

**Town of Fishkill
Zoning Board of Appeals
April 17, 2007**

Minutes

Members Present

Barry Silverstein-Chairman
Maureen Kangas-Vice Chairman
Ronald Critelli
Lynne Raver
Marc Breimer-Alternate
MaryAnn Leenig

Members Absent

April Callahan-Alternate

Other Officials Present

Janis Gomez Anderson, Esq. – ZBA Attorney

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 and the surrounding property owners.

The meeting of the Zoning Board of Appeals was called to order at 7:00 p.m. by the Chairman. He made announcements regarding the no smoking policy and the emergency exits and fire procedures. The Chairman informed those present of the procedures regarding the ZBA.

Minutes

Chairman Silverstein called for comments or corrections to the minutes of the March 2007 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 March 20, 2007 meeting.

MaryAnn Leenig seconded.

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
Lynne Raver – Aye
MaryAnn Leenig – Aye

Vote:

ZB07-004, Ronald Wilhelm, side yard setback variance
Lynne Raver made the motion to Grant the variance request
Maureen Kangas seconded

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
Lynne Raver – Aye
MaryAnn Leenig – Aye

Vote:

07-003, Citizens Bank, several variances broken down to 12 resolutions as follows:

SEQRA - Negative Declaration stating that if any of the variances are granted that there will be no negative impact on the environment.

Maureen Kangas made the motion to issue a Negative Declaration.

MaryAnn Leenig seconded

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
Lynne Raver – Aye
MaryAnn Leenig – Aye

Resolution 1: Interpretation Regarding Master Plan Requirement

Lynne Raver made the motion that the Dutchess Mall site is required to have a Master Sign Plan.

Maureen Kangas seconded

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
Lynne Raver – Aye
MaryAnn Leenig – Aye

Resolution 2: Variance from the Master Sign Plan Requirement
Maureen Kangas made the motion to Grant this variance request.
Ronald Critelli Seconded

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
Lynne Raver – Aye
MaryAnn Leenig – Aye

Resolution 3: Interpretation, Proposed Primary Signs are Wall Signs, not Roof Signs
Ronald Critelli made the motion that the Primary Signs are Wall Signs

MaryAnn Leenig Seconded

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
Lynne Raver – Aye
MaryAnn Leenig – Aye

Resolution 4: Variance for Additional Wall Sign on East Elevation

MaryAnn Leenig made the motion to Grant this variance request.

Maureen Kangas Seconded

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
Lynne Raver – Aye
MaryAnn Leenig – Aye

Resolution 5: Variance to Allow Internal Illumination to Primary Wall Signs

Lynne Raver made the motion to Grant this variance request.

Ronald Critelli Seconded

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
Lynne Raver – Aye
MaryAnn Leenig – Aye

Resolution 6: Variance to allow additional wall sign above ATM
Maureen Kangas made the motion to Grant this variance request.

Lynne Raver Seconded

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
Lynne Raver – Aye
MaryAnn Leenig – Aye

Resolution 7: Variance to allow internal illumination of wall sign above ATM
Maureen Kangas made the motion to Grant this variance request.

MaryAnn Leenig Seconded

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
Lynne Raver – Aye
MaryAnn Leenig – Aye

Resolution 8: Interpretation whether “Drive-Up Banking” instructional sign IS / IS NOT
a non-illuminated secondary window sign.

MaryAnn Leenig made the motion that the “Drive-Up Banking” instructional sign IS
NOT a non-illuminated secondary window sign.

Lynne Raver Seconded

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
Lynne Raver – Aye
MaryAnn Leenig – Aye

Resolution 9: Variance to allow “Drive-Up Banking” Instructional Wall Sign
Lynne Raver made the motion to Grant this variance request.

MaryAnn Leenig Seconded

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
Lynne Raver – Aye
MaryAnn Leenig – Aye

Resolution 10: Interpretation, Whether Two Directional Signs are permitted on the Citizens Bank Pad Site.

Ronald Critelli made the motion that the directional signs ARE NOT permitted on the Citizens Bank pad site.

Lynne Raver Seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Ronald Critelli – Aye

Lynne Raver – Aye

MaryAnn Leenig – Aye

Resolution 11: Variance for placement of Directional Signs

Lynne Raver made the motion to Grant the variance for the placement of the following directional signs;

(1) Non-illuminated “Entrance” sign;

(2) Non-illuminated “Exit” sign;

(3) Non-illuminated “Clearance” sign;

(4) Internally illuminated “ATM OPEN/CLOSED” sign

(5) Internally illuminated “TELLER OPEN/CLOSED” sign

Ronald Critelli Seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Ronald Critelli – Aye

Lynne Raver – Aye

MaryAnn Leenig – Aye

Resolution 12: Adoption of Record of Findings and Condition on All Variances Granted.

Ronald Critelli made the motion to Adopt the Record of Findings and Condition on All Variances Granted.

Lynne Raver Seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Ronald Critelli – Aye

Lynne Raver – Aye

MaryAnn Leenig – Aye

Chairman Silverstein thanked each Member of the ZBA for the time and effort spent on each resolution. He commended the Town Board for the revisions that they are making to the Sign Law.

New Business

Grid Number: 6256-12-755542 Address: 3 Fairfax Rd

Application Number ZB07-005, submitted by Scott Nathanson, requesting a 6ft variance creating a 24ft rear yard setback where 30ft is the minimum allowed to construct a deck and to legalize a pre-existing 30ft front yard setback where 35ft is required. Said request is a violation of Chapter 150-33 (a) of the Code of the Town of Fishkill.

Chairman Silverstein read communications from the following:

DC Department of Planning citing this as a mater of local concern

Town of Fishkill Planning Board citing this as a mater of local concern

Theodore Morris, neighbor, stating no objection to the project.

Chairman Silverstein called for a representative.

Scott Nathanson, Applicant, presented to the Board. He presented a letter from his neighbor, Joseph Hayes, affected by the setback stating no objection to the project. Mr. Nathanson stated that it is not to their benefit to build the deck in another shape. It would be an additional cost and achieve the same square footage. To stay within the setback would mean a 10ft by 20ft deck which would not give them practical use of the space. He commented that if they made the deck flat along the back of the house, it would also involve the moving of a water spicket and clothes dryer vent.

Chairman Silverstein questioned the front yard setback variance. Mr. Nathanson stated that when the application was submitted, their builder was advised that the front yard needed to be legalized. Nancy Lecker advised the Board Members that the house is pre-existing non-conforming. The Chairman verified that this was just to legalize something that was present prior to the applicant purchasing the house. Mr. Nathanson agreed.

Ronald Critelli asked for verification that the setback would be 24ft instead of 35ft. Mr. Nathanson stated that it should be 30ft. The variance is for 6ft. He reiterated that his neighbor does not have a problem with it.

MaryAnn Leenig asked for verification that the neighbor that he is referring to is the neighbor to his rear. Mr. Nathanson confirmed this.

Ronald Critelli asked if there was a sketch of the deck. Mr. Nathanson advised that he submitted 12 copies and everyone should have one. Nancy Lecker advised that she had an extra one and gave it to Mr. Critelli.

MaryAnn Leenig asked how far the neighbor's house was from the property line. Mr. Nathanson stated that he did not know.

Chairman Silverstein called for additional comments or questions. Hearing none he called for a motion to Close this Public Hearing.

Maureen Kangas made the motion to Close this Public Hearing
Ron Critelli seconded

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
Lynne Raver – Aye
MaryAnn Leenig – Aye

Old Business

Continued Public Hearing for:

Grid Number: 6154-00-898490

Address: 70 Route 9

Application No. ZB05-007, submitted by Cranesville Block Company, to construct a 50' silo where the maximum height is 35' in a GB Zoning District. Said request is a violation of Chapter 150-33.B. of the Code of the Town of Fishkill.

The Chairman deferred to Janis Gomes-Anderson, ZBA Attorney, for comments from Town Engineer, John Andrews.

Ms. Anderson stated that Mr. Andrews' received the results of the water and noise tests as requested by the ZBA. The water was in compliance with the DEC permits. Mr. Andrews had difficulty with the results from the noise tests. They were not clearly marked as to what was tested. He has been unable to contact the individual who conducted the test. He will clarify the results and submit something in writing. It was Mr. Andrews' position that the Public Hearing could be closed if the ZBA chooses to do so.

Chairman Silverstein motioned to Steve Dow from Cranesville Block Company for comments. Mr. Dow stated that he had no further comments at this time.

The Chairman called for questions or comments 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
MaryAnn Leenig seconded

Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Ronald Critelli – Aye
Lynne Raver – Aye
MaryAnn Leenig – Aye

Additional New Business

David Gianna – Extension of ZBA 05-010 variance deadline

Mr. Gianna requested an extension to the variance deadline that had been Granted on May 16, 2006. He stated that the design of the house is complete and that they have one builder that has bid on the project. They are also receiving bids from two other builders.

He advised the Board that prior to applying for a building permit the final plans must be reviewed and stamped by a NYS architect. His architect is based in Minneapolis. This process will take approximately one month and then there is the time factor for applying for and receiving a building permit.

Chairman Silverstein asked how long it should be extended. Janis Anderson stated that there should be a timeframe. Mr. Gianna requested 90 days. Ms. Anderson suggested six months to avoid the Applicant possibly returning to the ZBA for another extension.

Chairman Silverstein called for questions or comments from the Board regarding this request. Hearing none, he called for a motion to approve a six month extension to the variance deadline.

Ronald Critelli made the motion to Approve a six month extension to the variance deadline.

Maureen Kangas Seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Ronald Critelli – Aye

Lynne Raver – Aye

MaryAnn Leenig – Aye

Nancy Lecker advised the Board and Mr. Gianna that the new deadline is October 16, 2007. Janis Anderson requested that Nancy Lecker issue a letter to Mr. Gianna with a copy to the file regarding the decision of the ZBA.

Letter to the Supervisor and Town Board

The Chairman had directed Attorney Janis Anderson at a previous meeting to draft a letter to the Supervisor and Town Board Members with a recommendation for amendments to the Town Code. He advised the Board that the letter has been written and requested a motion to allow the letter to be submitted.

MaryAnn Leenig made the motion that the letter to the Supervisor and Town Board be sent.

Maureen Kangas Seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Ronald Critelli – Aye

Lynne Raver – Aye

MaryAnn Leenig – Aye

Deliberations

05-007, Cranesville Block

Chairman Silverstein commented that this application has been very time consuming but the Applicant has been co-operative in supplying information. He is uncomfortable with the 50ft silo. An additional 35ft silo is intrusive enough but a 50ft is not needed.

Ronald Critelli and MaryAnn Leenig agreed. Maureen Kangas commented that the ZBA listened to the people. She stated that they have merit and feel the silo is wrong. Ms. Kangas reminded the Board that Mr. Dow stated that whether the silo is built or not, it would not make a difference. Ms. Kangas advised that she was also against it.

Chairman Silverstein stated that no more discussion is needed in that most, if not all of the members seem to be against it.

Janis Anderson stated that she will check the SEQRA issue in regards to what needs to be issued if the applicant is denied.

07-005, Scott Nathanson

Chairman Silverstein stated that he has no problem with this appeal. The Board Members nodded in agreement. The Chairman commented that the general feeling of the ZBA is positive but the Board will take the month to review the application and render a decision next month. The Chairman noted to the Floor that a positive response at this time does not mean a guarantee of approval.

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

MaryAnn Leenig made the motion to Adjourn the ZBA Meeting
Maureen Kangas seconded
Motion Carried

Meeting Adjourned at 7:49 p.m.

Respectfully Submitted

Nancy Fitzgerald-Lecker
ZBA Clerk