

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

June 08, 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, Jim Hegstetter, Tim Ross, Chris Carney, Kris Munn, Chris Klose, and Doug Lee.

Members Absent: No member is absent.

Also Present: Victoria Polidoro, counsel for the Town of Red Hook ZBA, Jim Ross, Town Board Liason to the ZBA, and applicant, Brian Ackerman.

## **PRELIMINARY BUSINESS**

### Minutes from May 11, 2016

At 7:01pm Chairman Annas asks the Board for a motion to approve the May 11, 2016 Minutes. Chris Klose so moves, Tim Ross seconds, and Doug Lee proposes one revision to page 4, paragraph 2, in which he asked the applicant if he intended to build on the existing lot of record, even if he were unable to purchase the additional lot, in which he is interested. Mr. Lee requests that the minutes reflect the applicant's reply to the affirmative. Anne Rubin incorporates this change to the May minutes. At 7:03pm the Board votes unanimously to adopt the minutes including the above mentioned revision.

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

Comments from the Chairman: Chairman Annas notes that NYAT Summer Planning and Zoning Courses are open for registration, and requests that the Board members review their training hours, and consider one of the courses offered, in order to fulfill the yearly requirement.

Anne Rubin asks the Chairman to make a brief comment, in which she thanks the Town and the ZBA for the purchase of a foot pedal, which streamlines the drafting of the minutes. She further notes that Steve Cole appreciates the detailed information in the minutes.

## **Public Hearing**

At 7:05pm Chairman Annas reads the below stated application and asks for a motion to open the public hearing for

Appeal 16-04, Brian Ackerman (the "Applicant"), application for an area variance to construct a home on a parcel that is an Existing Lot of Record, located on an unimproved, unmapped street, with a front yard setback of 40 feet, and a lot frontage of zero feet, and a lot width of 209 feet.

The subject parcel is 6473-00-025078 in the RD3 zoning district. The Applicant has applied for the following variances:

1. A variance from NYS Town Law § 280A to permit a building permit to be issued for a lot that does not have access to an existing state, county or town highway or a street shown on a filed plat.
2. A variance from §143-11A of the Red Hook Zoning Law, District Schedule of Area and Bulk Regulations, to permit 0 feet of lot frontage where 160 feet is required.
3. A variance from § 143-11A of the Red Hook Zoning Law, District Schedule of Area and Bulk Regulations, to permit a front yard setback of 40 feet where 60 feet is required.
4. A variance from § 143-11A of the Red Hook Zoning Law, District Schedule of Area and Bulk Regulations to permit a lot width of 209 feet where 240 feet is required.

At 7:07pm Kris Munn moves to open the public hearing. Tim Ross seconds, and all are in favor.

Chairman Annas notes there is no public present, at this time, and asks the applicant to indicate the status of the filed easement, [discussed at the last meeting]. Mr. Ackerman states he is straightening out [the matter] of the ingress/egress road. He presents a survey map to the Board, with a description of the Right-of-Way, and a copy of the easement agreement with his neighbor, not yet filed. Kris Munn asks the applicant if it has been signed and finalized. Mr. Ackerman replies it is with [his and his neighbor's] attorneys. Ms. Polidoro states that the final copy of the easement agreement should reference the survey map. Mr. Ackerman indicates a statement in the easement agreement, referencing map 3878. Ms. Polidoro and Chairman Annas note this is not the survey map, the applicant has just presented, that the number [3878] does not appear anywhere on the survey map. Ms. Polidoro notes the documentation is missing the stated width of the Right-of-Way.

She further states the easement agreement with Mr. Ackerman's neighbor must include the width of the easement, and the required width, by the ZBA, is 25'. Mr. Munn asks Victoria Polidoro if the Board has sufficient documentation to consider granting conditional variances, [pending the applicant presenting the filed easement]. Ms. Polidoro states if the Board finds the proposed 25' width adequate, and the condition includes a review of the easement, by the ZBA attorney, in order that she check the language, and the easement is filed with [Dutchess] County. Mr. Ackerman comments there are two stone walls on either side of the Right-of-Way, with the distance [between them measuring] 25'. He further comments this is why he is seeking a 25 foot wide easement, though this is not noted in the deed, dating from the 1920s.

Chris Klose asks the applicant if the stone walls are old, and if he plans to maintain them. Ms. Polidoro asks the Board if it feels 25' is an adequate width, and if any Board members have visited the site. Chairman Annas states he has driven the [unmapped, unimproved] road, and finds it adequate [width] for just about [any vehicle]. He further comments the applicant will have to maintain it, including keeping it clear of overgrowth. Kris Munn compares this to maintaining a wooded driveway. Mr. Ackerman asks Ms. Polidoro if building on a Right-of-Way requires a 15' width. Ms. Polidoro replies the section of NYS Law 280A states 15' is the minimum, so 25' exceeds that. Chairman Annas notes 15' is the minimum, and the applicant does not need to pave that [width]. Mr. Ackerman states he does not plan to pave the Right-of-Way. Chairman Annas asks the applicant if he plans to spread Item 4 on the Right-of-Way to minimize potholes. Mr. Ackerman affirms this. Mr. Ackerman asks the Board if he can drop off a copy of the filed easement with Anne Rubin. Chairman Annas affirms, and Ms. Rubin notes

the applicant can also leave it with Town Clerk, Sue McCann, who is available at Town Hall during all hours of operation.

At 7:15pm Chairman Annas moves to close the public hearing. Kris Munn seconds, and all are in favor. The Board reviews and discusses each part of the variance resolution, as Ms. Polidoro records the Board's opinion.

Ms. Polidoro reviews the variance resolution form, with the Board, as follows:

The following pertinent facts noted:

1. Some ZBA members have visited the site, and the road is in passable condition.
2. The existing lot is BOH approved and suitable for a single family home.

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

It is an existing lot of record, consistent with the neighborhood.

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

The lot does not have access.

**3. The requested variance is substantial numerically,** but the impact is not substantial, because the applicant has a 25' wide easement.

**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.**

It is a pre-existing lot of record.

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

At 7:19pm Chairman Annas asks for a motion to adopt the above stated variance resolution, as stated. Kris Munn so moves, and Chris Klose seconds. Tim Ross notes that the Board is adopting the resolution, contingent on the filed easement. Ms. Polidoro reads the following section from the resolution:

**NOW THEREFORE BE IT RESOLVED** by the Zoning Board of Appeals, that Application #16 – 04, a request for a variance from NYS Town Law § 280A for a building permit on an unmapped, unimproved road, §143-11A of the Red Hook Zoning Law, District Schedule of Area and Bulk Regulations, for lot frontage, front yard setback, and lot width, as set forth above, be granted on the following grounds, subject to the condition that the applicant record an easement and Right-of-Way agreement, for a 25' wide Right-of-Way, as approved by the Town Attorney. Ms.

Polidoro also notes Anne Rubin can fill in the top part of the Variance Resolution Form, including the information regarding the variances, and the date on which the public hearing notices were published.

At 7:20pm the Board votes unanimously to adopt the resolution.

At 7:21pm Chairman Annas asks for a motion to adjourn. Kris Munn so moves, Tim Ross seconds, and all are in favor.