

Town of Red Hook
Zoning Board of Appeals Meeting Minutes (Approved)

January 14, 2015

CALL TO ORDER

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

ROLL CALL

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

Members Absent: Jim Hegstetter

Also Present: Victoria Polidoro, Office of the Town Counsel

PRELIMINARY BUSINESS [there is also discussion and motions and votes regarding the minutes at the end of the meeting]

Minutes of December 10, 2014:

The Board and Victoria Polidoro discuss the December Minutes, including the pros and cons of longer versus shorter Minutes. The Board decides it prefers a summation of the minutes, rather than a verbatim version of the Minutes. Tim Ross moves to adopt summary style Minutes, John Douglas second, all are in favor.

Variance Resolutions: [discussion takes place at the end of the meeting]

Victoria Polidoro explains the Variance Resolution to the Board, stating that the initial section can be filled out ahead of time, and the findings should be written in during the meeting. Tim Ross indicates that the Clerk should complete the first section, prior to the meeting.

APPEAL

Appeal 14-08, Douglas and Talea Taylor application for an interpretation of the determination of the Building Inspector denying building permit #2014:0073 be revoked pursuant to Section 74-5 K Fire Prevention and Building Construction, of the Code of the Town of Red Hook, siting mobile home was illegally placed on the Historic Hudson Valley property, i.e., without a valid building permit. The applicant's property is located at Montgomery Place Orchards, River Road in the Agricultural Business District, Tax Grid #6173-00-520145.

The Board identifies the issue before it as whether or not the Building Permit was properly revoked. Legal counsel for the Board has drafted a Resolution, which states that the Board has reviewed all documentation presented to it, and as a result of this review, upholds the Building Permit Revocation. The Board votes unanimously to adopt the Resolution.

PUBLIC HEARING

Appeal 14-09, George and Cathy Michael application for an area variance to place an accessory structure ten feet from side property line. Section 143-18 (A) states that no accessory structure shall be set back less than 20 feet from any lot line. The applicant's property is located at 8033 Albany Post Rd. in the B1 zoning district, Tax Grid #6373-00-145791

Trilby Sieverding moves to open the Public Hearing, Tim Ross seconds. All are in favor.

The Applicants present documentation to the Board, including information on the dimensions, location, materials, a history of the buildings on the parcel, and a letter from the nearest neighbor, a Mr. Dominic Tampone, who is in favor of the project. The Applicants also describe the proposed accessory structure, and their motivation for replacing the present structure with a larger, new one. They would like to have more space for storage and projects on their property. The Board discusses the project with the Applicants.

John Douglas moves to close the Public Hearing, Chairman Annas seconds. All are in favor.

Chairman Annas states for the record this is a Type II SEQR action, with no apparent impact.

Tim Ross: It won't produce any undesirable change, the Applicants explained that there is no [other] reasonable way to achieve what they are looking for. It's not substantial, in fact it is consistent with an existing structure. It won't adversely affect the health or environment of the neighborhood. It [the hardship, for which the Variance is sought] was not self-created. The building it is replacing is already there [no structures will be added to the parcel]. It is a minimum variance, since it is no closer [to the lot line] than the existing structure, there will be a little more side [square] footage. [To the Applicants] The benefit of you getting that [the Variance] is if it gets knocked down, and you don't replace it for 18 months, you still have the Variance to replace it at a later time, so it's really the best avenue for you to proceed [obtaining a Variance].

Chairman Annas asks Victoria Polidoro about filling out the Variance Resolution form. She states that it is not necessary to fill it out at the meeting, as long as the discussion [of each point] is contained in the Minutes.

The Board votes unanimously to grant the Area Variance.

Tim Ross: I would go through this [Variance Resolution Form] as the Findings [and Decision] for everyone, even if we have to plow through the Minutes to make sure it is complete.

The Board votes unanimously to grant the Area Variance.

PUBLIC HEARING

Appeal 14-14, Patrick Murphy application for an area variance to create an accessory apartment within a new, independent structure of 784 square feet of habitable space. Section 143-66.1 states that an accessory apartment shall contain a maximum of 650 square feet of habitable space. The applicant's property is located at 163 Hapeman Hill Road in the R3 zoning district, Tax Grid# 6372-00-875777.

The Applicant outlines the history of the accessory apartment on his 3.152 acre parcel. According to a 2008 Building Permit, it began as a garage, to which an apartment was added, in 2009 (see relative Building Permit) in order for his family to live on the parcel, while construction on their 3500 square foot house proceeded. At some point, the Applicant states about three years ago, the Applicant converted a carport attached to the garage/apartment, into a three season room, by enclosing it on three sides. The room was used for storage, for his wife's licensed daycare business. He also has a construction business, with commercial vehicles and equipment, which he runs from his home. Presently, the Applicant lives, with his family, in the completed 3500 square foot house, and has rented the accessory apartment to two people.

Beth Bishop, a neighbor at 152 Hapeman Hill Rd. has concerns about traffic, noise and additional burdens on the Applicant's onsite septic system, that the main house and accessory apartment on one parcel could cause.

George Verilli, a resident at 187 Hapeman Hill Rd. has concerns about the capacity of the septic system on the parcel. He states that there should be separate systems for the main house and accessory apartment. He is also concerned about the activity and traffic caused by the construction business. He states that the Murphy's are neat and quiet neighbors, but is concerned about what would happen with the construction business and accessory apartment were the Murphy's to sell their property, since the neighborhood is primarily residential.

Richard Hansen, a neighbor, residing at 25 James Court is concerned about the septic system capacity on the parcel. He maintains that a C of O should not have been issued for the 3500 square foot house, since there was already a dwelling on the parcel. He states that the absorption field expansion area is not meant to be used as a primary septic system area, but only as a back up in case of system overload. He states that as things stand, it is being used as a primary septic system area, and there is no back up. He compares the septic system needs on the parcel, with a 4 bedroom house, and an accessory apartment to a nearby, proposed development, at Lakes Kill, and maintains that the Murphy's need community septic, for the two dwellings.

Mr. Hansen challenges the square footage of the accessory apartment, presented by the Applicant, stating that it is more than double the size reported on the Building Permits. He states he used a range finder to obtain measurements of the structure. He submits an elevation of the structure, depicting what he feels are its true dimensions, to the Board. He also states that the Building Permits, and C of O's were issued in error, by the Building Inspector and Code Enforcement Officer. He repeatedly characterizes the Public Hearing as a "piddling contest", and insists that the Board considers what he has to say, over and above the Applicant's presentation.

Pam Sheehan, a neighbor, who sold the property to the Applicant is concerned about 2 dwellings on a 3.152 acre parcel. She states, that she cannot build an additional dwelling on her parcel of 100 acres, and that the Applicant's parcel is too small for two dwellings. She states there was some sort of dog breeding or canine facility on the property, at one point.

Jack Dillon, a neighbor, residing at 145 Hapeman Hill Rd., wants to see the Dutchess County Board of Health Approved Septic Plan. Otherwise, he states, he is fine with the accessory apartment on the Applicant's property.

Victoria Polidoro and Chairman Annas state that these are not issues before the Board.

The Board members conclude that the Applicant needs to present an approved Septic Plan, with map, from the Dutchess County Board of Health, including the absorption field, and requests the measurements performed by the Chair of the Planning Board, Zoning Enforcement Officer, Steve Cole, and Planning Board Member, Sarah Gilbert, during their site visit, on November 8th, 2014. The Public Hearing is to be continued at the February 11th, 2015 meeting.

The Applicant states that Steve Cole told him he needed a Special Permit for an accessory apartment. The Applicant applied to the Planning Board, and was present for the site visit on November 8th, 2014. The resulting measurements put the Applicant over the permitted 650 square feet. The Applicant maintains that he spoke to Steve Cole asking if he was permitted to enclose three walls of his carport to create the three season room, and that Steve said “He didn’t have a problem with it”

Trilby Sieverding mentions the former daycare, and states the Applicant would have needed a Special Permit for that operation. Chairman Annas notes another area of concerns regarding the construction equipment he saw outside during his site visit that day. He doubts it is in compliance with current zoning – that there is a limitation on the amount of commercial equipment that can be stored on a residential property.

Tim Ross moves to continue the Public Hearing, and Trilby Sieverding seconds. All are in favor.

Victoria Polidoro: Before you adjourn, can we please talk about the [Variance] Resolutions? [The Board discusses the Variance Resolution]. You don’t have to fill it out now, since it is after the fact, but it is important to fill in details, in practice, so if there is something is contentious, you want to be able to document it.

Chairman Annas: I talked to her on the phone [Anne Rubin], and she brought up something that [speaks to] filling it out during the meeting, because if there is something we are not in agreement on, we have to take the opinion[s] of the consensus.

Victoria Polidoro: You can fill in the front [of the Variance Resolution] ahead of time, and then, as you go through the findings, you fill in each area.

Tim Ross: Have Anne do that ahead of time, and then whichever person makes the motion, can go through and fill it out

The Board discusses the Minutes with Victoria Polidoro. Her comments are as follows:

Victoria Polidoro: From a legal standpoint, if there is something contentious, that could lead to litigation, I always recommend this format. If we end up in court, we can highlight things and point them out for the judge. Judges are not going to listen to a tape, they are not going to watch a video. They are going to go to the page I tell them to go to, and look at what was said, and what happened. If something is contentious, this [format] is my preference. This is your minutes, and you can decide. I’m just telling you for context. We prefer this type of discussion. For something where you are talking about a lot line for a shed, that’s not contentious, that’s not going to go to litigation, I don’t think this is necessary.

The Board discusses the pros and cons of skeleton minutes versus full minutes.

Victoria Polidoro also recommends having the Applicants sit before the Board, and not in the back of the room, in order to discourage exchanges between the Applicants and members of the Public.

The Board agrees that the Meeting Minutes from December be condensed.

Tim Ross moves that the Board have condensed Minutes, Chairman Annas seconds. All are in favor.

Tim Ross moves to adjourn the meeting. Trilby Sieverding seconded, all are in favor.

The next Zoning Board of Appeals meeting will take place at 7:00pm, on February 11th, 2015, at Town Hall.

