

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

CALL TO ORDER

The meeting was called to order at 7:10 P.M. by Chairman Timothy Ross.

ROLL CALL

Members Present: Timothy Ross, Nick Annas, John Douglas, Jim Hegstetter, Michael Mosher, Corinne Weber

Members Absent: Kenneth Anderson

Also Present: Bob Fennell, Zoning Enforcement Officer; Chris Chale, Town Attorney (for Meadowbrook Hearing); Jim Ross, Town Board Liaison

PRELIMINARY BUSINESS

Comments from the Chairman: Chairman Ross introduced the new member of the Board, Nick Annas.

Minutes of February 13, 2008, Mar. 5, 2008 and Mar. 12, 2008: Chairman Ross asked for any comments, additions, deletions or changes to these Minutes. Hearing none, Corinne Weber made motions to approve each of these Minutes. These motions were seconded by Jim Hegstetter and all were in favor.

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

Building Inspector/ZEO Permits and Memos: The current Permits and memos were reviewed by the Board.

PUBLIC HEARINGS

7:15 Continuation of Public Hearing for 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. Chairman Ross stated that at the Public Hearing last month elevations were requested because a concern arose as to what the proposed building would look like. He stressed that the Board does not have architectural review. We only look at setbacks, building heights, area variances, etc. However, the Public Hearing has been continued because the applicant agreed to provide the elevations.

Chairman Ross asked the applicant to present the elevations and invited the group of neighbors who were present to come forward to review them with the Board. In response to questioning, Chairman Ross said that it will be sixteen feet to the peak of the garage for a calculated elevation of twelve feet and seven and a half feet from the property line. The minimum is 20 feet and the applicant is therefore seeking a twelve and a half foot variance. The neighbors and the Board reviewed the elevations.

Mrs. Malloy, neighbor, asked if there were going to be rooms upstairs and the Chairman responded in the negative. The roof will be trussed and nothing will be stored there, he said. She asked why Mr. Espie does not put the garage on the other side. Chairman Ross responded that the septic is there. *Steve Malloy* said that all the houses in the development have attached two car garages. If it were attached, it would blend in with the neighborhood and would not look like a commercial building in the back of the property.

Neighbor *Nancy Mulford* said that several years ago a two car garage like that was approved in front of Forest Park on 9G. Permission was granted to put in a two car garage and it was not put to personal use but was used as a business. She expressed her concern that this garage would be used for commercial storage rather than for home furnishings, i.e. for storage of equipment for their business and that there would be trucks going in and out, getting materials and going back and forth. They say they are looking at downsizing and then moving in and they have too much stuff now. Most people that are looking to downsize, downsize their personal belongings before they move. They say that they are going to move, but that could be fifteen years away. There is no guarantee that what they are saying will actually be done. Chairman Ross acknowledged her remarks, saying that they would be taken into consideration, but stated that the Board has to look at what they are asking for relative to the surrounding properties not proposed uses that might happen. Ms. Mulford asked how that issue could be addressed. Chairman Ross said that if an existing house starts to be used as a commercial business, that would be an enforcement issue which is not the function of this Board.

Neighbor *Ray Patchey* said that there are no detached garages like that in the neighborhood. It is a small street in a nice development. Now, he said, there will be a building behind another building. Everyone has a little shed or storage building. They have a garage. Why do they need a big building? Why would we change the look of that beautiful street? Several other neighbors present expressed their agreement with Mr. Patchey. *Mr. Malloy* said that he would agree with having another garage off the existing one to blend in with the neighborhood and the structure of the house; but he does not agree with putting a separate two car garage that close to the property line.

Nick Annas said that one of the issues is whether or not it fits in with the neighborhood and from what he has been hearing, the neighbors do not feel that it does. Another question is whether or not there is another suitable location. He suggested eliminating the one car garage and building a two car attached garage. That could be in keeping with the neighborhood as well as being within the setback limits. Jim Hegstetter asked if this would be agreeable to the neighbors who were present. *Mrs. Malloy* and her son, *Mr. Malloy*, expressed their agreement with that position.

Mrs. Espie said that that does not fit with their long term plans for that location. We intend to retire and relocate there, she said. We will build a quality home which will enhance the neighborhood. I can only give you my word that we are not going to run our business out of that location. We are not going to store equipment or building materials there. I cannot tell you when we will relocate, but I can tell you that it will be a very nice structure. She expressed her opinion that the impact will not be as great as depicted by the neighbors. *Mr. Malloy* stated that they are already seeing a significant impact.

Neighbor *Martin Mulford* said that his concern is with the variance itself. He said that he doesn't understand why it can't be moved or rotated and put further behind the edge of the house. *Mr. Kalina* said that the septic system is directly in back of the house. *Mr. Mulford* responded that the drawings do not show that. *Mr. Kalina* said that he knows where the septic is because he built the houses. Chairman Ross said that the laterals run across the back of the house; so you can't go behind the house because you will encroach on the leach field.

Mr. Mulford expressed his concern that granting this variance would set a precedent for the various developments in the area. Chairman Ross said that he begs to differ on that. Forest Park, College Park, etc. are unique. When Forest Park was constructed, there was no zoning. Then it was zoned half acre and later increased to one and a half. So you need a variance to do anything on any parcel in there. To date we have had many, many applications for storage sheds, some rather small and some reasonably large for reasons such as septic, etc. Even if you don't have the septic there, you don't want a storage shed in the middle of the back yard. You put sheds along the edge of the property. The history in Forest Park has been that this Board has granted several variances for storage sheds and structures close to the property lines, some attached garages and some relatively large. *Mr. Patchey* pointed out that this will be bigger than a storage shed.

Neighbor *John Hosking* said that we are not talking about a storage shed. Everyone has a storage shed. I don't want to see a building, a two car garage. It will be huge. It will take a lot away from the neighborhood and will set a bad precedent. *Mr. Kalina* expressed his agreement. *Mr. Malloy* again expressed his dissatisfaction with the size of the structure and his disapproval of the plan.

John Douglas said that the long term plan presented is that the two car garage will be converted into a one car garage and a screened in porch. *Mr. Espie* concurred. *Mr. Douglas* suggested building a two car garage and a screened in porch now. *Mrs. Espie* said that the way the house is constructed, there is no access to the screened in porch. There was discussion among the neighbors as to how this might be accomplished.

Chairman Ross asked for any other comments from the public. Hearing none, he closed the Hearing and polled the Board for comments. *Nick Annas* said that he felt it was clear that the granting of a variance would produce an undesirable change in the character of the neighborhood. I would reject the request, he said. *Jim Hegstetter* said that, based on the comments he has heard, he feels that it would be a problem for everyone in the

neighborhood. He felt that it would be better if it were attached and stated that he was not in favor of it at all. Corinne Weber said that, knowing the type of things Mr. Espie builds, she would not have a problem with letting him build there. I understand, she said, that it would be a large building in the view of the neighbors and that the neighbors are also concerned about the future use of the building. If you were to be given the variance, she asked the Espies, could you give the neighbors some sort of assurance that would make this plan a little more palatable? Mrs. Espie agreed to do that.

John Douglas said that most of the garages which the Board has approved were attached. In his own view and in light of the discussion by the neighbors, he felt that an attached garage would be a better plan. Mike Mosher said that he thought that the variance would not be a very big deal. The size of the structure is a little big for Forest Park. Granting a variance to put a building within seven and a half feet of the property line on those lots is reasonable. But, he said, I do hear the comments relative to the size of the structure. The neighbors feel that it is not in keeping with what they feel is the character of Forest Park. The applicant might take into consideration some of the comments which were made and consider options which might include downsizing or shifting. Chairman Ross stated that relative to seven and a half feet from the property line and the structure, he had no problem. I believe, he said, that it would be an asset to the community, not a detriment. However, there would need to be restrictions relative to the construction of a driveway. In Forest Park there have been several variances for accessory structures to three and five feet from property lines. We need to weigh what we really think the benefit to the applicant is relative to the detriment to the neighborhood.

Motion to Deny Variance

Nick Annas moved to deny the variance on the grounds that it will produce an undesirable change in the character of the neighborhood. Jim Hegstetter seconded the motion. Chairman Ross asked if there were further discussion. Jim said that people are concerned about what the end use will be and the size of the building seems excessive. Chairman Ross asked if anyone would care to modify the motion before the Board. Hearing no comments or changes the Chairman asked for a roll call vote, the results of which were as follows:

| | |
|----------------|-----|
| Nick Annas | Yea |
| Jim Hegstetter | Yea |
| Corinne Weber | Nay |
| John Douglas | Yea |
| Mike Mosher | Nay |
| Tim Ross | Nay |

As the result of the voting was a stalemate, Chairman Ross said that the Board would refer the matter to the Town Attorney.

Chairman Ross explained to the Espies that the vote is not a denial; but it is not a default approval. Four votes are required for a motion to pass. However, failure to deny does not grant. He advised the Espies to think about other options in the meantime. *Steve Malloy*

asked how the neighbors will know if it is a yea or a nay. Chairman Ross responded that the only way it could be a yea would be if it were republished and a new Hearing were opened. In that case, he said, you would be notified.

7:40 Continuation of Public Hearing for Appeal 07-21, 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 twelve square foot sign with a 24 square foot sign and replace 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. The applicant's business is located at 7307 South Broadway in the B1 zoning district. Chairman Ross asked if anyone was present for this Public Hearing. *Linda Keeling* said she wanted to make sure that there was a provision for plantings and trees. Chairman Ross said that this issue had been discussed and the applicant is in favor of the plantings. He is not in favor of trees because of the location of the power lines and the visibility of the building.

Hearing no further comments from the public, Chairman Ross closed the Public Hearing and asked for comments from the Board. Jim Hegstetter said that the Board had looked at mock-ups of the sign at the last meeting. He felt that the location would not pose a problem and it was fine with him. Corinne Weber also stated that she has no problems with what the applicant is asking for. Chairman Ross said that he has driven in and out of the premises and sight distance is not an issue. The proposed sign is downsized from the original proposal and is more attractive than the original. He agreed that plantings around the sign would make it even nicer and said that he would like to see that become part of any motion this Board would make. I do not find the overall signage and the sign on the building obtrusive in any way, he continued, and it will look better than the existing sign.

Motion to Grant Variance

John Douglas made a motion to allow the applicant to:

- 1) exceed the limit of eight square feet by replacing a 12 square foot sign with a 23 square foot sign and replacing the 34 square foot sign on the building with a 62.25 square foot sign;
- 2) decrease the required setback from the road for signs from 15 feet to eight feet;
- 3) increase total signage from the limit of 60 square feet to 86.25 square feet and
- 4) the applicant shall plant plantings around the sign, some of which shall be perennials.

The motion was seconded by Corinne Weber. Chairman Ross said that the plantings should be within at least three feet around the sign to have some coverage where they would not encroach on the pavement or sidewalk. He added that it is a benefit to the applicant, no detriment to the health of the community and is consistent with the area in which the applicant is proposing to place it. It is in the same location as the existing sign and will be an improvement over what is there now. A roll call vote was taken and all were in favor except Nick Annas, who abstained.

REVIEW OF APPEAL

7:45 Appeal 08-04, Vrooman application to approve a six foot side yard setback for an existing prefab storage building where a minimum of twenty feet is required. The applicant's lot is located at 61 St. Paul Road in the RD3 zoning district. As the applicant was not present, Chairman Ross scheduled the Review for 7:20 P.M. on May 14, 2008.

PUBLIC HEARINGS

7:47 Continuation of 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 asked if anyone was present to speak at the Teviot Hearing. Hearing no comments, he asked for comments from the Board. In response to questioning, he clarified that the issue is change of a non-conforming use and the applicant is seeking an interpretation that the proposed use is less intense than the current use. Mike expressed his opinion that the use is less restrictive than the existing use and it provides benefit to the applicant. If we were to deny this, the applicant could subdivide the property and put in whatever he wanted. I think we should interpret this as a less intense use of the property, he concluded. All the members of the Board expressed their agreement with that position.. The Chairman closed the Public Hearing.

Motion to Grant Variance

The Chairman moved to interpret the proposal by the applicant as less intense and allow the construction of the studio, provided the residence is demolished first because it will be an improvement and not a detriment to the neighborhood and will be a benefit to the applicant. In addition, the applicant does have other avenues where he could place more intense use on the property and his proposal is superior to that alternative. The motion was seconded by Corinne and all were in favor except Nick Annas, who abstained.

8:00 Continuation of 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. Mr. Stortini was not present. Chairman Ross ascertained that a contingent of members from the Country Club were present. He said that they are probably aware that there are three applications before the Board this evening relative to the area. Neighbor *Margaret Hutchens* said that both her son and her daughter had written letters to the Board about this application. She said she wanted people to know that she was upset that Mr. Stortini got a variance to put in his septic tank only fifty feet away from her well. Chairman Ross said that the required NYS Health Dept. separation from a septic tank to a well is fifty feet. From a leach field to a well is one hundred feet. With mitigating circumstances, they can make it closer.

However, he continued, that is not the purview of this Board. Those things are handled by the Health Department. What we look at is coverage, side yard setbacks and those types of issues.

Mrs. Hutchens said her son John and her daughter, Nikki, had both sent letters. It was ascertained that the two letters had the same content and had been reviewed by the Board. Chairman Ross said that what is coming to light is that several of the properties in the area are already not only in excess of the 7%, but in excess of previously granted variances from the nineties and early two thousands. That is an issue which the Board will work through as a group because it has to be consistent. All the residents of the Lake community have to keep in mind that what we really want is a meeting of the minds as to what is reasonable coverage there. My personal opinion, he continued, is that 7% is not reasonable on those parcels because by today's standards you really can't have a residence that is comfortable to live in at 7%. He said that he had felt that 15% was reasonable because that was what we had granted; but it turns out that several of the properties are in excess of that.

Chairman Ross asked Mr. Fennell for the results of his research in the area. Mr. Fennell said that, per the GIS system, there are 37 properties and 32 of them have houses on them. Sixteen of those 32 have coverage in excess of 10%. We did a drive by, he said, to ascertain that what is there is really close to what the property cards said. And in general, it was close. He then had the 16 property owners contacted, but only four people responded and allowed him to go on the property to measure. Some of those with high coverage were Wiseman with 24%, Still with 20%, Hill with 19.4%, Brocchetti with 22.67%, Giek with 21.8% and Kalmeyer with 12.9%. Without the shed (which he is supposed to take down) Mr. Curthoys has a coverage of 11.8%. These are the physical measurements, not necessarily what is on the cards. The majority are 15% or under. Most are in the 10% range, Mr. Fennell concluded.

Chairman Ross said that it is tough for the Board because you need a variance for almost anything you want to do on the substandard lots. He left the Public Hearing open in case anyone else should come for it. Mr. Stortini is addressing some issues relative to the wetland and getting permits. The wetland was a federal wetland for years and the DEC has now reclassified it as a state regulated DEC wetland. They have expanded their buffer to two or three hundred feet. Generally, they regulate tightly within one hundred feet; but they have the latitude to look further. In this case, they want to be notified if you are doing anything on any of those parcels. He advised the residents to touch base with the DEC if they are planning to do anything on their properties.

8:20 Public Hearing for 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 Drive in the Town of Red Hook zoning district. Chairman Ross verified that Mr. Fennell's calculations with the shed removed were 11.8% coverage. He asked Mr. Curthoys to review his proposal. It was ascertained that the material which Mr. Curthoys sent to Board had been distributed and reviewed and he

currently is requesting 19% coverage. He said that his numbers on selected properties were almost the same as Mr. Fennell's. He is proposing an 18 by 28 foot garage attached to the front of the house. It will not be closer to the lake. The play area will be on top of the garage. Chairman Ross invited any interested neighbors to come forward to review the plans with the Board. He clarified that there are no variances other than coverage.

Chairman Ross said that both the Stortini and Curthoys Public Hearings are open at the same time because they are so similar and invited any comments from the public regarding either proposal. *Mr. Wiseman* said the DEC is going to rule on coverage and he thought that the variance should not be decided until they make a determination. Mike questioned whether the DEC has jurisdiction over coverage. Chairman Ross said that typically it is one hundred feet from a protected wetland. However, they reserve the right to go further if they deem it a critical wetland. He said that the Board's decision is relative to the Town code, but advised the homeowners that they have to meet every tenet not just the local ones. *Mr. Wiseman* said they just want to review it. Chairman Ross said they want to review anything on any of those parcels in the future. But that does not bear on this Board making a decision.

Chairman Ross invited comments from the Board. Mike Mosher, recognizing the small size of some of these lots, did not have an issue with something that is in the range of 18 or 19%, given that half of the homes in that neighborhood do exceed coverage and it is certainly well below the largest variances that were granted. I see more benefit to the applicant than detriment to the neighborhood, he concluded. John Douglas said that, given the fence for the dogs, he felt that it would be fine because from the road you would not see the garage as it will be tucked in between the two present buildings. Corinne Weber said she did not see any negative impact. It would be in keeping with a lot of the properties there. Jim Hegstetter pointed out that the applicant had come before the Board previously and has since readjusted his plan based upon the recommendations of the Board. Looking at the coverage, based upon the figures cited tonight, he felt comfortable with it. Chairman Ross said that, in looking at the additional information provided by Mr. Curthoys, he thought that it was consistent with several of the updated homes in the area. He asked if there were any further comments from the neighbors. Hearing none, he closed the Curthoys Hearing but left the Stortini Hearing open until the Brocchetti review as the two cases are very similar.

Motion to Grant Variance

Mike Mosher made a motion to grant the applicant a coverage variance from the existing 12%, which exceeds the allowed 7%, to 19% (without the shed) to build the proposed addition. There are no setback issues. It will be a benefit to the applicant without any detriment to the health, safety or welfare of the neighborhood and is in keeping with and reasonably consistent with some of the other properties. Chairman Ross modified and seconded the motion, adding that the variance be granted with the understanding that the shed will be removed prior to the issuance of a Building Permit. A roll call vote was taken and all were in favor, except Nick Annas who abstained.

REVIEW OF APPEAL

8:30 Appeal 08-03, Brocchetti application to construct a swimming pool which would increase coverage from the present 22.7% to 25.6% where the required maximum is 7% and would reduce open space from the minimum of 80% to 74.4%. A side yard setback of 10 feet is requested while the requirement is a minimum of twenty feet. The applicant's lot is located at 26 Country Club Drive in the RD3 zoning district. Robert Marrapodi was present to represent the applicant. Chairman Ross asked him to present the proposal. Mr. Marrapodi said that he has submitted a revised site map showing the location of the pool, which is basically in the rear of the property, hidden behind the existing house and garage. The property elevates in the rear, so there is minimal impact to the neighbors. The coverage and open space numbers seem to be excessive; but I want everyone to keep in mind that it is not a building, he said. It is an in ground swimming pool. Thus, the impact is much more reduced from what it would be if it were a building. It is a 12 by 30 lap pool and it will be enclosed by code compliant fencing. The size has been reduced from the original application and the side yard does not now require a setback.

Chairman Ross advised Mr. Marrapodi to check with the DEC as the property is within the lake buffer zone. The Board reviewed the new drawings. Chairman Ross said that this proposal is unique in that it is on the outside of the road and away from the lake. Chairman Ross asked if there would be any problem with the members of the Board driving by and pulling into the driveway. Mr. Marrapodi indicated that his client has already submitted a letter of consent to the town. He said that the survey which he submitted is not certified, but it is accurate as he physically measured all the buildings. Chairman Ross then set the Public Hearing for 7:30 on May 14, 2008. He also scheduled the continuation of the Stortini Hearing for 7:40 on May 14, 2008

PUBLIC HEARING

8:45 Continuation of 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. Attorney Neil Alexander was present to represent the applicants. Chairman Ross stated that the sole issue before the Board is whether or not the proposal constitutes multi-family dwelling. He told neighbor *Jonathan Becker* that all members of the Board have received a copy of the document which he submitted. He said that he would not read the document into the record because it is several pages long; but it will be part of the record.

Chairman Ross announced that, as there are several legal issues before the Board, he will break the continuation of the Hearing at some point and the Board will recess for a client-attorney meeting with the town attorney to review some of the finer points. We will then return, take any additional comments and close the Public Hearing.

Chairman Ross opened the Public Hearing for comments. Neighbor *Greg Lynch* stated that all the houses in the area are single family homes and none of them have three or four families in one structure. Any request for an interpretation of the zoning law should reflect that fact. You are proposing a high density project in an area which is really not suited for it. The Zoning Board should turn this down because none of the homes in the area that are single family are like this. When my wife and I came to this area, he said, we chose Red Hook because it was not like Hyde Park, which has suburban type density. If you want to have suburban type housing, it should be kept within the Village boundaries. Chairman Ross reminded Mr. Lynch that the issue is whether the proposal is multi-family or not. Multi-family is a permitted use in this zoning district. We do not make a decision on that. What we are looking at, he continued, is whether or not what the applicant has proposed constitutes multi-family. Mr. Lynch responded that a structure which is traditionally a one family house should be designated as such, but these units will have several families within. Nothing like that exists in the area, he said, and my opinion is that it doesn't make any sense to consider it.

Mr. Jonathan Becker handed the Board members appendices to the document he had already submitted to the Board. He said that density is not just an abstract issue. After the last meeting, the Red Hook Fire Department pumped out about 80,000 gallons of water from homes on Norton Rd. When you make a ruling which allows density beyond that which is envisioned by the code, it has consequences. I know that this is a SEQRA issue, he said, but I want to emphasize that this is not just an abstraction.

Continuing, *Mr. Becker* said that he wants to defend the argument made by Mr. Fennell. The submission suggested that Mr. Fennell did not even read the CSI proposal before making his ruling. We think that Mr. Fennell read the proposal, read it well and reached decisions which you should not overturn. The question here tonight is should you overturn his decision or a portion thereof. They are applying under the provisions of the Special Permit for Multi Family Dwellings. They have two options which they can pursue. They have chosen the option which focuses on the bedroom count. This option allows nine bedrooms per acre. To use this option, everything in that proposal has to be called a multi-family dwelling. If it is not a multi-family dwelling, then the bedroom count does not apply.

The second point is, *Mr. Becker* continued, that the bedroom conversion is exclusively reserved for multi-family dwellings. This has been acknowledged by Mr. Alexander and that is why Mr. Alexander, in his submission, states that CSI's project consists of detached, semi-detached and attached multi-family dwellings. So everything there is to be considered a multi-family dwelling. Working with the map of the project which had been pinned on the bulletin board, Mr. Becker pointed at the detached dwellings. He said that he could not find a semi-detached multi-family dwelling. Chairman Ross affirmed that he could not find that either.

Mr. Becker stated that there are three questions which the Board has to answer. Firstly, will you overturn Mr. Fennell's conclusion that a one unit detached house is not a multi-family dwelling? Will you overturn his decision that the two or four unit semi-detached

house is not a multi-family dwelling? Will you overturn his claim that a four or six unit row of attached houses is not a multi-family dwelling?

Dealing with the first question, viz. whether this one unit detached building is a multi-family dwelling, there should not be an argument. There should not even be a discussion. At the last meeting, he continued, Mr. Alexander said that it is “counterintuitive” to think that a one unit detached dwelling is a multi-family dwelling. I think it is wrong to call such a dwelling a multi-family dwelling. Our assertion that this is a single family dwelling is an intuitive interpretation and one which is logical. It is not a multi-family dwelling and there are a number of reasons for this. A multi-family dwelling as defined in the Code is a detached, semi-detached building or portion thereof containing three or more dwelling units. This has one unit, not three or more.

Secondly, Mr. Alexander argued that it was their view that CSI’s project plan as shown on the concept plan prepared by LRC and Mina & Waskow dated Sept. 8, 2007 consists of detached, semi-detached and attached multi-family dwellings. We believe, Mr. Alexander has stated, that this is the only way the code can be interpreted. I would question that, Mr. Becker stated. If we look at what Mina & Waskow said, we find that they identify 35 single family dwellings. So if you agree with Mr. Alexander, you must say that Mina & Waskow are wrong in their description of what these units are. If you look at LRC’s proposal, they describe 35 single family dwellings. So both the architects and the design team describe these units (pointing at the map) as single family dwellings. Now we are hearing that they are multi-family dwellings. So for you to believe that you should overturn Mr. Fennell’s decision, you have to say that Mr. Alexander is right, Mr. Fennell is wrong, Mina & Waskow are wrong and LRC is wrong in their description of these units as single family dwellings.

Third, *Mr. Becker* continued, Mr. Alexander’s logic is flawed. He argues, based on a peculiar reading of the Code, that every word in the Code must have meaning. He then goes on to argue that because you can’t have a semi-detached multi-family dwelling, and the Code refers to that, you need to “breathe life into the Code” and offer a reinterpretation. Because that is impossible, we have to reconsider the entire Code. Mr. Becker then referred to examples of semi-detached multi-family dwellings which were included in the appendices which he had given to the Board. The whole logic of the need to breathe life into the Code is flawed.

The fourth point, *Mr. Becker* said, refers to the McKinney statute which states that we must have language in the most natural and obvious sense. Pointing to the detached units on the map, he asked if most people would consider this the most natural and obvious sense of a single family dwelling. And if, he continued, this is considered a multi-family dwelling, then what happens to the Red Hook Code? Almost everyone here lives in a one unit detached dwelling. Now this becomes a multi-family dwelling. To summarize, he said, to agree with Mr. Alexander would not be consistent with the interpretation of the Meadowbrook architects, nor with LRC, does not comport with the statute on construction which he outlined and, in my view, would create chaos with the Town Code.

Continuing, *Mr. Becker* stated that the Code specifically says under 143.3 that the attached units should be considered single family dwellings. He quoted the Code definition as follows: “a one family dwelling with party walls separating it from adjacent use on both sides or on one side if an end unit with each having separate entrances to the outside.” This is what they propose. The most specific reference in the code to this says that even though there are many units together, you can draw lines through them and separate them and they are to be considered single family dwellings.

In the section on the intent of zoning districts, *Mr. Becker* pointed out that the Code says that in the R1, the intention is “to allow more concentrated, moderate density suburban development. 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.” Thus, there are three types of single family dwellings. If we follow the rules of statutory construction cited by *Mr. Alexander*, i.e. all words must have meaning, that means that the Board is obliged to tell us what a row or attached house is, if this isn't it, and what a single family detached, semi-detached and attached dwelling is.

I would point, out, *Mr. Becker* continued, that the multi-family definition refers to “a detached, semi-detached or attached building or portion thereof containing three or more dwelling units.” This helps us to understand what the Code is talking about. You can have a portion of a building which is in two layers with a party wall and that is a two family semi-detached dwelling. If it has three layers, then it becomes a three unit multi-family semi-detached dwelling. If you look at downtown Red Hook, on Market Street you see three story buildings. They have shops on the ground floor. But that doesn't mean that they couldn't be apartments and that would be the classic type of thing which I have been describing.

Mr. Becker said that the Fairways at the Red Hook Golf Club is the most similar thing to this project. If you look at that project, you will see in the EAF, in the SEQR, in the preliminary plan which was approved, in the resolution for conditional final approval and in the subsequent resolution for final approval, that the buildings in the Fairways are consistently identified as attached single family dwellings. So, we have a precedent in this town.

Summarizing, *Mr. Becker* said that to overturn *Mr. Fennell's* decision, you must ignore the most plain language which defines an attached or row house as a single family dwelling. To overturn his decision you must ignore the defining section of R1 which sets out purposes and includes three types of single family dwellings: detached, semi-detached and attached. To overturn his decision you must ignore the precedent which the Planning Board passed and which I think the ZBA signed off on regarding the Fairway Residential Development which describes very similar buildings as single family attached dwellings. To overturn *Mr. Fennell's* decision, you would deny other property owners the right to develop single family units of this type in Red Hook, which would impede cluster development and our efforts to expand open space. In my view, *Mr. Becker* concluded,

to overturn Mr. Fennell's decision would be both arbitrary and capricious and would leave the Board open to judicial scrutiny.

Chairman Ross asked for further comments from the public. Neighbor *Dave Grover* stated that he agrees that they should be classified as single family dwellings. Mr. Alexander stated that the Fairways was a joint application and the Golf Course was added to the overall development proposal. Because the zoning was R3, they were able to get the yield curve which they wanted from that project. In the R3 zone, multi-family is not allowed by Special Permit. That is a distinguishing feature between the two projects. They could not have sought multi-family as it is not allowed in that zoning district. They used the course itself as part of the overall acreage in calculating the density yield. They considered the golf course as open space area for passive and active recreation and that is how they arrived at their yield curve. There is therefore no precedent. Chairman Ross stated that those issues are not before the Board. We need to look at what is proposed, what does the zoning code says and does it match that.

8:15 Recess for Executive Session. Chairman Ross said that prior to continuing the Hearing for Appeal 08-01, CSI Developers, the town attorney is present and we are going to go into Executive Session to review some of the finer points with her.

9:20 Resumption of Public Hearing on Appeal 08-01. Chairman Ross announced that all the members of the Board have reviewed all documents previously submitted to the Board as well as Minutes and documentation provided by concerned citizens and the applicant. We have taken extensive legal counsel on this, he said, as it pretty involved. Prior to closing the Public Hearing, Chairman Ross asked if there were additional comments from the public or the applicant. Hearing none, he closed the Public Hearing. Chairman Ross then read the decision which he said was discussed at length over several meetings. The full text of this decision is appended to these Minutes.

Motion to Deny in Part and Grant in Part

The motion read by Chairman Ross was seconded by Mike Mosher. The Chairman asked for further discussion. Hearing none, a roll call vote was taken and all were in favor.

Chairman Ross explained that the decision means that in order to be multi-family, each individual structure must contain at least three dwelling units. Therefore the individual houses shown on the map which are dispersed around the outside portion of the property do not constitute multi-family. The structures with four to six units would constitute multi-family. This is not a variance. It is strictly an interpretation of the Code. The decisions will be available before the end of next week.

ADJOURNMENT

A motion to adjourn was made by Tim Ross, seconded by Mike Mosher and all were in favor. The meeting was adjourned at 10:40 P.M.

FINDINGS AND DECISION

Appeal #07-21, 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 twelve square foot sign with a 24 square foot sign and replace 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. The applicant's business is located at 7307 South Broadway in the B1 zoning district.

FINDINGS:

1. The property is located in the B1 Zoning District at 7303 South Broadway, Red Hook.
2. Tax Map #6272-00-244371.
3. The zoning law requires:
 - a. signs be limited to a maximum of 8 square feet.
 - b. signs be setback 15 feet from the road
 - c. total signage be limited to 60 square feet
4. The applicant wishes to
 - 1) replace a 12 square foot sign with a 23 square foot sign and replace the 34 square foot sign on the building with a 62.25 square foot sign;
 - 2) decrease the required setback from the road for signs from 15 feet to eight feet;
 - 3) increase total signage from the limit of 60 square feet to 86.25 square feet and
- 5) The applicant shall plant plantings around the sign, some of which shall be perennials. They shall be within at least three feet around the sign, except where they might encroach on the pavement or sidewalk.
6. A variance would be of benefit to the applicant with no detriment to the community.
6. The signs are an improvement over what is existing. They will be consistent with what is in the area and there will be no change in the character of the neighborhood.
7. There will be no impact on the health, welfare or safety of the community.

DECISION: John Douglas made a motion to grant the variance based upon the above findings. The motion was seconded by Corinne Weber and carried by a 6-0 roll call vote with Nick Annas abstaining.

Dated: April 9, 2008

FINDINGS AND DECISION

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.

FINDINGS:

5. The property is located in the WC Zoning District (address), Red Hook.
6. Tax Map #6175-00-270556.
7. The zoning law requires that a non-conforming be changed only to a less intense non-conforming use.
8. The applicant wishes to replace an existing accessory structure with a 1200 square foot studio.
5. The residence must be demolished before the studio is constructed.
6. A variance would be of benefit to the applicant and an improvement and not a 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: Chairman Ross made a motion to grant the variance based upon the above findings. The motion was seconded by Corinne Weber and carried by a 6-0 roll call vote, with Nick Annas abstaining.

Dated: April 9, 2008

FINDINGS AND DECISION

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 Drive in the Town of Red Hook zoning district.

FINDINGS:

9. The property is located in the Town of Red Hook at 183 Country Club Drive.
10. Tax Map #6372-19-731137.
11. The zoning law requires a maximum of 7% coverage and 80% open space. The existing coverage is 11.8%.
12. The applicant wishes 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%.
5. The existing shed will be removed prior to the issuance of Building Permit.
6. A variance would be of benefit to the applicant with no detriment to the community.
10. There will be no change in the character of the neighborhood. It is in keeping with and reasonably consistent with some of the other properties in the area.
11. There will be no impact on the health, welfare or safety of the community.

DECISION: Mike Mosher made a motion to grant the variance based upon the above findings. The motion was seconded by Chairman Ross and carried by a 6-0 roll call vote, with Nick Annas abstaining.

Dated: April 9, 2008

**Town of Red Hook
Zoning Board of Appeals**

**Determination Regarding Appeal by CSI Developers Holdings-NY LLC and
CarellaLand LLC
Regarding Interpretation of ZEO Dated October 26, 2007**

Appeal # 08-01 Application of CSI Developers Holdings—NY LLC and
CarellaLand LLC to construct Meadowbrook Estates-- Appeal of Interpretation of
ZEO Dated October 26, 2007

Property Address: Norton Road and Baxter Road, Red Hook, New York
Property ID: No.134889-6272-12-772580, 20.08 acres (Carella);
No. 134889-6272-00-691583, 23.1 acres (CSI)
Owner: CarellaLand LLC as to Lot 772580; CSI Developers Holdings—
NY LLC as to Lot 691583

WHEREAS, the Applicant submitted a revised application to the Planning Board for approval of a special use permit, site plan, and lot line revision on September 21, 2007, proposing the development of a “119 unit residential development project” located on Norton Road and Baxter Road in the Town and Village of Red Hook; and

WHEREAS, ZEO Robert Fennell issued his interpretation in a letter to the Applicant dated October 26, 2007, in which he determined that the units proposed in the Meadowbrook Estates development are Single-family Dwellings under the Red Hook Zoning Code, and not Multifamily Dwellings; and

WHEREAS, the Applicant has submitted an appeal dated December 20, 2007; asserting that 1) all attached dwellings constitute multifamily dwellings; 2) the definition “Dwelling, Row or Attached” is intended to “further define and embellish upon the use of the term ‘attached’ in the term “Dwelling, multifamily;” and 3) the type of ownership of the units, rental or condominium, is irrelevant; and requesting that the ZBA vacate ZEO Fennell’s determination and conclude that the proposed project “consists of multifamily dwellings in a mix of detached, semidetached and attached buildings;” and

WHEREAS, the appeal is a Type II action under 6 NYCRR Part 617; and

WHEREAS, a public hearing was properly noticed and held on the said application at the Town Hall in Red Hook, Dutchess County, New York on February 13, 2008, which hearing was continued to March 12, 2008, further continued to and concluded on April 9, 2008; and

WHEREAS, at said public hearings all those who desired to be heard were heard and their testimony recorded; and

WHEREAS, the documentation listed at Attachment A was analyzed in reviewing the application and constitutes the record of this decision in addition to the public comments and testimony; and

WHEREAS, all testimony and documents have been carefully considered, in compliance with the Red Hook Town Code Section 143-135(A) and Section 143-136, and the following pertinent facts noted:

1. The project is proposed to be constructed on two lots, one of approximately 20.08 acres, and the other approximately 23.1 acres. The application indicates that the proposed development plan includes 25 “single family dwellings” of 3 bedrooms each; 34 “townhome dwellings” of 3 bedrooms each, and 50 “townhome dwellings” of 2 bedrooms each. Based on the site plan submitted with the application, the townhome dwellings appear to have separate entrances and exits.
2. According to the application, “The single family units are interspersed with the townhome units, pedestrian greens separate the townhome clusters and an internal walkway system will traverse the open space and interconnect the townhomes and connect to sidewalks leading into the Village. The townhome units are shown in clusters of four to six units ranging in size from 1,500 to 2,400 square feet. The townhome units and the single family homes will be offered for sale with a homeowners association (HOA) responsible for common area maintenance.”
3. The Zoning Code defines “Dwelling, Single-family” as a detached building containing one dwelling unit only. A “Dwelling, Two-family” is a “detached or semidetached building containing two dwelling units only.” Section 143-3 of the Red Hook Zoning Code defines “Dwelling, Multifamily” as “a detached, semidetached or attached building or portion thereof containing three or more dwelling units.” The term “Building, Semidetached” is defined as a building attached by a party wall to another building normally of the same type on another lot, but having one side yard.”
4. Section 143-6(A) provides as follows regarding the R1.5 and R1 Districts:
“(5) The Residential 1.5 (R1.5) District is intended to allow low-density suburban residential use in proximity to the Village of Red Hook and established community and business services. Continuing agricultural use and a range of housing types are encouraged, *including single-family detached and attached dwellings*, accessory dwelling units and *multifamily construction*.” [Italics added]

“(6)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 municipal water supply facilities. A broad range of housing types is encouraged, *including single-family detached, semidetached and attached dwellings, two-family dwellings, accessory dwelling units, multifamily construction and elderly housing*. . . . An alternative density measure, i.e., bedroom count, is employed in the consideration of maximum permissible number of units for multifamily dwellings, whether by conversion or new construction.” [Italics added]

5. Section 143-33(A)(2)(e) includes as one of the objectives of a cluster subdivision:

“(e) The provision of a broader variety of housing types to meet the varied needs of the community, with the range of housing types *including single-family detached homes on smaller lots, two-family or duplex homes, townhouses and multifamily structures*.”

6. Section 143-33(B) provides a limit on the number of dwelling units in each individual structure.

(4) While attached or detached dwelling units are permissible within a residential cluster development, no individual structure shall contain more than *four attached dwelling units* in the LD, RD5 and RD3 Districts or more than *six attached dwelling units* in the R1.5 and R1 Districts. Further, in the case of a residential cluster development of less than 15 acres in the R1.5 District or less than 10 acres in the R1 District, permitted dwelling unit configuration shall be limited to either single-family detached, duplex detached or semidetached zero lot line dwellings.

(5) Where application of the cluster technique results in the creation of individual lots for the development of either single-family detached dwellings or semidetached zero lot line dwellings, the minimum lot area that may be created within a residential cluster development shall be 0.75 of an acre per dwelling unit in the LD, RD5 and RD3 Districts and 10,000 square feet per dwelling unit in the R1.5 and R1 Districts. Individual lots within a residential cluster development shall further be subject to the reduced area and bulk standards [set forth in the Cluster standards].

7. The Applicant submitted a density calculation under Section 143-57 of the

Zoning Code, “Multifamily dwellings (new construction) in the R1 and B1 Districts,” which sets forth the conditions for a special use permit for Multifamily dwellings. Section 143-57(B) permits an alternate calculation of 9 bedrooms per net buildable acre. The Applicant’s proposed density calculation indicates that Lot 1 has 11.28 net buildable acres and Lot 2 has 22.99 net buildable acres, resulting in a total of 308.46 bedrooms in the aggregate. The application includes a request for a lot line alteration. The Planning Board submitted a request for interpretation to the ZEO regarding the multifamily or townhouse aspect of the project, and how density should be calculated.

8. The Applicant’s application does not use the term “condominium”; it refers to single family and townhouse units as two types of housing to be included. In reaching his conclusion, ZEO Fennell referred to the units as condominium units, and concluded that Section 143-57 permits apartments and not condominiums. In the Applicant’s initial appearance before the Board of Appeals, the Applicant’s attorney stated that all of the structures are to be owned as condominium units but asserted that ownership type was irrelevant.
9. An apartment is defined in the Code as “a dwelling unit contained within a two-family or multifamily building.” A “Homeowner’s Association” is defined as “an organization of residential property owners, duly constituted, residing within a particular development, whose major purpose is to own, preserve, maintain and provide community areas, facilities and services for the common enjoyment of the residents.” The term “Condominium” is defined as “individual ownership of a dwelling unit, typically within a multiple dwelling, exclusive of the land underlying such structure.” The term “condominium” is used in Section 143-94, “Office Parks”, in regard to determining ownership of proposed open space. The term is also used in the Subdivision Code in regard to an example of a type of owner of a private street. The Zoning Code does not otherwise refer to the term.

WHEREAS, pursuant to the Red Hook Town Code 143-135(A), the Board has found and determined that:

1. The word “building” in the definition of Multifamily Dwelling is singular, which implies that the three or more dwelling units must be contained within a single structure, whether the structure is a detached building, a semidetached building, or an attached building. Multifamily, Single-family and Two-family Dwellings are each treated as separate use classifications in the Schedule of Use Regulations. The Red Hook Code defines a “Multifamily Dwelling” as one having three or more units in the same structure. Detached buildings which contain only one dwelling are considered single family homes.

2. Section 143-6(A), which describes the intent of the various zoning districts, refers to single family attached or detached, two family, and multifamily as distinct housing types. While attached dwellings are permitted in cluster subdivisions, Section 143-33(B) provides a limit on the number of dwelling units in each individual structure. Thus, the Code regulates residential uses based on the number of dwelling units in the structure.
3. A Row or Attached Dwelling is defined as “a one-family dwelling with party walls separating it from adjacent units on both sides, or on one side if an end unit, with each having a separate entrance from the outside.” As pointed out by both the Applicant and ZEO Fennell, the term “Dwelling, Row or Attached” does not appear on the use table and does not have separate use, bulk, area, or parking standards. When considered in context, the term Attached Dwelling is a variation of single-family housing that is permitted in cluster subdivisions (as well as in an educational campus).
4. Section 143-33 of the Code grants the Red Hook Planning Board the authority to modify building configurations without increasing the permitted density in the zoning district in cluster subdivisions, which are listed as a use in the Schedule of Use Regulations. This authority is consistent with Section 278 of the Town Law. In order to conserve more land in a cluster subdivision, the Planning Board may require that attached single-family dwellings be constructed. Section 143-33A(2)(e) states that one objective of cluster subdivision is the “provision of a broader variety of housing types to meet the varied needs of the community, with the range of housing types including single-family detached homes, two-family or duplex homes, townhouses and multifamily structures.” This provision considers townhouses as distinct from multifamily housing. Further, the definition of “Dwellings, Row or Attached” expressly states that such attached structures are considered “one-family dwellings.”
5. One tenet of statutory construction is that “the plain, logical and ordinary meaning must be applied to all terms in a zoning law.” A statute or code should be construed in its entirety and various statutes relating to the same subject matter should be reconciled. The cluster subdivision provisions of the Zoning Code must be considered together with other provisions of the Code in construing the terms used here.
6. Section 143-33B(4) states that attached and detached dwelling units are permissible within a residential cluster subdivision. It is apparent from the text of Section 143-33 and the remainder of the Zoning Code that attached dwellings are a permitted use only in the context of cluster subdivisions and that such Attached Dwellings are a variation of Single-family Dwellings.
7. Taken as a whole the Zoning Code sets out uses which are regulated based on unit count within a structure. Section 143-57, Multifamily Dwellings, refers

to “dwelling units,” not apartments or condominium units, which evidences that dwelling units in multifamily dwellings may properly be rented or owned as condominium units. The Code does not distinguish between structures that are owned as condominium units and structures that are owned by individuals. Zoning regulates the use and not the user. However, the number of separate lots would be relevant to the density calculation as discussed below.

8. The correct density calculation for the proposed structures containing one unit each is based on (i) the general standards for single family housing in the R-1 District (i.e. 1 acre, or ½ acre with central water), or (ii) the alternate methods specified in 143-33 (B)(i) for residential cluster development.
9. The correct density calculation for the proposed structures containing 4 to 6 units each depends on whether the application calls for development of multiple units on a lot or lots in common ownership, or development of zero lot line units, otherwise referred to as townhouse units, with one unit on each subdivided lot. If the former, the units may be considered multifamily units under the Code and thus subject to the election of the 9 bedroom per acre formula. If the latter, such units would be treated as Attached Dwellings and thus as Single-family Dwellings for density calculation purposes, again subject to the cluster provisions if applicable.

NOW, THEREFORE, BE IT RESOLVED, that:

1. The appeal from the October 26, 2007 interpretation of Robert D. Fennel is denied in part and granted in part for the reasons set forth above.
2. This Board finds that under the plain and ordinary reading of the term “Dwelling, Multifamily,” a detached, semidetached or attached building or portion thereof must contain at least three dwelling units within the building in order to constitute a Multifamily Dwelling under the Red Hook Code. This Board further finds that the term “Dwelling, Row or Attached” constitutes a type of Single-family Dwelling under the Red Hook Code. An attached “townhouse” type dwelling is a “Single-family Dwelling; and a “Dwelling, Row or Attached” when a single unit is on a single lot. The form of ownership of a dwelling unit is irrelevant under the Red Hook Code.
3. The correct density calculation depends upon the unit type and the lot configuration. Density for Single Family units would be calculated based on the bulk table, including the modifications for a cluster subdivision if applicable. Attached units with one unit on each lot would be treated as Single-family Dwellings, and attached units all located on a single lot would be treated as Multifamily Dwellings.
4. A copy of this decision shall be filed with the Town Clerk, the Zoning Enforcement Officer, the Building Inspector, and the Secretary of the Planning Board within five business days of adoption of this resolution.

Dated: April 9, 2008
Moved By: Tim Ross

Seconded By: John Douglas

| | |
|-------------------|--------|
| Kenneth Anderson: | Absent |
| John Douglas: | Aye |
| Jim Hegstetter: | Aye |
| Michael Mosher: | Aye |
| Tim Ross: | Aye |
| Corinne Weber: | Aye |
| Nick Annas | Aye |

Approved by the Zoning Board of Appeals this 9th day of April, 2007

Sheila Franklin, Clerk of the Board

ATTACHMENT A
Appeal # 08-01
Record for Decision

1. Town Zoning Code
2. Order dated October 26, 2007 issued by Robert D. Fennell, Zoning Enforcement Officer,
3. Copy of Application for Interpretation dated December 20, 2007, under cover letter of Neil Alexander as attorney for applicant, including all accompanying documents.
4. Minutes of the ZBA Meetings held January 9, 2008, February 13, 2008, March 12, 2008, and April 9, 2008, and minutes of public hearings held February 13, 2008 and April 9, 2008, including the following communications received at or prior to the hearings:
 - a. April 6, 2008 Letter of Jonathan Becker, including Appendices I through V.
 - b. Submission by Jonathan Becker received April 9, 2008 of the following documents relating to the Red Hook Fairways development: May 4, 1998 Resolution for Conditional Final Plat Approval; Resolution dated May 2, 1994; page 2 of July 1, 1991 Resolution; April 16, 1990 Negative Declaration; Public Notices dated May 8, 1991; pages 2 and 3 of EAF (no date).
 - c. Correspondence from Ann Launhardt Tanakada dated Feb. 21, 2008, with attached letter from her father Henry Launhardt
 - d. Thomas Mills, Melissa Mills, Jonni Mills & Ethan Mills, undated letter, postmarked Feb. 12, 2008

