

Town of Red Hook
Zoning Board of Appeals Meeting Minutes
September 10, 2014

CALL TO ORDER

The meeting was called to order at 7:00 PM by Chairman Annas.

ROLL CALL

Members Present: Nick Annas, Tim Ross, Jim Hegstetter, Chris Carney, Ken Anderson, John Douglas, Trilby Sieverding

Also Present: Town Board Liaison, Jim Ross

PRELIMINARY BUSINESS

Minutes of August 13, 2014: Chairman Annas asked if everyone had read the August 13, 2014 Minutes and invited comments or questions. Hearing none, Jim Hegstetter made a motion to accept the Minutes as written. The motion was seconded by Trilby Sieverding and all were in favor

Planning Board Minutes and Letters: Chairman Annas asked the Board if they had any comments.

Building Inspector/ZEO Permits, Memos/Comments: Most of the Board members are receiving the building permits. Tim Ross asked that Jackie send them in PDF format instead of JPEG format.

Decorum of ZBA Public Hearings: Chairman Annas stated to the Board that there have to be time restrictions on the applicants and restrict Board conversations to one conversation at a time; a benefit to the Board members as well as the secretary who transcribes the minutes. Trilby mentioned that it wasn't so much the time people took to speak, but the cutting in and criticizing. She further went on to say, when someone has the floor, it's their time to talk and then when everyone has spoken and if anyone else has any comments they wish to add, then perhaps we give them time to speak one more time. The Board agreed.

Comments from the Chairman: Chairman Annas stated that an alternate is needed for the ZBA. Ken Anderson knows of someone who's in the process of completing his resume. Ken Anderson will contact him to see how things are moving along.

PUBLIC HEARING

7:10 Appeal 14-04, Faruque Litan application to erect a portable/temporary 170 sq. ft. garage. Applicant is requesting a setback of 2 ft. Section 143-18 A2A allows accessory structures in the

R1 zoning district to be placed 15' from side property line. The applicant's property is located at 39 Metzger Road in the R1 zoning district, Tax Grid #6272-00-367319.

Chairman Annas opened the Public Hearing and called on Mr. Litan to briefly review his application before the Board for the benefit of the members that were not present at last month's meeting.

Mr. Litan reviewed his plans before the Board. He would like a 13 ft. variance.

Chairman Annas asked if anyone from the public wanted to speak on this issue

As there were no comments from the public, Chairman Annas closed the Public Hearing.

Chairman Annas asked the Board if they had any comments.

Tim Ross mentioned that Mr. Litan had originally asked for a 4ft. setback but, he decided to change his request to a 2 ft. setback between the tent and the fence as it would be hard to maintain. It's logical to put it tight to the fence.

Trilby Sieverding also mentioned that it could be moved if it became a problem in that area. If someone was annoyed by it, it could be moved easily.

Tim Ross added that regarding the neighbors, whether the portable garage is 2 ft., 4 ft., or 15 ft. from the fence, aesthetically it doesn't make a big difference. You see the fence and then you see the portable garage.

John Douglas added that he and Ken Anderson were visiting with Harold, the owner of the property on the immediate backside of the fence, and he had no problem with what Mr. Litan would like to do.

Ken Anderson was a little concerned with the effect on the neighborhood. He felt that this particular structure seems to stand out from the road. You can see it very easily from the road and you can see it very easily from within the development. Ken questions the fact that it seems as though, in his opinion, that it's not in character with the area. The way Ken sees it, is it's something that is not permanent, it does not have a foundation and it can be moved but, it's going to be temporarily permanent.

Mr. Litan stated that he asked permission to put up the portable garage and he did so. He further stated that the only difference is that you will be able to see it in the middle of the property and you can see it in the corner of the property. That's the only difference.

Ken Anderson went on to say that it is quite visible from anywhere on the property and most anywhere in the development. It looks like a tent.

Mr. Litan stated that you will be able to see it no matter where he places it on his property.

Chairman Annas asked how long the structure has been there.

Mr. Litan stated it has been there more than one month.

Motion to Grant Variance

Tim Ross made a motion to grant a 13 ft. variance to allow Mr. Litan to place the temporary garage structure adjacent to the fence (2 ft. from the line) because the benefit to Mr. Litan, relative to the detriment to the neighborhood, is far greater. It's visible from whichever place. There's no health or safety detriment to the neighborhood and there's probably a benefit to Mr. Litan given the angle of approaching and leaving the tent. The motion was seconded by Trilby Sieverding.

Chairman Annas asked if there was any further discussion. There was none.

A roll call vote was taken with the following results:

Tim Ross - Aye
Jim Hegstetter - Aye
Chris Carney - Aye
Chairman Annas - Nay
Ken Anderson - Nay
John Douglas - Aye
Trilby Sieverding - Aye

The motion was therefore passed by a 5 to 2 vote.

PUBLIC HEARING

7:18 Appeal 14-05, Martin Willms application for reduction of driveway lot width from 95 ft. to 25ft., a difference of 70 ft. Section 143-49.1 Table 2 requires 95' for residential neighborhood and commercial center sub districts. Applicant is requesting a reduction to 25'. The applicant's property is located at 31-35 Metzger Road in the TND-R zoning district, Tax Grid #6272-00-356356.

Chairman Annas opened the Public Hearing and asked who was here to represent Mr. Willms.

Mr. Brown stated he was representing Mr. Willm's on is application variance.

Chairman asked Mr. Brown to briefly review his application before the Board for the benefit of the members that were not present at last month's meeting.

Mr. Brown stated he was asking for a reduction from 95 ft. to 25 ft. to use an existing driveway to get back to R & R Development, Rosemary Zengen's property. They would like to put a single family residence on the property.

Chairman Annas asked Mr. Brown what Mrs. Zengen's objective was.

Mr. Brown said it would be purchased and there is no intent to subdivide this property at this time.

Chairman Annas the Board if they had any questions at this time. There were none.

Chairman Annas asked if anyone from the public had any comments.

Mr. Levy, a neighbor residing at 30 Metzger Road, located across the street from the proposed driveway, asked Mr. Brown if that driveway would have access to the proposed single family dwelling.

Mr. Brown said it would only be used for the new single family dwelling.

Mr. & Mrs. Levy's main concern was headlights coming from the proposed driveway, would shine directly into his residence as they once did in the past.

Mr. Brown told the Levys that if there were some way, and he could get approval, he would curve the driveway in such a way that the headlights wouldn't shine directly into the Levy's house.

Chairman Annas asked if anyone else from the public had any other further comments.

Mr. Coon, a neighbor residing at 17 Metzger Road, wanted to know what or who is going to prevent others from the property to access road from the front of the property to the back of the property. Mr. Coon owns two properties near Mrs. Zengen's property, one at 7306 South Broadway and 17 Metzger Road which are right on Mrs. Zengen's property line. Mr. Coon is worried about their property values as well as his own.

Lynda Coon wanted to know with a 25 ft. wide driveway, would fire trucks and other emergency vehicles be able to get through.

Chairman Annas said reducing a 95 ft. width to a 25 ft. width would not alter the accessibility. This would be up to the homeowner, as to how they clear trees.

Mrs. Coon also wanted to know what would prevent people from driving through Mrs. Zengen's property from Route 9 looking at antiques, and driving through to Metzger Road.

Trilby Sieverding said that would all be stipulated by the Planning Board. That wouldn't be under our prevue.

Tim Ross said that if a variance was granted, a stipulation saying a permanent barrier needs to be installed to prevent traffic from Route 9 to accessing the proposed driveway.

Melissa Levy, who also resides with her husband at 30 Metzger Road, raised a few concerns: 1) the headlights that will shine into their home; 2) there's already a great amount of traffic on Metzger Road now, and adding another driveway is only going to make it worse, as Metzger Road is a very narrow road; 3) it's bothersome that they have to bring up the traffic concerns every time somebody plans something in that area, i.e., Hannaford wanting to have a road leading on to Metzger Road, Hardscrabble Plaza, when they switched ownership, there were plans to do something there; and when Ulster Savings Bank went in; and 4) regarding the overall appearance of the Zengen property, when the Levy's first moved to their property, it was neat and tidy and the junk was confined to one building and there was very little outside. Over the years, the junk has spread across the front lawn into the driveway and the lack of organization of the property.

Chairman Annas asked if anyone else from the public had any further comment.

Marcy Appell, residing at 917 River Road, in Red Hook, is here in support of the variance requested by Mr. Willms. Mrs. Appell went on to say Rosemary Zengen decides to build a home on her property and apply to the Planning Board for approval. The Planning Board agreed the use was permitted but wants the proposed house to have a driveway to Metzger Road. Mrs. Zengen doesn't own any property on Metzger Road but, Mr. Willms came forward and agreed to deed 25 ft. to Mrs. Zengen to create a driveway for her. The code requires that driveways in this area be 95 ft. wide. This is now a business district. This is no longer residential zoning. Certainly 95 ft. for a residential use does not make sense. Metzger Road is a low-key residential road and, a 25 ft. driveway is certainly more consistent in the area instead of the required 95 ft., which is aimed toward business development. Mrs. Appell believes that Mr. Willms be granted the variance to allow Mrs. Zengen to build a home which would fit in very nicely with the neighborhood.

Mr. Coon was still concerned that the access to the property could be accessed by Route 9 if Mrs. Zengen didn't have all these artifacts on that driveway that's there now.

Tim Ross said that should Mrs. Zengen attempt to access the driveway, there would be a bunch of improvements that would be required on the front of the property and, the Planning Board has pretty much directed them that this would be a residential lot at the rear of the property, not to access it to the front. This isn't part of the business.

Trilby Sieverding added that it was her understanding that the reason for this residence is the accessibility, as the other house requires walking up a lot of steps and that's not friendly for an older aging person. It's also Trilby's understanding that the children would be staying in the main house.

Mr. Coon expressed concern as to whether or not you could control who will live in the proposed house with Mrs. Zengen. You have potential of four vehicles at the house.

Tim Ross added that it's a single family residence that is proposed. The initial use will not be the ultimate use. However, I believe, that a residential use on that part of the road makes sense but, I concur that there should be some kind of barricade to prevent through traffic from Route 9. If people can find a way to avoid a bad intersection, they will. There really needs to be some method of stopping that from happening and if that's done, I think it's completely consistent with the neighborhood.

Mr. Coon stated that Mrs. Zengen has bungalows, cottages, etc., so why couldn't she move into one of them.

Trilby added that the existing property is considered pre-existing zoning and the new property would be subject to review.

Mrs. Coon is concerned that this "barrier" would be "treasures/stuff."

John Douglas stated that if there is a motion, you could have in the stipulation that the barrier be trees or a split rail fence.

Mr. Levy asked the Board, "Who makes that decision of what that barrier would be?"

Trilby added that what she read from the Planning Board minutes is that this is a permitted use. The placement of that house on the property is a permitted use. What the Board is considering is do we grant Mr. Willms the ability to reuse that driveway and deed it over to his neighbor which he seems to be willing to do.

Mrs. Appell believes that if this variance is granted, the Levys and the Coons should be going to the Planning Board because these concerns are all Planning Board issues, not Zoning Board issues.

Mr. Levy asked how Mr. Brown can curve the driveway.

Tim Ross stated to Mr. Levy that the Zoning Board is looking at the driveway. The Planning Board is looking at the driveway, the house and the entire site.

John Douglas asked Mr. Coon that if there were more building lots for houses down the road, would he be opposed to them too.

Mr. Coon said he would be because the road is narrow and there's already a large amount of traffic on it now.

Tim Ross stated that if we were to grant this variance, it would be completely appropriate, as a portion of this variance, to put a stipulation that a barricade limiting communication from Route 9 to this driveway be installed, as it would create an issue with the light in town.

Mrs. Coon asked, "When it's a single family home, how many cars can be at the home?"

Tim Ross stated that other than the occasional party, you have minimal traffic.

Jim Hegstetter stated that they will have to recognize the changes in the variance that we submit.

Ken Anderson believes that the Board needs to consult with the local fire department as to whether or not they would be able to access property at the end of this road, along this road or even to be able to maintain their vehicles on this road.

Tim said that would be all part of the Planning Board review.

Chairman Annas asked if there were any further comments. There were none.

Chairman Annas closed the Public Hearing.

Motion to Grant Variance

Trilby Sieverding made a motion to grant the variance to 25 ft. with a stipulation to have some obstruction to prevent communication from the Route 9 entrance to the proposed Metzger Road entrance should be installed. The proposed use would be completely consistent with that area. There cannot be traffic allowed to go through there. The detriment to the homeowner outweighs the detriment to the neighbors and, it would be a benefit to the neighborhood because the 95 ft. obviously isn't. You're going to go with a mixed use or commercial intent with this property and 25 ft. isn't. The motion was seconded by Tim Ross.

Chairman Annas asked if there was any further comment on this motion. There was no further comment.

A roll call vote was taken with the following results:

Trilby Sieverding	Aye
John Douglas	Aye
Ken Anderson	Nay
Chairman Annas	Nay
Chris Carney	Aye
Jim Hegstetter	Aye
Tim Ross	Aye

The motion was therefore passed by a 5 to 2 vote.

PUBLIC HEARING

7:53 p.m. Appeal 14-06, John C. and Constance L. Holzmann application to construct a 6' in-height stockade fence in the 60' required front yard in the RD#3 zoning district. Section 143-28(A) states when erected within the required front yard, it is not to exceed 4' in height. The applicant's property is located at 238 Rokeby Road in the RD-3 zoning district, Tax Grid #6172-00-774431.

Chairman Annas opened the Public Hearing and called on John and Constance Holzmann to briefly review their application before the Board for the benefit of the members that were not present at last month's meeting.

Mrs. Holzmann stated that the variance they are requesting is for the approval of variance for a 6 ft. high fence in the 60 ft. setback that is required and, the Holzmann's are also asking for a small angle section fence to butt up against the beginning panel fence to the existing post and rail which is 4 ft. Mrs. Holzmann said the angled fence would be 3 ft. high, the same as the post and rail fence.

Chairman Annas confirmed with Mrs. Holzmann that the 6 ft. fence that they are planning to run from the front boundary is 25 ft. off the center line of Rokeby Road. Chairman Annas also confirmed that the survey pin is at least 25 ft. off the center line and they would like to run the fence 6 ft. from there to the rear property line all along the west boundary.

Chairman Annas clarified to all that the fence is going on the west side boundary only. There will be no 6 ft. fence traversing the front boundary.

Chairman Annas read four letters from some of the neighbors on Rokeby Road:

Alice Myers, 206 Rokeby Road
Justin Logan, 216 Rokeby Road
Shawn Savage, 216 Rokeby Road
Diane Dalton, 242, Rokeby Road

Chairman Annas said he received a call from Sue Crane, Town Supervisor, stating that she had received a call from UPS. UPS claimed there are some serious difficulties exiting that driveway.

Chairman Annas said that after talking with both parties, the owner of the driveway that the fence will abut to and the owner who will be putting up the fence, both parties seem to agree that the fence is a good idea if it stays back from that pin which delineates the 25 ft. setback off the center of the road.

Chairman Annas also mentioned that the Holzmanns have a row of 7 or 8 ft. Roses of Sharon which are in full bloom and obstruct the view. The Roses of Sharon and the fence lie on Town property.

Chairman Annas spoke with Theresa Burke, Highway Superintendent, on several occasions and read her letter to all. She says it's the highway's recommendation that any new construction be done completely outside of the Town right of way.

Chairman Annas planned to make a motion on this application that it has a contingency saying that the obstructions, the Roses of Sharon, are moved back behind the front property line and the fence be removed from Town property to somewhere behind the property line. As Chairman Annas sees it, this should be a compromise that should satisfy all parties involved.

Stanley Roscoe, whose driveway is on the other side of Mr. Dalton's, says he doesn't have any problem getting in and out of his driveway.

Mrs. Holzmann says their front property line is angled and goes across their front patio and comes down to the first post and rail and over to the pin.

John Douglas and Trilby Sieverding didn't see the reason why the Roses of Sharon need to be removed.

Chairman Annas told the Board that they were in the way of the line of site.

Mr. Dalton, the owner of the property next door to the Holtzmann's alerted the Board to a letter written by UPS that was attached to his wife's, Diane Dalton, letter.

Chairman Annas read a letter from Rob Krasney, Business Manager of UPS in Kingston/UPS Hudson, stating that his driver, Dennis Balacic, who makes deliveries to the 242 Rokeby Road address, has voiced concern over the visibility reduction and possible safety impact that this 6 ft. high stockade fence will have. For his driver's safety as well as the safety of pedestrians and other vehicles, he hopes that this fence height and type is reconsidered.

Joe Coon, a neighbor to the west of Mr. Dalton, at 258 Rokeby Road, said that putting the light at the end of the road turned Rokeby Road into a thoroughfare. Mr. Coon further mentioned that he has gone through nine mailboxes, had cars in his front yard three times, once at the picture window and at one time, had 8 ft. hedges that a car took down. He further stated that Rokeby Road is a very, very dangerous road.

Mr. Dalton had an issue with the "Hidden Driveway" sign to the east of his driveway, explaining he directed traffic when John Douglas and Ken Anderson came to visit the site, as there were parked on the side of the road. Mr. Dalton then decided to measure his line of site 4 ft. high in his car. What Mr. Dalton saw was the bottom part of the "Hidden Driveway" sign. Mr. Dalton measured the "Hidden Driveway" sign from the bottom all the way up to the sign which

measured 7 ½ to 8 ft. He explained that you couldn't see John Douglas or Ken Anderson's cars because of the knoll that's there.

Mr. Dalton went on to say that he voiced his concern to Steve Cole, Code Enforcement Officer for the Town of Red Hook, saying that once Mr. Dalton pulls out of his driveway and drives past the pin on the Holtzmann property, this pin is right at Town property. When a car is coming up and wants to turn into Mr. Dalton's driveway and Mr. Dalton is coming out of his driveway going past the pin, Mr. Cole told him that if the two cars hit, they are going at unsafe speed.

Mr. Dalton emphasized how dangerous the area of 242 Rokeby Road is.

Mr. Dalton stated that it is State law that you can't have anything over 3 ft. on town right-of-way and you can't have a tree under 6 ft. with branches.

Mr. Dalton also voiced his concerns to Jeff Popp, Superintendent of Transportation, Red Hook Central Schools, who came out to 242 Rokeby Road and he agreed with Mr. Dalton his safety concerns. Mr. Dalton further stated that Mr. Popp said that although there was already a school bus sign going east, Mr. Popp said there also needs to be a sign for everyone going west before you see the "Hidden Driveway" sign, alerting them that there's going to be a school bus stop ahead. This morning, the Red Hook Central School District put in a school bus sign.

Mr. Dalton wants the Roses of Sharon to come down and then he would negotiate what they would do about that pin.

Trilby Sieverding said that the Holzmanns were within their right and they weren't asking for a variance in the setback, the pin is the setback. Trilby Sieverding stated that Mr. Dalton is asking the Board to go beyond what they are allowed to do.

Chairman Annas stated that a 30 ft. line of site doesn't apply to private property. Most of the residences in Red Hook are in violation if it were.

Chairman Annas asked Mr. Dalton if he could live with a 6 ft. fence coming up to the pin.

Mr. Dalton said he could not.

Chairman Annas said if Mr. Dalton brings his car up to the point where you can see past that pin, he's not sticking into the roadway.

Tim Ross brought up one issue regarding State highway recommendations and 10 years ago, it was 12 ft. from the edge of traveled way. About 10 years ago they increased that to 14 ½ ft. from the edge of traveled way. It was part of a transition to metric but also based on new car designs. If you're going out measuring site distances, you pick a point 14 ½ ft. from traveled right of way and then the distance down to a point depending if it's a right or left turn 4 ft. or 3 ft. off of pavement. The 12 ft. is too close. The 14 ½ is kind of the accepted standard at this point.

Chairman Annas confirmed with Mr. Dalton that when he's coming out of his driveway, Mr. Dalton wants to be able to see if there's someone coming into his driveway. He wants to see to left of him before he reaches the town right of way.

Chairman Annas asked Mr. Dalton how much further he would like the fence to be.

Mr. Dalton would like the fence to be one full 8 ft. section of fence back.

Chairman Annas said that the Holzmanns have the obligation to move the Roses of Sharon back behind the line, but he doesn't believe there's any restriction in the code.

Tim Ross said she can put a 4 ft. fence for 60 ft. back but you can't put a 6 ft. fence in.

Tim Ross said there are no restrictions on plant heights.

Chairman Annas said an obstruction on a line of site is an obstruction whether it's a fence or planting. The Holzmanns can move the Roses of Sharon back there.

John Douglas pointed out a tree in one of the photos and wanted to know if it was Mr. Dalton's tree.

Mr. Dalton said he didn't have his survey here and he didn't have an answer for the Board.

Trilby Sieverding said it looked like it was blocking his line of site as you pull out of his driveway and look to that direction.

Chairman Annas asked if the Holtzmann's could go back with the fence.

Mrs. Holzmann said the whole purpose of having the fence was to fence in her property for the safety of their grandchildren who are now living with them and, in the winter time when the snow blower and the traffic goes down, her grandchildren are out there. Mrs. Holzmann worries for their safety.

Chairman Annas asked Mr. Dalton that if the Holzmanns put a 4 ft. fence from the pin toward his property at 8 ft. and if it was limited to a 4 ft. fence instead of 6 ft., would he have an adequate line of sight.

Mr. Dalton said yes, from the pin back, one full 8 ft. section of 4 ft.

Chairman Annas asked the Holzmanns if they would be willing to reduce one section to 4 ft.

The Holzmanns wanted to know why.

Chairman Annas said Mr. Dalton was making the argument that he wants to be able to see if there are bikers, pedestrians, etc. on that 12 ft. of right of way that the town owns.

Jim Ross stated regarding Mr. Dalton's comment above, the problem would be solved if he came to a complete stop at the end of the driveway which you have to do anyway and look down the road and that's something you do when you egress a driveway anyway.

Anthony Formisano, Town of Red Hook resident, mentioned that no one from the Board said anything about three of the four letters read having incorrect information.

Tim Ross answered Mr. Formisano's question by saying the reason was that this is considered a front line setback. The code gives you 60 ft. which is considered the frontline setback, a variance to the frontline setback. That's where the confusion came in. Even though it's on the side of the property, until you're 60 ft. into the property, that's considered the frontage of the property.

Chairman Annas asked if there were any further comments. There were none.

Chairman Annas closed the Public Hearing.

Motion to Grant Variance

John Douglas made a motion to grant the variance whereby the fence will start 8 ft. behind the pin and 6 ft. high to the reverse of the property. Tim Ross seconded the motion modifying the language to say that the first 8 ft. shall not exceed 4 ft. in height. Eight feet from the front pin can then go to 6 ft. in height, the remainder of the property, with the understanding that the good side of the fence will be on the outside. Based on the discussion from the public and the letters, I do not believe that will be any additional detriment to the neighborhood and, I believe it will provide the benefit the applicant is seeking for.

Chairman Annas asked if there was any further comment on this motion. There was no further comment.

A roll call vote was taken with the following results:

Tim Ross - Yes, for the motion as is.
Jim Hegstetter – Yes
Chris Carney – Yes
Chairman Annas – Yes
Ken Anderson – Yes
John Douglas – Yes
Trilby Sieverding - Yes

The motion was therefore passed by a 7 to 0 vote.

Chairman Annas told Mr. Dalton that if he believed the Roses of Sharon hampered his line of site, he could talk to Theresa Burke, Highway Superintendent.

ADJOURNMENT

Jim Hegstetter made a motion to adjourn the meeting. The motion was seconded by Chairman Annas and all were in favor. The meeting was adjourned at 8:50 p.m.

Respectfully submitted,

Jackie Fenaroli
ZBA Secretary