

**Town of Red Hook  
Zoning Board of Appeals Meeting Minutes  
May 11, 2011**

**CALL TO ORDER**

The meeting was called to order at 7:00 P.M. by Chairman Nick Annas.

**ROLL CALL**

Members Present: Nick Annas, Kenneth Anderson, Christopher Carney, John Douglas  
Paul Marienthal, Tim Ross, alternate Trilby Sieverding

Absent: Jim Hegstetter

Also Present: Jim Ross, TB Liaison; Robert Fennell, ZEO; Victoria Polidoro (office of  
the Town Attorney)

**PRELIMINARY BUSINESS**

Minutes of April 13, 2011: Chairman Annas asked if everyone had read the April 13, 2011 Minutes and invited comments or questions. Hearing none, Tim Ross made a motion to accept the Minutes as written. The motion was seconded by Ken Anderson and all were in favor.

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

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

**REVIEW OF APPEAL**

7:05 P.M. Appeal 11-03, Arvine & Wendy Coon application to allow a commercial nursery in the R1.5 zone, where such business is not permitted. The applicant's lot is located at 7221 Albany Post Rd. in the R1.5 zoning district. Chairman Annas announced that this Appeal has been withdrawn. The applicants will be submitting a new Appeal which will appear on the Agenda for June 8, 2011 at 7:30 P.M. Bob Fennell said that Mr. Coon came to his office yesterday and told him that his attorney advised him that the definition of agriculture in the town law allows him to sell the products of his labor.. He is suggesting that he has the ability to sell his farm products on his properties simply on the definition of agriculture. He thinks that this gives him carte blanche to sell his agricultural products in any manner. Bob told Mr. Coon that this was not true. Farm products can only be sold in two fashions: 1) in a farm market and 2) from a roadside stand. Mr. Coon said that he is going to appeal that. His appeal will be for an interpretation of my denial, Bob said.

Attorney Victoria Polidoro suggested utilization of an escrow account to cover the attorney fees for this matter as permitted under the Town Code Chapter 70, section 215.08 because the applicant will receive a benefit and should pay for that benefit rather than the taxpayers. She indicated that Mr. Coon has hired Mr. Canter as his legal representative. Questions were raised as whether Town Attorney Christine Chale's contract covers legal advice during ZBA meetings or if her attendance would be billed to the town separately. Ms. Polidoro did not know. Chairman Annas proposed that the Board wait to see how complicated the issue becomes.

## **PUBLIC HEARING**

7:15 P.M. Continuation of Public Hearing for Appeal 11-01, Charles & Christine Riedinger application to expand the foundation of an existing single family dwelling to accommodate a one bedroom accessory dwelling where the zoning law does not permit such expansion. The applicants' lot is located at 14 Grandmour Drive in the R1.5 zoning district. Chairman Annas opened the Hearing and invited comment. He explained that from a legal standpoint, deed restrictions do not apply to how the ZBA makes its rulings. We can allow a variance which is in violation of a deed restriction, he said.

Neighbor *Jim Hart*, 16 Grandmour Drive, stated that he has no problem with the addition of the accessory apartment. However he said that he would like some reassurance that if the accessory apartment is approved, that it would go back to being a single family home when the reason for the accessory apartment no longer exists. Tim said that such a restriction cannot be imposed. Victoria Polidoro agreed that a limitation cannot be placed upon the number of occupants.

Christine Riedinger indicated there were many families in the neighborhood that were solidly behind this proposal. She apologized for not having them at this meeting but was willing to gather letters if necessary. Chairman Annas said that last month three people were present who were opposed to the project.

*Richard Russell*, 1 Seymour Drive, said he was present last month. He stated that he is concerned about the possibility that the property could turn into a boarding house for Bard students for the next twenty years. Chairman Annas acknowledged that Mr. Russell had a valid point and said that the Board has to balance the benefit to the applicants with the effect on the character of the neighborhood. As there were no further comments, Chairman Annas invited comments from the Board.

Tim said that what the owners are proposing will improve the appearance of the building and he can certainly understand their wanting to provide an apartment for their children to get started. He is not opposed to it because it will be under the 650 square feet which is allowed and it will actually improve the property.

Chris said that his main problem is that the zoning law does not permit any expansion at all of the foundation. Paul said that he finds the proposal reasonable and doesn't have a problem with it. John asked how the 650 square feet was calculated. Bob Fennell

explained that the habitable space is multiplied by 35%. Habitable space is limited to a maximum of 650 square feet and does not include the bath, hallway, stairways or entry way. The total square footage is 1600 square feet; therefore about 530 square feet is permissible and 450 square feet is being requested. The calculations appear in the application.

Ken expressed concern about having a two family home in a one family residential area. Bob Fennell explained that an accessory apartment can be built in a single family home and would not make the dwelling into a two family home. Ken wanted to know if the applicants were planning to make any interior renovations. Mr. Riedinger responded that one bedroom will be eliminated to create an office or den. Currently the space is only being used as a closet. Thus, there will be no change in the number of bedrooms in the home; there will continue to be three bedrooms.

Chairman Annas felt that the proposal will set a precedent for this type of structure in the neighborhood. However if it were an empty lot, the building inspector would give a permit for an even a larger foundation. Neighbor *Jerome Benkowski* said he was concerned about a future second floor conversion. Ken expressed concern about the number of cars parked in the driveway. Paul said that the number of parking spaces should not exceed four. Tim stated that the Code allows two spaces for each dwelling unit.

Victoria Polidoro referred to Section 143 of the Code which delineates the five factors which the Board has to take into consideration before making a decision. Chairman Annas read the criteria for the benefit of the public. The essential factor is whether this project represents a substantial or undesirable change in the neighborhood. Chairman Annas closed the Public Hearing at 7:55 P.M.

#### **MOTION**

Tim Ross made a motion to grant the variance on the grounds that the relief being sought is not substantial, the benefits to the applicant outweigh the detriment to the neighborhood, there would be no adverse environmental affect, no impact on the health and safety of the neighborhood and Board of Health approval will be required. The motion was seconded by Paul Marienthal.

A roll call vote was taken and the motion was passed unanimously.

7:55 Public Hearing for Appeal 11-02, Stewart Shops Corporation application to install exterior lighting with light trespass from the property in excess of 0.25 foot candles where the zoning code limits light trespass at the property line to 0.25 foot candles. The applicant's lot is located at 7243 S. Broadway in the B1 zoning district. Chairman Annas opened the public hearing. Brandon Meyers was present to represent Stewart Shops. Chairman Annas said that the lighting level is going to be substantially reduced from what it currently is. Mr. Meyers said that Stewarts has reduced the lighting and plans to: remove the fuel steel tanks and replace them with fiberglass; replace the building

mansard metal with shakes; remove the internal lighted sign and install external lighting; plant perennials and upgrade the drainage system. All the lighting will be LED.

Mr. Meyers displayed a poster of the site and a photometric listing sheet detailing what currently exists, what the Planning Board is requiring and what the applicants are proposing. John was concerned about the safety factor, especially with the reduced lighting at the entrance and doorway.

Tim felt that a variance not exceeding one foot candle at the property line would be appropriate. Less than that would look too dark and would be dull and uninviting for the customers. Ken asked if the lights would be lower in height. Mr. Meyers responded that they would be the same.

Chairman Annas invited comments from the public. *Johanna Moore* stated that she lives behind Conway's. She wanted to know if the light will increase toward Adams Road. She said that it is very dark in the dumpster area as well as the air hose area. She was concerned that people might loiter there. In response to questioning, she said that she does not have any problems with the present intensity of the lighting, but would oppose any increase of lighting. If they add lighting to the back of the store, that would illuminate my property, she said. Hearing no further comments, Chairman Annas closed the hearing at 8:10 pm.

#### **MOTION**

Tim Ross made a motion to grant a variance allowing light trespass from this commercial property at the highway in the front to a maximum limit of one foot candle based on the fact that it would be a benefit to the applicant, will not be a detriment to the neighborhood and would provide a safer atmosphere in and around the shop. The motion was seconded by Paul Marienthal.

A roll call vote was taken and the motion was passed unanimously.

#### **REVIEW OF APPEAL**

8:15 Appeal 11-04, JNY Quest Realty, John Fragala owner, Red Hook Auto Supply application to erect a 1500 square foot building with 17% coverage where the maximum coverage allowed is 15%. The applicant's lot is located at 7307 South Broadway in the B-1 zoning district. Chairman Annas explained that the Planning Board waived the open space issue which had been listed on the application. He ascertained that the applicant was planning to build this structure as an addendum between the current building and Ruge's. Tim commented that Ruge's just did a similar thing.

Chairman Annas asked if the Board had any questions. Ken inquired about side yard setbacks and Mr. Fragala responded that he had met all the requirements. Chairman Annas set the Public Hearing for 7:15 P.M. on June 8, 2011.

## **ADJOURNMENT**

Tim Ross made a motion to adjourn the meeting. The motion was seconded by Paul Marienthal and all were in favor. The meeting was adjourned at 8:20 P.M.

Respectfully submitted,

Sheila Franklin  
Secretary

## **FINDINGS AND DECISION**

Appeal #11-01, Charles & Christine Riedinger application to expand the foundation of an existing single family dwelling to accommodate a one bedroom accessory dwelling where the zoning law does not permit such expansion.

### **FINDINGS:**

1. The property is located in the R1.5 Zoning District at 14 Grandmour Drive, Red Hook.
2. Tax Map #6273-00-714235.
3. The zoning law does not permit expansion of the foundation of an existing single family dwelling.
4. The applicant wishes to expand the foundation of his single family dwelling.
5. The relief being sought is not substantial.
6. There will be no adverse environmental effect and Board of Health approval will be required
6. Although there were objections from some of the neighbors, the Board determined that the benefits to the applicant outweigh the detriment to the neighborhood.
6. There will be no change in the character of the neighborhood.
7. 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 Paul Marienthal and carried by a 6-0 roll call vote.

Dated: May 11, 2011

**FINDINGS AND DECISION**

Appeal 11-02, Stewart Shops Corporation application to install exterior lighting with light trespass from the property in excess of 0.25 foot candles.

**FINDINGS:**

1. The property is located in the B1 Zoning District at 7243 S. Broadway, Red Hook.
2. Tax Map #6272-17-219182.
3. The zoning law does not permit light trespass at the property line to exceed 0.25 foot candles.
4. The applicant wishes to install exterior lighting with light trespass from the property in excess of 0.25 foot candles.
7. The Board grants a variance allowing light trespass in the front of this commercial property at the highway to a maximum of one foot candle because it will provide a safer atmosphere in and around the shop.
8. It will be a benefit to the applicant and will not be a detriment to the neighborhood.
6. No objections were raised.
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 Paul Marienthal and carried by a 6-0 roll call vote.

Dated: May 11, 2011