

ZB# 05-44

Michael McGovern

67-1-9

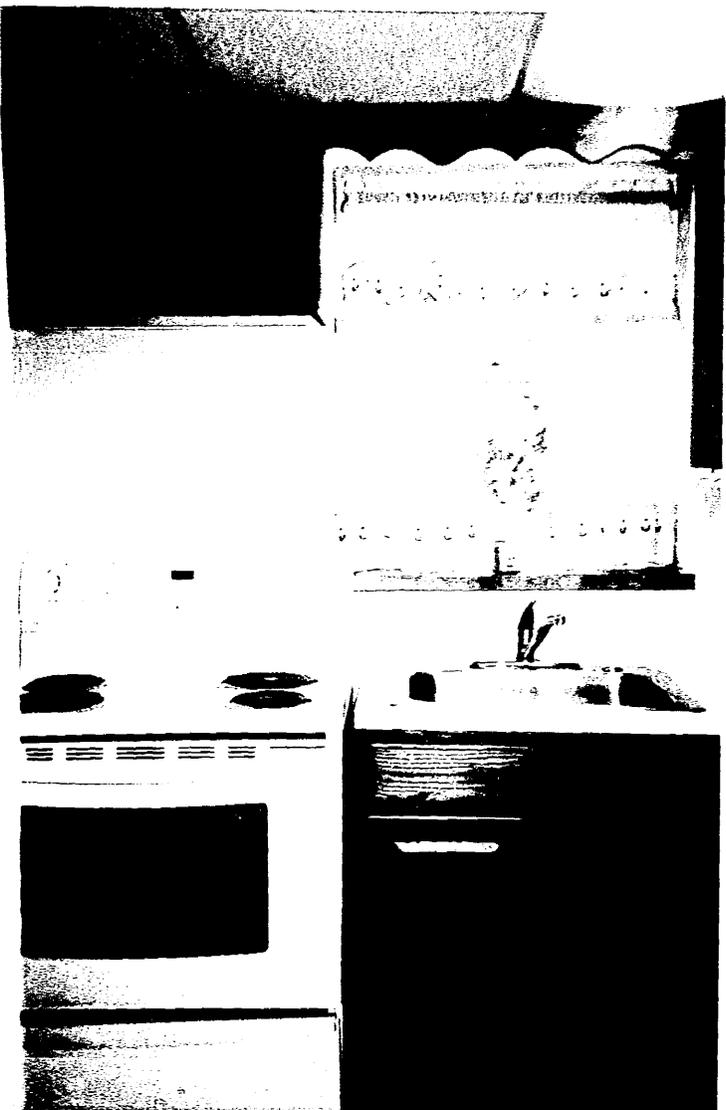
0-44:

MICHAEL MC GOVERN (INTERPRETATION,
122 BIRCH DRIVE (67-1-9)

ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR
555 UNION AVENUE
NEW WINDSOR, N.Y. 12553
Granted 9-12-05

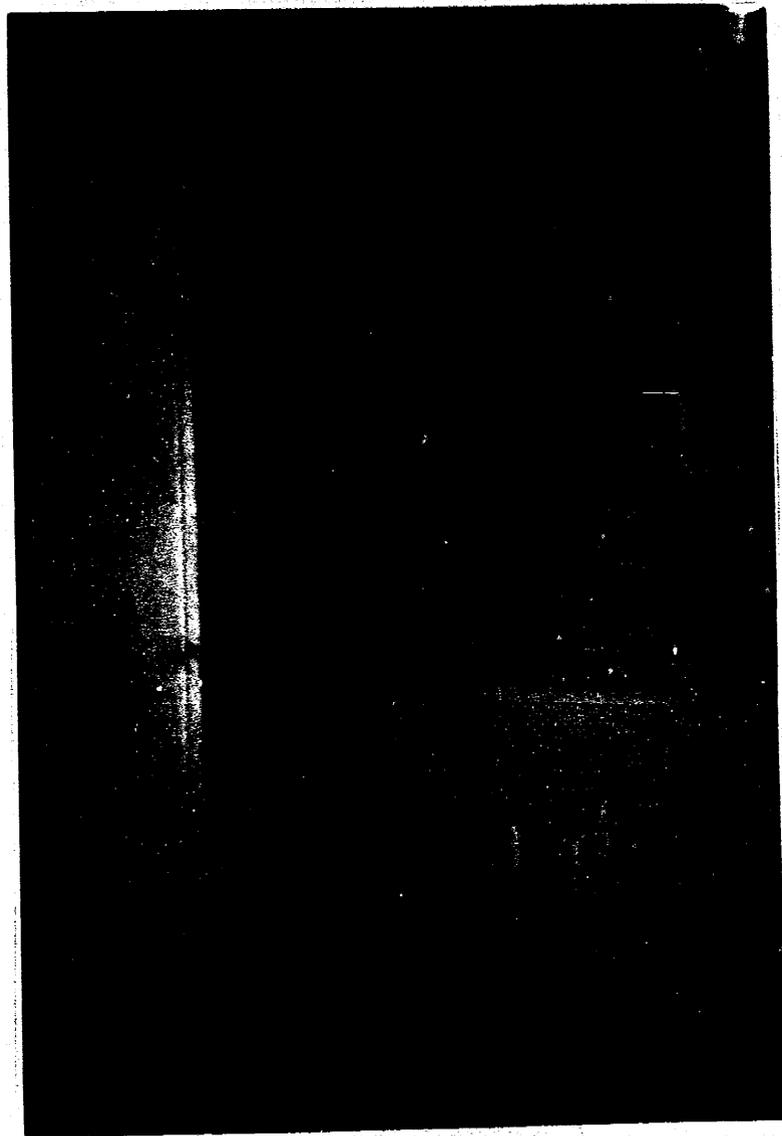
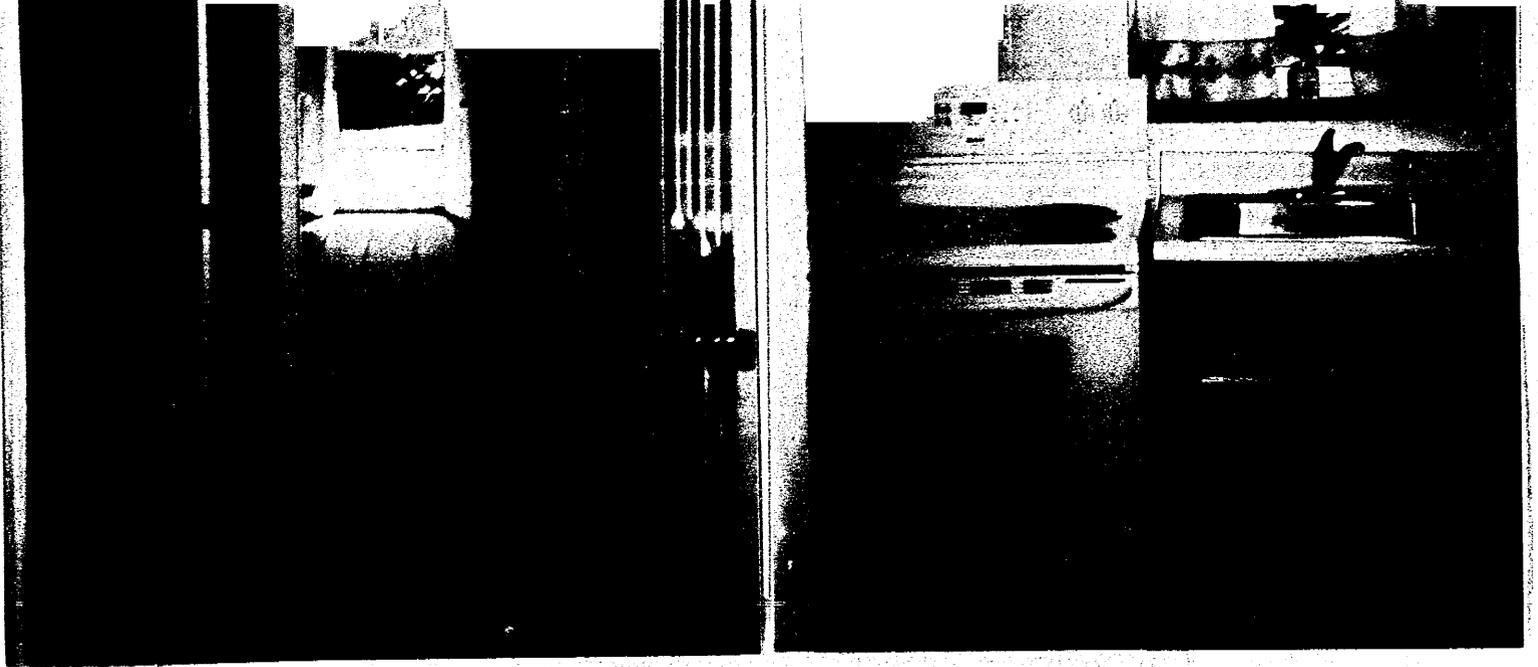






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MICHAEL MC GOVERN (INTERPRETATION,
122 BIRCH DRIVE (67-1-9)







Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4615
Fax: (845) 563-4689

OFFICE OF THE ZONING BOARD OF APPEALS

January 17, 2006

Michael McGovern
122 Birch Drive
New Windsor, NY 12553

SUBJECT: REQUEST FOR VARIANCE #05-44

Dear Mr. McGovern:

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

NEW WINDSOR ZONING BOARD OF APPEALS

SBL: 67-1-9

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

MICHAEL & ARLENE MC GOVERN

MEMORANDUM OF
DECISION GRANTING

**INTERPRETATION
AND/OR VARIANCE**

CASE #05-44
-----X

WHEREAS, Arlene McGovern, owner(s) of 122 Birch Drive, New Windsor, New York, 12553, has made application before the Zoning Board of Appeals for a/an Request for Interpretation and/or use variance for Single Family dwelling with two kitchens OR a two-family dwelling (300-90) at 122 Birch Drive in an R-3 Zone (67-1-9)

WHEREAS, a public hearing was held on September 12, 2005 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 no spectators appearing at the public hearing; and

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

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

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

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Times Herald Record, also as required by law.
2. The Evidence presented by the Applicant showed that:
 - (a) The property is a one Family Dwelling located in a neighborhood of one Family Dwellings in an R-3 zone.
 - (b) The Dwelling Unit contains a downstairs kitchen in the bottom or first floor of the house.

- (c) This additional "kitchen" has been in existence since 1997, during which time there have been no complaints either formal or informal about the kitchen.
- (d) The premises is occupied as a One-Family Dwelling containing a family which includes one or more persons exhibiting the generic character of a traditional family.
- (e) The "Downstairs Kitchen" is serviced by the same utilities including, but not limited to, water, electric and heat as is the rest of the dwelling. There is no separate service to any portion of the dwelling nor is there provision for such service to be made in the future.
- (f) The "Downstairs Kitchen" is not separated from the rest of the house by any locked or lockable doors, passageways or portals.

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 Premises is a One-Family Dwelling occupied by a single family as defined in the Zoning Law of the New Windsor Town. This is a use allowed by said law.
2. There is a single Dwelling Unit on the premises which contains no cooking or sanitary facilities in common with any other dwelling unit.
3. The existence of more than one "Kitchen" on the premises does not effect its status as a One-Family Dwelling and its use as a Two-Family Dwelling or a Multi-Family Dwelling is expressly prohibited.
4. This decision is not intended to permit and may not be used, cited or interpreted to permit or allow the use of this premises as a Two-Family Dwelling or a Multi-Family Dwelling.

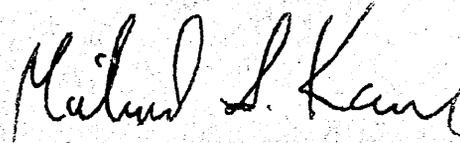
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for an Interpretation and/or use variance for Single Family dwelling with two kitchens OR a two-family dwelling (300-90) at 122 Birch Drive in an R-3 Zone (67-1-9) 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: September 12, 2005

A handwritten signature in black ink, appearing to read "Michael S. Kears". The signature is written in a cursive style with a large initial "M".

Chairman

**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: 10/24/05
SUBJECT: ESCROW REFUND

**PLEASE ISSUE A CHECK IN THE AMOUNT OF \$ 340.19 TO CLOSE OUT
ESCROW FOR:**

ZBA FILE #05-44

NAME & ADDRESS:

**Michael McGovern
122 Birch Drive
New Windsor, NY 12553**

THANK YOU,

MYRA

L.R.10/24/05



**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
RECORD OF CHARGES & PAYMENTS**



FILE #05-44 TYPE:INTERPRETATION TELEPHONE: 567-6784

APPLICANT:

Michael McGovern
122 Birch Drive
New Windsor, NY 12553

RESIDENTIAL:	\$ 50.00	CHECK # _____
COMMERCIAL	\$ 150.00	CHECK # _____
INTERPRETATION	\$ 150.00	CHECK # <u>1505</u>

ESCROW: COMMERCIAL \$500.00 CHECK # 1504



<u>DISBURSEMENTS:</u>		MINUTES	ATTORNEY
		<u>\$5.50 / PAGE</u>	<u>FEE</u>

PRELIMINARY:	<u>2</u>	PAGES	<u>\$11.00</u>	<u>\$35.00</u>
2 ND PRELIMINARY:	___	PAGES	\$ _____	\$ _____
PUBLIC HEARING:	<u>5</u>	PAGES	<u>\$27.50</u>	<u>\$35.00</u>
PUBLIC HEARING:	___	PAGES	\$ _____	\$ _____

LEGAL AD: Publish Date:8/28/05 \$51.31

TOTAL: \$89.81 \$70.00



ESCROW POSTED: \$500.00
LESS: DISBURSEMENTS: \$159.81

AMOUNT DUE: \$ _____

REFUND DUE: \$340.19

Cc:

L.R. 10/24/05

Town of New Windsor
ZONING BOARD OF APPEALS
PUBLIC HEARING NOTICE

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing on the following Proposition:

Appeal No. 05-44
Request of MICHAEL MC GOVERN

for a VARIANCE of the Zoning Local Law to Permit:

Request for Interpretation and/or use variance for Single Family dwelling with two kitchens OR a two-family dwelling (300-90) at 122 Birch Drive in an R-3 Zone (67-1-9)

PUBLIC HEARING will take place on September 12, 2005 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 P.M.

MICHAEL KANE
CHAIRMAN

Ad Number: 1791782 Advertiser: NEW WINDSOR, TOWN

Phone: 8455634615 Sys No: 1194114 Caller: MYRA MASON

INVOICING CUSTOMER:

Phone: 8455634615 Sys No: 1194114 AcctNo: P.O. No:

Name: NEW WINDSOR, TOWN Subscriber:

Address: ZONING AND PLANNING

555 UNION AVENUE

NEW WINDSOR NY 12553

ORDER:

Printed By: THRFODRN Date: 08/25/2005 Assigned Sales: AdType: LINER Order Type: NORMAL

Manual Delay: Box No: Call Back: Y

NOTES:

Change Reason:

INSERTION:

Product: THN Paper: TH Class: 999X; LEGAL BILLING

Schedule: Start Date - 08/28/2005 End Date - 08/28/2005

Sort:

PRODUCTION:

Text Size: 0 x 0.00 ProdType: ENTERPRISE ColorNo: 0 Colors:

Tearsheets: 1 Proofs: 0 Affidavits: 1 Alt Addr: N

PRICING:

Price: 0.00 Payment Method: BI Amount Paid: 0 Amount Owed: 0

Price Method: 0 (0=Normal, 1=User Net, 2=System Gross) Rate Code: LSI

For fields listed below 0 = NO 1 = YES

Till Forbid: 0 Mult. Content: 0

57.31
RECEIVED

SEP 2 2005

TOWN OF NEW WINDSOR
COMPTROLLER'S OFFICE

MICHAEL_MC_GOVERN_(05-44)

Mrs. Arlene McGovern appeared before the board for this proposal.

MR. REIS: Request for interpretation and/or use variance for single family dwelling with two kitchens or a two family dwelling at 122 Birch Drive in an R-3 zone. Tell us what you want to do.

MRS. MC GOVERN: There's an existing downstairs kitchen and in the bottom of the house that we purchased the house that way so we're looking to make it legal.

MR. REIS: How long have you owned the house?

MRS. MC GOVERN: Since 1997.

MR. REIS: What brings you to the board?

MRS. MC GOVERN: We're looking to sell it.

MR. REIS: Is your separate kitchen is it utilized as an apartment?

MRS. MC GOVERN: No, the intention would be to have one family but one family living downstairs, one family living upstairs.

MR. KRIEGER: One family, part of it living downstairs, part of it living upstairs?

MRS. MC GOVERN: Right. When we moved in the intention was to have his parents stay with us while we were upstairs.

MR. REIS: And at this point in time?

MRS. MC GOVERN: Nobody's there.

September 12, 2005

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MR. REIS: It's vacant, you don't really use it as a second living area?

MRS. MC GOVERN: That's correct. Well, family room, that kind of stuff.

MR. REIS: You have one heating system, one electric meter for the whole house?

MRS. MC GOVERN: That's correct.

MR. KRIEGER: It's a single family house, it's always been a single family house, you'll market it as a single family house to all people?

MRS. MC GOVERN: We'll market it as a mother-in-law apartment.

MR. REIS: In our world, there's no such thing.

MRS. MC GOVERN: Understood.

MR. REIS: For the sake of your marketing, if I may suggest, market it as a single family home with a second kitchen. I wouldn't expand on that. You don't want to cause an ambiguous situation with the potential buyer.

MRS. MC GOVERN: Okay.

MR. REIS: Town of New Windsor will not allow a two-family home in this zone.

MRS. MC GOVERN: Okay.

MR. REIS: Any questions right now? We'll open it up to the public. Is there anyone here that wishes to speak on this pro or con? No? We'll close the public hearing. You folks have any questions? Your downstairs is there, there's no locked doors between

your main living space and the apartment that was for your folks?

MRS. MC GOVERN: No locked doors.

MS. LOCEY: You can go from one to the other without having to go outside of the building?

MRS. MC GOVERN: Right, when you come in, there's an upstairs and there's a downstairs through the front door, there's a side entrance that you can come through on the side of the house but when you come in the main entrance of the house you go upstairs and downstairs.

MR. REIS: We like you to provide no means of completely separating that area from the main living area, we'd like it to be open.

MRS. MC GOVERN: There's a door on the bottom of the stairs, is that a problem or--

MR. REIS: Michael, can you help us with this?

MR. BABCOCK: Well, the door doesn't really matter, you can have a door on every room, I think it's the, a locked door would be a problem basically when you have--

MRS. MC GOVERN: With a key?

MR. BABCOCK: It can't lock. Basically what you have is what the chairman had said is a single family house two kitchens where if in the summertime you want to cook in the basement because it's cooler and in the wintertime you want to cook upstairs.

MRS. MC GOVERN: It's been great for holidays.

MR. BABCOCK: Basically you can't market it as a mother-daughter or there's no such thing, it's a two

family or one family, and if you rent downstairs out that can be a problem, that's what you're here for tonight. If you were, the people that buy or the people that buy it decide to rent the basement out, you're going to go on record tonight that that's not going to happen so we'll have that in the file in case they do we can violate them for doing that.

MRS. MC GOVERN: Okay, the realtor did market it as a mother-daughter when they put it up originally.

MR. BABCOCK: Which they would because that's what they see, what they see is what they market it for.

MR. REIS: So you don't have a problem, straighten that language out, that's what we're suggesting that that person is not going to be in violation of our rules and regulations of the Town and the neighbor complains and they have to come here and we have to turn them down, okay, so straighten that out.

MR. KRIEGER: The definition of family in the New Windsor Town Code allows it, those related by blood or marriage, so it would allow, there's no need to say mother-daughter, you know, mother anything because that's part of the definition, it's allowed as Mr. Babcock come said it's a single family or it's a two family and this board wants to make sure that you're not going to use it as a separate rental apartment to a non-related person.

MRS. MC GOVERN: No and I spoke to our attorney that we have and I did say that I wanted to make sure that everything was straightened out before we go through so it would it be appropriate for me to tell him that they have accepted the dwelling as a single family with two kitchens and only--

MR. KRIEGER: Just make sure that the contract says single family as is.

September 12, 2005

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MRS. MC GOVERN: Okay.

MR. REIS: We'll determine that need if it's going to be appropriate.

MRS. MC GOVERN: Okay.

MR. REIS: Any other questions? Can I hear a motion?

MS. LOCEY: I will offer a motion regarding the application of Michael McGovern that the dwelling at 122 Birch Drive which is in an R-3 zone be interpreted as a single family dwelling with two kitchens.

MS. GANN: Second the motion.

ROLL CALL

MS. GANN	AYE
MS. LOCEY	AYE
MR. BROWN	AYE
MR. REIS	AYE

August 8, 2005

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MICHAEL_MC_GOVERN_(05-44)

MR. KANE: Request for interpretation and/or use variance for single family dwelling with two kitchens or a two-family dwelling at 22 Birch Drive.

Mr. and Mrs. Michael McGovern appeared before the board for this proposal.

MR. KANE: Same thing, just speak loudly so Franny can hear you and tell us what you want to do.

MRS. MC GOVERN: Okay, we actually purchased our house in 1997 with an existing second kitchen, from what we understand, the history that the original kitchen was put in when it was first built, so we have since then found out that there's no C.O. and nothing legal with the town for it.

MR. KANE: We're looking for an interpretation as a single-family home with a second kitchen in it and basically the reason that Michael's people go through and bring that forward we want to make sure there are no illegal unsafe two family situations that aren't put together right. Your intention is to use this as a single-family home with two kitchens?

MRS. MC GOVERN: Correct.

MR. KANE: There's no intention of using a second kitchen as a second apartment area for the basement?

MRS. MC GOVERN: No.

MR. KANE: Everything is going to be on one gas line and electric meter coming into the house?

MRS. MC GOVERN: Yes.

MR. KANE: Utilities rather there's only one coming?

August 8, 2005

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MR. MC GOVERN: Yes.

MR. KANE: And your intent and purpose is to use it that way?

MR. MC GOVERN: Yes.

MR. KANE: Other questions?

MR. REIS: No, sir.

MR. KANE: This is pretty straightforward, just want to make sure we got you on record. This way, if you ever do the bad stuff, bang.

MRS. MC GOVERN: Okay.

MS. GANN: Make a motion we set up Michael McGovern for a public hearing for request for an interpretation for a single-family dwelling with two kitchens at 122 Birch Drive in an R-3 zone.

MR. REIS: Second it.

ROLL CALL

MR. REIS	AYE
MS. GANN	AYE
MR. BROWN	AYE
MS. LOCEY	AYE
MR. KANE	AYE

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

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: July 11, 2005

APPLICANT: Michael & Arlene McGovern
122 Birch Drive
New Windsor, New York 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: 7/07/05

FOR : Michael & Arlene McGovern

LOCATED AT: 122 Birch Drive

ZONE: R-3 Sec/Blk/ Lot: 67-1-9

COPY

DESCRIPTION OF EXISTING SITE: SINGLE FAMILY DWELLING W/ 2 KITCHENS

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. 300-90 Request for interpretation, Single Family Dwelling with 2 kitchens or a Two Family Dwelling.


BUILDING INSPECTOR

PERMITTED

**PROPOSED OR
AVAILABLE:**

**VARIANCE
REQUEST:**

ZONE: R-3 USE:

MIN LOT AREA:

MIN LOT WIDTH:

REQ'D FRONT YD:

REQ'D SIDE YD:

REQ'D TOTAL SIDE TD:

REQ'D REAR YD:

REQ'D FRONTAGE:

MAX BLDG HT:

FLOOR AREA RATIO:

MIN LIVABLE AREA:

DEV COVERAGE:

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

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

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

1. When excavating is complete and footing forms are in place (before pouring.)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and 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. Well water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway bond may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Call 24 hours in advance, with permit number, to schedule inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and 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.

JUL 07 2005

FOR OFFICE USE ONLY:
Building Permit #: 2005-675

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 MCGOVERN MICHAEL & ARLENE

Address 122 BIRCH DRIVE Phone # 567-6784

Mailing Address _____ Fax # _____

Name of Architect _____

Address _____ Phone _____

Name of Contractor _____

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

OWNER

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 N

3. Tax Map Description: Section 67 Block 1 Lot 9

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

a. Existing use and occupancy Living b. Intended use and occupancy Living

5. Nature of work (check if applicable) New Bldg. Addition Alteration Repair Removal Demolition Other 2nd Floor

6. Is this a corner lot? _____ Existing 1 Family of
 w/ 2 Kitchens Br Level

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 4 Baths 3 Toilets 3 Heating Plant: Gas _____ Oil
Electric/Hot Air _____ Hot Water X If Garage, number of cars 1

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

10. Estimated cost _____

 \$50.00

PAID

 # 1497

ZONING BOARD

date

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

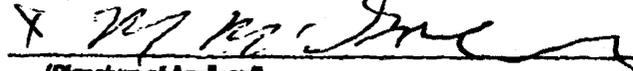
Building Inspector: Michael L. Babcock
Asst. Inspectors Frank Liel & Louis Kryshear
New Windsor Town Hall
555 Union Avenue
New Windsor, New York 12553
(845) 563-4818
(845) 563-4895 FAX

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

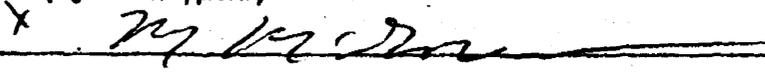
INSTRUCTIONS

- 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 
(Signature of Applicant)

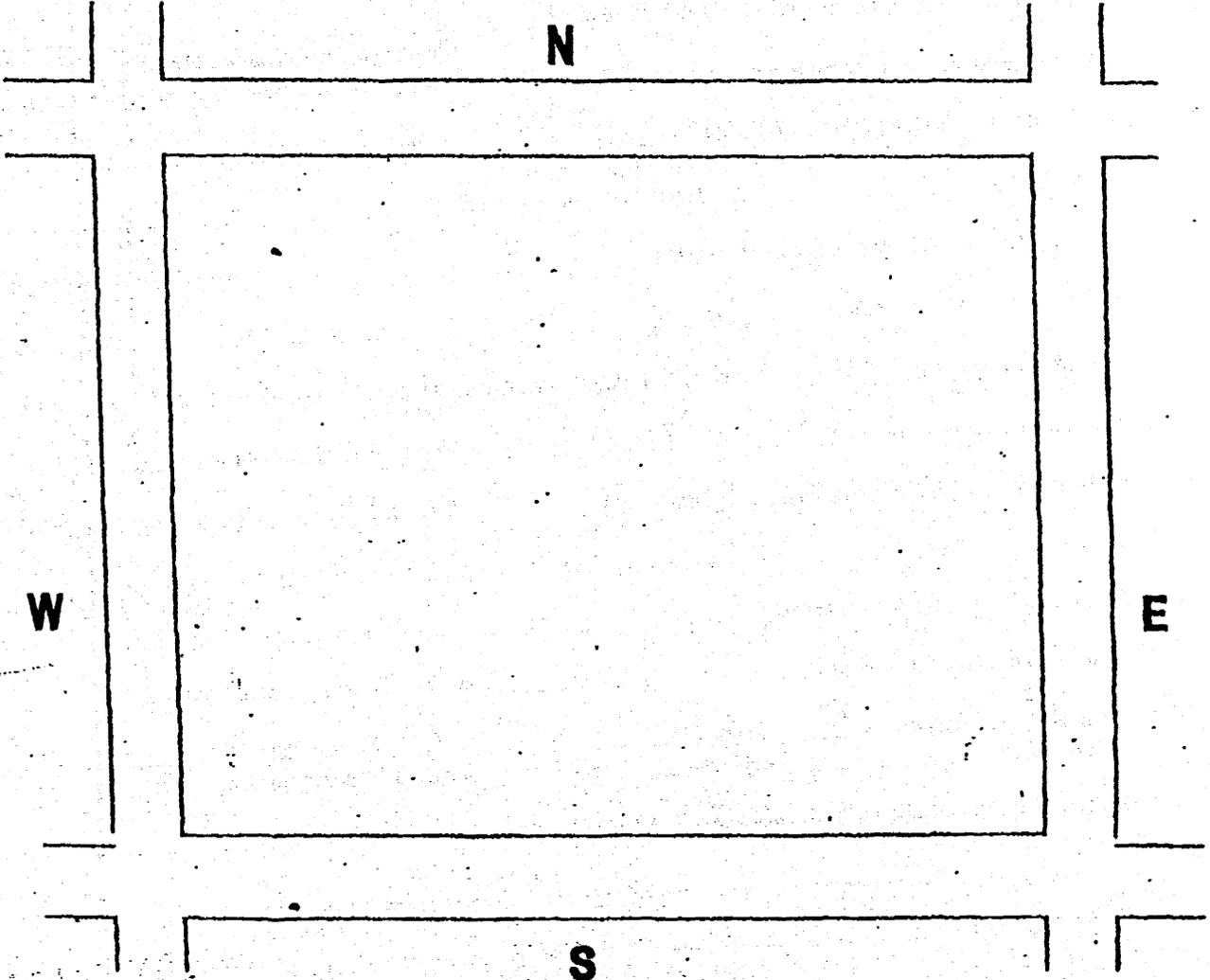
(Address of Applicant)

X 
(Owner's Signature)

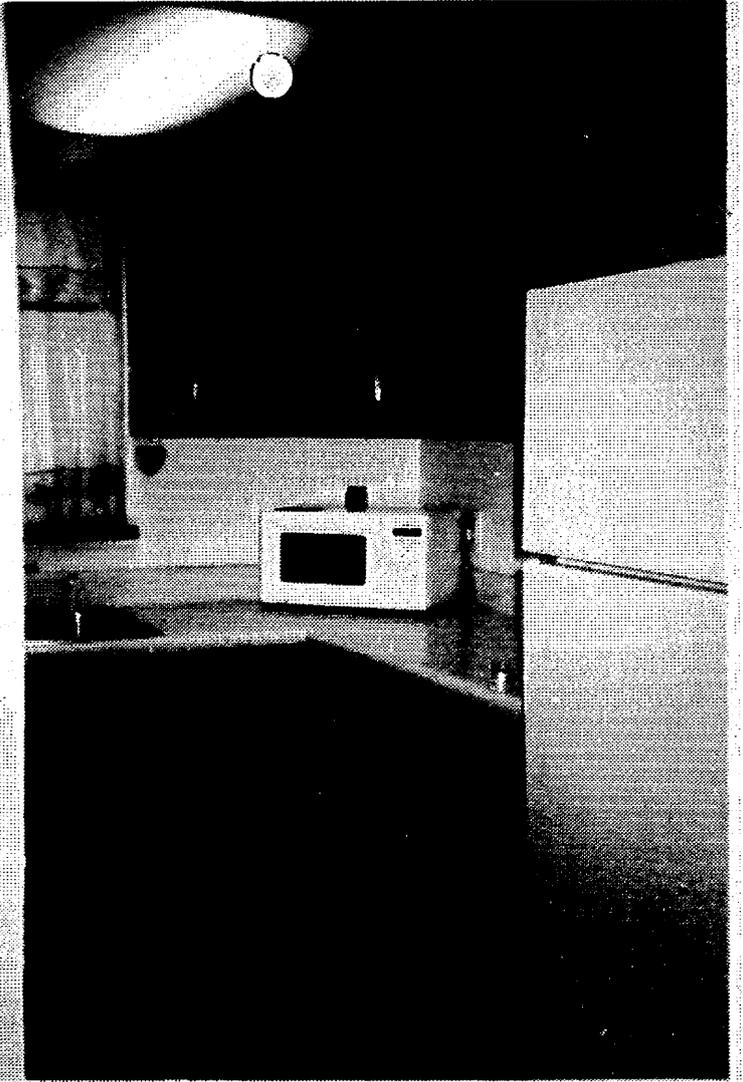
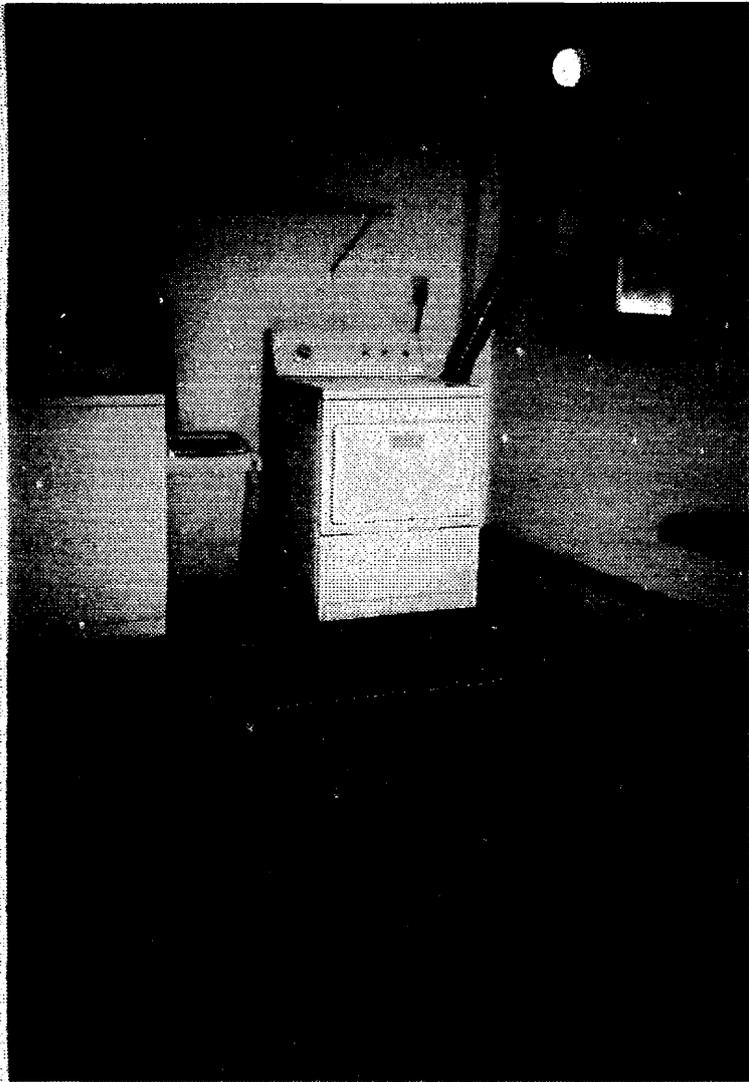
(Owner's Address)

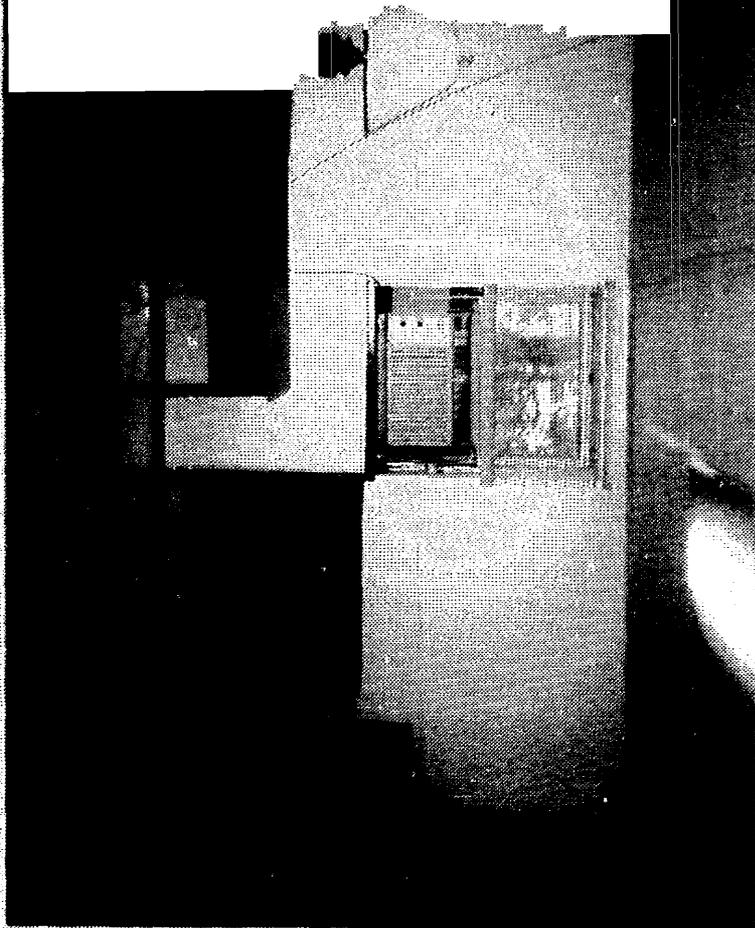
NOTE:

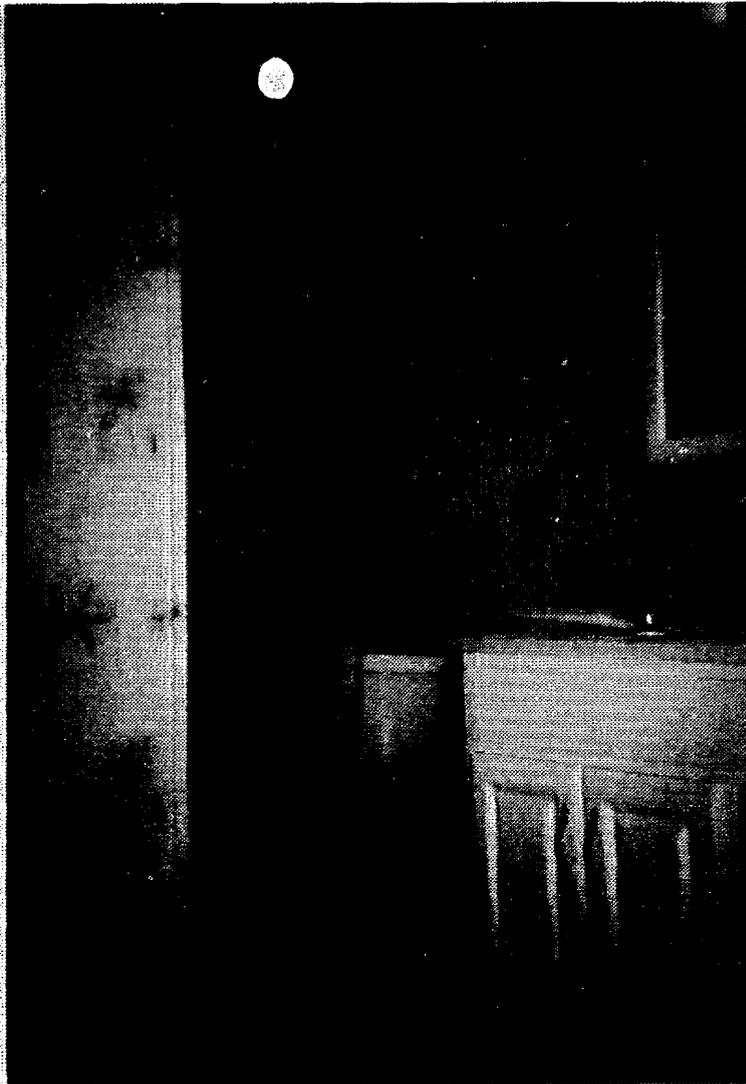
Locate all buildings and indicate all set back dimensions. Applicant must indicate the building line or lines clearly and distinctly on the drawings.

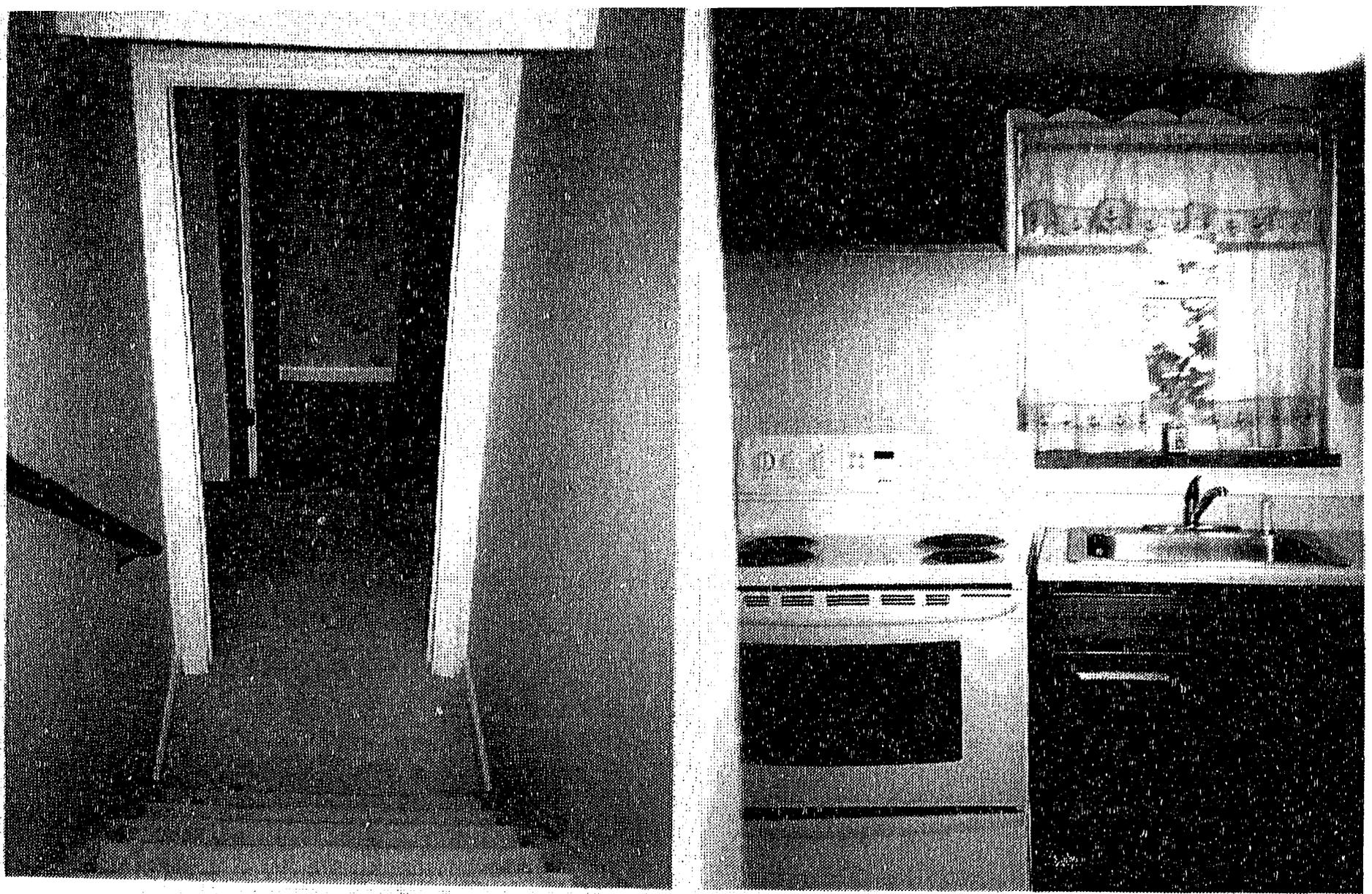


IMPORTANT
PLEASE ALLOW TIME TO PROCESS











1763

Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4631
Fax: (845) 563-3101

Assessors Office

August 22, 2005

Michael McGovern
122 Birch Drive
New Windsor, NY 12553

Re: 67-1-9 ZBA#: 05-44 (27)

Dear Mr. McGovern:

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

The charge for this service is \$45.00, minus your deposit of \$25.00.

Please remit the balance of \$20.00 to the Town Clerk's Office.

Sincerely,

J. Todd Wiley, IA
Sole Assessor

JTW/tmp
Attachments

CC: Myra Mason, Zoning Board

65-1-13
Frederick & Rose Marie Werner
P.O. Box 156
Vails Gate, NY 12584

67-1-2.21
Guillermo Dealecio
7 Dean Hill Road
New Windsor, NY 12553

67-1-4
Debbie Roszkowski
45 Riley Road
New Windsor, NY 12553

67-1-7
Alice Mula
P.O. Box 282
Vails Gate, NY 12584

67-2-2.12
Berzelius & Beroz Pavri
107 Birch Drive
New Windsor, NY 12553

67-2-5
Janet Pilch
John Morin, III
10 Ash Street
New Windsor, NY 12553

67-2-9.1 & 9.2
Alfred & Maureen Cestari
49 Dean Hill Road
New Windsor, NY 12553

67-3-3
John Gadbois
Joanne Esposito
7 Ash Street
New Windsor, NY 12553

89-4-2
Dennis & Geordalina Perez
1003 Pine View
New Windsor, NY 12553

65-1-93 & 94
Sarjon, LLC
c/o Benedict Pond at New Windsor, LLC
DGS Associates
535 High Mountain Road
North Haledon, NJ 07508

67-1-2.22
Floyd & Tamra Johnson
P.O. Box 662
Newburgh, NY 12550

67-1-5
Wendy & Edward Kimball, Jr.
41 Riley Road
New Windsor, NY 12553

67-1-8
Karen & Modesto Sanchez
114 Birch Drive
New Windsor, NY 12553

67-2-3.11
William Garrison
29 Riley Road
New Windsor, NY 12553

67-2-6.1, 6.2 & 7
Pondside Builders, LLC
13 Hayes Court – Unit 101
Monroe, NY 10950

67-2-10.1 & 10.2
Frank Camilliere
53 Dean Hill Road
New Windsor, NY 12553

89-3-25
Anthony & Tracy Vence
1002 Pine View
New Windsor, NY 12553

89-4-9
Rajkumar Muthukrishnan
1004 Forest Glen
New Windsor, NY 12553

67-1-1
William & Margaret Mc Donnell
1131 Sharpshooters Road
North Fayston, VA 05660

67-1-3
Alton & Alice Peterson
53 Riley Road
New Windsor, NY 12553

67-1-6
David Barasky
316-A Jutland Drive
Monroe, NJ 08831

67-2-1
William Bywater
115 Birch Drive
New Windsor, NY 12553

67-2-4
Richard & Ann Bewick
27 Riley Road
New Windsor, NY 12553

67-2-8.1 & 8.2
Edward & Joan Milmore
45 Dean Hill Road
New Windsor, NY 12553

67-3-1 & 2
Pierre Belle, III
2 Belle Court
New Windsor, NY 12553

89-4-1
Mohamedyasin & Shamim Rajpura
1001 Pine View
New Windsor, NY 12553

89-4-10
Eric & Michelle Azoff
1002 Forest Glen
New Windsor, NY 12553



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (845) 563-4615
Fax: (845) 563-4689

ZONING BOARD OF APPEALS

August 24, 2005

Michael McGovern
122 Birch Drive
New Windsor, NY 12553

SUBJECT: REQUEST FOR VARIANCE #05-44

Dear Mr. McGovern:

This is just to let you know your Notices for Public Hearing were mailed out and the notice was also sent to The Times Herald Record Newspaper for publication. **PLEASE NOTE: The charge for publication in the Times Herald Record will be deducted from your escrow that was posted with your application papers.**

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

112 Birch Drive
New Windsor, NY

is scheduled for the September 12, 2005 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

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 on the following Proposition:

Appeal No. 05-44

Request of MICHAEL MC GOVERN

for a VARIANCE of the Zoning Local Law to Permit:

Request for Interpretation and/or use variance for Single Family dwelling with two kitchens OR a two-family dwelling (300-90) at 122 Birch Drive in an R-3 Zone (67-1-9)

PUBLIC HEARING will take place on SEPTEMBER 12, 2005
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
ZONING BOARD OF APPEALS
PUBLIC HEARING NOTICE

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing on the following Proposition:

Appeal No. 05-44
 Request of MICHAEL MC GOVERN

for a VARIANCE of the Zoning Local Law to Permit:

Request for Interpretation and/or use variance for Single Family dwelling with two kitchens OR a two-family dwelling (300-90) at 122 Birch Drive in an R-3 Zone (57-1.9)

PUBLIC HEARING will take place on September 12, 2005 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 P.M.

MICHAEL KANE
 CHAIRMAN

Ad Number: 1791782 Advertiser: NEW WINDSOR, TOWN

Phone: 8455634615 Sys No: 1194114 Colter: MYRA NASON

INVOICING CUSTOMER:

Phone: 8455634615 Sys No: 1194114 AcctNo: P.O. No:

Name: NEW WINDSOR, TOWN Subscriber:

Address: ZONING AND PLANNING

555 UNION AVENUE

NEW WINDSOR NY 12553

ORDER:

Printed By: THRFODORN Date: 08/25/2005 Assigned Sales: AdType: LINER Order Type: NORMAL

Manual Delay: Box No: Call Back: Y

NOTES:

Change Reason:

INSERTION:

Product: TH Paper: TH Class: 999X; LEGAL BILLING

Schedule: Start Date - 08/28/2005 End Date - 08/28/2005

Sort:

PRODUCTION:

Text Size: 0 x 0.00 ProdType: ENTERPRISE ColorNo: 0 Colors:

Tearsheets: 1 Proofs: 0 Affidavits: 1 Alt Add: N

PRICING:

Price: 0.00 Payment Method: B1 Amount Paid: 0 Amount Owed: 0

Price Method: 0 (0=Normal, 1=User Met, 2=System Gross) Rate Code: LSL

For fields listed below 0 = NO 1 = YES

Till Forbid: 0 Mult. Content: 0

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

RECEIPT OF ESCROW RECEIVED:

DATE RECEIVED: 08-08-05

FOR: ESCROW 05-44

FROM:

Michael McGovern
122 Birch Drive
New Windsor, NY 12553

CHECK NUMBER: 1504

TELEPHONE: 567-6784

AMOUNT: 500.00

RECEIVED AT COMPTROLLER'S OFFICE BY:



NAME

8/2/05

DATE

PLEASE RETURN ONE SIGNED COPY TO MYRA FOR FILING

THANK YOU

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

RECEIPT
#730-2005

08/08/2005

McGovern Rug Fabricators

Received \$ 150.00 for Zoning Board Fees, on 08/08/2005. Thank you for stopping by the Town Clerk's office.

As always, it is our pleasure to serve you.

Deborah Green
Town Clerk

ZBA# 05-44

TOWN OF NEW WINDSOR REQUEST FOR NOTIFICATION LIST

DATE: 08-08-05 PROJECT NUMBER: ZBA# 05-44 P.B. # _____

APPLICANT NAME: MICHAEL MC GOVERN

PERSON TO NOTIFY TO PICK UP LIST:

Michael McGovern
122 Birch Drive
New Windsor, NY 12553

TELEPHONE: 567-6784

TAX MAP NUMBER: SEC. 67 BLOCK 1 LOT 9
 SEC. _____ BLOCK _____ LOT _____
 SEC. _____ BLOCK _____ LOT _____

PROPERTY LOCATION: 122 BIRCH DRIVE
NEW WINDSOR

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: 1506

TOTAL CHARGES: _____



TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS



APPLICATION FOR VARIANCE

July 22, 2005

Date

Application Type: Use Variance Area Variance
Sign Variance Interpretation

I. **Owner Information:** Phone Number: (845) 567-6787
MICHAEL + ARLENE MCGOVERN Fax Number: ()
(Name)
122 BIRCH DRIVE NEW WINDSOR NY 12553
(Address)

II. **Applicant:** Same Phone Number: ()
(Name) Fax Number: ()
(Address)

III. **Forwarding Address, if any, for return of escrow:** Phone Number: ()
Fax Number: ()
(Name)
(Address)

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

V. **Property Information:**
Zone: R-3 Property Address in Question: 122 BIRCH DRIVE
Lot Size: 100 x 150 approx Tax Map Number: Section 67 Block 1 Lot 9
a. What other zones lie within 500 feet? _____
b. Is pending sale or lease subject to ZBA approval of this Application? NOT AT THIS TIME
c. When was property purchased by present owner? 12/97
d. Has property been subdivided previously? UNKNOWN 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.

COMPLETE THIS PAGE

8/8



TOWN OF NEW WINDSOR
 555 UNION AVENUE
 NEW WINDSOR, NY 12553
 (845) 563-4615 (MYRA MASON)



ZONING BOARD PROCEDURES

PLEASE READ AND COMPLETE THE ATTACHED APPLICATION FORMS WHERE IT APPLIES TO YOUR SITUATION(LOOK FOR HIGHLIGHT IN BOX IN LOWER RIGHT CORNER OF EACH PAGE) AND RETURN TO MYRA MASON (845-563-4615) AT THE ZONING BOARD OFFICE (LOCATED IN THE PLANNING BOARD & ENGINEERING OFFICE IN TOWN HALL) WITH THREE CHECKS MADE PAYABLE TO "THE TOWN OF NEW WINDSOR" AS FOLLOWS:

RESIDENTIAL: (Three Separate Checks Please)
 APPLICATION FEE: \$ 50.00
 *ESCROW: \$300.00
 **DEPOSIT FOR PUBLIC HEARING LIST: \$ 25.00

MULTI-FAMILY: (Three Separate Checks Please)
 APPLICATION FEE: \$150.00
 *ESCROW: \$500.00
 **DEPOSIT FOR PUBLIC HEARING LIST: \$ 25.00

COMMERCIAL: (Three Separate Checks Please)
 APPLICATION FEE: \$150.00
 *ESCROW: \$500.00
 **DEPOSIT FOR PUBLIC HEARING LIST: \$ 25.00

INTERPRETATION: (Three Separate Checks Please)
 APPLICATION FEE: \$150.00
 *ESCROW: \$500.00
 **DEPOSIT FOR PUBLIC HEARING LIST: \$ 25.00

UPON RECEIPT OF ALL APPLICABLE PAPERWORK AND CHECKS, YOU WILL BE SCHEDULED FOR THE NEXT AVAILABLE AGENDA FOR YOUR "PRELIMINARY MEETING". YOU DO NOT NEED YOUR PUBLIC HEARING LIST OR ENVELOPES FOR THIS FIRST MEETING.

*

ESCROW
 IS TO COVER OUTSIDE PROFESSIONAL FEES SUCH AS ZBA ATTORNEY FEE, MINUTES OF YOUR PORTION OF THE MEETING, LEGAL ADS, ETC. THE BALANCE WILL BE RETURNED TO YOU UPON CLOSING FILE.

**

LIST OF PROPERTY OWNERS WITHIN 500 FT. RADIUS OF PROPERTY IN QUESTION:

APPROXIMATE COST FOR PUBLIC HEARING LIST:

1-10 NAMES	25.00
11-20 NAMES	35.00
21-30 NAMES	45.00
31-40 NAMES	55.00
41-50 NAMES	65.00
51-60 NAMES	75.00
61-70 NAMES	85.00
71-80 NAMES	95.00
81-90 NAMES	105.00
91-100 NAMES	115.00

ANYTHING OVER 100 NAMES IS \$1.00 EA. ADDITIONAL NAME

05-44

PUBLIC HEARING LIST OF PROPERTY OWNERS

1. UPON RECEIPT OF ALL APPLICABLE CHECKS AND PAPERWORK, YOUR APPLICATION WILL BE PROCESSED AND YOUR \$25.00 DEPOSIT WILL BE SENT TO THE ASSESSOR'S OFFICE TO ORDER YOUR LIST OF PROPERTY OWNERS WITHIN 500 FEET. **(NOTE: YOU DO NOT NEED THIS LIST OR THE ENVELOPES FOR YOUR FIRST (PRELIMINARY) MEETING. Please do not call the Assessor's Office looking for your list - they will contact you when it is ready or if necessary, call Myra at 845-563-4615.**
2. WHEN THE ASSESSOR'S OFFICE NOTIFIES YOU THAT YOUR PUBLIC HEARING LIST IS READY, YOU MUST COME IN AND PAY THE BALANCE DUE FOR THE LIST. (THE LIST WILL BE PREPARED ON LABELS FOR YOUR CONVENIENCE).
3. PREPARE AN ENVELOPE (self-sealing envelopes are much appreciated) FOR EACH LABEL WITH YOUR RETURN ADDRESS AND A REGULAR \$.37 STAMP. BRING THE PREPARED ENVELOPES AND A COPY OF THE LIST TO THE ZONING BOARD SECRETARY FOR MAILING. YOUR PUBLIC HEARING DATE WILL BE SCHEDULED AT THIS TIME.

NOTE:

IF IT IS EASIER FOR YOU, YOU CAN BRING THE ENVELOPES WITH YOU WHEN YOU PICK UP AND PAY FOR YOUR LIST. YOU CAN PUT THE LABELS ON AT THAT TIME AND BRING THEM TO THE ZBA OFFICE FOR COMPLETION.

NOTE:

THE ZBA MEETS ON THE 2ND AND 4TH MONDAY OF EACH MONTH UNLESS A HOLIDAY FALLS ON THAT DATE.

**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 300-90

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



236492 ABSR02 *BIRCH DR *620 ACT LP\$ 129900
 Style: BILEVEL BD: 4 #BA: 3.00 Year: 1987 /ACTUAL
 Acre *.34 Sch: *NEWBURGH TAX\$: 4099 Sf: 2396
 Bsmt: Y Gar: GARAGE Appr: GOOD Dine: EIK AC: NONE
 Rmks: LARGE HOME ON PRIVATE LOT, LISTED BELOW
 APPRAISED VALUE, INLAW APARTMENT W/SEPART

1997 REAL ESTATE LISTING

We would like the board to consider the proposal of allowing a single family dwelling with two kitchens or a two family dwelling. It is our understanding that the original owners who built this residence in 1987 built it with the intentions of a single family in which one floor of the bi-level was to be used for by one member of the family and the second floor of the bi-level was to be used for by another member of the family. We do not wish to change the original intent of the home. We ask the board consider that we live in a zone (R-3) in which this type of home is acceptable and adequate parking spots are available. Thank you for your consideration.

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 (if available) showing the size and location of the lot, 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 (5 or 6) from several angles. (IF SUBMITTING DIGITAL PHOTOS PRINTED FROM COMPUTER – PLEASE SUBMIT FOUR (4) SETS OF THE PHOTOS.)

on file at town

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:

25th day of July 2005.

Michael McGovern
Owner's Signature (Notarized)

Michael McGovern
Owner's Name (Please Print)

Deborah Green
Signature and Stamp of Notary

Applicant's Signature (If not Owner)

PLEASE NOTE:

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

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 2007

COMPLETE THIS PAGE