

ZB# 07-07

Thomas Retcho

57-1-113.1 & 113.2

ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR
555 UNION AVENUE
NEW WINDSOR, N.Y. 12553
closed 9-8-08

07-07 Thomas Retcho (57-1-113.112)
4047 Lakeside Dr.

Tom Retcho - Cell #

674-2700

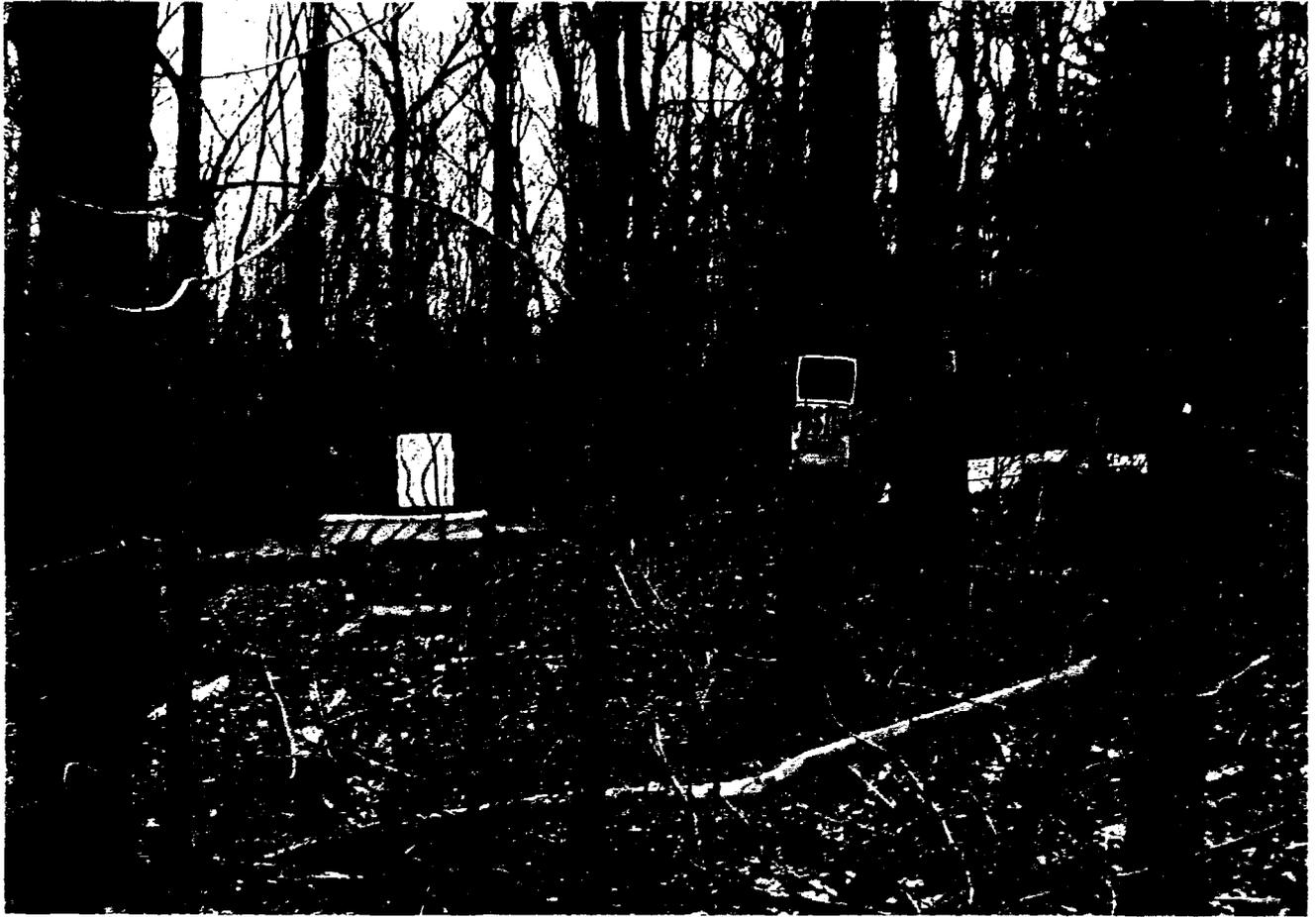








FROM THE DRIVEWAY



FROM THE PORCH



FROM THE DRIVEWAY



FROM THE PORCH

These pictures

Neighbor's
View



-----x

In the Matter of the Application of

MEMORANDUM OF
DECISION DENYING

THOMAS & TERRANCE RETCHO

AREA & USE VARIANCE REQUEST

CASE #07-07

-----x

WHEREAS, Thomas & Terrance Retcho, owner(s) of 40 and 42 Lake Side Drive, New Windsor, New York, 12553, has made application before the Zoning Board of Appeals for a/an 2 ft. Building Height for Proposed 8 ft. fence.

Interpretation and/or Use Variance for the storage, parking and use of trailers (57-1-113.1)
Interpretation and/or Use Variance for the storage, parking and use of trailers (57-1-113.2)

WHEREAS, a public hearing was held on June 25th, 2007 and continued on July 23rd, 2007 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 six (6) spectators appearing at the public hearing; and

WHEREAS, no one spoke in favor of and six (6) spoke in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing (July 23rd, 2007) denying 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 Official Town Newspaper, also as required by law.
2. The Evidence presented by the Applicant showed that:
 - (a) The property is a residential property located in a neighborhood of residential properties in an R-4 zone.
 - (b) The applicant seeks to erect a fence to screen and for the allowing of storage, parking and use of three trailers on the property
 - (c) The trailers are used by Thomas Retcho in connection with a commercial landscaping business. The applicant has no permit to operate said business in a

residential zone. An operation of this business is not an allowed use in the zone in which the property is located (R-4).

- (d) At the Public Hearing, the neighbors complained of drainage problems, the operation of a business in a residential area and the storage of trailers.
- (e) The applicant says that it is not operating a business since he has taken all other functions of the business including, but not limited to, the sending and receiving of telephone calls and the sending and receiving of mail to different locations. He does, however, admit that the trailers stored on the property are used solely in connection with the landscaping business.
- (f) At the Public Hearing, the neighbors also complained about the fence averring that it was inappropriate for the neighborhood and that it would, in effect, create a "hugh wall".
- (g) The neighbors also complained that the proposed parking site was build up through the import of fill so that it is higher than anything else in the neighborhood causing flooding to the neighbor's property.
- (h) The applicant received a prior variance for construction of the home on the property, which variance contained the stipulation that its driveway not be used for any other purpose other than the passage of residential cars. The applicant now proposes to use that driveway for the parking, storage and use of commercial trailers.
- (i) The neighbors object to the trailers and characterize them as "Construction" trailers. They complain that these trailers cause noise at inappropriate hours for a residential neighborhood.

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

1. The applicant seeks an Interpretation of the New Windsor Town Code to permit storage, parking and use of trailers on the owner's property located in a residential area.

They argue that the vehicles identified are not "trailers" as defined in the New Windsor Town Code and their storage, parking and use does not constitute the illegal operation of a business in a residential zone.

2. After hearing evidence and testimony, the Board finds that the trailers parked on the applicant's property are trailers, as defined in the New Windsor Town Code and may not lawfully be stored, parked or used at the applicant's residence. Section 300-64 (A)

prohibits storage, parking and use of any trailer in any district. While the definition of "trailer" does not seem to apply to the vehicles in the instant case, such definition is not intended to be exclusive and clearly Section 300-64 was enacted to prohibit what the applicant seeks to do.

3. The storage, parking and use of trailers, as intended by the applicant, is also prohibited by the New Windsor Town Code because that code prohibits the operation of a business in an R-4 Zone. The applicant argues that while the trailers are used solely in connection with the operation of a landscaping business by the applicant, he has removed all other aspects of the operation of said business (such as the making and receipt of telephone and the sending and receipt of mail) and, therefore, they are not conducting business in an R-4 Zone. The ZBA disagrees and finds that they are, in fact, doing business at the property and must remove the commercial trailers.

Where, as here, a term is not defined in the body of the enacted statutes, it is axiomatic that such term be given its ordinary meaning. The term "business" encompasses many factors including, but not limited to, telephone calls, mail, seeing customers, the performance of work and the storage of equipment. Any business may perform these functions at more than one location. Here, only the storage, parking and use of "trailers" is performed in a prohibited zone. The performance of only one business function is, however, enough to establish that location where it is performed as one where there is the operation of a business. Therefore, this applicant is operating a business in an R-4 Zone.

4. Use variances for the storage, parking and use of trailers cannot be granted to the applicants because the applicants have not submitted any evidence that would allow the Zoning Board of Appeals to comply with the requirements of SEQRA.
5. The applicants have not submitted evidence that would allow the ZBA to find that the applicant cannot realize a reasonable return.
6. The alleged hardship has been "self-created" by the applicants since they moved the trailers in voluntarily and should not be granted.
7. The location of the proposed parking area may well have an adverse impact on, and potential for, flooding, erosion, leaching or drainage problems.
8. The location of the "trailers" alters the essential character of the neighborhood.
9. The application for a variance for the height of the surrounding fence is also denied.
10. The proposed fence will produce an undesirable change in the character of the neighborhood and create a detriment to nearby properties.
11. The difficulty faced by the applicant in conformity of the law is self-created by the willful, knowing disobedience of the law by the applicant and, in this case, should be proscribed and in this case, no variance should be granted.

12. Any benefit to the applicants is greatly outweighed by the detriment that would be caused to the health, safety and welfare of the neighborhood or community.
13. The interest of justice would not be served by allowing the granting of any of the requested variances.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor Deny a Request for :

2 ft. Building Height for Proposed 8 ft. fence.

Interpretation and/or Use Variance for the storage, parking and use of trailers (57-1-113.1)

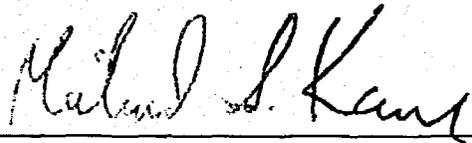
Interpretation and/or Use Variance for the storage, parking and use of trailers (57-1-113.2)

All at 42 & 40 Lakeside Drive in an R-4 Zone. as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

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

Dated: July 23, 2007



Chairman

To: Myra M.
from Jack Finn

TOWN OF NEW WINDSOR Date 9-10-08
ZONING BOARD OF APPEALS Sub. you forgot me.

RECEIPT OF ESCROW RECEIVED:) I need the expenses for this closeout
Thanks
Jack

DATE RECEIVED: 09-08-08

FOR: 07-07 ADDITIONAL ESCROW

FROM:
THOMAS RETCHO (EXTREME POWDER COATING)
42 LAKESIDE DRIVE
NEW WINDSOR, NY 12553

CHECK NUMBER: 1053

AMOUNT: 58.85 (TO CLOSE OUT ESCROW)

RECEIVED AT COMPTROLLER'S OFFICE BY:

Myra M. 9-8-08
NAME DATE

EXTREME POWDER COATING 42 LAKESIDE DR. NEW WINDSOR, NY 12553	09/07 496-4059	1053
Pay to the Order of	<u>Town of New Windsor</u>	Date <u>7-30-08</u> 29-1310/0213 279
	<u>fifty Eight</u>	\$ <u>58.85</u>
Citizens Bank		<u>58.85</u> Dollars
For <u>Zoning Board</u>		
⑆021313103⑆ 4002737755⑈		1053

1 of 3

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

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

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

DATE: January 9, 2007

**APPLICANT: Thomas Retcho
42 Lake Side Drive
New Windsor, NY 12553**

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: 12/3/07

FOR : Proposed 8ft. high fence

LOCATED AT: 42 Lake Side Drive

ZONE: R-4 Sec/Blk/ Lot: 57-1-113.1

DESCRIPTION OF EXISTING SITE: One family house.

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

- 1. Proposed wood stockade fence 8ft. high exceeds maximum height of 6 ft.**

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. Wall water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway 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 there is no fee for this.

RECEIVED
JAN 03 2007

BUILDING DEPARTMENT

FOR OFFICE USE ONLY
Building Permit #: 2007-4

AFFIDAVIT OF OWNERSHIP AND/OR CONTRACTOR'S COMP A 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 THOMAS BETCHO

Address 42 LAKE SIDE DR. Phone # 496 4059

Mailing Address SAME AS ABOVE. Fax # _____

Name of Architect _____

Address _____ Phone _____

Name of Contractor _____

Address _____ Phone _____

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 ~~Lakeside Dr~~ ^{EAST} side of ~~EAST~~ Lakeside Dr.
and 500 feet from the intersection of Vascello
(N, S, E or W)

2. Zone or use district in which premises are situated R4 Is property a flood zone? Y N L L

3. Tax Map Description: Section 57-8 Block 1 Lot 113-1

4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.
a. Existing use and occupancy _____ b. Intended use and occupancy _____

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

6. Is this a corner lot? NO
wooden stockpile
8' high

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

8. If dwelling, number of dwelling units: _____ Number of dwelling units on each floor _____
Number of bedrooms _____ Baths _____ Toilets _____ Heating Plant: Gas _____ Oil _____
Electric/hot Air _____ Hot Water _____ If Garage, number of cars _____

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

10. Estimated cost 500,00 Fee 0

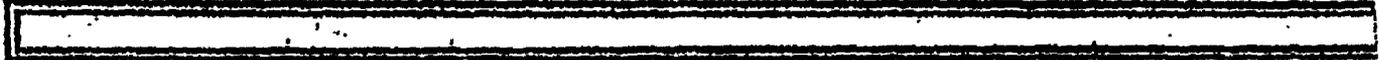
ZONING BOARD

____/____/____
date

APPLICATION FOR BUILDING PERMIT
TOWN OF NEW WINDSOR, ORANGE CO., 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
856 Union Avenue
New Windsor, New York 12653
(845) 863-4618
(845) 863-4995 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 codes and certifies that he is the owner or agent of all that certain lot, place 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.


(Signature of Applicant)

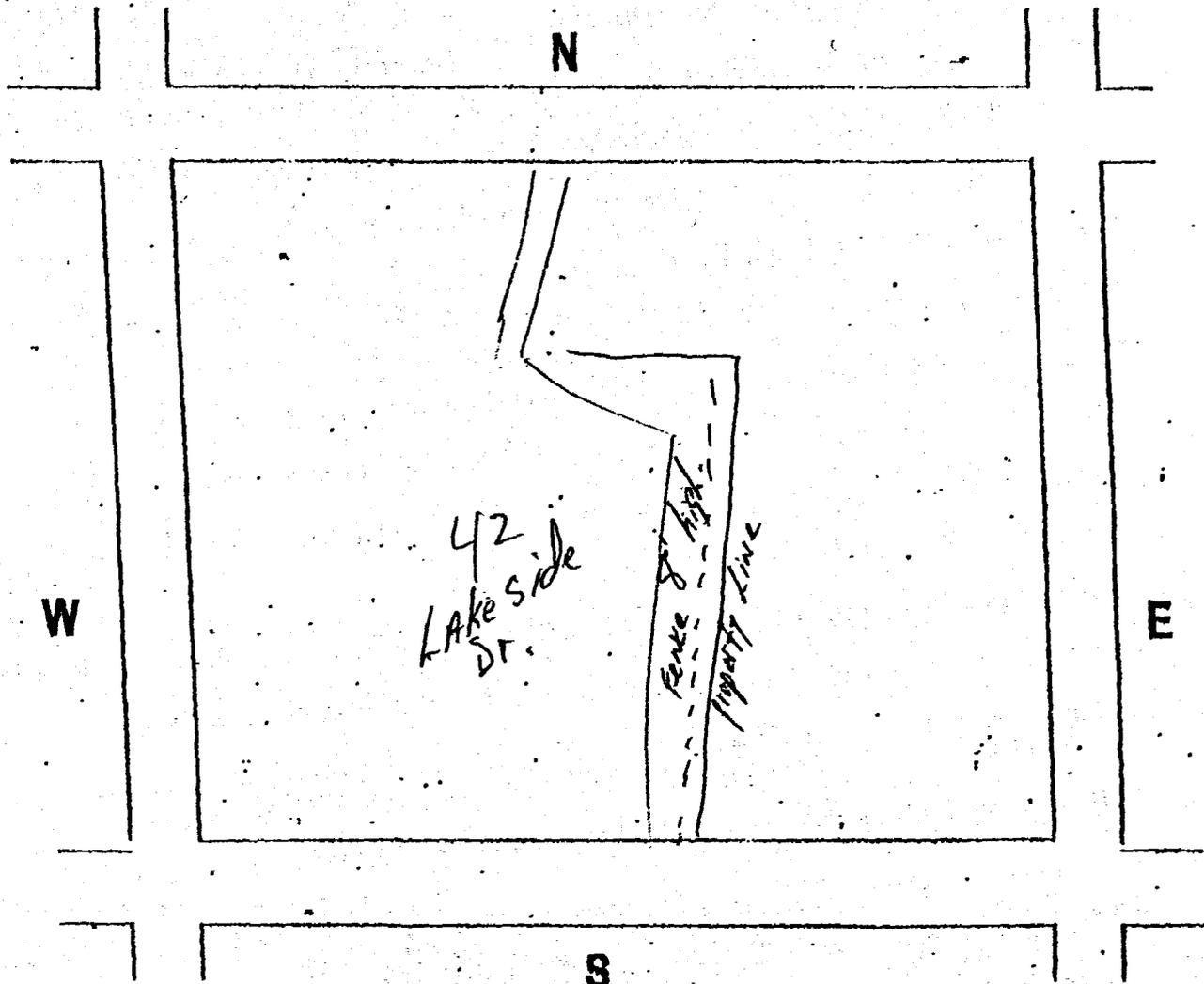
42 Lake side Dr.
(Address of Applicant)


(Owner's Signature)

PLOT PLAN

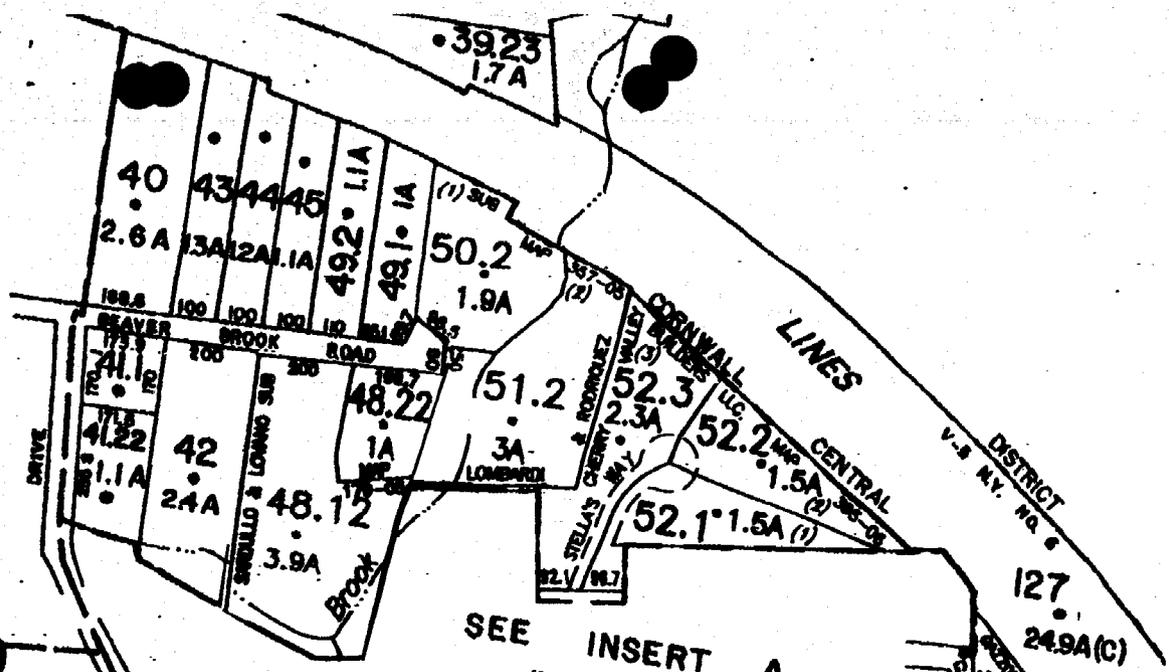
NOTE:

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

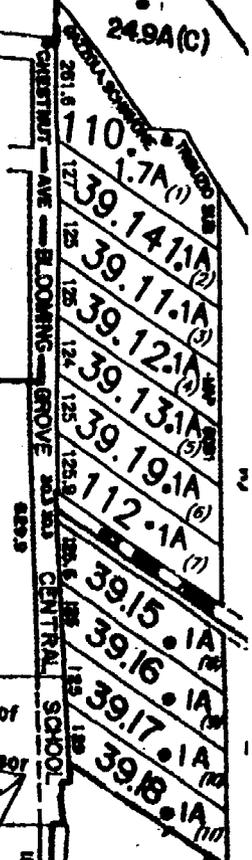
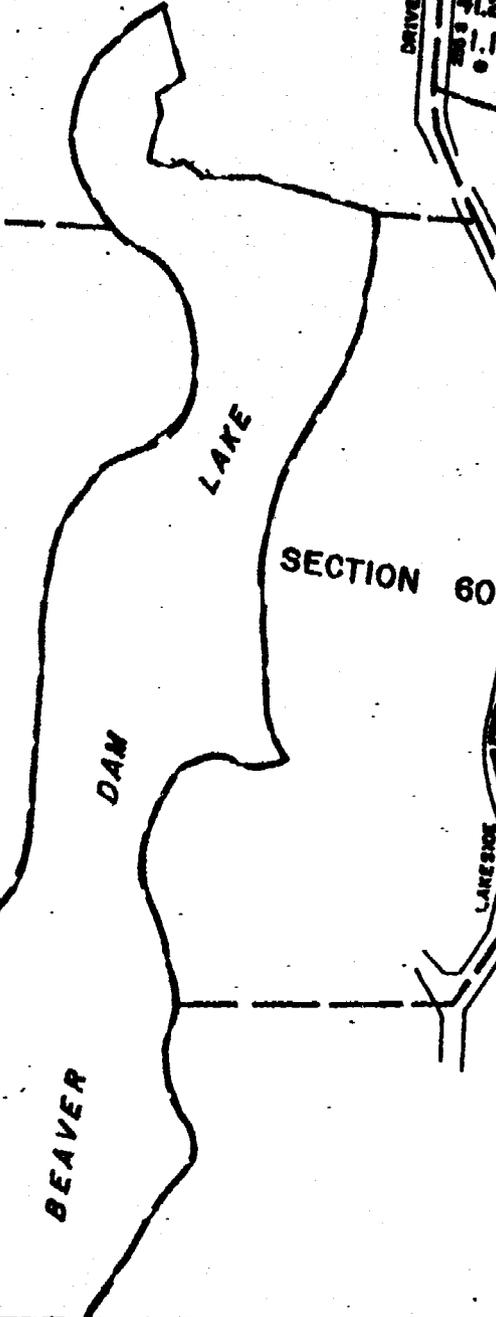


GRAPHIC SCALE

N
58



SEE INSERT A
1" = 200'



SECTION

2

44.8A(C)

TC

170.8

114

173.8

845

264.9

MP 200

LAKE
SIDE

E 596.000

N 950.000

FILED MAP
NORTH



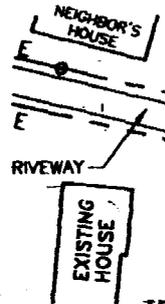
Approx 100' of fence
Diagonals house

LANDS NOW OR FORMERLY
BERT & JANET BENTKOWSKI
SECTION 57, BLOCK 1, LOT 75.1
LIBER 4213 PAGE 274

FOUND DISTURBED IRON PIPE
1.85' SW OF PROPERTY CORNER

FOUND 3/4" O.D. IRON
PIPE ON PROPERTY
LINE AT 100.0'

3/8" IRON ROD SET



LANDS NOW OR FORMERLY
TERRANCE & JEANNETTE RETCHO
SECTION 57, BLOCK 1, LOT 113
LIBER 2114 PAGE 808
FILED MAP 125-01
LOT 2

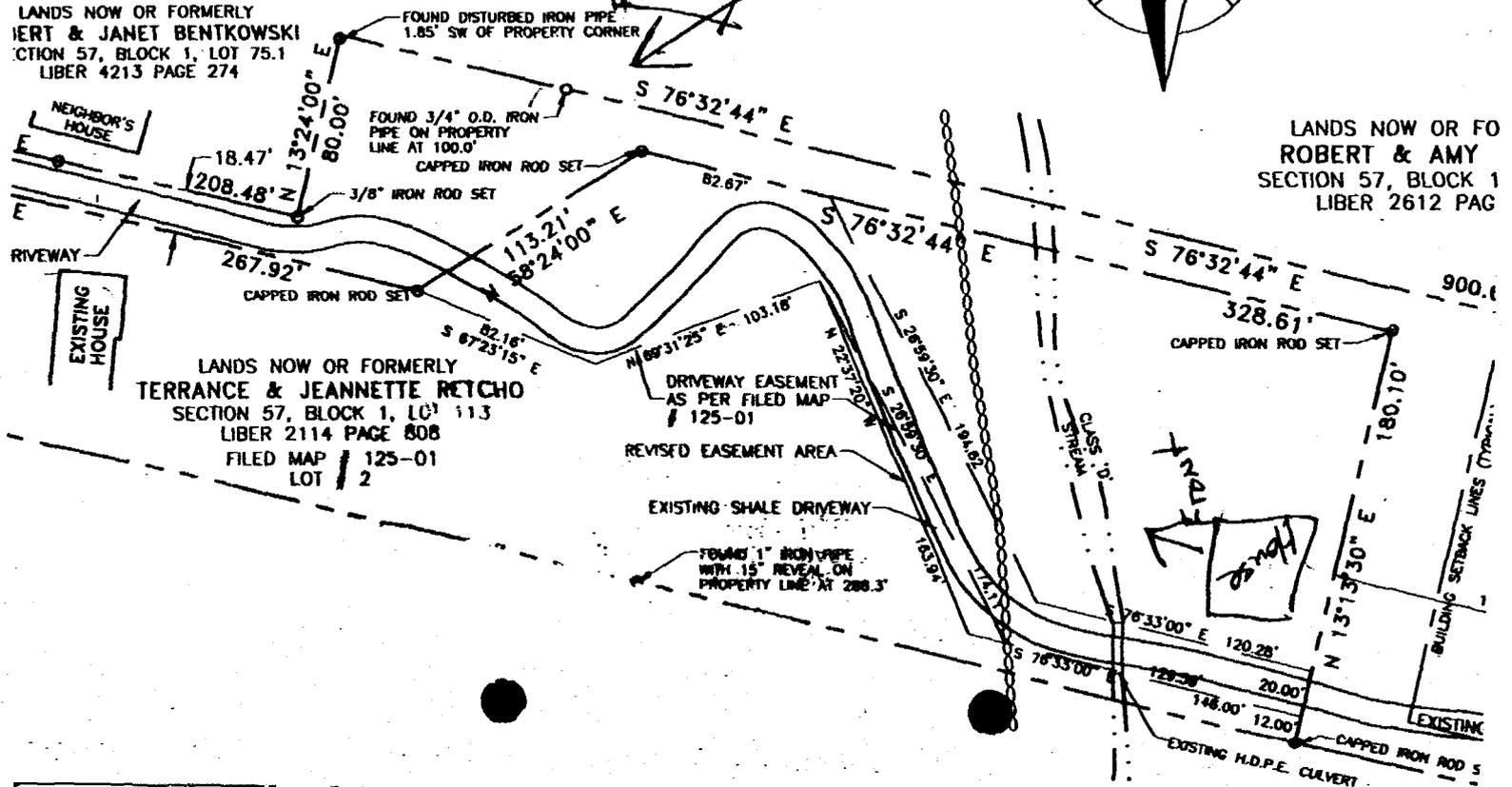
DRIVEWAY EASEMENT
AS PER FILED MAP
125-01

REVISED EASEMENT AREA

EXISTING SHALE DRIVEWAY

FOUND 1" IRON PIPE
WITH 15" REVEAL ON
PROPERTY LINE AT 288.3'

LANDS NOW OR FO
ROBERT & AMY
SECTION 57, BLOCK 1
LIBER 2612 PAG



**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
OFFICE
845-563-4615**

MEMORANDUM

**TO: THOMAS RETCHO
42 LAKESIDE DRIVE
NEW WINDSOR, NY 12553**

FROM: MYRA MASON, SECRETARY TO THE ZONING BOARD

DATE: 11/08/07

SUBJECT: ZONING BOARD ESCROW

**ATTACHED IS A BREAKDOWN OF CHARGES APPLIED AGAINST YOUR
ESCROW PAYMENT POSTED WITH Z.B.A. APPLICATION #07-07.**

**PLEASE REMIT PAYMENT TO "THE TOWN OF NEW WINDSOR" IN THE
AMOUNT OF \$58.85 TO CLOSE OUT YOUR APPLICATION.**

THANK YOU,

**MYRA MASON,
SECRETARY TO THE ZBA**



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



FILE #07-07 TYPE: AREA TELEPHONE: 496-4059

APPLICANT:

Thomas Retcho
42 Lakeside Drive
New Windsor, NY 12553

RESIDENTIAL:	\$ 50.00	CHECK # <u>5931</u>
COMMERCIAL	\$ 150.00	CHECK # _____
INTERPRETATION	\$ 150.00	CHECK # _____

ESCROW: RESIDENTIAL \$300.00 CHECK # 5932



<u>DISBURSEMENTS:</u>		MINUTES	ATTORNEY
		<u>\$7.00 / PAGE</u>	<u>FEE</u>

PRELIMINARY:	<u>14</u>	PAGES	\$ <u>98.00</u>	\$ <u>35.00</u>
2 ND PRELIMINARY:	—	PAGES	\$ _____	\$ _____
PUBLIC HEARING:	<u>23</u>	PAGES	\$ <u>161.00</u>	\$ <u>35.00</u>
PUBLIC HEARING:	<u>2</u>	PAGES	\$ <u>14.00</u>	\$ _____

LEGAL AD: Publish Date:06-15-07 \$ 15.85

TOTAL: \$ 288.85 \$ 70.00



ESCROW POSTED: \$ 300.00
LESS: DISBURSEMENTS: \$ 358.85

AMOUNT DUE: \$ 58.85

REFUND DUE: \$ _____

Cc:

J.F. 11/08/07

July 23, 2007

THOMAS RETCHO & TERRANCE RETCHO (07-07)

MR. KANE: Tonights next public hearing, Thomas Retcho and Terrance Retcho, request for a 2 ft. Building height for proposed 8 ft. fence, interpretation and/or use variance for the storage, parking and use of trailers (57-1-113.1) and interpretation and/or use variance for the storage, parking and use of trailers (57-1-113.2).

MR. LUNDSTROM: I need to recuse myself because of my position on the property lines.

MR. KANE: You are out Eric.

MS. LOCEY: The public portion of this was closed?

MR. KANE: That was closed at the final meeting.

MS. LOCEY: I am just asking for the record. Is the applicant here?

MR. KANE: Just did that. No, he is not. But in talking to counsel we are allowed to vote without him since the public portion -- there is no input hearing. This is strictly a vote. I read the minutes and I think we are qualified to vote on the subject. I will accept a motion. One of you two young ladies.

MS. LOCEY: I will offer a motion to oppose in the application to grant the application of Thomas and Terrence Retcho for the variances as detailed on the agenda of the Zoning Board of Appeals dated July 23rd, 2007.

MS. GANN: I will second the motion.

ROLL CALL

July 23, 2007

MS. GANN	NO
MR. LUNDSTROM	NO
MS. LOCEY	NO
MR. KANE	NO

MR. KANE: Motion defeated. Motion to adjourn.

MR. LUNDSTROM: So moved.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. KANE	AYE

Respectfully Submitted By:

Danielle M. Magliano
Court Reporter

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE
THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE



TYPE IN BLACK INK:
 NAME(S) OF PARTY(S) TO DOCUMENT

*Terrence + Jeannette
 Retcho*
 TO
Thomas + Lucinda Retcho

SECTION 57 BLOCK 1 LOT 113

RECORD AND RETURN TO:
 (name and address)

*Ronald Tomkins
 310 Mill St.
 Poughkeepsie, NY 12601*

THIS IS PAGE ONE OF THE RECORDING

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH
 RECORDED INSTRUMENT ONLY

DO NOT WRITE BELOW THIS LINE

INSTRUMENT TYPE: DEED MORTGAGE _____ SATISFACTION _____ ASSIGNMENT _____ OTHER _____

PROPERTY LOCATION

- 2089 BLOOMING GROVE (TN)
- 2001 WASHINGTONVILLE (VLG)
- 2289 CHESTER (TN)
- 2201 CHESTER (VLG)
- 2489 CORNWALL (TN)
- 2401 CORNWALL (VLG)
- 2600 CRAWFORD (TN)
- 2800 DEERPARK (TN)
- 3089 GOSHEN (TN)
- 3001 GOSHEN (VLG)
- 3003 FLORIDA (VLG)
- 3005 CHESTER (VLG)
- 3200 GREENVILLE (TN)
- 3489 HAMPTONBURGH (TN)
- 3401 MAYBROOK (VLG)
- 3689 HIGHLANDS (TN)
- 3601 HIGHLAND FALLS (VLG)
- 3889 MINISINK (TN)
- 3801 UNIONVILLE (VLG)
- 4089 MONROE (TN)
- 4001 MONROE (VLG)
- 4003 HARRIMAN (VLG)
- 4005 KIRYAS JOEL (VLG)

- 4289 MONTGOMERY (TN)
- 4201 MAYBROOK (VLG)
- 4203 MONTGOMERY (VLG)
- 4205 WALDEN (VLG)
- 4489 MOUNT HOPE (TN)
- 4401 OTISVILLE (VLG)
- 4600 NEWBURGH (TN)
- 4800 NEW WINDSOR (TN)
- 5089 TUXEDO (TN)
- 5001 TUXEDO PARK (VLG)
- 5200 WALLKILL (TN)
- 5489 WARWICK (TN)
- 5401 FLORIDA (VLG)
- 5403 GREENWOOD LAKE (VLG)
- 5405 WARWICK (VLG)
- 5600 WAWAYANDA (TN)
- 5889 WOODBURY (TN)
- 5801 HARRIMAN (VLG)

CITIES

- 0900 MIDDLETOWN
- 1100 NEWBURGH
- 1300 PORT JERVIS
- 9999 HOLD

NO. PAGES 5 CROSS REF. _____
 CERT. COPY _____ ADD'L X-REF. _____
 MAP _____ PGS. _____

PAYMENT TYPE: CHECK
 CASH _____
 CHARGE _____
 NO FEE _____

CONSIDERATION \$ _____
 TAX EXEMPT _____

MORTGAGE AMT. \$ _____
 DATE _____

MORTGAGE TAX TYPE:

- ___ (A) COMMERCIAL/FULL 1%
- ___ (B) 1 OR 2 FAMILY
- ___ (C) UNDER \$10,000
- ___ (E) EXEMPT
- ___ (F) 3 TO 6 UNITS
- ___ (I) NAT. PERSON/CR. UNION
- ___ (J) NAT. PER.-CR. UN/1 OR 2
- ___ (K) CONDO

Donna L. Benson
 DONNA L. BENSON
 ORANGE COUNTY CLERK

RECEIVED FROM: *Ronald Tomkins*

LIBER 5595 PAGE 116

LIBER 5595 PAGE 116

ORANGE COUNTY CLERKS OFFICE 46523 MAN
 RECORDED/FILED 08/07/2001 02:30:59 PM
 FEES 50.00 EDUCATION FUND 5.00
 SERIAL NUMBER: 006234
 DEED CNTL NO 60751 RE TAX .00

THIS INDENTURE, made this 26th day of July, two thousand and one.

BETWEEN

TERRANCE REICHO and JEANNETTE REICHO, residing at 40 Lakeside Dr. New Windsor, N.Y. 12553

party of the first part, and

THOMAS J. REICHO and LUCINDA R. REICHO, residing at 1203 Parr Lake Dr. Newburgh, N.Y. 12550

party of the second part.

WITNESSETH, that the party of the first part, in consideration of TEN (\$10.00) 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, State of New York, Being Lot #1, as shown on a map entitled "2 Lot Minor Subdivision for Lands of Terrance & Jeannette Reicho", dated February 18, 2000 and to be filed in the Orange County Clerk's Office, being described as follows: See Schedule "A", attached hereto and incorporated herein by reference.

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

Beginning at a 3/8" iron rod set in the Easterly line of Lakeside Drive, said point also being the Westerly most corner of lands now or formerly Bentkowi, Liber 4213, Page 274;

Thence along said lands now or formerly Bentkowski, Liber 4213, page 274, the following two (2) courses and distances:

1. South Seventy-Six Degrees, Thirty-Six Minutes, Zero Seconds East Two Hundred Eight and Forty-Eight Hundredths Feet (S 76°36'00" E 208.48') passing through a 3/8" iron rod set on line at 104.24' to a 3/8" iron rod set;
2. North Thirteen Degrees, Twenty-Four Minutes, Zero Seconds East Eighty Feet (N 13°24'00" E 80.00') to a point being 1.85' NW of a found disturbed iron pipe;

Thence along lands now or formerly Dragos, Liber 2612, Page 279, South Seventy-Six Degrees, Thirty-Two Minutes, Forty-Four Seconds East Nine Hundred and Sixty Hundredths Feet (S 76°32'44" E 900.60') passing through a found 1/4" iron pipe on line at 100.00' to a found 1/2" iron rod under stones;

Thence along lands now or formerly Hunter, Liber 4121, Page 291, South Eight Degrees, Twenty-Four Minutes, Zero Seconds West One Hundred Twenty and Eight Hundredths Feet (S 08°24'00" W 120.08') passing through a found 1/4" iron rod on line at 56.9' to a found 5/8" iron rod;

Thence along lands now or formerly Saxe, Liber 2415, Page South Nine Degrees, Twenty Minutes, Three Seconds West Seventy-Nine and Thirteen Hundredths Feet (S 09°20'03" W 79.13') to a found iron pipe with 34" reveal;

Thence along lands now or formerly Loiacono, Liber 1990, page 595, North Seventy-Six Degrees, Thirty-Three Minutes, Zero Seconds West Four Hundred Fifty Feet (N 76°33'00" W 450.00');

Thence along Lot #2, as shown on the above mentioned map, the following four (4) courses and distances:

1. North Thirteen Degrees, Thirteen Minutes, Thirty Seconds East One Hundred Eighty and Ten Hundredths (N 13°13'30" E 180.10');
2. North Seventy-Six Degrees, Thirty-Two Minutes, Forty-Four Seconds West Three Hundred Twenty-Eight and Sixty-One Hundredths Feet (N 76°32'44" W 328.61');
3. South Fifty-Eight Degrees, Twenty-Four Minutes, Zero Seconds West One Hundred Thirteen and Twenty-One Hundredths Feet (S 58°24'00" W 113.21');
4. North Seventy-Six Degrees, Thirty-Three Minutes, Zero Seconds West Two Hundred Sixty-Seven and Ninety-Two Hundredths Feet (N 76°33'00" W 267.92') to a 3/8" iron rod set;

Thence along the Easterly line of Lakeside Drive, North Nineteen Degrees, Thirty-One Minutes, Zero Seconds East Eighteen and Fifty-Two Hundredths Feet (N 19°31'00" E 18.52') to the point or place of beginning and containing 2.484 Acres of land more or less, as surveyed by Margaret M. Hillriegel L.S.

This Indenture,

Made the 31st day of October, nineteen hundred and seventy-eight

USER 2114 PAGE 808

Between LUDIVINE VIOLETTE, residing at Lakeside Drive, (no street number), Town of New Windsor, Orange County, New York,

part of the first part, and

TERRANCE RETCHO and JEANNETTE RETCHO, husband and wife, both residing on Lakeside Drive, (no street number), Town of New Windsor, Orange County, New York,

parties of

WITNESSETH, that the party of the first part, in consideration of
TEN and 00/100 (\$10.00) - - - - - Dollars,
lawful money of the United States, and other good and valuable consideration
paid by the parties of the second part,
do hereby grant and release unto the parties of the second part,
their heirs and assigns forever,

SH that lot, piece or piece or parcel of land situate, lying and
being on the easterly side of Lakeside Drive, formerly designated
Walnut Street Extension, Town of New Windsor, Orange County, New York,
more particularly bounded and described as follows:

BEGINNING at a point on the easterly side of a public road, known
as Lakeside Drive, formerly known as a private road, the said point of
beginning is South 57 degrees 23½ minutes East 52.22 feet from the
southeasterly corner of the Pruslin's 0.677 acre parcel; running thence
(1) North 19 degrees 31 minutes East 199.54 feet along the easterly
side of the said Lakeside Drive, thence over and through the said farm
acquired by William J. Cruthers and Charles Boos from Anna Johnson,
the following three courses, namely; (2) South 76 degrees 36 minutes
East 1100.00 feet, (3) South 8 degrees 39 minutes West 200.00 feet,
(4) North 76 degrees 33 minutes West 1137.85 feet to the point of
beginning.

EXCEPTING AND RESERVING therefrom so much as was conveyed by
Levite Violette and Ludivine Violette, his wife, to Antonio Morasse
and Mildred L. Morasse by deed dated October 14, 1968, recorded
November 1, 1968 in Liber 1607 Cp 105.

The said parties of the second part, in so far as the party of
the first part may grant same, are hereby granted the right to use
Beaver Dam Lake for boating, fishing, recreation and sports. It being
understood and agreed by the parties hereto that only boats propelled
by hand or wind shall be used upon said lake and that no boats
propelled by motors, engines, or other mechanical power will be per-
mitted or used thereon, and that said Lake shall not be used for any
business purposes whatsoever. It is understood and agreed by the
parties hereto that the party of the first part assume no liability
for damages or injuries to persons or property by reason of her grant
of the use of the streets or of the said lake to the parties of the
second part. Nothing contained herein and in the instruments hereto-
fore recorded shall be construed as impairing the rights of prior
grantors to maintain the dam at the south end of the lake at the
level at which it was on January 29, 1952, nor to impose any obligation
on the party of the first part of her predecessors in title to main-
tain such dam.

And the parties of the second part by accepting this deed hereby covenant and agree that they will not suffer nor permit at any time any advertising signs nor any fowl or other livestock, nor any noxious or noisome or other objectionable thing, having a regard to the general character of the neighborhood, on any part of the above described premises within 500 feet of the lake nor within 500 feet north of the north line of Beaver Dam Lake - Section I Development; nor suffer any manufacturing or any business of any kind whatsoever on any part of the above described premises within 500 feet of the Lake, nor within 500 feet north of the north line of Beaver Dam Lake - Section I Development; nothing herein contained shall prohibit the development of the property hereinbefore described as a bungalow colony; and the parties of the second part hereby further covenant and agree that no residence shall be erected nor shall any cesspool or septic tank or drains therefrom be installed less than 150 feet from the high water mark of Beaver Dam Lake, nor within 100 feet of any stream flowing into said Lake. X

SUBJECT to the right of way of any telephone or telegraph company or electric light or power company, or any other public utility company, as now established, or of record, if any there be.

NO PORTION of the premises above described shall be used as a hotel or boarding house, nor for any other commercial purpose, except X that nothing herein contained shall prohibit the development of the property hereinabove described as a bungalow colony.

TOGETHER with right of ingress and egress over the proposed roadway.

EXCEPTING and reserving to prior grantors the right to establish utility lines on the premises above described along the above described proposed roads.

BEING the same premises conveyed to Levite Violette and Ludivine Violette, his wife, by William Fruslin and Johanna L. Pruslin by Deed dated February 7, 1955 and recorded in the Orange County Clerk's Office February 11, 1955 in Liber 1336 of Deeds at page 189, the said Levite Violette having died a resident of the County of Orange on December 23, 1977 leaving the party of the first part herein as the surviving tenant by the entirety.

EXCEPTING from the premises described hereinbefore, the premises described in Deed from Antonio Morasse and Mildred L. Morasse, his wife, dated October 14, 1968 and recorded in Orange County Clerk's Office November 1, 1968 in Liber 1807 of Deeds at page 105.

Said premises being further described in accordance with a survey made by Edward P. Castaldo as follows:

ALL that certain lot, piece or parcel of land, situate, lying and being in the Town of New Windsor, County of Orange and State of New York and more particularly bounded and described as follows:

BEGINNING at a point on the easterly side of Lake Shore Drive; adjoining lands now or formerly of Tucci and Herrstadt, running thence along said lands now or formerly of Tucci and Herrstadt, South 76 degrees 36 minutes East 208.48 feet and North 13 degrees 24 minutes East 80 feet to a point; running thence along lands now or formerly of Spurr, South 76 degrees 36 minutes East, 900 feet to a point, running thence South 8 degrees 39 minutes West 200.0 feet to a point; running thence North 76 degrees 33 minutes West 1137.85 feet to said easterly side of Lake Shore Drive; and running thence along said easterly side of Lake Shore Drive, North 19 degrees 31 minutes East 119.09 feet to the point and place of beginning.

LIDER 2114 PAGE 810

Together with the appurtenances and all the estate and rights of the part y of the first part in and to the said premises.

*To have and to hold the premises herein granted unto the parties of the second part, their heirs and assigns forever.
as tenants by the entirety.*

And the said LUDIVINE VIOLETTE
covenant s that she has not done or suffered anything whereby the said premises have
been incumbered in any way whatever

And The grantor , in compliance with Section 13 of the Lien Law, covenant as
follows: That she 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 that she 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.

In Witness Whereof, the party of the first part has hereunto set her
hand and seal the day and year first above written

In the Presence of:

B. Am / Hunt

Ludivine Violette
Ludivine Violette

State of New York, County of Orange ss.:

On the 31st day of October, nineteen hundred and
seventy-eight before me personally came LUDIVINE VIOLETTE

, to me known
to be the individual described in, and who executed, the foregoing instrument, and
acknowledged that she executed the same.

B. Am / Hunt
H. SEARS HUNTER
Notary Public, State of New York
Qualified in Orange County
Commission Expires March 10, 1933

Notary Public - Orange County

Deed.

ADRIENS VIOLETTE

TO

THOMAS BUCHHE and
JULIETTE BUCHHE,
husband and wife,

0-61813

Deed, October 1st, 1973

SECURITY TITLE & CLERK CO.
22 BATTERY STREET
MOBILITY, N. Y. 10240

Charge, Record & Return:
CANTLINE, FLANAGAN & HUNTER
ATTORNEYS & COUNSELLORS AT LAW
45 GRAND STREET
NEWBURGH, N. Y. 10550

25-30
13-

25-30

2-2
13 10/10

W.A.
(111)

Adriens Violette

The Dragos Family
46 Lakeside Drive
New Windsor, NY 12553

March 12, 2007

Town of New Windsor
555 Union Avenue
New Windsor, NY 12553

Re: Opposition to Variance Request
Thomas Retcho, 42 Lakeside Drive, New Windsor, New York 12553,
and Mr. Retcho, Sr. at 40 Lakeside Drive, New Windsor, NY 12553

To whom it may concern:

We are neighbors of Mr. Thomas Retcho, adjacent to his property on the north side. In the past we were opposed to the granting of the necessary variances for him to build his house. Among our concerns were the effect a house would have on our privacy. We also had some concerns about the number of houses that could be built and the possibilities of future development. We also felt that the regrading of the land would negatively effect drainage on our property.

We were informed that our privacy was not a valid issue, that only one house would be allowed to be built and any drainage problems would be addressed by Mr. Retcho when they arose.

Mr. Retcho has been operating his landscaping business for several years. We tolerated it's existence despite it's intrusiveness and only questioned it's legality when Mr. Retcho began enlarging his parking area which is basically in front of our house. Please understand that his is not a "Mom and Pop" operation with a couple of lawnmowers and a pick-up truck. This is a large business-- with heavy equipment, backhoe/frontloader and large trailers for moving this equipment around. There are tanks of chemicals on trailers, fertilizer and blacktop sealer included. And the business is growing, as evidenced by the need for a larger parking area.

We are firmly opposed to granting Mr. Retcho a variance for this business and feel that it's operations should be moved to a more appropriate location, where zoning allows heavy industry, for the following reasons.

- 1 **Drainage-** My property has been negatively effected by the regrading of Mr. Retcho's property.
- 2 **Noise-** The sounds of the trucks backing up, hooking and unhooking trailers is pervasive, especially in the summertime when all the windows are open for ventilation. Large, motorized equipment also has to be started up in order to

drive it onto the trailers. If this variance is approved, our open windows will serve to allow the fumes that Mr. Retcho's machinery produces to waft into our house.

- 3 **Chemicals-** There is a stream that feeds the lake that bisects both Mr. Retcho's and our property. I believe that having tanks of chemicals in this close proximity to the lake is risky. Although fertilizer and latex driveway sealer appear to be relatively benign, their incursion into a lake can only have a negative impact. Many other toxic chemicals, such as herbicides, lawn fertilizers, and insecticidal chemicals, that are typically used in landscaping business, are also of concern.
- 4 **Traffic-** Lakeside Drive and the roads leading to it are narrow with 2-way traffic and cars parked erratically. We feel that the combination of additional trailer traffic and playing children is an invitation to tragedy.
- 5 **Residential Zoning-** This is a zoned residential neighborhood and all the residents pay taxes to live in a residential neighborhood. House values are based on the fact that it's zoned residential. Bringing in truck traffic and tanks of chemicals is not consistent with residential lifestyles. Allowing this kind of commercial enterprise would result in a decrease of property values and affect the saleability of adjacent homes.

The business as it exists currently violates code. Mr. Retcho exhibits no regard or consideration for the impact his business has on his neighbors. He operates and stores his equipment as far from his own residence as property lines would allow, sparing his own family the noise, air pollution, potential safety hazard, and eyesore that his business creates. Instead, Mr. Retcho is placing this illegal equipment at least 600 feet from his house, but within 100 feet of our house, in the line of site facing our front door.

Initial attempts made by Ken Schermerhorn to arrange mediation and compromise were received with scorn and threats. When approached about the possibility of moving the center of operations closer to his house, his reply was "I don't want that sh*t by my house!!"

His reply to our complaint that he was parking his equipment adjacent to our home was, "I park it there because it annoys them!" His subsequent reaction was the painting of red fluorescent X's on the trees facing the front of our house, excessive Posted/ No Trespassing signs and artwork in the form of stacked pallets, tires hung from trees by rope and 40 gallon plastic barrels all decorated by the same fluorescent paint. On an adjoining fence (that he owns) he painted in two foot letters the phone numbers for the police dept, fire dept, DEC and Hazmat.

Ultimately he threatened "Wait and see what happens if I lose" in reference to his application for a variance.

These incidences are all on file with the town. Thank you for your consideration of our concerns.

Sincerely,

Bob and Amy Dragos

Bob and Amy Dragos

cc: K. Schermerhorn, Assistant Fire Inspector

RESULTS OF Z.B. MEETING OF:

June 25, 2007

PROJECT: Thomas Retcho

ZBA # 07-07

P.B.# _____

USE VARIANCE: _____

NEED: EAF _____

PROXY _____

LEAD AGENCY: M) _____ S) _____ VOTE: A _____ N _____

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

NEGATIVE DEC: M) _____ S) _____ VOTE: A _____ N _____

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

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

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____

CARRIED: Y _____ N _____

PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES _____

VARIANCE APPROVED: M) Lo S) T VOTE: A _____ N _____

GANN A
LUNDSTROM _____
LOCEY A
TORPEY A
~~KANE~~ _____

Tabled to July 23,

CARRIED: Y _____ N _____

Robt. DRAGOS
Amy DRAGOS
Joe Amadores - Spoke re: Drainage
Everett Smith -
Joan Anderson -
Robt Anderson -
Audrey Amadores
If tabled - No Court Action
Tabled - <u>July 23rd, 2007</u>
June 25, 2007

RESULTS OF Z.B. MEETING OF: July 23, 2007

PROJECT: Thomas Retcho ZBA # 07-07

P.B.# _____

USE VARIANCE: _____ NEED: EAF PROXY _____

LEAD AGENCY: M) _____ S) _____ VOTE: A _____ N _____

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

NEGATIVE DEC: M) _____ S) _____ VOTE: A _____ N _____

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

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

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

ALL VARIANCES - PRELIMINARY APPEARANCE:
SCHEDULE PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____

CARRIED: Y _____ N _____

Continuation:
PUBLIC HEARING: STATEMENT OF MAILING READ INTO MINUTES _____
VARIANCE APPROVED: M) Lo S) 6 VOTE: A _____ N _____

GANN N
~~LUNDSTROM~~ _____
LOCEY N
~~TORPEY~~ _____
KANE N

CARRIED: Y _____ N _____

Large empty rectangular box with horizontal lines, likely for additional notes or agenda items.

July 23, 2007 Agenda

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
RECEIPT OF ESCROW RECEIVED:

DATE RECEIVED: 03-12-07

FOR: ESCROW 07-07

FROM:
Thomas Retcho
42 Lakeside Drive
New Windsor, NY 12553

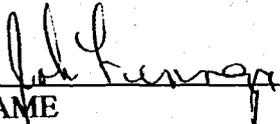
CHECK FROM:
SAME

CHECK NUMBER: 5932

TELEPHONE: 496-4059

AMOUNT: 300.00

RECEIVED AT COMPTROLLER'S OFFICE BY:


NAME _____ DATE 3-12-07

PLEASE RETURN ONE SIGNED COPY TO MYRA FOR FILING

THANK YOU

PROJECT I.D. NUMBER

Appendix C

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

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

1. APPLICANT /SPONSOR <i>Thomas Retcho</i>	2. PROJECT NAME
3. PROJECT LOCATION: Municipality <i>New Windsor</i> County <i>ORANGE</i>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <i>42 Lakeside Dr. Beaver Brook To Lakeside.</i>	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <i>Construction of fence for screening purposes only.</i>	
7. AMOUNT OF LAND AFFECTED: Initially <i>100 feet</i> acres Ultimately _____ acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) and permit/approvals <i>Town of New Windsor Building Dept.</i>	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: <i>Thomas Retcho</i>	Date: <i>2-26-07</i>
Signature: <i>[Signature]</i>	

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

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

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

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.8? If No, a negative declaration may be superseded by another involved agency.
 Yes No

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

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

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

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

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

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

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

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

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

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

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

Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide on attachments as necessary, the reasons supporting this determination:

 Name of Lead Agency

 Print or Type Name of Responsible Officer in Lead Agency

 Signature of Responsible Officer in Lead Agency

 Title of Responsible Officer

 Signature of Preparer (If different from responsible officer)

 Date



THE SENTINEL

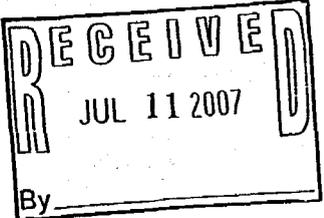
P.O. BOX 406
VAILS GATE, NY 12584

Invoice

Date	Invoice #
6/25/2007	493

Bill To
TOWN OF NEW WINDSOR 555 UNION AVE NEW WINDSOR, NY 12553

P.O. No.	Terms	Project
49756		

Issue Date	Description	Rate	Amount
6/15/2007	LEGAL ADS: APPEAL NO 07-07 - RETCHO	11.85	11.85
	1 AFFIDAVIT	4.00	4.00
			
Total			\$15.85

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. (07-07)
 Request of **T H O M A S RETCHO & TERRANCE RETCHO** for a VARIANCE of the Zoning Local Law to Permit:
 Request for:
 4 ft. Building Height for Proposed 8 ft. fence
 Interpretation and/or Use Variance for the storage, parking and use of trailers (57-1-113.1)
 Interpretation and/or Use Variance for the storage, parking and use of trailers (57-1-113.2)
 All at 42 & 40 Lakeside Drive in an R-4 Zone.

PUBLIC HEARING will take place on **JUNE 25, 2007** at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at **7:30 PM**
 Michael Kane, Chairman

State of New York

County of Orange, ss:

Kathleen O'Brien being duly sworn disposes and says that she is the Supervisor of Legal Dept. of the E.W. Smith Publishing Company; Inc., Publisher of The Sentinel, a weekly newspaper published and of general circulation in the Town of New Windsor, Town of Newburgh and City of Newburgh and that the notice of which the annexed is a true copy was published in said newspaper, 1 time (s) commencing on the 15th day of June A.D., 2007 and ending on the 15th day of June A.D. 2007

Kathleen O'Brien

Subscribed and shown to before me this 10th day of July, 2007.

Deborah Green

Notary Public of the State of New York
 County of Orange.

DEBORAH GREEN
 Notary Public, State of New York
 Qualified in Orange County
 #4984065
 Commission Expires July 15, 2011

My commission expires _____.

TOWN OF NEW WINDSOR ZONING BOARD OF APPEALS

PUBLIC HEARING FOR: Thomas Retchko

DATE: 6/25/07

SIGN-IN SHEET

	NAME	ADDRESS	PHONE NUMBER
1.	ROBERT DRAGOS	46 LAKESIDE DR.	496-3831
2.	Jose L. Amendola	21 Vascello Rd	496-9608
3.	EVERETT SMITH	25 VASCELLO RD.	496-6957
4.	ROBERT L ANDERSON	45 LAKESIDE DR	496-6706
5.	Jean R. ANDERSON	"	496-6706
6.	Gregory J. Gromundney	21 Vascello Rd	496-9608
7.	John Swick	47 Lakeside Dr.	496-7248
8.	Amy Dragos	46 Lakeside Dr.	496-3831
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
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20.			

PUBLIC HEARINGS:

THOMAS_RETCHO_ & TERRANCE_RETCHO_(07-07)

MS. GANN: Request for 2 foot building height for proposed 8 foot fence, interpretation and/or use variance for the storage, parking and use of trailers (57-1-113.1) and interpretation and/or use variance for the storage, parking and use of trailers (57-10113.2) all at 42 & 40 Lakeside Drive in an R-4 zone.

Mr. Thomas Retcho and Mr. Terrance Retcho appeared before the board for this proposal.

MR. T. RETCHO: Thomas Retcho, 42 Lakeside Drive.

MR. TE. RETCHO: Terrance Retcho, 40 Lakeside Drive.

MR. LUNDSTROM: Madam Chairwoman, I must recuse myself because of my position on the homeowners' association.

(Whereupon, Mr. Lundstrom stepped down from the board for this proposal.)

MS. GANN: Tell us why you're here this evening.

MR. T. RETCHO: I'm here tonight, I need to clear, I'm here for a variance for side yard fence increase of 4 feet from 4 feet to an additional 4 feet for an 8 foot total for screening purposes. Also and this is where I have to modify this I guess or ask for a modification, preliminarily I was instructed by town counsel to meet with counsel of my own for a use variance or interpretation thereof. I met with Dorfman, Noble and Conway in Westchester, New York regarding this variance. After a couple meetings with him, the use variance in that area is obviously was not going to work based on state law and what the Town Law, his legal recommendation to me was to remove the business aspect from the residence at 42 Lakeside Drive. Since

speaking with him, all paperwork, all phone calls are rerouted and contracted to an outside source, not even in the Town of New Windsor. So, again, from this counsel meeting with him the request that I would be making tonight then would be for a variance to the Town Code to allow just the storage and/or parking of said trailers that are in your possession for just the storage of them until they're taken off the property for use.

MS. GANN: Now when you're saying taken off the property for use, are you saying when you go to work in the morning let's say and those particular items are taken off the property, is that every day they're taken off the property?

MR. T. RETCHO: Not every day. The complainant in this case has made reference that this is a large operation and not a mom and pop operation. It's not a large operation, I gross maybe \$30,000 from this, it's operated, I operate maybe three days a week with this, in my viewpoint, it's part time work. I don't operate five days, six days, seven days a week in reference to the question you just asked.

MS. GANN: Can you just clarify for us which and if in fact all of these items are actually being stored on the property just so we have a sense of what's being stored on the property?

MR. T. RETCHO: Okay, the truck that you see in the photo leaving the driveway that's a GMC 3500 pickup truck with a dump body on it. There's two photographs that show the truck leaving the property, I don't think they have these photos. And there's two photographs there, the one you're looking at there just shows the truck, one of the, originally, Ken Schermerhorn decided the commercial vehicle code for all this stuff and I informed him according to the VOT that in the code that the town has it excludes commercial vehicles, trucks

and SUVs 10,000 pounds or less from the code and he agreed with me and the truck is a non-issue in this particular case, but that would be one of the items. I also use that on a daily drive, I drive that as a personal vehicle as well. The next photo of the seal coat machine, the black apparatus that's used, I use that maybe one month out of the season usually towards the end of the summer, I just purchased it last year for seal coating driveways. There are no chemicals, hazardous chemicals in it, it's a water-based compound with sand, to address any concerns regarding chemicals. The next item is an enclosed trailer that's, I basically keep my two lawn mowers in there and hand tools. The next item is a white flatbed trailer that's used for moving a small backhoe or I usually use, I move a skid steer (phonetic) usually from the rental place to the job and then back to the rental place, it's usually not far from home, unless I'm using it as a personal, on my own property for my own property for my own personal use because the property is still in the development. So come the time when I get a piece of machinery that I rent for a customer I'll make use of that machinery on my own property at times so it's not brought back and just kept there. The machine, the green machine with the plastic tub on it that's called a hydroseeding machine that basically is fresh water with a fertilizer, no hazardous, it's a straight fertilizer, there's no pesticides or anything in it, it's a new grass grow fertilizer and grass seeding, a paper mulch which is compressed from bails of shredded phone books and so forth. And that's it. And the other photos that I included are, I'm just, in these photos I'm just trying to show the length and proximity of the equipment in relation to the road, it's almost in reverse, if you look at the photo that looks down the driveway, has a brownish fence to your left, that's not even near the top where the driveway crest is.

MS. GANN: Is this the place where you have the storage?

MR. T. RETCHO: Well, that's, yes, that also came up in the complainant's opposition to the variance that I was adding because my business was growing and in actuality what was happening on this side, this is my driveway that runs down here, this property here on this side is my father's property, 40 Lakeside Drive, I own the other side, what I was doing with this before everything took place was I was creating this area here to put up one of those portable garages to clean up the area that obviously wound up being the root of I guess the problem, smaller stuff that I had stored up in there. And at one point it was a little unsightly, so I was creating that to put that in and then when this came to a head I was informed by Ken Schermerhorn that I could not put up a portable garage, that's the vinyl half round things that they're not allowed in the Town of New Windsor. So, therefore, that was the reason for increasing that, the complainant states in the letter that I was doing it because my business is growing, the equipment that you see other than the seal coat machine is the only piece that I've added in five years, I've had this other equipment, I've been using it, there have been no issues up until when this came to light regarding any inconveniences, nothing came about and this is on a social level in the neighborhood from any other neighbors regarding safety, regarding chemicals, regarding anything, had there been, it could have been addressed in a neighboring fashion, which is not anything that I'm not willing to do. So, again, I guess it would partially I guess on town counsel's voice and the board I leave according to conversations with my attorney or with the counsel that I referenced that taking the business aspect out of it, off the property now takes me out of the situation of applying for a use variance because business is not being conducted from that property. I'm bringing this, I obviously have to equipment on the property, it leaves the property and I bring it home just like anybody who might bring home their flatbed truck or something or

their Sears van at the end of the night. I don't do any business in terms of people don't bring me anything, I don't fix things on my property for them, I take whatever, if I'm using this that day I take it and I leave it, I come back at end of the day, I park it. And on these other photographs I tried to show to the best I could this one in particular it's, I don't know, that basically shows the viewpoint from where I keep the equipment, through the woods there you can barely make out the complainant's house. I think the more the issue with the complainant is that in the fall when the leaves fall and the foliage disappears that they can see this equipment and I would agree with them by saying that it might be an eyesore, I was never approached about putting up a fence which would have solved the visibility aspect of it. In fact, about a month ago I had the opportunity to see Mr. Dragos near the road of his property, I stopped, I introduced myself because at this point I had never met him, I asked him if there was any way that we could come to a reasonable compromise and solution to the problem. I never heard back from him. I believe that, you know, if this was a, just an issue of them not wanting to see this, they have also made reference even from the beginning when I first built my house, they commented to the fire inspector that my house should never have been built in the first place, it's actually in the first paragraph of their own thing, their objection to my variance where this seems to be just more of a I've intruded on their privacy, whether or not the business exists there or I just have a driveway that runs down passed their house. I don't feel that this should be the forum for them trying to maintain or to conceal their privacy. Privacy is a very important issue, that's why I built my house in the woods, I like my privacy. I would be concerned with similar instances but I think I might take approach to, you know, addressing my neighbors first and see if we can come to, I mean, it seems to be a little bit more of legal, some of it's a little bit legal, I don't know if I've

taken that aspect off the table and we're just dealing with the variance to allow the equipment, so that's what I'm asking the board, it's a variance, a variance for the storage area of the trailers. If I could add the last time I was here the gentleman that recused himself he had asked me if I could give him a list of other people in the area that had similar either businesses or equipment and although I'm not going to give names and addresses because I don't feel that would be fair to those people but this is within a two mile radius of my home basically within Beaver Dam Lake there are 12 locations that have motorcycle trailers and/or ATV trailers existing which are under this code not allowed. There are seven businesses with similar trailers and/or equipment that operate within the lake. There are four locations where company vehicles are brought home every night. There's one person who has a wholesale car business from his property which is very close down the street from where myself and the complainant live and there's one business three driveways down that operates a plumbing business where he has two or three box trucks, vans, cars that park in the driveway every day for their employees, he has a commercial delivery of plumbing parts every day to the house. So, again, my concern in relation to why this has come about is in the complainant's statement she indicates safety and all the other things in the neighborhood but makes no complaint about a neighbor three doors down who operates and brings trucks in and out of their property and such. And my viewpoint of that is that it's not bothering her so it's not an issue but those were the issues that were brought up in the complaint regarding the stuff that I have at my house.

MS. GANN: Okay.

MR. T. RETCHO: With that I'll give it back to the board.

MS. GANN: I'm going to open this up to the public. Is there anyone here that's here for this public hearing? I need you to sign the sheet we're going to pass around here, put your name and address then when you come on up please speak loudly enough for the stenographer to hear you.

MR. DRAGOS: I'm Robert Dragos, 46 Lakeside Drive, I'm the next door neighbor, I'm the complainant. I live on the next property with my family, I'm directly adjacent to his property to the north. I brought my survey. This is Lakeside Drive.

MS. LOCEY: This is your property?

MR. DRAGOS: Yes, ma'am, this is Lakeside Drive, this is my property, my driveway and my parking area over here, okay, this is where I live, okay, this is Mr. Retcho's property, this is Thomas Retcho's property here and this is his dad's property over here. I live right here from Retcho's house is over here, where he wants to store his equipment is here and his driveway is here and his dad's driveway is here which is 75 feet from my house, 100 feet from my house, 700 feet from his house so it really in all fairness if he was interested in not imposing he could keep it down here, this is pretty much all new.

MR. TORPEY: Where is his house and where is your house?

MR. DRAGOS: Right here.

MR. DRAGOS: So just on that basis, Mr. Retcho's operating his properties, I mean, this business on his property since I'm not sure, maybe five years. Last year when he started expanding his parking area over here is when I finally said enough is enough, he started parking, you know, a piece of equipment and two pieces of equipment, maybe he was moving it all up

here, maybe it was over here but anyway this is where he feels he can store it best, okay. Having a business in New Windsor on private property of this magnitude is wrong, it's illegal, okay, and it's wrong and I thought it was finally time to speak up. And he was taking advantage by parking over here and here, okay, at some point we had approached, he was, let's go back, two years ago he was blowing dirt on his driveway cleaning his driveway, we approached him to say that he's creating a whole lot of dirt, that he's blowing dirt, my wife went over to say, my wife went over to say you're blowing dirt, he said get off off my property.

MRS. DRAGOS: He said I used to be a cop, get off my property.

MR. DRAGOS: He said get off my property. He's not warm and fuzzy, okay, this is, you know, he just told us to get off, he doesn't really care too much about who his neighbor's are, how he inconveniences us. I could go on for a really long time but I think that this here just speaks for itself. When I finally reported it and I've shown you all these pictures, I've written you letters and you guys have seen all this already when I said, when I finally called the town and they said that parking here was unacceptable, okay, this was his reaction, this is not a spirit of compromise, this is not a spirit of cooperation, this is not what we're going to sit down and we're not going to chat over coffee about how we're going to resolve this, okay. So I think that it's the, he's saying that I was, you know, anyway, as far as, I mean, I can go on, we've researched it, you can't store trailers whatever you call them, they can't be stored, they can't be stored on the property in a residential area, he can't operate a business here, that's all illegal as far as I know. There's no reason to grant a variance, he's not interested in cooperating with anybody. The only time he decided it was time to cooperate was when he finally found himself in a situation where he was

done, okay, which is why I really didn't want to discuss with him, you know, any at this point any compromise cause he has shown up to this point no indication that he was willing to compromise. So this is where this is, where we are today, if you want, I can go on for a long time, I don't, really don't think there's a need to, you know, it doesn't belong here.

MS. GANN: Thank you. And you, ma'am?

MS. DRAGOS: I'm Amy Dragos, 46 Lakeside Drive, New Windsor. I'm also a neighbor, I'm married to Bob. We went back to 2001 when there was like a planning board meeting or whatever, a zoning board and he wanted to build his house and we were all concerned about different things, the water issue. Mr. Retcho assured us that if there was any kind of water problem he'd take care of it. Meanwhile, there was a water problem for my neighbor, he's got pipes directly leading on my property from the back of his house into the woods and it's wet down there already, so I can't prove how much more wet it is but having a drainage pipe directly on your property is a sign, Mr. Retcho does not care about his neighbors, he only cares about himself, so if he gives you this same--one time I went over, he was blowing dirt with his leaf blower to the point where I saw it on my second story of my house, I looked out the window and realized it was obscuring Vascello Road. I thought somebody was going to get hurt. I went over and said I don't know if you can tell where you are but you're causing this problem. He said I used to be a cop, get off my property. He said I'm trying to get, he said you're not trying to help me, get off my property. So when this issue came up he wasn't the first person I was going to go and talk to and I explained that to Ken Schermerhorn formally if I have an issue with a neighbor I'd talk to them, but I don't feel in this case that I can because this is the kind of answer I got, so I just, you know, as this wasn't just like a little parking area, he started dumping

bricks and we went to the town, is he allowed to enlarge, you know, this plateau over towards our house and then he started with the trees when we complained and he continued to add dirt, he added about 30 truck loads of dirt at least to build out this plateau. Now he wants to put an eight foot fence on top of that which is going to really be like a wall like from King Kong, you know, there's going to be like this huge barrier.

MR. DRAGOS: This has been brought up X amount to make it flat and what, since this he's added 30 more I would say he's, I mean, I didn't stand and count them but he was bringing in fill from Stewart Airport, he brought in for three days 8, 10 hours a day the dump trucks were just coming in banking in piles and piles of fill and dropping it down by his house, he's built this, he's taken all his property and he's built it up higher than everything around him, made, you know, it's very nice but, you know, my property's currently flooded in the back because the water has no place to go, not that I use it, you know, that was always our buffer against bad neighbors.

MRS. DRAGOS: I also have a question to ask you. If he's using this private driveway to access this is a legal issue to access his father's property for parking as well as his own, is that considered private road? Cause it said back in 2001 that you're not allowed to do that, the town, Mike Babcock and Mr. Torpey said that that's not allowed. I don't know if it is only to a house.

MR. KRIEGER: Whether it's allowed or not this board has no legal power to do anything by the one way or the other. I offer no opinion as to whether it's legal or illegal, it's just whether it is or not, there's nothing that the Zoning Board of Appeals can do about it, it's not the right forum.

MRS. DRAGOS: Who would you talk to about that?

MR. KRIEGER: I would suggest first of all that you would be best advised to talk to counsel about it and maybe a court remedy, maybe a local court, maybe Supreme Court, maybe some other body but it's not the Zoning Board of Appeals.

MRS. DRAGOS: When he was building his house one of our concerns was our privacy because we were facing the woods, our house was basically backed in a little bit, okay, and I was also concerned that he was going to build two or three houses or, you know, that it was going to turn into a little development in the woods and these were things that were brought up and they said that these things would not happen. This is a driveway, if it's ever used for anything but a driveway to a single-family house it becomes a private road and would have to meet all the private road standards, 50 foot width, it would not be legal and the applicant then says don't have room to do that.

MS. LOCEY: And you're reading from what?

MRS. DRAGOS: I'm reading from the March 12, 2001, I don't know which one, zoning or planning board.

MR. KRIEGER: It's zoning board. Mr. Torley, he was a different member.

MRS. DRAGOS: And so this was at a zoning board?

MS. GANN: Yes.

MRS. DRAGOS: So also there was a stipulation that it would not be ever used for anything besides that at this meeting so just feels like he's using it for other things besides just a driveway down to his house.

MR. KRIEGER: All I can tell you is the ZBA has no

enforcement capability, all right, there are no zoning police, there are no, there's nothing that it can do to cause that to be enforced or not enforced. Mr. Torley gave you an opinion as to what the Town Law and the Town of New Windsor provides is fine and it was largely as far as I'm concerned largely accurate but what can, you know, the next question so what, what do you do about it, well, that's not here.

MRS. DRAGOS: Mr. Babcock said the same thing.

MR. DRAGOS: His application is for putting a Band-Aid on a gun shot wound, this is, he wants to keep this, he finds his own equipment unsightly, he doesn't want to keep it down by his house, that's a public record, he said that. So he wants to keep it up by our house but he wants to put up an attractive eight foot stockade fence around this to hold this equipment, that's okay for us to look at but it's not acceptable for him to look at and I think that--

MS. GANN: Okay.

MRS. DRAGOS: He also in some of the notes that I got from the town said that he doesn't get his variance just watch what I do to them next basically.

MR. DRAGOS: There was an implied next just wait till they see what I do if I don't get my variance.

MS. GANN: Thank you very much.

MR. ARMENDAREZ: My name is Jose Armendarez, I live at 21 Vascello Road. My wife's property borders the property on Vascello Road. We have a buffer between me and Mr. Retcho. Drainage problems, I know you're here for when he built the house we've had more water problems since before, we even before he even moved in there and right now I think how much about?

MRS. ARMENDAREZ: About \$2,000 just in our driveway now comes right up in the house.

MR. ARMENDAREZ: My driveway is tore up just in drainage but the wall that she was talking about, the ditch that goes between my yard and their yard because when he built his house he diverted the water and it's all coming down, it used to be a small pond, now it's like a lake and all that water's diverted to my property and we've had nothing but problems in the basement of my house and the last snow storm or the last storm we had 11:00 at night till 5 o'clock I was sucking water out with a Shop Vac.

MS. LOCEY: These problems started when?

MR. ARMENDAREZ: After I built the house and I came to the town and I asked the town to look at it and the old administration, the highway superintendent came over and he says well, you're going to have to sue the Dragos, I said well, why should I sue them, they didn't create the problem, he did. So the town said well, might as well take care of it yourself by the time you go to court I'll spend 20,000, \$50,000, I don't have that kind of money.

MS. GANN: Thank you.

MR. ARMENDAREZ: And the letters that she has from the Town Board from 2001 it states that there's not to be another subdivision, well, the road it would create a subdivision.

MS. GANN: And this isn't a subdivision that we're talking about here.

MR. ARMENDAREZ: Here's the deed and right in the father's deed there's not supposed to be public property. Thank you.

MS. GANN: Thank you.

MR. SMITH: My name is Everett Smith, I live at 25 Vascello Road and I got this notice of public hearing in my mail, my wife gave it to me and told me I should look into it. I knew nothing about what was going on and when I read it, I still didn't know what was going on. Four foot building height for proposed eight foot fence, I have an architect he's a friend, I asked him what does that mean, he says I don't know. Then interpretation and/or use variance for storage, parking and use of trailers, both trailers, he has a couple, both trailers. What kind of trailers? How many trailers? It says nothing. I guarantee you that there'd be a lot more people here tonight if they knew what this stuff meant. I just am now--

MS. GANN: That's why we have the public hearing, that way people can come here and find out what's happening.

MR. SMITH: But I wouldn't have come if it wasn't for my wife asking me to look into it.

MS. GANN: You can't put everything in detail, that's why you have to come to the public meeting.

MR. SMITH: Okay, well, I'm here.

MR. KRIEGER: Since he's here, show him the pictures.

MS. GANN: I can certainly show you what they're talking about here.

MR. SMITH: Doesn't matter cause now I know what you're talking about and as a person who lives in the front of the Dragos and whose property is right there with the Retcho's I, you know, Mr. Retcho mentioned 12 cases in the area within a 2 mile limit that are in violation of the Town Code because they have a couple of trucks in their yard or whatever and it's a business use. As far

as I'm concerned, 13 wrongs do not make the other 12 right. We're just adding one more wrong to the situation, maybe the other 12 have to be looked into but he's going much further than a couple of trucks for a plumber in the yard, you're talking about a sealer which is used one month out of the year, you're talking about a number of different construction equipment, pieces of construction equipment, a lot of stuff which I'm going to have in my back yard, which the Dragos are going to be looking at. I did not buy a house in Beaver Dam which is a strictly residential area to have this construction stuff in my back yard. It doesn't belong there, shouldn't be there and I don't care if there's other people in the area that are breaking the code, perhaps that has to be looked into, but this certainly giving approval to something like this is just making 13 wrongs instead of 12 wrongs so I'm asking you to please, I'm quite upset with this, just learned about it tonight as to what this stuff is and I'm, I certainly don't want it in my back yard.

MS. GANN: Thank you.

MR. T. RETCHO: If I can interject regarding Mr. Smith's comments, if the board would ask Mr. Smith where he operated his printing business for 20 some odd years.

MR. KRIEGER: It's irrelevant where he operated or whether anybody else was breaking the law, I don't care whether there's 12 or 112, it's immaterial. What's in front of this board at this point is this particular application, nothing else.

MS. GANN: Thank you, Mr. Smith.

MRS. ANDERSON: Joan Anderson, 45 Lakeside Drive. I'm just inquiring that we're in a residential area and a lot of this is repetition and how come trailers and everything else can go in and out?

MS. GANN: Just for the record, are you for or against this?

MRS. ANDERSON: I'm against it because why would they put up a fence if the trailers weren't approved so they must have been approved?

MS. GANN: Sir, are you here to say something? Can you state your name and address?

MR. ANDERSON: Robert Anderson, 45 Lakeside Drive, New Windsor, New York.

MR. KRIEGER: Just for your understanding, nothing has been approved by this board or disapproved, there are two applications but they're brought here simultaneously, doesn't mean that one was, something was approved and then this application was brought, he brought them both at the same time.

MRS. ANDERSON: Cause like 2 1/2 years ago when this driveway was approved it was for one car and one house, not one car but a house, suddenly it's all these commercial equipment going in and out.

MS. GANN: Thank you. Anyone else here for the public hearing?

MRS. ARMENDAREZ: Audry Armendarez, 21 Vascello Road. I just want it on the record that I'm against this, it's not, I'm against this but I'm also, my back yard is his side yard and I'm annoyed quarter to seven Memorial Day weekend I hear beep, beep, beep, he's constantly working on the property with this equipment. End of story.

MS. GANN: Thank you. Anyone else? Okay, I'm going to close the public portion of the meeting and ask Myra how many mailings we had.

MS. MASON: On June 12, I mailed out 49 addressed envelopes and had no response.

MR. KRIEGER: For the board's understanding so that you know what the code provides there's no definition in the New Windsor Codes for the word business nor is there as they call it in the law a bright line test, either it is or it isn't, if you do or don't do something in particular business, when a word is not defined by the statute, it is to be given its so-called common meaning, that means it's up to you to determine whether or not since he's removed certain aspects or he says he's testified that he's removed certain aspects, whether that has made this not a business. Now, second, the New Windsor Town Code provides that there shall be no, not, there's no number, it's none, no, N-0 storage or parking and use of a trailer and the word trailer is not, is likewise not defined, so you certainly have to make those determinations in your mind before deciding whether on the interpretation use variance. If the board should wish to proceed to a use variance, I remind the board there's still been no compliance with SEQRA that I've heard so without SEQRA compliance, the board doesn't even reach the questions that are normally associated with a use variance. Any questions?

MS. LOCEY: No but if we wanted to go through SEQRA we could make a negative declaration.

MR. KRIEGER: If it was presented, yes, you could.

MS. LOCEY: And there's been no short form?

MS. MASON: There is.

MR. KRIEGER: Is there a short form filed?

MS. MASON: Yes.

MR. KRIEGER: Okay, if you find the short form to be adequate and so forth then you can, and having held the public hearing, you would have to comply with SEQRA to put that up to a vote, it would be an uncoordinated review which means it would be binding in any other forum other than this.

MS. LOCEY: I have one comment that the applicant should be reminded that in order to be granted any variance you need a majority of the board, it's a five member board, meaning you need three votes in your favor, one member is not here, a second member has recused himself, there are three voting members left so in order for you to get approval it would have to be unanimous amongst the remaining board members here this evening.

MR. KRIEGER: That's correct, that's the state law, yes.

MS. GANN: So what Kathleen's basically saying we can either table it or we can take the vote now.

MR. T. RETCHO: Either way Eric he's recused himself regardless so it would be--

MS. GANN: But there's one member missing this evening so it would be a total of four total so that they're just not here tonight.

MR. T. RETCHO: Would that be at the next meeting you'd have to vote?

MR. KRIEGER: Well, it could either be tabled to a specific date or tabled to be taken off the table, there's no guarantee of a specific date that the missing member, you know, there would be four members on that date but you would have the same option then that you have now, look around and say there's only

three then you would, you could ask for it to be tabled again, that's your choice. Out of fairness that's a courtesy that's been extended to every applicant in front of this board when there are only three. Kathleen is absolutely correct and I would just point out for the purpose of edification that it's been the practice of this board if it were tabled to a specific date and there were only three on that date it could be re-tabled if the applicant chose, not like he's stuck with the next date regardless.

MS. LOCEY: Public portion has been closed, Everett, I'm sorry, you had your, you were up here, we gave you a couple minutes, we give everybody fair time, I'm sorry, we closed the public portion.

MR. SMITH: I was just wondering about the tabling, whether or not the whole hearing or just the vote?

MR. KRIEGER: No, since the public portion has been closed, there's no need to have that over again.

MR. SMITH: What about the person who's missing who didn't hear all this?

MS. GANN: It will be in the minutes.

MR. KRIEGER: It's entirely up to that member, if that member feels by reviewing the minutes that he can become sufficiently conversant with this in order to vote then he'll vote. If he feels that he cannot he will so state and this permitting tabling is not designed to bind that particular member to one course of action or the other, it's his call.

MS. LOCEY: I have a question also on the agenda, the first requested variance calls for a two foot building height for proposed eight foot fence but I've seen other things where they have indicated they need a four foot variance for that fence height.

MS. MASON: My paperwork says two.

MS. LOCEY: What's allowed?

MR. KRIEGER: The maximum allowed for side and rear yards.

MS. LOCEY: Is that correct, so it's a two foot variance, not a four foot variance?

MR. KRIEGER: Assuming that he wishes to put it.

MR. T. RETCHO: No, that's--

MS. MASON: Probably goes in front of his house and only four foot is allowed in the front of the house.

MR. KRIEGER: That's correct, if it's in the front of his house then it would be a--

MS. LOCEY: So 6 foot for the side yard.

MR. KRIEGER: Side and rear is 6, front is 4.

MS. MASON: Anything in the front of the house from the house forward.

MS. LOCEY: Okay.

MS. GANN: Any other questions or comments from the board?

MS. LOCEY: One other comment I have the next two interpretations call for an interpretation and/or use variance for the storage, parking and use of quote unquote trailers, what about the other equipment that's there? There was the contained trailer, there was a flatbed, there was something used for blacktopping? That's a trailer?

MR. T. RETCHO: Yes.

MS. LOCEY: These are all considered trailers?

MR. T. RETCHO: Yes.

MS. LOCEY: Okay then that answers that question. That's not a trailer.

MR. T. RETCHO: That's excluded, that's not in question.

MS. LOCEY: So this is allowable this commercial vehicle?

MR. T. RETCHO: Yes.

MS. GANN: Are you speaking about this blue truck?

MS. LOCEY: Yes.

MR. TORPEY: You're allowed to have one truck.

MR. T. RETCHO: The Town Code states no commercial vehicles, excluded are trucks and SUVs 10,000 pounds or less, this weights 7,600 pounds.

MR. KRIEGER: So far as the zoning board is concerned if he wasn't, if no violation was written on account of that, there's nothing to appeal from and you're the Zoning Board of Appeals, that doesn't get you to right, wrong or indifferent, just doesn't get here.

MS. GANN: Anything else?

MR. KRIEGER: It's been the practice for the local court before whom violations are brought that while the matter is pending they don't, no decision is made and that to my understanding has been pretty much the

universal practice. So I would anticipate if the matter is tabled that that would continue to be the case, no local court decision would be made. I think that so in essence it has the affect of extending time so I would ask the board to bear that in mind when setting a tabling date, perhaps they would, it would want to set a sooner date and let at that point let the chips fall where they may.

MS. LOCEY: Well, we're not, the request would not be to table the item for additional information, it's only to--

MR. KRIEGER: For the vote.

MS. LOCEY: And only if the applicant requests it.

MR. KRIEGER: That's correct but you can indicate in your, if there's a motion to table you can either make a motion to table without date or table to a particular date. Usually in the past it's your option but usually in the past it's been the practice of the board to table to a specific date both for the purpose of keeping control over the application, bearing in mind what I said about the, you know, any pending violations and also out of fairness to persons interested in the outcome of this particular application, so that everybody knows what the status is and the use of the tabling mechanism is not an attempt by the members of the zoning board to avoid a vote, it merely is a procedural attempt to be fair.

MS. LOCEY: I think we're prepared to vote if that's what the applicant wants but in all fairness he does have, should have that option cause there's only three voting members here to table it.

MS. GANN: Mr. Retcho, how would you like to proceed?

MR. T. RETCHO: We'll table.

June 25, 2007

39

MS. GANN: Okay, we also in the motion we're going to put the tabling date will be July 23.

MS. LOCEY: Why can't it be earlier than that?

MS. GANN: The previous meeting before that is full and I'll accept a motion.

MS. LOCEY: I'll offer a motion to table the decision on the application of Thomas Retcho and Terrance Retcho until July 23, 2007.

MR. TORPEY: I'll second that.

ROLL CALL

MR. LUNDSTROM	ABSTAIN
MS. LOCEY	AYE
MR. TORPEY	AYE
MS. GANN	AYE

(Whereupon, Mr. Lundstrom came back to the board for the remainder of the meeting.)





1763

Town of New Windsor

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

Assessors Office

March 21, 2007

Thomas Retcho
42 Lake Side Dr.
New Windsor, NY 12553

Re: 57-1-113.1, ZBA#: 07-07 (49)
 57-1-113.2

Dear Mr. Retcho:

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 \$65.00 minus your deposit of \$25.00.

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

Sincerely,

J. Todd Wiley, IAO
Sole Assessor

JTW/rah
Attachments

CC: Myra Mason, Zoning Board

57-1-71.122
ELIZABETH MCGEE
9 VASCHELLO RD.
NEW WINDSOR, NY 12553 ✓

57-1-81.11
BRUCE &
CAROL ANNE SHEPARD
16 LAKE SIDE DR.
NEW WINDSOR, NY 12553 ✓

57-1-71.3
KEVIN CURRAN
3 VASCHELLO RD.
NEW WINDSOR, NY 12553 ✓

57-1-115
RAYMOND GAZZOLA
14 SCHIAVONE RD.
NEW WINDSOR, NY 12553 ✓

57-1-71.2
CARMEN & LUIS CHAPARRO
48 LAKE SIDE DR.
NEW WINDSOR, NY 12553 ✓

57-1-116
THOMAS R. III &
SUSAN RAY
377 CHESTNUT AVE.
NEW WINDSOR, NY 12553 ✓

57-1-74.3
ROBERT & AMY DRAGOS
46 LAKE SIDE DR.
NEW WINDSOR, NY 12553 ✓

57-1-117
JOSEPH A LOCURTO III
369 CHESTNUT AVE.
NEW WINDSOR, NY 12553 ✓

57-1-75.1
ROBERT &
JANET BENTKOWSKI
44 LAKE SIDE DR.
NEW WINSOR, NY 12553 ✓

57-1-119
ALFRED & MARY LYMAN
3 RICO DR.
NEW WINDSOR, NY 12553 ✓

57-1-76
JOHN DUCEY &
GISELLE ULMO
34 LAKE SIDE DR.
NEW WINDSOR, NY 12553 ✓

57-1-120
FRANCIS & LINDA MALCOLM
5 RICO DR.
NEW WINDSOR, NY 12553 ✓

57-1-77
BARRY SAXE
MC DANIEL RD.
SHADY, NY 12479 ✓

57-1-121
JACQUELINE HUNTER
8 RICO DR.
NEW WINDSOR, NY 12553 ✓

57-1-78.2
PATRICIA FURMAN
28 LAKE SIDE DR.
NEW WINDSOR, NY 12553 ✓

57-1-122
NATHAN &
NATALIE EDMONDS
6 RICO DR.
NEW WINDSOR, NY 12553 ✓

57-1-79.2
TROY METCALF &
RENEE DUKE
24 LAKE SIDE DR.
NEW WINDSOR, NY 12553 ✓

57-1-123
RICHARD &
MARION SANTIAGO
4 RICO DR.
NEW WINDSOR, NY 12553 ✓

57-1-80.11
SERGE & JULIA MOREL
20 LAKE SIDE DR.
NEW WINDSOR, NY 12553 ✓

60-1-18.2
HARIS DURUTLIC
13 LAKE SIDE DR.
NEW WINDSOR, NY 12553 ✓

60-1-13
JUDY SCHMIDT ✓
33 LAKE SIDE DR.
NEW WINDSOR, NY 12553

57-1-65.21
ARI & ALLISON WEINSTEIN ✓
24 VASCHELLO RD
NEW WINDSOR, NY 12553

6-1-2
NATALIA FRID ✓
65 LAKE SIDE DR.
NEW WINDSOR, NY 12553

60-1-14,15
RICHARD CLAUSEN ✓
31 LAKE SIDE DR.
NEW WINDSOR, NY 12553

57-1-65.22
EDWARD, ELENI & ✓
JOSEPH HANLEY
60 LAKESIDE DR.
NEW WINDSOR, NY 12553

6-1-3,4.1
GREGORY & ✓
RAMONA AGRESTI
57 LAKE SIDE DR.
NEW WINDSOR, NY 12553

60-1-16
FRANK KINCADE, SR. ✓
PO BOX 415
WASHINGTONVILLE, NY 10992

57-1-66.1
GARY & THERESA GAWRICKI ✓
58 LAKESIDE DR.
NEW WINDSOR, NY 12553

60-1-4.2
GARY & EILEEN BROMM ✓
55 LAKE SIDE DR.
NEW WINDSOR, NY 12553

60-1-18.1
ARLENE & ✓
BRIAN HENRICKSEN
19 LAKE SIDE DR.
NEW WINDSOR, NY 12553

57-1-66.2
CHRISTOPHER & ✓
STACY DUNN
35 VASCHELLO RD
NEW WINDSOR, NY 12553

60-1-5
ALAN PEARSON ✓
53 LAKE SIDE DR.
NEW WINDSOR, NY 12553

60-1-29
MARIA CABRERA ✓
115 BARNES RD.
WASHINGTONVILLE, NY 10992

57-1-67.1,67.2
EVERETT & MARY SMITH ✓
27 VASCHELLO RD
NEW WINDSOR, NY 12553

60-1-6
DANIEL & KAREN SMITH ✓
49 LAKE SIDE DR.
NEW WINDSOR, NY 12553

57-1-58.1
THOMAS & LOUISE RYAN ✓
10 VASCHELLO RD
NEW WINDSOR, NY 12553

57-1-67.3,57-1-69,70
AUDREY GAZZOLA ✓
21 VASCHELLO RD
NEW WINDSOR, NY 12553

60-1-7
EDWARD & JOAN SWIDER ✓
47 LAKE SIDE DR.
NEW WINDSOR, NY 12553

57-1-58.2
JULIE VANDERBERG ✓
12 VASCHELLO RD
NEW WINDSOR, NY 12553

57-1-68
ARCHIBALD & ✓
PATRICIA GRAHAM
18 VASCHELLO RD
NEW WINDSOR, NY 12553

60-1-8
ROBERT & JOAN ANDERSON ✓
45 LAKE SIDE DR.
NEW WINDSOR, NY 12553

57-1-59
MICHAEL & BETSY AGRINSONI ✓
16 VASCHELLO RD
NEW WINDSOR, NY 12553

57-1-71.111
KEITH & KATHLEEN STUDD ✓
7 VASCHELLO RD
NEW WINDSOR, NY 12553

60-1-10,11
BRANN FREEMAN & ✓
MICHELLE SIPOS
41 LAKE SIDE DR.
NEW WINDSOR, NY 12553

57-1-62
GERARD EDGE ✓
20 VASCHELLO RD
NEW WINDSOR, NY 12553

57-1-71.112
PATRICK MCCARTHY ✓
5 VASCHELLO RD
NEW WINDSOR, NY 12553

60-1-12
CECELIA LLANUSA ✓
1641 WEST LAKEWOOD DR.
ROCK HILL, SC 29732

57-1-63
JOHN & MARY HYDE ✓
62 LAKESIDE DR.
NEW WINDSOR, NY 12553

57-1-71.121
C&A CUSTOM HOMES LLC ✓
59 LAKESIDE DR.
NEW WINDSOR, NY 12553

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. (07-07)

Request of THOMAS RETCHO & TERRANCE RETCHO

for a VARIANCE of the Zoning Local Law to Permit:

Request for :

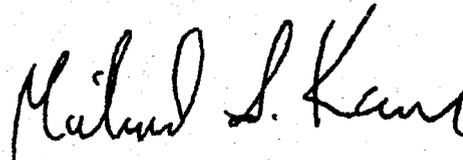
4 ft. Building Height for Proposed 8 ft. fence.

Interpretation and/or Use Variance for the storage, parking and use of trailers (57-1-113.1)

Interpretation and/or Use Variance for the storage, parking and use of trailers (57-1-113.2)

All at 42 & 40 Lakeside Drive in an R-4 Zone.

PUBLIC HEARING will take place on JUNE 25, 2007 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 P.M.



Michael Kane, Chairman

March 12, 2007

10

THOMAS_RETCHO_&_TERRANCE_RETCHO_(07-07)

Mr. Thomas Retcho and Mr. Terrance Retcho appeared before the board for this proposal.

MS. GANN: Good evening, how are you? Tell us why you're here this evening.

MR. TH. RETCHO: We're seeking a variance for a fence along the property line on my property at 42 Lakeside Drive and also a variance for parking of a couple pieces of commercial equipment I use for self-employed business and as well as on my father's, his property abuts my driveway.

MS. GANN: Just curious why you're looking to put up a fence?

MR. TH. RETCHO: Well, there's an issue with the neighbor who doesn't want the stuff on the property, he doesn't want to look at the stuff.

MS. GANN: Stuff meaning?

MR. TH. RETCHO: The trailers for the business in an effort to screen that as a screening purpose only the issue for the fence is what I'm requesting so the variance would be to have a fence high enough so it's, so it acts as a screen.

MS. GANN: What sort of fence would this be, is it wood?

MR. TH. RETCHO: Wood, stockade, the tight wood fence.

MS. GANN: The type you can't see through?

MR. TH. RETCHO: Yes.

MR. LUNDSTROM: Eight foot high fence?

March 12, 2007

11

MR. TH. RETCHO: Well, I felt that eight foot would be adequate because of the grade various, the property sits up a little higher than the neighbor's viewpoint so going high enough to allow so that it would screen adequately.

MR. LUNDSTROM: What side of the property would the fence be on, north or south side?

MR. TH. RETCHO: The property would be if I were at my house looking at the front door it would be on the right side of my property in the front of the property.

MR. LUNDSTROM: From the road all the way to the end of the property?

MR. TH. RETCHO: No, just enough to screen the area that's in question with the equipment.

MR. LUNDSTROM: One of the things you may want to do at the public hearing is bring a large area map.

MR. TH. RETCHO: I had photos.

MR. LUNDSTROM: Just a large thing of this so you can show the entire board.

MR. TH. RETCHO: The property right where this cuts over right in this area where the 75 is is just maybe about 60 to 80 feet in length that I would have to screen.

MS. GANN: So in looking at these photos right here why, is your property where the Xs are, that's where you want to put the fence?

MR. TH. RETCHO: Pretty much the property line runs in the woods and this is where it's there and I have one other spot.

March 12, 2007

12

MS. GANN: Where do you reside?

MR. TH. RETCHO: This is like in the woods off of Lakeside Drive, it's about.

MR. TE. RETCHO: 900 feet.

MR. TH. RETCHO: Well that's where I live but where this stuff is it's up over the hill, it's not visible from the road but it is visible for this particular neighbor.

MS. GANN: So this is all woods in here, correct, until you get to your residential.

MR. TH. RETCHO: In the summertime you can't see that from their vantage point with the overgrowth of trees and so forth.

MS. GANN: There is no other spot you can put these vehicles?

MR. TH. RETCHO: That was kind of a flat area, the primary areas on my father's property which is on this side and it was pretty much flat, it used to be a garden that my grandfather had years and years ago so I use that because again my property, the driveway on the one side I only have about 10 or 15 feet before the other neighbor's property and the, and the other side is grass and the front yard so to speak so that was just a good place for me to put it in there kind of tucked it all out of the way again with the exception of the neighbor that can see this.

MS. GANN: Who put the Xs on the trees?

MR. TH. RETCHO: I did all on my property.

MS. GANN: And these are the types of vehicles that

March 12, 2007

13

will be seen on the property.

MR. TH. RETCHO: Well, they're only really visible now in the fall and winter season and with the fence it should either eliminate the view of that or restrict it considerably.

MS. GANN: How many vehicles and how many--

MR. TH. RETCHO: They're trailers, there's that one, there's the landscape trailer which holds the equipment and I have another heavy equipment trailer I think there's about four or five altogether.

MS. GANN: How are they exiting the property?

MR. TH. RETCHO: On my driveway.

MS. GANN: Out this way?

MR. TH. RETCHO: You go out this way to get out and the driveway's like right here and that's part of my father's house, you go out there and then it goes down to the road. So basically when you come in the driveway it comes up and over, nothing's visible from the street and they're just, I just pull in, I park them, unhook and then drive down the rest of the driveway and they're pulled out once a day and put back once a day.

MR. LUNDSTROM: Madam Chairman, if I may, Thomas, how many trailers do you currently have here?

MR. TH. RETCHO: Four or five, yeah, no, five.

MR. LUNDSTROM: Currently you have five trailers parked there?

MR. TH. RETCHO: Not all in the one area because I broke them up because of the issue that I have with the

March 12, 2007

14

neighbor, I put a couple on my father's property then I have another area on my property that I put so what we're dealing with my father's property is even further away from where you see this trailer to the neighbor's property line is probably a good hundred and a quarter, 150 feet, the closer one where the other green trailer is this one, this one to their property line is maybe 75 feet.

MS. GANN: Is that a truck or a trailer?

MR. TH. RETCHO: It's a trailer, it's used, you mix water and grass seed and you spray to do a lawn installation.

MS. GANN: Just curious what business you're in.

MR. TH. RETCHO: Yes.

MR. LUNDSTROM: Currently you have five trailers on the property and looking to add two more?

MR. TH. RETCHO: No, actually, the reason that I brought my father and I'm seeking a variance for the two properties so that I mean I can put them all on his which would be the furthest away, I'm just trying to accommodate, you know, and try to work it out I guess for all parties, I can put them all on his, I have the room there but in terms of the variance depending on how the board wants to see it go I can put three trailers on my property and two on his and vice versa.

MR. LUNDSTROM: Now, with this variance that you're asking you're asking to increase the number of trailers by two?

MR. TH. RETCHO: No, I'm asking to allow the trailers on the property to begin with because according to the Town Code they're not allowed to be on the property.

MR. LUNDSTROM: That was going to be my next question to counsel is is this a permitted thing under the zoning?

MR. KRIEGER: Well, I was going to question further about that, yes, I see the according to the application there are two applications for interpretation of the storage and parking and use of a trailer, notwithstanding the fact that there are two on the agenda you're now saying there are five on the property.

MR. TH. RETCHO: Yes and I raise the question with the town building, the fire inspector who brought this to my attention as to the interpretation of the legal interpretation of a trailer under the code.

MR. KRIEGER: Is that, I was, that was my next question.

MR. TH. RETCHO: Under the code and I guess I have to go through the procedure to verify under the code it states that use of a trailer on the property is prohibited but it kind of is vague because it doesn't describe this particular type of equipment, it describes a trailer that would be used for construction trailer type purpose for construction site where you'd have engineers, it describes a mobile trailer where somebody might live in it if you parked a fifth wheel on the property and you were living out of it, it doesn't specifically address this type of trailer so I don't know.

MR. KRIEGER: Well, you say it says a trailer and I have, that's my first question, you're looking for a variance, says a trailer, it's actually four or five of them so second question partially asks what kind of, what is it you're looking for, interpretation the use of the word trailer. So if the Zoning Board of Appeals interprets the use of the word trailer to include those

March 12, 2007

16

things that are on the property, is it your intention to proceed from there to ask for a use variance?

MR. TH. RETCHO: Yes.

MR. KRIEGER: In which case you should be aware of the fact that there are very strict criteria for the granting of a use variance, this is something that's been created by the state, not by the town and it's something that, that's not been because of those strict criteria that has not been done by people without assistance of counsel skilled and knowledgeable in this particular area. The sections governing use variances are not only contained in the Town Code but also this board is limited by those contained in the state law, the Town Law of the State of New York, though if it's your intention to proceed to a use variance, that's something that it's up to you but it's something that you may want to seek the assistance of counsel on. Now the other thing because of the use variance application at least in this part it would be necessary for the board to go through the requirements of SEQRA as part of the application process. You would give them a form, right?

MS. MASON: For what?

MR. KRIEGER: Short form.

MS. MASON: He has it, he has it filled out already.

MR. KRIEGER: It will have to be completed and the board will have to go through that as well so I think that answers the question your question you asked earlier Mr. Lundstrom?

MR. LUNDSTROM: Yes.

MR. KRIEGER: And the answer to your question is yes.

March 12, 2007

17

MR. LUNDSTROM: Okay.

MS. MASON: So he does need a use variance?

MR. KRIEGER: Well, failing an interpretation it's the usual interpretation first and then if that interpretation doesn't proceed might as well put the use variance application in so they can all be heard at that hearing, he doesn't have to come back again and go through the whole procedure again, be done in one shot.

MR. TORPEY: How many trailers are allowed, one?

MR. KRIEGER: That's something that the building inspector will have to answer but no, the question is ultimately and the prohibition behind trailers is they don't want, framers of the code don't want people running a commercial business in a residential zone, that's what's behind it. So there aren't any requirements, there aren't any allowances as far as trailers are concerned. This applicants raised a question whether the term trailer is defined in our code.

MR. TORPEY: But like a motorcycle trailer or--

MR. KRIEGER: Yeah and I will at the time of the public hearing I will be able to further advise the board with respect to that.

MR. TH. RETCHO: So at that hearing that will be addressed first and then whether or not I would have to seek a use variance?

MR. KRIEGER: That's right, in other words, it's a twofold process, you apply for the interpretation first. If the interpretation is what you want it to be you don't need to go any further. If it's not then it allows you to proceed to a use variance right there and then at that hearing.

March 12, 2007

18

MR. TH. RETCHO: Okay, that's good, keep me from coming back.

MR. KRIEGER: Yeah, from having to reapply, it can all be taken care of at that time but you should be aware of the fact that as I said the state has made use variances very difficult to get.

MR. TH. RETCHO: Can I ask you this if like you had advised that to seek guidance from counsel would it be possible to wait for the interpretation before I, in other words, to hire counsel now only to find out that it is not needed at all be given the opportunity at that hearing if I need to postpone it till another hearing in order to obtain counsel for that variance would that be possible only in terms of reasonability for cost effectiveness?

MR. KRIEGER: I understand what you're saying, that will be a matter that will be up to the whether to adjourn the hearing without arriving at a decision which is basically what you're talking about basically what it amounts to is is a matter that will be up to the zoning board at the time.

MS. LOCEY: But all the legal notification--

MR. TH. RETCHO: But if I don't obtain counsel before the next meeting can I come in, if an interpretation obviously doesn't go in favor that it is allowed and I have to seek the use variance and I don't have counsel at the time and I want to proceed then I'm left to defend it on my own.

MR. KRIEGER: That's right, and that's certainly an application you could make at the time but what I'm saying to you is you should be aware in making that application that the ZBA may grant it and they may not and they may say no you're here now, let's proceed. In

many towns quite frankly they don't even bother having the preliminary hearings, they go right to a public hearing, if you're not ready, too bad. The practice here has not been as harsh but the, whether it will extend as far as what you're saying is a matter of discretion that the board will vote on.

MR. TH. RETCHO: I'm just trying to feel out in terms of the direction I should head.

MR. KRIEGER: So the answer to your question is maybe.

MS. LOCEY: Is it possible because when the legal notices go out notifying the public of the public hearing that's been scheduled it has to give a description of what that public hearing will entail and does he have the option of having a public hearing on the fence which is more or less straightforward something we see more or less routinely and the interpretation of the trailers as they're described in our code, can that be the end of the public hearing? If the public hearing goes against what he's looking for can he then make another application to the zoning board for the use variance?

MR. KRIEGER: That's what he'd have to do, yes, he can.

MS. LOCEY: He has to advertise for two public hearings but that's an option he may consider if he so chooses.

MR. TORPEY: But right now he's just here for the fence.

MR. TH. RETCHO: Well, the fence is moot basically if the trailer use is not allowed the fence is regardless I mean even if the use is allowed then the fence is still a non-issue, I'm just trying to--

MR. KRIEGER: If the fence application is granted as I said it may or may not be, don't mean to indicate one

March 12, 2007

20

way or the other but if it's granted there's no law that requires you to erect an eight foot fence, merely says you got permission, doesn't say that you're compelled to do it.

MR. TH. RETCHO: That part I'm just trying to ease a burden.

MR. KRIEGER: If, yes, you always have the opportunity of making an application.

MR. TH. RETCHO: I can wait and I will, I will make the application but then I have to pay the additional fees.

MR. KRIEGER: You have to go through it all over again and if you were, the other thing that you should be aware of if you have proceedings brought against you by the town, in town justice court, what happens here doesn't affect them, in other words, if the zoning board is willing to say well, okay, well, wait then maybe the town justice isn't, they have no power to bind the town justice either way, so I don't know and it's not directly relevant to the proceedings to this board whether or not there are any proceedings in town court.

MR. TH. RETCHO: Not to my knowledge.

MR. KRIEGER: Just occurs to me that it is possible and that's why I wanted to cover it. I take no position on whether there should or shouldn't be, whether there is or isn't, nothing to do with this board.

MR. LUNDSTROM: Just one other question, have you looked at other places for the trailers?

MR. TH. RETCHO: Yes, it would cost me roughly \$1,000 a month to store my equipment in an area that would be zoned commercial to store--I barely, I make enough money with the business to basically pay my taxes.

March 12, 2007

21

MS. GANN: One more question just for the record, what's inside one of these vehicles or trailers?

MR. TH. RETCHO: Well, that particular trailer holds water and paper mulch and grass seed but it's not stored that way, in other words, I only mix it when I'm doing a job.

MS. GANN: There's no other chemicals in any of the trailers?

MR. TH. RETCHO: No, I don't have an chemical sprayers license, I don't handle pesticides anything of any poisonous nature.

MR. KRIEGER: So for purpose of the application you should have pictures of the trailer, clear pictures of the trailers that you want the interpretation on. The pictures that the board has I would characterize as partial pictures.

MR. TH. RETCHO: Right, they weren't taken to show the equipment, they were taken to show the viewpoints.

MR. KRIEGER: I understand and just incidentally happens to include the equipment but as long as you're applying with respect to the equipment I'm sure the neighbors would want to know exactly what it is that they're looking at.

MR. LUNDSTROM: Another question that may be addressed at a public hearing would be are there any other properties within the area that have something similar to this where they're storing trailers? We don't need the names but this would probably be one of the questions that would come up so you may want to be prepared for that.

MR. TH. RETCHO: Sure, I mean, I didn't want to throw

March 12, 2007

22

anybody under the bus neither so if they ask, I mean, I guess I can bring a list.

MR. TORPEY: Six?

MR. TH. RETCHO: You can go more than that, there's quite a few.

MS. GANN: If there's no other questions, I'll accept a motion.

MS. LOCEY: I will offer a motion to schedule a public hearing on the application of Thomas Retcho and Terrance Retcho for their requested two lots building height for proposed eight foot fence and interpretation for storage parking and use of a trailer, an unknown number of trailers on two different section, block and lots, the first being 56-1-113.1 and the second 57-1-113.2, all at number 42 and number 40 Lakeside Drive in an R-4 zone.

MR. LUNDSTROM: I'll second that motion.

MS. MASON: You're saying that those numbers are wrong?

MR. TH. RETCHO: For the fence they're wrong, the fence is in front of the furthest most part of the house which the Town Code only allows four feet, sides and rear is six feet, front.

MR. KRIEGER: Front yard fence so it's a four foot variance that he's looking for.

MS. MASON: So I will have to change that in the motion.

MS. LOCEY: I will modify the motion to indicate four foot variance on the height of the fence.

MR. KRIEGER: And a trailer is actually five trailers.

March 12, 2007

23

MR. TH. RETCHO: Right, it was listed in the original, I don't know what you have there, I didn't specifically say one, a trailer.

MR. KRIEGER: Just a question of getting paperwork.

MR. TH. RETCHO: I just didn't want you to think I was misleading the board.

MR. LUNDSTROM: I will second the amendment.

ROLL CALL

MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MS. GANN	AYE



RESULTS OF ZBA MEETING OF: March 13, 2007

PROJECT: Thomas + Terrance Betcho ZBA # 07-07

P.B.# _____

USE VARIANCE: _____ NEED: EAF PROXY _____

LEAD AGENCY: M) _____ S) _____ VOTE: A _____ N _____

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

PUBLIC HEARING: M) _____ S) _____ VOTE: A _____ N _____

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

NEGATIVE DEC: M) _____ S) _____ VOTE: A _____ N _____

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

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

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____ CARRIED: Y _____ N _____

ALL VARIANCES - PRELIMINARY APPEARANCE:

SCHEDULE PUBLIC HEARING: M) Lo S) Lu VOTE: A _____ N _____

GANN A
LUNDSTROM A
LOCEY A
TORPEY A
~~KANE~~ _____

CARRIED: Y _____ N _____

PUBLIC HEARING: _____ STATEMENT OF MAILING READ INTO MINUTES _____

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

GANN _____
LUNDSTROM _____
LOCEY _____
TORPEY _____
KANE _____

CARRIED: Y _____ N _____

5 Trailers on property
Need Use Variance for trailers
Need clear pictures of the trailers
4' in front of house for fence

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

RECEIPT
#169-2007

03/12/2007

Retcho, Thomas J.

Received \$ 50.00 for Zoning Board Fees, on 03/12/2007. Thank you for stopping by the Town Clerk's office.

As always, it is our pleasure to serve you.

Deborah Green
Town Clerk

ZBA # 07-07 Application fee



3/12

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

JAN 18 2007
Date

Application Type: Use Variance Area Variance
Sign Variance Interpretation

I. **Owner Information:** Phone Number: (845) 496 4059
Thomas Retcho / Terrence Retcho Fax Number: ()
(Name)
42 Lake side Dr. / 40 Lake side Dr. New Windsor
(Address)

II. **Applicant:** Phone Number: (845) 496 4059
Thomas Retcho Fax Number: ()
(Name)
42 Lake side Dr. New Windsor
(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: R4 Property Address in Question: 57 / 1 113.1
Lot Size: _____ Tax Map Number: Section 57 Block 1 Lot 113.2
a. What other zones lie within 500 feet? NA
b. Is pending sale or lease subject to ZBA approval of this Application? _____
c. When was property purchased by present owner? _____
d. Has property been subdivided previously? _____ If so, When: _____
e. Has an Order to Remedy Violation been issued against the property by the Building/Zoning/Fire Inspector? _____
f. Is there any outside storage at the property now or is any proposed? _____

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

07-07

COMPLETE THIS PAGE

**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:

The location of my equipment at present poses no health, safety or welfare of the area or neighbors. The equipment is approx 300 ft from road and not visible at all with the exception of the Dragos family. Currently there is approx 75'-100' of property between where the equipment is kept and the Dragos's property. With respect to their "visual" of the equipment, the Dragos can only see it in the fall and winter months. It's a small amount of equipment, if I were to have to move it, it would cause me a great hardship financially. I am a disabled retired police officer trying to provide for my family, therefore I respectfully request that the area variance be granted.

PLEASE NOTE:

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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 (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 area that variance(s) is/are being requested for showing relationship to property lines (5 or 6) 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)

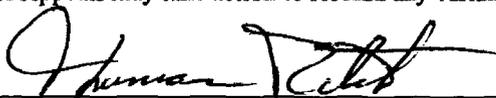
The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/her information and belief. The applicant further understands and agrees that 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:

20 day of February 2007.

CHERYL L. CANFIELD
Notary Public, State of New York
Qualified in Orange County
#01CA6073319

Commission Expires April 22, 2010
Signature and Stamp of Notary



Owner's Signature (Notarized)

Thomas Retcho

Owner's Name (Please Print)

Applicant's Signature (If not Owner)

PLEASE NOTE:

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

APPLICANT/OWNER PROXY STATEMENT
(for professional representation)

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

Terrence Retcho, deposes and says that he resides
(OWNER)

at 40 Lakeside Dr in the County of Orange
(OWNER'S ADDRESS)

and State of New York and that he is the owner of property tax map
(Sec. 57 Block 1 Lot 113.2)
designation number (Sec. _____ Block _____ Lot _____) which is the premises described in

the foregoing application and that he authorizes:

Thomas Retcho
(Applicant Name & Address, if different from owner)

42 Lakeside Dr New Windsor
(Name & Address of Professional Representative of Owner and/or Applicant)

to make the foregoing application as described therein.

Date: 2-20-07

Terrence Retcho
Owner's Signature (MUST BE NOTARIZED)

Sworn to before me this:
20th day of February 2007

Thomas Retcho
Applicant's Signature (If different than owner)

Cheryl L. Canfield
CHERYL L. CANFIELD
Notary Public, State of New York
Qualified in Orange County
#01CA6073319
Commission Expires April 22, 2010

Representative's Signature

Signature and Stamp of Notary

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.**

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

APPLICATION FOR VARIANCE - continued

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

Area Variance requested from New Windsor Zoning Local Law,

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area			
Min. Lot Width			
Reqd. Front Yd.			
Reqd. Side Yd.			
Reqd. Rear Yd.			
Reqd. St Front*			
Max. Bldg. Hgt.	300-11-C-1-C	8 ft	4 ft.
Min. Floor Area*			
Dev. Coverage*			
Floor Area Ration**			
Parking Area			

*Residential Districts Only

**Non-Residential Districts Only

**PLEASE NOTE:
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SUBMITTAL.**

COMPLETE THIS PAGE

3/12



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: \$30.00
*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 (PRELIMINARY) 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