, their son and Dave Byrne of Hudson Valley Clean Energy. Chairman Annas invited them to come forward and explain their project. Mr. Byrne said that they are requesting a variance for the installation of a solar electric system which would consist of a row of five galvanized steel poles with eight black panels per pole. Each pole would be two and a half by five feet. He said that they are asking for a variance because this is the only location on the property which would be suitable for the installation of the array. The area which they are proposing is on the south

side of the tree line. Mr. Byrne delineated the location on the map which he had submitted.

Chairman Annas said that the application stated that the array would not be visible from Spring Lake Road; however if you drive across Spring Lake Road, he said, you can see across the meadow where it is to be located. Mr. Byrne said that he had written that because in his opinion the tree line would provide significant screening. Various photographs of the property were submitted and the placement of the array was discussed. It will be placed parallel to the tree line and will be 62 linear feet long, creating a profile which will be 62 feet by 5 feet. It will be 35 feet from the edge of the road and 27 feet from the outside of the nearest tree. The tree nearest the array of panels will be at a distance of about 15 to 20 feet.

Chairman Annas noted that the array, as proposed, would be facing Deer Run. Mr. Byrne said that he had not driven that road and Chairman Annas suggested that he do so because coming off Deer Run Road one can look straight through the tree line and see whatever is placed there. He asked how much acreage the applicants own on Spring Lake Road. Mr. Gonzalez-Stewart replied that they own five acres at the location under discussion and about one hundred acres down the road.

Chairman Annas asked if, within that 105 acres, there were not another location which could be used for the array. Mr. Byrne responded that the cost to take the line a quarter of an acre from the main house to the 100 acre parcel would be prohibitive. Chairman Annas inquired about the practical distance from the source of the power to the use of the power. Mr. Byrne said it would be about 500 feet. The transmitting voltages can be from 400 to 600 volts, depending on the size of the array and would be around 600 volts for this project. Chairman Annas asked how far the line can go if they are using 400 to 500 volts. Mr. Byrne said that they have gone as far as 1,000 feet. However, he continued, in this case this is the only location on the property which would work. To the south there is an extensive wooded area. The use of that area is not feasible because a huge swath of trees would have to be removed in order to do the necessary trenching.

Chairman Annas how much closer to the tree line the array could be moved. Mr. Byrne responded that it could go about ten feet closer before the trees on the south side became an issue. Chairman Annas said that he had asked this question because a 96 panel array had been put up in Deer Run which caused a lot of consternation among the local residents. Upon questioning, Bob Fennell said that there had been a permit for that array and he believed that there had not been any setback issues. He asked Bob to check into that project. Bob asked if the poles could be clustered rather than lined up soldier fashion. Mr. Byrne said that once you push out into the meadow, the trees become an issue because they provide shading and that would compromise their ability to meet the efficiency standards required to get the grants available from the government.

Chairman Annas asked Mr. Byrne to sketch out on the map where, from a practical standpoint, the panels could be located. He had already said it could go ten feet to the south. Could it, he asked, also go all the way to the west? A discussion ensued regarding

how much shade would be created by the trees and how long the conduit run could be. Anyone exiting Deer Run is going to be looking at the array, Chairman Annas said. People driving down Spring Lake Road have less of a chance of seeing it. Mr. Byrne said that, in addition to minimizing the conduit run, the proposed location was chosen because the branches are thicker in that area.

Mr. Byrne showed pictures of what the panels look like from the back. He stated that he has many customers who have planted hedgerows behind the poles so that they will blend in with the environment. Flowering bushes could be planted in between the gaps in the evergreen bushes. Chairman Annas asked what is the maximum height of the panels and Mr. Byrne said that it is ten feet. Mr. Gonzalez-Stewart said that they own a tree planter and could move existing, grown trees as necessary. Chairman Annas said that hiding the panels would improve their chance of obtaining the variance they need.

Chairman Annas asked if the units are fixed or movable. Mr. Byrne responded that the panels are fixed, but can be tilted to different angles at different times of the year. The discussion again turned to the practicality of moving the array forward to the tree line and past the entrance to Deer Run. Mr. Byrne said that this would be feasible.

Chairman Annas asked if the Board had further questions. Ken asked about the dimensions of the field. Mr. Byrne said that the open area is about 450 to 500 feet across. The array would take up about a quarter to a third of the field. Ken asked why the array was placed near the tree line rather than in the middle of the field. Mr. Byrne explained that if the array were moved ten feet from the proposed location, the tree line across the field would provide shading in the winter. The tops of the tall trees would keep the sunlight from hitting the panels in the winter. In order to maintain the use of the field and increase the productivity of the system, they are trying minimize that impact by keeping along the northern boundary. Ken asked that the dimensions of the field be provided.

Mr. Byrne agreed with Paul's assessment that the array could be moved sixty feet down, past the start of Deer Run Road. John asked if it could be moved closer to the house. Mr. Byrne said the poles could not be put in that area due to the septic system. John asked how deep the trench from the first hole to the house would be. Mr. Byrne replied that the trench would be about a foot and a half, but four feet for the pole. The trench is daisy chained from pole to pole and the trench at the last pole contains all of the conduit. The septic field will be skirted. John asked about the footer and Mr. Byrne said that it would be poured cement, two by four. When Chairman Annas asked if they could go to the east, Mr. Byrne said that he would not feel comfortable about doing that because he would have to bring the backhoe over the septic in order to dig the footings.

Chairman Annas asked Mr. Byrne about having the members of the Board visit and look at the site. Mr. Byrne was amenable to this. Chris asked Mr. Byrne if they had considered using the barn roof. Mr. Byrne said that the roof has shifted and is not structurally sound. He reiterated that he has looked over the entire property and this is the only solution. Ken asked to see the maximum shadow line across the field. Mr. Byrne offered to meet him at the site and show him the solar instrument which shows the shading at different times

of the year. It was decided that Mr. Byrne would meet with Ken and Chairman Annas at the site.

In response to John's question, Mr. Byrne explained how the NYSERTA grants work. There is a threshold of 20% output loss due to orientation and shading. Once you cross that threshold, the full grant allocation decreases by the percentage by which 20% is exceeded. At the present location, Mr. Byrne calculates the percentage to be about 8 to 9%. Chairman Annas scheduled the hearing for May 12, 2010 at 7:15 P.M.

7:50 Appeal 10-02, Marchessault application to construct a front porch 28 feet from the road where the Code requires a 50 foot setback. The applicant's lot is located at 21 Echo Valley Road in the R1.5 zoning district. As her husband was out of town, Mrs. Marchessault was accompanied by her neighbor, Mr. John Frick. Chairman Annas ascertained that the setback is now at 38 foot and the porch will extend ten feet further, making the total setback 28 feet. The Board reviewed the plans for the porch. It will be flush with the front door, one step up. It will run the length of the house, i.e. 35 feet and will be in keeping with the architecture of the house. It was established that there are other short setbacks in the neighborhood. In response to questioning, Mrs. Marchessault said that the house was built around 1990. Mr. Frick explained that the reason the house has such a short setback is that it is all rock in the back yard and goes straight up a hill. The house was set back as far as possible to allow for the building of a septic system.

Jim asked about the roof line. Mr. Frick explained that a new roof will be built at the same time as the deck and the roof will come underneath the dormers. Mrs. Marchessault said that most people in the neighborhood have a porch and she felt it would enhance the property. Jim asked if the neighbors would support this project. She said that the neighbor across the street does so.

Chairman Annas arranged with Mrs. Marchessault for the members of the Board to visit the property. He explained the hearing process and set the hearing date for May 12, 2010 at 7:30 P.M.

8:10 Appeal 10-03, Chen (Red Hook Wine & Liquor) application to construct a free standing sign and place it five feet from the side property line where the Code requires that no such sign be placed closer than 15 feet from any property line. The applicant's property is located at 8040 Albany Post Road in the RD3 zoning district. The applicant was represented by Mr. Larry Launhardt, who will be running the Red Hook Wine and Liquor store. This is the site of a complex which includes the Cornucopia Deli and Beverage Way. The Board reviewed the plans submitted by the applicant. Bob Fennell said that there is a big sign on the south side of the building and he believes that there is a variance for signage on this property which was granted about ten years ago.

Mr. Launhardt said that there is a car park and a gas pump on the site. If he moves the sign onto the asphalt, the people who are exiting will have a hard time getting out. Chairman Annas suggested changing the direction of the sign. Mr. Launhardt responded that no one would be able to see it then. Chairman Annas said that there is already a

problem with this property. The state has a sign for what used to be the Eddie Parker Youth Center on the north side coming off Spring Lake Road onto Route 9. You have to pull out past it to see the oncoming traffic.

Bob Fennell said that there is already a large complex sign to the south and read a section of the Code regarding the allowance of one sign per complex. He asked that the Board find the variance which was previously granted, noting that the site already has signage which is in excess of the area allowance. Chairman Annas asked if a grouping of businesses on a single parcel is allowed a single sign. Bob responded that if there is more than one use, they are allowed a second sign. He read the sign allowances, per the Code, for a stand alone business in the B1 zoning district, viz. one sign, not to exceed 24 square feet in surface area and/or one identity, wall mounted sign on the surface of the building not to exceed one square foot per three linear feet of frontage. The maximum total signage per single business premises shall be sixty square feet. When there are two or more independent businesses, you can also have a complex sign of twenty four square feet.

Chairman Annas asked if the sign will be illuminated. Mr. Launhardt said that it will be lit at the peak and there will be a timer which will shut it off at about eleven o'clock. Chairman Annas asked for the dimensions of the sign. Mr. Launhardt said that it will be 8 feet 7 inches high, four feet wide and will be 18 feet off the highway. Chairman Annas arranged permission for the members of the Board to visit the site. John asked Mr. Launhardt to provide Mr. Fennell (ZEO) and Mr. Cole (Building Inspector) with the dimensions of the sign and it's footprint prior to the hearing so that they can review it and see if it meets the Code. You may need a variance for that in addition to what you are already requesting, he said. You also need to provide a depiction of what the sign will look like as well as the size of the planter portion, he said. Chairman Annas scheduled the hearing for May 12, 2010 at 7:45 P.M.

8:30 Appeal 10-04, Frick application to erect a single family dwelling which would cover 13% of the property where the Code limits coverage to a maximum of 7%. The applicant's property is located on Country Club Drive in the RD3 zoning district. Mr. John Frick presented a map to show where his property is located within the Red Hook Country Club. It is an empty lot with an easement off Rt.199. There is a shed which will be removed when the house is built. Mr. Frick presented the Board with several pictures of the lot. He said that it is a tiny lot with common land in front of it belonging to the Country Club. The house which he plans to build is only 44 feet across and 36 feet deep with a footprint of 1484 square feet.

Chairman Annas asked Mr. Frick if this will be his permanent residence. Mr. Frick said that it is unclear whether he will move in or sell. The house, he continued, will have a full basement. He intends to build it as environmentally correct as possible. There will be a panelized construction with photovoltaic panels on the roof to provide electricity. The panels will lie flat on the pitched roof and cover the entire roof. Hudson Valley Clean Energy estimates that the panels will provide 90% of the electricity needed for a family of four living there all year round.

In response to Ken's question about setbacks Mr. Frick said that he actually needs two variances, one for coverage (an increase from the maximum of 7% to 12%) and one for a side setback on the Rt. 199 or east side of the lot (an decrease from the maximum of 21 feet to 12 feet). Bob Fennell explained that because the lot is an undersized lot, the Code allows a reduction in the side yard setback. The normal setback for a lot is 35 feet, but because it is an undersized lot the setback is 21 feet. Chairman Annas asked if Mr. Frick could put up another type of structure to meet the setbacks. Mr. Frick said that he wants to do the solar power and therefore he needs the southern orientation.

Ken asked what backs up to Mr. Frick's property. An easement, he replied and the Red Hook Golf Course. He said that the DEC has been to the lot and it is out of the buffer zone, i.e. it is more than 300 feet from the pond. Chairman Annas asked Mr. Frick if he would elaborate on why he is building this home when he does not know whether he is going to live in it or not. Mr. Frick said that whether or not it is a spec house should not matter relative to obtaining a Red Hook variance. He felt that he should be able to use his lot whether or not he chooses to live on it. Chairman Annas noted that Mr. Frick is imposing the restriction of using solar power and that requirement is dictating the footprint of his house. Mr. Frick said that he prefers to use solar power. He also has a 247 foot deep well which the DOH has told him that he has to abandon. He plans to use that for geothermal heat. Chairman Annas obtained permission for the members of the Board to visit the site. He set the hearing for May 12, 2010 at 8:00 P.M.

ADJOURNMENT

Chairman Annas made a motion to adjourn the meeting. The motion was seconded by Ken Anderson and all were in favor. The meeting was adjourned at 8:50 P.M.

Respectfully submitted,

Sheila Franklin