

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

January 13, 2016

CALL TO ORDER

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

ROLL CALL

Members Present: Chairman Nick Annas, Chris Carney, Tim Ross, Kris Munn, Trilby Sieverding

Members Absent: Jim Hegstetter

Also Present: Leo and Trilby Sieverding, applicants for a variance. Trilby Sieverding recuses herself from the Board for the discussion of her application.

PRELIMINARY BUSINESS

Minutes from December 09, 2015

At 7:02 pm Chairman Nick Annas asks for a motion to approve the Minutes from the December 09, 2015 ZBA meeting. Kris Munn so moves, Trilby Sieverding seconds the motion, and all are in favor.

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

Comments from the Chairman: Chairman Annas reads Board member, John Douglas' letter of resignation, effective 12/31/15. He acknowledges his years of service to the Town on the ZBA, and wishes him well in his new endeavors. Chairman Annas also notes the discussion at the Town Board meeting of ---to reduce the Board members of the ZBA from 7 to 5, and asks if a Public Hearing was set to take comments on the issue. Kris Munn replies that the discussion was tabled, and no date for a Public Hearing was set.

Review of Appeal

Appeal 16-01, Leo and Trilby Sieverding application for an area variance to erect an addition to an existing, non-compliant building, within the 20' required lot line setback, to create a two car garage. Section 143-18 A (2) of the Town Code states that no permanent, accessory structures shall be located less than 20' from a lot line, and Section 143-126 A of the Town Code states that any existing, non-compliant building shall not be enlarged, extended, maintained, altered, or reconstructed in such a manner as to increase the degree of existing non-compliance, with the minimum requirements set forth for the zoning district in this chapter, or to create any new non-

compliance. The applicant's property is located at 251 Yantz Rd. in the Agricultural Business District, tax grid number 134889-6372-00-132359.

Chairman Annas asks the applicants if they have any additional documents to present. The applicants have no further documentation at this time. The Board reviews the documentation. The applicants state that it is the overhang that encroaches on the roadway, and that [zoning] codes generally permit an overhang to encroach on the roadway by two feet. Kris Munn asks if the applicants are asking for the variance for the overhang. They reply that the variance request is for the building – that the building foot print and exterior walls are on the setback line of 5'.

Kris Munn states that he is trying to understand exactly what the variance is for. The applicants and Mr. Munn determine that it is for an increase in the [existing] degree of non-conformity, due to the bump out. Chairman Annas concurs that the applicants are expanding the size of something that is non-conforming.

The applicants state that they have never been able to use the building as a garage, in its current form, because it opens to the road. [A driver] cannot safely pull in, or out, and it is in poor condition. Chairman Annas asks the Board if any of them have visited the site. Chris Carney replies that he has not. Chairman Annas and Kris Munn ask the applicants why they cannot move the structure further back from the front yard. The applicants reply that this is not possible, if they want to save the existing, historic building that is very old. They state that the current exterior siding dates from the 1970's. Kris Munn states that the applicants, would, therefore, not be knocking down the building. The applicants clarify that they will be renovating the structure, and utilizing the old materials for the new structure.

The applicants state that the footprint, represented in the drawings they have provided to the Board, will stay intact, and there will be an extension to the back of the building, of 5', so that it will accommodate two cars. Chairman Annas asks the applicants if they will be using the existing slab. The applicants respond that there is no slab, just gravel, and clarify that the building is a pole building. Chairman Annas verifies with the applicants that there is no foundation to work with.

Chairman Annas asks the applicant what they will be salvaging from the [present] structure. The applicants reply that there are some old posts, and some old beams. Chairman Annas states that this begs the question [of location of the structure]. He further states that if the applicants are just going to be salvaging some of the materials, he doesn't see why the structure couldn't be moved back. The applicants reply that they did not think it was an issue. Mr. Sieverding states that he thought he had his [current] setback, and was allowed, in the [Town] code, to encroach, with the overhang, on the setback.

Chairman Annas clarifies that the Board is dealing with the reason for the [Zoning Enforcement Officer's] rejection, which is that you can't expand something that is, in essence, grandfathered in, which you are going to do. The applicants acknowledge that, in fact, they are expanding on the footprint. Chairman Annas reviews the wording of the building permit denial with the applicants. Chairman Annas further states that he misunderstood the documentation, in thinking that there was an existing slab that the applicants were going to stay within. The applicants reply that it is the footprint of the existing and proposed structures that he is working from, and that the building is sitting on gravel. Mrs. Sieverding states that it is stone. Chairman Annas asks the applicants why they could not just move the proposed structure back [to be in conformity with the Town Code]. The applicants reply that when he plows the driveway, he must be able to maneuver behind the structure, and there is a retaining wall in that location, which limits maneuverability. Mr. Sieverding further states, that if he moves the retaining wall any further back, it will encroach on his septic line. He indicates the location of the retaining wall in the documentation he has presented to the Board, and

also the area he accesses with his snow plow, since he states he has no place to put the snow, otherwise. He states that he is trying to maintain the area he has indicated as a passageway [for his plow]. Chairman Annas asks the applicants to indicate the location of the septic lines on the documentation. Mr. Sieverding indicates the location of the septic lines, and septic field. Chairman Annas confirms that moving the proposed structure back would have no effect on the existing septic system. Mr. Sieverding states that he agrees that there would be no impact to the system, but that there might be some impact to the septic line. Chairman Annas asks the applicants what effect they think there would be to the [septic] line. The applicants state that they would have to move the retaining wall back, in order to be able to get behind the garage, to plow the driveway. Mrs. Sieverding confirms that this is the only manner in which they can plow the driveway, and further states that if they move the proposed structure back, they will not be able to do that. Chairman Annas asks the applicants if they can place snow accumulations from plowing, across the street. The applicants reply that they do not wish to put the snow across the street [from their home]. They state that the neighbors [across the street] would not like it.

Mr. Sieverding states that the [Town] code talks about setbacks, it goes to the face of the building, it never includes an overhang, so that what they are proposing is the same setback, that is currently in use. Kris Munn reminds the applicants that the [building permit] denial said nothing about the applicants encroaching further [into the frontyard setback]. Chairman Annas further states that [the denial] is due to expanding the size of an existing non-conformance, and that he spoke to the [Zoning Enforcement Officer] last month, after the meeting, who says he wants to see this thing vetted through a public hearing, to see what the response would be from the community, and immediate neighbors. [The Zoning Enforcement Officer] is saying what if the applicants wanted to come out 10,000 feet to the rear of the proposed structure – as opposed to a reasonably modest expansion. Chairman Annas states that there is some point [in which an expansion of an existing nonconformance] may not be acceptable, and that the [Zoning Enforcement Officer] wants to see this project examined further, rather than him allowing it to go forward, without a public hearing. He wants a decision made with a public hearing.

Tim Ross arrives at the meeting, and Chairman Annas asks him if he has any questions regarding the application. He states that he does not, but mentions that in the past, the inspector would grant something like this, based on the fact that the proposal is no more nonconforming, that what exists currently [regarding the frontyard setback]. Mr. Sieverding asks the Board if the denial is due to the fact that the proposed structure is an accessory building, rather than a primary residence. Tim Ross replies that he thinks this was driven by an interpretation by the new Zoning Enforcement Officer. Chairman Annas states that both the new, and the current Zoning Enforcement Officers, and the Building Inspector were in agreement [on denying the building permit]. Chairman Annas clarifies that this does not mean that they would all agree on a new interpretation. Anne Rubin, as an aside to Mr. Ross, reprises the Board's discussion with the applicants up to that point, clarifying that the Building Inspector has denied the permit, due the expansion of an existing non-conformance.

Chairman Annas states that there is no need to conduct SEQR for this application, and asks for a motion to declare the present application to the ZBA a Type II Action under SEQRA. At 7:17pm, Kris Munn so moves, Chris Carney seconds, and all are in favor. Chairman Annas sets the public hearing for February 10, 2016, as first on the agenda, after preliminary business. The applicants present payment for the cost of certified mailings, of the public hearing notice, to their immediate neighbors, and Anne Rubin hands them a memorandum of receipt.

At 7:20pm Kris Munn moves to adjourn the meeting. Tim Ross seconds and all are in favor.

