

TOWN OF WALLKILL
ZONING BOARD OF APPEAL

SEPTEMBER 11, 2001

PRESENT: E. Johnson
J. Mattatall, Chairperson
W. Morgan
E. Raffo
R. Sullivan
P. Thompson

Joseph A. Owen, Esq.

EXCUSED: N. Guenste

The September 11, 2006 Meeting of the Town of Wallkill Zoning Board of Appeals opened with the pledge to the flag followed by the presentation of the August 14, 2006 meeting minutes.

The Motion was made to accept the minutes as written; Seconded; All in favor; Motion carried.

The following continuances, public hearings and reviews for October 16, 2006 were conducted, heard, voted upon and reviewed.

CONTINUANCE:

DAVID WIEBOLDT, ARCH.

(JOAQUIM & MARIA MARCIANO) Request for a variance of 249-3 (oversized accessory building(s):

1) Building #1 from 28x28 ft to 24 x 36.47ft;

2) Building #2 from 28x28 ft to 36x24ft;

Property located at 2480 Rt 306

For oversized accessory building(s)

(SEC 14 BL 2 LOT 35.1)

Designated R-2.

Mr. Mattatall: I Move to continue the Public Hearing at 7:40pm; Seconded.

D. Wieboldt: I have with me here tonight Mr. Jack Marciano and son George.

Mr. Weiboldt: We are looking at reducing the building size based on the previous meetings and like to have idea if possible of reducing size slightly if able to get variance on garage. The garage in front is approx reduce to 24x36ft size and exceeds 28x28 but 100 sq/ft than allowed and same approach to building in the back. Like to know your views on that.

Mr. Mattatall: The prroblem is that they are already up and exist and have for more than a decade – each building. If you wish to amend the size we can put that on the application but can't tell you before we vote.

Mr. Wieboldt: I understand that.

Mr. Mattatall: If it went forward it is up to the building inspector. For my personal issues - it is not size but that they were put up without permits and operated as a business for a substantial amount of time and there was lost tax revenue to the Town, fire district and County. Substantial loss. Do you wish to amend your request and change the first building... you call #1 the one closest to the house?

Mr. Wieboldt: No building #1 is in the rear.

Mr. Mattatall: Amend to what size?

Mr. Wieboldt: To taking 1/3 of the building down.

Mr. Mattatall: Building #2 closest to the house?

Mr. Wieboldt: Taking off rear lean-to addition 36x34 approximate and approximate same size.

Mr. Mattatall: Is that definitely what you want it to be amended to?

Mr. Wieboldt: Yes.

Mr. Mattatall: Please come up here and we can amend the file copy (and so he did).

Mr. Mattatall: Any questions from the Board? (no)

Mr. Mattatall: Any questions from the Public? (no)

Mr. Mattatall: Any thing else to present?

Mr. Wieboldt: No.

Mr. Mattatall: I Move to close the Public Hearing at 7:47 pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variances of 249-3 for oversized accessory buildings: 1) building #1 from 28x28ft to 24 x 36.47 ft; 2) building #2 from 28x28ft to 36x24ft.; Seconded (Morgan).

DISCUSSION:

Mr. Johnson: I abstain.

Mrs. Raffo: I don't find use for the garage except for commercial. Having trucks use that drive and where it is is a traffic hazard. It is obvious that what you are asking for is self-inflicted and is substantial.

Mrs. Thompson: If there was requirement that the garage could not be used for commercial I'd be happy to approve it.

Mr. Mattatall: That was not a condition of original request. We are voting on what we have in front of us.

Mr. Wieboldt: Commercial use is not allowed under zoning so it would be enforceable by the Zoning Code.

Mr. Wieboldt: He is retired now and does not have a business at all.

Ms. Raffo: I don't see a residential use for that size with buildings that size.

Mr. Mattatall: This is a very substantial variance you are asking for. They are buildings without permits and not approval, however, I can't see accepting it as it is presenting it

and they are trying to sell. We can't compute the financial loss to the districts described before and it's affect for Town to the credibility to this Board.

VOTE:

In favor (aye):	Morgan, Sullivan
Opposed (nay):	Raffo, Thompson, Mattatall
Abstain:	Johnson

DECISION:

Mr. Mattatall: The Motion does not carry and the variances are not granted. You needed 4 of the 7 members to vote in favor. The Building Department will be informed.

PUBLIC HEARINGS: (September 11, 2006)

HARLAND Wm. WOOD: Request for a variance of 249-3:
1) accessory building from 28x28ft to 30x36ft;
For storage of vehicles, recreational vehicles, lawn
equipment and antique tractor.
Property located at 557 Rt 17M
(SEC 38 BL 4 LOT 1.2)
Designated R-1

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary.
The Public Hearing Notice was read at 7:52 pm.

Mr. Mattatall: I Move to open the Public Hearing at 7:53 pm. Please explain the project.

Mr. Wood: We want to put in a 3-bay garage and the standard is 28x28 and has 2 bays
and it is not big enough for lawn tractors, vehicles and various equipment.

Mr. Mattatall: Only because of the code. How far from line?

Mr. Wood: 10 feet and not over the required amount with the existing house and garage
that is proposed.

Mr. Mattatall: Any questions from the Board?

Ms Raffo: The shed is coming down?

Mr. Wood: Yes. A tractor is in there now.

Mr. Mattatall: Any questions from the Public?

Spiro Matavios: I am next door and have no objection to why he can't build it.

Mr. Mattatall: Any questions or comments from the Board? (no)

Mr. Mattatall: I Move to close the Public Hearing at 7:55pm; Seconded; All in favor;
Motion carried.

Mr. Mattatall: I Move to grant the following variance of 249-3 (accessory building) from
28x28ft to 30 x 36 ft for housing of vehicles, recreational vehicles, lawn equipment and
antique tractor; Seconded.

DISCUSSION:

(None)

VOTE:

In favor (aye) 6: Morgan, Raffo, Thompson, Sullivan, Johnson, Mattatall
Opposed (nay) 0

DECISION:

Mr. Mattatall: The variance is granted. Please see the Building Department.

SHARON EDWARDS: Request for a variance of 249-22-D-a:
1) side yard variance from 20 to 3ft;
2) side yard variance from 20to 3ft;
3) rear yard setbacks from 30ft to 22ft;
For construction of a deck.
Property located at 10 Moriah Lane
(SEC 76 BL 8 LOT 31)
Designated R-1.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 7:56 pm.

Mr. Mattatall: I Move to open the Public Hearing at 7:57 pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: Please explain your request.

Ms Edwards: To enlarge my deck.

Mr. Mattatall: You are in a development off Myer's Drive?

Ms. Edwards: Yes.

Mr. Mattatal: Virtually everyone has come in and they were built miniscule.

Mr. Mattatall: Any questions from the Board?

Mrs. Thompson: I have no problem with it.

Mr. Mattatall: Any questions form the Public?

Norma Hendricks, 5 Myer Drive: I have no problem with it.

Mr. Mattatall: I Move to close the Public Hearing at 7:59pm; Seconded; All inf avor; Motion carried.

Mr. Mattatall: I Move to grant the following variances of 249-22-D-a: 1) side yard from 20 to 3ft; 2) side yard from 20 to 3ft; and rear yard setback from 30ft to 22ft; Seconded.

DISCUSISON:

(None)

VOTE:

In favor (aye) 6: Johnson, Sullivan, Morgan, Raffo, Thompson, Mattatall
Opposed (nay) 0.

DECISION:

Mr. Mattatall: The variances are granted, see the Building Department.

Mr. Mattatall: You have six months to start the project, if you have not, please contact us before that time to request an extension. If you forget to do it you will need to reapply.

BONNIE WISHER:
(Estate of Glen Johnson) Request for a variance of 249-22-d:
1) side yard from 20ft to 9ft;
2) 2 side yards from 40ft to 18ft;
3) lot depth from 125ft to 120ft;
4) lot width from 100ft to 50ft;
5) area from 18,750 to 6,000 sq/ft;
For construction of a house.
Property located at 130 Belmont Avenue
(SEC 76 BL 5 LOT 3)
Designated R-1.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:00 pm.

Mr. Mattatall: I Move to open the Public Hearing at 8:01 pm.

Dan Yanosh: She is the fiduciary of Mr. Glen Johnson who died in July. They want to tear it down and put in a new house. There are two variance – lot width is 50 and 120 depth. The new house is a long house 30 x 49ft instead of side to side. Side yards now 1.2 and 2.8ft and new house side yard 10 feet on each side and request 9 on each side for builder. The existing proposed is 18,750 and existing is 6000. There is no extra land to be purchased.

Mr. Mattatall: Any questions from the Board?

Mrs. Thompson: It is a pre-existing lot and sounds like a good thing to do with it.

Mr. Mattatal: Any questions from the Public? (no)

Mr. Mattatall: I Move to close the Public Hearing at 8:03pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variances of 249-22-d: 1) side yard from 20ft to 9ft; 2) 2 side yards from 40 to 18ft; 3) lot depth from 125ft to 120ft; 4) lot width from 100ft to 50ft; 5) area from 18,750 sq/ft to 6,000 sq/ft; Seconded.

DISCUSSION:

(none)

VOTE:

In favor (aye) 6: Raffo, Morgan, Johnson, Sullivan, Thompson, Mattatall
Opposed (nay) 0.

DECISION:

Mr. Mattatall: The variances are granted please see the Building Department. Remember the yare valid for 6 months and if you have not started work you must request an extension or start the process over again.

LEWIS SIGN: Request for a variance of 249-11-N1.a(1):
(Pun Kin Kwok) 1) signs
Property located at 254 Rt 211 East
(SEC 50 BL 2 LOT 31)
Designated HC.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:05 pm.

Mr. Mattatall: I Move to open the Public Hearing at 8:06 pm. Please present your application.

Lewis Sign Co (Representative): The Client has taken the front corner of the building – known as ‘Happy Restaurant’ and he is opening a liquor store and has a permit for the existing sign and needs a permit on the sign and they want to re-letter that existing sign ‘Grand Liquors’ and you see it visibility going towards Middletown. There is a pylon but not able to get on that sign.

Mr. Mattatall: The 2nd one is 30 sq/ft for the 2nd. Increase in total square footage.

Ms Sullivan: Sign on front and side?

Lewis Sign: The front has a permit and has been changed.

Mrs. Thompson: No problem.

Mr. Morgan: Is that what is going on the sign?

Lewis Sign: I have a picture of it now.

Mr. Mattatall: Any questions from the Public? (no)

Mr. Mattatall; I have received a request from the Building Department that it be continued to October 16, 2006.

Lewis Sign: I can understand that and there is a hodgepodge there.

Mr. Mattatall: That (continue to October) will not require any new mailings just that you show up.

Mr. Mattatall: The date is on the 16th.

Lewis Sign: Thank you, see you then.

Mr. Mattatall: I Move to continue the Public Hearing to October 16, 2006 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

HEARING REVIEWS: (October 16, 2006)

BERLIN (Duncan Donuts)

Kevin Dugan (Fellenzer Engineering), Bluestein & Shapiro), Mr. Berlin.

Mr. Dugan: We are here tonight to request 2 variances: 1) side yard setback for the drive thru on east side of the property. It is pretty well contained by O&R lines and pushes space over to east side of the property and we have been with the PB and the building is about the only place it can be. It is Duncan Donuts and like drive thru and only place along property line requirement of 5 feet; it can't be met. Variance on that down from 10ft to 2.45ft.

2) Second is for parking. Basic building meet the requirement 29 and have 29 provided but for storage in basement – no office for dry goods and paper products our calculation need 1 per 50 sq/ft for that (there might be a discrepancy as it warehouse) it works out to 14.4 spaces. So over all is 44 and have 31 for the property. Therefore 2 variances.

Mr. Mattatall: With the layout of the property – how do they get deliveries?

Mr. Berlin: A box truck.

Mr. Dugan: We will have deliveries arranged for on off hours.

Mr. Dugan: This is on East Main Street by Dr. Johnson the vets office – the driveway is opposite driveway from the car wash. We only have small area outside the O&R right of way. We can have parking but no structures. Our entrance road lines with storage company road. We have letter from the County.

Mr. Mattatall: How much signage?

Mr. Dugan: Pylon sign and meet your requirements on signage. We show location and is hard to see (showed them on the drawings).

Mr. Mattatall: Any questions from the Board? (no)

Mr. Mattatall: I Move to hold a Public Hearing on October 16, 2006 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Mattatall: It is necessary to notify everyone within 300 feet of your property. You can obtain the list of names from the Town Tax Office. The notice of the Public Hearing will be in the Times Herald Record's Public Notice Section within the next week. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing date. Mailings must be sent either by certified or registered mail. Bring your proof of mailings with you to your Public Hearing. The Public Hearing will not be opened without your proof of mailings.

THOMAS BURGER:

Mr. Mattatall: What do you wish to do?

Mr. Burger: The house on 10 Ross Lane and owned by Fran Myer and she wants to sell it maybe next year and want to see if it meets code. In 1976 her husband put on a deck and it lines up with the end of the house and it is 20 feet and she only has 18 feet. So a side yard variance from 20ft to 18ft is needed..

Mrs. Thompson: He has not changed much of anything there?

Mr. Burger: It use to be 15 feet and it is now 20 feet.

Mr. Mattatal: Has the Building Inspector looked at it yet?

Mr. Burger: Yes, he came out and said it was stuck because it did not meet current Codes.

Mr. Mattatall: Any questions from the Board? (no)

Mr. Mattatall: I Move to hold a Public Hearing on August 16, 2006 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Mattatall: It is necessary to notify everyone within 300 feet of your property. You can obtain the list of names from the Town Tax Office. The notice of the Public Hearing will be in the Times Herald Record's Public Notice Section within the next week. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing date. Mailings must be sent either by certified or registered mail. Bring your proof of mailings with you to your Public Hearing. The Public Hearing will not be opened without your proof of mailings.

GEORGE MARTIN:

Mr. Mattatall: You want to teardown existing and replace with one that meets code?

Mr. Martin: Yes.

Mr. Mattatall: How big?

Mr. Martin: 28 x 28.

Mr. Mattatall: It only need single variance?

Mr. Martin: Yes.

Mrs. Thompson: How long has it been there?

Mr. Martin: The garage been there for 40 years.

Mr. Mattatall: Which section of York Road?

Mr. Martin: Off Rt 17 by the ‘Tapped Off’ bar.

Mr. Mattatall: I Move to hold a Public Hearing on October 16, 2006 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Mattatall: It is necessary to notify everyone within 1,000 feet of your property. You can obtain the list of names from the Town Tax Office. The notice of the Public Hearing will be in the Times Herald Record’s Public Notice Section within the next week. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing date. Mailings must be sent either by certified or registered mail. Bring your proof of mailings with you to your Public Hearing. The Public Hearing will not be opened without your proof of mailings.

PAUL & SANDRA DOOLITTLE:

Mr. Mattatall: This is for an over-sized accessory building.

Mr. Doolittle: Yes.

Mrs. Thompson: What will you put in it?

Mr. Doolittle: Classic cars.

Mr. Mattatall: You are 2 feet over on the one side. How many bays?

Mr. Doolittle: Two (2).

Mr. Mattatall: Do you have permit for existing deck?

Mrs. Doolittle: Yes. We bought it last year.

Mr. Mattatall: I thought it looked familiar.

Mr. Mattatall: I Move to hold a Public Hearing on October 16, 2006 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Mattatall: It is necessary to notify everyone within 1,00 feet of your property. You can obtain the list of names from the Town Tax Office. The notice of the Public Hearing will be in the Times Herald Record's Public Notice Section within the next week. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing date. Mailings must be sent either by certified or registered mail. Bring your proof of mailings with you to your Public Hearing. The Public Hearing will not be opened without your proof of mailings.

ERIC KARP:

Mr. Mattatal: This is for an over-sized accessory and to locate it in front of primary building.

Mrs. Thompson: You have a shed already?

Mr. Karp: That is a shed.

Mr. Mattatall: The other shed – will it be removed?

Mrs. Thompson: What with the new garage?

Mr. Karp: I have been in Middletown always and 10 years at this residence and I have snow blowers, lawn equipment and stuff.

Mrs. Thompson: Why not on other side of house further back?

Mr. Karp: This would be more aesthetically pleasing according to the building department.

Mrs. Karp: We would have to remove 2 trees if we put it on the other side and on the edge.

Mr. Mattatall: This is a corner lot?

Mr. Karp: Yes.

Mr. Mattatall: It's your famous oak tree on the property?

Mrs. Karp: Yes.

Mrs. Thompson: You lived there all your life?

Mr. Karp: In Middletown all my life.

Mr. Mattatall: Any questions from the Board? (no)

Mr. Mattatall: I Move to hold a Public Hearing on October 16, 2006 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Mattatall: It is necessary to notify everyone within 1,000 feet of your property. You can obtain the list of names from the Town Tax Office. The notice of the Public Hearing will be in the Times Herald Record's Public Notice Section within the next week. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing date. Mailings must be sent either by certified or registered mail. Bring your proof of mailings with you to your Public Hearing. The Public Hearing will not be opened without your proof of mailings.

ISSAC LANDAU: Roger Ferris Engn

Roger Ferris Co.: They want a proposed application for variance for single family and want to sub divide to put a house on the 2.6 acres on Lot B and Lot A on 2.2 acres has an existing dwelling. With the Zoning changes to 3 acres and we want to ask for consideration for area on Lot A with existing and B with proposed single family. Asking for variance for soil and we did calculation below one .717 and .727 and done soil testing and don't meet souls at this time. He like to take advantage of 410 elevation and well suited for single family and existing barns and there are number of them block are in disrepair and a silo and agree to remove those and put in single family make it better situation that it looks out there now.

Mr. Mattatall: Has this gone to the Planning Board?

Roger Ferris Co.: Yes, question or concern about certain sub divisions were allowed to go under old zoning and we missed it by a month filing and why we are here. We submitted it to the PB and while it was in review the moratorium came into effect and this was 3rd lot and 2 other lots approved on south Kaisertown and Vanamburg and we had to withdraw because we could not do the 4th lot.

Ms Raffo: This is 4th lot?

Roger Ferris Co.: Yes. The only potential for – no further lots subsequent to this.

Mr. Mattatall: I am missing something on your location.

Roger Ferris Co.: The location map shows the site on Vanamburg off Kaisertown.

Mr. Mattatall: The break out map shows it on sharp turn on Vanamburg. (showed him).

Mr. Mattatall: What do with block barns?

Roger Ferris Co.: Take them down. We agree to that as condition and they are not in original condition.

Mr. Mattatall: Were those poultry barns – is nasty clean up.

Mrs. Thompson: Do you have street number?

Mr. Mattatall: You will not miss those barns. Just look for falling down block barns.

Roger Ferris Co.: Especially the ones in the back.

Mr. Mattatall; I Move to hold a Public Hearing on October 16, 2006 at 7:30 pm or as soon there after as the mater can be heard; Seconded; All in favor; Motion carried.

Mr. Mattatall: It is necessary to notify everyone within 1,000 feet of your property. You can obtain the list of names from the Town Tax Office. The notice of the Public Hearing will be in the Times Herald Record's Public Notice Section within the next week. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing date. Mailings must be sent either by certified or registered mail. Bring your proof of mailings with you to your Public Hearing. The Public Hearing will not be opened without your proof of mailings.

CONTINUANCES:

MEL FERRER (BONEIM, LLC).

Mr. Mattatall: I Move to continue the Public Hearing for Mel Ferrer; Seconded; All in favor; Motion carried.

A. Lipman, Esq.: Here tonight are Mel Ferrer, Charles Brown of Taconic Engineering,

A. Lipman, Esq.: Mrs. Daly did not receive a letter and the other Daly did not receive it. The para legal did not include them, but they are here.

Now, try to make it as brief as I can and for that purpose, I want to hand out exhibits that are packaged together and numbered (to all members present and attorney). Those are numbered 1 thru 18 and have exhibit #19 which is tax map section 64 upon which this and neighboring properties are located. I hope I don't run out before I reach the end of the table - just enough.

I have one other exhibit which I only have 1 copy – approved plan by the health dept for the septic system and one witness is designer of the system to explain it and I guess I can give you this and have one more with me for my file and don't have 8 copies of this. Okay.

Now, I would like to briefly go thru the list of 18 exhibits and certain you will understand relevance of each.

Exhibit 1 - zoning ordinance in 1963 based upon inquiry of time clerk is earliest they have a record of in the Town of Wallkill. They provided it to me without being able to locate map and believe pates 9 and 10 this must have been a small booklet, the minimum area for residential was 15000 without water/sewer Pg 10 and for the larger zone R20 district those are on Pg 12 and assuming the worse the larger apply and lot was created and subject application is substantially more than 20,000 and lot subject of application. My copies of the Town I observe no change in lot area until what I believe is 1979 and at that time it became 40,000 sq/ft and 2002 at end of year that changed to 2 acres and in each case environmental control formula.

Exhibit 2 – conveyed from David Daly to Mr. Walsh – it says contained an acre more or less. I suggest at worse the lot was at least 50% or 100% larger than minimum in 1969.

Exhibit 3 - is copy of sub division regulation enacted in 1974 and first sub division regs the clerk had record of and same currently in effect in Wallkill and certain there are amendments but demonstrate without regs in place. So when in conveyance it did not violate sub division regs or the new lot created violate zoning in place.

Exhibit 4 - is driveway permit issued for subject lot

Exhibit 5 - application for sewage disposal facility – septic for the lot indicating back in – don't see any date on it – certainly was long before now – probably in 2002 when our predecessor AMORE HOMES wanted to build a house there.

Exhibit 6 - is reference to or notes from the building inspector from plans he reviewed (Mr. Steenrod) asking architect to address certain elements of the plan but obviously not raise issue if lot conformed.

Exhibit 7 - is further review.

Exhibit 8 - further review by Mr. Steenrod – I believe they are identical but one is hand written and other is written.

Exhibit 9 – a 12/10/02 conversation.

It is a building permit application because Building Permit is the next.

Exhibit 11 - 3/4/2003 building permit issued on 3/4/2003. Everyone see it – it is horizontal and bring attention to date is subsequent to enactment to law amendment to zoning law in 12/02 raising it to 2 acres plus environmental control factors.

Exhibit 10 - which we skipped, is Eustace /Horowitz who review septic plans in dictating letter to the Planning Board believe these were plans approved and in compliance with OC Health Department before building permit was issued.

Exhibit 12 – the contract AMORE HOMES and DOUBLE DECKER for \$70,000.

Exhibit 13 - is deed from AMORE to DoubleDecker, Inc.

Exhibit 14 – you will recall last time we were here issue with tests on wrong lot and it turns out that was the case an engineer who performs those tests is here and explain how it happened. The design approved by health department in 2005 has nothing to do with test on wrong lot and are on the last exhibit and sufficient for health department purposes.

Exhibit 14 is a note to Mr. Steenrod suggesting permit be stopped on 5/21/03 and no construction had commenced at that time.

Exhibit 15 - stop work order issued pursuant to septic issue.

Exhibit 16 - is contract Double Decker and Jada and the \$120,000 sale price.

Exhibit 17 – a deed from Double Decker to Jada.

Exhibit 18 – the Orange County Department of Health's last package issued approving design you have as exhibit #20.

Now, if anyone has question or relevance of these exhibits otherwise I request you receive them in order they are listed on behalf of the applicant.

Mr. Mattatall: The applicant at the time did perk test on wrong lot...

A. Lipman, Esq.: It was the piece next to us. Not on this property.

Mr. Mattatall: The 'stop work' order was issued and are now resolved. If they done on correct lot the house would be existing now? No variances at that time?

A. Lipman, Esq.: I don't understand what occurred or history because nothing has changed from then (end '02 and '03) and '06. No changes in zoning. As you know and was said last time I was here the building inspector has no authority to wave provision of zoning law and other hand he was a scrupulous and careful sometimes to frustration to those seeking relief or permit from him and not able to find anything that indicates permit should have been issue but clearly it was issued and subject of stop order was septic and nothing else. And when client secured thru same engineers from health dept that was first time we learned that there any issue about lot it self qualifying for permit. No issue arose until that time raised first by PB office to Mr. Ferrer who is here tonight.

Now, I have here engineer who can explain to your satisfaction what has taken place, precisely what has been approved and environmental issues once functioning would raise. So unless you have questions of me.

Mr. Mattatall: Any questions from the (no)

Charles Brown, Taconic Engn:

A. Lipman, Esq.: Tell the board before we get started because consternation about permit based on septic based on perk tests off this site.

Charles Brown: The Permit was done on tests done on this lot. We corrected it the week of the original test but did not dig up a well. The original septic was designed appropriately based on the Lot 1. We did research with the County on the adjoining properties and nothing that located that well that is down hill form our site. It did not meet 200 feet of separation.

A. Lipman, Esq.: the original septic laid out in front of proposed structure.

J. Owen, Esq.: Was it designed for present or previous applicant? What he is talking about now?

A. Lipman, Esq.: Prior and for AMORE.

A. Lipman, Esq.: If you look at #20 the disposal facility is rear of proposed structure. (showed on drawing). Original design was what?

Mr. Brown: In front of the house.

Mr. Mattatall: This is showing aerobic and pump chamber in front.

Mr. Brown: The well is down hill 200 feet separation. Again the record of well is not filed in the county .

Mr. Mattatall: Septic proposed –

Mr. Brown: Up hill so needs pump and meet 200 feet across and don't meet with 162 on existing and have cut off and put in aerobic and there is a UV proposed for the well as well.

Mr. Mattatall: The concerns we have with pumped septic in our area is that the electric does not like to stay on and the health dept approved for 5 years with opportunity for renewals.

Mr. Brown: 5 years terminates if system does not work.

A. Lipman, Esq.: You don't build it is gone.

Mr. Brown: It is built for a full day's – the storage is above and reserve capacity there all the time.

Mr. Mattatall; The health department is requiring lifetime permit.

A. Lipman, Esq.: I gave you old design for one reason so you see it and want you to understand the reason we had to deal with this type to put fields in back because when designed 1st one did not know where Daly well was and could not meet the 200 feet now we know where it is and that it is downhill from our septic.

Mr. Mattatall: There was a recommendation on UV am I missing something?

Mr. Brown: For a well on this lot if joining it would have been a mandate. We have waivers on large sub divisions.

A. Lipman, Esq.: Charlie (Brown) you could not meet the distance between tile and our own well but got a waiver.

Mr. Brown: By approving it they allowed it – implied waiver rules say 200 feet but allowed 160 feet.

A. Lipman, Esq.: Less than 200 feet recommend the UV?

Mr. Brown: Yes.

A. Lipman, Esq.: What is max size of house?

Mr. Brown: It is designed for a 2-bedroom house.

A. Lipman, Esq.: That is extent of approval from the health department?

Mr. Brown: Yes. We do have some conservativeness in the system and it was designed on 22 minutes and perked at 11 and it is 2 times as fast.

A. Lipman, Esq.: Do you have any doubt it will not have satisfactory results?

Mr. Brown: No.

A. Lipman, Esq.: Well on the Daly lot across street protected against contamination?

Mr. Brown: It meets all the setbacks.

A. Lipman, Esq.: The 2 acres plus factors of environmental control factors what are the requirements if less?

Mr. Brown: I'd have to calculate.

A. Lipman, Esq.: Why environmental control formula?

Mr. Brown: New subdivisions so lots large enough to accommodate larger homes building.

A. Lipman, Esq.: The septic is not standard?

Mr. Brown: Fairly standard.

A. Lipman, Esq.: What is 'aerobic'?

Mr. Brown: It treats affluent before goes to leach field same as usual – couple of extra bells and whistles.

A. Lipman, Esq.: It satisfies health department for a lot this size in the Town of Wallkill?

Mr. Brown: Yes.

A. Lipman, Esq.: Back up power?

Mr. Brown: No there is not for the pump chamber – if service goes out for entire house? To the house or tank an alarm goes off in the house.

Mr. Mattatall: Power is out – there is one day’s worth of storage. And if a generator was hooked up to the house in power outage pump power run toilets and no pump to tank if they don’t have power overtly.

A. Lipman, Esq.: if power out there is no water.

Mr. Mattatall: if power goes out my generator selects which to – so if running power to pump to house and if it runs to no power tank and now what to get it to the up hill system – no mandatory provision – this is nice it is good system, concern every issue has to be accounted for.

Mr. Brown: I understand what you are saying.

A. Lipman, Esq.: If you think it is reasonable and feel need for a generator and we could install a generator capable of running this system in power failure. You may...

Mr. Brown: 500 gallons of storage and above the working.

Mr. Mattatall: People get around systems.

A. Lipman, Esq.: It is reasonable concern and don’t have problem ...

Mr. Mattatall: There are not too many systems that are not powered the Town did not take up. There were cess pools and no acreage. The powered units.

Mr. Brown: I do a lot in Dutchess County and have 2 days reserve. We could have gotten away with 260 with the Health Department. Good point and if generator is hooked up they should definitely hook it up to that.

A. Lipman, Esq. : No if but will.

Mr. Mattatall: Any questions from the Board?

Mrs. Thompson: I am reading the – in 1969 this supposedly had ‘one acre more or less’ and application says .7 of and acre –what happened to the rest of it?

Mr. Brown: where the property line goes to center of road the town doesn’t have right of way we offer up right of way and looking at drawing it is skewed like a diamond. The calculation may have been on something more rectangular.

A. Lipman, Esq.: Exhibit #2 - the title goes to center of road.

Mrs. Thompson: It was sold to Double Decker does not say how bit it is.

A. Lipman, Esq.: There must have been inaccuracy in creation of description which is not unusual in description. I did not have any thing.

Mr. Mattatall: Any questions from the Public?

John Saborol: It was bought from Walsh and sold to Norman Parks 18 years ago. He applied for a Building permit because it did not perk and well across the street. Old plans from Al Fusco, offered to buy it back but wanted more than he paid for it and perk test done on an in on north side. Face property and on north side perk test done and trees and boulders taken out to put up a wall. If it did not perk test 18 years ago and ground does not change. You are putting in an elgin system, right what is difference from front to back?

Mr. Mattatall: We don't know difference but perk now. Who buy from?

Mr. Saborol: Daly, Walsh and them me. It did not pass.

Mr. Brown: Perks were done and approved witnessed by the Department of Health which are on this map.

Mr. Mattatall: The issue of the perks being approved – it was done in 2005?

John Saborol: The wall – they put up it is holding up.

Mr. Brown: They would have to redo the wall.

Mr. Saborol: They have to redo the wall and what type system?

Brown: conventional leach field and back is over 15% and graded out to where field is.

John Saborol: I don't think it will work you going to back it if it diesn't?

Mr. Brown: My stamp is on it.

Kimberly Daly (public): I am across the street and my husband could not be here tonight. Mrs. Weinstein said ERB soil and NRB in back which does not allow for septic and if pumping up there it doesn't work. In different weather conditions, ken miller there he approved it on the wall and the wall has collapsed the water pours off and in to the road into my property and in my well. Who will be responsible for digging new well? I wanted to bring that up.

Mr. Mattatall: Any questions from the Board? (no)

Mr. Mattatall: Any questions from the Public?

William Daly, down the street: I know the history and it has been bought and sold because can't build on it. The perk and all they keep pass it to own owner to another and

keep being denied. Why not cut losses and leave. The wall blew out within a week of it going in.

Ede Cuccio, next door: I live right next to the property they said bought it for \$120,000 and originally I have documents here, when AMORE bought it for \$75,000 and bought the property down street - 2.25 acres and put a house on. So, I don't think the property was originally sold for \$75,000. At that time, 2.25 acres build able worth \$75,000 so seem to me that what they paid for or wrote down have to question that. Other thing is, they denied building permit because their perks done on other property they bought 2005 3 years after 2 acre zone. Incumbent on them if it was approved as 2 acre building lot they bought after changes and just by saying they were unaware of lot size change should not be excuse or hardship for not being able to build house here. Thank you.

Mr. Mattatall: Any further questions or comments? (no)

A. Lipman, Esq.: You said earlier the wall – retaining wall described as blowing out – has to be replaced – it is part of the project and create one that will not in the future. And our responsibility the plan will show the wall and it will be built.

Mr. Brown: Also requirement in the 'notes' on the plan – applicant to notify the Town Engineer of septic system to go over inspection schedule. I am required to certify it. That includes that wall – it is unacceptable as it is. Agree with neighbors with tat.

A. Lipman, Esq.: Exhibit #20 - you see perk tests each of which done in 2003 and 2004 each observed by health department and show good perk rates ranging from 9 to 10 minutes.

Mr. Brown: 22 minutes is long.

A. Lipman, Esq.: We now want to bring in Mr. Kolinski, real estate broker.

Bob Kolonski: I have been a broker for 17 years and real estate 23 years. I am familiar with the area.

A. Lipman, Esq.: You sold parcels for various land owners?

Mr. Kolonski: Sold for Murray Homes.

A. Lipman, Esq.: Did you see this site today?

Mr. Kolonski: Yes.

A. Lipman, Esq.: Exhibit #19 you see 3 different colors on the map – yellow is subject map, Bob?

Mr. Kolonski: Yes

A. Lipman, Esq.: The orange are other lots – single family homes built and one colored purple.

Mr. Kolonski: Single family are under construction now.

A. Lipman, Esq.: Only slightly larger than subject lot and it achieved building permit. Do you have recollection of this application for this house on a sub standard lot?

Mr. Mattatall: Not familiar with this.

Mrs. Thompson: I've been here a long time and don't remember it.

A. Lipman, Esq.: Do you know values in the area – what is it worth in that area?

Mr. Kolonski: Any lots 6 months ago are \$135,000, today about 10% less.

A. Lipman, Esq.: What is the value of this lot today if qualified for a permit?

Mr. Kolonski: If build able - \$90,000.00.

A. Lipman, Esq.: Now, what is character of the neighborhood as you observed it today.

Mr. Kolonski: Most houses are small and on an acre or less only 2 are on an acre – Murray Homes and one is under power line.

A. Lipman, Esq.: Lot 22 and 23 are they close to size of subject lot across street?

Mr. Kolonski: Yes.

A. Lipman, Esq.: The new house is at least 2200 sq/ft and is it on comparable size lot.

Mr. Kolonski: Yes it is and on lot with problems. There is pond 10 feet off the house and Class C or B stream and water from pond is part of stream more than likely and need 100 foot buffer for stream.

A. Lipman, Esq.: Not substantially different?

Mr. Kolonski: No. The Lot 32 is smaller than one building on.

A. Lipman, Esq.: Lot # 27 and 28 are larger than ours?

Mr. Kolonski: Yes. #27 is some sort of business.

A. Lipman, Esq.: What would you say if asked you if ... would be undesirable change in character of the neighborhood.

Mr. Kolonski: No.

A. Lipman, Esq.: Houses going up now?

Mr. Kolonski: Newer and better than houses there now.

Mr. Mattatall: Did you work on these?

Mr. Kolonski: I worked for different brokerage. The Murry one 2.3 acres I worked on it.

Mr. Mattatall: Did you make a profit?

Mr. Kolonski: I got a commission as an agent \$4,000 to \$5,000 as I would on another one. Number 19.1 was not sale thru brokerage house.

Mr. Mattatall: I know where the streams and barricades are.

A. Lipman, Esq.: Estimate if it did not support a building lot?

Mr. Kolonski: What every adjoining people want to pay - \$ 5,000.

A. Lipman, Esq.: Difference as a building lot and parcel not qualifying building lot is at least \$80,000 or as much as \$ 100,000. Measure of loss that occur if can't be used as building lot.

Mr. Kolonski: Yes. Right.

Mr. Mattatall: Questions from the Public?

Karen Daly: I just have a question. Board of Health was there to watch each one? Last 3 perks were in 2005 and 2003?

A. Lipman, Esq.: I said '03 and '04.

Mrs. Daly: the last was '03.

A. Lipman, Esq.: '04 and '05 located on 1st sheet and table on 2nd sheet.

Mr. Mattatall: August '04 witnessed and signed.

Mrs. Daly: Someone did a 12 inch perk and I was asked why it was any business of mine and I told him daughters house is nearby. There were no cars from the Board of Health.

Mr. Mattatall: I have a sign-off from the Department of Health.

Mr. Brown: There has been substantial number of tests done.

A. Lipman, Esq.: The ledger has an (*) says witnessed by on 2005 and states 2004; 2003 only. (*) in front and in back and the one in back in 2005 and 7/7/04 is right.

Mr. Mattatall: Any questions from the Board?

A. Lipman, Esq.: We have another witness, Mel Ferrer.

Mr. Ferrer: Yes

A. Lipman, Esq.: You don't mind if I call you Mel?

Mr. Ferrer: No.

A. Lipman, Esq.: You authorized to represent Jada? You make application?

Mr. Ferrer: Yes.

A. Lipman, Esq.: I asked you to make inquires to people contiguous to this lot, Mr. Cuccio and Mr. Sibella. I asked you to communicate if they would make available to JADA any additional land.

Mr. Ferrer: Yes from the last meeting here it suggested communicate with buying land or them buying this land. I made numerous calls on sporadic basis and I left messages and unable to communicate with Mr. Cuccio after sent out certified letters to both. Spoke to Mr. Sibella and he was not sure and not sure what the property would sell for and did not get to number and know on once occasion he was going out the door to go on vacation. I spoke to him again today. Difficult situation for JADA an them and value and how transaction occur would not work.

A. Lipman, Esq.: Did they offer to sell land to Jada.

Mr. Ferrer: Mr. Sibella said he would consider it but nothing definite no figure.

A. Lipman, Esq.: Interest in buying it?

Mr. Ferrer: Mr. Sibella - I mentioned the \$100,000 was invested and wanted to come out somewhere but don't believe no 'I'd be interested at \$80,000' they were brief and very courteous and he may have toyed around with it also. Mr. Spielman has invested in it you would spend nothing and does not make logic.

A. Lipman, Esq.: No one offered to sell or buy any specific piece.

Mr. Ferrer: No. Mr. Cuccio said he would be interested but I told him it would be \$100,000 and that does not make sense for him.

A. Lipman, Esq.: Anything else you want to say.

Mr. Ferrer: No, nothing more that is about it. Any questions for me?

Mr. Mattatall: No, you did what you said in contacting the neighbors.

A. Lipman, Esq.: In summing up. I have one question before I do that – Mr. Brown, simply the variance of allowing house to be built on parcel have any adverse on physical environmental condition on the neighborhood?

Mr. Brown: For reference lot dimensions and squared it off – it is one acre if rectangle 180 by 240.

A. Lipman, Esq.: I understand there is some anxiety over 2nd transaction JADA acquired for \$120,000 and I was not part of it and don't know precisely what went on but makes no different but price by Double Decker \$70,000 and on top of that many dollars spent on successful disposal sewage. How much Brown?

Mr. Brown: \$5,000.00.

A. Lipman, Esq.: So, \$75,000 without any expense and value of \$10,000 if not used for building is \$65,000 lost. I think measure of damage or injury is almost liquidates sum. \$120,000 less \$110,000 \$70,000 plus \$6,000 – very substantial. Your standard for review comes out 267b and required to considered benefit to applicant if granted against health safety welfare detriment to community. Evidence is no detriment to health safety welfare of the neighborhood by virtue of granting variance. Benefit is use lot for purpose it was bought and value it was paid for. We did not really believe \$75,000 or \$70,000 or \$120,000 to buy piece of sterile land. Also consider if undesirable change or detriment to nearby property types.

Mr. Kolinski based on his expertise no different than houses that already exist on the road. Secondly, if benefit is sought to achieved by meads to pursue. We have pursued alternate by trying to by buying land we need and no other. This application for variance addressed 2 acres and requirement more severe under environmental control factor to part of relief we get based on what other applicant asked for – area, lot size and formula for the land. 3rd is if it is substantial.

Mr. Mattatall: Two (2) side yards were requested and area from 40,000 to 30,700 sq/f.

A. Lipman, Esq.: 40,000 sq/ft is the wrong number it is 2 acres that is a mistake and unfortunately environmental control formula. Two items but not reflected in application but second one is no different that first.

Mr. Mattatall: Build in the existing foot prints.

A. Lipman, Esq.: We measured and discussed it in my office.

Mr. Brown: The current zoning is more than that now.

A. Lipman, Esq.: Total of 100 40 and ...

Mr. Brown: ...this is off original.

A. Lipman, Esq.: We need them

Mr. Mattatall: 40,000 sq/ft to 30,750 sq/ft side yard 2 side yards 100 to 88ft is what was originally on here (application). And you want environmental control factor in this?

A. Lipman, Esq.: Yes. If you go from 2 acres to 30,700 ft that sounds substantial but not certain not require to do math from required and what is provided. Substantiality of variance is what is in the neighborhood and how many are like this or smaller or larger. They are 1 to 1.5 acres and take $\frac{3}{4}$ acre lot don't believe not substantial variance. If you measure loss if variance not achieved. 4 – if have adverse affect to the neighborhood - that was answered by Mr. Brown in the negative and with septic design which only environmental issue. Approved by health department don't anticipate adverse affect on neighborhood. The 5th if self-created you can't argue if need is not self created – clearly if you know the zoning requirement or not, he has constructed knowledge of those and at time Double Decker bought it it should have been aware of it and relied on building permit issued before he took title. I wonder truthfully if you guys are more astute building lot if you saw permit given after tough struggle with bi if the permit was correct. Don't think too many would do that but they have constructed knowledge. We have no other way to solve problem and it is a problem expensive to us \$90,000 to \$120,000 to us if can't be used. Yes we should have known, but no injury suffered by the neighborhood and character not affected.

Thank you for your indulgence and patience.

Mr. Mattatall: You want to retain 2 side yard 100 to 88 ft; 2 acres to 30,700 sq/ft and soil formula to allow engineered septic.

Mr. Mattatall: From the Public, any comment?

Mr. Cuccio: Some comments he made about self created hardship – the owners of land bought it are experienced builders and investors and don't think to say 'just didn't know' I don't believe that and don't believe this is a hardship. They bought it...I don't believe they paid that – not real value. They created their own hardship and if granted it is setting precedence to buy 1 acre and say you don't have to go any where to go. When invest money you are obligated to do research and board not responsible if they don't. regardless of what property on the area there are 1 acres as many as 4 acre it applies to

city where we have 100 houses and 1 acre and change zone year later to 1.5 acres and one acre and 2.5 lot divided to 1 acre. It equals 100 and in that case may be allow building be built on one acre and not apply here. We are setting precedence if allowing it. They can't guarantee not affect neighbors, i.e. her well and can say it works and when their company changes names or goes out of business who do they go to?

Mr. E. Johnson: Your background is professional engineer?

Mr. Brown: Yes, licensed professional engineer for 15 years.

Mr. E. Johnson: Are a hydrologist?

Mr. Brown: We do deep tests as well that basis stuff we do all the time.

Mr. E. Johnson: Regarding ground water flow to speak to that you don't have background?

Mr. Brown: This system is more safe guards than others. There will be footing drains in addition to road. Typically road acts as cut off and only need 100 feet typically.

Mr. E. Johnson: The well is down hill from this.

Mr. Brown: It is clean essentially after 50 feet. If perk less than a minute it will not clean affluent.

Mr. E. Johnson: Suppose the pump system failed and septic contamination in front and can't say not clear to adjacent well.

Mr. Brown: The road acts as a divider.

Mr. E. Johnson: You are talking about ground or surge water?

Mr. Brown: If the electric goes out there are high flow fixtures, washers, dishwasher. Toilet now 1.7 litres. This has 504 storage and well over a day storage. I do about 200 septic a year and have had 2 failures where damaged by equipment.

Mr. E. Johnson: Thank you.

A. Lipman, Esq.: Responding to Mr. Cuccio: the suggestion anyone pay if not \$120,000 or \$ 70,000 for a lot with permit knowing it could not be used as building lot violated zoning is simply idiotic. No one would be dumb enough to do that. He might have been dumb enough to not check but not to do it intentionally. If not \$ 110,000 starting point what JADA paid and simultaneously to JADA liberty savings closed mortgage \$120,000 and paid \$120,000 for it according to contract. We are no only people not foolish enough if it was a building lot. They should have done their work as well as Double Decker. Not experienced builder . he is experienced deck builder and not built lot to build a home on.

That was his first venture to building a home. He employed a capable lawyer, Greenberg, and it happened and not first time I have seen it in my short career.

Mr. Morgan: It meets the soil samples and as far as under sized it will be effective. Hardship is self-created and those adjacent will be affected.

Mr. Mattatall: Anything further? (no)

Mr. Mattatall: I Move to close the Public Hearing at 10:07pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variances: 1) 2 side yards from 100ft to 88ft; 2) area from 2 acres to 30,700 sq/ft; 3) allow soil formula 249-19-d2 subject to condition that a back-up generator be purchased to back up the system; Seconded.

Mr. Mattatall: The current owner is Jada Developers, LLC / Mel Ferrer.

DISCUSSION:

Mr. E. Johnson: This is a substantial request for 3 / 4 acre and is more than 50% and the soil is less than required. It is self created and bought years after change and the adverse affect the design could cause problems and negative affect on well.

Ms Sullivan: You bought the property after zone change and so clearly it is self imposed hardship. There is a substantial size change and there was discussion in the Town when they were made and it was changed for good reason. Substantial affect on the neighborhood and stands out for me and you can't guarantee not detriment of health and safety of neighbors.

Mr. Morgan: I have stated why I am voting NO.

Mr. Raffo: I'll reiterate obviously it is substantial variance – more than substantial less than half you should have. Is it self inflicted – yes, bought it after zone change and bought twice after change and if previous permit was issued does not give client right to build on lot – the argument does not hold water. Zone changes put into effect one being we don't have resources to continue to build on one acre lots in that acres and why zone regulations were changed - not ground water to support on e acre. If detriment – I am not doubting engineer's information but can't guarantee it will not fail or not have power and responsible to present and future residents. Will client lose money – I feel bad about that.

Mrs. Thompson: The statements he made I agree with and also note other smaller property on Daly Road 1.1 acre are all one acre or better. I feel JADA or Mr. Ferrer should have looked at zoning before getting into this. No substantial to offers to neighbors and that was not resolved either – not refused but no offer either.

Mr. Mattatall: I don't need to rehash – it is self-created, substantial and balance to area than lot here. To add soils is substantial for soil formula and group 2 is no septic and group 8 is needing 3.

VOTE:

In favor (aye) 0.

Opposed (nay) 6: Johnson, Sullivan, Morgan, Raffo, Thompson, Mattatall

DECISION:

Mr. Mattatall; The variances are not granted; the application is denied

Thank you for your time and we had a lot of collateral material that may help

QUICK CHEK:

Mr. Mattatall: I Move to continue the public hearing at 10:21 pm.

Howard Geneslaw, Esq.:

J. Owen, Esq.: Resolution is pretty much just a long restatement of what has been presented for specific variances that there are.

Howard Geneslaw, Esq.: We submitted formal resolution and see at end with alternative findings on para 1,2 and 3. since the last meeting made modifications to findings as to what is being sought by applicant. We submitted neg dec to board prior to last meeting and noticed it says 8/14 and change to tonight's date.

Mr. Mattatall: Variances are:

Howard Geneslaw, Esq.: I'll read off page 3 of resolution that is most current.

Mr. Mattatall: What you are asking for is interpretation food store or eating/drinking establishment. I received a call from RJ Smith representing you and he looked himself and description of operation of your store.

Mr. E. Johnson: I did also – more grocery store than eating establishment.

Mr. Mattatall: The signs are not out of character and don't have many differences because they are earlier to read.

Mr. Mattatall: Any questions from the Public? (no)

Mr. Mattatall: Any questions from the Board? (no)

Mr. Mattatall: I Move to close the Public Hearing at 10:33pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variances:

- 1) 249-8(a): accessory structure (canopy) on Lot 78.12 in front yard where accessory structures are permitted in side or rear yards;
- 2) 249-12H(4): off-street loading space approximately from 200ft to 61.9 ft from residential boundary;
- 3) 249-11H(6): permit free-standing sign on Lot 78.12 from 1/3rd of sign to 64% of sign face for changeable gas pricing information;
- 4) 249-11H(10): free-standing sing on Lot 78.12 from two (2) type faces to 8 type faces as depicted on the 'Color Sign Details' on file;
- 5) 249-11.O(2)(a): from one (1) wall sign to 3 wall signs on canopy on Lot 78.12;

- 6) 249-12 and 249-12E(6): parking be computed by classifying Quick Check as food store and gasoline station including delicatessen, bakery, coffee area and customer seating;
- 7) 249-3 and 249-26C(12): special permit not required because proposed food store are devoted to bakery, deli and accompanying indoor and outdoor customer seating area are not an ‘eating and drinking establishment’; instead they are accessory uses to principal food store used in accordance with 249-3;
- 8) 249-12C(2)(c): handicap space width of eight (8) feet with an associated eight (8) foot passenger loading area is in compliance with zoning law; Seconded (E. Johnson).

DISCUSSION:

(None)

VOTE:

In favor (aye) 6: Morgan, Raffo, Johnson, Sullivan, Thompson, Mattatall
Opposed (nay) 0.

DECISION:

Mr. Mattatall: The variances are granted, please see the building department.

Howard Geneslaw, Esq.: The Board make findings with regard to site plan approval and environmental impact. We are ahead of the game being here and Sequa finding would be appropriate in connection with approval tonight.

Mr. Mattatall: I Move to grant acceptance of the written negative declaration provided September 11, 2006; Seconded.

VOTE:

In favor (aye) 6: Morgan, Raffo, Sullivan, Johnson, Thompson, Mattatall
Opposed (nay) 0.

MEETING CLOSE:

Mr. Mattattall: There being no further business to be presented before the Zoning Board of Appeals I Move to close the Meeting at 10:38pm; Seconded; All in favor; Motion carried.

TSB:jcd

TOWN OF WALLKILL
ZONING BOARD OF APPEALS

DECISION SHEET

SEPTEMBER 11, 2006

MEL FERRER
(Boneim, LLC /
Jada Developers, LLC)

Request for a variance of 249-19-d (1):
1) area from two (2) acres to 30,700 sq/ft;
2) 2 side yards from 100 ft to 88ft
Property located at 126 Daly Road
(SEC 64 BL 1 LOT 19.1)
Designated RA.

SUBJECT TO:

Installation of back-up electrical
generator mandated to power septic
septic system.

DECISION: Variances denied

QUICK CHECK:

Request for:

- 1) Acceptance of the negative declaration presented on 9/11/2006;
- The following variances:
- 1) 249-8(a): accessory structure (canopy) on Lot 78.12 in front yard where accessory structures are permitted in side or rear yards;
 - 2) 249-12H(4): off-street loading space approximately from 200ft to 61.9 ft from residential boundary;
 - 3) 249-11H(6): permit free-standing sign on Lot 78.12 from 1/3rd of sign to 64% of sign face for changeable gas pricing information;
 - 4) 249-11H(10): free-standing sign on Lot 78.12 from two (2) type faces to 8 type faces as depicted on the 'Color Sign Details' on file;
 - 5) 249-11.O(2)(a): from one (1) wall sign to 3 wall signs on canopy on Lot 78.12;
 - 6) 249-12 and 249-12E(6): parking be computed by classifying Quick Check as food store and gasoline station including delicatessen, bakery, coffee area and customer seating;
 - 7) 249-3 and 249-26C(12): special permit not required because proposed food store are

devoted to bakery, deli and accompanying indoor and outdoor customer seating area are not an ‘eating and drinking establishment’; instead they are accessory uses to principal food store used in accordance with 249-3;

- 8) 249-12C(2)(c): handicap space width of eight (8) feet with an associated eight (8) foot passenger loading area is in compliance with zoning law.

Property located at 751 – 761 NY Rt 211
(SEC 41 BL 1 LOTS 78.12 and 79.1)
Designated HC.

DECISION: Acceptance of the Negative Declaration and variances grated.

DAVID WIEBOLDT, ARCH.
(JOAQUIM & MARIA MARCIANO)

Request for a variance of 249-3 (oversized accessory building(s):

- 1) Building #1 from 28x28 ft to 24 x 36.47ft;
- 2) Building #2 from 28x28 ft to 36x24ft;

Property located at 2480 Rt 306
For oversized accessory building(s)
(SEC 14 BL 2 LOT 35.1)
Designated R-2.

DECISION: Variances denied.

HARLAND Wm. WOOD:

Request for a variance of 249-3:
6) accessory building from 28x28ft to 30x36ft;
For storage of vehicles, recreational vehicles, lawn equipment and antique tractor.

Property located at 557 Rt 17M
(SEC 38 BL 4 LOT 1.2)
Designated R-1.

DECISION: Variances granted.

SHARON EDWARDS:

Request for a variance of 249-22-D-a:
4) side yard variance from 20 to 3ft;
5) side yard variance from 20to 3ft;
6) rear yard setbacks from 30ft to 22ft;

For construction of a deck.
Property located at 10 Moriah Lane
(SEC 76 BL 8 LOT 31)
Designated R-1.

DECISION: Variances granted.

BONNIE WISHER:
(Estate of Glen Johnson)

Request for a variance of 249-22-d:
1) side yard from 20ft to 9ft;
7) 2 side yards from 40ft to 18ft;
8) lot depth from 125ft to 120ft;
9) lot width from 100ft to 50ft;
10) area from 18,750 to 6,000 sq/ft;
For construction of a house.
Property located at 130 Belmont Avenue
(SEC 76 BL 5 LOT 3)
Designated R-1.

DECISION: Variances granted.

LEWIS SIGN:
(Pun Kin Kwok)

Request for a variance of 249-11-N1.a(1):
1) sign
11) sign
Property located at 254 Rt 211 East
(SEC 50 BL 2 LOT 31)
Designated HC.

CONTINUED to October 16, 2006.