

ZB# 96-40

**Richard Ernenwein
(Rosenbaum's)**

65-2-16.1

Section.

notice to Sankland
of traffic

Aug. 12, 1976

Deed 4
Aps. furnished
to Stan Glenn proxy 4
here

Motion to Sched. P.H.
deferred on 8/23/76

Public Hearing:

Sept. 9, 1976

Area Variances

Granted

final decision
done 12/30/76 4

#96-40 - Ernerwein/Rosenbaum's
area 65-2-16.1

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12553

General Receipt

15739

August 28 1996

Received from Rosenbaum Jewelry & Gifts \$ 150.00

One Hundred Fifty and 00/100 DOLLARS

For Zoning Board # 96-40

DISTRIBUTION:

FUND	CODE	AMOUNT
<u>CP# 5379</u>		<u>\$ 150.00</u>

By Dorothy N. Hanson

Town Clerk

TITLE

WILLIAMSON LAW BOOK CO., VICTOR, NY 14564



NO 5379 150.00

Town Clerk

28

WILLIAMSON LAW BOOK CO., VICTOR, NY 14564

TITLE





ROSENBAUM JEWELRY & GIFTS

ROUTE 32, BIG V PLAZA

P.O. BOX 428

VALS GATE, NY 12584

EXPLANATION	AMOUNT

50-235/219

5379

NY
MOUNT
F

One Hundred Fifty and 00/100

DOLLARS

CHECK
AMOUNT

DATE	TO THE ORDER OF	DESCRIPTION	CHECK NUMBER
12/7/96	Town of New Windsor		5379

\$ 150.00

THE
BANK OF
NEW
YORK

NEW WINDSOR,
NY 12553

ZBA # 96-40

⑈005379⑈ ⑆021902352⑆ ⑆6800691174⑆

ROSENBAUM JEWELRY & GIFTS

ROUTE 32, BIG V PLAZA

P.O. BOX 428

VALS GATE, NY 12584

EXPLANATION	AMOUNT

50-235/219

5380

NY
MOUNT

Five Hundred and 00/100

DOLLARS

CHECK
AMOUNT

DATE	TO THE ORDER OF	DESCRIPTION	CHECK NUMBER
12/7/96	Town of New Windsor		5380

\$ 500.00

THE
BANK OF
NEW
YORK

NEW WINDSOR,
NY 12553

ZBA # 96-40

⑈005380⑈ ⑆021902352⑆ ⑆6800691174⑆

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Ernerwein/Rosenbaum's

FILE # 96-40

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

AREA USE

APPLICATION FOR VARIANCE FEE \$ 150.00
* * * * *

5/28/96
paid
ck #5379
||
ck #5380

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 500.00

DISBURSEMENTS -

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING - PER PAGE *8/12/96 - 3 pages* \$ 13.50
2ND PRELIM. MEETING - PER PAGE *9/8/96 - 6 pages* \$ 27.00
3RD PRELIM. MEETING - PER PAGE \$ _____
PUBLIC HEARING - PER PAGE \$ _____
PUBLIC HEARING (CONT'D) PER PAGE \$ _____
TOTAL \$ 40.50

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING: *8/12/96 -* \$ 35.00
2ND PRELIM. *9/9/96 -* \$ 35.00
3RD PRELIM. \$ _____
PUBLIC HEARING \$ _____
PUBLIC HEARING \$ _____
TOTAL \$ 70.00

MISC. CHARGES:

TOTAL \$ 110.50

LESS ESCROW DEPOSIT \$ 500.00
(ADDL. CHARGES DUE) \$ _____
REFUND DUE TO APPLICANT \$ 389.50

(ZBA DISK#7-012192.FEE)

Refund.

In the Matter of the Applicaton of

RICHARD ERNENWEIN

**MEMORANDUM OF
DECISION GRANTING
AREA VARIANCES**

#96-40.

WHEREAS, RICHARD ERNENWEIN, P.O. Box 428, Vails Gate, New York 12584, has made application before the Zoning Board of Appeals for a 5 ft. rear yard variance for an existing shed and a 2 ft. maximum building height variance for an existing fence at the former Rosenbaum Industries location on Route 32 in a C zone; and

WHEREAS, a public hearing was held on the 9th day of September, 1996 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared before the Board for this proposal by Stewart P. Glenn, Esq. of Northrop, Stradar & Glenn P. C., P. O. Box 2395, Newburgh, N. Y. 12550; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke in opposition to the Application; and

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

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

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

2. The evidence presented by the Applicant showed that:

(a) The subject property is a commercial property located in a zone and neighborhood entirely occupied by commercial properties.

(b) The existing shed on the property was constructed by a commercial construction company and the applicant believed at the time when it was constructed that it complied with all of the necessary zoning.

(c) There is no record of any complaints with respect to the subject property.

(d) The shed and fence have been in existence since 1974.

(e) The shed is anchored on a concrete pad which would be very difficult to move if required.

(f) The present location of the shed permits the use by the parking lot of tractor trailers in loading and unloading and deliveries to the building. If the shed were relocated in accordance with the Zoning Local Law it would interfere with this loading and unloading.

(g) Neither the shed nor the existing fence interfere with any course of surface water drainage or cause any accumulation of water.

(h) Neither the shed nor the deck are built over or interfere with any septic lines, this property being serviced by municipal sewer.

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

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

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

3. The variances requested are substantial in relation to the Town regulations but nevertheless are warranted due to the peculiar nature of the property and that the location of the existing structures will enhance rather than detract from the value of the property.

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

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed for the reason that the Applicant attempted to comply with the requirements of the Zoning Local Law at the time that both the fence and shed were constructed and believed that he had done so. Furthermore, the variance should be allowed because the location of the fence and shed, in their present locations, not in conformity with the Zoning Local Law, actually enhances and increases the value of the property.

6. The benefit to the Applicant, if the requested variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.

7. The requested variances are appropriate and are the minimum variances necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and

welfare of the community.

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

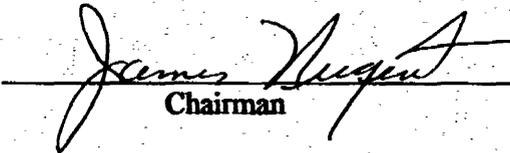
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 5 ft. rear yard variance for an existing shed and a 2 ft. maximum building height variance for an existing fence on a commercial piece of property formerly known as Rosenbaum Industries, located on Route 32 in a C zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

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

Dated: January 08, 1997.


Chairman

Date 9/17/96, 19.....

TOWN OF NEW WINDSOR

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

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

DATE		CLAIMED	ALLOWED
9/3/96	Zoning Board Meeting	75.00	
	Minutes - Misc - 2		
	Verdier - 5		
	Panella - 5		
	B... 6 @ 22.00	81.00	
	18		
		156.00	

PUBLIC HEARING

ERNENWEIN/ROSENBAUM INDUSTRIES

MR. NUGENT: Request for 5 ft. rear yard variance for an existing shed and 2 ft. maximum building height for an existing fence at the former Rosenbaum Industries location on Route 32 in a C zone.

Stewart Glenn, Esq. appeared before the board for this proposal.

MR. GLENN: Thank you. I believe you have in the file the proxy form from the applicant to allow me to appear before them. This application is for two small area variances for property known as 389 Route 32 Section 65, Block 2, lot 16.1 which is located in the C zone. This is the Rosenbaum's Industry property, they are now located in the mall across Route 32. The applicant is here because of a notice of disapproval which was issued by the building inspector, I believe you have a copy of that in the file also who advised the applicant that it would need two area variances for the shed and garage slash garage which is at the rear of the property on the northeastern corner. A very short history, the applicant bought this property in 1974, I believe you also have a copy of the deed in the file. He conducted Rosenbaum's there for many years, it erected the shed in 1976, they hired Brescia Lumber, a reputable contractor to erect the shed, the contract provided that the contractor was to obtain the necessary permits, they obtained the building permit and erected the sheds and as far as the applicant was concerned, they had done what they were supposed to do and everything was fine. As I mentioned before they are now across the street on Route 32 and the building is under contract for sale. The purchaser obtained a survey and ordered a certificate of occupancy and that is where the problem was discovered, that the shed is within ten feet of the rear line and that the fence is an eight foot fence which is two feet above the ordinance without obtaining a variance. I believe that at the preliminary, the members of the, members who were here saw the location of the shed in the rear of the property I think everyone's familiar with that.

MR. LANGANKE: Mr. Glenn, why was an eight foot fence chosen for that?

MR. GLENN: I have no idea really why.

MR. LANGANKE: Was it security purposes?

MR. GLENN: I imagine it was, why it would be two feet higher than the allowed amount, I don't know but no one's complained about it. I would say that what other reason would there be really than to keep people out, keep them from getting through.

MR. KANE: Top of the photos show a barbed wire fence on top of the shed, a security feature.

MR. NUGENT: New owner wishes to continue with the shed and fence.

MR. LANGANKE: If it was deemed at that time that it was necessary for security purposes.

MR. GLENN: The new owner says they won't go to closing if the shed's moved or taken away, what their plans are subsequent to the purchase, I don't know.

MR. NUGENT: They wish it to remain?

MR. GLENN: Again, they certainly do for the closing because they told their clients that they won't. Also they plan to put parking in the rear of the property for the new use and if you had to move the shed away from the line, you'd be cutting into the parking and moving the parking closer to the highway.

MR. NUGENT: They have limited parking to start with, we already gave them a variance on that already.

MR. GLENN: I believe you did.

MR. KRIEGER: How long has the shed and fence been there, do you know?

MR. GLENN: Since 1974, excuse me, 1974, they bought

the property. In 1976, they erected this so 20 years. The applicant seeks the minimum various needed and submits that the benefit to the applicant as well as to the community in general will be substantial in that the, as weighed against the negligible affect against the rest of the neighborhood. There will not be any undesirable change to the character of the neighborhood since it's been there for 20 years already or any detriment or impact. I'd like to submit to the record two letters, one from Vincent Sorbello and he's one of the owners to the property that abuts right up where the shed is to the east and also as it goes around the corner to the north so this is the property that is affected most and he has no objection. And also a letter and I apologize it's through a fax which didn't come over very well from Fritz Kass (phonetic), the President of New Windsor Mall saying they have no objection to the application as well. While the practical difficulties which the applicant has respecting the location of the shed and its fence are in part self-created since they were erected during the applicant's ownership, the applicant, through it's contractor, attempted to erect these structures in accordance with the regulations and believed that such had been done and submits that such minor variations from the zoning ordinance should be granted to allow construction of the project which will be in the best interest of the community to bring this new business to the community and would feel that the granting of this application would be in the interest of justice for all in the town and they ask that these two variances be granted.

MS. BARNHART: Also for the record, I just want to put in the affidavit of service by mail sent out by myself, there were 19 addressed envelopes sent out on August 28, 1996 and I have an affidavit stating as such.

MR. KRIEGER: The record should also reflect that there's no one present in the audience who's expressed an interest in this application nor has anybody signed the sheet expressing an interest to speak.

MR. REIS: Any negative feedback as a result of the letters?

MR. NUGENT: No, none.

MR. KRIEGER: In the time that it's been up, has the building department received any complaints of any kind with respect to this structure or fence?

MR. BABCOCK: Not to my knowledge.

MR. KRIEGER: The structure is in some way anchored to the ground?

MR. GLENN: It's on a concrete pad as well which would be very difficult to move, if they are forced to move it at this point.

MR. KRIEGER: If I remember the preliminary correctly you said that in part, that the location is somewhat out of the way, would not effect traffic but the use of tractor trailers to supply whatever business is going to be there.

MR. GLENN: That is right, the further you get from the structure the more room there will be for any kind of trucks to turn round and unload.

MR. BABCOCK: It's also on concrete footings where the poles sit.

MR. KRIEGER: Thank you. Is there any, does it interfere with any water course, surface drainage or accumulation of water?

MR. GLENN: None whatsoever. There's a stream on the adjacent property but it's quite a ways away from this structure but close enough so that I don't think you could build another structure up against it so that you know it's not going to interfere with the development of the adjoining property.

MR. KRIEGER: This structure doesn't interfere with the water source in any way?

MR. GLENN: No.

MR. KRIEGER: Built over a sewer or septic system?

MR. GLENN: Not to my knowledge, I'm sure that would have been shown on the survey, so I believe that is known.

MR. KRIEGER: It's within the parking lot area of the property?

MR. GLENN: Yes.

MR. KRIEGER: It is?

MR. GLENN: Yes, it's going to be more modern parking lot but next use but I guess you would call it a parking lot.

MR. KRIEGER: As it exists now it's a parking lot as opposed to prairie land?

MR. GLENN: Yes.

MR. NUGENT: I'll accept a motion.

MR. KANE: I move that we approve the application by Erenwein/Rosenbaum Industries for their requested variances.

MR. REIS: Second the motion.

ROLL CALL

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

MR. KRIEGER: Contact the building inspector if you want to go ahead cause you can go ahead before the, before any written memorandum is adopted by the board, you can go ahead.

MR. GLENN: Do you know when the written memorandum might be available?

September 9, 1996

17

MR. KRIEGER: Not before the next meeting.

MR. NUGENT: Which is the 28th of October.

MR. KRIEGER: I tell you what if you will, if there's a difficulty here, if you will have the buyer's attorney call me, I'll be happy to assure them that the variance has in fact been granted.

Rec'd. TH/ZBA
Office 8/28/96
PAB

LAW OFFICES OF
NORTHROP, STRADAR & GLENN, P.C.

GEORGE F. STRADAR, JR.
STEWART P. GLENN
JAMES L. MONELL

ONE CORWIN COURT
POST OFFICE BOX 2395
NEWBURGH, NEW YORK 12550
(914) 561-8000
(914) 562-0020

GEORGE MILNER NORTHROP
1903-1987
AUGUSTUS W. BENNETT
1897-1983
FAX (914) 561-2083

August 28, 1996

Ms. Patricia A. Barnhart, Secretary
Town of New Windsor Zoning
Board of Appeals
Town Hall
555 Union Avenue
New Windsor, NY 12553

Re: Application of Rosenbaum Industries, Inc.
for Area Variances
Premises: 389 Route 32, 65-2-16.1
Appeal #40

Dear Ms. Barnhart:

Per your instructions, we hand you herewith the following items:

1. Application for Variance as executed by Richard Ernenwein, Vice President of Applicant, Rosenbaum Industries, Inc.
2. Checks of applicant as follows:
 - a. Check No. 5379 drawn to the order of Town of New Windsor in amount \$150.00; and
 - b. Check No. 5380 drawn to the order of Town of New Windsor in amount \$500.00.
3. Photographs of garage/shed with fence which are the subject of the requested area variances; and
4. Copy of assessor's list of property owners;
5. 19 copies of Public Notice of Hearing together with stamped envelopes addressed to the parties set forth on the assessor's list.

NORTHROP, STRADAR & GLENN, P.C.

Ms. Patricia A. Barnhart

-2-

August 28, 1996

We understand these are all the items you will need from Applicant prior to the public hearing. If, however, anything further is required, please advise.

Very truly yours,



Stewart P. Glenn

SPG:alr
Enclosures
711.002

BY HAND

cc: Rosenbaum Industries, Inc.

Rec'd. ZBA
9/12/96 (P10) (Hearing was 9/9/96)

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. 40

Request of Rosenbaum Industries, Inc.

for a VARIANCE of the Zoning Local Law to permit:
existing garage/shed closer to lot line than minimum 10 ft. set back
and existing 8 ft. fence around existing garage/shed which exceeds
being a VARIANCE of Section 48-14A (1) (b) and maximum 6 ft. height
48-14 C (1) (d)

for property situated as follows:

389 Route 32

known as tax lot Section 65 Block 2 Lot 16.1

SAID HEARING will take place on the 9th day of September,
19 96, at New Windsor Town Hall, 555 Union Avenue, New Windsor,
New York, beginning at 7:30 o'clock P. M.

I would vote yes
to approve the request

JAMES NUGENT
Chairman

J. A. Shulder

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

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

Ernenwein/Rosenbaum's

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#96-40

-----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 August 28, 1996, I compared the 19 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.


Patricia A. Barnhart

Sworn to before me this
day of August 28, 1996.

Mary Ann Hotaling
Notary Public

MARY ANN HOTALING
Notary Public, State of New York
No. 01HO5062877
Qualified in Orange County
Commission Expires July 8, 1998

(TA DOCDISK#7-030586.AOS)



**New Windsor Mall
 367 Windsor Highway
 New Windsor, NY 12553-7900
 (914) 561-4132 FAX (914) 565-7446**

Town of New Windsor
 Zoning Board of Appeals
 Town Hall
 585 Union Avenue
 New Windsor, NY 12553

Re: Application of Rosenbaum Industries, Inc.
 for Area Variances
 Premises: 389 Route 32
 65-2-16.1
 Appeal #40

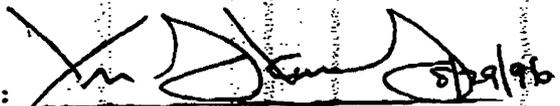
Dear Board Members:

New Windsor Mall owns premises which are within 500 feet of the Rosenbaum premises which are the subject of the variances described above.

Please be advised that New Windsor Mall has no objection to the requested variances and asks the Board to approve the application.

Very truly yours,

NEW WINDSOR MALL

BY:  8/29/96
 Frederick J. Kass
 President

**PREVIOUS
DOCUMENT
IN POOR
ORIGINAL
CONDITION**

REF -
9/9/96

454 Riley Road
New Windsor, NY 12553
August 29, 1996

Town of New Windsor
Zoning Board of Appeals
Town Hall
555 Union Avenue
New Windsor, NY 12553

Re: Application of Rosenbaum Industries, Inc.
for Area Variances
Premises: 389 Route 32
65-2-16.1
Appeal #40

Dear Board Members:

I am the owner of premises which adjoin the Rosenbaum premises to the east and to the north. My premises are the adjoining premises which are the closest to the garage/shed and fence which are the subject of the variances described above.

Please be advised that I have no objection to the requested variances and ask the Board to approve the application.

Very truly yours,



Vincent Sorbello

Prelim.
Aug. 12, 1996.
#96-40.

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

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: JUNE 12, 1996

APPLICANT: RICHARD ERNENWEIN
P.O. BOX 428
VAILS GATE, N.Y. 12584

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED: JUNE 12, 1996

FOR (BUILDING PERMIT): 1383

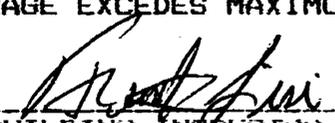
LOCATED AT: 389 ROUTE 32

ZONE: C

DESCRIPTION OF EXISTING SITE: SECTION: 65, BLOCK: 2, LOT: 16.1
EXISTING RETAIL STORE, FORMER ROSENBAUM

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

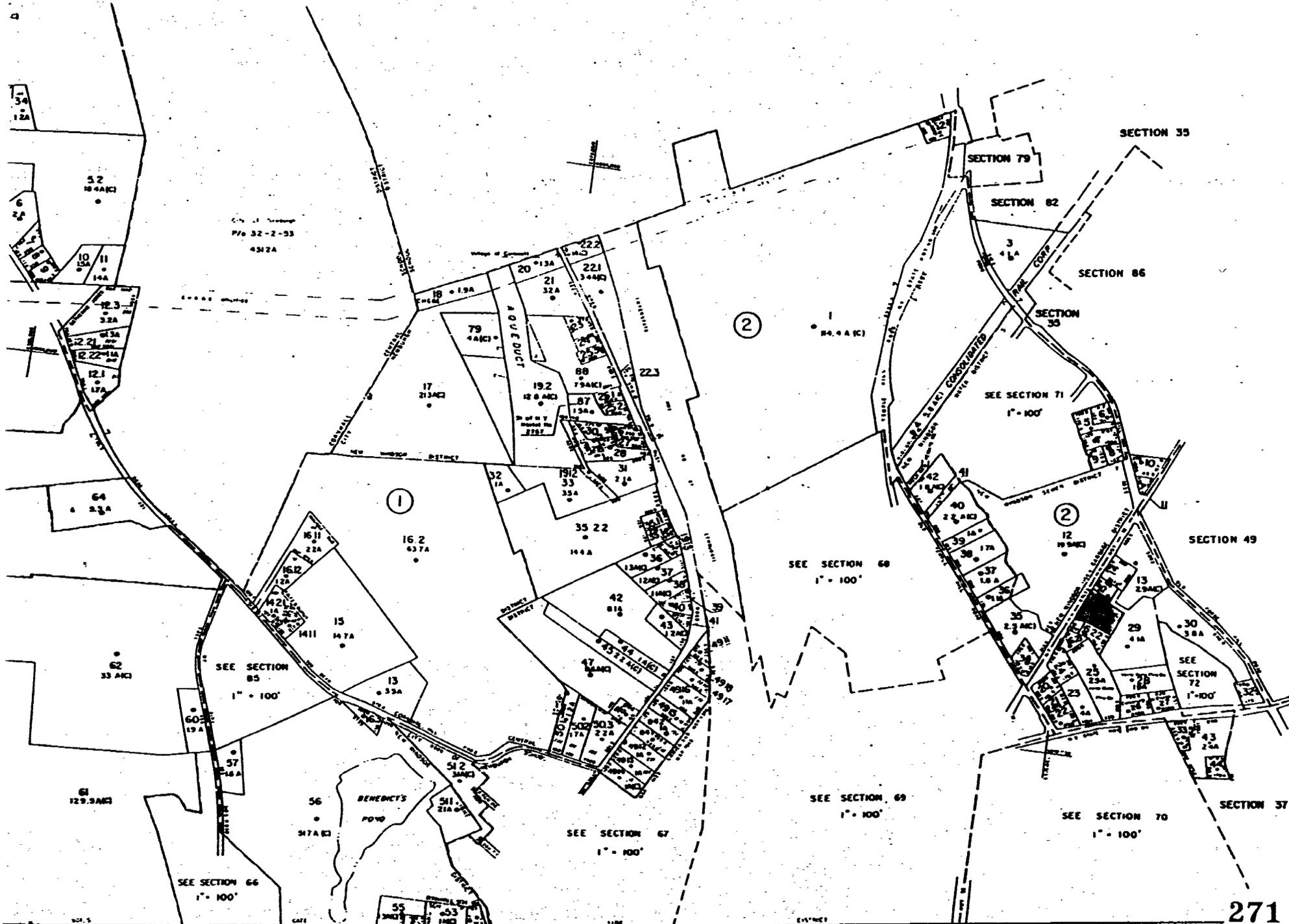
1. EXISTING GARAGE, BUILDING PERMIT #1383, ISSUED NOVEMBER 22, 1976 IS CLOSER THAN MINIMUM 10FT. SET-BACK.
2. EXISTING 8FT. FENCE AROUND EXISTING GARAGE EXCEEDS MAXIMUM 6FT. HEIGHT.


BUILDING INSPECTOR

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE: C	USE 48-14 A(1)(B) (SHED) 48-14 C-1 (D) (FENCE)	
REQ'D REAR YD. (SHED)	10FT.	5FT.
MAX. BLDG. HT. (FENCE)	6FT.	8FT.

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

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



TOWN 54 OF 52 CORNWALL
ORANGE COUNTY-NEW YORK

PLAT NO. AND DATE	TAX MAP BLOCK NO.	PLAT NO. AND DATE
100-100	37	100-100
100-100	37	100-100
100-100	37	100-100

Photo No. 12-15, 7-3-95 Date of Map 7-25-97

TOWN OF NEW WINDSOR

Section No. 69

1033-211

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

SEP 1990 PG 808

CORRECT

THIS INDENTURE, made the 30 day of ~~July~~ ^{Aug}, nineteen hundred and seventy-four

BETWEEN

HAROLD J. ADAMS and VERONICA ADAMS, residing at Box 505 (no street or number), Maybrook, New York

(H)

party of the first part, and

ROSENAUM INDUSTRIES, INC., a domestic corporation having its principal place of business at 26 Liberty Street, Newburgh, New York

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

TEN and no/100 (\$10.00)----- dollars, and other good and valuable consideration paid lawful money of the United States.

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected situate, lying and being in the Town of New Windsor, Orange County, New York, bounded and described as follows:

BEGINNING at an iron pipe set on the easterly line of Route 32, State Highway #9033 known as "Windsor Highway", said point being S41°24'20"W 150.20' and S38°17'40"W 154.50' from a stone monument found on the easterly line of said highway; thence leaving said highway in an easterly direction and along the southerly line of lands now or formerly of Checkerboard Properties Inc. S51°42'20"E 160.00' to an iron pipe set at the southeasterly corner of lands now or formerly of Checkerboard Properties Inc.; thence S38°17'40"W 30.00' along lands of the Grantor to an iron pipe set; thence S51°42'20"E 147.92' along lands of the Grantor to an iron pipe set; thence continuing through lands of the Grantor on the next four (4) courses:

- (1) S38°17'40"W 191.91' to an iron pipe set;
- (2) N51°42'20"W 117.21' to a railroad spike set;
- (3) N58°49'30"W 139.21' to an iron pipe set;
- (4) N74°00'37"W 56.82' to a railroad spike set in the easterly line of aforesaid highway; thence along the easterly line of said highway N38°17'40"E 260.73' to the point or place of beginning; containing 1.52 acres of land, more or less. X

Together with a right-of-way for purposes of ingress and egress over lands of the Grantor, being a strip of land twenty-five (25') feet in width, running along the southerly bounds of the above described parcel, more particularly described as follows:

BEGINNING at a railroad spike set on the easterly line of Route 32, State Highway #9033 known as "Windsor Highway", and also being at the southwesterly corner of above described parcel; thence leaving easterly line of said highway in an easterly direction through lands of the Grantor and along the southerly line of the above described parcel the next three (3) courses:

- (1) S74°00'37"E 56.82' to an iron pipe set;
- (2) S58°49'30"E 139.21' to a railroad spike set;
- (3) S51°42'20"E 117.21' to an iron pipe set at the southeasterly corner of the above described parcel; thence continuing through lands of the Grantor the next four (4) courses:

RIGHT
OF
WAY



(1) S38°17'40"W 25.00';
(2) N51°42'20"W 115.65';
(3) N58°49'30"W 134.32';
(4) N74°00'37"W 63.75' to a point in the easterly line of the afore-
said highway, thence along the easterly line of said highway N38°17'40"
E 27.02' to the point or place of beginning. †

RESERVING, however, unto the Grantor^stheirheirs, successors and assigns a right-of-way for the purpose of ingress and egress to other lands of the Grantors and subject to a permanent easement as described in a deed from Harold J. Adams to Checkerboard Properties Inc. over lands described as follows:

BEGINNING at an iron pipe set on the easterly line of Route 32, State Highway #9033 known as "Windsor Highway" also said point being at the southwesterly corner of lands now or formerly of Checkerboard Properties Inc.; thence leaving said highway in an easterly direction and along the southerly line of lands now or formerly of Checkerboard Properties Inc. S51°42'20"E 160.00' to an iron pipe set at the southeast corner of said land now or formerly of Checkerboard Properties Inc.; thence through lands of the Grantor S38°17'40"W 30.00' to an iron pipe set; thence continuing through lands of the Grantor N51°42'20"W 160.00' to a point in the easterly line of said State Highway; thence along the easterly line of said highway N38°17'40"E 30.00' to the point or place of beginning.

RESERVING, however, unto the Grantor^stheirheirs, successors and assigns, an easement and right-of-way for purposes of ingress and egress in the first above described parcel, being a strip of land twenty-five (25') feet in width, more particularly described as follows:

BEGINNING at a railroad spike set on the easterly line of Route 32, State Highway #9033 known as "Windsor Highway" and at the southwest corner of above described parcel, thence along the easterly line of said highway N38°17'40"E 27.02' to a P.K. nail set; thence leaving said highway in an easterly direction and through lands of the Grantor the next three (3) courses:

(1) S74°00'37"E 49.89' to a P.K. nail set;
(2) S58°49'30"E 144.10' to a P.K. nail set;
(3) S51°42'20"E 118.77' to an iron pipe set in the easterly line of the above described parcel; thence along said line and still through lands of the Grantor S38°17'40"W 25.00' to an iron pipe set; thence still through lands of the Grantor and along the southerly line of the above described parcel the next three (3) courses:

- (1) N 51°42'20"W 117.21' to a railroad spike set;
- (2) N53°49'30"W 139.21' to an iron pipe set;
- (3) N74°00'37"W 56.82' to the point or place of beginning.

SUBJECT TO covenants, easements, and other interests of record.

This is a correction deed and is intended to more accurately describe the premises which were conveyed by Harold J. Adams and Veronica Adams to Rosenbaum Industries, Inc. by a deed dated April 9, 1974 and recorded in the Office of the Clerk of the County of Orange in Liber. ~~1175~~ *page 10*

1974 138

LIBER 1990 pg 800

LIBER 1890 PG 810

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

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

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Harold J. Adams
HAROLD J. ADAMS

Veronica Adams
VERONICA ADAMS

On the _____ day of August 1974, before me
personally came

HAROLD J. ADAMS

is known to be the individual described in and who
executed the foregoing instrument, and acknowledged that
he executed the same.



ANTHONY X. SCHUSSHEIM
Notary Public, State of New York
Qualified in Orange County
Orange County No. 541
Com. Expires March 30, 1975

STATE OF NEW YORK, COUNTY OF _____

ss:

On the _____ day of _____ 19____, before me
personally came
to me known, who, being by me duly sworn, did depose and
say that he resides at No. _____

that he is the
of _____

_____, the corporation described
in and which executed the foregoing instrument; that he
knows the seal of said corporation; that the seal affixed
to said instrument is such corporate seal; that it was so
affixed by order of the board of directors of said corpora-
tion, and that he signed his name thereto by like order.

On the 18th day of September 1974, before me
personally came

VERONICA ADAMS

is to me known to be the individual described in and who
executed the foregoing instrument, and acknowledged that
she executed the same.



ANTHONY X. SCHUSSHEIM
Notary Public, State of New York
Qualified in Orange County
Orange County No. 541
Com. Expires March 30, 1975

STATE OF NEW YORK, COUNTY OF _____

ss:

On the _____ day of _____ 19____, before me
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of _____

_____, the corporation described
in and which executed the foregoing instrument; that he
knows the seal of said corporation; that the seal affixed
to said instrument is such corporate seal; that it was so
affixed by order of the board of directors of said corpora-
tion, and that he signed his name thereto by like order.

Correction

Bargain and Sale Deed
WITH COVENANT AGAINST GRANTOR'S ACTS

E NO.

HAROLD J. ADAMS and
VERONICA ADAMS
TO

OSENBAUM INDUSTRIES INC.

SECTION
BLOCK
LOT
COUNTY OR TOWN

FR

Recorded At Request of The Title Guarantee Company
RETURN BY MAIL TO:

STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWRITERS
Distributed by
THE TITLE GUARANTEE COMPANY



PCR
~~MILTON M. SCHUSSHEIM~~
~~2 MOUNTAIN AVENUE~~
~~HIGHLAND PARK, N. Y. 10028~~
Zip No.

cls

Greenblatt & Newman P.C.
P.O. Box 3275
Newburgh, NY

Orange County Clerk's Office, S.S.
Recorded on the *27th* day of *Sept* 19*78* at *3:15*
Book *1990* Page *811* Liber *1998*
Deeds at page *808*
Filed Exempted
E. N. Winter

ORANGE COUNTY
15100
REAL ESTATE TRANSFER TAX STATE OF NEW YORK
SEP 27 1978
00.00
C.H.W.

L2ER1990 PG 811

**PREVIOUS
DOCUMENTS
IN POOR
ORIGINAL
CONDITION**

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

40-96

Date: August 27, 1996

- I. Applicant Information: Big V Plaza, Route 32, P.O. Box 428, Vails Gate
- (a) Rosenbaum Industries, Inc., New York 12584 (914) 561-1310
(Name, address and phone of Applicant) (Owner)
- (b) _____
(Name, address and phone of purchaser or lessee)
- (c) Northrop, Stradar & Glenn, P.C. (Stewart P. Glenn, Esq.), One Corwin Court,
(Name, address and phone of attorney) Newburgh, NY 12550 (914) 561-8000
- (d) _____
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- Use Variance Sign Variance
- Area Variance Interpretation

III. Property Information:

- (a) C 389 Route 32 65-2-16.1 1.5 acres
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? none
- (c) Is a pending sale or lease subject to ZBA approval of this application? yes
- (d) When was property purchased by present owner? 1974
- (e) Has property been subdivided previously? no
- (f) Has property been subject of variance previously? yes
If so, when? 1995 (#95-60)
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? no
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: no
- _____

IV. Use Variance. N/A

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

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

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

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

V. Area variance:

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

48-14 A(1)[b]
48-14 C-1(d)

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. <u>10 ft.</u>	<u>5 ft.</u>	<u>5 ft.</u>
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____
Fence Height <u>6ft.</u>	<u>8 ft.</u>	<u>2 ft.</u>

* Residential Districts only
** No-residential districts only

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

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created.

Describe why you believe the ZBA should grant your application for an area variance:

(see attached)

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

VI. Sign Variance:

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

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

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

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

VII. Interpretation.

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

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

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

IX. Attachments required:

- Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- Copy of tax map showing adjacent properties.
- N/A Copy of contract of sale, lease or franchise agreement.
- Copy of deed and title policy.
- Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- N/A Copy(ies) of sign(s) with dimensions and location.
- Two (2) checks, one in the amount of \$ 150 and the second check in the amount of \$ 500, each payable to the TOWN OF NEW WINDSOR.
- Photographs of existing premises from several angles.

X. Affidavit.

Date: August 27, 1996

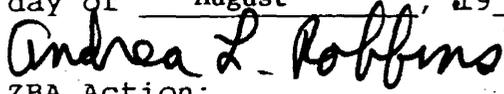
STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

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


_____, Vice President
(Applicant)
Richard Ernenwein

Sworn to before me this

27th day of August, 1996.



XI. ZBA Action:

(a) Public Hearing date: _____

ANDREA L. ROBBINS
Notary Public, State of New York
No. 4985121
Qualified in Orange County
My Commission Expires April 16, 1998

(b) Variance: Granted (___) Denied (___)

(c) Restrictions or conditions: _____

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

Paragraph V(b) cont'd

Applicant, Rosenbaum Industries, Inc., is under contract to sell premises 389 Windsor Highway. Subsequent to closing, the Purchaser intends to make structural changes to the premises in order to utilize the building for medical and dental clinics. This Board received and approved an application from Rosenbaum Industries, Inc. and Dr. Moe Stern requesting certain variances (#95-60) to complete the project and bring new business to the community. Purchaser, upon seeking a copy of the Certificate of Occupancy discovered that the garage/shed on the rear corner of the premises did not meet the 10 foot rear line set back or the 6 foot fence height requirements of the zoning ordinance. Seller had hired a reputable contractor to construct the garage/shed in 1976 (to include contractor providing all municipal approvals). When the garage/shed was constructed, as far as Seller was aware, everything was in order. Purchaser has advised Seller that it is necessary that the garage/shed remain in its present location in order to close title. The location of the shed and the height of the fence, both of which have been in place for 20 years, has not been a detriment to the health, safety and welfare of the neighborhood or community. Applicant seeks the minimum variance needed. Applicant respectfully submits that the benefit to both the applicant and the community will be substantial if the variance is granted as weighed against the negligible effect on the neighborhood and community.

The granting of the requested area variance will not make any undesirable change to the character of the neighborhood or a detriment to nearby properties since such has been in place for the past 20 years with no adverse effect. The granting of minimal area variances is the only feasible avenue for applicant to allow closing of title and bringing this commercial project to the Town of New Windsor.

The requested area variances are not substantial.

The proposed area variances will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district since the garage/shed with fence have been in place for 20 years creating no problem or impact.

While the practical difficulties which applicant has respecting location of the garage/shed with fence are in part self-created since these items were erected during applicant's ownership of the premises, applicant, through its contractor, attempted to erect these structures in accordance with municipal regulations, believed that such had been done and submits that such minor variations from the zoning ordinance should be granted to allow construction of a project which will be in the best interest of the citizens of the community.

The interest of justice will be served by granting the requested minor area variances.



TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

19

.1763

August 9, 1996

Stewart P. Glenn, Esq.
Northrop, Stroder & Glenn, P.C.
Rosenbaum Industries, Inc.
Route 32
New Windsor, NY 12553

Re: Tax Map Parcel: 65-2-16.1
Owner: Rosenbaum Industries, Inc.

Dear Mr. Glenn:

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

The charge for this service is \$35.00, minus your deposit of \$25.00, leaves a balance due of \$10.00.

Sincerely,

LESLIE COOK
Sole Assessor

/cad
Attachments



Bila Family Partnership
158 N. Main St.
Florida, NY 10921

Kass, Frederick J. & Madison, Samuel & Audrey
367 Windsor Hwy.
New Windsor, NY 12553

Walter Kroposki Living Trust & Kroposki, Amelia
Quaker Hill Rd., Box 731
Monroe, NY 10950

Dedominicis, Antonio & Giacinta
377 Windsor Hwy.
New Windsor, NY 12553

Daidone, Charles T. & Rose M.
250-260 Temple Hill Rd.
New Windsor, NY 12553

Norstar Bank of Upstate N.Y.
Facilities Management
P.O. Box 911
Newburgh, NY 12550

Mans Brother Realty Inc.
PO Box 247
Vails Gate, NY 12584

Shedden, Joan A.
Box 608A
Vails Gate, NY 12584

Aquino, John J. & Gregory Mellick
c/o Gregory Mellick
135 W. Nyack Rd.
Nanuet, NY 10954

The Vails Gate Fire Company
PO Box 101
Vails Gate, NY 12584

Vails Gate Methodist Cemetery
PO Box 37
Vails Gate, NY 12584

Sorbello, Bouyea, King
c/o Robert K. Bouyea
505 North Riverside Rd.
Highland, NY 12528

Tower Management Financing Partnership LP
680 Kinderkamack Rd.
River Edge, NJ 07661

Albany Savings Bank
94 Broadway
Newburgh, NY 12550

Rosenberg, William & Viola
c/o Big V Supermarket Inc.
176 No. Main St.
Florida, NY 10921

Kelly, Katherine
Box 38
Vails Gate, NY 12584

STP/JMK Properties, Inc.
298 Forge Hill Rd.
New Windsor, NY 12553

STP/JMK Properties, Inc.
300 Forge Hill Rd.
New Windsor, NY 12553

Kingswood Gardens Condo
Mr. Bill Slack
Chairman of the Board of Directors
810 Blooming Grove Tpke., Unit 114
New Windsor, NY 12553

ERNENWEIN

MR. GLENN: I'm Stewart Glenn from the Northrop, Stradar and Glenn, attorneys in Newburgh. The proposed variance from the applicants which is Rosenbaum Industries. This has to do with 389 Route 32, which is Section 65, Block 2 Lot 16.1 located in the C zone which is the Rosenbaum building. They moved their business across the street.

The applicant is here because of a notice of disapproval as issued by the building inspector who advised the applicant that it would be necessary to obtain two area variances for the shed and garage, the shed/garage in the rear of the property.

The applicant bought this, bought the property in 1974 and conducted the Rosenbaum's business at the site. They put up the shed in 1976. At that time they hired the Brescia Lumber Company people to erect it. And by the contract they were to obtain, the Brescia people were to obtain the necessary permits and so forth. They obtained the building permit and they erected the shed. As far as the applicant knew everything was fine.

As I mention now the business is located across Route 32 and the building is under contract of sale. The purchaser obtained the survey in order to CO as part of the sale. And the problem was discovered that the shed is within ten feet of the rear line and around the shed is a fence which is eight feet tall. That's what brings us to the problem.

The Route 32 existing building and the problem is the shed in the rear here which is about five feet off the line rather than the ten. It's okay to the north side.

MR. TORLEY: Is that an eight foot chain link fence around it?

MR. GLENN: Yes. So the variances needed would be a five foot area variance for the rear yard setback and two feet of fence. I spoke with Mr. Krieger about the application, he referred me to the board secretary, Ms. Barnhart, and she provided me with the data so we can make an

application for this. She told me we could be on for a preliminary tonight. Obviously the applicant has practical difficulties with this. The one adjoiner that is affected the most is a Mr. Sorbel, whose property goes actually, wraps around both sides of this. He has indicated to the applicant that he has no problem with this variance and by the public hearing we would expect to have a writing to that effect. But, he doesn't have any problem. A little further back here is a stream. So it's doubtful that anything could be erected between the stream and this property anyway. This is a rather large piece of property. But I don't think there would be much you could do with it here.

MR. LANGANKE: Excuse me, what is the fence constructed of?

MR. GLENN: I believe it's a chain link fence.

MR. LANGANKE: Eight feet tall.

MR. GLENN: That's what the building inspector said. Obviously we'll bring pictures of this and this is basically an open area back here. It's paved in the front where they have the retail business before. I think a couple of things that would be a good reason to leave the shed here is that if it's necessary to have more off street parking in the future there's room for it here. Also, with any kind of retail business there's going to be deliveries and allow the trucks to maneuver back here and not be out by the road where it would be more dangerous. Also if they had to move the building they would have to move the fence and whatever pad it was sitting on. So based on those practical difficulties we would ask the board to set this down for a public hearing and give us an opportunity.

MR. TORLEY: Mike, one technical question, are we requesting the right variance for the building height for a fence?

MR. BABCOCK: Allowed is a six foot fence

anywhere on the property line. Anything in excess of six foot must be ten foot off the property line. Therefore, that's the problem.

MR. TORLEY: I just wanted to make sure we had the right letters for them.

MR. KRIEGER: Six foot anywhere, side yards or back yard. You are not allowed six foot in the front.

MR. BABCOCK: That's correct.

MR. GLENN: Something about four feet in the front.

MR. KRIEGER: Four feet in the front and six feet anywhere else. Ten feet behind the property line you can have any kind of damn fence you want to.

MR. BABCOCK: That's correct.

MR. TORLEY: Gentlemen?

MR. LANGANKE: I don't have any more questions.

MR. TORLEY: I will entertain a motion on this?

MR. LANGANKE: I make a motion that we set the applicant up for the earliest possible public hearing.

MR. REIS: Second.

MR. TORLEY: Roll call, please.

ROLL CALL:

MR. REIS: Aye.

MR. LANGANKE: Aye.

MR. CANE: Aye.

MR. TORLEY: Aye.

MR. TORLEY: Motion carried four ayes. I'm asking for Ms. Claudine Annicet. (no response)



TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

1763

August 9, 1996

Stewart P. Glenn, Esq.
Northrop, Stroder & Glenn, P.C.
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Route 32
New Windsor, NY 12553

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The charge for this service is \$35.00, minus your deposit of \$25.00, leaves a balance due of \$10.00.

Sincerely,

LESLIE COOK
Sole Assessor

/cad
Attachments

cc: Patricia A. Barnhart, ZBA

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