

**VILLAGE OF RED HOOK
ZONING BOARD OF APPEALS MEETING
May 28, 2015
7:00 PM**

Present: Chairman George Beekman, Member Erik Cuthell, Member Roger Husted, Member Evelyn Krueger.

Absent: Member Caroline Rider

Chairman George Beekman opened the May 28, 2015 ZBA meeting at 7:02pm.

Chairman Beekman asked the Board if they reviewed the minutes from the ZBA meeting dated December 17, 2014. Members in attendance said yes.

Member Cuthell made a motion to accept the minutes of the ZBA Meeting dated December 17, 2014. Motion seconded by Member Husted. All in favor.

Chairman Beekman welcomed newly appointment ZBA Member Evelyn Kruger to the Board.

#1. Rebecca Rothstein (Little Pickles) Tax Grid #6272-10-425729	19 W. Market Street	Interpretation
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Mr. Craig Rothstein was present and representing Little Pickles.

Chairman Beekman advised that applicant was present for an Interpretation of Village of Red Hook Zoning Code Section 200-38-A-5-C-2 regarding numbers of signs permitted per business.

Chairman Beekman advised there was a question as to if there was one or two businesses at this property location and the number of signs based on the business.

Mr. Rothstein advised that their concern was having more signage, preferable on the lamp post, at their location known as Little Pickles.

Chairman Beekman said the question is interpreting if this is one business or two. Chairman Beekman said this Board will interpret what the Law says and what the Zoning is.

Chairman Beekman advised the applicant that once Interpretation was complete it would be up to the applicant to submit to the planning board for more signage.

Mr. Rothstein felt that this was two businesses because on one side it is retail and the other side is a playhouse. Chairman Beekman said that there is a physical separation between the two. Mr. Rothstein agreed. Mr. Rothstein advised that the playhouse can be closed during hours of operation in the retail side.

Member Cuthell asked the applicant if he went in front of the planning board and if they referred to Section 200-38-A-5-C-2 pertaining to business or identification signs, and asked what he was asking for. Mr. Rothstein said square footage of signs. Member Cuthell asked if what they wanted to do was to put up as much signage for each of the two businesses as allowable. Mr. Rothstein said yes, and wanted to point out that people still come in everyday who did not even know they were there and that coming down Rt. 9 from the North you cannot see the current signage. Member Cuthell asked what the square footage was there now. Mr. Rothstein said he believes 12 square feet. Member Cuthell asked if they wanted to double the signage. Mr. Rothstein said yes. Member Husted asked the applicant about the questions of the applicant going for three signs and asked if he could add to that. Mr. Rothstein said the third sign was for a sign to hang off the lamp post which would be perpendicular to the existing signs and help to advertise to the people coming up and down. Mr. Rothstein said they are back in from the Street and they have a large tree in the front.

Chairman Beekman said this is not a variance issue and that the problem with this is that if we gave them larger signage for that and then they gave up one of the businesses that will go with the property, and if that space is rented out and they get additional signage there will be too much signage.

Member Cuthell said he would like to see all of the storefronts with successful businesses in them and looks to encourage that but has to make sure this Board does the right thing, and although they want to help applicants they also want to make sure that the original intention of adopting zoning codes to prevent billboard and building is not ignored. Member Cuthell felt that they had special circumstance in this place and that this Board is not reviewing a variance here and are trying to interpret what this section of the planning board got hung up on and what it means in terms of restricting signage. Member Cuthell said he does not want to overload that building.

Mr. Rothstein advised that the planning board said no to a perpendicular sign. Member Cuthell said it is an issue of the term "business". Chairman Beekman advised it is based on the number of businesses and the Board trying to explain what a "business" is. Chairman Beekman asked if a pocket door could be added. Mr. Rothstein said they cannot due to structural issues. Member Cuthell said that building has two distinctive sides to it. Member Husted said he looks at it as there is a door to the playhouse which gives a separation. Member Cuthell asked where the bathroom is located. Mr. Rothstein advised there is one bathroom on the playhouse side. Chairman Beekman said again this Board needs to define what a "business" is. Chairman Beekman said he felt they could have one corporate business but with two identification signs and that it should pertain to each business that is run separately and separated by a physical separation. Member Husted said that this location has a physical separation.

Member Krueger asked if there were separate phones for the business. Mr. Rothstein said there is one business phone and single website.

Chairman Beekman said this Board cannot get into corporation, tax, insurance or lease issues.

Chairman Beekman said they could drop one side. Mr. Rothstein said they could but would not.

Member Husted said it is beyond this Board's ability to use some sort of lease, legal or phone issues and that the idea of a physical separation is the most simplified version.

Chairman Beekman read the definition of interpretation from the NYS Zoning Board of Appeals Book.

Member Husted said this Board is interpreting and not re-writing the law, so this Board could say that there is physical separation of the two entities and we can consider them two or not, without re-writing the law. Chairman Beekman said this board is just trying to get an Interpretation of what "business" means and that with a physical separation it can constitute two businesses. Member Husted agreed and said that at the end of the day that it all we can say that either it is or it is not. Member Cuthell said if this Board could come up with wording to go along with that he would be comfortable going along with that because in this instance it is an anomalous building and we don't have examples where a location is tucked around a corner, set back and in an unusual spot.

Mr. Rothstein said when defining a business with the State as part of the incorporation they have to define exactly what kind of business they are running and he feels that little pickles has two different missions and they are two different businesses.

Chairman Beekman feels that making a physical separation between two entities is the best option, and that it should be worded in such a way where a business definition in our system is where it is in the same building but with a physical separation, and can be construed as two different businesses. Member Cuthell asked if we could include the word independent, so that they could independently operate. Mr. Rothstein said they could independently operate.

Member Husted asked if this Board could get legal interpretation of this Board's interpretation so as to make a decision. Member Cuthell said he felt that the language would be important. Member Husted asked if we could do that and get a decision for the next meeting, and felt that this Board were all in agreement.

Chairman Beekman said a physical separation is the key and that in tonight's meeting we can determine that it is a separate business and possibly have the Village attorney look into adding a definition to the Village Code for a "business". Member Cuthell said that the Section 200-5 is the definition code section in the code book and he would like to see a definition for "what it means to be a business", so that the sign issue can be reviewed by the planning board. Mr. Rothstein asked what the process would be from here. Member Cuthell said he will need to come to the next meeting and that hopefully this Board will have something to say that this is our interpretation. Chairman Beekman advised that this Board is looking at this as separate businesses and this will go into the minutes and be forwarded to the planning board but in the meantime this Board will work on formalities that will need to go on record as well.

Chairman Beekman made a motion that this Board will file an interpretation defining the nature of two businesses occupying the same building with a physical separation and being independent separate businesses for the purpose of signage.

Chairman Beekman said as to the question raised by the planning board, if the premises were two separate businesses as per Village Code Section 200-38-A-5-C-2, the ZBA Board determined two businesses at the same premises with a physical separation, wall-door, and are each entitled appropriate business or identification signage as indicated for the district in the existing Code.

#2. Christopher Stehling 9 Fraleigh Street Area Variance
Tax Grid #6272-10-369681

Chairman Beekman advised that the applicant is seeking relief from Section 200-9-D-10 maximum coverage of a lot from 15% to 19.1% to accommodate an addition to a home located in the R10,000. Chairman Beekman said this is a very nice set of plans. Chairman Beekman asked if all Board members reviewed the application.

Chairman Beekman asked the applicant if he could have the setbacks marked on the survey, similar to what is on the plot plan. Applicant said yes, and indicated that the survey shows the overall distance. Mr. Stehling advised that everything has been approved by the County with regard to the septic.

Chairman Beekman advised that SEQR will be done at the next meeting. Secretary Hart advised that she will send out mailings for the notice of hearing.

Chairman Beekman advised that a referral was sent to the County Department of Planning and Development who advised in their response dated May 20, 2015 that this was a matter of local concern.

Secretary Hart will check on dates and confirm with Board Members and applicant of the next meeting/hearing date, with June 18, 2015 being a tentative date.

**Member Cuthell made a motion to close the May 28, 2015 ZBA meeting at 8:00pm.
Motion seconded by Member Husted. All in favor.**

Submitted by,

Lara Hart
ZBA Secretary