

**Zoning Board of Appeals
Minutes
October 17, 2006**

Members Present

Barry Silverstein-Chairman
Maureen Kangas-Vice Chairman
Ronald Critelli
April Callahan-Alternate

Members Absent

Lynne Raver
MaryAnn Leenig
Marc Breimer-Alternate

Other Officials Present

Janis Gomez Anderson, Esq. – ZBA Attorney
Christopher Colsey – Director of Municipal Development

Notice of Appeal Hearing has been published in the Poughkeepsie Journal, The Southern Dutchess News and The Beacon Free Press.

Notified of the variance requests were the Town Board, Town Planning Board, Dutchess County Department of Planning, The Interim Zoning Administrator and the surrounding property owners.

The meeting of the Zoning Board of Appeals was called to order at 7:14pm by the Chairman. He made announcements regarding the no smoking policy and the emergency exits and fire procedures.

The Chairman announced that Alternate Member April Callahan was on the Board with full voting rights.

Chairman Silverstein called for comments or corrections to the minutes of the September meeting. Hearing none, he called for a motion to accept the minutes as written.

Maureen Kangas made the motion to accept the minutes as written from the September 19, 2006 meeting.

April Callahan seconded.

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
April Callahan – Aye

Vote:

ZB06-011, McDonald's Restaurant, Signage

Chairman Silverstein announced that the Board received a late correspondence from Dutchess County Department of Planning. He stated that at the last meeting, that they did not comment on the signage and the ZBA felt it was better to re-circulate to them for their comments. DC Planning advised that on a site visit that they counted 33 separate McDonald's logos on the property, including the doors, panels under the windows, the telephone booth, trash cans and drive-thru menu board. They requested that if the ZBA grants the variance for the signage that they require McDonald's to remove the additional 31 logos on the property.

Chairman Silverstein advised that the DC Planning Department is suggesting that the variance be denied and if the Board chooses to grant it, it must be done by a majority of the Board plus one.

Janis Anderson stated that the County will need to be advised of the Board's decision. Chairman Silverstein authorized Ms. Anderson to the notify County of the decision.

April Callahan made the motion to Grant the variance request without restrictions.

Ronald Critelli seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Ronald Critelli – Aye

April Callahan – Aye

Vote:

ZB06-012, Rainbow Ridge Pet Cemetery, Signage

Prior to the vote the Board adopted a negative declaration

Maureen Kangas made the motion to Adopt the Negative Declaration

Ronald Critelli seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Ronald Critelli – Aye

April Callahan – Aye

Ronald Critelli made the motion to Grant the variance request.

April Callahan seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Ronald Critelli – Aye

April Callahan – Aye

New Business

Appeal Number 1

Grid Number: 6254-01-063970 Address: 248 Rapajle Rd

Application Number ZB06-013 submitted by Glenn Stefanski, requesting the following variances: 1) 7ft 11inch variance creating a 42ft 1inch left side yard setback where 50ft is the minimum, 2) 34ft 1/8 inch variance creating a 15ft 11 and 7/8 inch right side yard setback where 50ft is the minimum, 3) lot size, 1 acre where 4 acres is the minimum, 4) lot width, 100ft where 250ft is the minimum and 5) access to the property from other than a town road. Said request is a violation of Chapter 150-33.A. and 150-17 of the Code of the Town of Fishkill.

Chairman Silverstein read communications from the following:

DC Department of Planning cited this as a matter of local concern

Town of Fishkill Planning Board cited this as a matter of local concern

Letters of consent from eight surrounding neighbors

Glenn Stefanski, Applicant, and Dale Paegalow, architect, presented to the Board.

Mr. Stefanski stated that he purchased the property three years ago after the previous owner was granted variances for the decks that were not compliant. The current cabin is approximately 360 sq. ft. He has spent the last year working with Dale Paegalow as his architect to design a home that would be the most non-intrusive dwelling. He designed one large room split between a kitchen, living room, bathroom and bedroom. He advised the Board that he began working with the Town about six months ago to see what would be required and obtained the deeds showing the property back to 1947. He also worked with his neighbors and decided that there were five variances that he needed.

Chairman Silverstein asked if they had anything they wanted to show the Board. Dale Paegalow stated that the Board already had several documents He advised that the plans were amended after meetings with the Town, the ZBA Attorney and the Fire Department and the Town Engineer. The house was designed on a computer and the measurements are extremely accurate.

The Chairman called for questions from the Board.

Maureen Kangas asked where his property was in relation to his neighbors. Mr. Stefanski advised that the entrance for Rapalje was off of Route 9 by the southern exit of the Dutchess Mall across from the golf course. The road goes up the mountain about a ½ mile. The lower portion of the road, about 200 ft, is fairly flat and there are several neighbors that live there year round. Going another 300 ft up the road, there are some cabins that are primarily seasonal use. He stated that his cabin was at the end of the road

at an approximate 600 ft. elevation. Mr. Stefanski stated that the only property past him was a mining company.

Ms. Kangas asked for verification that his house was for year round use. Mr. Paegalow confirmed that is was a year round house and has been designed to meet the hurricane code that the Town falls within and also the earthquake zone.

Mr. Stefanski advised that he spent time clearing with mountain of debris and had the road paved.

Maureen Kangas asked what impact his house would have on the other cabins if they wanted to do the same thing. Mr. Paegalow stated that the current cabin is a year round house. Mr. Stefanski commented that all of the homes are capable of year round use, but the owners choose not to stay. Mr. Stefanski stated that most of the houses are owned as a second home and they don't live here full time.

Chairman Silverstein questioned the variance regarding the access to the property. Janis Anderson stated that the Applicant must travel on Rapalje Rd, which is a private road to get to Route 9. Mr. Stefanski presented to her documentation stating his right to use the road. She advised that she has confirmed to her satisfaction that he has a legal right to use the road. The Rombout Fire District has also visited the site and is satisfied that emergency vehicles can access the property.

Chairman Silverstein called for question from the floor. Hearing none he called for a motion to close this Public Hearing.

Maureen Kangas made the motion to Close this Public Hearing

April Callahan seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Ronald Critelli – Aye

April Callahan – Aye

Appeal Number 2

Grid Numbers: 5955-08-896952, 5955-02-764799, 5955-02-726725

Address: Waterfront at Fishkill Subdivision

Application Number ZB06-014, submitted by RPA Associates, requesting a variance for three community entrance signs having 9 words each when the maximum number of words is 5 in accordance with Fishkill Town Code. Said request is a violation of Chapter 150-30 H (3)c of the Code of the Town of Fishkill.

Chairman Silverstein read communications from the following:

DC Department of Planning cited this as a matter of local concern

Town of Fishkill Planning Board offered a positive referral.

Dan Simone, RPA Associates, presented to the Board. He stated that the three signs on the application for three of the developments within the community. The signs were conceptually approved by the Planning Board with the exception of the zoning violation of having more than five words on each sign. Other than that the signs comply with the sign code.

Maureen Kangas commented that she liked the signs. Chairman Silverstein agreed.

Janis Anderson asked for verification as to the total number of sign that will be requested. Mr. Simone stated that there is a potential for six phases and that three additional signs may be requested through the Planning Board. He stated that the Planning Board was looking for guidance from the Zoning Board to allow them to approve the signs without coming back to the ZBA for each sign.

Ms. Anderson asked if the ZBA was circulated to for SEQR. Chris Colsey stated that the ZBA was not circulated to. Ms. Anderson stated that the Board would have to declare themselves Lead Agency for an unlisted action.

Chairman Silverstein called for questions from the Board. Hearing none, he called for questions from the Floor. None voiced.

The Chairman called for a motion to declare the ZBA Lead Agency.

Maureen Kangas made the motion for the ZBA to be Lead Agency for an Unlisted Action.

April Callahan seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Ronald Critelli – Aye

April Callahan – Aye

Chairman Silverstein called for questions from the floor. Hearing none he called for a motion to close this Public Hearing.

Maureen Kangas made the motion to Close this Public Hearing

April Callahan seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Ronald Critelli – Aye

April Callahan – Aye

Miscellaneous

Janis Anderson advised that she was going to research into the Planning Board's practice to see if it is possible to detect if an application may have to be referred to the ZBA. Several projects do not appear to need ZBA approval and then need to be referred. This may avoid the ZBA having to do their own SEQR review.

Deliberations

ZB06-013, Stefanski

Chairman Silverstein stated that he has no problem with it.

Janis Anderson commented for the Members that were not on the Board previously, that this property was before the Board for variance for the deck and steps.

Maureen Kangas stated that she had no problem with the request. She stated that she was concerned regarding the impact of the neighbors, but he is at the end of the road and there is no impact.

ZB06-014, RPA Associates

Chairman Silverstein stated that there is no problem with their request. Maureen Kangas agreed.

Chairman Silverstein called for any additional business. Hearing none, he called for a motion to Adjourn the ZBA Meeting.

Ronald Critelli made the motion to Adjourn the ZBA Meeting

Maureen Kangas seconded

Motion Carried

Meeting Adjourned at 7:44pm

Respectfully submitted
Nancy Fitzgerald-Lecker
ZBA Clerk