

TOWN OF WALLKILL ZONING BOARD OF APPEAL
DECEMBER 13, 2004

PRESENT: N. Guenste
J. Mattatall
W. Morgan
R. Schoenberg
O. Smith, Chairperson
P. Thompson, Secretary

Randall V. Coffill, Esq.

ABSENT: E. Raffo

MEETING OPENING:

The December 13, 2004 Zoning Board of Appeals meeting opened with the pledge to the flag followed by the Roll Call and presentation of the November 8, 2004 Meeting Minutes.

The following corrections were made for the November 8, Meeting minutes:

Pg 16 Vote: abstain N. Guenste

Pg 25 Vote: abstain N. Guenste

Motion made to approve the Minutes as noted; Seconded; All in favor; Motion carried.

The following Hearing Reviews, Public Hearings were heard, discussed and voted upon as noted.

HEARING REVIEWS (January 10, 2004)

ELLIOTT:

Mr. Smith: You want an oversized building on the property?

Ms Elliott: Donald I live on Baker Road with a one-family residence and it is in R2. We are building an accessory pole barn building with no future commercial use. It will be used for motor home and lawn equipment. There is a dirt floor because of back hoe. It is set back over 200 feet at edge of wood line and right and left side yards are large. No new driveway road will be cut. Only see front of barn. Is it possible to amend 24x40 to 30 x 64 better suited because motor home of 40 feet.

Mr. Smith: You will keep the 150 set back?

Mr. Elliott: Yes.

Mr. Smith: Is that the only variance?

Ms Elliott: Yes.

Mr. Smith: I Move to hold a Public Hearing on January 10, 2005 at 7:30 PM or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Smith: 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.

KAHNERT:

Mr. Smith: You are looking for what?

Mrs. Thompson: Is it separate apartment (looking at the drawing)?

Ms Kahnert: No. My daughter and grand children will be coming to live us to help with my husband who has had a setback. We have 5 bedrooms in the house now. We want to be in one room and sitting area and the family use the rest of the house. Since she is married and different name we were told to come her.

Mrs. Thompson: Would you have another kitchen?

Ms Kahnert: Yes.

Mrs. Thompson: That will make it a 2 family.

Mr. Kahnert: It will be nice to have some one home to take care of me.

Mrs. Thompson: Separate apartment?

Mrs. Kahnert: No.

Mrs. Thompson: If you sell it as a 2 family it is different than a house. It does not make a difference now but will down the road.

Ms Kahnert: I don't see a reason to block it off.

Mr. Mattatall: You can have a 2 family houses in that area. You have narrow frontage. You are 25 feet narrower than present zoning requires. The variance is for the area. Not use.

Mrs. Kahnert: We have a driveway.

Mr. Smith: It may need a front yard too. Since there are others involved: side yard and minimum lot size, it is not quite $\frac{3}{4}$ of an acre.

Mrs. Kahnert: I don't know - it is a pie shape and weird shape. There is a pasture in back of us of unused land that makes it look larger than it is.

Mr. Smith: The lot width from 150. Front yard is 35 and one side yard 15. I know this is not $\frac{3}{4}$ of an acre; we should have....do you have full copy of the survey that gives the acreage?

Mrs. Kahnert: Let me look....

Ms. Guenste: The family relationship here...

Mr. Smith: ... if they want to put in another kitchen.

Mrs. Kahnert: The papers that were copied do not have the bottom of the page (tail) and I think the original may be in another folder or at home.

Mr. Mattatall: We need to have that so it is right and it is a variance on existing condition.

Mr. Smith: From .75 to something – guess it is $\frac{4}{10}$ or $\frac{1}{3}$ of an acre. You don't have $\frac{3}{4}$ of an acre there.

Mrs. Kahnert: We are closer to $\frac{3}{4}$.

Mr. Smith: It is a deep lot.

Mrs. Kahnert: It flares and fortunately the wider area is on driveway side of the house so we have 4 cars without a problem.

Mr. Smith: It is necessary to provide us with a copy with a measurement – number of square feet is fine.

Mr. Smith: You need two variance: lot width and lot size (area). Width 150 to 92.48 and size. You take variance down to the least....

Mrs. Kahnert: ...I was misled, I was told to take it at the widest.

Mr. Smith: I Move to hold a Public Hearing on January 10, 2005 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Smith: 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.

Mrs. Kahnert: I can get the names from the Tax Office.

Mr. Smith: Yes, and we need the calculations.

Mrs. Thompson: Advertise as a 2 family?

Mr. Smith: They want a kitchen, that is the way it was explained to me.

PADHYA

Mr. Smith: Any changes?

Dan Yanosh: This is a use variance for outside of the building and for an area variance for building size. After going through the motions before and the code should be max at a 1500 and existing is 1600 and want to add some walk-in freezers and want to add on to one side. Looking at the variance, the deli with the addition is 2945 sq/ft and pizzeria 350 sq/ft – it is a neighborhood store and we should ask for variance for 3300 sq/ft instead of 1500 and combine everything in the whole building.

Mr. Smith: Use variance is the most difficult.

Dan Yanosh: He is contacting an attorney.

Mr. Smith: Legal representation is recommended.

R. Coffill, Esq.: The planning board requests a determination? Is the pizzeria is an approved use?

Dan Yanosh: Code did not define neighborhood grocery.

Mr. Smith: I Move to hold a Public Hearing on January 10, 2005 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

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CLAWSON:

Mr. Smith: The variance for the front set back from 36 to 30ft?

Ms Clawson: People who did the plans up for me made the garage – the best is 14ft 4” and the car is 16 feet long.

Mr. Smith: Is the house there?

Ms Clawson: Yes, it is up to the foundation and wanted this settled before we do anything.

Mr. Smith: This could have been moved back.

Ms Clawson: The plan has a hill.

Mr. Mattatall: You have quite an elevation change.

Ms Clawson: Yes, we had to put up a wall and had to fill and fill. I am asking for 40 feet from the road but not 40 feet from right of way.

Mr. Smith: We go from the right of way – 36 to 30ft and add on to garage only?

Ms Clawson: Yes. Just so the car will fit in it. It is a Ford Escort.

Mrs. Thompson: What about the driveway that goes in there?

Mr. Smith: What about the turn around?

Mrs. Thompson: It is half way in the garage.

Ms. Clawson: It is not there now. I am planning for a turn around. Cars come up street so fast.

Mr. Smith: I Move to hold a Public Hearing on January 10, 2005 at 7:30 pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Smith: 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.

Ms Clawson: The list can just be certified?

Mr. Smith: Yes that is an affidavit of mailing.

Mrs. Thompson: If you call Legal Notice department and you can ask her when it was or will be published and get that paper.

MIDDLETOWN CHRISTIAN:

James Dillin (representing applicant): It is to build a parsonage on Cty 78. it will be in front of the existing church that is there now. The PB asked for variance because the accessory building is ahead of principal use. Originally I thought we had 2 principal uses and we need a variance to put it closer.

Mr. Smith: You are allowed 2?

Mr. Dillin: Yes, had we had parsonage first then church next not need the variance.

Mr. Smith: You are set on location?

Church Representative: Yes.

Mr. Smith: I Move to hold a Public Hearing on January 10, 2005 at 7:30 mp or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

Mr. Smith: 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. Dillan: Since the accessory is larger than 28x28 should we have an accessory variance as the proposed size is 30x44 feet? Do we need size variance as well?

Mr. Smith: We will add the accessory use for a 30 x 44 building.

R. Coffill, Esq.: In the publication put accessory use to place parsonage in front of existing building for proposed sized size of 30x44 ft. It is included in the notice with the section referenced.

Mr. Smith: It is 249-3 (accessory building size) from 28x28 to 30x44ft.

Mr. Dillan: That does not include the deck.

Mr. Smith: It needs to be in the building envelope.

Mrs. Thompson: Thank you.

PUBLIC HEARINGS:

VUK CONSTRUCTION: Request for a variance of 249-26-D (deck size): rear yard set back) from 40ft to 30ft for deck; Property located at 59 Hulse Avenue (SEC 74 BL 8 LOT 5); Designated HC.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:15 pm.

Mr. Smith: I Move to open the Public Hearing at 8:16 pm.

James A. Dillin: The application is for a residential home on 17,000 sq/ft lot in an HC area and is a permitted use and the existing dwelling that will be demolished. It needs a variance from 20,000 to 17,000 and it has sewer and water. We would like a 10 foot deck on the back for a 10 feet off the 40 foot down to 30 feet.

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

Mr. Smith: Existing will be taken down before you start?

Mr. Dillin: Before we get the CO.

Mr. Smith: All right. I have your personal guarantee?

Mr. Dillin: Yes.

Mrs. Smith: What are they doing with existing gravel drive?

Mr. Dillin: It is part of existing driveway.

Mr. Smith: No rights going on on lands of Brundich?

Mr. Dillin: Just the neighbor.

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

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

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

Mr. Smith: I have no problem with this and it seems like we are enhancing the property. The variances are negligible and it will be an improvement to the Town of Wallkill.

Mr. Smith: I Move to close the public hearing at 8:20 pm; Seconded; All in favor; Motion carried.

Mr. Smith: I Move to grant the following variance: 74-8-5: 249-26-a-12-a and 249-12-d-a-1: 1) lot area from 20000 sq/ft 17498 sq/ft; 2) rear yard set back from 40 to 30ft; to permit 10 foot deck; Seconded.

DISCUSSION: (None)

VOTE: In favor (aye): 6
Opposed (nay): 0

DECISION:

Mr. Smith: The variances are granted, please see the Building Department.

CARMELLA & ANTHONY MONACO, JR.: Request for a variance of 249-20-D (front yard set back for car port); Property located at 60 Scotchtown Drive (SEC 43 BL 3 LOT 18); Designated R-2.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:22 pm.

Mr. Smith: I Move to open the Public Hearing at 8:23 pm.

Mr. Dillin: They own property with an existing 1 story dwelling and they want to enhance the house to make a 2 story dwelling and want a 20x20 carport in front which encroaches in front and the side yard. Also, the accessory building is in front of the existing building.

Mr. Smith: Any comments from the Board?

Mr. Dillin: I have maps of the actual 20x20 on it as you requested.

Mr. Morgan: This is from the 22 to 20 feet?

Mr. Smith: It seems like there is a lot going on there with the existing car port and they have the shed. Can the shed be moved at all? Bringing it all out front – I am not happy with it. They will be 20 feet off the road line. It is a very nice place there.

Mr. Monaco: I have a car port that if I pull the car in I can not get into the kitchen. I want to keep the Corvette out of the weather and want to protect it. And, to better the area and at least put something under the car port that is under sized.

Mr. Smith: It is awfully close to the road line and it will stick out.

Mr. Monaco: Will you give me something to come out so I can put the vehicles underneath? I am willing to go along with anything. I have something I can't use.

Mr. Smith: It is 20 feet off the line.

Mr. Monaco: I have 4 vehicles. My wife doesn't want to move. There is only the two of us now.

Mrs. Thompson: The Corvette - do you drive or keep it? If you do use it so you don't want to store it.

Mr. Monaco: Yes, during the winter I put it away.

Mr. Thompson: You want 2 cars under there?

Mr. Monaco: Yes, I also have a 2 seat Mercedes. I can't put truck under the carport now it was too small in the first place. I bought cars after I bought the house. I am going up on the house, too.

Mr. Mattatall: Can you move the shed?

Ms Guenste: Can you put is sideways?

Mr. Smith: Coming out in front...

Mr. Dillan: (looked at the drawing)

Mr. Smith: Put the shed in the back there somewhere? Then you just require a side yard variance. You are spending money to go up how much more can that be?

Mr. Mattatall: The concern is it coming out close to the road.

Mr.Dillan: It is 6 or 7 feet.

Mr. Smith: The side yard variance is 6 or 7 feet.

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

Mrs. Thompson: The landscape trailer, do you need the stuff in the shed for you? Where do you keep the landscape equipment?

Mr. Monaco: 30x90 with a 70 foot addition for keeping it. I will close it at the end of the season.

Mrs. Thompson: Can you put one of the cars there?

Mr. Monaco: I just bought an Expedition.

Mrs. Thompson: What vehicle do you drive when you go out to dinner?

Mr. Monaco: I have 9 vehicles.

Mr. Dillin: I would like to amend the application.

Mr. Smith: The side yard from 35ft to 7feet.

Mr. Dillin: If it was not attached is it an accessory and would it be 5 feet?

Mr. Smith: It is 5 feet off the line if an accessory.

Mr. Mattatall: The wording is different for accessory.

Mr. Smith: The car port will be attached?

Mr. Dillin: Yes.

Mr. Smith: The side yard on north side is 7 feet.

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

Mr. Mattatall: It has to be 10 feet from the primary if accessory.

Mr. Smith: I Move to close the Public Hearing at 8:34 pm; Seconded; All in favor; Motion carried.

Mr. Smith: I Move to grant the following: side yard variance 249-29-D-A: On the north east boundary to 7 feet for carport on the north side of parallel to the dwelling and not extend past front building line to be 20x20 feet; Seconded.

VOTE: In favor (aye): 6
Opposed (nay): 0

DECISION:

Mr. Smith: The variance is granted; please see the building department.

William Sacco: Request for a variance of 249-20-D (front yard setback from 35ft to 30ft); Property located at 29 Ontario Avenue (SEC 37 BL 8 LOT 5.2); Designated R-1.

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

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

Mr. Smith: Please present your application.

Mr. Smith: You are seeking a front yard set back and you have put the house in and someone measured wrong for the front porch/overhang. We have recommendation to approve it because you have a good record with the Town of Wallkill.

Mr. Smith: Any questions from the Board?

Mr. Morgan: They (houses) are all like that there.

Mr. Smith: The variance is minor and the building where it is situated is in line with the row of houses on the street and it is a practical difficulty and really do not see a problem.

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

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

Mr. Smith: I Move to close the Public Hearing at 8:38 pm; Seconded; All in favor; Motion carried.

Mr. Smith: I move grant the following variance of 249-22-D-A: front yard setback from 35ft to 30ft; Seconded.

DISCUSSION: (None)

VOTE: In favor (aye): 6
Opposed (nay): 0

DECISION:

Mr. Smith: Variance is granted, please see the Building Department.

William Sacco (M. Pierce): Request for a variance of 249-22-D (front yard) from 35ft to 30ft) Property located at 41 Ontario Avenue (SEC 37 BL 8 LOT 3.1); Designated R-1.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:39 pm.

Mr. Smith: I Move to open the Public Hearing at 8:40 pm.

Mr. Smith: This is similar to the previous application.

Mr. Smith: There is no further discussion and same situation as the previous application.

Ms Guenste: I see builders who don't look at the zoning and then, see how it is laid out. You do have a good reputation with the Town here.

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

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

Mr. Smith: I Move to grant the following variance: Front yard variance from 35ft to 30ft; Seconded.

DISCUSSION: (None)

VOTE:

In favor (aye):	6
Opposed (nay):	0

DECISION:

Mr. Smith: The variance is granted please see the Building Department.

LEWIS SIGN (Panera Bread, Orange Plaza): Request for a variance of 249-11-1-a-1 (sign variance) to place sign on side of building) Property located at 444 Rt 211 - Orange Plaza; (SEC 50 BLL 2 LOT 63); Designated HC.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:41 pm.

Mr. Smith: I Move to open the Public Hearing at 8:42 pm.

Mr. Smith: Please present your application and tell us what you need.

Charlene DiNunzio, Lewis Sign, Co.: We need a sign on side of the building facing Dunning Road and smaller than the one on the front. The layout takes up more than signage appears. It appears bigger than it is. The bread logo is 2 feet and unfortunately the way it is blocked out it is 50 feet.

Mrs. Thompson: Smaller than the one there now?

Charlene DiNunzio, Lewis Sign, Co.: Yes. They blocked the one there is 60 feet.

Mr. Smith: Are letters the same size?

Charlene DiNunzio, Lewis Sign, Co.: They are smaller – they are 2 feet letters others are 3 feet. Every store has a sign on that road and new Krispy Cream has 3. The front sign is a pylon and they don't have room at the plaza but want traffic from Dunning Road and main entrance.

Mrs. Thompson: You need it on Dunning Road – Circuit City has a large sign.

Mr. Smith: You are on the end and you want sign exposure. It is a busy intersection.

Charlene DiNunzio, Lewis Sign, Co.: It is a nice looking sign.

Mr. Smith: There is a problem with it being a corner store.

Ms Guenste; Is it like the ones on their stores elsewhere?

Charlene DiNunzio, Lewis Sign, Co.: Yes.

Mr. Schoenberg: You can see the front up Dunning from East Main – how much affect will it have?

Charlene DiNunzio, Lewis Sign, Co.: I think it will help a little bit and better than nothing.

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

Mr. Smith: Any comments from the Board?

Mr. Smith: I Move to close the Public Hearing at 8:47 pm; Seconded; All in favor; Motion carried.

Mr. Smith: I Move to grant the following variance: square footage of sign be permitted to exceed 1.25 linear footage on front of building and permit one on the side; to face Dunning Road exceed it to 53.28 sq/ft.; Seconded.

DISCUSSION: (None)

VOTE:

In favor (aye):	6
Opposed (nay):	0

DECISION:

Mr. Smith: The variance is granted, please see the Building Department.

JANOS LECEI: Request for a variance of 249-19-D (lot width); Property located at 502-508 Bart Bull Road (SEC 46 BL 1 LOT 46); Designated RA.

Mrs. Thompson: The mailings were reviewed by the Board and filed by the Secretary. The Public Hearing Notice was read at 8:50 pm.

Mr. Smith: I Move to open the Public Hearing at 8:51 pm.

Mr. Smith: Tell us what you are seeking?

Mrs. Lecei: I am here for Janos.(Lecei).

Mr. Smith: You are here for a variance for a width from 200 feet to 150 feet. Any questions from the Board?

Mrs. Thompson: They never put the soils on the map. Type 7 needs 3 acres.

Ms Lecei: It was 150 feet when we bought it.

Mr. Smith: This was here before us?

Mrs. Thompson: Yes, a year ago.

Ms Lecei: He now wants a 50x50 building.

Mrs. Thompson: The property is wet.

Mr. Smith: It is.

Mrs. Thompson: You have Federal wetlands encroaching on both sides.

Mr. Smith: A year ago a concern was type of soils that were there. We need the soil types.

Ms Lecei: He gave it to you in November when we were here.

Mr. Smith: We can continue this until January and I don't think you have the answers. The soils are Type 7 F-D. it says it 3.25 acres.

Mr. Smith: Lets continue to January.

Ms Lecei: Fine.

Mr. Smith: I Move to continue this to January 10, 2004 at 7:30pm or as soon thereafter as the matter can be heard; Seconded; All in favor; Motion carried.

NEW BUSINESS:

Mr. Dolan: I am here for a house with pre-existing decks and want to make them legal. I received a letter to appear here tonight. It is an old house.

Mr. Smith: This is a review for January 10. You want variance for existing decks. Are you on a corner lot? You have 2 front yards?

Mr. Dolan: Yes. The garage. We use Avenue F side.

Mr. Smith: What is side street?

Mr. Dolan: Avenue F and is where the garage is.

Mr. Smith: Did you have a survey done when you purchased this?

Mr. Dolan: No. I physically did the measurements and found out from the neighbor this side the decks were illegal. The neighbor is Don Kimball and he does inspections. He said they were not legal. I am here to try to correct things.

Mr. Mattagall: You were not directed here by the building department?

Mr. Dolan: No.

Ms Guenste: The house is behind the deck? (looked at the map)

Mr. Dolan: Yes, that is where Don Kimball lives.

Mr. Dolan: House is on the garage side.

Mr. Mattatall: It is about an inch from the line?

Mr. Dolan: We have the fence and then the deck.

R. Coffill, Esq.: How long has it been there?

Mr. Dolan: About 20 years he thinks.

Mr. Mattatall: You have a series of decks.

R. Coffill, Esq. When did you buy it?

Mr. Dolan: About 2 years ago.

R. Coffill, Esq.: Was there a CO? And, when was the house built?

Mr. Dolan: In 1930's.

R. Coffill, Esq.: He got a violation letter and a CO is required.

Mr. Dolan: When I came here they did not know about the garage.

Mr. Smith: What are the dimensions of the property?

Mr. Dolan: I don't know.

Mr. Mattatall: We need a drawing with dimensions.

Mr. Dolan: The fence is on the property line (see the outline).

Mr. Smith: Give us something to give us the layout of the land, please.

Mr. Smith: Do you want to be heard in January?

Ms Guenste: There must be a survey somewhere.

Mr. Dolan: I got the info from the neighbor.

Mr. Smith: Are the decks in good shape?

Mr. Dolan: Yes. The structures are made out of 2x4s.

Mr. Smith: We don't have set backs on the side lines.

Mr. Dolan: The line across is the fence line. Where you see. It has to be clear.

Mr. Smith: We need something more official. Let Mrs. Thompson know if you are coming in January.

Mrs. Thompson (gave him her number): Did the building inspector look at these decks?

Mr. Dolan: I don't know. I painted the fence. They got me scared in there.

Mr. Smith: We need a more official drawing with off sets from side lines and you can have a survey done. Check and you may have an attorney who can help you. He will come in for a review for January 10th.

Mr. Mattatall: Mr. Kimball may have a sub division.

Mr. Smith: The big thing is the decks.

MEETING CLOSE:

Mr. Smith: There being no further items to be presented to the Board, I Move to close the meeting at 9:14 pm; Seconded; All in favor; Motion carried.