

PB# 77-18

Birk's Realty, Inc.

Birkenstock Dodge ~~SA~~ 77-18

Burke's Realty 77-18

approved 5/11/77
fee paid \$5.00
61.00
Sec. fee
8/19
pd June 22, 1977
T.C. office
7/13/77
STH



Oxford Pendaflex
CORPORATION

STOCK No. 753 1/3

MADE IN U.S.A.

TOWN OF NEW WINDSOR PLANNING BOARD

APPLICATION FOR SITE PLAN APPROVAL

Name Birk's Realty

Address 55 Route 17K, Newburgh, N. Y.

1. Owner of the property Birk's Realty
2. Location of the property: Temple Hill Road, South of Automotive Brake.
3. Zone area PI
4. Nature of business: automobile dealership
5. Lot size: Front 373' Rear 287' Depth 474' (avg)
6. Building setbacks: Front yard 115' Rear yard 330' (avg)
Side yards 130' each
7. Dimensions of new building 12'x50' Sales Office
Addition _____

If addition, state front, side, rear of existing structure:

I do hereby affirm that all fees, permits and charges applicable under the laws and ordinances of the State of New York and the Town of New Windsor will be paid and that any expense for advertising of Public Hearing or meetings will be paid. Also, any legal or engineering fees for review of this project.

Signed: _____

(APPLICANT)

Maps Required for:

Date May 5, 1977

Application No. 77-18

APPLICATION FOR SUBDIVISION APPROVAL

Town of New Windsor, 555 Union Avenue, Orange County, N.Y.

Tel: 565-8208

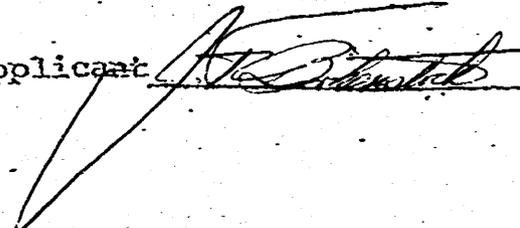
Application is hereby made for subdivision of lands situated in the Town of New Windsor and described as follows:

1. Name of subdivision Birk's Realty, Inc.
2. Location Temple Hill Road; South of Automotive Brake
3. Acreage 8.5 4. Number of lots 2 5. Zone PI
6. Name & address of subdivider Birk's Realty, Temple Hill Road
Newburgh, N. Y.
7. Name & address of record owner of land Birk's Realty
55 Route 17K, Newburgh, N.Y.
8. Present and intended uses Vacant at present - future automobile
dealership

The undersigned applies for subdivision approval of the above described lands under the rules and procedure of the "Land Subdivision Regulations of the Town of New Windsor" as duly authorized by the Town Board of New Windsor, New York. Upon approval of the Preliminary Layout of said subdivision the applicant agrees to install such utilities as are required and to complete the streets as finally approved by the Planning Board or in lieu of this to post a performance bond as set forth and provided in the "Land Subdivision Regulations". Copies of the Preliminary Layout are hereby attached.

Compliance with requirements shall be the sole responsibility of the applicant or his representative and it is suggested a copy of the Subdivision Regulations be obtained to avoid rejection of the plans. Seven (7) copies of the plans are required.

Fees are due and payable upon submission of the preliminary plans. All checks are to be made payable to the Town of New Windsor.

Signature of applicant 

approved 5/11/77

Adopted 10/5/70



OFFICE OF THE PLANNING BOARD

TOWN OF NEW WINDSOR

555 Union Avenue
New Windsor, New York 12550
(914) 565-8808

January 26, 1978

Mr. Howard Collett
Building & Zoning Inspector
Town Hall
555 Union Avenue
New Windsor, New York 12550

Re: Birk's Realty Site Plan

Dear Mr. Collett:

The Town Planning Board has reviewed the above referenced site plan. It is the Board's determination that the applicant has not complied with the site plan requirements set down by the Board. The applicant should not be open for business at the site therefore.

Moreover the applicant should not be open for business without a certificate of occupancy, which we understand it does not have.

For the above state reasons we request and direct that you take immediate action to close down the applicant's business at the subject site until compliance with the site plan approved by this Town Planning has been effected and a proper certificate of occupancy has been issued.

This instruction was communicated to you at the Town Planning Board meeting of January 11, 1978 and has not been complied with as of this date.

Very truly yours,

ERNEST SPIGNARDO
Chairman

ES/sh

cc: Town Board of New Windsor

NEW WINDSOR PLANNING BOARD SPECIAL MEETING
TOWN HALL
FRIDAY, JANUARY 27, 1978 7:30 P.M.

BOARD MEMBERS PRESENT: CHAIRMAN ERNEST SPIGNARDO, LAWRENCE JONES, JOSEPH LOSCALZO, ALBERT ARGENIO, JOSEPH CIMORELLI AND PHILIP INFANTE,

OTHERS PRESENT: SUPERVISOR JOHN PETRO, TOWN ATTORNEY PHILIP CROTTY, TOWN ENGINEER PAUL CUOMO, BUILDING INSPECTOR HOWARD COLLETT, WILLIAM DUGGAN-SENIOR ENGINEER- ORGANGE COUNTY DEPARTMENT OF PUBLIC WORKS, SHIRLEY E. HASSDENTEUFEL, RECORDING SEC.

TAPE 150 side 1 and 2.

Chairman Spignardo called the special meeting to order and presided over same.

Chairman Spignardo: Birk's Realty opened without a proper CO.

First question - Mr. Birkenstock, when you opened for business did you discuss this with anyone?

Mr. Birkenstock: I took it upon myself. In 1967 I opened in the Town of Newburgh without one. They allowed me to do this. We operated for three and one half (3½) years without one. I realize the Town of New Windsor is a different Board. I am here, anything I can do. I believe the problem can be solved.

Chairman Spignardo stated that it was up to the Planning Board now what steps would be taken.

Mr. Loscalzo asked if Mr. Birkenstock had spoken to anyone who might have given you the idea?

Mr. Birkenstock: No sir, I was so intent. October and November we went through rainy days. We lost 20 days because of the rain. It was impossible to oil and chip. Frank Lander has the contract to oil and chip it.

Mr. Cimorelli: You know about the drain. That drain was to stay open and you covered it up.

Mr. Birkenstock: No they are not. Everything the County directed me to do I did. Early in October your Water Department ditched and ditched. In December they laid the pipe.

Mr. Cimorelli: I am flooded because of you. Because your drainage is not open. It ust keeps backing up.

tape 150 side A

Mr. Birkenstock: We had a back hoe there today. Ice and snow had filled it up. We had a massive flood where Dexion is. We dug out.

Chairman Spignardo: Paul, perhaps you can tell us how much work has to be done and what you would like to be before a CO is issued.

Has any drainage been in in front?

Mr. Birkenstock: Yes, \$2,100.00 worth. I had a ditch until the Water Department came in and I am all plugged up again.

Mr. Cuomo: Plans call for a swale.

Mr. Birkenstock: There is no problem in front.

Mr. Cuomo: 30x36 inch culvert - which is equivalent to 3 ft. pipe.

Mr. Loscalzo asked if the swale was in.

Mr. Cuomo: Not as far as I know.

Mr. Casino decided it was an emergency when the rains came. We used our equipment. We cut a relief ditch. We volunteered our equipment.

Mr. Loscalzo: They ditched through the fill you put in and then into virgin land.

Mr. Birkenstock: They ditched back (pointing to the map) We took shovels and ditched by hand. That relieved more water. In December I had a backhoe in so the would would not go on Automotive Brake. Water is flowing toward the culvert. However it does not stop the water from Temple Hill School property. I was asked to give the Town a 15ft. easement. I agreed. The flood occurred and they made the ditch. I will take the easement back if you don't want it and give you another one anywhere you want. The water has been coming from Temple Hill school. I will give an easement to the Town or the County.

Chairman Spignardo asked Mr. Duggan to give the County's interpretation.

Mr. Duggan stated that he, Mr. Cuomo and the Architect worked together. The pond was to be kept as a retention basin.

Mr. Duggan continued to explain. tape 150 side A.

Mr. Birkenstock stated that there was a second pond.

Supervisor Petro: Being very familiar with the area - we are talking about swamp area. Unless it is a real dry summer. There is a need for a monument of easements all along there. That is a laymans opinion.

Chairman Spignardo: We have to determine what Mr. Birkenstock has to do on that piece of property. It has to be spelled out. Paul, you and Mr. Duggan can set us straight on that.

Mr. Cuomo: The swale will not suffice.

Chairman Spignardo: What do you recommend.

Mr. Cuomo: Some drainage similar to what we put in as temporary drainage. We have to intercept the drainage.

Chairman Spignardo: The weather was such you couldn't foresee. We should draw up new recommendations for flood problems.

Mr. Infante: Could we consider Mr. Birkenstock having a machine on call if it freezes, then he could break it.

Chairman Spignardo stated that he (Mr. Birkenstock has to have a concrete plan. A final plan.

Mr. Birkenstock: Paul and I have talked about this. If you take the topography survey with the Town and County and see what is what. I agree with Paul about the open ditch.

Mr. Cuomo: The County has a proposal from an outside Engineering Firm now for \$20,000 to do a complete study.

Mr. Duggan: I became aware of this when the water backed up across from Temple Hill School on Union Avenue and the Temple Hill area. My concern is where the money is coming from. Mr. Casino, Paul and myself have talked about this.

Mr. Loscalzo: If this discussion took place in Mardh this Board was not aware of it. We may not have approved this. He was suppose to grade it, fence and oil and chip. All that is there is a trailer.

Mr. Duggan: There is going to have to be some kind of a mater drainage plan.
Discussion continued.

Mr. Argenio: I feel we have a civic duty. This site plan was approved August 10, 1977. From August to September, then November there was a storm. We sit here on a project that is rough graded, has no grass, a water problem. I don't feel it has gone far. I feel it is nothing more than a used car lot. I thought it was going to be a Dodge Agency. As I look at the signs all I see is Used Car Lot. You should have a sign that says Newburgh Dodge or New Windsor Dodge.

Mr. Birkenstock: I operated like this in the Town of Newburgh. I must prove this as an automotive point. If I can't move

cars on it I don't need it. If I had known the taxes were going to be what they are I would never have bought. If I have to stop now I will have to lay off 6 to 8 men.

Mr. Argenio: There is a Used Car Dealer who has property over there and he may come to the Town Hall and say he wants to open a Used Car Lot.

Mr. Birkenstock: I am a new car dealer. I am a franchised Car dealer. I have a $\frac{1}{2}$ million dollars there now. Avery how many cars have we on the lot there?

Mr. Avery: At 4:00 P.M. today 47 new ones and 21 used.

Mr. Birkenstock: How many have we sold?

Mr. Avery: 6 new ones 10 used.

Mr. Cimorelli: You stated that you were going to have a new car agency.

Chairman Spignardo: No, both. Let's get back to the important part.

Mr. Loscalzo: I think the Board can remember the hard time we gave Sarinsky and what he had to do to open his business. We didn't allow him to start until it was finished. It was Al presentable. What we do now could set a precedent for others to come in. Howard did not stop him which he had the option to do.

Mr. Cuomo: We approved the site plan. The County and myself the way it stands with the drainage front and swale along property line.

1. site plan was not built according to plan.
2. storm occurred, that approved site plan would make it in another storm. We are really bound by that up to a point. I think in the interest of health and safety and welfare some latitude should be given so we can redesign that so we can have an intrum period and then go into the final drainage plan.

Mr. Loscalzo: We can't say that your design or that design plan didn't work because it was never installed.

Mr. Avery stated that the swale would not work at all, and there was no way to get the water to turn.

Mr. Argenio: If there was a manhole water would go 90⁰. Was that a hundred year storm?

Mr. Cuomo: November 8th, 1977 was a 20 year storm.

Mr. Infante: Mr. Birkenstock is concerned about his CO.

Chairman Spignardo: We have to come to an agreement that he will accept the engineers proposal. Mr. Cuomo has to determine if he wants a pipe laid in or a swale. He has been operating how long?

Mr. Birkenstock: 21 days.

Chairman Spignardo: If the Building Inspector had stopped you when you first started or had you come before us this problem might have been resolved. It might not have reached the papers. I am disappointed. The Planning Board is the villain and that is not true.

Mr. Birkenstock: I have talked to Howard, Paul and John. My request is to let me operate without a CO temporarily until I can oil and chip. The swale could be put in in just a couple of hours.

Chairman Spignardo asked Mr. Duggan and Mr. Cuomo how much time they needed to come up with a plan?

Mr. Cuomo stated that they did not have the \$20,000 from the County for a study.

Chairman Spignardo : If we give you so many days Paul, and give Mr. Birkenstock a temporary CO?

Mr. Jones: We can't give him a CO, we can only recommend.

Atty. Crotty: We are not an enforcement Board. We could go after an injunction.

Chairman Spignardo: Could we allow him to operate until this is settled?

Atty: We could modify the plan.

Supervisor Petro stated we have a problem here. It is a problem that is on both sides of the road. The both sides of Temple Hill Road. It is an area problem and not just this.

Chairman Spignardo: We have to narrow it down to see just what he has to do.

Mr. Birkenstock: What would the Board want me to do?

Mr. Cuomo: We will have to do a mini study. I think we can do that in 60 days.

Atty. Crotty: In 60 days the weather will be nice. He can go in and put sod in and oil and chip and he will have conformed. We can't take 60 days. A temporary modification does not set a precedent

Motion by Mr. Argenio seconded by Mr. _____ that the Planning Board have a workshop session with the engineer.
Motion died for lack of a second.

Mr. Birkenstock: We have been improperly advised.

Mr. Argenio: For the record, who advised you?

Mr. Birkenstock: The Town of New Windsor. I need time to get it done. I will put sod in and oil & chip it. If you want to close me down do it in April, fine.

Chairman Spignardo: The first option- Follow this plan, close down, until plan is complete.

Roll call Loscalzo-yes	Cimorelli-yes	Argenio-no
Jones-no	Infante-no	Spignardo-no

2-eyes, 4nays Motion defeated

Chairman Spignardo: The second plan is to let him continue to operate. We will meet again in two weeks and decide how much of the drainage plan he is going to complete.

Mr. Loscalzo: They had certified engineers design this, our engineer checked this and so did the County Engineer. All the engineers checked this. The flood came. The system was never installed. You changed the terrain. The water couldn't go. It is not the Planning Board, the Town or the County's fault like he says. It is his responsibility to go to the Building Inspector for a CO. He never did. He is basing his opening on the fact that the Town and County was derelict in their duty by not allowing him to drain as it should be done, and they didn't offer him a solution to drainage.

Chairman Spignardo: He is wrong there.
Is it possible to improve on this Mr. Duggan?

Mr. Duggan: You can always improve.

Chairman Spignardo: He is 100% wrong, what has happened, happened. I don't feel we should sit as a board and punish someone. If we can solve the problem it is a better course to take.

Mr. Loscalzo: We had one on Guillitine Bakery which started years ago and we are still arguing.

Chairman Spignardo: This has not gotten out of hand yet.

Mr. Spignardo: It is not this boards, or the Town's fault.

Mr. Argenio: Two weeks gives us a long time to look at this. I will go along with the Board members that feel he should

Motion by Mr. Jones seconded by Mr. Infante that the Planning Board of the Town of New Windsor authorizes temporary modification of the site plan of Birk's Realty and to authorize the issuance of a temporary certificate of occupancy for a two (2) week period in order to afford time to the Town, County and Applicants engineer to submit a revised drainage plan.

Roll call: Infante-yes Jones-yes Loscalzo-no
Cimorelli-no Argenio-yes Spignardo-yes.

4 ayes 2 nays Motion carried.

Chairman Spignardo: We will meet two (2) weeks from tonight.

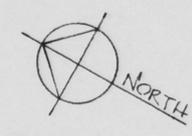
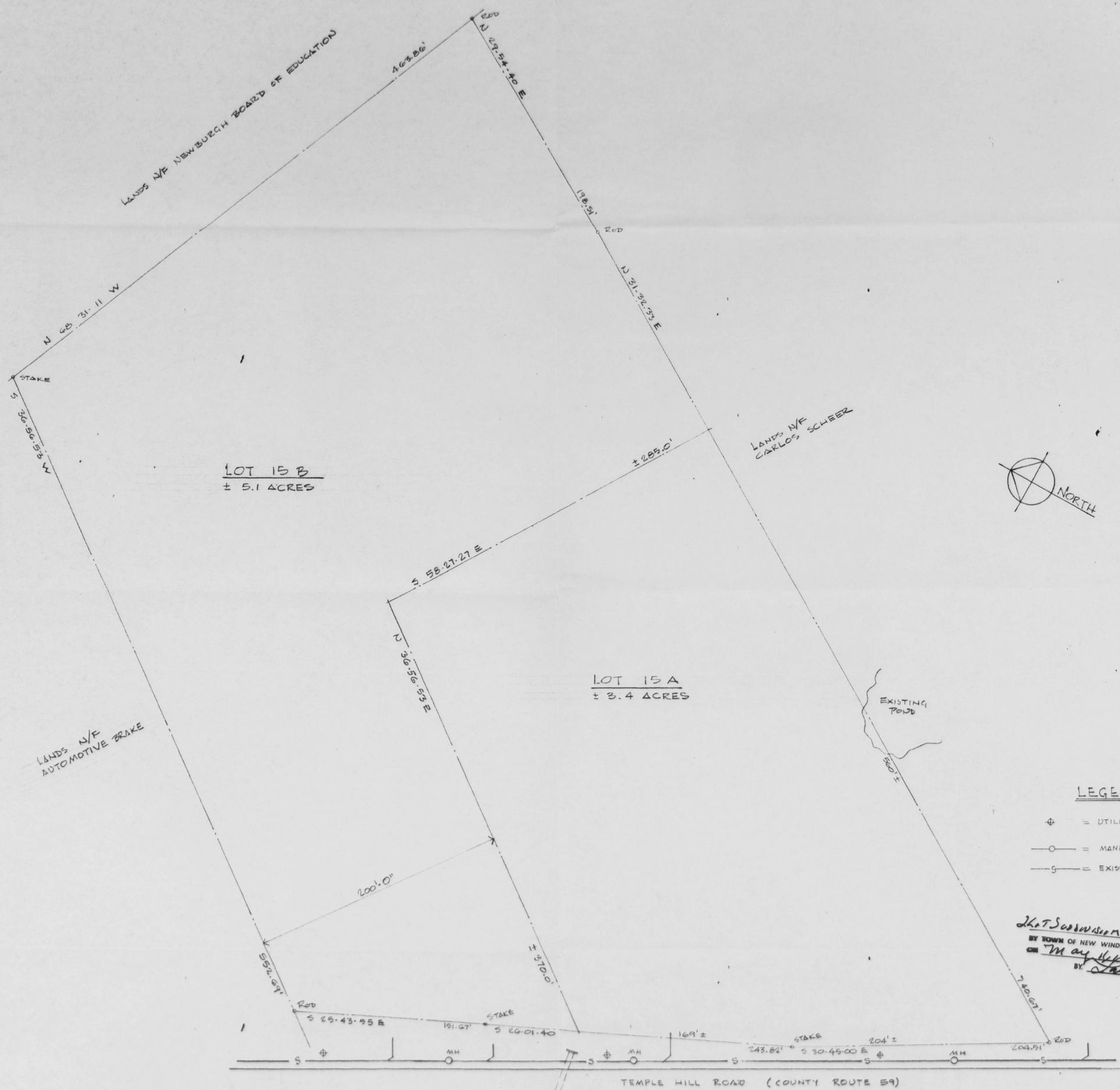
Supervisor Petro: thanked the Board for coming out to an extra meeting to work on this problem.

Motion by Mr. Cimorelli seconded by Mr. Jones that the Planning Board adjourn the special meeting of January 27, 1978. Roll call- all ayes. Motion carried. Meeting adjourned 9:30 P.M.

Respectfully submitted,



SHIRLEY B. HASSDENTEUFEL
Recording secretary



LEGEND

- ⊕ = UTILITY POLE
- = MANHOLE
- S— = EXISTING SEWER

Lot Subdivision
 APPROVAL GRANTED
 BY TOWN OF NEW WINDSOR PLANNING BOARD
 ON *May 11, 1977*
 BY *[Signature]*

BIRK'S REALTY, INC.
 Dated 4 MAY 1977
 Drawn By *ET*
 Checked By
 1"=40'-0"

SUBDIVISION PLAN

WITFIELD & REMICK
 Architects
 483 Fern Street
 Westwood, N.J.
 (201) 866-2315 07675
 25 Windsor Avenue
 Newburgh, New York
 (914) 561-9100 12550