

**PLEASANT VALLEY ZONING BOARD OF APPEALS**  
**January 27, 2005**

This meeting of the Pleasant Valley Zoning Board of Appeals took place on January 27, 2005, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman John Dunn called the meeting to order at 7:36 p.m.

Members present:           John Dunn  
                                  Helene Czech  
                                  Ronald Vogt  
                                  Robert Maucher

Members absent:           Ed Feldweg  
                                  Laura Zylberberg  
                                  Lisa Rubenstein

Also present:               Dieter Friedrichson, Zoning Administrator

**1. APPEAL #835 – ARNOFF VARIANCE**

The applicants were not present at this meeting, and there was no one from the public who wished to speak to this application.

**MOTION TO ADJOURN THIS APPLICATION TO ZBA MEETING IN FEBRUARY 2005; SECONDED**

**VOTE TAKEN AND APPROVED 4-0-0**

**2. APPEAL #838 AMORESANO VARIANCE**

J. Dunn: This is a request for a variance from Section 98.12 (a) of the Zoning Code for a 5' extension across the front of their house. The following documents are in the file:

- Affidavit of publication in The Poughkeepsie Journal dated 1/19/05
- Copies of letters that were mailed to the contiguous landowners
- Positive recommendation from the Town of Pleasant Valley Planning Board “as the proposed addition is no closer to the road than the existing structure”
- Letter from the Pleasant Valley Fire Advisory Board – “no comment with regard to this application

Joseph and Rosetta Amoresano were sworn in. They reported that they are extending the left side of the house to meet the right side of the house.

R. Vogt inquired whether they were increasing the height of the structure. The applicants responded that they are adding a room upstairs and that they are raising the height of the front of the house.

The Board discussed with the applicants that the Board needs to see the architectural plans for their addition and that their application must be amended to reflect their plan to raise the height of the house and add a second story to a one-story house. Further, the Board clarified that they cannot get a building permit until they have this variance, and they cannot get this variance until these requirements have been met. Their application is incomplete and inaccurate.

R. Vogt stated that they really need a 40' variance and explained to the applicants how the measurements must be made. However, the increased height of the building will affect the size of the variance. Therefore, the Board cannot render a decision on this application until they see the plans.

Board informed the applicants that they must return to a future ZBA meeting with the architectural drawings.

### **PUBLIC HEARING OPEN**

No one spoke.

### **PUBLIC HEARING CLOSED**

**R. Vogt: MOTION TO ADJOURN THIS APPLICATION TO A FUTURE ZBA MEETING; SECONDED BY R. MAUCHER**

**VOTE TAKEN AND APPROVED 4-0-0**

### **3. QUESTIONS FROM THE PUBLIC**

Woman in the audience asked how a neighbor is permitted to put up a shed on their property without her being notified. Board advised her to speak with the Zoning Administrator and further explained that, as long as the installation is within Code, the building permit will be issued. Further, she asked how she can find out what rules govern building changes/development. Board directed her to the Zoning Code and told her where she can get a copy.

Question from Troy Bass regarding goats on residential property. Board discussed that the Code only addresses buildings for animals but is silent about pets. Further, D. Friedrichson stated that goats, snakes, dogs, cats, and even a cow are considered a pet. T. Bass stated that he went to the Department of Health and was sent to the ZBA. Board emphasized that the Department of Health must respond to a complaint regarding sanitation.

### **4. APPEALS #839 & 840 – GREENE VARIANCE**

Jonathan and Kelly Greene reported that they received a letter notifying them that their appeals would be heard this evening. Further, their have posted the sign on their property.

Board clarified that the date in the letter is in error, apologized to the applicants, and asked them to come to the February 2005 ZBA meeting.

**5. MINUTES**

**R. Vogt: MOTION TO APPROVE THE MINUTES OF THE 12/16/04 ZBA MEETING; SECONDED BY R. MAUCHER**

**VOTE TAKEN AND APPROVED 4-0-0**

**MOTION BY EVERYONE TO ADJOURN THE MEETING; SECONDED BY EVERYONE – APPROVED BY EVERYONE**

**MEETING ADJOURNED BY CHAIRMAN DUNN AT 8:10 P.M.**

Respectfully submitted,

Helen D. Dickerson  
Secretary

The foregoing represent unofficial minutes of the January 27, 2005, Pleasant Valley Zoning Board of Appeals meeting. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_\_ Approved as read

\_\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY ZONING BOARD OF APPEALS**  
**February 24, 2005**

This meeting of the Pleasant Valley Zoning Board of Appeals took place on February 24, 2005, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman John Dunn called the meeting to order at 7:34 p.m.

Members present:           John Dunn  
                                  Helene Czech  
                                  Ronald Vogt  
                                  Robert Maucher  
                                  Lisa Rubenstein  
                                  Christina Perkins

Members absent:           Laura Zylberberg

Also not present:         Dieter Friedrichson, Zoning Administrator

**1. APPEAL #841 – BARRY – VARIANCE**

This application is for a variance from minimum side setback requirement for deck on mobile home at 39 Juniper Avenue, Cedar Hollow Mobile Home Park, Pleasant Valley, NY 12569.

J. Dunn reported that the file contains:

- affidavit of publication in The Poughkeepsie Journal dated 2/16/05
- positive recommendation from the Planning Board
- letter from Fire Advisory Board recommending disapproval until such time as the applicant submits measurements of the distance between the proposed deck and any nearest structures
- no letters to adjacent property owners as the park has a single owner
- application for a building permit which was denied

Steve Barry, 39 Juniper Avenue, Pleasant Valley, NY 12569, was sworn in and reported that the Town notified Park owner, Dave Pretak, who in turn notified S. Barry, that the existing deck is in violation because it is too close to the road. Setback is 30'; the deck is 23' from the road. Also, 15' side setback is required; the deck is only setback 9". The Town did the measurements. S. Barry reported that the deck was built in 1989 and that he purchased the mobile home in 2003.

R. Vogt inquired if the 8' x 12' shed is also in violation. S. Barry stated that the shed was existing at the time that he purchased the home. R. Vogt also inquired about the footings, whether they are sitting on the ground or are sunk in concrete. S. Barry stated that he's a carpenter by trade and that the deck has not sunk one half inch. He thinks that the posts are set in concrete although he did not dig them up.

Dave Pretak, 1383 Route 44, Pleasant Valley, NY 12569 was sworn in and reported that D. Friedrichson notified the main office regarding some clean up items and some violations. D. Pretak did the measurements and found that the shed does not need a variance. D. Pretak does not know when the deck was built or if the footings are sunk in concrete. Further, he reported that the building inspector prefers to see free standing structures attached to mobile homes. The reason being that the homes are on supports which could have some movement. D. Pretak does not know if there is a C.O. on the shed.

No member of the Fire Advisory Board was present at the meeting. The Fire Advisory Board had recommended disapproval until the applicant provides measurements of the distance between the deck and the nearest structures. J. Dunn pointed out that the measurements are on the application.

Board discussed whether a front variance is required. A front variance was already granted for the mobile home. The deck will not extend any farther out than the front of the home. L. Rubenstein stated that the existing front variance would also apply to the deck as the deck does not go closer to the front than does the house. R. Vogt and J. Dunn disagreed. L. Rubenstein stated that as long as the applicant does not go any closer to the front lot line than 18' (which is the front of the home), then they don't need any additional variance. R. Vogt disagreed and stated that the additional structure requires a variance. L. Rubenstein stated that the Board has treated every application the same way - the closest end of the structure determines the required variance. R. Vogt stated that the variance is required because it is an additional structure to the home. L. Rubenstein stated that the variance is not per structure but is for the lot. J. Dunn stated that it requires its own C.O. and is a separate structure and, therefore, requires its own variance. Board decided to review case law regarding this question.

**R. Vogt: MOTION TO ADJOURN THIS APPLICATION TO THE MARCH ZBA MEETING; SECONDED BY L. RUBENSTEIN  
VOTE TAKEN AND APPROVED 6-0-0**

## **2. APPEAL #842 – THE WOODWORKS COMPANY VARIANCE**

This is an application for a variance from the minimum setback requirements for construction of addition and location of sawdust hopper on site at 2559 Route 44, Pleasant Valley, NY 12569.

J. Dunn reported that the file contains:

- negative recommendation from the Planning Board
- affidavit of publication in The Poughkeepsie Journal dated 2/16/05
- public notice and notice to adjacent property owners
- letter from the Fire Advisory Board: recommends disapproval of this application “as submitted as there appears to be a fire safety issue with regard to location of a hopper containing combustible materials within 1’4” of the property line and that

any application should be delayed until such time as that fire safety issue is addressed.”

Fred Schaeffer, attorney for the applicant, was present. Robert Gersch, president of The Woodworks Company, was present and sworn in.

F. Schaeffer reviewed the history of this business and this building. This property has been used for 29 years as a woodworking business. Prior to that it was a welding shop. It has always been a non-conforming use. The applicant, in order to stay competitive in his woodworking business, had to get new machinery. The addition is to cover the storage area. The applicant applied 3-4 years ago for substantially the same addition, which was granted. The same issues were present then, except for the hopper. The basic addition was approved. Then, Mr. Gersch tried to purchase the property behind this site, which is owned by the NYS police, in order to expand. Mr. Gersch gave up after 2-3 years negotiating with the police, decided to go ahead with the addition but discovered that the permit had expired. Hence, he is back before the Planning Board with essentially the same application. The circumstances have not changed, and the project is not creating any problems for the neighborhood. It does present a hardship on the applicant if it is not granted because he cannot stay competitive in this business without keeping the raw materials dry.

F. Schaeffer stated that the same concerns regarding the hopper came up the last time he applied. The former fire inspector, Robert Johnson, suggested that the hopper be moved to the side of the building it is currently on. The hopper was moved to accommodate the fire inspector's request. This is a state-of-the-art collection system and was installed per standards on the side of the building. The sawdust collects in an open container, which is less of a fire hazard than a closed container and preferable to customary practice of just letting the dust fall to the ground.

F. Schaeffer stated that he disagrees with the Fire Advisory Board's assessment of a fire safety hazard. Further, he states that they were asked to move the hopper to the site which resulted in it being 1'4" off the property line. He does not think it would be justified for the ZBA to deny a variance, the need for which was created by their compliance with the previous fire inspector's direction to relocate the hopper.

R. Gersch stated that dumpster into which the hopper dumps the sawdust is mobile. People come and take the saw dust - for horses, for the restaurant next door to mix with their cooking oils in their dumpster to keep the odor down. The dumpster can be removed. It's temporary; it's on wheels. R. Gersch asks if the Board would rather have him dump the sawdust on the ground.

R. Vogt asked if there has ever been a fire or a fire safety issue in the 29 years. R. Gersch states that they have never had a fire or fire safety issue or a violation. He agreed with Robert Johnson that as the business grew so did the amount of sawdust and that it should not be left on the ground. He stated that the steel dumpster cost him \$32,000 and that he

has repeatedly asked Jeff and Dieter what they want him to do. He has not received an answer.

L. Rubenstein asked if a member of the Fire Advisory Board met with R. Gersch. R. Gersch responded that he was surprised by the Fire Advisory Board's stated concern because Jeff doesn't have any opinion on the hopper or the dumpster. R. Gersch stated that Jeff's concern was not with that, but rather with the construction of the addition and whether it would meet fire codes. The engineer knows about it and it will meet the code. R. Gersch stated that the dumpster is emptied several times a day. The farmers come daily and wait on line to retrieve the sawdust.

Board confirmed that they previously approved a variance that's right on the property line. The rationale for doing so is that the adjacent property is virtually empty and will remain empty because it is the NYS police barracks. The neighbors have no concern about this application and are not present to speak at this hearing. The previous appeal was #741, and the variance was granted on December 29, 2001.

R. Vogt pointed out that the applicant owns the dumpster, which he purchased at considerable expense. Therefore, there is no alternative for him to replace it with a smaller dumpster, which would require a smaller variance.

R. Gersch clarified that the dumpster overhangs the property line by about 8' and the adjacent property owner does not care.

H. Czech asked if it were possible to turn the dumpster if it were necessary in the future. R. Gersch confirmed that he could but it would require him to dig up his oil tanks.

L. Rubenstein clarified with the applicants that nothing in this current application has significantly changed from the original application. R. Vogt points out that a portion of the building is 6' wider.

A 7' variance on the left is requested and a 14'6" variance on the rear.

R. Gersch stated that in anticipation of this addition he made improvements among which is a completely new electrical service including explosion-proof boxes, curtain drains, new septic, new pumps from the well, new humidification system. He stated that they tried to do a sprinkler system, but that it is physically impossible because there is no water pressure. There is not enough of a water source.

**PUBLIC HEARING OPENED**

No one spoke

**PUBLIC HEARING CLOSED (R. Vogt moved; H. Czech seconded.)**

**3. APPEAL #843 – ENNIS MOBILE HOME PARC**

This application is for variances from minimum setback requirements for replacement mobile home and proposed shed in mobile home park at 22 Eagle Circle, Pleasant Valley, NY 12569.

J. Dunn reported that the file contains:

- positive recommendation from the Planning Board
- affidavit of publication in The Poughkeepsie Journal dated 2/16/05
- no notification of adjacent property owners as the park has a single owner
- letter from Fire Advisory board recommending disapproval pending receipt of drawings that show the distances from this mobile home to the nearest adjacent mobile homes.

Dave Pretak, 1383 Route 44, Pleasant Valley, NY 12569 had already been sworn in. Mr. Pretak reported that the nearest home is on the left hand side and the distances between the proposed home and all adjacent homes are documented on the map.

- 24' between proposed home and home on left
- 34' between proposed home and home on right
- 32' between proposed home and home in the rear

D. Pretak stated that the proposed home is a multi-section home that is 24' wide, which is the narrowest multi-section home that is made. Although it could be done, he reported that they are not intending to put a standard 14' x 70' home in this site. The reasons for this are that such a home would be too long, that there's a very nice hedgerow to the rear of the lot, and the existing home on the site is 23' wide with an enclosed porch. D. Pretak states that it is rare for him to not request a front variance as many of the homes are 15' to 17' off the road. However, the proposed home is quite a distance off the road. Also, they are not requesting a variance to the left or to the rear. The only variance he is requesting is on the right, and he needs the exact the same variance for the proposed house as was granted for the existing home. In addition, there is a proposed shed on this lot to be located 10' off the lot line and 5' off the rear. Board discussed a measurement discrepancy between the electric meter and the proposed shed. The measurements on the map are accurate; the markings on site are incorrect.

**PUBLIC HEARING OPEN**

No one from the public spoke.

**PUBLIC HEARING CLOSED (motion by R. Vogt, seconded by H. Czech)**

**4. APPEAL #838 - AMORESANO VARIANCE**

This application is for a 35' variance from minimum center of road setback required for construction of addition to existing residence at 919 Salt Point Turnpike, Pleasant Valley, NY 12569.

Joseph Amoresano had already been sworn in at a previous ZBA meeting. Board reviewed the blueprints that Mr. Amoresano provided. The applicant is proposing to add a second story to his house.



Board discussed the exact setback required. Property is in Zone R-1. J. Dunn asked if the front setback is determined by the height of the building. L. Rubenstein read from the code: "The height of the building exceeds the minimum setback set in the schedule, the setback required shall be equal to the height of the building." Further, the Code states that maximum building height in R-1 Zone is 35'. Board determined that the height of the building will be 24' and will, therefore, not be a factor.

Front variance required is 35'. The Code section is 98.12 (a).

**PUBLIC HEARING CLOSED (motion by L. Rubenstein; seconded by H. Czech)**

**5. APPEAL #835 - ARNOFF VARIANCE**

J. Dunn reported that, although Arnoff has not withdrawn his application, he is not appearing before the ZBA because he believes that he will be denied. Board discussed whether it should deny an application without the applicant present. Board determined to let the application run its normal course. If the applicant does not appear at the next ZBA meeting, then the Board will deny the application.

**MOTION TO ADJOURN APPLICATION TO THE NEXT ZBA MEETING (L. Rubenstein); SECONDED (R. Vogt)  
VOTE TAKEN AND APPROVED 6-0-0**

**6. MINUTES OF ZBA MEETING ON 1/27/05**

**MOTION TO APPROVE MINUTES OF 1/27/05 ZBA MEETING (R. Vogt);  
SECONDED (H. Czech)  
VOTE TAKEN AND APPROVED 6-0-0**



**DISCUSSION OF APPEALS**

**1. APPEAL #841 – BARRY VARIANCE**

Board will review case law with regard to the required front variance on this application. Board discussed question of the deck footings and whether a building permit and Certificate of Occupancy is required. Also, discussed whether the ZBA would require inspection of the structure. Application is adjourned to a subsequent ZBA meeting.

**2. APPEAL #842 – THE WOODWORKS COMPANY VARIANCE**

L. Rubenstein explained to the new members of the ZBA that the Board's legal duty when making its decisions is to weigh and balance the benefit of the application to the

applicant versus its detriment to the health, safety, and welfare of the neighborhood or community. She stated that the Board must record its deliberations that lead to the Board's decisions. Hence, the Worksheet was created.

L. Rubenstein read into the record the worksheet for this application.

### **FINDINGS OF FACT**

The decision date is 2/24/05. The appeal # is 842. The appeal is dated 1/18/05. The applicant's name is The Woodworks Company Ltd. The location of the property is 2559 Route 44, Salt Point. Zone is C-1. Type of variance sought is Code Section 98.12. The setback requested is 14'6" on the rear, 7' on the left, and 13' 8" on the right. The structure is proposed, in part, and existing, in part, because the hopper is existing on the right side of the building.

The requested variance will not be detrimental to nearby properties.

An undesirable change will not occur in the character of the neighborhood.

There are no alternative (feasible) methods available to the applicant.

The requested variance is substantial.

There will be no effects or impacts to the physical or environmental conditions existing in the locality.

The variance is and is not a result of a self-created hardship. It is self-created because the hopper exists on the right side of the building. It is not because there is no structure yet enclosed on the rear and the left hand side.

### **CONCLUSION**

Taking into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant, the ZBA determines that the benefit to the applicant is greater. It is greater because the applicant has previously applied under Appeal #741 dated 11/29/2001, which was granted by the ZBA. The reason that the applicant has reapplied is that the deadline has expired for the applicant to complete construction under the original appeal. It is significant that nothing has changed on that location.

With regard to the hopper: Although the Fire Advisory Board has recommended against approval because they feel that the hopper is a hazard, the ZBA concludes that it should be permitted to remain in its present location because the prior Fire Inspector requested that it be moved to that location. Further, the applicant invested a significant sum of money in relocating the hopper from the left side to the right side per the Fire Inspector's request. It would, therefore, seem unfair to the applicant to require it to be moved again.

The most significant point is that the amount of sawdust in the dumpster at any one time is small because the sawdust is used by farmers and the adjacent restaurant. Further, the dumpster is open, which reduces the fire risk, the dumpster is steel, and is located on concrete. The applicant testified that he has been in the woodworking business at this location for 29 years, and nobody can recall there having been a fire at that location.

Therefore, the factors, when considered together, balance in favor of granting the variance.

Based on all the foregoing factors as discussed in the worksheet, L. Rubenstein **MOVES TO GRANT THE VARIANCE; SECONDED R. VOGT**

Board discussion: R. Vogt pointed out that he was part of the Board that considered the original application and that there has been no significant change in the property since then. Secondly, although water is not readily available by wells in that area, the same fire suppression system that is installed in gas stations could be added if any incidents occur.

**VOTE TAKEN AND APPROVED 6-0-0**

**3. APPEAL #843 – ENNIS MOBILE HOME PARC**

**FINDINGS OF FACT**

Decision date is 2/24/05. Appeal # is 843. The appeal is dated 1/24/05. The applicant's name is Ennis Mobile Home Parc. The location of the property is 1383 Route 44, Pleasant Valley, NY 12569. The type of variance sought is Code Section 98.25H(2). The setback is 10' on the rear, 5' on the left, and 12' on the right. The structure is proposed.

The requested variance will not be detrimental to nearby properties.

An undesirable change will not occur in the character of the neighborhood.

There are no alternative (feasible) methods available to the applicant.

The requested variance is substantial.

There are no effects or impacts from this variance to the physical or environmental conditions existing in the locality.

The requested variance is not a self-created hardship.

**CONCLUSION**

Taking into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant, the ZBA determines that the benefit to the applicant is greater.

Therefore, the above factors, when considered together, balance in favor of granting the variance.

L. Rubenstein:

### **RESOLUTION**

**WHEREAS, THE APPLICANT ENNIS MOBILE HOME PARC HAS SUBMITTED PROOF IN SUPPORT OF AN APPLICATION TO REPLACE A MOBILE HOME A 22 EAGLE, WHICH WOULD RESULT IN DIFFERENT SIDE YARD SETBACK AND WHICH UNDER THE CODE OF THE TOWN OF PLEASANT VALLEY REQUIRES A SIGNIFICANT VARIANCE**

**WHEREAS SUCH PROOF HAS BEEN DULY CONSIDERED BY THE BOARD IN A PUBLIC MEETING**

**AND WHEREAS IN BALANCING THE BENEFIT TO THE APPLICANT VERSUS THE DETRIMENT TO THE HEALTH, SAFETY, AND WELFARE OF THE NEIGHBORHOOD BY SUCH GRANTS, THE ZBA HAS CONSIDERED:**

- 1. whether the requested variance is detrimental to nearby properties**
- 2. whether an undesirable change will occur in the character of the neighborhood**
- 3. whether the variance would cause a substantial change in the character of the neighborhood**
- 4. whether the difficulties can be feasibly mitigated by some other methods**
- 5. what effects or impacts the variance would cause to the physical or environmental conditions in the neighborhood**
- 6. whether the variance requested is as a result of a self-created hardship**

**NOW BE IT RESOLVED THAT THE BOARD FINDS THAT THE GRANT OF A LEFT SETBACK OF 5', AND RIGHT SETBACK OF 12', AND A REAR SETBACK OF 10' WOULD NOT CREATE ANY UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBOR AND WOULD NOT BE DETRIMENTAL TO NEARBY PROPERTIES. THERE DOES NOT APPEAR TO BE ANY ALTERNATIVE METHODS AVAILABLE TO THE APPLICANT. AND, ALTHOUGH THE REQUESTED VARIANCE IS SUBSTANTIAL, IT IS STILL IN KEEPING WITH THE NEIGHBORHOOD. THE VARIANCE IS NOT REALLY THE RESULT OF A SELF-CREATED HARDSHIP BECAUSE IT IS NOT EXISTING.**

**SO, THEREFORE, TAKING INTO CONSIDERATION THE BENEFIT TO THE APPLICANT IF THE VARIANCE IS GRANTED AS WEIGHED AGAINST THE SUBSEQUENT HEALTH, SAFETY, AND WELFARE OF THE**

**NEIGHBORHOOD BY THE GRANT, THE ZBA DETERMINES THAT THE BENEFIT TO THE APPLICANT IS GREATER. ALL THESE FACTORS WHEN CONSIDERED TOGETHER BALANCE IN FAVOR OF GRANTING THE VARIANCE.**

**SECONDED BY R. VOGT.**

Board Discussion: none.

**VOTE TAKEN AND APPROVED 6-0-0**

**4. APPEAL #838 – AMORESANO VARIANCE**

Board discussed whether this variance is really required: if the proposed structure is no higher than the Code permits and is not closer to the road than is already approved, is a variance required? If the ZBA routinely grants these applications, why are they required to apply for a variance?

L. Rubenstein read the worksheet into the record.

**FINDINGS OF FACT**

Decision date is 2/24/05. Appeal # is 838. Date of appeal is 12/04. Applicant name is Joseph and Rosetta Amoresano. Location of the property is 919 Salt Point Turnpike. Zone is R-1. Type of variance sought is Code Section 98-12a. Setback on the front is 35'. The structure is proposed.

The requested variance is not detrimental to nearby properties.

An undesirable change will not occur in the character of the neighborhood.

There are alternative (feasible) methods available to the applicant, but this is the one they prefer.

The requested variance is substantial.

There are no effects or impacts caused by the variance to the physical or environmental conditions existing in the locality.

The requested variance is not a result of a self-created hardship because the addition has not been built.

**CONCLUSION**

Taking into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or

community by such grant, the ZBA determines that the benefit to the applicant is greater. The expansion of the applicants' home is of great benefit to them and will have absolutely no impacts on anyone else.

Therefore, the above factors, when considered together, balance in favor of granting the variance.

L. Rubenstein: **RESOLUTION TO GRANT THE VARIANCE AS REQUESTED;  
SECONDED BY H. CZECH.**

**VOTE TAKEN AND APPROVED 6-0-0**

**MOTION BY EVERYONE TO ADJOURN THE MEETING; SECONDED BY  
EVERYONE – APPROVED BY EVERYONE**

**MEETING ADJOURNED BY CHAIRMAN DUNN AT 9:42 P.M.**

Respectfully submitted,

Helen D. Dickerson  
Secretary

The foregoing represent unofficial minutes of the February 24, 2005, Pleasant Valley Zoning Board of Appeals meeting. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_\_ Approved as read

\_\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY ZONING BOARD OF APPEALS**  
**March 24, 2005**

This meeting of the Pleasant Valley Zoning Board of Appeals took place on March 24, 2005, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman John Dunn called the meeting to order at 7:35 p.m.

Members present:           John Dunn  
                                  Helene Czech  
                                  Ronald Vogt  
                                  Robert Maucher  
                                  Laura Zylberberg  
                                  Christina Perkins

Members absent:           Lisa Rubenstein

Also present:               Dieter Friedrichson, Zoning Administrator

**1. APPEAL #844 – RAMUNDO – VARIANCE**

J. Dunn noted for the record that the file contains:

- Affidavit of publication in The Poughkeepsie Journal dated 3/16/05
- Comment form from Pleasant Valley Fire Advisory Board – “disapprove pending submission by the applicant of the location of the proposed right of way over lot #623501 so that the Fire Advisory Board may ascertain the location of the driveway and any safety issues that may be involved.”
- List of adjacent property owners who have received notification
- Recommendation of the Pleasant Valley Planning Board – “negative recommendation”

J. Dunn read into the record the application for a variance of the Zoning Ordinance: appeal is for a variance from minimum 50’ road frontage requirement to make use of a pre-existing non-conforming residential building lot #643517, which is landlocked, by granting a right of way through lot #623501 fronting on Kay Drive.

Anthony D. Ramundo, 142 Smith Road, Pleasant Valley, 12569 was sworn in. Mr. Ramundo stated that he has coordinated with Butch on the driveway, which is approximately 150’ down along Kay Drive from the top. L. Zylberberg stated that the Board needs drawings of the location of the right of way and the driveway.

Board discussed the two parcels and their accurate size. The tax map shows the landlocked lot to be .89 acre, but a recent survey shows it to be .96 acre. The applicant purchased the property on 12/21/04 and has not yet received the deed. The lots were created in 1963 or 1964 as two lots. Applicant is not aware of a right of way that was previously granted at the time the lots were created.

L. Zylberberg stated that the Board does not have the authority to grant a right of way, that the applicant must consult an attorney to create and record a right of way over the front lot. The non-conforming lot predates zoning. However, there is no easement that predates zoning.

The right of way easement for the landlocked lot is a legal document that has to be recorded. Board discussed the prohibition against creation of a substandard lot and the option to merge the two lots, in which case no easement and no variance would be required.

#### **PUBLIC HEARING OPEN**

Bob Lehmkuhl, 56 Kay Drive, Pleasant Valley, NY 12569, is the next door neighbor and was sworn in.

Mr. Lehmkuhl wants to preserve the tree line between the two properties and pointed out that tree loss on most sites is due to damage to the tree roots during construction. He stated that there needs to be a 20' buffer around the trees so that bulldozers don't kill the roots. He stated that he put in that tree line 40 years ago and that he would like to see it preserved. He submitted an aerial map of the property for the file.

#### **PUBLIC HEARING CLOSED**

L. Zylberberg: **MOTION TO ADJOURN THE APPLICATION TO THE APRIL 2005 ZBA MEETING; SECONDED BY R. VOGT**

#### **VOTE TAKEN AND APPROVED 6-0-0**

#### **2. APPEAL #845 PERLIK – VARIANCE**

J. Dunn read into the record the application which requests an interpretation of the Zoning Ordinance. A one-year temporary permit for a 32' non-residential construction trailer was granted in June 2004. A Certificate of Occupancy has been issued, however the work on the property is not yet complete. Applicant is requesting an extension of the temporary permit for the construction trailer till the end of June 2005.

J. Dunn noted for the record that the file contains:

- Affidavit of publication in The Poughkeepsie Journal dated 3/16/05
- Town of Pleasant Valley Planning Board – negative recommendation to the ZBA
- Fire Advisory Board has no comment as this application as it is strictly within the purview of the ZBA
- Letter from Mr. Quereshi explaining the need for the trailer to remain on the property until the work is complete which is estimated to be no later than 5/31/05
- List of adjacent property owners who received notification

Frank Perlik, 332 West Clove Mountain Road, LaGrangeville, NY, was sworn in and stated that he is still working on the house. He testified that a Certificate of Occupancy was issued in August 2004 and that he had conveyed the parcel to the owner. He further



stated that, at the request of the home owner, he is still doing additional work on the home. The trailer will be removed by 5/31/05. Mr. Perlik affirmed that no one is living in the trailer and that it is used for construction purposes only.

L. Zylberberg confirmed that the trailer must be removed. The temporary permit expired when the Certificate of Occupancy was issued in August 2004. The trailer should have been removed from the property in September 2004.

D. Friedrichson will notify Mr. Perlik of the date by which the trailer must be removed.

**3. APPEAL #846 DETULLIO – VARIANCE**

J. Dunn read the application into the file.

Mr. DeTullio was present and stated that he has withdrawn his appeal.

**4. APPEAL #835 ARNOFF – VARIANCE**

No one was present to speak to this variance.

Board determined that this is the third adjournment of this application at which there was no one to represent this appeal.

Therefore, this appeal is dismissed.

**5. APPEAL #841 BARRY – VARIANCE**

No one was present to speak to this appeal.

Therefore, this appeal is adjourned to April ZBA meeting.

\*\*\*\*\*

**DISCUSSION**

**1. PERLIK INTERPRETATION**

Board agreed that they have completed the interpretation. Board discussed a reasonable timeframe for Mr. Perlik to remove the trailer.

H. Czech: **MOTION TO REQUIRE PERLIK TO REMOVE THE CONSTRUCTION TRAILER BY 4/30/05; SECONDED BY C. PERKINS**

**VOTE TAKEN AND APPROVED 5-1-0**

**2. MINUTES**

C. Perkins: **MOTION TO APPROVE MINUTES OF 2/24/05 ZBA MEETING; SECONDED BY R. MAUCHER**

**VOTE TAKEN AND APPROVED 5-0-0**

**MOTION BY EVERYONE TO ADJOURN THE MEETING; SECONDED BY EVERYONE – APPROVED BY EVERYONE**

**MEETING ADJOURNED BY CHAIRMAN DUNN AT 8:19 P.M.**

Respectfully submitted,

Helen D. Dickerson  
Secretary

The foregoing represent unofficial minutes of the March 24, 2005, Pleasant Valley Zoning Board of Appeals meeting. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_\_ Approved as read

\_\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY ZONING BOARD OF APPEALS**  
**APRIL 28, 2005**

This meeting of the Pleasant Valley Zoning Board of Appeals took place on April 28, 2005, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman John Dunn called the meeting to order at 7:40 p.m.

Members present:           John Dunn  
                                  Ronald Vogt  
                                  Laura Zylberberg  
                                  Christina Perkins  
                                  Lisa Rubenstein

Members absent:           Helene Czech  
                                  Rob Maucher

Also present:               Dieter Friedrichson, Zoning Administrator

**1. APPEAL #847 BETTINA – VARIANCE**

J. Dunn noted that this property is at 1 Barkit Kennel Road, grid #13-6464-04-885123 in an R-2 Zone, and is 2.50 acres. The application is for a variance from the minimum side setback requirement for location of a pool installed prior to the development of the adjacent property – location of lot line was misjudged. J. Dunn noted for the record that the application inaccurately states that it is an in-ground pool. This is, actually, an above-ground pool.

J. Dunn noted for the record that the file contains:

- Letter from the Fire Advisory Board: “no comment on this appeal”
- Affidavit of publication in The Poughkeepsie Journal dated 4/20/05
- List of adjacent property owners who have received notification
- Pleasant Valley Planning Board offers no recommendation on this appeal

Fred Schaeffer, attorney, representing the applicants was present. The applicants, Joe and Nancy Bettina were also present. F. Schaeffer reported that the pool was installed in the 1980’s and that the applicants bought the property without having it surveyed. The person who sold the property to the Bettina’s pointed out where he thought the lot lines were. And based on that representation, the Bettinas put in the pool before anyone lived next door. Later, the next door neighbor, Mr. Willison, did a survey which showed that the pool was very close to the boundary line. F. Schaeffer informed the Board that the pool was installed farther from the house so that it would not be installed over the septic system. He also stated that Mr. Willison could not attend the ZBA meeting tonight, but sent a letter supporting this appeal.

Nancy Bettina, 1 Barkit Kennel Road, Pleasant Valley, NY 12569, was sworn in. Mrs. Bettina stated that the previous owner told them that the property line was approximately

25' to the north bordering a cedar tree. That was their understanding of where the property line was. Also, at that time the adjacent property was all vacant land.

L. Zylberberg stated that the applicant needs to amend the application to accurately reflect that the pool is an above-ground pool.

R. Vogt inquired about the two fences on the property. Mrs. Bettina stated that the post and rail fence was put in years ago by her husband. She stated the newer fence was installed recently at the request of the neighbor to shield the pool from his property. Mrs. Bettina stated that the new fence is .5' from the property line at one point. F. Schaeffer stated that the survey done by the neighbor shows that the fence is virtually on the property line. Mrs. Bettina stated that the corner of the fence is .5' from the line. Hence, they are requesting a 14'6" variance.

The pool was built in 1983.

#### **PUBLIC HEARING OPENED**

J. Dunn read into the record a notarized letter from Mr. Willison dated 4/19/05: "I own a house and lot at 15 Barkit Kennel Road, Pleasant Valley, NY, which is my residence. My property is adjacent to Joseph and Nancy Bettina and borders their land. Joseph and Nancy Bettina have a swimming pool on their property very close to my line. It was there when I purchased my house. I am aware of their application for a variance so that their pool can remain at its location even though closer to my property line than allowed by the Town Zoning Code. I believe that Joseph and Nancy Bettina built the pool under the mistaken belief that it was further from my property line than they knew due to the misinformation they received from the prior owner about exactly where the property line was located. I have no objection to the Town granting Joseph and Nancy Bettina a variance so that the existing pool can remain where it is." The letter is signed by Jim Willison.

No other member of the public spoke.

#### **PUBLIC HEARING CLOSED**

#### **2. APPEAL #848 QUATTROCIACCHI – VARIANCE**

J. Dunn noted for the record that this appeal has been postponed until the May 2005 ZBA meeting.

#### **3. APPEAL #849 KUCHENMEISTER – VARIANCE**

J. Dunn noted that this property is at 6 Partridge Lane, Ennis Mobile Home Parc, grid #13-6363-03-459186. This is an application for a variance from minimum edge of pavement setback requirement for addition to a mobile home in a mobile home park.

J. Dunn noted that the file contains:

- Positive recommendation from the Pleasant Valley Planning Board

- Affidavit of publication in The Poughkeepsie Journal dated 4/21/05
- Fire Advisory Board offers no comment on this appeal
- Application for building permit dated 3/28/05

David Pretak, managing partner, Ennis Mobile Parc, signed the application in front of the Board this evening. L. Zylberberg asked what the 1991 address of this property was when the original variance was granted. Mr. Pretak stated that the original address in 1991 was 1 Partridge Lane.

David Pretak was sworn in. Mr. Pretak stated that the applicant is Kevin Kuchenmeister and has lived in this mobile home for about 10 years. Mr. Pretak stated that this is an existing mobile home which is 13' from the road. The variance was granted with a CO for the existing home. Mr. Kuchenmeister wants to put an addition to the right side of the home. He has enough space to the rear of the addition. Mr. Pretak believes that the Code is 15' and he has 19'. To the right side, the Code is 15' and he has 29'. Originally, the applicant wanted to bring the addition in line with the front of the home. Mr. Pretak requested that he push it back a little bit.

Mr. Pretak reported that the home neighboring Mr. Kuchenmeister on the left was replaced in mid to late 1990's and is 12' off the road. The home to the right side of his home is also 13' off the road. Mr. Pretak stated that all the homes in the whole neighborhood in that particular area are 13' – 15' off the road.

Board clarified the original variances that were granted in 1991: 17' front variance; 8' rear variance. The only variance now being requested is 15' from the front. No shed is being put in on this lot.

Kevin Kuchenmeister, 6 Partridge Lane, Ennis Mobile Home Parc, was sworn in.

J. Dunn inquired whether the driveway, which is in front of the existing canopy, will remain there. Mr. Kuchenmeister confirmed that it will. Therefore, the canopy will be removed and a room will be put in its place. The driveway remains the same.

L. Zylberberg inquired how many vehicles can park in the driveway. Mr. Kuchenmeister stated that 3 vehicles fit.

**PUBLIC HEARING OPEN**

No one from the public spoke.

**PUBLIC HEARING CLOSED**

**4. APPEAL #850 MARIANI – VARIANCE**

J. Dunn noted that this property is at 5 Maple Hill Road, grid #13-6564-01-140783, .78 acres in an R-2 zone. This is an application for a variance from minimum center of road setback requirement for location of a shed on the property. The file contains:

- Note from the Planning Board: No recommendation
- Note from the Fire Advisory Board: No comment

- Affidavit of publication in The Poughkeepsie Journal dated 4/20/05
- List of adjacent property owners who have been notified of this hearing

Leonard Mariani, 5 Maple Hill Road, Salt Point, NY 12578 was present and sworn in. Mr. Mariani reported that the shed is 10' x 14', is portable, and will be laid on patio block which is a non-permanent foundation. He submitted a photo of the custom-built wood shed that will have high tech windows. He stated that he has a one-car garage in which he keeps his car. He tries to keep his property really neat and stated that this shed will house his lawnmower, his snow blower, and other tools and equipment.

J. Dunn stated that the road that he is on requires a 60' setback from the center of the road.

Mr. Mariani reported that the back of the shed will face the road and will be behind a stockade fence that shields it from view from the road. You will not be able to see the shed from the road.

J. Dunn asked if the applicant could place the shed on the other side of his house. Mr. Mariani stated that the property slopes and is not level. Hence, the shed would not be on level ground. L. Zylberberg asked if he could build up the back of the shed so that it would be level. Mr. Mariani stated that locating the shed on the other side of the house would put it way far away from his garage and from what he needs; also it would require extra construction. He stated that the property is very slanted back there.

Board discussed the possibility of moving the shed closer to the garage. Mr. Mariani stated that there is a tree and a lamp post to consider. Board noted that moving the shed in a couple of feet would, in fact, make it more visible from the road because it would no longer be shielded by the fence. Mr. Mariani confirmed that this is the smallest size shed that will accommodate his needs. Mr. Mariani stated that, if the Board asks him to move the shed in a couple of feet, he will comply with that request.

#### **PUBLIC HEARING OPENED**

No one spoke from the Public.

#### **PUBLIC HEARING CLOSED**

#### **5. APPEAL #841 BARRY – VARIANCE**

J. Dunn noted that this property is at 39 Juniper Avenue, Cedar Hollow Mobile Home Park, grid #13-6464-01-429648. This is a continuation of a previous hearing.

Steve Barry, 39 Juniper Avenue, Cedar Hollow MHP, was present and was still under oath.

Board inquired what the applicant had discovered since the last ZBA appearance. Mr. Barry stated that he was not at the last meeting. Further, he stated that the lot size and setbacks from road and side lot lines were re-measured and that this information was submitted at the last meeting.

David Pretak was sworn in. He stated that the revised plan, as amended and signed at this meeting by Mr. Barry, is the correct plan. The deck was pre-existing when he moved in. Mr. Barry could find no evidence of concrete footings under the deck.

D. Pretak stated that this is a single-wide home on a concrete pad. The additions must be freestanding and unattached. Therefore, he believes that there are no footings for the deck and that this would be acceptable for the Building Inspector. Board confirmed with the applicant that such a decision is not in the ZBA's purview but rather it is up to the Building Inspector who may require that the deck be brought into compliance with the Code.

The pre-existing deck is 10' x 16', and was probably built in 1991-1992.

The Board clarified that the requested front setback is 23'.

**PUBLIC HEARING OPEN**

No one spoke

**PUBLIC HEARING CLOSED**

**6. APPEAL #844 RAMUNDO – VARIANCE**

Anthony Ramundo was present and was previously sworn in. He submitted photos of the property, a copy of the deed, a letter from Butch in the Highway Department, a copy of the tax map, and a scale drawing (1" = 50') of the proposed easement.

Mr. Ramundo stated that 46 properties on Smith Road are less than 2 acres. Further, he stated that, after speaking with D. Friedrichson, the size of the lot, which is less than 2 acres, has no bearing on this application. He is not here for an area variance, but for a variance on the required road frontage. He stated that he is not changing the character of the neighborhood and asked if the Town has a merger clause. The Board responded that it does not.

Board discussed the fact that there is no policy in this Town regarding substandard lots.

Mr. Ramundo stated that, at the time that he purchased the lots, he checked with the Zoning Administrator and confirmed that the lots were created pre-zoning (1963-1964) – that these lots were pre-existing non-conforming and were grandfathered in.

Board stated that it needs to know when the lots were legally created in order to confirm that they were created prior to zoning. The applicant needs to provide the Title Report to the Board.

Applicant stated that there was no easement because there was no need for one as the lots were vacant.

Town law states that the ZBA must have a positive recommendation from the Fire Advisory Board on this application.

J. Dunn stated that counsel suggested that two variances are required: (1) area variance for the back lot; (2) road frontage variance. L. Rubenstein stated that if these are pre-existing lots, area variance is not required. L. Zylberberg stated that the Board has never considered a pre-existing lot that did not have a deeded right-of-way.

Board needs to see the Title Report and receive approval from the Fire Advisory Board.

R. Vogt stated that the Board needs to see the driveway staked out a little better. There are two stakes now. Board requested that the driveway be staked all the way back.

L. Zylberberg asked why the applicant cannot combine these two lots into one. Mr. Ramundo stated that combining the lots would greatly devalue his property by about \$100,000. He will bring an appraisal to the next meeting that shows that the property would be devalued if the lots were to be combined.

Mr. Ramundo purchased the lots in 12/04.

Right-of-way will be 26'.

Scale map is now Exhibit A.

Applicant clarified that he may build on the front lot at some time in the future.

Application is adjourned to May 2005 ZBA meeting.

.....

## **DISCUSSION OF APPEALS**

### **1. APPEAL #847 BETTINA**

L. Rubenstein read the worksheet into the record.

#### **FINDINGS OF FACT**

The decision date is 4/28/05 and is Appeal #847 and is dated 2/28/05. The applicant's name is Joseph Bettina. The property is located at 1 Barkit Kennel Road and is in the R-2 zone. The type of variance is 98-12 (Schedule). It is a setback from the right of 14'6". The structure is pre-existing.

The requested variance will not be detrimental to nearby properties because the neighbor's affidavit supports the application.

An undesirable change will not occur in the character of the neighborhood.

The applicants could move the pool, but it would be costly for them.



The requested variance is substantial.

There will be no effects or impacts to the physical and/or environmental conditions in the locality.

The variance is the result of a self-created hardship because it was built in the incorrect location due to failure to obtain an accurate survey of the property line.

Nevertheless, taking into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant, the ZBA determines that the benefit to the applicant is greater.

Therefore, the above factors, when considered together balance in favor of granting the variance.

**L. Rubenstein: MOTION TO APPROVE THE VARIANCE BASED ON THE FACT THAT IT WOULD NOT BE DETRIMENTAL TO NEARBY PROPERTIES, IT WOULD NOT CAUSE ANY UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD, AND THE BENEFIT TO THE APPLICANT IS GREATER THAN THE DETRIMENT TO THE COMMUNITY**

**SECONDED BY L. ZYLBERBERG**

Discussion: R. Vogt inquired about a stipulation that, when the pool liner fails and needs to be replaced, the pool be moved to the proper setback. Board discussed the fact that there would be no way to enforce this stipulation, that the Board must either grant or deny the variance, and that the next property owner may object to the proximity of the pool to the property line. The pool has been there for 20 years and cannot, therefore, change the character of the neighborhood.

**VOTE TAKEN AND APPROVED 4-1-0**

Board discussed whether a new building permit and/or CO is now needed with the corrected measurements and taking note of this variance.

## **2. APPEAL #849 KUCHENMEISTER**

L. Rubenstein read into the record the worksheet for this application.

### **FINDINGS OF FACT**

The decision date is 4/28/05 and is Appeal #849. Application is dated 3/29/04. The applicant's name is Kevin Kuchenmeister. The location of the property is 6 Partridge Lane and is in a ROA zone. The type of variance sought is a front 15' setback. The structure is proposed.

The requested variance will not be detrimental to nearby properties.

An undesirable change will not occur in the character of the neighborhood.

The only alternative feasible method available to the applicant is not to build the addition.

The requested variance is substantial.

The variance is not the result of a self-created hardship as it is not yet built.

Taking into consideration the benefit to the Applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant, the ZBA determines that the benefit to the Applicant is greater.

Therefore, the above factors when considered together balance in favor of granting the variance.

L. Rubenstein: **MOTION TO GRANT THE VARIANCE**

**SECONDED BY C. PERKINS**

Discussion: L. Rubenstein stated that the main considerations are: it does not seem to adversely affect the neighboring property on the right and affordable housing in this area is limited. The Board could give the applicant a little more space in his mobile home with very little impact on anyone. J. Dunn pointed out that the same addition exists on the home across the street. This is also one of the larger lots in the park. Also, this is one of the few remaining single-wide homes. The Board mentioned its concern about whether there's enough space for 3 cars in the driveway.

**VOTE TAKEN AND APPROVED 5-0-0**

**3. APPEAL #850 MARIANI**

L. Rubenstein read into the record the worksheet on this application.

**FINDINGS OF FACT**

The decision date is 4/28/05 and is Appeal #850. The application is dated 3/28/05. The applicant's name is Leonard Mariani. Location of the property is 5 Maple Hill Road. The type of variance sought is from 98-12, a front variance of 36'. The required minimum for the Zoning Code is 60'. The structure is proposed. It is a 10'x14' portable shed.

The requested variance will not be detrimental to nearby properties.

An undesirable change will not occur in the character of the neighborhood.

There are no alternative methods available to the applicant – this is the minimum size shed for the applicant's needs.

The requested variance is substantial.

The variance will cause no effects or impacts to the physical and/or environmental conditions existing in the locality.

The variance is not the result of a self-created hardship.

Taking into consideration the benefit to the Applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant, the ZBA determines that the benefit to the Applicant is greater.

Therefore, the above factors when considered together balance in favor of granting the variance.

L. Rubenstein: **MOTION TO GRANT THE VARIANCE**

**SECONDED BY L. ZYLBERBERG**

Discussion: J. Dunn stated that he is leaning toward granting the requested variance. Although the Board could cut down on the amount of variance granted if the applicant moved the shed a couple of feet in, doing so would only make the shed more visible from the road and, therefore, probably defeat the purpose of the move. R. Vogt stated that he could move it to another location on the property. L. Rubenstein pointed out the convenience issue for the applicant and that no neighbor spoke to this variance. There does not appear to be a hardship to the community. C. Perkins pointed out that, in fact, it is a benefit to the community that the shed will be shielded from view by the fence. Further, it's a nice looking shed made of wood that will not rust out in a few years.

**VOTE TAKEN AND APPROVED 5-0-0**

**4. APPEAL #841 BARRY**

L. Rubenstein read into the record the worksheet on this application.

**FINDINGS OF FACT**

The decision date is 4/28/05 and is Appeal #841. The application date is 1/05. The amended plan is dated 1/26/05. The applicant is Stephen Barry. Location of the property is 39 Juniper Avenue in a ROA Zone. The type of variance sought is 98-25H(1) and (2) and is a 7' front variance and a 6' left variance. The structure is pre-existing.

The requested variance is not detrimental to nearby properties.

An undesirable change will not occur to the neighborhood.

The only alternative method available to the applicant is to tear the deck down.

The requested variance is not substantial.

The variance will cause no effects or impacts to the physical and/or environmental conditions existing in the locality.

The variance is not the result of a self-created hardship because the deck was built in 1991-1992 was already there when the applicant moved in.

Taking into consideration the benefit to the Applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant, the ZBA determines that the benefit to the Applicant is greater because it would allow him to use his deck and it would be costly to tear it down.

Therefore, the above factors when considered together balance in favor of granting the variance.

L. Rubenstein: **MOTION TO GRANT THE VARIANCE**

**SECONDED BY J. DUNN**

Discussion: Board discussed whether this variance must be subject to the current Code regarding the footings for the deck and determined that this is not necessary for this variance.

**VOTE TAKEN AND APPROVED 5-0-0**

##### **5. LEAD AGENCY STATUS**

J. Dunn reported that there is a request by the Pleasant Valley Town Board for Lead Agency Status for the Little League Baseball facility: "... the Town Board has adopted a resolution in connection with development of a Little League Baseball facility at the Redl Park Recreational Facility located at the intersection of West Road and Salt Point Turnpike. Specifically, the Board has determined that the proposed action is subject to environmental review under the SEQRA and that a coordinated review should be conducted. The Board has also determined that the project is an unlisted action. The Board wishes to be the Lead Agency for the project review and pursuant to Section 617.6(2) and (3) of 6NYCRR and requests your agreement that the Town Board be designated Lead Agency. If you agree the Town Board being designated a Lead Agency, please sign the enclosed copy of this letter and return it to the Board as soon as possible. If your agency does not submit a written objection to the Board within 30 days of the mailing date of this notification, the Board will assume Lead Agency role for this project review. Enclosed please find a copy of Part I Environmental Assessment Form and supporting documentation."

L. Rubenstein requested that the Town Board notify the ZBA in advance of any meetings and provide copies of the materials.

L. Rubenstein: **MOTION TO APPROVE LEAD AGENCY; SECONDED BY J. DUNN**

**VOTE TAKEN AND APPROVED 5-0-0**

**6. MINUTES OF ZBA MEETING ON 3/24/05**

L. Zylberberg: **MOTION TO APPROVED 3/24/05 MINUTES OF THE ZBA MEETING AS AMENDED; SECONDED BY R. VOGT**

**VOTE TAKEN AND APPROVED 4-0-1**

**MOTION BY EVERYONE TO ADJOURN THE MEETING; SECONDED BY EVERYONE – APPROVED BY EVERYONE**

**MEETING ADJOURNED BY CHAIRMAN DUNN AT 10:00 P.M.**

Respectfully submitted,

Helen D. Dickerson  
Secretary

The foregoing represent unofficial minutes of the April 28, 2005, Pleasant Valley Zoning Board of Appeals meeting. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_\_ Approved as read

\_\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY ZONING BOARD OF APPEALS**  
**May 26, 2005**

This meeting of the Pleasant Valley Zoning Board of Appeals took place on May 26, 2005, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman John Dunn called the meeting to order at 7:36 p.m.

Members present:           John Dunn  
                                  Ronald Vogt  
                                  Laura Zylberberg  
                                  Christina Perkins  
                                  Lisa Rubenstein  
                                  Helene Czech

Member absent:           Rob Maucher

Also present:             Dieter Friedrichson, Zoning Administrator  
                                  John McNair, Town Supervisor

**1. APPEAL #851 BAKER – VARIANCE**

J. Dunn reported that this is an application by Mr. Floyd O. Baker of 14 Dragon Trail, Pleasant Valley, NY. Due to a limited lot size and existing improvements, Mr. Baker is requesting a variance to put a garden shed on his lot.

The file contains:

- Positive recommendation from the Pleasant Valley Planning Board
- Affidavit of publication in The Poughkeepsie Journal dated 5/18/05
- A list of adjacent properties owners who have been notified of this hearing
- No comment from the Fire Advisory Board as that Board did not meet in May

Board noted that it is not able to make a decision on this appeal without a recommendation from the Fire Advisory Board.

Floyd Baker was sworn in. Mr. Baker reported that his lot is 150' deep by 75' wide and that he wants to put a 14' by 28' shed on the back, mostly for garden tools. He stated that what he plans to do is a little different from the drawing that's in the file. He stated that the land slopes, so one side wall will be 6' and the other side wall will be 8' in order to keep the roof straight.

L. Rubenstein noted that the file contains a plot plan, but no drawing or picture of where the house is on the lot in relation to the shed.

L. Zylberberg stated that the applicant must amend his application to correct the size of the shed. The application states the shed as 12' x 28'. The applicant stated that the shed is 14' x 28'.

Mr. Baker stated that the neighbor on the back has told him that there's no problem with this shed. He stated that his neighbor's house is 150' from his property line, and that their garage is 60'-70' from his property line.

Board clarified that the shed will be 2' closer to the front – closer to his house - and that Mr. Baker is requesting a 12' variance.

J. Dunn explained that the ZBA's charge is to grant the least amount of variance possible in order to maintain the Zoning Laws. Therefore, Mr. Dunn inquired whether Mr. Baker could reduce the size of the shed, which would therefore reduce the size of the variance needed. Mr. Baker responded that he plans to store his tractor for winter plowing, a forge, 2 motorcycles, tillers, and a snow blower in the shed. He stated that his road is private and, therefore, he must take care of it himself in the winter.

L. Zylberberg stated that the file does not contain a picture of the property with the house on it and inquired which direction the shed would face. Mr. Baker stated that the door to the shed will face north.

J. Dunn explained to Mr. Baker that the ZBA cannot rule on his appeal until it receives an opinion from the Fire Advisory Board, which has not met this month and, therefore, has not rendered an opinion on this appeal.

L. Rubenstein stated that, since the ZBA cannot vote on this appeal tonight, the Board would like to see a plot plan in the file that includes the house, the lots lines, and where the shed will be sited. Currently, the drawing in the file only shows the location of the shed. Mr. Baker will return to the ZBA meeting in June with a corrected plot plan.

Public Hearing opened and adjourned.

## **2. APPEAL #852 – REDL PARK RECREATIONAL FACILITY**

J. Dunn reported that this application is for a Special Use Permit to establish a recreational facility on West Road.

L. Rubenstein noted that the ZBA cannot act on this appeal if there has been no determination of significance, DEIS, and/or neg dec from the Town Board. Further, she stated that it might make sense to do one combined public hearing with the Town Board and the ZBA together. J. McNair reported that public information sessions are planned and that there will be a DEIS. L. Rubenstein stated that the ZBA has nothing on which to have a hearing this evening – no map, no DEIS. Mr. McNair reported that the Town has been approved as Lead Agency, that there will be a DEIS, and that it will be a neg dec.

Appeal adjourned till June ZBA meeting.

## **3. APPEAL #844 – RAMUNDO VARIANCE**

J. Dunn stated that this appeal has been carried over for the past two ZBA sessions. Photos have been submitted to the file. Mr. Ramundo was present and had previously been sworn in.

J. Dunn and Mr. Ramundo discussed the fact that the Fire Advisory Board has withdrawn its negative recommendation but that no official letter has been received from the FAB stating this action.

J. Dunn stated that the public portion of the hearing is still open. Mr. Ramundo provided the original deeds for the lots; Zoning Administrator Friedrichson made copies for the Board. Mr. Ramundo stated that the lots were purchased from separate individuals. He also provided the Board with a copy of the real estate appraisal.

L. Zylberberg stated that the Board has not heard back from its attorney on this appeal.

J. Dunn stated that the issue is not that the two lots were pre-existing. Rather, the issue is that, without road frontage and without an easement, the landlocked lot is not actually a building lot. Further, he reported that the Board must receive the written withdrawal of the negative recommendation from the FAB and needs time to review the documents that the applicant has submitted.

L. Rubenstein: **MOTION TO ADJOURN THIS PUBLIC HEARING TO THE NEXT ZBA MEETING; SECONDED BY L. ZYLBERBERG**

**VOTE TAKEN AND APPROVED 6-0-0**

J. Dunn stated that Town Law 280A precludes the ZBA from approving an appeal that received a negative recommendation from the FAB. The negative recommendation has been withdrawn, and the ZBA must receive this in writing.

J. Dunn explained to the applicant that he is asking the Board to create a substandard lot, which the Board has no authority to approve. Mr. Ramundo stated that all surrounding properties are substandard. L. Zylberberg explained that the houses on the surrounding properties are existing, which makes the difference.

L. Rubenstein summarized the reasons this appeal has been adjourned:

- Board needs to review the materials submitted this evening by the applicant
- Board has not heard from its attorney from whom the Board requested a recommendation
- Board needs to receive written withdrawal from FAB

Appeal is adjourned.

**4. APPEAL #848 – QUATROCIACCHI VARIANCE**

J. Dunn reported that this applicant requested and has been granted an adjournment to the next ZBA meeting as their attorney is ill.



**5. MINUTES OF ZBA MEETING ON 4/28/05**

L. Rubenstein: **MOTION TO APPROVE 4/28/05 MINUTES OF THE ZBA MEETING AS AMENDED; SECONDED BY R. VOGT**

**VOTE TAKEN AND APPROVED 6-0-0**

**MOTION BY EVERYONE TO ADJOURN THE MEETING; SECONDED BY EVERYONE – APPROVED BY EVERYONE**

**MEETING ADJOURNED BY CHAIRMAN DUNN AT 8:15 P.M.**

Respectfully submitted,

Helen D. Dickerson  
Secretary

The foregoing represent unofficial minutes of the May 26, 2005, Pleasant Valley Zoning Board of Appeals meeting. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_\_ Approved as read

\_\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY ZONING BOARD OF APPEALS**  
**June 23, 2005**

This meeting of the Pleasant Valley Zoning Board of Appeals took place on June 23, 2005, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman John Dunn called the meeting to order at 7:40 p.m.

Members present:           John Dunn  
                                  Ronald Vogt  
                                  Laura Zylberberg  
                                  Christina Perkins  
                                  Lisa Rubenstein  
                                  Helene Czech  
                                  Tim Gerstner, Alternate

Member absent:           Rob Maucher

Also present:             Dieter Friedrichson, Zoning Administrator

**1. APPEAL #853 SMITH – VARIANCE**

J. Dunn noted that this property is at 883 Netherwood Road, grid #13-6365-03-369208, 105 acres in an R-2 Zone, and that this is a request for a variance to construct a second residence on the property. Mr. Dunn noted that the file contains:

- Negative recommendation from the Planning Board
- List of adjacent property owners who have been notified
- Note from Fire Advisory Board: no recommendation
- Affidavit of publication in The Poughkeepsie Journal dated 6/17/05
- Letter from neighbors Joe Theriault and Dot Payne (original letter on file): in support of this appeal
- Letter from neighbors Mr. & Mrs. Frank Costella, Sr. (original letter on file): in support of this appeal

Robert L. Smith, 883 Netherwood Road, Hyde Park, NY, was sworn in. Mr. Smith stated that he wants to extend his business and that he needs help. He would like to build a farm house so that he can preserve the farm for another generation. He stated that his hardship is only his age. He also stated that he chose a heavily wooded area for the building site. He stated that the house will be for farm help.

L. Rubenstein inquired why he isn't subdividing. Mr. Smith stated that he is not interested in subdividing. Ms. Rubenstein pointed out that he can subdivide and retain ownership of the lot and explained that the Zoning Code would normally require him to subdivide. Mr. Smith stated that it is against his principles to subdivide. He does not want to see 5-10 houses up there, and he doesn't want to give his family the notion that it's OK to subdivide.

L. Rubenstein pointed out that he could have a conservation easement on the property which would preserve it and give him a tax benefit.

Mr. Smith showed the Board copies of aerial photographs and noted that he plans to build the house in the densely wooded area for privacy. R. Vogt stated that he walked the property and noted some stakes at the edge of the ring. Mr. Smith stated that it's not possible to climb into the proposed site. Mr. Vogt stated that he could not find the stakes.

Mr. Smith confirmed that it is one property and that he pays one set of taxes.

Mr. Smith confirmed that the proposed building will be an accessory building for the farm that will have its own kitchen, its own living area, and two bedrooms. He characterized it as a small house. He stated that he has diagrams of the proposed house. Mr. Smith stated that the deed for the property has been in his name since 1955.

Jason Page, 811 Netherwood Road, Hyde Park, NY, was sworn in. Mr. Page stated that he has 62 acres to the west of Mr. Smith's property. Mr. Page stated that he wants to speak in support of his neighbor Mr. Smith. He understands that that Zoning Code states that two residences are not allowed on the same parcel. However, he pointed out that the ZBA has the power to interpret the Code in the event of a hardship. Mr. Page supports Mr. Smith's desire to continue his farm for future generations of his family and supports his application for an additional residence on the property which will sustain the continuation of the farm. Mr. Page emphasized that this is a farm that requires people and labor to continue, and he requests that the ZBA take this point into consideration.

L. Rubenstein asked Mr. Page if he would like to put a second residence on his property. Mr. Page responded "no."

Public portion of the hearing was closed.

## **2. APPEAL #854 DANSKY – VARIANCE**

J. Dunn noted for the record that this property is at 35 Rossway Road, grid 13-6463-02-855921, 9.45 acres, in an R-2 Zoning District and is a request for a variance from the minimum 100' setback requirement for the location of a run-in horse shelter on the property.

Mr. Dunn noted that the file contains:

- Affidavit of publication in The Poughkeepsie Journal dated 6/17/05
- List of adjacent property owners who have been notified
- Positive recommendation from the Planning Board
- Fire Advisory Board: no recommendation
- A notarized letter from neighbors Charles P. and Jean M. Schappack, Jr., 33 Rossway Road, Pleasant Valley, NY (original letter on file): objects to the appeal because the applicant has enough acreage to allow her "to better locate her horse shed so that it will not impact the environment both ecologically and environmentally by possibly contaminating the water table."

Julie Damsky, 915 White Pond Colony, Carmel, NY, was sworn in. Ms. Damsky explained that she purchased the property from Mr. and Mrs. Pope on 2/16/05 with the intention of building a small house for herself and a barn for her horse. She stated that she informed the Pope's of her intentions when she purchased the property and showed them where the barn would be located. She stated that the Popes' only concern was that they did not want horses in the pond. She informed the Popes that there would be a fenced paddock for the horses which would keep the horses from getting near the pond.

Ms. Damsky stated that the proposed location for the run-in shed (3 sided shed with a slanted roof) is not within any wetlands, stream, or pond setbacks. R. Vogt stated that according to the map that's in the office the area is delineated as a wetland. D. Friedrichson clarified that the pond is 1/2 acre which carries a 25' setback. Mr. Friedrichson stated that there is 100' setback from the stream. Further, he explained that this appeal was previously before the Planning Board, which recommended that the applicant move the shed so that she did not need a permit for activities within the wetlands and apply, instead, for a setback variance.

Board discussed options for relocating the shed on other sites on the property. Ms. Damsky stated that she does not want to go any closer to the pond because she would have to remove a giant tree which she does not want to do. She stated that she does not want to remove any more trees. Further, the ground closer to the pond gets soft and squishy which is not good footing for the horses because they weigh 1200 pounds. She pointed out that because of the animals' weight, they would destroy that area. She does not want the shed near any dampness. Ms. Damsky stated that she wants to preserve the level area for riding and does not want to locate the shed there. Further, she stated that she does not want to destroy any woods on the other side of the stream because she wants to keep that as a buffer from the development on the other side of her property. She stated that she's given a lot of thought into where to locate the shed.

Board stated that its mandate is to find options in order to grant the least variance possible.

Ms. Smith confirmed that she will have two horses.

Mr. Dunn stated that the proposed location of the shed is 66' off the back lot line which is wooded. He inquired what is beyond the trees. Ms. Damsky stated that it's her neighbor's property, which is also wooded. She does not know how far away the neighbor's house is from the property line. She also stated that the neighbor told her that she would have no problem with the proposed location of the shed. Ms. Damsky clarified that the horses will use the shed to get out of the rain, out of the sun, and for shelter in the winter. She stated that she did not want to put up a barn as she believes the shed will be more natural for the environment. There will not be electricity in the shed. She wants to have some place safe for the horses.

Ms. Damsky stated that she's aware that Mr. and Mrs. Pope are opposing her application. She stated that her proposed plans do not affect them at all. Further, she stated that if she does not get the variance, then they will be able to see the shed. If she does get the variance and is, therefore, required to put the shed in the grassy area, then the Pope's will not be able to see the shed.

L. Rubenstein inquired where the manure will be stored and how Ms. Damsky will dispose of it. Ms. Damsky stated that she has a tractor and that she will spread the manure onto other parts of her property as fertilizer after it has decomposed. Ms. Damsky also stated that she has had her horse for 15 years and before that she had a horse for 8 years. She stated that she knows how to take care of horses.

J. Dunn reiterated that the Board tries to minimize the variances it grants. Ms. Damsky stated that if she has to move the shed closer to the pond, then she would pick an entirely different location for it. She would not move the shed right up to the pond. She stated that it is not a good spot for horses to hang out in.

C. Perkins asked if Ms. Damsky will be fencing in the same area regardless of the location of the shed. Ms. Damsky replied "yes."

Mrs. Marianne Pope, 37 Rossway Road, was sworn in and stated that she and her husband used to own the property and sold it to Ms. Damsky. Mrs. Pope stated that she owned 14 acres for 26 years and maintained the property and the pond. She stated that they used the pond for boating, swimming, fishing, ice skating, and there's a big picnic table there and a hammock. She stated that they were rather fussy with the pond and were careful with what went into the pond. She stated that the pond is fed by an underground stream and that there's no runoff water in that pond. When the pond overflows, it runs off into the stream which feeds into Wappingers Creek. Mrs. Pope stated that she is worried that a horse barn will pollute the pond, pollute the stream, and therefore pollute Wappingers Creek. Mrs. Pope stated that Ms. Damsky has 5 acres of land on the other side of the stream, which if you take into consideration the setbacks leaves her 2 acres for the horse shed. Mrs. Pope stated that, when they sold her the property, Ms. Damsky told them that she would put the shed on the other side of the stream. Mrs. Pope stated that Ms. Damsky has now changed her mind. Mrs. Pope stated that there's plenty of land and asked why she needs to put the shed near the pond.

Mr. Alfred Pope, 37 Rossway Road, was sworn in and submitted a map of the property to the Board. Mr. Pope stated that they owned the property for 26 years and subdivided it in 1989. He stated that he remembers Ms. Damsky saying that she would build the shed on the other side of the stream. He stated that he would not have sold the property to Ms. Damsky if she had told him that her intention was to build the shed near the pond. He stated that she has 5 acres available across the stream; subtract 100' perimeter from that entire area, leaves approximately 2 acres for her to build the horse shed without violating any environmental or impact any neighbors unnecessarily. Mr. Pope stated that he sees no hardship in her building on those 2 acres. He stated that, even though Ms. Damsky has stated that she does not want to take any trees down, she nonetheless chose to locate

her driveway in an area that required her to take down a lot of trees. And, he stated, that she had an option to locate the driveway in an area where she would not have had to remove nearly as many trees.

Mr. Pope stated that before he took ownership of the property the stream was rerouted and the pond was built. He stated that the pond was designed by NY State as a trout pond, that NY State paid half the cost. He stated that it is presently stocked with a small mouth bass and other fish. He stated the adjacent stream is a Class B stream, which means that it is suitable for swimming but not for drinking. He stated that it is surrounded with Norway spruce. Mr. Pope stated that he was told that the pond is 12' deep or deeper, that he never measured it. Mr. Pope stated that NY State had land reclamation projects at the time the pond was built. The reason NY State helped to pay for building the pond was so that it could use the fill to reclaim the surrounding area. Mr. Pope stated that the State stopped that practice because in creating the pond it also created an evaporation area, which results in a loss of water. Mr. Pope demonstrated on the map the area that was originally swampy low land, which was subsequently raised up by the creation of the pond and the fill that came out of it. He stated that the neighbor's property to the rear is wet and that there are segments along the stream that are wet. He demonstrated on the map where the overflows are in times of heavy rain. Mr. Pope showed on the map that the entire area is one eco system; the pond is not isolated. Mr. Pope stated that he thinks an environmental quality review form should be filled out. He stated that he filled one out when he subdivided. He stated that this is wetland and that Ms. Damsky is proposing to put a horse barn in the center of it. Further, he stated that there is no need for her to do this. Mr. Pope disagreed with Ms. Damsky's statement that wetland ordinances do not apply to areas less than 1/2 an acre. He stated that the area is far more than 1/2 an acre. The pond does not stand alone. There is a surface stream that comes in and an overflow that goes underground and feeds the stream. He stated that the stream has wetland immediately adjacent to it. And he summarized that the whole area flows down hill and feeds the Wappingers Creek. Mr. Pope stated that he thinks that a surveyor or engineer should calculate the area and that a SEQRA should be done. He reiterated that the entire area is wetland, that the pond does not exist alone.

Mr. Pope stated that D. Friedrichson, Zoning Administrator, informed him that not all wetlands are shown on maps, that their origin is aerial photos. He stated that the land around the stream was personally inspected by assessor Fred Stuts, and that he had chief assessor Bell Calvin reduce the assessment consequent to the fact that it is wetland. Mr. Pope stated that unrecorded wetland is covered by paragraph 53.2 of the wetland regulations and that's the case here.

Mr. Pope stated that he expected Ms. Damsky to build on the other side of the stream, that he believes it is an environmental threat if she builds on her proposed location, that she will ruin the pond. He stated that his neighbor Ms. Daley built a stable, probably 400' behind him, and that he smells the manure when the wind blows. Mr. Pope stated that he and his wife kept the area pristine for 26 years, and that he would like to see it stay that way.

Mr. Pope stated that Ms. Damsky only needs a 75' setback from the stream, not for environmental reasons but for visual reasons. He referred to a Pleasant Valley scenic requirement around the stream bed which was grandfathered. L. Rubenstein asked if there is a note on the subdivision plan that restricts any building within 75' of the stream. Mr. Pope responded "yes," and pointed out the note on the plan. He clarified that the present sight regulation around the stream in Pleasant Valley is 100' on each side. However, the subdivision map states for scenic purposes the setback is 75', therefore it is grandfathered. But Mr. Pope stated that this has nothing to do with environmental concerns.

Mr. Pope stated that he thinks the Planning Board did not take into consideration the extent of the wet areas on the property and that this application should go back to them for further review. He thinks Ms. Damsky should be allowed to enjoy her property in peace and that she has a lot of property in which to do so.

L. Rubenstein asked D. Friedrichson about the Planning Board's process in reviewing this application. Mr. Friedrichson clarified that the Planning Board reviewed this application as a permit for Regulated Activity in a Wetland. He stated that the Planning Board observed that if the shed were moved, then the applicant would not need a wetland permit but rather would need a variance from the 100' setback.

Mr. Jeff Rhoades, 1992 Route 44, Hyde Park, NY, was sworn in and asked for clarification on the requested variance. Mr. Dunn clarified that the Code requires a 100' setback from the property line and that Ms. Damsky wants to build 66' from her back property line. Mr. Rhoades stated that his only concern is that he has a shallow well and that he's less than 80' with his water table from his well. He stated that Ms. Damsky's house is above him. He stated that there's a lot of rock there and that the run off might affect his well. Mr. Rhoades stated that he does not have a good idea of where the shed will be located. Ms. Damsky pointed out the proposed location of the shed and stated that it would be at a lower elevation than Mr. Rhoades house and well.

Mr. Rhoades stated that he was shocked to learn that there was a house being built, that he would have expected some notification as an adjoining property owner that a house was being built. L. Rubenstein explained that process – that site plan approval is not required for single family residential lots, that there was a subdivision approval some years ago. She explained that when a subdivision is approved, the Planning Board holds a Public Hearing. After that, as long as the house meets Health Department regulations, the owners are entitled to build in accordance with the subdivision plan without any additional notice to neighbors. She explained that adjoining property owners do not get subsequent opportunities to comment. She stated that Ms. Damsky had to get a building permit, which does not require public notice.

Mr. Robert Arthurs, 2002 Route 44, Hyde Park, NY, was sworn in and stated that his property is exactly behind where the shed is proposed to be located. Mr. Arthurs stated that he has no objection to Ms. Damsky having a horse. He stated that his house has been in his family since 1960 and that the Board should believe him when he states that the

area is wet. He stated that he has walked every single square foot of that area and that he has walked Mr. Pope's property and in all seasons. He stated that the area stays wet from when the snow starts to melt until about June 1<sup>st</sup>. He stated that the area was a wet meadow before the pond was built. Mr. Arthurs stated that he prefers not to have the horse barn closer than 100' to his property line. Also, if there's a manure pile behind the structure, he stated that now his property will be only 50' from that pile.

Mr. Arthurs stated that his property is the lowest land so that he gets run off from all areas and from everything. He stated that he is afraid that if there's a manure pile there and if it rains heavily, there's no way that the run off will avoid his property. Further, he stated he's concerned that runoff could potentially affect the aquifer and contaminate his shallow well. He stated that he is concerned about his well.

Mr. Arthurs stated that he does not know what the shed will look like or how many horses it will accommodate. He inquired whether it can be increased to accommodate more than 2 horses next year or the year after. The Board responded that according to the Code Ms. Damsky could have more horses. Mr. Arthurs stated that the shed will contain the horses, that there will be manure, and the manure will get into the water, and the water supply will be affected. He stated that in the southeastern corner of Ms. Damsky's property there is a high and dry area, probably the driest area of her property.

Ms. Meta Plotnick, 2002 Route 44, Hyde Park, was sworn in and stated that she was at the Planning Board meeting when this application was reviewed. She stated that the original application at that meeting was 100' from the property line and maybe 75' from the stream. She stated that the Planning Board wanted to protect that buffer of the stream, but that as far as she knows there were no new numbers. So, the numbers are all new and that the Planning Board has not looked at these numbers. She stated that, although she likes that the shed is away from the stream, she feels that it is just too close to her property line and is unacceptable as proposed. L. Rubenstein confirmed with D. Friedrichson that the Planning Board has seen the current proposal and did pass it along with a positive recommendation.

Ms. Suzanne Carmalitano, 39 Rossway Road, Hyde Park, NY, was sworn in and stated that she purchased 2 acres from Mr. Pope. She stated that she has no objection to Ms. Damsky's plan. She does not think that the manure from the horses will create an environmental issue.

Ms. Kimberly Daley, 1980 Route 44, Pleasant Valley, NY, was sworn in and stated that she has no objection to Ms. Damsky's plan. Ms. Daley stated that she has 6 horses. She stated that she has a manure pile, that she spreads it as fertilizer, and that people come to take it for their gardens.

Mr. Pope stated that the odor at his property from Ms. Daley's manure pile was bad and that he called the Board of Health. He stated that there's no Pleasant Valley regulation about where you can put a manure pile. He stated that this means that you can put it on your property line, which is where Ms. Daley put her manure. And he stated that he was



within 100' of Ms. Damsky's well. He further stated that the Board of Health sent Ms. Daley a letter that she was in violation of two Dutchess County Health Ordinances and ordered her to move the pile within 5 days or be fined.

Ms. Damsky replied to the above neighbors' comments. She stated that she did not tell the Popes that she wanted to put a barn on the other side of the stream. She concurred that the southeastern portion of her property is high and dry. She stated that she plans to fence off the area that is swampy with hummocks because it is unsafe for horses. She stated that she would have to build a bridge, which she doesn't want to do, and make a path to the back. She stated that she could have the horses in the back, which is adjacent to a development on the other side of her property line. She does not feel it is a safe place for the horses because it is out of sight from her house, there may be children living in the development, and possibly hunters in her woods. She stated that she took out two hunting stands from the trees back there and found a lot of shell casings.

Ms. Damsky stated that she has never smelled her neighbor's manure pile.

Public Hearing was closed.

### **3. APPEAL #855 CRAFT VARIANCE**

J. Dunn noted that this property is at Route 44, 3.71 acres, zoning R-2, and is an application for a variance from the minimum 50' road frontage requirement for pre-existing landlocked parcel. He noted that the file contains:

- Planning Board referral to the ZBA with no recommendation
- Fire Advisory Board: recommends that the applicant be required to clear and maintain the proposed driveway to 12' wide and 12' high to accommodate passage of emergency vehicles
- Affidavit of publication in The Poughkeepsie Journal dated 6/17/05
- Dutchess County Department of Planning and Development referral: no comment as it is a matter of local concern
- List of adjacent property owners who have been notified
- Notarized letter from W. Scott Craft authorizing Harry Bly to represent his interests in this appeal

Harry Bly, 19 Linden Lane, Millbrook, NY, was sworn. L. Zylberberg inquired whether Mr. Bly put the zoning sign on the property or whether he is aware of where the sign is on the property. Mr. Bly responded "no." L. Zylberberg stated that the Board does not think the sign is in the right place. Board discussed with Mr. Bly which is the lot in question.

Mr. Bly stated that, at the last moment, Mr. Craft asked him to come to this meeting because he (Craft) was going to be out of the country. Mr. Craft explained to Mr. Bly that the parcels have existed as separate parcels for a long very time. There was a map filed in the 1950's. Mr. Bly stated that he assumed that the lots were established as building lots.

Mr. Bly showed photos to the board of the parcel that is landlocked. He stated that the right-of-way access to that parcel has already been recorded in the County Clerk's office and that he has a copy of that easement that enables access over the front parcel. Mr. Bly stated that the applicant has also gone to the NYS DOT and has gained approval for a driveway permit at that location. R. Vogt inquired when the easement was recorded. Mr. Bly responded that it was recently recorded on 6/13/05.

L. Zylberberg inquired whether the easement to the landlocked parcel was created when the property was subdivided. Mr. Bly stated that he is not aware of anything in the deed that created the easement. L. Rubenstein stated that the Board needs a title search to know the history of the property in order to review this appeal. Further, she stated that the tax map does not provide adequate information to determine whether the landlocked lot was truly listed as a buildable lot at the time it was created.

Mr. Bly stated that it is his understanding that Mr. Craft provided the ZBA with a copy of the map that was made sometime in the 1950's. Mr. Bly clarified for Mr. Vogt that Mr. Craft owns the parcel through which the easement passes for access to the landlocked parcel.

L. Rubenstein inquired if there is a possibility that Mr. Craft would combine the two lots, which solves the issue of a landlocked parcel and resolves the question of whether it is a legally buildable lot. She stated that the landlocked parcel is of sufficient size. However, the Board needs to know the date the lot was created in order to make sure that it predates zoning. Board further needs to know whether there was a recorded easement when the parcel was created. Mr. Bly stated that each parcel was independent and that he does not know the actual origin. Early tax maps would indicate these parcels. Mr. Bly stated that the deed indicates separate parcels. He stated that Mr. Craft acquired the property from someone else who had previously created the parcels. Board stated that it wants to know the date that the previous owner created the parcels.

L. Rubenstein stated that Mr. Craft has a lot that is the correct size for the zoning. In the past, Ms. Rubenstein explained that the Board has granted variances for road frontage for lots that are the right size and if the easement or right-of-way exists. The Board needs to know when the lots were created. R. Vogt stated that if Mr. Craft combined the lots, the problem is resolved.

Board discussed with Mr. Bly that the subdivision sign is on the wrong lot. J. Dunn stated that the Board needs the following:

- Placement of the sign in the right place
- Copy of the deed and abstract of title

Mr. Bly stated that he will provide the Board with the date of origin.

Public Hearing was opened.

Margaret Fanalli, 4679 Route 82, Salt Point, NY, was sworn in and inquired where the landlocked parcel is located. Mr. Bly showed the aerial photo to Ms. Fanalli. Ms. Fanalli stated that she bought 110 acres (all of Washington Hollow) in 1957 – both sides of the road. She stated that it was all one piece. She stated that she only divided the property once when they sold a portion to the Palmers. She stated that she has the original deed for the 110 acres and the deed for the Palmers as well. Board speculated that the Palmers may have subsequently subdivided.

L. Zylberberg: **MOTION TO ADJOURN THIS HEARING UNTIL THE JULY 28, 2005 MEETING; SECONDED BY R. VOGT  
VOTE TAKEN AND APPROVED 7-0-0**

**4. APPEAL #856 CEDAR HOLLOW MHP-VARIANCE**

J. Dunn noted that this property is at 26 Juniper Avenue and is an application for a variance from minimum setback requirements for replacement of mobile home and location of proposed deck and shed to be constructed on the parcel in the mobile home park. He noted that the file contains:

- Referral from the Planning Board: no recommendation
- Comment form from the Fire Advisory Board: no recommendation
- Affidavit of publication in The Poughkeepsie Journal dated 6/17/05

J. Dunn stated that the applicant wishes to replace an existing mobile home with the same exact size mobile home, adding a deck and a shed. Further, he noted that there is an expired construction permit that is dated 3/19/98.

David Pretak, 1383 Route 44, Pleasant Valley, NY, was sworn in. J. Dunn noted that the property is not staked out, is not marked, and is not posted. Board discussed with Mr. Pretak the exact location of this lot and that there is no mobile home on the site. Mr. Pretak stated that this variance was approved in 1998 as was the building permit. Board advised Mr. Pretak that his application is inaccurate and requested that he not submit “corrected” copies of previous applications which often carry inaccurate information.

J. Dunn read a notice dated 4/24/00 from the Office of the Zoning Administrator that documents the expired construction permit and that no Certificate of Occupancy was issued. Mr. Pretak stated that he’s not sure how long the lot has been vacant. Mr. Vogt stated that the neighbors estimated that it has been vacant 5-6 years.

L. Zylberberg inquired about the shed in the back of the lot. Mr. Pretak stated that the shed on the left hand side is not part of this application. Further, he believes that the home on the left hand side has two sheds.

Board inquired about the steps for the deck. Mr. Pretak stated that the steps for the deck will come down on the front. The variance requested in 11’3”.

Public Hearing was opened. No one from the public spoke. Public Hearing was closed.

**5. APPEAL #857 MEAGHER-VARIANCE**

Board identified that this property is at 693 Netherwood Road, is right before you get to Arnoff, and that the application is for a fence to replace the shrubbery that has been eaten by the deer. The applicant was not present for this meeting.

L. Rubenstein: **MOTION TO ADJOURN THIS APPLICATION TO THE JULY 2005 ZBA MEETING; SECONDED BY C. PERKINS  
VOTE TAKEN AND APPROVED 7-0-0**

**6. APPEAL #851 BAKER-VARIANCE**

J. Dunn stated that the Public portion of this hearing is still open. He noted that the file contains:

- Referral from the Planning Board: positive recommendation
- Comment letter from the Fire Advisory Board: no comment
- Affidavit of publication in The Poughkeepsie Journal dated 5/18/05
- List of adjacent property owners who have been notified

Mr. Dunn stated that the application is for a variance from 98.12 for a shed (sized 28' by 14') on the property.

James Baker, 14 Dragon Trail, was sworn in. Floyd Baker was present and was still under oath. J. Dunn stated that Mr. F. Baker had previously reported that tractors, motorcycles, and a forge will be stored in the shed. Mr. J. Baker confirmed that he does blacksmithing as a hobby.

Mr. F. Baker stated that the property is zoned commercial and that he has had a business on the property since 1958. J. Dunn state that according to the Zoning Office it is R-2, residential. Mr. Baker stated that he has had a business in his home since 1958. Mr. Dunn stated that it might well have been a home occupation but it does not make it a commercial zoning. Mr. Baker stated that he built the house in 1950, which Mr. Dunn confirmed predates zoning. Mr. Dunn emphasized that the zoning district for Mr. Baker's house is R-2 – residential.

Board discussed with Mr. J. Baker the nature of the forge he plans to store in the shed. Mr. J. Baker stated that he has a coal forge and that he intends to get a gas forge. L. Zylberberg inquired how much heat the forge will put out. Mr. J. Baker stated that it is irrelevant because if he puts the forge in the building, there will be concrete board surrounding the forge. He stated that he realizes that putting hot materials in a wood structure requires a great deal of ventilation and proper preparation. He stated that he will have a separate area in the building for the hot work which will be separated by doorways. Alternatively, Mr. Baker stated that he can leave the forge outside where it is now on the concrete slab and put a roof over it. He stated that the object of moving the forge inside is that sunlight affects the color of the steel. He stated that the forge gets to 1200-1400 degrees. L. Zylberberg asked how he protects a wooden roof of an enclosed shed from such intense heat. Mr. Baker stated "by ventilation, power vents, hoods, and

concrete boards.” He stated that he has friends who have forges in barns that were built 80-100 years ago and that he would take all precautions.

L. Rubenstein inquired whether the applicant notified the Fire Advisory Board of the plan to house the forge in the shed. Mr. Baker stated that he did not. L. Rubenstein stated that if the Fire Advisory Board is OK with this, then it is not a concern of the ZBA. J. Dunn stated that the chair of the FAB is aware of this. L. Rubenstein explained to the applicants the function of the FAB. She stated that the fire hazard is not the purview of the ZBA, but is rather the concern of the FAB. Further, she stated that if the FAB did not know about the plan for the forge in the shed, then there’s a problem. If the FAB is OK with it, then the ZBA has no problem with the variance. J. Dunn confirmed that he told the chair of the FAB about this forge and the gas equipment. Therefore, Mr. Dunn stated that having received tacit approval from the FAB, the ZBA will proceed with the appeal for the variance.

Mr. F. Baker submitted to the Board for the file some photos of the backyard and of the placement of the shed.

Public Hearing was closed.

#### **7. APPEAL #848 QUATTROCOACCHI-VARIANCE**

No applicants were present for this appeal. J. Dunn stated that this is the third meeting that this application has been adjourned because the applicants were not present. Board discussed the decision to adjourn one additional time due to the fact that the first adjournment was caused by a lack of quorum on the Board. J. Dunn stated that it was published in April, adjourned to May, and adjourned again to the June meeting. Board reviewed the April minutes and determined that there was a 5 member Board at that meeting. J. Dunn stated that he wants to be on record that the applicants were given a fair chance. L. Rubenstein stated that the applicants are permitted to reapply. She further stated that, if the appeal is dismissed for failure to appear, it is not a dismissal based on the merits of the appeal. Board stated that its practice is to give applicants two adjournments and dismiss on the third non-appearance. Board confirmed that it and the Zoning Office have not heard anything from the applicants of this appeal.

H. Czech: **MOTION TO DISMISS THIS APPEAL FOR FAILURE TO APPEAR;  
SECONDED BY C. PERKINS**

**VOTE TAKEN AND APPROVED 5-0-1 (R. Vogt abstained)**

#### **8. APPEAL #852 REDL PARK RECREATIONAL FACILITY**

L. Zylberberg noted that the Town Board is having an informational session about this project and the environmental impact. L. Rubenstein stated that the ZBA requested a clarification of its role and that if the Town wants the ZBA to issue a permit, they must notify the ZBA of the meetings and provide copies of the documents. Board discussed that it has already approved the Town Board has lead agency and registered its confusion over an additional form dated 6/20/05 in the file for lead agency.

L. Zylberberg read a resolution that states that a Public Hearing is being held on Wed. 7/13/05 at 7 p.m. Board stated that it is not an involved agency and that the ZBA has no input on the local law.

L. Rubenstein reiterated the request that, if the Town wants the ZBA to issue a Special Use Permit, they provide the ZBA with copies of documents and be advised of meetings. Further, she stated that the ZBA cannot issue a Special Use Permit until the Town Board makes its environmental findings. The ZBA cannot act until there is some determination of significance. Are they doing a neg. dec., are they having a scoping session, is there a DEIS? The ZBA cannot issue any permit until there is some environmental finding. Additionally, if there is a Public Hearing by the Town/Planning Board, it should be a joint Public Hearing to include the ZBA. The ZBA has not been advised of any hearings, has not been invited to any hearings, and has never seen a copy of the proposal. There is no way that the ZBA can address what the Code says the ZBA must do with the material the ZBA has been provided to date.

Board suggested that this appeal be taken off the agenda until the Town attorney advises them of a plan.

**9. APPEAL #844 RAMUNDO-VARIANCE**

L. Rubenstein stated that this appeal must be put on the agenda as “a pre-existing non-conforming landlocked lot” not as “a residential building lot.” Board discussed and agreed that it has not been determined whether this lot is, in fact, a “residential building lot.”



**DISCUSSION**

**1. APPEAL #853 SMITH VARIANCE**

R. Vogt: they have 105 acres and although they don't want to subdivide, they have enough property to subdivide for a second residence. They can retain ownership of both parcels. They should subdivide; otherwise the Board would be creating a non-conforming property.

L. Rubenstein: concurred with Mr. Vogt. The real concern is that it is a house with two bedrooms. It's not an accessory use to a farm building. It's another house. The Arnoff's appealed to put a second house on their property, and the Board advised them to subdivide. There is no conservation easement on this property; it could cease being a farm tomorrow. The applicant does not want to subdivide. It's a slippery slope for other property owners who own enough acreage and want to put a second house on their property and don't want to subdivide. It would put the Zoning Code out of business.

H. Czech: Even if the residence were for farm help, it's still a house. It's not a dormitory; it's a house.

R. Vogt: They are putting another home across the street. He has enough acreage to subdivide.

L. Rubenstein: The Board cannot create enough of an exception that it would not come back to bite us in the form of Arnoff. They will be here at the next meeting. How would the Board turn them down? It's not a farm. This is not a precedent that the Board can live with. It would come back to bite us.

J. Dunn: Disagrees as she is on the payroll as farm help. There is an exception that can be made here because it is farm help.

L. Rubenstein: What's to stop everybody from putting a bunch of horses on their property and call it a farm?

H. Czech: There is another farm in Pleasant Valley that built living quarters for their help. They subdivided in order to do that. Every time they want to do that, they subdivide.

L. Rubenstein: We've never had anyone come to the Board and say "I don't feel like subdividing."

C. Perkins: I am sympathetic with the family, but it sets a dangerous precedent.

L. Zylbergerg: They could put an addition on the existing house with an additional kitchen. If he doesn't want to subdivide, then add onto the existing home for the daughter.

D. Friedrichson: They would need a site plan for a two-family house.

L. Rubenstein: He can subdivide and retain ownership of both parcels.

L. Rubenstein: **MOTION TO DENY THE APPEAL FOR THE VARIANCE BASED ON THE FACT THAT THE APPLICANT HAS SUFFICIENT ACREAGE TO SUBDIVIDE AND THERE IS NO EXCEPTION IN THE CODE THAT WOULD APPLY FOR TWO PRINCIPLE DWELLINGS ON THE SAME PARCEL;**

**SECONDED BY R. VOGT**

**VOTE TAKEN AND APPROVED 6-1-0**

## **2. APPEAL #854 DAMSKY-VARIANCE**

L. Rubenstein explained the origin and purpose of the Worksheet – balancing the benefit to the applicant with the potential harm to the community.

H. Czech read the Worksheet into the record, and the Board discussed it:

- Requested variance is 34'
- Application will not be detrimental to nearby properties
- Structure is proposed
- Structure is a lean-to shed – not a barn
- An undesirable change to the character of the neighborhood will not occur
- There are alternative feasible methods – could locate the shed elsewhere on the property
- Applicant can use the property as is
- The requested variance is substantial
- There are no physical or environmental impacts
- This is not a self-created hardship

C. Perkins: **MOTION TO APPROVE THIS VARIANCE; SECONDED BY H. CZECH**

**VOTE TAKEN AND DENIED 3-4-0**

**3. APPEAL #856 CEDAR HOLLOW MHP - VARIANCE**

Board noted that the lot was not properly posted and that it's a vacant lot. J. Dunn and L. Zylberberg saw the lot and confirmed that it is a vacant lot. The application is inaccurate in that it states that there was an existing trailer. R. Vogt stated that it's very hard to discern where the lot is. He stated that he knew where the lot is because he was on the Board in 1998 for the original application. He stated that you cannot tell where the lot lines are because there's a white canopy that's definitely on this property. Mr. Pretak told this Board years ago that he would have lot markers. L. Zylberberg stated that the Board should send Mr. Pretak another notice stating that he must not use old plot plans for new applications. The Board has told him this two years ago, and he needs to be reminded.

L. Zylberberg read the Worksheet into the record and the Board discussed it.

- Type of variance sought is from 98.25H.
- Two variances are sought.
- For the home: 15' front setback; 4'4" on the left; 3'9" on the right.
- For the shed: 12' on the rear; 12' on the left.
- Structure is proposed.
- Requested variances will not be detrimental to nearby properties
- No undesirable change will occur in the character of the neighborhood
- There are no alternative feasible methods available to the applicant
- The requested variance is substantial
- No physical or environmental impacts on the locality
- Variance is not the result of a self-created hardship
- The benefit to the applicant is greater than the potential detriment to the community

R. Vogt: noted that this appeal was approved in 1998 and that the building permit has expired. The same information has now been refiled.



L. Zylberberg: **MOTION TO GRANT THE REQUESTED VARIANCE;  
SECONDED BY R. VOGT**

**VOTE TAKEN AND APPROVED 7-0-0**

**MEETING ADJOURNED BY CHAIRMAN DUNN AT 11:00 P.M.**

Respectfully submitted,

Helen D. Dickerson  
Secretary

The foregoing represent unofficial minutes of the June 23, 2005, Pleasant Valley Zoning Board of Appeals meeting. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_\_ Approved as read

\_\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY ZONING BOARD OF APPEALS**  
**July 28, 2005**

This meeting of the Pleasant Valley Zoning Board of Appeals took place on July 28, 2005, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman John Dunn called the meeting to order at 7:35 p.m.

Members present:           John Dunn  
                                  Laura Zylberberg  
                                  Lisa Rubenstein  
                                  Helene Czech  
                                  Rob Maucher  
                                  Tim Gerstner, Alternate

Member absent:           Christina Perkins  
                                  Ronald Vogt

**1. APPEAL #858 CEDAR HOLLOW MOBILE HOME PARK-VARIANCE**

J. Dunn read into the record that this is an application for a variance from minimum setback requirements for a replacement mobile home and a proposed shed to be constructed on a lot in the mobile home park. He noted that the file contains:

- Affidavit of publication in The Poughkeepsie Journal dated 7/22/05
- Pleasant Valley Planning Board referral with a positive recommendation
- Fire Advisory Board comment form: FAB takes no position in reference to this appeal as it is strictly within the purview of the ZBA
- No list of adjacent home owners as the mobile home park is under one owner

David Pretak was present and was sworn in. He noted that the address of the lot has been corrected on the application. He explained for the Board the placement of the home and its yard. He also spoke of a very large tree on the lot and a large shed that will be removed.

Board clarified the location of the lot lines, the location of the stairs, and distances to the home. Pretak stated that he is moving the home closer to the road in order to provide more private space in the back for the home.

Public Hearing Open: No one from the public spoke. Public Hearing closed.

**2. APPEAL #859 WIGSTEN FARM STAND-SPECIAL USE PERMIT**

Mr. Dunn read into the record that this property is located at 60 Wigsten Road, 28.78 acres, R-1 and is an application for a Special Use Permit to locate a farm stand for sale of vegetables grown on the parcel. He noted that the file contains:

- Negative recommendation from the Pleasant Valley Planning Board
- FAB takes no position on the appeal as it is strictly within the purview of the ZBA
- Affidavit of publication in The Poughkeepsie Journal dated 7/22/05

- List of adjacent property owners who received notification of this meeting
- Letter from Dutchess County Department of Planning and Development: “has reviewed this appeal within the framework of General Municipal Law – after considering the proposed action in context of county-wide and intermunicipal factors, the Department finds the Board’s decision involves a matter of some concern and offers the following comments...” Department’s concerns are for safety at access point and recommends consultation with the Department of Transportation. (Original letter is on file.)

Paul and Robin Wigsten were present and were sworn in. Mr. Wigsten explained to the Board his site plan drawing and two photographs. He reported that the State has approved a driveway at that location already – there’s a residence there now with a shared driveway. Mr. Wigsten stated that he’s baffled about the Planning Board’s objection. The curb is 500’ away which he thinks is quite a distance to be concerned about. The driveway is 34’ wide and he stated that there’s plenty of sight distance in both directions.

L. Rubenstein inquired what the distance is from the end of the property line to the driveway. Mr. Wigsten stated it is 500’ and pointed it out on the drawing. Mr. Wigsten stated that the driveway has been in existence for many years. Ms. Rubenstein stated that there is not a lot more traffic than there was in the past. Mr. Wigsten stated that the farm stand is not yet open at this location, and that his other location is also not open because of Kerchoff’s construction. Mr. Wigsten stated that this location on 60 Wigsten Road is the only place they can sell their produce. Mr. Dunn pointed out that with a farm stand there will be a substantial increase of traffic in and out of the site compared to the past when traffic in and out of that driveway was for the residence. Mrs. Wigsten states that she goes in and out on that driveway several times a day without problem.

L. Rubenstein inquired if there were a way to put up a sign that could alert traffic in advance and that would slow down the traffic around the curve in the road.

Mr. Wigsten stated that it would cost a fortune to cut a new driveway and would disrupt a field that is already planted with pumpkins. Further, he stated that the sight distance is even less in that location. He stated that there is no safe place for people to enter and exit on Wigsten Road under any circumstance because of hills, steep embankments, etc. Further, he stated that there is an economic hardship – if he cannot sell his produce, then he goes out of business and in turn he will put up houses on his land. He does not understand what the problem is given that it’s a state approved driveway. Further, he thinks 5 cars an hour visiting his farm stand is an optimistic estimate. He stated that he has a 12,000 square foot parking area that is all mown grass. He is not planning to gravel the parking area.

Mr. Wigsten stated that he did not attend the Planning Board meeting because he did not know that he was supposed to attend.

Mr. Wigsten stated that the tent will remain until they can afford something new. He plans to sell his produce there from June till the end of October and will be open 7 days a week from 9 a.m. to 7 p.m.

Board discussed that the Planning Board requested that the application be brought back before them if the ZBA approves the appeal.

Mr. Wigsten stated that they put up a sign (30" x 30") and located it 54' from the driveway. He also reported that the tent is composed of fire retardant materials the information on which he submitted for the file.

Public Hearing Open:

Steve Buttman, 1092 Salt Point Turnpike, Pleasant Valley, NY, was sworn in. He stated that he is the neighbor to this proposed farm stand. He pointed out that there already exists an established business across from the driveway for the farm stand – it's a beauty salon. His point is that there already exists some traffic in and out of that area. He stated that he has lived on his property 8 years and that he was born and raised in Dutchess County. He believes that the people who drive up to the curve approach it at a slower speed. He stated that the only people who speed in that area are people who don't know the road. He stated that nothing has ever happened where his driveway is. He suggested that the State put up bigger warning signs to alert people to the curve.

Susan Tooker, 52 Wigsten Road, Pleasant Valley, NY, was sworn in. She asked why the Planning Board gave a negative recommendation. She stated that the proposed stand is across the street from her property, that the number of cars is not significant. She concurs that there are visibility problems on Wigsten Road and believes that access to the farm stand from Salt Point Turnpike would be much safer. She stated that she would be more than happy for the Wigstens to put a sign up on her property and that she would much rather have a farm stand and a successful farm business on that site than row houses.

Gail Henkel, 1105 Salt Point Turnpike, Pleasant Valley, NY, was sworn in. She stated that she lives right across the road and has lived there most of her life. She stated that she is the beauty shop owner and that she has no trouble with the traffic at her shop. She stated that she thinks the farm stand is wonderful, that everyone around the area agrees with it, and that it's better than having a bunch of houses across there.

Public Hearing Closed

**3. APPEAL #861 QUATTROCIACCHI – VARIANCE**

Mr. Dunn stated for the record that this is property is at 2291 Route 44 in an R-2 zone, is 1.4 acres and that the application is being resubmitted for a variance from minimum acreage requirement for establishment of a two-family residence on the property (pre-existing mixed use structure in poor condition demolished and replaced with new improved structure.) He reported that the file contains:

- Affidavit of publication in The Poughkeepsie Journal dated 7/22/05

- Dutchess County Department of Planning and Development zoning referral – area variance is a matter of local concern
- Planning Board recommendation – negative: “if the variance is granted, the applicant must submit application to the Planning Board for site plan approval.”
- Fire Advisory Board: no comment in reference to this application
- Plot plan

Allan Rappleyea was present to represent the applicant and, as an officer of the court, was not sworn in. Mr. Rappleyea provided the Board with documents that show the property and the neighbors and a copy of the tax map. Mr. Rappleyea also provided the Board with a letter from Mrs. Quattro that assures the Board that the second dwelling unit would be rented to a senior citizen(s) at less than market value of the rental – 25% reduction – to reduce the impact on the property and to provide some much needed senior citizen housing.

Salvatore Quattrociacchi, 89 Tinkertown Road, Pleasant Valley, NY, was sworn in. Mr. Rappleyea questioned Mr. Quattrociacchi on the record. Mr. Quattrociacchi affirmed that his mother and his sister own the property in question on Route 44, that they started with a site plan and went to a building plan after preliminary approval. Mr. Quattrociacchi stated that the Building Inspector required a center solid wall running from the basement up through the roof. The upstairs and downstairs plans were displayed for the Board and are on file with the Building Inspector. Mr. Quattrociacchi stated that the fire wall divides the downstairs and the upstairs, as well. Originally, he stated that they thought they could make one big apartment, but it is now not possible because of the fire wall. This required fire wall prevents them from making one unit upstairs. Mr. Quattrociacchi affirmed that the final plans were redesigned to accommodate the required fire wall.

Mr. Quattrociacchi responded to a question from the Board regarding the prior use of the building – it was an antique shop and an apartment, both of which were downstairs. There was nothing upstairs. He stated that he is not sure what the original square footage of the building was but that he estimates it as being 1,030 square feet, which was the entire foot print of the building.

Mr. Rappleyea clarified that this application is before the ZBA for a variance for a second dwelling unit because it is not a 4 acre parcel. Board clarified that the applicable sections of the Code are 98.60 and 98.12. Mr. Quattrociacchi stated that there will be two separate businesses downstairs and two separate one-bedroom apartments upstairs. He stated that the original plan was for one apartment upstairs, but that the fire wall makes this impossible. Mr. Rappleyea stated that previously there were two separate businesses operating for some length of time and an apartment. Mr. Quattrociacchi stated that the Zoning Administrator suggested that they move the building back. Parking is planned for the east side of the building.

Mr. Rappleyea stated that there is a petition signed by most of the adjoining neighbors and by others in support of this application.

Public Hearing Open:

Mr. Herb Redl, 2283 Route 44, was sworn in. Mr. Redl stated that he thinks the Town ought to praise the Quattrociacchis for what they have done. He stated that they have made a dump into a really nice building. He stated that he lived out there 52 years and that there were several businesses going on there then. He stated that he is definitely in favor of this application.

Mr. John Lester, 165 Tinkertown Road, was sworn in. He stated that he does not abut the property; he's behind it. He and his wife believe that the new building improves the neighborhood. He stated that the old building was nothing but a junk shop.

Mr. Rappleyea stated that the test for this variance is not hardship but relative impact on the neighborhood. He stated that he believes the positive impact on the neighborhood has been demonstrated by the petition, which was signed by almost all the neighbors, and by the statements made tonight by members of the public. He stated that he and applicant believe that the new building is a substantial improvement on the neighborhood and to the Town.

L. Rubenstein: MOTION TO ADJOURN THIS APPEAL AND THE PUBLIC HEARING TO THE AUGUST 2005 ZBA MEETING. MOTION APPROVED BY THE BOARD.

**4. APPEAL #844 RAMUNDO – VARIANCE**

Mr. Dunn stated that this is a continuation from a previous meeting. He stated that the Board received a letter from the Town's attorney this evening, which the Board has not had time to review. Therefore, the Board will close the public portion of the hearing tonight and will render a decision within 60 days.

Public Hearing closed.

**5. APPEAL #851 BAKER – VARIANCE**

Mr. Dunn clarified that the Board has closed the Public Hearing on this appeal and will make a decision this evening. The Board has received the information that it needs to make a decision and no more testimony is needed on this appeal.

**6. APPEAL #857 MEAGHER – VARIANCE**

Mr. Dunn noted for the record that this property is at 693 Netherwood Road, 6.1 acres, R-2 zone and is an application for a variance from maximum height restriction for fence to be located along the road on the property. He stated that the application was adjourned from the 6/05 meeting because the applicant was not present. He noted that the file contains:

- Planning Board referral to the ZBA: negative recommendation
- Fire Advisory Board: no recommendation
- Affidavit of publication in The Poughkeepsie Journal dated 6/17/05
- Dutchess County Department of Planning and Development refers this: "as a matter of local concern."

- List of adjacent property owners who have been notified of this hearing

Mr. Henry Meagher, 693 Netherwood Road, Hyde Park, NY, was sworn in. He stated that he wants to install a fence across the front of his property. He stated that the 9' tall Arbor Vitae hedge that he had there for about 35 years has been decimated by the deer, front and back to a height of 6'. He stated that the hedge cannot recover to its normal condition. He stated that although they fenced in the hedge, as they have always done, the fence was removed too early this year. He stated that he wants to replace the hedge with a fence and submitted to the Board some rough drawings. He plans to remove the hedge, put up a 2'8" high by 1'6" deep stone wall, and mount a fence on top of the stone wall. The total height will be 8'8".

L. Rubenstein: **RESOLUTION TO APPROVE.**

**This is appeal #857 dated 5/27/05. Whereas, Henry Meagher, of 693 Netherwood Road, has applied for a variance to 98-26(a) to replace an existing Arbor Vitae hedge of approximately 9' high with a stone wall and a vinyl picket-type fence of a height of 8'8"; and**

**Whereas the height would be beyond the 6' in height requirement of 98-26(a); and**

**Whereas the Zoning Board of Appeals has considered the benefits to the applicant which would be to eliminate the existing hedge that was eaten by deer and replace it with the stone wall and the fence; and**

**Whereas there were no neighbors or any opposition from the public; and**

**Whereas the Zoning Board of Appeals finds that the benefit to the applicant would outweigh any detriment to the community;**

**Therefore, we grant the variance requested.**

**Seconded by J. Dunn**

**Vote taken and approved 6-0-0**

## **7. MISCELLANEOUS – RECREATION FEES**

Mr. Dunn noted for the record that the Zoning Board of Appeals has signed off on the Town Board being the lead agency on the proposal to increase the recreation fees.

.....  
**DISCUSSION**

L. Rubenstein suggested that Chairman Dunn ask Nancy Salvato to ask the Planning Board to provide the ZBA with the reasons for any negative recommendations. She suggested that perhaps the Planning Board sees something that the ZBA does not.

### **1. APPEAL #851 BAKER – VARIANCE**

H. Czech read into the file the work sheet on this appeal – original is in the file. Requested variance is 12' on the rear. Requested variance will not be detrimental to nearby properties and no undesirable change will occur in the character of the neighborhood. There are no alternate methods available. The variance is substantial.

The benefit to the applicant is greater than is the detriment to the neighborhood. **The above factors balance in favor of granting the variance.**

**SECONDED BY R. MAUCHER**

**DISCUSSION:** The Board noted for the file that the Fire Advisory Board has “no comment in reference to this application.” Mr. Dunn stated that this was submitted by the FAB in writing and was reaffirmed in his phone conversation with the FAB chairman. L. Rubenstein stated that, if the FAB is OK with whatever the plan is for the shed and the forge, then as a zoning issue alone there is no problem. There was no objection and no comment at all voiced by members of the public.

L. Rubenstein: **RESOLUTION TO APPROVE**

**Whereas the applicant, Floyd Baker, 14 Dragon Trail, has requested a variance to 98-12 for a 12’ variance of the rear set back to put in a shed; and  
Whereas the Fire Advisory Board had no comment on the plan; and  
Whereas there were no negative comments from any neighbor; and  
Whereas there are no alternatives available to do what he wants without a variance;**

**Therefore, the Zoning Board of Appeals has determined that the benefit to the applicant is greater and there does not seem to be any detriment to the health, safety, and welfare of the neighborhood; and**

**Therefore the Zoning Board of Appeals grants the variance.**

**SECONDED BY L. ZYLBERBERG**

**VOTE TAKEN AND APPROVED 6-0-0**

**2. APPEAL #858 CEDAR HOLLOW MOBILE HOME PARK – VARIANCE**

L. Zylberberg read into the record the worksheet on this appeal #858, dated 6/28/05 (original is on file). The type of variance sought is to 98-25H. Two variances: one for the mobile home (17’ on the front and 6’ on the right); and one for the shed (12’ on the left side). The requested variance will not be detrimental to nearby properties and no undesirable change will occur in the neighborhood. In fact, moving the home up 2’ will bring it in line with the adjoining parcel’s home. There are no alternative methods. The requested variance for the home is substantial. No effects or impacts to the physical or environmental conditions. The benefit is greater to the applicant than is the detriment to the neighborhood. The above factors balance in favor of granting the variance.

L. Zylberberg: **RESOLUTION TO GRANT VARIANCE**

**Whereas the applicant Cedar Hollow Mobile Home Park has applied for two variances under 98-25H – one for a mobile home (17’ front variance, 6’ right side variance); and a separate variance for a shed (12’ on the left); and**

**Whereas both structures are proposed; and**

**Whereas no undesirable change will occur in the neighborhood; and**



**Whereas after hearing testimony of the applicant the Board has determined that the benefit to the applicant is greater; and**

**Therefore, the Board has decided to grant the variances;**

**Now be it resolved that the requested variances are approved.**

**SECONDED BY H. CZECH**

**VOTE TAKEN AND APPROVED 6-0-0**

**3. APPEAL #859 WIGSTEN FARM STAND – SPECIAL USE PERMIT**

L. Rubenstein inquired what the Dutchess Count Department of Planning and Development's comment was. L. Zylberberg stated that the Department has no objection to the farm stand, but they had a concern about traffic because of the location. L. Rubenstein noted that the ZBA has no information from the Planning Board on why they gave a negative recommendation and that the FAB had no comment. H. Czech inquired how far away the driveway for the farm stand is from the driveway for the beauty parlor. Board thinks there is quite some distance between the two. Board further stated that the County was confused about the location of the farm stand because it is actually located before the curve and is a natural slowing down spot. Board does not think there are sight difficulties in that spot – it's all open and there are no trees to obstruct vision.

J. Dunn read into the record the Short EAF (original is on file).

L. Zylberberg: **RESOLUTION OF NEGATIVE DECLARATION OF ENVIRONMENTAL FINDING (original is on file)**

**SECONDED BY L. RUBENSTEIN**

**VOTE TAKEN AND APPROVED 6-0-0**

Discussion of worksheet: L. Rubenstein stated that she does not think there are any conditions to be imposed on the applicant and that she does not think the applicant needs to return to the Planning Board for site plan approval. She stated that there is plenty of parking. Her concern is for the hardship to the applicant that would result if they do not get this farm stand open, as they would lose their entire season.

L. Rubenstein: **RESOLUTION TO GRANT SPECIAL USE PERMIT**

**Whereas the applicant Robin Wigsten has submitted proof in support of her application for a farm stand at 60 Wigsten Road, Pleasant Valley, which under the Code of The Town of Pleasant Valley requires the issuance of a special use permit pursuant to Section 98-11 and Section 98-49(2);**

**Whereas such proof has been duly considered by the Board at a public meeting; and**

**Whereas the Dutchess County Department of Planning and Development had no objection to the farm stand but expressed concern about traffic; and**

**Whereas the Planning Board recommended against the special use permit; and**

**Whereas the Fire Advisory Board had no position on the application; and**

**Whereas the applicant testified that traffic would not be substantial; and  
Whereas a neighbor recorded that there is ample distance for traffic to slow down to make the turn into the farm stand; and**

**Whereas the Board finds that the grant of a special use permit to allow the farm stand is consistent with the Town of Pleasant Valley Master Plan and will encourage the farming use;**

**Now, therefore be it resolved that the Board determines that in its judgment the special use is reasonably necessary for the public health;**

**Is reasonable and in the general interest of the public;**

**Is reasonable and for the general welfare of the public;**

**Is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities;**

**That the neighborhood character and surrounding property values are reasonably safeguarded;**

**Will not cause undue traffic congestion or create a traffic hazard;**

**Complies with all other conditions or standards specified in the Zoning Code of the Town of Pleasant Valley.**

**Therefore the special use permit is granted, and there is no requirement for a referral to the Pleasant Valley Planning Board for site plan approval.**

**SECONDED R. MAUCHER**

**VOTE TAKEN AND APPROVED 6-0-0**

**4. APPEAL #861 QUATTROCIACCHI**

L. Rubenstein stated that she would like to have someone explain from the Town's point of view what happened. She finds the applicant's point of view of what happened to be confusing. She would like to hear from D. Friedrichson's what happened. She stated that, even if the Board granted the variance, the applicant must meet the building code.

L. Zylberberg stated that the application states that, once they built the building and saw how much the assessment was, they realized that they needed additional income. L. Rubenstein stated her concerns for the fact that the building is already there, that it is a self-created hardship, and that they are asking to use it in violation of the Code. Board is also concerned about the fact that it is now two businesses where originally it was only one. Board will postpone any further discussion of this appeal until they hear from D. Friedrichson.

**5. MINUTES**

L. Zylberberg: **MOTION TO APPROVE MINUTES OF JUNE 2005 ZBA MEETING; SECONDED BY L. RUBENSTEIN; VOTE TAKEN AND APPROVED 6-0-0**

**MEETING ADJOURNED BY CHAIRMAN DUNN AT 10:05 P.M.**

Respectfully submitted,

Helen D. Dickerson  
Secretary

The foregoing represent unofficial minutes of the July 28, 2005, Pleasant Valley Zoning Board of Appeals meeting. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_\_ Approved as read

\_\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY ZONING BOARD OF APPEALS**  
**August 18, 2005**

This meeting of the Pleasant Valley Zoning Board of Appeals took place on August 18, 2005, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman John Dunn called the meeting to order at 7:30 p.m.

Members present:           John Dunn  
                                  Laura Zylberberg  
                                  Lisa Rubenstein  
                                  Helene Czech  
                                  Rob Maucher  
                                  Christina Perkins  
                                  Ronald Vogt  
                                  Tim Gerstner, Alternate

Also present:               Dieter Friedrichson, Zoning Administrator

**1. MINUTES**

Corrections made to the July 28, 2005 minutes. Board discussed the fact that there is no need for site plan approval for Appeal #859 Wigsten Farm Stand and stated that the resolution as recorded in the minutes should reflect this.

L. Zylberberg: **MOTION TO APPROVE THE CORRECTED MINUTES OF THE 7/28/05 ZBA MEETING; SECONDED BY R. MAUCHER**

**VOTE TAKEN AND APPROVED 5-0-2**

**2. APPEAL #860 JOHNSON – VARIANCE**

J. Dunn reported for the record that this appeal is for a property at 34 North Avenue, is 0.16 acres in an R-O zone. Mr. Dunn stated that the applicant, Neal Johnson, was denied a construction permit for a shed on his property. Mr. Dunn stated that the file contains:

- Pleasant Valley Planning Board – positive recommendation
- Affidavit of publication in The Poughkeepsie Journal dated 8/13/05
- Dutchess County Department of Planning and Development – referral with “no comment because it is a matter of local concern”
- Fire Advisory Board – no position as it is strictly within the purview of the ZBA
- List of adjacent property owners who have been notified

Neal Johnson, 34 North Avenue, Pleasant Valley, NY, was sworn in. Mr. Johnson stated that he wants to put a shed in his back yard. He understands that the required setback is 15’ from the property line and he does not believe that he is that far from the line. He stated that the shed will be behind the house, but he estimates that he is only 6’ off the line. Mr. Johnson provided the Board with a sketch of the property and the location of the shed. He pointed out the house, the shed, and the fence that he assumes represents the property line. He stated that he measured off of the fence, which is under the bushes. He

stated that the fence has been there for years and that trees are growing up through it. Again, Mr. Johnson stated that he does not know for sure where the property line is. He stated that when it was staked, the stake was on the other side of the fence. He stated that he has owned the property less than a year and that they did not have a survey done.

Carrie Johnson was also sworn in. She corroborated that they are not sure where the property line is. She stated that there is a stake in the ground, that they did not have a survey done when they moved in, that they talked with their neighbors on the other side. She stated that there is the grange, a fence, and then their house. She stated that they want to build the shed behind their house approximately 6' off of the fence.

Board discussed that, for purposes of this appeal, the fence can be assumed to be the property line, and a 9' variance could be granted.

Ms. Johnson stated that they understand that property line is about 1' on the other side of their driveway and that the line goes at some kind of an angle on the other side of the fence.

L. Zylberberg stated that there is an updated plot plan in the file and that all of the "abouts" have been removed.

Mr. Johnson stated that they do not have a garage and that they will store lawn mowers and garden tools in the shed. He stated that the shed is 8' x 8'. Mr. Johnson reported that, based on the satellite maps, Theresa thinks that they are OK in relation to the road but cannot be exact from the side.

R. Vogt raised the question of whether a building permit is required for such a small shed. He stated that the standard since he's been on the Board has been 10' x 10' or larger requires a permit. D. Friedrichson confirms that a building permit is required for the shed.

Public Hearing Open.  
No one spoke.  
Public Hearing closed.

### **3. APPEAL #862 MACKEY-INTERPRETATION**

Mr. Dunn reported for the record that this property is at 366 Pine Hill Road, 67.60 acres, in an R-2 zone and that the application is for an interpretation of continued use of a portion of the property for off-site storage of new motor vehicles for dealership. Mr. Dunn stated that the file contains:

- Pleasant Valley Planning Board referral to the ZBA with no recommendation as "it is within the purview of the ZBA to ascertain that the use has been in existence prior to zoning and has continued uninterrupted to the present."
- Fire Advisory Board "defers comment on this application at this time and requires more specific information regarding the plan for this project."
- Affidavit of publication in The Poughkeepsie Journal dated 8/13/05

- List of contiguous property owners who have been notified of this hearing

Mr. Dunn noted that the file also contains two letters from the Zoning Administrator addressed to Mr. Mackey (original letters on file). The first letter, dated 4/6/99, notified Mr. Mackey that the Zoning Office had received a complaint regarding the outdoor storage of unregistered vehicles on his property, which are visible from Pine Hill Road, that the Town Code prohibits this activity, and requested that Mr. Mackey remove all unregistered vehicles from his property. The second letter dated, dated 6/1/99, referenced the previous letter, and requested that Mr. Mackey make an appointment for the Zoning Administrator to inspect the property to ascertain whether the unregistered vehicles have been removed.

Mr. John Mackey, 366 Pine Hill Road, was sworn in.

Mr. Dunn stated that Mr. Mackey is requesting an interpretation of the Schedule of Permitted Uses (Section 98.11) and that there is no mention in that section of storage of motor vehicles. Hence, nothing about stored cars falls under that section of the Code. Board asked Mr. Mackey what section of the Code he is requesting to be interpreted. D. Friedrichson referenced 98.19 which pertains to new and used motor vehicle sales and storage of same.

Board stated that this activity is not permitted in R-2 zone. Therefore, even if the Board were to interpret 98.19 to pertain to Mr. Mackey's situation, the Board does not have the choice to allow this activity in an R-2 – it is not in the Board's purview. Board stated that it cannot decide that an activity is allowed in a zone in which the activity is not permitted. Further, even though Mr. Mackey states that he has had a non-conforming use since 1963, this is not a determination that the ZBA makes. The ZBA is not a court; the ZBA does not determine whether he is in violation. The ZBA does not make determinations on when there is a non-conforming use unless the applicant appeals for an expansion or some other project. It does not matter how one interprets 98.19, this activity is not permitted in R-2. Therefore, the Board should decline to interpret.

Zoning Administrator states that he has no evidence in the files to corroborate Mr. Mackey's claim that this activity has been continuous without interruption since 1963 and predates zoning. Board clarified that the Town Court must decide whether Mr. Mackey is in violation of the Code.

**L. Rubenstein: MOTION TO DISMISS THE APPEAL TO INTERPRET AS THERE IS NOTHING FOR THE ZBA TO INTERPRET; SECONDED R. VOGT**

**VOTE TAKEN AND APPROVED 7-0-0**

Ted Sohn, 103 Farrington Avenue, Sleepy Hollow, NY, stated that he is Mr. Mackey's neighbor. Mr. Sohn asked: if Mr. Mackey receives a violation, goes to court, and the violation is nullified and he is permitted to park his cars there, will the appeal come back to the ZBA to determine where exactly on the property he is allowed to put the cars. The

Board clarified that, under those circumstances, the appeal would not return to the ZBA. Board also commented on the difficulty to prove to a Town Court that the activity is not in violation because it has been continuous from before zoning – that every moment since prior to zoning there have been cars parked there as part of a business. If the applicant managed to prove this and was not found to be in violation, and he then sought to expand that use to park cars somewhere other than where he traditionally parked them, that would go to the Planning Board as a site plan issue. Mr. Sohn asked if he would be notified of any future hearings. The Board stated that the Planning Board does not notify adjacent property owners – that it would be published in The Poughkeepsie Journal. The ZBA is the only board that notifies property owners of hearings. Also, hearings are listed on the website and on the bulletin board in the office.

#### **4. APPEAL #861 QUATTROCIACCHI-VARIANCE**

R. Vogt recused himself from this application.

Mr. Dunn stated that this is a continuation of the public portion of this appeal from the previous meeting and read into the record a letter (original on file) dated 8/18/05 from the Zoning Administrator to the ZBA regarding Appeal #861 Quattrociacchi – Variance with reference to the minutes of the 7/28/05 ZBA meeting.

“The above referenced minutes became available to me today. After reading them I have the following comments. The building permit application, the associated building plans, and the building permit are for one business – an antique shop – and for one apartment. The building inspector explained to the applicant that the business and the apartment have to be separated by a fire wall. At the time of that conversation it was not known whether the separation between the business and the apartment would be horizontally or vertically. Per the minutes, “Mr. Quattrociacchi stated that the building inspector required a central wall running from the basement up through the roof.” This requirement would have been applicable if the separation between the business and the apartment had been vertical. The applicant, however, actually submitted plans and actually built the structure with the business on the first floor and the apartment on the second floor necessitating only a horizontal firewall between the first and second floor. Per the minutes, the applicant stated that because of the vertical firewall, it is impossible to have only one large apartment and there must be two smaller apartments on the second story. I spoke to the building inspector, who stated that this is not true. The second floor can remain as one apartment as applied for and for which a building permit was issued. Per minutes, “attorney stated that previously there were two separate businesses” and the applicant stated “there will be two separate businesses.” The Town records in the Zoning Administrator’s, Building Inspector’s, and Assessor’s office do not indicate that there were two separate businesses in the previously existing structure. In order to introduce a second business at this time, the applicant should have to obtain an additional variance for two more acres and amend or resubmit the existing variance application. If the ZBA grants the variance for two acres for additional apartment and the variance of two more acres for the second business, the applicant should have to submit a new building permit application and new building plans. This would be in addition to the granting of a site plan by the

Pleasant Valley Planning Board. Please contact me if you need any additional information

Dieter K. Friedrichson, Zoning Administrator”

Allen Rappleyea, attorney, was present.

L. Rubenstein inquired about the testimony given at the 7/28/05 ZBA meeting by the applicant that they could not cut a door through the firewall on the second floor. D. Friedrichson confirmed that Roger has said that a door can be cut through and the second story can be one apartment instead of two.

J. Dunn inquired of the Zoning Administrator what, on this application, is being denied. D. Friedrichson stated that, as far as the original application goes, nothing is being denied. However, Mr. Friedrichson pointed out that, since the time of the original application, a second apartment has been put in on the second floor, whereas the original application was only for one apartment.

L. Zylberberg stated that the ZBA now has an application that says two apartments and there is no denial from the Zoning Office. She pointed out that the ZBA cannot hear this current application without a denial.

D. Friedrichson stated that the building permit was not denied because it is for one apartment and one store. Mr. Friedrichson stated that, now the applicant wants a permit for another apartment, which would necessitate the submission of a new building permit. There was nothing for him to deny. Mr. Dunn stated that the ZBA is looking at an appeal for something that has not been denied.

L. Rubenstein suggested that because everyone is here tonight the ZBA hear what everyone has to say and then adjourn the public hearing and get a response from the ZBA attorney on how to handle this application. She suggested that the ZBA address this situation tonight. It is clear that if the applicant makes an application for the second apartment and the second business, the Zoning Administrator will deny it. Therefore, because all are present this evening, the ZBA can at least hear it tonight based on the understanding that the application will be submitted and denied.

Mr. Dunn stated that either the ZBA will take testimony tonight and proceed with the paperwork the proper way, keeping the public portion of this hearing open, or the ZBA won't.

Mr. Rappleyea stated that if there is a misunderstanding as to what the Quattro's did, they did not do this purposefully. The applicants came to the ZBA because they were directed to do so. Mr. Rappleyea stated that testimony by the building inspector is irrelevant as cited by the Zoning Administrator and is unfair to the applicants. He stated that the Quattro's are citizens of this town, are taxpayers, and they do not deserve to be treated this way.



Mr. Rappleyea stated that the rules of litigation require the minutes be filed with the Town authority. Further, he stated that a person who gets a variance from the ZBA and builds a building with the permission of the ZBA takes the risk that if there is an attack on that permission, their building must be torn down. Mr. Rappleyea stated that he spoke with the Town authority and the ZBA minutes have not been filed with the Town Clerk since April 27, 2005. So, that means the May, June, and July minutes are not filed. Therefore, the Board puts at risk anybody who was given a permit in that period of time; and that's not fair.

Mr. Rappleyea stated that he was in the Zoning office today and that, if he had been informed of the Zoning Administrator's letter to the ZBA, he could have been prepared for this. He stated that he is really disappointed in the way he and the Quattro's have been treated.

Board discussed the suggestion that the ZBA hear what everyone has to say tonight and adjourn any decision until after the applicants have taken care of the ministerial details.

J. Dunn clarified that the original appeal was #848 which was adjourned from the April 28, 2005 meeting, from the May 26, 2005 meeting, and was dismissed at the June 23, 2005 meeting because the applicants were not present. The present appeal #861 was resubmitted at the July 28, 2005 meeting. Mr. Dunn stated that the ZBA has not been dragging out the proceedings regarding this appeal. Rather, the applicants did not show up for several months.

Mr. Rappleyea stated that he Quattro's have been trying to do this right. They have cleaned up a very difficult building. It is his understanding that there were two separate tenants there, that it was rented to two different people. If this becomes an issue, it is up to the building inspector not the Zoning Office. Mr. Rappleyea inquired what triggered the Zoning Administrator's letter and what part the ZBA is playing. Tonight is a public hearing. He stated that if it is the ZBA's opinion that the applicants withdraw the application and start again, they will do so.

Board clarified its process by which the Zoning Administrator's letter was generated. Mr. Rappleyea recited his years of experience and referenced his litigation with the Town of Pleasant Valley in 1974 over this same property. He stated that the Zoning Administrator's letter contains unadulterated hearsay and is improper and irrelevant. He stated that he is troubled by the process. Mr. Rappleyea stated that he does not expect to deal with the content of the Zoning Administrator's letter.

Mr. Rappleyea stated that the Quattro's are withdrawing their application tonight.

##### **5. RAMUNDO – DRAFT RESOLUTION**

Mr. Dunn stated that, regarding the resolution drafted by the Town Attorney and received this afternoon, he recommends that the Board members review it and return their

comments and corrections to him. He confirmed that this is a confidential, legal memorandum from the ZBA attorney.

Christina Perkins recused herself from the discussion and decision on this application.

Tim Gerstner, as alternate Board member, can read and vote on this application, if he is needed.

The public hearing on this application was closed on 7/28/05. Therefore, the 9/05 ZBA meeting will be within the 60-day period. Board discussed the advisability of holding a special meeting which will be published and of which the applicant will be notified.

Special meeting was scheduled for 9/8/05 at 7:30 p.m.

.....

## DISCUSSION

### 1. APPEAL #860 JOHNSON – VARIANCE

H. Czech read the worksheet into the record.

- Zoned R-O
- Variance sought: Code Section 98.12
- Setback on right side is 9'
- Proposed structure: 8' x 8' shed
- Not detrimental to nearby properties
- No undesirable change to the character of the neighborhood
- No alternative methods available due to small size of the property
- The requested variance is substantial
- No effects or impacts to the physical and/or environmental conditions
- Not a result of a "self-created" hardship
- Benefit to the applicant is greater than the detriment to the neighborhood
- These factors balance in favor of granting the variance

H. Czech: **MOTION TO GRANT THE REQUESTED VARIANCE; SECONDED BY R. VOGT**

**Discussion:** L. Rubenstein inquired if the Board must limit the applicants to an 8' x 8' shed. The Board agreed that this is what the applicants requested.

**VOTE TAKEN AND APPROVED 7-0-0**

**MEETING ADJOURNED BY CHAIRMAN DUNN AT 9:20 P.M.**

Respectfully submitted,

Helen D. Dickerson  
Secretary

The foregoing represent unofficial minutes of the August 18, 2005, Pleasant Valley Zoning Board of Appeals meeting. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_\_ Approved as read

\_\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY ZONING BOARD OF APPEALS**  
**September 8, 2005**  
**SPECIAL WORKSHOP**

This SPECIAL WORKSHOP of the Pleasant Valley Zoning Board of Appeals took place on September 8, 2005, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman John Dunn called the meeting to order at 7:40 p.m.

Members present:           John Dunn  
                                  Laura Zylberberg  
                                  Lisa Rubenstein  
                                  Helene Czech  
                                  Ronald Vogt  
                                  Tim Gerstner, Alternate

Members absent:           Rob Maucher  
                                  Christina Perkins

**1. APPEAL #844 RAMUNDO-VARIANCE**

Mr. Anthony Ramundo and his attorney Mr. Allan Rappleyea were present, as was a woman whose name the secretary did not record.

J. Dunn stated that the purpose of this workshop is to discuss Appeal #844, Ramundo variance, at Kay Drive, grid #13-6364-02-643515, R-2. Further, he stated that the file contains an affidavit of publication in The Poughkeepsie Journal:

“The Town of Pleasant Valley Zoning Board of Appeals will hold a special meeting on Thursday, 9/8/05 beginning at 7:30 p.m. The purpose of the discussion will be Appeal #844, Ramundo variance. The public may attend. No public testimony will be heard.”

J. Dunn opened the discussion and stated that the file now contains the Certificate of Title Insurance.

Mr. Rappleyea stated that he realized this meeting is not a public hearing but asked for three minutes to address the Board. Board clarified for Mr. Rappleyea that the public portion of this appeal has been closed and that no comment from the public will be taken. Mr. Dunn offered to poll the Board for a vote on whether to reopen the public portion of the hearing. Further, he explained that if the public portion of the hearing is reopened, then the appeal will be adjourned to the regularly scheduled September ZBA meeting in order to take their additional testimony. Mr. Rappleyea stated that he did not think it was necessary to have a public hearing, that he thinks it's necessary to give Mr. Ramundo an opportunity to be heard. Further, Mr. Rappleyea stated that Mr. Ramundo was advised to attend tonight's meeting. Mr. Dunn made two points clear:

1. Mr. Ramundo was advised that this was a public meeting for the purpose of the Board's discussion and that he could attend but would not be permitted to speak.
2. This is a workshop meeting

L. Rubenstein stated that her understanding of the purpose of this special meeting was for the discussion phase of the appeal, because the Board had already closed the public hearing. Further, she stated that, if the applicant is requesting that the public hearing be reopened so that he can add further information to the record, then the appeal would need to be adjourned to the next ZBA meeting so that the appeal can be properly on the agenda for public comment at a public hearing. Ms. Rubenstein again clarified that the Board had already closed the public hearing, which means that all of the public input had been closed so that the Board can deliberate on the application. She stated that she has no problem if the applicant wishes to add to the record because it is his appeal. If the applicant is saying to the Board “do not deliberate tonight” and “I want you to reopen the public hearing,” she is willing to do this.

Board discussed and agreed that, if the applicant wishes to add to the record, then the appeal should be adjourned to a regular ZBA meeting where it is advertised and any other member of the public can also comment. The Board concurred that it is not fair to hear additional testimony until other members of the public are notified and given an opportunity to comment.

Board asked Mr. Ramundo and Mr. Rappleyea if they wanted the Board to reopen the public hearing and adjourn the application to a regularly scheduled ZBA meeting. Mr. Ramundo and Mr. Rappleyea stepped out of the room to discuss the question.

Mr. Rappleyea reported that Mr. Ramundo would like a decision tonight, that he does not want another public hearing. Further, Mr. Rappleyea stated that he has seen the resolution.

Board clarified that the Board will discuss the application tonight and that there will be no vote tonight.

.....  
**DISCUSSION**

R. Vogt stated that the Board asked numerous times for certain documents that record how the deeds were transferred, whether substandard lots were originally created with an easement. In one of the ZBA meetings, R. Vogt noted that the applicant stated that the lots were created in 1963 but that no easement was created until recently. Further, the lots are substandard lots but are not buildable lots. Board members concurred that the ZBA has never granted a variance on a landlocked parcel where there was no recorded easement for ingress and egress. R. Vogt stated that the ZBA is not permitted to create a substandard building lot per New York State.

L. Zylberberg stated that, according to the information provided to the ZBA counsel by the title company, there is no recorded easement for ingress and egress for this landlocked parcel. R. Vogt noted that the file contains a letter dated 6/17/05 from the ZBA asking Nancy in the Zoning Office to send another letter to Mr. Ramundo requesting a complete abstract of title. L. Zylberberg noted that the file contains two

deeds - one dated 1964 and one dated 1963 – and that neither deed references an easement or right-of-way.

R. Vogt referenced testimony from the minutes of the 4/28/05 ZBA meeting where Mr. Ramundo testified that there was no easement because there was no need for one as the lots were vacant.

L. Zylberberg noted that, at the second ZBA meeting, the applicant provided the Board with a deed, which does not show any easement. Mr. Dunn noted that there is no record of an easement in all public records that the ZBA has acquired. Ms. Zylberberg stated that, from the evidence that the applicant provided to the ZBA, the ZBA has been unable to ascertain that there was a recorded easement onto this parcel and the Board has never granted a variance on a landlocked parcel that did not have a recorded easement. L. Rubenstein noted that this is because the ZBA has always treated other applications as being pre-existing buildable lots, but not any piece of land just because it existed prior to zoning was a buildable lot. R. Vogt and L. Rubenstein recalled other applications, although some were small, all of which had rights-of-way that were deeded and were part of the record. Mr. Vogt noted that, without the easement or right-of-way, the Board would be creating a substandard building lot out of a substandard lot, which NYS does not permit the ZBA to do. Further, Mr. Vogt noted that the applicant does not have a loss of use as he can combine the two lots, build one home, and meet the zoning requirements. Board concurred that it is not a merger issue and that the applicant has the opportunity to build if he uses the two lots – he has the acreage to meet zoning requirements.

Mr. Dunn noted that the first comment letter dated 3/2/05 from the Town of Pleasant Valley Fire Advisory Board states:

“Motion to recommend that the application as submitted be disapproved pending submission by the applicant of the location of the proposed right-of-way over lot #623501 so that the Fire Advisory Board may ascertain the location of the driveway and any safety issues that may be involved.”

Further, Mr. Dunn noted that on 4/18/05 the Highway Superintendent sent a letter to the ZBA stating that he met with Mr. Ramundo at his property on Kay Drive and that the applicant showed him where he is proposing to install the driveway.

Thereafter, Mr. Dunn noted that on 6/1/05 the Fire Advisory Board reviewed the application again and submitted a letter stating that they have:

“no comment as it is uniquely a matter for the ZBA.”

Mr. Dunn read the Planning Board’s comment:

“refers this application to the ZBA with a negative recommendation.”

L. Rubenstein stated that there are two lots that apparently existed before zoning but the interior lot never had any access or right-of-way. The front parcel has plenty of road frontage but it is undersized. Ms. Rubenstein noted that, in fact, both parcels are undersized. She noted that, if the applicant was appealing to the Board for the front lot, it

would be a question of an area variance, which the Board has granted on other applications in the past. However, Ms. Rubenstein noted that the front lot is not before the Board at this time.

Board discussed revisions to the draft resolution provided by the ZBA attorney:

- R-2 – remove the “A”
- Change “lot” to “parcel”
- Change “lot #” to “grid #” or “tax map #”
- Parcel was never a buildable parcel because of absence of an easement
- Add descriptor to delineate the front parcel (1.3 acres) from landlocked parcel (.96 acre, tax map #643517)
- Add to item #6 commentary that the evidence provided by the applicant was by deed from Wright to Baldwin dated 6/25/1963 recorded 7/5/1963 and deed from Kelly to Baldwin dated 7/9/1964 recorded 7/25/1964
- Add another whereas clause that the applicant testified that no right of ingress or egress exists on tax map #643517
- Delete #15 – not a finding of fact

L. Rubenstein noted that the only issue before the Board is the variance of road frontage for the landlocked parcel.

R. Vogt noted that the purchase price for both parcels was \$61,000, that Kathleen Moro, NYS Certified Residential Appraiser, appraised (in a report dated 5/26/05) the combined parcels at \$125,000; therefore, there would be no economic loss to the applicant if he were required to combine the parcels. Board noted that the applicant would, in fact, have a net profit if he were to combine them.

Board reviewed the Planning Board’s negative recommendation that was based on:

1. “the issues raised by the Fire Advisory Board’s comment letter with which the Planning Board agrees” and
2. “due to the absence of a clear understanding of how these two parcels are proposed to be developed, the Planning Board is unable to discern any planning issues that may arise from location of the common driveway and any easements that may be required.”

Board agreed to move #'s 7 and 8 as they are not findings of fact and to change #10 to reflect that the Fire Advisory Board took no position with respect to the application. Number 14 will be deleted. Number 15 will be moved as it is not a finding of fact. Add that photos were provided and reviewed by the Board.

Board noted that a comment letter dated 8/12/05 from a member of the public, which was received by the ZBA after the public portion of the application had been closed, should be returned to the sender with a note that the Board cannot receive the letter because the record has been closed.

Board reviewed the facts:

- the variance requested is to 98-12C – the portion that requires a minimum of 50' road frontage in all districts
- public hearings were held on 3/24/05, 4/28/05, 5/36/05, 6/23/05, 7/28/05
- publication in The Poughkeepsie Journal was on 3/16/05 and was posted as required by law
- public hearing was closed on 7/28/05 after receiving comments from the public
- ZBA asked for information during the process of the public hearing, which is why the application was on the agenda for so many months

Board reviewed the Findings of Fact that it has agreed upon:

- The area is zoned R-2
- The applicant bought two parcels on 12/21/04 and then submitted an application to the ZBA for a variance from the road frontage
- The two parcels are owned by the applicant and are adjoining
- The parcels are substandard for the zone: the front lot is 1.3 acres and the landlocked lot is .96 acres
- Both parcels are vacant
- The earliest evidence provided by the applicant that the lots existed as two lots is from 1963 – two deeds are in the file: Wright to Baldwin dated 1964 and Kelly to Baldwin 1963
- There is no right-of-way that was granted at the time the lots were created
- The Fire Advisory Board takes no position with respect to the application
- Pleasant Valley Planning Board provided a negative recommendation which appears to be based on incomplete information
- If the two lots were combined, the applicant would have approximately 2.25 acres, which would fulfill the requirements for the R-2 zone
- The lots on Kay Drive and Smith Road in the immediate vicinity are generally conforming with the zoning classification and range between 1.57 and 3.2 acres
- The applicant has submitted a report dated 5/26/05, from an appraiser, Kathleen Moro, NYS Certified Residential Appraiser, that states that if combined the lot value would be \$125,000.
- Property records indicate that the applicant purchased the lots for \$61,000
- Photos have been entered into the record and the Board has reviewed the property

Board reviewed the worksheet as an outline for discussion of this application.

1. if granted, will the variance have a detrimental impact on the character of the neighborhood:

- most lots generally conform to the R-2 zone
- would be creating smaller lots
- would be setting a precedent because historically the ZBA has not issued variances where there's no easement or right-of-way or direct access
- granting such a variance is a zoning change which is not the purview of the ZBA



- if the Town Board wants to allow undersized lots that have no right-of-way or road frontage, that is a zoning change because it will be prevalent, will reoccur, and is a Town-wide issue
  - this is not a merger issue
  - there is no evidence that this was an approved building lot or buildable lot prior to zoning
  - the ZBA is not in a position to grant a variance where it was never an approved lot at all and where it would be creating a substandard lot with no approval by the Planning Board
  - the ZBA received a notarized letter from Mr. Lehmkuhl dated 7/25/05 (previously entered into the record) who is a neighbor and who objects to this application
2. Alternative method available to the applicant would be to combine the lots, and he is not deprived of economic use of his property by not granting the variance. Further, it is not the ZBA's place to ensure an applicant's financial position. Rather, it is the ZBA's job to protect the Town's Zoning Code without unduly depriving an applicant of an opportunity to make money.
  3. The requested variance is substantial as it is infinity.
  4. Physical and/or environmental impact of the variance – mirrors the conditions referenced in #1 above.
  5. The variance requested is the result of a self-created hardship.

L. Rubenstein will draft the resolution.

L. Rubenstein directed a question to Chairman Dunn regarding Mr. Rappleyea's comment that he has a copy of the resolution drafted by the ZBA's attorney. Ms. Rubenstein stated that she is really disturbed by the fact that a confidential legal document was released and asked who gave him the copy. Further, she stated that whoever released that document should be advised that it is inappropriate to do so. Mr. Dunn stated that the person who released the document has previously been advised about other documents that were inappropriately released. Further, he stated that he was unaware until tonight that a copy of the confidential draft resolution had been given to Attorney Rappleyea. Ms. Rubenstein underscored that the document falls under attorney client privilege, that it is confidential, and that it should not be disclosed. Further, she stated that she has requested that such confidential legal documents be kept in separate locked files because it is not public record until the ZBA votes on it. That document was for discussion only, and it and other documents in the file are not for public disclosure.

Ms. Rubenstein also pointed out that the letter received from a member of the public after the public hearing was closed was never read into the record, is not part of the file or the record, and should be returned to the sender. Or the letter should be marked or labeled as:

NOT PART OF THE RECORD AS IT WAS SUBMITTED AFTER THE FILE  
WAS CLOSED AND HAS NO BEARING ON THE APPLICATION.

**MEETING ADJOURNED BY CHAIRMAN DUNN AT 9:15 P.M.**

Respectfully submitted,

Helen D. Dickerson  
Secretary

The foregoing represent unofficial minutes of the September 8, 2005, Pleasant Valley Zoning Board of Appeals meeting. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_\_ Approved as read

\_\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY ZONING BOARD OF APPEALS**  
**September 22, 2005**

This meeting of the Pleasant Valley Zoning Board of Appeals took place on September 22, 2005, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman John Dunn called the meeting to order at 7:53 p.m.

Members present:           John Dunn  
                                  Laura Zylberberg  
                                  Lisa Rubenstein  
                                  Helene Czech  
                                  Christina Perkins  
                                  Ronald Vogt  
                                  Tim Gerstner, Alternate

Member absent:           Rob Maucher

Also present:             Dieter Friedrichson, Zoning Administrator

**1. APPEAL #844 RAMUNDO – VARIANCE**

C. Perkins recused herself from this appeal.

L. Rubenstein read and the Board corrected the draft resolution to deny this appeal for an area variance. A copy of the final corrected resolution is attached to these minutes. The original final corrected resolution, signed by Chairman Dunn, is on file.

L. Rubenstein: **RESOLUTION TO DENY; SECONDED BY R. VOGT**

**VOTE TAKEN AND APPROVED 5-0-0**

(Ms. Rubenstein left the meeting following this appeal.)

**2. APPEAL #864 PLEASANT VALLEY PROPERTIES, LLC – VARIANCE**

J. Dunn read into the record this appeal for an area variance, at 12 Emilie Lane, in R-O district, from minimum side setback requirement of a structure on a parcel to be created by proposed subdivision. Mr. Dunn noted that the file contains:

- Affidavit of publication in The Poughkeepsie Journal dated 9/16/05
- Notice from Dutchess County Department of Planning and Development: “no comment as this is a matter of local concern”
- Positive recommendation from the Pleasant Valley Planning Board
- No comment from the Pleasant Valley Fire Advisory Board

Mr. Dunn noted that the 9/1/05 original application is notarized and that the file contains a letter from Pleasant Valley Properties LLC that explains this application.

Joseph Kirchhoff, partner, Pleasant Valley Properties LLC, was sworn in and reported that this is a somewhat complicated issue all related to permanent financing. The project as approved is a multi-housing project. Mr. Kirchhoff stated that Phase I is completed and Phase II is in process. He stated that, as they transitioned from construction financing to permanent financing, the banks are requiring that Phase I be owned by a single identity corporation. In order to do that, he reported that they had to create a "paper subdivision" for financing purposes, which still must meet the density regulation so that 80 units fit onto 17 acres and meet zoning requirements. He stated that they have a single water supply – a private water system – which could become a municipal water system and which becomes a matter regulated by the Board of Health. Mr. Kirchhoff stated that there must be a 100' radius buffer around the wells, and which radius impacts the setbacks on Emilie Lane. He stated that they need a variance of just under 23'. This variance will permit them to get financing on Lot #1 and permit the wells to serve all Phase I and Phase II.

Mr. Kirchhoff pointed out on the map the "paper subdivision" and explained how he arrived at the variance required. The 100' buffer around the well only gives 3'7" setback to Emilie Lane. He stated that the building has not moved from the original application and the road has not moved from the original application. He stated that the Board of Health regulations regarding these wells create this need for a variance.

L. Zylberberg inquired whether this new "paper subdivision" is 100' wide. Mr. Kirchhoff stated that in places the lot is not 100' wide. Board speculated that there may be another variance that is required to create this new subdivision.

Mr. Kirchhoff stated that they learned yesterday that, even though the new proposed lot meets the ½ acre total area requirement in this zoning district, they will need a Special Use Permit.

Rich Frankel, attorney for the applicant, addressed the question of whether Lot #6, the new proposed lot, is 100' wide from the building line. He stated that the question that needs to be answered is what is considered "the building line." He stated that there are wells and a pump station on this lot. So, the question is whether the lot is 100' wide at the pump station. L. Zylberberg clarified that they are proposing to create Lot #6 and that the Code specifies minimum lot width at building line shall be 100' wide. Discussion regarding where/what would constitute the building line.

Mr. Frankel stated that the Board of Health regulations require 100' of ownership around the well heads. Mr. Kirchhoff stated that the Town of Pleasant Valley has shown interest in this water supply and this is one of the main reasons they are creating this new proposed Lot #6 separate from the rest of the project. Once they encumber Phase I lot with a mortgage, they are restricted for 10 years from carving the wells out of that lot. Further, according to the Board of Health, if these wells will supply water to more than one lot, there must be a transportation corporation. The new lot has been created for two reasons: (1) if the Town wants to acquire this water supply, and (2) the Board of Health requires a transportation corporation in order to provide water to more than one lot.

Mr. Kirchhoff reported that they filed a Short Form EAF with the Planning Board and that the Planning Board will do a coordinated review. L. Zylberberg noted that the ZBA has not received notification of the intended coordinated review.

Board noted that the application has not been denied by the Zoning Administrator. Mr. Friedrichson explained that, because there was no application for a building permit, there was nothing for him to deny. Board noted, therefore, that procedurally this application cannot be heard. Mr. Kirchhoff stated that they are not appealing based on a denied building permit but are appealing for a setback variance in order to do a subdivision.

Ms. Zylberberg noted that this appeal refers to an application dated 10/2004, which was the original application. Mr. Vogt noted that this is a new project – to subdivide the original project into six proposed lots - for which there is no application.

Board discussed next steps: unable to do anything at this meeting because the appeal is based on the original application in which the proposed sixth lot did not exist; a coordinated review which must be adjourned anyway; ZBA is unable to do anything until SEQRA determination is complete; ZBA has not been notified of the coordinated review; Planning Board must be designated as lead agency; applicants must apply for a special use permit. Mr. Kirchhoff stated that time is of the essence for the permanent financing.

Mr. Kirchhoff reported that each well produces 800+ gallons per minute – the equivalent of a 3-town supply of water. He stated that the County has spoken with them, and there is municipal interest in the water supply. Mr. Frankel stated that they are not withdrawing their application now before the Board.

Public Hearing Open No member of the public spoke.

Public Hearing to remain open.

Appeal adjourned to next ZBA meeting.

### **3. APPEAL #863 QUATTROCIACCHI – AREA VARIANCE**

R. Vogt recused himself.

Mr. Dunn reported that this is an appeal for an area variance. Mr. Dunn reported that the applicants were denied an amended building permit, were denied a construction permit, and are requesting a variance of Zoning Code sections 98.60 and 98.12. He noted that the file also contains:

- Affidavit of publication in The Poughkeepsie Journal dated 9/16/05
- Comment from Dutchess County Department of Planning and Development: no comment – local concern
- Negative recommendation from Pleasant Valley Planning Board
- No comment from the Pleasant Valley Fire Advisory Board

- Amended building permit application for retail antique shops and 2 second floor apartments

Allan Rappleyea, attorney for the applicant, was present. He requested that the two appeals (#863 and #865) be considered as one, and for purposes of Public Hearing be considered as one.

#### **4. APPEAL #865 QUATTROCIACCHI – USE VARIANCE**

R. Vogt recused himself.

Mr. Dunn reported that the applicant was denied a building permit. He reported that the file contains an amended application and the following documents:

- Affidavit of publication in The Poughkeepsie Journal dated 9/16/05
- Comment from Dutchess County Department of Planning and Development – no comment – local concern
- Negative recommendation from the Town of Pleasant Valley Planning Board
- No comment from the Pleasant Valley Fire Advisory Board

**APPEAL #863 & #865 were considered together at this meeting at the request of applicant's attorney.**

Mr. Rappleyea stated that, for purposes of the record and since there were filings in the previous application, although he will file some papers for a second time, the file already contains the original documents. Mr. Dunn stated that the ZBA needs all documents to be refilled because the original file was withdrawn. Mr. Rappleyea stated that he can refer to it by reference because the original petition that was filled is relevant in this application and is available to the ZBA in its own files. Mr. Rappleyea stated that he is filing duplicates of the original documents which include:

- copy of a petition signed by almost all nearby neighbors
- copy of the tax map
- copy of an aerial map of the property
- copy of letter from Mr. Rappleyea to the ZBA, which attests that if the second apartment is approved, it will be rented to a senior citizen at 25% less than the prevailing rate
- list of immediate neighbors who had signed the petition

Board will file all documents pertaining to both appeals in the file for Appeal #863.

Peter B. Devers, 61 Rascal Road, Millbrook, NY 12545, was sworn in. Mr. Rappleyea attempted to question Mr. Devers as a witness. Board discussed procedure with Mr. Rappleyea regarding how members of the public present testimony for the ZBA. Mr. Rappleyea stated that he seriously objects to the ZBA denying him the right to question Mr. Devers as a witness. Mr. Dunn noted that the ZBA is not a court of law, and it is the experience of the entire ZBA members that it has never had legal counsel question witnesses. Mr. Dunn offered to adjourn the appeal to the next meeting so that Mr. Dunn will have enough time to research this procedural question.

Mr. Devers stated that Mr. Rappleyea asked him, as a real estate agent for 25 years, to look at Mrs. Quattro's property and the new building. He stated that he walked around the site, examined sight distances, and noted the proximity of the neighbors. He stated that he believes the application for the extra apartment should be granted, that the old building was decrepit, and that the new building is handsome and has improved the neighborhood. He stated that he believes all the people who signed the petition agree that the new building is a huge improvement over the old one. He also stated that he thinks the extra apartment will not be a hardship and that there will not be an increase in traffic especially if it is rented to a senior citizen. He believes that the new building is an asset to the Town of Pleasant Valley and that it would benefit the community to grant the requested variances. Mr. Devers believes it is of no consequence that there is one extra person living in this building with one extra kitchen.

Mr. Dunn asked Mr. Rappleyea if he was satisfied that Mr. Devers covered everything that he wanted to have covered. Mr. Rappleyea responded that, yes, Mr. Devers rendered his opinion as a real estate expert on the impact of that building. Mr. Rappleyea stated that he did not tell Mr. Devers what to say. Board reassured Mr. Rappleyea that they were not implying that he had told Mr. Devers what to say.

Frank Redl was sworn in. Mr. Redl stated that he prefers two small apartments rather than one big apartment with 4-5 kids. He stated that two studio apartments would not have kids running around. Mr. Redl stated that it's not always black and white, that there has to be a grey area. With the investment and the cleaning up Mr. Quattro did, Mr. Redl stated that he deserves thanks not headaches. Mr. Dunn explained that the Zoning Code requires Mr. Quattro to have 6 acres, but that he only has 2 acres. Mr. Dunn stated that this is a big difference, not a little grey area. Mr. Quattro has 1/3 the acreage that he should have.

Mr. Redl stated that someone must have seen on the plans for the project what Mr. Quattro was building. Mr. Dunn stated that the original application was for one store and one apartment. However, now the application is for two stores and two apartments, which is a big jump. Mr. Redl stated that if Mr. Quattro has the water and the sewer to accommodate his project, what's the problem. Mr. Dunn stated, "then why do we have Zoning?" Mr. Redl concurred stating "that's what I'd like to know." Mr. Dunn pointed out that the fact of the matter is that there is Zoning. Bottom line, Mr. Redl stated he prefers two small apartments.

Ms. Perkins asked Mr. Redl if he thought two stores would generate more traffic. Mr. Redl stated that he does not care if it does and that's it's not a local problem but is a NYS problem because it's a NYS road. Board reminded Mr. Redl that it's a Town road. Mr. Redl stated that he does not think an antique store would create that much traffic. Further, Board reminded Mr. Redl that Zoning laws exist and the ZBA's mission is to apply Zoning to all Town projects. Mr. Dunn stated that the ZBA's job is to try to keep the Town as much as possible within the Zoning Code without causing undue hardship.

Mr. Rappleyea stated that the issue is not hardship but is an area variance. He stated that antique shops often have many dealers under one roof. He stated that the test is not hardship; the test is acreage and impact on Route 44 and the neighbors. He stated that the test is whether the project will have a negative impact.

Ms. Zylberberg clarified that there are two variances: an area variance and a use variance. Mr. Rappleyea stated that he does not think the use variance is required as it is common practice that an antique shop can be used for more than one dealer, which is what Mr. Quattro intends to do in this shop.

Salvatore L. Quattrociacchi, 89 Tinkertown Road, Pleasant Valley, NY was sworn in. Mr. Quattro asked and the Board clarified that the area variance required is 4 acres. Mr. Dunn stated that Mr. Quattro can expand the footprint by 50%, but an additional 2 acres is required for every additional apartment or business. No area variance would be required for one apartment and one business. Two apartments and two businesses would require a total of 6 acres. Mr. Dunn pointed out that Mr. Quattro has 2 acres; therefore, a 4 acre variance is required.

Mr. Quattro stated that he met with Zoning Administrator Friedrichson regarding rebuilding the building. Mr. Friedrichson gave Mr. Quattro dimensions and told him to go make the plans. Mr. Quattro stated that he drew up the plans, which had to be changed for wheelchair accessibility. Mr. Quattro asked, if he was only allowed one business downstairs, how the plans were approved with 4 entrances, two exits, a fire wall in the middle, two wheelchair accessible bathrooms. Mr. Dunn stated that all he can report is what he was told, which was: at the time it was being built there was a question as to whether Mr. Quattro was going to have a business and an apartment downstairs or whether he was going to have a business downstairs and an apartment upstairs. Mr. Quattro stated that Mr. Friedrichson told him he could not have retail upstairs, but that he does not know how these plans were approved.

Mr. Rappleyea stated that hardship only relates to the second business. He stated that if you look at the original plans, it shows an apartment upstairs and a retail business downstairs. He stated that the building inspector required Mr. Quattro to put two handicapped accessible bathrooms on the first floor at great expense. Mr. Quattro stated that he has two stairways going upstairs. Mr. Rappleyea stated that this is the hardship.

Mr. Quattro stated that at this point he's OK with just having one antique shop on the ground floor with multiple vendors. Board stated that Zoning is satisfied if the antique shop has one owner.

Mr. Quattro stated that he is overbuilt which puts a burden on upstairs. He stated that he lost a lot of square footage to the two bathrooms, that the fire wall was very costly, that he did not need two front doors or two stairways going upstairs. Mr. Quattro repeated his question as how the plans got approved.



Mr. Rappleyea repeated his point that the issue is not hardship; rather the issue is the impact on the neighborhood. He stated that this project has a positive impact on the neighborhood. He stated that the two apartments will result in two small families versus one large family, with at most two cars versus 5 cars.

Mr. Quattro and Mr. Rappleyea stated that they are only asking for an area variance for the additional apartment upstairs, and they withdrew Appeal #865 for the use variance. Mr. Quattro stated that he made a mistake creating two businesses downstairs.

Mr. Friedrichson stated that the original application was approved by the building inspector and was submitted as one apartment upstairs. In fact, he stated that other half of the upstairs was designated as storage. He stated that the application was not approved for two apartments and that the fire wall was required between the commercial and the residential spaces. Mr. Friedrichson stated that the total square footage is 30' x 60' for a total of 1800 square feet. He stated that each apartment is half, or 900' square feet. He stated that an R-2 district requires 1000 square feet per unit. He advised the Board that if these apartments are approved, it be noted that each is 100 square feet short.

Board identified the sections of the Code that apply to the required variances: 2 acre variance for additional apartment; 100' minimum living area variance for one new apartment (one apartment is pre-existing). Board stated that it will consider both of these variances under this Appeal #863.

**Public Hearing Open – no one spoke – Public Hearing Closed.**

.....  
**DISCUSSION**

Appeal #863 Quattrociacchi – Area Variance

Zoning Administrator stated that this application will require a site plan review if the variances are granted. Further, he stated that if the ZBA does not require a site plan review, then he, as the Zoning Administrator, will have to require it.

Board prepared a worksheet to assist in its deliberations.

**L. Zylberberg: MOTION TO GRANT VARIANCE FOR ONE CONSIGNMENT ANTIQUE SHOP ON FIRST FLOOR AND TWO APARTMENTS ON 2<sup>ND</sup> FLOOR**

**Taking into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant, the Zoning Board determines that the benefit to the applicant is greater. Therefore, the above factors when considered together balance in favor of granting the variance.**

**SECONDED BY H. CZECH**

**Discussion on Motion:** The Board noted that the Planning Board did not indicate reasons for the negative recommendation. T. Gerstner noted that the building inspector required the fire wall. L. Zylberberg stated that the applicant admitted the mistake. Board concurred that it was not a deliberate mistake and noted that it resulted in a financial hardship. Mr. Dunn stated that the Board must try to adhere to Zoning and grant relief to the applicant when appropriate, and this case does call for granting the relief. Further, taking into consideration that the applicant has met the ZBA by combining the downstairs into one business, it is appropriate to grant the area variance for the upstairs apartment.

**VOTE TAKEN AND APPROVED 5-0-0**

ZBA referred the applicant to the Planning Board for Site Plan Review.

**MINUTES – MOTION TO APPROVE MINUTES OF ZBA MEETING OF 8/15/05;  
SECONDED BY R. VOGT; VOTE TAKEN AND APPROVED 6-0-0**

**MEETING ADJOURNED BY CHAIRMAN DUNN AT 10:05 P.M.**

Respectfully submitted,

Helen D. Dickerson  
Secretary

The foregoing represent unofficial minutes of the September 22, 2005, Pleasant Valley Zoning Board of Appeals meeting. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_\_ Approved as read

\_\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY ZONING BOARD OF APPEALS**  
**December 15, 2005**

This meeting of the Pleasant Valley Zoning Board of Appeals took place on December 15, 2005, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman John Dunn called the meeting to order at 7:35 p.m.

Members present:           John Dunn  
                                  Laura Zylberberg  
                                  Lisa Rubenstein  
                                  Rob Maucher  
                                  Christina Perkins  
                                  Ronald Vogt  
                                  Tim Gerstner, Alternate

Member absent:            Helene Czech

Also present:              Dieter Friedrichson, Zoning Administrator

**1. APPEAL #866 CUSSICK – VARIANCE**

Mr. Dunn reported for the record that the applicant is Scott Cussick, 19 Parksville Road, grid #13-6463-01-357647. The applicant is applying for an 11' variance from the required 15' setback for a 40' x 40' storage building on a residential lot. Mr. Dunn noted that the applicant states that topography dimensions and layout of the improvement prohibit the location in compliance with setback regulations.

Mr. Dunn reported that the file contains:

- Affidavit that letters have been sent to adjacent property owners
- Affidavit of publication in The Poughkeepsie Journal on 12/12/05
- Comment form from the Pleasant Valley Fire Advisory Board: “No comment ... proposed site improvements do not present any fire or safety issues.”
- Recommendation from the Pleasant Valley Planning Board: “The Planning Board was unable to determine the use of the proposed storage building, therefore refers this application to the ZBA with a negative recommendation.”

Scott Cussick, 19 Parksville Road, was sworn in. Mr. Cussick stated that they want to construct a storage building. He stated that the reasons for the variance arise from the layout of their driveway. He stated that they own some property that goes down to the lake and that it would be very costly to blast out the shale. Therefore, he stated that the only reasonable location would be up in front of the house, because the driveway is so steep. He stated that he needs the building setback to prevent damage to the building from cars sliding off the driveway. He stated that he's trying to get as much room as possible. Further, he stated that behind the building there is a landlocked piece of property that nothing has been done with. He said that it has been determined that a building cannot be located back there because it's landlocked.

Mr. Dunn inquired what the building will be used for. Mr. Cussick stated that they are a 3-car family with a 2-car garage that is already maxed out. He stated that they have a small shed that is also maxed out. He stated that his father wants to give him a boat and he has no storage for the boat. He stated that his in-laws are with them quite often, and he would like to be able to garage their vehicles. He stated that he has a small backhoe with a trailer that he also would like to put into the storage building. Currently, he stated that everything is sitting out getting weather beaten. Further, he stated that his son is getting to the age where toys will be snowmobiles and ATV's. He stated that he's trying to plan ahead.

Mr. Dunn stated that 40' x 40' is the size of a small house. Mr. Cussick stated that the proposed building is only 14' tall and is not a massive structure. He stated that it's all steel and that there's no wood in it, and therefore no fire hazard and no potential for termite damage exists. Mr. Vogt noted that it's a very large structure to put in front of their house, which itself isn't 40' x 40'.

Ms. Zylberberg asked how big the house is. Mr. Cussick stated that their house is a large raised ranch – 3400 square feet.

Ms. Rubenstein stated that the Board received a letter from the neighbor, which is not notarized and therefore cannot be part of the record. She asked whether the applicant has spoken to their neighbor and noted that the letter raises issues that should be addressed regarding how close the proposed structure is to their property line. Mr. Cussick read Ms. Rubenstein's copy of the letter and stated that he has spoken by phone with the neighbor. Mr. Cussick stated that the neighbor's wife has some concern about their easement getting onto the property. He stated that their easement is right up by Parksville Road, and that the building will be 225' off of the road. Board members and Mr. Cussick reviewed the map to locate the easement.

Ms. Rubenstein asked if the applicant could move the building so that it would not be quite as close to the property line, or possibly make the building a little smaller. She explained to Mr. Cussick that the ZBA's responsibility is to grant the minimum variance required. Therefore, she noted that 4' off the property line is really close and that it becomes an issue of whether they can maintain their structure without getting onto the neighbor's property. She stated that, if they could make the building a little smaller and get it a little farther off the property line, it makes it easier for the ZBA to approve the application. She stated that the proposed location is 4' off the property line and that the applicant has other area on their property where the building could be located.

Mr. Cussick stated that they could move it off the property line some but that he was never told that this would be an unacceptable amount. Ms. Rubenstein stated that the Code requires 15'. Mr. Cussick stated that, because the driveway is right there, he is trying to avoid putting a car through the building. Ms. Rubenstein asked whether he could make the structure smaller. She stated that the Board's job is to review the applications from the perspective of impact on the neighborhood and whether there are any objections from neighbors. She stated that if the issue is that the applicant needs a

storage shed that is 2' bigger and that will be 13' feet off the property line instead of the required 15' off the property line, those kinds of applications are easy. Further, she stated that, when there is a very large structure that is going to be 4' off the property line, it becomes more difficult to grant because it does, in fact, potentially impinge on the neighbor.

Staci Cussick was sworn in. Ms. Cussick stated that they are talking about a piece of land that has already been turned down and that they are trying to get the structure back as far as possible. She acknowledged that it is a large structure but that the location of the driveway is the problem. She stated that someone will come down the driveway and slide right into the building and it also impinges on their being able to turn their vehicles around. She stated that, as far as making it a smaller building, they have already spoken with the building inspector and showed them the blueprints and he was OK with the size it is. She stated that it is a pre-fab building that they have already purchased.

Ms. Zylberberg asked for clarification that they have spoken with the building inspector and that he was OK with the size. Ms. Cussick stated that they showed him the blueprints. Mr. Cussick stated that he was never told that the size was going to be an issue or would be a problem. Ms. Cussick stated that if they have to do lots of money's worth and put it somewhere else, they would have to do that, but that they were never told that they could not put this size structure on the property. She stated that they realized that where they want to put it might be an issue, and that's why they are in front of the ZBA. She stated that they have considered putting it on the other side where it would be more convenient, but the neighbors are there and it is useable land and they didn't want to infringe on their rights.

Ms. Zylberberg stated that her concern, speaking for herself as a Board member, is that it is a huge structure and that it is in the front of the property, which will change the entire character of the neighborhood. She stated that, if the building were located behind their house where it would not be seen as readily, that would be a different story. Further, she stated that the proposed building is bigger than the house. Ms. Cussick stated that their house cannot be seen from the road. Ms. Zylberberg noted that the proposed structure will be there forever, which is something that the Board considers when considering a variance that changes the character of the neighborhood.

Ms. Zylberberg noted that the applicants have testified that they have a two-car garage and asked how many cars will fit into a 40' x 40' structure. Ms. Cussick stated that it's not only for cars but also is for a trailer, a boat, a go cart, and a lot of other things. Mr. Dunn noted that there's an engine hoist there and asked if the applicant does auto repair on the property. Mr. Cussick stated that he does not do auto repair, but that he has a sander and the hoist gets the sander in and out of the truck.

Ms. Zylberberg noted that they have 3.78 acres. Ms. Cussick noted that the property descends a hill and narrows. Mr. Cussick noted that they are loaded with shale. Ms. Zylberberg suggested that they could possibly put another shed to store go carts and the

like and make the storage building smaller. Ms. Cussick noted that they already own the 40' x 40' building that is in pieces on their property.

Ms. Zylberberg asked what they will do if the ZBA denies the variance. Ms. Cussick stated that they will have to try to find another location for it, and that they don't want it in front of their house either, but that's the easiest place for it. She noted that down below there's an issue with the flood plane, that even in the hurricane the lake never rose an inch. She noted that there are a lot of restrictions that they must deal with. Ms. Zylberberg asked where the septic is located. Ms. Cussick stated that it is in the back and the well is in the front.

Mr. Cussick stated that he could move it closer and put up some sort of guard rail system.

Ms. Zylberberg and Mr. Vogt noted that the building is completely metal and will rust. Ms. Cussick stated that the building is galvanized steel, has a 50 year warranty, and that they will pour concrete for the footings.

Mr. Vogt stated that his concern is that, being in the front of the property, the structure will change the character of the neighborhood – that it changes the aesthetics. Mr. Dunn confirmed that he and other Board members visited the property.

#### **PUBLIC HEARING OPENED**

Gordon Daley, 49 Rossway Road, was sworn in. Mr. Daley stated that he wants to see where the property is located. Mr. Daley reviewed the map and stated that it doesn't affect him and that he has no problem with the application. Board explained to Mr. Daley that the reason he received the letter was because of the distance from his property.

#### **PUBLIC HEARING CLOSED**

### **2. APPEAL #867 ENNIS MOBILE HOME PARK – VARIANCE**

Mr. Dunn noted for the file that this application is for a variance to put a larger home on an existing lot. He noted that the side variance will remain the same, the requested front variance is 6', the requested left side variance is 2', and the requested right side variance is 12'.

Mr. Dunn noted that the file contains:

- Affidavit of publication in The Poughkeepsie Journal dated 12/12/05
- Comment form from the Fire Advisory Board: no comment ... "the proposed site improvements do not present any fire or safety issues."
- Referral from the Pleasant Valley Planning Board: "positive recommendation."

David Pretak was sworn in. Mr. Pretak stated this particular site is at the end of a cul de sac and that a couple of things were considered regarding replacement of this mobile home. Specifically, he stated he could have put in a typical single width home (14' x 70') but that it would be problematic as it would have to be a little closer to the road.

Further, he believes that a smaller, multi-section home is better looking and improves the appearance of the park. He also noted that there are limits on how far back the home can go because of the existing water and sewer services, which they are trying not to entirely redo. Secondly, he noted that there's a hill to the back with rock. He stated that 24' off the road is really pretty good compared to a lot of homes in this community and that this allows for a paved parking area off the road. He stated that there is quite a bit of room to the left of the lot, but that even if they rotate the home or try to slide it over a little bit, it ends up being closer to the left side. He stated that the home to the right is a similar distance to what they have now and that there are some trees. He explained the rationale for choosing a 24' x 52' home and stated that if they find they can locate it a little farther to the back, they will do so.

Mr. Pretak noted that there's plenty of room on the site and that they will not need a variance for a shed or a deck. He stated that he noted on the application that no variance is needed for accessory structures.

Mr. Vogt reminded Mr. Pretak that the Board has many times asked him to put in lot line markers and that many lots still do not have them. Mr. Pretak stated that he has painted some markers on the ground and some stakes and ribbons were put in after the recent snow fall. He stated that what happens from the front on this particular site, the new home will be about 14' back. He stated that the reason the distance from the road ends up only being 24' is because the stairs will come out to the front. He stated that in scaling them, he thinks the stairs will have to be quite good size and that they may be 25' off the road. He stated that he predominant structure will be probably 30' to 31' off the road.

Mr. Vogt again asked for permanent markers at the edges of the lots.

Ms. Rubenstein asked a question regarding measuring across from the corner and the Board discussed how these measurements are taken. Mr. Pretak stated that his understanding is that it is measured to the closest point.

Ms. Rubenstein noted, and the Board concurred, that the requested variances are:

- 6' front
- 2' left
- 12' right

**PUBLIC HEARING OPENED**

No one spoke.

**PUBLIC HEARING CLOSED**



**DISCUSSION**

**1. APPEAL #867 ENNIS MHP – VARIANCE**

Ms. Rubenstein reviewed the worksheet:

- 44 Partridge
- Zone ROA
- Code 98-25H
- Variances requested: front 6'; left 2'; right 12'
- Structure is proposed
- Detrimental to nearby properties: No
- Undesirable change to neighborhood: No
- Alternative methods: No
- Substantial variance: Yes, on right
- Self-created hardship: No
- Benefit to the applicant is greater than detriment to the neighborhood

Ms. Rubenstein: **MOTION TO GRANT THE REQUESTED VARIANCE;  
SECONDED BY L. ZYLBERBERG; VOTE TAKEN AND APPROVED 7-0-0**

**2. APPEAL #866 CUSSICK – VARIANCE**

Ms. Perkins reviewed the worksheet:

- 19 Parksville Road
- R-1
- Code 92.12 Schedule of Area
- Variance requested: 11' on left
- Structure is proposed
- Detrimental to nearby properties: Yes
- Undesirable change to neighborhood: Yes
- Alternative methods: yes – move structure to rear of property
- Substantial variance: Yes
- Impacts on physical/environmental conditions: change the demeanor of the neighborhood
- Self-created hardship: Yes, already purchased

Ms. Perkins stated that she thinks the variance should be denied. Mr. Vogt stated his concerns as: it is a very large structure that is only 4' off the property line; it is in the front; there are plenty of other options that may be more costly, but it must have been a good deal at the time it was purchased; and there are other areas on the property where it can be placed legally. Further, he stated that they would have had additional options had they not purchased the structure.

Ms. Rubenstein stated that this is not the most attractive neighborhood, but that this proposed structure does change the neighborhood. Mr. Vogt noted as an example 5 Charles Street in Pleasant Valley which is not even a 40' x 40' structure. Board noted that 40' x 40' is 1600 square feet which is a small house. Mr. Vogt paced off the approximate area in the meeting room using the 2' ceiling tiles as guides. Ms. Zylberberg noted that the proposed structure is larger than the applicant's house. Ms.



Perkins noted that even though the neighborhood is not the most desirable, the Board does not want to aid in making it less desirable. Board concurred that it is a massive structure. Ms. Rubenstein noted that for the residences across the street, the proposed structure would be unsightly and disturbing for the tenants. Mr. Dunn also noted that owner of the white colonial on the hill will look out the front window onto this huge structure. Ms. Zylberberg noted and Mr. Vogt concurred that, no matter what the applicant says about it being galvanized steel, the structure will rust. Ms. Perkins noted that the applicants stated that they could put it elsewhere on their property if they have to. Mr. Dunn noted that some of the 3.78 acres are wetlands. Ms. Zylberberg noted that it is not that hard to remove shale if he has a backhoe, which he stated that he has, and that he does not have to blast shale. Board agreed that neighbors would potentially be disturbed by a huge structure 4' off the property line and that it will change the character of the neighborhood.

Ms. Zylberberg noted that Ms. Cussick testified that the structure could be placed somewhere else on the lot.

Ms. Rubenstein: **RESOLUTION TO DENY VARIANCE**

**Whereas the applicant Scott Cussick of 19 Parksville Road has submitted an application for a variance to Section 98-12 Schedule of Area and Bulk Requirements, and**

**Whereas the applicant has requested an 11' variance on the left side of his property to construct a 40' by 40' storage shed, and**

**Whereas the proof and support of the requested variance has been duly considered by the Board at the public meeting tonight, and**

**Whereas an area variance is a request from relief from dimensional standards contained in the Zoning Ordinance and it requires the Zoning Board to weigh the benefits to applicant as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant, and**

**Whereas the applicant's wife testified that there is an alternate location on the property for the structure, and**

**Whereas the Board has viewed the property and considered all the evidence set forth in the record,**

**Now, therefore, the Board makes the following finding:**

- 1. the structure as proposed would create an undesirable change in the character of the neighborhood**
- 2. the requested structure could be placed in an alternate location on the property that does not require a variance**
- 3. the requested variance is substantial**

4. **although not determinative on its own, the Board has found that the reason for the request is a self-created hardship as the applicant has already purchased the structure and therefore cannot make it smaller so as to require less of a variance.**

**Now, therefore, weighing the benefit to the applicant versus the detriment to the community, the Board finds that the detriment to the community is greater and therefore the variance should be denied.**

Discussion: None

**SECONDED BY R. VOGT; VOTE TAKEN AND APPROVED 7-0-0**

**3. MINUTES**

Ms. Zylberberg: **MOTION TO ACCEPT MINUTES OF 5/26/05 ZBA MEETING; SECONDED BY R. VOGT; VOTE TAKEN AND APPROVED 5-0-0.**

Ms. Perkins: **MOTION TO APPROVE MINUTES AS AMENDED OF 9/22/05 ZBA MEETING; SECONDED BY T. GERSTNER; VOTE TAKEN AND APPROVED 5-0-0**

**MINUTES OF 1/27/05 ZBA MEETING UNANIMOUSLY APPROVED.**

Ms. Zylberberg: **MOTION TO APPROVE MINUTES AS AMENDED OF THE 9/8/05 SPECIAL WORKSHOP; SECONDED BY R. VOGT; VOTE TAKEN AND APPROVED 5-0-0.**

**MEETING ADJOURNED BY CHAIRMAN DUNN AT 9:05 P.M.**

Respectfully submitted,

Helen D. Dickerson  
Secretary

The foregoing represent unofficial minutes of the December 15, 2005, Pleasant Valley Zoning Board of Appeals meeting. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_\_ Approved as read

\_\_\_\_\_ Approved as corrected with deletions/additions