

**Town of Red Hook
Zoning Board of Appeals Meeting Minutes
September 10, 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, Kenneth Anderson, Nick Annas, John Douglas,
Jim Hegstetter, Corinne Weber

Members Absent: Michael Mosher

Also Present: Bob Fennell, ZEO; Jim Ross, Town Board Liaison

PRELIMINARY BUSINESS

Minutes of August 13, 2008: Chairman Ross asked if there were any questions, concerns, deletions or additions to the August Minutes. Ken felt that the route of the proposed connector road which may go through the Willms property should be more fully described in the Minutes. Chairman Ross said that this concern would be addressed during the meeting because he had brought the plans prepared by Morris Associates and there was thus no need to change last month's Minutes. Chairman Ross moved that the Board approve the Minutes as filed. The motion was seconded by Corinne and all were in favor.

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

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

Comments: Chairman Ross asked if the members of the Board had received the announcement from Bill Steinhaus' office about the seminar on green development and planning tools. It will be held on October 15th from 6:00 P.M. to 9:00 P.M. in Millbrook. All the members at the meeting expressed interest in attending.

PUBLIC HEARINGS

7:15 Continuation of Public Hearing for Appeal 08-06, Willms application to install two storage buildings, reducing the front setback of the front building from 80 ft. to 31 ft. The applicant's property is located at 7320 South Broadway in the B1 and B2 zoning districts. Chairman Ross asked if anyone was present for the Willms application. Hearing no response, he announced that Mrs. Willms had a conflict and will be arriving at approximately 7:40 P.M. He will open the Public Hearing after she arrives.

7:15 Continuation of Public Hearing for 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 and to have four accessory structures where a maximum of three are permitted. The applicant's lot is located at 61 St. Paul Road in the RD3 zoning district. Chairman Ross noted that several of the neighbors were present for the Hearing. Neighbor *Denise Haines* handed copies of a letter signed by eight of the neighbors to the members of the Board. The Board reviewed the letter. Neighbor *Sandy Bell* expressed his opinion that exceeding the three accessory structure limit constitutes a special use and requires Planning Board site plan approval. ZEO Bob Fennell explained that people with large lots would require Planning Board approval, but those with smaller lots can be granted variances by the Zoning Board of Appeals. The threshold for the Zoning Board will be much higher than whatever is required by the Planning Board, he said. The threshold is that it will not do any harm to the neighborhood. The Planning Board would not use that criterion in granting approval for accessory structures.

At 7:30, Chairman Ross continued the Hearing as scheduled. He said that the majority of the Board had visited the site, walked up the driveway and up to and around the house. Mr. Vrooman had submitted a small, updated sketch from his survey map with proposed screening included. He asked Mr. Vrooman if any sheds had been removed yet. Mr. Vrooman said that he needs the new building in order to remove the sheds. Chairman Ross invited the neighbors to come forward to review the sketch submitted by Mr. Vrooman. Neighbors *Sandy Bell*, *Denise Haines*, *Bill Haines* and *Debby Taylor* came forward. The Board and the neighbors reviewed the material submitted by Mr. Vrooman. Chairman Ross said that the three Rubbermaid sheds will be removed.

Sandy Bell asked to address the Board and was recognized. He said that he would like to discuss with the Board the first point in the letter which Denise Haines had distributed. That point asks whether the application for a variance for the four accessory structures is permissible without a Special Use Permit from the Planning Board and, if not, can the Board move forward before it refers this matter to the Planning Board. He referred to Section 143.18A7 of the Zoning Code, which allows a maximum of three accessory structures. My interpretation, he continued, is that the only time you can more than three is if you have more than five acres and you get a Special Permit from the Planning Board. Even if you say that they can have these structures although they have less than five acres, I think you still have to go to the Planning Board. Further, if you decide to give them a variance, it is not an area variance. An area variance involves area or dimensional measurement, not whether there are three or four structures. It's a use variance because it has to do with what the property is being used for, how many buildings are on it. The zoning law states that for any use variance, the Zoning Board must refer the matter to the Planning Board for their input before they can proceed.

Bob Fennell, ZEO, responded saying that he would like to point out that the distinction between a use and an area variance is often murky. However, he told Mr. Bell, you left out an important point in the definition of an area variance. An area variance is an exception to the Area and Bulk Regulations or the Supplementary Regulations of a relating character such as amount, size, location or design, parking, landscaping and

signage. So it involves not only the Bulk Regulations, but the Supplementary Regulations of a related character. A use variance is defined as an exception to the Use Regulations to allow the establishment on a specific lot of a use otherwise not allowed or prohibited in the particular zone. Accessory structures are permitted in this particular zone. Chairman Ross said that a special permitted use is still a permitted use. The reason it is a special permitted use is so that there is some oversight of an allowed use. Special Permits go to the Planning Board at this point in time. What Mr. Vrooman is asking for is not a permitted use on his property. It is a number of structures, which is an area variance and as such it is before this Board for a variance to the number. If it were a permitted use, it would be a special permitted use and a Special Permit would be needed. If you have fifty acres, you are allowed seven accessory structures, but you have to go to the Planning Board to get them approved. The intent is to have some oversight when you go over the three buildings which is what a variance application also provides.

Debbie Taylor said that she is confused because from the road, she still counts seven structures, three of which are extremely permanent. She expressed her concern over adding a fourth structure. Chairman Ross said that there were three Rubbermaid sheds, a small shed that is narrow and long at the end of the driveway and a little, original garden shed in front of the quonset hut and the quonset hut. Mr. Vrooman said that when he gets the new structure, there will only be three others; everything else will go.

Debbie Taylor said that Mr. Vrooman has obviously been collecting things for years and asked what guarantee the neighbors have that he will not burst the seams of the new building. Chairman Ross said that he feels that if Mr. Vrooman can construct this new building, get rid of the plastic sheds and get all the stuff off the lawn, it would certainly be an improvement. He can easily get rid of the plastic sheds. If he were to dispose of the little garden shed, the number of structures would not even be in question. His proposed garage, which he has enlarged from the original plan so that he can get rid of more buildings and get all the junk in, does not exceed coverage and meets all the setbacks. Chairman Ross said that he would not like to see the garden shed go because it screens a portion of the quonset hut from the road and it is more of an earthy color than the quonset hut. *Denise Bell* said that it doesn't screen it from her view. Chairman Ross pointed out that there are several proposed plantings. She responded that he proposed that two years ago and it hasn't happened yet. *Sandy Bell* asked what kind of plantings are proposed. Chairman Ross responded that he would like to see spruce because anything else probably will not do well there due to the deer population.

Nick expressed his opinion that the proposal would be better looking than the current condition of the property. The question of whether there were building permits for all the current structures was brought up and Chairman Ross said that the Rubbermaid ones do not require a Building Permit. John verified that Mr. Vrooman has lived in the house since 1978 and that he had started putting antennas on the roof since that time. He also ascertained that the first shed was there when Mr. Vrooman moved in. He then asked when the other sheds started to appear on the property. Mr. Vrooman said that the quonset hut was built in 2003. He asked when Mr. Vrooman found out that he needed a variance for the quonset hut. Mr. Vrooman said that it was in 2008, when he came in for

the present variance. John reviewed the revised proposal, which is to plant seventeen trees and have four buildings in addition to the home on the property. In response to questioning, Bob said that there is no coverage issue. The variance is then for six feet for the quonset hut and approval for the four buildings. John verified with Mr. Vrooman that he will move everything, will not put up another temporary structure, will get rid of the Rubbermaid structures and will plant the trees.

Chairman Ross asked for any other comments from the public. *Denise Haines* asked about the size of the trees to be planted. Chairman Ross said that that would be part of the discussion on screening. *Bill Haines* asked what kind of timeline the Board would be looking at for removal of the sheds and other materials and equipment. Chairman Ross said that he would like it to be prior to the issuance of the Certificate of Compliance. That would show that the property had been cleared to the satisfaction of the Building Inspector. Bob Fennell said that he would like Mr. Vrooman to commit to a time frame. *Debbie Taylor* asked if Mr. Vrooman had obtained Building permits for his garage, for the quonset hut and for the screened in porch. Mr. Vrooman said that the porch has been there since he moved in. Chairman Ross said that he would have the Building Inspector, Steve Cole, address that issue at the time of the footing inspection on the garage. He will see what permits are in the file and prior to the issuance of a Certificate of Compliance, those records would have to be cleaned up.

Corinne asked about the removal of the wires and Mr. Vrooman responded that he will be doing that. Chairman Ross asked if he was going to remove any of the antennas to which Mr. Vrooman stated that they are still in use. He said that when he gets the new building, he will try to get everything into it and what does not fit, he will toss out or sell. Chairman Ross asked if Mr. Vrooman was going to put any antennas on the roof of the new structure and Mr. Vrooman responded that he would not. Hearing no further comments from the public, Chairman Ross closed the Public Hearing at 8:05 P.M. and asked for questions or comments from the Board.

Bob Fennell (who had briefly left the room to research the permit history of the parcel) said that there were three Building Permits on record for Mr. Vrooman's property: the single family dwelling with a one car garage in the basement in 1976; the porch in 1979 and a carport in 1999. *Debbie Taylor* commented that in view of that information it is apparent that Mr. Vrooman is aware of the fact that Building Permits are needed in order to do things. Nick said that what is key here is how the neighbors feel about this, i.e. the status quo versus cleaning this place up. These are the two choices. Jim asked if enforcement of conditions written in by the Board would come under Bob Fennell's purview. Mr. Fennell responded that it would and added that Mr. Vrooman would be taken to court if he violated the conditions imposed by the Board. Mr. Vrooman said that he will need time to comply if the building is finished in December and there is a lot of snow. Chairman Ross responded that Mr. Fennell is very reasonable about that sort of thing; however if it is next July and there is still stuff on the lawn, that will become an issue.

Corinne asked Mr. Vrooman when he can get the building done. His contractor, Mr. Ames, said that he could start in November and could complete the project in December. Corinne brought up the possibility of a freeze at that time, which would halt progress on the project. Jim expressed his concern that every one of the neighbors were opposed to the project. Chairman Ross shared with him the file containing a letter from several neighbors who supported Mr. Vrooman's proposal. In response to questioning from Corinne, there was a discussion of when the planting should take place. She asked Bob if he would be policing this and he responded in the affirmative. Chairman Ross said that Mr. Fennell cannot be there every week. If there is a violation, the neighbors should call him and tell him about it.

Corinne asked what is a reasonable amount of time to accomplish everything. After discussion, it was decided that Mr. Vrooman should be required to complete the project and comply with all conditions by May 15, 2009. He said that he would try his best to comply. Nick asked what will keep Mr. Vrooman from buying/collecting other things. *Bill Haines* asked what kinds of things the Board would consider objectionable. Chairman Ross said equipment and building materials. John said that the Board must include in the variance a stipulation that Mr. Vrooman cannot have anything under tarps, pallets with stuff on it, piles of firewood, trailers or anything else. He has four buildings and everything has to be in a building. Bob said that the Board could stipulate that because he will have this extra building and will have something extra to put everything in, he can't have anything in his yard except for his line truck (which would not fit inside any building except the quonset hut which houses the mobile home).

John said that it comes down to this, either he gets the building or it stays the way it is. *Sandy Bell* said that there are other choices. Maybe he doesn't get the new building and he has to get rid of the accessory structures. Another possibility is that he has to get rid of the stuff on the lawn and he doesn't get a fourth building. John asked what Mr. Vrooman would do with the stuff in them if he had to get rid of the accessory structures. John felt that he would put it under tarps out on the lawn. Ken stated that he thought that the planting of trees would not shield the place or give it any new appearance. He expressed concern about the suitability of the terrain for trees and also said that it would take twenty years before the trees were large enough to do any shielding. There are a lot of trees on the property now and they are not shielding this property. When you drive down the road or onto the driveway now, you can see everything which the Board is discussing.

Ken further stated that the line truck being parked in the yard will give the property a commercial appearance. Mr. Vrooman said he could cover it up or paint it brown. Bob suggested requiring that Mr. Vrooman get rid of the truck (which is unlicensed). It is a balancing thing, he said and it would be a benefit to the community. Chairman Ross asked if Mr. Vrooman had any long term plans for the use of the vehicle. Mr. Vrooman responded that he would use it to work on the trees and then on his antennas. It was ascertained by the Board that it is legal to have one unlicensed vehicle on the property. Chairman Ross asked Mr. Vrooman if he would be willing to put the line truck in the quonset hut where the mobile home is when he takes the mobile home to Florida in the winter. Mr. Vrooman agreed.

Chairman Ross asked if he is going to remove any antennas. It is a possibility, Mr. Vrooman replied. Denise Hains asked if Mr. Vrooman has any use for the antennas. He replied that he is a HAM radio operator and has a federal license for that. Chairman Ross suggested that removal of at least some of the antennas, particularly the damaged ones, would improve the appearance of the property. Mr. Vrooman said that everything which is loose, i.e. not on a pole, will go into the building.

Chairman Ross said that he felt that Mr. Vrooman had enough space to establish evergreens. The proposed building will be far more attractive than the quonset hut and will improve the property if the plastic structures and the junk on the lawn are gone. The eight by ten shed in the front is the fourth structure. The only reason I am in favor of leaving that is because it does shield some of that silver quonset hut from the road. I would like to see 24 inch trees planted because larger trees often do not survive. You might want to consider changing the ten foot centers to six foot centers, he suggested. They would then close in a little quicker.

Motion to Approve Variance

Corinne made a motion to grant the six foot variance on the existing motor home shed and the construction of the fourth structure with the conditions listed below:

1. There shall be screening on the west side of the new building with hardy, 24 inch evergreens, preferably spruce, not more than six foot on center and screening of the existing quonset hut to the west. The front right corner of the new structure shall be screened to protect the driveway to the east from the view of that shed. There shall also be a little screening with evergreens on the north. (Diagram given to ZBA shall be used as a planting guide.)
2. The temporary structures shall be removed and all materials, construction debris and equipment shall be placed inside the main dwelling or one of the accessory structures. There shall be no outside storage; that includes the trailer and the ultralight plane. No new equipment or unregistered vehicles shall be stored outside a building on this property. The only vehicles which shall be outside are the line truck and properly registered cars/SUV's with license plates. When the motor home is in use, the line truck shall be parked in the quonset hut. The line truck shall not be covered with a tarp or wrapped in plastic.
3. The number of wires and antennas on the roof shall be reduced to a minimum.
4. The construction project and clean up of the yard shall be completed by May 15, 2009. The Certificate of Appropriateness will not be issued on the new structure until the conditions of the variance are met to the satisfaction of the ZEO and the Building Inspector.
5. There shall be only four accessory structures on the property. All other structures shall be removed.
6. All temporary storage of items outside of a building/shed shall cease.

7. No antennas or exposed wiring shall be located on the exterior of the new storage building (built per this variance). A new power line for the new structure is the only exterior wire which shall be allowed.

The motion was seconded by Nick. A roll call vote was held with the following result:

Ken Anderson	Nay
John Douglas	Yea
Timothy Ross	Yea
Corinne Weber	Yea
Nick Annas	Yea
Jim Hegstetter	Nay

The variance was therefore granted by a four to two vote, which represents a majority of the Board. Corinne added that the neighbors will have to take some responsibility for following up since Mr. Fennell cannot go to the site every day. Chairman Ross advised Mr. Vrooman to speak to Mr. Fennell if he has any questions regarding the stipulations in the variance. In summary, he told Mr. Vrooman that he has until May 15th to have his building constructed, his lawn cleaned up and his plantings installed.

8:35 Continuation of Public Hearing for Appeal 08-06, Willms application to install two storage buildings, reducing the front setback of the front building from 80 ft. to 31 ft. The applicant's property is located at 7320 South Broadway in the B1 and B2 zoning districts. As Mrs. Willms had arrived, Chairman Ross opened the Public Hearing. He said that he had obtained the plans for the proposed road from the Town. He invited Mrs. Willms and the members of the Board to come forward. They reviewed the map together.

Corinne asked if this road is going to be built or is it just proposed. Chairman Ross responded that it has been proposed, there has been an investment in the design of the road and there is a definitive plan. He therefore felt that something would be built. Corinne responded that these are just possibilities and they are affecting someone's livelihood. There is no concrete information that this is actually going to happen. Jim Ross, Town Board Liaison, said that the road is proposed and it will happen, but it may be in a few years. However, any planning should take this proposed road into account.

The Board reviewed Mr. Willms' revised plans in conjunction with the Town map. Chairman Ross said that the entrance to the parcel is in the B1 zone; the portion in question is in B2. Bob confirmed that the side yard requirement in the B2 zoning district is twenty feet. Chairman Ross said that the only objection was pointed out by Mr. Willms and that was that the future road might be impacted.

Motion to Approve Variance

Jim made a motion to approve the application to install a storage building in the B2 and B1 zoning districts, reducing the front setback of the front building from 80 to 31 feet. The applicant's property is located at 7320 South Broadway. The

motion was seconded by John Douglas. Chairman Ross added that it will be a benefit to the applicant and no detriment to the neighborhood.

A roll call vote was held and the variance was passed unanimously.

REVIEW OF APPEALS

8:55 Appeal 08-09, Brocchetti application to construct a swimming pool which would increase coverage from the present 22.7% to 25% where the required maximum is 7%. Open space would be decreased from the minimum of 80% to 75%. The applicant's lot is located at 26 Country Club Drive in the RD3 zoning district. As Mr. Brocchetti was not present, the Review was postponed. Mr. Brocchetti will be contacted to determine whether he will be able to attend the October meeting. If so, the Review will be scheduled for 7:20 P.M. on October 1, 2008.

8:56 Appeal 08-10, Hegstetter application to construct a garage and reduce side yard setback from the required twenty feet to ten feet. The applicant's lot is located at 6 Aspinwall Road in the R1.5 zoning district. Mr. Hegstetter recused himself and took a place in the audience. He said that he is planning an attached two car garage on the left hand side when looking at the face of the house. It will be a standard two car garage. He is seeking a side yard variance from twenty to ten feet. Chairman Ross asked what he is going to do with the existing driveway. He said that he will remove it and put in a new driveway. He presented a schematic which the Board reviewed. He said that the fence will come down. He has no garage now. There was a garage; however it was made into a downstairs room and there was a Building Permit for that. As the garage will be at an angle to the property line, the distance to the line varies from about ten feet to twenty three feet. Chairman Ross asked Mr. Hegstetter to bring more information on the footprint of the house and proposed garage to the next meeting to assure that there is no coverage issue. The Public Hearing was set for 7:10 P.M. on October 1, 2008.

ADJOURNMENT

A motion to adjourn was made by Corinne, seconded by Jim and all were in favor. The meeting was adjourned at 9:10 P.M.

FINDINGS AND DECISION

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 and to have four accessory structures where a maximum of three are permitted.

FINDINGS:

1. The property is located in the RD3 zoning district at 61 St. Paul Road.
2. Tax Map #: 6472-00-06608.
3. The proposed prefab storage building will have a side yard setback of six feet and will be the fourth accessory structure on the property.
4. The zoning law requires a minimum side yard setback of twenty feet and a maximum of three accessory structures.
5. Some of the neighbors signed a letter in support of Mr. Vrooman's proposal. However, the several neighbors who attended the Hearing expressed concerns about the number of structures on the property, the environmental impact of the new construction and the appearance of the property due to the extensive use of the lawn for storage of various types of equipment and other materials.
6. There shall be screening on the west side of the new building with hardy, 24 inch evergreens, preferably spruce, not more than six foot on center and screening of the existing quonset hut to the west. The front right corner of the new structure shall be screened to protect the driveway to the east from the view of that shed. There shall also be a little screening with evergreens on the north. (Diagram given to ZBA shall be used as a planting guide.)
7. The temporary structures shall be removed and all materials, construction debris and equipment shall be placed inside the main dwelling or one of the accessory structures. There shall be no outside storage; that includes the trailer and the ultralight plane. No new equipment or unregistered vehicles shall be stored outside a building on this property. The only vehicles which shall be outside are the line truck and properly registered cars/SUV's with license plates. When the motor home is in use, the line truck shall be parked in the quonset hut. The line truck shall not be covered with a tarp or wrapped in plastic.
8. The number of wires and antennas on the roof shall be reduced to a minimum.
9. The construction project and clean up of the yard shall be completed by May 15, 2009. The Certificate of Appropriateness will not be issued on the new

structure until the conditions of the variance are met to the satisfaction of the ZEO and the Building Inspector.

10. There shall be only four accessory structures on the property. All other structures shall be removed.
11. All temporary storage of items outside of a building/shed shall cease.
12. No antennas or exposed wiring shall be located on the exterior of the new storage building (built per this variance). A new power line for the new structure is the only exterior wire which shall be allowed.
13. The variance would be of benefit to the both the applicant and the community.

DECISION: Corinne Weber made a motion to grant the variance based upon the above findings. The motion was seconded by Nick Annas and carried by a 4-2 roll call vote.

Dated: Sept. 10, 2008

FINDINGS AND DECISION

Appeal 08-06, Willms application to install two storage buildings and reduce the front setback of the front building from 80 ft. to 31 ft.

FINDINGS:

1. The applicant's property is located at 7320 South Broadway in the B1 and B2 zoning districts.
2. Tax Map #: 6272-00-346380.
3. The zoning law requires a front yard setback of 80 feet.
4. The applicant wishes to reduce the front yard setback to 31 feet.
5. A variance would be of benefit to the applicant with no detriment to the community.
6. 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: Jim Hegstetter made a motion to grant the variance based upon the above findings. The motion was seconded by John Douglas and carried by a 6-0 roll call vote.

Dated: Sept. 10, 2008