

ZB# 94-15

Stuart Ullman

25-5-59

Fullin.
~~NOV. 15, 1993~~
May 25, 1994.

Need copy of:

- ① Need it
- ② Title Report
- ③ Photos (Here) et.
- ④ Fees: ① 50.00
② 292.00

Letters out

Notice to Serhind - 6/23/94.

Public Hearing:

July 11, 1994.

AREA.
GRANTED VARIANCES

7/11/94

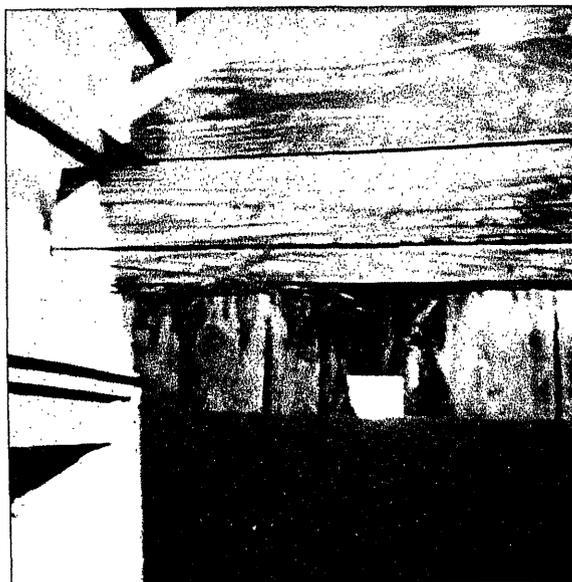
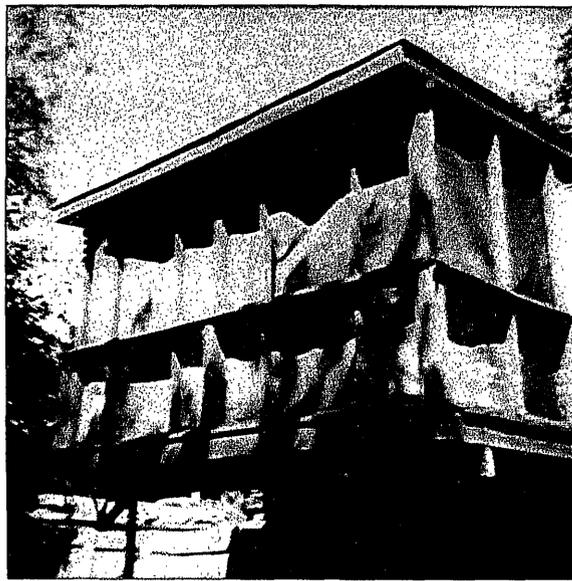
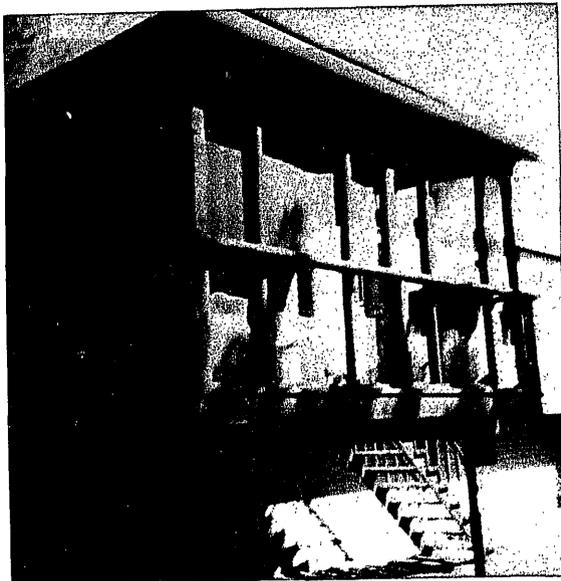
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NO. 753 1/3

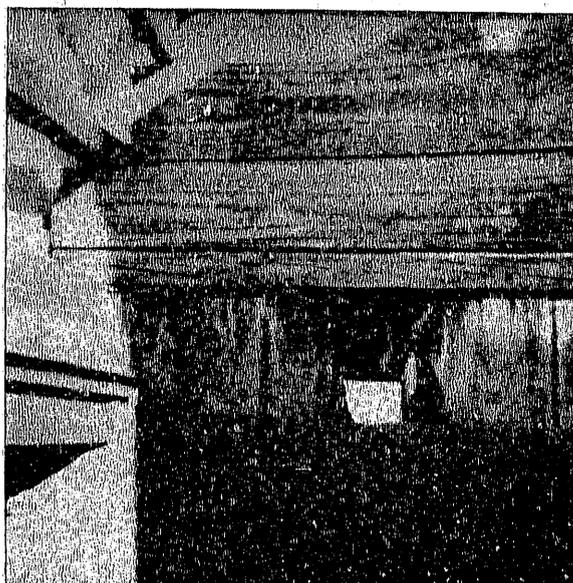
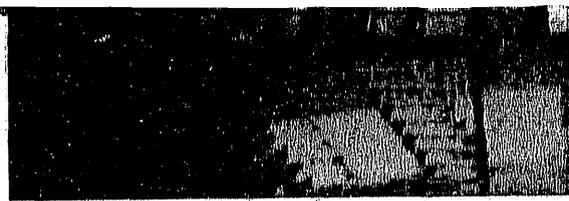
ESSELTE

Oxford[®]

~~93-39~~ - Ullman, Stuart
94-15
Area Variance



BZ. A.



20#34 - Pospiech, R. D. A.

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

14118

June 23 1994

Received of Stuart Meehan \$ 50.00

Deputy 00 DOLLARS

For ZBA App. #94-15 100

DISTRIBUTION:

FUND	CODE	AMOUNT
CR #6110		50.00

By Dorothy Hansen

Town Clerk

Title

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Ullman, Stewart

FILE # 93-34 ⁹⁴⁻¹⁵

RESIDENTIAL: \$50.00 COMMERCIAL: \$150.00

APPLICATION FOR VARIANCE FEE \$ 50.00
 * * * * *

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 292.00

DISBURSEMENTS -

STENOGRAPHER CHARGES:

PRELIMINARY MEETING - PER PAGE	\$	_____
2ND PRELIM. MEETING - PER PAGE	\$	_____
3RD PRELIM. MEETING - PER PAGE	\$	_____
PUBLIC HEARING - PER PAGE	\$	_____
PUBLIC HEARING (CONT'D) PER PAGE	\$	_____
TOTAL	\$	_____

ATTORNEY'S FEES:

PRELIM. MEETING- _____	HRS.	\$	_____
2ND PRELIM. _____	HRS.	\$	_____
3RD PRELIM. _____	HRS.	\$	_____
PUBLIC HEARING _____	HRS.	\$	_____
PUBLIC HEARING _____	HRS. (CONT'D)	\$	_____
FORMAL DECISION _____	HRS.	\$	_____
TOTAL HRS. _____	@ \$ _____	PER HR.	\$	_____
		TOTAL	\$	_____

MISC. CHARGES:

_____	\$	_____
TOTAL	\$	_____
LESS ESCROW DEPOSIT	\$	_____
(ADDL. CHARGES DUE)	\$	_____
REFUND TO APPLICANT DUE	\$	_____

-----x
In the Matter of the Application of

STUART ULLMAN,

DECISION GRANTING
AREA VARIANCE

#94-15

-----x

WHEREAS, STUART ULLMAN, residing at 201 Cambridge Court, New Windsor, N. Y. 12553, has made application before the Zoning Board of Appeals for 10 ft. rear yard variance to replace a deck located at the above address in an R-4 zone; and

WHEREAS, a public hearing was held on the 11th day of July, 1994, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, applicant appeared in behalf of himself; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, there was no opposition to the application before the Board; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence presented by the applicant showed that:

(a) The premises is a one-family house in a neighborhood of one-family homes.

(b) The applicant seeks to replace an existing deck which is closer to the rear line than is permitted by the New Windsor local law.

(c) There are many homes in the area that have decks of equal or larger size and the proposed deck is consistent with the appearance and with the neighborhood in general.

(d) The variance requested is 25% but it does not appear that there is any other feasible place to locate the deck on the property since the deck also serves as access to the back door of the premises and access to the back door of the premises is necessary for the safety of the inhabitants.

(e) This deck will not block the site or disturb the neighborhood in any way since there is presently a deck there of the same size and configuration.

(f) Not having a deck would be a safety hazard since

access to the rear of the property is necessary.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. The requested variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.

3. The requested variance is substantial in relation to the town regulations, however, it is the conclusion of the Board that notwithstanding that fact, it is warranted because without the variance it would be impossible to have any deck and several of the neighborhood parcels have similar or larger decks. It appears that some variance would be needed for any deck and a deck is necessary for the safety of the occupants of the house.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the applicant faces in conforming to the bulk regulations is a self-created hardship, but the size of the lot is not the responsibility of the applicant and notwithstanding this characteristic, the variance should be granted for the reasons stated above.

6. It is the finding of this Board that the benefit to the applicant, if the requested area variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant.

7. It is the further finding of this Board that the requested area variance is the minimum variance necessary and adequate to allow the applicant relief from the requirements of the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variance.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT 10 ft. rear yard variance to replace a deck at the 201 Cambridge Court in an R-4 zone, as sought by the applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to

the Town Clerk, Town Planning Board and applicant.

Dated: September 26, 1994.


Chairman

(ZBA DISK#12-091694.SU)

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

In the Matter of Application for Variance of -----X

Stuart Ullman,

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

94-15.

-----X
STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On June 23, 1994, I compared the 67 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
23rd day of June, 1994.

Deborah Green
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1995

July 11, 1994

15

PUBLIC HEARING

ULLMAN, STUART

Mr. and Mrs. Stuart Ullman appeared before the board for this proposal.

MR. NUGENT: Request for 10 ft. rear yard variance to replace deck located at 201 Cambridge Court in R4 zone.

MR. TORLEY: Anyone here to speak on this?

MR. KRIEGER: Let the record reflect there were no responses.

MR. NUGENT: We only have a small board tonight, as you can see, there's only three of us. If we have one negative vote, the motion can't pass. If everybody votes yes, there's no problem.

MR. KRIEGER: The law says there must be 3 votes for them to approve.

MR. TORLEY: But, correct me if I am wrong, if because you have a quorum, one negative or one abstention vote, at the next meeting, it can be brought back up again without--

MR. KRIEGER: If the board votes to do that, on the otherhand, somebody can, once it's called because there's public notice involved, you have to call all of them. If a person wants to, an applicant wants to make their presentation next time and the board consents, they can do that too. But you have to call them all because there was public notice.

MR. NUGENT: Legal notices are here and we have pictures. We have all the appropriate paperwork in the file now, I think and Andy, do you want to ask them a few questions for the record?

MR. KRIEGER: Okay, we can start out that way. In this neighborhood, are there, first of all, the neighborhood is one-family houses?

MR. ULLMAN: That is correct.

MR. KRIEGER: And how many of them, I don't expect you to know specifically but do most of them, some of them, few of them have decks?

MR. ULLMAN: I would say all of them have decks, hundred percent have decks.

MR. KRIEGER: Many of the same or larger size than the one you're proposing?

MR. ULLMAN: I would say maybe some are slightly bigger, some are slightly smaller, some are the same size.

MR. KRIEGER: Now, it says replace a deck, was there a deck there previously?

MR. ULLMAN: There's a deck there now, but it's rotting.

MR. TORLEY: There's an existing deck here by the photographs showing the deck has exceeded its useful life.

MR. KRIEGER: If a variance were not to be granted, what would be allowed and I think my question is addressed to the building inspector?

MR. BABCOCK: He would he allowed no deck at all.

MR. KRIEGER: There's no place the deck could be located on the property other than feasibly other than where it is?

MR. BABCOCK: That is correct. I assume their rear door enters on to the deck.

MR. ULLMAN: I have two rear doors entering on to the deck.

MR. KRIEGER: How much rear yard are they allowed?

MR. BABCOCK: The required rear yard by law is 40 feet.

MR. KRIEGER: This is a 25 percent request. Is this the minimum request that is necessary in order to reconstruct this deck, you can't ask for less and put the same deck back?

MR. BABCOCK: No.

MR. ULLMAN: Not as far as I know.

MR. KRIEGER: Where this deck is, does it have any adverse impact on the physical or environmental conditions in the neighborhood? It doesn't block anybody's sight?

MR. ULLMAN: No.

MR. KRIEGER: Doesn't effect any endangered species?

MR. ULLMAN: Not.

MRS. ULLMAN: No, we have no spotted owls or anything like that.

MR. KRIEGER: That will take care of it.

MR. NUGENT: Have you had a chance to look at the title insurance?

MR. KRIEGER: No. Let me look at it.

MR. TORLEY: Mr. Ullman, if this variance were not granted and you had to remove the deck, it would decrease the value of your house?

MR. ULLMAN: Definitely would.

MR. TORLEY: Because you say you have doors that open to the deck. If that, if the deck was not there, it would be a potential safety hazard?

MR. ULLMAN: Absolutely correct.

MR. TORLEY: There is no adverse impact on the neighborhood by this?

July 11, 1994

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MR. ULLMAN: No. Matter of fact, will do nothing but improve the aesthetic value of the neighborhood because right now, it's totally--

MRS. ULLMAN: Looks ugly.

MR. ULLMAN: We had somebody there to give us an estimate to replace it and he started walking down the steps and almost went through them.

MR. NUGENT: We'll open and close the public hearing because there's no one here for this public hearing.

MRS. ULLMAN: Should we have brought people?

MR. NUGENT: No.

MR. TORLEY: The fact that no one is here implies there's no particular objection.

MR. NUGENT: Everything is okay?

MR. KRIEGER: Yes.

MR. NUGENT: I'll entertain a motion.

MR. LANGANKE: I make a motion that we grant Mr. Ullman the variance requested.

MR. TORLEY: Second it.

ROLL CALL

MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 15.

Request of Stuart Ullman

for a VARIANCE of the Zoning Local Law to permit:

Replacement of existing 10' x 14' deck which is
decaying beyond repair w/ insufficient rear yard;

being a VARIANCE of Section 48-12 - Table of Use / Bulk
Reqs. - Col. G

for property situated as follows:

at 201 Cambudge Ct., New Windsor, Ny 12553

known as tax lot Section 25 Block 5 Lot 8.

SAID HEARING will take place on the 11th day of July,
19 94, at New Windsor Town Hall, 555 Union Avenue, New Windsor,
New York, beginning at 7:30 o'clock P. M.

James Nugent.
Chairman



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

67

June 10, 1994

Mr. Stuart Ullman
201 Cambridge Court
New Windsor, NY 12553

Re: Tax Map Parcel 25-5-9 Variance List
Property Location 201 Cambridge Court, New Windsor, NY 12553

Dear Mr. Ullman:

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 \$95.00, minus your deposit of \$25.00.

Please remit the balance of \$70.00 to the Town Clerk's Office.

Sincerely,

Leslie Cook

LESLIE COOK
Sole Assessor

LC/cd
Attachments
CC: Pat Barnhart

Groff, Gordon B & Eleanor S.
75 Birchwood Drive
New Windsor, NY 12553

White, James B. & Beverly O.
1108 Ave. 4th PL, NE
Atkins, AR 72803

Powles, Harold J & Rita A.
77 Hundson, Drive
New Windsor, NY 12553

Dario, Anthony & Kathryn Anne
75 Hudson Drive
New Windsor, NY 12550

Sciamanna, Dino J & Eleanor
73 Hundson Dr.
New Windsor, NY 12553

Courtney, George T.
71 Hundson Drive
New Windsor, NY 12553

Panzetta, John J & Marjorie E.
69 Hundson Dr.
New Windsor, NY 12553

Nott, Bruce W. & Marie A.
67 Hundson Dr.
New Windsor, NY 12553

Hedlund, Melvin E. & Rose Marie
59 Birchwood Dr.
New Windsor, NY 12553

George J Smith
c/o John A. & Robert R. Smith Trustees
10 Parade Place
New Windsor, NY 12553

Smith, Wayne C. & Joan M.
63 Birchwood Drive
New Windsor, NY 12553

Miller, Kenneth J & Helen K.
65 Birchwood Lane
New Windsor, NY 12553

Hartmann, Ingrid
67 Birchwood Dr.
New Windsor, NY 12553

Garofal, John B. & Kathleen
69 Birchwood Lane
New Windsor, NY 12553

Solfaro, Anthony V. & Judith
71 Birchwood Dr.
New Windsor, NY 12553

Soricelli, John G. & Carol S.
73 Birchwood Dr.
New Windsor, NY 12553

Rainey, Alvin W & Josephine
72 Birchwood Dr.
New Windsor, NY 12553

Cosgrove, Ann L.
70 Birchwood Dr.
New Windsor, NY 12553

Ellick, Irwin & Jason & Charles J
68 Birchwood Dr.
New Windsor, NY 12553

Corcoran, Kenneth I & Cecilia
66 Birchwood Dr.
New Windsor, NY 12553

Bartel, Albin J & Rose M.
64 Birchwood Dr
New Windsor, NY 12553

Flanagan, Rose M.
62 Birchwood Dr.
New Windsor, NY 12553

Vanvoorhis, Robert J
60 Birchwood Dr.
New Windsor, NY 12553

Grammer, Mark R.
58 Birchwood Dr.
New Windsor, NY 12553

Carfizzi, Santa
56 Birchwood Dr.
New Windsor, NY 12553

Bracco, Ralph J. & Linda
102 Glendale Dr.
New Windsor, NY 12553

County of Orange
255-275 Main St.
Goshen, NY 10924

Drennen, Maryann & John T. Jr.
104 Glendale Dr.
New Windsor, NY 12553 X

Paul, Henry & Anna
106 Glendale Dr.
New Windsor, NY 12553 ✓

Ruta, Damon W & Filja P.
108 Glendale Dr.
New Windsor, NY 12553 X

Walborn, David P. & Jeanne M.
110 Glendale Dr.
New Windsor, NY 12553 X

Kochan, John T. & Makar, Maryann
112 Glendale Dr.
New Windsor, NY 12553 X

Chapman, David & Phyllis
114 Glendale Dr.
New Windsor, NY 12553 X

Town Of New Windsor
555 Union Ave.
New Windsor, NY 12553 X

Sweitzer, Keith L.
155 Erie Ave.
New Windsor, NY 12553 X

Durso, Frank A & Maria C &
Cicarelli, Thomas R &
Adeline A.
101 Glendale Dr.
New Windsor, NY 12553 X

Hamlet, James T & Dawson, Denise
202 Cambridge Ct.
New Windsor, NY 12553 X

Forzano, Micheal & Laura
204 Cambridge Ct.
New Windsor, NY 12553 X

Bilyou, Gilbert A
241 Union Ave.
New Windsor, NY 12553 X

Flamholtz, H. Micheal & Karen
206 Cambridge Ct.
New Windsor, NY 12553 X

Clayton, Robert E & Mary Ann
205 Cambridge Ct.
New Windsor, NY 12553 X

Pisani, Joseph & Leona
203 Cambridge Ct.
New Windsor, NY 12553

Pfeifer, Valentine & Alenka
P.O. Box 4073
New Windsor, NY 12553

Brown, Sr. Howard C & Jill
302 Cloverdale Ct.
New Windsor, NY 12553

Slepoy, Alan & Rene
304 Cloverdale Ct.
New Windsor, NY 12553

Epstein, Jeffery I. & Gail
306 Cloverdale Ct.
New Windsor, NY 12553

Rivera, Luis W & Catherine M
307 Cloverdale Ct.
New Windsor, NY 12553

Nolan, Robert E & Carole T
305 Cloverdale Ct.
New Windsor, NY 12553

McKinney, Jhon & Maureen McCallum
303 Cloverdale Ct.
New Windsor, NY 12553

Melville, Richard J. & Grace
301 Cloverdale Ct.
New Windsor, NY 12553

Ahmed, Mahmood & Meher
113 Glendale Dr.
New Windsor, NY 12553

Redder, Edward L & Lynn R.
115 Glendale Dr
New Windsor, NY 12553

CooperSmith, Gary & Karen
406 Carlton Circle
New Windsor, NY 12553

Naclerio, Christine L.
408 Carlton Circle
New Windsor, NY 12553

Coyle, Kevin & Susan Wazolek
2 Elm St.
New Windsor, NY 12553

Rizzuto, Louis J. X
1 Elm St.
New Windsor, NY 12553

Hoffman, George E. & Marilyn D. X
5 Elm St.
New Windsor, NY 12553

Anderson, Janet X
c/o Graham, Janet
6 Elm St.
New Windsor, NY 12553

King Alex & Irene P. X
4 Elm St.
New Windsor, NY 12553

Domingo, Jose M. & Rebecca I. X
3 Elm St.
New Windsor, NY 12553

Schiela, Linda J X
251 Union Ave.
New Windsor, NY 12553

Mc Quiston, Mary L X
257 Union Ave.
New Windsor, NY 12553

Haley, Joseph V & Alice M
233 Oak St.
New Windsor, NY 12553 X

Maloski Joseph M. X
24 Lannis Ave.
New Windsor, NY 12553

Consolidated Rail Corp. X
Property Tax Dept.
P.O. Box 8499
Philadelphia, PA 19101

Town of New Windsor X
555 Union Ave.
New Windsor, NY 12553

Myhed Corporation X
P.O. Box 1150
Newburgh, NY 12553

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

94-15

Date: 6/23/94

I. ✓ Applicant Information:

- (a) Stuart + Gladys Ullman, 201 Cambridge Ct., 561-6873 X
(Name, address and phone of Applicant) (Owner)
- (b) _____
(Name, address and phone of purchaser or lessee)
- (c) _____
(Name, address and phone of attorney)
- (d) _____
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- Use Variance Sign Variance
- Area Variance Interpretation

III. ✓ Property Information:

- (a) R-4 201 Cambridge Ct., New Windsor 25-5-9 .28AC.
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? None
- (c) Is a pending sale or lease subject to ZBA approval of this application? NO
- (d) When was property purchased by present owner? 9/30/74
- (e) Has property been subdivided previously? unknown
- (f) Has property been subject of variance previously? unknown
If so, when? _____
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? NO
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: NO
- _____

IV. Use Variance. N/A

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow:
(Describe proposal) _____
- _____

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

(c) ^{N/A} Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes ___ No .

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

✓ V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use Bulk Regs., Col. G.

<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. <u>40 ft.</u>	<u>30 ft.</u>	<u>10 ft.</u>
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

* Residential Districts only
** No-residential districts only

✓ (b) 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. Describe why you believe the ZBA should grant your application for an area variance:

Present deck is rotting in many places and poses a potential safety hazard. As it cannot be repaired, its outward appearance does not enhance the subject property or other neighborhood properties.

(You may attach additional paperwork if more space is needed)

N/A VI. Sign Variance:

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____

N/A (b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation. *N/A*

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

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

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

(b) Variance: Granted (___) Denied (___)

(c) Restrictions or conditions: _____

_____.

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

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

46-0417-8

LIBER 1990 PG 994

87.15

THIS INDENTURE, made the 27TH day of September, nineteen hundred and seventy four BETWEEN PARKDALE ESTATES, INC., with offices at 4 Parkdale Drive, New Windsor, New York

party of the first part, and

STUART Z. ULLMAN and GLADYS ULLMAN, his wife, residing at 138-15 Franklin Avenue, Flushing, New York

party of the second part,

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

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of New Windsor, County of Orange, State of New York, being more particularly described as follows: BEING known and designated as Lot No. 8 on a certain map entitled Parklawn, made by Eustance & Horowitz, P.E. & L.S., dated October 11, 1972 and last revised March 21, 1973, and filed in the Orange County Clerk's office on May 22, 1973 as filed Map No. 2996.

Reserving to the party of the first part all rights, title and interest in and to any streets and roads abutting the above-described premises, but granting an easement of ingress and egress until the same is dedicated as a public road or street.

This conveyance is being made and accepted subject to an indebtedness secured by a mortgage upon said premises held by PROVIDENT SAVINGS AND LOAN ASSOCIATION, Haverstraw, New York, which said mortgage was recorded in the Orange County Clerk's office on July 31, 1974 in Liber 1658 of Mortgages, Page 401*, upon which there remains unpaid the aggregate principal sum of \$35,000.00 with interest from October 1, 1974 at the rate of eight and one-half (8½%) per cent per annum together with escrow funds, which said mortgage indebtedness the parties of the second part hereby assume and agree to pay as part of the purchase price of the above-described premises and the parties of the second part hereby execute and acknowledge this instrument for the purpose of complying with the provisions of Section 5.705 of the General Obligations Law.

This conveyance is being made in the regular course of business of the party of the first part.

* Which said mortgage was modified by agreement dated September 27, 1974 and to be recorded simultaneously herewith.

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.

party of the first part, and

STUART Z. ULLMAN and GLADYS ULLMAN, his wife,
residing at 138-15 Franklin Avenue, Flushing, New York

party of the second part,

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

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of New Windsor, County of Orange, State of New York, being more particularly described as follows: BEING known and designated as Lot No. 8 on a certain map entitled Parklawn, made by Eustance & Horowitz, P.E. & L.S., dated October 11, 1972 and last revised March 21, 1973, and filed in the Orange County Clerk's office on May 22, 1973 as filed Map No. 2996.

Reserving to the party of the first part all rights, title and interest in and to any streets and roads abutting the above-described premises, but granting an easement of ingress and egress until the same is dedicated as a public road or street.

This conveyance is being made and accepted subject to an indebtedness secured by a mortgage upon said premises held by PROVIDENT SAVINGS AND LOAN ASSOCIATION, Haverstraw, New York, which said mortgage was recorded in the Orange County Clerk's office on July 31, 1974 in Liber 1658 of Mortgages, Page 401*, upon which there remains unpaid the aggregate principal sum of \$35,000.00 with interest from October 1, 1974 at the rate of eight and one-half (8½%) per cent per annum together with escrow funds, which said mortgage indebtedness the parties of the second part hereby assume and agree to pay as part of the purchase price of the above-described premises and the parties of the second part hereby execute and acknowledge this instrument for the purpose of complying with the provisions of Section 5.705 of the General Obligations Law.

This conveyance is being made in the regular course of business of the party of the first part.

* Which said mortgage was modified by agreement dated September 27, 1974 and to be recorded simultaneously herewith.

109q'

~~TOGETHER with all rights and interests in and to the premises described herein and to the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.~~

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

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

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

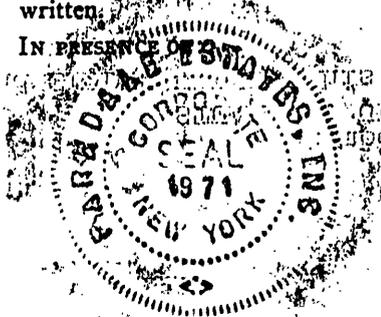
IN PRESENCE OF

PARKDALE ESTATES, INC.

BY: N.M. Silberberg SEC.

Stuart Z. Ullman

Gladys Ullman



STATE OF NEW YORK, COUNTY OF ROCKLAND SS:

On the 27th day of September, 1974, before me personally came STUART Z. ULLMAN and GLADYS ULLMAN, his wife,

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

Joel L. Scheinert

JOEL L. SCHEINERT
Notary Public, State of New York
No. 3486885
Residing in Rockland County
My Commission Expires March 30, 1975

STATE OF NEW YORK, COUNTY OF SS:

On the _____ day of _____, 19____, before me personally came _____

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

STATE OF NEW YORK, COUNTY OF ROCKLAND SS:

On the 27th day of September 19 74, before me personally came N. Morton Silberberg to me known, who, being by me duly sworn, did depose and say that he resides at No. 9 Dunhill Lane, Monsey, New York;

that he is the Secretary of Parkdale Estates, Inc., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Michael Cataldi

MICHAEL CATALDI
Notary Public, State of New York
No. 44-5650440
Qualified in Rockland County
Commission Expires March 30, 1976

Bargain and Sale Deed

WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE No.

PARKDALE ESTATES, INC.,
TO

STUART Z. ULLMAN and
GLADYS ULLMAN, his wife,

STANDARD FORM OF
NEW YORK BOARD OF TITLE UNDERWRITERS
Distributed by

MID VALLEY ABSTRACT CORP.

25 Cannon Street
Poughkeepsie, New York 12601
(914) 471-7177



A Member of The Continental Insurance Companies

SECTION Parklawn
BLOCK
LOT 8
COUNTY OR TOWN of New Windsor

Recorded At Request of:
MID VALLEY ABSTRACT CORP.
Agent For



RETURN BY MAIL TO:

JOEL L. SCHEINERT, ESQ.
Schwartz, Kobb, Scheinert &
Hammerman
7 S. Madison Avenue
Spring Valley, N.Y.

Zip No. 10977

*7/5
4-
Mid-Valley
Clerk*

...ING OFFICE

cc, S.S.
11/13/75
11/19/75
9/24/76
Clerk

they

Joel L. Scheinert

JOEL L. SCHEINERT
Notary Public, State of New York
No. 3486885
Residing in Rockland County
My Commission Expires March 30, 1975

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of Parkdale Estates, Inc.,
the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

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Notary Public, State of New York
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Poughkeepsie, New York 12601
(914) 471-7177



A Member of The Continental Insurance Companies

executed the same.

STATE OF NEW YORK, COUNTY OF SS:

On the _____ day of _____ 19____, before me personally came _____ the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No. _____ ;
that he knows _____

_____ to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

SECTION Parklawn
BLOCK _____
LOT 8
COUNTY OR TOWN of New Windsor

Recorded At Request of:
MID VALLEY ABSTRACT CORP.
Agent For

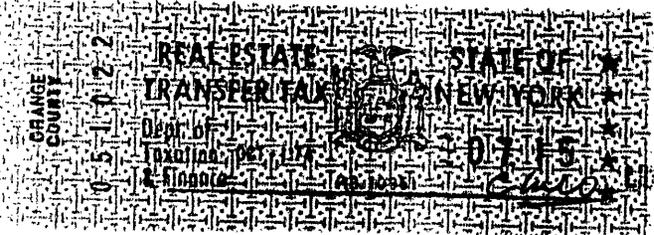


RETURN BY MAIL TO:

JOEL L. SCHEINERT, ESQ.
Schwartz, Kobb, Scheinert &
Hammerman
7 S. Madison Avenue
Spring Valley, N.Y.
Zip No. 10977

Mid Valley
7/5
4-

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE



SEP 27 1974 PG 995

Orange County Clerk's Office, s.s.
Recorded on the 27 day
of Sept. 1974 at 1:35
o'clock P.M. in Liber 1990
995 at page 995.
and Examined
C. N. Underwriters
Clerk

American Title Insurance Company

GUARANTEED TITLE DIVISION

POLICY OF TITLE INSURANCE

*A*MERICAN TITLE INSURANCE COMPANY, in consideration of the payment of its charges for the examination of title and its premium for insurance, insures the within named insured against all loss or damage not exceeding the amount of insurance stated herein and in addition the costs and expenses of defending the title, estate or interest insured, which the insured shall sustain by reason of any defect or defects of title affecting the premises described in Schedule A or affecting the interest of the insured therein as herein set forth, or by reason of unmarketability of the title of the insured to or in the premises, or by reason of liens or incumbrances affecting title at the date hereof, or by reason of any statutory lien for labor or material furnished prior to the date hereof which has now gained or which may hereafter gain priority over the interest insured hereby or by reason of a lack of access to and from the premises, excepting all loss and damage by reason of the estates, interests, defects, objections, liens, incumbrances and other matters set forth in Schedule B, or by the conditions of this policy hereby incorporated into this contract, the loss and the amount to be ascertained in the manner provided in said conditions and to be payable upon compliance by the insured with the stipulations of said conditions, and not otherwise.

In Witness Whereof, AMERICAN TITLE INSURANCE COMPANY has caused this policy to be signed and sealed on its date of issue set forth herein.

James W. Bray



American Title Insurance Company

GUARANTEED TITLE DIVISION

POLICY OF TITLE INSURANCE

AMERICAN TITLE INSURANCE COMPANY, in consideration of the payment of its charges for the examination of title and its premium for insurance, insures the within named insured against all loss or damage not exceeding the amount of insurance stated herein and in addition the costs and expenses of defending the title, estate or interest insured, which the insured shall sustain by reason of any defect or defects of title affecting the premises described in Schedule A or affecting the interest of the insured therein as herein set forth, or by reason of unmarketability of the title of the insured to or in the premises, or by reason of liens or incumbrances affecting title at the date hereof, or by reason of any statutory lien for labor or material furnished prior to the date hereof which has now gained or which may hereafter gain priority over the interest insured hereby or by reason of a lack of access to and from the premises, excepting all loss and damage by reason of the estates, interests, defects, objections, liens, incumbrances and other matters set forth in Schedule B, or by the conditions of this policy hereby incorporated into this contract, the loss and the amount to be ascertained in the manner provided in said conditions and to be payable upon compliance by the insured with the stipulations of said conditions, and not otherwise.

In Witness Whereof, AMERICAN TITLE INSURANCE COMPANY has caused this policy to be signed and sealed on its date of issue set forth herein.



James W. Bray
Executive Vice-President

Robert C. Pritchard
Validating Officer or Agent

Title No. 46-0417-8

Date of Issue 9/27/74

Amount of Insurance \$41,000.00

Name of Insured Stuart Z. and Gladys Ullman.

The estate or interest insured by this policy is a fee.

vested in the insured by means of

a deed from Parkdale Estates, Inc. to Stuart Z. and Gladys Ullman dated 9/27/74 and recorded in the Orange county Clerk's Office.

Insure survey made by Eustance and Horowitz, dated 10/17/73 shows house under construction. Revised 7/18/74 shows house complete. No driveway is shown. No encroachments are indicated. Company excepts changes from 7/18/74.

SCHEDULE A

The premises in which the insured has the estate or interest covered by this policy

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of New Windsor County of ORange and State of New York, being shown and designated as Lot #8 on a filed map entitled, "Plan of Subdivision Parklawn", Town of New Windsor, ORange County, New York, made by Eustance and Horowitz, P.C., dated 10/11/72, revised 2/20/73, revised 3/21/73 and filed in the ORange County Clerk's Office on 5/22/73 at Pocket 15 Folder A as filed Map No. 2996.

The estate or interest insured by this policy is a fee.

vested in the insured by means of

a deed from Parkdale Estates, Inc. to Stuart Z. and Gladys Ullman dated 9/27/74 and recorded in the Orange county Clerk's Office.

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GTD. Policy No. NY 175993

SCHEDULE B

The following estates, interests, defects, objections to title, liens and incumbrances and other matters are excepted from the coverage of this policy:

1. Defects and incumbrances arising or becoming a lien after the date of this policy, except as herein provided.
2. Consequences of the exercise and enforcement or attempted enforcement of any governmental war or police powers over the premises.
3. Zoning restrictions or ordinances imposed by any governmental body.
4. Judgments against the insured or estates, interests, defects, objections, liens or incumbrances created, suffered, assumed or agreed to, by or with the privity of the insured.
5. Title to any property beyond the lines of the premises, or title to areas within or rights or easements in any abutting streets, roads, avenues, lanes, ways or waterways, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement, unless this policy specifically provides that such titles, rights, or easements are insured. Notwithstanding any provisions in this paragraph to the contrary, this policy, unless otherwise excepted, insures the ordinary rights of access and egress belonging to abutting owners.
6. Compliance by the buildings or other erections upon the premises or their use with Federal, State and Municipal laws, regulations and ordinances.
7. Title to any personal property, whether the same be attached to or used in connection with said premises or otherwise.
8. Notes on filed map for front, rear, and side line. Covenants and restriction in Liber 534/217. Sewer and water districts easement 25' in width affects Lots 1, 2, and 17 at Liber 954/599.
9. Rights, if any, in favor of any electric light or telephone company to maintain guy wires extending from said premises to poles located on the road on which said premises abut, but policy will insure, however, that there are no such agreements of record in connection therewith, except as may be shown herein.
10. Underground encroachments and easements, if any, including pipes and drains, and such rights as may exist for entry upon said premises to maintain and repair the same.
11. Except mortgage by Parkdale Estates, Inc. to Provident Savings & Loan Association in the amount of \$35,000.00 dated 7/26/74, recorded 7/31/74 liber 1658 page 401.

Which mortgage has been assumed by Stuart Z. and Gladys Ullman, in the amount of \$35,000.00, on 9/27/74.

CONDITIONS OF THIS POLICY

Section One. Definitions

(a) Wherever the term "insured" is used in this policy it includes those who succeed to the interest of the insured by operation of law, including, without limitation, heirs, distributees, devisees, survivors, personal representatives, next of kin or corporate successors, as the case may be, and those to whom the insured has assigned this policy where such

Section Three. Cases Where Liability Arises

No claim for damages shall arise or be maintainable under this policy except in the following cases:

(a) Where there has been a final determination under which the insured may be dispossessed, evicted or ejected from the premises here or interest therein.

policy, except as herein provided.

2. Consequences of the exercise and enforcement or attempted enforcement of any governmental war or police powers over the premises.

3. Zoning restrictions or ordinances imposed by any governmental body.

4. Judgments against the insured or estates, interests, defects, objections, liens or incumbrances created, suffered, assumed or agreed to, by or with the privity of the insured.

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(b) Wherever the term "this company" is used in this policy it means American Title Insurance Company.

(c) Wherever the term "final determination" or "finally determined" is used in this policy, it means the final determination of a court of competent jurisdiction after disposition of all appeals or after the time to appeal has expired.

(d) Wherever the term "the premises" is used in this policy, it means the property insured herein as described in Schedule A of this policy including such buildings and improvements thereon which by law constitute real property.

(e) Wherever the term "recorded" is used in this policy it means, unless otherwise indicated, recorded in the office of the recording officer of the county in which property insured herein lies.

Section Two. Defense and Prosecution of Suits (a) This company will, at its own cost, defend the insured in all actions or proceedings founded on a claim of title or incumbrances not excepted in this policy.

(b) This company shall have the right and may, at its own cost, maintain or defend any action or proceeding relating to the title or interest hereby insured, or upon or under any covenant or contract relating thereto which it considers desirable to prevent or reduce loss hereunder.

(c) In all cases where this policy requires or permits this company to prosecute or defend, the insured shall secure to it the right and opportunity to maintain or defend the action or proceeding, and all appeals from any determination therein, and give it all reasonable aid therein, and hereby permits it to use therein, at its option, its own name or the name of the insured.

(d) The provisions of this section shall survive payment by this company of any specific loss or payment of the entire amount of this policy to the extent that this company shall deem it necessary in recovering the loss from those who may be liable therefor to the insured or to this company.

Section Three. Cases Where Liability Arises No claim for damages shall arise or be maintainable under this policy except in the following cases:

(a) Where there has been a final determination under which the insured may be dispossessed, evicted or ejected from the premises or from some part or undivided share or interest therein.

(b) Where there has been a final determination adverse to the title, upon a lien or incumbrance not excepted in this policy.

(c) Where the insured shall have contracted in good faith in writing to sell the insured estate or interest, or where the insured estate has been sold for the benefit of the insured pursuant to the judgment or order of a court and the title has been rejected because of a defect or incumbrance not excepted in this policy and there has been a final determination sustaining the objection to the title.

(d) Where the insurance is upon the interest of a mortgagee and the mortgage has been adjudged by a final determination to be invalid or ineffectual to charge the insured's estate or interest in the premises, or subject to a prior lien or incumbrance not excepted in this policy; or where a recording officer has refused to accept from the insured a satisfaction of the insured mortgage and there has been a final determination sustaining the refusal because of a defect in the title to the said mortgage.

(e) Where the insured shall have negotiated a loan to be made on the security of a mortgage on the insured's estate or interest in the premises and the title shall have been rejected by the proposed lender and it shall have been finally determined that the rejection of the title was justified because of a defect or incumbrance not excepted in this policy.

(f) Where the insured shall have transferred the title insured by an instrument containing covenants in regard to title or warranty thereof and there shall have been a final determination on any of such covenants or warranty, against the insured, because of a defect or incumbrance not excepted in this policy.

(g) Where the insured estate or interest or a part thereof has been taken by condemnation and it has been finally determined that the insured is not entitled to a full award for the estate or interest taken because of a defect or incumbrance not excepted in this policy.

No claim for damages shall arise or be maintainable under this policy (1) if this company, after having received notice of an alleged defect or incumbrance, removes such defect or incumbrance within thirty days after receipt of such notice; or (2) for liability voluntarily assumed by the insured in settling any claim or suit without the written consent of this company.

(Continued on next page)

**Section Four.
Notice of
Claim**

In case a purchaser or proposed mortgage lender raises any question as to the sufficiency of the title hereby insured, or in case actual knowledge shall come to the insured of any claim adverse to the title insured hereby, or in case of the service on or receipt by the insured of any paper, or of any notice, summons, process or pleading in any action or proceeding, the object or effect of which shall or may be to impugn, attack or call in question the validity of the title hereby insured, the insured shall promptly notify this company thereof in writing at its main office and forward to this company such paper or such notice, summons, process or pleading. Delay in giving this notice and delay in forwarding such paper or such notice, summons, process or pleading shall not affect this company's liability if such failure has not prejudiced and cannot in the future prejudice this company.

**Section Five.
Payment
of Loss**

(a) This company will pay, in addition to the loss, all statutory costs and allowances imposed on the insured in litigation carried on by this company for the insured under the terms of this policy. This company shall not be liable for and will not pay the fees of any counsel or attorney employed by the insured.

(b) In every case where claim is made for loss or damage this company (1) reserves the right to settle, at its own cost, any claim or suit which may involve liability under this policy; or (2) may terminate its liability hereunder by paying or tendering the full amount of this policy; or (3) may, without conceding liability, demand a valuation of the insured estate or interest, to be made by three arbitrators or any two of them, one to be chosen by the insured and one by this company, and the two thus chosen selecting an umpire. Such valuation, less the amount of any incumbrances on said insured estate and interest not hereby insured against, shall be the extent of this company's liability for such claim and no right of action shall accrue hereunder for the recovery thereof until thirty days after notice of such valuation shall have been served upon this company, and the insured shall have tendered a conveyance or assignment of the insured estate or interest to this company or its designee at such valuation, diminished as aforesaid. The foregoing option to fix a valuation by arbitration shall not apply to a policy insuring a mortgage or leasehold interest.

(c) Liability to any collateral holder of this policy shall not exceed the amount of the pecuniary interest of such collateral holder in the premises.

(d) All payments made by this Company under this policy shall reduce the amount hereof *pro tanto*, except (1) payments made for counsel fees and disbursements in defending or prosecuting actions or proceedings in behalf of the insured and for statutory costs and allowances imposed on the insured in such actions and proceedings, and (2) if the insured is a mortgagee, payments made to satisfy or subordinate prior liens or incumbrances not set forth in Schedule B.

(e) When liability has been definitely fixed in accordance with the conditions of this policy, the loss or damage shall be payable within thirty days thereafter.

**Section Six.
Co-insurance
and
Apportionment**

(a) In the event that a partial loss occurs after the insured makes an improvement subsequent to the date of this policy, and only in that event, the insured becomes a co-insurer to the extent hereinafter set forth.

If the cost of the improvement exceeds twenty per centum of the amount of this policy, such proportion only of any partial loss established shall be borne by the company as one hundred twenty per centum of the amount of this policy bears to the sum of the amount of this policy and the amount expended for the improvement. The foregoing provisions shall not apply to costs and attorneys' fees incurred by the company in prosecuting or providing for the defense of actions or proceedings in behalf of the insured pursuant to the terms of this policy or to costs imposed on the insured in such actions or proceedings, and shall apply only to that portion of losses which exceed in the aggregate ten per cent of the face of the policy.

Provided, however, that the foregoing co-insurance provisions shall not apply to any loss arising out of a lien or encumbrance for a liquidated amount which existed on the date of this policy and was not shown in Schedule B; and provided further, such co-insurance provisions shall not apply to any loss if, at the time of the occurrence of such loss, the then value of the premises, as so improved, does not exceed one hundred twenty per centum of the amount of this policy.

(b) If the premises are divisible into separate, independent parcels, and a loss is established affecting one or more but not all of said parcels, the loss shall be computed and settled on a *pro rata* basis as if this policy were divided *pro rata* as to value of said separate, independent parcels, exclusive of improvements made subsequent to the date of this policy.

(c) Clauses "(a)" and "(b)" of this section apply to mortgage policies only after the insured shall have acquired the interest of the mortgagor.

(d) If, at the time liability for any loss shall have been fixed pursuant to the conditions of this policy, the insured holds another policy of insurance covering the same loss issued by another company, this company shall not be liable to the insured for a greater proportion of the loss than the amount that this policy bears to the whole amount of insurance held by the insured, unless another method of apportioning the loss shall have been provided by agreement between this company and the other insurer or insurers.

**Section Seven.
Assignment
of Policy**

If the interest insured by this policy is that of a mortgagee, this policy may be assigned to and shall inure to the benefit of successive assignees of the mortgage without consent of this company or its endorsement of this policy. Provision is made in the rate manual of New York Board of Title Underwriters filed with the Superintendent of Insurance of the State of New York on behalf of this and other member companies for continuation of liability to grantees of the insured in certain specific circumstances only. In no circumstance provided for in this section shall this company be deemed to have insured the sufficiency of the form of the assignment or other instrument of transfer or conveyance or to have assumed any liability for the sufficiency of any proceedings after the date of this policy.

**Section Eight.
Subrogation**

(a) This company shall to the extent of any payment by it of loss under this policy, be subrogated to all rights of the insured with respect thereto. The insured shall execute such instruments as may be requested to transfer such rights to this company. The rights so transferred shall be subordinate to any remaining interest of the insured.

(b) If the insured is a mortgagee, this company's right of subrogation shall not prevent the insured from releasing the personal liability of the obligor or guarantor or from releasing a portion of the premises from the lien of the mortgage or from increasing or otherwise modifying the insured mortgage provided such acts do not affect the validity or priority of the lien of the mortgage insured. However, the liability of this company under this policy shall in no event be increased by any such act of the insured.

**Section Nine.
Misrepresentation**

Any untrue statement made by the insured, with respect to any material fact, or any suppression of or failure to disclose any material fact, or any untrue answer by the insured, to material inquiries before the issuance of this policy, shall void this policy.

**Section Ten.
No Waiver
of Conditions**

This company may take any appropriate action under the terms of this policy whether or not it shall be liable hereunder and shall not thereby concede liability or waive any provision of this policy.

**Section Eleven.
Policy Entire
Contract**

All actions or proceedings against this company must be based on the provisions of this policy. Any other action or actions or rights of action that the insured may have or may bring against this company in respect of other services rendered in connection with the issuance of this policy, shall be deemed to have merged in and be restricted to its terms and conditions.

**Section Twelve.
Validation
and
Modification**

This policy is valid only when duly signed by a validating officer or agent. Changes may be effected only by written endorsement. If the recording date of the instruments creating the insured interest is later than the policy date, such policy shall also cover intervening liens or encumbrances, except real estate taxes, assessments, water charges and sewer rents.

**POLICY
OF
TITLE INSURANCE**



**GUARANTEED TITLE DIVISION
360 LEXINGTON AVENUE, NEW YORK, N. Y. 10017**



**A MEMBER OF THE
CONTINENTAL INSURANCE COMPANIES**

BRANCH OFFICES:

- BROOKLYN 100 CLINTON STREET BROOKLYN, N. Y. 11201
- ALBANY 11 NORTH PEARL STREET ALBANY, N. Y. 12207
- QUEENS 89-30 161st STREET JAMAICA, N. Y. 11432
- NASSAU 50 E. OLD COUNTRY ROAD MINGOLA, N. Y. 11501
- ROCKLAND 20 SO. MAIN STREET NEW CITY, N. Y. 10956
- SUFFOLK 201 HOWELL AVENUE RIVERHEAD, N. Y. 11901
- NEW JERSEY 18 RECTOR STREET NEWARK, N. J. 07102
- WESTCHESTER 200 MAMARONECK AVENUE WHITE PLAINS, N. Y. 10601
- 60 MAPLE AVENUE MORRISTOWN, N. J. 07960

May 23, 1994

2

PRELIMINARY MEETING:

ULLMAN, STUART

MR. NUGENT: Request for 10 ft. rear yard variance to replace existing deck at 201 Cambridge Court in an R-4 zone.

Mr, Stuart Ullman appeared before the board for this proposal.

MR. ULLMAN: We were here last year for the same thing and unfortunately, we lost our contractor and we put it off and we're requesting the same variance.

MR. TORLEY: You were granted a variance?

MR. ULLMAN: No, we were not.

MS. BARNHART: No, they came in preliminarily.

MR. HOGAN: Same size deck?

MR. ULLMAN: Same everything.

MR. HOGAN: When was the house originally built?

MR. ULLMAN: 1974. We wanted to do the same everything except that the deck would be at whatever current town specs are.

MR. HOGAN: During this period we see this all the time 1970's no decks were taken into account in the building permits. I'll make a motion.

MR. NUGENT: I'll entertain a motion.

MR. HOGAN: I'll make the motion.

MR. NUGENT: It's pretty badly rotten, it needs to be replaced.

MR. KANE: Second it.

May 23, 1994

3

ROLL CALL:

MR. KANE	AYE
MR. LANGANKE	AYE
MR. HOGAN	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. KRIEGER: When you come back for the public hearing, if you'd address yourself to those 5 criteria that are in there because those are the criteria that the Zoning Board must by law decide on. So if you'd label them and address them in order, it would make it a lots easier.

MS. BARHNART: This is all your paperwork.

MR. KRIEGER: When you come back, if you have it, bring your deed, your title report, anything you have from the purchase of the house.

MS. BARNHART: And also fees.

MR. HOGAN: Some photos.

MR. TORLEY: Do yourself a favor, talk to your neighbors, they are going to get this form letter, talk to them and tell them what's going on so they realize what you're trying to do.

MR. ULLMAN: No problem, thank you.

PUBLIC HEARING:

BARBARO, JOHN

MR. NUGENT: Request for 8 ft. rear yard variance for existing deck at 6 Truex Drive in an R-4 zone.

Mr. and Mrs. John Barbaro appeared before the board for this request.

MR. BARBARO: Like I explained before just a mixup between me and the builder when I had an addition put on, I built the deck myself, I thought it was part of the plans. Apparently, it was not. So that is why I'm here.

MR. NUGENT: That little deck is the problem?

MRS. BARBARO: Yes, that little deck.

MR. BARBARO: I've got 90,000 feet on either side.

MRS. BARBARO: I've added pictures of all my neighbors' decks and there's house numbers that go with the map and you can see where their decks and pools, how close they are to the property lines.

MR. NUGENT: They'll all be in sooner or later, they'll all be in.

MR. BARBARO: Although I'm selling my house these people are friends and neighbors for many years.

MR. TORLEY: What's the size of the deck?

MR. BARBARO: Deck is like 8 by 12, I forget I wrote it on there.

MR. HOGAN: This property backs up to Route 94 commercial property, all right, Casey Manns, it's a vacant lot I believe but next to that is the Honda place, gentleman has 32 feet right now, is that correct right now and he needs an eight foot variance?

MR. BARBARO: Goes into a vacant lot, she took a

picture of that too.

MRS. BARBARO: There's an old burned out car that we look at.

MR. KRIEGER: Immediately behind the deck is what?

MR. BARBARO: Vacant lot.

MR. TORLEY: Zoned commercial?

MR. BARBARO: Yes.

MRS. BARBARO: What we look at is terrible. We haven't been able to sell the house for years.

MR. KRIEGER: The Zoning Board is a creature of law, it must decide according to certain criteria if the questions are asked of you that is not necessarily to be taken by you as some indication that the board is going to disapprove your application. It may be that they need information to support and justify an approval. It's unsafe for you to assume either way.

MR. BARBARO: I don't assume nothing but if it helps you, she took a picture looking into that area. That may help you, I know you are familiar with it. This is looking out at the deck straight in the back, almost directly into what used to be Mann's.

MR. TORLEY: You're certainly not looking into anybody's back door.

MR. BARBARO: No.

MR. TORLEY: So given the siting of your house then, by the code, no deck at all would have been possible off the back?

MR. BARBARO: About 4 foot wide.

MR. TORLEY: That is essentially no deck and the architecture of the house certainly looks as though it's essentially designed for a deck?

MR. BARBARO: Yes, sir.

MR. TORLEY: If you did not have the deck there it would be a loss to the marketability of the house?

MR. BARBARO: I believe so.

MR. TORLEY: And there's nothing as from your photographs you do not feel there's any impact on your neighbors over that deck?

MR. BARBARO: I don't believe so, reference that there's nobody here to complain.

MR. KRIEGER: The other residential neighbors that you have, do any of them have decks?

MR. BARBARO: Yes.

MRS. BARBARO: I put the house numbers on the back of the pictures.

MR. BARBARO: If you look at the map and pictures they are color coded to the diagram.

MR. TORLEY: That is preparation.

MRS. BARBARO: This is deck, pools, deck, deck, deck and deck, we have dog pens, lots of dogs, decks, decks and decks. Ours is the smallest deck, by the way.

MR. BARBARO: There's pictures of all the decks there too.

MR. HOGAN: You're in the process of selling your house?

MR. BARBARO: Yes.

MRS. BARBARO: And the buyers want the deck because I was going to take it off.

MR. NUGENT: They would fall out the back door.

MRS. BARBARO: Yes, if I put little inch steps, they

can tiptoe down but they said no.

MR. TORLEY: It would be unsafe.

MR. BARBARO: Yes, yes, sir, I believe so.

MRS. BARBARO: Besides the house looks terrible without it.

MR. NUGENT: I would open it up to the public but there's no one here so we'll close the public hearing and open it back up to the board.

MR. TORLEY: I move that we grant Mr. Barbaro the requested variance.

MR. LANGANKE: Second it.

ROLL CALL:

MR. KANE	AYE
MR. LANGANKE	AYE
MR. HOGAN	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. TORLEY: We have sufficient evidence on the record for a decision?

MR. KRIEGER: Yes.

Prelim.
Sept. 13, 1993.
93-34
2nd Prelim.
May 23, 1994.

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

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: JULY 23, 1993
APPLICANT: STEWART ULLMAN

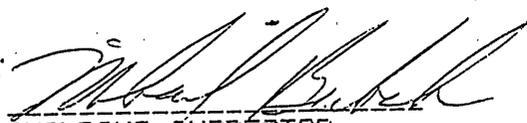
PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED: JULY 23, 1993
FOR (BUILDING PERMIT): TO REPLACE EXISTING 10' X 14' DECK.
LOCATED AT: 201 CAMBRIDGE COURT

ZONE: R-4

DESCRIPTION OF EXISTING SITE: SECTION: 25, BLOCK: 5, LOT: 9
ONE FAMILY HOUSE

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

- 1. INSUFFICIENT REAR YARD SET-BACK.


BUILDING INSPECTOR

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE: R-4	USE 10-G	
MIN. LOT AREA		
MIN. LOT WIDTH		
REQ'D FRONT YD		
REQ'D SIDE YD		
REQ'D TOTAL SIDE YD		
REQ'D REAR YD.	40FT.	30FT. 10FT.

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT
914-563-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD

CC: Z.B.A., APPLICANT, B.P. FILES.

IMPORTANT
REQUIRED INSPECTIONS OF CONSTRUCTION - YOU MUST CALL FOR THESE

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 FOOTINGS DRAINS.
3. INSPECT GRAVEL BASE UNDER CONCRETE FLOORS, AND UNDERSLAB PLUMBING.
4. WHEN FRAMING IS COMPLETED, AND BEFORE IT IS COVERED FROM INSIDE, AND PLUMBING ROUGH-IN.
5. INSULATION.
6. PLUMBING FINAL & FINAL HAVE ON HAND ELECTRICAL INSPECTION DATA AND FINAL CERTIFIED PLOT PLAN. BUILDING IS TO BE COMPLETED AT THIS TIME. WELL WATER TEST REQUIRED AND ENGINEERS CERTIFICATION LETTER FOR SEPTIC SYSTEM REQUIRED.
7. DRIVEWAY INSPECTION MUST MEET APPROVAL OF TOWN HIGHWAY INSPECTOR. A DRIVEWAY BOND MAY BE REQUIRED.
8. \$20.00 CHARGE FOR ANY SITE THAT CALLS FOR THE INSPECTION TWICE.
9. PERMIT NUMBER MUST BE CALLED IN WITH EACH 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 & PERC TEST.
13. ROAD OPENING PERMITS MUST OBTAINED FROM TOWN CLERKS OFFICE.
14. ALL BUILDING PERMITS WILL NEED A CERTIFICATION OF OCCUPANCY OR A CERTIFICATE OF COMPLIANCE AND THERE IS A FEE FOR THIS

PLEASE PRINT INFORMATION

Name of Owner of Premises Stuart and Gladys Ullman
Address 201 Cambridge Ct New Windsor Phone 914-565-6873
Name of Architect _____
Address _____ Phone _____
Name of Contractor Home Improvements inc
Address P.O. Box 21, Nails Gate, NY 12584 Phone 914-565-6200
State whether applicant is owner, lessee, agent, architect, engineer or builder Builder
If applicant is a corporation, signature of duly authorized officer.
Bruno A. Leombrano
[Signature]
(Name and title of corporate officer)

1. On what street is property located? On the South West side of Cambridge Ct
and 300 feet from the intersection of Glendale Drive + Erie Ave.
(N.S.E. or W.)
2. Zone or use district in which premises are situated R-4 Is property a flood zone? Yes.....No.....

1. WHEN EXCAVATING IS COMPLETE AND FOOTING FORMS ARE IN PLACE (BEFORE POURING).
2. FOUNDATION INSPECTION. CHECK HERE FOR WATERPROOFING AND FOOTINGS DRAINS.
3. INSPECT GRAVEL BASE UNDER CONCRETE FLOORS, AND UNDERSLAB PLUMBING.
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5. INSULATION.
6. PLUMBING FINAL & FINAL.HAVE ON HAND ELECTRICAL INSPECTION DATA AND FINAL CERTIFIED PLOT PLAN.BUILDING IS TO BE COMPLETED AT THIS TIME. WELL WATER TEST REQUIRED AND ENGINEERS CERTIFICATION LETTER FOR SEPTIC SYSTEM REQUIRED.
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PLEASE PRINT INFORMATION

Name of Owner of Premises Stuart and Gladys Cllman
 Address 201 Cambridge ct New Windsor Phone 914-561-6823
 Name of Architect _____
 Address _____ Phone _____
 Name of Contractor Home Improvements inc
 Address Po Box 21, Vails Gate, NY 12584 Phone 914-565-6200
 State whether applicant is owner, lessee, agent, architect, engineer or builder Builder

If applicant is a corporation, signature of duly authorized officer.

Bruno A. Leombrano
President
 (Name and title of corporate officer)

1. On what street is property located? On the South West side of Cambridge ct
 and 300 feet from the intersection of G-landale Drive + Eric Ave
(N.S.E. or W.)
R-4
2. Zone or use district in which premises are situated _____ Is property a flood zone? Yes _____ No _____
3. Tax Map description of property: Section 25 Block 5 Lot 9
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.
 a. Existing use and occupancy Residence b. Intended use and occupancy _____
5. Nature of work (check which applicable): New Building _____ Addition _____ Alteration _____ Repair
 Removal Demolition _____ Other _____
6. Size of lot: Front Rear _____ Depth _____ Front Yard _____ Rear Yard _____ Side Yard _____
 Is this a corner lot? YES
7. Dimensions of entire new construction: Front _____ Rear _____ Depth _____ Height _____ Number 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 \$2800 Fee _____
 (to be paid on this application)
11. School District Newburgh

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

TOWN OF NEW WINDSOR, ORANGE COUNTY, N. Y.

Examined.....19.....
Approved.....19.....
Disapproved a/c.....
Permit No.

Office Of Building Inspector
Michael L. Babcock
Town Hall, 555 Union Avenue
New Windsor, New York 12550
Telephone 565-8807

APPLICATION FOR BUILDING PERMIT

Pursuant to New York State Building Code and Town Ordinances

Refer —
Planning Board.....
Highway.....
Sewer.....
Water.....
Zoning Board of Appeals

Date..... 7/20 19 93

INSTRUCTIONS

- a. This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
- b. Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram which is part of this application.
- c. This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- d. The work covered by this application may not be commenced before the issuance of a Building Permit.
- e. Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- f. No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

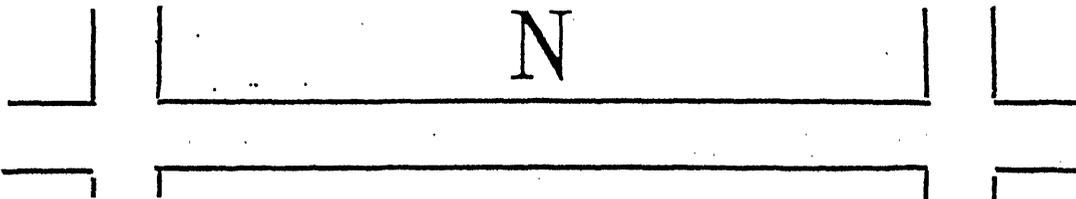
APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions or alterations, or for removal or demolition or use of property, as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

[Signature]
(Signature of Applicant)

Home Improvements Inc.
P.O. Box 21
Vails Gate, N.Y. 12584
Address of Applicant)

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.



Refer -
 Planning Board.....
 Highway.....
 Sewer.....
 Water.....
 Zoning Board of Appeals.....

APPLICATION FOR BUILDING PERMIT
 Pursuant to New York State Building Code and Town Ordinances

Date..... 7/20 19.. 93

INSTRUCTIONS

- a. This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
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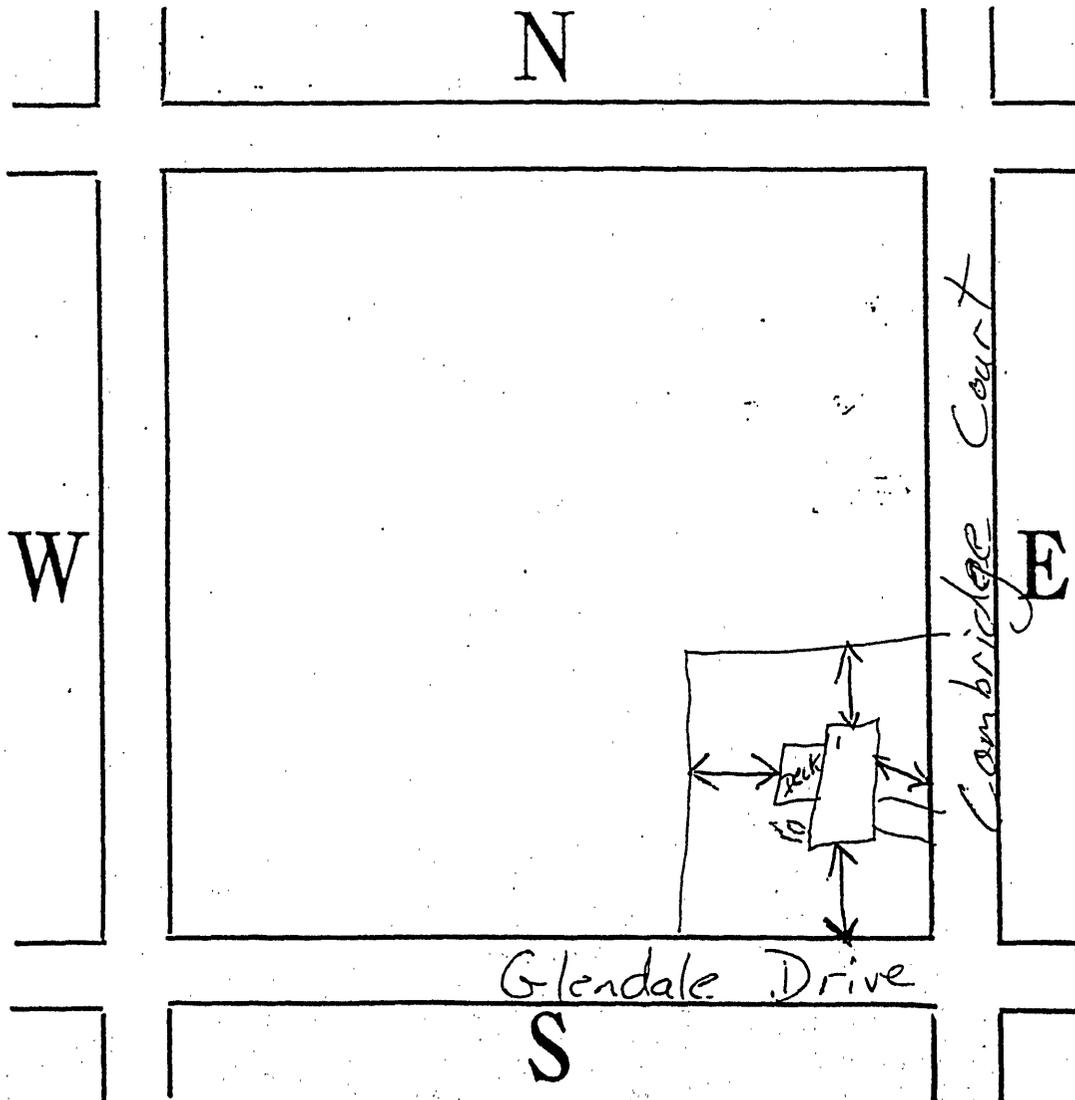
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[Handwritten Signature]
 (Signature of Applicant)

Home Improvements Inc.
P.O. Box 21
Vails Gate, NY 12584
 (Address of Applicant)

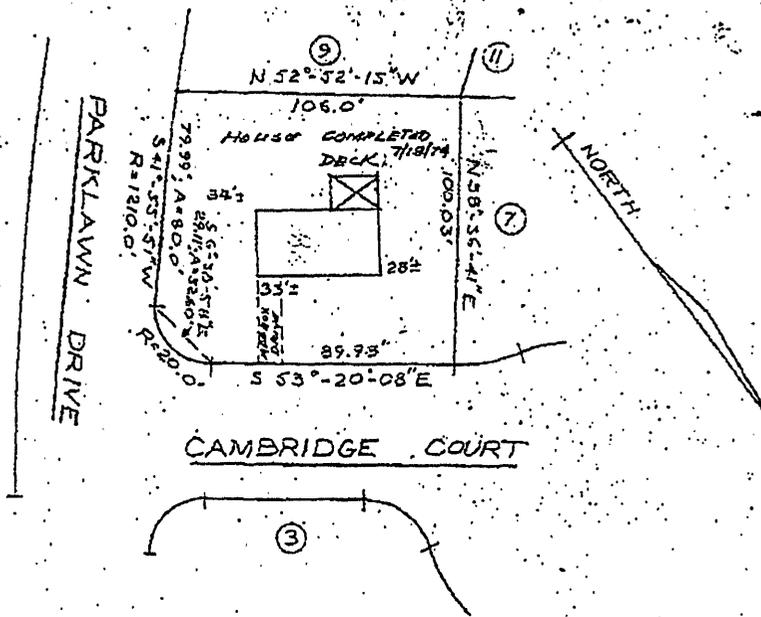
PLOT PLAN

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



I hereby certify to the Provident Savings and Loan Association of Haverstraw, New York, and the American Title Insurance Company that the house is located entirely within the bounds of the lot as shown.

By *John Powell*
N.Y.S. License No. 47418



SURVEY FOR
LOT 8
PARKLAWN

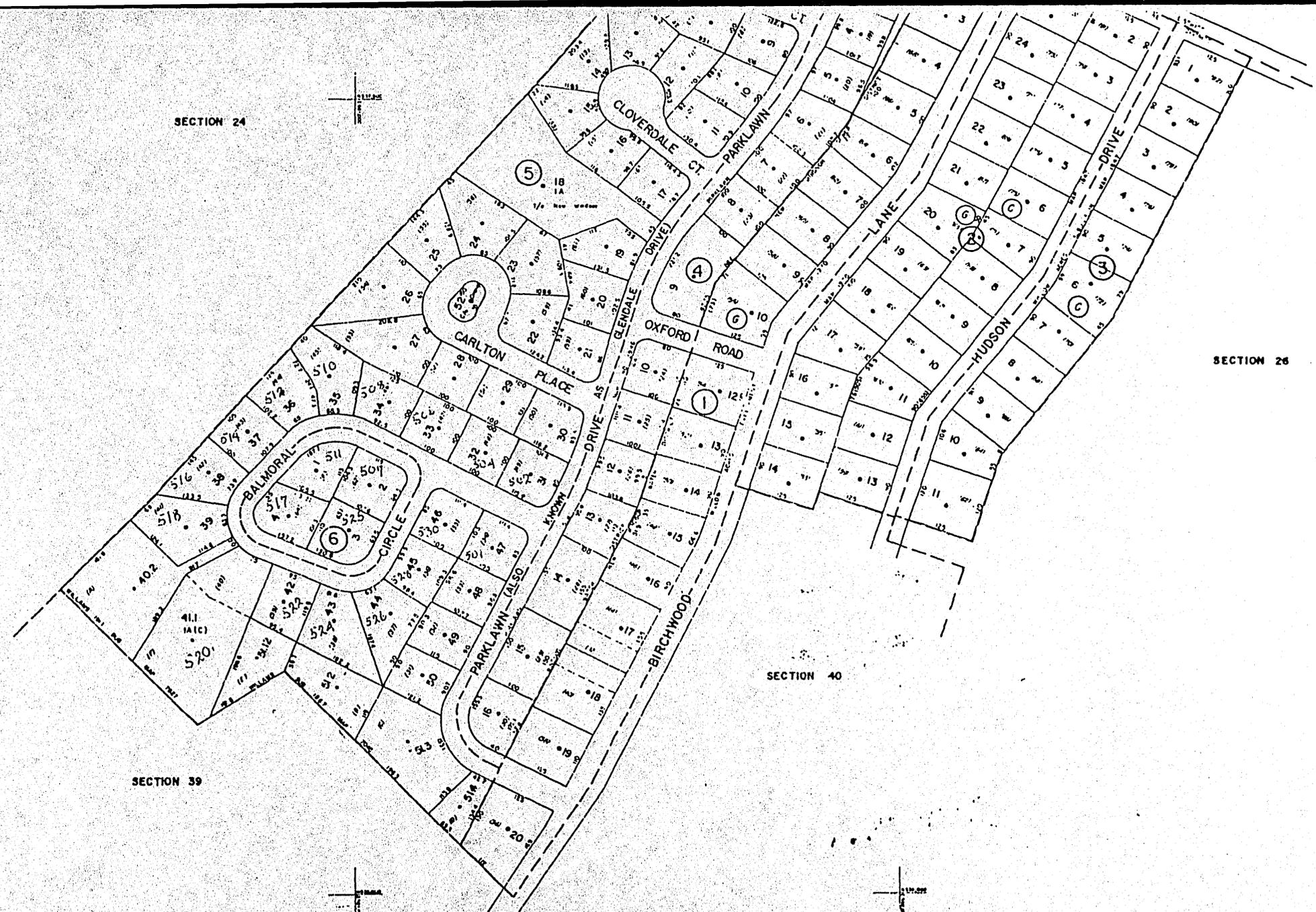
TOWN OF NEW WINDSOR COUNTY OF ORANGE

SCALE - 1" = 50'

OCT. 17, 1973

Revised 7/18/74

ELSTAKE & HOROWITZ P.C.
BOX 525, CIRCLEVILLE, N.Y. 10911



SECTION 24

SECTION 26

SECTION 40

SECTION 39

231

ALL NEWBURGH SCHOOL DISTRICT
ALL VALS GATE FIRE DISTRICT

TOWN OF NEW WINDSOR

Section No 25

LEGEND

STATE OR COUNTY LINE	FILED PLAN LOT LINE	TAX MAP BLOCK NO.	FILED PLAN BLOCK NO.
CITY TOWN OR VILLAGE LINE	FIREMOUNT LINE	TAX MAP PARCEL NO.	FILED PLAN LOT NO.
BLOCK & BAYVIEW LIGHT	WATER LINE	AREAS	STATE HIGHWAYS
FIREMOUNT DISTRICT LINE	STREAMS	SHADYBROOK (L.S.O.)	COUNTY HIGHWAYS
PROPERTY LINE			TOWN ROADS

ORANGE COUNTY~NEW YORK

Photo No 14-3138 Date of Map 9-25-67
 Date of Photo 3-1-62 Date of Revision 3-1-61
 Scale 1" = 100'

Prepared by
 SERVICE
 FOR A. J. ION
 OF LITTLE ROCK, ARIZONA
 AT NEWBURGH, N.Y. 10993
 FOR PURPOSES ONLY
 NOT TO BE USED FOR CONVEYANCE

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

1 26A
SET UP FOR
9-13-94

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

2nd Prelim.

May 9, 1994.

DATE: 5-5-94

APPLICANT:

STEWART ULLMAN
201 CAMBRIDGE CT
New Windsor NY 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 7-23-93

FOR (BUILDING PERMIT) TO REPLACE EXISTING 10x14 DECK

LOCATED AT 201 CAMBRIDGE CT

ZONE R-4

DESCRIPTION OF EXISTING SITE: SEC: 25 BLOCK: 5 LOT: 9

ONE family House

IS DISAPPROVED ON THE FOLLOWING GROUNDS: Insufficient

REAR yard Set-back


BUILDING INSPECTOR

<u>REQUIREMENTS</u>	<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>R-4</u> USE <u>10-G</u>		
MIN. LOT AREA		
MIN. LOT WIDTH		
REQ'D FRONT YD		
REQ'D SIDE YD.		
REQ'D TOTAL SIDE YD.		
REQ'D REAR YD. <u>40'</u>	<u>30'</u>	<u>10'</u>
REQ'D FRONTAGE		
MAX. BLDG. HT.:		
FLOOR AREA RATIO		
MIN. LIVABLE AREA		
DEV. COVERAGE _____ %	_____ %	_____ %

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
 [REDACTED] TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
 OF APPEALS.

914) 363-4630

CC: Z.B.A., APPLICANT, B.P. FILE

September 13, 1993

2

PRELIMINARY MEETING:

~~ULLMAN, STUART:~~

Mr. Stuart Ullman appeared before the board.

MR. TORLEY: Request for 10 ft. rear yard variance to replace an existing 10 x 14 ft. deck at 201 Cambridge Court in an R04 Zone.

MR. ULLMAN: What I will do is I'll show you what we have got now and basically what we want to do is replace it.

MR. TORLEY: How old is the deck that is there now?

MR. ULLMAN: 19 years.

MR. TORLEY: Does that bring it back before zoning.

MR. BABCOCK: No.

MR. ULLMAN: This is what we have now, I'm show you why we want to replace it.

MR. TANNER: Looks like about time he does it it before someone goes right down through it.

MR. ULLMAN: Initially when we moved in, we had no idea that there was any problem.

MR. TANNER: This was on the house when you bought it?

MR. ULLMAN: Yes, house was built for us and it was put on the house, well, what was put on was the roof and the deck part, the screening we did afterwards.

MR. TORLEY: You are replacing one the same size?

MR. ULLMAN: Exact same size and meets Town standards. We have a contractor who's supposed to submit a drawing which he hasn't yet, I'll get that to you as soon as we can.

MR. TORLEY: This wasn't in the original C.O. and all

September 13, 1993

3

that?

MR. BABCOCK: Well, there's no indication of it being there in the file. It just says one family house and this is 1974.

MR. ULLMAN: Survey which predates the C.O. if you will notice the survey was recertified July 13 and C.O. was issued in September so I am sure they didn't take the deck off and put it back on after the C.O. was issued.

MR. TORLEY: If it was on the original plan but not noted in the records of the C.O. but C.O. was issued on the property, does that put him in a position of simply replacing a pre-existing, non-conforming structure?

MR. LUCIA: It's an open question. Presumably if the survey had been submitted to the building inspector it would still exist in the C.O. file and I gather is not there, otherwise Mike would be aware of it.

MR. BABCOCK: It's now there because--

MR. LUCIA: But not there but the issuance of the original C.O. so it's not clear what the then building inspector had in his mind, I guess I'd leave it up to the board's discretion and Mike.

MR. HOGAN: Is it not unusual I mean Woodwind Countryside Development we're talking about if the C.O.s were issued regardless of whether a deck was there during that period?

MR. BABCOCK: Very good possibility.

MR. TORLEY: It's well before your tenure.

MR. BABCOCK: Right.

MR. TORLEY: My point is--

MR. BABCOCK: One of the problems that you have to understand gentlemen is that today, even if you have an existing deck, and you're going to take that deck down and build a new deck, you then and we discuss this, you

September 13, 1993

4

then must meet the zoning of today. And then the question came up was how much of the deck can you replace before it's completely being replaced, 50%, 60% or whatever. And as through the discussions with the gentleman here, we thought it was best to come here. I'm looking for suggestions myself, this is an unusual, he has shown us a survey that is dated before the C.O. there's nothing in the file that indicates that the deck was on there when the C.O. was done except for the survey.

(Whereupon, James Nugent enters the room.)

MR. NUGENT: Are they replacing the entire back deck?

MR. BABCOCK: Yes.

MR. ULLMAN: With one the exact same size.

MR. TORLEY: If this were some other pre-existing, non-conforming structure being identically replaced it would not need a C.O. would it? Would they have to be here for a zoning variance or not?

MR. BABCOCK: Yes, in my opinion, if you take something down, you then have to meet the new zoning. We have had that a couple times. I don't know that it got to this board but it was the Sunoco Station in Vails Gate, they wanted to eliminate the entire building and build a new building and--

MR. TORLEY: Different size and different orientation.

MR. BABCOCK: Actually what it was it actually made the situation that is there now better.

MR. LUCIA: I think the proposed building was smaller than the original one.

MR. HOGAN: Do you have an original?

MR. ULLMAN: No, the bank sent me that.

MR. TANNER: If we go through, if we do grant the variance, doesn't this just make it a lot easier for

them down the line if they want to refinance or sell the property?

MR. NUGENT: Absolutely.

MR. TANNER: That is in itself a good reason for it going ahead and you know having a public hearing on this.

MR. ULLMAN: So the alternative?

MR. LANGANKE: Alternative though we can probably save him a lot of money now if he didn't need the variance.

MR. TANNER: May need to spend it when the bank tells him.

MR. TORLEY: If he has a letter in the file saying that this is, and not requiring a variance by the Zoning Board.

MR. BABCOCK: One other thing I'd like to say for the board's knowledge is that if this deck was here and existed which according to this information that he supplied us it should have then got a variance because it's always been a requirement of 40 feet so if there was a C.O. issued and did include the deck, it was issued in error.

MR. TORLEY: Now we're rectifying the error.

MR. LUCIA: Because the rear yard dimension does not change.

MR. TANNER: I'd like to make a motion we set him up for a public hearing.

MR. TORLEY: Second it.

ROLL CALL

MR. TANNER	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

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MR. HOGAN

AYE

MR. LUCIA: Mr. and Mrs. Ulmann, since you're applying for a variance on the deck, the board has no alternative other than to treat it just as if you are coming in asking for the first time to put up a deck of this size so you really need to go through all the steps in proving or attempting to prove the entitlement to a variance for this deck, just as you if you were coming in with nothing in the back yard. Your burden of proof is easier because you're only replacing square foot per square foot of what's there already but in terms of laying it out on the record, we still need you to make the presentation that all applicants for an area variance would make. I'm going to give you a partial copy of Section 276B of the Town Law, just put a little arrow in the margin opposite the paragraph that applies to you and if you read that over, you'll find that there's 5 specific factors you need to speak to you when you come back. Just be prepared to say something about each of the issues. Basically in deciding on your area variance application this board has to engage in a balancing test to weigh the benefit to you if we give you the variance as against the detriment to the health, safety and welfare of the community by allowing the variance and if you address those five factors, that should give us all the data we need to have on it. Pat will give you an application form. Please complete that, return it to her and it has an instruction sheet on top that is easy to complete. If you have any questions, return it to her with two checks, \$50 application fee and it's all written there and second one for \$292 deposit against Town consultant review fees and various disbursements the board has in handling your application. Once that comes in, Pat will set it up for a public hearing.

MR. ULLMAN: Can I have my copies of the survey, that is the only ones I have.

MR. LUCIA: I think we have copies in the file.

MRS. ULLMAN: Can I ask what the 292 is for?

MR. LUCIA: Deposit against Town consultant's review

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fees, that is paying all the board's expenses in connection with handling your application. That includes the transcript, there's a court reporter taking down what you're saying tonight as well as the public hearing, my fees for representing the board, writing ultimately the decision that will either grant or deny the variance.

MRS. ULLMAN: To correct an error that was made by the Town we have to pay for it?

MR. LUCIA: I'm not sure that is a fair statement. My understanding and what we're speaking a number of previous building inspectors going back 19 years is that at that time, they did not consider decks in the side or rear yard setbacks so they probably just measured to the house and as long as that was in excess of 40 feet, you got your C.O. The newer way of measuring includes decks in the rear yard setback and that is the way most towns interpret the State Code so it is not fair, entirely fair to say it was an error. It's a change in the way the towns in general have computed rear yard setbacks. But you know you make whatever showing, you think it was an error, if you think it was a mistake, come in and say that but I don't think it's a fair statement. It's a change in the way the building inspectors have done the computations over the years. If it was done improperly, then it still needs to be corrected which is I think what Mr. Tanner was trying to lay out for you. If you don't do this and you go to sell the house is and your purchaser's attorney raises the issue or the bank that he is getting a mortgage from raises the issue you're going to be back here so save yourself the aggravation, do it at your leisure rather than when you hope to close next month and you can't. Good luck to you.