

**ZB# 03-04**

**John Benichasa  
(Disapproved)**

**47-1-58**

03-04 JOHN BENICHIASA (47-1-58)  
USE VARIANCE FOR MACHINE SHOP  
GARDEN DRIVE

**DISAPPROVED**

4/03

APPLICATION FEE (DUE AT TIME OF FILLING OF APPLICATION)

FILE # 004 TYPE: AREA \_\_\_\_\_ USE

APPLICANT: John Benichosa  
138 Harder Drive  
New Windsor, NY

TELE: \_\_\_\_\_

RESIDENTIAL: \$50.00 CHECK # 172

COMMERCIAL: \$150.00 CHECK # \_\_\_\_\_

INTERPRETATION: \$150.00 CHECK # \_\_\_\_\_

ESCROW: \$300 \$500.00 CHECK # 173

DISBURSEMENTS:

	MINUTES \$4.50 PER PAGE	ATTORNEY FEES \$35.00 / MEETING
PRELIM..... <u>1/27</u> .....	\$ <u>36.00</u>	\$ <u>35.00</u>
2 <sup>ND</sup> PRELIM.....	_____	_____
3 <sup>RD</sup> PRELIM.....	_____	_____
PUB HEARING..... <u>3/10</u> .....	_____ <u>72.00</u> _____	_____ <u>35.00</u> _____
PUB HEARING (CON'T)...	_____	_____
TOTAL	\$ <u>108.00</u>	\$ <u>70.00</u>

OTHER CHARGES:..... \$ \_\_\_\_\_



ESCROW POSTED: \$ 300.00  
AMOUNT DUE: \$ \_\_\_\_\_  
REFUND DUE: \$ 122.00

*Prelim - 1/27*



RESIDENTIAL: \$ 50.00 CHECK # 172  
 COMMERCIAL: \$150.00 CHECK # \_\_\_\_\_  
 INTERPRETATION: \$150.00 CHECK # \_\_\_\_\_  
 ESCROW: \$300. \$500.00 CHECK # 173

DISBURSEMENTS:

	<u>MINUTES</u> <u>\$4.50 PER PAGE</u>	<u>ATTORNEY FEES</u> <u>\$35.00 / MEETING</u>
PRELIM..... <u>1/27</u> .....	\$ <u>36.00</u>	\$ <u>35.00</u>
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3 <sup>RD</sup> PRELIM.....	_____	_____
PUB HEARING.... <u>3/10</u> .....	<u>72.00</u>	<u>35.00</u>
PUB HEARING (CONT)...	_____	_____
TOTAL	\$ <u>108.00</u>	\$ <u>70.00</u>

OTHER CHARGES:..... \$ \_\_\_\_\_



ESCROW POSTED: \$ 300.00  
 AMOUNT DUE: \$ \_\_\_\_\_  
 REFUND DUE: \$ 122.00

*Prelim - 1/27*









# Town of New Windsor

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (845) 563-4615  
Fax: (845) 563-4695

## OFFICE OF THE ZONING BOARD OF APPEALS

April 29, 2003

Mr. John Benichiasa  
28 Garden Drive  
New Windsor, NY 12553

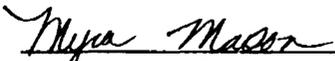
SUBJECT: 47-1-58 VARIANCE REQUEST

Dear Mr. Benichiasa:

Please find enclosed two copies of the Formal Decision for your case before the Zoning Board of Appeals. Please keep these copies in your records for future reference if needed.

If you are in need of any further assistance or have any questions in this matter, please feel free to contact me at the above number.

Very truly yours,

  
\_\_\_\_\_  
Myra Mason, Secretary to the  
NEW WINDSOR ZONING BOARD

MLM:mlm

In the Matter of the Application of  
**JOHN BENICHIASA**

MEMORANDUM OF  
DECISION DENYING  
  
**USE**

**CASE #03-04**  
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**WHEREAS, John Benichiasa, owners of 28 Garden Drive, New Windsor, New York, 12553, has made application before the Zoning Board of Appeals for a/an Use Variance to allow existing machine shop in an R-4 Zone; and**

**WHEREAS, a public hearing was held on the March 10th, 2003 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and**

**WHEREAS, the Applicant appeared on behalf of this Application; and**

**WHEREAS, there were nineteen (19) spectators appearing at the public hearing; and**

**WHEREAS, eight (8) persons spoke in opposition to the Application and no one 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 published in The Sentinel, also as required by law.
2. The Evidence presented by the Applicant showed that:
  - (a) This property is a residential property located in a neighborhood of residential properties;
  - (b) The applicant had lived in the dwelling for some time prior to the establishment of a business there;
  - (c) The applicant advertises the existence of the business in the Yellow Pages;

- (d) The applicant submitted no evidence with respect to the value of the house as a residence without the business;
- (e) The applicant submitted no evidence showing that the hardship to the applicant's property is unique. While the applicant did submit testimony with respect to the establishment of the business purporting to show that it was unique to him as a person, he submitted no evidence that there was any hardship to the property which was unique;
- (f) The applicant testified that the operation of his business would require periodic deliveries of metal by commercial vehicles. It appears that these vehicles would be much larger and much more substantial than those normally encountered in a residential area;
- (g) The operation of a machine shop, which the applicant seeks, will require the use of machinery not normally found in a residence;
- (h) The presence of delivery trucks in the past has apparently interrupted telephone service to some neighboring houses;
- (i) It appears that the business will occupy more than 10% of the structure;
- (j) It appears that in operation of the business, it does create an audible amount of noise and disturbance to at least some neighbors;

**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 application is a self-created hardship.
2. The applicant established this business in his home well after the home itself had been established and did so voluntarily.
3. The applicant has not proven that the home will not yield a reasonable return absent the business. In fact, the applicant has admitted that the home could be sold absent the business.
4. The alleged hardship is not unique. The business conducted in the premises is unique to the applicant making it personally unique. The applicant has not shown any unique quality of the property, which would allow the operation of this business.
5. The continued operation of the business will alter the character of the neighborhood. It appears that the roadways were not constructed so as to handle the large commercial trucks

that the business will require. Furthermore, the presence of large commercial vehicles threatens the safety of families using the residential streets and has already interfered with the residential telephone service.

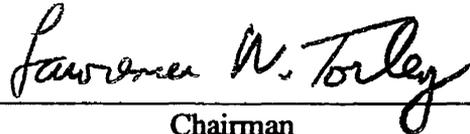
**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor DENY a request for a Use Variance to allow existing machine shop in an R-4 Zone as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

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

Dated: April 23, 2003



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Chairman

**TOWN OF NEW WINDSOR  
ENGINEER, PLANNING BOARD  
AND ZONING BOARD OF APPEALS  
OFFICE  
845-563-4615**

**MEMORANDUM**

**TO: LARRY REIS, COMPTROLLER**  
**FROM: MYRA MASON, SECRETARY TO THE ZONING BOARD**  
**DATE: APRIL 25, 2003**  
**SUBJECT: ESCROW REFUND**

**PLEASE ISSUE A CHECK IN THE AMOUNT OF \$ 122.00 TO CLOSE OUT  
ESCROW FOR:**

**ZBA FILE #03-04**

**NAME: JOHN BENICHIASA**

**ADDRESS: 28 GARDEN DRIVE**

**NEW WINDSOR, NY 12553**

**THANK YOU,**

**MYRA**

*4/25/03  
L.R.*

JOHN BENICHIASA #03-04

MR. TORLEY: Request for use variance to operate an existing machine shop on Garden Drive in an R-4 zone.

Mr. John Benichiasa appeared before the board for this proposal.

MR. TORLEY: I assume there's some members of the audience who wish to speak on this matter. What we're doing is taking around a piece of paper, put your name and address on it just so we have it properly for the record. While that's going on, we'll begin the public hearing. Let me first start off by asking about the mailing notices.

MS. MASON: On the 24th of February, 64 envelopes were mailed out containing the notice of public hearing.

MR. REIS: Excuse me, I ask the secretary, did we get any responses?

MS. MASON: We have one written response of someone who couldn't make it to the public hearing.

MR. TORLEY: Yes, sir, what's your request, tell us what you're doing and why you think you should be able to get the variance.

MR. BENICHIASA: About a year ago, the U.S. Government came to me connected with a system down in Orangeburg, New York for DHS Systems that they ran short with a trade called machine shops, there are no, there are a lot of machine shops, no machinists to operate them, it's a dying trade. And they came to me and says through another connection of mine that Air Logics, a company that I have, that they came to me and said would you mind trying to make these parts, just parts that they need fabricated. So I gave it a try and it was successful. The first one at making parts. Now it came to the point where they actually need a lot of these parts for systems connected with DHS. So it became an ongoing thing to where it's an extra income, it keeps me home, I have a shop available to do all this, no noise, it's quiet and that's basically all

there is to it.

MR. TORLEY: We went through the preliminary meeting as to whether this would constitute a home occupation or professional office and by looking at the, and our attorney's kind of gone through this as well, looking at the section of the code 48-37 which describes home occupations, it would appear that what you're doing does not fall under this category of home occupations. Therefore, since we cannot, this does not fall as home occupation, you're now asking for a use variance to operate a commercial activity in a residential zone.

MR. BENICHIASA: I'm not going to be doing commercial work.

MR. TORLEY: Are you being paid for doing this?

MR. BENICHIASA: Yes.

MR. TORLEY: That's commercial.

MR. BENICHIASA: Oh, it is, okay.

MR. TORLEY: Now, a use variance, back up a second, this board deals basically with two kinds of variances. Up to now, you've been hearing area variances, they have an odd shaped lot, they want to put a deck, that's an area variance. You're asking for a use variance. The state has made a use variance a much, much higher hurdle and our attorney can go through the criteria that must be met for a use variance to be granted.

MR. KRIEGER: There are four of them as defined by the law enacted in New York State which binds this board as it does all zoning boards of appeals throughout the state. The four criteria are as follows. The applicant cannot realize a reasonable return provided that the lack of return is substantial as demonstrated by competent financial evidence. Two, that the alleged hardship relating to the property in question is unique, does not apply to a substantial portion of the district and neighborhood. Three, that the requested use variance if granted will not alter the essential character of the neighborhood. And four, that the

alleged hardship has not been self-created.

MR. TORLEY: So my intention is now not necessarily to take those in numerical order, let's start with the last one first, self-created hardship. That means you have a problem, it's something that you did, you're asking, it's not like the land shifted and the stream bank is now on your property. That's not self-created. Obviously, this is the question, why is this not a self-created hardship, why is what you're doing not, again, by those criteria, you have to demonstrate that what you're doing is not a self-created hardship, not something you caused yourself. You have a machine shop in your house?

MR. BENICHIASA: Right.

MR. TORLEY: Put the machine stop in yourself?

MR. BENICHIASA: My and my father did.

MR. TORLEY: So just tell me why that's not a self-created hardship?

MR. BENICHIASA: Self-created hardship?

MR. TORLEY: You put a machine shop in your house.

MR. BENICHIASA: Right.

MR. TORLEY: Why isn't that something that you did.

MR. BENICHIASA: We did it, yes because we're machinists all our lives and we wanted a hobby shop.

MR. TORLEY: It's now become a commercial activity.

MR. BENICHIASA: Right, by demand.

MR. TORLEY: But you're not required to, you know, nobody to use a colloquial, nobody held a gun to your head and said I want to pay you for making machine parts. It's something you voluntarily did.

MR. BENICHIASA: Yes.

MR. TORLEY: We'll come back to that.

MR. KANE: Even though that's one tremendous hurdle that you have, it's a self-created hardship at this point so just move on to the next point that he has to try to cover.

MR. TOLREY: If you fail on any one of the four, the application by state law must be denied. Go to the first one that one says that your property could not be sold for a reasonable return for any legal purpose in that zone you have. You have a house, you couldn't sell that as a house and make a reasonable return on that property. You couldn't turn around and put it on the market, this is a one-family house with a garage and a workshop.

MR. BENICHIASA: I can sell it.

MR. TORLEY: That's two. Is what you're doing causing a change in the neighborhood?

MR. BENICHIASA: Not at all, except for an occasional truck.

MR. TORLEY: Number 3, I will grant you, is this a unique situation?

MR. BENICHIASA: Yes.

MR. TORLEY: There aren't other machine shops in the area.

MR. BENICHIASA: None around.

MR. TORLEY: Gentlemen, do you want to ask questions about this now or should I open it up to the public first?

MR. KANE: Open it up.

MR. RIVERA: To move the machinery outside, is that feasible?

MR. BENICHIASA: In a reasonable presentable time, yes, if I get up my budget to where I can buy a bigger building, yes.

MR. RIVERA: Temporary.

MR. BENICHIASA: Temporary, one or two years maximum. I do have plans to buy a building and to just move it away but for now, it's very convenient.

MR. TORLEY: Okay, at this point, gentlemen, at this point with your permission, I will open this up to the members of the public. Okay, now, it's your turn, please just give us your name when you stand up to speak and speak loudly enough that our stenographer can take down what you're saying.

MR. PAZOGA: My name is Steve Pazoga, 4 Garden Drive. I have been a resident since 1976. We have probably the best neighborhood in New Windsor, no crime, no traffic, all good neighbors. I believe this would be a detriment to our neighborhood. This is nothing personal against anybody in particular, just this is a beautiful neighborhood, my children have grown there, my son bought a house there and hopefully he's going to raise children there. I don't believe trucks coming in delivering steel is any benefit to our neighborhood. We had one of the trucks knock down some phone lines a few months ago. I had no phone for three days. I don't believe our street will support the weight of heavy trucks. We have children all over, young children that play on the street and from the papers we got from the Town, we don't know how this business can be operated, we don't know if it can be operated nights, weekends, we don't know the noise pollution involved in this, we don't know the air pollution involved in this, we don't as a group, I know nobody wants to be the bad neighbor, but I bought a home in a residential area. This is where I wanted to live. I work somewhere else. There's other people in our neighborhood that own businesses, they come home to Garden Drive to live. We don't come there to try and make money and cause a detriment to the neighbors around us and any problems this can perceive because I don't see anything. I'm trying to find out also from

the Town, I really couldn't get any straight answers that once a, something like this might be granted, can then, is it only a steppingstone to making it larger?

MR. TORLEY: No. Hypothetically, if this variance were granted, the board would have the capability of putting reasonable restrictions on it, size, hours of operation, that sort of thing, if it were granted. So you could say that it can't be operated after again hypothetically can't be operated after 7 p.m. at night.

MR. PAZOGA: Well, I'm looking at part of the codes here where like I say, you mention you can't have that type of equipment in a residential area, but no offensive orders or noise vibrations, smoke, noise, heat, light or glare, how do we know this is not going to happen? How do we know Garden Drive is going to support the weight of the trucks delivering steel? It's a circle, one entrance in and out. I think it's going to be a detriment to the neighborhood. That's my personal opinion. Like I say, it's a beautiful residential area, we don't want it to change. And I don't think this will be any help to the neighborhood. And last but not least, I don't know if this is going to do anything, if I plan on staying there for the rest of my life but who knows what this is going to do to my property value. That's all I have to say. Thank you.

MR. TORLEY: Does anyone else wish to speak?

MR. PAZOGA: Steve Pazoga, 20 Garden Drive, that's my father. My thing is I just recently bought a house, I have lived there 25 years, just recently bought a house there and I was under the impression it's zoned residential. I understand this is a business, small business like we're speaking of but could get bigger, could make noise. I'm only two houses away from it, I have nothing against you, you want to build on to your house, you want to do whatever, that's not a problem. But trucks coming in and out, people coming in and out, if I decide to raise a family there, I've now got to worry about my kids who want to play in my front yard, somebody driving a truck by, you know, something could happen there.

MR. TORLEY: So you believe that were this variance granted, it would alter the essential character of the neighborhood?

MR. PAZOGA: I believe that, I believe that the value of my property will now shoot way down. I don't think anybody, by the way, my house is on the market, it's right next to this machine shop, it's not a sewing shop, not an internet business, you know, it's just machine noise, you know, nothing against you, great guy but just that I'm totally against that.

MR. TORLEY: Yes, sir, thank you. Is there anyone else?

MS. DOUPONA: Mary Doupona, I live at 1 Garden Drive. I just spent \$15,000 remodeling my home to upgrade it and I feel something like this is going to take away from the value of everything that I have just put into my home. And I'm really opposed to it, that's all.

MR. CURRY: Adelbert Curry, 40 Garden Drive. Six years ago, I spent \$12,000 on my house to make it better too and I'm not in favor of having any businesses in Garden Drive. If we let the business in there, the next one will want to make two-family houses out of just one family houses and how you going to stop 'em? Then you've got one in there already, you've got to give them permission to put a two-family house in there. I don't like it no way.

MS. MALIZIA: My name is Dorothy Malizia, I live at 17 Garden Drive. I just met Mr., well, John tonight formally, every time he passes by my house he waves and I wave back. So this is nothing against him but I'm against this, John, only because I suspect that as you get into this, John, you'll make it bigger and bigger because there's nothing nicer than having a business out of your home, if it's the right business and seeing the, what was your name, sir, the chairman?

MR. TORLEY: Larry Torley.

MS. MALIZIA: You read off that this really is against state laws and everything and then Mr. Pazoga here

happened to mention that he's got this piece of paper that says that you cannot have a machine shop in your home.

MR. TORLEY: Well, doesn't quite say that but--

MS. MALIZIA: But the piece of paper that I was shown says you can't have machinery.

MR. TORLEY: Machinery not found normally in a home.

MS. MALIZIA: I have lived in Garden Drive 34 years and it is a wonderful neighborhood, it really is. The people are so great. And I have seen children grow from when they were little grow up to womanhood and manhood and now they're actually coming back into Garden Drive and purchasing homes there. And I think something like that, this is just going to be a complete detriment to the neighborhood. I'm afraid that John's little business will really get to be a big business because it will be very convenient and that concerns me a great deal. Like I said, nothing against John himself or his wife, Sonya, but I would really hate to see this. I'm hoping John can think of something else to do with that space, no matter how good a machinist he is or take it elsewhere. But it is of concern for me and for many people who just could not be here tonight or some people not even have received their letters since I was under the impression that they were supposed to be certified letters and I only got mine last week where some people got them I think about a month ago. Right, John?

MR. TORLEY: They were mailed the 24th of February.

MS. MALIZIA: I only got mine just this past week.

MR. TORLEY: And no, ma'am, by the Town regulations, they need not be certified.

MS. MALIZIA: Oh, okay.

MR. KANE: It stopped a number of years ago.

MS. MALIZIA: Well, that's all right too but I heard

about this and I said I did not receive any letter but when I did receive my letter last week, it does concern me a great deal. I don't want to see this happen, John, I'm hoping you'll think of something else because I know that you can allocate a certain amount of space in one's home for a private little business but a machine shop really that concerns me a lot, John.

MR. BENICHIASA: Well, it is a small area, it's less than 1,000 square feet.

MS. MALIZIA: You're probably right, John, but if you're like most people, John, they're so comfortable doing something in their home, something like that gets larger and larger. And I don't want to see the trucks coming in. I don't want to see a lot of people coming into Garden Drive because after all, we pay high taxes there. And when I purchased 34 years ago, I went into that neighborhood because it had one entrance, one exit and it was just very, very private. It is a residential area and I just don't think that, I don't think I can really approve something like this, John. Thank you.

MR. TORLEY: Anybody else wish to speak?

MR. WORK: I'm Ray Work, 32 Garden Drive, Raymond Work, W-O-R-K, 32 Garden Drive. Now I remember when his dad put this addition on for the machine shop and I never got a variance for him to do that. How did he put this building up without anybody knowing about it? It's a big extension on the back of his house.

MR. KANE: How old is the building?

MR. BENICHIASA: 1986.

MR. WORK: Never got a variance.

MR. TORLEY: To put an addition on his house, an addition on his house, he may not have needed a variance.

MR. KANE: You only need a variance if you're going passed the required specifications in your yard. So

you can get a building permit as long as you stay within the property setbacks or whatever. And if he had a building permit, you know, the building department would know, he wouldn't have to come before this board for that.

MR. WORK: He needs a variance for his machine shop now, how come he didn't need a variance when he originally put that up?

MR. KANE: Two different things. When you build a building if you're within the specifications of the land, you don't need to have a variance just to put up an addition to your house, you need a building permit. He's looking for a use variance now. You only need a variance if you need to vary the code.

MR. KRIEGER: Put it another way, you're allowed to build an addition on your house, it's the use that's now come in question, not the existence of the addition. Somebody comes in and says I want to put an addition on my house, fine, but it's presumed that you will use that addition in ways that are allowed in that zone. Now, the question before the board has nothing to do with the existence of the addition, but it has to do with the use of that addition and a claim that that's not within what's allowed in that zone. That's what brings him here now.

MR. WORK: I think when you and John were talking, I heard you saying somebody put it up as a hobby for a hobby shop.

MR. BENICHIASA: Yes, it was a hobby shop.

MR. WORK: I don't know what you're talking about a hobby shop, his dad worked in the nail polish factory on 207.

MR. TORLEY: If somebody puts a wood shop, decides to do work working as a hobby and puts a lathe in his basement, that's what I mean by a hobby shop, it's a hobby, the guy could do model railroads as a hobby. If your hobby is doing machine work, the question is has he now moved beyond what would be somebody's hobby to a

commercial hobby, which is not permitted.

MR. WORK: You look in the yellow pages, John's got the name of his new business advertised in the yellow pages for a machine shop, 28 Garden Drive. How can he do that when you don't even have a machine shop there? You don't have a variance.

MR. TORLEY: That's why he's here to seek permission.

MR. KANE: He's here to make it legal or not legal. You have to understand a person has a right if he wants to spend his money and advertise it, he can go and do it. The reason he's here is to find out if it's legal or not.

MR. WORK: If somebody sees that advertisement in the yellow pages and brings him a job, he can do it?

MR. KANE: Not after tonight, if it's not approved it's, you know, you can advertise anything you want to advertise, that's up to you, okay. If he gets denied that tonight, then it will not be a legal machine shop, no, he will not be legally be able to run anything there, whether he does or not, then he becomes subject to, you know, inspections by the zoning inspector and then being fined or ticketed for doing something along those lines.

MS. WOLFE: Sandra Wolf, I'm speaking for my mother, Erna Baker, who lives on 20 Faye Avenue right behind, you say it's only going to be temporary for a year or two, well, why do you want to buy her property?

MR. BENICHIASA: Because it just makes the back of my property bigger, it's dead space, I don't intend on polluting the property, it's just there, it's dead material to her and I just wanted to bring the back of my house up and level it for more home value.

MS. WOLF: How would you level the embankment there?

MR. BENICHIASA: I would have somebody come in and make a wall.

MS. PAZOGA: My name is Carmela Pazoga, 4 Garden Drive. And I do oppose to the machine shop and after finding that it's more than what I think it was just a hobby shop, I'm more opposed now than I ever was before. I'm sorry, John, I like you, but I do oppose the business there, it's a residential area and sir on the board, you indicated that being that it was a hobby shop to him that he can apply for a variance?

MR. TORLEY: No.

MS. PAZOGA: Even to this day. So in essence, any one of us on Garden Drive that have a hobby, we can come in front of the board and say we have been doing in for eight or nine years and we're going to--

MR. TORLEY: You'd be in the same situation, everybody has a right to try and make an application.

MR. KANE: That's your right.

MS. PAZOGA: Right, I understand that.

MR. TORLEY: I don't want people talking back and forth. This way. Does anyone else wish to speak?

MR. PAZOGA: So if what you're saying is if it was never brought up, no problem?

MR. TORLEY: If nobody ever heard, we can only act upon cases that are brought before us, if nobody ever tells us anything, how are we going to know it's there?

MR. KANE: The only way you become in front of the zoning board is to go to the building inspector and apply for a permit and for him to turn you down. Then it's a Zoning Board of Appeals so you're allowed to, to appeal his decision, that's what we're about.

MR. TORLEY: Does anyone else wish to speak?

MR. PETRO: I'm Tom Petro, I live at 22 Garden Drive. Hi, Andy, how are you? I live about three houses away. I think what everybody here mostly is concerned about from what I'm hearing so far is the fact that John is a

very good man, he's a good family man, he has nice kids, everybody gets along, we have a nice complexion in the neighborhood of nice clean typical quiet residential American neighborhood. I have a commercial business, my commercial business is in Rockland County, it's in a commercial zoned area. I cannot have my business in a residential area. We're somewhat quiet, we don't make a lot of noise, but that's the law. I have to live by that law. I come home to a residential area because I like living in a residential area. I don't like businesses in my community right around where I live because that's where I have chosen to live. And I think that that basically is what most of the people here have a main concern with from what I'm am hearing and that's how I feel. I think that that's, we don't want to see the complexion of our neighborhood change in any way with additional vehicles coming in, whether they be large, whether they be small. It's quiet, we would like to keep it that way. Thank you.

MR. TORLEY: Does anyone else wish to speak?

MR. OESTRICH: My name is Clayton Oestrich and I live on Faye Avenue but I corner on his property and I have lived here for 40 years and I have nothing against the man but I don't want to have a business like that open up in the neighborhood. We've got just family dwellings there, we don't need a business in there and trucks and stuff. I know my brother went through that over in the Town of Newburgh and things got out of hand, it got noisy and they finally had to get lawyers and everything else to get the business taken care of. And I don't want to see us have to go through that cause, you know, it's an awful temptation if you can make a lot of money by having a stamping machine along with this other stuff to start it, as long as you've got a business there, I don't want to see a business in there if I can help it. Thank you.

MR. TORLEY: Does anyone else wish to speak?

MS. BAKER: Erna Baker, I live right behind him and he has cars in and out and we hear machines in the summertime and if he builds onto that, God knows what it's going to be, it will be screeching all day long

with trucks in and out. And it's so beautiful and quiet there, that's what I love most about it. We do not want any part of it.

MR. TORLEY: Anyone else wish to speak on this matter? I'm going to close the public hearing and open it back up to the members of the board.

MR. BENICHIASA: Can I say something?

MR. TORLEY: Feel free but please direct it to us not the audience.

MR. BENICHIASA: Just to the fact that large enterprises start from little enterprises and this is where my steppingstone is. Does anybody feel threatened of what I'm doing? Does anybody hear any noise of what I'm doing? Does anybody feel at all uneasy? How many of you come into my house and saw it and amazed at what I can do and you just say it's fantastic. Why this, you know, you're airing your views, of course, but do all businesses get started by little businesses that get started in basements, back yards. You look at a multi-million dollar corporation like Bristo Meyers, they make 4.5 billion dollars a day and this guy started off in the back of his house making lye soap. There's hundreds of starts and little things like that. He made lye soap in a 50 gallon container and sold the bars for 2 cents a bar and that's how Bristol Meyers got started. And I know the guy who owns it, we're good friends. All little things get started. And this is all I'm saying.

MR. TORLEY: Okay, members of the board have any questions?

MR. KANE: Well, he's looking for a use variance and as we know, that's very strict from the state and I haven't heard of anything addressing all four of the issues for the use variance, so there's absolutely nothing there to work with on any of the four major points.

MR. TORLEY: Remember we asked you at the beginning you had to meet four criteria in order to be granted a use

variance and do you have any other information you want to give us that justify meeting those four criteria?

MR. BENICHIASA: Not at all except I've been honest with you about what I'm doing.

MR. TORLEY: We do appreciate the honesty.

MR. BENICHIASA: I will be out in a year, maybe two years maximum, all I'm doing is building capital to move on.

MR. KANE: And a use variance from New York State is extremely difficult to meet.

MR. TORLEY: Whether or not we think it's a good idea we're bound by state law and under the criteria of the state law and that law says that you have to meet all four criteria before we can consider granting such a variance.

MR. KANE: Or at least prove to us an overwhelmingly situation, for instance, if it were, even though it might have been self-created, there might be an overwhelmingly situation but the valuation, selling the home, that right there knocks it.

MR. BENICHIASA: I have an offer for my house right now.

MR. KANE: That means you can sell it as a single family home which knocks you down for the use variance right there.

MR. BENICHIASA: Does anybody know--

MR. TORLEY: Again, to us--

MR. BENICHIASA: --there are other businesses that were on that street, there was a doctor's office.

MR. TORLEY: Okay now, there are permitted, there are home professional officers that are permitted by our code. As we examine the code, you do not fit the criteria for either of those, that's not what's in

there. The code may change in the future but right now, that's what it is. You said that you're going to be moving on to a commercial, you started off at basically a hobby, it's now become a commercial activity and I hope your business thrives, I really do. We do need skilled machinists. But as you say things start in back yards, basements or garages but then they move to commercial areas once they become commercial activities. Gentlemen, any other things you wish to say?

MR. REIS: Mr. Chairman, I'll make a motion in a moment but due to the overwhelmingly negative response, I think we have to kind of give it a big opener to that, due to the fact that John's talents have grown to the point where he can produce and he needs, well, he's requesting what he needs to be able to continue his operations.

MR. BENICHIASA: And due to the situation connected to DHS, this stuff cannot be made overseas.

MR. REIS: It's almost unfortunate that the guy is very talented and that it's possible that this may not pass, I don't know yet, okay, but if there's no other questions, I'd like to make a motion.

MR. TORLEY: I do want to put one item, as you know, there's a little handwritten note at the base of the, I wanted to thank you for reminding me, I wanted to place it, I will not read the entire matter, I believe it's Frank and Stella Rohan (phonetic) have written a short memo at the bottom of the notice stating that they will not be able to attend the meeting and they're opposed to granting of the variance.

MR. BENICHIASA: Where do they live?

MR. TORLEY: Frank and Stella Rohan, 36 Garden Drive. Gentlemen, if there are any other questions?

MR. REIS: All motions have to be made in the affirmative?

MR. TORLEY: That's correct.

March 10, 2003

28

MR. REIS: I make the motion that we pass Mr. Benichiasa's request for his variance at Garden Drive.

MR. KANE: Second the motion.

ROLL CALL

MR. RIVERA	NO
MR. REIS	NO
MR. KANE	NO
MR. TORLEY	NO

TOWN OF NEW WINDSOR ZONING BOARD  
PUBLIC HEARING FOR:

John Benichaisa

DATE: March 10, 2003

SIGN-IN SHEET

NAME	ADDRESS
1. Erna Baker	20 Fay Ave
2. Clay Oestrich	28 Fay Ave
3. JEAN STRACK	16 Garden Dr.
4. Vera Curry	90 Sackin Drive
5. Odell Curry	40 Sackin Drive
6. Jane MacGregor	42 Garden Dr.
7. Shari Franco	14 Garden Dr.
8. Thomas Franco	14 Garden Dr.
9. Torony Mazinga	17 Garden Drive
10. Raymond Werk	32 Garden Drive
11. Forest Lewis	20 Garden Drive
12. Tracy Wells	20 Garden Drive
13. STEVEN PAROGA	4 GARDEN DRIVE
14. Carmela Paroga	4 Garden Dr.
15. Mary Doufona	1 Garden Drive
16. Gertrude Castenaro	8 Garden Drive
17. Mary Paul	3 Garden Drive
18. Marie Petro	22 Garden Dr.
19. <del>Marie Petro</del> (Tom Petro)	22 Garden Dr.
20.	

TOWN OF NEW WINDSOR ZONING BOARD  
PUBLIC HEARING FOR:

John Benichausa

DATE: 3/10/03

SIGN-IN SHEET

	NAME	ADDRESS
1.	Steve & Zoega	4 Garden Dr : Against
2.	" Pazoga	20 Garden Dr : Against
3.	Mary Dupona	1 Garden Dr: Against
4.	? Curry	40 " " : Against
5.	Dorothy Melizzia	17 " " : Against
6.	Ray Work	32 " " : Against
7.	Sandra Wolf	20 Faye Ave : Against
8.	Carmella Pazoga	4 Garden Dr. : Against
9.	Tom Petro	22 Garden Dr: Against
10.	Clayton Oestrich	Faye Ave : Against
11.	Enna Baker	" " : Against
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		



RESULTS OF Z.B.A. MEETING OF: March 10, 200

PROJECT: John Benichais - PUBLIC HEARING ZBA # 03-04

P.B.#



USE VARIANCE:      NEED: EAF       PROXY

LEAD AGENCY: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_  
RIVERA \_\_\_\_\_  
~~MCDONALD~~ \_\_\_\_\_ CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_  
REIS \_\_\_\_\_  
KANE \_\_\_\_\_  
TORLEY \_\_\_\_\_

NEGATIVE DEC: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_  
RIVERA \_\_\_\_\_  
~~MCDONALD~~ \_\_\_\_\_ CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_  
REIS \_\_\_\_\_  
KANE \_\_\_\_\_  
TORLEY \_\_\_\_\_

PUBLIC HEARING: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_  
RIVERA \_\_\_\_\_  
~~MCDONALD~~ \_\_\_\_\_ CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_  
REIS \_\_\_\_\_  
KANE \_\_\_\_\_  
TORLEY \_\_\_\_\_

APPROVED: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_  
RIVERA \_\_\_\_\_  
~~MCDONALD~~ \_\_\_\_\_ CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_  
REIS \_\_\_\_\_  
KANE \_\_\_\_\_  
TORLEY \_\_\_\_\_

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING:      M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_  
RIVERA \_\_\_\_\_  
MCDONALD \_\_\_\_\_  
REIS \_\_\_\_\_ CARRIED: Y \_\_\_\_\_ N \_\_\_\_\_  
KANE \_\_\_\_\_  
TORLEY \_\_\_\_\_

PUBLIC HEARING:      STATEMENT OF MAILING READ INTO MINUTES Yes

VARIANCE APPROVED:      M) Reis S) K VOTE: A 0 N 4.

RIVERA N  
~~MCDONALD~~ \_\_\_\_\_ CARRIED: Y \_\_\_\_\_ N   
REIS N  
KANE N  
TORLEY N

Self created hardship:	Yes
Reasonable Return:	Yes
Change Neighborhood:	No
Any others around:	No

See note below  
cc.

*Zoning Board*  
563-4630

**PUBLIC HEARING NOTICE**  
**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. 03-04**

**Request of JOHN BENICHIASA**

**for a VARIANCE of the Zoning Local Law to Permit:**

**EXISTING MACHINE SHOP IN AN R-4 ZONE ON GARDEN DRIVE**

**being a VARIANCE of Section 48-18 A-6**

**for property located at: 28 GARDEN DRIVE - NEW WINDSOR, NY**

**known and designated as tax map Section 47 Block 1 Lot 58**

**PUBLIC HEARING will take place on MARCH 10TH, 2003**  
**at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York**  
**beginning at 7:30 P.M.**

From:

*Lawrence N. Torley*



The Rohan Household  
36 Garden Dr  
New Windsor NY 12553-7710

03/05/03

**Chairman**

We will not be able to attend the above hearing as we will be out of town on March 10<sup>th</sup>.  
We have resided at our address nearly fifty years and would definitely not approve of a commercial business in our residential area. In fact, we have never met Mr. Benichiasa, nor could we find a listing for him in our phone directory. This is now a young family community with many children at play and should remain so.  
Frank + Stella Rohan





# Town of New Windsor

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

## Assessors Office

February 4, 2003

John Benichiasa  
28 Garden Drive  
New Windsor, NY 12553

Re: 47-1-58 ZBA#03-04

Dear Mr. Benichiasa:

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

The charge for this service is \$85.00, minus your deposit of \$25.00.

Please remit the balance of \$60.00 to the Town Clerk's Office.

Sincerely,

A handwritten signature in black ink that reads "J. Todd Wiley". The signature is written in a cursive style and is enclosed within a hand-drawn oval.

J. Todd Wiley  
Sole Assessor

JTW/lrd  
Attachments

CC: Myra Mason, ZBA

37-1-31.2 & 37-1-31.3  
Joseph Bonura  
2975 NYS Rte. 9W  
New Windsor, NY 12553 ✓

47-1-44  
Steven & Carmela Pazoga  
4 Garden Drive  
New Windsor, NY 12553 ✓

47-1-45  
Joseph Castenaro  
6 Garden Drive  
New Windsor, NY 12553 ✓

47-1-48.1  
Thomas & Joan Mohr  
125 Cedar Street, Apt. 7N  
New York, NY 10006 ✓

47-1-49.2  
Windsor Enterprises, Inc.  
5020 Route 9W  
Newburgh, NY 12550 ✓

47-1-50  
Warren Sanford  
12 Garden Drive  
New Windsor, NY 12553 ✓

47-1-51  
Albert & Eleanor Rothstein  
14 Garden Drive  
New Windsor, NY 12553 ✓

47-1-52  
Jean Ann Strack  
16 Garden Drive  
New Windsor, NY 12553 ✓

47-1-53  
John Gould  
PO Box 22, 149 Murray Avenue  
Goshen, NY 10924 ✓

47-1-54  
Steven Pazoga  
Tracy Wells  
20 Garden Drive  
New Windsor, NY 12553 ✓

47-1-55  
Thomas & Maxine Petro  
22 Garden Drive  
New Windsor, NY 12553 ✓

47-1-56  
Jeanne Finkenaur  
24 Garden Drive  
New Windsor, NY 12553 ✓

47-1-57  
Charles Rogers Jr.  
27 Harth Drive  
New Windsor, NY 12553 ✓

47-1-59  
Raymond & Muriel Work  
32 Garden Drive  
New Windsor, NY 12553 ✓

47-1-60  
Dominick & Roxann Giordano  
34 Garden Drive  
New Windsor, NY 12553 ✓

47-1-61  
Frank & Stella Rohan  
36 Garden Drive  
New Windsor, NY 12553 ✓

47-1-62  
James Jr. & Bridget A. Roach  
1335 Route 208  
Wallkill, NY 12589 ✓

47-1-63  
Adelbert & Vera Curry  
40 Garden Drive  
New Windsor, NY 12553 ✓

47-1-64  
Jane MacGregor  
42 Garden Drive  
New Windsor, NY 12553 ✓

47-1-65 & 47-1-66 & 47-1-67  
Giuseppe & Michela Gagliardo  
83 Blooming Grove Turnpike  
New Windsor, NY 12553 ✓

47-1-68  
Leo Gagliardo  
83 Blooming Grove Turnpike  
New Windsor, NY 12553 ✓

47-1-70  
William & Laura Foster  
C/o Esther Sloan  
4 Faye Avenue  
New Windsor, NY 12553 ✓

47-1-72  
Joseph & Teresa Bosch  
8 Faye Avenue  
New Windsor, NY 12553 ✓

47-1-73  
Lorraine & Harold Wingfield  
William Krasnoborski  
12 Faye Avenue  
New Windsor, NY 12553 ✓

47-1-74  
Harry & Janice Walters  
16 Faye Avenue  
New Windsor, NY 12553 ✓

47-1-75  
Charles & Erna Baker  
20 Faye Avenue  
New Windsor, NY 12553 ✓

47-1-76  
Edith Tomer  
19 Lafayette Drive  
New Windsor, NY 12553 ✓

47-1-77  
Clayton & Frances Oestrich  
28 Faye Avenue  
New Windsor, NY 12553 ✓

47-1-78 & 47-1-79  
Thomas & Linda Cuccia  
444 Nimham Road  
Kent Lakes, NY 10512 ✓

47-1-80  
Christopher & Kathryn Craig  
34 Faye Avenue  
New Windsor, NY 12553 ✓

47-1-81  
Christopher & Rosemarie Noto  
36 Faye Avenue  
New Windsor, NY 12553 ✓

47-1-82  
Michael & Felicia Witkowski  
38 Faye Avenue  
New Windsor, NY 12553 ✓

47-2-1  
John Ramondino  
Laura Russo  
15 Garden Drive  
New Windsor, NY 12553 ✓

47-2-2  
Irving Pesetzky  
13 Garden Drive  
New Windsor, NY 12553 ✓

47-2-3  
Harold & Daris Gonzalez  
11 Garden Drive  
New Windsor, NY 12553 ✓

47-2-4  
Pamela Reilly  
9 Garden Drive  
New Windsor, NY 12553 ✓

47-2-5  
Robert & Lisa Husted  
7 Garden Drive  
New Windsor, NY 12553 ✓

47-2-6  
Richard & Gina Hurley  
5 Garden Drive  
New Windsor, NY 12553 ✓

47-2-7  
Mary Paul  
3 Garden Drive  
New Windsor, NY 12553 ✓

47-2-8  
Mary Doupona  
1 Garden Drive  
New Windsor, NY 12553 ✓

47-2-9  
Frederick & Dorothy Malizia  
17 Garden Drive  
New Windsor, NY 12553 ✓

48-4-1  
Derwood Roloson  
Susan Schatz  
73 Blooming Grove Turnpike  
New Windsor, NY 12553 ✓

48-4-2  
Marvin & June Canfield  
2 Nee Avenue  
New Windsor, NY 12553 ✓

48-4-3  
Carla & Duane Prackelt  
4 Nee Avenue  
New Windsor, NY 12553 ✓

48-4-4  
Charles & Patricia Ciccone  
8 Nee Avenue  
New Windsor, NY 12553 ✓

48-4-7 & 48-4-8  
Alice Zimmerman Weiner  
C/o Thora Zimmerman  
14 Nee Avenue  
New Windsor, NY 12553 ✓

48-4-9  
Jose & Norma Rodriguez  
16 Nee Avenue  
New Windsor, NY 12553 ✓

48-4-11  
Kevin Hurley  
18 Nee Avenue  
New Windsor, NY 12553 ✓

48-4-12  
James & Margaret Kiernan  
22 Nee Avenue  
New Windsor, NY 12553 ✓

48-4-14  
Delores Wilkinson  
26 Nee Avenue  
New Windsor, NY 12553 ✓

48-4-15  
Mark & Joann Leslie  
30 Nee Avenue  
New Windsor, NY 12553 ✓

48-4-17  
Charles & Mary Louise Foti  
33 Faye Avenue  
New Windsor, NY 12553 ✓

48-4-19  
Robert & Florinda Jarvis  
31 Faye Avenue  
New Windsor, NY 12553 ✓

48-4-22  
Louis & Tillie Talerico  
29 Faye Avenue  
New Windsor, NY 12553 ✓

48-4-24  
Grainger Jr. & Susan Kirth  
25 Faye Avenue  
New Windsor, NY 12553 ✓

48-4-26  
Matthew & Gertrude Dykes  
19 Faye Avenue  
New Windsor, NY 12553 ✓

48-4-28  
John Herder  
15 Faye Avenue  
New Windsor, NY 12553 ✓

48-4-30  
Thomas & Nelly Berean  
11 Faye Avenue  
New Windsor, NY 12553 ✓

48-4-31  
Charles & Joan Sadlo  
9 Faye Avenue  
New Windsor, NY 12553 ✓

48-4-32  
Sophia Krasnoborski  
7 Faye Avenue  
New Windsor, NY 12553 ✓

48-4-33  
Wesley & Kathleen Gill  
5 Faye Avenue  
New Windsor, NY 12553

✓

48-4-34  
Dorothea McGuigan  
81 Blooming Grove Turnpike  
New Windsor, NY 12553

✓

48-4-35  
Robert Jr. & Diane Trifilo  
79 Blooming Grove Turnpike  
New Windsor, NY 12553

✓

48-4-36  
Joseph Di Vincenzo  
Lorraine Meleck  
75 Blooming Grove Turnpike  
New Windsor, NY 12553

✓

30  
30  
4  
-----  
64

Mailed 2/21/03  
②

# TOWN OF NEW WINDSOR REQUEST FOR NOTIFICATION LIST

DATE: 01-28-03 PROJECT NUMBER: ZBA# 03-04 P.B. # \_\_\_\_\_

APPLICANT NAME: JOHN BENICHIASA (WESTOAK MACHINES, INC.)

PERSON TO NOTIFY TO PICK UP LIST:

JOHN BENICHIASA  
28 GARDEN DRIVE  
NEW WINDSOR, NY 12553

TELEPHONE: 565-4185

TAX MAP NUMBER: SEC. 47 BLOCK 1 LOT 58  
SEC. \_\_\_\_\_ BLOCK \_\_\_\_\_ LOT \_\_\_\_\_  
SEC. \_\_\_\_\_ BLOCK \_\_\_\_\_ LOT \_\_\_\_\_

THIS LIST IS BEING REQUESTED BY:

NEW WINDSOR PLANNING BOARD: \_\_\_\_\_

SITE PLAN OR SUBDIVISION: (ABUTTING AND ACROSS ANY STREET) \_\_\_\_\_

SPECIAL PERMIT ONLY: (ANYONE WITHIN 500 FEET) \_\_\_\_\_

AGRICULTURAL DISTRICT:  
(ANYONE WITHIN THE AG DISTRICT WHICH IS WITHIN 500'  
OF SITE PLAN OR SUBDIVISION PROJECT) \_\_\_\_\_



NEW WINDSOR ZONING BOARD XX

LIST WILL CONSIST OF ALL PROPERTY WITHIN 500 FEET OF PROJECT XX



AMOUNT OF DEPOSIT: \$25.00 CHECK NUMBER: 174

TOTAL CHARGES: \_\_\_\_\_



RESULTS OF Z.B. MEETING OF: January 7, 2003

PROJECT: John Benichiano ZBA # 03-04  
P.B.#



USE VARIANCE:      NEED: EAF      PROXY

LEAD AGENCY: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_ N \_\_\_  
RIVERA \_\_\_\_\_  
MCDONALD \_\_\_\_\_ CARRIED: Y \_\_\_ N \_\_\_  
REIS \_\_\_\_\_  
~~KANE~~ \_\_\_\_\_  
TORLEY \_\_\_\_\_

NEGATIVE DEC: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_ N \_\_\_  
RIVERA \_\_\_\_\_  
MCDONALD \_\_\_\_\_ CARRIED: Y \_\_\_ N \_\_\_  
REIS \_\_\_\_\_  
~~KANE~~ \_\_\_\_\_  
TORLEY \_\_\_\_\_

PUBLIC HEARING: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_ N \_\_\_  
RIVERA \_\_\_\_\_  
MCDONALD \_\_\_\_\_ CARRIED: Y \_\_\_ N \_\_\_  
REIS \_\_\_\_\_  
~~KANE~~ \_\_\_\_\_  
TORLEY \_\_\_\_\_

APPROVED: M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_ N \_\_\_  
RIVERA \_\_\_\_\_  
MCDONALD \_\_\_\_\_ CARRIED: Y \_\_\_ N \_\_\_  
REIS \_\_\_\_\_  
~~KANE~~ \_\_\_\_\_  
TORLEY \_\_\_\_\_

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING:      M) Reis S) m      VOTE: A 4 N 0  
RIVERA      A  
MCDONALD      A  
REIS      A      CARRIED: Y  N \_\_\_\_\_  
~~KANE~~ \_\_\_\_\_  
TORLEY      A

PUBLIC HEARING:      STATEMENT OF MAILING READ INTO MINUTES \_\_\_\_\_

VARIANCE APPROVED:      M) \_\_\_\_\_ S) \_\_\_\_\_ VOTE: A \_\_\_ N \_\_\_  
RIVERA \_\_\_\_\_  
MC DONALD      \_\_\_\_\_ CARRIED: Y \_\_\_ N \_\_\_  
REIS \_\_\_\_\_  
~~KANE~~ \_\_\_\_\_  
TORLEY \_\_\_\_\_

Andy to research "Transition Period"

Date ..... 11/20/13 .....

# TOWN OF NEW WINDSOR

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

TO ..... Frances Roth ..... DR.  
460 1/2 Emory Lane  
Newburgh, N.Y. 12550

DATE		CLAIMED	ALLOWED
11/27/13	Zoning Board Mtg	75 00	
	Misc - 3		
	Route 32 N.W. Realty - 5		
	Fayo - 3		
	Fianza - 7		
	Benichiasa - 8		
	26	117 00	
		192 00	

JOHN BENICHIASA (03-04)

MR. TORLEY: Request for use variance to operate an existing machine shop in an R-4 zone on Garden Drive.

Mr. John Benichiasa appeared before the board for this proposal.

MR. REIS: For the record, it's a little far removed but to avoid any potential observation that someone might have for a conflict of interest, I was involved with the sale of this property with his dad several years ago, just for the record.

MR. TORLEY: Always been a stickler for that, I appreciate it. So you have a machine shop?

MR. BENICHIASA: Yes.

MR. TORLEY: Is it pre-existing zoning?

MR. BENICHIASA: No.

MR. TORLEY: What's the deal?

MR. BABCOCK: I'm not sure what the, I guess we got a complaint, apparently I'm hearing both sides of the story that there's somebody that likes to do a lot of complaining in the area, they made a complaint and one of the fire inspectors went down and visited this gentleman and I didn't see it personally but I understand it's a one man workshop type thing that he has in his, they told me garage, right?

MR. BENICHIASA: Right, I believe I gave Myra the pictures.

MR. TORLEY: So you have a two car garage and there's a machine shop in it?

MR. BENICHIASA: One car garage, it's 35 feet long all the way in the back of the house.

MR. MC DONALD: Do you have any commercial traffic coming in there?

MR. BENICHIASA: No, no, occasional delivery of steel by the U.S. Air Force.

MR. MC DONALD: For you?

MR. BENICHIASA: Yeah but they're out within five minutes. Everything else is UPS.

MR. TORLEY: Now, a machine shop is not permitted in an R-4 zone?

MR. BABCOCK: That's where the problem is.

MR. TORLEY: When they think of machine shops, they think of this, looks like something fitting in somebody's garage.

MR. BENICHIASA: If you came down to look at it, it's like a two car garage but it does small, minute work for the U.S. Government which I'm doing now.

MR. TORLEY: Federal contract, does that make any difference?

MR. BABCOCK: I don't think it makes any difference to me. It may make a difference to you.

MR. TORLEY: I'm thinking of the code if it's Federal.

MR. BABCOCK: Well, I didn't know if that's inclusive of just that, I mean if that's--

MR. TORLEY: See, the trouble is by state law, there are two kinds of variances, area variances which we have been talking about till now and use variance. Use variance says you want to do something the law says you just flat out can't do in the zone and the state legislature has made getting use variances very difficult because you have to, and our attorney can give you the list of what the criteria you have to meet, one of the biggest hurdles is you have to show for the property you have you cannot get a reasonable return, not profit, just reasonable return for any legal use in the zone. You have to show you can't sell

your house as a house in this zone and only if you can't get a reasonable return for anything in that zone.

MR. BENICHIASA: You lost me.

MR. TORLEY: For a use variance you may wish to consult an attorney.

MR. BENICHIASA: But why?

MR. TORLEY: Because it gets tough.

MR. BENICHIASA: Attorneys cost money.

MR. TORLEY: The hurdles you have to get over to get a use variance are pretty, are not impossible but they're pretty close and I hate to, you know, do something, the guy's got a machine shop in his garage.

MR. BENICHIASA: It's not in the garage, it's in the basement and all it is is a low profile that does precision work for the U.S. Government. I'm doing it now, but I had to put a stop since the fire guy came and that's the only thing, somebody told me go to the city and get a permit. I could have been going on for 20 years and not tell you. I came to Debbie Green and said I want to do everything legally.

MR. TORLEY: If somebody complained, the fire inspector came out and saw it, then the Town is now aware of it.

MR. BENICHIASA: Right, I understand, but the complaint was two days after, I went to see Debbie Green to go to Myra and get all the paperwork. When he wants things done, this guy is a pain in the butt, when he wants things done, he's right over there welding any type of little things and whatever, he's happy, but as soon as I went public, he didn't like it. I keep it copacetic with all the neighbors, he just decided if my son can't get a permit three years ago to get a used car lot, I'm gonna get even with, I'm gonna make my son feel better by making John Benichiasa not get a variance. And the name Ray Werk (phonetic) is synonymous with all the police officer, everyone has paid a visit to him twice.

MR. TORLEY: We can't get into personalities, we have to go by what the state law says we have to do and the state made getting use variances tough. I'm trying to figure how we can do this.

MR. BENICHIASA: Also, if you read about the article in the Newsweek magazine, Pataki's trying to loosen up so small businesses can get started.

MR. TORLEY: This is a classic conflict here.

MR. MC DONALD: One man shop?

MR. BENICHIASA: That's all it is.

MR. RIVERA: If it was a hobby shop, would it be a difference?

MR. BENICHIASA: It was a hobby shop in 1986 when my father had it built and we would tinker, invent things, fix things for neighbors, just be handy. But now the U.S. Government has got a problem, they haven't got any machinists in the work force that can do this work, so about a year ago, they came to me which I have been paying taxes and I've got a \$6,000 bill being paid tomorrow to FICA and state tax and I'm paying it tomorrow, I'm generating money, the thing is, like I said, it's turned out to be a hobby shop and about a year ago, they came to me, they had a problem, all of these people retiring but 20 years ago, 10 years ago, no kids wanted to get educated to replace being a machinist, they're becoming very hard to find. Matter of fact, if you look, there's four shops that closed down within 30 miles of New Windsor because all of these guys retired, but there's no kid who wants to get in there to get their hands dirty. It's a lost art. I happen to be doing it for 40 years and I'm 50 years old.

MR. TORLEY: So the problem is we have to go by state law.

MR. BENICHIASA: Seriously, I intend on being out of there within a year and a half, I was offered a

building on Bridge Street but it won't be open for about a year, he's moving on to other things and the building's being offered to me.

MR. TORLEY: Andy, does that make a difference if you can apply this as for a transition period, that's essentially what it is. I'm not going to ask you to say anything now, think about that or check it out because there's a condition where you have a violation sort of in transition, he'd going to be moving out, a temporary permit or something like that, I don't know if that's in our purview, but it's something to think about. What I would suggest is I would happily entertain a motion, unless you have other questions you want to ask, entertain a motion that will give you the right to go forward. We set you up for a public hearing, says you're entitled but you don't have to do it if you figure out something else. You're entitled to a public hearing and check with Andy.

MR. REIS: How much time can lapse between now and the potential public hearing?

MR. TORLEY: There's no set rule.

MR. BABCOCK: The problem is that we're talking about this order for him not to use his facility.

MR. MC DONALD: You can't use it.

MR. BENICHIASA: I'm in a standstill.

MR. TORLEY: If he's applying for a variance to do something, isn't that order stayed?

MR. BABCOCK: Well, the judge would make that decision as Andy would say.

MR. TORLEY: Judge already ruled on this.

MR. BABCOCK: Right, but what we're telling him is that he can't operate his business until you guys make a determination. So if he starts to operate his business and we get another complaint, we'll be down to see him and he'll go in front of the judge, the judge may say

to him which very well Andy will probably agree or disagree with me that if you're in front of the zoning board, continue and come back and see me in 30 days, how long is it gonna take and then it will go on for until the zoning board makes a decision, but I don't think anybody, the problem is with the complaint on file, if there was no complaint on file, I think I would agree. I've got to be honest, I wouldn't even of known it.

MR. BENICHIASA: I intended on going for this even without the complaint.

MR. TORLEY: You're right to do the right thing.

MR. BENICHIASA: That's what I'm doing.

MR. TORLEY: So what I would suggest then we set up the applicant for a public hearing on the use variance and see unless you want to do another preliminary.

MR. MC DONALD: No, let's set him up.

MR. TORLEY: No, just off the top of my head, feel free to disagree, if we set him up for another preliminary meeting next time, may give Andy a chance to think about this and maybe some way we can work around this and help the gentlemen.

MR. KRIEGER: Yeah, but the problem is that he's stopped now and he wants to start again. So if we, if the zoning board takes a deliberate pace in considering this application, this gentleman is held up for all that time, it would be one thing if he was actually operating and the zoning board was deliberating in its approach.

MR. BENICHIASA: I've got work downstairs now pending delivery in two weeks.

MR. TORLEY: Just don't say anything. Now, if the gentleman, if we set him up for another public, he's before the zoning board and we're in the process of the deliberations and considering the case.

MR. BABCOCK: I think that you should, I personally think we should go with a public hearing, see what happens with that, that's gonna help this gentleman I think in a lot of ways to make a determination on this thing and maybe depending on that outcome, maybe you would table it for a week until you get some better stuff.

MR. REIS: Accept a motion?

MR. TORLEY: Absolutely.

MR. BENICHIASA: I didn't understand a word you guys said.

MR. TORLEY: We're trying to help you.

MR. REIS: Make a motion we set up Mr. John Benichiasa for his requested variance at Garden Drive.

MR. MC DONALD: Second it.

ROLL CALL

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

MR. BENICHIASA: Does that mean you're going to come out and see what I do?

MR. TORLEY: Off the record.

(Discussion was held off the record)

MR. TORLEY: Do I have a motion?

MR. REIS: Motion has been made.

MR. MC DONALD: Second it.

ROLL CALL

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

MR. TORLEY: Just see Myra tomorrow about getting some of the paperwork. We'll see what we can do and when you set up the public hearing, depends on how fast.

MS. MASON: You don't have to do anything.

MR. TORLEY: He's all set.

MR. KRIEGER: Here are the criteria for the use variance.

MR. TORLEY: You're all set for tonight.

158  
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) 563-4615 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.**

DATE: January 10, 2003

APPLICANT: John Benichiasa  
28 Garden Dr.  
New Windsor, NY 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: January 8, 2003

FOR : Existing Machine Shop

LOCATED AT: 28 Garden Drive

ZONE: R-4 Sec/Blk/ Lot: 47-1-58

DESCRIPTION OF EXISTING SITE: SBL 47-1-58 28 Garden Drive

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. Existing machine shop is not permitted in an R-4 Zone

  
BUILDING INSPECTOR

PERMITTED -- NOT

PROPOSED OR  
AVAILABLE:

VARIANCE  
REQUEST:

ZONE: R-4 USE: A-6

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

*1/13/03*  
*Sent Application*

03-04

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.

RECEIVED

JAN 08 2003

BUILDING DEPARTMENT

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 under slab 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. Wall water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway pond 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 percolation 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.

FOR OFFICE USE ONLY:  
Building Permit # 2003-22

**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 John Benichez

Address 28 GARDEN DRIVE Phone # 565-4185

Mailing Address 28 GARDEN DRIVE Fax # 561-9189

Name of Architect \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

Name of Contractor \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

State whether applicant is owner, lessee, agent, architect, engineer or builder \_\_\_\_\_

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 \_\_\_\_\_ side of \_\_\_\_\_  
(N, S, E or W)  
and \_\_\_\_\_ feet from the intersection of \_\_\_\_\_

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

X 3. Tax Map Description: Section 47 Block 1 Lot 58

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

a. Existing use and occupancy \_\_\_\_\_ b. Intended use and occupancy MACHINE SHOP

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

X 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

\$50.00

**PLANNING BOARD**

OK # 151

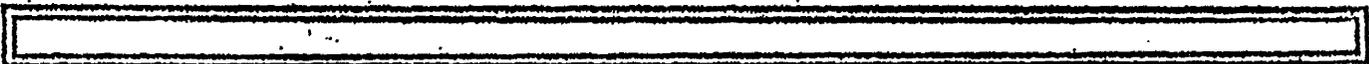
03-04  
**PAID**

\_\_\_\_/\_\_\_\_/\_\_\_\_  
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 Liel & 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.

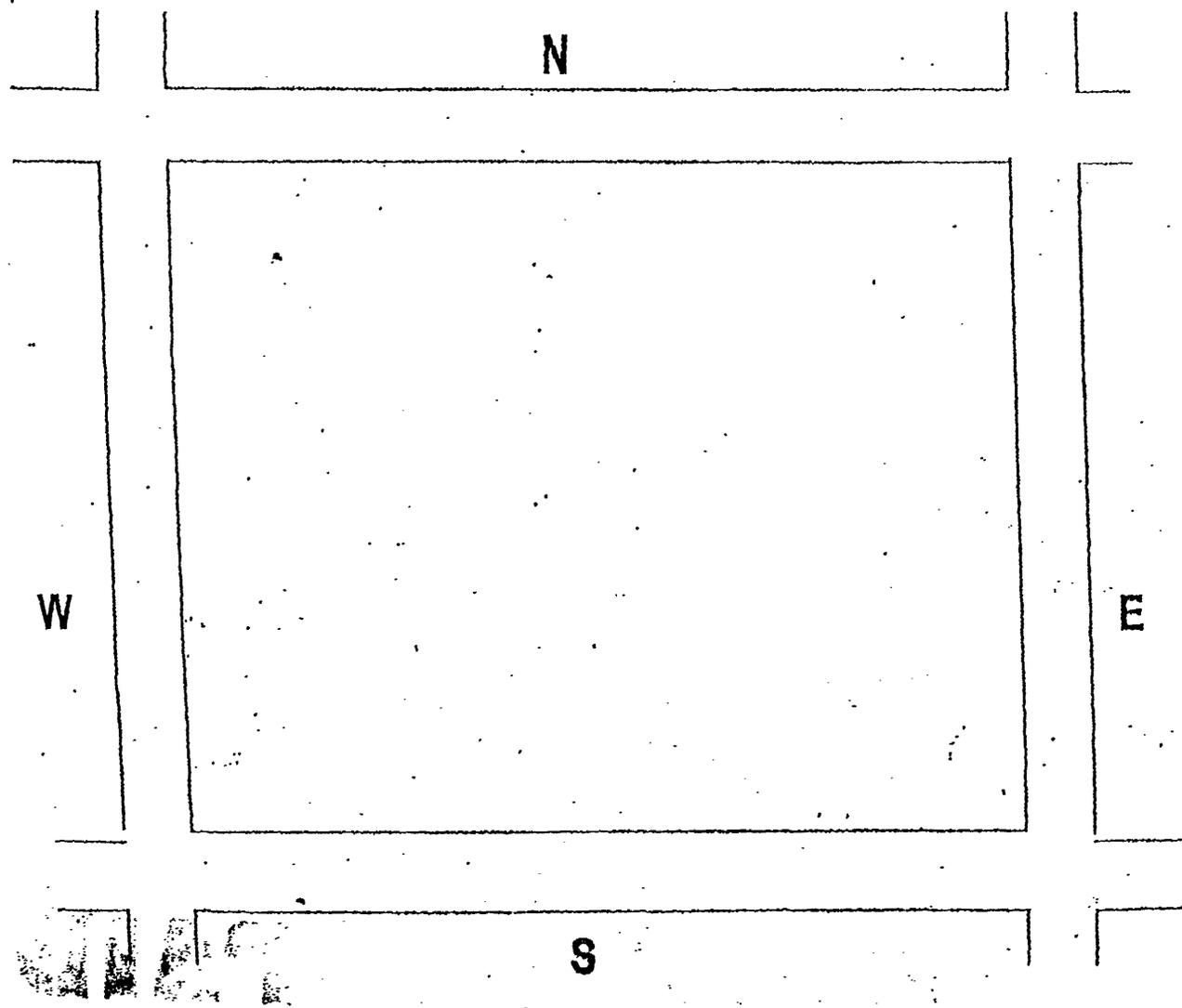
X John Benichasa  
(Signature of Applicant)

(Address of Applicant)

X John Penabam  
(Owner's Signature)

**PLOT PLAN**

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

**RECEIPT**  
**#67-2003**

**01/27/2003**

**Westoak Machines, Inc**

**Received \$ 50.00 for Zoning Board Fees, on 01/27/2003. Thank you for  
stopping by the Town Clerk's office.**

**As always, it is our pleasure to serve you.**

*#03-04 application fee.*

**Deborah Green**  
**Town Clerk**

**TOWN OF NEW WINDSOR**  
**ZONING BOARD OF APPEALS**

**RECEIPT OF ESCROW RECEIVED:**

DATE RECEIVED: JANUARY 23, 2003

FOR: ESCROW

FROM: WESTOAK MACHINES, INC. (JOHN BENICHIASA)

28 GARDEN DRIVE

NEW WINDSOR, NY 12553

CHECK NUMBER: 173

AMOUNT: \$300.00

RECEIVED AT COMPTROLLER'S OFFICE BY:

  
\_\_\_\_\_  
NAME

1/23/07  
\_\_\_\_\_  
DATE

PLEASE RETURN SIGNED COPY TO MYRA FOR FILING

THANK YOU

WESTOAK MACHINES INC. 29-1/213 174  
 28 GARDEN DRIVE 9433482819  
 NEW WINDSOR, NY 12553

DATE 1/13/03

PAY TO THE ORDER OF TOWN OF NEW WINDSOR \$ 25<sup>00</sup>/<sub>100</sub>

J. J. Jullien 00<sup>00</sup>/<sub>100</sub> DOLLARS

**Fleet**  
 Small Business Services  
 www.fleet.com Valhalla, NY

MEMO DEPOSIT FOR PUBLIC HEARING John Bertram

⑆021300019⑆ 94334 82819⑆ 0174

ZBA # 03-04 Application Fee

WESTOAK MACHINES INC. 29-1/213 172  
 28 GARDEN DRIVE 9433482819  
 NEW WINDSOR, NY 12553

DATE 1/13/03

PAY TO THE ORDER OF TOWN OF NEW WINDSOR \$ 50<sup>00</sup>/<sub>100</sub>

J. J. Jullien 00<sup>00</sup>/<sub>100</sub> DOLLARS

**Fleet**  
 Small Business Services  
 www.fleet.com Valhalla, NY

MEMO Application Fee John Bertram

⑆021300019⑆ 94334 82819⑆ 0172

ZBA # 03-04 Escrow

WESTOAK MACHINES INC. 29-1/213 173  
 28 GARDEN DRIVE 9433482819  
 NEW WINDSOR, NY 12553

DATE 1/13/03

PAY TO THE ORDER OF TOWN OF NEW WINDSOR \$ 300<sup>00</sup>/<sub>100</sub>

Shirley Kathleen Jullien 00<sup>00</sup>/<sub>100</sub> DOLLARS

**Fleet**  
 Small Business Services  
 www.fleet.com Valhalla, NY

MEMO ES ROW John Bertram

⑆021300019⑆ 94334 82819⑆ 0173





**TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS**



**APPLICATION FOR VARIANCE**

03-04

1/13/03  
Date

Application Type: Use Variance  Area Variance   
Sign Variance  Interpretation

**I. Owner Information:**

Name: John Benichvasa Phone Number: (845) 565-4185  
 Fax Number: (845) 561-9189  
 Address: 28 GARDEN DRIVE New Windsor NY 12553

**II. Purchaser or Lessee:**

Name: \_\_\_\_\_ Phone Number: ( ) \_\_\_\_\_  
 Fax Number: ( ) \_\_\_\_\_  
 Address: \_\_\_\_\_

**III. Attorney:**

Name: \_\_\_\_\_ Phone Number: ( ) \_\_\_\_\_  
 Fax Number: ( ) \_\_\_\_\_  
 Address: \_\_\_\_\_

**IV. Contractor/Engineer/Architect/Surveyor/:**

Name: \_\_\_\_\_ Phone Number ( ) \_\_\_\_\_  
 Fax Number: ( ) \_\_\_\_\_  
 Address: \_\_\_\_\_

**V. Property Information:**

Zone: R 4 Property Address in Question: 28 GARDEN DRIVE  
 Lot Size: .98 Tax Map Number: Section 47 Block 1 Lot 58  
 a. What other zones lie within 500 feet? NO OTHER ZONES  
 b. Is pending sale or lease subject to ZBA approval of this Application? \_\_\_\_\_  
 c. When was property purchased by present owner? 1994  
 d. Has property been subdivided previously? NO If so, When: \_\_\_\_\_  
 e. Has an Order to Remedy Violation been issued against the property by the Building/Zoning/Fire Inspector? NO  
 f. Is there any outside storage at the property now or is any proposed? yes

\*\*\*\*PLEASE NOTE:\*\*\*\*

**THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE OF SUBMITTAL.**

03-04

**TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS**

**APPLICATION FOR VARIANCE - continued**

**VI. USE VARIANCE:**

Use Variance requested from New Windsor Zoning Local Law,

Section 47, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

Describe proposal: TO HAVE A MACHINE SHOP IN AN  
R-4 ZONE

VII. 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 state any efforts you have made to alleviate the hardship other than this application.

BEN A HOBBY SHOP FOR MY FATHER SINCE 1986  
& I. AN NOW I FEEL I CAN MAKE MONEY  
FOR ALL THE LOCAL BUSINESSES GETTING  
A SHOP. NEARBY, I ALSO STARTED MAKING PARTS.  
FOR THE U.S. ARMED FORCES WHICH TEND TO  
BE LIFETIME EMPLOYMENT.

**PLEASE NOTE:  
THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE  
OF SUBMITTAL.**

TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE - continued

- IX. 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.

After reading the above paragraph, please describe why you believe the ZBA should grant your application for an Area Variance:

Because the neighborhood needs a  
Good MACHINE SHOP. I HAVE A MACHINE SHOP Ready  
TO produce. AND I AM garenteed SEVERAL  
SMALL BUT LUCRATIVE CONTRACTS BY THE U.S  
ARMED FORCES IF I GET A LEGAL & WORKING SHOP.

**PLEASE NOTE:**  
**THIS APPLICATION, IF NOT FINALIZED, EXPIRES ONE YEAR FROM THE DATE**  
**OF SUBMITTAL.**

03-04



**APPLICANT/OWNER PROXY STATEMENT**  
**(for professional representation)**

for submittal to the:  
TOWN OF NEW WINDSOR ZONING BOARD OF APPEALS

John Benichusa, deposes and says that he resides  
(OWNER)

at 28 GARDEN DRIVE in the County of ORANGE  
(OWNER'S ADDRESS)

and State of NEW YORK and that he is the owner of property tax map

(Sec. 47 Block 1 Lot 58)  
designation number (Sec. 47 Block 1 Lot 58) which is the premises described in

the foregoing application and that he authorizes:

\_\_\_\_\_  
(Applicant Name & Address, if different from owner)

\_\_\_\_\_  
(Name & Address of Professional Representative of Owner and/or Applicant)

to make the foregoing application as described therein.

Date: 1/13/03

\*\* John Benichusa  
Owner's Signature (MUST BE NOTARIZED)

\_\_\_\_\_  
Applicant's Signature if different than owner

Sworn to before me this 13<sup>th</sup> day of JAN

\_\_\_\_\_  
Representative's Signature

Maria Spiliotis  
MARIA SPILLOTIS  
Notary Public, State of New York  
Qualified in Orange County  
Registration No. 01SP5080389  
Commission Expires June 16, 2003

**\*\* PLEASE NOTE:**

**ONLY OWNER'S SIGNATURE MUST BE NOTARIZED.**

03-04

PROJECT I.D. NUMBER

617.21

Appendix C

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

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

1. APPLICANT /SPONSOR <i>John Beichasa</i>	2. PROJECT NAME <i>WESTOAK MACIY</i>
3. PROJECT LOCATION: Municipality <i>TOWN OF NEW WINDSOR</i> County <i>ORANGE</i>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <i>28 GARDEW DRIVE                  NEW WINDSOR NY 12553</i>	
5. IS PROPOSED ACTION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <i>MACHINE SHOP</i>	
7. AMOUNT OF LAND AFFECTED: Initially <i>NONE</i> acres    Ultimately <i>NONE</i> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If No, describe briefly <i>SEEKING USE VARIANCE</i>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If yes, list agency(s) and permit/approvals	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: <i>John Beichasa</i>	Date: <i>1/17/03</i>
Signature: <i>John Beichasa</i>	

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

**PART II—ENVIRONMENTAL ASSESSMENT (To be completed by Agency)**

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

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

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

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

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

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

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:

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

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

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

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

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

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

- Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide on attachments as necessary, the reasons supporting this determination:

\_\_\_\_\_  
 Name of Lead Agency

\_\_\_\_\_  
 Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
 Title of Responsible Officer

\_\_\_\_\_  
 Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
 Signature of Preparer (If different from responsible officer)

\_\_\_\_\_  
 Date