

**Town of Fishkill
Zoning Board of Appeals
January 16, 2007**

Minutes

Members Present

Barry Silverstein-Chairman
Maureen Kangas-Vice Chairman
Lynne Raver
MaryAnn Leenig
Marc Breimer-Alternate
April Callahan-Alternate

Members Absent

Ronald Critelli

Other Officials Present

Janis Gomez Anderson, Esq. – ZBA Attorney
Joel Petrus – Deputy Building Inspector
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 Deputy Building Inspector and the surrounding property owners.

The meeting of the Zoning Board of Appeals was called to order at 7:03 pm 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.

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

Chairman Silverstein called for comments or corrections to the minutes of the November 2006 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 November 21, 2006 meeting.

April Callahan seconded.

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Lynne Raver – Aye

MaryAnn Leenig – Aye

April Callahan – Aye

Vote:

ZB06-015, Momentum Advertising and Design

Variance request for front and rear yard setback s

Maureen Kangas made the motion to Grant the variance request

MaryAnn Leenig seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Lynne Raver – Aye

MaryAnn Leenig – Aye

April Callahan – Aye

Vote:

ZB06-016, Vincent Troy

Variance request for front yard setback and maximum lot coverage.

April Callahan made the motion to Grant the variance request

MaryAnn Leenig seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Lynne Raver – Aye

MaryAnn Leenig – Aye

April Callahan – Aye

Old Business

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.

Chairman Silverstein advised that the purpose of the meeting was to get the test results that had been requested at the October 2005 meeting. He advised that communications have been received and are on file from Ed Bushek and from Dr. Peter Rostenberg representing the Fishkill Ridge Caretakers.

Steve Dow presented to the Board. He stated that the water test samples were submitted after their last meeting and should be on file with the Town. Nancy Lecker stated that she did not receive the results. He stated that he had the originals with him but did not make additional copies. Mr. Dow asked if it were possible to make copies for the Board Members. Chris Colsey advised the Chairman that he would make copies for the Board. The Chairman asked for verification from Mr. Dow that the information requested was submitted. He stated that it should have been, but that he would check with his secretary. The Chairman stated that copies would not be needed at this time because the results need to be evaluated by the Town Engineer. Mr. Dow stated that he will send Nancy Lecker a copy of the results and she could forward them to Mr. Andrews. Chairman Silverstein advised that until the test results are submitted and reviewed by the Town Engineer, no further action is possible.

Mr. Dow reminded the Board that by constructing the additional silo it will reduce the traffic flow on a busy day. They would not have to bring as much material in. They can bring it in on a slower day. He stated that Cranesville Block has been before both the ZBA and Planning Board in the past and will not cease operations if they are denied the permit to build the silo.

Janis Anderson asked if the package would include the noise test. Mr. Dow confirmed that it would and reiterated that he would send a complete package to Ms. Lecker.

Mr. Dow stated that if the Board had any questions at this time, he would be happy to answer them. Chairman Silverstein repeated that the test results were needed first.

The Chairman called for a motion to Adjourn this Public Hearing
MaryAnn Leenig made the motion to Adjourn the Public Hearing
Maureen Kangas seconded
Motion Carried

Barry Silverstein – Aye
Maureen Kangas – Aye
Lynne Raver – Aye
MaryAnn Leenig – Aye
April Callahan – Aye

New Business

Appeal Number 1

Grid Number: 6155-03-222128 Address: 38 Greenwood Dr

Application Number ZB07-001, submitted by Larry & Lynnette Macina requesting a 5.8ft variance, creating a 44.2ft front yard setback where 50ft is the minimum, a 10.6ft variance creating a 14.4ft left yard setback where 25ft is the minimum, to construct a 2nd story addition, and a 24ft variance creating a 1ft right yard setback where 25ft is the minimum to move the east wall of the existing garage onto their property. 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 matter of local concern

Town of Fishkill Planning Board citing a concern regarding the replacement of the garage with a bedroom. The Planning Board offered a suggestion that the additional living space may be achieved using an alternate design with the bedroom in the rear of the house.

Larry Macina presented to the Board. He stated that he would like to put a second story on the house and a front porch. He stated that the house is currently 500 sq. ft. He presented a photo of the house. Mr. Macina advised the Board that the plan was to raise the roof for an additional story and construct a front porch coming off of the roof line.

MaryAnn Leenig asked if the completed home would be 1ft from the property line. Mr. Macina stated that the current garage is on the neighbors' property. When they redo it, they are going to set it back onto their property. Ms. Leenig requested verification that the house would be 1ft from the property line. Mr. Macina confirmed this.

Ms. Leenig pointed to the drawings and asked if it would be possible to build onto the rear of the house instead of extending out. Mr. Macina stated that the 2nd floor would overhang 2ft and they want to bring the porch out 5ft. Ms. Leenig again asked why they couldn't build in the rear of the house. Mr. Macina did not understand the question. Chairman Silverstein restated that instead of putting on a second floor, could they just add the additional living space to the rear of the house. Mr. Macina stated that he didn't want to touch the foundation.

Ms. Leenig questioned the foundation of the bedroom that was replacing the garage. Mr. Macina asked the Board's opinion if he did not change the garage and only did the house. Ms. Leenig stated that it was over the property line. Maureen Kangas stated that the garage was already there. The Applicant didn't build it. Chairman Silverstein agreed that it was pre-existing.

Chairman Silverstein asked what the plan was for vehicle parking if the garage was converted. Mr. Macina stated that there would be no garage. They would park in the driveway. Maureen Kangas asked if they currently use the garage. Mr. Macina confirmed

that they do. They only wanted to convert it to get an extra bedroom. Mr. Macina stated that if it was going to be a problem he was willing to leave the garage as is. Ms Leenig stated that she was not comfortable with the 1ft setback unless the garage remains since it already exists. If the garage is removed there are all new rules that must be followed. Mr. Macina stated that he understood the rules, but thought that if he brought the room onto his own property that it would be ok.

Janis Anderson asked how far the house was from the property line. Mr. Macina stated that is currently 52ft from the street. Ms. Anderson specified the side yard. Joel Petrus asked how big the garage was. Mr. Macina stated that that the garage was approximately 13ft wide and was going to cut it down to 11ft. Mr. Petrus stated that the house is 11ft from the property line.

Maureen Kangas asked if there was a neighbor. Mr. Macina stated that he has neighbors but the other houses are set in the rear of their properties. Ms. Kangas asked for verification that there are no houses directly on either side of him. Mr. Macina confirmed it.

Chairman Silverstein asked if the 2nd floor would cause any visual hardship for the neighbors. Mr. Macina stated that it would not. He pointed to the survey and showed the Board Members where his house was in relationship to the neighbors. He commented that the lots are very narrow and go all the way back to the mountain.

Mr. Macina advised that the property has been vacant for the last seven years and is run down. He purchased it for his son who is paying the mortgage. He is more concerned with the 2nd story since the house is only 500 sq ft. He gave the rough dimensions of the rooms in the house. He wants to put two bedrooms upstairs. The garage conversion is not a priority.

Maureen Kangas asked if there was a basement. Mr. Macina stated that there was a full basement.

Mr. Macina asked the Board if he leaves the garage as is, would they allow him to change the roofline to match the house. It currently has a shed roof. Maureen Kangas and Chairman Silverstein commented that a variance would not be needed to change the roof.

Chairman Silverstein asked if there was a financial concern regarding expanding the rear of the house. Mr. Macina stated that a foundation would have to be placed. He would not have to when converting the garage. Ms. Leenig stated that he should put in a foundation, that a slab under a bedroom would be too cold.

Mr. Macina summarized the discussion stated that he would leave the garage as is, change the roofline to match the house. Chairman Silverstein asked for verification that the only variance now being requested is for the 2nd story. Mr. Macina agreed and stated he still needed the variance for the porch. Maureen Kangas agreed as the house currently sits 52ft from the road and the new porch and roofline will extend out 5ft.

Nancy Lecker advised that the left side setback variance was still needed for the 2nd story. Joel Petrus stated that the setback is a 14ft pre-existing non-conforming. Chairman Silverstein reviewed the plans and agreed. The variance was required to legalize the pre-existing setback.

Mr. Macina advised the Board the 2nd story was going to extend out 2ft on each side to give them 4ft additional space upstairs. Joel Petrus compared it to the design of a raised ranch. Janis Anderson asked if the 2ft was in the front and back or on the sides of the house. Mr. Macina stated that it was only on the front and back. Ms. Anderson asked for verifications that the measurements were taken from the roofline or from the house. Mr. Petrus stated that they are taken from the roofline as this is the closest point to the property line.

Janis Anderson asked Joel Petrus if the Applicant changes the roof of the garage, will he need anything from the ZBA. Mr. Petrus stated that he would not.

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 the Public Hearing

MaryAnn Leenig seconded

Motion Carried

Barry Silverstein – Aye

Maureen Kangas – Aye

Lynne Raver – Aye

MaryAnn Leenig – Aye

April Callahan – Aye

Additional New Business

None

Deliberations

05-007, Cranesville Block

Janis Anderson asked what was outstanding. Nancy Lecker stated that they need to submit their test results. Chairman Silverstein asked which test results. Nancy Lecker stated the ZBA had requested test for noise and air.

Maureen Kangas stated that she is very concerned about this application and is not in favor of it.

Chairman Silverstein stated that a comment made by the Applicant has him concerned. Mr. Dow had stated that they requested the 50ft silo to reduce traffic but that they were going to continue business as usual.

April Callahan asked if the reduction in traffic was the goal of the additional silo. Janis Anderson stated that less traffic may be a benefit.

Maureen Kangas stated that she didn't believe that it was their true point.

Chairman Silverstein stated that the traffic flow was not a concern other than the additional silo would allow them to increase the business. He commented that he didn't want to start a discussion regarding it at this time because the only thing the ZBA is requesting at this time are the test results.

Janis Anderson requested that Nancy Lecker put together copies of the minutes from all of the meetings that Cranesville has been at and email them so the Board Members can review them.

MaryAnn Leenig asked how the Board would know if the paperwork had been received.

Maureen Kangas stated that she found it strange that Mr. Dow came to the meeting and stated that the test results were submitted. She commented that Ms. Lecker would not miss something like this. Ms. Lecker stated that if the test results were received, she would have distributed them and contacted the Applicant to place them on an agenda. Chairman Silverstein commented that Mr. Dow did not state that he gave them to Ms. Lecker. Janis Anderson commented that the results may have been sent to the Planning Board as they were also conditions of Planning Board approval.

Chairman Silverstein stated that the impression that he got from Mr. Dow was that the silo would be a great convenience but it's not that big of a deal. They will still be in business. MaryAnn Leenig stated that it wasn't really needed. The Chairman agreed. Maureen Kangas agreed commenting that it is not something that is needed to sustain their business.

MaryAnn Leenig asked if they were going to double their business with it. Chairman Silverstein stated that the previous presentations included increasing their business but this one stated a decrease in the traffic.

Maureen Kangas asked Marc Breimer his opinion. Mr. Breimer stated that his impression of the comments regarding the traffic and the continuation of their business was more for the audience than the Board.

Janis Anderson asked if the surrounding neighbors were re-notified. Nancy Lecker confirmed that they were.

07-001, Larry & Lynnette Macina

MaryAnn Leenig stated that it is a pre-existing condition.

Maureen Kangas stated that it will enhance the neighborhood. April Callahan agreed.

Lynne Raver asked for a copy of the Planning Board's comments regarding this property.

Maureen Kangas stated that the Applicant answered all of their questions.

Chairman Silverstein commented that the Applicant was cooperative in changing his design to address the ZBA's concerns.

Chairman Silverstein called for a motion to Adjourn the ZBA Meeting.

Maureen Kangas made the motion to Adjourn the ZBA Meeting

MaryAnn Leenig seconded

Motion Carried

Meeting Adjourned at 7:35 pm

Respectfully submitted,
Nancy Fitzgerald-Lecker
ZBA Clerk