

ZB# 02-27

**George Traver
(N. Plank Development)**

14-7-19 & 20

#02-27 Traver, George / North Plant Dev. LLC

14-7-19 & 14-7-20.

Public Hearing:

May 13, 2002

Public Hearing:

June 24, 2002

Approved 6/24/02

Referred:

\$ 108.50

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Traver / North Plant Dev.

FILE# 02-27.

RESIDENTIAL: \$50.00
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA X

USE X

APPLICATION FOR VARIANCE FEE \$ 50.00

*Paid #4942
6/12/02*

* * *

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 300.00

Paid #4943

DISBURSEMENTS:

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING-PER PAGE	<i>5/13/02</i>	\$ <u>27.00</u>
2ND PRELIMINARY- PER PAGE	<i>6/24/02-21</i>	\$ <u>94.50</u>
3RD PRELIMINARY- PER PAGE		\$ _____
PUBLIC HEARING - PER PAGE		\$ _____
PUBLIC HEARING (CONT'D) PER PAGE		\$ _____
TOTAL		\$ <u>121.50</u>

ATTORNEY'S FEES: \$35.00 PER MEEETING

PRELIM. MEETING	<i>5/13/02</i>	\$ <u>35.00</u>
2ND PRELIM.	<i>6/24/02</i>	\$ <u>35.00</u>
3RD PRELIM.		\$ _____
PUBLIC HEARING		\$ _____
PUBLIC HEARING (CONT'D)		\$ _____
TOTAL		\$ <u>70.00</u>

MISC. CHARGES:

_____	\$ _____
TOTAL	\$ <u>191.50</u>

LESS ESCROW DEPOSIT	\$ <u>300.00</u>
(ADDL. CHARGES DUE)	\$ _____
REFUND DUE TO APPLICANT	\$ <u>108.50</u>

4943

NORTH PLANK DEVELOPMENT COMPANY, L.L.C.
5020 ROUTE 9W
NEWBURGH, NY 12550

50-235611
219
6801580759

DATE June 11, 02

PAY TO THE ORDER OF Town of New Windsor

\$ 300 ⁰⁰/₁₀₀

Three hundred dollars & 00/100

DOLLARS

THE BANK OF NEW YORK

5020 Route 9W
Newburgh, NY 12550

MEMO Walsh's Rental lot ZBA #02-27



⑆004943⑆ ⑆021902352⑆ ⑆6801580759⑆

BNY STYLE 20

CNY 16

4942

NORTH PLANK DEVELOPMENT COMPANY, L.L.C.
5020 ROUTE 9W
NEWBURGH, NY 12550

50-235-611
219
6801580759

DATE June 11, 02

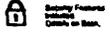
PAY TO THE
ORDER OF

Town of New Windsor

\$ 50.00 /¹⁰⁰

Fifty dollars +⁰⁰ /₁₀₀

DOLLARS



THE
BANK OF
NEW
YORK

5020 Route 9W
Newburgh, NY 12550

MEMO Walsh's Rd. - lot ZBA # 02-27

⑈004942⑈ ⑆021902352⑆ ⑆6801580759⑈

BNY STYLE 20

CMV18

**Town of New Windsor
555 Union Avenue
New Windsor, NY 12553
(845) 563-4611**

**RECEIPT
#528-2002**

06/12/2002

**North Plank Development Co, LLC # 02-27
5020 Route 9 W
Newburgh, NY 12550**

**Received \$ 50.00 for Zoning Board Fees on 06/12/2002. Thank you for
stopping by the Town Clerk's office.**

As always, it is our pleasure to serve you.

**Deborah Green
Town Clerk**

-----X
In the Matter of the Application of

GEORGE TRAVER/NORTH PLANK DEVELOPMENT

MEMORANDUM OF
DECISION GRANTING
USE & AREA
VARIANCE

#02-27.
-----X

WHEREAS, GEORGE TRAVER, 42 Blanche Avenue, New Windsor, NY 12553, owner, and **NORTH PLANK DEVELOPMENT COMPANY LLC.**, % John J. Lease Realtors, 5050 Rt. 9W, Newburgh, N. Y. 12550, contract vendee, have made application before the Zoning Board of Appeals for a 5,837 sq. ft. lot area, 50 ft. lot width, 9 ft. front yard, 5 ft. side yard, 10 ft. total side yard, .78 ft. floor area ratio, plus a use variance to allow construction of a single-family residence at the above location in an NC zone; and

WHEREAS, a public hearing was held on the 24th day of June, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant was represented by Daniel J. Bloom, Esq. and Gregory Shaw, P. E.; and

WHEREAS, there were two spectators appearing at the public hearing; and

WHEREAS, two persons spoke in favor of 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 vacant lot located in a residential neighborhood.

(b) This area has been designated NC by the Zoning Code of the Town of New Windsor, but there are no uses under the NC provision in the neighborhood, which is entirely residential.

(c) One of the persons who spoke indicated, in response to a question by the Chair, that he was in opposition to the Application. His comments, however, strongly indicated that he was in favor of the Application and was opposed to any other use of the property other than for the construction of a one-family house.

(d) The Applicant seeks to build a 30 x 30 single dwelling which will have side yards of 10 ft., a 31 ft. front yard and a 15 ft. rear yard.

(e) Because of the size of the lot, the only construction that would be permitted on the lot according to its present zoning, is a 460 sq. ft. building. Such a construction would be economically infeasible and highly unlikely.

(f) The residential character of the neighborhood has existed before the time that Zoning was enacted.

(g) The size of the lot would not permit the construction of a commercial building having adequate space for the turn around then use of commercial vehicles, thereby creating a hazard to motorists on the adjacent roadway. If residential development were permitted on this property, there would be adequate space for personal vehicles, however.

(h) If the construction of the one-family house as proposed were permitted, it would not adversely effect the drainage on the property and, may slightly improve that problem. It would not cause ponding or collection of water.

(i) Although there was a tax sale of this parcel after the enactment of the Zoning Code, the tax sale was in the nature of a redemption for unpaid taxes and not an arms-length sale. This property has, therefore, been continuous owned since prior to the enactment of zoning.

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 without the granting of a use variance.

2. There will be no adverse environmental impact if the proposed use is granted.
3. The alleged hardship to the property in question is unique.
4. The variance, if granted, will not alter the essential character of the neighborhood.
5. The alleged hardship has not been self-created.
6. The interests of justice will be served by allowing the granting of the Application provided the construction is limited to that of a single-family dwelling having not less than a 10 ft. side yards, 31 ft. in the front yard and 15 ft. in the rear yard.

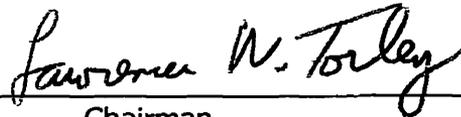
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a use variance in accordance with paragraph one above, for construction of a single-family residence in an NC zone, at the above address, 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: September 23, 2002.



Chairman

Date 7/24/02

TOWN OF NEW WINDSOR

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

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

DATE			CLAIMED	ALLOWED
<u>6/24/02</u>		Zoning Board Mtg	75 00	
		Misc. - 2		
		Erden - 5		
		Billik - 2		
		Hiley - 2		
		Yankers Contracting - 3		
		Shnaggs - 4		
		Kochan - 8		
		Colandrea - 3		
		Corbett - 2		
		Traver - 21 \$94.50	234 00	
		<u>52</u>		
			<u>309 00</u>	

TRAVER/NORTH PLAN DEVELOPMENT

Daniel Bloom, Esq. and Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. TORLEY: Is there anyone in the audience who wishes to speak on this matter?

MR. BLOOM: Good evening, Mr. Chairman, members of the board, my name is Daniel Bloom and I represent the applicant this evening, North Plank Development Corporation LLC and the applicant has been retained for the purpose of bringing this application on behalf of the homeowner, the landowner, which is Ms. Bertha Traver. I might say in that regard, I also have and I will submit after the presentation an affidavit from Miss Traver which traces her ownership of the property and verifies her ownership of the property and I also have an affidavit from the next door neighbor, Ms. Margaret Bulson that I will submit to the board as well at that time. In terms of generalities as the application indicates we're here for a use variance, we're seeking permission to construct a one family residence in a zone which is NC at the present time. Realizing the burden that's upon the applicant in terms of demonstrating dollars and cents in terms of the hardship which the applicant believes exists, I brought this evening with me to testify before this board Mr. Eldred Carhart, who's a licensed real estate appraiser in New York State for over 30 years with particular experience in the area of commercial and residential development in the Orange County area. I also have, will also be discussing with the board this evening the plans which were prepared for this evening's presentation by Gregory Shaw, professional engineer, who's representing the applicant as well. At this point with the board's permission, I'd like to turn over the presentation to Mr. Shaw for the purpose of presenting particular designs that he would like to present this evening in connection with the application.

MR. SHAW: Thank you. When we were before this board for our initial meeting, I prepared the sketch before you which is now labeled as plot plan number one. And

basically, what that does it lays in a 30 by 30 foot single family dwelling on the parcel with what I felt was appropriate setbacks that being a ten foot side yard each side and a 31 front yard setback with a 15 foot rear. Again, with this being a residence in an NC zone, there are really no setbacks for residents, so I laid in what I thought was appropriate. We discussed this plot plan as I said at the first meeting and what the board directed me to do was to come up with another sketch and that's labeled plot plan number 2 permitted use in an NC zone without any area variances. Again, what I laid in was a building that would fit within the setbacks permitted in an NC zone. And I called the structures a service garage because that's probably about all you can possibly fit on that and again providing three parking spaces with the necessary setbacks. We ended up with a, with a building size of 460 square feet, not very viable. Finally, again, at the board's direction, if we were going to be asking for area variances for the residents, well, the question came what type of a permitted structure could be installed on the site with the same setbacks as that required for or that which was provided for the residence. And that's plot plan number 3, which is a permitted use in an NC zone with area variance. So, again, if you look at this sketch, the setbacks for this sketch equal or exceed the setbacks for the residence. And with that, again, I labeled the structure service garage, but the maximum size structure that we could place on that site is 30 feet by 27 feet for a total of 810 square feet. Again, not very large for a service garage. Now, I think if you take a look through the permitted uses in an NC zone, you'll find that a service garage is probably a use that would require the smallest size building. Any other use in that bulk table I think as you read through you quickly come to a conclusion that it just cannot fit on that lot. So, again, we use the label of the garage cause it's probably the closest to what it could be used for. The million dollar question is is it viable. Is a 460 square foot structure 20 feet by 25 foot viable that's meeting the setbacks required in this C zone or even if the board felt generous enough to get area variances consistent with what we'd be asking for with a residence is an 810 square foot

structure a viable building? Again, you'll notice that with the 810 foot, I'm providing two parking spaces, two parking spaces for the residence and also two parking spaces for the smaller service garage. I would like to point out that in our initial discussion at the workshop session with the planning board when we were talking about a possible commercial structure on this lot, I was informed by the fire inspector that it's imperative that the cars pull out head first onto Walsh Road and he also advised us that Walsh Road is a no parking area. So, again, with parking being critical, the viability of a commercial structure on the lot comes into question once again. So that's a brief overview of the three plot plans. I think that covers the entire scheme that we discussed and hopefully, I will provide the board with some good information to evaluate this use variance tonight. So, with that.

MR. BLOOM: Yes, thank you, Greg. At this point, I'd like to again introduce Mr. Eldred Carhart who will comment upon the economic viability or non viability of a commercial structure on the premises and in that regard, I beg the board's indulgence. Mr. Carhart just underwent some neurosurgery, his mind is certainly intact, but his words might come a little slow, so just bear with us.

MR. CARHART: My name is Eldred Carhart, I'm a certified general appraiser, I specialize in doing this kind of work before boards and also appraise commercial properties. I was asked to review the three plans and I have tried to make an economic study of each one of those. Now, if we had a house, it would have a rental value of about \$1,250 a month that could be an 1,800 square foot house or it could be a 900 square foot house and basically, it's going to be about the same. And it would have a vacancy allowance of one month's rent every two years and the expenses for this house would be real estate taxes, which I have estimated at \$3,500, insurance, \$500, maintenance repair, approximately 2 percent, professional management 5 percent and a reserve for replacement of one percent comes to \$5,165. And subtracted from the affective gross income that comes to \$9,210. Now, if that's capitalized at 5 percent and I have supplied for you a

capitalization schedule, at 5 percent, it would be \$184,200, it would have a value of \$184,200. Now, using a cost approach, 1,800 square feet at \$75.00 a square foot, it's 135,000 and it has miscellaneous site improvements would cost about \$15,000 which is \$150,000 plus the cost of the land. Now, there would be no functional or locational obsolescence because for a house, there's two parking places which are ample for a house and for one thing and for another thing, the appreciation rate over a ten year program would be about 5 percent. Now, this is about double what it would be on a commercial building. Now, a smaller garage would be 20 by 23 square feet or, excuse me, 20 by 23, 460 square feet and have a rental value of \$12.50 a month, vacancy of 5 percent would bring, so it's \$5,450, tenant insurance \$200.00, professional management 5 percent at 275, miscellaneous \$250 reserve for replacement reduces the gross income by \$780 and if that's capitalized at 9 percent schedule for capitalization is following it, that would be have a value, total value of \$51,900. Now, to build that building at \$55 a square foot would be \$25,300 entrepreneurial profit 5,060 for a total cost of \$30,360. Now, on top of this, there'd be approximate closing costs of \$7,500 plus the cost of the land. Now, here we have a locational obsolescence of about 25 percent, which is caused by the fact that there's no parking or very, very limited parking and 2 1/2 percent appreciation per year, it would just mean at this building nobody would build this building, nobody would, nobody would make the effort to take this on. Now, a larger garage 30 by 27 was 810 square feet, it would have about the same rental value of \$12.50 a square foot, that's \$9,615 and it would have an expense of insurance, professional management, miscellaneous and reserves replacement which would reduce the effective gross income to 3,000, excuse me, \$8,535. Again, if that were capitalized at 9 percent, that's a value of \$94,800. Now, the cost to build this at \$55 a square foot is 44,550 entrepreneurial profit of \$8,900, closing costs are 7,500, 950 plus the cost of the land which also is again subject to a 25 percent locational obsolescence and 2 1/2 appreciation rate per year and I have given the capitalization rate here for your use. In my opinion, nobody would even build this building,

it's just too small, it's only 810 square feet and nobody would really have a need for it. Now, I'd like to just state what my opinions would be on I guess the last page there would be no detrimental detriment to health, safety and welfare of the neighborhood or the community if the variance is granted, so it would, there are houses on both sides of the street, I'm sorry.

MR. KRIEGER: I was going to ask you why.

MR. CARHART: There are houses on either side of the property, there's a cemetery across the street and it would not be, there would not be any--

MR. KRIEGER: Consistent with the neighborhood as it exists now.

MR. CARHART: It would be. There would be no undesirable change which would be produced in the character of the neighborhood because again, it's residential or detriment to nearby properties by granting the variance. There would be no loss of value to the neighboring properties that would be produced. These are residential properties, I'm sure that this would enhance the value of the residences on either side if this new house were built. The difficulty to the owner is not self-created since this is improved, it's a vacant land subject to improvement.

MR. TORLEY: Stop, question we had, if you're going to discuss this later, fine, we asked you to.

MR. BLOOM: I'm going to address that.

MR. TORLEY: The status when the owner purchased it.

MR. BLOOM: Correct.

MR. CARHART: Lastly, according to the fire chief which I mistakenly meant fire inspector, there's no parking allowed on either side of Walsh Road, so this creates a hardship to the property. And this concludes my presentation. If you have any questions, I'd like to try to answer them.

MR. REIS: Just a general comment, Mr. Chairman, ready for questions?

MR. TORLEY: Sure.

MR. REIS: The status of the property now it's being sold subject to these variances being in place, is that accurate?

MR. CARHART: I do not know.

MR. BLOOM: The property in question, that's correct, the property is subject to the issuance of this variance in order for the contract to proceed, that's correct.

MR. REIS: And based on your analysis of the property, Eldred, the existing use which would be the garages or the small garage as Greg laid out makes economically no sense at all?

MR. CARHART: That's right.

MR. REIS: Or extending it to a larger garage where you'd still need a variance?

MR. CARHART: It would still need a variance and has no real economic value, it's highest and best use truly is a residential.

MR. REIS: Thank you. I just wanted to kind of analyze it, put it together.

MR. CARHART: Thank you.

MR. BLOOM: Gentlemen, if I, Mr. Torley, if I may address the issue of the potential for the self-creation of the hardship. The history of the property as confirmed by the affidavit of the owner, Mrs. Bertha Traver, which I will present to the board is as follows, in a nutshell, the property was in the family since the 1930's. Mrs., I want to be sure, Mrs. Traver or her husband, yes, her aunt was, her Aunt Anna Jones owned the property back in the '30's and the

property remained in her ownership up until about 1981 when she lost it for taxes to Orange County Commissioner of Finance. Mrs. Traver and her husband, George, who's now deceased, came forward and re-purchased it from the County so they would keep it in the family, their goal at that time up until the time of the death of Mr. Traver was to build a house on the property. But unfortunately, Mr. Traver passed, their plans changed and now in her older years, Mrs. Traver would like to sell the property and use the money obviously for retirement purposes or planning retirement. The configuration of it never changed during that period of time, and the taxes were paid by her and the, for all those years, 30, 40 years and then the taxes on this vacant lot continued to be paid by the present owner up to the present time.

MR. TORLEY: They purchased it from a tax sale in 1981?

MR. BLOOM: Correct.

MR. TORLEY: So at that time, it was, title rested with Orange County and they purchased it from them and in 1981, can you tell us whether or not this lot what you want to do now with this lot would have been a permitted use in 1981?

MR. BLOOM: I can't tell you that.

MR. TORLEY: My recollection is this has been NC forever, so to my knowledge and please correct me if I'm wrong, that in 1981, this was a zoned PI where a, I'm sorry, zoned--

MR. REIS: NC.

MR. TORLEY: To where a single family house would not be a permitted use.

MR. BLOOM: If that's what the record indicates.

MR. TORLEY: Please correct me if I'm wrong, that's my assumption absent information from the owner so that raises to my question then since they did purchase it back from the County, why does not that constitute a

self-created hardship cause it was not the use, their desired use of putting a house on it, it was not a permitted use in 1981, why does that not constitute a self-created hardship?

MR. BLOOM: I would respectfully suggest that the purchase was not for the purpose of building a house at the time, but to preserve the lot for the purpose of her and the, during her lifetime and after the aunt passed, and she had no longer any use for the pleasure of having a family homestead, it was then the desire of the Travers to build their own house on the property at that time.

MR. TORLEY: After the purchase though?

MR. BLOOM: Yes.

MR. KRIEGER: But the fact of the matter, the reason it's not a self-created hardship, it doesn't matter what their intention was in re-purchasing the property, it's cause a, you would never be able to prove intention anyway and it's not binding. In fact, it remained a vacant, it was a vacant piece of property and remained that way when they bought it, whatever they intended to do with it, it didn't change their intention, may have been misinformed or whatever.

MR. TORLEY: When they purchased the lot, it was then an NC zone for which a single family residence was not a permitted use of not pre-existing, it was a pre-existing house on it, empty land bought in an NC zone.

MR. KRIEGER: Yes.

MR. TORLEY: So why now say 20 years later you wish to put a house on it, why is it not a self-created hardship when you purchased the land knowing or should of known that such development was not permitted?

MR. BLOOM: Well, the only answer I have Mr. Torley, as I indicated before, it wasn't the intention at the time of the purchase to build anything on it, it was only to preserve it for her aunt who had paid taxes on it for

40 years, wished to live there with it around her house until she died.

MR. TORLEY: Has any attempt been made to sell this lot to the neighbors as additional space for their house?

MR. BLOOM: To my knowledge, there has not, but the reason there would not be of course would be because there obviously would be no economic return on that type of sale.

MR. KRIEGER: Well, when they advertised for sale, it was advertised to the general public.

MR. BLOOM: In addition, sure, that's correct, it was advertised to the general public, but in addition to that, we have the next door neighbor, Ms. Bulson who signed an affidavit saying that she's here and she's here this evening imploring this board to give consideration to this application because she's so close.

MR. TORLEY: We'll wait until she speaks.

MR. BLOOM: But I have her affidavit, but if I may proceed to another aspect of the application, I believe that this application is unique in this sense. We're not here this evening just seeking a use variance based upon the fact that we anticipate a much better economic return if it's residential as opposed to commercial. I believe that point's been, well established by Mr. Carhart and I would be the first one to say that if that were the case in my opinion under the case law of the State of New York, the application should be denied. But that isn't the case here. This is not a case where a, case where we're coming before this board seeking permission to put a commercial development in a residential zone because it would be economically better for the applicant. At the same time, it would have a deleterious, deprecatory affect on the neighbors, we're here seeking at considerable expense to my client permission to build a residence in an NC zone, why, because it makes sense, it's common sense, it's best for the neighborhood. Every single structure on this portion of the block is residential and I might

say I walked it this afternoon, they're beautiful, old houses, they're a tribute to the Town of New Windsor. And I think that if we permit this type of application not to receive appropriate consideration and we deny an applicant who's willing to go the extra mile so as to permit the construction of this type of residence for the benefit not just of the Town of New Windsor but for the benefit of the, all the neighbors rather than put up some commercial structure with a million area variances, I think that this board is losing an opportunity to stand up and do what's right respectfully and based upon that, I would respectfully request that this board consider favorably my client's application for a use variance.

MR. TORLEY: Any questions now or bring it up to the public? Ladies and gentlemen, if you would please identify yourself?

MR. CRONE: I'm Mr. Kenneth Crone, I live at 289 Walsh Avenue.

MS. BULSON: Margaret Bulson, 289 Walsh.

MR. CRONE: I feel if you put a commercial structure next to my house, my property value, number 1, is going to go down, number 2, New Windsor is going to lose taxes, number 3, when it comes time for me to sell and retire, I won't get the full value of my property or my house and basically, I feel that putting a house there, a residential than commercial, would be more valuable to New Windsor and my area.

MR. KRIEGER: If I interpret what you're saying, residential use would be more consistent with the character of the neighborhood the way it exists now?

MR. CRONE: Yes.

MS. BULSON: If you put commercial, we're inviting more traffic to a much busy road, too much in and out.

MR. CRONE: If you put a garage there, I'm going to have gas fumes constantly going in and out of my house, which is going to be harmful to my health and

Margaret's health.

MR. TORLEY: The example they gave was a garage but would not like a self storage facility also be permitted in that zone?

MR. KRIEGER: But you have the gas fumes from everybody coming and going.

MR. TORLEY: Garage use is not the only possible use.

MR. CRONE: Even if you put a commercial building there, you're still going to have traffic constantly coming in and out of there and you're still going to have the fumes coming in my house constantly.

MR. TORLEY: So you're against the requested variances?

MR. CRONE: Yes.

MS. BULSON: Yes, strongly.

MR. TORLEY: Anyone else? If no one else wishes to speak, we'll close the public hearing. Just a note for the record that Pat Corsetti signed an affidavit on the 10th day of June, she prepared the 48 addressed envelopes regarding this to be mailed regarding this matter. I've got a question, appreciate your input on should this be granted, hypothetically, we grant you the use variance for this being a residential property, how do you address Section 4826-E which is from 1986 the Town Board added regarding non-conforming residential lots? Essentially, small lots, I won't take the time to read it, but they desire the relevant point is that it's such lot shall not contain less than 5,000 square feet and this lot is 4,163 and subsection F of this, that it is the finding of the Town Board that the development of non-conforming lots not meeting the above criteria will blight the proper and orderly development and general welfare of the community. So, the Town Board has decided that it's made this law saying that non-conforming residential lots may be built on but they have to be at least 5,000 square feet.

MR. KRIEGER: But the addition is he doesn't have a non-conforming residential lot, that's the reason he's asking for the variance is precisely for that reason.

MR. TORLEY: But if he, it's not a residential lot, he's asking for us to grant him a use variance to make it a residential lot, yet it still even granting that it fails to meet the criteria that the Town Board set down for residential lots.

MR. BLOOM: If I may be heard, Mr. Torley, yes, I respectfully suggest that that declaration by the Town Board is an establishment of policy, understandable and sensible and at the same time, the Town Board created this board, this Zoning Board of Appeals so as to allow individual judicious common sense variations on the general rule in specific instances where, for example, in a case such as this, the granting of this variance is more consistent with the general zoning of this township than it would be for this board to take a black and white approach and say NC put a beauty parlor in there and meanwhile what have we done, what has the town done, it's depreciated the value of every single one of the people in this room. I think that that's the reason this board exists, that's the reason why this board was created by the State of New York and empowered by the Town Board to give meaning to, it's like the United States Constitution, it's a beautiful piece of poetry, but unless you've got nine justices giving it an interpretation in individual cases, it's a meaningless document.

MR. TORLEY: It reads pretty clearly to me, but my question to our attorney is given Subsection F is that one that's under our power to vary?

MR. KRIEGER: Yes, that's merely the reason for F is merely a legal justification for which is the \$5,000 limit but F is variable.

MR. REIS: We give area variances.

MR. TORLEY: There's certainly areas we're not permitted to vary, private roads we can't vary.

MR. KRIEGER: That's true but this isn't one of them.

MR. TORLEY: This is our legal opinion that we in fact have the power to vary this, give relief under this matter.

MR. REIS: My interpretation is another area variance.

MR. MC DONALD: I feel the same way as Mike, that's the purpose of the board and I agree with Dan, basically, they set up this plan, if we're going to go strictly by the book, then you don't need us. This is the way I feel.

MR. KRIEGER: There are certain provisions not by law variable the ZBA doesn't have jurisdiction over, but this isn't one of them.

MR. TORLEY: Okay.

MR. REIS: Greg, in relation relation to your, I'm not sure who's stipulation it was, but the turnaround that cars must come back down to Walsh Road head first, there's enough turning room?

MR. SHAW: For a residence, yes. For commercial vehicles, no, absolutely not. If you take a look at the dimensions of the parking area, I really don't even know what the size of a vehicle that you can have that would be delivering machine parts or whatever, supplies, maybe a UPS truck, maybe but that's it and then you'd have to back out.

MR. REIS: I recognize that. Just for the record.

MR. SHAW: Absolutely.

MR. REIS: In regard to the topography, again, Greg, there's no dramatic change to the lay of the land, there's no cause for runoffs or even danger of any kind.

MR. SHAW: No, with respect to the residents of the subject lot, we have a small parking area, 900 foot house, it's not a large house and the rest is going to

be either lawn or just virgin ground.

MR. KRIEGER: Wouldn't redirect cause the ponding or collection of water or redirect the flow of drainage?

MR. SHAW: If anything, it would redirect some of the storm water which flows to the rear of the lot and direct it towards Walsh Road where there's a storm drainage system in place to convey it so it will improve the drainage.

MR. TORLEY: You're talking about, again, talking of putting a 900 square foot house?

MR. SHAW: Correct.

MR. TORLEY: Again, we have the power to vary this but we're also under an obligation to make minimum variances and follow the spirit of what we believe the Town Board set up and you're talking about proposed house, they're talking about proposed house that the proposed house shall contain not less than a thousand square feet.

MR. SHAW: That's a very good point. I may have misspoke, you have a footprint of 900 square feet, it's more than likely going to be a two story structure, so you're realistically like at 1,800 square feet. Thank you. It's a good point, though.

MR. TORLEY: Another item I noticed on the map you have assumed is your easement coming off the northwest corner?

MR. SHAW: Correct, that's from the files of the sewer department and it was not possible to get an as-built location on the manhole because there's a shed on it but that shed will have to be moved and allow us a connection and we do have a right to it, if that's the point you're trying to make.

MR. TORLEY: Is there a sewer easement tracking across this property?

MR. SHAW: Yes.

MR. CRONE: Yes, there is, when I bought the property, it was a shed, there was a shed in the back of my house and the corner of the shed on the northeast corner there's a sewer line with a cap on it and I didn't know it was there until after I bought the property and it goes west to east, southeast.

MR. TORLEY: Formally, we should not have been able to let that speak, but we'll let that go because I'm in favor of getting information than procedures. However, again, please address this then if in fact there's a sewer easement across the property, how does that affect its lot area?

MR. SHAW: No, correction, that sewer easement is on the lands of Rober, if I'm pronouncing it correctly.

MR. TORLEY: I thought you said it crosses this.

MR. SHAW: No, that's the terminal manhole, the last one.

MR. TORLEY: Okay. I would like an opinion from our attorney regarding one of the absolute bars of the four prongs for use variances is self-created hardship, I'm still uncomfortable with that whether the applicant has met that barrier and I would appreciate an input from our attorney regarding the, whatever appropriate statements or case law regarding self-created hardship over time and I would appreciate the opportunity to think on that and get some input from Andy more than off the top of his head, skilled as he is, thinking is always better than off the top of the head. Whether you gentlemen will permit that information to be provided and take our vote at the next meeting on this matter. Do you have a problem with that?

MR. MC DONALD: I do, I think we've gone long enough, actually.

MR. TORLEY: I'm just worried about whether or not we have legally met the criteria here.

MR. REIS: May I?

MR. TORLEY: Please.

MR. REIS: I believe that we're empowered to make a decision and interpret and I believe that whether it be today or two weeks from now we're going to make a decision, if I may just make a comment, short of granting a variance, whether it be for a garage or for the dwelling and I believe in my own mind and heart that the dwelling is probably the less encumbered and the best for the neighborhood in due respect to everybody that's concerned that in not giving a variance, the result is a piece of property that will continue to collect garbage to become infested with vermin, to be an eyesore for the neighborhood rather than something that can be developed into something that would be a credit to the neighborhood.

MR. TORLEY: I agree with you but I'm concerned about whether--

MR. REIS: I believe we have the right to vote on this and my suggestion is that we do it expeditiously rather than put it off another couple weeks in due respect to Larry, whatever you want to do.

MR. TORLEY: No, I agree with you, I think that a house on this property is probably a good idea. I'm just concerned that we're constrained by state law, we must agree that all these criteria have been met and I don't know if legally, the self-created hardship has been addressed. I don't, I'm not sure of that.

MR. REIS: I believe it has based on Eldred's input as far as the economics of it.

MR. MC DONALD: I do, too.

MR. TORLEY: The economics has nothing to do with self-created hardship.

MR. REIS: We have to overcome can we sell it for a dollar?

MR. TORLEY: Self-created hardship is another matter,

the self-created hardship is a different thing.

MR. KRIEGER: There's something that needs to be added to the record, perhaps the persons are here from the neighborhood are in a better position than the applicant and that's how long we know that it's a neighborhood that's primarily residential, how long that's been the case.

MR. CRONE: My house has been there since 1925.

MR. KRIEGER: There are commercial establishments in the neighborhood?

MR. CRONE: Only one that's in the neighborhood is Rumsey's insurance, which is on the corner and he's no longer there, that's it.

MR. KRIEGER: If you're telling the board that that's primarily a residential, a neighborhood residential in character, now, my question to you is how long has that been the case?

MR. CRONE: Well, my parents are from New Windsor, Joe Ruscitti, and as far as I can remember, I'm 59 years old and that's going back some and my house is 1925, 75 years, the house next to me is over 100 years and the one up the street from me that's about 100 years, so that's how long it's been there.

MR. KRIEGER: So it's been primarily residential in character since?

MR. CRONE: Up to the corner by the firehouse, you turn right and there's more residential there.

MR. KRIEGER: As far as you know, it's always been residential in character?

MR. CRONE: Yes, as far as I know. Then you have Star Block that started commercial and then went down from there, you've got a few body shops.

MR. KRIEGER: But in your area it's been residential?

MR. CRONE: In my area from the firehouse down, it's always been residential, as far as I know, yes.

MR. KRIEGER: Well, the reason I ask that has to do with a self-created hardship, certainly the applicant didn't do anything to create that situation, it's existed since prior to apparently has existed since prior to the enactment of zoning and they couldn't create the situation or done anything to affect it one way or the other.

MR. TORLEY: I'm agreeing with you, I'm looking for a way to do this legally, if, does the fact that the land was purchased from the County while it was NC zoned therefore not, residences were not allowed in 1981, does that constitute a self-created hardship if he purchased the land when it was zoned not for residential purposes, even though residential purposes is clearly what it should be, but that's not what the town said at the time, is that--

MR. KRIEGER: It's also not what the town said before or since, so the fact that they purchased it from the County in 1981 makes no difference, they might as well, the character of whether or not they created a self-created hardship depends on the character of the neighborhood, not the entity from whom they purchased the property. The neighborhood is what it is.

MR. TORLEY: Yeah, Greg, I'm with you. The point is for whatever reason the town said NC and residential development is not permitted in NC for whatever reason they did that does that, please help me on this, does that, when your applicant owner purchased this from the County since it was no longer in continuous ownership of the family, does this by itself constitute buying a piece of property knowing that it's not even, though it should be is not designed for permitted residential use?

MR. BLOOM: If I may, I would suggest two things, first of all, this was not a typical purchase from tax sale, this wouldn't be like one of us going to a tax sale and buying a piece of property, this was in the nature of a redemption for unpaid taxes for her aunt between

related people, no view to buying it for the purpose of development, buying it for the purpose of giving it back to a woman who lost it out of the family of the 40 years of paying taxes, number 1, number 2, don't forget in 1981, if they had immediately come here and sought a variance to build a house in that NC zone, they wouldn't have been faced with the tremendous burden that this applicant's faced with today in terms of establishing the basis for a use variance.

MR. TORLEY: So your point is that it should not be considered as a true purchase but as a redemption?

MR. BLOOM: Redemption and the tax sale, there was no purpose to develop this property at this time.

MR. KRIEGER: That's the way that then and now that the tax law works and there is built into that a redemption period even after title goes back to the County, the reason that it's built into the law is so it isn't treated as an arm's length sale.

MR. TORLEY: We can use that as saying it's not self-created, not a purchase.

MR. KRIEGER: Yes, if it was purchased within the redemption period and there is a period of time, a considerable period of time that's allowed after the actual technical transfer of title to the County in which somebody can come in and they don't have to buy it at arm's length, they can, the difference is they're not paying the purchase price, the County, the owner can ask any purchase price, they're paying the back taxes that makes it a redemption not a purchase.

MR. MC DONALD: That's what happened?

MR. BLOOM: That's what happened.

MR. REIS: It's not an arm's length sale, we should each vote our conscience.

MR. TORLEY: I'll accept a motion.

MR. KRIEGER: You have to do two things, first thing

you have to do is if you're so minded, declare a negative declaration with respect to the environmental aspects and then you're free to once the negative dec is declared if that is in fact what you do, you're free to proceed.

MR. MC DONALD: I'll make that motion.

MR. REIS: Second it.

MR. KRIEGER: Declare a negative dec.

MR. MC DONALD: What Andy said.

ROLL CALL

MR. REIS	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

MR. REIS: So we need a motion on the variances, the area variances. I make a motion that we grant Traver/North Plank Development their requested variance use and possible area variances.

MR. TORLEY: For the course I went to suggested, they suggested when you give a use variance that you define the use variance, say you can put a structure up with these setbacks, so you can say you want, you were looking for, to build a structure with a ten foot side yard setback as per map, plot plan one.

MR. SHAW: Just to be specific, each side yard would be 10 feet, the rear yard would be 15 feet and the front yard setback would be 31 feet.

MR. REIS: Per setbacks and side yard requirements per single family dwellings on plot plan number one as dated by Greg Shaw.

MR. KRIEGER: Depiction, not requirements.

MR. SHAW: There may be two other variances, one is a minimum lot area.

MR. TORLEY: We're granting a use variance to put up a structure on this lot, all the area variances are set aside, we're defining what we're writing for this lot, what your plot plan is taking your plan as defining what the variances are to be.

MR. SHAW: Just didn't want to have to return to this board again.

MR. MC DONALD: Second it.

ROLL CALL

MR. REIS	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

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

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

**APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT (845) 563-4630 TO
MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.**

DATE: 4/15/02

APPLICANT: Gregory J. Shaw P.E.
744 Broadway
PO Box 2569
Newburgh, NY 12550

COPY

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE:

FOR : North Plank Development LLC

LOCATED AT: Walsh Road

ZONE: NC Sec/ Blk/ Lot: 14-7-19 & 14-7-20

DESCRIPTION OF EXISTING SITE: Vacand Land NC Zone

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. 48-12 Use-Bulk Table NC zone Proposed single family dwelling is not a permitted use in the NC zone. A use variance will be required as well as any additional variances as the zoning board deems necessary.

Louis J. Kynher
BUILDING INSPECTOR

PERMITTED

PROPOSED OR
AVAILABLE:

VARIANCE
REQUEST:

ZONE: NC USE:

Single Family Dwelling

Single Family Dwelling

MIN LOT AREA:

MIN LOT WIDTH:

REQ'D FRONT YD:

REQ'D SIDE YD:

REQ'D TOTAL SIDE TD:

REQ'D REAR YD:

REQ'D FRONTAGE:

MAX BLDG HT:

FLOOR AREA RATIO:

MIN LIVABLE AREA:

DEV COVERAGE:

cc: Z.B.A., APPLICANT, FILE, W/ ATTACHED MAP

PLEASE ALLOW FIVE TO TEN DAYS TO PROCESS
IMPORTANT
YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and underlab plumbing.
4. When framing, rough plumbing, rough electric and before being covered.
5. Insulation.
6. Final inspection for Certificate of Occupancy. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Well water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway bond may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Call 24 hours in advance, with permit number, to schedule inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and perc test.
13. Road opening permits must be obtained from Town Clerk's office.
14. All building permits will need a Certificate of Occupancy or a Certificate of Compliance and here is no fee for this.

RECEIVED

JAN 2 2 2002

BUILDING DEPARTMENT

FOR OFFICE USE ONLY:
Building Permit # 2002-0045

AFFIDAVIT OF OWNERSHIP AND/OR CONTRACTOR'S COMP & LIABILITY INSURANCE CERTIFICATE IS REQUIRED BEFORE THE BUILDING PERMIT APPLICATION WILL BE ACCEPTED AND/OR ISSUED

PLEASE PRINT CLEARLY - FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

Owner of Premises George & Bertha Traver

Address 42 Blagden Ave, New Windsor, NY Phone # _____

Mailing Address _____ Fax # 561-3027

Name of Architect N.A.

Address _____ Phone _____

Name of Contractor N.A.

Address _____ Phone _____

State whether applicant is owner, lessee, agent, architect, engineer or builder John J. Leas III, Applicant
Contract Vendor

If applicant is a corporation, signature of duly authorized officer _____
(Name and title of corporate officer)

1. On what street is property located? On the North side of Welsh Road
(~~N, E or W~~)
and 200 feet from the intersection of Quessick Avenue

2. Zone or use district in which premises are situated NC Is property a flood zone? Y N X

3. Tax Map Description: Section 14 Block 7 Lot 19+20

4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.

a. Existing use and occupancy Vacant Lot b. Intended use and occupancy Residence

5. Nature of work (check if applicable) New Bldg. Addition Alteration Repair Removal Demolition Other

6. Is this a corner lot? No

7. Dimensions of entire new construction. Front _____ Rear _____ Depth _____ Height _____ No. of stories _____

8. If dwelling, number of dwelling units: _____ Number of dwelling units on each floor _____

Number of bedrooms _____ Baths _____ Toilets _____ Heating Plant: Gas _____ Oil _____
Electric/Hot Air _____ Hot Water _____ If Garage, number of cars _____

9. If business, commercial or mixed occupancy, specify nature and extent of each type of use _____

10. Estimated cost _____ Fee _____

Planning Board

PAID

\$ 50
an # 10024

____/____/____
date

APPLICATION FOR BUILDING PERMIT
TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK
Pursuant to New York State Building Code and Town Ordinances

Building Inspector: Michael L. Babcock
Asst. Inspectors: Frank Lisi & Louis Krychear
New Windsor Town Hall
555 Union Avenue
New Windsor, New York 12553
(845) 563-4618
(845) 563-4695 FAX

Bldg Insp Examined _____
Fire Insp Examined _____
Approved _____
Disapproved _____
Permit No. _____



INSTRUCTIONS

- A. This application must be completely filled in by typewriter or in ink and submitted to the Building Inspector.
- B. Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram, which is part of this application.
- C. This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- D. The work covered by this application may not be commenced before the issuance of a Building Permit.
- E. Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- F. No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions, or alterations, or for removal or demolition or use of property as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

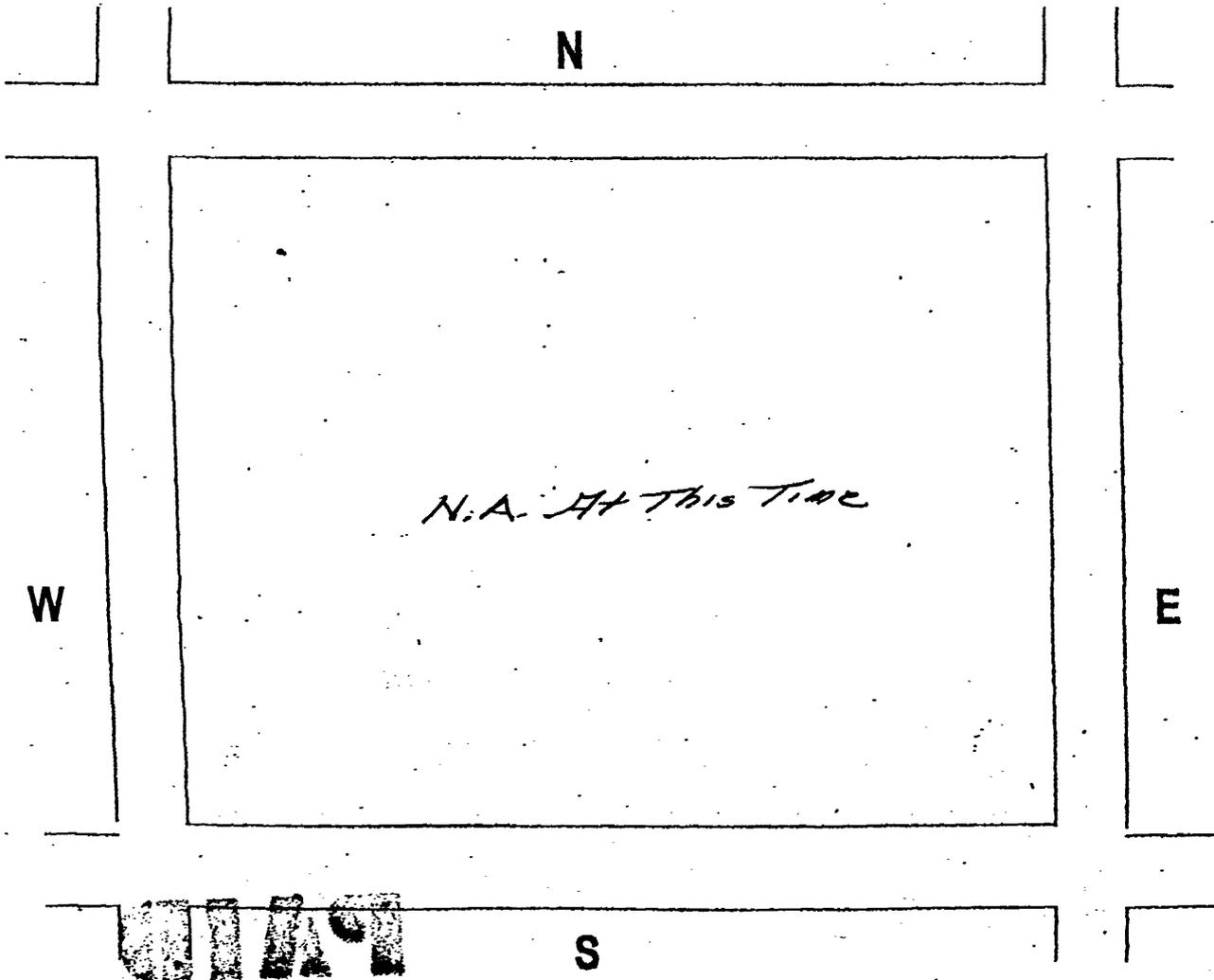
[Handwritten Signature]
(Signature of Applicant)

Engineer For Applicant 744 Broadway, New York
(Address of Applicant)

PLOT PLAN

(Owner's Address)

NOTE: Locate all buildings and indicate all set back dimensions. Applicant must indicate the building line or lines clearly and distinctly on the drawings.



TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

Date: # 02-27

✓ I. Applicant Information:

- (a) North Plank Development Company, LLC, c/o John J. Lease, III, John J. Lease Realtor
(Name, address and phone of Applicant) (Owner) 5020 Rt. 9W
Newburgh, NY 12550
(845) 565-2800
- (b) _____
(Name, address and phone of purchaser or lessee)
- (c) DANIEL J. BLOOM, ESQ., BLOOM & BLOOM, P.C., 530 BLOOMING GROVE TPKE., NEW WINDSOR,
(Name, address and phone of attorney) (845) 561-6920 NY 12550
- (d) GREGORY J. SHAW, P.E., SHAW ENGINEERING, 744 BROADWAY, NEWBURGH, NY 12550
(Name, address and phone of contractor/engineer/architect/surveyor) (845) 561-3695

II. Application type:

- Use Variance Sign Variance
 Area Variance Interpretation

✓ III. Property Information:

- (a) NC Walsh Road 14-7-19 & 20 4,163 square feet
(Zone) (Address of Property in Question) (S-B-L) (Lot size)
- (b) What other zones lie within 500 feet? R-4
- (c) Is pending sale or lease subject to ZBA approval of this Application? Yes
- (d) When was property purchased by present owner? 11/30/81
- (e) Has property been subdivided previously? No
- (f) Has property been subject of variance previously? No. If so, when? N/A
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning/Fire Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? No

✓ IV. Use Variance:

- (a) Use Variance requested from New Windsor Zoning Local Law,
Section 48-9 & 48-12, Table of N/A Regs., Col. N/A

(Describe proposal) Applicant wishes to construct a single family dwelling in an "NC" zone.

(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.

SEE ATTACHED

✓ V. Area Variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-21G, Table of _____ Regs., Col. _____.

	Permitted	Proposed or Available	Variance Request
Min. Lot Area	10,000 s.f.	4,163 s.f.	5,837 s.f.
Min. Lot Width	100 feet	50 feet	50 feet
Reqd. Front Yd.	40 feet	31 feet	9 feet
Reqd. Side Yd. (one)	15 feet	10 feet	5 feet
(both)	30 feet	20 feet	10 feet
Reqd. Rear Yd.	15 feet	15 feet	None
Reqd. Street Frontage*	N/A		
Max. Bldg. Hgt.	N/A		
Min. Floor Area*			
Dev. Coverage*	N/A	42.6%	
Floor Area Ratio**	1	0.22	0.78
Parking Area			

* Residential Districts only

** Non-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

VI. Sign Variance: N/A.

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Supplementary Sign Regulations

	<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 oversized 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 _____.

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

✓ VIII. Additional comments:

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

IX. Attachments required:

- Copy of referral from Bldg./Zoning Inspector or Planning Board.
- Copy of tax map showing adjacent properties.
- Copy of contract of sale, lease or franchise agreement. Copy of deed and title policy.
- Copy 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 \$ 50,00 and the second check in the amount of \$ 300,00, each payable to the TOWN OF NEW WINDSOR.
- Photographs of existing premises from several angles.

X. Affidavit.

Date: June 16, 2002

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.

NORTH PLANK DEVELOPMENT COMPANY, LLC

BY: _____

(Applicant)

JOHN J. LEASE, III

Sworn to before me this

6th day of June, 2002.

Ellen Testa

ELLEN TESTA
NOTARY PUBLIC, State of New York
Resident in and for Ulster County
Commission Expires March 8, 2003

XI. ZBA Action:

(a) Public Hearing date: June 24, 2002.

ATTACHMENT TO APPLICATION FOR VARIANCE
OF
NORTH PLANK DEVELOPMENT COMPANY, LLC

IV. (b) The subject premises are improved and are located in an “NC Zone (Neighborhood Commercial)” requiring a minimum area of 10,000 square feet. The premises consist of only 4,163 feet. Under the provisions of the NC Zone, the premises may be utilized legally only for the construction of a structure to be utilized for commercial purposes. However, due to the magnitude of the insufficiency in square footage, a commercial structure on the subject premises would not be economically viable. Moreover, any such commercial structure (for example, and the most likely structure being a service garage) would require substantial area variances and would be inconsistent with the residential structures in the immediate vicinity.

Attached hereto and incorporated herein by reference are three proposed plot plans relating to the subject premises prepared by Shaw Engineering, Newburgh, New York which demonstrate the numerous area variances which would have to issue in order to permit construction on the premises of the most minimum “service garages” (Plot Plans I and II), as well as construction of a single family dwelling based upon the issuance of a “Use Variance” by this Board. Assuming this Board would be disposed to grant the numerous and extensive area variances necessary for the construction of either of the two “proposed service garages” as outlined on Plot Plans I and II attached, testimony and evidence will be submitted at the Public Hearing to indicate that the construction of any such “service garage” with necessary parking, would not be a commercially viable venture.

On the other hand, the construction of a single family dwelling on the premises as per Plot Plan I attached, would be commercially feasible and more consistent with the nature and quality of the neighborhood in which it would be constructed, than a commercial enterprise.

The premises have been vacant for over twenty (20) years and are now being offered for sale by the owner by reason of her desire to raise capital in her later years of life. Accordingly, the owner approached the applicant (a real estate broker) for the purpose of selling and/or purchasing the premises and was advised by the applicant that her ability to sell the same would be strictly limited by the discretion of this Board in granting any necessary and appropriate variances.

ATTACHMENT TO APPLICATION FOR VARIANCE
OF
NORTH PLANK DEVELOPMENT COMPANY, LLC

V. (b) Applicant submits that granting of the subject area variances in connection with the issuance of the aforesaid Use Variance for the construction of a single family dwelling on the premises will result in no undesirable changes to the neighborhood. On the contrary, the existing neighborhood consists principally of one family residences in close proximity of each other. Indeed, the existing one family, two story residence contiguous to the subject premises on the West is less than ten (10) feet from the property line. If a commercial structure (as permitted in the Zone) were constructed on the subject premises, it would have a substantial detrimental impact upon that residence as well as other residences in the neighborhood. Inasmuch as the premises are vacant at the present time, except for the construction of a commercial structure which would be economically non-viable, the requested use of the premises for the construction of a one family residence constitutes the only viable alternative for the owner to secure any economic return at all on real estate which she needs for purpose of her support in her retirement. Testimony and evidence will be submitted at the Public Hearing which will confirm that the construction of such a single-family residence will considerably enhance the aesthetics of the neighborhood, as well as the value of the surrounding properties.

Form 21-14-Rev. 12-81-Quitclaim Deed-(Individual or Corporation)

THIS INDENTURE, made the 30th day of NOVEMBER, nineteen hundred and EIGHTY-ONE BETWEEN

THE COUNTY OF ORANGE, a municipal corporation with offices at the Orange County Government Center, 255-275 Main Street, Goshen, New York

party of the first part, and

GEORGE TRAVER and BERTHA TRAVER, his wife, residing at 26 Quassaick Avenue, New Windsor, New York 12550

party of the second part.

WITNESSETH, that the party of the first part, in consideration of \$800.00-----Dollars and other valuable considerations paid by the party of the second part, does hereby remise, release and quitclaim 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

Section 14, Block 7, Lot 19
Section 14, Block 7, Lot 20

BEING the same premises conveyed to the County of Orange by Tax Deed dated September 16, 1981 and recorded in the Orange County Clerks Office in Liber 2204 of Deeds at page 363, said parcel being formerly owned by Anna C. Jones; BEING the same premises conveyed to the County of Orange by Tax Deed dated September 16, 1981 and recorded in the Orange County Clerk's Office in Liber 2204 of deeds at page 358, said property being formerly owned by Anna C. Jones.

TOGETHER with all right, title and interest, if any, of the party of the first part of, 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, in compliance with Section 13 of the local law, hereby 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 WITNESS OF:

THE COUNTY OF ORANGE

By: 
LOUIS HEIMACH, County Executive



2211 397

2211 308

This conveyance is authorized by Section 101(2)(b) of the Real Property Tax Law by virtue of the provisions of Orange County Local Law #9 and #12 of 1979 as last amended by Orange County Local Law #2 of 1981.

Orange County makes no representation or warranties of any kind with regard to the property conveyed hereby and does not represent the same are unoccupied.

Orange County makes no representation as to the accuracy of the aforementioned owner of the parcel conveyed hereby prior to the ownership of Orange County nor to the accuracy of the deed recording date. The same is included herein as a convenience and reference only.

The parcel conveyed hereby is conveyed subject to all lawful occupancies if any, and all applicable rules, regulations, ordinances, local laws, statutes and laws of the Municipality in which it is located, Orange County, the State of New York and the United States of America.

STATE OF NEW YORK, COUNTY OF ORANGE
 On the _____ day of _____, 19____, before me personally came _____
 to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF ORANGE
 On the 30 day of November, 19 81 before me personally came LOUIS HEIMBACH to me known, who, being by me duly sworn, did depose and say that he resides at No. RD #3, Middletown New York that he is the County Executive of Orange County 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 corporation, and that he signed his name thereto by like order pursuant to Resolution No. 210 of 1981

Nancy K. Brendel
 Notary Public
 NANCY K. BRENDEL
 Notary Public, State of New York
 Qualified in Orange County
 Commission Expires March 30, 1982

Quitclaim Deed

Title No. _____
 COUNTY OF ORANGE
 TO
 GEORGE TRAVER and BERTHA TRAVER

STANDARD FORM OF
 NEW YORK BOARD OF TITLE UNDERWRITERS
 Distributed by
Lawyers Title Insurance Corporation
 Home Office - Richmond, Virginia
 780 THIRD AVENUE AT 4TH STREET, NEW YORK, N.Y. 10017

SECTION _____
 BLOCK _____
 LOT _____
 COUNTY OR TOWN _____

RECORDED AT THE REQUEST OF
Lawyers Title Insurance Corporation
 RETURN BY MAIL TO
Let to Mc Carr
 Zip No. _____
M. P. ...

Reverse This Space For Use of Recording Office

RECEIVED
 REAL ESTATE
 DEC 10 1981
 TRANSFER TAX
 ORANGE COUNTY, N.Y.

Orange County Clerk's Office, s.e.
 Recorded on the 19th day
 of Dec. 1981 at 9:27
 o'clock A.M. in Liber 211
Deeds at page 397
 and Examined.
Marion S. Murphy

Liber 211 p. 399

6/24/02 Public Hearing: Traver/North Plank Dev. #02-27

Name:

Address:

Betha Traver

42 Blanche Ave New Windsor

Margaret Nelson
+

289 Wabst Ave New Windsor

Kenneth Creke

COMPUTING CAPITALIZATION RATE

Akerson Modified Band of Investment Method

Basic Projections:

Sign	Quantity	Definition
Ro	Unknown	Overall Capitalization Rate.
M	80%	Percentage of the transaction to be financed (loan to value ratio).
1-M	20%	Percentage of the transaction in equity.
Rm	.0839	Mortgage constant (7.5 % interest - 30 years amortization period).
Ye	10%	Equity yield rate.
N	10 years	Projected holding period.
P	.1321	Percentage of mortgage reduction during holding period.
1/Sn	.0627	Sinking fund factor.
DELTAo	50%	Anticipated appreciation during holding period

Akerson Formula:

Mortgage Cost (M x Rm)	.80 x .0839	.0671
Equity Yield [(1-M) x Ye]	.20 x .10	+ .0200
Equity Build-up (M x P x 1/Sn)	.80 x .1321 x .0627	- .0066
Appreciation/Depreciation (DELTAo x 1/Sn)	.50 x .0627	- .0314
Overall Capitalization Rate (Ro)		.0491
Capitalization Rate (rounded)		5.00%

AS A SMALLER GARAGE

$$\begin{aligned}
 20 \times 23 &= 460 \text{ sq ft} @ \$12.50/\text{SF} = \$5,750.- \\
 \text{Vacancy (5\%)} &= \frac{300.-}{5,450}
 \end{aligned}$$

Expenses

Contract Income	\$200.-	
Professional Management (5%)	275.-	
Misc	250.-	
Reserve for Replants (1%)	55.-	
	780	780
NOI		4,670.-
Capitalized @ 9.0% =	\$51,900.-	

Cost to build =	\$25,300	
Entrance and job (25%)	6,060	
	30,360.-	
(Long Costs)	7,500.-	
	37,860	

+ COST OF LAND.

⊖ LOCATIONAL OBSOLESCENCE 25%

2.5% APPRECIATION/YEAR

COMPUTING CAPITALIZATION RATE

Akerson Modified Band of Investment Method

Basic Projections:

Sign	Quantity	Definition
Ro	Unknown	Overall Capitalization Rate.
M	75%	Percentage of the transaction to be financed (loan to value ratio).
1-M	25%	Percentage of the transaction in equity.
Rm	.1253	Mortgage constant (9.5 % interest - 15 years amortization period).
Ye	12%	Equity yield rate.
N	10 years	Projected holding period.
P	.5028	Percentage of mortgage reduction during holding period.
1/Sn	.0570	Sinking fund factor.
DELTAo	25%	Anticipated appreciation during holding period

Akerson Formula:

Mortgage Cost (M x Rm)	.75 x .1253	.0940
Equity Yield [(1-M) x Ye]	.25 x .12	+ .0300
Equity Build-up (M x P x 1/Sn)	.75 x .5028 x .0570	- .0215
Appreciation/Depreciation (DELTAo x 1/Sn)	.25 x .0570	- .0143
Overall Capitalization Rate (Ro)		.0882
Capitalization Rate (rounded)		9.00%

COMPUTING CAPITALIZATION RATE

Akerson Modified Band of Investment Method

Basic Projections:

Sign	Quantity	Definition
Ro	Unknown	Overall Capitalization Rate.
M	75%	Percentage of the transaction to be financed (loan to value ratio).
1-M	25%	Percentage of the transaction in equity.
Rm	.1253	Mortgage constant (9.5 % interest - 15 years amortization period).
Ye	12%	Equity yield rate.
N	10 years	Projected holding period.
P	.5028	Percentage of mortgage reduction during holding period.
1/Sn	.0570	Sinking fund factor.
DELTAo	25%	Anticipated appreciation during holding period

Akerson Formula:

Mortgage Cost (M x Rm)	.75 x .1253	.0940
Equity Yield [(1-M) x Ye]	.25 x .12	+ .0300
Equity Build-up (M x P x 1/Sn)	.75 x .5028 x .0570	- .0215
Appreciation/Depreciation (DELTAo x 1/Sn)	.25 x .0570	- .0143
Overall Capitalization Rate (Ro)		.0882
Capitalization Rate (rounded)		9.00%

ELDRED P. CARHART

STATE CERTIFIED GENERAL APPRAISER

NEW YORK, CONNECTICUT, PENNSYLVANIA

COMMERCIAL AND RESIDENTIAL APPRAISAL SERVICES

66 BALMVILLE ROAD, NEWBURGH, NEW YORK 12550

TEL (845) 561 - 0570

email: ecarhart@hvc.rr.com

FAX (845) 565 - 7004

IN MY OPINION:

There would be no detriment to health, safety and welfare of the neighborhood or community if the variance is granted.

There would be no undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by granting the variance.

There would be no loss of value to the neighboring properties will be produced.

The difficulty to the owner is not self-created, since this is unimproved land, available for improvement.

According to the Fire Chief, there is no parking allowed on either side of Walsh's Road.

Re: Traver - 14-7-19 + 20.

PROXY AFFIDAVIT

SUBMISSION OF APPLICATION FOR VARIANCE #02-27

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

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

BERIHA TRAVER, deposes and says:
I am the OWNER of a certain parcel of land within the TOWN OF NEW WINDSOR designated as tax map SECTION 14 BLOCK 7 LOT 19 & 20. I HEREBY AUTHORIZE JOHN J. LEASE, III of NORTH PLANK ROAD DEVELOPMENT COMPANY, LLC (company name) to make an application before the ZONING BOARD OF APPEALS as described in the within application.

Dated: June 7th, 2002.

Bertha M Traver
(Signature of Owner)
BERIHA TRAVER

Sworn to before me this
17th day of June, ~~19~~ 2002

Karen Rose M. Barahona
Notary Public

(ZBA DISK#1-060895.PXY)

Karen Rose M. Barahona
Notary Public, State of New York
No. 01BA6058810
Qualified in Ulster County
Commission Expires May 14, 2003

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. 02-27

Request of North Plank Development, LLC

for a VARIANCE of the Zoning Local Law to Permit:

the construction of a single family dwelling in an "NC" Zone being a Use Variance of Section 48-8 of Article III, and associated Area Variances of Sections 48-9 and 48-12, of Article IV of the New Windsor Zoning Ordinance

for property situated as follows:

North side of Walsh Road, 300 feet east of Spring Street

known and designated as tax map Section 14, Blk. 7 Lot 19 & 20

PUBLIC HEARING will take place on the 24th day of June, 2002 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 o'clock P.M.

Lawrence Torley
 Chairman

Post-It® Fax Note	7671	Date	# of pages ▶
To <u>Ellen</u>		From <u>G. Shaw</u>	
Co./Dept.		Co.	
Phone #		Phone #	
Fax #		Fax #	

Date 5/29/02

TOWN OF NEW WINDSOR

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

27.00

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

DATE		CLAIMED	ALLOWED
5/17/02	Zoning Board Mtg	75 00	
	Misc. - 2		
	North Plank Development - 6		
	Colandrea - 3		
	Corbett - 1		
	Denhoff - 5		
	Salomoff - 5		
	House of Apache - 5		
	Dreyer - 2		
	Smith - 4		
	Roberts - 3	184 50	
	Trapp - 3		
	Coplan - 2	259 50	

Lawrence W. Forley

PRELIMINARY MEETINGS:

NORTH PLANK DEVELOPMENT

Daniel Bloom, Esq. and Mr. Gregory Shaw appeared before the board for this proposal.

MR. TORLEY: Request for use and possible area variances for proposed single-family dwelling on Walsh Road in NC Zone.

MR. SHAW: Good evening. For the record, my name is Greg Shaw from Shaw Engineering and with me tonight is Dan Bloom, who is the attorney for the project and John Lease, III who was the applicant which is North Plank Development Corporation. We're here before you tonight for a petition for a use variance in addition to possibly other area variances which we'll get into in a second. The parcel that's under review tonight is on Walsh Road opposite of the cemetery, maybe about 600 feet from Route 9W and it abuts a residential house on the westerly side and on the easterly side also to the rear of it are lands of a commercial nature. The property is in an NC zone. My client originally came to me and told me that he's under contract to purchase it and wanted me to come up with some appropriate use on this lot. I told him it was rather small, 50 feet by 75 feet at its narrowest dimension. When I sat down and looked through the permitted use in the NC zone, I could not come up with anything that was appropriate for that lot or for that neighborhood. Something as very simple as a garage, I looked into that, and again, it just would not fit. In discussion as to what truly would work on that site was a residence, was a house, that immediate part of Walsh Road is not a commercial strip, yes, when you get down to the corner, you get the Reis Insurance Agency, but for the most part, it's a rural residential street. As I said, with the cemetery across the street from it and with that, we discussed probably the best use of that property was that of just of a single family house. Similar to what's next door to it, possibly 20 feet away. Unfortunately, a residence is not permitted in an NC zone, therefore, we're here tonight to discuss the possibility of a use variance to allow a residence in

an NC zone. If you will notice on the sketch I incorporated a zoning schedule and I laid out the bulk requirements for both the NC zone and the R-4 zone. I had to pick a residential zone, I wasn't sure what zone would be appropriate because the bulk requirements vary from zone to zone. So when he submitted it to the building inspector for a rejection to allow me to come before the board, he noted that yes, we need a use variance and also other area variances that the board felt were appropriate for this piece of property. So that's why we're here tonight to discuss the use variance and also whatever other area variances would be appropriate to allow the construction of a 30 by 30 foot single family dwelling on this lot.

MR. TORLEY: You are I'm sure aware of the requirements for a use variance, Greg?

MR. SHAW: Yes, that's why we have Mr. Bloom with us tonight.

MR. TORLEY: You have several problems with that, first off, how long has the present owner had the property?

MR. SHAW: I don't know the answer to that. Yes, maybe Mr. Lease does?

MR. LEASE: About 20 years.

MR. TORLEY: You'd have to show that he, when he purchased the property, the zoning would have permitted him to do, to put this house on there. Otherwise, I would consider this to be coming under a self-created hardship. If you couldn't put a house up there 20 years ago, it's self-created. Second, this Walsh Road area is a very strangely populated or developed area with mixed uses, but this piece of property then begins to fail the unique requirement cause there are other small pieces of property that are either commercial, residential or commercial mixed in. So the question you have to face is defend uniqueness. The reasonable return statute you have to defend this, maybe this piece of property is just too small to do anything with it, and the Section 4826-E non-conforming lot, if you looked at that or the Town Board has decided in Section

F or the minimum size that you can talk about in the Section E is 5,000 square feet. You're saying this piece of property is 4,163 square feet?

MR. BLOOM: Yes.

MR. TORLEY: Section F of that paragraph or block says it is the finding of the Town Board that the development of non-conforming lots not meeting the involved criteria we're just talking about lot size here, a lot under 5,000 square feet is considered not suitable for residential construction period. I don't know whether we have the authority to vary that part of the code. To my mind, please feel free to discuss it and you have the answer but you have a very high amount of hurdles to get through for a piece of property that just may not be buildable.

MR. BLOOM: If I may be heard on that, Mr. Chairman. We are keenly aware of the burden and we realize it is a substantial burden. However, when my client approached the subject matter with Mr. Shaw and myself, the basic original motivation well really wasn't to develop something that was going to necessarily generate an income flow for my client, so much as to try to select the construction for the lot which would be most compatible with the neighborhood itself, so that my client could derive a minimum income from it while at same time not just be palatable to the neighbors, but hopefully, and from his perspective he believes actually upgrade the quality of life in the neighborhood for the other residential owners. Now, I realize that you directed our attention I think quite properly at that section of the code which deals with minimum lot, the minimum size lots available but the minimum size lot developable under the code but I do respectfully suggest that my client, certainly the present owner of the property would have a right, a constitutional right not to have the property taken without due process. And I would also respectfully suggest that if we were to determine that this particular piece of land must lay fallow and people must pay taxes on it in perpetuity, so to speak, that verges on a taking, so what we're trying to do here is establish some type of development, minimal though it

may be on the lot which would be compatible with the code in the spirit of the code and at the same time enhance the quality of life for the neighbors.

MR. TORLEY: Gentlemen? Again, you have the right to a public hearing and speaking to the audience in general, you're seeing now why we have preliminary meetings, so the applicant can understand the kind of questions we're going to be asking him at a public hearing because by law, everything we do has to be done at a public hearing. We have these preliminary meetings just so everybody is on the same page and the applicants have a fair opportunity at a public hearing. Now, these gentlemen are professionals and it's not really necessary for them, but many of you in the audience this will be the only time in your life you have to do this, so we, that's why we hold preliminary meetings and again, the questions I have asked you are things you have to defend at the public hearing. I'm interested in the history of the property and at what point if any single family residence could have been legally placed on this property, given the size constraints of it. Gentlemen, any questions you have?

MR. REIS: Greg, did you say that it's the current size, shape, current location, everything being equal that there's nothing within the code that you could build on this without requiring any variance?

MR. SHAW: Correct, what I said when we first examined the parcel for the permitted uses in the NC zone, which is what it is permitted for, we could not come up with any use that we could put on the lot and comply with the setbacks, okay, and the minimum lot areas, the bulk requirements were quite stringent, even if I went to the most simplest which would be a garage, just a simple garage that would fit in the NC zone, I think is inappropriate for that lot and for that neighborhood. But again, it's an NC zone and even a garage wouldn't work. And what seemed to make the most sense independent of the zone and the use variance is that it's a residential area and there's a house 20 feet, the next door house is approximately, well, it's less than ten feet away from the property line and again, that's the house that you're looking at. And we

thought it would be most appropriate for our neighbors, for that neighborhood in New Windsor would be to put a residence on there, again understanding that it requires a use variance which as the Chairman mentioned is tough to get. But again, we feel that is the best use of the property.

MR. TORLEY: And you'd be prepared to show at the public hearing the standard that now dollars and cents for each and every permitted use in a NC zone that could not return a reasonable, make a reasonable return cause area variances are much lower hurdles obviously than use variances so you'll be prepared to do that?

MR. SHAW: Yes.

MR. TORLEY: Gentlemen?

MR. REIS: Accept a motion?

MR. TORLEY: Yes.

MR. REIS: Make a motion that we set up North Plank Development.

MR. KANE: Do you want to, we handled the part whether that's a use or not, do you want to touch on the area variances they may need at the public hearing or one step at a time?

MR. TORLEY: At a course I was recently at, they had a suggestion as to how you handle the area variances that fall in after you do a use variance which we have had, what do you use and their suggestion was you write the variances to fit the building, you just say that's what it is.

MR. KANE: Just wanted to cover that base.

MR. TORLEY: Don't try to make a variance because it doesn't fit everything.

MR. BABCOCK: As they are in the zone.

MR. TORLEY: For what they want to do.

MR. BABCOCK: The zone or the building?

MR. TORLEY: The problem is that that residential zone in every use is different uses. Simply state that we grant them a use variance with these setbacks and side yards.

MR. BABCOCK: Okay, so you don't need any numbers, if you grant this use variance, you grant it based on this application and this survey?

MR. TORLEY: If that should happen.

MR. KANE: So what we'll definitely need is definite numbers on side yard, front yard.

MR. BABCOCK: They're on there.

MR. REIS: All those things being already established, I make the motion that we set up North Plank Development for the requested area variances and use variance for Walsh Road property.

MR. MC DONALD: Second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

(Whereupon, Mr. Krieger entered the room.)



1763

Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4631
Fax: (845) 563-4693

Assessors Office

May 31, 2002

Bloom & Bloom
530 Blooming Grove Turnpike
PO Box 4323
New Windsor, NY 12553

48

Re: 14-7-19 & 14-7-20 (North Plank - Traver)

Dear Mr. David Bloom:

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

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

No further balance is due.

Sincerely,

Leslie Cook
Sole Assessor

LC/srr

Attachments

CC: Pat Corcetti, ZBA



9-1-66.1
Masud Naraghi
C/o Torr International
12 Columbus Street
New Windsor, NY 12553

9-1-67
Brewster & Geraldine Paffendorf
1 Quassaick Avenue
New Windsor, NY 12553

13-5-13.1 & 14-7-1
Richard & Linda Ostner
66 Union Avenue
New Windsor, NY 12553

13-5-15
Michael & Donna Collins
6 Cedar Avenue
New Windsor, NY 12553

13-5-16
Bridge Road Realty Corp.
218 15th Street
West Babylon, LI 11704

13-5-40, 13-8-6, 14-1-20 & 14-7-24
Charles Rumsey Jr.
C/o Mira Ellen Blythe
P.O. Box 111
Wallkill, NY 12589

13-5-43 & 13-5-44
Nancy Blinn McCann
1050 Starkey Road #304
Largo, FL 33771

13-5-45
Town Quassaick Fire
275 Walsh Avenue
New Windsor, NY 12553

13-8-2 & 13-8-3
Olga Mendoza
92 Beacon Street
Newburgh, NY 12550

13-8-7
Daniel & Helene Kerin
16 Cedar Avenue
New Windsor, NY 12553

14-1-1
Thomas & Donna Curtin
20 Hunter Road
Washingtonville, NY 10992

14-1-2
Roland Sr. & Marie Mitchell
27 Columbus Street
New Windsor, NY 12553

14-1-3
Jorge & Isabel Jimenez
25 Columbus Street
New Windsor, NY 12553

14-1-4
Claudia Torraco
23 Columbus Street
New Windsor, NY 12553

14-1-5
Claudia Torraco
21 Columbus Street
New Windsor, NY 12553

14-1-6
Frank Francan
19 Columbus Street
New Windsor, NY 12553

14-1-10.11
Frank & Jill Francan
13 Columbus Street
New Windsor, NY 12553

14-1-12 & 14-1-13 & 14-1-23
Frank Francan
7 Columbus Street
New Windsor, NY 12553

14-1-15
Alfred & Margaret Palumbo
186 Caesar Lane
New Windsor, NY 12553

14-1-16.2 & 14-1-18 & 14-1-19
Victor Bosacky
15 Ledyard Street
New Windsor, NY 12553

14-1-17
Roberto & Vicenta Arocho
5 Ledyard Street
New Windsor, NY 12553

14-1-21
Yecica Sanchez
Bayron Cruz
27 Ledyard Street
New Windsor, NY 12553

14-1-22 & 14-8-1
Solomon & Mario Crisostomo
33 Quassaick Avenue
New Windsor, NY 12553

14-1-24
Edward Reeves
19 Quassaick Avenue
New Windsor, NY 12553

14-6-1
Cemetery
St. Patricks Church
55 Grand Street
Newburgh, NY 12550

14-7-2 & 14-7-3
Richard Ostner
82 Bethlehem Road
New Windsor, NY 12553

14-7-5
Toni Ann Catalano
P.O. Box 4139
New Windsor, NY 12553

14-7-8
Jeffrey & Jeanne Stent
34 Quassaick Avenue
New Windsor, NY 12553

14-7-9
David Cleaves
8 Bridge Street
Cornwall, NY 12518

14-7-12
Patrick Bianco
324 Collabar Road
Montgomery, NY 12549

14-7-13
Hermino & Zelandia Maldonado
7245 Fullerton Court
New Port Richey, FL 34655

X

14-8-3
Mary Ann Weber
C/o Ann Ferguson AKA Ann Szloboda
14 Ledyard Street
New Windsor, NY 12553

X

14-7-14
Michael Jacobson
16 Paulding Avenue
Cold Springs, NY 10516

X

14-8-4
Gloria Hryniewicz
53 Brane Avenue
Hawthorne, NJ 07506

X

14-7-15
52 Quassaick Avenue, Inc.
c/o Somporn Toombs
32 Ellis Avenue
Newburgh, NY 12550

X

14-8-5
Humberto & Celsa Fernandez
15 Plympton Street
New Windsor, NY 12553

X

14-7-16
Dominick & Dona Pisano
182 North Plank Road
Newburgh, NY 12550

X

14-8-6
Natashia & Lenora Grable
313 Walsh Avenue
New Windsor, NY 12553

X

14-7-17
Frank H. Reis Realty Corp.
79 N. Front Street
Kingston, NY 12401

X

14-8-7
Saffioti Brothers, Inc.
61 Quassaick Avenue
New Windsor, NY 12553

X

14-7-21
Margaret Bulson
Kenneth Crone
289 Walsh Avenue
New Windsor, NY 12553

X

14-8-8 & 14-8-9
Mario & Ezenia Espana
P.O. Box 4259
New Windsor, NY 12553

X

14-7-22
Jose & Victoriana Camacho
287 Walsh Avenue
New Windsor, NY 12553

X

14-8-10 & 14-8-11
Stella Orzechowski
Lorraine Slacin
61 Blanche Avenue
New Windsor, NY 12553

X

14-7-23 & 14-7-26
Ferdinand Ritz
283 Walsh Avenue
New Windsor, NY 12553

X

14-8-12
EKJ Realty LLC
45 Quassaick Avenue
New Windsor, NY 12553

X

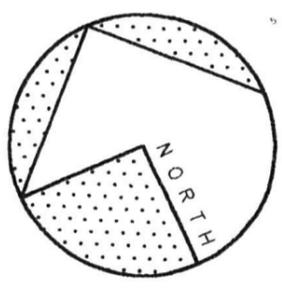
14-7-25
Harold & Shirley Jones
9 Cedar Avenue
New Windsor, NY 12553

X

14-7-27
Joseph Jr. & Cecelia Piqueras
18 Spring Rock Road
New Windsor, NY 12553

X

APPROX. LOCATION OF MH No. 89 (SD9-2B) COVERED BY SHED AS-BUILT DEPTH 4.8'



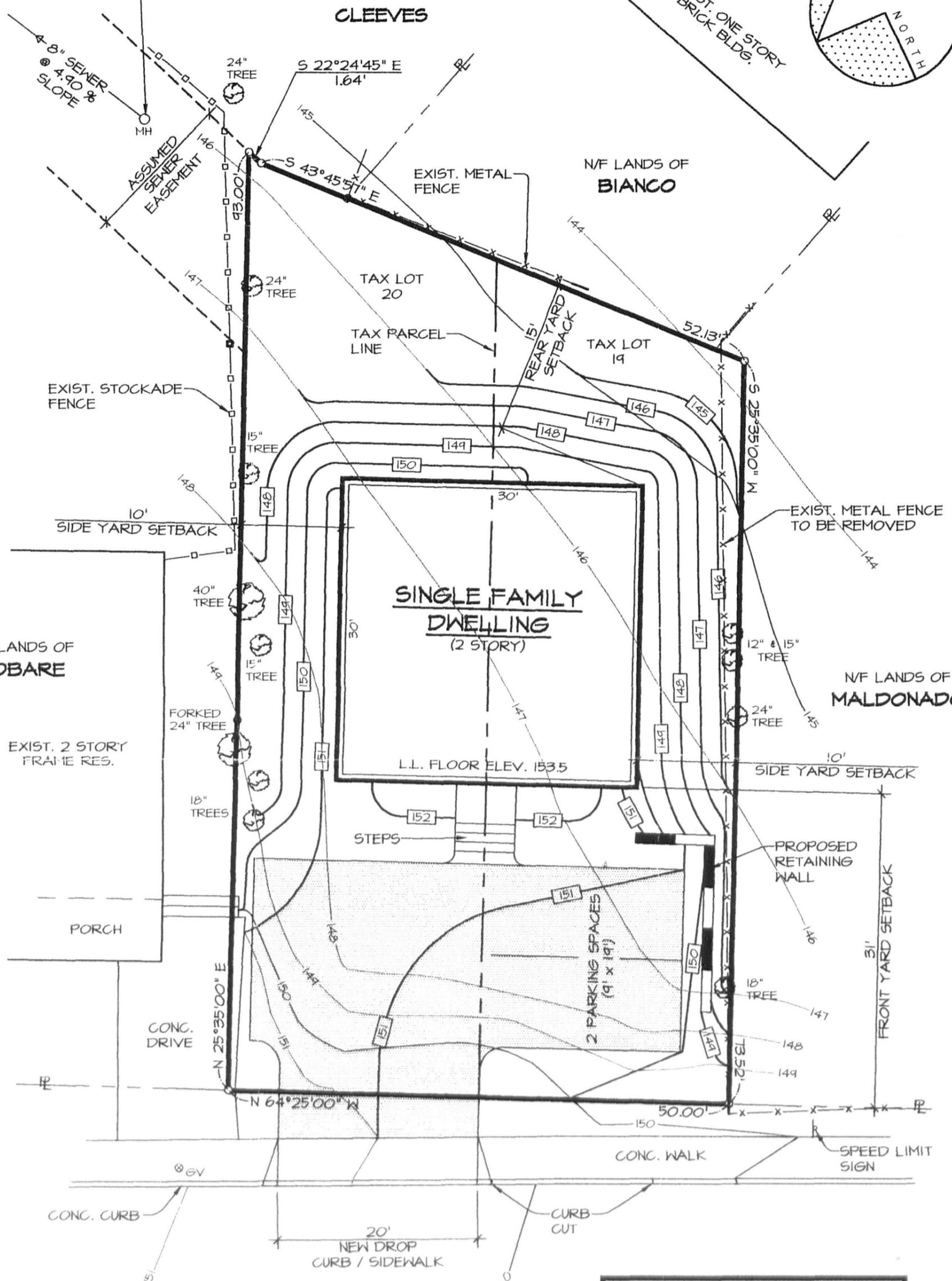
N/F LANDS OF CLEEVES

EXIST. ONE STORY BRICK BLDG.

N/F LANDS OF BIANCO

N/F LANDS OF ROBARE

N/F LANDS OF MALDONADO



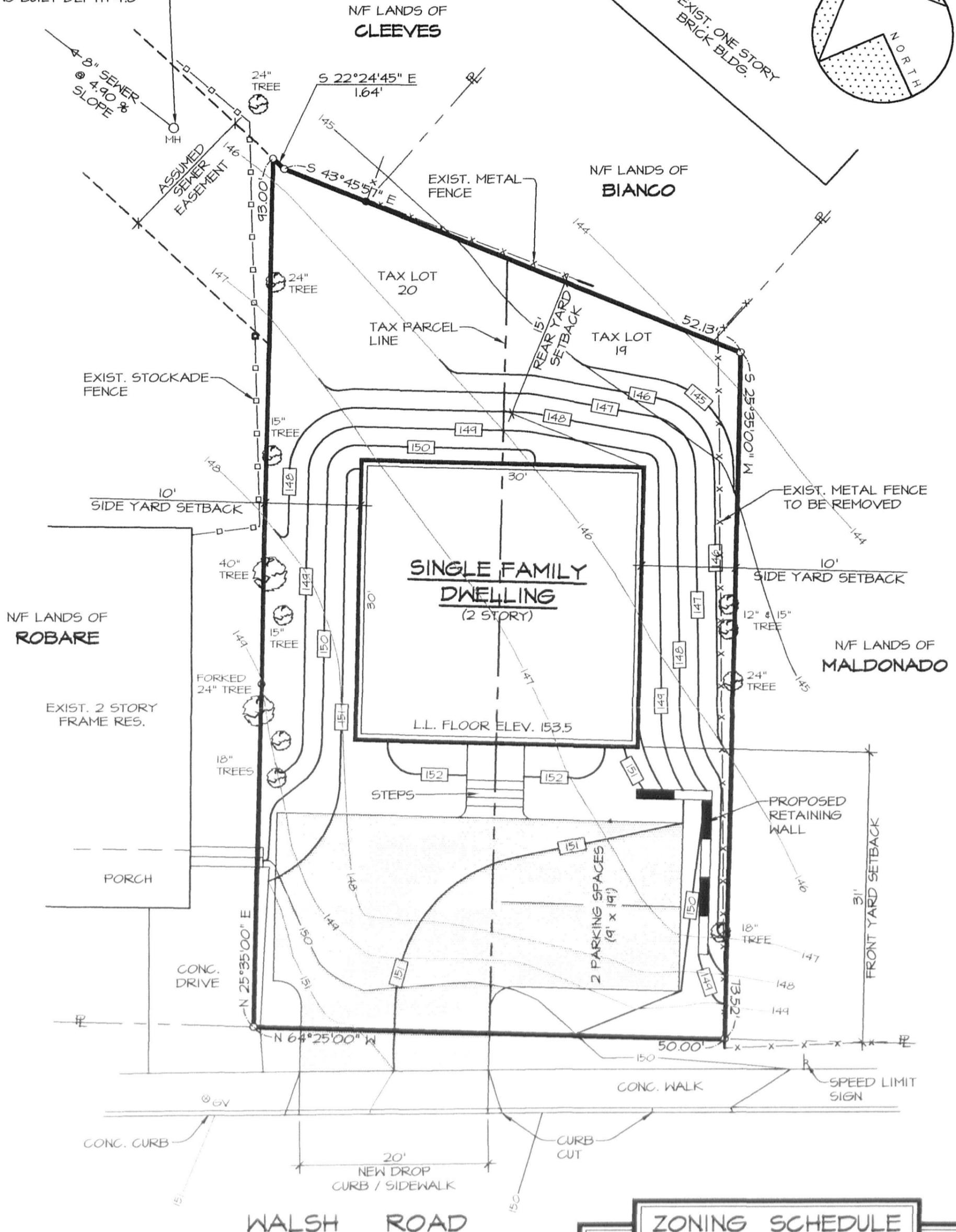
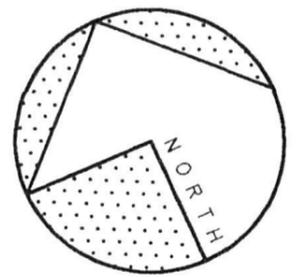
**PLOT PLAN FOR
NORTH PLANK DEVELOPMENT
COMPANY, L.L.C.**

SCALE: 1"=10' 4-11-2002

ZONING SCHEDULE

ZONE: NC: NEIGHBORHOOD COMMERCIAL			
BULK REGULATIONS:	NC ZONE	R-4 ZONE	PROVIDED
MIN. LOT AREA	10,000 S.F.	43,560 S.F.	4,163 S.F.
MIN. LOT WIDTH	100 FT.	100 FT.	50 FT.
MIN. FRONT YARD DEPTH	40 FT.	35 FT.	31 FT.
MIN. SIDE YARD - ONE	15 FT.	15 FT.	10 FT.
MIN. SIDE YARD - BOTH	30 FT.	30 FT.	20 FT.
MIN. REAR YARD DEPTH	15 FT.	40 FT.	15 FT.
MIN. STREET FRONTAGE	N/A	60 FT.	50 FT.
MAX. FLOOR AREA RATIO	1.0	N/A	0.22
DEVELOPMENT COVERAGE	N/A	30 %	42.6 %

APPROX. LOCATION
OF MH No. 89 (SD9-2B)
COVERED BY SHED
AS-BUILT DEPTH 4.8'



PLOT PLAN #1
RESIDENTIAL USE IN A NC ZONE
WITH USE VARIANCE

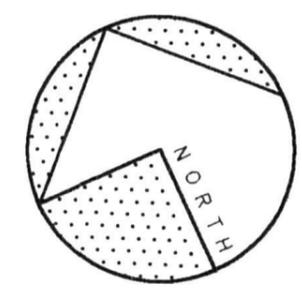
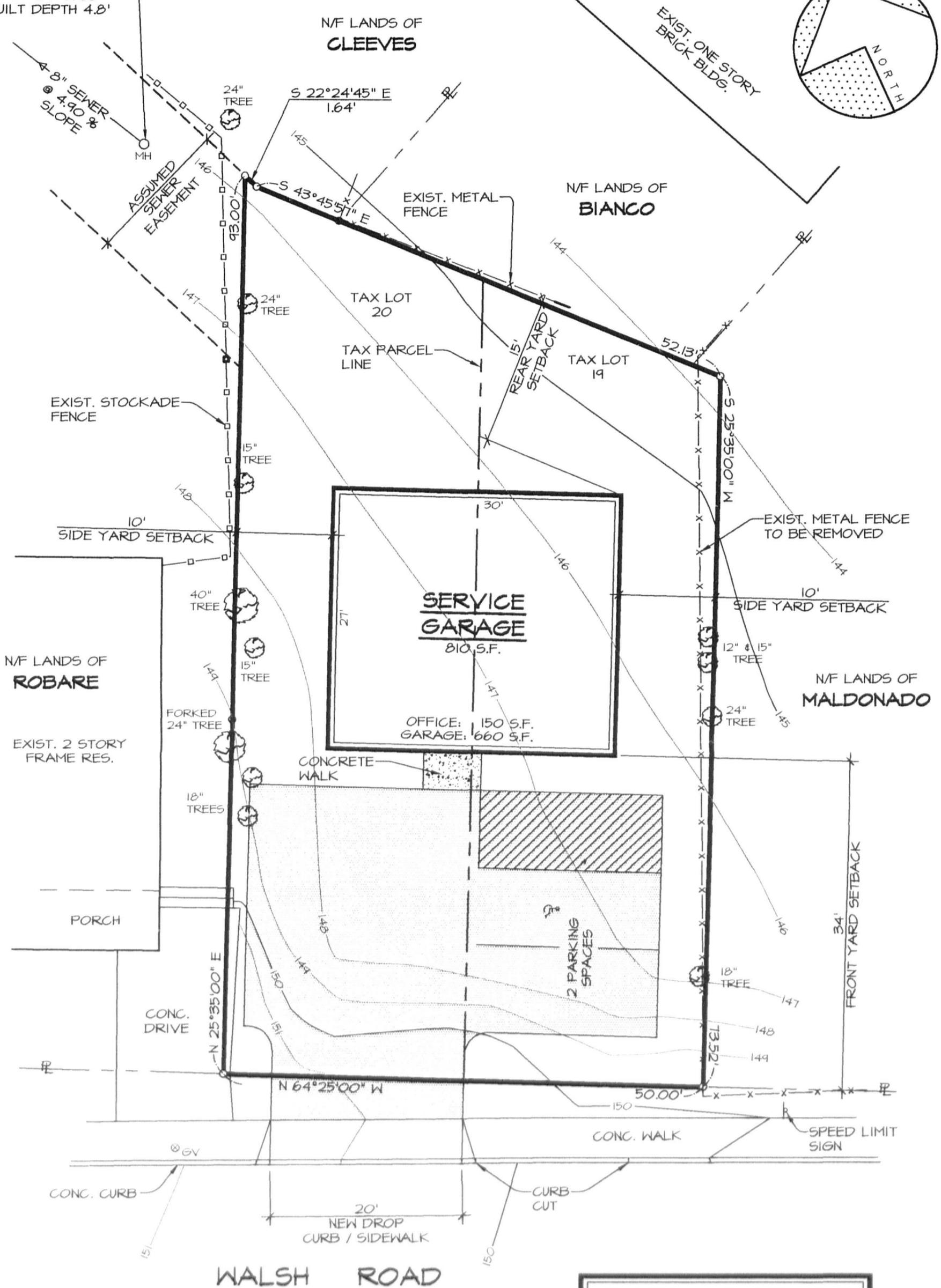
NORTH PLANK DEVELOPMENT
COMPANY, L.L.C.
SCALE: 1"=10' 5-23-2002

SHAW ENGINEERING

ZONING SCHEDULE

ZONE: NC: NEIGHBORHOOD COMMERCIAL		
BULK REGULATIONS:	NC ZONE	PROVIDED
MIN. LOT AREA	10,000 S.F.	4,163 S.F.
MIN. LOT WIDTH	100 FT.	50 FT.
MIN. FRONT YARD DEPTH	40 FT.	31 FT.
MIN. SIDE YARD - ONE	15 FT.	10 FT.
MIN. SIDE YARD - BOTH	30 FT.	20 FT.
MIN. REAR YARD DEPTH	15 FT.	15 FT.
MIN. STREET FRONTAGE	N/A	50 FT.
MAX. FLOOR AREA RATIO	1.0	0.22
DEVELOPMENT COVERAGE	N/A	42.6 %

APPROX. LOCATION OF MH No. 89 (SD9-2B) COVERED BY SHED AS-BUILT DEPTH 4.8'



PLOT PLAN #3
PERMITTED USE IN A NC ZONE
WITH AREA VARIANCES

NORTH PLANK DEVELOPMENT
COMPANY, L.L.C.
 SCALE: 1"=10' 5-23-2002

SHAW ENGINEERING

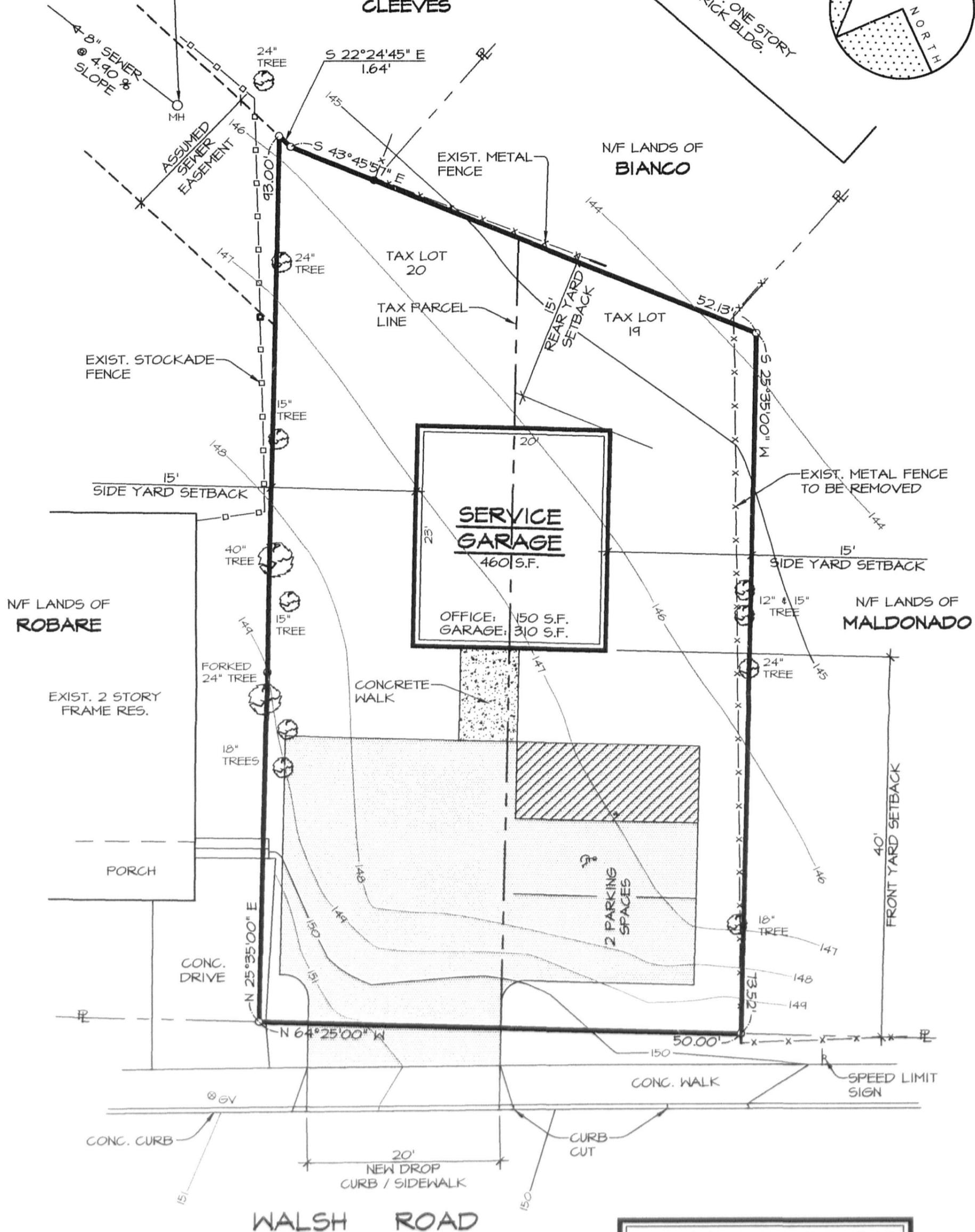
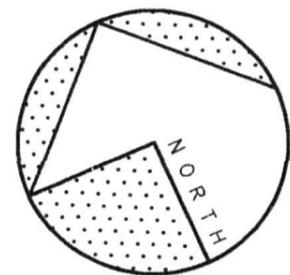
ZONING SCHEDULE

ZONE: NC: NEIGHBORHOOD COMMERCIAL USE GROUP:			
BULK REGULATIONS:	NC ZONE	A-B PROVIDED	LOT DEFICIENCY
MIN. LOT AREA	10,000 S.F.	4,163 S.F.	5,837 S.F.
MIN. LOT WIDTH	100 FT.	50 FT.	50 FT.
MIN. FRONT YARD DEPTH	40 FT.	34 FT.	6 FT.
MIN. SIDE YARD - ONE	15 FT.	10 FT.	5 FT.
MIN. SIDE YARD - BOTH	30 FT.	20 FT.	10 FT.
MIN. REAR YARD DEPTH	15 FT.	15 FT.	-
MIN. STREET FRONTAGE	NA	50 FT.	-
MAX. FLOOR AREA RATIO	1.0	0.20	-

APPROX. LOCATION OF MH No. 89 (SD9-2B) COVERED BY SHED AS-BUILT DEPTH 4.8'

N/F LANDS OF CLEEVES

EXIST. ONE STORY BRICK BLDG.



WALSH ROAD

PLOT PLAN #2
PERMITTED USE IN A NC ZONE
WITHOUT AREA VARIANCES

NORTH PLANK DEVELOPMENT
COMPANY, L.L.C.
 SCALE: 1"=10' 5-23-2002

SHAW ENGINEERING

ZONING SCHEDULE

BULK REGULATIONS:	NC ZONE	USE GROUP: A-B PROVIDED	LOT DEFICIENCY
MIN. LOT AREA	10,000 S.F.	4,163 S.F.	5,837 S.F.
MIN. LOT WIDTH	100 FT.	50 FT.	50 FT.
MIN. FRONT YARD DEPTH	40 FT.	40 FT.	-
MIN. SIDE YARD - ONE	15 FT.	15 FT.	-
MIN. SIDE YARD - BOTH	30 FT.	30 FT.	-
MIN. REAR YARD DEPTH	15 FT.	15 FT.	-
MIN. STREET FRONTAGE	N/A	50 FT.	-
MAX. FLOOR AREA RATIO	1.0	0.11	-