

ZB# 94-50

Angelina Perrott

23-1-52

#94-50-Perrott, Angelina - Use

Prelim.

Jan. 9, 1995

SEA Form

OCFD to be Notified

Motion to Schedule

P.H. - Interpretation

Use Variance

Notice to Sentinel 2/8/95

Copy of

① Deed ✓

② Fees - PD ✓

OCFD Notified 2/8/95

Public Hearing:

Feb. 27, 1995

Interpretation
allowing funeral
parlor to continue its
use; that use was
never interrupted.

Refund \$284,000 ✓
Paid

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

GENERAL RECEIPT

14433

February 8 19 95

Received of Angelina I. Porrott \$ 50.00

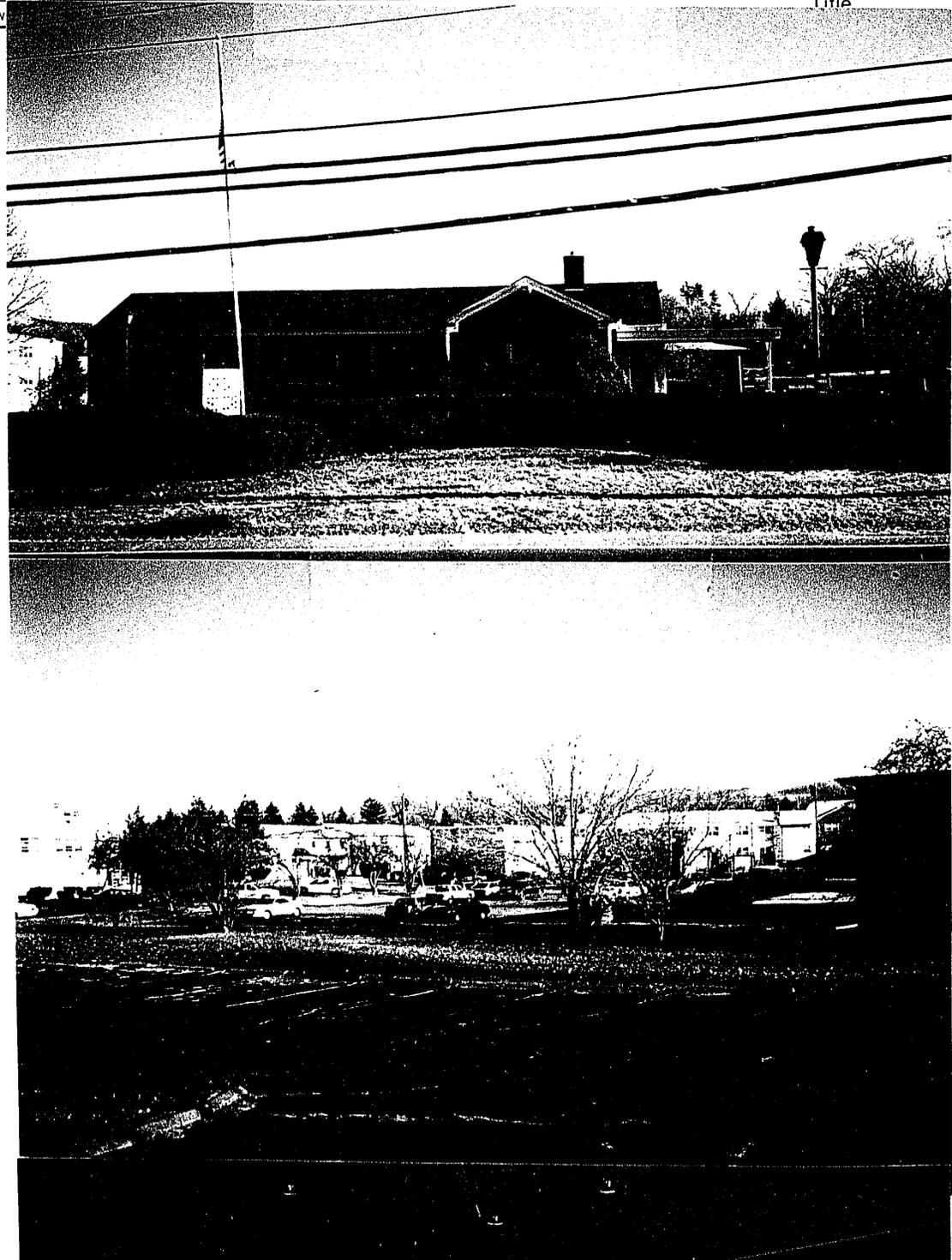
Fifty and 00/100 DOLLARS

For ZBA Application Fee #94-50

DISTRIBUTION		
FUND	CODE	AMOUNT
<u>PK 720</u>	<u>45</u>	<u>50.00</u>

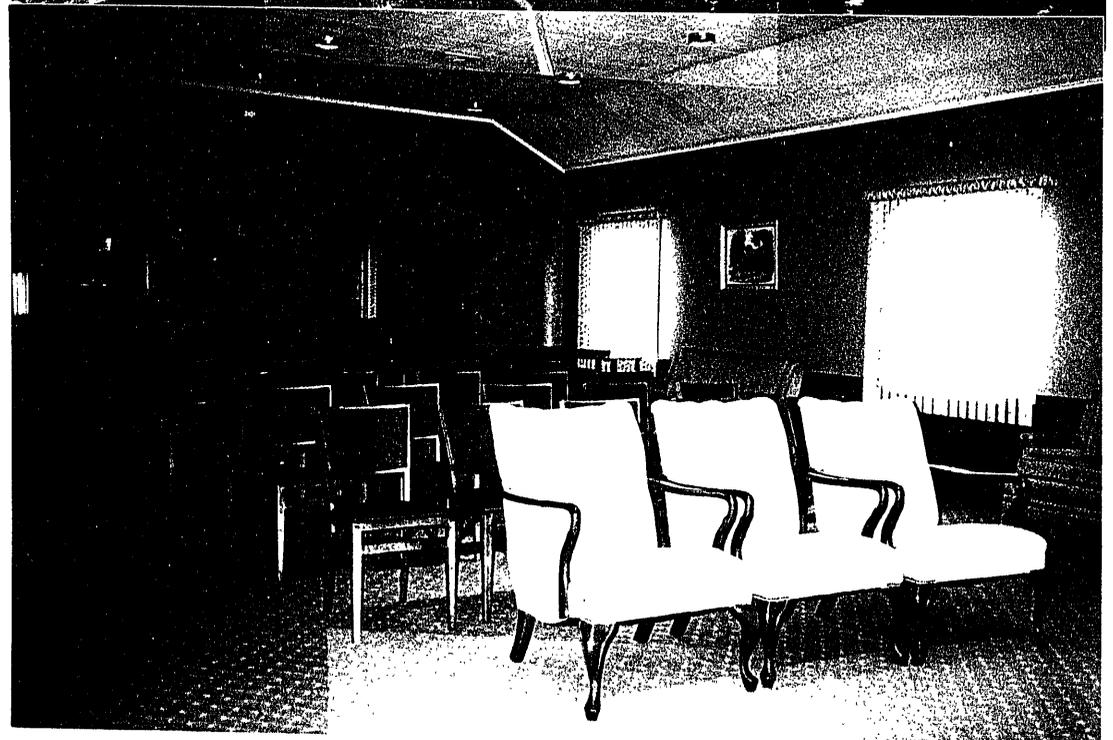
By Dorothy H. Nasson
CS
Town Clerk

Title



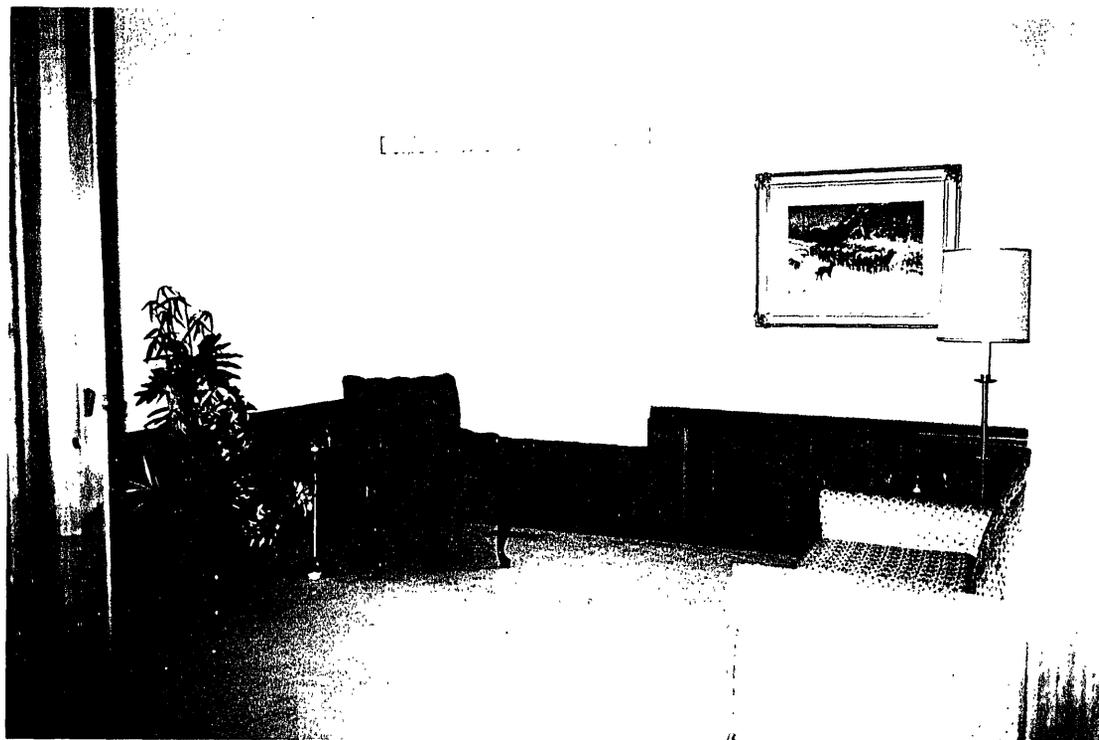
Green Park

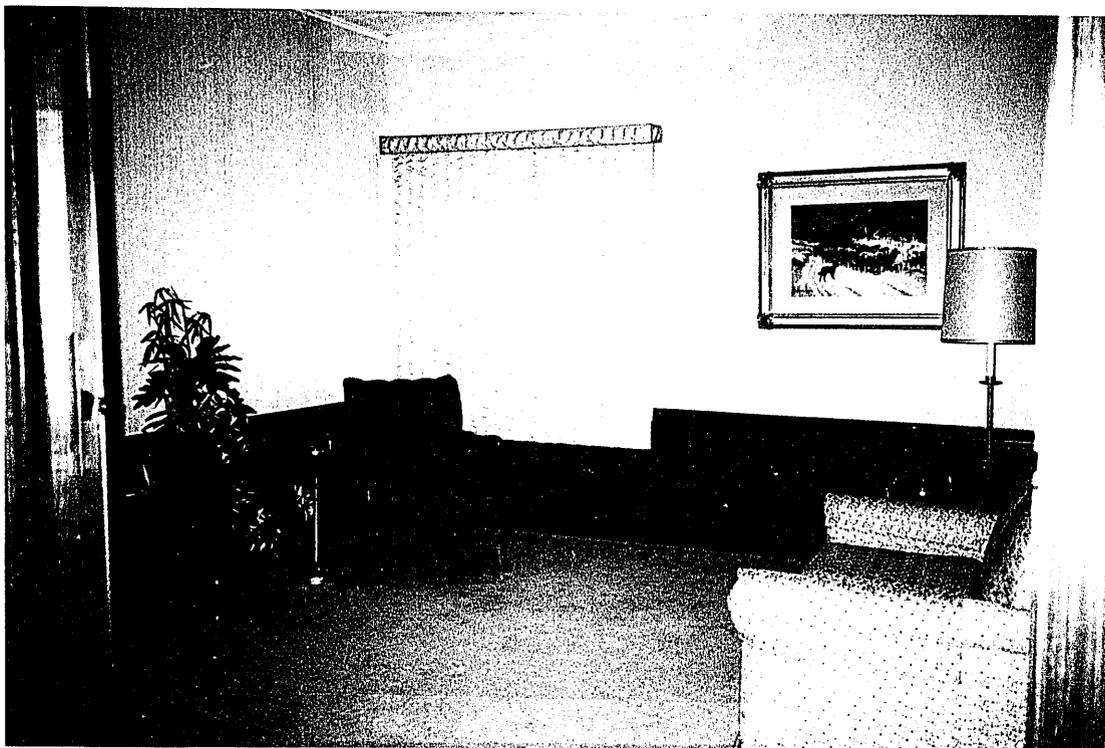
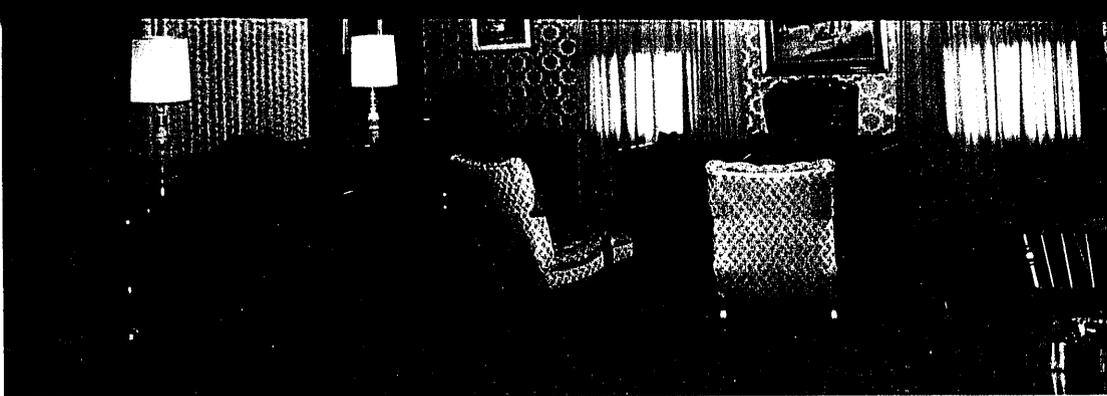
Title





#94-50-Hinatt, Longhain - West





APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Perrott, Angelina

FILE # 94-50

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

Use

APPLICATION FOR VARIANCE FEE \$ 50.00

paid \$720

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 500.00

paid \$721

DISBURSEMENTS -

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING - PER PAGE *1/9/95 - 10 pages* \$ 45.00
 2ND PRELIM. MEETING - PER PAGE *2/27/95 - 4 pages* \$ 18.00
 3RD PRELIM. MEETING - PER PAGE \$ _____
 PUBLIC HEARING - PER PAGE \$ _____
 PUBLIC HEARING (CONT'D) PER PAGE \$ _____
 TOTAL \$ 46.00

plus \$100.00 for variance fee

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING- _____ HRS. *1/9/95* \$ 35.00
 2ND PRELIM. _____ HRS. *2/27/95* \$ 35.00
 3RD PRELIM. _____ HRS. \$ _____
 PUBLIC HEARING _____ HRS. \$ _____
 PUBLIC HEARING _____ HRS. (CONT'D) \$ _____

TOTAL HRS. _____ @ \$ _____ PER HR. \$ _____
 TOTAL \$ 70.00

MISC. CHARGES:

_____ \$ _____
 TOTAL \$ 216.00

LESS ESCROW DEPOSIT \$ 500.00
 (ADDL. CHARGES DUE) \$ _____
 REFUND TO APPLICANT DUE \$ 244.00

(ZBA DISK#7-012192.FEE)

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

ANGELINA PERROTT,

DECISION RENDERING
AN INTERPRETATION#94-50.
-----X

WHEREAS, ANGELINA PERROTT, 77 Leroy Place, Newburgh, New York 12550, has made application before the Zoning Board of Appeals for an interpretation of Section 48-33A, 48-24B(1)(b) for a non-conforming use (funeral home) discontinued for two (2) years, located at 239 Quassaick Avenue in an R-4 zone; and

WHEREAS, a public hearing was held on the 27th day of February, 1995, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, applicant appeared by Joseph Imbasciani, Esq.; and

WHEREAS, there was one spectator who spoke in favor of the application; 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 instant parcel is located in a residential zone but was used as a funeral home which is a use not allowed in that zone and a use which has never been allowed in that zone.

(b) The use of this parcel as a funeral home pre-existed the Zoning Local Law and the building inspector has classified it as a pre-existing, non-conforming use which the building inspector believes may have been discontinued.

(c) The use made was by a corporation authorized under the laws of the State of New York to conduct funerals. It appears that this corporation is in good standing and is still authorized by the State of New York to conduct funerals.

(d) The building inspector claims that the use of this property as a funeral home may have been discontinued for more than two (2) years and that, therefore, its status as a pre-existing, non-conforming use was lost under the Town Code.

(e) The owner of the premises has maintained it for use as a funeral home and has continuously provided insurance,

insuring its use as a funeral home.

(f) The premises remain fully equipped to function as a funeral home throughout the period in question.

(g) Phone service was maintained to the premises throughout the period in question.

(h) The premises was offered throughout the period to the public as a funeral home.

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

1. The use of the premises as a funeral home predated zoning and is, therefore, a pre-existing, non-conforming use.

2. Section 48-24B(1)(b) of the New Windsor Town Code specifies that a pre-existing, non-conforming use may not be re-established if it has been discontinued for two (2) years and that intent to resume a non-conforming use shall not confer upon the owner the right to resume that use. The question before the Board is, did the applicant, in fact, discontinue the use while showing an intent to resume the use at some future date or was the use not, in fact, continuous throughout the period.

3. It is the conclusion of the Board that the applicant did not discontinue the use of this property as a funeral home and, therefore, it has retained its status as a pre-existing, non-conforming use.

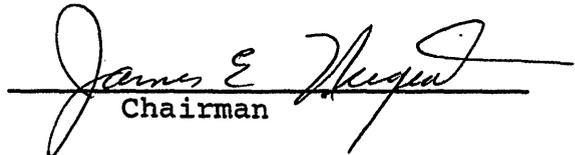
4. That the applicant maintained insurance and phone, paid taxes and kept in it the equipment and fixtures necessary for the conduct of funerals may be interpreted as either evidence of intent to resume its use as a funeral home or as evidence of never having discontinued that use. What makes the difference is that the applicant continued throughout the period in question to offer funeral services to the public. The fact that the applicant did not hold a funeral there during that period of time may be evidence of unsatisfactory business practice of some sort but that is not under the jurisdiction of the Zoning Board of Appeals. If the applicant tried to get some funeral business, that is enough to continue its use even if such trying was unsuccessful.

5. The interpretation as requested by the applicant should be granted and the building inspector is directed to treat the property as having status as a pre-existing, non-conforming use.

IT IS HEREBY 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: April 10, 1995.

(ZBA DISK#13-092794.wei)


Chairman



TOWN OF NEW WINDSOR
 TRUST AND AGENCY FUND
 555 UNION AVE.
 NEW WINDSOR, NY 12553

2030

29-1
213

3.0 19 95

PAY
TO THE
ORDER OF

Angelina Perrotti

\$ 284.00

The sum of \$ 284 and 00/100

DOLLARS



George J. Ryan
James P. Ryan

FOR

RETURN OF 2SA ESCROW

⑈002030⑈ ⑆021300019⑆ 52090 00433⑈

© DELUXE - REF



COUNTY OF ORANGE

JOSEPH G. RAMPE
COUNTY EXECUTIVE

Rec'd. ZBA 3/20/95 (PAB)

DEPARTMENT OF PLANNING

124 MAIN STREET
GOSHEN, NEW YORK 10924-2124
TEL: (914) 294-5151, EXT. 1770 FAX: (914) 294-3546

PETER GARRISON, COMMISSIONER

ORANGE COUNTY DEPARTMENT OF PLANNING
239 L, M OR N REPORT

This proposed action is being reviewed as an aid in coordinating such action between and among governmental agencies by bringing pertinent inter-community and countywide considerations to the attention of the municipal agency having jurisdiction.

Referred by:

OCDP Reference No.: NWT-1-95-M
County I.D. No.: 23-1-52

Town of New Windsor

Applicant:

Angelina Perrott

Proposed Action: Use Variance - Funeral Parlor Continuance

State, County, Inter-Municipal Basis for Review:

Within 500' of Cty. Road #1.

Comments:

There are no significant inter-community or countywide considerations to bring to your attention.

Related Reviews and Permits:

County Action: Local Determination X

Disapproved

Approved

Approved subject to the following modifications and/or conditions:

Date:
3/16/95


COMMISSIONER



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

February 3, 1995

Mrs. Angelina Perrott
77 LeRoy Place
Newburgh, NY 12553

Re: Tax Map Parcel #23-1-52
Owners: David J. & Angelina I. Perrott
Location: Int. Quassaick Ave. & Cedar Ave.

Dear Mr. Perrott:

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

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

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

Sincerely,

LESLIE COOK
Sole Assessor

LC/po
Attachments
cc: Pat Barnhart

Comandi, James & Josephine
243 Quassaick Ave
New Windsor, NY 12553

Martin, John B. & Gloria
6 Cedar Lane
New Windsor, NY 12553

Franklin Associates
c/o Offices of the Undersigned
One Garret Mountain Plaza, Eighth Floor
West Paterson, NJ 07424-3327

Canzone, Salvatore F.
PO Box 4759
New Windsor, NY 12553

Napoli, Michael R. & Pam
49 Cross St.
New Windsor, NY 12553

Napoli, Karen J
47 Cross St.
New Windsor, NY 12553

Rosenblum, Robert J. & Kim M.
43 Cross St.
New Windsor, NY 12553

Hanna, Constance L.
5 Jay St.
New Windsor, NY 12553

Couturier, Ann M.
251 Quassaick Ave.
New Windsor, NY 12553

Walker, James A. & Brenda R.
249 Quassaick Ave.
New Windsor, NY 12553

McKearnin, Pamela A.
N/K/A Pamela A. Hunter
247 Quassaick Ave.
New Windsor, NY 12553

Williams, Innis Jr. & Marie Louise
245 Quassaick Ave.
New Windsor, NY 12553

Nunnally, William J. & Vicki
56 Cross St.
New Windsor, NY 12553 X

Russe, Anthony & Vera
14 Cedar Lane
New Windsor, NY 12553 X

Peluso, Peter A. & Mary J.
16 Cedar Lane
New Windsor, NY 12553 X

Scott, William & Dorothy
8 Cedar Lane
New Windsor, NY 12553 X

Scott, Gordon & Muriel
15 Jay St.
New Windsor, NY 12553 X

Hoyer, William E. Jr. & Linda R.
115 Erie Ave.
New Windsor, NY 12553 X

Menkens, Lawrence E. & Deborah A.
111 Erie Ave.
New Windsor, NY 12553 X

Masterson, John P.
109 Erie Ave.
New Windsor, NY 12553 X

Gustafson, Kenneth L. & Helen Sue
101 Erie Ave.
New Windsor, NY 12553 X

DeGroat, Arnold
c/o John Barra
250 Quassaick Ave.
New Windsor, NY 12553 X

Windshire Village
Management Office
256 Quassaick Ave.
New Windsor, NY 12553 X

Squire Village
Board of Directors
c/o Emerald Management
PO Box 268
2299 Route 9N
Fishkill, NY 12524 X

The Newburgh Woodlawn
Cemetery Association
93 Union Ave.
New Windsor, NY 12553 X

Date 3/3/95, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Dr DR.
New Windsor, NY 12553

DATE		CLAIMED	ALLOWED
2/27/95	Zoning Board Meeting	75 00	
	Misc-4		
	Keegan - 13		
	J.N.G - 3		
	Eachus - 5		
	Kane - 3		
	Perrott - 4		
	32 pp	<u>144 00</u>	
		219 00	

PERROTT, ANGELINA

MR. TORLEY: Request for interpretation of Section 48-33A, 48-24B(1)(b) for non-conforming use discontinued (funeral parlor) for two years located at the intersection of Cedar Avenue and Route 94.

Joseph Imbasciani, Esq. appeared before the board for this proposal.

MR. IMBASCIANI: We're asking for an interpretation.

MR. TORLEY: Please identify yourself.

MR. IMBASCIANI: I'm an attorney for the applicant. We're asking that an interpretation be made by the board that there is a, the use as a funeral home has not been abandoned and the prior non-conforming use may continue.

MR. TORLEY: And for the record, what's the justification for saying it was not abandoned?

MR. IMBASCIANI: She's continued to pay the taxes as a funeral home, utilities, so the corporation still exists. She's continued to collect past due accounts and has been in the process of trying to sell or lease it as a funeral home to another funeral director, in the meantime, it has not been used for any other use since it was built since 1963, over 30 years as a funeral home.

MR. KRIEGER: Back to the preliminary, was there insurance maintained on this?

MR. IMBASCIANI: Yes, insurance was maintained, all the documents as per your request were submitted.

MR. TORLEY: I'm going through looking for the insurance.

MR. LANGANKE: Phone service was maintained?

MR. IMBASCIANI: Phone service, right.

MR. KRIEGER: Now, the equipment has stayed in the building, such equipment as you need, chairs?

MR. IMBASCIANI: Chairs, podium, stained glass, all that stuff is still there.

MR. TORLEY: All the mechanical fittings needed for funeral home?

MR. IMBASCIANI: Right, still tiled embalming room is still there, nothing has been disturbed. The chapel is as it was.

MR. KRIEGER: During the, if I remember correctly, the corporation, Perrotts is a corporation, it continued to--

MR. IMBASCIANI: Yes, we have documentation of the continuation of the corporation again as per your request.

MR. TORLEY: I'm going to ask our attorney if he has had an opportunity to examine it.

MR. KRIEGER: No, I haven't seen them.

MR. TORLEY: The Town Law states that a non-conforming use that is abandoned or not in use for a year loses its non-conforming status. So the request is whether the applicant has made efforts to continue the pre-existing non-conforming use during this period of hiatus.

MR. KRIEGER: Actually, the question is whether in fact the applicant did abandon the use or whether it didn't.

MR. TORLEY: And the applicant has provided data to back it up that they maintained the insurance, maintained the corporation.

MR. LANGANKE: Utilities?

MR. IMBASCIANI: Telephone, taxes, all have been maintained.

MR. TORLEY: And it could not function to house embalming and a funeral because you did not have a licensed--

MR. IMBASCIANI: Licensed practitioner.

MR. KRIEGER: Let me get this straight, you did not actually during that period of time conduct a funeral there?

MR. IMBASCIANI: No.

MR. KRIEGER: But the corporation could have conducted a funeral provided they hired the licensed funeral director which they only needed to do when they had a funeral, no funeral, no licensed funeral direction but the corporation still--

MR. IMBASCIANI: But the premises is still a funeral home.

MR. KRIEGER: And it was still offered to the public for that purpose?

MR. IMBASCIANI: Right.

MR. KRIEGER: However quietly.

MR. TORLEY: Was there anyone in the audience who wishes to speak on this, that are not parties to the request?

MR. GERACI: Vincent Geraci, 8 Mill Street, Newburgh, New York, represent the purchaser, who is a licensed funeral director so that he is in a position to carry on the business.

MR. TORLEY: Gentlemen, before I open it up to the public?

MR. LANGANKE: I have no questions. I remember this from the preliminary. I believe the man has made his case. He's shown the documentation to back up his statements and personally I am convinced that we can grant him his application.

MR. TORLEY: Interpretation. So I'll briefly open it up once again and hearing no one requesting attention, I'll close it to the public. Gentlemen, any other questions?

MR. KANE: I have no further questions.

MR. LANGANKE: I have none.

MR. TORLEY: I'll entertain a motion.

MR. KANE: I move that interpretation requested by the applicant be adopted.

MR. LANGANKE: I'll second it.

ROLL CALL

MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. REISS	AYE

MR. TORLEY: I'd like to welcome Michael Reiss to the board.



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

(914)563-4630

February 28, 1995
FAX:914-563-4693

Joseph Imbasciani, Esq.
R. D. #3, Box 463A
Red Hook, N. Y. 12571

RE: APPLICATION FOR INTERPRETATION - PERROTT
#94-50

Dear Mr. Imbasciani:

This is to confirm that the Zoning Board of Appeals at its February 27, 1995 meeting voted to interpret Mrs. Perrott's application as follows:

Prior non-conforming use of the premises located at 239 Quassaick Avenue as a funeral home in an R-4 zone has not been abandoned and that the use may continue without further approvals.

Formal decision will be drafted at a later date and acted upon by the Board. You will be receiving a copy by return mail.

Very truly yours,

PATRICIA A. BARNHART
Secretary

/pab

cc: Michael Babcock, B. I.

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. 50.

Request of Angelina I. Perrott

being a VARIANCE of Section 48-9 - Table of Use/Built Regs. - Col. A and Section 48-33 A - Interpretation and 48-24 B(1)(b) to allow funeral Parlor as a non-conforming use discontinued for 2 years;
for property situated as follows:

239 Quassaick Avenue, New Windsor, New York

known as tax lot Section 23 Block 1 Lot 52.

SAID HEARING will take place on the 27th day of February, 1995, at New Windsor Town Hall, 555 Union Avenue, New Windsor, New York, beginning at 7:30 o'clock P.M.

James Nugent
Chairman

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

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

Angelina Perrott,

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

94-50.
-----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 February 8, 1995, I compared the 25 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
8th day of February, 1995.

Deborah Green
Notary Public

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

(TA DOCDISK#7-030586.AOS)

B.

ORANGE COUNTY DEPARTMENT OF PLANNING
APPLICATION FOR MANDATORY COUNTY REVIEW
OF LOCAL PLANNING ACTION

(Variances, Zone Changes, Special Permits, Subdivisions)

Section A. - To be completed by Local Board having jurisdiction.
To be signed by Local Official.

Local File No. 94-50

1. Municipality Town of New Windsor Public Hearing Date 2/27/95

City, Town or Village Board Planning Board Zoning Board of Appeals

2. Applicant: NAME Angelina Perrott

Address 239 Quassaick Avenue

Attorney, Engineer, Architect Jos. Imbasciani, Eng. Rt. 3 - Box 4631

3. Location of Site: Same as above - (Cedar Ave - Rt 94)
Red Hook, N.Y. P2571 (914) 876-1700
(street or highway, plus nearest intersection)

Tax Map Identification: Section 23 Block 1 Lot 52

Present Zoning District R-4 Size of Parcel 1 Acre ±

4. Type of Review:

Special Permit Use*

Variance* Use - Funeral Parlor - (see App. attached)

Area _____

Zone Change* From: _____ To: _____

Zoning Amendment* To Section: _____

Subdivision** Major _____ Minor _____

2/8/95
Date

Patricia A. Reinhart, Secy.
Signature and Title

ZBA.

*Cite Section of Zoning Regulations where pertinent
**Three (3) copies of map must be submitted if located along County Highway, otherwise, submit two (2) copies of map.

ZONING BOARD OF APPEALS
Reorganizational Meeting
February 27, 1995

AGENDA:

7:30 P.M. - ROLL CALL

Motion to adopt minutes of 01/09/95 and 01/23/95 meetings as written.

PRELIMINARY MEETING:

1. KEEGAN, SCOTT - Request for use variance to allow existing two-family residence in PI zone located at 525 Little Britain Road. (4-3-3).
2. J.N.G. REALTY/ELGEE LIGHTING - Referred by Planning Board for 0.19% floor area ratio and 38 parking space variance to utilize building located on west side of Ruscitti Road in a PI zone. (9-1-64).

PUBLIC HEARING:

- ✓ 3. EACHUS, CHRISTOPHER - Request for 9 ft. 3 in. side yard and 1 ft. rear yard variance for addition and 13 ft. side yard and 17 ft. rear yard variance for deck, both existing at 110 Clancy Avenue in an R-4 zone. (13-15-2).
4. KANE, PATRICIA - Request for 2 ft. side yard variance for existing pool deck at 105 Shaker Court North in a CL zone. (80-8-20).
5. PERROTT, ANGELINA I. - Request for interpretation of Section 48-33A, 48-24B(1)(b) for non-conforming use discontinued (funeral parlor) for two years located at intersection Cedar Ave/Route 94. (23-1-52).

ELECTION OF OFFICERS: MOTION TO ELECT CHAIRMAN, V. CHAIRMAN,
SECRETARY, RECORDING SECRETARY AND ATTORNEY.

FORMAL DECISIONS: (1) FREED
(2) DI NITTO
(3) LIPPOLIS

PAT - 563-4630 (O)
562-7107 (H)

REMINDER: MEETING WILL BE HELD IN COURT ROOM IN NEW WING.

062594

THIS INDENTURE, made the 24th day of September, nineteen hundred and eighty-five
BETWEEN

DAVID J. PERROTT residing at 1 Plaine Terrace,
Newburgh, New York 12550

party of the first part, and

DAVID J. PERROTT and ANGELINA I. PERROTT his wife
both residing at 1 Plaine Terrace, Newburgh, New York 12550
as tenants by the ENTIRETY

party of the second part,

WITNESSETH, that the party of the first part, in consideration of TEN & 00/100-----

----- (\$10.00) dollars,

lawful money of the United States, 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 and more accurately bounded and described as follows:

PARCEL I

BEGINNING at a point in the southeasterly line of Quassaick
Avenue, said point of beginning being located North 40 degrees
35' 30" East 50.0' from the intersection of southeast line of
Quassaick Avenue with the southwesterly line of the new road to
be known as Cedar Avenue, said southwesterly line of the new road
to be known as Cedar Avenue as marked by pipes; thence from said
point beginning and along the southeasterly line of Quassaick
Avenue, North 40 degrees 35' 30" East 180.0' to a point said point
being located approximately 1139' southwesterly of the intersection
with Union Street; thence through lands of Ritterberger on the
next three courses; South 49 degrees 23' East 220.0' to a point;
thence South 40 degrees 35' 30" West 180.0' to point, said
point being located 50' northeasterly as measured at right angles
from the southwest line of the new street known as Cedar Avenue;
thence on a line through lands of Rittberger and 50' northeasterly
of and parallel to the south line of the new road to be known as
Cedar Avenue, North 49 degrees 23' West 22.0' to the point of
beginning.

PARCEL II

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

BEGINNING at a point in the southeasterly line of Quassaick
Avenue distant 230 feet on a course of North 40 degrees 35' 30"
East from the intersection of the said southeasterly line of
Quassaick Avenue with the southwesterly line of the new road to
be known as Cedar Avenue, said southwesterly line of Cedar Avenue
being marked by pipes set in the ground, said point of beginning
being also the northwesterly corner of premises described in a
deed dated December 28, 1962, made by Carl F. Ritterberger to David J.
Perrott and C. Evelyn Perrott and recorded in Orange County Clerk's
Office January 7, 1963, in Liber 1632 of Deeds at page 279, and
running thence South 49 degrees 23' East along lands of Perrott for
220 feet to a point; thence North 40 degrees 35' 30" East for
27.24 feet to a point; thence North 49 degrees 23' West for 220
feet to the southeasterly line of Quassaick Avenue, and thence

23
1
52

along the southeasterly line of Quassaick Avenue South 40 degrees
35' 30" West for 27.24 feet to the point of place of beginning.

Subject to existing easement agreements, mortgages and leases.

LIBER 2424 PG 342

TOGETHER with all right, title and interest, if any, of the party of the first part of, in and to any streets and roads abutting the above-described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

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

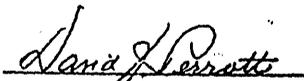
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of 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




DAVID J. PERROTT

STATE OF NEW YORK, COUNTY OF Orange
On the 26th day of September, 19 85, before me personally came

DAVID J. PERROTT

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

S. Mulford Blazer
S. MULFORD BLAZER
Notary Public in and for the State of New York
No. 1:0317500
Qualified in New York County
Commission Expires March 30 1988

STATE OF NEW YORK, COUNTY OF
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 he executed the same.

STATE OF NEW YORK, COUNTY OF
On the day of , 19 , before me personally came

to me known, who, being by me duly sworn, did depose and say that he resides at No.

that he is the of

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.

STATE OF NEW YORK, COUNTY OF
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.

Bargain and Sale Deed

WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE No.

The land affected by the within instrument lies in:
SECTION
BLOCK
LOT
COUNTY OR TOWN

E-17-2

DAVID J. PERROTT

TO

DAVID J. PERROTT and ANGELINA I. PERROTT

RECORDED AT THE REQUEST OF

Lawyers Title Insurance Corporation

RETURN BY MAIL TO

STANDARD FORM OF
NEW YORK BOARD OF TITLE UNDERWRITERS
Distributed by
Lawyers Title Insurance Corporation
Home Office — Richmond, Virginia
750 THIRD AVENUE AT 46TH STREET, NEW YORK, N. Y. 10017
125-10 QUEENS BOULEVARD, Kew GARDENS, N. Y. 11415

S. Mulford Blazer, Esq.
Allen, Morris & Troisi, P.C.
230 Park Avenue
Suite 1560
New York, New York 10169

S. Mulford Blazer

Reserve This Space For Use of Recording Office

Exempt
8793

Oct 21 1985
244
344
Morris & Troisi

LIBEF 2424 PG 344

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

94-50

Date: 2/8/95.

I. Applicant Information:

- (a) Angelina I. Perrott, 77 LeRoy Place, Newburgh, New York 12550 (914) 562-2046
(Name, address and phone of Applicant) (Owner)
- (b) _____
(Name, address and phone of purchaser or lessee)
- (c) Joseph Imbasciani, Esq., RD#3 Box 463A, Red Hook, New York 12571 (914) 876-1700
(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) R4 239 Quassaick Avenue, New Windsor, New York 23-1-52 1 acre
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? N.C.
- (c) Is a pending sale or lease subject to ZBA approval of this application? yes.
- (d) When was property purchased by present owner? 1963.
- (e) Has property been subdivided previously? no.
- (f) Has property been subject of variance previously? no.
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.

- (a) Use Variance requested from New Windsor Zoning Local Law, Section 48-9, Table of Use/Bulk Regs., Col. A, to allow:
(Describe proposal) Use of premises as a Funeral Home

_____.

(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.

Premises was designed, built and has been used as a Funeral Home for over 30 years. Structure is not suitable for any permitted use under R-4 zoning. Converting the premises would require substantial modification and would be unnecessarily expensive. Pending sale of premises would be lost. Granting of the variance would not have any adverse effect on the neighborhood since it is primarily commercial and the premises in question has been used as a Funeral Home for over 30 years.

(c) 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 x.

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: N/A

(a) Area 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>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____%	_____%	_____%
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

* Residential Districts only

** No-residential districts only

N/A
 (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)

(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.

Premises was designed, built and has been used as a Funeral Home for over 30 years. Structure is not suitable for any permitted use under R-4 zoning. Converting the premises would require substantial modification and would be unnecessarily expensive. Pending sale of premises would be lost. Granting of the variance would not have any adverse effect on the neighborhood since it is primarily commercial and the premises in question has been used as a Funeral Home for over 30 years.

(c) 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 X.

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: N/A

(a) Area 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>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

* Residential Districts only

** No-residential districts only

N/A

(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:

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

VI. Sign Variance: N/A

(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	_____	_____	_____

(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.

(a) Interpretation requested of New Windsor Zoning Local Law, Section 48-33A, Table of _____ Regs., Col. _____.

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

Use as a Funeral Home has not been discontinued. Premises use as a Funeral Home pre-dates zoning, requires no permit or variance, and said use has not been discontinued or abandoned. In the two year period in question, the premises has been offered for lease or sale as a Funeral Home. The building and facilities have been maintained as a Funeral Home. The premises has been used for no other purpose but a Funeral Home. Property taxes, utilities, telephone and business/liability insurance have all been maintained as a Funeral Home. Applicant has conducted continued business in that she has collected past due accounts for funerals.

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)

PROJECT I.D. NUMBER

617.21

SEQR

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

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

1. APPLICANT / SPONSOR ANGELINA I. PERROTT	2. PROJECT NAME
3. PROJECT LOCATION: Municipality NEW WINDSOR County ORANGE	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) 239 QUASSAICK AVE. CEDAR AVE. & ROUTE 94	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: FUNERAL HOME	
7. AMOUNT OF LAND AFFECTED: Initially _____ acres Ultimately _____ acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) and permit/approvals	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: ANGELINA I. PERROTT	Date: 2/8/95
Signature: <i>Angelina I. Perrott</i>	

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

DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.12? If yes, coordinate the review process and use the FULL EAF.

Yes No

WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.07 If No, a negative declaration may be superseded by another involved agency.

Yes No

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

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

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

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

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

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

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

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

D. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?

Yes No If Yes, explain briefly

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

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

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

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

Print or Type Name of Lead Agency

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

**ADDENDUM TO
NOTICE OF APPEAL
TO THE ZONING BOARD OF APPEALS OF
THE TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK
dated January 9, 1995**

February 6, 1995

PURSUANT to the preliminary hearing before the Board of Appeals of the Town of New Windsor, New York on January 9, 1995 and upon the request of the Board of Appeals,

APPLICANT HEREWITH PROVIDES further documentation of the continual use of the subject premises as a FUNERAL HOME during the two year period in question, including but not limited to, documentation of the good standing of Perrott's Inc. as an existing corporation; and documentation of taxes, utilities and business insurance maintained over the said period; and documentation of collection efforts during said period, on past due accounts for funerals previously performed.



Angelina Perrott
77 LeRoy Place
Newburgh, New York 12550

USE VARIANCE

R-4 Permitted Use #1: Commercial Agricultural Operations

1. The applicant cannot realize a reasonable return on the property if used as a commercial agricultural operation. Such a use would require substantial and unreasonable alterations to the property. There are unique Funeral Home structures within the building, such as a tiled embalming room and a Chapel with a large stained-glass religious window. Conversion of such structures into a use other than a Funeral Home would require extensive remodeling and unreasonable expense.

There is also an obstacle created by the community knowing that the property has been used as a Funeral Home for thirty years. The property is located across the street from a cemetery and the Funeral Home was maintained as a thriving business. Community members will be reluctant to use the structure in a use other than a Funeral Home due to the stigmatization associated with the former use.

The premises are also unsuitable for agricultural operations because of its location in a commercial area on Route 94. In addition, the property is not large enough since zoning requires a minimum of five acres for an agricultural operation.

2. There are no other pieces of property in the community with the unique problems associated with converting a Funeral Home into a use permitted by right under zoning. A Funeral Home is a unique structure in any community and it has problems associated with changing use. These problems include extensive structural remodeling and public perception of a business associated with death and personal tragedy. These are unique problems not associated with other businesses and structures.

3. If a variance is granted, the essential character of the neighborhood will not be altered. The property has been used as a Funeral Home since 1963. The community has known it to be a Funeral Home for thirty years and, therefore, continuing the property as a

Funeral Home will not alter the neighborhood. The premises are also located alongside other businesses in a commercial area.

4. The hardship which will be created by not granting a variance has not been created by the applicant. The Funeral Home was in use since 1963, pre-dating zoning. Since that date, the premises have remained in use as a funeral home. Property taxes have been, and are still being, paid on the property as a Funeral Home and utilities and telephone service has been maintained. Also, the applicant has maintained business liability insurance on the property as a Funeral Home. The applicant marketed the premises for sale or lease as a Funeral Home and did not foresee that it would not be able to be used as a Funeral Home as it has been used consistently for the past thirty years.

R-4 Zone Permitted Use #2: Buildings operated by the Town of New Windsor

1. The applicant cannot realize a reasonable return on the property if used by the Town of New Windsor. Such a use would require substantial and unreasonable alterations to the property. There are unique Funeral Home structures within the building, such as a tiled embalming room and a Chapel with a large stained-glass religious window. Conversion of such structures into a use other than a Funeral Home would require extensive remodeling and unreasonable expense. The Town of New Windsor has shown no interest in acquiring the premises for its own use.

There is also an obstacle created by the community knowing that the property has been used as a Funeral Home for thirty years. The property is located across the street from a cemetery and the Funeral Home was maintained as a thriving business. Community members will be reluctant to use the structure in a use other than a Funeral Home due to the stigmatization associated with the former use.

The premises are also unsuitable for use by the Town of New Windsor because zoning restrictions require a minimum of five acres of property for such a use.

2. There are no other pieces of property in the community with the unique problems associated with converting a Funeral Home into a use permitted by right under zoning. A Funeral Home is a unique structure in any community and it has problems associated with changing use. These problems include extensive structural remodeling and public perception of a business associated with death and personal tragedy. These are unique problems not associated with other businesses and structures.

3. If a variance is granted, the essential character of the neighborhood will not be altered. The property has been used as a Funeral Home since 1963. The community has known it to be a Funeral Home for thirty years and, therefore, continuing the property as a Funeral Home will not alter the neighborhood. The premises are also located alongside other businesses in a commercial area.

4. The hardship which will be created by not granting a variance has not been created by the applicant. The Funeral Home was in use since 1963, pre-dating zoning. Since that date, the premises have remained in use as a funeral home. Property taxes have been, and are still being, paid on the property as a Funeral Home and utilities and telephone service has been maintained. Also, the applicant has maintained business liability insurance on the property as a Funeral Home. The applicant marketed the premises for sale or lease as a Funeral Home and did not foresee that it would not be able to be used as a Funeral Home as it has been used consistently for the past thirty years.

R-4 Zone Permitted Use #3: Public Parks and Playgrounds

1. The applicant cannot realize a reasonable return on the property if used as a public park or playground. Such a use would require substantial and unreasonable alterations to the property. There are unique Funeral Home structures within the building, such as a tiled embalming room and a Chapel with a large stained-glass religious window. Conversion of such structures into a use other than a Funeral Home would require

extensive remodeling and unreasonable expense. There has been no interest in the community or otherwise to convert the premises into a public park or playground.

There is also an obstacle created by the community knowing that the property has been used as a Funeral Home for thirty years. The property is located across the street from a cemetery and the Funeral Home was maintained as a thriving business. Community members will be reluctant to use the structure in a use other than a Funeral Home due to the stigmatization associated with the former use.

The premises are also unsuitable for use as a public park or playground because zoning restrictions require a minimum of five acres of property for such a use. A playground would also be inappropriate and would cause safety problems in a commercial area.

2. There are no other pieces of property in the community with the unique problems associated with converting a Funeral Home into a use permitted by right under zoning. A Funeral Home is a unique structure in any community and it has problems associated with changing use. These problems include extensive structural remodeling and public perception of a business associated with death and personal tragedy. These are unique problems not associated with other businesses and structures.

3. If a variance is granted, the essential character of the neighborhood will not be altered. The property has been used as a Funeral Home since 1963. The community has known it to be a Funeral Home for thirty years and, therefore, continuing the property as a Funeral Home will not alter the neighborhood. The premises are also located alongside other businesses in a commercial area.

4. The hardship which will be created by not granting a variance has not been created by the applicant. The Funeral Home was in use since 1963, pre-dating zoning. Since that date, the premises have remained in use as a funeral home. Property taxes have been, and are still being, paid on the property as a Funeral Home and utilities and telephone service has been maintained. Also, the applicant has maintained business liability insurance on the

property as a Funeral Home. The applicant marketed the premises for sale or lease as a Funeral Home and did not foresee that it would not be able to be used as a Funeral Home as it has been used consistently for the past thirty years.

R-4 Zone Permitted Use #4: Commercial Forestry

1. The applicant cannot realize a reasonable return on the property if used as a commercial forestry. Such a use would require substantial and unreasonable alterations to the property. There are unique Funeral Home structures within the building, such as a tiled embalming room and a Chapel with a large stained-glass religious window. Conversion of such structures into a use other than a Funeral Home would require extensive remodeling and unreasonable expense.

There is also an obstacle created by the community knowing that the property has been used as a Funeral Home for thirty years. The property is located across the street from a cemetery and the Funeral Home was maintained as a thriving business. Community members will be reluctant to use the structure in a use other than a Funeral Home due to the stigmatization associated with the former use.

The premises are also unsuitable for use as a commercial forestry because zoning restrictions require a minimum of five acres of property for such a use. The premises are located in a commercial area and are not suitable for raising trees.

2. There are no other pieces of property in the community with the unique problems associated with converting a Funeral Home into a use permitted by right under zoning. A Funeral Home is a unique structure in any community and it has problems associated with changing use. These problems include extensive structural remodeling and public perception of a business associated with death and personal tragedy. These are unique problems not associated with other businesses and structures.

3. If a variance is granted, the essential character of the neighborhood will not be altered. The property has been used as a Funeral Home since 1963. The community has known it to be a Funeral Home for thirty years and, therefore, continuing the property as a Funeral Home will not alter the neighborhood. The premises are also located alongside other businesses in a commercial area.

4. The hardship which will be created by not granting a variance has not been created by the applicant. The Funeral Home was in use since 1963, pre-dating zoning. Since that date, the premises have remained in use as a funeral home. Property taxes have been, and are still being, paid on the property as a Funeral Home and utilities and telephone service has been maintained. Also, the applicant has maintained business liability insurance on the property as a Funeral Home. The applicant marketed the premises for sale or lease as a Funeral Home and did not foresee that it would not be able to be used as a Funeral Home as it has been used consistently for the past thirty years.

R-4 Zone Permitted Use #5: Outdoor Recreational Facilities

1. The applicant cannot realize a reasonable return on the property if used as an outdoor recreational facility. Such a use would require substantial and unreasonable alterations to the property. There are unique Funeral Home structures within the building, such as a tiled embalming room and a Chapel with a large stained-glass religious window. Conversion of such structures into a use other than a Funeral Home would require extensive remodeling and unreasonable expense.

There is also an obstacle created by the community knowing that the property has been used as a Funeral Home for thirty years. The property is located across the street from a cemetery and the Funeral Home was maintained as a thriving business. Community members will be reluctant to use the structure in a use other than a Funeral Home due to the stigmatization associated with the former use.

The premises are also unsuitable for use as an outdoor recreational facility because zoning restrictions require a minimum of five acres of property for such a use. The premises are located in a commercial area and are not suitable for a golf course, ice skating rink, swimming pool, park, playfield or ski area.

2. There are no other pieces of property in the community with the unique problems associated with converting a Funeral Home into a use permitted by right under zoning. A Funeral Home is a unique structure in any community and it has problems associated with changing use. These problems include extensive structural remodeling and public perception of a business associated with death and personal tragedy. These are unique problems not associated with other businesses and structures.

3. If a variance is granted, the essential character of the neighborhood will not be altered. The property has been used as a Funeral Home since 1963. The community has known it to be a Funeral Home for thirty years and, therefore, continuing the property as a Funeral Home will not alter the neighborhood. The premises are also located alongside other businesses in a commercial area.

4. The hardship which will be created by not granting a variance has not been created by the applicant. The Funeral Home was in use since 1963, pre-dating zoning. Since that date, the premises have remained in use as a funeral home. Property taxes have been, and are still being, paid on the property as a Funeral Home and utilities and telephone service has been maintained. Also, the applicant has maintained business liability insurance on the property as a Funeral Home. The applicant marketed the premises for sale or lease as a Funeral Home and did not foresee that it would not be able to be used as a Funeral Home as it has been used consistently for the past thirty years.

R-4 Zone Permitted Use #6: Place of Worship

1. The applicant cannot realize a reasonable return on the property if used as a place of worship. Such a use would require substantial and unreasonable alterations to the property. There are unique Funeral Home structures within the building, such as a tiled embalming room and a Chapel with a large stained-glass religious window. Conversion of such structures into a use other than a Funeral Home would require extensive remodeling and unreasonable expense.

There is also an obstacle created by the community knowing that the property has been used as a Funeral Home for thirty years. The property is located across the street from a cemetery and the Funeral Home was maintained as a thriving business. Community members will be reluctant to use the structure in a use other than a Funeral Home due to the stigmatization associated with the former use. It would be considered inappropriate by many community members to convert a Funeral Home to a house of worship.

The premises are also unsuitable for use as a house of worship because zoning restrictions require a minimum of three acres of property for such a use.

2. There are no other pieces of property in the community with the unique problems associated with converting a Funeral Home into a use permitted by right under zoning. A Funeral Home is a unique structure in any community and it has problems associated with changing use. These problems include extensive structural remodeling and public perception of a business associated with death and personal tragedy. These are unique problems not associated with other businesses and structures.

3. If a variance is granted, the essential character of the neighborhood will not be altered. The property has been used as a Funeral Home since 1963. The community has known it to be a Funeral Home for thirty years and, therefore, continuing the property as a Funeral Home will not alter the neighborhood. The premises are also located alongside other businesses in a commercial area.

4. The hardship which will be created by not granting a variance has not been created by the applicant. The Funeral Home was in use since 1963, pre-dating zoning. Since that date, the premises have remained in use as a funeral home. Property taxes have been, and are still being, paid on the property as a Funeral Home and utilities and telephone service has been maintained. Also, the applicant has maintained business liability insurance on the property as a Funeral Home. The applicant marketed the premises for sale or lease as a Funeral Home and did not foresee that it would not be able to be used as a Funeral Home as it has been used consistently for the past thirty years.

R-4 Zone Permitted Use #7: Public Elementary or High School

1. The applicant cannot realize a reasonable return on the property if used as a public elementary or high school. Such a use would require substantial and unreasonable alterations to the property. There are unique Funeral Home structures within the building, such as a tiled embalming room and a Chapel with a large stained-glass religious window. Conversion of such structures into a use other than a Funeral Home would require extensive remodeling and unreasonable expense.

There is also an obstacle created by the community knowing that the property has been used as a Funeral Home for thirty years. The property is located across the street from a cemetery and the Funeral Home was maintained as a thriving business. Community members will be reluctant to use the structure in a use other than a Funeral Home due to the stigmatization associated with the former use.

The premises are also unsuitable for use as a public elementary or high school because zoning restrictions require a minimum of fifteen acres of property for such a use. The structure on the premises is also not suitable for a school, with or without extensive reconstruction.

2. There are no other pieces of property in the community with the unique problems associated with converting a Funeral Home into a use permitted by right under zoning. A Funeral Home is a unique structure in any community and it has problems associated with changing use. These problems include extensive structural remodeling and public perception of a business associated with death and personal tragedy. These are unique problems not associated with other businesses and structures.

3. If a variance is granted, the essential character of the neighborhood will not be altered. The property has been used as a Funeral Home since 1963. The community has known it to be a Funeral Home for thirty years and, therefore, continuing the property as a Funeral Home will not alter the neighborhood. The premises are also located alongside other businesses in a commercial area.

4. The hardship which will be created by not granting a variance has not been created by the applicant. The Funeral Home was in use since 1963, pre-dating zoning. Since that date, the premises have remained in use as a funeral home. Property taxes have been, and are still being, paid on the property as a Funeral Home and utilities and telephone service has been maintained. Also, the applicant has maintained business liability insurance on the property as a Funeral Home. The applicant marketed the premises for sale or lease as a Funeral Home and did not foresee that it would not be able to be used as a Funeral Home as it has been used consistently for the past thirty years.

R-4 Zone Permitted Use #8: One-family Detached Dwelling without central water or central sewer

1. The applicant cannot realize a reasonable return on the property if used as one-family detached dwelling. Such a use would require substantial and unreasonable alterations to the property. There are unique Funeral Home structures within the building,

such as a tiled embalming room and a Chapel with a large stained-glass religious window. Conversion of such structures into a use other than a Funeral Home would require extensive remodeling and unreasonable expense.

There is also an obstacle created by the community knowing that the property has been used as a Funeral Home for thirty years. The property is located across the street from a cemetery and the Funeral Home was maintained as a thriving business. Community members will be reluctant to use the structure in a use other than a Funeral Home due to the stigmatization associated with the former use.

The premises are also unsuitable for use as a one-family dwelling because of the extremely large structure in existence. This structure does not have bathrooms, a kitchen or other amenities that would be required to market the property for a family dwelling.

2. There are no other pieces of property in the community with the unique problems associated with converting a Funeral Home into a use permitted by right under zoning. A Funeral Home is a unique structure in any community and it has problems associated with changing use. These problems include extensive structural remodeling and public perception of a business associated with death and personal tragedy. These are unique problems not associated with other businesses and structures.

3. If a variance is granted, the essential character of the neighborhood will not be altered. The property has been used as a Funeral Home since 1963. The community has known it to be a Funeral Home for thirty years and, therefore, continuing the property as a Funeral Home will not alter the neighborhood. The premises are also located alongside other businesses in a commercial area.

4. The hardship which will be created by not granting a variance has not been created by the applicant. The Funeral Home was in use since 1963, pre-dating zoning. Since that date, the premises have remained in use as a funeral home. Property taxes have been, and are still being, paid on the property as a Funeral Home and utilities and telephone service has been maintained. Also, the applicant has maintained business liability insurance on the

property as a Funeral Home. The applicant marketed the premises for sale or lease as a Funeral Home and did not foresee that it would not be able to be used as a Funeral Home as it has been used consistently for the past thirty years.

R-4 Zone Permitted Use #9: One-family Detached Dwelling with central sewer

1. The applicant cannot realize a reasonable return on the property if used as one-family detached dwelling. Such a use would require substantial and unreasonable alterations to the property. There are unique Funeral Home structures within the building, such as a tiled embalming room and a Chapel with a large stained-glass religious window. Conversion of such structures into a use other than a Funeral Home would require extensive remodeling and unreasonable expense.

There is also an obstacle created by the community knowing that the property has been used as a Funeral Home for thirty years. The property is located across the street from a cemetery and the Funeral Home was maintained as a thriving business. Community members will be reluctant to use the structure in a use other than a Funeral Home due to the stigmatization associated with the former use.

The premises are also unsuitable for use as a one-family dwelling because of the extremely large structure in existence. This structure does not have bathrooms, a kitchen or other amenities that would be required to market the property for a family dwelling.

2. There are no other pieces of property in the community with the unique problems associated with converting a Funeral Home into a use permitted by right under zoning. A Funeral Home is a unique structure in any community and it has problems associated with changing use. These problems include extensive structural remodeling and public perception of a business associated with death and personal tragedy. These are unique problems not associated with other businesses and structures.

3. If a variance is granted, the essential character of the neighborhood will not be altered. The property has been used as a Funeral Home since 1963. The community has known it to be a Funeral Home for thirty years and, therefore, continuing the property as a Funeral Home will not alter the neighborhood. The premises are also located alongside other businesses in a commercial area.

4. The hardship which will be created by not granting a variance has not been created by the applicant. The Funeral Home was in use since 1963, pre-dating zoning. Since that date, the premises have remained in use as a funeral home. Property taxes have been, and are still being, paid on the property as a Funeral Home and utilities and telephone service has been maintained. Also, the applicant has maintained business liability insurance on the property as a Funeral Home. The applicant marketed the premises for sale or lease as a Funeral Home and did not foresee that it would not be able to be used as a Funeral Home as it has been used consistently for the past thirty years.

R-4 Zone Permitted Use #10: One-family Detached Dwelling with both central sewer and central water

1. The applicant cannot realize a reasonable return on the property if used as one-family detached dwelling. Such a use would require substantial and unreasonable alterations to the property. There are unique Funeral Home structures within the building, such as a tiled embalming room and a Chapel with a large stained-glass religious window. Conversion of such structures into a use other than a Funeral Home would require extensive remodeling and unreasonable expense.

There is also an obstacle created by the community knowing that the property has been used as a Funeral Home for thirty years. The property is located across the street from a cemetery and the Funeral Home was maintained as a thriving business. Community

members will be reluctant to use the structure in a use other than a Funeral Home due to the stigmatization associated with the former use.

The premises are also unsuitable for use as a one-family dwelling because of the extremely large structure in existence. This structure does not have bathrooms, a kitchen or other amenities that would be required to market the property for a family dwelling.

2. There are no other pieces of property in the community with the unique problems associated with converting a Funeral Home into a use permitted by right under zoning. A Funeral Home is a unique structure in any community and it has problems associated with changing use. These problems include extensive structural remodeling and public perception of a business associated with death and personal tragedy. These are unique problems not associated with other businesses and structures.

3. If a variance is granted, the essential character of the neighborhood will not be altered. The property has been used as a Funeral Home since 1963. The community has known it to be a Funeral Home for thirty years and, therefore, continuing the property as a Funeral Home will not alter the neighborhood. The premises are also located alongside other businesses in a commercial area.

4. The hardship which will be created by not granting a variance has not been created by the applicant. The Funeral Home was in use since 1963, pre-dating zoning. Since that date, the premises have remained in use as a funeral home. Property taxes have been, and are still being, paid on the property as a Funeral Home and utilities and telephone service has been maintained. Also, the applicant has maintained business liability insurance on the property as a Funeral Home. The applicant marketed the premises for sale or lease as a Funeral Home and did not foresee that it would not be able to be used as a Funeral Home as it has been used consistently for the past thirty years.

January 9, 1995

10 = 45,000.

2

PRELIMINARY MEETING:

PERROTT, ANGELINA

MR. NUGENT: Request for use variance to allow funeral parlor in R-4 zone under 48-24B(1)(b), non-conforming use discontinued for two years located at corner of Cedar Avenue and Route 94.

Joseph Imbasciani, Esq. appeared before the board representing this proposal.

MR. IMBASCIANI: There is two aspects, first the appeal of the decision that the variance is no longer that the non-conforming use was abandoned, it's still a funeral home. It always was a funeral home and as you can see from the facts I have stated here, it was built in 1963, it predated zoning, it has never been used for anything but a funeral home. It has been since 1992, it has been on the market for lease and for sale as a funeral home. The premises still retains the special or unique functions, it has a chapel with a stained glass window. It has an embalming room and other structures that are only suited for a funeral home and that even though there haven't been any funerals during that two year period, it has not ever ceased to be a funeral home. It's been marketed and now has just been sold as a funeral home. The contract is contingent upon the further use as a funeral home. In the alternative, if the board decides not to accept that then we're asking for a variance on the basis of hardship, practical difficulty and unreasonable financial loss that would be incurred if they had to convert it into anything but a funeral home. I have some pictures, if you'd like to take a look that were taken within the last week to show that everything remains as a funeral home.

MR. LANGANKE: Mike, how did we determine that it is no longer a funeral home?

MR. BABCOCK: Well, per our last inspection of it for the fire inspector's office, then we talked to the--

MR. LANGANKE: When was that?

MR. BABCOCK: Not sure what the date was but it was more than two years ago so what we asked them to do is if they can supply us with some information, some bills or receipts or something that showed that they have continued to do business within the last two years and they are unable to produce that so we felt that since it discontinued that use for a period of that two years under that section of the code.

MR. KANE: But what about maintaining, paying the utilities bills and phone service, all that being paid under the funeral home, couldn't that--

MR. NUGENT: Insurance, liability insurance is more important.

MR. KANE: Not whether they are making a profit but whether they are continuing to pay bills.

MR. IMBASCIANI: Her husband died, who had the license and she has no license.

MR. TORLEY: You say that you maintained the business liability insurance for the time?

MR. IMBASCIANI: Right.

MR. NUGENT: As a funeral home?

MR. IMBASCIANI: Yes.

MR. TORLEY: Any other licenses required by the state would be, would have been applicable?

MR. IMBASCIANI: For the funeral directors license she still has the state tax license and all that stuff, the corporation still exists.

MR. TORLEY: So the corporation still exists and any state licenses?

MR. IMBASCIANI: As part of the sale, she had two funeral homes as part of the sale. She can't use the old Perrott's name anymore but both were on the market,

one sold so far and now the other one has finally sold.

MR. TORLEY: Any state licensing for the structure it has been maintained if there are any requirements?

MR. IMBASCIANI: There are no other requirements that--

MR. KANE: You have maintained the utility bills and phone bills, et cetera, all that under the original business name?

MR. IMBASCIANI: It still is taxed as a business.

MR. KANE: As that funeral home that hasn't changed?

MR. IMBASCIANI: Even though it's in a residential district, obviously it could never be used as a residence.

MR. KANE: Well, it's pre-existing.

MR. TORLEY: If we were to make this, I'm sorry Andy's not here now, if we were going to make this interpretation that it does and is continued to be used as a funeral home in essence do we have to go through public hearing on that.

MR. NUGENT: I'm not sure that we have the right to make an interpretation, I think we're right up to a preliminary.

MR. TORLEY: Do we have to go to public hearing?

MR. NUGENT: Well, to do it the right way, yes.

MR. IMBASCIANI: Can't you just reverse the decision of the building inspector and then just leave it as it was, it was prior existing and just continue that?

MR. NUGENT: Says here in the law here in the book says shall not be re-established if such a use has been discontinued for any reason for a period of two years or more who has changed to or replaced by a conforming use intent to resume a non-conforming use shall not confer the right to do so.

MR. NUGENT: It's our judgment call whether or not it had been in fact been discontinued for 2 years.

MR. IMBASCIANI: And I'm, it's my argument that it hasn't been discontinued, it's just been looking for a new funeral director.

MR. NUGENT: I know it's been for sale for quite some time.

MR. TORLEY: Andy, have you looked into this particular case before you got here?

MR. KRIEGER: Which particular case?

MR. TORLEY: Number one, Perrott's. The question is whether or not it's, we consider it as continuing its non-conforming use and if the board felt that way, do we have to go through a public hearing to establish that?

MR. KRIEGER: First of all, yes, you can't make any determination without doing that, without going through a public hearing. There is however in terms of continuance it doesn't matter subjectively what the owner of the property was doing or not doing or intending to do. It matters objectively what happened. And if the property was actually being used. All of the pre-existing, non-conforming uses that are discussed you know on the prior cases that are discussed have to do with the talk about the actual use of the building. There's no way that the board can measure the subjective intent of an owner and that is not the proper standard.

MR. NUGENT: It's never been used for anything else but a funeral parlor.

MR. KRIEGER: Has it been used as a funeral parlor?

MR. KANE: But all phone utilities and taxes have been paid under that funeral parlor's name, do they have to make a profit necessarily?

MR. KRIEGER: No, they didn't have to make a profit.

MR. KANE: But if they continue to pay the bills.

MR. KRIEGER: It talks in terms of use.

MR. TORLEY: Well, if you look at number 2 on there, the key to me is that they maintain their business and liability insurance as a funeral home on site and the applicant has stated that they have maintained the corporate name, et cetera, the difficulty they just don't have the state licensed undertaker to run it, am I correct?

MR. IMBASCIANI: Right, correct.

MR. KRIEGER: Was it owned by a licensed undertaker during this time?

MR. KANE: Till he died. And it stayed in the family.

MR. TORLEY: Would this be part of his estate?

MR. IMBASCIANI: She inherited it.

MR. KRIEGER: It would be part of the estate if it's owned by that person.

MR. IMBASCIANI: You don't have to be a licensed funeral director to own it but you have to be one to run it, operate it, so she couldn't operate it and was looking for someone to lease or purchase it and it took this long but it was never abandoned or discontinued as a funeral home, the structure the, facilities, the insurance, the taxes, everything has remained as a funeral home.

MR. KRIEGER: The question is while the board has to find and that is with all the indicia that the applicant is going to argue and under the facts and the circumstances was it actually operated as a funeral home or was it merely intended to be subjectively intended to be operated as a funeral home.

MR. LANGANKE: Personally, I feel it was operated as a

funeral home.

MR. KRIEGER: That however is an interpretation if somebody asked me what it was, I would say it was a funeral home.

MR. IMBASCIANI: No one else would want it for anything else. Who is going to buy that and try and use it for anything else after it's been a funeral home for 25 years, 30 years.

MR. KRIEGER: Well, that is--

MR. IMBASCIANI: There was never any attempt.

MR. KRIEGER: That is an argument that has to be made formally before the board. I'm not, I can't say as a matter of law that it has to be good or it's not good, that is a question of fact.

MR. LANGANKE: Well, he presented these facts to us.

MR. TORLEY: But we have to do this at a public hearing. In any case, may I make a suggestion that we, since the purpose of the preliminary is to get information going both ways, the applicant has also put in an alternative request for a use variance. If we wanted to discuss that now, at a Preliminary Hearing, what kind of information we need should we find that this is not a continuation of a non-conforming use their alternative would then come into play, shouldn't we discuss it with the applicant what we'd be looking for?

MR. NUGENT: Can we do this as an interpretation?

MR. KRIEGER: Yes, if you are going to, I think Mr. Torley's suggestion is well taken. However, if they are going to have to go to a public hearing, do it as an interpretation first and a variance request second and the question of the interpretation first obviously if you interpret it as a continued use, then the variance request becomes moot. And you can so state. If you then decide the interpretation no, you're not going to go with that, you can entertain the variance

request. It enables the applicant to make the non-suitability argument in essence twice with slightly different gradations. He's arguing now that it is for some reason the building, the property is not suitable for any other use, other than a funeral home and nobody could have misinterpreted that. If you decide that that is not, that doesn't by definition make it a funeral home, then he can argue in the variance that a variance ought to be granted because it isn't suitable. The problem that he would run into, however, is that it's a use variance request.

MR. NUGENT: That is why I'm trying to make an interpretation.

MR. IMBASCIANI: Why does that require a public hearing?

MR. KRIEGER: Any actions of the Zoning Board requires a public hearing. By law, it cannot act without a public hearing, it's powerless.

MR. TORLEY: Purpose of the preliminary meeting is to get information going both ways for the applicant and I'd like to--

MR. GERACI: Unless you decide that it is a continuation of a non-conforming use.

MR. TORLEY: Even then we'd have to get it at a public hearing.

MR. TORLEY: We must, interpretations have to be done.

MR. GERACI: I represent the buyer and the reason--I'm Vincent Geraci, 8 Mill Street in Newburgh. New York, I'm the attorney representing the buyer. The buyer is a licensed funeral man so that makes it a very serious purchase and he's paying a lot more than he would be paying for a private home, I can assure you, but I can also point out the difficulty in trying to sell this place without it being allowed to be sold as a funeral home. I think that should be taken into consideration. That is quite a feat.

MR. TORLEY: Should we go to public hearing and your first case that is a continuation of a non-conforming use is not accepted by the board, then we go to the request for variance which are use variances, so we want to get some idea of what you want to tell us. Then what we'd need to know I'm sure Mr. Krieger can give you the entire legal indicia of what we're required to find in order to grant you a use variance.

MR. GERACI: I understand that and I think the format that we present that was presented gives you a little outline as to the background.

MR. NUGENT: I'd like to ask you one question. If you can you give this board dates as to the last time that a funeral was held at that place.

MR. BABCOCK: More than two years ago, we know that.

MR. IMBASCIANI: In June of '92 is when she sold the other location and she has been out of the business since then, June of '92 because she had no license to operate it anymore. It's my argument though that the fact that funerals weren't held there any longer does not mean it stopped being used or being existing as a funeral home.

MR. KRIEGER: That is true. The fact that funerals are not held there per se doesn't necessarily mean that it wasn't a funeral home. It's the other thing of what they are actually doing with it. You don't lose your non-conforming status because you do it badly. Now let me ask you this, Perrotts, before the death of Mr. Perrott, it was a corporation, was it not?

MR. IMBASCIANI: Yes, corporation still exists.

MR. KRIEGER: And that is still in existence.

MR. IMBASCIANI: Right because of--

MR. KRIEGER: The corporation has a, would have been founded at such a time that it has a statement of purpose as part of its certificate of charter.

MR. IMBASCIANI: Yes and that hasn't been changed.

MR. KRIEGER: You can produce a certificate from the Secretary of State State Department of Taxation and Finance showing that that corporation is still in good standing continuance.

MR. IMBASCIANI: I suppose so, we haven't dissolved it.

MR. KRIEGER: You haven't dissolved it, it's still in good standing and its purpose is as stated so if it were going to acquire a funeral, an actual funeral, it wouldn't be necessary that it get a licensed funeral director but that licensed funeral director need not be sitting there twiddling his or her thumbs waiting for the funeral, whenever the funeral, you have to have the director beforehand so I should think some evidence in connection with the interpretation should be that the funeral corporation was still in existence, was continuously in existence throughout that period of time.

MR. IMBASCIANI: Right and we can attest to that fact now.

MR. KRIEGER: You can produce documentary evidence?

MR. IMBASCIANI: If we had to, yes, certainly.

MR. KRIEGER: That would be a factor that the board would want to take into account.

MR. NUGENT: Also, Andy, they had pictures that were shown of the building taken within the last two weeks, still shows it as that.

MR. KANE: Still maintained.

MR. TORLEY: When we set him up for a public hearing, set it up for both and make sure Andy let's them know what they need for a use variance. With that understanding, I'll make a motion we set the applicant up for a public hearing both for interpretation and request for use variance.

January 9, 1995

11

MR. KANE: Second it.

ROLL CALL

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

MR. KRIEGER: If it goes to a use variance, there are certain criteria on which the Zoning Board must by law make its decision. I have written these down in summary fashion and I would ask that you take them along with you. This doesn't have to do with the interpretation, it has to do with if that fails, you'll bring those corporate records and get that certificate of good standing.

MR. IMBASCIANI: Okay.

MR. TORLEY: And insurance records to show that it has been maintained.

MR. NUGENT: Okay, you're finished, thank you.

**NOTICE OF APPEAL
TO THE ZONING BOARD OF APPEALS OF
the TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK**

January 9, 1995

WHEREAS an application for a building permit for a "Funeral Home", dated December 1, 1994, and filed with the Office of the Building Inspector of the Town of New Windsor has heretofore been rejected by the Building Inspector upon

the following grounds: "4B-24 B(1)(B) Non-conforming use shall not be reestablished if such use has been discontinued for any reason for a period of more than two (2) years -which it has."

PLEASE TAKE NOTICE that the undersigned applicant for such permit hereby appeals to the ZONING BOARD OF APPEALS of the Town of New Windsor from the action of the Building Inspector of the Town of New Windsor as set forth in the Notice of Disapproval dated December 1, 1994, upon the following grounds:

The subject premises, known as 239 Quassaick Avenue, New Windsor, New York, was designed and built as a Funeral Home in 1963.

Use of said premises since 1963 as a Funeral Home was a prior-existing non-conforming use.

Use of said premises as a Funeral Home pre-dates zoning and therefore requires no permit or variance.

The premises have never been used for any use other than as a Funeral Home.

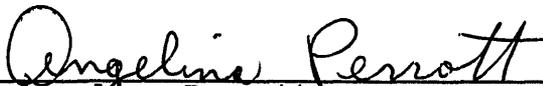
Since June 1992, when the undersigned applicant sold her other Funeral Home in Newburgh, New York, the subject premises have been maintained as a Funeral Home, in that

1. property taxes have been paid as Funeral Home use
2. business/liability insurance has been maintained as a Funeral Home

3. utilities, including telephone service has been maintained
4. unique Funeral Home structures have been maintained, including Chapel with large stained-glass religious window and tiled embalming room
5. Funeral Home furnishings remain, including folding chairs for services, couches, desks, dolly for bodies, casket pedestals, and speakers podium
6. Since 1992, applicant has marketed and offered the premises for sale or lease as a Funeral Home
7. Applicant currently has a contract for sale of the premises, for use as a Funeral Home, contingent on the approval of this application.

Considering the above, applicant respectfully submits that use of the subject premises as a Funeral Home has not been discontinued or abandoned.

THEREFORE applicant asks that this appeal be granted and that a determination be made that applicant may continue use of the premises as a non-conforming use as a Funeral Home; or, **IN THE ALTERNATIVE**, that considering all of the above, and the **HARDSHIP** and practical difficulty and unreasonable financial loss it would impose on the applicant to use the premises for any use other than as a Funeral Home, that a **VARIANCE** be issued for the use of the premises as a Funeral Home.



Angelina Perrott
77 LeRoy Place
Newburgh, New York 12550

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

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: DECEMBER 1, 1994

APPLICANT: ANGELINA PERROTT
77 LEROY PLACE
NEWBURGH, N.Y. 12550

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED: DECEMBER 1, 1994

FOR (BUILDING PERMIT): FUNERAL HOME

LOCATED AT: CORNER OF CEDAR AVENUE AND ROUTE 94

ZONE: R4

DESCRIPTION OF EXISTING SITE: SECTION: 23, BLOCK: 1, LOT: 52
VACANT FORMER FUNERAL HOME

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. 48-24 B(1)(B) NON-CONFORMING USE SHALL NOT BE REESTABLISHED IF SUCH USE HAS BEEN DISCONTINUED FOR ANY REASON FOR A PERIOD OF MORE THAN TWO (2) YEARS - WHICH IT HAS.



BUILDING INSPECTOR

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE: R4	USE 48-24 B(1)(B)	

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.

#94-50.

Predim.
Jan. 9, 1995
7:30 p.m.

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

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: DECEMBER 1, 1994

APPLICANT: ANGELINA PERROTT
77 LEROY PLACE
NEWBURGH, N.Y. 12550

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED: DECEMBER 1, 1994

FOR (BUILDING PERMIT): FUNERAL HOME

LOCATED AT: CORNER OF CEDAR ^{Lane.} AVENUE AND ROUTE 94

ZONE: R4

DESCRIPTION OF EXISTING SITE: SECTION: 23, BLOCK: 1, LOT: 52
VACANT FORMER FUNERAL HOME

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. 48-24 B(1)(B) NON-CONFORMING USE SHALL NOT BE REESTABLISHED IF SUCH USE HAS BEEN DISCONTINUED FOR ANY REASON FOR A PERIOD OF MORE THAN TWO (2) YEARS - WHICH IT HAS.

Ernst Schmidt
BUILDING INSPECTOR

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE: R4	USE 48-24 B(1)(B)	

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

Name of Owner of Premises Angelina I. Perrott
Address 77 LeRoy Pl. Phone 562-2046
Name of Architect
Address Phone
Name of Contractor
Address Phone

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

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

.....
(Name and title of corporate officer)

1. On what street is property located? On the N side of Cedar Ave
(N.S.E.or W.)
and 50 feet from the intersection of Cedar & 94
2. Zone or use district in which premises are situated R 4 Is property a flood zone? Yes..... No.
3. Tax Map description of property: Section 23 Block 1 Lot 52.0
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.
a. Existing use and occupancy..... b. Intended use and occupancy Funeral Home
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..... Fee.....
(to be paid on this application)
11. School District

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

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.....19.....

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.

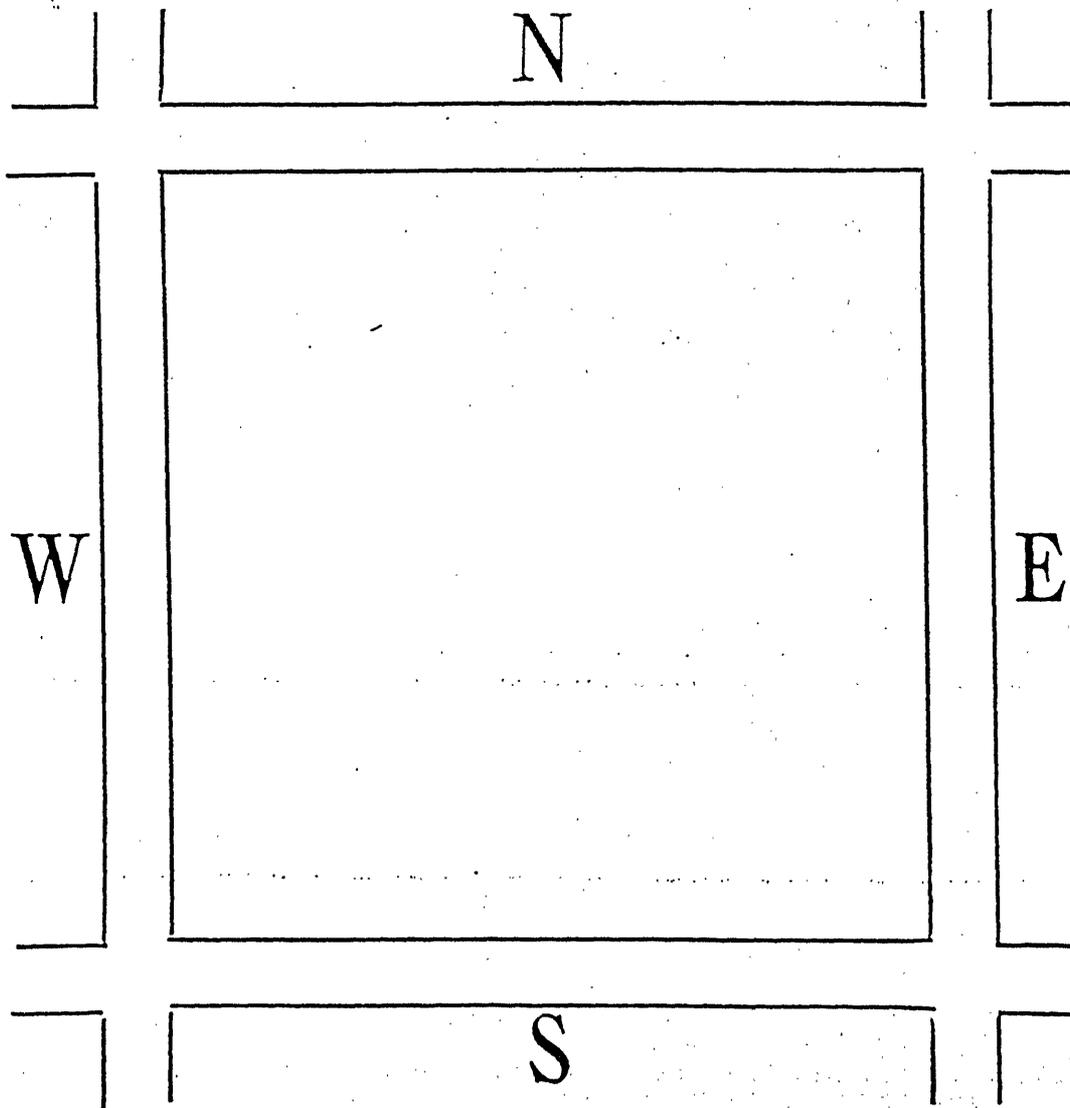
Angelina J. Perrott
.....
(Signature of Applicant)

77 Leroy Pl. Newburgh
.....
(Address of Applicant)

PLOT PLAN

NOTE: Locate all buildings and indicate all set-back dimensions.

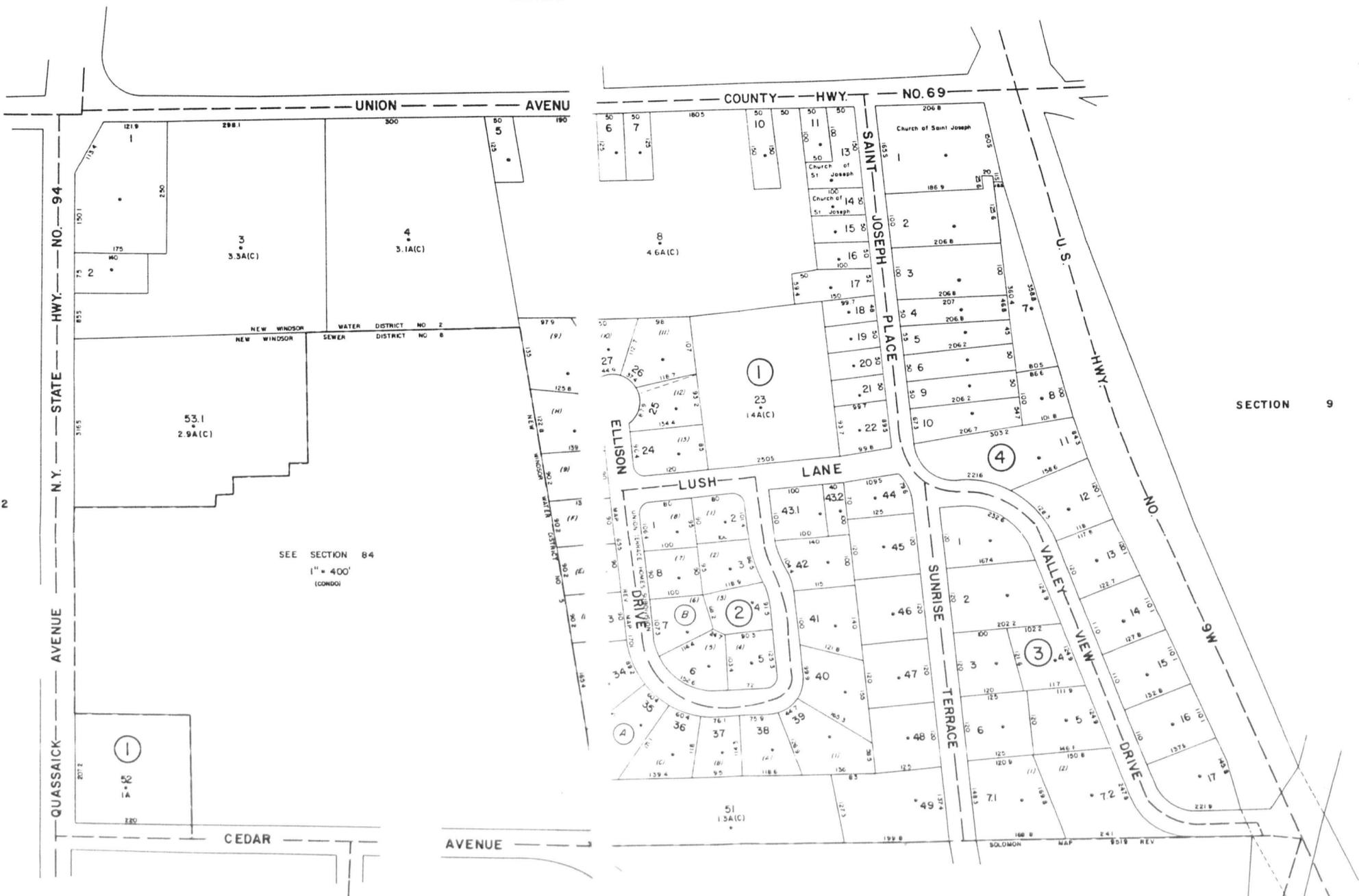
Applicant must indicate the building line or lines clearly and distinctly on the drawings.



SECTION 20

SECTION 9

SECTION 27



SEE SECTION 84
1" = 400'
(CONDO)

SECTION 22

445

ALL NEWBURGH SCHOOL DISTRICT
ALL QUASSACK BRIDGE FIRE DISTRICT

444

Prepared by
ORANGE CO. TAX MAP DEPT.
MAIN ST., GOSHEN, N. Y. 10924
1989
FOR TAX PURPOSES ONLY

NOT TO BE USED FOR CONVEYANCE

LEGEND			
STATE OR COUNTY LINE	FILED PLAN LOT LINE	TAX MAP BLOCK	
CITY TOWN OR VILLAGE	EASEMENT LINE	TAX MAP PARCEL	
BLOCK OR SECTION LIMIT	MATCH LINE	AREAS (1) & (2)	
SPECIAL DISTRICT LINE	STREAMS	DIMENSIONS (1) & (2)	
PROPERTY LINE	GRID COORDINATE CENTROID		

LEGEND	
FILED PLAN BLOCK NO.	FILED PLAN LOT NO.
STATE HIGHWAYS	COUNTY HIGHWAYS
TOWN ROADS	

ORANGE COUNTY-NEW YORK

Photo No. B-496-497 Date of Map 9-24-67
Date of Photo 3-1-65 Date of Revision 3-1-92
Scale 1" = 100'

TOWN OF NEW WINDSOR

Section No. 23