

ZB# 77-15

Jahn's Ice Cream

65-2-24

Public Hearing

June 27th - 8 p.m.

Fee \$ 50.00 paid -

Check to VMT -

6/28/77-R

file - Town Clerk's
Office.

77-15 - Jahn's Ice Cream
(Bob Biagini)

- (1) sign variance
- (2) rear yard

GENERAL RECEIPT

3309

Town of New Windsor, N. Y.

June 30, 1977

Received of Robert Biagini \$50.00

Fifty and 00/100 Dollars

For Variance Fee # 665 (77-15)

DISTRIBUTION:

FUND	CODE	AMOUNT
<u>58.00</u>	<u>check</u>	

BY Charlotte Marentoria

TITLE

WILLIAMSON LAW BOOK CO., ROCHESTER, N. Y. 14609

MADE IN U.S.A.

65-2-24. John's -
561-8650

20 ft. rear yard - (30 now)
10-

Received
8/26/77
C.M.

IV. Use variance:

(a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table _____, Column _____, to allow

(Describe proposed use)

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

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-9, Table Bulk Regs. Column D-2

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yard _____	_____	_____
Reqd. Side Yards <u>1</u>	<u>1</u>	<u>1</u>
Reqd. Rear Yard _____	<u>30 ft.</u>	<u>20 ft.</u>
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Development Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____

* Residential districts only
** Non-residential districts only

(Describe proposed use)

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



V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-9, Table Bulk Regs. Column D-2

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yard _____	_____	_____
Reqd. Side Yards <u>1</u> _____	<u>1</u> _____	<u>1</u> _____
Reqd. Rear Yard _____	30 ft.	20 ft.
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Development Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____

* Residential districts only
** Non-residential districts only

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

The additional footage is needed due to lack of storage and office space.

VI. Sign Variance:

(a) Variance requested from New Windsor Zoning Local Law, Section 48-9, Table Use Regs., Column D.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	<u>Free-standing</u>	<u>64 sq. ft.</u>	<u> </u>
Sign 2	<u>Building sign</u>	<u>42 sq. ft.</u>	<u> </u>
	<u>Total</u>	<u>106 sq. ft.</u>	<u>80 sq. ft.</u>
Sign 3	<u> </u>	<u> </u>	<u> </u>
Sign 4	<u> </u>	<u> </u>	<u> </u>
Sign 5	<u> </u>	<u> </u>	<u> </u>
<hr/>			
Total	<u> </u> sq.ft.	<u>106</u> sq.ft.	<u>80</u> sq.ft.

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

(1) Free-standing sign - illuminated

(2) Building sign - wooden letters

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

106 sq. footage of sign.

office space.

VI. Sign Variance:

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	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	<u>Free-standing</u>	<u>64 sq. ft.</u>	<u> </u>
Sign 2	<u>Building sign</u>	<u>42 sq. ft.</u>	<u> </u>
Sign 3	<u> </u>	<u> </u>	<u> </u>
Sign 4	<u> </u>	<u> </u>	<u> </u>
Sign 5	<u> </u>	<u> </u>	<u> </u>
	<u>Total</u>	<u>106 sq. ft.</u>	<u>80 sq. ft.</u>
	<u> </u>	<u> </u>	<u> </u>
	<u> </u>	<u> </u>	<u> </u>
Total	<u> </u> sq.ft.	<u>106</u> sq.ft.	<u>80</u> sq.ft.

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(1) Free-standing sign - illuminated

(2) Building sign - wooden letters

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

106 sq. footage of sign.

VII. Special Permit:

(a) Special permit requested under New Windsor Zoning Local Law, Section _____, Table _____, Column _____.

(b) Describe in detail the use and structures proposed for the special permit.

VIII. Additional comments:

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

IX. Attachments required:

Copy of letter of referral from Building and Zoning Inspector.

Copy of contract of sale, lease or franchise agreement.

Copy of tax map showing adjacent properties

Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot.

Copy(ies) of sign(s) with dimensions.

Check in amount of \$ 50.00 payable to Town of New Windsor.

Photos of existing premises which show all present signs and landscaping.

All photos must be 3" x 5"

(b) Describe in detail the use and structures proposed for the special permit.

VIII. Additional comments:

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

IX. Attachments required:

- Copy of letter of referral from Building and Zoning Inspector.
 - Copy of contract of sale, lease or franchise agreement.
 - Copy of tax map showing adjacent properties
 - Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot.
 - Copy(ies) of sign(s) with dimensions.
 - Check in amount of \$ 50.00 payable to Town of New Windsor.
- Photos of existing premises which show all present signs and landscaping.
All photos must be 8" x 10" or be mounted on 8 1/2" x 11" paper.
- Other

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

Robert Bisgani
(Applicant)

Sworn to before me this

15th day of June, 1977.

Patricia Razansky

PATRICIA RAZANSKY
Notary Public, State of N.Y.
No. 6870775
Appointed in Orange County
Term Expires Mar. 30, 1978

XI. ZBA Action:

- (a) Public Hearing date _____
- (b) Variance is _____
- (c) Special Permit is _____
- (c) Conditions and safeguards _____
- _____
- _____
- _____
- _____
- _____

A FORMAL DECISION WILL FOLLOW
WHICH WILL BE ADOPTED BY RESO-
LUTION OF ZONING BOARD OF APPEALS.



ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR

-----X
In the Matter of the Application of
ROBERT BIAGINI , d/b/a JAHN'S RESTAURANT
Application #77-15.

DECISION GRANTING
AREA VARIANCE and
SIGN VARIANCE

-----X
WHEREAS ROBERT BIAGINI, d/b/a JAHN'S RESTAURANT, located on Route 32 in Vails Gate, Town of New Windsor, has applied to the Zoning Board of Appeals for an area variance for 20 ft. rear yard and a sign variance to allow the existing sign on the southside of the building to remain on the southside of the building; and

WHEREAS, the applicant seeks a 20 ft. rear yard variance to construct an addition to the premises for the purposes of storage, and 80 sq. ft. variance for a sign on the southside of the building; and

WHEREAS, notice of the public hearing was duly sent to residences and businesses as prescribed by law, and published in The Evening News , also required by law; and

WHEREAS, a public hearing was held on the 27th day of June, 1977; and

WHEREAS, ROBERT BIAGINI, d/b/a JAHN'S RESTAURANT appeared with his proposal at the time of the public hearing on the above date; and

WHEREAS, the applicant represented himself at the public hearing and no objections were voiced to the application before the board; and

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

1. The proposed 20 ft. rear yard variance would not affect the general character of the neighborhood.
2. The proposed 80 sq. ft. sign variance is not inconsistent with other signs located in the same zone.

3. The additional proposal to have the existing sign on the southside of the building remain in this position is not detrimental to the other businesses in the area and was not objected to by the adjacent Highland National Bank.

WHEREAS, the Zoning Board of Appeals makes the following determinations of law in this matter.

1. The variance sought is not substantial in relation to the legally required rearyard.

2. The variance sought is not substantial in relation to the allowed sign size in the C zone under the Zoning Local Law; and

3. The affect of the variance if allowed on the population and available government facilities would be nil; and

4. No substantial change in the character of the neighborhood would result nor would there be a substantial detriment to the adjoining properties.

5. The difficulty with respect to advertising of the business cannot be obviated by some other method feasible for the applicant to pursue, other than a variance.

6. The interests of justice would be served by allowing the variances.

AND THEREFORE BE IT RESOLVED that the Zoning Board of Appeals of the Town of New Windsor determines that the applicant meets the practical difficulty test for a zoning variance as sought.

BE IT FURTHER RESOLVED that a copy of the decision be forwarded to the applicant, Town Clerk and Town Planning Board.

THEODORE JARGSTORFF, Chairman

Dated: August 15, 1977.

555 Union Avenue
New Windsor, N. Y.
June 28, 1977

Mr. Robert Biagini
d/b/a Jahn's Restaurant
Route 32
New Windsor, N. Y. 12550

RE: APPLICATION FOR AREA VARIANCE and SIGN VARIANCE #77-15

Dear Bob:

This is to confirm that the above variances were granted at the
June 27, 1977 meeting before the Zoning Board of Appeals.

A copy of the formal decision from the Board will be forthcoming.

Sincerely,

PATRICIA RAZANSKY, Secretary

/pr

cc: Chairman - - Town Planning Board

Howard Collette- Building/Zoning Inspector
Town of New Windsor

PUBLIC NOTICE OF HEARING BEFORE
THE ZONING BOARD OF APPEALS

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 48-33A of the Zoning Ordinance on the following proposition:

Appeal No. 15

Request of Robert Biagini, DBA Jahn's Restaurant

for a Variance of the regulations of the Zoning Local Law, to permit insufficient rear yard and sign area, being a Variance of Section 48-9, Col. D-2, for property situated at 399 Windsor Highway, Town of New Windsor.

SAID HEARING will take place on the 27th day of June, 1977, at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York, beginning at 8:00 o'clock P.M.

Theodore Jargstorff, Chairman

77-15

Building Department
(CITY, TOWN OR VILLAGE) OF NEW WINDSOR
(Address and Telephone Number)
565-8807
County of: ORANGE

Order to Remedy Violation

Location: ROUTE 32 VAILS GATE

Map No.: Section: 65 Block: 2 Lot: 18-19

Date: MAY 3 1977

TO: MEADOWLARK HILLS CORP. (JAHNS)
(owner or authorized agent of owner)
VAILS GATE NY
(address of owner or authorized agent of owner)

PLEASE TAKE NOTICE there exists a violation of:

- The State Building Construction Code
- Zoning Ordinances
- Other Applicable Laws, Ordinances or Regulations

at premises hereinafter described in that SIGN ON SOUTH SIDE OF
(state character of violation)
BUILDING NOT PERMITTED

in violation of 48-9 COLUMN D #2
(state section or paragraph of applicable law, ordinance or regulation)

YOU ARE THEREFORE DIRECTED AND ORDERED to comply with the law and to remedy the conditions above mentioned forthwith on or before the 13th day of MAY 1977.

Failure to remedy the conditions aforesaid and to comply with the applicable provisions of law may constitute an offense punishable by fine or imprisonment or both.

Howard R. Calvert
Superintendent of Buildings

6/27/77 - John's Restaurant - 8pm.

Names	Addresses	C
Leroy Janyne	50 HARTH DR.	New Windsor
Van's	Gettin to BOX 101	Van's Gettin.
Fred Wygant	NEABURGH SAVINGS BANK	94 BWAY Newburgh



1763

OFFICE OF THE ASSESSOR

TOWN OF NEW WINDSOR

JAR 65 TORFF

Chairman
Ellsworth E. Weyant
555 Union Avenue
New Windsor, New York 12550
(914) 565-8808

May 24, 1977

Meadow Lark Hills Corp.
P.O. Box 188
Washingtonville, N.Y. 10992

RE: 65-2-24

Gentlemen:

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

The charge for this service is \$15.00. Please remit same to the Town Clerk, Town of New Windsor.

Very truly yours,

Ellsworth E. Weyant
ELLSWORTH E. WEYANT
Sole Assessor
Town of New Windsor

EEW/pk
att.



1763

OFFICE OF THE ASSESSOR

TOWN OF NEW WINDSOR

Chairman
Ellsworth E Weyant
555 Union Avenue
New Windsor, New York 12550
(914) 565-8808

/ Golden Area Shopping Center
176 North Main Street
Florida, N.Y. 10920

/ Newburgh Savings Bank
94 Broadway
Newburgh, N.Y. 12550

/ Haynes Quenoe Realty Crop.
C/O Foodmaker Inc.
Jack #2304
P.O. Box 783
San Diego, Calif. 92112

/ Rosenberg, William & Viola
Florida, N.Y. 10921

/ Rosenbaum Ind. Inc.
P.O. Box 428
Vails Gate, N.Y. 12584

Respectfully submitted,

/ Daidone, Charles T. & Rose M.
24 Park Hill Drive
New Windsor, N.Y. 12550

Ellsworth E. Weyant
ELLSWORTH E. WEYANT
Sole Assessor
Town of New Windsor

o Highland Quassaick Natl. Bank & Trust Co.
381 Broadway
Newburgh, N.Y. 12550

/ Solomon, Theodore H. Real Est. Mgmt.
Lincoln First Bank
1 Lincoln First Square
Rochester, N.Y. 14643

/ Mans & Miller Auto centers Inc.
P.O. Box 247
Vails Gate, N.Y. 12584

/ Vails Gate Fire Co. Inc.
Route 94
Vails Gate, N.Y. 12584

/ Vails Gate United Methodist Church
C/O Treasurer
P.O. Box 37
Vails Gate, N.Y. 12584

o Adams, Harold
P.O. Box 4053
New Windsor, N.Y. 12550

Notes on Biagini (Jahn's Ice Cream) Public Hearing - held on 7/8/75
(notes taken from Tape #9)

Application of Robert and Vincent Biagini - seeking ^{24 ft.} lot width variance
and sign variance:

Mr. Crotty: (directed to Bob Biagini) Just one question. If you were thinking of expanding, is that in the cards for the future?

Mr. Biagini: No.

Mr. Crotty: You are locked in to that building. And you are not going to come in in 6 months and ask to get a 10 ft. sideyard variance to go over by the bank or anything like that.

Mr. Biagini: No.

Mr. Crotty: And you are satisfied that the most you want forever and ever is 100 ft.

Mr. Biagini: I couldn't really say that. I don't know how business is going to be.

Mr. Crotty: Well, that's what we want to know.

Mr. Biagini: If I need room for expansion, I do have room on the opposite side from the bank here where I could add on - and still conform to the sideyard.

Mr. Crotty: That means that you would have to watch the parking.

Mr. Jargstorff: I think the record should show that the Board is being critical about the possibility of future expansion and had called to the attention of the applicant the fact that at the present time it feels that it may create some problem in the future if any future application is made for an extension to the building and that it is aware of the fact that in order to make such extension, they would have to remove at least 7 parking places. The board is not considering at this time the affect on removing those 7 places but will leave it for any future application that is made. I think the record should show something to this affect. Bear in mind that if he expands his business, he is going to expand the necessity for parking spaces.

Mr. Crotty: He's got twice as many as he needs under the law.

Mr. Yorkis: The sign that you are going to put up, are you making any kind of plans on that yet?

Mr. Biagini: Yes, I have that also tonight.

Mr. Yorkis: That is also going to be on this application? I want to hear what kind of sign he's got and then turn it over to the public.

Mr. Biagini: 4 by 8 - double faced - wood sign.

Mr. Stortecky: How high is it going to be on the post.

Mr. Biagini: 12 feet to the top of the sign. 8 feet below.

Mr. Jargstorff: The sign appears to be all right.

Mr. Stortecky: The sign is within the regulations.

Mr. Yorkis: Oh, my God, you mean he doesn't need a variance for the sign?

Mr. Mc Carville: Nice looking sign, too. What are the colors on that?

Mr. Biagini: Wood stain.

Mr. Yorkis: It's only 64 square feet - you're beautiful. I can't believe this.

Mr. Jargstorff: Mr. Collett thinks we are wrong.

Mr. Biagini: Yes, we argued that point for about 5 minutes.

(It was decided at this point of the hearing that a sign variance was not needed for the 4 by 8 free-standing double faced sign.)

PUBLIC NOTICE OF HEARING BEFORE
THE ZONING BOARD OF APPEALS

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TOWN OF NEW WINDSOR, New York will hold a public hearing pursuant
to Section 48-33A of the Zoning Ordinance on the following
proposition:

Appeal No. 15

Request of JAHN'S RESTAURANT

for a Variance ~~Special Use Permit~~ of the

regulations of the Zoning Local Law, to permit

extension of building at the rear of the property and

sign on the southside of the building

being a Variance ~~Special Use Permit~~ of

Section 48-9 -Table of Bulk Regulations-Column D-2,

for property situated at: Route 32, adjacent to Highland
National Bank, Town of New Windsor, N.Y.

SAID HEARING will take place on the 27th day of June, 1977,

at the New Windsor Town Hall, 555 Union Avenue, New Windsor, N. Y.

beginning at 8 o'clock P. M.

THEODORE JARGSTORFF,
Chairman

B. ORANGE COUNTY DEPARTMENT OF PLANNING
APPLICATION FOR MANDATORY COUNTY REVIEW
OF LOCAL PLANNING ACTION
(Variances, Zone Changes, Special Permits, Subdivisions)

Section A. - To be completed by Local Board having jurisdiction.
To be signed by Local Official.

Local File No. _____

1. Municipality _____ Public Hearing Date _____

City, Town or Village Board Planning Board Zoning Board of Appeals

2. Applicant: NAME _____

Address _____

Attorney, Engineer, Architect _____

3. Location of Site: _____
(street or highway, plus nearest intersection)

Tax Map Identification: Section _____ Block _____ Lot _____

Present Zoning District _____ Size of Parcel _____

4. Type of Review:

Special Permit Use* _____

Variance* Use _____

Area _____

Zone Change* From: _____ To: _____

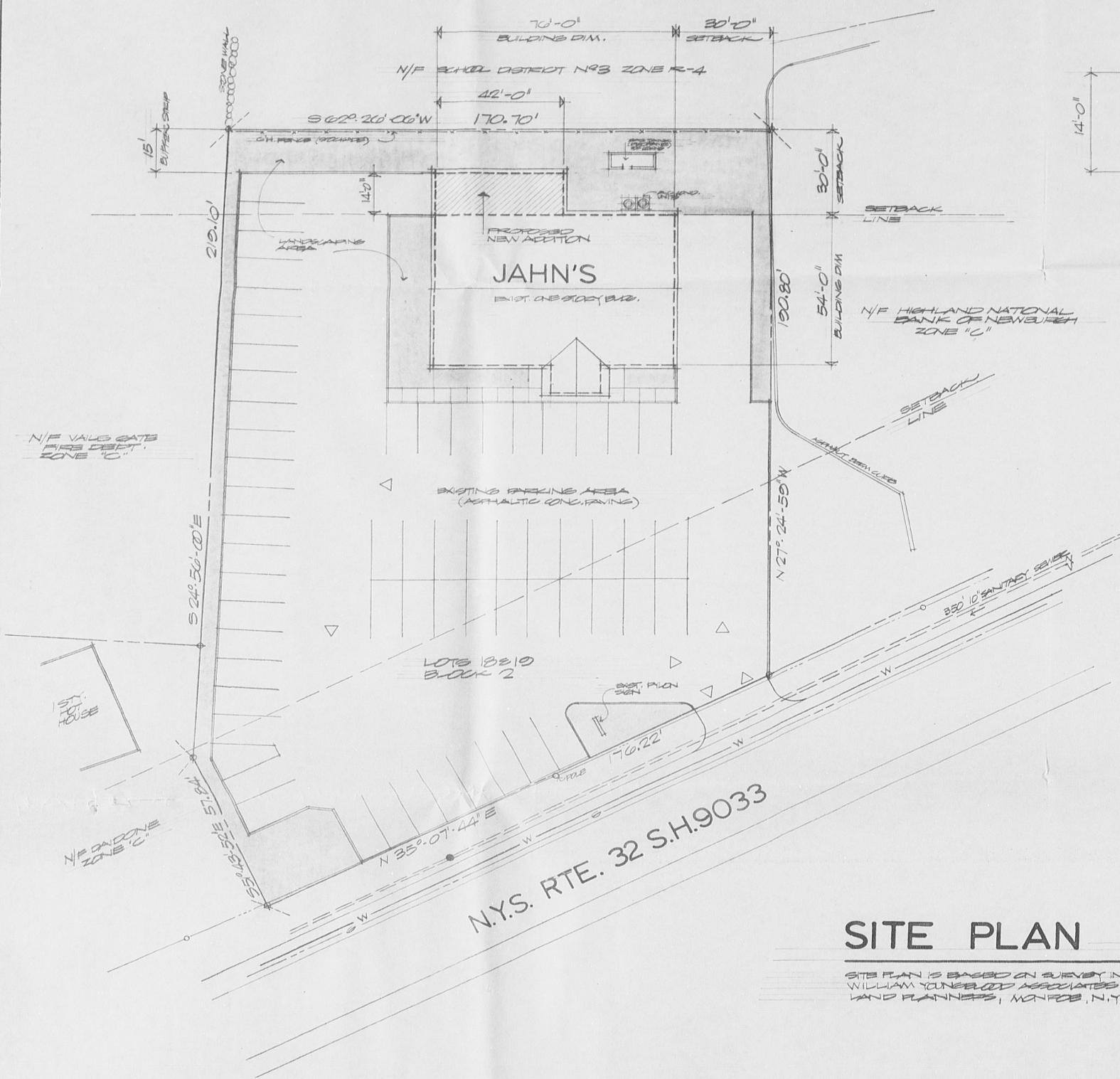
Zoning Amendment* To Section: _____

Subdivision** Major _____ Minor _____

Date

Signature and Title

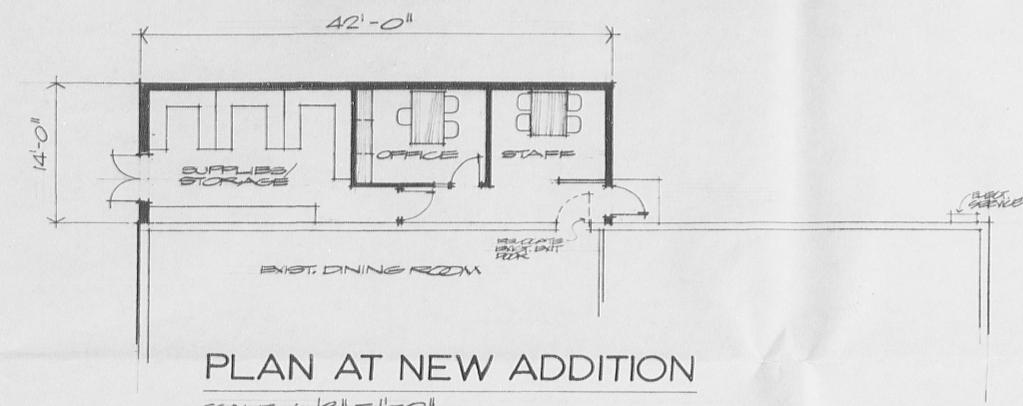
*Cite Section of Zoning Regulations where pertinent
**Three (3) copies of map must be submitted if located along County Highway, otherwise, submit two (2) copies of map.



SITE PLAN

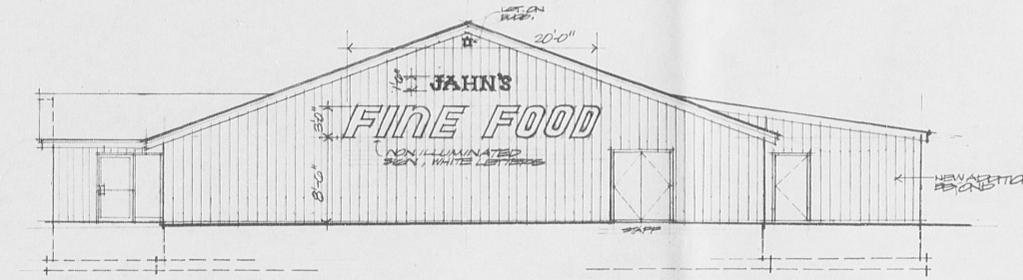
SCALE: 1" = 20'-0"

SITE PLAN IS BASED ON SURVEY INFORMATION FURNISHED BY WILLIAM YOUNG & ASSOCIATES, ENGINEERS, SURVEYORS & LAND PLANNERS, MONROE, N.Y.



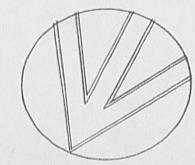
PLAN AT NEW ADDITION

SCALE: 1/8" = 1'-0"



WEST ELEVATION

SCALE: 1/8" = 1'-0"



YACD REQUIREMENTS		AREA (SQ. FT.)	
FRONT	108'	BLDG.	4602
SIDE	20'-0"	PLOT	40,050.5
REAR	10'-0" (PROPOSED) 20' REQ'D.		