

ZB# 99-51

Dominick Scaglione

35-1-70

Prelim.

Nov. 22, 1999.

Pro. Sec. SEC. - 30/4 Nov.
Resp. Respond.

Cks. Photos / Deed

Public Hearing:

Feb. 14, 2000

Granted Use
Variance

Refund:

\$162.50

99-51 - Scaglione, Domenico

Use - 35-1-70



1
(

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Scaglione, Dan

FILE# 99-51

RESIDENTIAL: \$50.00
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA

USE X

APPLICATION FOR VARIANCE FEE \$ 50.00

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 300.00

DISBURSEMENTS:

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING-PER PAGE	<u>11/22/99-5</u>	\$ <u>22.50</u>
2ND PRELIMINARY- PER PAGE	<u>2/14/00-10</u>	\$ <u>45.00</u>
3RD PRELIMINARY- PER PAGE		\$ <u> </u>
PUBLIC HEARING - PER PAGE		\$ <u> </u>
PUBLIC HEARING (CONT'D) PER PAGE		\$ <u> </u>
TOTAL		\$ <u>67.50</u>

ATTORNEY'S FEES: \$35.00 PER MEEETING

PRELIM. MEETING:	<u>11/22/99</u>	\$ <u>35.00</u>
2ND PRELIM.	<u>2/14/00</u>	\$ <u>35.00</u>
3RD PRELIM.		\$ <u> </u>
PUBLIC HEARING		\$ <u> </u>
PUBLIC HEARING (CONT'D)		\$ <u> </u>
TOTAL		\$ <u>70.00</u>

MISC. CHARGES:

..... \$
TOTAL \$ 137.50

LESS ESCROW DEPOSIT \$ 300.00
(ADDL. CHARGES DUE) \$
REFUND DUE TO APPLICANT . \$ 162.50

GIROLAMA SCAGLIONE
 DOMINICK SCAGLIONE
 371 TEMPLE HILL RD.
 NEW WINDSOR, NY 12553

507
 Date 2-10-2000 29-7003/2213
 469

Pay to the
 Order of TOWN NEW WINDSOR \$ 50.00

Handwritten: Fifty and 00/100

ALBANK
 A Division of Central One Bank

For \$99-51 ZBA *Girolama Scaglione*

⑆ 221370030⑆ ⑆ 4690013539 ⑆ 0507

GIROLAMA SCAGLIONE
 DOMINICK SCAGLIONE
 371 TEMPLE HILL RD.
 NEW WINDSOR, NY 12553

508
 DATE 2-10-2000 29-7003/2213
 469

PAY TO THE
 ORDER OF TOWN NEW WINDSOR \$ 300.00

Handwritten: Three hundred and 00/100

ALBANK
 A Division of Central One Bank

FOR \$99-51 ZBA *Girolama Scaglione*

⑆ 221370030⑆ ⑆ 4690013539 ⑆ 0508

Town of New Windsor
555 Union Avenue
New Windsor, NY 12553
(814) 583-4811

RECEIPT
#83-2000

02/10/2000

Scaglione, Dominick

Received \$ 50.00 for Zoning Board Fees, on 02/10/2000. Thank you for stopping by the Town Clerk's office.

As always, it is our pleasure to serve you.

Dorothy H. Hansen
Town Clerk

Clk # 507

99-51 Z.B.A.

-----x

In the Matter of the Application of

DOMINICK SCAGLIONE

**MEMORANDUM OF
DECISION GRANTING
USE VARIANCE**

#99-51.

-----x

WHEREAS, DOMINICK SCAGLIONE, residing at 241 Temple Hill Road, New Windsor, New York, N. Y. 12553, has made application before the Zoning Board of Appeals for a use variance to allow a single-family residential dwelling on Temple Hill Road at the Causeway in a PI zone; and

WHEREAS, a public hearing was held on the 14th day of February, 1999 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant and Gerald Zimmerman, P.E. appeared for this Application; and

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

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

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

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

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

2. The evidence presented by the Applicant showed that:

(a) The property is a proposed residential subdivision located in a PI zone but the property is directly adjacent to an R-4 zoning district and the properties surrounding the Applicant's property are all occupied by single-family residential dwellings.

(b) The property is approximately one acre in size and is too small to fit under any of the allowed uses for a PI zone.

(c) The property is served by municipal water and sewer.

(d) The property is proposed to be split into three residential lots. There is an existing one-family dwelling on one of the lots making 30,000 plus or minus square feet of area available for development.

(e) If developed in the manner the Applicant suggests, the property will not increase the drainage or water runoff in the surrounding areas because it would flow away from Route 300 and onto the Town road, Fischer Lane, which has adequate facilities to handle the drainage.

(f) The Applicant understands that if the variance which he seeks is granted, this Application would still be subject to Planning Board review at which time a full SEQRA review will be had there.

(g) The Applicant has owned the property in excess of 23 years.

(h) Based on the short form assessment filed and the Board members' familiarity with the property, it appears that this property if developed in the manner requested by the Applicant will have no effect on the environment.

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 Applicant cannot realize a reasonable return on the property absent the variance because it is not usable for any allowed use in that zone. It therefore has no value.
2. The alleged hardship relating to the property in question is unique because of its location surrounded by one-family residential homes and its size.
3. The requested use variance, if granted, will not alter the essential character of the neighborhood.
4. The alleged hardship has not been self-created.
5. The application for a use variance is granted.

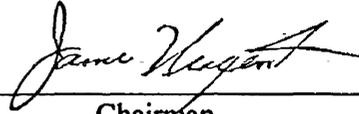
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a use variance to allow construction of a single-family residence in a PI zone, at the above location, in an PI 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: April 24, 2000.

A handwritten signature in cursive script, appearing to read "James W. Huggins", is written above a horizontal line.

Chairman

PUBLIC HEARINGS:

SCAGLIONE, DOMINICK

MR. TORLEY: Request for use variance to allow single-family residential dwelling in a PI zone at Temple Hill Road and Causeway.

Gerald Zimmerman, ^{P.E.} ~~EAF~~ and Mr. Dominick Scaglione appeared before the board for this proposal.

MR. TORLEY: Is anyone in the audience besides the applicants? Let the record show no one is in the audience this evening.

MS. BARNHART: Also, for the record, there were notices that went out on February 2, there was ten notices that went out to adjacent property owners within 500 feet.

MR. TORLEY: Only ten, you were lucky.

MR. SCAGLIONE: I'm lucky.

MR. KRIEGER: Pat, was a short form EAF filed?

MS. BARNHART: Yes.

MR. KRIEGER: You have to get an environmental determination with respect to use variances.

MS. BARNHART: Yes, it's right here.

MR. ZIMMERMAN: The applicant's property is as the board was aware is located at the intersection of Fischer Lane or the Causeway and Route 300. The lot size is one acre in its entirety and Mr. Scaglione has a house on the property. Do you have maps?

MR. REIS: No.

MR. ZIMMERMAN: And the property is one acre in size and it's located in the PI zoning district. The applicant would like to subdivide the property as the plan shows into three lots for residential purposes, but because of the location of the property being in

the PI zoning district, residential use is not permitted. Basically, if the applicant were to try to develop this property in conformity with the PI zoning district, none of the bulk requirements that are outlined in your zoning law would permit him to develop the property for any of the uses that are specified in the zoning law. So, therefore, he couldn't do further development or any development in conformity with the current zoning. So, that's the hardship that he currently faces in not being able to do any further development of his property because of its location and being in the PI zone. Additionally, the surrounding properties well before that, what he would like to do as the map reflects in the subdivision is to work with the R-4 zoning district which is the zone which is directly to the east or across Temple Hill Road, the property right across is the vicinity map shows is R-4. Additionally, the surrounding properties around his own lot are all single family dwellings and so if the board would allow this type of variance, the further development would be in conformity with the surrounding area.

MR. TORLEY: Fischer Lane is a paper road or does it actually exist?

MR. ZIMMERMAN: It's an existing road.

MR. BABCOCK: It's a Town road.

MR. TORLEY: And across Fischer Lane is the Cantonment, right?

MR. BABCOCK: Yes.

MR. ZIMMERMAN: Yes.

MR. TORLEY: Has there been any information or letters from the Cantonment in response?

MS. BARNHART: We haven't received any response at all to any of the letters we sent out.

MR. REIS: You have water and sewer on Fischer Lane?

MR. ZIMMERMAN: Yes.

MR. KRIEGER: If a variance were granted by the zoning board, you would still need subdivision approval from the planning board?

MR. ZIMMERMAN: Right, yes.

MR. TORLEY: And you would also, appears to require short form has been filed, but it's not particularly useful at the moment, you also would be requiring a rear yard variance for the existing house?

MR. ZIMMERMAN: The rear yard requirement is 40 feet. I believe I have 30 or 35 on the plan. I think we can move this line cause the area is, 15,000 is the minimum, so I think we do have a little bit of a play in terms of moving those lot lines.

MR. TORLEY: I think you have to add adjust your lot lines for that.

MR. ZIMMERMAN: If it's appropriate, I believe while we're here before the board, if they would consider that a variance for rear yard if necessary, if not more than ten feet requirement of the 30 feet.

MR. TORLEY: First step would be the use variance, gentlemen. Any questions?

MR. KANE: Yeah, on the use variance itself, according to state law, you need to show to us in nickels and dimes in dollars that proving that he can't get a reasonable return on this rate. So far, you haven't mentioned that at all. See what they want us by law you have to show us that you can't sell this property for the use as it is right now for whatever and let's say even if it is at a loss, they don't say reasonable return as a profit, but you have to present that in a dollar and cents presentation to us. That's something for the record. That's something we need to see or is there such an extenuating circumstance because of where it is and where it is that it's state is tough.

MR. KRIEGER: You're right, but he touched on it when

he talked about it not being of such a size that it could be used for any use permissible for this zone, so in essence, he's already put in other words it has zero value for any of the permitted uses.

MR. TORLEY: Well, I'm not, when you say that this particular piece of property which is overall is about 45,000, 46,000 square feet, even though it would require an area variance for a PI use, have you shown, have you tried selling this as a PI use?

MR. ZIMMERMAN: No.

MR. KANE: Would it conform with any of the uses that are under PI right now, not as a single family cause it's not allowed but any of the other uses?

MR. TORLEY: Any use would require an area variance.

MR. KANE: It's not big enough but that's something we need to get in the record.

MR. ZIMMERMAN: The uses that are outlined in the PI zone require 80,000 square feet which is double the size, five acres, ten acres, there are two uses where they talk of 40,000 square feet, but the bulk of the other parts of the bulk requirement are lot width of 150 feet, where this property is 129 feet.

MR. KANE: What was the use of that?

MR. ZIMMERMAN: That use, raising of field and garden crops, breeding animals.

MR. KANE: Really not feasible. We're trying to get all this into the record so we have covered every base, it's an unusual situation, but we need to cover the bases.

MR. ZIMMERMAN: So, the uses that are outlined in the PI are first of all many can't fit within this on the one acre and anything that comes close to it the uses are so different from the surrounding area.

MR. TORLEY: Well, let's go through this a little bit.

I'm looking at the bulk table, Part 1 uses permitted by right, the first six uses require minimum lot area of 40,000 square feet, minimum lot width of 150 and your lot is not quite.

MR. ZIMMERMAN: It's 129.

MR. TORLEY: Those would include professional business, executive, administrative, medical and veterinarian, businesses which combine the office space with warehouse businesses, combine office space and research, laboratories, assembly, manufacturing, electronic or electric components. So--

MR. KANE: So, even if you decided to split off the property and not build single family homes, you would be keeping 15,000 square feet for your own home and it would be 30,000 square feet that you were looking to sell to put a business on which would even make the numbers worse than they are right now?

MR. ZIMMERMAN: Right.

MR. REIS: Has this property ever been on the market?

MR. SCAGLIONE: No, never, hasn't been since I got it, so I don't know.

MR. TORLEY: We need an opinion from our lawyer on this, Andy, as a law required that the property as it exists now not as subdivided but as it exists now could not be sold for any--

MR. KRIEGER: Could not realize a substantial reasonable return.

MR. TORLEY: As the property exists now, it would require an area, a lot frontage variance for any use even if it's like a veterinarian's office or something like that?

MR. KRIEGER: Yes.

MR. TORLEY: And the property has never been offered for any sale or evaluation as PI?

MR. ZIMMERMAN: That's correct.

MR. KRIEGER: What's around the property?

MR. BABCOCK: All single family homes.

MR. KANE: The area doesn't--

MS. BARNHART: It's residential.

MR. TORLEY: I don't know why it's zoned PI.

MR. SCAGLIONE: It's more residential than PI, that particular area.

MR. BABCOCK: That's why there's nobody here cause they know he wants to do residential.

MS. BARNHART: It's a higher use.

MR. KANE: I just want to make sure for the record we're covering every base.

MR. KRIEGER: Let me say a use variance is relatively unusual, so let me just say to the board the review that this board does is for its own purposes only. When they, if they are successful in getting a variance, they'll have to go to the planning board. The planning board will then coordinate with lead agencies and do a, do their own review and will encompass others. The public hearing here will do, will suffice for both purposes and when you get ready to vote, there are certain SEQRA steps that have to be taken before you can have a final vote and they include, first of all, you have to decide what, whether this is going to have a possible impact on the environment or no impact which would be a so-called negative declaration, negative dec.

MR. REIS: Probably less of an impact with what we're trying to accomplish.

MR. KRIEGER: Right, and you have to put something on the record to justify your decision with regard to

that. Then once a negative dec is declared, then you can close out the SEQRA process and then you can go ahead and vote on the application itself.

MR. TORLEY: So, the first step would be the environmental assessment?

MR. KRIEGER: Yeah, well, just deciding, considering those questions for the board to consider its environmental impact, if any, and then to vote on whether it is a, you have three choices, either has a positive declaration or what's called a conditioned negative declaration, which is in plain English maybe or a negative dec which means that it's no environmental impact and in the case of the first two, there are further steps that have to be taken. In the case of the third step, that would end the SEQRA process, close it out as we call it.

MR. REIS: So what are we requiring the applicant to do at this point?

MR. KRIEGER: What you want to do at this point is simply look at the short form environmental assessment form and ask whatever questions you want to ask about its environmental impact and if you're satisfied that it will not have a--

MR. TORLEY: The obvious things are will these, if you're granted the variances and construct single family homes on these properties, this property, would it lead to increased drainage or runoff in surrounding areas?

MR. ZIMMERMAN: In our opinion, it wouldn't because you know the Fischer Lane which is the Town road would receive whatever impact from drainage that would occur and then, you know, that would flow away from Route 300 so we don't believe that it would.

MR. KANE: Is the land behind the home where you intend to subdivide, is that open or lot of trees that would need to be taken down?

MR. ZIMMERMAN: It's all clear.

MS. BARNHART: Here's the pictures if you want to see it.

MR. KANE: Please.

MR. TORLEY: This area has water and sewer?

MR. SCAGLIONE: Yes and gas, everything is there.

MR. REIS: More woods behind your property, is that right?

MR. SCAGLIONE: No, no, no woods involved right at the edge of the property at the end here on the back, yes.

MR. REIS: This is woods?

MR. SCAGLIONE: Right, just the one row of trees and divide the New Windsor Cantonment and the property, the parking lot of the Cantonment.

MR. TORLEY: Now, since this is a use variance again on public roads and New York State road, sufficient period of time after notification has elapsed?

MS. BARNHART: They are only required ten days notification, they sent their notices out on the second of February and that was more than ten days.

MR. TORLEY: Just for the record.

MS. BARNHART: Right, I already said that.

MR. TORLEY: It's clearly a unique situation, I'm having a little trouble because of the state law regulations regarding the actual showing of lack of possible return as a PI zone, we don't have that.

MR. KANE: I mean, I think they are, I'm comfortable with the way this was done, I'm comfortable with what they have said right now it makes sense and we covered the bases, I wanted to put something in the record that we agreed with that so I'm speaking for myself, I'm comfortable with that.

MR. KRIEGER: Okay, not being able to be used for any permitted use in that zone, it means that by a considerable, it means that it has no value for any of the uses since it couldn't be used, has no value for any of the uses permitted. It's a rather unique situation and that's due to the size of the property. You cannot assume in terms of lack of reasonable return, you can't assume that somebody who bought it would be successful in getting variances. You can't factor the granting of variances into the decision, you pretty much have to take it the way it is and as a matter of fact, somebody buying that uses it for PI zone, considering the character of the neighborhood around it might have more difficulty than it would certainly face the same, no less of a difficulty, so I, in this particular case, I'm comfortable with the proof for the lack of reasonable return because of the unique nature of the property. Has it always been of this dimension when you've owned it?

MR. SCAGLIONE: Yes.

MR. KRIEGER: And how long have you owned it?

MR. SCAGLIONE: Twenty-three years.

MR. KRIEGER: Approximately.

MR. SCAGLIONE: Yeah, more or less, a little bit more than 23 and some. And the last house was built over there was about 12 years ago.

MR. KRIEGER: In the neighborhood around?

MR. SCAGLIONE: Right.

MR. REIS: Mr. Chairman, I'd like to present a motion.

MR. TORLEY: I'd like to split it in two, though.

MR. KANE: We have to do SEQRA first.

MR. TORLEY: Gentlemen, you've had a chance to look at the short form declaration.

MR. KANE: Negative dec.

MR. TORLEY: Motion on that?

MR. KRIEGER: Motion that you declare a negative dec.

MR. KANE: Correct.

MR. REIS: I find it acceptable.

ROLL CALL

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

MR. TORLEY: Now, the second motion granting of the use variance that was requested.

MR. REIS: Make a motion that we grant Mr. Scaglione his request for his use variance for a single family dwelling.

MR. KANE: Second it.

ROLL CALL

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

MR. TORLEY: Now notice this did not include anything for your, for that back yard, so you're going to have to arrange your lot sizes so you meet the other variance.

MR. REIS: Off the record.

(Discussion was held off the record)

Prelim.
Nov. 22, 1999
#99-51

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: 99-28

DATE: 10 NOV 99

APPLICANT: DOMENICO SCAGLIONE
241 TEMPLE HILL RD
NEW WINDSOR N.Y. 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 25 MAR 99

FOR (SUBDIVISION - ~~SIXE PLAN~~)

LOCATED AT TEMPLE HILL RD.

ZONE PI

DESCRIPTION OF EXISTING SITE: SEC: 35 BLOCK: 1 LOT: 70

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

PROPOSED SINGLE-FAMILY USE NOT
PERMITTED IN ZONE.
USE VARIANCE REQUIRED


MARK G. EPSALL, P.E. for
MICHAEL B. COCK,
BUILDING INSPECTOR

<u>REQUIREMENTS</u>	<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE _____ USE _____		
MIN. LOT AREA _____	_____	_____
MIN. LOT WIDTH _____	_____	_____
REQ'D FRONT YD _____	_____	_____
REQ'D SIDE YD. _____	_____	_____
REQ'D TOTAL SIDE YD. _____	_____	_____
REQ'D REAR YD. _____	_____	_____
REQ'D FRONTAGE _____	_____	_____
MAX. BLDG. HT. _____	_____	_____
FLOOR AREA RATIO _____	_____	_____
MIN. LIVABLE AREA _____	_____	_____
DEV. COVERAGE _____ %	_____ %	_____ %
O/S PARKING SPACES _____	_____	_____

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

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

ZBA REFERRALS:

SCAGLIONE, DOMENICO SUBDIVISION (99-28)

Mr. Gerald Zimmerman appeared before the board for this proposal.

MR. PETRO: This application proposes subdivision of 1.05 acre parcel into three single family residential lots. The plan was reviewed on a concept basis only.

MR. ZIMMERMAN: Okay, as the chairman indicated, we're looking to subdivide this lot into three lots, the property's located on Route 300 and Fischer Lane, it's located in the PI, Planned Industrial Zoning District. The property is currently improved by a single family dwelling where Mr. Scaglione who is the applicant resides and what we're proposing to do is to subdivide the property into three lots. The zoning district, the PI zone, as you're aware, doesn't permit single family dwellings. However, the properties that surround this property currently improved by a single family dwellings and just across the road Route 300 is the R-4 zoning district.

MR. LANDER: Mr. Zimmerman, what's right across the street from this location, is that the Cantonment?

MR. ZIMMERMAN: That's behind it is the Cantonment, it's across the street.

MR. PETRO: It's across Fischer Lane, also.

MR. ZIMMERMAN: So, since the properties in the area that it's currently located is primarily residential and the Cantonment surrounds the property, we're interested in or Dominick's interested in subdividing it for residential purposes.

MR. LANDER: This is a town road.

MR. ZIMMERMAN: Fischer Lane's a town road, yes.

MR. LANDER: Dedicated town road?

MR. ZIMMERMAN: Yes.

MR. PETRO: Has anyone contacted Glen Marshall from the New Windsor Historical Society, any information on the lots at all?

MR. SCAGLIONE: No.

MR. PETRO: As far as--

MR. EDSALL: That's going to be something that's going to be very important when the board gets it back from the ZBA and you start your SEQRA review, you'll have to consider that and indicate to them what type of archeological investigations you want to have done. But I think for now, they're just going to the ZBA.

MR. LUCAS: Looking for referral.

MR. EDSALL: So they can get considered for single family.

MR. PETRO: I'd like to instruct them, that's a good point. Let the minutes reflect that Andy Krieger, the Planning Board attorney, has joined us. We're going to need something, you have to address this, Dominick, assuming you go to the zoning board and are successful and come back, but I'd like to have something in the form of a letter from Glen Marshall or someone from New Windsor Historical Society.

MR. EDSALL: It's a Type I action under SEQR so you've got an involved process to go through to properly consider the historical aspects.

MR. PETRO: So it will all be covered.

MR. EDSALL: We've got quite a bit to do when they come back.

MR. PETRO: I'd like to see something from Glen Marshall.

MR. EDSALL: They're going to be listed as an interested agency.

MR. PETRO: Motion to approve.

MR. LUCAS: So moved.

MR. LANDER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Scaglione minor subdivision on Fischer Lane. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. ARGENIO	NO
MR. BRESNAN	NO
MR. LUCAS	NO
MR. LANDER	NO
MR. PETRO	NO

MR. PETRO: At this time, you have been referred to the New Windsor Zoning Board for your necessary variances. If you are successful in receiving those and want to appear before this board once again, you're welcome to do so. Thank you.

VARIANCE FOR BUILDING SIGN, FOR A TOTAL OF 116 S.F. SIGN VARIANCE FOR RESTAURANT LOCATED ON WINDSOR HIGHWAY IN C ZONE.

35-1-59.22 SPEISER-CARLIN AREA VARIANCE DENIED
NW ASSOCS./OFF FORGE HILL RD/RT. 32 #80-13 08/11/80
REQUEST FOR THREE-STORY MULTIPLE DWELLING OF 9 UNITS PER ACRE AND 565 S.F. PER ONE-BEDROOM DWELLING UNIT IN R-5 ZONE. (DENSITY, HEIGHT AND FLOOR AREA REQUESTED).

35-1-70 ZARCONE, PIETRO & JOSEPH USE/AREA VARIANCE DENIED
THE CAUSEWAY #76-15 PI ZONE 09/07/76
REQUEST TO CONVERT RESIDENTIAL DWELLING TO RESTAURANT IN A PI ZONE. SIDE YARD VARIANCE ALSO REQUIRED. PETITION IN OPPOSITION TO APPLICATION WAS RECEIVED FROM APPROXIMATELY 15 ADJACENT RESIDENTS.
02/14/00 – SCAGLIONE, DOMENICO – REQUEST FOR USE VARIANCE GRANTED ON 02/14/00 TO CONSTRUCT A SINGLE-FAMILY DWELLING IN A PI ZONE ON LOT #2 OF A 3-LOT SUBDIVISION.

35-1-81 HANDEL, JAMES W., SR. AREA VARIANCE GRANTED 06/14/99
300 RILEY ROAD #99-16 R-3 ZONE
REQUEST FOR 12 FT. 6 IN. REAR YARD VARIANCE FOR EXISTING DECK AT ABOVE RESIDENCE.

35-1-86.1 ANDERSON, HERBERT AREA VARIANCE GRANTED
267 RILEY ROAD R-3 ZONE #93-40 11/08/93
REQUEST FOR VARIANCE TO PERMIT AN EXISTING GARAGE TO PROJECT NEARER TO THE STREET ON WHICH THE PRINCIPAL BUILDING FRONTS THAN SUCH PRINCIPAL BUILDING, CONTRARY TO PROVISIONS OF SEC. 48-14A(4) OF THE SUPP. YARD REGS., AND FOR A 13 FT. 8 IN. FRONT YARD VARIANCE FOR THE GARAGE AT RILEY ROAD PARCEL IN R-3 ZONE.

35-1-91 SPILLOTIS, ANTONIOS AREA VARIANCES GRANTED
RILEY ROAD R4-A #80-24 09/22/80
REQUEST FOR 5,000 S.F. LOT AREA VARIANCE DUE TO LACK OF CENTRAL WATER AND SEWER IN ORDER TO CONSTRUCT TWO-FAMILY RESIDENCE ON RILEY ROAD.

35-1-92 DE ROBERTIS, S./PEREZ AREA VARIANCE GRANTED
RILEY ROAD #86-9 R-3 ZONE 04/28/86
REQUEST FOR 17,670 S.F. LOT AREA TO CONSTRUCT SINGLE FAMILY RESIDENCE ON RILEY ROAD.

35-1-102 ROUTE 32 ASSOCIATES USE VARIANCE DENIED
WINDSOR HIGHWAY R-5 ZONE #89-8 04/24/89
REQUEST TO CONSTRUCT RESTAURANT AND RETAIL SALES (COMMERCIAL SHOPPING CENTER) IN R-5 ZONE.

35-1-103 EXETER BUILDING CORP. SIGN VARIANCE GRANTED
ROUTE 32-WASHINGTON GREEN CONDO. C ZONE #91-26 08/26/91
REQUEST FOR 18 S.F. SIGN AREA 14 FT. SIGN SETBACK FROM ROAD, AND 14 FT. SIGN SETBACK FROM THE PROEPRTY LINE FOR FREE-STANDING SIGN AT ENTRANCE TO WASHINGTON GREEN CONDOMINIUM COMPLEX ON ROUTE 32 IN C ZONE.

35-1-110 MAHARAY, ARTHURIHOMETOWN T.V. COND. USE GRANTED
MAHARAY LANE-SO. JACKSON AVE-RA ZONE #67-5 08/07/67

P, DEC. 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 Domenico Scaglione	2. PROJECT NAME Subdivision for Domenico Scaglione
3. PROJECT LOCATION: Municipality <u>Town of New Windsor</u> County <u>Orange</u>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) Southwesterly corner of the intersection of Temple Hill Road & Fisher Lane. Existing dwelling on property located at 241 Temple Hill Road, New Windsor, NY.	
5. IS PROPOSED ACTION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: Subdivision of approximately 1 acre parcel into 3 lots with one lot to include an existing dwelling. Proposed subdivision is located in a current PI zone and is proposed for R-4 residential purposes.	
7. AMOUNT OF LAND AFFECTED: Initially <u>1.05±</u> acres Ultimately <u>1.05±</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly ZBA approval required and rear yard variance for existing dwelling.	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe: Residential properties are located across Temple Hill Road but property is now located in a PI zone Planned Industrial.	
10. DOES ACTION INVOLVE A PERMIT APPROVAL OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency(s) and permit/approvals	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE January 18, 2000 Applicant/sponsor name: <u>DOMENICO SCAGLIONE</u> Date: <u>10-6-99</u> <u>March 21, 1997</u> Signature: <u>Sheld Juma (Eng. for Applic.)</u>	

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

ART II—ENVIRONMENTAL ASSESSMENT be completed by Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 8 NYCRR, PART 817.12? 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 8 NYCRR, PART 817.8? If No, a negative declaration may be superseded by another involved agency.

Yes No

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

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:

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:

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly.

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly.

C7. Other Impacts (including changes in use of either quantity or type of energy)? Explain briefly.

D. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?

Yes No If Yes, explain briefly

ART 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:

Name of Lead Agency

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from responsible officer)

Date

This Indenture,

Made the 10th day of June, nineteen hundred and seventy-seven
LIBER 2069 PAGE 782

Between JOSEPH ZARGONE, residing at 425 Third Street, Newburgh, Orange County, New York,

party of the first part, and

DOMENICO SCAGLIONE and GIROLAMA SCAGLIONE, husband and wife, both residing at 284 Ann Street, Newburgh, Orange County, New York,

parties of the second part:

Witnesseth, that the party of the first part, in consideration of TEN and 00/100 (\$10.00) Dollars, lawful money of the United States, and other good and valuable consideration paid by the parties of the second part, do hereby grant and release unto the parties of the second part, their heirs and assigns 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, County of Orange, and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the westerly side of Temple Hill Road with the southerly side of Fisher Lane, said point being marked by an iron pipe found in the northeasterly corner of the premises herein being described; running

THENCE along the westerly side of Temple Hill Road, South 6° 20' 16" West 129.226 feet to a point marked by an iron pipe found in the southeasterly corner of the premises herein being described; running

THENCE along the southerly line of the premises herein being described South 83° 00' 00" West 374.34 feet to a point marked by an iron pipe in a stone wall; running

THENCE along the easterly face of said stone wall on a course North 3° 16' 00" East 118.50 feet to an iron pipe found in the southerly side of Fisher Lane; running

THENCE along the same North 81° 38' 00" East 383.14 feet to the point or place of beginning.

SUBJECT to covenants and restrictions, easements and agreements of record, if any.

BEING the same premises conveyed by Salvatore Burriesci and Giuseppa Burriesci, his wife, to Pietro Zarcone and Joseph Zarcone by Deed dated April 26th, 1973 and recorded in the Orange County Clerk's Office in Liber 1940 of Deeds at page 718, on April 30, 1973.

BEING the same premises conveyed by Pietro Zarcone to Joseph Zarcone by Deed dated February 16th, 1977 and recorded in the Orange County Clerk's Office in Liber 2062 of Deeds at page 1099, on March 28th, 1977.

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

To have and to hold the premises herein granted unto the parties of the second part, their heirs and assigns forever as tenants by the entirety

And the said JOSEPH ZARCONE covenants that he has not done or suffered anything whereby the said premises have been incumbered in any way whatever

And The grantor, in compliance with Section 13 of the Lien Law, covenants as follows: That he 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 that he will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the party of the first part has hereunto set his hand and seal the day and year first above written

In the Presence of:

B. (Hunt) Hunter

Joseph Zarcone
Joseph Zarcone

State of New York, County of Orange ss.:

On the 10th day of June, nineteen hundred and seventy-seven before me personally came JOSEPH ZARCONE

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

B. SEARS HUNTER
NOTARY PUBLIC, State of New York
Residing in Orange County
My Commission Expires March 30, 1978

B. (Hunt) Hunter
Notary Public - Orange County

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

Deed.

77C-06061

JOSEPH ZARBINE

TO

DOMENICO SCAGLIONE AND
GIULIANA SCAGLIONE

Dated, JUNE 10, 1977

RECEIVED
 19.80
 REAL ESTATE
 JUN 13 1977
 TRANSFER TAX
 ORANGE
 COUNTY

Orange County Clerk's Office, S.F.
 Recorded on this 13th day
 of June 1977 at 10:21
 A.M. in Liber 3269
 at page 189
 and Examined.

P. N. Winters

R.O.
 Vincent Gervaci
 8 M.H. St.
 Newburgh, N.Y. 12550

CANTLINE, FLANAGAN & HUNTER
 ATTORNEYS & COUNSELLORS AT LAW
 45 GRAND STREET
 NEWBURGH, N.Y. 12550

A. T. Habets 1980
 550

LIBER 2069 PAGE 189

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

99-51

Date: 02/01/00

I. Applicant Information:

- (a) Dominick Scaglione, 241 Temple Hill Rd., N.W. x
(Name, address and phone of Applicant) (Owner)
- (b) _____
(Name, address and phone of purchaser or lessee)
- (c) _____
(Name, address and phone of attorney)
- (d) Zimmerman Engineering & Surveying P.C. - Rt. 17M - Harniman Hwy 10925
(Name, address and phone of contractor/engineer/architect) 782-7976

II. Application type:

- Use Variance Sign Variance
 Area Variance Interpretation

III. Property Information:

- (a) P.I. Intersection Temple Hill Rd./Causeway 35-1-70 1.05
(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? 1976
- (e) Has property been subdivided previously? No
- (f) Has property been subject of variance previously? No
If so, when? _____
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: N/A

IV. Use Variance.

- (a) Use Variance requested from New Windsor Zoning Local Law, Section 48-8, Table of Useful Regs., Col. A, to allow:

(Describe proposal) Construction of single-family residence in P.I. (Planned Industrial) zone. Use not permitted.

(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.

Applicant has owned parcel since 1976. The parcel in question is 1.65 Acres in size; not conducive to industrial use; not large enough to utilize for industrial use as zoned. A single-family residence is a much higher use of property; the area is residential in nature w/ many single-family homes nearby.

(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: N/P

(a) Area 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>
Min. Lot Area <u> </u>	<u> </u>	<u> </u>
Min. Lot Width <u> </u>	<u> </u>	<u> </u>
Reqd. Front Yd. <u> </u>	<u> </u>	<u> </u>
Reqd. Side Yd. <u> </u>	<u> </u>	<u> </u>
Reqd. Rear Yd. <u> </u>	<u> </u>	<u> </u>
Reqd. Street Frontage* <u> </u>	<u> </u>	<u> </u>
Max. Bldg. Hgt. <u> </u>	<u> </u>	<u> </u>
Min. Floor Area* <u> </u>	<u> </u>	<u> </u>
Dev. Coverage* <u> </u> %	<u> </u> %	<u> </u> %
Floor Area Ratio** <u> </u>	<u> </u>	<u> </u>
Parking Area <u> </u>	<u> </u>	<u> </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:

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

VI. Sign Variance: *N/A*

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

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

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

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

VII. Interpretation. *N/A*

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

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

✓ VIII. Additional comments:

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

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

(c) Restrictions or conditions: _____

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

(ZBA DISK#7-080991.AP)



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (914) 563-4631
Fax: (914) 563-4693

Assessors Office

February 1, 2000

Domenico Scaglione
371 Temple Hill Road
New Windsor, NY 12553

Re: 35-1-70

Dear Mr. Scaglione:

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 \$25.00, minus your deposit of \$25.00.

There is no further balance due.

Sincerely,

A handwritten signature in cursive that reads "L. Cook" followed by a circled "LD" in the bottom right corner.

Leslie Cook
Sole Assessor

LC/lrd
Attachments

CC: Pat Barnhart, ZBA

TOWN OF NEW WINDSOR
555 UNION AVE
NEW WINDSOR, NY 12553

ERIC V & MAXINE V BURTON
RD 2 TEMPLE HILL RD
NEW WINDSOR, NY 12553

JAMES E & TIMOTHY & JAMES J &
JOHN MARQUIS
RD 1 , CROSS RD, BOX 39
MARLBORO, NY 12542

JOHN & ETHEL MILKOVICH
12 CAUSEWAY,
NEW WINDSOR, NY 12553

GREG & TERESA RUCH
377 TEMPLE HILL RD
NEW WINDSOR, NY 12553

STATE OF NEW YORK c/o COLIN M.
CAMPBELL, OFFICE OF THE STATE
COMP, BUREAU OF FIN. ADMIN.
,5th fl.AE SMITH BLDG
ALBANY, NY 12226

JOSEPH & JOSEPHINE FLORIO
355 TEMPLE HILL RD
NEW WINDSOR, NY 12553

JOSEPH S JR PREVITI
2871 MIDDLETOWN RD,
BRONX , NY 10461

FRANK & GIOVANNA SCADUTO
367 TEMPLE HILL RD
NEW WINDSOR , NY 12553

JOHN F & FRANCES M & JOHN
HOMIN 91 MERLINE AVE,
NEW WINDSOR, NY 12553

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

In the Matter of the Application for Variance of

Domenico Scaglione,
Applicant.

#09-51

AFFIDAVIT OF
SERVICE BY
MAIL

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, Windsor, N. Y. 12553.

That on 02/02/00, I compared the 10 addressed envelopes containing the Public Hearing/Notice pertinent to this case with the certified list provided by the Assessor regarding the above application for a variance and I find that the addresses are identical to the list received. I then mailed the envelopes in a U.S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
___ day of _____, 19__.

Notary Public

PUBLIC NOTICE OF HEARING

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

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

Appeal No. 51

Request of Dominick Scaglione

for a VARIANCE of the Zoning Local Law to Permit:

Construction of single-family residence in a
P.I. zone;

being a VARIANCE of Section 48-8-Table of Use/Bulk Regs. - Col. A

for property situated as follows:

at intersection of Temple Hill Road & Causeway, New Windsor, N.Y.

known and designated as tax map Section 35, Blk. 1 Lot 70

PUBLIC HEARING will take place on the 14th day of February, 2000 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 o'clock P.M.

James Nugent.
Chairman

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

99-51

Date: 02/01/00

I. Applicant Information:

- (a) Dominick Scaglione, 241 Temple Hill Rd., N.W. x
(Name, address and phone of Applicant) (Owner)
- (b) _____
(Name, address and phone of purchaser or lessee)
- (c) _____
(Name, address and phone of attorney)
- (d) Zimmerman Engineering & Surveying P.C. - Rt. 17M - Harniman Hwy 10925
(Name, address and phone of contractor/engineer/architect) 782-7976

II. Application type:

- Use Variance Sign Variance
 Area Variance Interpretation

III. Property Information:

- (a) P.T. Intersection Temple Hill Rd./Causeway 35-1-70 1.05
(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? 1976
- (e) Has property been subdivided previously? No
- (f) Has property been subject of variance previously? No
If so, when? _____
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: N/A

IV. Use Variance.

- (a) Use Variance requested from New Windsor Zoning Local Law, Section 48-8, Table of Use/Bulk Regs., Col. A, to allow:
(Describe proposal) Construction of single-family residence in P.I. (Planned Industrial) zone. Use not permitted.

(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.

Applicant has owned parcel since 1976. The parcel in question is 1.05 Acres in size; not conducive to industrial use; not large enough to utilize for industrial use as zoned. A single-family residence is a much higher use of property; the area is residential in nature w/ many single-family homes nearby.

(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: N/A

(a) Area 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>
Min. Lot Area <u> </u>	<u> </u>	<u> </u>
Min. Lot Width <u> </u>	<u> </u>	<u> </u>
Reqd. Front Yd. <u> </u>	<u> </u>	<u> </u>
Reqd. Side Yd. <u> </u>	<u> </u>	<u> </u>
Reqd. Rear Yd. <u> </u>	<u> </u>	<u> </u>
Reqd. Street Frontage* <u> </u>	<u> </u>	<u> </u>
Max. Bldg. Hgt. <u> </u>	<u> </u>	<u> </u>
Min. Floor Area* <u> </u>	<u> </u>	<u> </u>
Dev. Coverage* <u> </u> %	<u> </u> %	<u> </u> %
Floor Area Ratio** <u> </u>	<u> </u>	<u> </u>
Parking Area <u> </u>	<u> </u>	<u> </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:

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

VI. Sign Variance: NA.

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

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

(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. NA.

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

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

✓ VIII. Additional comments:

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

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

(c) Restrictions or conditions: _____

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

(ZBA DISK#7-080991.AP)

Date 12/13/99, 19.....

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

TO Frances Roth
 168 N. Drury Lane DR.
 Newburgh, N.Y. 12550

DATE		CLAIMED	ALLOWED
1/22/99	Zoning Board Mtg	75 00	
	Minutola - 3		
	Accettura - 5		
	Scaglione - 5 \$22.50		
	VCoB Assoc. - 5		
	Hanson - 4		
	Maurice - 5		
	Misc - 2 -		
	29	130 50	
	<i>James Hagan</i>	205 50	

SCAGLIONE, DOMENICO

Mr. Gerald Zimmerman and Mr. Domenico Scaglione appeared before the board for this proposal.

MR. NUGENT: Referred by Planning Board for use variance, subdivision of two parcels will create two single family residential lots off Temple Hill Road and Fisher Lane in a PI zone. Use not permitted.

MR. ZIMMERMAN: My name is Gerry Zimmerman, I'm an engineer and this is Mr. Scaglione. As the map indicates, the property in question is located on Fisher Lane and Temple Hill Road, that's where Mr. Scaglione currently resides and this property lies as indicated in the PI zoning district and as such is not, residential uses are not permitted. However, on this property is an existing house and along Fisher Lane and in this area, there are all residential houses, all single-family houses that surround this property as well as the New Windsor Cantonment, which surrounds the property as well. And what Mr. Scaglione would like to do is obtain a variance so that he could proceed to the planning board to subdivide the property for residential purposes which would be in conformity with the surrounding area.

MR. NUGENT: That's a survey of the area?

MR. ZIMMERMAN: Yeah, that's New Windsor tax map and tax lot 70 is Mr. Scaglione's property and this is Route 300 Fisher Lane and the lot depicted on here are all single family, all located along Route 300 and other single family dwellings opposite Mr. Scaglione on Fisher Lane directly behind the property is the New Windsor Cantonment property surrounds it actually on all sides.

MR. NUGENT: What we're looking at is lot 71, 72?

MR. ZIMMERMAN: No, we're relating only to lot 70.

MR. NUGENT: That's the lot he wants to subdivide?

MR. ZIMMERMAN: That's correct, these other lots that

exist, they are either single family or Cantonment property.

MR. NUGENT: Fisher Lane is a private road?

MR. ZIMMERMAN: No, it's a town road.

MR. BABCOCK: Town road, yes.

MR. NUGENT: Does it have services?

MR. BABCOCK: Yes.

MR. SCAGLIONE: Water and sewer.

MR. NUGENT: These lots going to be about 15,000 square feet?

MR. ZIMMERMAN: In the R-4 zoning district, yes.

MR. NUGENT: There's no building lot in the PI?

MR. ZIMMERMAN: This would be in conformity with the surrounding area single-family houses.

MR. NUGENT: You guys have this, you might want to look at that.

MR. TORLEY: This is PI for a number of years, isn't it?

MS. BARNHART: Yes, it has been for a long time.

MR. NUGENT: All single-family houses in there?

MR. NUGENT: Mike, were all the other houses done prior to the zoning?

MR. BABCOCK: Yeah, I would say, Mr. Chairman, that to my knowledge, they all were. I don't remember anybody else building a house there, not saying that I know that for a fact, though.

MS. BARNHART: They have been there a long time.

MR. BABCOCK: Yeah.

MR. NUGENT: Where is Fisher Lane, by the smoke shop?

MR. BABCOCK: Right by the Cantonment, go down the back to the Cantonment, Fisher Lane is the Cantonment road.

MR. SCAGLIONE: It's the causeway, that's the new name.

MR. NUGENT: Where they built the new bathroom down there?

MR. BABCOCK: Yes, it's right on the corner.

MR. NUGENT: Okay, I know where you are now.

MR. TORLEY: So, not only do we have a question that it is in a PI zone, it's next to a historical site?

MR. BABCOCK: Yes, basically the only thing you can build in a PI zone is manufacturing or warehousing which typically requires 80,000 square feet which he doesn't have.

MR. REIS: This use would be less of an impact on the area than the zoning permits.

MR. BABCOCK: Right.

MR. KRIEGER: Pat, let me ask you, has a short form environmental assessment been filed?

MS. BARNHART: Not yet.

MR. ZIMMERMAN: We filed that with the planning board.

MR. KRIEGER: Has to be filed again with the zoning board.

MR. TORLEY: I'm not sure short form would be enough.

MR. KRIEGER: Well, that's up to you. If he has to file a short form anyway, if you board members decide that the short form does not supply enough information, you can ask him for a long form or you can ask him for

an environmental impact statement. So the short form is not meant to take care of it, it just gets you started.

MR. REIS: Accept a motion?

MR. NUGENT: Just a second.

MR. KRIEGER: I think because it's a use variance, it's going to have to apply with SEQRA and in this case, because he's next to a historical agency, historical park, a lead agency coordination letter has to be sent out to see if they are interested. Probably not, but they have to be asked before this board can take on to itself lead agency and proceed on the SEQRA question.

MS. BARNHART: I have an environmental form in the package.

MR. NUGENT: Can that be all done at the public hearing?

MR. KRIEGER: Well, I can send out the lead agency coordination letter, but they have 30 days to comment, they have 30 days to respond to the letter, so depending on when the public hearing is, maybe yes and maybe no.

MR. NUGENT: So we really need to have that before he signs up for the public hearing.

MR. KRIEGER: Before it's scheduled for a public hearing that period should expire, so that the board knows at that point whether it's going to be lead agency or whether somebody else is.

MR. NUGENT: I'm sure you understand all that.

MR. ZIMMERMAN: Yes.

MR. KANE: Cover the financial portion of that.

MR. NUGENT: Any further questions? I'll accept a motion.

MR. REIS: Make a motion we set up Mr. Scaglione for his requested variance.

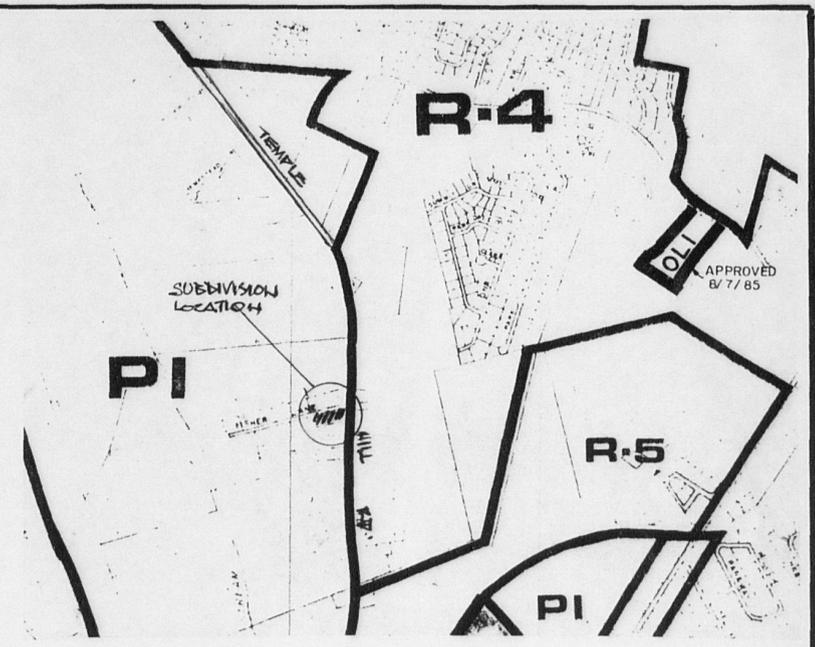
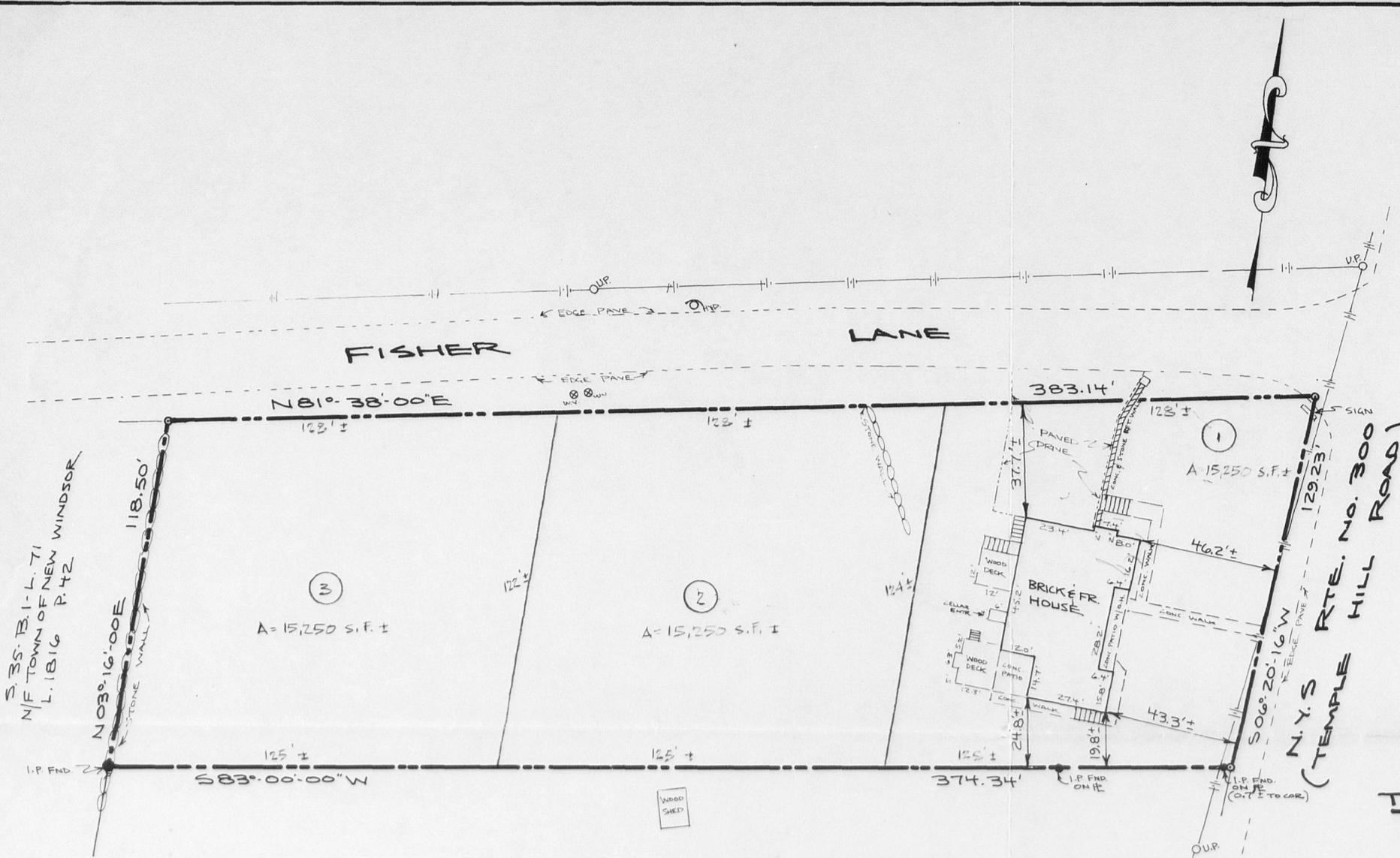
MR. KANE: Second the motion.

ROLL CALL

MR. KANE	AYE
MR. MCDONALD	AYE
MR. REIS	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. KRIEGER: Those are the criteria, those are the state law criteria, I know that you have them, but it may be easier just to keep them in the file.

MR. ZIMMERMAN: Thank you.



VICINITY MAP. SCALE: NONE

S. 35-B.1-L.71
N/F TOWN OF NEW WINDSOR
L. 1816 P. 42

S. 35-B.1-L.69
N/F SCADUTO
L. 1624 P. 69

EXISTING ZONE - PI PLANNED INDUSTRIAL	PROPOSED ZONE - R-4 SUBURBAN RESIDENTIAL
MIN. LOT AREA	15,000 S.F.
MIN. LOT WIDTH	100 FT.
REQ'D FRONT YARD	35 FT.
REQ'D SIDE YARD	15 FT.
" TOTAL SIDE YARDS	30 FT.
" REAR YARD	40 FT.
" STREET FRONTAGE	60 FT.
MAX. BLDG HEIGHT	35 FT.
FLOOR AREA RATIO	N/A
MIN. LIVABLE FL. AREA	1,000 S.F.
DEV. COVERAGE	30%

NOTE: VARIANCE REQUIRED

Gerald Zimmerman

 GERALD ZIMMERMAN, PLS LIC. NO. 49410

TAX MAP NO.

SECTION 35
BLOCK 1
LOT 70

DEED REFERENCE

LIBER 2069
PAGE 782

TOTAL PARCEL AREA

45,769 ± S.F.
OR 1.05 ± AC.

TOTAL NO. OF LOTS - 3

REV. A MAR. 21, 1997

SHEET NO 1 OF 1	SKETCH SUBDIVISION PLAN FOR DOMENICO SCALLIONE
SCALE: 1" = 30'	
DATE: 10-19-93	TOWN OF NEW WINDSOR
JOB NO: 71011	ORANGE COUNTY, NEW YORK
DRAWN BY: DJB	
ZIMMERMAN ENGINEERING & SURVEYING, P.C. ROUTE 17M HARRIMAN, NEW YORK 10926	
PHONE (914) 782 7976	

99-98

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