

TOWN OF WALLKILL ZONING BOARD OF APPEAL  
MEETING MINUTES  
(APPROVED AT 6/14 MEETING)

MAY 10, 2004

PRESENT: J. Mattatall  
Ellis Oster, Vice Chair, Presiding  
Ellouise Raffo  
Priscilla Thompson

ABSENT: William Morgan  
James Owen  
Oral Smith

The May 10, 2004 Meeting of the Zoning Board of Appeal opened with the pledge to the flag followed by the roll call and presentation of the April 12, 2004 Meeting Minutes.

The Motion was made to accept the Minutes with the following change:

Mrs. Thompson: Pg 33 Par 3           Should read: "Jack Antunes"

Seconded; All in favor; Motion carried.

The new board member, Ellouise Raffo, was welcomed to the Board.

The following Public Hearings were continued, reviewed for June 14, heard and voted upon as noted.

**HEARING REVIEWS:** (June 14, 2004)

**EMPIRE DRILLING & BLASTING:**

Shawn O'Connor, Esq.: They operate a drilling operation and are requesting a home occupation interpretation and if that is the proper interpretation. No drilling is done on site. We have 5 commercial vehicles (earth moving) parked at night and they leave at jobs in the morning and go off-premises - sometimes out of the town, and at night are parked at the house. It is a permitted accessory use in Sub Section - ...earth moving can be stored without permits... More appropriate to the ZBA is a determination if it is a permitted accessory use or if it is a home occupancy and variance if require.

Mr. Oster: Billing and bookkeeping - is it done on the premises?

Owner: Done at the accountants.

Shawn O'Connor, Esq.: Cell phones are used during the day.

Mr. Oster: This is primarily a parking lot. No business, no explosives on site.

Shawn O'Connor, Esq.: No. That is stored in Ringwood New Jersey.

Mr. Oster: Nothing is before us for regarding a non-conforming use. That would be if is not used as an office, phone center, but large parking lot.

Owner: Yes.

Mr. Oster: You want an interpretation as to what you are describing to use to store earth moving vehicles and other commercial. Be careful of that and that it is not operating out of that place.

Mrs. Thompson: What does he need?

Joseph Owen, Esq.: Use variance.

Mr. Oster: A use variance in RA.

Mrs. Thompson: If an accessory, why isn't it non conforming.

Use property store vehicles that will not be in the building. This is not earth moving or farm equipment.

Shawn O'Connor, Esq.: Blasting, is that not earth moving equipment?

Joseph Owen, Esq.: If they are a form of earth moving equipment.

Mr. Mattatall: If equipment is used on that property is a use variance.

Mr. Oster: It is necessary.

Mrs. Thompson: You know the requirements for the use variance?

Shawn O'Connor, Esq.: Yes.

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

Mr. Oster: 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.

ORANGE COUNTY – POUGHKEEPSIIEE LLP (DBA Verizon Wireless):

Scott Olsen, Esq.: We are here to present area variance for property owned by the Town. Their proposal is to put communications at DPW site and we are working with Planning Board and were asked to look at alternative site. Unfortunately it needs a setback 1000 variance. Similar

also to DPW site. We have provided plans and which structures are with in the 1000 feet and there are 9. LaBage Storage and own 2 pieces. It will be put on the site on the back parcel as far as possible given the existing wetlands. We have 9 structures and the closest is 700 feet or so but farther than the DPW site. In January the Board granted variance for the DPW site and are seeking a variance for alternate site. They want to consider the site and don't know which they will select. We need a variance or go back to the DPW site. There were similar pieces.

Mr. Oster: 6 on the other site.

Scott Olsen, Esq.: There are wetlands but no ponds I know of. This property is zoned HC and this is certainly not out of character nor is the other.

Mr. Oster: What is the closest property?

Scott Olsen, Esq.: 706 feet. The Planning Board did have a hearing in April and no neighbors within it had comments. Two or three from Keesel Road did object to the tower. The adjacent properties did not comment. That hearing has been opened and closed.

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

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

Mr. Oster: 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.

LAN ASSOCIATES:

Michael McGovern, Architect: We are here to present application for off-street parking for an eating and drinking establishment (249-12). Mr. Carlos Card is general manager of Appliance City. The store is located 680 Rt 211 East and it is an existing use which is a shopping center. It has 7 retail spaces 12,600 sqft 13,250 retail. The parcel is 41-1-68.1. It is in MI zone and shopping center under allowable conforming use. Some time ago, 1 year ago, they did extensive façade renovation and improvements to facility and parking reconfigured at the front of building and landscape on Rt 211. As a result from prior application approved, the PB requested changes be made, fire lane in front of building and loss of parking resulted. The PB was concerned for access for fire and police and approach the building. Certain amount of parking relinquished for that approval. Tonight on the plan you see parking calculation analysis and if you adhere to zoning ordinance.

Mr. Mattatall: You want to go to 148 to 109 spaces.

Mr. Oster: How much reduction without eating an establishment.

Mr. McGovern: The analysis triggered it. The facility is 25 years old.

Mr. Oster: What hours of rest as opposed to retail.

Mr. McGovern: Fast food from 12 Noon to 11:00pm.

Mr. Oster: Retail some time during restaurant hours.

Mr. Oster: You may wish to have a traffic study as we had last month. It has to be notarized so we know you did not do it.

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

Mr. Oster: 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.

CARL AND KIMBERLY TYSON:

Kim Tyson: It is for a variance for a shed and side yard.

Mrs. Thompson: It is 249-14-D on the application.

Mr. Oster: The shed is in front of the primary building. You say the truck is 24 feet; I see 20 feet. The difficulty is when we come to see it - when is the truck there? Or send pictures so we have visual we are talking about. Shed will be there.

Mrs. Thompson: What do you do with the truck?

Mr. Tyson: I park it there.

Ms Raffo: What is in it?

Mr. Tyson: It is empty and I leave for work at 3:00 am.

Mrs. Tyson: The truck was seen in the neighborhood and was seen to be more than 24 feet. I was not aware it's a problem.

Mrs. Thompson: How long have you owned this?

Mrs. Tyson: Since 2000 – 3 years.

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

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

Mr. Oster: 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.

Mr. Oster: You can take pictures of the truck and where it is parked in case we are there when it is not there parked.

THEODORE CAPOZZOLI:

Not present.

MICHAEL RAMOS:

Mr. Ramos: I was here a year and a half ago and I hired contractor and waited too long and was advised to come back.

Mr. Oster: You failed to get an extension?

Mr. Ramos: Yes.

Mr. Oster: We are approving the same thing?

Mr. Ramos: Right. I have pictures there. I was told by the Clerk to come back.

Mrs. Thompson: You paid your fee?

Mr. Ramos: Yes.

Mr. Oster: Is this attached?

Mr. Ramos: Yes.

Mr. Oster: This is accessory attached now. They are considering it accessory but we can look at that too.

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

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

Mr. Oster: 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.

JAN AND GEORGINE FREEDMAN:

Mr. Oster: What are you doing here?

Mr. Freedman: We have no garage and want to add on a carport.

Mr. Oster: It is within 10 feet of the line?

Mrs. Thompson: Did you build the house?

Mr. Freedman: No.

Mr. Oster: How do we locate it, is it 146 on the mailbox?

Mrs. Freedman: Yes.

Mr. Oster: Any questions from the Board?

Mr. Mattatall: Carport not garage?

Mr. Freedman: Yes.

Mr. Mattatall: You'll access to rear of property on same driveway?

Mr. Freedman: Yes.

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

Mr. Oster: 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.

## **CONTINUANCE:**

Dusco: Continuation from March 8, 2004.

Request for variance of 249-29-D (lot width) and interpretation of 249-20-D soils.

Harold Pressberg, Esq. and John Nosek, Roger Ferris Engn.:

Mr. Oster: Tonight we have a new board member and there are only 4 of 7 board members present.

Harold Pressberg, Esq.: We are proposing a sub division and to have 5 lots for single family and there is a large 47 acre (Lot #5) parcel for horse farm essentially. It has access from flag lot on 120 road to the back and is on north side. The proposal is to move flag pole portion to northern which permits shorter driveway for a potential house. It is for the high ground and most suitable area for the house. If it is put there without the variance there would be a road from south end of the property. There have been perk tests on each lot and all passes so there is no issue regarding proper sanitary.

We are here for 2 reasons: 1) interpret – it is in R2 zone and 249-20-D for type C lot. If I can distribute this, I don't know, a synopsis. Basically it is an ordinance synopsis. The ordinance was amended in 2002 to change the area required in R2 district in C type Lot (lot that has not water sewere) to 7.5 acres and subject to soil/drainage review. Issue to be determined if the soil type listing applicable to other types of lots are applicable to this lot. Sec D for C type is 7.5 acre. There is some confusion which we are trying to dispel tonight if soil standards apply tonight for Type c single use. I tried in outline to break down the 249-20 is broken into 4 section: 1) single family house use; 2) accessory uses – not applicable; 3) special permitted used and there are 12 and follow that to Page 249:74 you get sub section 12 of C which is 2 family dwelling and from see Section C and that is where you get 1 and 2 and 2 is minimum required lot size. Soils are 249-79 and 247-76. it is clear the way statute is laid out that these requirements only apply for 2 family and this is not 2 family application. On 249-76 it has been changed in 2002 requires three-quarter lot. We are asking the board to make determination subject to soil and drainage – can pass perk test – only need  $\frac{3}{4}$  lot for single family home. Confusion previously about statute is laid out. Look at outline and its clear soil review is two family not single which is before you.

The second is area to change 'flag pole' from north to south end – not change width but location. The 200 foot width – present lot width.

John Nosek, Roger Ferris Engn.: We looking to put it on other side.

Mr. Oster: You need variance on both?

Harold Pressberg, Esq.: Only on large lot.

Mr. Oster: This will have 200?

Harold Pressberg, Esq.: No all will have 200 width.

Mrs. Thompson: You don't have acreage required?

Mr. Oster: Do we go by .75 or soils?

Harold Pressberg, Esq.: I hope I clarified this to the board as it applies to 2 family.

Mrs. Thompson: What you did clarify was you could not make enough money on larger lots.

Harold Pressberg, Esq.: We are here for what the code reads.

Mr. Oster: You have 7 lots and with that amount of frontage.

Harold Pressberg, Esq.: Only lot not 200 feet which is now 120 feet but move where it is on the plot from one end to the other. It will not change anything it's the way it is now. Area for driveway for one lot.

Mr. Mattatall: 2 pieces with the same width - if switch no difference.

Harold Pressberg, Esq.: Yes.

Mr. Oster: If we agree with you with driveway where it is you would not be here for that.

Harold Pressberg, Esq.: Yes. Do you all have 2 letters we have written.

Mr. Oster; Any questions from the Board?

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

Mr. Oster: You may want to carry it over to June.

Ms E. Raffo: I have not seen the property.

Harold Pressberg, Esq.: We have been here 3 times and no public raising any issues and the record should reflect that. We have nothing else to bring in.

John Nosek, Roger Ferris Engn.: We have provided what you need.

Mr. Oster: I Move to close the Public Hearing at 8:27 pm; Seconded. All in favor; Motion carried.

Mr. Oster: Decision will be voted on at June 14<sup>th</sup> meeting.

XL CONSTRUCTION (Asher Sussman): Request for a variance of 249-22-D (front and rear yard setbacks); Property located on Third Street (SEC 52 BL 12 LOT 1.31); Designated R1.

Alan Lippman, Esq., Goshen and John Nosek, Roger Ferris Engn.:

Alan Lippman, Esq.: I was not here last month and we have additional information. First issue being right of way of 3<sup>rd</sup> Street and have a letter issued by attorney for the PB in July 2003 addressed to sub divider Mr. Calendano, regarding permit for non conforming residential lot and referenced code provision in 1971 that lot on residential sub division lot file is build able lot. These 2 lots are on such map. The proposed use is continuance providing no addition that create more non-conformance. What he was saying is that in event 25 feet utilized – if offer of dedication presently of record – is accepted by the Town, that is when right of way line moves; not until then. Build able lots not withstanding offer of dedication. Had he the duty to measure from new or future line, they would not be build able.

Mr. Oster: Why build building with glass doors sitting up in the air without a variance?

Alan Lippman, Esq.: What I have is plot plan for each of the lots and assume you are conducting 2 hearings one each. The story is the same for each. I don't want to focus on the wrong one. Both have same problem plans were submitted in support of application for the building permit. They plans show precisely what was to be constructed, where and the plans that accompanied the plans, precisely the front, as shown as porch and steps and overhand proposed for the area.

Mr. Oster: The overhang is there.

Alan Lippman, Esq.: I thought it had not been built.

Mrs. Thompson: Why aren't the steps and porch on the building permit?

Alan Lippman, Esq.: Are you sure?

Mrs. Thompson: I went and checked.

Alan Lippman, Esq.: Plot plan shows it in detail with deck in back and it was the builders clear understanding when he got building permit given right to do this. In fact I don't know to this moment unless dialogue with Mr. Steenrod and the Board, I am not sure there was any issue before we made this application. The client just learned by the survey/engineering firm, Roger Ferris. We did not bring problem on ourselves, we did not know when we got permit we needed variances – had to have had heads examined if ignored the deficiency.

Mr. Oster: These are drawings?

Alan Lippman, Esq.: Are you looking at the plot plan?

Mr. Oster: Decks and porches past those set backs.

Alan Lippman, Esq.: Every zoning ordinance is different and you are concerned about Wallkill. Not clear when the structure is exempt, like the deck, not roofed, steps which are exempt – not clear and builder is not most experienced builder in the world and if mistake – both by Town and he and it can't be otherwise or not have building permit.

Mrs. Thompson: You have permit for this shape and asking for variance after you have done it.

Alan Lippman, Esq.: These are plans with application and show structure and roof over stoop and in fact (showed plans to board).

Mrs. Thompson: I know, they are up.

Alan Lippman, Esq.: These are the plans we used; we did not hide it. I think it is a mistake; they happen from our side of the table and sometimes from the Town's side of the table. The question is: really is there any real harm particularly when deck faces densely wooded area and therefore not close to another structure by any means no one will know its there; frankly, except you guys.

As far as the front is concerned, it is a little confusing to me as to if the stoop which is the last step up but longer than normal step if not roofed is that exempt – is that part of steps. Regardless it will look better with small roof over the stoop. Don't know what harm it will do but integrity of code is affected. You are relief valve of the ordinance. If it occurred innocently and you have

5 standards to consider in terms of passing area variance, one is if it is substantial – not substantial in the front and the one in back is larger should not be regarded as substantial there is nothing there; second – if self-imposed I am not going to tell you maybe we don't have any responsibility but from area variance self-imposed is not the bar of relief. It does not preclude issue of variance.

In terms of who is more right or wrong – we did not hide anything and building permit had this very construction and mistake at that end as well. I don't see where it happened. If change area in character – don't see it the house across the street is the same with same appearance in front and set back will not change character. House is proportionally to various residences in area. Any way to cure this – remove the roof and not install a deck and have to tear out sliding glass door on 2<sup>nd</sup> floor but what purpose does it serve with woods and wetlands behind which will never be developed. Is there environmental issue by this issue – it is not related to our plight. I am asking you to grant variances sought?

Mr. Oster: Any questions from the Public?

Kevin Mulqueen: I am on the Town Council in the 3<sup>rd</sup> Ward. I have heard arguments by counsel and strikes me argument to permit is not inconsistent with the others. If line of reasoning you might as well throw out Zoning laws. The laws are more stringent than existing properties. Separately, it seems that hardship is self imposed because site plan submitted did not show this that is why they need a variance – whole package to you in the first place. I don't think appropriate to grant because they come for it.

Alan Lippman, Esq.: (to the Board): The site plan shows precisely construction for which variances have been applied. Not surprise to anyone in the municipality. The porches are shown.

Kevin Mulqueen: the PB would have sent it to ZBA in the first place.

Mr. Oster: Was this before PB?

John Nosek, Roger Ferris Engn.: No, not necessary.

Alan Lippman, Esq.: It was presented to who it was supposed to be. It does not change character and it is one of 5 areas of area variance consideration. All 5 have been passed by applicant. You may argue its self imposed but acknowledge your position.

Mr. Mattatall: You are saying you are building at the o'okay of building inspector and built according to plan. I don't think I could render decision without testimony to building inspector.

Mr. Oster: We can get it in writing or in person.

Alan Lippman, Esq.: Who will insure he comes here next time?

Mr. Oster: A written review or in person if possible.

Alan Lippman, Esq.: I'd like to see him

Mr. Oster: 249-3 we can compel him.

Mrs. Thompson: You can put on decks in the back and needed variances and put up the house before the variances were applied for.

Alan Lippman, Esq.: I tried to convey to you and we did not know we needed the variance and particular improvements are on the building plans approved when permit was issued.

Mrs. Thompson: We will wait to hear from Mr. Steenrod.

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

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

Mr. Oster: This will be continued for the June 14, 2004 meeting.

Mr. Oster: Up until last month I did not know these plans even existed.

Alan Lippman, Esq.: I can only go by what I see which is pretty clear – it's a fact.

XL CONSTRUCTION (Asher Sussman): Request for a variance of 249-22-D (front and rear yard setbacks). Property located on Third Street (SEC 52 BL 12 LOT 1.32); Designated R-1.

John Nosek, Roger Ferris Engn.;

Continued to June 14, 2004

## PUBLIC HEARINGS

JOSEPH A. BROWN: Request for variance of 249-19-D (lot size and width). Property located on Top Notch Road (SEC 32 BL 2 LOT 42); Designated RA.

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

Mr. Oster: The Public hearing was opened at 8:50 pm.

Mr. Oster: Please present your application.

John Nosek, Roger Ferris Engn.: This is 1.38 parcel on east side of Top Notch Road and they obtained a variance some time ago because of the side yard and unfortunately construction did not start and he came to request another variance and new application filed at which time the RA zone changed to 2 acres so need relief from lot area as well as side yard to construct on the parcel.

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

Mr. Oster: Any comments from the Public?

Dina Cerbo, 28 Top Notch Road: I did not get notice and this is the first time I was here. I live next door and have a major water problem and failed perk test. We received it for this one.

Mr. Oster: This is single family dwelling and there are no architectural drawings. It is not a proposed as a two family. Issue of septic will proceed to Eustace and submit perk test and witnessed to see they are acceptable.

Dianna Barberrilo, 32 Top Notch: You don't know there was one? I am concerned about the perk test and there were interested people. The yards are saturated and terrible and I want to make sure there is proper drainage.

John Nosek, Roger Ferris Engn.: No.

Mr. Oster: Some were lots to build on and the lots have increased and it was at one time a build able lot.

Dina Cerbo (public): When I bought there, there was nothing. I was told no house was going there and nothing going there .

Dianna Barberrilo (public): They would have to do a perk test?

Mr. Oster: Yes.

John Pastmello, the other house boarding this: I don't know time stipulation (10 days) post marked 5/4 and got it on Thursday.

Mrs. Thompson: These were mailed on (looking at mailings)

John Nosek, Roger Ferris Engn.: I was my understanding no more than 10 days.

Mrs. Thompson: You have done this before.

John Nosek, Roger Ferris Engn.: He did the mailing.

Mr. Oster: You are here.

John Pastmello (public): Who owns the land? *Stage* or *Joseph Brown*. The Town shows Century 21 owns it.

John Nosek, Roger Ferris Engn.: Mr. Brown owns the realty company.

John Pastmello (public): It makes difference if person or construction company coming in there. Dramatic water problem and only 6 inches of soil.

John Nosek, Roger Ferris Engn.: Prior to going on, can you come out to see it.

Mr. Oster: I have seen it.

Mr. Oster; Any questions form the Public?

Mr. Oster: Any questions form the Board?

Mr. Oster; This hearing is open and we have only 4 of present 7 member board. We have absentees. You would need 4 YES votes. We understand if you want it continued to June with more members.

Ms E. Raffo: I can vote on it if he want a vote tonight.

John Nosek, Roger Ferris Engn.: I can't speak for Mr. Brown and request continue to June 14<sup>th</sup>, please.

Mr. Oster: You can bring in more input.

CAROL & STEVE CARRIZZO: Request for a variance of 249-3 (accessory building) rom 28x28ft to 36x48ft; Property located at 95 Howells Road (SEC 49 BL 1 LOT 44); Designated RA.

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. Oster: I Move to open the Public Hearing at 9:00 pm.

Mr. Oster: What are you seeking tonight?

Mr. Carrizzo: We want to put up a barn larger than 28x28ft.

Mr. Oster: You picked this because of the ground?

Mr. Carrizzo: It is graded off perfectly and falls off gently and great spot for water.

Mr. Mattatall: How big

Mr. Carrizzo: 5.5 acres.

Mr. Oster; Any questions from the Public? (no)

Mr. Oster: Any questions from the Board?

Mr. Oster: You are 15 feet off from the closest and have the property for it and not tremendous problem. You'll use it for horses?

Mrs. Carrizzo: It is open there.

Mrs. Thompson: Why so big for couple of horses?

Mrs. Carrizzo: Did not want a loft - no sprinkler system, only 2 they are show horses. I'll have a guest stall for overnight. All I need so I can show plus work.

Mr. Oster: This evening we have 4 of the 7 member Board. You will need 4 YES votes to pass the variance request. If you have one 'no' vote you have to do more than reapply.

Mr. Carrizzo: May we have a vote?

Mr. Oster: I Move to close the Public Hearing at 9:04 pm; Seconded; All in favor; Motion carried.

Mr. Oster; I Move to grant the following variance: accessory building from 28x28 ft to 36 x 48ft; Seconded.

DISCUSSION:

(None)

VOTE:

In favor (aye):	4
Opposed (nay):	0

DECISION:

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

LINERAS TORRES & ANA E. RIVERA: Request for a variance of 249-22-D (side and front yard reduction) 1) side yard from 15ft to 8ft 2 inches; 2) front yard set back from 35ft to 33ft; Property located at 14 Stratton Avenue; Designated R-1.

Mrs. Thompson: The mailings were reviewed by the board and filed by the Secretary. The Public Hearing Notice was read at 9:05 pm.

Mr. Oster: I Move to open the Public Hearing at 9:06 pm.

Mr. Torres: We want to add a deck 29 x 16 feet.

Mr. Oster: Is it raised?

Mr. Torres: It is floating but it will have piers – ground level. The highest is 1 foot in the front. We are 2 foot shy on the front.

Mr. Oster: Is there an over hang from the roof? Is it going to be enclosed?

Mr. Torres: There will be a roof over deck; not enclosed.

Mr. Oster: You are in line with the existing house which is 8.2ft now.

Mrs. Thompson: It will make it look much nicer.

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

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

Mr. Oster: I see no problem with this. There are tires stored behind the shed – you can't store auto parts. The shed should be 5 feet.

Mr. Torres: It has been moved when the fence is to be put up. Tires are in the shed.

Mr. Oster: I agree and it is minimal relief and the deck and frontage will be an improvement on there.

Mr. Oster: I Move to close the Public Hearing at 9:09 pm; Seconded; All in favor; Motion carried.

Mr. Oster: I Move to grant the following variances: 1) side yard variance from 15 ft to 8ft 2 inches a deck and porch; 2) front yard from 35ft to 33ft for front overhang of front porch; Seconded.

DISCUSSION:

(None)

VOTE:

In favor (aye):	4
Opposed (nay):	0

DECISION:

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

DAVID W. PHILLIPS: Request for a variance of 249-3 (accessory building) storage building from 28x28 to 30x40ft); Property located at 404 Dosen Road; Designated R2.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 9:10pm.

Mr. Oster: The Motion was made to open the Public Hearing at 9:11 pm.

Mr. Oster: Please tell us what you want to do.

Mr. Phillips: We want a 30 x 40 building for storage for antique cars and lawn mowers.

Mrs. Thompson: What is in the 32x44 building?

Mr. Phillips: 3 bays – in there I have lawn tractor, and bought Kabota tractor. I will take the bay off .

Mrs. Thompson: The lawn mowers are back here (look at the map)

Mr. Phillips: Yes.

Mrs. Thompson: It looks very attractive.

Mr. Mattatall: It is very well kept.

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

Mr. Oster: Any questions from the Board?

Mr. Oster: People looking for large storage for toys and life so to speak it will be asset to overall property.

Mr. Oster: To night we have 4 of the 7 Board Members present. You can continue this hearing to June when more members may be present.

Mr. Oster: I Move to close the Public Hearing at 9:13 pm; Seconded; All in favor; Motion carried.

Mr. Oster: I Move to grant the following variance for an accessory building from 28x28 to 30 x 40ft; with provision that they take down addition to existing garage; Seconded.

#### DISCUSSION:

(None)

#### VOTE

In favor (aye):	4
Opposed (nay):	0

SEEKAMP REALTY OF MIDDLETOWN, LLP: Request for a variance of 82-26 (D)(2)(a) (lot width from 200 to 118 ft); Property located at the southeast side of Rt 302 (west of Rt 17); (SEC 24 BL 1 LOT 47.1); Designated PID.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 9:15pm.

Mr. Oster: I Move to open the Public Hearing at 9:16 pm.

Mr. Oster: Please present your request.

Mr. Preston: We want to reduce the lot width of property adjoining Seekamp Lumber on the west side from 200 to 140 feet. It is necessary because of 2 events: widening of Rt. 302 some years ago causing driveway to close down and new driveway Perth Company and boundary line change is being made. In changing, they gain 60 feet of road frontage of Perth and theirs' reduced to 140 feet. Therefore need for variance.

Initially there is no variance needed as definition of variance and the building is back 50 feet from the road and from Perth and on the map the property widens 38 feet off the road. Request interpretation to indicate lot width is 200 feet and no variance. Alternatively if need of variance, submit the fact for area have been met and not change character of the area and not self crated and imposed on Seekamp by new driveway by DOT and other drive closed. This is where their driveway is; limited relief under circumstance.

Mrs. Thompson: Is this affect Perth?

Mr. Preston: It will down the line I don't see how negatively impact them they have 140 feet of road frontage and access through that. Not like cutting it down to a flag lot.

Mr. Oster: In cutting down Perth to 140 feet they'll be before us?

Mr. Preston: They are in concert and they going into this with eyes wide open.

Mr. Oster: Any questions from the Public?

Chester Rogers, Brookline Avenue: It is necessary, try to get into that driveway. It is terrible to get into with a truck. It is an improvement.

Mr. Oster: You have variance. Any discussion from Board.

Ms Ellouise Raffo: I don't have the application.

Mr. Oster: She just joined the Board and we will hold open to June 14, 2004.

Mr. Preston: Lets continue to June.

Mr. Oster: I Move to continue hearing to June 14, 2004; Seconded; All in favor; Motion carried.

DAVID BRAUN (Berbro Mangement Co.): Request for a lot width variance (249-22-D) for property located at 182 Brookline Avenue (SEC 76 BL 7 LOT 10); Designated R1.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 9:23pm.

Mr. Oster: I Move to open the Public Hearing at 9:24 pm.

Mr. Oster: What would you like to do.

Mr. Braun: As discussed previously at the review. The property is 50 feet wide and old sub division we need 80 feet and therefore want variance to build on it for side yards 10 and 14 feet.

Mr. Oster: The area itself – the lot itself is small. You need 12,500 and you have 6250 sq/ft.

Mr. Braun: Once you get it...

Mr. Oster: 2 side 30 to 20 but plans show 24 feet.

We received the following form letter on 5/1 similar but signed by different residences: “ reside near 182 Brookline and site in which David Braun is requesting variance 249-22-D lot width side yard of Jack Antunes; opposed as not present economic hardship and inconsistent to the neighborhood.

Mr. Oster: Do you want copy for your records?

Joseph Owen, Esq.: All are from different residents, they should all be entered into the record (and so it was).

Mr. Braun: May I have a copy?

Mr. Oster: We can make one for you.

Barbara Mullani, 189 Brookline: I am across the street and one who presented a letter and feel it inconsistent with the neighborhood. There is some breakage from one house and another. Closer to East Main they are closer. There is a division and think that should remain.

Pete Caselle, 184 Brookline: How big is it?

Mr. Oster: 2 story.

Pete Caselle (Public): If it a 2 story he will be looking at the bathroom and I can reach out and touch his house. And, there is no place to put snow. I am to the left. If 50 feet – I measured it and it is 47.8 feet and just bought mine and it is not 50 feet.

Mr. Oster: The map says 50.

Pete Caselle: No problem with it and only if 2 story, it is too close. Put it back or something else there. It is too small for it.

Chester Rogers, 176 Brookline Ave.: I live on other side and when the places were surveyed and have lived there since I was 4 years old. They surveyed from East Main in and this group was measured from other end. They came this way and roughly 18 and 2 feet difference. That is where mix up is and Pete lost 15 feet from the Town and then the road closer to the development.

He bought property that is not his and is taking a bath. We set this up years ago as R1 and no houses unless hardship – where is hardship case here? He bought it not to live there and hardship given if family needed it and bring in and go at it and that would be it. This is plain case of making money and 3<sup>rd</sup> Ward looks terrible. From Brookline and East Main and Barbara Cosgrove bought them lots and made them commercial so they could put anything in there they wanted. No one is stationary. He knew when he bought it. He is well informed 3 or 4 colleges. Read the Zoning books they build little houses with one door and have a garage door. 2 story with 2 or 3 families and no lawn, stones and don't finish them. All money making deal. Filling up everything.

Mr. Mattatall: What affect on your home?

Chester Rogers (Public): I have plenty of room but point is why? You buy and know what the deal is. I would not think of buying it. Is the Town so greedy they need to have every lot filled. If you take the 35 or 40 condos there it is one mess – that was not zoned for condos it was R1. The sewage is not big enough; water not big enough, dynamite on Ridgewood Avenue and cracked some foundations. Shale sticks right up out of the ground. I realize he has business to run and there must be some place to do it. I use to work in Rockland and build on that stone pile.

Kevin Mulqueen: I was asked to look at this and give it's concern. Visually looking at it it is not a building lot nor appropriate place. I leave it to you.

Chester Rogers (Public): If he want it, keep it 10 years and build a house and put daughter for 2 and then sell it.

Mr. Oster: Any other comments?

Jack Antunes: This is the 2<sup>nd</sup> application and ask him when the 2<sup>nd</sup> one was signed. It was with the first one and if needs 2<sup>nd</sup> one?

Jack Antunes: This is 2<sup>nd</sup> application. Put in 1/2/04 but signed in 7/03.

Mr. Oster: New application with new plan further back.

Jack Antunes: Both applications were signed at the same time.

Joseph Owen, Esq.: You signed two copies? Up top it says a date of January 2, 2004. You are the property owner. Did you give him permission for 2<sup>nd</sup> application?

Jack Antunes: I signed 2 copies.

Joseph Owen, Esq.: You gave consent for him to put in the application or not. He can't put in without your knowledge. I am speaking in January of 2004.

Jack Antunes: It was signed 7/18/03. He signed both applications.

Mr. Oster: Are you against the application.

Mr. Antunes: At this point. I am not.

Joseph Owen, Esq.: He had consent to put forth the application in January.

Mr. Antuenes: (no answer)

Mr. Oster: Are you in favor for application tonight?

Mr. Antuenes: I can go for the variance but not in favor of selling property to him. I don't want to be liable for anything. I tried to give him his deposit back and he would not take it. I got subpoenaed I don't want to be liable. Both applications were signed in July.

Joseph Owen, Esq.: There were not 2 applications in July.

Jack Antunes: I thought he needed 2 copies, it is going to be settled in court and don't want to be responsible if its denied. I want my attorney to know it and have it in the record.

Mr. Oster: The history of the Board realizing nature of Brookline Avenue, that sometimes Mechanicstown, with smaller lots and when not adjacent lot, that they can be combined and have looked at making them a building lot. We have not looked at 2 story on this small of a lot. In my feeling at this point is full size on small lot is not done especially 2 stories. It is nudging of area and property line. If come before smaller buildings - a stronger consideration.

Mr. Mattatall: I concur.

Mrs. Thompson: I agree with you.

Mr. Oster: You have only 4 of the 7 member board here tonight and need 4 Yes vote sitting here. You can have us vote when it is closed or continue to June as we have offered other applicants. Or, you can submit another application.

Mr. Braun: Keep it open until June 14, 2004.

Mr. Oster: This is the presentation with this plan if its continued. You can take this application and make another with different structure but if keep open. This is the plan we work with.

Mr. Braun: I understand.

Mr. Oster: Application continued to June.

Ms Barbara Mullarni (Public): The letters of opposition will remain on record.

Mr. Oster: Yes.

#### CORRESPONDENCE:

None to be presented.

#### MEETING CLOSE:

Mr. Oster: There being no further items to be presented or discussed by the Board, Motion was made to close the Meeting at 9:54 pm; Seconded; All in favor; Motion carried.

TSB:jcd

TOWN OF WALLKILL ZONING BOARD OF APPEAL  
DECISION SHEET  
APRIL 12, 2004

DAVID BRAUN (Berbo Mgt Corp.) Continue for June 14, 2004

DUSO: Continue for June 14, 2004

SEEKAMP REALTY OF MIDDLETOWN, LLP. Continue for June 14, 2004

XL CONSTRUCTION (Asher Sussman): Lot 1.31 Continue for June 14, 2004

XL CONSTRUCTION (Asher Sussman): Lot 1.32 Continue for June 14, 2004

Joseph A Brown: Continue for June 14, 2004

Steve and Carol Carrizzo: Request for a variance of 249-3 (horse barn) from 28x28 to 36x48ft; Property located at 95 Howells Road (SEC 49 BL 1 LOT 44); Designated RA.

DECISION: Variance granted.

David W. Phillips: Request for a variance of 249-3 (accessory storage building from 28x28 to 30x40ft); Property located at 404 Dosen Road; Designated R2.

DECISION: Variance granted subject to the following: removal of addition to existing garage.

Linearas Torres & Ana E Rivera: Request for a variance of 249-22-D (side and front yard reduction):  
1) side yard from 15 to 8ft 2 inches;  
2) front yard from 35ft to 33ft; Property located at 14 Stratton Avenue; Designated R1.

DECISION: Variances granted.