

ZB# 96-1

Petro Metals, Inc.

35-1-43

Return:

Jan. 8, 1996

Interpretation

as to use / area

If use, need: SEQRH ^{man}
Review:

Copy of ^{map} Deed - Dan
Bloom

Photos ^{file} if there

Public Hearing:

Feb. 5, 1996.

Application

Approved

5-0

Interpretation

& Area

Variances

Refund \$299.95

#96-1-Petro Metals Inc.

(35-1-43)

TOWN OF NEW WINDSOR555 Union Avenue
New Windsor, NY 12550**GENERAL RECEIPT**

January 26 1996

Received of Petro Metals Inc \$ 150.00
One Hundred Fifty and 00/100 — DOLLARSFor Zoning Board #96-1 R432

DISTRIBUTION

FUND	CODE	AMOUNT
2# 3180		150.00

By Dorothy N. Harrison
Town Clerk
Title

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DISTRIBUTION

FUND	CODE	AMOUNT
C/P# 3180		\$ 750.00

By

Dorothy N. Hansen
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APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Soto Metals, Inc.

FILE # 96-1

RESIDENTIAL: \$ 50.00 COMMERCIAL: \$150.00
INTERPRETATION: \$150.00

AREA USE

APPLICATION FOR VARIANCE FEE \$ 150.00 paid
* * * * * # 3180

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 500.00 paid
3181
1/26/96.

DISBURSEMENTS -

STENOGRAPHER CHARGES: \$4.50 PER PAGE
PRELIMINARY MEETING - PER PAGE 1/22/96 - 10 pages \$ 45.00
2ND PRELIM. MEETING - PER PAGE 2/5/96 - 19 pages \$ 85.50
3RD PRELIM. MEETING - PER PAGE \$ _____
PUBLIC HEARING - PER PAGE \$ _____
PUBLIC HEARING (CONT'D) PER PAGE \$ _____
TOTAL \$ 130.50

ATTORNEY'S FEES: \$35.00 PER MEETING
PRELIM. MEETING: 1/22/96 \$ 35.00
2ND PRELIM. 2/5/96 \$ 35.00
3RD PRELIM. \$ _____
PUBLIC HEARING \$ _____
PUBLIC HEARING \$ _____
TOTAL \$ 70.00

MISC. CHARGES: \$ _____
TOTAL \$ 200.50

LESS ESCROW DEPOSIT \$ 500.00
(ADDL. CHARGES DUE) \$ _____
REFUND DUE TO APPLICANT \$ 299.95

(ZBA DISK#7-012192.FEE)



PETRO METALS INC.
PH. 581-1328

3180

50-693/219

JAN. 26TH 1996

PAY
TO THE
ORDER OF

Town of New Windsor

\$ 150.⁰⁰/₁₀₀

ONE HUNDRED FIFTY AND

⁰⁰/₁₀₀ DOLLARS



Key Bank of Southeastern New York N.A.
Big V Plaza, Route 32, Vails Gate, N.Y. 12584

FOR RT. 32 ZBA 96-1

Sam R. Petro Jr.

⑈003180⑈ ⑆021906934⑆ 02⑈409208⑈1⑈



PETRO METALS INC.
PH. 581-1328

3181

50-693/219

JAN. 26TH 1996

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TO THE
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Big V Plaza, Route 32, Vails Gate, N.Y. 12584

FOR ZBA - 96-1

Sam R. Petro Jr.

⑈003181⑈ ⑆021906934⑆ 02⑈409208⑈1⑈

NEW WINDSOR ZONING BOARD OF APPEALS

In the Matter of the Application of

PETRO METALS, INC.

#96-1.

MEMORANDUM OF
DECISION GRANTING
INTERPRETATION
AND AREA VARIANCES

WHEREAS, **PETRO METALS, INC.**, a corporation having an office located on Route 9W, New Windsor, New York, 12553, has made application before the Zoning Board of Appeals for the proposed construction of two buildings and requests the following: 9 ft. side yard variance for a gymnasium, 7 ft. 0 in. maximum building height variance for retail building, 25 ft. 0 in. maximum building height variance for gymnasium, plus an interpretation and/or use variance as to whether or not the proposed gymnasium falls into the C zone under use, and interpretation and/or area variance regarding required gymnasium parking on west side of Windsor Highway/Willow Lane in both C and PI zones; and

WHEREAS, a public hearing was held on the 5th day of February, 1996 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared before this Board by Gregory Shaw, P.E. of Shaw Engineering P. C.; and

WHEREAS, there were seven spectators appearing at the public hearing; and

WHEREAS, three persons spoke in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.
2. The evidence presented by the Applicant showed that:
 - (a) The property is a 1.67 acre parcel located along Route 32 in the Town of New Windsor. The parcel is located in both the C zone and the PI zone.
 - (b) The Applicant is proposing to construct two structures on the site. The structure

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

2. There is no other feasible method available to the Applicant which can produce the benefits sought other than through the variance procedure.

3. The variances requested are substantial but should nevertheless be granted because of the individual and peculiar nature of the property.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created because the Applicant proposes construction but the Application should be granted.

6. It is the finding by this Board that the benefit to the Applicant if the requested area variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.

7. It is the further finding of this Board that the requested area variances are the minimum variances 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 variances.

9. The statutes of the Town of New Windsor should be interpreted in the manner requested by the Applicant.

10. The parking requirements and the allowability of the "gymnasium" use are consistent with the intent of the makers of the statute and the spirit of the law and are not inconsistent with its letter.

11. Because of the peculiar nature of the property, the entire parcel should be accorded treatment under the "C" zone requirements notwithstanding that part of the property is located in a PI district. Were such an interpretation not to be granted, the owner of such property would be unable to utilize same since it is too small to qualify for any requirements under the "PI" zone.

12. The location and configuration of the property make it unfeasible and in some respects impossible for the Applicant to acquire additional property so as to cause it to be able to conform with the requirements of the "PI" zone.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT 9 ft. side yard variance for gymnasium, 7 ft. 0 in. maximum building height variance for retail building, 25 ft. 0 in. maximum building height variance for the gymnasium, plus the interpretation that the gymnasium and the parking requirements fall within the purview of the C zone under use, for the construction of a gymnasium and retail store on the west side of Windsor Highway/Willow Lane in the C and PI zones, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

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

Dated: March 25, 1996.


Chairman

Date 2/26/96, 19.....

TOWN OF NEW WINDSOR

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

TO Francis R. Hill 147 Sycamore Dr DR.
New Windsor NY 12553

DATE		CLAIMED	ALLOWED
2/5/96	Zoning Board Meeting	7500	
	Misc - 2		
	VGR - 5		
	Schumacher - 5		
	mans - 6		
	Wal-Mart - 6		
	Abbott - 3		
	Petro Metal 5-19		
	kim - 3		
	Price Chopper - 4		
	53 pgs	235 50	
		313 50	

PETRO METALS INC.

MR. NUGENT: Referred by Planning Board. Applicant proposes construction of two buildings as follows: Request for 9 ft. side yard variance for gymnasium, 7 ft. 0 in. in maximum building height variance for retail building, 25 ft. 0 in. maximum building height variance for gymnasium, plus interpretation and/or use variance as to whether or not the proposed gymnasium falls into the C zone under use, and interpretation and/or area variance regarding required gymnasium parking on west side of Windsor Highway/Willow Lane in C & PI zones.

Gregory Shaw, P.E. of Shaw Engineering appeared before the board for this proposal along with Mr. James Petro, owner/applicant.

MR. SHAW: Okay, thank you, Mr. Chairman. Just to cover the physical aspects of the site before we get into the variances. The parcel is located in both C zone and PI zone. It's 1.67 in acres and we're proposing two structures on the site, the structure closest to Windsor Highway is a new retail building of 4,500 square feet. The structure most removed from Windsor Highway is a proposed new gymnasium totaling 4,320 square feet. With respect to parking spaces, just touch on that briefly, with respect to the retail, we're required to provide 30 parking spaces. The site plan before you indicates 31 plus an additional 17 spaces which we have designated as overflow parking. The gymnasium, according to my calculations and we'll touch on that in a second, reflects a required number of 14 spaces and we're providing 14 spaces for the new gymnasium. I'd like to point out that the parcel physically is on Windsor Highway, which is New York State Route 32 and it abuts the Conrail overpass on Windsor Highway immediately opposite Willow Lane. To speak to the variances, as you mentioned, we're requesting a side yard variance for the new gymnasium, we're required to provide 30 feet of a side yard, we're providing 21 feet, we're asking for a 9 foot variance. With respect to the other two variances, they deal with building heights. We're requesting a 7 foot variance for the retail building. The allowable building height

again is a function of four feet to the nearest lot line and with respect to the gymnasium, we're requesting a 25 foot variance. I'd like to point out that while the numbers may sound excessive, that according to the zoning ordinance of the Town of New Windsor, the building height is measured at the highest point and both of these structures will have trusses, pitched roofs and again, that is to the ridge of the roof, as opposed to the eaves height of some middle point. But again, that is consistent with your zoning ordinance. We're also before you tonight for three interpretations. As you mentioned, before one deals with the fact that the gymnasium is not addressed in the Town of New Windsor zoning ordinance, specifically, and is not referenced in the C zone either and in consultation with your building inspector, we felt it was appropriate that it be established as far as our zoning schedule as personal service store. That is one of the interpretations which this board has to make and that a gymnasium is a personal service store. Consistent with that, the second interpretation is the number of parking spaces required for a gymnasium. Your zoning ordinance does not as it does not spell out gymnasium, it doesn't spell out the parking spaces. What we have reflected on our plan is a parking requirement of one space per each five persons. We arrived at that number in review of your zoning ordinance which that is sufficient for outdoor recreational areas and again, this is indoor recreational areas. It was the closest thing that is in your zoning ordinance as to whether those number of parking spaces are satisfactory or not, so going to be this board's interpretation. And the last point is the interpretation, is the fact that the new gymnasium which is located in a PI zone as to whether or not that is to be considered a commercial use in a commercial zone. Very simply, the site is segmented into a C zone which is approximately 200 feet in depth from Windsor Highway and balances the PI zone. According to Section 48, Section 6 of your town zoning law, we can encroach into the next restrict or zone have son by 30 feet. If you take a look at the drawing that 30 foot line cuts right through the gymnasium building. So this board has to make an interpretation as to whether or not that portion of the gymnasium which is within that 30 foot

which brings it into the C zone, whether the entire building is in the C zone. And I would like to point out two things, one that acreage that we're talking about isn't very great, it's about 15,000 square feet. Two, is that the conversely if it can't be a C Zone and it has to be used as a PI use, there are no PI uses that will allow development on 15,000 square feet. If you look at your zoning ordinance, I believe it calls for 40,000 square feet, 80,000 square feet use is for five acres but there's no use that is permitted on 15,000 square feet in your zoning ordinance which will preclude development of that portion of the site altogether. So those are the six issues, the three interpretations as to whether or not a gymnasium is allowed in the C zone, whether the parking that is identified on the drawing is adequate for a gymnasium and whether or not the C zone and the 30 foot encroachment into the next restrictive zone will bring the entire gymnasium into the C zone and the three variances, two for the building height and one for the side yard setback of the new gymnasium.

MR. NUGENT: Does the gymnasium building, would that building be 50% in the C zone?

MR. SHAW: Right now, the building is not in the C zone, if we were to come up with a percentage of that building that is within that 30 foot dimension, I would have to say that is probably 35 percent which is in the C zone, the balance is in the PI zone.

MR. TORLEY: This has always been one tax lot?

MR. SHAW: Yes.

MR. NUGENT: Because of the peculiar nature of this piece of property and it is bordering on Conrail which says you can border right up against the railroad tracks?

MR. SHAW: Correct.

MR. NUGENT: And the building extension of the C zone is 30 percent, would put almost half of the building in the C zone I would have to say that we need to talk

about interpretation.

MR. KRIEGER: If I may, Mr. Chairman, the building, the back building you have denominated the gymnasium building is one intricate building designated to be a single use, one building that is, it's not designed to be divided in half or constructed in any way.

MR. SHAW: Correct.

MR. KRIEGER: And part of that building is within the, whether it be 35 percent, 30 percent, 40 percent, whatever it is a substantial portion of that building is in the C, in the extension of the C zone, which is permitted under 48.6 D.

MR. SHAW: Correct.

MR. KRIEGER: The portion of the property dedicated to the use for the gymnasium building if it were subdivided would not meet the minimum criteria for any allowed use in the PI zone.

MR. KRIEGER: Correct, I believe the minimum is 40,000 square foot in a PI zone. Basically, if this board were to determine that it is the PI zone and we have to comply with the PI zone, nothing could be built on that piece of land, very simple.

MR. LANGANKE: Without variances.

MR. SHAW: Without substantial variances.

MR. KRIEGER: The surrounding neighborhood in that area would you say it's purely residential, purely commercial, mixed residential and commercial.

MR. SHAW: What you have across the street is residential on the other side of Conrail, it's zoned multi-family, some of it is vacant but it is zoned multi-family and towards Vails Gate which would be to the south, it's commercial and planned industrial also. That PI C zone continues parallel with Windsor Highway.

MR. KANE: And the only access to that back parcel in

the PI zone would be through the front?

MR. SHAW: Correct.

MR. LANGANKE: Is that level terrain there, can you see right across the tracks?

MR. SHAW: No, the tracks jump up visually it looks like it's maybe an eight foot jump from here to here, the tracks are built up cause again you have the overpass, okay.

MR. LANGANKE: How wide is that right-of-way?

MR. SHAW: A hundred feet and on the opposite side of that right-of-way, I believe is vacant land, is that correct, Jim?

MR. PETRO: Yes.

MR. KRIEGER: Would you say that land is zoned multi-family on the other side of the vacant land is the Windsor Crest development?

MR. BABCOCK: That is correct.

MR. SHAW: If you continue in a northerly fashion, which is also multi-family zoned.

MR. NUGENT: There's a little lane, Mahary.

MR. SHAW: Correct, you have to cross that northerly first before you hit Windsor Crest.

MR. NUGENT: In reading the zoning book I have, it says in all cases where the district boundary divides a lot in one ownership, it's going to be one ownership.

MR. SHAW: Correct.

MR. NUGENT: He's not going to subdivide that little piece off?

MR. SHAW: Absolutely not, my client who owns the land now will continue to own it after the structures are

built as one lot.

MR. NUGENT: Well, what's your pleasure?

MR. TORLEY: Would you read the rest of that you started there?

MR. NUGENT: Yes, divides a lot in one ownership and more than 50% of the area of such lot lies in a less restricted district, the regulations prescribed by local law for less restricted district shall apply.

MR. TORLEY: Do we consider C less restricted than PI?

MR. KRIEGER: Yes.

MR. BABCOCK: Yes.

MR. TORLEY: Therefore, since clearly I would say at least 75 percent of this land is in the C zone, the less restrictive C zone code should expend the remaining segment of land.

MR. KRIEGER: Well, certainly it extends to the 30 foot line which the applicant has marked, that by virtue of mechanical application of statute more than 50% he's entitled to 30 feet. Where the interpretation comes in is with the remaining small triangle of land which would encompass a portion of the proposed gymnasium building, whether that should receive under the circumstances the individual circumstances of this application on this lot, whether that should also receive C treatment. The statute doesn't require it nor does it prohibit it.

MR. TORLEY: It would seem that it would have as has been pointed out by the applicant and some of the other speakers here, there's no other access to that quote PI zone piece of property, other than through a C Zone. It's a relatively small fraction of the total lot, it would seem only logical to extend the requirements of the C zone throughout the entire parcel.

MR. NUGENT: I agree.

MR. LANGANKE: I agree also.

MR. KRIEGER: As a matter of law that the application of logic and good sense, whatever, is what the zoning board is here for.

MR. LANGANKE: Very nicely reasoned, Mr. Torley.

MR. KRIEGER: Certainly have to as far as the area variances are concerned.

MR. TORLEY: We don't have to for the interpretation.

MR. KRIEGER: Yes, you will, that takes care of the three use interpretations. There are three of them but there are still a number of area variances under which the normal area variance criteria applies. I would suggest that it would be inappropriate to render a decision on the portion of the application since at least part of it requires a public hearing until after you hear from the public.

MR. NUGENT: Are there any other questions by the board? Hearing none, I'll open it up to the public. Please state your name and address so that the stenographer can hear you. Anyone care to talk?

MR. LUCERA: I live right across the street from this project and I think that 32 is now so congested by putting this thing up, it's going to be worse now, I don't know how he is going to get in and how he is going to get out but it seems out of place. I don't think it should be there, we're a residential section and by putting this garbage there, it doesn't pay, we're not paying taxes for somebody to put that up there and a gymnasium, there's plenty of gymnasiums around there. There is a YWCA, there's one on 94, how many more do you want?

MR. NUGENT: We didn't get your name, sir.

MR. LUCERA: My name is Lucera. I'm here for my daughter, Donna Gamma. I live right on Willow Lane and 32, it's congested now with something like that, you realize how much more traffic you're going to have,

they want to build a gymnasium, let him go up to Vails Gate, there's plenty of room up there.

MR. NUGENT: Okay, thank you.

MR. LUCERA: That is all I want to say.

MR. GEORGE CHALEFF: I own the piece of property to the south of Mr. Petro there and I too have a few concerns like Mr. Lucera. I do agree the fact that the traffic is a problem over there. It has been for a long time this should be a consideration. Another thing is he's very close to me and he's very tall, I'm not really comfortable with that to begin with. And the gymnasium as it narrows to the back of the triangle, I don't know how far it is scaled off but it looks really close to my property and I live right there and also I have a couple of rentals in the back, there are people who live back there too and he's very high, he's very close, I don't know anything about the hours of operation. I don't know whether he is going to serve food in his gymnasium as well, these are things that I'd like to see addressed. Another consideration I also have a concern is the parcel of property on the westerly side, the northwesterly side is very wet and at this point, I have a moderate flooding problem. If that is all macadam and turn it into a parking lot, a lot of the water is not going to absorb into the ground and I'm going to have a real heavy flooding problem on my hands. And I'd like to find out what's in the plan to cover me from being flooded out. It's a prime consideration I do have. I don't see anything about any culverts or the flooding consideration addressed and I would like to know that.

MR. NUGENT: To answer your first question, it's the corner, the closest corner of the gymnasium to your lot line is 21 feet, the closest corner, the problems, the site drainage and that comes up in the planning board meeting, not at our meeting. We're only to vary the law. That is all our job is.

MR. SHAW: Mr. Chairman, just to interject again realizing for a while these are site issues that deal with the planning board, not necessarily this board,

but seeing that the question was asked, maybe I can shed some light. A couple things as I mentioned before, we're on a state highway, we have met with the New York State Department of Transportation, we have examined the entrance on to the state highway and where it's shown is acceptable to the state. In the site plan process with the planning board, we're going to have to get a permit from the DOT allowing us to build that entrance where it's shown so it is going to be built where they want it cause it's their highway that is number one. Number two, is that in developing this parcel, we're going to be reshaping the property, we're going to be putting in macadam as well as going to be putting in catch basins, putting in piping, we're not only going to collect the water on the site but we're going to extend the storm drainage system to the south and connects into a catch basin in front of your property. So we'll be containing our on site storm water. With respect to visual considerations, we're proposing a 6 foot high wood fence along the southerly property line to visually mitigate viewing the property from Mr. Chaleff's lot to our lot. The fact that the existing grade rises as you move to the north, we can't do anything about that. So while he says it's high, it's not high because we chose it to be so it's because the way mother nature left it for us. In fact, if anything, we're going to be excavating a little bit and lowering the structure into the ground rather than extending it to a higher elevation. So again, these are site plan issues but I thought I'd just take a minute to touch on a few of them and answer some of the questions.

MR. CHALEFF: I'd just like it known that I do have a problem now. I don't know whether the plan has been approved yet by the planning board.

MR. SHAW: No, it was not.

MR. CHALEFF: I haven't been notified of any other public hearing than the one I got notified for this.

MR. KRIEGER: Procedure is if they receive the variances which they have requested, whether or not they receive them before this is developed, it must

again appear in front of the planning board in which case all of the site plan review items will be reviewed thoroughly.

MR. CHALEFF: I did ask one question I would like addressed. I asked about the food, will they be serving food back there?

MR. PETRO: Not to my knowledge, George, it's a gym for kids about your son's age, I don't think.

MR. CHALEFF: Most kids gyms today are serving food.

MR. PETRO: It's more of a school for gymnastics, not like a gym to go out and work out, it's for five to six year olds, ten year olds, they work on trampolines. Jim Petro, owner, and to my knowledge, there is no food and whether they bring a lunch or something, I don't know that.

MR. NUGENT: Is there anyone else that would like to speak?

MS. NORMA JEANNE FRANGELLO: My name is Norma Jeanne Frangello. I have lived on Windsor Highway for many years. My concern is having this development here, is that the traffic which once again is a very dangerous piece of traffic coming down 32 to the overpass, there's a blind spot, how are they going to get the traffic coming out of this development into 32 when the trucks come down at 45, 50 miles an hour down that highway and how many accidents are you going to have there?

MR. NUGENT: Would you like to field that one?

MR. SHAW: I don't know how many accidents are going to happen there.

MS. FRANGELLO: As it is, how many accidents do we have turning off into Willow Lane?

MR. SHAW: The only thing I can add to that, this does not fall under the purview of this board but New York State Department of Transportation, they are going to

pick the spot and it's pretty much where I have it indicated where it is the safest to enter into the site or exit from the site.

MS. FRANGELLO: Is this going to be uphill, this location where the boarded up house is located right now?

MR. SHAW: Yes, that is the site.

MS. FRANGELLO: Your entrance into this property is that going to be a raised entrance or are you going to clear out that raised area?

MR. SHAW: What we're going to be doing is putting a platform at the bottom on 32 and then going into an incline, it's not going to be a sharp incline coming into the edge of pavement, we're providing a platform so if a car coming down in inclement weather hits the brakes, that this portion is not so steep where they'd continue on into the highway.

MR. LUCERA: Do you realize how many accidents we had on Willow Lane and 32 in the last year? Must have been about four or five good accidents because of that traffic. You can't be putting this stuff in there, somebody will get hurt again, even the trucks, the way they come down from Newburgh down into Vails Gate, they come under that viaduct doing 60, 70 miles an hour. I mean somebody's going to get killed, if they didn't get killed already.

MS. FRANGELLO: You have your school buses which stop.

MR. LUCERA: And the school buses is another thing then you're going to have Ephanty College which is turning over to a public school that is going to add more traffic and there's no traffic lights, there's nothing.

MS. FRANGELLO: The traffic light won't do any good there anyway because the railroad overpass blocks the view.

MR. LUCERA: I think of the children's safety too.

MS. FRANGELLO: School buses coming out Willow Lane and turning there to go north or south and it's a block coming down there because of the railroad overpass.

MR. LUCERA: Willow Lane gets more traffic than 32.

MR. SHAW: Mr. Chairman, again, these are all issues that the planning board is going to have to decide whether or not they are appropriate or not.

MR. NUGENT: I understand. Is there anyone else that cares to speak? Hearing no one else, I'll close the public hearing and open it back up to my board.

MR. TORLEY: I have a question again this will have to be in the nature of a recommendation to the town board since gymnasium and health clubs seem to be coming along, they may want to have some specific lines in the zoning code for that, most particularly for the parking, that is the one I'm having the most trouble with. You have done what seems to be the best frankly, but about the appropriate parking, one space for five students?

MR. SHAW: I realize that, that is why I pointed out that in addition to providing the necessary spaces for retail, we have 17 additional spaces which I called overflow that would be available to either use the gymnasium or the retail use. So there's 17 additional spots which could be used by the gymnasium. Then you get into the hours of operation, not that I envision a tremendous demand of parking spaces by the gymnasium but certainly if it's during the hours that the retail building is not open again those spaces would be available. If you take a look at the total number of spaces on this site and the two uses, I think you would become comfortable with the numbers. Again we have 17 extra spaces in addition to what I have assigned to the gymnasium plus what New Windsor requires for the retail.

MR. KRIEGER: If the property were subdivided and became sometime in the future into two separate ownerships, those 17 spaces that you call overflow would not necessarily be available for both uses.

MR. SHAW: Correct, and at that point, the subdivision would probably not be approved.

MR. KRIEGER: One of the advantages of having it under common ownership is the availability of dual use for those 17 spaces.

MR. SHAW: Correct.

MR. TORLEY: One of the members of the audience requested information about hours of operation, can you give us any information on that?

MR. SHAW: Jim, could you speak to that?

MR. PETRO: The front building which at this time once again, I am the owner of the property, I have proposed there possibly it's going to be an auction gallery which would only be used maybe once every two or three weeks and would be, the auction would run approximately from six to ten at night. That is what's proposed. Now I have haven't signed a lease, that is what I am thinking about, of course, that would be only for that particular use. This building would be proposed for any use in a commercial zone as the same with the rear building. The gymnasium I believe they are not there every day, as it is, but they run just during most working hours and I think they may have one night class that gets over at eight, ten o'clock, probably at the latest. But again, I really don't know.

MR. CHALEFF: Type of gymnasium?

MR. PETRO: It's for young children from 5 to 15 years old. You can use the gymnastics for Olympic training, it's trampolines, it's jumping up on the horse, it's that.

MR. LUCERA: Don't you have that now on Union Avenue?

MR. PETRO: I don't know.

MR. LUCERA: You have all that.

MR. PETRO: That may be but that doesn't affect me on this site.

MR. LUCERA: How about the retail store?

MR. NUGENT: Public hearing's closed.

MR. PETRO: Thank you.

MR. NUGENT: Mr. Shaw, do you want to continue?

MR. SHAW: I think I have added everything that I could to this case.

MR. TORLEY: This line of evergreens marks one of the property boundaries?

MR. SHAW: No, this line of evergreens is behind this building which is shown dotted, this line of evergreens runs right through here and there are, I believe some evergreens along this property line which I think maybe you can see this over here, these or these, this view was taken in this fashion.

MR. NUGENT: Well, gentlemen, if you have no further questions.

MR. CHALEFF: The thing about the hours of operation actually came up, I don't know whether it's on the border line of whether it was closed or what the answer to the hours of operation as being up to ten o'clock, ten p.m. at night. I just want it known that I'm against it running until ten o'clock at night because I live next door there. My wife works in a hospital, she works shift work and we need our rest.

MR. KANE: That is not a consideration of this board, unfortunately, that is something that the planning board will determine with the owner of the property, we cannot even judge something on that. Our determination is strictly on his application according to the numbers. The planning board will decide how and when he can operate.

MR. CHALEFF: Will I be notified?

MR. KANE: I can't tell you that, I don't know.

MR. TORLEY: The planning board is not legally required to have a public hearing.

MR. SHAW: They may or may not have a public hearing.

MR. TORLEY: You as the applicant can request a public hearing.

MR. SHAW: Applicant can request a public hearing? I imagine I could. I have never heard of one doing so.

MR. KANE: That has nothing to do with us and our determination.

MR. NUGENT: No, we're only here to vary the law, that is all, as written.

MR. KRIEGER: For your information, the planning board on a site plan review, the planning board may but it is not required to have a public hearing but they are, if the planning board deems it appropriate, it may.

MR. NUGENT: Okay, first question I got to ask is do you feel that we should vote on an interpretation?

MR. TORLEY: Yes.

MR. LANGANKE: Yes.

MR. KANE: It's my opinion that it should be an interpretation.

MR. NUGENT: If so, then I would like to do it in three parts, cause there's three interpretations.

MR. LUCERA: Excuse me, what's the purpose of zoning health and safety?

MR. NUGENT: Yeah, we take that into consideration, yes. What are you asking?

MR. LANGANKE: It's closed.

MR. NUGENT: We're voting on, they are asking a variance from town law and that is what we're voting on, period. Do you understand? We have three interpretations to deal with and I would like to take each one separately. And then we'll vote on the variance, area variances.

MR. KRIEGER: Then you'll vote on the use variances, if any of the interpretations fails, then you'll vote on the area variances.

MR. TORLEY: Thank you.

MR. NUGENT: In order to get it done correctly, we'll do it that way.

MR. NUGENT: I'll accept a motion. Would you like to give the interpretation again?

MR. TORLEY: I'd ask our attorney if he can give us the clarification on which of the three interpretations.

MR. KRIEGER: I would suggest the first motion should be that the town zoning code be interpreted so as to make gymnasium use the equivalent of personal service store as it appears in the ordinance.

MR. TORLEY: And hence suitable for C zone.

MR. SHAW: That is the first.

MR. KRIEGER: Take it one step at a time.

MR. TORLEY: So, I would so move as our attorney has expressed.

MR. KANE: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE

MR. NUGENT AYE

MR. KRIEGER: I would suggest that the second motion is that the town zoning ordinance be interpreted in such a way as to require for gymnasium usage, the number of parking spaces specified under the category outdoor recreational use.

MR. LANGANKE: Which is five per.

MR. KRIEGER: Which is what he is asking for.

MR. TORLEY: Subject to my hope for town board guidance, I would so move.

MR. KANE: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. KRIEGER: Before I frame the third motion, as I believe it should be, bearing in mind that all interpretations are made with respect to this particular property and the peculiar facts involving this piece of property, is that understood?

MR. KANE: Understood.

MR. NUGENT: No precedent will be set.

MR. KRIEGER: That unanimously agreed to by the members of the board, I would suggest that the third motion be as follows. Under the circumstances of this particular application, that the town zoning code be interpreted for this application in such a way as to permit C usage for the entire parcel.

MR. KANE: So moved as stated by our attorney.

MR. TORLEY: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. KRIEGER: Interpretations we take separate.

MR. NUGENT: The remainder of the variances for area variances which are 7 foot building height and a 25 foot building height and 9 foot side yard.

MR. TORLEY: I move we grant the applicant Petro Metals request for these variances.

MR. KANE: Second the motion.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. KRIEGER: I would suggest that a memorandum be sent to the town board from the zoning board of appeals, suggesting that the entire question of gymnasium as a usage be addressed in the code including the parking spaces and all questions pertaining thereto, since it is not in the code.

MR. TORLEY: Would you like a motion on that?

MR. NUGENT: Yes.

MR. TORLEY: I move that we request our attorney to send a memorandum to the town board requesting guidance on the matters of the gymnasium, specifically parking, hours of operation.

February 5, 1996

45

MR. KRIEGER: May I suggest a memorandum requesting guidance, it should say this is an area that they should address in the code accordingly.

MR. TORLEY: Please make that correction.

2/5/96 Public Hearing - Petco Metals, Inc.

Name:

Address:

George Chaloff

266 Windsor Hwy - Traffic & flooding
zone

New Windsor, N.Y.

Santi Emmanuele

42 Willow Parkway NW

Donna M Gamma - 4 Scenic Dr -

Mr. Lucero
spoke in
opposition
for
Gamma

FOR: 1-WILLOW LANE NW

Lynn Vance, 14 Heathstone Way, N.W.

Delia P. de 11 Willow Lane NW

Norma Jean Frangello

245 Windsor Hwy - Traffic

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

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 95-38

DATE: 3 JAN 96

APPLICANT: PETRO METALS INC

P.O. BOX 928

VAILS GATE N.Y. 12584

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 27 DEC 95

FOR (~~SUBDIVISION~~ - SITE PLAN) _____

LOCATED AT WEST SIDE WINDSOR HIGHWAY WEST OF

WILLOW LANE.

ZONE C & PI

DESCRIPTION OF EXISTING SITE: SEC: 35 BLOCK: 1 LOT: 43

IS DISAPPROVED ON THE FOLLOWING GROUNDS: VARIANCE OR INTERPRETATION
NEEDED REGARDING ACCEPTABILITY OF GYMNASIUM USE WHICH IS
IN PI ZONE BUT PARTIALLY IN 30' ZONE OF SECT 48-6(D).

INTERPRETATION AND/OR VARIANCE REGARDING REQUIRED GYM PARKING,
SIDE YARD AND HEIGHT VARIANCES AS REQUESTED BELOW.

MARK EXALL PE 51
MICHAEL BABCOCK,
BUILDING INSPECTOR

<u>REQUIREMENTS</u>	<u>APPLICANT REQUESTS</u>	<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>C</u>	USE <u>A-1+A-2</u>		
MIN. LOT AREA	<u>40000 SF</u>	<u>72 745</u>	<u>—</u>
MIN. LOT WIDTH	<u>200 FT</u>	<u>324</u>	<u>—</u>
REQ'D FRONT YD	<u>60 FT</u>	<u>108</u>	<u>—</u>
REQ'D SIDE YD.	<u>30 FT</u>	<u>21 FT</u>	<u>9 FT</u>
REQ'D TOTAL SIDE YD.	<u>70 FT</u>	<u>N/A</u>	<u>—</u>
REQ'D REAR YD.	<u>30 FT</u>	<u>N/A</u>	<u>—</u>
REQ'D FRONTAGE	<u>N-A</u>	<u>—</u>	<u>—</u>
MAX. BLDG. HT. <u>4'4"</u>	<u>RETAIL 17'-0"</u> <u>GYM 7'-0"</u>	<u>24'-0"</u> <u>32'-0"</u>	<u>7'-0"</u> <u>25'-0"</u>
FLOOR AREA RATIO	<u>0.50</u>	<u>0.12</u>	<u>—</u>
MIN. LIVABLE AREA	<u>N/A</u>	<u>—</u>	<u>—</u>
DEV. COVERAGE	<u>N/A</u> %	<u>—</u> %	<u>—</u> %
O/S PARKING SPACES	<u>44 *</u>	<u>62 *</u>	<u>— *</u>

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

* ZBA INTERPRETATION ALSO

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

PETRO METAL SITE PLAN - (95-38) WINDSOR HIGHWAY

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

MR. PETRO: Next on tonight's agenda we have Petro Metal site plan, it's represented by Mr. Shaw and obviously I'm the owner of the property and I'm going to excuse myself from representing this application and at this time, I'd like to turn over the board to Mr. Van Leeuwen who will run the meeting for me at this time.

NR. SHAW: Let me give you a quick overview of the site, the buildings and then we'll cut right to the chase. What we have is a 1.67 acre parcel on Windsor Highway, just south of the Conrail overpass, presently there's a structure on that, now that is in the process of either falling down or coming down. What we're proposing to construct on this site are two new buildings, the front portion of the site is going to be a new retail building which is going to be about 4,500 square feet in size, to the rear of the site or to the west is a new building 4,320 square feet in size, which is designated as a new gymnasium. The sight is in both the C zone and the PI zone and again, you can clearly see the designation of the zoning line on the plan. With respect to parking, we're required to provide for the retail building a total of 30 spaces, that is based upon one space for ever 150 square feet of retail use and we're providing 31 spaces in the front of the building. In addition to that 31, we're providing 17 spaces of overflow parking that is designated as parking which is on the northerly side of the site as it butts up against Conrail. That is associated with the retail building also. To the west, I said is a new gymnasium, it's unique in that the new gymnasium, excuse me, that a gymnasium use is not identified in the Town of New Windsor Zoning Ordinance. In conversation with your building inspector, we agreed that probably the best place to put it would be under use 82 personal service store. And with that, we have elected on the parking to provide not only 200, excuse me, one space for ever 200 square feet of office space with 400 square feet being allocated which translates

into 2 spaces but also one space for ever 5 students. Again, because a gymnasium is not identified in your zoning ordinance, I tried to pick out the minimum off-street parking that would be consistent with the intent of the newer gymnasium and as I look through the C zone, I find if you can just bear with me, outdoor recreation areas one for much five persons for which is designed but not less than 4 per acre, recognizing full well this is not outdoor recreation but indoor recreation. That is the closest I could find.

MR. KRIEGER: What gymnasium, what kind of use is that proposed to be?

MR. VAN LEEUWEN: Karate, something like that?

NR. SHAW: Can I have my client?

MR. PETRO: It's young children usually the age from maybe 5 to 15, maybe what they do is learn to roll on the mats, work on a horse, it's a place where they park the kids for two or three hours and they go to work out.

MR. DUBALDI: Like Bucci's in Newburgh?

MR. PETRO: Class may consist of 15 to 20 kids, learn to tumble and stuff like that.

MR. KRIEGER: Okay and this retail building in the front doesn't have any relation to it, this other retail building?

MR. PETRO: No it does not.

MR. KRIEGER: They are completely separate?

MR. PETRO: Completely separate.

NR. SHAW: You'll note on the zoning schedule a few demarcations, footnote number one reflects area variances that we're going to have to obtain from the Zoning Board of Appeals. Primarily that has to deal with building height and also a minimum side yard, that side yard comes into play to the new gymnasium. We're

required to provide a side yard setback of 30 feet and we're providing 21 feet, so we'll need a variance and the variance for the building height of the new gymnasium and a variance for the building height of the new retail building.

MR. VAN LEEUWEN: You have to go from here to the Zoning Board of Appeals.

NR. SHAW: We're looking for a nice clean rejection.

MR. DUBALDI: Greg, just to look at Mark's comment number one something about the line going through, I don't really understand what that is, something about the zoning line?

MR. SHAW: Now we're getting to the meat of it. The zoning map of the Town of New Windsor says that there is a C zone on Windsor Highway and that C zone shall extend 200 feet back from the right-of-way line but designated on that plan is that heavy bold line which separates the PI from the C zone. The reason we're getting into this conversation again is as I went through the explanation of the gymnasium and personal service store that pertains to the C zone, does not pertain to the PI zone. The town of new Windsor Zoning Ordinance also allows us under Section 46-6D to protrude into the next restrictive zone a total of 30 feet. What I have designated on that plan is the 30 foot line so we're allowed to conduct a C use in this portion of the site up to this heavy bold line and 30 feet passed that zoning line which brings me to almost the middle of the building. I think the point Mark is trying to make is that this building, okay, while it's permitted in the C zone, physically exists somewhere between a C and a PI zone. We're taking the position because almost half the building is in the C zone that the gymnasium is allowable. Going one step further, you know then what I have is a small triangular piece of land in a PI zone which we cannot use. There is no use in the Town of New Windsor Zoning Ordinance which will allow me to put any type of a PI use in this very small tract of land. I don't want to say it's confiscation of property but that is where we're at. So by virtue of the fact that we can encroach into the

building with a C use, we'd like to have the board see it's way clear that the entire building can be used as a C use again for the reason if it is then what we use it for we'd almost be precluded from using it.

MR. VAN LEEUWEN: Make a motion to approve?

MR. DUBALDI: So moved.

MR. STENT: Second it.

MR. VAN LEEUWEN: Motion has been made and seconded to approve the subdivision.

MR. SHAW: It's a site plan, for the record.

ROLL CALL

MR. STENT AYE

MR. DUBALDI: What about the use?

MR. VAN LEEUWEN: We have got to send a letter to the zoning board, correct?

MR. KRIEGER: If I may suggest, as long as it has to be referred to the zoning board, the question that they have presented is one of interpretation of the zoning ordinance and that is properly the business of the zoning board, that since he's got to go there anyway he can ask the question there and then we'll get a definitive answer to that which he can, you excuse the expression, take to the bank.

NR. SHAW: He have the zoning board with us tonight.

MR. VAN LEEUWEN: It's right there.

NR. SHAW: I understand what you're saying Andy, just 3 more hurdles that we have to hop over with the ZBA, I was kind of hoping to resolve them with this board tonight.

MR. KRIEGER: I think you would be best to hop over them with the ZBA. You have to be there anyway, not

like you have to make an extra trip.

NR. SHAW: Just so I understand clearly what hurdles we have to hop over, whether this building can be used for a C use?

MR. KRIEGER: You have got 3, you have got the area variance package.

NR. SHAW: Correct standard variance.

MR. KRIEGER: Then you have an interpretation of the zoning code as to whether or not the gymnasium falls into a C use, the argument that you have made and failing that interpretation then you have an application for a use variance, you make them altogether and then ultimately what the zoning board does is they decide with respect to the interpretation and the use variance, they decide the interpretation first and if that decision is against you, then they proceed immediately to the use variance. Same shot, same deal, same application, same appearance, same everything. In the connection with that, I would ask before you present to the zoning board that you calculate out what the area would be of the triangular piece, just to present that. I understand the argument that you have propounded that is a fact I would want to consider.

MR. SHAW: It's approximately a third of an acre.

MR. KRIEGER: I'm sure by the time you are at the zoning board, you'll figure out what it is.

NR. SHAW: Okay. Did you vote on it, Mr. Chairman?

ROLL CALL

MR. STENT	NO
MR. DUBALDI	NO
MR. VAN LEEUWEN	NO

MR. VAN LEEUWEN: Now it's going to the zoning board.

§ 48-5. Zoning Map. [Amended 5-3-89 by L.L. No. 5—1989]

The boundaries of said districts are hereby established as shown on the Zoning Map of the Town of New Windsor which, with all explanatory matter thereon, is hereby adopted and made a part of this local law.¹ A copy of said map, indicating the latest amendments, shall be kept up-to-date in the office of the Building Inspector for the use and benefit of the public.

§ 48-6. District boundaries.

In determining the boundaries of districts shown on the map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets, highways, waterways or railroad rights-of-way or such lines extended, such center lines shall be construed to be such boundaries.
- B. Where such boundaries are indicated as approximately following the property lines of parks or other publicly owned lands, such lands shall be construed to be such boundaries.
- C. Unless otherwise shown, all district boundaries running parallel to streets shall be construed to be two hundred (200) feet back from the rights-of-way of said streets.
- D. In all cases where a district boundary divides a lot in one (1) ownership and more than fifty percent (50%) of the area of such lot lies in the less restricted district, the regulations prescribed by this local law for the less restricted district shall apply to such portion of the more restricted portion of said lot which lies within thirty (30) feet of such district boundary. For purposes of this section, the more restricted district shall be deemed that district subject to regulations which prohibit the use intended to be made of said lot or which require higher standards with respect to coverage, yards, screening, landscaping and similar requirements.

¹ Editor's Note: A copy of the Zoning Map is not included herein but is kept on file in the Town Clerk's office and is available for use by the public.

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

-----X
In the Matter of Application for Variance of

Petro Metals, Inc.

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

96-1.

-----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 January 24, 1996 I compared the 31 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
24th day of January, 1996.

Deborah Green
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1997

(TA DOCDISK#7-030586.AOS)



TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

31

1763

January 9, 1996

Petro Metals Inc.
PO Box 928
Vails Gste, NY 12584

RE: Tax Map Parcel #35-1-43

Dear Mr. Petro:

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 \$55.00.

Sincerely,

J. Cook /cd

LESLIE COOK
Sole Assessor

/pab
Attachments

cc: Patricia Barnhart, ZBA

Chaleff, George S. & Tracy Allison
266 Windsor Highway
New Windsor, NY 12553

Ross, George
140 Highland Ave.
Middletown, NY 10940

Lander, Francis A. & Clara
278 Windsor Highway
New Windsor, NY 12553

T & H Realty Inc.
280 Windsor Highway
New Windsor, NY 12553

Joseph Kaufman Properties of New Windsor
8 Quickway Road
Monroe, NY 10950

Consolidated Rail Corp.
6 Penn Center Plaza
Philadelphia, PA 19103

Khan, Dr. Mohammed H. &
Najmus Sahar Khan
16 Green Bower Lane
New City, NY 10956

Carlisle, Ernest & Jaffe, Steven
38 Glenwood RD.
Tenafly, NJ 07670

Frangello, Norma Jean
PO Box 4624
New Windsor, NY 12553

Schirmer, Frank E & Elsie M
PO Box 4209
245 Windsor Highway
New Windsor, NY 12553

McDermott, William J & Eleanor M
245A Windsor Highway
New Windsor, NY 12553

Bale, Bonnie Jean
36 Willow Parkway
New Windsor, Ny 12553

Sangiacomo, William & Rina & Hyman
Gerald Goldman & Rose Mary
B Goldman
38 Willow Parkway
New Windsor, New York

George J Smith Trust
c/o John A. & Robert R. Smith Trustees
10 Parade Place
New Windsor, NY 12553

Emmanuele, Santo & Edvige
42 Willow Parkway
New Windsor, NY 12553

Bargisen, Carl JR & Mary A
44 Willow Parkway
New Windsor, NY 12553

Reis, Micheal
48 Willow Parkway
New Windsor, New York 12553

McMahon, Harold J Jr & Marilyn R
9 Willow Lane
New Windsor, New York 12553

Rose Jacquelyn B & Toohey Robert J
7 Willow Lane
New Windsor, New York 12553

Guerriero, John & Antonietta
23 Willow Parkway
New Windsor, New York 12553

Perez, Jeffrey & Jasmine
3 Willow Lane
New Windsor, NY 12553

Gamma, Donna M
4 Scenic Drive
Newburgh, NY 12550

Choi, Joseph S. & Elza H.
27 Willow Parkway
New Windsor, NY 12550

MC Kenzie, George Z & Ophelia D Staples
25 Willow Parkway
New Windsor, New York 12553

De Gennaro, Luigi & Carolina
29 Willow Parkway
New Windsor, New York 12553

County of Orange
255-275 Main Street
Goshen, New York 10924

Martinisi, Sabatino & Jennie
273 Windsor Highway
New Windsor, New York 12553

Harris, Richard C
275 Windsor Highway
New Windsor, New York 12553

Karpoff, Garrison H & Bertha K
8 Willow Lane
New Windsor, New York 12553

Orr, Christopher A & Lori A
10 Willow Lane
New Windsor, New York 12553

Continental Manor I
P.O. Box 697
Vails Gate, NY 12584

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

96-1

Date: 01/22/96

I. Applicant Information:

- (a) PETRO METALS, INC., P. O. Box 928, Vails Gate, N. Y. 12584 x
(Name, address and phone of Applicant) (Owner)
- (b) -
(Name, address and phone of purchaser or lessee)
- (c) -
(Name, address and phone of attorney)
- (d) Shaw Engineering, 744 Broadway, Newburgh, N. Y. 12550
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- Use Variance Sign Variance
 Area Variance Interpretation

III. Property Information:

- (a) C/PI W/S Windsor Highway at Willow Lane 35-1-43 1.67 Acres +
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? R-5
- (c) Is a pending sale or lease subject to ZBA approval of this application? No
- (d) When was property purchased by present owner? 09/13/94
- (e) Has property been subdivided previously? -
- (f) Has property been subject of variance previously? No
If so, when? -
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: n/a
- _____

IV. Use Variance.

- (a) Use Variance requested from New Windsor Zoning Local Law, Section 48-9, Table of Use/Bulk Regs., Col. A _____, to allow:
(Describe proposal) Construction of a retail store on front portion of property and construction of a gymnasium on rear portion of property, each business being unrelated to the other.
- _____

(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.
(Narrative attached hereto)

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes No x.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance:

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

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area <u>40,000 s.f.</u>	<u>72,745 s.f.</u>	<u>-</u>
Min. Lot Width <u>200 ft.</u>	<u>324 ft.</u>	<u>-</u>
Reqd. Front Yd. <u>60 ft.</u>	<u>108 ft.</u>	<u>-</u>
Reqd. Side Yd. <u>30 ft.</u>	<u>21 ft.</u>	<u>9 ft.</u>
Total Side Yd. <u>70 ft.</u>	<u>n/a</u>	<u>-</u>
Reqd. Rear Yd. <u>30 ft.</u>	<u>n/a</u>	<u>-</u>
Reqd. Street Frontage* <u>n/a</u>	<u>-</u>	<u>-</u>
Max. Bldg. Hgt. <u>Retail 17'-0"</u>	<u>24'-0"</u>	<u>7'-0"</u>
<u>Gym 7'-0"</u>	<u>32'-0"</u>	<u>25'-0"</u>
Min. Floor Area* <u>0.50</u>	<u>0.12</u>	<u>-</u>
Dev. Coverage* <u>n/a %</u>	<u>n/a %</u>	<u>- %</u>
Floor Area Ratio** <u>n/a</u>	<u>n/a</u>	<u>-</u>
Parking Area <u>44*</u>	<u>62*</u>	<u>-*</u>

* ZBA Interpretation

* Residential Districts only

** No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

(Narrative attached hereto)

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: n/a

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

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____

(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.

(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.

(a) Interpretation requested of New Windsor Zoning Local Law, Section 48-6, 48-9, 48-12 Table of Use/Bulk _____ Regs., Col. A-2 _____.

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

(Narrative attached hereto)

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.)

(See site plan annexed hereto)

IX. Attachments required:

- Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- Copy of tax map showing adjacent properties.
- Copy of contract of sale, lease or franchise agreement.
- Copy of deed and title policy.
- Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- Copy(ies) of sign(s) with dimensions and location.
- Two (2) checks, one in the amount of \$150.00 and the second check in the amount of \$500.00, each payable to the TOWN OF NEW WINDSOR.
- Photographs of existing premises from several angles.

X. Affidavit.

Date: January 22, 1996

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.

By: *Samuel Petro* PRES
(Applicant)
PETRO METALS, INC.

Sworn to before me this
24th day of January, 19 96.

Patricia A. Barnhart

PATRICIA A. BARNHART
Notary Public, State of New York
No. 01BA4904434
Qualified in Orange County
Commission Expires August 31, 1997.

XI. ZBA Action:

(a) Public Hearing date: _____.

The parcel is located on Route 32 at the intersection of Willow Lane in the C and PI zones. Applicant proposes construction of two unrelated buildings on the parcel, i.e. retail store on the front portion with a gymnasium to the rear. The retail store will be 4,500 s.f. and the gym is proposed to be 4,300 s.f. According to the bulk regulations in the C and PI zones, there is ample parking provided. However, the ZBA may consider an interpretation concerning the parking.

Applicant seeks an interpretation since the Zoning Local Law does not identify the use of "gymnasium" in any zone. Applicant feels that the most appropriate category for the use of a gymnasium would be under A-2, "Personal Service Stores". The Board must make an interpretation as to whether a gymnasium is permitted in a C zone. Since the parcel is zoned mostly C on the front portion and only a small portion in the PI zone to the rear, Applicant would request that the Board interpret that the C zone regulations must rule pursuant to Section 48-6(D) of the Zoning Local Law. By allowing the 30 ft. of the C zone to encroach into the PI zone, the line dividing the C and PI portion runs through the center of the proposed gymnasium. This becomes a unique situation with a 30 ft. encroachment into the PI zone. Applicant feels that if it cannot use the C designation for the entire portion of the property, what can it be used for? Certainly, the PI zone cannot rule because it is much too small to have any significant effect on this parcel.

As far as the parking requirements are concerned, Applicant is providing, under use A-2 of the bulk regulations, 14 spaces for the gymnasium and 48 for the retail building. There will be an excess of 18 spaces that are available.

Due to the configuration of the parcel which is triangular with a steep slope on the front portion, Applicant feels that it has placed the buildings on the most advantageous area on the parcel.

Applicant, PETRO METALS, INC., has been to the Planning Board and is at present also being referred to the Zoning Board of Appeals for the following area variances:

Applicant seeks a 9 ft. side yard variance and 32 ft. maximum building height for the gymnasium, and 24 ft. maximum building height for the retail building.

It is the opinion of the Applicant that the proposed buildings will be an asset to the neighborhood and community and will not be a detriment to the health, safety or welfare of the neighborhood or community because of the fact that the structures are conducive to the C zone.

The requested variances will not result in substantial detriment to the adjoining properties or change the character of the neighborhood.

Applicant believes that the proposal before the Board will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Applicant believes that the requested area variances are not substantial and the Board should grant the variances so that Applicant can proceed to remove the dilapidated structure which presently exists on the parcel and replace it with new construction.

Applicant knows of no other feasible method available to pursue which can produce the necessary results other than the variance procedure.

When considering the proposal before the Board it should be noted that the difficulty is partially self-created because the Applicant was aware of the split zoning designation when it was purchased. However, Applicant feels that the major portion of the C zone is to be utilized for both structures and that the Board will sanction the project due to the fact that the PI portion is unusable.

The interest of justice would be served by allowing the granting of the requested variances.

For the above reasons, Applicant believes that the granting of the requested variances will be advantageous to the area.

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. 1

Request of PETRO METALS, INC.

for a VARIANCE of the Zoning Local Law to permit:

construction of a gymnasium on the rear portion of the property with insufficient side yard, less than the allowable parking spaces and more than the allowable maximum building height; and construction of a retail store on the front portion of the property with more than the allowable maximum building height; interpretation of the gymnasium use and required parking spaces;

being VARIANCES of Sections 48-6, 48-9 and 48-12, Table of Use/Bulk Regulations, Columns A, F, I, O,

for property situated as follows:

West side of Windsor Highway, west of Willow Lane, New Windsor, New York,

known as tax lot Section 35 Block 1 Lot 43.

SAID HEARING will take place on the 5th day of February, 1996 at New Windsor Town Hall, 555 Union Avenue, New Windsor, New York, beginning at 7:30 o'clock P. M.

JAMES NUGENT,
Chairman

Date 1/30/96, 19.....

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

TO Frances Roth 147 Sycamore Dr DR.
New Windsor NY 12553

DATE		CLAIMED	ALLOWED
1/22/96	Zoning Board Meeting	75 00	
	Misc - 4		
	Kim - 6		
	Petro metals - 10 = 45.00		
	Insul-Sash - 5		
	Mans - 6		
	Langanke - 3		
	Mylonas - 3		
	Digeratu - 13		
	Price Chapper - 2		
	<u>52</u>	<u>234 00</u>	
		309 00	

PETRO METALS INC.

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

MR. NUGENT: Referred by Planning Board. Applicant proposes construction of two buildings as follows: Request for 9 ft. side yard variance for gymnasium, 7 ft. 0 in. maximum building height variance for retail building, 25 ft. 0 in. maximum building height variance for gymnasium, plus interpretation and/or use variance as to whether or not the proposed gymnasium falls into the C zone under use, and interpretation and/or area variance regarding required gymnasium parking on the west side of Windsor Highway/Willow Lane in C and PI zones.

MR. SHAW: Just let me give you a quick overview. The parcel is located on Windsor Highway, as you're traveling south as soon as you go under the Conrail overpass, you look to the right, there's the parcel. Presently, there's a building on it now which I believe was for residential use and it's been abandoned now for quite a few years. The parcel is in the C and PI zone, it's 1.67 acres in size. We're proposing to construct two unrelated buildings on the parcel. The front building closest to the highway is going to be new retail building about 4,500 square feet and the building more to the west is a new gymnasium totaling 4,320 square feet. With respect to parking, the parking scheduled, there's ample parking although there will be an interpretation from this board regarding the appropriate number of spaces. The area variances that we're requesting are three. One is a variance for the new gymnasium, we're required to provide a 30 foot side yard setback, we're providing 21 feet on the southerly side, thus we need a 9 foot variance for that. The variances number 2 and 3 are for building heights, of course, what else. we're allowed for the retail building 17 feet and we're going with a height of 24 feet and for the gymnasium again it being the distance to the nearest lot we're allowed to go seven feet and we're proposing to go 32 feet and again, that is to the highest point of the roof to the ridge. So those are the three area variances that this board is going to

have to vote on. As you made your introductory remarks, there are some interpretations that this board must grant on. One is unfortunately the Town of New Windsor Zoning Ordinance does not identify a gymnasium as a use in any of the zones. I have consulted with your building inspector and he's with us tonight and I was of the opinion and he concurred that probably the most appropriate category for gymnasium in the C zone is use A2, which is a personal service store, it would be nice if gymnasium was spelled out somewhere in the zoning ordinance but it isn't. So the interpretation number one is a gymnasium permitted in a C zone, that is issue number one. Issue number two deals with parking spaces. Again, because the gymnasium is not identified in your zoning ordinance, neither is the required parking, I have gone through all the categories and I have tried to come up with what I thought was an appropriate parking requirement based upon other criteria and I selected five students per space. The board's going to have to interpret whether or not that is an appropriate number, not based upon the zoning ordinance and in number 3, is the combination of the PI zone and the C zone on the parcel. If you notice on the drawing, I have created a heavy bold line and have designated that portion of the parcel which is in the C zone that which is in the PI zone. Your zoning board map allows commercial use for 200 feet back from the right-of-way line of Windsor Highway. There's a section in your zoning ordinance which allows an encroachment of 30 feet into the adjacent zone that I have indicated on the plan also with a dimension of 30 feet to the, from the heavy bold line. That line runs through the gymnasium building. So we're allowed by your zoning ordinance to not only construct uses that are applicable in the C zone, not only in the C zone but also 30 feet into the PI zone. The interpretation that this board has to wrestle with is whether or not the entire remaining building this is going--let me rephrase that, as to whether or not the new gymnasium is in the C zone or not in the C zone. Because the line which separates the C from the PI which is the 30 feet from the zone line runs through the middle of the building, very simple terms. It's a unique case to me and I don't know if this board has had any experience with it, but what we have is a

parcel of land on this site or a piece of this site which is approximately 15,800 square feet, that is PI, it is not, and that does not include, excuse me, that does include the 30 feet encroachment but the entire geometry, the piece that is totally in the PI zone is 15,800 square feet. If I cannot use that for a C use, what can I use it for? If you go to the zoning table and look under PI, and take a look at the minimum lot areas for any use in a PI zone, 80,000 square feet, five acres, five acres, 40,000 square feet, five acres, 40,000 square feet, ten acres, 80,000 square feet and 25 acres. I have 15,800 square feet. So it is kind of in limbo somewhere and this board has to determine whether or not the gymnasium not only is an appropriate use for the C zone, not only is the ratio of five students per one space appropriate but also whether the gymnasium is in the C zone or not.

MR. LANGANKE: What's the reasoning for the extension of the zone?

MR. SHAW: That you're going to have to go back and ask the fathers who put together the zoning ordinance.

MR. LANGANKE: What were their intentions?

MR. KRIEGER: Who knows.

MR. SHAW: I wasn't around at that time.

MS. BARNHART: Mr. Emanuel may be able to answer that question.

MR. NUGENT: The heavy dark line that you indicate on the drawing where it says PI C?

MR. SHAW: That is the zone line.

MR. NUGENT: Is that 200 foot from the--

MR. SHAW: From the right-of-way line but--

MR. NUGENT: But when you have the encroachment of 30 feet more now we have taken up the better part of half of that building.

MR. SHAW: With the 30 foot extension of the zone, yes.

MR. KRIEGER: If I may, Mr. Chairman. In answer to I forget whether it was Mr. Torley or Mr. Langanke?

MR. LANGANKE: Mr. Langanke had the question.

MR. KRIEGER: As near as I can tell, the intention of the 30 foot extension was so that where you had property in two zones bear in mind it doesn't specify commercial or PI, just any two zones, that with a 30 foot extension it would allow one parcel to be used for one use. This is a rather individual and peculiar case because you have got an odd shaped parcel and 30 foot extension does not encompass all of the additional parcels but it was envisioned when it was enacted that it would in most cases do that. Thereby obviating the need for such an application as this.

MR. LANGANKE: Thank you.

MR. TORLEY: I'm more curious as to how you came up with five students per parking space?

MR. SHAW: I didn't bring all my pieces, outdoor recreation areas, one for each five persons for which designed but not less than four per acre, this is in the C zone, minimum off-street parking issue number one so I thought outdoor recreation one per five indoor recreation, one per five, it's the closest I could get.

MR. TORLEY: What would it be if, what was it for bowling alleys? What do we have for that? Anybody know would be closer to indoor recreation?

MR. BABCOCK: I don't think there's a bowling alley use in the town. I think it would probably be a personal service, again personal service stores is one per 200 square feet. It's like an office building.

MR. LANGANKE: Do you feel that the use is high or low?

MR. TORLEY: I just kind of think it might be low on parking spaces, given that you will have, if you are

going to have 30 kids, you're going to have 30 parents bringing the kids.

MR. LANGANKE: But you also have 30 parents dropping off kids.

MR. BABCOCK: Well, from what you calculate it, it comes up required 30 and you're providing 48.

MR. SHAW: No. What happens is again it's an interpretation. Let's take a piece at a time. With respect to the gymnasium, I'm stating that we're required to provide 14 spaces and we're providing 14 spaces. And those 14 spaces are right in front of the building. But if we take a look at the retail building, I'm obligated to provide 30 spaces. I'm providing 48. So there's 18 excess spaces for the retail that you really could apply to the gymnasium so the spaces are there. The number is there. It's just a question of completing the circle and determining whether or not one per five is appropriate or maybe it's one per four and we'd use it and we still have enough spaces as long as the board can find its way clear should the final gymnasium be in operation and the retail building is not that the overflow parking would be taking some of the superfluous parking spaces for the retail building.

MR. TORLEY: Given the shape of this lot, it really does look like you might as well make the whole thing C.

MR. NUGENT: I agree, plus the fact that it's bordering a railroad which you can build right up to it by law you can build right up to it so it is kind of an odd shape.

MR. KRIEGER: One thing I would like to point out where the applicant has applied for not only interpretations but all of the interpretation applications have as a default, if I can use that word, default or fall back provision that in the event the interpretation should be adverse that they would then be applying for a use variance or an area variance as appropriate but right within that application.

MR. SHAW: What we have are three interpretations, three area variances. Interpretation being gymnasium being in the C zone, parking, appropriate number of parking spaces for the gymnasium and the split property between the PI and the C zone and the variance would be two building heights and one side yard setback for three area variances.

MR. NUGENT: Since I have been on this board, we have had one other one that I can recall that was very controversial and the building was in a C zone but half of the building was in an R-4 and we went round and round with this thing until we were ready to all drop. The bottom line was that the building was considered C zone and it was allowed to stand so I think that that is what we have here exactly the same thing different zones but exactly the same thing, if 50% of the building is in the C zone then that is a C property and that is what we have to gauge it by I feel anyway.

MR. TORLEY: Well, you know, could the applicant rearrange the structures in the property so that you know there are more shared common walls so they can be more in the C zone.

MR. SHAW: And not get those two buildings of those sizes on the parcel.

MR. NUGENT: Are you familiar with the site?

MR. TORLEY: Yeah.

MR. NUGENT: It's almost a shear rock cliff that goes off 32, they can't come anymore forward.

MR. TORLEY: Really almost for the record, there is no way your concept requires them to be two separate structures.

MR. SHAW: Absolutely two separate uses, two different occupants, two separate leases, they cannot be combined and just to reinforce my argument with respect to the C and the P zone, if this board were to determine and I am not an attorney that that section of the parcel had

to be used, had to be built in accordance with the PI zone that would preclude us from using it, other than coming in with massive variances because the size is 15,000 square feet and as I read off, the minimum of any use in the PI zone is 40,000 square feet.

MR. NUGENT: The whole lot wouldn't make it.

MR. TORLEY: I have no inherent difficulties with your proposal but I'd like when you come back to describe why you can't have two buildings sharing a common wall, why it has to be two separate structures and if we were not to make that assumption of this being C, you can always make it into a parking lot, you can run your parking back into there if it was PI.

MR. LANGANKE: It comes down I believe, Larry.

MR. TORLEY: I'm not saying just talk about that when you're here cause you claim that you couldn't use it for anything at all but rearranging the layout you could theoretically make it parking.

MR. NUGENT: I don't know if I want to see that.

MR. LANGANKE: Doesn't it come down to the bottom line the man has a use for this piece of property that if it can proceed as he has envisioned it, it will bring a return on his money.

MR. NUGENT: Or it will go back on the, or else it will go back on the tax rolls.

MR. TORLEY: I have no problem with the concept for the record why you have to do it this way, rather than another way, just letting you know now what you might want to talk about at the public hearing.

MR. NUGENT: If we interpret the right way, he doesn't have to come back.

MR. TORLEY: Yes, he does.

MR. NUGENT: Why?

MR. SHAW: For the three variances.

MR. KRIEGER: Don't forget he has a fall back application so in the event that any one of the interpretations is not favorable to the applicant, then it proceeds to a use variance without the necessity of him coming back.

MR. REIS: Greg, what's the reason for the height variance on retail building? Why do you have to go to that height?

MR. SHAW: Why does it have to be that height, I'm sorry, I didn't hear?

MS. BARNHART: Tell him.

MR. REIS: Yeah, that is the question.

MR. NUGENT: Cause they only allow four inches to the foot.

MR. SHAW: The building really isn't that high, we're asking for 24 feet but if you come up and again I haven't looked at the architecture of the building but just to use an example, if you have 12 feet to the eaves height now at that point in time, you have a pitched roof, the maximum building height isn't to the eaves, it's not to the midpoint, it's to the highest point. So while 24 may sound high, and even more so with the gymnasium that is 32 feet high, if you physically take a look at the building and say gee, it's not that tall except for the fact you're measuring to the highest point which is a ridge on a gabled roof, even though the eaves may be 12, 14 feet high by the time you get to the high point you're up 24 maybe 32 feet and in this case, I believe the gymnasium is 32 feet.

MR. TORLEY: These are pitched roofs?

MR. SHAW: Yes.

MR. KRIEGER: I would suggest that with the recent experience of the town with whether that flat roofs,

which is what would be required to meet the variance or perhaps not to be encouraged, pitched roofs are to be encouraged.

MR. TORLEY: Your plan is for a gymnasium as a karate studio?

MR. SHAW: From what Mr. Petro tells me and what I have read in the minutes, it's for children of ages 5 to 15, maybe, let me just take a look, class size may be 15 to 20 kids.

MR. KRIEGER: It's my belief that what he envisions is more along the lines of if you are familiar with it, Bucci's Gymnastics, rather than a karate whatever it is.

MR. NUGENT: Tumbling.

MR. TORLEY: So he'd need more clearance for that obviously.

MR. REIS: Trampoline, that kind of thing.

MR. NUGENT: What's your pleasure? We have to keep moving here. As far as my own personal opinion as far as the interpretation I feel that the entire project should be in the C zone.

MR. TORLEY: Aren't we required to do interpretations at public hearings?

MR. KRIEGER: As long as you're going to have a public hearing, you might as well do it all at the public hearing.

MR. BABCOCK: Doesn't the applicant need to know this now so whether he can apply for the variance, the use variance?

MR. KRIEGER: He's applied for both so he's covered.

MR. LANGANKE: If you want to discuss it.

MS. BARNHART: We already have.

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MR. LANGANKE: Since we already have, let's continue.

MR. NUGENT: Let's set him up.

MR. TORLEY: I move we set up Petro Metals Incorporated for public hearing regarding the requested interpretation and/or variances.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MR. TORLEY	AYE
MR. LANGANKE	AYE
MR. NUGENT	AYE

MR. KRIEGER: Do you need my handy-dandy sheets for area use variances or do you need one?

MR. SHAW: Let me have them just to complete the circle.

PROJECT I.D. NUMBER

617.21

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT /SPONSOR Petro Metals Inc.	2. PROJECT NAME New Facility For Petro Metals Inc.
3. PROJECT LOCATION: Municipality <u>Town Of New Windsor</u> County <u>Orange</u>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) West side of Windsor Highway opposite Willow Lane	
5. IS PROPOSED ACTION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: Construction of a 4,500 S.F. retail building and a 4,320 S.F. Gymnasium	
7. AMOUNT OF LAND AFFECTED: Initially <u>1.67</u> acres Ultimately <u>1</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency(s) and permit/approvals	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: <u>Petro Metals Inc.</u> <u>Petro Metals Inc.</u>	Date: <u>1/25/96</u>
Signature:	

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

PART II—ENVIRONMENTAL ASSESSMENT (To be completed by Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.12? If yes, coordinate the review process and use the FULL EAF.
 Yes No

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

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

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:
 No

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:
 No

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:
 No

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:
 No

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly.
 No

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly.
 No

C7. Other Impacts (including changes in use of either quantity or type of energy)? Explain briefly.
 No

D. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?
 Yes No If Yes, explain briefly

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

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

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

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

Town Of New Windsor Zoning Board Of Appeals

Name of Lead Agency

James Nugent Chairman

Print or Type Name of Responsible Officer in Lead Agency Title of Responsible Officer

Signature of Responsible Officer in Lead Agency Signature of Preparer (if different from responsible officer)

January 25, 1996

Date

