

TOWN OF WALLKILL ZONING BOARD OF APPEAL

MEETING MINUTES

OCTOBER 17, 2005

PRESENT:

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

Randall Coffil, Esq.

MEETING OPENING:

The October 17, 2005 Meeting of the Town of Wallkill Zoning Board of Appeal opened with the pledge to the flag followed by the roll call and presentation of the September 12, 2005 Meeting Minutes.

The following corrections were noted for the record:

Page 31      Para 2      (Spelling) Pahucki

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

The following applications were continued from September 12<sup>th</sup>, reviewed for a Public Hearing on November 14<sup>th</sup>, Hearings conducted and voted upon and noted.

**PUBLIC HEARINGS:**

MICHAEL T. BENTIVOGLIO

Request for a variance of 249-26-D  
1) Lot width from 130ft to 120ft;  
2) Lot depth from 120ft to 19,414 sq/ft;  
3) Area from 20,000 sq/ft to 91.20 sq/ft;  
Property located at 295 Schutt Road;  
(SEC 77 BL 1 LOT 10); Designated HC.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 7:41pm.

Mr. Mattatall: I Move to open the Public Hearing at 7:42 pm.

John Steinberg: The lot width was longer than originally thought. There was question of 130 and it is 150 feet on the front (looked at the map).

Mrs. Thompson: Please make correction on the application and initial it (and so he did)

Mr. Mattatall: This is 120 to 91ft and area to 19,414 sq/ft.

John Steinberg: Correct.

Ms. Guenste: With the house and foot print, you have not include a front deck or anything in the front.

John Steinberg: There is a front stoop which is allowed.

Ms Guenste: If you want small area in front move it back now and not come back later.

Mr. Bentivoglio: Thank you.

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

Mr. Mattatall: I Move to close the Public Hearing at 7:45 pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variances: 1) lot depth from 120 to 91ft; 2) area from 20,000 sq/ft to 19,414 sq/ft; Seconded.

DISCUSSION: (None)

VOTE: In favor (7): Guenste, Johnson, Sullivan, Raffo, Morgan, Thompson, Mattatall  
Opposed (0)

DECISION:

Mr. Mattatall: The variances are granted. Please see the building department. The variances are valid for 6 months, if you have not started work within that time, please return for an extension.

EDWARD W. LAWRENCE, III

Request for the following variances:

- 1) (249-3) accessory (garage) from 28x28ft to 28x32ft;
  - 2) (249-27-D) rear yard from 50ft to 12ft.
- Property located at 11 Ingrassia Road  
(SEC 49 BL 1 LOT 27); Designated MI.

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 open the Public Hearing at 7:47 pm.

Mr. Mattatall: Please explain.

Edward Lawrence: I want to build a garage to store some cars. I have some blue prints. To store cars, trucks and toys I have. The garage I have is too small.

Mr. Mattatall: In the back is a proposed wood deck – you are eliminating that?

Edward Lawrence: Yes and the proposed loft.

Mr. Mattatal: Without the deck you have one less variance.

Mr. Mattatall: Rear from 50 to 12ft (back of building) and accessory from 28x28 to 28x32ft.

Randall Coffill, Esq.: The setback was not in the Public Notice. This is replacing an existing building that is there. The question is the set back closer than the existing.

Mr. Mattatall: No.

Randall Coffill, Esq.: Make a finding of that.

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

Mr. Mattatall: Any questions from the Board?

Ms Guenste: We need to include this in our findings.

Mr. Mattatall: I Move to close the Public Hearing at 7:51 pm.

Mr. Mattatall : I move to grant the following variances: 1) (249-27-D) rear yard from 50 to 12ft and 2) 249-3 (accessory) 28x28 to 28x32ft; subject to the set back of the new building being the same as the existing structure; Seconded.



THOMAS M. AND DONNA M. COUSEZ Request for an interpretation of zoning with regard to greenhouses;  
Property located on Prosperous Valley Road  
(SEC 6 BL 1 LOT 71 and 72); Designated RA.

Mrs. Thompson: The Public Hearing Notice was read at 7:53 pm.

Mr. Mattatall: I Move to open the Public Hearing at 7:54pm.

R.J.Smith, RJ Smith Realty: We were looking for an interpretation of the term 'greenhouse'. Four months a question arose regarding an application to come here for an interpretation of the zoning ordinance in a RA district. Since that time and in the course of time and with the assistance of the Orange County Planning Department, the Planning Board, the Town Engineer, that question has been resolved. We withdraw the request for interpretation for that. I can go over it now with the Board.

Indeed the – in the RA District, as in other areas of the zoning ordinance the use is identified not the specific building. In a RA Zone is agriculture, single family house or building occupied by the Town. The growing of crops, raising of live stock – it does not say the building. manufacturing and does not say a building for manufacturing. An airport you can have them but it is not specific hangers. Additionally identified New York State 305a as New York Executive Law addresses farm laws and green house structures and is permitted by law in agriculture districts. Combination of those things – the original question 'does permitted use of growing crops, orchards and livestock' permit building associated with that? They agreed that yes it does and has been practice through the town, we have barns, green houses, machinery sheds in RA Zones.

Mr. Mattatal: That is the Planning Board attorney's interpretation?

R.J. Smith: Yes, their second attorney.

Ms Guenste: Certain percent of land is in RA. For this lot 55,256 sq/ft that can be covered. When you work it out it is 61,000.

R.J. Smith: The building coverage is identified at that portion of the property by the building and green house is equipment not building.

Mr. Mattatall: It is constructed on piers not continuous board?

R.J. Smith: Yes.

Mr. Mattatall: Your application is thereby withdrawn.

Public: Can we ask questions?

Mr. Mattatall: He has withdrawn the application and they are built on individual piers and the State overrides local laws and the language is that if it is not a continuous pour of foundation it is temporary. They may have read that carefully. We don't have jurisdiction.

Public: We are here to ask him questions. This is huge.

Mr. Mattatall: It is with the building inspector's office and the Planning Board. We don't have primary jurisdiction. Problems are sent to us. Originally the Planning Board attorney sent it to us.

Public: Our recourse is what?

Mr. Mattatal: See the building inspector for the specifics and if anything pending it is still with the Planning Board.

HEARING REVIEWS (November 14, 2005)

CASAREALE / Glen Brinckerhoff  
Request for

Mr. Brinckerhoff: I recently purchases 2.2 acres on Highland Lake road 200ft to 125 ft and did extended that variance and found out side yard is needed as well. You need total of 100 total side yard and with regular size house I am coming up short. Side yard variance.

Mr. Mattatall: Side yard 40 to 37ft.

Mrs. Thompson: 37 feet but what is sticking out?

Mr. Mattatall: Arrow stops (looking at drawing).

Mr. Mattatall: Any questions from the Board?

Ms Guenste: You have other variance?

Glen Brinckerhoff: Yes. It is for a lot variance.

Mr. Mattatall: I need the soil classifications that is in – in the system of the Town Code. He is aware of them. You may need an area variance for the size of acreage. The soil formula determines septic system. It varies due to the perk. There is provision for engineered septic systems. Our power goes out frequently so we don't look at powered systems.

Mr. Mattatall: I Move to hold a Public Hearing on November 14, 2005 at 7:30 pm or as soon there after as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Mattatall: It is necessary to notify everyone within 1,000 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.

MIKE ROSS

Mrs. Thompson: In have a question on the measurement.

Mr. Mattatall: This is a duplex and you would like a deck on the back of each one?

Mr. Ross: Yes.

Mr. Mattatall: You need rear yard set back?

Mr. Ross: Yes.

Mr. Mattatall: The house was built to the setback?

Mr. Ross: Yes, they wanted them all lined up. They sent me here for the deck.

Mrs. Thompson: You have owned it how long?

Mr. Ross: Since 2002.

Mr. Mattatall: I Move to hold a Public Hearing on November 14, 2005 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.

MARTINEZ:

Mr. Mattatall: You want back similar to neighbors there?

Ms Martinez: Yes. I want it to be to code, however. It was existing when I bought it.

Mr. Mattatall: Put on another deck?

Ms Martinez: Yes, take this down and replace it.

Mr. Mattatall: You need variance for a side yard variance on each side from 15ft on each side but you are attached with fire wall. Either side 3 feet variance and need rear yard setback on this also you need a rear yard from 30 to 17ft.

Ms Guenste: The deck is the small diagram.

Mr. Mattatall: The 5 feet is the easement. Do you have a walk way?

Ms Martinez: No. We want to extend it out a little.

Ms Guenste: How big from the house?

Ms Martinez: It is 15 feet I believe.

Ms Raffo: She needs a rear yard.

Mr. Mattatall: Who drew it?

Ms Martinez: The person who is building it.

Mr. Mattatall: Any questions? (no)

Mr. Mattatall: I Move to hold a Public Hearing on November 14, 2005 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

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VOLASKI:

Mr. Mattatall: You are seeking a pre-fab garage in?

Mr. Volaski: Yes.

Mr. Mattatall: Did the building department tell you what you need?

Mr. Volaski: No.

Mr. Mattatall: They will tell you and it is easier than doing it after the fact. It has low section?

Mr. Volaski: It is good then some wet lands and house built up and the area is past it.

Mr. Mattatall: Why not behind?

Mr. Volaski: No room and then there is a steep hill behind.

Mr. Mattatall: It is from 28x28ft and accessory nearer to the front line than the principal structure.

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

Mr. Mattatall: I Move to hold a Public Hearing on November 14, 2005 at 7:30pm or a soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Mattatall: It is necessary to notify everyone within 1,000 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.

LEARY:

Mrs. Thompson: When did you buy ti?

Mr. Leary: It has been in the family since 1991 and in 2000 put in my name.

Ms Raffo: This is an extension on the existing house? Will it have kitchen or additional bathrooms?

Mr. Leary: No, we are shifting rooms around and existing LR will be dining room, everything is shifting around.

Ms. Raffo: Additional kitchen?

Mr. Leary: No.

Mrs. Thompson: How big?

Mr. Leary: About 7 acres.

Mr. Mattatall: You have DCEC wetlands?

Mr. Leary: Yes.

Mr. Mattatall: I Move to hold a Public Hearing on November 14, 2005 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

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BIERSTINE

Mr. Mattatall: The carport is on the existing?

Ms Bierstine: It is up and we have not gotten the final inspection.

Mr. Mattatall: You have a stop order on this?

Ms Bierstine: It is for deck on the back of the house.

Mr. Mattatall: We only have the carport on the map.

Mr. Mattatall: You only need one side yard (looking at the map)

Mrs. Thompson: This is on Gordon Road?

Ms Bierstine: Yes.

Mr. Mattatall: I Move to hold a Public Hearing on November 14, 2005 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 1,000 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.

ALTA EAST

Mr. Cappello (DW Porto)

Mr. Mattatall: You want gas pumps and canopy in front of the principal building?

Mr. Cappello: Yes.

Mr. Mattatall: You have lot 1 and 2 but one section?

Mr. Cappello: The rear lot is truck service and sales and the other is pump. The variance expired. We have been at the DOT for ever.

Mr. Mattatall: The only item is DOT has submitted encroachment for temporary ramp construction.

Mr. Cappello: The delays is by DOT revamping ramp exit there.

Ms Guenste: Are you still going thru the subdivision?

Mr. Cappello: Yes. The DOT is set on their driveway and have site plans ready.

Ms Guenste: I did not know if we allowed flag lots and don't see subdivision.

Mr. Cappello: We don't need any variances. The size of the lot has appropriate width.

Ms Guenste: It is a flag lot with strip down the side?

Mr. Cappello: Owned by the rear lot by access by the front.

Mr. Mattatall: I Move to hold a Public Hearing on November 14, 2005 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

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LEWIS SIGN (Napolitano)

Mrs.Thompson: This is the same section of the code.

Mr. Mattatal: This came because he donated land to the County so they could put in sidewalks and the sign with if they put in sidewalk in the sign has to go in but be moved and can be seen.

Mr. Mattatall: I Move to hold a Public Hearing on November 14, 2005 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.

LEWIS SIGN (Honda)

Mr. Mattatall: This is for a side yard variance for a sign on where to go and how to get there.

Honda (representative): We have drive thru and no one wants to use it.

Mr. Mattatall: Same design as the other?

Honda; Yes (showed drawing) it is directional sign at bottom of the driveway. We can have 2x2 and ours is 4x4 and is also illuminated. The bulb is inside the sign.

Mrs. Thompson: Why do you need it illuminated?

Honda: At night coming in the lights are on it and its not that bright of an area and before our lit parking area. Up to that is pretty dark.

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

Mr. Mattatall: I Move to hold a Public Hearing 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.

JOHNSON:

Mr. Johnson: We would like a 24x24 2 car garage on side of the house and it is two front yards.

Mr. Mattatall: A curved property.

Mrs. Thompson: Do you have an application with you? We need the application filled out.

Mr. Johnson: They helped me fill it out.

Mr. Mattatall: I Move to hold a Public Hearing on November 14, 2005 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.

**CONTINUANCE:**

- E. TETZ & SONS, INC.: Request for the following:
- 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

Mr. Mattatall: This is a continuance of the Public Hearing from the October meeting.

To date we have received 68 letters and exclusive of presentations that have been done in this room. We will not read them into the record but who wrote them and address, if available. Each letter has been given a number and if you think your letter is not here, let me know after the meeting. Please take your conversations outside of the room. Some were addressed to other than ZBA perhaps on letter content, etc.

- 1) David Church, 124 Main St, Goshen NY
- 2) Ralph E Huddleston, Goshen Planning Board, Goshen NY
- 3) Edward & Claire Meany
- 4) Donna Sullivan, 29 Dennis Drive, New Hampson NY
- 5) Ida Kniffin,
- 6) C James Wolfe, (Cemetery Assoc.) Phillipsburg Road
- 7) Marquez Family, Wallkill
- 8) Mrs. Pellew
- 9) Julia Lofink, 637 Burden Lk Road, Aiken SC
- 10) Tonjia Vandyke, 124 Excelsior Ave, Middletown
- 11) Jeffrey / MaryEllen Albanese, 19 Gregory Drive, Goshen
- 12) Julia Gonzalez, 354 William St, New Milford NJ
- 13) Fellenzer Engineering, Archie, Jr, Middletown
- 14) Fellenzer Engineering, Archie, Jr, Middletown
- 15) Chip Lewis, Cemetery Road, Wallkill
- 16) Kim Gatto, 263 Phillipsburgh Road, Middletown
- 17) Dominick / Helen Elia, 200 Mt Joy Road, Middletown
- 18) Carol Lake, form letter 1
- 19) Henry Grey, form letter 1
- 20) Frances McCormick-Smith, form letter 1
- 21) Stacy Gray, form letter 1
- 22) Norma/David Crawford, form letter 1
- 23) Robert Bauer, form letter 1
- 24) Jasper Young, form letter 1
- 25) Lu Ann Gr??. form letter 1
- 26) Ronald Lake, form letter 1
- 27) Michael Sniffen, form letter 1
- 28) Michael Lake, form letter 1
- 29) Raymond Depew, UKN

- 30) Victor Leidich, 72 Guymard Tnpk, Middletown
- 31) Shirley Ann Casanova, 44 Boyd Road, Wallkill, form letter 2
- 32) Russell Turiak, 44 Boyd Road, form letter 2
- 33) Wm. B. Arnold, 13 Dennis Drive, New Hampton, form letter 2
- 34) Loretta W. Arnold, 13 Dennis Drive, New Hampson, form letter 2
- 35) Timothy J Stickley, Goshen, form letter 2
- 36) Patricia W Stickley, Goshen, form letter 2
- 37) Melissa A. S???, form letter 1
- 38) UKN, form letter 1
- 39) Susan A Wright, PO B 48, Mifflinville PA
- 40) A Veliake, 125 Spruce Road, Middletown
- 41) Johanna Coger, 125 Spruce Road, Middletown
- 42) Paul F Ellis-Graham, 16 Vanderbilt Drive, Highland Mills
- 43) Annie Rabbitt, 97<sup>th</sup> District
- 44) Mary Bradley, 543 Blooming Grove Tpk, New Windsor
- 45) Geoffrey Chanin, 4 Hampton Rd, Goshen
- 46) H. Jean Truex, 45 Woodlawn Ave, Middletown
- 47) Edward Dykshoorn, 1124 Pulaski Hwy, Goshen
- 48) Martin Dykshoorn, 1249 Pulaski Hwy, Goshen
- 49) Thomas Pahucki / Frank Fornar, Dists 21, 5, OC
- 50) Harriett E Clark, 53 Wawayanda Ave, Middletown
- 51) Alpine Environmental, Box 145, Montgomery NY
- 52) John B. Cameron, Goshen Objections Vol. I and II
- 53) John B. Cameron, Goshen Reply to FEIS
- 54) John B. Cameron, Goshen Opposition to Packet to Tetz
- 55) John B. Cameron, Goshen Packet cover letter, court decision, stand still agreement
- 56) Holly O Hern, 2 Summitt View Drive, Goshen
- 57) Kenneth Markunas, Waterford RE SEQRA
- 58) Salvatore J LaBruna, 600 RT 211 East, Middletown
- 59) Ross Winglovitz, Engn, Montgomery NY
- 60) Rosemary Stack, Esq., Syracuse
- 61) Joseph Distelburger, 140 Phillipsburg Rd, Goshen
- 62) Viola Rutkowski, form letter
- 63) K Babock, 116 Ridgewood Avenue, Middletown
- 64) Mr/Mrs. Danny Ebnetter, 116 Ridgewood Avenue, Middletown
- 65) Hope E Paddock, 163 Parker Ave, Hawthorne, NJ
- 66) Debra Marone
- 67) Scott Bermann, MD, 25 Northgate Rd, Goshen
- 68) Richard Bloomberg, MD, 32 Northgate Goshen

Mr. Mattatall: Two issues presented are height and excavation. The comments have to be to those two issues, please.

John Cameron, Esq.: The Town of Goshen planned to have a landscape architect to speak tonight to the inadequacy of screening and at 6:00pm and due to a family emergency is was unable to be here but faxed a short report to be read into the record. ATTACHMENT

Stephan Yarabek, is a Landscape Architect and was hired by Goshen to redo Selesian Seminary: He intended to be here but is unable to attend, I have a brief testimony and if continued he can elaborate further and was to be here as per Honey Bernstien's request. He has over 30 years experience and recommends you deny on following: rural cemetery can't be screened of proposed construction and truck traffic; 2) this will impact on the adjoining cemetery; 3) affect sense of place; 4) alter ambiance of cemetery; 5) impact on air.

ATTACHMENT

Mr. Mattatall: Please forward this to the Planning Board as they will address them.

John Cameron, Esq.: It is relevant because is affect on adjoining properties.

Mr. Mattatall: They address those issues.

John Cameron, Esq.: They have closed the hearings to the Public. With respect to nature not of the cemetery but of asphalt plant and other industries next to cemetery and Goshen residential zone, I would like to put into the record the transcripts of E Tetz and Sons before the Wallkill Planning Board that goes back to 1998. But the facts don't change from Mr. Lawrence who operated similar plants and to summarize 40 pages 'one big continuous noise manufacturing process'. Also, at the end of the last hearing, I did asked Mr. Mattatall in front of Ms Stack where the road profiles were contained in the records before this Board. I was referred to the DEIS submitted to the Planning Board and spent hours at the library going thru DEIS and did not find specific road profiles – not there. How can you act and how can we respond if we don't know what is expected here. When they were before Goshen Planning Board last year in December, Tetz and Oreck, they intended to cut 20 feet into side of hill of cemetery. Last month 1 to 8 or 11 feet – don't know how much or were – we need to have that and premature for board to act on that. In that vein, if this is an industrial street, the Wallkill code, streep specs indicate, if cut down 2 it is really 4 feet to put in sub-grade materials and so forth and have schematic indicating 2 is 4 feet 8 is 10 feet – so not grading but excavating.

I have not visited plant the Planning Board visited but by filing additional foil request a couple of weeks ago, the PB and Gary Tetz visited a comparable site in Earl, New Jersey and someone took photos last week and this morning that shows contrary to testimony the plant manufacturer's representative stated last month, there is indeed smoke coming out and put that into evidence.

ATTACHMENT

I know I provided in one submission a letter that written in 2000 on behalf of Horton Hospital's defense of the Horton Pavilion against the additional truck traffic going by the Pavilion. That was in recorded of the Planning Board 2000. And a letter in PB file signed by 32 physicians who indicate that trucks in close proximity of offices and patients who use the road – exhaust will increase coughing, bronchitis, etc. (into evidence).

Some of the other facts that I could not ascertain from FEIS or DEIS pertain to what are you reviewing, what is nature of composite heavy plants on Meola, where are specs – all I saw was slide of buildings. In contrast, when Mr. Tetz applied to the Planning Board for the Crystal Run Site – a 36 page detail proposal was presented by the then plant Cedar Rapids that told height/width and thickness of each piece of machinery and nothing in the record for your to review what is in black top plant or in the record for cement plant – is it same plant, is it bigger – information is not here. As important nothing I find to indicate just how big and what is manufactured and the capacity of rock crusher and reprocessing plant. This is not closed facility – grinding of stone and recycled cement/blacktop and don't know anything about it. The permit that Tetz sought from DEC is for min of 150 ton capacity per hour. Is it 150 or 250 how can you pass without know nature of what is going in there. Noise and dust particulates has impact on all neighboring properties.

I believe I have been by and in cemetery in the MI zone in the last 9 months – it is pertinent that no structure over 35 feet; no other manufacturing facility in the zone and never has been since Henry Wisner manufactured gun power for the Revolution. No heavy industrial plant or facility in that district and think this lot is only lot that does not have min 150 lot frontage. If granted it will set precedence that could harm other properties in the zone. Last month, no mention of half dozen families in homes along the route of the Tetz cement truck/black top plant heavy diesel truck traffic. Young children in one, grand children in another. Chip Lewis care taker has 2 young children and towards Goshen, Aspheo Family house pre-dates the Civil War and she and child have asthma. One other thought in the various criteria - this Board looks at in law is how the need arose for the requirement for a variance. It arose because Gary Tetz with assistance of some members of the Town Board decided it is a good place to get them away from Crystal Run Road – it is a sub-standard lot. They had to have know the from the beginning the cemetery protection law and 2 years past date of contract now they ask for variance for cemetery protection law and knew it would come up. Last month when asked they said it was requirement of Sequa. Any citizen can ask for interpretation. If they thought it did not apply to 50 foot strip it should have been resolved 2 year ago and it self created. The lot was created because Meola sold off all the rest but 50 foot piece and made a problem for the cemetery. Finally, if you...and you look at your Zoning Law where in 3 places Zoning Board is directed to master plan. This is your guide. One of 3 things the Board has to look at. To familiarize yourself with the process and then when go for the area variance – the 3<sup>rd</sup> criteria is does it comply or is not in harmony with master plan and when write decision, law says it is conformity with master plan. You just changed it and it is still light industry. In 1974 the prior master plan specifically mentioned this small mi zone as hybrid zone next to golf course. It said 'this is for industry, commercial, commercial recreation, light traffic' and don't care what count you use and think Tetz' is deceptive if you look at Mr. Collin's traffic study says 600 truck trips a day – there could be over a 1000. It will strangle the cemetery, incredible change in the neighborhood, people who live in houses – you don't need an expert to tell you go from few trucks to hundreds a day is drastic change in the neighborhood. All I can say for now. Thank you.

Glen Ayres (Public): This is for height and excavation variances. I realize no area or special use may be needed, however, part of your responsibility when making decision is consider the area

where a special permit is being sought. You know the area and if you draw a one mile radius you see golf course, cemetery, future ORMC site, taxidermy, racket club, horse farm and other areas. Nothing close to what is being proposed – massive asphalt plant that has permission to operate 24/7 if they so chose. And with the development and proposed interstate 17 to the future Rt 86 they can become 24/7. So as your responsibility as the ZBA when considering excavating and height - if there will be impact on the neighborhood and the neighboring area and there is nothing like it. It is not just the impact but devastation of the area. Personally I believe this is disservice of authority to allow it to come into an area that has been zoned light industrial and ask you to consider what has been said and ask you to reject the application.

Mr. Mnichale Cody (Public): I live and work in and for the TOW. A little history about the property is that many years the Town hauled out of there dirt and the cemetery and Veterans and the Middletown Counsel put flags on the cemetery and also take them off. Last month I told Tetz the vets support him 100% and today give him a flag for the new plant we hope they will fly. It is also a benefit to the Town. In last 2 years, we have lost 2000 jobs and don't need any more McDonalds or Burger Kings - we need industry.

Michael Burke, Burke, Mealy and Goldwin, for wallkill cemetery and neighbors:

(13 page document read into the record)

ATTACHMENT

Tom Carroll (Public): Property owner adjacent to the access drawing. I am here tonight and my family is not necessarily opposed but the statement the last person said – we have current mining. We have a current permit to operate a mining operation in that area. It is not currently operating but we are considering options to develop property or to sell our property. Our operation is not working. This has 600 feet of road frontage on Cemetery Road. As you pass along the road and surrounded by 3 sided by Tetz's property. I did not want to hear that we abandoned the operation.

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

Mr. Mattatall : I Move to continue the Public Hearing to November 14<sup>th</sup>, 2005.

Ms Guenste: He (Mr. Tetz) owns property on Rt 6 and would like to know how much land and why he could not locate the plant out there.

Mr. Mattatall: We have several documents to go through and will Continue to November 14<sup>th</sup>. There are good issues tonight we need to have some answers brought forth on.

If you have questions, call the Town Zoning Office or my cell phone 234-1653 - no one else is responsible for what we (the ZBA) are doing other than this Board.

Mr. Wolfe (Public): Every time we talk to the Planning Board, they will not let us talk – all the meetings are closed. I don't understand it. I'd be happy to talk to them.

Mr. Mattatall: I can't deal with other board's operations. When we have factual information we have to address it. The issue is and does bring up 'can the project be made so it does not need setbacks', 'can height be smaller', issues with the Planning Board. The zoning changes did not affect this project.

Ms Stack, Esq.(for Tetz): As matter of procedure, we urge the Board to close the public comment and we will provide responses. We need copies of comments from the public and transcript so we can adequately respond. We asked for them and told we would receive them after this board meeting and need time to review and proceed. You can close the public comment; the applicant responds and the Board asks questions and then votes. We are at a point where we can review and respond.

Mr. Mattatall: I think there will be more comment after close. In any case, we are not in position to vote and not put forward on volume and questions presented. As representative of your client, we will give you a copy, address 2 issues – are plant don't have height requirements and can they build within the distance.

Ms Stack, Esq.: We can give you more detail and have no problem with that.

Mr. Mattatall: That is at the heart of the question.

Ms Stack, Esq.: That is what is on the market and this manufacturer builds the widest equipment.

Mr. Mattatall: It is incumbent on you. There is issue on another driveway and you might not need to require it.

Ms Stack, Esq.: I thought we had addressed that but will with this.

Ms Guenste: I would like answer on the Rt 6 location and why not proposed there and my feelings are we want to hear your responses. If people have comments or add after your comments we should respect them for that.

Mr. Mattatall: We can give you minutes from last months meeting and give you copies (and so they were given).

Ms Stack, Esq.: We have practiced law for 20 years where you close. We urge you to close public commentary tonight.

Ms Guenste: It is frustrating when you can't say anything after it is closed.

Ms Raffo: You need to understand this is not the Town or Planning Boards. If you have public comments we are here to hear them in public, we re leaving them open, once responses are in, we will consider those comments. We are charged with finding balance between what is fair for applicant and the community. If you have questions, write it to ZBA not other body in the building.

Mr. Mattatall: held over until next month.



Mr. Mattatall: There being no further items to be presented before this Board, I Move to Close the Meeting at 10:18 pm; Seconded; All in favor; Motion carried.

TSB:jcd

TOWN OF WALLKILL ZONING BOARD OF APPEALS  
OCTOBER 17, 2005

DECISION SHEET

PUBLIC HEARINGS:

MICHAEL T. BENTIVOGLIO Request for a variance of 249-26-D  
1) Lot depth from 120ft to 91.20ft  
2) Area from 20,000 sq/ft to 19,414 sq/ft  
Property located at 295 Schutt Road;  
(SEC 77 BL 1 LOT 10); Designated HC.

DECISION: Variances granted.

EDWARD W. LAWRENCE, III Request for a variance of  
1) (249-3) accessory (garage) from 28x28ft to 28x32ft;  
2) (249-27-D) rear yard from 50ft to 12ft;  
Property located at 11 Ingrassia Road  
SEC 49 BL 1 LOT 27); Designated MI.

DECISION: Variances granted subject to the set back of  
the new building being the same as the existing structure.

THOMAS M. & DONNA M. COUSEZ Request for an interpretation of zoning with regard to  
(RJ Smith Realty) a greenhouse.  
Property located on Prosperous Valley Road  
(SEC 6 BL 1 LOT 71 and 72); Designated RA.

APPLICATION withdrawn.

E. TETZ & SONS, INC.: Request for the following:  
1) interpretation of Ordinance 249-8.1 and 249-27-  
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)

CONTINUED to November 14, 2005

DECISION SHEET (Cont'd.)

SIX MONTH EXTENSION REQUESTS:

JAMES/DEBRA BEAMESDERFER

Request for a six month extension originally granted on 10/02 for proposed riding arena, barn and fence for horses; 1) 249-9 (fence height) from 4ft to 5ft; 2) 249-3 (accessory) from 28x28ft to 200x80ft and 96 x 36ft; Property located at 60 Shaw Road (SEC 24 BL 1 LOT 55.4); Designated R-2.

DECISION: 6 month extension granted.

MICHAEL PADUCH:

Request for a six month extension originally granted on 3/14/05 for variance of 249-22-D: lot width from 80ft to 50ft; 2) side yard 15ft to 8.5ft; 3) 2 side yards from 30ft to 24ft; area from 12,500 sq/ft to 7,750 sq/ft; property located at Highland Avenue Ext. (SEC 39 BL 14 LOT 17.2); Designated R-1.

DECISION: 6 month extension granted.