

TOWN OF WALLKILL ZONING BOARD OF APPEAL

MEETING MINUTES

NOVEMBER 14, 2005

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

MEETING OPENING:

The November 14, 2005 Meeting of the Town of Wallkill Zoning Board of Appeals opened with the pledge to the flag followed by the roll call and presentation of the October 17, 2005 Meeting Minutes. Mr. Mattatall apologized for the slight delay due to fire department activity in the area.

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

The following correspondence was addressed; Public Hearings were heard, discussed and voted upon as noted; applications reviewed for the December 12, 2005 meeting and application continued.

CORRESPONDENCE:

Mr. Mattatall: The following requests were received for six (6) month variance extensions:

Fred Vilestra: Request for a six month extension on variances granted in April due to engineering work being completed. It involved: 1) lot area from 2 acres to 1 acre (249-19-D-01); 2) lot width from 200ft to 153ft (249-19-D-01); Property located on Daly Road (64-1-31); Designated RA. Six month extension granted.

Mr. Mattatall: The Motion was made to grant a 6 month extension; All in favor; Motion carried.

Andrew and Judith Sarantapolas : Request for a six month extension on variances granted in May: 1) area from .75 acre to .34 acre; 2) width from 150ft to 100ft; 3) setback from 200ft to 150ft; Property located at 31 MacIntosh Drive; Designated R2.

Mrs. Thompson: Has the pool shed been removed as requested.

Mr. Morgan: They have not started work at all.

Mr. Mattatall: I Move to grant a six (6) month extension on the variances previously granted; Seconded; All in favor; Motion carried.

Joseph A. Brown (Formerly known as TAC Assoc.) Request for six month extension on variances granted and extended: 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).

Mr. Mattatall: I Move to grant a six (6) month extension on variances previously granted; Seconded; All in favor; Motion carried.

## **PUBLIC HEARINGS:**

Sue Casareale / Glen Brinckerhoff Request for a variance of 249-19-D:

1) side yard from 40ft to 37ft;

2) both side yards from 100ft to 83ft;

Property located at Highland Lake Road

SEC 64 BL 1 LOT 48.1; Designated RA

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 7:44 pm.

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

Glen Brinckerhoff: Originally we got variance from 200 to 125ft and went back to get side yard variance – it is shy 20 feet to put in regular size house and need it (variance) for the additional footage. Now it is only 24 foot wide and we want it 28 foot and the deck is extra.

Mr. Mattatall: Where is the deck and how does it affect width?

Glen Brinckerhoff: The house is 28 feet wide and the deck is a cat walk on the front and back that kind of wraps around the back of the house.

Mr. Mattall: Yes.

Glen Brinckerhoff: Does it show it on the plans? I sent plans with soils on it?

Mr. Mattatall: Yes, thank you for that. That is exactly how we need the soils worded on this.

Mr. Mattatall: Any questions form the Board?

Mrs. Thompson: Which one of the maps is correct? 33, 37?

Mr. Mattatall: The correct one or most recent one has Mr. Fusco's soils on the map. Number 37 is the file copy.

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

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

Mr. Mattatall: Do you plan to build if you get the variances?

Glen Brinckerhoff: Yes.

Mr. Mattatall: I Move to close the Public Hearing at 7:49 pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variances of 249-19-D: 1) side yard from 40ft to 37ft; 2) both side yards from 100ft to 83ft; Seconded.

DISCUSSION: (none)

VOTE:

In favor (aye): 7 Morgan, Raffo, Sullivan, Guenste, Johnson, Thompson, Mattatall

DECISION:

Mr. Mattatall: The variances are granted and valid for 6 months. If in that time you have not started work, please return to request an extension. Please see the Building Department.

Ronald C. Johnson, Jr.

Request for a variance of 249-8-5 (accessory building) and 249-20-D (front yard):

1) accessory building (24x24ft) in front of the principal building;

2) front yard from 35 to 20ft;

Property located at 21 Crane Road

SEC 87 BL 2 LOT 6

Designated R2

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 7:51 pm.

Mr. Mattatall: I Move to open the Public Hearing at 7:52 pm. Please present your application.

Mr. Mattatall: The building department said you have more than one front yard here.

Mr. Johnston: That is correct.

Mr. Mattatall: The only the two variances are necessary: 1) accessory in front of the house; 2) front yard from 35ft to 25ft. Because of the way the curve goes in the front, you have a corner lot and no definitive right-hand turn. The 2<sup>nd</sup> variance is so we don't have ambiguity down the road from the Building Department. You have 3 sides to your property. It is a fail safe and don't want to fall between the cracks.

Mr. Mattatall: Any questions from the Board?

Ms Guenste: You have a bi level with a 2 car garage – you need room for 4 cars?

Mr. Johnston: Actually a place for my wife's arts and crafts and I like to do wood working. It is not for extra cars.

Ms Guenste: Is that where the trees are?

Mr. Johnston: Yes there are some there but we plan to do some landscape once the work is done.

Mr. Mattatall; Is this for profit at all?

Mr. Johnston: No.

Mr. Mattatall: Any questions from the Board?

Mrs. Thompson: I see no problem at all.

Mr. Mattatall: Any questions from the Public?

Marilyn Nelson and Margaret Davis: Where exactly is this (Mr. Johnston showed them and explained where it is – described the siding and shutters, etc.

Ms Nelson: It is on the vacant lot?

Mr. Johnston: Yes.

Margaret Davis: It is how big?

Mr. Mattatall: Do you have any objections to the project?

Ms Davis: I don't see it from where I am.

Mr. Mattatall: We go out and look at every site.

Mr. Johnston: This drawing is to scale with 24 feet to the property line.

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

Mr. Mattatall: I Move to close the Public Hearing at 7:57pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variance: 1) accessory building(24x24ft) in front of principal building; 2) front yard variance from 35ft to 20ft; Seconded.

DISCUSSION: (None)

VOTE:

In favor (aye): 7      Guenste, Johnson, Sullivan, Morgan, Raffo, Thompson, Mattatall

DECISION:

Mr. Mattatall: The variances are granted, please see the Building Department. This variance is granted for 6 months in which time work must start. If that is not the case, please request an extension prior to the 6 months.

Lewis Sign (D. Napolitano, MD) Request for a variance of 249-11-J-5(a): Sign as proposed on drawings dated on 9/19/2005 and submitted.  
Property located at 465 East Main Street  
SEC 50 BL 2 LOT 20  
Designated HC

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: Is this the latest design?

Lewis Sign: It is the one that has larger "B" on it. We checked with Walt and the setback is fine and the visibility. We are here because of the donation of the land to the Town.

Mr. Mattatall: Dr. Napolitano donated land to the County when he built the new building and when they wanted to put in sidewalk – no sidewalks now. If he puts the sign up no one will see it and this will have sign over the proposed sidewalk. The provision is that if the sidewalk goes in the sign must be moved.

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

Mr. Mattatall: Any questions from the Board?

Ms Guenste: What is the sign made of?

Lewis Sign: It is aluminum and it is covered so you don't see the steel.

Mr. Mattatall: I Move to close the Public Hearing at 8:02pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variance of 249-11-J-5(a): Sign as proposed on drawings dated on 9/19/2005 and submitted subject to the following: If the sidewalk is installed the sign must conform with the current Town Code(s); Seconded.

DISCUSSION:

Lewis Sign: If we shrink it down, we are in same situation. It can be in the meridian there.

Mr. Mattatall: It will not hang over now?

Lewis Sign: No.

Mr. Mattatall; The sidewalk could move a parking space or so. You can reconfigure at that time. What is code for sidewalk is now it could change by then also.

Ms Guenste: The color – if it is right – bright signs are distracting.

Lewis Sign: It is not that bright.

Ms Guenste: I like neutral signs.

VOTE:

In favor (aye) 7: Johnson, Guenste, Sullivan, Morgan, Raffo, Mattatall, Thompson

DECISION:

Mr. Mattatall: The variance is granted subject to the noted condition. It is valid for 6 months and if work has not commenced by that time, please request an extension. Please see the Building Department.

Elba I. Martinez

Request for a variance of 249-22-D:

- 1) side yard from 15ft to 3ft;
  - 2) side yard from 15ft to 3ft;
  - 3) rear yard setback from 30ft to 17ft;
- for construction of a deck.

Property located at 21 Old Anvil Lane  
SEC 89 BL 3 LOT 73  
Designated R1.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:05pm.

Mr. Mattatall: I Move to open the Public Hearing at 8:06 pm.

Mr. Mattatall: You want a deck on the back of the property?

Ms Martinez: Yes.

Mr. Mattatall: Any questions from the Board?

Mr. Mattatall: We have dealt with virtually every one of your neighbors out there.

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

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

Mrs. Thommpson: I see no problem with it.

Mr. Mattatall: I Move to close the Public hearing at 8:07 pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variances of 249-22-D: 1) side yard from 15ft to 3ft; 2) side yard from 15ft to 3ft; 3) rear yard setback from 30ft to 17ft; Seconded.

DISCUSSION: (none)

VOTE:

In favor (aye) 7: Morgan, Raffo, Sullivan, Johnson, Guenste, Thompson, Mattatall

DECISION:

Mr. Mattatall: The variances are granted. It is valid for 6 months and if the deck is not started, please come in for an extension.

Middletown Honda

Request for a variance of 249-11-D-12 (sign):  
1) directional illuminated sign (30" tall; 4' wide = 10 sq/ft  
face) and as presented.  
Property located at 520 Route 211 East  
SEC 41 BL 1 LOT 48  
Designated HC

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

Mr. Mattatall: I Move to open the Public Hearing at 8:10 pm.

Mr. Mattall: Directional sign to direct people. The sign is same design theme as Honda?

Stuart Berkley: Yes, same design and style just smaller. We have to buy it from them – part of the franchise agreement.

Mr. Mattatall: I can understand the need.

Mrs. Thompson: Shipping and Receiving is twice on the map?

Stuart Berkley: That is not the verbiage – it will say parking left right and where the drive thru is. Where it says sales – service park straight ahead through drive thru lane. It will have 'service/ parts/ sales parking'. This is Honda's generic sign.

Mr. Mattatall: The height is the same.

Lewis Sign: Yes.

Stuart Berkley: It is for Service drive thru, Parts parking, Sales parking. There will be 2 lines for service drive thru and the others as they stand.

Ms Guenste: The inside is to be illuminated?

Stuart Berkley: It is internally lighted.

Ms Raffo: Is the colour right?

Ms Guenste: Yes.

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

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

Mr. Mattatall: I Move to close the Public Hearing at 8:13pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variance of 249-11-D-12 (sign): construction of a directional illuminated sign (30" tall; 4' wide = 10 sq/ft face) and as presented on drawings with the application; Seconded.

DISCUSSION: (None)

VOTE:

In favor (aye) 7: Guenste, Sullivan, Morgan, Raffo, Thompson, Mattatall, Johnson

DECISION:

Mr. Mattatall: The variance is granted, please see the building department. Remember the variance is good only for 6 months, if you will not have started work by that time, please come in to request an extension.

Donna Bierstine

Request for a variance of 249-19-D:  
1) side yard from 40ft to 36ft 6"  
for construction of a deck.  
Property located at 80 Gordon Road  
SEC 12 BL 1 LOT 4.1  
Designated RA

Mrs . Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:14pm.

Mr. Mattatall: I Move to open the Public hearing at 8:15 pm.

Mr. Mattatall: This is for the deck in the back of the house?

Applicant: Yes.

Mr. Mattatall: Any questions from the Board?

Mrs. Thompson: No problems with this.

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

Mr. Mattatall: I Move to close the public hearing at 8:16 pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variance249-19-D: 1) side yard from 40ft to 36ft 6" for the construction of a deck; Seconded.

DISCUSSION: (none)

VOTE:

In favor (aye) 7: Johnson, Guenste, Sullivan, Raffo, Morgan, Thompson, Mattatall

DECISION:

Mr. Mattatall: The variance is granted, please see the Building Department. The variance is valid for 6 months.

Alta East

Request for a variance of 249-8 (area variance) to permit canopy over fueling station in front of principal building. Property located at NYS 302 and NYS Rt 17 (east bound ramp)  
SEC 22 BL 3 LOT 54  
Designated PID.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:17pm.

Mr. Mattatall: I Move to open the Public Hearing Notice at 8:18 pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: Please present your project.

John Cappello, Esq.: The gas station on 302 and NYS 17 and we have here before and I am requesting a variance or an interpretation on the location of the canopy. The gas pumps are in front of gas station/convenience store. We need a canopy over the pump with fire suppression and the Code says no accessory in front of the principal use. The principal use is gas and people go to buy gas and great number never go in the store. The main use is the gas station and if that is the case we don't need a variance. We meet all the setbacks as it is more than 50 feet from the road and you require 30 feet for gas pumps and are more than 50 feet.

The convenience store is behind the canopy and that is the principal use. In effect every gas station has it in front of the convenience store. We would not have pumps without a canopy because the suppression is there and all other stations have canopies.

Mr. Mattatall: Any questions from the Board?

Mr. Morgan: It is a standard gas station design.

Ms Guenste: The gas is the principal use but you have 118 x 48 feet – that is not a typical gas station / convenience – mild/bread/candy and have eating and drinking establishment that is 1800 sq/ft. There is eating/drinking.

John Cappello, Esq.: It is 5400 sq/ft. it is up to you if the variance is needed. Most buildings... and have not see a station with the pumps behind it. If you don't want to see all the stations coming to you – it would be an interpretation so you don't have to deal with it.

Ms Guenste: This is not small 'gas station/convenience store' it is like large travel center. 3 diesel 6 pumps – this is not I live over there and travel the road every day. It looks like a travel center it is a lot for that area for that location numerous blind spots.

John Cappello, Esq.: We will be before the Planning Board for the special permit and those issues will be addressed.

Ms Guenste: When I look at a variance I have to look at the whole picture as to what the variance – if approve will or will not allow.

John Cappello, Esq.: It will allow us to put up a canopy to comply with the law. Everything is located as to where it needs to be by law. We meet your Code on location but the canopy is structure which is behind and would require every station to come her for a variance.

Mr. Mattatall: Any questions from the Public?

Theresa Wright (public): We have a lot of residents on Beverly Drive and only some got a notice. We have 11 houses and 4 or 5 of us got a notice. We can see the whole area through there and every tree taken down. You get beautiful sunsets and there are no trees. This is interstate 86 in couple of years and need better entrance/exit ramps. It is ridiculous it is a truck stop and all the land in the back that is part of wet lands – what are we saying here – canopy in front of the gas station. There has to be more to it than that. There is a house there and empty now. Is the whole area going to be like truck stops of America? She mentioned travel center. This is not right for this area. you have tractor trailers coming west and east to get over to a diesel pump. We have Best Gas there now and what if they have to enlarge road for another ramp and you want gas station close to the road and am opposed to it.

John Vandermullin, Beverly Drive: It is in plain view plus I have been looking at minimum of 3 months at a blue trailer there now - more like a parking area. I drove a tractor for 38 years and don't know how much room they are going to have.

Mr. Mattatall: This was broken off into 2 parcels and we are looking at the gas station and pumps.

John Vandermullin: Do you have the exit locations?

Mr. Mattatall: It is not different than what is there now. No real change to the entrance to 302 but a change for the angle.

John Vandermullin: It is a turning lane for 17 East coming from Middletown toward Circleville. Don't know whose trailers are there now.

Mr. Mattatall: The Planning Board addresses this and we are to address the canopy. They can put 4 ft wide roof from building to canopy and not be here at all.

John Vandermullin: When does it come to the Planning Board?

John Cappello, Esq.: There will be a public hearing and will have a traffic engineer. Now this is a step to clarify things.

John Vandermullin: Out of 11 houses 5 people got notice.

Mr. Mattatall: Many houses in back are outside the 300 feet; closest ones did not get the notice.

Mrs. Thompson: Do those closer ones own the property; if not the bank gets the (property) notice.

Mr. Mattatall: We can look at the proof of mailings and it is presumed.

John Vandermullin: It is in our back yard and it will be a 24 hour operation.

Mr. Morgan: Did you get your list from the accessor's office?

John Cappello, Esq.: Yes.

John Vandermullin: Again, it is in my back yard. I hear cars all the time and did not receive a notice and are at beginning of Beverly Drive.

John Cappello, Esq.: If they give us their addresses we can send you public notice when the planning board meeting is set.

Mr. Mattatal; We need to clarify the mailings and continue this to December.

John Cappello, Esq.: I am not asking for approval for the site which is Planning Board.

Mr. Mattatall: The issue is now notification to the neighbors. In deed everyone was or some were not and can't do it from maps we have here. I need to go to the accessor's office and not sure if they use round or square property figures. I don't have those maps here. If they use the engineer's scale or the County. In the extreme case might be every case in this room. We can't go forward and what I am hearing is that some people were given notice but the ones closest were not.

Mr. Basi, Best Gas (owner): I received a notice. This company owns 40 gas stations and I only own one and I'll go out of business if they put one in. trucks going in all the time. It is a big gas station and a lot of trucks and accidents and crime from the people from the city.

Mr. Mattatall: It is a competitive business.

Mr. Mattatall: The pumps are located in front of the structure.

John Cappello, Esq.: The size and traffic is a Planning Board issue. The only is thing here is interpretation. We got a list from the office.

Mrs. Thompson: I want to see the names that were missed (he provided the list he was given by people present).

Mr. Mattatall: This will be continued to December.

Art Palmer, Beverly Drive: This is in my back yard and overlook same area where trees were. RT 17 is way below our house and you don't see 17 we have mountain views and water on the other side which is nice with ducks an geese. This will block what we paid to observe – putting the canopy up.

Mr. Mattatall: We have the list and if we find deviation in who you should notify and the building department will notify them. The last thing you want is if someone should have been notified and was not.

Ms. Guenste: This is an area variance and a gas station in front of the building. That is what is before us.

John Cappello, Esq.: Your code permits 30 feet of the property line so it envisions it is in front so the canopy is the structure. Demonstrating the pumps and canopy in front as in other gas stations.

Ms Guenste: I am reading the application.

John Cappello, Esq.: : If you read thru addendum there are details of what we are asking for.

Public 1: The Public Board Meeting on the 16?

John Cappello, Esq.: On the agenda but not as a public hearing.

Mr. Mattatall: I don't have the Planning Board's schedule. We don't run the Planning Board.

John Cappello, Esq.: You can come and hear.

Mr. Dulgarian: They are on the schedule for Wednesday.

Mr. Mattatall: The way it is they can modify the plan and not be here at all.

Public 2: We are a residential area and no one is keen for it.

Mr. Mattatall: I Move to continue this to the Public Hearing to December; Seconded; All in favor; Motion carried.

Michael D. Ross

Request for a variance of 249-22 (rear yard):

1) rear yard from 30ft to 21ft for each deck on a 2 family house.

Property located at 142 Belmont Avenue

SEC 76 BL 5 LOT 4

Designated R1

Mrs. Thompson: The applicant is not present.

Michael and Carla Leary      Request for a variance of 249-19-D:  
1) front yard set back from 60ft to 34ft;  
2) rear yard set back from 70ft to 55ft;  
for a living room addition.  
Property located at 108 Howells Road  
SEC 32 BL 1 LOT 23.1  
Designated RA

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary., The Public Hearing Notice was read at 8:43 pm.

Mr. Mattatall: I Move to open the Public Hearing at 8:44 pm.

Mr. Leary: It is an addition for a living room because I rearranged some of the other rooms – one big kitchen and need more room.

Mrs. Thomopson: Separate entrance?

Mr. Leary: Yes with a foyer.

Mr. Mattatall: Any additional kitchens or bathrooms?

Mr. Leary: No.

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

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

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

Mr. Mattatall: I Move to grant the following variance of 249-19-D: 1) front yard set back from 60ft to 34ft; 2) rear yard set back from 70ft to 55ft; Seconded.

DISCUSSION:            (None)

VOTE:

In favor (aye) 7:        Morgan, Raffo, Sullivan, Johnson, Guenste, Thompson, Mattatall

DECISION:

Mr. Mattatall: The variances are granted, please see the Building Department. The variances are valid for 6 months.

Elliott and Rose Volaski      Request for a variance of 249-8-A and 249-3  
1) accessory building closer to the front lot line than the principal building;  
2) accessory building from 28x28ft to 12 x 38ft; for wooden storage building.  
Property located at 61 Boyd Road  
SEC 60 BL 1 LOT 60.11  
Designated RA

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:46pm.

Mr. Mattatall: I Move to open the Public Hearing at 8:47pm.

Mr. Mattatall: We have reviewed this and the layout leaves you to put it where it is.

Mrs. Thompson: There is a building there now?

Elliott Volaski: The shed - is that what you are talking about?

Mr. Mattatall: That comes down when this goes in?

Elliott Volaski: Yes. It is pretty much where it is going to go.

Mr. Mattatall: You are limited on options where you can put anything out there.

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 8:48 pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: Move to grant the following variance of 249-8-A and 249-3: 1) accessory building closer to the front lot line than the principal building; 2) accessory building from 28 x 28ft to 12ft x 38ft; Seconded.

DISCUSSION:            (None)

VOTE:

In favor (aye) 7:        Guenste, Johnson, Sullivan, Morgan, Raffo, Thompson, Mattatall

DECISION:

Mr. Mattatall: The variances are granted and good for 6 months. Please see the Building Department.

**HEARING REVIEWS: (December 12, 2005)**

Hyman:

Mr. Mattatall: Tennis court – how high is the fence one is 15 and one is 10.

Mr. Hyman: Tennis court with two (2) basketball hoops.

Mrs. Thompson: Will it be lit?

Mr. Hyman: Yes.

Ms Guenste: What is the surface?

Mr. Hyman: Concrete with rubber tile. It is tennis court length-wise and 2 basketball side to side.

Mrs. Thompson: Does he need permit for the light?

Mr. Hyman: It does not shine on either side of the neighbors.

Mr. Mattatall: I Move to hold a Public Hearing for December 12, 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 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.

Mr. Mattatall: The town will give you the list of names. The THR will have the notice in the paper and send that certified mail to the people on the list.

Mrs. Thompson: Details are on the application.

ANTHONY:

Mr. Mattatall: Did we do this before?

Mr. Anthony: It was a misunderstanding by us. It expired and I thought we had time and we had 2 years to finish and got an extension for 5 years then it was 2005 and I apologize.

Mr. Mattatall: It expired in April and you have to start the process over. How far along are you?

Mr. Anthony: I live in the home and have a CO. We tried to get the CO and this came to light and explained they decided to list barn as is in violation. I have a CO for the barn right away. I started the house and thought I was under my time and came for Co for the home and when I went to get the CO they told me I am in violation. You get penalized if you go over on the mortgage.

Mr. Mattatall: You don't want a problem when you go to sell the property. So you have questions to be answered. Someone not familiar with this will ask tons of question. The accessory building was built first with no principal building and involved finances, storage of materials which were stored in the barn.

Mr. Anthony: That is what we did and thought we had another year.

Mr. Mattatall: I Move to hold a Public Hearing on December 12, 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.

MARVIN:

Mr. Mattatall: You want an accessory building (30x40feet) which is larger than what the law allows.

Mrs. Thompson: What is going to go in there?

Mr. Marvin: cars, 2 snow mobiles, small back hoe. – we have 2 car garage and my SUV and the car doesn't fit now.

Mr. Mattatall: You have 7 foot garage.

Mr. Marvin: You can't put anything in there. The existing shed will be taken down.

Ms Guenste: Is it easy to find?

Mr. Marvin: The number is on the mailbox and you almost have to make a u turn to get up the driveway.

Mr. Mattatall: I Move to hold a Public Hearing on December 12, 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.

#### FAIRWAYS:

Jennifer VanTuyl, CUDDY & FEDDER, LCP,: Several people were on the board when original variances were granted and hope you have seen it under construction. This is the original map and summary of variances granted. They were granted based on building type – the up hill duplex and uphill town house certain height and variances granted based on quality of design with steep slope roof lines with attractive product. Those of you who were here to show you difference between up and down hill unit. You have code provision requires height on side closest to the street and results if unit is tucked to hillside to avoid excessive grading same building read as 9 feet taller than if down hill and the down hill requested a 4 foot variance. But if the same building is called uphill it requested 12 foot variance. In fact the variances were granted and extended and under construction.

We are here tonight because of some tweaks of the site plan and Planning Board approved modifications as minor site plan improvement but want the variances you granted covered the tweaks in the site plan and want to apply for variances. What we can do is turn it around after explaining it to you.

The first modification and don't think it needs a new variance – number of units in the building 5 unit on top and 5 unit down here. We have on new plan – this building is one unit shorter to go from 5 to 4 unit and 5 unit to 6 unit building.

Mr. Mattatall: Any height change to the building?

Jennifer Van Tuyl, Esq.: No.

Mr. Mattatall: We did not deal with width – no change.

Jennifer Van Tuyl, Esq.: The second change is down here (drawing) in the front and in approved planned 2 4-unit buildings down hill town houses; in the new plan reduced to 1 building with 5 units so net reduction of 3. We are proposing to move 2 of those units somewhere else on the site – move the units over here on north end of Fairway Drive. To describe the unit for you .....you might have seen these units under construction turned out to be most in demand of all units we have – master down duplex and everyone wants that because it has master bedroom downstairs with extra beds up stairs for family when visit. High demand we wanted to provide for one more on the site. The proposal is to take 2 units from down here and move them to here (drawings) that leaves one unit that was previously in this 2 building set and propose to do here (drawing) right along fairway drive 2 single family homes up hill – in

response to market demand change to a 4 unit town house. At same height as other up hill townhouse you approved before. Collection from here and here (drawing ) combined with 2.

Mr. Mattatall: The height will differ?

Jennifer VanTuyl, Esq.: Yes. Not greater than the 2 up-hill townhouses you approved before.

Mr. Mattatall: Please give me unit designation.

Jennifer VanTuyl, Esq.: T-25 and the D-18. I mention on D-18 it is no taller than the units that are being moved but than the single family.

Mr. Mattatall: Height of both buildings?

Jennifer VanTuyl, Esq.: T 25 is 47 feet and the other is for a 4 foot variance for 39 feet.

Mr. Mattatall: It is the same height and only set back was for the sound barrier and that is not being moved. It is pretty straight forward.

Mr. Mattall: I Move to hold the Public Hearing on December 12, 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 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

Alpine Environmental Consulting  
David Gubert, Gencor Industries  
Rosemary Stack, Esq.  
Peter Loyola, ASLA

Mr. Mattall: This is continuation of the Tetz application. Is there anyone else from the Public who wishes to speak to this matter? Please speak now.

Virginia Wolfe: I have friends buried in the cemetery and am concerned for the tranquility of the place. Others have concerns of this same issues. Not just ordinary citizens – the Town of Wallkill has a cemetery law – to protect cemetery from the encroachment of excavation and commercial structures and to protect the welfare of its’ citizens. The zoning code includes these enrichments. No excavation closer than 100 feet to property line of cemetery. And special approval required if such excavation within 200 feet. Obviously the fathers who enacted wanted to maintain dignity of cemetery mitigation of this industry through trees or berms to be constructed would involve excavating and flies in face of the cemetery protection which protects it from giant on its doorsteps. If he proceeds upgrade driveway on 50 foot driveway; he will excavate within 100 feet and on top of property line and within site of current future grave sites. This is clear violation of the law. The Town of Wallkill Cemetery Law further states “any violation shall be prosecuted to fullest extend of the law” how can same town that enacted the law now give some one permission to do it. The laws are make to be enforced particularly by those who proposed it in the first place. Out of character of the neighborhood and can’t see any more devastating use and cause emotional and create noise, smell and traffic nightmare and it is against the law – it has to be rejected. Thank you.

Mike Cody: I work for the Town of Wallkill and went to Goshen and took pictures of black top plant and there is a cemetery 100 feet away from it and a nursing home. The cemetery is unattended and I’ll give you the pictures and some old civil war veterans are there. Thank you for your time.

Mr. Mattatall: Any one else?

Goshen Councilmen: It was prior to cemetery law in Goshen, and it laid to waste for 40 years and quarry and has been there long time before the law. The Town has a law now and was among the first in the county and we are protecting our cemetery. Reflect on the hole in lower Manhattan ...

Mr. Mattatall: ...we are dealing to excavating next to the cemetery.

Goshen Councilmen: I ask you – in the Town of Goshen – cemetery are special to people and heavy rains the town of Goshen does not let Tetz trucks go down roads into Goshen through Cemetery Road.

Mr. Mattaal: How far can you build in Goshen?

Goshen Councilmen: 50 feet I believe.

M. Goldman, Esq.: Someone made a presentation last meeting and why based on on the balancing test and state law regarding area variances – they have not weighed the balance in their favor by substantial evidence and therefore you must not approve it. We have aerial photos to show how the character of the neighborhood will be substantially changed and adverse affects are obvious. (handed them to the board for review).

The other thing to point out is the public has responded to the application they have put forward and think it is contrary to the Town of Wallkill's regulations and is unfair if in face the public participation is closed and Tetz can amend their application and point out other factors to which the public can't respond.

Mr. Mattatall: Once we close they can't change plans – but can respond to questions. We can't go back and forth and have been going on for a while.

M. Goldman, Esq.: The public has had opportunity to respond to application previously presented. If they try to alter that plan the public has right to rebut that. Quote one sentence in the Town of Wallkill Code 249-47-C proceedings: the order of business chair reads the public notice, reports shall be read; applicant present case; questions public questions board. If Tetz changes the public can present rebuttal so the Board has all the information to proceed.

Joseph Asphal: I represent the cemetery on other legal proceedings and am here on my own dime and am a resident in the Town of Wallkill. A comment Ms Guenste said last time – that was for an 'explanation why this site is better than site in Slate Hill'. I did, based upon the comment, did research – Rt 6 is US highway, made for these trucks, property is situation for this type of industry. My understanding of zoning and variances is there is no alternatives without the variance- she pointed out and I confirmed, there is an alternative to the site and better alternative. I asked if we could speak before and after and curious as to how they respond to her question and respond to their response. I don't know what they are going to say at this time.

Mr. Mattatall: We'll take it into advisement.

John Cameron, Esq.: Additional information because a rebuttal by Tetz and might have opportunity to respond to them and in that vein, we did not anticipate we would have time tonight to have our landscape architect testify but did have him submit further response to requirement of screening. I see Tetz has Mr. Loyola who is there landscape architect and like to respond to that and request we have time to bring our person in and supplemental report form him that need 50 feet buffer of evergreen and the county planning dept any approval has to be on

condition there be screening at the entrance and only 50 foot of road frontage, the evidence is clear there is no way properly buffer and protect the cemetery.

Also have a fellow who worked in black top plant and have him answer questions with respect to testimony to requirement of 60 foot silos with your permission, Larry McCallister.

Larry McCallister, Hudson Valley Recycling: I have been in the industry for 15 years and worked at asphalt and crusher plants.

Mr. Mattatall: You are an engineer?

Larry McCallister: Yes.

Mr. Mattatall: Are you licensed engineer?

Mr. McCalister: No. Astec blacktop plants – one batch plant and one continuous plant.

J. Cameron, Esq.: If the applicant only produces 100 tons of asphalt a day, any need for it to have 4 - 200 ton silos 60 feet high?

Larry McCallister: I don't think so. It can be done with batch plant.

J. Cameron, Esq.: How high can a batch plant be? You worked in Dutchess Quarry?

Larry McCallister: It is a batch plant and there are 2.

Mr .Matttal: When was Dutchess constructed?

Larry McCallister: Before my time.

J. Cameron, Esq.: How many tons per hour or minute can a batch plant do?

Larry McCallister: 7 tons a minute – they have 3 and 4 tone plants.

Mr. Mattatall: You know I can swear in witnesses?

J. Cameron, Esq.: If you want him sworn in you can. He is familiar with it. In papers I submitted there are specs from one of the plants.

Mr. Mattatall: The plant is before your time – at le3ast 35 years – what do you know of current plants – what you end up doing – if you compare to Dutchess Quarry – as an aside we should shut down and you are dealing with technology that is decades different – is what is going in is most effective there – if operating engineer who does not operate equipment today - unless you design plants it is not getting us any place. Actually people have factual and pertinent information to the discussion.

Larry McCallister: Just to say what I have to say – the drum plant I maintained and put together – don't know his volume 300 tons a day – a drum plant is more than what you need – I have 14

years of experience you could do it with 1/3<sup>rd</sup> of what he is talking about. I don't design plants or dare to say that I did and from what I have done and seen you don't need what he is proposing.

J. Cameron, Esq.: They may not need 60 foot high plants.

Mr. Mattatall: Issue that they have to address.

J. Cameron, Esq.: There has been testimony new odors form operation of plant it self – from your experience...

Mr. Mattatall: Outside height and excavation – the 2 issues we are dealing with that is part of Planning Board.

J.Cameron, Esq.: Do you know height of last batch plant you worked on?

Larry McCallister: 60 feet to high elevator and it had a silo and were slightly higher at 65 to 68 feet.

J. Cameron, Esq.: Are there – I put into evidence last time – photo of the NJ plant the PB visited in October or August I take it – I have one more cpy of rthe board it shows more current batch plant next to the silo for plant similar to Gencor plant – lower picture (looked at it) is there batch plant there?

Larry McCallister: Yes on the right.

J. Cameron, Esq.: Do you know how height – it has its own silo.

Larry McCallister: The silo is shorter than for the plant on the left –

J. Cameron, Esq.: The left is 60 foot silo by Gencor the height?

Larry McCallister: 45 or 50 feet.

Mr. Mattatall: He can't do that from a photo out there.

J. Cameron, Esq.: Assuming the larger silo is 60 feet – and you estimate how high the batch plant is?

Larry McCallister: There is a truck that is at least 12 feet tall.

Mr. Mattatall: Or, 11.

J. Cameron, Esq.: I have no further questions.

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

Mr. Mattatall: The issues are clear and explanation boils down – *why this high* and *why do certain amount of excavations*. If we feel there are other options we don't believe they have proved their case we won't. We do this a lot and deal with inches – not allow someone from a photo and was photographed and not allow it and give it credence. I understand there are emotions there.

We understand and understand the emotional issues, and someone wanting to visit their loved one and the right for the person to run their business. Many things have factual information differences. Basically everyone has presented their case very well. Don't think we have not given you your time. We understand the issues.

As we said before if Tetz brings up new issues above why the height and why to dig – unless we have to give interpretation of excavation - it can't be simply be digging of dirt – everything is excavating such as putting in a fence, putting in sod – and that was not the interpretation I don't think. We understand. If no one else we will close the Public Hearing.

We will not have a decision tonight. There is 10 day period written reply after closing. Those will be given to every Board member and we are careful in considering the evidence.

Rosemary Stack, Esq.: (Attorney for E Tetz and Sons): Quickly over view before to experts to answer question. We have asked for interpretation on building height issue and if height restriction set forth should apply to asphalt equipment. Intent of height in zoning ordinance was for fire safety because towns did not have fire trucks – here is an industrial use and it is not a concern. Asphalt is considered equipment not realty or real estate it is put under New York State tax law.

Second is excavation as used in the cemetery protection law - interpretation hinges on if we need a variance from the Cemetery Protection Law. The protection of the prohibition of the law providing prohibition of excavation is to protect burial sites so graves were not dug up – excavation does include creating a cavity and defined by public was rose bushes next to graves, grading roads as cemetery has done this Summer and town department of transportation not excavate to do drainage work. Interpret to excavate should be reasonable interpretation to protect burial sites and not include grading for access roads.

Variance issues we requested involves 2 issues: height variance and a variance for, if we need one, grading road in setback area. Keep that in mind and only impact of variance not use you can consider if deciding if detrimental impact to neighborhood or environmental impact. This is a MI district which uses are allowed. The use is allowed in MI and it was suggested were not allowed but memorandum of understanding the Town attorney and engineer that this is permitted use and court case that this is in uses under special uses in MI. The MI district allows uses by special permit. Mr. Burke suggested that should be factored use – special permit. It is not a consideration you can put into your decision process. Nothing in the law that governs that you are bound to consider give different to special permit as opposed to use permit. Special use is by the Planning Board not this board.

You also consider the Cemetery Protection Law in light of current law. It was adopted and updated 7/2005 and continued MI for this area with full knowledge cemetery was there. When consider granting you can't consider MI use but the height has adverse affect or if limited

grading proposed for access roads for a month to construct have detrimental affect to neighborhood. The Cemetery Law prohibits excavation. You have to look at one month time to do cuts in a month and will be 2 to 8 feet.

With respect to the Cemetery Protection Law – nothing says town prohibits road= impact of access road is not to be consideration but the grading to do the road.

Think what I will do is save comments for the end to summarize and turn floor over to David Brachers, Sr. V.P. with Gencor Industries. There were questions on equipment on the market available to applicant and what they manufacture. He has been with them for 28 years and familiar with industry and other manufacturers that offer equipment and their equipment and senior vice president of technology department and with any large company which is one of 3 top in the country he knows what his competition has to do responsible business fashion. He can answer the questions raised.

David Brachers, Sr VP, Gencore Industries: I am a practicing engineer for some 27 years and with been with them them for 28 years. Responsible for tech side – engineering, research and development and product development. Know hot mix and as you can imagine there are 3 basic manufactures and we all mix drum mix asphalt and batch. I can speak to the issue of height and why the heightness of the plant and can answer your questions when you have them.

In drum mix plant – continuous plant we supply hot mix silos and silos in which final product stored till truck comes in to be loaded or deliver to truck at that time. They are necessary and different in a minute.

Our silos and our competitors silos and why we have advantage with height issue. Number of year ago it was a typical 12ft 6” outside diameter and wanted to make larger silo and went to 13ft 6” and capacity function of diameter and height of silo – 200 tons of silo bigger in diameter the shorter. We have largest diameter and shown in drawing (showed) .. the Aztek to center is 72ft and is 200 ton silo, on our silt to top of head shaft is less than 70 feet it is 67 feet approximately depending on the truck scale height – under 70 feet.

Ms Guenste: Which one?

David Brachers: The 67 ft height and as said before height of truck scale and some adjustment on what truck used. This is not drawing the one – it is from other project.

The important thing is the diameter is larger than other manufacturers are shorter. Now say why need 200 ton silo – 4 of them – it is going to be 400 ton R plant and implied he would do 100 to 300 tons a day – actually it will average produce 125,000 tons a year divide by 200 days so about 600 tons per day on average. You don’t run on average – some day do 200,000 tons and others if raining none. On average, because to do construction work you have to supply product to job in quantity needed. When roads shut down because of construction get in get work over with. We make smaller silos and portable plant don’t have long term storage but out west you don’t have population density we do here, i.e Wyoming, Colorado. This type plant service Mr. Tetz’s paving operation but other contractors product from him and it has to be available to supply customers. We make shorter or smaller capacity – he propose 4 – 200 tons. We make 100 tons and could do 8.

Mr. Morgan: What height would be?

David Brachers: Down by 14 feet. The question is why does he not consider that? We did a proposal of 4 200 ton silos with required transfer conveyors and did it for 8 silos (100 tons) the additional cost is \$600,000 and add additional freight moving 8 instead of 4 and add cost for additional foundations or more concrete base and additional cost is significant. When add the installed horsepower and have more conveyors the horse power goes up significantly and use more electrical on 8 silos and heat loss is greater so making hot mix and don't want to loose heat to environment and have poorer efficiency. From cost standpoint, from purchasing it, from being able to have high efficiency and lower electrical cost go with 200 ton. Why 800 tons – there are different types of hot mix – base, surface mix, etc and are indifferent silos and to serve the customers he has to have variant. 400 ton hour plant how long to fill – takes 30 minutes to fill and if 100 ton it is 15 minutes. Having 200 ton silo is a optimum size in fact people who buy 400 ton install 300 ton silo and when we originally talked he talked about 300 ton and reduced to 200 ton because of height.

Mrs. Thompson: Smaller?

David Brachers: 15 feet shorter.

Ms Sullivan: Why buy these smaller silos if not as efficient, cost more?

David Brachers: We make plants to 120 ton per hour plant and 110 ton silo you'd only have one or two. This is 400 ton R plant – we make 700 ton R plants. This is average we sell today. R – hour. This is not humongous plant but average size we produce.

Next area – taking cost summaries we have horse power summary on 8 and freight contract for both type of arrangements.

Mr. Mattatall: How much area would it take?

David Brachers: More area than he has available on the property it would double foot print of silos on the property. Then when...makes scales under silo wider, in my opinion he does not have room for 8 silos. Scale each silo. As truck pulls in tare weight and fill and it weight so put in right amount on the truck.

Let me address batch plant issue – until 1973 not exactly around 1973 drums came in to play. Today one of our subsidiaries H&B brand – oldest in batch plant in the world producing thousands – we have not sold one in 3 years – they are more expensive to purchase and to operate, take more personnel, higher maintenance and worse draw back is batch plant – dry heat aggregate and put in hot bins in top of tower when truck comes in you don't have mix available all have hot rock while he waits you mix material and if have 4 ton mixer and he needs 20 tons it takes 5 mixes and you wait for mix. If you are contractor time is money and we all know that so you want in effect when trucks come in load them and get them off property and not as many trucks – they are more productive. That is why because of productivity go with drum.

With silos as you know about cars, nice steady speed is what you want to run and with batch plant you fire up pug mill , load truck – so stop and start continually, in drum mix they can put 800 tons of mix in silos and he is done. Did a very ...difficult to do cost saving of the two but easily say with recycling, you save contractor like Tetz 4-5 dollars a ton. Why do you care – biggest customer is government who buy for the roads and if cost lower you pave more roads maintain more roads for same number of dollars –so in city best interest for low cost producers.

Recycling – recycled is number one recycled product in the US not paper, plastic – in terms it is number one. What we have when we put down road we have resource because we can mill the road take product back to plant and reprocess up to 50% which means not blast in quarry and not importing asphalt cement from Venezuela and lowers costs and saves resources. In batch plant you can maybe get 15% and most don't recycle at all because of problems that are complicated.

The last thing regarding batch is all capacity plants end up having silos. They start running like continuous plant and put mix in silos so available when they come in. Picture of batch plant with silos which is taller – you can see batch is taller than silos. If have plant that produce and serve customers have silos anyway and have batch plant that as tall or taller than silos are.

So what I have said and tried to convey make largest and shortest. We could come in build silos bigger in diameter – we can't transport it here –problem with plant there is segregation in where big rocks move away form smaller rocks the segregation becomes critical and so 13 6" is limit and not have quality problem with diameter of the silo. Our company in business over 100 years and have pride in producing environmentally sound and try to build in everything we canto make them as quiet as possible and good economic value for the community and that is what they are trying to do.

Ms Guenste: What about pollution coming out of them?

David Brachers: What happens – your question is instrumentation on equipment measures pollutant on continuous basis – the requirement is specified by EPA requirements.

Ms Guenste: Do you have it?

David Brachers: We have plant that have it installed – SIMS.

Rosemary Stack, Esq.: Does NY State require it?

Ms Guenste: I don't believe they do.

David Brachers: They will test emissions on performance to get operating permit. They are re-tested.

Rosemary Stack, Esq: We did have one for FEIS and did have one for Crotty Road. Couple of issues to address: one relates to blue smoke kit on the top which is added measure as far as air pollution and it sucks back in VOC emission and into the drum and burns them off. The Earl Plant in NJ suggested at last meeting it produced smoke in photos – they don't have blue smoke kit?

David Brachers: No it does not.

Rosemary Stack, Esq.: Can we see picture and taller silo – the one on the left side Mr. Cameron referenced?

David Brachers: They are 300 ton silo and smaller is 200 ton – right side. I am not sure the new plant has 300 ton. I don't know how old the plant is.

Rosemary Stack, Esq.: With respect to 100 ton silo as part of responding to the Board question – other equipment – that is lower? Is that cost effective for his operation?

David Brachers: I have never seen 8 - 100 ton silos – it is not the right choice to make. From what I have read and done by Mr. Loyola with 200 ton silo there is with buffer you can't see top of 200 ton silo – dropping it 15 feet I don't know why drop it.

\$600,000 of additional cost equipment plus freight to get it in and concrete and total installed cost guess with wiring, installation is 750k spend to put in 8 silos. No, instead have double number and twice as many motors, more electric consumption so operating cost greater. It is burdensome to think to go to 8 100 tons. If running 100 ton hour – 15 minute to fill and switching from silo to silo and getting right mix in silo is tough.

Ms Guenste: explosion in South Carolina – is there need for fire equipment to reach top of silo?

David Brachers: No employee would be on top unless doing maintenance and then it would be closed.

Rosemary Stack, Esq; 100 ton not environmentally friendly.

David Brachers: They use more energy.

Rosemary Stack, Esq: Have you done 8 100 tone on 400 ton plant?

David Brachers: No.

Ms Guenste: What about noise?

David Brachers: Because running more motors and more conveyers – noise wise 100 ton would be somewhat noisier. Never done a study.

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

Rosemary Stack, Esq.: Questions of Mr. Tetz?

Gary Tetz, VP E Tetz & Son.

Rosemary Stack, Esq: Have you changed the plan for the asphalt or access road?

Mr. Tetz: No.

Rosemary Stack, Esq.: Moved the setback into to lease 50 foot buffer?

Mr. Tetz: That is correct.

Rosemary Stack, Esq.: Did you get people to change so nothing is in the 100 foot buffer?

Mr. Tetz: Yes.

Rosemary Stack, Esq.: Market analysis in proposing to the TOW?

Mr. Tetz: Yes.

Rosemary Stack, Esq.: Did you revise Brasher's cost of 100 versus 200 ton units?

Mr. Tetz: Yes.

Rosemary Stack, Esq.: Is it economically feasible to do the 100 ton?

Mr. Tetz: No it would not be.

Rosemary Stack, Esq.: The cost is prohibitive for 8 – 100 ton units?

Mr. Tetz: Yes. We not go ahead as lose advantage and not financially feasible.

Rosemary Stack, Esq.: Do you feel the variances you requested are self created?

Mr. Tetz: No they are not.

Rosemary Stack, Esq.: The proposed site is because the Town of Wallkill wants you to move from your current site on Crystal Run Road.

Mr. Tetz: Yes that and the concrete. My mother, niece, aunts and uncles are there (cemetery) and it does not disrespect to them for having plant next to them.

Rosemary Stack, Esq.: Mitigate environmental impact?

Mr. Tetz: Yes.

Rosemary Stack, Esq.: Couple of paragraphs in writing to review later from his written submission and give a copy to the Board.

In this response to board question:

“ never intention to submit to move from CRR only in response to TOW to relocate not just asphalt that we considered doing so. Operation success for 40 years. It took over a year and several sites were considered. Plant is location to the market – concrete and asphalt as both must be delivered in short amount of time and factor of quality control for products and nature of

product itself. Concrete poured and asphalt laid before becomes solid. Immediate suitable highway system for timely delivery and central market area where product sold the Crystal Run Road site is near 17 and 84 and central lower OC. The Philipsburg site is short distance Rt 17 and 84 and properly zoned MI and equally available. Remote as suggested by the board member in Wawayanda don't meet these criteria. (submitted for the record).

Rosemary Stack, Esq.: Mr. Allreck – because it was suggested in public comment the testimony of representative from Gencore at first Public Hearing was not to be believed because it was self serving and brought in independent person consultant.

Mr. April : Statement on his experience and view of other equipment. In last week review submittal Mr. Brashers has made. Independent consultant on hot mix asphalt since 1996 and acted as trouble shooter and help layout facilities. Work with the EPA in permit of hot mix and active in association since 1980 including national safety. Prior to starting consulting as GM of plant engineer with major highway and included 25 plants and quarries. Purchase equipment, placement, evaluation and training. Based on 27 years experience in the industry knowledge of equipment used, prod process and market factors. Address equipment available for a facility.

I was informed code 35 feet height in MI where proposed is sited. I was informed if 200 ton silo manufactured by other than Gencore lower in height. I can state 200 ton is lowest and they make widest and outside 13ft 6" and silo don't come wider: 14 feet widest shipped by road and other special permit for state and escort and relocation on power lines in route. Second segregation of mix is a concern, and when mix in storage, larger the aggregate chance of segregation. The diameter must be considered for segregation. To prevent segregation important issued in hot mix and subject of many articles and creates potholes, the producer must meet separation. The Gencore shows height to 67ft and Astec is 72 ft7 inches and higher is smaller in diameter. They are two major manufacturers and storage or volume is function of height and diameter, Gencore has largest diameter and also the shortest. Cedar Rapids has 12ft 4" and 200 silo is higher than Gencore. The equipment sized to correspond to the market to the area. larger are available twice what is proposed. The plant in Goshen is no longer economical in this tight market – it is commercial – town, state, and other municipal authorities. The drum mix is most efficient. Expect to load one truck in Goshen – 3 tons at a time 20 tons need 7 mixes for each truck – wait while batch made and dropped and long wait time at Goshen plant or any batch plant. Here stored and eliminate truck wait and minimum run time for the plant. Drum mix proposed allow producer serve contractor and have mix available in quantity needed and operate few hours a day to produce material. The plant storage will limit actual prod time. Plant can be rated to run 400 to but may not be demand. If assume as public comment in opposition – produce maximum – operation 8 hrs/ 5 days week – available ton is 640 tons this would never be produced – no call for this much in the area. reviewed Gencore with 4 200ton and 8 100 ton and cost comparison as expected it should be – cost compare as I expect and operational increase for 8 100 ton is substantial consider maintenance power, safety and not feasible consideration. The 2 difference systems added expense. Proposed plant use recycled product beneficial environmentally and cost stand point. Plant proposed accept 50% recycle and Goshen plant does not have rap capability. Rap allows pavement to be reused and conserve non reusable resources. The economics of drum mix with hot mix as discussed account for high sale for drum as opposed for batch and outsell 10:1. proposed plant is appropriate for market and lowest profile and no other equipment lower in height feasible to use.

Rosemary Stack, Esq.: Have you in 27 years seen 8 – 100 tons?

Consultant: No, cost prohibited.

Rosemary Stack, Esq.: 100 ton is not economical for this applicant or other similar?

Consultant: Not feasible considering market place.

Rosemary Stack, Esq.: 400 ton is critical to make econo feasible?

Consultant: Yes.

Rosemary Stack, Esq.: Tight market

Consultant: Yes, it is as he stated, looking at 750k additional to put into cost of plant up front and that needs to be amortized of depreciation of plant and once do that 125+ ton not profitable.

Rosemary Stack, Esq: 100 ton not beneficial

Consultant: No benefit to lower silo or less capacity silo.

Ms Sullivan: What is the average out put for a silo?

Consultant: 125,000 ton is average in the US keeping mind we have plant 1,000,000 year and some that do 50,000 ton.

Ms Sullivan: Marketing evaluation prior to project is market is 150,000 tons.

Rosemary Stack, Esq.: You are familiar with market evaluations?

Consultant: This is very conservative in my opinion – you have growing community that demands a lot in next 10 plus years.

Ms Sullivan: You did market evaluation?

Consultant: No, he did and was called about 2 weeks to look at height and if height alternatives were available and reviewed quote Gencore submitted and they are reasonable and all assumption David Brachers made I agree with.

Ms Guenste: How many trucks per day? I have heard from 200 to 700?

Rosemary Stack, Esq: Don't have a figure off the top of my head. We don't think traffic is appropriate consideration and increase height affects impact on the public and that is PB the traffic figures suggested by Mr. Cameron and used in previous decision by PB are greatly exaggerated. It is highly prejudicial. In Mr. Tetz's statement the trucks which haul asphalt 22 to 25 tons and they based their study on 13 ton and doubles what we see on the road.

Ms Guenste: Estimated average –

Rosemary Stack, Esq: It is in the FEIS – as far as consideration goes traffic looked at asphalt as well as concrete and have been asked to move concrete plant.

Ms Guenste: Clear answer he owns on Rt 6 he already owns with access to 84 is not feasible which already has silos and same type of neighborhood. He has equipment there already. Don't understand asphalt plants and why that location appears more manufacturing and industrial has not been used to locate plant.

Rosemary Stack, Esq.: Not in the providence of this Board to suggest alternate locations. We relocate plants at request of the TOW. From his statement that is very clear – you can only haul so far it has to stay hot and it can't be laid down. The Wayawanda is added distance in the market area he wants to serve. This site does it, easy access the fact they own property to the north that has no silo is irrelevant to consideration for the Board and proposed plant concrete relocated by the Town of Wallkill and it's location, location and critical to concrete and asphalt because time sensitive between plant and where it delivery and not meet state specs and then cost on test they will not be paid an it would be wasted.

Any final comments. He has key points in response and move Loyola to document site visit with bucket truck for the record. Mr. Loyola will speak to height.

Ms Sullivan: Light or heavy industry?

Rosemary Stack, Esq.: Neither - it is industry and under code it is manufacturing use – concrete and asphalt and is simple manufacturing use mixing them.

Ms Sullivan: New master plan designates this as a use?

Rosemary Stack, Esq.: It continues industrial use.

Ms Sullivan: Are you comparing it to new master plan?

Rosemary Stack, Esq.: I think it is compatible and comments were specific to Mr. Cameron's 1974 did not permit that – govern is existing zoning and it allows this use.

Jim Ulrich: Submit tonight 12 page affidavit from Ross Winofitz, Civil Engineer. Briefly go thru points you go through

Height – if it create undesirable to neighborhood – it will not because of screening and it is a deep site and the planting and berms proposed screen proposed structure.

Visual – Mr. Loyola to present

Visual character of the neighborhood –view of Rt17, Marcy South power line and cell tower and to the north – many of structures over 35 feet height. Considering the area and screening of berm not a detriment. Key point in evaluating land use it is MI zone and adjacent to PID and does not have height restrictions and variances for Galleria 72 feet, etc.

Finally on character – the FEIS reviewed by the lead agency property value that facilities don't have negative impact .

If benefit achieved by other means – you have heard about asphalt equipment but concrete plant relocation was asked by TOW and we transplant to Philipsburg site – no reasonable alternative to concrete silo, batch or air pollution controls on top of the silos.

If it is substantial – it is not because of small visual mass – your zoning 35 feet of 23.1 acres on the site that would be substantial, i.e Wakefern, Yellow Freight. The plant is 420 and if 460 it would be higher if a building. It is not substantial in any way. Key element is it is lower than the existing tree line .

Adverse on neighborhood or district – proposed will not have effect and lead agency as part of FEIS height will not have adverse effect and location and screening mitigates it and confirmed by state preservation office who evaluates impact to such sites. Important to consider.

Self created- it is clearly not because what is proposed because proposed by the Town.

100 foot set back – go through 5 factors to evaluate and if undesirable to nh or detriment to owners – because of the historical use it has been a mine and excavated within 100 feet. The impact is minimal.

Minimal grading for road is 2.5 to 5 and as much as 8 to asphalt plant – re-accessing into the road and necessary feature to get road cut to asphalt plant at acceptable grade.

Proposed is consistent with other in MI – again traffic, cultural resources – zoning will have impact regardless of what is on the site. The impact – it has been disturbed. Key element is cemetery law does not prohibit road but excavating. Leaving Cemetery Road into the site and into the plant where we leave 100 the dash line is there and solid line to show difference.

If benefit achieved by other method feasible other than area variance – one key issue is site access. You have heard other access feasible – there is not. 50 foot wide stem on south end from the site but if you look at the plan that site land surface rises 85 feet to peak over 545 foot run or 15.6% grade and not good for truck you r maximum grade is 10% and width of stem prohibits cutting for access so historical entrance is sole feasible access.

Existing drive can't meet unless the proposed changes are made and fire department and width proposed is minimum that can achieve that with 24 foot road and 6ft shoulders.

Improvements on Cemetery Road vertical curve does not meet highway standards but we propose minimum to stop sight distance and benefit all not just applicant.

Last presentation and in detail in my letter – physical why we need to be in 100 foot buffer – from avoiding wetland and limit process area and storage area it has been reduced to smallest size and alternatives, i.e 100 ton not site space and would push us further into the 100 ft buffer.

Third factor is if it is substantial – it is not because they revised plant to place outside 100 feet and excavation and grading in areas already done and depicted on profile shown and take a

month and screening is placement of fill material. Where show berm not digging down but build up and important you recognize that fact. This is less impact and permitted 1998 was to 25 feet to property line and well out from that from what we propose. A gain not substantial it follows terrain and tried to bench the plants and processing area to top to minimize impact and reduced to less substantial to accommodate use. Elements as part of site plan elements are statutory and can't reduce and cut to be insubstantial as possible.

Adverse to the neighborhood - key thing is going to Sequa record - we have worked for 1.5 years and EIS report document show all potential impact to this variance are adequate mitigated and submitted to board. With respect to cemetery go back to NYS letter Historic Preservation this project not have adverse affect.

Not go into details of planned elements. Important to see roadway keep in Wallkill Cemetery that are in property.

Need for variance is tied we are being requested to move concrete plant by the town. If only asphalt plant stay out of 100 feet and following mandate and why we are here.

Ms Guenste: It was not the Town Board that mandated this. Did not hear that at a meeting.

Rosemary Stack, Esq.: Statement has copy of agreement and 2 votes by the Town Board authorizing supervisor to sign this.

Ms Sullivan: Did that state this location or other?

Rosemary Stack, Esq.: The Memorandum of Understanding speaks for itself.

Alpine: Only comments for height and set back and have heard other comments on air, etc. special put us within the 100feet.

Mr. Johnson: Any attempt to acquire adjacent property to move access road beyond 100 feet and higher on Philipsburg Road and grade less and have access to site.

Alpine: We would still have to grade as not adequate visual - too steep.

Mr. Johnson: If go up here you can see and then down.

Alpine: Not what you can see - it is what they can see. It has not been on the table and not controlled by the applicant.

Peter Loyola: ASLA: visual consideration for this facility. Basically what Ulrich said it is old sand gravel pit, lot elevation and best location . created by former mining operation. Our job is to look at DEIS and what can be seen from where. We determined that the plant silo not visible from almost all locations. Visual mitigation is important and lengths to have to go to for berm planting and screening to screen the silo on the plant. Retaining 35 feet from the property line not sure if that was discussed. Existing vegetation on property line which will not be removed. The 10 to 18 foot berm and enhancing create buffer of 55 to 65 feet which is more than adequate to effectively screen the silo.

Showed buffer planting plan (buffer, tree line) the tree line will not be touched. To explain our visual process – we responsible for visual contents and look at visual around us. They are not incompatible and typical of what you see in small communities.

Looked at Rt 17 south of the site and how it looks in visual profiles. What really will be seen. Field analysis – balloons not updated for site visit on 10/29 balloons flown at 72 foot height and photo are at 5 foot higher than in existence. Field surveillance and photo at leaf-off situation. The simulation that were prepared and went to lengths to software to get accurate and precise photos.

Visual profile (showed) Joanas Estate and future subdivisions south of site and the cemetery which are key profiles looked at. Visual profile as pointed out here (pointed out on power point presentation) the silo relocated visually to see Jonadas Estate and Owens Road due to dense vegetation. High and low points in the cemetery. This is significant berm existing along with vegetation on property line. There is undulations in the cemetery and at Midway Road if silo at top of topo here (drawing) virtually can't see them. You can see from the topo you have to be concerned of silo and height but clearly unrecognizable.

(visual powerpoint presentation to include😊)

View from Rt 17 West 90 degree view and proposed silo would look like not above tree line well within landscape and surrounded by existing landscape and estimate total height is 20 feet. In most leaf off condition and leaf on not visible.

Existing view from Cemetery Road - We show buffer area existing is mixture vegetation and on site and not be touched.

Proposed view from cemetery road (with berm and planting)

Proposed view from Midway Road with berm and planting.

Berm with 10yar planting.

Veterans Memorial and 18 foot berm with immediate planting.

These are character photos with leaf on conditions and significant.

Height consideration – no substantial.

Esq.: we have written submission (entered into the record) tell the photos and answer questions.

On 10/29 we did GPS locations with photos taken from vantage point. There are primarily focus cemetery. Boom was at 68 feet.

On 10/29 on site visit difficult to see height of boom from Crystal Run Road.

Photo #2 from midway road – difficult to see boom the boom is in thee difficult to see with naked eye and not encroach on horizon line.

Photo #3 boom height confirmed height of balloon of DEIS and our height was correct in photo simulation.

Photo #4 very difficult to see boom from this location- these locations were at request of ZBA and took photos where asked to.

Mr. Mattatall: Those sites were mentioned by people who made mention of it or had people buried at those sites.

Photo #5 boom shows in that area there.

Photo #6 berm and high point next to flag difficult to see boom and not within skyline or horizon line.

Rosemary Stack, Esq.: You heard testimony of 100 ton silo on market but not feasible would it change analysis

Mr. Loyola: Absolutely not – 15 feet lower would not change it.

Rosemary Stack, Esq.: One clarification with road profile – info is on the site plan and shows proposed and existing contours. In the record since the beginning. The application has not been changed and gave list of equipment height and nothing changed and have been up front and accusations by others that mis information and may be mis interpretation as he was not at all meetings. Just to summarize the Board is basically overriding is balancing test of benefit to applicant and detriment to community. We are seeking minimum variances and went to Gencore for widest and lowest. The original quote was 300 ton and down size to 200 ton. Also minimum Cemetery Protection Law and stay 50 feet back from the and same as Goshen. Archeologist reviewed and state historian association and moved back on plan 35 feet to retain existing and place berm within further into the site 15 feet or 50 feet which is minimum.

Go back to balancing test here it is important locate in MI district and something benefit to the community and to the Town from the existing to Philipsburg Road for cement – relocate the town develop and business and provide lower cost asphalt to community and average consumer, tax payer and residents. Equipment plant with environmental sound equipment and thorough environ review and only feasible equipment that is possible to locate on the site and agree to move to area town no longer wants them in. 6 houses on the road and the cemetery and decided y town MI is appropriate for this location.

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

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

Mr. Mattatall: I Move to close the Public Hearing at 11:58 pm.; Seconded; All in favor; Motion carried.

Public: The attorney makes a presentation, the Public Hearing, 2 hours of rebuttal specified by the applicant and as part of order, rebuttal is written?

Mr. Mattatal: The public gets the final rebuttal. We have had the same people come up with almost identical information you can give us a final written rebuttal on the issues.

Public: The final rebuttal is a written and want to make it clear what ever rebuttal we get we will not get rebuttal from them.

Mr. Mattatal: It will be made available to the public.

Rosemary Stack, Esq.: I agree rebuttal from both sides and don't think it is due process to have applicant with prejudicial info provide and his office called me a liar on 3 submissions. The applicant should have the last word in this matter.

Mr. Mattatal: Both sides can consider their statements in writing.

J Owen, Esq.: Said both sides does not mean representing people from Goshen. You can consider what ever you want in the next 10 days.

TOWN OF WALLKILL ZONING BOARD OF APPEAL  
DECISION SHEET

November 14, 2005

Sue Casareale / Glen Brinckerhoff Request for a variance of 249-19-D:  
1 ) side yard from 40ft to 37ft;  
2 ) both side yards from 100ft to 83ft;  
Property located at Highland Lake Road  
SEC 64 BL 1 LOT 48.1;  
Designated RA

DECISION: Variances granted.

Ronald C. Johnson, Jr. Request for a variance of 249-8-5 (accessory building) and  
249-20-D (front yard):  
3) accessory building (24x24ft) in front of the principal  
building;  
4) front yard from 35 to 20ft;  
Property located at 21 Crane Road  
SEC 87 BL 2 LOT 6  
Designated R2

DECISION: Variances granted.

Lewis Sign (D. Napolitano, MD) Request for a variance of 249-11-J-5(a): Sign as proposed  
on drawings dated on 9/19/2005 and submitted.  
Property located at 465 East Main Street  
SEC 50 BL 2 LOT 20  
Designated HC

DECISION: Variance granted subject to:  
If the sidewalk is installed the sign must conform  
with the current Town Code(s).

Elba I. Martinez Request for a variance of 249-22-D:  
4) side yard from 15ft to 3ft;  
5) side yard from 15ft to 3ft;  
6) rear yard setback from 30ft to 17ft;  
for construction of a deck.  
Property located at 21 Old Anvil Lane  
SEC 89 BL 3 LOT 73  
Designated R1.

DECISION: Variances granted.

Middletown Honda

Request for a variance of 249-11-D-12 (sign):  
1) directional illuminated sign (30" tall; 4' wide = 10 sq/ft face) and as presented.  
Property located at 520 Route 211 East  
SEC 41 BL 1 LOT 48  
Designated HC

DECISION: Variance granted.

Donna Bierstine

Request for a variance of 249-19-D:  
2) side yard from 40ft to 36ft 6"  
for construction of a deck.  
Property located at 80 Gordon Road  
SEC 12 BL 1 LOT 4.1  
Designated RA

DECISION: Variance granted.

Alta East

Request for a variance of 249-8 (area variance) to permit canopy over fueling station in front of principal building.  
Property located at NYS 302 and NYS Rt 17 (east bound ramp)  
SEC 22 BL 3 LOT 54  
Designated PID.

CONTINUE TO DECEMBER 12, 2005

Michael D. Ross

Request for a variance of 249-22 (rear yard):  
2) rear yard from 30ft to 21ft for each deck on a 2 family house.  
Property located at 142 Belmont Avenue  
SEC 76 BL 5 LOT 4  
Designated R1

APPLICANT NOT PRESENT

Michael and Carla Leary

Request for a variance of 249-19-D:  
3) front yard set back from 60ft to 34ft;  
4) rear yard set back from 70ft to 55ft;  
for a living room addition.  
Property located at 108 Howells Road  
SEC 32 BL 1 LOT 23.1  
Designated RA

DECISION: Variances granted.

Elliott and Rose Volaski

Request for a variance of 249-8-A and 249-3  
3) accessory building closer to the front lot line than the principal building;  
4) accessory building from 28x28ft to 12 x 38ft; for wooden storage building.  
Property located at 61 Boyd Road  
SEC 60 BL 1 LOT 60.11  
Designated RA

DECISION: Variances granted.

CONTINUANCE:

E. Tetz and Sons, Inc.

Request for the following variances:  
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

CONTINUED TO DECEMBER 12, 2005

VARIANCE EXTENSION:

Fred Vilestra:

Request for a six month extension on variances granted:  
1) lot area from 2 acres to 1 acre (249-19-D-01);  
2) lot width from 200ft to 153ft (249-19-D-01);  
Property located on Daly Road (64-1-31); Designated RA.

Six month extension granted.

Andrew and Judith Sarantapolas

Request for a six month extension on variances granted:  
1) area from .75 acre to .34 acre;  
2) width from 150ft to 100ft;  
3) setback from 200ft to 150ft;  
Property located at 31 MacIntosh Drive; Designated R2.

Six month extension granted.

Joseph A. Brown  
(Formerly known as TAC Assoc.)

Request for six month extension on variances granted and extended:

- 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.