

**Town of Red Hook Zoning Review Committee
Meeting Minutes
April 10, 2014**

CALL TO ORDER

The meeting was called to order at 7:12 p.m. by Susan Simon - Chairperson

ROLL CALL

Members Present - Susan Simon-Chairperson-Zoning Review Committee;
Steve Cole-Code Enforcement Officer;
Chuck Simmons – Community Representative;
John Douglas-Zoning Board of Appeals;
Brent Kovalchik-Village of Red Hook Trustee

Members Absent – Sam Phelan-Planning Board; Christopher Klose- Economic Development Committee; Anne Rubin -Conservation Advisory Committee;

Liaison – Bill O’Neill - Town Board Liaison

Agriculture & Open Space Committee Members Present

Richard Biezynski, Linda Keeling, Ken Migliorelli
Norman Greig, John Hardeman, Peter Hubbell - Co-Chairman

OLD BUSINESS

The Minutes of December 12, 2013, meeting were reviewed. Brent Kovalchik made a motion to approve minutes as submitted; seconded by John Douglas.

ALL IN FAVOR. OPPOSED - None. Minutes accepted as submitted.

NEW BUSINESS

Fencing

The Ag. & Open Space Committee attended the meeting to discuss the fencing issue. The Zoning Review Committee has always voted **NOT** to change anything but the Ag. & Open Space Committee is in attendance to discuss and educate the ZRC on this issues that have arisen regarding fences.

Pete Hubbell read the March 28, 2011, Ag. & Open Space memo recommending farms in the Red Hook Agriculture District be exempt from all town fence laws including farms not in the Agriculture District should be exempt and the Committee’s May 13, 2011, memo whereby the farmer’s felt the \$50 permit fee should be waived. The town’s definition of Agriculture fence and the Agriculture Department’s definition are very different.

Zoning Review Committee Meeting Minutes

Rich Biezynski described the 1997 law and the recent neighbor's spite fence dispute. There needs to be an interpretation as a pole in the ground is defined as a structure and needs a permit. The definition of an Agriculture fence could be more than 48 inches but that doesn't work for his cattle. He puts plywood up near the road rather than having a see-through fence so he can keep his cattle in. It could be 10 ft. plus 2 additional strands of wire. Harry Colgan's interpretation is that a fence is a tool. Possibly the law as written would not be Ag friendly and a fee charged in the future in adherence to the law. Our concerns are for the future.

Sue Simon indicated we are pro farmers and feels that any changes made could come back to haunt a future ZRC. Another concern is for no spite fences.

Steve Cole gave a Webster's dictionary definition of a **spite fence**: *an unsightly fence or wall that serves no useful purpose, is so constructed as to be an injury to adjoining property, and is erected and maintained maliciously for the purpose of injuring a neighbor as by obstructing unreasonably by his air, light, or view.*

John Hardeman said the fencing law as it applies to farms is on the books but not enforced. It should be removed as many are unaware of the law. We have been promoting farming especially during the last 15 to 20 years. Norman Greig's definition is good, could include spite fence which does not have a use.

Norman Greig noted he has 76 non-farm neighbors. He had phone calls from two neighbors when he planted 50 street trees, one wanted to know why he didn't plant down the road and the other complained about the trees interfering with their viewshed. He put fence posts along Rockefeller Lane on the curve as drivers were turning around in his field and causing crop damage.

Sue Simon reviewed the farmer's stance as not wanting to get or pay for a permit when involved with their agricultural pursuits. She asked Steve Cole if it was recommended by the ZRC that we eliminate the rule for Agricultural Fences, there is no permit, any farmer can put up fences as they need for their agricultural needs, what problems could come out of that?

Steve commented that he would have no problem whatsoever with the fee for the permit disappearing. The only problem he sees is that the spite fence would come in. He feels the fence law, as it reads now, should stay the way it is and **add to it** "spite fence". Put in that for agricultural purposes, no permit is required, no fee will be charged. However, for agricultural uses, the definition of spite fence, which we have to interject into our law, should stay. If someone puts a fence up and a neighbor calls and says a fence has been put up and they don't feel it is an agricultural fence then that complaint would give the Code Enforcement Officer reason to go out and look at it and question: is this an agricultural fence or a spite fence?

Zoning Review Committee Meeting Minutes

Ken Migliorelli commented that he keeps his fences about 10 ft. off the border line so his tractors can travel. John Hardeman stated he keeps 6 inches to a foot away from the property line so he can keep ownership and repair as needed.

Rich Biezynski noted that complaints about “view” interference are a problem. He doesn’t want view in the definition because we don’t know what is going to happen down the line. He also questioned air and light.

Ken Migliorelli feels a fence should have a purpose.

Pete Hubbell suggested that a clause definition should be added as a 10 ft. fence with vines is not a spite fence.

John Douglas summed up the Ag. Committee’s request as follows:

- a) No permit for fencing;
- b) No fee;
- c) spite fence definition included; and
- d) No height or set back restriction

Rich Biezynski suggested that the law should state “Agricultural fences are exempt”. He also suggested following the fence exemption wording in the NYS Ag & Markets law which references farm property over 7 acres.

Ken Migliorelli stated that if the fence has a purpose then all of the other wording is the definition is taken because no farmer erects a fence without a purpose.

Pete Hubbell recommended that the spite fence clause be added to the definition.

Sue Simon suggested the AOSC rewrite the law with the things suggested and give it to the ZRC to consider.

John Douglas suggested emailing Sue Simon and she will forward it to the ZRC members.

John Hardeman said the next meeting of the AOSC is the May 22nd and it can be reworked then. He thanked the ZRC for entertaining the issue and we will try to keep the lines of communication open in the future.

Pete Hubbell thanked the Committee for having the Ag. & Open Space Committee at this meeting and they appreciate the ZRC’s consideration.

Susan Simon noted that the joint meeting was certainly valuable and it makes a big difference when folks sit down and discuss the issues and get it resolved.

Pete Hubbell said that in the future the Ag. Committee will try to get correspondence back and forth more freely.

Zoning Review Committee Meeting Minutes

Bill O'Neill wanted to know if this applies to all districts.

Norman Greig emphatically stated it does as he has multiple zoning designations on his properties and he wants to be able to erect a fence if needed.

Brent Kovalchik agreed this pertains to a commercial farmer.

NEXT MEETING - May 8, 2014

ADJOURNMENT

A motion to adjourn was made by John Douglas, seconded by Steve Cole –all in favor. The meeting adjourned at 8:04 p.m.

Respectfully submitted,

Susan Simon

Susan Simon
Chairman – Zoning Review Committee

ZRC.doc