

**Town of Fishkill  
Zoning Board of Appeals  
March 17, 2009**

**Minutes**

**Members Present**

Barry Silverstein-Chairman  
Ronald Critelli  
Lynne Raver

**Members Absent**

Maureen Kangas-Vice Chairman  
MaryAnn Leenig  
Marc Breimer-Alternate

**Other Officials Present**

Janis Gomez Anderson, Esq. – ZBA Attorney  
Joel Petrus - Building Inspector

---

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 Building Inspector and the surrounding property owners.

---

The meeting of the Zoning Board of Appeals was called to order at 7:06 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 January 2009 meeting. Hearing none, he called for a motion to accept the minutes as written.

Ronald Critelli made the motion to accept the minutes as written from the January 20, 2009 meeting.

Lynne Raver seconded.

Motion Carried

Barry Silverstein - Aye  
Ronald Critelli - Aye  
Lynne Raver - Aye

**DRAFT**

**Old Business**

Application Number ZB07-007, submitted by Frank Antioco requesting a 7ft 8in variance creating a 12ft 4in left side yard setback where 20ft is the minimum allowed and a 10ft variance creating a 10ft right side yard setback where 20ft is the minimum allowed in the BH District to construct a single family dwelling. Said request is a violation of Chapter 150-33 (a) of the Code of the Town of Fishkill.

Chairman Silverstein deferred to the ZBA Attorney. Janis Anderson reminded the Board and Floor that there were three applications that were deferred in 2007 when the moratorium was put into place in Beacon Hills. Letters were recently sent to the applicant's with the option of returning to the Board to continue their appeals or, if needed, proceed with the land use development permit. Upon further review it was decided that because this applicant is subject to the land use development permit, it is no longer a simple application regarding SEQRA, it is an unlisted action. It requires a full SEQRA review. Ms. Anderson consulted with the Town Engineer and decided that the application should be referred to the Planning Board to have SEQRA done prior to returning to the ZBA.

Ms. Anderson read a resolution to the Board referring the appeal to the Planning Board and for the Planning Board to become the Lead Agency for SEQRA purposes. Ms. Anderson advised that she contacted Mr. Antioco and explained this to him and he has been in contact with Debbie Davis, the Planning Board Secretary.

The Chairman called for a motion to approve the resolution and refer this application to the Planning Board.

Lynne Raver made the motion

Ron Critelli seconded

Motion Carried

Barry Silverstein - Aye

Ronald Critelli - Aye

Lynne Raver - Aye

The Chairman called for a motion to Adjourn this Public Hearing to a date undetermined.

Lynne Raver made the motion to Adjourn the Public Hearing

Ron Critelli seconded

Motion Carried

Barry Silverstein - Aye

Ronald Critelli - Aye

Lynne Raver - Aye

## **DRAFT**

### **Vote:**

07-008 John Cozolino, Variance to maintain 3ft rear yard setback, converting a deck to three-season room

### **Discussion**

Chairman Silverstein asked what was happening with this application. Joel Petrus stated that he explained to Mr. Cozolino that there was a confusion regarding the actual size of the three season room. There were different drawings from a previous contractor showing different sizes. Mr. Petrus explained that if the room was going to be increased from 10ft x 18ft to 12ft x 28ft additional footings will need to be added. The additional footings would then cause the application to fall under the new Beacon Hill District Law. Mr. Petrus stated that Mr. Cozolino will keep the 10ft width. The length will be extended from 18ft to 28ft. Mr. Petrus advised that two footings will be added but the original deck and footings will remain. The previous contractor had stated that they were constructing an addition.

Janis Anderson asked if the new footings make it subject to the new law. Mr. Petrus stated that the new law is for more detailed construction. It was his opinion that two 10 inch footings will not make this application subject to it. There is no impact with the new footings.

Chairman Silverstein asked for verification that even though he is putting in new footings, he will still be exempt from the land use development law. Mr. Petrus confirmed this.

Janis Anderson and Ron Critelli asked for a description of what the applicant was going to construct. Mr. Petrus stated that the applicant currently has a 10ft x 18ft deck which he is wants to extend to 10ft x 28ft and convert it to a three season room. Mr. Cozolino advised that there would be no demolition, no removal of soil or trees. Ms. Anderson stated that during his Public Hearing, the Board was told that the deck was going to be removed, but the footings were going to remain. She asked for verification that the deck was going to remain. Mr. Cozolino confirmed that the deck will remain and the floor to the new room will be placed over it.

Mr. Petrus advised that the point of this is to gain living space. The applicant is willing to give up the 2ft width to get the addition space.

Chairman Silverstein commented that the original variance request was for a 37ft variance to maintain a 3ft rear yard setback. He asked what the new setback would be. Mr. Petrus advised that the setback will remain the same. He stated that the extension will be at the opposite end of the deck. The 37ft variance is required because that is what currently exists.

Ron Critelli reiterated that the new room will not be set any further into the setback. The Chairman and Mr. Petrus agreed.

**DRAFT**

Janis Anderson asked Nancy Lecker if the original County response was local concern. Ms. Lecker and Chairman Silverstein confirmed this. The Chairman noted that at the original Public Hearing, there were no major questions raised. A request was made to the applicant to submit a more accurate drawing which he did submit. The Chairman also commented that according to the minutes, there were no comments from the Floor.

The Chairman called for additional questions or comments from the Board. None voiced. He asked if the Board was comfortable with moving forward. All agreed. Janis Anderson commented that she would have to write the decision for the Board to vote on.

The Chairman asked for discussion regarding this application and to vote at this meeting. Lynne Raver stated that she was satisfied with what Mr. Petrus stated.

Ron Critelli stated that on the original drawing the property lines looks like it is on an angle, so he was concerned that it was going to be closer than the 3ft. He commented that the drawing may have been wrong. The Chairman agreed, and that the setback had been verified.

The Chairman commented that he has nothing more to add. He is satisfied with Mr. Petrus' comments, the corrected drawings were submitted, and the concerns regarding the new law have been cleared up.

The Chairman asked Mr. Cozolino if waiting a month for the decision would be detrimental. Mr. Cozolino commented that it would not be a problem to wait.

Chairman Silverstein asked the Board and Attorney if they wanted to wait or to vote at this meeting. Ms. Anderson stated that it wouldn't take very long to draft a decision. The Chairman called for a motion to move forward and vote on this application at this meeting.

Lynne Raver made the motion to vote on the application

Ron Critelli seconded

Motion Carried

Barry Silverstein - Aye

Ronald Critelli - Aye

Lynne Raver - Aye

The Chairman asked if the Board should recess first or vote and then recess to write the decision. Ms. Anderson advised that Board should go through the criteria and then she would write the decision based on it.

**DRAFT**

Chairman Silverstein went through the criteria. He commented that:

The request for the variance would not create an undesirable change to the character of the neighborhood or a detriment to nearby properties.

The benefit sought by the applicant would not be able to be achieved by some other method.

The requested variance is not substantial.

The variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The alleged difficulty was not self-created. It was inherited with the property.

The Chairman reiterated that he had no problems with this application. It meets the requirements.

Janis Anderson stated that if the Board would go into a recess, she would draft the decision.

Ron Critelli made the motion to recess the ZBA meeting

Lynne Raver seconded

Motion Carried

Barry Silverstein - Aye

Ronald Critelli - Aye

Lynne Raver - Aye

ZBA meeting recessed at 7:24pm

Lynne Raver made the motion to reconvene the ZBA meeting

Ron Critelli seconded

Motion Carried

Barry Silverstein - Aye

Ronald Critelli - Aye

Lynne Raver - Aye

The ZBA meeting was reconvened at 7:48pm.

**DRAFT**

The Chairman advised that the ZBA meeting was now reconvened to vote on the resolution for ZB07-008, John Cozolino.

Lynne Raver made the motion to Grant the variance request

Ron Critelli seconded

Motion Carried

Barry Silverstein - Aye

Ronald Critelli - Aye

Lynne Raver - Aye

Mr. Cozolino thanked the Board for its diligence over the past two years with this and for the open communication throughout the process. He commented that he cares about the area and was impressed how the Beacon Hills community cares about the neighborhood.

**Miscellaneous**

Janis Anderson asked for verification that there was no April meeting. Nancy Lecker confirmed this.

Chairman Silverstein called for any additional business. Hearing none, he called for a motion to adjourn.

Lynne Raver made the motion to Adjourn the ZBA Meeting

Ronald Critelli seconded

Motion Carried

Meeting Adjourned at 7:51 p.m.

Respectfully Submitted  
Nancy Fitzgerald-Lecker  
ZBA Clerk