

ZB# 04-73

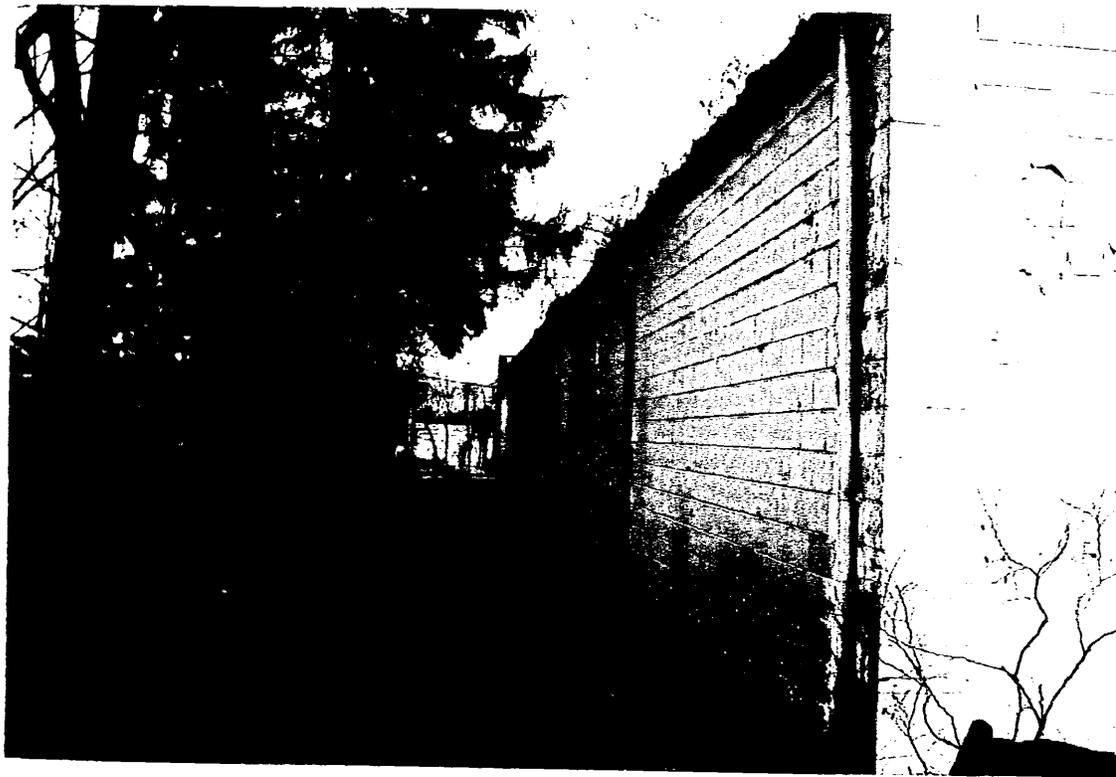
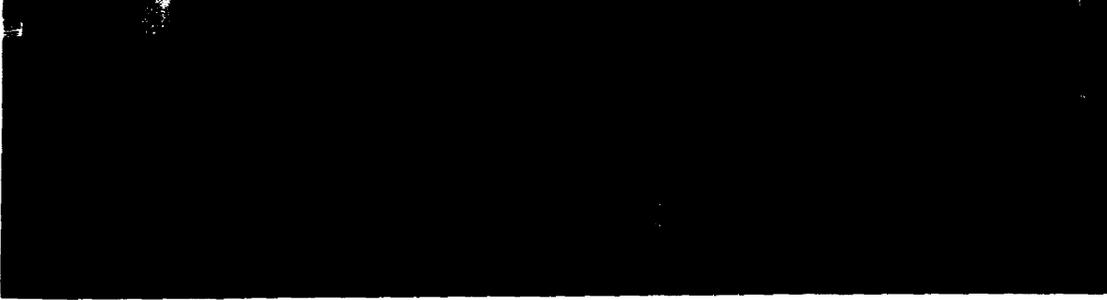
ToPo Realty

10-2-7

ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR
555 UNION AVENUE
NEW WINDSOR, N.Y. 12553
Granted 12-13-04

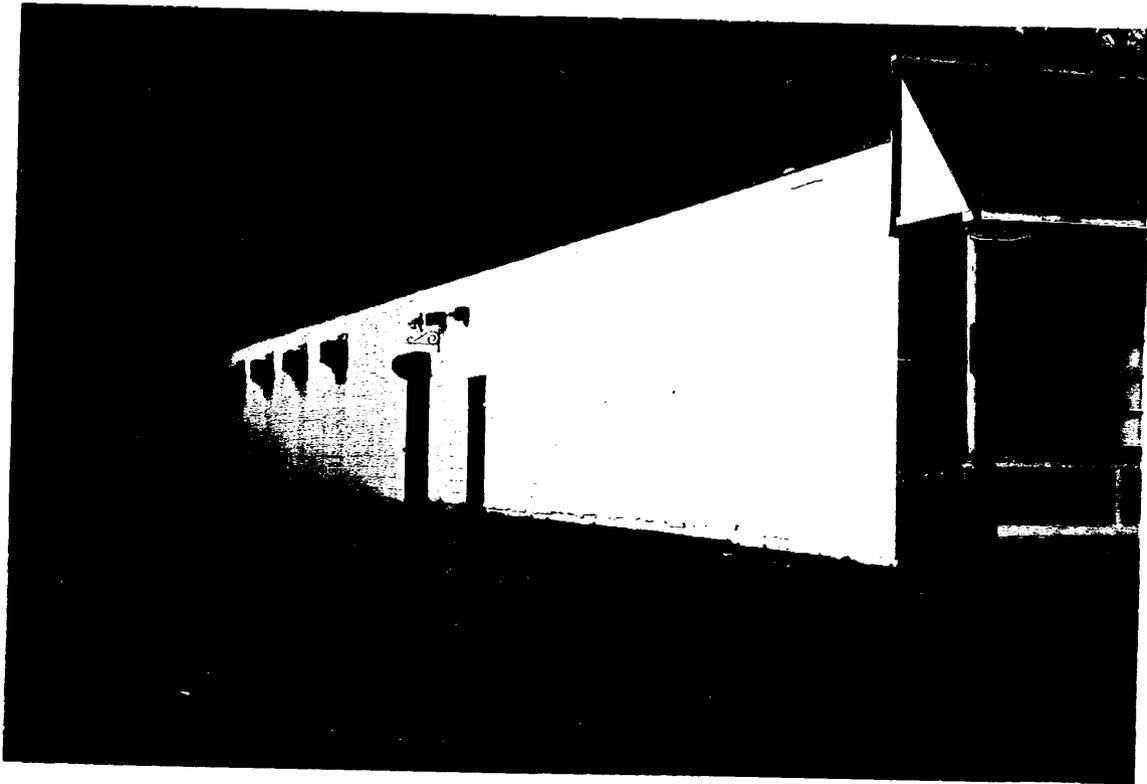
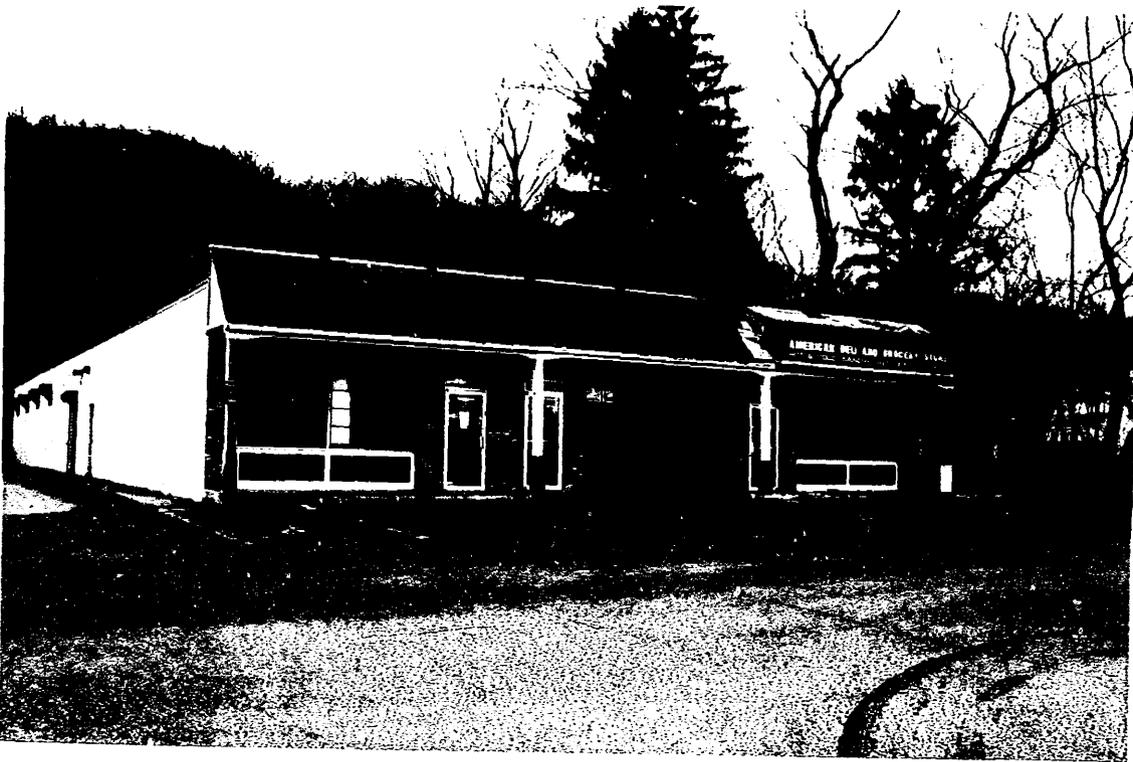
ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 10-13-00 BY 60324/MSK/STP







ZBA # **04-73** Topo Realty (Area)
42 Windsor Highway (10-2-7)



ZBA # **04-73** ToPo Realty (Area)
42 Windsor Highway (10-2-7)



Town of New Windsor

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

OFFICE OF THE ZONING BOARD OF APPEALS

March 15, 2005

MID HUDSON UROLOGICAL ASSOC.
369 FULLERTON AVENUE
NEWBURGH, NY 12550

SUBJECT: REQUEST FOR VARIANCE #04-73

Dear Sirs:

Please find enclosed two copies of the Formal Decision for your case before the Zoning Board of Appeals. Please keep these copies in your records for future reference if needed.

If you are in need of any further assistance or have any questions in this matter, please feel free to contact me at the above number.

Very truly yours,

Myra Mason, Secretary to the
NEW WINDSOR ZONING BOARD

MLM:mlm

cc: Michael Babcock, Building Inspector

NEW WINDSOR ZONING BOARD OF APPEALS

SBL: 10-2-7

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

MEMORANDUM OF
DECISION GRANTING

TOPO REALTY, LLC

AREA

CASE #04-73
-----X

WHEREAS, Topo Realty, LLC, owner(s) of 42 Windsor Highway, New Windsor, New York, 12553, has made application before the Zoning Board of Appeals for a/an

11 spaces of off street parking and;
56 Square Feet Minimum Lot Area and;
91 Feet Minimum Lot Width and;
15 Feet Side Yard Setback and;
29 Feet Side Yard Setback and;
1 Foot Maximum Building Height

located at 42 Windsor Highway in a C zone. (10-2-7)

WHEREAS, a public hearing was held on December 13, 2004 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant was represented by Gregory Shaw, P.E. of Shaw Engineering on behalf of this Application; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke in favor of or in opposition to the 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 published in The Sentinel, also as required by law.
2. The Evidence presented by the Applicant showed that:

- (a) The property is a commercial property located in a neighborhood of commercial properties.
- (b) The property was approved in 1972 for office and storage use, meeting the requirements of the Town of New Windsor Zoning Law as they then existed. The applicant now seeks to use the building for retail and office use.
- (c) The footprint of the building and the number of parking places have not changed, the requirements of the New Windsor Zoning Law have changed.
- (d) While the applicant now seeks to convert approximately 3,700 square feet of storage space to office and retail use, but, the applicant also proposes to add 29 new parking spaces, thereby exhausting all the land which is available.
- (e) The applicant appeared before the New Windsor Planning Board preliminarily and received its positive recommendation.
- (f) In order to create the additional parking places, the applicant will have to remove some trees but, not any substantial vegetation.
- (g) The creation of the new parking places will add some impervious area but, the available drainage on site is sufficient to ensure that the drainage will not become a problem to adjacent or area property holders or users.

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 variance(s) will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant that can produce the benefits sought.
3. The variance(s) requested is/are substantial in relation to the Town regulations but, nevertheless, are warranted.
4. The requested variance(s) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is/are self-created but, nevertheless, should be allowed.

6. The benefit to the Applicant, if the requested variance(s) is/are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variance(s) are/is appropriate and are/is the minimum variance(s) necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
8. The interests of justice will be served by allowing the granting of the requested area variance(s).

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a :

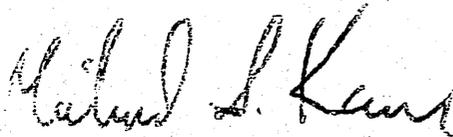
11 spaces of off street parking and;
56 Square Feet Minimum Lot Area and;
91 Feet Minimum Lot Width and;
15 Feet Side Yard Setback and;
29 Feet Side Yard Setback and;
1 Foot Maximum Building Height

located at 42 Windsor Highway in a C zone. (10-2-7) as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

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/or Building Inspector and Applicant.

Dated: December 13, 2004



Chairman

**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: JANUARY 28, 2005
SUBJECT: ESCROW REFUND

**PLEASE ISSUE A CHECK IN THE AMOUNT OF \$ 619.50 TO CLOSE OUT
ESCROW FOR:**

ZBA FILE #04-73

NAME & ADDRESS:

**MID HUDSON UROLOGICAL ASSOC.
369 FULLERTON AVENUE
NEWBURGH, NY 12550**

THANK YOU,

MYRA

L.R.1-28-2005



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



FILE #04-73 TYPE:AREA

APPLICANT Name & Address:
**MID HUDSON UROLOGICAL ASSOC.
369 FULLERTON AVENUE
NEWBURGH, NY 12550**

TELEPHONE: 561-3695

RESIDENTIAL:	\$ 50.00	CHECK # _____
COMMERCIAL	\$ 150.00	CHECK #13140
INTERPRETATION	\$ 150.00	CHECK # _____

ESCROW: COMMERCIAL \$500.00 CHECK #13141 (\$750.00)



<u>DISBURSEMENTS:</u>		<u>MINUTES</u>	<u>ATTORNEY</u>
		<u>\$5.50 / PAGE</u>	<u>FEE</u>
PRELIMINARY:	<u>5</u> PAGES	\$ <u>27.50</u>	\$ <u>35.00</u>
2 ND PRELIMINARY:	___ PAGES	\$ _____	\$ _____
PUBLIC HEARING:	<u>6</u> PAGES	\$ <u>33.00</u>	\$ <u>35.00</u>
PUBLIC HEARING:	___ PAGES	\$ _____	\$ _____

TOTAL: \$ 60.50 \$ 70.00



ESCROW POSTED: \$750.00
LESS: DISBURSEMENTS: \$ 130.50

AMOUNT DUE: \$ _____

REFUND DUE: \$ 619.50

Cc:

PRELIMINARY MEETINGS:

TOPO REALTY (04-73)

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. KANE: I'd like to explain to you in the Town of New Windsor that what they do is they have a preliminary meeting and then everything with the Zoning Board of Appeals has to be done in a public hearing. So doing a preliminary does you a chance to give your information to us and if you're missing something, we get a chance to say you need to bring this to the public hearing and that kind of stuff. A lot of towns you go in cold. So you'll repeat this at the public hearing if you're here tonight for a preliminary.

Topo Reality is a request for 11 spaces of off-street parking located at 42 Windsor Highway in a C zone.

MR. SHAW: Thank you. For the record and for the benefit of the alternate members, my name is Greg Shaw, I'm with Shaw Engineering representing Topo Realty LLC. The parcel that's before you is located on west side of Windsor Highway just a little bit south of Fern Avenue. It used to be the original Mid Hudson Beauty Supply building. It's presently now vacant and it's an 8,200 square feet building which is located in the C zone on a 0.92 acre parcel. For the past year at least the property's pretty much been vacant. The map that's in front of you has two plans on it, one is the existing conditions plan that's in the lower portion of the plan that's the site as it presently exists, it consists of 13 spaces in the front of the building itself, macadam driveway on the side then the dirt and gravel parking area in the back. And in its present use, actually its former use was for some retail and some warehouse in the back. What we're proposing to do is to convert the building into a professional medical office with

possibly some retail space. We're not proposing any additions to the structure whatsoever, we just wish to utilize the 8,200 square feet structure for that use. If you look at the upper portion of the plan, again you'll see the site, you'll see the 8,200 square foot building and you'll see the proposed site improvements which we're indicating on the plan that's 15 spaces in the front with handicapped parking and we're providing just bear with me, 29 spaces in the back. We have obtained a grading easement from the adjacent neighbor to allow us to maximize the number of spaces we can possibly fit on site, we cannot get anymore. So we're here before you first and foremost for a parking variance, according to your zoning ordinance we're obligated to provide 55 spaces and we're providing 44. In addition to that, you'll note on the plan and also on the variance application which has been submitted there are some existing non-conforming conditions, that being minimum lot area, minimum lot width and minimum side yard, one minimum side yard both and the building height. Trust me, we have not changed the building since it was built, the zoning has changed. So what we'd like to do is incorporate those non-conforming conditions into the application and ask the board to vote on all the variances, this way it brings the parcel up to zoning and if we're successful in getting the variance then we'll move on to the planning board.

MR. KANE: Mike, on the preliminary meeting we have just a request for 11 spaces off-street parking?

MR. BABCOCK: Yes.

MR. KANE: You have a denial for the other things or it's already added in?

MR. BABCOCK: Actually, it's on his plan but it's not in the denial, just the parking is in the denial.

MR. KANE: So how do we get that on the agenda?

MR. BABCOCK: I can do that.

MR. KANE: You'll take care of that and put it on?

MR. BABCOCK: I call them pre-existing, non-conforming.

MR. KANE: But we want to square it out so everything's cleared up so you have--

MR. BABCOCK: Myra told me to do that and I said it wasn't necessary so that's my fault.

MR. KANE: That's why you're not Myra.

MR. BABCOCK: I'll take care of that before the public hearing.

MR. KANE: Thank you. So we have five pre-existing?

MR. SHAW: Non-conforming conditions.

MR. KANE: To get on record and then the one variance for 11 parking spaces. And it's going to be a medical building?

MR. SHAW: Yes, it's going to be a medical facility, with the primary entrance in the rear of the building, the medical facility may occupy the entire 8,200 square feet. Maybe they're not going to use it all, it will maybe a small retail space in the front, that has not been decided yet. That has to be worked out with the architectural plans, that's why seeing it's the same use group, we put both office and retail but it will be a medical facility for one of the local doctors practicing in the Newburgh area.

MR. KANE: For the public hearing at any time you don't feel that the parking that you're proposing here for this building right now would be insufficient, you

November 8, 2004

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don't believe it will be all used in one shot?

MR. SHAW: No, presently right now the practice, and understand they'll probably bring on another doctor but right now the medical practice in Newburgh has ten spaces so this is going to be a Godsend, 44 spaces, they're not going to buy this piece of property and rehab and invest as much money as they're going into it and have a shortage on parking.

MR. KANE: Okay, not going to be cutting down any trees? I see it's a gravel dirt parking area in the back, cutting down any trees or substantial vegetation?

MR. SHAW: There are going to be some trees that are going to be cut down, again, we wanted to maximize the number of parking and if you ride by the site, you'll see that there is a row of trees perpendicular to Windsor Highway as you go from the front of the property to the back, some of those are going to be removed both on the left side and the right-hand side.

MR. KANE: And the new macadam going in the back that's not going to be an issue with developmental coverage?

MR. SHAW: No.

MR. KANE: You're looking at its saying here 75 percent is what you're looking at right now?

MR. SHAW: Correct.

MR. KANE: I have no further questions. What about you guys?

MS. GANN: I don't.

MS. LOCEY: No.

MR. KANE: For the public hearing, Greg, if you could

November 8, 2004

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just bring some photos?

MR. SHAW: Absolutely.

MR. KANE: I'll accept a motion.

MS. LOCEY: I'll offer a motion to bring, to schedule a public hearing for the application by Topo Realty for 11 spaces of off-street parking located at 42 Windsor Highway in a C zone and also for five pre-existing non-conforming variances.

MS. GANN: I'll second the motion.

ROLL CALL

MS. LOCEY	AYE
MS. GANN	AYE
MR. KANE	AYE

PUBLIC HEARINGS:

TOPO REALTY (04-73)

Gregory Shaw of Shaw Engineering appeared before the board for this proposal

MR. KANE: Request for 11 spaces of offstreet parking, 56 square feet minimum lot area, 91 feet minimum lot width, 15 feet side yard setback, 29 feet side yard setback and 1 foot maximum building height located at 42 Windsor Highway.

MR. SHAW: If you don't mind, I would just like to read the narrative that I attached to the application. I think it touches on all the important points and when I'm done, I'll give Fran a copy of it.

The subject property is in a 0.92 acre parcel located in the west side of Windsor Highway and within the Designed Shopping Zoning District. The subject property contains and 8,190 square feet building which was approved in 1972 for an office and retail use, office and storage use, excuse me. At that time, the building was constructed for a business known as Mid Hudson Beauty supply. In the 32 years subsequent to the building's construction, the Town of New Windsor amended the bulk requirements of the Design shopping District in its ordinance. The result of these amendments is that while the lot and building met the required zoning requirements of 1972, they do not conform with many of the present bulk requirements, thus the need for the following area variances to rectify the existing non-conforming conditions. Variance number 1, an area variance of 56 feet for lot area where 3,944 square feet is provided and 40,000 square feet is required. Variance number 2, an area variance of 91 feet for minimum lot width where 109 feet is provided and 200 feet is required. Variance number 3, an area variance of 15 feet for a side yard setback one where 15 feet is provided and 30 is

required. Variance number 4, an area variance of 29 feet for side yard setback both where 41 feet is provided and 70 feet is required. The variance number 5, an area variance of one foot for a maximum building height where 16 feet is provided and 15 feet is allowed. The 1972 approval was for 3,780 square feet of retail and office area and 4,410 square feet of storage area. The application of Topo Realty is to use the entire building for office and retail use thus creating a need for the following additional area variance, that being variance number 6, an area variance of 11 parking spaces where 44 spaces are provided and 55 spaces are required.

Topo Realty LLC wishes to utilize the entire building for office and retail use and does not propose any building additions because the above zoning deficiencies presently exist and because that will not be exacerbated by the application of Topo Realty LLC, the granting of one through five, variances one through five will not produce an undesirable change in the character of the neighborhood nor be a detriment to the nearby properties. Also the granting of the five variances will not have an adverse affect or impact on the physical or environmental conditions in the neighborhood, nor can the applicant achieve relief by some other feasible method. Variances one through five are not substantial, not self-created. Variance number 6 which is for off-street parking is not entirely an existing non-conforming condition. Presently there are approximately 22 spaces on the site and 55 are required for the proposed office and retail use. This parking deficiency is partially due to the fact that 3,780 square feet of storage space will be converted to office and retail use and partially due to the fact that the Town of New Windsor has amended its zoning ordinance of 32 years to increase the number of spaces required from that in 1972. To mitigate the conversion of storage space to office and retail space, Topo Realty will create a new parking area at the rear of the building for 29 new parking spaces. The 55 spaces

is the maximum number of spaces that can be created on the site because the new parking area will be developed at the rear and because the surrounding land is presently undeveloped, the granting of variance number 6 will not produce an undesirable change in the character of the neighborhood and will not be a detriment to nearby property.

Furthermore, the granting of the variance will not have an adverse affect or impact on the physical or environmental conditions of the neighborhood, is not substantial, cannot be achieved by any other feasible method. The pictures that I have submitted to the board I think if you take a look at them pretty much define the character of the neighborhood, as I took the pictures this afternoon I looked across the street, I saw a lumber yard, I saw a concrete plant, I saw an earth excavating equipment company and as I looked to the south of the property, I saw a lot of campers sitting on top of the lawn. The building hasn't been occupied in a while, it's primarily going to be used for medical offices, the front portion may be used for office or may be used for a little bit of retail but it's, of the 8,000 square feet maybe it will be like 1,200 square feet, so I think it will be a substantial improvement to the neighborhood, and we have done everything we can to maximize the number of parking spaces. You cannot create another space on that site. We wish there was more land, there isn't, so we have done the best we could and with that, we request the variances before you tonight.

MR. KANE: I also understand that you're down here with the Planning Board's recommendation on this.

MR. SHAW: Yes, yes, they wish--

MR. KANE: A positive recommendation.

MR. SHAW: Correct, they think it would be a very good use of the property.

MR. KANE: Just to be a real pain, are you going to take the rotten car out of the back?

MR. SHAW: I'm not sure what goes first, the car or the sofa.

MR. KANE: They might want to sit on the sofa while stressing about the car, you know. Okay, so, basically, what we have is that the first five requests are all pre-existing conditions.

MR. SHAW: Correct.

MR. KANE: That were there, we're just going to bring them up to the current zoning regulations. And then we have a request for the 44 parking spaces basically instead of 5 with the 44 being more than enough to serve as the building as it's intended to be used.

MR. SHAW: Yes.

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

MS. MASON: On November 19, I mailed out 15 envelopes and had no response.

MR. KANE: Greg, with the fixing of the parking in the back, are you going to be cutting down any trees or substantial vegetation?

MR. SHAW: There's some trees that are along the property line, they'll be cut down but they're really not substantial and we have no neighbors around it, it's just brush and field behind us that's owned by Manns.

MR. KANE: Creating any water hazards or runoff?

MR. SHAW: We'll probably be generating a little bit of I'm impervious area but that storm water will flow to the state drainage system on Windsor Highway and we'll be getting a permit from the DOT to connect into it.

MR. KANE: Since this was pre-existing, any complaints about any of the, about the situate all either formal or informal that you know of?

MR. SHAW: Just the sofa and the car.

MR. KANE: Thank you, Greg.

MR. MINUTA: Greg, is that retaining wall proposed for this portion of the site in the back?

MR. SHAW: No, it's going to be graded up on a one on two slope with some crown vetch to create, to stabilize it.

MR. MINUTA: I'm familiar with this site, I see no reason not to move forward with this.

MR. KANE: Okay, any other questions?

MR. RIVERA: No.

MS. GANN: No.

MR. RIVERA: Make a motion?

MR. KANE: I'll take a motion, sure.

MR. RIVERA: Make a motion that we grant Topo Realty the requested variances for 56 square foot minimum lot area and 91 feet minimum lot width and 15 foot side yard setback and 29 foot side yard setback and one foot

minimum building height to include the 11 spaces of off-street parking at 42 Windsor Highway.

MR. MINUTA: Second it.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. RIVERA	AYE
MR. MINUTA	AYE
MR. KANE	AYE

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

NOTICE OF DISAPPROVAL OF PLANNING BOARD APPLICATION

PLANNING BOARD FILE NUMBER: 04-26

DATE: 10-28-2004

APPLICANT:

TOPO REALTY, LLC
39 NELSON ROAD
NEWBURGH, NY 12550

PLEASE TAKE NOTICE THAT YOUR APPLICATION:

DATED: 09-15-2004

FOR: SITE PLAN

LOCATED AT: WINDSOR HIGHWAY - NEW WINDSOR

ZONE: C

DESCRIPTION OF EXISTING SITE: SEC: 10 BLOCK: 2 LOT: 7

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

REQUIRED PARKING

TOWN OF NEW WINDSOR CODE: _____

Michael Babcock

MICHAEL BABCOCK,
BUILDING INSPECTOR 

NOTICE OF DISAPPROVAL OF PLANNING BOARD APPLICATION - Continued

REQUIREMENTS

P.B. # 04-26

ZONE: C

USE: _____

	REQUIRED	PROPOSED	VARIANCE REQUESTED
MIN. LOT AREA			
MIN. LOT WIDTH			
REQUIRED FRONT YARD			
REQUIRED SIDE YARD			
REQUIRED TOTAL SIDE YARD			
REQUIRED REAR YARD			
REQUIRED FRONTAGE			
MAX. BLDG. HT.			
FLOOR AREA RATIO			
MIN. LIVABLE AREA			
DEVELOPMENTAL COVERAGE			
O/S PARKING SPACES	55	44	11

PLEASE COMPLETE THE ENCLOSED ZONING BOARD APPLICATION AND RETURN TO THE ZONING BOARD SECRETARY AS INSTRUCTED IN THE APPLICATION PACKAGE. YOU WILL THEN BE PLACED ON THE NEXT AVAILABLE AGENDA FOR THE ZONING BOARD OF APPEALS.

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

ZBA REFERRAL:

TOPO REALITY LLC (04-26)

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. PETRO: Topo Realty LLC, proposed conversion of existing retail warehouse space to office retail. Where is this, Greg?

MR. SHAW: This is on Windsor Highway just a little bit south of Fern Avenue or Fern Street across from maybe Ruscetti Road, used to be Mid Hudson Beauty Supply, was built back around 1971, presently right now it's vacant.

MR. PETRO: Had a deli with a beautiful roof in the front?

MR. SHAW: It consists of the lower portion of the plan you'll see existing conditions, plan has the building on it, has 13 parking spaces in the front, a partial macadam drive to the back and then it's a dirt gravel parking area in the rear. I believe the building presently is vacant right now. It's in the C zone and since this building was constructed around 1971, obviously the zoning ordinance has changed considerably. We're proposing to convert it into medical offices with maybe a small portion reserved for retail, maybe not, seems that they're in the same use group, it would make sense to do that, but what's happened is that with the zoning having changed, we have existing non-conforming conditions. We're short with respect to minimum lot area, we're deficient with respect to minimum lot width, deficient with respect to minimum side yard one, deficient with respect to minimum side yard both. Now, those are existing conditions, we didn't create them, the building presently exists, not putting any additions on. The

deficiency is because of the change in zoning. What we also need is a variance for parking. According to your zoning ordinance we're required to provide 55 spaces, we're providing 44. You notice in the rear is where we're going to be putting the bulk of the parking in, we'll end up landscaping it, it will have site lighting and such but what we need before this board tonight is a rejection of the site plan application to allow us to go to the zoning board of appeals.

MR. PETRO: It's easy to reject one of your plans.

MR. SHAW: You do that very well. Thank you.

MR. PETRO: Manns Brothers, Inc. Topo LLC, do we have a proxy?

MR. SHAW: Manns Brothers are the owners, Casey Manns, the medical practice going in there would be Tojino and Pomerantz.

MR. PETRO: I'll entertain a motion for final approval.

MR. ARGENIO: I'll make the motion.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Topo Realty LLC site plan proposed change in use on Windsor Highway. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHLESINGER	NO
MR. GALLAGHER	NO
MR. MASON	NO
MR. ARGENIO	NO
MR. PETRO	NO

September 22, 2004

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MR. PETRO: At this time you have been referred to the New Windsor Zoning Board for the necessary variances. If you are successful and receive those, put them on the map and if you wish to appear before this board again you can do that. I would also add this, Greg, for the minutes that I think that this board would send you there with a positive recommendation. I think it's a nice use for this site, it seems to have failed at a lot of other things, I think it's a good spot. I know Dr. Grant is going across the street and right in that corridor.

MR. SHAW: I would agree and I will pass that on to the ZBA.

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. 04-73

Request of TOPO REALTY, LLC.

for a VARIANCE of the Zoning Local Law to Permit:

Request for:

11 spaces of off street parking and;
56 Square Feet Minimum Lot Area and;
91 Feet Minimum Lot Width and;
15 Feet Side Yard Setback and;
29 Feet Side Yard Setback and;
1 Foot Maximum Building Height

located at 42 Windsor Highway in a C zone. (10-2-7)

PUBLIC HEARING will take place on December 13, 2004 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 P.M.



Michael Kane, Chairman

*Assessor's list
0473*

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

RECEIVED

NOV 01 2004

BUILDING DEPARTMENT

**RECEIPT
#1107-2004**

11/01/2004

Pc, Mid Hudson Urological Asso
369 Fullerton Ave.
Newburgh NY

Received \$ 25.00 for Assessors List, on 11/01/2004. Thank you for stopping
by the Town Clerk's office.

As always, it is our pleasure to serve you.

Deborah Green
Town Clerk



1763

Town of New Windsor

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

Assessors Office

RECEIVED

NOV 05 2004

BUILDING DEPARTMENT

November 5, 2004

ToPo Realty
c/o Greg Shaw
744 Broadway
Newburgh, NY 12550

Re: 10-2-7 ZBA#: 04-73 PB#: 04-26 (15)

Dear Mr. Shaw:

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 \$35.00, minus your deposit of \$25.00.

Please remit the balance of \$10.00 to the Town Clerk's Office.

Sincerely,

J. Todd Wiley, IAO
Sole Assessor

JTW/tmp
Attachments

CC: Myra Mason, Zoning Board

9-1-1
Central Hudson Gas & Electric Corp.
284 South Avenue
Poughkeepsie, NY 12602

9-1-45.2
Mash Realty, LLC
1585 Monroe Turnpike
Stevenson, CT 06491

9-1-108
New Windsor Equipment
Rentals & Service, Inc.
P.O. Box 2068
Newburgh, NY 12550

10-1-4
Holland Construction Group, Inc.
P.O. Box 960
Marlboro, NY 12542

10-2-1
John, Helen & Emil Mihalco, Jr.
Barbara Mulleavy
14 Fern Avenue
New Windsor, NY 12553

9-1-39
Carl Friedwall
466 Round Lake Park Road
Monroe, NY 10950

9-1-106.2, 10-1-7, 10-2-4,5 & 6
Mans Brothers Realty, Inc.
P.O. Box 247
Vails Gate, NY 12584

10-1-1 & 10-1-8
Anthony & Veronica Monti
15 Fern Avenue
New Windsor, NY 12553

10-1-5
John & Carmen Echevarria
7 Fern Avenue
New Windsor, NY 12553

10-2-2
Frederick & Inda Porteous
12 Fern Avenue
New Windsor, NY 12553

9-1-44.2
NY Central Lines, Inc.
c/o CSX
500 Water St. (J-910)
Jacksonville, FL 32202

9-1-107 & 109
Argenio Brothers, Inc.
P.O. Box 2068
Newburgh, NY 12550

10-1-2 & 10-1-3
Mans Brothers Realty, Inc.
871 Blooming Grove Tpke.
New Windsor, NY 12553

10-1-6
Thomas & Helen Kennedy
5 Fern Avenue
New Windsor, NY 12553

10-2-3
Osman & Zarif Ozkurt
10 Fern Avenue
New Windsor, NY 12553

ZBA # 04-73

RECEIVED

NOV 01 2004

BUILDING DEPARTMENT

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

RECEIPT
#1106-2004

11/01/2004

Mid Hudson Urological Asso. Pc

Received \$ 150.00 for Zoning Board Fees, on 11/01/2004. 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
ZONING BOARD OF APPEALS

RECEIVED
TOWN OF NEW WINDSOR
NOV - 5 2004
ESCROW RECEIVED

RECEIPT OF ESCROW RECEIVED:

DATE RECEIVED: 11/1/04

FOR: 04-73

FROM: **MID HUDSON UROLOGICAL ASSO PC**

369 FULLERTON AVE.

NEWBURGH, NY 12550

CHECK NUMBER: 13141

TELEPHONE: 561-3695

AMOUNT: **\$750.00**

RECEIVED AT COMPTROLLER'S OFFICE BY:



NAME

11 | 5 | 07

DATE

PLEASE RETURN ONE SIGNED COPY TO MYRA FOR FILING

THANK YOU

J.G. 11/1/04

TOWN OF NEW WINDSOR REQUEST FOR NOTIFICATION LIST

DATE: 11/1/04

PROJECT NUMBER: ZBA# 04-73 P.B. # 04-26

APPLICANT NAME: ToPo Realty

PERSON TO NOTIFY TO PICK UP LIST:

Greg Shaw
744 Broadway
Newburgh, NY 12550

TELEPHONE: 561-3695

TAX MAP NUMBER: SEC. 10 BLOCK 2 LOT 7
 SEC. BLOCK LOT
 SEC. B LOCK LOT

PROPERTY LOCATION: 42 Windsor Highway
New Windsor, NY 12553

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 04-73

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



AMOUNT OF DEPOSIT: \$25.00 CHECK NUMBER: 13142

TOTAL CHARGES:



Town of New Windsor

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

ZONING BOARD OF APPEALS

November 1, 2004

GREGORY SHAW, P.E.
744 BROADWAY
PO BOX 2569
NEWBURGH, NY 12550

SUBJECT: REQUEST FOR VARIANCE # 04-73

Dear Mr. Shaw:

This letter is to inform you that you have been placed on the 11/8/04 agenda for the Zoning Board of Appeals to discuss your request for a variance at:

42 WINDSOR HIGHWAY
NEW WINDSOR, NY 12553

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**

APPLICATION FOR VARIANCE - continued

VIII. AREA VARIANCE:

Area Variance requested from New Windsor Zoning Local Law,
 300-10 Use/Bulk Regs. C, D & F
 Section 300-60 Table of Parking Regs., Col. _____

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area	40,000 SF	39,944 SF	56 SF
Min. Lot Width	200 Ft	109 Ft	91 Ft
Reqd. Front Yd.	60 Ft	70 Ft	
Reqd. Side Yd.	30 Ft/70 Ft	15 Ft/41 Ft	15 Ft/29 Ft
Reqd. Rear Yd.	30 Ft	171 Ft.	
Reqd. St Front*	NA	NA	
Max. Bldg. Hgt.	15 Ft	16 Ft	1 ft
Min. Floor Area*			
Dev. Coverage*	85%	75%	
Floor Area Ratio**	.50	.20	
Parking Area	55 Spaces	44 Spaces	11 Spaces

*Pre-existing
Non-Conforming*

*Residential Districts Only

**Non-Residential Districts Only

PLEASE NOTE:

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

**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:

Refer To Attached Narrative

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

Applicant: ToPo Realty LLC
42 Windsor Highway

The subject property is a 0.92 acre parcel located on the west side of Windsor Highway and within the Design Shopping (C) Zoning District. The subject property contains a 8,190 SF building which was approved in 1972 for retail, office and storage use. At that time the building was constructed for a business known as Mid-Hudson Beauty Supply.

In the thirty-two years subsequent to the building's construction, the Town of New Windsor amended the Bulk Requirements of the Design Shopping District in its Zoning Ordinance. The result of these amendments is that while the lot and building met the required zoning requirements in 1972, they do not conform to many of the present Bulk Requirements. Thus the need for the following Area Variances to rectify the existing non-conforming conditions:

- Variance No. 1 An Area Variance of 56 SF for Lot Area where 39,944 SF is provided and 40,000 SF are required.
- Variance No. 2 An Area Variance of 91 feet for a Minimum Lot Width where 109 feet is provided and 200 feet is required.
- Variance No. 3 An Area Variance of 15 feet for a Side Yard Setback-One where 15 feet is provided and 30 feet is required.
- Variance No. 4 An Area Variance of 29 feet for a Side Yard Setback-Both where 41 feet is provided and 70 feet is required.
- Variance No. 5 An Area Variance of 1 foot for a Maximum Building Height where 16 feet is provided and 15 feet is allowed.

The 1972 approval was for 3,780 SF of retail and office area and 4,410 SF of storage area. The Application of ToPo Realty LLC is to utilize the entire building for office/retail use, thus creating the need for the following additional Area Variance:

- Variance No. 6 An Area Variance of 11 parking spaces where 44 spaces are provided and 55 spaces are required.

The ToPo Realty LLC wishes to utilize the entire building for office and retail use, and does not propose any building additions. Because the above zoning deficiencies presently exist, and because they will not be exacerbated by the application of ToPo Realty LLC, the granting of Variances 1 through 5 will not produce an undesirable change in the character of the neighborhood, nor be a detriment to nearby properties. Also, the granting of the five Variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood, nor can the Applicant achieve

relief by some other feasible method. Variances 1 through 5 are not substantial and are not self-created.

Variance 6, which is for off-street parking, is not entirely an existing non-conforming condition. Presently there are approximately 22 spaces on the site and 55 spaces are required for the proposed office and retail use. This parking deficiency is partially due to the fact that 3,780 SF of storage space will be converted to office and retail use, and partially due to the fact that New Windsor has amended their Zoning Ordinance over 32 years to increase the number of spaces from that required in 1972.

To mitigate the conversion of storage space to office and retail space, ToPo Realty LLC will create a new parking area in the rear of the building for 29 new parking spaces. The 55 parking spaces is the maximum number of spaces that can be created on the site. Because the new parking area will be in the rear of the site and because the surrounding land is presently undeveloped, the granting of Variance 6 will not produce an undesirable change in the character of the neighborhood, and will not be a detriment to nearby properties. Furthermore, the granting of the Variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood, is not substantial, and cannot be achieved by some other feasible method.

PROJECT ID NUMBER

617.20
APPENDIX C

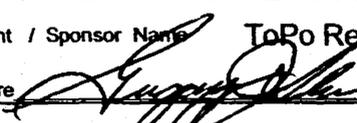
SEQR

STATE ENVIRONMENTAL QUALITY REVIEW

SHORT ENVIRONMENTAL ASSESSMENT FORM

for UNLISTED ACTIONS Only

PART 1 - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT / SPONSOR ToPo Realty LLC	2. PROJECT NAME Office/Retail Building For ToPo Realty LLC
3. PROJECT LOCATION: Municipality Town Of New Windsor	County Orange
4. PRECISE LOCATION: Street Address and Road Intersections, Prominent landmarks etc - or provide map 42 Windsor Highway	
5. IS PROPOSED ACTION : <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification / alteration	
6. DESCRIBE PROJECT BRIEFLY: Conversion of an existing 8,190 SF building from office, retail and storage use to office and retail use, including the creation of a 29 space parking area	
7. AMOUNT OF LAND AFFECTED: Initially .92 acres Ultimately .92 acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If no, describe briefly: Area Variances are required	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? (Choose as many as apply.) <input checked="" type="checkbox"/> Residential <input checked="" type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park / Forest / Open Space <input type="checkbox"/> Other (describe)	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (Federal, State or Local) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency name and permit / approval: New Windsor Planning Board and NYSDOT	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit / approval:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT / APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant / Sponsor Name ToPo Realty LLC Date: October 15, 2004 Signature 	

If the action is a Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.
 Yes No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.
 Yes No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:

C7. Other impacts (including changes in use of either quantity or type of energy? Explain briefly:

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? (If yes, explain briefly:
 Yes No

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? If yes explain:
 Yes No

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question d of part ii was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide, on attachments as necessary, the reasons supporting this determination.

Town of New Windsor Zoning Board of Appeals

 Name of Lead Agency

_____ Date
 _____ Chairman
 _____ Title of Responsible Officer

_____ Print or Type Name of Responsible Officer in Lead Agency

_____ Signature of Responsible Officer in Lead Agency

_____ Signature of Preparer (if different from responsible officer)

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

NOTICE OF DISAPPROVAL OF PLANNING BOARD APPLICATION

PLANNING BOARD FILE NUMBER: _____

DATE: _____

APPLICANT:

PLEASE TAKE NOTICE THAT YOUR APPLICATION:

DATED: _____

FOR: ~~SUBDIVISION~~ *SITE PLAN*

LOCATED AT: _____

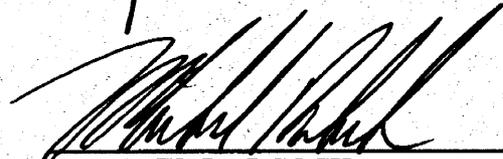
ZONE: _____

DESCRIPTION OF EXISTING SITE: SEC: 10 BLOCK: 2 LOT: 7

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

REQ PARKING *55 SPACES* | *PROVIDED 44 SPACES* | *VALIANCE REQUIRED 11 SPACES*

TOWN OF NEW WINDSOR CODE: _____



MICHAEL BABCOCK,
BUILDING INSPECTOR

