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

June 10, 2015

CALL TO ORDER

The meeting was called to order at 7:03 PM by Chairman Nick Annas.

ROLL CALL

Members Present: Nick Annas, Chris Carney, John Douglas, Kris Munn, Tim Ross, Trilby Sieverding.

Members Absent: Jim Hegstetter

Also Present: Christine Chale, Office of the Town Counsel and Jim Ross, Town Board Liason.

PRELIMINARY BUSINESS

Minutes from May 13, 2015: At 7:03 pm Kris Munn moves to approve the ZBA Meeting Minutes from May 13, 2015. Chris Carney seconds the motion. The Board reviews the Minutes briefly, and John Douglas, and Chairman Annas note two grammatical errors, which Anne Rubin makes note of, in order to correct them.

At 7:06 pm the Board votes unanimously to approve the May 13, 2015 ZBA Meeting Minutes.

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 advises the Board that New York Association of Towns is offering Planning and Zoning Courses during the summer, and that the nearest location is at the FDR Library in Hyde Park. Anne Rubin states that she will scan and email the brochure and registration form to the Board.

Public Hearing

At 7:10pm Tim Ross moves to open the Public Hearing. Kris Munn seconds and all are in favor

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.

Chairman Annas invites Mr. Countryman to present his proposal to the Board, and the public in attendance. Mr. Countryman states that the current sign is decrepit, and that it is a temporary, portable sign. The proposed sign would be in the same location, as the current one, and it would be a permanent sign. Mr. Countryman shows a photograph of a sign that is currently in use at the Wurttemberg Church on Route 9G, and indicates that the proposed sign would be similar to this one. The proposed sign would have changeable letters to advertise church services and events at St. John's Reformed Church of Upper Red Hook – [hereinafter St. John's Church]. He concludes that the proposed sign would improve the appearance of the area around the church.

At 7:12 pm Tim Ross moves to close the Public Hearing. John Douglas seconds, and all are in favor.

At 7:13 pm Tim Ross moves to grant a variance for the proposed sign on the grounds that the church presently owns the parcel on which the proposed sign would be located, and the parcel on which the church is located. Mr. Ross stipulates that the variance will require both parcels to have one and the same owner, in order to be valid. Mr. Ross also states that a better looking sign is a benefit to the neighborhood, and that a sign the size of the proposed sign, in a location near to the roadway is necessary, in order to be legible at the local speed limits of 45mph and 55 mph, in that area. He finds that the proposed sign is consistent with other signs in the area. He also notes that since the County has ruled this as a matter of local concern, a supermajority vote is not needed for the motion to pass.

Chairman Annas reads the comments from Dutchess County Planning Department [See Exhibit A], and notes that the County discourages this type of signage, and characterizes it as a blight on the landscape, and a distraction to drivers. He comments that there is a growing amount of signage in the Town, and characterizes this type of signage to a bad weed. He surmises that if all businesses had this type of signage, it would be unattractive, even if this particular proposed sign would be an improvement over the present sign. He further comments that this type of signage, in this location, and at this size is not in keeping with what the Town and the Greenway Compact want. Chairman Annas states that he would prefer a smaller sign, next to the church, similar to what some other area churches have, and in keeping with what the zoning ordinance requires. Chairman Annas also confirms with the applicant that searches at Town Hall, and at St. John's Church, had turned up no variance for the current sign, even though, at some point, the church administrators had thought there was one.

At 7:15 pm Chris Carney seconds the motion to grant the variance.

Trilby Sieverding comments that the proposed sign is an improvement over the present sign. She characterizes the style of the proposed sign as quaint, and in keeping with other, older churches in the area. She notes that the church needs to advertise events, and that no one has spoken out against the proposed sign.

John Douglas comments that a nearby business, The Devereaux Foundation, has a similar sign. He further comments that he has seen large, electronic signs, with LED lights, south of Newburgh, New York, announcing local events. He characterizes the proposed sign as a genteel, country sign, and comments that it would be an improvement to the area. He states that he disagrees with John Clarke's [Dutchess County Planning Department Development and Design Coordinator] opinion on this type of sign.

Kris Munn comments that the stipulation is good, if it is enforceable, and has no objection to improving what is there. He asks, however, what will happen when future applicants want this type of signage, and if the ZBA, in granting the variance, is opening the door to more signs, similar to the proposed sign.

At 7:21 pm the Board reviews the 6 balancing questions:

1. *The variance requested will not produce an undesirable change to the neighborhood, or detriment to nearby properties*. John Douglas and Chris Carney state that a new sign would enhance the neighborhood. Chairman Annas acknowledges that a new sign would be an improvement over the current sign, but states that the best looking sign would be smaller, and next to the church. Tim Ross, Trilby Sieverding, and Kris Munn find no detriment.

2. *The needs of the applicant cannot be achieved other than by an area variance*. All Board members except for Chairman Annas agree that the needs of the applicant cannot be achieved other than by an area variance. Chairman Annas states that the applicant could place a smaller sign near to the church.

3. *The requested variance is not substantial*. Kris Munn states that it is substantial, that the proposed sign is a large sign on Route 9. John Douglas confirms with the applicant that the proposed sign is slightly smaller than the current sign, and states that it is not substantial in consideration of what is already there. Chairman Annas states that what is there is probably illegal, since there doesn't seem to be a permit or a variance for it, and that it is substantial relative to what is permitted in the Town Zoning Code. Tim Ross states that it is substantial, relative to the Code, but consistent with other signs in the area.

4. *The proposed variance will not affect the physical or environmental conditions in the neighborhood*. Tim Ross states that it will improve them. Kris Munn states that the scenic issue is the only point – that otherwise it will improve them. Aside from the impact on the scenery, as mentioned by the County.

5. *The hardship for which the variance is sought to rectify, was not self-created*. Kris Munn states that they [the applicant] decided they wanted a sign there, so it could be self-created, but he is not sure. Chairman Annas states that the hardship is self-created, since the church could put up a sign of appropriate size, on the premises. The remaining Board members do not agree.

6. *The variance being granted is the minimum variance to meet the needs of the applicant*. Tim Ross states that he thinks the variance is the minimum variance to meet the needs of the applicant. He notes that if the proposed sign were much smaller, drivers passing by at 50 mph are not going to be able to read it. He further notes that the proposed sign's intent is to pass information to the public – that it must be legible at the designed speed for the road, otherwise it's useless or a hazard. John Douglas notes that the federal government came out with new sign regulations. People are getting older, so they had to change the size of the letters on road signs and stop signs. Chairman Annas replies that a necessary sign, with geographic indications, is not the same thing as a sign advertising events.

At 7:26 pm the Board votes. Kris Munn votes NO. Trilby Sieverding votes YES. Tim Ross votes YES. John Douglas votes YES. Chairman Annas votes NO. Chris Carney votes YES.

The variance is granted.

At 7:28 pm Chairman Annas reads the announcement for the:

Public Hearing

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.

At 7:29 pm Trilby Sieverding moves to open the Public Hearing. Chairman Annas seconds, and all are in favor.

Chairman Annas invites the applicant, Aleighsha Elston to present her proposal to the Board. Ms. Elston states that the animals she wants to bring home are a miniature horse and a miniature donkey. They are approximately the size of a large dog, and that the horse weighs approximately 230 lbs., and the donkey weighs approximately 240 lbs., according to the equine weight tape from the veterinarian. She further states that these animals are not used for anything, that they are pets, and that their health issues require that they have access to limited grazing.

Chairman Annas notes that he doesn't think there is a practical way [in the Town Zoning Code] to distinguish between farm animals and pets, but maybe through intent or how the animals are used. He asks for public comments.

Ms. Diana Thorley of 26 St. Paul Rd. is the adjacent neighbor to the east of the parcel on which the animals would be housed. Ms. Thorley reads a statement [see exhibit B]. She is not in favor of housing the animals next to her parcel due to potential odors, flies, noise, and the presence of vermin, attracted to the animals' feed. Ms. Thorley also notes that there is no Town ordinance requiring the daily removal of manure from a parcel.

Henry Woods of 29 St. Paul Rd. is in favor of the animals being housed on the applicants' parcel. He states that it is very much in keeping with what is on the road. Mr. Woods further comments that there are cows across the street from the applicants' parcel, and goats up the road. There are already flies, and that it is characteristic of that part of town.

Stanley Ducat of 36 St. Paul Rd. is a neighbor who lives on the other side of the Thorley's. His property is approximately 300 yards away from the applicants' parcel. Mr. Ducat states that he looks at the size of the animals, and that they compare to a large dog in size. He mentions one of the applicants' children, 4 years of age, and states that the animals are about that height. He states that he does not have a problem with the applicants housing the animals on their parcel.

Chairman Annas notes that Ms. Elston had stated at the previous meeting that she had an offer to lease some land from an adjacent neighbor, in order to meet the acreage requirement to house her animals close to her home. Ms. Elston confirms that the Oppenheims have offered to lease her three acres of land, which is to the west of her parcel, and also across the street from her parcel. She states that, if she were to lease this land, she would hope to house the animals in the 130' x 65' fenced in area, with an existing barn, she had already prepared for them on her parcel. She further states that the Oppenheims have offered to let her fence in an area including their land, if that is required. Chairman Annas notes that nothing about the proposed site for the animals would change. He states, that with sufficient acreage, the applicants would not need a variance, and might not even need a permit, but the issues for the neighbors would still exist. He asks Ms. Elston, since Ms. Thorley mentions noise from barking dogs, in her statement, if the miniature horse and donkey are noisy. Ms. Elston states that they are silent. Mr. Woods states that he is glad to put the manure on his property, and Ms. Elston replies that her father uses it on his own fields in Stanfordville.

Kris Munn asks about the Oppenheims, and whether or not they are present. Ms. Elston replies that they live in Manhattan, and cannot be present at the meeting.

At 7:40 pm Trilby Sieverding moves to close the Public Hearing, Chairman Annas seconds, and all are in favor.

At 7:40 pm Tim Ross moves to grant the variance based on the fact that it would be for two miniature animals, that it is not really the intent of the law, that these animals are not larger than some household pets, and because the parcel is uniquely situated directly across the street from agricultural development, which has a far greater potential for impact. Mr. Ross further states, that he understands there is a remote possibility of a detriment to a neighbor, however, the

detriment, in all likelihood, would be far less than three or four large dogs. He concludes that the benefit to the applicant is great enough, given the age and condition of the animals, that it warrants granting.

Chairman Annas seconds the motion and notes that Ms. Elston could lease or purchase the adjacent parcel, and she would not have to change anything to house the animals on her parcel. Kris Munn interjects that he thinks she would have to house them on the land that is across the street from her parcel, unless she merges the property. Mr. Munn further states that she would not be able to keep them on her one acre parcel. Tim Ross explains that it would require an interpretation [from the Code Enforcement Officer]. Kris Munn asks if it is possible to structure the variance in such a way that it can be limited to two animals, to these two specific animals. Tim Ross states that the motion to grant the variance would be amended to specify one miniature horse and one miniature donkey. Trilby Sieverding asks if the variance can be limited to the lifespan of these specific animals. Tim Ross replies that it cannot, that the variance would run with the property.

At 7:42 pm the Board reviews the 6 balancing questions:

1. *The variance requested will not produce an undesirable change to the neighborhood, or detriment to nearby properties*. Trilby Sieverding states that the proposal to house a miniature horse and a miniature donkey on a 1.059 acre parcel is a detriment to the Thorley's, [the adjacent neighbors to the east]. She states that though they are small animals, they are in the equine family, and as such, are farm animals. Ms. Sieverding is more in favor of the idea of the applicant leasing the property across the street and keeping the animals there. Kris Munn states that he thinks there is a reason small lots are not zoned for farm animals – in order to provide a buffer. He further states that on this particular question, he would agree to the detriment issue. Tim Ross replies that yes, it is a detriment, but seen this way, any animal, even ones that are permitted, could be considered a detriment – four or five rambunctious dogs would be a far greater detriment than two docile, aged, miniature, farm animals. Chairman Annas asks the Board how it would decide what is a farm animal. Trilby Sieverding replies that it is by species, and that equine species are farm animals.

2. *The needs of the applicant cannot be achieved other than by an area variance*. Kris Munn states that the applicants could house the animals on leased land and try for an interpretation to keep them on their own parcel, so the needs of the applicants can be achieved by some means other than an area variance.

3. *The requested variance is not substantial*. Kris Munn states that the requested variance is somewhat substantial. Chairman Annas notes that the miniature horse and miniature donkey are at the large end of house pets in size.

4. *The proposed variance will not affect the physical or environmental conditions in the neighborhood*. Kris Munn states that since there is already farming in the neighborhood,

physical and environmental conditions will not be affected. Mr. Munn states that he can see the detriment to the neighbor, but the presence of these animals is not an issue for the neighborhood.

5. *The hardship for which the variance is sought to rectify, was not self-created*. The Board agrees that the hardship was self-created.

6. *The variance being granted is the minimum variance to meet the needs of the applicant*. Kris Munn states that it would be the minimum variance, since the Board has restricted it to two miniature animals.

John Douglas reads the section of the Town Zoning Code regarding agriculture, and notes that it is permitted in all districts of the Town. Kris Munn clarifies that you need to meet the criteria, and that these applicants do not. Chairman Annas asks Ms. Elston what are the ages and life expectancies of her animals. She replies that they are in poor health, that George, the Donkey is 25, and could live for another 5 years. She further comments that Bucky, the pony is only 10, but she would be surprised if he lives another two years, before she has to have him put down.

At 7:51 pm the Board votes on the motion to grant the variance to house a miniature horse, and a miniature donkey, on a 1.059 acre parcel in the RD3 zoning district of the Town.

Chris Carney votes YES and states the reason for his vote is that the proposed action is in keeping with the character of the neighborhood, and because it only might affect the immediate neighbor. Kris Munn votes NO. Trilby Sieverding votes NO, because, she states, it is a self-created situation, and is too close to the neighbor, and because the applicants have the possibility to lease nearby property. Tim Ross votes YES, because, he states, the character of the neighborhood will not be changed at all. John Douglas votes YES, because, he states, Red Hook is a farming community. Chairman Annas votes NO, and states that as much as it would disturb the neighbors, he "would" vote yes, since he does not see these as farm animals in any respect.

The motion fails, and the variance is denied.

Ms. Elston asks the Board if she leases the other property, will she be able to bring her animals home. Kris Munn and Tim Ross explain that she will have to house them on the other property, or get an interpretation for a "whole farm parcel" from the Code Enforcement Officer.

At 7:56 pm Chairman Annas reads the announcement for the:

Public Hearing

<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</u>

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. The applicant's property is located at 147 Country Club Drive in the RD3 zoning district, Tax Grid #6372-19-685093

At 7:57 pm Kris Munn moves to open the Public Hearing. Trilby Sieverding seconds, and all are in favor. Chairman Annas invites the applicant to present his proposal to the Board and public.

Mr. Campbell states that the addition is to increase the size of the bathroom and one bedroom. Chairman Annas asks who the owners are. Mr. Campbell replies that the cottage is owned by his two sisters and his daughter in a living trust. Chairman Annas suggests amending the lot line setback from the requested 7' 5.5", to 7'. Karen Campbell, Don's wife, states that there are no structures on, or near that side lot line. Chairman Annas asks for public comments. Richard Dill, owner of 145 Country Club Drive, which is the property to the side facing the proposed addition, states that he has no problem with the proposed addition. Chairman Annas asks the applicant how large the parcel is, and Mr. Campbell replies that it is almost half an acre. He further states that the house on the parcel, adjacent to the proposed addition, is closer to the neighbor on the far side, and farther away from his own house. Tim Ross notes that there is a history of variances in that area, with no objections from neighbors.

At 8:02 pm Trilby Sieverding moves to close the Public Hearing. Kris Munn seconds, and all are in favor.

At 8:03 pm Kris Munn moves to grant the requested variance, amended to a 7' side yard setback. Chairman Annas seconds. The Board reviews and agrees on the 6 balancing questions, as follows:

1. The variance requested will not produce an undesirable change to the character of the neighborhood or a detriment to nearby properties.

2. The needs of the applicant cannot be achieved by other than an area variance.

3. The requested variance is not substantial.

4. The requested variance will not affect the physical or environmental conditions in the neighborhood.

5. The hardship for which the variance is sought to rectify was not self-created.

6. The variance being granted is the minimum variance to meet the needs of the applicant.

At 8:05 pm the Board votes unanimously to grant the variance.

At 8:06 pm the Board reviews the following appeal:

Review of Appeal

Appeal 15-06, Chuck Simmons on behalf of Bard College application for an area variance to construct a new 1280 sq. ft. (16' x 40') two story structure at the site of a former music practice building, aka Annandale House, measuring 28' 6" x 80' 6", for use as a media building, with a front yard setback of 45 feet, from the 25' Dutchess County right of way, from the center of County Road 103. The orientation of the new structure will run east-west, on the longer, 40' sides, in such a way that the western end of the structure will not occupy the footprint of the original structure. ***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.

Tim Ross asks the applicant, Charles Simmons, representing Bard College, if he is looking for a modification of the variance that was granted. Mr. Simmons replies that he is, and presents supporting documentation, including a survey to the Board. Kris Munn states that it is his understanding that the applicant is asking for 10' closer to the center line of the roadway. Chairman Annas explains that the applicant is asking for a 45' setback off of the 25' center line of Annandale Rd., and not 35', as the Board previously thought. What the applicant is asking for is what the Board granted at the last meeting, but it is a 45' setback, off of the 25' center line right of way, not a 35' center line right of way, from the roadway.

Chairman Annas states that he visited the sight, on the Monday before the meeting, and saw that the extra 10' would put the proposed structure into some substantial oak trees. Chairman Annas further clarifies that the terrain begins to drop off at the tree line, and that the requested setback is in keeping with the other setbacks on that road. He states that none of the buildings have a 100' or 200' setback. Kris Munn notes that the Board had asked for a survey at the last meeting, and that now they have one, that shows the location of the centerline and right-of-way of the road. Chairman Annas states that he recommended that the applicant seek another variance because the other variance was not going to allow them to do what they wanted to do. Kris Munn agrees. John Douglas asks Mr. Simmons to indicate on the map the necessity for a reduction of 10'. Mr. Simmons shows the westerly corner of the building and the edge of the treeline on the map, and indicates that the building, in the proposed location, is already at the limit of where it can be placed, without cutting trees and shrubs, and entering the floodplain of the stream. Tim Ross confirms that the area of the floodplain is wet. Mr. Simmons states that the tree canopy is will need to be trimmed back, in order for the proposed structure to occupy the requested site.

John Douglas notes that the applicant will have to have a new public hearing, and send out new certified letters to the neighbors. Mr. Jeffrey Katz, also present, and working on this project, presents Anne Rubin with a check to cover the cost of certified mailings, and Ms. Rubin hands him a memorandum of receipt.

At 8:12 pm Chairman Annas places appeal 15-06 first on the agenda for the July 8, 2015 ZBA meeting.

Trilby Sieverding asks for an artist's rendering of the proposed structure. John Douglas notes that the project has changed a number of times, and asks that the rendering be of a structure that is at least close to what the Board will be voting on. Chairman Annas asks the applicant to bring the rendering to the public hearing.

At 8:13 Kris Munn moves to set the public hearing for the July 8, 2015 ZBA meeting. Tim Ross seconds, and all are in favor.

Revote

At 8:15 Chairman Annas states that the Board will be re-voting on the following appeals, for which it had adopted three resolutions at the May 13, 2015 meeting.

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

At 8:16 pm Kris Munn moves to take the Board in to Attorney – Client session. Chairman Annas seconds, and all are in favor.

At 8:45 pm Kris Munn moves to return to Public Session. Tim Ross seconds, and all are in favor.

At 8:45 pm Town Counsel, Christine Chale, clarifies the procedural rules for a rehearing. She notes that the Board has been asked to review and reconsider the decisions that were held in the last meeting, specifically the three variances on the Greig matter, not the SEQR, but the three variances. She notes that under section 267 A of Town Law, in the case of a rehearing, the motion to have a rehearing must be unanimous, which, she notes, it was. She further notes that, in addition to that, the rehearing is subject to the same notice provisions, as an original hearing, which she notes, was done. She further notes that upon such rehearing the Board may reverse, modify or annul its original order, decision, or determination upon the unanimous vote of all members then present, provided that the Board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

She clarifies that the decision, in connection with the hearing, which is the process that the Board is in, even though the original decision, is subject to challenge because of the SEQR deficiency. She explains that the rehearing procedure that the Board is in would require a unanimous vote. She states that the

recommendation she made to the Board was to reconsider the votes that were taken at the last meeting to determine whether the outcome will be potentially different upon a rehearing. She states, that if it is not, then the Board is essentially in a situation where the original decisions stand, but that they are under the cloud of the litigation that is currently pending. Ms. Chale states that she has copies of the resolutions, the same resolutions that were presented last time, with references to the May 13th Zoning Board of Appeals meeting, at which the Board failed to reach a unanimous vote on the three requested variances.

Chairman Annas asks Ms. Chale if it is enough to just read the titles of the resolutions, or if he should read the changes she has made, since they are a matter of public record. Ms. Chale recommends that Chairman Annas read the title of the resolution, so it is clear what the Board is doing, and then read the small paragraph that was added, which states: "WHEREAS, pursuant to the authority of Town Law § 267-a(13), the Zoning Board of Appeals may amend a failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process set for the in the Town Law; and" Chairman Annas states that he does not have this added paragraph, that the resolutions he has are from the last month's meeting. Christine Chale replies, that those are in the record, and that they are the same resolutions for discussion, and that the added paragraph reflects that on May 13th, the ZBA voted on the three requested variances, but failed to reach a unanimous vote on any of the requested variances. Chairman Annas asks Ms. Chale if she has copies for anyone in the public domain, who would have an interested in them. John Douglas states that he thinks this needs to be explained a little better. Ms. Chale replies that this is not a public hearing, and that the Board will not be hearing additional comments. She further states that the Board just needs to do what it is going to do. Mr. Douglas states, that for his own understanding, he would like to confirm that the Board, under New York State law, voted incorrectly. Ms. Chale clarifies that it was not an incorrect vote, but that a vote, which was not unanimous, would fail to overcome the original vote. She adds that the original vote is challenged in an Article 78 Proceeding, which is still pending. Ms. Chale asks Chairman Annas if he has any further questions. Chairman Annas replies that he does not.

At 8:53 pm Tim Ross moves that the Board vote on the Resolution to Grant a Variance for a Second Special Permit. John Douglas seconds the motion to vote, and all are in favor.

The Board votes as follows:

Kris Munn: NO, Trilby Sieverding: Yes, Tim Ross: YES, John Douglas: YES, Chris Carney: NO, Chairman Annas: NO.

The vote is not unanimous, the resolution of the rehearing fails.

At 8:56 pm Tim Ross moves that the Board vote on the Resolution to Grant a Variance for a 14 Room Inn. John Douglas seconds the motion to vote, and all are in favor.

The Board votes as follows:

Trilby Sieverding: YES, Kris Munn: NO, Tim Ross: YES, John Douglas: YES, Chairman Annas: NO, Chris Carney: YES.

The vote is not unanimous, the resolution of the rehearing fails.

At 8:57 pm Kris Munn moves that the Board vote on the Resolution to Deny a Variance for an 80 Seat Restaurant. Tim Ross seconds the motion to vote, and all are in favor.

The Board votes unanimously YES. The resolution of the rehearing passes.

At 8:58 pm Kris Munn moves to adjourn the meeting. Trilby Sieverding seconds, and all are in favor.