

**Town of Red Hook
Zoning Board of Appeals Meeting Minutes
August 10, 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,
Tim Ross

Absent: , Jim Hegstetter, Paul Marienthal

Also Present: Trilby Sieverding, Alternate; Robert Fennell, ZEO; Victoria Polidoro,
Town Attorney's office

PRELIMINARY BUSINESS

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

Comments: Chairman Annas said that Arvine and Wendy Coon have withdrawn their appeal and have petitioned the Town Board to be included in the agricultural district as they are bounded on the south by agricultural properties.

REVIEW OF APPEAL

7:05 Appeal 11-08, Stuart Smedes application to construct a 560 square foot detached garage with a 6 foot side yard setback where the zoning law requires at least 20 feet. The applicant's property is located at 18 Meadow Drive in the R1.5 zoning district. Chairman Annas invited Mr. Smedes to present his case. Mr. Smedes said that he wishes to build a small garage because he needs more space for storage. As his parents' home has to be sold, he anticipates having tools and other items from that house as well as an old car belonging to his father. Upon questioning, he said that there was no other suitable place on his property for the garage. The only other place from which he can meet the setback is in the far corner where it would be very visible from Rte. 199. However if it can be placed in the proposed location, it will blend in with the house.

In response to Chairman Annas' question, Mr. Smedes said that his septic and leach field are in the back. He showed the location to the Board on the map which he had submitted. Chairman Annas asked how he had established the location of the boundary. Mr. Smedes said that he had the measurements from the walkway to the side of the yard. It is 41 feet from the house and roughly 33 feet to the back of the yard. He said that he had arrived at these figures using a survey which was done after the building of the house and is therefore accurate.

Tim asked about the separation between the house and the garage. Bob said that the building code requires a minimum of five feet. Mr. Smedes said that it is seven feet from the walkway. He can move the garage closer to the house, but there is an incline which would cause problems. In response to John's question, Mr. Smedes said that there are only grass and bushes on the six foot side of the proposed building. There are shrubs on the property line between his house and the adjacent house.

Chairman Annas asked what is on the adjacent parcel on the side on which the garage will be located. Mr. Smedes said that there is another house. Their garage faces Mr. Smedes' home and is about twenty five or thirty feet from the property line. The driveways are about twenty five to fifty feet apart, depending on the point from which you measure. Mr. Smedes said that he plans to build a small, single door garage and he might extend the driveway just enough to get the car into the garage. Upon questioning by Chairman Annas, Mr. Smedes said that he presently has a two car garage which is part of the house. He uses that structure to store his tractor, snow blower, etc. He also has a son going to college in the fall and with the new garage, there will be one less car in the yard.

As the Board had no further questions, Chairman Annas set the Public Hearing for 7:05 P.M. on September 14, 2011. Mr. Smedes said that he has already spoken to the neighbor who lives on the adjacent property and he doesn't have a problem with the garage. He will try to get a letter from that neighbor.

PUBLIC HEARINGS

7:20 Appeal 11-06, Kim & Joseph Curthoys application to construct a garage and play area addition with 80% open space and 18% building coverage where the zoning law permits 70% minimum open space and maximum building coverage of 7%. On April 9, 2008 the ZBA granted a variance for this construction; however the applicants took no action on this approval and the variance has expired. The applicants' lot is located at 183 Country Club Drive in the RD3 zoning district. Chairman Annas opened the Public Hearing and asked if anyone was present to speak to this issue. As there was no response, he closed the Hearing. He established that Mr. Curthoys was asking for exactly what he had asked for in the 2008 appeal. The Board had no further questions.

MOTION TO GRANT VARIANCE

Tim Ross made a motion to grant the applicant a coverage variance from the existing 12%, which exceeds the allowed 7%, to 19% (without the shed) to build the

proposed addition. The variance is granted for the same reasons as it was previously granted in 2008, viz. there are no setback issues; it will be a benefit to the applicant without any detriment to the health, safety or welfare of the community; it is in keeping with and reasonably consistent with some of the other properties in the neighborhood and it is understood that the shed shall be removed prior to the issuance of a Building Permit. The motion was seconded by John Douglas. A roll call vote was taken and all were in favor.

7:20 Appeal 11-07, Richard and Nancy Nuzzo application to construct a 252 square foot car port/bedroom addition seven feet from the side property line where the zoning law requires a twenty foot side yard setback. The applicants' property is located at 63 Birchwood Drive in the R1.5 zoning district. There was preliminary discussion prior to the opening of the Hearing, which was scheduled for 7:35 P.M. Chairman Annas determined that the Nuzzos had not submitted a revised application in keeping with the developments subsequent to the Appeal Review in July. Bob Fennell said that they could revise the application which has already been submitted to the Board. Chairman Annas explained that the seven feet which had been requested has been reduced to minus two and a half feet. The structure is sitting on the neighbor's property.

John Douglas had to leave the meeting at 7:27 P.M. to attend another meeting.

Chairman Annas opened the Hearing at 7:35 P.M. He stated that since the previous meeting, the applicant has had a survey done which indicates that the structure intrudes two and a half feet onto the neighboring property. Therefore Mr. Nuzzo must file an amended application.

Mr. Nuzzo said that he had hired an engineer and a contractor prior to commencing this project. The Building Permit had been issued and the post holes were dug. An inspection did not reveal any problems. However, following a telephone call from a neighbor inquiring about whether or not a variance had been obtained, a Stop Work Order had been issued. At the request of the ZBA, he continued, he had a survey done which revealed that the structure crossed the adjacent property by two and a half feet. Now, Mr. Nuzzo continued, his plan is to bring the structure entirely onto his property. However, it would be only one foot from the property line.

Mr. Nuzzo stated that his neighbors were in support of the new plan to build the addition one foot from the property line and he submitted a petition which a large number of neighbors had signed. Chairman Annas also acknowledged that prior to the Hearing the Board had received three letters in support of Mr. Nuzzo's original appeal. Mr. Nuzzo admitted that he had made some mistakes, but said that he was not aware that the project had crossed over the property line. He stated that he will do everything possible to bring the structure back onto his property.

Victoria Polidoro of the Town Attorney's office said that if the appeal is modified, it must be published again. Notices must be sent again and another Public Hearing held. Chairman Annas agreed that the public must be notified again.

Tim asked if Mr. Nuzzo is planning to reduce the size of the structure and Mr. Nuzzo responded in the affirmative. He suggested that sometimes a property trade is possible between the two landowners. However, it was determined that the neighbor, Mrs. Rodriguez, is not able to make such a swap. Therefore, Mr. Nuzzo said, his plan is to bring the structure onto his property so that there is no issue. It was established that no part of the structure would be over one foot from the property line.

Chairman Annas asked if Mr. Nuzzo was going to narrow the structure or foreshorten it. Mr. Nuzzo said that he might have to do a combination of both. He stressed that he is willing to do whatever it takes to bring the structure completely onto his property at a cost which is manageable. The Board then reviewed the plans and discussed how the changes to the structure might be effected

Mr. Nuzzo again acknowledged that he had made some mistakes, but the structure is already 90% complete and he is willing to accept any reasonable compromise. Bob Fennell said that the town relied on the information the Nuzzos gave them on the building application. Mr. Nuzzo pointed out that the building application has since been modified because it is vague and confusing. It was necessary to change that form subsequent to this incident. Chairman Annas acknowledged that fact, but said that the figures submitted were still incorrect. Mr. Nuzzo agreed. He also thanked Chairman Annas for explaining the process and coming to his property to speak with him and his wife personally.

In order to expedite the proceedings, Chairman Annas asked the applicant to initial a change to the original application rather than submit a new application. The application was changed to indicate that the structure will be one foot from the property line. The applicants were given a copy of the revised and initialed application.

Chairman Annas opened the Hearing. Neighbor *Inge Gallagher* of 55 Birchwood Drive said that she had lived next to the Nuzzos for twenty five years and they have been wonderful neighbors. She said that she supported the construction and did not understand why such an issue was being made over a few feet. She expressed concern about the expense to the Nuzzos and felt an agreement should be reached over the property lines. She said that she felt that the Nuzzos should be granted a variance and should not have to make any changes. Chairman Annas said that the town could not provide a Building Permit which would authorize someone to build on someone else's property.

Chairman Annas asked if anyone else wanted to speak to the issue. Hearing no response, he continued the Hearing until September 14, 2011 at 7:20 P.M. Mr. Nuzzo confirmed with the Board that he cannot do anything further with the engineer or the contractor relative to the construction because he needs to wait until September to see if the variance is granted. Chairman Annas said that the Board needs the response of the neighbors to the revised appeal. Tim said that Mr. Nuzzo cannot do any physical work; however he can proceed with making plans for the construction.

Chairman Annas asked if Mr. Nuzzo knows approximately how he will alter the structure. Mr. Nuzzo said that he is considering two approaches. Chairman Annas asked the

members of the Board to go to the property and look it over. Mr. Nuzzo said they can visit the property anytime. Chairman Annas asked Mr. Nuzzo to paint where the lines would be and to bring a tentative sketch to the next meeting. Tim said that a stepped plan might actually be better as it would give more character to the building.

Chairman Annas asked for any further comments or questions. *Mr. Carl Rockhill*, who lives across the street from the Nuzzos, expressed support for Mr.Nuzzo.

Chairman Annas closed the discussion by repeating the date for the continuation of the Hearing, viz. September 14, 2011 at 7:20 P.M.

ADJOURNMENT

Tim Ross made a motion to adjourn the meeting. The motion was seconded by Chris Carney and all were in favor. The meeting was adjourned at 8:10 P.M.

Respectfully submitted,

Sheila Franklin
Secretary

FINDINGS AND DECISION

Appeal 11-06, Curthoys application to construct a garage and play area addition which would reduce the minimum open space requirement from 80% to 70% and increase the total building coverage from 7% to 18%. The applicant's lot is located at 183 Country Club Drive in the RD3 zoning district.

FINDINGS:

1. The property is located in the Town of Red Hook at 183 Country Club Drive.
2. Tax Map #6372-19-731137.
3. The zoning law requires a maximum of 7% coverage and 80% open space. The existing coverage is 11.8%.
4. The applicant wishes to construct a garage and play area addition which would reduce the minimum open space requirement from 80% to 70% and increase the total building coverage from 7% to 18%.
5. The existing shed shall be removed prior to the issuance of Building Permit.
6. A variance would be of benefit to the applicant with no detriment to the community.
7. There will be no change in the character of the neighborhood. It is in keeping with and reasonably consistent with some of the other properties in the area.
8. 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 John Douglas and carried by a 6-0 roll call vote.

Dated: August 10, 2011

