

TOWN OF WALLKILL  
ZONING BOARD OF APPEAL

OCTOBER 16, 2006

PRESENT: E. Johnson  
N. Guenste  
J. Mattatall, Chairperson  
W. Morgan  
R. Sullivan  
P. Thompson

EXCUSED: E. Raffo

The October 16, 2006 meeting of the Town of Wallkill Zoning Board of Appeals opened with the pledge to the flag followed by the presentation of the September 11, 2006 Meeting Minutes.

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

The following continuance, public hearings and reviews for November 13, 2006 were conducted, heard, voted upon and reviewed.

REQUEST FOR SIX MONTH EXTENSION:

E Tetz and Sons:

Mr. Mattatall: We have received a request for an additional six month extension for their Philipsburg Road facility which will expire in 12/2006. A six month extension was granted in 6/2006. Since the variances were granted, the applicant is working with the various agencies for permits.

Mr. Mattatall: We have receive a request for a six month extension for variances originally granted on 9/2004, from Rosemary Stack, Esq. for ( SEC 78 BL 1 Lots 29, 28.21, and 28.22). The two area variances are scheduled to expire on 12/12/2006 and are requesting extension to 6/12/2007. Their request is based on the Town Board has yet to act on the developer's agreement and the NYS DEC has not yet issued permits for the facility. Construction has not been able to proceed.

Mr. Mattatall: I Move to grant a six month extension for following application: E Tetz and Sons:

- 1 ) interpretation of Ordinance 249-8-1 and 249-27-D; 2) definition of 'excavating';
- 3 ) variance of 249-27 (D) (height from 35ft to 72ft). Property located at 81 Cemetery Road; SEC 78 BL 1 LOT(s) 29, 28.21 and 28.22; Designated: MI.

DECISION: The following interpretations were accepted and variance granted:

- 1 ) Accept the definition of the Town of Wallkill Code (249-8.1.C91) shall be interpreted to mean 'any man-made cut, cavity, trench or depression in an earth surface formed by earth removal';
- 2 ) Accept the definition of the Town of Wallkill Code (249-3) shall be interpreted to mean 'building: a structure wholly or partially enclosed within exterior walls and a roof, affording shelter to persons, animals or property'.
- 3 ) 249-27D (lot building standards) to allow silos and conveyors to be constructed 68 feet high;
- 4 ) 249-8.1C(1) for encroachment requirement to allow excavation closer than 100 feet to the lot line.

Seconded; All in favor; Motion granted.

DECISION: Six month extension granted.

TAC ASSOCIATES: (Joseph Brown):

Mr. Mattatall: We have received a request for a six month extension previously granted for six months on 5/8/2006 and 12/12/2005.

Their correspondence said they have made progress toward the building permit, installed driveway, cleared the lot and had the OC Health Department witness test pits and dep perks. The septic system design is being worked on and approval from OCHD is

pending. They are requesting the extension so the Town can review the OCHD application when accepted to process the building permit. The current extension expires in 11/2006 and the extension would take them to 5/2007.

Mr. Mattatall: I Move to grant a six month extension of a variance originally granted on 5/8/2006, extended 5/8/2006 for: 1) area from 2 acres to 50,806 sq/ft; width from 200ft to 145ft; side yard from 40ft to 35ft; 2 side yards from 100ft to 85ft; property located on Top Notch Road (32-2-42).

Seconded; All in favor; Motion carried.

DECISION: Six month extension granted.

FAIRWAYS WALLKILL, LLC (c/o GDC / Formerly MDG Dev.):

Mr. Mattatall: We have received a request from the applicant's attorney, Jennifer Van Tuyl for a six month extension. The original variances were granted in 9/2004 and were extended in 5/2006 and are valid through 11/2006. Additional variances were granted at the 12/12/2005 meeting and also extended to 5/8/2006 in order to get both sets of variances on the same schedule and expiration of 11/2006. It is noted that GDC continues to develop the project and it is a large project which is being developed over a period of years.

Mr. Mattatall: I Move to grant a six month extension; Seconded; All in favor; Motion carried.

DWAYNE ROSADO:

Mr. Mattatall: We have received a six month variance extension on property granted a variance on 4/10/2006 and due to expire on 10/3/2006.

Mr. Mattatall: I Move to grant a six month extension for variances granted for 249-3 (accessory building) from 24x24ft to 40x45ft; located at 430 Rt 211 West (49-1-38.1); Designated HC; Seconded; All in favor; Motion carried.

CONTINUANCE:

LEWIS SIGN:

(Pun Kin Kwok) Request for a variance of 249-11-N1a(1) and 249-11N-N1-b  
1) signs  
Property located at 254 Rt 211 East.  
(50-2-31); Designated HC.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 7:46 pm.

Mr. Mattatall: I Move to continue the meeting at 7:47 pm.

Lewis Sign Company: Introduction was made of the new staffer at Lewis Sign.

Lewis Sign Co.: We are looking for side sign for Grand Liquor on Rt 211 (former Happy Club). Mr. Barrett had a question on the number of signs there. We have 34 foot of frontage and huge side wall. It is like a sign that is existing and want to put in a new panel. Replace it with 3 x 10 and is small sign and combined would be only 60 sq/ft. there are other signs in the plaza but don't know if they are legal or not. He is trying to do things right.

Mr. Mattatall: I spoke with him today and requested a condition that no more signage be allowed on the building.

Lewis Sign: He is content with what is there now. It is not bigger than what is there now.

Mr. Mattatall: Are there any questions from the Board? (no)

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

Mr. Mattatall; I Move to close the Public Hearing at 7:50pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variance for a sign: 249-11-Na(1) and 249-11N-1b: 1) to increase sign from 30sq/ft to 60sqft; and, 2) to permit a second signage over entrance to that business subject to the following: no additional signage will be permitted on the building.

DISCUSSION: (None)

VOTE:

In favor (aye):	6	Morgan, Sullivan, Guenste, Johnson, Thompson, Mattatall
Opposed (nay):	0	

DECISION:

Mr. Mattatall: The variances are granted subject to the noted condition. The variances are valid for 6 months if in that time the work is not completed or substantially started, you need to make a request for an extension.

PUBLIC HEARINGS:

THOMAS BURGER

(Francis Mayer): Request for a variance of 249-20(a):  
1) side yard from 20ft to 18ft  
for existing deck;  
Property located at 10 Ross Lane  
(SEC 85 BL 3 Lot 2); Designated R-2.

Mrs. Thompson: The mailings were reviewed by the Board and field by the Secretary. The Public Hearing Notice was read at 7:52p.

Mr. Mattatall: I Move to open the Public Hearing at 7:53 pm.

Mr. Mattatall: Please present your application.

Mr. Burger: He extended the deck in 1986 and did not get a building permit and she may be interested in selling a the future and wanted to make sure it was up to Code. The side lot is 20 feet now and existing house/deck is 18 feet so we need a variance to get a building permit to get deck legalized.

Mr. Mattatall: It does not extend beyond the house?

Mr. Burger: No.

Mr. Morgan: There was a screened area with a roof on it.

Mr. Burger: Yes, or we would have just cut off the deck and made it legal.

Mr. Morgan: You are now only asking for the deck not the entire structure.

Mr. Burger: They could not issue a building permit because of side yards from 18 to 20 feet.

Mr. Mattatall: Mr. Jacques will take care of the building piece.

Mr. Burger: Yes, then include as a covered deck.

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

Mr. Mattatall: Questions from the Public? (no)

Mr. Mattatall: I Move to close the Public Hearing at 7:55pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following side yard variance from 20ft to 18ft to include the roof over the deck; Seconded.

DISCUSSION: (None)

VOTE:

In favor (aye):	6	Guenste, Sullivan, Johnson, Morgan, Thompson, Mattatall
Opposed (nay):	0	

DECISION:

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

GEORGE MARTIN: Request for a variance of 249-8-A(5):  
1) allow accessory building closer to the front lot line than  
the principal building.  
Property located at 127 York Road  
(Sec 3 BL 2 LOT 13); Designated R-A

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary.  
The Public Hearing Notice was read at 7:56 pm.

Mr. Mattatall: I Move to open the Public Hearing at 7:57 pm.

Mr. Martin: I want a 28x28ft garage in front of my house. The way the house is laid out  
is best and there is one there now I want to tear down and replace it.

Mr. Mattatall: The septic is in the back?

Mr. Martin: Yes.

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

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

Mr. Mattatall: I Move to close the Public Hearing at 7:58 pm; Seconded; All in favor;  
Motion carried.

Mr. Mattatall: I Move to grant a variance of 249-8-A(5) for a 28x28ft accessory building  
closer to the front lot line than the principal building; Seconded.

DISCUSSION: (None)

VOTE:

In favor (aye): 6 Morgan, Thompson, Sullivan, Guenste, Johnson, Mattatall  
Opposed (nay): 0

DECISION:

Mr. Mattatall: The variance is granted. Please see the building department. You have  
six months to start work if you have not done so, please request an extension.

GARY KARP: Request for a variance of :  
249-8 A(5):  
1) accessory building closer to the front line than the principal building.  
249-3:  
2) accessory from 28x28ft to 28x32ft;  
Property located at 270 Brown Road  
(SEC 7 BL 1 LOT 2.2222); Designated R-A.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 7:59pm.

Mr. Mattatall: I Move to open the Public Hearing at 8:00pm.

Mr. Mattatall: Why locate this in front of the house?

Mrs. Karp: Because it is another garage by the driveway and if on the other side have to take down 2 full grown apple trees.

Mr. Karp: When we built the deck, the building inspector said this was probably the best place for it.

Mr. Mattatall: You do have a historical oak there.

Mr. Morgan: Will you use it for an accessory use or a home occupation?

Mr. Karp: No, for tools, etc.

Mr. Morgan: Will you remove the existing shed/garage?

Mr. Karp: No.

Mrs. Thompson: Do you plan to have antique cars?

Mrs. Karp: No. But I have 2 and he has one and other stuff.

Mrs. Thompson: What about on the other side?

Mr. Mattatall: The stone wall is pretty well established.

Mrs. Thompson: The shed could be removed and put contents in the other building there?

Mr. Mattatall: The garage will still be in the front.

Ms. Guenste: What type of siding?

Mr. Karp: Vinyl for about \$30,000 and it will be done nice.

Mr. Mattatall: When putting up an accessory and keeping up others we normally allow you to keep one other and the 2<sup>nd</sup> accessory building and we have a problem granting additional. If you are putting up one large enough to accomplish this.

Mrs. Karp: We were told only one shed and they told us we had to build a garage which is not a shed and is why we are here and the garage is not considered a accessory building.

Mr. Mattatall: It is. The shed law was made it easier in high density areas so they could get mowers, etc out of weather and eliminate eye soars on the property. Not to dot the property with many little buildings. Quite a few other cases they have had to remove them as new construction absorb the existing.

Mr. Johnson: Is it sitting on a foundation?

Mr. Karp: There is electric run to the shed. It will be done aesthetically pleasing.

Mrs. Thompson: The place is lovely – it is.

Mr. Mattatall: Any questions from the Public? (yes)

Patrick Thom (public): I am across the street one of the new houses. I have no objections at all.

Mrs. Stacy Thom: Likewise.

Mr. Mattatall: Any questions from the Board?

Mrs. Thompson: I just think he can do something else.

Mr. Karp: We tried to follow all the procedures. It was so confusing for the lady.

Mr. Mattatall: Personally you have a building of this type with another existing building you do not to have smaller buildings.

Mr. Karp: I have a photo and it will line up along this driveway (showed the board)

Ms Karp: We were told it was not an accessory building.

Mr. Mattatall: The definition is a accessory which delineates the square footage. With a garage – enclosed storage space with 1 to 2 cars and no more than one space leased to others. There is no products coming in/out of this building?

Mr. Karp: No, sir.

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

Mr. Mattatall: I Move to close the Public Hearing at 8:12pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variances: 1) 249-8-a-5 accessory building closer to front lot line than the principal building; 2) 249-3 accessory building from 28x28ft to 32 x 28 ft garage, subject to it being defined as private garage as defined by Town law; Seconded.

DISCUSSION:

Mrs. Thompson: I don't like this for the reasons stated.

Mr. Morgan: I don't like the second building.

VOTE:

In favor (aye):	5	Johnson, Guenste, Sullivan, Mattatall, Morgan
Opposed (nay):	1	Thompson

DECISION:

Mr. Mattatall: The variance is granted subject to the condition noted. See the building department.

ISSAC LANDAU: Request for a variance of 249-19-D (lot size)  
1) area  
2) width  
Property located on VanAmburgh Road  
Designated RA.

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

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

Roger Ferris and Jay Mirro, Esq.

Mr. Mattatall: This is for lot size and width?

Jay Mirro, Esq.: The engineer is here for the applicant: area variance with a 2 lot proposed subdivision and they before the Planning Board who referred us here for variances. It has an existing single family dwelling and 4 out buildings as concrete block barns. The barns are in various states – falling down. I drove the property today and that is correct. Propose to sub divide to 2 pieces and build new dwelling on 2<sup>nd</sup> parcel in back. In developing the land the 2 back barns will come down and the 2<sup>nd</sup> barn in looks like it might come down and the first one could be an accessory building but the only one.

If you see the property there is a lot of work to prepare the site and intention of the client to clean it up and it is not appropriate at this point. Fairly extensive expense and silos to come down. Difficult to get reasonable return considering that expense.

Roger Ferris has been involved with the project for some time and perks and soils are fine in the back lot. Drove up an adjoining driveway and not sure if it is subdivided in back or one piece.

Mr. Morgan: Could not tell what they were going when I was there.

Mr. Mirro: The driveway the full length would be an improvement and did see a lot in the back but not out of character considering there is a driveway and seeing this anyway. There is some wooded buffer along the driveway. The idea is to get it cleaned up. This was at one point before the PB and held up by moratorium and they have seen the design.

Mr. Mattatall: The first time we have seen this.

Jay Mirro, Esq.: This was before the board.

Roger Ferris: We cut it back to 3 and this is the original layout and were 2 weeks away from the Public Hearing when the moratorium came into effect. Now it is over and new zoning trying to finish up project when it went into effect.

Mrs. Sullivan: They put it in place so you could not go and change the zoning.

Roger Ferris: It affected a lot of people.

Jay Mirro, Esq.: We are aware there are no guarantees and considering the disrepair and not better 2 years ago. The client has processed the lots over considerable amount of time, we may have lost one lot and considerable expense to clean it up. In my driving through it will not have adverse affect and other irregular lots there now.

It will clean up the neighborhood and would have complied and did before and were entitled to zone change took us out of that. Primary goal is to get it cleaned up.

Mrs. Thompson: We are more interested in affect on the Town of Wallkill than your financials. The 2 lots would be very nice with barn and horse and compatible and further down a horse farm.

Jay Mirro Esq. This is compatible now.

Roger Ferris: there is a lot of acreage to the rear and better use of it. This house is not the size that people bring in horses.

Ms Guenste: You bought it in 1/2005?

Roger Ferris: It was purchased a while ago.

Ms Guenste: The application says 1/2005 - that is the date? You don't know when you bought it?

Roger Ferris: I am the engineer.

Ms Guenste: That is the date is there and the barns were there when he bought it and knew it would take money to take them down. Where are sewer lines on the other side of the line. Nothing shows it on the Montgomery side.

Roger Ferris: None close.

Jay Mirro, Esq.: It is way back.

Mr. Mattatall: The 2 lots jammed into one and why we work hard on the zoning code and he knew it was that way when he bought it and not in the family for a long time. We can't be responsible for people buying things and then coming here.

Jay Mirro: They were entitled on prior zoning.

Ms Sullivan: It was bought after the zoning change.

Jay Mirro, Esq.: I don't know the history but must have been under contingency.

Mrs. Thompson: The owner subdivided.

Roger Ferris: He paid for the survey.

Jay Mirro, Esq.: If I need to educate more on it.

Ms Guenste: It was filed on 11/18/2005.

Mr. Mattatall: You must pay attention to law changes. You must look at it before you buy it.

Jay Mirro, Esq.: You would look differently if changed once bought?

Mr. Mattatall: You have circumstances for previous ownerships.

Jay Mirro, Esq.: I would request a continuance to November.

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

Mr. Mattatall: I Move to continue the Public Hearing to November 13, 2006; Seconded; All in favor; Motion carried.

PAUL &  
SANDRA DOOLITTLE: Request for a variance of 249-3  
(accessory building):  
1) from 28x28ft to 28x30ft;  
Property located at 29 Murry Road  
(SEC 62 BL 1 LOT 30.3); Designated RA.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the secretary.  
The Public Hearing notice was read at 8:29 pm.

Mr. Mattatall: I Move to open the Public Hearing at 8:30 pm.

Mr. Mattatall: The accessory building is 2 feet larger than allowed?

Mr. Doolittle: Yes.

Mr. Mattatall: Why 2 feet bigger?

Mr. Doolittle: It is a pre-fab building kit and how it comes.

Mr. Mattatall; I understand. This is the only variance you need.

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

Mr. Mattatall: Any questions from the Public?

Joseph Raposo, (Public): 59 Murray Road – I am here to find out what is going on.

Mr. Mattatall; (showed him) larger accessory building in the back of the house.

Joseph Raposo: It does not bother me.

Mr. Mattatall: That is the reason we have the hearings the neighbors sometimes have interesting comment.

Mr. Mattatall: I Move to close the Public Hearing at 8:33pm; Seconded; All in favor;  
Motion carried.

Mr. Mattatall: I Move to grant the following variance: accessory building from 28x28ft  
to 28x30ft; Seconded.

DISCUSSION: (None)

VOTE:

In favor (aye):	6	Guenste, Sullivan, Johnson, Morgan, Thompson, Mattatall
Opposed (nay):	0	

DECISION:

Mr. Mattatall: The variance is granted. Please see the building department. Remember this is only valid for 6 months in that time if you have not started work, please return and request an extension.

BERLIN, LLC.

(NY Land, LLC): Request for a variance of 249-12(d)(7):  
1) side yard variance from 10ft to 2.45ft;  
Property located on East Main Street  
(SEC 50 BL 2 LOT 14.11); Designated HC.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:34pm.

Mr. Mattatall; I Move to open the Public Hearing at 8:35 pm.

Kevin Dugan, Fellenzer Engineering: I am here with Mike Berlin. The Planning Board sent us here as part of the project to install drive thru eastern side of property. The building is on only location because of the O&R easement. The whole western part is easement not allowing building, dumpsters or things of that nature. The western front is easement. They would like a drive thru enough space with building size they need and the reason driveway is along property line. No place else to put the drive-thru.

Mr. Mattatall: What about parking?

Mr. Dugan: We meet requirements for actual public area and they look at addition al area for basement storage for dry products and don't feel it requires additional parking spaces but way it is used the upstairs is public area and meet 29 parking spaces.

Mr. Mattatall: Square footage formula not seating formula. Does this affect HC?

Mr. Dugan: No. You need 2:50. we are less than 50.

Ms Guenste: Do you need room for HC?

Mr. Berlin: No not with the drive-thru.

Ms Guenste: I see places that are always filled up.

Mr. Thompson: It is 7.5 feet?

Mr. Dugan: It is 10 feet wide – actual pavement. The pavement is 10 feet and requirement the drive is 10 feet of the property line. The 10 foot wide drive leaves 2.5 feet.

Ms Guenste: Comparable to Taco Bell – is that what it's like?

Mr. Dugan: Similar to McDonalds on Rt 211. the width is similar to McDonalds just closer to the line because of the width.

Ms Sullivan: next door is a doctor's office.

Mr. Dugan: Not sure what his practice is. We don't feel there is a problem.

Mr. Mattatall: With cutting down parking spaces you have huge volume of cars and with the type of business and everyone wants your product and similar situation where people back up on highways to get in the drive thru. It could back up an intersection.

Mr. Dugan: To come in the entrance is in the rear of the property. They would love to have that situation. Realistically you need 20 cars plus in drive up bay. The entrance is way up in the back of the property. Basically we have talked about it passage is 2 minutes to get through. Someone might order sandwich but not really have to wait and quick as opposed to Burger King, Wendy's or McDonalds.

Mrs. Thompson: The 10 feet is where (Mr. Mattatall: showed her on the map).

Mr. Dugan: The 10 feet is measured from window to property line. Retaining wall is on the property line and is allowed. The dotted line is the set back line (referred to drawing). The building meets setback requirements it is the requirement of drive within 10 feet of the property line. That is the issue; not the building.

Mrs. Thompson: That is where I got the 7.5 feet.

Mr. Dugan: The driveway not building needs variance. We have 2.5 plus 7.5 and only 2.5 from the property line. The road itself it 10 feet wide.

Ms Sullivan: This is on East Main Street?

Dugan: Across from self storage/car wash. Vacant property under power line. The entrance lines up directly with car wash.

Ms Guenste: Is the exit in the wrong spot?

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

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

Mr. Mattatall: I Move to close the Public Hearing at 8:45pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I move to the following variance of 249-12(D)(7): 1) side yard 10 to 2.45 feet; and, 2) variance of 249-12 (parking spaces) from 44 to 31 spaces; Seconded.

DISCUSSION: (None)

VOTE:

In favor (aye):	6	Thompson, Morgan, Guenste, Sullivan, Johnson, Mattatall
Opposed (nay):	0	

DECISION:

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

HEARING REVIEWS (November 13, 2006)

David Heath:

Mr. Heath: We are adding a bathroom to the back of the house.

Mr. Mattatall: It is a bathroom and have existing porch.

Mr. Heath: The porch needs to be converted to a room and we have to put supports under it so we incorporated everything and adding the bathroom.

Mrs. Thompson: You need 2/10 of a foot?

Mr. Heath: Yes.

Mrs. Thompson: It is off Silver Lake Road?

Mr. Heath: Yes.

Mr. Mattatall: I Move to hold a Public Hearing on November 13, 2006 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Mattatall: It is necessary to notify everyone within 300 feet of your property. You can obtain the list of names from the Town Tax Office. The notice of the Public Hearing will be in the Times Herald Record's Public Notice Section within the next week. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing date. Mailings must be sent either by certified or registered mail. Bring your proof of mailings with you to your Public Hearing. The Public Hearing will not be opened without your proof of mailings.

Notify everyone 300

Mr. Mattatall: You can go to the Scotchtown Post Office and can do the certificate of mailing. It is proof the letter was sent. The Assessor's office is accessed from the other side of the building.

Joseph Small:

Mrs. Thompson: You want a pool and a hot tub in the back yard? The pool is 15 and 12 on 2 sides from the line?

Mr. Small: Yes.

Mr. Mattatall: How far off the house?

Mrs. Small: 14 feet for the pool.

Mrs. Sullivan: Why so close to the line?

Mrs. Small: On paper it looks different.

Ms Sullivan: Why not bring in closer to the house?

Mrs. Small: We were told it had to be further away than closer.

Mr. Mattatall: I don't think it has to be that far away – it is a small lot in Key Stone Park.

Ms Small: That is why we put it there and at the time the rules were different.

Mr. Mattatall; You find things in different places and is okay until it collapses on your property or the neighbors.

Mrs. Thompson: There is a pool that is 18 feet around and the hot tub – portable.

Ms Guenste: It is the hot tub here?

Ms Small (looked at the drawing).

Mr. Mattatall: They told you it had to be that far from the house.

Mrs. Small: I use it for therapeutic purposes and keep the water cool I the Summer.

Mr. Mattatall: I can see why it is out that far now. It is closer to the house than it looks. You have limited space.

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

Mr. Mattatall: I Move to hold a Public Hearing on November 13, 2006 at 7:30pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Mattatall: It is necessary to notify everyone within 300 feet of your property. You can obtain the list of names from the Town Tax Office. The notice of the Public Hearing will be in the Times Herald Record's Public Notice Section within the next week. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing date. Mailings must be sent either by certified or registered mail. Bring your proof of mailings with you to your Public Hearing. The Public Hearing will not be opened without your proof of mailings.

AAA Developers (Ridgewood)

Roger Ferris:

Mr. Mattatall: It is a small lot and not much you can do with it.

Ms Guenste: I'd like a smaller house and the whole area has smaller houses and others before have done smaller houses. You can see them when you drive around. Looking at the 5 feet on each side the FD can't get behind. There may be more room along the line.

Roger Ferris: Do you have a number you would prefer?

Mr. Mattatall: Width to house to property line of 10 to 12 feet. This is only 5 feet on each side and want vehicle to the back of the house.

Mr. Mattatall: Questions from the Board?

Mr. Mattatall: I Move to hold a Public Hearing on November 13, 2006 at 7:30 pm or as soon thereafter as the matter can be heard;

Mr. Mattatall: It is necessary to notify everyone within 300 feet of your property. You can obtain the list of names from the Town Tax Office. The notice of the Public Hearing will be in the Times Herald Record's Public Notice Section within the next week. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing date. Mailings must be sent either by certified or registered mail. Bring your proof of mailings with you to your Public Hearing. The Public Hearing will not be opened without your proof of mailings.

AAA Developers (Excelsior)

Mr. Mattatall: This is the similar situation to Ridgewood.

Roger Ferris: I am sure the applicant will hear your concerns.

Ms Guenste: Something smaller. Drive around and see some of the smaller homes.

Roger Ferris: The same size as the other one.

Mr. Mattatall: I Move to hold a Public Hearing on November 13, 2006 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded. All in favor; Motion carried.

Mr. Mattatall: It is necessary to notify everyone within 300 feet of your property. You can obtain the list of names from the Town Tax Office. The notice of the Public Hearing will be in the Times Herald Record's Public Notice Section within the next week. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing date. Mailings must be sent either by certified or registered

mail. Bring your proof of mailings with you to your Public Hearing. The Public Hearing will not be opened without your proof of mailings.

Benchmark:

Mr. Mattatall: This is property you re-did because the road was put in and not subdivided. This goes to other side of Wipple Road and original map dimensions as if Whipple Road did not exist. And we have to measure from the now road.

Applicant: Who owns what when they did the section. The piece across the street do you want a separate lot?

Mr. Mattatall: We don't care and not requirement to do a subdivision.

Applicant: Creating a lot that is not buildable is taxed.

Mr. Mattatall: If you did not do this you could have a house located on the road.

Ms Guenste: If you have tax question they can help you.

Mr. Mattatall: She does not measure road when she does the taxes. We actually have quite a few like this.

Mr. Mattatall: The dimensions don't mean a lot without the variances.

Applicant: We did show where we did testing that was suitable for septic.

Mr. Mattatall; There are no private plants in the Town. You will have to provide on the map the neighbor's wells and survey from them.

Applicant: Correct.

Ms Guenste: Can you do septic in NAD?

Mr. Mattatall: Modify map to show neighbor's wells are located, this is a small piece of property it is tight acreage.

Applicant: The separation distance is not an issue.

Mr. Mattatall: We have not approved one powered system in the town. Primarily because the power goes out in OC. Generators in houses don't usually power septic. This is a lower piece – houses up-hill from this and don't know power you'd have. They fail and require constant maintenance.

Mr. Mattatall: If it plugs into the wall it is a powered system. You can understand our position. The town has taken over 2 systems because they are not taken care of.

Ms Guenste: NAD at bottom of his land does not permit septic.

Applicant: Locate the existing septic and wells.

Mr. Mattatall: If it says not septic – we don't put in septic systems. You need 2 acres of the acceptable soils.

Mr. Mattatall: I move to hold a Public Hearing on November 13, 2006 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Mattatall: It is necessary to notify everyone within 1000 feet of your property. You can obtain the list of names from the Town Tax Office. The notice of the Public Hearing will be in the Times Herald Record's Public Notice Section within the next week. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing date. Mailings must be sent either by certified or registered mail. Bring your proof of mailings with you to your Public Hearing. The Public Hearing will not be opened without your proof of mailings.

Lyons:

Kevin Dugan, Todd Lyons, owner: it is located Schutt Road / Ave E. existing lot and house and want subdivision for 2 lots. We needed a number of variances as you can see from our request.

Mrs. Thompson: When did you acquire this?

Mr. Lyons: 7/2005. just over a year.

Mr. Mattatall: The PB sent you here first.

Mr. Lyons; No variances before the zoning change except for side yard set back for 1.36 feet.

Ms Sullivan: When did this change?

Mr. Lyons: Last year or 6 months. Within the past year. After the purchase of the land.

Mr. Mattatall: The R1 was 11/2005.

Mr. Lyons: Started it and before I went to PB they changed the zoning and held off.

Mr. Mattatall: It is similar to others?

Kevin Dugan: You are breaking a piece off to make the 2<sup>nd</sup> lot buildable.

Mr. Lyons: The house down the road is even smaller.

Mr. Mattatall; When this was bought it was buildable.

Mr. Mattatall: I Move to hold a Public Hearing on November 13, 2006 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Mattatall: It is necessary to notify everyone within 300 feet of your property. You can obtain the list of names from the Town Tax Office. The notice of the Public Hearing will be in the Times Herald Record's Public Notice Section within the next week. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing date. Mailings must be sent either by certified or registered mail. Bring your proof of mailings with you to your Public Hearing. The Public Hearing will not be opened without your proof of mailings.

Godhwani:

Roger Ferris: he has owned it for a long time.

Mr.Godhwani: about 3.5 y ears.

Roger Ferris: He did work shop with McGoey before changes and told config was fine to proceed with and started the mapping and zoning changed and now here.

Ms Sullivan: Where is this near?

Mr. Godhwani: This is 864 and he is 874 – Howard Mills.

Ms Sullivan: this is open field across from this.

Mr. Mattatall: You want a flag lot to build a house.

Mr. Godhwani: It is for our HC son.

Mrs. Thompson: The existing house is HC accessible?

Mr. Godhwani: we are trying to do it but the hallways are narrow and the tub is not correct.

Mr. Mattatall: This was built in the 60's.

Mrs. Thompson: Would it make sense to build on to existing?

Mr. Godhwani: A lot of modifications to be made and daughters want to go back to school and have a lot of ambitions.

Mr. Mattatall: I Move to hold a Public Hearing on November 13, 2006 at 7:30pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Mattatall: It is necessary to notify everyone within 300 feet of your property. You can obtain the list of names from the Town Tax Office. The notice of the Public Hearing will be in the Times Herald Record's Public Notice Section within the next week. Take that notice, copy it and mail it to everyone on the list at least 10 days prior to your scheduled Public Hearing date. Mailings must be sent either by certified or registered mail. Bring your proof of mailings with you to your Public Hearing. The Public Hearing will not be opened without your proof of mailings.

MEETING CLOSE:

Mr. Mattatall: There being no further items to be presented to the Board, I Move to close the meeting at 9:31pm; Seconded; All in favor; Motion carried.

TSB:jcd

TOWN OF WALLKILL  
ZONING BOARD OF APPEAL

DECISION SHEET

OCTOBER 16, 2006

LEWIS SIGN:  
(Pun Kin Kwok)

Request for a variance of 249-11-N1a(1) and 249-11N-N1-b signs  
1) to increase sign from 30sq/ft to 60sqft;  
2) to permit a second signage over entrance to that business  
Property located at 254 Rt 211 East.  
(50-2-31); Designated HC.

DECISION: Variances granted subject to,

No additional signage will be permitted on the building.

THOMAS BURGER  
(Francis Mayer):

Request for a variance of 249-20(a):  
1) side yard from 20ft to 18ft  
for deck to include roof over existing deck;  
Property located at 10 Ross Lane  
(SEC 85 BL 3 Lot 2); Designated R-2.

DECISION: Variance granted.

GEORGE MARTIN:

Request for a variance of 249-8-A(5):  
1) allow accessory building closer to the front lot line than the principal building.  
Property located at 127 York Road  
(Sec 3 BL 2 LOT 13); Designated R-A

DECISION: Variance granted.

GARY KARP:

Request for a variance of :  
249-8 A(5) Accessory building  
1) closer to the front line than the principal building.  
249-3: Accessory building size:  
2) from 28x28ft to 28x32ft;  
Property located at 270 Brown Road  
(SEC 7 BL 1 LOT 2.2222); Designated R-A.

DECISION: Variances granted subject to:

It being defined as private garage as defined  
by Town law; Seconded.

ISSAC LANDAU:

Request for a variance of 249-19-D (lot size)  
1) area  
2) width  
Property located on VanAmburgh Road  
Designated RA.

CONTINUE to November 13, 2006

PAUL & SANDRA DOOLITTLE: Request for a variance of 249-3 (accessory building):  
1) from 28x28ft to 28x30ft;  
Property located at 29 Murry Road  
(SEC 62 BL 1 LOT 30.3); Designated RA.

DECISION: Variance granted

BERLIN, LLC.  
(NY Land, LLC):

Request for a variances:  
249-12(d)(7):  
1) side yard from 10ft to 2.45ft;  
249-12 (Parking spaces)  
2) from 44 to 31 spaces.  
Property located on East Main Street  
(SEC 50 BL 2 LOT 14.11); Designated HC.

DECISION: Variances granted

SIX MONTH EXTENSIONS:

E Tetz and Sons: 1 ) Interpretation of Ordinance 249-8-1 and 249-27-D; 2) definition of ‘excavating’; 3 ) variance of 249-27 (D) (height from 35ft to 72ft). Property located at 81 Cemetery Road; SEC 78 BL 1 LOT(s) 29, 28.21 and 28.22; Designated: MI.

Original Decision: The following interpretations were accepted and variance granted: 1 ) Accept the definition of the Town of Wallkill Code (249-8.1.C91) shall be interpreted to mean ‘any man-made cut, cavity, trench or depression in an earth surface formed by earth removal’; 2 ) Accept the definition of the Town of Wallkill Code (249-3) shall be interpreted to mean ‘building: a structure wholly or partially enclosed within exterior walls and a roof, affording shelter to persons, animals or property’. 3 ) 249-27D (lot building standards) to allow silos and conveyors to be constructed 68 feet high; 4 ) 249-8.1C(1) for encroachment requirement to allow excavation closer than 100 feet to the lot line.

Six month extension granted.

TAC ASSOC

(Joseph Brown):

Originally granted on 5/8/2006, extended 5/8/2006 for: 1) area from 2 acres to 50,806 sq/ft; 2) width from 200ft to 145ft; 3) side yard from 40ft to 35ft; 4) 2 side yards from 100ft to 85ft; property located on Top Notch Road (32-2-42).

Six month extension granted.

FAIRWAYS WALLKILL, LLC (c/o GDC / Formerly MDG Dev.):

The original variances were granted in 9/2004, in 5/2006; Additional variances were granted at the 12/12/2005.

Six month extensions granted.

DWAYNE ROSADO: Variances granted for 249-3 (accessory building) from 24x24ft to 40x45ft; located at 430 Rt 211 West (49-1-38.1); Designated HC; Seconded; All in favor; Motion carried.

Six month extension granted.