

ZB# 97-32

Richard Hotaling

15-4-28.1

Prelin.

Sept. 8, 1997.

7/10/97 e.

Notice to Submit 10/10/97

Public Hearing: 10/15/97

Oct. 27, 1997.

Area Variance

Approved - 4-0

#97-32 - Hotaling, Richard

Area - Bulk Regs - 6 addl.
dogs

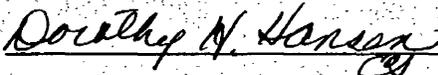
15-4-28.1

Wilson Jones • Carbonless • 8164-HCR Duplos • 8167-CL Triplas

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DATE October 27, 1997 **RECEIPT** 6772438
 RECEIVED FROM Richard & Mary Ann Hotaling
 Address Fifty and 00/00 DOLLARS \$ 50.00
 FOR zoning Board Variance #97-32

ACCOUNT		HOW PAID	
BEGINNING BALANCE		CASH	
AMOUNT PAID		<u>50.00</u> CHECK	<u>50.00</u>
BALANCE DUE		MONEY ORDER	

BY Dorothy N. Hanson


WIKI

U.S. POSTAGE

BALANCE
DU

MONEY
ORDER

BY *Kathleen M. Hanson*



APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Hotaling, Richard

FILE# 97-32

RESIDENTIAL: \$50.00
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA

USE

APPLICATION FOR VARIANCE FEE \$

50.00 paid ck # 5998
10/27/97.

ESCROW DEPOSIT FOR CONSULTANT FEES \$

300.00 paid ck # 6000
10/27/97.

DISBURSEMENTS:

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING-PER PAGE ^{9/8/97-10 pgs} \$ 45.00
2ND PRELIMINARY- PER PAGE \$ _____
3RD PRELIMINARY- PER PAGE \$ _____
PUBLIC HEARING - PER PAGE ^{10/27 19 pgs} \$ 85.50
PUBLIC HEARING (CONT'D) PER PAGE \$ _____

TOTAL \$ 130.50

ATTORNEY'S FEES: \$35.00 PER MEEETING

PRELIM. MEETING: ^{9/8/97} \$ 35.00
2ND PRELIM. \$ _____
3RD PRELIM. \$ _____
PUBLIC HEARING. ^{10/27} \$ 35.00
PUBLIC HEARING (CONT'D) \$ _____

TOTAL \$ 70.00

MISC. CHARGES:

..... \$ _____
TOTAL \$ _____

LESS ESCROW DEPOSIT \$ 300.00
(ADDL. CHARGES DUE) \$ 200.50
REFUND DUE TO APPLICANT . . \$ 99.50

RICHARD HOTALING
MARY ANN HOTALING
95 MYRTLE AVENUE
NEW WINDSOR, NY 12553

29-1/213

6000

10/27 1997

PAY TO THE ORDER OF Town of New Windsor \$ 300⁰⁰

Three hundred 00/100 DOLLARS

FLEET
27522 VAILS GATE
VAILS GATE, NEW YORK 12584

FOR Variance #99-32 Mary Ann Hotaling MP

⑆02⑆3000⑆9⑆ 52250 3⑆543⑆ 6000

RICHARD HOTALING
MARY ANN HOTALING
95 MYRTLE AVENUE
NEW WINDSOR, NY 12553

29-1/213

5998

10/27 1997

PAY TO THE ORDER OF Town of New Windsor \$ 50⁰⁰

Fifty 00/100 DOLLARS

FLEET
27522 VAILS GATE
VAILS GATE, NEW YORK 12584

FOR Variance #99-32 Mary Ann Hotaling MP

⑆02⑆3000⑆9⑆ 52250 3⑆543⑆ 5998

In the Matter of the Application of

RICHARD HOTALING

**MEMORANDUM OF
DECISION GRANTING
AREA VARIANCE**

#97-32.

WHEREAS, RICHARD HOTALING, 95 Myrtle Avenue, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for an area variance in variation of the bulk regulations to allow six additional dogs at the above residence in an R-4 zone; and

WHEREAS, a public hearing was held on the 27th day of October, 1997 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared before the Board on his own behalf for this Application; and

WHEREAS, there were 19 spectators appearing at the public hearing; and

WHEREAS, approximately six people spoke in opposition to the application and five people spoke in favor of 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 one-family home located in a neighborhood of one-family homes.

(b) The Applicant keeps nine dogs at the residence. Six of these dogs are kept outside and three of the dogs are housed inside.

© The Zoning Local Law permits the Applicant to keep only 3 dogs.

(d) The Applicant has lived at the present location in excess of 27 years but did not

move into this location prior to the enactment of zoning in the Town of New Windsor.

(e) Prior to moving to the present location, this Applicant lived in a similar residence in the same area of the Town as the present residence is located.

(f) The present ages of the dogs are sixteen, thirteen, ten, and six more each of which is approximately 3 ½ years old.

(g) The dogs are kept inside a kennel which is approximately 100 ft. by 40 ft. and is fenced off.

(h) The life expectancy for this breed of dog is approximately 11 to 13 years.

(I) More than one alleged neighbor complained of the noise and odor emanating from the kennel. The Applicant and others denied that there is an odor and while they admitted that the dogs did in fact bark, claimed that it was consistent with other dogs barking in the neighborhood.

(j) A former tenant of the next-door neighbor to the premises claimed that she moved from that premises because of the noise. She also claimed that the animals did not have "enough room to run".

(k) The Applicant does not sell dogs or puppies or conduct any business related to the dogs.

(l) The dogs are licensed.

(m) There are numerous other dogs and animals in the neighborhood and this part of the Town has been known for the keeping of poultry and livestock.

(n) A petition was submitted to the Zoning Board of Appeals in favor of the Applicant which petition contained 44 names and addresses.

(o) The Applicant agrees that when any of the present dogs expire, he will not replace same.

(p) One objection was made that the dogs are housed in too small an area and should be housed in the home itself.

(q) The dogs are kept in 8 x 10 kennels which contain ^{Coop}coops having a double floor, double wall and double roof and insulation.

(r) The Applicant acknowledged that even if a variance were granted by the Zoning Board of Appeals it does not in any way affect his compliance with other portions of the law, ~~including not regarding barking dogs and excessive noise.~~

(s) One spectator complained that one of the objectants was intentionally "agitating" the dogs.

(t) Of the dogs on the premises, one of the dogs, the oldest, lives in the residential home and another dog, the next oldest also lives in the residential home a good portion of the time.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties. The neighborhood contains numerous other animals and in the past has been known for the presence of livestock and poultry.

2. There is no other feasible method available to the Applicant which can produce the benefits sought. The only feasible way for the Applicant to reduce the number of dogs living on the premises is to have the requisite number of dogs put to sleep. Most objectants added to their remarks a desire not to have this done.

3. The variance requested is substantial in relation to the Town regulations but nevertheless is warranted. The character of the neighborhood set forth in paragraph 1 and the number of years that numerous dogs have been on the premises warrants this exception.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district. It is a condition of this variance that the kennel or place where the dogs are kept be kept clean and as odor-free as possible.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed. Please see the comments under paragraph 3 above.

6. The benefit to the Applicant, if the requested variance is granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community. Please see the comments under paragraph 3 above.

7. The requested variance is appropriate and is the minimum variance necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. It is a condition of this variance that when any of the present dogs on the premises dies it not be replaced and the variance would then be reduced to only allow the dogs then remaining. Once the dog population has been reduced in such a manner to three or less, the variance will expire.

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

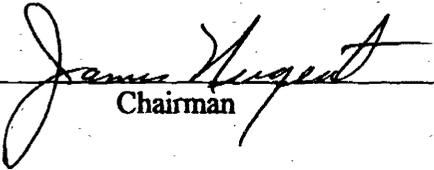
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for an area variance in variation of the bulk regulations to allow six additional dogs at 95 Myrtle Avenue in an R-4 zone 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: December 8, 1997.


Chairman

DATED: 10-23-97

R&F 10/27/97 ZBA P.A. (16)

PETITION

WE, THE UNDERSIGNED RESIDENTS AND PROPERTY OWNERS IN THE AREA OF 95 MYRTLE AVENUE, NEW WINDSOR, NY, WISH TO SUPPORT THE VARIANCE APPLICATION OF RICHARD HOTALING TO ALLOW HIM TO KEEP AND MAINTAIN HIS DOGS AT THE AFORESAID PREMISES:

NAME	ADDRESS	
John P. Mullarkey	16 Goodman Av.	John P. Mullarkey
Jennifer Mullarkey	16 Goodman Ave	Jennifer Mullarkey
Don Smith	94 Goodman Ave	Don Smith
Edith Smith	24 Goodman Ave	Edith Smith
A.J. Gilfeather	90 Merline Ave	A.J. Gilfeather
Lynn Lopez	17 Goodman Ave	Lynn Lopez
Ben Bruno	73 Merline Ave	Ben Bruno
Christina Esposito	29 Bradford Ave	Christina Esposito
Valerie DeLino	53 Myrtle Ave	Valerie DeLino
Van DeLino	53 Myrtle Ave	Van DeLino
Shirley Petro	109 Myrtle Ave	Shirley Petro
Rita Mastorocco	3 Foley Ave	Rita Mastorocco
Arthur V. Matt	91 Myrtle Ave	Arthur V. Matt
Franco L. Denton	59 Myrtle Ave	Franco L. Denton
David Jones	74 Merline Ave	David Jones
Sue Gonnore	74 Merline Ave	Sue Gonnore

DATED: 10/27/97

Ref. (28)
10/27/97 2BA P.H.

PETITION

WE, THE UNDERSIGNED RESIDENTS AND PROPERTY OWNERS IN THE AREA OF 95 MYRTLE AVENUE, NEW WINDSOR, NY, WISH TO SUPPORT THE VARIANCE APPLICATION OF RICHARD HOTALING TO ALLOW HIM TO KEEP AND MAINTAIN HIS DOGS AT THE AFORESAID PREMISES:

NAME	ADDRESS
Domenick DeGidio	68 Melrose Ave New Windsor, NY 12553
Sergio Uziel	105 Merlin Ave New Windsor, NY 12553
Luca Zamorick	108 Merlin Ave New Windsor NY 12553
Tom J. Kurland	100 Montine Ave New Windsor 12553
John J. ...	127 Blanche Ave New Windsor NY 12553
John J. ...	120 BLANCHE AVE New Windsor NY 12553
Kennedy & Klock	120 Blanche Ave New Windsor NY 12553
W. Ed McDaniel	123 Blanche Ave New Windsor NY 12553
Robert Higgins	116 Blanche Ave " " " "
Debbie Quattrucci	118 Blanche Ave New Windsor NY 12553
Sharon Alexander	80 Merline Ave New Windsor, NY 12553
Stephanie Yonnore	67 Myrtle Ave New Windsor, NY
Lucas Yonnore	67 MYRTLE AVE New Windsor N.Y.
Will Ch... ..	128 Myrtle Ave New Windsor NY
Anna Yonnore	82 Merline Ave New Windsor N.Y.
Eileen Yonnore	63 Myrtle Ave New Windsor NY
Vernice Yonnore	63 Myrtle Ave New Windsor NY
Joseph	74 Myrtle Ave New Windsor NY

DATED: 10/27/97

PETITION

WE, THE UNDERSIGNED RESIDENTS AND PROPERTY OWNERS IN THE AREA OF 95 MYRTLE AVENUE, NEW WINDSOR, NY, WISH TO SUPPORT THE VARIANCE APPLICATION OF RICHARD HOTALING TO ALLOW HIM TO KEEP AND MAINTAIN HIS DOGS AT THE AFORESAID PREMISES:

NAME	ADDRESS
Tom Kelly	14 Goodman Ave New Windsor NY
V. Salomatof	84 Lawrence Ave New Windsor ¹²⁵⁵³
K. Gonzalez	74 Lawrence Ave New Windsor
Marion Morris	76 Melrose Ave New Windsor
Odin Nguyen	76 MELROSE AVE New Windsor NY ¹²⁵⁵³
Celia Feason	125 Blanche Ave
Judy Molter	125 Blanche Ave
Mary Molter	125 Blanche Ave
Mike Ryan	125 Blanche Ave
Ann Knapp	72 Myrtle Ave - New Windsor NY

BRIAN G. GILMARTIN, Esq.
Attorney at Law

RECEIVED
AUG 18 1997

(914) 496-1130
(914) 294-6686

90 East Main Street (Route 94)
P.O. Box 478
Washingtonville, New York 10992-0478

FAX: 496-8905

August 14, 1997

George J. Meyers, Town Supervisor
Town of New Windsor
555 Union Avenue
New Windsor, NY 12553

Town of New Windsor
Town Board
555 Union Avenue
New Windsor, NY 12553

8/13/97
GJM has spoken
to Gilmartin, and
the Hotaling -
J

In re John Veneziali
99 Myrtle Avenue, New Windsor, NY

Dear Honorable Sirs:

Please be advised that I have been retained by John Veneziali who is the owner of the above-referenced single family residence located in the Town of New Windsor. The purpose of my communicating with you is to seek the Town Board's assistance in dealing with an apparent ongoing violation of both the Town of New Windsor Zoning Regulations as well as Chapter 14 of the Town of New Windsor Code. Mr. Veneziali has had an ongoing problem with his next door neighbor Mr. Richard Hotaling with regard to Mr. Hotaling's ownership of dogs in excess of that permitted by the zoning regulations as well as the violation of the Town code relative to the dog barking and the disturbing noises emanating from the Hotaling residence. Mr. Veneziali is certain that the Hotaling's keep nine dogs in three dog pens located in the rear of the building and it is further Mr. Veneziali's belief that one additional dog is kept in the house. The dogs are all beagles and both Mr. Veneziali and his tenant are continuously subjected to prolonged barking by these animals at all hours of the day and night. Additionally, during the warm weather there is a very strong odor of dog urine and feces emanating from the property which can be clearly sensed at Mr. Veneziali's property.

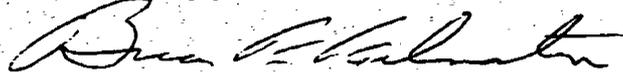
Mr. Veneziali has, in the past year, made three separate complaints to the police department and has further complained to the Town of New Windsor Animal Control

Officer but none of these actions have resulted in any corrective measures or enforcement measures being taken against the Hotaling's.

It is my understanding that the Town of New Windsor Code at Section 14-11 makes it a violation for the owner of any dog to allow that animal to bark or make disturbing noises for a continuous period of 15 minutes. It is further my understanding from the Zoning Regulation Bulk Tables that no owner of a single-family residence is allowed to keep more than three dogs at any one time. Assuming that this analysis of the Town Code is correct, I believe that it is clear that Mr. Hotaling is in violation of these provisions and we would ask you to advise Mr. Veneziali through my office what corrective measures shall be directed by the Town Board either through the enforcement authority of the Police Department, the Animal Control Officer or the Building Code Enforcement Officer. Once those corrective measures have been specified, we would further ask that the Town Board diligently follow up to assure that they are complied with in a timely continuous and efficient fashion.

Should you have any questions with regard to these matters please advise.

Very truly yours,



BRIAN G. GILMARTIN

Bgg:dv

cc: Philip Crotty, Esq., Town Attorney ✓
cc: Walter Koury, Chief of Police
cc: Janice Plante, Animal Control Officer
cc: Michael Babcock, Building Inspector
cc: John Veneziali

Date 11/6/47, 19.....

TOWN OF NEW WINDSOR

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

TO Frances Roth 168 North Perry Ln DR.
Newburgh NY 12550

DATE		CLAIMED	ALLOWED
10/27/47	Zoning Board Mtg	75 00	
	Misc - 1		
	Walsh - 4		
	Siczko - 2		
	Vandermaas - 2	0	
	Mobil Oil - 6		
	Plymouth - 9		
	Wannone - 3		
	Totaling - 20 19	85.50	
	Franklin/Destinta - 8	243 00	
		<u>54</u>	
		318 00	

PUBLIC HEARING

HOTALING, RICHARD

MR. NUGENT: Request for area variance in variation of bulk regulations in R-4 zone to allow six additional dogs at 95 Myrtle Avenue.

Mr. Richard Hotaling appeared before the board for this proposal.

MR. NUGENT: Is there anyone here in the audience for the Richard Hotaling public hearing? If so, will you please sign this sheet?

MS. BARNHART: We sent out 58 notices to adjacent property owners and they went out on October 16, 1997.

MR. REIS: Did you get any negative feedback as a result of these mailings?

MS. BARNHART: I had just one person call with a question, it was neither negative or affirmative.

MR. HOTALING: Okay, I guess at the last zoning board meeting I guess I pretty much expressed my feelings and you know gave you pretty much the facts. The idea of being, I have been here for 27 years at this location. I always maintained over three dogs and I feel that for me to dispose of these dogs, sell them or get rid of them or what have you, would place the hardship on myself because these particular dogs here I have done this all my life and as I said at the last zoning board meeting, you go golfing, play baseball, go down to the pub, this is my relaxation, this is my joy, take the dogs out in the field, run 'em. And as far as options for me, there is no options because I will be right out truthful with you, I will not get rid of the dogs. I'm not disposing of the dogs. The only option for me is I will pick up and I will leave. The only thing I have here is the petitions, not the petitions, the notices that they went out, the neighbors had a little concern the way it was worded that I was going to get six additional dogs over the ones I had, they didn't realize that it was three there and 6 to make 9, they

October 27, 1997

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figured it would be 6 additional ones over the ones I already had. Okay, I just, the only thing I add to the file.

MS. BARNHART: I'm just going to receive and file three petitions, one is dated October 23, 1997 contains 16 names and addresses of property owners. I'm just going to, I'm going to read it. We, the undersigned residents and property owners in the area of 95 Myrtle Avenue, New Windsor, New York, wish to support the variance application of Richard Hotaling to allow him to keep and maintain his dogs at aforesaid premises. Each one of these petitions says the same thing. There is two petitions here dated October 27, 1997 and I will just count the number of names, there is 28 altogether on those two, so these are received and filed.

MR. NUGENT: Any questions by the board at this time?

MS. OWEN: I'd like to see those petitions to see the addresses of the people that signed them.

MR. REIS: Would it be beneficial to Mr. Hotaling's request that we name these petitioners for the sake of the audience, their neighbors?

MS. BARNHART: Well, we'll pass them around if you want or them read them aloud.

MR. NUGENT: We can allow anyone that would like to look at them to come forward.

MS. BARNHART: It's a public record.

MS. OWEN: What's the name of the street that is in back of your house?

MR. HOTALING: There is, I'm on Myrtle, in back is Merline and the other, there's no street on the front side, it's woods, it's a swamp.

MR. REIS: Richard, did you ever at any time have more dogs than than you have presently?

MR. HOTALING: Yes.

October 27, 1997

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MR. REIS: How many dogs did you have at the maximum?

MR. HOTALING: Not at this particular location but like I said, I have--

MR. REIS: In the same area?

MR. HOTALING: Yes, I was born and raised down there and at one time I had in my mother's barn I had 17 dogs between beagles and bird dogs.

MR. REIS: Thank you.

MR. KRIEGER: How long have you been at the present location?

MR. HOTALING: 27 years.

MS. OWEN: How old are the dogs that you have presently?

MR. HOTALING: I have one is 16, one is 13, one is 10, and there is 4 which are three years old, about 3 1/2 years old.

MR. KRIEGER: The present facilities you have for housing the dogs, how long have you had those same facilities, pens or that setup?

MR. HOTALING: They used to be on wire, what they call a coop and then they come out into this wire, probably these kennels probably maybe 12, 13 years old.

MR. KRIEGER: And these are more substantial than the older system?

MR. HOTALING: Yes, you know, easy accessibility and what have you, stuff like that, yes, you know, keeping the snow away and everything.

MR. KRIEGER: How about security for keeping the animals from escaping?

MR. HOTALING: Well, they are inside the kennel

themselves in this kennel which you have the picture of and then I have a short, about 100 by maybe 40 which is fenced off, so they can go out and get exercise out of the kennels.

MR. NUGENT: Any further questions?

MR. REIS: Some day these dogs are going to pass on from old age?

MR. HOTALING: Correct.

MR. REIS: Do you expect or would you like to consider that you are only replacing them with other dogs?

MR. HOTALING: No, I'm at an age now I have in '92, I was diagnosed with advanced Lyme's Disease and I just, you know, to continue on with, you know, once these dogs pass away, that will be it because, you know, facilities down here I have to, I belong to Neversink Beagle Club and it takes me an hour to get up there to run the dogs. As it is, years ago, you could run the dogs anyplace around here but it's so infested with ticks anymore that you just can't go out, you have got to worry about yourself, you have got to worry about the dogs, even though they have got their Lyme shot, it's just almost not feasible to run locally here so I have to go up to Neversink Beagle Club to run the dogs.

MR. REIS: Thank you.

MR. KRIEGER: The oldest dog is what?

MR. HOTALING: Sixteen.

MR. KRIEGER: What's the life expectancy of a beagle?

MR. HOTALING: Probably 11, 12 years old, 13, depending.

MR. KRIEGER: And what's the next oldest one?

MR. HOTALING: Thirteen.

MR. KRIEGER: And then?

MR. HOTALING: Ten.

MR. KRIEGER: And?

MR. HOTALING: Seven, I know there is four that is 3 1/2 years old.

MR. KRIEGER: So you have got 16, 13, 10, 7 and 3 1/2, okay.

MR. REIS: Over a third are on borrowed time, so to speak.

MR. HOTALING: Yes, well the one that is, the one 16 year old he's in the house all the time because he's just, he gets around and everything he eats good, he's still in pretty good shape, but then the 13 year old he's in and out once in a while depending on how his arthritis is doing, comes in, goes out, but he's the one that prefers to be out anyway.

MR. NUGENT: Should we open it up to the audience at this time? I'd like to open it up to the public, anybody has something to say, please stand and say your name so that the stenographer can get it and please try not to be repetitious.

MR. JOHN VINZIALI: My name is John Vinziali, I live right next door to Mr. Hotaling and I lived there for about 2 1/2 years and, you know, I try to deal with the noise and the smell and, you know, I pretty much coped with it for about two years. But the final straw was when my tenant upstairs, I have a two-family house there, she basically moved out because of the noise and the stench and a few other things that she's witness that she didn't really care for. And I do have a letter, signed letter from her stating why she moved out and I also do have her here tonight and like I said, when I first moved there, I wasn't going to create any waves so I tried to deal with it cause I knew everybody in the neighborhood was all friends and everything so I tried to deal with it. And then the final straw was when she moved out. And after that time, it took me two months to just get it rented and I

had a few calls, one in particular that actually knew him by name and said no, I'm not going to move there, I know about the dogs and. Everybody seems to know about the dogs. Now, all that I wanted from day one was just a little peace and quiet, that is always, you know, I didn't want to create no hassles for him cause I don't believe in that, neighborly fights or feuds or whatever. But that is all I ever wanted. Now it got to the point where it got out of hand where I had to get a lawyer because nobody, I made a lot of complaints to the police, to the animal control officer and she did nothing about it. And the police department only logged one call which I know for a fact I have made three or four calls in amongst everybody else, they made at least a half a dozen, it seems like everybody, everything gets lost, so I had to seek legal counsel. That is the way I had to go and that is how this came about. I don't know if you guys want the letter.

MR. NUGENT: You can put it as a matter of record, if you'd like.

MR. VINZIALI: Yes, I would.

MS. BARNHART: Thank you.

MR. VINCIALI: That is pretty much all I have to say, I mean I think I--

MR. NUGENT: Anyone else like to speak?

MS. MARGARET KOMAR: I live in the back of him. I live in back of him. I want to know why he wants six more dogs added to the seven he's got, that is a health hazards right there.

MR. NUGENT: He's not adding seven more, he's got nine and he's not adding anymore.

MS. KOMAR: Ain't that enough? That is a health hazard because when I go out in my yard, it smells, they smell back there those dogs and I want to walk around in that. They continuously bark and bark and bark. We're, you know, anything that crosses their face they bark like anything. Now, how you going to live with

that? They are the ones, they don't want them in their back yard now six is too much and now I was talking to the S.P.C.A. lady, you're only allowed three to five dogs and he's got two too many. We have been putting up with it for quite a while. We can't have this, he's right in my back yard now where is he going to let them run. He don't have much room for them to exercise. That is too much, it's a health hazard and they smell. I don't care what he says. So that is it.

MS. CAROLYN MORGAN: Carolyn Morgan. You have my letter, but basically I had to move, I was, when I was working, it wasn't as bad because I wasn't home all day. I had surgery and I was stuck home and an hour and a half was nothing for all of these dogs to be barking. And my kitchen is on the opposite side of the house, my brother called who was hard of hearing and he could hear the dogs over the phone. And it just got to a point plus the fact that the animals, I don't feel have enough room to run and I'm an animal lover and I just, I have witnessed a few things that I was very unhappy about. And I just could not live next to a situation like that and I really hated to move out on Mr. Vinziali because I liked it there. I liked the area. But as far as the dogs, I just couldn't handle it anymore.

MR. JIM DEWITT: I'm Jim DeWitt, I live on the other side of John. As he said, the noise is very loud and the current group of animals there are easily excited. I have dog doing myself and he gets set off by them when they start their baying. The other thing my house is situate, the back of the lots, so there's nothing between his back yard and my bedroom and so I hear them quite frequent, especially in the summertime when the windows are open. It bothers me a lot.

MR. MICHAEL SULLIVAN: My name is Michael Sullivan. I live in the house behind, we rented it for 2 1/2 years. I agree with everybody this evening and the noise is very, very loud, it's intermittent but it's there. We have a 13 month old child and he goes to sleep during the day and he's, during the summer, when the windows are open, he's woken up by the dogs as we're woken up and disturbed by the dogs. And also the smell on the

summer day, I defy anybody here to come along to our garden and to smell the garden, it is bad, it's not the sort of thing that you want people around to have a barbecue or to even see the garden. It's not all the time, but the smell is there and it's not a smell that I enjoy. I don't think anybody should have to put up with.

MRS. YANNONE: I'm Mrs. Yannone, I have lived in New Windsor for 46 years two doors behind him. I have never smelled the animals and the only time those dogs that I hear them bark is when somebody comes to their house or my dog goes down and agitates them. Now I don't think that these dogs are vicious. They don't bother anybody. These people that are talking some of them had animals of their own back years back, nobody complained about them. But now here complaining about somebody else's. Now I'm not a resident of five years, 46 years, and I don't think this is fair to those animals, they like to be put up in the top row to say well, you're going to go because we don't want you no more. No, I have a dog, and I, and he's old and I would never have him put to sleep unless he was really in pain and I don't think those dogs are in pain. I never knew he had that many dogs and I'm two doors behind him. I hear them barking once in a while, but when they bark, they are barking for a reason. There is either somebody around that doesn't belong there and you can't blame the dogs, he's only doing his job. Thank you.

MS. CHRISTINA PAZ HOTALING: My name is Christina Paz Hotaling and I'm Rich's sister and no one knows him better than me. This man has had dogs all of his life, has never abused an animal, has done nothing but give these animals love and care, has done more than anybody else would have as far as taking care of these animals, building a whirlpool for a dog that couldn't walk, the vet said would he never walk again. And that dog is walking today. These dogs, I'm home all day, I have a two year old daughter, I have been home now for two years, yes, I hear the dogs at noontime when the whistle goes off, but I hear every dog in New Windsor at noontime. And when my brother comes home and that is usually around 4:30, 5 o'clock. If you take these

animals away from him, you're taking his life away. These animals mean something to him. He cares about these animals. It's not fair. These animals and my brother have been here much longer. And I realize that there are neighbors that have put in complaints about it and I understand that but he does not abuse the animals. Yes, they bark, but not constantly 24 hours of the day. I'm out in the yard with my daughter. I know they are not barking constantly. And I don't think this is fair.

MS. SUE MCDERMOTT: My name is Sue McDermott, I live at 88 Merline Avenue. I live next door to Yannone. I'm home most of the day and I have lived there for ten years and I have heard the dogs off and on sometimes for an hour at a time. I don't feel that Mr. Hotaling abuses the dogs at all. I'm sure he takes very good care of them. I don't smell the smell because I'm far enough away so I can't address that. But I will address the fact that the dogs bark an awful lot. We have had people over in the afternoon usually between 4 and 5, in fact, I was home with surgery this month or in August and I had to be in our back porch and I would try to get some sleep and from four to five for a constant hour the dogs would be barking.

MR. MICHAEL PAZ: My name is Michael Paz, I live at 60 Merline Avenue. I'm Richard's brother-in-law. And just to be kind of brief about what's going on here, I understand the concerns about the opposed about how they feel about the dogs, the barking and okay, the smell, but these dogs are confined to an area where they are not a harm to the neighbors, as far as if somebody's taking a walk in the street, that these dogs are going to come out of nowhere and attack them. They are housed properly. Rich takes good care of the dogs. They are fed properly. As my wife said, there were a couple of the dogs that were not up to par, but he's managed to give them a chance to live a little longer, which is something I hope he gives me the idea so I can live a little longer. But the other thing too is what was very misleading which you guys cleared tonight was when the letter was sent out which some people don't understand on the letter says six additional dogs, make the record clear he does not have six additional dogs,

he has six dogs to the present, three of these dogs are up in age where they can go at any time within two, three years from now. We can't predict that. But these dogs are well taken care of, okay. As far as what's being added on that, I am hearing that people saying well, there is other things that has happened to these dogs too, okay. There has never been any complaints about these dogs other than what I am hearing right now. I have been a New Windsor resident for six years. Now this is the first time I am hearing about the dogs sure they bark. Okay, now if you talk about numbers of dogs, he's got six, if I was living, if I had his house and if I had just two German Shepards that barked all day, what's going to happen to my dogs even though I have only two dogs, they can be out there barking all day. So whether it's two or four dogs, if they bark, they are going to bark. You can't control a dog when they are barking. In a way, it has good and bad points, maybe it is a disturbance, I can understand that, but on the other side, it's good to keep alert that nobody's going to come into this neighborhood unless something is going on. These dogs are, like I said, not to sound repetitious, they are well taken care of and Mr. Hotaling I feel should have these dogs, okay, and he's not looking to add more dogs, he's got three younger dogs that are included in the six which will probably live a little longer, the three older ones, their time will come within two or three years and they are going to be gone. So that will leave him with three dogs. Are we going to hear five years from now down the road that there's a complaint about three dogs barking? I think we're talking if we're talking about the barking issue that is one thing. But now you're multiplying this two, three, four dogs, all right, they are going to bark, they are going to bark, okay. And the other thing I feel also as well as is Mr. Hotaling also has been a resident in this community for a long time. He's been an abiding citizen, he's done a lot for this committee for New Windsor Firehouse. He's done a lot of charitable things for New Windsor Cantonment. I see what he, what I see here is a little ridiculous going on over these dogs. There are a lot more important issues that should be addressed in our New Windsor area, to deal with vandalism, many drugs and other

things, worrying about a couple dogs, about barking is an injustice, if these dogs are taken away. Thank you.

MS. KOMAR: I want to know if he's got that for a business, does he have a business with the dogs? Does he have a business?

MR. HOTALING: No, I do not sell dogs or puppies or anything like that, strictly for my own enjoyment.

MS. KOMAR: Do you have a license for them?

MR. HOTALING: Yes.

MS. KOMAR: I thought you're supposed to have a license for every dog.

MR. HOTALING: Yes.

MR. VINZIALI: What I wanted to add, I know where these two people live over here and that is all, but you don't live right next door. I know where you live. I'm talking about these two, they live way down at the end of the street, you guys don't live right next door to him.

MS. PAZ: We live on the corner of Merline and Bradford, that is not way out of line because within 500 the petition said within 500 feet. The man next door had to sign the petition that was right across the street from me so that was supposedly in range of the dogs barking.

MR. NUGENT: I don't want it going back and forth, you're talking to me.

MR. VINZIALI: The problem is these people that signed the petition live a block and a half away, okay. I live right next door. They don't. The noise is not as loud, you know, as loud over there and I understand they ever are related and everything like that, that is fine. But they don't live right next door. And for me to lose my tenants over some dogs, I don't think that is fair to me and I don't know if I am going to keep these tenants I have now, I don't know. They are

already starting to complain about these dogs and when does it end, when does it end. Am I going to have sell my house that I just bought two years ago because of the dogs, because I can't keep the house without tenants in there. That is not fair to me.

MR. ARTHUR MOCK: My name is Arthur Mock, I live 91 Myrtle Avenue. I was living there when he moved in and probably living there when he's gone, if this keeps up, I don't like the idea of people coming into our old town. I moved there when some people here still had a cow and chickens up in back of my house. I never said nothing. So now comes to this, we had an old neighborhood, everybody knew what it was when they moved there. Otherwise, you didn't. Now people come in and we'll change it, I don't agree with that.

MS. MORGAN: I know I would like to see, I wouldn't like to see Mr. Hotaling have to give up the animals because I have animals myself. I would just like to see him be respectful of his neighbors and to not have the dogs constantly barking during the day and in the evening too. That is all I ask.

MR. PAZ: Just one short thing in reference to that petition which was issued which we had signed, okay, whether we live on, we live on Merline, we're right across the street from 64 Merline, we didn't sign the petition cause we weren't on the list, but the house next door 64 Merline is on the petition. I think you might have it there. We complained about the law that whether it's the zoning board, I'm going to say the Town of New Windsor issued to us within that radius so where we live, where the 64 Merline is, okay, we were here, the dogs, whether it's far, maybe not as close as this gentleman. And I have been here for a long time, everybody gets along great. But as far as these dogs go, again, few years they are going to be gone. There's going to be three dogs, like I said, if he only had three dogs, is this going to be the same problem. You can't control the dogs barking, unless you shoot them and you're not going to do that. But I, like I said, I feel I think this is something good what you see in the paper you see dogs strayed or abused, here's a gentleman that is giving a home to these animals and

giving care for them and how these kennels are all overloaded the way things are going, a lot of animals are going through like a hole case, they can't find a home, so they exterminate them. Here's a gentleman who has a home for the dogs and they are off the streets where they are not in harms way. A little barking I think come on, I think there's a lot more important issues we can address than this.

MS. ROSE MITCHELL: I'm Rose Mitchell and I do not live in the area. However, it's my nephew who has this house, this is his first house and he did put up with an awful lot, I don't think the issue so much barking, yes, it's the issue, I have several dogs myself and if I let them out to go to the bathroom, they bark, and they come back in. But they are contained and I think a responsible pet owner does contain his dogs, does not leave them outside in whatever kind of shelter he provides to be annoying to the neighbors. I mean, I know they have to bark, they are dogs, I think it's wonderful if you take in dogs, you take in strays, nobody loves animals more than I do. But I think dogs that bark all the time are not taken care of the way they should be taken care of. They don't bark when they are content. You go out, they bark, they come in if, they are fed and they are watered and they are walked like they should be and not all contained in one dinky little area and maybe they are not cleaned up after as they should be, there wouldn't have been the problem of barking and everything else that is going on. So I don't think anybody really would like Mr. Hotaling to get rid of his dogs. A lot of us here are animal lovers and the last thing we would ever want him to do is put the dogs down. We're just asking that he contains them properly so and if he wants to keep them, he can set things up in his house for them, they shouldn't be left out in the cold in any real kind of no shelter at all anyway in the wintertime. These are short haired animals. I mean, maybe they are left out for some people, but people who love animals and they are 16 years old, 13 years old, 10 years old seems to me they have earned their place in the house. They should be in the house, shouldn't be outside where they are barking like this all the time, howl, they don't bark.

MR. HOTALING: Just so I can make her feel a little more at ease, they are in the 8 x 10 kennels, they are in the coops which are double floor, double wall with insulation and double roof, they have a pallet down at which they can lay down and stuff but these dogs are a special breed of hounds, they are called Patch Hounds bred In 1898 in Northville, New York by Wilbert Randall, they are bred for their high endurance. They can run six, seven, eight hours chasing rabbits. I have gone hunting up north, have to leave the dogs in the woods in 20 and 30 below zero, I come the next morning and here they come. These dogs are hearty dogs.

MR. NUGENT: Any further questions? I'm going to close the public hearing and open it back up to the board for any questions that they may have.

MR. TORLEY: Two points I'd like to say, I don't know if there's been a change in the code, but I'm showing a Section 1411 Part B and subsequent regarding barking dog complaints, I don't know, have any such complaints been filed?

MR. VINZIALI: Many but none got logged in or ignored.

MR. TORLEY: Second thing is if the problem is the barking, as a somewhat drastic step, I have had people who had dogs and were causing difficulties in other towns, and they had a surgery to cut the nerves of the vocal cord and the dog doesn't bark anymore, he thinks he's barking but he's not, it's not inhumane, it's causing no pain to the dog.

MR. HOTALING: They are trailing hounds, you have to have them bark and howl.

MR. TORLEY: If the barking and howl is what's disturbing the neighbors--

MR. HOTALING: Mrs. Komar's brother is one of the biggest agitators back there, he goes back in the kennels and agitates the dogs.

MS. OWEN: Are these dogs strays or did you buy them?

MR. HOTALING: No, these are, I have a friend in Massachusetts who runs a Patch kennel and I have one in North Creek who runs a kennel and I have a Patch kennel here, these are--

MS. OWEN: You chose to have them, you didn't just take them in cause they were strays?

MR. HOTALING: No.

MR. NUGENT: I thought you picked up three somehow.

MR. HOTALING: No, I had one that I adopted from the town, they were going to be put to sleep and they had me in one of those days when I was--so I adopted the dog but she since has passed away.

MR. NUGENT: You have no intention of replacing any dogs that do pass away?

MR. HOTALING: No, no.

MR. REIS: Rich, is there anyplace within the dwelling that has a space where you can contain the animals for, two or three of the animals?

MR. HOTALING: They are contained in the kennel itself then I have the hundred by--

MR. REIS: Within the dwelling.

MR. HOTALING: Like I said, there is two in there that come in and out, you know. There is usually two in there and the rest are in these kennels. I mean, these are outdoor dogs, these are not dogs that I mean when they are sick and stuff like that my like my sister Chris said I have one dog, give you an example to put some of these things at rest that the neighbors feel, a dog named Jake, about two years ago, Jake was crying out in pain in the kennel so I go out there and he's holding his right leg up and his pain was a little bit more sharp than normal. So I took him down to the vet, vet couldn't find nothing wrong with the dog. And

brought him back home, brought him inside. Next morning, Jake is paralyzed in the rear, cannot walk. Take him down to the vet, make a little story short, I had to take him to Hopewell Junction to Dr. Wical (phonetic), special operation on him, he had a blood clot on his nerve, had to buy a special tub to put him through physical therapy, special harness which I did at home while I was going through my Lyme's Disease, \$3,000 but I still have that dog today and he walks.

MR. TORLEY: Mr. Chairman, it's my understanding that should we grant such a variance, it would not relieve the applicant from any, from this section of problems under the Section 1411, which is, which is noise complaints?

MR. KRIEGER: That is correct.

MR. NUGENT: We also can put stipulations on it, any stipulations.

MR. TORLEY: Among such stipulations might be that none of the animals will be replaced, is that right?

MR. KRIEGER: You can't put stipulations based on a particular owner, you can put stipulations based on the property, based on time, based on number, you can put a schedule, such stipulation if you choose need not be you're not limited in the amount so long as they are reasonable and they are not personal to the owner but refer to the property.

MR. TORLEY: Then I gather you're saying that a statement that the animals could not be replaced would not be enforceable but saying that you could not have the variance would end in 15 years would be, however, that doesn't really solve the problem.

MR. KRIEGER: I'm not--

MR. TORLEY: I hope I made myself clear, if we allow the gentleman to retain the animals and as they pass away not replace them until he reached the three limit that would not be an enforceable statement that is saying simply that the variance ends in 15 years

wouldn't resolve the problem.

MR. KRIEGER: The first would be as you term it would be enforceable because it has, it is in effect a time limitation. It has the same meaning.

MR. TORLEY: Saying you could not replace the animals would be enforceable?

MR. KRIEGER: Yes, you can do that.

MR. NUGENT: I think one of the problems that we're faced here with is that nobody wants to see any animals destroyed, yet nobody wants to see any neighbors upset. Somewhere there has to be a compromise and I'm sure there is one but I don't know if that is our problem to solve our problem is simply do we give him a variance or do we not. And at this point, if you have no further questions, I'd like to call to order anybody that would like to give a motion.

MR. TORLEY: Mr. Chairman, I would move the following, Andy, please make sure I phrase this properly, that we would grant Mr. Hotaling the, I'm not sure how it becomes an area variance, cause I see nothing in the bulk tables listing this that allows you to have more than three dogs, you have to give me the right line that shows that.

MR. BABCOCK: Do you have a table?

MR. TORLEY: I'm not sure where it would be for the area as far as my reading of that bulk table, it shows three dogs period.

MR. KRIEGER: So it would be varying that provision.

MR. TORLEY: Then I would move we grant him the variance subject to the following restrictions that none of the present animals could be replaced until he reached the three dog limit.

MR. NUGENT: Less than three, he's allowed three.

MR. TORLEY: Then--

MR. KRIEGER: Till it reached the number 3 or if you are--

MR. TORLEY: I would also again please correct me if I am wrong, can we put anything in there regarding care or sanitation regarding odor?

MR. KRIEGER: Yes.

MR. TORLEY: And that this variance is subject to proper maintenance so that the odor problem is attenuated to the maximum extent feasible, I mean there will be sometimes when the dog makes, smells, I have two myself. Also I would note in there that this in no way should be interpreted as granting any relief from Section 1411 C regarding noise complaints Andy, please feel free to rephrase that in any appropriate way.

MR. KRIEGER: Okay, the way it is, all I would say with respect to the notation at the end no variance if granted by this board would vary any provision of the law anyway, so not only the barking provision, but any other provision doesn't affect it.

MR. NUGENT: Is there anyplace on your property that you can move this kennel to get it further away from your neighbor?

MR. HOTALING: No, it's only about 90, I can move it over a little ways more towards the middle, but I think I told you last time about this stuff that they, it's cost me \$28 a gallon, it's a deodorizer and it's mixed with water and I clean the kennels every day. I might miss a day cause of rain and stuff what have you but I don't know, maybe I just got so acclimated to, maybe I'm missing the smell, but like I said, it's sprayed with this special stuff \$28 a gallon it cost me.

MR. NUGENT: Motion made. Do I have a second?

MS. OWEN: I will second it.

ROLL CALL

October 27, 1997

46

MR. REIS	AYE
MS. OWEN	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

10/27/97

Public Hearing: Hataling, Richard # 97-32

Vincent Youard

63 Myrtle Ave

Casper Youard

62 Myrtle Ave

no object →

~~Casper Youard~~

82 Merville Ave

~~Kenneth Youard~~

110 Merville Ave

Clara Mott

91 Myrtle Ave

no object

Arthur D. Mott

91 Myrtle Ave

1/27/97 - Public Hearing: Hotaling, Richard - #97-32

Name: Address:

object ✓ John J. Veneziali 99 Myrtle Ave

object ✓ Rose Mitchell 208 James Ave. NW

ETIANE VENEZIALI 2356 BRUNSWICK RD

object ✓ Margaret Kerner 96 Merline Ave.

object ✓ Carol Morgan 364 Angola Rd. Cornwall

MARYLON VENEZIALI 20 PACER DR. NEWBURGH

Alie Dozio 91-Merline Ave, N.W. NY.

LEANDRO M. KONIS 91 Merline Ave N.W. NY

object ✓ James Hewitt 101 Myrtle Ave

object ✓ Doris-Sue McDermott 88 Merline Ave.

object ✓ Michael Sullivan 106 Merline Ave.

no object - ~~Robert~~ By Pass 60 Merline Ave

no object → Michael Poo 60 Merline Ave N.W.

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

Prelim.
9/8/97.
#97-32

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

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

DATE: August 20, 1997

APPLICANT: Richard Hotaling
95 Myrtle Avenue
New Windsor, New York 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: August 20, 1997

FOR :

LOCATED AT: 95 Myrtle Avenue

ZONE: R-4

DESCRIPTION OF EXISTING SITE: 15-4-28.1

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. Keeping nine (9) Domestic animals (Dogs)

BUILDING INSPECTOR

PERMITTED

PROPOSED OR
AVAILABLE:

VARIANCE
REQUEST:

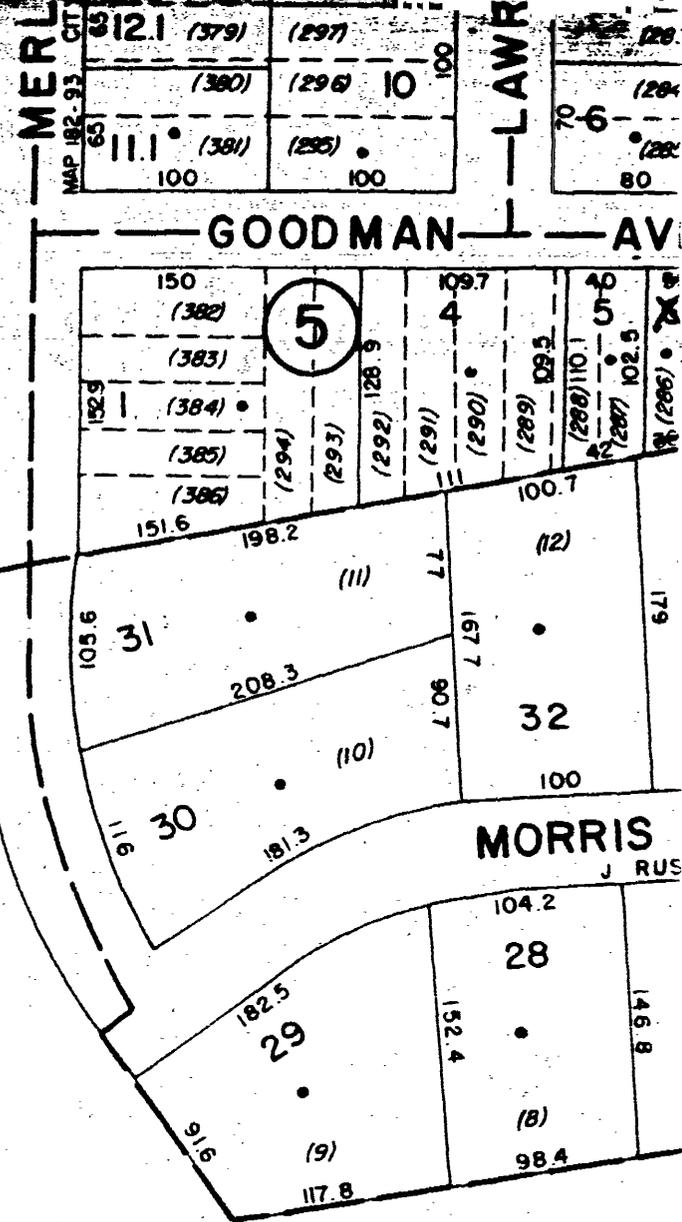
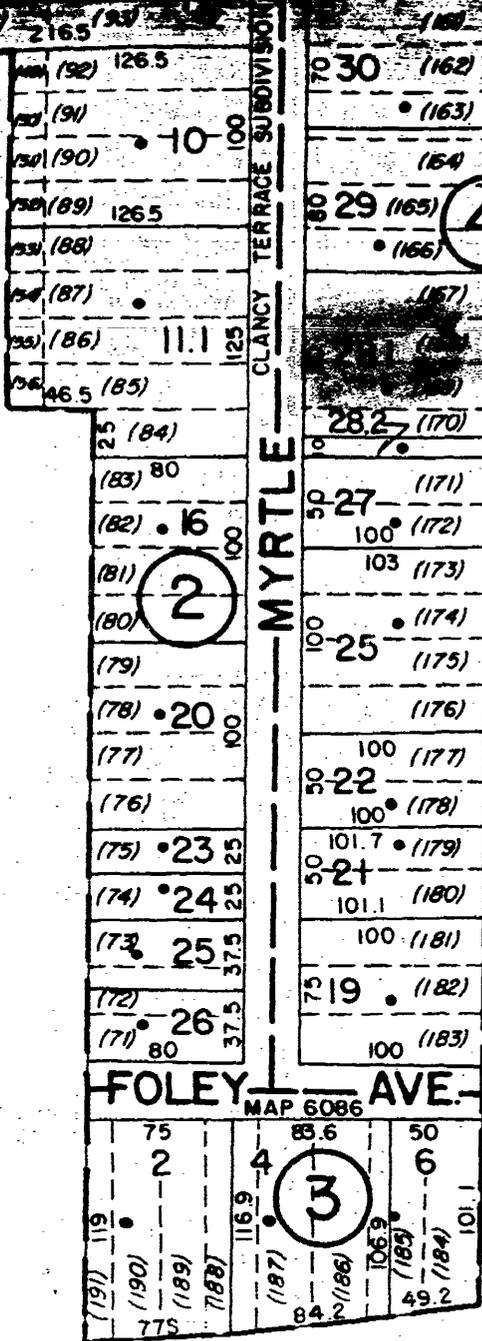
ZONE: R-4 USE: M9

Keeping domestic
animals as follows;
no more than a total
of 3 three cats or dogs
over 1 year old.

9

6

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



SECTION

PLEASE ALLOW FIVE TO TEN DAYS TO PROCESS

IMPORTANT

YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and underslab plumbing.
4. When framing is completed and before it is covered from inside and plumbing rough-in.
5. Insulation.
6. Plumbing final and final. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Well water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway board may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Permit number must be called in with each inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and perc test.
13. Road opening permits must be obtained from Town Clerk's office.
14. All building permits will need a Certificate of Occupancy or a Certificate of Compliance and there is no fee for this.

PLEASE PRINT CLEARLY

FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

Owner of Premises Richard Hotaling

Address 95 Myrtle Ave New Windsor N.Y

Phone 561-4055

Mailing Address 95 Myrtle Ave

Name of Architect _____

Address _____

Phone _____

Name of Contractor _____

Address _____

Phone _____

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

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

FOR OFFICE USE ONLY

Building Permit # _____

1. On what street is property located? On the _____ side of _____
(N, S, E or W)
and _____ feet from the intersection of _____
2. Zone or use district in which premises are situated _____ I. property a flood zone? Y _____ N _____
3. Tax Map Description: Section 15 Block 4 Lot 28.1
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.
a. Existing use and occupancy ONE FAMILY b. Intended use and occupancy ONE FAMILY
5. Nature of work (check if applicable) New Bldg Addition Alteration Repair Removal Demolition Other
6. Is this a corner lot? _____
7. Dimensions of entire new construction. Front _____ Rear _____ Depth _____ Height _____ No. of stories _____
8. If dwelling, number of dwelling units: _____ Number of dwelling units on each floor _____
Number of bedrooms _____ Baths _____ Toilets _____
Heating Plant: Gas _____ Oil _____ Electric/Hot Air _____ Hot Water _____
If Garage, number of cars _____
9. If business, commercial or mixed occupancy, specify nature and extent of each type of use _____

10. Estimated cost _____ Fee _____
(To be Paid on this Application)
11. School District _____

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

Deed

FULL COVENANT WITH LIEN COVENANT

JOHN A. PETRO

TO

RICHARD HOTALING and
MARY ANN HOTALING

Dated July 10, 1970

Change

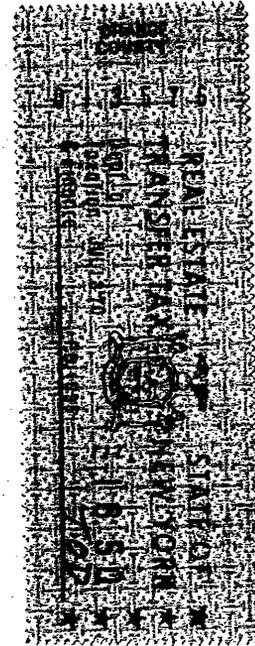
R & R

~~Seymour Feinman, Esq.
200 Broadway
Newburgh, N. Y. 12550~~

ALFRED CAVALARI Esq

Box 276

MAIL GATE, NY



Orange County Clerk's Office, s.s.
Recorded on the 13th day
of July 19 70 at 11:07
o'clock A. M. in Liber 1850
Deed A at page 667
and Examined.
C. H. Winters Clerk

LIBER 1850 Pg 664

*1650
4-*

This Indenture,

LIBER 1850 PG 662

Made the 10th day of July

Nineteen Hundred and Seventy-----

Between JOHN A. PETRO, residing at 8 Park Hill Drive, Town of New Windsor,
County of Orange, State of New York,

party of the first part, and

RICHARD HOTALING and MARY ANN HOTALING, husband and wife, residing at
106 Clancy Avenue, Town of New Windsor, County of Orange, State of New
York,

parties of the second part,
Witnesseth that the party of the first part, in consideration of

Ten and no/100 Dollars (\$ 10.00)
lawful money of the United States, and other good and valuable consideration
paid by the parties of the second part, do es hereby grant and release unto the
part ies of the second part, their heirs and assigns forever, all
those certain lots, pieces or parcels of land, situate, lying and being in the Town of
New Windsor, Orange County, New York, and being a portion of Clancy Terrace and
are described on a map thereof filed in the Orange County Clerk's Office as Lots 167
to 169 inclusive, and a part of Lot 170 are bounded and described as follows:

BEGINNING at a point on the easterly side of Myrtle Avenue at the
northwesterly corner of Lot #166 as described in said map, said point being 475 feet
southerly from the southerly line of Bradford Avenue and running thence along the
southerly line of Lot #166 100 feet; thence southerly with the easterly line of Lots
#167, 168, 169 and a portion of Lot #170 for a distance of 90 feet; thence westerly,
parallel with the course first above described 100 feet to the east side of Myrtle
Avenue, and thence northerly along the easterly side of Myrtle Avenue 90 feet to the
point or place of beginning. Being all of Lots #167, 168 and 169 and the northerly
fifteen feet of Lot #170.

BEING the same premises deeded to the grantor herein, by deed dated
August 13, 1969 and recorded in the Orange County Clerk's Office on August 18, 1969
in liber 1827 of deeds at page 738, and as subsequently corrected by deed dated
June 29, 1970 and filed simultaneously herewith.

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

To Have and to Hold the premises herein granted unto the parties of the second part, their heirs and assigns forever.

And said party of the first part

covenants as follows:

First, That said party of the first part is

seized of said premises in fee simple, and has good right to convey the same;

Second, That the parties of the second part shall quietly enjoy the said premises:

Third, That the said premises are free from incumbrances;

Fourth, That the party of the first part will execute or procure any further necessary assurance of the title to said premises;

Fifth, That said party of the first part

will forever **Warrant** the title to said premises.

Sixth, That, in Compliance with Sec. 13 of the Lien Law, 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 Whereof~~, the party of the first part has hereunto set his hand and seal the day and year first above written.

In Presence of
[Signature]

John A. Petro



State of New York }
County of Orange } ss. On this 10th day of July
before me, the subscriber, personally appeared Nineteen Hundred and Seventy-----

JOHN A. PETRO

to me personally known and known to me to be the same person described in and
who executed the within Instrument, and he acknowledged
to me that he executed the same.

Seymour Feinman
Notary Public

SEYMOUR FEINMAN
NOTARY PUBLIC, STATE OF NEW YORK
No. 24-6256308
Term Expires March 20, 1972

USES BY SPECIAL PERMIT BOARD OF APPEALS

PERMITTED ACCESSORY USES

Multi-family detached dwellings, not to exceed one dwelling on each lot. Subject to Section

Annual membership clubs providing out-recreation facilities subject to Section

Other annual membership clubs subject to Section

Railroad, public utility, radio and television transmission antennas, rights-of-way.

Summer colonies and vacation camps subject to Section

Airports and heliports subject to Section

Sandpits, gravel pits, removal of soil, excavations of natural resources subject to Section

Cemeteries on plots of 10 acres or more.

Commercial dog or veterinary kennel subject to Section

Accessory to Column A-No. 1. One-story buildings for display and sale of agricultural and nursery products when primarily on the premises, provided such building does not exceed 1,000 square feet in floor area and is set back 10 feet from any lot line.

Reservoirs on plots of 3 acres or more.

1. Accessory Parking.

2. Accessory Loading.

3. Accessory Signs.

4. Accessory to use Column A, No. 1. Barns, silos and produce storage and packing warehouses provided such accessory buildings shall conform to the yard requirements for principal buildings.

5. Customary home occupations subject to Section

6. Garden houses, tool houses, playhouses, garages, subject to Section

7. Swimming pools subject to Section

8. Private garages accessory to the principal use of the lot.

9. Keeping domestic animals as follows: not more than a total of three cats or dogs over one year old, not more than two horses over six months old, not more than ten fowl, not more than two of any other species of domestic animals, excluding, however, all pigs and cattle. No domestic animal shall be maintained within 75 feet of any plot line except dogs and cats.

10. Private Kennel.

Same as FP, Nos. 2 through 11.

Private schools and colleges and other educational institutions other than trade schools subject to

1. Same as FP.

2. Home professional office or studio of architect, artist, chiropractor, dentist, engineer, insurance broker, lawyer,

R & F
10/22/97. (MS)

July 22, 1997

To Whom It May Concern,

For two years I have lived at 99 Myrtle Ave. New Windsor, N.Y. I moved on July 19, 1997 and I would like to explain one of the main reasons for leaving.

Our neighbors, Mr. & Mrs. Richard Hotaling at 95 Myrtle Ave., have a kennel in their back yard. There are several hunting dogs that are kept there. Now I'm sure you can imagine the odor, especially on a hot day, and then add the noise. When you have that many dogs barking all at once, sometimes for up to an hour and a half with out stopping, you have lost your peaceful environment.

I have been on the phone in the kitchen, which is on the other side of the house, and have been asked about the noise of the barking dogs. It's true that you can manage to block out some of the noise, however, I recently had surgery, and have been home all day. It is impossible to block out that much noise.

I feel there is a bigger problem beyond the noise. As an animal lover, I do not like to see animals being mistreated. He has been seen punching his dog in the face when it got loose on him, using fowl language for everyone to hear, including any children in the area. He also squirts the animals when they bark. I could go on , but the point is no one seems to want to listen.

We have been told he is in violation of the Town of New Windsor ordinances, because he has too many dogs , and does not have a kennel license. There have been many calls to the Police, and to others on this matter, all with out satisfaction. I have personally spoken to Janet Plant without getting anywhere. When she found out that I was going to start a petition , however, I received a phone call from her. Realizing that I was not going to let this matter drop, I received a phone call from Mrs. Hotaling with in minutes of hanging up with Janet Plant. The call was a "Can't we be friends , and drop this matter", type of call.

The problem is that Mr. Veneziali is going to have a problem renting the apartment under these conditions. For whatever reason these people have gotten away with this for years. This is not a fair situation to all the other families in the neighborhood.

I hope, in some way that this letter can help the long overdue, unfair situation.

Sincerely,

Carol Morgan
Carol Morgan



1763

TOWN OF NEW WINDSOR

ASSESSOR'S OFFICE

555 UNION AVENUE

NEW WINDSOR, NEW YORK 12553-6196

Telephone: (914) 563-4633

Fax: (914) 563-4693

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October 7, 1997

Richard Hotaling
95 Myrtle Ave.
New Windsor, NY 12553

Re: Tax Map Parcel 15-4-28.1

Dear Mr. Hotaling:

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

The charge for this service is \$75.00. Please remit a check to the Town Clerk's office for this amount.

Sincerely,

Leslie Cook/cad

LESLIE COOK
Sole Assessor

LC/cad



Vignogna, Joseph D. X
64 Myrtle Ave.
New Windsor, NY 12553

Estate of Fannie Palantino & X
Commissioner of Welfare
c/o Ms. Ann Palantino
72 Myrtle Ave.
New Windsor, NY 12553

Crudele, Rose Anna & Margaret C. ETAL
c/o Elvira Crudele X
90 Myrtle Ave.
New Windsor, NY 12553

Rizzo, Gaetano
116 Myrtle Ave. X
New Windsor, NY 12553

Spoto, Alfonso & Rosalia
118 Myrtle Ave. X
New Windsor, NY 12553

Di Chiaro, Vincent A. & Theresa
122 Myrtle Ave. X
New Windsor, NY 12553

De Fabio, Vincent R. & Rose D.
1 Foley Ave. X
New Windsor, NY 12553

Mastorocco, Edward & Rita
3 Foley Ave. X
New Windsor, NY 12553

Petro, John
8 Park Hill Dr. X
New Windsor, NY 12553

Delicio, Daniel & Dolores
53 Myrtle Ave. X
New Windsor, NY 12553

Corso, Anne
37 Bradford Ave. X
New Windsor, NY 12553

Delucia, John & Victoria X
64 Merline Ave.
New Windsor, NY 12553

Crawford, David
10 Hilltop Ave. X
Newburgh, NY 12550

Yonnone, David X
74 Merline Ave.
New Windsor, NY 12553

Alexander, Michael W. & Sharon I.
80 Merline Ave.
New Windsor, NY 12553 X

Yonnone, Gus J. & Anna
82 Merline Ave.
New Windsor, NY 12553 X

McDermott, Ronald M. & Lari-Sue
88 Merline Ave.
New Windsor, NY 12553 X

Gilfeather, Robert J. & Rose H.
90 Merline Ave.
New Windsor, NY 12553 X

Komar, Margaret & Caroline & Frank
96 Merline Ave.
New Windsor, NY 12553 X

Carlstrom, Charles & Mazzola, Marlene
33 Holmes Rd.
Newburgh, NY 12550 X

Vignogna, Louis J.
111 Myrtle Ave.
New Windsor, NY 12553 X

Petro, William & Shirley
109 Myrtle Ave.
New Windsor, NY 12553 X

Dewitt, James J.
101 Myrtle Ave.
New Windsor, NY 12553 X

Veneziali, John J.
99 Myrtle Ave.
New Windsor, NY 12553 X

Mott, Arthur D. & Clara
91 Myrtle Ave.
New Windsor, NY 12553 X

Yonnone, Cosmo & Stephanie
67 Myrtle Ave.
New Windsor, NY 12553 X

Yonnone, Vincent J.
63 Myrtle Ave.
New Windsor, NY 12553 X

Linton, David S. & Frances A.
59 Myrtle Ave.
New Windsor, NY 12553 X

Homin, John F. & Frances
91 Merline Ave.
New Windsor, NY 12553 X

Coffey, Thomas J. & Kathleen D.
14 Goodman Ave.
New Windsor, NY 12553

Mullarkey, John
16 Goodman Ave.
New Windsor, NY 12553

Smith, Donald J. & Edith H.
24 Goodman Ave.
New Windsor, NY 12553

Esposito, Anthony & Iolanda
29 Bradford Ave.
New Windsor, NY 12553

Greiner, Gregory P.
70 Lawrence Ave.
New Windsor, NY 12553

Hamilton, David K. & Cheryl A.
74 Lawrence Ave.
New Windsor, NY 12553

Oliver, William R.
955 Route 32
Wallkill, NY 12589

Salamotoff, Connie
84 Lawrence Ave.
New Windsor, NY 12553

Blanco, Alcides B. & Alexandra C.
87 Merline Ave.
New Windsor, NY 12553

Pisano, Louis T. Sr. & Louise C.
16 Ona Lane
New Windsor, NY 12553

Ryan, Walter T. & Arlene M.
110 Chestnut Dr.
New Windsor, NY 12553

Bruno, Benjamin
73 Merline Ave.
New Windsor, NY 12553

Morris, Odis A. & Marion E.
76 Melrose Ave.
New Windsor, NY 12553

Loger, Lynn A.
17 Goodman Ave.
New Windsor, NY 12553

Fornal, Stanley J. Jr.
81 Lawrence Ave.
New Windsor, NY 12553

Lebron, Dennis A. & Rivera, Ada M.
349 Huckleberry Tpke.
Wallkill, NY 12589 X

McDaniel, Edmund M. & Barbara M.
123 Blanche Ave.
New Windsor, NY 12553 X

Molter, Robert Jr. & Judith A.
125 Blanche Ave.
New Windsor, NY 12553 X

O'Brien, John T.
127 Blanche Ave.
New Windsor, NY 12553 X

Ulrich, John J. & Lenz, Kimberly E.
120 Blanche Ave.
New Windsor, NY 12553 X

Ulrich, John J. Jr. & Georgia C.
105 Merline Ave.
New Windsor, NY 12553 X

Quattrociochi, Robert J. & Deborah P.
118 Blanche Ave.
New Windsor, NY 12553 X

Hilfiger, Robert & Jo Ann
116 Blanche Ave.
New Windsor, NY 12553 X

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

Cherry, Allen R. & Ruth S.
20 Ruscitti Rd.
New Windsor, NY 12553 X

Maers, John A. Jr. & Lucia M.
112 Merline Ave.
New Windsor, NY 12553 X

Prendergast, Thomas F.
110 Merline Ave.
New Windsor, NY 12553 X

Zamenick, Frederick F. Jr. & Linda Ann
108 Merline Ave.
New Windsor, NY 12553 X

New Windsor Little League Inc.
PO Box 4024
New Windsor, NY 12553 X

Pls. publish immediately. Send bill to Applicant at below address.

**PUBLIC NOTICE OF HEARING
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. 32

Request of RICHARD HOTALING

for an INTERPRETATION and/or VARIANCE of the Zoning Local Law to Permit:

The keeping of six additional dogs in an R-4 (Residential) zone;

being a VARIANCE of Section 48-12-Table of Use/Bulk Regulations - Col. M and/or Section 48-33 - INTERPRETATION.

for property situated as follows:

95 Myrtle Avenue, New Windsor, New York, known as tax lot Section 15, Blk.4, Lot 28.1.

SAID HEARING will take place on the 27th day of October, 1997, at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 o'clock P.M.

James Nugent, Chairman

By: Patricia A. Burnhart, Secy.

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

97-32

Date: 10/10/97.

I. Applicant Information:

- (a) Arbaling, Richard & Mary Ann X
(Name, address and phone of Applicant) (Owner)
- (b) -
(Name, address and phone of purchaser or lessee)
- (c) -
(Name, address and phone of attorney)
- (d) -
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- Use Variance Sign Variance
- Area Variance Interpretation

III. Property Information:

- (a) R-4 95 Myrtle Avenue 15-4-28.1 100 x 90 ±
(Zone) (Address) (S B L) (lot size)
- (b) What other zones lie within 500 ft.? NONE
- (c) Is a pending sale or lease subject to ZBA approval of this application? No
- (d) When was property purchased by present owner? 1970
- (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.

(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. m-9.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
<u>Canines</u> <u>3</u>	<u>9</u>	<u>6</u>
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

* 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:

Applicant has kept Beagle dogs for hunting + show (AKC Field Trials) since 1970 at this particular area and previously at another location since the 1950's. I do not believe that my kennel causes any detriment to the health, safety or welfare of my neighborhood; there will be no undesirable change or adverse effect or impact on the physical or environmental conditions in the neighborhood; I do not believe that the variance requested is substantial; No other feasible method can be pursued by Applicant. (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. 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

(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)

HOTALING, RICHARD

MR. TORLEY: Request for area variance in variation of bulk regulations in R-4 zone to allow six additional dogs at 95 Myrtle Avenue.

Mr. Richard Hotaling appeared before the board for this proposal.

MR. HOTALING: All right, basically let me give you a little background here. In the present location where I am at right now, I have been there for 27 years, I have maintained a kennel there and in this general area of the Ducktown, I have been there for 39 years, have had kennels there. And in all that, in that 27 year period that I have been at this location, I have never had no complaints until the arrival of this new neighbor that came in within the last year and a half and that is the reason that I am here in front of this board tonight was because I received notice from the town stating that I am over the 3 dog limit and the reason of that 27 year period I haven't received any complaints because I'm not insensitive to my neighbors. I maintain the kennels, clean them every day, may miss a day in case of inclement weather. I use special stuff, cost me \$28 a gallon deodorizer and enzyme digester. Dogs are special breed of dogs. They are called patch beagles, originated in North Creek in 1898, still the same strain, they are known for their endurance. They are not just the run-of-the-mill dogs, these are special dogs. I take them to AKC field trials. I use them for hunting up north for snow shoes and stuff like that. It's not a business strictly for my own use. This is my out, you know, some people go golfing, go to the barroom, what have you, this is my relaxation. This is the way I get rid of the stress and stuff in my life. So basically, you know, you're upsetting the whole lifestyle I have established in this place in this Ducktown area for 39 years, 27 years at this location and just for me to suddenly just to get rid of these dogs, shoot 'em, get rid of them, give them away or what have you, strictly impossible for me. So that is the reason why I'm here, you know, in front of the board tonight is to ask for this, I guess it's area variance you call it. I think that is what it is,

area variance.

MR. BABCOCK: Right.

MR. HOTALING: You have any questions, I will be glad to answer them.

MR. TORLEY: This is the same number of dogs you had the whole time?

MR. HOTALING: I have maintained over three dogs at one time. At my mother's in the early part when I started raising, I had 17 in the barn between bird dogs and beagles back in 1958. Then you could step off and go hunting right into the woods from there but like I said, ever since I was a teenager down there, raised these beagles and bird dogs and what have you. I don't have that many, I have 9 right now, one is 16, he stays in the house, another one is 13, depending on how his arthritis is doing, he's in, he's out. You know, it's, I personally feel, you know, this obsession that people have, you know, I'm not saying that they are perfect dogs. When I come home from work, they greet me, they bark when fire siren goes off, they bark but so does every other dog in New Windsor barking with the fire siren. We got two blacktop plants there a hundred yards from us, they fire up early in the morning, they bang the hoppers. We have got jet planes. We're next to the City of Newburgh line, we hear the police sirens, gun shots, we live in a world of noise and just, you know, I think if I was doing something, you know, wrong, something would have become of this long time ago, complaints, what have you or what have you. But, you know, I operate this thing, I take pride in these dogs. I operate this like I said for 27 years at this location and now I have got to change my life style, you know, and because of this--

MR. REIS: Rich, you have come before this board as a result of one neighbor complaining about the situation?

MR. HOTALING: Yes, new neighbor that just moved in maybe about a year and a half ago.

MR. TORLEY: Mike, refresh my memory on this, how much

given his lot size which is--

MR. BABCOCK: 90 by 100.

MR. TORLEY: How much, I don't see an actual size, how much land you would have to have to have the nine dogs.

MR. BABCOCK: Doesn't matter, the bulk tables refer to you're allowed to have three dogs and not over, if they had puppies, you're allowed to keep the puppies for a period of one year.

MR. TORLEY: Then there's, if the gentleman had a kennel license from the state, is that a permitted use in the R-4 zone?

MR. HOTALING: I think the kennel license is just or--

MR. TORLEY: I know we're trying to see.

MR. BABCOCK: I think the zoning law says he's not allowed to have three cats or dogs over one year old and that is pretty much the end of the story without a variance from this board whether if he maintained a kennel there, in this particular location, before the zoning took effect, we probably wouldn't been here tonight talking about it, but he has not, he didn't maintain the kennel in a different area.

MR. KRIEGER: Here's an interesting point, if he's maintained more than three dogs or is continuously maintained this number of dogs since before zoning was enacted.

MR. BABCOCK: But not in this location Andy.

MR. HOTALING: 27 years in this particular location.

MR. KRIEGER: What does that take you back to?

MR. BABCOCK: You moved in this house in 1973?

MR. HOTALING: 1970.

MR. TORLEY: But not necessarily, when did, when was

the law brought in for the number of dogs, that is fairly recent?

MR. BABCOCK: I couldn't tell you that. I don't believe that was put in the initial zoning that was put in for animal control and in response to some other complaints that we had about horses as well but I would appreciate if you could find out when that particular feature of the zoning code was put in cause even if it was after 1970 if he complied with the law before the law was put in.

MR. KRIEGER: He'd be grandfathered, yes.

(Whereupon, Mr. Nugent entered the room.)

MR. KRIEGER: That is something that the board ought to know at the time that they make and they have a public hearing.

MR. TORLEY: So before the, assuming that the board grants the gentleman his public hearing, I would appreciate that information before then.

MR. REIS: That would be very helpful to the applicant, that is for sure.

MR. BABCOCK: How would one go to find out about that, that is the problem?

MR. KRIEGER: Town Clerk, when the law was enacted.

MR. BABCOCK: This particular law.

MR. KRIEGER: Yes, that is where I'd go to the Town Clerk.

MR. BABCOCK: It's not a local law though, that is the problem.

MS. BARNHART: It's the bulk tables.

MR. BABCOCK: If it was Local Law number 4, 1995, you know it would be very easy to research. This is not.

September 8, 1997

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MR. TORLEY: You have to try to find old copies of the bulk tables.

MR. BABCOCK: This is not a local law that they made this one particular change, you know what I am saying.

MR. KRIEGER: Where did it come from?

MR. TORLEY: Bulk tables.

MR. KRIEGER: That is fine, but aren't the bulk tables reflective of the local zoning law?

MR. TORLEY: Aren't they dated, there is a date on the bulk table.

MR. BABCOCK: They used to be use and use group columns, we made it simple, used to have a use and then you went to the column.

MR. KRIEGER: Who drafted the bulk laws as they exist now, was it McGoey?

MR. BABCOCK: This is in 1986, I believe so but it was just a changeover from group and use columns to bulk columns.

MR. KRIEGER: Trying to arrive at the question of when that particular legal provision was enacted, I suppose that is why it started, it started if they did the revision then.

MR. TORLEY: For Mr. Hotaling's benefit, what we're trying to establish is if you had your operation going on before this statement in this bulk table about the number of dogs being restricted to three, that may make quite a bit of difference in how we proceed so we're trying to establish how we can know that for a fact.

MR. REIS: Our position would be then if it hadn't been enacted till after 1970, he would not necessarily have to go for a variance.

MR. TORLEY: Not necessarily.

MR. KRIEGER: Not necessarily, however, let me put out two things. First of all, as I told at least one if not both prior applicants, the ZBA cannot act without a public hearing. So even if it were to apply that interpretation so as to not to require a variance, still have to have a public hearing. My suggestion would be that the public hearing be made, the application be made for an interpretation or a variance as is necessary. I would further suggest that if the, if it appears that there is evidence to support an interpretation, that said the variance isn't necessary, that the board proceed to consider the criteria for a variance anyway and certainly, I would in the event that there were both an interpretation and a variance granted, I would draft a decision in such a way as to reflect that if the board considered it. The reason I emphasize that in this particular case is Mr. Hotaling is an employee of the town, that decision or the action of the ZBA is going to be subject to a higher level of scrutiny or maybe subject to a higher level of scrutiny than perhaps what would otherwise happen and certainly dotting the I's and crossing T's is called for in this particular application.

MR. TORLEY: Jimmy, do you have any questions?

MR. NUGENT: No, I'm very aware of what's going on.

MR. BABCOCK: Mr. Chairman, you're going to try to have Pat research this through the Town Clerk's office?

MR. TORLEY: You guys work it out, you're the experts in the inner workings of this town.

MR. BABCOCK: Okay, well, it's going to take, it's not something that I am going to have time to do, I can tell you this is something that you are going to have to sit there and go through books. Cause it's not a numbered law. You're going to find that this was updated, this map in front of me was updated in '86, I just opened up to the book to the use table and it was amended in 1996 so every time it's amended, you're going to have to go back through, keep going back through each amendment.

MR. KRIEGER: Well, the bulk tables takes us back to '86, we don't have to worry about anything prior to that.

MR. BABCOCK: That is correct.

MR. KRIEGER: We have to get from '86 back to '70.

MR. BABCOCK: Right.

MR. KRIEGER: My suggestion would be the first place to start would be to talk to whoever at McGoey, Hauser and Edsall did this, you know, prepared this, drafted this because they may have materials available to them which would get you farther back, it may be not all the way back to 1970, but get you farther back than we can go from there, may be necessary to take a number of steps but it occurs to me that that is where that is the appropriate place to start.

MR. TORLEY: And I think in justice to the applicant we really have to.

MR. BABCOCK: The applicant will what?

MR. TORLEY: In justice to the applicant, we have to really try to find where this law applies.

MR. BABCOCK: You're going to have to let Patty do that.

MR. TORLEY: Sure.

MR. NUGENT: Under the information I just heard, I think it's possible that maybe we should even postpone the preliminary hearing till that information is gathered.

MR. TORLEY: Even if he's grandfathered in.

MR. NUGENT: Grandfathered in, its not a problem. What I am saying is maybe we should just postpone the preliminary meeting to find out that information cause he may not have to go for a public hearing so we can set him up and not have to.

MR. KRIEGER: My suggestion was under the circumstances, he would be better served by having a public hearing if it were merely disposed of in a preliminary hearing stage, it would give rise to certain questions which at the very least would cause an improper, could cause an improper appearance, both on the board and Mr. Hotaling and I'm sure that when he provides an answer to whoever this complainant neighbor is, he does not want to be met with the some sort of cynical response based on you work for the town. He wants to be able to show that it is as I say all the T's were crossed and I's were dotted and he got the same treatment as everybody else. So perhaps he gets more thorough treatment than anybody else but puts him in a better position.

MR. TORLEY: Go ahead and set up the public hearing which gives the applicant the right but not duty to proceed and if we find information in the future might change that, we can. So I'd entertain a motion.

MR. REIS: Make a motion that we Mr. Hotaling very his public hearing for his requested variance at 95 Myrtle Avenue.

MS. OWEN: Second it.

ROLL CALL

MS. OWEN	AYE
MR. REIS	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MS. BARNHART: This is on the interpretation and the area variance?

MR. KRIEGER: And area variance, both.

MR. BABCOCK: While you were out of the room, I volunteered you to do the research on this.

MS. BARNHART: Oh yeah, I have got a whole staff of people in my office, I will put them all to work

tomorrow.

MR. BABCOCK: Well, I don't have time to do it.

MS. BARNHART: It's right on the bulk tables on the wall.

MR. BABCOCK: But you have to go all the way back to 1970, that is the problem.

MS. BARNHART: How am I going to do that? You know what state of affairs of the Town Clerk's vault is in? I hate to tell you.

MR. KRIEGER: Well, I certainly wouldn't go there and start rummaging around, that would be contra-indicated, I think the way to start is to start with as I said with whoever at McGoey and Hauser did the drafting.

MS. BARNHART: They weren't here in those days.

MR. KRIEGER: But they may have a record as a result of their drafting which would take us back, the bulk tables, get us back to '86 you have to get.

MR. TORLEY: You may find somebody around here has been a contractor for 30 years in the town, oh yeah, I have got these buried back here, here's an old copy, you might get lucky. But I wouldn't count on it. it's possible in any case I think we should move on.

MS. BARNHART: You're not going to move on to anything, nobody's here at the number I called so--

MR. REIS: You understand what we're trying to accomplish on your behalf?

MR. HOTALING: Yes, sir, I do.

MR. KRIEGER: Before you go, the law requires that the zoning board of appeals consider certain criteria at the public hearing, I have listed them there on that paper and it would be helpful if you would address yourself to those criteria when making the presentation. Do you understand what I said to the

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others about the necessity for having a public hearing?

MR. HOTALING: Yes, I do.

MR. KRIEGER: Okay.

MR. TORLEY: Off the record.

(Discussion was held off the record)

cc: ASK
for on temp.

ZONING

Ordinance

TOWN OF

New Windsor

Chapter 48

CODE

of the

Town of New Windsor

GENERAL CODE PUBLISHERS CORP.

Spencerport, New York 14550

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 ordinance 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 which is subject to regulations which prohibit the particular use intended to be made of said lot or which regulations require higher standards with respect to setback, coverage, yards, screening, landscaping and similar requirements.

In all cases where a district boundary line is located not farther than fifteen (15) feet away from a lot line of record, such boundary line shall be construed to coincide with such lot line.

In all other cases, where dimensions are not shown on the Zoning Map, the location of boundaries shown on the Zoning Map shall be determined by the use of the scale appearing thereon.

Effect of establishment of districts.

Nothing shall be construed to change the effective date of this ordinance:

No building shall be erected, moved, altered, rebuilt or enlarged nor shall any land or building be used, designed, or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements and/or restrictions specified in this ordinance for the district in which such building or land is located.

No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.

C. No lot shall be formed from part of a lot already occupied by a building unless such building, all yards and open spaces connected therewith, and the remaining lot comply with all requirements prescribed by this ordinance for the district in which said lot is located. No permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this ordinance.

D. Nothing contained in this ordinance shall require any change in the plans, construction, or designated use of a building complying with existing law, a permit for which shall have been duly issued and the construction of which shall have been started before the date of first publication of notice of the public hearing on this ordinance, and the ground-story framework of which, including the second tier of beams, shall have been completed within six (6) months of the date of the permit, and which entire building shall have been completed in accordance with such plans as have been filed with the Zoning Inspector within one (1) year from the date of passage of this ordinance.

ARTICLE III

District Use Regulations

(See also Article IV, District Bulk and Parking Regulations; Article V, Supplementary Regulations; and Article VI, Off-Street Parking, Driveways and Off-Street Loading Facilities)

§ 48-6. One-Family Residence Agriculture RA District.

In a One-Family Residence Agriculture RA District, no building or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used in whole or in part, for any uses except the following:

A. Permitted uses.

- (1) One-family detached dwellings, not to exceed one (1) dwelling on each lot.
- (2) The following commercial agriculture operations and accessory uses thereto, provide that there shall be no stable or similar animal housing or the storage of manure or other odor or dust-producing substance or use, except spraying and dusting to protect vegetation, within fifty (50) feet of any lot line.
 - (a) The raising of field and garden crops, vineyard and orchard farming, the maintenance of nurseries, and the sale of products thereof in buildings permitted as a conditional use as set forth in § 48-6(4)1 and provided all signs conform with § 48-6(5)2.
 - (b) Keeping, breeding and raising of cattle (including dairies), sheep, goats, pigs, and horses and rental of horses, on lots of twenty (20) acres or more.
 - (c) Keeping, breeding, and raising of fowl on lots of five (5) acres or more.
 - (d) Barns, silos, and produce storage and packing warehouses accessory to any aforementioned use, provided such accessory buildings shall conform to the yard requirements for principal buildings.
- (3) Buildings, structures and uses owned and operated by the Town of New Windsor.
- (4) Conditional uses permitted upon approval of the Zoning Board of Appeals, in accordance with the procedure and standards for special permits as set forth in § 48-35 of this ordinance.* These uses are also

* Editor's Note: Page 4808.

subject to the conditions set forth below and where in this ordinance and to Site Plan App in accordance with § 48-34 hereof.*

- (a) Places of worship including parish houses. Special conditions:
 - (1a) No building or part thereof shall be nearer than fifty (50) feet to any or property line.
 - (2a) The sum of all areas covered by all principal and accessory buildings shall not exceed twenty percent (20%) of the area of the lot.
- (b) Schools, colleges, and other educational institutions. Special conditions:
 - (1b) Same as conditions (1a) and (2a) in § 48-6(4)(a).
 - (1b) Any such school shall be a nonprofit organization within the meaning of the Int Revenue Act and shall be registered actively as such thereunder.
 - (3b) Any such school shall occupy a lot with area of not less than five (5) acres or one (1) acre for each one hundred (100) pupils for which the building is designed.
- (c) Philanthropic or eleemosynary institutions, hospitals or sanitariums for general medical purposes. Special conditions:
 - (1c) Same as conditions (1a) and (2a) in § 48-6(4)(a) above.
 - (2c) Each such use shall occupy a lot with area of not less than twenty (20) acres.

* Editor's Note: Page 4809.

- (d) Annual membership clubs providing outdoor recreational facilities such as private playgrounds, swimming pools, tennis courts, fishing and hunting preserves. Special conditions:
- (1d) Same as conditions (1a) and (2a) in § 48-6A(4)(a) above.
 - (2d) That any such club is incorporated pursuant to the provisions of the Membership Corporation or the Benevolent Order Laws of the State of New York and catering exclusively to members and their guests.
 - (3d) Any such use shall be conducted as a non-profit enterprise.
 - (4d) That such use shall occupy a lot with an area of not less than five (5) acres.
 - (5d) That the use of outdoor public address systems for any purpose shall be prohibited.
 - (6d) That exterior lighting, other than that essential for the safety and convenience of the users of the premises, shall be prohibited.
- (e) Other annual membership clubs. Special conditions:
- (1e) Same as condition (2d), (5d), (6d) in § 48-6(4)(d) above.
 - (2e) Same as conditions (1a) and (2a) in § 48-6(4)(a) above.
 - (3e) That such use shall occupy a lot with an area of not less than one (1) acre.
- (f) Railroad, public utility, radio and television transmission antennae, rights-of-way and structures necessary to serve areas within the town

subject to such conditions as the Zoning E of Appeals may impose in order to protect promote the health and safety and general fare of the community and the character o neighborhood in which the proposed structt to be constructed.

- (g) Summer colonies. (A group of buildings may be cabins or cottages, containing sep living accommodations for nontransient vac or recreation purposes for families or ad for hire on a seasonal basis during the winter months.) Special conditions:
- (1g) Cabins or cottages designed for one-ft occupancy only shall be permitted.
 - (2g) The minimum lot size for a summer oc shall be twenty (20) acres. Spacin buildings shall conform to Group 1 or C as set forth for residences in § 4f and subject to the same requirements: water and sewer as set forth therein.
 - (3g) Recreational facilities for the use of ants, boarders, roomers, or guests; in- ing athletic fields, tennis and ham courts, rental of boats, swimming p bathhouses and locker rooms, etc.; an- door facilities such as casinos and re- tion halls are permitted provided that such facility shall be located within hundred (200) feet of any lot line and be effectively screened therefrom.
 - (4g) If floodlighting is used, it shall be arra- so as to eliminate the glare of lights to- nearby residential areas. No public add- system for outdoor use shall be permi-

The Zoning Board of Appeals may impose rules to minimize any noise disturbance affecting nearby residential areas.

(h) Resort hotel, in which incidental recreational facilities may be furnished and subject to the following special conditions:

(1h) The minimum lot size shall be twenty (20) acres.

(2h) Recreational facilities for the use of guests, including athletic fields, tennis and handball courts, rental of boats, swimming pools, bathhouses and locker rooms, etc., and indoor facilities such as casinos and recreation halls are permitted provided that no such facility shall be located within one hundred (100) feet of any lot line and shall be effectively screened therefrom.

(3h) If floodlighting is used, it shall be arranged so as to eliminate the glare of lights toward nearby residential zones. No outdoor public address system shall be permitted.

(4h) Resort hotels presently in existence on the effective date of this ordinance shall not be required to comply with the minimum lot size of twenty (20) acres, and shall be permitted to expand providing all other applicable requirements of this ordinance are met.

(i) Airports and heliports. Special conditions:

(1i) Any areas to be used by aircraft under its own power shall be provided with a dustless surface.

(2i) The hours of operation shall be limited by the Zoning Board of Appeals to prevent disturbance to nearby residences.

(3i) No area to be used by aircraft under its power on the ground shall be less than two hundred (200) feet from any lot line. Evidence shall be presented to the Board that ample safeguards to minimize hazard and disturbance from noise of aircraft affecting residents and properties in the vicinity will be assured at all times of operation.

(4i) Access to areas used by aircraft in motion shall be controlled by fences and gates.

(5i) Vending machines; newsstands; governmental installations; airport, airline express offices, and aircraft repair facilities and other customary accessory uses shall be permitted within completely enclosed buildings. Storage and sale of aviation gasoline may also be permitted.

(j) Sandpits, gravel pits, removal of topsoil and backfill or excavation. Special conditions:

(1j) The proposed operation shall not adversely affect soil fertility, drainage and lot support of abutting land or other property. Nor shall it contribute to soil erosion by water or wind.

(2j) Within five hundred (500) feet of any residence there shall be no operation between 7:00 P.M. and 7:00 A.M., nor on Sundays or legal holidays.

- (3j) The noise and toxic gas levels shall be kept below that which is offensive or represents a hazard to health, safety and the general welfare.
- (4j) Where any open excavation will have a depth of ten (10) feet or more and create a slope of more than thirty degrees (30°), there shall be a substantial fence, at least four (4) feet high with suitable gates where necessary, effectively blocking access to the area in which excavation is located. Such fence shall be located fifty (50) feet or more from the edge of the excavation. All operations shall be screened from nearby residential uses.
- (5j) The slope of material in any excavation shall not exceed the normal angle of repose or forty-five degrees (45°), whichever is less.
- (6j) That portion of access roads within the area of permit and located within five hundred (500) feet of a lot line or an excavation operation shall be provided with a dustless surface.
- (7j) The top of the natural slope in cut for any excavation, and any mechanical equipment, shall not be less than fifty (50) feet from any lot line.
- (8j) Before approval is granted, a plan for rehabilitation, showing current field topography, including location of watercourses, and a proposed restoration grading plat, indicating the general grades and slopes to which the disturbed area will be graded, shall be submitted and approved. Such ap-

proval shall be based upon a finding all banks shall be left with a slope greater than forty-five degrees (45°), that upon the completion of operation the land shall be left in a safe condition with all grading and drainage such that natural storm water leaves the property at the original, natural drainage points, that the area drainage to any one point is not increased and that the land shall be left in a condition suitable for a use permitted in the District. When topsoil is removed, sufficient arable soil shall be set aside for respreading over all turbed areas with a minimum depth of four (4) inches. All disturbed areas shall be seeded with a permanent ground cover. Fill shall be of a suitable material approved by the Zoning Board of Appeals.

(k) Cemeteries.

- (l) One-story buildings for display and sale of cultural and nursing products grown primarily on the premises, provided any such building not exceed one thousand (1,000) square feet floor area and is set back thirty (30) feet from any lot line.
- (m) Dormitory accommodations for housing migratory agricultural workers provided such premises are constructed in conformance with the New York State Multiple Residence Law and are occupied for more than five (5) months in calendar year.
- (n) Commercial dog or veterinary kennel, provided that no kennel, runway, or exercise pen shall

located within three hundred (300) feet of any lot line.

- (o) Conversion of an existing structure from a one-family dwelling to a two-family or a three-family dwelling, but only subject to the following conditions:

(1o) Such structure shall have contained, on the effective date of this ordinance, one thousand (1,000) square feet of livable floor area for the original dwelling unit plus seven hundred fifty (750) square feet for each additional dwelling unit created.

(2o) The lot on which such structure is located shall contain fifteen thousand (15,000) square feet of lot area for original unit and five thousand (5,000) square feet for each additional unit so created.

(3o) Two (2) off-street parking spaces are provided on said lot for the use of each dwelling unit.

- (p) Mobile home courts. Special conditions: To be in accordance with existing trailer ordinance and should be approved by the Planning Board.

(5) Accessory uses, limited to the following:

- (a) Customary home occupations other than retail sales, provided that:

(1a) No display of goods, waste material, or sign is visible from the street, except as set forth in (f) below;

(2a) Such occupation is incidental to the residential use of the premises.

(3a) Only customary household appliance equipment are used.

(4a) Such occupation is carried on in a not exceeding thirty percent (30%) area of the ground floor of the main building.

(5a) At no time shall any premises be in such a manner as to cause emanation therefrom of offensive or noxious vapors, fumes, glare, dust, smoke, vibration, noise or radiation, or be in such a manner as to cause injury, annoyance or disturbance to any of the surrounding properties and to their owners and occupants.

- (b) Professional office or studio of architect, chiropractor, dentist, engineer, insurance broker, lawyer, musician, optometrist, osteopath, tax surgeon, physician, real estate broker and veterinarian, provided that:

(1b) Such office or studio is incidental to residential use of the premises and is occupied by the resident thereon.

(2b) Such office or studio shall occupy not more than thirty percent (30%) of the area of ground floor of the main building.

(3b) Studios where dancing or music instruction is offered to groups in excess of four pupils at one time or where concerts or recitals are held are prohibited.

(4b) The keeping or boarding of any dogs by a veterinarian shall require approval of the Zoning Board of Appeals in accordance with § 48-6A(4)(n).

(c) Garden house, tool house, playhouse, wading pool or swimming pool incidental to the residential use of the premises and not operated for gain, provided that swimming pools with an area of one hundred fifty (150) square feet or more and a depth in excess of two (2) feet shall be subject to the following requirements:

(1c) The edge of the pool shall be kept a distance of not less than twenty (20) feet from all property lines.

(2c) If located within fifty (50) feet of any property line, such pool shall be screened from the view of abutting properties by an opaque fence or a thick hedge not less than six and one-half (6½) feet in height.

(3c) An adequate permanent fence or barrier shall be erected, maintained, and provided with a self-losing self-locking gate or door to prevent accidental entry or unauthorized use of the pool and, particularly, entry by a small child.

(d) Private garages, two (2) passenger automobile spaces in which may be leased to persons not residents on the premises.

(e) Keeping domestic animals (except pigs) for household purposes or as pets, provided not more than three (3) dogs over six (6) months old and not more than twenty-five (25) fowl shall be permitted, and no animals (except dogs or fowl) shall be penned or housed within fifty (50) feet of any lot line.

(f) The following signs, subject to § 48-18:

(1f) One (1) nonilluminated name plate or professional sign with an area of not over (2) square feet;

(2f) One (1) temporary nonilluminated sign advertising the sale or rental of the premises on which such sign is situated, with an area of not over six (6) square feet, provided such sign is located on the front wall of a building, or, if free standing, then nearer than twenty-five (25) feet to street line and fifteen (15) feet to property line; and

(3f) One (1) indirectly illuminated billboard or other announcement sign for educational or religious institutions permitted in (a) and (b) of § 48-6A(4), with an area of not over twelve (12) square feet provided such sign is located not nearer than twenty (20) feet to any street property line or attached to the building if closer.

(g) Trailers for the housing of farm workers pending the Zoning Board of Appeals shall be permitted if the need for same and subject to conditions as it may prescribe as provided hereinafter. House trailers are expressly prohibited in RA zones.

§ 48-7. One-Family Residence RB District.

In a One-Family Residence RB District no building or premises shall be used, and no building or part of a building shall be erected, which is arranged, intended or designed to be used in whole or in part, for any purpose, except the following

* Editor's Note: See p. 461.

A. Permitted uses.

- (1) Any use permitted in Residence-Agriculture RA Districts, except philanthropic and eleemosynary institutions, sanitariums, summer colonies, airports, house trailer, mobile home courts, sand or gravel pits, buildings for display and sales of agricultural products, dormitory accommodations for agricultural workers, and commercial dog or veterinary kennels.
- (2) Conversion of an existing structure from a one-family dwelling to a two-family or a three-family dwelling, but only subject to the following special conditions:
 - (a) Such structure shall have contained, on the effective date of this ordinance, one thousand (1,000) square feet of livable floor area for the original dwelling unit plus seven hundred fifty (750) square feet for each additional dwelling unit created.
 - (b) The lot on which such structure is located shall contain fifteen thousand (15,000) square feet of lot area for the original unit and five thousand (5,000) square feet for each additional unit so created.
 - (c) Two (2) off-street parking spaces are provided on said lot for the use of each dwelling unit.

§ 48-8. Multiple-Family Residence RC District.

In a Multiple Residence RC District no building or premises shall be used, and no building or part of a building shall be erected which is arranged, intended, or designed to be used, in whole or in part, for any purpose, except the following:

A. Permitted uses.

- (1) Any use permitted in Single-Family Residence RB Districts.

B. Permitted uses subject to approval of site development plans by the Planning Board in accordance with § 48-9 hereof.

- (1) Dwellings for three (3) or more families, provided that: Not more than one (1) professional office studio, other than accessory to a use otherwise permitted, shall be permitted for each twenty-five dwelling units or major fraction thereof on the lot. Such office or studio shall be only on the street front of any building and on the floor immediately adjacent to the street floor only if there be direct access to the office or studio from outside the building.

§ 48-9. Local Business LB District.

In a Local Business LB District, no building or premises shall be used and no building or part of a building shall be erected which is arranged, intended or designed to be used, in whole or in part, for any purpose, except the following:

A. Permitted uses.

Any use permitted in Single-Family Residence Districts.

B. Permitted uses subject to approval of site development plans by the Planning Board in accordance with § 48-9 hereof.

- (1) Living quarters for not more than (1) one family located within each permitted commercial building on each lot for the use of the owner or caretaker of such building or of the owner or caretaker of the lot for permitted use or uses housed in such buildings.
- (2) Retail stores and banks.
- (3) Personal service stores such as, but not limited to barber shops, beauty parlors and tailors.

- (4) Eating and drinking places.
- (5) Business, professional or governmental offices.
- (6) Service establishments furnishing services other than a personal nature, but excluding gasoline filling stations and motor vehicle storage, repair or service except as provided in § 48-9B(11).
- (7) Theatres (except drive-in theatres).
- (8) Signs, accessory to an establishment located on the same lot, provided such signs shall be limited as set forth in § 48-18* and as follows:
 - (a) Where the building is set back from the front lot line less than twenty-five (25) feet not more than one (1) such sign shall be permitted for each tenant on the premises on each wall fronting on a street or public parking lot.
 - (b) The aggregate area, in square feet, of all signs on any wall shall be not greater than two times the length in feet of such wall.
 - (c) Such sign or signs shall be parallel to the face of the building and no part thereof, including any illuminating devices, shall project more than twelve (12) inches beyond the face of the wall to which applied nor any distance beyond or above the building in any other direction.
 - (d) In addition, where the building is set back from the front lot line a distance of twenty-five (25) feet or more, not more than one (1) free-standing sign, with a total area of all faces of not more than forty (40) square feet may be erected not nearer than six (6) feet to any building. No such free-standing signs shall encroach on any required yard, except in a motor vehicle service station where one (1) standard

sign may be erected in a required front yard for purposes of identification and a free-star sign may be erected on the side yard facing cross street of a corner property.

- (9) Manufacturing, assembling, converting, alteration, finishing, cleaning, or any processing of products where goods so produced or processed are sold exclusively on the premises.
- (10) Places of worship.
- (11) Motor vehicle sales, service stations and repair shops, subject to authorization and approval of the Planning Board in accordance with Article 1 and to the following special conditions:
 - (a) The minimum lot size for such establishments shall be fifteen thousand (15,000) square feet and the minimum street frontage shall be hundred (100) feet.
 - (b) Entrance and exit driveways shall have a restricted width of not less than thirty-five feet and not more than fifty (50) feet, shall be located not nearer than ten (10) feet from property line and shall be so laid out as to avoid the necessity of any vehicle backing across any public right-of-way.
 - (c) Vehicle lifts or pits, dismantled or unlicensed automobiles, and all parts or supplies shall be located within a building enclosed on all sides.
 - (d) All service or repair of motor vehicles, other than such minor servicing as change of tire or sales of gasoline or oil, shall be conducted in a building enclosed on all sides. This requirement shall not be construed to mean that the door of any repair shop must be kept closed at all times.

* Editor's Note: See p. 4821.

* Editor's Note: See p. 4821.

§ 48-13. General Industry GI District.

In a General Industry GI District, no building or premises shall be used and no building or part of a building shall be erected which is arranged, intended or designed to be used, in whole or in part, for any purpose, except the following:

A. Permitted uses.

Any use permitted in Single-Family Residence RB District.

B. Permitted uses subject to approval of site development plans by the Planning Board in accordance with § 48-34 hereof.

- (1) Any use permitted in the Office-Light Industry OLI District.
- (2) Bulk storage including warehouses and oil and gas storage aboveground.
- (3) Junk yards.
- (4) Manufacture of bricks or concrete blocks.
- (5) Automotive service stations subject to regulations, § 48-9B(11).

C. Any permitted nonresidential use located on a lot, any lot line of which lies within one hundred (100) feet of a residence district boundary, shall be screened along any such lot line and floodlighting shall be so arranged so there will be no glare of lights toward such district boundary. Screening shall consist of a type of fencing or a hedge of such type and spacing as may be required by the Planning Board of an initial height of not less than five (5) feet and adequate ultimately to screen all operations on the lot from the view of properties in the adjoining residence district.

D. The following uses are expressly prohibited:

- (1) Any use which is noxious or offensive by reason of emission of odor, dust, noise, smoke, gas, fume, radiation, or which presents a hazard to public health or safety.

ARTICLE IV

District Bulk and Parking Regulations

§ 48-14. District bulk and parking regulations.

The following schedules of regulations applying to the use of lots, the height of buildings, the yards and other open spaces to be provided, off-street parking spaces, minimum floor area and all other matters contained therein, as indicated for various districts established by this ordinance, are hereby adopted and declared to be a part of this ordinance.

A. Bulk and parking regulations for One-Family Residence Districts RA and RB. (See also Article XIII Definitions, Article V Supplementary Regulations; and Article Off-Street Parking; Driveways and Loading Facilities)

For Residences in RA and RB

	Group A	Group B	Group C
Minimum required		See Note 1	
Lot area (sq. ft.)	15,000	12,500	10,000
Lot width (ft.)	100	90	
Lot depth (ft.)	125	100	
Front yard (ft.)	30	25	
One side yard (ft.)	15	12	
Both side yards (ft.)	40	30	
Rear yard (ft.)	30	30	
Living floor area			
per DU (sq. ft.)	600	600	
Off-Street parking spaces/DU	2	2	

A	B	C	D	MINIM
USES PERMITTED BY RIGHT	USES BY SPECIAL PERMIT OF BOARD OF APPEALS	PERMITTED ACCESSORY USES	PERMITTED ACCESSORY SIGNS	MINIM
<p>1. The following commercial agriculture operations and accessory uses thereto, provided that there shall be no stable or similar animal housing or the storage of manure or other odor- or dust-producing substance or use, except spraying and dusting to protect vegetation, within 50 feet of any lot line.</p> <p>(a) The raising of field and garden crops, vineyard and orchard farming, the maintenance of nurseries.</p> <p>(b) Keeping, breeding and raising of cattle (including dairies), sheep, goats, pigs and horses and rental of horses, on lots of 20 acres or more.</p> <p>(c) Keeping, breeding and raising of fowl on lots of 5 acres or more.</p> <p>*2. Buildings, structures and uses owned and operated by the Town of New Windsor.</p> <p>*3. Public parks and playgrounds.</p> <p>4. Commercial forestry.</p> <p>*5. Outdoor recreational facilities, including golf courses, ice skating rinks, swimming pools, parks, playfields and ski areas: subject to Section 5.8.1.</p>	<p>1. One-family detached dwellings, not to exceed one dwelling on each lot.</p> <p>*2. Annual membership clubs providing outdoor recreation facilities subject to Section 5.8.1.</p> <p>*3. Other annual membership clubs.</p> <p>4. Railroad, public utility, radio and television transmission antennas, rights-of way.</p> <p>*5. Summer colonies and vacation camps subject to Section 5.8.2.</p> <p>*6. Airports and heliports subject to Section 5.8.3.</p> <p>*7. Sandpits, gravel pits, removal of topsoil, excavations of natural resources subject to Section 5.8.4.</p> <p>8. Cemeteries on plots of 10 acres or more.</p> <p>*9. Commercial dog or veterinary kennel subject to Section 5.8.5.</p> <p>10. Accessory to Column A-No. 1. One-story buildings for display and sale of agricultural and nursery products grown primarily on the premises, provided any such building does not exceed 1,000 square feet in floor area and is set back 30 feet from any lot line.</p> <p>11. Reservoirs on plots of 3 acres or more.</p> <p style="font-size: 2em; text-align: center;">R-4</p> <p style="font-size: 2em; text-align: center;">Adopted 5/21/75</p>	<p>1. Accessory Parking.</p> <p>2. Accessory Loading.</p> <p>3. Accessory Signs.</p> <p>4. Accessory to use Column A, No. 1. Barns, silos and produce storage and packing warehouses provided such accessory buildings shall conform to the yard requirements for principal buildings.</p> <p>5. Customary home occupations.</p> <p>6. Garden houses, tool houses, playhouses, garages, subject to Section 5.1.</p> <p>7. Swimming pools subject to Section 5.8.7.</p> <p>8. Private garages accessory to the principal use of the lot.</p> <p>9. Keeping domestic animals as follows: not more than a total of three cats or dogs over one year old, not more than two horses over six months old, not more than ten fowl, not more than two of any other species of domestic animals, excluding, however, all pigs and cattle. No domestic animal shall be maintained within 75 feet of any plot line except dogs and cats.</p> <p>10. Private Kennel.</p>	<p>1. Accessory to permitted residences. One non-illuminated nameplate or professional sign with an area of not over 2 square feet.</p> <p>2. For any non-residential establishment permitted: one indirectly illuminated sign not over 10 square feet in area, at least 25 feet from the street line; not more than two non-illuminated directional signs, each not over 2 square feet in sign area, provided such signs are set back at least 10 feet from the street line.</p> <p>3. For any structure for sale or for rent: one temporary non-illuminated "for sale" or "for rent" sign not over 6 square feet in area located at least 15 feet from the street line. Such temporary use shall cease within 30 days after sale or rental is consummated. Sign for any other advertising purposes pertaining to premises of building not to exceed 6 square feet and for a period not to exceed 30 consecutive days.</p> <p>4. Refer to Sec. 5.5 for supplementary sign regulations.</p> <p>5. Refer to 6.4.</p>	<p>1. Single per duelli</p> <p>2. Outdoor space for designed t acre.</p> <p>3. Boat do space for seating is</p> <p>4. Boat ra members.</p> <p>5. Golf cc spaces for:</p> <p>6. Skiing every: ten capacity.</p> <p>7. Annual 100 squar. by all pr: except th. or one fo:</p> <p>8. Buildi: and sale: space for stand or whichever</p> <p>9. Vacati colonies: campsite, campsite.</p> <p>10. Cemet to accom:</p> <p>11. Uses each on s</p> <p>12. Home addition by the Pl usage. T parking t patrons f hours of</p>
<p>1. Same as FP.</p> <p>2. One family detached dwellings, not to exceed one dwelling on each lot, with driveway access on a road shown as other than a local road on the Official Map.</p> <p>3. One family detached dwellings, not to</p>	<p>1. Same as FP, Nos. 2 through 11.</p> <p>*2. Private schools and colleges and other educational institutions other than trade and technical schools.</p> <p>*3. Philanthropic or eleemosynary insti-</p>	<p>1. Same as FP.</p> <p>2. Home professional office or studio of architect, artist, chiropractor, dentist, engineer, insurance broker, lawyer, musician, optometrist, osteopath, teacher, surgeon, physician, real estate broker and veterinarian, subject to Section 5.8.2.</p>	<p>1. Same as FP.</p>	<p>1. Same as</p> <p>2. Home pr in additi:</p> <p>3. Placoe persons or</p>

Date 8/18/97, 19.....

TOWN OF NEW WINDSOR

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

TO Frances Roth 168 N. Arury La DR.
Newburgh, NY 12553

DATE		CLAIMED	ALLOWED
8/11/97	Zoning Board Mtg	75.00	
	Misc - 3		
	Barbara - 7 31.50.		
	Casey - 5		
	Mans / Toyota - 3		
	Craig / Toyota - 3		
	Scraper - 4		
	25 pp	112.50	
		<u>187.50</u>	