

TOWN OF WALLKILL ZONING BOARD OF APPEALS

MEETING

MAY 9, 2005

PRESENT: E. Johnson
J. Mattatall, Chairperson
E. Raffo
P. Thompson

J. Owen, Esq.

EXCUSED: N. Guenste
W. Morgan
R. Schoenberg - Resigned

MEETING OPENING:

The May 9, 2005 meeting of the Zoning Board of Appeals opened with the pledge to the flag followed by the Roll Call and presentation of the April 11, 2005 meeting minutes.

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

The following applications were reviewed for the June 3, 2005 meeting, heard and voted upon as noted.

HEARING REVIEWS for June 13, 2005

Erica Nieves

Mr. Mattatall: You didn't collaborate on it, is the depth going to be, the side is going to be two and a half feet. It's not going to be any closer than it is now?

Mrs. Nieves: No.

Mrs. Thompson: Where is Mayer Drive?

Mrs. Nieves: Actually it's off of Ridgewood Avenue. There is a complex of townhouses in the back.

Mr. Mattatall: I move to hold a Public Hearing on June 13, 2005 at 7:30 P.M. 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 three (300) hundred feet of your property. You can obtain the list of names from the Town Assessor's 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 ten (10) days prior to your scheduled Public Hearing date. Mailings must be sent either by 1) certified, or 2) registered mail. Bring proof of mailings with you to your Public Hearing. The Public Hearing can't be opened without your proof of mailing.

Bruce Cuthbert

Mr. LaPut: I am from Fellenzer Engineering. Mr. Cuthbert is combining two lots on Ora Park Circle. It's in the RA zone. The size of the lots originally were fifty by one hundred feet, combining them by one hundred by one hundred. He is proposing a single residence there. The current zoning as far side yard and front yard setbacks. The current zoning calls for the side yards to be one hundred feet with both yards and we can provide sixty feet. The front yard would be sixty feet and we can provide forty five feet. We're requesting variances for the side yard and the front yard.

Mr. Mattatall: The front yard setback would be from the mandated sixty feet to forty five.

Both side yard setbacks from the mandated one hundred feet to sixty feet. You also need a lot area variance from two acres to 3/4 acre.

Mrs. Thompson: Is that on Bloomingburg Road?

Mr. LaPut: No. Actually this property is one lot from Bloomingburg Road. It's on Ora Park Circle.

Mr. Mattatall: One thing. You have a substantially smaller lot than what the zoning allows so we're going to need a letter from the Department of Health.

Mr. LaPut: I'm working with Eustance & Horowitz.

Mr. Mattatall: I move to hold a Public Hearing on June 13, 2005 at 7:30 P.M. 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 one thousand feet of your property. You can obtain the list of names from the Town Assessor's 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 ten (10) days prior to your scheduled Public Hearing date. Mailings must be sent either by: 1) certified, or, 2) registered mail. Bring proof of mailings with you to your Public Hearing. The Public Hearing can't be opened without your proof of mailing.

Dianna Ziemelis

Applicant did not appear.

Daniel Soto

Mr. Donnelly: I was referred here by the Building Department. We want to have a sign similar to the other store. The store on the other side has about twenty three percent. I brought photographs of all the store fronts. Our sign is 1/7th over the allowable square footage. The OTB sign has one hundred percent coverage.

Mr. Mattatall: Anything else from the Board?

Mr. Mattatall: I move to hold a Public Hearing on June 13, 2005 at 7:30 P.M. 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 three (300) hundred feet of your property. You can obtain the list of names from the Town Assessor's 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 ten (10) days prior to your scheduled Public Hearing date. Mailings must be sent either by: 1) certified, or, 2) registered mail. Bring proof of mailings with you to your Public Hearing. The Public Hearing can't be opened without your proof of mailing.

Chris & Ellen DeLuca

Mrs. DeLuca: We want to add an attached garage to what we thought was the side of our house but we have a corner property and we have two front yards.

Mr. Mattatall: Do you have a garage on your house now?

Mrs. DeLuca: I have a garage in the house which is underneath.

Mr. Mattatall: What is your address?

Mrs. DeLuca: My address is 43 Howard Drive but my house faces Howard Drive.

Mr. Mattatall: You're going to put this where your existing drive is?

Mrs. DeLuca: Yes.

Mr. Mattatall: I move to hold a Public Hearing on June 13, 2005 at 7:30 P.M. 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 three hundred feet of your property. You can obtain the list of names from the Town Assessor's 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 ten (10) days prior to your scheduled Public Hearing date. Mailings must be sent either by: 1) certified mail or, 2) registered mail. Bring proof of mailings with you to your Public Hearing. The Public Hearing can't be opened without your proof of mailing.

Carl & Kimberly Tyson

Mr. Mattatall: Were you before us?

Mrs. Tyson: Yes.

Mr. Mattatall: And, we granted you a variance?

Mr. Tyson: Yes.

Mrs. Tyson: We're back because we're having a problem. According to the survey it looks like it's a level property. We brought photographs because we're having a problem re-locating the shed because our property in the back slopes. It's not enough square footage away from our property line and the house to replace it. We have some photographs showing.

Mr. Mattatall: Are you looking for a different location on this?

Mrs. Tyson: Yes, if we have to move it. We've been going back and forth on this.

Mr. Mattatall: I move to hold a Public Hearing on June 13, 2005 at 7:30 P.M. 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 one thousand feet of your property. You can obtain the list of names from the Town Assessor's 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 ten (10) days prior to your scheduled Public Hearing date. Mailings must be sent either by: 1) certified, or, 2) registered mail. Bring proof of mailings with you to your Public Hearing. The Public Hearing can't be opened without your proof of mailing.

Ed Curran/Dave Olsen

Mr. Curran: What we basically want to do is to purchase this lot and put a house on it. It's 12,000 square feet and the zoning was changed to 12,500 square feet.

Mr. Mattatall: Is this a combined lot now?

Mr. Curran: It was combined. We didn't combine it.

Mrs. Thompson: Is it vacant?

Mr. Curran: Yes.

Mr. Mattatall: Are you across from the park?

Mr. Curran: The park is down a little further by the pumping station.

Mr. Mattatall: So, what you're looking for is a variance basically from 12,500 square feet to 12,000 square feet?

Mr. Curran: Yes.

Mr. Mattatall: I move to hold the Public Hearing on June 13, 2005 at 7:30 P.M. or as soon thereafter as the matter can be heard; Second; All in favor; Motion carried.

Mr. Mattatall: It is necessary to notify everyone within three hundred feet of your property. You can obtain the list of names from the Town Assessor's 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 ten (10) days prior to your scheduled Public Hearing date. Mailings must be sent either by: 1) certified, or, 2) registered mail. Bring proof of mailings with you to your Public Hearing. The Public Hearing can't be opened without your proof of mailing.

PUBLIC HEARINGS

Mr. Mattatall: I want to advise you that the Board needs a quorum of four (4) in order to hold a variance and do a vote. If someone wants to wait until next month, if you don't think you have the votes, we will gladly take you off until next month. One of the applicants is Mr.

Johnson who sits on the Board. The math just shows it's not going to work for him this evening.

Mr. Owen: You can open it and leave it open.

Eric Johnson, 375 Howells Turnpike, Middletown, New York for a variance of the Zoning Ordinance Section 249-3 (oversize accessory building) for property located at 375 Howells Turnpike and designated RA.

Mr. Mattatall: Do you have your proof of mailings?

Mr. Johnson: Yes.

Mrs. Thompson: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Zoning Board of Appeals of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 600 Route 211 East, Middletown, New York, on the 9th day of May, 2005 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Eric Johnson, 376 Howells Turnpike, Middletown, New York for a variance of the Zoning Ordinance Section 249-3 (oversize accessory building) for their property located at 375 Howells Turnpike and designated RA. All parties of interest will be heard at said time and place. S/Priscilla H. Thompson, Secretary.

Mr. Mattatall: I move to open the Public Hearing for May 9., 2005 at 8:02 P.M. Please state your name and present the reason for your request.

Mr. Johnson: My name is Eric Johnson. I applied for a variance for an accessory building larger than 28 x 28. I want to build just a garage to store my personnel belongings, tractors. I have classy cars, things like that. The structure is going to be built similar to the house. I think the closest property line is like thirty five or forty feet away as shown on the map.

Mr. Mattatall: Are there any questions from the Board?

Mr. Mattatall: Are there any questions from the Public, please come forward?

Application continued for June 13, 2005. No quorum.

Arnold Silver, for a variance of the Zoning Ordinance, Section 249-19-D (lot width from 200' to 125' for property located at 41 Drake Road, Middletown, New York and designated R-2.

Mr. Mattatall: Do you have your proof of mailings?

Mr. Silver: Yes.

Mrs. Thompson: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Zoning Board of Appeals of the Town of Wallkill, Orange County, New York will be held at the Town Hall at 600 Route 211 East, Middletown, New York on the 9th day of May, 2005 at 7:30 P.M. or as soon thereafter as the matter can be heard on the application of Arnold Silver, 247 Zukor Road, New City, New York for a variance of the Zoning Ordinance, Section 249-19-D (lot width from 200' to 125' for property of Margery H. Crance, 55 Fulton Street, Middletown, New York. Property located at 41 Drake Road, Middletown, New York and designated R-2. All parties of interest will be heard at said time and place. S/Priscilla H. Thompson, Secretary

Mr. Mattatall: I move to open the Public Hearing for May 9, 2005 at 8:04 P.M. Please state your name and present the reason for your request.

Mr. Myro: I'm the Attorney for the applicant. Mr. Silver is present to my right. This is an application for area variances. This is a pre-existing 1.82 acre lot. There's an existing trailer on the property. Mr. Silver is in contract and intends to construct a single family dwelling. The existing trailer would be removed. The variances that are required at this time are lot width 200' feet is required. This lot is a pre-existing lot of 125' of lot width. The second variance is in accordance with the Environmental Soil formula where an overall lot category one is required and we have .766. The plot plan that's in front of the Board was submitted to the Town Engineer Eustance & Horowitz. I believe you have a copy of the letter from Eustance & Horowitz dating April 27, 2005 approving the proposed septic design. The original plot plan was revised as of April 27, 2005 with the information requested by Eustance & Horowitz. You should have that information. I have one copy of the April 27, 2005 map and a copy of the letter that I will submit at this time just so the Board has it in the file.

Mr. Mattatall: You will be removing the existing trailer?

Mr. Myro: That's correct.

Mrs. Thompson: Can you get a portion of the lot next door?

Mr. Myro: We would need seventy five width of that lot to comply.

Mr. Silver: There's an existing house on the side.

Mr. Myro: The lot next door is a house and they have (not clear).

Unidentified Person: That property is ours.

Mr. Mattatall: The proposed use is a conforming use. You meet all of the bulk requirements other than lot width. It's a pre-existing, non-conforming use. It's been under separate ownership for years and years. It pre-exists zoning. Are there any questions from the Board? Are there any questions from the Public? Please state your name.

Mr. Creeden: I oppose this for some personal reasons. There's three things that the existing people owe me. One, is there's a pile of junk in the backyard. That's Margery's son, that's on my property. He claims it's mine. I have nothing to do with it. We were very close friends, blah, blah. Now, there's a financial. There's money he owes me. He took my survey map and never returned it. Doesn't know where it is. I know it is petty but I tried to resolve this mess so I'm opposing this whole thing. He pushed it from his lot over to my lot down in the back. Now that's all sitting there. Now, you guys are going to come down and see it and is going to say it's on Creeden's lot, get it out of there. It's not mine. I tried to approach Mr. Crance who is Margery's son, who lived there for the last twenty years and he refuses to answer my calls or anything. I know it sounds petty but.

Mr. Mattatall: No. That is a concern. You're purchasing the property, Mr. Silver?

Mr. Silver: Yes I am.

Mr. Myro: What I would note is, we will work that out. Mr. Freehill is here and we will work out whatever has to be done.

Mr. Mattatall: Anything else on Mr. Silver?

Mr. Myro: We're under contract to buy it and we now have noticed that the neighbor claims that this stuff is on his yard and has to be cleaned up.

Mrs. Thompson: And, the man owes him money, I believe?

Mr. Myro: That part we have nothing to do with. That's a civil matter.

Mr. Silver: We have removing a poor property into a nice home. As for the neighbors, what

is it?

Unidentified Person: There's a lot of tractors down there, lawn mowers, washers, etc. He just pushed it down on our lot. And by the stone wall he made like a little junk yard of his own. There's a lot of stuff.

Mr. Mattatall: That's something that we don't deal with however, it is something that the Code Enforcement Officer would be very interested in knowing. I fully understand what you're talking about.

Mr. Mattatall: I move to close the Public Hearing at 8:13 P.M.

Mr. Mattatall: I move to grant the applicant the following variances on 41 Drake Road, Section 22, Block 2, Lot 35.221 for two variances:

- 1) lot width from 200' to 125' under Section 249-20-D
- 2) lot area from one acre to .766 acres.

Seconded; All in favor; Motion Carried.

The variances are granted; please see the Building Department.

Stephen & Mary Spall, for a variance of the Zoning Ordinance Section 249-19-D (side and reduction from 40' to 22') for their property at 15 Roome Road, and designated RA.

Mr. Mattatall: Do you have your mailings?

Mr. Spall: Yes.

Mrs. Thompson: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Zoning Board of Appeals of the Town of Wallkill, Orange County, New York, will be held at the

Town Hall at 600 Route 211 East, Middletown, New York on the 9th day of May, 2005 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Stephen & Mary Spall, 15 Roome Road, Circleville, New York for a variance of the Zoning Ordinance Section 249-19-D (side and reduction from 40' to 22') for their property at 15 Roome Road, and designated RA. All parties of interest will be heard at said time and place.
S/Priscilla Thompson, Secretary

Mr. Mattatall: I move to open the Public Hearing for May 9, 2005 at 8:04 P.M. Please state your name and present the reason for your request.

Mr. Spall: We're proposing an addition to our current home. It's basically encroaching on the boundary is our two-car garage. Because of the location of the well, we really can't. The property is sloping in what we refer to as the front of the house which is in the direction of the septic tank. That's the front and slopes downhill. The addition that we're putting on wouldn't overwhelm anything to the existing home. We like the way the slope of the hill is and it's going to be set back into the hill. It's really the only location because of the location of the well and the septic.

Mr. Mattatall: Are there any questions from the Board?

Mr. Mattatall: Are there any questions from the Public? Please state your name.

Unidentified Person: Just a question. We're not exactly sure but we live on Muller Road. We're just wondering whose property are you coming closest to?

Mr. Spall: This is Route 302 and this is our access road.

Unidentified Person: I have no problem. We didn't know because that's all we got. Thank you.

Mr. Mattatall: Are there any questions from the Board?

Mr. Mattatall: I move to close the Public Hearing at 8:18 P.M.

Mr. Mattatall: I move to grant the applicant the following variance for Stephen & Mary Spall for variance for property at 15 Roome Road, Section 5, Block 1, Lot 21:

1) side yard setback from 40' to 22' under Section 249-19-D-1.

Seconded; All in Favor; Motion carried.

The variance is granted; please see the Building Department.

Andrew & Judith Sarantapolas, for a variance of the Zoning Ordinance, Section 249-20-D (lot size, width, and depth) for their property at 31 MacIntosh Drive, Middletown, New York and designated R-2.

Mr. Mattatall: Do you have your mailings?

Mr. Sarantapolas: Yes.

Mrs. Thompson: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Zoning Board of Appeals of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 600 Route 211 East, Middletown, New York on the 9th day of May, 2005 at

7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Andrew & Judith Sarantapolas, for a variance of the Zoning Ordinance, Section 249-20-D (lot size, width, and depth) for their property at 31 MacIntosh Drive, Middletown, New York and designated R-2. All parties of interest will be heard at said time and place. S/Priscilla Thompson, Secretary

Mr. Mattatall: Do you have your proof of mailings?

Mr. Sarantapolas: Yes.

Mr. Mattatall: I move to open the Public Hearing for May 9, 2005 at 8:20 P.M. Please state your name and present the reason for your request.

Mr. Sarantapolas: In 1985 we purchased our home and the adjoining lot. At that time it was a subdivided building lot. We've had it for the last twenty years. The variance we're asking for is to put the home on the lot that's smaller than what the new requirements are. It requires two acres. The lot that we're looking to build on again is exactly to every lot surrounding my home. We're not subdividing any lots. It's always been a separate lot, separate tax bill. That's what the application really is for.

Mr. Mattatall: Are there any questions from the Board?

Mr. Mattatall: Are there any questions from the Public?

Mr. Mattatall: I move to close the Public Hearing at 8:21 P.M.

Mr. Mattatall: I move to accept the application of Andrew & Judith Sarantapolas for variances for property located at 31 MacIntosh Drive, Section 25, Block 8, Lot 3:

- 1) Lot width from 150' to 100' under section 249-20-D.
- 2) Lot depth from 200' to 150' under section 249-20-/D.
- 3) Lot area variance from .75 acres to .34 acres under section 249-20-D.

Seconded; All in Favor; Motion carried.

The variances are granted; please see the Building Department.

John E. Lippert, for a variance of the Zoning Ordinance, Section 249-28-2-A (side and rear yard setbacks) for his property located at 277 Goshen Turnpike and designated PID.

Mr. Mattatall: Do you have your proof of mailings?

Mr. Lippert: Yes.

Mrs. Thompson: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Zoning Board of Appeals of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 600 Route 211 East, Middletown, New York on the 9th day of May, 2005 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of John E. Lippert, for a variance of the Zoning Ordinance, Section 249-28-2-A (side and rear yard setbacks) for his property located at 277 Goshen Turnpike and designated PID. All parties of

interest will be heard at said time and place. S/Priscilla Thompson, Secretary

Mr. Mattatall: I move to open the Public Hearing for May 9, 2005 at 8:24 P.M. Please state your name and present the reason for your request.

Mr. Lippert: What we anticipate in doing here is to repair some structural issues on the home and to request the side and rear yard setback variances to add about nine feet on the rear and almost zero feet on the side. I want to put an addition of a bay type window. It's going to change the exterior dimensions slightly. What we would like to do in this type of construction, I've spent a lot of time with my Architect in designing this fix for a problem we've been having. I will be adding a new footing to replace the shallow footing. It's basically replacing the old section of the house with the entire new section. It's an older house and will stay that way.

Mr. Mattatall: Are there any questions from the Board?

Mr. Mattatall: Are there any questions from the Public?

Mr. Mattatall: I move to close the Public Hearing at 8:26 P.M.

Mr. Mattatall: I make a motion to accept the application of John Lippert for variances of his property located on 277 Goshen Turnpike, Section 1, Block, Lot 34.

1) Rear yard setback from 50' to 37' under Section 249-28D-2-A

2) Side yard setback from 50' to 27' under Section 294-28-D-2-A

Seconded: All in Favor; Motion carried.

The variances are granted; please see the Building Department.

Lyle K. Coyman, Jr., for a variance of the Zoning Ordinance, Section 249-19-D (lot size from two (2) acres to .92 acres) for property of Lyle K. Coyman Jr. and Richard Basso, 50 Matthews Lane, Washingtonville, New York. Property located on Shawangunk Road, Town of Wallkill, and designated RA.

Mr. Mattatall: Do you have your proof of mailings?

Mr. Coyman: Yes.

Mrs. Thompson: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Zoning Board of Appeals of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 600 Route 211 East, Middletown, New York on the 9th day of May, 2005 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Lyle K. Coyman Jr., 10 Matthews Lane, Washingtonville, New York for a variance of the Zoning

Ordinance Section 249-19-D (lot size from two (2) acres to .92 acres) for property of Lyle K. Coyman Jr., and Richard Basso, 10 Matthews Lane, Washingtonville, New York. Property located on Shawangunk Road, Town of Wallkill and designated RA. All parties of interest will be heard at said time and place. S/Priscilla Thompson, Secretary

Mr. Mattatall: I move to open the Public Hearing for May 9, 2005 at 8:28 P.M. Please state your name and present the reason for your request.

Mr. Coyman: We're trying to get a variance for this property for the lot size. I purchased the property from the people who received approval the first time for \$85,000 as a build-able lot. I missed my permit by eleven days. So, here I am.

Mrs. Thompson: What happened?

Mr. Coyman: I was a little bit confused on the six months. I thought it was a year and I found out it was six months.

Mr. Mattatall: We asked for a letter.

Mr. Coyman: The last time they used the Eustance & Horowitz letter. I made a copy for everyone. I went to the Health Department also with this letter and they actually told me this was sufficient data.

Mr. Mattatall: How many bedrooms are you anticipating to have?

Mr. Coyman: Three.

Mr. Mattatall: Are there any questions from the Board?

Mrs. Thompson: Is this for one house?

Mr. Coyman: Yes.

Mr. Mattatall: Are there any questions from the Public?

Mr. Mattatall: I move to close the Public Hearing at 8:32 P.M.

Mr. Mattatall: I make a motion to accept the application of Lyle Coyman Jr., for a variance for his property on Shawangunk Road, Section 3, Block 1, Lot 19.1.

1) area variance from two acres to .92 acres under Section 249-19-D.

Seconded; All in Favor; Motion carried.

The variance is granted; please see the Building Department.

Jose L. Cardona, for a variance of the Zoning Ordinance Section 249-20-D (rear yard setback from 30' to 25.5') for his property located at 9 Dominick Street and designated R-2.

Mr. Mattatall: Do you have your proof of mailings?

Mr. Cardona: Yes.

Mrs. Thompson: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Zoning Board of Appeals of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 600 Route 211 East, Middletown, New York on the 9th day of May, 2005 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Jose L. Cardona, for a variance of the Zoning Ordinance Section 249-20-D (rear yard setback from 30' to 25.5') for his property located at 9 Dominick Street and designated R-2. All parties of interest will be heard at said time and place. S/Priscilla Thompson, Secretary

Mr. Mattatall: I move to open the Public Hearing at 8:35 P.M. Please state your name and

present the reason for your request.

Mr. Cardona: We want to put a raised deck 14' x 20'. We are short four and a half feet. We are supposed to have thirty feet and only have 25'5". I want to have footings for my deck.

Mr. Mattatall: Are the footings going to be within the setback you requested?

Mr. Cardona: Yes.

Mrs. Thompson: You have grape vines in the back?

Mr. Cardona: Yes.

Mrs. Thompson: Are they good?

Mr. Cardona: Yes.

Mr. Mattatall: Are there any questions from the Board?

Mr. Mattatall: Are there any questions from the Public?

Unidentified Person: I want to know where your deck will be?

Mr. Cardona: Showed the person the survey.

Mr. Mattatall: I move to close the Public Hearing at 8:38 P.M.

Mr. Mattatall: Anybody else from the Public?

Mr. Mattatall: I move to close the Public Hearing at 8:35 P.M.

Mr. Mattatall: I move to accept the application of Jose Cardona for a variance for property located at 9 Dominick Street, Section 84, Block 4, Lot 5.

1) rear yard setback from 30' to 25'5" under Section 249-20-D
Seconded; All in Favor; Motion carried.

The variance is granted; please see the Building Inspector.

YTB Land, LLC for a variance of the Zoning Ordinance Section 249-14-B and 249-27-C-9 for property of Crystal Run Crossing, LLC, 4305 Whispering Hills, Chester, New York. Property located South of NYS Route 211 and the new Middletown Honda dealership and designated MI.

Mr. Mattatall: Do you have your proof of mailings?

Mr. Rodd: Yes.

Mrs. Thompson: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Zoning Board of Appeals of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 600 Route 211 East, Middletown, New York on the 9th day of May, 2005 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of YTB Land, LLC, for a variance of the Zoning Ordinance Section 249-14-B and 249-27-C-9 for property of Crystal Run Crossing, LLC, 4305 Whispering Hills, Chester, New York. Property located South of NYS Route 211 and the new Middletown Honda dealership and designated MI. All parties of interest will be heard at said time and place. S/Priscilla Thompson, Secretary

Mr. Mattatall: I move to open the Public Hearing for May 9, 2005 at 8:40P.M. Please state your name and present the reason for your request.

Mr. Rodd: I'm here on behalf of the applicant. With me is Gerald Bergman from Eustance & Horowitz, the applicant's Engineer representing Middletown Honda. In the nutshell, I believe you're all familiar with the Middletown Honda dealership. We are before the Planning Board for a Site Plan and Special Use Permit approval for the lot immediately adjacent to Middletown Honda. It's a vacant lot. It's a flag lot. We were sent by the Planning Board to this Board for variances and interpretations. The first issue is what we are proposing on the flag lot; the parking of cars or, the storage of cars. As set forth in the application we believe that we clearly fall under the storage of cars provision. The other issue that we were referred to has to do with the side yard setback. Just to back track for a second, Middletown Honda currently has a long term lease to that flag lot, a forty nine year lease. We're also under contract to purchase that lot. We expect to do that purchase December 2005 or the early part of 2006. When we do that, the lots will be consolidated. On the side yard issue, the ten foot is really where the two lots meet each other. We're asking for a variance essentially for that area. The other issue has to do with the interpretation. Technically there's language in the code that refers to. . . First of all, what we're doing is permitted in the zone is the storage of vehicles, which is allowed. There's language in the code that says that it's an accessory use to a principal use. In this case, because we're a long term lessee and we're going to own it in a few months there's no practical purpose or benefit to build a principal use on that flag lot which would involve electric, septic, etc. It would serve absolutely no useful purpose. What we're simply proposing as permitted by the code is to use the flag lot for it's permitted use, storage of motor vehicles which will be to the side and rear of the Middletown Honda dealership.

Mr. Mattatall: My question is if you're going to purchase this lot, why is it necessary to go this route?

Mr. Rodd: We would have purchased this a long time ago. It really has nothing to do with our intentions or purposes or use or anything. To be candid, the sellers are concerned about taking advantage of certain tax provisions. If they hold on to the flag lot for, I believe, twelve months or more, after they purchase it they get the benefit of a long term capital gains reduction. It has to do with the timing of when they're going to sell it. It's critical for us now in terms of storing the cars. That's why we're here now because time is very important to the applicant.

Mr. Bergman: If I could add something. We originally came in to the Planning Board with

this lot during the approval for the dealership. However, the seller was not ready to sell it at that time. We revised our Planning Board plan. The Planning Board was well aware of it. We said at which time we could buy the lot we would come back. Obviously, Middletown Honda wants to store it's cars to be hold on the site. They now store them off site at a remote location. They've reached an agreement with the seller. They have a forty nine year lease with an option to buy. We re-submitted the site to the Planning Board and we were referred to you because they didn't own it. At the time we own it, we will combine the lots.

Mr. Mattatall: Are there any questions from the Board?

Mr. Mattatall: Are there any questions from the Public?

Mr. Mattatall: I move to close the Public Hearing at 8:46 P.M.

Mr. Mattatall: I will be doing this in three different motions to avoid any confusion.

Mr. Bergman: We would like that also.

Mr. Mattatall: I move we accept the application of YTD Land LLC. For a variance for property located at Route 211 East, known as Section 78, Block 2, Lot 11,

1) For an interpretation of Section 249; that we interpret Section 249-14 would apply to the situation of (outdoor storage of vehicles).

Seconded; All in favor; Motion carried.

2) Storage of Vehicles from 20' to 0' of property line side under 249-14-B.

Seconded: All in favor; Motion carried.

3) Interpretation due to the ground lease condition and physical setting of the adjoining lots, that the lots shall be considered as one for the purpose of 249-3.

Seconded; All in favor; Motion carried.

CONDITION: This interpretation shall become null and void if the leased parcel is not purchased by YTD Land at or before the end of this lease period.

Seconded; All in favor; Motion carried.

The variances are granted.

Gloede Neon Signs, for a variance of the Zoning Ordinance Section 249-11 (sign) for property of New Plan Excel Realty Trust, 2311 Wittman Avenue, Philadelphia, Pennsylvania. Property located at Wallkill Plaza, 400 Route 211 East and Carpenter Avenue, Middletown, New York and designated HC.

Mr. Mattatall: Do you have your proof of mailings?

Mrs. Forest: Yes.

Mrs. Thompson: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Zoning Board of Appeals of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 600 Route 211 East, Middletown, New York on the 9th day of May, 2005 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Gloede Neon Signs, 97 North Clinton Street, Poughkeepsie, New York for a variance of the Zoning Ordinance Section 249-11 (sign) for property of New Plan Excel Realty Trust, 2311 Wittman Avenue, Philadelphia, Pennsylvania. Property located at Wallkill Plaza, 400 Route 211 East and Carpenter Avenue, Middletown, New York and designated HC. All parties of interest will be heard at said time and place. S/Priscilla Thompson, Secretary

Mr. Mattatall: I move to open the Public Hearing for May 9, 2005 at 8:51 P.M. Please state your name and present the reason for your request.

Mrs. Forest: We want to put signs on the side and front of the building.

Mr. Mattatall: Are these the same size as the existing signs?

Mrs. Forest: Yes. Some of the stores in the complex received variances. I was never given anything showing what square footage was in the plaza.

Mrs. Thompson: Did you take care of the notice?

Mrs. Forest: Yes.

Mr. Mattatall: When is the store opening?

Mrs. Forest: Supposedly, they told me. I was told this weekend.

Mr. Mattatall: Are both of these signs the same size?

Mrs. Forest: Yes.

Mr. Mattatall: I move to close the Public Hearing at 8:53 P.M.

Mr. Mattatall: I move to grant the applicant Gloede Signs for a variance of the sign of section 249-11 for property located at Section 54, Block 4, Lot 1.5, Wallkill Plaza to allow the installation of two (signs) front and side each 309.88 square feet.

Seconded; All in favor; Motion carried.

The variances are granted; please see the Building Department.

Mr. Mattatall: Is there anymore business? One more time, Is Dianna Ziemelis here?

Mr. Mattatall: I move to close the May 9, 2005 meeting of the Town of Wallkill Zoning Board at 8:57 P.M.

Seconded; All in favor; Motion carried.