

TOWN OF WALLKILL ZONING BOARD OF APPEAL

REORGANIZATION MEETING

JANUARY 10, 2005

The January 10, 2005 meeting opened with the nomination and election of the Zoning Board of Appeals Members for the calendar year January 2005 through December 2005:

Chairperson: Oral W. Smith Appointed by the Town Board

ZBA Board: Nina Guenste  
James Mattatall  
William Morgan  
Ellouise Raffo  
Richard Schoenberg  
Priscilla H. Thompson  
  
Joseph A. Owen, Esq.

Nomination: Vice Chair

The Nomination was made for James Mattatall; Seconded; All in favor; Motion carried.

Vice Chair: James Mattatall

Secretary

The Nomination was made for Priscilla H. Thompson; All in favor; Motion carried.

Secretary: Priscilla H. Thompson

Meeting Dates: The Zoning Board of Appeals will meet on the second Monday of each month at 7:30 pm unless otherwise notified. Exception: October 2005.

TOWN OF WALLKILL ZONING BOARD OF APPEAL

JANUARY 10, 2005

PRESENT: N. Guenste  
J. Mattatall  
W. Morgan  
E. Raffo  
O. Smith, Chairperson  
P. Thompson, Secretary

Joseph Owen, Esq.

ABSENT: R. Schoenberg

MEETING OPENING:

The January 10, 2005 Zoning Board of Appeals meeting opened with the pledge to the flag followed by the Roll Call and presentation of the December 13, 2004 Meeting Minutes.

The following corrections were made for the December 13, 2004 Meeting minutes:

Decision Sheet:        Sacco applications        Both were granted

Motion made to approve the Minutes as noted; Seconded; All in favor; Motion carried.

CONTINUATION

JANOS LECEI: Request for a variance of 249-19-D (lot width)  
Property located at 502-508 Bart Bull Road (SEC 50 BL 2 LOT 63);  
Designated RA.

Mr. Smith: What are you requesting?

Mr. Lecei: One family / one story home for me and my wife.

Mr. Smith: How many bedrooms?’

Mr. Lecei: Three.

Mr. Smith: House is 50x50 on your drawings.

Mr. Lecei: I was told that is the maximum size that lot.

Mrs. Thompson: When you were here before a neighbor said you started and then were stopped by the DEC - a bulldozer was there in the back.

Mr. Lecei: It is still there and I have it to do the work. The zone changed and is why I changed.

Mrs. Thompson: The zoning did change when you were here.

Mr. Smith: It is wet there.

Mr. Lecei: I was told to start here to get the permit. I also have pictures you asked about wetlands to show you what is there (board looked at them). You can see the back hoe there. I had marine corps there in 2000 and he marked 750 feet is build able. The back ways is 250 feet.

Ms. Guenste: The wetlands seem to go up here (drawing) across the front of it also, though. That is what it shows on the map.

Mr. Lecei: It goes the whole street.

Mrs. Thompson: It is too wet.

Ms. Guenste: It is not going to drain those portions that are wet.

Mr. Lecei: The pond will be where the 2 streams meet. So that is what I was told by the engineer would be the best.

Mr. Morgan: Do you have the septic done by an engineer yet?

Mr. Lecei: Yes, the land goes on the market until last month. I don't want to sell it. They did the engineering already.

Mr. Smith: Do you have the septic plans? Or do you want to wait?

Mrs. Thompson: What did you pay for this?

Mr. Lecei: About \$4-5,000.

Mrs. Thompson: Did you see it before you bought it? Walk on it?

Mr. Lecei: I dug down 2 feet and put in shale and it is wet all the way in the back almost 800 feet because the 2 streams meet.

Mr. Smith: Do you want to finish septic design and come back next month.

Mr. Lecei: I don't want to spend \$2,000 and you say I can't do it.

J. Owen, Esq.: Do you want to have this continued to February?

Mr. Lecei: Yes.

Mr. Smith: If you are not ready next month, just show up and we can continue you to the next month.

Mr. Guenste: When were photos taken?

Mr. Lecei: Before December.

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

Mr. Smith: I Move to continue the meeting to February 14, 2005 at 7:30 pm or as soon thereafter as the matter can be continued; Seconded; All in favor; Motion carried.

HEARING REVIEWS (February 14, 2005)

STRAM:

P. Halpern: I was here and did not meet the 6 month deadline for work to start. We have to start over again.

Mr. Smith: Any questions from the Board?

Mr. Mattatall: It is the same variance as asked for before?

Mr. Halpern: No. We had talked about a raised septic system and that took some time.

Mr. Smith: I Move to hold a Public Hearing for STRAM on February 14, 2005 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Smith: 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.

PAGLIA:

Mr. Smith: You want to put up a garage which is an accessory building, close to the line?

Mrs. Thompson: Does it have to be that close to the line?

Mr. Paglia: I own it anyway so it doesn't matter. I have 50 feet and then the woods.

Mr. Smith: It will have to be 40 feet from the side yard.

Mr. Paglia: I can move it back and have 140 feet to the corner of the house.

Mrs. Thompson: How do we find entrance to the piece.

Mr. Paglia: 240 Derby Road.

Mrs. Thompson: I know Derby Road.

Mr. Paglia: There is a sign and it's a regular road. Come drive down and do what ever you want to do. It is going to be where the old boat is.

Mr. Smith: What do you want to store there?

Mr. Paglia: Cars, lawn stuff and basically storage.

Mr. Smith: I Move to hold a Public Hearing on February 14, 2005 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Smith: 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.

DOLAND:

Mr. Smith: Lets go over the request. Existing deck from 15ft to 1 foot .

Mr. Doland: The one that goes around the pool.

Mr. Smith: Pool from 20 to 12feet. It is 12 feet off the line?

Mr. Doland: 12 feet – yes.

Mr. Smith: The pool shed from 2ft to 1ft 6 inches. There are the 3 variances.

Mrs. Thompson: What about the hot tub?

Mr. Doland: Its portable and is soft side and can be rolled away.

Mr. Smith: Any questions from the Board?

Mrs. Thompson: This is 1 foot off the line.

Ms. Guenste: These are all pre-existing?

Mr. Doland: Yes, talk to the neighbor – 20 years plus.

Mr. Smith: I Move to hold a Public Hearing on February 14, 2004 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Smith: 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.

SKY RIDGE:

Applicant: What we did is having been here a few times before and what you had to say as to size and config we scaled down the house 44x42 colonial to a typical bi-level 28 x 42ft and that size and config is consistent with half homes in the neighborhood. We have the one adjoiner, Mr. Benedict said 40 feet of side yard on the side that adjoins his. We flipped house around and 40 on Benedict and the 42 on vacant parcel side. Changed driveway accordingly. He also had issue with visual affects and put in landscape buffer and can't see the house from his house.

Mrs. Thompson: Have you spoken with Dr. Andres about getting more land.

Gardner Barronet: No, we don't need more land and have a lot similar to others in the area.

Ms. Guenste: This goes back because it is RA and needs 2 acres?

Applicant 2: When the lot was created it met the zoning and now with the changes it doesn't.

Mr. Smith: You want from 200ft to 123ft?

Mrs. Thompson: It says lot 200 feet to 106 feet on the application.

Gardner Barrone : May have been type error.

Mr. Smith: You might have taken the rear.

Mr. Morgan: It has changed.

Applicant 2: We flip flopped.

Mr. Morgan: You said you changed it.

Gardner Barrone : One side yard 40 feet now on the other side.

Mr. Smith: Anything else?

Mrs. Thompson: They need to change the file copy and initial it, please.

Mr. Smith: It should read 200 to 123ft?

Gardner Barrone : Yes; 123.

Ms Guenste: When did you purchase the lot?

Applicant 2: I believe August of 2003.

Mr. Smith: The soil type – we have to go to our language.

Mr. Barrone: Do you want the code number?

Mr. Smith: Yes.

Applicant 2: 40 B part and front is 25B; septic is in 40B.

Mrs. Thompson: How much 40B is there?

Mr. Smith: It requires 2 acres.

Applicant 2: The soil type did not affect the acreage. I can bring in copy of soils map for the file.

Mr. Smith: Please.

Mr. Smith: I Move to hold a Public Hearing on February 14, 2004 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Smith: 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.

Mr. Barone: Any thing else we need?

Mrs. Thompson: I'll look and let you know.

PUBLIC HEARINGS:

DONALD & DIANE ELLIOTT: Request for a variance of 249-3 (accessory building) from 8x28ft to 30 x 64ft for construction of a pole barn based on drawings submitted to the file; Property located at 40 Baker Road (SEC 24 LOT 1 SEC 41.23); Designated R2.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing notice was read at 8:16 pm.

Mr. Smith: I Move to open the Public Hearing at 8:17 pm.

Mr. Smith: Please present your application for the accessory building.

Mr. Elliott: Diane Elliott: 40 Baker Road 11.7 acre parcel with 1 family residence that is R2. We want an oversized accessory building that is a pole barn to store back hoe, motor home; no electric, water, sewer and dirt floor. Set back 200ft from Baker Road; right 150 and left 250 ft with 800 ft rear set back. No new driveway cut.

Ms Raffo: It is nice out there.

Ms Guenste: You talked about a gravel driveway?

Mr. Elliott: Only back there 2 times a year with the motor home.

Ms Guenste: The back hoe and all is in there?

Mr. Elliott: They are just toys.

Ms Guenste: You want it for the summer storage.

Mr. Elliott: It is too expensive to leave outside.

Mr. Smith: The change reads 30 x 64 for the building.

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

Mr. Smith: How finished?

Mr. Elliott: 19 feet high at the peak and will be metal. It will be steel and paint the house and not sure what colour it will be.

Mr. Smith: I Move to close the Public at 8:20 pm; Seconded; All in favor; Motion carried.

Mr. Smith: I Move to grant the accessory building variance from 28x28ft to 30x64ft as per drawing presented and filed; Seconded.

DISCUSSION:

(None)

VOTE:

In favor (aye):	6
Opposed (nay):	0

DECISION:

Mr. Smith: The variance is granted, please see the building department.

MARCIA CLAWSON: Request for a variance of front yard set back from 36ft to 30ft for construction of a garage; Property located at 214 South Street (SEC 69 BL 1 LOT 32.2); Designated R1:

Mrs. Thompson: The mailings were reviewed by the board and filed by the Secretary. The Public Hearing Notice was read at 8:24 pm.

Mr. Smith: I Move to open the Public Hearing at 8:25 pm.

Mr. Smith: Please review with us what you are seeking. You want a front yard variance from 36 to 30 ft for an extension of the garage area as per the plan?

Ms Clawson: Susan Plauss of Leo Carroll.

Mr. Morgan: What about safety and moving it forward? How it will affect the South Street in turning.

Ms Clawson: Go out forward with the turn around.

Mr. Morgan: The blockage?

Ms Clawson: It is way past the corner; the garage will not blocking anything and there are all sorts of trees.

Mr. Smith: Every thing is knocked down there now.

Ms Clawson: Not towards Webb Road. That is where O&R has their tower. There is quite a few trees.

Ms Guenste: On the map it has area you want to move garage down – what is in the area?

Ms Clawson: Small bedroom. The foundation is already in.

Mr. Smith: Come down south street and move it forward with structure, agree with Mr. Morgan, you will block a lot of the intersection – it is a bad intersection.

Ms. Clawson: That is why I have the turn around. It is still 40 feet from the street.

Mr. Smith: From the pavement?

Ms Guenste: It says a 3 bedroom dwelling?

Ms Clawson: It is a ranch.

Mrs. Thompson: When did you buy it?

Ms Clawson: In 2002 and bought 2 parcels. Working on it all this time. IF you look at it, there is no way...

Mr. Smith: ... I did.

Ms Clawson: It is winter now, and was not planning on clearing to the front.

Mr. Smith: I think the house got moved forward a little.

Ms Clawson: that is where the surveyors put the posts to put the house and already it went back further than it was suppose to on the map.

Mr. Smith: According to the map you are right on the line. You have a front set back and you are 1 foot over.

Mr. Smith: Comments form the Board?

Ms Guenste: Can this be subject to having a turn around?

J. Owen, Esq.: You can have a turn around - does that mean one entrance and one exit off the road and how close turn around to the road?

Mr. Morgan: She said she is going to.

Ms Guenste: I was curious.

J. Owen, Esq.: You can stipulate what you want but that is not what the application says and she has to have the application amended.

Ms Raffo: What about the bedroom behind the garage?

Ms Clawson: Yes. Because in a few weeks I'll be 70 years and making the house wheel chair accessible and helper if need is there.

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

Mr. Smith: Any further comments from the Board?

Mr. Smith: It is new construction, you are on the line and if you want a bigger garage you can go off the back.

Ms Clawson: I will lose the room.

Mr. Smith: Where ever?

Ms Clawson: I will lose the kitchen window.

Mr. Mattatall: What is the reason for this?

Ms Clawson: They made a mistake and made the garage too small.

Ms Raffo: It would have been set back that much further from the road if it was done right. I understand you have a problem.

Ms Clawson: There is all the trees and brush in the corner in front of the garage you won't be able to see better if garage if back or forward.

Mr. Smith: I disagree.

Ms Clawson: I am far from the utility line.

Mr. Smith: The whole house could have been set back another 50 feet.

Ms Clawson: I have had to fill in 8-10 feet already and cost 6 months of building time and why not built yet. The foundation is all in.

Mr. Smith: I understand and speak only for myself, if everyone was allowed to set a foundation where they want and then come in because it is in. We have setbacks so you can see around the corner and down the street and protect the public down the road. For myself, moving the garage forward another 6 feet will reduce greatly. You are building 6 feet more forward and create a problem looking around the corner.

Ms Clawson: you can't see it from the front anyway. You can in the winter. As soon as spring comes... there is all the...

Mr. Smith: You should have the easement cut down but we can't speak for O&R.

Mr. Mattatall: The easement is O&R.

Mr. Smith: I have a problem looking around the corner on Webb Road. And, don't know why house was not put back a few feet to make change – that is where I am coming from.

Mr. Mattatall: I agree with you – we can't fix the architect did not give you a big enough garage and it was put forward and took away any expansion you may have had. The reason for setback is for potential expansion of the road and it is almost on top of the house now. It would be a different landscape if they expand the road - which is a short cut across town.

Mr. Smith: It is a self-created difficulty.

Mr. Smith: I Move to close the Public Hearing at 8:38 pm; Seconded; All in favor; Motion carried.

Mr. Smith: I Move to grant the following variance: front yard variance from 36ft to 30ft; as per plans submitted. Seconded.

DISCUSSION:

Ms Guenste: It is self created and can be dealt with. It is new dwelling and a lot of space in the back. We have zoning laws in place.

Mr. Morgan: What size is your car?

Ms Clawson: 14ft 10 inches; and I have a 16ft ford escort wagon.

Ms. Raffo: It is a safety hazard for you and the public. It is publicly a safety problem.

VOTE:

In favor (aye):	0
Opposed (nay):	6

DECISION:

Mr. Smith: The variance is denied.

Mr. Smith: To save a few dollars they moved it forward and you bought it and have to fill it in. It could have been back another 50 feet and know it would have cost more. I think you are looking in the wrong direction, I am sorry.

MIDDLETOWN CHRISTIAN MISSIONARY ALLIANCE CHURCH: Request for a variance of 249-3 (accessory building ) from 28x28ft to 30x40ft for construction of a parsonage closer to the front lot line than the primary building (church); Property located at 75 County Highway #78 (SEC 69 BL 1 LOT 48.1); Designated R-1.

Mrs. Thompson: The mailings were reviewed by the Board and filed by th secretary. The Public Hearing Notice was read at 8:42 pm.

Mr. Smith: I Move to open the Public Hearing at 8:43 pm.

Jim Dillin: The application is for a parsonage as an accessory building in the Code and we want to put it in the Code but in front of the church. There is requirement for an accessory on size and this is 30x44 ft for essentially a single family home. It is larger than accessory building. There is not place in the Code for a church. If this was built first there would not be a problem. It will be used as much as the church 24/7.

Mr. Mattatall: Water/sewer?

Mr. Dillin: We will be hooking up to existing well and the church's will be extended and agreement with Middletown for sewer.

Mr. Smith: I have no problems with it.

Mrs. Thompson: They need a parsonage and there is no place else to put it.

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

Mr. Smith: Any comments from the Board?

Mr. Smith: It is pretty wooded there and fair coverage.

Mr. Dillin: A couple of big trees that will have to come down.

Mr. Smith: There are no neighbors are here tonight.

Mr. Dillin: Deer Run is in the back and we sent everyone within 300 feet of the town (City of Middletown).

Mr. Smith: It is going to be 30x44 with a small deck on the rear?

Mr. Dillin: Correct.

Mr. Smith: 4 bedroom?

Applicant: 4 bedrooms.

Mr. Smith: Any additional comments? (no).

Mr. Smith: I Move to close the Public Hearing at 8:46 pm; Seconded; All in favor; Motion carried.

Mr. Smith: I Move to grant the following accessory variance from 28x28 to 30ft x 44ft for size and location in front of primary building; Seconded.

DISCUSSION:

(None)

VOTE:

In favor (aye):	6
Opposed (nay):	0

DECISION:

Mr. Smith: The variance is granted, please see the Building Department.

JASU PADHYA: Request for the following variances:

- 1) 249-20-C-11-d (increase in floor area from 1500 sq/ft to 3300 sq/ft;
- 2) use variance to permit take-out pizzeria; Property located at the corner of Silver Lake Scotchtown Road and Freezer Road (SEC 24 BL 1 LOT 32.61); Designated R-2.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:49 pm.

Mr. Smith: I Move to open the Public Hearing at 8:50 pm.

Dan Yanosh: The variance is for the floor area – we discussed it last month, we need 3300 sq/ft with both combined together.

Mr. Smith: That is the proposed addition for total.

Mr. Yanosh: Yes. We went to the Planning Board (PB) last April and wanted interpretation if the take out pizzeria is allowed as neighborhood grocery store. The Board said you wanted a use variance and if it is a use there or not. We still believe we need an interpretation and is a deli no. the pizzeria is extra outside. Hardship – if had to do this take down walls, built partition and he wants to rent it out and it is monetary and hardship combined. They will keep the pizzeria open later and how do you sell out of the same building if 2 uses. More money and renovations for it. Also the use is not unique in the area in different zone, KJs and other deli is Stewarts with hot food where you can eat and different zone. Built in '71 and '83 approved for pharmacy variance and '86 beauty salon and plans for bakery and small grocery and owned it since '95 and small use to take out pizzeria.

Mrs. Thompson: Coolers, expansion – if need additional space - assuming it is a deli, why are you going to put something else in the building?

Mr. Yanosh: Special use he wants to use out of it. It's a use.

Mr. Smith: The pizzeria will be running later than the deli.

Mr. Yanosh: Problem with use inside. We need more space for storage and to expand that. We want to expand deli and it is more than what is in the take out pizzeria parlor. More room regardless of what happens. The size now is not conforming to the zoning.

Mr. Smith: In this case – one at a time, the expansion no problem with at all I have been in there and by there and is a nice deli and see he wants to enhancements/improvements.

Mr. Yanosh: We have to go back to PB if this passes.

Mr. Smith: If you are looking for an interpretation I have to think about it.

Owner: We will dress it up nicely with curb and the property everyone wants it to look and nice. When the new roads went it they broke the curbing and said I would do it.

Mr. Mattatall: The expansion to a deli - have no problem but the interpretation needs more time. The way you are describing it it's a different business. If you are doing it differently than take out.

Owner: Daily business to 8 or 9 and pizzeria 9 or later – deli we usually close.

Mr. Mattatall: Who run the pizzeria?

Mr. Smith: Tenant?

Owner: Separate tenant. Deli does not have business after 9:00pm. Someone wants a big meal after 6 then after 8:00p it slows down and employee stay longer if they need.

Ms Guenste: I do have a problem with the size increase and is double the Code which is 1500 and you want it doubled. It is residential. My understanding is a neighborhood grocery is for people who run in , pick up things and then to ad pizza take out where I have not seen pizzeria where people ask for a slice and hang around in a residential area. NH grocery – don't expect it to be open that late and have problem with the size and code made for a reason so no large retail businesses in residential area. You could sell it and someone else come in and see what they can do it.

Owner: We are asking for a single cooler and new would will be walk in cooler and fill up less often.

Mr. Yanosh: When you look at the different variety of soda, need room for recycleables and 15000 sq/ft would not be enough any more.

Mr. Smith: Silverlake Scotchtown Road is a thru road and why I don't have a problem with that and there are businesses down the street.

Mr. Yanosh: we are not squeezed into small lot.

Mr. Smith: Will outside be redone if addition is done?

Owner: I lived here for 15 years and nice place there.

Mr. Smith: Any comments from the Public?

Public - 18 Anna Court: We got the letter several times, but it struck me that the increase from 1500 to 2900 and now 3300 sq/ft. We live in new construction and residential and increased housing and entrance on Freezer Road and a stop sign there if you increase the pizzeria from this and double on the size what will the impact be. Will it mean a traffic light? I have 6.9 acres and there is noise from the deli. I am concerned about residential character. We hear it during the daytime.

John Larson (next door to the store): I have a concern of expansion – which way and would we be sure it will not go into the lawn. (looked at the map with the surveyor).

Mr. Yanosh: You will square off on the far side – 60 feet from the corner.

Mr. Larson: Show me where you are in comparison to use (looked). I would like to make request regarding view and sound – some sort of fence. I don't have problem with the store, we have kids, with the store open late at nigh.

Mr. Yanosh: If we get the variances, we will go back for special use permit and you can come back to see what it look like with screening and fence.

Mr. Morgan: Do you want to amend application for fencing?

Mr. Yaonsh: Yes.

Public - 18 Anna Court: On the back side you hear noise?

Mr. Larson: Yes. Usually vehicles and voices – it's a distance but you can hear music from the houses next to the store.

Mr. Yanosh: We can hear screening in the back.

Mr. Smith: Can we keep it open for the use variance and we need to prepare? We can vote on the others.

Mr. Morgan: Fine with me.

Mr. Smith; I Move to close the Public Hearing at 9:10 pm; Seconded; All in favor; Motion carried.

DISCUSSION:

Ms Raffo: It sounds substantial but it isn't.

Mr. Smith: I Move to grant the following variances: 1) 249-20-C-11-d: floor area from 1500 up to 3300 sq/ft. Subject to sound barrier / fence along lands of Larson and screening on Anna Court.

DISCUSSION:

(None)

VOTE:

In favor (aye)	4
Opposed (nay)	2

DECISION:

Mr. Smith: The variance is granted subject to the following:

Installation of a sound barrier / fence along the lands of John Larson and screening on the Anna Court lands.

Mr. Smith: I Move to continue the variance request concerning use to the February 14, 2004 Meeting; Seconded.

VOTE:

In favor (aye)	4
Opposed (nay)	2

DECISION:

Mr. Smith: Continue the issue of the variance request on use to February.

FREDERICK AND LORRAINE KAHNERT: Request for a variance of 249-20-D (lot width from 150ft to 92.48ft; area from .75 to permit the occupancy of owner and second family for assisted living; Property located at 35 Stephen Avenue (SEC 79 BL 7 LOT 4); Designated R-2.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 9:12 pm.

Mr. Smith: I Move to open the Public Hearing at 9:13 pm.

Mr. Smith: There is to be no structural work work?

Ms Kahnert: No, only interior and we want to make changes if we have healthcare help in the future.

Mr. Smith: You say for a 2<sup>nd</sup> family for assisted living?

Mr. Morgan: Would it be related to you?

Ms. Kahnert: We are hoping, but can't look into the future. We have to see if my son in law can work in the city and he may have to live in the city limits. We want to have our family there to help us.

J. Owen, Esq.: Have you discussed why they can't live with them?

Mr. Smith: I don't understand the layout of the house. As long as you have the number of bedrooms and live with family.

Ms Kahnert: It came up at last hearing – we might want a 2<sup>nd</sup> kitchen as our hours as seniors are different as those with younger children. If he needs something at 10:30pm, his diet and waking people up - if we have small area to prepare his medicine and food out of the run of the general house – so we separate the house.

Mr. Smith: The 2<sup>nd</sup> kitchen makes it a 2 family.

Ms Kahnert: He has to be eating at certain times and, if you have son in law who answers mobile life at all hours of the night.... Our son lives in the city and daughter is getting married and we will be all alone. Nice to have someone there if there is a problem.

Mrs. Thompson: Move to more convenient place and let the kids have the house?

Mr. Smith: I have a problem with a 2<sup>nd</sup> kitchen creating in effect a 2 family house. There is another one on the street. Your extended family can just live there and the problem is the kitchen, maybe oversized bathroom for medicine.

Ms Kahnert: We want to move in down stairs it is a bi-level.

Me. Smith: I am speaking for myself, it will change the character of the neighborhood.

Ms Kahnert: I had another kitchen years ago for canning and summer cooking.

Mr. Smith: Some people have an extra sink and is reasonable but 2<sup>nd</sup> kitchen creates a 2 family.

Mr. Smith: Any comments from the Board?

Mrs. Thompson: I agree with you.

Ms Kahnert: We got the idea from the neighbors across the street when their daughter moved in there to help them.

Mr. Smith: Any comments from the Public?

Mr. and Debbie Higgins: 37 (next door): When they put in the new addition put up 8-10 years ago, they told us the addition was to take care of him; years later renters living there. Go there now and non-relatives are living there now. Years ago an Asian and gray haired lady with a big dog – many people living there. Addition faces my back yard and house was the same as mine. The addition of the “L” faces me. I have 5 year old daughter and don’t know the strangers so in essence it is a 2 family. Our neighbors know this is moving to multi-family housing and it is happening right now. It will ruin quality of life and have been here 17 years and don’t want apartment house next to us. Any changes change value of our house and years ago daughter was living there and moved out with a little girl and I’d rather not, but this is the first step to 2 or 3 family house. Now 2 different people living there. Please listen to us and your help is appreciated.

Kevin Swatt: It’s the cars, 6 or 7 cars there and not relatives, and 2 family house it will spread all over. More cars on street than in the driveways.

Mr. Smith: Any comments from the Board?

Mrs. Thompson: It is interesting they have had other people living there and do they pay rent?

Ms Kahnert: I have staff from Orange Regional Medical Center, there are people from the church who needed short stay for 3 or 4 months. She accepted a job in Monroe. I have been there 35 years. We have so large a space, my married daughter lived with us until she got her own place and only one bedroom and not throw them on the street and needed an apartment and had a 6 month limit. The house has depreciating and benefit to the neighborhood and with younger couple to help us keep it up and help with the property. We re-leveled the driveway over a year ago and are still there. We ran out of money. We could not pay the contractor and dirt waiting for spring thaw. With younger blood keep up with the maintenance and someone has helped with plumbing and he is in process of going through separation and wants to be there through the Spring.

Public: After the daughter gets a house we have a possible 2 family with an absent landlord. You mentioned to me you want to sell the house.

Ms Kahnert: Yes if we can’t afford it.

Public: 2 family get more than a single family house if sold.

Mr. Smith: Any further comments from the Board?

Donna McLaughlin (Kevin's wife): they have different people coming into the house – where do they eat?

Ms Kahnert: Mostly out.

Mr. Smith: Any further comments from the Board? (no)

Mr. Smith: I Move to close the Public Hearing at 9:28 pm; Seconded; All in favor; Motion carried.

Mr. Smith: I move to grant the following variances: 1) Width from 100 to 92.48 ft; area from .75 to to \_\_\_\_ to permit occupancy of owners and 2<sup>nd</sup> family for assisted living; Seconded.

#### DISCUSSION:

Mrs. Thompson: Many times in the past over the years we have approved 2 family because of family issues and sale sign goes up the next day.

Mr. Smith: You can live there as an extended family and no problem with family room with microwave but not allow a two family in there.

Ms Guenste: It will alter the neighborhood and we need to keep residence same character they are and protection for you when you go to sell it. The hardship is self-created your family can move in and share kitchen or you can sell the home and take care of it.

Mr. Mattatall: It will change the character of the neighborhood as there are no 2 family in the area. It is a self inflicted hardship.

Mr. Morgan: You can circumvent this with making changes to avoid problems.

Ms Raffo: If your daughter wants to live with you that is fine and be where you are and if you need arrangements make them, but you can't make it a 2 family.

Mrs. Thompson: I have made my comments.

Mr. Smith: I have addressed the issues.

#### VOTE:

In favor (aye):	0
Opposed (nay):	6

#### DECISIOIN:

Mr. Smith: The variance is denied.

NEW BUSINESS:

Mr. Smith: We have receive a request for a six (6) month extension of a variance granted to: Joseph A. Brown (Top Notch Road 32-2-42) now currently known as 'TAC Associates' for a lot size and width: 1) size: 2 acres to 50,860 sq/ft; 2) width: 200ft to 145ft; 3) side yard from 40ft to 35ft; 4) 2 side yards from 100ft to 85ft). They took title in August and the only permit is temporary driveway.

Mr. Smith: I Move to grant a 6 month extension; Seconded; All in favor; Motion carried.

MEETING CLOSE:

Mr. Smith: There being no further items to be presented to the Board, I Move to close the meeting at 9:35 pm; Seconded; All in favor; Motion carried.

tsb:jcd

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TOWN OF WALLKILL ZONING BOARD OF APPEAL  
DECISION SHEET

JANUARY 10, 2005

- Janos Lecei: Continue to February 2005
- Donald & Diane Elliott Request for a variance of 249-3 (accessory building) from 28x28ft to 30x64 for construction of a pole barn based on drawing submitted on file; Property located at 40 Baker Road (SEC 24 LOT 1 BL 41.23); Designated R2.  
  
DECISION: Variance granted.
- Marcia Clawson Request for a variance of front yard set back from 36ft to 30ft for construction of a garage; Property located at 214 South Street (SEC 69 BL 1 LOT 32.2); Designated R-1.  
  
DECISION: Variance denied.
- Middletown Christian  
Missionary Alliance Church Request for a variance of 249-3 (accessory building) from 28x28 to 30x40ft for construction of a parsonage closer to the front street than the primary building (church); Property located at 75 County Highway #78 (SEC 69 BL 1 LOT 48.1); Designated R-1.  
  
DECISION: Variance granted.
- Jasu Padhya Request for the following variances:  
1) 249-20-C-11-d (increase floor area from 1500 to 3300 sq/ft;  
2) use variance to permit take-out pizzeria; Property located at Corner of Silver Lake Scotchtown Road and Freezer Roads (SEC 24 BL 1 LOT 32.61); Designated R-2.  
  
DECISION: #1 Variance granted, subject to:  
  
The installation of a sound barrier / fence along lands of John Larson and screening on the Anna Court lands.  
  
DECISION: #2 Continue to February 14, 2005 Meeting
- Frederick & Lorraine Kahnert Request for a variance of 249-20-D (lot width from 150 ft to 92.48ft and area from .75 to \_\_\_ permit occupancy of owner and second family for assisted living; Property located at 35 Stephen Avenue (SEC 79 BL 7 LOT 4); Designated R2.  
  
DECISION: Variance denied

EXTENSION:

Joseph A. Brown

(currently known as TAC Assoc. Request for a six (6) month extension for lot size and width variances granted to property located at Top Notch Road ( SEC 32 BL 2 LOT 42):

- 1) area from 2 acres to 50,860 sq/ft;
- 2) width from 200ft to 145ft;
- 3) side yard from 40ft to 35ft;
- 4) 2 side yards from 100ft to 85ft.

EXTENSION: Granted