

**ZB# 00-05**

**OMAT, Inc.**

**85-1-13**

Palmer.

Jan. 24, 2000

Notice to Open 2/8/00

Public Hearing

Feb. 28, 2000.

Denied

Area Variance

Referred:

\$167.00

#00-05 - Omat, Inc.

Area  
85-113

John  
Tonelli

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Omat, Inc.

FILE# 09-05.

RESIDENTIAL: \$50.00 COMMERCIAL: \$150.00  
INTERPRETATION: \$150.00

AREA X USE     

APPLICATION FOR VARIANCE FEE ..... \$ 50.00 paid ck. # 165  
2/7/00

ESCROW DEPOSIT FOR CONSULTANT FEES ..... \$ 300.00 paid ck # 166  
2/7/00

DISBURSEMENTS:

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING-PER PAGE 1/24/00-6 \$ 27.00  
2ND PRELIMINARY- PER PAGE 2/28/00-8 \$ 36.00  
3RD PRELIMINARY- PER PAGE ..... \$ \_\_\_\_\_  
PUBLIC HEARING - PER PAGE ..... \$ \_\_\_\_\_  
PUBLIC HEARING (CONT'D) PER PAGE ..... \$ \_\_\_\_\_  
TOTAL ..... \$ 63.00

ATTORNEY'S FEES: \$35.00 PER MEEETING

PRELIM. MEETING: ..... 1/24/00 \$ 35.00  
2ND PRELIM. .... 2/28/00 \$ 35.00  
3RD PRELIM. .... \$ \_\_\_\_\_  
PUBLIC HEARING ..... \$ \_\_\_\_\_  
PUBLIC HEARING (CONT'D) ..... \$ \_\_\_\_\_  
TOTAL ..... \$ 70.00

MISC. CHARGES:

..... \$ \_\_\_\_\_  
TOTAL ..... \$ 133.00

LESS ESCROW DEPOSIT ..... \$ 300.00  
(ADDL. CHARGES DUE) ..... \$ \_\_\_\_\_  
REFUND DUE TO APPLICANT .. \$ 167.00

OMAT, INC.

50-235 618

219

0251006276

DATE

12/23/99

165

PAY TO THE ORDER OF

Town of New Windsor

\$ 50<sup>00</sup>

Fifty only

DOLLARS

THE BANK OF NEW YORK

Orange Terrace  
Tuxedo Park, NY 10987

MEMO

ZBA Application #00-05

⑆021902352⑆ ⑆0251006276⑆ 0165

OMAT, INC.

50-235 618

219

0251006276

DATE

12/23/99

1

PAY TO THE ORDER OF

Town of New Windsor

\$ 300<sup>00</sup>

Three Hundred only

DOLLARS

THE BANK OF NEW YORK

Orange Terrace  
Tuxedo Park, NY 10987

MEMO

ZBA Application #00-05

⑆021902352⑆ ⑆0251006276⑆ 0166

-----X  
In the Matter of the Application of

**OMAT, INC.**

**MEMORANDUM OF  
DECISION DENYING  
AREA VARIANCE**

#00-05.  
-----X

**WHEREAS, OMAT, INC.,** a corporation with an office at 501 Bramertown Road, Tuxedo Park, N. Y. 10987, has made application before the Zoning Board of Appeals for a 40.97 ft. lot width variance for Lot #13 in the Benedict Pond Subdivision located on the southwest side of Dean Hill Road in an R-3 zone; and

**WHEREAS,** a public hearing was held on the 28th day of February, 2000 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS,** the Applicant was represented by John Tarolli, L. S.; and

**WHEREAS,** there were five spectators appearing at the public hearing; and

**WHEREAS,** two spoke in opposition to this Application; and

**WHEREAS,** a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

**WHEREAS,** the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) This a residential lot contained in a previously-granted subdivision of residential lots.

(b) The Applicant seeks to subdivide this lot which would produce one lot which conforms to the zoning requirement and one which does not conform without a variance.

(c) During the time the subdivision was before the Planning Board approximately in 1996, the Zoning Code of the Town of New Windsor was changed to require that lot width be measured at the minimum set back line, not at the place where the house was going to be built.

On account of this change it was not possible, absent a variance, to divide the remaining parcel which is the subject of this Application.

(d) While the Applicant does not now own any other land adjacent to this parcel he did, before the subdivision was applied for and granted, own all of the adjacent land.

(f) The variance requested is substantial being a variance of approximately 41%.

**WHEREAS**, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variances will produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties in that the variance if granted would permit the construction and utilization of a lot which does not meet the requirements of the Zoning Code of the Town of New Windsor in contrast to all neighboring properties which apparently do meet such requirements.
2. There is no other feasible method available to the Applicant which can produce the benefits sought. Before the subdivision was approved, of which this lot is a portion, the Applicant could have utilized another method to produce the benefits sought by reconfiguring the property. The Applicant sought not to reconfigure the property and waited for a period in excess of three years to apply instead for this variance.
3. The variance requested is substantial in relation to the Town regulations and is not warranted.
4. The requested variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district. See paragraph 1 above.
5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created and should not be allowed since the Applicant could have itself avoided the difficulties with which it is now presented.
6. The benefit to the Applicant, if the requested variance is granted, does not outweigh the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variance as previously stated is not appropriate and although if granted it would be adequate to allow the Applicant relief from the requirements from the Zoning Local Law. A granting would not, at the same time, preserve and protect the character of the neighborhood and health, safety and welfare of the community. See paragraph 1 above.
8. The interests of justice will not be served by allowing the granting of the requested area variance. See paragraph 1 above.

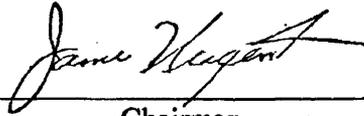
**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor DENY a request for a 40.97 ft. lot width variance for Lot 13 in the Benedict Pond Subdivision located on the southwest side of Dean Hill Road in an R-3 zone.

**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: April 24, 2000.



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Chairman



STATE OF NEW YORK,  
TOWN OF NEW WINDSOR

} ss.

I hereby certify, that the items of this account are correct; that the disbursements and services charged therein have in fact been made and rendered, and that no part thereof has been paid or satisfied, that the amount herein mentioned is in full settlement for all services rendered and materials furnished.

Sign Here .....

No. ....  
Town of New Windsor

.....  
Nature .....  
Amount Claimed \$ .....  
Amount Allowed \$ .....  
Filed .....

I hereby certify that at a meeting of  
said Town Board held at the office of the  
Town Clerk on the ..... day  
of ....., 19.....  
the within claim was audited and allowed  
for the sum of  
\$ .....

.....  
Clerk

Date 3/3/00, 19.....

**TOWN OF NEW WINDSOR**

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO ..... Frances Roth ..... DR.  
168 N. Drury Lane  
Newburgh, N.Y. 12550 .....

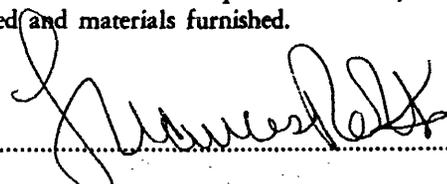
DATE	CLAIMED	ALLOWED
Zoning Board Mtg Mtg - 1	75 00	
HZ Development - 3		
Borgia - 4		
Locke - 3		
Petro metals - 8		
Omat - 8		
Maurize - 13	180 00	
<u>40</u>	<u>255 00</u>	

STATE OF NEW YORK,  
TOWN OF NEW WINDSOR

} ss.

I hereby certify, that the items of this account are correct; that the disbursements and services charged therein have in fact been made and rendered, and that no part thereof has been paid or satisfied, that the amount herein mentioned is in full settlement for all services rendered and materials furnished.

Sign Here



No. ....

Town of New Windsor

Nature .....

Amount Claimed \$ .....

Amount Allowed \$ .....

Filed .....

I hereby certify that at a meeting of  
said Town Board held at the office of the  
Town Clerk on the ..... day  
of ....., 19.....

the within claim was audited and allowed  
for the sum of  
\$ .....

.....  
Clerk

OMAT, INC.

MR. TORLEY: Referred by planning board for 40.97 ft. lot width variance for lot 13 in the Benedict Pond subdivision located on southwest side of Dean Hill Road in an R-3 zone.

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

MR. TORLEY: Is there anyone in the audience for this?

MS. BARNHART: For the record, we sent out 27 addressed envelopes from the assessor's list on February 8, I guess we got no replies.

MR. TAROLLI: Okay, the property's located on Dean Hill Road. It was an approved lot, approved about the Planning Board a number of years ago. In the mid '90's, Omat Inc. had other lands just down a short ways on Dean Hill Road and intended to further subdivide a parcel of lot 13 into two parcels and at that time, the planning board was dealing with a Shannon Acres which was a proposed development across the street and the discussion ensued about the relocation of Dean Hill Road, not in front of the property we're currently before you on, but just down the street involving the other lots that Omat was working on. Several years went by to determine what improvements would be made to Dean Hill Road and the alignment of the road. At that time, around 1996, I believe the zoning changed to the extent that the definition of lot width was modified and lot width was then defined as being measured at the minimum setback line, not at the place where the house was going to be built. That created a hardship for this subdivision that was before the planning board at the time. At this point, Shannon Acres is near final approval, the future of Dean Hill Road has been decided, its relocation, and we decided at this point let's proceed with a request for the variance for these two lots prior to completing the subdivision of the other lots. Now, included in the earlier and mid '90's was a problem with the one sewer moratorium that affected all lots on Dean Hill Road, so we had a little bit of a hold until the Town board resolved that issue.

There was also an issue about access on private roads which the other lots were involved in and that had to be resolved. Point being that we did not think to proceed with these two lots as separately from the other seven or eight lots.

MR. TORLEY: When you, you're talking about the green shaded lot with the, and the one immediately to its left?

MR. TAROLLI: Right, the green shaded lot is the one you're currently reviewing. It was the lot to its left was part of it prior to our subdivision application. We had no reason to feel that we had to break these two out and go ahead with these independently of the other ones until after we found out that the zoning changed and it was too late so as far as this application is concerned, will it create an undesirable or detriment, undesirable change or will be detrimental to the neighborhood since the proposed house that we're showing is located 250 to 300 feet from the nearest house on Dean Hill Road.

MR. KANE: Could you turn so the audience could see? I'm sure they're going to have some questions.

MR. TAROLLI: The yellow markings are the approximate location of the neighboring houses. It will be 250 to 300 hundred feet from this house, if the variance is granted. If the variance is not granted, this house could either be built here or the location shown here. In any event, the granting of the variance does not create any impact directly on the neighboring houses because this orange house is pulled substantially away from the house than the one on Dean Hill. Is there another method which the applicant could use to rectify the need for a variance? The applicant cannot own any additional land to the west or to the, I'm sorry, to the south, to the north, all these lots are privately owned by other individuals. This to the south is Sarjon (phonetic) LLC and that was recently granted a two lot subdivision approved by the planning board which involved Benedict Pond. Anyway, the applicant does not own any other contiguous land that it could use to gain access or frontage to a public road, we

have Mt. Airy Road here, he has no title to any lots.

MR. REIS: Question. The contiguous lot would be the east, right?

MR. TAROLLI: Yes.

MR. REIS: Is that an approved lot at the time?

MR. TAROLLI: It's not an approved lot, it, the green lot and it's the currently approved lot we're proposing to subdivide it into the green in this other lot.

MR. TORLEY: So you have an approved, a lot now as it stands before that meets all the requirements?

MR. TAROLLI: That's correct.

MR. TORLEY: And you're asking us to create a non-conforming lot?

MR. TAROLLI: That's correct and the reason being we were before the planning board with this configuration.

MR. TORLEY: You've got a conforming lot now?

MR. TAROLLI: Right.

MR. TORLEY: And you want us to create a non-conforming lot?

MR. TAROLLI: That's correct.

MR. TAROLLI: Why, why should we recreate a non-conforming lot?

MR. TAROLLI: I'll continue throughout the presentation and I will provide, hopefully be able to provide enough information. There's no other method of servicing the two lots and still complying with that requirement of the zoning that we have a lot width at the minimum setback line. Is the lot, is the variance substantial? The lot width at this house is 420 feet but we're asked to measure the lot width at 35 feet off the road and here it's 59 feet versus the 100 feet which is the

requirement. Is there an adverse affect to the environment or physical adverse affect with the variance? We have a driveway that passes by this nearest house here, services a house in the rear, the nearest house that would be built if the variance is granted would be this house which would be about 110 feet from this existing house. If the variance were not granted, then the owner of this lot would have the option of building the house here, which would be, could be as close as 33 feet to the yellow house because we'd comply with the zoning, could be built here, much shorter driveway, or the owner could decide to build a longer driveway and put the house in the rear. Is the hardship self-created? We don't feel the hardship was self-created. Again, we're involved in a planning board application, we were held in abeyance for some time because of the moratorium and the sewer connections and the relocation of Dean Hill Road and found out only after the fact that the zoning had been amended to the detriment of the applicant's desire, so this configuration that you see the two lots was before the planning board well in advance of that zoning change that we're asking for a variance from your board tonight. Any questions?

MR. TORLEY: When was the zoning changed?

MS. BARNHART: April.

MR. TAROLLI: I believe it was in 1996.

MR. TORLEY: Correct me if I'm wrong, you've had three years from that point to be grandfathered in on the change?

MR. BABCOCK: No, he never got approval, Larry. He applied, what he's saying he applied to the planning board when this met the code and he hasn't finished this application because of different things like sewer hookups and sewer moratorium and whatever. Now he's got through those hoops, now he's back in front of the planning board and finds out that the law changed and now it's a lot width problem, that's what he's saying.

MR. TORLEY: Please identify yourself for the record if

you wish to speak? Anyone? All your questions have been answered?

MR. JOHN MC CULLOUGH: John McCullough, 126 Dean Hill Road. Just seems to me like there's a lot of activity in and around Dean Hill lately and it just seems, I just keep hearing every time I'm here we're back to the same issues of having three years to change laws. I don't understand why laws have to be changed. I mean, there's codes and laws that have to be followed and just my opinion, I think that they should be followed, that's why they're there, that's all I'm going to say.

MR. WERNER: This here right-of-way here, how big is that right-of-way that I see running from the lot I think that he wants to get changed?

MR. TAROLLI: It's not a right-of-way, we're proposing a width of 60 feet on Dean Hill Road and I presume you're looking at this section of the, this is 60 feet width, it's not a right-of-way.

MR. KANE: That's what they want to do.

MR. TAROLLI: We want to create a 60 foot opening. Right now, we have, we have well over 100 feet, close to 150, 200 feet right now. The lot looks like this.

MR. WERNER: In other words, you want to take the lot that you have and make it into two lots?

MR. TAROLLI: That's correct.

MR. WERNER: You know, I mean, I've been up there 30 years, you know, and I have seen a lot of change, but I mean this gentleman here that just spoke, I seem to be in agreement with him, you know, if you have certain rules, why should they not be followed. You know, you keep changing them, you know, this thing here now, to me, I mean, you're making it, you're making to me looks like you're making a right-of-way to get to, you know, to get another house, another lot out of the thing and the existing lot that you're left with is no where near the requirements.

MR. TAROLLI: That's not true, the lot that we're left with is 34,000 feet, meets all the zoning.

MR. WERNER: How much frontage is on this?

MR. TAROLLI: It has the required frontage.

MR. TORLEY: Road frontage.

MR. WERNER: The road frontage.

MR. TORLEY: It's short.

MR. WERNER: You understand what I'm saying, you know, you're nowhere, probably nowhere near the requirements of 100 foot frontage there.

MR. TAROLLI: On the big lot or the small lot? Small lot has the required frontage.

MR. TORLEY: He's talking about the other one.

MR. TAROLLI: That has the required frontage.

MR. MC DONALD: What's the frontage?

MR. TAROLLI: I'll have to add several numbers here, just give me a moment, it's 100 feet, it's in excess of 100, it meets the zoning.

MR. MC DONALD: On the other lot?

MR. TAROLLI: The large lot which has the neck that services it has only I think we mentioned--

MR. BABCOCK: 59.

MR. TAROLLI: 50 some feet when you measured 35 feet back off the right-of-way.

MR. TORLEY: Is there anyone else in the audience wishes to speak on this? If not, I'll close it, the public hearing, and open it back up to the members of the board. Gentlemen?

MR. KANE: I have no further questions.

MR. TORLEY: I confess we have a lot that fully meets all the zoning codes now and the applicant wishes to cut it into another lot that doesn't.

MR. KANE: We have run into that problem a number of times in this Town, I'm not particularly--

MR. TORLEY: The lots were already subdivided and the lot didn't meet.

MR. KANE: I know and you still run into problems with them conforming to the codes, although the lots were subdivided years ago.

MR. TORLEY: This one isn't, this one is still sitting there not a recognized subdivision.

MR. KANE: Accept a motion?

MR. TORLEY: Yes.

MR. KANE: I move that we grant Omat Incorporated their requested variance.

MR. TORLEY: One quick question just to make sure we're clear on the record, there was a part of the code that said that if you had two adjacent lots, correct me, I'm not sure I remember this correctly, if you're the owner of two adjacent lots.

MR. BABCOCK: Contiguous lots that are non-conforming, if you own them, you're bound by law to combine those two lots if they make a conforming lot.

MR. TORLEY: So this is a conforming lot that he wishes to create a non-conforming lot out of?

MR. BABCOCK: He wants, it's a conforming lot, he wants to create one conforming lot and one non-conforming lot out of it.

MR. KANE: All set? I move that we grant Omat Incorporated their requested variances on Dean Hill

February 28, 2000

28

Road.

MR. TORLEY: Do I hear a second?

MR. REIS: Second it.

MR. TORLEY: Roll call.

ROLL CALL

MR. MCDONALD	NO
MR. REIS	AYE
MR. KANE	NO
MR. TORLEY	NO

MR. BARNHART: Motion's denied.

2/28/00 Public Hearing - Omat, Inc. # 00-05.

Name: Address:

2/28/00 Syd Werner

objection  
Coke shop  
Spoke

Sub Shop

18ant Andrea McCleary 126 Dean Hill Rd

Ben Roth 65 Mt. Airy Rd

Prelim.  
Jan. 24, 2000.  
#00-05

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR  
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 99-35 DATE: 5 JAN 00

APPLICANT: OMAT INC  
501 BRAMER TOWN RD.  
TUXEDO PARK NY 10987

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 16 NOV 99

FOR (SUBDIVISION - ~~SITE PLAN~~) \_\_\_\_\_

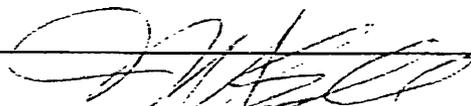
LOCATED AT SW SIDE DEAN HILL RD.

\_\_\_\_\_ ZONE R-3

DESCRIPTION OF EXISTING SITE: SEC: 85 BLOCK: 1 LOT: 13

IS DISAPPROVED ON THE FOLLOWING GROUNDS: \_\_\_\_\_

LOT WIDTH VARIANCE REQ'D.

  
\_\_\_\_\_  
MARK J. EDSALL PE For  
MICHAEL BABCOCK,  
BUILDING INSPECTOR

<u>REQUIREMENTS</u>		<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>R-3</u>	USE _____		
MIN. LOT AREA	<u>32 670 SF</u>	<u>93 252</u>	_____
MIN. LOT WIDTH	<u>100 FT</u>	<u>59.03</u>	<u>40.97 FT</u>
REQ'D FRONT YD	<u>35 FT</u>	<u>170'</u>	_____
REQ'D SIDE YD.	<u>15 FT</u>	<u>41</u>	_____
REQ'D TOTAL SIDE YD.	<u>30 FT</u>	<u>190</u>	_____
REQ'D REAR YD.	<u>40 FT</u>	<u>51</u>	_____
REQ'D FRONTAGE	<u>60 FT</u>	<u>60</u>	_____
MAX. BLDG. HT.	<u>35 FT</u>	<u>&lt; 35'</u>	_____
FLOOR AREA RATIO	<u>N/A</u>	<u>N/A</u>	_____
MIN. LIVABLE AREA	<u>1000 SF</u>	<u>&gt; 1000 SF</u>	_____
DEV. COVERAGE	<u>15 %</u>	<u>&lt; 1.5 %</u>	_____ %
O/S PARKING SPACES	<u>N/A</u>	<u>N/A</u>	_____

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:  
(914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD  
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

BENEDICT POND II SUBDIVISION (99-35)

Mr. Michael Petrone appeared before the board for this proposal.

MR. PETRO: This is a two lot residential subdivision. This application proposes resubdivision of lot 13 of the Benedict Pond subdivision. Now, we don't have written anywhere about he's not allowed to subdivide this lot in the future. Is this written anywhere? Sometimes he puts a restriction that the remaining lot cannot be subdivided, I don't know what's making me think of that but--

MR. KRIEGER: Sometimes that exists, but I'm not aware of it existing here.

MR. EDSALL: I'm not aware of any restriction.

MR. PETRONE: I'm Michael Petrone, I represent the owner. This revised, it's part of the revised subdivision in front of this board for about five years, it's a 9 lot subdivision, it has been held up by a number of circumstances. We're now activating two of the originally 9 lots, most of the holdup on this had been the relocation of Dean Hill Road which has been predicated by the town, between the town and the nearby developers, Shannon Acres has been held up in several conversations and discussion. And finally, it took a major effort to obtain the data from Shannon Acres so that we could then adjust our subdivision to the new relocated road. That is still in the process. And I believe we have all the data available in place now. We have been discussing with the town engineer several times I think we're coming to it meanwhile, we'd like to get this section of the subdivision off the ground on the two lots, mostly in the interest of time because these two lots are not affected as we found out by the relocated road and we're in front of you to just get this started and we'll proceed with the second stage which will be a separate subdivision for the remaining seven lots.

MR. LANDER: Can we just back up just a minute? You said it was a nine lot subdivision?

MR. PETRONE: Yes, it's been refiled now as a two lot.

MR. LANDER: We have from lot 1 to lot 14.

MR. PETRONE: That's correct.

MR. EDSALL: Maybe I can help you out with the history cause I did a little history investigation today myself. There was an application 86-82, which is what created the 13 lots you see on this plan. Then there was another application in '95, 95-10, which modified lot 13 and created this squared off corner that's shown on the northern end of lot 13, which is now what he's proposing as lot 14. What happened was in '93, there was also an application made for the multiple lot subdivision, Mr. Petrone's referencing, which is to the west of this, there was only one part of that multiple lot subdivision that affected this area to the east which you're looking at tonight and that's this lot 13 and 14 arrangement. So what he's doing is he's pulling out this two lot subdivision from the major subdivision since that's held up and he wants to proceed with a minor at this point.

MR. PETRONE: That's correct.

MR. PETRO: 13 and 14.

MR. PETRONE: That's correct, that's a fair summary of the story I did.

MR. EDSALL: The only difficulty is, gentlemen, that the town zoning law has changed such that the lot width is measured at the front lot setback and what he could have accomplished several years ago without visiting the ZBA he now has to visit the ZBA because lot 13 as he shows it has a lot width problem.

MR. PETRO: Just road width, basically, that's all he has.

MR. EDSALL: It used to be possible to measure the lot width at the building line, now you have only one option, at the front yard setback, so you need to refer

this to the ZBA and if he's successful, you can proceed and approve the two lot minor.

MR. LANDER: So the only thing we're concerned with after he goes to ZBA is lot 13 and lot 14?

MR. EDSALL: Correct.

MR. PETRONE: As I stated to the engineer and to this board, this should be grandfathered, this condition has been, this lot has been designed that way probably for four years and we can document that, actually, it's been measured to that so--

MR. PETRO: But the way I think the law would read unless you have a final approval, you're still subject to any new zoning changes and/or laws applied by the town or state.

MR. PETRONE: I understand that, but this is not a substantial thing, it was really at the time optional, you know, it's my opinion, but I thought perhaps this board would waive it.

MR. PETRO: I don't think we have the power to do that.

MR. KRIEGER: You don't.

MR. PETRO: With that, I would take a motion to grant final approval.

MR. LANDER: Yes.

MR. ARGENIO: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Benedict Ponds minor subdivision on Dean Hill Road. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. ARGENIO	NO
MR. BRESNAN	NO

MR. LANDER                    NO  
MR. PETRO                    NO

MR. PETRO: At this time, you have been referred to the local zoning board for the necessary variances that you may require. Once you received those variances and have them put on the map, you can then reappear before this board for your final approvals.

MR. PETRONE: Can we ask this board to send a favorable recommendation to the ZBA? It's been done before.

MR. PETRO: Basically, we wouldn't send you there unless you had that so it's kind of, it's implied. Also, Mr. Krieger sits on that board so he knows we just spoke that out and good luck.

MR. PETRONE: I appreciate that.

Town of New Windsor  
555 Union Avenue  
New Windsor, NY 12553  
(814) 583-4811

**RECEIPT**  
**#72-2000**

**02/08/2000**

*Omat, Inc .*

Received \$ 50.00 for Zoning Board Fees, on 02/08/2000. Thank you for stopping by the Town Clerk's office.

As always, it is our pleasure to serve you.

Dorothy H. Hansen  
Town Clerk

Pls. publish asap. Send bill to: John Torolli, P.E.  
P.O. Box 166 - Pine Bush, NY 12566.

**PUBLIC NOTICE OF HEARING**

**ZONING BOARD OF APPEALS**

**TOWN OF NEW WINDSOR**

**PLEASE TAKE NOTICE** that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 00-05

Request of OMAT, INC

for a VARIANCE of the Zoning Local Law to Permit:

A MINIMUM LOT WIDTH OF 59.03'  
(100' REQUIRED) FOR NEW LOT (FLAG LOT)

being a VARIANCE of Section 48-12-Table of Use/Bulk Regs. - Col. D.

for property situated as follows:

DEAN HILL ROAD (SOUTHWEST SIDE)

known and designated as tax map Section 85, Blk. 1 Lot 13.2

PUBLIC HEARING will take place on the 28<sup>th</sup> day of February, 192000 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 o'clock P.M.

James Nugent  
Chairman

By: Patricia A. Barnhart, Secy.

TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

# 00-05  
Date: 12/23/99

I. Applicant Information:

- (a) OMAT, INC, 501 BRAMERTOWN RD, TUXEDO PARK, NY 10987  
(Name, address and phone of Applicant) (Owner)
- (b) \_\_\_\_\_  
(Name, address and phone of purchaser or lessee)
- (c) \_\_\_\_\_  
(Name, address and phone of attorney)
- (d) JOHN TAROLLI PE/LS P.O. BOX 166 PINE BUSH, N.Y. 12560  
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- Use Variance  Sign Variance  
 Area Variance  Interpretation

III. Property Information:

- (a) R-3 DEAN HILL RD 85-1-13.2 93,252 SF  
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? R-2
- (c) Is a pending sale or lease subject to ZBA approval of this application? NO
- (d) When was property purchased by present owner? MAY 1989.
- (e) Has property been subdivided previously? YES
- (f) Has property been subject of variance previously? NO  
If so, when? \_\_\_\_\_
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? NO
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: NO
- \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IV. Use Variance. NA

- (a) Use Variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_, to allow: \_\_\_\_\_  
(Describe proposal) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes      No     .

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of R-3 BULK Regs., Col. D.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area <u>32,670 SF</u>	<u>93,252 SF</u>	<u>    </u>
Min. Lot Width <u>100'</u>	<u>59.03'</u>	<u>40.97'</u>
Reqd. Front Yd. <u>35'</u>	<u>170'</u>	<u>    </u>
Reqd. Side Yd. <u>15' / 30'</u>	<u>41' / 190'</u>	<u>    </u>
Reqd. Rear Yd. <u>40'</u>	<u>51'</u>	<u>    </u>
Reqd. Street Frontage* <u>60'</u>	<u>60'</u>	<u>    </u>
Max. Bldg. Hgt. <u>35'</u>	<u>435'</u>	<u>    </u>
Min. Floor Area* <u>1,000 SF</u>	<u>&gt;1,000 SF</u>	<u>    </u>
Dev. Coverage* <u>15 %</u>	<u>&lt;15 %</u>	<u>    </u> %
Floor Area Ratio** <u>    </u>	<u>    </u>	<u>    </u>
Parking Area <u>    </u>	<u>    </u>	<u>    </u>

\* Residential Districts only  
\*\* No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, 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. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

THIS LOT IS PART OF A SUBDIVISION WHICH WAS SUBJECT TO A ROAD ALIGNMENT CHANGE OF DEAN HILL RD DUE TO THE PLANS OF THE SHANNON ACRES SUBDIVISION. DURING THE PERIOD FROM 1995-1999, WHILE THE ROAD ALIGNMENT ISSUE WAS BEING RESOLVED, THE DEFINITION OF LOT WIDTH WAS AMENDED IN 1996, CAUSING THE  
(You may attach additional paperwork if more space is needed) NEEDS FOR THE VARIANCE.

VI. Sign Variance: NA.

(a) Variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, \_\_\_\_\_ Regs.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign .	_____	_____	_____
Sign 3	_____	_____	_____
Sign	_____	_____	_____
	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

\_\_\_\_\_  
\_\_\_\_\_

VII. Interpretation.

(a) Interpretation requested of New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

(b) Describe in detail the proposal before the Board:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

IX. Attachments required:

- X Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- X Copy of tax map showing adjacent properties. (See survey map)
- NA Copy of contract of sale, lease or franchise agreement.
- X Copy of deed and title policy.
- X Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- NA Copy(ies) of sign(s) with dimensions and location.
- X Two (2) checks, one in the amount of \$ 50 and the second check in the amount of \$ 300, each payable to the TOWN OF NEW WINDSOR.
- NA Photographs of existing premises from several angles.  
(VACANT LAND)

X. Affidavit.

Date: 12/23/99

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ORANGE )

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

DMAT, INC.  
[Signature]  
(Applicant)

Sworn to before me this 23rd day of December, 1999.

[Signature]  
Lynne A. Cannova

XI. ZBA Action:

(a) Public Hearing date: \_\_\_\_\_

LYNNE A. CANNOVA  
Notary Public, State of New York  
No. 01CA6019436  
Qualified in Orange County  
Commission Expires Feb. 8, 2001

(b) Variance: Granted (\_\_\_) Denied (\_\_\_)

(c) Restrictions or conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

SECTION 65 BLOCK 1

OMAT, INC.

CORD AND RETURN TO:  
(Name and Address)

Donald W. Mirro, Esq.  
176 Main Street  
Goshen, New York 10924

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH  
RECORDED INSTRUMENT ONLY

DO NOT WRITE BELOW THIS LINE

CONTROL NO. 056508 DATE 5-17-89 AFFIDAVIT FILED \_\_\_\_\_ 19 \_\_\_\_\_

INSTRUMENT TYPE: DEED  MORTGAGE \_\_\_\_\_ SATISFACTION \_\_\_\_\_ ASSIGNMENT \_\_\_\_\_ OTHER \_\_\_\_\_

BG20 Blooming Grove _____	SERIAL NO. _____	CHECK _____ CASH _____ CHARGE <input checked="" type="checkbox"/>
CH22 Chester _____	Mortgage Amount \$ _____	
CO24 Cornwall _____	Exempt Yes _____ No _____	MORTGAGE TAX \$ _____
CR26 Crawford _____	3-6 Cooking Units Yes _____ No _____	TRANSFER TAX \$ <u>F</u>
DP28 Deepark _____	Received Tax on above Mortgage	
GO30 Goshen _____	Basic \$ _____	RECORD. FEE \$ <u>20-</u>
GR32 Greenville _____	MTA \$ _____	REPORT FORMS \$ <u>5-</u>
HA34 Hamptonburgh _____	Spec. Add. \$ _____	CERT. COPIES \$ _____
HI38 Highland _____	TOTAL \$ _____	
MK38 Minisink _____	MARION S. MURPHY	
ME40 Monroe _____	Orange County Clerk	<i>CTD</i>
MY42 Montgomery _____	by: _____	
MH44 Mount Hope _____	ORANGE COUNTY CLERK'S OFFICE S.S.	
NT46 Newburgh (T) _____	Recorded on the <u>13<sup>th</sup></u> day of	
NW48 New Windsor <input checked="" type="checkbox"/>	<u>June</u> 19 <u>89</u> at <u>9:25</u>	
TU50 Tuxedo _____	O'Clock <u>11:48</u> in <u>Libri/Film</u> <u>3143</u>	
WL52 Walkkill _____	<u>Duplicate</u> page <u>186</u> and examined.	
WK54 Warwick _____	<u>Marion S. Murphy</u>	
WA56 Wawayanda _____	County Clerk	
WO58 Woodbury _____		
MN09 Middletown _____		
NC11 Newburgh _____		
PJ13 Port Jervis _____		
9999 Hold _____		

RECEIVED  
\$ Exempt  
REAL ESTATE  
MAY 17 1989  
TRANSFER TAX  
ORANGE COUNTY

LIBER 3143 PAGE 186

Sec. 65  
Blk. 1  
Lot 58.2

party of the first part, and OMAT, INC., a New York corporation, having an office at R.D. #1, Box 6730, Monroe, New York 10950,

party of the second part,  
WITNESSETH, that the party of the first part, in consideration of TEN (\$10.00) and 00/100-----

-----dollars,  
lawful money of the United States, and other good and valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of New Windsor, County of Orange and State of New York, bounded and described as follows:

SCHEDULE A (Description) ANNEXED HERETO AND MADE A PART HEREOF (Two Pages).

Being and intending to be a portion of the premises conveyed by Omat, Inc., to Michael Petrone, in a certain deed dated May 17, 1989, and intended to be duly recorded simultaneously herewith.

LIBER 3143 PAGE 187

ALL THAT LAND, situate in the Town of New Windsor, County, New York, bounded and described as follows:

BEGINS at a point, being the intersection of the center line of Mount Airy Road with the westerly bounds of Dean Hill Road;

THENCE from said place of beginning and along the westerly bounds of Dean Hill Road;

SOUTH Thirty-Five Degrees, One Minute, Forty Seconds East, Three Hundred Twenty-Three and Fifty-Six Hundredths Feet (S 35°-01'-40" E, 323.56');

SOUTH Thirty-Five Degrees, Fifty-Eight Minutes, Fifty Seconds East, One Hundred Thirteen and Twenty-Three Hundredths Feet (S 35°-58'-50" E, 113.23') to a set 5/8" iron rod, flush in the ground, being the northeasterly most corner of lands of Richard T. and Sharon J. Vanasco, Deed Reference Liber 2022, Page 702;

THENCE along the line of lands of said Vanasco, the following three (3) courses and distances;

SOUTH Sixty-Two Degrees, Fifty-Seven Minutes, Five Seconds West, Three Hundred Nine and Ninety-Six Hundredths Feet (S 62°-57'-05" W, 309.96') to a set 5/8" iron rod;

SOUTH Thirty-Five Degrees, Thirty Minutes, Five Seconds East, One Hundred Forty-Four and Forty-Six Hundredths Feet (S 35°-30'-05" E, 144.46') to a set 5/8" iron rod;

NORTH Sixty-Two Degrees, Four Minutes, Forty Seconds East, Three Hundred Ten and Forty-Eight Hundredths Feet (N 62°-04'-40" E, 310.48') generally following the line of the remains of a stone wall the latter portion of the course to a set 5/8" iron rod on the westerly bounds of Dean Hill Road;

THENCE along said westerly bounds, the following four (4) courses and distances, namely;

SOUTH Thirty-Five Degrees, Fifty-Eight Minutes, Fifty Seconds East, One Hundred Eighty and Thirty-Six Hundredths Feet (S 35°-58'-50" E, 180.36');

SOUTH Thirty-Seven Degrees, Twenty-Six Minutes, Five Seconds East, One Hundred Sixty-Six and Seventy-Five Hundredths Feet (S 37°-26'-05" E, 166.75');

SOUTH Forty-One Degrees, Fifty-Two Minutes, Ten Seconds East, One Hundred Seventy-Six and Seventy-Nine Hundredths Feet (S 41°-52'-10" E, 176.79');

SOUTH Forty-Seven Degrees, Nine Minutes, Five Seconds East, Eighty-Six and Sixty-Six Hundredths Feet (S 47°-09'-05" E, 86.66') to a set 5/8" iron rod;

-continued-

LIBER 3143 PAGE 188

courses and distances:

NORTH Four Degrees, Nine Minutes, Forty Seconds West, Ninety-Three and One Hundredths Feet (N 04°-09'-40" W, 93.01');

NORTH Six Degrees, Seven Minutes, Ten Seconds West, One Hundred Forty-Four and Seventy-Six Hundredths Feet (N 06°-07'-10" W, 144.76');

NORTH Seven Degrees, Nineteen Minutes, Twenty Seconds West, One Hundred Ninety-Two and Seven Hundredths Feet (N 07°-19'-20" W, 192.07');

NORTH Four Degrees, Twenty Minutes, Thirty Seconds West, Ninety and Fifty Hundredths Feet (N 04°-20'-30" W, 90.50');

NORTH One Degree, Zero Minutes, Fifty-Five Seconds East, Eighty-Four and Ninety-Three Hundredths Feet (N 01°-00'-55" E, 84.93');

NORTH Five Degrees, Forty-Five Minutes, Forty-Five Seconds East, Eighty-One and Seventy-Eight Hundredths Feet (N 05°-45'-45" E, 81.78');

NORTH Ten Degrees, Forty-Six Minutes, Twenty Seconds East, Eighty-Four and Eighty-Two Hundredths Feet (N 10°-46'-20" E, 84.82');

NORTH Twenty-One Degrees, Eighteen Minutes, Twenty Seconds East, Ninety-Three and Eighty Hundredths Feet (N 21°-18'-20" E, 93.00');

NORTH Twenty-Eight Degrees, Twelve Minutes, Five Seconds East, One Hundred Thirty-Seven and Three Hundredths Feet (N 28°-12'-05" E, 137.03');

NORTH Twenty-Nine Degrees, Thirty-Seven Minutes, Fifty-Five Seconds East, Three Hundred Eight and Twelve Hundredths Feet (N 29°-37'-55" E, 308.12') to the place of beginning.

EXCEPTING from the above described parcel, a parcel now owned by New York Telephone Company as described in Liber 2004 of Deeds, Page 415 and more particularly bounded and described as follows:

BEGINNING at a found 4" X 4" concrete monument being the southeasterly corner of lands of said New York Telephone Company, said monument being North Eighty-Nine Degrees, Thirty-Five Minutes, Twenty-Five Seconds West, One Hundred Seven and Sixty Hundredths Feet (N 89°-35'-25" W, 107.60') from a set 5/8" iron rod, being the northwesterly corner of lands of Richard T. and Sharon J. Vanasco, Deed Reference Liber 2022, Page 702;

THENCE from said place of beginning and along the line of lands of H. Franklin Benedict, the following four (4) courses and distances, namely;

NORTH Sixty-Two Degrees, Forty-Eight Minutes, Fifty Seconds West, One Hundred and Twenty-Two Hundredths Feet (N 62°-48'-50" W, 100.22') to a found 4" X 4" concrete monument, flush in the ground on the easterly side of Mount Airy Road;

NORTH Twenty-Seven Degrees, Eighteen Minutes, Forty Seconds East, (N 27°-18'-40" E) along the easterly side of Mt. Airy Road, One Hundred Fifty and Seven Hundredths Feet (150.07') to a found 4" X 4" concrete monument in a stone wall;

SOUTH Sixty-Two Degrees, Fifty-Two Minutes, Thirty Seconds East, Ninety-Nine and Seventy-One Hundredths Feet (S 62°-52'-30" E, 99.71') to a found 4" X 4" concrete monument at the base of an apple tree, 13" above grade;

SOUTH Twenty-Seven Degrees, Seven Minutes, Ten Seconds West, One Hundred Fifty and Eighteen Hundredths Feet (S 27°-07'-10" W, 150.18') to the place of beginning.

THIS EXCEPTION contains 0.344 acres of land.  
LIBER 3143 PAGE 189

**ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR  
COUNTY OF ORANGE : STATE OF NEW YORK**

In the Matter of the Application for Variance of

Ormat, Inc.

Applicant.

# 00-05.

**AFFIDAVIT OF  
SERVICE BY  
MAIL**

STATE OF NEW YORK)

) SS.:

COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, Windsor, N. Y. 12553.

That on 2/8/00, I compared the 27 addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor regarding the above application for a variance and I find that the addresses are identical to the list received. I then mailed the envelopes in a U.S. Depository within the Town of New Windsor.

Patricia A. Barnhart  
Patricia A. Barnhart

Sworn to before me this  
\_\_\_ day of \_\_\_\_\_, 19\_\_\_.

\_\_\_\_\_  
Notary Public

Date 7/26/00, 19.....

**TOWN OF NEW WINDSOR**

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO ..... DR.

Frances Roth  
168 N. Drury Lane  
Newburgh, N.Y. 12550

ATE		CLAIMED	ALLOWED
	Zoning Board Mtg	75 00	
	Misc - 2		
	Moroneg - 3		
	Borgard - 4		
	Bachhofen - 5		
	PetroMetals - 5		
	Dmat - 6 37.00		
	Llanusa - 1		
	Maurice - 11	166 50	
	37		
		241 50	

OMAT, INC.

MR. NUGENT: Referred by Planning Board for 40.97 ft. width variance for Lot 13 in the Benedict Pond Subdivision located on southwest side of Dean Hill Road in an R-3 zone.

Mr. John Tarolli and Mr. Michael Petrone appeared before the board for this proposal.

MR. TAROLLI: I'm John Tarolli, engineer and surveyor for Omat Inc. President of Omat Inc. is Michael Petrone, next to me. Do you have any maps?

MS. BARNHART: I have one.

MR. NUGENT: That's all we need.

MR. TAROLLI: Lot in question here is lot 13R which appears on your map in somewhat bold border, it's alongside of previously subdivided lots in this subdivision on Dean Hill Road. Along Dean Hill Road, Omat has over the last eight or nine years had a nine lot subdivision, we have only shown 2 of the 9 lots which are lot 14 and 13R. The other lots shown around this 13R are the ones previously subdivided. The reason for the request is simply this. In the early '90's, there were issues before the Town Board with regard to connection to the public sewer. There was also a concern about the other end of the subdivision which there were two private roads, Birch Street and Ash Street, and the third issue was improvements to Dean Hill Road which for a portion of it was still a non-paved road. Those three issues, took several years to address and resolve, major one being the moratorium on connection to the sewer system. When the project was reactivated in 1997, Shannon Acres which some of you may know is across the street from Dean Hill Road was in the process of being approved and we came to find out that Shannon Acres had proposed their relocation or rerouting of Dean Hill Road which would affect some of our 9 lots. In essence, we were going to be given some of the abandoned portion of Dean Hill Road to add to our 9 lots, it was going to cause a change in the layout. As we began working with the

engineers from Shannon Acres on that revised layout, we found that in 1996, the Town Board had amended the zoning in essence to say that you needed to have 100 feet of frontage measured at the minimum setback line where prior to that, you could measure that spot where the building or the house was located. So our lot 13R, while it was conforming before 1996 was now non-conforming, we had been in for public hearings, preliminary approval of these 9 lots somewhere in '94-95 while these issues were being resolved. So, at this point, we feel that because some matters that were outside of our control, namely the moratorium and relocation of Dean Hill Road that Omat should be entitled to some relief here, this lot has always looked this shape, the fact that it's narrow at the front certainly won't affect either the existing house to its right or the proposed house which we're proposing to the left, because the home site for lot 13R is way in the back up on the hill. We'll leave with you if you'd like or mail to you photos we have taken looking in and around the neighborhood, if you'd like to see them or keep them this evening, we'd be glad to give them to you.

MR. NUGENT: John, if you understand the, first, let me ask you the two questions number one, is there water on this property?

MR. TORELLI: There's water that's not public, it's a trunk line to the trailer park, our provision was to drill wells but connect to the public sewage.

MR. NUGENT: So, this lot that you're asking for a variance is actually 93,000 square foot.

MR. TAROLLI: That's correct.

MR. NUGENT: When only 23,000 is required and the reason for your variance is because of the road frontage?

MR. TAROLLI: That's correct, this pictures looking dead at the lot and the others I have noted right on the photo in pen where our lot is, it's a wooded lot,

MR. PETRONE: You can see the remaining lots, the bulk of the lot is three times what's required.

MR. NUGENT: Almost four.

MR. PETRONE: Almost four, this is why we're trying to make two lots, but then we're restricted by the code.

MR. REIS: Do you have outside user permit? Which are the two?

MR. TORLEY: This one and this one are the two for the application. The other seven are down the road and involved with the realignment of Dean Hill Road. We have broken these two out because they are not involved in the realigning, but the one is caught in the change in zoning.

MR. PETRONE: This is why the whole subdivision was delayed for four years, several things, but the latest thing was the realignment of Dean Hill Road which we couldn't process anything until that realignment was defined and just been defined six months ago.

MR. TAROLLI: Yes.

MR. REIS: How has this road been changed?

MR. PETRONE: Eventually, there were all kinds of suggestions about changing the road, but eventually, and this is why it was frozen, eventually it's been changed, this map does not show it.

MR. TAROLLI: I will show you that part of Shannon Acres, this two lots that you're looking at are here and as Dean Hill Road comes down, our other 7 lots are here, this is going to be abandoned and Shannon Acres is going to rebuild Dean Hill Road right here, so we're going to be getting this to add onto our lots.

MR. TORLEY: How did the Dean Hill Road relocation affect this lot here?

MR. PETRONE: It doesn't anymore, but it was before.

MR. TORLEY: Dean Hill Road you're talking about changes down here?

MR. TAROLLI: That's correct.

MR. TORLEY: So this road was never going to be changed at this point, so why are you saying that road affected that?

MR. TAROLLI: We didn't break the nine lots into two, if we were aware that the zoning was going to change affecting this, we may have phased this out and taken these two unencumbered by the road location, but we found out after '96.

MR. PETRONE: We'd like to add that, the issue of Dean Hill Road was floating around between '94 and '95 and last year in other words, we didn't know if this road was going to be finished as it is here, eventually, it was arranged by the Town Board, the planning board, town engineer and so forth.

MR. TORLEY: What we're talking about tonight really is this lot here?

MR. TAROLLI: That's right.

MR. TORLEY: No affect on this?

MR. TAROLLI: Right.

MR. TORLEY: When this plot plan was approved, this was a legal lot?

MR. TAROLLI: When it was, when we had preliminary approval, preliminary public hearing, it wasn't granted preliminary approval because of a number of issues, one was the condition of Dean Hill Road, second the moratorium and so on. So, while we were in for reviews, the zoning changed in terms of the lot width. So, these lots were not approved and filed.

MR. REIS: There's really no other alternative to utilize this amount of acreage.

MR. TAROLLI: We would have to make one large lot of these two.

MR. TORLEY: When you come back to the public hearing, I'd appreciate if you tell me who owns this particular piece of land.

MR. TAROLLI: We have indicated here but we'll certainly address that. There's a recent lot line change with the Benedict Estate, I think it was a year or two.

MR. REIS: No relationship to you folks?

MR. PETRONE: We're using the name because they were the original owners of the land, Benedict Pond.

MR. TAROLLI: There's no financial or other linkage.

MR. TORLEY: When you come back to the public hearing, I would appreciate any information that you can give me on why this particular piece of road or property could not be somehow merged into other areas so the access would come in here on this road rather than making a flag lot.

MR. PETRONE: Well, this is a different owner.

MR. TORLEY: Well, talk about that at the public hearing.

MR. TAROLLI: We may also color the map to indicate our holdings while we're showing them, we may color in the existing houses. I will illustrate that.

MR. PETRONE: I can anticipate one thing and that is that the frontage of that property of the remaining property of the one you indicate Benedict only allows three lots, there's only 300 feet of frontage, it's a large property. It's already two lots.

MR. REIS: Accept a motion, Jim?

MR. NUGENT: Yes.

MR. REIS: I make a motion that we set up Omat Inc. for a requested variance for their public hearing.

MR. TORLEY: Second it.

ROLL CALL

MR. REIS	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. KRIEGER: If you would take this list here, this is, these are the criteria on which the state requires that the zoning board decide. So, if you would address yourself to them at the public hearing, that would be helpful.

MR. TAROLLI: Thank you.

MR. PETRONE: Thank you.



# Town of New Windsor

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (914) 563-4631  
Fax: (914) 563-4693

## Assessors Office

December 29, 1999

27

Omat Inc.  
501 Bramertown Rd.  
Tuxedo Park, NY 10987

RE: 85-1-13.2

Dear Sirs:

Please be advised that the attached list of properties are within five hundred (500) feet of the above referenced property.

The charge for this service is \$45.00, minus your deposit of \$25.00.

Please remit the balance of \$20.00 to the Town Clerk's office.

Sincerely,

*Leslie Cook*  
Leslie Cook  
Sole Assessor

/jff  
Attachments

Cc: Pat Barnhart, ZBA

Sweeney, Leslie M. & Elizabeth  
14 Dean Hill Rd.  
New Windsor, NY 12553

NY Telephone  
C/ O Bell Atlantic Room 3137 Property  
Tax Dept.  
1095 Ave of the Americas  
New York, NY 10036

Desmond John J. Jr.  
680 Mt Airy Rd.  
New Windsor, NY 12553

Roth, Bennett  
685 Mt. Airy Rd.  
New Windsor, NY 12553

Wygant Michael E & Davis Christine M  
615 Mt. Airy Rd.  
New Windsor, NY 12553

Etruscan Enterprises Inc.  
C/o Meadow Brook Lodge  
Rte 94 Rd 2  
New Windsor, NY 12553

Martellaro Joseph A. & Patricia  
679 Mt. Airy Rd.  
New Windsor, NY 12553

Werner Fredrick Donald & Rose Marie  
P. O. Box 156  
Vails Gate, NY 12584

Town of New Windsor  
555 Union Ave  
New Windsor, NY 12553

Conques Karen  
671 Mt. Airy Rd.  
New Windsor, NY 12553

Kryzak Joseph G. & Lorrie A.  
114 Dean Hill Rd.  
New Windsor, NY 12553

Sarjon, LLC c/o Jacobwitz & Gubits  
P.O.Box 367  
Walden, NY 12586

Gonzo Michael & Gertrude M.  
P.O. Box 753  
Highland Mills, NY 10930

Thorpe Richard W. & Dorothy A.  
118 Dean Hill Rd.  
New Windsor, NY 12553

DiJulio Michael & Patricia  
101 Dean Hill Rd.  
New Windsor, NY 12553

Byrd Brian R & Margarita L Nye  
115 Dean Hill Rd  
New Windsor, NY 12553

D'Agostino Severino & Constance  
106 Dean Hill Rd  
New Windsor, NY 12553

Applied Bldg. Devlpt of N.Y. N.W.T., ICC  
10 Vista Drive  
Chester, NY 10918

Horne Denise M.  
109 Dean Hill Rd.  
New Windsor, NY 12553

McCullough John & McCullough Andrea  
126 Dean Hill Rd  
New Windsor, NY 12553

Theresa Sweeney  
14 Dean Hill Rd.  
New Windsor, NY 12553

Haibon Paul R & Joan  
105 Dean Hill Rd.  
New Windsor, NY 12553

Maurice Elaine  
P.O. Box 366  
Vails Gate, NY 12584

Wagner Thomas R. & Connie M.  
97 Dean Hill Rd.  
New Windsor, NY 12553

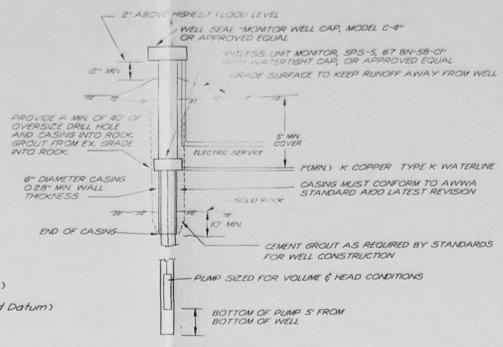
Franke Paul F & Christine  
75 Dean Hill Rd  
New Windsor, NY 12553

Vanasco Richard T & Sharon J  
113 Dean Hill Rd  
New Windsor, NY 12553

Smith, Vernon H & Florence  
705 Mt Airy Rd  
New Windsor, NY 12553

**Legend**

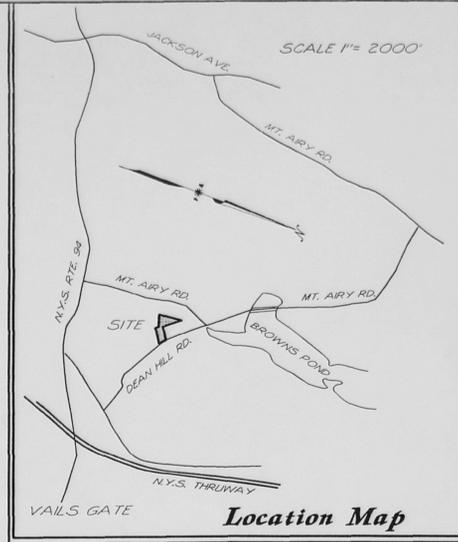
- PROPERTY LINE & CORNER
- SET 3/8" IRON ROD AT PROPERTY CORNER
- UTILITY LINE AND POLE
- ADJOINERS PROPERTY LINE
- LIBER OF DEEDS, PAGE
- TAX MAP DESIGNATION
- STONE WALL
- WATERCOURSE/DITCH & DIRECTION OF FLOW
- EXISTING CULVERT & SIZE
- PROPOSED CULVERT (15" ADS-NE)
- EXISTING CONTOUR LINE (Assumed Datum)
- PROPOSED CONTOUR LINE
- ZONING MIN. SETBACK LINE
- PROPOSED DRIVE
- PROPOSED HOUSE LOCATION
- LOWEST SEWERABLE ELEVATION
- PROPOSED WELL LOCATION
- EXISTING SEWER MANHOLE & 8" PVC SEWER MAIN
- PROP. 4" SAN. SEWER LATERAL & CLEANOUT



WATER-BEARING FORMATION	OVER BURDEN	OVERSIZE DRILLHOLE FOR GROUT		WELL DIA.		MIN. CASING LENGTH OR DEPTH	LINER DIA. (MIN.)	CONSTRUCTION CONDITIONS	MSC REQUIREMENTS
		DIA.	MIN. DEPTH	CASED PORTION	UNCASED PORTION				
CRACKED, SHAFFERED OR OTHERWISE FRACTURED UNCONSOLIDATED GRANITE, QUARTZITE OR SIMILAR ROCK TYPES		CASING SIZE 4"	40"	8" MIN.	8" MIN.	VA	40"	APPEARANCE SPACE AROUND CASING SHALL BE GROUTED. CASING SHALL BE SEATED IN THE ROCK.	5' GROUT IS TO BE PLACED THROUGH THE ANNULAR SPACE FROM THE BOTTOM OF THE CASING TO THE TOP OF THE WELL. THE DIFFERENTIAL PRESSURE SHALL BE MAINTAINED AT ALL TIMES TO PREVENT CASING FROM COLLAPSE. MINIMUM CASING SHALL BE ASSEMBLED WITHOUT JOINTS.

**Zoning Legend (R-3) Suburban Residential**

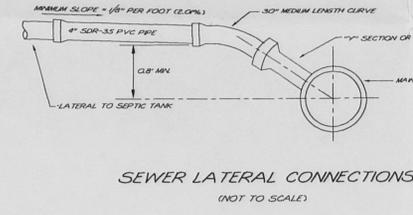
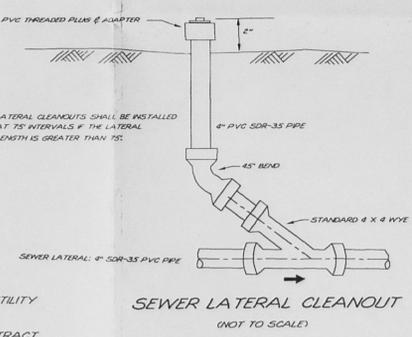
	Required	Lot 13R	Lot 14
MIN LOT AREA	32,670 S.F.	93,252 S.F.	34,281 S.F.
MIN LOT WIDTH	100'	53.03'	108.4'
REQ. FRONT YARD DEPTH	35'	170'	37.2'
REQ. SIDE YARD	15' 30"	4' 190"	17' 39"
REQ. REAR YARD DEPTH	40'	5'	280'
REQ. STREET FRONTAGE	60'	80'	107.47'
MAX. BLD. HEIGHT	35'	<35'	<35'
MIN LIVABLE FLOOR AREA	1,000 S.F.	71,000 S.F.	71,000 S.F.
DEVELOPMENT COVERAGE	15%	<15%	<15%



\* UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S EMBOSSED SEAL IS A VIOLATION OF SECTION 2003, SUBDIVISION 4, OF THE NEW YORK STATE EDUCATION LAW.

\* ONLY COPIES FROM THE ORIGINAL TRACING OF THIS SURVEY MAP MARKED WITH THE LAND SURVEYOR'S EMBOSSED SEAL SHALL BE CONSIDERED VALID, TRUE COPIES.

\* CERTIFICATIONS INDICATED HEREON SIGNIFY THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE EXISTING CODE OF PRACTICE FOR LAND SURVEYORS ADOPTED BY THE DELAWARE-HUDSON LAND SURVEYORS ASSOCIATION. SAID CERTIFICATIONS SHALL RUN ONLY TO THOSE NAMED HEREON AND NO INSTITUTIONS FOR WHOM THE SURVEY WAS PREPARED. CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INDIVIDUALS, INSTITUTIONS, THEIR SUCCESSORS AND/OR ASSIGNS, OR SUBSEQUENT OWNERS.



**Notes:**

- SUBJECT TO ANY GRANTS, EASEMENTS OR RIGHTS OF WAY OF UTILITY COMPANIES, OF RECORD, IF ANY.
- SUBJECT TO ANY FACTS AN ACCURATE, UP TO DATE TITLE ABSTRACT MAY REVEAL.
- SUBJECT TO THAT LAND WITHIN THE BOUNDS OF DEAN HILL ROAD FOR USE AS A PUBLIC HIGHWAY.
- SUBJECT TO A UTILITY EASEMENT IN FAVOR OF THE AMERICAN TELEPHONE AND TELEGRAPH COMPANY AS DESCRIBED IN LIBER 681 OF DEEDS, PAGE 507, AS IT MAY APPLY.
- CONTOUR LINES SHOWN ON THIS MAP HAVE BEEN DIGITIZED FROM A MAP SUPPLIED BY THE OWNER THAT WAS PREPARED FROM AERIAL PHOTOGRAMMETRIC METHODS.
- SUBJECT RIGHTS OVER THAT PORTION OF LAND, IF ANY, UTILIZED BY A 50' RADIUS CURVE-DE-SAC AND ROAD AS MENTIONED IN LIBER 3924 OF DEEDS, PAGE 99.
- ELEVATIONS SHOWN ON MANHOLES ARE ACTUAL MEASUREMENTS, UNLESS NOTED AS \* IN WHICH CASE THE INVERT ELEVATIONS WERE CALCULATED FROM PROFILES ON AS BUILT DRAWINGS. VERTICAL DATUM WAS ASSUMED FROM THE RIM ELEVATION OF FORCE MANHOLE #5 ON THE AS BUILT DRAWINGS.
- LOT 11 IS SUBJECT TO A 20' WIDE SANITARY SEWER LATERAL EASEMENT, FOR INSTALLATION AND MAINTENANCE, IN FAVOR OF LOT 13.

**SPECIAL DISCLOSURE STATEMENT:**

PRIOR TO THE SALE, LEASE, PURCHASE OR EXCHANGE OF PROPERTY ON THIS SITE WHICH IS WHOLLY OR PARTIALLY WITHIN OR IMMEDIATELY ADJACENT TO OR WITHIN 500' OF A FARM OPERATION, THE PURCHASER OR LEASER SHALL BE NOTIFIED OF SUCH FARM OPERATION WITH A COPY OF THE FOLLOWING NOTIFICATION.

IT IS THE POLICY OF THIS STATE AND THIS COMMUNITY TO CONSERVE, PROTECT AND ENCOURAGE THE DEVELOPMENT AND IMPROVEMENT OF AGRICULTURAL LAND FOR PRODUCTION OF FOOD, AND OTHER PRODUCTS, AND ALSO FOR ITS NATURAL AND ECOLOGICAL VALUE. THIS NOTICE IS TO INFORM PROSPECTIVE RESIDENTS THAT THE PROPERTY THEY ARE ABOUT TO ACQUIRE LIES PARTIALLY OR WHOLLY WITHIN AN AGRICULTURAL DISTRICT OR WITHIN 500 FEET OF SUCH A DISTRICT AND THAT FARMING ACTIVITIES OCCUR WITHIN THE DISTRICT. SUCH FARMING ACTIVITIES MAY INCLUDE, BUT NOT BE LIMITED TO, ACTIVITIES THAT CAUSE NOISE, DUST AND ODORS.

**PRELIMINARY MAP Survey & Subdivision Map**

**Benedict Pond Estates II**

2 LOTS

Record Owner: Omat, Inc., c/o Michael Petrone  
501 Bramertown Road, Tuxedo Park, NY 10987

TAX MAP REFERENCE: 85-143.2, Lot 13, Filed Map 132-95

DEED REFERENCES: LIBER 2626, PAGE 317  
LIBER 3413, PAGE 186  
LIBER 3679, PAGE 85: (Mortgage Release)

**Area Totals**

TOTAL LOTS	127,513 S.F.
ROAD PARCEL	86 S.F.
TOTAL AREA	127,599 S.F. (2.929 Acres)

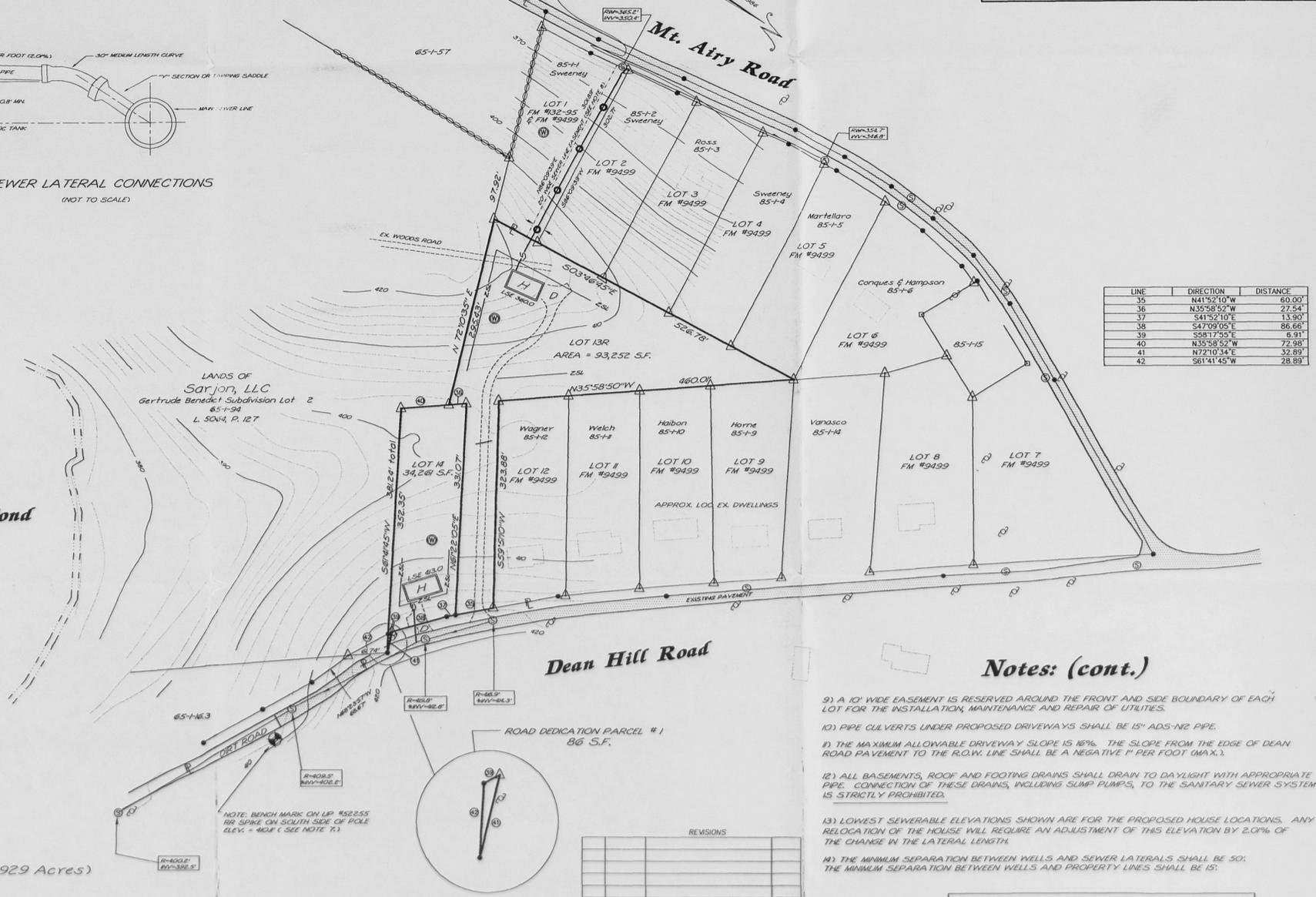
**Situate in the Town of New Windsor**  
**Orange County, New York State**  
**Scale 1" = 100' Oct. 1992**

I HEREBY CERTIFY TO OMAT, INC. THAT THIS MAP IS THE RESULT OF AN ACTUAL FIELD SURVEY COMPLETED BY MERCURIO-NORTON-TAROLLI LAND SURVEYING & ENGINEERING, P.C. ON AUGUST 25, 1996, AND LAST MODIFIED ON AUGUST 25, 1999.

*John Tarolli*

JOHN TAROLLI, L.S.# 49201

EACH LOT IS SERVED BY MUNICIPAL SEWER SYSTEM & INDIVIDUAL LOT WELLS.



**Notes: (cont.)**

- A 10' WIDE EASEMENT IS RESERVED AROUND THE FRONT AND SIDE BOUNDARY OF EACH LOT FOR THE INSTALLATION, MAINTENANCE AND REPAIR OF UTILITIES.
- PIPE CULVERTS UNDER PROPOSED DRIVEWAYS SHALL BE 15" ADS-NE PIPE.
- THE MAXIMUM ALLOWABLE DRIVEWAY SLOPE IS 16%. THE SLOPE FROM THE EDGE OF DEAN ROAD PAVEMENT TO THE R.O.W. LINE SHALL BE A NEGATIVE 1" PER FOOT (MAX.).
- ALL BASEMENTS, ROOF AND FOOTING DRAINS SHALL DRAIN TO DAYLIGHT WITH APPROPRIATE PIPE. CONNECTION OF THESE DRAINS, INCLUDING SUMP PUMPS, TO THE SANITARY SEWER SYSTEM IS STRICTLY PROHIBITED.
- LOWEST SEWERABLE ELEVATIONS SHOWN ARE FOR THE PROPOSED HOUSE LOCATIONS. ANY RELOCATION OF THE HOUSE WILL REQUIRE AN ADJUSTMENT OF THIS ELEVATION BY 2.0% OF THE CHANGE IN THE LATERAL LENGTH.
- THE MINIMUM SEPARATION BETWEEN WELLS AND SEWER LATERALS SHALL BE 50'. THE MINIMUM SEPARATION BETWEEN WELLS AND PROPERTY LINES SHALL BE 15'.

Prepared by:

**MERCURIO-NORTON-TAROLLI**  
Land Surveying & Engineering, P.A.

P.O. BOX 466  
75 MAIN STREET  
PINE BUSH, N.Y. 12566  
TEL. 914-744-3400  
FAX 914-744-3805

**Owner's Endorsement**

I HAVE REVIEWED THIS PLAN AND I HEREBY GRANT MY APPROVAL OF THE PLAT AND HEREBY CONSENT TO ITS FILING WITH THE ORANGE COUNTY CLERK'S OFFICE.

OWNER'S SIGNATURE \_\_\_\_\_ TITLE \_\_\_\_\_

PLANNING BOARD APPROVAL \_\_\_\_\_