

TOWN OF NEW WINDSOR

ZONING BOARD OF APPEALS
Regular Session
Date: MAY 14, 2007
AGENDA

*Received
5/14/07*

7:30 p.m. – Roll Call

Motion to accept minutes of MARCH 26, 2007; APRIL 9, 2007 AND APRIL 23, 2007 meetings as written.

PRELIMINARY MEETINGS:

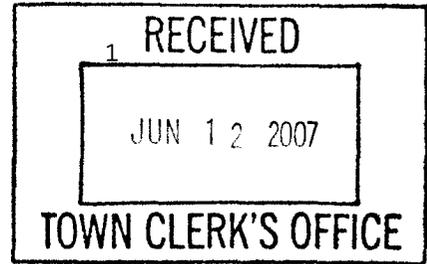
1. **KATHRYN FERRY (07-17)** Request for 8 ft. Side Yard Setback for existing rear deck on a corner lot at 2 Creamery Drive in a CL Zone **(78-1-19)**
2. **CHARLES FLYNN (07-18)** Request for 2 ft. Maximum Height for existing 6 ft. fence projecting closer to the street than the dwelling at 213 Butter Hill Drive in a CL Zone **(80-1-2)**
3. **ADP ENGINEERING (For Wal-Mart) (07-19)** Request for 19 ft. Minimum Lot Width at NYS Rt. 300 in a C Zone **(4-1-5.22)**
4. **BRIAN & ANGELA MAXWELL (07-20)** Request for 10 ft. Rear Yard Setback for proposed pool and; Request for 22 ft. 9 inches Rear Yard Setback for proposed addition at 13 Hudson Drive in an R-4 Zone **(39-5-26)**
5. **ERNEST & GERMAINE BROWN (07-21)** Request for 8 ft. Side Yard Setback and; 8 ft. Rear Yard Setback for proposed above-ground pool at 2515 Constitution Way in an R-3 Zone **(77-8-3)**
6. **DARREN & JENNIFER SCHIAROLI (07-22)** Request for 23.7 ft. Side Yard Setback and; 48.8 ft. Total Side Yard for proposed addition to single family dwelling at 15 Carpenter Road in an R-1 Zone **(53-2-7)**

PUBLIC HEARINGS:

7. **HENRY VAN LEEUWEN (07-10)** Request for two single-family dwellings on one lot at 340 Beattie Road in an R-1 Zone **(55-1-146)**
8. **TIMOTHY SPINDLER (07-12)** Request for variance to permit an existing 10 ft. X 14 ft shed to project closer to Sean Court than the principle building at 2 Sean Court in an R-1 Zone **(52-1-79.4)**
9. **RICK TEDALDI (07-09)** Request to permit more than two (2) horses on property at 15 Wylly's Court in an R-1 Zone **(57-1-2.5)**

(NEXT MEETING JUNE 11, 2007)

May 14, 2007



TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

MAY 14, 2007

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
KIMBERLY GANN
KATHLEEN LOCEY
ERIC LUNDSTROM
PAT TORPEY

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

REGULAR_MEETING

MR. KANE: I'd like to call to order the May 14, 2007 meeting of New Windsor Zoning Board of Appeals.

APPROVAL_OF_MINUTES_DATED_3/26,_4/9_&_4/24/07

MR. KANE: Motion to accept the minutes of March 26, April 9 and April 23 as written.

MR. LUNDSTROM: So moved.

MS. GANN: I'll second the motion.

ROLL CALL

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MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

PRELIMINARY_MEETINGS:

KATHRYN_FERRY_(07-17)

MR. KANE: Request for 8 ft. side yard setback for existing rear deck on a corner lot at 2 Creamery Drive.

Mr. Ferry appeared before the board for this proposal.

MR. KANE: Let me explain that in New Windsor we hold a two meeting system for the zoning board. The preliminary meetings are so that you can give us a general idea of what you want to do and that we make sure that we have all the information that we need to make an informed decision. All our decisions have to be made via a public meeting. So we decided to go with a preliminary up front so we can make sure we have everything and in other towns it's one meeting, you walk in, you don't have, you lose, so that's why it's a two step process here. Mr. Ferry?

MR. FERRY: Yup.

MR. KANE: Just tell us what you want to do, sir.

MR. FERRY: We want to get the deck approved so that we can sell the house.

MR. KANE: Okay, just need you to speak loud enough for the young lady over there to hear you.

MR. FERRY: I think you should have a couple pictures of the deck there, I think, it's already built.

MR. KANE: How long has the deck been in existence?

MR. FERRY: Ten years.

MR. KANE: Cutting down any trees or substantial vegetation in the building of the deck?

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MR. FERRY: No.

MR. KANE: Any water hazards?

MR. FERRY: No.

MR. KANE: Is the deck similar in nature to other decks in the neighborhood?

MR. FERRY: Yup.

MR. KANE: Any complaints formally or informally about the deck?

MR. FERRY: Never been.

MR. KANE: You're on town sewer and water?

MR. FERRY: Yup.

MR. KANE: No easements running through where the deck is?

MR. FERRY: No.

MR. KANE: And you understand in the public hearing that even if we approve your request that you're still subject to all the requirements from the building department?

MR. FERRY: Yup.

MR. KANE: I have no further questions right now. We have pictures of the deck, looks pretty straightforward.

MR. LUNDSTROM: How long have you owned the property?

MR. FERRY: The property is 15 years I want to say.

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MR. KANE: I'll accept a motion.

MS. GANN: I'll offer a motion to set up Kathryn Ferry for a public hearing for request for eight foot side yard setback for existing rear deck on a corner lot at two Creamery Drive.

MR. TORPEY: I'll second it.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MR. KANE: Just follow what's on the sheet, all the instructions what you need to do are right there. If you have any questions, give Myra a call.

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CHARLES_FLYNN_(07-18)

MR. KANE: Request for 2 foot maximum height for existing six foot fence projecting closer to the street than the dwelling at 213 Butter Hill Drive.

Mr. Charles Flynn appeared before the board for this proposal.

MR. KANE: State your name and address.

MR. FLYNN: I'm Charles Flynn, 1213 Butterhill Drive, New Windsor, New York.

MR. KANE: Tell us what you want to do, sir.

MR. FLYNN: We had an existing 4 foot fence so we want to replace with six foot vinyl fence for privacy so we had a contractor put the fence on the existing line of the fence one side of the house where the 4 foot fence was sticking out two feet from the fence so we thought okay, could be okay if we put the six foot fence in the same place. But we didn't know that extra two feet would be a problem but, you know, otherwise it's not blocking anyone's view. We put it up for privacy for the property, you know, that's all we ask, you know.

MR. KANE: You guys did a nice job renovating the house. I've seen it. So you believe that you want this fence for more privacy for your property, safety issues?

MR. FLYNN: Yeah, for my daughter, we have a gate and, you know, and basically back property is all trees from the neighbors on the sides and behind, it's basically, you know.

MR. BABCOCK: They have an above-ground pool.

MR. FLYNN: Yeah, I do.

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MR. BABCOCK: So that's a little extra security.

MR. KANE: Little bit more for the safety on the pool?

MR. FLYNN: Yeah cause we're there for almost seven years now and it's 4 foot fence was there for the previous owners.

MR. KANE: Young children?

MR. FLYNN: Yes.

MR. KANE: You also have a pool 15 x 30 pool in the other property on this side too so big safety issue.

MR. FLYNN: Yeah and we have one gate, always lock it.

MR. KANE: Again, if everything is approved here you still have to meet all the requirements from the building department.

MR. FLYNN: Yeah.

MR. KANE: Any further questions?

MR. LUNDSTROM: No.

MR. KANE: Straightforward. I'll accept a motion.

MS. LOCEY: I'll offer a motion on the application of Charles Flynn for his request for a two foot maximum height for existing six foot fence which projects closer to the street than the dwelling all at 213 Butterhill Drive in a CL Zone.

MR. TORPEY: I'll second that.

ROLL CALL

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MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

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ADP_ENGINEERING_(FOR_WAL-MART)_(07-19)

MR. KANE: Request for 19 foot maximum lot width at NYS
Route 300. Okay, we'll put them on hold right now.
Right now, it's a no show.

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BRIAN_&_ANGELA_MAXWELL_(07-20)

Mr. and Mrs. Brian Maxwell appeared before the board for this proposal.

MR. KANE: Request for 10 foot rear yard setback for proposed pool and request for 22 foot 9 inches rear yard setback for proposed addition at 13 Hudson Drive. Just speak loud enough for this young lady to hear you and tell us what you want to do.

MR. MAXWELL: Put an addition on the back of the house, 16 x 22 and inground pool 16 x 32.

MR. KANE: Two story addition?

MR. MAXWELL: No.

MR. KANE: The addition is going to be used for bedrooms?

MR. MAXWELL: It's just a Florida room.

MR. KANE: No intent to use it as a rental space?

MR. MAXWELL: No.

MR. KANE: The 16 x 32 inground pool similar in size and nature to other pools that are in your particular neighborhood?

MR. MAXWELL: Yes.

MR. KANE: Going to be cutting down any trees, substantial vegetation in the building of either the pool or the addition?

MR. MAXWELL: No.

MR. KANE: Creating any water hazards or runoffs?

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MR. MAXWELL: No.

MR. KANE: Any easements running through the area where you're going to put either one of those?

MR. MAXWELL: No.

MR. KANE: How big was the addition?

MR. MAXWELL: It's 16 x 22.

MR. KANE: Sixteen out and 22?

MR. MAXWELL: Yes.

MR. KANE: I have no further questions.

MS. LOCEY: Just one comment, it says on the plot plan to see the blueprint, we don't have that blueprint.

MR. MAXWELL: Should have been there.

MRS. MAXWELL: I did drop it off.

MR. KANE: For the public hearing we'll make sure we have a copy of the blueprint.

MS. MASON: It's not attached. Did you give it with your building papers?

MRS. MAXWELL: Yes.

MR. KANE: You got one, Mike?

MR. BABCOCK: Yes.

MR. KANE: As long as we have it for the public hearing. Any further questions? I'll accept a motion.

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MR. LUNDSTROM: I will offer a motion that the application from Brian and Angela Maxwell for the variance as stated in the agenda of May 14 be scheduled for public hearing.

MR. TORPEY: I'll second that.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

ERNEST_&_GERMAINE_BROWN_(07-21)

Ms. Germaine Brown appeared before the board for this proposal.

MR. KANE: Request for 8 foot side yard setback and eight foot rear yard setback for proposed above-ground pool at 2515 Constitution Way. How are you?

MS. BROWN: Okay.

MR. KANE: Please state your name and address loud enough for the stenographer to hear it.

MS. BROWN: Germaine Brown.

MR. KANE: Tell us what you want to do.

MS. BROWN: 2515 Constitution Way, New Windsor. What I am looking to do is this is incorrect, we have quarter acre lots there in The Reserves so it's not enough room to put a nice size pool to enjoy it with the children and barbecue and have a little party as well so we come for little variances to try to but I wanted to instead of go 8 feet from the side wall in the rear wall I would like to go between 2 and 4 feet. It's an above-ground pool 15 x 30, that's what I'm asking for.

MS. MASON: Is that what you asked for originally?

MS. BROWN: I asked for two feet on the application, yes.

MR. KANE: We'll make it different, show me, it's going to be an oval pool?

MS. BROWN: It's an oval pool, yes.

MR. KANE: Okay you have the, on the oval pool you have three foot extensions that come out each side?

MS. BROWN: No, not the pool that I bought.

MR. KANE: You're getting the slim line cause the measurement's to the wall.

MS. BROWN: It goes straight down.

MR. KANE: Can we push that more towards the four or five feet?

MS. BROWN: Definitely, yeah, I said two feet because giving me leverage but I, my husband still brought it in five feet.

MR. KANE: Technically they couldn't be closer than 4 foot to the fence, is that correct, with the pool wall don't they have to have flat property 4 foot all the way around a swimming pool for the wall to act as a fence in New York State?

MR. BABCOCK: Yeah, at least that. What we do is what's the height of the pool?

MS. BROWN: The size?

MR. BABCOCK: The height?

MS. BROWN: It's 54 inches.

MR. BABCOCK: We'd like to see it 54 inches, whatever the height of the pool is that's what we'd like to see, we take a curve at the 54 inch and swing it and it's got to be that far away.

MR. KANE: Okay, so let's round this just say five feet.

MS. BROWN: That's great.

MR. KANE: Work for you?

MR. BABCOCK: Yes.

MR. KANE: That gives us our minimum distances, we comply with the New York State as far as minimum and towns can make it more restrictive, not less so five feet works all the way around.

MS. BROWN: Great.

MR. LUNDSTROM: Are we amending the application?

MR. KANE: Yes, can we amend that?

MS. MASON: We'll have to do the paperwork.

MR. BABCOCK: We'll take care of that.

MR. KANE: So everybody's on the same page that's going to be a, she needs to be 10 foot, Mike, or 12 so she's going to need a 7 foot 12, yeah, her required is 25 feet and then in the back it's 30 feet, I'm sorry, 25 feet was the front for the pool.

MR. BABCOCK: No, the required side yard is 10 feet.

MR. KANE: So keep her at five she's going to need a five foot.

MR. BABCOCK: That's correct.

MR. KANE: She's going to need a five foot side and five foot rear yard variance which actually is less of a variance than what she was asking for on paper. Okay, some of the questions I ask may not seem clear looking at the pictures. Not removing any trees or substantial vegetation?

MS. BROWN: No.

MR. KANE: Create any water hazards or runoffs?

MS. BROWN: No.

MR. KANE: If it's approved by the board you understand that you have to meet all the requirements for the building department?

MS. BROWN: Yes.

MR. KANE: And there's also did you know there's a new requirement you have to have a pool alarm starting in December? New law in New York State started in December and yeah all pools require an alarm.

MS. BROWN: No, I did not know that.

MR. KANE: Check with your company. Correct, Michael?

MR. BABCOCK: Yes.

MR. KANE: Any further questions?

MR. LUNDSTROM: I assume the pool is going where the trampoline is in the general area?

MS. BROWN: Yes.

MR. KANE: Any easements running there in the area where you're going to put the pool?

MS. BROWN: No.

MR. KANE: Pool itself is similar in size to other pools that are in your neighborhood?

MS. BROWN: Yes.

MR. KANE: I'll accept a motion.

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MS. GANN: I'll offer a motion the we set up Ernest and Germaine Brown for a public hearing for their request of five foot side yard setback and five foot rear yard setback for proposed above-ground pool.

MS. LOCEY: I'll second that motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

DARREN_&_JENNIFER_SCHIAROLI_(07-22)

Mr. and Mrs. Darren Schiaroli appeared before the board for this proposal.

MR. KANE: Request for 23.7 foot side yard setback and 48.8 foot total side yard for proposed addition to single family dwelling at 15 Carpenter Road. Tell us what you want to do.

MR. SCHIAROLI: Should we do our names first? Darren Schiaroli, 15 Carpenter Road, Rock Tavern, New York.

MRS. SCHIAROLI: Jennifer Schiaroli.

MR. SCHIAROLI: We're building an addition, I guess we gave you the plans, I don't if you've seen them but we have the room if we didn't tie our house into the garage but now that we're tying the house into the garage they say we need 40 feet. The garage is existing, it's been there for 30 years now, we're not actually building where the variance is going so the addition--

MR. KANE: You're going to connect the house with the garage?

MRS. SCHIAROLI: Yes.

MR. KANE: This becomes part of the house?

MR. SCHIAROLI: Yes, this is actually coming across and tying into here so I mean the variance is over here, we're not getting any closer to the property line, we're just building, connecting our house and adding a little addition, you know.

MR. KANE: What size is the total addition that you're putting onto the house?

MR. SCHIAROLI: I think it's 37 x 27 somewhere, I don't know the exact measurements, it's on the plans.

MR. KANE: It keeps the house similar in size and nature to other homes that are in your neighborhood, not overly big?

MRS. SCHIAROLI: No, no.

MR. SCHIAROLI: But the new ones they're building, I mean, it's, there's little houses on this road so the size of our house now is probably the average size but the new ones they're building now makes ours look tiny.

MR. KANE: I can see from the pictures but I ask the questions anyway. Not removing any trees or substantial vegetation in the building of the addition?

MR. SCHIAROLI: No.

MR. KANE: Won't be creating any runoff?

MR. SCHIAROLI: No.

MR. KANE: Any easements running through that area?

MR. SCHIAROLI: No.

MR. KANE: Mike, you have a copy of the plans?

MR. BABCOCK: Yes.

MR. KANE: We'll just have that for the public. Any further questions from the board?

MR. LUNDSTROM: What will the addition be used for?

MR. SCHIAROLI: For a bedroom for her and a den, a playroom and we're adding a bathroom.

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MR. KANE: No intent to make an apartment?

MRS. SCHIAROLI: No.

MR. SCHIAROLI: No.

MR. KANE: Have to ask, there's a trend.

MRS. SCHIAROLI: Just babies.

MR. KANE: I'll accept a motion.

MR. LUNDSTROM: Mr. Chairman, I will offer a motion that the application by Darren and Jennifer Schiaroli be allowed to proceed to a public hearing regarding the variance requested on the agenda of May 14, 2007.

MS. GANN: I'll second the motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

ADP_ENGINEERING_(FOR_WAL-MART)_(07-19)

MR. KANE: Request for 19 foot minimum lot width at NYS Route 300. Just please state your name and everything, speak loudly.

MR. FISHEL: My name is Adam Fishel (phonetic) with APD Engineering, the address there, do you need the address? It's 3445 Winton Place, Suite 208, Rochester, New York 14623. And I like I mentioned we're here for a 19 foot variance on the lot frontage, I believe it's lot width on that Wal-Mart out lot. This right here is Route 300 and the Wal-Mart Super Center is placed back here, right now, this is the Hudson Valley Federal Credit Union right adjacent to it and they also own the parcel of property between their existing building and the Wal-Mart out lot we're talking about. The side of the property is along the Wal-Mart access drive on the west side and this little odd configuration from the minor road that's by Route 300 and that's considered the property width measurement right there and as it has been placed and signed off by the town. It's not providing 19 feet of the required from the signed plan versus this one, I have actually moved that western property line as close as we can right here to the Wal-Mart drive to maximize that front property with the front building setback.

MR. BABCOCK: You moved property lines?

MR. FISHEL: It's all this is the overall parcel we're talking about and we're looking to subdivide this little portion from the Wal-Mart, the overall parcel, this is the western property boundary I was talking about, I shifted that approximately five feet further to the west so I can maximize that front lot width and it's all Wal-Mart property that we're talking about.

MR. LUNDSTROM: Mr. Chairman, will that shift impact on the right-of-way for the use of that road?

MR. KANE: Good question.

MR. FISHEL: Well, that's a Wal-Mart access road.

MR. LUNDSTROM: It's not the one that's available to public use?

MR. FISHEL: I'm sorry, this right here this is the Wal-Mart access drive, not Liner Road.

MR. LUNDSTROM: Only for Wal-Mart or is it for the public?

MR. FISHEL: I assume it's a public drive.

MR. LUNDSTROM: That was the cause for my question.

MS. LOCEY: Are you going to move that road?

MR. FISHEL: The road, no, no.

MS. LOCEY: What are you moving?

MR. FISHEL: Just the property boundary right here, there's two lines that denote the edge of the existing road that's staying where it is, what I've done is I've shifted this lot line that segregates our parcel, we're looking to subdivide and the rest of the Wal-Mart property we're subdividing from closest to that edge of pavement that we can.

MR. KANE: So the rest of the property is going to, that's owned by Wal-Mart going to kind of go around that, is that what we're saying?

MR. FISHEL: The remaining property to Wal-Mart is going to be, is this area here.

MR. KANE: Kind of go right around that whole thing.

MR. FISHEL: The whole road as it is is going to be within the existing Wal-Mart property.

MS. LOCEY: And you're subdividing for the credit union?

MR. FISHEL: No, for a Wal-Mart out parcel that they are looking to sell, this is where the gas station was, I don't know if you remember that about a year or so ago that I came in for approvals and that went away, that's the same lot that was slated for a gas station looking to subdivide it off and put it up for sale.

MR. KANE: The top part of the Wal-Mart property is that the line that's coming straight across the way you're subdividing out that line right there?

MR. FISHEL: Yes, this is the property to the credit union.

MR. KANE: That's credit union's property?

MR. FISHEL: Yes.

MS. LOCEY: So that's not Wal-Mart property?

MR. FISHEL: No, if it was it would be easy to slide that property line.

MR. BABCOCK: The credit union has an approval or close to approval, they're actually going to tear that one down and build a new one and that's, they're going to expand over into that site, this was an approved lot for a Wal-Mart gas station, apparently, they're not going to build that now.

MR. KANE: But that does include the road, right?

MR. BABCOCK: No, the road is not on this parcel.

MR. KANE: The road is not on that parcel?

MR. BABCOCK: No, that crazy dark line that goes with the road is the property line.

MR. KANE: Yeah, that I was getting little confused looking at that, I'm wondering why can't we pull out 19 feet and not even have to be here?

MR. FISHEL: Wish it was that simple.

MR. KANE: So that's not part of, okay, so there's nowhere to pick up that 19 feet from Wal-Mart property is what we're saying?

MR. BABCOCK: That's right, the 19 feet was there when they subdivided because it included the road Wal-Mart owned, the road, and they also owned that parcel.

MR. KANE: And what happened to the road?

MR. BABCOCK: They're going to maintain ownership of the road but this parcel they're going to sell to me, you, anybody who wants to buy it so they're making this parcel smaller.

MR. FISHEL: And the property access will be maintained?

MR. BABCOCK: They still need to go back to the planning board for final approval on this if they're successful in this.

MR. KANE: They're still going to own the road?

MR. BABCOCK: Wal-Mart is, that's correct, it's the craziest lot line I've ever seen that somebody's creating.

MR. KANE: We've got enough crazy lot lines in town.

MS. LOCEY: Access to the new proposed subdivided lot will have to gain entry from that access road?

MR. FISHEL: Presently there are two asphalt aprons off of it, there's this line here, there's the Wal-Mart access road we're talking about, there's an access point here, an existing asphalt apron and then up here on the north side of our lot, the lot we're wishing to subdivide there's also another asphalt apron, I don't know why anybody would want to pose an access right here, right near the crazy intersection with Liner Road and 300 when they have two access points here.

MR. BABCOCK: When they subdivide it they'll have to be in the deed that Wal-Mart will give them access to this property.

MR. LUNDSTROM: Yeah, I would insist on that in perpetuity Wal-Mart shall give them access.

MR. KANE: The portion that they're keeping, they're just keeping the road itself and their property ends just below the road, that straight line coming across is that the property line down there all the way down on the bottom?

MR. BABCOCK: Yeah, the very straight line is Wal-Mart's property.

MR. FISHEL: That's correct.

MR. KANE: And they're keeping the road so they have access.

MR. FISHEL: That's correct.

MR. KANE: Wouldn't it make more sense to sell than make a right and keep, and get access right through it?

MR. BABCOCK: Well, when they did it, when they made this whole thing Wal-Mart's intention was to build their own gas station there so it made a lot of sense, they owned it, it didn't matter the whole thing. Now that they're selling it there's not much, there's no other way of doing it, there really isn't. If they're not successful in getting this Wal-Mart's going to have to maintain ownership, they're not going to be able to sell it so--

MR. LUNDSTROM: I think also from a practical standpoint I know, I've gone into that store a couple times, the parking lot can be very confusing for people to leave and I think maybe 50% of the people leave through that road so it seems like it would be in Wal-Mart's best interest to maintain it and keep it.

MR. BABCOCK: We're not going to let them not have that, if they came and said they were going to sell this road we would tell them no, they can't do that.

MR. KANE: They'd have to maintain access rights.

MR. BABCOCK: We want this road for Wal-Mart.

MR. KANE: Okay, all right, I think we're good enough. Any further questions?

MR. FISHEL: It's a crazy lot configuration.

MR. KANE: When you come for the public, do me a favor just to outline that in a different color showing exactly what that property is so it stands out for the public cause I'm sure you're going to have people here. I'll accept a motion.

MS. LOCEY: I'll offer a motion to schedule a public hearing on the application of ADP Engineering for Wal-Mart and their request for 19 foot minimum lot

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width at New York State Route 300 in a C4 zone.

MR. TORPEY: I'll second that.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

PUBLIC_HEARINGS

HENRY_VAN_LEEUWEN_(07-10)

Mr. Henry Van Leeuwen appeared before the board for this proposal.

MR. KANE: Request for two single-family dwellings on the lot at 340 Beattie Road. Good evening, let me ask if there's anybody in the audience for this particular hearing? And there's not, okay. You're up.

MR. VAN LEEUWEN: The lot consists of 40.43 something acres, plus acres, most of it's on the west side, a lot of it is. My wife has arthritis and the house we live in now is four floors and we sleep on the third floor and it's getting a little hard for her to come up and down the stairs, so we made up our minds we're going to build a house on one floor but since it's already a small residence of 1,200 square feet there I have to come to the zoning board in front of you folks to get a clearance.

MR. BABCOCK: The residence is a caretaker's apartment above the garage, it's not really just the residence.

MR. VAN LEEUWEN: It's a three car garage below it. Mr. Kane, also I want to ask you another question. If I want, I understood the old setbacks were 15 and 20, do I have to come back to get a side yard setback the variance for 10 feet?

MR. BABCOCK: Yeah, that's an issue now at this point in time.

MR. VAN LEEUWEN: Cause I just asked Mike what it was and he just told me, otherwise, I would have known.

MR. KANE: Yes, it has to be, we can't change anything at this point, we can at the prelim because it hasn't

been in the newspaper but here with public notice it needs to be in the paper 10 days before the hearing, I don't know that there's anything being we can do to change that. I think we're going to have to make you come back on that one, right, Mike?

MR. BABCOCK: Yeah.

MR. VAN LEEUWEN: I want to do it legally, I don't want any problems.

MR. LUNDSTROM: Where would you be envisioning putting the second dwelling?

MR. VAN LEEUWEN: See this septic system, this is the first house right here.

MR. LUNDSTROM: So the second?

MR. VAN LEEUWEN: That piece right there.

MR. LUNDSTROM: Okay.

MS. LOCEY: You have two structures on there, now you have this, so there's two structures on there now?

MR. VAN LEEUWEN: No, this is the septic system also.

MS. LOCEY: This is the only house there?

MR. VAN LEEUWEN: There's a three car garage with an apartment upstairs.

MS. LUNDSTROM: Just one other question. Are you looking to extend the driveway that's currently to the existing garage and house to the new house?

MR. VAN LEEUWEN: Yes, no change in driveways whatsoever.

MS. GANN: How large would the new dwelling be?

MR. VAN LEEUWEN: About a little over 3,000 square feet.

MR. KANE: Creating any water hazards or runoffs in the building of it?

MR. VAN LEEUWEN: No.

MR. KANE: Cutting down any substantial vegetation or trees?

MR. VAN LEEUWEN: No.

MR. KANE: Any easements running through that particular area?

MR. VAN LEEUWEN: No, sir.

MR. KANE: Would you be adverse to, you have no intention of subdividing that piece of property, do you?

MR. VAN LEEUWEN: No, I'd rather not.

MR. KANE: Do you have a problem if that was made part of the agreement if we allowed that that the property wouldn't be subdivided?

MR. VAN LEEUWEN: Sure.

MR. KANE: Since most of it's wetlands.

MR. VAN LEEUWEN: I don't want to subdivide it, you can put that there, that doesn't mean nothing to me, I don't want to subdivide it, that's the whole trick.

MR. KANE: I think I would like to add that in as part of the motion. Okay, at this point, I'll open it up to

the public and ask once again if there's anybody in the audience for the public portion of it? There's not, we'll close the public portion of the meeting and ask Myra how many mailings we had.

MS. MASON: On May 1st, I mailed out 30 addressed envelopes and had no response.

MR. KANE: We'll bring it back to the board. Any further questions? If not, I'll accept a motion.

MR. LUNDSTROM: Mr. Chair, I will make a motion that the application of Mr. Henry Van Leeuwen for a second dwelling on the property as listed on the agenda of May 14 be approved by this board.

MR. KANE: With the provision that there will be no subdivision of the property.

MS. LOCEY: I'll second that motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

TIMOTHY_SPINDLER_(07-12)

Mr. Timothy Spindler appeared before the board for this proposal.

MR. KANE: Request for variance to permit an existing 10 ft. x 14 ft. shed to project closer to Sean Court than the principle building at 2 Sean Court. Come on up, speak loud enough for the young lady to hear you. And I'll just ask if there's anybody in the audience for this meeting? Seeing as there's not, we'll proceed.

MR. LUNDSTROM: For the record, just your name.

MR. SPINDLER: Tim Spindler, 2 Sean Court, Rock Tavern, New York 12575. We have an existing 10 x 14 shed on our property, our house is I believe 61 feet away from Sean Court and our shed is currently 48 feet away, it's there because it's easier to access from Sean Court and also if we put the shed deeper into our property it's a little wet. So we tried to keep it in a dryer area and we're here today, I'm here today because our house is for sale and we didn't realize we needed a permit for it and we didn't want any complications when the sale of our house went through.

MR. KANE: Cut down any trees or substantial vegetation in the building of the shed?

MR. KANE: No.

MR. KANE: Creating any water hazards of runoff?

MR. SPINDLER: No.

MR. KANE: Any easements in the area that the shed is in?

MR. SPINDLER: There is in the area but it's

approximately 75 feet away from the shed.

MR. KANE: Any complaints formally or informally about the shed?

MR. SPINDLER: I believe there was, I think 1 Sean Court made a formal complaint.

MR. KANE: Recently?

MR. BABCOCK: Yes.

MR. SPINDLER: That's why I'm here.

MR. KANE: How long has the shed been up?

MR. SPINDLER: I believe two years.

MR. KANE: Just the one complaint from one neighbor?

MR. BABCOCK: Deborah Menkins, 1 Sean Court.

MR. KANE: Yeah, I remember. The shed, it's similar in size and nature to other sheds?

MR. SPINDLER: Yes.

MR. KANE: For instance like at 1 Sean Court?

MR. SPINDLER: It's smaller than that.

MR. TORPEY: Not over any easements?

MR. SPINDLER: No, it's not.

MR. KANE: At this point, I will open up the public portion and ask once again if there's anybody in the audience for this particular hearing? Seeing as there's not, I will ask Myra, I'll close the public portion, ask Myra how many mailings we had?

MS. MASON: On May 1, I mailed out 22 addressed envelopes and had no responses.

MR. KANE: Is there any further questions from the board? Then I'll accept a motion.

MS. GANN: I will offer a motion that we grant Timothy Spindler's request for a variance to permit his existing 10 foot by 14 foot shed to project closer to Sean Court than the principle building.

MR. TORPEY: I'll second that.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

RICK_TEDALDI_(07-09)

Mr. Rick Tedaldi appeared before the board for this proposal.

MR. KANE: Request to permit more than two horses on property at 15 Wylly's Court. Speak loud enough, state your name and address so this young lady can hear you.

MR. TEDALDI: Rick Tedaldi, 15 Wylly's Court, W-Y-L-L-Y-S, Rock Tavern.

MR. KANE: Tell us what you want to do, sir.

MR. TEDALDI: Well, I have 19 acres and change, I want to enable my property to be able to accept six horses on it. As the current Town Law stands now if you have 20 acres or greater you can have an unlimited amount of horses.

MR. KANE: Currently any horses on the property?

MR. TEDALDI: No, there's no horses.

MR. KANE: Do you have an intent of putting them on there now?

MR. TEDALDI: I had my house, it's on, I'm not for certain I want to sell it but I want the option to be able to have more than two on the property if I do sell it. I've had some, a couple buyers look at it previously who have had some interest in having a couple horses but as it stands now limited to two and it's a very large piece of property, it certainly can accommodate more than two horses.

MR. TORPEY: What's the number you came up with?

MR. TEDALDI: Six.

MR. TORPEY: That's it?

MR. TEDALDI: Yeah, something reasonable, you look at the back yard and how it's set up, you can put six or eight horses back there and it wouldn't be unreasonable.

MR. TORPEY: Last meeting you were coming up with you were going to talk to the people, might have been 25.

MR. TEDALDI: Yeah.

MR. KRIEGER: That's what you came up with after you consulted.

MR. TEDALDI: I have one of my neighbors is here, my other neighbor is Mr. Schlesinger, sent him a letter as well and like he said to me, it's not that big a deal but to sell it, it's nice to have something a little better than two horses, someone can look at a 3 acre lot and have two horses. So I want to have a little more enticement on a nice 20 acre lot.

MR. KANE: One of the things that we look at too is a self-created hardship. I've got a little bit of a hard time on changing what the rules are basically for a property on spec, if you will, that, you know, you feel you'll get a better return if we can change the rules.

MR. TEDALDI: I've lived there for a couple years.

MR. KANE: But there's no existing horses there right now.

MR. TEDALDI: Two dogs.

MR. KANE: Right, I just don't, you don't know, that's my own personal feeling, I don't see doing that, I mean, if you had some horses and there was a thing that you can show us how that was going to develop in there

I'd feel a little bit better but that's my own feeling.

MR. TEDALDI: Can I say the only rebuttal of any sort if I don't get a variance, my other option is to go to the adjoining farmers and buy a half acre of land from them and if I do that, that eliminates six horses which my neighbors would like now, I'd have unlimited horses, so the variance actually offers them some degree of protection, believe it or not, as opposed to me going to see Coleman or the other farm next to me and offering to buy. All I need is a dead half acre of land and I get the 20 acres. So I'm just trying to find, just trying to be as reasonable as possible and help trying to do the right thing for myself and trying to be reasonable to the neighbors at the same time and hopefully please the board.

MR. KANE: No, you've been honest.

MR. BABCOCK: That's the key, when he came in and talked to us about it he's talking very honest, he could come to this board and say that he wants to have six horses, you know, and he wants to have them for his kids and his friends and his neighbors, he's being honest and that's what we told him up front, best way to do it is to be honest, that's the whole criteria about it.

MR. KANE: I think what I'm going to do at this point is open it up to the public because I would like to hear as a neighbor your point of view on it too so I'll open it up to the public at this point, just your name and address now loud enough and tell us what you want to say.

MS. SIMIHTIS: Paul Simihtis, 16 Wylly's Court. I spoke with Neil last week and we're pretty much okay with six if it's within six we're, we don't really have any issues.

MR. KANE: Your address, sir?

MR. SPINDLER: 16 Wylly's.

MR. KANE: Let the record show that I got a letter from Heil Schlesinger, basically, it says request to permit more than two horses on property at 15 Wylly's Court. Unfortunately, I have a prior commitment and cannot attend the public hearing for the above variance request. I'm a bordering neighbor and creator of the subdivision on which said premises is part of thereof. Short version, I suggest that Mr. Tedaldi be granted a variance, however, I feel fair and reasonable that said variance is to be limited to five or six or maybe six horses. I'm sure you're aware five or six horses can legitimately become 10 or 12 if they're mares and if they foal. Long version that residents that are part of the subdivision have large investments, some say they have spent over a million dollars. At the time that the subdivision was created, there was no lot bigger than 19 acres, thereby, no one would be exposed to an abundance of horses. I am a lover of horses and animals in general but our neighborhood has changed from farm and country to significantly more residential. Many horses expose us to noise, odors, insects and obviously more truck traffic for feed, hay, et cetera. I hope that you value my explanation and resolve this request for fair and reasonably. Yours truly, Neil Schlesinger, 420 Station Road.

MR. LUNDSTROM: If I may, Rick, the letter that was just read and this gentleman here, are they abutting your property?

MR. TEDALDI: Yes, Paul is the most affected or him and I share quite a bit of property line, Neil's portion that he shares is about 1,000 feet on the very, very front edge of my property.

MR. LUNDSTROM: Abutting your property?

MR. TEDALDI: Neil abuts my property as well.

MR. KANE: Let's get an answer. Myra, how many mailings did we have?

MS. MASON: On May 1st, I mailed out 13 addressed envelopes and one response.

MR. KANE: From Mr. Schlesinger.

MR. KRIEGER: What's the topo like, the lay of the land?

MR. TEDALDI: Gently sloping. Would you say gently sloping? Very gentle grade, if you go, it's no more than five percent at any point, probably not even that.

MR. KRIEGER: Okay, so of the 19 point whatever acres it is that's all usable land other than obviously what's occupied?

MR. TEDALDI: There's about out of the 19 acres roughly 9 acres are delineated as federal wetlands, out of the 9 acres only three or four are actually wet, I don't know enough about agricultural law as to whether or not you could let horses use wetlands or not but it's about 10 nice high and dry acres, it's all existing field or fields that were let go.

MR. LUNDSTROM: Mr. Chairman, one further question, I don't know, Rick, if you can answer this or if the building inspector could, but the other parcels around your area, are they all 19 plus or are some of them more than 20 acres?

MR. TEDALDI: There's a couple very large adjacent parcels, one owned by Coleman, it has to be well over 100 acres and then there's another one to my north, it's a very large parcel as well and then aside from

that those two pieces, the other, the adjacent one is Paul's piece and then Neil Schlesinger's piece.

MR. LUNDSTROM: Those two pieces would be roughly what size?

MR. TEDALDI: I believe Paul's is in the range of 13 or 14 acres.

MR. SIMIHTIS: It's 13.9.

MR. TEDALDI: And Neil has broken off quite a bit so the piece next to me I think is only whatever the minimum zoning was at the time for the lot, he has a bunch of other pieces contiguous to that piece.

MR. KANE: Would you object to a stipulation that if it was granted for X amount of horses that in case the property was ever looked at to be subdivided in the future that the variance would be voided at that point?

MR. TEDALDI: If it makes you feel better, my property, it's in the deed it cannot be further subdivided so it's protected from that. Correct?

MR. SIMIHTIS: Yes.

MR. KRIEGER: So you understand the reason that the chairman asked is enforcing is a different procedure, this board doesn't have the power to change any deed restrictions but the standards for enforcing the deed restrictions and the place where they're enforced is not likewise is not within the control of this board, that's done in Supreme Court basically, if it's a, if the zoning variance is a local matter and it's subject to the building inspector here.

MR. BABCOCK: So, Mr. Chairman, you could put that in the motion that it cannot be further subdivided.

MR. TEDALDI: Sure, I don't mind, I can't subdivide it.

MR. BABCOCK: We have the enforcement if they go to subdivide it some future date somehow that happens.

MR. KANE: I would look to have that done on it and I would also like to have a time limit on any new horses on there what, a year, I don't know, I'm not--

MR. TEDALDI: I have no problem with putting no further subdivision. If you're going to time limit would be tougher, I mean.

MR. BABCOCK: Time limit for what?

MR. KANE: If there's six horses and they have a foal at a certain point a reasonable amount of time get it back to six.

MR. BABCOCK: Mr. Chairman, the current says six months.

MR. KANE: Code says six months, okay.

MS. GANN: The way this is written we're asking for more than two horses on the property, should we, are we changing that number?

MR. BABCOCK: We're going to stipulate that it is six, I wrote down six and then I assume the board is going to do that also.

MS. GANN: So we're saying six instead of more than two?

MR. KANE: He's saying six.

MR. TEDALDI: I'm asking for six, I want to specifically delineate six horses.

MR. KANE: Yeah, I want to put a specific number on it.

MR. KRIEGER: The answer to Kim's question is yes.

MR. KANE: Further questions?

MS. LOCEY: I kind of like the idea that this would protect the neighbors cause as he said he can buy half an acre and have 25 on there.

MR. TEDALDI: Or 100, not 100 but--

MR. TORPEY: Who wants to take care of them?

MS. LOCEY: But we've heard from two adjoining property owners and neither one has a problem with six or less, so I don't have a problem with six.

MR. TEDALDI: I have two dogs and two kids so I don't want to take care of anything else.

MR. KANE: Any further questions?

MR. LUNDSTROM: With all the caveats, would it be proper to have the counsel draft the motion then we would then make that, make sure all caveats are included?

MR. KRIEGER: What the motion is is to have, to allow six horses on the property subject to the condition that the property cannot be subdivided. What else do we have?

MR. LUNDSTROM: If that be it.

MR. KANE: That's it because the other thing is covered already in the law.

MR. BABCOCK: You can put that in the motion and a foal can be there for six months.

MR. KANE: No longer than six months, we'll add that on there, just want to cover the bases with this.

MR. KRIEGER: Yeah, I'll add that as a condition.

MR. LUNDSTROM: I'll make that as a motion then.

MS. LOCEY: I'll second it.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MR. KANE: Motion to adjourn?

MR. LUNDSTROM: So moved.

MS. GANN: Second it.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

Respectfully Submitted By:

Frances Roth
Stenographer