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

May 13, 2015

CALL TO ORDER

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

ROLL CALL

Members Present: Nick Annas, Chris Carney, John Douglas, Kris Munn, Tim Ross, Trilby Sieverding. Jim Hegstetter arrived after the Public Hearing for Appeal 15-02.

Members Absent: No members were absent.

Also Present: Christine Chale, Office of the Town Counsel, Jim Ross, Town Board Liason, and Bob Fennell Town of Red Hook Building Inspector.

PRELIMINARY BUSINESS

Minutes from April 08, 2015: There are no comments on the Minutes of March 11, 2015. Kris Munn moves to adopt the April 2015 Minutes, Tim Ross seconds, and all are in favor. Trilby Sieverding notes that she, and John Douglas were not able to open the email attachment containing the April, 2015 meeting Minutes, and that she would prefer a paper copy. The Board briefly discusses the cost – benefit ratio of paper versus electronic documents.

Planning Board Minutes and Letters: There are no comments on the Planning Board Minutes and Letters.

Building Inspector/ZEO Permits, Memos/Comments: There were no comments from Building Inspector, Bob Fennell. There are no comments from the Board on matters from the Town Building and Zoning Office.

Comments from the Chairman: Chairman Annas requests that Board members state, prior to the meeting, whether or not they will be present at the meeting, and that they arrive on time. He offers the option of changing the meeting time from 7:00pm to 7:30pm, to accommodate Board members traveling from their work, outside of Red Hook, to the meeting. The Board discusses this briefly, and decides to keep the 7:00pm meeting start time.

Public Hearing

Appeal 15-02, Jeffrey Katz on behalf of Bard College application for an area variance to construct a new 1600 sq. ft. (40' x 40') single story structure on the existing footprint of the demolished Annandale House for use as a media building, with a front yard setback of 45 feet. Section 143-48 B(1) requires an increase of 100% of District Setback, for a total of 200 feet, for the Scenic Corridor Overlay. Section 143 Attachment 2 District Schedule of Area and Bulk Regulations requires a setback of 100 feet in the required front yard, for Zoning District I. The applicant's property is located at 1399 Annandale Rd in the I zoning district, Tax Grid # 6173-00-400720

The Public Hearing begins at 7:10 pm.

Chairman Annas invites the Applicant, Mr. Jeffrey Katz, representing Bard College, to present his proposal. He also notes that there appears to have been yet another change to the format of the proposed structure, and asks the Applicant to clarify. Mr. Katz states that the proposed structure will consist of four shipping containers, measuring 40' x 16', with two placed on the ground, side by side, and two on top of those. John Douglas asks about the height of the structure. The Applicant replies that it will be 17', since each of the containers are 8.5' high. Chairman Annas notes that the latest proposal for the structure does not fit the original footprint of the former Annandale House. Mr. Katz agrees that it is a bit longer. Chairman Annas reminds the Applicant that he needs to be precise in his request.

Mr. Katz presents to the Board an elevation for the proposed structure, showing the four shipping containers, as described, and side windows facing Annandale Rd. John Douglas confirms with the Applicant that this document is for the Applicant's file, and part of the record. Chairman Annas notes that, according to the elevation the front yard setback is altered to 51', from the original request in the Application to the ZBA of 45'. He ascertains from the Applicant that the area behind the structure is wooded, and cannot be seen from the Hudson River, and that the elevation is an artist rendering of the final proposal.

John Douglas looks at the map, and asks about an existing campus bus stop located near to the site of the proposed structure. The Applicant describes the bus stop, including the presence of a concrete pad underneath it. John Douglas asks the Applicant if the sidewalk to the proposed structure will pass through an existing flower bed, due to the proximity of the structure to the road. Mr. Katz affirms that the sidewalk will probably pass through the flower bed, and that the structure will extend to an area that currently contains a bike rack.

Chairman Annas asks if the foundation of the former Annandale House still exists. Mr. Katz replies that it was demolished two and a half years ago. Building Inspector, Bob Fennell asks the Board, if it is considering doubling the front yard setback, and reads § 143-93 B (5) of the Town Code – *Scenic Corridor Overlay*, for the record. The Board and Bob Fennell briefly discuss landscaping and screening for the proposed structure. Tim Ross comments that screening would block visibility [for vehicles and pedestrians] coming out of Woods Rd. [onto Annandale Rd.]. Bob Fennell suggests that the Board look at the only other container structure currently being built in the Town, to get an idea of the appearance of this type of structure. He notes that he has seen a rendering and that it is on Kidd Lane, toward the far end, and pretty well screened. Chairman Annas comments that he has seen a number of these structures on the Internet, and that some are unattractive, and others are nicer.

Chairman Annas asks Mr. Katz about the plans for landscaping at the front of the structure. Mr. Katz replies that Bard College's Horticulturist is working on it. He characterizes the location of the structure as taking advantage of an interesting relationship to the College Chapel, and states that his intention for

the landscaping is to create a flow, a sense of harmony, between the two structures. He further notes that none of the current structures, in the vicinity of the proposed structure, have a 200' front yard setback. He characterizes the front yard setbacks of these buildings as follows: The Campus Center front yard setback is 111'; the Chapel is 40'; the proposed structure would be 51'; the [Stevenson] Gym is 111', and the Village Dorm is between 150' and 160'. Chairman Annas asks the Applicant what the sides of the structure will look like. Mr. Katz describes them as having 10 windows, smaller than the artist's rendition, and that the middle area of each 40' side will contain a stairwell, so there would be no windows at that location.

Tim Ross asks the Applicant about the orientation of the structure, and notes that it would be less obtrusive, if placed differently. Mr. Katz replies that the size of the structure appears less large, than if it were parallel to the road, and that with the current orientation, it would showcase the activity taking place within the structure. He characterizes this activity as the "introduction of digital media to the Humanities".

Kris Munn notes that the actual front yard setback is 51', instead of the 45', requested on the Application. Tim Ross comments that the front lot line is Annandale Rd., which is 70' wide and that the Board needs a more precise reference point than a roadway. He notes that the property line starts from the center line of the roadway, which is 35' to the edge of said roadway. Mr. Ross clarifies that the material issue does not change, but that if the Board were to grant an [Area] Variance, it should be based on precise measurements of what is actually there. Kris Munn inquires about the shortest distance between the roadway and the proposed structure. A discussion among the Board members ensues, with Chairman Annas recommending that the Applicant either change his request, and come back next month for a new Public Hearing, or move the structure to be consistent with the Applicant's present request for a 45' front yard setback. The Board calculates that accounting for the 35' roadway, results in a 27' front yard setback, instead of the requested 45', and the required 200', and weighs the pros and cons of shifting the location and orientation of the proposed structure with the Applicant. The Board reviews a drawing from Morris Associates Engineering firm, supplied by the Applicant, to study more precise measurements regarding the front lot line, and the location of the proposed structure. The Board and the Applicant reach the conclusion that the proposed structure can be rotated so that it is parallel with the roadway, and placed only slightly off the original footprint of the former Annandale House [about two feet], so that it would be no less than 80' from the center line of the roadway. Such placement of the structure will result in a 45' front yard setback, as requested by the Applicant.

Chairman Annas asks for comments from the Public. There are no comments.

Tim Ross moves to close the Public Hearing. Chairman Annas seconds, and all are in favor.

Tim Ross moves to grant the Area Variance, as requested by the Applicant, for a 45' front yard setback, with no portion of the proposed structure closer than 80' to the centerline of Annandale Rd. John Douglas seconds, and the Board reviews the six points on the Variance Resolution, and concludes that:

1. There will be no undesirable change to the neighborhood.

2. The Applicant's needs cannot be achieved by other means than an Area Variance, since he would have to cut into a wooded, swampy area to meet the 200' front yard setback requirement.

3. The requested Area Variance is substantial, but it is also consistent with many structures in the area.

4. The granting of the Area Variance will not negatively impact physical and environmental conditions in the neighborhood.

5. The Applicant's hardship is not self-created.

6. The Variance granted is the minimum necessary to meet the Applicant's needs, since the rear area of the proposed structure will be located adjacent to the existing tree line.

The Board votes on the motion to grant the Area Variance, and all are in favor.

Review of Appeal

Appeal 15-03, Glenn Countryman on behalf of St. John's Reformed Church application for an area variance to place a 4' x 8', 32 square foot, permanent, changeable, identity and activity sign to replace an existing sign, on parcel 6374-00-223038. St. John's Reformed Church is not located on this parcel. ***Section 143-27 prohibits off-premises signs in the Town and Section 143-27 D (4) does not permit nonresidential signs, in the Hamlet District, to exceed eight square feet in surface area, for a single identity sign, and three square feet in surface, for a single wall sign, advertising a service or product.*** The applicant's property is located at 8130 Albany Post Rd. in the Upper Red Hook Hamlet zoning district, Tax Grid # 6374-00-223038.

The Review of Appeal begins at 7:45pm.

Chairman Annas invites the Applicant to present his proposal to the Board. He also notes that St. John's Church is not located on the same parcel, as the one on which they wish to place the sign, but that the church owns both parcels. The Applicant, Mr. Glenn Countryman, states that he believes an Area Variance was granted for the proposed sign, at some point in the past. Tim Ross replies that, if there were such a Variance, no one at Town Hall was able to find it. Tim Ross and Jim Hegstetter both confirm that an Area Variance for a sign was granted for Pitcher Lane, but not for St. John's Church.

Mr. Countryman presents the Board with photographs of the existing sign, as seen from the west side of Route 9, with the church and parsonage in the background. He explains that it is a changeable sign, in poor condition, that the church would like to replace. He indicates the position of the current sign on a map and clarifies that this location is the only one, from which the sign is visible to passing cars, since the church itself, is farther back from the roadway, and there is a line of spruce trees, which hinder visibility on the parcel containing the sign. As stated by the Applicant, the sign's position on the parcel is 23' from the edge of the pavement, and 67' from the corner of the lot.

Mr. Countryman describes the proposed sign as having 8" changeable letters, and measuring 48" X 96". The current sign measures 58" X 96". He also presents a photograph of a sign, similar to the proposed sign, currently in use at the Wurtemburg church [in Rhinebeck, NY]. The Board discusses temporary versus permanent signage, with Bob Fennell, since the current and proposed

signs are both on wheels. It is determined that these signs are permanent, since they are not placed temporarily, in relation to a specific event, but rather are in place permanently, with changing messaging. Kris Munn asks if the sign will be lit. The Applicant responds that it will not. John Douglas notes that there is an orchard across the street and a barn to the right of the position of the current, and proposed signs.

Chairman Annas asks Bob Fennell what the setback requirements are, on the parcel containing the sign. Mr. Fennell replies that it could be 50' to 100'. Tim Ross notes that this Application will be referred to Dutchess County Planning, since the parcel abuts a state road. He further notes that in the event the County does not approve the project, it will require a supermajority from the ZBA, for it to go forward. Mr. Ross also wonders why the proposed sign is considered off-premises, if the church owns both parcels. Chairman Annas replies that it is because the parcel containing the present and proposed signs is not the one the church occupies. Chairman Annas asks the Applicant if he is aware of the Appeals process, and states that Mr. Countryman will need to submit payment for the certified mailings to his neighbors, within a 500' buffer. John Douglas and Jackie Fenaroli discuss the number of neighbors, and Jackie gathers additional documentation from the Applicant to submit to the Dutchess County Planning Department, along with the Application to the ZBA. Chairman Annas informs the Applicant that his Public Hearing will take place at the next ZBA meeting on June 10th, 2015, and that he will be first on the Agenda. Mr. Countryman hands Jackie Fenaroli a check for payment of certified letters to the neighbors. Jackie hands Mr. Countryman a memorandum of receipt.

Review of Appeal

Appeal 15-04, Luis Rodriguez and Aleighsha Elston application for an area variance to house a miniature pony and a miniature donkey on a parcel of 1.059 acres. ***Section 143-39 D requires a minimum of two acres, in the RD3 Zoning District, for the keeping of farm animals on non-farm parcels.*** The applicant's property is located at 16 St Paul Rd. in the RD3 zoning district, Tax Grid # 6372-00-870597.

The Review of Appeal begins at 8:05 pm.

Chairman Annas asks the Applicant, Ms. Aleighsha Elston, to present information, regarding her Appeal, to the Board, and the Public in attendance. Ms. Elston presents general information on the breed of miniature donkey and miniature horse, and also information specific to her animals from her veterinarian. She clarifies that her donkey and horse are miniature versions of full-size animals, that they are non-household pets, and not farm animals, that both animals are rescues, and in poor health. According to a weight tape from her veterinarian, Rhinebeck Equine, the donkey weighs 240 lbs, is somewhat overweight, and needs to restrict grazing for other health issues as well, which are outlined in her documentation. The donkey is 25 years old. The horse is 10 years old, and weighs 220 lbs, and also needs to restrict grazing, for health issues. Both animals are currently housed at a rented space in Tivoli. Currently, all manure is removed from the site on which they are housed, and transported to a garden her father maintains.

Ms. Elston is requesting to house them on her property due to their health issues. To that end she has prepared and refurbished a barn, running shed, and fenced in area on her property, a parcel which also contains her family's home. Ms. Elston further states that, though her parcel is not large, it is more than adequate for her animals, since they are small, and she must restrict their grazing. She also states that she expects them to have shorter than normal lifespans, due to their health issues, and that she has no plans to replace them.

Tim Ross comments that the Variance goes with the land, so once it is granted, it remains in place, for that parcel.

Bob Fennell notes that the Town Code does not currently distinguish farm animals that work, and ones that are kept as pets.

Chairman Annas asks about noise issues in connection with these animals. Ms. Elston replies that they are mostly silent, except when she is calling them, they might make a small, whickering noise. Ms. Elston also states that her neighbors are supportive of her proposal, and that one of them, the Oppenheim's, have offered to lease her a vacant, three acre, parcel, adjacent to her parcel, in order to provide more space for her animals. Trilby Sieverding asks Ms. Elston for more details on her preparations to house the animals on her land, which Ms. Elston provides. Jim Hegstetter confirms that the parcel, her neighbors have offered to lease her is three acres. Chairman Annas asks Ms. Elston to specify if the three acre parcel includes land across the street from her parcel. She states that it does, and that the parcel contains a cow field with four cows, and a studio apartment.

Jim Hegstetter explains to the Applicant the process for notifications to her neighbors, via certified letter. Ms. Elston hands Jackie Fenaroli a check as payment for the notification letters. Jackie hands Ms. Elston a memorandum of receipt.

Chairman Annas places her Public Hearing second on the Agenda for the June, 2015 ZBA meeting.

Review of Appeal

<u>Appeal 15-05, Helen Campbell, Elizabeth Dill, Kerri Campbell Luftman application for an area variance to erect an addition to a dwelling 7 feet, 5.5 inches from the side lot line, and a building coverage of 8.86% on the parcel. Section 143-13 (A) (4) Existing Lots of Record, states that the total of both side yards for the principal building shall be not less than 40% of the lot width; provided, however, that no single side yard for a principle building shall be not less than 60% of the minimum side yard otherwise required for the district – 21 feet, in this case; and Section 143 Attachment 2 states that the maximum building coverage allowed in the RD3 Zone is 7% of Parcel.</u> The applicant's property is located at 147 Country Club Drive in the RD3 zoning district, Tax Grid #6372-19-685093

The Review of Appeal begins at 8:15 pm.

Chairman Annas asks the Applicants, Ms. Karen and Mr. Don Campbell to present their project to the Board and Public. The Campbells have already presented their project to the ZBA at the March, 2015 meeting. They subsequently withdrew their Application, in order to make changes to the proposed addition on their house. Ms. Campbell states that addition has been enlarged from 5' to 7' in width, and is otherwise identical to the proposal submitted to the Board in March. Chairman Annas and Bob Fennell confirm that the new Area Variance would reduce the side yard setback from 21' to 7'5.5". Chairman Annas suggests amending the proposed setback to 7', in order to give the Applicants some wiggle room. The Board reviews the documentation, presented by the Applicants, and since it is similar to the documentation presented in March, 2015, there are no questions or comments. Chairman Annas notes that the Town will have to re-notify the neighbors, on behalf of the Applicants. Ms. Campbell gives Jackie Fenaroli a check for payment of certified letter mailing costs. Jackie hands her a memorandum of receipt.

Chairman Annas places them third on the Agenda for the June, 2015 ZBA meeting.

Public Hearing

Appeal 14-10, Norman Greig application for an area variance to obtain a Special Permit for an Inn with an 80 seat restaurant on a town road (Pitcher Lane). Parcel already contains one Special Permitted use. ***Section 143-39 C limits the number of Special Permitted uses to 1 (one) in the ABD zone.*** The applicant's property is located at 160 Pitcher Lane in the ABD zoning district, Tax Grid #6273-00-896812.

Appeal 14-11, Noman Greig application for an area variance to obtain a Special Permit for an Inn with an 80 seat restaurant on a town road (Pitcher Lane). Parcel already contains one Special Permitted use. ***Section 143-39A requires egress and ingress on a state road.*** The applicant's property is located at 160 Pitcher Lane in the ABD zoning district, Tax Grid #6273-00-896812.

Appeal 14-12, Noman Greig application for an area variance to obtain a Special Permit for an Inn with an 80 seat restaurant on a town road (Pitcher Lane). Parcel already contains one Special Permitted use. ***Section 143-93 B limits the number of seats in an Inn to 30.*** The applicant's property is located at 160 Pitcher Lane in the ABD zoning district, Tax Grid #6273-00-896812

The continuation of the Public Hearing, from the April 08, 2015 Town of Red Hook ZBA meeting, begins at 8:20 pm.

Chairman Annas notes that the Board had asked the Applicant, Norman Greig, to provide detailed information regarding the expected, maximum, area of disturbance that the proposed inn and restaurant would create. The Board had also asked Mr. Greig to provide traffic data from Dutchess County, for Pitcher Lane. Mr. Greig has provided traffic data from 2010 and 2013, to the Board, after the April, 2015 ZBA meeting and prior to the May, 2015 ZBA meeting.

Mr. Greig asks the Board if it had a consultant conduct any analysis of the traffic data he has supplied to the Board. Chairman Annas and Tim Ross briefly discuss the traffic data, and the Board agrees that no further analysis of the data is necessary. He also states that the anticipated, maximum area of disturbance for the proposed inn and restaurant would be one tenth of an acre, or 4000 square feet.

Chairman Annas asks Mr. Greig if he has documentation to support this calculation, to present to the Board. Mr. Greig does not present any further documentation at this time.

Christine Chale asks Mr. Greig to clarify what this calculation entails. Specifically, would the area of disturbance include the septic system? She states that for SEQR the Board needs to know the amount and nature of the area of disturbance. Mr. Greig replies that it would include the septic system, and that most of the project is indoors, involving the adaptive reuse of the barn.

At 8:26pm the Tim Ross makes a motion to continue the Public Hearing. Jim Hegstetter seconds, and all are in favor.

Chairman Annas invites comments from the Public.

Amy Dubin of –Pitcher Lane comments that her house, referred to as the Dutch House at the April, 2015 ZBA meeting, is considered the oldest house in Red Hook, and is the subject of a Master's Thesis at the University of Massachusetts, Amherst. In order to make the interior of the house secure, for study, Ms. Dubin states that she and her husband have had the inside beams shored up. They have also recently had the roof painted. Ms. Dubin also discusses the traffic issue on Pitcher Lane, and refers to the traffic study conducted by the Chazen Companies. She notes that 58 vehicles per hour represents a significant increase in traffic during the evening hours. Tim Ross states this is anticipated peak flow, and Chairman Annas concurs that this number would not be valid 24 hours a day.

Ms. Kathleen Karakassis, of – Pitcher Lane, contests the one tenth of an acre, stated by the Applicant, as the anticipated, maximum area of disturbance. She maintains that to convert two efficiency apartments, a seasonal garden shop, [and the barn] to an inn and 80 seat restaurant will involve a greater area of disturbance, than the Applicant is stating, for the septic system, the addition of decks to the barn, landscaping, screening for the neighbors, and stairs for the second floor egress to the building. She also asks who is creating the drawings for the Applicant, as she notes the East and West facades are inccorect. Mr. Greig replies that they are reversed on the drawings.

Christopher Klose of 81 Echo Valley Rd., and Secretary to Historic Red Hook. Mr. Klose states that he has a deep interest in the matter at hand. He characterizes Pitcher Lane as at the heart of Red Hook's history, with the William Pitcher House dating from 1725. He describes the area around Pitcher Lane as historic and agricultural, and not commercial, such as a place where one would find a hotel. He mentions two historic homes in the area, the Hermance House, and the Moore House, and is concerned about noise pollution, light pollution, and wear and tear on the local environment. He underlines the importance of maintaining the historic roots of the community. He states that the Town Centers and Greenspaces Plan was drafted to maintain the community's integrity, and that much effort went into its drafting. He characterizes this effort as an expression of the public will. Mr. Klose agrees that economic growth is necessary to the Town, but notes that the current proposal is larger than what is permitted by the Town, and he believes it is too large for the area for which it is proposed.

There were no further comments from the public at this time.

At 8:34 pm Tim Ross moves to take the Board into Executive Session with Town Counsel Christine Chale. Trilby Sieverding seconds, and all are in favor.

At 9:28 pm Tim Ross moves to bring the Board out of Executive Session. Jim Hegstetter seconds, and all are in favor.
Chairman Annas asks for a motion to close the Public Comment period. Christine Chale recommends asking the public if there are any additional comments, one last time. Chairman Annas does so.

Lauren Cardelano of 223 Pitcher Lane, across from the airstrip, states that she supports the project. She states that she has frequented similar establishments in Spain, Italy and Portugal, with restaurants of a similar size to what is being proposed. She does not find that the proposed inn and 80 seat restaurant would affect the beauty or agricultural nature of the surrounding area. She also finds that the additional business would be good for the community.

There were no further public comments at this time.

At 9:31pm Jim Hegstetter moves to close the Public Comment period of the Public Hearing. Tim Ross seconds, and all are in favor.

Chairman Annas reviews Part II of the EAF – Short Form with the Board for a single action, for which the Board is conducting an uncoordinated review, independently.

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?

Chairman Annas asks Christine Chale to clarify "material conflict". She replies that the question is asking whether or not the proposed action is consistent with a land use plan or zoning code.

Chairman Annas states that in terms of the size of the proposal, it is in conflict with the zoning code.

Kris Munn asks Christine Chale if the SEQR part II will be for all three Appeals. She states that for SEQR it is a single action, reviewed independently of the Planning Board. Kris Munn finds that the ABD zoning calls for small inns and restaurants, and that the proposed action is significantly large, and somewhat out of character, especially with regard to the 80 seat restaurant. He finds there is a material size difference.

Trilby Sieverding, John Douglas, Jim Hegstetter, Tim Ross and Chris Carney all find that the proposed action is consistent with local zoning, and that a small or no impact will occur.

2. Will the proposed action result in a change in the use or intensity of the land?

Tim Ross, Jim Hegstetter, John Douglas, and Trilby Sieverding find that the change in use or intensity will be small to minimal. Chairman Annas, Chris Carney and Kris Munn find that the change will be moderate to large.

3. Will the proposed action impair the character or quality of the existing community?

Chairman Annas asks Christine Chale to clarify the term "community" – is it the entire Town, the area surrounding Pitcher Lane, or is it just Pitcher Lane?

Christine Chale replies that it is up to the Board to determine how far the impacts extend into the community, and what to consider as the community.

Kris Munn finds that there will be a small impact, in consideration of what is there now.

Trilby Sieverding finds that there will be a small impact – restoring an historic barn will make it look better than it does now.

John Douglas finds that there will be no impairment. The drawings submitted to the Board represent an improvement.

Jim Hegstetter finds that there will be no impairment, and that the barn will eventually fall down if it is not restored.

Tim Ross finds no impairment.

Chris Carney finds a small impairment, but it is any impairment is disproportionate to the closest neighbors.

Chairman Annas finds the impairment to be moderate when considering the change from an historic barn to an inn and restaurant – these are very different from the original structure.

4. The Board unanimously finds that there are no Critical Environmental Areas that would be affected by the proposed action, and thus there will be no impacts to the environmental characteristics causing such areas.

5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?

Tim Ross, Jim Hegstetter, John Douglas and Trilby Sieverding find that the impact will be small.

Chris Carney, Kris Munn and Chairman Annas find that the impact will be moderate, since the traffic will double in the evening, according to the traffic study done by the Chazen Companies.

6. Will the proposed action cause in increase in the use of energy, and it fails to incorporate reasonably available energy conservation and renewable energy opportunities? The Board finds unanimously that it will not.

7. Will the proposed action impact existing public/private water supplies and public/private wastewater treatment facilities?

Jim Hegstetter, Tim Ross, John Douglas, Kris Munn and Trilby Sieverding find small to minimal impact, since the current system will be enlarged to accommodate the inn and restaurant.

Chairman Annas and Chris Carney find that the impact will be moderate, mainly due to the restaurant, since the system is not yet enlarged.

8. Will the proposed action impair the character or quality of important historic, archeological, architectural or aesthetic resources? The Board finds unanimously that it will not.

9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)? The Board finds unanimously that the change will be small to minimal.

10. Will the proposed action result in an increase in the potential for erosion, flooding, or drainage problems? The Board finds unanimously that it will not.

11. Will the proposed action create a hazard to environmental resources or human health? The Board finds unanimously that it will not.

The Board unanimously agrees to check the second box in Part III of the Short Environmental Assessment Form called Determination of Significance. This states that the Board has determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant, adverse environmental impacts.

Christine Chale reads the Resolution Adopting a SEQRA Determination of Non-Significance, with attached Notice of Determination of Non-Significance [See Exhibit A].

At –pm Chairman Annas calls for a vote on the Negative Declaration.

At 9:56 pm Tim Ross moves to adopt the Negative Declaration as written. Trilby Sieverding seconds, and all are in favor.

At 9:58 pm Kris Munn moves to consider the Variance for Appeal 14-10, for a second Special Use Permit, as a Use Variance, rather than an Area Variance. Chairman Annas seconds the motion. Mr. Munn states that the proceeding is subject to heightened legal scrutiny, and that considering this Appeal as an Area Variance goes against the legal opinion of several attorneys. He further states that in considering this Appeal as an Area Variance the Board risks subjecting the Town to litigation in an unfavorable light, and risks unnecessary expenditure of taxpayer dollars. He asks the Board to consider the attorneys' advice and change course by considering the Appeal as a Use Variance.

Trilby Sieverding states that she takes offense at Mr. Munn's suggestion that the Board is acting improperly, since an inn and restaurant are permitted uses in the ABD. She states that it is only the intensity that is changing. She further states that there is no case law to support the Board considering this Appeal as a Use Variance.

Mr. Munn replies that it is not merely his opinion, but that of legal counsel, and there is also no case law to support considering the Appeal as an Area Variance.

Trilby Sieverding replies that legal opinion is often based on a conservative view, with the goal of avoiding litigation.

Tim Ross states that this motion is not proper, since the Board already voted on this question at the April, 2015 meeting. Mr. Ross then reads the definition of an Area Variance from the Town Code.

At 10:01 pm Chairman Annas asks the Board to proceed with a vote. He states that Tim Ross has a point, that the Board has already voted on this question, but, as Chairman Annas notes, new information on the matter has been presented to the Board. He asks Christine Chale if this new information results in

eligibility for a new vote. Ms. Chale tells the Board they may proceed with a vote on the motion made by Mr. Munn. John Douglas reads the definition of an Area Variance, and states that Mr. Munn is conflating a Special Use Permit with a Use Variance. He also states that the Town attorney provided examples of Area Variances in a written document, which is also a legal opinion. Mr. Douglas notes that legal counsel indicated two different approaches to the question in the written document. Kris Munn replies that Mr. Douglas is mischaracterizing counsel's opinion, which is that the Variance, granting or denying a second Special Use Permit on the parcel, should be a Use Variance, and not an Area Variance. Jim Hegstetter and Trilby Sieverding note that this is a matter of opinion, and Mr. Hegstetter states that it is time to vote.

At 10:04pm the Board votes on the motion to consider Appeal 14-10, as an appeal for a Use Variance, and not an Area Variance. Tim Ross, Jim Hegstetter, Chris Carney, Trilby Sieverding and John Douglas vote NO. Chairman Annas and Kris Munn vote YES. The motion failed.

Chairman Annas states for the record that Appeal 14-10 will remain an appeal for an Area Variance. He invites the Board to proceed to the appeals for a 14 room inn and 80 seat restaurant. Tim Ross states that he would like to see more discussion on the size of the restaurant, that 50 seats would be a better fit. He asks the Board and the Applicant if 80 seats are really necessary. Norman Greig replies that with 50 seats, the project will add a "Special Use Room", which interested parties have characterized as "additional seating" in the past. He states that the adaptively reused historic barn will comprise 9500 square feet, and that he intends to make use of them. In applying for 80 seats, he states that there will be the advantage of having enough seating to accommodate guests and the people who come to see them. He gives the example of a Bard College graduation party, requiring extra seating, and choosing a different venue, if the hosts do not find it at his establishment.

Chairman Annas asks the Applicant to recall that he stated he could make his project work with 10 rooms and 30 seats. Mr. Greig states that the application is for 14 rooms and 80 seats, because it is well adapted to the existing building. He further states that the project is associated with a farm receiving thousands of visitors, and that he wants to accommodate as many people as he can, in the space he has. Chairman Annas repeats the question, and adds that the Applicant is quoted in the December meeting Minutes as stating he could do the project with 10 rooms and 30 seats. Mr. Greig replies that he would have to review the Minutes. Chairman Annas asks for a motion for the appeal regarding the size of the restaurant. Christine Chale recommends that the Board entertain the appeal for a second Special Use Permit prior to the other two appeals.

At 10:08pm Tim Ross moves to grant Appeal 14-10 for a second Special Use Permit. Mr. Ross reads the "Resolution to Grant a Variance for a Second Special Permit" [See Exhibit B], given the size of the parcel, the limited intensity of use concerning the first Special Use Permit, and the adaptive reuse of an historic barn. Trilby Sieverding seconds, and the Board reviews the above named Resolution, as Tim Ross reads it.

Chairman Annas invites the Board to discuss the text of the draft Resolution. Tim Ross notes that peak traffic trips per hour should be amended from 50 to 58, to reflect the number given in the traffic study by the Chazen Companies. Kris Munn asks if the Variance is limited to an inn, or could it be for any permitted use in the ABD. He further asks that since the Variance goes with the land, in 20 or 30 years, would the Variance still be for an inn and an airstrip, or could it be for something else. Chairman Annas asks what the status of the variance would be, if the land were subdivided. The Board and Christine Chale discuss the zoning requirements for the ABD, and language used in the resolution to grant the

variance, and note that the resolution states "The site consists of over 90 acres…." and it is "…to permit a second special permit use on the site for the establishment of a Restaurant in conjunction with an Inn."

At 10:26 pm the Board votes on the appeal to grant a variance for a second specially permitted use on a parcel in the ABD. Chairman Annas, Chris Carney, John Douglas, Jim Hegstetter, Tim Ross and Trilby Sieverding vote YES. Kris Munn votes NO.

At 10:27 pm John Douglas makes a motion, regarding Appeal 14 – 11, for the Board to grant a variance for a 14 room inn in the ABD, and reads the "Resolution to Grant a Variance for a 14 Room Inn" [See Exhibit C]. Trilby Sieverding seconds the motion. Chairman Annas asks if there is any discussion on this motion.

At 10:29 pm the Board votes on the above named motion to grant the variance. John Douglas, Jim Hegstetter, Tim Ross and Trilby Sieverding vote YES. Chairman Annas, Chris Carney and Kris Munn vote NO.

At 10:32 pm Chairman asks for a motion, regarding Appeal 14 – 12, to vote on the appeal to grant a variance for an 80 seat restaurant. The Board discusses this variance briefly.

At 10:33 pm Tim Ross moves to take the Board into Attorney-Client session. Trilby Sieverding seconds, and all are in favor.

At 11:19 pm Kris Munn moves to bring the Board out of Attorney-Client session. Tim Ross seconds, and all are in favor.

At 11:20 Chairman Annas asks for discussion on the third variance regarding the number of seats in the restaurant.

Tim Ross is concerned that the Board does not have enough information from the Applicant to justify a jump from 30 to 80 seats, and that the benefit to the Applicant is not demonstrated to be greater than the detriment to the neighbors. Trilby Sieverding concurs, and further states that she was comfortable with the increase from 10 to 14 rooms for the inn, since the space for them already existed. In considering the night time traffic numbers for an 80 seat restaurant, however, it impacts the neighbors in a more significant way. She also states that the first time the Board voted on this matter, she was comfortable with a lesser number, and was not sure that that 30 seats was economically viable, but she also doesn't know what that number should be, since there is no specific information from the Applicant.

Christine Chale recommends that the Board look at the matter in context of the 5 factors as a starting point. She states the facts as follows: From the other variances there is a restaurant in conjunction with an inn. It is tied to a Special Use Permit approval. The limit is 30 seats, in the zoning. The parcel is large. The site is commercially used, currently, but if turned into a restaurant, that would not be operating anymore. Pitcher Lane has large agricultural lots and smaller residential lots. Factually, the hours of operation are different than for the existing and historic businesses, and they would be for a different time of day, with respect to the existing uses. The intensity of the use would be different from 30 to 80 [seats]. [A restaurant with] 30 seats would have night time use as well, but it would be permitted under the current variance.

Factors:

1. Would the variance requested produce an undesirable change to the character of the neighborhood or a detriment to nearby properties?

Tim Ross and Trilby Sieverding see a detriment to nearby neighbors, and cannot see the degree of benefit to the Applicant in order to compare it to said detriment to the neighbors. Mr. Ross characterizes the greater annoyance an 80 seat restaurant would cause during the 6:00 pm – 9:30 pm dinner hour, compared to a smaller restaurant. Jim Hegstetter states, as a business owner, there is generally a business plan on which such a number would be based, that it is not an arbitrary number. He also states that there is no supporting document for the number of seats the Applicant has requested, and that when the Board came up with a smaller number in its first vote, it was not an indication of a break-even point. He wonders how the number the Applicant is requesting is derived, from the capacity of the space, or because that is what it would have to be in order for the Applicant to host events? Mr. Hegstetter characterizes this as a business decision. He states that he originally agreed to 50 seats, but that does not mean that he thinks 80 seats is too high.

Chairman Annas states that he sees a greater detriment to neighbors with a greater number of seats. He states that neither he, nor any member of the Board is in the restaurant business, and that even if 80 seats is optimum, from a business standpoint, he believes the adverse impacts to the neighbors are too great to allow it.

2. Can the needs of the Applicant be achieved by means other than an Area Variance?

Chairman Annas states that the Applicant has already stated, for the record, that he can make his project work with 10 rooms and 30 seats, for which he would need no variance. Tim Ross states, regarding the question of whether or not the business can succeed with 30 seats, that the Board does not have sufficient evidence to make that decision. He also states, if the Applicant truly needs the 80 seats, then relief cannot be sought any other way, but that the Applicant needs to prove that financially, with reasonable documentation.

3. Is the requested variance substantial?

Tim Ross states that the jump from 30 to 80 seats represents a 167% increase, which, with nothing else to go on, appears substantial. Chairman Annas states that the increase is excessive, that the detriment to the neighbors far outweighs the benefits to the Applicant. Kris Munn states that the 30 seat limit was selected and vetted for months as a baseline to consider. He also states that this does not mean, however, that special circumstances would not warrant a variance. He concludes, that with the data the Board has in front of it, the requested variance is substantial.

4. Will the variance affect physical or environmental conditions in the neighborhood?

The Board does not find that the variance will affect environmental conditions. Chairman Annas, however, notes that through the increased traffic, lighting and noise, that physical conditions will be affected.

5. Is the hardship, for which the variance is sought, self-created?

Tim Ross states that the structure to be adaptively reused already exists, so that does not represent a self-created hardship. He adds, however, that he does not know if the fact that the Applicant has appealed for a variance for an 80 seat restaurant, with no supporting data to back up the request, would represent a self-created hardship. Kris Munn states that the number of 80 seats seems to be what fits the building, that existed before the adaptive reuse. He also states that he does not know whether you would call the hardship self-created, on this particular point. Mr. Munn concludes that it is easier to use a pre-existing barn with what fits, rather than expanding it. Jim Hegstetter comments that the impact from 50 to 80 seats is not that big, since most restaurants are not full every night.

At 11:34 Kris Munn moves to deny the Variance for an 80 seat restaurant, and reads the "Resolution to Deny a Variance for an 80 Seat Restaurant"[See Exhibit D]. Chairman Annas seconds. Trilby Sieverding comments that the Board needed more documentation to support the benefit of the variance to the Applicant.

Norman Greig asks the Board if it wants to table the discussion until next month, so that he can bring in supporting documentation on this matter. Chairman Annas replies that the Board will vote on it, and that the Applicant can submit a different request at the next meeting. Trilby Sieverding states that she always felt 30 seats was too small, 80 seats was too big, and that 50 seats seemed like the right number, but that the Applicant would need to present facts to support his request. Norman Greig states that he could do that.

Chairman Annas asks the Board if it wants to take a vote. Christine Chale asks the Board if it would allow her to reiterate the Board's discussion on the requested variance for an 80 seat restaurant, for the record. Her statement is as follows:

"The variance to allow the additional 50 seats would result in a disproportionate detriment to nearby neighbors as compared to the benefit to the Applicant. The requested variance would change the character and use of the site, from what would be a specially permitted use, as a 30 seat restaurant, to a more commercial use.

The additional seating could enable excess noise, car traffic, during the night time, result in a more intensive use of the property, in the evenings, which is a departure from the current operations, which is not contemplated by the current standards.

The benefit sought by the Applicant can be achieved by some method other than an Area Variance. They have not demonstrated a reason why the benefit cannot be achieved by other means.

The requested variance is substantial and would increase impacts on neighboring properties, including night time traffic and noise, in excess of what would otherwise be permitted. It would not have adverse environmental impacts on conditions in the neighborhood.

The alleged difficulty is not self-created. [The project involves] adaptively reusing an existing structure to increase income for the farm, and within the [structure's] existing footprint. With these findings to be added to the Resolution, with the Board's permission."

At 11:42 pm the Board votes to deny the request for a variance for an 80 seat restaurant.
Tim Ross, Chris Carney, John Douglas, Trilby Sieverding, Chairman Annas, and Kris Munn vote YES. Jim Hegstetter votes NO.

Chairman Annas states that the Applicant has received two of the three variances he was requesting, and that he is free to present other appeals.

At 11:44 pm Tim Ross moves to adjourn the meeting. Trilby Sieverding seconds, and all are in favor.