



MEETING RESCHEDULED TO 3/14/05

**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS**

Date: MONDAY, FEBRUARY 28, 2005 – 7:30 P.M.

AGENDA

7:30 p.m. – Roll Call

Motion to accept minutes of January 10, 2005 & January 24, 2005 meetings as written.

PRELIMINARY MEETINGS:

- FREDERICK FAYO, III (05-08)** Request for variance of (Bulk Tables R-1; 5-D & 5-F:
73 ft. Minimum Lot Width 14 ft. Side Yard Setback
17 ft. Side Yard Setback 31 ft. Total Side Yard
For proposed single family house at 252 Bull Road in an R-1 Zone (56-1-9)

TABLED FROM JANUARY 10, 2005 & JANUARY 24, 2005 MEETING:

- HOFFMANN-WALKER, INC. (for Gita Nadas) (04-76)** Request for 12,375 sq. ft. Minimum Lot Area (Bulk Tables 5-C) and; 50 ft. Minimum Lot Width (Bulk Tables 5-D) for proposed single-family dwelling at 458 Bull.Road in and R-1 Zone (52-1-13.33)

PUBLIC HEARINGS:

- DENNIS & KAREN GUINEY (05-02)** Request for Variance of 300-10 Use/Bulk Tables R-4:
2 ft. Side Yard Setback (Column F)
6 ft. Rear Yard Setback (Column G)
For proposed addition at 16 Valewood Drive in an R-4 Zone (39-4-9)
- GLOEDE NEON SIGNS (for Quiznos)** Request for 5.46 foot width for proposed wall sign (300-45 A-2) at 366 Windsor Highway in an C Zone (65-2-12.1)
- APPLIED BUILDERS (05-01)** Request for an Interpretation and/or Variance of 300-8 Table of Use Bulk Regulations R-3 for:
57,846 sq. ft. Minimum Lot Area (6-C)
10 ft. Minimum Lot Width (6-D)
25 ft. Side Yard Setback (6-E)
50 ft. Total Side Yard (6-F)
For proposed single-family dwelling at 1039 Rolling Ridge in an R-3 Zone (89-2-6,7&8)
- ANTHONY CICCONE (05-03)** Request for 26 ft. Rear Yard Setback for proposed attached pool deck at 33 Oxford Road in an R-4 Zone (6-6-4.2)
- WILLIAM PFEUFFER JR. (05-06)** Request for proposed 6 ft. fence that will project between the house and the road on a corner lot (300-11, A-3) at 31 Keats Drive in an R-4 Zone (75-2-1)
- JOHN JAKOBS (05-05)** Request for 20,220 sq. ft. Minimum Lot Size for proposed Single Family Home at 24 Mecca Drive in an R-4 Zone (58-1-42)

FORMAL DECISIONS:

ARGENIO 04-66	SCHULTZ 04-65	HALMAR 04-69	LEE 04-72
MALLOY 04-47	GREEHEY 04-68	VELA 04-70	
DA ASSOCIATES 04-67	TOPO REALTY 04-73	PETERSON 04-71	

March 14, 2005

1

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
MARCH 14, 2005

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
MICHAEL REIS
STEPHEN RIVERA
KIMBERLY GANN

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

ABSENT: LEN MCDONALD
KATHLEEN LOCEY

REGULAR MEETING

MR. KANE: I'd like to call to order the March 14, 2005 meeting of the New Windsor Zoning Board.

APPROVAL OF MINUTES DATED 1/10/05 & 1/24/05

MR. KANE: Motion to accept the minutes of January 10 and January 24, 2005?

MR. RIVERA: So moved.

MS. GANN: Second it.

March 14, 2005

2

ROLL CALL

MS. GANN	AYE
MR. REIS	AYE
MR. RIVERA	AYE
MR. KANE	AYE

PRELIMINARY MEETINGS:

FREDERICK FAYO, III (05-08)

Mr. Fred Fayó appeared before the board for this proposal.

MR. KANE: Request for variance of 73 ft. minimum lot width, 17 ft. side yard setback, 14 ft. side yard setback, 31 ft. total side yard for proposed single family house at 252 Bull Road. Tell us what you want to do.

MR. FAYO: I want to build a single family home. You did give us a variance on this, we got stalled on the project and that had expired so we're reapplying, it's strictly a single family home.

MR. KANE: How long ago did the variance expire?

MR. FAYO: About two years ago we got the variance so would have been a year ago it expired.

MR. KANE: So basically we're also, did you get, that we're reinstating a variance that was already approved.

MR. BABCOCK: I can add a little bit to that. Since the day they got the variance, the zoning has changed so the new denial reflects the new zoning so there are changes only bring it up to the current code.

MR. REIS: I'd like to recuse myself from this, I'm involved with the sale of the property.

MR. KANE: Okay, not a problem, Mike, thank you. So the changes that are on here are the changes from the old variance?

MR. FAYO: Yes.

MR. BABCOCK: That's correct.

MR. KANE: And all changes were a result of a change in the zoning in that area. Cutting down any trees, substantial vegetation in the building of the home?

MR. FAYO: No.

MR. KANE: Any easements?

MR. FAYO: No.

MR. KANE: Will you be creating any water hazards or runoff?

MR. FAYO: No.

MR. KANE: Home's similar in size and nature to other homes in the area?

MR. FAYO: Yes, about 2,400 square feet, I believe.

MR. KANE: Are you going to have a well?

MR. FAYO: Yes.

MR. KANE: Sewer?

MR. FAYO: Septic.

MR. KANE: Anybody else have any other questions?

MS. GANN: No.

MR. RIVERA: No questions.

MR. KANE: I'll accept a motion to set him up for a public hearing.

MS. GANN: I'd like to offer a motion, Mr. Chairman, to

March 14, 2005

5

set up Mr. Fayo for a public hearing on the requested variance.

MR. RIVERA: Second it.

ROLL CALL

MS. GANN	AYE
MR. REIS	AYE
MR. RIVERA	AYE
MR. KANE	AYE

MR. KANE: We'll see you at the public hearing. If you can just bring a couple pictures of the site so we can see it to refresh our memories.

MR. FAYO: Thank you.

JOHNATHAN GODFRY (05-10)

MR. KANE: Requests variance for 5 feet side yard setback and accessory building to project nearer to the street than the principal building for proposed storage container at 271 Riley Road.

Mr. Johnathan Godfry appeared before the board for this proposal.

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

MR. GODFRY: On the side of my garage I have an area that's a large parking spot let's say and I wanted to put some type of a storage unit or shed. I was really looking to do a storage unit, shipping stock container, something like that, something sealed water tight.

MR. KANE: Personal use?

MR. GODFRY: Personal use, just storage, just in doing some research it's a reasonable way to store things other than big a shed, an odd size, it's an odd size that I have so it's, to have a shed made would be three times the price.

MR. KANE: When they set you up for a public hearing can you bring some pictures?

MS. MASON: I have them.

MR. KANE: You're going to be putting it over here?

MR. GODFRY: Yes, there's the house and there's a parcel of land, driveway's over here and then there's a rock wall over here and I'm going to put it right inside here.

MR. KANE: Is this a metal container?

March 14, 2005

7

MR. GODFRY: Yes.

MR. RIVERA: Lockable?

MR. GODFRY: Yes.

MR. KANE: You have right here is all woods and how visible is that from the street?

MR. GODFRY: It's not very, that's why it's not very visible at all from this side over here coming down the road all you can see is the garage and this is a driveway, there's a small grass area maybe 20 feet in total and there's a large woods area to my neighbor's driveway where there's a continuation of woods on the other side.

MR. KANE: Do you intend to paint the container so it doesn't look like we have a storage container?

MR. GODFRY: I'm going to paint it to match the garage.

MR. KANE: Have you spoke to your neighbor over here?

MR. GODFRY: Yes.

MR. KANE: Okay.

MR. REIS: Can you show us where in relation to these photos?

MR. GODFRY: This is the garage, this is my property line that's right on the edge of this rock wall here, this is my neighbor's driveway, this is the neighbor's house, here's his driveway, there's the rock wall, this is where the property line is, this rock wall from this rock to the rock here that's roughly about maybe 5, 6, feet and it varies at the narrowest point maybe 5, widest point 7, my line's on this side of the wall, the rocks are mine.

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

MR. GODFRY: No, sir.

MR. KANE: Create any water hazards or runoffs?

MR. GODFRY: No, sir.

MR. KANE: Any easements in the area where you intend to put the container?

MR. GODFRY: No, sir.

MR. KANE: Do you intend to put electric out there?

MR. GODFRY: No, sir.

MR. REIS: Water running to it?

MR. GODFRY: No.

MR. KANE: Just putting it on the ground and storing?

MR. GODFRY: Storage, yeah.

MR. KANE: Okay, any other questions?

MS. GANN: No.

MR. REIS: Accept a motion?

MR. KANE: I will.

MR. REIS: Make a motion that we set up Mr. Godfry for his requested variance at 271 Riley Road in an R-3 zone.

MS. GANN: Second it.

March 14, 2005

9

ROLL CALL

MS. GANN	AYE
MR. REIS	AYE
MR. RIVERA	AYE
MR. KANE	AYE

MR. KANE: We'll see you at the public hearing, public hearing you're going to go through the same thing but it's just going to be on the record at that point and we'll have a decision. Thank you.

PETER GASPARINI (05-11)

MR. KANE: Requests variance for 10 feet side yard and 10 feet rear yard setback for existing 10 ft. x 10 ft. shed at 300 Walnut Avenue in an R-4 zone.

Mr. Peter Gasparini appeared before the board for this proposal.

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

MR. GASPARINI: I just want to install a shed for storage purposes and I want to put it back behind my garage because my garage is on the edge of the property line, we want to keep it uniform, keep it in the back of the garage so it's out of site.

MR. KANE: First we need to make a correction, is your shed 10 x 10 or 12 x 12?

MR. GASPARINI: Ten by ten, it's already installed.

MR. KANE: Mike?

MS. MASON: Should be 10 x 10.

MR. GASPARINI: I wrote it up wrong the first time.

MR. KANE: Then it's your fault. How long has the shed been in existence?

MR. GASPARINI: I'd say approximately four years.

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

MR. GASPARINI: Not to my knowledge.

MR. KANE: Create any water hazards or runoffs?

MR. GASPARINI: No.

MR. KANE: Cutting down any trees or substantial shrubbery with putting it up?

MR. GASPARINI: No, it's at the edge of my property, nothing was taken out.

MR. KANE: You realize if the variance is granted that you need to make all the other specifics? Any electric running out there?

MR. GASPARINI: No, it's basically snow plow, pool equipment and things like that.

MR. KANE: To move it any other place on the property would create a hardship?

MR. GASPARINI: Well, it would be unsightly.

MR. KANE: That falls under hardship.

MR. GASPARINI: But I mean prior to I guess it wouldn't be too much of a problem but the property inclines as we start to move into the ten foot by ten foot area, not only that, we'd probably be almost in the middle of my back yard, not in the middle but in the middle of the way it is.

MR. KANE: Looking at the property you feel it's at the safest spot on your property to put the shed?

MR. GASPARINI: Right, in view of everything else around the area it's kind of hidden, summertime growth keeps it from the road view and the garage keeps it from the front looking out.

MR. KANE: Okay, good enough. Any other questions?

MR. REIS: Mr. Gasparini, the shed's been there four

years, what brings you to the board at this point?

MR. GASPARINI: Well, I never really knew I needed a permit for certain things and then at this time I just went and got everything taken care of.

MR. KANE: Anything else? Accept a motion, I will.

MR. RIVERA: Accept a motion?

MR. KANE: Yes.

MR. RIVERA: That we set up Mr. Gasparini for his requested variance for ten foot side yard and ten foot rear yard setback for existing 10 x 10 shed at 300 Walnut Avenue.

MR. REIS: Second it.

ROLL CALL

MS. GANN	AYE
MR. REIS	AYE
MR. RIVERA	AYE
MR. KANE	AYE

MR. GASPARINI: One other thing you had asked on a number of occasions about easements, there's an easement alongside the garage.

MR. KANE: Is the shed on an easement though?

MR. GASPARINI: No.

MR. KANE: Not a problem.

MR. GASPARINI: I just wanted to because like I said that's the property line but it has nothing to do with the easement for the garage or anything.

HOFFMANN-WALKER, INC. (FOR GITA NADAS) (04-76) - TABLED
FROM 1/10/05 MEETING

Jerald Fiedelholz, Esq. and Mr. Bill Walker appeared before the board for this proposal.

MR. KANE: Request for 12,375 sq. ft. minimum lot area and 50 ft. minimum lot width for proposed single-family dwelling at 458 Bull Road.

MR. FIEDELHOLTZ: Hi, Mr. Chairman, my client is here. There's three members of the board present at this time, is that correct? Can we have an adjournment until the next meeting.

MR. KANE: We have four members here.

MR. FIEDELHOLTZ: Do you want to go? We'd rather wait until we have five.

MR. KANE: I have no problem holding it on the table for you.

MR. FIEDELHOLTZ: When will be the next meeting then?

MR. KANE: One problem with that is that the fifth member of the board had a knee surgery and he's also coming off from last year a little heart condition so we're not sure a hundred percent when he's going to be here, an alternate would be here and she's out tonight so I can't a hundred percent guarantee that we'll have a full board next meeting. Four's pretty good and going off the last meeting I don't see it as a problem.

MR. FIEDELHOLTZ: We'll go with the four. Thank you.

MR. KANE: So, well, can I get a motion to put this back on the table?

MR. REIS: Make a motion that we put the Hoffman-Walker

application back on the table so we can set them up for a public hearing.

MS. GANN: Second it.

MR. FIEDELHOLTZ: I'm Jerald Fiedelholtz, I'm the attorney representing Ms. Nadas and I think I spoke to you also Bill was here and I mentioned the fact the Zoning Board gave approval back in February of 1987, the property was deeded to Mrs. Nadas in 1993, unfortunately when the subdivision was approved it was 1.6 acres, this particular lot, and then in October I understand that was a deadline to have them appear for an approval, she didn't know about it at all, I think it was back in February or January for the variance?

MR. WALKER: Yeah, well, in--

MR. KANE: Actually they went back in December, we had another meeting and in January we started off.

MR. FIEDELHOLTZ: So only missed about six weeks for the deadline, they only have 5/10 of an acre, here's the builder, he can tell you.

MR. WALKER: As seen on the, you have the survey, I don't know if everybody has it this one here it has been designed, you know, it all works, there's no issue as we had spoken about originally drainage, no problem with, you know, it's not creating any issue with the road or the lot or the house that's going to be built or the neighboring house there will be no issue.

MR. KANE: This is going to have septic?

MR. WALKER: Yes and well.

MR. FIEDELHOLTZ: Actually only 4/10 of an acre, it's 1.6. The hardship is if we don't get the approval then she'll have a 3 acre lot which is very difficult to

sell and I spoke to Mrs. Nadas and she said that as far as the other lots are concerned they're not interested, right.

MR. BERLINGER: I'm a neighbor, I reside at 432 Bull Road, Al Berlinger, I have no problem with a home, another home being built on my road on 1.6 acres. I think that's a sufficient piece of land and my statement before the last time I was here was I just see taxes increasing and you're giving a person, forcing a person to have more land and a house with more land, they're only going to incur higher taxes so what's wrong with 1.6, it's more than an acre and I have 2 1/2 acres, it's more than enough or too much.

MR. KANE: I think the original bit of a problem was having the two parcels next to each other under the same ownership, but I think we have rectified that, we've had at least I've had my questions answered on that one, so I don't have a problem with that, so I guess the next step is to set up this for a public--this is a public hearing, we had the public so we're just voting tonight. Does anybody have any further questions?

MR. RIVERA: No.

MS. GANN: No.

MR. REIS: No.

MR. KANE: Can I have a motion?

MR. REIS: I make a motion that we grant the Hoffman-Walker application for their requested variance of 12,375 square foot minimum lot area and 50 foot minimum lot width for proposed single family dwelling at 458 Bull Road.

MS. GANN: Second it.

March 14, 2005

16

ROLL CALL

MS. GANN	AYE
MR. REIS	AYE
MR. RIVERA	AYE
MR. KANE	AYE

PUBLIC HEARINGS:

DENNIS & KAREN GUINEY (05-02)

MR. KANE: Request for variance for 2 ft. side yard setback and 6 ft. rear yard setback for proposed addition at 16 Valewood Drive.

Mr. Dennis Guiney appeared before the board for this proposal.

MR. KANE: Just like the preliminary, you want to tell us exactly what you want to do, sir.

MR. GUINEY: Yes, we want to add eight foot, we want to push the side of the house out by 8 feet and we need a two foot variance for that and we want to put a 16 x 16 room on the back where the existing deck is, we need a 6 foot variance for that and we want to move the deck over to the side.

MR. KANE: Okay, in the building of the addition will you be cutting down any trees or substantial vegetation?

MR. GUINEY: No.

MR. KANE: Creating any water hazards or runoffs?

MR. GUINEY: No.

MR. KANE: Will the house still be similar in size and nature to other homes in your neighborhood?

MR. GUINEY: Yes.

MR. KANE: Will you be going over any septic?

MR. GUINEY: No.

MR. KANE: Town water and sewer?

MR. GUINEY: Yes.

MR. REIS: You're not encumbered by any easements or right-of-ways?

MR. GUINEY: No.

MR. KANE: Would you have 50 feet back there, Mike?

MR. BABCOCK: Yes, today that's the new zoning.

MR. GUINEY: My neighbor did the same addition that we want to do.

MR. KANE: At this point, I will open it up and ask if there's anybody in the audience for this particular hearing? Nobody cares. We'll close down the public hearing and ask Myra how many mailings we had.

MS. MASON: On January 12, I mailed out 89 addressed envelopes and had no response.

MR. KANE: That's a lot. No responses.

MR. REIS: Mike, I'm sorry, was it, how big was the addition?

MR. GUINEY: I thought it was 16 x 16 and eight foot on the side, the existing house is like the existing house is 20 x 40 and we're going to bump this out 8 feet and this will be 16 x 16 and this is where the, where it's going to be right here and the deck will be moved over here. Is that what it is, 16 x 16?

MR. BABCOCK: Yeah, the deck is 16 foot 4 by 13 foot 10, the family room is 15 foot by 15 foot 6 with the rest of the house is going to be eight foot longer. Is that clear, Mike?

MR. REIS: Thank you.

MR. KANE: Anybody have any other questions?

MS. GANN: No.

MR. RIVERA: No. Accept a motion?

MR. KANE: I will.

MR. RIVERA: Accept a motion that we grant Denis and Karen Guiney the requested variance for the two foot side yard setback, 6 foot rear yard setback for proposed addition at 16 Valewood Drive.

MR. REIS: Second it.

ROLL CALL

MS. GANN	AYE
MR. REIS	AYE
MR. RIVERA	AYE
MR. KANE	AYE

GLOEDE NEON SIGNS (FOR QUIZNOS)

MR. KANE: Request for 5.46 foot width for proposed wall sign at 366 Windsor Highway.

Mr. Tracy Lanthier appeared before the board for this proposal.

MR. LANTHIER: I'm representing Gloede Signs, we have been contracted to install the sign, we're not manufacturing the sign, we want to install it for this, this is Jerry, he's the franchise owner of the business.

MR. KANE: Can we see that?

MR. LANTHIER: Yes, I have one more if somebody else wants to see it.

MR. KANE: The sign itself, the specs in the height are similar in height with the other signs that are on that facade?

MR. LANTHIER: Yes, sir.

MR. KANE: You're a little offset to the left, is that going to be centered?

MR. LANTHIER: I believe his store, that's his store front is here, this is not a store front.

MR. KANE: That's a separate store?

MR. LANTHIER: Yes, that's a wall being moved over.

MR. BABCOCK: His sign is actually centered over his rental unit, it's just offset because of the facade.

MR. KANE: It looks like nasty.

MR. BABCOCK: If you're there, Mr. Chairman, it's, you can visualize it much better than what the picture shows.

MR. KANE: You don't have a problem?

MR. BABCOCK: No.

MS. GANN: I just have a quick question, the sign is two different colors, is that the logo that's been used throughout?

MR. LANTHIER: That's the Quiznos trademark logo.

MR. KANE: Is the sign going to be illuminated?

MR. LANTHIER: Yes, it is.

MR. KANE: Any flashing neon?

MR. LANTHIER: No, just it's--

MR. KANE: Just a steady internal?

MR. LANTHIER: Internal illuminated by neon, it's the same channel letter style that's consistent throughout the entire plaza.

MR. KANE: At this point, I will open up to the public, see if there's anybody here that's here for this particular hearing. Nobody cares. Okay, we'll close the public portion of the meeting.

MR. KRIEGER: Just for the record, this is offset a considerable portion, considerable way from the roadway, isn't it?

MR. LANTHIER: Yes, it is.

MR. KANE: We'll ask Myra how many mailings we had.

MS. MASON: On January 12, I mailed out 136 envelopes and no responses.

MR. KANE: Do you guys have any other questions? Accept a motion, I'll accept a motion.

MR. REIS: I make a motion that we grant Gloede Signs for Quiznos their requested variance for 5.46 foot wide proposed wall sign at 366 Windsor Highway.

MR. RIVERA: Second it.

ROLL CALL

MS. GANN	AYE
MR. REIS	AYE
MR. RIVERA	AYE
MR. KANE	AYE

APPLIED BUILDERS (05-01)

Adam Rodd, Esq. appeared before the board for this proposal.

MR. KANE: Request for an interpretation and/or variance of 300-8 Table of Use Bulk Regulations, R-3 for 57,846 sq. ft. minimum lot area, 10 ft. minimum lot width, 25 ft. side yard setback, 50 ft. total side yard for proposed single-family dwelling at 1039 Rolling Ridge.

MR. RODD: Good evening, my name is Adam Rodd with Drake Sommers on behalf of the applicant and with me is Dan Garon (phonetic) of Applied Builders, project manager Bill Schusler. Briefly to recap this was 101 lot subdivision that was approved by the Town back in 1999. At the time the application was submitted, all of the lots complied with all of the lot area, lot width, et cetera, the requirements of the zoning code. After the subdivision approval was granted, the infrastructure was put in and that is water lines, gas lines, streets, curbs, drainage, all the infrastructure. As a matter of fact, as I stand here now, 98 out of the 101 lots have been built out. So when we applied for a building permit initially it was denied by the building inspector because the time that the permit was submitted this was back in the fall of 2004 there was an upgrading of the zoning code such that this particular lot no longer complied. But pursuant to the materials we submitted in our application and that referenced the Town Law and the Ellington case the rule Town Board applied is that where the substantial infrastructure is put in within the three years following the subdivision approval the code requirements that were in place when the subdivision was approved are the ones that should apply and that's why we're here simply to ask you to affirm that interpretation.

MR. KRIEGER: Again, for the record, I received the, before this first appeared on the calendar I received a considerable amount of materials, actually had discussions with respect to the legal authority for that position and it is my opinion that it is legal authority as the applicant has represented.

MR. KANE: Thank you, Andy. That makes it fairly easy.

MR. REIS: The dwelling has not been started?

MR. RODD: On this particular lot, that's correct.

MR. REIS: It has not been?

MR. RODD: Right.

MR. BABCOCK: There's three lots, Mike, that have not been.

MR. KANE: Three lots left to go.

MR. BABCOCK: We're going to do all three of them tonight, that's why you have lot 6, 7 and 8, it was a suggestion by the board last time they were here instead of coming back for each lot and it was advertised that way, save them two trips.

MR. REIS: Dwelling is going to be comparable to other dwellings in the area?

MR. SCHUSLER: Identical.

MR. KANE: Not creating any water hazards or runoffs?

MR. SCHUSLER: No.

MR. KANE: Taking down any trees, substantial vegetation?

MR. SCHUSLER: No.

MR. KANE: No easements through the property?

MR. SCHUSLER: No.

MR. KANE: Town water and sewer?

MR. SCHUSLER: Yes.

MR. KANE: At this point, I'll open it up to the public and ask if there's anybody here for this particular hearing? Seeing that there's not, I will close the public portion, ask Myra about the mailings.

MS. MASON: On January 12, I mailed out 28 envelopes and had no response.

MR. KANE: Take it back to the board, any further questions?

MS. GANN: No.

MR. KANE: I'll accept a motion.

MR. REIS: Make a motion that we grant the Applied Builders their requested, how do you want to handle it, interpretation or variance?

MR. KANE: Interpretation.

MR. REIS: That we interpret this as a usable lot to include lot 6, 7 and 8 for proposed single family dwelling at 1039 Rolling Ridge.

MS. GANN: Second it.

ROLL CALL

March 14, 2005

26

MS. GANN AYE
MR. REIS AYE
MR. RIVERA AYE
MR. KANE AYE

MR. RODD: Thank you.

ANTHONY CICCONE (05-03)

MR. KANE: Request for 26 ft. rear yard setback for proposed attached pool deck at 33 Oxford Road.

Mr. and Mrs. Anthony Ciccone appeared before the board for this proposal.

MR. KANE: Same as in the preliminary, tell us what you're doing.

MRS. CICCONE: We're requesting for, it's an attached deck from the house to the pool, we're asking for a variance for the porch that we don't have.

MR. KANE: How big is the deck?

MRS. CICCONE: The deck is according to this diagram 20 feet long this way and 14 feet here and 12 and then 9 and pool's over here.

MR. KANE: You have two sets of steps going down to the ground?

MRS. CICCONE: Yes.

MR. KANE: Self-closing, self-latching?

MRS. CICCONE: Yes.

MR. KANE: Do you have a straight run from the house?

MRS. CICCONE: A door right here.

MR. KANE: That door has to be self-closing too right out to the deck.

MR. BABCOCK: Yes, the pool's existing, right?

MRS. CICCONE: Yes.

MR. KANE: Okay, the deck and the pool similar in size and nature to other decks and pools in your neighborhood?

MRS. CICCONE: Yes.

MR. KANE: Not overwhelmingly?

MRS. CICCONE: No.

MR. KANE: Creating any water hazards or runoffs with the building of the deck?

MRS. CICCONE: No.

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

MRS. CICCONE: No.

MR. REIS: Proposed deck will not be going over any easements or right-of-ways?

MRS. CICCONE: No.

MR. KANE: Mike, did they have a permit on the pool?

MR. BABCOCK: Yes.

MR. KANE: So the side property from the 15 x 30 to the side is fine, I just want to make sure everything's okay.

MR. BABCOCK: Yes.

MR. KANE: The reason they need the 25 isn't the pool it's because of the deck and the pool's attached to the deck?

MR. BABCOCK: Attached to the house now it's 50 feet rather than 10 feet.

MR. KANE: Thank you. Okay, at this point, I will open it up to the public. Is there anybody here for this meeting? We'll close the public portion of the meeting and ask Myra how many mailings we had.

MS. MASON: On January 12, I mailed out 34 envelopes and had no response.

MR. KANE: We'll bring it back to the board, see if there are any other questions. Kim, Mike, nothing?

MR. RIVERA: Accept a motion?

MR. KANE: I'll accept a motion. And you understand with the passing you still have to pass all the regulations from the building department?

MRS. CICCONE: Yes.

MR. CICCONE: Sure.

MR. RIVERA: I make a motion that we grant Anthony Ciccone the requested 26 foot rear yard setback for proposed attached pool deck at 33 Oxford Road.

MS. GANN: Second it.

ROLL CALL

MS. GANN	AYE
MR. REIS	AYE
MR. RIVERA	AYE
MR. KANE	AYE

WILLIAM PFEUFFER, JR (05-06)

MR. KANE: Request for proposed 6 ft. fence that will project between the house and the road on a corner lot at 31 Keats Drive.

Mr. William Pfeuffer, Jr. appeared before the board for this proposal.

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

MR. PFEUFFER: I just would like to replace the 4 foot fence that's up now with a 6 foot to enclose the back of the property, enclose the inground pool.

MR. KANE: Can you show me right here on the map where you want to put this? I gather that's your driveway?

MR. PFEUFFER: The driveway, I have my survey, we're placing this just like this.

MR. KANE: Okay.

MR. PFEUFFER: It's like I have a stockade fence up, a little picket white fence.

MR. KANE: You really want more of a safety issue?

MR. PFEUFFER: Safety issue for the highway, privacy for my wife and child.

MR. KANE: It's not extending too far, how far is the fence going to be away from the road?

MR. PFEUFFER: Right there we have a rock wall, it's along there so I would say it's about 4 feet, I would say about eight to ten feet is the fence.

MR. KANE: From the street or from the rock wall?

MR. PFEUFFER: From the street.

MR. KANE: Coming down Union Avenue to Keats Drive there?

MR. PFEUFFER: I enclosed pictures as requested last time, it's about 50 feet from the stop sign on Keats, the corner to exactly where--

MR. KANE: So for the record obviously there's no problem with obstruction of view of traffic going from Keats or Union Avenue?

MR. PFEUFFER: East or westbound.

MS. GANN: The side of the fence will be uniform?

MR. PFEUFFER: Yes, white vinyl, it's expensive, lot of overtime for it.

MR. KANE: No staining, no rot, worth it. Okay, I have no further questions. Any other questions right now?

MR. REIS: Yes, I wasn't here, Mr. Pfeuffer, the fence, is it replacing the same area of your existing fence?

MR. PFEUFFER: Exactly.

MR. KANE: This portion. At this point, I'll open it up to the public, ask if anyone is here for this meeting? There's not so we'll close it and ask Myra how many mailings.

MS. MASON: On January 12, I mailed out 42 envelopes and had no response.

MR. KANE: Bring it back to the board. Any other questions? Can I have a motion, please?

MS. GANN: I'll make a motion that we grant the

application for William Pfeuffer, his request for proposed 6 foot fence at 31 Keats Drive in an R-4 zone.

MR. REIS: Second it.

ROLL CALL

MS. GANN	AYE
MR. REIS	AYE
MR. RIVERA	AYE
MR. KANE	AYE

JOHN JAKOBS (05-05)

Mr. John Jakobs appeared before the board for this proposal.

MR. KANE: Request for 20,220 sq. ft. minimum lot size for proposed single family home at 24 Mecca Drive. Tell us what you want to do.

MR. JAKOBS: We're asking for an interpretation, I believe we established that the last time we we're here, we're asking for the interpretation as the, there's a lot that conformed when it was subdivided and we're the last house in the subdivision and we're asking can we put a house there.

MR. BABCOCK: It's the exact same situation, the zoning change, the three year period lapsed and they're the last lot on the subdivision.

MR. JAKOBS: We applied in October and it was August it changed so--

MR. KANE: The house that you're proposing is going to be similar in size and nature to the other homes in the area?

MR. JAKOBS: Yes, it is.

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

MR. JAKOBS: No.

MR. KANE: Creating any water hazards or runoffs?

MR. JAKOBS: No.

MR. KANE: Are you going to be on Town water and sewer or septic and well?

MR. JAKOBS: Town sewer, well water.

MR. KANE: The house or the driveway won't be on any easements?

MR. JAKOBS: No.

MR. KANE: Guys have any questions right now?

MS. GANN: No.

MR. KANE: At this point, I will open it up to the public, see if there's anybody here for the public. No? Close it. Myra, how many mailings?

MS. MASON: On January 12, I mailed out 25 envelopes and had no response.

MR. KANE: Nobody cares. I'll accept a motion if there are no other questions.

MR. REIS: I make a motion that we grant Mr. John Jakobs his requested variance for 20,220 square foot minimum lot size for 24 Mecca Drive single family home.

MS. GANN: Second the motion.

ROLL CALL

MS. GANN	AYE
MR. REIS	AYE
MR. RIVERA	AYE
MR. KANE	AYE

MIRA BLYTHE RUMSEY (FOR CHARLES RUMSEY ESTATE)

MR. KANE: Request of interpretation of existing auto sales and repair shop at 7 High Street.

Mr. and Mrs. Mike Blythe appeared before the board for this proposal.

MR. BLYTHE: I'm Mike Blythe, I'm an attorney and I also happen to be Mira's husband. Just to assist the board, I just prepared an overview document with the appropriate attachments so that you have, you know, the appropriate material in front of you. The last page is pictures that were taken today, if you're not familiar with High Street if you're traveling on Walsh Road and you pass the New Windsor Firehouse, make the left-hand turn on Cedar Avenue like you're going down back to 9W and before you get to Gus' Tavern, it's a short road on the left-hand side, it goes back up and ends at Federal Block. This garage was built, just I'm giving you an overview, at the beginning the garage has been in the Rumsey family, it was built in the '50s, it was always used to service and repair the Rumsey Oil company trucks. Charlie had a stroke in about 1979, I have provided you with affidavits from variance tenants, including Rich Gayton, who leased the property, Mira's here to talk to you about any of the tenants, give you a timeline, show that it's been in continuous use as a repair garage through the entire time. The problem that what he did was that at some point in time as Mr. Babcock will tell you the property was listed as a storage facility only when in fact it was being used as a repair and storage facility all these years and we're just here to clean up that particular use. There was some confusion at one point in time as to whether we were, we wanted auto sales at the property, that request has been withdrawn. So all we want to do is use the property for what it's been used for for 50 years, service only and Mira's here to answer any questions that you have with regard to the application.

The submission is fairly clear, you have certifications from Mira, from Gina Kearney, who's lived directly across the street for over 30 years, Richie Gayton who owns New Windsor Collision Center and he leased the property or sublet it to other individuals for some 15 years, Max Furman, Bumper to Bumper Auto, he had his New York State license to repair vehicles posted at that site, Al Julian had it for a couple years, he's no longer the tenant, Mira can tell you who the new tenant is, he again is doing service and repair of automobiles, you've got the opinions from the planning board meeting in which Mr. Petro indicated that he recalled that it's been a service garage since he was a boy and then lastly the photographs of the property. So just if you have any questions just turn it over to the board you can ask Mira anything, any questions.

MR. KANE: You did your homework.

MR. BLYTHE: Thank you.

MR. REIS: We're striking out the auto sales on this?

MR. KANE: That's correct, for auto repair is the only use we're looking at right now, a continued use and from what I'm seeing here--

MR. REIS: You're not taking down or eliminating or expanding the facility in any way?

MRS. BLYTHE: Not changing anything.

MR. KANE: At this point, I will just open it up and see if there's anybody from the public for this particular hearing. Only one left so you all must be here for this one. Nobody's here. Myra, how many mailings did we have?

MS. MASON: On February 18, I mailed out 77 envelopes and had no response.

MR. KANE: Any other questions from the board?

MR. BLYTHE: For the record, Mr. Kane, Myra had advised me that the, it's within 500 feet of the City of Newburgh and I wrote to Miss McGrane certified and I have that here January 18 advising her of the hearing and advising her if the City of Newburgh had any interest to advise me or the board I have not heard from them I assume that Miss Mason has not heard from them.

MS. MASON: Nothing.

MR. KANE: Do you have a copy of that in the records?

MS. MASON: I don't.

MR. KANE: Can we have a copy for the record or make a copy and get it to Myra so we can just have a complete file on that?

MRS. BLYTHE: We had two returned to us attempted.

MR. KANE: You can return them to Myra.

MR. KRIEGER: I have one other question. In looking at the overview it has a number of items in here that it says that Mira will testify to, you testify to them, right?

MRS. BLYTHE: Yes.

MR. KRIEGER: Do you swear it's the truth and nothing but the truth?

MRS. BLYTHE: I do.

MR. REIS: What brings you to the board?

MR. BLYTHE: Because in order for the repair shop to hang their license there we need a letter from the Town and we just wanted to, and Mr. Babcock asked us to just clear up any ambiguity, that's why we're here so we're requesting that we have the Town issue us a letter advising us that it's a permitted use in that, a pre-existing non-conforming use.

MR. BABCOCK: The new rules of Motor Vehicle require that I write a letter for every motor vehicle repair shop that they're permitted to be in that building, so they can't get a repair license without that, this is going to clear up the repair of this building and then I'm able to write them a letter so they can get a motor vehicle license.

MR. KANE: Seems to me all the homework's here, everything that we need to make a positive interpretation to be here, so I will accept a motion.

MR. REIS: I make a motion that we grant Mira Blythe Rumsey requested, well, interpretation as an acceptable use for a repair shop only.

MR. KRIEGER: As a pre-existing, non-conforming use.

MR. REIS: Repair shop at 7 High Street not to be used as auto sales.

MS. GANN: Second it.

ROLL CALL

MS. GANN	AYE
MR. REIS	AYE
MR. RIVERA	AYE
MR. KANE	AYE

QUALITY HOMES (05-07)

Mr. Rich Tedaldi and Mrs. and Mrs. Reynolds appeared before the board for this proposal.

MR. KANE: Request for interpretation and/or variance for proposed single-family dwelling with two kitchens in an R-1 zone at 10 Wyllys Court. Same as the preliminary, tell us what you want to do.

MR. TEDALDI: I've got the Reynolds here building a house for them, they have five kids and the parents want to live with them as well or they're going to live with them, it's quite a bit, so they obviously want to have like a second kitchen in the house for the parents to take the burden off.

MR. KANE: We used to have that when I was a kid we had three brothers a year apart, the four of us we were little terrors but I remember my mom had the basement kitchen for the summer, we'd go down there. So basically what we're here for is an interpretation and the way I'm going to handle that right now is you have to go on the record stating that this kitchen, this home is intended to be used a single family home always, that's your intent. The gas and electric coming into the house one meter?

MRS. REYNOLDS: One.

MR. KANE: And where is the kitchen located.

MRS. REYNOLDS: My parents' kitchen is located on the first floor in the back center of their portion of the building.

MR. KANE: Between their portion of the building and the main house there's easy free access?

MRS. REYNOLDS: Yeah, there's a hallway right there

between her house and ours and then upstairs it's also connected as well.

MR. KANE: Between her part of the house and your part of the house, you've always got to use the correct terminology.

MRS. REYNOLDS: Yes.

MR. KANE: If you're telling me it's her house and your house, it's two houses.

MR. REYNOLDS: There's no barbed wire there yet, it's all okay.

MR. KANE: How old?

MRS. REYNOLDS: Oldest is 15 and youngest twins are 9.

MR. REYNOLDS: That's why.

MR. KANE: So on the record you're stating for us clearly and that it is the intent is that it's a single family home?

MR. REYNOLDS: Yes.

MR. KANE: One meter will always be there and if you ever list it to sell it it will be listed and sold as a single-family home?

MRS. REYNOLDS: Yes, absolutely, we don't plan on selling it though.

MR. KANE: Not yet.

MRS. REYNOLDS: We plan on staying there forever.

MR. KANE: I'm willing to open it up for the public. Neil, do you have anything you want to say?

MR. SCHLESINGER: I'm not going to let you off so easy. My name is Neil Schlesinger, I live at 420 Station Road and my residence is one of the 6 lot subdivision of which the subject property is part of. When I had my engineer, Mr. Gregory Shaw, give me a concept of how we were going to approach the subdivision we had two alternatives, one was 13 lots, one was 6 lots. Putting the money issue on the side, I wanted to have 6 lots cause I didn't want to have 13 families living around me and I didn't want to have 26 cars and everything else that goes along with it. Following that, we instituted some deed restrictions, one of which was that we would only allow one family homes. In my opinion as the developer of the property and the subdivision, not the developer of the property but of the subdivision the request for a second kitchen with another family, in-laws or whatever it is is a request for another family and regardless of who they are it's still another family. On the otherhand, to be a little bit more objective and viewing it from a different interpretation if I was them I'd probably be making the same request in front of the board as well. Five children, God bless you, in-laws, and as I said, I'd be making the same request. My concern primarily is probably for something that may happen down the road and I believe the chairman has already addressed the fact that in the event that the house is ever sold or transferred that it can only be sold or transferred as a one family home and that if it's possible and if it's reasonable I'd like to make a request or a suggestion that in the event that your in-laws, your parents or your in-laws whatever it is move, go to Florida or whatever it may be, maybe we can request that the kitchen be taken out. The other thing is that if we could make some of these requests that it be in writing and that all of the members that are participating in the deed restrictions have copies of this and as I said I want to make it a point that I believe that there's probably an area in this interpreting what constitutes

one family as you brought up whether it's one meter or two meters but sometimes people think differently down the road and I want to try to prevent that.

MR. KANE: That's why we try to cover every base with the meters with having them here and saying under oath that this is exactly what's going on so if anything changes down the line his department can get involved and we can go after them.

MR. SCHLESINGER: From the deed restriction point of view, correct me if I'm wrong, maybe Andy you can as well it pretty much makes the other five homes in the area policemen, in other words, if nobody brings up the fact that, you know, the siding on the house is not allowed in the deed restriction then it lives and continues and the thing is I think it's just fair that all of us that we all have an understanding of what was discussed and perhaps in writing so that we all know what went on so they that in 5, 10 15, 20, 30 years when your mother moves, your parents move to Florida, whatever it may be we can address the situation then and that's the only thing I wanted to say.

MR. KRIEGER: If I may, couple things, first of all, this eventually will be memorialized in a written decision, I think that's the writing that you're looking for unlike the practice in the planning board the practice here is for the board to issue a written after the vote today whatever it is to issue a written decision and that would encompass all of these items that we mentioned and I will be happy to see to it that you're provided with the necessary copies.

MR. KANE: In addition when we make the request I'm going to ask them to state those things as part of you know granting this interpretation.

MR. KRIEGER: The other thing that I want to point out is with respect to the deed restrictions this board has

no power to nor does it affect those deed restrictions at all. So in the event, for instance, that one of the other beneficiaries of the restrictions decides to enforce them in a court action you can't, the action of this board becomes legally irrelevant to that finding, it's not binding on the whatever judge decides, it stands on its own, it's as if this didn't take place one way or the other. This simply gets in the event that the application is granted it simply, simply has to do with the Town regulations of the Town of New Windsor requirement that it is a one family, doesn't have anything to do with the deed restriction one way or the other they still exist.

MR. SCHLESINGER: The reason I brought that up and I'm not a lawyer but that if this board does approve their request does that by the members of the people who are participating in the deed restrictions then automatically does that signal that that has been approved as a single family house? From another perspective, if the members of the community get together and we review what happened tonight and it was accepted but yet the other members don't want your decision to constitute it as a one-family house, does that automatically make it a one-family house?

MR. KRIEGER: No. Let me put it in another way. Assuming for argument's sake that there are such deed restrictions as you've indicated, these particular applicants are under two separate requirements, if you will, one is the Town requirement according to the Town Law that only one-family houses are permitted in that zone, the other is the deed restrictions, they are two separate transactions. In the event that a variance were granted or an interpretation such as the one that's sought is granted by this board that takes care of the Town obligation, it does not take care of, doesn't affect one way or the other the deed restriction. They have their own rules and regulations and accumulated laws as to when they can be enforced

and how they can be enforced and so forth. The interpretation of this board if, well, let me put it this way, if an application were brought, a suit were brought in court which is the way you enforce deed restrictions, the action of this board would be legally irrelevant, it wouldn't count plus or minus, wouldn't matter because this only takes care of the Town Law leg, if you will, doesn't have any affect on the other leg, it still exists. So yes, if the other applicants were to get together and they were to decide that they wanted to fund an action to enforce it and they did the necessary checking to make sure it was enforceable I'm trying not, not to get into the standards for enforcement of a deed restriction cause it's not, it's a legal question, therefore, it's not cut and dry, they would be free to do that. And the finding of this board would not be binding on them or binding on any board, it would be irrelevant, wouldn't be a plus or minus. Does that answer the question?

MR. SCHLESINGER: I understand what you're saying.

MR. KANE: What you're going to see nowadays is that this is immediate family and with immediate family--

MR. SCHLESINGER: I presented that and I said if I were in their shoes, I would want to do the same thing too but as I said before, they sell the house five years down the road, another family moves in and says oh, we have a kitchen, we can build a wall and not say anything to anybody and rent it then it's not what I wanted.

MR. KANE: No but at that point what would happen you can get in touch with the building inspector.

MR. SCHLESINGER: That's why I made the request that if it was reasonable that the kitchen be taken out when they don't need the hardship.

MR. TEDALDI: Who's going to reimburse me for the kitchen?

MR. SCHLESINGER: I'm not buying the house.

MR. KRIEGER: Actually you're protected whether they do or not because they have declared that it is a one-family house, not a separate rental unit. In the future, in the event that this owner or some owner were to try to rent a portion of that the remedy for that is, a complaint is made to the building department says hey, they've got an illegal--

MR. SCHLESINGER: I'm trying to avoid that.

MR. KANE: The reason we have them come in for the second kitchens is to avoid all of the illegal two family situations.

MR. SCHLESINGER: I understand and by just making the request I don't know how reasonable it is that the kitchen be taken out, voids it even more, that's just my opinion.

MR. KANE: To be perfectly honest, that's not something I would want to put in there but I do want, you know, their intent is to keep it as a single family home, their intent if they move to sell it as a single family home, all of that will be in writing.

MR. SCHLESINGER: Fine, great.

MR. KANE: And you'll have a copy of all that.

MRS. REYNOLDS: I think I understand and I agree with what you're saying because you want to make sure that there's not a lot of people flowing in and out.

MR. SCHLESINGER: I'm not concerned about you, I'm concerned about somebody else maybe down the line and

their intent may not be as honorable as yours.

MR. KANE: The variance goes with the property, not with the people.

MRS. REYNOLDS: We have no intention of selling this house after what we've gone through but what you're saying is that this house will be single-family house and always will be and that will be with the deed and it will follow in perpetuity.

MR. KANE: Exactly, that's what we can do.

MR. SCHLESINGER: We want to cross our Ts and dot our Is.

MR. KANE: That's what we're going to do with whoever makes the motion is going to cover all of those bases, so it's all right in there. I'm going to ask you again and you will agree to it then they will vote and we'll see what happens after they have voted.

MR. SCHLESINGER: Thank you.

MR. REISS: If I may add to that?

MR. KANE: We'll close the public portion of the meeting and I'll bring it back to the board.
Questions?

MR. REIS: Yes, just want to make a comment in regard to everybody's concerns, everybody meaning you, everybody has an idea and an understanding of what is trying to be accomplished the gentleman who brought about the deed and restrictions and folks that want to build and take care of the family, and as Neil mentioned things change through no fault of anybody, things change, policing this is going to be up to you, all right, we don't do that.

MR. SCHLESINGER: I said that, yes.

MR. REIS: They have a big house that they need to get supported and they rent it, we don't police that and we won't know about that so Neil, you're going to have to bring it to everybody's attention.

MR. SCHLESINGER: I understand.

MR. REIS: Is that fair?

MRS. REYNOLDS: Yes.

MR. REIS: Thank you.

MR. KANE: It's in the formal decision everything is in there so do we have a motion?

MR. REIS: Accept a motion?

MR. KANE: Sure will.

MR. REIS: Make a motion that we grant Quality Homes the interpretation to create a single-family home with two kitchens that will only be a single-family home. I don't know if you need anymore verbiage?

MR. KANE: That there will be one meter for gas and for public services coming into the home.

MR. BABCOCK: One heating system.

MR. KANE: And that the home will only be listed if sold listed as a single-family home.

MR. RIVERA: Second it.

ROLL CALL

MS. GANN

AYE

MR. REIS AYE
MR. RIVERA AYE
MR. KANE AYE

MR. BABCOCK: We need you to be here on record, we don't want you to sell it as a two family because it's a one family zone.

MR. KRIEGER: It's what Neil mentioned before, it's a way of ascribing a court proceeding because if this board didn't take this action now then merely you're in a gray area with the two kitchens and it could well enforce the building inspector to bring, if a complaint were made to him and he'd have to bring it to court then you have to go to try plead your case in justice court in front of the Town Justice and that's--

MR. TEDALDI: Can I add something too? I live right there, I built my custom dream house there, I'm born and raised in Blooming Grove 34 years, just moved there, I want to stay there, so I have as much an interest as Neil or more, okay, I want to raise my kids and have my grandkids there, that it looks nice, I personally sold them the house, I, you know, I can't discriminate, we got lucky, I'm there for the long term so--

MR. KANE: Thank you.

FORMAL DECISIONS

1. ARGENIO
2. SCHULTZ
3. HALMAR
4. LEE
5. MALLOY
6. GREEHEY
7. VELA
8. DA ASSOCIATES
9. TOPO REALTY
10. PETERSON

MR. KANE: May I have a motion on the formal decisions?

MR. REIS: I move that we accept the formal decisions.

MR. RIVERA: Second it.

ROLL CALL

MS. GANN	AYE
MR. REIS	AYE
MR. RIVERA	AYE
MR. KANE	AYE

MR. KANE: Motion to adjourn?

MR. RIVERA: So moved.

MR. REIS: Second it.

ROLL CALL

MS. GANN	AYE
MR. REIS	AYE
MR. RIVERA	AYE

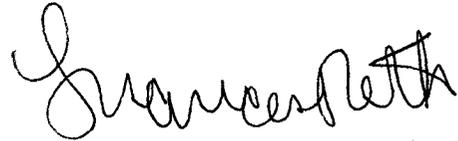
March 14, 2005

50

MR. KANE

AYE

Respectfully Submitted By:



Frances Roth
Stenographer

3/22/05