

TOWN OF WALLKILL  
ZONING BOARD OF APPEAL

NOVEMBER 13, 2006

PRESENT: N. Guenste  
E. Johnson  
R. Sullivan  
E. Raffo  
P. Thompson  
J. Mattatall, Chairperson  
  
J. Owen, Esq.

MEETING OPENING:

The November 13, 2006 meeting of the Town of Wallkill Zoning Board of Appeals opened with the pledge to the flag followed by the presentation of the October 16, 2006 Meeting Minutes.

The following corrections were noted:

Page 13 Para 6 I not “We”

Mr. Mattatall: I Move to accept the Minutes as noted for correction; Seconded; All in favor; Motion carried.

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

CORRESPONDENCE:

Request for postponement of Public Hearing:

Mr. Mattatall: We have received a request from J. Myrow, Esq. who represents Applicant Isaac Landau. They have requested the hearing be continued to December 11, 2006. This references property on 114 Van Amburgh Road (31-1-15.22) regarding area, lot and soil variances.

Mr. Mattatall: Is there anyone here tonight for this application? (no)

Mr. Mattatall: I Move to continue the Public Hearing for Issac Landau to December 11, 2006 at 7:30 pm or as soon thereafter as the matter can be continued; Seconded; All in favor; Motion carried.

Request for six month Extensions:

Mark Tolen:

Mr. Mattatall: Request for a 6 month extension granted on June 12, 2006. They stated that the work is in progress but proceeding slower than anticipated.

Mr. Mattatall: I Move to grant a six (6) month extension to Mark Tolen for the following: Request for a variance of 249-19 (1): 1) lot area from 3 acres to 1.8 acres; 2) road frontage from 50ft to 0.0 ft; Property located at 131 Hill Road (SEC 60 BL 1 LOT 73); Designated RA.; Seconded; All in favor; Extension granted.

Alta East, Inc.:

Mr. Mattatall: Request for an additional 6 month extension originally granted on December 12, 2005 extended in April 2006. They are awaiting DOT specific permit issuance and are working with the Planning Board. On December 12 they applied for a variance for canopy 22-3-54 in 4/06 they requested 6 month extension through 12/12 2006 for planning board. They state they received special use, sub division 8/06 for gas station. It was conditioned upon NYS Dot for driveway that was granted. Needed time to ensure driveway was in line with road changes. To ensure foundation footings we request additional 6 to 6/12/2007 on variance granted.

Ms Guenste: Did the layout change after going to the Planning Board?

Mr. Mattatall: We got it for approval variance for plans they were providing.

Mr. Mattatall: I Move to grant an additional six (6) month extension to Alta East for: Request for a variance of 249-8 (area): To permit an accessory building (canopy over fueling station) in front of principal building. Building located at NYS 302 and NYS Rt 17 (east bound ramp) (SEC 22 BL 3 LOT 54); Designated PID; Seconded; All in favor; Motion carried.

Rowley Development:

Mr. Mattatall: Request for a six month extension on variances granted on May 8, 2006. Presently the project is before the Planning Board and anticipate construction to begin in the Spring.

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

Mr. Mattatall: I Move to grant a six (6) month extension for: side and rear yard setbacks (249-28-D) for property located at 30-40 Golf Links Road (78-1-67.1); Seconded; All in favor; Six month extension granted.

Eric Johnson:

Mr. Mattatall: Request for a third - six (6) month extension for originally granted on June 13, 2005 due to engineering delays in obtaining final building plans. It is possible that significant work may not be completed by the December 2006 deadline.

Mr. Mattatall: I Move to grant a 6 month extension of a variance granted on June 13, 2005 of 249-3 (accessory building) from 28x28ft to 32x56ft for a garage to store personal vehicles and equipment; Property located at 375 Howells Turnpike (13-1-37.1); Designated RA.; Seconded.

Mrs. Thompson: If work was started, why does he need an extension?

Mr. Johnson: The footings are not in yet.

VOTE:	In favor (aye)	5	
	Opposed (nay)	0	
	Abstain	1	

Mr. Mattatall: Six month extension granted.

CONTINUANCE:

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

Mr. Mattatall: Request to Continue to 12/11/2006 was received and granted.

PUBLIC HEARINGS:

DAVID HEATH: Request for a variance of 249-22-D (Rear yard setback)  
1) rear yard from 30ft to 29.8ft to add on to the square footage of  
a residence.  
Property located at Three Gould Street  
(Sec 52 Block 3 Lot 7);  
Designated R-1.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 7:48 pm.

Mr. Mattatall: I Move to open the Public Hearing at 7:49 pm.

Applicant: William Heath (for Mr. David Heath – brother).

Mr. Mattatall: Can you explain again what it is – explain it.

Mr. Heath: They want a bathroom on the back bedroom.

Ms Guenste: Will there be an entrance in the back there too?

Mr. Heath: No, a bathroom and a closet.

Mr. Mattatall: The variance asked for is for two-tenths of a foot.

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

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

Mr. Mattatall: The issue came in with this. we have capability of great accuracy, however, sometimes computers drive you crazy.

Mr. Mattatall: I Move to close the Public Hearing at 7:51pm; Seconded; All in favor; Motion carried.

Mr . Mattatall: I Move to grant the following rear yard variance: From 30ft to 29ft 8 inches; Seconded.

DISCUSSION: (None)

VOTE: In favor (aye) 5 Johnson, Guenste, Raffo, Sullivan, Thompson, Mattatall  
Opposed (nay) 0

**DECISION:**

Mr. Mattatall: The variance is granted. Please see the Building Department.

Mr. Mattatall: If you have not started substantial work in 6 months, please come back before that deadline and request an extension.

AAA DEVELOPERS

(Helen M. Keener):

Request for a variance of 249-22-D (lot area and side yard set backs);

- 1) side yard from 20ft to 11ft;
- 2) two side yards from 40ft to 22ft;
- 3) front yard set back from 35ft to 24.5ft;
- 4) lot area from 18,750 sq/ft to 6,250 sq/ft;
- 5) lot width from 100ft to 50ft;

Property located on Excelsior Avenue

(Sec 75 BL 3 Lot 14);

Designated R1.

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

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

Mr. Mattatall: Explain the application, please.

Roger Ferris: We are requesting lot are a variance, width, one side yard, 2 side yard variance. We have down-sized the size of the house as discussed at the last meeting.

Mr. Mattatall: You provided us with the new maps. Amending the first request to what is listed on the new map?

Roger Ferris: Yes.

Mr.Mattatall: Basically it is now longer and narrower.

Mr. Johnson: The square footage is a little bigger than the other one?

Roger Ferris: 3 x 36 – just...it's close.

Ms Guenste: 60 sq/ft bigger.

Mr.Mattatal: The front yard setback is 20 to 11ft; 2 side 40ft to 22ft and front width 35 to 24.5ft and lot width from 200ft to 150 ft.

Roger Ferris: Yes there is zoning to match the existing.

Mr. Mattatall: To match other building lines?

Roger Ferris: Yes.

Mr. Mattatall: Is it lined up within the ones on each side.

Roger Ferris: It is lined up with one and 7 feet further than the other.

Mr. Mattatall: This is a pre-established lot? Original?

Roger Ferris: Yes a whole group of lots sold and created in 1924.

Mr. Mattatall: Any questions from the Board?

Ms Guenste: I am looking at the house and it does not fit in with the neighborhood at all. Set back like the others and is twice as long as those around it. When you were here last time we spoke building houses to conform with other houses to keep it a nice community and not have monsters sitting in the middle of the neighborhood. The adjoining houses – it is more than twice as big. It does not fit in with the character.

Roger Ferris: There is a minimum building size with your ordinance.

Ms Guenste: It is larger and have had builders build to conform with look and size with what is in the neighborhood. We want to try to make it look nice. It is way to big for the lot in the area.

Mr. Johnson: Is it 2 stories?

Roger Ferris: I don 't have the drawings.

Ms Guenste: The foot print is back but do they want a deck in the front of it, will they come back to us. We have had it happen repeatedly and builders have a plan and then the owners want a deck and they have to come back. It is ridiculous when that happens. You are telling us there is minimum size in the town and you don't know how big this is it could be 3.

Roger Ferris: It is 2.5.

Ms Guenste: This is a large house in a neighborhood with smaller homes. This is my feelings. You are asking for variances and I think it is overuse of the lot in an area.

Ms Thompson: I agree with Ms Guenste, she is right.

Mr. Mattatall: Not knowing what the building is going to be there I have strong reservations there.

Roger Ferris: The zoning is permits 2.5 stories.

Ms Guenste: When we look at area, is there a change in the character of the neighborhood, and if it is substantial.

Roger Ferris: Is there a ground level foot print size you would want to see?

Ms Thompson: 28 foot width is fine but the length is too much.

Ms Raffo: A house that conforms to others.

Roger Ferris: If you have a suggested size?

Mr. Mattatall: We can't create legislation for you.

Roger Ferris: I can get dimensions and house plan that is more in line with what you want.

Mr. Johnson: The ranch does not over power at 1,400, but 2,800 is pretty big for that area.

Ms Guenste: Ask them to drive through the neighborhood and they will understand.

Ms Raffo: You are 11 feet from the neighbor and with a 2 story house next door.

Roger Ferris: I am representing the client.

Mr. Mattatall: The issue is that if you had big long houses next to it but you have smaller bungalow next to it.

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

Roger Ferris: Can I speak with the owner and come back?

Mr. Mattatall: I Move to continue the Public Hearing on December 11, 2006; Seconded; All in favor; Motion carried.

AAA Developers  
Helen Keener):

Request for a variance of 249-22-D:  
1) side yard from 20ft to 5ft;  
2) side yard from 20ft to 5ft;  
3) lot area from 18,750 sq/ft to 6,250 sq/ft;  
Property located at 50 Ridgewood Avenue  
(SEC 75 Block 3 Lot 10)  
Designated R1

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:07 pm,.

Roger Ferris: We used the same mailing as they is one house in between the two properties.

Mr. Mattatall: I Move to open the Public Hearing at 8:08 pm.

Mr. Mattatall: This is similar as the earlier application. The same lot and houses are virtually identical.

Roger Ferris: Yes.

Ms Guenste: Can I say 'ditto'?

Mr. Mattatall: I Move to continue to December 11, 2006 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Mattatall: Look at what is around it.

Roger Ferris: Thank you, I will inform my client.

Benchmark Innovations, LLC.: Request for a variance of 249-19(1):  
1) rear yard from 70ft to 40ft;  
2) front yard from 60ft to 48.3ft  
3) lot depth from 300ft to 125ft;  
4) area from 3 acres to 0.922 acres;  
Property located on Whipple Road  
(Sec 62 Block 1 Lot 64)  
Designated RA.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:09 pm.

Mr. Mattatall: I Move to open the Public Hearing at 8:11 pm.

Mr. Mattatall: Explain the project, please.

Mike Miele: Existing lot split by Whipple Road and need 4 variances: area, side and rear yard for a single family dwelling. . We had to reestablish the lot lines. We did more investigations on water surrounding it. They are served by a public well in the cul-de-sac. We showed the separation from existing wells.

Mr. Mattatall: They have a common well?

Mike Miele: At the far end.

Mr. Mattatall: The houses immediately next door have individual wells?

Mike Miele: No. The one behind it served by the public well.

Ms Guenste: Where is the septic?

Mike Miele: Showed on the map. We found some wells.

Mr. Mattatall: Run septic thru street to leach field?

Mike Miele: They did not want to have anything to do with a pump and we can have gravity across Whipple Road.

Mr. Mattatall: Septic under a Town road?

J. Owen, Esq.: I don't think they can get permission to do that.

Mr. Mattatall: We will have to investigate that. We may have legacy property like that but nothing recent.

Ms Guenste: If it not their property how can they go through it.

Mr. Mattatall: we need to take time to research it before anyone spends money.

Mike Miele: We can go back to pumping.

Ms Guenste: The laws for years did not allow septic.

Mike Miele: Where ever we put it we have to have it engineered.

Eric Scott: It does not say it can't.

Ms Guenste: The code says it is not allowed.

Mr. Mattatall: They can do engineering to see if soil they can't build on,

Mike Miele: Even if we need alternate system through the health department.

Mr. Mattatall: They were done from aril survey and determined what the soils to be and not exact science until tested. One beaver dam can change things.

Mike Miele: We now the Town Engineer has to witness it.

Mr. Mattatall: The paper work we have and the existing documentation states you can't put septic out there. It needs to be accurate.

Ms Thompson: Will you live out there?

Mike Miele: I am the engineer.

Eric Scott: It will be sold.

Ms Raffo: You have 1/3 you are required to have for acreage; nothing meets code – not the lot depth - less than half, front and rear set back are low. This lot does not meet the building requirement before you think about the septic.

Mike Miele: It was created before the zoning change.

Mr. Johnson: Do you own the lot?

Mike Miele: The owner from 1992 is Munderville.

Mr. Johnson: You are building the house for him?

Eric Scott: Yes.

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

Mr. Mattatall: Any questions from the Public?

William Hoakstra, 3 Loraly Drive (adjacent to back of Whipple): The narrow part of the property is by our house. We have been there since 5/22/75 and were told the property was land locked and could not be developed. You have a community well with about 50 houses and is at the limit I understand. The access would have to go around and down Whipple. You require 3 acres so they had taken one ½ acre across the street to make the sub division and to get variance for septic.

Mr. Mattatall: It was one block of property and road plopped down the middle and did not make it a separate lot. Owner paid taxes for parcel, road is natural barrier and is limiting factor. It has hill and road on each side.

Philipkowski originally sold the property and owned the water works and the purchaser made the property un-buildable. The problem it is very steep and I am very narrow and neighbors are up on Loraly Drive and on back side of property.

William Hoakstra: The original seller did not give full information perhaps when it comes to building something. We got a notice from a lawyer that it was still his property and that was understood. He is a very nice fellow but got a bad lot for building. It is so steep.

Ms Guenste: Even with other soils across they needed 1.5 acre to build pre-existing new codes it has been like that since the 1970's.

William Hoakstra: The soils are swamp area, also.

Ms Guenste: If it was upper area they need 1.5 and with NAD you can't do anything with it – the lower portion of it.

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

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

Mr. Mattatall: We can move ahead for variances as it stands; do you want us to vote on it this evening.

Eric Scott: Check the area for original proposed or do research for going under the street. Don't understand I can't go under it.

Mr. Mattatall: You have to go to the highway department.

Ms Guenste: The road has been there for some time – before he bought the property. People buy property where they have land across the street they can't build on.

Ms Raffo: You are talking about a lot undersized to start, undersized when it was sold at 1.5 acre and no septic there. Now it is 3 acres and the lot comes no where near.

Ms Guesnte: I moved here in 1979 and was on Whipple Road was there then. It is not that this road was put on after they bought the property. He bought it like that in 1982.

Public: It has been there quite a while.

Mr. Mattatall: We have other places like it in the Town. This was probably the end corner of large parcel cut off. Unwilling to go from 3 acres to less than 1 acre and would not have done that before the changes. You have long lot that has it's own problems and it will not be advantageous to the Town out there and looking at what is there and the soils not sure you can overcome that. You have to have a lot of money to put into it. Don't want you to go out of here with false hopes.

Mike Miele: Can we hold off voting and prove a little better that the on site systems can work? One strike is better than two.

Ms Raffo: Don't want you to spend a lot of money.

Mr. Mattatall: The size is comparable to other but not the lot features. Probably why not built on in the first place.

Mr. Mattatall: I Move to continue to December 11, 2006; Seconded; All in favor; Motion carried.

Eric Scott: We have to look in to across the road and ...

Ms Guenste: Sometimes you just can't do it and it has been vacant for 24+ years and there is a reason for it.

Public:

Charles Yeager, 15 Loraly Drive: I have lived there for 39 years and think I have the 4<sup>th</sup> house since been there. It was a dirt road to Loraly Drive and the piece is steep hill and not know how you can put septic and how get water?

Mr. Mattatall: These are questions they have to answer out there. Not sure how you are going to stretch the lot.

TODD LYONS: Request for a variance of 249-22-D :  
Lot #1  
1) side yard from 5ft to 3.64ft;  
2) lot depth from 125ft to 120ft  
3) area from 18,750sq/ft to 12,920 sq/ft  
4) permit accessory garage closer to front lot line than the principal building

Lot #2  
1) lot width from 100ft to 80ft;  
2) lot depth from 125ft to 120ft;  
3) area from 18,750 sq/ft to 9,600/sq/ft.  
Property located at 221-225 Schutt Road

Designated R-1.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing notice was read at 8:35 pm.

Mr. Mattatall: I Move to open the Public Hearing at 8:36 pm.

Mr. Mattatall: Please explain your application.

Kevin Dugan, Fellenzer Engineering: This is on the corner of Schutt Road and Avenue E and at that time he wanted to sub divide and last month 2 lot subdivision. Basically go through front yard 35 to 34ft for existing; lot 1 depth 125 to 120; area 18,750 s/q to 12,920 sq/ft for Lot #1. Lot 2 – area 18,750 to 9,600 sq/ft, depth from 125 to 120ft; width is 100 to 80ft. one variance for the existing garage rear yard from 5ft to 3.64 ft.

Mr. Mattatall: The side is closer to property line than the principal.

Kevin Dugan: It is existing.

Ms Guenste: It was not big enough under old codes and could not sub divide. This has nothing to do with current zoning codes.

Mr. Lyons: I met everything but the size. Only needed 1,800 sq/ft variance which is very minor.

Ms Sullivan; One lot is ½ of what is required.

Todd Lyons: The Avenue E is equal or bigger than what is there and on the corner where I have current house is twice the size of others on avenue E. They built 2 new houses on Avenue E with exact same dimensions.

Mr. Mattatall: What type house?

Todd Lyons: 30x35 bi-level 2 story.

Ms Thompson: Single family?

Mr. Lyons: Yes.

Ms Guesnte: I don't see hardship or real reason for a variance. You see people come in for undersized lot already and want a pool or deck in the back. I see subdivisions to make 2 lots and 2 lots are not the right dimensions we are looking at now. It is you have a lot and put a nice home on it and nice place and asking for 2 lots don't conform to code.

Mr. Lyons: There is one there now and the lot existing is 3 times size, if the house was not where it is we could get 3 lots and make it fit still. 2 lots down built on smaller.

Mr. Guenste: You want to make 2 under-sized lots. The lot was there. They did not ask for subdivision.

Mr. Lyons: When I purchased it a little over a year ago to create 2 lots and only needed one variance for area and met other requirements. It did not get purchased after the change.

Ms Guenste: People want variances to make more money, more money, it is very frustrating.

Mr. Lyons: I under what lot is required in the area. not a 2 mile radius.

Ms Guenste: Can it be achieved by other means – yes, is it substantial – to me yes. Is it self created – yes it is – that is what I have to look at.

Ms Sullivan: I agree.

Mr. Mattatal: I see your point on size of lots comparable to others.

Mr. Mattatall: Any questions from the Public?

David Whitby: I did not receive a notice of the meeting and found out from neighbors. Never signed anything.

Mrs. Thompson: Do you own the property?

Mr. Whitby: Yes I have lived there for 30 years. Not sure why it was unclaimed.

Mr. Mattatall; You are notified to come and by the fact you are here.

Mr. Whitby: When my father wanted to buy it the town would not let him break it up. Can they separate it into 2 lots. It was one lot and my father wanted to buy it and they would not let him.

Mr. Mattatall: Only way to separate it would be to go through the same.

Mr. Whitby: I am worrying about what is coming in.

Mr. Mattatall We can pull up the whole history.

Mr. Whitby: I know 2 rentals now on the garage and the house. Just asking. I don't want a house and the house that went up that overpowers our. Nothing massive and have swamp off the hill from there. Will it be worse will have more problems. when you build a house will I have more problems. I live there and have been there for generations. We have had problems with people renting out and drug dealers.

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

Mr. Matatall: Any questions from the Board?

Todd Lyons: It is similar to the rest of the nh and not over whelming. It will fit in goes with the neighborhood.

Public: Eugeng Voltair: The little garage is rented, how far from the property line – almost on it now.

Mr. Mattatall: 3.6 feet from the line now.

Mrs. Thompson: Rented (garage) out for what?

Mr. Voltair: Someone is living there.

Mr. Mattatall: It needs 2 variances, garage closer than principal building,

Mr. Voltair: It would be right on the line if he built there?

Mr. Mattaall: Yes, he'd need variance for it.

Mrs. Thompson: 2 houses on one lot?

Mr. Lyons: It is a pre-existing.

Mr. Voltair: The little garage if you sub divide will be right on the list.

Mr. Lyons: You are required 5 feet and its 3.5.

Mr. Johnson: That is for accessory.

Mr. Lyons: They are getting out. It is smaller building and 400.

Mr. Mattatall: Someone living in it?

Mr. Lyons: Yes, it is approved.

Ms Sullivan: The garage is approved for living?

Mr. Lyons: Since I have known.

Kevin Dugan: The rental was there when he bought it?

Mr. Mattatall; Things have been existing for ever and find out about it – it is referred to the building inspector.

Kevin Dugan: One option is take down the garage?

Ms Raffo: You can take it down?

Mr. Lyons: If that is going to cause me to do it? I am not asking for major variance.

Todd Lyons: 5 feet is accessory or shed if people living in it it is not 5feet so now have residence 3 feet from the line.

Kevin Dugan: If he convert it to garage it is from 5 to 3.

Ms Raffo: With that down you'd have more equal distribution of the lot.

Ms Lyons: It comes down to whole Mechanicstown / Schutt Road area.

Ms Raffo: Propose a lot that is undersized from what zoning is now if you want to come in with a lot line change without the garage and considering the others in the area, it makes it much too close.

Ms Guenste: I Move to go in to executive session; Seconded; Sullivan. All in favor; Motion carried.

Start Exec Session	8:51 pm
End Exec Session	9:02 pm

Mr. Mattatall: You would be willing to remove the garage if necessary.

Kevin Dugan: The rear yard faces our property so only move the line 6 feet. Want to point it that out. Or we can't meet the lot line. My understanding lot rear lot is lot opposite the front door – address is Schutt Road, by definition is area behind the house. The rear lot would be now show as 36 foot set back and you require 30 feet and only move it 6 feet.

Todd Lyons: What if vacate it and make accessory structure. Then only 1.5 ft variance.

Mr. Mattatall: What you might find and may fit is split difference of the lots. The removal of garage may be condition of lots there. It is improving it - it would allow you to building in lot you are creating and allow it to have a deck in the future. The house has to fit in the community – single story home.

Kevin Dugan: Why a raised lot and front to back for allowing a porch.

Todd Lyons: same size as is on Schutt Road.

Kevin Dugan: You see dotted box for porches. It gives you that option for nice deck and not come back. If willing – split it down the middle and not make the 30 feet set back.

Mr. Mattatall: 2 lots larger than what is in the existing area you get your house investment out thee.

Kevin Dugan: I don't want to come back if we don't meet the 30 feet. Want to make sure.

Ms Raffo the house on 2<sup>nd</sup> lot says the same – it has to fit in that neighborhood.

Kevin Dugan: A raised ranch or bi-level.

Ms Guenste: How many sq/ft?

Kevin Dugan: 2000 sq/ft and he looked at 2 car garage included. Or 1600 sq/ft there. 3 bedroom.

Mr. Mattatall: A regular ranch still needs a garage.

Kevin Dugan: It is similar to others – more ranches but plenty of 2 story.

Ms Guenste: Raised ranch?

Kevin Dugan: We understand.

Mr. Mattatall: I Move to continue the Pubic Hearing to December 11<sup>th</sup>; Seconded; All in favor; Motion carried.

Mr. Mattatall: At least 10 days prior we need you new plans. From here it is the planning board.

JOSEPH SMALL

Request for a variance of 249-8-(6) (d):

- 1) side yard from 20ft to 12ft;
- 2) side yard from 20ft to 15ft for pool;
- 3) side yard from 20ft to 15ft for hot tub;

Property located at 16 Keystone Park  
(Sec 37 Block 2 Lot 1)  
Designated R1.

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

Mr. Mattatall: I Move to open the Public Hearing at 9:11 pm.

Mr. Mattatall: Both of these are pre-existing and in place?

Ms Small: Yes.

Ms Raffo: Were they there when you bought it?

Mr. Small: I put it in.

Mr. Mattatall: Did you do the work or a contractor?

Mr. Small: A contractor.

Mr. Mattatall: They sometimes forget they need a permit, however your employee has to do the right thing. They do put them up and depart.

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

Mr. Mattatall: Any questions from the Public?

Danny Dino: My mother in law is at 8 Keystone Park and as far as the fencing you don't need fence but 6 feet in rear and 4 feet in the front? Has anyone looked at this? When they dug pool for spa the original property was laid, the stone and put to the back which raised it 3 feet and from my mother in law house on left hand side 3 to 4 feet high and then start 6 feet. On one side 10 feet from original ground level. Don't know how town figures that. When look at it from the mother in law house it looks like a mausoleum.

Ms Small: That is on a slope.

Danny Dino: There is property by Crawford.

Ms Small: We talked to all the neighbors. We did not know we needed to talk to the Town.

Mr. Dino: Your fence in back from left side is 10 feet off the ground.

Ms Small: We asked your mother.

Mr. Mattatall: We can't resolve fence issue.

Danny Dino: It is non-conforming definitely – it doesn't look right – one has chain link, one is wide open and one is green look conforms. The deed my mother in law has says no fences in keystone park.

Mr. Mattatall: There are fences in side keystone park.

Mr. Dino: Bastiks have one, and next door to my mother in law. The fence and put in a pool and spa it is hard to conceive they didn't know.

Mr. Mattatall: Unless you are property owner you are not required what is required. The fencing will go over to the Building Department to see if it is conforming or not.

Danny Dino: It is not a hardship – they put it in yourself. Being it is small and if everyone puts up a pool and spa and fence and then comes here for a variance.

Ms Guenste: There are plenty of pools in Keystone Park.

Danny Dino: There is 3 now there is 4.

Ms Sullivan: You put it in in 2002?

Ms Small: Last year.

Ms Sullivan: Whey here?

Ms Small: Our neighbors put one in and told they needed a variance and we wanted to come here so we did not get in trouble.

Ms Sullivan: Why not complain before

Danny Dino: We took over the property and in last 2 years had a lot with my father and they did not pay attention to them. And we were unaware of it now we have taken over the house we get the notice.

Mr. Small: I went there last year.

Danny Dino: We found out because of the mailing.

Ms Guenste: Your concerns are what?

Danny Dino: The fence is to high, spa to close and pool to close to the line are you going to make it a habit. You don't need a fence permit?

Ms Sullivan: The fence is not an issue.

Ms Guenste: There are hundreds of them (pools) that they are not aware of.

Mr. Mattatall; Fence goes to building department and they will go out and look at all the fencing out there. It is a small area and small lots and tight knit community. And spoke to people and it is very well maintained and attempt to keep it that way. The pool is the issue. They came in in good faith and brought their problem to use. It is not uncommon that we see – it is incredible common. Wish more people would come forward for things they need variances for. Your concerns for the neighborhood are something we do see a lot. They inherit or take care/custody of property and want to know what is happening. We take note and your concern is height fence and non conforming to the area.

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

Mr. Mattatall: I Move to close the Public Hearing at 9:23 pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variance of 249-8-6 (D): pool – 1) side yard from 20ft to 12ft; and, 2) 20ft to 15ft; hot tub – side yard 1) from 20ft to 15ft; Seconded.

DISCUSSION: (None)

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

DECISION:

Mr. Mattatall: The variances are granted. The building department will be out regarding the fence. They can also tell you where they measure from. This is not uncommon.

HANI GODHLWANI:

Request for a variance of 249-20 (A):

Lot #1:

1) lot area from 1.5 acres to 1 acre;

Lot #2:

2) width from 150ft to 30ft;

3) lot area from 1.5 acre to 1.14 acre;

Property located at 864 Silverlake Scotchtown Road  
(SEC 82 Block 1 Lot 2.1);

Designated R-2.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 9:25 pm.

Mr. Mattatall: I Move to open the Public Hearing at 9:26 pm.

Roger Ferris: He met with Dick McGoey before zoning changing and it conformed to prior with new zoning they have up-sized and not complete through PB and now needs variances. He lives in the existing dwelling and wants dwelling for disabled son in the back in close proximity where he can help take care of his son.

Mr. Mattatall: The variances are area and road frontage. The flag lot provisions have changed.

Mrs. Thompson: It has been subdivided?

Roger Ferris: No, we met with Dick McGoey on this before change.

Mr. Mattatall: It has been in process throughout the change.

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

Mr. Mattatall; Any questions from the Public? (No)

Roger Ferris: The other ones are smaller.

Mrs. Thompson: I don't like flag lots and could they add on to existing to make accommodations they need. We had the discussion this weekend.

Mr. Godhwani: We are a tight family, and my daughter is going to take care of my son. He is 25 years and still sitting at home.

Mrs. Thompson: Could you not add on to the existing home?

Mr. Godhwani: He went to school and cut his hand and the halls are 6 feet. It is not easy to do.

Mrs. Mattatall: The new house is custom HC accessible for son's individual needs.

Mrs. Thompson: why build this house as it is now.

Mr. Godhwani: This was better than the house in Spring Valley. It is a completely wooded lot. The neighbor, Mr. Howard Mills had no problem.

Ms Guesnte: How long have you owned this?

Mr. Godhwani: 3 years.

Ms Guesnte: How long ago with the Planning Board?

Mr. Godhwani: They changed the zoning.

Mrs. Thompson: Did you have clearance to build a house in the back when you bought it?

Mr. Godhwani: It has to have big bathroom and I have 2 daughters.

Mrs. Thompson: you had plan when you bought it 3 years ago. You bought it with plan to build house in the back?

Mr. Godhwani: I sold other property in Spring Valley and have money to build the house.

Ms Raffo: You have special circumstance, and approve variances if you work on existing house but to set precedence with flat lots that are under sized sets precedence for anyone who cares to do the same thing.

Mr. Godhwani: I have handicap child- need a separate bathroom.

Ms Guenste: You could add an addition off existing cost you than new house.

Mr. Godhwani: With grading, new foundation would be needed.

Mr. Mattatall: We are looking - it goes back to other issues bringing it up. You can put up a 2 family dwelling with PB approval.

Ms Guenste: The grading in back is same?

Mr. Mattatall: You could extend house and make 2 family dwelling.

Mr. Godhwani: It is 6 or 7 feet down; crawl basement.

Mr. Mattatall: You are talking about design.

Mr. Johnson: You can keep ground floor level. The back house is 490 and 484 which is a 6 feet elevation.

Mr. Godhwani: If you see front it is ground level and go back it is a complete floor.

Ms Guenste: Build the foundation and build it up.

Roger Ferris: Retrofitting is not cheap.

Mr. Godhwani: I live in one house and my daughters in other house.

Mr. Johnson: The problem is it is a flag lot.

Roger Ferris: It conformed before the changing.

Mr. Mattatall: This is not something you have to do you can turn it into a 2 family house without any variance relief. You can do what you need to do without coming before the board. It guides us to say no purpose for a variance – to get what you need to do. Change the design.

Mr. Mattatall: Any comments or further questions from the Board?

Mr. Mattatall: Any questions from the Public?

Mr. Murzwick, 850 Silverlake Scotchtown Road: Is it free standing?

Mr. Mattatall: Yes.

Mr. Murzwick: I purposely put our back 140 feet so in line with other houses.

Mr. Godhwani: This is in the back.

Mr. Murwick: You knew when you bought it the cottage could not go in the front.

Mr. Murzwick: He has more room in the back than I do.

Ms Guesnte: That is where he wants to build.

Mr. Murzwick: Why not build in the existing house. They want to conform the houses, you don't build and this is a pretty big house. How is he going to get back there. There is a tree line and it will go right by my property. We left the tree line and wanted it to look like it is in the country. Especially a driveway. I am totally against it, an extension is fine and plenty of room. I knew the owners before. He can't say it slopes down that much they can build it up.

Mr. Mattatall: I Move to close the Public Hearing at 9:40pm; Seconded All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variances: Lot #1: area from 1 .5 acre to 1 acre; Lot #2: area from 1.5 acre to 1.14 acre; lot width from 150ft to 30ft; Seconded.

DISCUSSION:

Mr. Johnson: We have to base our decision on specific requirements and some don't meet all aspects. There is the possibility it can be. For example: Will it have an adverse affect on the neighborhood? - could be with one behind the other. Is it self-created hardship? – it was.

Ms Guenste: I am afraid I will have to vote no for the same reasons.

VOTE:In favor (aye) 0

Opposed (nay)6 Johnson, Guenste, Sullivan, Raffo, Thompson, Mattatall

DECISION:

Mr. Mattatall: The variances are denied.

Mr. Mattatall: It is something you don't need any variances to accomplish the goals.

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HEARING REVIEWS (December 11, 2006)

Perez

Emma Gonzalez, Architect: 21 Elms Street in Howells.

Mr. Mattatall: The Building Department said they are ‘in process’ and before we look at proposed addition to the house they are looking at the pool and deck and no Certificate of Occupancy has been given yet.

Ms Gonzalez: That is correct.

Mr. Mattatall: We have been requested to not do any action until that is done. Will that be done by next month?

Mr. Perez: We are working on electric.

Mr. Mattatall: We need – the plans we require the plans be a stamped and dimensions of pool how far from the property line. The house itself....

Ms Gonzalez: This is across from the firehouse. Elm is a dead end street.

Ms Guenste: It is across the street.

Mr. Mattatall: Bring house back from the property line.

Ms Gonzales: There is a structure there now. They want to reduce the non-compliance you have 40 on one side and 100 total and it is only 59.33.

Mr. Johnson: Will you take down existing and rebuild?

Mrs. Thompson: When did you get the property?

Mr. Perez: 25 years ago or so.

Mr. Mattatall: Give us drawing with dimensions – any structure every dimension from the property line – the pool, deck and distances. We can go forward unless the BD tells us you have CO or they are going to get one, and ‘yes we can go forward’ we can’t vote on addition until we clean up one thing after another.

Ms. Gonzales: For the Public Hearing?

Mr. Mattatall: I Move to hold a Public Hearing on December 11, 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.

Cross View:

Not present.

MEETING CLOSE:

Mr. Mattatall: There being no further items to be presented to the Town of Wallkill Zoning Board of Appeals, I Move to close the Meeting at 9:51 pm; Seconded; All in favor; Motion carried.

TSB/jcd

TOWN OF WALLKILL  
ZONING BOARD OF APPEAL

DECISION SHEET

NOVEMBER 13, 2006

AAA DEVELOPERS  
(Helen M. Keener):

Request for a variance of 249-22-D (lot area and side yard set backs);

- 1) side yard from 20ft to 11ft;
- 2) two side yards from 40ft to 22ft;
- 3) front yard set back from 35ft to 24.5ft;
- 4) lot area from 18,750 sq/ft to 6,250 sq/ft;
- 5) lot width from 100ft to 50ft;

Property located on Excelsior Avenue  
(Sec 75 BL 3 Lot 14);  
Designated R1.

CONTINUE: December 11, 2006

AAA Developers  
(Helen M. Keener):

Request for a variance of 249-22-D:

- 1) side yard from 20ft to 5ft;
- 2) side yard from 20ft to 5ft;
- 3) lot area from 18,750 sq/ft to 6,250 sq/ft;

Property located at 50 Ridgewood Avenue  
(SEC 75 Block 3 Lot 10)  
Designated R1.

CONTINUE: December 11, 2006

Benchmark Innovations, LLC.

Request for a variance of 249-19(1):

- 5) rear yard from 70ft to 40ft;
- 6) front yard from 60ft to 48.3ft
- 7) lot depth from 300ft to 125ft;
- 8) area from 3 acres to 0.922 acres;

Property located on Whipple Road  
(Sec 62 Block 1 Lot 64)  
Designated RA.

CONTINUE: December 11, 2006

TODD LYONS

Request for a variance of 249-22-D :

Lot #1

- 1) side yard from 5ft to 3.64ft;
- 2) lot depth from 125ft to 120ft
- 3) area from 18,750sq/ft to 12,920 sq/ft
- 4) permit accessory garage closer to front lot line than the principal building

Lot #2

- 1) lot width from 100ft to 80ft;
  - 2) lot depth from 125ft to 120ft;
  - 3) area from 18,750 sq/ft to 9,600/sq/ft.
- Property located at 221-225 Schutt Road  
Designated R-1.

CONTINUE: December 11, 2006

JOSEPH SMALL

Request for a variance of 249-8-(6) (d):

- 1) side yard from 20ft to 12ft for pool;
- 2) side yard from 20ft to 15ft for pool;
- 3) side yard from 20ft to 15ft for hot tub;

Property located at 16 Keystone Park  
(Sec 37 Block 2 Lot 1)  
Designated R1.

HANI GODHLWANI:

Request for a variance of 249-20 (A):

Lot #1:

- 1) lot area from 1.5 acres to 1 acre;

Lot #2:

- 1) width from 150ft to 30ft;
- 2) area from 1.5 acres to 1.14 acres.

Property located at 864 Silverlake Scotchtown Road  
(SEC 82 Block 1 Lot 2.1);  
Designated R-2.

DECISION: Variances denied

SIX MONTH EXTENSIONS:

MARK TOLEN:

Request for a variance of 249-19 (1): 1) lot area from 3 acres to 1.8 acres; 2) road frontage from 50ft to 0.0 ft;  
Property located at 131 Hill Road (SEC 60 BL 1 LOT 73);  
Designated RA Mr. Mattatall:

DECISION: Six (6) month extension granted.

ALTA EAST, INC.

Request for an additional 6 month extension originally granted on December 12, 2005 extended in April 2006.  
Variance for canopy 22-3-54

DECISION: Six (6) month extension granted

ROWLEY DEVELOPMENT

Request for a six (6) month extension for: side and rear yard setbacks (249-28-D) for property located at 30-40 Golf Links Road (78-1-67.1).

DECISION: Six (6) month extension granted

ERIC JOHNSON

Request for a third - six (6) month extension for originally granted on June 13, 2005: 249-3 (accessory building) from 28x28ft to 32x56ft for a garage to store personal vehicles and equipment; Property located at 375 Howells Turnpike (13-1-37.1); Designated RA.

DECISION: Six (6) month extension granted