

39-2-10

TOWN OF NEWBURGH

Crossroads of the Northeast

OLD TOWN HALL
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

From Code Compliance File

8-26-99

1999



CODE COMPLIANCE DEPT.
TELEPHONE 914-564-7801
FAX LINE 914-564-7802

Mr. Doug Carle
Zoning Board Chairman

July 13, 1999

Request for interpretation

Dear Mr. Carle,

There is a parcel of land located at 15 New Rd. that is in the "B" district. The owner was given a building permit to add an addition to the existing house. I was advised by Mr. Gaba, that the owner could build the addition to the house "by right". Now, the owner would like to demolish the house due to the extensive decay that exists. He would like to build on the exact same foot print if the existing house.

My question is, can the owner go ahead and build on the exact same foot print without ZBA approval, "by right" or is this a matter that must be brought before the zoning board. Mr. Gaba advised me that an interpretation is in order for this matter.

Sincerely,

Tilford Stiteler
Asst. Building Inspector

PER ZBA, MUST GO BEFORE THE BOARD.



July 6, 1999

TOWN OF NEWBURGH
20-26 Union Avenue Ext.
Newburgh, New York 12550
Attn: Tilford Stiteler, Building Inspector

RE: 15 New Road,
Newburgh, New York

Dear Mr Stiteler:

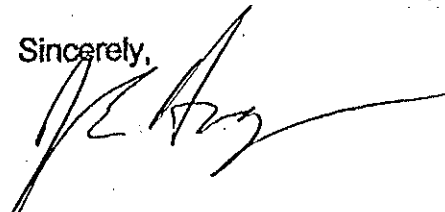
With regards to our telephone conversation on July 6, 1999, due to extenuating circumstances, I would like to abandon my plan of doing an addition to the existing dwelling and demolish the structure, then build a new structure with the same specifications as projected in my blueprints. I understand that I will have to provide a revised plan for the foundation and changes to the existing first floor structure.

My reasons for making this change are due to the fact that upon excavation and further investigation of the existing foundation there are numerous problems which present themselves as I attempt to repair and reinforce this structure. After removing one foundation wall, I discovered severe termite damage in the foundation sill plates near the exterior of the home which was not detected during the original inspection. Also, while attempting to raise the structure to replace sill plates, the structural integrity of the existing foundation has been compromised.

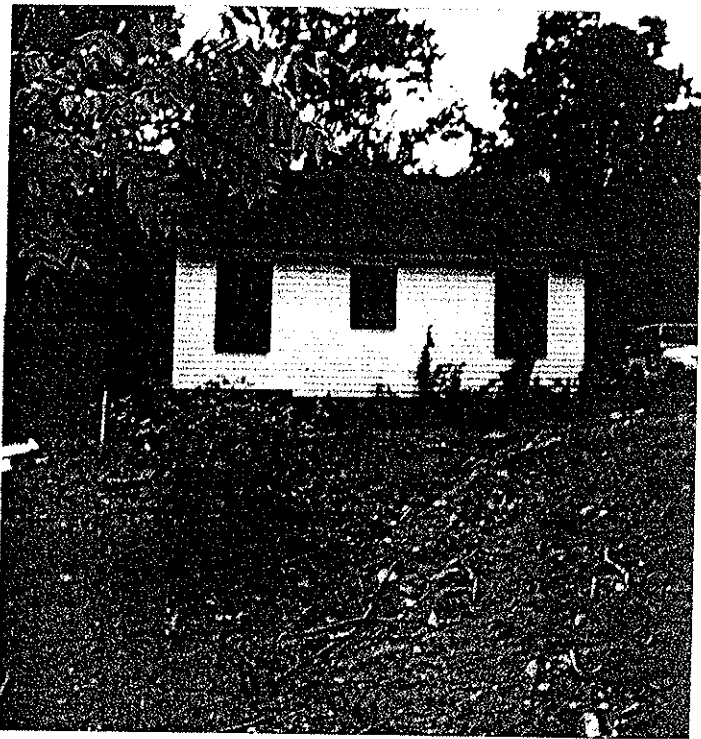
At this time, in my opinion, it would be counter productive and too costly to attempt to renovate the existing structure.

Please advise me as soon as possible as to my next course of action to keep this project moving. I can be reached most days at my place of employment at (914) 429-9080 from 7:00am to 3:00pm and at our home (914) 429-4804 after 3:00pm.

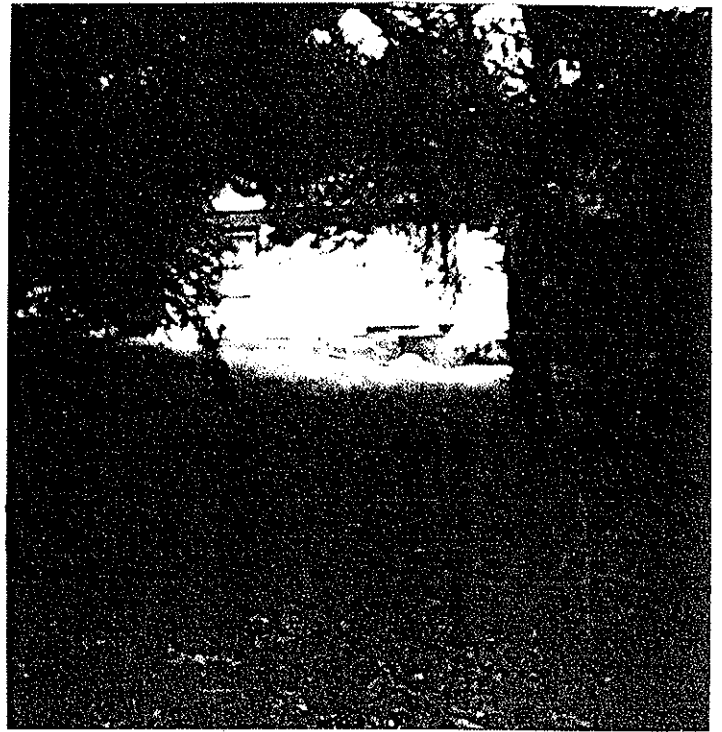
Sincerely,



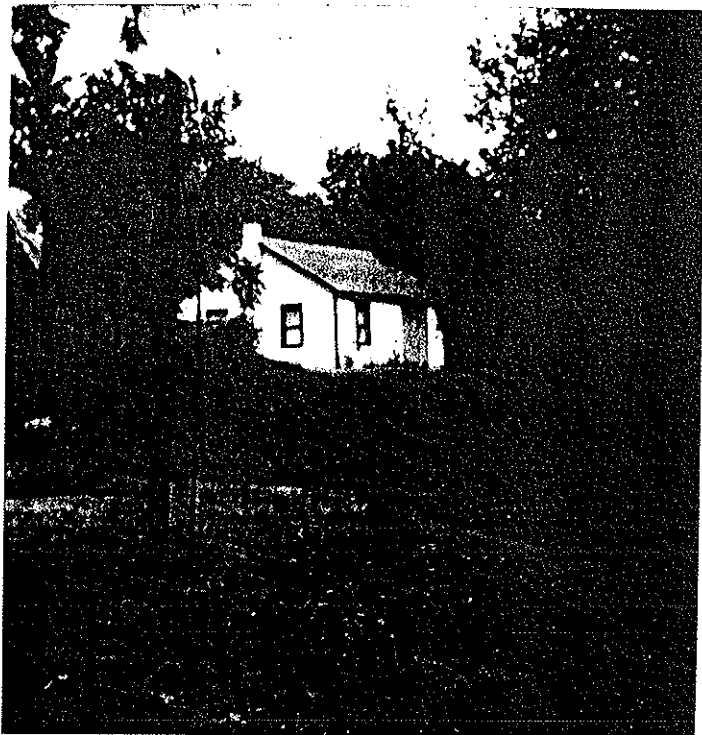
John E. Hogan, Jr.



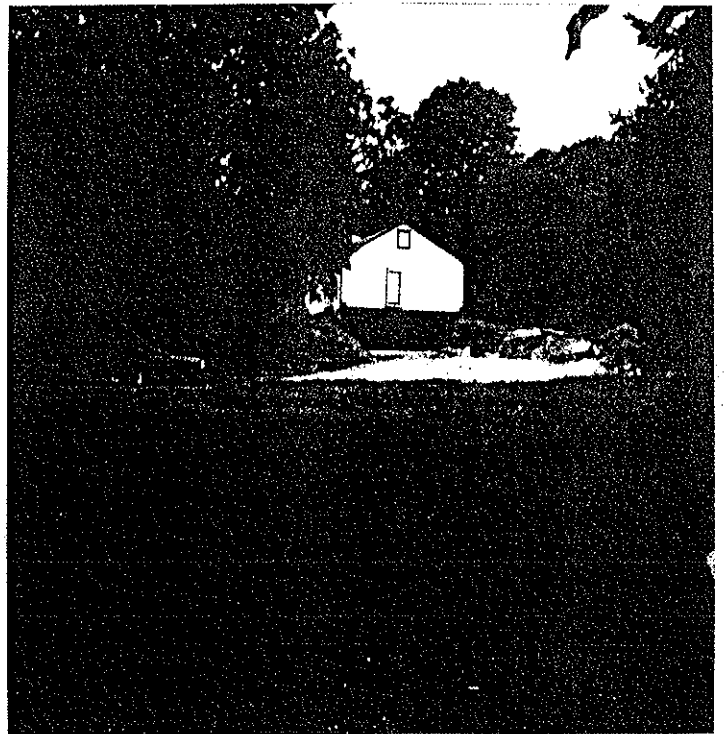
North FACE, 25' 9" Long.
Proposed length 43' 9"



South FACE 25' 9"
Proposed Length 43' 9"



West FACE 8-24'
X
South FACE - 25' 9"



EAST FACE - From
New Rd. 24' wide
This dimension will not change

NOTICE OF HEARING

NOTICE is hereby given that, pursuant to Section 267(5) of the Town Law State of New York, and Section 185-55(A) of the Zoning Ordinances of the Town of Newburgh, a public hearing will be held by the Zoning Board of Appeals of the Town of Newburgh, New York on the 26th day of August, 1999 at 7:30 P.M., in the Town Hall, 1496 Route 300, Town of Newburgh, New York, to act upon the following appeal:

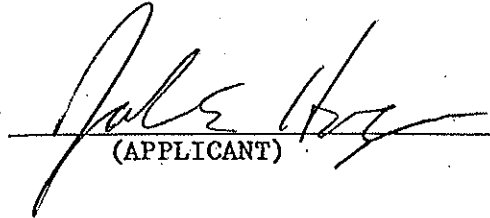
APPLICATION of JOHN E. HOGAN, JR.

for use variance to demolish an existing residence and construct a new home. Construction of new homes is not a permitted use in a "B" Zone, premises located at 15 New Road (Section 34, Block 2, Lot 18)

in the Town of Newburgh, New York.

TAKE NOTICE that the applicant should appear at the hearing and all persons interested in any way may appear and be heard by the Board.

BY ORDER of the Zoning Board of Appeals dated the 16th day of August 1999.

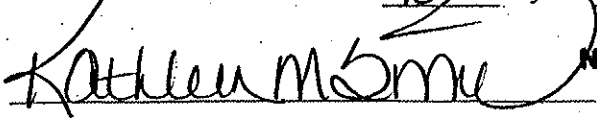

(APPLICANT)

STATE OF NEW YORK: COUNTY OF ~~ORANGE~~ Rockland

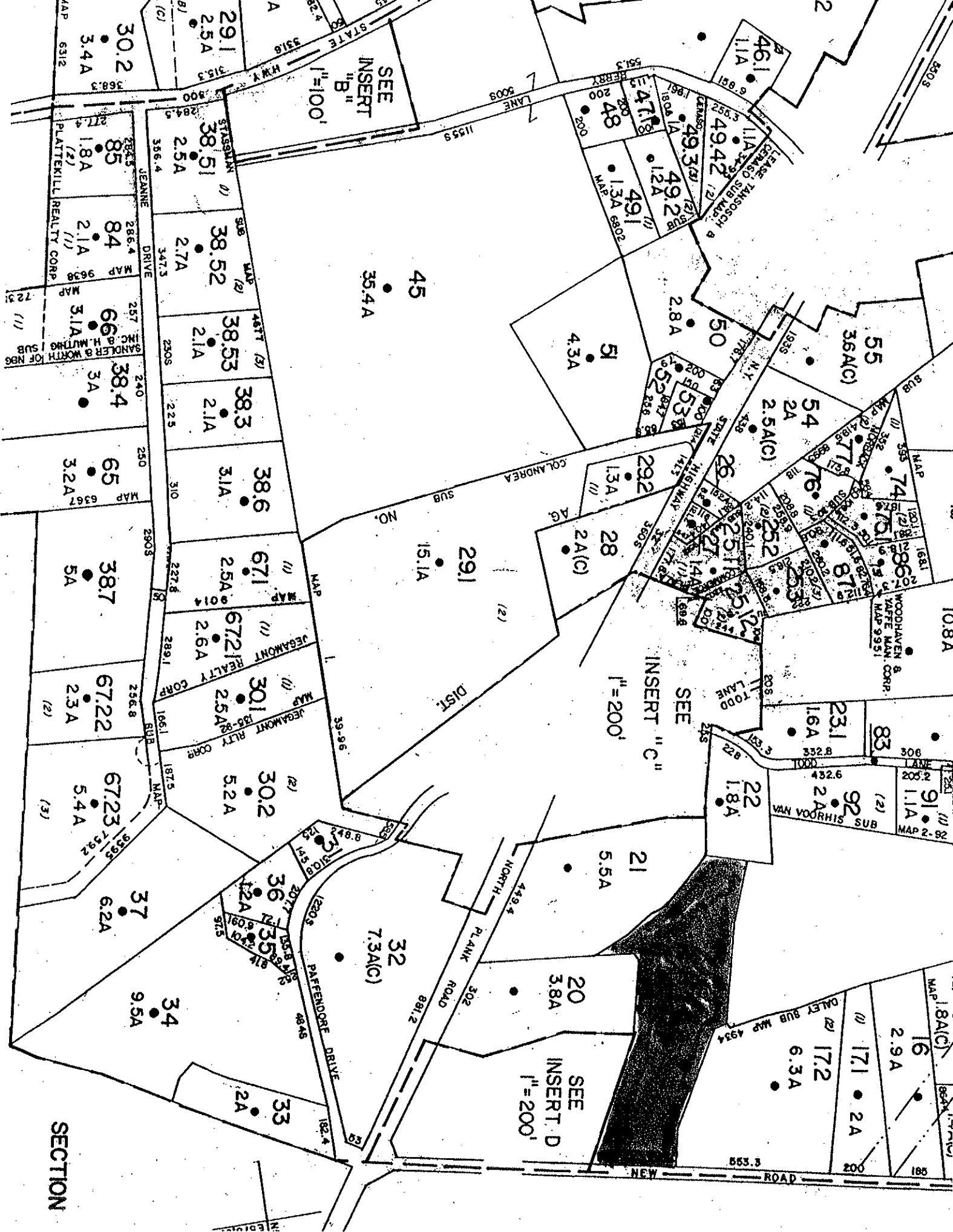
JOHN E. HOGAN, JR., being duly sworn, deposes and says that on the 16th day of August, 1999, I mailed notices of application for a variance and the hearing to be held thereon to all landowners within an radius of 300 feet of the exterior boundary lines of the property and have otherwise complied with all requirements of the Zoning Ordinance of the Town of Newburgh, County of Orange, New York



Sworn to before me this 16th day of August, 1999.



KATHLEEN M. SMITH
Notary Public, State of New York
No. 01SM5081189
Qualified in Rockland County
Commission Expires June 30, 2001



SECTION

TOWN OF NEWBURGH

Crossroads of the Northeast

ZONING BOARD OF APPEALS
OLD TOWN HALL
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550

August 26, 1999

OFFICE OF ZONING BOARD
(914) 566-4901

JOHN HOGAN
15 New Road
Section 34, Block 2, Lot 18
B Zone

Applicant is seeking to demolish the existing residence and replace it with a larger residence on premises located at 15 New Road in the Town of Newburgh.

Construction of new homes is not a permitted use in a "B" Zone.

All mailings were in order.

Applicant stated that his original plan had been to renovate and build an addition to the existing dwelling on the property. A building permit had been issued for the renovations and addition but upon investigation of the existing structure found when attempting to repair and reinforce the structure, severe termite damage that would be too costly to repair. Applicant was therefore before the Board to get approval to demolish the existing structure and build a new house in the same footprint but with the approved addition.

Mr. Carle asked if there were Town water and sewer available.

Applicant replied Town water was available but not sewer. There was an existing septic system on the property.

Mr. Carle asked how large an addition he was planning.

Applicant replied he has an open building permit for the renovations and addition to the existing house. The existing house is 25'9" x 24'. With the addition the house would be 43'9" x 24'. 95% of New Road is residential.

Mrs. Eaton asked if he were going to live there.

Applicant replied that he was.

Mrs. Eaton asked how large the lot was.

Applicant replied it was 6.6 acres.

Mrs. Eaton asked if he were planning to subdivide the property.

Applicant replied he is planning on keeping the 6.6 acres in tact for his own use. However, he is not ruling out the possibility that sometime in the future he may decide to do so.

Mr. Carle asked if there were further questions from the Board or if anyone in the audience had an interest in this application.

There being no response, Mr. Carle declared this part of the hearing closed.

Submitted by:



Mary Salantrie, Secretary,
Zoning Board of Appeals

/ms

TOWN OF NEWBURGH:
ZONING BOARD OF APPEALS

-----X
In the matter of the application of:

JOHN HOGAN

for a variance to Code §185-10
Table of Use and Bulk Requirements,
B District, Schedule 7.
-----X

FINDINGS OF FACT
AND
DECISION

Tax Map #34-2-18
B.I. #1227-99

The property which is the subject of this application is located at 15 New Road, Newburgh, New York and is designated on the tax map as Section 34, Block 2, Lot 18. It is in the "B" District.

The applicant owns a 6.6 acre lot improved by a single family residence. Existing residences are permitted uses within the B district. However, the applicant proposes to raze his home and, in its place, to construct a substantially larger single family home. New homes are not permitted uses in the B District. Accordingly, the applicant's plan requires a variance to Code §185-10, Table of Use and Bulk Requirements, B District, Schedule 7.¹

A public hearing on the application was scheduled for August 26, 1999 at the Town Hall, 1496 Route 300, Newburgh, New York. Notice of said public hearing, including the subject, date, place

¹Not before the Board, nor addressed herein, is the issue of whether reconstruction of an existing dwelling in the same "footprint" is permitted as of right under the Code.

and time, was duly published and mailed. Proper affidavits of publication and mailing have been received from the applicant.

The public hearing was held on August 26, 1999. The testimony and exhibits at the Public Hearing established that the subject property is improved by an aging, rather small dwelling. The applicant sought and received a building permit to enlarge his home but, upon commencing work, found too many infirmities in the existing structure for it to be saved. The only feasible course of action is to raze the home and reconstruct it. The applicant contends that limiting reconstruction to the existing small "footprint" of the building would be a hardship upon him, especially in light of the size of his lot. He requests a use variance permitting reconstruction of his existing home with an 18' x 24' addition.

The Board, as lead agency in an uncoordinated review, has unanimously determined that the proposed action is an unlisted action under SEQRA and a negative declaration has been made.

The Board determines that this is an application for a use variance. The criteria which the Board must consider in determining whether or not to grant the variances is set forth in Town Law Section 267-b.

The Board has considered the following factors and has made the findings set forth below:

- I. WHETHER THE APPLICANT CANNOT REALIZE A REASONABLE RETURN FROM THE PROPERTY IN QUESTION UNDER APPLICABLE ZONING REGULATIONS?

The Board is satisfied that this requirement has been met.

- II. WHETHER THE ALLEGED HARDSHIP IS UNIQUE, AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE DISTRICT OR NEIGHBORHOOD?

The hardship involved in this case is clearly unique.

- III. WHETHER THE REQUESTED USE VARIANCE, IF GRANTED, WILL ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD?

The proposed action will have no impact on the character of the neighborhood.

- IV. WHETHER THE ALLEGED HARDSHIP HAS BEEN SELF-CREATED?

The inability to use the subject property for purposes permitted under the Code is a function of the zoning pertaining to residential uses in the B District. It is not self-created.


DECISION

The Board determines that the applicant has met the requisites of Town Law Section 267-b. It is hereby resolved that a variance under Code §185-10, Table of Use and Bulk Requirements, B District, Schedule 7 to permit the proposed reconstruction of the applicant's home is granted.

Present and Voting on this decision:

Douglas W. Carle,	Aye
Paul Blanchard,	Absent
Grace Cardone,	Aye
Ruth Eaton,	Aye
Michael Maher,	Absent
Frank Galli	Absent
John McKelvey	Aye

Dated: October 29, 1999
Newburgh, New York



DOUGLAS W. CARLE, Chairman
Town of Newburgh, Zoning
Board of Appeals

TOWN OF NEWBURGH:
ZONING BOARD OF APPEALS

-----X
In the matter of the application of:

JOHN HOGAN

for a variance to the side yard set
back requirements of Code §185-10,
Table of Use and Bulk Requirements,
B District, Schedule 7.

DECISION
AND
RESOLUTION

Tax Map # 34-2-18
B.I.# 1227-99

-----X

The property which is the subject of this application is located at 15 New Road, Newburgh, New York and is designated on the tax map as Section 34, Block 2, Lot 18. It is located in the "B" District.

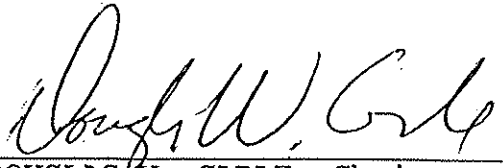
On August 26, 1999, this Board voted to grant the applicant's request for a use variance for construction of new home on property located in the "B" District. A resolution dated October 29, 1999, was thereafter executed and filed. Due to various delays in demolition and construction work, the applicant has not yet commenced construction work. He requests a six-month extension pursuant to Code §185-55(D) until August 26, 2000.

The Board determines that this is a Type II action under SEQRA. The application for an extension is hereby granted.

Present and Voting on this decision:

Douglas W. Carle,	Aye
Paul Blanchard,	Aye
Grace Cardone,	Aye
Ruth Eaton,	Aye
Michael Maher,	Aye
Frank Galli	Aye
John McKelvey	Aye

Dated: March 28, 2000
Newburgh, New York



DOUGLAS W. CARLE, Chairman
Town of Newburgh Zoning
Board of Appeals