

ZB# 06-04

**Edward Jacopino
(Faricellia's Market)**

4-18-5

ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR
555 UNION AVENUE
NEW WINDSOR, N.Y. 12553
Granted 3-13-06



S-04

EDWARD JACOPINO (FARICELLIA'S)
4 WALSH AVE. (USE) (4-18-5)

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

NOTICE OF DISAPPROVAL OF PLANNING BOARD APPLICATION

PLANNING BOARD FILE NUMBER: 05-12

DATE: 5-18-05

APPLICANT:

Edward & Ellen Jacopino
238 Walsh Avenue
New Windsor, NY 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION:

DATED: 4-18-05

FOR: SITE PLAN

LOCATED AT: Walsh Avenue & Clancy Avenue

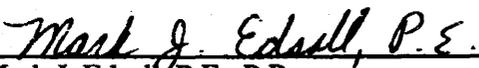
ZONE: R-4

DESCRIPTION OF EXISTING SITE: SEC: 13 BLOCK: 2 LOT: 17

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

Use Variance Required for Proposed Multi-family/Multiple Dwelling Use (increase in non-conformity). Parking Variance for Off-street Parking of 5 spaces.

TOWN OF NEW WINDSOR CODE: Bulk Regulations



Mark J. Edsall, P.E., P.P.
Engineer for the Planning Board

ELDRED P. CARHART
STATE CERTIFIED GENERAL APPRAISER

NEW YORK and CONNECTICUT

COMMERCIAL AND RESIDENTIAL APPRAISAL SERVICES

66 Balmville Road, Newburgh, New York 12550

TEL (845) 561 - 0570

FAX (845) 565 - 7004

e-mail: ecarthart@hvc.rr.com

**PROPOSED TESTIMONY BEFORE
THE NEW WINDSOR ZBA**

Property: 238 Walsh Avenue, New Windsor, NY

Present zoning: R-4, Residential

Property Owner: Edward and Ellen Jacopino, d/b/a Faricellia's Market

Tax Map Identification: Section 13, Block 2, Lot 17

Present use of Subject: The property is currently being used as a local market, two apartments and a detached cottage.

Objective: To be granted a "use" variance so that a new, second story can be added to the structure which will accommodate two additional residential apartments.

The granting of the variance will not alter the essential character of the neighborhood.

The present use of the property is a small commercial mixed-use enterprise. The request is for the construction of a new second story for the building which will accommodate two additional residential apartments.

This neighborhood is mixed-use in nature with industrial zoning opposite the property. In the block between Merline and Carol Avenues, there is the subject - Faricellia's Market, along

with Petrillo's Restaurant/Catering, a vacant garage building, a Laundromat/real estate office, and a used auto sales property. In addition there are numerous existing multi-story structures with apartments in this block. Immediately opposite, and within the confines of Merline and Carol Avenues the following commercial uses are located: Clegg Brothers Overhead Door Company, Trade Auto, a Trailer Park, Fred Thompson Used Cars Sales and Garage Building, and Federal Block Company.

To deny the variance *will deny a reasonable return* on the investment in the property.

The existing use of the property is a small local market, with the owner's residence in a basement apartment. There are two additional rental units - one an apartment to the rear of the market, and the other is a small detached cottage behind the building. Configured as such, it has a very limited demand and does not lend itself to a commercial addition or expansion of any kind except upwards with residential apartments.

The combined rental values for the premises are as follows:

	<u>Monthly</u>
The owner's apartment - 1 Bedroom:	\$ 660*
The owner's market - 2100 SF @ \$15.00/SF:	\$2,625 *
The rear apartment - 2 Bedrooms:	\$ 660
The cottage behind the store - 1 Bedroom:	<u>\$ 900</u>
	\$4,845 x 12 months = \$58,140 Annually

*estimated market rents

The total gross income from the store and rental apartment units is estimated to be \$58,140 and is subject to a vacancy and bad debt allowance of 2.5 percent or \$1,450, leaving an effective gross income of \$56,690.

After deductions are made for vacancies and bad debts, additional operating expenses such as realty taxes, insurance, water and sewer rents, heat, grounds care and snow plowing, maintenance and repairs, legal and accounting, bank service charges, miscellaneous, and reserves for replacement of roof, boiler, water heaters, floor coverings, paving, etc., is

estimated at \$30,560, bringing the net operating income (NOI) to about \$26,130. (see attached Pro-forma)

The property has an equalized tax value (value for tax purposes) of \$375,000.

Utilizing the standard appraisal formula of: Value equals income divided by rate, the property would have a value of \$261,300 (assuming a 10% capitalization rate), which is almost \$100,000 less than it is being taxed on. With an NOI of only \$26,130, the return on the investment is a mere 7% (6.97).

However, if two three-bedroom residential apartments are added to the overall income, the rental value would increase by a minimum of \$1,800 per month, or \$21,600 per year. This would add substantially to Gross Income of the property, without increasing the expenses proportionately. A NOI of \$44,510 is now anticipated. (see attached Pro-forma)

The equalized tax value would probably jump to about \$450,000, but with an NOI of \$44,510, the return on the investment is improved to 10% (9.89)

Now, the property would be worth at least as much as what it is being taxed on.

According to the owners' accountant, Eileen Carney, the market is losing business at a drastic rate (21.5% for the year ending 12/31/04, and 36.5% over the last few years). Without relief in the form of ZBA approval for additional apartments in the building, the property cannot economically survive in the present market.

The hardship is not self-created - These properties have existed as a mixed use neighborhood for many years. It is not the fault of the applicant that the property can no longer attain a realistic return on the investment.

PRO-FORMA (BEFORE ZBA APPROVAL)

\$58,140	Gross Operating Income
<u>(1,450)</u>	Vacancy & bad Dept Allowance
\$56,690	Effective Gross Income (EGI)

Expenses:

\$11,500	Real Estate Taxes
5,000	Insurance (\$1,789 deducted from total bill for business insurance)
860	Water & Sewer charges
4,000*	Heat
1,200*	Grounds care and snow removal (\$100/Month)
2,270*	Maintenance & Repairs (4% of EGI)
750*	Legal & Accounting
360*	Bank Service Charges (\$30/Month)
1,500*	Miscellaneous (2.5% of EGI)
850*	Reserves for replacements (heating system, water heaters, roof, floor coverings, paving, appliances, etc.)
<hr/>	
<u>(\$30,560)</u>	\$30,560 Total Expenses

\$26,130 NET OPERATING INCOME

* estimated, using accepted appraisal techniques

PRO-FORMA (AFTER ZBA APPROVAL)

\$79,740 Gross Operating Income
(2,000) Vacancy & Bad Debt Allowance

\$77,740 Effective Gross Income (EGI)

Expenses

\$13,800* Real Estate Taxes (20% increase)
6,000* Insurance (\$1,000 increase)
900* Water & Sewer charges
4,000* Heat (new tenants will supply own heat)
1,200* Grounds care and snow removal (\$100/Month)
3,100* Maintenance & Repairs (4% of EGI)
750* Legal & Accounting
360* Bank Service Charges
1,950* Miscellaneous (2.5% of EGI)
1,170* Reserves for replacements (heating systems, water heaters,
roof, floor coverings, paving, appliances, etc)

(33,230) **\$33,230** Total Expenses

\$44,510 NET OPERATING INCOME

* estimated, using accepted appraisal techniques

Appraisal Qualifications
ELDRED P. CARHART
State Certified General Appraiser

Licenses:

New York State Certified General Real Estate Appraiser, No 46-000009964
Connecticut State Certified General Real Estate Appraiser, No. 0000720
Pennsylvania State Certified General Real Estate Appraiser, No. GA-001543-R
New York State Licensed Real Estate Broker, No. 35-518942
New York State Teaching Certificate

Employment History:

Eldred P. Carhart	-	Individual fee appraiser
First Union Bank	-	Assistant vice-president and staff commercial appraiser
First Fidelity Bank	-	Assistant vice-president and staff commercial appraiser
Mid-Hudson Savings Bank	-	Appraisal department manager and senior appraiser
Carhart Appraisal Company	-	Founder, co-owner and chief appraiser

Appraisal Education:

"Principles of Income Property Appraising" (Appraisal Institute, course 201, 60-hours)
"Applied Income Property Valuation" (Appraisal Institute, course 202, 39-hours)
"Highest and Best Use and Market Analysis" (Appraisal Institute, course 520, 36-hours)
"Standards of Professional Practice, Parts A & B" (Appraisal Institute, courses 410 & 420, 25-hours)
"Advanced Sales Comparison and Cost Approaches" (Appraisal Institute, course 530, 39-hours)
"Report Writing and Valuation Analysis" (Appraisal Institute, course 540, 39-hours)
"The Consideration of Environmental Hazards in Real Estate Valuation" (Chapter 123, Appraisal Institute, 2-hour seminar)
"Introduction to Appraising Real Property" (Society of Real Estate Appraisers, course 101, 60-hours)
"Applied Residential Property Valuation" (Society of Real Estate Appraiser, course 102, 39-hours)
"Appraising 2-4 Family Residential Properties" (McKissock Data Systems, 6-hours)
"Narrative Report Writing" (Society of Real Estate Appraisers, 7-hours)
"Appraisal Standards of Practice and Ethics" (National Association of Real Estate Appraisers 15-hour course)
"FIRREA: Overview and Practical Application" (FIRREA Seminars, 7-hours)
"Income Approach" (International Association of Assessing Officers, course 30-hours)
"Introduction to Environmental Considerations for the Appraiser" (McKissock Systems, 8-hours)
"Hidden Factors - Environmental Risk Evaluation and the Real Estate Appraiser" (Chapter 123, Appraisal Institute, 2-hour seminar)
"Estimating Accrued Depreciation" (NYS Society of Real Estate Appraiser, 8-hours)
"Proper Use of the Marshall & Swift Cost Manual" (NYS Society of Real Estate Appraisers, 4-hours)
"Valuation by Subdivision Analysis" (Chapter 123, Appraisal Institute, 2-hour seminar)
"The Residential Appraiser as an Expert Witness" (NYS Society of Real Estate Appraisers, 4-hours)
"Introduction to Review Appraisal" (McKissock Data Systems, 7-hours)

- "EDI and Appraisal Office Automation" (McKissock Data Systems, 7-hours)
- "Appraising the Oddball: Nonconforming & Difficult Properties" (McKissock Data Systems, 7-Hours)
- "Real Estate Damages: Assessment & Testimony" (McKissock Data Systems, 7-hours)

Numerous other courses and seminars offered by: New York State Association of Realtors, International Association of Assessing Officers, Marshall and Swift Valuation Service, New York Assessors Association, Orange County Assessors Association, Federal Housing Administration, and, National Association of Real Estate Appraisers.

Business Experience:

Actively involved as a professional appraiser since 1965, managing appraisal staffs and conducting appraisals of residential, commercial, industrial properties, building lots, raw acreage, subdivisions and developments.

Appraisal assignments have included: tax certiorari proceedings; appropriation and/or severance damage; mortgage security, utility easements; urban renewal acquisition; assessment review; employee transfer; condemnation by public authority; estate, transfer, and/or gift tax; sale, purchase, and/or investment value; catastrophic damage claim; tax basis; economic and/or location feasibility; leasehold interest; equity yield; cash flow analysis; airport facilities; construction lending and rehabilitation; zoning constitutionality; and, assessment ratio analysis.

Appraisals have been conducted for: banks, financial institutions, insurance companies, government units and agencies, schools, labor unions, religious congregations, commercial and industrial clients, attorneys, and private individuals. Called as a real estate valuation expert and qualified as such to testify at proceedings in the New York State Supreme Court (Westchester, Rockland, Orange and Ulster Counties), and local courts and boards, and the New York State Court of Claims.

Professional Affiliations:

NY State Association of
Real Estate Appraisers

- Director, 1991-93
Chairman, Professional Ethics Committee,
1991-92

**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: MAY 30, 2006
SUBJECT: ESCROW REFUND

**PLEASE ISSUE A CHECK IN THE AMOUNT OF \$ 83.31 TO CLOSE OUT
ESCROW FOR:**

ZBA FILE #06-04

NAME & ADDRESS:

**Edward Jacopino
238 Walsh Avenue
New Windsor, NY 12553**

THANK YOU,

MYRA

J. Mason
5/31/06

L.R.05-31-06

TAXPAYER'S COPY

Form **1065**

U.S. Return of Partnership Income
 For calendar year 2004, or tax year beginning _____, 2004, and
 ending _____, 20 ____
 ▶ See separate instructions.

OMB No. 1545-0045

2004

Department of the Treasury
Internal Revenue Service

A Principal business activity	Use the IRS label. Otherwise, print or type.	Name of partnership	D Employer identification number
RETAIL SALES		FARICELLIA'S MARKET	14-1688252
B Principal product or service		Number, street, and room or suite number. If a P.O. box, see instructions.	E Date business started
GROCERIES	238 WALSH AVE	12/28/86	F Total assets (see instrs)
C Business code number	City or town	State ZIP code	-\$
445110	NEW WINDSOR	NY 12553	

G Check applicable boxes: (1) Initial return (2) Final return (3) Name change (4) Address change (5) Amended return

H Check accounting method: (1) Cash (2) Accrual (3) Other (specify) _____ ▶

I Number of Schedules K-1. Attach one for each person who was a partner at any time during the tax year ▶ **2**

Caution: Include *only* trade or business income and expenses on lines 1a through 22 below. See the instructions for more information.

I N C O M E	1a Gross receipts or sales	1a	99,121.			
	b Less returns and allowances	1b		1c	99,121.	
	2 Cost of goods sold (Schedule A, line 8)	2		76,288.		
	3 Gross profit. Subtract line 2 from line 1c	3		22,833.		
	4 Ordinary income (loss) from other partnerships, estates, and trusts (attach schedule)	4				
	5 Net farm profit (loss) (attach Schedule F (Form 1040))	5				
	6 Net gain (loss) from Form 4797, Part II, line 17	6				
	7 Other income (loss) (attach schedule)	7		19,742.		
COMMISSIONS & MISC. OTHER						
8 Total income (loss). Combine lines 3 through 7	8		42,575.			
D E D U C T I O N S F O R L I M I T A T I O N S	9 Salaries and wages (other than to partners) (less employment credits)	9		17,200.		
	10 Guaranteed payments to partners	10				
	11 Repairs and maintenance	11		1,171.		
	12 Bad debts	12				
	13 Rent	13				
	14 Taxes and licenses	14		9,317.		
	15 Interest	15				
	16a Depreciation (if required, attach Form 4562)	16a	18,330.			
	b Less depreciation reported on Schedule A and elsewhere on return	16b		18,330.	16c	
	17 Depletion (Do not deduct oil and gas depletion.)	17				
	18 Retirement plans, etc	18				
	19 Employee benefit programs	19				
	20 Other deductions (attach statement)	20		26,251.		
	* STMT					
21 Total deductions. Add the amounts shown in the far right column for lines 9 through 20	21		72,269.			
22 Ordinary business income (loss). Subtract line 21 from line 8	22		-29,694.			

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than general partner or limited liability company member) is based on all information of which preparer has any knowledge.

▶ _____ ▶ _____
 Signature of general partner or limited liability company member Date

May the IRS discuss this return with the preparer shown below (see instrs)? Yes No

Paid Preparer's Use Only

Preparer's signature: _____ Date: _____ Preparer's SSN or PTIN: _____

Firm's name (or yours if self-employed), address, and ZIP code: **EILEEN CARNEY**
222 PANCAKE HOLLOW RD.
HIGHLAND NY 12528

Check if self-employed: EIN: **P00237576**

Phone no. _____

Schedule A Cost of Goods Sold (see instructions)

1	Inventory at beginning of year	1	23,990.
2	Purchases less cost of items withdrawn for personal use	2	75,788.
3	Cost of labor	3	
4	Additional section 263A costs (attach statement)	4	
5	Other costs (attach statement)	5	
6	Total. Add lines 1 through 5	6	99,778.
7	Inventory at end of year	7	23,490.
8	Cost of goods sold. Subtract line 7 from line 6. Enter here and on page 1, line 2	8	76,288.

9a Check all methods used for valuing closing inventory:

(i) Cost as described in Regulations section 1.471-3

(ii) Lower of cost or market as described in Regulations section 1.471-4

(iii) Other (specify method used and attach explanation)

b Check this box if there was a writedown of 'subnormal' goods as described in Regulations section 1.471-2(c)

c Check this box if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970)

d Do the rules of section 263A (for property produced or acquired for resale) apply to the partnership? Yes No

e Was there any change in determining quantities, cost, or valuations between opening and closing inventory? Yes No

If 'Yes', attach explanation

Schedule B Other Information

	Yes	No
1 What type of entity is filing this return? Check the applicable box:		
a <input checked="" type="checkbox"/> Domestic general partnership		
b <input type="checkbox"/> Domestic limited partnership		
c <input type="checkbox"/> Domestic limited liability company		
d <input type="checkbox"/> Domestic limited liability partnership		
e <input type="checkbox"/> Foreign partnership		
f <input type="checkbox"/> Other		
2 Are any partners in this partnership also partnerships?		X
3 During the partnership's tax year, did the partnership own any interest in another partnership or in any foreign entity that was disregarded as an entity separate from its owner under Regulations sections 301.7701-2 and 301.7701-3? If yes, see instructions for required attachment		X
4 Did the partnership file Form 8893, Election of Partnership Level Tax Treatment, or an election statement under section 6231(a)(1)(B)(ii) for partnership-level tax treatment, that is in effect for this tax year? See Form 8893 for more details		X
5 Does this partnership meet all three of the following requirements?		
a The partnership's total receipts for the tax year were less than \$250,000;		
b The partnership's total assets at the end of the tax year were less than \$600,000; and		
c Schedules K-1 are filed with the return and furnished to the partners on or before the due date (including extensions) for the partnership return.		
If 'Yes,' the partnership is not required to complete Schedules L, M-1, and M-2; Item F on page 1 of Form 1065; or Item N on Schedule K-1	X	
6 Does this partnership have any foreign partners? If 'Yes,' the partnership may have to file Forms 8804, 8805 and 8813. See instructions		X
7 Is this partnership a publicly traded partnership as defined in section 469(k)(2)?		X
8 Has this partnership filed, or is it required to file, Form 8264, Application for Registration of a Tax Shelter?		X
9 At any time during calendar year 2004, did the partnership have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)? See the instructions for exceptions and filing requirements for Form TD F 90-22.1. If 'Yes,' enter the name of the foreign country.		X
10 During the tax year, did the partnership receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? If 'Yes,' the partnership may have to file Form 3520. See instructions		X
11 Was there a distribution of property or a transfer (e.g., by sale or death) of a partnership interest during the tax year? If 'Yes,' you may elect to adjust the basis of the partnership's assets under section 754 by attaching the statement described in the instructions under <i>Elections Made By the Partnership</i>		X
12 Enter the number of Forms 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships, attached to this return		

Designation of Tax Matters Partner (see instructions)

Enter below the general partner designated as the tax matters partner (TMP) for the tax year of this return:

Name of designated TMP **▶ ELLEN JACOPINO** Identifying number of TMP **▶ 076-34-6431**

Address of designated TMP **▶ 124 Starlight Road**
▶ Monticello, NY 12701-4044

Schedule K Partners' Distributive Share Items		Total amount
Income (Loss)	1 Ordinary business income (loss) (page 1, line 22)	1 -29,694.
	2 Net rental real estate income (loss) (attach Form 8825)	2 4,628.
	3a Other gross rental income (loss)	3a
	b Expenses from other rental activities (attach stmt)	3b
	c Other net rental income (loss). Subtract line 3b from line 3a	3c
	4 Guaranteed payments	4
	5 Interest income	5
	6 Dividends: a Ordinary dividends	6a
	b Qualified dividends	6b
	7 Royalties	7 -
	8 Net short-term capital gain (loss) (attach Schedule D (Form 1065))	8
9a Net long-term capital gain (loss) (attach Schedule D (Form 1065))	9a	
b Collectibles (28%) gain (loss)	9b	
c Unrecaptured section 1250 gain (attach statement)	9c	
10 Net section 1231 gain (loss) (attach Form 4797)	10	
11 Other income (loss) (attach statement)	11	
Deductions	12 Section 179 deduction (attach Form 4562)	12
	13a Contributions	13a
	b Deductions related to portfolio income (attach statement)	13b
	c Investment interest expense	13c
	d Section 59(e)(2) expenditures: (1) Type (2) Amount	13d (2)
e Other deductions (attach statement)	13e	
Self-Employment	14a Net earnings (loss) from self-employment	14a -29,694.
	b Gross farming or fishing income	14b
	c Gross nonfarm income	14c 42,575.
Credits & Credit Recapture	15a Low-income housing credit (section 42(j)(5))	15a
	b Low-income housing credit (other)	15b
	c Qualified rehabilitation expenditures (rental real estate) (attach Form 3468)	15c
	d Other rental real estate credits	15d
	e Other rental credits	15e
	f Other credits and credit recapture (attach statement)	15f
Foreign Transactions	16a Name of country or U.S. possession	
	b Gross income from all sources	16b
	c Gross income sourced at partner level	16c
	Foreign gross income sourced at partnership level	
	d Passive e Listed categories (attach statement) f General limitation	16f
	Deductions allocated and apportioned at partner level	
	g Interest expense h Other	16h
	Deductions allocated and apportioned at partnership level to foreign source income	
i Passive j Listed categories (attach statement) k General limitation	16k	
l Foreign taxes: (1) Paid (2) Accrued	16l (2)	
m Reduction in taxes available for credit (attach statement)	16m	
Alternative Minimum Tax (AMT) Items	17a Post-1986 depreciation adjustment	17a -202.
	b Adjusted gain or loss	17b
	c Depletion (other than oil and gas)	17c
	d Oil, gas, and geothermal properties - gross income	17d
	e Oil, gas, and geothermal properties - deductions	17e
	f Other AMT items (attach stmt) PRE87 ACCEL. DEPR. REAL/LEASED. PROP.	17f 0.
Other Information	18a Tax-exempt interest income	18a
	b Other tax-exempt income	18b
	c Nondeductible expenses	18c
	19a Distributions of cash and marketable securities	19a
	b Distributions of other property	19b
	20a Investment income	20a
b Investment expenses	20b	
c Other items and amounts (attach stmt)		

Analysis of Net Income (Loss)

1 Net income (loss). Combine Schedule K, lines 1 through 11. From the result, subtract the sum of Schedule K, lines 12 through 13e, 16l(1), and 16l(2).						1	-25,066.
2 Analysis by partner type:	(i) Corporate	(ii) Individual (active)	(iii) Individual (passive)	(iv) Partnership	(v) Exempt organization	(vi) Nominee/Other	
a General partners		-25,066.					
b Limited partners							

Note: Schedules L, M-1 and M-2 are not required if Question 5 of Schedule B is answered 'Yes.'

Schedule L	Balance Sheets per Books	Beginning of tax year		End of tax year	
		(a)	(b)	(c)	(d)
Assets					
1	Cash				
2a	Trade notes and accounts receivable				
b	Less allowance for bad debts				
3	Inventories				
4	U.S. government obligations				
5	Tax-exempt securities				
6	Other current assets (attach stmt)				
7	Mortgage and real estate loans				
8	Other investments (attach stmt)				
9a	Buildings and other depreciable assets				
b	Less accumulated depreciation				
10a	Depletable assets				
b	Less accumulated depletion				
11	Land (net of any amortization)				
12a	Intangible assets (amortizable only)				
b	Less accumulated amortization				
13	Other assets (attach stmt)				
14	Total assets				
Liabilities and Capital					
15	Accounts payable				
16	Mortgages, notes, bonds payable in less than 1 year				
17	Other current liabilities (attach stmt)				
18	All nonrecourse loans				
19	Mortgages, notes, bonds payable in 1 year or more				
20	Other liabilities (attach stmt)				
21	Partners' capital accounts				
22	Total liabilities and capital				

Schedule M-1 Reconciliation of Income (Loss) per Books With Income (Loss) per Return

1 Net income (loss) per books		6 Income recorded on books this year not included on Schedule K, lines 1 through 11 (itemize):	
2 Income included on Schedule K, lines 1, 2, 3c, 5, 6a, 7, 8, 9a, 10, and 11, not recorded on books this year (itemize):		a Tax-exempt interest ... \$	
3 Guaranteed prmts (other than health insurance)		7 Deductions included on Schedule K, lines 1 through 13e, 16l(1), and 16l(2), not charged against book income this year (itemize):	
4 Expenses recorded on books this year not included on Schedule K, lines 1 through 13e, 16l(1), and 16l(2) (itemize):		a Depreciation ... \$	
a Depreciation ... \$		8 Add lines 6 and 7	
b Travel and entertainment ... \$		9 Income (loss) (Analysis of Net Income (Loss), line 1). Subtract line 8 from line 5	
5 Add lines 1 through 4			

Schedule M-2 Analysis of Partners' Capital Accounts

1 Balance at beginning of year		6 Distributions: a Cash	
2 Capital contributed: a Cash		b Property	
b Property		7 Other decreases (itemize):	
3 Net income (loss) per books		8 Add lines 6 and 7	
4 Other increases (itemize):		9 Balance at end of year. Subtract line 8 from line 5	
5 Add lines 1 through 4			

Rental Real Estate Income and Expenses of a Partnership or an S Corporation

2004

Department of the Treasury
Internal Revenue Service

▶ See instructions.
▶ Attach to Form 1065, Form 1065-B, or Form 1120S.

Name FARICELLIA'S MARKET Employer identification number 14-1688252

1 Show the kind and location of each property. See page 2 for additional properties.

- A** APARTMENTS
NEW WINDSOR NY 12553
- B** -----
- C** -----
- D** -----

Rental Real Estate Income	Properties			
	A	B	C	D
2 Gross rents	14,465.			
Rental Real Estate Expenses				
3 Advertising				
4 Auto and travel				
5 Cleaning and maintenance				
6 Commissions				
7 Insurance	664.			
8 Legal and other professional fees				
9 Interest				
10 Repairs	118.			
11 Taxes	3,553.			
12 Utilities	2,499.			
13 Wages and salaries				
14 Depreciation (see instructions)	3,003.			
15 Other (list) ▶				
16 Total expenses for each property. Add lines 3 through 15	9,837.			
17 Total gross rents. Add gross rents from line 2, columns A through H				14,465.
18 Total expenses. Add total expenses from line 16, columns A through H				-9,837.
19 Net gain (loss) from Form 4797, Part II, line 17, from the disposition of property from rental real estate activities				
20 a Net income (loss) from rental real estate activities from partnerships, estates, and trusts in which this partnership or S corporation is a partner or beneficiary (from Schedule K-1)				
b Identify below the partnerships, estates, or trusts from which net income (loss) is shown on line 20a. Attach a schedule if more space is needed:				
(1) Name		(2) Employer identification number		

21 Net rental real estate income (loss). Combine lines 17 through 20a. Enter the result here and on:				4,628.
• Form 1065 or 1120S: Schedule K, line 2, or				}
• Form 1065-B: Part I, line 4				

Depreciation and Amortization
(Including Information on Listed Property)

▶ See separate instructions.
▶ Attach to your tax return.

Name(s) shown on return

FARICELLIA'S MARKET

Business or activity to which this form relates

Form 1065 Line 22

Identifying number

14-1688252

Part I Election To Expense Certain Property Under Section 179

Note: If you have any listed property, complete Part V before you complete Part I.

1	Maximum amount. See instructions for a higher limit for certain businesses	1	\$102,000.
2	Total cost of section 179 property placed in service (see instructions)	2	
3	Threshold cost of section 179 property before reduction in limitation	3	\$410,000.
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5	
6	(a) Description of property	(b) Cost (business use only)	(c) Elected cost
7	Listed property. Enter the amount from line 29	7	
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	
10	Carryover of disallowed deduction from line 13 of your 2003 Form 4562	10	
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5 (see instrs)	11	
12	Section 179 expense deduction. Add lines 9 and 10, but do not enter more than line 11	12	
13	Carryover of disallowed deduction to 2005. Add lines 9 and 10, less line 12	13	

Note: Do not use Part II or Part III below for listed property. Instead, use Part V.

Part II Special Depreciation Allowance and Other Depreciation (Do not include listed property.)

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year (see instructions)	14	281.
15	Property subject to section 168(f)(1) election (see instructions)	15	
16	Other depreciation (including ACRS) (see instructions)	16	10,500.

Part III MACRS Depreciation (Do not include listed property.) (See instructions)

Section A

17	MACRS deductions for assets placed in service in tax years beginning before 2004	17	904.
18	If you are electing under section 168(i)(4) to group any assets placed in service during the tax year into one or more general asset accounts, check here <input type="checkbox"/>		

Section B - Assets Placed in Service During 2004 Tax Year Using the General Depreciation System

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only - see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19 a 3-year property						
b 5-year property						
c 7-year property		280.	7.0 yrs	MQ	200DB	10.
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs		S/L	
h Residential rental property			27.5 yrs	MM	S/L	
i Nonresidential real property			27.5 yrs	MM	S/L	
			39 yrs	MM	S/L	

Section C - Assets Placed in Service During 2004 Tax Year Using the Alternative Depreciation System

20 a Class life					S/L	
b 12-year			12 yrs		S/L	
c 40-year			40 yrs	MM	S/L	

Part IV Summary (see instructions)

21	Listed property. Enter amount from line 28	21	6,635.
22	Total. Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations - see instructions	22	18,330.
23	Assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	23	

Part V Listed Property (Include automobiles, certain other vehicles, cellular telephones, certain computers, and property used for entertainment, recreation, or amusement.)

Note: For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete **only** 24a, 24b, columns (a) through (c) of Section A, all of Section B, and Section C if applicable.

Section A – Depreciation and Other Information (Caution: See instructions for limits for passenger automobiles.)

24a Do you have evidence to support the business/investment use claimed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		24b If 'Yes,' is the evidence written? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No						
(a) Type of property (list vehicles first)	(b) Date placed in service	(c) Business/investment use percentage	(d) Cost or other basis	(e) Basis for depreciation (business/investment use only)	(f) Recovery period	(g) Method/Convention	(h) Depreciation deduction	(i) Elected section 179 cost
25 Special depreciation allowance for qualified listed property placed in service during the tax year and used more than 50% in a qualified business use (see instructions) 25								
26 Property used more than 50% in a qualified business use (see instructions):								
TRUCK	01/01/90	90.00	16,510.	14,859.	5.00	200DB/HY	0.	
Truck	08/14/00	100.00	37,122.	37,122.	5.00	200DB/HY	1,775.	
2003 Truck	08/25/03	90.00	58,052.	52,247.	5.00	200DB/HY	4,860.	
27 Property used 50% or less in a qualified business use (see instructions):								
28 Add amounts in column (h), lines 25 through 27. Enter here and on line 21, page 1 28								6,635.
29 Add amounts in column (i), line 26. Enter here and on line 7, page 1 29								

Section B – Information on Use of Vehicles

Complete this section for vehicles used by a sole proprietor, partner, or other 'more than 5% owner,' or related person. If you provided vehicles to your employees, first answer the questions in Section C to see if you meet an exception to completing this section for those vehicles.

	(a) Vehicle 1		(b) Vehicle 2		(c) Vehicle 3		(d) Vehicle 4		(e) Vehicle 5		(f) Vehicle 6	
	Yes	No										
30 Total business/investment miles driven during the year (do not include commuting miles – see instructions)												
31 Total commuting miles driven during the year												
32 Total other personal (noncommuting) miles driven												
33 Total miles driven during the year. Add lines 30 through 32												
34 Was the vehicle available for personal use during off-duty hours?	X		X									
35 Was the vehicle used primarily by a more than 5% owner or related person?	X		X									
36 Is another vehicle available for personal use?	X		X									

Section C – Questions for Employers Who Provide Vehicles for Use by Their Employees

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who are not more than 5% owners or related persons (see instructions).

37 Do you maintain a written policy statement that prohibits all personal use of vehicles, including commuting, by your employees?	Yes	No
38 Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See instructions for vehicles used by corporate officers, directors, or 1% or more owners		
39 Do you treat all use of vehicles by employees as personal use?		
40 Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received?		
41 Do you meet the requirements concerning qualified automobile demonstration use? (see instructions)		
Note: If your answer to 37, 38, 39, 40, or 41 is 'Yes,' do not complete Section B for the covered vehicles.		

Part VI Amortization

(a) Description of costs	(b) Date amortization begins	(c) Amortizable amount	(d) Code section	(e) Amortization period or percentage	(f) Amortization for this year
42 Amortization of costs that begins during your 2004 tax year (see instructions):					
43 Amortization of costs that began before your 2004 tax year					43
44 Total. Add amounts in column (f). See instructions for where to report					44

**Depreciation and Amortization
(Including Information on Listed Property)**

2004

Department of the Treasury
Internal Revenue Service

▶ See separate instructions.
▶ Attach to your tax return.

67

Name(s) shown on return

FARICELLIA'S MARKET

Identifying number

14-1688252

Business or activity to which this form relates

Section 179 Summary

Part I Election To Expense Certain Property Under Section 179

Note: If you have any listed property, complete Part V before you complete Part I.

1	Maximum amount. See instructions for a higher limit for certain businesses	1	\$102,000.
2	Total cost of section 179 property placed in service (see instructions)	2	561.
3	Threshold cost of section 179 property before reduction in limitation	3	\$410,000.
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	0.
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5	102,000.
6	(a) Description of property	(b) Cost (business use only)	(c) Elected cost
7	Listed property. Enter the amount from line 29	7	
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	0.
10	Carryover of disallowed deduction from line 13 of your 2003 Form 4562	10	3,099.
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5 (see instrs)	11	0.
12	Section 179 expense deduction. Add lines 9 and 10, but do not enter more than line 11	12	0.
13	Carryover of disallowed deduction to 2005. Add lines 9 and 10, less line 12	13	3,099.

Note: Do not use Part II or Part III below for listed property. Instead, use Part V.

Part II Special Depreciation Allowance and Other Depreciation (Do not include listed property.)

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year (see instructions)	14	
15	Property subject to section 168(f)(1) election (see instructions)	15	
16	Other depreciation (including ACRS) (see instructions)	16	

Part III MACRS Depreciation (Do not include listed property.) (See instructions)

Section A

17	MACRS deductions for assets placed in service in tax years beginning before 2004	17	
18	If you are electing under section 168(i)(4) to group any assets placed in service during the tax year into one or more general asset accounts, check here <input type="checkbox"/>		

Section B - Assets Placed in Service During 2004 Tax Year Using the General Depreciation System

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only - see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a 3-year property						
b 5-year property						
c 7-year property						
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs		S/L	
h Residential rental property			27.5 yrs	MM	S/L	
i Nonresidential real property			39 yrs	MM	S/L	

Section C - Assets Placed in Service During 2004 Tax Year Using the Alternative Depreciation System

20a Class life					S/L	
b 12-year			12 yrs		S/L	
c 40-year			40 yrs	MM	S/L	

Part IV Summary (see instructions)

21	Listed property. Enter amount from line 28	21	
22	Total. Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations - see instructions	22	
23	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	23	

Form 1065, Line 20

Other deductions

AUTOMOBILE AND TRUCK EXPENSE	4,500.
BANK CHARGES	664.
INSURANCE	5,525.
JANITORIAL	875.
LEGAL AND PROFESSIONAL	2,050.
OFFICE EXPENSE	210.
SUPPLIES	312.
UTILITIES	9,895.
LICENSES & FEES	2,220.
Total	<u>26,251.</u>

Form **1065**

Department of the Treasury
Internal Revenue Service

U.S. Return of Partnership Income
For calendar year 2003, or tax year beginning _____, 2003, and
ending _____, 20 ____.
▶ See separate instructions.

OMB No. 1545-0099

2003

A Principal business activity RETAIL SALES	Use the IRS label. Otherwise, print or type.	Name of partnership FARICELLIA'S MARKET	D Employer identification number 14-1688252
B Principal product or service GROCERIES		Number, street, and room or suite number. If a P.O. box, see instructions. 238 WALSH AVE	E Date business started 12/28/86
C Business code number 445110		City or town State ZIP code NEW WINDSOR NY 12553	F Total assets (see instrs) \$

G Check applicable boxes: (1) Initial return (2) Final return (3) Name change (4) Address change (5) Amended return

H Check accounting method: (1) Cash (2) Accrual (3) Other (specify) _____ ▶

I Number of Schedules K-1. Attach one for each person who was a partner at any time during the tax year ▶ **2**

Caution: Include **only** trade or business income and expenses on lines 1a through 22 below. See the instructions for more information.

I N C O M E	1a Gross receipts or sales	1a	126,445.			
	b Less returns and allowances	1b		1c	126,445.	
	2 Cost of goods sold (Schedule A, line 8)	2		94,691.	3	31,754.
	3 Gross profit. Subtract line 2 from line 1c	3			4	
	4 Ordinary income (loss) from other partnerships, estates, and trusts (attach schedule)	4			5	
	5 Net farm profit (loss) (attach Schedule F (Form 1040))	5			6	
	6 Net gain (loss) from Form 4797, Part II, line 18	6			7	
	7 Other income (loss) (attach schedule) COMMISSIONS & MISC... OTHER	7		27,743.	8	59,497.
8 Total income (loss). Combine lines 3 through 7	8					
S E E I N S T R U C T I O N S F O R D E D U C T I O N S F O R L I M I T A T I O N S	9 Salaries and wages (other than to partners) (less employment credits)	9		17,312.	10	9,976.
	10 Guaranteed payments to partners	10			11	1,390.
	11 Repairs and maintenance	11			12	
	12 Bad debts	12			13	
	13 Rent	13			14	7,768.
	14 Taxes and licenses	14			15	
	15 Interest	15			16a	16,438.
	16a Depreciation (if required, attach Form 4562)	16a			16b	
	b Less depreciation reported on Schedule A and elsewhere on return	16b			16c	16,438.
	17 Depletion (Do not deduct oil and gas depletion.)	17			18	
	18 Retirement plans, etc	18			19	
19 Employee benefit programs	19			20	20,725.	
20 Other deductions (attach schedule) See Other deductions	20			21	73,609.	
21 Total deductions. Add the amounts shown in the far right column for lines 9 through 20	21			22	-14,112.	
22 Ordinary income (loss) from trade or business activities. Subtract line 21 from line 8	22					

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than general partner or limited liability company member) is based on all information of which preparer has any knowledge.

Signature of general partner or limited liability company member _____ Date _____

May the IRS discuss this return with the preparer shown below (see instrs)? Yes No

Paid Preparer's Use Only

Preparer's signature _____ Date _____ Check if self-employed Preparer's SSN or PTIN **P00237576**

Firm's name (or yours if self-employed), address, and ZIP code **EILEEN CARNEY**
222 PANCAKE HOLLOW RD.
HIGHLAND NY 12528

EIN _____ Phone no. _____

Schedule A Cost of Goods Sold (see instructions)

1	Inventory at beginning of year	1	27,990.
2	Purchases less cost of items withdrawn for personal use	2	90,691.
3	Cost of labor	3	
4	Additional section 263A costs (attach schedule)	4	
5	Other costs (attach schedule)	5	
6	Total. Add lines 1 through 5	6	118,681.
7	Inventory at end of year	7	23,990.
8	Cost of goods sold. Subtract line 7 from line 6. Enter here and on page 1, line 2	8	94,691.

9a Check all methods used for valuing closing inventory:

- (i) Cost as described in Regulations section 1.471-3
- (ii) Lower of cost or market as described in Regulations section 1.471-4
- (iii) Other (specify method used and attach explanation)

b Check this box if there was a writedown of 'subnormal' goods as described in Regulations section 1.471-2(c)

c Check this box if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970)

d Do the rules of section 263A (for property produced or acquired for resale) apply to the partnership? Yes No

e Was there any change in determining quantities, cost, or valuations between opening and closing inventory? Yes No

If 'Yes', attach explanation .

Schedule B Other Information

	Yes	No
1 What type of entity is filing this return? Check the applicable box:		
a <input checked="" type="checkbox"/> Domestic general partnership		
b <input type="checkbox"/> Domestic limited partnership		
c <input type="checkbox"/> Domestic limited liability company		
d <input type="checkbox"/> Domestic limited liability partnership		
e <input type="checkbox"/> Foreign partnership		
f <input type="checkbox"/> Other		
2 Are any partners in this partnership also partnerships?		X
3 During the partnership's tax year, did the partnership own any interest in another partnership or in any foreign entity that was disregarded as an entity separate from its owner under Regulations sections 301.7701-2 and 301.7701-3? If yes, see instructions for required attachment		X
4 Is this partnership subject to the consolidated audit procedures of sections 6221 through 6233? If 'Yes,' see Designation of Tax Matters Partner below		X
5 Does this partnership meet all three of the following requirements?		
a The partnership's total receipts for the tax year were less than \$250,000;		
b The partnership's total assets at the end of the tax year were less than \$600,000; and		
c Schedules K-1 are filed with the return and furnished to the partners on or before the due date (including extensions) for the partnership return.		
If 'Yes,' the partnership is not required to complete Schedules L, M-1, and M-2; Item F on page 1 of Form 1065; or Item J on Schedule K-1	X	
6 Does this partnership have any foreign partners? If 'Yes,' the partnership may have to file Forms 8804, 8805 and 8813. See instructions		X
7 Is this partnership a publicly traded partnership as defined in section 469(k)(2)?		X
8 Has this partnership filed, or is it required to file, Form 8264 , Application for Registration of a Tax Shelter?		X
9 At any time during calendar year 2003, did the partnership have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)? See the instructions for exceptions and filing requirements for Form TD F 90-22.1. If 'Yes,' enter the name of the foreign country .		X
10 During the tax year, did the partnership receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? If 'Yes,' the partnership may have to file Form 3520. See instructions		X
11 Was there a distribution of property or a transfer (e.g., by sale or death) of a partnership interest during the tax year? If 'Yes,' you may elect to adjust the basis of the partnership's assets under section 754 by attaching the statement described in the instructions under Elections Made By the Partnership		X
12 Enter the number of Forms 8865 , Return of U.S. Persons With Respect to Certain Foreign Partnerships, attached to this return		

Designation of Tax Matters Partner (see instructions)

Enter below the general partner designated as the tax matters partner (TMP) for the tax year of this return:

Name of designated TMP ► **ELLEN JACOPINO** Identifying number of TMP ► **076-34-6431**
 Address of designated TMP ► **124 Starlight Road**
Monticello, NY 12701-4044

Schedule K Partners' Shares of Income, Credits, Deductions, etc

(a) Distributive share items		(b) Total amount	
Income (Loss)	1 Ordinary income (loss) from trade or business activities (page 1, line 22)	1	-14,112.
	2 Net income (loss) from rental real estate activities (attach Form 8825)	2	3,478.
	3a Gross income from other rental activities	3a	
	b Expenses from other rental activities (attach sch)	3b	
	c Net income (loss) from other rental activities. Subtract line 3b from line 3a	3c	
	4 Portfolio income (loss) (attach Schedule D (Form 1065) for lines 4d and 4e:		
	a Interest income	4a	
	b Dividends: (1) Qualified dividends (2) Total ordinary dividends	4b (2)	
	c Royalty income	4c	
	d Net short-term capital gain (loss): (1) post-May 5, 2003 (2) Entire year	4d (2)	
	e Net long-term capital gain (loss): (1) post-May 5, 2003 (2) Entire year	4e (2)	
	f Other portfolio income (loss) (attach schedule)	4f	
	5 Guaranteed payments to partners	5	9,976.
	6a Net section 1231 gain (loss) (post-May 5, 2003) (attach Form 4797)	6a	
b Net section 1231 gain (loss) (entire year) (attach Form 4797)	6b		
7 Other income (loss)	7		
Deductions	8 Charitable contributions (attach schedule)	8	
	9 Section 179 expense deduction (attach Form 4562)	9	
	10 Deductions related to portfolio income (itemize)	10	
	11 Other deductions MEDICAL INSURANCE PAYMENTS FOR PARTNERS	11	9,976.
Credits	12a Low-income housing credit: (1) From partnerships to which section 42(j)(5) applies (2) Other than on line 12a(1)	12a (1) 12a (2)	
	b Qualified rehabilitation expenditures related to rental real estate activities (attach Form 3468)	12b	
	c Credits (other than credits shown on lines 12a and 12b) related to rental real estate activities	12c	
	d Credits related to other rental activities	12d	
	13 Other credits	13	
Investment Interest	14a Interest expense on investment debts	14a	
	b (1) Investment income included on lines 4a, 4b(2), 4c, and 4f above (2) Investment expenses included on line 10 above	14b (1) 14b (2)	
	15a Net earnings (loss) from self-employment	15a	-4,136.
Self-Employment	b Gross farming or fishing income	15b	
	c Gross nonfarm income	15c	59,497.
	16a Depreciation adjustment on property placed in service after 1986	16a	-216.
Adjustments and Tax Preference Items	b Adjusted gain or loss	16b	
	c Depletion (other than oil and gas)	16c	
	d (1) Gross income from oil, gas, and geothermal properties (2) Deductions allocable to oil, gas, and geothermal properties	16d (1) 16d (2)	
	e Other adjmmts & tax pref items PRE87 ACCEL DEPR REAL/LEASED PROP	16e	0.
	17a Name of foreign country or U.S. possession		
Foreign Taxes	b Gross income from all sources	17b	
	c Gross income sourced at partner level	17c	
	d Foreign gross income sourced at partnership level: (1) Passive (2) Listed categories (attach sch) (3) General limitation	17d (3)	
	e Deductions allocated and apportioned at partner level: (1) Interest expense (2) Other	17e (2)	
	f Deductions allocated and apportioned at partnership level to foreign source income: (1) Passive (2) Listed categories (attach sch) (3) General limitation	17f (3)	
	g Total foreign taxes (check one): <input type="checkbox"/> Paid <input type="checkbox"/> Accrued	17g	
	h Reduction in taxes available for credit (attach schedule)	17h	
	18 Section 59(e)(2) expenditures: a Type b Amount	18b	
	19 Tax-exempt interest income	19	
	20 Other tax-exempt income	20	
Other	21 Nondeductible expenses	21	
	22 Distributions of money (cash and marketable securities)	22	
	23 Distributions of property other than money	23	
	24 Other items and amounts required to be reported separately to partners (attach schedule)		

Analysis of Net Income (Loss)

1 Net income (loss). Combine Schedule K, lines 1 through 7 in column (b). From the result, subtract the sum of Schedule K, lines 8 through 11, 14a, 17g, and 18b						1	-10,634.
2 Analysis by partner type:	(i) Corporate	(ii) Individual (active)	(iii) Individual (passive)	(iv) Partnership	(v) Exempt organization	(vi) Nominee/Other	
a General partners		-10,634.					
b Limited partners							

Note: Schedules L, M-1 and M-2 are not required if Question 5 of Schedule B is answered 'Yes.'

Schedule L	Balance Sheets per Books	Beginning of tax year		End of tax year	
		(a)	(b)	(c)	(d)
Assets					
1	Cash				
2a	Trade notes and accounts receivable				
b	Less allowance for bad debts				
3	Inventories				
4	U.S. government obligations				
5	Tax-exempt securities				
6	Other current assets (attach schedule)				
7	Mortgage and real estate loans				
8	Other investments (attach schedule)				
9a	Buildings and other depreciable assets				
b	Less accumulated depreciation				
10a	Depletable assets				
b	Less accumulated depletion				
11	Land (net of any amortization)				
12a	Intangible assets (amortizable only)				
b	Less accumulated amortization				
13	Other assets (attach schedule)				
14	Total assets				
Liabilities and Capital					
15	Accounts payable				
16	Mortgages, notes, bonds payable in less than 1 year				
17	Other current liabilities (attach sch)				
18	All nonrecourse loans				
19	Mortgages, notes, bonds payable in 1 year or more				
20	Other liabilities (attach schedule)				
21	Partners' capital accounts				
22	Total liabilities and capital				

Schedule M-1 Reconciliation of Income (Loss) per Books With Income (Loss) per Return

1 Net income (loss) per books		6 Income recorded on books this year not included on Schedule K, lines 1 through 7 (itemize):	
2 Income included on Schedule K, lines 1 through 4, 6b, and 7, not recorded on books this year (itemize):		a Tax-exempt interest	\$
3 Guaranteed pmts (other than health insurance)		7 Deductions included on Schedule K, lines 1 through 11, 14a, 17g, and 18b, not charged against book income this year (itemize):	
4 Expenses recorded on books this year not included on Schedule K, lines 1 through 11, 14a, 17g, and 18b (itemize):		a Depreciation	\$
a Depreciation	\$	8 Add lines 6 and 7	
b Travel and entertainment	\$	9 Income (loss) (Analysis of Net Income (Loss), line 1). Subtract line 8 from line 5	
5 Add lines 1 through 4			

Schedule M-2 Analysis of Partners' Capital Accounts

1 Balance at beginning of year		6 Distributions: a Cash	
2 Capital contributed: a Cash		b Property	
b Property		7 Other decreases (itemize):	
3 Net income (loss) per books		8 Add lines 6 and 7	
4 Other increases (itemize):		9 Balance at end of year. Subtract line 8 from line 5	
5 Add lines 1 through 4			

Rental Real Estate Income and Expenses of a Partnership or an S Corporation

2003

Department of the Treasury
Internal Revenue Service

▶ See instructions.
▶ Attach to Form 1065, Form 1065-B, or Form 1120S.

Name **FARICELLIA'S MARKET** Employer identification number **14-1688252**

1 Show the kind and location of each property. See page 2 for additional properties.

- A **APARTMENTS**
NEW WINDSOR NY 12553
- B -----
- C -----
- D -----

Rental Real Estate Income	Properties			
	A	B	C	D
2 Gross rents	13,300.			
Rental Real Estate Expenses				
3 Advertising				
4 Auto and travel				
5 Cleaning and maintenance	625.			
6 Commissions				
7 Insurance	602.			
8 Legal and other professional fees				
9 Interest				
10 Repairs				
11 Taxes	3,211.			
12 Utilities	2,348.			
13 Wages and salaries				
14 Depreciation (see instructions)	3,002.			
15 Other (list) ▶ <u>MISC</u>	34.			

16 Total expenses for each property. Add lines 3 through 15	9,822.			
17 Total gross rents. Add gross rents from line 2, columns A through H			13,300.	
18 Total expenses. Add total expenses from line 16, columns A through H			-9,822.	
19 Net gain (loss) from Form 4797, Part II, line 18, from the disposition of property from rental real estate activities				
20 a Net income (loss) from rental real estate activities from partnerships, estates, and trusts in which this partnership or S corporation is a partner or beneficiary (from Schedule K-1)				
b Identify below the partnerships, estates, or trusts from which net income (loss) is shown on line 20a. Attach a schedule if more space is needed:				
(1) Name	(2) Employer identification number			
-----	-----			
-----	-----			
21 Net income (loss) from rental real estate activities. Combine lines 17 through 20a. Enter the result here and on:				
• Form 1065 or 1120S: Schedule K, line 2, or				
• Form 1065-B: Part I, line 4				3,478.

**Depreciation and Amortization
(Including Information on Listed Property)**

▶ See separate instructions.
▶ Attach to your tax return.

Name(s) shown on return

FARICELLIA'S MARKET

Identifying number

14-1688252

Business or activity to which this form relates

Form 1065 Line 22

Part I Election To Expense Certain Property Under Section 179

Note: If you have any listed property, complete Part V before you complete Part I.

1	Maximum amount. See instructions for a higher limit for certain businesses	1	\$100,000.
2	Total cost of section 179 property placed in service (see instructions)	2	52,247.
3	Threshold cost of section 179 property before reduction in limitation	3	\$400,000.
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	0.
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5	100,000.
6	(a) Description of property	(b) Cost (business use only)	(c) Elected cost
7	Listed property. Enter the amount from line 29	7	0.
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	0.
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	0.
10	Carryover of disallowed deduction from line 13 of your 2002 Form 4562	10	3,099.
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5 (see instrs)	11	0.
12	Section 179 expense deduction. Add lines 9 and 10, but do not enter more than line 11	12	0.
13	Carryover of disallowed deduction to 2004. Add lines 9 and 10, less line 12	13	3,099.

Note: Do not use Part II or Part III below for listed property. Instead, use Part V.

Part II Special Depreciation Allowance and Other Depreciation (Do not include listed property.)

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year (see instructions)	14	
15	Property subject to section 168(f)(1) election (see instructions)	15	
16	Other depreciation (including ACRS) (see instructions)	16	10,500.

Part III MACRS Depreciation (Do not include listed property.) (See instructions)

Section A

17	MACRS deductions for assets placed in service in tax years beginning before 2003	17	1,139.
18	If you are electing under section 168(i)(4) to group any assets placed in service during the tax year into one or more general asset accounts, check here <input type="checkbox"/>		

Section B - Assets Placed in Service During 2003 Tax Year Using the General Depreciation System

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only - see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a 3-year property						
b 5-year property						
c 7-year property						
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs		S/L	
h Residential rental property			27.5 yrs	MM	S/L	
i Nonresidential real property			39 yrs	MM	S/L	

Section C - Assets Placed in Service During 2003 Tax Year Using the Alternative Depreciation System

20a Class life					S/L	
b 12-year			12 yrs		S/L	
c 40-year			40 yrs	MM	S/L	

Part IV Summary (see instructions)

21	Listed property. Enter amount from line 28	21	4,799.
22	Total. Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations - see instructions	22	16,438.
23	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	23	

Part V

Listed Property (Include automobiles, certain other vehicles, cellular telephones, certain computers, and property used for entertainment, recreation, or amusement.)

Note: For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete **only** 24a, 24b, columns (a) through (c) of Section A, all of Section B, and Section C if applicable.

Section A - Depreciation and Other Information (Caution: See instructions for limits for passenger automobiles.)

24a Do you have evidence to support the business/investment use claimed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No									24b If 'Yes,' is the evidence written? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
(a) Type of property (list vehicles first)	(b) Date placed in service	(c) Business/investment use percentage	(d) Cost or other basis	(e) Basis for depreciation (business/investment use only)	(f) Recovery period	(g) Method/Convention	(h) Depreciation deduction	(i) Elected section 179 cost			
25 Special depreciation allowance for qualified listed property placed in service during the tax year and used more than 50% in a qualified business use (see instructions)								25			
26 Property used more than 50% in a qualified business use (see instructions):											
TRUCK	01/01/90	90.00	16,510.	14,859.	5.00	200DB/HY	0.				
Truck	08/14/00	100.00	37,122.	37,122.	5.00	200DB/HY	1,775.				
2003 Truck	08/25/03	90.00	58,052.	52,247.	5.00	200DB/HY	3,024.	0.			
27 Property used 50% or less in a qualified business use (see instructions):											
28 Add amounts in column (h), lines 25 through 27. Enter here and on line 21, page 1								28	4,799.		
29 Add amounts in column (i), line 26. Enter here and on line 7, page 1								29	0.		

Section B - Information on Use of Vehicles

Complete this section for vehicles used by a sole proprietor, partner, or other 'more than 5% owner,' or related person. If you provided vehicles to your employees, first answer the questions in Section C to see if you meet an exception to completing this section for those vehicles.

	(a) Vehicle 1		(b) Vehicle 2		(c) Vehicle 3		(d) Vehicle 4		(e) Vehicle 5		(f) Vehicle 6	
	Yes	No										
30 Total business/investment miles driven during the year (do not include commuting miles - see instructions)												
31 Total commuting miles driven during the year												
32 Total other personal (noncommuting) miles driven												
33 Total miles driven during the year. Add lines 30 through 32												
34 Was the vehicle available for personal use during off-duty hours?	X		X									
35 Was the vehicle used primarily by a more than 5% owner or related person?	X		X									
36 Is another vehicle available for personal use?	X		X									

Section C - Questions for Employers Who Provide Vehicles for Use by Their Employees

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who are not more than 5% owners or related persons (see instructions).

37 Do you maintain a written policy statement that prohibits all personal use of vehicles, including commuting, by your employees?	Yes	No
38 Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See instructions for vehicles used by corporate officers, directors, or 1% or more owners		
39 Do you treat all use of vehicles by employees as personal use?		
40 Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received?		
41 Do you meet the requirements concerning qualified automobile demonstration use? (see instructions)		
Note: If your answer to 37, 38, 39, 40, or 41 is 'Yes,' do not complete Section B for the covered vehicles.		

Part VI Amortization

(a) Description of costs	(b) Date amortization begins	(c) Amortizable amount	(d) Code section	(e) Amortization period or percentage	(f) Amortization for this year
42 Amortization of costs that begins during your 2003 tax year (see instructions):					
43 Amortization of costs that began before your 2003 tax year					43
44 Total. Add amounts in column (f). See instructions for where to report					44

**Schedule K-1
(Form 1065)**

Department of the Treasury
Internal Revenue Service

Partner's Share of Income, Credits, Deductions, Etc.

For calendar year 2003 or tax year beginning

, 2003, and ending , 20

OMB No. 1545-0099

2003

Partner's identifying number ▶ 100-34-0214 Partnership's identifying number ▶ 14-1688252

Partner's Name, Address, and ZIP Code Partnership's Name, Address, and ZIP Code

EDWARD JACOPINO
124 Starlight Road
Monticello, NY 12701-4044

FARICELLIA'S MARKET
238 WALSH AVE
NEW WINDSOR , NY 12553

A This partner is a general partner limited partner LLC member
B What type of entity is this partner? ▶ **INDIVIDUAL**
C Is this partner a domestic or a foreign partner?
D Enter partner's % of: (i) Before change or termination (ii) End of year
 Profit sharing % 50.00000 %
 Loss sharing % 50.00000 %
 Ownership of capital % 50.00000 %
E IRS Center where partnership filed return: CINCINNATI, OH
F Partner's share of liabilities (see instrs):
 Nonrecourse \$
 Qualified nonrecourse financing \$
 Other \$
G Tax shelter registration number ▶
H Check here if this partnership is a publicly traded partnership as defined in section 469(k)(2)
I Check applicable boxes: (1) Final K-1 (2) Amended K-1

J Analysis of partner's capital account:

(a) Capital account at beginning of year	(b) Capital contributed during year	(c) Partner's share of lines 3, 4, and 7, Form 1065, Sch M-2	(d) Withdrawals and distributions	(e) Capital account at end of year (columns (a) - (d))
--	-------------------------------------	--	-----------------------------------	--

(a) Distributive share item		(b) Amount	(c) 1040 filers enter on:
Income (Loss)	1 Ordinary income (loss) from trade or business activities	1 -7,056.	See Partner's Instructions for Schedule K-1 (Form 1065).
	2 Net income (loss) from rental real estate activities	2 1,739.	
	3 Net income (loss) from other rental activities	3	
	4 Portfolio income (loss):		
	a Interest	4a	Form 1040, line 8a
	b (1) Qualified dividends	4b (1)	Form 1040, line 9b
	(2) Total ordinary dividends	4b (2)	Form 1040, line 9a
	d (1) Net short-term capital gain (loss) (post-May 5, 2003)	4d (1)	Schedule D, line 5, column (g)
	(2) Net short-term capital gain (loss) (entire year)	4d (2)	Schedule D, line 5, column (f)
	e (1) Net long-term capital gain (loss) (post-May 5, 2003)	4e (1)	Schedule D, line 12, column (g)
	(2) Net long-term capital gain (loss) (entire year)	4e (2)	Schedule D, line 12, column (f)
	5 Guaranteed payments to partner	5 4,988.	
	6 a Net section 1231 gain (loss) (post-May 5, 2003)	6a	See Partner's Instructions for Schedule K-1 (Form 1065).
b Net section 1231 gain (loss) (entire year)	6b		
7 Other income (loss) (attach sch)	7		
Deductions	8 Charitable contributions	8	Schedule A, line 15 or 16
	9 Section 179 expense deduction	9	See Partner's Instructions for Schedule K-1 (Form 1065).
	10 Deductions related to portfolio income	10	
	11 Other deductions (attach schedule) See Line 25	11 4,988.	
Credits	13 Other credits	13	See Ptnrs instr, Sch K-1 (Form 1065)
Investment Interest	14a Interest expense on investment debts	14a	Form 4952, line 1
	b (1) Investment income included on lines 4a and 4b above	14b (1)	See Partner's Instructions for Schedule K-1 (Form 1065).
	(2) Investment expenses included on line 10 above	14b (2)	
Self-Employment	15a Net earnings (loss) from self-employment	15a -2,068.	Schedule SE, Section A or B
	b Gross farming or fishing income	15b	See Partner's Instructions for Schedule K-1 (Form 1065).
	c Gross nonfarm income	15c 29,749.	
Adj and Tax Preference	16a Depreciation adjustment on property placed in service after 1986	16a -108.	See Partner's Instructions for Schedule K-1 (Form 1065) and instructions for Form 6251.
	b Adjusted gain or loss	16b	
	e Other adjustments and tax preference items (attach sch) See Line 25	16e 0.	
Other	19 Tax-exempt interest income	19	Form 1040, line 8b
	21 Nondeductible expenses	21	See Partner's Instructions for Schedule K-1 (Form 1065).
	22 Distributions of money (cash and marketable securities)	22	

25 Supplemental information required to be reported separately to each partner:

LINE 11 - OTHER DEDUCTIONS:
 MEDICAL INSURANCE PAYMENTS FOR PARTNERS 4,988. 4,988.

LINE 16E - OTHER ADJ & TAX PREF ITEMS:
 PRE87 ACCEL DEPR REAL/LEASED PROP 0. 0.

**Schedule K-1
(Form 1065)**

Department of the Treasury
Internal Revenue Service

Partner's Share of Income, Credits, Deductions, Etc.

For calendar year 2003 or tax year beginning
, 2003, and ending , 20

OMB No. 1545-0099

2003

Partner's identifying number ▶ 076-34-6431 Partnership's identifying number ▶ 14-1688252

Partner's Name, Address, and ZIP Code
ELLEN JACOPINO
124 Starlight Road
Monticello, NY 12701-4044

Partnership's Name, Address, and ZIP Code
FARICELLIA'S MARKET
238 WALSH AVE
NEW WINDSOR, NY 12553

A This partner is a general partner limited partner LLC member
B What type of entity is this partner? ... **INDIVIDUAL**
C Is this partner a domestic or a foreign partner?
D Enter partner's % of: (i) Before change or termination (ii) End of year
 Profit sharing % 50.00000 %
 Loss sharing % 50.00000 %
 Ownership of capital % 50.00000 %
E IRS Center where partnership filed return: CINCINNATI, OH
F Partner's share of liabilities (see instrs):
 Nonrecourse \$
 Qualified nonrecourse financing \$
 Other \$
G Tax shelter registration number ▶
H Check here if this partnership is a publicly traded partnership as defined in section 469(k)(2)
I Check applicable boxes: (1) Final K-1 (2) Amended K-1

J Analysis of partner's capital account:

(a) Capital account at beginning of year	(b) Capital contributed during year	(c) Partner's share of lines 3, 4, and 7, Form 1065, Sch M-2	(d) Withdrawals and distributions	(e) Capital account at end of year (columns (a) - (d))
--	-------------------------------------	--	-----------------------------------	--

(a) Distributive share item		(b) Amount	(c) 1040 filers enter on:	
Income (Loss)	1 Ordinary income (loss) from trade or business activities	1 -7,056.	See Partner's Instructions for Schedule K-1 (Form 1065).	
	2 Net income (loss) from rental real estate activities	2 1,739.		
	3 Net income (loss) from other rental activities	3		
	4 Portfolio income (loss):		Form 1040, line 8a	
	a Interest	4a		
	b (1) Qualified dividends	4b (1)		Form 1040, line 9b
	(2) Total ordinary dividends	4b (2)		Form 1040, line 9a
	d (1) Net short-term capital gain (loss) (post-May 5, 2003)	4d (1)		Schedule D, line 5, column (g)
	(2) Net short-term capital gain (loss) (entire year)	4d (2)		Schedule D, line 5, column (f)
	e (1) Net long-term capital gain (loss) (post-May 5, 2003)	4e (1)	Schedule D, line 12, column (g)	
	(2) Net long-term capital gain (loss) (entire year)	4e (2)	Schedule D, line 12, column (f)	
	5 Guaranteed payments to partner	5 4,988.	See Partner's Instructions for Schedule K-1 (Form 1065).	
	6 a Net section 1231 gain (loss) (post-May 5, 2003)	6a		
b Net section 1231 gain (loss) (entire year)	6b			
7 Other income (loss) (attach sch)	7			
Deductions	8 Charitable contributions	8	Schedule A, line 15 or 16	
	9 Section 179 expense deduction	9	See Partner's Instructions for Schedule K-1 (Form 1065).	
	10 Deductions related to portfolio income	10		
	11 Other deductions (attach schedule) See Line 25	11 4,988.		
Credits	13 Other credits	13	See Ptnrs instr, Sch K-1 (Form 1065)	
Investment Interest	14a Interest expense on investment debts	14a	Form 4952, line 1	
	b (1) Investment income included on lines 4a and 4b above	14b (1)	See Partner's Instructions for Schedule K-1 (Form 1065).	
	(2) Investment expenses included on line 10 above	14b (2)		
Self-Employment	15a Net earnings (loss) from self-employment	15a -2,068.	Schedule SE, Section A or B	
	b Gross farming or fishing income	15b	See Partner's Instructions for Schedule K-1 (Form 1065).	
	c Gross nonfarm income	15c 29,748.		
Adj and Tax Preference	16a Depreciation adjustment on property placed in service after 1986	16a -108.	See Partner's Instructions for Schedule K-1 (Form 1065) and instructions for Form 6251.	
	b Adjusted gain or loss	16b		
	e Other adjustments and tax preference items (attach sch) See Line 25	16e 0.		
Other	19 Tax-exempt interest income	19	Form 1040, line 8b	
	21 Nondeductible expenses	21	See Partner's Instructions for Schedule K-1 (Form 1065).	
	22 Distributions of money (cash and marketable securities)	22		

25 Supplemental information required to be reported separately to each partner:
LINE 11 - OTHER DEDUCTIONS:
 MEDICAL INSURANCE PAYMENTS FOR PARTNERS 4,988. 4,988.
LINE 16E - OTHER ADJ & TAX PREF ITEMS:
 PRE87 ACCEL DEPR REAL/LEASED PROP 0. 0.

Form 1065, Line 20

Other deductions

ADVERTISING	25.
BANK CHARGES	601.
INSURANCE	4,767.
JANITORIAL	1,879.
LEGAL AND PROFESSIONAL	550.
MISCELLANEOUS	1,170.
SUPPLIES	300.
UTILITIES	11,031.
DUES LICENSES FEES	402.
Total	20,725.

Partnership Return

2003

IT-204

For calendar year 2003 or fiscal year beginning and ending

Legal name: FARICELLIA'S MARKET; Trade name: RETAIL SALES; Address: 238 WALSH AVE, NEW WINDSOR, NY 12553; Employer ID: 14-1688252; NAICS code: 445110; Date started: 12-28-86

A Check the box that applies to your entity:

Regular partnership [X], Limited liability partnership (LLP) [], Portfolio investment partnership [], Limited liability company (LLC) [], investment company and a limited liability trust company []

If you do not need forms mailed to you next year, check the box []

B 1 Did the partnership have any income gain, loss, or deduction derived from New York sources during the tax year? B1 Yes [X] No []; B 2 If No, enter the number of resident partners B2 []; C Check applicable box(es): Change of address [], Initial return [], Amended return [], Final return []; D Is this return the result of federal audit changes? D Yes [] No [X]; E Did you file a New York State partnership return for 2001 Yes [X] No []; F Total number of partners required to be listed on Form IT-204-ATT (see instructions) F [] 2; G Does the partnership currently have tax accounts with New York State for the following taxes? 1 Sales and use tax Yes [X] No []; 2 Withholding tax Yes [X] No []

Schedule A

Part I - List all places, both in and out of New York State, where the partnership carries on business. Table with columns: Street address, City and state, Description. Row 1: 238 WALSH AVE, NEW WINDSOR NY 12553, STORE AND APTS.

Part II - Formula basis allocation of income if books do not reflect income earned in New York

Table with 4 columns: Items used as factors, A Totals - in and out of New York State, B New York State amounts, C Percent column B is of column A. Rows 1-8 for property, payroll, and gross income percentages.

Third-party designee: Do you want to allow another person to discuss this return with the Tax Dept? Yes [] No []

Paid preparer's use only: Preparer's signature: EILEEN CARNEY; Firm's name: 222 PANCAKE HOLLOW RD., HIGHLAND, NY 12528; Signature of general partner: 845-561-5450

Partnership must attach federal Form 1065 or Form 1065-B and all schedules to this Form IT-204 (see instructions for Penalties). Mail your return to: STATE PROCESSING CENTER, PO BOX 61000, ALBANY, NY 12261-0001.

Schedule B – Partners' New York modifications, credits, etc

NYP1802 11/25/03

Part I – Partners' New York modifications to federal items

Total

9	New York State additions (attach schedule; see instructions)	9.	
10	New York State subtractions (attach schedule; see instructions)	10.	
11	Additions to federal itemized deductions	11.	
12	Subtractions from federal itemized deductions	12.	
13	Amount of interest expense incurred to carry tax-exempt obligations	13.	
14	New York adjustments to federal tax preference items (see instructions)	14.	

Part II – Partners' credit information

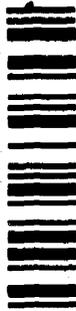
Total

15	Manufacturing and production, retail enterprise, waste treatment and pollution control property – investment credit (attach Form IT-212)	15.	
16	Research and development property – investment credit (attach Form IT-212)	16.	
17	Add-back of investment credit on early dispositions (attach Form IT-212)	17.	
18	Defibrillator credit (attach Form IT-250)	18.	
19	Investment credit for the financial services industry (attach Form IT-252)	19.	
20	Add-back of investment credit on early dispositions for the financial services industry (attach Form IT-252)	20.	
21	Credit for employment of persons with disabilities (attach Form IT-251)	21.	
22	Alternative fuels credit (attach Form IT-253)	22.	
23	Add-back of alternative fuels credit on early dispositions (attach Form IT-253)	23.	
24	Fuel oil storage tank credit (attach Form IT-254)	24.	
25	Industrial or manufacturing business (IMB) credit (attach Form DTF-623)	25.	
26	Low-income housing credit (attach Form DTF-624)	26.	
27	Green building credit (attach Form DTF-630)	27.	
28	Long-term care insurance credit (attach Form IT-249)	28.	
29	EZ wage tax credit (attach Form IT-601)	29.	
30	ZEA wage tax credit (attach Form IT-601.1)	30.	
31	EZ capital tax credit for investments in and donations to EZ capital corporations (from Form IT-602, Schedule A, line 5; attach form)	31.	
32	EZ capital tax credit for investments in certified EZ businesses (from Form IT-602, Schedule B, line 9; attach form)	32.	
33	EZ capital tax credit for monetary contributions to EZ development projects (from Form IT-602, Schedule C, line 13; attach form)	33.	
34	EZ investment tax credit and EZ employment incentive credit (attach Form IT-603)	34.	
35	QEZE credit for real property taxes (attach Form IT-604)	35.	
36	QEZE employment increase factor (see instructions)	36.	
37	QEZE zone allocation factor (see instructions)	37.	
38	QEZE benefit period factor (see instructions)	38.	
39	Add-back of QEZE credit for real property taxes (attach Form IT-604)	39.	
40	EZ investment tax credit and EZ employment incentive credit for the financial services industry (attach Form IT-605)	40.	
41	Add-back of EZ capital tax credit, EZ investment tax credit, and EZ employment incentive credit (attach Forms IT-602 and IT-603)	41.	
42	Add-back of EZ investment tax credit and EZ employment incentive credit for the financial services industry (attach Form IT-605)	42.	
43	QETC employment credit (attach Form DTF-621)	43.	
44	QETC capital tax credit (attach Form DTF-622)	44.	
45	Add back of QETC capital tax credit on early dispositions (attach Form DTF-622)	45.	
46	Total acres of qualified agricultural property	46.	
47	Total acres of qualified conservation property	47.	
48	Total amount of eligible taxes paid	48.	
49	Total acres of qualified agricultural property converted to nonqualified use	49.	

Part III – Income and deductions allocated to New York (see instructions)

Allocated NY amounts

50	Ordinary income (loss) from trade or business activities	50.	
51	Net income or loss from New York rental real estate activities	51.	
52	Net income or loss from other rental activities	52.	
53	Portfolio income (loss)	53.	
54	Guaranteed payments to partners	54.	
55	Net gain (loss) under IRC section 1231 (other than due to casualty or theft)	55.	
56	Other income	56.	
57	Expense deduction for property under IRC section 179	57.	
58	Deductions related to portfolio income (do not include investment interest expense)	58.	
59	Other deductions (see instructions)	59.	
60	Tax preference items for minimum tax (see instructions)	60.	
61	New York adjustments to federal tax preference items (see instructions)	61.	
62	Investment interest expense (see instructions)	62.	
63	Other items not included above that are required to be reported separately to partners	63.	



**Partners'
Identifying Information**

Attachment to Form IT-204

Legal name (as shown on Form IT-204) FARICELLIA'S MARKET 238 WALSH AVE NEW WINDSOR , NY 12553	Employer identification number 14-1688252
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(A) For each identifying number, enter name (last, first, middle initial) on first line; enter home address on second and third lines.	(B) Identifying number (SSN or EIN) (C) Percentage of ownership	(D) Mark X if resident of:	(E) Mark X if partner is:
1. EDWARD JACOPINO 124 STARLIGHT ROAD MONTICELLO NY 12701-4044	1B. 100-34-0214 1C. 50.00000	<input checked="" type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS corporation <input type="checkbox"/> Foreign corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or trust
2. ELLEN JACOPINO 124 STARLIGHT ROAD MONTICELLO NY 12701-4044	2B. 076-34-6431 2C. 50.00000	<input checked="" type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS corporation <input type="checkbox"/> Foreign corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or trust
3.	3B. 3C.	<input type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS corporation <input type="checkbox"/> Foreign corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or trust
4.	4B. 4C.	<input type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS corporation <input type="checkbox"/> Foreign corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or trust
5.	5B. 5C.	<input type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS corporation <input type="checkbox"/> Foreign corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or trust
6.	6B. 6C.	<input type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS corporation <input type="checkbox"/> Foreign corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or trust
7.	7B. 7C.	<input type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS corporation <input type="checkbox"/> Foreign corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or trust
8.	8B. 8C.	<input type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS corporation <input type="checkbox"/> Foreign corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or trust
9.	9B. 9C.	<input type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS corporation <input type="checkbox"/> Foreign corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or trust

This is a scannable form; please file this original with the Tax Department.

▶ See separate instructions.

IRS use only — Do not write or staple in this space.

For calendar year 2002, or tax year beginning , 2002, and ending , 20 OMB No.1545-0099

A Principal business activity RETAIL SALES	Use the IRS label. Otherwise, print or type.	Name of partnership FARICELLIA'S MARKET	D Employer identification number 14-1688252
B Principal product or service GROCERIES		Number, street, and room or suite number. If a P.O. box, see instructions. 238 WALSH AVE	E Date business started 12/28/86
C Business code number 445110		City or town State ZIP code NEW WINDSOR NY 12553	F Total assets (see instrs) \$

G Check applicable boxes: (1) Initial return (2) Final return (3) Name change (4) Address change (5) Amended return

H Check accounting method: (1) Cash (2) Accrual (3) Other (specify) _____ ▶

I Number of Schedules K-1. Attach one for each person who was a partner at any time during the tax year ▶ **2**

Caution: Include **only** trade or business income and expenses on lines 1a through 22 below. See the instructions for more information.

INCOME	1a Gross receipts or sales	1a	113,210.	
	b Less returns and allowances	1b		1c 113,210.
	2 Cost of goods sold (Schedule A, line 8)	2		85,591.
	3 Gross profit. Subtract line 2 from line 1c	3		27,619.
	4 Ordinary income (loss) from other partnerships, estates, and trusts (attach schedule)	4		
	5 Net farm profit (loss) (attach Schedule F (Form 1040))	5		
	6 Net gain (loss) from Form 4797, Part II, line 18	6		
	7 Other income (loss) (attach schedule) COMMISSIONS. & MISC... OTHER	7		25,852.
8 Total income (loss). Combine lines 3 through 7	8		53,471.	
SEE INSTRUCTIONS FOR LIMITATIONS	9 Salaries and wages (other than to partners) (less employment credits)	9		16,837.
	10 Guaranteed payments to partners	10		9,471.
	11 Repairs and maintenance	11		3,229.
	12 Bad debts	12		
	13 Rent	13		
	14 Taxes and licenses	14		7,225.
	15 Interest	15		
	16a Depreciation (if required, attach Form 4562)	16a	14,887.	
	b Less depreciation reported on Schedule A and elsewhere on return	16b		16c 14,887.
	17 Depletion (Do not deduct oil and gas depletion.)	17		
	18 Retirement plans, etc	18		
	19 Employee benefit programs	19		
	20 Other deductions (attach schedule) See Other deductions	20		24,490.
21 Total deductions. Add the amounts shown in the far right column for lines 9 through 20	21		76,139.	
22 Ordinary income (loss) from trade or business activities. Subtract line 21 from line 8	22		-22,668.	

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than general partner or limited liability company member) is based on all information of which preparer has any knowledge.

Signature of general partner or limited liability company member _____ Date _____

May the IRS discuss this return with the preparer shown below (see instrs)? Yes No

Paid Preparer's Use Only

Preparer's signature _____ Date **07/14/03** Check if self-employed Preparer's SSN or PTIN **P00237576**

Firm's name (or yours if self-employed), address, and ZIP code **EILEEN CARNEY**
222 PANCAKE HOLLOW RD.
HIGHLAND NY 12528 EIN _____ Phone no. **(845) 691-7580**

Schedule A Cost of Goods Sold (see instructions)

1	Inventory at beginning of year	1	28,290.
2	Purchases less cost of items withdrawn for personal use	2	85,291.
3	Cost of labor	3	
4	Additional section 263A costs (attach schedule)	4	
5	Other costs (attach schedule)	5	
6	Total. Add lines 1 through 5	6	113,581.
7	Inventory at end of year	7	27,990.
8	Cost of goods sold. Subtract line 7 from line 6. Enter here and on page 1, line 2	8	85,591.

9a Check all methods used for valuing closing inventory:

(i) Cost as described in Regulations section 1.471-3

(ii) Lower of cost or market as described in Regulations section 1.471-4

(iii) Other (specify method used and attach explanation)

b Check this box if there was a writedown of 'subnormal' goods as described in Regulations section 1.471-2(c)

c Check this box if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970)

d Do the rules of section 263A (for property produced or acquired for resale) apply to the partnership? Yes No

e Was there any change in determining quantities, cost, or valuations between opening and closing inventory? Yes No

If 'Yes', attach explanation .

Schedule B Other Information

	Yes	No
1 What type of entity is filing this return? Check the applicable box:		
a <input checked="" type="checkbox"/> Domestic general partnership		
b <input type="checkbox"/> Domestic limited partnership		
c <input type="checkbox"/> Domestic limited liability company		
d <input type="checkbox"/> Domestic limited liability partnership		
e <input type="checkbox"/> Foreign partnership		
f <input type="checkbox"/> Other		
2 Are any partners in this partnership also partnerships?		X
3 During the partnership's tax year, did the partnership own any interest in another partnership or in any foreign entity that was disregarded as an entity separate from its owner under Regulations sections 301.7701-2 and 301.7701-3? If yes, see instructions for required attachment		X
4 Is this partnership subject to the consolidated audit procedures of sections 6221 through 6233? If 'Yes,' see Designation of Tax Matters Partner below		X
5 Does this partnership meet all three of the following requirements?		
a The partnership's total receipts for the tax year were less than \$250,000;		
b The partnership's total assets at the end of the tax year were less than \$600,000; and		
c Schedules K-1 are filed with the return and furnished to the partners on or before the due date (including extensions) for the partnership return.		
If 'Yes,' the partnership is not required to complete Schedules L, M-1, and M-2; Item F on page 1 of Form 1065; or Item J on Schedule K-1	X	
6 Does this partnership have any foreign partners? If 'Yes,' the partnership may have to file Forms 8804, 8805 and 8813. See instructions		X
7 Is this partnership a publicly traded partnership as defined in section 469(k)(2)?		X
8 Has this partnership filed, or is it required to file, Form 8264 , Application for Registration of a Tax Shelter?		X
9 At any time during calendar year 2002, did the partnership have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)? See the instructions for exceptions and filing requirements for Form TD F 90-22.1. If 'Yes,' enter the name of the foreign country		X
10 During the tax year, did the partnership receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? If 'Yes,' the partnership may have to file Form 3520. See instructions		X
11 Was there a distribution of property or a transfer (e.g., by sale or death) of a partnership interest during the tax year? If 'Yes,' you may elect to adjust the basis of the partnership's assets under section 754 by attaching the statement described in the instructions under Elections Made By the Partnership		X
12 Enter the number of Forms 8865 , Return of U.S. Persons With Respect to Certain Foreign Partnerships, attached to this return		

Designation of Tax Matters Partner (see instructions)

Enter below the general partner designated as the tax matters partner (TMP) for the tax year of this return:

Name of designated TMP ▶ ELLEN JACOPINO Identifying number of TMP ▶ 076-34-6431

Address of designated TMP ▶ 829 TERRACE PL
CORTLANDT MANOR, NY 10567-1319

Schedule K Partners' Shares of Income, Credits, Deductions, etc

		(a) Distributive share items	(b) Total amount	
Income (Loss)	1	Ordinary income (loss) from trade or business activities (page 1, line 22)	1	-22,668.
	2	Net income (loss) from rental real estate activities (attach Form 8825)	2	5,138.
	3a	Gross income from other rental activities	3a	
	b	Expenses from other rental activities (attach sch)	3b	
	c	Net income (loss) from other rental activities. Subtract line 3b from line 3a	3c	
	4	Portfolio income (loss): a Interest income	4a	
	b	Ordinary dividends	4b	
	c	Royalty income	4c	
	d	Net short-term capital gain (loss) (attach Schedule D (Form 1065))	4d	
	e (1)	Net long-term capital gain (loss) (attach Schedule D (Form 1065))	4e (1)	
	(2)	28% rate gain (loss) (3) Qualified 5-year gain		
f	Other portfolio income (loss) (attach schedule)	4f		
Deductions	5	Guaranteed payments to partners	5	9,471.
	6	Net section 1231 gain (loss) (other than due to casualty or theft) (attach Form 4797)	6	
	7	Other income (loss)	7	
	8	Charitable contributions (attach schedule)	8	
Credits	9	Section 179 expense deduction (attach Form 4562)	9	
	10	Deductions related to portfolio income (itemize)	10	
	11	Other deductions MEDICAL INSURANCE PAYMENTS FOR PARTNERS	11	9,471.
	12a	Low-income housing credit:		
	(1)	From partnerships to which section 42(j)(5) applies	12a (1)	
(2)	Other than on line 12a(1)	12a (2)		
b	Qualified rehabilitation expenditures related to rental real estate activities (attach Form 3468)	12b		
c	Credits (other than credits shown on lines 12a and 12b) related to rental real estate activities	12c		
d	Credits related to other rental activities	12d		
13	Other credits	13		
Investment Interest	14a	Interest expense on investment debts	14a	
	b (1)	Investment income included on lines 4a, 4b, 4c, and 4f above	14b (1)	
	(2)	Investment expenses included on line 10 above	14b (2)	
Self-Employment	15a	Net earnings (loss) from self-employment	15a	-13,197.
	b	Gross farming or fishing income	15b	
	c	Gross nonfarm income	15c	53,471.
Adjustments and Tax Preference Items	16a	Depreciation adjustment on property placed in service after 1986	16a	-227.
	b	Adjusted gain or loss	16b	
	c	Depletion (other than oil and gas)	16c	
	d (1)	Gross income from oil, gas, and geothermal properties	16d (1)	
	(2)	Deductions allocable to oil, gas, and geothermal properties	16d (2)	
e	Other adjmnts & tax pref items PRE87 ACCEL DEPR REAL/LEASED PROP	16e	0.	
Foreign Taxes	17a	Name of foreign country or U.S. possession		
	b	Gross income from all sources	17b	
	c	Gross income sourced at partner level	17c	
	d	Foreign gross income sourced at partnership level:		
	(1)	Passive (2) Listed categories (attach sch) (3) General limitation	17d (3)	
	e	Deductions allocated and apportioned at partner level:		
	(1)	Interest expense (2) Other	17e (2)	
	f	Deductions allocated and apportioned at partnership level to foreign source income:		
(1)	Passive (2) Listed categories (attach sch) (3) General limitation	17f (3)		
g	Total foreign taxes (check one): <input type="checkbox"/> Paid <input type="checkbox"/> Accrued	17g		
h	Reduction in taxes available for credit (attach schedule)	17h		
Other	18	Section 59(e)(2) expenditures: a Type b Amount	18b	
	19	Tax-exempt interest income	19	
	20	Other tax-exempt income	20	
	21	Nondeductible expenses	21	
	22	Distributions of money (cash and marketable securities)	22	
	23	Distributions of property other than money	23	
	24	Other items and amounts required to be reported separately to partners (attach schedule)		

Analysis of Net Income (Loss)

1 Net income (loss). Combine Schedule K, lines 1 through 7 in column (b). From the result, subtract the sum of Schedule K, lines 8 through 11, 14a, 17g, and 18b						1	-17,530.
2 Analysis by partner type:	(i) Corporate	(ii) Individual (active)	(iii) Individual (passive)	(iv) Partnership	(v) Exempt organization	(vi) Nominee/Other	
a General partners		-17,530.					
b Limited partners							

Note: schedules L, M-1 and M-2 are not required if Question 5 of Schedule B is answered 'Yes.'

Schedule L Balance Sheets per Books	Beginning of tax year		End of tax year	
	(a)	(b)	(c)	(d)
Assets				
1 Cash				
2a Trade notes and accounts receivable				
b Less allowance for bad debts				
3 Inventories				
4 U.S. government obligations				
5 Tax-exempt securities				
6 Other current assets (attach schedule)				
7 Mortgage and real estate loans				
8 Other investments (attach schedule)				
9a Buildings and other depreciable assets				
b Less accumulated depreciation				
10a Depletable assets				
b Less accumulated depletion				
11 Land (net of any amortization)				
12a Intangible assets (amortizable only)				
b Less accumulated amortization				
13 Other assets (attach schedule)				
14 Total assets				
Liabilities and Capital				
15 Accounts payable				
16 Mortgages, notes, bonds payable in less than 1 year				
17 Other current liabilities (attach sch)				
18 All nonrecourse loans				
19 Mortgages, notes, bonds payable in 1 year or more				
20 Other liabilities (attach schedule)				
21 Partners' capital accounts				
22 Total liabilities and capital				

Schedule M-1 Reconciliation of Income (Loss) per Books With Income (Loss) per Return

1 Net income (loss) per books		6 Income recorded on books this year not included on Schedule K, lines 1 through 7 (itemize):	
2 Income included on Schedule K, lines 1 through 4, 6, and 7, not recorded on books this year (itemize):		a Tax-exempt interest ... \$	
3 Guaranteed prmts (other than health insurance)		7 Deductions included on Schedule K, lines 1 through 11, 14a, 17g, and 18b, not charged against book income this year (itemize):	
4 Expenses recorded on books this year not included on Schedule K, lines 1 through 11, 14a, 17g, and 18b (itemize):		a Depreciation ... \$	
a Depreciation ... \$		8 Add lines 6 and 7	
b Travel and entertainment ... \$		9 Income (loss) (Analysis of Net Income (Loss), line 1). Subtract line 8 from line 5	
5 Add lines 1 through 4			

Schedule M-2 Analysis of Partners' Capital Accounts

1 Balance at beginning of year		6 Distributions: a Cash	
2 Capital contributed: a Cash		b Property	
b Property		7 Other decreases (itemize):	
3 Net income (loss) per books		8 Add lines 6 and 7	
4 Other increases (itemize):		9 Balance at end of year. Subtract line 8 from line 5	
5 Add lines 1 through 4			

Rental Real Estate Income and Expenses of a Partnership or an S Corporation

2002

Department of the Treasury
Internal Revenue Service

▶ See instructions.
▶ Attach to Form 1065, Form 1065-B, or Form 1120S.

Name **FARICELLIA'S MARKET** Employer identification number **14-1688252**

1 Show the kind and location of each property. See page 2 for additional properties.

- A** APARTMENTS
NEW WINDSOR NY 12553
- B** -----
- C** -----
- D** -----

Rental Real Estate Income		Properties			
		A	B	C	D
2 Gross rents	2	14,100.			
Rental Real Estate Expenses					
3 Advertising	3				
4 Auto and travel	4				
5 Cleaning and maintenance	5				
6 Commissions	6				
7 Insurance	7	546.			
8 Legal and other professional fees	8				
9 Interest	9				
10 Repairs	10	605.			
11 Taxes	11	2,846.			
12 Utilities	12	1,962.			
13 Wages and salaries	13				
14 Depreciation (see instructions)	14	3,003.			
15 Other (list) ▶	15				
16 Total expenses for each property. Add lines 3 through 15	16	8,962.			

17 Total gross rents. Add gross rents from line 2, columns A through H	17	14,100.
18 Total expenses. Add total expenses from line 16, columns A through H	18	-8,962.
19 Net gain (loss) from Form 4797, Part II, line 18, from the disposition of property from rental real estate activities	19	
20 a Net income (loss) from rental real estate activities from partnerships, estates, and trusts in which this partnership or S corporation is a partner or beneficiary (from Schedule K-1)	20 a	
b Identify below the partnerships, estates, or trusts from which net income (loss) is shown on line 20a. Attach a schedule if more space is needed:		
(1) Name	(2) Employer identification number	
-----	-----	
-----	-----	
21 Net income (loss) from rental real estate activities. Combine lines 17 through 20a. Enter result here and on:	21	5,138.
• Form 1065 or 1120S: Schedule K, line 2, or		
• Form 1065-B: Part I, line 4		

**Depreciation and Amortization
(Including Information on Listed Property)**

▶ See separate instructions.
▶ Attach to your tax return.

2002

67

Name(s) shown on return

FARICELLIA'S MARKET

Identifying number

14-1688252

Business or activity to which this form relates

Form 1065 Line 22

Part I Election To Expense Certain Tangible Property Under Section 179

Note: If you have any listed property, complete Part V before you complete Part I.

1	Maximum amount. See instructions for a higher limit for certain businesses	1	\$24,000.
2	Total cost of section 179 property placed in service (see instructions)	2	3,099.
3	Threshold cost of section 179 property before reduction in limitation	3	\$200,000.
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	0.
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5	24,000.
6	(a) Description of property	(b) Cost (business use only)	(c) Elected cost
	Equipment 2002	3,099.	3,099.
7	Listed property. Enter the amount from line 29	7	
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	3,099.
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	3,099.
10	Carryover of disallowed deduction from line 13 of your 2001 Form 4562	10	
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5 (see instrs)	11	0.
12	Section 179 expense deduction. Add lines 9 and 10, but do not enter more than line 11	12	0.
13	Carryover of disallowed deduction to 2003. Add lines 9 and 10, less line 12	13	3,099.

Note: Do not use Part II or Part III below for listed property. Instead, use Part V.

Part II Special Depreciation Allowance and Other Depreciation (Do not include listed property.)

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year (see instructions)	14	0.
15	Property subject to section 168(f)(1) election (see instructions)	15	
16	Other depreciation (including ACRS) (see instructions)	16	10,500.

Part III MACRS Depreciation (Do not include listed property.) (See instructions)

Section A

17	MACRS deductions for assets placed in service in tax years beginning before 2002	17	1,437.
18	If you are electing under section 168(i)(4) to group any assets placed in service during the tax year into one or more general asset accounts, check here <input type="checkbox"/>		

Section B - Assets Placed in Service During 2002 Tax Year Using the General Depreciation System

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only - see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a 3-year property						
b 5-year property						
c 7-year property						
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs		S/L	
h Residential rental property			27.5 yrs	MM	S/L	
i Nonresidential real property			39 yrs	MM	S/L	

Section C - Assets Placed in Service During 2002 Tax Year Using the Alternative Depreciation System

20a Class life					S/L	
b 12-year			12 yrs		S/L	
c 40-year			40 yrs	MM	S/L	

Part IV Summary (see instructions)

21	Listed property. Enter amount from line 28	21	2,950.
22	Total. Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations - see instructions	22	14,887.
23	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	23	

Part V Listed Property (Include automobiles, certain other vehicles, cellular telephones, certain computers, and property used for entertainment, recreation, or amusement.)

Note: For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete only 24a, 24b, columns (a) through (c) of Section A, all of Section B, and Section C if applicable.

Section A - Depreciation and Other Information (Caution: See instructions for limits for passenger automobiles.)

24 a Do you have evidence to support the business/investment use claimed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No									24b If 'Yes,' is the evidence written? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
(a) Type of property (list vehicles first)	(b) Date placed in service	(c) Business/investment use percentage	(d) Cost or other basis	(e) Basis for depreciation (business/investment use only)	(f) Recovery period	(g) Method/Convention	(h) Depreciation deduction	(i) Elected section 179 cost				
25 Special depreciation allowance for qualified listed property placed in service during the tax year and used more than 50% in a qualified business use (see instructions)								25				
26 Property used more than 50% in a qualified business use (see instructions):												
TRUCK	01/01/90	90.00	16,510.	14,859.	5.00	200DB/HY	0.					
Truck	08/14/00	100.00	37,122.	37,122.	5.00	200DB/HY	2,950.					
27 Property used 50% or less in a qualified business use (see instructions):												
28 Add amounts in column (h), lines 25 through 27. Enter here and on line 21, page 1								28	2,950.			
29 Add amounts in column (i), line 26. Enter here and on line 7, page 1								29				

Section B - Information on Use of Vehicles

Complete this section for vehicles used by a sole proprietor, partner, or other 'more than 5% owner,' or related person. If you provided vehicles to your employees, first answer the questions in Section C to see if you meet an exception to completing this section for those vehicles.

	(a) Vehicle 1		(b) Vehicle 2		(c) Vehicle 3		(d) Vehicle 4		(e) Vehicle 5		(f) Vehicle 6	
	Yes	No										
30 Total business/investment miles driven during the year (do not include commuting miles - see instructions)												
31 Total commuting miles driven during the year												
32 Total other personal (noncommuting) miles driven												
33 Total miles driven during the year. Add lines 30 through 32												
34 Was the vehicle available for personal use during off-duty hours?	X		X									
35 Was the vehicle used primarily by a more than 5% owner or related person?	X		X									
36 Is another vehicle available for personal use?	X		X									

Section C - Questions for Employers Who Provide Vehicles for Use by Their Employees

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who are not more than 5% owners or related persons (see instructions).

37 Do you maintain a written policy statement that prohibits all personal use of vehicles, including commuting, by your employees?	Yes	No
38 Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See instructions for vehicles used by corporate officers, directors, or 1% or more owners		
39 Do you treat all use of vehicles by employees as personal use?		
40 Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received?		
41 Do you meet the requirements concerning qualified automobile demonstration use? (see instructions)		

Note: If your answer to 37, 38, 39, 40, or 41 is 'Yes,' do not complete Section B for the covered vehicles.

Part VI Amortization

(a) Description of costs	(b) Date amortization begins	(c) Amortizable amount	(d) Code section	(e) Amortization period or percentage	(f) Amortization for this year
42 Amortization of costs that begins during your 2002 tax year (see instructions):					
43 Amortization of costs that began before your 2002 tax year					43
44 Total. Add amounts in column (f). See instructions for where to report					44

**Schedule K-1
(Form 1065)**
Department of the Treasury
Internal Revenue Service

Partner's Share of Income, Credits, Deductions, Etc.

For calendar year 2002 or tax year beginning
, 2002, and ending , 20

OMB No. 1545-0099

2002

Partner's identifying number ▶ 100-34-0214 Partnership's identifying number ▶ 14-1688252

Partner's Name, Address, and ZIP Code
EDWARD JACOPINO
829 TERRACE PLACE
CORTLANDT MANOR, NY 10567-1319

Partnership's Name, Address, and ZIP Code
FARICELLIA'S MARKET
238 WALSH AVE
NEW WINDSOR, NY 12553

A This partner is a general partner limited partner LLC member
B What type of entity is this partner? ... ▶ INDIVIDUAL
C Is this partner a domestic or a foreign partner?
D Enter partner's % of: (i) Before change or termination (ii) End of year
 Profit sharing % 50.00000 %
 Loss sharing % 50.00000 %
 Ownership of capital % 50.00000 %
E IRS Center where partnership filed return: CINCINNATI, OH
F Partner's share of liabilities (see instrs):
 Nonrecourse \$
 Qualified nonrecourse financing \$
 Other \$
G Tax shelter registration number ▶
H Check here if this partnership is a publicly traded partnership as defined in section 469(k)(2)
I Check applicable boxes: (1) Final K-1 (2) Amended K-1

J Analysis of partner's capital account:

(a) Capital account at beginning of year	(b) Capital contributed during year	(c) Partner's share of lines 3, 4, and 7, Form 1065, Sch M-2	(d) Withdrawals and distributions	(e) Capital account at end of year (columns (a) - (d))
--	-------------------------------------	--	-----------------------------------	--

(a) Distributive share item		(b) Amount	(c) 1040 filers enter on:
Income (Loss)	1 Ordinary income (loss) from trade or business activities	1 -11,334.	See Partner's Instructions for Schedule K-1 (Form 1065). Schedule B, Part I, line 1 Schedule B, Part II, line 5 Schedule D, line 5, column (f) Schedule D, line 12, column (f) Schedule D, line 12, column (g) Line 5 of worksheet for Sch D, line 29
	2 Net income (loss) from rental real estate activities	2 2,569.	
	3 Net income (loss) from other rental activities	3	
	4 Portfolio income (loss):		
	a Interest	4a	
	b Ordinary dividends	4b	
	d Net short-term capital gain (loss)	4d	
e (1) Net long-term capital gain (loss)	4e (1)		
(2) 28% rate gain (loss)	4e (2)		
(3) Qualified 5-year gain	4e (3)		
5 Guaranteed payments to partner	5 4,736.	See Partner's Instructions for Schedule K-1 (Form 1065).	
6 Net gain (loss) under section 1231 (other than due to casualty or theft):	6		
7 Other income (loss) (attach sch)	7	Enter on applicable ln of your return	
Deductions	8 Charitable contributions	8	Schedule A, line 15 or 16
	9 Section 179 expense deduction	9	See Partner's Instructions for Schedule K-1 (Form 1065).
	10 Deductions related to portfolio income	10	
	11 Other deductions (attach schedule) See Line 25	11 4,736.	
13 Other credits	13	See Prtnrs instr, Sch K-1 (Form 1065)	
Investment Interest	14a Interest expense on investment debts	14a	Form 4952, line 1
	b (1) Investment income included on lines 4a and 4b above	b (1)	See Partner's Instructions for Schedule K-1 (Form 1065).
	(2) Investment expenses included on line 10 above	b (2)	
Self-Employment	15a Net earnings (loss) from self-employment	15a -6,598.	
	b Gross farming or fishing income	15b	See Partner's Instructions for Schedule K-1 (Form 1065).
	c Gross nonfarm income	15c 26,736.	
Adj and Tax Preference	16a Depreciation adjustment on property placed in service after 1986	16a -114.	See Partner's Instructions for Schedule K-1 (Form 1065) and instructions for Form 6251.
	b Adjusted gain or loss	16b	
	e Other adjustments and tax preference items (attach sch) See Line 25	16e 0.	
Other	19 Tax-exempt interest income	19	Form 1040, line 8b
	21 Nondeductible expenses	21	See Partner's Instructions for Schedule K-1 (Form 1065).
22 Distributions of money (cash and marketable securities)	22		

25 Supplemental information required to be reported separately to each partner:
LINE 11 - OTHER DEDUCTIONS:
 MEDICAL INSURANCE PAYMENTS FOR PARTNERS 4,736. 4,736.
LINE 16E - OTHER ADJ & TAX PREF ITEMS:
 PRE87 ACCEL DEPR REAL/LEASED PROP 0. 0.
 RENTAL REAL ESTATE 2,569.

**Schedule K-1
(Form 1065)**

Department of the Treasury
Internal Revenue Service

Partner's Share of Income, Credits, Deductions, Etc.

For calendar year 2002 or tax year beginning
2002, and ending 20

OMB No. 1545-0099

2002

Partner's identifying number ▶ 076-34-6431 Partnership's identifying number ▶ 14-1688252

Partner's Name, Address, and ZIP Code Partnership's Name, Address, and ZIP Code

ELLEN JACOPINO
829 TERRACE PL
CORTLANDT MANOR, NY 10567-1319

FARICELLIA'S MARKET
238 WALSH AVE
NEW WINDSOR, NY 12553

A This partner is a general partner limited partner LLC member
B What type of entity is this partner? ... **INDIVIDUAL**
C Is this partner a domestic or a foreign partner?
D Enter partner's % of: (i) Before change or termination (ii) End of year
 Profit sharing % 50.00000 %
 Loss sharing % 50.00000 %
 Ownership of capital % 50.00000 %
E IRS Center where partnership filed return: CINCINNATI, OH
F Partner's share of liabilities (see instrs):
 Nonrecourse \$
 Qualified nonrecourse financing \$
 Other \$
G Tax shelter registration number ▶
H Check here if this partnership is a publicly traded partnership as defined in section 469(k)(2)
I Check applicable boxes: (1) Final K-1 (2) Amended K-1

J Analysis of partner's capital account:

(a) Capital account at beginning of year	(b) Capital contributed during year	(c) Partner's share of lines 3, 4, and 7, Form 1065, Sch M-2	(d) Withdrawals and distributions	(e) Capital account at end of year (columns (a) - (d))
--	-------------------------------------	--	-----------------------------------	--

(a) Distributive share item		(b) Amount	(c) 1040 filers enter on:
Income (Loss)	1 Ordinary income (loss) from trade or business activities	1 -11,334.	See Partner's Instructions for Schedule K-1 (Form 1065).
	2 Net income (loss) from rental real estate activities	2 2,569.	
	3 Net income (loss) from other rental activities	3	
	4 Portfolio income (loss):		Schedule B, Part I, line 1 Schedule B, Part II, line 5 Schedule D, line 5, column (f) Schedule D, line 12, column (f) Schedule D, line 12, column (g) Line 5 of worksheet for Sch D, line 29
	a Interest	4a	
	b Ordinary dividends	4b	
	d Net short-term capital gain (loss)	4d	
	e (1) Net long-term capital gain (loss)	4e (1)	
	(2) 28% rate gain (loss)	4e (2)	See Partner's Instructions for Schedule K-1 (Form 1065).
	(3) Qualified 5-year gain	4e (3)	
5 Guaranteed payments to partner	5 4,735.		
6 Net gain (loss) under section 1231 (other than due to casualty or theft)	6	Enter on applicable ln of your return	
7 Other income (loss) (att sch)	7		
Deductions	8 Charitable contributions	8	Schedule A, line 15 or 16 See Partner's Instructions for Schedule K-1 (Form 1065).
	9 Section 179 expense deduction	9	
	10 Deductions related to portfolio income	10	
	11 Other deductions (attach schedule) See Line 25	11 4,735.	
Credits	13 Other credits	13	See Ptnrs instr, Sch K-1 (Form 1065)
Investment Interest	14a Interest expense on investment debts	14a	Form 4952, line 1
	b (1) Investment income included on lines 4a and 4b above b (2) Investment expenses included on line 10 above	b (1) b (2)	See Partner's Instructions for Schedule K-1 (Form 1065).
Self-Employment	15a Net earnings (loss) from self-employment	15a -6,599.	Schedule SE, Section A or B See Partner's Instructions for Schedule K-1 (Form 1065).
	b Gross farming or fishing income	15b	
	c Gross nonfarm income	15c 26,735.	
Adj and Tax Preference	16a Depreciation adjustment on property placed in service after 1986	16a -113.	See Partner's Instructions for Schedule K-1 (Form 1065) and instructions for Form 6251.
	b Adjusted gain or loss	16b	
	e Other adjustments and tax preference items (attach sch) See Line 25	16e 0.	
	19 Tax-exempt interest income	19	
Other	21 Nondeductible expenses	21	See Partner's Instructions for Schedule K-1 (Form 1065).
	22 Distributions of money (cash and marketable securities)	22	

25 Supplemental information required to be reported separately to each partner:

LINE 11 - OTHER DEDUCTIONS:
 MEDICAL INSURANCE PAYMENTS FOR PARTNERS 4,735. 4,735.

LINE 16E - OTHER ADJ & TAX PREF ITEMS:
 PRE87 ACCEL DEPR REAL/LEASED PROP 0. 0.

RENTAL REAL ESTATE 2,569.

Form 1065, Line 20

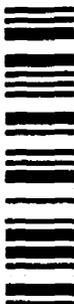
Other deductions

ACCOUNTING	550.
ADVERTISING	25.
AUTOMOBILE AND TRUCK EXPENSE	4,485.
BANK CHARGES	1,041.
EQUIPMENT RENT	482.
INSURANCE	4,456.
MISCELLANEOUS	85.
CLEANING AND SANITATION	1,351.
SUPPLIES	286.
UTILITIES	10,023.
Permits & Fees	1,706.
Total	<u>24,490.</u>



Partnership Return

For calendar year 2002 or fiscal year beginning and ending



Form with fields: Legal Name (FARICELLIA'S MARKET), Trade Name, Address (238 WALSH AVE, NEW WINDSOR NY 12553), Employer Identification Number (14-1688252), Principal Business Activity (RETAIL SALES), Principal Product or Service (GROCERIES), NAICS Business Code Number (445110), Date Business Started (12-28-86)

A Check the box that applies to your entity:

- Regular partnership (checked), Limited liability partnership (LLP), Portfolio investment partnership, Limited liability company (LLC - including limited liability investment company and a limited liability trust company)

If you do not need forms mailed to you next year, check the box

Form with fields B1-B3, C, D, E, F, G. Includes questions about income gain, resident partners, federal audit changes, and tax accounts.

Schedule A

NYPA1801 10/17/02

Part I - List all places, both in and out of New York State, where the partnership carries on business

Table with 3 columns: Street address, City and state, Description. Row 1: 238 WALSH AVE, NEW WINDSOR NY 12553, STORE AND APTS

Part II - Formula basis allocation of income if books do not reflect income earned in New York

Table with 4 columns: Items used as factors, Totals - in and out of New York State, New York State amounts, Percent column B is of column A. Rows 1-8 for property, payroll, gross income, and business allocation percentages.

Form with fields: Third-party designee (EILEEN CARNEY), Designee's name, phone number (845-691-7580), Personal identification number (P00237576)

Form with fields: Paid preparer's use only (EILEEN CARNEY, 222 PANCAKE HOLLOW RD., HIGHLAND NY 12528), Preparer's SSN or PTIN (P00237576), Signature of General Partner, Date (07-14-03), Daytime Phone Number (845-561-5450)

Partnership must attach federal Form 1065 or Form 1065-B and all schedules to this Form IT-204 (see instructions for Penalties).

Mail your return to: State Processing Center, P.O. Box 61000, Albany, NY 12261-0001.

▶ See separate instructions.

IRS use only — Do not write or staple in this space.

For calendar year 2001, or tax year beginning , 2001, and ending , 20 OMB No. 1545-0099

A Principal Business Activity RETAIL SALES	Use the IRS label. Otherwise, print or type.	Name of Partnership FARICELLIA'S MARKET	D Employer Identification Number 14-1688252
B Principal Product or Service GROCERIES		Number, Street, and Room or Suite Number. If a P.O. Box, See Instructions. 238 WALSH AVE	E Date Business Started 12/28/86
C Business Code Number 445110		City or Town State ZIP Code NEW WINDSOR NY 12553	F Total Assets (see instrs) \$

G Check applicable boxes: (1) Initial return (2) Final return (3) Name change (4) Address change (5) Amended return

H Check accounting method: (1) Cash (2) Accrual (3) Other (specify) _____ ▶

I Number of Schedules K-1. Attach one for each person who was a partner at any time during the tax year ▶ **2**

Caution: Include *only* trade or business income and expenses on lines 1a through 22 below. See the instructions for more information.

INCOME	1a Gross receipts or sales	1a	138,890.	
	b Less returns and allowances	1b		1c 138,890.
	2 Cost of goods sold (Schedule A, line 8)	2		104,942.
	3 Gross profit. Subtract line 2 from line 1c	3		33,948.
	4 Ordinary income (loss) from other partnerships, estates, and trusts (attach schedule)	4		
	5 Net farm profit (loss) (attach Schedule F (Form 1040))	5		
	6 Net gain (loss) from Form 4797, Part II, line 18	6		
	7 Other income (loss) (attach schedule)	7	COMMISSIONS. & MISC... OTHER	29,667.
8 Total income (loss). Combine lines 3 through 7	8		63,615.	
SEEDUCTIONS FOR LIMITATIONS	9 Salaries and wages (other than to partners) (less employment credits)	9		17,195.
	10 Guaranteed payments to partners	10		6,765.
	11 Repairs and maintenance	11		1,692.
	12 Bad debts	12		
	13 Rent	13		
	14 Taxes and licenses	14		8,576.
	15 Interest	15		1,554.
	16a Depreciation (if required, attach Form 4562)	16a	17,148.	
	b Less depreciation reported on Schedule A and elsewhere on return	16b		17,148.
	17 Depletion (Do not deduct oil and gas depletion.)	17		
	18 Retirement plans, etc	18		
	19 Employee benefit programs	19		
	20 Other deductions (attach schedule)	20	See Other deductions.	20,591.
21 Total deductions. Add the amounts shown in the far right column for lines 9 through 20	21		73,521.	
22 Ordinary income (loss) from trade or business activities. Subtract line 21 from line 8	22		-9,906.	

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than general partner or limited liability company member) is based on all information of which preparer has any knowledge.

Signature of General Partner or Limited Liability Company Member _____ Date _____

May the IRS discuss this return with the preparer shown below (see instrs)? Yes No

Paid Preparer's Use Only

Preparer's Signature _____ Date _____ Check if self-employed Preparer's SSN or PTIN _____

Firm's Name (or yours if self-employed). Address, and ZIP Code
EILEEN CARNEY
222 PANCAKE HOLLOW RD.
HIGHLAND NY 12528

EIN _____ Phone No. _____

Schedule A Cost of Goods Sold (see instructions)

1	Inventory at beginning of year	1	27,690.
2	Purchases less cost of items withdrawn for personal use	2	105,542.
3	Cost of labor	3	
4	Additional Section 263A costs (attach schedule)	4	
5	Other costs (attach schedule)	5	
6	Total. Add lines 1 through 5	6	133,232.
7	Inventory at end of year	7	28,290.
8	Cost of goods sold. Subtract line 7 from line 6. Enter here and on page 1, line 2	8	104,942.

9a Check all methods used for valuing closing inventory:

- (i) Cost as described in Regulations Section 1.471-3
- (ii) Lower of cost or market as described in Regulations Section 1.471-4
- (iii) Other (specify method used and attach explanation)

- b Check this box if there was a writedown of 'subnormal' goods as described in Regulations Section 1.471-2(c)
 - c Check this box if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970)
 - d Do the rules of Section 263A (for property produced or acquired for resale) apply to the partnership? Yes No
 - e Was there any change in determining quantities, cost, or valuations between opening and closing inventory? Yes No
- If 'Yes', attach explanation .

Schedule B Other Information

	Yes	No
1 What type of entity is filing this return? Check the applicable box:		
a <input checked="" type="checkbox"/> Domestic general partnership		
b <input type="checkbox"/> Domestic limited partnership		
c <input type="checkbox"/> Domestic limited liability company		
d <input type="checkbox"/> Domestic limited liability partnership		
e <input type="checkbox"/> Foreign partnership		
f <input type="checkbox"/> Other		
2 Are any partners in this partnership also partnerships?		X
3 During the partnership's tax year, did the partnership own any interest in another partnership or in any foreign entity that was disregarded as an entity separate from its owner under Regulations Sections 301.7701-2 and 301.7701-3? If yes, see instructions for required attachment		X
4 Is this partnership subject to the consolidated audit procedures of Sections 6221 through 6233? If 'Yes,' see Designation of Tax Matters Partner below		X
5 Does this partnership meet all three of the following requirements?		
a The partnership's total receipts for the tax year were less than \$250,000;		
b The partnership's total assets at the end of the tax year were less than \$600,000; and		
c Schedules K-1 are filed with the return and furnished to the partners on or before the due date (including extensions) for the partnership return.		
If 'Yes,' the partnership is not required to complete Schedules L, M-1, and M-2; item F on page 1 of Form 1065; or item J on Schedule K-1	X	
6 Does this partnership have any foreign partners? If 'Yes,' the partnership may have to file Forms 8804, 8805 and 8813. See instructions		X
7 Is this partnership a publicly traded partnership as defined in Section 469(k)(2)?		X
8 Has this partnership filed, or is it required to file, Form 8264 , Application for Registration of a Tax Shelter?		X
9 At any time during calendar year 2001, did the partnership have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)? See the instructions for exceptions and filing requirements for Form TD F 90-22.1. If 'Yes,' enter the name of the foreign country		X
10 During the tax year, did the partnership receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? If 'Yes,' the partnership may have to file Form 3520. See instructions		X
11 Was there a distribution of property or a transfer (e.g., by sale or death) of a partnership interest during the tax year? If 'Yes,' you may elect to adjust the basis of the partnership's assets under Section 754 by attaching the statement described in the instructions under Elections Made by the Partnership		X
12 Enter the number of Forms 8865 attached to this return		

Designation of Tax Matters Partner (see instructions)

Enter below the general partner designated as the tax matters partner (TMP) for the tax year of this return:

Name of Designated TMP ► ELLEN JACOPINO Identifying Number of TMP ► 076-34-6431

Address of Designated TMP ► 829 TERRACE PL
CORTLANDT MANOR, NY 10567-1319

Schedule K Partners' Shares of Income, Credits, Deductions, etc

		(a) Distributive share items	(b) Total amount	
Income (Loss)	1	Ordinary income (loss) from trade or business activities (page 1, line 22)	1	-9,906.
	2	Net income (loss) from rental real estate activities (attach Form 8825)	2	4,686.
	3a	Gross income from other rental activities	3a	
	b	Expenses from other rental activities (attach sch)	3b	
	c	Net income (loss) from other rental activities. Subtract line 3b from line 3a	3c	
	4	Portfolio income (loss): a Interest income	4a	
	b	Ordinary dividends	4b	
	c	Royalty income	4c	
	d	Net short-term capital gain (loss) (attach Schedule D (Form 1065))	4d	
	e (1)	Net long-term capital gain (loss) (attach Schedule D (Form 1065))	4e (1)	
	(2)	28% rate gain (loss) (3) Qualified 5-year gain		
f	Other portfolio income (loss) (attach schedule)	4f		
5	Guaranteed payments to partners	5	6,765.	
6	Net Section 1231 gain (loss) (other than due to casualty or theft) (attach Form 4797)	6		
7	Other income (loss)	7		
Deductions	8	Charitable contributions (attach schedule)	8	
	9	Section 179 expense deduction (attach Form 4562)	9	
	10	Deductions related to portfolio income (itemize)	10	
	11	Other deductions MEDICAL INSURANCE PAYMENTS FOR PARTNERS	11	6,765.
Credits	12a	Low-income housing credit:		
	(1)	From partnerships to which Section 42(j)(5) applies	12a (1)	
	(2)	Other than on line 12a(1)	12a (2)	
	b	Qualified rehabilitation expenditures related to rental real estate activities (attach Form 3468)	12b	
	c	Credits (other than credits shown on lines 12a and 12b) related to rental real estate activities	12c	
d	Credits related to other rental activities	12d		
13	Other credits	13		
Investment Interest	14a	Interest expense on investment debts	14a	
	b (1)	Investment income included on lines 4a, 4b, 4c, and 4f above	14b (1)	
	(2)	Investment expenses included on line 10 above	14b (2)	
Self-Employment	15a	Net earnings (loss) from self-employment	15a	-3,141.
	b	Gross farming or fishing income	15b	
	c	Gross nonfarm income	15c	63,615.
Adjustments and Tax Preference Items	16a	Depreciation adjustment on property placed in service after 1986	16a	-123.
	b	Adjusted gain or loss	16b	
	c	Depletion (other than oil and gas)	16c	
	d (1)	Gross income from oil, gas, and geothermal properties	16d (1)	
	(2)	Deductions allocable to oil, gas, and geothermal properties	16d (2)	
e	Other adjmnts & tax pref items PRE87 ACCEL DEPR REAL/LEASED PROP	16e	0.	
Foreign Taxes	17a	Name of foreign country or U.S. possession		
	b	Gross income from all sources	17b	
	c	Gross income sourced at partner level	17c	
	d	Foreign gross income sourced at partnership level:		
	(1)	Passive (2) Listed categories (attach sch) (3) General limitation	17d (3)	
	e	Deductions allocated and apportioned at partner level:		
	(1)	Interest expense (2) Other	17e (2)	
	f	Deductions allocated and apportioned at partnership level to foreign source income:		
	(1)	Passive (2) Listed categories (attach sch) (3) General limitation	17f (3)	
g	Total foreign taxes (check one): <input type="checkbox"/> Paid <input type="checkbox"/> Accrued	17g		
h	Reduction in taxes available for credit (attach schedule)	17h		
Other	18	Section 59(e)(2) expenditures: a Type b Amount	18b	
	19	Tax-exempt interest income	19	
	20	Other tax-exempt income	20	
	21	Nondeductible expenses	21	
	22	Distributions of money (cash and marketable securities)	22	
	23	Distributions of property other than money	23	
	24	Other items and amounts required to be reported separately to partners (attach schedule)		

Analysis of Net Income (Loss)

1 Net income (loss). Combine Schedule K, lines 1 through 7 in column (b). From the result, subtract the sum of Schedule K, lines 8 through 11, 14a, 17g, and 18b						1	-5,220.
2 Analysis by partner type:	(i) Corporate	(ii) Individual (active)	(iii) Individual (passive)	(iv) Partnership	(v) Exempt organization	(vi) Nominee/Other	
a General partners		-5,220.					
b Limited partners							

Schedule L Balance Sheets per Books (Not required if question 5 on Schedule B is answered 'Yes.')

Assets	Beginning of tax year		End of tax year	
	(a)	(b)	(c)	(d)
1 Cash				
2a Trade notes and accounts receivable				
b Less allowance for bad debts				
3 Inventories				
4 U.S. government obligations				
5 Tax-exempt securities				
6 Other current assets (attach schedule)				
7 Mortgage and real estate loans				
8 Other investments (attach schedule)				
9a Buildings and other depreciable assets				
b Less accumulated depreciation				
10a Depletable assets				
b Less accumulated depletion				
11 Land (net of any amortization)				
12a Intangible assets (amortizable only)				
b Less accumulated amortization				
13 Other assets (attach schedule)				
14 Total assets				
Liabilities and Capital				
15 Accounts payable				
16 Mortgages, notes, bonds payable in less than 1 year				
17 Other current liabilities (attach sch)				
18 All nonrecourse loans				
19 Mortgages, notes, bonds payable in 1 year or more				
20 Other liabilities (attach schedule)				
21 Partners' capital accounts				
22 Total liabilities and capital				

Schedule M-1 Reconciliation of Income (Loss) per Books with Income (Loss) per Return

(Not required if question 5 on Schedule B is answered 'Yes.')

1 Net income (loss) per books		6 Income recorded on books this year not included on Schedule K, lines 1 through 7 (itemize):	
2 Income included on Schedule K, lines 1 through 4, 6, and 7, not recorded on books this year (itemize):		a Tax-exempt interest	\$
3 Guaranteed payments (other than health insurance)		7 Deductions included on Schedule K, lines 1 through 11, 14a, 17g, and 18b, not charged against book income this year (itemize):	
4 Expenses recorded on books this year not included on Schedule K, lines 1 through 11, 14a, 17g, and 18b (itemize):		a Depreciation	\$
a Depreciation	\$	8 Add lines 6 and 7	
b Travel and entertainment	\$	9 Income (loss) (Analysis of net income (loss), line 1). Subtract line 8 from line 5	
5 Add lines 1 through 4			

Schedule M-2 Analysis of Partners' Capital Accounts (Not required if question 5 on Schedule B is answered 'Yes.')

1 Balance at beginning of year		6 Distributions: a Cash	
2 Capital contributed during year		b Property	
3 Net income (loss) per books		7 Other decreases (itemize):	
4 Other increases (itemize):		8 Add lines 6 and 7	
5 Add lines 1 through 4		9 Balance at end of year. Subtract line 8 from line 5	

**Depreciation and Amortization
(Including Information on Listed Property)**

2001

67

Department of the Treasury
Internal Revenue Service (99)

▶ See separate instructions.
▶ Attach this form to your return.

Name(s) Shown on Return
FARICELLIA'S MARKET

Identifying Number
14-1688252

Business or Activity to Which This Form Relates

Form **1065** Line **22**

Part I Election to Expense Certain Tangible Property Under Section 179

Note: If you have any 'listed property,' complete Part V before you complete Part I.

1	Maximum dollar limitation. If an enterprise zone business, see instructions	1	\$24,000.
2	Total cost of Section 179 property placed in service (see instructions)	2	
3	Threshold cost of Section 179 property before reduction in limitation	3	\$200,000.
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5	
6	(a) Description of property	(b) Cost (business use only)	(c) Elected cost
7	Listed property. Enter amount from line 27	7	
8	Total elected cost of Section 179 property. Add amounts in column (c), lines 6 and 7	8	
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	
10	Carryover of disallowed deduction from 2000 (see instructions)	10	
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5 (see instrs)	11	
12	Section 179 expense deduction. Add lines 9 and 10, but do not enter more than line 11	12	
13	Carryover of disallowed deduction to 2002. Add lines 9 and 10, less line 12	13	

Note: Do not use Part II or Part III below for listed property (automobiles, certain other vehicles, cellular telephones, certain computers, or property used for entertainment, recreation, or amusement). Instead, use Part V for listed property.

Part II MACRS Depreciation for Assets Placed in Service Only During Your 2001 Tax Year
(Do not include listed property.)

Section A - General Asset Account Election

14 If you are making the election under Section 168(i)(4) to group any assets placed in service during the tax year into one or more general asset accounts, check this box. See instructions

Section B - General Depreciation System (GDS) (See instructions)

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only - see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
15a 3-year property						
b 5-year property						
c 7-year property						
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs		S/L	
h Residential rental property			27.5 yrs	MM	S/L	
i Nonresidential real property			39 yrs	MM	S/L	

Section C - Alternative Depreciation System (ADS) (See instructions)

16a Class life					S/L	
b 12-year			12 yrs		S/L	
c 40-year			40 yrs	MM	S/L	

Part III Other Depreciation (Do not include listed property.) (See instructions)

17	GDS and ADS deductions for assets placed in service in tax years beginning before 2001	17	1,748.
18	Property subject to Section 168(f)(1) election	18	
19	ACRS and other depreciation	19	10,500.

Part IV Summary (See instructions)

20	Listed property. Enter amount from line 26	20	4,900.
21	Total. Add deductions from line 12, lines 15 and 16 in column (g), and lines 17 through 20. Enter here and on the appropriate lines of your return. Partnerships and S corporations - see instructions	21	17,148.
22	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to Section 263A costs	22	

Part V Listed Property (Include automobiles, certain other vehicles, cellular telephones, certain computers, and property used for entertainment, recreation, or amusement.)

Note: For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete **only** 23a, 23b, columns (a) through (c) of Section A, all of Section B, and Section C if applicable.

Section A – Depreciation and Other Information (Caution: See instructions for limits for passenger automobiles.)

23a Do you have evidence to support the business/investment use claimed? Yes No 23b If 'Yes,' is the evidence written? Yes No

(a) Type of property (list vehicles first)	(b) Date placed in service	(c) Business/investment use percentage	(d) Cost or other basis	(e) Basis for depreciation (business/investment use only)	(f) Recovery period	(g) Method/Convention	(h) Depreciation deduction	(i) Elected Section 179 cost
---	-------------------------------	---	----------------------------	--	------------------------	--------------------------	-------------------------------	---------------------------------

24 Property used more than 50% in a qualified business use (see instructions):

TRUCK	01/01/90	90.00	16,510.	14,859.	5.00	200DB/HY	0.	
Truck	08/14/00	100.00	37,122.	37,122.	5.00	200DB/HY	4,900.	

25 Property used 50% or less in a qualified business use (see instructions):

--	--	--	--	--	--	--	--	--

26 Add amounts in column (h). Enter the total here and on line 20, page 1 **26** 4,900.

27 Add amounts in column (i). Enter the total here and on line 7, page 1 **27**

Section B – Information on Use of Vehicles

Complete this section for vehicles used by a sole proprietor, partner, or other 'more than 5% owner,' or related person. If you provided vehicles to your employees, first answer the questions in Section C to see if you meet an exception to completing this section for those vehicles.

	(a) Vehicle 1		(b) Vehicle 2		(c) Vehicle 3		(d) Vehicle 4		(e) Vehicle 5		(f) Vehicle 6	
	Yes	No										
28 Total business/investment miles driven during the year (do not include commuting miles – see instructions)												
29 Total commuting miles driven during the year												
30 Total other personal (noncommuting) miles driven												
31 Total miles driven during the year. Add lines 28 through 30												
32 Was the vehicle available for personal use during off-duty hours?	X		X									
33 Was the vehicle used primarily by a more than 5% owner or related person?	X		X									
34 Is another vehicle available for personal use?	X		X									

Section C – Questions for Employers Who Provide Vehicles for Use by Their Employees

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who are not more than 5% owners or related persons (see instructions).

	Yes	No
35 Do you maintain a written policy statement that prohibits all personal use of vehicles, including commuting, by your employees?		
36 Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See instructions for vehicles used by corporate officers, directors, or 1% or more owners		
37 Do you treat all use of vehicles by employees as personal use?		
38 Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received?		
39 Do you meet the requirements concerning qualified automobile demonstration use? (See instructions)		

Note: If your answer to 35, 36, 37, 38, or 39 is 'Yes,' do not complete Section B for the covered vehicles.

Part VI Amortization

(a) Description of costs	(b) Date amortization begins	(c) Amortizable amount	(d) Code Section	(e) Amortization period or percentage	(f) Amortization for this year
-----------------------------	---------------------------------	---------------------------	---------------------	--	-----------------------------------

40 Amortization of costs that begins during your 2001 tax year (see instructions):

--	--	--	--	--	--

41 Amortization of costs that began before your 2001 tax year

41

42 Total. Add amounts in column (f). See instructions for where to report

42

Rental Real Estate Income and Expenses of a Partnership or an S Corporation

2001

Department of the Treasury
Internal Revenue Service

▶ See instructions.
▶ Attach to Form 1065, Form 1065-B, or Form 1120S.

Name **FARICELLIA'S MARKET** Employer Identification Number **14-1688252**

1 Show the kind and location of each property. See page 2 for additional properties.

- A **APARTMENTS**
NEW WINDSOR NY 12553
- B -----
- C -----
- D -----

Rental Real Estate Income	Properties			
	A	B	C	D
2 Gross rents	2	12,200.		
Rental Real Estate Expenses				
3 Advertising	3			
4 Auto and travel	4			
5 Cleaning and maintenance	5			
6 Commissions	6			
7 Insurance	7	502.		
8 Legal and other professional fees	8			
9 Interest	9			
10 Repairs	10	200.		
11 Taxes	11	1,700.		
12 Utilities	12	2,110.		
13 Wages and salaries	13			
14 Depreciation (see instructions)	14	3,002.		
15 Other (list) ▶	15			
16 Total expenses for each property. Add lines 3 through 15	16	7,514.		
17 Total gross rents. Add gross rents from line 2, columns A through H	17		12,200.	
18 Total expenses. Add total expenses from line 16, columns A through H	18		-7,514.	
19 Net gain (loss) from Form 4797, Part II, line 18, from the disposition of property from rental real estate activities	19			
20 a Net income (loss) from rental real estate activities from partnerships, estates, and trusts in which this partnership or S corporation is a partner or beneficiary (from Schedule K-1)	20 a			
b Identify below the partnerships, estates, or trusts from which net income (loss) is shown on line 20a. Attach a schedule if more space is needed:				
(1) Name		(2) Employer identification number		

21 Net income (loss) from rental real estate activities. Combine lines 17 through 20a. Enter result here and on:	21		4,686.	
• Form 1065 or 1120S: Schedule K, line 2, or		-----		
• Form 1065-B: Part I, line 4		-----		

BAA For Paperwork Reduction Act Notice, see the separate instructions.

Form **8736**

(Rev October 2000)

Department of the Treasury
Internal Revenue Service

Application for Automatic Extension of Time to File U.S. Return for a Partnership, REMIC, or for Certain Trusts

OMB No. 1545-1054

▶ **File a separate application for each return.**

**Please type
or print.**

Name

Employer Identification Number

FARICELLIA'S MARKET

14-1688252

**File by the due
date for filing
the return for
which an
extension is
requested. See
instructions.**

Number, Street, and Room or Suite No. If a P.O. Box, See Instructions.

238 WALSH AVE

City or town, state and ZIP code. If a Foreign Address, Enter City, Province or State, and Country. Follow the country's practice for entering the postal code.

NEW WINDSOR

NY 12553

1 I request an automatic **3-month** extension of time to file (check only one):

Form 1041

Form 1041-QFT

Form 1065

Form 1065-B

Form 1066

2 If the entity does not have an office or place of business in the United States, check this box ▶

3a For calendar year 2001, or other tax year beginning _____, and ending _____

b If this tax year is for less than 12 months, check reason:

Initial return

Final return

Change in accounting period

4 If this extension is requested for Form 1041, Form 1041-QFT, Form 1065-B, or Form 1066, enter the following amounts:

a Tentative total tax from Form 1041, Form 1041-QFT, Form 1065-B, or Form 1066 (see instructions) \$ _____

b Refundable credits and estimated tax payments, including any prior year overpayment allowed as a credit,
from Form 1041, Form 1041-QFT, or Form 1065-B (see instructions). REMICs, enter -0- \$ _____

c Balance due. Subtract line 4b from line 4a. If zero or less, enter -0-. Enclose payment, if any, with
Form 8736 (see instructions) ▶ \$ _____

Caution: Interest will be charged on any tax not paid by the regular due date of Forms 1041, 1041-QFT, 1065-B, and 1066 from the due date until the tax is paid.

BAA For Paperwork Reduction Act Notice, see separate instructions.

Form **8736** (Rev 10-2000)

Partner's Share of Income, Credits, Deductions, Etc.

For calendar year 2001 or tax year beginning
2001, and ending 20

2001

Partner's identifying number ▶ 100-34-0214 **Partnership's identifying number** ▶ 14-1688252

Partner's Name, Address, and ZIP Code
EDWARD JACOPINO
829 TERRACE PLACE
CORTLANDT MANOR, NY 10567-1319

Partnership's Name, Address, and ZIP Code
FARICELLIA'S MARKET
238 WALSH AVE
NEW WINDSOR, NY 12553

A This partner is a general partner limited partner LLC member
B What type of entity is this partner? ... ▶ **INDIVIDUAL**
C Is this partner a domestic or a foreign partner?
D Enter partner's % of: (i) Before change or termination (ii) End of year
 Profit sharing % 50.00000 %
 Loss sharing % 50.00000 %
 Ownership of capital % 50.00000 %
E IRS Center where partnership filed return: CINCINNATI, OH
F Partner's share of liabilities: Nonrecourse \$
 Qualified nonrecourse financing \$
 Other \$
G Tax shelter registration number ▶
H Check here if this partnership is a publicly traded partnership as defined in section 469(k)(2)
I Check applicable boxes: (1) Final K-1 (2) Amended K-1

J Analysis of partner's capital account:

(a) Capital account at beginning of year	(b) Capital contributed during year	(c) Partner's share of lines 3, 4, and 7, Form 1065, Sch M-2	(d) Withdrawals and distributions	(e) Capital account at end of year (columns (a) - (d))

(a) Distributive share item		(b) Amount	(c) 1040 filers enter on:
Income (Loss)	1 Ordinary income (loss) from trade or business activities	1 -4,953.	See Partner's Instructions for Schedule K-1 (Form 1065).
	2 Net income (loss) from rental real estate activities	2 2,343.	
	3 Net income (loss) from other rental activities	3	
	4 Portfolio income (loss):		Schedule B, Part I, line 1 Schedule B, Part II, line 5 Schedule D, line 5, column (f) Schedule D, line 12, column (f) Schedule D, line 12, column (g) Line 4 of worksheet for Sch D, line 29
	a Interest	4a	
	b Ordinary dividends	4b	
	d Net short-term capital gain (loss)	4d	
	e (1) Net long-term capital gain (loss)	4e (1)	
	(2) 28% rate gain (loss)	4e (2)	See Partner's Instructions for Schedule K-1 (Form 1065).
	(3) Qualified 5-year gain	4e (3)	
	5 Guaranteed payments to partner	5 3,383.	Enter on applicable ln of your return
6 Net gain (loss) under section 1231 (other than due to casualty or theft):	6		
7 Other income (loss) (attach sch)	7		
Deductions	8 Charitable contributions	8	Schedule A, line 15 or 16
	9 Section 179 expense deduction	9	See Partner's Instructions for Schedule K-1 (Form 1065).
	10 Deductions related to portfolio income	10	
11 Other deductions (attach schedule) See Line 25	11 3,383.		
Credits	13 Other credits	13	See Prtnrs instr, Sch K-1 (Form 1065)
Investment Interest	14a Interest expense on investment debts	14a	Form 4952, line 1
	b (1) Investment income included on lines 4a and 4b above	b (1)	See Partner's Instructions for Schedule K-1 (Form 1065).
	(2) Investment expenses included on line 10 above	b (2)	
Self-Employment	15a Net earnings (loss) from self-employment	15a -1,570.	Schedule SE, Section A or B
	b Gross farming or fishing income	15b	See Partner's Instructions for Schedule K-1 (Form 1065).
	c Gross nonfarm income	15c 31,808.	
Adj and Tax Preference	16a Depreciation adjustment on property placed in service after 1986	16a -62.	See Partner's Instructions for Schedule K-1 (Form 1065) and instructions for Form 6251.
	b Adjusted gain or loss	16b	
	e Other adjustments and tax preference items (attach sch) See Line 25	16e 0.	
Other	19 Tax-exempt interest income	19	Form 1040, line 8b
	21 Nondeductible expenses	21	See Partner's Instructions for Schedule K-1 (Form 1065).
	22 Distributions of money (cash and marketable securities)	22	

25 Supplemental information required to be reported separately to each partner:

LINE 11 - OTHER DEDUCTIONS:

MEDICAL INSURANCE PAYMENTS FOR PARTNERS	3,383.	3,383.
LINE 16E - OTHER ADJ & TAX PREF ITEMS:		
PRE87 ACCEL DEPR REAL/LEASED PROP	0.	0.

**Schedule K-1
(Form 1065)**
Department of the Treasury
Internal Revenue Service

Partner's Share of Income, Credits, Deductions, Etc.

For calendar year 2001 or tax year beginning

, 2001, and ending , 20

OMB No. 1545-0099

2001

Partner's identifying number ▶ 076-34-6431 **Partnership's identifying number** ▶ 14-1688252

Partner's Name, Address, and ZIP Code
ELLEN JACOPINO
829 TERRACE PL
CORTLANDT MANOR, NY 10567-1319

Partnership's Name, Address, and ZIP Code
FARICELLIA'S MARKET
238 WALSH AVE
NEW WINDSOR, NY 12553

A This partner is a general partner limited partner LLC member
B What type of entity is this partner? ... ▶ **INDIVIDUAL**
C Is this partner a domestic or a foreign partner?
D Enter partner's % of: (i) Before change or termination (ii) End of year
 Profit sharing % 50.00000 %
 Loss sharing % 50.00000 %
 Ownership of capital % 50.00000 %
E IRS Center where partnership filed return: CINCINNATI, OH
F Partner's share of liabilities: Nonrecourse \$
 Qualified nonrecourse financing \$
 Other \$
G Tax shelter registration number ▶
H Check here if this partnership is a publicly traded partnership as defined in section 469(k)(2)
I Check applicable boxes: (1) Final K-1 (2) Amended K-1

J Analysis of partner's capital account:

(a) Capital account at beginning of year	(b) Capital contributed during year	(c) Partner's share of lines 3, 4, and 7, Form 1065, Sch M-2	(d) Withdrawals and distributions	(e) Capital account at end of year (columns (a) - (d))
--	-------------------------------------	--	-----------------------------------	--

	(a) Distributive share item	(b) Amount	(c) 1040 filers enter on:
Income (Loss)	1 Ordinary income (loss) from trade or business activities	1 -4,953.	See Partner's Instructions for Schedule K-1 (Form 1065).
	2 Net income (loss) from rental real estate activities	2 2,343.	
	3 Net income (loss) from other rental activities	3	
	4 Portfolio income (loss):		
	a Interest	4a	Schedule B, Part I, line 1
	b Ordinary dividends	4b	Schedule B, Part II, line 5
	d Net short-term capital gain (loss)	4d	Schedule D, line 5, column (f)
	e (1) Net long-term capital gain (loss)	4e (1)	Schedule D, line 12, column (f)
	(2) 28% rate gain (loss)	4e (2)	Schedule D, line 12, column (g)
	(3) Qualified 5-year gain	4e (3)	Line 4 of worksheet for Sch D, line 29
5 Guaranteed payments to partner	5 3,382.	See Partner's Instructions for Schedule K-1 (Form 1065).	
6 Net gain (loss) under section 1231 (other than due to casualty or theft):	6		
7 Other income (loss) (attach sch)	7	Enter on applicable ln of your return	
Deductions	8 Charitable contributions	8	Schedule A, line 15 or 16
	9 Section 179 expense deduction	9	See Partner's Instructions for Schedule K-1 (Form 1065).
	10 Deductions related to portfolio income	10	
	11 Other deductions (attach schedule) See Line 25	11 3,382.	
Credits	13 Other credits	13	See Ptnrs instr, Sch K-1 (Form 1065)
Investment Interest	14a Interest expense on investment debts	14a	Form 4952, line 1
	b (1) Investment income included on lines 4a and 4b above	b (1)	See Partner's Instructions for Schedule K-1 (Form 1065).
	(2) Investment expenses included on line 10 above	b (2)	
Self-Employment	15a Net earnings (loss) from self-employment	15a -1,571.	Schedule SE, Section A or B
	b Gross farming or fishing income	15b	See Partner's Instructions for Schedule K-1 (Form 1065).
	c Gross nonfarm income	15c 31,807.	
Adj and Tax Preference	16a Depreciation adjustment on property placed in service after 1986	16a -61.	See Partner's Instructions for Schedule K-1 (Form 1065) and instructions for Form 6251.
	b Adjusted gain or loss	16b	
	e Other adjustments and tax preference items (attach sch) See Line 25	16e 0.	
Other	19 Tax-exempt interest income	19	Form 1040, line 8b
	21 Nondeductible expenses	21	See Partner's Instructions for Schedule K-1 (Form 1065).
22 Distributions of money (cash and marketable securities)	22		

25 Supplemental information required to be reported separately to each partner:

LINE 11 - OTHER DEDUCTIONS:

MEDICAL INSURANCE PAYMENTS FOR PARTNERS	3,382.	3,382.
---	--------	--------

LINE 16E - OTHER ADJ & TAX PREF ITEMS:

PRE87 ACCEL DEPR REAL/LEASED PROP	0.	0.
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Form 1065, Line 20

Other deductions

ACCOUNTING	525.
ADVERTISING	35.
AUTOMOBILE AND TRUCK EXPENSE	3,000.
MISCELLANEOUS	
BANK CHARGES	540.
EQUIPMENT RENT	984.
INSURANCE	3,356.
CLEANING AND SANITATION	
LEGAL AND ACCOUNTING	
JANITORIAL	1,343.
OFFICE EXPENSE	214.
PERMITS AND FEES	350.
SUPPLIES	556.
UTILITIES	9,688.
Total	<u>20,591.</u>



Partnership Return

For calendar year 2001 or fiscal year beginning and ending



Form with fields: Legal Name (FARICELLIA'S MARKET), Trade Name, Address (238 WALSH AVE, NEW WINDSOR NY 12553), Employer Identification Number (14-1688252), Principal Business Activity (RETAIL SALES), Principal Product or Service (GROCERIES), NAICS Business Code Number (445110), Date Business Started (12-28-86).

Form with sections A through G. A: Check the box that applies to your entity (Regular partnership checked). B1: Did the partnership have any income gain, loss, or deduction derived from New York sources during the tax year? B2: If No, enter the number of resident partners. C: Check applicable box(es) for changes. D: Is this return the result of federal audit changes? E: Did you file a New York State partnership return for 1999 and 2000. F: Total number of partners in the partnership (2). G: Does the partnership currently have tax accounts with New York State for the following taxes (Sales and use tax, Withholding tax).

Schedule A

Part I - List all places, both in and out of New York State, where the partnership carries on business

(Attach additional sheets if necessary)

Table with 3 columns: Street address, City and state, Description. Row 1: 238 WALSH AVE, NEW WINDSOR NY 12553, STORE AND APTS.

Part II - Formula basis allocation of income if books do not reflect income earned in New York

Table with 4 columns: Items used as factors, Totals - in and out of New York State, New York State amounts, Percent column B is of column A. Rows include Property percentage, Payroll percentage, Gross income percentage, Business allocation percentage.

Form with fields: Paid preparer's use only (EILEEN CARNEY, 222 PANCAKE HOLLOW RD, HIGHLAND NY 12528), Preparer's SSN or PTIN, Employer Identification No., Signature of General Partner, Date, Daytime Phone Number (845-561-5450).

Partnership must attach federal Form 1065 or Form 1065-B and all schedules to this Form IT-204 (see instructions for Penalties).

Mail your return to: State Processing Center, P.O. Box 61000, Albany, NY 12261-0001.

Schedule B – Partners' New York modifications, credits, etc

Part I – Partners' New York modifications to federal items

	Total
10 New York State additions (attach schedule; see instructions)	10
11 New York State subtractions (attach schedule; see instructions)	11
12 Additions to federal itemized deductions	12
13 Subtractions from federal itemized deductions	13
14 Amount of interest expense incurred to carry tax-exempt obligations	14
15 New York adjustments to federal tax preference items (see instructions)	15

Part II – Partners' credit information

	Total
16 Manufacturing and production, retail enterprise, waste treatment and pollution control property – investment credit (attach Form IT-212)	16
17 Research and development property – investment credit (attach Form IT-212)	17
18 Add-back of investment credit on early dispositions (attach Form IT-212)	18
19 Defibrillator credit (attach Form IT-250)	19
20 Investment credit for the financial services industry (attach Form IT-252)	20
21 Add-back of investment credit on early dispositions for the financial services industry (attach Form IT-252)	21
22 Credit for employment of persons with disabilities (attach Form IT-251)	22
23 Alternative fuels credit (attach Form IT-253)	23
24 Add-back of alternative fuels credit on early dispositions (attach Form IT-253)	24
25 Fuel oil storage tank credit (attach Form IT-254)	25
26 Industrial or manufacturing business (IMB) credit (attach Form DTF-623)	26
27 Low-income housing credit (attach Form DTF-624)	27
28 Green building credit (attach Form DTF-630)	28
Empire zone (EZ), qualified emerging technology company (QETC), and qualified empire zone enterprise (QEZE) tax credits	
29 EZ wage tax credit (attach Form IT-601)	29
30 ZEA wage tax credit (attach Form IT-601.1)	30
31 a EZ capital tax credit for investments in and donations to EZ capital corporations (from Form IT-602, Schedule A, line 5; attach form)	31 a
31 b EZ capital tax credit for investments in certified EZ businesses (from Form IT-602, Schedule B, line 9; attach form)	31 b
31 c EZ capital tax credit for monetary contributions to EZ development projects (from Form IT-602, Schedule C, line 13; attach form)	31 c
32 EZ investment tax credit and EZ employment incentive credit (attach Form IT-603)	32
33 QEZE credit for real property taxes (attach Form IT-604)	33
34 EZ investment tax credit and EZ employment incentive credit for the financial services industry (attach Form IT-605)	34
35 Add-back of EZ capital tax credit, EZ investment tax credit, and EZ employment incentive credit (attach Forms IT-602 and IT-603)	35
36 Add-back of EZ investment tax credit and EZ employment incentive credit for the financial services industry (attach Form IT-605)	36
37 QETC employment credit (attach Form DTF-621)	37
38 QETC capital tax credit (attach Form DTF-622)	38
39 Add back of QETC capital tax credit on early dispositions (attach Form DTF-622)	39
Farmers' school tax credit	
40 Total acres of qualified agricultural property	40
41 Total acres of qualified conservation property	41
42 Total amount of eligible taxes paid	42
43 Total acres of qualified agricultural property converted to nonqualified use	43

Part III – Income and deductions allocated to New York (Partnerships whose income is all from New York sources, do not complete Part III. However, partnerships with corporate partners should see the instructions for Part III.)

	Allocated New York amounts
44 Ordinary income (loss) from trade or business activities	44
45 Net income or loss from New York rental real estate activities	45
46 Net income or loss from other rental activities	46
47 Portfolio income (loss)	47
48 Guaranteed payments to partners	48
49 Net gain (loss) under IRC Section 1231 (other than due to casualty or theft)	49
50 Other income	50
51 Expense deduction for property under IRC Section 179	51
52 Deductions related to portfolio income (do not include investment interest expense)	52
53 Other deductions (see instructions)	53
54 Tax preference items for minimum tax (see instructions)	54
55 New York adjustments to federal tax preference items (see instructions)	55
56 Investment interest expense (see instructions)	56
57 Other items not included above that are required to be reported separately to partners	57



Partners' Identifying Information

Attachment to Form IT-204

Legal Name (as shown on Form IT-204) FARICELLIA'S MARKET 238 WALSH AVE NEW WINDSOR , NY 12553	Employer Identification Number 14-1688252
---	---

(A) For each identifying number, enter name (last, first, middle initial) on first line; enter home address on second and third lines.	(B) Identifying number (SSN or EIN) (C) Percentage of ownership	(D) Check if resident of	(E) Check if partner is
1 EDWARD JACOPINO 829 TERRACE PLACE CORTLANDT MANOR NY 10567-1319	1B 100-34-0214 1C 50.00	<input checked="" type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS Corporation <input type="checkbox"/> Foreign Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or Trust
2 ELLEN JACOPINO 829 TERRACE PL CORTLANDT MANOR NY 10567-1319	2B 076-34-6431 2C 50.00	<input checked="" type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS Corporation <input type="checkbox"/> Foreign Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or Trust
3	3B 3C	<input type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS Corporation <input type="checkbox"/> Foreign Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or Trust
4	4B 4C	<input type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS Corporation <input type="checkbox"/> Foreign Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or Trust
5	5B 5C	<input type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS Corporation <input type="checkbox"/> Foreign Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or Trust
6	6B 6C	<input type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS Corporation <input type="checkbox"/> Foreign Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or Trust
7	7B 7C	<input type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS Corporation <input type="checkbox"/> Foreign Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or Trust
8	8B 8C	<input type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS Corporation <input type="checkbox"/> Foreign Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or Trust
9	9B 9C	<input type="checkbox"/> NYS <input type="checkbox"/> NYC <input type="checkbox"/> Yonkers	<input type="checkbox"/> NYS Corporation <input type="checkbox"/> Foreign Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate or Trust



**Notice to Applicant
For Additional Extension of Time to File
IT-372 / IT-372-PF**

- We have approved the application.
- We have not approved the application because the reasons stated do not warrant an extension of time. File your return by the due date or within 10 days from the date shown below, whichever is later.
- We have not approved the application because it was received after the extended due date of your return. File your return at once.

Tax year - File Reference Number: 2001 30448778 Date: 07/30/2002

12528

FARICELLIAS MARKET

E CARNEY
222-PANCAKE HOLLOW RD
HIGHLAND NY 12528

DTF-372 (1999)



Application for Additional Extension of Time to File for Partnerships and Fiduciaries

IT-372-PF



P R I N T O R T Y P E	Legal Name or Name of Estate or Trust FARICELLIA'S MARKET		Employer Identification Number 14-1688252	
	Trade Name of Business, if Different from Legal Name Above, or Name of Fiduciary			
	Address (number and street or rural route) 238 WALSH AVE			
	City, Village or Post Office NEW WINDSOR		State NY	ZIP Code 12553

This is not an extension of time for payment of tax (see Penalties and Interest in the instructions).

I request an extension of time to file until 10-15-02, for the calendar year 2001 or other tax year ending _____.

1 Did you previously file a timely Form IT-370-PF or a copy of federal Form 8736 for this tax year? X Yes ___ No

2 Explain why you need an extension. ALL DOCUMENTATION NEEDED TO COMPLETE RETURN HAS NOT BEEN RECEIVED YET

3 Was an additional extension of time to file previously granted on Form IT-372-PF for this tax year? ___ Yes X No
If Yes, previous extension was granted to Date _____

Paid preparer's use only	Preparer's Signature	Preparer's SSN or PTIN		Sign here	Your Signature	
	Firm's Name (or yours, if self-employed) and Address EILEEN CARNEY 222 PANCAKE HOLLOW RD. HIGHLAND NY 12528	Employer Identification No.	Date		Mark X if self-employed <input checked="" type="checkbox"/>	Date

Complete the *Return mailing address* below, showing the name and address where you want our response to your request mailed.

Return mailing address (type or print)

Taxpayer's or Preparer's Name EILEEN CARNEY	
Return Mailing Address 222 PANCAKE HOLLOW RD	
City, Village, or Post Office HIGHLAND	State ZIP Code NY 12528

Where to file:
Mail **one copy only** of this completed form, federal Form 8800, or Form 2758 to:
Extension Request - NR
P.O. Box 15105
Albany NY 12212-5105.



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

June 27, 2006

Edward Jacopino
238 Walsh Avenue
New Windsor, NY 12553

SUBJECT: REQUEST FOR VARIANCE #06-04

Dear Mr. Jacopino:

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

In the Matter of the Application of

MEMORANDUM OF
DECISION GRANTING

EDWARD & ELLEN JACOPINO

USE

CASE #06-04

WHEREAS, Daniel Bloom, Esq. represented Edward & Ellen Jacopino , owner(s) of 238 Walsh Aenue, New Windsor, New York, 12553, has made application before the Zoning Board of Appeals for a/an Request for Use Variance for proposed Multi-family/Multiple Dwelling Use (increase in non-conformity); and Parking Variances for off-street parking of 5 spaces as referred from Planning Board for site at 238 Walsh Avenue in an R-4 Zone (13-2-17)

WHEREAS, a public hearing was held on March 13, 2006 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 ten (10) spectators appearing at the public hearing; and

WHEREAS, Seven (7) members of the public spoke in favor of the application and three (3) spike 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 Official Town Newspaper, also as required by law.
2. The Evidence presented by the Applicant showed that:
 - (a) The property is a commercial property located in a mixed residential and commercial neighborhood in the oldest part of the Town of New Windsor in an R-4 zone.

- (b) The property is currently the site of a grocery/convenience market. The applicant seeks permission to add two additional apartments to the existing three apartments for rentals to the property.
- (c) The applicant established through the testimony of Eldred Carhart, Certified Appraiser, that the property as it presently exists, does not provide a reasonable return.
- (d) The variance, if permitted, will not result in a change in the essential character of the neighborhood since it is now a mixed residential and commercial character and this variance would simply allow a similar mixed use of this property.
- (e) Parking for the new addition, if permitted, will be obtained from an irrevocable easement granted by the neighbor.
- (f) The property, as it exists, is non-conforming to the Zoning Map, the Zoning Regulations placing this property in an R-4 Zone requiring an erection of a one-family house and the applicant, now having a mixed commercial and multi-family use for the property. The applicant seeks to increase the non-conformity by adding two apartments to the existing premises.
- (g) The applicants tried to sell the property for a period of approximately three (3) years, during which time there were no offers of purchase.
- (h) The applicant presented to the Board petitions in support of the application containing approximately 75 + signatures.
- (i) The hardship to the property is caused by a change in the economic conditions of the neighborhood and is not caused by any action of the applicants or in any fashion attributable to the property itself.

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).

ENVIRONMENTAL FINDINGS:

1. The proposed action is will not result in any adverse environmental impacts.
2. The proposed action will not result in a substantial adverse change in existing air, ground or surface water quality or quantity, traffic or noise levels nor a substantial increase in solid waste.
3. The proposed action will not result in a substantial increase in potential for flooding, erosion, leeching or drainage problems.
4. The proposed action will not result in the impairment of the character or the quality of the existing community or the neighborhood.
5. The proposed use is consistent with uses in the vicinity.
6. The proposed action will not cause a major change in the use of quantity or type of energy.
7. The proposed action will not create a hazard to human health.
8. The proposed action does not conflict with the town's current plans or goals as officially approved and adopted.
9. The action will not attract a large number of people to the property.
10. There are no future actions that will be taken as a result of this action which will result in the adverse change in the environment or character of the community.

11. There are no other significant other environmental impacts associated with the proposed action.
12. The applicant has taken all steps possible to mitigate any potential for traffic conflict or other adverse effects.

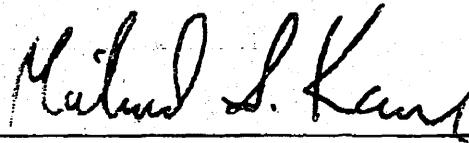
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a Request for Use Variance for proposed Multi-family/Multiple Dwelling Use (increase in non-conformity); and Parking Variances for off-street parking of 5 spaces as referred from Planning Board for site at 238 Walsh Avenue in an R-4 Zone (13-2-17) 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: March 13, 2006



Chairman

FARICELLIA'S MARKET SITE PLAN (05-12)

Mr. Anthony Coppola appeared before the board for this proposal.

MR. PETRO: Application proposes two additional apartment units in a second story on the existing deli building. This plan was reviewed on a concept basis only. Property is in R-4 zone district of the Town, the deli just is pre-existing and non-conforming use, multi apartment use is non-conforming in the zone and this application increases the non-conformity, referred to the zoning board for a use variance. Just briefly.

MR. COPPOLA: I'll be real brief because I know we're here for a referral tonight. Basically, what we're doing is adding two apartments, two dwelling units to the second floor of the existing structure, those two units will take up the entire second floor. Basically everything that's on this site remains. There's the existing deli on the first floor approximately 2000 square feet, there are two existing apartments, one on the lower level, one on the back of the first floor and then there's a third existing apartment in a detached structure here on this T shaped portion of the lot. So we have confirmed with the tax assessor's office that this is one lot so there's three dwelling units, we're going to add two so a total of five. The other thing we're proposing right now that's the only on-street, the only parking that's basically a few parking spaces for the deli customers right directly off Walsh Avenue, those will remain. We're proposing an 8 space parking lot area in the rear accessible off the rear drive near Clancy Avenue, a portion of that, those spaces will go onto the adjoining property. We've already obtained written permission from the property owner there. That will allow a little better access from these rear dwelling units than they have right now.

MR. ARGENIO: So you're putting parking places for this

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existing one story frame building on the other guy's property?

MR. COPPOLA: We're putting all our residential parking spaces.

MR. ARGENIO: On somebody else's property?

MR. COPPOLA: It goes over by 12 feet.

MR. ARGENIO: Okay.

MR. COPPOLA: So--

MR. PETRO: What size is this lot, Anthony?

MR. COPPOLA: It's right there, it's, well, a fifth of an acre, 9,000 square feet.

MR. PETRO: What's R-4 allow, Mark?

MR. EDSALL: On which?

MR. PETRO: What's our R-4?

MR. BABCOCK: Single family.

MR. PETRO: Let me ask you something, I know he's been here before, I'm going try to do this not rudely, you now have a deli and three apartments, existing apartments on 1/5 of an acre where it's, the correct zoning is one single family, so you have non-conforming use of a deli and then in reality two extra apartments, you're allowed one, if you want to count that as a home. So you have a deli and apartment's already over the use that's provided for that zone and forget about that it's a fifth of an acre, I mean, now it's 80,000 feet, you've got a fifth of an acre which is how many feet?

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MR. COPPOLA: It's 9,000 square feet.

MR. PETRO: That's the entire site and you want us to send you to the zoning board for a use variance which is extremely hard for two more apartments in that site in which you're going to put parking 12 feet over on somebody else's property?

MR. COPPOLA: All that is correct, I understand the threshold of a use variance and I think my clients do too and they have been advised not just through me but through their attorney and I think they understand all these things and I think they have also taken a look at some of the other existing properties on Walsh Avenue, I believe Walsh Avenue is a real mixed bag of different things.

MR. PETRO: That may be true but it's an old area of Town, could be a chicken farm there, doesn't mean you can have a chicken farm now. I talked to somebody some time ago and I thought it was ridiculous, I don't know if it was you or the owner or whoever it was and I still think it's absolutely ridiculous, it's a waste of everybody's time but you're here and what we'll do is we'll refer you to the zoning board with a negative recommendation from this board and I will tell you this that if you do by some miracle get a use variance I'll do a swan dive off here if you get it.

MR. COPPOLA: We wouldn't ask you to do that.

MR. PETRO: I don't know if this board will review it so I'm telling you I think it's ridiculous and I hate to be so negative about something but I couldn't of said it better, you have a deli which is non-conforming, two extra apartments you're allowed in, not three, that's two too many and you want to put two more upstairs and put the parking on somebody else's property.

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MR. COPPOLA: I fully understand all that, I understand the use variance, I understand the threshold is extremely difficult, there's five things under the state law that you have to prove, I believe, but they have been advised by an attorney too and they're pursuing what needs to be pursued to make that justification.

MR. PETRO: If you do get the use variance and come back we're not going to accept the parking, we don't accept parking on somebody else's property, you'll have to demonstrate parking for the other units on your property.

MR. COPPOLA: Well, I appreciate it if you make your recommendation with that so the zoning board knows that.

 MR. PETRO: Well, it's in the minutes now. There's no way we're going to accept parking, we cannot accept parking on another property, I don't care if you have a letter from them, it could be in probate, something could happen later where the new owner says you can't have this anymore, then you have eight spots that are four feet deep, just not too good.

MR. BABCOCK: Just let me add one thing if the parking is this way and you don't, you're not going to accept that parking, they're going to require a parking variance also cause they don't have--

MR. PETRO: Well, there's no parking.

MR. BABCOCK: That's what I'm saying.

MR. SCHLESINGER: You have to go to the zoning board for that.

MR. PETRO: I would suggest, Paul, did you draw these plans?

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MR. COPPOLA: No, we drew these plans.

MR. ARGENIO: He either has to get a parking variance or somehow purchase the property.

MR. COPPOLA: I think the use variance is part of that, in other words.

MR. SCHLESINGER: If they don't get the use, they won't need the parking.

MR. COPPOLA: Correct.

MR. PETRO: While you're there, you don't want to come back here, I refuse to look at it because of the parking, if you get the use variance, I may or may not take a serious look at it, but definitely not with that parking, you may want to go for a parking variance for some reason, I don't know where or how.

MR. COPPOLA: Well, I would say, I mean, instead of the 8 you're going to get three spaces here to conform to that space so--

MR. PETRO: This is some plan that you have here, I mean, this is really over the top.

MR. SCHLESINGER: Let's just refer it.

MR. PETRO: I want to refer it with the right information.

MR. ARGENIO: I think the minutes reflect the flavor, Jim, at this point in time. I agree with you, for the record.

MR. PETRO: All right, I'll send you to the zoning board, if you come back and it's not with the correct variance, you may have to go back again or we'll review

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it at that time.

MR. COPPOLA: Well, Mr. Chairman, that's the reason why we're here, just so we get the correct variances so we can proceed.

MR. PETRO: I think you should also then I would suggest that you put the correct number of spots that you can fit in that space on your own property and go for a variance on the balance cause I wouldn't review that, I can't review it, it's, why you would draw that, I don't know, whether you have permission from them or not.

MR. COPPPOLA: We thought that was acceptable but if it's not, we'll change it.

MR. PETRO: Change it and whatever parking variances you need for your request I would add that to your list. All right, entertain a motion to send Faricellia's Market site plan to the New Windsor Zoning Board for final approval.

MR. ARGENIO: I'll make a motion for final approval for Faricellia's Market.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Faricellia's Market site plan on Walsh Road. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. MASON	NO
MR. MINUTA	NO
MR. SCHLESINGER	NO
MR. ARGENIO	NO

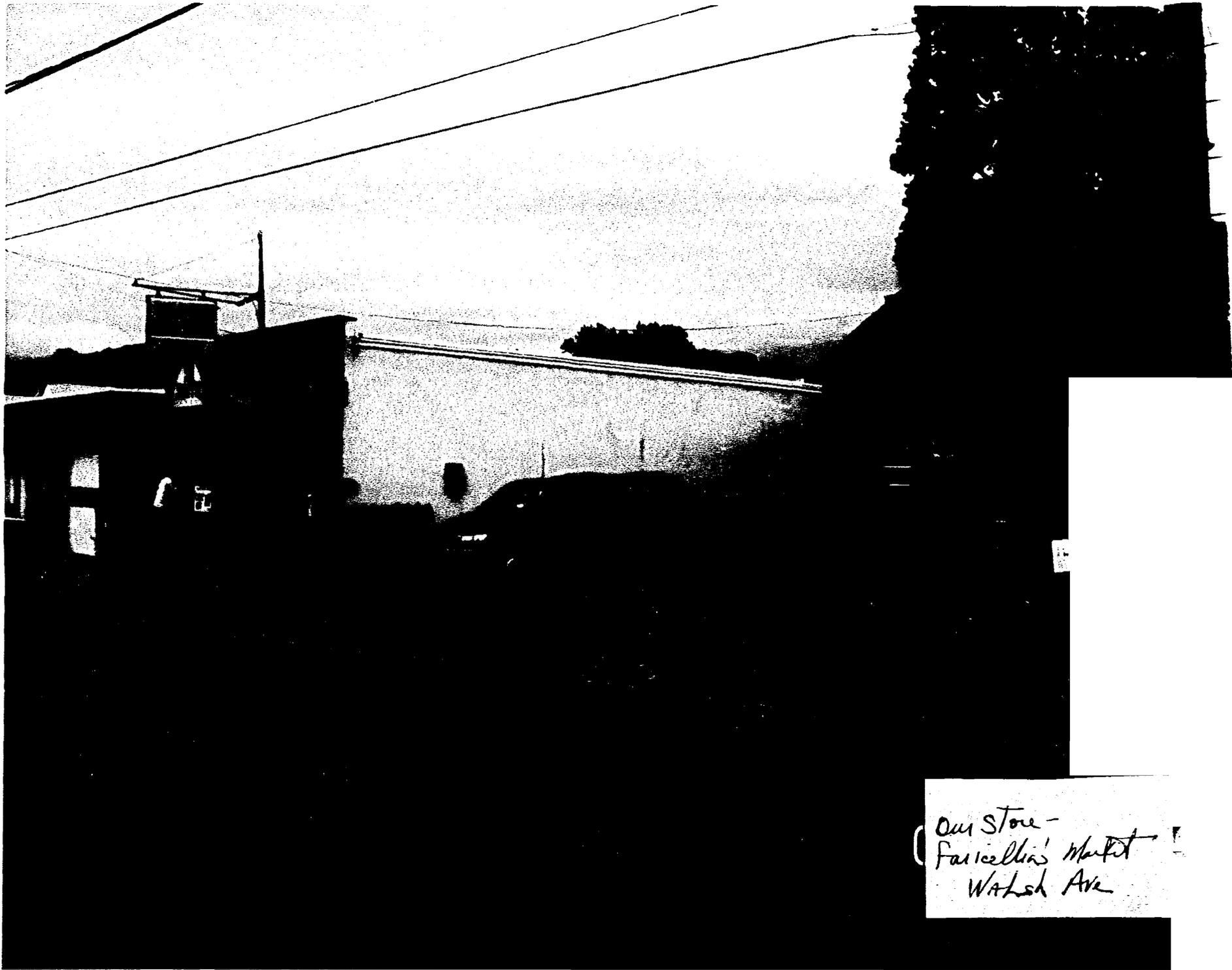
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MR. PETRO NO

MR. PETRO: At this time, you have been referred to the New Windsor Zoning Board for your necessary variances. If you're successful in receiving those variances, you can then appear before this board again and I want you to know that we're sending you there with a negative recommendation.

MR. COPPOLA: Understood. Thank you.



Our Store -
Faiicelli's Market
Walsh Ave



Eikon opa Station
9 W, Walsh Ave #94



Exxon gas station
Walsh Ave, S. William &
Lake Street



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



FILE #06-04 TYPE:USE TELEPHONE: 561-5450

APPLICANT:
Edward Jacopino
238 Walsh Avenue
New Windsor, NY 12553

RESIDENTIAL:	\$ 50.00	CHECK # _____
COMMERCIAL	\$ 150.00	CHECK # <u>3288</u>
INTERPRETATION	\$ 150.00	CHECK # _____

ESCROW: COMMERCIAL \$500.00 CHECK #3289



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

PRELIMINARY:	<u>4</u>	PAGES	\$ <u>22.00</u>	\$ <u>35.00</u>
2 ND PRELIMINARY:	—	PAGES	\$ _____	\$ _____
PUBLIC HEARING:	<u>44</u>	PAGES	\$ <u>308.00</u>	\$ <u>35.00</u>
PUBLIC HEARING:	—	PAGES	\$ _____	\$ _____

LEGAL AD: Publish Date:2/24/06 \$ 16.69

TOTAL: \$ 346.69 \$ 70.00



ESCROW POSTED: \$ 500.00
LESS: DISBURSEMENTS: \$ 416.69

AMOUNT DUE: \$ _____

REFUND DUE: \$ 83.31

Cc:

L.R. 05-31-06



RESULTS OF Z.B.A. MEETING OF: March 13, 2006

PROJECT: Ed Jacopino ZBA # _____
P.B.# _____



USE VARIANCE: NEED: EAF PROXY

EMERGENCY: M) _____ S) _____ VOTE: A _____ N _____
Unlisted Action
GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

NEGATIVE DEC: M) Lo S) Lu VOTE: A 3 N 0
Unlisted Action
GANN A _____
LUNDSTROM A _____
LOCEY A _____
TORPEY _____
~~KANE~~ _____ CARRIED: Y N _____

PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____
GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

APPROVED: M) (L,U,S) Lo VOTE: A 3 N 0
GANN A _____
LUNDSTROM A _____
LOCEY A _____
TORPEY _____
KANE _____ CARRIED: Y N _____

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____

CARRIED: Y _____ N _____

PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES _____

VARIANCE APPROVED: M) _____ S) _____ VOTE: A _____ N _____.

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____

CARRIED: Y _____ N _____.

4 Criteria:

#1 Reasonable Return

#2 Unique

#3 Will not alter the character of the area

#4 Not self created

PETITION TO PLANNING BOARD/ZONING BOARD OF APPEALS
OF THE TOWN OF NEW WINDSOR

The undersigned, being Customers of Faricellia's Market (owned by Edward and Ellen Jacopino) of 238 Wash Avenue, New Windsor, NY 12553, hereby express our support for the pending Applications of Mr. & Mrs. Jacopino to your Boards for necessary Variances and Site Plan approval to continue their market in business through the construction of residential units on a second floor to be added to their existing building. We support the Application because Mr. & Mrs. Jacopino extend credit to us in purchasing our necessary grocery needs. No other market in the area provides such a vital service.

<u>NAME(PRINT)</u>	<u>SIGNATURE</u>	<u>ADDRESS</u>	<u>TELEPHONE NO.</u>
BRYAN Acute	Bryan Acute	(work at Fel. Block) 29N. Chestnut St Beacon	831-3567
ALVIN VEAZ JR	Alvin Veaz Jr	(WORK AT FEDERAL) 10 EDWARD DR. PINE BUSH	744-6033
Billy BRITTON JR	Billy Britton Jr	work at american Feit + Fitter 325 Walsh Ave	569-2227
Vincent RICHIZO	Vincent Richizo	128 Myrtle Ave	565 4704
Jerry Stitt	Jerry Stitt	48 Meriline Ave	561 3158
Theresa Martires	Theresa MARTINO	52 Blanche Ave	563-0028
John Kirk	John Kirk	12 Smother at Marlboro	236-2899
GEORGIE FURBER	Georgie Furber	11 ...	564-1422

DANK DICHIARO DANK DICHIARO 81 MERLINE AVE 565-2896

Kenneth Ruffin 115 MONTGOMERY LY 562 8332

Linda Zamonick Linda Zamonick 108 Merline Ave NW 565-5274

Roger Cool 227 WALSH 821-7599

ROBERT TURNER 81 SO ROBINSON AVE -

Jodi McDonough Jodi McDonough 41 MYRTLE AVE -

JOHN GLASSEY 34 Cedar Ave 597-6538

Luey Pisacawa 76 STANLEY DR 564-2113

ARON MCNEIL FLEET

FLORENCE KELLER FLORENCE KELLER 227 WALSH AVE 561-4955

NATHAN CROSSER NATHAN CROSSER 1263 SW MACLEOD 926-0324

Colleen Beardon Colleen Beardon 14 MYRTLE AVE NW 845-5653422

Jim Bates Jim BATES 94 MONT ST 534 7701

Jeffrey McCURRY Jeffrey McCURRY 19 Merline Ave 568-3314

Walter Young 41 MYRTLE AVE 562-8029

PETITION TO PLANNING BOARD/ZONING BOARD OF APPEALS
OF THE TOWN OF NEW WINDSOR

The undersigned, being Customers of Faricellia's Market (owned by Edward and Ellen Jacopino) of 238 Wash Avenue, New Windsor, NY. 12553, hereby express our support for the pending Applications of Mr. & Mrs. Jacopino to your Boards for necessary Variances and Site Plan approval to continue their market in business through the construction of residential units on a second floor to be added to their existing building. We support the Application because Mr. & Mrs. Jacopino extend credit to us in purchasing our necessary grocery needs. No other market in the area provides such a vital service.

NAME (PRINT)	SIGNATURE	ADDRESS	TELEPHONE NO.
EVERETT SMITH	<i>Everett Smith</i>	36 Meridian Ave.	New Windsor 12748
Barbara Dolson	<i>Barbara Dolson</i>		
Shirley Petro	<i>Shirley Petro</i>	109 Myrtle Ave.	562-2348
Jeff Davis	<i>Jeff Davis</i>	38 Robinson Ave	Newburgh 561-3560
Melena Parrama	<i>Melena Parrama</i>	POBx 1041	Newburgh NY 12551
Luis DeJesus	<i>Luis DeJesus</i>	374 Washington St	Newburgh 5622
Sharon Alexander	<i>Sharon Alexander</i>	80 Merlin Ave.	569-1591
Michael Yانونe	<i>Michael Yانونe</i>	279 Browns Rd	567-1182

BERTHA TRAVER Bertha Traver 40 Blauvelt Dr. and 5612604

Edith Birch Edith Birch 72 Quassimac Ave 5654434

Lisa Yonnore Lisa Yonnore 67 Myrtle Ave New Windsor 9658814

Stephanie Yonnore Stephanie Yonnore 67 Myrtle Ave 9658814

Aime Crudele 12 Marelaine Ave.

MATILDA PARTINGTON MADDALena Bittenger 227 Water Ave 561012

JOHN BUNWATER John Van Nater 227 Water Ave 5654768

Jarome Schin 46 Clancy Ave New Windsor 5624596

Bertha Atkins Dubois St New York

Bridget Davidson Walsh Ave New Windsor NY 12553

Traci Sherman 17 Royal Circle Newburgh NY 12550

Steven W Smith 36 Main Ave New Windsor NY 12553

PAUL MOTT 5 Broad St NY 12563

Jessie Stone 119 MYRTLE AVE NEW WINDSOR NY

Paul ~~Stone~~ ^{Robert} ~~Stone~~ ^{Tramp} 24 Goodman Ar New Windsor

PETITION TO PLANNING BOARD/ZONING BOARD OF APPEALS
OF THE TOWN OF NEW WINDSOR

The undersigned, being Customers of Faricellia's Market (owned by Edward and Ellen Jacopino) of 238 Wash Avenue, New Windsor, NY 12553, hereby express our support for the pending Applications of Mr. & Mrs. Jacopino to your Boards for necessary Variances and Site Plan approval to continue their market in business through the construction of residential units on a second floor to be added to their existing building. We support the Application because Mr. & Mrs. Jacopino extend credit to us in purchasing our necessary grocery needs. No other market in the area provides such a vital service.

<u>NAME (PRINT)</u>	<u>SIGNATURE</u>	<u>ADDRESS</u>	<u>TELEPHONE NO.</u>
Sandra Smith	Sandra Smith	119 Montgomery ST	562-8332
Beverly Decatur	Beverly Decatur	1006 McArthur	562-1339
David W. Jefferson	David W. Jefferson	227 WALSH AVE	
Veronica [unclear]	[unclear]	Trade Alto	914-804-5813
Robert Zamenick	Robert Zamenick	254 WALSH AVE	845-562-8502
Sueann LaFemina	Sueann LaFemina	234 Walsh Ave	
BRENDAN FEELAGHTY	Brendan Feelahty	15 CANTERBURY LANE	534-0179
Michael Smith	Michael Smith	36 Marlboro Ave	562-1218
WILLIAM SCHEWERT	William Schewert	248 Walsh Ave	569-1684
Jeffrey Lent	Jeffrey Lent	52 Clancy Ave	561-5813
Mark Berkery	Mark Berkery	31 Oxford Rd	565-9699
Pamela Stuit	Pamela Stuit	48 Marlboro Ave	561-3158
Christine Domingues	Christine Domingues	55 Clancy Ave	569-0501
Christina Neves	Christina Neves	44 Lawrence Ave	561-5807

PETITION TO PLANNING BOARD/ZONING BOARD OF APPEALS
OF THE TOWN OF NEW WINDSOR

The undersigned, being neighbors of Faricellia's Market (owned by Edward and ^{Ellen}Jacopino) of 238 Wash Avenue, New Windsor, New York, 12553, hereby express our support for their Application for Variances and Site Plan approval to expand their building to include residential apartments on a second floor.

<u>NAME(PRINT)</u>	<u>SIGNATURE</u>	<u>ADDRESS</u>	<u>TELEPHONE NO.</u>
Michael Zambetti	<i>M. Zambetti</i>	240 Walsh Ave	569-8660
Michael T Povesse	<i>Michael Povesse</i>	242 Walsh Ave.	561-5173
Michael PAZ	<i>Michael Paz</i>	60 Merline Ave	569-1539
Rob Petriello	<i>Rob Petriello</i>	246 WALSH	562-9877
GARY DREYER	<i>Gary Dreyer</i>	290 WALSH	562-1828
Ken Helled	<i>Ken Helled</i>	57 CLARGADE	562-7690
Joan Livingston	<i>Joan Livingston</i>	38 Meriline	562-9161
Billy BRITTON TR	<i>Billy Britton</i>	325 Walsh Ave	569-2227
Vincent + D. Ch.	<i>Vincent + D. Ch.</i>	128 North Ave	565-4704

Jerry Stunt	Jo Stunt	48 Merline Ave	561-3158
Theresa Martino	Laura Martino	52 Blanche Ave	563-0028
John Kwik	John Kwik	72 Smith St	236-2899
Don Johnson	John Johnson	DATTENSON MATERIALS 322 WALSH AVE	562-5370
Dante D'Chiara	Paul DeChes	81 Merline Ave	565-2896
Diana Stanhope	Diana Stanhope	10 Blanche Ave	562-2115
Alawn D'Elcio	Dawn D'Elcio	53 Myrtle Ave	561-3871
Deborah Knapp	Deborah Knapp	227 WALSH AVE.	—
Sunda A Zamenick	Randa Zamenick	108 Merline Ave NW	565-5274
Roger Cook	Roger Cook	227 WALSH	821-7595
Jodi McBratney	Jodi McBratney	41 Myrtle Ave	—
John Okessey	John Okessey	34 Cedar Ave	597-6538
Lucy Pisacora	Lucy Pisacora	16 STANLEY AVE	564-9113
Florence KELLER	Florence Keller	227 WALSH AVE	561-4955

PETITION TO PLANNING BOARD/ZONING BOARD OF APPEALS
OF THE TOWN OF NEW WINDSOR

Ellen

The undersigned, being neighbors of Faricellia's Market (owned by Edward and Jacopino) of 238 Wash Avenue, New Windsor, New York, 12553, hereby express our support for their Application for Variances and Site Plan approval to expand their building to include residential apartments on a second floor.

<u>NAME (PRINT)</u>	<u>SIGNATURE</u>	<u>ADDRESS</u>	<u>TELEPHONE NO.</u>
CHARLES JAMES	<i>Charles James</i>	16 BLANCHK AVE N.W.	845-565-2484
Ethel K Reardon	<i>Ethel K Reardon</i>	14 Myrtle Ave N.W.	845-565-3422
CARL E. CARLSON	<i>Carl E. Carlson</i>	26 MYRTLE AVE N.W.	845-562-3985
Colleen Reardon	<i>Colleen Reardon</i>	14 Myrtle Ave N.W.	845-565-3422
Michael / Michael Blithe	<i>Michael Blithe</i>	320 Jackson Ave NW	845-913-6914
Jeffrey McCuey	<i>Jeffrey McCuey</i>	19 MCKLINE AVE	568-3314
Wally	<i>Wally</i>	41 MYRTLE AVE	562-8029
Edward Smith	<i>Edward Smith</i>	36 MCKLINE AVE	562-1218
Shirley Petro	<i>Shirley Petro</i>	109 Myrtle Ave.	562-2348
Jeff MAVIS	<i>Jeff Mavis</i>	38 ROBINSON AVE N.W.	561-3560

KENN FLANAGAN ⁵⁶¹⁻⁴¹⁰⁸ 247 WALSH AVE NEW WINDSOR
Robert Sears ⁵⁶¹⁻⁴¹⁰⁸ 35 MERILINE AVE NEW WINDSOR

John R. Deeda J.R.D. 45 CLAUDE AVE NEW PHADRATY
Sharon Alexander Sharon Alexander 80 MERILINE AVE 569-1591

Bertha Traver - BERTHA TRAVER 42 BLANCKE AVE NW 5612604

Edith Birch 42 CLAUDE AVE Edith Birch 565-4438

JAMES D LEE 12 LAWRENCE AVE 562 6804

Robert Brown 35 McROSE AVE 569-1773

Lisa Yonnore ^{Lisa Yonnore} 67 MYRTLE AVE New Windsor 565-8814

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ANN CRUDELE Ann Crudele 12 MERILINE AVE ⁵⁶¹⁻5164

MATILDA PARTINGTON ~~MATILDA~~ Partington 221 WALSH AVE

JOHN VAN NATTER John VanNatter 221 WALSH AVE. 565-4768
Christina Neues 44 LAWRENCE AVE 561-5807

PETITION TO PLANNING BOARD/ZONING BOARD OF APPEALS
OF THE TOWN OF NEW WINDSOR

The undersigned, being neighbors of Faricellia's Market (owned by Edward and Jacopino) of 238 Wash Avenue, New Windsor, New York, 12553, hereby express our support for their Application for Variances and Site Plan approval to expand their building to include residential apartments on a second floor. ELLEN

<u>NAME (PRINT)</u>	<u>SIGNATURE</u>	<u>ADDRESS</u>	<u>TELEPHONE NO.</u>
Abie M Colon	<i>Abie M Colon</i>	57 Meriline Ave.	562-9091
Steven W Smith	<i>Steven W Smith</i>	36 Merline Ave	562-1218
PAUL MITT	<i>Paul Mitt</i>	5 Broad St	562-1458
Jeffrey Stoneham	<i>Jeffrey Stoneham</i>	119 MYRTLE	890-2151
Mr. Steve	<i>Robert Frangos</i>	24 Goodmar Ave	
Vincent White	<i>Vincent White</i>	72 MYRTLE AVE	562-0938
Bruce D. Conroy	<i>Bruce D. Conroy</i>	14 KURAN AVE APT 1	
JOE BABCOCK	<i>Joe Babcock</i>	10 CLANCY AVE	561-3599
Richard C. Hotaling	<i>Richard C. Hotaling</i>	95 Myrtle Ave.	561-4035

BARBARA Ray Barbara Ray 18 Louisa 562 8705
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Susan LaFemina Susan LaFemina 2341 Walsh Ave
BRENDAN FEENEY Brendan Feeny 18 CENTER DAY AVE 534-2179
Elizabeth Stone 122 JOHN ST. 565 8877
Paul Smith 36 Merline Ave - Michael Smith 562-1248
S. Van Voorhis S. Van Voorhis 223 Walsh Ave NW NY 12553 561-8465
Michael Alexander 80 Merline Ave NW. NY 12153
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ANGELO MESSINA Angelo Messina 18 MERLINE AVE. 569-9812
Jennifer Decker Jenny Decker 1006 Merline Pl. 562-1339
Jeffrey Lent Jeffrey Lent 52 Clancy Ave 561-5813
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Pamela Skitt Pamela Skitt 48 Merline Ave 501-3158
Christa Domingues 55 Clancy Ave 569-0521

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NAME (PRINT) SIGNATURE ADDRESS TELEPHONE NO.

BILL BESSETTE	Bill Besette	234 Wash Ave. New Windsor	561-4818
ART GILMAN	Art Gilman	221 WASH AVE NEW WINDSOR	562-5483
CARMEN MONACO	Carmen Monaco	224 WASH AVE New Windsor	562-0194
Rich Bucci	Richard Bucci	2 Myrtle Ave	5618396

PUBLIC HEARINGS:

EDWARD_JACOPINO_(d/b/a_FARICELLIA'S_MARKET)_ (06-04)

Daniel Bloom, Esq. appeared before the board for this proposal.

MS. GANN: Request for use variance for proposed multi-family/multiple dwelling use (increase in non-conformity); and parking variances for off-street parking of 5 spaces as referred from planning board for site at 238 Walsh Avenue in an R-4 zone.

MR. BLOOM: My name is Dan Bloom and I represent the applicant this evening and with the permission of the chair, I'd like to present the architect representing the application first to give the board just a general idea as to what the site plan would look like and then I'd like to have permission to bring in the certified appraiser to submit a report and then I'd like to once again address the board and perhaps tie things together.

MS. GANN: Sure.

MR. BLOOM: At this point, I'd like to call Joe from Anthony Coppola and Associates, the architect, please.

MR. SANDRIDGE: This is the property for 283 or 238, I'm sorry, Walsh Road, and this is the site plan of where this building is located, currently it is Faricellia's Market and it's right here inside the property and this part of the property also belongs to the owner, there's a deli that occupies the first floor. Can everyone see this okay?

MR. LUNDSTROM: We can.

MS. GANN: We have our own plans up here.

MR. SANDRIDGE: The existing deli in the front part of the building behind it is an apartment, there's an apartment that's off to the side here, a building that's not attached to this and below in the basement area is also another apartment that's existing. The current parking situation is in the rear here and we're proposing to expand that parking based on what we're asking for today. What we're asking for is the addition of two more apartments which will be located over the entire space of this building and the entrance to those apartments will be coming in from the rear. The parking that exists for the deli is all located in the front on Walsh Road and the proposed parking in the rear will be enlarged to 8 spaces. There's an existing building here that we'll be taking down and that will be an easement here on the adjacent property to allow for those 8 spaces. The two apartments will be 1,125 square feet and 1,300 square feet, they will be three bedroom apartments with one bath and this is what that will look like. The existing front facade will stay the same and then it will just be built up from there and the colors will all be done to match pleasingly with the existing front facade. This is the layout apartment 1 here, apartment 2 here.

MS. GANN: Okay.

MR. BLOOM: Thank you, Joe.

MR. LUNDSTROM: Is there anything on the second floor of that structure right now?

MR. SANDRIDGE: No, it's just a flat roof, that roof will come off and this will be built up.

MS. LOCEY: So second floor will be constructed?

MR. SANDRIDGE: That's correct.

MR. LUNDSTROM: And if I understand your presentation

correctly, currently there are two families living in that building?

MR. SANDRIDGE: Yes.

MR. LUNDSTROM: This will increase it from 2 to 4?

MR. SANDRIDGE: In the building, this building then there's also an extra apartment that's off to the side.

MR. LUNDSTROM: Can we go back to the other drawing? Show me again the existing apartments.

MR. SANDRIDGE: There's one existing apartment behind here, comes in about here, it's only a 700 square foot apartment.

MR. LUNDSTROM: On the ground level?

MR. SANDRIDGE: Yeah, that's on the same level as the deli then the other apartment is in the basement underneath this parking here and occupies the back half of the basement. The entry to that apartment is off to the side here and then there's another apartment here.

MR. LUNDSTROM: So there's three existing apartments now going from three to total of five?

MR. SANDRIDGE: That's correct.

MS. GANN: Where is the entrance to get up to the second level?

MR. SANDRIDGE: There's a back porch here and you go up the staircase here and then onto the porch and there will be another staircase that goes up to the second floor.

MS. GANN: And the folks that are on the right-hand side of the apartment number 2, how are they getting in

and out of that location?

MR. SANDRIDGE: There's a sidewalk here that comes back here and connects to the sidewalks back here.

MR. BABCOCK: Now, the new one on the top?

MS. GANN: Yeah, the new one on the top?

MR. LUNDSTROM: Turn the plan over.

MR. SANDRIDGE: Okay, sure, so here's the porch, they would come up this way and then down this way and enter this one and enter this one.

MR. BABCOCK: That would be an interior hallway?

MR. SANDRIDGE: That's correct.

MS. LOCEY: So the covered porch would lead to an interior hallway?

MR. SANDRIDGE: That's correct.

MS. LOCEY: That common is not a deck there?

MR. SANDRIDGE: No, that's all inside the building.

MR. LUNDSTROM: If I may, Madam Chairman, Mike, would you refresh our memory, why is this coming before the zoning board?

MR. BABCOCK: It's a non-conforming use.

MR. LUNDSTROM: Three family apartment?

MR. BABCOCK: Yes, I think they went to the planning board for this, planning board referred them here, it's in an R-4 zone, what's there now is non-conforming, I'm sure, I don't have the dates when it was built, but I'm

sure it's pre-zoning and they want to increase the non-conformity so which requires a zoning board.

MR. LUNDSTROM: Non-conforming being the deli or additional residence or both?

MR. BABCOCK: I think all three right now in an R-4 zone today you're allowed a one-family house, so they've got three apartments and a deli there now, they want to increase it to five apartments and a deli so therefore they're increasing the non-conformity.

MR. LUNDSTROM: Okay, the existing three apartments and deli were built prior to zoning?

MR. BABCOCK: Yes.

MR. LUNDSTROM: Grandfathered in basically non-conforming?

MR. BABCOCK: That's correct, I don't have the dates.

MR. BABCOCK: Would you know when those--

MR. BLOOM: I can.

MS. GANN: We're going to open it up to the public in just one moment, sir, and you can come on up when we're done with all that.

MR. BLOOM: Madam Chairman, may I have permission to check with my client on the age of the building?

MR. LUNDSTROM: Mike, just as a point of information, has the planning board, are they waiting on any action for us to make a decision?

MR. BABCOCK: Yes.

MR. LUNDSTROM: They had preliminary comments on this

project?

MR. BABCOCK: Yes, they have.

MR. LUNDSTROM: Would any of those be beneficial for us to know?

MR. BLOOM: Before the architect retires, any further questions of the architect specifically at this time?

MS. GANN: No.

MR. BLOOM: All right, thank you very much. May I call, Madam Chair, Eldred Carhart, he's a certified appraiser, he's done an appraisal of the property. I'd like to have him present a report to the board members and to be available to answer any specific questions you may have. He's done an analysis of the income of the property, the value of the property and the projected increase in income through the construction of these two units and that will be relevant when I submit and I will submit copies of a report from the accountant of my client along with their tax returns justifying this application in terms of the economic issue. Mr. Eldred Carhart, please.

MR. CARHART: Good evening, I have copies of the report. Before we get reading this report, I wonder if I can make point. I have a little additional testimony to give. I don't feel that the granting of this variance would reduce the property values of anybody else in the area. If anything, I think it would just enhance the values of the property by virtue of the fact that the building would all be fixed up and looking like new. Now the, I'm sorry I didn't even qualify myself, I am Eldred Carhart, I'm a certified general appraiser in business for over 35 years, most of you at least know my name and I'm licensed in Connecticut and New York. My qualifications are attached to the back of the presentation and I wondered

if you would just take a moment, look over the presentation and then if you have any questions, I will be happy to answer them. I hate to just read everything that you've already got in front of you.

MS. GANN: Can you just give us a summary, there's a lot here to read, obviously, can you just go over maybe the main points of what you're looking to do here?

MR. CARHART: Point one is that it will not alter the essential character of the neighborhood, it's a very mixed use neighborhood with commercial and residential properties now, it will not effect that usage. I have given financial reasons why this variance should be granted and those are quite, those are the bulk of the analysis. They would deny if you do not grant the variance it would deny the reasonable return on the property. The property now is assessed, value is \$375,000, when you take the net operating income of \$26,130 and divide that by 10% which is the capitalization rate, the value comes in at 261,300, which is \$100,000 less than it's being taxed on. However, with the additional apartments, that's only 7 percent return, 6.97, but if the apartments are added, the net operating income would be increased to 44,510 which is a 10% return on the investment and that's much more reasonable, actually, it separates it from being denying a reasonable return on the investment and offering it the property and this is a summary of what I wanted to say.

MS. GANN: Okay, thank you.

MR. CARHART: I'm here to answer any questions you may have.

MR. LUNDSTROM: Just one question I have, you're saying that if the Zoning Board of Appeals denies this it would basically deny reasonable return on the building, you're saying it's not profitable as it is now with

three apartments.

MR. CARHART: It's not profitable at all, tax wise, in fact, it's \$100,000 less than it's being assessed for, the value of the building is \$100,000 less than the property is assessed for.

MR. LUNDSTROM: All right, how does that relate to a return on investment?

MR. CARHART: Well, that's a 6.7 percent or 6.97 percent return on the investment, whereas, if you increase, if you allow it to be increased, the number of units it will make it a 10% return on the investment.

MR. LUNDSTROM: What is the return on investment of the other properties in the area?

MR. CARHART: I don't know what the others are cause I haven't analyzed those, but the capitalization rate is generally about 10% and so whatever that operating income in it depends on how much the rents are, whether they're economic rents, whether they're fair rents and what the expenses of the property would calculate to be.

MR. LUNDSTROM: Okay, cause the other question along that line would be the rents for the apartments that you have on page 2 of the presentation, are they fair?

MR. CARHART: They're all fair rents, yes.

MR. LUNDSTROM: Should they be increased, would that improve?

MR. CARHART: The tenants have been long term tenants and they really the owners have not applied actual market rents to them but they're very close to market rents now so they don't want to rock the boat and lose

a tenant and then have to suffer higher vacancy allowances so it's a kind of a trade-off to them, the rents for the owner's store and the owner's apartment these are fair market rents, these are the rents that I applied, there are market rents.

MR. LUNDSTROM: Okay.

MS. GANN: How long have the apartments been there as well, the deli and everything, was everything built at the same time?

MR. CARHART: My records say 1964 was the effective age of the property but I don't, really, the assessor lots of times says that its effective age is not the actual age but it's been a market as long as I can remember and I'm a Newburgh native and it's always been two apartments, three apartments, excuse me, and the market, I can't remember it being anything else.

MR. LUNDSTROM: One of the questions I have we can go back to the architect on the other side of that form you're showing parking areas would go onto a neighbor's property?

MR. SANDRIDGE: That's correct, they're in contact with that neighbor and have an agreement, an easement to allow for that parking.

MR. BLOOM: If I may address that particular question, I was going to present the board, I will do this now if I may just hand up, I have a written offer of easement from the next door neighbor, Mr. Michael Faricellia which would provide the necessary area for the parking that we seek the variance for.

MS. GANN: This just states that this individual will permit a 12 foot common use permanent easement and allow the easement to be recorded with his deed?

MR. BLOOM: That's correct, in other words, he's agreed to grant a permanent easement, in other words, a right to use this parking as we say in the law would run with title to the land so as long as it's associated with this particular deed in perpetuity it would be a right to park.

MS. GANN: How much property again is that, is that going over to this other person's area, how much land are we talking about?

MR. BLOOM: Would you delineate that please, Joe?

MR. SANDRIDGE: Yes, that would be this portion here, 12 feet back and 72 feet long.

MS. LOCEY: Where is the property line?

MR. SANDRIDGE: Property line is this dark line here.

MS. GANN: What's there now?

MR. SANDRIDGE: Currently, there's two parking spots here and then a carport up here and the rest is just lawn and sidewalk.

MS. LOCEY: And the neighbor's property?

MR. SANDRIDGE: That's all just grass and there's a metal shed here.

MS. LOCEY: Which will be removed?

MR. SANDRIDGE: That's correct.

MR. LUNDSTROM: Is there a dwelling on the neighbor's property also anywhere on that parcel of land?

MR. SANDRIDGE: Yes but I'm not exactly sure where it's located.

MS. GANN: Is it close to this area that you're looking to get additional parking spaces from?

MR. SANDRIDGE: No, I believe it's, I don't think this obstructs any dwelling that's there.

MS. GANN: You're not a hundred percent sure that it's close to a house or dwelling?

MR. SANDRIDGE: No, I am not a hundred percent sure, I didn't have it shown on this site plan so I'm not sure where it is exactly.

MR. BLOOM: In terms of answering that question if I may I can produce at a point appropriate in the hearing the next door neighbor who owns the property who can locate it for you, Mr. Faricellia.

MS. GANN: Take pictures of the area?

MR. BLOOM: Yes, I have pictures.

MR. LUNDSTROM: Now, have I been informed correctly, this project is also before the planning board?

MR. BLOOM: It was referred here from the planning board for site plan for a variance in terms of the parking as well as for a, what we call a use variance because we're increasing the non-conforming use.

MR. LUNDSTROM: Basically on two counts, one is the parking, the other one is on the non-conforming going from three to five?

MR. BLOOM: That's correct, if this board acts favorably on the application, then it's back to the planning board. If this board does not act favorably on the application then it's pretty much the end of it.

MS. GANN: Now the deli's parking lot spaces, what will they be used for and who will be parking in these locations?

MR. SANDRIDGE: These, all these parking spots will be for all the tenants of the apartments.

MS. GANN: Tenants only?

MR. SANDRIDGE: That's correct.

MR. LUNDSTROM: Madam Chairman, may I ask the ZBA attorney if it would be admissible to understand what the planning board may have felt about this or is that just not appropriate here?

MR. KRIEGER: You can ask to whatever extent it's available.

MR. BABCOCK: There's minutes that were sent over, I gave you a copy of the minutes from the planning board, I mean, you really have to read the whole thing to get the gist of it because the planning board was not happy about the, I shouldn't say the planning board, they actually they said that they will refer to the zoning board with a negative recommendation from this board that was the Chairman of the Planning Board at the time.

MS. GANN: That's for parking, Mike?

MR. BABCOCK: Well, I think it was for the entire thing, I think the gist of the board was is that there is a lot on one piece of property, there's an awful lot there, you really have to read the minutes to get a feel for it yourself, it's a 9,000 square foot lot, they say there's three apartments and a dwelling there now and they said if you're successful in getting the use variances, they can come back to the board and they'll take another look at it.

MR. LUNDSTROM: This is an interesting quagmire.

MS. LOCEY: What's conforming in an R-4 zone?

MR. BABCOCK: A one-family dwelling and/or what they have there now because it's non-conforming.

MS. LOCEY: Correct but in order for it to conform, it would have to have just a single-family home on that piece of property to conform with today's zoning?

MR. BABCOCK: That's correct.

MS. LOCEY: So they're already non-conforming?

MR. BABCOCK: That's correct and they want to increase the non-conformity, that's why we're saying they need a use variance and then based on the increased non-conformity the law says you have to have so many parking spaces for the deli, so many for each apartment and they're going to be five short, I believe it's five.

MS. LOCEY: Yes, I saw that.

MR. LUNDSTROM: Madam Chairwoman, just one question for Mike. Hypothetically, if the Zoning Board says yes, goes back to the planning board, will the planning board then hold another public hearing and they would have the right to say no?

MR. BABCOCK: The planning board has a right to waive a public hearing on this and/or have a public hearing so it is up to their discretion, I think they didn't have a public hearing cause they know they'd have a public hearing here, that's what's here tonight, once the applicant's made their proposal, we have to open up to the public and hear the public comment.

MR. KRIEGER: Perhaps it would be useful if at this point if I explain. The purpose of the Zoning Board of Appeals and of the planning board are two separate purposes. If the variances that are sought here are granted and it goes back for site plan review, then the planning board takes it the way they get it at that point and they review site plan which in essence means they make sure that to the extent possible things are located where they ought to be located. They do not have the legal capacity it say no, you can't do it, that's up to this board. So when you say, when they say no, it's hard to say they have the right to say no to a particular site plan, well, that doesn't accomplish all the things that you need to accomplish but they don't, can't say no, you can't use the building for that purpose at all, that's this board's function. And when you said another public hearing, it's not normal practice that they would have a public hearing of any kind before sending it here, this is the first public they're going to see, that has occurred. Now in connection with the site plan review if the planning board were to conduct it, they may or may not have a public hearing, they would but they have the right to waive it so they would or not depending on how they viewed it and the members of the planning board viewed it at that point but it is customary with the planning board that they'll often, they certainly would rely on and want to know what the public hearing was, the experience was here in front of this board before they decide whether to waive their own or not and I have seen them waive and I have seen them not waive but it is so, when you say another public hearing, understand this is the first public hearing that's ever occurred on this process and the only public hearing that will occur of necessity, in other words, guaranteed to occur, there may or may not be another one.

MS. LOCEY: Why did the application go to the planning board prior to coming here?

MR. KRIEGER: That's the normal practice, when a applicant requires, is going to require planning board approval and an application will eventually require planning board approval, they start there, if the planning board finds on their initial review that there are zoning questions that they do not comply with the zoning it will as it did here refer the matter to the, to this board for its approval or not before proceeding further. If this board approves the application then it would go back to the planning board and it would pick up with the planning board review process but normally the application is made where there is a site plan that's going to be necessary according to our local statute to make the application therefore it's referred over.

MR. BABCOCK: Kathleen, one and two family dwellings, the building department refers it to this board, anything three family or more it's a planning board function or a commercial establishment. So they went to the planning board, the planning board determined what variances they need and then sent them here for relief of the variances to go back to the planning board. Once they go back to the planning board, if they're successful tonight, they go back with a plan that meets the zoning because you've given the variances for the amount of parking, you've given them variances to have the two more additional apartments so now the plan meets the zoning and the planning board may say the parking needs to be shuffled over here, how are you going to turn around here, you know, is the garbage dumpster in the way or whatever, basically not yes or no but just how it's laid out.

MR. LUNDSTROM: So basically the first part of my question is if we say yes, it goes there, if we say no, the process ends here?

MR. BABCOCK: That's correct.

MR. LUNDSTROM: I have one further question. If the ZBA approves this, will that be setting a precedent?

MR. KRIEGER: There are basically in zoning there are no precedents because each property is considered in the eyes of the law to be unique, so you can't simply apply the decision that was made for Property A automatically for Property B because in the eyes of the law there are two separate however identical they may appear there are two separate instances. So the first answer to your question as a general rule is no, where there's, where the Zoning Board of Appeals has been held to account for precedent if you will is basically in procedure, they can't, even though properties as I indicated are different, the Zoning Board of Appeals cannot apply a different, any given Zoning Board of Appeals, I'm not talking about this one, cannot apply different standards to different properties. The standard has to be the same, the answers may be different and they may be and the answers are individual but the questions have to be the same. And to that end and I don't know whether the chairman would like me to go into this in detail now or as I was going to ask him to at the end of the presentation but the state law sets forth criteria that are question, question that must be answered with respect to the use variance, some of those criteria have been and I see by specific language have been, have appeared in Mr. Carhart's report, the reason I wasn't going to go through it in detail at this point is the statutory criteria are as well known to counsel as they are to me and I assume in his presentation it was going to, he's going to address them to the extent that he deems necessary. I don't want to go into any particular detail with respect to the criteria until after they've had a chance to make their presentation but before the board votes, I will be happy to go over those.

MR. BLOOM: Thank you. Madam Chairman, before

proceeding on, may I call Michael Faricellia before the board for the purpose of locating that house, he owns the house, the adjacent house to answer that specific question? Mike, would you please come up and locate on the diagram the approximate location of the adjacent house vis-a-vis that parking area?

MR. FARICELLIA: Right here.

MR. BLOOM: If I may for the record, Mr. Faricellia is indicating that the house is located in the upper left quadrant of the building lot that's adjacent to the parking area that's proposed. Is that correct, Mike?

MR. FARICELLIA: Yes.

MS. GANN: You said you didn't live in that home?

MR. FARICELLIA: No, I don't live there now.

MS. GANN: So we don't know the exact footage that's from this parking area to the next dwelling?

MR. BLOOM: I don't know the exact, now, I do not.

MS. GANN: Okay.

MR. BLOOM: If it pleases the board, I'd like to try to summarize what's been said and add to it and try to place it in context, if I may. First of all, as you know, my clients, Mr. and Mrs. Jacopino have operated this Faricellia's Market we call it because it was a the Faricellia Market, they bought it from the Faricellias and they have continued it and they have been operating this market since they purchased it in 1968, they have actually been living downstairs in the downstairs apartment, one bedroom apartment for 19 years. And they have been operating it for that period of time. They have enjoyed operating it and I respectfully submit that they served a legitimate and a

wonderful function in that community, a very mixed neighborhood as we all know, we have manufacturing, we have retail, we have wholesale and yet everybody has to eat and everybody has to buy groceries and they were there for that purpose. Unfortunately a few years back particularly probably around year 2000 they opened a new convenient market at the corner in the City of Newburgh on the corner of South Williams Street and Lake Street and immediately there was a dramatic drop in the gross income of the Faracellia's Market. And then shortly thereafter they opened up an Exxon, an Exxon opened up another convenient market on the other end of, on 9W, so effectively, what happened is when they opened up the market on South William was that all those people in the Bourne Apartments who would walk over to this market walked across the street for obvious reasons and they lost that business. And then when Exxon opened up the market on 9W, all the people that would cross 9W and come over and purchase their groceries from the other side of the 9W they stopped walking across 9W, understandably. And the bottom line is that as a result of that, my client's income has dropped dramatically over that period of time and specifically I'd like permission to hand up a report from Eileen Karney, the accountant for my clients and just quickly summarize if I may, Madam Chairman. Mr. and Mrs. Jacopino's business as Faricellia's Market throughout the 1990's and first part of 2000 were consistent, their growth and their income was consistent of approximately 3 percent a year. By the end of 2001, sales had fallen 10.5 percent, by the end of 2004, 36.5 percent, from historic average, 2003, 2004 showed a steep decline of 21.5 percent and the recent competition from the surrounding stores is the basic cause. So if I may pass up a few copies of that.

MS. GANN: Thank you.

MR. BLOOM: In addition and in support of that, I also would like to hand up to the board copies of the actual

tax returns themselves that were filed for the years 2001 through 2004 substantiating the allegations made in the report from the accountant. So nevertheless my clients continue, this was their sole source of income, this is how they raised their family, they continue, they try, they continue to try to make a living but it reached the point when they realized they could no longer make a living doing this so they tried to sell the property for three years they tried to market it with three different local real estate agents with absolutely no takers because you can't sell something like that that's losing money at that rate. So then finally they thought about the idea of raising the income through the addition of the apartments upstairs and if they could do that, they could remain in business and that's fairly substantiated in the report from Mr. Carhart when tied in conjunction with the report from the accountant. Now, one might say and it certainly is a legitimate observation, say that's capitalism and that's society and some people make it and some don't and a lot of people work hard and still don't make it and we all understand that. But I suggest to this board that the Jacopinos are filling a unique need in this community, they are in my opinion one of the only, perhaps the only store that I am aware of that extends credit to their customers weekly, monthly, the people that work in the Federal Block across the street come in and buy their sandwiches and groceries during the week and they go paycheck to paycheck. My clients extend them credit and they may have to pay at the even of the week. They have elderly citizens that come in, buy there groceries and have to wait 30 days until the next Social Security check and my clients extend credit. Last time, I'm old enough to know that, last time I ever, Firthcliff Carpet was extending credit to their employees and that goes back a long time, so I suggest that they're fulfilling a need in this community and they're not doing it in a way that's causing a disturbance in the community. This is a mixed community, drove down here just

yesterday just to refresh my recollection, I don't think there's a single building in there that conforms, I think they all are non-conforming and non-conforming. I might suggest in the same manner which my client's property is non-conforming. In support of the particular unique function that my clients serve, I asked them to prepare two petitions for me and asked their customers and their neighbors to sign them and with permission of the chair, I'd like to just read the introductory statements and then hand them up.

MS. GANN: Okay.

MR. BLOOM: First one says the undersigned being neighbors of Faricellia's Market, 238 Walsh Avenue, hereby express our support for their application for variances and site plan approval to expand their building to include residential apartments on the second floor and then there are three sheets attached, I'm going to ask that they're made part of the record, probably over 25 or 30 signatures per page. And then the next petition reads, the undersigned being customers of Faricellia's Market hereby express our support for their pending applications to the board for necessary variances and site plan approval to continue their market and business through the construction of residential units on a second floor to be added to the existing building. We support the application because Mr. and Mrs. Jacopino extend credit to us in purchasing our necessary grocery needs. No other market in the area provides such a vital service. And again, three sheets of approximately 30 signatures per page. If I may, Madam Chair, I'd like to hand those up.

MS. GANN: Thank you.

MR. BLOOM: I indicated that in my opinion I didn't think that what they are proposing to do my clients would be inconsistent with the existing consistency of the neighborhood and in support of that, Madam Chair,

I'd like to hand up at this point photographs of the surrounding buildings in the community, if I may. And after reviewing those photographs of the surrounding community, I'd also like to respectfully hand up two photographs, one of the Exxon Station on Walsh Avenue and South Williams Street, Lake Street and the other of the Exxon on 9W and you will see why there is no question that consumers in the vicinity of these stores would be much more inclined to walk to these stores and purchase their groceries, they're beautiful, they're well stocked and they're closer to those individuals. My clients as I have said have lived there for over 19 years in a one bedroom apartment in the basement and run this business above their apartment. They now have two grandchildren and they'd like to be able to move to one of the upstairs apartments so that when the grandchildren visit, they have an extra apartment for them to sleep. They have done nothing to cause this particular concern or application for variance or hardship to cause the hardship themselves, they simply paid their money, they paid for the property, they put their sweat and blood into running the business and raising their family and now all they're asking is the opportunity to continue to serve the community and make a decent living and do it in a way which I respectfully submit to this board would be consistent with the values of the surrounding community. I also submit as indicated by Mr. Carhart that this addition if permitted by this board will do nothing but enhance, increase the values of the surrounding properties. I hope I've covered all of the points, all the points necessary for this board to render a decision, but to the extent that this board or counsel may feel that something is missing, I respectfully invite the opportunity to address whatever those issues may be. Thank you.

MS. GANN: Thank you. Any other questions from the board?

MR. LUNDSTROM: One question, Madam Chairman, in order to grant approval for this, does it require a simple majority of the members present or is there a fixed number?

MR. KRIEGER: No, it only requires a majority of vote because it does not require a super majority cause it's not within the criteria where it had to be referred to the County Planning Department that would be the only requirement for super majority, had an application had to be referred there and had it been returned with a negative recommendation by the County this doesn't have anything to do with the planning board here. Had that been the case then there would be a super majority requirement but that's not the case here. However, having said that, I want to say that it's a majority of the board, not a majority of the board present, that means that in this particular application there only being three members present all three would have to vote in favor of it. If anyone votes not in favor of it, the application is deemed denied. All three who are here must vote in favor cause this constitutes a majority of the five person board.

MR. LUNDSTROM: That was my question. Thank you.

MS. GANN: At this time, I'd like to open up this public hearing to the public, obviously, and please come up one at a time and please state your name loud and clear and you're either for or against it and please say it loud enough so the young lady can hear you. So please?

MR. SMITH: Everett Smith. I made some notes while I was listening to all the conversations, I can't read my own handwriting so bear with me. First thing I'm concerned about one of the reasons I came down here tonight was because we're talking about an independent business, my business, in my business we deal with independent businesses for the most part, hundreds of

them, very, very difficult for these people to stay in business today and I think it's very important, very important for government and anyone else to support these businesses and do everything that they can to keep them in business. Good reasons came out tonight, one of the them being service, talked about credit, I have been in that store many, many times, I've seen credit given to people that I would think twice about giving credit to but they write it in a book, they give them credit. There was woman a few blocks away who had terminal cancer, I know that she couldn't get out of the house, she couldn't get her cigarettes and some other things and they delivered them to her. You're not going to find many of these Exxon stores or places that are going to do that. Faricellias did that to more than just that person. Service is very important, independent business is very important, service is something that the independent business is going to do. Got to support these people. And one of the things I just cannot get over and I don't know where the heck it came from but it's an R-1 zoning for Walsh Avenue, if you've been down Walsh Avenue, it's ridiculous, Federal Block on one side of the road, Patrillo's, Dryers, you name it, I don't know of very many single family dwellings on Walsh Avenue and yet it's R-1, talk about conforming, nothing conforms, I don't understand it. We're going to be having a master plan coming up soon, hopefully that's changed but right now I don't see conforming as being an issue. Nobody conforms, it just didn't exist before and it doesn't exist now and whatever you do isn't going to change that. You have to support these independent businesses, there are businesses there right now that are two stories high, they have apartments there, there are houses that have, that are two and three stories high that have more than two or three apartments in them, so there's nothing that these people are asking for that doesn't already exist in that area. And my concern again is for an independent business, I want to see them stay there, I want to see them continue the service that they're

giving to that area and I want to see them stay in business and I would ask for your support.

MS. GANN: Thank you. Anyone else?

MR. BUCCI: Rich Bucci, 2 Myrtle Avenue.

MS. GANN: Okay.

MR. BUCCI: I'm concerned about the parking, parking and snow removal and the traffic, okay, now I live on the corner of Myrtle and Clancy directly behind proposed parking lot which you said there's going to be they need more parking, where are they going to get that from, my property?

MS. LOCEY: No, I think they're looking to expand up.

MR. BUCCI: Right now there's trees over there.

MS. GANN: Mr. Architect?

MR. BUCCI: Cause right now they're pushing the snow from their driveway over into my side into my part of the road.

MR. SANDRIDGE: This is where the parking is going to be.

MS. LOCEY: Where is the existing parking?

MR. SANDRIDGE: It's currently right back here and then--

MS. LOCEY: Towards Clancy?

MR. SANDRIDGE: That's correct and then the easement here and there are trees there that will have to be removed.

MR. LUNDSTROM: Rich, I'm sorry, you're going to have to move.

MR. SANDRIDGE: Existing parking is back here and the easement's here and there are trees here that will be taken away.

MS. GANN: Can I stop you for one second? Is there anyone else that's concerned about the parking? If you want to come on up while he's demonstrating this I think that would be helpful.

MS. DEYO: I'm Sherry Deyo.

MR. LUNDSTROM: And the gentleman?

MR. DAMARAO: Carmen Damarao, 40 Clancy Avenue, I adjoin the back lot of the store.

MR. LUNDSTROM: Just for the record.

MR. LUNDSTROM: Have the three of you had an opportunity to review the map?

MS. DEYO: I don't understand the map, I mean, I don't see where Myrtle Avenue is but anyways thing is they're making it sound like it's commercial but on Walsh Avenue, yes, it is all commercial there, the laundromat and everything, but in the back of it where we live it's all residential and we have grandchildren too, you know, and from what I'm gathering the spaces are going to be right across the street from our yard I'm not, the map does not show that but the map does not show that.

MS. GANN: Is that correct?

MR. BLOOM: The spaces from what I can gather, yes, the parking I believe what you're saying is that your, is that you live across the street over here, is that

correct?

MS. LOCEY: They need to know where Myrtle is.

MR. BLOOM: Clancy is here, I mean, as you look at the property you're over here, is that correct?

MS. DEYO: Okay, we would be here.

MR. BLOOM: The parking spaces would be here and they would be right behind the residential portion of the building.

MS. DEYO: But--

MR. BUCCI: My house is right over here.

MR. BLOOM: That's correct.

MR. BUCCI: So the traffic would be going--

MR. BLOOM: Right now they have parking there now just that they have parking for two cars what they're proposing is this, that's correct, this gentleman lives across the street.

MS. LOCEY: So you're directly across from the existing parking now?

MR. BUCCI: Correct.

MS. GANN: They're just going to be expanding that.

MR. BUCCI: Expanding it how, how many apartments, there's five times two, 10 parking places, where are they going to get it from in the back?

MS. LOCEY: How do they access the parking?

MR. BLOOM: Parking is actually accessed from Clancy.

MR. BUCCI: Well--

MR. DAMARAO: I believe the property is 30 foot wide.

MR. BLOOM: Yes, that's correct. But with the additional easement it gives the easement would extend up this 12 foot strip here and it's been through the, they came up with the determination that based upon square footage with the easement that we need a variance for five spaces.

MR. DAMARAO: Now, another question I'd like to ask they have how many rentals now?

MR. BLOOM: Right now we have three, well, three in the sense that they live downstairs, they rent this on the side.

MR. DAMARAO: There's three?

MR. BLOOM: That's correct.

MR. DAMARAO: You know I live right here at the present time, my wife and I, we've got three vehicles, how many do you have?

MR. BUCCI: We've got three.

MR. DAMARAO: Next house down they have four then this little cottage here single fella has two pickup trucks and in 1963 I got sick and I was parked in front of my house, the ambulance had to block the road in order to go through, I mean, chairman and board members, do you know this part of town?

MS. GANN: Yes.

MR. LUNDSTROM: Yes.

MR. DAMARAO: It's congested, the streets are narrow, we have a problem snow plowing in the wintertime, drainage problems and if I can go back a little bit in 1955 I had an idea, I put up a building that sits here, 240 Walsh Avenue, I put oversized heavy duty eye-beams 21 inches and at a future time I wanted to put a second story up, that was 1955 before zoning, before anything, in fact, before a good seven years before Faricellia's store. By '67, I rented it out at first for just auto storage but in '57 I rented out to Case Laundry, by that time like was mentioned Federal Block came all the way up, Crudeli's at the time started banquets and parties and when I rented it to Case Laundry they had 8 workers and even at that time there was no parking. So I stressed the idea of the second story, I bought property on Cedar Avenue, put up a building the same size that was in '57, can you imagine the congestion there now? Now, I don't begrudge anybody making a living, we're all trying to make a living.

MS. GANN: So are you for or against it, sir, just for the record?

MR. DAMARAO: Well, from what I see in the plan there I don't understand where they're going to put all these cars for one thing and snow plowing in the wintertime and all kinds of things, I mean right now neighbors are throwing snow on the other neighbors' yards, excuse me, I didn't mean you do it, but it was easy to push it with the plow.

MS. LOCEY: We do need to know for the record if you are for or against the application.

MR. DAMARAO: Well, the way it stands this way I'm against it, yes.

MR. BUCCI: I'm against it too and according to these plans.

MR. DAMARAO: It's a nice plan, everybody did wonderful homework, wonderful.

MS. GANN: So is it just the parking that's the issue for all of you?

MS. DEYO: Yes and traffic.

MR. BUCCI: And traffic in the back where the residential area is.

MS. GANN: Thank you. Anyone else here for the public hearing?

MS. BLYTHE: Myra Rumsey Blythe and I own a four family at 276 Walsh Road, I own 267 Walsh Road, I own 7 High Street, 34 Melrose, three-family home, 23 Leggard, three-family home, and I as of last year I own 277 Walsh Road, all of which is within maybe a block to two blocks from where this structure is going. I want to start out by saying I am in favor of this because I have a 13 and 15 year old, I grew up a block from this place, went to Faficellia's my entire life and it's wonderful to have a place where you can get a cup of coffee in the morning before you go to work, a place where I can let my kids walk on the street in Ducktown, not go to the City of Newburgh in order to get a soda or sandwich. And I really think it's a loss to our community in Ducktown to put these people under this pressure financially if they have to close because this is really all we have. And the properties I have just mentioned to you none of them conform to the R-1 zoning and my properties go back probably to the pre-zoning, some of them after zoning and we all have learned to live together in Ducktown with the snow removal, with the problems that we have there, good neighbors that help each other when there's a snow removal problem and that's what we've done on Melrose Avenue cause I have a multi-family house there where snow removal has always been a problem living across from like senior women who

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have no husbands or grandchildren around to remove the snow, so we get out and we help each other, that's how I think they can take care of their problems here. If the community comes together and allows these people to build this then the people are going to come together, they're not going to throw snow on each others' property because that's your neighbor and that's your community and this is really what you want to preserve in Ducktown and we need place like that for the families that still are there. I have never asked them for credit, by the way, I always pay when I go in cause I want them to stay there also. However, this is so important to some of the older people that we have in Ducktown, the people that I grew up with, my aunt Siminowski (phonetic) who's in her 80's she lives on Melrose, that's a place where you can go in a pinch, we really need this, we're not going to go to these other stores like the Exxons and the places up passed the apartments because we stay in Ducktown, that's where I grew up that's where I'm moving back to in a matter of like a month because I'm building a house someplace else so I'm moving into one of my apartments, that's where I'm going to be with my children. And I really hope that you approve this project so that we can keep Faricellia's in Ducktown.

MR. BLYTHE: I'm Mike Blythe, I'm Myra's husband and I know Ed and Ellen from quite a few years and Myra's right, that Ducktown is sort of a unique area of New Windsor, it's, I always kid everyone that you can take the girl out of Ducktown but you can't take the Ducktown out of the girl, when it comes to Myra and where, and the way she describes the community, it's very, very accurate, you have to move your car, let the snow plows come through, but certainly this board can grant a variance, would be in a position to grant the variance, let the planning board deal with the parking in Ducktown because that's probably the best way to handle it. And then when if they're going to change something on the site plan or require something else

then address the parking issue but certainly you don't want to say that's improper with regard to the zoning. Ducktown, I have to echo Mr. Smith's comments that there's nothing that conforms in Ducktown.

MRS. BLYTHE: Nothing conforms to Ducktown.

MR. BLYTHE: There are three families, there's, well, it's a four family across from the firehouse next to a single family next to a deli next to Federal Block next to a funeral parlor, as you go through there and if you go back as these folks here said a lot of it is residential but a lot of it is The Sentinel, it's three-family houses, there's the Legion Hall back in there, there's the daycare, Little Harvard I think is the name of it or whatever the daycare is, it's such a mixed use area, certainly to deprive Ed and Ellen of being able to make a reasonable living there is something that you don't want to do and really you get to a point where if there's no reasonable return on the investment you're going to drive something like that out of Ducktown and that I don't think anybody really wants to do that.

MS. GANN: Thank you. Anyone else here? Come on up, sir.

MR. FLYNN: Arthur Flynn, I own three properties on Walsh, 216, 221 and 229, one's residential two are commercial, I'm also the person who just recently purchased the Thomson property trailer park, the shop which was a work in progress, I'm for what Ed and Ellen want to do, I think that as everybody knows mixed use on that street, some of us like myself are anxious to try and clean up the area, make it look nicer, I think what they're going to do not only will benefit them financially and clean up there if they do a nice job and I'm sure that the parking situation can be worked out and it is tight over there for sure on all those streets but it is a great group of people in Ducktown

so I'm in favor.

MS. GANN: Thank you. Anyone else?

MS. DEMATO: Victoria DeMato, I work for the wholesale grocery company that sells to all three of the stores, the two Exxon stations and Faricellia's, I'm here to attest that their business has gone down dramatically over the last five years, by selling to the other stores I see their businesses go up and Faricellia's is going down and Ellen and Ed are great people and they contribute a lot to the community and I have sold to them for about 15 years and I'm for what they're going to do here.

MS. GANN: Thank you.

MR. ZAMEC: My name is Robert Zamec (phonetic), 254 Walsh Road, just down the street from the deli. When the approval went through for the funeral home there was not supposed to be any parking on or any funerals taking place at that time and when they do have funerals at night it congests the entire street up and we have just lived in a community and dealt with it, you know, I mean, everybody, a lot of people park on what we consider sidewalks because there are no sidewalks in Ducktown, I'm all for it.

MS. GANN: Anyone else?

MR. BRIGHTON: My name is Billy Brighton, Jr., I live at 325 Walsh Avenue. Unfortunately, I don't own any property but I am one of the people that he probably wouldn't give credit to. I have been going there for the past 18, 19 years, they do extend me credit, they help me and my family out, so I just hope that you will help them out. Thank you.

MS. GANN: Anyone else? I'm going to close the public hearing then I'm going to ask Myra how many mailings we

had.

MS. MASON: On February 21, we mailed out 77 envelopes and had no response back.

MR. KRIEGER: If I may, Madam Chairman, because this is a use variance, it will first be necessary for the board to fulfill its obligations under the State Environmental Quality Control Act which means that while I first suggest that you may wish to declare this to be an unlisted action under the SEQRA law and then you have to decide whether to grant a negative declaration or a positive declaration. Negative declaration meaning that it has no, this application has no environmental impact, positive declaration meaning either that it does or that it may. If this board declares a negative dec then you're finished with the SEQRA process and you may proceed to consider the variance request. I will talk, Madam Chairman, with your permission I will talk in a minute about the four criteria necessary by statute to grant a use variance but I think it would be useful for me to do that after you act on the SEQRA matter because I may be providing more information than is necessary to try and absorb at one point. So one resolution declaring that this is an unlisted action and if that's, if it's your desire declaring a negative declaration or declaring it's unlisted and declaring a positive dec, whichever you prefer.

MS. LOCEY: I will offer a motion regarding the application of Edward Jacopino to declare, to make that application an unlisted action as far as SEQRA requirements and to make a negative declaration.

MR. LUNDSTROM: I will second that motion.

ROLL CALL

MR. LUNDSTROM AYE

MS. LOCEY AYE
MS. GANN AYE

MR. KRIEGER: You have now completed your obligations under the SEQRA requirement. In order to grant a use variance, there are four criteria, four factors which must be considered and each one of the four must be satisfied. Three out of four isn't good enough, has to be four out of four. The first factor is the applicant cannot realize a reasonable return provided that lack of return is substantial as demonstrated by competent, financial evidence. The second criteria that the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood. Three, that the required use variance if granted will not alter the essential character of the neighborhood and four, that the alleged hardship has not been self-created. You may notice in the report that has been given to you by Mr. Carhart some of the same language is that which I just quoted, presumably Mr. Carhart can read the statute as well as I can. That's where the language comes from. If you find that the use variance request fulfills all four of those criteria then you may vote to grant the use variance. If it fails in any one in your view then you must vote negatively with respect to the application.

MR. LUNDSTROM: Would you review those four again?

MR. KRIEGER: One, the applicant cannot realize a reasonable return provided that lack of return is substantial as demonstrated by competent, financial evidence. Two, that, if I mischaracterize the applicant's position, I'm sure they'll correct me, I think if it has been the applicant's offering the reason for Mr. Carhart's testimony has to do with the fulfilling the requirements, first of all, fulfilling requirements in question one. He touches on other criteria that you may see for yourself as you read the

report. Two, that the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood. Three, that the required use variance if granted will not alter the essential character of the neighborhood and four that the alleged hardship has not been self-created. Those are the four.

MS. LOCEY: I think the financial reports that were submitted more than adequately indicate that reasonable return cannot be met under the current situation.

MR. KRIEGER: I might comment on that just so that you understand reasonable return does not necessarily mean a profit, that's why the applicant has gone to some effort to show that this return is substantially below the profit level because that's not the criteria. The property doesn't make a profit, the criteria is that it has the, it does not produce a reasonable return to a certain extent reasonable, ability of a return is within your discretion, but whether it's some evidence of any return at all, it is as I say it is within your discretion but merely showing the property does not make a profit doesn't satisfy that criteria. That has not been the applicant's position in the, this application, they have not limited themselves to the question of, mere question of profitability.

MS. GANN: So would it make sense then to have the two bedrooms, I'm sorry, to have the two apartments rather than just having one, I mean, is it really essential that they have the two apartments added to this?

MR. BLOOM: If I may address it is respectfully Madam Chair because without that income they can't generate enough income to stay there, that's the problem.

MS. LOCEY: Well, reasonable return is considered about 10%, is that right?

MR. KRIEGER: Well, it's within your discretion, it's determined that there's no hard and fast rule you're certainly entitled to listen to the expert witness that they have produced and he will talk about industry standard, has talked about industry standard which is some gauge of reasonableness, maybe some gauge in your mind, it is not as we say dispositive of the question, in other words, you're not obligated to go along with the industry standard merely because it's an industry standard but if it's offered as a standard and you decide not to go along with it you must have, it must be the product of some reasoning, you can't just--

MS. LOCEY: Well, if the business is not financially profitable and is at this point I think their financial records indicated a return of 6.7 percent which is below the norm, I don't know, how can anybody say that under the current circumstances they have the reasonable return, everything is negative, everything says they're not gaining a reasonable return.

MR. KRIEGER: Okay, my, the tenor of my comments is not to decide for you, that's not my function merely to give you a, and I can tell you from a legal standpoint of view, your view on reasonability or lack thereof is justified and justifiable.

MS. LOCEY: Are there other circumstances that we as a board should consider regarding the overall picture of reasonable return? Reasonable return, very first thing that came to my mind was profitability, but that's not the only criteria, so I, my thinking went to what is the industry standard and it's significantly below that, is there anything else we should be considering as a board because I don't know of anything else?

MR. KRIEGER: If all I can say to you is if you decide that the only thing that's offered is a standard suggested to you is a standard, is an industry, basically an industry standard, if you decide to not to

follow that standard and to apply some other standard of reasonability you must have some standard to apply.

MS. LOCEY: And I don't.

MR. KRIEGER: And that you cannot create a necessarily out of whole cloth, it would have to be, you'd have to rely on some evidence and here the problem is that no evidence has been placed before you other than that, and so you're in a position of basically in a position of yes or no, take it or leave it, no alternative has been suggested to you with respect to that particular standard.

MS. GANN: Can I ask a question too? Dan, does your client have any plans to perhaps change the deli itself to somehow bring in more business. Are there any plans for that or is it just that they're really looking to bring in more income with the additional two apartments?

MR. BLOOM: As far as I know, it's just to try to supplement the continuing declining income of the store with hopefully a positive cash flow on the income from the apartment because they have tried everything and the only thing that keeps them going right now is the rent.

MR. LUNDSTROM: Madam Chairman, a comment, taking Andy's four points and working backwards the last criteria.

MR. KRIEGER: Let the record reflect they're not my four points.

MR. LUNDSTROM: I stand corrected.

MR. KRIEGER: Four points which I enunciated but I did not recreate.

MR. LUNDSTROM: Item 4, it was not self-created, I think we can concur with that, that this situation was not self-created. Number three, the required variance would not alter the character of the community.

MR. KRIEGER: Essential character. The reason I emphasize that is this, you must presume that however suspicious you may be of this personally that you must always presume that the legislature intended the words in the statute so if they included that word in there, there's a reason that they included that word, it wasn't accidental. So the standard is the essential character of the neighborhood, that means that you must find in your mind not only the character of the neighborhood but whether it is how shall I say at its core, its essential character as opposed to its surface appearance. There have been a number of individuals that have spoken to you tonight about what they believed to be the character of that particular neighborhood and I would suggest to you that what they were talking about is the essential character of the neighborhood, not the surface characteristics.

MS. GANN: With that being said, is that part of the parking here that could be some folks' issues, is that along the same lines as what you're talking about?

MR. KRIEGER: Will not alter, yes.

MS. LOCEY: I think it has more to do with the multi uses that are in this, they're all non-conforming uses, there are multi-family dwellings, it will not essentially change the characteristics of the neighborhood because the neighborhood is already diverse.

MR. KRIEGER: Let me give you a clear example, I would suggest to you given this neighborhood it's anything but clear so I will choose a clearer example. Let us suppose that you had a use variance application for

somebody who wanted to put a multi use dwelling in an area where there are only single family residential there were no multi use dwellings, the argument could be made then under such a circumstances and would be probably a persuasive argument that allowing a, multi use dwelling that that circumstances would alter the essential character of that neighborhood. This is as I pointed out is a completely different application, a completely different character and it could reasonably be viewed as anything but clear.

MS. LOCEY: Well, I don't think it would change the character of the neighborhood.

MR. LUNDSTROM: I concur and also I have learned not to try and paraphrase what our attorney is saying, I will just make reference to it again, working backwards number two.

MR. KRIEGER: Unique hardship.

MR. LUNDSTROM: Yeah, again.

MR. KRIEGER: Hardship to this property is unique and not shared by other properties in the neighborhood, this is a finding that you have to make.

MR. LUNDSTROM: And I think I would not have a problem making that finding.

MS. LOCEY: I agree, it's the only retail market in the neighborhood.

MR. LUNDSTROM: And last item is the reasonable return.

MS. LOCEY: Which I think we have exhausted.

MR. KRIEGER: Yes, I think you have now discussed all four criteria.

MR. LUNDSTROM: Would the attorney, would the chair prefer that we handle each of the two, the addition of the two family house and additional parking lot separately or handle as one motion?

MR. KRIEGER: Normally speaking, I would say that that's up to you. My understanding of this particular application is in order for them to proceed, they need both applications, so it's immaterial if they were to get one and not get the other, it would be of no particular value to them so you might as well vote them together if that's your desire.

MS. LOCEY: If this board grants a variance for the five parking spaces can the planning board then entertain the exact location or perhaps reconfigure the plan to perhaps make it more amenable to the neighbors who have expressed some concern?

MR. KRIEGER: Yes, they can reconfigure, what they can't do is if you grant them five, they can't give them six, they can't limit them to four, they're bound by the number that you give them, you tell them what, you're in charge of what, they're in charge of how.

MS. LOCEY: But the five parking spaces are required as per calculation the size of the property and the uses and that sort of thing?

MR. BABCOCK: Yes.

MS. LOCEY: So that's the number that we need to look at?

MR. BABCOCK: That's correct.

MS. LOCEY: We could not recommend four spaces?

MR. BABCOCK: That's correct and there's no room for anymore, it is what it is.

MR. LUNDSTROM: And there are five dwelling units that would end up being part of the property.

MS. GANN: Having said all of that, with the easements being granted, I'm not a lawyer, Andy, so I don't know how that all sort of works, assuming that, you know, it runs smoothly and there will be no problems with, you know, down the line I'm talking about cause I'm not sure they granted the easement to Michael Faracellia but would that cause any problems for them going forward?

MR. KRIEGER: Okay, first of all, the easement as I understand it the over which is what this amounts to the offer of an easement is absolute and unconditional which it would have to be, you may if you decide to do so condition approval on the granting of that easement as outlined in this offering by the actual recorded document, you may make that a condition if you wish, if there's any doubt about it. I think certainly as an actual matter the applicant if they get a variance if they're successful in getting a variance they have to make up the rest of the parking spaces someplace and it's been amply demonstrated they don't, there aren't a lot of other options so but as I say, you may make that a condition if you so choose.

MR. BABCOCK: I think the applicant stated that they will have the easement as long as this is approved. If this is not approved, there is no reason for the easement so they'll move forward to get the easement and put that in the deeds and we would I would assume the Planning Board's going to ask for that, if not, at the time of the building permit I'm sure they would support that.

MR. KRIEGER: Well, I know for a certainty that the planning board is going to ask for it, an actual easement in recordable form in the deed.

MR. BABCOCK: But I don't think the neighbor wants to give it if it's not going to be used so I think they need this board's approval and then they'll go move to that step.

MR. KRIEGER: I agree and that's why I suggest that you may wish to make actual recorded easements granting of actual recorded easements a condition merely to tie up this loose end, not that I have any doubt that that will happen but simply to tie up.

MR. LUNDSTROM: Madam Chairman, may I ask if counsel would verbalize on what the motion he would feel comfortable here would be instead of us trying to put a motion together?

MS. LOCEY: It's pretty straightforward.

MR. KRIEGER: It is.

MR. LUNDSTROM: I'm thinking with this condition of approval if that should or should not be in it there should be some statement that the four steps have been met.

MR. KRIEGER: All you have to do is move to grant the use and parking variances requested by the applicant with the condition that before building permits, a building permit is issued the easement as represented by the applicant must be in place.

MR. LUNDSTROM: Madam Chairman, that sounds acceptable to me, I'd like to make such a motion, so moved.

MS. LOCEY: Second it.

ROLL CALL

MR. LUNDSTROM AYE

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MS. LOCEY AYE
MS. GANN AYE

MR. LUNDSTROM: Motion to adjourn.

MS. LOCEY: Second it.

ROLL CALL

MR. LUNDSTROM AYE
MS. LOCEY AYE
MS. GANN AYE

Respectfully Submitted By:

Frances Roth

TOWN OF NEW WINDSOR ZONING BOARD OF APPEALS

PUBLIC HEARING FOR: Jacopino - (Faricellia's Market)

DATE: 3-13-06

SIGN-IN SHEET

NAME	ADDRESS	PHONE NUMBER
1. <u>Eversett Smith</u>	<u>- New Windsor</u>	
2. <u>Rich Bucci</u>	<u>- 2 Myrtle Ave -</u>	
3. <u>Sherry Depp</u>	<u>- 2 Myrtle Ave</u>	
4. <u>Carmen Damaris</u>	<u>- 40 Clancy Ave</u>	
5. <u>Mira Rumsey Blythe</u>	<u>- 267 Walsh</u>	
6. <u>Mike Blythe</u>	<u>- 267 Walsh</u>	
7. <u>Art Blythe</u>	<u>- Walsh - 216, 221 - 229</u>	
8. <u>Victoria DeMatto</u>	<u>-</u>	
9. <u>Robt Zamenick</u>	<u>254 Walsh Rd</u>	
10. <u>Bill Britton</u>	<u>Walsh Ave</u>	
11.		
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20.		

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. 06-04

Request of EDWARD JACOPINO (d/b/a Faricellia's Market)

for a VARIANCE of the Zoning Local Law to Permit:

Request for Use Variance for proposed Multi-family/Multiple Dwelling Use (increase in non-conformity); and Parking Variances for off-street parking of 5 spaces as referred from Planning Board for site at 238 Walsh Avenue in an R-4 Zone (13-2-17)

PUBLIC HEARING will take place on MARCH 13, 2006
at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York
beginning at 7:30 P.M.



Michael Kane, Chairman



1763

Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4631
Fax: (845) 563-3101

Assessors Office

January 17, 2006

Edward Jacopino
(for Faricellia's Market)
238 Walsh Avenue
New Windsor, NY 12553

Re: 13-2-17 ZBA#: 06-04 (77)

Dear Mr. Jacopino:

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 \$95.00, minus your deposit of \$25.00.

Please remit the balance of \$70.00 to the Town Clerk's Office.

Sincerely,

J. Todd Wiley, IAO
Sole Assessor

JTW/tmp
Attachments

CC: Myra Mason, Zoning Board

9-1-58
H.C. Davis Boilerworks, Inc.
3 Susan Drive
Newburgh, NY 12550

9-1-61
Omega Select Properties, Inc.
ATT: Anthony DeRienzo
8 Algonquin Drive
Newburgh, NY 12550

9-1-65
Hilmar & Inge Kusmierz
c/o Montfort Bros., Inc.
ATT: Melissa
44 Elm Street
Fishkill, NY 12524

13-2-1.11
David Sunderlin
54 Clancy Avenue
New Windsor, NY 12553

13-2-7
Mijoka Properties, Inc.
P.O. Box 417
Washingtonville, NY 10992

13-2-10.1
Petrillo Properties, Inc.
246 Walsh Avenue
New Windsor, NY 12553

13-2-16
Carmen Damario
40 Clancy Avenue
New Windsor, NY 12553

13-3-2
Harry & Mary Connolly
252 Walsh Avenue
New Windsor, NY 12553

13-3-6.1 & 7
James & Geraldine Lee
12 Lawrence Avenue
New Windsor, NY 12553

13-5-1
Specialty Powder Metallurgy
Products Corp.
23 Spring Rock Road
New Windsor, NY 12553

9-1-59
Brian Cullinane
217 Walsh Avenue
New Windsor, NY 12553

9-1-62 & 63
DA Realty, LLC
29 Prospect Street
Newburgh, NY 12550

13-1-3
Jennico Realty, LLC
307 River Road North
Wappingers Falls, NY 12590

13-2-1.21
Michael & Elena Colandrea
97 Ferdls Road
Walden, NY 12586

13-2-8
Edward & Ellen Jacopino
238 Walsh Avenue
New Windsor, NY 12553

13-2-13 7 14
Anna Crudele
12 Merline Avenue
New Windsor, NY 12553

13-2-18
Faricellia, LTD
650 Blooming Grove Tpke
New Windsor, NY 12553

13-3-3
Robert Zamenick
254 Walsh Avenue
New Windsor, NY 12553

13-3-8
Maria & Carmelo Maldonado
22 Lawrence Avenue
New Windsor, NY 12553

13-5-58.2
Walsh Street Properties, Inc.
c/o Sam Kaufman
5 Quickway Road – Unit 201
Monroe, NY 10950

9-1-60
Jand Realty, LLC
307 River Road North
Wappingers Falls, NY 12590

9-1-64
John Montfort
c/o Federal Block Corp.
247 Walsh Avenue
New Windsor, NY 12553

13-1-5
Angel & Leslie Brennan
60 Clancy Avenue
New Windsor, NY 12553

13-2-4 & 6
William Bessette
Iris Rodriguez Bessette
234 Walsh Avenue - #6
New Windsor, NY 12553

13-2-9
Michael Ponesse
242 Walsh Avenue
New Windsor, NY 12553

13-2-15
Leslie Green King
38 Clancy Avenue
New Windsor, NY 12553

13-3-1, 10 & 11
Gary & Darla Dreyer
18 Veronica Avenue
New Windsor, NY 12553

13-3-5 & 6.2
Elizabeth Pettine
Michael Pettine, III
10 Lawrence Avenue
New Windsor, NY 12553

13-3-9
Anthony Messina
15 Merline Avenue
New Windsor, NY 12553

13-6-1
Hotzlucha Walsh Realty Corp.
256 Walsh Avenue
New Windsor, NY 12553

13-6-2
Elizabeth Rahm
15 Lawrence Avenue
New Windsor, NY 12553

13-12-2
DAV Chapter 152
ATT: Treasurer
30 Lawrence Avenue
New Windsor, NY 12553

13-12-14.1
Thomas & Rose DeToro
45 Merline Avenue
New Windsor, NY 12553

13-12-16
James & Rose Sears
ATT: Robert Sears
c/o Tom Sears
3 Valewood Drive
New Windsor, NY 12553

13-12-19
Nicholas & Jean Garzione
27 Merline Avenue
New Windsor, NY 12553

13-13-2
Murat Yucel
22 Merline Avenue
New Windsor, NY 12553

13-13-5
Everett & Mary Smith
36 Merline Avenue
New Windsor, NY 12553

13-13-11
George & Sheila Manning
46 Merline Avenue
New Windsor, NY 12553

13-13-21
Adan & Michelle Gomez
27 Myrtle Avenue
New Windsor, NY 12553

13-14-1 & 22.2
John & Janet Duda
45 Clancy Avenue
New Windsor, NY 12553

13-6-3
Eileen Sharrow
19 Lawrence Avenue
New Windsor, NY 12553

13-12-3
Brett Cunningham
36 Lawrence Avenue
New Windsor, NY 12553

13-12-14.2
Tiberio Corrieri
41 Merline Avenue
New Windsor, NY 12553

13-12-17
Karen Jeffers
33 Merline Avenue
New Windsor, NY 12553

13-12-20
Katalin Tolnai
25 Merline Avenue
New Windsor, NY 12553

13-13-3.1
Charles & Fanny Davis
30 Merline Avenue
New Windsor, NY 12553

13-13-6 & 7
Gerald Gillispie
Joan Livingston
38 Merline Avenue
New Windsor, NY 12553

13-13-12
Jerry Stuit
48 Merline Avenue
New Windsor, NY 12553

13-13-22
Scott Potter
23 Myrtle Avenue
New Windsor, NY 12553

13-14-2
Richard Bucci
Sherry Deyo
2 Myrtle Avenue
New Windsor, NY 12553

13-12-1
Jeffrey McCurry
19 Merline Avenue
New Windsor, NY 12553

13-12-4
Evet Mitchell
40 Lawrence Avenue
New Windsor, NY 12553

13-12-15
Hazelton & Anna Kerr
37 Merline Avenue
New Windsor, NY 12553

13-12-18
North Plank Development Co., LLC
5020 Route 9W
Newburgh, NY 12550

13-13-1 & 13-13-24
Alfred Crudele
37 Clancy Avenue
New Windsor, NY 12553

13-13-4.1
Byron & Mary Hulse
34 Merline Avenue
New Windsor, NY 12553

13-13-9
Franklin Albright
42 Merline Avenue
New Windsor, NY 12553

13-13-20
Miguel & Maria Cruz
31 Myrtle Avenue
New Windsor, NY 12553

13-13-23
John Kaczmarek
13 Myrtle Avenue
New Windsor, NY 12553

13-14-3
Maureen Grace
12 Myrtle Avenue
New Windsor, NY 12553

13-14-4
Joseph & Ethel Reardon
14 Myrtle Avenue
New Windsor, NY 12553

13-14-11 & 18
Edward Makarewicz
19 Cherry Avenue
New Windsor, NY 12553

13-14-20
Dorothea & Richard Makarewicz
11 Cherry Avenue
New Windsor, NY 12553

13-15-6
Kenneth & Patricia Heller
57 Clancy Avenue
New Windsor, NY 12553

13-15-10 & 16
Albina Bugiada Smith
4 Cherry Avenue
New Windsor, NY 12553

13-15-13
Donald & Lucille Dell
12 Cherry Avenue
New Windsor, NY 12553

13-14-6.1
Gaspar & Elizabeth Cangelosi
20 Myrtle Avenue
New Windsor, NY 12553

13-14-12 & 13
Vincent Yonnone
63 Myrtle Avenue
New Windsor, NY 12553

13-14-22.1
Yedd & Lonnie Parker, Sr.
9 Cherry Avenue
New Windsor, NY 12553

13-15-7 & 8
Victor Domingues
55 Clancy Avenue
New Windsor, NY 12553

13-15-11
Leonard & Evelyn Cavicchio
6 Cherry Avenue
New Windsor, NY 12553

13-15-17
Larry Porter
9 Koran Avenue
New Windsor, NY 12553

13-14-9
Carl & Gwendolyne Carlson
26 Myrtle Avenue
New Windsor, NY 12553

13-14-19
Anna Cardamone
15 Cherry Avenue
New Windsor, NY 12553

13-15-5
Wilma & Michael Pettine, Jr.
59 Clancy Avenue
New Windsor, NY 12553

13-15-9
John Spignardo
51 Clancy Avenue
New Windsor, NY 12553

13-15-12
Loretta Jones
8 Cherry Avenue
New Windsor, NY 12553

EDWARD_JACOPINO_(D/B/A_FARACELLIA'S_MARKET)_(06-04)

Daniel Bloom, Esq. appeared before the board for this proposal.

MR. KANE: Request for use variance for proposed multi-family/multiple dwelling use, (increase in non-conformity) and parking variances for off-street parking of 5 spaces as referred from planning board for site at 238 Walsh Avenue.

MR. BLOOM: Good evening, gentlemen and ladies, I'm Dan Bloom and I represent the Jacopinos this evening. And we will at the public hearing if established by this board of course have our architect, Mr. Coppola, but I felt in the interest of timing we would let myself try to fill the gap for Mr. Coppola on the presentation this evening in terms of the site plan.

MR. KANE: Needless to say, I don't have to remind you what's involved with a use variance.

MR. BLOOM: Yes, thanks for the reminder.

MR. KRIEGER: I might also add--no, I'll call you on the phone talk to you about this.

MR. BLOOM: Very well, thank you. As the site plan indicates, my clients have resided at this property, they reside in the basement portion of the existing store, at the present time they reside in the basement, the top floor, the floor you see there the first floor we'll call it is the existing deli and to the rear of it is an existing one family residence and to the left of it as you face Walsh Road there's another residence to the left. What we're proposing my clients are proposing to do is to construct a second story on the building so as to add 2 residential apartments. First of all, we're dealing with a use variance and as you quite aptly plant pointed out we're dealing with a very

high burden of proof, we're prepared to present that but in terms of relevance of the request my clients have been there since 1968, about five or six or seven or eight years ago they decided because the economy was going down in terms of their sales they decided they'd try to sell the property and they tried literally for that period of time, they can't sell it. So about 15 years ago they finally decided we can't sell it we have to make a living, make the best of it, they decided what they'd do is see if they could hang on and develop a trade through extending credit, they're being hurt substantially by competition with the new stores in the general vicinity. So what my clients do is extend credit to people on Social Security, so when the checks come in they can pay their bills, extend credit to other people who when the paychecks come in once a week. I'm going to respectfully submit that they fulfill a need in the community and what they're proposing to do is just raise enough money to make it bearable, make it possible for them to stay and continue doing that. The presentation that will be made at public hearing will I respectfully submit demonstrate to the board that what they're proposing will not change the character of the neighborhood, it's not at all out of character of the nature of this neighborhood, as you know, it's a mix, it's commercial, it's residential, it's more than one story in many cases but what they're going to propose is tasteful and modest. There was a reference and need for bulk variance for five off-site spaces, that's no longer necessary because they're going to be able to get a space from a neighbor and we think that we can deal with that issue in that fashion so we'll be limiting the presentation to the use variance request. I will present expert testimony on the issue of--

MR. KANE: Reasonable return would seem to be a very tough issue.

MR. BLOOM: I've got an expert to come in on that issue

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as well as a report which is going to be submitted with tax returns under oath in terms of existing income and how that income has been depreciated over the years because of outside forces.

MR. KANE: Okay, nothing else needs to be said I don't think at this point, we need to hear from the public. Any questions?

MR. BROWN: No.

MR. KANE: With the use variance, there's a lot of issues that you know we have to cover by the state so-- We're going to remove the parking spaces from the agenda?

MR. BLOOM: We can remove the parking spaces from the application, yes.

MR. KANE: Mike, you're all right with that?

MR. BABCOCK: I need to know how they're going to accomplish that, I haven't talked to anybody yet.

MR. BLOOM: We have a neighbor who's indicated to my clients in writing that he's going to extend a permanent easement to provide the necessary parking.

MR. BABCOCK: Okay.

MR. BLOOM: Easement to run with the land, however, I will defer to you, Mike, if you feel it should remain on.

MR. KANE: Would it be better to cover that in the meeting and have the easement brought in during the meeting?

MR. BABCOCK: I don't see any harm in leaving it on here for right this minute and then we can discuss this

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by the time they come back for the public you're going to discuss it with Andy to make sure that if the parking works out then they don't need it, that's fine.

MR. KANE: I think you're better keeping it on.

MR. BABCOCK: There's the issue of parking on somebody else's property, can you use that and Andy's got to be, I mean when Andy, if Andy's happy with it we'll be happy with it.

MR. KANE: It's his job.

MR. BABCOCK: Yes.

MR. BLOOM: Thank you for the suggestions.

MS. MASON: For now leave it on?

MR. KANE: Yes. I'll accept a motion.

MS. GANN: Offer a motion that we set up Edward Jacopino for his request for use variance for the proposed multi-family multi-dwelling use and parking variances for off-street parking of 5 spaces as referred from the planning board for site at 238 Walsh Avenue in an R-4 zone.

MR. BROWN: Second the motion.

ROLL CALL

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

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

RECEIPT OF ESCROW RECEIVED:

DATE RECEIVED: 01-09-06

FOR: ESCROW 06-04

FROM:

CHECK FROM:

FARICELLIA'S MARKET
238 WALSH AVE
NEW WINDSOR, NY 12553

SAME

CHECK NUMBER: 3289

TELEPHONE: 561-5450 (Ed Jacopino)

AMOUNT: 500.00

RECEIVED AT COMPTROLLER'S OFFICE BY:



1-9-06

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
#19-2006**

01/10/2006

Faricellia's Market

**Received \$ 150.00 for Zoning Board Fees, on 01/10/2006. Thank you for
stopping by the Town Clerk's office.**

As always, it is our pleasure to serve you.

**Deborah Green
Town Clerk**

ZBA # 06-04 application fee

TOWN OF NEW WINDSOR
REQUEST FOR NOTIFICATION LIST

DATE: 01-09-06 PROJECT NUMBER: ZBA# 06-04 P.B. # _____

APPLICANT NAME: EDWARD JACOPINO

PERSON TO NOTIFY TO PICK UP LIST:

EDWARD JACOPINO (For Faricellia's Market)
238 WALSH AVENUE
NEW WINDSOR, NY 12553

TELEPHONE: 561-5450

TAX MAP NUMBER: SEC. 13 B LOCK 2 LOT 17
SEC. _____ BLOCK _____ LOT _____
SEC. _____ B LOCK _____ LOT _____

PROPERTY LOCATION: WALSH & CLANCY AVE
NEW WINDSOR

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: 3287

TOTAL CHARGES: _____



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



APPLICATION FOR VARIANCE

October , 2005
Date

Application Type: Use Variance Area Variance
Sign Variance Interpretation

I. **Owner Information:** Phone Number: (845) 561-5450
Edward & Ellen Jacopino Fax Number: () N/A
(Name)
238 Walsh Avenue, New Windsor, New York 12553
(Address)

II. **Applicant:** Phone Number: ()
same as I above Fax Number: ()
(Name)
(Address)

III. **Forwarding Address, if any, for return of escrow:** Phone Number: ()
Same as I above Fax Number: ()
(Name)
(Address)

IV. **Contractor/Engineer/Architect/Surveyor/:** Phone Number (845) 561-3559
Anthony J. Coppola, RA Fax Number: (845) 561-2051
(Name)
3 Washington Center, 2nd Floor, Newburgh, New York 12550
(Address)

V. **Property Information:**
Zone: R-4 Property Address in Question: Walsh Road & Clancy Avenue
Lot Size: 9,007 square feet or .207 acre Tax Map Number: Section 4 Block 18 Lot 5
a. What other zones lie within 500 feet? R-4
b. Is pending sale or lease subject to ZBA approval of this Application? N/A
c. When was property purchased by present owner? 1968
d. Has property been subdivided previously? yes 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.

COMPLETE THIS PAGE



TOWN OF NEW WINDSOR

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



ZONING BOARD PROCEDURES

PLEASE READ AND COMPLETE THE ATTACHED APPLICATION FORMS WHERE IT APPLIES TO YOUR SITUATION (LOOK FOR HIGHLIGHT IN BOX IN LOWER RIGHT CORNER OF EACH PAGE) 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

UPON RECEIPT OF ALL APPLICABLE PAPERWORK AND CHECKS, YOU WILL BE SCHEDULED FOR THE NEXT AVAILABLE AGENDA FOR YOUR "PRELIMINARY MEETING". YOU DO NOT NEED YOUR PUBLIC HEARING LIST OR ENVELOPES FOR THIS FIRST 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

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

APPLICATION FOR VARIANCE - continued

VI. USE VARIANCE:

Use Variance requested from New Windsor Zoning Local Law,

*See referral from Planning Board attached.

Section _____, Table of _____ Regs., Col. _____.

Describe proposal:

Applicant seeks a Use Variance to construct two (2) residential apartments on top of the existing retail store, which a legal non-conforming use. The construction of two (2) residential apartments on top of said building would constitute an expansion of the existing "legal non-conforming use", requiring the subject requested use variance.

VII. The legal standard for a "Use Variance" is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the Use Variance is granted. Also state any efforts you have made to alleviate the hardship other than this application.

Applicants purchased the premises in 1968, and have operated the retail food market at the premises since that date together with a residential apartment in separate building on the side of the store. Applicants reside in an apartment downstairs below the store. Approximately three (3) years ago, applicants attempted to sell the property. They listed it at that time with Century 21 Scheiner Real Estate for nine (9) months without success. Following that they listed it with Michael Reis Real Estate without success for nine (9) months and have attempted since that date to market it without success. Accordingly, they have decided to

(continued on attached sheet)

PLEASE NOTE:

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

COMPLETE THIS PAGE

VII Continued:

remain at the premises and continue operating the store on the condition that they obtain the necessary Use Variance to construct the apartments requested in this application. The income to be derived from the proposed residential apartments will permit the applicants to remain in business.

In recent years, a convenient market has opened on the corner of Lake Street and South Williams Street in the City of Newburgh (approximately .5 mile from the subject premises). As a result, most of the inhabitants of the "Mullins Apartments" walk to the new convenient market causing a substantial loss in business to the applicant. Also, Exxon opened a convenient market in close proximity to the applicants' premises causing a further drain on applicants' business. On the other hand, applicants provide a unique and necessary service to the community by reason of the fact that they extend credit to elderly clients for up to thirty (30) days so that they can pay for their food purchases with their social security checks. Applicants also extend credit to many of their lower income customers who pay for their purchases when they receive their paycheck at the end of each week.

Granting of the variance will not alter the essential character of the neighborhood. The present use of the property is a small commercial business enterprise. The request is for the construction of a new second story for the building which will accommodate two (2) additional residential apartments. The subject neighborhood is a mixed use in nature with industrial zoning opposite the property and many other commercial uses in the immediate area. In addition, there are many existing multi-story structures in the neighborhood at the present time.

The properties have existed as a residential neighborhood for many years. The hardship is not self-created. If the Variance is denied, it will deprive applicants from obtaining a reasonable return on their investment, forcing them to close the existing store and move from the neighborhood.

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.)

Applicant intends, as part of the renovation process, to upgrade the facade of the building and make it more aesthetic in presentation.

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 (5 or 6) from several angles. (IF SUBMITTING DIGITAL PHOTOS PRINTED FROM COMPUTER - PLEASE SUBMIT FOUR (4) SETS OF THE PHOTOS.)

** Note: Need four single sheet copies of the site Plan.*

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:

16th day of November 20 05,

BETTY A. KESTLER
 NOTARY PUBLIC, State of New York
 Residing in Orange County
 #4902383
 Commission Expires 8/03/09

Betty A. Kestler
 Signature and Stamp of Notary

Edward and Ellen Jacopino
 Owner's Signature (Notarized)

Edward and Ellen Jacopino
 Owner's Name (Please Print)

 Applicant's Signature (If not Owner)

PLEASE NOTE:

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

APPLICANT/OWNER PROXY STATEMENT
(for professional representation)

for submittal to the:
TOWN OF NEW WINDSOR ZONING BOARD OF APPEALS

Edward and Ellen Jacopino, deposes and say th: he resides
(OWNER)

at 238 Walsh Avenue, New Windsor, NY 12553 in the County of Orange
(OWNER'S ADDRESS)

and State of New York and that he is the owner of property tax map

(Sec. 13 Block 2 Lot 17)
designation number (Sec. _____ Block _____ Lot _____) which is the premises described in

the foregoing application and that he authorizes:

(Applicant Name & Address, if different from owner)

Bloom & Bloom, P.C., Daniel J. Bloom, Esq., of counsel, 530 Blooming Grove Tpke
(Name & Address of Professional Representative of Owner and/or Applicant) New Windsor, NY 12553
and Anthony J. Coppola, R.A., 3 Washington Center, 2nd Flr., Newburgh, NY 12550.

to make the foregoing application as described therein.

Date: Nov. 16, 2005

Ellen Jacopino
**
Ellen Jacopino
Owner's Signature (MUST BE NOTARIZED)

Sworn to before me this:
16th day of November 20 05

Betty A. Kestler
Signature and Stamp of Notary

BETTY A. KESTLER
NOTARY PUBLIC, State of New York
Residing in Orange County
#4902383
Commission Expires

Applicant's Signature (If different than owner)

Representative's Signature

THIS FORM IS TO BE COMPLETED ONLY IF SOMEONE OTHER THAN THE PROPERTY OWNER WILL BE APPEARING AS REPRESENTATION OF THE OWNER AT THE ZBA MEETINGS.

**** PLEASE NOTE:
ONLY OWNER'S SIGNATURE MUST BE NOTARIZED.**

14-15-4 (11/02) - Text 12

SEQR

PROJECT I.D. NUMBER

617.20

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT / SPONSOR Edward and Ellen Jacopino		2. PROJECT NAME Faticella's Market	
3. PROJECT LOCATION: Municipality Town of New Windsor County Orange			
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) 238 Walsh Avenue, New Windsor, New York 12550 On the South side of Walsh Avenue and Merline Avenue			
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input checked="" type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration			
6. DESCRIBE PROJECT BRIEFLY: Existing Deli/Market to remain; Existing three dwelling units to remain, including one detached. Proposed two new apartments on the 2nd floor. The addition consists of 1125 sf (2nd floor unit) and 1300 sf (new 3rd floor.)			
7. AMOUNT OF LAND ACQUIRED: Initially <u> .207 </u> acres Ultimately <u> .207 </u> acres			
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly Use Variance required for new apartments.			
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space R-4 Zone - Mixed Residential and Commercial.			
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 If yes, list agency(ies) and permit/approval Zoning Variance from ZBA; and Building Permit from Town of New Windsor.			
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 checked="" type="checkbox"/> No			
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE			
Applicant/sponsor name: <u>Anthony J. Coppola, Jr.</u>			Date: <u>May 11, 2005</u>
Signature: 			

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

PART II--ENVIRONMENTAL ASSESSMENT (To be completed by 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 patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly.
 No

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly.
 No

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly.
 No

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.
 No

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly.
 No

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly.
 No

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly.
 No

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CEA?
 Yes No

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

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 and 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:

 Name of Lead Agency

 Print or Type Name of Responsible Officer in Lead Agency

 Signature of Responsible Officer in Lead Agency

 Title of Responsible Officer

 Signature of Preparer (if different from responsible officer)

 Date

PUBLIC HEARING LIST OF PROPERTY OWNERS

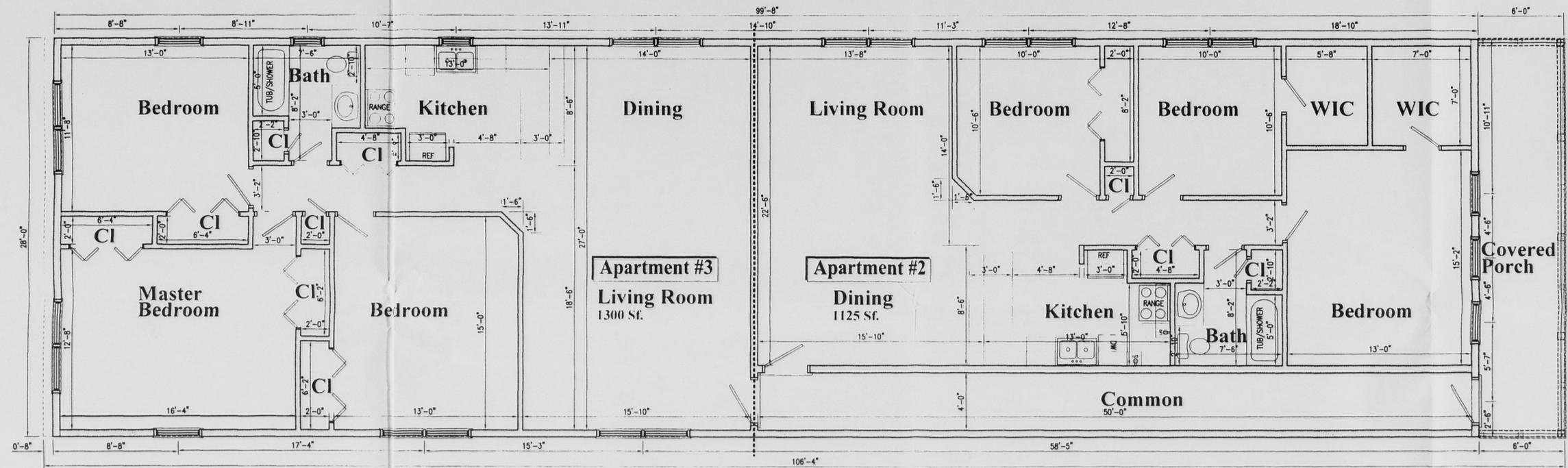
1. UPON RECEIPT OF ALL APPLICABLE CHECKS AND PAPERWORK, YOUR APPLICATION WILL BE PROCESSED AND YOUR \$25.00 DEPOSIT WILL BE SENT TO THE ASSESSOR'S OFFICE TO ORDER YOUR LIST OF PROPERTY OWNERS WITHIN 500 FEET. **(NOTE: YOU DO NOT NEED THIS LIST OR THE ENVELOPES FOR YOUR FIRST (PRELIMINARY) MEETING. Please do not call the Assessor's Office looking for your list – they will contact you when it is ready or if necessary, call Myra at 845-563-4615.**
2. WHEN THE ASSESSOR'S OFFICE NOTIFIES YOU THAT YOUR PUBLIC HEARING LIST IS READY, YOU MUST COME IN AND PAY THE BALANCE DUE FOR THE LIST. (THE LIST WILL BE PREPARED ON LABELS FOR YOUR CONVENIENCE).
3. 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 2ND AND 4TH MONDAY OF EACH MONTH UNLESS A HOLIDAY FALLS ON THAT DATE.



1 SECOND FLOOR PLAN
 1/4" = 1'-0"

Anthony J. Coppola
 Design, Architecture and Planning
 375 Third St., Newburgh, N.Y. 12550
 Tel: 845-561-3559 Fax: 845-561-2051
 Email: coppolaarchitect@aol.com



License Number: 018849

Proposed 2 Apartments On The 2nd Floor Of:
Faricellia's Market
 238 Walsh Road, New Windsor, NY

Revisions
Drawn By:
Date: 1/13/05
SCALE: As Noted
PROJECT NUMBER: 04-132

Sheet No.

A3

FLOOR PLANS