

**Town of Red Hook  
Zoning Board of Appeals Meeting Minutes  
April 11, 2012**

**CALL TO ORDER**

In the absence of Chairman Nick Annas, Jim Hegstetter made a motion to appoint John Douglas as Temporary Chairman. The motion was seconded by Chris Carney and all were in favor. The meeting was called to order at 7:10 P.M by Chairman Douglas.

**ROLL CALL**

Members Present: John Douglas, Kenneth Anderson, Christopher Carney, Jim Hegstetter, Paul Marienthal, alternate Trilby Sieverding

Absent: Nick Annas, Tim Ross

Also Present: Bob Fennell, ZEO; Victoria Polidoro, office of the Town Attorney

**PRELIMINARY BUSINESS**

Minutes of March 14, 2012: Chairman Douglas asked if everyone had read the March Minutes and invited comments or questions. Hearing none, Jim made a motion to approve the Minutes as written. The motion was seconded by Paul 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.

**PUBLIC HEARING**

7:11 Public Hearing for Appeal 12-02, Allen Hansen application to raise fowl on a lot of 1.22 acres where the code requires a lot of at least two acres for the keeping of fowl. The applicant's property is located at 168 Hapeman Hill Road in the RD3 zoning district. Trilby recused herself from this Hearing and left the room.

Mr. Hansen said that he is not in compliance with the code relative to the raising of fowl because his lot is substandard. When the property was subdivided, the Planning Board cut the lot size from 3 acres to 1.22 acres. Bob Fennell read the relevant section of the Code, viz. Section 143.39D. Chairman Douglas asked Bob if it were not true that when the lot was subdivided, the applicant wanted a three acre lot but the Planning Board cut it down to 1.22 acres. Bob said that he believed that to be true. Ken said that the action of the Planning Board was intended to support agriculture by conserving agricultural land.

Chairman Douglas asked for comments or questions from the Board. Ken asked how many pheasants Mr. Hansen planned to raise. Mr. Hansen replied that the maximum allowed by the Code is twenty. He would also be hatching chicks, and would be keeping them until they are almost mature. He would only maintain twenty adult birds. Jim said

that he rode out to the property and examined the pens, which he felt looked good. Ken asked if Mr. Hansen had gotten any reactions from the neighbors. Mr. Hansen said that he had talked to a few of the neighbors and they had no problems with the project.

Chairman Douglas opened the Public Hearing at 7:17 P.M. *Attorney Paul Freeman* rose to speak on behalf of Richard Hansen who owns the adjacent property. He confirmed that birds are being raised and sold to gun clubs. In view of that fact, Mr. Freeman said that the operation is not an agricultural undertaking. This is a business; it is an enterprise which is not for the production of food. Under the Code, to be defined as a farm product it must be for the use of food or feed. However this is a non-farm parcel and this is not agricultural in nature. Therefore what the applicant wishes to do is to operate a business in a residential zone. This is not permitted and would require a use variance.

If he were raising the birds to sell them to restaurants for food, Mr. Freeman said, that would be different. It would technically fall under the definition of agriculture. By selling the birds for non-food production, the applicant is conducting a home occupation. It would be no different than selling widgets from his basement. A home occupation, however, can only be conducted in accessory buildings which are normally associated with a residential use. This type of facility is not normally associated with residential use.

The second objection made by *Mr. Freeman* was that the Code (Section 143-39A) says that no cage type poultry operations shall be maintained on a non-farm parcel in any district. The applicant, Mr. Freeman asserted, is saying that Section C applies. Section C states that not more than twenty adult birds shall be kept on a non-farm parcel of less than two acres. However, that can only occur in an H, an R1 or an R1.5 district and the applicant is in an R3 district. Therefore subdivision C has no application and one must revert to subdivision A, according to which this operation is prohibited. Section D mandates that one must have at least two acres, but less than ten. The applicant does not have that either. Therefore, the applicant needs a use variance and the standard for a use variance is very different from the standard for a simple area variance.

In addition *Mr. Freeman* continued, under subdivision D3 none of the structures can be any closer than 100 feet from an existing neighbor or within twenty feet of a residential property line. The structures he proposes violate both of these criteria. The immediate community is residential in nature. The other facilities which were mentioned at the previous meeting are in the ABD District.

*Mr. Freeman* continued, saying that the Permit for game bird breeding which was provided to this Board at the last meeting expired March 31, 2012, eleven days ago. Also, the DEC requires tuberculosis testing in connection with the maintenance of these licenses. Mr. Freeman questioned whether this testing has been done and submitted. In addition, he said that there is a pending law before the N.Y.S. Senate which was specifically proposed to include game bird breeding in the definition of livestock under agriculture. New York State has failed to adopt this law. Based upon all the arguments he presented, Mr. Freeman asked the Board to deny the application.

Bob said that, for non-farm parcels, the Town Code defines agriculture as activities connected with the raising of crops and, to the extent permitted in Section 143-39, the keeping, grazing and feeding of animals. *Mr. Freeman* responded by saying that Section 143-39 specifically prohibits the raising of cage type poultry on a non-farm parcel. The general rule under the definition of agriculture says that you cannot do it.

Bob asked Ken, as a farmer, to define a cage type poultry farm. Ken said that the poultry would be under confinement, as these birds would seem to be. Bob said that the intent of the law was for children to be able to have chickens in their back yards. In response to questioning, Mr. Hansen said that he would like to have 100 birds, 20 being adults and the remainder being juveniles. He said that it would not be a cage operation. After the chicks reach the age of six to eight weeks, they would be put outside in an open pen with a net over the top to keep the birds in and predators out. He said keeping the birds is basically a hobby, but he has an outlet for getting rid of the offspring.

*Mr. Wayne Graff*, Stevens Lane, said that he was concerned about a precedent being set which would permit any type of hobby fowl as certain birds might carry ticks or create undue noise. Victoria said that the Code permits all types of fowl. The issue here is the size of the lot.

Chairman Douglas asked for comments from the Board. Paul asked what the objection was, other than that it would be a business. It is a small number of animals which would be well contained. It is not a big cage operation. It is similar to a 4H sized operation. *Mr. Freeman* replied that there had been a similar former operation which had hundreds of birds. It was shut down because it was not a healthy environment and was attracting rats. Further, he said, the number of birds just went from twenty to one hundred. Who is to say that it could not go to 200? Paul said that if you have 100 birds, that is more than a 4H project. That would be a lot of good sized animals. Ken agreed.

Jim said that only one party here is objecting to this. He asked if any letters had been received by the Board and it was ascertained that none had been received. He verified that the neighbors had not voiced any objections. Ken said that he would support having 20 adult birds on less than two acres.

*Mr. Freeman* asked whether the standards for meeting even an area variance had been met, e.g. whether it will have an adverse effect on the environmental conditions in the neighborhood. Nothing has been said about the conditions which supported the closure of the previous operation and whether or not any safety measures will be used. Is the requested variance substantial? He submitted that it is. Two tenths of an acre constitutes a right of way; the actual parcel is only an acre. The variance requested is therefore for 100% more than what is permitted. Is the alleged difficulty self-created? It is. Nothing prevents the applicant from renting space from a farmer and operating in the ABD district, which is close to his property. *Mr. Freeman* concluded by saying that this operation would be a detriment to nearby properties because it is in a residential zone.

Jim said that he did not know what the conditions were previously and that is why he drove to the site to see it. It looked clean, humane and professional. It did not look as though it would pose a health issue. In response to questioning, Bob said that when he went to the site, he did not see any birds or cages. He saw pens which were neat and clean.

Chairman Douglas said that if Mr. Hansen had three acres, he would be permitted to have sixty adult fowl. The lot had been part of a larger parcel which was subdivided. The original intent was to subdivide a three acre lot out of the larger parcel. The Planning Board decided that the land was agricultural land and they made the proposed lot smaller to increase the agricultural land on the remaining lot. The surrounding area has agricultural land. At one end of the road there is a farm and at the other end there are animals. There are probably animals in between. The applicant wants to have twenty adult pheasants and up to 80 juveniles. If he were in the R1.5 District, he would not need to be here. Because the property was reduced from a potential three acre lot to a 1.22 acre lot, he has to be here today.

Chairman Douglas closed the Public Hearing at 7:55 P.M. He asked if there were any further comments. Mr. Hansen presented a license from the N.Y.S. Dept. of Environmental Conservation with an expiration date of Mar. 13, 2013. Chairman Douglas asked if an inspection had been done prior to the issuance of that license. Mr. Hansen said that it had.

#### Motion to Grant Variance

Jim Hegstetter made a motion to grant the area variance based on the information shared here and the currency of the license which was presented. The variance would be a benefit to the applicant with no detriment to the health, safety or welfare of the community. Chairman Douglas added that the alleged hardship has not been self created. It was created by the Town of Red Hook. The requested variance will not alter the essential character of the neighborhood. Chris Carney added a stipulation that there be no more than a total of 100 birds, adult and juvenile. Chairman Douglas added that the variance is not substantial because it is in an agricultural business zone and is surrounded by agricultural business parcels. The motion was seconded by Chris Carney. A roll call vote was taken and all were in favor. The variance was therefore passed by a 5 to 0 vote.

#### **PUBLIC HEARING**

8:05 Public Hearing for Appeal 12-03, Roger Hoffman application to create a two lot subdivision from a 10.02 acre parcel. Creation of this subdivision will require the following variances: 74.1 foot front yard setback where the maximum allowed by the code is 18 feet, 11.8 foot rear yard setback where the minimum required by the code is 20 feet and 14 parking spaces where 28 are required by the code. The applicant's property is located at 19 Old Farm Road in the TND-CC and TND-RES districts. Mr. Hoffman and his son Steven were present and were represented by surveyor Marie Welch. Alternate Trilby Sieverding, who had recused herself for the previous hearing, joined the meeting.

Ms. Welch said that there are two existing businesses on the property, viz. Roger's antiques business and the two buildings housing Steven's car repair business. Roger would like to create a lot for his son Steven so that Steven can continue in his business regardless of what Roger chooses to do with the rest of his property. She said that there is an existing well and existing parking spaces. The changes in the zoning law along with the unusual shape of the parcel have created the need for the variances. Using one of the plans, she explained how the lot is laid out and explained where and why the requested setbacks are necessary.

Chairman Douglas opened the Public Hearing at 8:10 P.M. *Cathy Stoppenbach* of Rokeby Rd. asked if there were any wetlands on the property. She was assured that there were no wetlands on the lot. *Frank Stoppenbach* asked if there were any markings on Mr. Hoffman's lot. Ms. Welch said that she had not staked the property when it was surveyed. She does not do so until everything is approved. She used previous records and updates to develop her current plan. In response to questioning by *Mrs. Stoppenbach*, Ms. Welch said that when the site plan was originally approved, the Planning Board asked for nineteen parking spaces in order to create the subdivision. However according to the previous zoning law, only fourteen spaces were required and that is why we are asking for fourteen spaces. The new zoning law says that we have to double the number of parking spaces; but they want it on this small lot, which doesn't make sense. Relative to this point, Ms. Welch reviewed the plan with the Board.

In response to questioning by *Mrs. Stoppenbach*, Ms. Welch explained that the 11.8 foot rear yard setback is necessary in order to preserve Steven's well. If they went over twenty feet, he would lose his well. Mrs. Stoppenbach inquired about the septic and was assured that it has been approved by the Dutchess County Dept. of Health. It has been there for eight years. *Linda Keeling* asked if a handicapped parking space had been included among those requested. It is required that one space be included for every 25 parking spaces. Ms. Welch said that she could increase her request to 18 spaces and then she could design a handicapped space. Chairman Douglas asked if there were any further questions from the public. Hearing none, he closed the Public Hearing at 8:20 P.M.

#### Motion to Approve Variances

Paul Marienthal made a motion to grant the variances for: 18 parking spaces, one of which will be ADA approved for handicapped use; a 74.1 foot front yard setback where the maximum allowed by the code is 18 feet and an 11.8 rear yard setback where the minimum required by the code is 20 feet. This motion is made because: no hardship is involved; it will not change the essential character of the neighborhood and the problem is not self-created but is in response to changes in the zoning code. The motion was seconded by Ken Anderson. A roll call vote was taken and all were in favor. The motion was therefore passed by a 6 to 0 vote.

## **PUBLIC HEARING**

8:30 Public Hearing for Appeal 12-04, Patrick Sheehan application for an interpretation of Section 143, 49.1.H (1) which lists the permitted uses and standards in the TND-CC zoning district. He wishes to operate a retail sales and rental business of used cars; however the rental and/or sale of used cars is not listed as a permitted use in the zone. The applicant's property is located at 7311 South Broadway in the TND-CC zoning district. Mr. Sheehan was accompanied by attorney Wayne Graff. Mr. Sheehan reviewed the history of the lot, noting that auto related businesses have been operating from it for decades.

Mr. Sheehan said that prior to July, 2011, it would have been easy for him to start his proposed business. However under the new zoning law, the use he proposes is not specifically listed and is therefore being considered to be prohibited. He is before the Board because he disagrees with that interpretation. He said that the law prohibits vehicular oriented land uses but he argued that the use he proposes is not subject to this prohibition as it is not a vehicular oriented land use. What is permitted is retail service and office uses to serve the neighborhood, including stores and shops. He stated that what he is proposing is a store with an office for paperwork.

The intent of the new law, Mr. Sheehan continued, was to preclude the type of business which would create urban sprawl. However, he said, that sprawl has already occurred. The property is on Route 9. This property has historically been used for auto related businesses. He noted that it already has a handicapped parking space. He concluded that this is a hardship created by the Town on him and his proposed business would not alter the character of the neighborhood.

Attorney Victoria Polidoro reminded the Board that this is an interpretation. The Board is not looking at this specific property, she said; rather it must focus on whether this is an allowed use in the zone. Mr. Sheehan replied that retail sales in a commercial environment is allowed.

*Rosemary Zengen* was recognized by the Chairman. She said that she lives at 7314 South Broadway, directly across the street from where Mr. Sheehan proposes to locate his car business. She said that this will not be a hardship for the adjacent neighbors at all. In fact, Mr. Ruge has a similar business in Rhinebeck and it works very well in the Traditional Neighborhood created in Rhinebeck. She said that she thought that this business should be allowed and no business enterprises should be discouraged in Red Hook in times like these. It will not pose a hardship for me as I look out of my window at this business, she said. It has been a car business for many, many years. When tourists come to the area, they can rent a car there. I see no reason why this should not go through. If Mr. Ruge is behind it, you can be sure that it will be done tastefully. If it doesn't bother me as the adjacent neighbor, she concluded, it shouldn't bother anyone else.

*Linda Keeling* said she is a member of the Chamber of Commerce. She said that the Chamber wants to encourage business and keep our area vital. There have been a lot of empty store fronts in the village and we want to fill those empty spaces. She said that she

thinks that this new business should be approved as we need new business and tourism, especially in this economy. Tourists coming to the area may want to rent a car.

*Rosemary Zengen* said that part of the concept of this traditional neighborhood is that people should be able to walk from the center of town to Hardscrabble. I am here about ten hours a day, she said, and I see very few people walking. In the winter it is dead. I don't think this traditional neighborhood concept is going to work here and I think business should be encouraged, she concluded.

*Chris Close* of the Economic Development Committee and the Red Hook Historical Society was recognized by the Chairman. He agreed that Red Hook should try to attract business. However, he said that we need change so that we can begin to accommodate those who want and need to walk. He emphasized how hard the Committee worked to get the zoning changes passed and how long the process took. He suggested that businesses present a friendlier front to the village in the context of the new zoning regulations. He referred to Mr. Ruge's business in Rhinebeck where the building was modeled after the Delamater House and said that he would like to see the southern part of the village look like that. He urged the Board to consider the future in order to achieve the vision of the Centers and Greenspaces plan for which the Town Board voted.

*Rosemary Zengen* said that this is the same argument which they used against Hannaford. This traditional neighborhood plan where people walk a mile and a half outside of the village to get groceries and walk back into the village with their heavy bags is utopian. I do not believe that this will happen. She said that by extending our village proper all the way out to Hannaford we have destroyed the traditional neighborhood which existed in the village.

This business is not going to make a bit of difference as to whether the traditional neighborhood works or doesn't work, Mrs. Zengen continued. The farther away from the village proper you have strip malls and major businesses like Hannaford, the more you destroy the village proper. I am sure that Mr. Sheehan, working with Mr. Ruge who is a very good member of our community, will put in place a business which is very tastefully done and attractive. She concluded by saying that this business should be allowed. It will increase the number of businesses in town and will be good for tourism as well.

Chairman Douglas ascertained that there are no other car sales businesses in the village of Red Hook. Regarding the appearance of the business, Mr. Sheehan said that he will make no changes to the building. He will be a subtenant and does not have the resources or the authority to do that. He said that he will simply be using a portion of the building which is presently underutilized. As a member of the Tree Committee, *Rosemary Zengen* said that the Committee could plant flowers and trees on the island. Responding to Mrs. Zengen's comments about the walking distances, Mr. Sheehan said that traditional neighborhoods are typically an urban village center of about 400 meters walking distance. The distance in Red Hook is a very long distance. Such neighborhoods are generally within a town without a well defined center; however Red Hook has a very well

defined center. That is what is counterintuitive to this use at this time on this particular parcel or any parcel in that zone. But that is a Town Board issue, he concluded.

*Attorney Wayne Graff* said that the businesses in the area are all automobile related. There is no definition of vehicular oriented businesses in the law. Is this a prohibited use? The zoning law talks about retail uses. It does not say which retail businesses are permitted. It does not say that you can sell tomatoes or books, but you can't sell lingerie. It just says you can sell things. If you can sell parts, why can't you sell the whole car? Is it related to having things outside? I don't think so, he said, because you can sell sheds and garden things. Why not vehicles? It might encourage some people to say that they don't need a car because they can rent one. This would make it consistent with getting away from a vehicle dependent community.

There is nothing which is inconsistent with the community concept, Mr. Graff continued. This would be a small operation. There will not be a lot of drive in and drive out. How often do people go shopping for a car? I think that the intent of the law is to avoid drive through businesses. There is no more parking outside than there would be at a bank, a theater or a restaurant. Also, there are half a dozen businesses in the immediate area with similar uses.

Bob Fennell said that the law says you cannot do this. The Board has to take that into consideration. *Mr. Close* said that we have a law and we must change to accommodate it. *Mr. Graff* said that this is a retail use. It is not different from any other retail use. The neighbors want it. It will be an asset for the Town and will not be at variance with the long term goals of the Town.

*Mr. Tom Powers*, owner of the NAPA store, was recognized by Chairman Douglas. He said that Mr. Sheehan had approached him about putting in a used car lot. He was probably the tenth person who approached me to rent that portion of the building, Mr. Powers said. He turned down all the other people because he felt their use would be detrimental to the community. Repair shops bring in about three or four times as much traffic as a used car lot. I felt that an operation with a small, retail sale of vehicles would be better for the community than another repair shop or other use. Since the State collects sales tax on the sale of vehicles, I would assume, Mr. Powers said, that this would have to be considered a retail business.. Since I opened my store six years ago, I have added four jobs to the community. This operation could add another two or three jobs to the community. We are looking out for the economic development of the community.

*Mr. Steve Zacharzuk*, 92 Cambridge Dr., said that he disagrees with Mrs. Zengen about the walking. He said that he is a walker and there is a lot of walking going on in the village. He also said that he disagrees with Mr. Close. He felt that Mrs. Zengen would be very happy if Mr. Ruge took over the operation and made it like Rhinebeck. Red Hook does not want to be Rhinebeck, he emphasized. He said that he is in favor of business opening up and adding two or three jobs to the community would be good.

*Mrs. Zengen* said that the area is all automotive related businesses. If Mr. Sheehan opened his business, he would be bringing people into the town who would not otherwise be going into the town. The area is already an active strip of vehicular businesses.

Attorney Victoria Polidoro reminded the Board that the issue before them is not whether the proposed use is a vehicular oriented use. She suggested that the Board go through the permitted uses and determine whether this use is permitted or not. Bob said that this is a permitted use in the B1 and B2 zoning districts. Mr. Sheehan replied that those districts do not have any businesses with automotive uses. In fact, he said, there was a retail motorcycle shop which failed because no one goes there to buy vehicles. The areas in Red Hook where you can do business, viz. the B1 and B2 zones, are very circumscribed and include only about 10% or less of the total.

Mr. Sheehan said that he wants the Board to address all the important issues. He does not want to be approved under one point of the law, only to be disapproved under another and have to return to this Board. Chairman Douglas asked if there were any other comments from the public. Hearing none, he closed the Hearing at 9:21 P.M.

Chairman Douglas read the permitted uses in the zone. Among these uses were retail service and office uses to serve the needs of the community, including stores and shops for the conduct of retail business. He said that he would call Mr. Sheehan's business a retail business. I would not call it a vehicular oriented land use as that would involve a high traffic volume, like a McDonald's which has a drive through. The proposed use is a retail store for the conduct of retail business, viz. the sale and repair of cars. Chairman Douglas had Mr. Sheehan verify that his proposed use at present is to sell and rent used cars. If, in the future, he generates enough business to be able to rent the remaining service bays from Mr. Powers, Mr. Sheehan said that he would repair the cars he is trying to sell or do customer warranty work. He said that he is not trying to operate a repair shop for the general public.

Chairman Douglas said that in Section H1B, Special Permitted Uses, it says that gas stations and automotive service facilities are a specially permitted use as long as fuel pumps are located in the rear of the building. In response to questioning, Mr. Sheehan said that he is not planning to have fuel pumps. Chairman Douglas said that Mr. Fennell was correct in his determination that the requested use is not detailed in black and white; however, he continued, I believe that it is allowed based on the language in the law. The law says that retail service and office uses are allowed, i.e. stores and shops for the conduct of retail business., Mr. Sheehan wants to sell cars. That is in the context of retail business. It is retail; sales tax will be paid.

Jim said that Mr. Sheehan is making an investment in business in Red Hook. It would also be nice to have something more on this property than a lot with gravel. I would hope, he said, that over time you would make improvements to the lot. Paul said that he does not really want a car lot on the property, but based on the language of the law he felt that he could not oppose it. It is a retail shop. I would rather have more walking and more sidewalks. I feel that this does not fit the intent of the law.

Jim said that he agrees with Paul but he does have people who come into town and they have to drive to Kingston to rent a car. Therefore, he said that he did not think that this business would be a bad addition to the town. Trilby said that when the Town of Red Hook passed the zoning changes, she did not think that they intended for land owners to lose their property rights. Now that the land owners are trying to fill the existing spaces, they are facing barriers. Many of the land owners cannot support their businesses here. Jim said that the majority of the people in this room were positive. Even Mr. Close did say that we do have to look at trying to establish new businesses in the town.

Motion to Overturn the Decision of the ZEO

Ken Anderson made a motion to overturn the decision of the ZEO. The Board has determined that the rental and sale of used cars is permitted in the TND-CC zoning district. The motion was seconded by Jim Hegstetter. A roll call vote was taken with the following results:

Kenneth Anderson	Aye	Jim Hegstetter	Aye
Christopher Carney	Aye	Paul Marienthal	Nay
John Douglas	Aye	Trilby Sieverding	Aye

The motion was therefore passed by a 5 to 1 vote.

**REVIEW OF APPEAL**

9:50 Appeal 12-05, Lisa Brown application to erect a single family dwelling which would cover 13% of the property where the Code limits coverage to a maximum of 7% and to reduce the side setback from the minimum of 21 feet to six feet. The applicant's property is located at Country Club Drive in the RD3 zoning district, tax map #6372-19-739189. The ZBA approved an application by John & Sally Frick for the same variances on May 14, 2010. This variance has elapsed. Lisa and Michael Brown said that they were before the Board to renew the variance which was granted in May of 2010. In response to questioning, they said that the plan is the same one which they submitted in 2010 except that it is a little smaller.

Mr. Brown said that they would like to have the approval tonight as time is of the essence to them because they have purchasers for the property. Chairman Douglas explained that the Board would have to meet tonight and then hold a Public Hearing next month. A schematic of the house will have to be submitted showing where it will sit on the property. At this point the Browns asked to withdraw their application, saying that they do not need the variance as the house which they are now planning to construct is smaller than the one approved in 2010. They said that the purchasers need to be in the house by June. In response to questioning, they said that they are before the Board so that the larger house would remain an option.

Chairman Douglas explained the application process and called upon Bob Fennell to review the issues with the Browns. Bob explained that even if they do not need the variance for the setback, they still need a variance because they will still be exceeding the

7% coverage maximum. Chairman Douglas explained the Public Hearing notification process to the applicants. He verified that they want 13% coverage and the same setbacks as were previously approved and then set the Public Hearing for 7:05 P.M. on May 9, 2012.

### **REVIEW OF APPEAL**

10:02 Appeal 12-06, application by Charles Simmons on behalf of Bard College to erect five signs totaling 38 square feet in an area where the Code permits only a single identity sign of 12 square feet. The applicant's property is located at 4606 Route 9G in the RD 3 zoning district, tax map #6173-00-714730. Mr. Simmons said that Bard College has purchased the old Cappuccino restaurant. They have been before the Planning Board and have been given a Special Use Permit. It is not institutional and being in the RD3 zoning district, the signage is limited. The Planning Board has given conditional approval of signage and they have the CO for the septic and water. Once these are approved, they will be able to meet the requirements of the Planning Board.

Mr. Simmons referred to the plans which show what the building will look like. He said that about 1850 square feet of the building will be a pizza restaurant leased by Two Boots Pizza. The rest will be devoted to Bard College Alumni, Development and services. There will be 22 to 25 office spaces. The pizzeria will be open to the community. It will be leased and will be taxed by the town. It will be a commercial operation and will be there to support the alumni. Bob said that restaurants are permitted in the RD3 zone and all along the major highways.

The Board reviewed the plans for the building and the signs which were submitted by the College. There will be LED's and some down lighting. Mr. Simmons said that he had met with Nick Annas, permanent Chairman of the ZBA, and had reviewed the issues and walked the site. In response to questioning, Mr. Simmons said that the occupancy is about 50 people. Trilby asked if the footprint is the same as it was for Cappuccinos and Mr. Simmons said that it was.

Mr. Simmons verified that the total signage will be 38 square feet. The signs by the street will be 3 feet, 10 inches by 3 feet. The Alumni sign and the Two Boots sign will each be about 10 square feet. Jim asked when the restaurant will be open. Mr. Simmons said it has to be opened by May 25th. He said that in addition to the signage issue, there are setback issues. He showed the Board where he is planning to put the signs. The records were checked and it was determined that the Application Form did indicate a request for a setback variance; however the Denial Form did not. Mr. Fennell therefore amended the Denial Form to include the setback issues.

Chairman Douglas asked Mr. Simmons to put in markers showing where he wants to place the roadside signs. He then ascertained that it would be no problem for the members of the Board to come and walk the site. He set the Public Hearing for May 9, 2012 at 7:20 P.M.

## **ADJOURNMENT**

Jim Hegstetter made a motion to adjourn the meeting. The motion was seconded by Chris Carney and all were in favor. The meeting was adjourned at 10:26 P.M.

Respectfully submitted,

Sheila Franklin  
Secretary

## **FINDINGS AND DECISION**

Appeal 12-02, Allen Hansen application to raise fowl on a lot of 1.22 acres where the code requires a lot of at least two acres for the keeping of fowl.

1. The applicant's property is located at 168 Hapeman Hill Road in the RD3 zoning district.
2. Tax Map #6372-00-921752.
3. The zoning law requires a minimum lot size of two acres for the raising of fowl.
4. The applicant is asking to raise twenty adult birds on a lot of 1.22 acres.
5. There was opposition from only one neighbor.
6. A variance would be of benefit to the applicant and will not be a detriment to the community.
7. There will be no detrimental change in the character of the neighborhood.
8. There will be no impact on the health, welfare or safety of the community.
9. The alleged hardship was not self created but was created by the Town of Red Hook which reduced the size of the applicant's lot from three acres to 1.22 acres when the original lot was subdivided.
10. The variance is not substantial because it is in an agricultural business zone and is surrounded by agricultural business parcels.
11. The total number of birds shall not exceed 100, viz. twenty adults plus up to eighty juveniles.

**DECISION:** Jim Hegstetter made a motion to grant the variance based upon the above findings. The motion was seconded by Chris Carney and carried by a 5 to 0 roll call vote.

Dated: April 11, 2012

## **FINDINGS AND DECISION**

Appeal 12-03, Roger Hoffman application to create a two lot subdivision from a 10.02 acre parcel..

1. The applicant's property is located at 19 Old Farm Road in the TND-CC and TND-RES districts.
2. Tax Map #6272-00-204261.
3. The zoning law requires an maximum front yard setback of 18 feet, a minimum rear yard setback of 20 feet and 28 parking spaces.
4. The applicant is asking for a 74.1 foot front yard setback, an 11.8 foot rear yard setback and 14 parking spaces.
5. There was no opposition from the neighbors.
6. A variance would be of benefit to the applicant and will not be a detriment to the community.
7. There will be no detrimental change in the character of the neighborhood.
8. There will be no impact on the health, welfare or safety of the community.
9. There is no hardship involved. The problem was not self-created, but arose in response to changes in the zoning law.
10. The applicant shall create 18 parking spaces, one of which shall be ADA approved for handicapped use.

**DECISION:** Paul Marienthal 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: April 11, 2012

## **FINDINGS AND INTERPRETATION**

Appeal 12-04, Patrick Sheehan application for an interpretation of Section 143-49.1.H (1) which lists the permitted uses and standards in the TND-CC zoning district.

1. The applicant's property is located 7311 South Broadway in the TND-CC zoning district.
2. Tax Map #6272-00-204261.
3. The zoning law does not list the rental and/or sale of used cars as a permitted use in the zoning district.
4. The applicant is asking to operate a retail sales and rental business of used cars.
5. Support was voiced by several members of the community, with only one person in opposition.
6. The business was considered to be a retail business and the zoning law permits retail service and office uses to serve the needs of the community, including stores and shops for the conduct of retail business.
7. The business was not considered to be a vehicular oriented land use as it will not bring in a high volume of traffic.
8. There will be no change in the character of the neighborhood as there is a long history of automobile oriented businesses operating from this location.

## **INTERPRETATION:**

The findings of the Board, as covered in the discussion and summarized by the Temporary Chairman prior to his request for a motion, are presented above. Based on these findings, Ken Anderson made a motion to overturn the decision of the ZEO. The Board determined that the rental and sale of used cars is permitted in the TND-CC zoning district. The motion was seconded by Jim Hegstetter and carried by a 5-1 roll call vote.

Dated: April 11, 2012