

**Town of Red Hook  
Zoning Board of Appeals Meeting Minutes  
June 14, 2006**

**CALL TO ORDER**

The meeting was called to order at 7:11 p.m. by Timothy Ross, Chairman.

**ROLL CALL**

Members present: Kenneth Anderson, Gordon Denegar, Corinne Weber, John Douglas, Robert Latimer and Tim Ross, Chairman

Members absent: Michael Mosher

Town Board Liaison: James Ross

**PRELIMINARY BUSINESS**

Approval of May 10, 2006 Minutes: Tim Ross noted that in the section of the minutes describing the review of the Ronald Goodman/Rondack Construction application there was an error. He made a motion to change the wording from: they “received site plan approval” from the Planning Board, to they “submitted a revised site plan.” Corrine Weber seconded the motion, which was unanimously approved.

Review of Planning Board Minutes: John Douglas had a question regarding the Henry Ruella subdivision plat, specifically that he did not understand the Planning Board’s objection to the process followed by the applicant relative to him seeking relief from the ZBA for narrower road frontage requirements. Chairman Tim Ross stated that the Planning Board has the ability to make such a decision and handled it correctly. He also noted that if the variance were not exercised within 18 months it would expire.

Building Inspector/ZEO Permits & Memos: Building permits were reviewed without comment. The Board asked Zoning Enforcement Officer (ZEO) Robert Fennell if there was any further information regarding two unlicensed and uninspected vehicles parked on the property of Larry and Mary Alice Bennett. The ZEO indicated that he would be following up on a letter sent to the property owners in May.

Comments from the Chair: Tim Ross asked Board members to be aware that there is a deadline for registering for summer training classes offered by the Association of Towns of the State of New York. Tim also introduced Christine Chale of the law firm Rapport, Meyers, Whitbeck, Shaw & Rodenhausen. Ms. Chale is the new Town Attorney for Red Hook.

**PUBLIC HEARING**

7:20 p.m. Appeal 06-10 John Corcoran & Elizabeth Macrae application for an area variance to construct an accessory structure (pottery studio) on a lot that is currently without a principle structure. The applicant, John Corcoran, indicated on the site plan of the property where his

existing residence is located and where the proposed studio would be built on a neighboring, empty lot. Tim Ross stated that if no house were built on the lot on which the studio is planned, there would be a problem when the lot is sold, as it would have a building on it for non-residential (i.e. commercial) use in a residential zone. Mr. Corcoran stated he plans to build a house on the lot eventually, but has no timetable. Ken Anderson asked if there would be a sign on the property and John Douglas asked if sales would take place there. Mr. Corcoran indicated the answer to both questions was no. He also said there were no lowlands or wetlands on the property, and he was aware that the building must be set back at least 100 ft. from the creek that is present along the western border of the property. The Board discussed what options may be available to the applicant, such as seeking a use variance rather than an area variance (applicant does not meet the criteria for a use variance); or obtaining a deed restriction tying the two parcels together so that they cannot be sold separately. The Chair indicated that he will speak with the town attorney and suggested that the applicant think about how/if he wishes to proceed. A continuation of the public hearing was scheduled for 7:20 p.m. at the July 12, 2006 meeting.

7:45 pm Appeal 06-08 Robert Zahorsky application for an area variance of nine feet from side yard set back requirements for an existing storage shed located at a rear corner of the property. Rob Latimer asked the applicant why the shed was constructed prior to seeking relief from the setback requirements. The applicant explained that the shed was supposed to be delivered four to six weeks after ordering it, but it came four days later. Tim Ross, Chair, opened the public hearing at 7:45 pm. Wayne Coons, 26 Teator Lane, spoke in favor of the applicant. Mr. Coons indicated that it is his property line that the shed is near and he has no issue with its proximity. Vincent Decicco of 21 Teator Lane, also spoke in favor of the applicant. The Chair read into the record a letter in support of the applicant from Barbara Coons of 26 Teator Lane. It read:

I would like to take this opportunity to express my opinion in regards to the location of Robert Zahorsky's newly built shed on 22 Teator Lane. Mr. Zahorsky is a fine neighbor and takes tremendous care of his property. I have no issues or complaints that the shed is located close to my property line. The shed has been built well, and I know that Mr. Zahorsky will meticulously maintain the shed. Thank you for your consideration on this matter.

John Douglas made a motion to grant the variance as it would have no adverse effect on the health, safety or character of the neighborhood and would be of benefit to the applicant. Tim Ross moved to amend the motion to indicate the variance is for 10 feet, in order to place the shed 10 feet from the property line. Robert Latimer seconded the motion, which was unanimously carried by the following roll call vote: Kenneth Anderson – Yes; Gordon Denegar – yes; John Douglas – yes; Robert Latimer – yes; Tim Ross – yes; Corrine Weber – yes.

## **REVIEW OF NEW APPEAL APPLICATIONS**

06-11 Cokertown Rod and Gun Club application for interpretation of a Cease and Desist Order from the Zoning and Code Enforcement Officers dated April 17, 2006. Attorney Jeff Rothschild, of Cappillino & Rothschild L.L.P., represented his client, the Cokertown Rod and Gun Club, before the Board. Mr. Rothschild stated that the Cease and Desist Order was directed to all activities at the club; however, the club has been at its present site since 1962 and thus predates zoning. He went on to describe the Club as being very community minded, hosting many

activities including Girl Scout and Boy Scout events and safety classes open to the public. He said the club and its members are law abiding and respectful of the environment, and that the club has been a good neighbor, never having any accidents or problems. He went on to say that the problem with the Cease and Desist Order is that it lacks specificity. He quoted from the order as follows: "It is our belief and understanding that the Cokertown Rod & Gun Club Inc. has expanded or extended the nonconforming use on the above referenced parcel in violation of the Town of Red Hook Zoning Law Chapter 143, Article VIII." Mr. Rothschild said that the Cease and Desist Order needed to state the specific nonconforming use that is in noncompliance; the club should not have to cease and desist all activities.

Mr. Rothschild indicated that his client wants to resolve this amicably, noting that the previous day his law partner, Donald Cappillino, met with the Town Attorney and the Horkans, who own property adjacent to the club, to discuss their concerns about club activities. Tim Ross stated that the activities that are in noncompliance are those that go beyond the level of use that was at the club in 1993, the year the law concerning nonconforming use went into effect. Bob Fennell, the Zoning Enforcement Officer then read from section 143-125 of the zoning law:

Owners of any such lawful nonconforming uses of buildings or open land shall, within six (6) calendar months of the enactment of this chapter, inform the Zoning Enforcement Officer of the extent of any such lawful nonconforming use and document the same for their benefit in the case of future requests for authorization to expand the nonconforming use.

Michael Horkan, a neighbor of the club, then spoke. He stated that weapons are fired seven days a week and that people come and go and that he can hear shooting full-time. Having grown up in that area, he recollected that the noise was less when he was younger. He also stated that he tried to speak with representatives of the club but was unsuccessful. There was then some discussion about the types of weapon used, but Tim Ross said that is not the purview of the ZBA. The level of activity at the club is the concern and whether it is inside or outside of the law (e.g. affecting neighbors).

The Board requested that the club supply it with the following information: the club's charter and by-laws; membership records from 1990-present; the range and use rules; schedule of shooting times; record of events held from 1990-present; location size and use of structures and other improvements on the site as of February 1993 and at present; statements as to the extent of nonconforming use as of February 1993 pursuant to Section 143-125(A)(5) of the zoning code; and any other information relevant to the determination of the extent of use as of that date and at present. The Board also requested the names and phone numbers of club officers and/or members who could be contacted if there are questions about the provided information.

Chairman Tim Ross asked Red Hook Town Attorney Christine Chale how she would interpret the status of the Cease and Desist order. Ms. Chale indicated that the order is stayed while the Gun Club is pursuing an interpretation.

Bob Fennell said that he intended the Cease & Desist order to stop the firing range, and acknowledged that it may not have been clear in the letter. Tim expressed the need for reasonableness to resolve this situation. He requested that interested board members be allowed to visit the club, as well as Bob Fennell and/ or Steve Cole. The club was also asked, and agreed, to allow one or more interested neighbors to accompany a board member on the site visit. Gale Knull, president of the club, will be contacted to arrange the visits.

A member of the audience, Rexford Maine, asked several questions that were responded to by members of the Rod & Gun Club: what are the requirements in terms of acreage for a pistol range? (50 acres); is there another pistol range in Red Hook? (no); what is the required distance from an existing residence for discharging a firearm? (500 ft.); what are the state requirements for times of day to discharge firearms (from sunrise to sunset).

A public hearing was set for July 12<sup>th</sup> at 8:00 pm.

06-12 Andrew and Ana Makebish application for an area variance for front yard setback requirements for a proposed addition to the front of their residence. The applicant, Andrew Makebish, presented a site plan showing the existing dwelling and the proposed addition. The front of the addition will be 15 feet from the property line. The applicant was advised to indicate on the site plan the location of the septic system, driveway and well and to provide a floor plan of the existing house and the addition. A public hearing was set for July 12<sup>th</sup> at 7:45 pm.

## **PUBLIC HEARING**

9:15 pm Appeal 06-09A & 06-09B Ronald Goodman/ Rondack construction application for area variances for rear and side lot setback requirements for a driveway and rear pavement setback in a B2 zoning district. Art Brod, Jr. ACIP, presented on behalf of the applicant, providing an historical overview of the project and its current status with the Planning Board. Chairman Tim Ross opened the public hearing at 9:15 pm. Tom Gardner of Gardner Exhaust Systems, 15 Glen Pond Road, spoke in opposition to the applicant. He said he felt the issue with the rear pavement setback was a self-imposed problem and that if the building was smaller, it would be more in keeping with the lot size, less parking spaces would be required and therefore there would be sufficient room for the rear pavement setback. In reference to the proposed driveway requiring relief from side lot setback requirements, Mr. Gardner stated that the zoning code requires 160 ft. of road frontage for lots in a B2 district, and this project is for two flag lots, neither of which meets the road frontage requirements. Tim Ross noted that in a commercial zone shared driveways are in fact desirable and help to reduce traffic. Corrine Weber asked Mr. Gardner what impact the project would have on him. He replied that he feels it would have a negative impact on both a personal and community level. Personally, he does not want to have two huge buildings as neighbors nor does he wish to see a constant flow of traffic in and out of the proposed driveway. On a community level he feels that two nearby wells may be at risk of contamination and that the projects doesn't meet New York State requirements for distance from wells.

Art Brod said that all of Mr. Gardner's points had already been presented to, and examined by, the Planning Board before it issued a Negative SEQR Declaration. He also agreed with the

Chair's comments about shared driveways and referenced the fact that Greenway Connections guidelines call for shared driveways. Additionally, the Planning Board had requested a projection of traffic, which was also considered prior to issuing a Negative Declaration. The issue of the wells was examined by the Planning Board in consultation with both the Department of Health and the Village of Red Hook mayor. In reference to the scale of the buildings, he noted that the lots were not being as fully developed as they could be if the lot line between the two parcels were removed. He emphasized, however, that no one was advocating that change be made.

Tim Ross made a motion to grant a variance of 17 feet 6 inches for the rear pavement setback, and a variance for zero feet setback for the driveway side lot requirement as it would have no adverse effect on the health, safety or character of the neighborhood and would be of benefit to the applicant. Ken Anderson requested that the motion be amended to include the fact that the plan complies with Greenway requirements. Corrine Weber seconded the motion, which was unanimously carried by the following roll call vote: Kenneth Anderson – Yes; Gordon Denegar – yes; John Douglas – yes; Robert Latimer – yes; Tim Ross – yes; Corrine Weber – yes.

#### **ADJOURNMENT**

As there was no further business to come before the Board, the meeting was adjourned at 9:55 pm.

Respectfully submitted by,

Lea Cassarino  
Clerk of the Board

## **FINDINGS AND DECISION**

Appeal #06-08 Robert Zahorsky application for an area variance of 10 ft. from side yard setback requirements per the District Schedule of Area and Bulk Regulations Section of the Zoning Law, Code of the Town of Red Hook.

1. The property is located in the R1.5 Zoning District at 22 Teator Lane, Red Hook.
2. Tax Map #15-6273-00-796092.
3. The zoning law requires side yard setback of 20 feet.
4. The applicant has erected a metal shed in a corner of his back yard, reducing his side yard set back to 10 feet.
5. Comments from the audience, and a letter received by the Board, were all in favor of the application.
6. A variance would be of benefit to the applicant with no detriment to the community.
7. There will be no change in the character of the neighborhood.
8. There will be no impact on the health, welfare or safety of the community.

Decision: John Douglas made a motion to grant the variance based upon the above findings. The motion was seconded by Robert Latimer and carried by a 6-0 roll call vote.

## FINDINGS AND DECISION

Appeal #06-09A Ronald Goodman/Rondack Construction application for an area variance of 17 ft. 6 in. from the rear pavement setback requirements as per the District Schedule of Area and Bulk Regulations Section of the Zoning Law, Code of the Town of Red Hook.

1. The property is located in the B2 Zoning District at Lot 2, Eye Associates subdivision, Glen Pond Road, Red Hook.
2. Tax Map #15-6272-00-402448.
3. The zoning law requires a rear pavement setback of 25 feet.
4. The applicant wishes to construct a parking lot for proposed office buildings with a rear pavement setback of 7.5 feet, reducing the required rear setback of 25 feet by 70%.
5. There was objection from the audience, in which it was stated that the need for this variance was self-imposed because the size of the proposed office buildings and subsequent requirements for parking space reduced the availability of space for the rear pavement set back. It was felt that the proposed buildings could be reduced in size, which would lessen the number of parking spaces required and thus make ample space available for the rear pavement setback.
6. A variance would be of benefit to the applicant with no detriment to the community.
7. There will be no change in the character of the neighborhood.
8. There will be no impact on the health, welfare or safety of the community.

Decision: Tim Ross made a motion to grant the variance based upon the above findings. The motion was seconded by Corinne Weber and carried by a 6-0 roll call vote.

## FINDINGS AND DECISION

Appeal #06-09B Ronald Goodman/Rondack Construction application for an area variance of zero feet from driveway side yard setback requirements as per the District Schedule of Area and Bulk Regulations Section of the Zoning Law, Code of the Town of Red Hook.

1. The property is located in the B2 Zoning District at Lots 1 and 2, Eye Associates subdivision, Glen Pond Road, Red Hook.
2. Tax Map #15-6272-00-402448 and 15-6272-00-375440.
3. The zoning law requires a driveway side yard setback of 20 feet.
4. The applicant wishes to construct a shared driveway which straddles the property line between the two lots, reducing the required setback to zero feet.
5. There was objection from the audience that the flag lots on which the proposed driveway is to be constructed do not meet the road frontage requirements for lots in a B2 district. It was also felt that the driveway would cause an increased flow of traffic.
6. A variance would be of benefit to the applicant with no detriment to the community.
7. There will be no change in the character of the neighborhood.
8. There will be no impact on the health, welfare or safety of the community.

Decision: Tim Ross made a motion to grant the variance based upon the above findings. The motion was seconded by Corinne Weber and carried by a 6-0 roll call vote.