

ZB# 04-06

Therese Lamica

78-1-3

ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR
555 UNION AVENUE
NEW WINDSOR, N.Y. 12553

Granted 3-8-04

ZBA # **04-06** LAMICA - AREA & INTERP
1 BUTTERMILK DR 78-1-3 (KELSON)

Judd Kelson 567-3010

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

GARY AND THERESE LAMICA

MEMORANDUM OF
DECISION GRANTING

**AREA &
INTERPRETATION**

CASE #04-06
-----X

WHEREAS, Todd Kelson, Esq. appeared for the applicant of 1 Buttermilk Drive, New Windsor, New York, 12553, has made application before the Zoning Board of Appeals for a/an
9 ft. Side Yard Setback and;
2 ft. Rear Yard Setback (48-14, A(1b) for existing shed and;
Allowable accessory structure extending further in the front yard that the front of the house which is the pool shed and;
Interpretation for Single-Family Home with two kitchens in Single-Family Zone

WHEREAS, a public hearing was held on March 8, 2004 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, one spectator appeared at the public hearing; and

WHEREAS, one spectator spoke in opposition to having two kitchens and no persons spoke in favor of or in opposition to an area variance requested; 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) The property is a residential property consisting of a single family home located in a neighborhood of residential properties.

- (b) At the time the property was sold to the present owners, the second kitchen appeared in the premises.
- (c) Visually, the home appears to be a single family residence.
- (d) If the applicant is permitted to have a second kitchen in the house, it is acknowledged that it is a single family house and no second dwelling unit or apartment can be located in that house.
- (e) The shed for which the variance is sought has been on the property in excess of ten (10) years. The shed is used in connection with an adjacent pool.
- (f) The shed itself is similar in size and appearance to other sheds in the neighborhood.
- (g) No trees or substantial vegetation was removed to construct the shed.
- (h) No complaints, either formal or informal, have been received about the shed.
- (i) The shed is not on top of any easements including, but not limited to, water and sewer.
- (j) The property is serviced by one single electric meter.
- (k) The house is located on the corner of two public streets, although it appears to have visually a single front yard and two side yards.

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

1. The requested variance(s) will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant that can produce the benefits sought.
3. The variance(s) requested are substantial in relation to the Town regulations but, nevertheless, are warranted.
4. The requested variance(s) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but, nevertheless, should be allowed.
6. The benefit to the Applicant, if the requested variance(s) are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variance(s) are/is appropriate and are/is the minimum variance(s) necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
8. The interests of justice will be served by allowing the granting of the requested area variance(s).

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a

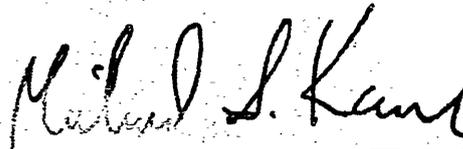
9 ft. Side Yard Setback and;
2 ft. Rear Yard Setback (48-14, A(1b) for existing shed and;
Allowable accessory structure extending further in the front yard that the front of the house which is the pool shed and;
Interpretation for Single-Family Home with two kitchens in Single-Family Zone

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/or Building Inspector and Applicant.

Dated: March 8, 2004



Chairman



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

June 16, 2004

Gary & Therese Lamica
1 Buttermilk Drive
New Windsor, NY 12553

SUBJECT: REQUEST FOR VARIANCE #04-06

Dear Mr. & Mrs. Lamica:

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

cc: Michael Babcock, Building Inspector

ADDENDUM TO APPLICATION FOR AREA VARIANCE AND INTERPRETATION

Gary Lamica and Therese Lamica

Premises: 1 Buttermilk Dr., New Windsor NY 12553: Section 78, Block 1, Lot 3

Gary Lamica and Therese Lamica hereby makes application to the Zoning Board of Appeals of the Town of New Windsor for an area variance in order maintain an existing 12 x 12 storage shed on .3094 acres of property located at the corner of Buttermilk and Creamery Drive, identified on the tax map of the Town of New Windsor as Section 78 , Block 1, Lot 3. The Premises are located in the CL-1 zone, and meets all applicable setback, bulk, and use requirements, except for the requested variance. The applicants are the current owners of the premises, having purchased the property from the former owners on April 11, 2003 with the existing shed in place. Upon information and belief, the shed in question was constructed over ten years ago. Building permit application # PA2003-0273 for this structure was denied on April 11, 2003.

One variance is sought. The applicants seek to maintain an existing 12 x 12 shed which is located 9.6 feet from the rear lot line and 1.1 foot from the side lot line, rather than the 10 foot setbacks required under New Windsor Zoning Law Article V §48-14 A(1)(b).

Additionally, the Notice of Disapproval of Building Permit Application for the above structure includes an allegation that the prior owner of the premises converted a portion of the basement space to a separate apartment dwelling unit, thus creating a violation of §48-12 Use Bulk table CL-1 . The area in question is completely incorporated this space into the living area of the main single family dwelling, and the applicant disputes this allegation, and accordingly seeks an confirming that the space in question does not constitute a separate dwelling. The applicants requested that this be done by inspection, but were requested by the Building Department to seek an interpretation, and have agreed to do so. The applicants do NOT seek to maintain an apartment on the premises.

I. AREA VARIANCE

STATUTORY STANDARD

Pursuant to § 267-b of the Town Law, the Zoning Board of Appeals has the power to grant area variances upon showing by the applicant that applicable zoning regulations and restrictions have caused practical difficulty or unnecessary hardship.

In evaluating an application for an area variance, the Board must weigh the benefit to the applicant versus the detriment to the neighborhood, and must consider whether (1) granting the variance will produce an undesirable change in the character of the neighborhood, (2) whether the benefit sought by the applicant can be achieved by another means, (3) whether the proposed area variance is substantial, (4) whether the variance will have an adverse physical or environmental impact on the neighborhood, or (5) whether the difficulty is self created, although a finding that a hardship is self created shall not preclude the granting of a variance.

04-06

The applicants meet all of these tests, and seek only to secure municipal approvals for a structure that has been part of the neighborhood for many years, without substantial intrusion or disruption to neighboring property owners.

A. No undesirable change to the existing neighborhood will be produced if the variance is granted, and the variance will have no material impact on the neighborhood

As discussed above, the shed in question has existed for over ten years. At no time does the applicant propose to lease the shed premises to others for any commercial or non commercial purpose. The existence of the shed on the property for many years without objection by any party establishes conclusively that the variance will have absolutely no impact on the neighborhood whatsoever.

B. The benefit sought by the applicant cannot be achieved by means other than an area variance

Because of the peculiar configuration of the applicants' property, it would be extremely difficult to relocate the shed in order to meet the side yard setback. The shed is located within a fenced in pool area, and this limits the available level ground.

C. The requested area variance is not substantial

The variance requested is not substantial, particularly in light of the context of this application. The side yard variance is 9 feet, and the rear yard variance sought is a mere 2 feet.

D. The requested area variance will not have an adverse physical or environmental impact on the neighborhood

The variance will have absolutely no impact of any kind on the neighborhood. No changes to the neighborhood will take place if the relief sought is granted.

E. The applicant's difficulty is not self created

The applicants purchased the premises with the existing shed in place. The prior owners were contractually obligated to obtain the variance in question, but failed to do so in a timely manner. In order to close title to the premises prior to the expiration of an advantageous loan commitment, the applicants agreed to close title with the structure in place and seek the variance themselves.

II. INTERPRETATION

As mentioned in the introduction, the Building Department has alleged that the prior owner of the premises converted a portion of the basement space to a separate apartment dwelling unit, creating a violation of §48-12 Use Bulk table CL-1, and has requested that the applicants obtain an interpretation of the Zoning Law with respect thereto.

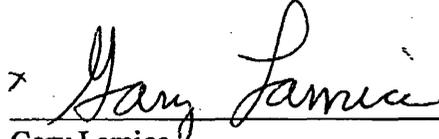
The area in question is completely incorporated this space into the living area of the main single family dwelling. Contrary to the Notice of Disapproval, the allegation that there exists within this home a separate "dwelling unit with kitchen, bathroom, bedroom , and living areas" is simply factually inaccurate.

The area which the Building Department has alleged to be a "kitchen" is in reality merely a portion of the basement which includes additional cabinets and counters. These are used for storage by the applicants, or could be used for another permitted home use. ***There is no refrigerator, no wall oven, no range, no cook top, and no sink or plumbing fixtures of any kind in the area in question.*** The area is not separated from the rest of the home in any meaningful way, other than normal interior doors with non-locking door hardware. There is no separate exterior entrance. It is the applicants' belief that the sole basis for the denial is the presence of cabinets.

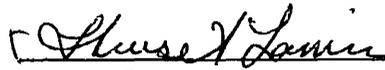
SUMMARY

In the context of the existing use, the variance requested by the applicant is a de minimis request. The existing shed has been an aspect of the neighborhood without negative impact for many years, and there will be literally no impact to the neighborhood of any kind if it is permitted to remain.

WHEREFORE, your applicant respectively requests that the Zoning Board of Appeals grant the relief sought in the application.

x 

Gary Lamica



Therese Lamica

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: 4/11/03

APPLICANT: Warren Ryan & Robert Sourenian
1 Buttermilk Drive
New Windsor, NY 12553

COPY

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: 4/8/03

FOR : PA 2003-0273 for 12x12 shed & PA2003-0272 for garage to kitchen & storage

LOCATED AT: 1 Buttermilk Drive

ZONE: CL-1 . Sec/Blk/Lot: 78-1-3

DESCRIPTION OF EXISTING SITE:

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. 48-14, A(1b) Accessory buildings shall be setback 10ft from any lot line. Existing 12x12 shed is 8ft from rear and 1ft from the side lot line.
2. 48-12 Use/Bulk Table CL-1; Two family dwellings are not permitted, basement was converted to dwelling unit with kitchen, bathroom, bedroom and living area.

Louis J. Kneher
BUILDING INSPECTOR

PERMITTED	PROPOSED OR AVAILABLE:	VARIANCE REQUEST:
ZONE: CL-1 USE: One Family Dwelling	Two Family Dwelling	Two Family Dwelling
MIN LOT AREA:		
MIN LOT WIDTH:		
REQ'D FRONT YD:		
REQ'D SIDE YD: 10ft (shed)	1ft	9ft
REQ'D TOTAL SIDE TD:		
REQ'D REAR YD: 10ft (shed)	8ft	2ft
REQ'D FRONTAGE:		
MAX BLDG HT:		
FLOOR AREA RATIO:		
MIN LIVABLE AREA:		
DEV COVERAGE:		

04-06

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

*7/14/03 sent application - 6/30/03 was returned in mail
7/1/03 Todd Kelson picked up application*

BUILDING PERMIT

The Town of New Windsor Building Department, County of Orange, State Of New York
hereby issues permit for project as described herein:

Permit Number:

PA2003-0273

Tax Parcel ID:

78-1-3

Issue Date:

April 8, 2003

Permit Issued To: **Owner**

Permit Fee:

\$50.00

Permit Application Reference: **PA2003-0273**

Type Of Permit: **RESIDENTIAL**

SHED

Street Address of Property:

1 BUTTERMILK DR

Property Owner's Name:

**RYAN WARREN &
SOURENIAN ROBERT**

Property Owner's Address:

**1 BUTTERMILK DRIVE
NEW WINDSOR NY 12553**

Occupant's Name:

Occupancy Classification:

A1

Description Of Work:

EXISTING SHED 12 X 12

*Shed is 1' from side line
8' from front line*

I am familiar with the Zoning/Building Ordinance(s) and the New York State Uniform Fire Prevention and Building Code requirements related to this permit and do hereby agree to abide by them. The information stated above is correct and accurate.



Signature of Applicant

A permit, under which no work has commenced within six (6) months after issuance, shall expire by limitation. Furthermore, a permit that no Certificate of Occupancy or Certificate of Compliance has been issued within eighteen (18) months after issuance shall expire by limitation. Under either circumstance a new building permit shall be secured before work can begin or be completed.

It is the responsibility of the Owner/Occupant and/or Contractor to comply with all applicable ordinances. Notification requests for inspection must be made at least 24 hours in advance to the number shown below. Voice mail requests for inspections will not be scheduled. YOU MUST HAVE YOUR BUILDING PERMIT NUMBER AVAILABLE when calling for any inspections or inquiries

You must call for the following phases

C.O. OR C.C.

BUILDING DEP 845-563-4618



Signature of Building Inspector

VALID UNTIL

10/8/2004

FILE COPY

BUILDING PERMIT

The Town of New Windsor Building Department, County of Orange, State Of New York
hereby issues permit for project as described herein:

Permit Number:

PA2003-0272

Tax Parcel ID:

78-1-3

Issue Date:

April 8, 2003

Permit Issued To: **Owner**

Permit Fee:

\$50.00

Permit Application Reference: **PA2003-0272**

Type Of Permit:

RESIDENTIAL

GARAGE

Street Address of Property:

1 BUTTERMILK DR

Property Owner's Name:

**RYAN WARREN &
SOURENIAN ROBERT**

Property Owner's Address:

**1 BUTTERMILK DRIVE
NEW WINDSOR NY 12553**

Occupant's Name:

Occupancy Classification: **A1**

Description Of Work:

EXISTING CONVERSION OF 1/2 OF THE GARAGE TO FINISHED BASEMENT (LIVING AREA) - NO HEAT STORAGE ONLY

NEED HARD WIRE SMOKE DETECTORS W/BATTERY BACKUP WHOLE HOUSE ALL FLOORS - 2003 BLDG CODE

*4/11/03 Smokes not installed, Kitchen installed in garage
other garage finished for storage only (NO HEAT)*

I am familiar with the zoning Building Ordinance(s) and the New York State Uniform Fire Prevention and Building Code requirements related to this permit and do hereby agree to abide by them. The information stated above is correct and accurate.

Warren Ryan

Signature of Applicant

A permit, under which no work has commenced within six (6) months after issuance, shall expire by limitation. Furthermore, a permit that no Certificate of Occupancy or Certificate of Compliance has been issued within eighteen (18) months after issuance shall expire by limitation. Under either circumstance a new building permit shall be secured before work can begin or be completed.

It is the responsibility of the Owner/Occupant and/or Contractor to comply with all applicable ordinances. Notification requests for inspection must be made at least 24 hours in advance to the number shown below. Voice mail requests for inspections will not be scheduled. YOU MUST HAVE YOUR BUILDING PERMIT NUMBER AVAILABLE when calling for any inspections or inquiries

You must call for the following phases

ROUGH ELECTRIC UNDERWRITE

C.O. OR C.C.

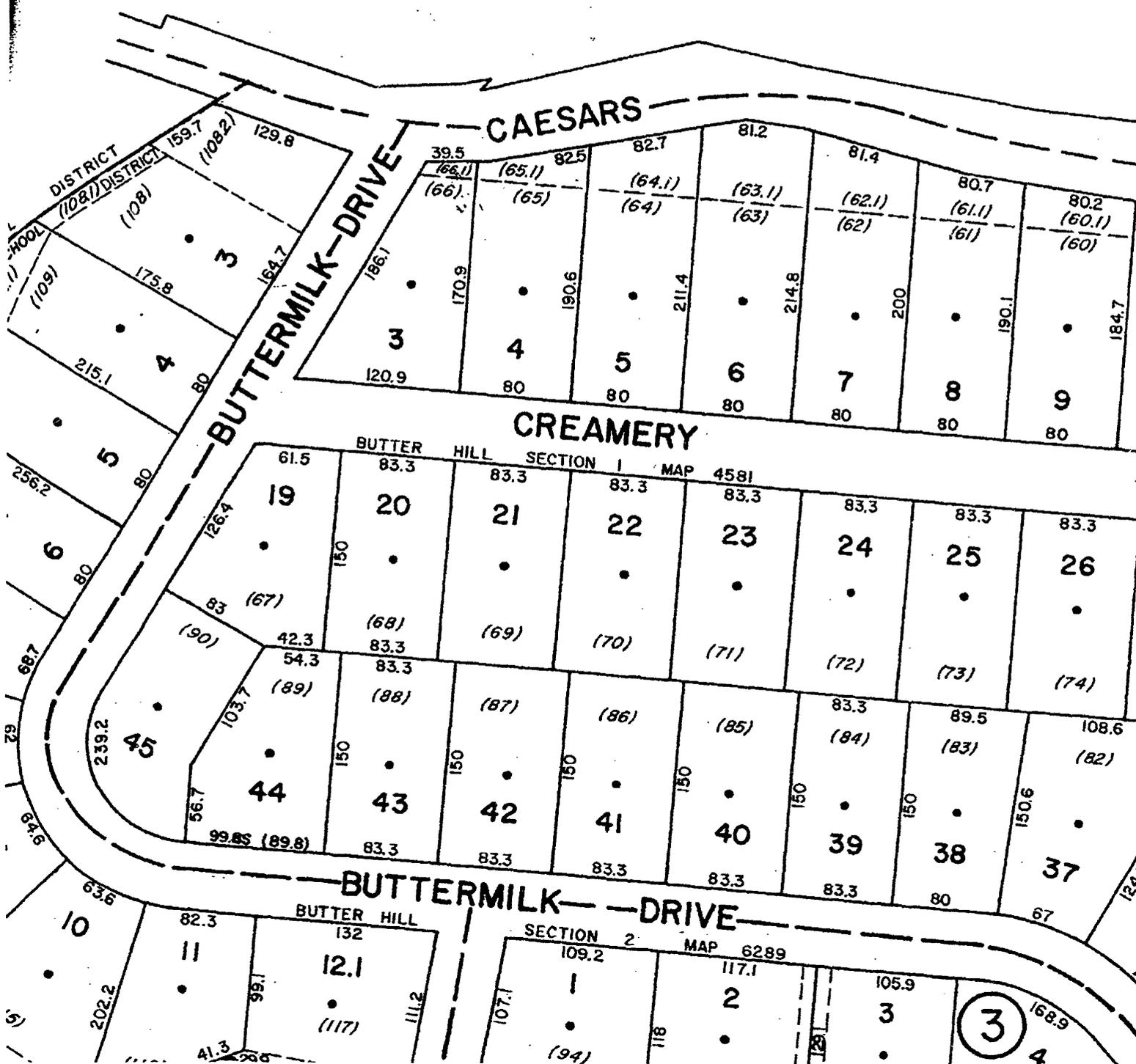
BUILDING DEP 845-563-4618

VALID UNTIL

10/8/2004

[Signature]
Signature of Building Inspector

SECTION 47



To: Town of New Windsor
Zoning Board

From: Gary and Therese Lamica
1 Buttermilk Drive
New Windsor

We purchased our home at 1 Buttermilk Drive as a single family dwelling. It is a private residence for ourselves and our three children. It currently has no resemblance to a two-family home nor is any portion of the home to be rented.

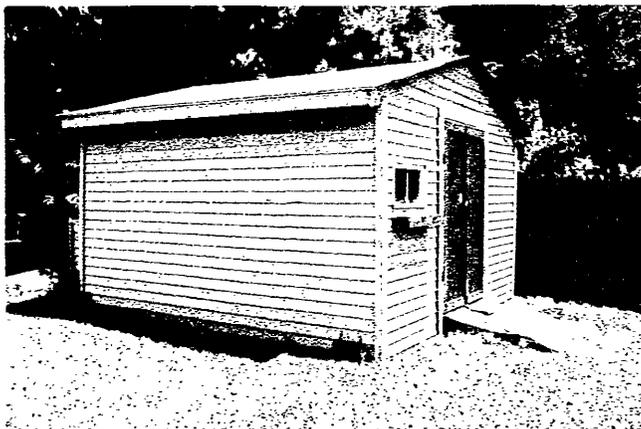
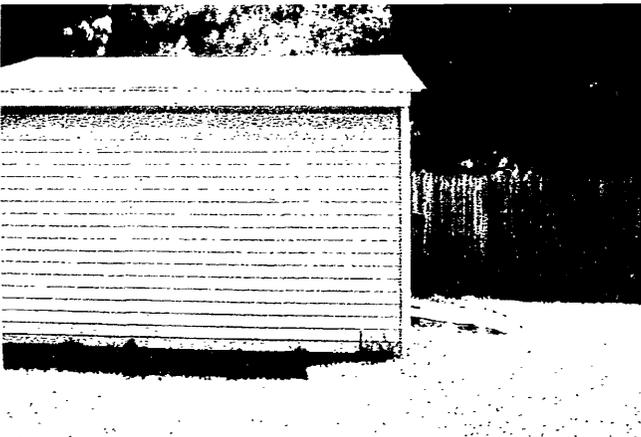
As you can see from the attached photos, there are no doors separating the upstairs from the downstairs. And the so-called "second kitchen" is merely cabinets that we use for storage.

Sincerely,

Gary Lamica
Therese Lamica



LAMICA 1 BUTTERMILK DR





RESULTS OF Z.B.A. MEETING OF: March 8, 2004

PROJECT: Shay Lamica

ZBA # 04-06
P.B.#



USE VARIANCE: NEED: EAF PROXY

LEAD AGENCY: M) _____ S) _____ VOTE: A _____ N _____
RIVERA _____
MCDONALD _____ CARRIED: Y _____ N _____
REIS _____
MINUTA _____
KANE _____

NEGATIVE DEC: M) _____ S) _____ VOTE: A _____ N _____
RIVERA _____
MCDONALD _____ CARRIED: Y _____ N _____
REIS _____
MINUTA _____
KANE _____

PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____
RIVERA _____
MCDONALD _____ CARRIED: Y _____ N _____
REIS _____
MINUTA _____
KANE _____

APPROVED: M) _____ S) _____ VOTE: A _____ N _____
RIVERA _____
MCDONALD _____ CARRIED: Y _____ N _____
REIS _____
MINUTA _____
KANE _____

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____
RIVERA _____
MCDONALD _____
REIS _____ CARRIED: Y _____ N _____
MINUTA _____
KANE _____

PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES _____

VARIANCE APPROVED: M) Rs S) Rv VOTE: A 4 N 0.

★ RIVERA A
~~MCDONALD~~ _____
REIS A
MINUTA A
KANE A

CARRIED: Y ✓ N _____.

Will always be a single family dwelling

Can One electrical meter

★ *(See Corrections of Numbers)*

TOWN OF NEW WINDSOR ZONING BOARD
PUBLIC HEARING FOR:

Lamica 04-06

DATE: 3-8-04

SIGN-IN SHEET

NAME	ADDRESS
1. <u>Suzanne Wray</u>	<u>12 Creamery Dr, New Windsor</u>
2.	
3.	
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5.	
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**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
OFFICE
845-563-4615**

MEMORANDUM

TO: LARRY REIS, COMPTROLLER
FROM: MYRA MASON, SECRETARY TO THE ZONING BOARD
DATE: MAY 12, 2004
SUBJECT: ESCROW REFUND ZBA #04-06

**PLEASE ISSUE A CHECK IN THE AMOUNT OF \$ 353.00 TO CLOSE OUT
ESCROW FOR:**

ZBA FILE #04-06

NAME & ADDRESS:

**Todd Kelson, Atty.
542 Union Avenue
New Windsor, NY 12553**

THANK YOU,

MYRA

L.R.05-12-04

GARY & THERESE LAMICA #04-06

MR. KANE: Request for 9 ft. side yard setback, 2 ft. rear yard setback for existing shed and interpretation for single family home with two kitchens in single-family zone all at 1 Buttermilk Drive in a CL-1 zone.

Todd Kelson, Esq. appeared before the board for this proposal.

MR. KELSON: Good evening, my name is Todd Kelson, I'm an attorney here in New Windsor. I'm here on behalf of Mr. and Mrs. Lamica tonight, they're seeking some of the variances and one interpretation. You have as part of the package a copy of their survey, the two reliefs sought are a 2 foot and 9 foot area variance for an existing shed that's been on the property in excess of ten years, it's located within a fenced-in pool area. We believe that the shed, that the variance meets all of the criteria under New York State Law in Section 267-B. There won't be any undesirable changes to the neighborhood because the shed has been there many years. He has no adjoining property. There is no other way to obtain the relief they need because of the peculiar configuration of the property. The variances are not substantial as we said they won't have an adverse physical or environmental affect on the neighborhood. These variances will have no impact on the neighborhood. The difficulty is not self-created, Mr. and Mrs. Lamica purchased this property earlier this year. As a condition of the closing, the seller was required to obtain this variance but because of the change in interest rates over the summer, it was decided, and expiring mortgage interest rate, it was decided to close and then Mr. and Mrs. Lamica agreed to seek the variance. It's a very straightforward application. With respect to the request for an interpretation, this home has what has been said to be an additional kitchen. What it is is an area in the

basement that has kitchen cabinets. There's no stove, there's no refrigerator, there's no plumbing. We just wish to have a clarification and go on record as stating there's no intent by the applicants to have two kitchens. This is one single family dwelling we'll say that has possibly two kitchens but there's no application for two dwellings to be located within this building.

MR. KANE: For the record, you're saying that if this application is approved that will always be used as a single family residence?

MR. KELSON: That's correct.

MR. KANE: The shed itself is similar in size and nature to other sheds in that particular area?

MR. KELSON: Yes, it is.

MR. KANE: Any cutting down of trees or substantial shrubbery with the building of it that you know of?

MR. KELSON: No.

MR. KANE: Any complaints formally or informally?

MR. KELSON: No, none.

MR. REIS: As far as you know, these are not on any easements?

MR. KELSON: No.

MR. REIS: If you want to take a look, this is a survey, well, it's hard to read but you can see larger print there's no easements.

MR. KRIEGER: The answer is no?

MR. KELSON: No.

MR. KANE: Very typical.

MR. MINUTA: Existing frame shed, does it have a concrete foundation or simply sitting on--

MR. KELSON: It's on raised plywood.

MR. KANE: What's the use of that particular shed right now?

MR. KELSON: It's just for storage, for this personal use, not any commercial use.

MR. RIVERA: Only one meter going into the house for electrical?

MR. KELSON: No, just one meter.

MR. KRIEGER: It appears that this is on a corner lot, is that correct?

MR. BABCOCK: That's correct.

MR. MINUTA: Were you cited for having the two kitchens?

MR. KANE: We'll clear that up as we go along and we see it.

MR. KELSON: We made, what happened, the history is and Mr. Babcock in making the application for the variance this was raised and it was requested by the building department that it be brought here just for the record, just for clarification.

MR. BABCOCK: Yes. Since we were coming here for the shed and stuff, we just wanted to get it out of the way so there's no problems in the future.

MR. KANE: That shed, I want to clarify a couple of things, if you can, I wasn't here for the preliminary hearing on this, but does the shed itself extend in front of the existing house and shouldn't that be cleared up right now according to this picture that's right here? And second, the pool filter shed that's 6.7 off the front, shouldn't that be cleared up at this point so that everything on the property is clear?

MR. BABCOCK: Well, Mr. Chairman, if you look at the tax map, there's two lots in Butterhill, the 66.1 lot is actually owned by same owners, but it's on a different lot, so we didn't feel that we said that that was a front yard only to give him the benefit of that, if you'd like, we can modify that.

MR. KANE: I just don't want the gentleman to have to come back here for any reason, you know, spend enough money being here tonight. Just to make sure you know how banks are so and if that shed is extending in the front of the house which it looks like in this particular picture, we should clear that up.

MR. BABCOCK: Yeah, according to my notes it says.

MR. MINUTA: In addition to that, just for clarification this is the frame shed in question?

MR. KELSON: Yes.

MR. MINUTA: That's showing to me according to this survey we have a 1.1 foot setback and a 2.6 foot setback, not a 2 foot setback.

MR. KELSON: No, no, 2 point, it's 1.1 foot on the side lot that shows now or formally Miller and 9.6 foot to the rear, the 2.6 because you'll see the shed is slightly off center, the 2.6 is the other small corner.

MR. MINUTA: And I'm going off of our number 5.

MR. KANE: I think our numbers are wrong.

MR. BABCOCK: I don't have that survey so I think what's--

MR. KANE: We're not, so you don't get uncomfortable, we just want to get it clear and the numbers are right because it isn't the Town that's going to look at it, it's going to be a surveyor and bank because if you're off six inches, you'll be back here so I'd like to get it clean and Butterhill is 12 feet too, isn't it off the property line, not 10?

MR. BABCOCK: Not, well--

MR. KANE: I live there.

MR. BABCOCK: The accessory structure, no, the pool, yes, that's how that actually reads and we have had some debates about that also too so Mr. Chairman, yeah, the pool filter shed is definitely in the front yard.

MR. KANE: We should have caught that at preliminary.

MR. BABCOCK: I assume this is new, this survey's new and we went off and what we did on the shed, the larger shed, we rounded the numbers off when we said that and I think that numbers got put in here wrong, they should be switched.

MR. KANE: We're looking for a 9 foot rear yard setback and a 2 foot side yard setback on the existing shed.

MR. BABCOCK: Right.

MR. KANE: Now we're going to add for the pool shed.

MR. BABCOCK: I think it would be, no, I think it would

be part of the text that says whatever section that code says that it can't be located in the front yard.

MR. KRIEGER: Can't project closer to the road.

MR. BABCOCK: Than the principle building, this does here, see it here, right, so it would be a, does anybody have a code book?

MR. KANE: It would be--

MR. BABCOCK: It's 48-14, I know that, the accessory building, but there's some, it's A, B and C and whatever.

MR. KRIEGER: I've seen that before, accessory building projecting closer.

MR. BABCOCK: It just can't be there, there's no number, it just can't be there.

MR. KANE: So we're going to allow an accessory building to project closer to the road than the principle building and to move that since it's an inground pool that's where the pool filter and mechanics are that would be a financial hardship to move that at this point?

MR. KELSON: Yes, Mr. Chairman, it certainly would. Thank you.

MR. KANE: So you want to add that structure projecting closer to the road separate shed?

MR. MINUTA: Michael, there was a permit for all of this at the point in time when it was actually constructed?

MR. BABCOCK: No, I think there was a permit for a pool, I see in here but there was no--

MR. KANE: Shed is 12 x 12, there's a permit.

MR. BABCOCK: For the inground pool and the house C.O. They're trying to get permits for the rest of the stuff, the two sheds.

MR. KELSON: That's right.

MR. KANE: So what your proposal will be, gentlemen, is a 9 foot rear yard setback for existing shed, two foot side yard setback for existing shed and an allowable accessory structure extending further in the front yard than the front of the house which is the pool shed.

MR. REIS: I think there's one error in the arithmetic.

MR. MINUTA: The frame shed here is showing 1.1 foot setback, 1.1 foot setback.

MR. KANE: So if you had 9, you have 10.

MR. MINUTA: Add 9 to what?

MR. KANE: So the 1.1, he has 1.1, he needs 10, so that would make--

MR. MINUTA: Thank you very much. I'm reading it backwards. Technically, it would be 8.9 but we don't like to cut it close.

MR. BABCOCK: We had all those numbers and we asked him to round it off.

MR. KANE: So we actually have four including the interpretation of the kitchen. Okay, at this point, I'll ask if there's anybody here for, open it up to the public and we have one? Joe, can we get a name on this?

MR. MINUTA: Yes.

MS. WRAY: My name is Susan Wray and I live on 12 Creamery Drive, which is if you make a left off Buttermilk, I'd be the fifth house on the right. I have no problems with the shed or whatever else, my thing was the interpretation of the two kitchens in a single family, I know for a fact there was a full functioning kitchen in that downstairs and the garage was cut off and sealed up as a bedroom. So there's before, right before they bought the home, they were told to to remove it, from what I understand because we didn't want any, the people, the neighbors didn't want it because it could bring in all kind of problems.

MR. KANE: That's why we bring them in here.

MS. WRAY: When it got reported at the time that's when Warren, I didn't know his last name who sold them the house was told to remove it but there was a refrigerator, stove, oven, a sink, everything.

MR. KANE: So you understand we're not against having a second kitchen in your house. When I grew up, you used to have the summer kitchen down in the basement and that shows my age, we're not against that. What we want to do is get on the record that they will not be using that kitchen for any kind of an apartment setup that's down there. And it's also on the same gas and electric meter coming into the house, everything put on the record so somewhere down the line if they're found to have another family living in that house illegally, then appropriate action will be taken at that point. So that's what we have been doing and we get a lot of them so we can clear it up and get it on the record so that they know what the rules are so we're not against second kitchens.

MS. WRAY: Butterhill is very congested to begin with.

MR. KRIEGER: When a prior owner was told to remove it, this will make sure it doesn't get put back.

MR. KELSON: We're going on record saying we're in agreement with you.

MR. KANE: I live in Butterhill, I know.

MS. WRAY: I wanted to make sure it wouldn't be legal to have two kitchens.

MR. KANE: You can put in a second kitchen. When the building inspector goes here, we'll bring you here so we can get it on the record that there's no intent to make it and you're stating it for the record and you're held accountable for it. Okay?

MS. WRAY: Thank you.

MR. KANE: Anybody else? At this point, I'll close the public portion of the hearing. Myra, how many mailings?

MS. MASON: On the 16th day of February, I mailed out 62 addressed envelopes, no responses.

MR. KANE: That's Butterhill. Back to the board. Gentlemen, any further questions?

MR. REIS: Make a motion that we grant the Lamica family their requested variances for setbacks, also that we interpret this as a single family home and also that we're allowing the shed and accessory structure to extend further than the principle dwelling.

MR. KANE: And I'd like to just make an addition that we're interpreting this to be a single family home with two kitchens to be used as a single family home and nothing else.

MR. REIS: I believe they indicated that there's no kitchen, just cabinets.

MR. KANE: It could be but we see the cabinets, it goes.

MR. REIS: Okay.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MINUTA	AYE
MR. KANE	AYE
MR. REIS	AYE

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. 04-06

Request of GARY & THERESE LAMICA

for a VARIANCE of the Zoning Local Law to Permit:

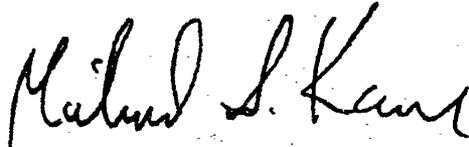
Request for:

9 ft. Side Yard Setback and;
2 ft. Rear Yard Setback (48-14, A(1b) for existing shed and;
Interpretation for Single-Family Home with two kitchens in Single-Family Zone

All in a CL-1 Zone
for property located at: All at 1 Buttermilk Drive - New Windsor, NY

known and designated as tax map Section 78 Block 1 Lot 3

PUBLIC HEARING will take place on MARCH 8TH, 2004 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 P.M.



Michael Kane, Chairman



Town of New Windsor

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

Assessors Office

February 4, 2004

Todd A Kelson, P.C.
542 Union Avenue
New Windsor, NY 12553

Re: 78-1-3 ZBA# 04-06

Dear Mr. Kelson,

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 \$85.00, minus your deposit of \$25.00.

Please remit the balance of \$40.00 to the Town Clerk's office.

Sincerely,

J. Todd Wile, IAO
Assessor

JTW/tmp
Attachments

CC: Myra Mason, ZBA

37-1-54

Forgé Hill Associates
c/o Garnet Management Co, Inc.
333 North Broadway
Jericho, NY 11753

47-1-22

LaTorre, Gloria
Sprenkle, John & Rosella
5 Louise Drive
New Windsor, NY 12553

78-1-8

Byassee, Timothy J & Renee A
11 Creamery Drive
New Windsor, NY 12553

37-1-55

Kahan, Paul W & Valarie
183 Caesars Lane
New Windsor, NY 12553

47-1-23

Ramnani, Prakash
P.O. Box 4113
New Windsor, NY 12553

78-1-9

O'Dell, Richard E & Kristina M
13 Creamery Drive
New Windsor, NY 12553

37-1-56

McKiernan, Barney & Noreen
181 Caesars Lane
New Windsor, NY 12553

47-1-24

Kuo, Livingstone & Susan
102 Shaker Court North
New Windsor, NY 12553

78-1-10

Grau, Thomas W & Elipidia M
15 Creamery Drive
New Windsor, NY 12553

47-1-9

Amigo, Rochelle
11 Buttonwood Drive
New Windsor, NY 12553

47-1-28

Vacek, Richard J & Dawn S
9 Louise Drive
New Windsor, NY 12553

78-1-19

Ferry, Kathryn
2 Creamery Drive
New Windsor, NY 12553

47-1-15

Palumbo, Alfred & Margaret
186 Caesars Lane
New Windsor, NY 12553

47-1-29

Herska, Gina & Joseph
162 Caesars Lane
New Windsor, NY 12553

78-1-20

McGuire, John F & Margaret A
4 Creamery Drive
New Windsor, NY 12553

47-1-17

Fairbanks, Marion H Living Trust
c/o M. Fairbanks, Trustee
182 Caesars Lane
New Windsor, NY 12553

47-1-30.1

McGovern, Michael & Maria
160 Caesars Lane
New Windsor, NY 12553

78-1-21

Broker, Edward J & Judith D
6 Creamery Drive
New Windsor, NY 12553

47-1-18

Sullinger, William C Jr. & Janet M
180 Caesars Lane
New Windsor, NY 12553

78-1-4

Miller, Ross H & Marianne J
3 Creamery Drive
New Windsor, NY 12553

78-1-22

O'Connor, Kevin F & Kathleen F
8 Creamery Drive
New Windsor, NY 12553

47-1-19.1

Colburn, Steven L.
176 Caesars Lane
New Windsor, NY 12553

78-1-5

Wool, Susan E
5 Creamery Drive
New Windsor, NY 12553

78-1-23

Guild, Thomas S & Loretta A
10 Creamery Drive
New Windsor, NY 12553

47-1-20

Sheley, Marian A
12 Buttonwood Drive
New Windsor, NY 12553

78-1-6

Miller, Louis J & Carol A Chillemi
7 Creamery Drive
New Windsor, NY 12553

78-1-24

Popp, Suzanne M
12 Creamery Drive
New Windsor, NY 12553

47-1-21

Vincent, Christopher & Mary
174 Caesars Lane
New Windsor, NY 12553

78-1-7

Arduino, Michael & Barna
9 Creamery Drive
New Windsor, NY 12553

78-1-25

Tapia, Randy & Nancy
14 Creamery Drive
New Windsor, NY 12553

78-1-26
Schwartz, Bruce & Amy Joy
16 Creamery Drive
New Windsor, NY 12553

78-1-37
Houston, Kevin & Elizabeth
21 Buttermilk Drive
New Windsor, NY 12553

78-1-38
Patterson, Robert & Nicolasa
19 Buttermilk Drive
New Windsor, NY 12553

78-1-39
Ruggerio, James A & Kathryn A
17 Buttermilk Drive
New Windsor, NY 12553

78-1-40
Armiento, Vincent & Patricia
15 Buttermilk Drive
New Windsor, NY 12553

78-1-41
Linken, Rick Elliot & Debbie
13 Buttermilk Drive
New Windsor, NY 12553

78-1-42
Walsh, James N & Susan
11 Buttermilk Drive
New Windsor, NY 12553

78-1-43
McGevna, Kevin M & Patricia
9 Buttermilk Drive
New Windsor, NY 12553

78-1-44
Murphy, Daniel & Barbara
7 Buttermilk Drive
New Windsor, NY 12553

78-1-45
Griffin, Patrick M
P.O. Box 4006
New Windsor, NY 12553

78-2-3
Ricciardi, Robert J & Darlene M
4 Buttermilk Drive
New Windsor, NY 12553

78-2-4
Polimeni, Enzo & Ryo-Sun
6 Buttermilk Drive
New Windsor, NY 12553

78-2-5
Colonna, Anthony & Elaine
8 Buttermilk Drive
New Windsor, NY 12553

78-2-6
Terribile, John R & Cheryl M
10 Buttermilk Drive
New Windsor, NY 12553

78-2-7
Soltis, Wayne M & Maria
12 Buttermilk Drive
New Windsor, NY 12553

78-2-8
Macri, Frank G & Barbara A
14 Buttermilk Drive
New Windsor, NY 12553

78-2-9
Flanagan, James J & Ena Patricia
16 Buttermilk Drive
New Windsor, NY 12553

78-2-10
Dickens, Daniel L & Joyce E
18 Buttermilk Drive
New Windsor, NY 12553

78-2-11
DePalma, Michael S & Dorothy A
20 Buttermilk Drive
New Windsor, NY 12553

78-2-12.1
Corio, Frank & Linda
22 Buttermilk Drive
New Windsor, NY 12553

78-2-13.1
DiMarino, Robert A & Sandra
3 Cheddar Lane
New Windsor, NY 12553

78-2-25
Mills, Richard L & Kathleen A
12 Guernsey Drive
New Windsor, NY 12553

78-2-26
Ippolito, Robert & Margaret
14 Guernsey Drive
New Windsor, NY 12553

78-2-27
Nicholson, Annmarie
16 Guernsey Drive
New Windsor, NY 12553

78-2-28
Espinal, Francisco M & Griselda D
18 Guernsey Drive
New Windsor, NY 12553

78-2-29.1 & 78-2-29.2
Fabre, Kenzie S & Carline E
20 Guernsey Drive
New Windsor, NY 12553

78-2-30.1 & 78-2-30.2
Klumack, Michael & Susan
22 Guernsey Drive
New Windsor, NY 12553

78-2-31
Corbett, Gary W & Susan
24 Guernsey Drive
New Windsor, NY 12553

78-3-1
Distasio, Paul & Mary
24 Buttermilk Drive
New Windsor, NY 12553

78-3-2
Fitzpatrick, Francis J & Diana A
26 Buttermilk Drive
New Windsor, NY 12553

78-3-3
Freeman, John J III
28 Buttermilk Drive
New Windsor, NY 12553

78-3-16
Giannotti, Michael T & Susanne
4 Cheddar Lane
New Windsor, NY 12553

TOWN OF NEW WINDSOR REQUEST FOR NOTIFICATION LIST

DATE: 01-29-2004 PROJECT NUMBER: ZBA# 04-06 P.B. # _____

APPLICANT NAME: GARY & THERESE LAMICA

PERSON TO NOTIFY TO PICK UP LIST:

TODD A. KELSON, P.C.
542 UNION AVENUE
NEW WINDSOR, NY

TELEPHONE: 567-3010

TAX MAP NUMBER: SEC. 78 BLOCK 1 LOT 3
SEC. _____ BLOCK _____ LOT _____
SEC. _____ BLOCK _____ LOT _____

PROPERTY LOCATION: 1 BUTTERMILK DRIVE
NEW WINDSOR, NY

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 XXX

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



AMOUNT OF DEPOSIT: 25.00 CHECK NUMBER: 5969

TOTAL CHARGES: _____



Town of New Windsor

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

ZONING BOARD OF APPEALS

February 16, 2004

Gary & Therese Lamica
1 Buttermilk Drive
New Windsor, NY 12553

or Todd Kelson, Atty.
542 Union Avenue
New Windsor, NY 12553

SUBJECT: REQUEST FOR VARIANCE #04-06

Dear Mr. & Mrs. Lamica:

This is just to let you know your Notices for Public Hearing were mailed out and the notice was also sent to The Sentinel Newspaper for publication. **PLEASE NOTE: The Sentinel will bill you directly for this add. This is not included in the escrow you posted upon application.**

Your Public Hearing before the Zoning Board of Appeals for your requested variance at:

1 Buttermilk Drive
New Windsor, NY

is scheduled for the March 8th, 2004 agenda.

This meeting starts at 7:30 p.m. and is held in the Town Meeting Room at Town Hall. If you have any questions or concerns in this matter, please feel free to contact me.

Very truly yours,

Myra Mason, Secretary
Zoning Board of Appeals

MLM:mlm

GARY & THERESE LAMICA (04-06)

MR. REIS: Request for 9 ft. side yard setback and 2 ft. rear yard setback (48-14, A(1b) for existing shed and interpretation for single-family home with two kitchens in single-family zone all at 1 Buttermilk Drive in a CL-1 zone.

MR. KELSON: Good evening, my name is Todd Kelson, I'm an attorney here in New Windsor representing Mr. and Mrs. Lamica. The premises in question were purchased by them at the end of April of this year. On the premises were the shed that we're referring to which we were advised on information and belief that it existed on the property for more than ten years. The contract called for the sellers of the property to obtain the variance but they have elected to close prior to that variance being obtained so as to not lose a very advantageous interest rate this summer. There were two sets of, there's two area variances we're seeking, we're seeking a two foot side yard and, I'm sorry, a 9 foot side yard and a two foot rear setback. We have in front of you I think it's a copy of the survey depicting both existing setbacks. The improvement's been there for more than ten years, there's been no appreciable impact upon the neighborhood. There's no, as you can see, the variance cannot be, the relief cannot be obtained in any other way, there's really no room to put the shed, it's not a substantial variance, they'll have no impact on the neighborhood, not self-created, we purchased it that way. For that reason, we ask that the variance be granted. The other item in the application this evening there's a request for an interpretation. The building department has taken the position that there is a separate dwelling unit within the premises. The applicant disagrees with that. There is no separate dwelling unit in this building, but what there are are some cabinets, there's no stove, there's no sink, there's no plumbing, there's no nothing. But there is some

kitchen cabinets down there and the building department feels that there should be a clarification that there is nothing but a single dwelling on this property. The applicant takes no issue with that and asks that this board concur that there is nothing but a single family dwelling. Mr. Lamica is here in the audience if you have any questions.

MR. REIS: As far as you know, the shed is not located on any easements?

MR. KELSON: No, sir.

MR. MC DONALD: No excessive runoffs?

MR. KELSON: No, been there. How did you do this summer? There was nothing, there's no problem.

MR. MC DONALD: Good grades in the back?

MR. LAMICA: Yes.

MR. MC DONALD: The two kitchens, Mike, there's no stove, no sink.

MR. BABCOCK: I trust what Mr., what the gentleman is telling us tonight. I personally was not there, so I don't know, one of my guys was there. And since they're coming here tonight, we always, we really would like them to go on record which they have saying it's a one-family house and it's got some kitchen cabinets downstairs, they intend to use it as a one-family house and we're more than fine with that.

MR. REIS: No stove?

MR. KRIEGER: Always been a one-family house and will always be a one-family house?

MR. KELSON: That's exactly correct.

MR. REIS: No stove, no plumbing?

MR. KELSON: No plumbing.

MR. MC DONALD: One meter in the house?

MR. KELSON: Yes.

MR. REIS: The fact that the dwelling is located on a corner here is requiring the setbacks, right, Mike?

MR. BABCOCK: The shed is a little closer to the property line and Mr. Chairman, as usual, we, the shed is farther than what these measurements are, but at the board's direction, we rounded the numbers off, it was, I don't have them in front of me.

MR. KELSON: 1.1.

MR. BABCOCK: We just said it was one foot rounded and they need a 9 foot variance.

MR. REIS: Any other questions?

MR. RIVERA: Have you had any complaints formally or informally?

MR. LAMICA: No.

MR. KELSON: No.

MR. REIS: Accept a motion.

MR. RIVERA: Yes, I make a motion that we set Gary and Therese Lamica for their requested 9 foot side yard setback and two foot rear yard setback for existing shed and interpretation for single family home with two kitchens in a single family zone at 1 Buttermilk Drive.

MR. REIS: Can I make an amendment, can we take the kitchens out since it's just cabinetry?

MR. BABCOCK: Sure.

MR. MC DONALD: Interpretation, we're going to cross that right off?

MR. REIS: Right.

MR. KRIEGER: Wait a minute cause you're just taking out the two kitchens reference but you're leaving in the interpretation.

MR. REIS: Make an interpretation that it's a single family home, we're not saying that there's two kitchens.

MR. MC DONALD: Second it.

ROLL CALL

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

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

RECEIPT OF ESCROW RECEIVED:

DATE RECEIVED: JANUARY 20, 2004

FOR: ESCROW 04-06

FROM: TODD KELSON, ATTY (FOR LAMICA 78-1-3))

542 UNION AVENUE

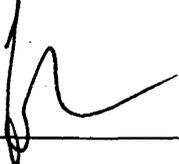
NEW WINDSOR, NY 12553

CHECK NUMBER: 5967

AMOUNT: 500.00

RECEIVED AT COMPTROLLER'S OFFICE BY:

NAME



DATE

1/21/07

PLEASE RETURN SIGNED COPY TO MYRA FOR FILING

THANK YOU

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

RECEIPT
#74-2004

01/21/2004

Kelson, Todd
254 Route 17k
Newburgh, NY 12550

Received \$ 50.00 for Zoning Board Fees, on 01/21/2004. Thank you for stopping by the Town Clerk's office.

As always, it is our pleasure to serve you.

Deborah Green
Town Clerk

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

RECEIPT
#71-2004

01/21/2004

Kelson, P.c. Todd A.
254 Route 17k
Newburgh, NY 12550

Received \$ 150.00 for Zoning Board Fees, on 01/21/2004. Thank you for stopping by the Town Clerk's office.

As always, it is our pleasure to serve you.

Deborah Green
Town Clerk



RESULTS OF Z.B.A. MEETING OF: January 26, 2004

PROJECT: Mary & Theresa Lamica

ZBA # 04-06
P.B.# _____

USE VARIANCE: NEED: EAF _____ PROXY _____

LEAD AGENCY: M) _____ S) _____ VOTE: A _____ N _____
RIVERA _____
MCDONALD _____ CARRIED: Y _____ N _____
REIS _____
MINUTA _____
KANE _____

NEGATIVE DEC: M) _____ S) _____ VOTE: A _____ N _____
RIVERA _____
MCDONALD _____ CARRIED: Y _____ N _____
REIS _____
MINUTA _____
KANE _____

PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____
RIVERA _____
MCDONALD _____ CARRIED: Y _____ N _____
REIS _____
MINUTA _____
KANE _____

APPROVED: M) _____ S) _____ VOTE: A _____ N _____
RIVERA _____
MCDONALD _____ CARRIED: Y _____ N _____
REIS _____
MINUTA _____
KANE _____

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING: M) Riv SMC VOTE: A3 N0
RIVERA A
MCDONALD A
REIS A CARRIED: Y N _____
~~MINUTA~~ _____
~~KANE~~ _____

PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES _____

VARIANCE APPROVED: M) _____ S) _____ VOTE: A _____ N _____.

RIVERA _____
MC DONALD _____ CARRIED: Y _____ N _____.
REIS _____
MINUTA _____
KANE _____

States it is a single-family House and will remain so.
Remove the words "Juv Kitchens"



TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

July 23, 2003
Date

Application Type: Use Variance Area Variance
Sign Variance Interpretation

I. Owner Information: Phone Number: (845) 561-8585
Gary & Therese Lamica Fax Number: ()
(Name)
1 Bettermilk Dr, New Windsor 12553
(Address)

II. Purchaser or Lessee: Phone Number: ()
Fax Number: ()
(Name)
(Address)

III. Attorney: Phone Number: () 567-3000
Todd A. Kelson Fax Number: () 561-2128
(Name)
542 Union Avenue New Windsor
(Address)

IV. Contractor/Engineer/Architect/Surveyor/: Phone Number ()
Fax Number: ()
(Name)
(Address)

V. Property Information:
Zone: CL-1 Property Address in Question: 1 Bettermilk Dr.
Lot Size: .3094 ac. Tax Map Number: Section 78 Block 1 Lot 3
a. What other zones lie within 500 feet? N/A
b. Is pending sale or lease subject to ZBA approval of this Application? no
c. When was property purchased by present owner? 4/11/03
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? no

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

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

04-06

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

APPLICATION FOR VARIANCE - continued

VIII. AREA VARIANCE: (This information will be on your Building Department Denial form you receive)

Area Variance requested from New Windsor Zoning Local Law,

Art. V 48-14(A)(1)(b)
Section _____, Table of _____ Regs., Col. _____.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area			
Min. Lot Width			
Reqd. Front Yd.			
Reqd. Side Yd.	10	1'	9'
Reqd. Rear Yd.	10	8'	2'
Reqd. St Front*			
Max. Bldg. Hgt.			
Min. Floor Area*			
Dev. Coverage*			
Floor Area Ration**			
Parking Area			

*Residential Districts Only

**Non-Residential Districts Only

PLEASE NOTE:

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

04-06

**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:

see attached addendum

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

04-06

OWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE - continued

X. ~~SIGN VARIANCE:~~

- (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 freestanding signs _____?~~

XI. INTERPRETATION:

- (a) Interpretation requested of New Windsor Zoning Local Law,
Section 48-12 Use/Bulk Table CL-1

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

see addendum

PLEASE NOTE:

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

04-06

COMPLETE THIS PAGE

XII. 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.)

XIII. ATTACHMENTS REQUIRED:

- 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.
- Copies of signs with dimensions and location.
- Three checks: (each payable to the TOWN OF NEW WINDSOR)
 - One in the amount of \$ 300.00 or 500.00 , (escrow)
 - One in the amount of \$ 50.00 or 150.00 , (application fee)
 - One in the amount of \$ 25.00 , (Public Hearing List Deposit)
- Photographs of existing premises from several angles. (IF SUBMITTING DIGITAL PHOTOS PRINTED FROM COMPUTER – PLEASE SUBMIT FOUR(4) SETS OF THE PHOTOS.)

XIV. AFFIDAVIT.

STATE OF NEW YORK)

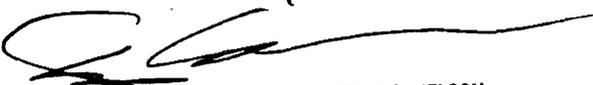
) SS.:

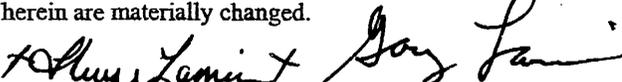
COUNTY OF ORANGE)

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/her 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.

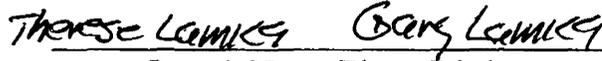
Sworn to before me this:

28th day of July 2003,





Owner's Signature (Notarized)



Owner's Name (Please Print)

TODD A. KELSON
NOTARY PUBLIC, State of New York
Qualified in Orange County
Signature and Stamp of Notary
No. 4870143
Commission Expires August 11, 2006

Applicant's Signature (If not Owner)

PLEASE NOTE:

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

04-06

APPLICANT/OWNER PROXY STATEMENT
(for professional representation)

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

Therese Lamiky + Gary Lamiky, deposes and says that ~~they~~ resides
(OWNER)

at 1 Bettermilk Dr, New Windsor NY in the County of Orange
(OWNER'S ADDRESS)

and State of New York and that ~~he~~ ^{is the} owner of property tax map

(Sec. 7F Block 1 Lot 3)
designation number (Sec. _____ Block _____ Lot _____) which is the premises described in

the foregoing application and that ~~he~~ authorizes:

(Applicant Name & Address, if different from owner)

Todd H. Kelson, P.C., 542 Union Avenue, New Windsor NY
(Name & Address of Professional Representative of Owner and/or Applicant)

to make the foregoing application as described therein.

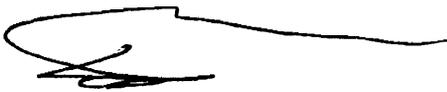
Date: 7/28/03

Sworn to before me this:
28th day of July 2003

** Therese Lamiky + Gary Lamiky
Owner's Signature (MUST BE NOTARIZED)
Therese Lamiky Gary Lamiky

Applicant's Signature (If different than owner)

Representative's Signature


TODD A. KELSON
NOTARY PUBLIC, State of New York
Qualified in Orange County
No. 4870143
Commission Expires August 11, 2006

THIS FORM IS TO BE COMPLETED ONLY IF SOMEONE OTHER THAN THE PROPERTY OWNER WILL BE APPEARING AS REPRESENTATION OF THE OWNER AT THE ZBA MEETINGS.

** PLEASE NOTE:

ONLY OWNER'S SIGNATURE MUST BE NOTARIZED.

04-06



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

THIS INDENTURE, made on April // , 2003

BETWEEN

WARREN RYAN and ROBERT SOURENIAN, both residing at 1 Buttermilk Drive, New Windsor, New York 12553

party of the first part, and

GARY X. LAMICA and THERESE X. LAMICA, his wife, both residing at 88 Riley Road, New Windsor, New York 12533

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the

TOWN OF NEW WINDSOR, County of Orange and State of New York designated as Lot 66 and 66.1 in Block 1 as shown on a map entitled "Final Subdivision Plan, Section 1, Butter Hill", filed in the Orange County Clerk's Office on July 20, 1978 as Map No. 4581 being more particularly bounded and described as follows:

BEGINNING at a point marked by an iron rod found at the intersection of northerly line of Creamery Drive and the easterly line of Buttermilk Drive;

THENCE North 38 degrees 21 minutes 14 seconds East for a distance of 186.10 feet along the easterly line of Buttermilk Drive to a point at the intersection of said line of Buttermilk Drive and the southerly line of Caesars Lane;

THENCE South 82 degrees 51 minutes 40 seconds East for a distance of 39.53 feet along said line of Caesars Lane to a point at the division line of Lot 66.1 and Lot 65.1 of the aforesaid filed map;

THENCE South 12 degrees 21 minutes 50 seconds West for a distance of 170.88 feet along said division line and continuing along the division line of Lot 66 and Lot 65 of said filed map being the westerly bounds of lands now or formerly of Miller, Liber 5327, Page 338 to a point in the northerly line of Creamery Drive;

THENCE North 77 degrees 38 minutes 10 seconds West for a distance of 120.92 feet along said line of Creamery Drive to the point or place of BEGINNING.

BEING the same premises conveyed to the Grantor herein by deed dated April 17, 2002 and recorded in the Orange County Clerk's Office on June 11, 2002 in Liber 5903 at page 152.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

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

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

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

IN PRESENCE OF:

Warren Ryan
Warren Ryan
Robert Sourenian, Atty. in Fact
Robert Sourenian
by Warren Ryan, attorney-in-fact

04-06

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: 4/11/03

APPLICANT: Warren Ryan & Robert Sourenian
1 Buttermilk Drive
New Windsor, NY 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: 4/8/03

FOR : PA 2003-0273 for 12x12 shed & PA2003-0272 for garage to kitchen & storage

LOCATED AT: 1 Buttermilk Drive

ZONE: CL-1 Sec/Blk/Lot: 78-1-3

DESCRIPTION OF EXISTING SITE:

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. 48-14, A(1b) Accessory buildings shall be setback 10ft from any lot line. Existing 12x12 shed is 8ft from rear and 1ft from the side lot line.
2. 48-12 Use/Bulk Table CL-1; Two family dwellings are not permitted, basement was converted to dwelling unit with kitchen, bathroom, bedroom and living area.


BUILDING INSPECTOR

PERMITTED	PROPOSED OR AVAILABLE:	VARIANCE REQUEST:
ZONE: CL-1 USE: One Family Dwelling	Two Family Dwelling	Two Family Dwelling
MIN LOT AREA:		
MIN LOT WIDTH:		
REQ'D FRONT YD:		
REQ'D SIDE YD: 10ft (shed)	1ft	9ft
REQ'D TOTAL SIDE TD:		
REQ'D REAR YD: 10ft (shed)	8ft	2ft
REQ'D FRONTAGE:		
MAX BLDG HT:		
FLOOR AREA RATIO:		
MIN LIVABLE AREA:		
DEV COVERAGE:		

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

04-06