

VILLAGE OF RED HOOK
ZONING BOARD OF APPEALS MEETING

OCTOBER 24, 2005

Present: Brent Kovalchik, Chairman; George Beekman, Co-chairman; Cliff Gubler, Member; Paul Duntz, Member

Absent: Victor Behoriam, Member

Chairman Kovalchik opens the meeting at 7:30 PM and brings forward the minutes of the September 26, 2005 Zoning Board of Appeals meeting for consideration. There being no corrections or additions, Chairman Kovalchik moves that these minutes be approved as written. Member Gubler seconds this motion and all vote in favor.

THE SEPTEMBER 26, 2005 MINUTES OF THE ZONING BOARD OF APPEALS MEETING ARE APPROVED AS WRITTEN.

Applicant #1

Nicholas Sperry

28 Prince Street

Tax Grid #25-6272-10-337721-0000

3 Variances

Rear Yard Setback

Side Yard Setback

Lot Coverage

Chairman Kovalchik states the three variances Mr. Sperry is requesting and reads the applicable sections from the Code of the Village of Red Hook: 1) Section 200-9-D-6 (rear yard setback on an interior lot); 2) Section 200-9-D-7 (side yard setback on an interior lot); 3) Section 200-9-D-10 (maximum coverage of a lot). Chairman Kovalchik states that Mr. Sperry is requesting a reduction of his rear yard set back from 25 feet to 3.63 feet, a reduction of his side yard setback from 15 feet to 2.3 feet and an increase in lot coverage from 15% to 33.4%. The 33.4% coverage includes existing structures and is based on the definitions in the Code of The Village of Red Hook Section 200-5, Definitions. Mr. Sperry states that the original shed was not prefab and points to pictures submitted (attached). He states that the relevance is that he needs the larger shed for his occupation as a contractor. Chairman Kovalchik states that one SEQR will be done for all three variance requests and one period of public comment for all three variances. Co-chairman Beekman reviews the SEQR Short Form EAF point by point and no problems are found. A Negative Declaration is assigned to this application. Chairman Kovalchik reads the definition of an Area Variance and the tests for an area variance from the Guide to Planning and Zoning Laws of New York State, Sections 7-712-b-3 (a), (b), (c) and 7-712-b-4. Chairman Kovalchik opens the meeting for public comment.

The following people comment:

Jeff Brouse
30 Prince Street
Red Hook, NY 12571

Mr. Brouse reads prepared comments (attached) citing these concerns:

- maintaining the integrity of the zoning code as written
- granting these variances setting a bad precedent
- stewardship of the village properties
- applying for variances after building
- proof previous owner had much smaller shed
- spoiled viewshed in neighborhood of small lots
- possible usage of shed as workshop with accompanying noise

Matthew Latvis
19 Rolling Hill Way
Red Hook, NY 12571

Mr. Latvis is the previous owner of the 28 Prince Street property. He states that the shed was much smaller when he owned the property - approximately 8 feet x 9 feet. He states his 9ft ladder could barely be fit in the shed and the shed was also smaller in height.

Wendy Brouse
30 Prince Street
Red Hook, NY 12571

Ms. Brouse states that the whole process was done backwards from obtaining a Building Permit to applying for variances. She further states that there was no shed located where the current one is now sited.

Chairman Kovalchik reads the letter (attached) from Sam Harkins, ZEO, Village of Red Hook to Mr. Sperry outlining the sequence of events leading to his Stop Work Order on the Sperry property. Mr. Sperry asks to speak and states there are several issues: the size of the shed and the height. He further insists there was a shed where he has built the new shed. Chairman Kovalchik notes Article VI of the Code of the Village of Red Hook, Sections 200-42, Section 200-43, Section 200-44, Section 200-45, Section 200-46 regarding conditions of a nonconforming use were read at the last meeting and it was decided that the present shed was not grandfathered. There being no further comment, the period of public comment is closed.

Chairman Kovalchik applies the tests for an area variance as stated in the Guide to Planning and Zoning Laws of New York State starting with the rear setback variance application. Member Gubler asks if there will be any work done in the shed or will it be for storage only. Mr. Sperry states it will be for storage only as it is too small for doing

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any work. Presently there is no electricity in the shed but, if it is added it would be for lighting only.

The Board then proceeds to consider the required tests for an Area Variance.

1. Undesirable change in neighborhood character?

- Co-chairman Beekman - Yes, the shed was built too close to the property lines.
- Member Gubler - Yes, the shed should not have been built so close to the rear property line and asks if the shed can be relocated? Mr. Sperry states almost anything is possible. He states he could tear down his carport and bring in a forklift. Mr. Gubler states he is asking if it is on skids or permanent. Mr. Sperry states it is permanent.
- Chairman Kovalchik - Yes, the ZBA is trying to achieve smaller variances as accessory buildings, which are still standing and grandfathered, are being replaced. The Board has been seeking at least 4 to 5 feet setbacks in order to permit maintenance and reduce outside storage.
- Member Duntz - Yes - He asks how close the shed on the abutting lot is to Mr. Sperry's rear lot line. Mr. Sperry states about 12-14 feet but the shed on the abutter's lot is close to the side lot line on the other abutter.

2. Alternative cure sought

- Mr. Kovalchik states that an area variance of some size is the only way to achieve the benefit sought but this application is after the fact. Mr. Kovalchik states the shed could have been built further into the site and reduced in size.
- Co-chairman Beekman states the shed is already built and an area variance of smaller size should have been sought before anything was built.
- Member Gubler agrees stating that too many citizens are building without approval and then asking the Board to use the variances to suit what is already in place.
- Member Duntz concurs with the above comments.

3. Substantiality

Mr. Kovalchik notes the request is reduce the rear setback from 25 feet to 3.63 feet.

- Member Gubler states you couldn't ask much more.
- Mr. Kovalchik it about eight times the Code requirement of 25 feet.
- Co-chairman Beekman states there is no question that it is substantial.
- Member Gubler asks if there is room for Mr. Sperry to get back there and put on siding. Mr. Sperry states there is plenty of room for himself and his wheelbarrow.
- There is consensus on the Board that this rear setback area variance request is substantial.

4. Adverse Effect or Impact - Environmental or Physical

- Chairman Kovalchik notes that the application has received a Negative Declaration on the environmental effects.

- Co-chairman Beekman states that crowding is a problem.

- Member Duntz states that crowding is aesthetically a problem for surrounding properties. Mr. Sperry states he was planning to make the shed look really nice and would meet with the neighbors, if necessary.

5. Problem Self-Created?

- Chairman Kovalchik states that because the shed is already built, it is self-created but some difficulty also arises from the size of the lot.
- Co-chairman Beekman states a lesser problem would have resulted from consulting with the ZEO and application for variance made before building. The present difficulty is self-created.
- The other Board members concur with this conclusion.

Chairman Kovalchik moves to approve the rear yard setback area variance request reducing the rear yard setback 25 foot requirement (Section 200-9-D-6 of the Code of the Village of Red Hook) to 3.63 feet for a shed located at the southeast corner of 28 Prince Street, Tax Grid #25-6272-10-337721-0000, with two stipulations: 1) the shed be used for storage only and 2) all New York State, Dutchess County, & Village of Red Hook health, fire, safety and building codes be observed. Member Gubler seconds this motion and the vote is: Member Duntz - No; Member Gubler - Yes; Co-chairman Beekman - No; Chairman Kovalchik - No. Chairman Kovalchik declares that the rear area variance request for 28 Prince is denied.

THE REAR YARD AREA VARIANCE REQUEST FOR 28 PRINCE STREET IS DENIED.

Chairman Kovalchik then brings the side yard area variance request for 28 Prince Street forward for consideration. This side yard area variance request is to reduce a side yard setback from the required 15 feet (Section 200-9-D-7 of the Code of the Village of Red Hook) to 2.5 feet. The tests for an area variance as outlined in the Guide to Planning and Zoning Laws of New York State, Section 7-712-b-3 are again reviewed.

1) Undesirable Change

- Member Gubler states that it is awfully close.
- Member Duntz and Co-chairman Beekman agree that it is aesthetically a problem for the abutters and a privacy issue.

2) Alternative Cure Sought

- Chairman Kovalchik states that this was already covered when considering the rear area variance request and the Board members agree.

3) Substantiality - reduce the side yard setback from 15 feet to 2.5 feet

- Member Duntz states that it is substantial and the other Board members concur.

4) Adverse Effect or Impact

- Member Gubler state the environmental effects were answered by the Negative Declaration assigned this variance request.

- Member Duntz states that the aesthetic and privacy concerns are the same as those for the rear yard setback area variance request and all the Board members agree.

5) Difficulty Self-Created?

- Member Gubler states it is self-created because it was built without consultation or approval or application for variances. Again, the Board concurs.

Chairman Kovalchik then moves to approve the side yard setback area variance request for a shed located in the southeast corner of 28 Prince Street, Tax Grid #25-62722-10-337721-0000, from the required 15 feet (Section 200-9-D-7 of the Code of the Village of Red Hook) to 2.3 feet with two stipulations: 1) the shed be used for storage only and 2) all New York State, Dutchess County and Village of Red Hook health, fire, safety and building codes be observed. Member Duntz seconds this motion and the vote is: Member Duntz - No; Member Gubler - No; Co-Chairman Beekman - No; Chairman Kovalchik - No. Chairman Kovalchik declares the side yard area variance for 28 Prince Street is denied.

THE AREA SIDE YARD SETBACK VARIANCE REQUEST FOR 28 PRINCE STREET IS DENIED.

Chairman Kovalchik then brings forward the third area variance request for 28 Prince Street, Tax Grid #25-6272-10-337721-0000 for an increase in lot coverage from 15% (Section 200-9-D-10 of the Code of the Village of Red Hook) to 33.4%. The tests for an area variance as outlined in the Guide to Planning and Zoning Laws of New York State, Section 7-712-b-3 are then applied to this area variance test.

1) Undesirable Change

- Chairman Kovalchik states it is too close to the property line.
- Co-Chairman Beekman states the amount of coverage is undesirable.
- Member Duntz agrees that the size of the coverage area variance sought is the problem.

Mr. Sperry reminds the Board that the property was over the coverage limit when he purchased. Chairman Kovalchik states the Board realizes this but has to reach its decisions based on the requirements as set forth in the Code of the Village of Red Hook. Mr. Kovalchik also notes that the amount of coverage has changed with each application. The final calculation amount was determined by ZEO Sam Harkins.

2) Alternative Cure Sought

- Member Gubler states a smaller shed could have been built.

Mr. Sperry states he could remove a portion of his carport to reduce coverage.

Chairman Kovalchik reads the definition of structure, Section 200-5 of the Code of the Village of Red Hook, which defines a carport as a structure and must be considered in the coverage calculation.

- Member Duntz states that even with the carport removed, the coverage on the property would be substantially over the allowed.

3) Substantiality

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- Chairman Kovalchik states that it is substantial. Mr. Kovalchik states that even in the General Business Zone, the maximum coverage is 30% with no setback requirements. Audience Member, Dan Wheeler is asked to calculate the lot coverage without the

carport and it would be 27.29% - still substantially over the 15% allowed.

4) Adverse Effect or Impact

- Member Gubler states the coverage is too close to the property line.
- Member Duntz states that the size of the coverage requested would affect the neighboring properties privacy and impact the neighborhood character.

5) Difficulty Self-Created?

- Chairman Kovalchik states that the lot was over coverage when purchased and the building of the shed increased the difficulty. All Board members agree.

Chairman Kovalchik then moves to approve the lot coverage area variance request for 28 Prince Street, Tax Grid #25-6272-10-337721-0000, for an increase from the allowed 15% (Section 200-9-D-10 of the Code of the Village of Red Hook) to 33.4%. Co-chairman Beekman seconds this motion and the vote is: Member Duntz - No; Co-chairman Beekman - No; Member Gubler - No; Chairman Kovalchik - No. Chairman Kovalchik declares the lot coverage area variance request for 28 Prince Street, Tax Grid #25-6272-10-337721-0000, denied.

**THE LOT COVERAGE AREA VARIANCE REQUEST FOR 28 PRINCE STREET,
TAX GRID #25-6272-10-337721-0000, IS DENIED.**