

**ZB# 68-15**

**Emilio Panella & Primo  
DeVoti**

**(no SBL given)**

68-151  
15A Panella & De Viti

File

1-20-69

3:pm.

Just

**Variance Approved**

**For Hamburger Stand**

A request for a variance to enable a hamburger stand to be placed on an undersized lot on Rt. 32 was approved by the New Windsor Zoning Board of Appeals Monday. The request was from Emil Panella.

Chairman Louise Budney of the board said four persons opposed the variance at a public hearing. She said the residents felt it would increase traffic and that the area has enough hamburger stands.

108-151  
15A  
Panella & wife  
filed  
1-20-69  
3 PM  
sent

① File No. 68-15 + <sup>1</sup>15A - Panella + De Voti  
✓ Filed 1-20-69 3.P.M.

(1 bundle)

✓ 3 - Pink Postal Receipts - Emilio Panella

2nd bundle.

✓ 29 - Pink Postal Receipts - Emilio Panella

~~✓ 29 - Pink Postal Receipts - Emilio Panella~~

✓ 1 Yellow - Notice of Mail Arrival or attempted  
Delivery - E. Panella Realty

✓ 2 Legal notices - Clippings

✓ Letter dated Jan 3, 1969 - addressed to att. Sommers.  
from Orange County Planning Board -  
RE: Application of De Voti + Panella (2 pages)

✓ Adopted 12/20/65 - Application No. 15A.  
Date: Nov 6<sup>th</sup>, 1968  
Premio De Voti - Emilio Panella

✓ Adopted 12/20/65 - Application No 15  
Date Oct 15, 1968  
De Voti + Panella

①  
✓ Letter dated Dec. 6, 1968 - from Attilio Cavalari  
to Mrs. Budney (Certified envelope attached)

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✓ Letter - Dated Dec 3, 1968 - to Attilio Cavalari  
from ZBA.

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✓ List of Spectators - 11/4/68  
" " 11/18/68

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✓ News Article - Variance Approved for Hamburger  
Stand

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✓ List of Spectators - 12/2/68

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✓ Public Notice of Hearing - ZBA  
Dated Oct 22, 1968

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✓ Public Notice of Hearing - Appeal No. 5

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✓ Public Notice of Hearing - Appeal No. 15A

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✓ List of Spectators - Hearing Com't - Dec. 2nd -  
held on Dec. 16th.

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✓ Application - Emilio Panello + Premio De Voti

taken  
2/18/69 by  
Merrill A. Budney Chairman  
Returned 3/4/69 by Mrs. Budney - pt.

Adopted 12/20/65

APPLICATION FOR VARIANCE

APPLICATION NO. 15A

DATE: Nov. 6th 19 68

(Area)

TO THE ZONING BOARD OF APPEALS OF THE TOWN OF NEW WINDSOR, NEW YORK

I (we) Primo De Vito of 766 Broadway Newburgh

Emilio Panella

(Street & Number)

M.D. 40 Route 94 New Windsor  
N.Y.

HEREBY MAKE

(State)

APPLICATION FOR A VARIANCE:

A. LOCATION OF THE PROPERTY 356 Windsor Highway " G I "  
(Street & Number) (Use District on Zoning Map)

B. PROVISION (S) OF THE ZONING ORDINANCE APPLICABLE: (Indicate the article, section, sub-section and paragraph of the Zoning Ordinance applicable, by number. Do not quote the ordinance: G B)

C. NOTE: NECESSARY FINDINGS: Before any Variance is granted, the Zoning Board of Appeals must find all of the following conditions to be present:

1. Conditions and circumstances are unique to the applicant's land, structure or building and do not apply to the neighboring lands, structures or buildings in the same zone because:

BECAUSE THE HIGHEST USE FOR APPLICANTS  
LAND IS MERCANTILE

2. Strict application of the provisions of this ordinance would deprive the applicant of a reasonable use of the land, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighboring lands, structures or buildings in the same zone because:

LAND IS SUITED FOR NO OTHER PURPOSE

3. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of the Ordinance because:

APPLICANT PURCHASED LAND ONLY AFTER ALL  
SURROUNDING LAND HAD BEEN UTILIZED IN  
THE WAY APPLICANT WISHED TO UTILIZE LAND

4. Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this ordinance because: \_\_\_\_\_

LAND ON RT. 32 IS PRESENTLY BEING USED AND  
HAS ITS HIGHEST VALUE AS MERCANTILE LAND.  
PARCEL IS TOO SMALL FOR "G1" ZONE.

5. Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zone because: \_\_\_\_\_

D. Describe in detail how the property is to be used and submit plans or sketches in duplicate.

DRIVE IN RESTAURANT AND 53 OFF  
STREET PARKING SPACES

I. Application to be accompanied by a check, payable to the Town ~~Engineer~~ of New W. in the amount of \$10.00. Application to be returned to: New Windsor Zoning Board of Appeals, ~~Box 25~~, New Windsor, N. Y. 12550.

F. NOTICE OF HEARING:

Applicant agrees to send notice of any public hearing via registered mail to all abutting land owners as required by Section 9.4.1 of the ordinance

G. If the property in question located within a radius of 500 ft. of an adjoining municipality, the Board should be notified.

Dated: \_\_\_\_\_

Emilio Panella  
Signature of Applicant

STATE OF NEW YORK )  
COUNTY OF ORANGE ) SS

Sworn to this 6<sup>th</sup> day of Nov. 1968

M.D. 40 Route 94  
Address New Windsor N.Y.

Gertrude L. Woronoff  
GERTRUDE L. WORONOFF (Notary Public)  
Notary Public, State of New York  
Residing in Orange County  
My Commission Expires March 30, 1970

562-5330  
Telephone No.

DO NOT WRITE IN THIS SPACE

Application NO. 15A  
Date of Hearing Nov. 6th & Nov. 18th  
Date of Decision Jan 6, 1969 (decision made on both)

Date Received Nov. 6, 1968  
Notice Published Oct. 22, 1968

Decision: 2 hearings held - Nov. 4, 1968 - Use Variance defeated  
Nov. 18, 1968 - Area Variance granted

ORANGE COUNTY PLANNING BOARD  
COUNTY BUILDING, GOSHEN, NEW YORK

CARL J. MAYS  
PLANNING DIRECTOR

PETER GARRISON  
ASSISTANT PLANNING DIRECTOR

EDWIN J. GARLING  
SENIOR PLANNER

(914) 294-5151

January 3, 1969

Mr. Bernard J. Sommers, Attorney  
Town of New Windsor Zoning Board of Appeals  
County National Bank Plaza  
280 Broadway  
Newburgh, New York 12550

Re: Application of DeVoti & Panella for  
a Use and Area Variance to Permit  
Construction of a Burger Chef  
Restaurant

Dear Mr. Sommers:

Receipt of the above for which a Public Hearing was scheduled for December 16, 1968 is hereby acknowledged.

We have reviewed the proposal as required by Paragraphs l and m, Section 239 of Article 12-B of the General Municipal Law and grant County approval. However, we strongly recommend that the Town give serious consideration to extending the LB Local Business District across N. Y. Route 32 to include all of the land between N. Y. Route 32 and Old Forge Hill Road (North Road) south of the Vails Gate Elementary School. Our reasons for this are as follows:

1. The area contains a Sunoco Service Station which although permitted in a G I District is subject to the LB District's regulations for service stations.
2. The proposed use is similar in character to uses found in the existing LB District i.e. Vails Gate Diner, Stewart's Root Beer and Mary's Sunshine Drive-thru Dairies.
3. The site cannot be expanded to meet the minimum lot area requirements for G I District uses.
4. The area represents a logical extension of the shopping center located immediately to the south and is consistent with

ORANGE COUNTY PLANNING BOARD  
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(914) 294-5151

- 2 -

concept envisioned in the Town's Comprehensive Plan i.e. the use of the Vails Gate Elementary School property as a transitional zone between commercial uses (shopping center) to the south and general industry uses to the north.

Our approval of the above does not constitute approval of the site plan. To complete this review the following information must be supplied:

1. A site plan of the Sunoco Service Station showing the location of the access to and from N. Y. Route 32.
2. The number of seats available to patrons.
3. Specifications for all proposed free-standing signs i. e. area, height and the type of illumination and location of light sources, if any.

Very truly yours,



Peter Garrison  
Planning Director

PG:f

*Alfred J. Cavalari*  
ATTORNEY AT LAW  
P. O. BOX 276  
VAILS GATE, NEW YORK 12584  
TELEPHONE AREA CODE 914 JO 1-5969

December 6, 1968

CERTIFIED MAIL - R.R.R.

Mrs. Louise A. Budney  
Chairman, New Windsor Zoning Board of Appeals  
Veronica Ave., M.D. 42,  
New Windsor, N.Y.

Dear Mrs. Budney:

I acknowledge receipt of your letter of December 3rd wherein you invited Mr. Panella, Mr. De Voti and Myself to another hearing to be held on December 16th. As stated at the meeting held on Monday night, it is my position that your Board has no further jurisdiction and no legal right to reOpen any hearings that would revoke permits previously given my clients. Therefore, I will advise my clients not to attend any hearings which have as the purpose a reconsideration of approvals previously given them for area variance and for use variance.

If you can tell me that the meeting to be held on December 16th is for the purpose of clarification or for answering any questions, I will be glad to attend, since as stated last Monday night we wish to cooperate with the Board in this regard. I stress, however, that my clients cannot attend any meetings, hearings or whatever you may term such gatherings to reconsider applications 15 and 15A both of which have been previously approved by your board.

If you will clarify the purpose of the meeting to be held on December 16h, specifying that it is for information only and not for reconsideration of applications previously granted, we would then be glad to attend.

Very truly yours,

*Alfred J. Cavalari,*  
*per g. v.*

/gw  
CC: Mr. E. Panella  
Mr. P. DeVoti

*file*

XERO COPY

XERO COPY

XERO COPY

XERO COPY

ZONING BOARD OF APPEALS  
TOWN OF NEW WINDSOR, NEW YORK

Veronica Ave., M. D. 42  
New Windsor, N. Y. 12550  
December 3, 1968

Alfred Cavalari, Esq.  
Attorney at Law  
P.O.Box 276  
Vails Gate, N. Y.

Dear Sir:

Please be advised that at the regular meeting of the Zoning Board of Appeals held on December 2, 1968 the Board reconsidered the application for an area variance which had originally come before the Board at a public hearing held on November 18, 1968. At the December 2nd meeting the Board voted to table decision on a final determination of the application for an area variance pending re-opening of the application for a use variance which had been heard by the Board at a public hearing held on November 4, 1968.

Accordingly, at the next regular meeting which will be held on December 16, 1968 at 7:30 p.m. at the New Windsor School, the Board will convene to consider the applications No. 15 and 15A for both a use and area variance.

You are invited to attend this meeting.

Yours very truly,

*Louise A. Budney*  
Louise A. Budney, *pd*  
Chairman

BS:pd

cc: Mr. Panella  
Mr. DeVoti  
Spectators

PUBLIC NOTICE OF HEARING BEFORE  
THE ZONING BOARD OF APPEALS

October 22, 1968

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the  
Town of New Windsor, New York will hold  
a public hearing pursuant to Section 48-33 A of the Zoning  
Ordinance on the following proposition:

Appeal No. 5

Request of Primo De Voti & Emilio Panella for a

variance of the regulations of the zoning  
ordinance, to permit A drive in restaurant  
(describe proposal)

\_\_\_\_\_, being  
a variance of Article #3, Section 48-13,  
for property owned by him situated as follows

Fronting on the Route 32 on the left bounded  
on the west by North Rd. & on the north by Vails Gate  
(or other description of requested action by the Board of Appeals.) School

SAID HEARING will take place on the 4th of November, 1968,  
at the Town Hall, beginning at 7:30 o'clock P.M.

By resolution of the Board dated \_\_\_\_\_, 19   .

Primo De Voti Emilio Panella  
Chairman Secretary

PUBLIC NOTICE OF HEARING BEFORE  
THE ZONING BOARD OF APPEALS

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the  
Town of New Windsor, New York will hold  
a public hearing pursuant to Section 48-38A of the Zoning  
Ordinance on the following proposition:

Appeal No. 15A

Request of Emilio Panella & Primo DeVoti for a  
variance of the regulations of the zoning  
ordinance, to permit USE OF A MDM CONFORMING  
(describe proposal)

LOT SIZE, being  
a variance of Article 48, Section 14,  
for property owned by him situated as follows  
Fronting on route 32 on the left bounded on the  
West by North Rd. & on the North by Vails Gate School.  
(or other description of requested action by the  
Board of Appeals.)

SAID HEARING will take place on the 18th of Nov., 1968,  
at the Town Hall, beginning at 7:30 o'clock P.M.

By ~~resolution of the Board dated~~ \_\_\_\_\_, 1968.

Louise A. Rodney  
Chairman ~~(or Secretary)~~

Panella - Delvoti - Continued re-hearing of  
Dec. 2nd

held on Dec. 16th

Spectators:

Name

Address

Mrs. Musolini

Mr. Dada

Spectators - 12/2/68 Panella-DeBoti  
Cont'd Hearing

Name	Address
Mrs J. F. Musolino	#327 Old Forge Hill Rd.
Primo DeBoti	766 Broadway.
Emilio Panella	MD 40 Route 94
Joseph Sacco	76 Continental Dr. N. Windsor
John Favalari	Varis State NY
Emil Duda	Stewart Road 201
Mike Reis	Vails Gate Diner

Spectators - 4/18/68

Panella - DeVoti Hearing (Area Variance)

Name	Address
Emilio Panella	M.D. 40 Route 97
Donk Sacco	76 Continental Dr.
Miss J. M. Mesolimo	#327 Old Forge Hill Rd.
Mr. Joseph T. Murawski	799V " " "
Mr. Ted Murphy	389 Old Forge Hill Rd.
HARRY REISV - 5-3458	NAILS GATE DINER
Emil Duda	STEWARTS ROOT Beer
Primo DeCristo	766 Broadway
M. de Reis	43 Park Hill Drive

APPLICATION is hereby made for the following:

Agenda \_\_\_\_\_ Service \_\_\_\_\_

1. Name EMILIO PANELLA + PRIMO DEVOTI

Address 14 D. 40 ROUTE 94 NEW WINDSOR NY.

Telephone Number: 562-5330

Are you the owner of the property? YES

2. Briefly describe intention (or attach) and location of property: CHANGE ZONING FROM G1 TO G B FOR USE AS A BURGER CHEF RESTAURANT. ALSO VARIANCE FOR UNDER SIZE PLOT IN G1 ZONE.

3. PLANNING BOARD

\_\_\_\_\_ Site Plan Preliminary Meeting

\_\_\_\_\_ Subdivision Preliminary Meeting

\_\_\_\_\_ Informational Meeting

AGENDA DATE \_\_\_\_\_

4. ZONING BOARD OF APPEALS

\_\_\_\_\_ Interpretation of Ordinance or Map

✓ \_\_\_\_\_ Variance (Notify P/S - Plans if necessary)

\_\_\_\_\_ Informational Meeting

AGENDA DATE \_\_\_\_\_ Lawrence J. ...

5. BUILDING PERMITS

\_\_\_\_\_ Planning Board action needed

\_\_\_\_\_ Z.R.A. action needed

\_\_\_\_\_ Site Plan needed

\_\_\_\_\_ Subdivision approval needed

\_\_\_\_\_ Water, Sewer and Highway action needed

ACTION TAKEN:

I do hereby affirm that all fees, permits and charges applicable under the laws and ordinances of the State of New York and the Town of New Windsor will be paid and that

\_\_\_\_\_

Address M.D. 40 ROUTE 94 NEW WINDSOR N.Y.

Telephone Number 562-5330

Are you the owner of the property? YES

2. Briefly describe intention (or attach) and location of property: CHANGE ZONING FROM G1 TO G B FOR USE OF A BURGER CHEF RESTAURANT. ALSO VARIANCE FOR UNDER SIZE PLOT IN G1 ZONE.

3. PLANNING BOARD

- \_\_\_\_\_ Site Plan Preliminary Meeting
- \_\_\_\_\_ Subdivision Preliminary Meeting
- \_\_\_\_\_ Informational Meeting

AGENDA DATE \_\_\_\_\_

4. ZONING BOARD OF APPEALS

- ✓ \_\_\_\_\_ Interpretation of Ordinance or Map
- ✓ \_\_\_\_\_ Variance (Notify P/S - Plans if necessary)
- \_\_\_\_\_ Informational Meeting

AGENDA DATE \_\_\_\_\_

Larue Jones

5. BUILDING PERMIT

- \_\_\_\_\_ Planning Board action needed
- \_\_\_\_\_ Z.B.A. action needed
- \_\_\_\_\_ Site Plan needed
- \_\_\_\_\_ Subdivision approval needed
- \_\_\_\_\_ Water, Sewer and Highway action needed

ACTION TAKEN:

I do hereby affirm that all fees, permits and charges applicable to this application and all other fees of the Town of New Rock and the Town of New Windsor will be paid and that any expenses for advertising of Public Hearing or meetings will be paid. Also any legal or engineering fees for re-

Emilio Panella