

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

June 14, 2017

CALL TO ORDER

The meeting was called to order at 7:06 pm by Chairman Nick Annas

ROLL CALL

Members Present: Chairman Nick Annas, Doug Lee, Tim Ross, Chris Carney, Chris Klose and ZBA Alternate Kate Karakassis as a full voting member

Members Absent: Kris Munn, Jim Hegstetter

Also Present: Victoria Polidoro, Counsel for the ZBA, Kristina Dousharm, the applicant, Michael Kortbus, owner of subject property, Harry Williams, a neighbor of Mr. Kortbus

PRELIMINARY BUSINESS

Minutes from May 10, 2017

At 7:07pm Chairman, Nick Annas, asks for a motion to accept the May 10, 2017 ZBA meeting minutes, and asks for comments. Doug Lee so moves and Tim Ross seconds. Doug Lee notes he has a correction for the first paragraph on page three, end of paragraph. His comment should read “The yard looks bigger in the photographs than on the survey.” All are in favor of approving the corrected minutes, with Chris Klose and Chris Carney abstaining, since they were not at the ZBA meeting on May 10, 2017.

Planning Board Minutes/ Comments from the Chairman:

Chairman Nick Annas notes he spoke to John Corcoran, a potential ZBA applicant, who wants to subdivide a lot he combined, from two smaller lots, some years back. He wants to create two parcels, either one 5 acre lot, and one less than 5 acres, or both lots less than 5 acres. The subject parcel is a flag lot in the RD5 Zoning District. Chairman Annas comments he informed the applicant he may not need to spend the money for a survey, and Tim Ross agrees, and also states it is not really an area variance, because the applicant would be creating a new lot. Victoria Polidoro states Mr. Corcoran will need a filed map, and some way to verify the correctness of the acreage, to which Chairman Annas and Tim Ross agree.

Public Hearing

Appeal 17-03, Kristina Dousharm Architecture representing property owners Katherine and Michael Kortbus application for an area variance to erect a 26' x 32'11", two-story addition, to their single family residence 35 7" feet from the front property line. *The Town of Red Hook District Schedule of Area and Bulk Regulations requires a front yard setback of 60' in the*

RD3 Zoning District. The subject property is located at 10 Sunrise Drive, in the Town of Red Hook. It is located in RD3 zoning District.

At 7:12pm Chairman Annas asks for a motion to open the public hearing.

At 7:13pm Tim Ross so moves, and Doug Lee seconds. All are in favor.

Chairman Annas asks for comments from the public.

Harry Williams, a neighbor of the subject property owners, Kathy and Michael Kortbus, comments he sent a letter [see exhibit A] to the ZBA, and is present at the meeting to answer questions [regarding it]. Mr. Williams further notes he takes issue with a statement made in the May 10, 2017 ZBA meeting minutes, that the [proposed addition] is far below the “minimum” coverage for buildings. Mr. Williams states the [subject property] has significant slopes on the side, from Yantz Rd., and more than half the lot would not be buildable. He further states he thinks the average for the link of that calculation should be about half, which would mean the link of that building would be about 10% coverage of the buildable area, of the lot, and not 7%.

Chairman Annas states this is not how the [Town of Red Hook Zoning] Code reads. He states his understanding is [the calculation of building coverage] involves the entire lot, whether it is buildable or not. Tim Ross notes [the question of how much of a lot is buildable] does come into play in subdivisions, however. Chairman Annas asks if the subject property is part of a subdivision, to which Tim Ross replies, it is not, it is an existing lot of record, since the subdivision was created prior to the Town passing zoning laws. Chairman Annas confirms, when the ZBA is looking at coverage, it will pertain to the entire lot. Chairman Annas asks Mr. Williams if he has any further comments, to which he replies he does not, just what was in his letter to the ZBA.

Mr. Williams notes [the subject parcel] is a corner lot, so it has a front [yard] on Yantz Rd. also and notes this is not the first time he has objected to a variance in the neighborhood. He states 11 years ago a gabion wall was erected, to hold the leachfield, on the subject property, which he describes as a wire box filled with stones and more in keeping [stylistically] with what you would see on a highway, than a rural road. Chairman Annas asks how long such a wall lasts, to which Tim Ross replies a pretty long time. Mr. Ross also clarifies these walls are in wide use everywhere. Chairman Annas concurs and states he has worked with galvanized steel in the industry, and it doesn't last. Tim Ross states it depends on [environmental] acidity, to which Chairman Annas agrees. Mr. Williams continues stating that [wall] was dealt with, the problem being it was over 6' high, and [the property owner] ended up putting soil at the bottom to cover the lower two feet of the wall.

Mr. Williams notes the subject property contains a huge house, which he characterizes as the largest house in the neighborhood. Chairman Annas asks what the typical size for a house in the neighborhood, to which Mr. Williams replies he estimates most of them are in the 2200 square foot to 2900 square foot range, and notes the house on the subject property is already 3600 square feet. Mr. Williams states the subject property lot is small, compared to the lots on Yantz Rd. Doug Lee asks how the foot prints compare [to the other houses in the neighborhood], and states the total square footage of the house is not the only characteristic of the project the Board should consider. Mr. Williams states he does not know, but comments it is one of the largest houses in the area and about as large as it could be, on the subject parcel, and not encroach into the 60' [required] front yard setback. Mr. Williams states the proposed addition will produce a

large house in an area where there are no large houses. Chairman Annas asks what the typical lot size is within the subdivision. Mr. Williams estimates this to be in a range of one to one and a half acres. He states he didn't really look at this, but if one were to look at the area around Sunrise Drive...Mr. Williams further states the lot size increases on Yantz Rd., and estimates a range of one and a half acres to three or four. Mr. Williams comments the proposed project is not in keeping with the style of the houses [in the neighborhood], and the location is highly visible from Yantz Rd. He further comments the subject property is well lit at night. Mr. Williams further states his own house is 300' back from the road, and states his back yard is well illuminated from the lights from that house. Doug Lee asks Mr. Williams to indicate his house on a satellite image in his tablet, which Mr. Williams does, indicating a barn, belonging to the house right next to it, the subject property house, and his own house. Chris Klose also asks Mr. Williams to confirm the location of the structures he just named, in relation to Yantz Rd. Chris Klose also asks Mr. Williams if there are trees between his property and the subject property, to which Mr. Williams replies there are some trees.

Chairman Annas asks the applicant, Kristina Dousharm, to state the lot coverage including the proposed addition. Ms. Dousharm asks the Board if everyone had received the revised drawing, dated May 26th, containing the additional dimensions, she sent out, to which the Board assents. Chairman Annas asks Ms. Dousharm to state the lot coverage, according to the revised drawing, to which Ms. Dousharm replies, the building coverage required is 7[%], and we are only at 5.8[%]. Chairman Annas asks Ms. Dousharm to confirm this calculation includes the proposed addition, which she does, and further states the current building coverage is 3.9%. Chairman Annas reiterates 7% [building coverage] is generally the maximum, and comments the proposed addition is well under that figure. Chairman Annas asks Mr. Williams if he has any further comments, to which Mr. Williams replies he does not see the reason for having to do [the project], if you look at the standards, it does change the character of the neighborhood.

Victoria Polidoro asks Ms. Dousharm to clarify if she included the accessory structures in the total building coverage calculation, to which Ms. Dousharm replies she was going, word for word, by the [building coverage] definition [in the Red Hook Town Zoning Code], noting said definition excludes porches, terraces, and steps.

Chairman Annas notes there is nothing in the [Red Hook Town Zoning] Code that says an additional structure has to look like the rest of them. Mr. Williams comments states [the Red Hook Town Zoning Code] does state it should fit with the character of the neighborhood, and further comments he believes the proposed addition does not fit with the character of a substantially rural neighborhood, as what he characterizes as a huge house on a very small lot. Ms. Dousharm counters there are a variety of houses in the neighborhood, and notes the specific neighborhood is comprised of multiple, one acre lots, and notes had the proposed addition been sited on a [zoned] one acre lot, it would be within the required setbacks. Mr. Williams states the project is not in RD1, but RD3 zoning, and Doug Lee comments to Mr. Williams if he is saying the house already stands out, and is already different than the other houses, he [Mr. Lee] does not see how adding an addition will change the character of the neighborhood, since the [subject property] house is already there. Mr. Lee states if the [subject property] house were a farm house, and the proposed addition was, for example, a large glass structure, it would be more easy to see how it would change the character of the neighborhood. Victoria Polidoro reminds the Board the applicant is asking for a variance to erect a proposed addition closer to the road [than would otherwise be permitted].

Chairman Annas asks Ms. Dousharm if she has a rendition of what the finished project will look like, to which Ms. Dousharm replies she and the property owners are waiting to go further in their plans, on the basis of whether or not the project is granted the variance, since proceeding with construction documents will involve additional costs for her clients. Chairman Annas asks Ms. Dousharm if the proposed addition will be in keeping with the rest of the house. Ms. Dousharm states the project will involve changing the house to keep it more in keeping with the rest of the neighborhood, more like a farm house, further stating when the project is completed it will no longer look like a builder spec house. Chris Klose asks what the current siding is, to which Tim Ross replies yellow vinyl, which Ms. Dousharm confirms. Chairman Annas asks what the siding will be when the project is completed, to which Ms. Dousharm replies it is to be determined, but will be significantly upgraded. Tim Ross asks Ms. Dousharm if the finished project would include something like a hardy plank, with a muted color, for siding. Ms. Dousharm states it will be something in keeping with the house and beautiful barn across the street, and the finished look will feel like a farm house, and be more aesthetically pleasing than the current [overall look of the subject house]. Tim Ross asks Ms. Dousharm if the intention is to leave the roof hipped, or gabled on one side, to which she replies the plan is to make a number of modifications to the structure.

Chairman Annas asks Ms. Dousharm to give further details on the type of modifications under consideration. Ms. Dousharm invites the Board to look at the record of her work on her website, stating her firm does beautiful work. Tim Ross states this is no doubt the case, but the Board needs to have further information regarding the present project. Victoria Polidoro states it is appropriate for the Board to ask about modifications, since it must analyze the impact of the project. Chairman Annas states he can appreciate not wanting to charge clients for a project which may, or may not, obtain approval, but the Board has to have something to go on. Ms. Dousharm states she cannot provide this information, since it has not been designed yet.

Chris Klose asks Ms. Dousharm to describe what is planned for landscaping the property, and asks if it is material to the Board's discussion. Victoria Polidoro states the landscaping could be a material issue as the Board assesses the impact of the variance, in allowing something to be built closer to the road. Ms. Polidoro states if the Board concludes additional landscaping would soften the overall impact, it could be a condition of the variance. Tim Ross states landscaping could be used for screening purposes. Kristina Dousharm asks if the Board has had a chance to drive through the neighborhood, to which Boardmembers, excluding Chris Klose, reply they have. Chairman Annas clarifies he did not drive through the neighborhood, but did visit the subject property. Ms. Dousharm distributes a parcel map, in which she states she has marked the properties which do not conform to the required, front yard setbacks. Chris Klose asks for clarification on the subdivision, as to whether, or not it was created prior to zoning in the Town of Red Hook. Tim Ross states the subdivision dates from 1968, and the Town's first zoning was created in 1972. Chris Klose asks the Board to confirm the subdivision was zoned R3A from 1972 or 1973, and the subject property lot was filed as a one acre, existing lot of record. Victoria Polidoro states she cannot confirm this, and Tim Ross compares the subject property subdivision to the Country Club Estates subdivision, or the College Park subdivision, in which there are numerous properties. Tim Ross further states he agreed with Mr. Williams' [contesting a past requested area variance in the subdivision] stating he was expecting a ranch style house, and something different from what was proposed. Mr. Ross further states even just changing the color of the subject property house could potentially be an improvement.

Harry Williams asks if the Board could require landscaping in front of the [gabion] wall, to which the property owner, Michael Kortbus replies he has no problem creating screening

landscaping in front of the [gabion] wall. Mr. Williams states, if this is the case, he will withdraw his objections. Mr. Kortbus further states he understands the [visual] impact of a big, yellow house from the road, and states this is the reason he has hired Ms. Dousharm, in order to mute the overall effect. Mr. Kortbus comments his family has grown, and he is looking to expand the house to accommodate a bigger family.

Victoria Polidoro asks Mr. Kortbus if there is a particular type of landscaping he is willing to agree to at this time, for example, trees versus bushes. Chris Klose and Tim Ross consult the drawing and state the distance from the [gabion wall, front of the house?] to the road is approximately 30 feet. Chris Carney looks a photograph, and verifies it was taken from Yantz Rd. Kristina Dousharm states the project will beautify the property, and people will love it, to which Victoria Polidoro replies for the purposes of the variance, more detail is needed. Mr. Williams states he is taking Mr. Kortbus on faith that the vegetative screening provided by additional landscaping will satisfy his needs, and states he is withdrawing his objection. Ms. Polidoro states the Board must make certain findings. Mr. Kortbus verifies the vegetative screening is desired in front of the gabion wall, facing Yantz Road. Ms. Dousharm asks the Board if it can write into the variance the applicant will consider landscaping design in that area. Chairman Annas responds it is not a matter of consideration, but rather a requirement.

Mr. Kortbus asks the Board if he is allowed to plant things in that area, at that distance from the road. Chairman Annas comments there is an unusually shaped corner at that location, and Tim Ross comments there is a requirement for traffic visibility. Chairman Annas explains Mr. Kortbus would need to go back 30 feet from the point where the two Town roads intersect, on either side, to form a clear triangular area, that would preserve visibility. Chairman Annas further clarifies if Mr. Kortbus is looking to hide the wall with vegetation, that location is well to the rear of the area in which vegetation would impact traffic visibility. Victoria Polidoro confirms with Mr. Williams, and Mr. Kortbus the purpose of the vegetative screening is to hide the wall. Ms. Dousharm asks Mr. Williams to confirm his objection to the project regarded vegetative screening for the gabion wall, and asked him to state whether or not lighting was still an issue, to which Mr. Williams replied his objection was mainly to the visual effect of the gabion wall, and he was not going to take issue with the lighting. Mr. Kortbus states when he and his family first moved in, they made greater use of lighting than they do currently, because they were from a different part of New York. He further states they now shut their lights off more frequently. Chris Klose recommends keeping any plantings on rural roads as far back as is practicable, and certainly beyond the required triangle for traffic visibility. He further states he thinks plantings in that location have the potential to be quite attractive. Tim Ross asks Mr. Kortbus to state his color choices for the exterior of the house. Mr. Kortbus states he intends to change the current yellow color, and horizontal vinyl siding, to something more muted, and possibly vertical board and batten siding. Chris Klose states this also increases the attractiveness of the property.

Chairman Annas asks Ms. Dousharm if she used [Dutchess County] Parcel Access to create the dimensions in her drawing, to which Ms. Dousharm replies she took a screen shot from Parcel Access, and scaled it in. Chairman Annas states he thinks Parcel Access is inaccurate, in this instance, regarding the dimensions, relative to the location of the roadway. Tim Ross comments on his site visit, and drive to the subdivision, he was able to estimate several houses which appeared to be closer to the roadway than 60 feet. Chairman Annas comments Ms. Dousharm, in her supporting documentation, shows some houses approximately 25 and 34 feet from the roadway. Ms. Dousharm clarifies the dimensions in the drawings are only approximate, but further comments the drawing clearly illustrates, based on the survey the property owner has, the

location of the property line, and its distance to the paved road. Ms. Dousharm further comments, if the Board uses this, it can ascertain the situation on the property. Chairman Annas asks Ms. Dousharm to confirm the proposed addition will involve extending the house to a point he indicates on the drawing, and asks her to also confirm this is 35 feet, 7 inches [from the front yard property line], which she confirms. Chairman Annas notes this measurement is substantially precise, and further notes if the project surveyor is off by even a small amount, the variance, if granted, will be null and void. Chairman Annas recommends changing the requested variance measurement to about 35 feet. Victoria Polidoro states, at this point, changing the variance request to 35 feet, versus 35 feet, 7 inches, represents a larger variance request, and would necessitate republishing [the public hearing notices]. Chairman Annas agrees to accept the variance request as written.

Chairman Annas asks if there is any further public comment. Mr. Williams states he does not. Chairman Annas asks him to confirm he is satisfied with the proposed vegetative screening for the gabion wall, which Mr. Williams confirms. Chairman Annas asks Ms. Dousharm if she has any further comments, to which she replies she does not.

At 7:36pm Chairman Annas asks for a motion to close the public hearing. Chris Klose so moves. Doug Lee seconds, and all are in favor.

The Board reviews the pertinent facts of the Variance Resolution as follows:

1. The site of the proposed addition is an existing lot of record, in a subdivision, created prior to zoning in the Town, with one acre zoning, located in the RD3 Zoning District of the Town.
2. During the site visit Board members noted other houses in the subdivision with similarly situated, reduced setbacks. Tim Ross confirms Sunrise Drive is within a subdivision, with a filed map.
3. Tim Ross notes the impact of the proposed variance is mitigated by the fact that the centerline of the road way, in front of the subject property is not actually located at the center of the road. Chairman Annas confirms it is more to the southwest.
4. The owner of the property and his architect have committed to modifying the look of the house in order to create a more rural character, a more muted color, and install vegetative screening along the gabion wall, located on Yantz Road. This will result in a less intrusive overall effect.

The Board reviews the ZBA balancing test as follows:

1. The variance requested will not produce an undesirable change to the character of the neighborhood or a detriment to nearby properties. The Board agrees unanimously.
2. The needs of the applicant cannot be achieved by other than an area variance, because the addition cannot be placed elsewhere on the lot without a variance. Ms. Dousharm states the proposed addition cannot be built to the side, or to the back of the property. The Board unanimously agrees.
3. The Board agrees unanimously, the requested variance is substantial.

4. The requested variance will not affect the physical or environmental conditions in the neighborhood. The Board agrees unanimously, effects will be minimal, and could improve the visual characteristics of the neighborhood.
5. The Board agrees unanimously, the hardship for which the variance is sought to rectify was self-created.
6. The Board agrees unanimously, the variance being sought is the minimum variance to meet the needs of the applicant.

At 7:42 Tim Ross moves to grant the variance requested, to build a two story addition to a residence, 35 feet, 7 inches from the front property line. Doug Lee seconds the motion.

Victoria Polidoro suggests, prior to voting, the Board should consider the fact that the Board has not stipulated any particular conditions, and would be granting a variance in absence of formal plans and elevations, or other description of the exterior, including the vegetative screening, basically taking the applicant and property owner at their word. Chairman Annas suggests putting in conditions, and Board members Chris Klose and Kate Karakassis comment the applicant has not provided sufficient information on which to base any conditions the Board would set forth. Chairman Annas suggests providing criteria for the landscaping. Chris Klose asks if this is appropriate. Victoria Polidoro states it would be difficult to require specific plantings, to which Chairman Annas replies, the intent of the vegetative screening is to hide the [gabion] wall, which can be stated. Tim Ross reiterates the owner has agreed to modify the overall look of the property to be less obtrusive, and this was noted in the pertinent facts section of the variance resolution. The Board agrees this is sufficient.

Chairman Annas asks for further comments from the Board. As there are no further comments, the Board votes as follows, at 7:44pm:

Tim Ross AYE

Chris Klose AYE

Kate Karakassis AYE

Chairman Annas AYE

Chris Carney AYE

Doug Lee AYE

Chairman Annas notes, for the record, Kate Karakassis is a seated, voting member of the Board, for this meeting.

At 7:46 pm Chris Carney moves to adjourn the meeting. Chairman Annas seconds the motion, and all are in favor.

