ZB# 92-7

Andre Morin

63-1-1.2

Prelim.

Mar. 23, 1992.

area -
(1) Copy of Deed
(2) " Title Policy
(3) Fees (1) 50.00
(2) 250.00
(4) Contact Neighbors to see if you can purchase enough property to build road.
(5) Photos.

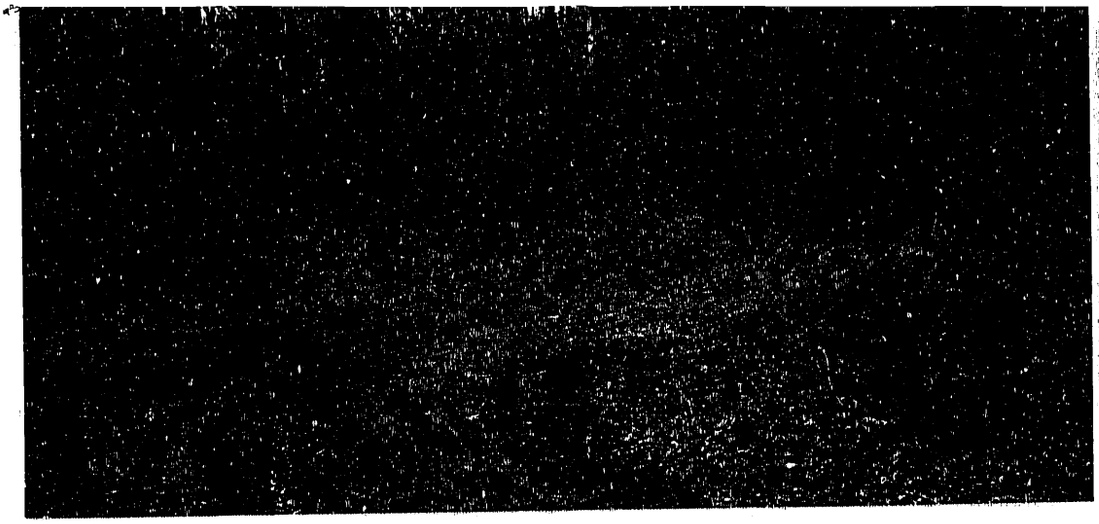
Aps. furnished.

Apr. 13, 1992.

Denied - Area Variance due to Lack of quorum

Addl. charges due: $282.50

#92-7 Morin, Andre - (area)



TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

12772

July 21, 1992

Received of Andre Morin $ 50 00/100

Fifty and 00/100 DOLLARS

For Variance fee (#92-7)

DISTRIBUTION:

FUND	CODE	AMOUNT
Check #1515		$ 50.00

By Pauline J. Townsend

Town Clerk
Title

C0#93 - D. Donato, R. + F.

#42-1 - Northindre

ANDRE MORIN
CLAUDETTE MORIN
643 ROUTE 9W PH. 914-565-7754
NEWBURGH, NY 12550

29-1
213 515

1516

3/31 1992

PAY TO THE ORDER OF Town of New Windsor $ 250.00

Two hundred fifty and 00/100 DOLLARS

NORSTAR BANK
North Plank Road 51501
Newburgh, NY 12550

MEMO 92-7

Andre Morin

⑆021300019⑆ 5155025753⑈ 1516

SCENIC AMERICANA

ANDRE MORIN
CLAUDETTE MORIN
643 ROUTE 9W PH. 914-565-7754
NEWBURGH, NY 12550

29-1
213 515

1515

3/31 1992

PAY TO THE ORDER OF Town of New Windsor $ 50.00

Fifty and 00/100 DOLLARS

NORSTAR BANK
North Plank Road 51501
Newburgh, NY 12550

MEMO

Andre Morin

⑆021300019⑆ 5155025753⑈ 1515

SCENIC AMERICANA

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Morin, André FILE # 92-7.

RESIDENTIAL: $50.00 COMMERCIAL: $150.00

APPLICATION FOR VARIANCE FEE . . . . . $ 50.00 #1515. pd.

* * * * *

ESCROW DEPOSIT FOR CONSULTANT FEES . . . . . $ 250.00 #1516 pd.

DISBURSEMENTS -

STENOGRAPHER CHARGES:

PRELIMINARY MEETING - PER PAGE 3/23/92 - 6 pages . . . $ 27.00
2ND PRELIM. MEETING - PER PAGE . . . . . $
3RD PRELIM. MEETING - PER PAGE . . . . . $
4/13/92 - PUBLIC HEARING - PER PAGE 29 pages . . . . . $ 130.50
TOTAL . . . . . $ 157.50

ATTORNEY'S FEES:

PRELIM. MEETING- .3 HRS. . . . . $
~~2ND PRELIM.~~ P.H. .1 HRS. . . . . $
3RD PRELIM. HRS. . . . . $
FORMAL DECISION 2.1 HRS. . . . . $

TOTAL HRS. 2.5 @ $ 150.00 PER HR. $ 375.00
TOTAL . . . . . $ 375.00

MISC. CHARGES:

. . . . . $
TOTAL . . . . . $ 532.50

LESS ESCROW DEPOSIT . . . $ 250.00
(ADDL. CHARGES DUE) . . . $ 282.50
REFUND TO APPLICANT DUE . $

NEW WINDSOR ZONING BOARD OF APPEALS

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In the Matter of the Application of

ANDRE MORIN,

DECISION DENYING AREA VARIANCE

#92-7.

----------x

WHEREAS, ANDRE MORIN, residing at 643 Route 9W, Newburgh, New York 12550, has made application before the Zoning Board of Appeals for a 35 ft. variance from the required street frontage in order to create a buildable lot on the south side of Hickory Avenue in Beaver Dam Lake in an R-4 zone; and

WHEREAS, a public hearing was held on the 13th day of April, 1992 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the applicant, ANDRE MORIN, appeared on behalf of himself and spoke in support of the application; and

WHEREAS, the public hearing was attended by a number of spectators who spoke in connection with the application, to wit, Mary Ann Buscemi, who owns a parcel of property immediately adjacent to the applicant's lot and who was opposed to the application on the grounds that the existing drainage in the area is very poor and water backs up both on the subject lot and onto her lot, and that the drainage problem has worstened by a stream that crosses the subject lot and that despite her complaints to the Town of New Windsor over the years, the drainage problems have never been fixed; Steve Leyden, who lives on Hickory Avenue and who opposed the application on the grounds that the subject parcel was originally laid out as three separate lots and he would like to see it developed in that manner rather than as one lot with a variance for inadequate street frontage from Hickory Avenue; Larry Rossini, who resides on Hickory Avenue and who was opposed upon the grounds that the subject property contains two ponds which are shown on United States Geological Surveys and one of said ponds is located within the area of the proposed driveway on the subject lot, and that the drainage problems in the area preclude development in the manner proposed by the applicant, and that granting a variance to this applicant would alter the essential character of the neighborhood since there are no other flag lots in the neighborhood, and that the alternative solution of building a road for a distance of some 600 ft., in order to allow development of three lots on the subject parcel, is an economic solution which conforms to the original layout of the lots in the area, in that the development of these lots should be consistent with the original plan, and that the water problems in flooding in the area would be aggravated by the approval of this variance, and that another house in the area is being constructed in accordance with the original plan on what was shown as a proposed street; Terri Eggers, who resides on Chestnut Avenue, who was opposed to the application; Rich Sarnowski, who resides

on Oak Drive, and submitted pictures of the area on which the proposed access road to the subject lot would be located which showed that area as being under water and therefore opposed the instant application; Ralph Rossini, who owns the property adjacent to the subject parcel and who was opposed to the variance; Kathleen Rossini, who lives on Hickory Avenue, and was opposed to the variance and believed that the applicant should build with access off Willow Avenue; Donna Leyden, who lives on Hickory Avenue, and who opposed the variance; April Gise, who lives on Hickory Avenue, and opposes the variance; James Loniar, who lives on Hickory Avenue, and was also opposed to the variance; Yolanda Rossini, who lives adjacent to the subject parcel, and who also opposes the variance; and Victor Wieber, lives on Maple Avenue, who was concerned about the location of the proposed road; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

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

2. The evidence shows that the applicant is seeking permission to vary the provisions of the bulk regulations pertaining to required street frontage in order to create a buildable lot (tax lot 63-1-1.2) in R-4 zone.

3. The evidence presented by the applicant substantiated the fact that a variance for less than the required street frontage would be required in order to allow the subject lot to become a buildable lot, since the available street frontage from Hickory Avenue is only 25 ft., being deficient in street frontage by 35 ft., where 60 ft. of street frontage is required, and which would otherwise conform to the bulk regulations in the R-4 zone.

4. It appeared from the evidence presented by the applicant that the subject premises, although consisting of only a single tax lot, was originally shown on a subdivision map as 13 separate, 25 ft. wide lots.

5. It also appeared from evidence presented at the public hearing that 12 of these lots were intended to be utilized as three separate building lots, to wit, 4 lots, each with a width of 25 ft., would be combined into a single building lot which therefore would have dimensions of 100 ft. in width and varying in depth from 250 to 265 ft. in depth, and the 13th lot of 25 ft. in width, which extends from the center lot to Hickory Avenue, would constitute a flag.

6. It also appeared from evidence presented at the public hearing that in order to develop the said three lots in this fashion, it would be necessary to construct approximately 300 ft. of road to reach the nearest lot as well as the additional 300 ft. of road in order to pull out road access to all three lots, making the total length of road to be constructed by the property owner, some 600 ft.

7. It further appeared from evidence presented at the public hearing that the applicant believed that construction of such a road would cost in the neighborhood of $6,000.

8. Instead of proceeding in this fashion and seeking to utilize all three lots, the applicant instead submitted the instant application for a variance which intends to develop only a single lot which would have access to Hickory Avenue over the 25 ft. flag.

9. The applicant indicated that he chose this alternative since the construction of the 600 ft. of road would be expensive and also would develop two paper streets, which are shown on the subdivision map but which have never been constructed, i.e. Sycamore Drive and Willow Lane.

10. At the public hearing the applicant offered to condition any variance which might be granted upon the property being used only for one single-family residence as long as the town does not accept Willow Lane or Willow Avenue as the town street; and the applicant further offered a deed restriction to this effect.

11. The evidence presented by the applicant further indicated that he had purchased the subject lot in 1982 and that he did not wish to improve or upgrade the paper streets which would be required in order for him to develop three lots on this parcel.

12. The public hearing was also attended by Michael Babcock, the Building Inspector of the Town of New Windsor, who indicated that the applicant could build on three lots within this parcel if he received the requisite approval and if the necessary streets were approved to town specifications.

13. The applicant further indicated that he had approached the owner of a lot which is adjacent to the 25 ft. flag to Hickory Avenue who had refused to sell any additional land to him in order to obviate the need for the instant variance application. The applicant did not inquire of the other adjacent owner on Hickory Avenue but said owner, a Mr. Ralph Rossini, appeared at the public hearing and was opposed to the variance application, although he did not wish to make a statement concerning the sale of any land to the applicant.

14. The findings made by this Board and this Board's decision is predicated upon former Section 267 of the Town Law of the State of New York, as it was in effect prior to July 1, 1992, since the public hearing in this matter was conducted on April 13, 1992.

15. It became evident at the public hearing that the applicant had failed to present adequate proof of significant economic injury from the application of the Zoning Local Law to his land. Specifically, it appeared that the applicant was seeking a variance from this Board because he possessed inadequate street frontage, although the lot far exceeded all other bulk requirements by a substantial margin. It also

appeared that the applicant, instead of pursuing the instant variance application, could have pursued construction on three separate lots, and it appeared that it would cost some $6,000 in order to develop the necessary roads to service said three lots. In addition, many of the members of the public who spoke against the instant variance application were very much in support of development of three lots on this parcel, as apparently was the original plan. Since it does not appear that development of the necessary roads at a cost of approximately $6,000, is unduly burdensome to the applicant, who would then have three buildable lots, rather than one very large buildable lot, it appears that such development, without a variance is economically viable. The three lots in question would seemingly generate a considerable return to the applicant on his investment in developing the necessary roads. In addition this appears to be a economically viable solution to the applicant's problem, other than the variance procedure. Given this evidence received at the public hearing, this Board cannot find that the applicant has made a showing of significant economic injury from the application of the Zoning Local Law to his land.

16. It is the further finding of this Board that all of the above factors concerning the development of this lot, to wit, the inadequate street frontage on Hickory Avenue, the existence of the paper streets, and the possibility of developing three separate lots from this parcel if the paper streets were constructed, were known to the applicant when he purchased this lot in 1982, given the availability of this information to the applicant, he chose to proceed and purchased the lot for a valuable consideration. Since the applicable bulk regulations have not changed subsequent to the applicant's purchase of the subject lot, it does not appear that the applicant can successfully make a claim of significant economic injury from the application of the Zoning Local Law to his land. The applicant has elected to seek a variance from this Board rather than expend the funds necessary to develop the paper streets and develop three lots from this property, in accordance with the original plan therefor. Consequently, the applicant's choice to proceed in a manner which is less expensive to him does not warrant the finding of significant economic injury from the application of the Zoning Local Law to the applicant's land in this instance.

17. The applicant has failed to make a showing of practical difficulty entitling him to the granting of the requested area variance.

18. It appears that there is another feasible method available to the applicant which can produce the necessary results other than the variance procedure but the applicant has elected not to pursue this alternative remedy, i.e. construction of roads along the paper streets and development of three lots from this parcel, and has failed to present adequate evidence to this Board that this is not an economically viable alternative.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of

New Windsor DENY a 35 ft. street frontage variance in order to create a buildable lot, 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 applicant.

Dated: September 14, 1992.

Richard Sanwald, Jr.
Chairman

(ZBA DISK#8-091492.FD)

Date 4/27/92, 19..

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12550

TO Frances Roth 359 Meades Hill Rd DR.
New Windsor, NY 12553

DATE			CLAIMED		ALLOW
4/13/92		Zoning Board Meeting	75	00	
		Misi - 2 pgs	9	00	
		DeDominicis - 7	31	50	
		Betts - 7	31	50	
		Stent - 7	31	50	
		Morin - 29	130	50	
		Dantas - 12	54	00	
			363	00	

MR. FENWICK: Request for 35 ft. street frontage in order to create buildable lot on the south side of Hickory Avenue in Beaver Dam Lane in R-4 zone. (63-1-1.2).

Mr. Andre Morin came before the Board.

MR. LUCIA: Your deed and title policy show covenants and restrictions that are not spelled out in detail. Are you aware of any covenants and restrictions affecting your property which would prevent building a house on this lot if the Zoning Board of Appeals votes to grant your various tonight?

MR. MORIN: I'm not aware.

MR. LUCIA: I think Mr. Morin was here for a preliminary when we did not have a quorum so the first thing we should do is adopt the motion to set him up for a public hearing and then proceed to conduct that public hearing.

MR. NUGENT: That's the one that had the little narrow front?

MR. LUCIA: The flag lot with big back yard only. Only 25 feet of road frontage.

MR. TORLEY: I'm looking at the map now.

MR. FENWICK: Just to proceed on I'll entertain a motion for setting him up for a public hearing just making this, it's just a formality.

MR. TORLEY: I move we set him up for a public hearing.

MR. TANNER: I'll second it.
ROLL CALL

MR. TORLEY	AYE
MR. FENWICK	AYE
MR. NUGENT	AYE
MR. TANNER	AYE

MR. TORLEY: This meets the requirements for notice?

MR. MORIN: Well, that's really the only access except through Willow. I have to put a town street which would probably be at least 600 feet somewhere near 600 feet.

MR. LUCIA: Do you have a right-of-way over that full 600 feet to get to Willow, is that a feasible way of getting out there?

MR. MORIN: There's a road right through.

MR. LUCIA: Not a paper street?

MR. MORIN: Yeah, it's the paper street.

MR. LUCIA: But it's not approved, this road?

MR. MORIN: There's a small road down through from--

MR. TORLEY: What street are you standing on when you're taking this?

MR. BABCOCK: Hickory.

MR. MORIN: This is about dead center looking down. This would be the one from this angle.

MR. FENWICK: That road that I could see on that one drawing, is that the driveway?

MR. BABCOCK: There's a road that goes down Willow that goes to a pumphouse in the back, it's a driveway that goes to a water pumphouse.

MR. LUCIA: Could you estimate what it might cost you to improve that road down Willow to get in and out of your property that way? Are we talking a substantial expense?

MR. MORIN: Bring it to town, probably $6,000.

MR. TORLEY: If you were not permitted to build that as a private road or driveway across that paper street.

MR. FENWICK: Right-of-way right now.

MR. BABCOCK: It's town right-of-way.

MR. LUCIA: If you were to spend that $6,000

approximately to use that as access to your lot, plus whatever it is you paid for this lot, would the lot as it sits be economically useful or would that be a value a total value in excess of what the lot is worth?

MR. MORIN: Much more than what it is worth.

MR. LUCIA: If this board grants you a variance, to access your lot over the 25 foot strip, considering what you paid for the lot, would the lot then be economically worthwhile for you?

MR. MORIN: Yes.

MR. LUCIA: What use does the property have now without a variance?

MR. MORIN: It's just vacant right now.

MR. LUCIA: And is unbuildable?

MR. MORIN: Right.

MR. LUCIA: So the value would mainly be to a neighbor at that point who wanted to expand their yard?

MR. MORIN: Right.

MR. FENWICK: Is this unique or are there other flag lots like this there or do you have the only one that you know of?

MR. MORIN: That's the only one in that area, I think.

MR. FENWICK: Basically if they were to build on the paper streets you'd have a corner lot then.

MR. MORIN: Right.

MR. FENWICK: A substantial corner lot.

MR. NUGENT: How big is the lot total?

MR. FENWICK: 300 by 255, 260, 250 at one end to 265 at the other with 250 frontage on Sycamore and 300 plus on the other paper road. It's a big lot. Any other questions from the members of the board, any comments? I'll open it up to the public. Try to be brief, stand give your name, your address and if you are not first

and you are second, listen to what the response was for the first person so we're not repeating what's going on.

MARYANN BUSCEMI: I'm the house to the, that's got the driveway next to the property. RD 4 Box 268B Hickory Avenue, New Windsor.

MR. LUCIA: Adjacent to this property?

MRS. BUSCEMI: Yes, my driveway is right next to his. There's big drainage problems in this piece of property. It's been considered wetlands by the town for years. When that property, piece of property fills up in the rain and the snow and drainage coming from behind all the other houses on the road, it backs up into my property, causing my property--I can't use it. It takes weeks to dry. I also have a stream on the piece of property. If he was up there and took pictures I think the other night was it you, did you see that stick up in my, in the driveway, that's your property, that's a stream and we've had to dig a swale to keep the water from coming down and into our driveway and into our garage. We've had to, we have to keep that opened constantly. It's an emotioal, it's wetland, I mean to do anything to the--I'd like to know where you are going to put the water? I've come to the Town Board for many years and questioned them on it, asked their help. I've had John Petro, I've had Bill Larkin, I've had Gorge Green, I've had all the superintendents out there all to check it over. There is a culvert pipe on the dirt road back there that the Water Department uses. When that gets clogged by the children, it backs up and the water has no place else to go but onto my back yard. No matter what I plant back there dies. It's a great economic loss, my whole back yard is because of this piece of property and all the drainage that it causes and I've begged to have it fixed. I've had the town in there on several occasions. And what would you do with it, where would you know, how would you repair that to stop the damage to my property and where do I recover for all the damage that's been done to my property over the years?

MR. MORIN: I don't know where the waters coming from, I mean I didn't--

MRS. BUSCEMI: I wish you had stopped the night you were up there taking the pictures but that stick

there--

MR. MORIN: If there's a driveway and drainage problem there'd have to be a ditch alongside to carry the water.

MRS. BUSCEMI: It's a total disaster, you'd have to pipe it somewhere, I mean the whole property is wetland out there.

MR. LUCIA: Are you opposed to this application?

MRS. BUSCEMI: Yes, I am.

STEVE LIADEN: We are Box 268 Hickory Avenue, we're not next to the Buscemi's, we have a copy of the building lot Mr. and it appears as though from the survey maybe this is from the original the way the zoning has been laid out, but it appears as though even though currently it's one lot, it looks like from the diagram I think I have the same one as you, it appears as though it's really three lots where there's intent to build three lots here.

MR. FENWICK: That was one of the questions we've asked the applicant that it not be that way.

MR. LIADEN: I understand and again you can tell me better than I could but the 25 foot width for a quote unquote private driveway, if there was more than one house, would not meet code, am I correct?

MR. FENWICK: That's correct.

MR. LIADEN: Also another question that I have does Andre have the intent to build the homes facing the backs of our yards?

MR. FENWICK: Supposed to be one home.

MR. LIADEN; I'm sorry, one home or are you, do you plan on facing Willow or what? Even though I don't think it's code, I think generally it's frowned upon by the town to have one house built behind the other facing the back yard of another.

MR. MORIN: It would probably be built sideways right now I think it would be facing towards Willow so when I came back I would make a right-hand turn, I'd be facing

it.

MR. LIADEN: Because I think from what I had seen of where the house is drawn currently, the house per se is drawn in such a way that it is, it effectively fits right in the middle of one of the thirds of the three pieces in, other words it looks like from the way it's shown on the drawing that there's plans whether it be short term of long term whether it be approved now or approved by another variance five to ten years from now, looks like there's intent to build more than one home there and economically it's probably the way to go.

MR. FENWICK: Right now the way it's been addressed to you is the only thing we can look at. If there's going to be one home, the access is going to be the 25 foot driveway and there's no other way for it to be anything else but that. If it were in fact to be two streets, there, Sycamore Drive and Willow Avenue, as a matter of fact if they were town roads, he won't be in there and there'd be three houses in back there, with nothing, with no variances, with nothing. There'd be no way at all we can probably stop him from doing that. The way that we have the application in front of us right now, he's going to build one house on let's say three lots which will be contiguous lots and it becomes 300 by approximately 250 foot lot with one house on it. There's nothing else that we can act on in the future or anything else, I mean that's what we have to look at.

MR. LIADEN: I understand. And just one other minor point and I don't know if this has bearing or not but Larry Rossini can give you some more details. There's a pond on the property and I understand that the pond is actually shown on geological maps that might effect, may have bearing on building on the pond or near the pond physically and I understand that might be a federal issue even more so outside the town so that might be something to discuss also. Thank you.

MR. LUCIA: I think the public was unaware Mr. Morin was here for preliminary hearing and at that point he offered to build only one house on this lot, is that correct?

MR. MORIN: Correct.

MR. LUCIA: You had no objection should the board grant you a variance of conditioning that variance on there being only one single family dwelling placed on this property, is that correct?

MR. MORIN: Correct.

MR. LUCIA: The variance is conditioned on it if he wants to change that he loses the variance so the only foreseeable way around it is if Willow ultimately becomes a real street, then he doesn't need the various anymore so theoretically if the conditions in the area change such as to eliminate the need for the variance then the condition I guess would die with the variance so I don't think anybody is going to sit here and say forever and ever from now until the end of the world there will never be more than one house. If conditions such as the street change then he probably is entitled to different relief.

MR. BABCOCK: If Willow Road was to be built to the end of the subdivision, he would be able to qualify for three building lots.

MR. LIADEN: That's correct. If it was built from Willow no problem. I'm sorry, I am opposed at least at this point in time.

LARRY ROSSINI: I live on Hickory Avenue. I'd just like to point out a few things for the board's etification. The documents that I obtained from the Town Hall which are probably the same ones you have or they should be the same ones you have, show three building lots on them. And I heard a little bit of discussion about substandard lots, non-conforming lots. In reality, are there not three building lots on this parcel? The parcel is considered one parcel of land and one lot and the 25 foot strip of land that you see mapped out here are the old lots that date back to 1936 in the original subdivision of the area. When the zoning ordinance went into effect, in 1965, I believe, Section 48-26B deals with non-conforming lots that are contiguous in effect these lots facing Willow Avenue are non-conforming lots individually and they're contiguous and according to the section I mentioned, would require a new subdivision in order to make this three building lots. So I think that needs to be noted. Additionally, a statement was made tonight that it is 600 feet from Willow Avenue from where the

pavement ends. In reality it's 300 feet to the corner of this property to where the pavement ends on Willow Avenue.

MR. MORIN: I have to continue, I have frontage so I have to continue it passed my property.

MR. ROSSINI: You have to have 600 feet of frontage.

MR. BABCOCK: We've demonstrated to him say that if he wants to build these, if he wants to have this looking like a subdivision three lots, he would have to build it to the end of his property which is approximately 600 feet of road and 600 feet of sewer line.

MR. ROSSINI: Now, the town there's an option here that perhaps you haven't explored fully and the town has set the precedent in the past by allowing on right-of-ways of this nature the construction of a private road. Even though these were all mapped out right-of-ways, the town matter of fact in the Beaver Dam area, allowed such a private road to be constructed off of Maple Avenue, I believe it is.

MR. BABCOCK: Linden.

MR. ROSSINI: Linden, they allowed Linden Avenue to be continued as a private road in the not-too-distant past to provide access to lots similar situation as this. I think that that perhaps is something that would be a better alternative than to explore or than to approve the 25 foot driveway from Hickory Avenue. Mrs. Buscemi is very correct in the fact that there's a water problem in here and this particular piece of land has two ponds on it that show on the US geological survey maps almost dead center in the middle area is the large pond and covering a good part of the driveway that he is proposing as well as the adjacent parts of the adjacent properties there's a smaller pond. This area acts as a collection point basically for quite an extensive area extending from Vascello Road, Chestnut Avenue, Sycamore Drive it all directs down through Hickory Avenue and down into this property from there it goes down, crosses over and eventually down across Shore Drive into the lake. Any construction on this property that is going to effect the area downstream which has been prone to significant flooding in the past of several of the homes down there. I personally am not opposed to seeing homes built on this property.

I think there are, judging by the current use that's occurring on the property today with the vandalism and the fires and dirtbikes that are occurring in there, I'd sooner welcome homes in there than what we see going on today. However, I think that it is in the best interest of the town and best interest of the neighborhood to build these homes according to what was originally mapped out to service them for a road and that's Willow Avenue. Now whether Willow Avenue gets built as a public street or a private road at this point to me is irrelevant. The fact of the matter is it should be accessed from Willow and not through a 25 foot private driveway. Now this plan has come up several times in the past. I believe this gentlemen presented this to the town once before showing three buildings going into this same piece of property. Previous owner also submitted it to the town and you know the intent is there that eventually three homes are going to be built. So what I would, my feeling is if you are going to build them, build them right, build the proper access and it certainly is economical to build at least a private road along Willow to provide access to three building lots instead of one. Additionally, while the board may not be aware of I'm not sure Mr. Morin is aware of the adjacent property owner is preparing his property for building, an adjacent owner facing Willow is also preparing his property for an additional building lot. He has a large piece of land there, the house is off to one end and he's exactly adjacent to the area where Mr. Morin is planning to build a home so now we're going to end up with a hodgepodge with one home facing Willow homes being accessed from the opposite road. It's really poor planning. It should be done as a continuation of Willow. As far as approaching the adjacent property owners, I don't know if he approached Mr. Buscemi about additional land but I do know that he never approached my father, who happens to own the property next to his driveway and it's not that my father is willing to sell him any property but the approach was never made or never considered and there's approximately 65 feet between the driveway and my father's home. But be that as it may, I think there's some inaccuracies that have been presented here. Additionally the map that's presented is full of inaccuracies, it's not the south side of Hickory Avenue, it's the west side of Hickory Avenue that we're talking about. His plot plan, the directions on the plot plan are turned approximately 90 degrees from the actual compass readings and the

property owners that he has listed on here now or formally of Yano (phonetic), Schilling and Rinaldi, these people haven't owned properties for years. Matter of fact, Mr. Rinaldi was my grandfather and he passed away in 1976 and he sold the adjacent property in 1952, I believe it was so there's a lot of inaccuracies that have been presented here tonight, not only on these plans but also verbally. Now I don't know what you saw in those pictures. We didn't have the liberty of seeing them. There's a gentleman in the audience here tonight that has pictures which show the ponding, show the stream, show the area that's prone to flooding. I don't know if that's on your pictures or not.

MR. FENWICK: Basically we weren't looking for it so we're looking at woods here.

MR. MORIN: There's some of it in the one piece that I took on the property out to 25 foot, you can see where the water--

MR. ROSSINI: I can appreciate the practical difficulties that the owner may have but again, you also have to take into consideration the fact that the property was purchased under those conditions and the fact that the character of the neighborhood would be altered by allowing a flag lot of this nature to be built according to the proposal so again, I'm opposed to the issuance of a variance on this.

MR. LUCIA: Mr. Rossini raises a number or points. Was it 48-26B of the Zoning Ordinance you're referring to?

MR. ROSSINI: 48-26B states that non-conforming lots that are contiguous, I'm not sure of the exact wording but the gist of it is non-conforming lots that are contiguous have three years from the date of the enactment of the Zoning Ordinance to either apply for building permits or they become considered as one single parcel.

MR. LUCIA: Does your copy show the date in the lower corner of the page?

MR. ROSSINI: The copy that I read was Mr. Babcock's book when I stopped in here on Friday.

MR. LUCIA: The reason I ask, I think you read the

current one that refers to subdivisions approved by the Planning Board. This subdivision long pre-dates Planning Board's of the Town of New Windsor.

MR. ROSSINI: I'm not going to debate the law with you but it's on the books and these are not three building lots, these are 12 building lots and 12 lots on a subdivision map which each one of them individually is non-conforming and I think it's very clear and has been substantiated in the past at least when I was in the position with the town, I know these issues came up in the past and it was held that these are non-conforming lots as to width and bulk and that they were necessary if they were to do the type of thing we're looking at here.

MR. BABCOCK: Your point is that it's one lot.

MR. LUCIA: Do you understand that the applicant is conceding that it is one lot and is willing, if this board grants him a variance, to have it conditioned upon this property being used for no more than one single family dwelling. If he has a right there, he's giving it up.

MR. ROSSINI: Well, if the condition is in the variance then that's not going to stop him from later on coming in and asking for the right to build on the rest of the parcel and I think the way he's planning the location of the house lends itself to that. However, if the condition was placed as a restriction in the deed as well as a condition of the variance, now your talking a different item. Now, I'm not sure are you doing that type of thing, put the restriction in the deed that there shall never been more than one house on the entire parcel?

MR. LUCIA: If Mr. Morin--

MR. ROSSINI: That would establish if Mr. Morin is willing to do that.

MR. LUCIA: That's not relevant to this board. We cannot force him to do or not do something with his property separate from the variance. But rest assured if it's a condition of the variance, and he ever needs that variance, he can't do anything else with it. You know the only way in answer to the young lady's question in the back before he's going to get more than

one house on there is to complete Willow and to come in a different way. Then he's no longer going to need the variance for access to the way he is now proposing.

MR. ROSSINI: But if the applicant has stated to you that he is willing to put a condition on the variance that he never build more than one house in there, then it's logical to conclude that he would also be willing if his real intent was never to build more than one house, it's logical to conclude that the applicant would be willing to place that as a deed restriction also and shouldn't have any objection if that's indeed his real intent. Now that's, it's a relevant issue.

MR. LUCIA: I'm not saying it's not relevant but this board can't require him to put a restriction on his deed. You as a neighbor may like that as a better alternative but he's only applying for a variance.

MR. ROSSINI: You may not be able to require him but he certainly has the ability to offer that to establish his intent.

MR. LUCIA: You're welcome to ask him.

MR. ROSSINI: Mr. Morin?

MR. MORIN: Right now, I plan on one. I don't know, I may not be there forever either so I don't know, right now I plan to put just one house, that's it.

MR. ROSSINI: The question would you be willing to put a restriction in the deed to that entire parcel knowing that no more than one house shall be built on it.

MR. MORIN: Unless they built a, if the town never extends Willow, I never will extend Willow.

MR. ROSSINI: The town doesn't build roads.

MR. MORIN: If they never do I never will.

MR. FENWICK: How long have you owned this property?

MR. MORIN: Ten years. When I did buy it, I came in and asked and building inspector then told me there'd be no problem to do this.

MR. FENWICK: These lines are then at your on

discretion? These are not approved subdivision lines?

MR. MORIN: They're just on the survey map.

MR. BABCOCK: The application for the proposed building lot that Mr. Morin filled out I sent this plan to the board just for informational purposes. I didn't mean, I understand that Mr. Rossini is bringing it, I didn't do it for that purpose. I did for the layout of the 25 foot strip so you'd realize where it's going from Hickory to Willow. It's an old map.

MR. LUCIA: That last exchange I just want to make sure we have it clear for the record. Is Mr. Morin saying that you are willing to put a deed restriction on saying this property would only be used for one single family dwelling as long as the town does not accept Willow Avenue as a town street?

MR. MORIN: Yes.

MR. LUCIA: You want to take that further?

MR. ROSSINI: I think that's a positive sign. I also think that the location of the house has a bearing as to the feelings of the neighbors and also should be taken into consideration what's going to happen on the adjacent property again because the property is in the process of being cleared and survey crew has been there be working on that property and apparently there's intent to build in there facing Willow.

MR. LUCIA: Are you still opposed to the present application?

MR. ROSSINI: Yes.

MR. LUCIA: One other point you just raised actually this applies to points that a number of other speakers raised. You mentioned possibility of extending Willow as a provate road. And a number of people have mentioned drainage and ponds and USGS surveys and a number of other things. This board does not mean to turn a deaf ear to any of those issues, they're all very good issues, very relevant issues to the neighborhood and to the neighbors in particular who are effected by it but this board is a ZBA, has a very, very limited jurisdiction. It sits very much as a court of appeals would and the only thing this board

can consider tonight is Mr. Morin's application for a variance because he does not have sufficient street frontage. All of those issues you raised with regard to wetlands with regard to drainage, with regard to alternative ways of accessing the property if Willow became an approved road with regard to development of the neighborhood are all Planning Board issues. Your concerns are very relevant but they need to be raised before the Planning Board. That's the appropriate entity in this town which can consider those issues when the applicant comes in for site plan approval. The way the town ordinances are now worded, the applicant probably will not have a public hearing on that site plan so I understand your frustration coming here and telling us about it but we can't act on the site plan issues. What I'd suggestion you do is write them all down, write a letter to the Planning Board, send a copy of the letter to the Planning Board engineer and when Mr. Morin comes in if he's granted a variance by this board, that's the appropriate time the Planning Board will address those issues. So this board doesn't mean to turn a deaf ear to them but they do not effect the merits of this particular application unless they should show that it's totally impossible and you really would need engineering proof to establish that.

MR. ROSSINI: You know as well as I do if a variance is approved that Mr. Morin has no need to go before the Planning Board to obtain building permit for this property.

MR. LUCIA: Probably got site plan approval.

MR. ROSSINI: It doesn't need site plan approval for a single family dwelling in a R4 zone and the fact of the matter is that the Planning Board will not have any jurisdiction regarding this parcel unless one of two things happened. One, a subdivision were to occur and two, the extension of Willow Avenue was to be done as a town road, if it was done as anything other than a town road. So, the chances of review by the Planning Board or the Planning Board's engineer are zero, okay and that's, you know that, that's what the town codes require. There's no other point.

MR. LUCIA: I stand corrected. Mr. Babcock just corrected me.

MR. ROSSINI: Bottom line is that the applicant does have another choice, he doesn't have to do, it's not a situation where he has no road frontage or he has insufficient road frontage. He has frontage on a road that's planned to provide access for this property. However, he's choosing not to build it. And I think that's really the issue here. Should the board decide on allowing a substandard access means or should the board recognize the fact that the planned road is the proper means of access for these lots. It's the same in any subdivision. You take Butterhill, you take the Schoonmaker developments, all of the roads were mapped out on a subdivision map but those builders never came in and said well, I want to build private driveways from the nearest public road instead of building roads that were mapped out to provide access and it's really the same issue.

MR. LUCIA: Well, it's basically an economic issue if you dispute Mr. Morin's proof of significant economic injury in terms of what it would cost to provide access over that paper street, versus the cost of having access on his inadequate street frontage which he's seeking a variance on, you're welcome to speak to that issue. That's the issue that this board has to determine.

MR. ROSSINI: The board has to determine the impact by law on the character of the neighborhood, okay that's one of the factors that you need to decide upon as the board in determining the variance and that's specifically stated in the town code. That you have to determine the effect on the character of the neighborhood. Now, there's nothing in that area that's built with a private driveway between two homes having a house facing behind other houses where you have access from another road. You don't have that situation anyplace there so that would change, that would alter the character of the neighborhood not in keeping with what's existing.

TERRI EGGERS: Chestnut Avenue, he should talk to the other neighbors.

MR. FENWICK: Is this basically a lot itself here, it's called a drive, 25 foot lot. Do you know what the history behind that is?

MR. MORIN: That's why it was left there, it was left

there for that.

MR. LUCIA: Mr. Morin owns 13 of those originally subdivided lots. The 12 that constitute the one parcel in the back and the 13 that provides the actual frontage. Miss Eggers, are you opposed to this application?

MISS EGGERS: Yes.

MR. MORIN: He's right to come in through Willow if I could it's much easier, it's already there.

MR. FENWICK: What's the requirements on a private road?

MR. BABCOCK: We've talked about the private road and the problem is the ownership. As the board knows, if it's a private road, it has to be owned by the lot so that there would be a maintenance agreement between whoever is before him and after him. Problem with it right now it's not owned by them. That's the first problem.

MR. FENWICK: So this in effect cannot be a private road unless it was bought from the town by the builder and then what given back to the town at a later date if it were to become dedicated?

MR. NUGENT: Private road never goes back.

MR. TORLEY: Unless he brings it to town code.

MR. NUGENT: That ain't a private road then.

MR. TANNER: He can't use that for a private road unless he purchases.

MR. BABCOCK: Right.

MR. ROSSINI: You had an experience in the Beaver Dam area some years ago with a private road similar situation and it was a situation that was created by a developer on Mecca Drive and this goes back to the '60's when this situation was created a number of homes were built on a private road. Well, in the '70's, the owners on the road and periodically the owners on the road wanted the town to take the road over. Eventually, that was successfully done and the question

of ownership of the roadbed came up. That's just come up. And the town attorney at the time Mr. Crotty, determined that because of the way the deeds were worded and the way the subdivision was laid out, that the owners of the road needed, the owners of the property adjacent to the road needed to furnish the town with a deed because they in effect owned to the center of the road. Despite the fact that it was set up exactly like this. So that has a bearing on what he may or may not do. Additionally, the town established precedence in the area on Linden Avenue or Linden Road off of Maple Avenue which is several roads down. Same subdivision, same subdivision as these lots are in and allowed just that to happen, a private road to be constructed on this same type of right-of-way. These right-of-ways are 50 feet which meets the requirements for a public road, meets the current requirements for private road so you still have that option. It may take a little bit of creativity to dot the i's and cross the t's but you still have that option to you again because it has been done and he can probably establish that he owns to the center of the road.

MR. BABCOCK: We've explored that, if the lot before him is created and his three lots were created, that would be four lots on a private road. We have a new Town Ordinance that that's all that can be done. What would happen is that it would stop anybody on the opposite side of Willow that owned property there from ever building there again.

MR. ROSSINI: The lots on the opposite side face Maple Avenue.

MR. BABCOCK: It doesn't matter, there's lots on Sycamore Drive, on the other side of Sycamore Drive there's property.

MR. ROSSINI: The town owns that.

MR. BABCOCK: Not the entire parcel.

MR. BUSCEMI: Sycamore comes down and behind his property.

MR. BABCOCK: Whatever, it's not my argument.

MR. ROSSINI: The subdivision was created that came down.

MR. FENWICK: We're going to have get back on the thing, we're getting off the case.

MR. ROSSINI: I'd like to address the issue of the four lots. There are no other lots that can be created off that road because at the intersection of Willow and Sycamore, when the Ramel Subdivision was created, Ramel dedicated, donated acre of land right at that location to the town which was adjacent to the park so the only thing that's left over there is the pumphouse for the water company so there's nothing else that can be accessed off Willow if it was to be created as a private road.

MR. MORIN: The other side is unbuildable.

MR. ROSSINI: Their back yards actually face Willow.

MR. TORLEY: And those lots are not large enough that they can be subdivided?

MR. ROSSINI: If you look at steep grades, it's a cliff so again there's an alternative and it's going to take a little bit of research and a little bit of inginuity but it can be done in a way that would benefit the property owner here, the applicant here as well as not change the character of the area and maintain the original intent of providing access to that property through Willow Avenue.

MR. LUCIA: Is it your position that that alternative is economic?

MR. ROSSINI: That's not something for me to decide and estimate here, neither is it for you to estimate you but it's a viable alternative.

MR. LUCIA: That's what this board has to hinge their decision on. Mr. Morin has said he thinks it would add $6,000 to the cost of this lot to go that way. Do you have a lower estimate than that?

MR. ROSSINI: We do know that private roads cost sustantially less to construct than a public road.

MR. LUCIA: Do you have a specific economic estimate on that?

MR. ROSSINI: No but if you like that, we can arrange for one to be put together.

MR. LUCIA: Did you also say that your father although not approached, would have refused to sell adjacent land?

MR. ROSSINI: He's sitting in the audience and he can speak for himself but I don't think he's going to sell off his side land.

MRS. BUSCEMI: We have to consider the value of our land with a driveway going through the middle of this.

MR. FENWICK: The driveway is not going to go away no matter what happens. If they were going out here and make the access out on the street and have Willow Avenue become that, they're still entitled to the road to come right back out the back there. It becomes part of that situation. It would have to. Be it has to be contiguous with some lot since it's a substandard lot in itself, it would have to be contiguous with some lot. Either if Mr. Rossini lives on one side, he buys it or somebody on the other side buys it, it's going to have to become contiguous with one of the other lots which right now it is, it's contiguous with Mr. Morin's lot.

MR. ROSSINI: It doesn't go away but it probably won't get used as a driveway.

MR. FENWICK: Any other comments from the audience?

MR. LIADEN: Would the board be open to getting second bid for a private road on Willow Avenue or an estimate?

MR. FENWICK: Right now, we have a case presented in front of us we have to act on. He has a 25 foot wide right-of-way right now that's all his street frontage is right now. He's required 60 foot, he's here for a 35 foot variance, that's all that's before this board at this time.

MR. LIADEN: But again to maintain the integrity of the area from Willow Avenue, would it behoove you to take a look at what's established for the neighborhood? I don't think that's asking too much.

MR. FENWICK: I don't know what you're getting at, is it cheaper for him to do a private road as opposed to be here for this variance?

MR. LIADEN: Right, absolutely.

MR. ROSSINI: We're looking for a win-win situation, something to benefit the applicant, something that benefits the neighborhood.

MR. TORLEY: You'd rather have four houses facing the private road off Willow or one house coming off that driveway off Hickory?

MR. LAIDEN: Correct.

MR. TANNER: We don't know whether he can build a private road on that property or not.

MR. BABCOCK: Larry was correct. The lots on the opposite side of Willow do border and have frontage on the next road up which is Maple and they're all built on, there's that slight possibility that they can subdivide.

MR. TANNER: It doesn't belong to him. He's talking about Linden Drive.

MR. BABCOCK: No, Maple.

MR. TANNER: Where they use the roadway for a private road or something.

MR. BABCOCK: Linden was a little bit different from this but it does have the same--
MR. ROSSINI: Private road built on a right-of-way.

MR. TANNER: How do they get the permission to do that? That's what I want to know. How can, that's the problem here, they're--

MR. ROSSINI: That right-of-way is not owned by the town.

MR. BABCOCK: It's not owned by that gentleman here, that's the problem.

MR. TANNER: How can you build on something that doesn't belong to you?

MR. ROSSINI: He has guaranteed access on that because of the old subdivision. There's some cloudy title to that but the town doesn't have title. The fact that it is on the subdivision map is an offer of dedication to the town but the town never took title to those parcels.

MR. BABCOCK: We can't even really give it to him. We don't know who owns it.

MR. ROSSINI: But again the town did set precedent by allowing the same thing to happen. I'm sure you're going to way all this in your decision but I think one thing has to be pointed out, you asked me if I had an estimate of what it would cost to build a private road, I don't believe the gentleman here produced a written estimate as to what it would cost to build a public road either and that's just his speculation at this point. So whether economic hardship exists or not, the fact of the matter is you haven't seen anything concrete in front of you as far as estimated cost is concerned to even consider that as an economic justification one way or the other.

MR. FENWICK: We have got to get going. We've got this case and that's exactly what we're looking at. I think we're hearing the same thing over and over again. Please if as long as it's something knew.

MARYANN BUSCEMI: 268B Hickory Avenue, New Windsor. Just want to let you know I was the one that called DEC and Mr. Morin. the night I received the letter, due to the fact it said 35 foot variance, I knew the property was only 25 and I was wondering I'm still wondering where's the other ten coming from?

MR. FENWICK: 60 is required, 25 foot is what he has, 35 foot is what he needs. That's the variance.

MRS. BUSCEMI: Where is he going to get it from? I have a very narrow driveway?

MR. FENWICK: We're allowing him to have this access to his property that's 35 foot less than what the law says.

MR. BABCOCK: That's why he's here.

RICH SARNOWSKI: Box 296 Oak Drive. I'm downstream from this property. I'd like to enter my pictures into your records showing the access road that he is asking for which is under water. These were taken tonight just before I came here, that's facing the property from Willow, the Willow access, this is the front of it. And this is there's the drain pipe going through there, the water drains down through my property and across Oak Drive. I am opposed.

MR. TORLEY: This is looking from what?

MR. SARNOWSKI: From Willow. My other questions his property seems to go right across that Willow extension, is that correct? I'm trying to figure out how you have two hundred and some feet when the road goes right through the middle of it.

MR. BABCOCK: This is the layout. This is not a current survey. This is his property. Thii is Willow, the dirt road.

MR. SARNOWSKI: So, it borders on Willow?

MR. BABCOCK: Yes.

MR. LUCIA: Now, these photographs are of Willow?

MR. SARNOWSKI: From Willow looking at his 25 foot lot which is under water.

MR. LUCIA: I'm just trying to establish when you say it's under water, you're not referring to the 25 feet in front on Hickory, you're referring to 25 feet that fronts on Willow?

MR. SARNOWSKI: Yes.

MR. BABCOCK: Right in here.

MR. LUCIA: Could I just get you for the record to indicate on that subdivision map which lots if you can identify them you took a photograph off, what lot number?

MR. SARNOWSKI: How do we get 200 feet plus another 250 to Hickory? There isn't that much space here.

MR. LUCIA: There appears to be on this subdivision.

MR. SARNOWSKI: This road goes through there somehow.

MR. BABCOCK: No, it goes through here.

MR. SARNOWSKI: I still can't accept that there's 500 feet from where I took the pictures to Hickory, no way.

MR. BABCOCK: From Hickory to the dirt road that goes to the pumphouse.

MR. ROSSINI: Dirt road goes through the middle of the lot.

MR. BABCOCK: It curves.

MR. ROSSINI: If you were to measure from Hickory to Willow, you'd have in excess of 500 feet.

MR. SARNOWSKI: Where the dirt road is now?

MR. ROSSINI: It's not Willow where it comes in.

MR. SARNOWSKI: How are they going to get to the pumphouse?

MR. ROSSINI: If you drew a straight line from the pumphouse to the pavement, that's where you would see Willow. It shows it on his map.

MR. LUCIA: If I could ask you to look at this copy of the map if you could tell us about where you are standing when you took the photographs?

MR. SARNOWSKI: I'm standing on a dirt road which is on here. I'm presuming that's right in here.

MR. LUCIA: Just for the record since when you're indicating on the map, you're saying the wet area would be at the rear of the 25 foot flag on Hickory and continuing onto lot number 9 on this map and that's the area that's under water spanning that boundary line?

MR. SARNOWSKI: Yes, next to that.

MR. LUCIA: And you would have been standing on lot 9 taking that photograph?

MR. SARNOWSKI: Yes.

MR. LUCIA: Thank you.

MS. BARNHART: Mr. Sarnowski, are these for the record?

MR. SARNOWSKI: No, you keep them because I don't think he has pictures of that.

MR. RALPH ROSSINI: I own the property adjacent to this property on the other side. And I want to go on record as being opposed to this variance.

MR. LUCIA: If asked, you would have refused to sell Mr. Morin any property?

MR. RALPH ROSSINI: I wouldn't consider it right now. I don't want to make any statement now.

MR. FENWICK: Any other comments from the members of the audience?

KATHLEEN ROSSINI: I live on Hickory Avenue and I oppose it. I think he should build off Willow Avenue.

DONNA LENDEN: I live on Hickory Avenue. I want to go on record that I oppose.

APRIL GISE: I live on Hickory, 267B and I oppose it also.

JAMES LONIAR: I live at 266 Hickory Avenue. I'm opposed also.

YOLANDA ROSSINI: I live next to the lot that he is proposing and I oppose it.

VICTOR WIEBER: I live on Maple Avenue right on the other side of the pumphouse. I'd like to know if the road would be coming back that way?

MR. FENWICK: Road is cutting through alongside of Mr. Rossini's property and Mrs. Buscemi's.

MR. BABCOCK: Off Hickory.

MR. FENWICK: Any more comments from the members of the audience? At this time, I'll close the public hearing and open it back up to the members of the board.

MR. NUGENT: The only thing I'd like to say is that we've heard the concerns of the public, they're all very valid points. My only problem with the whole situation is I'm looking at a variance for a 35 foot street frontage, not whether he goes out on Hickory, not whether he has water problems, not anything else except for the fact that he has a request for 35 foot road frontage. That's it. We can't vary anything else.

MR. FENWICK: Anything else?

MR. TANNER: My concern is that if we were to turn this down and he is unable to get any access going down Maple, he's got a piece of property that's useless. He's paying taxes on it, he can never build on it, he can't do anything with it. I haven't heard anything to lead me to believe that he has a ghost of a chance of putting a road in going down Maple.

MR. BABCOCK: Down Willow.

MR. TANNER: He doesn't, on the property we don't know who owns the property. Basically, as I understand it and I can't see how he'd have a chance of going in that way.

MR. NUGENT: He owns the 25 feet.

MR. FENWICK: Yes.

MR. TORLEY: Well, I'm afraid I have considerable distrust of flag lots as a poor method of planning. Willow Avenue is shown on the road as to be a town street. I'm sure if the gentleman wished to construct a road down that, a means could be found to clarify the title. We've all known how shaky the town's claim to a piece of land that was a proposed, is a proposed road can be.

MR. TANNER: I don't dispute that he can build a town road down that road but the cost fact as compared to that makes the lot actually prohibitive to build on.

MR. TORLEY: If he builds a town lot he'd be entitled to three houses on it.

MR. TANNER: But as a single lot cost is prohibitive.

MR. TORLEY: He purchased the property knowing the conditions that existed. This is not as if all of a sudden there's an earthquake and the roads disappeared. He purchased the land knowing what was the situation.

MR. TANNER: I understand and my other concern is that if he did build a town road down there and put three houses, the impact on these people is going to be a lot greater than one house on that property. You don't mind having three houses on that?

MR. TORLEY: As I was saying, I generally oppose flag lots when there's availability of a town road, if he wishes to build it.

MR. NUGENT: Why should he be responsible to build a town road?

MR. TORLEY: Any developer will build a road and dedicate it to the town.

MR. NUGENT: He's not a developer, he's building one house.

MR. FENWICK: Apparently, we've reached, we've exhausted it so at this time I'll ask for a motion to grant the variance.

MR. NUGENT: I'll make that motion.

MR. TANNER: I'll second it. Public hearing is closed.

ROLL CALL:

MR. TORLEY	NO
MR. TANNER	AYE
MR. NUGENT	AYE
MR. FENWICK	AYE

MR. TORLEY: Because we're short--

MR. FENWICK: Let the attorney handle that.

MR. LUCIA: This is a seven member Zoning Board of Appeals which at the moment is in limbo with only five acting members. As of July 1st, all zoning boards in the town will be cut down to three or five members so we're kind of in an interim period at the moment but since it's still presently legally constituted as a seven member board, you need four affirmative votes to

carry a request and you only got three, so your application is denied.

MR. MORIN: So what do I do from here?

MR. LUCIA: You have a number of alternatives. You'll get a formal written decision out of this board, you're welcome if you chose to get an attorney, have an Article 78 review of that in Supreme Court. You have a couple other alternatives. You could wait until after July 1st to come back with another application when the board will then be a five member board and you would need only three votes to carry a motion. If you made sustantially the same presentation and got sustantially the same vote as you have tonight, you might get the variance. If you wanted to act before July 1st, there's a provision in the town law that will cease to exist on July 1st so you have to do it before then asking for a rehearing on exactly the same application you'd need a unanimous vote of this board to carry the rehearing. Then come back and you need a unanimous vote of the board to approve the variance or another alternative is you could change the application in some respect and come back for a new variance application.

MR. MORIN: Is is possible to come from Willow? Is that--I was told it wasn't, that's why I requested it.

MR. LUCIA: Certainly the neighbors seem to--

MR. MORIN: It's much better for me to come the other way.

MR. LUCIA: If you can work out the issues of access over it and I think that's a matter you're going to have to discuss with your attorney, it seems like you might.

MR. BABCOCK: The neighborhood might be a lot happier than the application you presented tonight. But you do have--

MR. MORIN: Will the town give me permission to use the street?

MR. LUCIA: Cannot speak to that issue. You have to pursue that.

MR. BABCOCK: Not unless you bring it up to town road

specs.

MR. FENWICK: Who would be responsible for the road right now if it's not the town itself, not his, whose is it?

MR. BABCOCK: Well, typically because it's already, and it's on a subdivision map like Larry said before, it's you know, it's the town road, it's a town paper road.

MR. LUCIA: It's within the several lots that front on it?

MR. BABCOCK: Yes.

MR. LUCIA: It's probably similar to the one that you mentioned the adjacent owners have, right, although it probably is a public street unless they can show--

MR. ROSSINI: If you go back into the early deeds on that subdivision the deeds that were written in the '30's, they indicate that the owner of record.

MR. MORIN: I came in and checked on it, that's why I left the 25 foot. That's why it was left there just in case the street never got built, I had access to the--

MR. FENWICK: We've got to get going.

/13/92 Public Hearing - Morin, Andre'

Name:	Address:
Opposed. SAK [illegible]	RD4 #268 Hickory [illegible]
Opposed. RICH SARNOWSKI (Official Photos)	RD4 - 296 OAK DR N.W.
Opposed - LAWRENCE ROSSINI	268-E, RR4, HICKORY AVE N.W.
Opposed. [illegible]	268-E - Hickory Ave N.W.
Opposed. [illegible]	RD4 - 268-E [illegible]
Opposed. Kathleen Rossini	RD4-268E - Hickory Ave NW
Opposed Jim [illegible]	RR4 Box 268 Hickory Ave N.W.
[illegible] Andre [illegible]	RD4 Box 268E [illegible]
Opposed: Terri Eggers	[illegible]
Opposed: [illegible]	[illegible]
Opposed. Marie [illegible]	[illegible] Hickory [illegible] N.W.
Opposed [illegible]	[illegible]
Opposed [illegible]	RD4 Box 268E - Hickory Ave [illegible]
V. L. Wieber	R4 4 Box 477 Maple Ave.

grantor's acts—Ind. or Corp. ..... PUBLISHERS

NW-128

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT – THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 2nd day of April, nineteen hundred and eighty-two

BETWEEN Vincent J. Doce, residing at 15 New Road, Town of Newburgh, Orange County, New York

party of the first part, and Andre Morin

residing at 643 Route 9-W, Middlehope, Town of Newburgh, Orange County, New York

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten and no/xx ($10.00) ---------- dollars, lawful money of the United States, and other good and valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

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

Being Lots #1 through #12 & #51 of Section 17, as shown on a map entitled "Beaver Dam Lake - Section #1" filed in the Orange County Clerk's Office on May 5, 1931 as Map No. 1044.

Being a portion of premises conveyed to Vincent J. Doce by Margaret Donahue, by deed dated 10/27/70, recorded 11/20/70 in the Orange County Clerk's Office in Liber 1860 at Page 689

party of the first part, and Andre Morin

residing at 643 Route 9-W, Middlehope, Town of Newburgh, Orange County, New York

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten and no/xx ($10.00) ---------- dollars, lawful money of the United States, and other good and valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

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

Being Lots #1 through #12 & #51 of Section 17, as shown on a map entitled "Beaver Dam Lake - Section #1" filed in the Orange County Clerk's Office on May 5, 1931 as Map No. 1044.

Being a portion of premises conveyed to Vincent J. Doce by Margaret Donahue, by deed dated 10/27/70, recorded 11/20/70 in the Orange County Clerk's Office in Liber 1860 at Page 689

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Vincent J. Doce L.S.

STATE OF NEW YORK, COUNTY OF ss:

On the 2nd day of April 19 82, before me personally came Vincent J. Doce

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.

Vincent J. Tangredi

VINCENT J. TANGREDI
Notary Public, State of New York
No. 4707715
Qualified in Orange County
Term Expires March 30, 19..

STATE OF NEW YORK, COUNTY OF ss:

On the day of 19 , before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF ss:

On the day of 19 , before me personally came
to me known, who, being by me duly sworn, did depose and say that he resides at No. ;

that he is the of , the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed h name thereto by like order.

STATE OF NEW YORK, COUNTY OF ss:

On the day of 19 , before me personally came
the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No. ;

that he knows to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed h name as witness thereto.

Bargain and Sale Deed
WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE No. NW-128

VINCENT J. DOCE

TO

ANDRE MORIN

SECTION 330
BLOCK 10
LOT 1
COUNTY OR TOWN Ha-Wa Cobt.

RETURN BY MAIL TO:

Jeffrey G. Berry, Esq.
P.O. Box 511
233 Liberty St.
Newburgh, N.Y. Zip No. 12550

VINCENT J. TANGREDI
Notary Public, State of New York
No. 4707715
Qualified in Orange County
Term Expires March 30, 19..

STATE OF NEW YORK, COUNTY OF ss:

On the day of 19 , before me personally came
to me known, who, being by me duly sworn, did depose and say that he resides at No.
;
that he is the
of
, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed h name thereto by like order.

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WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE No. NW-128

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TO

ANDRE MORIN

SECTION 330
BLOCK 1
LOT 1
COUNTY OR TOWN Kar-Ha Cdt

RETURN BY MAIL TO:

Jeffrey G. Berry, Esq.
P.O. Box 511
233 Liberty St.
Newburgh, N.Y. Zip No. 12550

Reserve this space for use of Recording Office.

RECEIVED
$ 5.30
REAL ESTATE
APR 2 1982
TRANSFER TAX
ORANGE
COUNTY

Orange County Clerk's Office, s.s.
Recorded on the 2nd day of April 1982 at 1:46 o'clock P.M. in Liber 2219 of Deeds at page 535
and Examined.
Marie P. Mazzella Clerk

LIBER 2215 PG 537

BUILDING INSPECTOR, TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

Prelim.
Mar. 23, 1992
7:30 pm.

DATE: 3-18-92

APPLICANT: ANDRE MORIN
643 RT 9W NEWBURGH
N.Y. 565-7754

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 3-18-92
FOR (BUILDING PERMIT) ONE FAMILY HOUSE (proposed).
LOCATED AT (HICKORY DRIVE) B.D.L.
ZONE R4

DESCRIPTION OF EXISTING SITE: SEC: 63 BLOCK: 1 LOT: 1.2

IS DISAPPROVED ON THE FOLLOWING GROUNDS: REQUIRED ROAD FRONTAGE 60'

Michael Babcock
BUILDING INSPECTOR

REQUIREMENTS		PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE R4 USE A-9			
MIN. LOT AREA			
MIN. LOT WIDTH			
REQ'D FRONT YD			
REQ'D SIDE YD.			
REQ'D TOTAL SIDE YD.			
REQ'D REAR YD.			
REQ'D FRONTAGE	60'	25'	35'
MAX. BLDG. HT.			
FLOOR AREA RATIO			
MIN. LIVABLE AREA			

N.Y. 565-7754

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 3-18-92

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BUILDING INSPECTOR

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ZONE R4 USE A-9			
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MIN. LOT WIDTH			
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REQ'D SIDE YD.			
REQ'D TOTAL SIDE YD.			
REQ'D REAR YD.			
REQ'D FRONTAGE	60'	25'	35'
MAX. BLDG. HT.			
FLOOR AREA RATIO			
MIN. LIVABLE AREA			
DEV. COVERAGE	%	%	%

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT: [redacted] TO MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.

(914) 363-4630

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

IMPORTANT

REQUIRED INSPECTIONS OF CONSTRUCTION - YOU MUST CALL FOR THESE

OTHER INSPECTIONS WILL BE MADE IN MOST CASES, BUT THOSE LISTED BELOW MUST BE MADE OR CERTIFICATE OF OCCUPANCY MAY BE WITHHELD. DO NOT MISTAKE AN UNSCHEDULED INSPECTION FOR ONE OF THOSE LISTED BELOW. UNLESS AN INSPECTION REPORT IS LEFT ON THE JOB INDICATING APPROVAL OF ONE OF THESE INSPECTIONS, IT HAS NOT BEEN APPROVED, AND IT IS IMPROPER TO CONTINUE BEYOND THAT POINT IN THE WORK. ANY DISAPPROVED WORK MUST BE REINSPECTED AFTER CORRECTION.

1. WHEN EXCAVATING IS COMPLETE AND FOOTING FORMS ARE IN PLACE (BEFORE POURING).
2. FOUNDATION INSPECTION. CHECK HERE FOR WATERPROOFING AND FOOTINGS DRAINS.
3. INSPECT GRAVEL BASE UNDER CONCRETE FLOORS, AND UNDERSLAB PLUMBING.
4. WHEN FRAMING IS COMPLETED, AND BEFORE IT IS COVERED FROM INSIDE, AND PLUMBING ROUGH-IN.
5. INSULATION.
6. PLUMBING FINAL & FINAL.HAVE ON HAND ELECTRICAL INSPECTION DATA AND FINAL CERTIFIED PLOT PLAN.BUILDING IS TO BE COMPLETED AT THIS TIME. WELL WATER TEST REQUIRED AND ENGINEERS CERTIFICATION LETTER FOR SEPTIC SYSTEM REQUIRED.
7. DRIVEWAY INSPECTION MUST MEET APPROVAL OF TOWN HIGHWAY INSPECTOR. A DRIVEWAY BOND MAY BE REQUIRED.
8. $20.00 CHARGE FOR ANY SITE THAT CALLS FOR THE INSPECTION TWICE.
9. PERMIT NUMBER MUST BE CALLED IN WITH EACH INSPECTION.
10. THERE WILL BE NO INSPECTIONS UNLESS YELLOW PERMIT CARD IS POSTED.
11. SEWER PERMITS MUST BE OBTAINED ALONG WITH BUILDING PERMITS FOR NEW HOUSES.
12. SEPTIC PERMIT MUST BE SUBMITTED WITH ENGINEER'S DRAWING & PERC TEST.
13. ROAD OPENING PERMITS MUST OBTAINED FROM TOWN CLERKS OFFICE.
14. ALL BUILDING PERMITS WILL NEED A CERTIFICATION OF OCCUPANCY OR A CERTIFICATE OF COMPLIANCE AND THERE IS A FEE FOR THIS

Name of Owner of Premises André Morin

Address 643 Rt 9W Newburgh, NY Phone 565-7754

Name of Architect

Address Phone

Name of Contractor

Address Phone

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

If applicant is a corporation, signature of duly authorized officer.

(Name and title of corporate officer)

1. On what street is property located? On the S side of HICKORY ARE
   (N.S.E.or W.)
   and feet from the intersection of
2. Zone or use district in which premises are situated R4 Is property a flood zone? Yes No
3. Tax Map description of property: Section Block Lot
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.
   a. Existing use and occupancy LOT b. Intended use and occupancy ONE FAMILY
5. Nature of work (check which applicable): New Building ✓ Addition Alteration Repair Removal Demolition Other
6. Size of lot: Front Rear Depth Front Yard Rear Yard Side Yard

CONTINUE BEYOND THAT POINT IN THE WORK. ANY DISAPPROVED WORK MUST BE REINSPECTED AFTER CORRECTION.

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Name of Owner of Premises ..... Andre Morin

Address ..... 643 Rt 94 Newburgh, NY ..... Phone 565-7754

Name of Architect .....

Address ..... Phone .....

Name of Contractor .....

Address ..... Phone .....

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

If applicant is a corporation, signature of duly authorized officer.

.....

(Name and title of corporate officer)

1. On what street is property located? On the ..... S ..... side of ..... HICKORY AVE
   (N.S.E.or W.)
   and ..... feet from the intersection of .....
2. Zone or use district in which premises are situated ..... R4 ..... Is property a flood zone? Yes ..... No .....
3. Tax Map description of property: Section ..... Block ..... Lot .....
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.
   a. Existing use and occupancy ..... LOT ..... b. Intended use and occupancy ..... ONE FAMILY
5. Nature of work (check which applicable): New Building ..... ✓ ..... Addition ..... Alteration ..... Repair .....
   Removal ..... Demolition ..... Other .....
6. Size of lot: Front Rear ..... Depth ..... Front Yard ..... Rear Yard ..... Side Yard .....
   Is this a corner lot? .....
7. Dimensions of entire new construction: Front ..... 50 ..... Rear ..... 50 ..... Depth ..... 28 ..... Height ..... 25 ..... Number of stories ..... 2 .....
8. If dwelling, number of dwelling units ..... ONE ..... Number of dwelling units on each floor .....
   Number of bedrooms ..... 3 ..... Baths ..... 2 ..... Toilets ..... 2 .....
   Heating Plant: Gas ..... Oil ..... Electric/Hot Air ..... Hot Water .....
   If Garage, number of cars .....
9. If business, commercial or mixed occupancy, specify nature and extent of each type of use .....
   .....
10. Estimated cost ..... ? ..... Fee ..... ? .....
    (to be paid on this application)
11. School District ..... WASHINGTONVILLE .....

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work [illegible] connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee [illegible] the issuance of Certificate of Occupancy.

TOWN OF NEW WINDSOR, ORANGE COUNTY, N. Y.

Examined.....19.....
Approved.....19.....
Disapproved a/c.....
Permit No. .....

Office Of Building Inspector
Michael L. Babcock
Town Hall, 555 Union Avenue
New Windsor, New York 12550
Telephone 565-8807

Refer —
Planning Board.....
Highway.....
Sewer .....
Water .....
Zoning Board of Appeals .....

APPLICATION FOR BUILDING PERMIT

Pursuant to New York State Building Code and Town Ordinances

Date.....19.....

INSTRUCTIONS

a. This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.

b. Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram which is part of this application.

c. This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.

d. The work covered by this application may not be commenced before the issuance of a Building Permit.

e. Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.

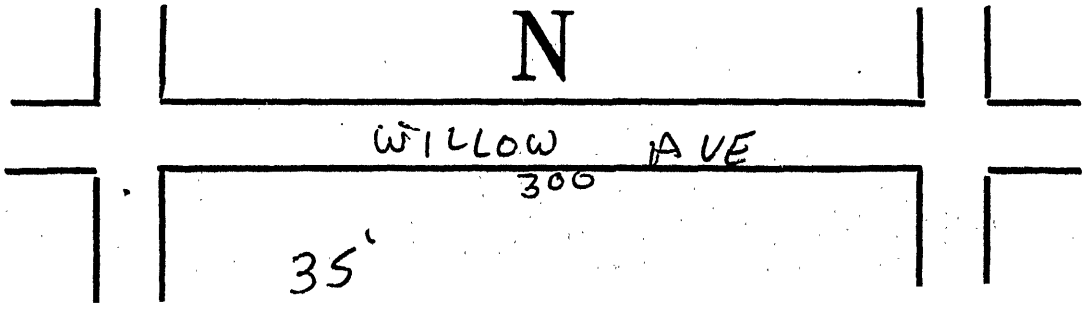
f. No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

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

....Andrew Mann.....643 Rt 9W Newburgh N.Y.
(Signature of Applicant) (Address of Applicant)

PLOT PLAN

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



Refer –
Planning Board.....
Highway.....
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....Andrew Moran.....643 Rt 9w....Newburgh....N-Y.
(Signature of Applicant) (Address of Applicant)

PLOT PLAN

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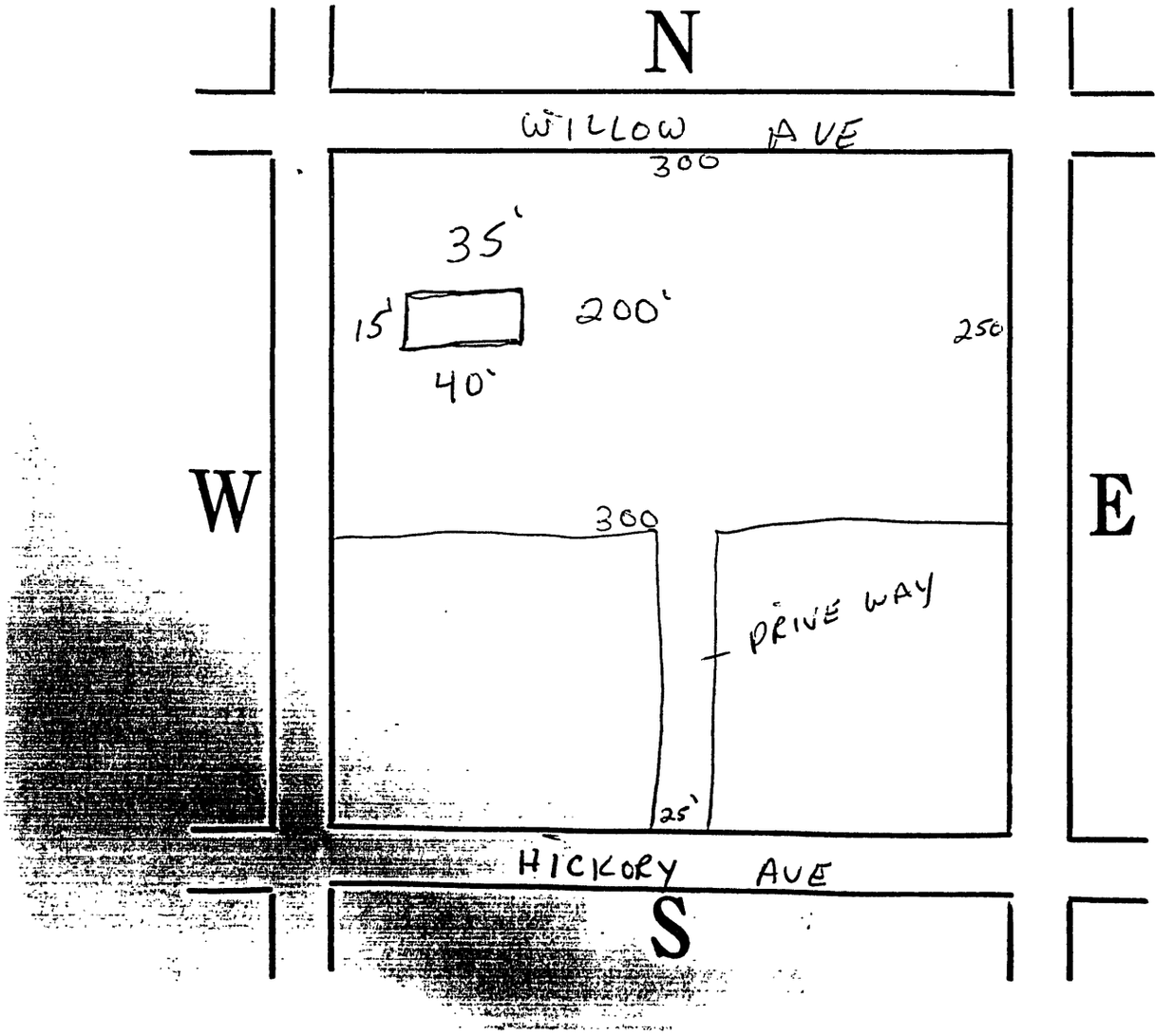
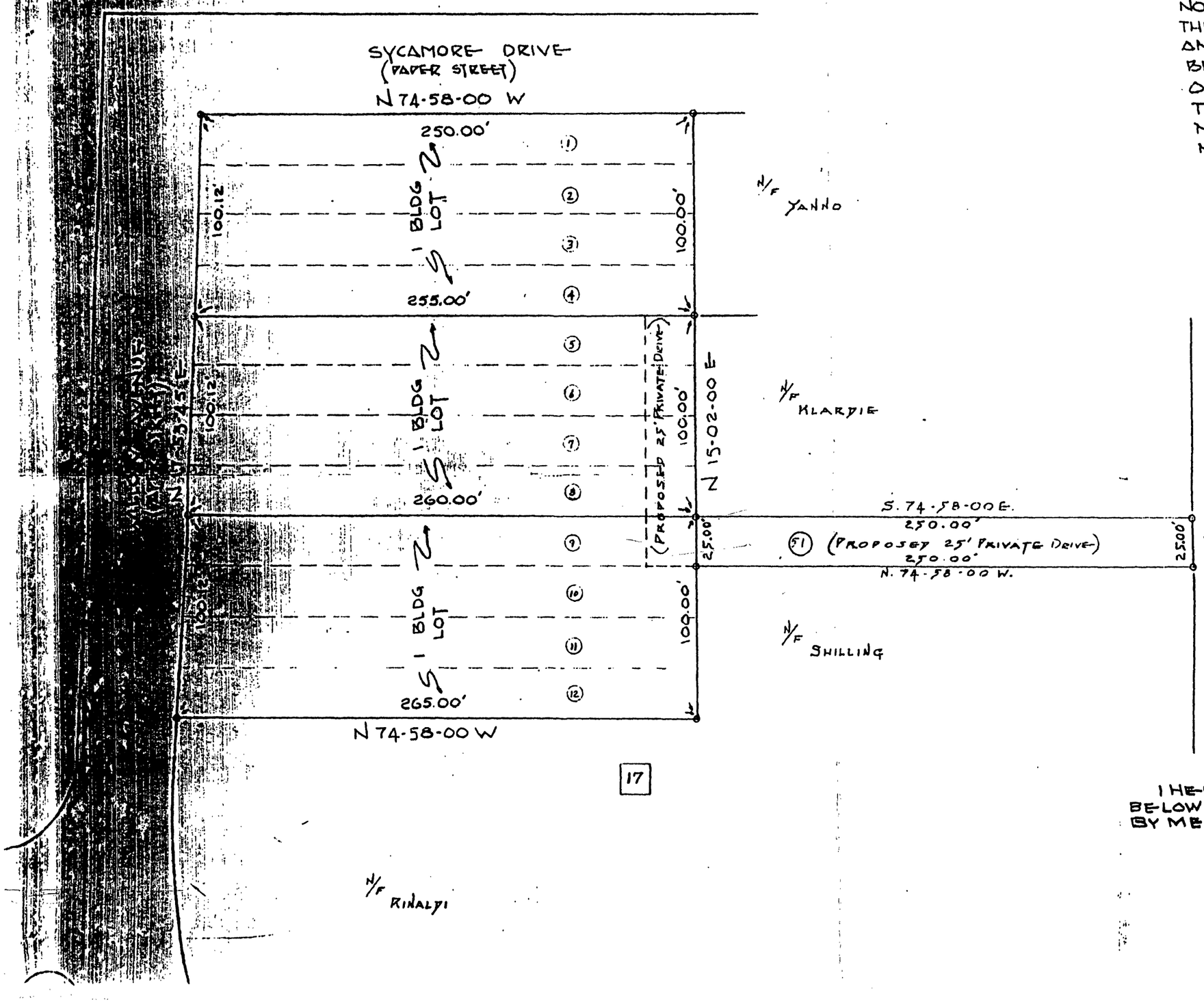


(BLOCK & LOTS SHOWN FROM EXISTING FROM EXISTING FILED MAP "BEAVER DAM LAKE SECTION 1")

NOTE -
THE PROPOSED 25' PRIVATE DRIVE UP AND THRU THE LOTS AS SHOWN WILL BE BUILT AND MAINTAINED BY THE OWNERS OF SAID LOTS. THE TOWN OF NEW WINDSOR IS NOT RESPONSIBLE FOR ANY MAINTENANCE THERE OF



I HEREBY CERTIFY TO THE PARTIES LISTED BELOW THAT MAP SHOWN IS FROM A SURVEY MADE BY ME AND IS TRUE AND CORRECT AS [illegible]

ANDRE MORIN
COMMONWEALTH LAND TITLE INS. [illegible]
KAR-VIN ABSTRACT CO. [illegible]

Date ....4/4/92...., 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12550

TO Frances Roth 359 Moores Hill Rd DR.
New Windsor, NY 12553

DATE			CLAIMED		ALLOWED	
3/23/92		Zoning Board Meeting	75	00		
		Miscellaneous -4	15	00		
		Dantas - 20	90	00		
		Marin - 6	27	00		
		DiCoisco - 12	54	00		
			264	00		

PRELIMINARY MEETING: MORIN, ANDRE

MR. FENWICK: This is a request for 35 foot street frontage in order to meet bulk regulations for a buildable lot located on Hickory Drive in Beaver Dam Lake in an R-4 zone.

Mr. Andre Morin came before the Board representing this proposal.

MR. FENWICK: Tell us what your proposal is.

MR. MORIN: I purchased this lot I think in 1982 with a 25 foot right-of-way. And when I purchased it, I was told that there would be no problem to build a house on it.

MR. LUCIA: Which lot is yours?

MR. MORIN: This was surveyed for three lots.

MR. LUCIA: The original filed map on this Beaver Dam Lake Section 1 apparently showed 300 foot wide lots with an internal 25 foot wide private road. It's however all one tax lot, is that correct, it's all tax lot, I guess, 63-1-1.2 so you can ignore those three lots that are shown on there.

MR. FENWICK: But it's 300 foot wide?

MR. BABCOCK: Yes.

MR. FENWICK: By 250 foot deep?

MR. BABCOCK: Yes.

MR. FENWICK: Those streets were in fact Sycamore Drive if they were built this would be a corner lot and not a lot that needs access off another road?

MR. BABCOCK: Right.

MR. LUCIA: The 25 feet on Hickory is actually your property that is not a right-of-way, is that correct?

MR. MORIN: Right.

MR. FENWICK: Big lot.

MR. NUGENT: Don't have enough street frontage?

MR. FENWICK: Right.

MR. BABCOCK: Has enough street frontage on paper but the actual street is not there, Willow Lane does not exist and Sycamore Drive does not exist.

MR. FENWICK: Are those right-of-ways that have been as per subdivisions specified as right-of-ways?

MR. BABCOCK: Yes. If this gentleman was to come in and say he wanted to build three houses on there, we'd like him to improve Willow Avenue far enough to do that. If he wants to build anymore than one house here, he'd have to improve that road.

MR. FENWICK: Your anticipation is to build one house?

MR. MORIN: Yes.

MR. NUGENT: He has to use that 25 foot as his frontage?

MR. BABCOCK: Jimmy, there's approximately 300 feet of road that would have to be built before he reached the corner of his property. So, you're talking approximately 600 feet of road that he'd have to build at between $100 and $150 a foot to be able to get a building permit so it's just not there.

MR. FENWICK: So, in other words, in order for him to get a C.O., what I'm looking at is supposing I'm looking at a subdivision that is over here down the road here they are starting to build houses, do they have to have that road has to be up to spec before those houses can be lived in?

MR. BABCOCK: Yes.

MR. FENWICK: So basically, if somebody like this came in they didn't have a road up to spec they would have to get out onto 32 some way or another by way of a driveway or something like that?

MR. BABCOCK: Right and that is why they left this 25

foot strip there for that property?

MR. FENWICK: That actually is an access road now or does it have to be cleaned?

MR. MORIN: It would have to be cleaned.

MR. LUCIA: This is presently R-4 zone which would allow only one one-family dwelling per lot since there is a possibility of this being subdivided, if the applicant or somebody in the future expanded to upgrade the paper streets, you might want to as part of your application specify if the variance is granted it's only for one one-family dwelling house on one lot. I think that would cover the possibility of somebody wanting to upgrade the streets. They'd have to get access elsewhere.

MR. FENWICK: What this is for, Mike, you would be addressing rear yards and side yards, how would you address that if these are not streets? How would you address a side yard if I were looking at this, I could say I know when one is the left and one is the rear but is that a side yard?

MR. BABCOCK: To be very honest with you where he wants to place his house on the lot it's not going to make a difference. The largest requirement in R-4 zone is 40 feet and he'll meet it everywhere.

MR. FENWICK: That was just something I'm looking at. If he wanted to look at this now with the things that you're talking about this is nothing more than a long skinny lot, he can put that thing 15 feet from that lot line and all of a sudden they build a street and he's not 35 feet off.

MR. BABCOCK: Same thing I do on a private road, when you're building on a private road, the property line is in the middle of the road. I still use the easement line as a setback only because if it was ever made a town road.

MR. FENWICK: That's something you're thinking about?

MR. BABCOCK: Right.

MR. FENWICK: And this is not an easement or anything

else, this is actually in your ownership?

MR. MORIN: Yes.

MR. LUCIA: Just for the record, that was referring to the 25 foot strip going out to Hickory Avenue.

MR. FENWICK: Well, that certainly must be one of the biggest lots out there.

MR. TANNER: We usually don't see anything this big.

MR. FENWICK: One or one-third of that is bigger than a lot of lots out there. If you were to take a look at this, you can see the owners of the property are sitting on smaller lots right in front.

MR. TANNER: What is on the other side of Willow?

MR. MORIN: There is a cliff there.

MR. TANNER: It goes up?

MR. MORIN: Yes, there's nothing.

MR. TANNER: So, it's really not buildable on this side?

MR. BABCOCK: On the other side it goes down this way and up this way.

MR. TANNER: So it's not buildable so the chances of someone coming in and building on the other side of the road isn't a possibility?

MR. MORIN: You have the park, there's a park right there, there's no street here but the park is in there.

MR. FENWICK: I don't see a problem here.

MR. NUGENT: Me either. We can't make a motion.

MR. FENWICK: I don't see a problem where we'd have to make the applicant come back. If you want to pursue your public hearing as far as this Board that sits right now is concerned, you can go ahead and do that.

MR. MORIN: Okay.

MR. FENWICK: Before you leave, I'll let the lawyer talk to you.

MR. LUCIA: When you come back, assuming the Board sets you up for a public hearing and you come back, this is an area variance so the standard of proof the Board has is something called practical difficulty. What you have to show is you suffer significant economic injury from the application of this frontage requirement to your land. I would investigate the possibility of resolving this without getting a variance, contact the neighbors on both sides of the 25 foot strip, see if they'd sell you in combination a 35 foot piece of land so you wouldn't have to apply for this variance, just come back to the Board with whatever you can find out from the neighbors, after you contact them.

When you come back, I'd like you to bring a copy of your deed, title policy or search if you have one and some photographs of the 25 foot access strip and I guess the wider portion of the lot in the back that it would be leading to eventually.

MR. MORIN: Okay.

MR. LUCIA: That should cover it.

MR. MORIN: Okay, thank you.

MRS. BARNHART: Fees?

MR. LUCIA: When you submit your application, you have to bring in two checks, one for $50 application fee to the Town of New Windsor and also a second $250 check to the Town of New Windsor to cover town consultant fees, publication costs and other miscellaneous costs in relation to the variance.

MR. MORIN: Okay, thank you.

MR. FENWICK: This lot has both water and sewer?

MR. MORIN: I believe so, it's on Hickory, I think, is that the closest?

MR. BABCOCK: Yes, it doesn't have it, it can get it.

MR. LUCIA: It's available?

MR. BABCOCK: Yes.

MR. LUCIA: Thank you.

Recd. 4/2/92 ZBA

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

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

Appeal No. 7

Request of Andre Morin

for a VARIANCE of

the regulations of the Zoning Local Law to

permit a variance of 35 feet street frontage in order to meet bulk regulations for a buildable lot.

being a VARIANCE of

Section 48-12 Table of use/bulk Regs. Col. H

for property situated as follows:

Hickory Ave., New Windsor, N.Y.,

Known and designated as tax map Sect. 63 - Blk. 1 -lot 1.2

SAID HEARING will take place on the 13th day of April, 1992, at the New Windsor Town Hall, 555 Union Avenue, New Windsor, N. Y. beginning at 7:30 o'clock P. M.

RICHARD FENWICK
Chairman

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

----------x

In the Matter of Application for Variance of

Andre' Morin,

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#92-7

----------x

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

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

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

On March 31, 1992, I compared the 54 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart

Patricia A. Barnhart

Sworn to before me this
31st day of March, 1992.

Deborah Green

Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1993

(TA DOCDISK#7-030586.AOS)

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

1763

54

March 30, 1992

Andre Morin
643 Route 9W
Newburgh, NY 12550

Re: Variance List 500 ft./ 63-1-1.2

Dear Mr. Morin:

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

The charge for this service is $75.00, minus your deposit of $25.00. Please remit balance of $50.00 to the Town Clerk's office.

Sincerely,

L. Cook

LESLIE COOK
Sole Assessor

LC/cad
Attachemnt
cc: Pat Barnhart

Saxe, Barry
Mc Daniel Road
Shady, NY 12479

Duncanson, Robert J.
370B Lakeside Dr.
New Windsor, NY 12553

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

Williams, Robert I. & Patricia A.
RD 4 Box 370 Lakeside Dr.
New Windsor, NY 12553

Fravola, Anthony & Mary
RD 4 Oak Dr.
New Windsor, NY 12553

Vella, Charles G. & Frederica
c/o Vincent Doce
15 New Rd.
Newburgh, NY 12550

Beaver Dam Lake Water Corp.
c/o Helen O'Leary
Shore Dr. RD 4 Box 530B
New Windsor, NY 12553

Rinaldi, Mary
RD 4 Box 484 Maple Ave.
New Windsor, NY 12553

Payson, Dominic A. & Jacobsen, Karen
485 Maple Ave.
New Windsor, NY 12553

Kieck, Frank & Leon, Carmen
Box 486 Maple Ave. RD 4
New Windsor, NY 12553

Nuccio, Robert T. & Susanna S.
RD 4 Maple Ave. Box 480
New Windsor, NY 12553

Pucci, John J. & Susan A.
RD 4 Box 482 Maple Ave.
New Windsor, NY 12553

Wieber, George & Victoria
RD 4 Maple Ave.
New Windsor, NY 12553

Losio, Joseph & Rudolph & John & George
RD 4 Maple Ave. Box 476
New Windsor, NY 12553

Casey, Bernard T. & Anna
RD 4 Maple Ave.
New Windsor, NY 12553 X

Loronzen, Keith & Jeannette
RD 4 Box 474 Maple Ave.
New Windsor, NY 12553 X

Davis, Ellen & Ciano, Julia A.
610 Ovington Ave.
Brooklyn, NY 11209 X

Kuriplach, Andrew R. & Elizabeth
RD 4 Oak Dr.
New Windsor, NY 12553 X

Sarnowski, Richard G. X
RD 4 Box 296 Oak Dr.
New Windsor, NY 12553

Abouelezz, Ahmed & Grace X
RD 4 Oak Dr. Box 295
New Windsor, NY 12553

Laux, Frederick T. & Florence
RD 4 Willow Ave.
New Windsor, NY 12553 X

Ciccone, Paul M. & Joanne
Maple Ave. RD 4 Box 495 X
New Windsor, NY 12553

Kelly, James G. & Marie A.
Oak Dr.
New Windsor, NY 12553 X

Law, Walter B. & Deborah C.
Rd 4 Oak Dr. Box 299 X
New Windsor, NY 12553

Tretola, Joseph & Debra
299 B Oak Dr. X
New Windsor, NY 12553

VanderEssen, Adeline X
315 Shore Dr.
New Windsor, NY 12553

Moschitta, John & Concetta & Michael & Loretta
RD 4 Box 299 D Oak Dr.
New Windsor, NY 12553 X

Cardinal, Thomas K. & Andrea
Rd 4 Oak Dr. Box 300 X
New Windsor, NY 12553

Buscemi, Anthony & Mary Ann
RD 4 Hickory Ave.
New Windsor, NY 12553

Leaden, Stephen M. & Donna M.
RD 4 Box 268 Hickory Ave.
New Windsor, NY 12553

Rossini, Lawrence D. & Kathleen A.
RD 4 Hickory Ave.
New Windsor, NY 12553

Rossini, Ralph & Yolanda
Box 268D RD 4 Hickory Ave.
New Windsor, NY 12553

Shilling, C. Martha & Eileen F. Stine
37 Hibiscus Dr.
Ormond Beach, FL 32176

Cuttica, Ronald G. & Ramona L.
291 Oak Dr.
New Windsor, NY 12553

Ferris, William & Margaret A.
RD 4 Willow Ave.
New Windsor, NY 12553

Scarazzini, Gilbert
Box 294 RD 4 Willow Ave.
New Windsor, NY 12553

Hedenkamp, Richard F. & Ruth A.
RD 4 226 Chestnut Ave.
New Windsor, NY 12553

Doyle, Edward G. & Mary J.
RD 4 Hickory Ave.
New Windsor, NY 12553

Eggers, Jim W. & Theresa E.
231 Chestnut Ave.
New Windsor, NY 12553

Corbett, Gerald R. & Mary Louise
RD 4 Box 227 Chestnut Ave.
New Windsor, NY 12553

Desimone, Frank M. & Margaret
RD 4 Chestnut Ave.
New Windsor, NY 12553

Makofske, Raymond C. & Nancy A.
RD 4 Hickory Ave. Box 266
New Windsor, NY 12553

Albarino, John & Maureen T.
Box 266C RD 4 Hickory Ave.
New Windsor, NY 12553

Loniak, James A. & Luanne Paton
RD 4 Hickory Ave.
New Windsor, NY 12553

Loughlin, Leroy A. & Genevieve M.
110 Main St. PO Box 246
Hackensack, NJ 07602

Carbone, Pasquale & Frances
Box 231 RD 4 Chestnut Ave.
New Windsor, NY 12553

Schmitt, Carole
RD 4 Chestnut Dr.
New Windsor, NY 12553

Gise, Keith & Sandra April
Box 267B Hickory Ave.
New Windsor, NY 12553

Gorglione, Richard & Gail
RD 4 Box 225
New Windsor, NY 12553

Kemmler, Adam George & Anna
RD 4 Chestnut Ave.
New Windsor, NY 12553

Natt, Bruce A. & Bonnie R.
RD 4 227B Chestnut Ave.
New Windsor, NY 12553

Wald, Carl F. & Marianne
265 Hickory Ave.
New Windsor, NY 12553

Bothwell, James & Karen
RD 2 Box 285 Mt. Airy Rd.
New Windsor, NY 12553

Newcomb, Joann & Cecelia Macaluso
Box 269 Rd 4 Hickory Ave.
New Windsor, NY 12553

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

92-7

Date: 3/31/92

I. Applicant Information:

(a) ANDRE MORIN 643 RT. 9-W NEWBURGH , N.Y. 565-7754 X
(Name, address and phone of Applicant) (Owner)

(b) _____
(Name, address and phone of purchaser or lessee)

(c) _____
(Name, address and phone of attorney)

(d) _____
(Name, address and phone of contractor/engineer/architect)

II. Application type:

( ) Use Variance ( ) Sign Variance

(X) Area Variance ( ) Interpretation

III. Property Information:

(a) R-4 (Zone) Southside of Hickory Ave. BOL (Address) 63-1-1.2 (S B L) 1.99A (Lot size)

(b) What other zones lie within 500 ft.? _____

(c) Is a pending sale or lease subject to ZBA approval of this application? _____.

(d) When was property purchased by present owner? 1982.

(e) Has property been subdivided previously? _____.

(f) Has property been subject of variance previously? No.
If so, when? _____.

(g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No.

(h) Is there any outside storage at the property now or is any proposed? Describe in detail: _____

IV. Use Variance. N/A

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

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

_____

_____

_____

_____

_____

V. ✓ Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. H.

Requirements		Proposed or Available	Variance Request
Min. Lot Area			
Min. Lot Width			
Reqd. Front Yd.			
Reqd. Side Yd.			
Reqd. Rear Yd.			
✓ Reqd. Street Frontage*	60'	25'	35'
Max. Bldg. Hgt.			
Min. Floor Area*			
Dev. Coverage*	%	%	%
Floor Area Ratio**			
Parking Area			

* Residential Districts only
** No-residential districts only

✓ (b) The legal standard for an "area" variance is practical difficulty. Describe why you feel practical difficulty will result unless the area variance is granted. Also set forth any efforts you may have made to alleviate the difficulty other than this application.

Have tried to purchase additional land but was unable to do so. I am requesting variance to make a buildable lot since no land is available.

VI. Sign Variance: N/A

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	Requirements	Proposed or Available	Variance Request
Sign 1			
Sign 2			
Sign 3			
Sign 4			
Sign 5			

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

signs. N/A

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

VII. Interpretation. N/A

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

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

✓ VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

Single Family Home

IX. Attachments required:

✓ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
✓ Copy of tax map showing adjacent properties.
N/A. Copy of contract of sale, lease or franchise agreement.
✓ Copy of deed and title policy.
✓ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
N/A. Copy(ies) of sign(s) with dimensions and location.
✓ Check in the amount of $ 50.00 / 250.00 payable to TOWN OF NEW WINDSOR.
_____ Photographs of existing premises which show all present

X. Affidavit.

Date: 3/31/92

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

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

(Applicant)

Sworn to before me this

31st day of March, 1992.

Patricia A. Barnhart.

PATRICIA A. BARNHART
Notary Public, State of New York
No. 01BA4904434
Qualified in Orange County
Commission Expires August 31, 1993.

XI. ZBA Action:

(a) Public Hearing date: _____.

(b) Variance: Granted (___) Denied (___)

(c) Restrictions or conditions: _____

_____

_____

_____.

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

(ZBA DISK#7-080991.AP)