ZB# 93-3

First Benmar

52-1-99

Prelim.

3/8/93.

Apps furnished.

Need Copies:

1. Deed 4 here.
2. Title Report 4 here
3. Photos. 4 here
4. Fees - Paid 3/9/93.

Notice to Sentinel 3/9/93.

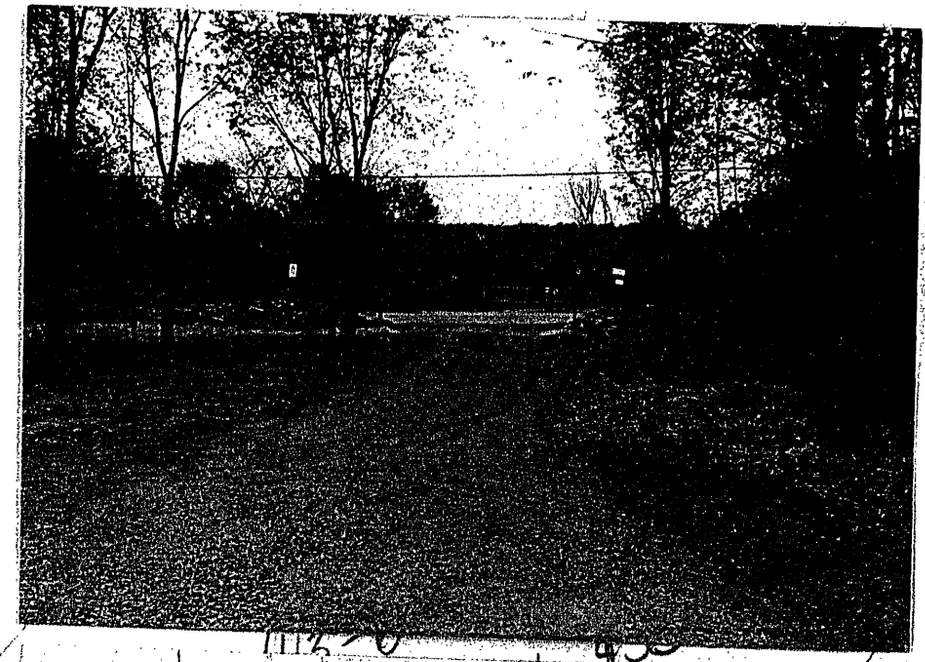
Public Hearing:
March 22, 1993.
Area variances Granted
for Six Horses on
11 acres - R-1

~~$209.00 due~~ Paid
6/15/93

#93-3 - First Bernard - (horses) area
Robt. Benad

Oxford®
ESSELTE
MADE IN U.S.A. NO. 753 1/3

c/o #88-177 Lot #4

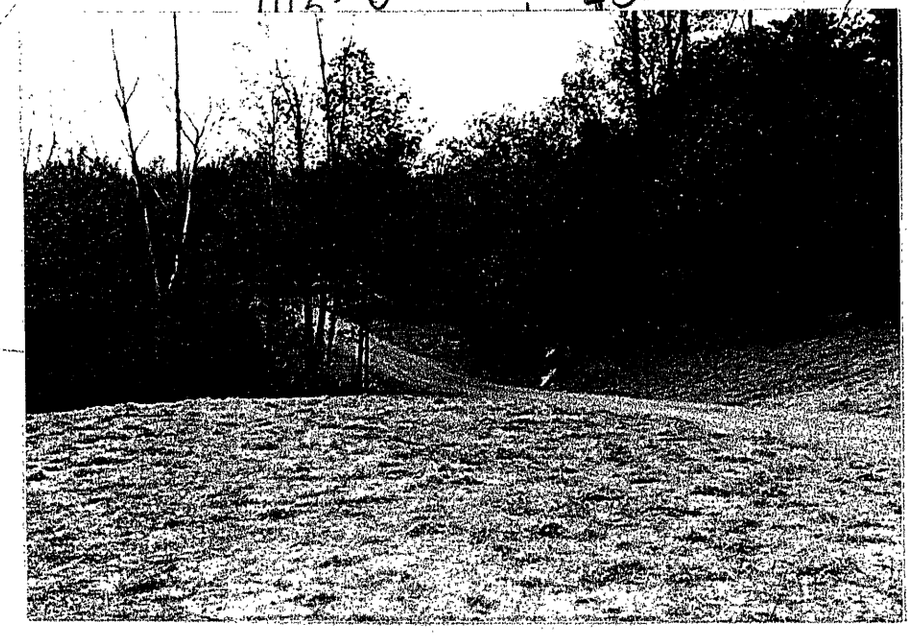


TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor

GENERAL RECEIPT

12100

C/O #88-177 Lot #4



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

GENERAL RECEIPT

13198

March 9, 1993

Received of Drake, Sommers, Loeb, Tarshis & Catania, PC $ 50 00/100

Fifty and 00/100 DOLLARS

For ZBA Variance Application Fee (#93-3)

DISTRIBUTION: Re: First Bennar

FUND	CODE	AMOUNT
CRK. # 7958		$50.00

By Pauline G. Townsend

Town Clerk

Title

© WILLIAMSON LAW BOOK CO., VICTOR, N.Y. 14564

Robt. Benad

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: First Benmar FILE # 93-3

RESIDENTIAL: $50.00 COMMERCIAL: $150.00

APPLICATION FOR VARIANCE FEE . . . . . $ 50.00 # ck 8074 pd. paid ck# 32071 3/9/93.

* * * * *

ESCROW DEPOSIT FOR CONSULTANT FEES . . . . . $ 250.00. ck # 32072 Pd.

DISBURSEMENTS -

STENOGRAPHER CHARGES:

PRELIMINARY MEETING - PER PAGE 3/8/93 - 7 pages . . $ 31.50.
2ND PRELIM. MEETING - PER PAGE . . . . . $
3RD PRELIM. MEETING - PER PAGE . . . . . $
PUBLIC HEARING - PER PAGE 3/22/93 - 15 pages . . . $ 67.50.
PUBLIC HEARING (CONT'D) PER PAGE . . . . . $
TOTAL . . . . . $ 99.00

ATTORNEY'S FEES:

PRELIM. MEETING- .3 HRS. . . . . $
2ND PRELIM. HRS. . . . . $
3RD PRELIM. HRS. . . . . $
PUBLIC HEARING .4 HRS. . . . . $
PUBLIC HEARING HRS. (CONT'D). . . . . $
FORMAL DECISION 1.7 HRS. . . . . $

TOTAL HRS. 2.4 @ $ 150.00 PER HR. $ 360.00
TOTAL . . . . . $ 360.00

MISC. CHARGES:

. . . . . $
TOTAL . . . . . $ 459.00

LESS ESCROW DEPOSIT . . . $ 250.00
(ADDL. CHARGES DUE) . . . $ 209.00 due.
REFUND TO APPLICANT DUE . $

(ZBA DISK#7-012192.FEE)

52-1-97

NEW WINDSOR ZONING BOARD OF APPEALS

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In the Matter of the Application of

FIRST BENMAR,

#93-3.

DECISION GRANTING AREA VARIANCE

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WHEREAS, FIRST BENMAR, 799 Main Street, Dalton, Massachusetts 01226, owner of an 11 acre parcel of land, has made application before the Zoning Board of Appeals for an area variance to permit a purchaser to construct a single-family residential dwelling and a stable to keep eight (8) horses on said lot, as an accessory use to the primary residential use of the property in a zone where not more than two (2) horses over six (6) months old are permitted to be kept as an accessory use, on a parcel located on NYS Route 207, New Windsor, N. Y., in an R-1 zone; and

WHEREAS, a public hearing was held on the 22nd day of March, 1993 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the applicant appeared at the public hearing by ROBERT BENAD, President of FIRST BENMAR, and also was represented at said public hearing by James R. Loeb, Esq. of Drake, Sommers, Loeb, Tarshis & Catania, P.C. and Eldred Carhart, real estate broker and appraiser, all of whom appeared before the Board representing the proposal and spoke in support of the application; and

WHEREAS, there was one (1) spectator appearing at the public hearing, a Mr. Tom Marks, owner of a 7 acre adjacent parcel, who plans to subdivide and construct several homes in the future, and who had questions concerning spring run off of water and manure piles being stored 75 ft. or closer to his property line, but who was not opposed to the application; and

WHEREAS, the application was unopposed; and

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

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

2. The evidence shows that applicant is seeking permission to vary the provisions of the bulk regulations relating to the maximum number of horses which may be kept as a permitted accessory use on a parcel of land in the R-1 zone. Specifically the applicant seeks to maintain eight (8) horses on an 11 acre parcel of land. The applicant intends to make a primary residential use of the property and the keeping of horses will be

a permitted accessory use pursuant to Section 48-12, Table of Use/Bulk Regulations, Rural Residential (R-1) Zoning District, Column M, Use 9. The applicant would be restricted to keeping not more than two (2) horses over six (6) months old on each parcel pursuant to said section, although such parcel theoretically would be as small as 43,500 sq. ft. The applicant does not have sufficient land area to maintain a commercial agriculture operation under Column A, Use 1(b), which would permit keeping a theoretically unlimited number of horses on lots of 20 acres or more. The applicant specifically stated that the keeping of horses on the subject lot will not constitute a commercial use and that a riding stable will not be maintained thereon.

3. The evidence presented by the applicant substantiated the fact that a variance for more than than the allowable number of horses would be required in order to allow a stable to keep eight (8) horses on said lot as an accessory use to the primary residential use, which otherwise would conform to the bulk regulations in the R-1 zone.

4. The evidence presented on behalf of the applicant indicated that the subject lot was subdivided out of a larger parcel and was of a unique shape and configuration. The lot is much longer than it is wide and is bounded on one side by a 60 ft. wide Central Hudson utility line easement and on the other side by a stone wall and mature tree line. These natural and man-made boundaries tend to confine the impact of any horses kept on this parcel within the property boundaries, without unduly impacting the neighboring properties. Additionally, said boundaries do not lend themselves easily to annexing additional land of the applicant, FIRST BENMAR, which would obviate the need for the instant variance but which would possibly create much more significant impacts from a commercial-agriculture operation.

5. The evidence presented by the applicant further indicated that the neighborhood surrounding the subject property is devoted mostly to residences and one nearby farm. Many of the neighboring parcels have or have expressed an intention to keep horses so the proposed accessory use is greater in number but not in intent, than the uses to which the neighborhood is devoted. It further appeared that there has been no diminution in value of properties in the neighborhood due to the keeping of horses. It appeared that this is part of the character of the neighborhood.

6. The question which remains is whether the greater number of horses which the applicant proposes will amplify the odor and noise pollution to such an extent that it will negatively impact the neighborhood and the public health, safety and welfare. The applicant sought to minimize such impacts by agreeing that the keeping of horses on the subject lot will be subject to the restriction contained in <u>both</u> Column A, Use 1(b) (even though this will not be a commercial-agriculture operation) and Column M, Use 9 of the Table of Use/Bulk Regulations, for the R-1 zone. It is the finding of this Board that the applicant's offer to comply with both sets of restrictions will ameliorate the impacts of keeping eight (8) horses on 11 acres to a level which is not

greater than the impacts resulting from keeping horses in the zoning district in a number and on a lot size which would be permitted under either of above cited permitted use or permitted accessory use.

7. It is the finding of this Board that the requested area variance, if granted, will not blight the proper and orderly development and general welfare of the community, since the keeping of horses conform to the character of the neighborhood and will not be a detriment to nearby properties.

8. The evidence presented by applicant substantiated the fact that this variance, if granted, would not have a negative impact on the physical or environmental conditions in the neighborhood since it will fit in well with the other rural residential dwellings and uses in the neighborhood and zoning district.

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

1. The requested variance will not produce an undersirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.

3. The requested variance is substantial in relation to the bulk regulations relating to keeping horses as a permitted accessory use. It is the conclusion of this Board that the granting of the requested substantial variance is warranted here because applicant has an 11.1 acre parcel which is a much larger tract than the normal size lot in the R-1 (rural residential) zone and the unique shape and configuration of said parcel, as well as the applicant's agreement to comply with the restrictions of both the commercial-agriculture operation and the permitted accessory use, mitigate the adverse impacts which might result from the granting the requested variance.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district. There will be a certain amount of noise and odor pollution from the horses but since this is essentially a residential-agricultural neighborhood and many of the adjacent owners operate farms and have horses and other farm animals, the Board does not believe that this would be objectionable to the adjacent neighbors or out of character in this neighborhood.

5. The difficulty the applicant faces in conforming to the bulk regulations is a self-created one due to the fact that they want to construct a primary residence and stable to keep eight (8) horses on this property as an accessory use to the primary residential use. The area, however, is zoned for rural residential and the keeping of horses is a permitted accessory

use in this area and considering that the applicant has 11.1 acres of land where only one acre is required for the keeping of two horses, the Board finds that the applicant has demonstrated that it is entitled to relief from the requirements of the bulk regulations and has made the appropriate application to this Board.

6. It is the finding of this Board that the benefit to the applicant, if the requested area variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant.

7. It is the further finding of this Board that the requested area variance is the minimum variance necessary and adequate to allow the applicant relief from the requirements of the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variance.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a variance to permit the applicant's purchaser to construct a single-family residential dwelling and a stable to keep eight (8) horses on said lot, as an accessory use to the primary residential use of the property, in a zone where not more than two (2) horses over six (6) months old are permitted to be kept as an accessory use, on a parcel located on NYS Route 207, New Windsor, N.Y., in an R-1 zone, SUBJECT to the restrictions contained in both Column A, Use 1(b) and Column M, Use 9 of the Table of Use/Bulk Regulations of the Rural Residential (R-1) zoning district, at the above location, as sought by applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: May 24, 1993.

James Nugent
Chairman

(ZBA DISK#10-042093.FB)

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

(914)563-4630

1763

Date: May 25, 1993
FAX:914-563-4693

RE: ZONING BOARD OF APPEALS - APPLICATION # 93-3

Paid ck 1237 6/15/93.

Dear ZBA Applicant:

After computation of the consulting fees that were posted with your application before the Zoning Board of Appeals, the Board found that there are additional fees due and owing in the amount of $ 209.00 . (A copy of the computation list is attached).

In order to obtain a copy of your formal decision, this amount will have to be paid immediately.

Please forward a check in the above amount and I will be happy to furnish an executed copy of the formal decision.

Very truly yours,

Patricia A. Barnhart

PATRICIA A. BARNHART, Secretary
Zoning Board of Appeals

/pab

Attachment

(ZBA DISK#7-031292.FEE)

Date 4/1/93, 19

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 389 Moores Hill Rd DR.
New Windsor NY 12553

DATE			CLAIMED		ALLOWED	
3/22/93		Zoning Board Meeting	75	00		
		Misc -2				
		Harris - 6 27.00.				
		Prudential - 4 18,00				
		American Felt - 10 45,00.				
		Apache -24 108.00.				
		Pizzo - 33 148,50.				
		Benmar - 15 67.50				
		94	423	00		
			498	00		

FIRST BENMAR

MR. NUGENT: Request for area variance from Section 48-12 column A 1(b) and M9 to allow 8 horses on 11 acre parcel (20 acres required) located in the Liberty Meadows Subdivision on Route 207 in an R-1 zone. Two horses are permitted.

James R. Loeb, Esq. and Robert Benad appeared before the board representing this proposal.

MR. LOEB: Good evening, I think in view of the hour we'll try and keep our presentation short but I still want to make a full record. I think I'm still James R. Loeb from several hours ago, I'm accompanied by Bob Benad and by El Carhart, to home I'll turn to discuss aspects of 267B with you. We had asked originally to be placed last in the hope that Mr. and Mrs. Jackson who are the purchasers of this, proposed purchasers of this property could get here. Where they are, I'm not sure. They were flying and then driving up here cause they were out of Town and we told them when the hearing was so whether they are on their way or not, I don't know. But what we're talking about is a vacant parcel of land consisting of 11.1 acres on Route 207 on the southerly side of Route 207. Mr. Benad's corporation owns it, we have a contract to sell it to Mr. and Mrs. Jackson, they would like to buy it to construct their home, a single family home which is shown cited on the map. The reason that we're here is that they want to keep 8 horses on the property for their own personal use. The notice of the hearing, the application and the brief introduction that the chairman read refers to two separate provisions in the use table A 1(b) speaks in terms of a permitted use in this R1 zone which really refers to commercial agricultural operations, it requires 20 acres where obviously short some 9 acres. The second paragraph is M9 which is an accessory use to a permitted use and it permits two horses on a lot. The minimum lot size in this zone is one acre, we have 11 acres. So, we are either short 9 acres or we seek a variance for 6 more horses, one way or the other, we need the board's assistance. I'm going to ask Bob to review with you I know at the pre-meeting, Mr. Jackson proposes to develop the property for his home and the

other amenities that would go with the lot.

MR. BENAD: I was completely confused, that is why Jim's here, here is some pictures, some additional pictures. Mr. Jackson, the purchaser, was on vacation and he was hoping to get here tonight but apparently he didn't make it. But we've spoke at length about his plans with the property so I can tell you very close to what he is planning on doing. This is 207 here, this property, this lot is bounded by a stone wall and a mature tree line going all the way up to the back of the property. It's roughly 1,800 feet deep and it runs 400 feet wide in width, pretty much all the way up to the back. I've installed a driveway which matches this line right here up to this point. He plans on constructing his primary home up here in this area here. He hasn't identified exactly where he is going to put the stable but he's guessing somewhere in this area up in here. That hasn't been exactly identified but he plans on putting fences around the border of the property to keep the horses. He will switch them from this lower area, he may corral them sometimes in the summertime down in here and then he also corrals them in this area also. Any questions?

MR. NUGENT: Is he going to live there year round?

MR. BENAD: Yes, this is going to be his primary residence for him and his family.

MR. NUGENT: I guess what I am going to, is there going to be someone on the property at all times? He mentioned at the preliminary that he travels with the horses, they are race horses?

MR. BENAD: Yes, he races.

MR. NUGENT: He goes with them but there will always be someone, caretaker, someone to take care of the horses that are left?

MR. BENAD: Yes, he's a professional in this business, he knows how to take care of the horses and these are thoroughbred horses, he's planning on racing, he's not going to neglect these horses.

MR. NUGENT: The reason that I am asking that is that if some of the residents have concerns cause I know when I was younger, my uncle had horses and they used to get out and they would run. Matter of fact, one of them came all the way up here by the Town Hall, we were down on 94 but there has to be someone in residence at all times in order to maintain this farm or whatever you want to call it.

MR. LANGANKE: Those horses are probably worth about $100,000 a piece, I know if they were mine, I know I'd I'd be watching them.

MR. TORLEY: The question I have sir is that you have notified or have spoken with the adjoining land owners? I'd love to see the horses out there, I live in the area myself, I'd like to see that rural flavor maintained. I don't want the neighbors to say oops, there is a horse in my back yard.

MR. BENAD: I've spoke to most everyone except this gentleman here who I just figured out where he abuts this property which is over in this area right here. I own these two parcels, these two parcels, spoke to the owners within the subdivision, no one's had any objection to it. They are in full support of it. I have not found a buyer who objected to it.

MR. TORLEY: There have been other examples in the Town where people were, did not know that their neighbor had horses until after they closed on a house.

MR. BENAD: In fact, this lot right here potentially may have a horse and there's another lot over here, 7 acre parcel off the road down in this area when he constructs his primary residence, he plans on having a couple of horses.

MR. TORLEY: Being a stable boy in my high school, I know how much manure you're going to be creating here. You have proper plans for handling, storing and removing the manure?

MR. BENAD: We checked into that because I didn't just

believe Bill Jackson, I checked on it myself and there's no, you know, hard and fast rule of how you get rid of horse manure. The accepted practice is basically spreading it over the land, some people occasionally will, when they clean their stables, they may truck it off site, if they don't have a place to put it. As far as the County Board of Health is concerned and they have no regulations about it whatsoever. They kind of you know laughed when I called them. I was the only one that ever called them about it. They said just don't spread the manure within 40 feet of the well head, just stay away from the well head.

MR. NUGENT: There's a fair amount of odor from manure, I can vouch for that.

MR. BENAD: Yeah, I have been around horses myself.

MR. NUGENT: The worse part that I found about it was flies, the flies are terrible. But if it is under controlled circumstances, I don't see any problem with it.

MR. TORLEY: The gentleman does this professionally, essentially.

MR. BENAD: Yes.

MR. TORLEY: I'm sure he's cognizant of how you handle manure.

MR. HOGAN: I have a question as to what the variances are being asked for?

MR. NUGENT: This many horses they need 20 acres.

MR. HOGAN: That is a commercial operation, this is a residence, is that correct?

MR. NUGENT: One of each.

MR. TANNER: It falls in the cracks, you are are only allowed two on five acres.

MR. LUCIA: As Mr. Loeb pointed out, M9 as a permitted accessory use allows keeping domestic animals which are then defined and include horses, not more than two horses over six months old that would be on a 5 acre parcel. So he is actually seeking a variance to allow 6 additional horses to bring his total up to 8 on a parcel of 11. So the variance you're speaking of the other reference in the legal notice was to column A1 (b) which really refers to a commercial agricultural operation.

MR. LOEB: I think it's clear that this is not in the normal sense of the word a commercial but I think what's also clear and this is I think important to note for the record that the notice that was sent out already clearly states keeping over 8 horses on an 11 acre parcel so that we, the notice gave everybody the most extreme number of horses that we needed a variance for. So that I think everybody was well aware.

MR. LUCIA: The reason both were cited when we first got the application, we didn't know if it was commercial or residential.

MR. LOEB: I was pleased because then you got it both ways.

MR. TORLEY: I did want to thank you for that kind of a meaty notice, it helps a lot of people get these letters they see variance from section so and so.

MR. LOEB: Doesn't mean anything, I don't know if you have more questions for Bob, just so that the record is complete, I'm going to ask El if he will just address some of the provisions in 267B.

MR. CARHART: Eldred Carhart, I'm a licensed real estate broker, professional appraiser and I have been asked by Mr. Loeb if I would speak to the neighborhood and my comments will be essentially the same as they were before the other hearing. The definition of a neighborhood for this property in my opinion would be from approximately Jackson Avenue to the east and westerly direction to the Town of Hamptonburg line and then from Route 207 into a southerly direction

approximately 1,500 feet will be a strip of property along Route 207, essentially then from Jackson Avenue to the Town line about 1,500 feet deep. Route 207 being northern boundary only because of the airport on the other side of the street. The uses within this neighborhood are almost exclusively one family residential, several of the property owners there are having agricultural type operations either farm or horses. There's a great deal of undeveloped land in that area but it's being developed gradually along residential purposes. The requested use is really harmonious with other uses in the area, one other property is an operating farm now. It's a permitted use except for the density that they requested for the amount of horses. Many people in the neighborhood already have horses or intend to have them and the character of the neighborhood is essentially residential with an overtone of agricultural use. The granting of an area variance will not create an undesirable change in the character of the neighborhood but essentially it will just be in keeping with what's already there. The topo of the property is not expected to be altered in any way, with the possible exception of a little grading in the area that the house is going to be constructed. The use, the proposed use does not create any kind of environmental pollution, it has no emissions, or effluents, there's no particular amount of noise with the exception of and I bow to your expertise in that area, there will be some noise or odor pollution from the horses but again, this is essentially residential agricultural nature neighborhood and I don't think that that is going to be objectionable. The use is permitted in the zone. So therefore, I don't think that the granting of the area variance will create any adverse effect on the neighborhood that will be my professional opinion. We've done a market study in the area, we've compared this property with other properties that have been sold near and adjacent to the properties that have horses and we've not found that there have been any adverse effect to market value on neighboring properties by virtue of the fact they adjoin horse property. And as a matter of fact, they seem to create interest in the property and people seem to gravitate towards those areas because of the rural and the green effect that it

has especially people coming up from Rockland County and Westchester County want to locate in that kind of atmosphere. So the result on market value would certainly be positive rather than negative and that is my also my professional opinion. I would be happy to answer any questions that you might have of me.

MR. LUCIA: I'd like to explore just a couple other aspects of 267B. One of the issues whether or not the benefit sought by the applicant can be achieved by some other method feasible to pursue other than an area variance I take it one of the applicants at least owns adjacent property and could eleviate the area requirement by annexing something else.

MR. LOEB: The other properties are really mapped on a subdivision plot that is showed there for single family home development. There's also a case of dollars and cents, although I think Mr. and Mrs. Jackson are about to make a substantial investment in New Windsor perhaps there are limits to their pocketbooks so that the real way of doing it would be to keep fewer horses and apparently there's kind of a critical number, I'm not very knowledgeable about horses but if you are going to do this on a professional basis, although not a business, you need to have enough horses to have enough for I guess a string and this is what Mr. Jackson and the contract purchaser has required of us or he's not interested in buying it.

MR. LUCIA: How about whether the requested area variance is substantial, I have two permitted and eight requested, how would we handle that?

MR. LOEB: I suppose the question is how you count in a sense the way I read the zoning law it says you can very 2 horses for a single family lot and if you read the zoning table, I believe that you could actually have as many as 10 or 11 lots here so that if you could have 2 more, you could end up with more. So that but I do not believe that substantiality in this case really applies. We're not talking about the number of feet or anything like that. This is a use and I would submit to you that this is an unusual set of circumstances so that I would suggest that this is not necessarily

substantial.

MR. LUCIA: How about self-created?

MR. LOEB: That is of course the most difficult situation and in area variances as I know Mr. Lucia has told you, it's not a bar to granting of an area variance in a sense almost every situation is self-created because the Jacksons want to buy this and want to put their horses on there, we hope that you give them a chance to.

MR. LUCIA: Thank you for the copy of the deed and title policy. Again, they turned out a number of covenants, restrictions, easements, agreements, whatever. Is there anything to your knowledge in the title to this property should this board grant you a variance which would prohibit you from maintaining the horses as you are now seeking approval for?

MR. LOEB: No, none, most of the encumbrances that you pointed out are in the nature of easements, most of them in favor of utility companies.

MR. LUCIA: Thank you. One thing for the board's consideration, we alluded to this at the Preliminary Hearing because this is a proposal which doesn't neatly fit in any column of the bulk tables for R1 district, differing standards I think the board may have had a different impression of what maintaining horses within 75 feet of a lot line meant from what that has been interpreted to mean but there is a I guess a prohibition on the commercial agricultural column about no odor or dust producing substance within 50 feet of any lot line. Since this applicatin kind of falls in the middle of the residential with 2 horses and commercial on 20 acres, you do have the right to impose conditions if you feel any conditions with regard to where the horses are maintained on the site are relevant, certainly can attach that to your variance motion if you choose to. I guess 75 feet is now being considered by the Town anyway.

MR. LOEB: Perhaps it would be easier for us to just tell the board and put on the record that since none of

us are quite sure which regulations apply, we would comply with both, we would just tell you that our development would comply with the structures of A1(b) specifically which requires that certain activities be kept out of the 50 foot area around the lot line so that, cause we want to be good neighbors as well and then whatever other restrictions that would be under M9 would also, we would voluntarily accept.

MR. LUCIA: Thank you. That have solves your concerns.

MR. HOGAN: I have a question for you, Dan, if we act favorably on this request for a variance, are we establishing a precedent for any other homeowner out there to come in here and ask far similar variance?

MR. LUCIA: I'll give you a real clear yes and no answer. Technically zoning boards don't set precedents in the sense that every application is unique and every piece of property is unique. No, there's no four square precedent you're ever setting. The other side of the coin is if you get an applicant to come in with a sustantially similar application and they are denied, you can rest assured they are going to take you on an appeal on the basis it's an arbitrary and capricious decision. So you open the door by granting a variance and you really have to treat everybody fairly thereafter so if this is something I think you never ever would want to see in R-4 zone, you probably have R1 zone then you probably have to vote accordingly so that may not help you a lot but yes and no, you're setting precedents and you're not.

MR. NUGENT: We treat everybody fairly, it doesn't make any difference.

MR. HOGAN: My concern is simply this is we had an 11 acre piece here and they are asking for a variance of 6 horses if you will for total of 8. If somebody comes in to see us next week and has a 6 acre piece and he wants to have 5 horses on it, I don't know what we'd do with that application and just food for thought, I'm going to turn to the applicants and ask them what's unique about this application so we have it on record.

MR. LOEB: One of the aspects of the property which has not been addressed fully and I agree with you because each application must stand before you separately is the size and shape of the property which as Bob indicated to you has some dividing features, this stone wall and from that aspect I find what is important is the area between the proposed Jackson lot and where the other homes are and will be is a substantial 60 foot wide Central Hudson easement. There's both a natural barrier with the stone wall and there's a person-made barrier of substantial separation which creates a separate, not only a separate lot on a subdivision tax map but a separate area which kind of keeps it away from the other properties. There is in the front a low area so that it's not immediately accessible. And in many respects, it's an unusual piece of property, there are not a lot of parcels at least in my experience in this part of New Windsor that have those features and that they are not 100 acre farms, we're not talking about that. This is kind of a ranchette or call it what you want which is big enough to provide this and also has that kind of unusual buffer with that substantial Central Hudson easement going right through the property.

MR. LUCIA: There's also one other approach you can take, this is within my experience, a case of first impression, this is not your typical lot area setback or side line variance and because of that it might be an area that you don't want to pass up, you could well reject the variance application and toss it back to the Town Board and say we really have no standard or no basis on which to start granting variances for horses because there's this big gap between two acres as an accessory use on a residential and any number of horses on 20 acres of commercial and someplace between those 2 extremes you feel the Town Board should exercise their discretion on it so that I guess is another avenue you can take if you don't feel comfortable granting a variance based on what you're accepting.

MR. NUGENT: Number one, I have been on this board a lot of years and I don't think we have ever quote set a precedent for anything. Each item is on its own merit. That is number one. Number two, I don't have

personally I don't have a problem with 8 horses on 11 acres, these horses are not going to be, they are going to be very well maintained because they are worth a lot of money. It's not something that they are not just riding stable or these horses are very worthwhile. So I don't think that that is a problem for that. And I don't think 8 horses is a large number and most times they are probably not going to be 8 on the property they are going to be out racing.

MR. BENAD: He said up to 8.

MR. NUGENT: There's not going to be 8 there every day.

MR. BENAD: That is right.

MR. TORLEY: I have no problem at all. I like the idea. The only thing I'd like to have on the record this will not be a riding stable?

MR. BENAD: Nope.

MR. TORLEY: I want to make sure that is on the record.

MR. BENAD: This gentlemen, Mr. Tom Marks brought up a point, the topo of this land all rises uphill so everything here slopes this way to a natural low point here and his property is over here. If everything slopes this way, Tom, you were concerned about spring runoff. Everything slopes downhill this way here, you've got a solid stone wall and tree line, nothing can run uphill to your property, it slopes down.

MR. MARKS: I'm not, I haven't walked this other piece of property and this okay for me to talk now?

MR. NUGENT: Wait till we open it up to the public.

MR. TOM MARKS: I live in New Paltz but I own the property here. I'm not sure of the topo and this piece is not in the map so we can't really see it whether or not there is, I know it slopes down on my property from where this is from where this property line, but it may also run off this way, I can't dispute that.

MR. BENAD: And it goes downhill to 207.

MR. MARKS: Right, which is where my house and well is and also another house is over here. One of my concerns is that this piece of property is 7 acres at some point in the future, I would not want to be in a position where I can't subdivide that and possibly build several houses on that which is why I bought the property in the first place. From what I understand from what you're saying, you want to hold the 75 foot limit, is that correct, since that is the most stringent, is that what you have acknowledged and agreed to?

MR. LUCIA: Well, the wording of column M9 in the bulk table says that no domestic animal shall be maintained within 75 feet of any line. Now there's an issue as to what maintained means. I think some of the board members may have thought you had to have a fence set in 75 feet from your property line and therefore that was no-man's land from a point 75 feet in to the property line, there's a local court decision to the contrary that says maintaining is where the horse spends the majority of his time.

MR. BABCOCK: Eating and sleeping.

MR. LUCIA: So they mean no barn within 75 feet but you apparently could put your fencing right up to the property line so I wouldn't assume you have 75 feet clearance. What you do have and the applicant offered to comply with column A1 (b) which says that there should be no storage of manure or other odor or dust producing substance within 50 feet of any lot line so that is a pretty fair statement on that.

MR. MARKS: Right but you're going to go with the 75 foot limit as far as any storage of manure or dust producing materials.

MR. LOEB: No, that is not what with all due respect that is not what the regulation says. It says that you can't maintain those animals within 75 feet and I would interpret that to be that you couldn't put a barn.

MR. MARKS: You don't think that means you can't pile the manure there?

MR. LOEB: No because there is a specific provision about manure piles and that is 50 feet, if Mr. Jackson was here, I can ask him but I would certainly expect the board to hold us to both of the enacted standards and that is why I volunteered to do that so they wouldn't be torn between which one. But there's nothing in here that speaks to frankly the manure pile is within 75 feet, I would represent to you that Bob Benad or I will ask him but I don't know that the regulations can tell us.

MR. BENAD: He's going to build his house in this area, he's talking about putting the stables over here which is greater distance and he's not going to spread the manure by his house, he's going to spread it up in the field up in back or down here in this low area.

MR. MARKS: The spreading is not a concern, the only concern I would have would be a pile of manure in the springtime when the water is flowing down like a stream because it's very poor ground quality in that area, it's all runoff.

MR. TANNER: Usually it's piled by the barn.

MR. BENAD: That is right.

MR. MARKS: That is why I was looking for some assurance that the barn is going to be minimum of 75 feet from the property line.

MR. BABCOCK: The barn will be or the stable will be 75 feet from the property line.

MR. LANGANKE: I think they spread it right away, don't they?

MR. MARKS: Not with that many horses they don't. They pile it up for a year. Just a question of information what are you saying, is it a residence or is it a business?

MR. LUCIA: It has to be a residence because it's accessory use.

MR. NUGENT: It's R1.

MR. LUCIA: The horses are accessory to the primary residence.

MR. MARKS: You're saying you're not making any precedent but in effect this is also a business so that--

MR. LUCIA: It's not a business in the since that it is a commercial agricultural operation, the primary use of the property is residential and he happens to want a stable where he can maintain 8 horses. But that is not the primary use of the property, no. I realize you can look at it differently.

MR. MARKS: I think most anybody can look at it differently, if these are half a million dollar horses, it certainly is the primary use of the property as a business.

MR. LUCIA: If you are an art collector and have three million dollars worth of art, is it primarily a museum?

MR. MARKS: If you are charging people to come in. This is means of producing income. It's a point of information, it's not something I'm saying that should or shouldn't be happening.

MR. LUCIA: We have to have certain pigeon holes for zoning purposes and the way this application has come in, he has a primary residential use and horses are accessory to it. I think the board is sensitive to your concern and they asked about this not being a riding stable basically all he is going to do is maintain his horses there. If you feel that it turns into a commercial operation, I think you certainly have a right to file a complaint with the building inspector and let him go out and determine.

MR. BENAD: I would have a problem with that because I own 4 more lots that abut this then I would have a

problem.

MR. LUCIA: Mr. Marks are you opposed to the application? You have raised some concerns obviously relevant as an adjacent owner.

MR. MARKS: Well, I don't suppose I am concerned at this point. As long as I have the assurance that there will be the protection from any chance of manure piles being even within the 75 feet or closer to my property line.

MR. LUCIA: Apparently it's 50 feet.

MR. TANNER: I make a motion we close the public hearing.

MR. TORLEY: Second it.

ROLL CALL

MR. TORLEY	AYE
MR. NUGENT	AYE
MR. HOGAN	AYE
MR. LANGANKE	AYE
MR. TANNER	AYE

MR. NUGENT: I'll accept a motion.

MR. TORLEY: I move we grant the variance.

MR. LANGANKE: Second it.

ROLL CALL

MR. TORLEY	AYE
MR. NUGENT	AYE
MR. HOGAN	NO
MR. LANGANKE	AYE
MR. TANNER	AYE

3/22/93 Public Hearing: First Benmar

Name:	Address:
Tom Marks	73 DuBois Rd New Paltz NY 12561

concerned about spring drainage

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

93-3

Date: 03/08/93

I. Applicant Information:

(a) FIRST BENMAR, 799 Main Street, Dalton, MA. 01226 x
(Name, address and phone of Applicant) (Owner)

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

(c) DRAKE, SOMMERS, LOEB, TARSHIS & CATANIA, One Corwin Ct., Newburgh, N.Y. 12550
(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-1 (Zone) NYS Route 207, New Windsor, N.Y. 12553 (Address) 52-1-99 (S B L) 11.1 acres + (Lot size)

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

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

(d) When was property purchased by present owner? 1/17/91.

(e) Has property been subdivided previously? No.

(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: n/a

IV. Use Variance. n/a

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

n/a

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also 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. A 1(b) & M9.

*Keeping of horses on an 11 acre parcel in an R-1 zone.

Requirements		Proposed or Available	Variance Request
Min. Lot Area	20 acres	11 acres	9 acres
Min. Lot Width			
Reqd. Front Yd.			
Reqd. Side Yd.			
Reqd. Rear Yd.			
Reqd. Street Frontage*			
Max. Bldg. Hgt.			
Min. Floor Area*			
Dev. Coverage*	%	%	%
Floor Area Ratio**			
Parking Area			
*HORSES:	2	8	6

* 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.

_____

_____

_____

_____

_____

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			

n/a

(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) 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.)

The prospective purchaser proposes to construct a single-family residential dwelling on the parcel with a stable for the horses. This will be for personal use only. There will be no commercial use of the property. The prospective purchaser will adhere to the strict regulations of the Orange County Department of Health by maintaining a 40 ft. separation between the well and the stable where the animals will be kept. There is now and will continue to be natural screening by way of mature trees along the property line.

IX. Attachments required:

- x Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- x Copy of tax map showing adjacent properties.
- - Copy of contract of sale, lease or franchise agreement.
- x Copy of deed and title policy.
- x 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.
- x Two (2) checks, one in the amount of $ 50.00 and the second check in the amount of $ 250.00, each payable to the TOWN OF NEW WINDSOR.
- x Photographs of existing premises from several angles.

X. Affidavit.

Date: March 3, 1993

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

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/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.

x Robert Benad
(Applicant)
FIRST BENMAR
By: Robert Benad, President

Sworn to before me this
11 day of March, 1993.

JAMES R. LOEB
Notary Public, State of New York
No. 7582400
Qualified in Orange County
My Commission Expires September 30, 1994

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)

SCHEDULE A

The applicant landowner seeks an area variance. The variance is to permit a purchaser of the 11 acre parcel to construct a single family residential dwelling and a stable with 11 horses which would require an additional 9 acres under the Zoning Code.

The applicant will present testimony to demonstrate that no undesirable change will be produced in the character of the neighborhood and that there will be no detriment to nearby properties created by the granting of the area variance. The neighborhood itself is single family residential and the proposal of the applicant will be consistent with that use.

The only course of action open to the applicant to house the additional horses would be to acquire more acreage; there is no acreage available in this area other than the 11 acre parcel which the applicant owns. While the applicant seeks a variance of 9 acres, applicant owns 11 acres which is a substantial parcel, larger by many times than the general single-family lot area in the neighborhood.

The applicant's presentation at the hearing will demonstrate that the variance sought will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood.

Applicant's lot is an existing lot and represents all of the available property on the Liberty Meadow Subdivision Map as delineated by a State highway, the boundary of the subdivision and

a Central Hudson Gas & Electric utility line which creates the separate tax lot.

In view of all of the facts and circumstances applicant respectfully requests that the relief sought be granted by this Board.

JRL:ef
34539

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. 3

Request of FIRST BENMAR

for a VARIANCE of

the regulations of the Zoning Local Law to

permit the keeping of 8 horses on an 11 acre parcel

located in an R-1 (Rural Residential) zone;

being a VARIANCE of

Section 48-12 - Table of Use/Bulk Regs.-Col. A 1(b), M9

for property situated as follows:

NYS Route 207 (approximately 500 ft. from Beattie Rd.),

known and designated on the New Windsor tax map as

Section 52 - Blk. 1 - Lot. 99.

SAID HEARING will take place on the 22nd day of March, 1993, at the New Windsor Town Hall, 555 Union Avenue, New Windsor, N. Y. beginning at 7:30 o'clock P. M.

JAMES NUGENT
Chairman

Date 3/17/93, 19

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 389 Moores Hill Rd DR.
New Windsor NY 12553

DATE			CLAIMED		ALLOWED	
3/8/93		Zoning Board Meeting	75	00		
		Pizza 2				
		Apache - 8 36.00				
		Benmar - 7 31.50. 4				
		Pizza - 11 49.50.				
		Pizza - 4 18.00.				
		Mario - 3 13.50.				
		Keyser 4 18.00.				
		39.00	175	50		
			289	50		

FIRST BENMAR

MR. NUGENT: Request for area variance from Section 48-12 Column A 1(b) and M9 to allow 8 horses on 11 acre parcel, 20 acres is required, located in the Liberty Meadows Subdivision on Route 207 in an R-1 one. Two horses are permitted.

Mr. Steven Gaba, Esq. appeared before the board for this proposal as well as Mr. Benad and Mr. Jackson.

MR. GABA: This is an application for an area variance. It's a little different than I suppose many of the area variances I've had from side yard setbacks et cetera. The situation here is this. Under applicable zoning, anyone with the minimum lot size I believe it's 5 acres within this zone can keep among other things 2 horses on his property. Mr. Benad has 11 acres and what he wants to do is keep eight horses on his property. Under the applicable zoning if you have 20 acres or more, you can keep as many horses as you want or other animals. There's no provision for being in between the minimum and the maximum and while that is what we're seeking a variance for. So the board can get some sort of idea of the property we're dealing with, this is I'm afraid I don't have too many copies but you can see this is the tax map of the Liberty Meadows subdivision, the lot marked in yellow is the lot in question. As I said, it's 11 some odd acres and it's encumbered with an easement for power lines over it. That is one of the reasons we're looking to raise horses as opposed to using it for building a house or something like that. Many of the lots adjacent to it and within the subdivision are still owned by Mr. Benad. This is Mr. Jackson. Mr. Jackson is planning on purchasing the property. It's actually he if the sale goes through who will be using the land to keep the horses on. And as I said all we're looking for is a maximum of eight horses on the property, if a variance is granted. So if the board has any questions in regard to exactly what we're doing, this is Mr. Benad and Mr. Jackson.

MR. LUCIA: Is the property only to be used for the horses?

MR. BENAD: It will be used for primary residence also. Bill plans on constructing his home and stable and maintaining the horses.

MR. LUCIA: Interesting interplay if you look at R-1 zoning table where he cited two different columns, column A 1 (b) allows keeping, breeding raising of horses, no maximum number on lots of 20 acres or more. If you skip up to the intro, it says the following commercial agricultural operations and accessory uses thereto so that would just apply to a commercial agricultural use. We also cited column M9 which is the one Mr. Gaba mentioned saying 2 horses would be allowed. But if you look at that one that is keeping of domestic animals, including horses in that and it would be a permitted accessory use, accessory presumably to something other than commercial agricultural operation so that was the thrust of the question on the residence so it's to be an accessory use?

MR. GABA: Yes.

MR. LUCIA: Is the boarding to be a commercial operation in terms of boarding horses?

MR. JACKSON: No, just my personal horses.

MR. LUCIA: Eight, all eight horses will be yours?

MR. JACKSON: Yes.

MR. LANGANKE: What kind of horses are they?

MR. JARRETT: Standard breds.

MR. LANGANKE: For racing?

MR. JARRETT: Yes.

MR. LANGANKE: Like at Monticello?

MR. JARRETT: Monticello, Yonkers.

MR. LANGANKE: Are they going to be like eight horses

but you keep changing them or is it just basically you know eight horses and once in a while you might change one.

MR. JACKSON: If I keep some at the race track and then I just bring them home and turn them out.

MR. NUGENT: Would there be eight there all the time?

MR. JACKSON: Not more.

MR. NUGENT: Maybe in the winter months?

MR. JACKSON: More or less in the summertime anywhere between six and eight.

MR. TORLEY: One of the things that concerns me in the area since everything is going to be well and septic, what are you going to do about your manure.

MR. JACKSON: Yes.

MR. TORLEY: I used to be a stable boy, that generates a lot.

MR. JACKSON: Basically, there's quite a bit of land so you know spread it around the paddocks and all that.

MR. BENAD: I spoke to Ed and I spoke to the County Board of Health and they have no provision in their about horse manure. You just dump it. They suggested that just be sure you maintain at least a 40 foot separation from your well when you are spreading your manure. As far as septic field area, it has no impact on it at all. That was their only concern and the location I don't know if you can see this or not but the well location would be somewhere up in this area here and I think Bill, you're talking about housing horses in this area down here and putting them out to pasture up in here so that was the only Board of Health concern was just make sure you maintain at least 40 feet.

MR. TORLEY: And you'd also be maintaining, going to be fenced 75 or feet or more away from the boundary lines.

MR. JACKSON: Yes.

MR. TORLEY: I have the 75 feet, the code is to try and differentiate between a farm and we still have commercial agricultural interest in the Town and a guy who wants to have some kids that his kids ride on and there's been a problem with the people having too many horses in the development and the neighbors complaining about the manure. I'm concerned on the basis of what your neighbors are going to be saying about eight horse manure piles.

MR. LANGANKE: That is not really a built-up area.

MR. GABA: He owns most of the adjoining parcels.

MR. TANNER: How large are the other plots in the development?

MR. BENAD: This is the parcel that we're talking about comes off Route 207 and all along this side, it's a stone wall and a mature tree line that separates and borders this property. All across the back line and down the other side is the tall wood pole power lines that create a natural boundary and that then just passed that there's tree lines across all this also that separate it from these other parcels. Now I own this parcel and this parcel.

MR. LANGANKE: How wide is that from the property across?

MR. BENAD: It's 50 feet on each side of the property line so it is 50 on this side and 50 on that side. The owners who I know very well who own 2 other lots within this subdivision like the idea kind of matches the character of the rural area. They have no problem with it at all. I've talked to all the owners within the subdivision and none of them have any problem.

MR. HOGAN: How many lots total border the property in question?

MR. BENAD: Be two here, two here, five of them within

the subdivision, five lots and I own three of them.

MR. LANGANKE: Did you find anybody who disagreed with the use of the land?

MR. BENAD: No.

MR. LANGANKE: They all thought it was a good idea?

MR. BENAD: Yeah, just the idea of having the nice looking fence rows and having the horses, the whole idea.

MR. LANGANKE: Not being an expert but I would think that 11 acres is a lot for like eight horses and potential manure problem. I don't think it would be a problem.

MR. BENAD: Yeah.

MR. NUGENT: Biodegradable.

MR. BENAD: A lot of people like to come and take it and put it on their gardens.

MR. TORLEY: My only question is the potential for disruption of the neighbors but if they are not, no objection to it, that lessens the problem. What about the lot that fronts on 207?

MR. BENAD: This one right here, I own this lot right here. This is a 5 1/2 acre parcel right here. I have someone who's interested in the parcel right now, no contract but they are interested and I've talked to them about what we're trying to do. They are and they don't have any problem with it in fact they want to keep a couple of horses.

MR. NUGENT: How about the people where your hand is on that side there all along that line?

MR. BENAD: There's one house right here, there's a house, I haven't talked to them yet about this variance but he keeps an eye on the property for me. He keeps people out of there and I can't think of his name right

now. I meet him every once in a while when I'm down here. There's nothing, this is field, this is all fields out here.

MR. GABA: Why don't you show them the aerial photo.

MR. TORLEY: Across the field is Stewart hunter preserve.

MR. HOGAN: What's the width distance on that lot?

MR. GABA: I'm not really sure. Bob may be able to speak to that.

MR. TORLEY: One question I have on the fencing 75 feet back from the boundary with the right-of-way for the power lines 75 feet count from the end of their right-of-way or the property?

MR. BABCOCK: There's no setback for a fence 75 feet.

MR. NUGENT: From the nearest homeowner.

MR. BABCOCK: Trust me, there's not.

MR. TORLEY: They can't be maintained within 5 feet of either lot line?

MR. BABCOCK: That is not a fence.

MR. TORLEY: But does that 5 feet count from the property line if there's a right-of-way for the power line does it count from the right-of-way from the power line?

MR. BABCOCK: That has already be ruled as far as the judge is concerned maintained in his words means where the horse eats and sleeps. It's not where he is during the day. So basically, he doesn't have to, he's got to be more concerned about the 40 foot of the Health Department than anything and that is only from the well.

MR. TORLEY: You can graze them anywhere on the property but you have to stable them 75 feet?

MR. BABCOCK: Yes.

MR. LUCIA: Under commercial agricultural operations they have to store manure or other odor producing substances 50 feet from any lot line so I guess there's an interplay of both there.

MR. BABCOCK: We're redoing the ordinance as far as there's some more language being put in there as far as restraining them that 75 feet from the property line.

MR. TORLEY: I would just suggest that you paint big letters HORSE on the side of your animal during deer season. They shoot across the road all the time.

MR. NUGENT: Any other questions by the board? If not, I'll accept a motion.

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

MR. NOGAN: Second it.

ROLL CALL

MR. TANNER	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. HOGAN	AYE
MR. NUGENT	AYE

MR. LUCIA: When you come back if you would bring some photographs of the property, please, also copy of the deed and title policy and do you have an application?

MRS. BARNHART: Yes.

MR. LUCIA: Submit the application, two checks, one for $50 second for $250 both to the Town of New Windsor. Here's 267B, if you would speak to the items in subparagraph B, I'd appreciate it, thank you.

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK
----------x
In the Matter of Application for Variance of

First Benmar,

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#93-3.
----------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 11, 1993, I compared the 12 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
11th day of March, 1993.

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

13

March 8, 1993

First Benmar
799 Main St.
Dalton, MA 01266

Re: Tax Map Parcel: 52-1-99

Dear Sirs:

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

The charge for this service is $35.00, minus your deposit of $25.00. Please remit the balance of $10.00 to the Town Clerk's office.

Sincerely,

Leslie Cook (cd)

Leslie Cook
SOLE ASSESSOR

LC/cad
Attachments
cc: Pat Banhart

Lange, Frederick J.
Rte. 207
Rock Tavern, NY 12575

Montro Builders Inc.
5 Ridgeview Dr. Apt. B
Newburgh, NY 12550

Moran, Bernard & Migdalia & Yvonne Serrano
PO Box 225
Rock Tavern, NY 12575

Masi, Stefano A. & Thomas R. Baldassare
4 Squire Crt.
Mahwah, NJ 07430

Baldassare, Thomas R.
2 Sparrow Rd.
Mahwah, NJ 07430

Masi, Stefano A. & Maryann
4 Squire Crt.
Mahwah, NJ 07430 duplicate

Schofield, John P. Joann
RD #1 212 Murray Rd.
Chester, NY 10918

Marks, Thomas E.
73 Dubois Rd.
New Paltz, NY 12561

Buckley, John J. & Kathleen A.
14 Yankee Main Lane
Goshen, NY 10924

J.N. Caiazzo Construction Corp. & Drake Maggard Inc.
c/o Drake Maggard Inc.
112 Sherwood Forest
Middletown, NY 10940

Zubalsky, George & Kathleen
Route 207 Box 10A
Rock Tavern, NY 12575

Messina, Frank Sr.
PO Box 530
Castle Point, NY 12511

Airport Director, NYS Dept. of Transportation
Stewart International Airport
1035 First St.
New Windsor, NY 12553

(2)

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

THIS PAGE IS PART OF THE INSTRUMENT – DO NOT REMOVE

RECEIVED MAR 15 1992 Drake, Somers, Loeb & Jenkins, P.C.

PRINT OR TYPE BLACK INK ONLY

EVERGREEN VENTURE CAPITAL CORP

TO

FIRST BENMAR

SECTION 52 BLOCK 1 LOT VARIOUS'S see attached

RECORD AND RETURN TO:
(Name and Address)

THARP AND JONES ESQS
POBOX 705 21 BAY ST
Glens Falls NY 12801

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH RECORDED INSTRUMENT ONLY.

DO NOT WRITE BELOW THIS LINE

CONTROL NO. 50482 DATE 1-15-91 AFFIDAVIT FILED _____ 19__

INSTRUMENT TYPE: DEED ✓ MORTGAGE ____ SATISFACTION ____ ASSIGNMENT ____ OTHER ____

BG20	Blooming Grove	
CH22	Chester	
CO24	Cornwall	
CR26	Crawford	
DP28	Deerpark	
GO30	Goshen	
GR32	Greenville	
HA34	Hamptonburgh	
HI36	Highlands	
MK38	Minisink	
ME40	Monroe	
MY42	Montgomery	
MH44	Mount Hope	
NT46	Newburgh (T)	
NW48	New Windsor	✓
TU50	Tuxedo	
WL52	Wallkill	
WK54	Warwick	
WA56	Wawayanda	
WO58	Woodbury	
MN09	Middletown	
NC11	Newburgh	
PJ13	Port Jervis	
9999	Hold	

SERIAL NO. _____

Mortgage Amount $ _____ CHECK ✓ CASH ____ CHARGE ____

Exempt Yes ____ No ____

3-6 Cooking Units Yes ____ No ____

Received Tax on above Mortgage

Basic $ _____

MTA $ _____

Spec. Add. $ _____

TOTAL $ _____

MORTGAGE TAX $ _____

TRANSFER TAX $ 3394-

5-

RECORD. FEE $ 29-

REPORT FORMS $ 5-

CERT. COPIES $ _____

Tiear

MARION S. MURPHY
Orange County Clerk

by: _____

ORANGE COUNTY CLERK'S OFFICE S.S.

Recorded on JAN 17 1991

at 1:24 O'Clock _____ M.

in Liber/Film 3397 Deed

at page 173 and examined.

Marion S. Murphy
County Clerk

RECEIVED
$ 3394
REAL ESTATE
JAN 17 1991
TRANSFER TAX
ORANGE COUNTY

3971

LIBER 3397 PAGE 173

2743.186
2447.214
2857.171

EBI

ORG 01/17/91 01:24:21 2317 34.00

***** EDUCATION FUND: 5.00 *****

DEED CONTROL NO: 50482 3394.00 *

****** SERIAL NUMBER: 003971 ******

Premises are now assessed as separate parcels. Separate tax identification numbers are:

52-1- 83
52-1- 85
52-1- 86
52-1- 88
52-1- 89
52-1- 93
52-1 94
52-1- 95
52-1- 96
52-1- 99
52-1-100

Upon information and belief, assessed valuations for such parcels are not available at this time.

BARGAIN AND SALE DEED
WITH COVENANT AGAINST GRANTOR'S ACTS

DATE OF DEED: January 15, 1991

GRANTOR: EVERGREEN VENTURE CAPITAL CORP.,
a New York corporation with
a principal place of business at
237 Glen Street
Glens Falls, New York 12801

GRANTEE: FIRST BENMAR,
a Massachusetts corporation authorized
to do business in the State of New York
having its principal place of business at
799 Main Street
Dalton, Massachusetts 01226

THIS BARGAIN AND SALE DEED made between Grantor and Grantee on the deed date stated above WITNESSES THAT GRANTOR in consideration of

----------One Dollar ($1.00)----------

lawful money of the United States, paid by Grantee,

DOES HEREBY GRANT AND RELEASE UNTO GRANTEE and his assigns forever all that property located at:

THE PROPERTY IS DESCRIBED MORE FULLY IN SCHEDULE A ATTACHED

THIS GRANT IS MADE:

TOGETHER with the appurtenances and all the estate and rights of the Grantor in and to said premises.

TO HAVE AND TO HOLD the premises granted by this Bargain and Sale Deed unto the Grantee and his assigns forever.

RaR:

THARP AND JONES
Attorneys at Law
21 Bay Street, P.O. Box 737
Glens Falls, New York 12801

LIBER 3397 PAGE 175

AND THE GRANTOR COVENANTS as follows:

FIRST: That the Grantor has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

SECOND: Grantor, in compliance with Section 13 of the Lien Law, covenants that the Grantor 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.

IN WITNESS OF THIS CONVEYANCE, Grantor has executed this BARGAIN AND SALE DEED on the deed date stated above.

IN PRESENCE OF

EVERGREEN VENTURE CAPITAL CORP.

By: David L Norris

David L Norris, VP,

STATE OF NEW YORK)
ss.:
COUNTY OF Warren)

On this 15 day of January, 1991 before me, personally came David L. Norris, to me known, who being by me duly sworn, did depose and say that he resides at Queensbury, New York; that he is the Vice President of EVERGREEN VENTURE CAPITAL CORP., the corporation described in, which executed the above instrument; that he signed his name thereto by order of the Board of Directors.

Russell C Tharp

Notary Public

RUSSELL C. THARP JR.
Notary Public, State of New York
Saratoga County, No. 4642926
My Comm. Expires Dec. 31, 1991

LIBER 3397 PAGE 176

Executed and acknowledged pursuant to General Obligations Law Section 5-705.

FIRST BENMAR

By: Robert Benard
Robert Benard, Pres.

STATE OF NEW YORK)
COUNTY OF Warren) ss.:

On this 15 day of January, 1991 before me, personally came Robert (Bno.), to me known, who being by me duly sworn, did depose and say that he resides at Palton Massachusetts; that he is the President of FIRST BENMAR, the corporation described in, which executed the above instrument; that he signed his name thereto by order of the Board of Directors.

Russell C. Tharp
Notary Public

RUSSELL C. THARP JR.
Notary Public, State of New York
Saratoga County, No. 4642826
My Comm. Expires Dec. 31, 1991

EXHIBIT "A"

All that certain lot, piece or parcel of land situate in the Town of New Windsor, County of Orange, State of New York lying and being on the East side of Shaw Road, the East side of Beattie Road, both Town Roads and on the South side of New York State Route 207 and more accurately bounded and described as follows:

Beginning at the point of intersection of the East bounds of said Beattie Road with the South bounds of said New York State Route 207 and runs thence: along said South bounds of Route 207 the following 7 courses and distances:

1) North 82-19-48 East 96.55 feet; thence

2) North 77-10-54 East 178.68 feet to a found highway monument; thence

3) North 75-53-49 East 198.72 feet to a found highway monument; thence

4) North 69-07-01 East 29.85 feet to a found highway monument; thence

5) North 60-03-13 East 71.14 feet to a found highway monument; thence

6) North 67-22-49 East 112.77 feet; thence

7) North 65-50-42 East 145.71 feet to the bounds of lands now or formerly of McCabe (51-1-56); thence 8) along said McCabe and following a stone wall South 39-49-27 East 277.59 feet to an iron pipe found in said stone wall and the bounds of lands now or formerly of Dertone (51-1-55); thence 9) along said Dertone and lands now or formerly of Mannoni and Calzzo (51-1-54.22) and following said stone wall South 40-33-19 East 982.11 feet to the

bounds of lands now or formerly of Lange (52-1-3.22); thence 10) along said Lange and following said stone wall South 40-33-32 East 978.90 feet to the bounds of lands now or formerly of Woroschinski (52-1-2); thence 11) along said Woroschinski and following said stone wall South 40-32-03 East 660.64 feet to a 24" Oak at a corner of stone walls in the bounds of lands now or formerly of Cangelosi (52-1-44.2); thence along said Cangelosi and following said stone wall the following 6 courses and distances:

12) South 38-34-33 West 1269.87 feet to the end of said stone wall thence;

13) South 71-02-59 West 344.59 feet; thence

14) North 78-10-16 West 104.49 feet; thence

15) South 85-59-47 West 285.78 feet; thence

16) North 77-33-21 West 204.06 feet; thence

17) North 89-00-13 West 462.06 feet to the East bounds of said Shaw Road; thence 18) along said East road bounds North 30-41-39 West 49.84 feet to the bounds of lands now or formerly of Scott (52-1-45); thence 19) along said Scott South 89-23-39 East 198.47 feet to the bounds of lands now or formerly of Lucey (52-1-47); thence along said Lucey the following 3 courses and distances:

SCHEDULE A-2

20) South 89-34-55 East 149.74 feet to an iron pipe found; thence

21) North 32-42-09 West 493.48 feet; thence

22) South 57-19-56 West 304.66 feet to an iron pin found in the said East bounds of Shaw Road; thence 23) along said East Road bounds North 32-50-01 West 210.73 feet ; thence 24) along the same North 31-00-20 West 270.03 feet to the bounds of lands now or formerly of Monczyn (52-1-48); thence along said Monczyn the following 3 courses and distances:

25) North 28-06-25 East 223.44 feet; thence

26) North 50-25-37 West 195.30 feet; thence

27) South 41-29-23 West 125.02 feet to the said East bounds of Shaw Road; thence along said East Road bounds the following 3 courses and distances:

28) North 29-25-38 West 734.48 feet; thence

29) North 32-05-39 West 124.93 feet; thence

30) North 06-03-39 West 101.08 feet to the intersection of said East bounds of Shaw Road with the East bounds of said Beattie Road; thence along the said East bounds of Beattie Road the following 5 courses and distances:

31) North 25-24-48 East 80.32 feet; thence

32) North 23-20-48 East 375.61 feet; thence

33) North 20-13-40 East 310.50 feet; thence

34) North 18-12-42 East 153.92 feet; thence

35) North 21-27-49 East 415.55 feet to said point or place of beginning and containing 144.40 acres of land more or less.

SCHEDULE "A" ~~LIBER 2947 PAGE 210~~

SCHEDULE A-3

BEING the same premises conveyed to First Hudson Land Co. Inc. by the following two deeds:

1. from Evelyn L. Plotczyk, Stella F. Gessner, Edith M. Neumann, Borghild Pedersen, Mildred Breier and George Nilson dated August 20, 1987 and recorded in the Orange County Clerk's Office on October 19, 1987 in Book 2816 at Page 286; and

2. from Deborah Fabricant, as Executrix of the Last Will and Testament of Herbert J. Fabricant, deceased, dated September 11, 1987 and recorded in the Orange County Clerk's Office on October 19, 1987 in Book 2816 at Page 292.

EXCEPTING AND RESERVING THEREFROM all those certain parcels of land shown and designated as Lots Nos. 1, 3, 8, 11, 14, 18, 20 and 21 on a certain subdivision map entitled "Subdivision Plan, Liberty Meadows, Town of New Windsor, Orange County, New York" made by Silvers Engineering Associates, dated 6-6-88, last revised 5-17-89 and filed in the Orange County Clerk's Office on 8-1-89 as Map #9582.

SUBJECT also to all enforceable covenants, easements, restrictions, and reservations of record.

BEING the same premises conveyed to Evergreen Venture Capital Corp. by deed from R. Norman Peters as Trustee in Bankruptcy for First Hudson Land Co., Inc.

This conveyance has been duly authorized by the shareholders of Evergreen Venture Capital Corp. in accordance with the provisions of Section 909 of the New York Business Corporation Law.

This conveyance is subject to the following two mortgages:

1. First Hudson Land Company, Inc. to Properties of America, Inc. dated June 1, 1987 and recorded in the Orange County Clerk's Office on July 17, 1987 in Book 2743 of Mortgages at Page 186 which mortgage was assigned to The First National Bank of Glens Falls by Assignment dated June 23, 1987 and recorded in the Orange County Clerk's Office on July 17, 1987 in Book 2726 of Mortgages at Page 338.

2. Supplemental mortgage made by First Hudson Land Company, Inc. to The first National Bank of Glens Falls dated November 6, 1987 and recorded in the Orange County Clerk's office on January 14, 1988 in Book 2947 of Mortgages at Page 214.

This conveyance is made and accepted subject to an indebtedness secured by a mortgage upon said premises held by Evelyn L. Plotczyk, Stella F. Gessner, Edith M. Neumann, Borghild Pedersen, Mildred Breier, George Nilson and Deborah Fabricant, as the Executrix of the Last Will and Testament of Herbert J. Fabricant, deceased, dated October 14, 1987 and recorded in the Orange County Clerk's Office on October 19, 1987 in Book 2857 of Mortgages at Page 171, which mortgage was assigned to The

First National Bank of Glens Falls by assignment dated as of April 20, 1990 and recorded in the Orange County Clerk's Office on September 5, 1990 in Book 3813 of Mortgages at Page 1, on which there is an unpaid principal amount of $267,950.00 with interest from July 14, 1989, at eleven percent per annum, with said mortgage debt the party of the second part hereby assumes and agrees to pay as part of the purchase price of the above described premises, and the party of the second part hereby separately executes and acknowledges this instrument for the purposes of complying with the provisions of §5-705 of the General Obligations Law and both the party of the first part and the party of the second part hereby acknowledge and agree that there are no offsets or defenses to the aforesaid obligation.

SCHEDULE A-5

TICOR TITLE GUARANTEE

TICOR TITLE INSURANCE

Policy of Title Insurance

American Land Title Association Loan Policy With New York Coverage Endorsement Appended

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS AND STIPULATIONS. TICOR TITLE GUARANTEE COMPANY, a New York Corporation, and **TICOR TITLE INSURANCE COMPANY,** a California Corporation, jointly and severally, together herein called "The Company," insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the Amount of Insurance stated in Schedule A, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested other than as stated therein;
2. Any defect in or lien or encumbrance on the title;
3. Unmarketability of the title;
4. Lack of a right of access to and from the land;
5. The invalidity or unenforceability of the lien of the insured mortgage upon the title;
6. The priority of any lien or encumbrance over the lien of the insured mortgage;
7. Lack of priority of the lien of the insured mortgage over any statutory lien for services, labor or material:

   (a) arising from an improvement or work related to the land which is contracted for or commenced prior to Date of Policy; or

   (b) arising from an improvement or work related to the land which is contracted for or commenced subsequent to Date of Policy and which is financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance;
8. The invalidity or unenforceability of any assignment of the insured mortgage, provided the assignment is shown in Schedule A, or the failure of the assignment shown in Schedule A to vest title to the insured mortgage in the named insured assignee free and clear of all liens.

The Company will also pay the costs, attorneys' fees and expenses incurred in defense of the title or the lien of the insured mortgage, as insured, but only to the extent provided in the Conditions and Stipulations.

This policy shall not be valid or binding until countersigned below by a validating signatory of the Company.

TICOR TITLE GUARANTEE COMPANY

By ..... President

Attest ..... Secretary

Validating Officer or Agent .....

TICOR TITLE INSURANCE COMPANY

By ..... President

Attest ..... Secretary

This policy shall not be valid or binding until countersigned by a

Exclusions from Coverage

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

   (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.

3. Defects, liens, encumbrances, adverse claims or other matters:

   (a) created, suffered, assumed or agreed to by the insured claimant;

   (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;

   (c) resulting in no loss or damage to the insured claimant;

   (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material); or

   (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.

4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.

5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.

6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.

Conditions and Stipulations

1. DEFINITION OF TERMS.

The following terms when used in this policy mean:

(a) "insured": the insured named in Schedule A. The term "insured" also includes

(i) the owner of the indebtedness secured by the insured mortgage and each successor in ownership of the indebtedness except a successor who is an obligor under the provisions of Section 12(c) of these Conditions and Stipulations (reserving, however, all rights and defenses as to any successor that the Company would have had against any predecessor insured, unless the successor acquired the indebtedness as a purchaser for value without knowledge of the asserted defect, lien, encumbrance, adverse claim or other matter insured against by this policy as affecting title to the estate or interest in the land);

(ii) any governmental agency or governmental instrumentality which is an insurer or guarantor under an insurance contract or guaranty insuring or guaranteeing the indebtedness secured by the insured mortgage, or any part thereof, whether named as an insured herein or not;

(iii) the parties designated in Section 2(a) of these Conditions and Stipulations.

(b) "insured claimant": an insured claiming loss or damage.

(c) "knowledge" or "known": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of the public records as defined in this policy or any other records which impart constructive notice of matters affecting the land.

(d) "land": the land described or referred to in Schedule A, or in Schedule C if not provided for in Schedule A, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in the applicable Schedule, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

(e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

(f) "public records": records established under state statutes at Date of [illegible] to include environmental protection liens filed in the records of the clerk of the United States district court for the district in which the land is located.

(g) "unmarketability of the title": an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A or the insured mortgage to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE.

(a) **After Acquisition of Title.** The coverage of this policy shall continue in force as of Date of Policy in favor of (i) an insured who acquires all or any part of the estate or interest in the land by foreclosure, trustee's sale, conveyance in lieu of foreclosure, or other legal manner which discharges the lien of the insured mortgage; (ii) a transferee of the estate or interest so acquired from an insured corporation, provided the transferee is the parent or wholly-owned subsidiary of the insured corporation, and their corporate successors by operation of law and not by purchase, subject to any rights or defenses the Company may have against any predecessor insureds; and (iii) any governmental agency or governmental instrumentality which acquires all or any part of the estate or interest pursuant to a contract of insurance or guaranty insuring or guaranteeing the indebtedness secured by the insured mortgage.

(b) **After Conveyance of Title.** The coverage of this policy shall continue in force as of Date of Policy in favor of an insured only so long as the insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. This policy shall not continue in force in favor of any purchaser from the insured of either (i) an estate or interest in the land, or (ii) an indebtedness secured by a purchase money mortgage given to the insured.

(c) **Amount of Insurance.** The amount of insurance after the acquisition or after the conveyance shall in neither event exceed the least of:

(i) the Amount of Insurance stated in Schedule A;

(ii) the amount of the principal of the indebtedness secured by the insured mortgage as of Date of Policy, interest thereon, expenses of [illegible] to secure

[illegible]
thereby and reasonable amounts expended to prevent deterioration of improvements, but reduced by the amount of all payments made, or

(iii) the amount paid by any governmental agency or governmental instrumentality, if the agency or instrumentality is the insured claimant, in the acquisition of the estate or interest in satisfaction of its insurance contract or guaranty.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT.

The insured shall notify the Company promptly in writing (i) in case of any litigation as set forth in Section 4(a) below, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest or the lien of the insured mortgage, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest or the lien of the insured mortgage, as insured, is rejected as unmarketable. If prompt notice shall not be given to the Company, then as to the insured all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any insured under this policy unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

4. DEFENSE AND PROSECUTION OF ACTIONS; DUTY OF INSURED CLAIMANT TO COOPERATE.

(a) Upon written request by the insured and subject to the options contained in Section 6 of these Conditions and Stipulations, the Company, at its own cost and without unreasonable delay, shall provide for the defense of an insured in litigation in which any third party asserts a claim adverse to the title or interest as insured, but only as to those stated causes of action alleging a defect, lien or encumbrance or other matter insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to those stated causes of action and shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs or expenses incurred by the insured in the defense of those causes of action which allege matters not insured against by this policy.

(b) The Company shall have the right, at its own cost, to institute and prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest or the lien of the insured mortgage, as insured, or to prevent or reduce loss or damage to the insured. The Company may take any appropriate action under the terms of this policy, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this policy. If the Company shall exercise its rights under this paragraph, it shall do so diligently.

(c) Whenever the Company shall have brought an action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(d) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of the insured for this purpose. Whenever requested by the Company, the insured, at the Company's expense, shall give the Company all reasonable aid (i) in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest or the lien of the insured mortgage, as insured. If the Company is prejudiced by the failure of the insured to furnish the required cooperation, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

5. PROOF OF LOSS OR DAMAGE.

In addition to and after the notices required under Section 3 of these Conditions and Stipulations have been provided the Company, a proof of loss or damage signed and sworn to by the insured claimant shall be furnished to the Company within 90 days after the insured claimant shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the defect in, or lien or encumbrance on the title, or other matter insured against by this policy which constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the insured claimant to provide the required proof of loss or damage, the Company's [illegible] under the policy shall terminate, including any

and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Policy, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the insured claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the insured claimant to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in this paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

6. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY.

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance or to Purchase the Indebtedness.

(i) to pay or tender payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred by the insured claimant, which were authorized by the Company, up to the time of payment or tender of payment and which the Company is obligated to pay; or

(ii) to purchase the indebtedness secured by the insured mortgage for the amount owing thereon together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of purchase and which the Company is obligated to pay.

If the Company offers to purchase the indebtedness as herein provided, the owner of the indebtedness shall transfer, assign, and convey the indebtedness and the insured mortgage, together with any collateral security, to the Company upon payment therefor.

Upon the exercise by the Company of either of the options provided for in paragraphs a(i) or (ii), all liability and obligations to the insured under this policy, other than to make the payment required in those paragraphs, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, and the policy shall be surrendered to the Company for cancellation.

(b) To Pay or Otherwise Settle With Parties Other than the Insured or With the Insured Claimant.

(i) to pay or otherwise settle with other parties for or in the name of an insured claimant any claim insured against under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay; or

(ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees and expenses incurred by the insured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in paragraphs b(i) or (ii), the Company's obligations to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute or continue any litigation.

7. DETERMINATION AND EXTENT OF LIABILITY.

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy and only to the extent herein described.

(a) The liability of the Company under this policy shall not exceed the least of:

(i) the Amount of Insurance stated in Schedule A, or, if applicable, the amount of insurance as defined in Section 2(c) of these Conditions and Stipulations;

(ii) the amount of the unpaid principal indebtedness secured by the insured mortgage as limited or provided under Section 8 of these Conditions and Stipulations or as reduced under Section 9 of these Conditions and Stipulations, at the time the loss or damage insured against by this policy [illegible] together with interest thereon; or

(b) In the event the insured has acquired the estate or interest in the manner described in Section 2(a) of these Conditions and Stipulations or has conveyed the title, then the liability of the Company shall continue as set forth in Section 7(a) of these Conditions and Stipulations.

(c) The Company will pay only those costs, attorneys' fees and expenses incurred in accordance with Section 4 of these Conditions and Stipulations.

8. LIMITATION OF LIABILITY.

(a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures the lack of a right of access to or from the land, or cures the claim of unmarketability of title, or otherwise establishes the lien of the insured mortgage, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title or to the lien of the insured mortgage, as insured.

(c) The Company shall not be liable for loss or damage to any insured for liability voluntarily assumed by the insured in settling any claim or suit without the prior written consent of the Company.

(d) The Company shall not be liable for: (i) any indebtedness created subsequent to Date of Policy except for advances made to protect the lien of the insured mortgage and secured thereby and reasonable amounts expended to prevent deterioration of improvements; or (ii) construction loan advances made subsequent to Date of Policy, except construction loan advances made subsequent to Date of Policy for the purpose of financing in whole or in part the construction of an improvement to the land which at Date of Policy were secured by the insured mortgage and which the insured was and continued to be obligated to advance at and after Date of Policy.

9. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY.

(a) All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto. However, any payments made prior to the acquisition of title to the estate or interest as provided in Section 2(a) of these Conditions and Stipulations shall not reduce pro tanto the amount of the insurance afforded under this policy except to the extent that the payments reduce the amount of the indebtedness secured by the insured mortgage.

(b) Payment in part by any person of the principal of the indebtedness, or any other obligation secured by the insured mortgage, or any voluntary partial satisfaction or release of the insured mortgage, to the extent of the payment, satisfaction or release, shall reduce the amount of insurance pro tanto. The amount of insurance may thereafter be increased by accruing interest and advances made to protect the lien of the insured mortgage and secured thereby, with interest thereon, provided in no event shall the amount of insurance be greater than the Amount of Insurance stated in Schedule A.

(c) Payment in full by any person or the voluntary satisfaction or release of the insured mortgage shall terminate all liability of the Company except as provided in Section 2(a) of these Conditions and Stipulations.

10. LIABILITY NONCUMULATIVE.

If the insured acquires title to the estate or interest in satisfaction of the indebtedness secured by the insured mortgage, or any part thereof, it is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage to which exception is taken in Schedule B or to which the insured has agreed, assumed, or taken subject, or which is hereafter executed by an insured and which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy.

11. PAYMENT OF LOSS.

(a) No payment shall be made without producing this policy for endorsement of the payment unless the policy has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

(b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within 30 days thereafter.

12. SUBROGATION UPON PAYMENT OR SETTLEMENT.

(a) The Company's Right of Subrogation.

Whenever the Company shall have settled and paid a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the insured claimant would have had against any person or property in respect to the claim had this policy not been issued. If requested by the Company, the insured claimant shall transfer to the Company all [illegible]

Company to sue, compromise or settle in the name of the insured claimant and to use the name of the insured claimant in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the insured claimant, the Company shall be subrogated to all rights and remedies of the insured claimant after the insured claimant shall have recovered its principal, interest and costs of collection.

(b) The Insured's Rights and Limitations.

Notwithstanding the foregoing, the owner of the indebtedness secured by the insured mortgage, provided the priority of the lien of the insured mortgage or its enforceability is not affected, may release or substitute the personal liability of any debtor or guarantor, or extend or otherwise modify the terms of payment, or release a portion of the estate or interest from the lien of the insured mortgage, or release any collateral security for the indebtedness.

When the permitted acts of the insured claimant occur and the insured has knowledge of any claim of title or interest adverse to the title to the estate or interest or the priority or enforceability of the lien of the insured mortgage, as insured, the Company shall be required to pay only that part of any losses insured against by this policy which shall exceed the amount, if any, lost to the Company by reason of the impairment by the insured claimant of the Company's right of subrogation.

(c) The Company's Rights Against Non-Insured Obligors.

The Company's right of subrogation against non-insured obligors shall exist and shall include, without limitation, the rights of the insured to indemnities, guaranties, other policies of insurance or bonds, notwithstanding any terms or conditions contained in those instruments which provide for subrogation rights by reason of this policy.

The Company's right of subrogation shall not be avoided by acquisition of the insured mortgage by an obligor (except an obligor described in Section 1(a)(ii) of these Conditions and Stipulations) who acquires the insured mortgage as a result of an indemnity, guarantee, other policy of insurance, or bond and the obligor will not be an insured under this policy, notwithstanding Section 1(a)(i) of these Conditions and Stipulations.

13. ARBITRATION.

Unless prohibited by applicable law, either the Company or the insured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. All arbitrable matters when the Amount of Insurance is $1,000,000 or less shall be arbitrated at the option of either the Company or the insured. All arbitrable matters when the Amount of Insurance is in excess of $1,000,000 shall be arbitrated only when agreed to by both the Company and the insured. Arbitration pursuant to this policy and under the Rules in effect on the date the demand for arbitration is made or, at the option of the insured, the Rules in effect at Date of Policy shall be binding upon the parties. The award may include attorneys' fees only if the laws of the state in which the land is located permit a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

14. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT.

(a) This policy together with all endorsements, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company. In interpreting any provision of this policy, this policy shall be construed as a whole.

(b) Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the lien of the insured mortgage or of the title to the estate or interest covered hereby or by any action asserting such claim, shall be restricted to this policy.

(c) No amendment of or endorsement to this policy can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company

15. SEVERABILITY.

In the event any provision of this policy is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision and all other provisions shall remain in full force and effect.

16. NOTICES, WHERE SENT.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at its Main Office, 39 Broadway, New York, N.Y. 10006.

TICOR TITLE GUARANTEE COMPANY
and
TICOR TITLE INSURANCE COMPANY

NEW YORK COVERAGE ENDORSEMENT

TO BE ATTACHED TO AND MADE A PART OF ALTA LOAN POLICY (10/21/87) T-98-90-00419

1. Insuring provision Number 7 is deleted and the following is substituted:

   "7. Lack of priority of the lien of the insured mortgage over any statutory lien for services, labor or materials furnished prior to the date of policy."

2. Paragraph number 6 of the Exclusions From Coverage is deleted.

3. The following is added to Paragraph 7 of the Conditions and Stipulations of this policy:

   "(d) If the recording date of the instruments creating the insured interest is later than the policy date, such policy shall also cover intervening liens or encumbrances, except real estate taxes, assessments, water charges and sewer rents."

Nothing herein contained shall be construed as extending or changing the effective date of said policy, unless otherwise expressly stated.

This Coverage is made a part of said policy and is subject to the Exclusions from Coverage, schedules, conditions and stipulations therein, except as modified by the provisions hereof.

IN WITNESS WHEREOF, the company has caused its corporate name and seal to be hereunto affixed by its duly authorized officers.

TICOR TITLE GUARANTEE COMPANY	TICOR TITLE INSURANCE COMPANY
By ..... President	By ..... President
Attest ..... Secretary	Attest ..... Secretary
Validating Officer or Agent	

EVERGREEN VENTURE CAPITAL CORP. dated 1/15/91 and recorded in the Delaware County Clerk's Office.

4. The mortgage and assignments, if any, covered by this policy are described as follows:

Mortgage made by FIRST BENMAR to THE FIRST NATIONAL BANK OF GLENS FALLS, dated 1/15/91, recorded 1/17/91 in Liber 3914 page 249 in the amount of $900,000.00 and interest and Duplicate Original Mortgage made by FIRST BENMAR to THE FIRST NATIONAL BANK OF GLENS FALLS, dated 1/15/91 and recorded in the Delaware County Clerk's Office.

5. The land referred to in this policy is described on the following page(s).

JLA

800A (4/88)

[redacted]

Policy Number: T-98-90-00419

SCHEDULE "A"

The premises in which the insured has the estate or interest covered by this policy

PARCEL I

A parcel of land being a portion of the lands of Bruce B. Persson, as described in deeds recorded with the County Clerk of Delaware County at Liber 571 cp 411 and Liber 555 cp 262, said parcel being located at 237 Delaware Street, Village and Town of Walton, Delaware County, State of New York and being more particularly described as follows:

COMMENCING at the intersection of Howell Street and Delaware Street;
THENCE along the center of Delaware Street, North 59 degrees 59 minutes 00 seconds West, 26.99 feet to a point in the center of said street;
THENCE South 30 degrees 15 minutes 00 seconds West, 23.93 feet to a survey monument placed on the southerly edge of the side walk running along Delaware Street, being the true point of beginning of the parcel herein described;
THENCE along the westerly line of the parcel and through the lands of Bruce C. Persson, Liber 571 cp 411 and Liber 555 cp 262, South 30 degrees 15 minutes 00 seconds West, 122.57 feet to a survey monument;
THENCE along the southerly line of the parcel, South 58 degrees 56 minutes 00 seconds East, 99.12 feet to a survey monument;
THENCE along the line of Donald T. Odgen and Geanna S. Odgen, Liber 552 cp 695, North 29 degrees 54 minutes 00 seconds East, 125.19 feet to a survey monument tagged Bartschi;
THENCE along the southerly line of Delaware Street, North 60 degrees 27 minutes 00 seconds West, 98.35 feet to the point of **BEGINNING.**

PARCEL II

ALL that certain lot, piece or parcel of land, situate in the Town of New Windsor, County of Orange, State of New York, lying and being on the east side of Shaw Road, the east side of Beattie Road, both Town roads and on the south side of New York State Route 207 and more accurately bounded and described as follows:

BEGINNING at the point of intersection of the east bounds of said Beattie Road with the south bounds of said New York State Highway 207; and runs THENCE along said south bounds of Route 207, the following seven (7) courses and distances:

(1) North 82 degrees 19 minutes 48 seconds East, 96.55 feet;

THENCE (2) North 77 degrees 10 minutes 54 seconds East, 178.68 feet to a found highway monument;

THENCE (3) North 75 degrees 53 minutes 49 seconds East, 198.72 feet to a found highway monument;

THENCE (4) North 69 degrees 07 minutes 01 seconds East, 29.85 feet to a found highway monument;

THENCE (5) North 68 degrees 03 minutes 13 seconds East, 71.14 feet to a found highway monument;

THENCE (6) North 67 degrees 22 minutes 49 seconds East, 112.77 feet;

THENCE (7) North 65 degrees 58 minutes 42 seconds East, 145.71 feet to the bounds of lands now or formerly of McCabe (51-1-56);

THENCE (8) along said McCabe and following a stone wall, South 39 degrees 49 minutes 27 seconds East, 277.59 feet to an iron pipe found in said stone wall and the founds of lands now or formerly of Bertone (51-1-55);

THENCE (9) along said Bertone and lands now or formerly of Mannoni and Calzzo (51-1-54.22) and following said stone wall, South 40 degrees 33 minutes 19 seconds East, 982.11 feet to the bounds of lands now or formerly of Lange (52-1-3.22);

THENCE (10) along said Lange and following said stone wall, South 40 degrees 33 minutes 32 seconds East, 978.90 feet to the bounds of lands now or formerly of Woroschinski (52-1-2);

THENCE (11) along said Woroschinski and following said stone wall, South 40 degrees 32 minutes 03 seconds East, 660.64 feet to a 24 inch oat at a corner of stone walls in the bounds of lands now or formerly of Cangelosi (52-1-44.2);

THENCE along said Cangelosi and following said stone wall the following six (6) courses and distances:

(12) South 38 degrees 34 minutes 33 seconds West, 1269.87 feet to the end of said stone wall;

THENCE (13) South 71 degrees 02 minutes 59 seconds West, 344.59 feet;

THENCE (14) South 78 degrees 10 minutes 16 seconds West, 104.49 feet;

THENCE (15) South 85 degrees 59 minutes 47 seconds West, 285.78 feet;

THENCE (16) North 77 degrees 33 minutes 21 seconds West, 204.06 feet;

THENCE (17) North 89 degrees 00 minutes 13 seconds West, 462.86 feet to the east bounds of said Shaw Road;

THENCE (18) along said east road bounds, North 30 degrees 41 minutes 39 seconds West, 49.84 feet to the bounds of lands now or formerly of Scott (52-1-45);

THENCE (19) along said Scott, South 89 degrees 23 minutes 39 seconds East, 198.47 feet to the bounds of lands now or formerly of Lucey (52-1-47);

THENCE along said Lucey the following three (3) courses and distances:

(20) South 89 degrees 56 minutes 55 seconds East, 169.74 feet to an iron pipe found;

THENCE (21) North 32 degrees 42 minutes 09 seconds West, 493.48 feet;

THENCE (22) South 57 degrees 19 minutes 56 seconds West, 304.66 feet to an iron pin found in the said east bounds of Shaw Road;

THENCE (23) along said east road bounds, North 32 degrees 50 minutes 01 seconds West, 210.73 feet;

THENCE (24) along the same North 31 degrees 00 minutes 20 seconds West, 270.03 feet to the bounds of lands now or formerly of Monczyn (52-1-48);

THENCE along said Monczyn the following three (3) courses and distances:

(25) North 28 degrees 08 minutes 25 seconds East, 223.44 feet;

THENCE (26) North 50 degrees 25 minutes 37 seconds West, 195.30 feet;

THENCE (27) South 41 degrees 29 minutes 23 seconds West, 125.02 feet to the said east bounds of Shaw Road;

THENCE along said east road bounds, the following three (3) courses and distances:

(28) North 29 degrees 25 minutes 38 seconds West, 734.48 feet;

THENCE (29) North 32 degrees 05 minutes 39 seconds West, 124.93 feet;

THENCE (30) North 6 degrees 03 minutes 39 seconds West, 101.08 feet to the intersection of said east bounds of Shaw Road with the east bounds of said Beattie Road;

THENCE along the said east bounds of Beattie Road, the following (3) courses and distances:

(31) North 25 degrees 24 minutes 48 seconds East, 80.32 feet;

THENCE (32) North (23 degrees 20 minutes 48 seconds East, 375.61 feet;

THENCE (33) North 20 degrees 13 minutes 40 seconds East, 310.50 feet;

THENCE (34) North 18 degrees 12 minutes 42 seconds East, 153.92 feet;

THENCE (35) North 21 degrees 27 minutes 49 seconds East, 415.55 feet to said point or place of **BEGINNING.**

EXCEPTING AND RESERVING THEREFROM all those certain parcels of land shown and designated as Lots Nos. 1, 3, 8, 11, 14, 15, 20 and 21 on a certain subdivision map entitled "Subdivision Plan, Liberty Meadows, Town of New Windsor, Orange County, New York" made by Silvers Engineering Associates, dated 6/6/88, last revised 5/17/89 and filed in the Orange County Clerk's Office on 8/1/89 as Map No. 9582.

TICOR TITLE GUARANTEE COMPANY and TICOR TITLE INSURANCE COMPANY

ALTA LOAN POLICY (10-21-87)

Policy Number: t-98-90-00419

SCHEDULE "B"

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Any state of facts an accurate survey of Parcel I would show.
   Any state of facts an accurate survey of Parcel II would show.

2. Any state of facts a personal inspection of Parcel I may disclose.
   Any state of facts a personal inspection of Parcel II may disclose.

3. No title is insured to any lands lying in the bed of any street, road or avenue.

4. Right of Way and Sewer Easement to the Village of Walton in Liber 567 cp 36 (affects Parcel I). Company affirmatively insures that the exercise of any rights thereunder will not interfere with the use and occupancy of structural improvements located on the subject premises.

5. Easement made by Augustus D. Mulliner and Alphaette P. Mulliner to Central Hudson Gas and Electric Company recorded in Liber 662 cp 259 (affects Parcel II).

6. Easement made by A.D. Mulliner and Franklin Mulliner to Central Hudson Gas and Electric Corporation recorded in Liber 706 cp 533 (affects Parcel II).

7. Easement made by A.D. Mulliner and Alphaetta P. Mulliner to Central Hudson Gas and Electric Corporation recorded in Liber 708 cp 159 (affects Parcel II).

8. Easement made by A.D. Mulliner to Central Hudson Gas and Electric Corporation recorded in Liber 724 cp 115 (affects Parcel II).

9. Easement made by Estate of Augustus D. Mulliner by Franklin Mulliner, Administrator to Central Hudson Gas and Electric Corporation and Highland Telephone Company recorded in Liber 760 cp 222 (affects Parcel II).

TICOR TITLE GUARANTEE COMPANY and TICOR TITLE INSURANCE CO

10. Easement made by Franklin Mulliner to Central Hudson Gas and Electric Corporation recorded in Liber 1314 cp 573 (affects Parcel II).

11. Easement made by First Hudson Land Company, Inc. to Highland Telephone Company recorded in Liber 2972 cp 49 (affects Parcel II).

12. Filed Map No. 9582 shows 150 foot wide Central Hudson Gas and Electric Easement running through northeasterly portion of premises and 20 foot wide Drainage Easement running through westerly portion of premises (affects Parcel II).

13. Notes and Minimum Setbacks on Filed Map No. 9582 (affects Parcel II).

1990-91 School Tax (Washingtonville School District)

THE FOLLOWING AMOUNTS TO BE RELEVIED ON 1991 STATE, COUNTY & TOWN TAX BILLS:

	Original Amount	Relevied Amount
52-1-83	$489.33	$539.29
52-1-85	880.80	970.73
52-1-86	1014.25	1117.81
52-1-88	467.09	514.78
52-1-89	400.36	441.24
52-1-93	560.51	617.74
52-1-94	467.09	514.78
52-1-95	720.65	794.23
52-1-96	547.16	603.02
52-1-99	1236.68	1362.94
52-1-100	3323.01	3662.29

ATTENTION!

Receipts for the payment of any taxes subsequent to the date of this report are a MUST at closing.

CAUTION!

Inquiry must be made as to source of water supply and charges, if any: and sewer district and sewer charges and taxes if any.

IMPORTANT!

Please request the seller or borrower to have the receipted bill available at closing.

UNLESS there is a final reading or an up to date receipt presented at closing, Policy will except all water, sewer and garbage charges.

Recent payments of any open items returned on this tax search may not yet be reflected on the public records. Therefore please request the seller or borrower to have the receipted bills available at the closing.

4473 - 39438

Prelim.
3/8/93.

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR 93-3.
ORANGE COUNTY, NEW YORK

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: FEBRUARY 24, 1993

APPLICANT: FIRST BENMAR
799 MAIN STREET
DALTON, MA. 01226

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED: FEBRUARY 18, 1993

FOR (BUILDING PERMIT): SUB-DIVISION - Liberty Meadows.

LOCATED AT: NYS ROUTE 207

ZONE: R-1

DESCRIPTION OF EXISTING SITE: SECTION 52 BLOCK 1 LOT 99

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

BUILDING INSPECTOR

****

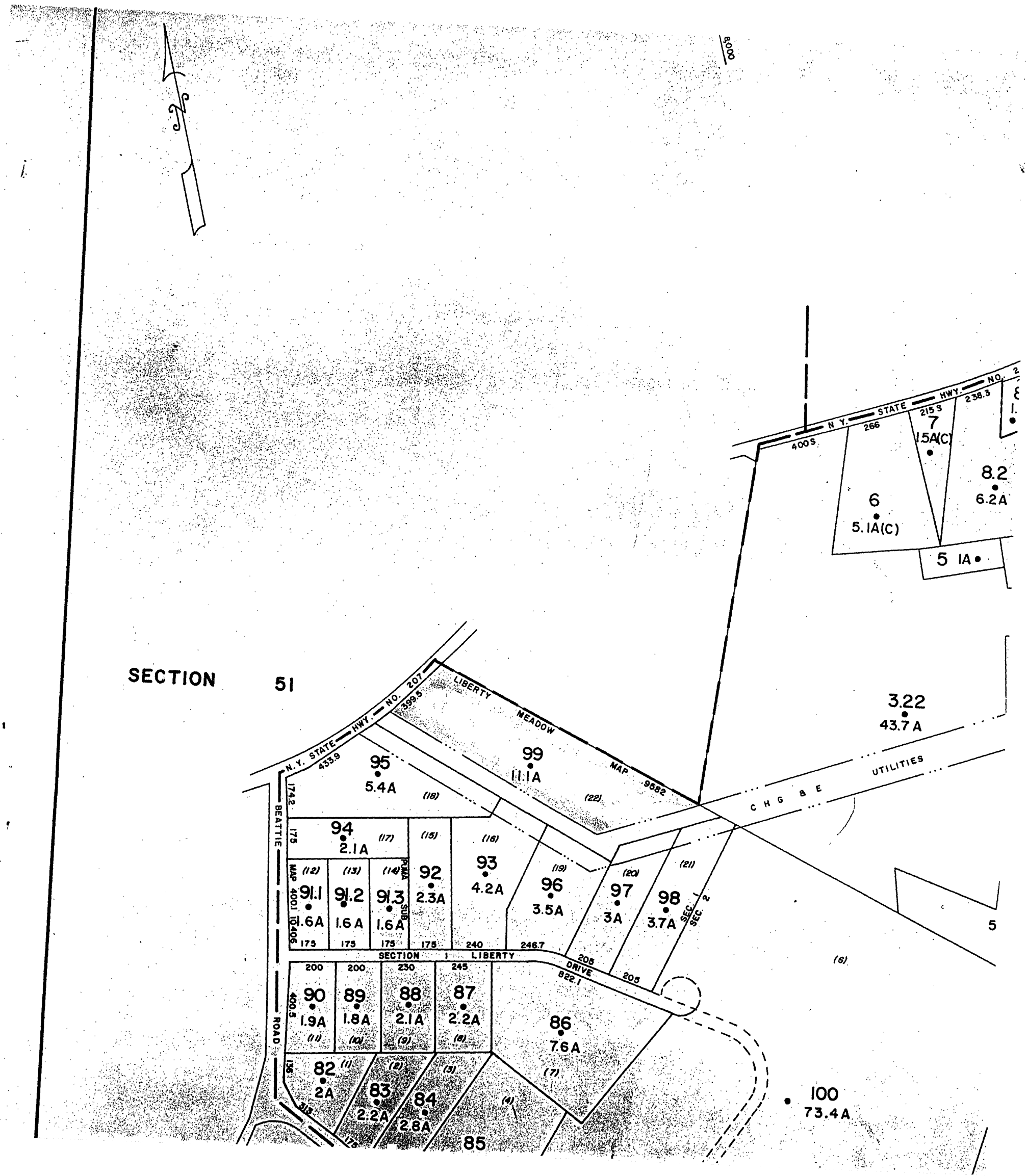
ZONE: R-1 USE ~~M-9~~ A1(b)

KEEPING DOMESTIC ANIMALS OF NOT MORE THAN TWO HORSES.

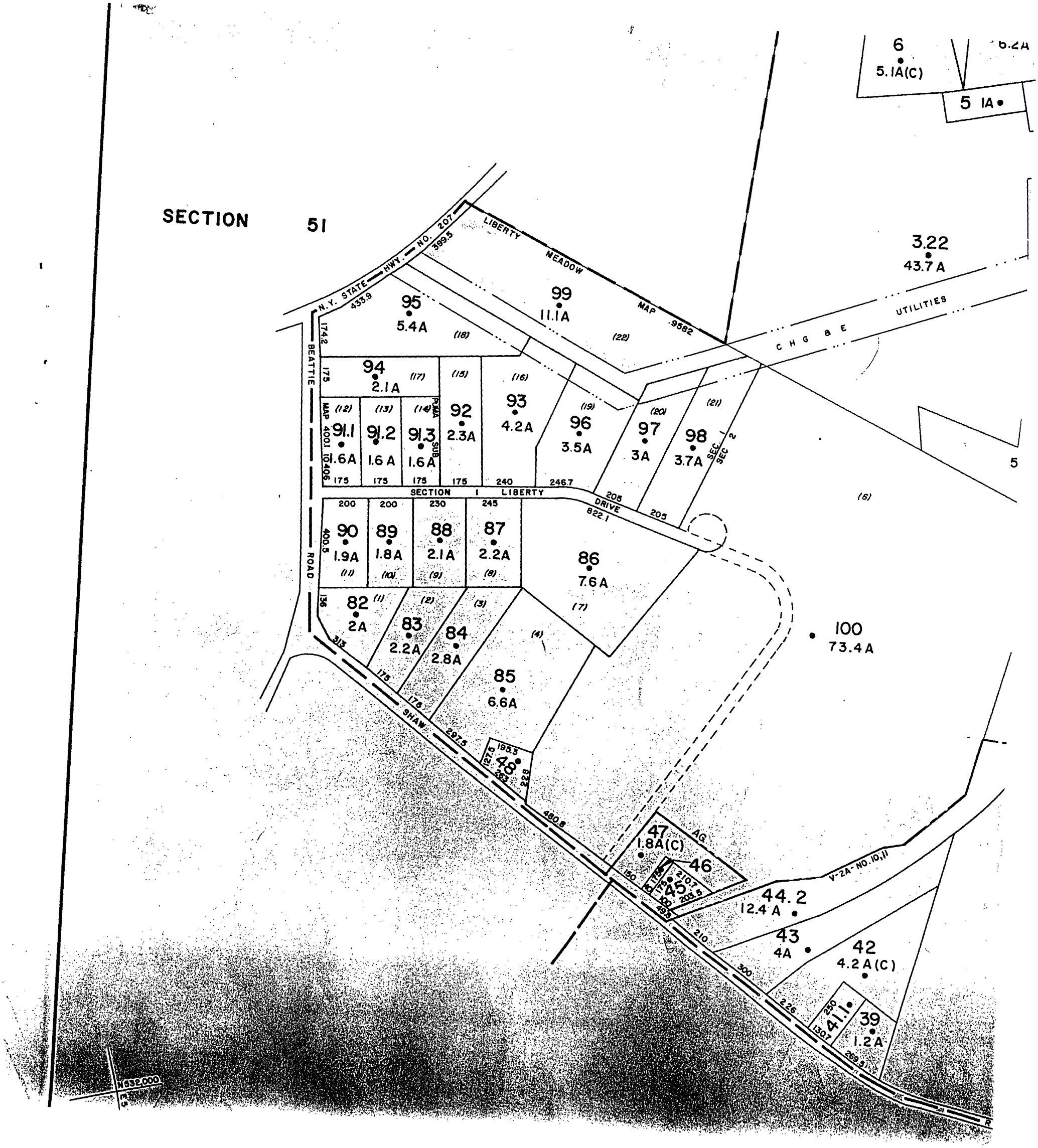
PERMITTED	PROPOSED	VARIANCE
2 HORSES	8 HORSES	6 HORSES

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT 914-563-4630 TO MAKE AN APPOINTMNET WITH THE ZONING BOARD

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



SECTION 51
N.Y. STATE HWY. NO. 207
LIBERTY MEADOW MAP 9582
N.Y. STATE HWY. NO. 2
BEATTIE ROAD
C H G & E UTILITIES
SECTION 1 LIBERTY DRIVE
SEC. 1
SEC. 2
MAP 400.1 10406
PUMA SUB
99 11.1A
95 5.4A
94 2.1A
91.1 1.6A
91.2 1.6A
91.3 1.6A
92 2.3A
93 4.2A
96 3.5A
97 3A
98 3.7A
90 1.9A
89 1.8A
88 2.1A
87 2.2A
86 7.6A
82 2A
83 2.2A
84 2.8A
85
100 73.4A
3.22 43.7A
5 1A
6 5.1A(C)
7 1.5A(C)
8.2 6.2A


SECTION 51
N.Y. STATE HWY. NO. 207
LIBERTY MEADOW MAP 9582
C H G & E UTILITIES
BEATTIE ROAD
SECTION 1 LIBERTY DRIVE
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V-2A-NO.10,11
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6
5.1A(C)
5 1A
3.22
43.7 A
95
5.4A
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11.1A
94
2.1A
92
2.3A
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4.2A
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91.1
1.6A
91.2
1.6 A
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1.6A
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1.9A
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1.8A
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2.1A
87
2.2A
86
7.6A
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2A
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2.2A
84
2.8A
85
6.6A
48
47
1.8A(C)
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44.2
12.4 A
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4A
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4.2 A(C)
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1.2A
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