

**Town of Red Hook  
Zoning Board of Appeals Meeting Minutes  
January 9, 2008**

**CALL TO ORDER**

The meeting was called to order at 7:05 P.M. by Chairman Timothy Ross.

**ROLL CALL**

Members Present: Timothy Ross, Kenneth Anderson, John Douglas, Jim Hegstetter  
Michael Mosher, Corinne Weber

Members Absent: None

Also Present: Bob Fennell, Building Inspector, Chris Chale, Town Attorney

**PRELIMINARY BUSINESS**

Minutes of November 14, 2007: Chairman Ross asked for any additions, deletions or comments on the Minutes. Hearing none, the Chairman made a motion to approve the Minutes. The motion was seconded by Corinne Weber and all were in favor.

Planning Board Minutes and Letters: There were no comments by the Board.

Building Inspector/ZEO Permits and Memos: The Board discussed the current Permits and memos.

Comments from the Chairman: Chairman Ross announced that Rob Latimer had to resign from the Board because he is now a seated member of the Town Board. Letters regarding candidates to replace him are being accepted at the Town Hall until Friday. So far, Celine Turketti is interested in the position and Craig Christiansen has submitted a letter of interest. He asked the Board members to advise anyone who is interested in the position to get a letter in to the Town Hall by Friday.

**PUBLIC HEARINGS**

7:15 Review of Appeal 07-18, Krinitsky application to reduce the side yard setback of proposed shed from the required fifteen feet to three feet. The applicant's lot is located at 29 Glen Ridge Road, Red Hook, in the R1 zoning district. Chairman Ross asked Mr. Krinitsky to briefly reiterate his proposal. He said that he wants to place a shed at the back edge of his property and keep it as far back as possible to maximize the amount of room he will have at the back of the house. There is an open field behind the property. Chairman Ross opened the Public Hearing and asked if anyone was present to speak for or against the application. Hearing no comments, the Chairman closed the Public Hearing and asked for specific questions from the Board. Corinne Weber asked how big Mr. Krinitsky's lot is and he replied that it is a little over a half an acre. Ken Anderson asked

if the survey pins were still there. Mr. Krinitsky replied that they have gotten buried, but he knows where they are because he has surveyed the property a couple of times.

Motion

Chairman Ross made a motion to grant the variance allowing placement of the shed within three feet of the line because it will be a benefit to the applicant and no detriment to the neighborhood or the health or welfare of the community, with the stipulation that in the event that access to the easement is needed, the owner of the property at that time will be required to relocate it for such maintenance to be performed. The motion was seconded by Ken Anderson and all were in favor.

7:20 Continuation of Public Hearing for Appeal 07-09, Linda Lindsay application to change an existing non-conforming use to another, less intensive non-conforming use. The applicant's lot is located at 123 Old Post Road North, Red Hook, in the H zoning district. In response to questioning from Mike Mosher, Chairman Ross said that the Planning Board has approved the site plan and done the SEQRA. Mike asked for a brief synopsis the applicant's plan. Mr. Lindsay said that his wife has owned the building for 23 years. It is a historic, non-conforming use and was formerly Mr. Brown's home and business. When we purchased it, he continued, we put in an application for an apartment and a business to be in the building. Over the last five or six years, we have had a downsizing of the business and use of the building due to medical problems. We still do some of what we were involved with previously, but it is on a much smaller scale and we want to use what was the historic home of Mr. Brown as an apartment again. Therefore, there would be two apartments plus Linda's small business downstairs. So it is a reduced use of the building.

Jim Hegstetter said that he had driven by and there was a huge trailer there, which looked like a commercial trailer. He said that he was curious because Mr. Lindsay had said that there would not be trucks or commercial trailers on the property. Mr. Lindsay said that it is a 23 foot hobby trailer. It was at one time attached to a motor home and is not used commercially. Mr. Lindsay said that at the last meeting he had submitted a series of evaluations of the number of trucks in the neighborhood in the course of the year. In response to questioning, Mr. Lindsay said that there is a motor home parked at Hapeman's which is being taken off the road and will be disposed of.

Mr. Lindsay said that the Planning Board had wanted to know the total number of vehicles to be parked at the site and had approved parking for five vehicles, two for each apartment and one for the business. Due to this requirement, he said, he had arranged for the ancillary parking at Mr. Hapeman's. Ken Anderson inquired about parking on the church property and Mr. Lindsay that he is hopeful that he will be able to make an arrangement with them. Chairman Ross stated that the purview of the Board is whether what the Lindsays are proposing is a less intense use of the building. The issue of parking is a Planning Board issue. Mr. Lindsay said that in the 23 years they have been there, they have never parked on the street. Neighbor *Dick Jones*, who said that he has been there over twenty years, confirmed that statement.

Jim Hegstetter expressed concern regarding the two neighbors who had come forth previously to state that their concerns and their opinion that there would be a more intensive use of the land. Mr. Lindsay explained that their concerns regarding the hole in the back yard and the water had been addressed. The hole has been filled in and covered. The town has put in a dry well, filled it in and graveled it. The well has been completely upgraded and totally replaced. Mr. Lindsay indicated that he has spoken with the neighbors and they are satisfied with the actions which have been taken.

Jim Hegstetter inquired about the lubricants used in the machine shop. Mr. Lindsay stated that he has had a full environmental assessment and the products used for cleaning are baking soda and a biodegradable, water soluble solution. He stated that he uses only one machine oil; almost all of the machining is dry. He emphasized his compliance with all rules and regulations regarding these substances and again stated that the scope of his business is very limited.

Chairman Ross then asked if there was anyone present to speak for or against the application. Hearing no comments, he then closed the Public Hearing. Addressing Mr. Lindsay, Chairman Ross said, after reviewing your letter of Nov. 12, 2007 in which you specifically itemized how you intended to reduce the intensity of the use, I am in favor of your proposal and would attach that letter to my motion.

#### Motion

Chairman Ross moved that the Board grant the change in use based on the fact that it will be less intense as described in the Nov. 12, 2007 letter and with the understanding that in perpetuity, you will maintain an agreement with any neighbor in the area for the additional parking required by the site plan approval. In addition, you have already received site plan approval and a negative impact declaration from the Planning Board as well as a recommendation from them in your favor. Furthermore, it will not be a detriment to the neighborhood because it is less intense and it will be a benefit to you. The motion was seconded by Corinne Weber. All were in favor except Jim Hegstetter, who had doubts about the level of intensity of use and therefore abstained from the vote.

7:40 Continuation of Public Hearing for Appeal 07-13, Jerry Simonetti of Sim-Kno Farms LLC application to display a twenty by twenty foot sign on the side of barn reading "Hudson Valley Fresh – Buy Local". The law limits the size of the sign to twelve square feet with only the name of the establishment and its principal service or purpose. The applicant's lot is located at 7782 Albany Post Road, Red Hook, in the RD3 Zoning District. Corinne Weber recused herself from this Hearing. In review, Chairman Ross said that this Hearing has been continued for several months while the Town Attorney has researched the Agriculture and Markets law, looked at several precedent issues and given recommendations to the Board. He asked if anyone was present to speak for or against the sign. *Cathy Stewart* stated if the community is trying to promote agriculture and ecotourism, she has no problem with that sign. I am happy to advertise the fact that we have farms and we support them, she said. Chairman Ross asked for any other comments from the public. There were none.

While Chairman Ross stated that he agreed with Cathy Stewart's comment, looking at the statute and the way it reads it becomes very difficult because we would be granting the variance on the basis of the content of the sign. It is in concert with the local Master Plan; but we have to go through the five tenets. Is it substantial? Yes. Can it be achieved by other means? Yes, there are other means of advertising available. Would it cause undesirable change in the neighborhood or the character of the neighborhood? I don't think so. Will the request have adverse physical or environmental effects? No. Is it self created? Yes, but the real issue is that it is twenty times what is allowed by law. Although Mr. Simonetti said he wanted it time limited, if someone comes in with a billboard for a hog farm that is agricultural, we are going to have a tough time denying it.

Jim Hegstetter expressed concern with setting such a precedent. Ken Anderson stated that the sign is too big and does not state the name of the establishment and it's prime service. John Douglas agreed with Cathy Stewart, but also expressed concern about the precedent. *Cathy Stewart* asked if the law could be changed so that the Board could provide an editing function for suitability. Chairman Ross indicated that this is the issue which the Board has been struggling with for several months. John Douglas said that the Board has been trying to find a way to do this that would make things appropriate and they have not been able to do that even though the town attorney has spent several hours researching the issue and providing material for the Board to review.

Mike Mosher expressed concern regarding the size of the sign and asked if there had been dialog regarding making the sign smaller. Chairman Ross responded that the applicant has said that he had made a pretty substantial investment in the sign, it has been successful and he did not want to purchase another sign. After discussion about when the decision should be made, Chris Chale suggested that the Board defer making the decision until the next meeting. In response to Ken Anderson's request that the Board limit the time the sign is up, Chairman Ross stated that there is a maximum of twenty square feet for temporary signs and this sign is much larger. Ken said he thought the sign should not be larger than twelve square feet. Chairman Ross said that if that sign were even twenty square feet, it would not have the impact. No one would ever read it. He added that he would rather have a sign that size on a barn that isn't out next to the road than a twenty square foot sign out on the road because it really is not obtrusive. In conclusion, Chairman Ross deferred the decision until the February meeting with the time to be announced.

8:00 Public Hearing for Appeal 07-17, Teviot LLC application to change a non-conforming use by constructing a 1200 square foot studio to replace an existing accessory structure on a parcel which currently has four separate living units. The applicant's lot is located at 40 Davis Lane, Red Hook, in the WC zoning district. Attorney Jon Adams was present to represent the applicant. Chairman Ross stated that the lot is not wholly in the WC zone; it is also in the low density. However the portion of interest is in the WC district. Mr. Adams stated that his client is taking title to the property and he anticipates meeting informally with members of the Planning Board within the next several weeks. Because of that, he requested that after the Hearing is opened for comments from the

public, that it be continued until the next meeting. Chairman Ross opened the Hearing and asked if there was anyone present to speak for or against the application. There were no comments. He then asked if it would be possible to remove the old building which was within the WC zone and replace it with the one which is proposed. The application was for removal of a structure outside the zoning district. Discussion followed regarding parcels which cross two lines.

Chairman Ross referred to Section 143.125B which states that a non-conforming use cannot be relocated. He said what they are proposing to do cannot be seen from the river. It will not be a detriment to anyone and it is the prettiest spot for it; but it is a non-permitted use. Mr. Adams said that the alternative would be to subdivide the 68 acres, create a new lot and put the studio in, adding the amenities required to make it a residence. However, it seems a shame to break up the parcel. He said that they are taking a second look at the whole issue, which is one of the reasons they want to meet with the Planning Board.

John Douglas said that you cannot see the building from the road, from either of the neighbors' properties or from the river. Bob Fennell said that the WC District involves more than vistas. He cited ecological concerns and Chris Chale added concerns regarding preserving the historic district. She also expressed her concern about the ramifications of setting precedents. Chairman Ross said that the Board will continue the Public Hearing until 7:20 P.M. on February 13, 2008.

8:20 Continuation of Public Hearing for Appeal 07-12, David Baker Construction Co., Inc. application to subdivide the existing flag lot into two parcels and reduce to twenty five feet the fifty foot flag pole width which is required throughout the length of the flag pole. The applicant's lot is located at 40 Kristen Lane, Red Hook in the RD3 zoning district. Bob Fennell stated that he had spoken to Mr. Baker and got the impression that Mr. Baker feels that he was turned down by the Planning Board and it is not possible for him to proceed. However, he said that he did not want to speak for him. Chairman Ross said that Mr. Baker had been sent to the Planning Board because there was another option, construction of a private road. Bob Fennell asked if the Board has received any report from the Planning Board and Chairman Ross responded that they had not. However, per the December 3<sup>rd</sup> Planning Board Minutes, Mr. Baker was still looking at alternatives. He has not contacted the Board and it has been left open ended until he gets some resolution.

Chairman Ross opened the Public Hearing for comments. *Mrs. Warwick*, neighbor, questioned the rules regarding variances. Bob Fennell responded and the Chairman explained the process. *Cathy Stewart*, Red Hook resident, said that she is concerned with the tax impact of new housing. She felt that a flag lot would make a huge impact on the community and set a bad precedent. *Mr. Warwick*, neighbor, expressed his concern over the traffic and the safety of neighbors who enjoy walking in the area. Chairman Ross said that when the applicant comes to the Board with his final proposal, the Board will look at the benefit to him and the detriment to the community in making the decision relative to the variance. He added that traffic issues are the purview of the Planning Board.

As the Board has committed to continuing the Hearing until such time as Mr. Baker determines whether or not he wants to pursue a variance, Chairman Ross continued the Public Hearing until February 13, 2008. The time will be set after he contacts Mr. Baker.

## **REVIEW OF APPEAL**

8:40 Review of Appeal 07-21, JNY Quest Realty application to erect two identity signs and allow the following variances: 1), 2) and 3) internally illuminated signs of 24 square feet, 62.25 square feet and a wall mounted sign of 34 square feet each of which exceeds the limit of eight square feet; 4) decrease the required setback from the road for signs from fifteen feet to eight feet; 5) increase total signage from the limit of sixty square feet to 96.25 square feet. The applicant's business is located at 7307 South Broadway in the B1 zoning district. After discussion it was determined that numbers 1), 2) and 3) above regarding the internally illuminated signs are actually requests to: 1) replace a 12 foot square sign with a 24 foot square sign and 2) replace a 34 square foot sign with a 62.25 square foot sign. This would result in total signage of 86.25 square feet.

Therefore the Appeal statement should read as follows: JNY Quest Realty application to erect two identity signs and allow the following variances: 1) to exceed the limit of eight square feet by replacing a 12 square foot sign with a 24 square foot sign and replacing the 34 square foot sign on the building with a 62.25 square foot sign; 2) to decrease the required setback from the road for signs from fifteen feet to eight feet and 3) to increase total signage from the limit of sixty square feet to 86.25 square feet.

Chairman Ross asked Mr. Fragala of JNY Quest if there is a reason why the signs are this big. He responded that those are the sizes which are offered. Chairman Ross asked if there were any other options. They have a pole sign, Mr. Fragala replied, which he felt would be out of place; but that is the smallest free standing sign. Chairman Ross asked the Board to look at the signage in the area to put the proposal in perspective. Mr. Fragala said that the internal illumination is similar to a Mobile or a CVS. That is the corporate look. Bob Fennell said that he thought that the internal illumination should be a use variance because internal illumination is only allowed for signs eight square feet or less. Both the sign on the building and the free standing sign will be internally illuminated.

Bob Fennell asked if the company has any signs which are not internally illuminated. Mr. Fragala stated that they used to, but they do not any longer. The whole corporate look has changed over the past eight to ten years. We are supposed to buy the signs from them and they are very expensive. These two signs cost about \$16,000 and they are not paid for by the warehouse. Bob Fennell asked if he had to put up the signs. Mr. Fragala responded that when you pass by now, you really don't even see the present sign. A larger sign would help promote the business. In response to further questioning, Mr. Fragala said that the company frowns upon the use of other signs. They want to retain that corporate look, even though they don't own you. Chairman Ross asked Mr. Fragala to look into any size variations which might be available and to get the dimensions of the signs on the

adjoining properties for the next meeting. That would be helpful relative to the effect on the neighborhood.

Relative to the setback, Mike Mosher asked if the drawing submitted by Mr. Fragala was to scale. He said that it was and fifteen feet would put the sign roughly in the middle of the parking lot. Chairman Ross said that the base would not obstruct the view to the south. Ken Anderson asked where the building sign would go. Basically dead center over the door, Mr. Fragala replied. It would be similar to what is there now. Mike Mosher told Mr. Fragala that it might be helpful to measure the sign setbacks in the area as well. Chairman Ross said that he believes that most of them are similar because all the parking lots are similar. He scheduled the Public Hearing for 8:20 P.M. on February 13, 2008.

9:00 Review of Appeal 07-20, Stortini application to erect a single family dwelling which would increase the coverage from the required maximum of seven percent to fifteen percent, reduce the front setback from the required sixty feet to thirty feet and the side setback from twenty feet to ten feet. The applicant's property is Lot 16, Red Hook Country Club Estates, in the RD3 zoning district. Mr. R. A. Jones, P.E., was present to represent Mr. Stortini. He said that the house setback is actually seventy four feet. Since speaking to Bob Fennell, he said, they have decided to flip the house because the garage would not fit nicely on the south side due to the location of the septic. The Board reviewed the drawings submitted by Mr. Jones. The garage is forty three feet and ten feet off the side. The garage setbacks for that subdivision range from zero to five feet. The garage next door is right on the edge of the road. Chairman Ross ascertained that the coverage numbers are still correct. Mr. Jones said that 15% is in keeping with other houses in the area. As another application in Country Club Estates will soon be coming up before the Board, Chairman Ross said that the Board has to establish a comfortable threshold in Country Club Estates so that we are consistent in what we grant.

Chairman Ross asked that Mr. Jones verify the dimensions of the footprint of the house for the next meeting. Mr. Jones said that he can bring a house plan and the approved septic system plan which shows the house location and the septic location. He was also asked to bring in coverage figures for the neighboring houses. Chairman Ross set the Public Hearing for 7:40 P.M., February 13, 2008.

9:20 Review of Appeal 08-01, CSI Developers application to construct Meadowbrook Estates, a 119 unit multi-family dwelling project. The proposed units have been interpreted as single family dwellings. The applicant's properties are located at Norton and Baxter Roads, in the R1 zoning district. Chairman Ross thanked the applicant for the completeness of the documentation provided. He asked Mr. Neil Alexander, attorney representing the applicant, to present a synopsis of the proposal and mention the calculations used to determine the buildable area. There are two entities who own two properties, Mr. Alexander said, one fronting on Norton Road and one fronting on Baxter. Each is twenty to twenty three acres, for a total of forty three acres. Initially, one of the entities involved purchased the property on Norton Road and proposed a thirty eight unit townhouse project. The application was made under the multifamily special permit provisions, which allow for a very different calculation than a straight or cluster

subdivision under Section 143.57 of the Red Hook ordinance. Even within that Section, the applicant can choose between two different ways to calculate density. One is that you take out the wetlands and flood plains and multiply the remaining acreage by nine. That calculation yields the number of bedrooms allowed. They can then be allocated across the different types of multifamily housing. Applying that calculation, we have 119 dwellings within which we have a total of 309 bedrooms.

John Douglas asked Mr. Alexander who was present at the meetings referred to in the background portion of the documentation package. Mr. Alexander said that there were three meetings with the whole Planning Board. During the two on the piece fronting on Norton Road, secondary access to Baxter for emergencies was requested. That resulted in a business affiliate of the first entity buying the second property. When we came back to the Planning Board with the forty three acre parcel, we had three or four meetings at which point we were asked to do a design charrette. Ms. Kane, the Chairperson of the Planning Board, and Michelle Grieg were at each meeting. Dan Wheeler and Sam Phelan were at some of those meetings. John asked about the meetings with the Village. Mr. Alexander said that they met with the Village Board because there is about seven tenths of an acre which fronts on the village road. The Town Planning Board was pushing us in the direction of trying to get an interconnect to Baxter Road and asked us to meet with the Village Board to see if they would be amenable to that.

Throughout this process, Mr. Alexander said that he wanted to commence SEQRA and issue a positive declaration so that he could provide an environmental impact statement analyzing all these different scenarios. However, to this date we have not been allowed to commence SEQRA, he continued. We had meetings with the Village Board, the Village Planning Board and preliminary discussions with the Village Water District about tying into that. There is some disconnect between what the Town Planning Board wants and what the Village Board wants as far as the connecting road. There is no road in the plans because the Village has adopted a moratorium on new roads. Therefore we show a crash gate and a pedestrian pathway.

In response to further questioning, Mr. Alexander stated that they made a September 19th submission, followed by an October 15<sup>th</sup> Planning Board meeting at which they were handed a letter from Greenplan dated October 12<sup>th</sup>. This letter stated that, in their opinion, the project was not a multifamily dwelling proposal and advised the Planning Board to direct the application to the Zoning Enforcement Officer for a determination regarding proposed uses and permitted density. In response to John Douglas' question, Mr. Alexander said that the issues raised in the letter had not been raised previously, even though there had already been a seventeen month dialog.

We had been changing our plans because originally, we had wanted all townhouses and they had asked us for detached units as well as attached and semi-detached, Mr. Alexander said. The property fronting Norton is where most of the nine acres of wetland resides and as a result, when we did a density calculation after we acquired the other property, which has minimal (less than an acre) wetlands, the yield was able to increase.

Bob Fennell asked for the purpose of their appearance before the Board. Mr. Alexander said that they are asking to appeal his determination because it is not correct. The code identifies three types of structures: one family dwellings; two family dwellings and multifamily dwellings. A one family dwelling is a detached structure. This is taken right out of the code section. A two family dwelling could be detached or semi-detached. A multifamily dwelling could be attached, semi-detached or detached. The concept of row or attached is merely an architectural style; it helps explain what is an attached, multifamily dwelling. There are no bulk or area standards for a row or attached house. There are no parking standards. Use classifications never mention where it is allowed in the community. It is clearly done to explain architectural style. It is not a class unto itself and that is where we feel that Mr. Fennell went wrong.

Mr. Alexander stated that in talking with the Board and looking at the market, we felt that we had a property that has all the advantages of a walkable community. The beginning of our property is right on that half mile circle from the intersection of Rt. 9 and Rt. 199. This property should have a different flavor from outlying areas of the community. If you are going to do multifamily, it should be in an area which is as close to the community as possible. This property fronts in the Village. We pledged to do 5% affordable housing. We pledged to bring the project to certifiable standards. It is a really progressive project which takes advantage of advanced technology and the location abutting the village to provide a density that you don't have elsewhere in the community and which complies with your code. The R1 zone is only one of two zones which allow multifamily in the whole community. We are one of the only R1 pieces of property which is not in the agricultural zone.

Mr. Alexander said that the Planning Board had asked for a mix of attached, semi-detached and detached. What we came up with here still has 52% of the space as open land. He said that they had been pressed by the Board for back alleyway entrances and a grid and in order to get roads to match up, you have to push everything closer together to get it to work. We have worked hard to comply and felt that the Planning Board had indicated that we were moving in the right direction. Then we were handed the letter of October 12<sup>th</sup>. Mr. Alexander said that what they had done on Baxter Road was based on the direction they were given by the Planning Board. All of the detached units were placed on the property line and the density therefore occurs as you get closer in. The lines on the drawings are not lot lines. We are doing a Homeowners Association and condos. The density is not as great as it appears because the code allows us to cluster down to 10,000 feet in the R1 zone. There will be a sewer treatment plant. We can provide water; however the Village Water District has asked us to provide them with the extra rate payers.

In response to questioning, Mr. Alexander said that, per the code requirements each building will have between four and six units. Town Attorney Chris Chale asked what the ownership model is for the parcels. Mr. Alexander said that there are no parcels; there is no subdivision in this project. The whole thing will be condos. They are parcels not within the context of subdivision; they are parcels in the context of an offering plan as to

ownership interests. Ms. Chale asked what the common elements would be. Mr. Alexander responded that they are trying to think that through now.

Ken Anderson questioned whether the number of acres cited as wetlands, viz. nine acres, was correct. In response, Mr. Alexander said that he had a JD from the Army Corps. Chairman Ross said that the Board does not review the EAF. Mr. Alexander stated that the Board might wish to review their September, 2007 submission because it had their full EAF and explained how they were going to meet all the various requirements. It also broke out the calculation of the buildable acres.

Chairman Ross focused the Board back on the issue of whether this is considered a multifamily project or individual homes. For individual homes, the calculation to arrive at the units changes dramatically. Their proposal is saying that it is all condos, multifamily; there is no subdivision. The interpretation was that they are individual houses and separate lots. We need to look at our zoning code. He asked for input from Town Attorney Chris Chale and said that he might also contact the Association of Towns.

Ken Anderson questioned whether there was construction on the wetlands and Mr. Alexander responded that there was no construction there, only the outflow of the sewer plant. The Board reviewed the plans relative to the wetlands. Mr. Alexander said that there is one small pocket of wetlands which will be remediated at a 1.1 to 1.1 pursuant to Army Corps procedure. It is fully zonable and we have had conversations with DEC, the Army Corps, County Planning and the County Department of Health. We have confirmed that the tributary is capable of handling the discharge as proposed.

John Douglas asked how they are complying with the requirement that there be no more than sixty dwellings within a multifamily development. Mr. Alexander said that they have two pieces of property and are going to redraw their lot lines to have frontage on both roads. Then there will be sixty on one property and 59 on the other. John expressed his opinion that the applicant should be in compliance with the sixty number before appearing before the Board. Mr. Alexander said that they are before the Board because the ZEO has made a determination which is adverse to them and they appealed it. My project does not have to comply with anything in order to get an interpretation of the code, he said. Chairman Ross said that we cannot look at this specific to this project. The object is to try to understand the multifamily subdivision versus single family dwellings.

The questions of ownership, fees and responsibility for repairs were discussed. Essentially, Mr. Alexander said that they are still trying think out some of these issues. He explained that although there are two separate owners, there will be only one Homeowners Association. In response to questions from Jim Hegstetter, Chris Chale said that the crux of the issue seems to be how the Red Hook code treats this condo which has detached dwellings that look a lot like single family houses. John Douglas said that the multifamily in Section 143.57 is a rental unit, not a condominium and that is what Mr. Fennell has stated. Mr. Alexander responded that you don't have the authority to regulate the user; you only have authority to regulate the use. You can't tell me that it is OK if my income stream comes in monthly as an apartment, but it is not OK if I want to get all my

money back on sale of a condo. The apartment-condo distinction is not relevant to zoning.

Chris Chale suggested to the Board that it review the application further. Chairman Ross said that he would welcome input from Ms. Chale and would also be contacting the Association of Towns. Jim Hegstetter asked to see the offering plan at the next meeting. Chairman Ross scheduled the Public Hearing for 8:00 P.M. on February 13, 2008.

## **ADJOURNMENT**

A motion to adjourn was made by Corinne Weber, seconded by Jim Hegstetter and all were in favor. The meeting was adjourned at 9:50 P.M.

## **FINDINGS AND DECISION**

Appeal #07- 18, Krinitsky application to reduce the side yard setback of proposed shed from the required fifteen feet to three feet.

### **FINDINGS:**

1. The property is located at 29 Glen Ridge Road in the R1 Zoning District (address), Red Hook.
2. Tax Map #6272-00-425373.
3. The zoning law requires a fifteen foot setback from the road.
4. The applicant wishes a three foot setback.
5. The stipulation is made that in the event that access to the easement is needed, the owner of the property at that time will be required to relocate the shed for such maintenance to be performed.
6. There were no objections from the audience.
7. A variance would be of benefit to the applicant with no detriment to the community.
8. There will be no change in the character of the neighborhood.
9. There will be no impact on the health, welfare or safety of the community.

**DECISION:** Timothy Ross made a motion to grant the variance based upon the above findings. The motion was seconded by Ken Anderson and carried by a 6-0 roll call vote.

Dated: January 9, 2008

## **FINDINGS AND DECISION**

Appeal #07- 09, Linda Lindsay application to change an existing non-conforming use to another, less intensive non-conforming use. The applicant's lot is located at 123 Old Post Road North, Red Hook, in the H zoning district .

### **FINDINGS:**

1. The property is located at 123 Old Post Road North, Red Hook.
2. Tax Map #15-31-6374-00-252012.
3. The zoning law requires a change in a non-conforming use to be less intensive.
4. The use proposed by the applicant will be less intense, per the stipulations detailed in the attached letter of Nov. 12, 2007.
5. The Planning Board has made a recommendation in favor of the application and has issued site plan approval and a negative impact declaration.
6. An agreement with any neighbor in the area for the additional parking required by the site plan approval will be maintained in perpetuity.
7. A variance would be of benefit to the applicant with no detriment to the community.
8. There will be no change in the character of the neighborhood.
- 9.. There will be no impact on the health, welfare or safety of the community.

**DECISION:** Timothy Ross made a motion to grant the variance based upon the above findings. The motion was seconded by Corinne Weber and carried by a 5-0 roll call vote with Jim Hegstetter abstaining.

Dated: January 9, 2008