

ZB# 91-5

**Art Glynn
(Trade Auto)**

9-1-60

#90-5-Glynn, Art - Trade Auto

Prelim.

Feb. 25, 1991.

Tabled.

Return for and

prelim. after

meeting w/ B2.

on bulk requirements

Sec. 78-24B-3

Prelim. And

Mar. 11, 1991

Motion to Sched.

Public Hearing.

Need:

① Copy of Deed/
Title Policy

② Photos.

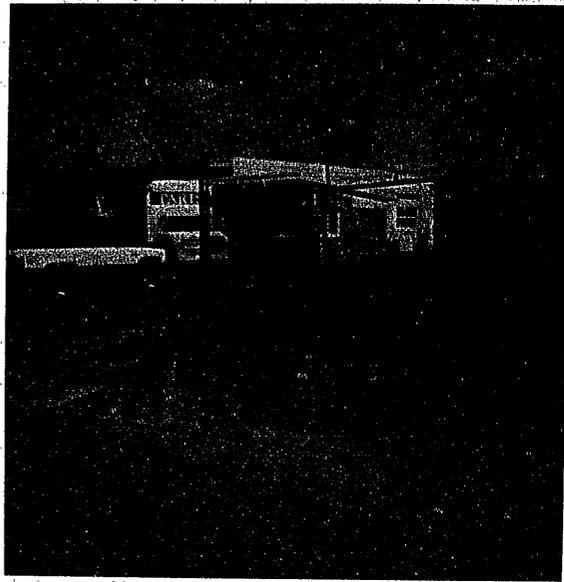
P.H. - July 24, 1991

CCPD. Yes Volume
6/12/91

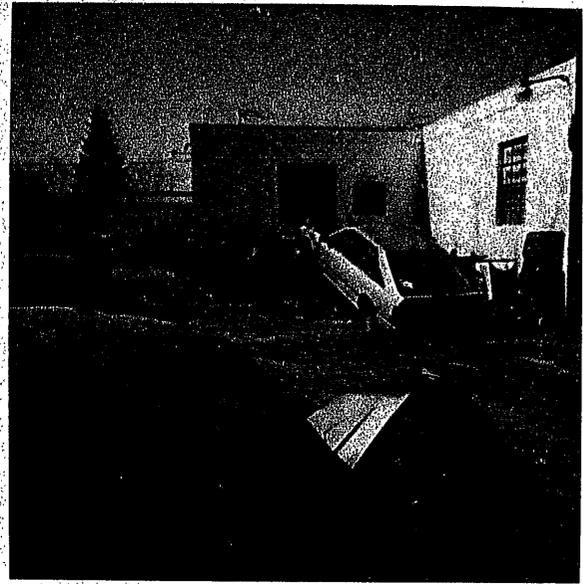
Notice to Sentinel
on 6/12/91 ✓

Area Variances

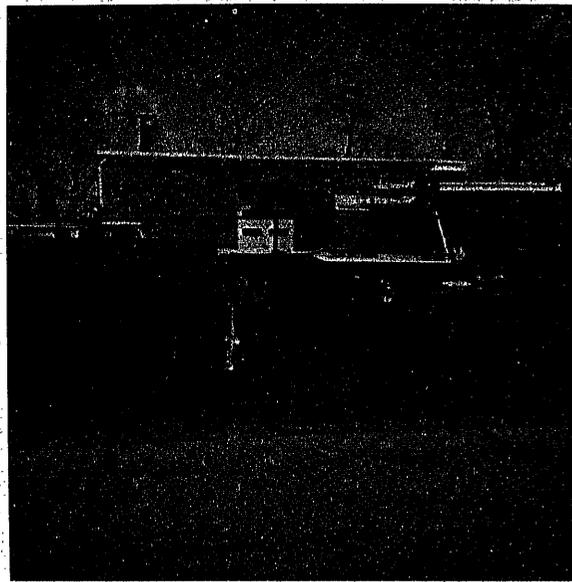
6/24/91. Granted.



①



②



③

General Receipt

12051

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, N. Y. 12550

June 12 1991

Received of

Dept. Glyn

\$ 50.00

Fifty dollars 29 10/100

DOLLARS

For

DISTRIBUTION:

Nov 3 Bl - application fee 9/17/91

FUND	CODE	AMOUNT
<u>3 Bl - file 9/17/91</u>	<u>cash</u>	
<u>91-5</u>		

By

Pauline J. Townsend

Town Clerk

Title

-----X

In the Matter of the Application of

DECISION GRANTING
AREA VARIANCES

TRADE AUTO/ART GLYNN

#91-5.

-----X

WHEREAS, ART GLYNN, d/b/a TRADE AUTO, located at 68 Walsh Road, New Windsor, N.Y. 12553, has made application before the Zoning Board of Appeals for an extension or remodeling of a structure used for a nonconforming use and, in addition, for the following area variances: 23,604 s.f. lot area, 50 ft. lot width and 18.4 ft. side yard for construction of a spray paint booth at the above location in a PI zone; and

WHEREAS, a public hearing was held on the 24th day of June, 1991 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, Art Glynn and Mr. Low, the owners of the above-mentioned commercial business, appeared with their surveyor, William Hildreth L.S. of Grevas and Hildreth, in support of the application; and

WHEREAS, there were no spectators attending the public hearing; and

WHEREAS, the application was unopposed; and

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

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

2. The evidence shows that applicant is seeking permission to add a spray paint booth to his commercial body shop in a PI zone in order to paint automobiles and the applicant is seeking permission to vary the bulk regulations with regard to lot area, lot width and side yard with regard to the proposed addition.

3. The evidence presented by the applicant indicated that the Zoning Board of Appeals on 6/19/67 granted a prior owner of this property a use variance to operate an auto body shop on the site. Thus the applicant's present use of the property as an auto body shop constitutes a nonconforming use, permitted by virtue of the previously granted use variance.

4. The applicant seeks permission to extend or remodel the

structure used for this nonconforming use pursuant to the provisions of Zoning Local Law Section 48-24(B)(3), and also seeks three area variances, in connection with a proposal to install a commercially built spray booth which will be located inside an addition to applicant's building in the PI zone.

5. The evidence presented by the applicant further indicated that the proposed spray booth would improve upon the present operation at the site by discharging filtered air, which will decrease industrial emissions, and benefit the public and applicant's employees' health.

6. The evidence presented by the applicant also indicated that, although spray booths of this nature are not presently required by the DEC, proposed environmental regulations may some day make such spray booths mandatory.

7. The applicant has filed the required short environmental assessment form in connection with his application.

8. The Zoning Board of Appeals of the Town of New Windsor has declared itself an involved agency in regard to the review of the applicant's request to extend or remodel a structure used for a nonconforming use, on the assumption that the Planning Board of the Town of New Windsor ultimately will declare itself lead agency in regard to the proposed construction by the applicant.

9. The Zoning Board of Appeals of the Town of New Windsor has reviewed the short environmental assessment form prepared by the applicant and has heard no one speak in opposition to the proposal at the granting of this request to extend or remodel a structure used for a nonconforming use, and will not result in any significant adverse environmental impact, and consequently has made a negative declaration under SEQRA for the request to extend or remodel a structure used for a nonconforming use.

10. Based upon the evidence presented, and the Board's familiarity with the applicant's property and the surrounding are, it is the finding of this Board that the applicant's proposal to extend or remodel a structure used for a nonconforming use is a request for an extension not exceeding 30% of its ground floor area existing at the time of the construction or use of the structure, pursuant to the previously granted use variance, and it is the further finding of this Board that:

(a) Practical difficulties prevail in operating the premises or structures in the presently existing nonconforming manner and that the proposed extension or remodeling would constitute reasonable adjustment of the existing nonconforming use, since the applicant stated that he would have to relocate his business to another site if the

proposed extension or remodeling was not permitted.

(b) The proposed extension will not have a deleterious effect on the neighborhood of the existing nonconforming use since it will reduce industrial emissions and have little or no deleterious effect on traffic safety, nuisance characteristics, manner of operation, total ground area covered by the structure, and the appearance and condition of the premises.

(c) The proposed extension or remodeling will not be more incompatible with or adversely alter the model and character of the neighborhood and neighborhood structures, nor prejudice the value of adjoining properties, since the same will not be readily visible from adjoining properties.

(d) Adequate or on-site parking and loading space will be provided for all potential users, since not all available parking is being used at the present time.

(e) The proposed extension or remodeling will not unduly restrict fire and police protection of the premises and of surrounding properties, in the light of the approval of the proposal by Robert F. Rodgers, CCA, Fire Inspector.

11. It is the further finding of this Board that the applicant has made a sufficient showing of practical difficulty and entitle him to the grantiny of the requested area variances.

12. The applicant has shown significant economic injury from the application of the bulk requirements to the subject property since the applicant would be required to relocate the business to another site in order to install the spray booth if the requested variances were denied. Since the installation of the spray booth benefits the environment, and may be required in the future, it would be uneconomic to continue operation at the site without such a spray booth only to relocate to a new site in the future then the requirement is imposed.

13. The applicant has also shown that the spray booth cannot be located on the lot without some bulk variances, and that larger variances would be required if the booth were located in any alternate locations.

14. The requested variances are not substantial in relation to the required bulk regulations since the property previously has been granted a use variance for operation of an auto body shop and the requested extensions or remodeling of the present structure constitutes a reasonable adjustment of the applicant's right to continue to make use of the property for the existing nonconforming use.

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

neighborhood.

16. The requested variances will produce no effect on the population density or governmental facilities.

17. There is no other feasible method available to applicant which can produce the necessary results other than the variance procedure.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor approves the extension or remodeling of the applicant's structure used for a nonconforming use, and in addition GRANTS (1) 23,604 s.f. lot area; (2) 50 ft. lot width and (3) 18.4 ft. side yard variances sought by applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

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

Dated: July 22, 1991.


Chairman

Public Hearing
TRADE AUTO.

William Hildreth, L.S. of Grevas and Hildreth came before the Board representing this proposal.

BY MR. FENWICK: This is a request for area variances. Number one, 23,604 square feet lot area. Number two, 50 foot lot width and number three, 18.4 foot side yard to expand spray paint shop on Walsh Road in PI zone.

BY MR. HILDRETH: Also the applicant, Mr. Glynn, and Mr. Low are here also. The first items are the requested items from the previous meeting, title policy and deed. I have three pictures. They are numbered one, two and three. And if you can see the numbers there, I don't know how well they came out. This is number one here, standing across the street. Number three here and number two looking at the back where the addition is going to go. I'm not a professional photographer, please forgive the noncentered aspects of the pictures.

BY MS. BARNHART: I sent out on June 13, 1991, I sent 38 addressed envelopes out and that was how many was on the list.

BY MR. HILDRETH: I had one return came back yesterday undelivered. There's always one.

BY MR. LUCIA: Mr. Hildreth, your title policy refers to a couple of easements. I assume although it doesn't state, they're utility easements?

BY MR. HILDRETH: They were not part of that.

BY MR. LUCIA: Is there anything to your knowledge if this Board votes to grant you the variance, that would prevent you based on the record title from constructing a building that you propose here?

BY MR. HILDRETH: None to my knowledge. As you said one of them may have been utilities. This is a service wire coming from a pole across the street. It only services these buildings. It's not like it serves another one, but maybe there was something on that and that's it. There's nothing else, no easements on the property.

BY MR. TORLEY: And we have a signed plan someplace from the Planning Board?

BY MR. HILDRETH: This has to go back for their approval. We are here for the variance in order to get the Planning Board approval.

BY MR. TORLEY: We just want to make sure that we're looking at the same map.

BY MR. HILDRETH: That's what the Planning Board is looking at, yes, this is the one that was referred by the Planning Board back in March or April.

BY MR. FENWICK: Do we know if we got an initialed or signed copy?

BY MR. HILDRETH: You get them, I don't get them. I have in my file the sheet that Mike filled out, this one, but as far as an initialed plan --

BY Mr. TORLEY: The reason we do this is to make sure --

BY MR. FENWICK: We do have a signed copy.

BY MR. LUCIA: Just a referral by Carl or Mark. I noticed the file doesn't have a signed application. Maybe we can have you or the owners sign one of them. And also page two of the short form EAF, either doesn't exist or wasn't copied. We could use that also.

BY MR. HILDRETH: You have got my file copy, wait just a second. The day I sat in your office, I had copies and I bet a kept the one that I wanted to give to you. I don't believe that. I don't see another one here. All right, we can have them sign it tonight. He's got to sign, that's it. You guys can fill out the dates and everything else.

BY MR. LUCIA: Here's a short form EAF, he can complete the back of that also.

BY MR. HILDRETH: There's nothing we have to do on the back, so what we'll do is have him sign this and substitute. I apologize for the delay in that regard. Shall I recap for the record?

BY MR. FENWICK: Yes.

BY MR. HILDRETH: This application before the Board is for a group of area variances, it's for the construction of a spray paint booth which would be an addition to an existing garage. This is a currently an existing nonconforming use. Which was granted a variance in 1967, with no bulk restrictions or no bulk tables assigned to it. Which is why the Planning Board referred it here. The square footage, 760 square feet, is less than 30 percent expansion, which would be allowed if it were conforming use, so it falls under the 30 percent there. So what we're asking for is variances for lot area, since the lot was nonconforming in area to begin with and we're increasing the building coverage. Side yards, total side yard is decreasing because of the construction, so we're asking for the variance there. The nearest building corner, the variance we need, we're not increasing or we're not making it any worse, but since it's there and it's nonconforming, that's part of the variance. What was the third one, on lot width. The lot width is only 100 feet. We require 50 feet so we need a 50 foot variance there. Those are it, bulk items only. The practical difficulty that they currently spray inside the existing building and this new unit that they are using is a self contained, would that be the best way to explain it?

BY MR. ART GLYNN: My name is Art Glynn, I'm one of the owners of the building there. What we are asking to do is to put a structure up to contain a commercially built spray booth, which Bill has a picture of there. They can pass that around. This unit that we are going to put inside the addition has its own heat and air makeup exchanger unit with it so we just want to house it, to keep the weather off it is all. It's not a unit that can stand outside and withstand the weather.

BY MR. FENWICK: Has been reviewed by the fire department. Do you know?

BY MR. HILDRETH: I don't know if it's been initialed as it were. The Planning Board has seen it. I believe that they refer copies. I don't know what the end result is. Bearing that the Planning Board, you know, happy with it when they sent it here but they knew that it had to go through the various procedures.

BY MR. GLYNN: We are currently spraying in an approved spray booth, which was built when the building was built which comes down to a block outlet on our building with no heat that we just draw the heat from the building to heat up the booth to paint the cars. The unit that we're purchasing is a U.L. approved and does contain a sprinkler system in it, so it's --

BY MR. FENWICK: The only concern I had was how much closer to the side yard, usually something that the fire marshall usually addresses access to the rear of the building and makes sure that they can get out.

BY MR. HILDRETH: Even though we are coming closer to the side yard, the distance that remains exceeds the minimum side yard of 15 feet for one side for this particular bulk table away, that was assigned to this nonconforming use.

BY MR. TORLEY: 18 feet, there's plenty to get a truck back there?

BY MR. HILDRETH: Yes, they have applied the 15 40 side yard and we are leaving over, a little over 18.

BY MR. FENWICK: This is filtered fumes or filtered to the outside?

BY MR. GLYNN: Air filter coming in and air filter coming out.

BY MR. FENWICK: One of the concerns that happened over there before was let's say across the street down the way and they were painting and the fumes were driving the people crazy and --

BY MR. GLYNN: In an effort we're pretty much in touch with the regulations, we're in the auto body association with what's coming down in probably another year with the DEC, it's going to be a mandated requirement of all body shops to maintain and have an operating spray booth for air being discharged, that it's filtered. In an effort to get a jump on things, we had an opportunity last August to purchase a one year old spray booth because they are about \$50,000. We got a good buy. We went ahead and purchased it and now of course would like to get it up and operating.

BY MR. TORLEY: This actually will decrease any industrial emission from the site?

BY MR. GLYNN: Absolutely.

BY MR. FINNEGAN: No smell, where's the excess gases off the paint? Where's that being filtered to?

BY MR. GLYNN: It's filtered, it's a fiberglass type filter system that it's a mesh that, so that actual solid particles cling to that. There's going to be some residual vapor, which is impossible at that point unless you go to California emissions. California emissions require after burners which is something down the pike, may be required which is something that can be added to the booth which burns remaining emission.

BY MR. TORLEY: Having the spray booth in place will be a benefit for the public health?

BY MR. GLYNN: Absolutely, and it will benefit my painters.

BY MR. FINNEGAN: Is it similar to Econo?

BY MR. GLYNN: Exactly, Michael Biggs has one, Econo has one.

BY MR. HILDRETH: Other than outlining those variances and stating that the practical difficulty is there, there's no other place to put this except here that would -- any other -- let me back up and say it this way. Any other position would demand greater variance because of the existing conditions of the lot. A variance is required and that's the least impact.

BY MR. FENWICK: Photo number two, that's the back looking at, that's where that car is tipped up in the front?

BY MR. HILDRETH: Right. What I wish I had done was face the camera a little farther to the right and caught it back here because what he's got is a through and through door where he can prep the doors and come right out and zip them right into here. That's another thing that adds to the position here. It's good for circulation in terms of taking the cars

from preparation and putting them right in the paint booth.

BY MR. FENWICK: That was the only question I had. They are going to go take a look at that at the Planning Board, I'm sure, anyway.

BY MR. HILDRETH: That's why I would like it back.

BY MR. FENWICK: Before we proceed any further we have been notified by the Orange County Department of Planning and Development through careful scrutiny and really intensive search into the site they said there's no significant community or countywide concerns to bring to your attention and it's listed for local determination. And it's signed by somebody's name I can't read. I had a tough time reading that with a straight face. Anything else?

BY MR. HILDRETH: That's all I have.

BY MR. FENWICK: I'll, for the record, there's no one here in the public in reference to this case. At this time, I'll close the public hearing.

BY MR. LUCIA: Just couple other questions I'd like to ask Bill, if I can. Could you just quickly explain to the Board the significant economic injury the applicant would suffer from stringent application of the ordinance to this lot? How he would be affected economically.

BY MR. HILDRETH: He'd have to relocate his business.

BY MR. LUCIA: Okay, there's no physical way to put this paint booth on the lot without a variance, is that correct?

BY MR. HILDRETH: That's correct.

BY MR. LUCIA: And could he not operate this business without a paint booth to meet environmental standards, is that correct?

BY MR. HILDRETH: The environmental standards at this point as I understand it aren't an issue, but he's got a better feel and apparently they may become shortly some would have had to do it eventually and it's either a choice of asking for the variance or moving the business.

BY MR. LUCIA: In addition to the area variances, I take it this is an application under 4824B3 for an extension or remodeling of a nonconforming use, not to exceed 30 percent of the ground floor area existing at the time of the previously granted or previously granted variance. We have already touched on practical difficulties. Is it the applicant's position if the variance is granted, that constitutes a reasonable adjustment of the existing nonconforming use based on the significant economic injury?

BY MR. HILDRETH: Absolutely.

BY MR. LUCIA: Will this have deleterious effect on the neighborhood of the existing nonconforming use?

BY MR. HILDRETH: As a matter of fact, as we just stated, it will be a positive effect due to the improvement of the --

BY MR. LUCIA: Be less of a nuisance?

BY MR. HILDRETH: I was going to say yes, I was going to use the word --

BY MR. TORLEY: Reduces industrial emissions.

BY MR. HILDRETH: I was going to say effluent, but we're not talking about sewage.

BY MR. LUCIA: This will not be any more incompatible with the neighborhood than the use is presently?

BY MR. HILDRETH: It will not, because it's behind the building. I don't think, as you drive by, you're going to know it's there, and there's nothing else around here off site that can see that building.

BY MR. LUCIA: You do not anticipate it would prejudice the value of adjoining properties?

BY MR. HILDRETH: No, I do not.

BY MR. LUCIA: Does this affect the adequacy of on site parking and loading space for all users of the property?

BY MR. HILDRETH: He utilizes the entire space, as it is for parking. There's no parking requirements that

I'm aware of. The Planning Board, you know, didn't specify and I don't think there is. Obviously, he's willing to give up 760 square feet, as you can see by the pictures. There's only one car there anyway at the time.

BY MR. LUCIA: He's not using that for parking or loading?

BY MR. HILDRETH: No.

BY MR. LUCIA: And does this proposed extension or remodeling unduly restrict fire and police protection of the premises and the surrounding properties?

BY MR. HILDRETH: Not to my knowledge.

BY MR. LUCIA: This becomes like a site plan approval because of the way the ordinance is worded. That's the reason we touched on some issues we don't usually touch on, thank you, Mr. Hildreth.

BY MR. HILDRETH: You're welcome.

BY MR. FENWICK: Also, these questions make it easier one way or the other because there's another way which is, you know, not getting the variance, but we have to write it, it has to be written in a normal decision like this here which becomes law for your piece of property.

BY MR. HILDRETH: I realize that the question and answers are all going to be part of the decision.

BY MR. FENWICK: So if there's no more comments from the members of the Board, any more comments from the audience or the owners of the property? At this time, I'll close the public hearing and I will ask for a motion to grant the variance.

BY MR. TANNER: I'll make a motion we grant the variance on this piece of property as shown on the drawing.

BY MR. FINNEGAN: I'll second it.

ROLL CALL:

Torley: Aye.

Finnegan: Aye.

Tanner: Aye.

Fenwick: Aye.

391

PENGAD CO., BAYONNE, NJ 07002 - LASER BOND-A

PROJECT I.D. NUMBER

617.21

SEQR

Appendix C

State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
 For UNLISTED ACTIONS Only

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

1. APPLICANT /SPONSOR ART GLYNN	2. PROJECT NAME TRADE AUTO SITE PLAN
3. PROJECT LOCATION: Municipality TOWN OF NEW WINDSOR County ORANGE	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc. provide map) NORTHEAST SIDE OF WALSH ROAD, 1,000' WEST OF JOHN STREET TAX MAP SECTION 9 BLOCK 1 LOT 60	
5. IS PROPOSED ACTION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: 760 SQ. FT. ADDITION TO EXISTING AUTOMOTIVE REPAIR SHOP	
7. AMOUNT OF LAND AFFECTED: Initially 0.38 acres Ultimately 0.38 acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly PRE-EXISTING NON-CONFORMING USE	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input checked="" type="checkbox"/> Other Describe: MANUFACTURING / RETAIL	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) and permit/approvals TOWN OF NEW WINDSOR ZONING BOARD OF APPEALS	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency name and permit/approval TOWN OF NEW WINDSOR ZONING BOARD OF APPEALS - USE VARIANCE GRANTED JUNE 19, 1967	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: ART GLYNN	Date: 26 October 1990
X Signature:	

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

OVER

PART II—ENVIRONMENTAL ASSESSMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ZONING BOARD OF APPEALS (INVOLVED AGENCY)

 Name of Lead Agency

RICHARD FENWICK **CHAIRMAN**

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

Richard Fenwick, C. _____
 Signature of Responsible Officer in Lead Agency Signature of Preparer (if different from responsible officer)

6/24/91

 Date

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

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 90-47

DATE: 25 Jan, 1991

APPLICANT: Art Glynn

Revised 3/5/91

68 Walsh Ave.

New Windsor, N.Y.

FAX: 562-6195

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 26 Oct 1990

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

LOCATED AT Northeast Side Walsh Rd.

ZONE PI

DESCRIPTION OF EXISTING SITE: SEC: 9 BLOCK: 1 LOT: 60

See Attached letter - Memo From P.B. Attorney

IS DISAPPROVED ON THE FOLLOWING GROUNDS: _____

Carl Schiefer
PLANNING BOARD CHAIRMAN
MB/ML

REQUIREMENTS

PROPOSED OR
AVAILABLE

VARIANCE
REQUEST

ZONE PT USE A 15

APPLICANT: Art Glynn
68 Walsh Ave.
New Windsor, N.Y.

Revised 3/5/91

FAX: 562-6195

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 26 Oct 1990
 FOR (SUBDIVISION - SITE PLAN)
 LOCATED AT Northeast Side Walsh Rd.

ZONE PI

DESCRIPTION OF EXISTING SITE: SEC: 9 BLOCK: 1 LOT: 60
See Attached letter-Memo From P.B. Attorney

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

Carl Schiefer
 PLANNING BOARD CHAIRMAN
 MB/xx

REQUIREMENTS		PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE <u>PI</u> USE <u>A 15</u>			
MIN. LOT AREA	<u>40,000</u>	<u>16,396</u>	<u>23,604</u>
MIN. LOT WIDTH	<u>150</u>	<u>100</u>	<u>50</u>
REQ'D FRONT YD	<u>50</u>	<u>51.36</u>	<u>—</u>
REQ'D SIDE YD.	<u>15</u>	<u>3.5</u>	<u>—</u>
REQ'D TOTAL SIDE YD.	<u>40</u>	<u>21.6</u>	<u>18.4</u>
REQ'D REAR YD.	<u>20</u>	<u>48.3</u>	<u>—</u>
REQ'D FRONTAGE	<u>N/A</u>		
MAX. BLDG. HT.			
FLOOR AREA RATIO	<u>.60</u>	<u>.24</u>	<u>—</u>
MIN. LIVABLE AREA	<u>N/A</u>	<u>—</u>	<u>—</u>
DEV. COVERAGE	<u>N/A</u> %	<u>—</u> %	<u>—</u> %
O/S PARKING SPACES			

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
 (914-565-8550) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
 OF APPEALS.

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

ANDREW S. KRIEGER
ATTORNEY AT LAW
219 QUASSAICK AVENUE
SQUIRE SHOPPING CENTER SUITE 3
NEW WINDSOR, NEW YORK 12553
9141 562 2333

December 5, 1990

MEMORANDUM

TO: Hon. Carl Scheifer and Planning Board Members

FROM: Andrew S. Krieger, Esq.
Planning Board Attorney

SUBJECT: Trade Auto and Mid Hudson Air Products Site Plans

90-47
At the November 28, 1990 meeting of the Planning Board, the Planning Board asked me to research and render an opinion with respect to the above referenced site plans.

Pursuant to that request, I have addressed 3 questions.

1. Where a previous use variance has been granted and no new Bulk Tables were specified by the ZBA at the time the variance was granted and the applicant now seeks site plan approval to expand that varied use, what Bulk Tables should be shown on the site plan?
2. Under those circumstances, does an applicant need a further variance from the ZBA for the expansion?
3. What Bulk Tables are to be used and is a variance required where the existing use is a pre-existing non-conforming use?

With respect to both applications, it appears that the site plan map should contain Bulk Tables showing the requirements for that zone as it exists then showing the existing conditions with a note indicating that these conditions exist pursuant to either a variance with its date of approval or to a pre-existing non-confirming use. Lastly, the Bulk Tables should show the proposed conditions. All three items should be shown on the Bulk Tables with the appropriate note.

With respect to the necessity for ZBA approval, it appears that in both cases the sites and buildings in question are covered under sections 48-24 and 48-25 of the New Windsor Code. A review of those sections shows that no distinction has been made between buildings or uses that are non-conforming by reason of a variance and buildings and uses that are non-conforming by reason of pre-existing status. In both cases the buildings and uses are in fact non-conforming. The reasons why such non-conforming uses or buildings are permitted are immaterial. For that matter, it is immaterial whether they are permitted or not. What is material is simply the fact that for whatever reason they are non-conforming uses and/or buildings.

With respect to the non-conforming use status of each application, section 48-24 (B) (3) provides that if those uses are to be continued, the structure or building devoted to that use may be extended by not more than thirty (30%) percent. This would apply to both applications.

As that section is written, however, it appears to require approval of the Zoning Board of Appeals for any such expansion. Further, certain criteria are set down for the action of the Zoning Board of Appeals in approving that expansion. These criteria are set forth in (a) through (e) of the Law. The references to the ZBA are contained in sub-paragraph (b) and in the first paragraph of (3) itself.

With respect to the buildings themselves, section 48-25 B. allows for enlargement of a non-conforming building without limitation but places the provision that such "enlargement may not...increase the degree of...any...non-conformity". Since both applications appear to propose to decrease the set backs and lot area coverage, it appears that both applications would, if granted, increase that "non-conformity" thus ruling out the use of that section in these cases.

In reviewing section 48-24, it seems that the intentions of the Town Board in enacting this law, and the safe-guarding of the community might be best served by an amendment to that law. With respect to section 48-24(B)(3), I suggest that all references to the "Board of Appeals" should be deleted and that a new sub-section (f) be added requiring that any such expansion of a non-conforming use require site plan approval of the Planning Board and authorizing that Planning Board specifically to consider the items enumerated in the statute and further authorizing the Planning Board to disapprove a site plan which fails to satisfy any of these

items or to attach such conditions or make such requirements as it deems necessary for the site plan to comply. With respect to the change of any non-conforming use as set forth in sections B (1) and (2) I suggest that those matters properly remain within the jurisdiction of the ZBA. Once a non-conforming use has been approved, however, it seems that the criteria set forth in sub-section (3) are criteria best addressed by the Planning Board in the site plan approval process and that in that case requiring an additional application to the ZBA is wasteful of time, effort, expense and governmental resources and provides no additional protection to the community.

As the law presently exists, however, it appears that a ZBA application will be necessary.

If you have any questions concerning the above, please do not hesitate to contact the undersigned.

Respectfully submitted,

ANDREW S. KRIEGER, ESQ.
Planning Board Attorney

cc: Mark Edsall, P.E.
Elias D. Grevas, L.S.

TOWN OF NEW WINDSOR

PLANNING BOARD

DECEMBER 12, 1990

MEMBERS PRESENT: CARL SCHIEFER, CHAIRMAN
HENRY VAN LEEUWEN
JOHN PAGANO
DAN MC CARVILLE
VINCE SOUKUP
CARMEN DUBALDI
RON LANDER

ALSO PRESENT: MICHAEL BABCOCK, BUILDING INSPECTOR
MARK EDSALL, P.E., PLANNING BOARD ENGINEER
ANDREW KRIEGER, ESO., PLANNING BOARD ATTY.

MR. SCHIEFER: I'd like to call the regular meeting
of the Town of New Windsor Planning Board to order.

MR. SOUKUP: I'll make a motion to accept the
November 14th, 1990 minutes.

MR. LANDER: I will second it.

ROLL CALL:

Mr. McCarville	Aye
Mr. VanLeeuwen	Aye
Mr. Pagano	Aye
Mr. Soukup	Aye
Mr. Lander	Aye
Mr. Dubaldi	Abstain
Mr. Schiefer	Aye

12-12-90

TRADE AUTO SITE PLAN (ZBA REFERRAL) - (90-47) WALSH AVENUE

Mr. William Hildreth of Grevas & Hildreth came before the Board representing this proposal.

MR. HILDRETH: This was here at the last meeting and there was some discussion about what to call this because of the zoning question. It has a variance for a use but that variance did not imply any bulk restrictions and since we didn't have a place to pigeon hole it, we don't know what bulks to compare it with. Mr. Krieger has written a letter that I believe went to Mr. Chairman. Did you get a chance to read this or--

MR. SCHIEFER: No, I am just looking at it right now.

MR. SOUKUP: Read it to the Board since none of us have a copy.

MR. KRIEGER: I can summarize it.

MR. SCHIEFER: It's five pages.

MR. SOUKUP: I apologize, it's in the package, excuse me. I'll review it, that's okay.

MR. VAN LEEUWEN: Where is this piece of property?

MR. HILDRETH: It's on Walsh Road.

MR. VAN LEEUWEN: Who owns it?

MR. HILDRETH: Art Glenn (phonetic), it's Trade Auto, it's an auto body.

APPLICANT: It was J & S Auto Body.

MR. HILDRETH: Pagano (phonetic) used to own it right next to Mid Hudson Oxygen. What he wants to do is put a spray booth in the back, 760 square foot addition.

MR. PAGANO: It's an addition?

MR. HILDRETH: Yes.

MR. VAN LEEUWEN: Does he have enough setbacks?

MR. HILDRETH: That is the whole thing, we don't know what to apply it to because there's nothing in the zoning that permits the use because--

MR. PAGANO: Do you meet all the regulations, the building itself?

MR. HILDRETH: What regulations, all I have shown here is what is on the site because I don't know what to apply it to because it's not permitted in that zone. We have a variance for use but the Zoning Board back in 1967 or '68 didn't apply any bulks at that time.

MR. KRIEGER: They often don't.

MR. HILDRETH: Rarely do they.

MR. SCHIEFER: Do we have to go back to the Zoning Board of Appeals on this?

MR. KRIEGER: Yes.

MR. VAN LEEUWEN: Let's turn it down and go to the Zoning Board of Appeals.

MR. KRIEGER: My opinion covered three points. Number one, use the tables in a situation like this and I don't care whether it's a variance, you have a similar one that is a pre-existing nonconforming use. My first opinion is that it doesn't matter for the purposes I am going to describe it applies to both. It applies to each. Number one, the bulk tables should have three entries in it as opposed to the usual two. What is permitted in the zone, what exists with a note on the map as to why it exists that way and what is proposed so all he's got to do is add to there what is in the zone.

MR. VAN LEEUWEN: We can't approve it the way it is, its got to go to the Zoning Board of Appeals.

MR. KRIEGER: I didn't get to that part yet. That is question one. What table does he use. Question two, the 30% expansion rule that normally applies to variances you can go in and ask the Zoning Board of Appeals for permission to apply to expand up to 30% and it's a special, it's not a variance request, it's under that particular provision of the statute, I looked at the statute and it doesn't make any difference whether it is or isn't pre-existing nonconforming use. If it doesn't conform and you want to expand, you go to the Zoning Board of Appeals.

The third question, setbacks and so forth, when a Zoning Board approves a use particularly it says you can put that building there and they don't apply any

12-12-90

bulk tables. Then what they are doing is they are saying we approve that building and that lot with those setbacks. If you are going to go change it, you have to come back to us and change it so he's got to go to the Zoning Board unfortunately I think it's kind of, it may be how should I say, unfortunately duplicative effort to go to the Zoning Board on something that the Planning Board has to pass site plan approval anyway but that's the way the law is currently written. Until and unless it's changed, that is the way it's got to go.

MR. VAN LEEUWEN: I make a motion to approve it subject.

MR. DUBALDI: I'll second it.

MR. SCHIEFER: Motion has been made and seconded to approve it.

ROLL CALL:

Mr. McCarville	No
Mr. VanLeeuwen	No
Mr. Soukup	No
Mr. Paçano	No
Mr. Lander	No
Mr. Dubaldi	No
Mr. Schiefer	No

PRELIMINARY MEETING: TRADE AUTO

MR. KONKOL: This is referred by the Planning Board. Request for expansion of pre-existing nonconforming use on Walsh Road to expand to spray paint shop in PI zone.

Mr. William Hildreth, P.E. of Grevas & Hildreth came before the Board representing this proposal.

MR. KONKOL: For the record, would you state your name and what your position is in this matter?

MR. HILDRETH: My name is William Hildreth and I am the Vice President in the firm of Grevas & Hildreth and I represent Mr. Glynn who is the owner of Trade Auto.

MR. KONKOL: Tell the Board what your intentions here are tonight.

MR. HILDRETH: If I may pass around a couple plans here first if that's useful. The body shop is right next to Mid-Hudson Oxygen. This property was granted a use variance in 1967. I have a copy of it here that I'll submit. In granting that variance, the Zoning Board of Appeals at the time did not impose any bulk regulations. They just granted the use of the property that use at the time. It's still the same use. What this is is just an expansion because he wants to put a spray booth on. However, the Planning Board had to refer to the Zoning Board of Appeals for bulk variance. Well, they didn't know what bulks to apply because it's in a residential zone and it's a commercial use. So, that's why I'm here to discuss that and set it up for a public hearing if the Board so desires.

MR. KONKOL: Explain Andy's letter please Dan.

MR. LUCIA: Andy wrote a fairly lengthy letter and aside from the change in the law which he recommends, the situation the applicant finds himself in is that he's presenting an application that has the typical existing dimensions on it and what he's proposing but he's not sure what to do for the requirements and Andy proposes and I agree with him that he has to show whatever is mandated by the zone at present. Normally, the Zoning Board of Appeals in granting a variance would not set specific bulk tables. You would just grant a variance for the use which is what they have done. I understand this is under 30%, so

he's going--

MR. HILDRETH: That's correct.

MR. LUCIA: This application is not really a use variance, it's under Section 48-24B3 of the code which is the provision regarding extension of non-conforming use, not exceeding 30% and the Zoning Board of Appeals can grant that upon a finding of practical difficulty so it's treated even though it has to do with use, it's treated really as an area variance. But, I think probably we should have the map amended at least to show what the, it's presently zoned for since those still are the bulk requirements for the zone and grant the variance up to 30% based on the section.

MR. HILDRETH: Problem is I see it in that zone there are like 11 or 14 different uses.

MR. LUCIA: None of which are close.

MR. HILDRETH: Not only that, some of them have different bulks.

MR. LUCIA: Mike, do you have a feeling for what's the closest use to this just have him indicate something for required on his map?

MR. BABCOCK: No. Like Bill says, it's a wide variety there.

MR. HILDRETH: Pick one, you know, that's all I got to do is just have something to apply against.

MR. BABCOCK: Depending on which one you pick, it's going to change the amount of percentage of variance that you need.

MR. TORLEY: This is an R-4?

MR. NUGENT: No, PI.

MR. PETRO: Is the spray booth already in the building?

MR. HILDRETH: No, not--well, I wish he was here, I think he does spray work but he wants to confine it. It's a package deal that he needs that square footage to enclose it in. It's got an air filtration system, it's state of the art. I wish he was here. I can't speak to the spray booth.

MR. TORLEY: Which bulk table are we giving the side yard variance from?

MR. BABCOCK: Possibly we can look at the plan and this is definitely for the Board's review but the side yards right now is 33 foot 6 inches. In my opinion, since it was granted a variance and it's been there since 1967, that would be a legal standard. So, possibly he's looking for the difference between that and what he's encroaching. You know you have a nonconforming use of 33 foot 6 inches. You can maintain the 33 foot 6 inches but you can't get closer so there's a possibility that he needs relief between the difference of 33'6" and 18'1" and then also if he gives us the dimensions of the back yard setback of the existing building, the difference between that and the 48'3"--

MR. LUCIA: That's entirely logical, the circle we go around in all the time is that this Board's feeling has always been that it remains in the zone that it's in regardless of the useage so while I appreciate your position and I understand why we can use that as a standard, I think in other applications, this Board has, they seem to like to stick with whatever the requirements of the or the bulk tables are within the zone. I'll leave it up to the Board.

MR. NUGENT: There's nothing that's close. Is that what we are having a problem with? There's nothing that's close to a body shop.

MR. LUCIA: Not in a PI, really.

MR. HILDRETH: That's why they need the use variance.

MR. BABCOCK: He's going to need an area variance and if you use any one of the requirements in the PI zone, I think I would be easy so that he's going to need a variance from every standard that is set in there.

MR. HILDRETH: Square footage, lot width, the whole shabang.

MR. BABCOCK: Lot width, front yard, rear yard.

MR. LUCIA: The smallest lot area would be 40,000 square feet and runs on up to 25 acres so he's not going to be close under anything.

MR. KONKOL: He's going to have to come back at another preliminary with the specifics.

MR. NUGENT: Exactly what he's asking for.

MR. HILDRETH: I was hoping to--

MR. KONKOL: We are not going to pass this around tonight and try to say what you need. You're going to have to get with the Building Inspector and find out what you need and come back.

MR. NUGENT: We should give him some direction as to what part of the bulk table to go.

MR. KONKOL: PI.

MR. NUGENT: Eleven (11) things.

MR. TORLEY: They range from 15 side yard to 100, 200 side yard depending on which line.

MR. KONKOL: Can you help us in that situation?

MR. LUCIA: It's just going to be a matter of a guess as to the use. Certainly, there are businesses which combined with office space I presume he's got an office in there besides the business now, really it's a shotgun type thing.

MR. TORLEY: Try 15. Since this is basically a paint shop, maybe close, the closest one.

MR. BABCOCK: Do we have to consider this a nonconforming use in light that it wasn't there before zoning?

MR. LUCIA: It's nonconforming to the present zoning, regardless of how it got to be that way. In this case, it's a legal use because of a previously granted variance but it's still doesn't conform to what that zone now requires for uses so we really are bound to the position Andy takes and I agree with him.

MR. HILDRETH: Comes down to requesting bulk variances.

MR. BABCOCK: The way I read it is that it has to exist on the effective local date of the local code which is '66. This didn't exist until '67 so it's a year later than what the code really says but it's nonconforming, doesn't belong there.

MR. LUCIA: Right but it is nonconforming by virtue of a variance rather than pre-existing code.

MR. BABCOCK: Okay.

MR. LUCIA: Fifteen (15) is as good a choice as any.

MR. HILDRETH: Okay, that's really what I came for tonight. I'm prepared to bring a plan back with that bulk table on it showing the amounts of variance I need. Would that still require another preliminary?

MR. KONKOL: Yes because you're going to have to come back with figures because it's been the experience of this Board not to have it hashed out the night of the public hearing.

MR. LUCIA: You might also check against the 30% now that you have specific standards if that bulk bumps you over, you're asking for a use variance instead.

MR. HILDRETH: It's less than 30% of the current building size that's why I thought it was less than 30% expansion so that would be true no matter what.

MR. LUCIA: You're right, okay.

MR. TORLEY: What about developmental coverage? Do you have a problem with that?

MR. HILDRETH: Depending on what the lines are on that.

MR. TORLEY: It's a paved lot, looks like it's 100%.

MR. HILDRETH: I can crunch those numbers later. I didn't mean to take up your time.

MR. TORLEY: I just thought something else you might want to bear in mind.

MR. BABCOCK: It's very simple. We'll just put what he's required, what he has and what variance he needs and we'll use 15.

MR. HILDRETH: Okay, line 15. Mike, I'll get together with you just to make sure I have done the right numbers.

MR. BABCOCK: And I'll send a new set of this to Pat and I don't see why you can't be on the next agenda.

MR. TANNER: I move we table this.

MR. FINNEGAN: I'll second it.

2-25-91

ROLL CALL:

Mr. Torley	Aye
Mr. Finnegan	Aye
Mr. Petro	Aye
Mr. Konkol	Aye
Mr. Tanner	Aye
Mr. Nugent	Aye

ORANGE COUNTY DEPARTMENT OF PLANNING
APPLICATION FOR MANDATORY COUNTY REVIEW
OF LOCAL PLANNING ACTION

(Variances, Zone Changes, Special Permits, Subdivisions, Site Plans)

Local File No. 91-5.

1. Municipality Town of New Windsor Public Hearing Date 6/24/91
 City, Town or Village Board Planning Board Zoning Board

2. Owner: Name Art Glynn - (Trade Auto)
 Address 68 Walsh Ave., New Windsor, N.Y. 12553

3. Applicant*: Name (same)
 Address _____

* If Applicant is owner, leave blank

4. Location of Site: 68 Walsh Ave.
(street or highway, plus nearest intersection)

Tax Map Identification: Section 9 Block 1 Lot 60

Present Zoning District P.I. Size of Parcel 0.38 acre ±

5. Type of Review:

Special Permit: _____

Variance: Use _____

 Area see application & site plan attached.

Zone Change: From _____ To _____

Zoning Amendment: To Section _____

Subdivision: Number of Lots/Units _____

Site Plan: Use _____

6/2/91
Date

Patricia A. Bankhart, Secy.
Signature and Title

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE OR SPECIAL PERMIT

91-5
Date: 6/12/91

I. Applicant Information:

- (a) ART GLYNN 68 WALSH AVE, NEW WINDSOR 562-85483 (SAME)
(Name, address and phone of Applicant) (Owner)
- (b) N/A
(Name, address and phone of purchaser or lessee)
- (c) N/A
(Name, address and phone of attorney)
- (d) N/A
(Name, address and phone of broker)

II. Application type:

- Use Variance Sign Variance
 Area Variance Interpretation

III. Property Information:

- (a) PI 68 WALSH AVE 9-1-60 0.38 AC
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? RA
- (c) Is a pending sale or lease subject to ZBA approval of this application? No
- (d) When was property purchased by present owner? 1986
- (e) Has property been subdivided previously? No When? N/A
- (f) Has property been subject of variance or special permit previously? YES When? 1967. GRANTED USE VARIANCE
- (g) Has an Order to Remedy Violation been issued against the property by the Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: EXISTING OUTSIDE STORAGE CONSISTS OF PARKED VEHICLES; NO CHANGES IN STORAGE PROPOSED

IV. Use Variance:

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

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

V. Area variance:

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

Requirements	Proposed or Available	Variance Request
Min. Lot Area <u>40,000 S.F.</u>	<u>16,396 S.F.</u>	<u>23,604 S.F.</u>
Min. Lot Width <u>150'</u>	<u>100'</u>	<u>50'</u>
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. <u>15 / 40</u>	<u>3.5 / 21.6</u>	<u>11.5 / 18.4</u>
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. 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 ADDITION IS NEEDED BY THE OWNER FOR HIS BUSINESS. DUE TO THE EXISTING SITE RESTRICTIONS (NOT SELF IMPOSED) THERE IS NO PLACE AN ADDITION MAY BE PLACED WITHOUT REQUIRING VARIANCES. THE SITE SELECTED REQUIRES THE SMALLEST VARIANCES POSSIBLE

VI. Sign Variance:

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

	Requirements	Proposed or Available	Variance Request
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____
Sign 5	_____	_____	_____
Total	_____ sq. ft.	_____ sq. ft.	_____ 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.

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

VII. Interpretation:

N/A

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

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

VIII. Additional comments:

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

ENTIRE SITE IS CURRENTLY FENCED. SPRAY BOOTH WAS SAFEGUARDED AGAINST FUMES ESCAPING

IX. Attachments required:

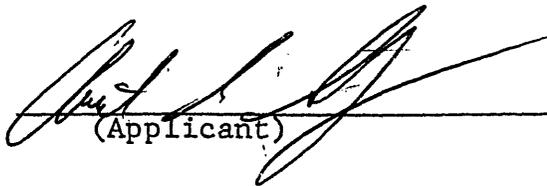
- Copy of letter of referral from Bldg./Zoning Inspector.
- Copy of tax map showing adjacent properties.
- N/A* Copy of contract of sale, lease or franchise agreement.
- Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access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

X. AFFIDAVIT

Date _____

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

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.

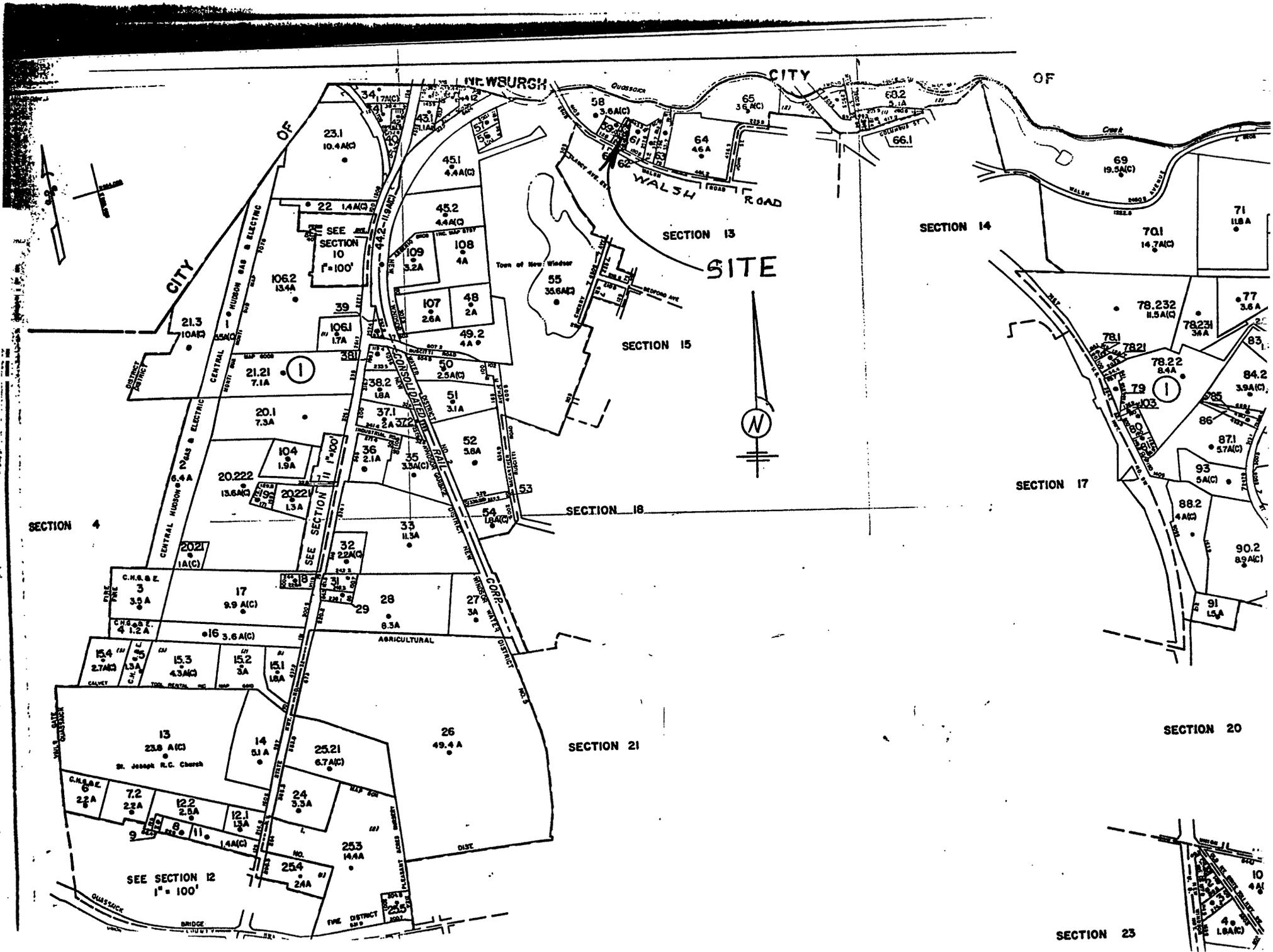
X 
(Applicant)

Sworn to before me this
____ day of _____, 19 ____.

XI. ZBA Action:

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

A FORMAL DECISION WILL FOLLOW
WHICH WILL BE ADOPTED BY
RESOLUTION OF ZONING BOARD OF APPEALS.



CITY OF
 W. WURGH
 CITY
 OF

SITE



SECTION 4

SECTION 13

SECTION 14

SECTION 15

SECTION 17

SECTION 18

SECTION 21

SECTION 20

SECTION 23

SEE SECTION 10
 1" = 100'

SEE SECTION 11
 1" = 100'

SEE SECTION 12
 1" = 100'

St. Joseph R.C. Church

Town of New Windsor

AGRICULTURAL

CENTRAL HUDSON GAS & ELECTRIC

CENTRAL HUDSON GAS & ELECTRIC

CENTRAL HUDSON GAS & ELECTRIC

C.H. & E. 3
 3.5 A

C.H. & E. 4
 1.2 A

C.H. & E. 5
 1.5 A

C.H. & E. 6
 2.7 A

C.H. & E. 7
 1.5 A

C.H. & E. 8
 1.5 A

C.H. & E. 9
 1.5 A

C.H. & E. 10
 1.5 A

C.H. & E. 11
 1.5 A

C.H. & E. 12
 2.5 A

C.H. & E. 13
 2.5 A

C.H. & E. 14
 2.5 A

C.H. & E. 15
 2.5 A

C.H. & E. 16
 2.5 A

C.H. & E. 17
 2.5 A

C.H. & E. 18
 2.5 A

C.H. & E. 19
 2.5 A

C.H. & E. 20
 2.5 A

C.H. & E. 21
 2.5 A

C.H. & E. 22
 2.5 A

C.H. & E. 23
 2.5 A

C.H. & E. 24
 2.5 A

C.H. & E. 25
 2.5 A

C.H. & E. 26
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C.H. & E. 27
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C.H. & E. 28
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C.H. & E. 96
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C.H. & E. 97
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C.H. & E. 98
 2.5 A

C.H. & E. 99
 2.5 A

C.H. & E. 100
 2.5 A

Rec'd.
TA. 6/14/91 (PAB)

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

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

Appeal No. 5

Request of ART GLYNN

for a VARIANCE of

the regulations of the Zoning Local Law to permit CONSTRUCTION OF A PAINT BOOTH AT A COMMERCIAL LOCATION WITH INSUFFICIENT LOT AREA, LOT WIDTH AND SIDE YARD

being a VARIANCE of

Section 48-12 TABLE OF USE/BULK REGS, CO. D

for property situated as follows:

68 WALSH AVENUE

SAID HEARING will take place on the 24th day of JUNE, 1991, at the New Windsor Town Hall, 555 Union Avenue, New Windsor, N. Y. beginning at 7:30 o'clock P. M.

RICHARD FENWICK
Chairman



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

38

March, 14 1991

Grevas & Hildreth, P.C.
33 Quassaick Avenue
New Windsor, NY 12553

Trade Auto-Glynn

Re: Tax Map Parcel #9-1-60

Dear Sirs:

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

The charge for this service is \$55.00, minus your deposit of \$25.00.

Please remit the balance of \$30.00 to the Town Clerk, Town of New Windsor, NY.

Sincerely,

L. Cook

LESLIE COOK
Sole Assessor

LC/cad
Attachments

cc: Pat Barnhart

Triangle Pacific Corp.
16803 Dallas Pkwy. ✓
Dallas, Texas 75248

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

H. C. Davis Boilerworks Inc. ✓
3 Susan Dr.
New Windsor, NY 12553

Horan, Dianna L. ✓
77 Walsh Rd.
New Windsor, NY 12553

Air Products & Chemicals Inc. ✓
133 Walsh Rd.
New Windsor, NY 12553

Thompson, Ellen W. ✓
135 Walsh Ave.
New Windsor, NY 12553

F.T. Realty Holding Corp. ✓
c/o Fred E. Thompson
135 Walsh Ave.
New Windsor, NY 12553

Miron, Stephen E. & Kenneth R. ✓
c/o Federal Block Corp.
PO Box 4090
New Windsor, NY 12553

Maskey, John ✓
86 Walsh Ave.
New Windsor, NY 12553

Burgoa, Juan V. ✓
492 Liberty St.
New Windsor, NY 12553

Colandrea, Michael & Elena M. ✓
5A Sylvia Street
Newburgh, NY 12550

Hulse, Walter J. ✓
97 Clancy Ave.
New Windsor, NY 12553

Sherwood, Gregory & Dawn ✓
115 Clancy Ave.
New Windsor, NY 12553

Sunderlin, David L. & Lorraine A. ✓
83 Clancy Ave.
New Windsor, NY 12553

Monaco, Carmen
292 Prospect Hill Rd.
Wallkill, NY 12589 ✓

Faricellia, Mary G.
c/o Carmen Monaco ✓
Box 292 Prospect Hill Rd.
Wallkill, NY 12589

Rodriguez, Iris & Catalino & Esther
128 Walsh Rd. ✓
New Windsor, NY 12553

3 D Realty Inc.
c/o DA Mario Carmine & Louise
61 Clancy Ave. ✓
New Windsor, NY 12553

Jacopino, Edward A. & Ellen
140 Walsh Rd.
New Windsor, NY 12553 ✓

Wein, Susan & Edward J.
154 Walsh Ave. ✓
New Windsor, NY 12553

Three D Realty Inc. ✓
Oakridge Dr. MD23
Newburgh, NY 12550

Faricellia, John & Michael
650 Blooming Grove Tpke. ✓
New Windsor, NY 12553

Duda, John L. & Janet
80 Clancy Ave. ✓
New Windsor, NY 12553

Bucci, Richard & Brenda
2 Myrtle Ave. ✓
New Windsor, NY 12553

Curry, Rosella & Terri L. Rogers
12 Myrtle Ave. ✓
New Windsor, NY 12553

Bonet, Hector M. & Catherine F.
15 Cherry Ave. ✓
New Windsor, NY 12553

Small Town Land Inc.
c/o Keith Williams ✓
15 Cherry Ave.
New Windsor, NY 12553

Maines, George M. & Helen N.
112 Clancy Ave.
New Windsor, NY 12553 ✓

Marshall, Douglas & Dina
110 Clancy Ave.
New Windsor, NY 12553 ✓

Wilsons & Conklin Modern Vending Inc.
5 Koran Ave.
New Windsor, NY 12553 ✓

Brock, Larence H. & Roberta J.
106 Clancy Ave.
New Windsor, NY 12553 ✓

Pettine, Michael J. Jr. & Wilma
102 Clancy Ave.
New Windsor, NY 12553 ✓

Heller, Kenneth H. & Patricia
100 Clancy Ave.
New Windsor, NY 12553 ✓

Nieves, William & Catalina
96 Clancy Ave.
New Windsor, NY 12553 ✓

Spignardo, John N. & Dora A.
82 Clancy Ave.
Newburgh, NY 12553 ✓

Smith, Albina J. Bugiada
2 Cherry Ave.
New Windsor, NY 12553 ✓

Cavicchio, Leonard J. & Evelyn
4 Cherry Ave.
New Windsor, NY 12553 ✓

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

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

ART GLYNN, d/b/a TRADE AUTO,

Applicant.

#91-5.

AFFIDAVIT OF
SERVICE
BY MAIL

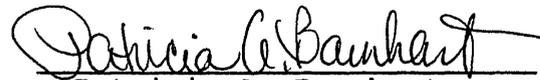
-----X
STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

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

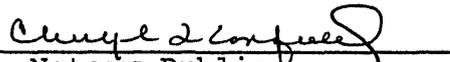
That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On June 13, 1991, I compared the 38 addressed * envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

*Including the Orange County Planning & Development


Patricia A. Barnhart

Sworn to before me this
13th day of June, 1991.


Notary Public

CHERYL L. CANFIELD
Notary Public, State of New York
Qualified in Orange County
4881654
Commission Expires December 29, 1992

(TA DOCDISK#7-030586.AOS)



Louis Holmbeck
County Executive

Rec'd.
ZBA 6/24/91.
PAB

**Department of Planning
& Development**

124 Main Street
Goshen, New York 10924
(914) 294-5151

Peter Garrison, Commissioner
Richard S. DeTurk, Deputy Commissioner

**ORANGE COUNTY DEPARTMENT OF PLANNING & DEVELOPMENT
239 L, M or N Report**

This proposed action is being reviewed as an aid in coordinating such action between and among governmental agencies by bringing pertinent inter-community and Countywide considerations to the attention of the municipal agency having jurisdiction.

Referred by Town of New Windsor D P & D Reference No. NWT 18 91 M

County I.D. No. 9 / 1 / 60

Applicant Art Glynn

Proposed Action: Area Variance - Bldg. Addition

State, County, Inter-Municipal Basis for 239 Review —

Comments: There are no significant inter-community or County-wide concerns to bring to your attention.

Related Reviews and Permits _____

County Action: Local Determination XX Disapproved _____ Approved _____

Approved subject to the following modifications and/or conditions: _____

6/21/91
Date _____

[Handwritten Signature]

2-6195. 3-11-91

PRELIMINARY MEETING: TRADE AUTO

MR. FENWICK: This is a request for an expansion of pre-existing nonconforming use on Walsh Road to expand spray paint shop in a PI zone.

Mr. William Hildreth, L.S. of Grevas & Hildreth came before the Board representing this proposal.

MR. HILDRETH: The only change from the last time is that the bulk table which you can look at, I don't think you have seen unless you have seen another one in the file. One of the things we had to ascertain here is the bulk tables against which to ask for a variance. At the last meeting, it was decided that in the PI zone, we'd apply line 15a. I have gone over the number with the Building Inspector and we're going to require a variance in three areas, lot area, side yard and lot width. The amounts of the variances are as follows. Lot width are, excuse me lot area requirements 40,000, we have 16,396 which means we are going to need a request of 23,604. This is, you know, the size of the site that existed back when the original use variance was granted so we're stuck with that. Lot width of course is 150 feet. What we have available at the building setback is about 100 so the variance request is for 50 feet. Side yard requirement is a minimum of 15 with a total of 40. As you can see by the area of the proposed building, that's decreasing the side yard on that side to 18.1 which when you add that to the existing side yard on the other side which is only 3 1/2 makes it a total of 21.6 so the variance request is for an 18.4 foot relief there. Rear yard complies, floor area ratio complies. The amount of the addition which is, I believe, 760 square feet is less than a 30% expansion which he'd be entitled to if everything else conformed anyway.

MR. FENWICK: I read the minutes on this. I just want to put something passed you here. We're trying and this has happened before but we're trying to find a side yard or something that fits this piece of property for this business into a zone that it doesn't belong.

MR. KONKOL: Correct.

MR. FENWICK: What about the thought that whatever the increase is above and beyond the building would be the variance. Anything, since that building right now is sitting and it's a nonconforming use, in a specific zone, I mean this, that just makes it better for you,

that's what I'm thinking. Whatever the increase is would be the variance except the square footage, 30% he's allowed.

MR. LUCIA: Actually, it's two separate applications he's making. **The extension of the nonconforming use, the up to 30% he has five specific** factors he's going to have to present to the Board and really become very much like a Planning Board application because we're really reviewing the site as to those aspects of it. As to the variance, since he's changing the footprint of that building on the grounds we really are involved in new setback and lot width and side yard requirements so actually I think if you look at that, since he's kind of tacking it onto the side and to the back, he really is going closer to the side yard and the rear yard so in that respect, we really only are nailing him on the new stuff. But, it's just that since it's a PI zone, he's so dramatically under it that it looks like it's a phenomenal variance. That's a factor we consider in hearing him although it seems to be, looking at the numbers, a dramatic variance. Really in terms of expansion it is really not that much greater so that's covered by showing the existing column on his site plan.

MR. FENWICK: Why do we keep trying to make these things fit into a nonconforming, trying to find a zone that meets these criteria. Alls we're talking about is we're expanding it. He's probably talking about the increase except for the increase in the square footage, he's almost going for whatever he's got to have anyway. Alls we're doing is just expanding a nonconforming use. I'll go with what we have here. I would think that the whole thing would be the variance. Whatever he wants is the variance. If it goes closer than the rear line then the building is now then varied for that. Side yard same thing, before he's going to exceed the existing building that's what the variance is rather than trying to take the rules from this zone, put it in this zone rule from this.

MR. NUGENT: Are you saying it's just a area variance of 760 square feet?

MR. FENWICK: No.

MR. NUGENT: What you're saying is that what you're saying just to go to the 760 square feet and that's it?

MR. FENWICK: No, I'm saying whatever he gets closer

to the lines than what the existing building is that's the variance. If he was 30 feet away from the line before and now he's 18 feet closer to the line, the variance is 12 feet. Let the building that exists set it's own lines and then everything else expanding would be--

MR. TORLEY: He really is not by your criteria he wouldn't meet the side yards, the pre-existing 3 1/2 foot problem was already granted.

MR. NUGENT: I don't think it was ever addressed.

MR. HILDRETH: That's exactly why I'm here. The variance that was granted in 1967 was to use a garage, no bulk tables were applied. So, the Planning Board doesn't know what to do. He comes in for an expansion, does it comply or doesn't it. That's why we're back and based on that, I'm comfortable asking for these variances so now there's some numbers to put on it.

MR. TORLEY: I agree with you. It would make it a lot easier but doesn't make it easier for the Planning Board.

MR. KONKOL: The only thing is sometimes legally I'm just questioning down the line somebody might say well, he didn't get this variance or that variance, if the man's got to go through all this trouble, he should spell it out. That's the reason I referred you back to the Building Inspector.

MR. FENWICK: I'll go along with you exactly.

MR. LUCIA: The rationale is that it treats all applicants equally, whether they're coming in with a pre-existing nonconforming or new application. In this case, where it's pre-existing, we can apply that in mitigation realizing he's only going a little bit beyond what he has there now in terms of the numbers. We're putting him in the same situation as a new applicant.

MR. HILDRETH: It's only fair. You'll probably, unless there's any other changes, this is the way it will appear at the public hearing. Do you know when yet or you have to wait until I get the paperwork?

MR. NUGENT: We have to make the motion first. I'll make that motion to set him up for a public hearing.

MR. KONKOL: I'll second that.

ROLL CALL:

Mr. Torley	Aye
Mr. Konkol	Aye
Mr. Tanner	Aye
Mr. Nugent	Aye
Mr. Fenwick	Aye

MR. FENWICK: Bobby Rogers has already looked at this?

MR. HILDRETH: He's seen it at least once at a workshop meeting, if you want, I'll run it by him again.

MR. NUGENT: I'd like to see some pictures of the property.

MR. FENWICK: Yes.

MR. HILDRETH: This has to go back to the Planning Board anyway, if it gets passed the public hearing.

MR. BABCOCK: Just for the record, Bob Rogers approved it on October 30th, 1990.

MR. FENWICK: I thought I saw something in the minutes that Bob had approved it.

MR. KONKOL: He might get some comments from the neighbors.

MR. HILDRETH: I'm familiar with public hearings and what happens, it's okay.

MR. LUCIA: Bring in a copy of the deed and title policy, please or search, if he's only owned this for a while, whatever you've got.

cc: Art Cl...

APPLICATION FOR VARIANCE

APPLICATION NO. _____

DATE: June 5 1967

TO THE ZONING BOARD OF APPEALS OF THE TOWN OF NEW WINDSOR, NEW YORK

I (~~we~~) John Pluchino of 4 Stonecrest Drive
(Street & Number)

d/b/a J&S Body Shop

Newburgh New York HEREBY MAKE
(State)

APPLICATION FOR A VARIANCE:

A. LOCATION OF THE PROPERTY Walsh Road, GI
(Street & Number) (Use District on Zoning Map)

B. PROVISION (S) OF THE ZONING ORDINANCE APPLICABLE: (Indicate the article, section, sub-section and paragraph of the Zoning Ordinance applicable, by number. Do not quote the ordinance: 48 § 13 B also Section 4g14)

C. NOTE: NECESSARY FINDINGS: Before any Variance is granted, the Zoning Board of Appeals must find all of the following conditions to be present:

1. Conditions and circumstances are unique to the applicant's land, structure or building and do not apply to the neighboring lands, structures or buildings in the same zone because: the plot is too small
for this type of building and use in a GI Zone

2. Strict application of the provisions of this ordinance would deprive the applicant of a reasonable use of the land, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighboring lands, structures or buildings in the same zone because: the plot cannot be used for the purpose it was bought
for

3. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of the Ordinance because: the land was bought before the zoning went into effect

4. Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this ordinance because: the area is commercial, with a body and auto shop one property away and next to this plot is a commercial building used for oxygen supply.

5. Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zone because: As the area is commercial

D. Describe in detail how the property is to be used and submit plans or sketches in duplicate.

The property is to be used for an auto body shop

E. Application to be accompanied by a check, payable to the Town Comptroller in the amount of \$10.00. Application to be returned to: New Windsor Zoning Board of Appeals, Box 25, New Windsor, N. Y. 12550.

F. NOTICE OF HEARING:

Applicant agrees to send notice of any public hearing via registered mail to all abutting land owners as required by Section 9.4.1 of the ordinance

Dated: June 5, 1967

STATE OF NEW YORK) SS
COUNTY OF ORANGE)
Sworn to this 5th day of June 1967

John J. Pluch
Signature of Applicant

4 Alameda Ave, Newburgh, N.Y.
Address

TC 2 - 2631
Telephone No.

JEM
Notary
Public
Comm. No. 1000
ADELHOLTZ
New York
County 69
1967

Arnold Friedberg
(Notary Public)

DO NOT WRITE IN THIS SPACE

Application NO. _____
Date of Hearing 6/19/67
Date of Decision 6/19/67

Date Received 6/5/67
Notice Published 6/9/67

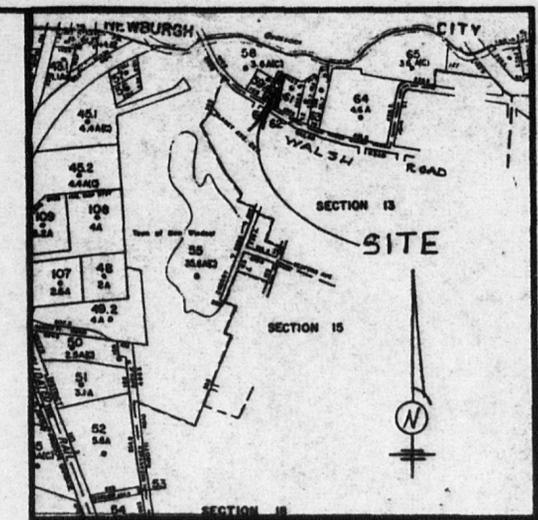
Decision: Application for variance approved.

N/F
H.C. DAVIS BOILER WORKS
L2781.328

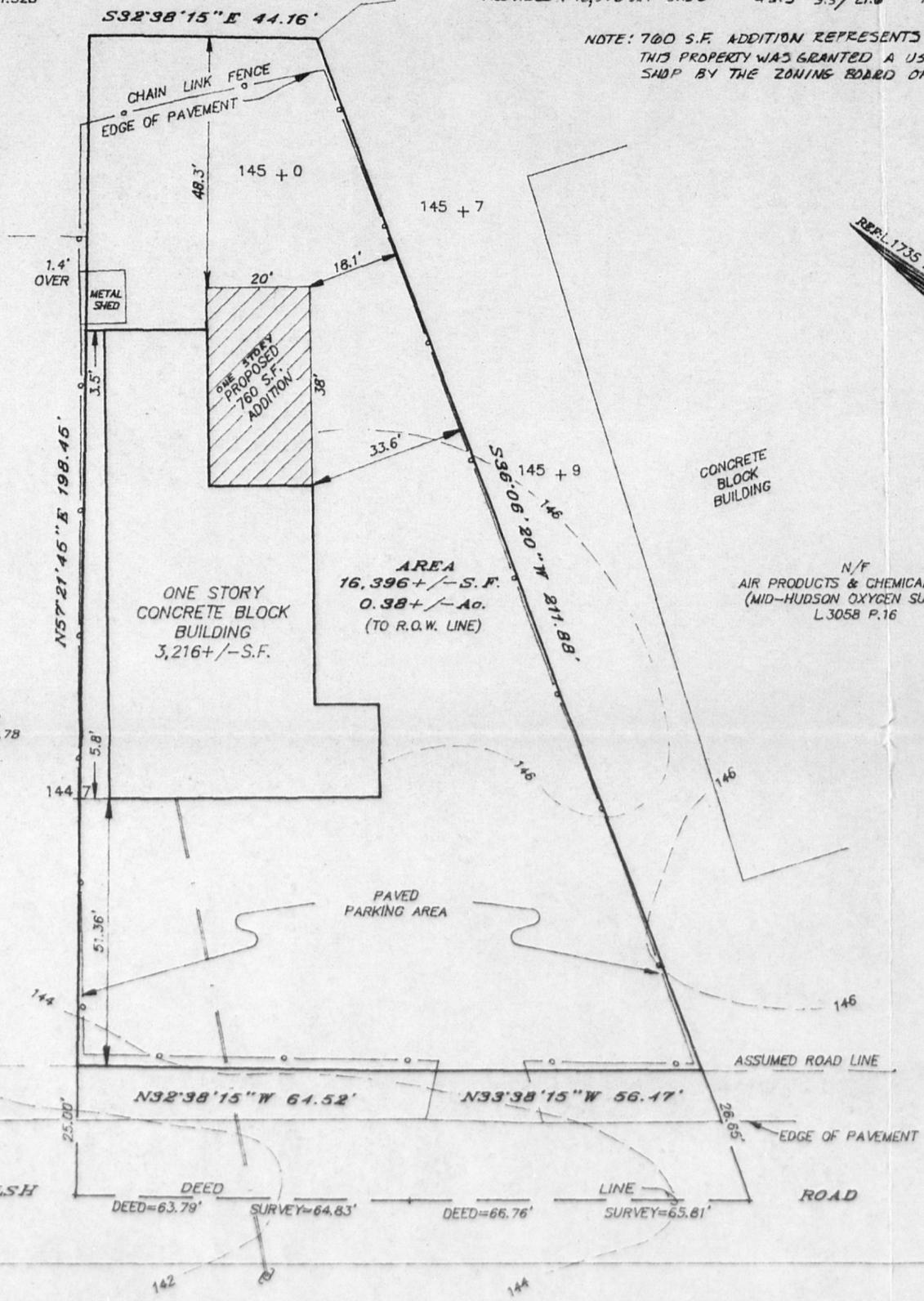
BULK TABLE (PI ZONE A-15)

AREA	FRONT YARD	REAR YARD	SIDE YARD	LOT WIDTH	STREET FRONTAGE	FLOOR AREA COVERAGE	LOT DEV. AREA	MIN. LIVABLE AREA
REQUIRED: 40,000 S.F.	50'	20'	15'/40'	150'	N/A	0.6	N/A	N/A
PROVIDED: 16,396 S.F.	51.36	48.3	3.5'/21.6	100'		0.24		

NOTE: 700 S.F. ADDITION REPRESENTS A 24% INCREASE IN FLOOR AREA
THIS PROPERTY WAS GRANTED A USE VARIANCE FOR AN AUTO BODY SHOP BY THE ZONING BOARD OF APPEALS ON 19 JUNE 1967



LOCATION PLAN



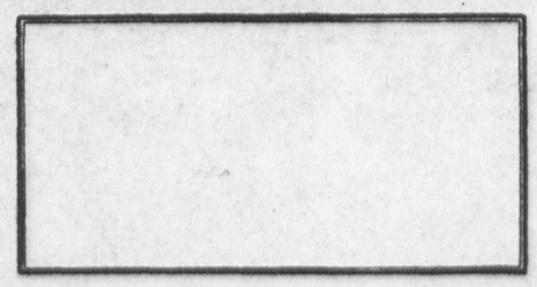
CONCRETE BLOCK BUILDING

N/F
AIR PRODUCTS & CHEMICALS INC.
(MID-HUDSON OXYGEN SUPPLY)
L3058 P.16

NOTES:

1. BEING A DEVELOPMENT OF LANDS SHOWN ON THE TOWN OF NEW WINDSOR TAX MAPS AS SECTION 2 BLOCK 1 LOT 60.
2. ZONE: PI
3. PROPOSED USE: SPRAY BOOTH
4. OWNER/APPLICANT: ART GLYNN
68 WALSH ROAD
NEW WINDSOR, N.Y. 12553
5. WATER SUPPLY AND SANITARY SEWAGE DISPOSAL: TOWN OF NEW WINDSOR
6. THIS PLAN RESULTED FROM A FIELD SURVEY PERFORMED UNDER THE SUPERVISION OF THE UNDERSIGNED, AND COMPLETED ON 7 SEPTEMBER 1990.

PLANNING BOARD APPROVAL



Grevas & Hildreth, P.C.
LAND SURVEYORS
33 QUADRANT AVENUE, NEW WINDSOR, NEW YORK 12550
TEL: (518) 562-9887

PLAN FOR:	TRADE AUTO		
TOWN OF NEW WINDSOR	ORANGE COUNTY	NEW YORK	
REVISIONS:	DATE	DESCRIPTION	
	5/11/91	REVISED BULK TABLE	
		Drawn: SRC	
		Checked: WBA	
		Scale: 1"=20'	
		Date: 26 OCT '90	
		Job No: 90-071	

Unauthorized addition or alteration to this plan is a violation of Section 7209 (2) of the N.Y.S. Education Law.

SITE PLAN