

TOWN OF WALLKILL ZONING BOARD OF APPEALS

March 8, 2004

MEETING OPENING:

The monthly meeting of the Town of Wallkill Zoning Board of Appeals opened at 7:47 pm with the pledge to the flag followed by the roll call and presentation of the February 9, 2004 Meeting Minutes.

PRESENT:

J. Mattatall
W. Morgan
James Owen
O. Smith, Chair
P. Thompson

Joseph Owen, Esquire

ABSENT:

E. Oster

The Minutes of the February 9, 2004 Meeting were reviewed by the Board. The following changes were noted for the record:

Page 18	Decision Sheet	KM Martell Construction	Variance granted
	6 Month Extension	M. & A. Gregan	Extension granted
		Joshua Silkman	Extension granted

The Motion was made to accept the Minutes as noted; Seconded; All in favor; Motion carried.

The following applications were reviewed for Public Hearings on April 12, 2004; Public Hearings heard, discussed and voted upon as noted.

HEARING REVIEWS: April 12, 2004

ALTA EAST, INC.:

John O'Rourke, Lanc & Tully Engineers.

Mrs. Thompson: When was this purchased?

Mr. O'Rourke: 2 to 3 years ago – 2001?

J. O'Rourke: We are requesting 2 variances: 1) canopy over the gas island in front yard;
2) landscape buffer zone.

As you note on layout the access road is as far east as possible due to DOT restrictions accessing 302 and the front area for the on/off ramp for the Quickway. We have 100 feet private access way and access the rear use for regional trucking. It is within 50 feet and we need a variance buffer and on other side as it fronts Rt 17 – there is parking and loop access for trucking in front and it does encroach the landscape buffer. Along the bank it is not visible from the road. That location is because of the DOT entrance.

Mr. Smith: This is for the number of spaces?

J. O'Rourke: No. Just landscape and canopy.

Mr. Mattatall: You could not set it any other way because of the wetlands.

J. O'Rourke: No.

Mrs. Thompson: Can you make it smaller?

J. O'Rourke: No, even if made smaller we have a problem with access. They are big sized vehicles for sales and services.

Mrs. Thompson: Do they go in the building?

J. O'Rourke: In the rear – yes. It could be both tractor and trailer.

Mr. Smith: 2 lots? When was it subdivided?

J. O'Rourke: We are at the PB now for that and they sent us here for the variances required.

Mr. Owen: Lot #2 is wetlands?

J. O'Rourke: The line runs down the middle. The wetlands (looked at the map).

Mr. Mattatall: The 'hatching' means wetlands?

J. O'Rourke: Yes. The property line goes down the center of the access road.

Mr. Smith: Why subdivide?

J. O'Rourke: 2 owner ships. Regional Trucking in rear and a convenience store in the front.

Regional Lot #2 – regional trucking (existing on North Street) and they are moving to this location; front is AltaEast.

Mr. Smith: You own everything at this time?

J. O'Rourke: Yes.

Mr. Smith: Was an easement discussed?

J. O'Rourke: Yes.

Mr. Owen: Is this Town water?

J. O'Rourke: Yes..

Mr. Smith: I Move to schedule a Public Hearing on April 12, 2004 at 7:30 pm as soon there after as the matter can be heard; Seconded; 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 two weeks. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing Date. The mailings must be sent either by certified or registered mail. Bring the proof of mailings with you to open your Public Hearing. It can't be opened without your proof of mailing.

SEEKAMP REALTY OF MIDDLETOWN, LLP (Perth Commercial Properties, Inc.)

Kevin Preston, Esq..

Mrs. Thompson: You are going by the old code book. Please get the new from Town Clerk's office.

K. Preston, Esq.: They want to reduce the minimum lot width from 200 to 118 feet as a result of the loss of a suit. They had maintained the piece for 20 that they did not own. The boundary line is changed and to do that it is possible to get a variance. The Lot width from the road - if from set back there is sufficient lot width – it is 105 acre parcel. However at PB they sent me here and want ruling if a variance is required and to make application for this.

Mrs. Thompson: Lot line change?

Kevin Preston, Esq.: Yes, effectively reduce road frontage from the piece we are taking property if measure lot from road; from setback there is no need. The PB suggested I come here.

Mr. Smith (looking at map): this is existing line here?

K. Preston, Esq.: (Looked at map) basically getting this (map); we get this and to make more road frontage rather than taking rectangle we carved out piece here for adjoining land owner to increase his road frontage to 118ft.

Mrs. Thompson: The triangle (map) is not yours?

Kevin Preston, Esq.: This (looking at the map) is ours.

Mr. Smith: If being combined with existing, you have over 200 feet of road frontage.

Kevin Preston, Esq.: We do. The adjoining does not. The piece if look at 'lands of Perth' it is their property. It is only 118 feet of road frontage measuring from west of that easement. I am advocating for the adjoining land owner. The Perth attorney is not here tonight.

Mr. Mattatall: Seekamp is gaining more and to make it work comfortably allow increase road frontage for adjoining – retain because of dog leg.

Kevin Preston, Esq.: That may not be proper measure for width.

Mr. Mattatall: It comes over to the driveway.

Mr. Smith: I Move to hold a Public Hearing on April 12, 2004 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

David Braun (Berbro Management Corp.)

Mr. Smith: You revised the plan from when you were here before to 26ft wide to the front stairs?

Mr. Braun: Moved everything up.

Mr. Smith: You would like side yards?

Mrs. Thompson: Front yard.

Mr. Smith: You have to have side yards.

Mr. Smith: The application needs to be complete when we get them.

Mrs. Thompson: The side yards

Mr. Smith: The variance is 80 to 50ft for the width; area reduction and rear yard.
Rear yard

Mr. Braun: We revised the copy so the front deck will be 35 to the front road.

Mr. Owen: He gave you front yard clearance.

Mr. Smith: I Move to hold a Public Hearing on April 12, 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 two weeks. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing Date. The mailings must be sent either by certified or registered mail. Bring the proof of mailings with you to open your Public Hearing. It can't be opened without your proof of mailing.

XL CONSTRUCTION (Asher Sussman) 3rd Street (52-12-1.31 #1)

Applicant: The existing lots were approved by the PB as part of a subdivision. Since the EX is in contract to purchase the lot and they want to build homes similar to the plot plan. As you can see the front porch and rear deck extends beyond rear/ft yard setbacks. Variance allow 31ft on the front and 30 to 20 ft in the rear.

Mrs. Thompson: Does this have water/sew?

Applicant: Yes we do.

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

Mr. Smith: Is porch covered?

Applicant: I don't believe so.

Mr. Owen: You count only if covered. – deck/porch.

Mr. Mattatall: For only the porch and deck?

Applicant: Yes.

Mr. Smith: I Move to hold a public hearing on April 12, 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 two weeks. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing Date. The mailings must be sent either by certified or registered mail. Bring the proof of mailings with you to open your Public Hearing. It can't be opened without your proof of mailing.

XL CONSTRUCTION (Asher Sussman) 3rd Street (52-12-1.32 #2)

Applicant: The lot corners on Silverlake and the front porch and rear deck extends beyond. We are asking for front 35 to 30ft and rear 30 to 25ft.

Mr. Smith: This is similar to the other style house?

Applicant: Yes.

Mr. Smith: I Move to hold a Public Hearing on April 12 2004 at 7:30 pm or as soon there after as the matter can be heard; Seconded; All in favor; Motion carried.

Mrs. Thompson: You will need to do separate mailings for each lot.

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 two weeks. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing Date. The mailings must be sent either by certified or registered mail. Bring the proof of mailings with you to open your Public Hearing. It can't be opened without your proof of mailing.

PUBLIC HEARINGS:

DELMARIE REID: Request for a Use Variance: to permit from 1 to 2 dwellings on lot; Property located at the corner of Western and Pleasant Avenues (SEC 37 BL 8 LOT 1); Designated R-1.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:15 pm.

Mr. Smith: I Move to open the Public Hearing at 8:16 pm.

Dan Yanosh, Surveyor and D. Reid: She has owned it since 1999 and paid \$63,000 at a foreclosure and started renovating it when she bought it and total has spent about \$170,000 and invested in a mortgage and made improvements to the house and building in question. It was a garage at one time but when she bought it understood people lived there with it had a bath and sink. She gutted out since and renovated it and was stopped by Mr. Steenrod with permits. She has gone through the neighborhood and has 13 letters and a petition signed by 8 people to express interest as they agree with using building as residence and apartment building. It is a nice neighborhood. The building is 1200 sq/ft and bigger than the house on the lot. Brought it up well and have photos of what it looked like prior to construction and what she has done to it and made it look better. It looks nice and yard kept up. It is enhancing the neighborhood. Character neighborhood has garaged and 2nd out building it is small lot 2/10 of acre and the building is larger than the other. Others have garages. Buying the property in 1999 it is not self created - she saw it in there and renovated it unbenost to the code and it was not there not part of the deal - no title search for CO to say she could /not do something. If she knew in the beginning she may not have spent this money. She has bills for work and Home Depot and \$30,000 put into the building inside and outside. If denied money spent inside lost to her that way.

The plumbing is exiting and she found out where it went to and were under the assumption it was a pre- existing use as part time residence.

Mr. Smith: Any comments from the Board?

Mr. Owen: Did you not think to check with the Town.

Ms Reid: I checked after someone stopped by when I found out. As a first time buyer you don't know the regulations. It takes a lot of work and put in effort in fixing the place up. Both houses in bad condition and on market for 2 years. You could not get conventional loan because of crack in the basement. You knew you had to do a lot of work to it. We decided to work at it and started working away.

Mr. Owen: It looks good.

Ms Reid: It has value to it and others in the neighborhood to.

Mrs. Thompson: Others allowed 1 residence not 2.

Ms Reid: If I had bad money judgement. If I join it I would.

Mrs. Thompson: We have no jurisdiction - go to the PB.

Mr. Smith: What is under the siding?

Ms Reid: Concrete walls. I have clearer pictures. Concrete walls (picture)

Mr. Smith: What was there facing road before siding went up? Anything there that looks like a garage door?

Ms Reid: That is bigger than the residence. I believed I could be fixed it up. We can live in it. We can improve it and have house and work at it. I know for FHK 203k fed investigator tells you about.

Mr. Smith: That does not affect zoning.

Mr. Yanosh: The loan was approved.

Mr. Smith: What about a lawyer. No one contacted the town records or checked. You don't have photo of the facing wall?

Mrs. Thompson: This is a use variance and is self-created.

Mr. Smith: Please state your name and address:

Mrs. Myer: 39 Western Ave (40 years): When I got the letter stating what she wanted and asked about the garage then she said it was garage. It was a garage with doors facing the road. We did go around the neighborhood with petition of 20 names. The thing of it is we have neighbors Ontario, Western Ave, Pleasant Street and Keystone Park where notices sent. We are against it – giving the use variance.

Two women could not come but they gave their name to Ms Reid and reneged it because they said they were mislead – letters from them.

Erica Reed, 46 Western Ave.: I have lived there for 15 years and my family. One house not a garage, 2 garage doors facing street. Garage was only a garage with garbage and was a mess.

Mr. Smith: How long ago?

Erica Reed (public): From time I moved in 15 years ago until she started working on it. We are not wanting to open can of worms and people are asking why others can't do the same with their separate garages.

Ms Reid: When I bought it no one was appalled. Across the street is in different condition. I don't see broken windows and dilapidated state. I have changed every single window, planted flowers, sided, increased value of property tremendously and no one said anything.

I went to their place of business for supplies and rent. No one complained for 2 years and kids who lived in the property there was letter from someone that the children arrested monthly – and I found records.

Erica Reed (Public): We are happy house looks lovely but garage is garage and should stay a garage.

George Gallow, 7 Pleasant Avenue: It faces where garage was is. Basically what is the consequence of her turning it into a multiple dwelling lot – does it set precedence for neighborhood.

Mr. Mattatall: Yes, it certainly will.

Mr. Gallow: We have single family dwellings and Ms Reid is wonderful neighbor and taken care of the house and we are not sure how happy she is and asked me to bring her realty magazines – if rezoned for her convenience and then move out – and get a variance. Also, I don't know what will happen if she gets the variance.

Mr. Smith: We can't answer what anyone will do with the building.

Mr. Gallow: She was trying to make into garage and door not open and siding put on and not know if it is to turn it into a house or not.

Mr. Smith: Variance is for that. There is a lot of criteria to be met.

Mr. Gallow: I know as a first time home buyer and can't know everything when you buy a house but need permit for almost anything. I am against it and change neighborhood and area is getting more dense and that will happen anyway.

Art McMann, 44 Ontario Avenue: I listened to her arguments – reiterate what she said ahead of me and can't hear in her arguments anything to it. She said she was not aware of laws and add voice in opposition to it.

Vince Ferry, 55 Scotchtown Collibar Road: She prefers to make it attached portion and expand square footage; primary goal and maybe miss directed to get special use permit to make it separate building. Person earlier did miss out on buying and since he is business owner maybe building department came in and said problem with other business. There are illegal places other places that are far worse than this. The building inspector went by it and the other neighbors knew it had plumbing and far bigger than this. This is variance for one particular place and does not change character of the neighborhood. I am going to watch this closely and people make false claims on how her family operates. Be humane to people make neighborhood better.

Mr. Smith: How far are you from this?

Mr. Ferry: Half a town away.

Mrs. Thompson: We go by this (zoning) book.

Dawn Zaazero, 45 Ontario Ave.: The driveway next to her garage. I am for renovating property and don't have to clean up shingles off the garage. She tried to make improvements. Until we got the notice we did not know it was to be used as house. I have been here 20 years and grew up in the neighborhood but in last 7 years no one lived in the garage. Reference to neighbors knowing work going on and yes we aware she rented things from our company and she said she had permits and did not know for living until the not

Public: Ms Reid's mother: 54 Western Ave (D. Patton): I have been here for few months now and sad to see how she going to court about this place. She bought the place and renovated it because of me. She said 'mom renovate this place you can have it' I feel distressed. When I

came here the leaves were dropping and neighbor has 5 trees facing behind us, I cleaning those leaves every day and when I call the kids' the kids not hold bag because there are worms'. The whole of spine is in pain because of those trees an leaves daily. Feel for her.

Mr. Smith: Thank you.

Mr. Gallow: Addressing the renovating the property and increase value. Again, that is wonderful she is renovating it only help her out if she is truly unhappy if she gets variance and develops into 2nd dwelling and more appealing to sell. She said she wants it for her mom which is wonderful gesture but when she moves out they can do what ever they want.

Mr. Ferry: The zoning is a way to pit neighbor against neighbor. If she wants the place for her mother it is no concern to others. I buy not to speculate but to live in it. It is process to live and use property to full advantage. I have seen them turn head on Greenway Terrace and the trailer park where Haniford is. Is see someone trying to do something for her family. Ed Steenrod collected fees for things that should be free. Laws seem to Apply for when they want it to apply.

Ms Meyer, 39 Western Ave.: At the same time my husband was doing things in front of our house and go through process and what is fair for one is fair for everyone and she stopped by and asked about permits. I did not know it was a residence until I got the notice.

Ms Reid: on 3/14/03 applied for permit and the building inspector said he would not give me a permit and V Ferry heard this and I had to appear in front of a judge before I got any permit.

Ms Meyer: I had to get permits for work also.

Ms Reid: We discussed with the architect.

Mr. Yanosh: Use variance criteria: substantial money invested, she showed you that, show list of people who said 'yes' to this; portion of neighborhood – it does not set precedence and we have where she thought it was used because of what she found there. You look at each case. Change of character – nothing from stopping anyone moving to Florida and rent it to someone. It is not changing the circumstances. If she was not there it would continue. Again it will not turn into a bad neighborhood. It is not self created – yes garage doors there, she found cloths and mattresses.

Ms Reid: I have a letter from someone who said it was used. We had PI find someone who knew it for 40 years. We have gotten robbed by contractors, did all the work to make it better. She smokes and can't live with me. She is outside and smokes. She fixed up the place.

Mr. Smith: I was given 2 letters for the record:

Audry Bezzel 42Western Avenue: (filed).

Charlotte Hawkins 38 Ontario Avenue: (filed).

Mr. Mattatall: In the letter is said you applied for a group home?

Ms Reid: I have 3 foster children and they have been with me since I moved here and never cause any problem. I have had those children 2 years and did not applied to the State for group home – all speculation.

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

Ms. Reid: Read our letters with other uses over time.

Mr. Smith: I Move to close the Public Hearing at 8:53 pm; Seconded; All in favor; Motion carried.

Mr. Smith: Any comments from the Board?

Mrs. Thompson: Sometimes we have to make decisions we are not happy about but sometimes correct.

Mr. Smith: This is a use variance and meant to be hard to get and I don't think it has been met here. You have to present evidence you can realize reasonable return another way. The neighborhood made up of older homes some with detached garages and if toilet there or not or a sink, it does not qualify as living area. it is homogeneous with single family homes this – change make it unique and will affect character. It is self created – bought it with the building and change trying to be made now after purchase and you have to – if you fail any of those you fail and that is where I am at.

Mr. Mattatall: The reasoning has 4 tests for a use variance criteria you have not met all 4. We do see you have improved it as do your neighbors and done a lot of work but use variance has significant impact. I may sympathize but can't vote for it because of it and not met 4 and technically did not meet standard.

Mr. Smith: You said you want to connect the buildings but that is not before us. Create lot with 2 separate buildings and lots are about the same size – newer may be slightly larger. Nicely kept.

Ms Reid: Drive by and look across from me. I think I see where the board is going.

Mr. Smith: We have standards we have to go by and no evidence presented to convince me to grant variance. Fails all the test.

Mr. Yanosh: You don't like my evidence it.

Mr. Smith: The sink and toilet don't make it living. We know we have to check with the town when purchasing a piece of property – titles, lawyers, engineers.

Mrs. Thompson: I agree with Mr. Smith and as said in the beginning – you created this situation for your self. That is what happened unfortunately. Please be aware of it in the future.

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

Mr. Smith: I Move to grant the following use variance: to permit from a 1 to 2 family dwelling per lot; Seconded.

DISCUSISON:

None.

VOTE:

In favor (aye):	0
Opposed (nay):	5

DECISION:

Mr. Smith: The variance is denied.

LOUIE ANGELASTRO: Request for variance of 249-22-D (rear yard set back);
Property located at 24 Patio Road (SEC 28 BL 1 LOT 12); Designated R-1

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:59 pm.

Mr. Smith: I Move to open Public Hearing at 9:00pm.

Mr. Smith: You are seeking a rear yard side set back for a deck for your mother. We tried to understand your drawing and we were out there looking at it. There is enclosed porch and deck.

Mr. Angelastro: The deck is already there.

Mr. Smith: Enclosed porch.

Mr. Owen: You are here because it is built.

Mr. Angelastro: Yes,

Mrs. Thompson: Where do you live?

Mr. Angelastro: There.

Mr. Thompson: I went to Patio Road and they said you don't live there any more.

Mr. Owen: It has been there for a while.

Mr. Angelastro: Yes. It is 10x12 deck. Ed approved for me to fix something and Ed Steenrod already saw that.

Mr. Smith: Did he mention the shed.

Mr. Angelastro: Yes, move the shed over.

Mr. Smith: You are going to do that?

Mr. Angelastro: Yes.

Mr. Smith: Any questions from the Board?

Mrs. Thompson: I could not get in to look at it.

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

Council EricValentine: I know the shed is not on there. The Town has passed changes to the shed – it may not be concern to the new code. I think for townhouses it is totally different.

Mr. Smith: It is different but it is a couple of feet. I brought it up because it is for sale. It is an enclosed deck. I want to make that clear.

Mr. Angelastro: Yes.

Mr. Smith: I Move to close the Public Hearing at 9:05 pm; Seconded; All in favor; Motion carried.

Mr. Smith: I Move to grant the following variances: 1) Rear yard setback from 30ft to 22.2 feet; 2) side 15ft to 1.5 feet; and 3) 2 side yards from 30 to 25ft; Seconded.

DISCUSSION:

(None)

VOTE:

In favor (aye):	5
Opposed (nay):	0

DECISION:

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

CAMBRIDGE MANOR APARTMENTS, INC. (Timothy & Maureen Foley):
Request for a Use Variance for property located at the North of Rt 211 and East of Stone
Ridge Road (AKA Scotchtown Blvd.); SEC 41 BL 1 LOT 78.211;
Designated R-2.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 9:09pm.

Mr. Smith; I Move to open the Public Hearing at 9:10 pm.

Peter Botti, Esq. : M/M Foley are not strangers to the Town and have properties that are assets to the town. At one point in time the complex was improved for 162 units and 80 were built and 82 were not. I am with Jim Dillon, surveyor and Jane Wohl, appraiser.

Jim Dillon, surveyor: This is off Stone Ridge Road and Fleet Bank is on the corner. There is a mini mall and the Cove Bar and it is a 5.9 acre piece. It has odd configuration as you can see and fronts Stone Ride Road 160 feet. Show you how property originated. In 1972 the Town of Wallkill approved the 180 unit complex unit. That was the approval and how we got the shape and this is Phase 2. This is a permit that applied when the 80 units were built signed by Wm Phillips with a map giving permit for first phase to be built. The property in R2 zone and 4 permitted uses on it.

1. Single family detached dwelling not to exceed one dwelling per lot. – the purchase was in June 2000 and under the present R2 regulations it allowed single up to 15000 to .75 acres. Lot was 90 feet now is 150 feet. Depth of 100feet is 200 feet.

The highlighted the areas are the affected property (looked at hand out). That being the case and what the local law did was not give single family benefits for water/sewer. You once could build on smaller lot if had services and none was 1.5 acre. And limited R2 zone single family homes. Using the new regs, made a box with 150 feet and 200 feet requirement now to sub divide in residential. You may say I have 3 lot sub division. The property line is 180ft and to access back is 50 feet roadway. As you can see you can't build home here (map) and meet zoning; the 3 lots I did, only lot extra big is #2 but not enough to do 4 lot sub division. Shown flag lot not approved plan or desirable but cheapest if trying to get return. Problem with flat lot is lot #1 521 ft lot road #2 900 ft and #3 870 foot road both requiring tremendous amount of improvement and if you have drives that long build a town road. When you built a town road end (map) for 750 foot road would be 150k.

My conclusion for permit use #1 single family is prove it uneconomical and poor layout and understand back up against commercial businesses and shows screening on this and newer plan and single family homes own and have own access with service.

- 1) growing crops and orchards – 1974 it was leveled and lines (map) are contour lines sits 20 feet lower than residential in back could not grow anything, top soil is gone. It was stripped 20 years ago.
- 2) building structures owned operated by tow and unless you want to buy it we don't know anything about it.
- 3) homes and lodging house. – not so sure that apartment project does not fit under lodging by definition of law – it seems to fit.

P. Botti, Esq.: (handed out code definition – for lodging housing). It is exactly what they want to build. Under your own definition we need concurrence without granting a variance.

J. Owen, Esq.: An apartment house is more appropriate?

P. Botti, Esq.: We call them apartment houses but code says you can have lodging houses.

J. Owen, Esq.: You have an apartment house definition ‘ building arranged, occupied by 3 or 4 families living independent’.

P. Botti, Esq.: As in lodging rent without – lease compensate for staying there.

J. Owen, Esq.: Boarding house is similar.

P. Botti, Esq.: It is with our without meals – we clearly are not going to provide meals. That is the distinction. We can do it according to zoning. Any questions on single family?

Mr. Mattatal: When purchased what was it zoned for?

Mr. Dillon: It was R-2 – single family in 2000. And in 2002 the local law #12 of 2002 changed zoning to provide .75 per lot from when they purchased it. Extended lot depth and width. We did not know they were going to change it. If it was the way it was we would have 6 to 7 single family houses. Bulk does not work.

Mr. Garling: I have notes (handed out) tried to address what is here to describe the present situation we face. This is Rt 211 (map) stone ridge drive and piece where apartments are, Fleet Bank, strip mall, old Archies (restaurant), industrial across street and mixed use with apartment, strip mall and industrial with residential in back. Represents Scotchtown area. When this piece approved in early ‘70s house were there for a few years and leveled. We looked at special permit use as well and public and uses for which developer would not develop residential property. Those are specific items and someone would look for property to develop. Some are not suitable for residences as close as this. 2 family dwelling are most appropriate. Address yield and how to develop 6 acre piece. Use authorized will not alter character neighborhood. Looked at number of things in the area and units between existing apartment and back of commercial and natural buffer between use and residential area and trees put in and 20 foot buffer and houses distance from property line and look at roofline and not see the activity down in that location. Traffic come out at existing exit and studied traffic 6/7 cars head 211 and 1/6 headed back in to residential area – no impact on this area. the Foley’s list of people contact them in 2 months contacting them for houses and proposed 1 bedroom 1.7 per unit – single or 2 person family looking for units in the area. Based on interest here or others they own. The use variance if granted does not affect spirit or letter of the zoning. Normally use variance affects letter of the law because not specific what you are looking for. Spirit – uses are here now and not affect neighborhood.

Last undo hardship not self created – lots size increased since they bought it and picked up this and not create problem the area that was rezoned was R-1 at that time, in 1970’s when master plan done it was R1 and allowed apartments. The are was rezoned to R-2. Almost all apartments were not rezoned to R-2 this is sole group rezoned to R-2, and if look at intent of zoning law it

makes existing units non-conforming. Intent of zoning is elimination of non-conforming uses. Was it intent of town to make these non conforming and eliminate them. Main question is it that an error and rest are R-2.

J. Owen, Esq.: You have variance application tonight. Not here for hypotheticals.

Mr. Dillon: This is R-2 and other are R-1 zoned.

Jane Wohl, appraiser: Constructing 3 family houses. Analysis of single family houses as outlined by Mr. Dillon. No concrete plans it is hypothetical looking at new construction in TOW multiple listing suggests 2400 sq/ft 4 bed rooms 2.5 bath most on smaller lots as opposed to what Mr. Dillon was presenting. I found one on 2.4 acres (page 3) outlines sales comparison to determine potential value without specific details no exact figures (filed). There is deduction for location. If you go to page 9 and 10, you have photos of potential view from these homes and on 11 photo of comparable sales. Bottom or conclusion – one single from 315 to 320 if complete as of today. If you look at top of Page 3 appraisers of replacement cost through national data, check of reasonable the cost to create is \$320,000 and sell it for \$320,000 so no return from this type of improvement.

P. Botti, Esq.: To correlate with respect to potential sales from \$315 to 320 local contractor review and what can be done to get reasonable return of value. Sworn of Ferante Homes building for 30 years and built more than 100 homes recently. He indicated on Page 1 what cost to be to build 2400 sq/ft home 296800k. after completing sell it for \$320k in that location but after deducts fees gain \$2700. He would not undertake it for return of 2700. The Board asked about them they purchased it and in zone at that time.

The Board has a copy of case on point with respect to this. Supreme Appellate Second Department and deals with man purchase substandard lot and ZBA denied request for use variance and supreme court determined although not disposed, self created if practical difficulties exist. Knowing it was zoned differently should not .

US Supreme Court decision dealing with case where person part of corporation sole share holder with wetlands applied to be compensate because state took taking. Future generations can file for compensation. Basically same theory as we are here. They got it and knew what zoning was but supreme court said they can't hold that over it for all time. As you can see tonight we demonstrated no reasonable return here. 2700 for single family home with risk factor. The essential character will not change; apartments are next door. And does not affect spirit of the law – can you consider it to be a lodging house – spirit of law applied using that. Last used case law for undo hardship. They develop apartments in and 82 approved and now 52 be granted.

Mr. Smith: Any questions from the Board.

Mr. Owen: I would like more time to look over this further.

Mr. Mattatall: My understanding of your argument, that not withstanding what the law says what you are trying to say, expectation is only ting here is would be this type of development not one would not put what is zoned for now.

P. Botti, Esq.: That is correct.

Mrs. Thompson: Hardship was not theirs it was bought as R1 and can't picture any spending \$300,000 for a house between apartments and HC zone.

Mr. Smith: Any questions from the Public?

Eric Valentine: The comment about anyone put a house is ludicrous as the project behind Greenway Terrace with small lots and they are starting at \$349,099 and every house at closing is \$400,999 and I disagree with the study given. Examples of townhouses and apartments for much more than that. There is potential and make profit there. The lease is 32 years old. The approval has expired and project look at from start to finish and see problem with one access road and development using that. If he gets approval for 52 with 104 cars not make left and use Edinburgh. There is a park and a pre-school around the corner from that. The PB needs to look at it for more traffic there. The zoning was R2 and it has been changed and when you buy stock there is no guarantee it will raise and make money – you take your wins or losses. The zone was changed and it make more value to single home on bigger lot.

Eileen Phillips, 25 Scotchtown Drive: This was new when I got the notice. There is no decision on this tonight?

Mr. Owen: Not make that decision on that.

Ms Phillips: Mr Botti said they own Country Squire, Cambridge Manor – they owned it from 2000 so this property came as separate sellers. The pre approved 180 units was for what?

J. Botti, Esq.: 80 built and 82 were to be built which is the site we are talking about tonight.

Ms Phillips: There are 4 possible uses – reason is to point out this would not be good for those?

Mr. Dillon: R2 is single family and tried to layout single family sub division on the lot. In 2002 the R2 bulk changed except to 3 lots.

Ms Phillips: I am wondering if this were to happen, and I don't know where I am on the map, what is in between? Existing trees and would you put more.

J. Botti, Esq.: (looked at map) you are here.

Mr. Dillion: You have embankment and it is still there.

Mr. Owen: Distance to line from parking lot?

Mr. Dillon: 60 feet. Nothing done along strip. Screening if needed could be more trees.

Mr. Garling: If approved here go to PB for site plan and get landscape architect. Site evergreens in there for year round screening. Probably indicate 'x' number of size of evergreen interspersed.

Ms. Phillips: With everyone talking about the return, what they are arguing is that something has to be build here?

Mr. Smith: They have to show dollars and cents that this is best use.

Ms Phillip: Mr. Garling said it would not affect neighborhood. Right where I live it is private and people and down Scotchtown Lane where people cut through from the apartments. People walk and cut through and 52 more apartments will increase that. What Mr. Valentine addressed traffic and cars. I object to this. Not sure if decision made tonight.

Mr. Smith: If not tonight then the April 12th meeting.

Michael Siragusa, 29 Scotchtown: There is drop off from embankment and see apartment. My concern is what school district this is in? Also, the noise factor apartment create noise with garbage and snow removal. It approved in 1972 town a lot different place and don't think we need these apartments and growth in closed manner. Single units better but squeezing this many people is not good. Detailed plan go to planning board.

Eileen Philips; Country Squire and Middletown Village – they owned these – I have been through these are undesirable rentals and Imperial is a step up. It looks pretty messy to me. A few years ago there was people stuffed in closet. Higher standard based on who they rent to. These 2 I know because I grew up there, its not hard to get into those and have less educated renters. Cambridge Manor people are tramping through with beer bottles, not what I want in my back yard.

Marline Pinto, 9 Scotchtown Lane: More undesirable people cutting through the yards and roads and am completely against it. Not move there to live next to this. People chasing down their 3 year olds.

Eric Valentine: Purchase by 2 separate owners. The 2 can't share.

P. Botti, Esq.: In 1972 one person owned it.

Eric Valentine: When he bought it in 2000 it was void because split into 2 separate areas and you can't share that approval. When purchase it you can't expect to have same thing as the other. It needs traffic study and I have driven through Cambridge Apartments and serious problem s with dumpsters and appearance is not the greatest.

Mike Siragusa, 29 Scotchtown: Add to what Valentine said – potholes, cracked sidewalks and improve existing before expanding it. Any rentals government subsidized or are these.

P. Botti, Esq.: No per se government subsidies to these rentals. All 52 one bedroom apartments and not affect issue of children – one bedroom. Not everyone can afford to live in Imperial Gardens, they screen tenants and do the best they can and are hands on. They do the best they can and there is a need for apartments in the TOW based on calls since January.

Mrs. Thompson: Will there be a superintendent on premises living there.

Mr. Foley: Yes.

Ms Phillip: Do they rent to Section 8 as in Middletown Village.

Mr. Foley: Yes.

P. Botti, Esq.: They have no problem with you knowing they own the other 2.

Ms Phillips: Country Squire has Section 8 housing.

Marlene Pinto, 9 Scotchtown Lane: Most neighbors did not receive notice. We heard because someone copied it. There are others who did not agree.

Mr. Owen: You have to be in 300 feet.

P. Botti, Esq.: 26 letters registered letters were mailed and coincide by the tax office. They were sent and mailed to those on the list.

Mr. Smith: They followed the law.

Ms Pinto: We have had more trash in the area – stuff and people and window smashed car window and police made assumption they were from Cambridge. A neighbor put it in the mailbox.

Eric Valentine: You show how lot layout for current zoning – any consideration for smaller reducing that as suggestion – current is $\frac{3}{4}$ acre to $\frac{1}{2}$ acre.

Mr. Dillon: That would require a variance. We are here for different type of variance. The town has a cluster but need 25 acres.

Mr. Smith: Vacant lot purchased separately.

Public: If sent out would there be a record.

Mr. Smith: They complied with mailing. You are here and have notice. No one here can speak for the whole neighborhood.

Mr. Smith: I Move to close the Public Hearing at 10:08 pm.; Seconded; All in favor; Motion carried.

Mr. Smith: The public hearing has been closed and will be continued at the applicant's request, on April 12, 2004.

MATTIE KELLEY: Request for a variance of 249-8(a)(1)(a) (pool deck) for a variance from 20ft to 21ft to permit a pool deck. Property located at 14 Bonnie Brae Drive (SEC 80 BL 3 LOT 14); Designated R-2.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 10:19 pm.

Mr. Smith: I Move the open the Public Hearing at 10:20 pm; Seconded; All in favor; Motion carried.

Mrs. Kelly: It is 5.5 feet from the line it is going to be costly to knock it down and that is more or less what the situation is.

Mrs. Thompson: Did you have building permit for it?

Mrs. Kelley: It came with the pool – I put it around the pool. It is an above ground pool and I did not need one in New Jersey. The man from New Jersey Pools came and did it.

Mr. Moran: I looked through the fence.

Mr. Owen: I saw it, could not get in. I was not going to climb the fence.

Mrs. Kelley: I was agreeable to meet you.

Mr. Smith: Who did the measures?

Ms Kelley: Person who did work for us previously , in construction.

Mr. Smith: We have a measure...we granted 20 down to 12 and new 20 down to 5.5 feet for pool and deck so you understand. We are talking about the deck now.

Mr. Smith: Any questions from the Public?

Wm Conkling, 101 Edinburgh Road (behind): She is claiming 5 feet, here is picture. Here is old existing fence and have 4x4 and I see 5” not 5 feet. Property next door is going up (picture) its on both property line. My concern is to state again, someone fall off deck fall onto our property.

Mr. Owen: Where is it 5.5 feet?

Mrs. Kelley: From the metal fence behind wooden fence.

Mr. Smith: Any questions from the Public?

Christine Conkling, 101 Edinburgh: Mr. Smith did you see it as 5 feet. My response when we came in on the pool she was in uproar because cleaning leaves

Mr. Smith: Direct your comments to me.

Mrs. Kelley: These people have never approached me personally.

Mr. Smith: Comments to the Board. The Public is here to speak.

Mrs. Conkling: The deck is not distance that is being mentioned and don't want responsibility if there is an accident – accidents do happen.

Vin Guido, 97 Edinburgh Road: 4 years we called the Code Enforcement Officer because of the pool and the west Nile virus and owner was in New Jersey and he sent her a letter. 2 years go by and people throw tablets in to kill the mosquitoes and notified the Town and Eric Valentine and the cover was to be taken off and cleaned and notice to come here for pool. No electrical inspection or permits were granted. We got inspections in our time.

Mr. Smith: You did the right thing.

Mr. Smith: Any questions from the Board?

Mr. Smith: The last few days I have been trying to get in close and asked to go across neighbors yard it is not a foot off the line. We have dealt twice with this and requested variance down to 12 feet and now 5.5 feet it is immaterial. I think it is important that if someone – people do fall off decks, they will fall off into the neighbor's property.

Mrs. Kelley: People don't use the deck.

Mr. Smith: We have a problem getting correct information.

Mr. Owen: The required is what?

Mr. Smith: It is 20 feet.

Mrs. Kelley: There is never anyone on the deck and costly to remove it.

M. Guido, 97 Edinburgh: My concern is she was given a pool variance and I don't think people looked at how closely it was built. Did she apply for a permit and has electric running so water is filtering properly. Code enforcement officer said it should be mesh not solid – concern all along is what water.

Eric Valentine: The variance of application is for what?

Mr. Smith: Area for 5.5 feet.

Eric Valentine: I am hearing it is not 5.5 feet and the application is invalid. Looking at the facts it is not correct.

Mr. Smith: I Move to close the Public Hearing at 10:31 pm; Seconded; All in favor; Motion carried.

Mr. Smith: Any comments from the Board?

Mr. Owen: It is self created – it says it is 12 feet and 5.5 feet and now this. I feel it is self created.

Mr. Mattatall: I concur and the fact if it is used or not is immaterial and it exists from my direct observation and the photos.

Mrs. Kelley: Their argument is their liability.

Mr. Mattatall: If it is granted the deck does not conform as it is so close to the line. We deal if we allow it to be there. It should not be where it is.

Mr. Morgan: It is invalid - is says 5.5 feet and it is clearly not 5.5 feet.

Mrs. Thompson: She did not have permit for it and it is right on the line and afraid I can't approve.

Mr. Smith: It's a balancing test of several items we have to consider. First you want deck on the pool it can be at another location. The benefit of a deck can be in a different location. It creates a risk – your neighbors should not have to suffer...that is why we have setbacks and they have property rights too. You built the desk and it becomes a self created hardship. Last, leaving deck is adverse physical problem to the neighborhood its right on the line, not 5.5 feet.

Mrs. Kelley: There is a fence behind it.

Mr. Smith: Either yours is on the line or everyone there is.

Mrs. Kelley: There is no space between the fence and the deck. How long do I have to tear it down. It will be in descent weather conditions – what is the time frame.

Mr. Smith: You will have to explain that to someone else.

Mr. Smith: I Move to grant the following variance: 20ft set back to 5.5 ft setback for an above ground pool and deck; Seconded.

DISCUSSION:

(None)

VOTE:

In favor (aye):	0
Opposed (nay):	5

DECISION:

Mr. Smith: The variance is denied.

DUSO PROPERTIES (Stan Stolz): Request for: 1) variance of 249-20-D (lot width)
2) interpretation of 249-20-D soils;
Property located at the East side of M&M Road (approx. 3000 feet south of Rt 17M)
(SEC 14 BL 1 LOT 103.2 and 104.13); Designated R-2.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing notice was read at 10:38 pm.

Mr. Smith: I Move to open the Public Hearing at 10:39 pm.

Harold Pressberg, Esq.: John Nosek, Ferris Eng.

John Nosek: This is for a 5 lot sub division on east side of M&M Road. Looking to propose 5 lot sub division with 4 lots on M&M of 1.22 to 1.89 acres; lot 5 being balance 47 acres. It was determined 1-4 lots interpretation meet zone R2 but #5 balance require lot width variance. We need 200 foot width and have 120 and asking for 80 variance. Soil testing done and required to obtain approval from town engineer for septic.

Mr. Owen: Which layout – flag lot?

John Nosek: Yes. The other demonstrated compliance without coming in for a variance. We could do 5 lot subdivision but clients like to have lot #5 to make farm or horse or things of that sort. Why we are here. Currently 2 parcels – one in rear 120 feet frontage on opposite side and looking to move to other side and the location (map) suitable for house – its hilly and high area and access from southerly is more beneficial.

Mrs. Thompson: What about the house that is there already?

John Nosek: Keep it and refurbish it; barn will come down.

Mrs. Thompson The soil requirements is 3.25 acre for each lot. I can see give you 2 lots not 4.

Harold Pressberg, Esq.: Change because of local lot each has to be minimum.

Mr. Owen: Then meet soils. You are not here for interpretations.

Mr. Smith: We can interpret.

Harold Pressberg, Esq.: You can interpret a section of the code. Interpretation of the code and application of code to the facts.

J. Owen, Esq.: It says interpretation of the zoning law.

Mr. Smith: From someone...

J. Owen, Esq.: They acknowledge 3.2 acre and are subject to soil. Whose notes are those (looked at application).

John Nosek: We refer to the section. By virtue of interpretation as I thought we had determination last month, the soils of r2 certified design and if we met comply with zoning ordinance not need lot width and area as per soil formula.

Mrs. Thompson: May be you can have the septic system but also says in the book you will have wet soils and basements.

John Nosek: You will see wet area and ridge we will be required to get town approval by engineer and stay away from low area.

Harold Pressberg, Esq.: No proposing variances with those 4 lots.

J. Owen, Esq.: One variance on Lot #5.

Harold Pressberg, Esq.: If you look at code we satisfy the zoning.

Mr. Smith: The flag lot is what is in question. And a width for arm coming out. From 3.25 to smaller lots.

Harold Pressberg, Esq.: Under new zoning lot the .75 is required.

Mr. Owen: Do you meet the soils. For C you have ...

Harold Pressberg, Esq.: It was amended by Local Law 12 in 2002.

Mr. Owen: My book is 2003...C lots have to go under the soils.

John Nosek: My understanding is in R2 0.75 acres and on top of that the septic if soil groups indicated as long as have certified septic approved by the town not be subject in R2 unlike to RA to formula lot sizes – it is subject to soil / drainage review. I am here because Dick McGoey sent me here and he did not if it was for.

Mr. Smith: I Have been trying to reach him for a month. To some degree there is new technology and can design a septic system and not locked in to a formula. It is not conforming as long as the PB and Mr. McGoey approve it that is their job.

John Nosek: They will not approve until get approval from here.

Harold Pressberg, Esq.: “C” the code was changed to .75 acre lot. The old environmental formula does not apply and only way to reconcile what is left ‘subject to soil/drainage’ review. Certified well and septic.

John Nosek: We need to get variance to comply before we go there again.

Mr. Owen: I don’t believe you meet it – I think you are reading more into it. RA does not have sewer/water so what is why they put a/b/c lot.

Mrs. Thompson: Subject to soil formula.

John Nosek: That is the ambiguity.

Mr. Owen: With “C” you have to meet soils.

Mrs. Thompson: What is date of amendment/

Mr. Owen: What make the 3.25 acres?

John Nosek: I gave you drawing with 5 lots with the set backs. This demonstrates we can do legitimate 5 lot subdivision with out variances but have ugly lots that client wanted to keep balance parcel for ag farm house type of lot. There are 2 tax parcels. This is existing road frontage.

Mrs. Thompson: why not 2 lots not 4 and they would just about conform.

John Nosek: They are ugly lots. 4 smaller lots and overall piece for ag type use permit horses or that sort. That is whole contention and why request variance.

Mrs. Thompson: Why do something nice than long lots.

John Nosek: Zoning permits 5 and that is basis of why we are here tonight.

(looked at the map).

Mr. Owen: Want to convert small lot to this. Why can't they be extended further to make $3\frac{3}{4}$ each and have lot in the back just few acres less?

Mr. Smith: I was going to ask that for lot 1 and 2.

John Nosek: That would not be a problem. This is a nice spot for home on high ridge and certainly do it for 1 and 2 and taking away best location for house in back. Prime location to put the building.

Harold Pressberg, Esq.: You can move back lot 1 and 2.

Mr. Smith: Perk tests on 1 and 2

John Nosek: I have done them on lots 1 through 5. on the blow up lot you will see the ridge that goes along back there.

Mr. Owen: that and it can't be sub divided without further review. Don't try to subdivide in the back at some time.

Mr. Mattatall: Is there a natural divide that you divided it this way.

John Nosek: If horse farm in back keep as much of nice pasture for that lot. No intention to further sub divided that lot. The interpretation is critical because this is preferred plan and if interpretation is what I thought it was if comply with soil/drainage meet and only ask for width for Lot #5. if you say not meet $3\frac{3}{4}$ acres consider it. Like to do 5 lots versus 4 ugly lots.

Mr. Smith: Any comments from the Pubic?

Robett Zolinkka, 255 M& M Road: I have listened and have no objection to the design because like to keep the country looking like the country and really don't like long strip properties and like idea of having the development of horse plan on 47 acres and is proper but stipulation that

this can't be subdivided because the horse farm does not work and put 5 more houses in the back. No objection if so.

Mr. Smith: Any question from the Board?

John Nosek: To reiterate before you make decision where we with interpretation than what we thought respect acreage propose same number of lots with conventional lots. If meet we only need lot #5 and PB will not allow up to proceed until we get interpretation.

Harold Pressberg, Esq.: Lot variance for lot #5 and better access to proposed dwelling than using present access with much longer driveway. No detriment to neighborhood or character of neighborhood not appear to gain access for driveway then minimize or area for width of lot.

Mr. Owen: Why not 4 lots and all in code.

John Nosek: If we go to 2 family homes go to 150 feet.

Mr. Owen: No it is 250 feet – code revision.

John Nosek: Which layout do you like better – bowling alley or the one we are proposing?

Mr. Owen: I am saying is if you go to 4 lots all lots over what you need with lot in back and 3 in the front – meet all zoning having 4 in stead of 5.

John Nosek: With bowling we can do 5 without variance. Do large parcels in an ag parcel with lots in front as opposed to long type.

Mr. Owen: This existing lot you have needs variance on it. The bowling alley type. This needs variance to. It needs a variance even if road frontage is existing. If all land owned by same person no excuse to not make it bigger and meet zoning.

Harold Pressberg, Esq.: The bulk table.

Mrs. Thompson: Can this be continued to April?

Harold Pressberg, Esq.: Can we go earlier in the meeting?

Mr. Smith: It is before the hearings.

John Nosek: I thought determination has been made.

Mr. Owen: That works if engineer says system engineer on property – you have area and want to develop other land. Engineer system because you don't want to make it bigger.

John Nosek R2 zone is smaller lots as opposed to RA. Why reduce if you still have to meet soils formulas.

Mr. Owen: R2 goes into a mix of zone. The standards are minimums in the book.

Owner: The lots are size they are is green pasture and think it would benefit horse farm than the house..

Mr. Smith: I Move to continue the hearing for April 12, 2004; Seconded; All in favor; Motion carried.

WESTAGE: Request for a variance of 249-12(f) parking and 249-28D(3) landscaping; Property located at 75 Crystal Run Road (SEC 60 BL 1 LOT 50.1); Designated PID.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Notice was read at 11:12 pm.

Mr. Smith: I Move to open the Public Hearing at 11:13 pm.

John O'Rourke, Lanc & Tully Engn.

John O'Rourke: As you recall we gave you an overall of the project. In 1997 variances were granted:

1) Parking calculation for 1:150 sq/ft and study done stated large medical facility office space with mechanical space, etc. the Board granted a reduction in parking. Since then, there are 382 spaces, traffic study by Collins over 100 spaces not used on a daily basis. Proposed 83000 sq/ft addition, asking same 1:160 to 3.3 per 1000. that would be reduction to 700 parking spaces.

2) Side yard landscape buffer and was granted in 1997 and on one side is State Police – we are asking for it to be extended.

Mr. Owen: If you need more parking what would you do?

John O'Rourke: Probably put water quality under the parking which is less expensive than 2nd floor parking. We want to ask the PB for parking and this may change during PB process.

Mr. Owen: I have no problem with this.

Mrs. Thompson: I have a problem with landscape buffer between you and the state troopers. This does not match.

John O'Rourke: This is for parking spaces. This is not locked in, it just shows the parking spaces. The earlier we submitted is different option with parking additional in the front. The PB does not want any more in the front. We will go back in front of them. If not more in the front 1) perceived from the PB there is 100 spaces are in the rear. The problem in the front is limited and main entrance is in the front and most prime spots. There is available in the back. If the PB says they don't want more in the front, we have 125 to one and 100 to another corner and will discuss with the PB. If they say no not at all, put parking there (map) an put water quality under ground. We are forcing people to back and walk further to the medical offices.

Mr. Smith: I have a problem with side yard setback and was out there. We have buffer area for a reason. The State Police don't have a buffer and it looks nice and I think they can find spaces some way or cut project down and going into the buffer area. There has to be an alternative here.

John O'Rourke: Going to the buffer – in front, but PB really like the landscaping in the front.

Mrs. Thompson: They want to keep it from looking like lower edge of New Jersey.

John O'Rourke: On the side we have inter connection with other on one side we are encroaching and are now.

Mrs. Thompson: Does it matter that it looks ugly on the State Trooper side? Do you drive along that way – why should it look ugly.

John O'Rourke: The trucks is a current configuration. It's a balance with what the PB wants – it's a balancing.

Mr. Smith: What about smaller expansion and meet code.

John O'Rourke: It would not affect it as the code says 1:150 and is why the variance is down to that number. I know ORMC is trying to consolidate out patient in this area.

Mr. Smith: The variance of 230 spaces roughly. Something tells me they will wish they have them.

John O'Rourke: Same we got in 1997 and we still have some (spaces) left over.

Mr. Owen: Space for physician office – is that patients that come in to the office or just physicians?

John O'Rourke: For patients as well.

Mr. Becker: Yes, patients.

Mrs. Thompson: You have to compete with Crystal Run Health Care. It's a lovely idea and you just don't have the space. The straight in parking.

Mr. Smith: One with parallel and one with straight in.

John O'Rourke: There are several options and looking for variance down to the number and PB may have a 3rd or 4th option. Several option to get down to 700 number.

Mrs. Thompson: It is not up to us to decide which version to vote on tonight.

John O'Rourke: The PB asked us for variance down to that number. The PB were adamant where they do want and don't want us to put them. The reduction is same as in 1997 for landscape buffer. Now we infringe to 10 feet in some areas – we expanding the length not closer to the property line.

Mr. Smith: We do not give a variance in general way.

John O'Rourke: If the PB says something has to be change, we have to come back here.

J. Owen, Esq.: You can give variance for number of spaces and PB determine where they will be.

Mr. Smith: I am leery about side yard variance.

Mr. Owen: They have 10 foot variance now.

Mrs. Thompson: Take the trees down?

John O'Rourke: I don't know the plan (got the drawing).

Mr. Owen: The landscape buffer?

Mr. Mattatall: The 10 foot buffer dealt with what?

John O'Rourke: In 1997 dealt with what we have. We have additional space that meets your code. We want to match variance you granted in 1997 which has worked.

Mr. Smith: It is specific to set backs to side yard or rear yard. If you want that, no problem going general with number of spaces. When we tear out trees we have a buffer areas for a reason and it does not have to be removed or variance enlarged in this case. There will be place for you to put it. If it can legally go there you don't need a variance. We have 2 different plans. The variances voted on separately. Anything else to submit?

Ted Petrillo, Westage: The landscape set back – we want to see it because they are existing and may have to taken out and will replace it with pines and we can do that.

Mr. Smith: What is existing variance – it can't be general to (looked at drawings)

John O'Rourke: Existing here (drawing)

Mr. Smith: You want variance on this side (drawing) no variance on state police side?

John O'Rourke: Yes. This line (drawing) is existing edge of pavement is in landscape buffer and now there is 20 feet between pavement and property line granted in 1997. We propose 10 feet. On that side now we infringe on landscape buffer. We extend that.

Mrs. Thompson: The buffer zone 10to 0 feet.

John O'Rourke: From 50 feet to 10 feet just at different location.

Mr. Owen: What is buffer zone here (drawing)

John O'Rourke: 10 feet minimum to 18 feet.

Mr. Smith: scale: 30 feet – have 30 feet and can go down to 10.

Mr. Owen: Same thing on the other side?

Mr. Smith: Not touching that.

John O'Rourke: It does not infringe on that.

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

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

Mr. Smith: I Move to close the Public Hearing at 11:38 pm.; Seconded; All in favor; Motion carried.

Mr. Smith: Any comments from the Board?

Mr. Mattatall: Is that the final expansion of this building?

John O'Rourke: None that I am aware of.

Mr. Mattatal: This will remain in operation when new building is done?

John O'Rourke: Yes.

Mr. Mattatall: This is the end of what you are asking for?

John O'Rourke: Yes.

Mrs. Thompson: You can't cut down on size of the building at all.

Mr. Smith: I think they are both substantial and one variance for the buffer area and don't think its necessary to reduce buffer when you can get parking in another area without the variance regardless of what the PB wants. You go with option without the variance.

Mrs. Thompson: Go with not so many doctors.

Mr. Smith: I Move to grant the following variance: Parking space reduction from 936 to 700 spaces; Second.

DISCUSSION:

(None)

VOTE:

In favor (aye):	3
Opposed (nay):	2

DECISION:

Mr. Smith: The variance is denied.

Mr. Smith: I Move to grant the following landscape buffer 10 feet along side line with the State Police as shown submitted SP1-V; Seconded.

DISCUSSION:

(None)

VOTE:

In favor (aye):	2
Opposed (nay):	3

DECISION:

Mr. Smith: The variance is denied.

CORRESPONDENCE:

None received.

MEETING CLOSE:

Mr. Smith: There being no further items to be discussed or presented to the Board; Motion to close the meeting at 11:45 pm; Seconded; All in favor; Motion carried.

tsb/jcd

TOWN OF WALLKILL ZONING BOARD OF APPEALS
DECISION SHEET

March 8, 2004

CAMBRIDGE MANOR
APARTMENTS, INC.

(Timothy & Maureen Foley):

Request for a Use Variance for property located at the North of Rt 211 and East of Stone Ridge Road (AKA Scotchtown Blvd.); SEC 41 BL 1 LOT 78.211; Designated R-2.

CONTINUED: April 12, 2004

MATTIE KELLEY:

Request for a variance of 249-8(a)(1)(a) (pool deck) for a variance from 20ft to 5.5 ft to permit a pool deck. Property located at 14 Bonnie Brae Drive (SEC 80 BL 3 LOT 14); Designated R-2.

DECISION: Variance denied.

DELMARIE REID:

Request for a Use Variance: variance from one permitted dwelling to 2 dwelling on lot; Property located at the corner of Western and Pleasant Avenues (SEC 37 BL 8 LOT 1); Designated R-1.

DECISION: Use variance denied.

LOUIE ANGELASTRO:

Request for variance of 249-22-D (rear yard set back) from 30ft to 22.2 ft; side yard from 15ft to 1.5ft and 2 side yards from 30ft to 25ft; Property located at 24 Patio Road (SEC 28 BL 1 LOT 12); Designated R-1

DECISION: Variances granted.

DUSO PROPERTIES (Stan Stolz):

DUSO PROPERTIES (Stan Stolz): Request for:
1) variance of 249-20-D (lot width)
2) interpretation of 249-20-D soils;
Property located at the East side of M&M Road (approx. 3000 feet south of Rt 17M) (SEC 14 BL 1 LOT 103.2 and 104.13); Designated R-2.

CONTINUED: April 12, 2004

WESTAGE COMPANIES:

Request for a variance of:

- 1) 249-12(f) parking spaces: Parking space reduction from 936 to 700 spaces; and
- 2) 249-28D(3) landscape buffer: 10 feet along side of property line with the State Police as shown submitted SP1-V.

Property located at 75 Crystal Run Road (SEC 60 BL 1 LOT 50.1); Designated PID.

DECISION: Variances denied.