

ZB# 04-38

**Michael Diaz
(Withdrawn)**

80-2-9

ZBA #04-38 MICHAEL DIAZ (AREA)
94 CREAMERY DRIVE (80-2-9)

ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR
555 UNION AVENUE
NEW WINDSOR, N.Y. 12553

Withdrawn 7/7/04

562-4808 Michael Diaz

**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
OFFICE
845-563-4615**

MEMORANDUM

TO: LARRY REIS, COMPTROLLER
FROM: MYRA MASON, SECRETARY TO THE ZONING BOARD
DATE: 07-27-04
SUBJECT: REFUND ESCROW 04-38

**PLEASE ISSUE A CHECK IN THE AMOUNT OF \$ 158.50 TO CLOSE OUT
ESCROW FOR:**

ZBA FILE #04-38

NAME & ADDRESS:

**Michael Diaz
94 Creamery Drive
New Windsor, NY 12553**

THANK YOU,

MYRA

L.R.07-27-04



**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
RECORD OF CHARGES & PAYMENTS**



FILE #04-38 TYPE:AREA

APPLICANT Name & Address:

Michael Diaz
94 Creamery Drive
New Windsor, NY 12553

TELEPHONE: 562-4808

RESIDENTIAL:	\$ 50.00	CHECK # <u>456</u>
COMMERCIAL	\$ 150.00	CHECK # _____
INTERPRETATION	\$ 150.00	CHECK # _____

ESCROW: RESIDENTIAL \$300.00 CHECK # 455



<u>DISBURSEMENTS:</u>		<u>MINUTES</u>	<u>ATTORNEY</u>
		<u>\$5.50 / PAGE</u>	<u>FEE</u>
PRELIMINARY:	<u>3</u> PAGES	\$ <u>16.50</u>	\$ <u>35.00</u>
2 ND PRELIMINARY:	____ PAGES	\$ _____	\$ _____
PUBLIC HEARING:	<u>10</u> PAGES	\$ <u>55.00</u>	\$ <u>35.00</u>
PUBLIC HEARING:	____ PAGES	\$ _____	\$ _____

TOTAL: \$ 71.50 \$ 70.00



ESCROW POSTED: \$ 300.00
LESS: DISBURSEMENTS: \$ 141.50

AMOUNT DUE: \$

REFUND DUE: \$ 158.50

Cc:

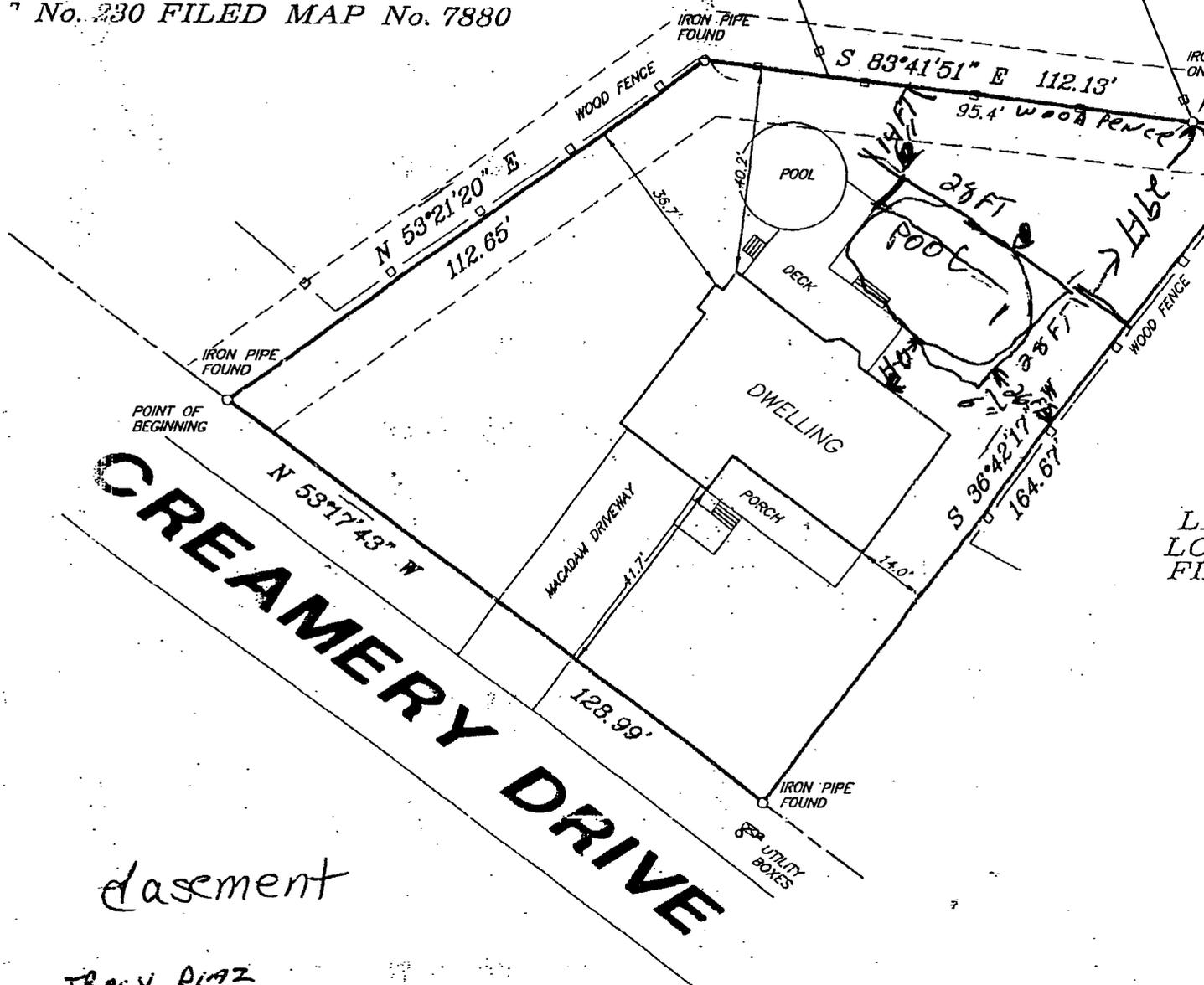
7/7/04

Pool to be moved
to below location - not
requiring any variances.

N/F
MOORE & ENGAN
LIBER 2704 PAGE 65
LOT No.'S 231 & 231.1
FILED MAP No. 7880

L.
L.
FL

N/F
DEMARZI
LIBER 5887 PAGE 118
No. 230 FILED MAP No. 7880



L.
LC
FL

casement

TRACY DIAZ
MICHAEL DIAZ
94 CREAMERY DRIVE
NEW WINDSOR NY.
12553

SURVEY OF PROPERTY
FOR

MICHAEL J. & TRACY

TOWN OF NEW WINDSOR

OFFICE OF THE BUILDING INSPECTOR
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: 4/28/04

APPLICANT: Michael & Tracy Diaz
94 Creamery Drive
New Windsor, NY 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: 4/22/04

FOR : Michael & Tracy Diaz

LOCATED AT: 94 Creamery Drive

ZONE: CL-1 Sec/Blk/ Lot: 80-2-9

DESCRIPTION OF EXISTING SITE: Single Family Dwelling with above ground pool

IS DISAPPROVED ON THE FOLLOWING GROUNDS: 48-21,G1 Private Swimming Pools

1. Such swimming pool shall not be located closer than 10ft to any property line. Proposed pool will be 2ft from the rear property line. A variance of 8ft is required.

COPY


BUILDING INSPECTOR

PERMITTED

PROPOSED OR
AVAILABLE:

VARIANCE
REQUEST:

ZONE: CL-1 USE: Above ground pool

MIN LOT AREA:

MIN LOT WIDTH:

REQ'D FRONT YD:

REQ'D SIDE YD:

REQ'D TOTAL SIDE TD:

REQ'D REAR YD: 10ft

2ft

8ft

REQ'D FRONTAGE:

MAX BLDG HT:

FLOOR AREA RATIO:

MIN LIVABLE AREA:

DEV COVERAGE:

cc: Z.B.A., APPLICANT, FILE, W/ ATTACHED MAP

04-38

PLEASE ALLOW FIVE TO TEN DAYS TO PROCESS
IMPORTANT
YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and underslab plumbing.
4. When framing, rough plumbing, rough electric and before being covered.
5. Insulation.
6. Final inspection for Certificate of Occupancy. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Well water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway bond may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Call 24 hours in advance, with permit number, to schedule inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and perc test.
13. Road opening permits must be obtained from Town Clerk's office.
14. All building permits will need a Certificate of Occupancy or a Certificate of Compliance and here is no fee for this.

RECEIVED

APR 21 2004

BUILDING DEPARTMENT

FOR OFFICE USE ONLY:
Building Permit #: 2004-0343

**AFFIDAVIT OF OWNERSHIP AND/OR CONTRACTOR'S COMP & LIABILITY INSURANCE CERTIFICATE IS
REQUIRED BEFORE THE BUILDING PERMIT APPLICATION WILL BE ACCEPTED AND/OR ISSUED**

PLEASE PRINT CLEARLY - FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

Owner of Premises MICHAEL DIAZ

Address 94 CREAMERY DRIVE NEW WINDSOR N.Y. Phone # (845) 562-4808

Mailing Address 94 CREAMERY DRIVE NEW WINDSOR N.Y. 12553 Fax # _____

Name of Architect NON

Address NON Phone _____

Name of Contractor ROYAL POOLS + SPAS INC

Address P.O. Box 363 - NEW HAMPTONS Phone _____

State whether applicant is owner, lessee, agent, architect, engineer or bulder _____

If applicant is a corporation, signature of duly authorized officer. _____
(Name and title of corporate officer)

1. On what street is property located? On the _____ side of _____
(N,S,E or W)
and _____ feet from the intersection of _____

2. Zone or use district in which premises are situated _____ Is property a flood zone? Y _____ N _____

3. Tax Map Description: Section 80 Block 2 Lot 9

4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.
a. Existing use and occupancy _____ b. Intended use and occupancy _____

5. Nature of work (check if applicable) New Bldg. Addition Alteration Repair Removal Demolition Other Replacing existing Above ground Pool w/ new

6. Is this a corner lot? No

7. Dimensions of entire new construction. Front _____ Rear _____ Depth _____ Height _____ No. of stories Pool w/ new

8. If dwelling, number of dwelling units: _____ Number of dwelling units on each floor _____

Number of bedrooms _____ Baths _____ Toilets _____ Heating Plant: Gas _____ Oil 28 Ft round

Electric/Hot Air _____ Hot Water _____ If Garage, number of cars _____

9. If business, commercial or mixed occupancy, specify nature and extent of each type of use _____

10. Estimated cost \$4,500.00

Fee \$50.00
CR # 438 dtd 1/2/104

PAID

UL#
Hayward 193 E

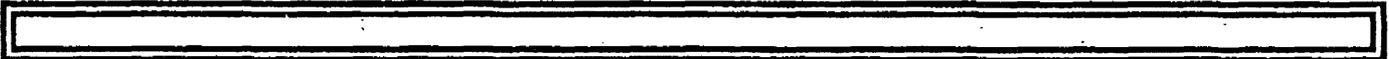
"i" three panel note

____/____/____
date

APPLICATION FOR BUILDING PERMIT
TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK
Pursuant to New York State Building Code and Town Ordinances

Building Inspector: Michael L. Babcock
Asst. Inspectors Frank Lisi & Louis Krychear
New Windsor Town Hall
555 Union Avenue
New Windsor, New York 12553
(845) 563-4618
(845) 563-4695 FAX

Bldg Insp Examined _____
Fire Insp Examined _____
Approved _____
Disapproved _____
Permit No. _____



INSTRUCTIONS

- A. This application must be completely filled in by typewriter or in ink and submitted to the Building Inspector.
- B. Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram, which is part of this application.
- C. This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- D. The work covered by this application may not be commenced before the issuance of a Building Permit.
- E. Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- F. No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions, or alterations, or for removal or demolition or use of property as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

X *Michael Lisi*
(Signature of Applicant)

(Address of Applicant)

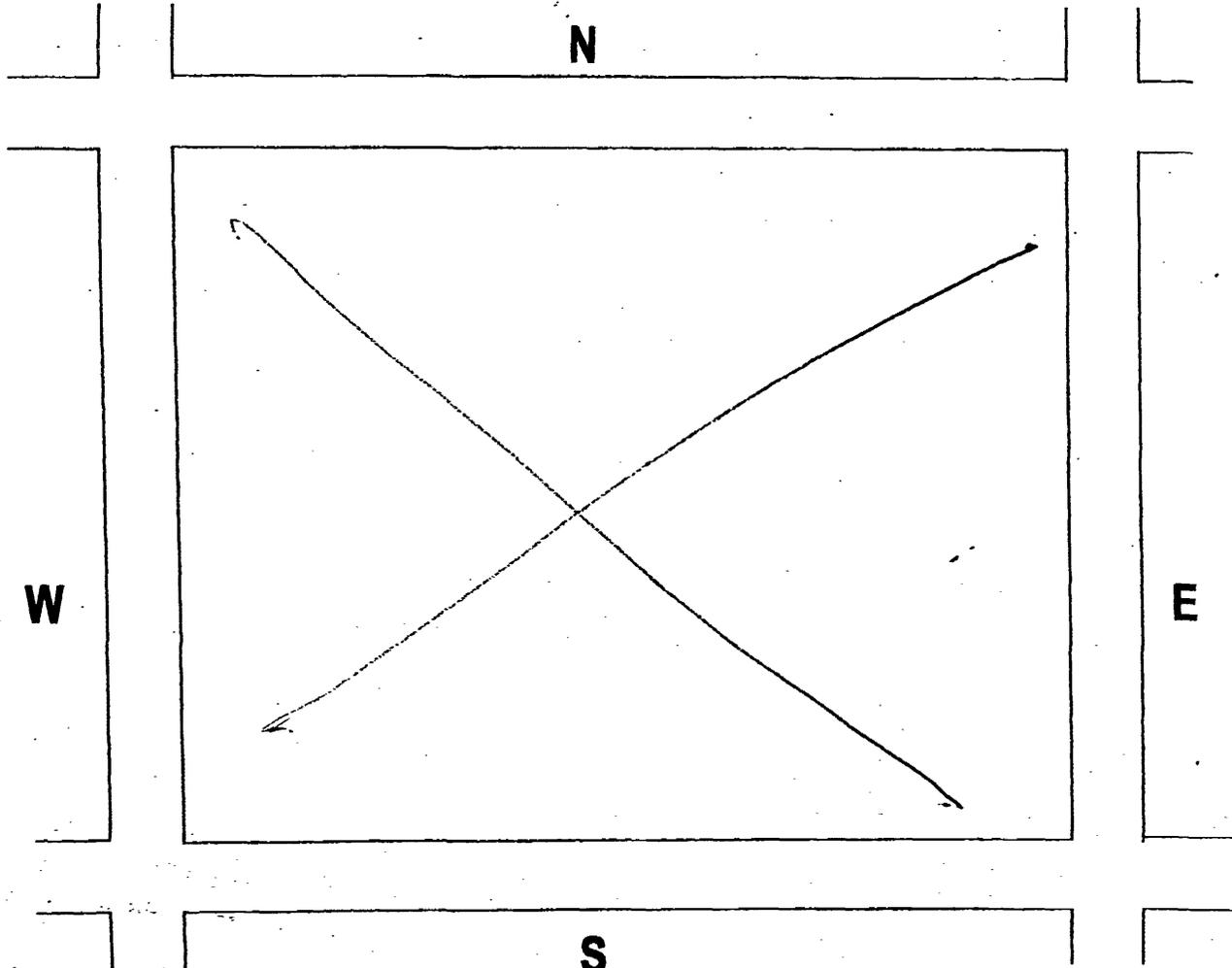
X *Michael Lisi*

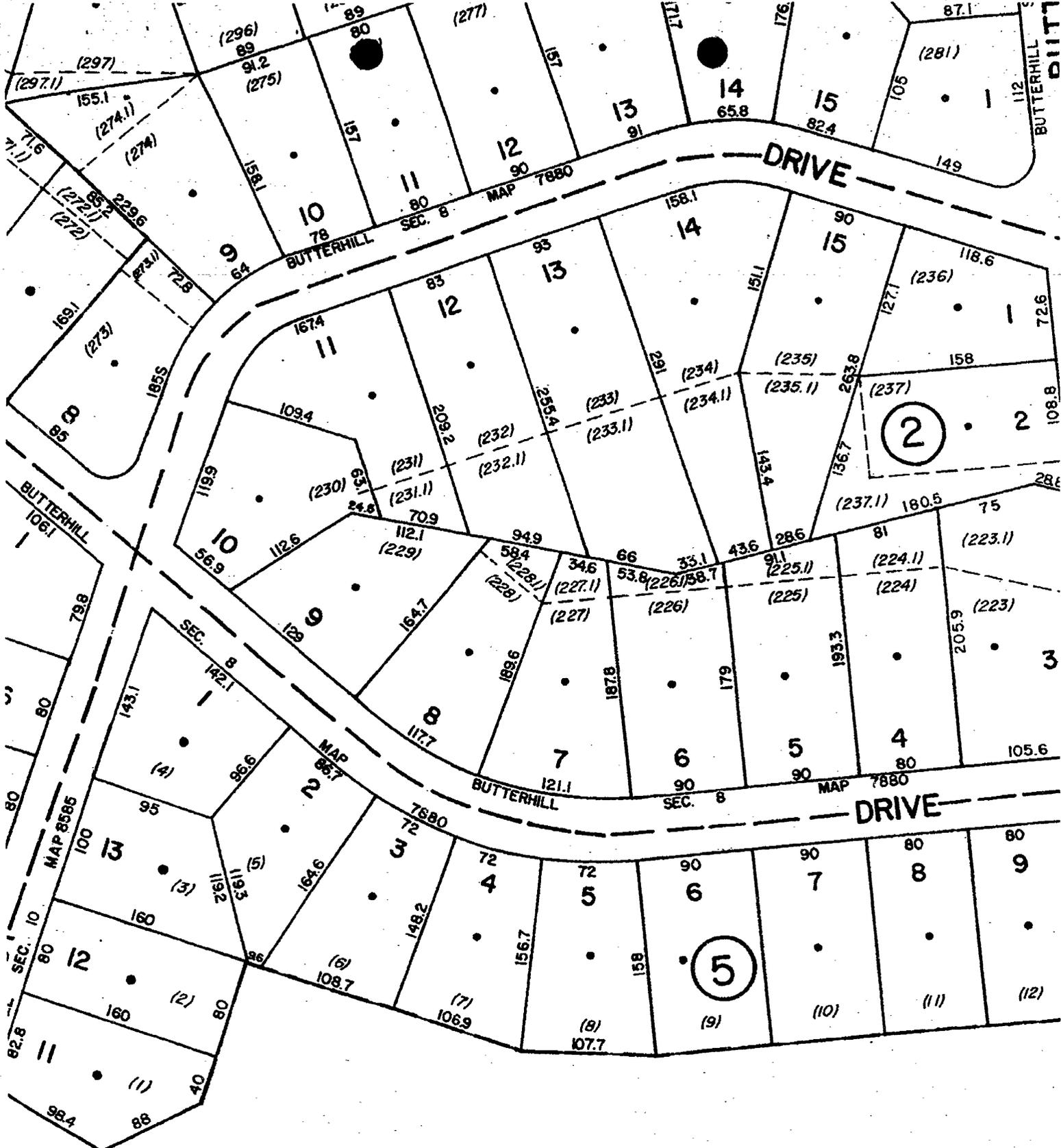
(Owner's Signature)

(Owner's Address)

PLOT PLAN

NOTE: Locate all buildings and indicate all set back dimensions. Applicant must indicate the building line or lines clearly and distinctly on the drawings.



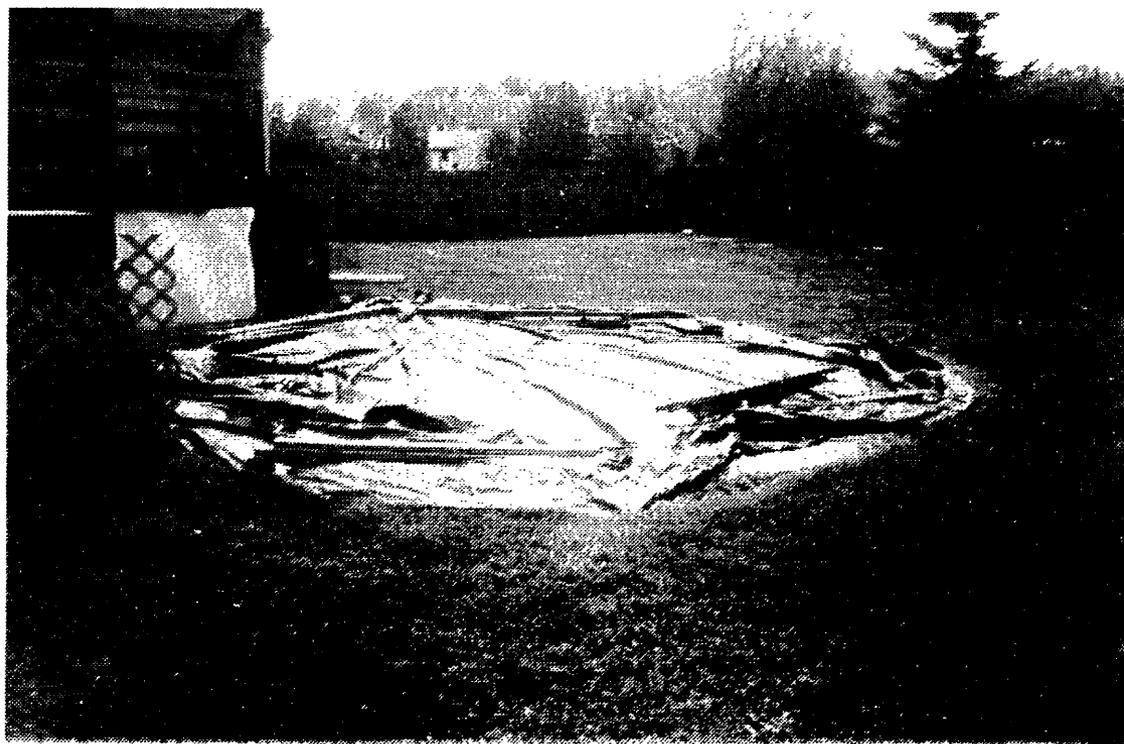
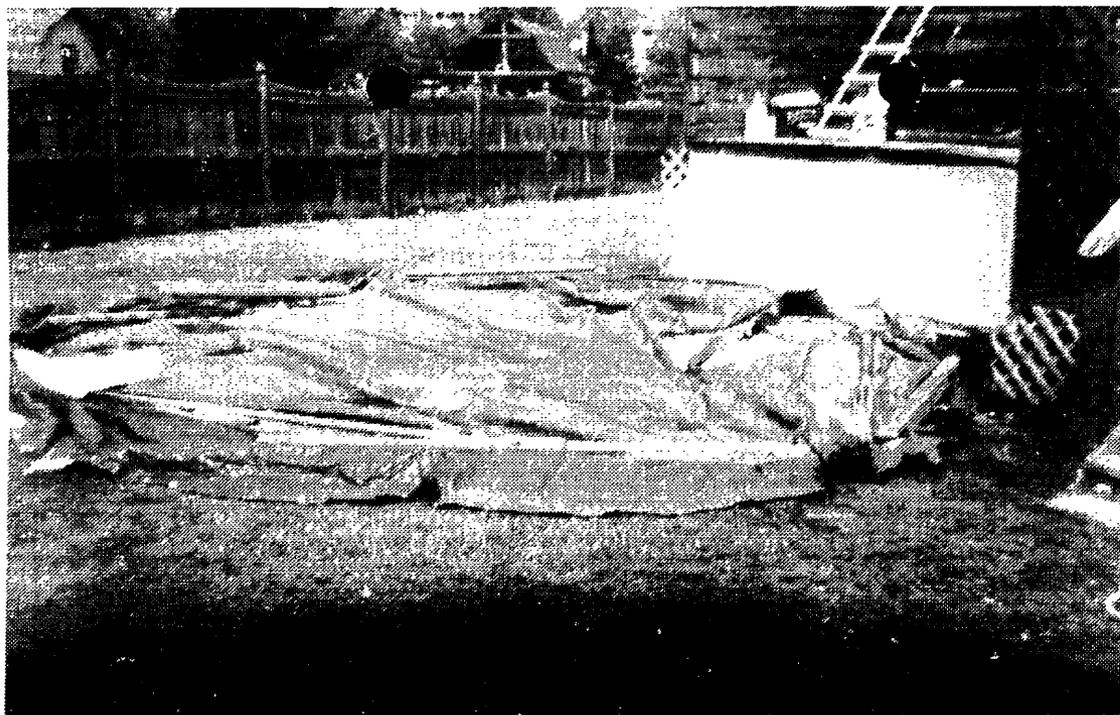


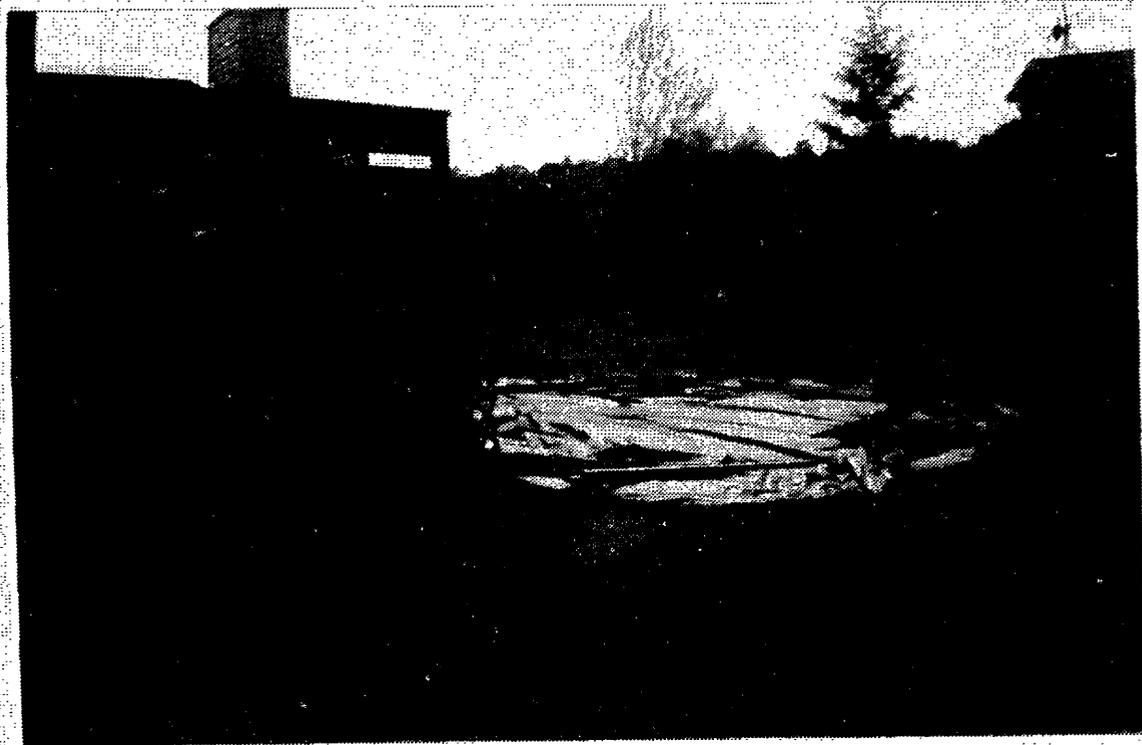
NEW YORK

TOWN OF









MICHAEL DIAZ (04-38)

MR. KANE: Request for 8 ft. rear yard setback for proposed above-ground pool at 94 Creamery Drive.

Mr. and Mrs. Michael Diaz appeared before the board for this proposal.

MR. KANE: I will ask if there's anybody here that wants to speak at this particular meeting? Okay, tell us what you want to do.

MR. DIAZ: I just want to put a little bigger pool than the old existing pool was.

MR. KANE: You have a 21 foot and you're going for a 28?

MR. DIAZ: Right.

MR. KANE: You won't be cutting down any trees or substantial vegetation with the building of the pool?

MR. DIAZ: No.

MR. KANE: Creating any water hazards or runoffs?

MR. DIAZ: No.

MR. KANE: Any easements running through the area where the pool is going to be built?

MR. DIAZ: No.

MR. KANE: Basically looking at your property that's one of the few spots that you can put it in your yard anyplace basically that pool goes you're going to need some kind of a variance for it?

MR. DIAZ: Right.

MR. MINUTA: Mr. Chairman, just a point of clarification, the dotted lines within the survey that's been provided, what's that, is that a setback or is that an easement or other?

MR. KANE: I would say other, I see no markings to indicate.

MR. KRIEGER: Is that the building envelope?

MR. MC DONALD: It's on both sides that usually indicates there's an easement in there somewhere.

MR. KANE: Mike, we need your expertise.

MR. BABCOCK: I'm looking, I see exactly what you're saying, usually it says somewhere on there that it's a, it appears to be an easement but it doesn't say it.

MR. KANE: On Creamery the only easement I know going through on Creamery from the straight out is back to the little park. You're not by the park, are you?

MR. DIAZ: No, I'm on this side.

MR. BABCOCK: There's a drawn survey that says 20 foot easement but that's a utility easement.

MR. MC DONALD: Everything runs in the back in Butterhill, doesn't it?

MR. BABCOCK: You know, there's an old survey in the file that shows it as a utility easement 10 foot wide on his property.

MR. MC DONALD: If we go by that, the projected pool is going to be over the easement?

MR. BABCOCK: Yeah, yeah, we can't do that.

MR. MC DONALD: Can we move it in the other corner.

MR. DIAZ: No, I have a sprinkler system there with pop-ups.

MR. MINUTA: Well, we can't go within the easement different shape or perhaps, I don't know what else is on the property.

MR. DIAZ: I don't know, I just bought the house, I didn't even know about this.

MR. MINUTA: What this is showing if this dashed line is in fact an easement the pool, existing pool as this survey shows is already over that easement probably by possibly a foot.

MR. REIS: Did you purchase the pool separately?

MR. DIAZ: It's in my garage, it ain't set up.

MR. REIS: Understand what the problem is?

MR. DIAZ: Yeah, this is for the whole Town onto my property the electric?

MR. KANE: It's known as an easement, a lot of properties have this.

MR. DIAZ: I never knew it when I bought the property.

MR. KANE: It would be on your survey.

MR. REIS: It goes beyond your house.

MR. DIAZ: But it would have to be under my house.

MR. REIS: It's along the--

MR. MC DONALD: Ten foot on your property and 10 is on theirs.

MR. KANE: There's a lot of easements coming through Butterhill.

MR. DIAZ: It was never explained to me so I never knew about it.

MR. KANE: You can obviously put the same size. Where did you purchase the pool from?

MR. DIAZ: Royal Pool but that other pool is too small.

MR. KANE: We're going to have to take another look at your property there and decide where else we can put the pool because we can't allow it to go over the easement. So I think what, I think what I'd like to do here with your permission instead of calling a vote on this tonight we'll table the discussion so we can take a look at your property and we can do a little bit more research, make sure the easement is still there since we have a little information on it, it's on the map and I want to make sure it's all viable and then if you can come back with an alternative as to where we can put this on your property, we'll adjust the easements.

MR. DIAZ: I'd have to move the whole deck and the electric and I'd have to come back here again?

MR. KANE: Well, you're still going to be here under the same, but you'll come right back to the public hearing on this but we'll try to, we'll adjust the numbers at that point.

MR. MINUTA: Sir, if we table this vote, we can extend it and we'll give you the opportunity to find an alternative means of placing the pool.

MR. KANE: Then you'll come right back in a public

hearing. There won't be a delay for a preliminary, either that or we can go right to a vote.

MR. DIAZ: No, that may not be existing, we don't know.

MR. KANE: I'd like to do a little more research on it. The problem is you see the dotted lines here coming through, it indicates on both sides of your property line that indicates that there's possibly an easement that went through here, the 21 foot pool at this end right here just crosses over that easement.

MRS. DIAZ: I thought that was the 10 foot between the fence that that's where just showing that the pool would be, you know, would go, I thought that was just--

MR. KANE: No, usually on this kind of a survey that's the sign of some kind of easement.

MR. DIAZ: If he was able to put the pool--

MR. KANE: He cheated over a little bit, he's just right there, he just goes over that line a tiny bit, technically what could happen--

MR. DIAZ: If we turned it a little bit this way?

MR. KANE: But with us holding, tabling the vote then you can take a look at your yard, get us the correct measurements cause you're still going to need some kind of variance over here. So what we're saying is go home and just redraw this out on that and come back to us and we'll get it all straightened out for you or we can continue through.

MR. DIAZ: We have to rebuild the whole deck and everything else. I don't want to go through that. We can put the same size pool, maybe that ain't active anymore.

MR. KANE: Gives us time to make sure the easement, gives you a chance to look at your property, either way you want to go is fine with me.

MR. DIAZ: I want to look at it.

MR. KRIEGER: You have to check out whether the easement's still active.

MRS. DIAZ: How do we find that out?

MR. KANE: Mike's going to do a little research on it for us and your job is going to be to make sure this will come up the next public hearing that we have which will be in about two weeks.

MR. DIAZ: What's actually an easement, I don't know understand?

MR. KANE: An easement means that the utility companies, whether it's sewer, water, electric, they have a right-of-way through private property to be able to lay the pipes, they need the infrastructure that they need to put through and Butterhill every neighborhood has them.

MR. DIAZ: Let's say something broke in here, they have the right-of-way to come rip up my yard?

MR. KANE: If you put the pool over the easement they can go with a bulldozer and take it down.

MR. DIAZ: I'm saying if they didn't, I'm responsible for putting in the new grass?

MR. KANE: They come down, throw down some grass seed and that's the way it is.

MRS. DIAZ: Kind of odd that it follows our property line in the back.

MR. KANE: It goes out.

MRS. DIAZ: How it exactly follows.

MR. KANE: It's just a picture of your--

MRS. DIAZ: I know that but they might of done those easements, right, following the back of each property line.

MR. DIAZ: If this is no good later on, we can find out and maybe I will be able to put the pool, we might as well wait.

MR. KANE: You need to do a little more homework, so in any case, what your job will be is just to doublecheck in case we need an alternative, you'll be ready with an alternative.

MR. DIAZ: Right.

MR. KANE: Okay, we all in agreement?

MR. MC DONALD: Table it.

MR. KANE: Yeah. Your homework is to find an alternative site just in case, take a look at it, don't be so negative here, take a look in your yard and see where the pool can go with the shimmering water.

MRS. DIAZ: It has to go in the paper again?

MR. KANE: No, it's tabled, we don't have to put it back in the paper.

MR. KRIEGER: Not once it starts.

MR. KANE: We could not do it and if you decided just to go and put it up, technically, again, if there was a

problem they can come in and they're not going to wait for you to take the pool down so we need to--

MR. DIAZ: So if it's not active?

MR. KANE: Then we'll pick up right where we were and if it is active then we'll look at what your alternative is that you're bringing to us. Okay?

MRS. DIAZ: Is there anything we can do on their end?

MR. KANE: See where we can put a pool, Mike will take care of the easement, he has access to that stuff, I think it will be easier for Mike to do that, right?

MR. BABCOCK: Yes.

MR. MINUTA: What might be helpful to you is if the easement is active, there's not much we're going to be able to do for you there, however, if you take a look at other spots on your property, you may want to locate whatever may be in these areas, you said you have pop-up sprinklers and things so--

MRS. DIAZ: We have sprinklers all through here but nothing here.

MR. MINUTA: So that's obviously a viable alternative over here, just a reconfiguration of the deck without actually having to tear it down. So that's probably your most viable area. This may be, it may require a variance at that point but under the worst circumstances where this is active you're going to have to find an alternative but if it's not then we can forward.

MR. DIAZ: All right.

MR. KANE: Mike, you're going to get that alternative area the space where the pool is, you know, to you to

measure out half the diameter and then on the back thing I want you to give me a measurement from the property line to the wall to see if you need a variance so you can give us that number and we can work with that from there cause I don't want to delay it again. So you need to come in prepared with the numbers that we need for that, how many feet the wall will be from the property line so we have everything and we can just move along.

MR. DIAZ: Like 10 feet, right?

MR. KANE: In Butterhill, yes, we're 12, right, Mike?

MR. BABCOCK: He's got 10 here, Mr. Chairman, so I really don't, actually, he's got the requirement he's saying is 10, I have to check that, he's saying requirement is 10, they're only going to be 2.

MR. KANE: Who's he?

MR. BABCOCK: Lou the building inspector that wrote this up and that's exactly--

MR. KANE: Does Butterhill have different setbacks?

MR. BABCOCK: No, the side yard is 12 feet.

MR. KANE: And back is 10?

MR. BABCOCK: Right so bring us those measurements so that if we do and we find that it is an easement then we'll have the measurements, we can proceed, boom, you can get the kids out of the sprinkler and into the pool.

MRS. DIAZ: Then we have to come in two weeks to the next one?

MS. MASON: I'll notify you.

MR. DIAZ: Thank you.

MR. KANE: So officially--

MR. MINUTA: Accept a motion?

MR. KANE: Yes, I will.

MR. MINUTA: I make a motion that we table the vote for Michael Diaz for the requested eight foot rear yard setback to provide him time to research the property and alternatives to the possible easement that encroaches his rear yard and side yard.

MR. KRIEGER: Table it to the next meeting, right?

MR. MINUTA: To the next meeting.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. MINUTA	AYE



RESULTS OF Z.B.A. MEETING OF: June 28, 2004

PROJECT: Michael Diaz

ZBA # 04-38

P.B.#

USE VARIANCE: NEED: EAF _____ PROXY _____

LEAD AGENCY: M) _____ S) _____ VOTE: A _____ N _____
 RIVERA _____
 MCDONALD _____ CARRIED: Y _____ N _____
 REIS _____
 MINUTA _____
 KANE _____

NEGATIVE DEC: M) _____ S) _____ VOTE: A _____ N _____
 RIVERA _____
 MCDONALD _____ CARRIED: Y _____ N _____
 REIS _____
 MINUTA _____
 KANE _____

PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____
 RIVERA _____
 MCDONALD _____ CARRIED: Y _____ N _____
 REIS _____
 MINUTA _____
 KANE _____

APPROVED: M) _____ S) _____ VOTE: A _____ N _____
 RIVERA _____
 MCDONALD _____ CARRIED: Y _____ N _____
 REIS _____
 MINUTA _____
 KANE _____

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____
 RIVERA _____
 MCDONALD _____
 REIS _____ CARRIED: Y _____ N _____
 MINUTA _____
 KANE _____

PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES _____

Tabled to next meeting
 VARIANCE APPROVED: M) MN S) _____ VOTE: A 5 N _____.

RIVERA A
 MC DONALD A CARRIED: Y N _____
 REIS A
 MINUTA A
 KANE A

★

Check on easement is it still active

No notices necessary on newspaper

Tabled

Need measurements for alternate location of pool

MICHAEL DIAZ (04-38)

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

MR. KANE: Request for an eight foot rear yard setback for proposed above-ground pool at 94 Creamery Drive. Tell us what you want to do, sir.

MR. DIAZ: The old pool broke, we took it down, we'd like to propose, it's eight foot round bigger, instead of a 21 foot, we want to put a 28 foot up since we're two foot from two of the neighbors' fences, they said we need a variance.

MR. KANE: That will put you at eight foot from the fence and you need to be ten?

MR. DIAZ: Right.

MR. BABCOCK: Actually, two foot, Mr. Chairman, he's going to be two foot from his fence, he needs 8.

MR. KANE: The other thing I was talking to Michael about a little earlier that I saw is Mike, do we have a permit on the deck?

MR. BABCOCK: Yes.

MR. KANE: Everything is cool on that?

MR. BABCOCK: Yes and he has a certificate on the old pool and old deck so everything has been taken care of.

MR. KANE: If we see something, we try and clear it up.

MR. DIAZ: I just bought the house and this is what it came with already and I just, the pool broke and we have to replace it.

MR. KANE: Just look at the corner, looking at 40 but everything passes the setbacks, if people come in, they're spending the money to get it clean, if we see something we want to do it all at once so you don't have to come back, but that's a moot point.

MR. DIAZ: It's exactly where it was before.

MR. KANE: There's obviously no cutting down of trees or shrubbery?

MR. DIAZ: No.

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

MR. DIAZ: No, my neighbors' properties are uphill anyway, they leak on me.

MR. KANE: This is the safest spot in your yard?

MR. DIAZ: Yeah.

MR. KANE: No easements where the pool is?

MR. DIAZ: No, it's all flat land.

MR. KANE: Mike, Steve, any questions?

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: I make a motion that we set up Michael Diaz for his requested variance at 94 Creamery Drive.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA AYE

May 24, 2004

12

MR. REIS
MR. KANE

AYE
AYE

PUBLIC HEARING NOTICE
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 on the following Proposition:

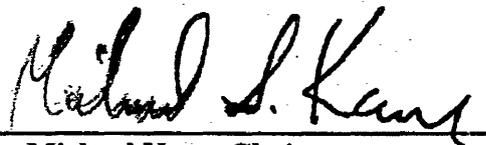
Appeal No. 04-38

Request of MICHAEL & TRACY DIAZ

for a VARIANCE of the Zoning Local Law to Permit:

Request for 8 ft. Rear Yard Setback (48-21, G1) for proposed above ground pool at 94 Creamery Drive in a CL-1 Zone (80-2-9)

PUBLIC HEARING will take place on JUNE 28, 2004
at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York
beginning at 7:30 P.M.



Michael Kane, Chairman



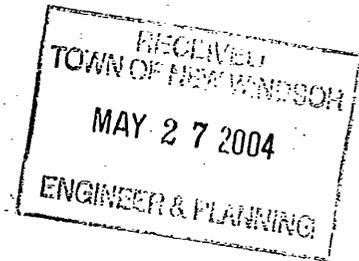
Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4631
Fax: (845) 563-4693

Assessors Office

May 26, 2004

Michael & Tracy Diaz
94 Creamery Drive
New Windsor, NY 12553



Re: 80-2-9 ZBA# 04-38

Dear Mr. & Mrs. Diaz:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$85.00, minus your deposit of \$25.00.

Please remit the balance of \$60.00 to the Town Clerk's Office.

Sincerely,

J. Todd Wiley, IAO
Sole Assessor

JTW/tmp
Attachments

CC: Myra Mason, Zoning Board

37-1-42.12

Cactus Resort Properties, Inc.
c/o Finova Capital
1000 First Avenue
King of Prussia, PA 19406

80-1-9

Anthony Wandell
338 Butternut Drive
New Windsor, NY 12553

80-1-12

Alan & Maureen Scheck
332 Butternut Drive
New Windsor, NY 12553

80-1-15

Raymond & Sherri Bosse
326 Butternut Drive
New Windsor, NY 12553

80-1-23

John & Pamela Barth
86 Guernsey Drive
New Windsor, NY 12553

80-1-26

Jose & Zoraide Santiago
80 Guernsey Drive
New Windsor, NY 12553

80-2-3

Robert & Angela Donaldson
221 Butterhill Drive
New Windsor, NY 12553

80-2-6

Gary & Theresa Hall
88 Creamery Drive
New Windsor, NY 12553

80-2-10

Harry DeMarzi
Gloria Feinstein DeMarzi
335 Butternut Drive
New Windsor, NY 12553

80-2-13

Craig & Patricia Wood
329 Butternut Drive
New Windsor, NY 12553

80-1-1

David & Barbara Gray
215 Butterhill Drive
New Windsor, NY 12553

80-1-10

Lindsay Clapp
336 Butternut Drive
New Windsor, NY 12553

80-1-13

Michael & Nancy Bell
330 Butternut Drive
New Windsor, NY 12553

80-1-21

Luigi & Linda DiCocco
90 Guernsey Drive
New Windsor, NY 12553

80-1-24

Robert & Rose Jurik
84 Guernsey Drive
New Windsor, NY 12553

80-2-1

Robert & Rosemarie Meyers
217 Butterhill Drive
New Windsor, NY 12553

80-2-4

Philip & Irene Hernandez
84 Creamery Drive
New Windsor, NY 12553

80-2-7

Andres & Deirdre Washington
90 Creamery Drive
New Windsor, NY 12553

80-2-11

Sean & Monica Jones
333 Butternut Drive
New Windsor, NY 12553

80-2-14

Keith & Colleen Schafer
327 Butternut Drive
New Windsor, NY 12553

80-1-8

James & Maureen Noble
340 Butternut Drive
New Windsor, NY 12553

80-1-11

Farrel Tannenbaum
334 Butternut Drive
New Windsor, NY 12553

80-1-14

Anthony & Venus Sanchez
328 Butternut Drive
New Windsor, NY 12553

80-1-22

Edith Anne Dyer
Norman Nowosinski
88 Guernsey Drive
New Windsor, NY 12553

80-1-25

Leslie Motard
82 Guernsey Drive
New Windsor, NY 12553

80-2-2

Peter & Ellen Chiavaro
219 Butterhill Drive
New Windsor, NY 12553

80-2-5

Rose Marie & Gerald Bohr, Jr.
86 Creamery Drive
New Windsor, NY 12553

80-2-8

Victor & Sylvia Santiago
92 Creamery Drive
New Windsor, NY 12553

80-2-12

Richard & Carol Keber
331 Butternut Drive
New Windsor, NY 12553

80-2-15

Samantha Calderone
325 Butternut Drive
New Windsor, NY 12553

80-5-1
Kevin Chanowsky
Laura Sarno
113 Creamery Drive
New Windsor, NY 12553

80-5-4
Urias & Shirley Thomas
107 Creamery Drive
New Windsor, NY 12553

80-5-7
Thomas & Donna Brouard
101 Creamery Drive
New Windsor, NY 12553

80-5-11 & 80-6-13
Robert & Jamene Kopman
350 Butternut Drive
New Windsor, NY 12553

80-6-1
Francis Quinn & Nancy Shannon
342 Butternut Drive
New Windsor, NY 12553

80-6-4
Pauline Pullano
3 Shaker Court
New Windsor, NY 12553

80-6-7
James & Mary Ann O'Hare
9 Shaker Court
New Windsor, NY 12553

80-6-12.1
Ronaldo Robledo & Irma Garcia
352 Butternut Drive
New Windsor, NY 12553

80-6-16
Donald & Joann Lubarsky
344 Butternut Drive
New Windsor, NY 12553

80-8-3
Debra Anderson
104 Creamery Drive
New Windsor, NY 12553

80-5-2
John & GERALYN Casey
111 Creamery Drive
New Windsor, NY 12553

80-5-5
Antonius Tinnemans
105 Creamery Drive
New Windsor, NY 12553

80-5-8
Christopher & Michele Wing
99 Creamery Drive
New Windsor, NY 12553

80-5-12
John & Susan Leight
343 Butternut Drive
New Windsor, NY 12553

80-6-2
Michael & Josephine Oates
117 Creamery Drive
New Windsor, NY 12553

80-6-5
Vincent & Sandra Arcaro
5 Shaker Court
New Windsor, NY 12553

80-6-8
Rafael Villafane
11 Shaker Court
New Windsor, NY 12553

80-6-14
Hope White & Adam Keith
348 Butternut Drive
New Windsor, NY 12553

80-8-1
Barry & Elissa Murillo
100 Creamery Drive
New Windsor, NY 12553

80-8-4
Freddy & Nancy Olan
106 Creamery Drive
New Windsor, NY 12553

80-5-3
Mavourneen & James Hubbard, Sr.
109 Creamery Drive
New Windsor, NY 12553

80-5-6
Wilton Pobon
103 Creamery Drive
New Windsor, NY 12553

80-5-9
William & Donna Perk
97 Creamery Drive
New Windsor, NY 12553

80-5-13
Israel & Madeline Hudyberdi
341 Butternut Drive
New Windsor, NY 12553

80-6-3
Gerard Parmerter
1 Shaker Court
New Windsor, NY 12553

80-6-6
Cornelius & Deemichele Shea
7 Shaker Court
New Windsor, NY 12553

80-6-9
Errol & Leanne Foschini
13 Shaker Court
New Windsor, NY 12553

80-6-15
Keith & Karen Cazzolla
346 Butternut Drive
New Windsor, NY 12553

80-8-2
Regina Robinson Adams
Gary Adams
102 Creamery Drive
New Windsor, NY 12553

80-8-11
Warren Kemble
2 Shaker Court
New Windsor, NY 12553

80-8-12
Ronald & Marie Cabrera
P.O. Box 4635
New Windsor, NY 12553



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4615
Fax: (845) 563-4695

ZONING BOARD OF APPEALS

June 11, 2004

Michael Diaz
94 Creamery Drive
New Windsor, NY 12553

SUBJECT: REQUEST FOR VARIANCE #04-38

Dear Mr. & Mrs. Diaz:

This is just to let you know your Notices for Public Hearing were mailed out and the notice was also sent to The Sentinel Newspaper for publication. **PLEASE NOTE: The Sentinel will bill you directly for this add. This is not included in the escrow you posted upon application.**

Your Public Hearing before the Zoning Board of Appeals for your requested variance at:

94 Creamery Drive
New Windsor, NY 12553

is scheduled for the June 28, 2004 agenda.

This meeting starts at 7:30 p.m. and is held in the Town Meeting Room at Town Hall. If you have any questions or concerns in this matter, please feel free to contact me.

Very truly yours,

Myra Mason, Secretary
Zoning Board of Appeals

MLM:mlm



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4615
Fax: (845) 563-4695

ZONING BOARD OF APPEALS

May 18, 2004

Michael Diaz
94 Creamery Drive
New Windsor, NY 12553

SUBJECT: REQUEST FOR VARIANCE #04-38

Dear Mr. Diaz:

This letter is to inform you that you have been placed on the May 24th, 2004 agenda for the Zoning Board of Appeals to discuss your request for a variance at:

94 Creamery Drive
New Windsor, NY

This meeting starts at 7:30 p.m. and is held in the Town Meeting Room at Town Hall. If you have a problem with this time and/or date, please contact me at the above number and we will reschedule your appearance. If you have any further questions, please feel free to contact me.

Very truly yours,

Myra Mason, Secretary
Zoning Board of Appeals

MLM:mlm

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

RECEIPT OF ESCROW RECEIVED:

DATE RECEIVED: MAY 18, 2004

FOR: **ESCROW 04-38**

FROM: **MICHAEL DIAZ**

94 CREAMERY DRIVE

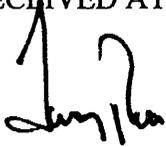
NEW WINDSOR, NY 12553

CHECK NUMBER: **455**

TELEPHONE: **562-4808**

AMOUNT: **300.00**

RECEIVED AT COMPTROLLER'S OFFICE BY:



5-19-04

NAME

DATE

PLEASE RETURN ONE SIGNED COPY TO MYRA FOR FILING

THANK YOU

Town of New Windsor
555 Union Avenue
New Windsor, NY 12553
(845) 563-4611

RECEIPT
#482-2004

05/18/2004

Diaz, Michael Or Tracy *ZBA 04-38*

Received \$ 50.00 for Zoning Board Fees, on 05/18/2004. Thank you for stopping by the Town Clerk's office.

As always, it is our pleasure to serve you.

Deborah Green
Town Clerk

TOWN OF NEW WINDSOR REQUEST FOR NOTIFICATION LIST

DATE: 05-18-04 PROJECT NUMBER: ZBA# 04-38 P.B. # _____

APPLICANT NAME: MICHAEL DIAZ

PERSON TO NOTIFY TO PICK UP LIST:

MICHAEL OR TRACY DIAZ
94 CREAMERY DRIVE
NEW WINDSOR, NY 12553

TELEPHONE: 562-4808

TAX MAP NUMBER:	SEC. <u>80</u>	BLOCK <u>2</u>	LOT <u>9</u>
	SEC. _____	BLOCK _____	LOT _____
	SEC. _____	BLOCK _____	LOT _____

PROPERTY LOCATION: 94 CREAMERY DRIVE
NEW WINDSOR, NY

THIS LIST IS BEING REQUESTED BY:

NEW WINDSOR PLANNING BOARD: _____

SITE PLAN OR SUBDIVISION: (ABUTTING AND ACROSS ANY STREET) _____

SPECIAL PERMIT ONLY: (ANYONE WITHIN 500 FEET) _____

AGRICULTURAL DISTRICT:
(ANYONE WITHIN THE AG DISTRICT WHICH IS WITHIN 500'
OF SITE PLAN OR SUBDIVISION PROJECT) _____



NEW WINDSOR ZONING BOARD XXX

LIST WILL CONSIST OF ALL PROPERTY WITHIN 500 FEET OF PROJECT XXX



AMOUNT OF DEPOSIT: 25.00 CHECK NUMBER: 457

TOTAL CHARGES: _____

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

APPLICATION FOR VARIANCE - continued

VIII. AREA VARIANCE: (This information will be on your Building Department Denial form you receive)

Area Variance requested from New Windsor Zoning Local Law,

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area			
Min. Lot Width			
Reqd. Front Yd.			
Reqd. Side Yd.			
Reqd. Rear Yd.	10 ft	2 ft	8 ft
Reqd. St Front*			
Max. Bldg. Hgt.			
Min. Floor Area*			
Dev. Coverage*			
Floor Area Ration**			
Parking Area			

*Residential Districts Only

**Non-Residential Districts Only

**PLEASE NOTE:
THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE OF
SUBMITTAL.**

04-38

COMPLETE THIS PAGE

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

APPLICATION FOR VARIANCE - continued

- IX. 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.

After reading the above paragraph, please describe why you believe the ZBA should grant your application for an Area Variance:

We are asking for a 8 ft
variance to erect a 28 foot pool where a
21ft pool once stood. We are unable to move
the existing around the area due to its size
shape and cost. The houses adjacent to our
property are all uphill and away from the
property line. No trees shrubs or bushes
will be disturbed creating the new pool.

PLEASE NOTE:

**THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE OF
SUBMITTAL.**

XII. 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 Local Law is fostered. (Trees, landscaped, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

The existing fence will be maintained accordingly for safety and privacy.

XIII. ATTACHMENTS REQUIRED:

- Copy of contract of sale, lease or franchise agreement. Copy of deed and title policy.
- Copy of site plan or survey (if available) showing the size and location of the lot, buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- Copies of signs with dimensions and location.
- Three checks: (each payable to the TOWN OF NEW WINDSOR)
- One in the amount of \$ 300.00 or 500.00 , (escrow)
- One in the amount of \$ 50.00 or 150.00 , (application fee)
- One in the amount of \$ 25.00 , (Public Hearing List Deposit)
- Photographs of existing premises from several angles. (IF SUBMITTING DIGITAL PHOTOS PRINTED FROM COMPUTER – PLEASE SUBMIT THREE(3) SETS OF THE PHOTOS.)

XIV. AFFIDAVIT.

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/her 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.

Sworn to before me this:

10th day of *May* 2004
Cheryl L. Canfield

CHERYL L. CANFIELD
 Notary Public, State of New York
 Qualified in Orange County
 Signature: *[Signature]* Notary
 Commission Expires April 22, 2006

Michael Diaz
 Owner's Signature (Notarized)

Michael Diaz
 Owner's Name (Please Print)

Michael Diaz
 Applicant's Signature (If not Owner)

PLEASE NOTE:

THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE OF SUBMITTAL.

COMPLETE THIS PAGE



TOWN OF NEW WINDSOR
 555 UNION AVENUE
 NEW WINDSOR, NY 12553
 (845) 563-4615 (MYRA MASON)

5/24



ZONING BOARD PROCEDURES

**PLEASE READ PAGE ONE AND TWO OF THIS PACKAGE AND SIGN PAGE TWO
 IT EXPLAINS THE PROCEDURE TO BE FOLLOWED FOR YOUR APPLICATION.**

PLEASE COMPLETE THE ATTACHED APPLICATION FORMS WHERE IT APPLIES TO YOUR SITUATION AND RETURN TO MYRA MASON (845-563-4615) AT THE ZONING BOARD OFFICE (LOCATED IN THE PLANNING BOARD & ENGINEERING OFFICE IN TOWN HALL) WITH THREE CHECKS MADE PAYABLE TO "THE TOWN OF NEW WINDSOR" AS FOLLOWS:

RESIDENTIAL: (Three Separate Checks Please)	
APPLICATION FEE:	\$ 50.00
*ESCROW:	\$300.00
** <u>DEPOSIT</u> FOR PUBLIC HEARING LIST:	\$ 25.00
MULTI-FAMILY: (Three Separate Checks Please)	
APPLICATION FEE:	\$150.00
*ESCROW:	\$500.00
** <u>DEPOSIT</u> FOR PUBLIC HEARING LIST:	\$ 25.00
COMMERCIAL: (Three Separate Checks Please)	
APPLICATION FEE:	\$150.00
*ESCROW:	\$500.00
** <u>DEPOSIT</u> FOR PUBLIC HEARING LIST:	\$ 25.00
INTERPRETATION: (Three Separate Checks Please)	
APPLICATION FEE:	\$150.00
*ESCROW:	\$500.00
** <u>DEPOSIT</u> FOR PUBLIC HEARING LIST:	\$ 25.00

YOU WILL THEN BE SCHEDULED FOR THE NEXT AVAILABLE AGENDA FOR YOUR "PRELIMINARY MEETING".

* **ESCROW**
 IS TO COVER OUTSIDE PROFESSIONAL FEES SUCH AS ZBA ATTORNEY FEE, MINUTES OF YOUR PORTION OF THE MEETING, ETC. THE BALANCE WILL BE RETURNED TO YOU UPON CLOSING FILE.

THE APPLICANT WILL BE BILLED DIRECTLY FOR THE PUBLIC HEARING ADVERTISEMENT IN THE "SENTINEL NEWSPAPER"

**

LIST OF PROPERTY OWNERS WITHIN 500 FT. RADIUS OF PROPERTY IN QUESTION:	
APPROXIMATE COST FOR PUBLIC HEARING LIST:	
1-10 NAMES	25.00
11-20 NAMES	35.00
21-30 NAMES	45.00
31-40 NAMES	55.00
41-50 NAMES	65.00
51-60 NAMES	75.00
61-70 NAMES	85.00
71-80 NAMES	95.00
81-90 NAMES	105.00
91-100 NAMES	115.00
ANYTHING OVER 100 NAMES IS \$1.00 EA. ADDITIONAL NAME	

FOLLOWING YOUR PRELIMINARY MEETING, THE ZONING BOARD SECRETARY WILL ORDER YOUR "PUBLIC HEARING LIST" FROM THE ASSESSOR'S OFFICE.

1. WHEN THE ASSESSOR'S OFFICE NOTIFIES YOU THAT YOUR LIST IS READY, YOU MUST COME IN AND PAY THE BALANCE DUE FOR THE LIST. (THIS WILL BE PREPARED ON LABELS FOR YOUR CONVENIENCE).
2. PREPARE AN ENVELOPE (*self-sealing envelopes are much appreciated*) FOR EACH LABEL WITH YOUR RETURN ADDRESS AND A REGULAR \$.37 STAMP. BRING THE PREPARED ENVELOPES AND A COPY OF THE LIST TO THE ZONING BOARD SECRETARY FOR MAILING. ***YOUR PUBLIC HEARING DATE WILL BE SCHEDULED AT THIS TIME.***

NOTE:

IF IT IS EASIER FOR YOU, YOU CAN BRING THE ENVELOPES WITH YOU WHEN YOU PICK UP AND PAY FOR YOUR LIST. YOU CAN PUT THE LABELS ON AT THAT TIME AND BRING THEM TO THE ZBA OFFICE FOR COMPLETION.

**** MUST READ AND SIGN ****

I UNDERSTAND THAT I WILL BE BILLED DIRECTLY FOR MY "LEGAL NOTICE" TO BE PUBLISHED IN THE SENTINEL NEWSPAPER FOR MY PUBLIC HEARING.... (this charge is not deducted from your escrow posted).

Tracey Diney
SIGNATURE

5/5/04
DATE

NOTE:

THE ZBA MEETS ON THE 2ND AND 4TH MONDAY OF EACH MONTH UNLESS A HOLIDAY FALLS ON THAT DATE. (JULY AND AUGUST - ONE MEETING PER MONTH ONLY)