

**Town of Red Hook
Zoning Board of Appeals Meeting Minutes
February 13, 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, Corinne Weber
Members Absent: Jim Hegstetter, Michael Mosher
Also Present: Bob Fennell, Building Inspector, Chris Chale, Town Attorney (for
CSI Hearing)

PRELIMINARY BUSINESS

Minutes of January 9, 2008: Chairman Ross asked for any additions, deletions or comments on the Minutes. Hearing none, Corinne Weber made a motion to approve the Minutes. The motion was seconded by John Douglas 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Chairman Ross announced that Celine Turchetti had been approved for membership on the Board but has subsequently withdrawn her name. There is therefore a vacancy which will be discussed at the end of the meeting.

PUBLIC HEARINGS

7:10 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. Chairman Ross asked for a special meeting because the Board has to address Sim-Kno Farms before the 11th of March in order to be within the 62 day time limit. As Corinne Weber has recused herself, the Board does not have a quorum with which to close the Hearing tonight. He scheduled the meeting for 7:00 P.M. on Wednesday, March 5, 2008.

7:15 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. Chairman Ross announced that a letter has been received from the applicant asking the Board to continue the Public Hearing. As no one was present to speak to this issue, Chairman Ross continued the Hearing until 7:20 P.M. on March 12, 2008.

7:20 Executive Session. Chairman Ross stated that he had given the Board copies of a confidential memorandum which he received this week from the Town Attorney. He then moved to have the Board go into Executive Session with the Town Attorney to review her memorandum. The motion was seconded by Corinne Weber and all were in favor.

8:10 Public Hearing for 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. Dick Jones was present to represent the applicant. He said that he had an updated site plan. Chairman Ross asked if there was anyone present to speak relative to this. As a group of people responded in the affirmative, Chairman Ross asked Mr. Jones to pin his updated plan on the bulletin board where it could be reviewed by all who were interested.

Chairman Ross stated that he had an owner consent form from Mr. and Mrs. Brenzel allowing Mr. Jones to appear before the Board. He asked Mr. Jones to state his plans briefly. Mr. Jones said that the proposal is for a single family residence, two stories with a footprint of 1,188 square feet, which is a little more than 10% coverage of the lot. He said that it is not too far out of line with the houses next to it. He is proposing a 22 foot setback on one side, 18.8 feet on the other side and 20 feet on the back line. The septic system has been approved by the Board of Health.

John Douglas said that Mr. Jones was supposed to provide statistics on the coverage of the neighboring houses. Mr. Jones said that the Giek residence has 14.9% coverage and was built in 2007. The Melley residence is 1,700 square feet, is 14.5% coverage and was built before 1970. The 2008 proposed Stortini residence is 1,700 square feet and 14.6% coverage with the garage included. Chairman Ross asked for further questions from the Board. Hearing none, he opened the Public Hearing.

Jim Mort, neighbor, said that the adjacent neighbor, *Mrs. Peg Hutchins* is not able to be present tonight and she is concerned about the septic design. He went to the plan which was posted, pointed out the location of Mrs. Hutchins' well and asked if the septic design which was approved had taken into consideration the position of her well and the Melies well. Mr. Jones said that that is always taken into consideration by the Board of Health. Mr. Mort said that he thought that the wells and septic designs had to be a minimum of 100 feet apart. He said that the Melies' were also concerned about this. Chairman Ross said that typically, before an approval, you are required to show all septic and wells

within 200 feet of the proposed septic and well. He therefore assumed that this had all been taken into consideration. Chairman Ross clarified with Mr. Fennell that prior to issuing a Building Permit, a clearance from the Board of Health is required.

Mr. Howard Wiseman, neighbor, asked if, in view of the previous discussion, it did not matter that all the septic in the area are in the rear of the properties, while all the wells are in the front of the properties. He said that his septic is in the back, lined up to where the well is located and his well is in front, lined up to where the septic is located. Presumably, he said, their septic will be well within 200 feet of our well and our well will be within 200 feet of their septic. Chairman Ross said that he understands the concern, but the Board does not approve the specifics of the engineering design. That is the purview of the Board of Health. If they have granted approval, they must be comfortable with the proposed design.

On behalf of *Mrs. Hutchins*, *Mr. Mort* conveyed her concern about the proximity of the garage to her lot. The variance request is for ten feet. If there is a way of getting it further from the lot line, he said that she would appreciate that.

Pamela Foss, neighbor and member of the Board of Country Club Estates, said she believes the house does not fit in the neighborhood. It is too big, takes a large percentage of the lot and people are upset about size. She expressed concern about the septic system and said that it will be a three story house and there is no precedent for that in the neighborhood. As the house is staked out now, she said, it is ten feet from either side of the property, not twenty as the requested variance states. In addition, *Mr. Stortini* has not followed any of the procedures in the bylaws of the Country Club. *Ms. Foss* stated that she believes that what *Mr. Stortini* is trying to build is not in the flavor of the community and the plan does not fit the lot. It is very upsetting to our community, she said.

Howard Wiseman said that the plans for this house were never formally submitted, as their Board requires. Chairman Ross responded that this Board is governed by the Zoning Code, not the bylaws of your community and by consistency of decisions in the area. There are tenets for creating a variance which we must follow. Unfortunately, they do not take into account your bylaws; they take into account the zoning laws of Red Hook. All of these parcels are unique in that they were all subdivided before zoning and now they are zoned three acres so every one is substandard and there are a lot of issues there.

Joseph Curthoys, neighbor, asked if decks are included in the percentage of square footage on the property? On the footprint of the Giek residence, he said, your calculation was 18.58%; however if you include the deck, it would be 22% of coverage. He said that he measured another property, which was also 22% coverage. Chairman Ross said that this would be weighed when the Board looks at the numbers which have been provided. He indicated that the Board would look at the three story issue; but we are really looking at area and coverage. If it is a true three story, other building code issues come into play that the building code department would address. *Mr. Curthoys* asked if the third story is a cellar; is that the foundation? *Mr. Jones* responded in the affirmative. So it is really a two story with a walk-out basement, *Mr. Curthoys* concluded. Chairman Ross said since

he started serving on the Board in 1991, there have been five or six variances in that area and they have all been around 15%. That has been our upper threshold, as we felt that was reasonable for a pre-existing, non-conforming lot. *Mr. Curthoys* added that the *Brocchetti* home was also at 22%.

Ms. Foss expressed her concern about the lake, saying that a 100 foot setback is required by the state. *Bob Fennell* said that it is a fresh water wetland. Chairman *Ross* confirmed that it is a DEC wetland. She said that she is not sure if the design of this house complies with that requirement. Chairman *Ross* said that the Board makes its decision based on the information of the applicant. *Mr. Stortini* said that the Board has his coverage figures. Chairman *Ross* acknowledged that and repeated that the Board would make its decision based on the information provided.

In light of the questions which had been brought up, Chairman *Ross* asked that the Board review the elevations in the plans submitted by the applicant. It was verified that the proposed coverage is 18.65%. Chairman *Ross* confirmed that the numbers submitted do not include the porch or deck. In view of this, *Mr. Stortini* said he would eliminate the garage and keep the decks. Without the garage, Chairman *Ross* determined that the coverage would be 14.7%. *Bob Fennell* asked how high the building is from the mean elevation to the peak. Chairman *Ross* determined that it would be about 31½ or 32 feet, under the zoning limit of 35 feet. Depending on how this is graded, he continued, this would probably not be considered a three story structure. In response to questioning, Chairman *Ross* asked *Mr. Jones* to revise the plan to reflect the changes *Mr. Stortini* said he would be willing to make. That will reduce the variance from 10.12 to 14.86.

Richard Dill, neighbor, asked what the oversight is to assure that the applicant complies with whatever coverage is approved by the Board. He asked what happens if the structure has been partially built but is over the coverage. *Bob Fennell* responded that hopefully that will not happen. We will measure the foundation and make sure that it is going to comply. Chairman *Ross* added that the Board has had people come before it after the fact and although we are usually a benevolent group, we have had people tear things down.

Chairman *Ross* set the continuation of the Hearing for 7:40 P.M., March 12, 2008. He asked the members of the Board to visit the property and consider it in relation to the structures which are there.

8:50 Public Hearing for 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 applicants' properties are located at Norton and Baxter Roads, in the R1 zoning district. Chairman *Ross* said that the question before the Board is an interpretation of multi-family development. The applicant suggests that this project constitutes multi-family residential development. The ZEO interpreted the units as not being multi-family and hence the appeal of his decision. The interpretation which this Board makes is based on the law as it stands now and it is not just pertinent to this property. It is pertinent to all the properties in the R1 or B1 zone that allow multi-family subdivisions.

Chairman Ross asked Mr. Neil Alexander, attorney representing the applicants, to present a brief description of the proposal. Mr. Alexander said that they are here for an interpretation and an appeal of the determination of the zoning officer. We are not here, he continued, to talk about planning, traffic, wetlands, endangered species, sewer, water or potentially significant environmental impacts. Under your code, in the R1 zone, by special permit, multi-family dwellings are permitted. We applied pursuant to that code. We believe, he continued, that the term “dwelling, row or attached”, as it is used in your code, is not a use classification. There are no bulk and area standards. There are no parking ratios. There is nothing in the entire code other than the term. We believe that the only way for that term to have any meaning is to find that a “dwelling, row or attached” constitutes one of the three types of multi-family dwellings and that CSI’s project consists of detached, semi-detached and attached multi-family dwellings. There are several rules of statutory construction which are in favor of that determination. First, when a zoning board interprets the code it must do so in favor of the property owner and against the municipality to the extent that there is any ambiguity or question. Also, you can’t arrive at a determination which would render a term superfluous or out of harmony with the rest of the code. We believe, he concluded, that if you do not agree with our interpretation, you would end up with that kind of result.

Chairman Ross then opened up the Public Hearing. *Jonathan Becker*, Norton Rd., asked if there was any clarification of the issues raised by John Douglas at the previous meeting. Chairman Ross said that the Board had consulted the Town Attorney and type of ownership is less of a factor than interpretation of the definitions and how they are used in the code. However, he called on Mr. Alexander for a concise answer to that question. Mr. Alexander said that they are comfortable with doing two condos, one for each parcel, and having two homeowner associations. They would then draw up a common facilities agreement to deal with issues which are common to both parcels, such as access and facilities. We would draw the line between ownership of the individual versus ownership of the entity at the point. Thus, everything you see and the point is the responsibility of the owner of the unit. Sheet rock and everything behind it is the responsibility of the association. That would be true regardless of whether it is an attached unit, a semi-detached unit or a detached unit.

David Grover, Baxter Rd., asked about the size of the lots on the property. Mr. Alexander said that there are two parcels, 23 and 20, roughly. He then asked about the lot sizes for the individual homes. Chairman Ross responded that there are no individual lots. The proposal is for multi-family, 59 on one property and 60 on the other. Bob Fennell asked that the importance of the issue of whether or not it is multi-family be explained. Chairman Ross said that there is a different count on the number of units. According to the zoning code, if there are to be individual lots with municipal water in the R1 zoning district, you can get one parcel for every half acre. If it is a multi-family dwelling, you are allowed nine bedrooms per buildable acre, divided over the units. It is a density issue. The multi-family provides greater density. The distribution of units is at the discretion of the applicant and that is the way it is worded in the code.

Kim Hall, Norton Rd., said that she opposes the project for several reasons. It will diminish not only my quality of living, but also that of the rest of the residents of Red Hook, who are not even aware that this proposal is in place. There will be increased taxes for each one of us. The school will have to purchase four new school buses just for the project and they will be parked on Norton Road. Chairman Ross said that he appreciates these concerns, but asked that the comments be kept relative to whether these are multi-family or single dwelling units. The comments you have made are down the road for the Planning Board. The issue we are wrestling with is whether this is multi-family or not.

Mr. Grover inquired about the zoning law which applies to the project. Chairman Ross said that it is designed for residential and a mixed type of residential. He read from Section 143.6 of the code: "The residential R1 district is intended to allow more concentrated, moderate density suburban development adjacent to the village of Red Hook and where potentially served by the municipal water supply facilities. A broad range of housing types is encouraged including single family detached, semi-detached and attached dwellings, two family dwellings, accessory dwelling units, multi-family construction and elderly housing and strong linkages are envisioned between these denser residential neighborhoods and the community's established business, service and institutional uses in the village center." Therefore, it is zoned for denser development.

Henry Martin, neighbor, objected to the fact that the residents of this project would exit onto Norton Road. Chairman Ross responded that this Board has to focus on the interpretation before us. You are talking about traffic study, environmental impacts and other SEQRA issues which will be dealt with down the line. They cannot go forward before they get an interpretation from this Board.

Dale Storey, neighbor, said that the grievances of the neighbors should be heard and asked the Board to tell the community when they can come back and be heard. Chairman Ross said that traffic and other SEQRA issues are not the purview of this Board. There will be multiple public hearings in front of the Planning Board relative to the actual final planning process. Bob Fennell stated that in a sense we are not really talking about this project. We are talking about the law and what it means. Does the law allow people to build this type of development in the R1 district and call it a multi-family dwelling development or are they, in fact, single family dwellings?

Mr. Alexander said that the Planning Board issued a memorandum saying that they will not address this problem at all until the legal question is resolved by the Zoning Board of Appeals. When we get a ruling on the legal question here, we will ask for the right to develop an Environmental Impact Statement which will have chapters on traffic, land use, aesthetics, sewer and water. Before we even draft our Environmental Impact Statement, there will be a Scoping Hearing where you will be able to come and air all your concerns about this project and things you would like to see studied in the Environmental Impact Statement. It is premature to get into these issues now. The question at hand is one of interpretation of the code. If it is determined that this project meets the definition of multi-family, then we can seek our special permit from the Planning Board and do our environmental review, if the Planning Board agrees.

Dick Franklin, Red Hook, said that what we are dealing with is legal interpretation. The Planning Board has already heard pieces of this. Most of us should be sitting down with the Planning Board and going over all this with them. They have sent it to this Board, which only deals with interpretation of zoning law. But it is the job of the Planning Board to sit down with the citizens and lay out the issues. Those of us who are interested in that should go back to the Planning Board, find out when they meet and demand some discussion.

Keith Anderson, Baxter Rd., asked if the property had always been zoned R1. Chairman Ross said that it has been so for many years. He said that he did not understand that you could cluster houses in that area. Basically you are saying that on those two parcels you are going to allow 59 residences. So everybody here who owns two acres of land on which we were allowed to build a single dwelling, could now cluster houses and make it multi-family? Chairman Ross responded that that is not what he was saying. If a person bought one of the twenty acre parcels, it would be their option to review the subdivision requirements and decide if they want to subdivide it or just put one house on it. They can come before the Planning Board and say that this is a permitted use and this is what I want to do. That is what the applicant did and the question arose at the Planning Board as to whether this proposal is truly multi-family. It was correctly referred to the Zoning Enforcement Officer. His interpretation was that it was not multi-family but that it was individual dwelling units. The applicant disagreed with that and, by law, came to us for an interpretation.

Dave Grover said that he interprets this as single family because the number of single families there is very great and when you look at the number of multi-family units, they are fewer and clustered. It looks almost exclusively like single family units, except for a small number in the middle.

Jonathan Becker said that this project will fundamentally alter our way of life. It is totally inconsistent with the character of Red Hook. He asked if this was the biggest project in Red Hook history or one of the biggest. Chairman Ross said that Linden Acres was a large one, but that was before his time. So, Mr. Becker concluded, this is the biggest project for many years. He said that this would not be a walkable community as there are no sidewalks and no businesses, just homes and the homes are over half a mile from the center of the village. Half a mile is the standard for walkability. When you are told about walkability, he said, you should think about that.

Mr. Becker said that he believes that the attorneys have gone to the fringes of the planning code to come up with interpretations which we do not think anyone ever anticipated. For example, the number of lots you could have at a dead end. The statement was that you could only have twelve lots. The response was that there are only two lots here. I don't think anyone would look at this and say there are two lots. Mr. Becker said that the form made out by the applicant stated that there would be no effect on traffic. Norton Road currently has twenty houses and you are going to add 119 units and that will not significantly increase traffic? That is not credible, Mr. Becker stated.

The applicants have suggested, he continued, that citizens were present at all or most of the charette meetings between the developers and the Planning Board this summer. That is not accurate. Moreover, the September Board meeting was the first time the developers actually submitted a real proposal. The Planning Board behaved appropriately except for agreeing to meet with the developers without making the public aware of that. There are many issues which should be determined before going to the Planning Board. Section 143.50 of the zoning law, which sets out the general regulations for Special Permits, says that when the Planning Board requires a special permit, applications shall be initially submitted to the ZEO and referred by the ZEO to the Planning Board for its consideration. So any special permit application should have gone to Mr. Fennell as the ZEO. That did not happen in this case. It went right to the Planning Board, which referred it to Mr. Fennell with questions.

Mr. Becker said that he would argue that the reason why people requiring special permits must go to the Zoning Enforcement Officer is that the ZEO can look at the proposal and make a determination as to whether any of the proposed developers are in conflict with the code. The SEQR process should not be initiated until we are sure that the code is being followed. Had Mr. Fennell been given a copy of the proposal, he would have had the opportunity to pose many other questions, not just the one which was referred to him. I believe, *Mr. Becker* continued, that there are a number of other zoning issues which have to be resolved, including at least one major violation. One example is the rule regarding dead end streets. The applicant claims that there would be only two lots in the development. The code states that a lot is “a single congruous parcel of land undivided in two or more portions by a street having defined boundaries.” Thus, if you have a street, you have to have more than one lot and you have been told that there are only two lots on the property. How is that possible? And if you have more than two lots, then you could run into the twelve lot limit. The ZEO should look at the number of lots.

A second example is that the proposal clearly exceeds the number of units which are permissible. Let’s assume that these are multi-family dwellings. Section 143.57 says that the maximum number of dwelling units within a multi-family development shall be 60. There are 119 here. That poses the question of how many developments is this? It has one name, Meadowbrook Estates, and one way in and out, Norton Road. There is one sewage treatment, one lawyer, one proposal. If this is one development, they are allowed 60 units. Mr. Fennell should decide if this is one development or two. I think, he stated, that if it has one treatment plant, one entrance in, one exit out, one name, then it is one development.

Mr. Becker said that he would like to conclude by discussing the specific issues raised by Greenplan and Mr. Fennell. I would urge you, he continued, to look at what Mr. Fennell wrote about the issue of the row of firewalls in determining the nature of a residence. I think that that is a very compelling argument. Mr. Fennell also says that the District Schedule of Use Regulations does not allow a dwelling, row or attached. If that is the case, I am not sure that there is any discussion to be had. I understand that the Town Attorney was going to look at what other towns do. I would be interested in knowing how

other towns interpret this type of activity. We think that the code and people like Mr. Fennell, who have the greatest experience in dealing with the code, will come up with reasonable interpretations which say that things like this are not and should not be possible.

John Douglas asked Mr. Becker if he thought that this was single family or multi-family. *Mr. Becker* said that he agrees with Mr. Fennell's interpretation. He then asked Mr. Becker if he has given this information to the Planning Board. Mr. Becker responded that he had given all the information except that which he learned in the last two days. John then asked Mr. Becker if he planned to give that information to the Planning Board. He said that he would give the material to the Planning Board and to Mr. Fennell

If one building has four units in it and the other building has one dwelling unit in it, Bob Fennell asked Mr. Alexander why he thinks that the one unit structure is a multi-family dwelling. Rationally, it would seem to be a single family dwelling. Mr. Alexander conceded that it is counter-intuitive. He said that if you look at the definition of multi-family dwelling in the code, it says a detached, semi-detached or attached building or portion thereof containing three or more dwelling units. You couldn't have a semi-detached building that has more than three units. Semi-detached by definition means one of its walls is free on either side. So now you have a series of units. The code says that there are three types of multi-family dwellings and you have to make sure each one has a meaning. You can't say that four to six units in one building is multi-family because then how is it detached, semi-detached or attached. The formula in the code talks about nine bedrooms per acre, asks you to allocate them in a series of different sized buildings and tells you to vary the types of buildings. You can't accomplish all these purposes without coming to an interpretation as we did.

Bob Fennell asked how Mr. Alexander would respond to the statement that a multi-family dwelling is a structure which contains three or more dwelling units. That is not what the code says, Mr. Alexander responded. The code says that a single family dwelling is a detached building containing one dwelling unit only. A two family dwelling is defined as a detached or semi-detached building containing two dwelling units only. A multi-family dwelling is a detached, semi-detached or attached building. How could it be a detached multi-family dwelling if all the detached dwellings are single family? The code defines a single family dwelling as a detached building. Your code says nine bedrooms per acre and then says that for multi-family you need to have a variety of housing types. They are setting your density allocation and saying, now spread it out over different types of multi-family units, detached, semi-detached or attached. Otherwise, you have to say that multi-family makes no sense and can't be applied and you cannot block multi-family from a community because that is exclusionary zoning. So you have to allow multi-family in your community. It was decided under the code to allow it in the R1 and the B1. And it says that if you do multi-family, you can do any of three types or mix it up. If all detached buildings were single family, then why would you have the phrase "containing one dwelling unit"? They are making the definition do double duty. That is why there is a difference between a detached multi-family dwelling and a detached building containing one dwelling unit only. That is why, even though this is a

free standing structure that has only one dwelling unit, it is not anything other than a multi-family dwelling.

David Shein, Kelly Road, said that we were told that you could have no more than sixty units in a development and there are 119 here. It would seem that the matter should be open and closed. You are seeking to build too many units here. What we need to be looking at is what constitutes a development. It is silly to say that there are no lots here. There are. There are not two developments; there is one development.

Mr. Becker said that he read in the code that the first stop should be the ZEO. The heart of this is that the code says that you can have sixty units in a development. The word is development, not parcel. We should allow the process which was supposed to have taken place to take place and have the ZEO review that issue and make a determination as to whether this is one development or not. So noted, Chairman Ross said

Mr. Grover asked in what way the two parcels are defined as different. *Mr. Alexander* said that they represent two separate purchases by two LLC's. The application for the project was a joint application. *Mr. Alexander* then asked for the Hearing to be closed as everyone has had a chance to speak. *Mr. Becker* said he thought, procedurally, we should allow *Mr. Fennell* to see if there are any other issues pertaining to this development and if he has any other questions. Chairman Ross called on Town Attorney *Chris Chale* for her opinion as to whether or not the Public Hearing should be closed or continued until the next meeting. Given the amount of information presented to the Board tonight, she suggested that the Hearing be continued so that discussion could continue and other information could be taken. This was acknowledged by the Chairman, who continued the Hearing until Mar. 12, 2008 at 8:20 P.M.

Jackie Martin approached the table and asked if the applicant, *Mr. Stumbo*, had been to the Grange and asked the Chairman if he had also been there and played poker. The Chairman stated that he had. *Ms. Martin* then asked if this created an ethical problem. A resident from the rear of the room also asked if this was the case and how it could be addressed. The Chairman explained that if a member of the Board feels they cannot make an objective decision, it is their obligation to recuse themselves. He further stated that if a resident was concerned with such a matter they could send a letter to the Ethics Committee for review.

Mr. Alexander asked if there were any other questions which the Board would like answered at the next meeting. Chairman Ross said that there may be another interpretation relative to one or two developments. *Mr. Alexander* asked that if the ZEO is going to do that, unlike last time when he did not have the plans in front of him, could he sit down and talk with us. Chairman Ross suggested that he make an appointment with *Mr. Fennell*. *Mr. Fennell* agreed that they should meet and discuss the road issue and whether the development is two or one.

10:05 Public Hearing for 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. Chairman Ross asked if anyone was present to speak to the issue. Corinne Weber asked if Mr. Fragala feels he needs these signs in order to promote his business. He responded that one of the things which the company requires that he do is to promote the business with signage. The sign which is out there is very old and he would like to put up a new sign. What I want to do is put up signage which is up to the current standards. He said that the supplier has been asking him to make this change for four years, but that he has been pushing it off because it is so costly.

Bob Fennell said that NAPA is going to come in and ask for the same thing. Then everyone down the road is going to ask for large, illuminated signs. How does that square with what our zoning law is attempting to do in eliminating the signage in the town and maintaining our rural flavor. Mr. Fragala said that at the last meeting he was asked to look into the sizes and positions of the signs of the other stores around him. He said that he did that. Mr. Fennell asked if any of the other ones are internally illuminated. Yes, they are, Mr. Fragala responded. Dunkin Donuts', Triebel's and Ruge's are internally illuminated and those are on either side of me. In regard to the sizes of the signs, Mr. Fragala submitted to the Board a drawing showing the neighboring businesses and their signs. The property line is 30 inches off the corner of the sidewalk. Ruge's sign, which is six by eight, is six feet back. My sign, which I am requesting to be eight feet back, is four by six. Majestic's sign is five by nine and his sign is actually butting up against the sidewalk on state property by thirty inches. The ramp which is there is butting up against the sidewalk too. Triebel's sign is four feet back and that is five by nine. Frankly, I am looking for the smallest sign of all of them with the furthest setback. But then you will have a very large sign on your building, Bob Fennell said. Correct, Mr. Fragala responded, but Ruge has a sign on his building and Triebel's also has a sign.

Corinne Weber asked if it needs to be internally illuminated. Mr. Fragala said that he would like to have internal illumination because the sign which is there now had exterior illumination and he had to change the bulbs very frequently because they would short out. Secondly, it creates a glare. Interior illumination is more appealing than exterior illumination. It creates a softer light versus a spotlight. The Board then reviewed pictures of the sign which were submitted by Mr. Fragala. John Douglas asked if the second sign would be centered over the door. Mr. Fragala responded in the affirmative. He said that the logo portion is three feet by four feet ten inches and the words "Auto Parts" are two feet high by 14.1 inches. Bob Fennell asked if it would be on a timer. Mr. Fragala said that it could be put on a timer. I wouldn't have it on during the day. Bob asked if it would be on all night long. Mr. Fragala said he could arrange it in whatever manner is agreeable to the Board.

Mr. Fragala said that at the last meeting he was asked if there is something smaller which he could put up. He then presented material to the Board showing all the choices

available to him. He said that the one he is requesting is the smallest one. The Board reviewed the material. Corinne Weber asked how high it would be. Seven foot two, he responded. Corinne verified that the sign would be under the three or four foot overhang. Mr. Fragala said that it is a soft light back there. Corinne said that it is in keeping with the other signs in the area. Chairman Ross said that this is smaller than the 24 foot sign which you proposed last month. That is better. I don't see an issue with the eight foot location, which is where the existing sign is. While the sign on the building does seem quite a bit larger than what is there, I almost think that you need it. The existing sign doesn't really do the job. You don't see it, Mr. Fragala said. John Douglas agreed that the sign on the door is pretty invisible, especially if you are in a moving car.

Chairman Ross advised Mr. Fragala that there are only four members of the Board present and it is a seven member Board. You would need a unanimous vote for the Board to approve the application. In view of that, he told Mr. Fragala that he always allows the applicant to defer until there are more members. Mr. Fragala asked to defer. Chairman Ross scheduled the continuation of the Hearing for March 5, 2008 at 7:15 P.M.

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. Chairman Ross continued the Hearing until March 12, 2008 at 8:40 P.M.

REVIEW OF APPEAL

10:30 Review of Appeal 07-19, Curthoys application to construct a garage and play area addition which would reduce the minimum open space requirement from 80% to 70% and increase the total building coverage from 7% to 18%. The applicant's lot is located at 183 Country Club Road in the Town of Red Hook zoning district. Mr. Curthoys said that he is asking for 18% and he can name two properties in that development which are at 22%. One is the Giek property and the second is the Brocchetti property. When I purchased my property, it was at 12%; so I am only asking for 6% over what I purchased it at. The Board reviewed the plans submitted by Mr. Curthoys. Chairman Ross reviewed the Brocchetti file and said that the variance for Brocchetti was 15%. Mr. Curthoys said he measured it twice. Bob Fennell said that if he violated the variance, that is a different issue. Chairman Ross set the Public Hearing for March 12, 2008 at 8:00 P.M. However, he said that he cannot remember the Board ever having gone over 15% on these lots. Mr. Curthoys reiterated that there are two properties with 22%. Chairman Ross said that when those two properties came before the Board, one did not have a coverage issue and the other was granted 15% in 2001. That is what we have to go by.

10:45 Review of Appeal 08-02, Espie application to construct a garage which would reduce the side yard setback from the required twenty feet to seven feet. The applicant's lot is located at 42 Kalina Drive in the R1.5 zoning district. The Board reviewed the plan submitted by Mr. Espie. Chairman Ross ascertained that there is no coverage issue. The garage will be 24 by 24. Chairman Ross asked if the Board would like any additional

information. As there were no further requests, he set the Public Hearing for March 12, 2008 at 7:10 P.M.

ADJOURNMENT

A motion to adjourn was made by Tim Ross, seconded by Corinne Weber and all were in favor. The meeting was adjourned at 10:55 P.M.

