

TOWN OF WALLKILL ZONING BOARD OF APPEAL

MEETING MINUTES

DECEMBER 12, 2005

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

Randall Coffil, Esq.

MEETING OPENING:

The December 12, 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 November 14, 2005 Meeting Minutes.

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

The following correspondence was addressed; Continuances held, Public Hearings were heard, discussed and voted upon as noted; and applications reviewed for the January 9, 2006 meeting and application continued.

CONTINUANCE:

E. TETZ & SON: 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
Designated: MI

Rosemary Stack, Esq.

Mr. Mattatall: (7:42 pm) We have come to the completion of this application. Do you have any thing else to add?

R. Stack, Esq.: Just to let you know that the lead agency, the Planning Board, did vote on the Sequa and it was to be forwarded to this Board.

Mr. Mattatall: We received it.

Mr. Matatal: Ladies and Gentlemen, the application from E. Tetz & Son will be voted upon in a few minutes. It has generated comments and responses from a broad spectrum of our Town residents and neighbors.

This Board is constrained to consider only two (2) interpretations and two (2) variances regarding this project.

The first interpretation is defining an excavation as described in the Cemetery Law. Absent the requested input from the Town Board regarding their intent when they voted in this Law, I am using the clearest definition I was able to find.

The second interpretation is deciding if the proposed silos are buildings under the Town Code. This is basically a ‘yes’ or ‘no’ issue.

The variances will be decided on their individual merit based upon the reasonableness of the request. As stated before, this Board has received substantial input that ran the gambit from emotional appeals to informed technical explanations from experts in their fields. We have also to consider the opinions of the Orange County Planning Department and the New York State Office of Parks, Recreation and Historic Preservation. Neither agency stated opposition to this project at the site in question.

The Members of the Board have reviewed the submitted documents and personally gone to inspect the site. Again, I assure you that the decisions made on this application will be made by informed members who have carefully considered all aspects of the issue.

The interpretation of ‘excavation’ as referred to in the Town Code – the clearest definition I could find’s source is from the Virginia Poly Tech’s Environmental Safety Department. It reads

that “excavation is any man made cut, cavity, trench or depression in an earth surface formed by earth removal”.

Mr. Mattatall: I Move to accept the definition of the Town of Wallkill Code (249-8.1.C91) shall be interpreted to mean ‘any man-made cut, cavity, trench or depression in an earth surface formed by earth removal’; Seconded (Morgan).

DISCUSSION: (None)

VOTE:

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

DECISION:

Mr. Mattatall: The definition has been accepted.

Mr. Mattatall: The second is for an interpretation if ‘silo’ would fall under ‘buildings: a structure wholly or partially enclosed withing exterior walls and a roof, affording shelter to persons, animals or property’ in the Town Code 249-3.

Mr. Mattatall: I Move to accept the definition of the Town of Wallkill Code (249-3) shall be interpreted to mean ‘building: a structure wholly or partially enclosed within exterior walls and a roof, affording shelter to persons, animals or property’; Seconded (Morgan).

DISCUSSION: (None)

VOTE:

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

Mr. Mattatall: The remainder of the application goes to the following variances. There is a lot of issues involved but as previously said, we are narrowed to the zoning issue - the rest is Planning Board with respect to noise, trucks and they are the lead agency with Sequa and their impact on each individual issue we vote on.

encroachment of 100 feet to the lot line.

Mr. Mattatall: I Move to grant a variance of 249-27D (lot building standards) to allow silos and conveyors to be constructed 68 feet high; Seconded (Morgan).

DISCUSSION:

Mr. Johnson: due to the topo, the visual impact would be minimal.

Ms Guenste: I agree with Mr. Johnson, I walked the entire cemetery – walked it when you had the boom up and one area where visible you have shown raised buffering and vegetation.

Mr. Morgan: I believe the silos are buildings as far as structures – it will be minimal to be seen and no hazard to the Public and no eyesight problems.

Ms Raffo: Because of the lay of the land and compression and the mine site, although it is outside our code – not visible and they are not horrendous eyesore.

Ms Sullivan: I agree with the silo not being in the code but the buffering is what changed my mind.

Mrs. Thompson: I vote yes.

Mr. Mattatall: We have looked at the site, had a boom put up and minimal effect and the most visible is a swale and with the plans we have seen it will be brought up and not a problem. It has minimal visual impact. And the Parks Department who is a specific department to this that looks at this and they felt it is minimal impact. I am not sure the Cemetery Committee has looked at that and it is a historical site but would not affect their decision.

VOTE:

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

DECISION:

Mr. Mattatall: The variance is passed and is valid for 6 months.

Mr. Mattatall: The next affects the Cemetery Law.

Mr. Mattatall: I Move to grant the following variance of 249-8.1C(1) for encroachment requirement to allow excavation closer than 100 feet to the lot line; Seconded (Thompson).

DISCUSSION:

Mr. Morgan: I don't feel the grading or excavating of the road will be a hazard to the grave sites and trucks being where they are, could be shaded by trees, where you bring them in.

Ms Raffo: We have defined 'excavation' and this is an excavation and minimal and I am concerned about the project but they are not our concern at this Board and we can only address the zoning issues and they are minimal.

Ms Guenste: The same reason she (Raffo) spoke to, I am greatly concerned by the trucks, traffic and disturbance but that is not something I can vote on this evening I am not on another board and can only look at minimal effect of what you are asking for.

Mr. Johnson: It is a substantial request of 100% reduction of the buffer which is difficult and feel the benefit could have been achieved by other means and it is not clear to me if that avenue was pursued because the variance could be limited or eliminated and am not, therefore, in favor.

Ms Sullivan: We have a cemetery law here in the Town of Wallkill and I mulled the 100 feet over and over again and you are eliminating the buffer. And the buffer is important to cemeteries and families and is why the Town put it in and vote 'no'.

Mrs. Thompson: Since we voted 'yes' to excavating, I have to vote yes to leave it to the Planning Board to address the other issues presented.

Mr. Mattatall: A hill would require a lot of work and anyone who gets it is going to excavate and put in a road and will be feet to inches to the line because of the nature of the property.

VOTE:

In favor (aye) 5: Morgan, Raffo, Guenste, Thompson, Mattatall
Opposed (nay) 2: Johnson, Sullivan

DECISION:

Mr. Mattatall: The variance is granted, please see the Building Department. The variance is valid for 6 months. Please request an extension prior to it's expiration if you need it.

(7:56pm)

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

Mr. Mattatall: This is a continuation from November. (8:01pm)

Mr. Mattatal: There was a question on the mailings last month and we clarified it with the Building Department and how they determine the addresses on the list. The system is going to be changed and the current system is a Lexan disc cut to scale to the zoning lists and a house could be left out by it is done by eye. The fact everyone showed up to tell us shows the word got out to just about anyone, however.

Mr. Mattatall: Are there any questions from the Public?

Frank Carmine: I wrote my name as did some others and are not sure if I was in the barrier, we did not get anything and is why we are here.

Mr. Mattatall: Any thing for or against the project?

Frank Carmine (Public): I am against it.

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

Ms Guenste: I would like this to go back to the Planning Board - we are talking about a canopy as an accessory while when looking at the map I see retail at 3,600 sq/ft which is more than twice the size of this room. Then the filling station and a 1,800 sq/ft eating establishment. This is the size of a nice restaurant and I don't think you can have filling station as an accessory to the restaurant. What is the main use here – they have retail / convenience store deli twice the size of this building and master plan says neighborhood area and I mean...I don't know about anyone else but the convenience is twice the size of this room it is not a small gas station. Not like the Mobile on 17M and pre-existing the town has allowed for convenience items with tanks in front. I see here 3 major uses and like to know what the main use is and how a filling station is accessory to restaurant.

Mr. Mattatall: You believe it is primary use.

Ms Guenste: If it is the restaurant the gas station can't be in front.

Mark Dombal (Applicant): The minimal building size in zone is 5,000 for retail – primary what the site and building another in Blooming Grove 3400 sq/ft convenience modeled after Mobile on the Run at exit 3W and in other 1,800 sq/ft not to sure what it is going to be, i.e. Duncan Donuts – there is no waiting service at this location – no meals – grab and go type of situation.

Ms Guenste: Something larger than this room as eat/drink section will not have area to sit down – we need clarification from the Planning Board first.

Mark Dombal: Like at Duncan Donuts , no full service station with waitresses – it is a convenience store is what it is.

Ms Sullivan: I want it to go back to the PB 5000 sq/ft is retail and NC is in that area by the master plan that is in support of area resident. It is in the Master Plan and not sure how it got this far?

Randall Coffil, Esq.: What is it for?

Mr. Mattatall: Canopy over the filling station.

Randall Coffil, Esq.: The other portion – is 5000 sq/ft commercial operation permitted in the zone?

Ms Sullivan: In the new Master Plan it is NC.

Mr. Mattatall: The town map has not been changed to the master plan.

Randall Coffil, Esq.: There is an application to the PB in this zone and they referred it here?

Mr. Mattatall: Yes.

Ms Guenste: Is the filling station accessory to the 3500 sq/ft building.

Audry Scott, Esq.: The size does not dictate – it is purpose of what is going on and it is a filling station and the size does not dictate the purpose.

Ms Guenste: The canopy and gas fueling station in front of the building.

Audry Scott, Esq.: Where the pumps will be located.

Ms Guenste: One says gas/filing station and one that says retail use. We don't have pre-existing and they are putting in canopy over or they want to sell milk and bread to customers. This is a major store with gas filling in front of it. It is not like someone People ...I would like clarification on what main building is.

Ms Sullivan: It is a major store and affect quality of life in the area and have to be careful we are on the same.

Ms Guenste: Major store.

Mr. Mattatall: How did you come before us?

Mark Dombal: You gave us an approval and it expired. It got dragged out by DOT and as you tell everyone... we got caught up in that loop.

Mr. Mattatall: I am clear cut on this – it is a gas station and not seen pumps behind the building but some in the town. I think this needs to be voted on.

James Marvin (Public): I live in the area and they want to build a truck stop.

Mr. Mattatall: This is a separate issue.

James Marvin (Public): Like the one in Newburgh. Model on 9W north of Newburgh. It is 3500 sq/ft and has 10 pumps 3 diesel.

Mark Dombal: It will be smaller.

James Marvin (Public): She said something about 30 pumps.

Mr. Mattatall: Any additional comments or questions from the Board? (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 variance to permit an accessory building (canopy) in front of the principal building; Seconded.

DISCUSSION:

Ms Guenste: I am voting no because it is a substantial variance to put 20 pumps in front of a 5,000 sq/ft building. I have to look if there can be health safety issue which having a major building and I think it is self created. You have an entire lot and you want try to sub divide it, you could have smaller station with pumps with no problem at all.

Ms Sullivan: Based on it's undesirable change to character of the neighborhood and surrounding properties and am not in favor of this.

Mrs. Thompson: I don't see anything wrong with it.

Mr. Mattatall: If they change it to NC, I would have voted no.

VOTE:

In favor (aye) 5: Morgan, Raffo, Johnson, Thompson, Mattatall
Opposed (nay)2: Guenste, Sullivan

DECISION:

Mr. Mattatall: The variance is granted and you have 6 months to start work or return and request an extension, please.

CORRESPONDENCE:

Mr. Mattatall: The following applicants are requesting a six (6) month extension to their variances:

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

Mr. Mattatall: This is a garage to store personal vehicles and items.

Mr. Mattatall: I Move to grant a 6 month extension to the applicant; Seconded.

VOTE: In favor (6) Sullivan, Guenste, Morgan, Raffo, Thompson, Mattatall
 Opposed (0)
 Abstain (1) Johnson

DECISION: Extension granted.

Ed Curran / Dave Olsen: Request for a 6 month extension of a variance granted on June 13, 2005 of 294-22-D (lot size) from 12,500 sq/ft to 12,000 sq/ft for construction of a single family dwelling; property located at 150-154 Belmont Avenue (76-5-6); Designated R1.

Mr. Mattatall: I Move to grant a 6 month extension to the applicant; Seconded; All in favor; Motion carried.

DECISION: Extension granted.

TAC Assoc. (now known as Joseph Brown)

TAC Assoc. (Joseph Brown): Request for a 6 month extension of a variance granted and extended for: 1) area from 2 acres to 50,806 sq/ft; width from 200ft to 145ft; side yard from 40ft to 35ft; 2 side yards from 100ft to 85ft; property located on Top Notch Road (32-2-42).

Mr. Mattatall: They are requesting an extension as they are working with JCP Engineering who is working on the septic system. Awaiting approval by the Town, and request extension.

Mr. Mattatall: I Move to grant a 6 month extension to the applicant; Seconded; All in favor; Motion carried.

DECISION: Extension granted.

PUBLIC HEARINGS:

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

Request for a variance of 249-22(C)(7):

- 1) Height from 35ft to 47ft on uphill duplex town house (#T-25);
 - 2) Height from 35ft to 39ft on downhill duplex town house (#D-18)
- Property located on 145 Golf Links Road
SEC 73 BL 1 LOT 31.22
Designated R-1.

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

Mr. Mattatall: I move to open the Public Hearing at 8:18 pm.

Mr. Mattatall: We are familiar with the project, are there any questions from the Board? (no)

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

Mr. Mattatall: The Fairways project has been before us previously. What are the 2 building numbers for each variance?

Jennifer Van Tuyl, Esq.: T-25 is the up-hill for a height from 35ft to 47ft; and D-18 is the downhill duplex town house from 35ft to 39feet.

Mr. Mattatall: I Move to close the Public Hearing at 8:20 pm; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following height variance 249-22(C)(7): 1) Height from 35ft to 47ft on uphill duplex town house (#T-25); 2) height from 35ft to 39ft on downhill duplex town house (#D-18); Seconded.

DISCUSSION: (None)

VOTE:

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

DECISION:

Mr. Mattatall: The variance has been grated. The variance is valid for six months.

Jennifer Van Tuyl, Esq.: We are under construction now and have spent a goodly amount of money and already have several buildings up. I can come in every 6 months.

Mr. Mattatall: This is a condo project and went up / is going up building by building and the building inspector understands the nature of the project. Clarify that with him and he determines if you are in compliance substantial – Mr. Jacques.

Jennifer Van Tuyl, Esq.: Do you have any objections if he feels we are in compliance?

Randall Coffil, Esq.: This – if you miss the 6 months you are back here – you can submit a letter to extend the variance.

Mr. Mattatall: I will speak with Mr. Jacques this week and you should have a letter in your file.

Jennifer Van Tuyl, Esq.: He is the code enforcement officer. I will notify you of what you what he says.

Ms Guenste: Ask for written response so you have it.

Jennifer Van Tuyl, Esq.: Thank you for your time and attention.

MILES ANTHONY: Request for the following variances:

- 1) 249-3 (accessory building) from 28x28ft to 40ft x 65ft;
 - 2) 249-8-A-5 (accessory building in front of principal building);
- Property located at 334 Bowser Road.
SEC 36 BL 1 LOT 95.2
Designated R2.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:25pm.

Mr. Mattatall: I Move to open the Public Hearing at 8:26p.

Mr. Mattatall: I see there is proof that they were mailed out. Everything is built?

Mr. Anthony: Yes, and we were completely unaware and thought we were within the time line.

Mr. Mattatall: Any questions from the Public?

Joseph Simms (Public): I have no problem with this.

Mr. Mattatall: Thank you.

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

Mr. Mattatall: I Move to close the Public Hearing at 8:28 pm.; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variance: 1) Accessory building from 28x25ft to 40ft x 65ft; 2) accessory building in front of the principal building; Seconded.

DISCUSSION: (None)

VOTE:

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

DECISION:

Mr. Mattatal; The variance is granted. Please see the building department about the building permit and note it is valid for 6 months.

JAMES MARVIN: Request for a variance of 249-3 (accessory building)
From the permitted 28x28ft to 30x40ft;
Property located at 105 Shaw Road
SEC 24 BL 1 LOT 54.21.
Designated R2.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:30pm.

Mr. Mattatall: I Move to open the Public Hearing at 8:31pm.

Mr. Mattatall: You are putting up a larger one but it is the same as described?

Mr. Marvin: Yes.

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

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

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

Mr. Mattatall: I Move to close the public hearing at 8:32 pm.; Seconded; All in favor; Motion carried.

Mr. Mattatall: I Move to grant the following variance: 1) accessory building from 28x28ft to 30ft x 40ft; Seconded.

VOTE:

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

DECISION:

Mr. Mattatall: The variance is granted, please see the building department. Remember the variance is valid for 6 months. If you have not started work, please request a 6 month extension.

MARK HYMAN: Request of a variance of 249-9-C-6 (fence height)
From the permitted 6 ft to 15ft for tennis court;
Property located at 232 Hill Road
(SEC 60 BL 1 LOT 26.3)
Designated RA.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:33pm.

Mr. Mattatall: I Move to open the Public Hearing at 8:34 pm.

Mr. Mattatall: This is straight forward. Are there any comments or questions from the Board?

Mrs. Thompson: It is a wonderful place for a tennis court.

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

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

Mr. Mattatall: I Move to grant the following variance for fence height of from 6ft to 15 feet; Seconded.

DISCUSSION: (None)

VOTE:

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

DECISION:

Mr. Mattatall: The variance is granted, please see the building department. The variance is good for 6 months and if you need an extension, please request an extension.

HEARING REVIEWS: (January 9, 2006)

ROSS:

Mr. Ross: I apologize I could not get here last month and called the next day to apologize.

Mr. Mattatall: I Move to hold a Public Hearing for January 9, 2006; 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.

CYNTHIA ANDERSON

Not present.

VIVIEN A. LYONS

Not present

TODD LYONS (Alayna Waizenegger)

Not present

KEVIN TEN KATE

Mr. Mattatall: What do you want to do.

Mr. Kate: We recently purchased my parents house and would like addition with back porch and deck and in front porch with gazebo. Don't have property line in front and have lot in the back.

Mrs. Thompson: It has cat tails on it?

Mr. Kate: Yes. Last year we need a surveyor and consultant on both pieces.

Mr. Mattatall: Why does it show you need rear yard variance...I see it now.

Mr. Kate: It will be more than 3 feet.

Ms Guenste: 25 feet from center of road?

Mr. Mattatall: In some roads they have it defined.

Mrs. Thompson: What is in front?

Mr. Kate: Porch in front and a gazebo on the corner and stick out further.

Mr. Mattatall: The lot line is the dash line.

Mr. Kate: The road in front is rural road with high traffic and low speed.

Mrs. Thompson: I use the road to go to the post office and if you come upon a truck you have to move over.

Mr. Kate: He use to take care of the yard.

Mr. Mattatal: We have to consider the line it self if you go down Alton road and see development goes straight back for large piece of property there. I don't know if you 'll get 3.5 feet from the property line for a variance.

Mr. Kate: What about the other side?

Mr. Mattatall: 14.5 feet is less of a problem. Swing it toward Goshen turnpike. We can modify the motion next month if you don't get it to us within the next 10 days.

Ms Raffo: No so much over as around.

Mr. Mattatall: If they move the road you will virtually lose the gazebo. The fact he (your father in law) has mowed it for 35 feet does not make it yours. We need to know distances from the property line. You will also need the front to the porch. 14.5 is to the existing.

Ms Guenste: 1 inch is 30 (looked at the drawing).

Mr. Mattatall: Mr. Yanosh will have to put that on the map. We need two and photo stat the rest of 11.

Mr. Kate: Do I need to get the two properties combined. It does not meet it now.

Mr. Mattatall: You'll deal with the variance next month. This way you'll have something to go on.

Mr. Mattatall: Modify it from lot line to front porch.

Mr. Mattatall: I Move to hold a Public Hearing on January 9, 2006 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

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

Mr. Mattatall: We need a proof of mailing.

Mr. Kate: What do we send?

Mrs. Thompson: It will be in the paper take that and copy it and it should be in later this week.

James Ryan & Walter Murach:

Mr. Mattatall: We need to know who owns the property. Who is the property owner?

Mrs. Thompson: James Ryan and Walter Murach are the names on the application.

Mr. Mattatall: The deed was just done 12/7/2005 we have had problems with who owns what and where out there. We can't take action when we get receipt of deed being recorded.

Mr. Ryan: Okay. I was a 50% owner of Kual. My other partner we had to buy out. I paid for the building permit.

Mr. Mattatall: We have had letters from Kual so I need receipt from the County. I need permission from you (Mr. Murach) to do anything on the property.

Randall Coffil, Esq.: You get receipt from the County.

Mr. Ryan: We did not, the attorney did it.

Randall Coffil, Esq.: I don't mail deeds but if you go to the office they will give you a receipt so you have a receipt and proves it is on recorded.

Ms Raffo: Statement from you (Murach) he can act on your behalf.

Mr. Mattatall: We can't act till we know you own it. We have to have that.

Mr. Ryan: So if I bring everything tomorrow?

Mr. Mattatall: We can put you on the schedule to be reviewed.

MEETING CLOSE:

Mr. Mattatall: There being no further information to be presented before the Board, I Move to close the Public Hearing at 8:59 pm; Seconded; All in favor; Motion carried.

TSB:jcd

TOWN OF WALLKILL ZONING BOARD OF APPEAL
DECISION SHEET
DECEMBER 12, 2005

E. TETZ & SON:

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

Designated: MI

DECISION: The following interpretations were accepted and variance granted:

1) Accept the definition of the Town of Wallkill Code (249-8.1.C91) shall be interpreted to mean 'any man-made cut, cavity, trench or depression in an earth surface formed by earth removal';

2) Accept the definition of the Town of Wallkill Code (249-3) shall be interpreted to mean 'building: a structure wholly or partially enclosed within exterior walls and a roof, affording shelter to persons, animals or property'

3) 249-27D (lot building standards) to allow silos and conveyors to be constructed 68 feet high;

4) 249-8.1C(1) for encroachment requirement to allow excavation closer than 100 feet to the lot line.

ALTA EAST:

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

To permit an accessory building (canopy over fueling station) in front of principal building.

Building located at NYS 302 and NYS Rt 17 (east bound ramp)

SEC 22 BL 3 LOT 54

Designated PID.

DECISION: Variance granted.

FAIRWAYS WALLKILL, LLC

(c/o GDC / Formerly MDG Dev.):

Request for a variance of 249-22(C)(7):

- 1) Height from 35ft to 47ft on uphill duplex town house (#T-25);

3) Height from 35ft to 39ft on downhill duplex town house (#D-18)
Property located on 145 Golf Links Road
SEC 73 BL 1 LOT 31.22
Designated R-1.

MILES ANTHONY:

DECISION: Variances granted.
Request for the following variances:
1) 249-3 (accessory building) from 28x28ft to 40ft x 65ft;
3) 249-8-A-5 (accessory building in front of principal building);
Property located at 334 Bowser Road.
SEC 36 BL 1 LOT 95.2
Designated R2.

DECISION: Variances granted.

JAMES MARVIN:

Request for a variance of 249-3 (accessory building)
From the permitted 28x28ft to 30x40ft;
Property located at 105 Shaw Road
SEC 24 BL 1 LOT 54.21.
Designated R2.

DECISION: Variance granted.

MARK HYMAN:

Request of a variance of 249-9-C-6 (fence height)
From the permitted 6 ft to 15ft for tennis court;
Property located at 232 Hill Road
(SEC 60 BL 1 LOT 26.3)
Designated RA.

DECISION: Variance granted.

EXTENSIONS:

Eric Johnson: Request for a 6 month extension of a variance granted on June 13, 2005 of
249-3 (accessory building) from 28x28ft to 32x56ft for a garage to store

personal vehicles and equipment; Property located at 375 Howells Turnpike (13-1-37.1); Designated RA.

DECISION: 6 month extension granted.

Ed Curran / Dave Olsen: Request for a 6 month extension of a variance granted on June 13, 2005 of 294-22-D (lot size) from 12,500 sq/ft to 12,000 sq/ft for construction of a single family dwelling; property located at 150-154 Belmont Avenue (76-5-6); Designated R1

DECISION: 6 month extension granted.

TAC Assoc.

(Joseph Brown):

Request for a 6 month extension of a variance granted and extended for: 1) area from 2 acres to 50,806 sq/ft; width from 200ft to 145ft; side yard from 40ft to 35ft; 2 side yards from 100ft to 85ft; property located on Top Notch Road (32-2-42).

DECISION: 6 month extension granted.