

**Town of Red Hook  
Zoning Board of Appeals Meeting Minutes  
September 14, 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, Chairman, Kenneth Anderson, Christopher Carney, John Douglas, Paul Marienthal, Tim Ross, alternate Trilby Sieverding  
Absent: Jim Hegstetter  
Also Present: Robert Fennell, ZEO

**PRELIMINARY BUSINESS**

Minutes of August 10, 2011: Chairman Annas asked if everyone had read the August 10, 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 Trilby 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 the hearing for Stuart Smedes will be held at the October 12, 2011 meeting.

**REVIEW OF APPEAL**

7:05 Appeal 11-10, Kim & Joe Curthoys application to demolish the existing residence and build a new residence at 183 Country Club Drive with total building coverage of 18%, 70% open space and a building height of 42.5 feet where the Code allows maximum building coverage of 7%, minimum open space of 80% and maximum building height of 35 feet. The applicants' property is located at 183 Country Club Drive in the RD3 zoning district. Tim said that the structure is very large, perhaps forty percent more than what we were talking about previously. He said that he did not have an issue with the coverage, but the style is not consistent with the houses in the area. Mrs. Curthoys said that the building is the same size as it was; it is just going up in height. Bob Fennell said that the whole house has been enlarged; they are building a very large structure. Tim asked why the current plans were not brought to the Board at the last meeting a month ago. Mrs. Curthoys said that she did not think that the change in the style of the house would cause problems.

Chairman Annas recapped the issues, saying that previously the Curthoys were applying for two variances: to go from the maximum building coverage of 7% to 18% and the open space reduction from 80% to 70%. She is asking for those two variances now plus the addition of increasing the maximum height from 35 feet to 42.5 feet. The coverage and the open space are not the issues now. She asked for and was granted those variances previously. The issue now is the height.

Tim said that the plans should have been brought to the previous meeting. He said that the request which was made at that meeting was presented as being no different from what had been approved in 2007. Mrs. Curthoys replied that at the time of the last meeting they did not have plans. You did however have concepts, Tim said. This plan is very different from the original one and would change the character of the neighborhood. This Board was very understanding in 2007 when the original variance was approved and you did not take action on that variance. Mrs. Curthoys invited the members of the Board to visit the property because she said that they would see that their current plan would be in line with the new houses which have gone up around the property. John said that he felt that the original plan would have fit in very nicely; however he expressed concern over the present plan.

Bob Fennell said that the neighbors who were notified of the previous Hearing received the wrong information. They didn't come because they thought it was a simple variance. It is not a simple variance; what they are doing is something big and people may be interested in knowing that.

The Board agreed to meet on September 19th at 6:30 P.M. at the Curthoys property to review the issues on site. The applicants requested to delay their Public Hearing until the November meeting. The Hearing was scheduled for 7:05 P.M. on November 9, 2011.

## **PUBLIC HEARING**

8:05 Public Hearing for Appeal 11-07, Richard and Nancy Nuzzo application to construct a 252 square foot car port/bedroom addition one foot 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. Charirman Annas said that a little bit of the addition which the Nuzzos had started to construct turned out to be on the adjoining property and they are now applying for a variance with a plan to remove that portion. They have revised their request so that the addition is no closer than one foot from the boundary. He opened the Public Hearing for comments. Inge and Jim Gallagher of 55 Birchwood Drive said they have no problem with the requested variance. As there were no further comments from the public, Chairman Annas closed the Hearing at 8:08 P.M.

For the benefit of the Board, he recapped the events which had occurred. He said that the Nuzzos had filled out a form when they applied for a Building Permit which asked for the closest distance from the finished structure to each of the four boundaries. This was interpreted by the applicant to mean the current structure and he showed 20 feet from the

closest portion of the current structure to what he thought was the boundary. He later determined that the boundary was incorrect. He reduced the twenty feet by the twelve feet that the addition was going to take up and requested a variance of about eight feet. However, based on the figures in the form which he had submitted, he had been issued a Building Permit, had put in the footers and had built the structure which is basically a bedroom over a carport. It is on three or four columns, but attached to the house.

Later a survey was done at Tim's request and that survey showed that the addition is, in fact, two and a half feet over the boundary line on Mary Rodriguez' property. A Stop Work Order was issued. The unit is framed; the windows are in and the roof is on. Construction has ceased and they are now looking for a variance to alter that portion of the structure which is on the adjacent property to bring it within one foot of the boundary.

Mr. Nuzzo said that they have altered the plans so that at no point will the structure be more than one foot from the side property line. There are now two footers with pillars on the adjoining property. The Board then reviewed the current plans for the structure. John asked what caused the issuance of the Stop Work Order. Mr. Nuzzo said that his neighbor had questioned whether or not a variance had been issued and had telephoned Bob Fennell's office.

Chairman Annas said that Mr. Nuzzo had misinterpreted the form he made out for the Building Permit. The figures which he gave were from the original structure whereas the intent of the form was to obtain the figures from the final structure. When the form was submitted, Bob saw that the distance from the boundary was listed as twenty feet and so he issued a Permit. Tim noted that the application form has since been modified to make it clearer.

Chairman Annas read into the record a letter received from the law offices of Warren S. Replansky, representative of the Mary C. Rodriguez Family Living Trust. One of their objections to the granting of a variance was that "the Nuzzo lot is large enough so that an addition to the house can be created which complies with the setback requirements of the Zoning Law." Chairman Annas felt that this is not the case. The existing structure, he argued, does not meet the setback. It is only nine and a half feet where twelve is required. This fact, he pointed out, also mitigates against the argument made in the letter that "most residences within that neighborhood comply with the setback requirements of the Zoning Law." He read and discussed the four stipulations which the Rodriguez family wishes to be incorporated into the determination. They are willing to "withdraw any opposition to the area variance" if these stipulations are included in the variance determination. Chairman Annas felt that the four stipulations were reasonable and he suggested that one further stipulation be added. There are two footers presently on the Rodriguez property and he felt that they should be removed. The Nuzzos agreed to the removal of the footers.

Chairman Annas asked if there were any further comments or objections to the modification of the structure. No objections were registered. Tim said that this house was built prior to zoning law, so there were no setbacks and it is not unusual for this type of problem to arise under such conditions.

### MOTION TO GRANT VARIANCE

Chairman Annas made a motion to grant the variance with the four stipulations made in Warren Replansky's letter, including removal of the encroaching driveway pavement and with the additional stipulation that the footers should be removed. Not doing this would pose a substantial financial hardship on the Nuzzos and there is no opposition from any of the neighbors. The motion was seconded by Ken Anderson. A roll call vote was taken and all were in favor.

### **REVIEW OF APPEAL**

8:35 Appeal 11-09, William Giblin & Shelly Shugars application to construct a seven foot high fence in the required front yard where the zoning law limits fences to four feet. The applicants' property is located at 8467 Route 9, Tivoli in the RD3 zoning district. Chairman Annas invited the applicants to present their case. Ms. Shugars said that their home is on Route 9 and there is a lot of noise. There is a five foot tall hedge; but it does not help the situation and they want to remove it. When they expressed interest in installing a solid fence, Tim told them that if they want to cut sound, a flat, solid fence will not do a lot of good. He advised them to do some research.

Chairman Annas asked if they plan to put shrubbery on the outside of the fence and they said that they plan to put shrubbery on the house side of the fence. He asked if they had thought about what Route 9 would look like if everyone put a fence between the road and their house.

Chairman Annas asked what they thought the fence would do for them since they are up on a knoll. Mr. Giblin felt it would deflect some of the noise. Chairman Annas replied that some noise would be abated, but only what hits the fence not what goes over the fence. Since the driveway goes up six to seven feet, he felt that they would be better off with windows. Windows can block out a tremendous amount of street noise.

The Board reviewed the sketch submitted by the applicants. Chairman Annas asked them to bring in pictures of the fence they plan to put up. In response to questioning, they said that they might put in plantings of maple trees, red spruce or oak. A discussion of possible means of landscaping the fence ensued.

Tim pointed out that the case has to be referred to the County because the property is on Route 9. Chairman Annas scheduled the Public Hearing for October 12, 2011 at 7:05 P.M.

## **ADJOURNMENT**

Ken Anderson made a motion to adjourn the meeting. The motion was seconded by Tim Ross and all were in favor. The meeting was adjourned at 8:45 P.M.

Respectfully submitted,

Sheila Franklin  
Secretary

## **FINDINGS AND DECISION**

Appeal 11-07, Richard and Nancy Nuzzo application to construct a 252 square foot car port/bedroom addition one foot from the side property line.

### **FINDINGS:**

1. The property is located in the Town of Red Hook at 63 Birchwood Drive in the R1.5 zoning district
2. Tax Map # 6172-19-714119.
3. The zoning law requires a twenty foot side yard setback.
4. The applicant wishes to construct the addition one foot from the side property line. The building extension shall be at least one foot from the side property line at the closest point of structure.
5. That portion of the Nuzzo's driveway which currently encroaches on the Rodriguez property shall be removed.
6. The plans and specifications for the reduction in the building construction shall be provided to the Zoning Enforcement Officer, the Zoning Board of Appeals, the Building Inspector and to the Rodriguez' for their review. These plans must also show the manner in which the encroachment of the driveway will be rectified.
7. No Certificate of Occupancy shall be issued for the addition by the Building Inspector and Zoning Enforcement Officer until an as-built survey is provided certified both to the Nuzzos and the Rodriguez' by a surveyor or engineer licensed in the State of New York demonstrating that the addition to the Nuzzo property has been constructed at least one foot from the property line at its closest point and that the driveway encroachment has been removed.
8. The two footers currently on the Rodriguez property shall be removed.
9. 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.
8. There will be no impact on the health, welfare or safety of the community.

**DECISION:** Nick Annas made a motion to grant the variance based upon the above findings. The motion was seconded by Ken Anderson and carried by a 6-0 roll call vote.

Dated: September 14, 2011