

**ZB# 05-18**

**Russell Kavana**

**49-4-12**

ZBA # 03-18 RUSSELL KAVANA  
(AREA) 7 PROVOST DR. (49-4-12)

ZONING BOARD OF APPEALS  
TOWN OF NEW WINDSOR  
50 UNION AVENUE  
NEW WINDSOR, N.Y. 12553  
*Granted 5/23/05*

In the Matter of the Application of

**RUSSELL KAVANA**

MEMORANDUM OF  
DECISION GRANTING

**AREA**

CASE #05-18

**WHEREAS, Russell & Margaret Kavana**, owner(s) of 7 Provost Drive, New Windsor, New York, 12553, has made application before the Zoning Board of Appeals for a/an Request to permit 6 ft. fence to be located between the house and the street (300-11-C.1c) at 7 Provost Drive in an R-4 Zone (49-4-12)

**WHEREAS**, a public hearing was held on May 23, 2005 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, the Applicant appeared 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 Times Herald Record, also as required by law.
2. The Evidence presented by the Applicant showed that:
  - (a) The property is a residential property located in a neighborhood of residential properties.
  - (b) The applicant seeks to erect a fence six feet in height.
  - (c) The erection of a fence is an allowed use in that zone and the variance is sought solely for the height of the fence.

- (d) The premises contains a pool and the applicant has three small children and a dog.
- (e) The premises is on a corner lot so it has legally two front yards although it appears to have two side yards and a front yard.
- (f) The fence will not interfere with the safe operation of motor vehicles on the adjacent roadway by interfering with drivers vision.
- (g) The applicant will not be removing any trees or substantial vegetation in constructing the fence.
- (h) The fence is going to be made of cedar.
- (i) The fence is similar to other fences in the neighborhood and does not change the character of the neighborhood.

**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).

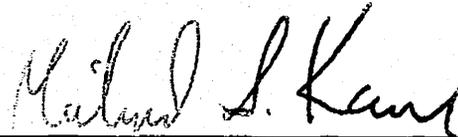
**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 6 ft. fence to be located between the house and the street (300-11-C.1c) at 7 Provost Drive in an R-4 Zone (49-4-12) 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: May 23, 2005



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Chairman



# Town of New Windsor

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (845) 563-4615  
Fax: (845) 563-4689

## OFFICE OF THE ZONING BOARD OF APPEALS

August 23, 2005

Russell & Margaret Kavana  
7 Provost Drive  
New Windsor, NY 12553

SUBJECT: REQUEST FOR VARIANCE #05-18

Dear Mr. & Mrs. Kavana:

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:mim

cc: Michael Babcock, Building Inspector

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

**NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION**

**DATE: February 17, 2005**

**APPLICANT: Russell J. & Margaret Kavana  
7 Provost Drive  
New Windsor, NY 12553**

**PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: 2/16/05**

**FOR : Stockade fence**

**LOCATED AT: 7 Provost Drive**

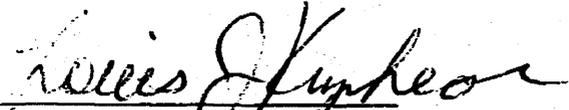
**ZONE: R-4 Sec/Blk/ Lot: 49-4-12**

**COPY**

**DESCRIPTION OF EXISTING SITE: Single family house**

**IS DISAPPROVED ON THE FOLLOWING GROUNDS:**

- 1. 300-11 C.1c fences or walls not over 6' in height may be located anywhere on the lot except between the principal building and the street. A variance to permit a 6' fence between the house and Provost Dr. is required.**

  
**BUILDING INSPECTOR**

PERMITTED

PROPOSED OR  
AVAILABLE:

VARIANCE  
REQUEST:

ZONE: R-4 USE: Bulk Tables

MIN LOT AREA:

MIN LOT WIDTH:

REQ'D FRONT YD:

REQ'D SIDE YD:

REQ'D TOTAL SIDE TD:

REQ'D REAR YD:

REQ'D FRONTAGE:

MAX BLDG HT:

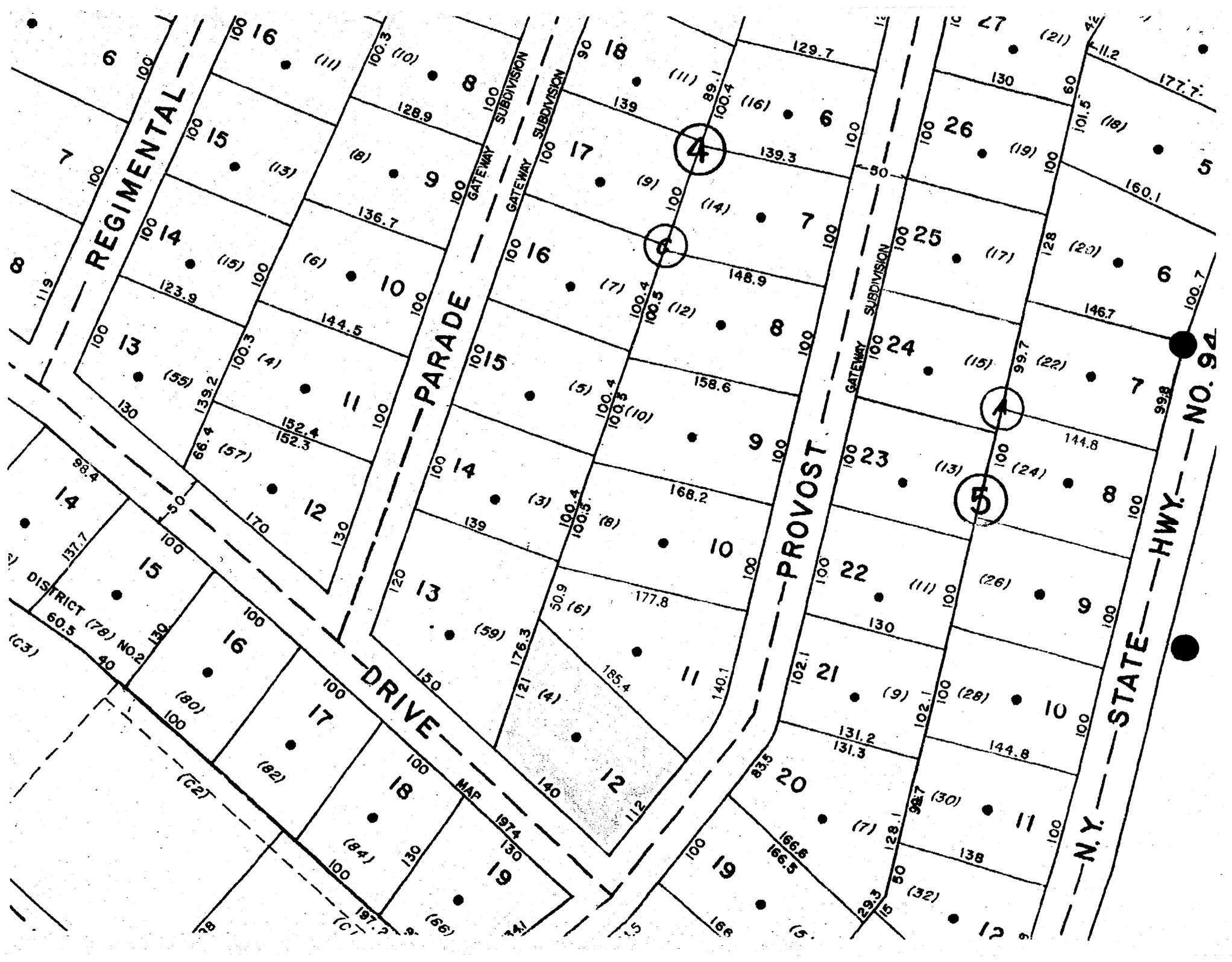
FLOOR AREA RATIO:

MIN LIVABLE AREA:

DEV COVERAGE:

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

*mailed  
out  
on  
2/24/05*



REGIMENTAL DRIVE

PARADE DRIVE

PROVOST DRIVE

DRIVE

STATE HWY. NO. 94

N.Y.

MAP 1974

DISTRICT (78) NO. 2

130

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(c2)

(c1)

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NO. 94

NO. 94

NO. 94

DISTRICT (78) NO. 2

(c3)

(c2)

(c1)

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NO. 94

NO. 94

NO. 94



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 **BUILDING DEPARTMENT** permit. Sewing 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

FEB 16 2005

FOR OFFICE USE ONLY:  
Building Permit #: 5-94

**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 Russell J KAVANA

Address 7 PROVOST DR Phone # 845 569-4415

Mailing Address SAME Fax # \_\_\_\_\_

Name of Architect \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

Name of Contractor \_\_\_\_\_

State whether applicant is owner, lessee, agent, architect, engineer or builder OWNER

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 S side of PROVOST DR  
(N,S,E or W)  
and \_\_\_\_\_ feet from the intersection of Continental DR

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

3. Tax Map Description: Section 49 Block 4 Lot 12

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

6. Is this a corner lot? Yes 6' STOCKADE FENCE

7. Dimensions of entire new construction. Front \_\_\_\_\_ Rear \_\_\_\_\_ Depth \_\_\_\_\_ Height \_\_\_\_\_ No. of stories \_\_\_\_\_

8. If dwelling, number of dwelling units: \_\_\_\_\_ Number of dwelling units on each floor \_\_\_\_\_  
Number of bedrooms \_\_\_\_\_ Baths \_\_\_\_\_ Toilets \_\_\_\_\_ Heating Plant: Gas \_\_\_\_\_ Oil \_\_\_\_\_  
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 \_\_\_\_\_ Fee NO FEE **ZONING BOARD**



\_\_\_\_/\_\_\_\_/\_\_\_\_  
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 Krychew**  
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.

Michael L. Babcock  
(Signature of Applicant)

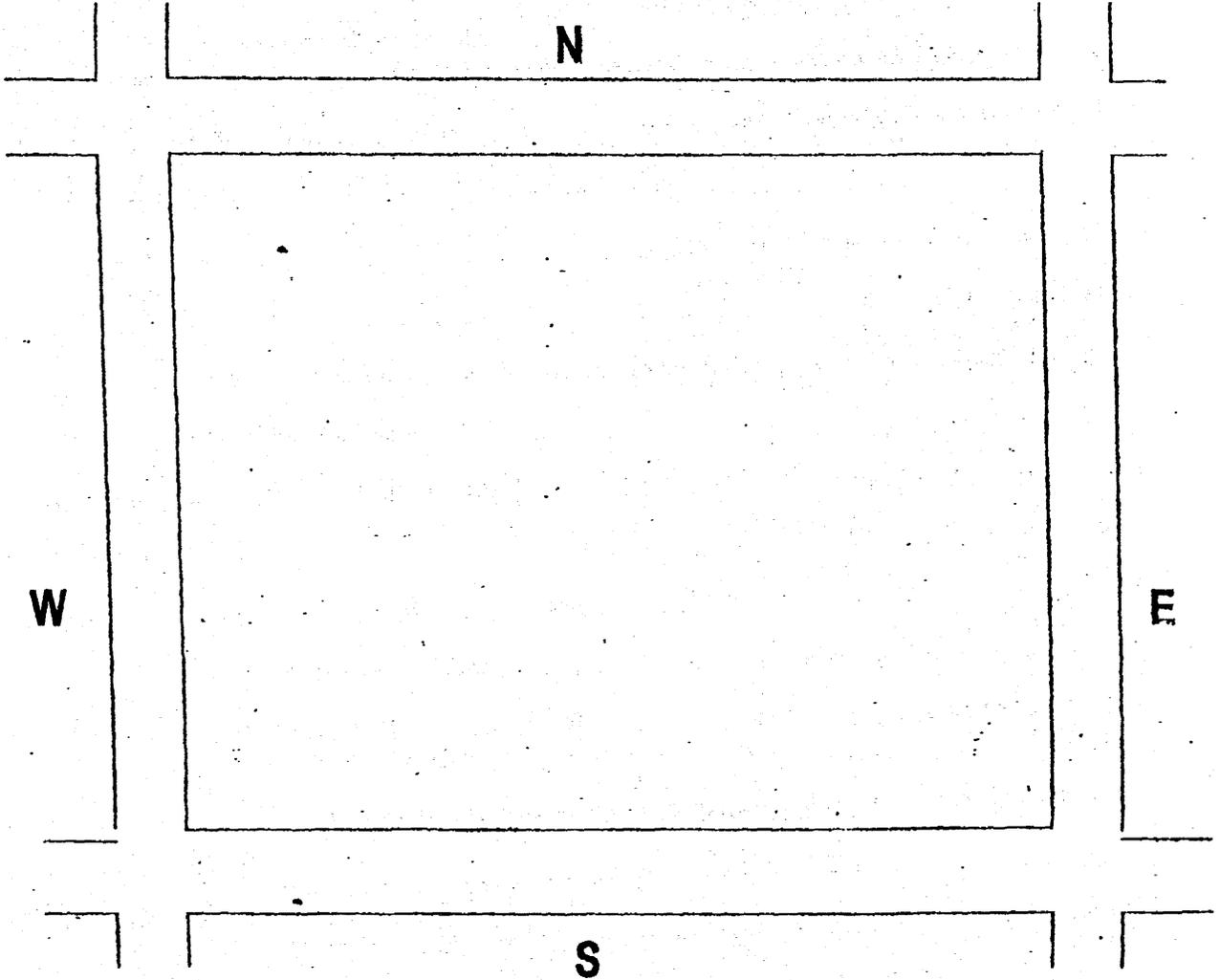
7 PROVOST DR NW  
(Address of Applicant)

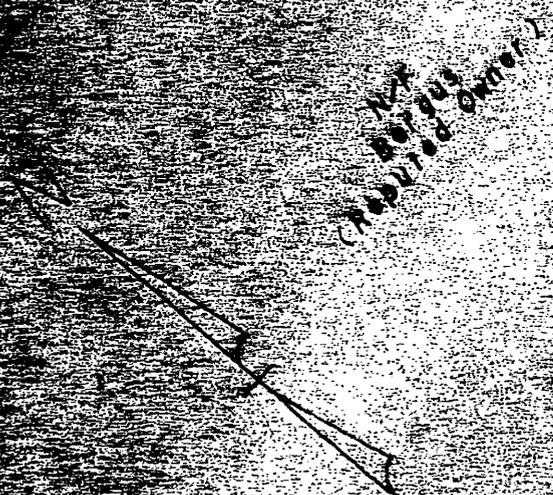
Michael L. Babcock  
(Owner's Signature)

7 PROVOST DR NW  
(Owner's Address)

**NOTE:**

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

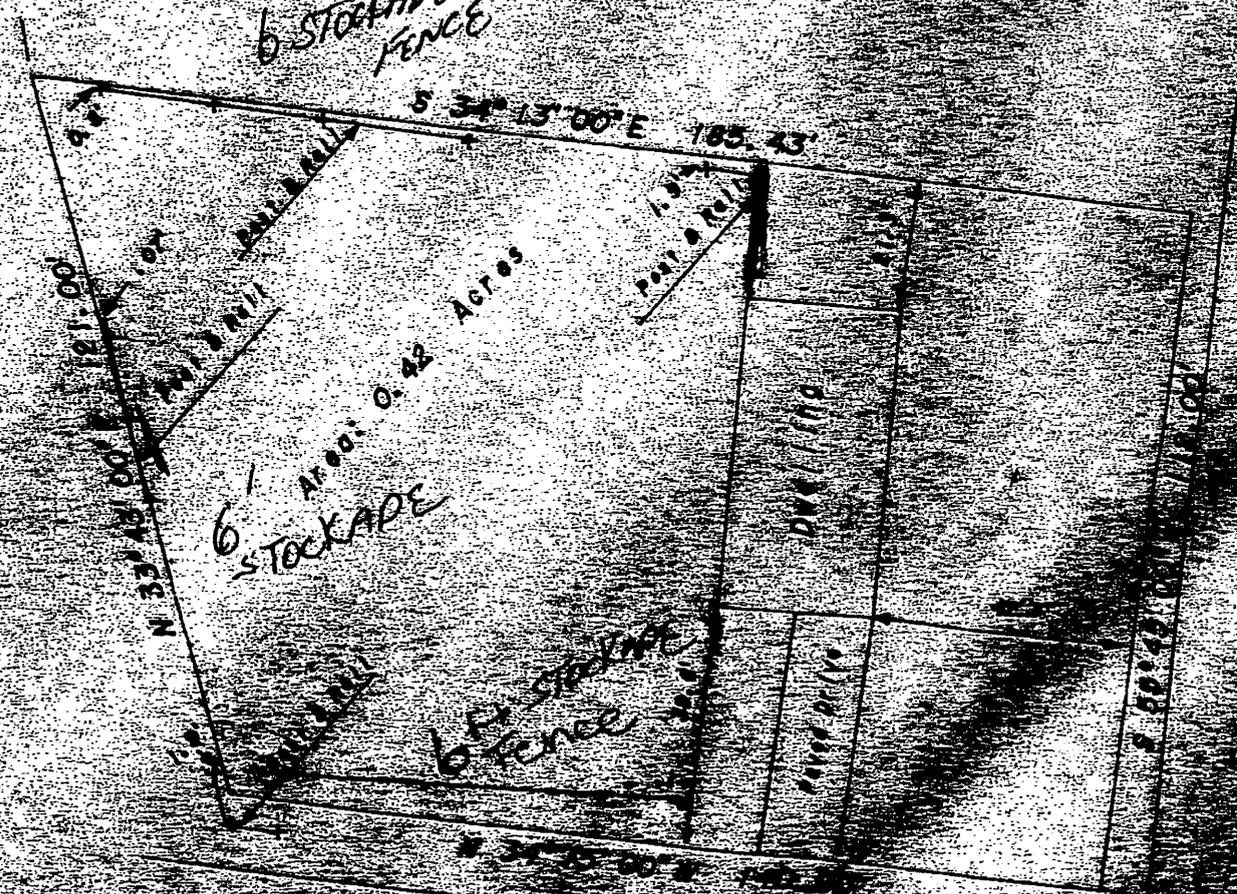




(Reported Owner)

(Reported Owner)

6' STOCKADE FENCE



Area: 0.42 Acres

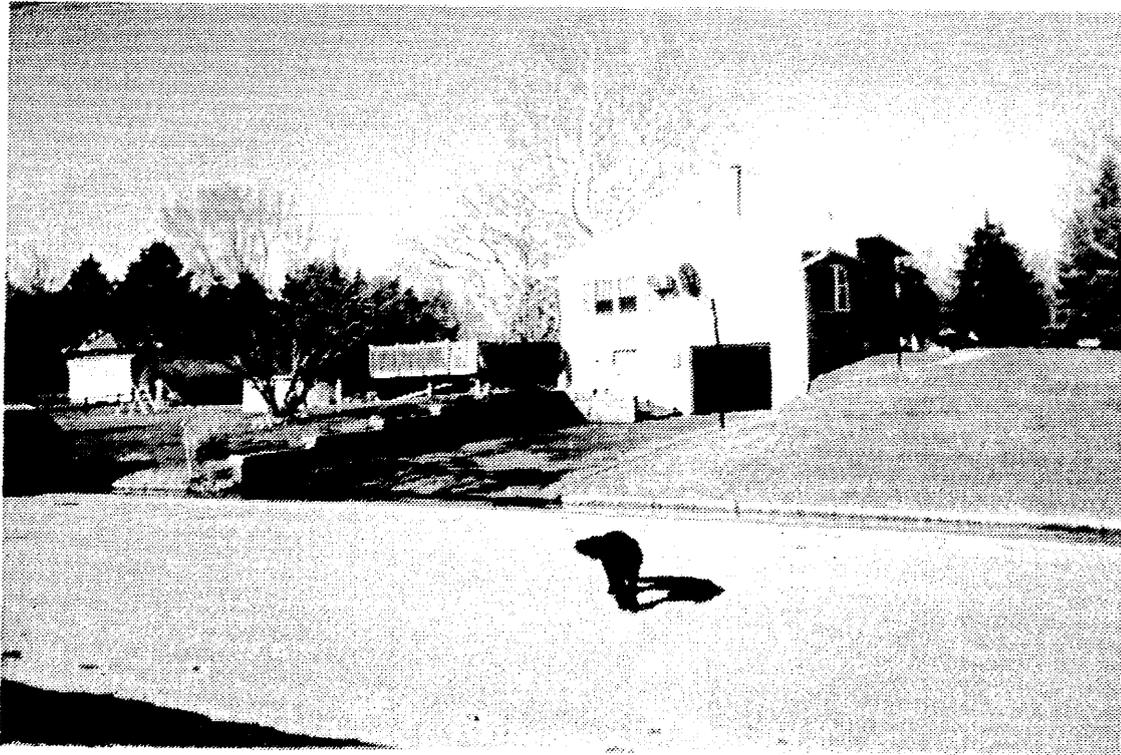
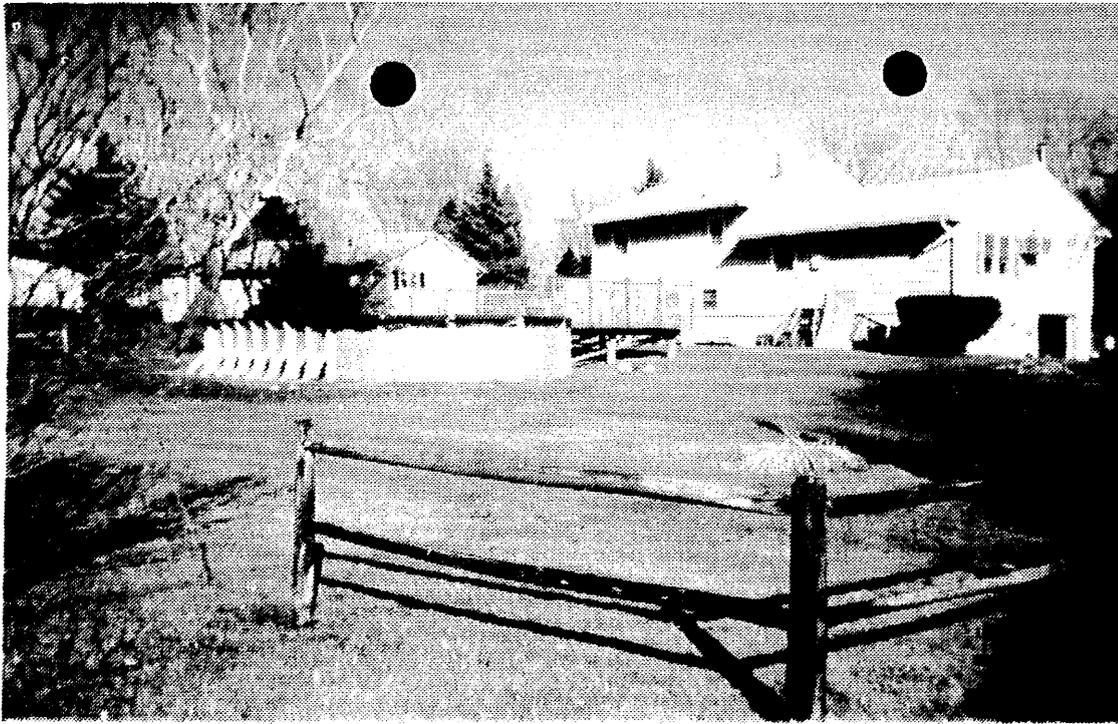
Dwelling

6' STOCKADE FENCE

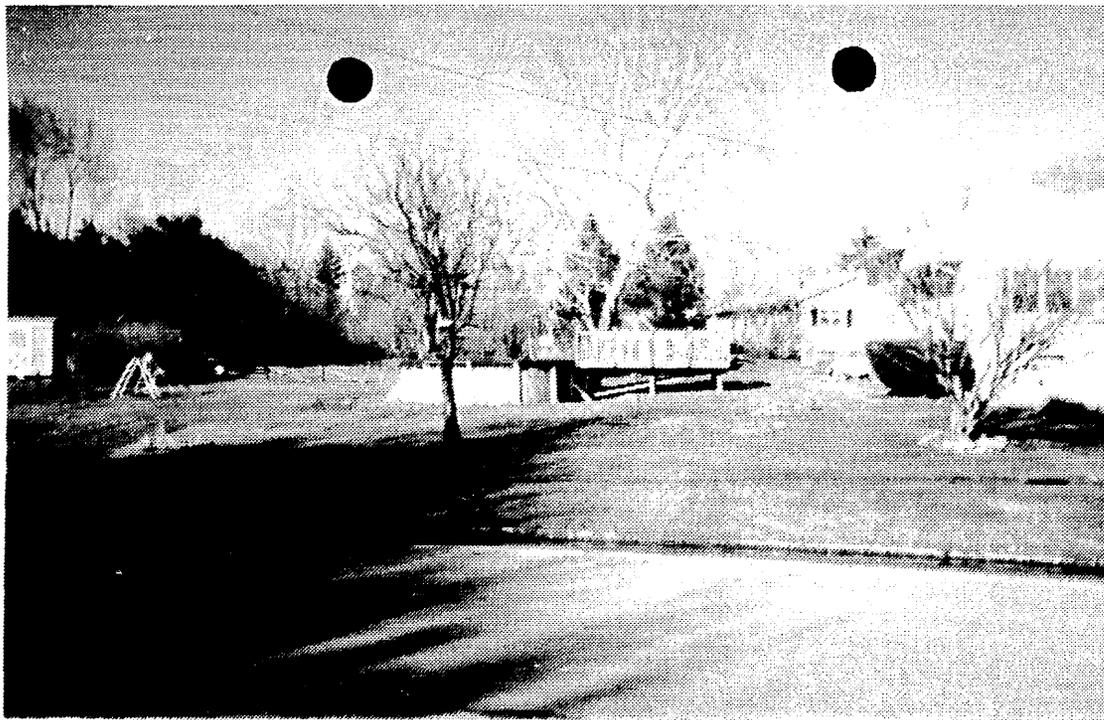
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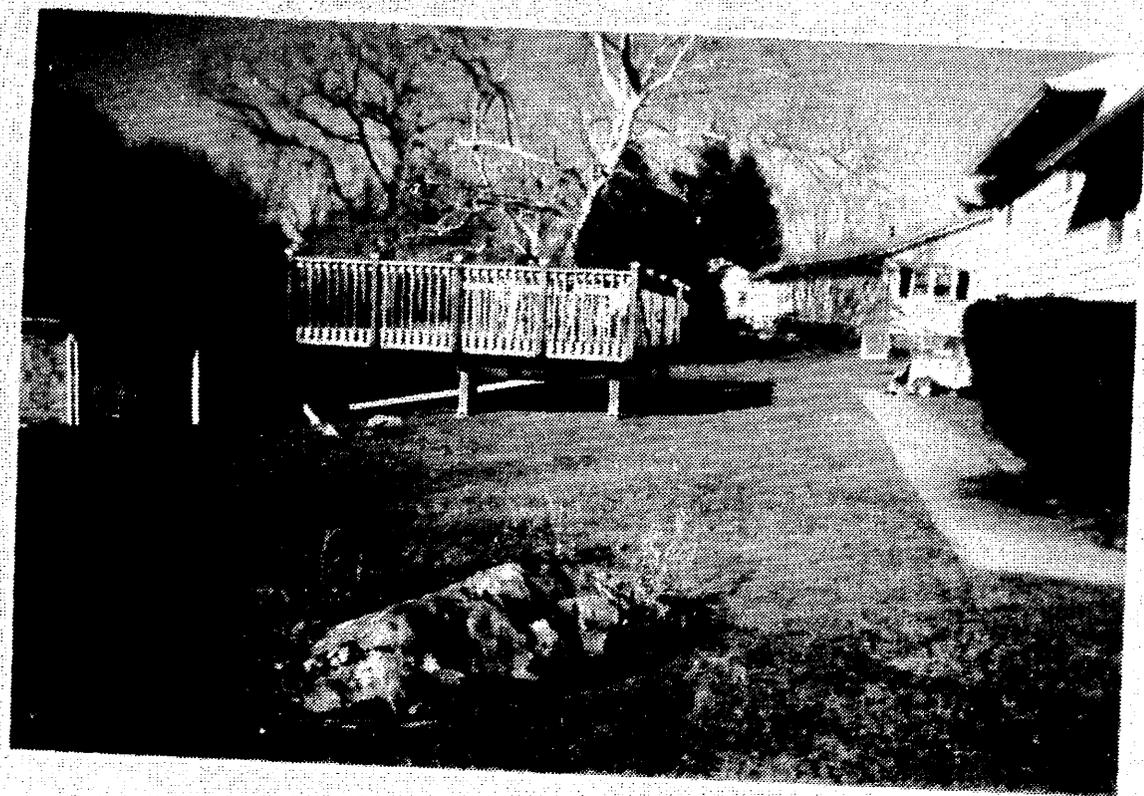
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CONFIDENTIAL DRIVE

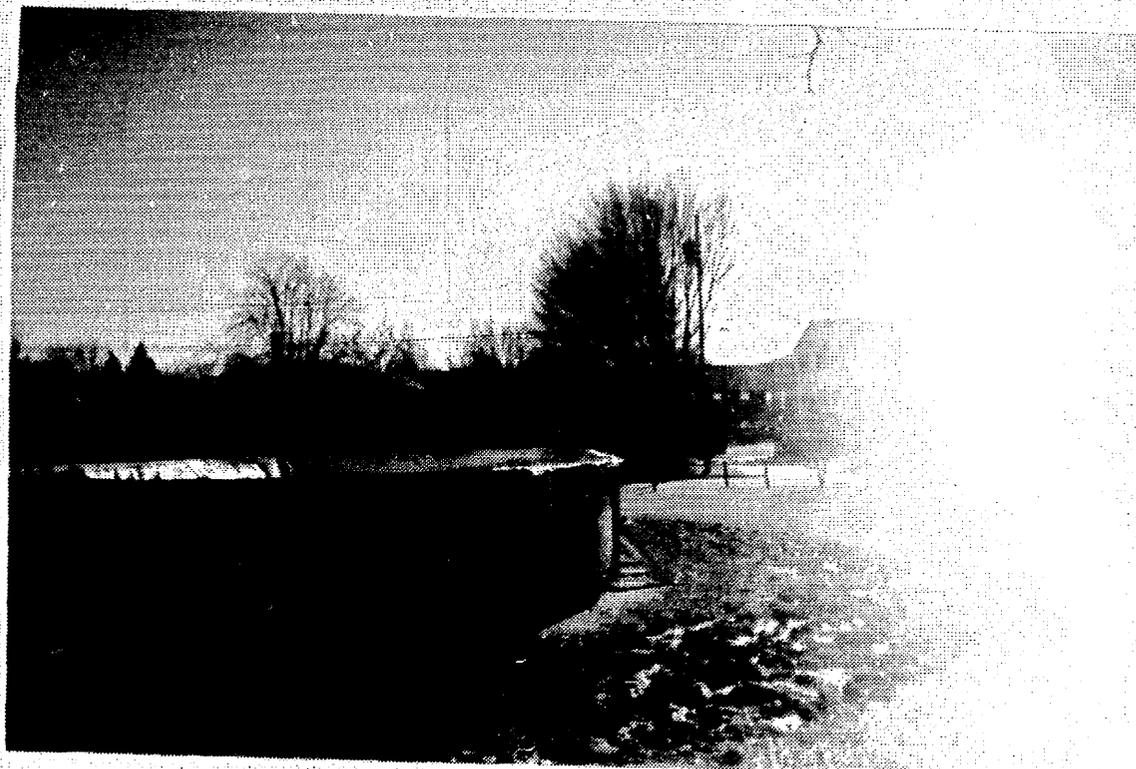


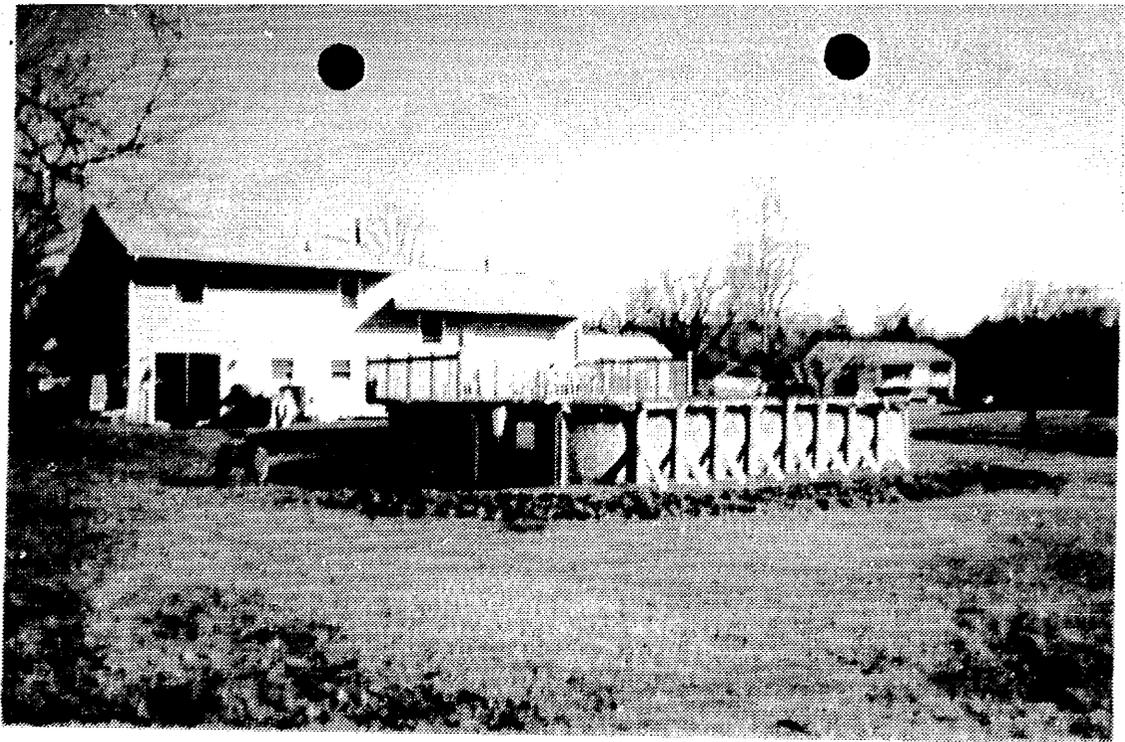


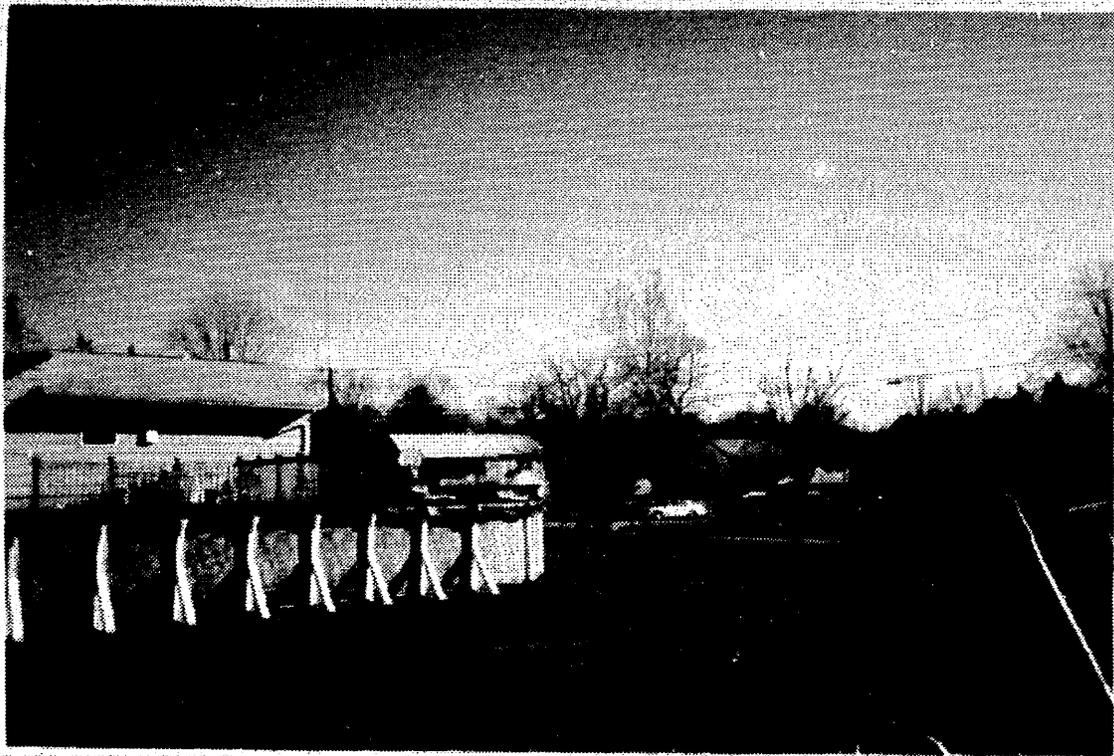


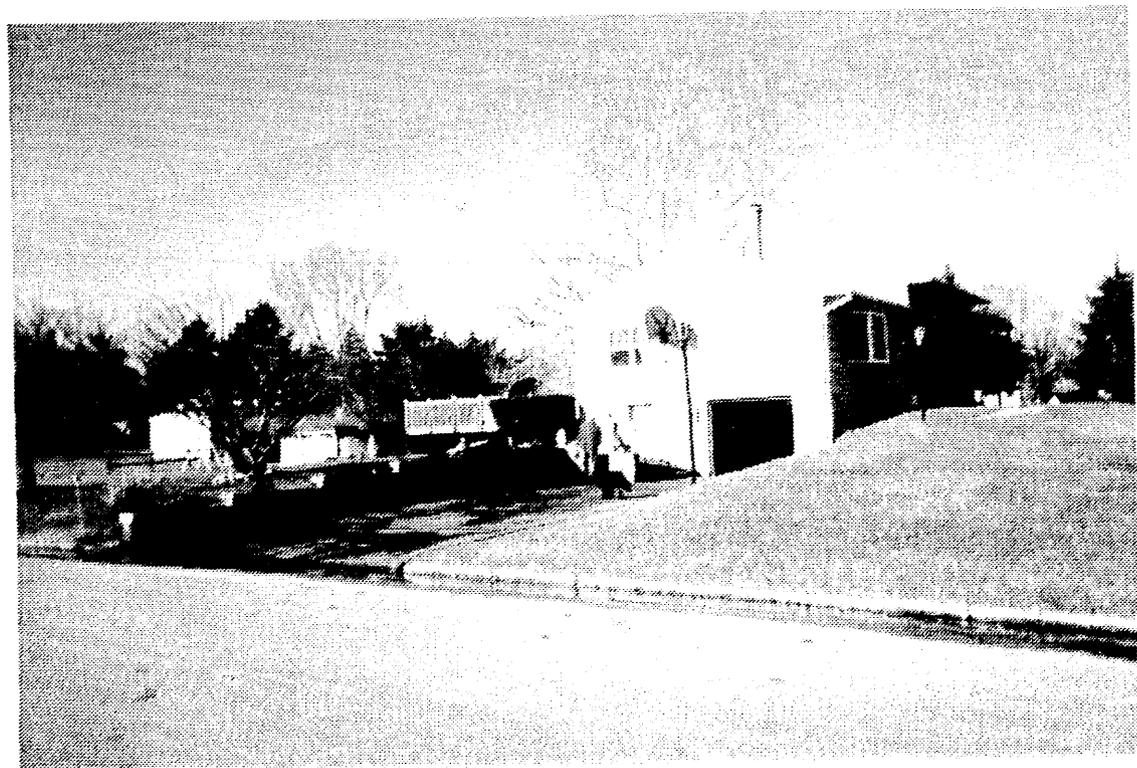
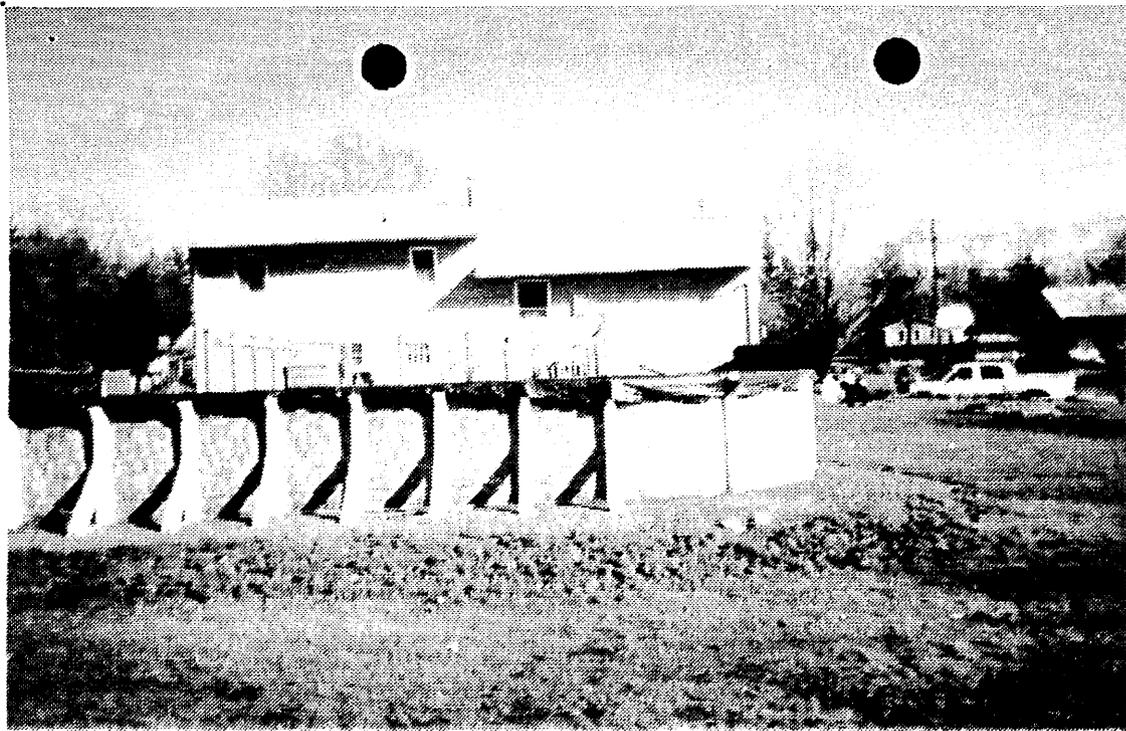




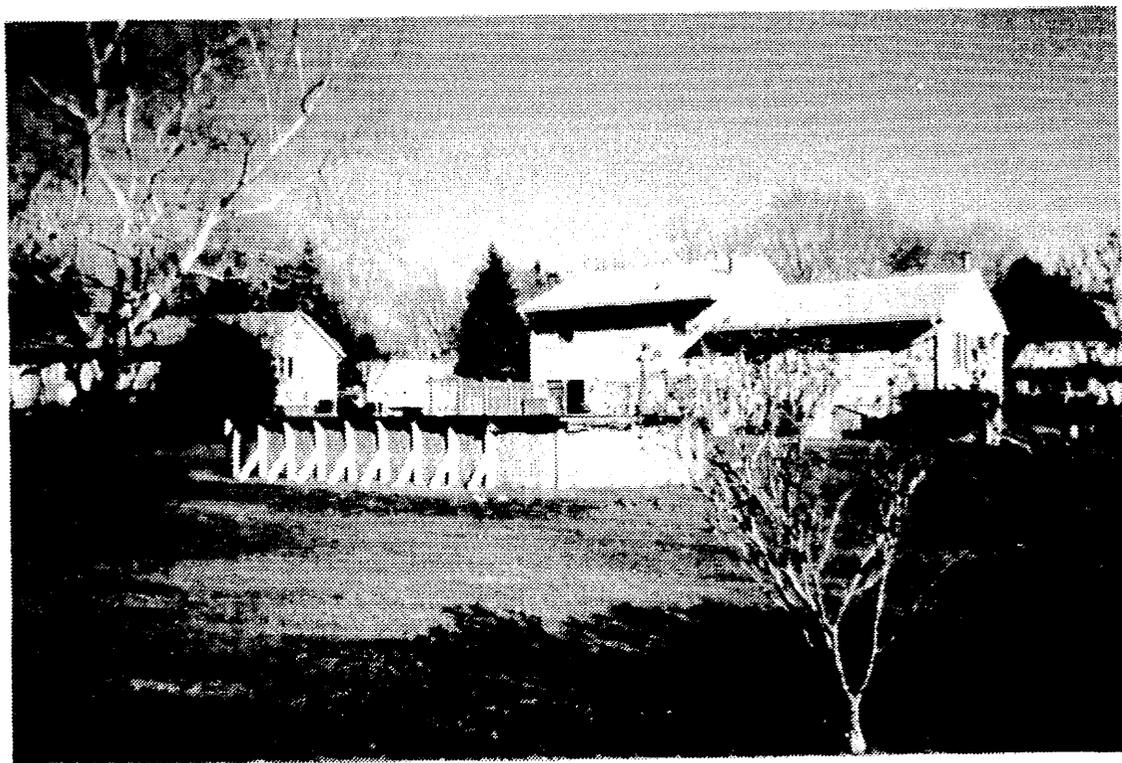
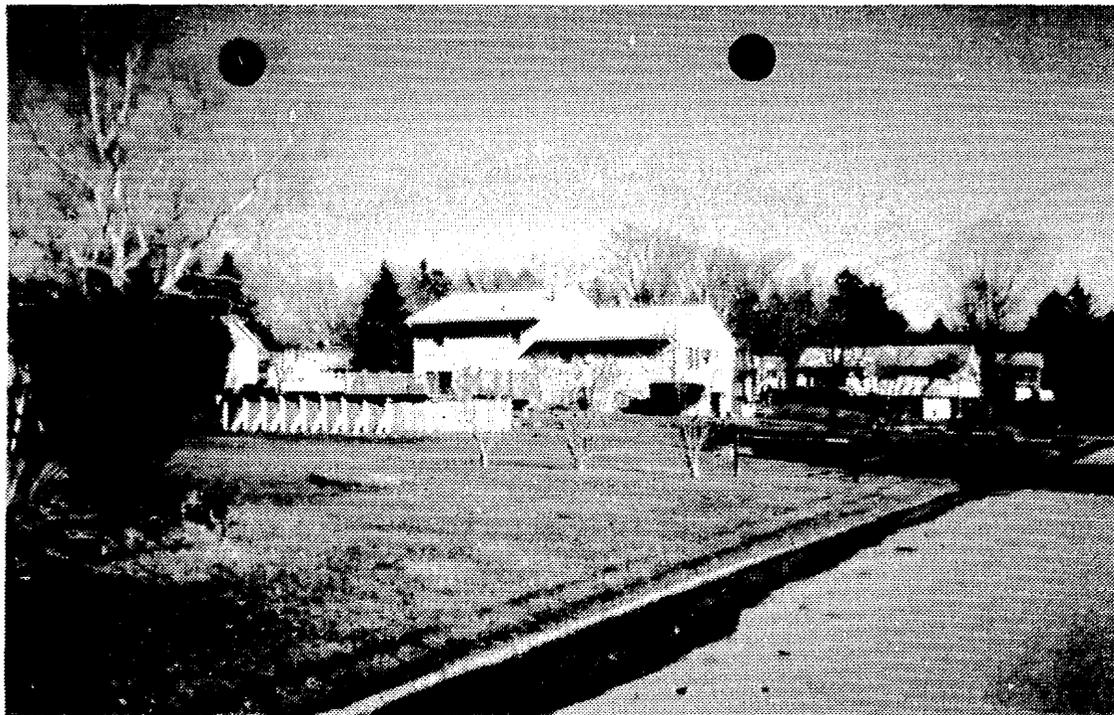


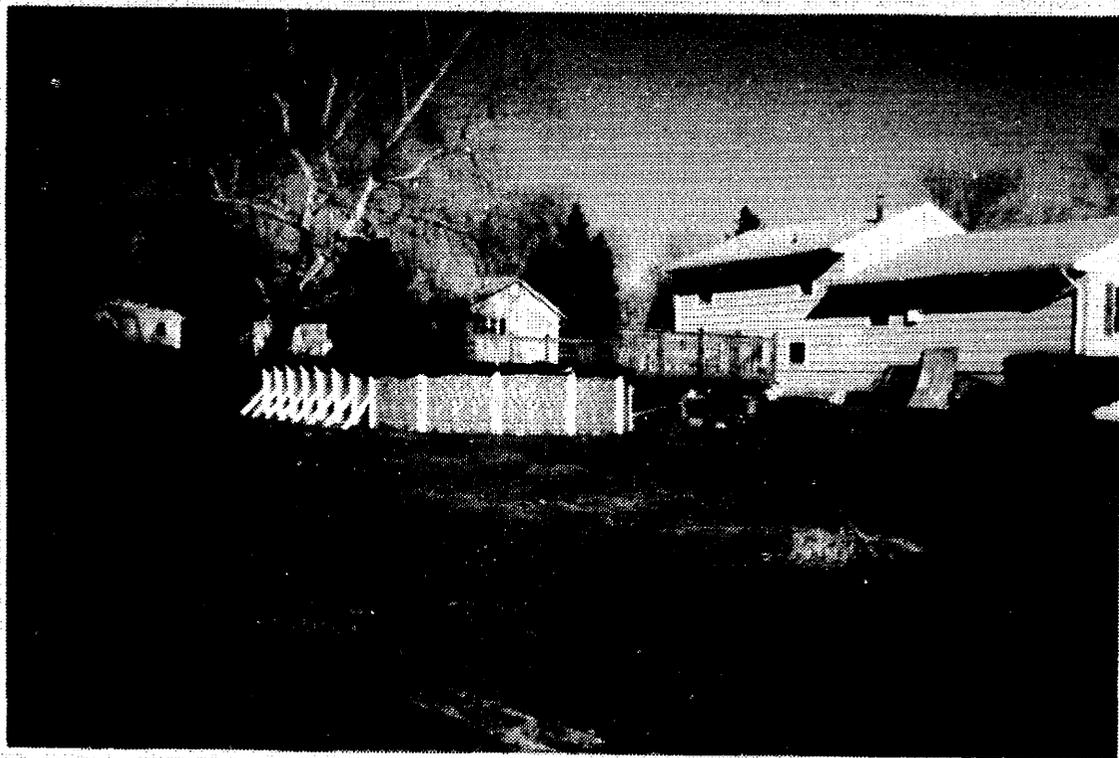












**TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS  
OFFICE  
845-563-4615**

**MEMORANDUM**

**TO: LARRY REIS, COMPTROLLER**  
**FROM: MYRA MASON, SECRETARY TO THE ZONING BOARD**  
**DATE: JULY 18, 2005**  
**SUBJECT: ESCROW REFUND**

**PLEASE ISSUE A CHECK IN THE AMOUNT OF \$ 157.22 TO CLOSE OUT  
ESCROW FOR:**

**ZBA FILE #05-18**

**NAME & ADDRESS:**

**Russell & Margaret Kavana  
7 Provost Drive  
New Windsor, NY 12553**

**THANK YOU,**

**MYRA**

**L.R.07-18-2005**



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



FILE #05-18      TYPE:AREA      TELEPHONE: 569-4415

APPLICANT:  
Russell & Margaret Kavana  
7 Provost Drive  
New Windsor, NY 12553

RESIDENTIAL:	\$ 50.00	CHECK # <u>1476</u>
COMMERCIAL	\$ 150.00	CHECK # _____
INTERPRETATION	\$ 150.00	CHECK # _____

ESCROW:            RESIDENTIAL \$300.00            CHECK # 1475



<b><u>DISBURSEMENTS:</u></b>	<b><u>MINUTES</u></b>	<b><u>ATTORNEY</u></b>
	<b><u>\$5.50 / PAGE</u></b>	<b><u>FEE</u></b>

PRELIMINARY:	<u>3</u>	PAGES	\$ <u>16.50</u>	\$ <u>35.00</u>
2 <sup>ND</sup> PRELIMINARY:	—	PAGES	\$ _____	\$ _____
PUBLIC HEARING:	<u>2</u>	PAGES	\$ <u>11.00</u>	\$ <u>35.00</u>
PUBLIC HEARING:	—	PAGES	\$ _____	\$ _____

LEGAL AD: Publish Date:05-09-05            \$ 45.28

TOTAL:            \$ 72.78            \$ 70.00



ESCROW POSTED:            \$ 300.00  
LESS: DISBURSEMENTS:    \$ 142.78

AMOUNT DUE:            \$ \_\_\_\_\_

REFUND DUE:            \$ 157.22

Cc:

L.R. 7-18-05

May 23, 2005

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RUSSELL & MARGARET KAVANA (05-18)

Mr. and Mrs. Russell Kavana appeared before the board for this proposal.

MR. KANE: Request to permit 6 ft. fence to be located between the house and the street at 7 Provost Drive.

MR. KANE: How you doing? Tell us what you want to do.

MR. KAVANA: I want to put a fence up for reasons of privacy, we have a pool up, three young children, dog and just safety wise, you know, with the pool, my children and other children.

MR. KANE: Mike, they're here because I'm looking, the stockade fencing is going to extend passed the front of the home?

MR. BABCOCK: That's correct, not what they think is the front of the home.

MRS. KAVANA: We were surprised to find out we had two front yards.

MR. KRIEGER: House is on the corner lot, it appears to have two side yards visually legally speaking has two front yards?

MR. BABCOCK: That's correct.

MR. KANE: Gentleman here before had three front yards. The six-foot fence again is privacy safety for your pool?

MR. KAVANA: Right.

MR. KANE: Will the fence block any driver's vision coming down the street?

MR. KAVANA: No.

MR. KANE: Fence is going to come out here on this side?

MR. KAVANA: No, it's over here.

MR. KANE: So from here on this street pulling up to this corner that fence right on that corner is not going to interfere with the line of site of any

May 23, 2005

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drivers?

MR. KAVANA: No.

MR. KANE: Won't be cutting down any trees or substantial vegetation?

MR. KAVANA: No.

MR. KANE: Creating any water hazards?

MR. KAVANA: No.

MR. KANE: Fence itself is going to be a stockade?

MR. KAVANA: Cedar dog ear.

MR. KANE: And that's similar to other fences that are in your neighborhood?

MR. KAVANA: Yes.

MR. KANE: At this point, I'll open it up to the public and ask if anybody's here? You guys here for this meeting? No? Okay, at this point, I'll close the public portion and ask Myra how many mailings we had.

MS. MASON: On May 9, I mailed out 51 envelopes and had no response.

MR. KANE: Any further questions from the board?

MS. GANN: No.

MR. REIS: Little corner piece the post and rail that's coming out?

MR. KAVANA: Yes.

MR. REIS: Thank you. Accept a motion?

MR. KANE: I will.

MR. REIS: I make a motion that we grant Russell and Margaret Kavana a requested variance to permit a six-foot fence to be located between the house and the street at 7 Provost Drive.

MS. GANN: I'll second the motion.

May 23, 2005

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ROLL CALL

MS. LOCEY	AYE
MS. GANN	AYE
MR. REIS	AYE
MR. BROWN	AYE
MR. KANE	AYE

MR. KANE: You're all set, follow those directions right there. Thank you very much.

April 11, 2005

12

RUSSELL & MARGARET KAVANA (05-18)

MR. KANE: Request to permit 6 ft. fence to be located between the house and the street at 7 Provost Drive.

Mr. and Mrs. Russell Kavana appeared before the board for this proposal.

MR. KANE: Hi, tell us what you want to do.

MR. KAVANA: I live on 7 Provost Drive, we'd like to put up a 6 foot fence, we just erected a new pool now I've got three young boys and just like to enclose the back yard for privacy, safety, you know, no other kids coming in.

MR. KANE: You're on a corner lot where the fence is going to be, it's not going to block the view of any traffic?

MR. KAVANA: No.

MR. KANE: And you consider putting up a fence a safety issue with your pool and your children?

MR. KAVANA: Yes.

MR. KANE: And the construction of the fence, sir?

MR. KAVANA: Cedar, just wood six foot dog-eared.

MR. KANE: Just take the pictures?

MR. KAVANA: Yes.

MR. KANE: New pool last year?

MR. KAVANA: Yeah, put it up in October.

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

MR. KAVANA: No.

MR. KANE: Creating any water hazards or runoffs?

April 11, 2005

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MR. KAVANA: No.

MR. KANE: Fence similar in nature to other fences in your neighborhood?

MR. KAVANA: Yes.

MR. KANE: Any other questions? I'll accept a motion.

MR. REIS: Make a motion that we set up Russell and Margaret Kavana for their requested variance at 7 Provost Drive.

MS. GANN: Second the motion.

ROLL CALL

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



**AFFIDAVIT OF MAILING**

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

-----X

In the Matter of the Application for Variance of

**RUSSELL & MARGARET KAVANA**

**AFFIDAVIT OF  
SERVICE  
BY MAIL**

#05-18

X

STATE OF NEW YORK )

) SS:

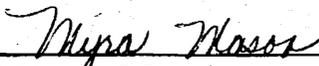
COUNTY OF ORANGE )

**MYRA L. MASON, being duly sworn, deposes and says:**

That I am not a party to the action, am over 18 years of age and reside at 67 Bethlehem Road, New Windsor, NY 12553.

That on the 9TH day of MAY, 2005, I compared the 51 addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor's Office regarding the above application for a variance and I find that the addresses are identical to the list received. I then placed the envelopes in a U.S. Depository within the Town of New Windsor.

Sworn to before me this

  
\_\_\_\_\_  
Myra L. Mason, Secretary

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

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

**TOWN OF NEW WINDSOR**  
**ZONING BOARD OF APPEALS**  
**PUBLIC HEARING NOTICE**

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. 05-18  
Request of RUSSELL & MARGARET KAVANA  
Request for a VARIANCE of the Zoning Local Law  
to Permit:

Request to permit 6 ft. fence to be located between the house and the street (300-11-C.1c) at 7 Provost Drive in an R-4 Zone (49-4-12)

PUBLIC HEARING will take place on MAY 23, 2005 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 P.M.

MICHAEL KANE, CHAIRMAN

RECEIVED

MAY 1 2 2005

TOWN OF NEW WINDSOR  
COMMUNITY DEVELOPMENT OFFICE

**Ad Number: 1755268 Advertiser: NEW WINDSOR, TOWN**

Phone: 8455634615 Sys No: 1194114 Caller: MYRA

**INVOICING CUSTOMER:**

Phone: 8455634615 Sys No: 1194114 AcctNo: P.O. No:

Name: NEW WINDSOR, TOWN Subscriber:

Address: ZONING AND PLANNING

555 UNION AVENUE

NEW WINDSOR NY 12553

**ORDER:**

Printed By: THRFODRIL Date: 05/03/2005 Assigned Sales: TOWNOFNEWWINDSOR ZONINGBOARDOFAPPEALS P AdType: LINER Order Type: NORMAL

Manual Delay: Box No: Call Back: Y

**NOTES:**

Change Reason:

**INSERTION:**

Product: T1H Paper: IN Class: 999X

Schedule: Start Date - 05/09/2005 End Date - 05/09/2005

Sort: TOWN OF NEW WINDSOR ZONING BOARD OF APPEA

**PRODUCTION:**

Text Size: 2 x 24.00 ProdType: ENTERPRISE ColorNo: 0 Colors:

Tear sheets: 1 Proofs: 0 Affidavits: 1 Alt Addr: N

**PRICING:**

Price: 45.28 Payment Method: BI Amount Paid: 0 Amount Owed: 45.28

Price Method: 0 (0=Normal, 1=User Net, 2=System Gross) Rate Code: LEL

For fields listed below 0 = NO 1 = YES

Till Forbid: 0 Multi. Content: 0

1 of 6

**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:

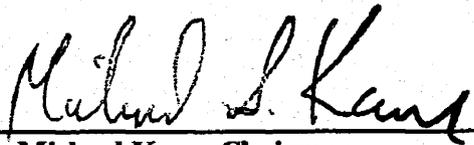
**Appeal No. 05-18**

**Request of RUSSELL & MARGARET KAVANA**

**for a VARIANCE of the Zoning Local Law to Permit:**

**Request to permit 6 ft. fence to be located between the house and the street (300-11-C.1c) at 7 Provost Drive in an R-4 Zone (49-4-12)**

**PUBLIC HEARING will take place on MAY 23, 2005**  
**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) 563-3101

## Assessors Office

April 20, 2005

Russell Kavana  
7 Provost Drive  
New Windsor, NY 12553

Re: 49-4-12                      ZBA#: 05-18 (51)

Dear Mr. Kavana:

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 \$75.00, minus your deposit of \$25.00.

Please remit the balance of \$50.00 to the Town Clerk's Office.

Sincerely,

J. Todd Wiley, IAO  
Sole Assessor

JTW/tmp  
Attachments

CC: Myra Mason, Zoning Board

37-1-48  
Church of St. Helena  
P.O. Box 426  
Vails Gate, NY 12584

49-1-15  
Gregory & Lorraine Taylor  
78 Continental Drive  
New Windsor, NY 12553

49-1-18  
Ricci & John Laganaro  
84 Continental Drive  
New Windsor, NY 12553

49-1-20.2  
Windsor Terrace Associates, LP  
1055 Parsippany Blvd – Suite 404  
Parsippany, NJ 07054

49-3-10  
Keith & Carolyn Evans  
6 Parade Place  
New Windsor, NY 12553

49-3-13  
Lee & Susan Benton  
55 Continental Drive  
New Windsor, NY 12553

49-3-16  
Robert & Kathleen Schultz  
11 Regimental Place  
New Windsor, NY 12553

49-4-8  
Venera & Camille Martinisi  
15 Provost Drive  
New Windsor, NY 12553

49-4-11  
Harry & Elizabeth Perez  
9 Provost Drive  
New Windsor, NY 12553

49-4-15  
Philip & Rosemary McGrath  
5 Parade Place  
New Windsor, NY 12553

49-1-13  
Edward & Linda Spreer  
74 Continental Drive  
New Windsor, NY 12553

49-1-16  
Joan Fletcher  
80 Continental Drive  
New Windsor, NY 12553

49-1-19  
Sean & Marie Matthews  
5 Provost Drive  
New Windsor, NY 12553

49-3-8  
Guillermo San Juan  
Sara Ortiz  
10 Parade Place  
New Windsor, NY 12553

49-3-11  
Robert & Brenda Tucker  
4 Parade Place  
New Windsor, NY 12553

49-3-14  
Marianne Franklin  
15 Regimental Place  
New Windsor, NY 12553

49-4-6  
Jean, Terri & J.C. Adams  
19 Provost Drive  
New Windsor, NY 12553

49-4-9  
Gloria Wessman  
13 Provost Drive  
New Windsor, NY 12553

49-4-13  
Ronny St. Victor  
Marilourd Celestin  
59 Continental Drive  
New Windsor, NY 12553

49-4-16  
Clemente Valle, Sr.  
Clemente Valle, Jr.  
7 Parade Place  
New Windsor, NY 12553

49-1-14  
Christopher Toepfer  
76 Continental Drive  
New Windsor, NY 12553

49-1-17  
Anthony & Gemma Tornatore  
82 Continental Drive  
New Windsor, NY 12553

49-1-20.1 & 65-2-30  
Tower Management Financing  
Partnership, LP  
680 Kinderkamack Road  
River Edge, NJ 07661

49-3-9  
Nicholas & Jacqueline Battipaglia  
8 Parade Place  
New Windsor, NY 12553

49-3-12  
James & Elaine Shapiro  
57 Continental Drive  
New Windsor, NY 12553

49-3-15  
Lew Moseley  
Tara Hunt  
13 Regimental Place  
New Windsor, NY 12553

49-4-7  
William Bicknell, Jr.  
Jean Marie Bicknell  
17 Provost Drive  
New Windsor, NY 12553

49-4-10  
Clayton & Sharon Jones  
64-39C 186<sup>th</sup> Lane – Apt 3B  
Fresh Meadows, NY 11365

49-4-14  
Susan Hoffman  
Ann Maria Cimino  
3 Parade Place  
New Windsor, NY 12553

49-4-17  
Rosa Celicia, Jaime & Celmira Rodriguez  
9 Parade Place  
New Windsor, NY 12553

49-4-18  
Sylvia & John Glassey, III  
11 Parade Place  
New Windsor, NY 12553

49-5-9  
Jose DaSilva  
732 Blooming Grove Tpke  
New Windsor, NY 12553

49-5-12  
Ann Yarus  
744 Blooming Grove Tpke  
New Windsor, NY 12553

49-5-15  
Rosemary Quercia  
758 Blooming Grove Tpke  
New Windsor, NY 12553

49-5-18  
Anne Moriarty  
8 Provost Drive  
New Windsor, NY 12553

49-5-21  
John & Margaret Brady  
14 Provost Drive  
New Windsor, NY 12553

49-5-24  
John Femiak  
20 Provost Drive  
New Windsor, NY 12553

49-5-7  
Barbara Aimone  
James Sanders  
724 Blooming Grove Tpke  
New Windsor, NY 12553

49-5-10  
Marcia Chartoff  
736 Blooming Grove Tpke  
New Windsor, NY 12553

49-5-13  
Philip Huggins  
Levi Huggins  
403 Candlestick Hill Road  
Newburgh, NY 12550

49-5-16  
Newburgh Church of Christ  
Box 371  
Vails Gate, NY 12584

49-5-19  
Lawrence & Mary Crook  
10 Provost Drive  
New Windsor, NY 12553

49-5-22  
Ellen Egan  
16 Provost Drive  
New Windsor, NY 12553

49-5-25  
David Rodriguez, Jr.  
22 Provost Drive  
New Windsor, NY 12553

49-5-8  
Frank & Carmen Perez  
728 Blooming Grove Tpke.  
New Windsor, NY 12553

49-5-11  
Barbara Hanke Quinn  
John Quinn  
740 Blooming Grove Tpke  
New Windsor, NY 12553

49-5-14  
754 Blooming Grove Properties, LLC  
754 Blooming Grove Tpke  
New Windsor, NY 12553

49-5-17  
Duncan Carmichael  
Angela Goddard  
6 Provost Drive  
New Windsor, NY 12553

49-5-20  
Mariam Grassel  
12 Provost Drive  
New Windsor, NY 12553

49-5-23  
Mary Patricia Buchanan  
18 Provost Drive  
New Windsor, NY 12553

65-2-32  
Leemilts Petroleum, Inc.  
ATT: Marketing  
125 Jericho Turnpike - Suite 103  
Jericho, NY 11753

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

**RECEIPT OF ESCROW RECEIVED:**

DATE RECEIVED: APRIL 8, 2005

FOR: **ESCROW 05-18**

FROM:

**Russell & Margaret Kavana**  
**7 Provost Drive**  
**New Windsor, NY 12553**

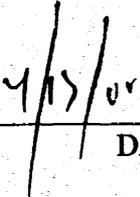
CHECK NUMBER: **1475**

TELEPHONE: **569-4415**

AMOUNT: **300.00**

RECEIVED AT COMPTROLLER'S OFFICE BY:

  
\_\_\_\_\_  
NAME

  
\_\_\_\_\_  
DATE

PLEASE RETURN ONE SIGNED COPY TO MYRA FOR FILING

THANK YOU

ZBA- #05-18 application fee

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

**RECEIPT**  
**#328-2005**

04/13/2005

Kavana, Russell J.  
7 Provost Dr.  
New Windsor, NY 12553

Received \$ 50.00 for Zoning Board Fees, on 04/13/2005. 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

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (845) 563-4615  
Fax: (845) 563-4689

## ZONING BOARD OF APPEALS

April 28, 2005

Russell & Margaret Kavana  
7 Provost Drive  
New Windsor, NY 12553

SUBJECT: REQUEST FOR VARIANCE #05-18

Dear Mr. & Mrs. Kavana:

This is just to let you know your Notices for Public Hearing were mailed out and the notice was also sent to The Times Herald Record Newspaper for publication. **PLEASE NOTE: The charge for publication in the Times Herald Record will be deducted from your escrow that was posted with your application papers.**

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

7 Provost Drive  
New Windsor, NY 12553

is scheduled for the MAY 23, 2005 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 REQUEST FOR NOTIFICATION LIST

DATE: 04-11-05 PROJECT NUMBER: ZBA# 05-18 P.B. # \_\_\_\_\_

APPLICANT NAME: RUSSELL KAVANA

PERSON TO NOTIFY TO PICK UP LIST:

RUSSELL KAVANA  
7 PROVOST DRIVE  
NEW WINDSOR, NY 12553

TELEPHONE: 569-4415

TAX MAP NUMBER:      SEC. 49      BLOCK 4      LOT 12  
                                 SEC. \_\_\_\_\_      BLOCK \_\_\_\_\_      LOT \_\_\_\_\_  
                                 SEC. \_\_\_\_\_      B LOCK \_\_\_\_\_      LOT \_\_\_\_\_

PROPERTY LOCATION: 7 PROVOST 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: 1477

TOTAL CHARGES: \_\_\_\_\_



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



**APPLICATION FOR VARIANCE**

3/3/05  
Date

Application Type: Use Variance  Area Variance   
Sign Variance  Interpretation

**I. Owner Information:**

Phone Number: (845) 569-4415  
Russell J KAVANA, Margaret KAVANA Fax Number: ( )  
 (Name)  
7 PROVOST DR New Windsor NY 12553  
 (Address)

**II. Applicant:**

Phone Number: (845) 569-4415  
Russell J KAVANA Fax Number: ( )  
 (Name)  
7 PROVOST DR New Windsor NY 12553  
 (Address)

**III. Forwarding Address, if any, for return of escrow:**

Phone Number: ( )  
 Fax Number: ( )  
 (Name)  
 (Address)

**IV. Contractor/Engineer/Architect/Surveyor/:**

Phone Number ( )  
 Fax Number: ( )  
 (Name)  
 (Address)

**V. Property Information:**

Zone: R-4 Property Address in Question: 7 PROVOST DR New Windsor  
 Lot Size: 0.42 acres Tax Map Number: Section 49 Block 4 Lot 12  
 a. What other zones lie within 500 feet? Residential  
 b. Is pending sale or lease subject to ZBA approval of this Application? no  
 c. When was property purchased by present owner? AUG 1996  
 d. Has property been subdivided previously? no If so, When: \_\_\_\_\_  
 e. Has an Order to Remedy Violation been issued against the property by the Building/Zoning/Fire Inspector? no  
 f. Is there any outside storage at the property now or is any proposed? no

\*\*\*\*PLEASE NOTE:\*\*\*\*\*

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



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



**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

**MULTI-FAMILY: (Three Separate Checks Please)**

APPLICATION FEE: \$150.00  
 \*ESCROW: \$500.00  
 \*\*DEPOSIT FOR PUBLIC HEARING LIST: \$ 25.00

**COMMERCIAL: (Three Separate Checks Please)**

APPLICATION FEE: \$150.00  
 \*ESCROW: \$500.00  
 \*\*DEPOSIT FOR PUBLIC HEARING LIST: \$ 25.00

**INTERPRETATION: (Three Separate Checks Please)**

APPLICATION FEE: \$150.00  
 \*ESCROW: \$500.00  
 \*\*DEPOSIT 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, LEGAL ADS, ETC. THE BALANCE WILL BE RETURNED TO YOU UPON CLOSING FILE.

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

05-18

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.**

**NOTE:**

**THE ZBA MEETS ON THE 2<sup>ND</sup> AND 4<sup>TH</sup> MONDAY OF EACH MONTH UNLESS A HOLIDAY FALLS ON THAT DATE.**

**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:

I Live on the corner of  
Probst & Continental, I would like a  
Variance to Put up a Privacy fence, for my  
Family. I have three young boys, a Dog  
and a new Pool. My children & other children  
are my concern, Their safety is very important  
to me.

**PLEASE NOTE:**

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

**COMPLETE THIS PAGE**

**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.)
- 
- 

**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 FOUR (4) 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:

31<sup>st</sup> day of March 2005

Margaret A. Kavava  
Owner's Signature (Notarized)

MARGARET A KAVAVA  
Owner's Name (Please Print)

Jennifer Mead  
Signature and Stamp of Notary

JENNIFER MEAD  
Notary Public, State Of New York  
No. 01ME6050024  
Qualified In Orange County  
Commission Expires 10/30/2007

Margaret A. Kavava  
Applicant's Signature (If not Owner)

**PLEASE NOTE:**

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