

TOWN OF WALLKILL
ZONING BOARD OF APPEALS

September 14, 2009

PRESENT:

Mr. V. Biondollilo
Mr. E. Johnson
Ms S. Najac
Ms M. Petelinz
Mr. S. Wilson, Chairperson

J. Owen, Esq.

EXCUSED:

Ms Sullivan (Excused)
Mr. K. Dunn (Excused)

MEETING OPENING:

Ms Wilson: I Move to accept the Minutes of the August 10, 2009 Meeting, Seconded (Johnson); All in favor; Motion carried.

Notice of October Meeting Date:

The meeting in October will be moved forward to October 19, 2009 at 7:30 pm; Seconded; All in favor; Motion carried.

The following Public Hearings and Application Reviews (October 19, 2009) were conducted, voted upon as noted and scheduled.

CORRESPONDENCE:

Six Month Extensions:

Brian Rivenburgh:

Mr. Wilson: We have received a request for a third extension for the variances granted (2/08) to Mr. Rivenburgh. He is in the final stages with the Planning Board and is in the selection process for a builder and getting permits.

Mr. Wilson: I Move to grant a six month extension for a variances granted of 249-20(d)(1): 1) Rear yard from 50ft to 30ft; 2) Area from 1.5 acres to 0.36 acres; 3) Lot width from 200ft to 106ft; 4) Lot depth from 250ft to 150ft. Property located at Hickory Place / Maple Drive (16-1-8) and Designated R-2; Seconded (Johnson); All in favor; Six month extension granted.

Wall-Mart Stores, Inc. (Snyder & Snyder, LLP):

Mr. Wilson: We have received a request for a six month extension on variances to expire on September 14, 2009 on the Wall Mart project.

Mr. Wilson: I Move to grant a six month extension for variances granted of 249-8-A(5) of primary building): 1) accessory building in front for installation of the filling station pumps; Property located at 300 North Galleria Drive; (SEC 78 BL 2 LOT 5.12) and Designated MI; Seconded (Petelinz); All in favor; Six month extension granted.

Fairways, Wallkill, LLC, c/o GDC (Formerly MDG Development):

Mr. Wilson: The Fairways project has asked for an extension of variances previously granted which are due to expire in October. They are requesting an extension to April 2010. The extension is necessary as it is a large project and is developing over a number of years.

Mr. Wilson: I Move to grant a six month extension on all variances granted by the Town of Wallkill on 9/2004 and 12/12/2005; Property located on 145 Golf Links Road (73-1-31.22) and Designated R-1; Seconded (Johnson); All in favor; Six month extension granted.

PUBLIC HEARINGS: (September 14, 2009)

Rosane Alves Da Salva

Request for a variance of 249-22(D)

1. side yard from 20ft to 12ft;

1. side yard from 20ft to 10ft;

Property located at 116 Belmont Avenue

(76-5-14)

Designated R-1

Mr. Wilson: The mailings were reviewed by the Board and filed for the record. The Public Hearing Notice was read at 7:44 pm.

Mr. Wilson: I Move to open the Public Hearing at 7:45 pm.

Mr. Wilson: Please give brief description of your request.

Mrs. Da Salva: I set a pool there and the land is on an incline, they put the pool higher on one side closer to the house and want a deck to the pool. I did it already and did not know I had to apply. When they came for the inspection, they sent us here.

Mr. Wilson: Any questions or comments from the Public? (no)

Mr. Wilson: Any questions from the Board?

Mr. Wilson: The deck is up already and you do have to come to us first and don't have a problem with it.

Ms Da Salva: I did not know the deck is not the pool.

Mr. Wilson: I Move to close the Public Hearing at 7:48 pm; Seconded; All in favor; Motion carried.

Mr. Wilson: I Move to grant the following side yard variances: 1) from 20ft to 12ft; 2) from 20ft to 10ft; Seconded.

DISCUSSION: (None)

VOTE:

In favor (aye): 5: Johnson, Najac, Petelinz, Biondollilo, Wilson

Opposed (nay): 0

DECISION:

Mr. Wilson: The variances are approved, please see the Building Department.

Weldon A. Abt

Request for a variance of 249-19-1 and 249-9-C:
1. front yard set back from 60ft to 20ft;
2. height of terrace from 1ft to 6ft;
Property located on Hubbard Road
(6-1-43)
Designated R-A

Mr. Wilson: The mailings were reviewed by the Board and filed for the record. The Public Hearing Notice was read at 7:49 pm.

Mr. Wilson: I Move to open the Public Hearing at 7:50 pm.

Mr. Wilson: Please give us description of what you are planning.

Mr. Abt: This is for a front yard set back variance for 7.6 acre property that extends along the Shawangunk. It is enlarged here (drawing in colour). It is 7.6 acres but irregular lot. This is Hubbard Road, the Kill and portion of lot not disturbed – 100 ft set back. The 100 year flood zone is shown here. I did the soils for septic as part of application and it was 15 to 22 minutes. I am asking for small residence - a weekend or vacation cabin. This is a model of it (presented it) it is small and would be 3 stories – basement with 2 stories with the entrance on the 2nd story. The lowest is the basement at 2 feet above 100 yr flood zone and house and septic out of flood zone and we need setback variance.

For the front set back, 60 is required and we are asking for 20ft. It is a 7.6 acre parcel and that is basically the request. In addition to setback, a variance for front porch – if in front yard – it is not to be not more than 18” above and since it is like a bridge it will be more.

Mr. Johnson: Then 14 feet?

Mr. Abt: Steps when put in would be – once again you put entrance in front yard as long as it is not more than 18” above grade.

Mr. Wilson: You are asking for 14ft front yard. How far would steps go?

Mr. Abt: 9 feet. The grade could be filled in across the front so it would not be 18” above grade and front porch in front but want to keep the topo and existing trees.

Mr. Wilson: You would fill in if you did not get variance?

Mr. Abt: Well it could be done with a tree well but nicer with this type of bridge.

Mr. Wilson: How many bedrooms?

Mr. Abt: Two – for personal use.

Mr. Wilson: You do not own the property alone?

Mr. Abt: It is part of an Uncle's estate – if we build we will distribute it to the estate to my wife and myself.

Mr. Wilson: Any questions from the Public?

Annette Shepard (Public): Helpful if we could get bearing – we understood it was landlocked, so not sure how they could build here. (people came up – 4)

Mr. Abt: This is where bridge use to be that is closed.

Public: Where is John Petersons place? (he showed them)

Public: Why not build on the other part?

Mr. Wilson: You should ask your questions for the record.

Nina Neighmond (Public): Where will the road be?

Mr. Abt: It is up-here. The road is higher and the house goes down.

Greg Croner (Public): 50 acres across the street and bought from Bonner Land Trust Estate. Has board contacted the DEC it is a trout stream? Have you seen tree steepness? Have you contacted the Federal Bureau because it flows into Wallkill and into the Hudson. This is the worse place to build a house in the County. They are digging up a lot of shale for Rt 17. that will prohibit the back acreage being anything for anyone. Bad enough with the Town (truck) turn around I made accommodations so trucks can back in and around. I question a man lives in Middle having summer home in Middletown. I have a lot of questions but not had chance to contact my associates about the wetlands thing. You should be there during the rains – in the Spring when the ice is piling up the hill.

Mr. Wilson: This is the first stage of his application and DEC is not something Zoning handles. He will contact the federal bureaus and the Planning Board will go through those steps with him.

Greg Croner (Public): My questions is why have laws if you give variances. If we have reason for having a certain way – like I had to do when I built. I have a platform and can't build there from when the boy scout camp was there. I don't quite understand why on my side of Hubbard you have to do something and across they can do something all brand new.

Mr. Johnson: Where the camp was it was within the 100 feet and I grew up in that area. I am familiar with the area. If you put the road through the back you will disrupt more of the property. This plan leaves the trees and slope and clear for driveway and trees will help prevent run off. We are looking at zoning variance. We are here for individual cases and lot of things we consider and for example if you need one foot to get a pool, we are here for minor relief that may have been created after they bought what they did when they did with regard to zoning. I have been here for 6 years on the Board and if you come here we hear the case with the same open mindedness as anyone else.

Mr. Abt: This dark line is 100 feet DEC setback from the stream. They do not have wetlands in the area; they are filed on the maps. There are some US corps of engineer and not disturbing them. Why have vacation home when I live in Middletown and we have used this area as a picnic area all my life. A weekend home would be convenient to our home and want to keep it natural along the stream. It is cost and engineering issue to build on a steep slope and it is in scale with the setback and the lot and think that one reason for the model as an architect satisfy myself I can do it. It was not created it was in family over 100 years. It is there and want to be able to use it and reasonable way to do it.

Carol Saga, 57 Hubbard Road (Public): This abuts this property where I have several acres. (looked at the map). The house will be where (looked at the map).

Nina Neighmond (Public): I have 2 questions – I see how far you are back 100 feet and streams don't stay exact same way – if it starts moving in and you decide to move and sell you house in 20 years. Also, setback is from edge of the road and 20 foot right away.

Mr. Abt: Presumed 25 feet from center of road.

Nina Neighmond (Public): Where is your septic?

Mr. Abt: (showed her)

Nina Neighmond (Public): Is the grade the same right there?

Mr. Abt: Well on high side of house and septic on low and still on a pump.

Nina Neighmond (Public): With run off from the snow in the winter and rain?

Mr. Abt: The run off comes across the property and down the road. It is relatively tabled area. in fact it does not go across the majority of the property. There is a major culvert there.

Nina Neighmond (Public): Have you consulted the supervisor of roads about it being that much closer to the road?

Mr. Abt: There is an issue with turn around for the road – people have dumped stuff there – a half load of concrete - I go out there and clean up from people mostly going out and fishing. So I am thinking having a house here will curtail that.

Mr. Johnson: Regarding the stream – they meander on outside of the curve, when it goes faster it erodes outside of the meander – the stream is for the most part straight there and move it away from him and towards Winterton Road. He will have more yard.

Mr. Johnson: Why are we pumping water/sewage up-hill in stead of parallel or down?

Mr. Abt: This has 3 floors and plumbing to lowest level and the elevation.

Mr. Johnson: I would prefer the septic pumped up in the house so if issue it would not be like it is outside. Suppose it was ready to pump, and power went out – have problem with that getting to the septic. Probably out the 2nd floor with the pitch.

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

Mr. Abt: I am an architect and not completely sure about it and an engineer can look at it.

Mr. Johnson: If you brought it up and shorter drive almost at same level of the house.

Mr. Wilson: Stipulation be that he has to pump it up?

Mr. Johnson: Do away with pumping chamber before the septic.

Mr. Wilson: No pumping station outside the house.

Mrs. Croner (Public): Security – we were talking about he old boy scout camp. I understand they have had big bon fires. I have mixed feelings about a house in front of us and if you are not there about security – youth find out that they don't break in and use it as a party home.

Mr. Abt: I am concerned about the property being used in way that is casual and stuff getting dumped on it. I would have a security system and outdoor lighting. From my experience it has been not intentional, malicious damage, your experience may be different, and own across the Kill. People dump cars and furniture and most of it was coming from Sullivan County as they don't have same dumping facilities. It is a serious problem now – the dumping of concrete has been the worse thing and not as bad as garbage. I think that it is controllable. Talked to the highway department superintendent and has been helpful and wants to maintain turn around and close off with security fence – and there is a place that kids can come and park and people come and fish – inevitable you get cig butts.

Mr. Wilson: My concern is the front set you have – you raise it to 6 feet high and brings it back to 11 from the road. If you have structure above 18” you are putting you house out 11 feet.

Mr. Abt: Only asking for a front porch not the house.

Mr. Wilson: Lets say it was a deck and wanted to bring a deck out – once you go past a certain distance. You can have front porch which is raised to 6 feet and it is now closer to the road.

Mr. Abt: Not the house – never asked for that.

Mr. Johnson: Where the steps start is it within 18” then when you get to house that is the 6 feet.

Mr. Abt: Total 9 feet and excluding the steps 6 feet. The front porch this way allows more of existing grade and vegetation to remain and drainage better.

Mr. Wilson: If you came out 9 feet from 60 feet – you are close to the road and the steps are essentially 11 feet from the road. You get front variance and steps are closer.

Mr. Abt: Well it is still these are still 20 feet from the pavement. The grading of the house changed so steps don't require a variance. The landscape would change in the front of the house. This was a secondary request and did not realize the deck would require a variance initially.

Mr. Johnson: If you built a retaining wall on the grade not need a variance. He can work around that with the front. The steps end up being close to the road. I think that is the end – plowing with the snow – what will it be made of...

Mr. Abt: ...huge trees that keep falling on the road.

Mr. Johnson: With the bridge closed – it is not down the middle of Highland Avenue where the plows are going 30 miles a hour – it is wind down of the run as far as the snow plows go.

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

Mr. Wilson: If approved that no other variances be granted to the property?

Mr. Abt: Yes.

Mr. Wilson: I Move to close the Public Hearing at 8:25 pm; Seconded; All in favor; Motion carried.

Mr. Wilson: I Move to grant the following variances: 1) front yard 60 to 20ft; 2) allow terrace from 1ft to 6ft subject to the following: The pumping station not be located outside the house and that no further variances be requested on this property; Seconded.

DISCUSSION:

Mr. Johnson: There is a balancing act and have concerns many of which were brought up with putting a house there: 1) achieve by other means - I have used it as a picnic area (sorry) - not more you could do it. The house fits and if ever used as building lot use is good. 2) undesirable change - he has addressed that and change - 60 to 20 is large but you have agreed and are addressing the native areas; 3) if self created - it has been in family before zoning existing.

Ms Najac: He said it beautifully - and will vote yes.

Mr. Wilson: My concerns have been addressed and you have met the criteria.

VOTE:

| | | |
|----------------|---|---|
| In favor (aye) | 5 | Johnson, Najac, Biondollilo, Petelinz, Wilson |
| Opposed (nay) | 0 | |

DECISION:

Mr. Wilson: The variances are granted subject to the noted conditions. Please see the Building Department. They are valid for 6 months.

HEARING REVIEWS: (October 19, 2009)

Paul and Mary Norton (side yard reduction)

Mr. Norton: We want to put a 12 x 16 deck and the inspector said it was 17 and needs to be 20 feet.

Mr. Wilson: Your entrance is on?

Mr. Norton: Rockwell.

Mr. Johnson: The deck is on the map. It is pre-existing and in line with the house.

Mr. Wilson: Side yard from 20 to 17ft.

Mr. Wilson: I Move to hold a Public Hearing on October 19, 2009 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Wilson: 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 week. Take that notice, copy it and mail it to everyone on the list at least 15 days prior to your scheduled Public Hearing date. Mailings must be sent either by certified or registered mail. Bring your proof of mailings with you to your Public Hearing. The Public Hearing will not be opened without your proof of mailings.

Stanley P. Allen: (accessory building location)

Dan Yanosh: Owned it for quite a few years and in the family for 45 years. Trailer in 2001 and was in PID and got variance to put a house where trailer was and he did put up a shed on the property and area where motor home is and a shed with no foundation and he was notified that he was in violation as it is in front. It has front on 2 roads and it is now zoned ENT-L and there is a warehouse down the road. Across the way is Falcon Int'l. - reposes vehicles. There are 2 front yards. Difficult to move that shed around it is good looking and siding blends in. If granted he still has to go to the PB and deal with engineer to certify it is okay.

Mr. Wilson: What is the garage used for?

Mr. Allen: My toys - it is 12 x 24ft and keep an antique tractor, lawn mower.

Mr. Yanosh: There is screening in between the two of them and keeps the lawn nice.

Mr. Wilson: Any questions from the Board?

Ms Petelinz: You mentioned it is difficult to move and why is it difficult – you have a lot of land behind?

Mr. Allen: The house and garage are in the corner. The garage has been there 60 years and house exactly where trailer use to be. I park a motor home back there.

Mr. Johnson: If you drive down 17M that is where you see the house. When we drive the shed is in the back if you moved it it would be on the side.

Mr. Wilson: Do you own property next door?

Mr. Allen: I own the lane.

Mr. Yanosh: It is 6 feet 1-inch. It is for the front yard.

Mr. Wilson: This is for an accessory building (he revised the map) in front of the house.

Mr. Wilson: I Move to hold a Public Hearing on October 19, 2009 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Wilson: 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 week. Take that notice, copy it and mail it to everyone on the list at least 15 days prior to your scheduled Public Hearing date. Mailings must be sent either by certified or registered mail. Bring your proof of mailings with you to your Public Hearing. The Public Hearing will not be opened without your proof of mailings.

MEETING CLOSE:

Corrections of August 10 cover page to the Minutes:

Pg 1 Para 3 ...move to accept Minutes of the August 10, 2009...

Correction:

... move to accept Minutes of the July 13, 2009...

Mr. Wilson: There being no further items to be presented to the Board, I Move to close the Meeting at 8:39 pm; Seconded (Najac); All in favor; Motion carried.

TSB:jcd

TOWN OF WALL ZONING BOARD OF APPEAL

DECISION SHEET

SEPTEMBER 14, 2009

Rosane Alves Da Salva

Request for a variance of 249-22(D)

1. side yard from 20ft to 12ft;
1. side yard from 20ft to 10ft;

Property located at 116 Belmont Avenue
(76-5-14)
Designated R-1

DECISION: Variances granted

Weldon A. Abt

Request for a variance of 249-19-1 and 249-9-C:

1. front yard set back from 60ft to 20ft;
2. height of terrace from 1ft to 6ft;

Property located on Hubbard Road
(6-1-43)

Designated R-A

DECISION: Variances granted, subject to:

Pumping station will not be located outside
the house,
and no further variances to be granted on the
property.

SIX MONTH EXTENSION:

Brian Rivenburgh

Request for a six month extension on
A variance of 249-20(d)(1) originally granted 2/08:
1) Rear yard from 50ft to 30ft;
2) Area from 1.5 acres to 0.36 acres;
3) Lot width from 200ft to 106ft;
4) Lot depth from 250ft to 150ft;
Property located at Hickory Place / Maple Drive
(16-1-8)
Designated R-2

DECISION: Six month extension granted

Wall-Mart Stores, Inc.
(Snyder & Snyder, LLP)

Request for a six month extension for:
Variance of 249-8-A(5) of primary building) –
1) accessory building in front for installation of
the filling station pumps.
Property located at 300 North Galleria Drive
(78 - 2 - 5.12)
Designated MI

DECISION: Six month extension granted.

Fairways Wallkill, LLC. c/o GDG
(Formerly MDG Development)

Request for a six month extension for all variances
granted by the Town of Wallkill to the Fairways
Wallkill, LLC. Original variances granted on
9/2004 with additional variances granted on
12/12/2005.
Property located on 145 Golf Links Road
SEC 73 BL 1 LOT 31.22
Designated R-1.

DECISION: Six month extension granted.

TOWN OF WALLKILL
ZONING BOARD OF APPEALS
PUBLIC HEARING NOTICE

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, 99 Tower Drive – Building A, Middletown, New York on the 19th day of October, 2009, at 7:30 pm or as soon thereafter as the matter can be heard on the application of:

Stanley P. Allen, Three Allen Lane, Bloomingburg, New York 12721 for a variance of 249-3 (accessory building) for the property of Stanley P. Allen, Three Allen Lane, Bloomingburg, New York 12721. Property (3-1-7.4) located at Three Allen Lane, Bloomingburg, New York and designated (ENT-L).

All parties of interest will be heard at the said time and place.

Stanley Wilson
Zoning Board of Appeals

TOWN OF WALLKILL
ZONING BOARD OF APPEALS
PUBLIC HEARING NOTICE

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, 99 Tower Drive – Building A, Middletown, New York on the 19th day of October, 2009, at 7:30 pm or as soon thereafter as the matter can be heard on the application of:

Paul and Mary Norton, 82 Rockwell Avenue, Middletown, New York 10940 for a variance of 249-22(D) (side yard) for the property of Paul and Mary Norton, 82 Rockwell Avenue, Middletown, New York 10940. Property (39-3-5) located at 82 Rockwell Avenue, Middletown, New York 10940 and designated R-1.

Stanley Wilson
Zoning Board of Appeals