

ZONING BOARD OF APPEALS
JANUARY 28, 2002

AGENDA: 7:30 P.M.

ROLL CALL-MOTION TO ADOPT MINUTES OF 01/14/02 MEETING

PRELIMINARY MEETINGS:

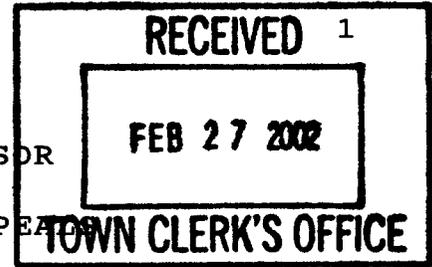
1. BLYTHE, MIKE - Request for use variance to allow construction of two-family residence at Walsh/Cedar Avenue in R-4 zone. (14-7-24).
2. DIGERATU, MIRCEA - Request for 18 ft. 7 in. road frontage to construct a single-family dwelling at 537 Beattie Road in a R-1 zone. (51-1-83.12).
3. HONG, IN KEE - Request for variation of Sec. 48-18H(b) of the Supplemental Sign Regs. to allow variance of 1.5 ft. height and 6 ft. sign width at Hong's Karate, 280 Windsor Highway (formerly Uncle Chus) in C zone. (35-1-48).
4. DELANEY, BRENDAN - ADDED TO AGENDA 01/28/02

PUBLIC HEARINGS:

4. CARLONE, FRANK - Request for 7 ft. side yard and 2 ft. rear yard variances for existing shed at 646 Blooming Grove Tpk. in an R-4 zone. (45-1-10).
5. IMAGELAND, INC. - 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 Sec. 48-18B(1) of Suppl. Sign Regs at 1008 Little Britain Road in an NC zone. (33-1-5).
6. ROMAINE, CHARLENE - Request for 13 ft. side yard variance for existing carport at 44 Birchwood Drive in an R-4 zone. (25-1-17).

FORMAL DECISIONS: (1) LUCAS

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

JANUARY 28, 2002

MEMBERS PRESENT: LAWRENCE TORLEY, CHAIRMAN
MICHAEL KANE
LEN MCDONALD

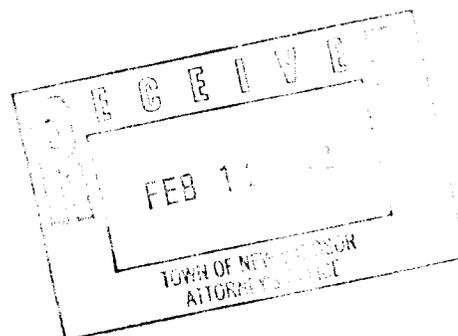
ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

PATRICIA CORSETTI
ZONING BOARD SECRETARY

ABSENT: MICHAEL REIS
STEPHEN RIVERA

MR. TORLEY: I'd like to call to order the January 28,
2002 meeting of the Zoning Board of Appeals.



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PRELIMINARY MEETINGS:

BLYTHE, MIKE

MR. TORLEY: Request for use variance to allow construction of two-family residence at Walsh/Cedar Avenue in R-4 zone. Is anyone here to represent this? Seeing no one, we'll hold until the end of the meeting, see if someone shows.

DIGERATU, MIRCEA

Mr. and Mrs. Digeratu appeared before the board for this proposal.

MR. TORLEY: Request for 18 ft. 7 in. road frontage to construct a single-family dwelling at 537 Beattie Road in an R-1 zone.

MR. DIGERATU: We want to build a house.

MR. BABCOCK: Maybe I can clear it up a little bit. Back in '94, they were here and they got a variance, the same exact variance they're asking for today, they built a garage to store the materials in and then never got to build the house. Now, they came back and are ready to build the house and their variance has expired.

MR. TORLEY: My recollection was they didn't get the variance.

MR. BABCOCK: According to my paperwork, they did, it was approved on 8/8/94.

MS. CORSETTI: I don't think so, Mike. What was it a variance for?

MR. BABCOCK: Same thing, road frontage, they got other variances or they applied for other variances.

MS. CORSETTI: Right, but they didn't get those from what I can recall.

MR. BABCOCK: They built a garage that they were going to store the material in and get that ready and then what they did they I guess they come up here on weekends and wanted to work on the house so they wanted to live in the garage. So they came here, we told them they can't live in the garage, they came here and on 1/22/95, you disapproved them to convert the garage to a one-family dwelling.

MR. TORLEY: But again, I didn't recall the road frontage being granted.

MR. BABCOCK: We have it on our records--

MR. TORLEY: My mistake.

MR. BABCOCK: --as being granted on 8/8/94.

MR. KANE: So they would, they were granted the road frontage variance, Mike?

MR. BABCOCK: That's correct.

MR. KANE: Why would that dissipate? It goes with the property, doesn't it?

MR. BABCOCK: They have to apply and receive a building permit within one year of your approval.

MR. KANE: I can see the building permit going out but the variance itself goes with the property, doesn't it?

MS. CORSETTI: It expires if they don't do anything, if they haven't started building within a year's time.

MR. BABCOCK: If they got a building permit, it would never expire.

MR. TORLEY: If they don't act on the variance, it expires.

MR. KANE: Okay, I stand corrected.

MR. TORLEY: Do you have any kind of plans or anything for the house?

MR. DIGERATU: For the house or the engineering plans?

MR. TORLEY: Either one?

MR. DIGERATU: Here's the engineering plans.

MR. BABCOCK: Overall, Mr. Chairman, it's 40 foot 6 inches by 53 foot, the house.

MR. TORLEY: We have these for your benefit and for

anybody else in the audience. By state law, all actions of the ZBA have to be done in a public hearing, we have these preliminary meetings so that you can get an understanding of what kind of questions we need to have answered before we can grant you a variance and vice versa, so no one is surprised at the public hearing, everybody comes in with an awareness of what's going to be going on. So, the only variance that you are requesting is the road frontage?

MR. BABCOCK: That's correct. According to the map, that's all he needs.

MR. TORLEY: This appears to meet all the area variances for side and rear yard, Mike? Again, my recollection is a little hazy, I thought the yard width was measured now as we changed, the law's changed, now measured at the house position, not at the setback point.

MR. BABCOCK: No, it measures at the setback point.

MR. TORLEY: So 50 feet back into the road this wouldn't meet the yard width requirements?

MR. KANE: What's that, the road?

MR. TORLEY: If my--

MR. KANE: The house itself you're talking about?

MR. TORLEY: The lot width requirement, road frontage and lot width, the road frontage is at the road, but the lot width was changed in the codes so it's now measured at the setback from the road, not at the house point, is that correct?

MR. BABCOCK: I'd have to read that section, it may say and/or.

MR. TORLEY: Would have to be most restrictive.

MR. BABCOCK: And I think you're right, I think you're correct.

MR. TORLEY: So, this would also require a lot width variance.

MR. BABCOCK: That's correct.

MR. TORLEY: So we have to amend the variance request to reflect that.

MR. BABCOCK: That's right.

MR. KANE: So we clear up everything once you're here.

MR. TORLEY: The code was written as a disincentive of such flag lots.

MR. KANE: Right.

MR. BABCOCK: Yeah, Mr. Chairman, I'll have to read you this paperwork and send it to Pat tomorrow.

MR. TORLEY: I may be mistaken.

MR. BABCOCK: No, I think you're absolutely right in the required lot width.

MR. TORLEY: They need a 75 foot lot width variance.

MR. BABCOCK: Or 76, right.

MR. KANE: But we'll have the exact numbers for a public hearing?

MR. BABCOCK: Yes.

MR. TORLEY: Do you have any other questions at this time? Accept a motion on this matter.

MR. MC DONALD: Make a motion that we set Mr. Digeratu up for a public hearing.

MR. KANE: Second it.

ROLL CALL

MR. KANE AYE

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MR. MCDONALD
MR. TORLEY

AYE
AYE

HONG, IN KEE

MR. TORLEY: Request for variation of Section 48-18H(b) of the Supplemental Sign Regulations to allow variance of 1.5 ft. height and 6 ft. sign width at Hong's Karate, 280 Windsor Highway (formerly Uncle Chu's) in C zone.

Mr. In Kee Hong appeared before the board for this proposal.

MR. HONG: I'm sorry, I have pictures, this is the--

MR. TORLEY: He's describing photographs of the present situation.

MR. HONG: That sign exists in front of the previous business and now my school would like to put a new sign on there. And that Route 32 and my neighbors, they have all that kind of a signage, the carpet place, I'm sorry you cannot see it, and there's a big sign next to my place, too.

MR. KANE: Facade sign they're going to put?

MR. TORLEY: Replace the Uncle Chu's Restaurant sign.

MR. KANE: Same dimensions?

MR. TORLEY: That sign was not legal, so now they have to--

MR. KANE: Are you going to be using the freestanding sign out front also?

MS. CORSETTI: No, it's not on here.

MR. KANE: Was that removed? There used to be a freestanding sign.

MS. CORSETTI: This is just for facade signs. Michael, doesn't say anything about freestanding.

MR. MC DONALD: Any flashing lights?

MR. HONG: No, not at all, just a simple sign.

MR. TORLEY: Two-sided sign?

MR. HONG: Both sides, yes.

MR. TORLEY: We got the area, he's going to need an area variance too then, Mike, it's two sided.

MR. BABCOCK: If it's a facade sign, why is it two sided?

MR. TORLEY: This is on the building or separate?

MR. HONG: On the building.

MR. TORLEY: Is this sign we're talking about, is it on a pole out in front of the building or on the front of the building?

MR. HONG: No, front, front of the building.

MS. CORSETTI: Mr. Hong was in here once before when he brought in his other request for the other sign at the other karate which is down in the Shop Rite Plaza but he moved.

MR. TORLEY: When you come back for your public hearing, can you bring some lighter photographs, daytime photographs?

MS. CORSETTI: What the sign looks like. Michael, you don't have those, what the sign looks like?

MR. BABCOCK: Now?

MR. TORLEY: Yes.

MR. BABCOCK: I don't think so.

MR. TORLEY: For the public hearing.

MR. KANE: That's fine for the public hearing.

MR. TORLEY: Entertain a motion on this.

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MR. KANE: I move that we set up Mr. Hong for a public hearing on his requested variance for 280 Windsor Highway.

MR. MC DONALD: Second it.

ROLL CALL

MR. KANE	AYE
MR. MCDONALD	AYE
MR. TORLEY	AYE

PUBLIC HEARINGS:

CARLONE, FRANK

MR. TORLEY: Request for 7 ft. side yard and 2 ft. rear yard variances for existing shed at 646 Blooming Grove Turnpike in an R-4 zone.

Mr. Frank Carlone appeared before the board for this proposal.

MR. TORLEY: Is there anyone in the audience wishing to speak on this matter? Let the record show there is no one present.

MS. CORSETTI: Let the record show that on the 14th of January, we sent out 52 notices to adjacent property owners.

MR. TORLEY: Sir, so, tell us what you want to do, tell us what your problem is.

MR. CARLONE: I'm selling the property and there's a shed on the cement slab that's not within the ten foot by ten foot--

MR. KANE: Side yard regulations, side and back yard regulations?

MR. CARLONE: Right.

MR. KANE: How long has the shed been in existence?

MR. CARLONE: I bought the house 14 years ago, it was there already.

MR. KANE: Over 14 years old?

MR. CARLONE: Yes.

MR. KANE: Any complaints formally or informally?

MR. KANE: Not that I know of.

MR. KANE: Any creation of water hazards, runoff

whatsoever?

MR. CARLONE: None at all.

MR. KANE: Shed is similar in size to other sheds in the neighborhood?

MR. CARLONE: Yes.

MR. MC DONALD: Couldn't move it?

MR. KANE: It would be a hardship to move the shed as it is now?

MR. CARLONE: Yes, you can't move it over because it's right next to the pool.

MR. TORLEY: It's on a concrete foundation?

MR. CARLONE: Yes.

MR. TORLEY: It would be economically infeasible to move it?

MR. CARLONE: I guess.

MR. KRIEGER: Over the top of any water well or septic systems or water or sewer easement?

MR. CARLONE: No.

MR. KANE: Cutting down of any trees when it was built that you know of? It was existing before you moved onto the property so--

MR. CARLONE: Yeah, there was no trees.

MR. KANE: Just for the record. Accept a motion?

MR. TORLEY: Yes.

MR. KANE: I move we approve the application by Frank Carlone for his variance at 646 Blooming Grove Turnpike.

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MR. MC DONALD: Second it.

ROLL CALL

MR. KANE	AYE
MR. MCDONALD	AYE
MR. TORLEY	AYE

IMAGELAND, INC.

MR. TORLEY: 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 Supplemental Sign Regulations at 1008 Little Britain Road in an NC zone.

Mr. Steve Steiner appeared before the board for this proposal.

MR. TORLEY: Is there anyone in the audience who wishes to speak on this matter? Let the record show there is no one.

MR. STEINER: Our building has been under construction the past few months, it's located directly across the street from the entrance to the airport on 207 and we're asking to mount channel letters approximately 12 inches in size and they would be used on the highway that's running 40 miles an hour, somewhat in compliance with our sister company which we had, it has to be done in good taste and it would say Imageland, Inc.com on the, facing 207 and then on the northeast side, as you would drive towards Goshen, it would say the word printing services and this is an illumination, it's a neon with a face plate on it. If you go by Applebee's Restaurant or if you drove by Diana's Restaurant also on Route 207, it's very similar, but not as large as some of the other ones cause it's a smaller building. So it would be mounted on the facade. The code allows for 25 square feet, 2 1/2 by 10. What we're asking for is 15 feet running horizontal and we're asking 11 feet running horizontal which would only give us a little bit shy of 26 square feet. So we're about one foot marginal between what the code says and what we would ask. Then we need to put something near the entrance to the driveway parking lot that says deliveries. In the rear, we've got a loading dock and we get deliveries from UPS tractor trailer maybe once a month for picking up printing back and forth.

MR. KANE: So that would be the additional sign that you're looking for?

MR. STEINER: Yes.

MR. KANE: On the illumination, that's non-flashing.

MR. STEINER: Non-flashing.

MR. TORLEY: Our code forbids neon light, but this is an internally illuminated light, happens to be illuminated by a neon strip?

MR. STEINER: It has a face plate hiding it.

MR. MC DONALD: It will be covered?

MR. STEINER: Yes, these are channeled letters, each letter is approximately four inches in depth.

MR. KANE: Even though the sign height and width variance look a little extreme, you're saying that you're only one foot, one square foot above what the maximum is?

MR. STEINER: Yes.

MR. TORLEY: Now the additional sign, how big is that because we have to give the variation for non-illuminated signs, do you have those numbers?

MR. STEINER: One is 12 x 15, 12 inches by 15 feet.

MR. TORLEY: Delivery in the rear, that's the second sign, how big is that?

MR. STEINER: That probably needs a 12 by 24 inch, it will be 12 inches by 24 inches.

MR. BABCOCK: Just a small directional sign.

MR. TORLEY: That really doesn't count as a second sign.

MR. BABCOCK: Directional signs in the code, when you look at it, it doesn't say deliveries to the rear, it says one way, they give some examples, so we figure while he was here, we would just include it so that

there's no question, it's really a directional sign but it's not listed in the code.

MR. KANE: That's where they need the two foot width for sign number 2?

MR. BABCOCK: That's correct.

MR. TORLEY: And it would be the same type of lettering as the front?

MR. STEINER: No, probably vinyl lettering, unilluminated, just black and white, white baked enamel finish on a 4 X 4 post, approximately 3 1/2, 4 feet in height.

MR. MC DONALD: That won't be obstructing any visibility, any sight distances or anything like that?

MR. STEINER: No, New York State has said that we must not go within 15 feet and we can't go higher than 18 inches, so it's up against pretty much a chain link fence that belongs to Park and Fly, so it's another issue.

MS. CORSETTI: Nineteen notices went out to adjacent property owners.

MR. KANE: Accept a motion?

MR. TORLEY: Yes.

MR. KANE: I move we approve the application by Imageland for their requested sign variances for 1008 Little Britain Road.

MR. MC DONALD: Second it.

ROLL CALL

MR. KANE	AYE
MR. MCDONALD	AYE
MR. TORLEY	AYE

ROMAINE, CHARLENE

MR. TORLEY: Request for 13 ft. side yard variance for existing carport at 44 Birchwood Drive in an R-4 zone.

Ms. Charlene Romaine appeared before the board for this proposal.

MR. TORLEY: Anyone in the audience wishing to speak on this matter? Let the record show there's no one.

MS. CORSETTI: On January 14, we sent out 80 notices.

MR. KANE: Well, tell us what you want to do, Charlene.

MS. ROMAINE: We need a 13 foot side yard variance for an existing carport.

MR. MC DONALD: How long has it been there?

MS. ROMAINE: Sixteen years.

MR. KANE: Any complaints, formally or informally?

MS. ROMAINE: No.

MR. KANE: Any creation of water hazards or runoffs from the carport?

MS. ROMAINE: No.

MR. KRIEGER: Was it built while you owned the premises or before you owned it?

MS. ROMAINE: Before I owned it.

MR. KRIEGER: Is there any record in the building inspector's records about building permits having been issued?

MR. BABCOCK: No.

MR. KRIEGER: No record?

MR. BABCOCK: No record.

MR. KANE: Obviously, it's infeasible to move the carport?

MS. ROMAINE: Right.

MR. TORLEY: You've had no objections from your neighbors?

MS. ROMAINE: No.

MR. TORLEY: Since it's only two feet off the property line, they have no objection?

MS. ROMAINE: He said he didn't mind.

MR. TORLEY: Other buildings in the area have carports or garages?

MS. ROMAINE: You know, I'm not sure. Probably.

MR. TORLEY: This is not an unusual feature of the neighborhood?

MS. ROMAINE: No.

MR. TORLEY: It's not built over any water or sewer lines?

MS. ROMAINE: No.

MR. TORLEY: Power easements, anything like that?

MS. ROMAINE: No.

MR. TORLEY: Any such variance would not relieve you from any other parts of the codes as far as structural integrity, et cetera.

MS. ROMAINE: Correct.

MR. MC DONALD: Accept a motion?

MR. TORLEY: Yes.

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MR. MC DONALD: I make a motion we grant Charlene Romaine's request for 13 foot side yard variance for existing carport at 44 Birchwood Drive.

ROLL CALL

MR. KANE	AYE
MR. MCDONALD	AYE
MR. TORLEY	AYE

DELANEY

Mr. and Mrs. Delaney appeared before the board for this proposal.

MR. TORLEY: Request for variation of Section 48-14 A(4) to allow existing shed to remain.

MR. DELANEY: It's just a shed, we're on an end house. You told me to get pictures, so I got some pictures. It's in Rock Tavern, it's a cross from the post office.

MR. TORLEY: It's on 207?

MR. DELANEY: No, we're a fair bit away.

MR. TORLEY: James Wilkinson Drive?

MR. DELANEY: Yes.

MR. TORLEY: You're the first house in?

MR. DELANEY: Apple Court, yeah.

MR. KANE: As you may have heard before, the way we proceed we do a preliminary hearings so we can get an idea of what you want to do and you can hear some of our opinions and by law, everything has to be done in the public hearing. So this way, we can straighten out any misunderstandings before we go to the public hearing. So that's what we're doing right now. How long has the shed been up?

MR. DELANEY: Over a year now.

MR. KANE: Any complaints formally on informally?

MR. DELANEY: We had compliments rather than complaints.

MR. KANE: It's a similar shed to other sheds in the area?

MR. DELANEY: Yes.

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MR. MC DONALD: Not over any, you don't have sewer and water, no sewer?

MR. DELANEY: No.

MR. KANE: No easements or anything?

MR. DELANEY: No.

MR. TORLEY: My end of town, we don't have sewer. Not over septic or well?

MR. DELANEY: No, it's on the other side of the house.

MR. KANE: Is it on a cement pad?

MR. DELANEY: It's on a, I put gravel under it.

MR. KANE: It would be infeasible to move it to a different area on the property at this point?

MR. DELANEY: Yes.

MR. TORLEY: It's pretty steep in that spot.

MR. KANE: For the record, we'll ask you those questions so we can get everything on the record.

MR. TORLEY: On the other side of the property is the pond?

MR. DELANEY: No, we don't have the pond.

MR. TORLEY: What brings you to the board, refinancing or--

MR. DELANEY: Yeah.

MR. KANE: Accept a motion?

MR. TORLEY: Yes.

MR. KANE: I move that we set up the Delaneys for a public hearing on their requested variance for their shed.

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ROLL CALL

MR. KANE	AYE
MR. MCDONALD	AYE
MR. TORLEY	AYE

FORMAL DECISIONS

1. LUCAS

MR. TORLEY: We have one formal decision on the application of Michael Lucas.

MR. KANE: I move we approve the formal decision as written.

MR. MC DONALD: Second it.

ROLL CALL

MR. KANE	AYE
MR. MCDONALD	AYE
MR. TORLEY	AYE

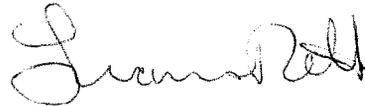
MR. MC DONALD: I move to adjourn.

MR. KANE: Second it.

ROLL CALL

MR. KANE	AYE
MR. MCDONALD	AYE
MR. TORLEY	AYE

Respectfully Submitted By:



Frances Roth
Stenographer

1/28/02

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

MICHAEL LUCAS

MEMORANDUM OF
DECISION GRANTING
INTERPRETATION

#01-56.
-----X

WHEREAS, MICHAEL LUCAS, residing at 146 Quassaick Avenue, New Windsor, N. Y. 12553, has made application before the Zoning Board of Appeals for an interpretation of a three-family residence as a pre-existing, non-conforming use located at 27 Cullen Avenue in a P-I zone; and

WHEREAS, a public hearing was held on the 26th day of November, 2001 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, Applicant appeared on behalf of this Application; and

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

WHEREAS, no one spoke in opposition to this 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 multi-family residential property located in a mixed neighborhood containing residences and commercial properties.

(b) The premises contains one building with three living units therein.

(c) The building is serviced by three separate electric meters and has separate telephone service.

(d) The property has been operated as a three-family property since prior to the enactment of zoning in the Town of New Windsor.

(e) The property has been continuously used and occupied as a three-family

residence since before the enactment of zoning, although as a rental residence the actual identity of the residence as three units has changed over the years.

- (f) Testimony was received by Affidavit that the premises has been used and occupied as a three-family residence.
- (g) The property has sufficient parking to comply with the requirements of the Zoning Local Law.

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 property has been continuously used since before the enactment of zoning and the Zoning Local Law of the Town of New Windsor as a multi-family residence containing three dwelling units.
2. Although evidence exists in the records of the Building Inspector indicating that it has been at some times during the years since the enactment of the Zoning Local Law used as less than a three-family residence, the testimony received by the Zoning Board of Appeals in the form of Affidavits from persons who are familiar and knowledgeable about the premises are accepted as having greater weight than the aforementioned records.
3. Neither the present owner of the premises nor the prior owner has done anything to change the use of the premises as a three-family residence.
4. The interests of justice require an interpretation of the Tow of New Windsor Zoning Local Law that this premises is a pre-existing, non-conforming use as a three-family residence, regardless of the zoning classification of the district in which it is located.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor make an interpretation determining that the property known as 27 Cullen Avenue in the Town of New Windsor has a pre-existing, non-conforming use as a three-family residence in a PI zone.

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: January 28, 2002.

Lawrence W. Torley
Chairman