

**ZONING BOARD OF APPEALS**

April 8, 2002

7:30 P.M. - ROLL CALL & MOTION TO ACCEPT MINUTES OF 3/11/02.

**PRELIMINARY MEETINGS:**

1. **APP, HOWARD** - Request for 4,119 sq. ft. lot area for construction of single-family dwelling on Riley Road in an R-3 zone. (36-1-27).
2. **KALL, CHARLES** - Request for 10 ft. front yard variance to construct deck at 8 Haight Drive in an R-4 zone. (70-3-9).
3. **MEYER, JOHN** - Request for 10 ft rear yard variance to construct pool and deck at 7 Ashley Court in an R-4 zone. (58-1-32).
4. **SMITH, ROGER** - Request for 25 ft. front yard, 15 ft. side yard and 10 ft. rear yard variances for construction of single-family residence at 17 Shaw Road in an R-1 zone. (53-3-1).

**PUBLIC HEARINGS:**

5. **BROWN, DONALD** - Request for 35 ft. 5 in. street frontage variance to construct single-family residence on Cedar Lane in an R-4 zone. (23-1-51).
6. **MT. AIRY ESTATES** - Request for 6 ft. front yard and 1 ft. rear yard variance for front and rear decks at 2103 Patriot's Court in an R-3 zone. (77-5-13).
7. **POTTER, SCOTT** - Request for 11 ft. front yard variance to construct covered porch at 108 Holly Drive in an R-4 zone. (17-3-4).

**FORMAL DECISIONS: (1) LOCURTO (2) O'KEEFE (3) CARLONE (4) STEINER (5) DELANEY.**

Pat - 563-4630 (o) or 562-7107 (h)

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TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

APRIL 8, 2002

MEMBERS PRESENT: LAWRENCE TORLEY, CHAIRMAN  
MICHAEL REIS  
STEPHEN RIVERA

ALSO PRESENT: MICHAEL BABCOCK  
BUILDING INSPECTOR

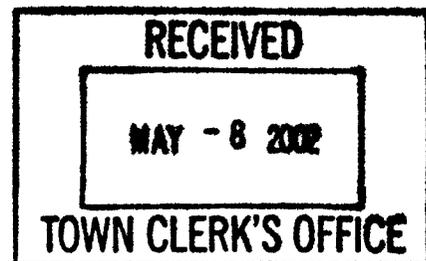
ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

ABSENT: PATRICIA CORSETTI  
ZONING BOARD SECRETARY

MICHAEL KANE  
LEN MCDONALD

REGULAR MEETING

MR. TORLEY: I will call the New Windsor Zoning Board  
of Appeals meeting to order.



PRELIMINARY MEETINGS:

APP, HOWARD

MR. TORLEY: Request for 4,119 sq. ft. lot area for construction of single family dwelling on Riley Road in an R-3 zone.

Mr. Howard App appeared before the board for this proposal.

MR. TORLEY: What is it you want to do?

MR. APP: I'd like to build a single family raised ranch on 17,000 square feet and the old zoning law was 21,000 square feet and the difference that we're asking for is 4,119 square feet to build on. And that's it.

MR. TORLEY: So straight area variance.

MR. KRIEGER: You say the old zoning law. What's the new one?

MR. APP: I think it's one acre but I have--

MR. TORLEY: Do you own the property now?

MR. APP: Yes, I do.

MR. TORLEY: This board will be acting upon your numbers, so you have a survey that shows the lot size?

MR. BABCOCK: Yes, he does, Mr. Chairman. It's a certified survey so the numbers are correct.

MR. TORLEY: And you understand that if you are granted this area variance for the lot size, that would not relieve you from any other burdens as far as setbacks, side yards, rear yards, et cetera.

MR. APP: Okay.

MR. TORLEY: So there will be a buildable area within this lot and you have to remain within that area.

MR. APP: Yes.

MR. BABCOCK: The layout for his house is within all the setbacks.

MR. KRIEGER: Does he have sufficient room for sewage?

MR. BABCOCK: There's a, sewer is there, town water and town sewer.

MR. REIS: Town water and sewer is available?

MR. BABCOCK: Yes.

MR. KRIEGER: There aren't any easements intersecting the land?

MR. TORLEY: Like a water line, sewer line?

MR. KRIEGER: Easement legally speaking is the right of another person to use your property.

MR. APP: No, there's no easements.

MR. TORLEY: Reason we ask that is the area of the easement gets subtracted from your lot.

MR. APP: Okay.

MR. RIVERA: Make a motion that we grant Mr. App, set him up for a public hearing for construction of a single family dwelling on Riley Road.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

KALL, CHARLES

MR. TORLEY: Request for 10 ft. front yard variance to construct deck at 8 Haight Drive in an R-4 zone.

Mr. Charles Kall appeared before the board for this proposal.

MR. KALL: It was a cement slab porch there and it was held up when I bought the place by 4 x 4's and it caved in. So I tore it down, had it taken away and put a wooden deck up, actually, all I'm doing is putting railings on a wooden deck, the slab was already there.

MR. TORLEY: So it's the same size as the previous slab?

MR. KALL: No, the slab was 8 x 15 and I'm making it 10 x 15.

MR. TORLEY: So you're two feet closer.

MR. KALL: I have a fence out front and I'm 35 feet from the road and I made a mistake on the, it only worked out to be 25.

MR. TORLEY: You may be 35 feet from the road, but that may not be--

MR. BABCOCK: That is what's required.

MR. TORLEY: But you're 25 feet.

MR. KALL: They had down here 25 and they said it would be no good, Frank had come over, he come over and looked at it.

MR. TORLEY: He needs 35 feet though, right?

MR. BABCOCK: Yes.

MR. TORLEY: You're saying you believe you do have 35 feet to where the deck is?

MR. KALL: Yeah, from the house out to the road.

MR. TORLEY: From the end of the deck.

MR. KALL: No, it was never 35 from the beginning with, the other one that was put on there.

MR. TORLEY: Then you do need the variance. It becomes a deck when it has anything over, he's allowed 6 feet out for a front entrance?

MR. BABCOCK: That's correct, 6 feet by 8 feet and the concrete slabs, we kind of treat them as landscaping, they're really not part of the setback and once they put a deck up with railings on, it becomes attached to the house, becomes part of the setback and he's extending it two foot more than what the other one was.

MR. KALL: Well, it's all fenced in.

MR. TORLEY: But the code says that you have to be the front of your house and its attachments has to be 35 feet back from the road, you're given a grass of a concrete slab for an entranceway 6 x 8 feet.

MR. BABCOCK: Yeah, we don't get too crazy about the concrete slab, if somebody puts a bigger slab, we're not concerned.

MR. KALL: Somebody would get hurt if you didn't have a railing.

MR. TORLEY: You have to have the railing.

MR. KALL: All we're doing is putting railings on.

MR. TORLEY: If you didn't have the railings, you couldn't get a C.O. because you're five feet off the ground.

MR. KALL: Right.

MR. TORLEY: One of the things that we ask at the public hearing your neighbors have decks, does this deck, does it change the flow of water?

MR. KALL: No.

MR. TORLEY: These are the kinds of things we ask, not over any water or sewer lines?

MR. KALL: No.

MR. TORLEY: Your front yard fence, while you're here same fee for how many variances you look for, so do you have any other things that you want to get cleaned up? How tall is the fence?

MR. KALL: It's five feet.

MR. TORLEY: Five foot fence front yard?

MR. BABCOCK: No, only 4 foot is allowed.

MR. KALL: Fence is already up.

MR. TORLEY: Don't worry about it, you're going to request a, amend the variance request to include the five foot fence in the front yard so you don't have to do this twice. You don't want to do this twice.

MR. KALL: No, I don't.

MR. TORLEY: We'll ask you about water and sewer and drainage and the fence. The real concern you have with fence is to make sure it doesn't block the view of drivers for safety so when you come back, it would be nice if you had some photographs of the deck and the fence.

MR. KALL: All right. When am I coming back?

MR. TORLEY: Well, that depends how fast you get the paperwork done. Gentlemen, entertain a motion on this matter?

MR. RIVERA: Make a motion that we set up Mr. Charles Kall for a public hearing on his requested variance.

MR. REIS: Second it.

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ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

MR. REIS: Plus the five foot fence.

MEYER, JOHN

MR. TORLEY: Request for 10 ft. rear yard variance to construction pool and deck at 7 Ashley Court in an R-4 zone.

Mr. John Meyer appeared before the board for this proposal.

MR. MEYER: I want to put a pool and a pool deck up and the pool deck is going to be attached to the existing house deck and I think it's only 30 feet. I need the 40 feet variance, I'm looking for something for ten feet and if you want, I have a survey since my back yard is a little weird looking.

MR. TORLEY: Mike, if the deck was not attached to the pool, to the house, would he need any variances?

MR. BABCOCK: No.

MR. MEYER: Right, but we want to go one deck down to the next deck.

MR. BABCOCK: What he'd have to do, you actually have to go from your existing deck down on to the lawn and then back up from the lawn on to the pool deck, he wants to be able to walk out his back deck, go down to this deck and go into the pool.

MR. MEYER: Right, yes.

MR. TORLEY: Again, the kind of questions we'll be asking at the public hearing will be regarding water and drainage. Do other people in your neighborhood have similar kinds of decks? Why you want to do this, you're asking for us to vary the law so you can do something. So the I want to is not really a good enough reason. Is it a matter of safety, finances, et cetera? Photographs would be very helpful when you come back.

MR. REIS: I move that we set up Mr. John Meyer for his public hearing for his requested variance at 7 Ashley Court.

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MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

SMITH, ROGER

Mr. Roger Smith appeared before the board for this proposal.

MR. TORLEY: Request for 25 ft. front yard, 15 ft. side yard and 10 ft. rear yard variances for construction of single family residence at 17 Shaw Road in an R-1 zone.

MR. ROGER: I want to go five feet off the line on this side here, so I still have to upgrade septic at a later date. Eventually, it's going to have to be redone. Still have a little bit of a yard left. This is what I am actually living in right now.

MR. TORLEY: So you're going to, there's a trailer there now that you want to take down?

MR. ROGER: Yeah, the trailer and the garage, this is the back of the garage.

MR. TORLEY: This is Shaw here?

MR. ROGER: Yes.

MR. TORLEY: Take down the trailer, take down the existing garage, where is that?

MR. ROGER: Right in this area.

MR. TORLEY: That's going to go, too?

MR. ROGER: Yes. Just tear it all down, start all over again, basically.

MR. TORLEY: Mike, do you have this?

MR. BABCOCK: Yes, I do.

MR. ROGER: Basically what I've got on the square footage on the roof is just about what I want to replace, but I will just be more organized, make the neighbors a lot happier, don't have to look at that.

MR. TORLEY: In doing so, Mike, I'm looking at the

existing, he's going to have to redo the drainage field, septic tank to put the house in, right?

MR. BABCOCK: No, that's why he's doing it.

MR. TORLEY: Looks like it goes underneath the house.

MR. BABCOCK: Those lines that go underneath the house is the existing mobile home that's there.

MR. ROGER: Right here is the mobile home, this is a little roof I put on in the back.

MR. BABCOCK: The tiles are in the back.

MR. TORLEY: Where is the well?

MR. ROGER: Over here.

MR. TORLEY: So this would be clear of existing well and sewer and septic would fit in?

MR. BABCOCK: It's basically the only spot that would fit and rather than putting a mobile home back which he has the option to do, he'd like to put a small one bedroom house there.

MR. TORLEY: House fits the size?

MR. BABCOCK: Yes.

MR. TORLEY: I forget what the minimum size is.

MR. BABCOCK: There's, I'm not sure, Mr. Chairman, I didn't look at that.

MR. ROGER: I think I'm just under a thousand square feet.

MR. BABCOCK: He may be under, I will have to modify that.

MR. ROGER: Your requirement is around 1,200 and I'm just around 1000.

MR. BABCOCK: Every zone is different so I'll have to add that to the agenda.

MR. TORLEY: You don't want to do this twice.

MR. ROGER: Yeah.

MR. BABCOCK: If I could do that tomorrow, it would be much easier, I don't have all the tables and stuff with me.

MR. ROGER: I'm under the understanding I have to do both variances.

MR. TORLEY: When you come back for a public hearing, photographs, but if you can put some stakes in the ground where you want to put it, make sure you talk to your neighbors.

MR. ROGER: Yeah, well, they all want first whack at taking it down.

MR. REIS: Accept a motion?

MR. KRIEGER: Opposite of a barn raising.

MR. ROGER: Yeah.

MR. REIS: We're going to add to minimum development.

MR. BABCOCK: Minimum livable floor area.

MR. REIS: To be added to the requested variances for 17 Shaw Road. I'll make a motion that we set up Mr. Roger Smith for his public hearing.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

PUBLIC HEARINGS:

BROWN, DONALD

MR. TORLEY: Request for 35 ft. 5 in. street frontage variance to construct single family residence on Cedar Lane in an R-4 zone.

Mr. Donald Brown appeared before the board for this proposal.

MR. TORLEY: Is there anyone in the audience who wishes to speak on this matter? We're going to send around a pad so you can please write your name, helps us keep it straight for the record. What's going to happen the applicant will speak to us for a moment or several moments and we will ask some preliminary questions, then we'll open it up to the public for your comments and input and we'll close the public hearing and go back to a discussion and possibly have a vote. So first what is it that you want to do?

MR. BROWN: Well, I want to build the home without a full 60 foot required frontage from the highway and that's why I'm here, that's why I was here at the preliminary hearing, there's no remedy short of asking my neighbor for 35 feet.

MR. TORLEY: And you have in fact requested of either of the current, whoever the current owner of the lot is if you bought land from this person?

MR. BROWN: I can't because they'd violate.

MR. TORLEY: They could not sell you the land because it would make their lot non-conforming?

MR. BROWN: Yes.

MR. TORLEY: Okay by placing this, you're not going to be, you don't consider you'll create any kind of safety hazard as far as traffic?

MR. BROWN: Oh, no, you can see here by the design it's off Cedar Lane just as other driveways do.

MR. TORLEY: We don't have a problem with road cut?

MR. BABCOCK: If he's successful tonight, what he will do is first thing he has to apply for is a driveway permit curb cut and a sewer permit and water permit and all that stuff and then that gets reviewed by the highway department and issued and then before we issue a building permit, he has to have those permits in hand.

MR. BROWN: I have to have the variance first, right?

MR. BABCOCK: Yes, variance comes first.

MR. TORLEY: The lot in other respects meets area?

MR. BABCOCK: If you look, it's a 1.3 acre lot, it's very large in size compared to the surrounding lots, it's just this layout of where Farmstead Road makes that curve, just didn't give him enough for road frontage, that was created a number of years ago so road frontage may not have been 60 foot requirement at that time.

MR. BROWN: When my dad had it, no.

MR. KRIEGER: The house that you intend to build is similar to other houses in the neighborhood, similar in appearance?

MR. BROWN: Oh yeah, except it will be modern, a cape.

MR. KRIEGER: Same size?

MR. BROWN: Roughly.

MR. KRIEGER: That's all, approximately.

MR. BROWN: Oh, yes, 1,600 foot square.

MR. TORLEY: And it will be placed within the buildable setback boundaries?

MR. BROWN: Oh, yeah, it shows you 20 foot and 15 foot

is required and each side is 20 foot.

MR. KRIEGER: Does not appear from the map that there are any easements on the property, sewer, water, any of that, is that correct?

MR. BROWN: That's correct, sir.

MR. TORLEY: At this point, we're going to open this up to the public, when you speak, please state your name again for the record. For those of you who are not familiar with the property, I'm holding up the survey map, the lot as the applicant has said is rather larger than what's required in the zone. His variance request arose because when the lot was created, it has no road frontage, so he's asking for a variance of the road frontage requirement to put in his driveway.

MR. SOLOMON: Mark Solomon, 12 Valley View Drive, that would be all the way down.

MR. TORLEY: Within 500 feet of the property. Having seen this tax map, do you have any objections?

MR. SOLOMON: Yeah, I have an objection, I just think that as a very short road frontage, there's a little housing development next to it, I think it would be very dangerous with that short road frontage to come out of there because there's dozens of kids there. That's the way I look at it. There's a little housing development right next off Farmstead and there are lots of little kids right next to it and because this entrance is so small, it's very hard.

MR. TORLEY: It's a driveway, it's a single family house, it's not a road, it's a single family house, one driveway.

MR. SOLOMON: Yeah, but this is--

MR. TORLEY: The applicant is putting up a single family house, stipulated this would be just one house on this property, so it's a driveway to a house.

MR. SOLOMON: I just think it's very dangerous.

MR. TORLEY: If he was able to obtain the road frontage from this particular property, he would not be here.

MR. SOLOMON: There's no road frontage over there.

MR. TORLEY: The road just makes that curve.

MR. SOLOMON: He's only going to have it from the only corner, it's a blind spot right next to him right over here, there's a housing development, lot of little kids over there.

MR. TORLEY: So you're objecting to this?

MR. SOLOMON: Yes.

MR. TORLEY: Thank you. Anyone else wish to speak?

MR. CORBETT: Joe Corbett. Mr. Chairman, we're on Allison Drive way back off Cedar and there's a few of us here, we're concerned as to what type, you know, what affect will this have on us. We received the letters, but this gentleman or anybody else never came, knocked on anybody's door or explained exactly what was going on, what was gonna be built and we're just concerned.

MR. TORLEY: You see the plan now here's the tax map of the area.

MR. CORBETT: What we're trying to find out is how much is the property, how much they're gonna be between the property that the property line that is around in the back of Ellison opposed to where he's building onto Cedar.

MR. TORLEY: Well, he will not, this house, the plans that he's submitted meet all the setback requirements for side yard, front yard. As you see, this is a larger lot than most of the other lots in the area, so he meets all the requirements for setback. His problem is simply road frontage. The way the lot was set out.

MR. CORBETT: Where he has the, in other words, you're

going to build the house, you have enough room this way and that way?

MR. TORLEY: Oh, yes.

MR. REIS: His lot is probably twice as big as yours, sir.

MR. TORLEY: Look at all the other lots in the neighborhood, his is 1.4 acres.

MR. REIS: All he's requiring is an access to the house that he's going to build.

MR. TORLEY: That access is actually in the town right-of-way, the town owns that property, right?

MR. BABCOCK: That's correct.

MR. TORLEY: So this is not over someone else's private lane, it's over the town's property surrounding the road and this is apparently initially set up for that, you see the town owned that chunk for access to that house whenever this was subdivided back in the '50's or earlier.

MR. BROWN: You're talking about this? My dad and mom bought that in the '50's, that was remainder piece.

MR. CORBETT: What we're saying is one house wouldn't turn into another house?

MR. TORLEY: No, single-family house. You're going to stipulate it's a single family house?

MR. BROWN: I don't want anybody else there.

MR. TORLEY: It's on the record that this lot will be a single family house, a single family house.

MR. CORBETT: Okay, maybe somebody else.

MR. ANGARA: Ray Angara (phonetic), 23 Ellison Drive, New Windsor, New York. What my neighbors are concerned about is how far back your house is going to be close

to their house. It's going to be more than 40 feet from the fence line, in other words?

MR. TORLEY: From which way?

MR. ANGARA: Set back 40 feet.

MR. TORLEY: This would be his front yard, this is his side yard, which is 25 feet.

MR. ANGARA: Where would the house be?

MR. BROWN: Here's Ellison Drive, this is my property.

MR. ANGARA: How far back is yours?

MR. TORLEY: He's required by law to have 15 feet on the side yard, it's a side yard, not a back yard.

MR. KRIEGER: Forty foot requirement is between the back of the house and the back line.

MR. ANGARA: So back of his house is going to be 40 feet from the back?

MR. KRIEGER: Minimum, yes, has to be.

MR. ANGARA: You're going to be hundreds of feet?

MR. BROWN: Oh, yes.

MR. TORLEY: The side of his house, he's required to be 15 feet, he's going to be more than 20.

MR. ANGARA: None of us were told what it was you were doing, just received this thing in the mail, so the only issue here is road frontage?

MR. TORLEY: Simply road frontage. When this lot was subdivided, town kept this stub.

MR. ANGARA: What happens in his case with the shortage of road frontage?

MR. TORLEY: That's why he's here.

MR. ANGARA: Does he have to buy property from the town?

MR. TORLEY: No, he's putting his road over the town's right-of-way, as you all do when you put your driveways on the road, you across town property, the applicant has stated that he cannot purchase from this person because were he to do so, this lot would then become non-conforming. Can't do that.

MR. REIS: Did we answer your question?

MR. ANGARA: That was our concern.

MR. TORLEY: Do you have an opinion pro or con at this point?

MR. ANGARA: Doesn't matter, my opinion, it's what you guys decide, that was my concern that this house may be too far back and infringing on my neighbor's back yard where he just loses all his view.

MR. KRIEGER: Now that you know, do you have any opinion now?

MR. ANGARA: No objection.

MS. LAURITANO: 15 Ellison Drive, Charyl Lauritano. I'm probably the person that's going to be most affected by this building being behind my home. I'm on 15 Ellison Drive, the property that he's talking about is directly behind my home, okay, so I don't know what you're talking about, 15, 30 feet, whatever, as far as I know, my--

MR. BABCOCK: This is your lot, this is where he's building the house.

MS. LAURITANO: Because all of this property is going down, she had her property here and most of that is wooded acre when I moved up here from the city many years ago, I was informed because of the variance, it was, they could not build behind there. Now I'm going to have a house. As it is at nighttime, I can see

across these houses which now he's talking about a cape, not a single house. I live in a ranch, he's putting up a cape. It's going to be a floor above me right behind my house, that's my main concern. I look out this way.

MR. TORLEY: You don't have the right to look across somebody else's property?

MS. LAURITANO: I'm telling you my concerns about why I am here, besides the construction that will going on in putting the house up during the summer, that's only a temporary situation, but sometimes those things I have seen go on for years where they're building the house and it's affecting me, yes, it is.

MR. TORLEY: This is a landlocked lot, it's not because the town owns this parcel so he actually adjoins town land, access to the road just not wide enough to meet our present codes. When this lot was subdivided back in '50's or whenever at that time, it would have met whatever requirements because you couldn't make a legal lot without that, so back in the '50's, he could have put up the house. The law has changed to require a wider road frontage, this lot now requires more road frontage than it has. That's why he's requesting the variance.

MS. LAURITANO: So then really my reason for being here, there's nothing I can say, I mean, my reasons why I'm here.

MS. LAURITANO:: I'm against it for the reasons I just told you because, I mean, you can look at a map and say he's all the way down here and I'm there and if you're there on the property, it's this woods right behind my house, it's this piece of property right behind my house, is that this is all going to be going on knocking down woods, building a house, like he said, it will be a two level, I know it's his property, I understand that but--

MR. TORLEY: So then are you opposed or supportive?

MS. LAURITANO: I'm opposed.

MR. TORLEY: Thank you. Is there anyone else who wishes to speak?

MR. DEARBORNE: I'm Joe Dearborne.

MR. TORLEY: You live at?

MR. DEARBORNE: 13 Ellison Drive and I don't have glasses on, but I think it's here. I understand it's just a driveway part, but if you look over here, it's like really bad as you turn around here, you have Willington Drive by the apartments, I think it's Willington Drive sits here, you got all, it's just a dangerous corner when you come around there, you've got kids running all over as it is, it's for the apartments, I think it's Willington, I'm not sure.

MR. REIS: One of the access roads to the apartments just north of that?

MR. BROWN: No, its way down here.

MR. TORLEY: Now remember assuming for sake of argument that the gentleman received his variances, he then has to go to the highway department to ask for the road cuts, if the highway department feels that it's unsafe--

MR. DEARBORNE: Just let you know because I drive a bus part time and I'm up and down this road a lot and I know just where the road is, there's cars in the driveways all along here. You asked, I'm letting you know.

MR. TORLEY: This is why we have public hearings. Is there anyone else who wishes to speak in this matter? Anyone else? In that case, I'll close the public hearing, open it back up to the members of the board. Let me first read in the service by mail a letter from Pat saying on the 18 day of March, 2002, sent out 74 addressed envelopes that were mailed out. There's nothing in the file indicating any letters were sent to us. Did the applicant receive any, did you get any letters, any responses?

MR. BROWN: No.

MR. TORLEY: So the applicant has a 24 foot 5 inch road frontage now requesting a variance of 35 foot 5 inches because he needs 60 foot for frontage, so although it may have appeared to have been a landlocked lot, it is not actually, it actually does have road frontage, although not as now what would meet the code.

MR. RIVERA: Have you taken into account the possibility of this driveway creating some sort of a blind spot?

MR. BROWN: No, there's no reason.

MR. RIVERA: Any concessions perhaps mirrors or--

MR. BROWN: No, you can see in both directions coming out of there, there's nothing blocked.

MR. RIVERA: Okay.

MR. BABCOCK: The highway superintendent will take that into consideration before he issues an access driveway permit.

MR. TORLEY: Are you going to be building, this driveway will be going over any water or sewer lines?

MR. BROWN: Excuse me, sir? I'm sorry.

MR. TORLEY: Will your driveway be passing over water and sewer lines?

MR. BROWN: There's a storm, well, the manhole's down the road, I wouldn't be going over that, but there's a storm drain, I'm not sure whether that's in the way or not.

MR. TORLEY: This is something that the highway department would rule on.

MR. REIS: Accept a motion? Prior to, just to summarize the public concerns here, we're going to act

on this, I'm not sure how it's go to be voted but our actions are going to allow or not allow the applicant to utilize their property for a single family home and he needs access for it. The concerns of safety and access and possible harm to the little kids that are running around the neighborhood, those concerns are going to be taken up by the highway department and what other agency, Michael?

MR. BABCOCK: Basically, that's it, he's going to, water, sewer and highway, he's got to get those approvals.

MR. REIS: So any concerns that you have, you folks have, the town has also because they do not want to create a hazard for any of the neighbors. Upon saying that, I'd like to make a motion that we pass Mr. Brown's request for his variance for Cedar Lane residence.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

MR. TORLEY: Your neighbors' suggestions of mirrors might be something you want to consider and the adjacent property, ensure that you have shrubs or anything that's blocking the view.

MR. BROWN: Okay.

MR. TORLEY: And you're stipulating this is for a single family house?

MR. BROWN: That's correct.

MR. KRIEGER: The land won't be subdivided in the future?

MR. BROWN: No, I'm not subdividing anything.

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MR. KRIEGER: As long as you're committing not to  
subdivide, that's fine.

MT. AIRY ESTATES

Larry Wolinsky, Esq. appeared before the board for this proposal.

MR. TORLEY: Request for 6 ft. front yard and 1 ft. rear yard variance for front and rear decks at 2103 Patriot's Court in an R-3 zone. We're not going to look kindly if we find these houses--

MR. WOLINSKY: Let me, this is Marvin Rosenswag, is the construction supervisor. I heard you say that concern at the last meeting, so I brought him to explain to you why it happened and why it won't happen in the future so--

MR. ROSENSWAG: And hasn't happened since then.

MR. WOLINSKY: So what I have done is mounted the photographs which you probably have as part of your application package so he can explain to you what happened.

MR. ROSENSWAG: This is the second house that we did and when I first put the footing in, I didn't realize that I was going to have a problem with drainage which caused me to raise the house up and as a result, I needed to have more steps to get out of the house and what happened was as you see, I had more steps in than I intended and I misread the ordinance. I didn't realize that they had a situation like this that was the proper way to do it where the grade was right about there and it was considered like the sidewalk and it wouldn't be a problem, so I didn't realize at that point. But since that time, I haven't had that problem anymore cause I now understand after the first time I made a mistake, I understand what the ordinance entailed so I'm asking that because I have this porch relief that it could be allowed to remain and as long as we're there, we have the situation in the back where you can see all I have is a platform where you walk out of the house and then you go from the steps and this is actually three foot wide, you can't tell from the picture.

MR. KRIEGER: This being the platform?

MR. ROSENSWAG: Right and stairs go off the side here, I didn't try to take it all the way back even further, all I did was try to have--

MR. KRIEGER: Space to have access?

MR. ROSENSWAG: I think you prefer it that way, that there's a platform when you can have one?

MR. BABCOCK: Yes.

MR. ROSENSWAG: That's why I did that but as long as I'm going for the variance for this, I'd like to go--

MR. TORLEY: You have to because it won't be legal otherwise. Now, here's what my problem is, that's why I want you to be very careful in your answer, I'm looking at this house and you put the house up so that that three foot wide deck off of an upper story doors or above ground doors, you're asking for a variance for that, no other house that you're going to construct or permit to be constructed on this property on your development will be in this kind of situation?

MR. ROSENSWAG: Well, if there's room where I have the room.

MR. TORLEY: No, you will not be putting up houses that have that.

MR. WOLINSKY: What's the solution, why is this not going to happen again?

MR. ROSENSWAG: Because I will have the room or if I don't have the room, all I have is a set of stairs without a platform and that's--

MR. TORLEY: See the problem I have is not you necessarily, other builders in the past have sometimes put up bi-levels and they put the bi-level up at the setback point and with the sliding glass doors and people put decks, every one of the decks are illegal cause the builder didn't give him any room to do it

legally.

MR. ROSENSWAG: I'm not putting any decks up.

MR. TORLEY: Is your architecture going to be the kind that comes with a deck when the house is built? I mean bi-levels have decks.

MR. ROSENSWAG: I'm not building decks for anybody unless there's room to build a deck within the setback lines.

MR. TORLEY: And you're going to be, and the architecture that, if there's not room for a setback line because these are very small lots, the architecture that you will be putting in will be of a kind that would not normally have a deck?

MR. ROSENSWAG: That's correct, I either have this or it's a straight set of stairs, that's it

MR. TORLEY: We're going to hold you to that.

MR. ROSENSWAG: That's all I'm doing. I'm way into the job already passed this stage.

MR. TORLEY: I'm really looking more at these lots which are even smaller, those are the ones that frankly have some concern about how you're going to fit a house on those and a deck and be within the front and side and rear yard setbacks.

MR. ROSENSWAG: Which lots?

MR. TORLEY: The ones back out here.

MR. ROSENSWAG: Because I already have worked on lots that are the actually quarter of an acre that are a hundred by a hundred and those are the ones I'm making sure that I don't have that problem. No, I have already seen where once this happened to me where I saw I was going to have a problem, I already ripped out porches to make sure that they'll be right.

MR. WOLINSKY: I agree with your concern, by the way,

that it shouldn't be a problem that gets multiplied over the course of the development so that you'd defeat the zoning law.

MR. TORLEY: When you sell a house to someone back there, you're going to inform them that gee, you can't put a deck on the back of your house?

MR. ROSENSWAG: Unless you go for a variance. As a matter of fact, the person next to our property was already in here for a variance.

MR. WOLINSKY: We can't prevent them from coming to you.

MR. TORLEY: I want them to be aware.

MR. ROSENSWAG: They are asking why they can't have a deck, I say I'm not building a deck for you because I need a variance to build a deck.

MR. TORLEY: As long as they're aware it. Gentlemen, any questions or open it up to the public? Is there anyone in the audience who wishes to speak on this matter? Let the record show there is none and that there were 17 addressed envelopes mailed out on the 18th day of March. You're lucky the houses aren't built up around there, you'd be mailing out 300 of them. Public hearing is now closed and open it back up to the members of the board. Gentlemen, accept a motion.

MR. REIS: It's unfortunate, I will just make a comment, it's unfortunate that the future owners of these properties are going to be so restricted and have to go through this process to be able to enjoy their back yard or a deck, but you're doing what you have to do so it's all legal.

MR. ROSENSWAG: They're getting a nice house, though.

MR. TORLEY: Make sure you inform all your purchasers about the setback requirements and that they, the fact they would have to get a variance does not mean that they're going to get one, they should be aware that,

frankly, I'm a little, I'm distressed about these lots being the size, everybody that wants a deck is going to come for a variance and they're not going to get them.

MR. BABCOCK: If you look at the house layouts, typical bi-level, typically, the deck's on the second floor where if you wanted to enjoy a patio, you'd have to go down a complete flight of stairs, these houses range from one or two to three steps going out the back door so if they put a flagstone or brick paver patio which is easily accessible that's what they're all going to wind up having to do today, most people are doing that, unless they're on the second floor.

MR. WOLINSKY: Mike's point is a lot of them are at grade, when they're at grade, you can just walk out.

MR. TORLEY: I don't want people coming in three years after they bought the house to put up a deck and say gee, what do you mean, I can't put a deck up.

MR. ROSENSWAG: They're all familiar that, they're familiar with the situation, it's not that we're hiding something from them.

MR. TORLEY: As I said, you're not, the architecture to the house is not such that would naturally come with a deck.

MR. BABCOCK: That's correct.

MR. TORLEY: Water and sewer, this front and rear accouterments do not cross water or sewer lines?

MR. ROSENSWAG: No.

MR. TORLEY: Cause any drainage problems?

MR. WOLINSKY: No.

MR. TORLEY: This is unique to the property so it's not like other properties there, this is unique.

MR. ROSENSWAG: Right, I don't have this situation on any of the others, I didn't realize that the house was

going, it's in the beginning and I didn't realize I had a drainage issue that I had to raise the house up and create more steps than what's normal, first house that I did only has one step going in.

MR. WOLINSKY: From an impact standpoint it's a very mild, I mean, nicely landscaped, the front.

MR. TORLEY: Looking at the back has me concerned when I saw that.

MR. ROSENSWAG: I think the back looks better than the picture, it only looks like it's one foot wide but it's really three foot wide.

MR. WOLINSKY: It's better to give them a platform for safety.

MR. TORLEY: I understand that's a requirement for safety but--

MR. WOLINSKY: Understood.

MR. RIVERA: Make a motion that we grant Mt. Airy Estates a request for 6 foot front yard and one foot rear yard variance for the front and rear decks at 2103 Patriot's Court.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

POTTER, SCOTT

Mr. and Mrs. Scott Potter appeared before the board.

MR. TORLEY: Request for 11 ft. front yard variance to construct covered porch at 108 Holly Drive in an R-4 zone. Before you begin, there being no one in the audience, we'll so note that for the record. And Pat has affirmed that she mailed out 65 envelopes on the 25th of March in this matter.

MRS. POTTER: Well, we want to put on a front covered porch, I believe you have the plans and the picture, it's gonna connect to our side porch, so it's going to be like a wraparound porch, it's not going to be screened in, just some columns.

MR. REIS: You're not going over any kind of a sewer lines or water lines or easements?

MRS. POTTER: Should it tell us on the survey?

MR. TORLEY: This is not, if it's your water and your sewer line, basically, it becomes your problem. This is to make sure that you're not building over town water line that they have access to.

MRS. POTTER: I don't think so.

MR. TORLEY: If it was, it would show on the survey or it should.

MR. REIS: So your intention is to come out of the front and come around the side?

MRS. POTTER: From where our steps go to around this side right now we have a porch, screened-in porch that we didn't need a variance on this is when we bought the house, but it will connect to the side porch.

MR. TORLEY: You find this will improve the marketability and value of your home?

MRS. POTTER: Yes.

MR. TORLEY: Other people in the neighborhood have similar kinds, not identical, but similar kinds of architecture?

MRS. POTTER: Yes, one is putting one on right now.

MR. TORLEY: This won't create any water drainage problems, not going to interfere with sight lines or anyone traveling on the road?

MRS. POTTER: No.

MR. TORLEY: You feel this would improve the safety of your dwelling by connecting the two porches?

MRS. POTTER: Yes.

MR. TORLEY: Do you feel this will help restrain the children?

MRS. POTTER: Yes, yes, hopefully.

MR. REIS: Accept a motion?

MR. TORLEY: Yes.

MR. REIS: Make a motion that we pass Mr. and Mrs. Potter's request for their requested variance at 108 Holly Drive.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

FORMAL DECISIONS:

1. LOCURTO
2. O'KEEFE
3. CARLONE
4. STEINER
5. DELANEY

MR. REIS: I make a motion that we pass all five formal decisions in one vote.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

MR. TORLEY: Motion to adjourn?

MR. REIS: So moved.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. TORLEY	AYE

Respectfully Submitted By:



Frances Roth  
Stenographer

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

**FRANK CARLONE**

MEMORANDUM  
OF DECISION  
GRANTING VARIANCE

#01-67.  
-----X

**WHEREAS, FRANK CARLONE**, 646 Blooming Grove Tpk., New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a 7 ft. side yard and 2 ft. rear yard variance for an existing shed at the above location, in an R-4 zone; and

**WHEREAS**, a public hearing was held on the 28th day of January, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, the Applicant appeared for this Application; and

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

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

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

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

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

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property located in a neighborhood of residential properties.

(b) The property has a shed which has been in existence for at least 14 years.

(c) There have been no complaints about the shed formally or informally.

(d) The shed does not create any water hazards or affect the run off or drainage of water from the property.

(e) The shed is similar in size and appearance to other sheds in the neighborhood.

(f) The shed is located on a concrete foundation.

(g) The shed is located in the best location for the property.

(h) The shed is not constructed on top of any well or septic system or water or sewer easement.

(i) The construction of the shed did not require the cutting down or removal of any trees or significant vegetation.

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

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

2. There is no other feasible method available to the Applicant that can produce the benefits sought.

3. The variances requested are substantial in relation to the Town regulations, but nevertheless are warranted.

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

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.

7. The interests of justice will be served by allowing the granting of the requested area variances.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 7 ft. side yard and 2 ft. rear yard variances for an existing shed at the above location, in an R-4 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

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

Dated: April 8, 2002.

  
Chairman

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

**BRENDAN DELANEY**

MEMORANDUM  
OF DECISION  
GRANTING  
VARIANCE

#00-54.  
-----X

**WHEREAS, BRIAN DELANEY**, 2 Apple Court, Rock Tavern, New York 12575, has made application before the Zoning Board of Appeals for variation of Section 48-14A(4) of Supplemental Yard Regulations, plus 35 ft. front yard variance to allow existing shed to project closer to road than principle structure, at the above location, in an R-1 zone; and

**WHEREAS**, a public hearing was held on the 25th day of February, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, the Applicant appeared for this Application; and

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

**WHEREAS**, no one spoke in opposition to the Application, however a letter of support was received and filed from an adjacent neighbor; and

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

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

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

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property located in a neighborhood of residential properties.

(b) The shed was located in the most economical and feasible area of the property.

(c) The property is situated on the intersection of two roads so that legally it contains two front yards.

(d) The shed is consistent in size and appearance to other decks in the neighborhood.

(e) The shed was not constructed on top of any well or septic system, water or sewer easement.

(f) The shed will not create any ponding or collection of water, or create any water hazards or affect the run off or path of water drainage.

(g) No trees or significant vegetation were removed in order to erect this shed.

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

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

2. There is no other feasible method available to the Applicant that can produce the benefits sought.

3. The variances requested are substantial in relation to the Town regulations, but nevertheless are warranted.

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

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.

7. The interests of justice will be served by allowing the granting of the requested area variances.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for variation of Section 48-14A(4) of the Supplemental Yard Regulation, plus 35 ft. front yard variance to allow existing shed to project closer to road than principle structure, at the above address, in an R-1 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

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

Dated: April 8, 2002.

  
\_\_\_\_\_  
Chairman

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

**STEPHAN STEINER**

MEMORANDUM  
OF DECISION  
GRANTING  
VARIANCES

#01-25.  
-----X

**WHEREAS, STEPHAN STEINER**, 1008 Little Britain Road, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a 2 ft. 6 in. width variance for sign #1, 2 ft. width variance for sign #2, plus an additional sign in variation of Sec. 48-18B(1) of the Supplemental Sign Regulations for a new location for Imageland, Inc. at 1079 Little Britain Road, in an NC zone; and

**WHEREAS**, a public hearing was held on the 28th day of January, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, the Applicant appeared for this Application; and

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

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

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

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

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

2. The evidence presented by the Applicant showed that:

(a) The property is a commercial property located in a neighborhood of commercial properties on a busy state highway.

(b) The property was formerly a bar and grill and then was vacant for a number of years. The instant owner seeks to convert the use of the property to a retail business.

(c) In order to advertise the business to passing motorists, the Applicant seeks erect a sign which will consist of channeled letters, each letter being approximately 4 inches in depth.

(d) The sign will be illuminated but the illumination will be non-flashing.

(e) The second sign sought by the Applicant is to direct deliveries to the rear of the property. The first is for an increase in the size of the sign to advertise the business to passing motorists.

(f) While the Zoning Code allows directional signs, it does not appear to permit the wording, "deliveries to the rear".

(g) Neither the increased sign nor the new directional sign will obstruct the visibility of any motorists passing on the adjacent roadway.

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

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

2. There is no other feasible method available to the Applicant that can produce the benefits sought.

3. The variances requested are substantial in relation to the Town regulations, but nevertheless are warranted.

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

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.

7. The interests of justice will be served by allowing the granting of the requested area variances.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for 2 ft. 6 in. width variance for sign #1, 2 ft. width variance for sign #2, plus an additional sign in variation of Section 48-18B(1) of the Supplemental Sign Regulations at 1079 Little Britain Road, in an NC zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

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

Dated: April 8, 2002.

  
\_\_\_\_\_  
Chairman

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

**DAVID O'KEEFE**

MEMORANDUM  
OF DECISION  
GRANTING VARIANCES

#01-69  
-----X

**WHEREAS, DAVID O'KEEFE**, 2101 Patriots Court, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a 7 ft. side yard and 7 ft. rear yard variance for a proposed above-ground pool, plus 4 ft. rear yard variance for proposed deck at the above residence in an R-3 zone; and

**WHEREAS**, a public hearing was held on the 14th day of January, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, the Applicant appeared for this Application; and

**WHEREAS**, there was one spectator appearing at the public hearing; and

**WHEREAS**, one person spoke in opposition to the Application; and

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

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

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

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property located in a neighborhood of residential properties.

(b) The property is situated on the intersection of two roads so that legally it contains two front yards.

(c) The proposed location of the pool is in the best available location to minimize its appearance and maximize its utility.

(d) The proposed deck is consistent in size and appearance to other decks in the neighborhood.

(e) If the deck were not installed there would be a significant safety hazard as persons exiting the rear of the house would be likely to fall and sustain serious injuries.

(e) Neither the deck nor the pool will create any water hazards or effect the run off or path of water drainage.

(f) No trees or significant vegetation will be removed in construction either the pool or the deck.

(g) Neither the deck nor the pool will be built on top of any well or septic system, water or sewer easement.

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

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

2. There is no other feasible method available to the Applicant that can produce the benefits sought.

3. The variances requested are substantial in relation to the Town regulations, but nevertheless are warranted.

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

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

7. The interests of justice will be served by the granting of the variances.

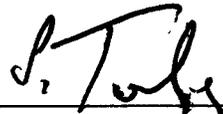
**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 7 ft. side yard and 7 ft. rear yard variance for a proposed above-ground pool, plus 4 ft. rear yard variance for proposed deck at the above residence, in an R-3 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

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

Dated: April 8, 2002.



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Chairman

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

**JOSEPH LOCURTO**

MEMORANDUM  
OF DECISION  
GRANTING VARIANCE

#01-65.  
-----X

**WHEREAS, JOSEPH LOCURTO**, 369 Chestnut Avenue, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for a 3 ft. side yard and 5 ft. rear yard variance for an existing shed at the above residence in an R-4 zone; and

**WHEREAS**, a public hearing was held on the 14th day of January, 2002 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, the Applicant appeared for this Application; and

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

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

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

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

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

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property located in a neighborhood of residential properties.

(b) The property is located at the intersection of two roads thereby giving it legally two front yards. The property appears visually to have a front yard and two side yards.

- (c) There has been a shed in existence for approximately two years.
- (d) No complaints have been received formally or informally.
- (e) The shed was moved to its present location when a development was installed behind the property.
- (f) The shed does not create any water hazards.
- (g) No trees or significant vegetation were removed in erecting the shed.
- (h) The shed is similar in size and appearance to other sheds in the neighborhood.
- (i) The shed is in the most practical location given the shape and configuration of the property.
- (j) The shed would be in an allowable position if it were not for the legal necessity for his property to have two front yards.

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

1. The variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant that can produce the benefits sought.
3. The variances requested are substantial in relation to the Town regulations, but nevertheless are warranted.
4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.
6. The benefit to the Applicant, if the requested variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

7. The requested variances are reasonable in view of the size of the property, its location and its appearance in relation to other properties in the neighborhood.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 3 ft. side yard and 5 ft. rear yard variance for an existing shed at the above residence, in an R-4 zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

**BE IT FURTHER**

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

Dated: April 8, 2002.

  
Chairman