

TOWN OF WALLKILL  
ZONING BOARD OF APPEALS

NOVEMBER 14, 2011

PRESENT:

Mr. V. Biondollilo  
Mr. K. Dunn  
Mr. E. Johnson, Chairperson  
Ms. S. Najac  
Mr. Rotundo  
Mr. R. de Roziere  
Ms J. Schultz

Richard Guertin, Esq.

MEETING OPENING:

The November 14, 2011 Meeting opened with the pledge to the flag followed by the roll call and presentation of the August 8 and October 17, 2011 meeting minutes.

Mr. Johnson: I Move to accept the August 8<sup>th</sup> Meeting Minutes with correction on Page 2 regarding notice not being published; Seconded (Biondollilo); All in favor; Motion carried.

Mr. Johnson: I Move to accept October 17, 2011 Minutes; Seconded; All in favor; Motion carried.

The following Public Hearings were conducted, Six Month Extensions reviewed and Public Hearings reviewed for December 12, 2011 as noted.

Six Month Extensions:

Mary Winter

Mr. Johnson: We have received a request for an extension for Mary Winter who is in the process of filing a building permit and was delayed getting letters of approval from engineers and taken longer than expected.

Mr. Johnson: I Move to grant a six month extension to variances granted on 5/9/11 of 249 (area): 1) Area: Lot #1 – 3 acres to 0.65 Lot #2 – 3 acres to 0.89; 2) Depth: Lot #1 – 300ft to 142.4ft Lot #2 – 273.5ft; 3) Front yard: Lot #1 – 60ft to 11.1ft; 4) Side yard: Lot #1 – 40ft to 38.9ft Lot #2 – 40 to 26.5ft; 5) Both side yards: Lot # 2 - 100ft to 79.5ft; 6) Frontage: Lot # 1 – 200ft to 0.0ft Lot #2 – 200 to 93ft; To make less conforming lot more conforming. Property located on 229 York Road (3-2-4) and Designated RA; Seconded (Najac); All in favor; Motion carried.

Mr. Johnson: A six month extension is granted.

Marcin Kalski

Mr. Johnson: A six month extension was requested from Ms Kalski due to the fact that work was unable to begin until October 1, 2011 as she was working with the DEC because of an indigenous endangered Indian Bat population. About 25% of the project is completed.

Mr. Johnson: I Move to grant a six month extension from May 9, 2011 of 249-8(a)(5) (oversized accessory building): 1) accessory in front of primary; 2) accessory from 28x28ft to 48x18 ft; 3) number of accessory buildings: 1 barn and 2 utility buildings. The property located at 282 Lybolt Road (12-1-100) and Designated RA; subject to the barn, riding rink and out buildings be used for personal use only; Seconded (Biondollilo); All in favor; Motion carried.

Cardona (Mt Joy Road) (60-1-118)

Mr. Johnson: We have receive a request for an extension of variances granted in December 2009. This well exceeds the six month limitation. The application will need to be re-applied for (2 lot sub division).

Jerry and Gina Cardona: Request for variance of 249-19(D): Lot #1: 1) lot width from 200 ft to 152ft; 2) front yard from 200ft to 140ft; 3) side yard from 40ft to 30ft; Lot #2: 1) lot width from 200ft to 162ft; 2) front yard from 200ft to 139ft; Property located at 290 Mt. Joy Road (60-1-118); Designated RA. DECISION: Variances granted SUBJECT TO: No further variances being granted to these lots.



Mr. Johnson: I Move to grant the following variances:

- 1 Area from 18,750 sq/ft to 13,200 sq/ft
- 2 Depth 125ft to 110 ft
- 3 Front yard 35 ft to 30.7 ft
- 4 Rear yard 30 to 16.9ft
- 5 1 side yard 20 to 16.4ft
- 6 2 side yards 40 to 33ft

Seconded (Dunn)

DISCUSSION:

Mr. Johnson: This is a pre-existing and non-conforming and existing with his existing structure and improving the neighborhood.

VOTE:

In favor (7) Rotundo, Dunn, Biondollilo, deRoziere, Najac, Schultz, Johnson

Opposed (0)

DECISION:

Mr. Johnson: The variances are granted, please proceed to the Building Department.

Glen Brinkerhoff:

Request for a variance of 246-26(D):

- 1) Side yard from 60ft to 34ft;
- 2) 1 side yard from 40ft to 21ft;
- 3) 2 side yards 100 to 55ft;
- 4) 3 acres to 41,011 sq/ft;
- 5) Frontage from 250 ft to 85ft; and,
- 6) Existing secondary structure closer to front yard lot line from 5ft to 2.5ft (Second Biondollilo)

Property located at 637 Mount Hope Road  
(65-1-22)

Designated RA

Mr. Johnson: The mailings were reviewed by the Board and filed for the record.

Ms Najac: The Public Hearing Notice was read at 7:55 pm.

Mr. Johnson: I Move to open the Public Hearing at 7:56 pm. Present your request please.

Mr. Brinkerhoff; The addition my dad put on in the early '70s did not have a permit but first need side and rear lot variances and all are pre-existing.

Mr. Johnson: For 30 or more years?

Mr. Brinkerhoff: Yes.

Mr. Johnson: I Move to close the Public Hearing at 7:57 pm.

Mr. Johnson: I Move to grant the following variances:

- 1) Side yard from 60ft to 34ft;
- 2) 1 side yard from 40ft to 21ft;
- 3) 2 side yards 100 to 55ft;
- 4) 3 acres to 41,011 sq/ft;
- 5) Frontage from 250 ft to 85ft; and,
- 6) Existing secondary structure closer to front yard lot line from 5ft to 2.5ft (Second Biondollilo)

DISCUSSION:

(None)

VOTE:

In favor (7) Rotundo, Dunn, Najac, Schultz, deRoziere, Biondollilo, Johnson

Opposed (0)

**DECISION:**

Mr. Johnson: The variances are granted and good for six months. Please see the building department and if you have not started work in that time, come in before six months is up and request an extension.

Melissa &  
Volke R Czechowski:

Request for a variance of 249-8 (accessory)  
1) Permit 2<sup>nd</sup> accessory structure on the property  
Property located at 2440 Rt 302  
(14-2-33)  
Designated R2

Mr. Johnson: The mailings were reviewed by the Board and filed for the record.

Ms Najac: The Public Hearing Notice was read at 8:01 pm.

Mr. Johnson: I Move to open the Public Hearing at 8:02 pm.

Mr. Czechoweski: I would like to put up 20x12 shed for lawn mowers and will be 2<sup>nd</sup> accessory shed.

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

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

Mr. Johnson: Anything further from the Board? (no)

Mr. Johnson: I Move to grant the following variance: second accessory building from 1 shed allowed to 2 requested; Seconded (Biondollilo).

DISCUSSION:

(None)

VOTE:

In favor (7) DeRoziere, Schultz, Najac, Biondollilo, Dunn, Rotundo, Johnson

Opposed (0)

DECISION:

Mr. Johnson: The variance is granted, please see the building department and remember the variance is valid for six months.

Everett Evans, Jr.:

Request for a variance of 249 (setbacks) and 249-19 (area)

- 1) Front yard from 60 to 40ft;
- 2) Rear yard from 70 to 50ft;
- 3) Area from 3 acres to 1.06 acres;
- 4) Lot depth from 300ft to 118ft;

Property located at County Hwy 18 and Bendlin Ln (33-3-5)

Designated RA

Mr. Johnson: The mailings were reviewed by the Board and filed for the record.

Ms Najac: The Public Hearing Notice was read at 8:05 pm.

Mr. Johnson: I Move to open the Public Hearing at 8:06 pm. Please present your application.

Mr. Evans: I want to put a single residence on the old railroad bed and using 1.6 acre one piece - all hooked together. It is legally attached. The tax role has it as one.

Mr. Johnson: You purchased the 6.5 acres in 1988?

Mr. Evans: Yes.

Mr. deRoziere: The survey map submitted – all says preliminary. Was this subdivided from the map. On Tax map it shows 6.8 acres?

Mr. Evans: The tax accessors did that.

Mr. deRoziere: It is all one tax ledger. Seems like you are sub-diving prematurely. On this survey you have section 33-3-5 that does not exist on tax roll or on OC tax ledger.

Mr. Evans: I just paid taxes.

Mr. DeRoziere: You paid on whole piece. The paperwork does not line up.

Mr. Johnson: You still need the variances – the lot on the map – if you left whole 6 acres and included it like that – you still need variances except for area. Easier to process. Would or could you do that.

Mr. Evans: The Scott who make the map went out of business and lost the maps over the years.

R. Guertin, Esq.: You need to come back with deed and tax bills and show what you pay for and what you own.

Mr. Johnson: We can amend the application that it is not for the 1.6 acres but the whole piece. You don't need to republish.

Mr. Evans: I will do that.

John Benlin (Public): Are these 2 separate lots?

Mr. Johnson: One big lot.

Mr. Benlin: If the railroad bed is another lot what happens then?

Ms Najac: Make decision on the one lot – do you want to see the map (and so he did). He has asked for variance on the one piece.

Mr. Johnson: We are not sure if it is one lot or the one lot plus the land making the 6 lots.

Mr. Benlin: Is this a repeat of one from several years ago?

Ms Najac: Yes.

Mr. Johnson: This is being continued to next month on the 12<sup>th</sup>.

Nancy Tomaschewski (Public): I came to the Town and for in RA he needs 3 acres – the lot is too small and he would need 3 variances. My concern is the septic and cresol from the old railroad bed. There is a lot of shale and when they went to widen the road up further they did not do it because it was so expensive.

Mr. Johnson: The Building Department will look at those issues. Clearly there is a 6 acre lot that exists. That would need some variances and need to remember that it existed before the zoning.

Ms Tomascheski: How big?

Mr. Evans: 30x76ft.

Mr. Benlin: You own across the street?

Mr. Evans: Yes.

Mr. Benlin: The island across you own?

Mr. Evans: It is 20 feet wide and the Town owns it.

Mr. Tomaschewski: Any perks?

Mr. Evans: Yes, they were done.

Mr. Johnson: That is the building department we grant reliefs for set backs. Each case is unique – when it is purchased and when zoning is enacted. For zoning – we look at if the benefit can be achieved by other means, and in 2003 granted permission – is it undesirable change to the neighborhood? Look at other houses. If it is substantial? Look at what the percentage is. If

there is environmental issues? That has to be done with septic and well set backs. If hardship is self-created?

Ms Tomaschewski: I was told he got it in 1991.

Mr. Johnson: We will see that next month.

R. Guertin, Esq.: Can't get a CO until it passes.

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

Mr. Johnson: I Move to continue the application to December 12, 2011 for additional paperwork and modification to the application; Seconded.

Cuddy & Feder (CVS):  
(G.B. Northeast 2, LLC)

Request for a variance of 249-12(F) (parking)  
1) From 75 spaces to 64 spaces for off-street  
parking;  
Property located at intersection of Rt 211 and  
Silver Lake Scotchtown Road  
(50-1-39 & 50-1-42)  
Designated HC

Mr. Johnson: The mailings were reviewed by the Board and filed for the record.

Ms Najac: The Public Hearing Notice was read at 8:22 pm.

Mr. Johnson: I Move to open the Public Hearing at 8:23 pm. Please present your application.

Dan Leary, Esq.: Representing CVS: proposing a store at intersection of Rt 211 and proposing a store and a landscaping element as well. We are in HC zone and in that permitted use subject to site plan approval and during that we need parking variance no less than 64 spaces for the store that we have put in narrative shows why we are entitled and parking analysis VHP who also did the parking plan and here to answer your questions. Everything is in the materials and can answer any questions from the Public.

Mr. Johnson: 75 to 64 and HC will remain?

Dan Leary, Esq.: We are totally ADA compliant.

One point – I spoke to Mr. Guertin about SEQRA – it is an unlisted action and did a short environmental assessment form. It is your decision and you act on that.

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

Mr. Johnson: Any comments or questions from the Public? (No)

Mr. Johnson: I Move to close the Public Hearing at 8:26 pm; Seconded (Najac); All in favor; Motion carried.

Mr. Johnson: I Move that this Board is acting as the lead agency and views this as an unlisted action and negative declaration for the purposes of SEQRA; Seconded (Biondollilo); All in favor; Motion carried.

Mr. Johnson: I Move to grant the following variance of 249-12(F) (parking) from 75 spaces to 64 off street parking spaces; Seconded (Dunn).

DISCUSSION:

(None)

**VOTE:**

In favor (7) Rotundo, Biondollilo, Dunn, Najac, Schultz, deRoziere, Johnson

Opposed (0)

**DECISION:**

Mr. Johnson: The variance is granted, please continue with the process and see the Building Department.

Leon A. Drake, Jr.:

Request for a variance of 249-19(D)(1) (setbacks)

- 1) Rear yard from 70ft to 47ft;
- 2) Front yard from 60ft to 50ft
- 3) Lot area from 3 acres to 1.14 acres;
- 4) Lot depth from 300ft to 148.7ft

Property located at 205 Banke Road  
(1-1-26.1)  
Designated RA)

Mr. Johnson: The mailings were reviewed by the Board and filed for the record and noted that they were mailed at 14 days; no one from the Public was present.

Ms Najac: The Public Hearing Notice was read at 8:31 pm.

Mr. Johnson: I Move to open the Public Hearing at 8:32 pm. Please present your application.

Dan Yanosh: He wants to remove existing trailer in bad shape and put in a house. The lot is very thin and need a rear set back. We need acres 3 acres to 1.4 and front yard 60 to 50 to give leighway with a porch in the front in the future.

Mr. Johnson: Any questions from the Board?

Mr. Johnson: Any comments or questions from the Public? (No)

Mr. Johnson: I Move to close the Public Hearing at 8:35 pm; Seconded (Biondollilo); All in favor; Motion carried.

Mr. Johnson: I Move to grant the following variances of 249-19(D)(1): 1) rear yard from 70 to 47ft; 2) front yard from 60 to 50ft; 3) area from 3 acres to 1.14 acres; 4) lot depth from 300 to 148.7ft; Seconded (Najac).

DISCUSSION:

(None)

VOTE:

In favor (7) Najac, Schultz, deRoziere, Biondollilo, Dunn, Rotundo, Johnson

Opposed (0)

DECISION:

Mr. Johnson: Variances are granted – see the building department.

David L. Ainbinder:

Request for a variance of 249-8(5) (setbacks) and 249-19 (area):

- 1) Front yard from 60 to 56ft
- 2) Rear yard from 70 to 64ft
- 3) Side yard from 40 to 30ft
- 4) 2 side yards from 100 to 38ft
- 5) Lot depth from 300 to 135 ft
- 6) From 3 acres to 1 acre
- 7) Accessory structure in front of primary building
- 8) Accessory located from 5 to 2.8 ft from property line

For construction of a 24 x 24ft garage  
Property located at 346 Shawangunk Road  
(3-1-48)  
Designated RA

Mr. Johnson: The mailings were reviewed by the Board. The mailings were sent on the 1<sup>st</sup> of November and the Board feels substantial time was given and the is not present nor has the public has not shown up with concerns for the project.

Ms Najac: The Public Hearing Notice was read at 8:37 pm.

Mr. Johnson: I Move to open the Public Hearing at 8:38 pm. Please present the application.

Dan Yanosh: This is an existing house with a garage and needs more room for storage of vehicles and there is a lake in the back, pine trees and an oak. Septic in the front. It is landscaped and wants 24x26 garage to store 2 more vehicles. Existing lot needs front, rear and side yards. It is pre-existing.

Mr. Johnson: All are pre-existing other than accessory in front of the primary dwelling. The existing garage is 2.8 feet from property line.

Mr. Johnson: Are there any questions from the Board? (No)

Mr. Johnson: Any questions or comments from the Public? (No)

Mr. Johnson: I Move to close the Public Hearing at 8:41 pm; Seconded (Najac); All in favor; Motion carried.

Mr. Johnson: I Move to grant the following variances for a 24x24ft accessory building: 1) Front yard 60 to 56; 2) Rear yard 70 to 64ft; 3) Side 40 to 30ft; 4) 2 side yards 100 to 38ft; 5) Lot depth from 300 to 135ft; 6) Accessory structure in front of primary structure; 7) Accessory structure from 5 ft to 2.8 ft from property line; Seconded (Schultz).

DISCUSSION:

Mr. Johnson: All variances are currently existing for current structure.

VOTE:

In favor (6) Rotundo, Biondollilo, Najac, Schultz, deRosiere, Johnson

Opposed (0)

Recues (1) Dunn

DECISION:

Mr. Johnson: The variances are granted and good for six months and if work has not started in that time, please come back before then to request an extension.

HEARING REVIEWS: (December 12, 2011)

Rock City Media:

Mr. Johnson: Please give us a brief description.

Applicant: From the road to property line – we need 75 down to 35 and going 10 feet and be 50 feet from the road. The address is on Rt 302.

Mr. Johnson: The address is 2618 Rt NYS 302 is the address.

Mr. Johnson: Date the property is acquired is needed also needs to be provided.

Mr. Johnson: The front yard – 35ft from the property line and you will be 10 feet. There is an easement. 10 feet from the easement then or 40 from the road.

Mr. deRoziere: Why not farther back?

Applicant: The billboard is 25 feet high – closer to the road so it can be seen.

Mr. Dunn: What is it for?

Applicant: For a billboard company.

Mr. Johnson: I Move to hold a Public Hearing for ROCK CITY MEDIA on December 12, 2011 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

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

**MEETING CLOSE:**

Mr. Johnson: There being no further items to be presented to the Board, I Move to close the Public Hearing at 8:51 PM; Seconded; All in favor; Motion carried.

TSB:jcd

TOWN OF WALLKILL  
ZONING BOARD OF APPEALS

DECISION SHEET

NOVEMBER 14, 2011

Alan Dulgarian

Request for a variance of 249-22(area):

- 1) Area from 18,750 sq/ft to 13,200 sq/ft;
- 2) Lot depth from 125 ft to 110ft;
- 3) Front yard 35 ft to 30.7 ft;
- 4) Rear yard from 30ft to 16.9 ft;
- 5) 1 side yard from 20ft to 16.4 ft;
- 6) 2 side yards 40 to 33 ft;

Property located at 59 Bellevernon Avenue  
(77-4-15.1)

Designated R-1

DECISION: Variances granted

Glen Brinkerhoff:

Request for a variance of 246-26(D):

- 1) Side yard from 60ft to 34ft;
- 2) 1 side yard from 40ft to 21ft;
- 3) 2 side yards 100 to 55ft;
- 4) 3 acres to 41,011 sq/ft;
- 5) Frontage from 250 ft to 85ft; and,
- 6) Existing secondary structure closer to front yard lot line from 5ft to 2.5ft;

Property located at 637 Mount Hope Road  
(65-1-22)

Designated RA

DECISION: Variances granted

Melissa &  
Volke R Czechowski:

Request for a variance of 249-8 (accessory):

- 1) Permit 2<sup>nd</sup> accessory structure on the property

Property located at 2440 Rt 302  
(14-2-33)

Designated R2

DECISION: Variance Granted

Everett Evans, Jr.

Continue to December 12, 2011

Cuddy & Feder (CVS):  
(G.B. Northeast 2, LLC)

Request for a variance of 249-12(F) (parking):  
1) From 75 spaces to 64 spaces for off-street parking;  
Property located at intersection of Rt 211 and  
Silver Lake Scotchtown Road  
(50-1-39 & 50-1-42)  
Designated HC

DECISION: Variance granted

Leon A. Drake, Jr.:

Request for a variance of 249-19(D)(1) (setbacks):  
1) Rear yard from 70ft to 47 ft;  
2) Front yard from 60ft to 50 ft;  
3) Lot area from 3 acres to 1.14 acres;  
4) Lot depth from 300ft to 148.7 ft;  
Property located at 205 Banke Road  
(1-1-26.1)  
Designated RA

DECISION: Variances granted

David L. Ainbinder

Request for a variance of 249-8A(5) (setbacks)  
1) Front yard from 60 to 56ft;  
2) Rear yard from 70 to 64ft;  
3) Side yard from 40 to 30ft;  
4) 2 side yards from 100 to 38ft;  
5) Lot depth from 300 to 135 ft;  
6) From 3 acres to 1 acre;  
7) Accessory structure in front of primary building;  
8) Accessory located from 5 to 2.8 ft from property line;  
For construction of a 24 x 24ft garage  
Property located at 346 Shawangunk Road  
(3-1-48)  
Designated RA

DECISION: Variances granted

Six Month Extensions:

Mary Winter (5/9/11)

Request for variances of 249 (area):

- 1) Area: Lot #1 – 3 acres to 0.65 Lot #2 – 3 acres to 0.89
- 2) Depth: Lot #1 – 300ft to 142.4ft Lot #2 – 273.5ft
- 3) Front yard: Lot #1 – 60ft to 11.1ft
- 4) Side yard: Lot #1 – 40ft to 38.9ft Lot #2 – 40 to 26.5ft
- 5) Both side yards: Lot # 2 - 100ft to 79.5ft
- 6) Frontage: Lot # 1 – 200ft to 0.0ft Lot #2 – 200 to 93ft

To make less conforming lot more conforming

Property located on 229 York Road

(3-2-4)

Designated RA

DECISION: Variances granted 5/9/11

Six month extension granted 11/14/11

Marcin Kalski

Request for a variance of 249-8(a)(5) (oversized accessory building)

- 1) accessory in front of primary
- 2) accessory from 28x28ft to 48x18 ft;
- 3) number of accessory buildings: 1 barn and 2 utility buildings

Property located at 282 Lybolt Road

(12-1-100)

Designated RA

DECISION: Variances granted 5/9/11, and subject to:

Barn, riding rink and outbuildings be used for personal use only.

DECISION: Six month extension granted from 5/9/11 and subject to the above.

Cardona (Mt Joy Road)

Requests for variances granted on two (2) lots, December 2009.

(60-1-118)

DECISION: Applicant to reapply for variances to the Zoning Board of Appeals