

TOWN OF WALLKILL ZONING BOARD OF APPEAL

REORGANIZATION MEETING

FEBRUARY 14, 2005

The February 14, 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: James Mattatall Appointed by the Town Board

ZBA Board: Nina Guenste
Eric Johnson
William Morgan
Ellouise Raffo
Richard Schoenberg
Priscilla H. Thompson

Joseph A. Owen, Esq.

Nominations: Vice Chair

The Nomination was made for Ellouise Raffo; Seconded; All in favor; Motion carried.

Vice Chair: Ellouise Raffo

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

FEBRUARY 14, 2005

PRESENT: N. Guenste
E. Johnson
J. Mattatall, Chairperson
W. Morgan
E. Raffo
R. Schoenberg

Joseph Owen, Esq.

ABSENT: P. Thompson, Secretary (excused)

MEETING OPENING:

The February 14, 2005 Zoning Board of Appeals meeting opened with the pledge to the flag followed by the Roll Call and presentation of the January 10, 2005 Meeting Minutes.

The Motion was made to approve the Minutes; Seconded; All in favor; Motion carried.

The following applications were reviewed for the March Meeting, continued or heard and voted upon as noted.

CONTINUATION

Jasu Padhya: Request for the following variance:

2) use variance to permit take-out pizzeria;

Property located at Corner of Silver Lake Scotchtown and Freezer Roads (21-1-32.61);
Designated R-2.

Mr. Mattatall: This was closed last month and the first of two variance was approved. The use variance was to be voted upon tonight. Is there anything else you want to add or comment on – that is fine.

Mr. Yanosh: We explained what he wants and it is for the use of the building and if this is a use variance for a pizzeria in the store.

Mr. Mattatall: This is a special use in an R2 for the operation of a pizzeria which is 249-20 of the Town Code.

DISCUSSION:

Mr. Mattatall: You want a use variance which is a different variance. On the reasonable return – you are not meeting the standard – you are operating a successful operation and want to split the operation with a separate entrance. You can make money with the deli with the increase sized you were given. Frankly the hardship does not apply to the neighborhood and it is not a unique hardship. As far as altering the character, you are operating something there. Take-out will increase traffic in there dramatically. As far as the self-created hardship - you are asking for something yourself - it is not imposed by the Town or the environment and does not met criteria for a use variance.

Mr. Morgan: You have covered it pretty well.

Ms Guenste: It is not an unnecessary hardship - you have the deli and are asking for another use. It will change the character of the neighborhood.

Ms Raffo: That bothers me.

Ms Guenste: I don't see any hardship involved in granting it.

Ms. Raffo: I am concerned about the character in the neighborhood being changed with the pizza and traffic in and out. It is a residential area and the hours and it does alter the character of the neighborhood.

Mr. Mattatall: I Move to grant the following use variance: to permit take-out pizzeria;
Seconded.

VOTE: In favor (aye): 0

Opposed (nay): N. Guenste
J. Mattatall
W. Morgan
E. Raffo
R. Schoenberg
Abstain: E. Johnson

DECISION:

Mr. Mattatall: The use variance is denied.

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. Mattatall: Do you have your information ready.

Mr. Lecei: I would like a one family / one story home for me and my wife. I hired an engineer for the septic and want to ask to carry over to the March 14th.

Mr. Mattatall: I Move to continue the hearing to March 14, 2005; Seconded; All in favor;
Motion carried.

HEARING REVIEWS (March 14, 2005)

JOHN & DAWN McGEE: (set back variances)

Mr. Mattatall: This is your chance to explain what you are applying for.

Mr. McGee: A side yard for a deck for an old one we are demolishing. The new one will be larger.

Mr. Mattatall: The two areas on the plans are decks?

Ms. Raffo: Are both there?

Mr. McGee: Yes. One is down but both will be built.

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

Mr. Mattatall: I move to hold a Public Hearing on March 14, 2005 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.

Mr. Mattatall: If you have any questions, give us a call. The Tax Office will have what you need when you give them the section, block and lot number.

MICHAEL PADUCH: Request for area, width and side yard variances.

Mr. Mattatall: Please explain.

Mr. Paduch: I own a pre existing non-conforming lot. This lot has water/sewer and is in the R1 zone. I have been before the Planning Board would like a 2 family house for my daughters and there are 30 pre existing lots with same size. This is from the lands of Dr. Miller' and is filed in the clerks office. Ten (10) lots currently have 2 family dwellings. I need to request a variance for the 2 family – lot with 80 to 50ft; side 15 to 8.5ft and 2 side yards 30 to 24ft. At the Planning Board it was noted that this was pre-existing and the attorney can advise if a variance is necessary.

Ms Guenste: This is a 26 x 60ft house? And one story?

Mr. Paduch: Yes. One story.

Mr. Mattatall: I Move to hold a Public Hearing on March 14, 2005 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.

BELA GESZTESI, III: (area, lot and side yard variances)

Mr. Mattatall: Please explain the project.

Applicant: I want to build a residence for my family on there. The variances are to put a new structure on the lot.

Mr. Mattatall: Is there residence there now?

Applicant: Yes.

Mr. Mattatall: Is it occupied?

Applicant: Yes it is.

Mr. Mattatall: How many stories?

Applicant: One (1).

Mr. Mattatall: Do you have a survey for the lot?

Applicant: No I do not.

Mr. Mattatall: You are asking for lot area from 20,000 to 10,000 and side yard variances. I don't know we can proceed without survey to show actual size of lot. Your diagram is very good but we need a survey.

Mr. Gesztesi, Jr: It is on the tax map or the tax bill does give the dimension of the lot. When I called they said we did not need a survey until we go to the Planning Board to build – not the Planning Board but to submit the plans. The tax bill gives dimension of the lot.

Mr. Mattatall: We will accept that.

Ms Guenste: How big now?

Applicant: I don't know the exact size now.

Ms Guenste: What is the grade?

Applicant: It is level.

Ms Guenste: Will we be able to find it easily? We go out and there are no street numbers.

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

Mr. Mattatall: I Move to hold a Public Hearing on March 14, 2005, 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.

Applicant: Do I bring copy of tax record at the next meeting along with the current dimensions?

Mr. Mattatall: Yes - we just need to know what it is.

Mr. Gesztesi, Jr.: When he goes to build the house can he can go smaller than the variance he gets?

Mr. Mattatall: Yes.

Mr. Gesztesi, Jr.: What about stories?

Mr. Mattatall: As long as you don't exceed the foot print the other is with the building inspector's office.

FRED VLIESTRA: (area variance and lot width)

Applicant: It is a one acre lot and have allowed side lines but lot it is a little narrow.

Mr. Mattatall: The other thing is that you are in an RA zoning there. You have one acre of land. You purchased this in February 2000?

Applicant: February.

Mr. Mattatall: The law changed in December of 2002 that affects requirements in RA.

Applicant: We were under contract before that.

Mr. Mattatall: That is pertinent - If you can prove you were under contract. The idea is that if you are attempting to do something.

Applicant: I closed February 21st.

Mr. Mattatall: Please give us something to go by. When we change the rules and when you are already in the game, we need proof. You can give us a copy of the binder, cancelled checks – bring that and it makes this much easier. The other thing is with the soils type out there – the soil formula the County uses and actual code numbers. The county has map and go by that and tell us unless you using engineered septic. They may tell you what is needed and if you can build at all.

Applicant: Okay.

Mr. Mattatall: You need a lot area variance from 2 acres to 1 acre and width.

Applicant: Yes.

Ms Guenste: Can we have a larger map that we can see better. You have the eptic system laid out here – we need copies.

Applicant: We brought them in.

Mr. Mattatall: We were told to make them smaller.

Applicant: We have 11.

Mr. Mattatall: We need them in 10 days so they can be mailed out for review before the next meeting.

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

Mr. Mattatall: I Move to hold a Public Hearing on March 14, 2005 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.

LITE BRITE SIGNS: (side and rear yard variances)
VERIZON WIRELESS

Mr. Mattatall: Please explain

Carmine Rotunto: We applied for 3 permits; received approval for 1 and are asking for a variance for the elevation facing Dunning Road and Rt 211 because that is impact on traffic – most visible point.

Corporate architect: We have entrances on both sides of building – not a rear but 2 fronts - one parking area and on other side. You refer to as rear but there are 2 fronts.

Mr. Mattatall: You can't have 2 fronts. On corner lots one is determined as the front.

Corporate architect: In the sign ordinance it talks about sign frontage regarding sq/ft based on linear footage on street or parking – we have building fronts on 2 parking areas and that have access.

Mr. Bennett, Building Department, TOW: The key word is 'or' , 'not', and 'and'.

Corporate Architect: You could front on two. It does not say you have to pick one then permit how many signs in that calculations. If you have corner building that has 2 fronts on 2 streets.

Ms Raffo: There are not 2 fronts to any building – one is along a designated street.

Corporate Architect: How do you calculate size – it talks of area of storefront that front upon streets and then ordinance allows you to put it any where...

Mr. Bennett: ...except the rear as per the zoning.

Corporate Architect: Our rear is really the narrow side of the building.

Ms Guenste: 0 to 60.25 on side north. I have 2 photos – the front was approved by PB? Or is it the area you are asking for?

Applicant: Not sure if it will face Red Lobster or not.

Ms Guenste: You want 2, and if the rear west is the 'rear' this is what we have to look at and the other is the front. You have to determine what is front and back.

Applicant: Can we change the rear to front.

Mr. Mattatall: I have plot plan here.

Applicant: He has some stuff here. The rear is the north side.

Corporate Architect: (looked at photos)

Mr. Guenste: They have to be parallel to each other.

Applicant: On Dunning and facing Red Lobster. This is Dunning Road (looked at drawing) facing back is rear and this (drawing) is other side.

Ms Guenste: The short piece is in the front.

Corporate Architect: There are 2 doors on the east and west side.

Ms Raffo: That is where doors are?

Applicant: If he have to chose which is front – we want it to face Dunning. Unfortunately the building is what you consider is the rear is main frontage. There is an entrance and high visibility there. Not average rear in Town of Wallkill.

Ms Guenste: Long sections are the sides? Why not use them as you got approval from the PB. 2 short sides would assume to be sides of the building if not doors there.

Applicant: If you give choice to chose side face 211 the rear. We have entrances on other side. (looked at drawings). Basically we are asking these to be sides (drawing) and make this the rear.

Corporate Architect: Practically – I understand you have front and rear and because we have 2 public entrances and one side is not public active entrance, fronts on 2 sides and will be used, however we need to designate – short end is rear and this is (drawing) 2 sides and or front.

Ms Guenste: On the short side - is there a door?

Corporate Architect: An entrance for staff not the public.

Ms Guenste: The front on Dunning and rear in parking lot – we are talking about the building itself and designating sides. You have front on Dunning Road for now that is approved, we need to determine if we can approve sign on the ‘rear’ side in the parking lot. That is what I see it as. You have 2 sides and one on other side that would be rear to me and that is what you need the other side there. You don’t want signs on 2 short sides.

Applicant: Yes. You see Dunning Road.

Mr. Bennett: This is the frontage (looked at drawing).

Mr. Mattatall: There are 2 sides.

Mr. Bennett: The physical address and according to linear footage and frontage.

Mr. Mattatall: If you look at one building and go next to Aspen its all one building.

Corporate Architect: He asked the frontage. What you call the rear we want as the side practically speaking shorter end is service entrance.

Ms Raffo: It is a side.

Mr. Mattatall: You have a lot to think about between now and the public hearing.

Jeff Pasco, Verizon: I came up here with Ken (Corporate Architect). I understand what you are saying but it is visible and reality is if we put sign on the parking lot side where most parking is as front, no one will know its Verizon store till enter the complex. If you treat rear as rear – we are making customer entrance and parking and sign that as front like other occupants have on their building. We don’t have a pylon sign and it is the last site to be developed. We are forced to use the building as a sign.

Mr. Mattatall: The permit granted is the one facing Dunning as the front.

Jeff Pasco, Verizon: The dental office has their sign up on parking lot sign. Confusing to see blank sign with a front and door with dental next to us.

Mr. Mattatall: It is a quandary we will settle next month.

Ms Guenste: We need something to show this a little bigger.

Corporate Architect: We have a site plan of the property.

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

Mr. Mattatall: I Move to hold a Public Hearing on March 14, 2005 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.

LITE BRITE SIGNS: (side and rear yard variances)
ASPEN DENTAL

Ms. Raffo: This is the same building – Aspen has a sign up already for parking lot side.

Mr. Bennett: No one could determine front and back.

Carmine Rotundo: We put it where we wanted but approved it. We can put Aspen on other side if we chose to. If we put it there it makes other side....

Mr. Bennett: ...it is a quandary.

Carmine Rotundo: Who ever built the building built it the wrong way. Not average rear of the building.

Mr. Mattatall: We have that with buildings that are built or going to be built.

Carmine Rotundo: They are nice looking signs.

Mr. Guesnste: May be we need to name it something else.

Ms Raffo: The tenant.

Carmine Rotundo: Same situation – they have front side approved and is up on a parking lot side.

Ms Guenste: They are calling it the front.

Carmine Rotundo: Parking lot side?

Mr. Mattatall: That is what they put as the front.

Carmine Rotundo: We have no exposure to the main road and that is our problem.

Mr. Mattatall :That leaves you with

Carmine Rotundo: No one out of the area will know it is there.

Mr. Mattatall: The rear is the Dunning Road. The remaining side facing Krispy Cream.. you are requesting from 0.0 is what? Side 79.5 sq/ft and 2nd variance to rear 36 sq/ft.

Carmine Rotundo: The parking lot side is basically the front.

Mr. Mattatall: That determines the rear.

Carmine Rotundo: The rear has the visibility. It's a good intersection and want to try to get what ever you can.

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

Mr. Mattatall: I Move to hold a Public Hearing on March 14, 2005 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.

Carmine Rotundo: Can we state where the things will go?

Mr. Bennett: The problem is that you have already received approval on Dunning Road as the front.

Carmine Rotundo: Can we pick where we want the sign or where Aspen is?

Mr. Bennett: They designate front and rear as parking side.

Carmine Rotundo: We are limited to Dunning Road side till the meeting?

Mr. Mattatall: Correct.

PUBLIC HEARINGS:

Rocco Pagli: Request for a variance 249-3 (accessory building) for construction of a garage: 1) from 28x28ft to 30x48ft for storage of personal items; Property located at 248 Derby Road (21-1-61); Designated RA

Mr. Mattatall: The mailings were reviewed by the Board and filed. The Public Hearing Notice was read at 8:35 pm.

Mr. Mattatall: I Move to open the Public Hearing at 8:36 pm. Please present your application.

Mr. Paglia: It is for storage garage for vehicles, tools, basically that is all.

Mr. Mattatall: Thank you.

Ms Guenste: What are along the side back there?

Mr. Mattatall: It is an accessory and he is within that. And it will along the front side of the house.

Mr. Mattatall: comments from public?

Tim Pailo, 256 Derby Road: What is the garage for, location? According to the Town PB no building can be larger than 24x24 and no be closer to front line than principal building. I am concerned about the traffic and have photos where he is going to be placing it. I have small children and it's a long driveway. It's a dirt road and he has a soccer field and every Sunday they play soccer and there is more traffic.

Mr. Paglia: That is irrelevant.

Mr. Mattatall: He has a drawing to show you where it is (reviewed).

Mr. Paglia: This is on other side of the right of way. It is my cars - same vehicles I have now.

Mr. Pailo: What is it going to be made of ? We want to keep it residential and not commercial. I am from Rockland where I had to rent space for my landscape business equipment. Is it considered residential?

Mr. Mattatall: It is RA and allows quite a few things.

Mr. Paglia: Vehicles, quads and work tools and I don't have equipment. You have set of blue prints – tell your neighbor it will basically match my house. It is almost same as my house and it will match the house.

Mr. Mattatall: They are all well kept.

Mr. Pailo: I want to make sure a factory or storing fertilizer out there. I wanted to know impact to the area.

Spiros Matalukos, 250 Derby Road: I live next to the house – I am here because I have a problem with the kids and machines they are riding and the noise is too much. Garage for tools

next to house you have trees and not disturb our house. 2 driveways together. (looked at drawing) I thought it was somewhere else. I thought it was next to the soccer field.

Ms Guenste: This is what we are looking at.

Mr. Matalukos: Thank you – no problem.

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

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

Mr Mattatall: I Move to close the Public Hearing at 8:44 pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variance for an accessory building from 28x28ft to 30x48ft; Seconded.

DISCUSSION:

(None)

VOTE:

In favor (aye):	N. Guenste J. Mattatall W. Morgan E. Raffo R. Schoenberg E. Johnson
-----------------	--

Opposed (nay):	0
----------------	---

DECISION:

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

Gary Doland: Request for a variance of 249-22-D:

- 1) deck from 15ft to 1ft;
- 2) pool from 20ft to 12ft;
- 3) shed from 2ft to 1ft 6 inches;

Property located at 115 Bellvernon Ave. (77-6-14); Designated R1.

Mr. Mattatall: The mailings were reviewed by the Board and filed. The Public Hearing Notice was read at 8:45 pm.

Mr. Mattatall: I Move to open the Public Hearing at 8:46 pm. Please present your application.

Mr. Doland: When I bought this is was pre existing and did not realize nothing was approved and told so by the assistance building inspector who told me what to do. He did not get along with the former owners. The building was there for 40 years and decks and the pool is new but existing pool we just replaced it and decks from old pool 20+ year.

Mr. Mattatall: You put up same size pool?

Mr. Doland: Yes, and had electrician come in and do it correctly. It was an extension cord and up to code now. I want to be sure its safe.

Mr. Mattatall: Any questions from the Board?

Mr. Schoenberg: No questions.

Ms Guenste: Of course – sorry – are you getting variance to sell the house I saw the sale signs. We want to be sure there were not problems.

Mr. Doland: Yes.

Ms Guenste: The condition of the fence – it seemed to be getting old.

Mr. Doland: We repaired and painted and neighbor's child climbs on it and nothing to do with the pool – where we have our garden.

Mrs. Doland: We have a fence on the front side and partial falling down is between shed and the garage.

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

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

Mr. Mattatall: I Move to close the Public Hearing at 8:50 pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant following variances: 1) side yard for deck from 15 to 1.0ft; 2) pool set back from 20 to 12 feet; and 3) shed set back from 2 ft to 1 ft 6 inches; Seconded.

DISCUSSION:

Ms Guenste: The only question is for the code enforcement officer (Mr. Bennett) is that if we have enforcement of maintenance of the deck?

Mr. Bennett: Yes, decks and fences.

Mr. Mattatall: You have conditions that are pretty common and you are making the right moves to make it right. You have houses with small lots and it has occurred.

Mr. Doland: It is scary people don't do things correctly. When I was painting I was told about it.

Ms Guenste: This is pre-existing.

VOTE:

In favor (aye):	N. Guenste J. Mattatall W. Morgan E. Raffo R. Schoenberg E. Johnson
-----------------	--

Opposed (nay):	0
----------------	---

DECISION:

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

Stram Development Request for a variance of 249-19-D-1:

- 1) lot depth from 300ft to 200ft;
- 2) area from 2 acres to 1.212 acres;

Property located on Yereance Drive (7-1-61.11); Designated RA.

Mr. Mattatall: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:54 pm.

Mr. Mattatall: I Move to open the Public Hearing at 8:55 pm. Please present your case.

Mark Stram: I am here for the record owner of the property and this application was granted on 8/03 for an area variance. At the time it was granted with concerns about the need for a special design for the septic and that was worked on by Lanc and Tully. It took a great amount of time and effort and a year expired until the time the issues of special treatment facility was acceptable and resolved. That has been signed off by the health department on 8/04 and submitted it as part of application. In interim the variance expired and application in December for extension which was denied – the time to make request of 6 months has expired. This is a new application that is being resubmitted and in January with it is proof the DOH approved the special designed septic for the lot and everything addressed has been resolved. The area variance was addressed and voted of in favor and outstanding issue with the septic that was approved. We are asking for approval of the variance again as it has expired.

Mr. Mattatall: Any questions from the Board?

Mr. Stram: Nothing has changed other than the approval from the DOH.

Mr. Mattatall: We have updated the site plan and the approval letter.

Mr. Mattatall: Any questions from the Public?

Jean Halpern: I want to address the Board and I live across the street and it has been changed form the original variance. We were here before the variance was granted because of drainage concerns and approval for perk too time. We have had problems since moving of the dirt and in back of our house we have creek and since dug the water is very high and the contour of the way the water drains has changed and it is a concern. The neighbor 2 houses down is not here but has letter. ‘To Whom it may concern – I want to report the following information regarding location: on 1/14 flooded in basement and professional took out over 3,000 gallons of water than had to be removed and had damage. Adverse affect on water table that flows into my property. Sump pump work overtime to keep basement dry. This will create additional problems for our street and Dogwood Drive. After they cleared the land and were still working in November we still see a rise – I have been there over 20 years, and eventually it will come back over into our property.

Mr. Mattatall: Any one else?

Patrick Horne, 87 Brown Road: We have always had a little water but it has gotten much worse since work started and before is for size of the lot. The lot was too small under old rules and

much too small under the new rules. I understand he has owned it for along time but it is not in conformance for a building when he bought it. Why laws for the lot size when you gave him variances to build on it – the lots were way too small. That is all I have to say.

John Murphy (behind Jean Halpern): Over the last couple of years we have have had severe flooding and culvert under my property and discharge from the Yearance wild life preserve. It has been there for about a 100 years and the man who owned the property donated it to someone and signs were posted and there is a great deal of wet lands. The discharge runs over the lawn and has affect our in-ground pool. I have a concern where the house will be located and recontoured so as to aggravate the problem more.

Mr. Mattatall: If you do anything with the stream – I have not seen DEC not get involved in things like this and building would have to be involved with that. If you see something you have the right to call them. What is discharge?

John Murphy: The water gushing is melting snow and in April there is torrents of water coming down and it butts up to this property and walked through it to get to the pond where my children use to ice skate and I would be concerned about building on it and they and we have water problems and don't think this will make it better. Thank you.

Mr. Mattatall: Any questions or comments from the Board?

Mr. Johnson: When you designed the septic – was there ground water at that level?

Mr. Halpern: When we did perks...first ground water on the property and they found none and the health department signed off on it. The perk test was done in accordance with the County and they have stamped the plans from the health department so there is no ground water issue. There is a stream is on opposite side of raised septic and only work on the site is to clear trees and no change in ground contour. Our plan for 3 bed room single family has been submitted and reviewed and accepted with variance had expired and the building inspector said when it was resolved the building permit would be issued because we met other specifications required.

Mr. Stram: When we were here last the issue came up then if was entitled to single variance because size and owned in 1986. It changed in 2002. to correct that – not an accurate statement. There are soil requirements that determine how much variance is needed and not true it was needed when it was acquired in 1986. It was addressed last time and alleged ground water which was looked at by the health department and got their stamp.

Mr. Johnson: Is it running all the time?

Mr. Halpern: No, there have been no many dry periods. When I lived there some times - but we have not changed contour of the site.

Mr. Mattatall: That is beyond this Board. We don't do the engineering.

Mr. Mattatall: I Move to close the Public Hearing at 9:07 pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variances: 1) lot depth 300 to 200ft; 2) area from 2 acres to 1.21 acres subject to septic being accordance as approved by the Department of Health on 8/04; Seconded.

DISCUSSION:

Ms Raffo: Understand, that because this is pre-existing by the owner and the permit/variance was previously approved I will vote in favor. If you came today I would have to vote No.

Mr. Mattatall: The law changed after you purchased the land and that is why I am voting for area variance and health department approval is key.

Mr. Johnson: I have reservations, but the lot was previously approved. If up for approval now, with my background it would be different.

Ms Guenste: You owned it before when smaller lots were approved and understand the adjacent owners issues and I am not sure if it has changed demographics.

VOTE:

In favor (aye):	N. Guenste J. Mattatall E. Johnson W. Morgan R. Schoenberg E. Raffo
-----------------	--

Opposed (nay):	0
----------------	---

DECISION:

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

Mr. Halpern: I have lived there for many years and will build a house we would live in ourselves.

Sky Ridge Developers: Request for a variance of 249-19-D (lot size):

- 1) lot width from 200ft to 125ft;
- 2) two side yards from 100ft to 64ft;
- 3) area from 2 acres to 1.2 acres;

Property located on Highland Lakes Road (64-1-47.2); Designated RA.

Mr. Mattatall: The mailings were reviewed by the Board and filed. The Public Hearing Notice was read at 9:11 pm.

Mr. Mattatall: I Move to open the Public Hearing at 9:12 pm.

Gardner Barrone: This property purchased at tax sale over year ago and is a 1.2 acre lot and it is proposed to build a bi-level house which is not what we previously proposed - colonial 42x22. The bi-level is consistent with others in the area recently 42x28ft and the foot print of the house is within 10 per cent of majority of other homes in the area. We can provide you with the info from the Tax Office and a got copy of tax records for other homes in the area which show what is existing and what we propose.

We were here last year and requested the same variance with a larger size home and it was denied and we brought an Article 78 proceeding at which we presented our plan to the judge and now show the map you have with the surrounding homes (looked) and there are a substantial degree of non conformity in the area. As you can see the majority of homes are on lots which have 1 non conforming feature. 12 have at least 1, 8 have 2 and 7 have at least 3 non-conforming features. Of those 9 of 12 are smaller than lot area and 9 of 12 are lot width and 8 of 12 are side yards are smaller. The court agreed that the colonial is larger than what is in the area and in fact 200 foot smaller which adjoins us with home site on it. We are proposing a 1176 sq/ft and a 1144 ft with building of 1844 ft and ours is 1680 ft area. detailed it in submission given to you.

Joseph Pfau: There was a concern about the layout – beside size, the driveway was on opposite side from ad joiner where we needed a side yard variance. We flipped it so we meet one side and provided landscape buffer and came out of other issues at previous ZBA meeting we were at.

Mr. Mattatall: You want a variance on total of 2 side yards, one side yard and area.

Joseph Pfau: A copy of soils map are available (handed them out). We went from a 4 to 3 bedroom house.

Mr. Mattatall: Please bear with us you gave us a substantial package to look at.

Joseph Pfau: The neighborhood map has red ink of what are insufficient and deficiencies in adjoining properties.

Mr. Mattatall: The majority were built over 30 years ago.

Mr. Barrone: 3 homes that are single story are under 1000 sq/ft and don't meet the minimum.

Mr. Mattatall: They did meet it when they were built.

Ms Guenste: It was built in '65 – the other small ranch – so 40 years ago when zoning was different..

Joseph Pfau: I put on two (2) sets of bulk requirements. The lot was created at that time and show other bulk requirements it did meet those requirements.

Ms Guenste: You did not build it until the zoning changed.

Mr. Mattatall: Any questions or comments from the Board?

Ms Guenste: The soils in the front says a minimum of 3 acres but don't know how far back it goes? Does it have to be 75 feet from that – the septic?

Joseph Pfau: There is the location of septic on the property.

Mr. Mattatall: Questions from the Public?

Edward Cuccio: There is a 68 – 40% decrease in the lot size and 40% on the side. It was a spec piece of property and they got it cheap and the reason is that it is 1.2 acres. We need to uphold the 2 acre zoning where there are no special circumstances or hardship.

Craig Benedict, # 135 (right next door): I have letter of opposition signed by people within 300 feet and there are copies. Basically it is 1.2 acres and is a narrow lot and that is why there are the side requirements. The soil is almost all clay and we have almost all had problems. The biggest part is the land was purchased after zoning went into effect and bought it for \$3000 and I wish I new I would have bought it. Did they ask the neighbor who has 8 acres ? I don't' know.

Mr. Mattatall: That was asked and were told they did not have to.

Mr. Benedict: I would like to buy it for double and contract. I would not try to build on it - we moved into the country and that is what we would like.

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

Mr. Mattatall: Any questions from the Board?

Ms Raffo: The guidelines need to consider if it is self-created? Obviously it is - you bought it knowing it was too small. Is it a substantial variance? It is - you have little more than half of what you need. Can you alleviate – Mrs. Thompson asked at the last meeting if you could buy additional acreage. Will it adversely affect the area – that is why it was changed to 2 acres as property is getting to crowded and affecting ground water. Will it create problem in the neighborhood - not big concern for me, but the neighbors think so.

Mr. Mattatall: You bought it that did not meet the zoning and as you saw in other hearings for people with land before the change - stay with the old rules. Buyer beware when you buy. You can make a profit if you sell it. We don't have legislative to maximize your profit.

Ms Raffo: We have photos of houses 30 years or more and can't make them tear them down and there was no requirement then .

Ms Guenste: We did the research looked at dates when they were built and the newest other house on 4 acres was 2 acres in 1975 and all are pre existing. We have zoning laws to protect the environment and our ground water. If we put too many houses on too many small lots we will have issue with that. It was purchased after laws were changed and put into effect and you have

not made any effort which is your responsibility to make the lot conform to laws and are not attempting to purchase additional land to conform to code – it is self created. I will be voting no because of that.

Joseph Pfau: Besides of the when the land was purchased – if there is tax lots and you change zoning you can't use the parcel the property has not use any more? If have 1 acre and it becomes 2 and sell it any lot not 2 acres you can't use it?

Ms Guenste: You can sell it or buy adjacent.

Mr. Schoenberg: I share your concerns, but looking at reasons as before – given there are other non conforming that are smaller than current is not sufficient reasons to deny. The judge took into consideration the comments from neighbors but that is not sufficient to deny. But, the judge did say it was too large for the lot and requested the applicant decrease the size and they have done so. I don't see any reason or what is different before us and what the judge has said.

Ms Raffo: We did the research and the zone at the time - it was less in the past when they were built. We were asked to revisit it again and we have.

Mr. Barrone: Your comments make sense but the law is what it is and we have gone down the path before and your attorney argued the points you have raised today and under the law in NY we have right to buy a non-conforming piece and seek a variance under those circumstances. We came in with a house originally before and you voted and we have offered to make it smaller and made adjustments to the plan and tried to accommodate it visually and the impact on the site. Since the judge's comments we came in with a size we felt would fit in the neighborhood which is smaller than home on the adjoining land and which is a style of a house which will blend in with other newer homes, albeit older homes, that pre date codes. The house has to be of modern materials and meet standards and needs - not a colonial like across the street that does stick out. A bi-level fits within area and tried to come under the threshold the judge set and willing to live with that and did not appeal it and came here with house that goes under his standard and uphold the law the judge set and grant variance.

Mr. Mattatall: (J. Owen, Esq.): The judge's decision here turning to merits, what does that mean to us.

J. Owen, Esq.: What he said exactly.

Mr. Mattatall: What he is saying he mentioned before for the future for non-conforming lots according to this in the neighborhood of non conforming lots...

J. Owen, Esq.: ...this case is different.

Mr. Mattatall: Is the precedence setting?

J. Owen, Esq.: No more than any other non-conforming lot and every case is different and each one is presented has different characters of the neighborhood, septic, all of findings that have to be taken into consideration.

Ms Guenste: Undocumented precetion of the community: we have property cards taken and he stated he will not make an attempt to make it a conforming sized lot. And our guides tell us can

it be achieved? – no attempt to make it so according to the codes. If we state these reasons will that be different before the courts? I don't know why the decision sheets did not specify reasons.

J. Owen, Esq.: The decision sheet did not specify reasons.

Ms Guenste: The decision sheet shows reasons why now.

J. Owen, Esq.: You can decide tonight or continue to the March meeting.

Mr. Mattatall: I Move to continue the hearing to March 14, 2005; Seconded; All in favor; Motion carried.

Mr. Mattatall: We have continued not closed, the public hearing, we will see you in March.

CORRESPONDENCE:

Mr. Mattatall: We have received up-dated information from DOT on exit changes and fees. (attachment forwarded to members).

Mr. Mattatall: We have received a request from FAIRWAYS that requests an extension on variances to continue with the project associated with 217 residential condominium units on property located on Golf Links Road (73-1- 31.2, 33.2, 33.3). At the December meeting of the Planning Board they received approvals through December 2005. They have completed some items. There were numerous variances with this and they are doing site work and meet what they have stated in the letter.

Mr. Mattatall: I Move to grant an extension to September 2005; Seconded; All in favor; Motion carried.

Mr. Mattatall: The extension request has been granted.

MEETING CLOSE:

Mr. Mattatall: There being no further items to be presented, I Move to close the meeting at 9:41 pm; Seconded; All in favor; Motion carried.

TOWN OF WALLKILL ZONING BOARD OF APPEAL
DECISION SHEET

FEBRUARY 14, 2005

Janos Lecei: Request for a variance of 249-19-D (lot width); Property located at 502-508 Bart Bull Road (SEC 46 BL 1 LOT 46); Designated RA.

CONTINUED: March 14, 2005

Jasu Padhya Request for the following variance:
1) use variance to permit take-out pizzeria;
Property located at Corner of Silver Lake Scotchtown Road and Freezer Roads (21-1-32.61); Designated R-2.

DECISION: Variance denied

Gary Doland Request for a variance of 249-22-D:
4) deck from 15ft to 1ft;
5) pool from 20ft to 12ft;
6) shed from 2ft to 1ft 6 inches;
Property located at 115 Bellvernon Ave. (77-6-14); Designated R1.

DECISION: Variances granted.

Stram Development Request for a variance of 249-19-D-1:
3) lot depth from 300ft to 200ft;
4) area from 2 acres to 1.212 acres;
Property located on Yereance Drive (7-1-61.11); Designated RA.

DECISION: Variances granted.

Subject to property development using the submitted approved Health Department septic system of September 2005.

Rocco Paglia Request for a variance 249-3 (accessory building) for construction of a garage:
1) from 28x28ft to 30x48ft for storage of personal items;
Property located at 248 Derby Road (21-1-61); Designated RA.

DECISION: Variance granted

PAGE 2

Sky Ridge Developers Request for a variance of 249-19-D (lot size):

- 4) lot width from 200ft to 125ft;
 - 5) two side yards from 100ft to 64ft;
 - 6) area from 2 acres to 1.2 acres;
- Property located on Highlandlakes Road (64-1-47.2); Designated RA.

CONTINUATION: March 14, 2005.

EXTENSION:

Fairways Wallkill, LLC

(MGD Development Group, LLC. Request for an extension on variance granted (see September 13, 2004 Minutes/Decision Sheet) associated with 217 residential condominium units on property located on Golf Links Road (73-1-31.2, 33.2, 33.3); Designated R1.

DECISION: Extension granted to September 2005.