

**Town of Red Hook
Zoning Board of Appeals Meeting Minutes
July 12, 2006**

CALL TO ORDER

The meeting was called to order at 7:15 p.m. by Timothy Ross, Chairman.

ROLL CALL

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

Members absent: Corinne Weber, Michael Mosher

Town Board Liaison: James Ross

PRELIMINARY BUSINESS

The minutes of the June 14, 2006 meeting were unanimously approved.

There was no comment on the Planning Board minutes.

Building Inspector/ZEO permits and letters: Zoning Enforcement Officer Bob Fennell said that a letter had been sent to H&W Towing requesting that they sign it, and in so doing, agree to not park any commercial vehicle on their Benner Road property except one 18ft. service van. Mr. Fennell is awaiting a reply. With regard to a letter sent to Cathy Stewart and Carlos Gonzalez, the ZEO received a request from Paul Fredericks that a measurement be taken to ensure that an addition to the Stewart/Gonzalez residence is the required 60 feet from the property line. A letter was sent requesting to set up a time to take the measurement. Ms. Stewart left a message for Mr. Fennell indicating that they have a Certificate of Occupancy and therefore, would not be following up on this request.

There were no comments from the Chair.

PUBLIC HEARING

7:20 p.m. Continuation of Public Hearing for 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 principal structure. At the request of the applicant, the continuation of this public hearing has been postponed.

REVIEW OF NEW APPEAL APPLICATIONS

06-15 David Marshall application for an area variance for side yard set back requirements for construction of a storage building. District Schedule of Area and Bulk Regulations require a 20-foot setback; applicant is requesting an 7-foot setback. The applicant stated that the purpose of the 12 x 18 storage shed would be to hold lawn equipment. The

Board reviewed a survey map supplied by the applicant and pointed out that the shed needs to be at least 12 feet from his residence. There was discussion with Bob Fennell, Zoning Enforcement Officer, as to the number of accessory structures allowed on the property. Three structures are allowed and the proposed shed would be the third structure. Additionally, it was determined that the applicant had more than enough area available so that there would be no conflict with total allowable coverage. The Chair requested that the location of the septic system be indicated on the survey map. A public hearing was scheduled for August 9, 2006 at 7:20 p.m.

06-13 Margarita Carreras application for an interpretation of Article 1, Section 143-4 of the Zoning Law regarding the definition of home occupation and its applicability to an artist's studio. The applicant was represented by her husband, Carlos Padilla. Mr. Padilla explained that he and his wife wish to build a home and an accessory structure on their lot on Kerley Corners Road. The 2700 square foot accessory structure would be used for both storage and an artist's studio. If the artist's studio is considered a home occupation, then its size would be limited to 500 square feet, according to zoning law. The applicant indicated that he and his wife use many mediums to create their art and thus would, at times, require a larger work space. He also noted that they would not be doing business from the structure nor would they have customers coming to it. The board reviewed a map of the property. Chairman Tim Ross suggested that the applicant consider modifying his application to include an area variance so that the public notice can be worded accordingly and he can get a resolution at the end of the next meeting. A public hearing was then scheduled for August 9, 2006 at 7:40 p.m.

PUBLIC HEARING

7:45 p.m 06-12 Andrew and Ana Makebish application for an area variance to construct an addition to the front of their residence. The public hearing was opened at 7:45 p.m. As there were no comments from the public, the hearing was then closed. The applicant provided the board with an updated site plan, which included the location of the septic system and well. There was discussion as to the location of the front property line with reference to the new addition. Both Chairman Ross and board member Robert Latimer indicated that they had driven by the property and did not see any problem with the proposed layout of the addition. Tim Ross then made a motion that a variance of 45 feet be granted to allow the addition to be built within 15 feet of the front property line based on the following: the uniqueness of the property line, that there would be no adverse effect on the health, safety or character of the neighborhood, and it will be of benefit to the applicant. Gordon Denegar seconded the motion, which was unanimously carried by the following roll call vote: Ken Anderson - Yes; Gordon Denegar - Yes; John Douglas - Yes; Robert Latimer - Yes; Tim Ross - Yes.

REVIEW OF NEW APPEAL APPLICATION

06-14 Ralph Franceschi application for an area variance for side yard set back requirements for construction of a storage building. District Schedule of Area and Bulk Regulations require a 20-foot setback; applicant is requesting an 8-foot setback. The Board reviewed a diagram of the area and requested that the applicant use a survey, if he has one, and provide any supporting information such as the location of nearby sheds,

etc. The applicant stated that the 20x20 shed he proposes to build is the only accessory building on the property. Additionally, the proposed location of the building was chosen because it would allow access from the driveway. A public hearing was scheduled for August 9, 2006 and 8:00 p.m.

PUBLIC HEARING

8:00 p.m. Appeal 06-11 Cokertown Rod & Gun Club application for interpretation of Town of Red Hook Zoning Law Chapter 143, Article VIII regarding non-conforming use.

Prior to the start of the public hearing, Chairman Tim Ross noted that he, along with the building inspector and code enforcement officer, made a site visit to the Club in June. The floor was then turned over to Jeff Rothschild, attorney for the Cokertown Rod & Gun Club, to provide an overview of the applicant's position. He began by recalling that at the last ZBA meeting board member John Douglas asked if the matter could be resolved privately. The following day Mr. Rothschild spoke with attorney Mickey Steiman, who represents some of the neighbors of the gun club; however, the attempt to pursue the matter privately was unsuccessful. Mr. Rothschild described the Cease and Desist order the club had received due to an expansion of non-conforming use. He stated that the question to be addressed is: what is the expansion of use that the Club is not permitted to do? He noted that the gun range has always been there and that Club member John Hopeler would explain the uses of the club prior to 1993 and currently.

Tim Ross noted that the vast majority of letters the board had received from neighboring land owners stressed that there was an increase in gunfire coming from the Club in the last two or three years. He pointed out that the amount of gunfire was not a tangible thing for the Zoning Board of Appeals. However, square footage of buildings, membership records and number of events were tangible things. Chairman Ross noted that the Code went into effect in February 1993, but that the Club existed prior to that and the deed was signed over in 1962. He also discussed the fact that the ZBA had requested information based on the history of the Club, which was supplied to the Board in a letter, which is attached to and made part of these minutes. Sections of the letter were read, including membership numbers (by year), events held at the Club, structures and improvements on Club property, uses of Club structures and property and the shooting range's hours and days of use.

Regarding one of the Club's structure, the shooting shed, it was noted that construction was in 1993. Attorney Rothschild clarified that it was started in 1991. Tim Ross said that when he visited the site he confirmed with billing data that excavation and blasting for the foundation was begun in 1991. Concrete was poured and marked in 1993. A building permit was issued in 1997.

A survey of the neighboring Horkan property shows that the Club's oldest structure encroaches 11 feet 7 inches onto the Horkan property and the pavilion encroaches 7 feet 3 inches onto their property. A third building, the shoot shed, is almost on the property line. The Chair said that another point that has been raised is that in the original deed of transference it states that the property shall be quietly enjoyed.

The Chairman then summarized letters received from the public as follows:

Jean Horkan, 284 Spring Lake Road: Together with her late husband and late mother-in-law, donated the land for the Cokertown Rod & Gun Club for use as a hunting and fishing club, not a firing range. There has been a substantial increase in the level of gunfire at the club, which has caused Mrs. Horkan personal hardship and has affected her ability to sell her property at 308 Spring Lake Road.

Drayton Grant, Grant & Lyons LLP: She represents Michael Rohatyn, a neighbor of the Club. Her letter includes an extensive review of the Town's noise ordinance and its application to the Club. She indicates that the applicant has not presented good information regarding the actual noise level during shooting periods.

Steve and Donna Cahenzli, 266 Spring Lake Road: States there has been a tenfold increase in shooting at the Club over the past five years. They fear for the safety and well being of their children, who ride ATVs on their property which borders the Club.

Larry C. Thetford, 228 Spring Lake Road: Has noted an increase in the frequency and duration of gunfire over the past 3-4 years. Also feels there has been a change in the types of guns used to include medium caliber semi-automatic and fully automatic weapons. Included in his letter was a documentation of the frequency and character gun fire heard from the Club during the period of April 12, 2006 - April 19, 2006.

Charles & Diane Horrocks, 302 Spring Lake Road: Contend that the noise coming from the Club is a nuisance, and that the weapons fire is often automatic in nature. Feel that the Club should not operate in proximity to a residential neighborhood and that there is potential for an accident to happen. Also concerned about the effects of spent ammunition breaking down and seeping into the water supply.

Ronald & Roberta Odom, 538 Turkey Hill Road: Have noticed an increase in activity at the Club's firing range within the past 1 ½ years. Have heard automatic, semi-automatic and pistol firing seven days a week from morning to evening.

Michael Rohatyn and Risa Scobie, 199 Feller-Newmark Road: Have lived in their home four years and, during that time, have noticed a dramatic increase in shooting at the Club. At times it can sound like a war zone, with many guns firing simultaneously and often guns of various caliber. Feels the Club's land size – five acres – is too small for such activity, leaves no margin for error and is a safety hazard.

These letters are attached to and made part of these minutes.

The public hearing was then opened at 8:10 p.m. The following members of the public were recognized and spoke at the hearing:

Mark Chenkus, 21 Church Street, Village of Red Hook: He is a Club member and feels that the Club provides a safe place to shoot as well as the opportunity to shoot, especially

for someone who lives in the Village where a firearm can not be discharged.

Tom Lewis, Germantown: He is a life member of the Club and was its president when the land was originally donated and shooting was at first limited to activities such as turkey shoots and sighting day. Now he can hear shooting on Sunday mornings all the way to the golf course. He's not against shooting, having been a firearms instructor for 30 years, but doesn't feel people that are outsiders should be going to the club and shooting semi-automatic weapons. He understands the frustration of the neighbors. He no longer shoots at the Club because he knows it bothers the neighbors. His dog is bothered.

Susan Simon, Spring Lake Road: She is not against target shooting, but several incidents of loud shooting in late September and early October concerned her. It has not only scared her neighbor's cats, but she found herself to be scared in her own backyard. Feels the Club is disturbing the peace and endangering the health and welfare of the community.

Chris Stehling, 149 Mill Road: He's a club member, a new range member, but has not been there yet. He stated that many range members use the Club only one or two times per year. He objected to the characterization of members as outsiders. He stated his dog is not bothered by gunfire.

Dan Luffman, 81 Mill Road: Although not born here, he's been a member of the community for 32 years, volunteers and pays taxes. He thinks the Club is a good thing for the community.

Carlos Gonzalez, 162 Spring Lake Road: Has owned his property for 22 years. When he first moved in he found the Club to be very helpful. Gunfire was sporadic and occasional. In 2000 he bought more property behind the Club. In the last one to two years the shooting has become louder and constant. The level of sound and quantity has dramatically increased in the last two to three years. He has animals on the farm and is now afraid of going on his property because of the level and intensity of the gunfire.

Diane Horrocks, 302 Spring Lake Road: She has two young children and they are afraid to play in the back yard. The family can't even use all of their property. It wasn't this bad three years ago, but has gotten worse, especially in the past year. She feels the Club property is being misused and overused.

Michael Horkan, 284 Spring Lake Road: There were eight persons shooting at once, according to a recent Sheriff's report. A variety of weapons have been used, including AK47s. He spoke with a firearms instructor with the Poughkeepsie Police Department regarding the distance a bullet from a semi-automatic weapon can travel. He was told it can travel two miles, uninterrupted. He noted that Route 9 is only 1.5 miles from the firing range. He also said that the berm is not high enough and that the target is higher than the berm. He feels there is excessive activity at the Club compared to what it used to be.

Ann Gabler, 215 Spring Lake Road: She has owned property across the road from the Club for 22 years. Previously she had no problem with turkey shoots, sighting day, and clinics. However, in the past few years it has been impossible to enjoy gardening or even be in her yard.

Charlie Horrocks, 302 Spring Lake Road: He questions how the bullets affect his private well water and if lead could be leaching into it. He's also concerned with the value of his property and that there is no inter-lock between the ZBA and the tax aboard. Feels his house could never be sold for the amount it has been assessed. He hears constant automatic weapons fire.

Mr. Truin, Tivoli: With regard to automatic weapons, it is not legal to possess them and asked whether there is a suggestion that illegal weapons are being used. (Chairman Ross interjects that the legality of the weapons is not within the purview of the ZBA). Mr. Truin notes that he has been a member of the club for six years, and rarely does he see more than three or four shooters there; often he is alone. Sometimes he brings his children there to instruct them in gun safety.

Howard Beneway, 112 Indian Road, Milan: There are no automatic weapons in the Gun Club and an AK47 is a semi-automatic weapon. There has been an increase in the population in town and that may play a role in increased use of the Club. His three kids are interested in shooting and go to the range and use safety equipment. Also, the neighbors knew the gun club was there when they moved to the area. The Club has provided a service.

Bill Anagnos, 4 Albie Road: Was a founder of the Club in the 1950s. Despite what Mr. Rothschild said, there was no shooting range at the Club for the first 10 years. He stated the founders negotiated with Mr. Horkan's father-in-law who detested guns, noise and traffic, and therefore no guns were used near his property. The sighting area was not developed until 10 years after he moved. In fact the property's deed states that it is to be enjoyed quietly.

Charlie Stagias, 32 Church Ave., Germantown: He used a bulldozer to make the shooting range when it was originally constructed. The intent was that it would be used occasionally for such things as sighting-in and turkey shoots, it was not meant for daily activity. Previously people liked the Club; now it is just making a racket.

Michael Rohatyn, 199 Feller-Newmark Road: Stated that the testimony from the members of the public is consistent: there has been a dramatic escalation in the amount and volume of gunfire at the Club in the last two years. The ZBA needs to look at what the character of the Club was beforehand and determine if the current usage is what as intended.

Larry Thetford, 228 Spring Lake Road: As a hunter and farmer, he knows and enjoys guns; has been around them 45 years. Said there was no problem for the Club's first 18-

20 years, but the last 4-5 years have been “rough”. He notes that the Club says use is from 8 am to an hour before sundown, but police have night certifications there. There are fully automatic guns going off at the site. This is a definite change and affects property values.

Steve Cahenzli, 266 Spring Lake Road: Said he owns ten and a half acres bordering the Club and his family likes to use ATVs. However, due to the gunfire they cannot use all of their property. Believes shots are being fired above the berm. Since the firing stopped two months ago, deer have returned to his property. Believes shooting times should be limited and shouldn't be allowed to go on all weekend. He is a property owner too. Also believes the Club is increasing its membership by creating additional categories of membership and asks whether the Club can just keep increasing its membership.

Richard Hansen, 25 James Court: Stated he is not opposed to the club; thinks it's good. Asked if the police training that takes place at the Club could be adding to the increase in gunfire noise. Suggested that if they could practice on their own range maybe that could alleviate some of the problem.

John Hopley, 17 North Drive: Has been a Club member since 1989. Characterized other comments as hysterical. Stated that the Red Hook police use the Club once a year, but he doesn't know why they don't use their own range, perhaps because they can use the Club's at night. Also, the police are the only ones who use the range at night. This training is a benefit to the community. Regarding the effect on animals: he has observed deer at the Club who are not afraid and noted turkeys live on the property as well. He said he uses the range more than most members and that 80% of the time no one else is there. He felt that Mrs. Horkan's house wasn't selling due to its condition and high taxes. At one time he was interested in the house and visited it with a realtor on three occasions. He said he never heard shooting at those times. Addressing the noise level and safety issues he noted that sound may travel more due to some logging that has occurred on nearby property, that targets are not above the berm, and no automatic weapons are allowed on the property. There is no safety issue, no accidents. Bullets may be coming from other properties. There is a berm and a big hill in back.

Michael Horkan: Questioned whether ZBA Member Rob Latimer, who also is a Red Hook Police officer, uses the Club. Rob responded that he never set foot on Club property before; he is now scheduled, through the police department, to shoot there. Mr. Horkan stated the administration of the Club is good but Gayle doesn't know what is going on. He believes that automatic weapons are being used and has notified authorities.

Richard Hansen: Asked whether this matter could be resolved out of court. Said the sound has escalated so that it now sounds like heavy artillery and that normal guns do not shoot 15 rounds at a time. The shooting can be heard 2 to 3 miles away, and has increased in the last two to three years.

Mirko Gabler, 215 Spring Lake Road: Expressed concern that the Club is expanding but that their property has not. He has lived 25 years with the Club but it has gone crazy lately. Said new members do not live in the area and that they go to the Club, enjoy themselves and leave, inflicting pain on others.

Carol Beck, 307 Metzger Road: Has been a Club member for two years. Helps her father mow the lawn at the Club, and has for many years. Said she rarely sees people there.

Diane Horrocks: Stated she was not making any accusations, but wanted to know if alcohol was allowed at the club. Was concerned about the combination of alcohol and automatic weaponry. (A general response from several audience members indicated that alcohol was not allowed. The Chair indicated the ZBA is can not address the enforcement issue regarding legal weapons.)

Linda Meredith, 63 Enterprise Road, Rhinebeck: Explained that for the past five years she has been part of a neighborhood coalition that has been dealing with similar issues with the Northern Dutchess Rod & Gun Club, and is hearing the same arguments presented. Although the Rhinebeck Club has 200 acres, its firing range is close to the road. The neighbors have spent a great deal of money on the matter. The issues with the Northern Dutchess Club have not yet been resolved, but she said that the issue with the Cokertown Club sounds like an expansion of use, be it members, hours of operation, etc. She urges this board to respond the neighbors' complaints.

Gus Truin: A club member for six years, he indicated that when he goes there are usually only two or three others present. He stated there is no evidence of liquor on the range and would report it if he saw it. Asks if there is any documented instance of a bullet hitting a house or tree. (Chairman Ross indicated that that is a concern of the neighbors).

Carlos Gonzalez: Said the point is that use has dramatically changed and is affecting the lifestyle, comfort and security of the neighbors. Most members are OK but others are creating problems.

Beverly Kipp, 53 Garden Street: Stated she is a 30-year resident. Her parents were members of the Claverack Gun Club. Explained that after having her life threatened, she went to the Club to learn how to handle a gun. After hitting a deer with her car she also learned to hunt. She is a range member, has used the club 12 times over 6 or 7 years, and has never seen more than one or two people there when she is at the Club. She acknowledges that she doesn't live there, does not refute what others are saying, but feels the Club provides a service. Believes there has to be a solution to benefit all.

Beth Jones, 38 Spring Lake Road: She believes the Town has liability to neighbors who have to deal with the noise. The noise from the semiautomatic weapon fire is very different from shotguns, and makes her go inside. Said the town has a responsibility to protect the safety of the Club's neighbors and could face liability if there is an accident.

Mickey Steiman, Attorney for Michael and Jean Horkan: Stated that the zoning law should be interpreted based on what existed at the Club as of February 9, 1993. Original Club members have stated that there was no pistol range when the club was started. The Club was limited to 20 active and life voting members, and then a category of membership, called a Range Member, was created. These are not real members, they can only use the shooting range; they buy the right to use the range. Based on the membership numbers reported by the Club, there are about seven times more range members than Club members. This was originally a hunting and fishing club with 20 members, which was OK on five acres. When range members started coming it became a proprietary thing. It is no longer a “club”. It's important to look at what the Town Board intended when it amended the zoning law in 1993. Hunting and Fishing Clubs, not “gun clubs”, were permitted by special permit in an RD3 district. The Town Board must have been aware that the Club was in a residential area, which would raise concern about public safety issues, which is why it created regulations regarding shooting ranges. The Cokertown Club is no longer a hunting and fishing club, it is a shooting/pistol range. This is not about hunting or gun control; it's about enforcement of zoning laws providing for public safety, growth and orderly development. There is a basic rule of statutory interpretation that if a word is not defined in a statute then it must be given its normal definition; for example, hunting and fishing. If the Town Board intended other uses, it would have indicated pistol range, gun club, etc. The Club has not only expanded its use, it has entirely changed. There is plenty of case law that states when issues of public safety become involved in interpretation this board must weigh in on the side of public safety. The building permit was applied for in 1997. The building department had a duty to assure it was complied with. The building didn't meet setback requirements and doubled the original use. The building department didn't do its job. The Town exposes itself to liability. Consider the history of the Club. The charter makes clear the Club's purpose was to be a nature conservancy, a place for sportsmen and a place to work with the Department of Environmental Conservation. The use has expanded and changed. The Board is justified in revoking the nonconforming use. It did not receive an accurate head count, only an approximate one. The building permit stated the Club was on approximately 7.1 acres when it is 5.2, and stated the building would be 400 feet from the property line, which is inaccurate. It is time for the Board to enforce its own zoning ordinances.

Peter Klose, Attorney for Carols Gonzalez and Cathy Stewart: Said this is clearly a zoning issue and applauds the issuance of the Cease & Desist Order as a first step towards enforcing the Town law. The issue is zoning, not hunting versus non-hunting. The Town Code states hunting and fishing clubs require a set area and size. If not, a special permit is required. This is an issue of old use--conservation--versus new use--consternation by all of the neighbors. With regard to conservation, this club's constitution refers to stimulating sportsmanship and conservation. What is the new use of the Club? Need written findings of fact from 1993 and today. The ZBA needs to look at the types of members in 1993 vs. 2004, when the activity increased. In 2003 there were 119 members, which increased in one year to 157 in 2004. The membership numbers supplied by the Club support the neighbors' contention of an increase in use, as there was

an increase in membership. It became a commercial establishment. It was never intended to be that. He also said the Board should make written findings regarding the Club's buildings, when they were erected and with what authority. When did they receive building permits? Was there a Certificate of Occupancy? He believes the ZBA will find that the club has expanded its charter from a rod & gun club to a target shooting range. A target range is required to have a special permit. Section 143-71 of the General Code states that no outdoor target range shall be located on a club site of less than 50 acres. The Cokertown Club is on five acres. The ZBA should also address the types of weapons at the Club because the Club needs to adhere to all applicable laws and requirements. Bullets landing on neighboring property constitute trespassing. They may also pose health and safety risk if they leach lead into private wells. The Club is taking no remedial measures. The Town's law Section 143-125 says a nonconforming use may be maintained if the project is maintained in compliance with applicable codes. The use has been substantially changed, altered and modified. Property values of surrounding properties are affected. Code says consider character and appearance of use, should be in general harmony with surrounding neighborhood, should not be more objectionable to nearby property owners, and should not adversely affect the general welfare of residents. The Board needs specific, written findings about the property values of surrounding properties as indicated in Section 143-51, Subdivision B of the Code. The ZBA should also take evidence regarding photos, receipts of construction, membership records, and follow through on Sec. 143-71 special permit requirements.

Kathy Stewart, 162 Spring Lake Road: Related the fact that she has cows on her property that are impregnated. Prior to the ceasing of gunfire, only two came to term. This year, since the shooting has stopped, five new calves out of 20 were born. The activity at the Club has an effect on her farming, the use of her property and where the animals can graze. Because her animals cannot not use the property where it borders the Club, she had to move a gate and has lost the use of 40 acres of her property. She stated that the most important point is the health and safety of the neighbors; rifle bullets can travel 5 miles.

John Hopeler: When he joined the Club in 1989 the shooting range was there, of the same size. The only difference is the building. There used to be a rail where members lined up to shoot. The range, targets and berm were there. He wondered how cows can graze in what looks to be woods. He stated (referring to public comments at the meeting) that this is the first time many Club members have heard these complaints.

Chris Stehling: Asked whether anyone has had their well tested for lead. Suggested Smith Labs could do the testing.

Michael Horkan: There has been a large increase in use of the range. Footings were poured in 1993. He also stated that he has complained to many about the noise and activity; it can't be said the Club didn't know about the problem.

Susan Elias, 44 Reed Road: She is bothered by the noise. Stated that accidents can

happen and all that is needed is for one person to be shot for the Town's liability to be high.

Mickey Steiman: Pointed out that if this is supposed to be a hunting and fishing clubs the only weapons allowed for hunting are shotguns and pistols. When comparing the membership criteria for an active life member versus a range member, he noted that a range member is a non-voting member and someone who pays for the right to use the shooting range. A true hunting and fishing club has members who enjoy each other's friendship and sportsmanship.

Doug Geer, 26 Lakeside Drive, Rhinebeck: Indicated that he is a range member and that range members must follow the same regulations as all Club members.

Robert McKeon, 163 Crestwood Road: Said he owns land near the Club, has nothing against hunting and has even allowed individuals to hunt on his farmland. With regard to expansion of use, he indicated that if it is the number of gunshots, then there has been a tremendous expansion. Or, could it be expanded facilities or type of weaponry? He's supportive of the Club remaining, but stated that the Club sits on a tiny parcel of land, leaving no room for error. He owns agricultural property and he and his family horses on it. He's working to develop an equestrian facility to allow others to ride on the property, but fears the horses could not be used safely due to the incredible sound. It is absurd to have this type of Club on only five acres. It can't be done safely. The Town has a noise ordinance. How is it possible that weapons can be fired and meet the noise ordinance? It is not grandfathered.

Chris Stehling: Indicated that you can safely shoot on less than five acres.

As no other members of the public wished to make comments, Chairman Tim Ross continued the public hearing to August 9, 2006 at 8:20 p.m.

The Chair then stated he will seek clarification on the Club's categories of membership, gather information on the similar situation in Rhinebeck with the Northern Dutchess Rod and Gun Club, and speak with Town Attorney Chris Chale. In his view, the ZBA is charged with determining how use at the Club has changed since February 9, 1993. Bob Fennel asked whether the Gun Club has a lead abatement program, and Gayle Knull responded that it does not yet have one.

Gale Knull, President of the Cokertown Rod & Gun Club, then stated that shooting may begin again at the Club following a Club meeting scheduled for Friday, July 14, 2006. This was followed by a general discussion as to whether a Cease & Desist Order can be stayed while pending a decision from the ZBA. According to Town Attorney Chris Chale, the Town's Zoning law states that the appeal to the ZBA of a cease and desist order issued under the zoning law stays the enforcement of the order pending the outcome of the appeal.

ADJOURNMENT

As there was no further business to come before the Board, the meeting was adjourned at 9:50 p.m.

Respectfully submitted by,

Lea Cassarino
Clerk of the Board

FINDINGS AND DECISION

Appeal #06-12 Andrew and Ana Makebish application for an area variance of 45 ft. from front 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 RD3 Zoning District at 2 Winding Brook Lane. Rhinebeck
2. Tax Map #15-6371-00-666870.
3. The zoning law requires front yard setback of 60 feet.
4. The applicants wish to construct an addition to the front of their residence, reducing their front yard set back to 15 feet.
5. There were no objections from the audience.
6. Based on the uniqueness of the property line, 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 Gordon Deneger and carried by a 5-0 roll call vote.

Dated July 12, 2006