

APPLICATION TO THE ZONING BOARD OF APPEALS, TOWN OF NEWBURGH

DATED : February 13, 2002

TO : THE ZONING BOARD OF APPEALS
TOWN OF NEWBURGH, NEW YORK 12550

DR. VICTOR RENDANO VMD PRESENTLY

RESIDING AT NUMBER 63 WEST GROTON ROAD, GROTON, NY 10373

TELEPHONE NUMBER (516) 848 - 9844

HEREBY MAKE APPLICATION TO THE ZONING BOARD OF APPEALS FOR
THE FOLLOWING :

- x A USE VARIANCE
 AN AREA VARIANCE
 INTERPRETATION OF THE ORDINANCE
 ACCESSORY APARTMENT

1. LOCATION OF THE PROPERTY :

SECTION 75 BLOCK 1 LOTS 19.14 (TAX MAP DESIGNATION)

21 HUDSON VALLEY PROFESSIONAL PLAZA (STREET ADDRESS)

 B (ZONING DISTRICT)

2. PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION
AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER;
DO NOT QUOTE THE LAW).

I. ARTICLE IV SECTION 185-10 USE TABLES

COLUMN C - PERMITTED USES

COLUMN D - USES SUBJECT TO SITE PLAN REVIEW BY PLANNING BOARD

3. IF VARIANCE TO THE ZONING IS REQUESTED :

a). **APPEAL IS BEING MADE AS PER REFERRAL BY THE TOWN OF NEWBURGH PLANNING BOARD ISSUED FEBRUARY 7, 2002 .**

4. **DESCRIPTION OF VARIANCE SOUGHT :** The applicant is requesting a use variance to practice veterinary medicine, particularly veterinary imaging and veterinary radiation therapy at 21 Hudson Valley Plaza, located in a B Zone, in a building formally occupied by Newburgh Radiation. Veterinary Hospitals are not permitted in a B Zoning District.

5. IF A USE VARIANCE IS REQUESTED : STRICT APPLICATION OF THE ZONING LAW WOULD PRODUCE UNNECESSARY HARDSHIP IN THAT :

a). **UNDER APPLICABLE ZONING REGULATIONS THE APPLICANT IS IS DEPRIVED OF ALL ECONOMIC USE OR BENEFIT FROM THE PROPERTY IN QUESTION BECAUSE :** The building was specifically built to house a radiation and oncology practice. Dr. Rendano has made an exhaustive search of properties in the Hudson Valley that would meet his veterinary radiation and imaging needs. This building fits his needs like a glove. Since this building was custom built to the specifications of the original owners, Newburgh Radiation & Oncology P.C., it has met with some considerable difficulty being marketed as a professional office building. Dr. Rendano has also found it absolutely impossible to find a building like this one in an AR Zone, the only zoning district which permits Veterinary Medical Practices.

b). **THE HARDSHIP IS UNIQUE AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE DISTRICT OR NEIGHBORHOOD BECAUSE :** Dr. Rendano's hardship is unique because the Zoning Law limits him to practicing in a primarily residential rural zone. None of the existing Veterinary Medicine facilities in the Town of Newburgh are located in an AR Zone. The present zoning treatment is a throw-back to when veterinarians dealt primarily with farm animals.

c). **THE VARIANCE WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE :** There will be no outward signs of change to the subject building. Dr. Rendano's practice does not involve the boarding of animals. An animal may stay over night after a surgery, but is normally discharged the same day when possible. The subject premises will be used essentially the same as in the past except it will now be treating animals instead of people.

d). **THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE :** There are two hardships involved with this application.

1) The original owners custom built this facility for radiation treatment. To renovate this building for another use would be cost prohibitive. Without renovation, the building has been extremely difficult to market.

2) Veterinary facilities are only permitted in an AR Zone. A condition which will hopefully be rectified with future master plans and zoning changes. As stated earlier, none of the 3 existing veterinary practices in the Town of Newburgh are in an AR Zone.

Newburgh Veterinary Hospital – RR Zone
Middlehope Veterinary Hospital – B Zone
Stone Cottage Veterinary Clinic – R3 Zone

6. IF AN AREA VARIANCE IS REQUESTED : Not applicable

7. ADDITIONAL REASONS :

Dr. Victor Rendano is a retired professor from the College of Veterinary Medicine, Cornell University, Ithaca, New York and is licensed to practice Veterinary Medicine in New York State.

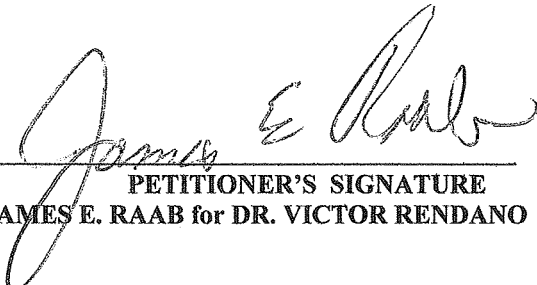
He is board certified in Veterinary Diagnostic Imaging and Veterinary Radiation Therapy.

Dr. Rendano wishes to establish a diagnostic and radiation facility devoted to treating animals, especially animals with cancer.

The subject property was used to treat humans with cancer and thus much of the equipment will be similar or the same as the equipment Dr. Rendano will use to treat his animals.

This will not be a boarding facility. While animals will be housed inside during their evaluation and therapy, animal noise will be minimized by additional sound attenuation proposed by Dr. Rendano to assure no interference with the neighboring residences or businesses.


Allowing veterinarians to help animals at this facility will be a benefit to the everyone, as well as an attribute to the community and to veterinary medicine.



PETITIONER'S SIGNATURE
JAMES E. RAAB for DR. VICTOR RENDANO

STATE OF NEW YORK : COUNTY OF ORANGE :

SWORN TO THIS 15th DAY OF FEBRUARY 2002



NOTARY PUBLIC
ANDREW J. ZARUTSKIE
Notary Public, State Of New York
No. 01ZA4502524
Qualified In Orange County
Commission Expires Nov. 30, 2005

TOWN OF NEWBURGH
ZONING BOARD OF APPEALS

CONTRACT
VENDEE

PROXY

~~OWNER~~ VICTOR RENDANO, DEPOSES AND SAYS THAT
HE/SHE RESIDED AT 63 West Horton Road, Horton N.Y. 13073
IN THE COUNTY OF Tompkins AND STATE OF NY
AND THAT HE/SHE IS THE ~~OWNER~~ ^{CONTRACT VENDEE} IN FEE OF
Victor Rendano and Associates LLC
WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICATION
AND THAT HE/SHE HAS AUTHORIZED VINCENT DOCE + ASSOCIATES
TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN.

DATED: JAN. 11, 2002, x Victor T Rendano
VENDEE'S ~~OWNER'S~~ SIGNATURE

VICTOR RENDANO
VENDEE'S ~~OWNER'S~~ PRINTED NAME

x Barbara J Ostrander - Stamp
Witness' Signature

Barbara J Ostrander - Stamp
Witness' Printed Name

0105601927 - Stamp
Barbara J. Ostrander
Notary Public State of New York
Qualified in Tompkins County
Commission Expires 02-01-03

PROJECT I.D. NUMBER

617.21

SEQR

Appendix C

State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
 For UNLISTED ACTIONS Only

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

1. APPLICANT / SPONSOR <i>DR. VICTOR DENUNDO</i>	2. PROJECT NAME <i>VETERINARY DIAGNOSTIC IMAGING</i>
3. PROJECT LOCATION: Municipality <i>TOWN OF NEWBURGH</i> County <i>ORANGE</i>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <i>SECTION 75 BLOCK 1 LOT 19.14</i>	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <i>EXISTING BUILDING FORMERLY HOUSING RADIOLOGY PRACTICE, IS PROPOSED FOR VETERINARY DIAGNOSTIC IMAGING AND RADIATION THERAPY</i>	
7. AMOUNT OF LAND AFFECTED: Initially <i>1.4</i> acres Ultimately <i>1.4</i> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly <i>PROPOSED USE, BECAUSE IT INVOLVES VETERINARY MEDICINE, WILL REQUIRE A USE PERMIT TO THE TOWN OF NEWBURGH ZONING BOARD</i>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe: <i>PROFESSIONAL OFFICES SINGLE FAMILY RESIDENTIAL</i>	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) and permit/approvals <i>TOWN OF NEWBURGH ZONING BOARD OF APPEALS - USE VARIANCE</i>	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency name and permit/approval <i>C.O. TOWN OF NEWBURGH CODE COMPLIANCE DEPT.</i>	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: <i>JAMES ROAR</i>	Date: <i>1/11/02</i>
Signature: <i>[Signature]</i>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

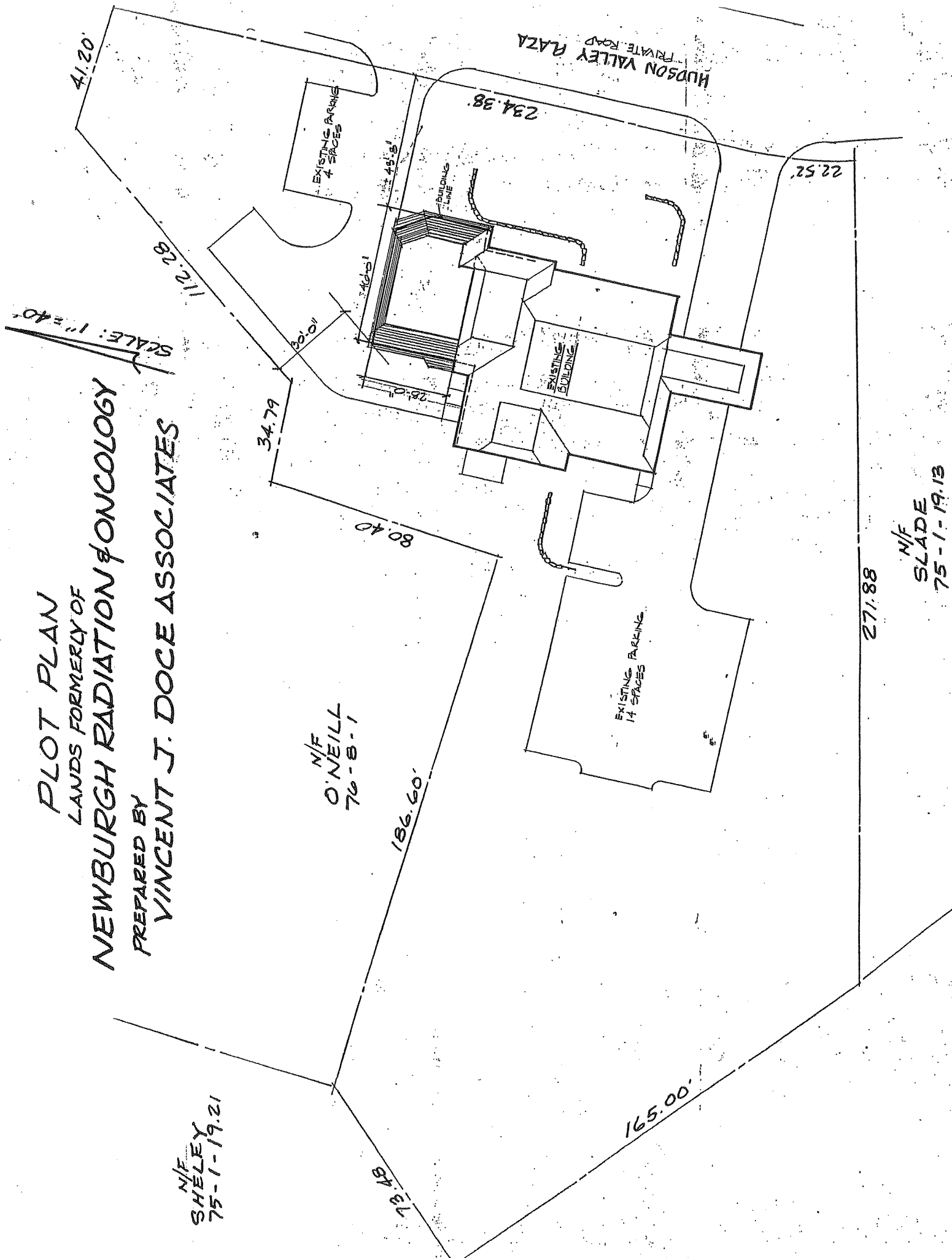
PLOT PLAN
LANDS FORMERLY OF
NEWBURGH RADIATION & ONCOLOGY

PREPARED BY
VINCENT J. DOCE ASSOCIATES

N/F
SHELEY
75-1-19.21

N/F
O'NEILL
76-8-1

N/F
SLADE
75-1-19.13



TOWN OF NEWBURGH

Crossroads of the Northeast

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

February 28, 2002

OFFICE OF ZONING BOARD
(845) 566-4901

DR. VICTOR RENDANO VMD
21 Hudson Valley Professional Plaza
Section 75, Block 1, Lot 19.14
B Zone

Applicant is seeking to open a veterinary imaging and radiation therapy practice on premises located at 21 Hudson Valley Professional Plaza in the Town of Newburgh.

Veterinary hospitals are not a permitted use in a B Zone. Article IV, Section 185-11.

All mailings were in order.

James Raab of the firm of Vincent J. Doce Associates represented applicant at the hearing.

Mr. Raab stated he was present to represent Dr. Vincent Rendano in his application for a use variance. He wants to do the same thing that was done here for humans which was a radiology and oncology practice. We don't plan any basic changes in the building at the present time other than cleaning it up and cleaning up the landscape. We were referred here by the Planning Board and if approved will go back for site plan approval. We plan on expanding the parking lot from 18 spaces to approximately 26 spaces. We plan on doing it on the back part of the parking lot. He pointed out the various residences around the building and stated that they are going to volunteer screening. There will be no boarding of animals other than overnight stay of surgical animal patients. We expect no more than 10 patients at a time and four doctors, but will usually average three, and nine support staff.

Dr. Rendano then explained that if we live long enough 80% of us will die of heart disease or cancer. As animals get older they face the same problem. He was a professor at Cornell for 20 years and one of eight people in the country who is Board Certified in both diagnostic imaging and radiation therapy. There are no other radiation therapy facilities in New York at this time. If animals need surgery they must go to other states. This community is unique for this project because it is truly the crossroads of the northeast. The facility was a radiation treatment for humans. The facility will be used with some modification for animals. We don't intend this as a primary care hospital. We are not in the practice of boarding animals or housing animals for protracted periods of time. They will be there as Board Certified specialists to provide sophisticated medical and surgical radiation oncology treatment for companion animals.

Mrs. Cardone stated earlier someone mentioned a MRI unit on the exterior of the building that was creating noise in the neighborhood, and asked if the doctor was planning to have such a unit on the exterior of the building.

Dr. Rendano responded that type of MRI unit was run off a diesel generator. If they were to use an MRI unit it would be a fixed magnum. If this had to be put in the interior of the building to meet the neighbors and the Board's needs, then it would be put in the interior of the building.

Mrs. Galli asked if they were planning to put one in.

Dr. Rendano replied not at this time.

Mr. Galli asked what type of animals would be treated.

Dr. Rendano replied primary companion animals. Right now 90% of what we do are dogs and cats. There are some parrots and rabbits, but most are dogs and cats.

Mrs. Eaton asked if his practice is limited to just those animals and if there would be dog runs outside the building.

Dr. Rendano replied our practice will be limited to what we call companion animals. We don't plan on doing cows and horses. Once in a while someone will bring in a goat or lamb that has a lesion that needs to be treated but 90 to 95% are dogs and cats. Everything will be contained within the building.

Mr. Galli asked about control of the animals outside the building.

Dr. Rendano replied some of these animals will go from the car and there will be some walking by the owners. It is a fairly well controlled area and if it needs to be screened off we will do that.

Mr. Harris asked if he would bring his animals there for regular checkups or shots
Dr. Rendano replied No.

Mr. Galli asked the hours of operation.

Dr. Rendano replied 8 or 8:30 AM to 5 or 6 at night, 5 days a week and possibly Saturday mornings.

Mr. Raab pointed out that veterinary practices are only allowed in the AR Zone, and believes it is a bit archaic. All of the veterinary practices in the Town right now are not in the AR Zone.

Mr. Raab also pointed out it is very hard to find a building of this nature in the State of New York and are having a terrible time marketing it. In the meantime it is falling into disrepair and believe it would be a service to the town to get this building back on the tax roll.

Mrs. Eaton asked if they expected 10 patients a day.

Dr. Rendano replied during the course of the day if they are seeing 3 patients an hour you could potentially see up to 24 patients during the course of a day, but at any one time he doesn't anticipate there would be more than 10 patients.

Mr. McKelvey asked if his plans were to have an MRI in the building.

Dr. Rendano replied that would not be our first priority. The first priority would be to use the building for radiation therapy. If we expand we would have to come back.

Mrs. Eaton asked how the building was constructed differently.

Mr. Raab replied the whole building is basically set up for radiology. Based on the floor plan he saw, the walls are 4 feet thick.

Caroline Martini, attorney for the Board, asked where the animals would stay overnight.

Dr. Rendano replied on very rare occasions where they have surgery late in the day and they would be better off staying over, they will stay over but go the next day. Very rarely will they stay overnight. If they need to be monitored then they will be kept.

Mrs. Eaton asked how can we be assured that you will treat ordinary animals, not snakes or others that someone may truly feel are companions.

Mr. Rendano replied if a person came in with a pet snake that had a cancer in the oral cavity, he would treat that animal but that is unusual.

Mrs. Cardone asked if there were further questions from the Board or questions or comments from the public.

Barney Adams of 3 Blue Jay Drive asked if there were 6 or 8 animals overnight where are they billitted, because you certainly are going to hear yapping and howling in some of the houses right around your proposed office. Will that be a soundproof area?

Dr. Rendano replied this gentleman will give you his phone number where you can call him if we are not meeting your needs. Mr. Adams replied he would call the doctor.

Dr. Rendano stated there is a small apartment on the second floor. If zoning permits us to keep someone there, they would probably have a Board Certified Licensed Technician who is knowledgeable in cancer maintenance available for those animals being housed. It may possible that a nurse will be sitting there all night monitoring the animals. It is not ethical not to have those people there. If it weren't zoned for that then they couldn't stay. It wouldn't be a residence. There would be someone on staff who would be there and we wouldn't be using the apartment in that case.

Edwin Howard of 5 Blue Jay Drive stated his concern was the radiation. Is there any way this can be checked to make sure radiation is not going to get outside the building.

Dr. Rendano replied before you can operate this building you have to have licensing and certification from the State. They come down and monitor everything. We will be a licensed facility operating under the laws of the state as well as any Federal laws that apply.

Butch Matthews asked about the disposal of animal waste.

Dr. Rendano replied everything that has to be regulated as medical waste would be handled as medical waste. Other waste will be disposed of in an appropriate and sanitary manner. The last thing he wants is to have someone bring an animal there that is not doing well and see a place that is not appropriate for them to leave their animal; a place that is in disrepair and there are terrible odors.

Mr. Matthews stated he understood that there were to be outside runs. The reason he asked is because he has a dog and a 2½ year old son whose bedroom in on that side of his house.

Dr. Rendano replied his intent is not to have dogs barking outside. It is not appropriate for what he wants to accomplish and not appropriate to the neighborhood.

Glen O'Neill of 7 Blue Jay Drive stated a lot of his concerns have been addressed. The principal one is the issue of noise. Will it be contained in the building with adequate sound-proofing? If your business is successful how would that alter what we heard?

Dr. Rendano replied this building will stay because of its unique design as a center for radiation therapy. For other specialties we would be looking for another location more central on the main road. The present location is not the best but there is no other building with 6 foot walls. We are not changing this building. If it is successful we will look for another location for a specialist.

Mr. O'Neill asked if any issues develop, would he be available to address them. Dr. Rendano replied he would.

Mr. Raab added if there were any additions to this building, it would have to be approved by the Planning Board. If it needs a variance it would come back to this Board. There can be an addition on the other side but it is very doubtful that would happen.

Mr. Raab stated in response to questions from the public, that the lights that are there now would not be approved by the Planning Board and he will propose that the lights there now be replaced with shoebox lights that shine straight down on the parking lot. Dr. Rendano added he saw no reason why the lights would be on later than 9 o'clock. Mr. Raab added if that is a problem we could push that back to 8 o'clock, and felt the screening would take care of a lot of the problem. There is nothing there right now but they are going to try more mature trees 8 feet high.

The question of the MRI then came up to which Dr. Rendano replied that he would not put in a noise generating MRI that is going to create any problem. If he has an MRI he will try to put it in the building. If he can't do that he will look for another site where he can bring the animals. He will not put an MRI that will keep neighbors awake. He also does not plan on people coming in the back door but coming in the front door where the carport is.

Mrs. Cardone asked if there were further questions from the Board or any questions or comments from the public.

There being no response, Mrs. Cardone declared this part of the hearing closed.

Submitted by:



Mary Salantrie, Secretary
Zoning Board of Appeals

After consultation with the Board's attorney and discussion among the members of the Board, Mrs. Cardone asked if there were a motion for a negative declaration. Mr. McKelvey made a motion for a negative declaration. Mr. Galli seconded the motion. Mrs. Cardone then asked all in favor to please say "aye". All Board members were present and approved by saying "aye". Mrs. Cardone then asked if there were a motion for approval with stipulations. Mr. McKelvey made a motion to approve. Mrs. Cardone stated she had a motion with the following stipulations not to have an MRI or dog runs outside. Mrs. Cardone then asked all those in favor to please say "aye". All Board Members were present and approved by saying "aye".

**TOWN OF NEWBURGH
ZONING BOARD OF APPEALS**

2002

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In the matter of the application of:

DECISION AND RESOLUTION

DR. VICTOR RENDANO, VMD

Tax Map # 75-1-19.14

for a use variance as a veterinary diagnostic Imaging
& Veterinary Radiation Therapy pursuant to
Article IV, Section 185-10, Table and Use Bulk
Requirements of the Newburgh Town Code

B.I. # 2001-5

-----X

The property which is the subject of this application is located at 21 Hudson Valley Professional Plaza, Newburgh, New York and is designated on the tax map as Section 75, Block 1, Lot 19.14. It is located in the "B" Zone.

Applicant is a veterinarian who seeks to open a veterinary imaging and radiation therapy practice on the premises zoned in a "B" district. However, Article IV, Section 185-11 does not permit the use of veterinary hospitals in a "B" zone. The subject premises was once used as a radiology and oncology practice for humans.

A public hearing on the application was scheduled for February 28, 2002 at the Town Hall, 1496 Route 300, Newburgh, New York. Notice of said public hearing, including the subject, date, place and time, was duly published and mailed. Proper affidavits of publication and mailing have been received from the applicant.

A public hearing took place on February 28, 2002. This Board finds the following findings of fact. Applicant was a professor at Cornell University for twenty (20) years and is one of eight people in the country who is Board Certified in both diagnostic imaging and radiation therapy. Applicant plans to provide sophisticated medical and surgical radiation oncology treatment for companion animals, 90% to 95% of which are dogs and cats. There are no other radiation therapy facilities in New York at this time. According to the applicant, he does not plan to make major changes to the building other than cleaning up the building and the landscape surrounding the building. There will be no boarding of animals other than an overnight stay of surgical animal patients. The applicant expects no more than ten (10) patients, four doctors and nine support staff. The hours of operation are from 8:00 am to 8:30 am to approximately 5:00 or 6:00 p.m., five days a week and possibly Saturday mornings.

Before this Board may exercise its discretion and grant a use variance upon the ground of unnecessary hardship, the following factors must be considered:

I. UNDER APPLICABLE ZONING REGULATIONS WILL THE APPLICANT BE DEPRIVED OF ALL ECONOMIC USE OR BENEFIT FROM THE PROPERTY IN QUESTION

This Board finds that strict application of the zoning law would deprive the applicant from all economic use or benefit from the property in question. According to the applicant's testimony the building was specifically built as a radiation and oncology practice. The building was custom built to the specifications of the original owners, Newburgh Radiation & Oncology, P.C. and it has met with considerable difficulty being marketed as a professional office building. To renovate this building for another use would be cost prohibitive. Dr. Rendano has made an extensive search of properties in the Hudson Valley that would meet his veterinary and imaging needs and has found it impossible to find a building like this one in an AR Zone, the only zoning district which permits Veterinary Medical Practices.

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

Dr. Rendano's hardship is unique and does not apply to a substantial portion of the neighborhood. The facility is ready as a radiation treatment facility and it would be difficult without renovation to market this building for other permitted uses. Applicant has had a difficult time locating a building of this nature in New York state. Veterinary practices are only allowed in the AR Zone; however, all of the veterinary practices in the Town are not located in an AR Zone. The Board takes note of the fact that the present zoning treatment is a result when veterinarians dealt primarily with farm animals.

III. WHETHER THE VARIANCE WILL ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD

Applicant has testified that his business will coexist peacefully with the surrounding residences. Neighbors expressed concerns regarding noise that used to emanate from an outside

MRI unit and from noise from the animals. Applicant stated that he would not have an outside fuel generated MRI which would run throughout the day and evening. The applicant has no intention of boarding animals and has indicated that his practice usually discharges animals the same day. The subject premises will be used the same except that it will now be treating animals instead of people.

V. WHETHER THE ALLEGED DIFFICULTY WAS SELF CREATED?

The applicant's difficulty is self created. However, on the facts of this case the Board declines to give any significant emphasis to this consideration. Veterinary facilities are only permitted in an AR Zone. Currently, none of the three existing veterinary practices in the Town of Newburgh are located in an AR Zone: Newburgh Veterinary Hospital is located in an RR zone, Middlehope Veterinary Hospital is located in a B Zone and Stone Cottage Veterinary Clinic is located in an R3 Zone.

RESOLUTION

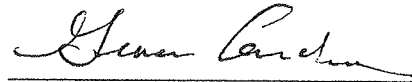
The Board determines that the applicant has met the requisites of Town Laws § 267-b. The Board hereby grants the requested use variance for use of the property as a veterinary diagnostic Imaging and Veterinary Radiation Therapy Facility.

The Board finds that such variance is the minimum necessary to address the circumstances of this application.

Presented and Voting on motion to grant application:

Grace Cardone	Aye
Paul Blanchard	Aye
Ruth Eaton	Aye
Mechail Maher	Aye
Frank Galli	Aye
John McKelvey	Aye
Richard Harris	Aye

Dated: May 17, 2002
Newburgh, New York



GRACE CARDONE Chairman
Town of Newburgh, Zoning
Board of Appeals

Town of Newh

Table of Use and Bulk
 B District – Sch
 [Amended 9-23-1998 by L.L. No. 10-1998

A. Accessory Uses	B. Permitted With	C. Permitted Uses	D. Uses Subject to Site Plan Review by the Planning Board
1. Home occupations.	C1 and 2	1. Existing single-family dwellings:	
2. Private garage or carport for not more than 4 vehicles	C1, 2, 4 and 5 D1-12	a. Without both public sewer and public water systems	
3. Garden house, toolshed, wading or swimming pool or tennis court in accordance with § 185-43 ⁴	C1, 2 and 4	b. With both public sewer and public town water systems	
4. Off-street parking as required by the principal use	C1, 2 and 4	c. With either public sewer or public water only	
5. Storage buildings up to 50% of the floor area of the principal building	All	2. Existing 2-family dwellings:	
6. Signs in accordance with § 185-14:	D2 and 11	a. Without both public sewer and public water systems	
a. Professional	C1 and 2, D2, D17	b. With both public sewer and public town water systems	
b. Business	C5, D1-12	c. With either public sewer or public water only	
c. Institutional	C3 and 4, D10	3. Municipal buildings and town activities	
d. Identification	C3-5, D1-12	4. Membership clubs without outdoor recreation facilities in accordance with § 185-29	
7. Keeping up to 5 (total) dogs or cats over 6 months of age	C1	5. Funeral homes	1. Retail and personal service stores, health clubs and fitness facilities
8. Off-street parking for commercial vehicles in accordance with § 185-13	C2		2. Business, professional and research offices and banks
9. Accessory apartments in accordance with § 185-38	D1-9, 11 and 12		3. Eating and drinking places
10. Fuel tanks in accordance with § 185-39	C1 and 2		4. Indoor amusement establishments
11. Satellite earth stations in accordance with § 185-40	D2, 5, 11 and 12		5. Motor vehicle service stations and public garages, car wash and rental agency in accordance with § 185-28
12. Cafeterias and clinics for employees	C1-3 and 5 D1-12		6. Convenience stores with or without gasoline filling stations
13. Restaurants and conference and banquet facilities	D2 and 12		7. Hotels and motels in accordance with § 185-27
14. Retail outlets	D2, 7 and 11		8. Shopping centers
15. Car wash	D11		9. Theaters
16. Motor vehicle rental agency	D5 and 6		10. Places of worship, parish houses, seminaries, convents, dormitories and related activities
	D5 and 7		11. Business parks in accordance with § 185-41
			12. Public utility structures and rights-of-way
			13. Affordable housing in accordance with § 185-47
			14. Senior citizen housing in accordance with § 185-48
			15. Restaurants

CODE ENFORCEMENT OFFICE

TOWN OF NEWBURGH

308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550
(845) 564-7801

ORDER TO REMEDY VIOLATION

DATE: 05/08/2007

TO: Dr. Ron Rendano
21 Hudson Valley Professional Plaza
Newburgh N.Y. 12550

SEC-BLK-LOT: 75-1-19.14

VIOL NO: 7-122

LOCATION: 21 Hudson Valley Professional Plaza

PLEASE TAKE NOTICE, there exists a violation at the location described above, in that the above named individual(s) did commit or allow to exist the following offense:

Parking and Utilization of Trailer in rear of property
Not permitted Use in B Zone

which is in violation of:

Town of Newburgh Municipal Code

SEC: 185

SUB-DIV: 185-1

TITLE: Authority and Purpose

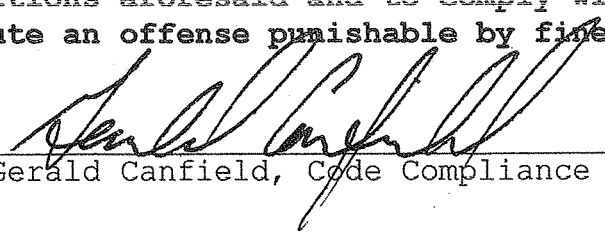
PAGE: Schedule 7

When I did observe the following:

A trailer on site that appears to have utilities hooked up.
Unknown what trailer is used for.

YOU ARE THEREFORE DIRECTED AND ORDERED to comply with the law and to remedy the condition above mentioned forthwith on or before: 05/22/2007

Failure to remedy the conditions aforesaid and to comply with the applicable provisions of law may constitute an offense punishable by fine or imprisonment or both.


Gerald Canfield, Code Compliance Supervisor

YOUR IMMEDIATE AND PROMPT RESPONSE TO THIS NOTICE IS MANDATORY.

HISTORY OF A COMPLAINT

COMP #: 6-77 DATE REPORTED: 03/30/2006 S-B-L: 75-1-19.14

LOCN: 21 HUDSON VALLEY PROFF PLAZA

BY: EDWIN HOWARD
5 BLUE JAY DRIVE
NEWBURGH, N.Y. 12550

PHONE:

AGNST: IMAGING & VETERINARY RADIATION
21 HUDSON PROFF. PLAZA
NEWBURGH, N.Y. 12550

OWNER:

PHONE:

PHONE:

COMPLNT: HAVE A TRAILER CONSTRUCTED ON PROPERTY HOOKING UP A.C UNITS.
MR. HOWARD DOESNT BELIEVE THIS IS PERMITTED.

INSPECTION 1 conducted on 04/03/2006 at 1:56 PM
ON INSPECTION FOUND TRAILER IN BACK OF BUILDING. SPOKE TO DOCTOR WHO GAVE ME
INFO ON ADMINISTRATOR TO CONTACT.



INSPECTION 2 conducted on 04/04/2006 at 12:39 PM
SPOKE TO DR. VICTOR RENDANO AND ADVISED HIM THERE IS NO RECORD OF TRAILER WITH
THE PLANNING BOARD OR ZBA. ADVISED HIM HE MUST COME TO ZBA AND HE AGREED.

INSPECTION 3 conducted on 04/25/2006 at 9:52 AM
NO CHANGE. SPOKE TO RON RENDANO WHO STATED HE WOULD BE IN FOR PERMIT BY NEXT WEEK

PR.

OTR - 6-413 - 11/17/06

*File
Viol.
non
Payment*

Gerald Canfield

From: "John Roberts" <jrobert1@rochester.rr.com>
To: <codecompliance@hvc.rr.com>
Cc: "Ron Rendano" <ronrendano@optonline.net>; "Vic Rendano" <jrendano@aol.com>
Sent: Tuesday, May 15, 2007 3:30 PM
Subject: 21 Hudson Valley Professional Plaza

Mr. Canfield - thank you very much for your kind assistance today by telephone regarding 21 Hudson Valley Professional Plaza. It was most helpful to learn the process and I will begin processing the requisite application today and get it filed to begin the process.

Because my regular paper fax unit is having difficulties, if you could refax the Building Permit Application to my electronic fax email @ 503 905-7157, I will be able to then present a clean copy back to the Building and Zoning Inspector.

To review where we are at this point, our intent is to apply on the basis that the trailer is temporary and would be removed within a several months when we can move an MRI unit inside the building. The only thing that is holding us up is the removal of the Cobalt 60 source and the Radiation Therapy Machine that houses it which can only be removed and disposed of with the Federal FDA and NCDRH clearance.

The parked trailer houses an MRI unit used to produce veterinary images. The way that it came to be there was that there was a need and also confusion as to the authority under which it came to be parked there. Further adding to the confusion is that the entire situation seems, as you noted, to have fallen through the cracks, both yours and ours. The understanding on the part of Advanced Veterinary Care, the owner and occupant of the building came from the original zoning approval process to use the facility as a veterinary facility which indicates that the only prohibition for a mobile imaging trailer being on the site was that it could not be powered by an external generator. This is reflected in the approval for occupancy of the building that was granted when the building was sold to Advanced Veterinary Care. As there is not an external generator and based on discussions the building owner had at the time of the original approval and, as it involved no construction of added building space, it was taken to be approved for a trailer so long as it was not powered by a generator. I will get a copy of that decision and have it forwarded to you. We have also parked it to avoid any noise of a trailer coming and going as many times is the case for such equipment.

All this notwithstanding, if either I or AVC has not met a requirement, as it now may be the case, I assure you that we all will follow the instructions you have provided me this day and prepare the application and submit it.

I now clearly understand your Order to Remedy as well as your offices' process and the need to act quickly in requesting a variance such that the trailer might remain there for a few short months. To move it now would be complex and result in a hardship for ARC. As I noted in our phone call, we will diligently work toward completing the process in a timely manner. I am today requesting the Proof of Ownership of the Site so that it can be filed with the application per the instructions and working through trying to fit a non-standard use into the application form that is more directed at a building or a stick build addition to a building.

Again, my thanks for your time on the phone and your advice in this situation.

For AVC

John

John W. Roberts, Jr., M.Sc.
585 721-4699

5/16/2007

Gerald Canfield

From: "Gerald Canfield" <codecompliance@hvc.rr.com>
To: <jrobert1@rochester.rr.com>
Cc: <ronrendano@optonline.net>; <jrendano@aol.com>
Sent: Tuesday, June 05, 2007 10:30 AM
Subject: 21 Hudson Professional Plaza

Dear Mr. Roberts,

With respect to our conversation on May 15, 2007, I am still waiting for your building permit application for the M.R.I. unit at the above location. As we have discussed, there is a pending Order To Remedy on the property which I have extended time, based on your progress in achieving voluntary compliance.

Jerry Canfield

6/5/2007

Gerald Canfield

From: "Gerald Canfield" <codecompliance@hvc.rr.com>
To: <jrobert1@rochester.rr.com>
Cc: <zoningboard@hvc.rr.com>
Sent: Wednesday, October 17, 2007 4:25 PM
Subject: 21 Hudson Valley Professional Plaza

Dear Mr. Roberts,

I have resent you a copy of the pending Order To Remedy Violation for the M.R.I. trailer located at the above location. As you may recall my commitment in the spirit of cooperation, you too made a commitment of either removing the trailer or apply to our Zoning Board of Appeals for a variance to continue the non permitted use (6/5/07). This Order To Remedy now has a time frame affixed which is October 31, 2007. The next action available to our department if compliance is not achieved will be a court appearance ticket. I await your response.

Gerald Canfield

10/17/2007

CODE ENFORCEMENT OFFICE

TOWN OF NEWBURGH

308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550
(845) 564-7801

APPEARANCE TICKET

TO: Dr. Ron Rendano
21 Hudson Valley Professional Plaza
Newburgh N.Y. 12550

SEC-BLK-LOT: 75-1-19.14

INCIDENT NO: 7-122

LOCATION: 21 Hudson Valley Professional Plaza

**YOU ARE HEREBY NOTIFIED to appear personally in the Town Court of the
TOWN OF NEWBURGH, located at 311 ROUTE 32, NEWBURGH, NY 12550
on the 20 Day of November, 2007
at 6:00 in the afternoon.**

**To answer the charge of committing the following offense at the above
mentioned location:**

Parking and Utilization of Trailer in rear of property
Not permitted Use in B Zone

which is in violation of:

Town of Newburgh Municipal Code

SEC: 185

UB-DIV: 185-1

TITLE: Authority and Purpose

PAGE: Schedule 7

**UPON YOUR FAILURE TO APPEAR AS ABOVE DIRECTED, A WARRANT MAY BE ISSUED FOR
OUR ARREST.**

Issued on this 7 day of November, 2007


Thomas Dubetsky, Asst. Fire Inspector

TOWN OF NEWBURGH
BUILDING DATA SHEET

NEXT-INSP-DT

AS OF: 08/24/2012

RI-INS-DT	CO	SEC-BLK-LOT	OCC-CLASS-	BLDG-TYPE-	INS-ROT
3/30/2012	C	75-1-19.14	B	2B	1.00

FACILITY NAME: IMAGING & VETERINARY RADIATION SEND TO VICTOR DIST: GWFD
70

ADDRESS

21 HUDSON VALLEY PROFF PLAZA

NEWBURGH, NY 12550

PHONE: (845) 569-3070

STREET NO & NAME: 21 HUDSON VALLEY PROFF PLAZA

OCCUPANT NAME: SEND INFO TO VICTOR RENDANO & ASSOC

ADDRESS: 63 WEST GROTON RD

GROTON, NY 13973

PHONE (HOME): (607) 533-4706 (WORK): _____

BLDG OWNER'S NAME: AVC SERVICES

ADDRESS: 21 HUDSON VALLEY PROF PLAZA

NEWBURGH, N.Y. 12550

PHONE (HOME): _____ (WORK): (845) 569-3070

EMER CONTACT #1:	<u>RON RENDANO 845-978-9270</u>	PHONE: _____
EMER CONTACT #2:	<u>RACHEAL ST VINCENT 845-519-7931</u>	PHONE: _____
EMER CONTACT #3:	_____	PHONE: _____

OCCUPANCY LOAD: _____

TOWN OF NEWBURGH

Crossroads of the Northeast
OLD TOWN HALL
308 GARDNERTOWN ROAD
NEWBURGH, NEW YORK 12550
(845)564-7601

Cancelled
MRI TRAILER
REMOVED

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

File No. 1833-07

Date: July 6, 2007

To: VICTOR RENDANO & ASSOC.
21 HUDSON VALLEY PARKWAY
NEWBURGH, NY 12550

SBL 75-1-19.14
ADD: 21 Hudson Valley Pkwy
ZONE B

USE VARIANCE

PLEASE TAKE NOTICE that your application dated June 24,
20 07 for permit to keep an existing MRI trailer on property

At the premises located at 21 Hudson Valley Parkway, Newburgh

Is returned herewith and disapproved on the following grounds:

APPLICANT WISHED TO UTILIZE AN MRI TRAILER ON PROPERTY WHICH HAS BEEN INSTALLED OVER A YEAR AGO. (NO PERMIT) 2002 ZBA DECISION & RESOLUTION UNCLEAR IF A PERMITTED.

Gerald Canfield
GERALD CANFIELD

Cc: Town Clerk
File

OWNER INFORMATION

BUILT WITH OUT A PERMIT YES / NO

NAME: Victor Rendano Associates

ADDRESS: 21 Hudson Valley Professional Plaza

PROJECT INFORMATION

TYPE OF STRUCTURE
Existing

SBL: 75-1-19.14 ZONE: B

TOWN WATER: YES / NO

TOWN SEWER: YES / NO

	REQUIRED	REQUESTING	ADDITION INFO
LOT AREA			
LOT WIDTH			
LOT DEPTH			
FRONT YARD			
REAR YARD			
SIDE YARD			
MAX. BUILDING HEIGHT			
LOT BUILDING COVERAGE			
LOT SURFACE COVERAGE			

INCREASING DEGREE OF NON-CONFORMITY: 185-19-C-1

CORNER LOT: YES / NO 185-17-A

2 OR MORE FRONT YARDS FOR THIS PROPERTY YES / NO

ACCESSORY STRUCTURE:

SIDE OR FRONT YARD: YES / NO 185-15-A

STORAGE OF MORE THEN 4 VEHICLES YES / NO

HEIGHT MAX. 15 FEET: YES / NO 185-15-A-1

10% MAXIMUM YARD COVERAGE YES / NO 185-15-A-3

GREATER THEN 1000S.F OR BY FORMULA YES / NO 185-15-A-4

VARIANCE(S) REQUIRED:

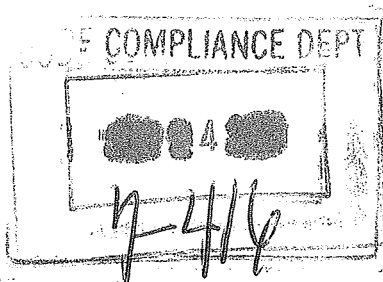
- 1 applicant wishes to utilize a MRI
- 2 trailer which has been installed over a
- 3 year ago. 2002 ZBA decision & resolution.
- 4 unclear if permitted.

REVIEWED BY: Terry Confield

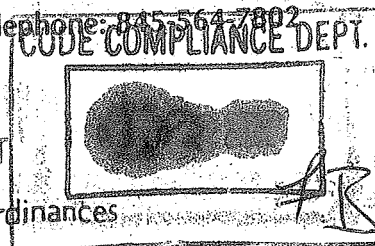
DATE: 7/5/07

TOWN OF NEWBURGH, ORANGE COUNTY, N.Y.

Examined 7/5/07 20
Approved _____ 20
Disapproved a/c 7/5/07
Permit No. _____



Old Town Hall
308 Gardnertown Rd.
Newburgh, NY 12550
Telephone: Area Code 845-564-7801
FAX Telephone: 845-564-7802



80
25.
103.00
CH 2929

49247
2

APPLICATION FOR BUILDING PERMIT

Pursuant to New York State Building Code and Town Ordinances

Temporary TRAILER Date June 6, 2007
INSTRUCTIONS For Testing

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

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of Newburgh for the construction of buildings, additions or alterations, or for removal or demolition or use of property, as herein described. The applicant agrees to comply with all applicable laws, ordinances and regulations.

PRINT NAME OF APPLICANT Victor Pendora & Assoc

X Victor J. Pendora
(Signature of Applicant)

21 Hudson Valley Plaza Newburgh, NY
(Address of Applicant) 12550

** State whether applicant is owner, lessee, agent, architect, engineer or builder: _____

X Name of Owner of Premises: Victor Rondano & Associates

** If applicant is a CORPORATION, SIGNATURE of duly authorized officer.

X Victor Rondano / President
(NAME AND TITLE OF CORPORATE OFFICER)

X 1. Location of land on which proposed work will be done: 21 Hudson Valley Parkway
Mailing Address: (#) 21 Hudson Valley Parkway Newburgh NY 12550
Subdivision Name: 185-1 Lot # _____
Section 75 Block: 1 Lot: 19.14

2. State existing use and occupancy of premises and intended use and occupancy of proposed construction:

- a. Existing use and occupancy Veterinary Specialty Care Hospital
- b. Intended use & occupancy of proposed addition or alteration: Diagnostic Imaging Testing
- c. Name of business: Advanced Veterinary Care

X 3. Nature of work: (please check which is applicable)

New Building: _____ Addition: _____ Alteration: _____ Demolition: _____ Removal: _____
Repair: _____ Fireplace or Stove: _____ Sign: _____ Shed: _____ Deck: _____
Garage: _____ Other: Temporary Placement of Trailer

X 3.a. Type of Construction Material: () Wood () Steel () Masonry (X) Other Aluminum

3.b. Number of: Toilets: 0 Sinks: 0 Residential Bathrooms: 0 Bedrooms: 0

X 4. Estimated cost of construction \$9000.00 Electrical Disconnect Installation
External Chiller Attachment

COMMERCIAL: NEW

- 1) \$300 Base fee
- 2) ~~50~~ cents per square foot
- 3) \$150 septic permit (new)
- 4) \$100 C.O.
- 5) \$200 starting work with out a permit

RESIDENTIAL; NEW

- 1) \$200 Base fee
- 2) ~~50~~ cents per square foot
- 3) \$100 septic permit (new)
- 4) \$50 C.O.
- 5) \$50 starting work with out a permit

RES & COMM. / additions, alterations, garages, decks, fireplaces, etc.

- 1) \$10.00 per thousand of the estimated cost (labor and materials)
- 2) \$25.00 C.O.
- 3) \$40.00 septic repairs

\$60. Base Fee
\$5. per thousand

Exhibit A

Nature, Scope, and Timeline of project

Nature of Project: The nature of the project is to provide, on an interim basis, the ability to provide Magnetic Resonance Imaging for Animals that are being diagnosed and treated at the Advanced Veterinary Care Hospital located at 21 Hudson Valley Professional Parkway on a temporary basis. The trailer is a self contained MRI Lab that requires only a place to park and power supplied from the building. There is an adjunct cooler that is placed at the nose of the trailer to provide the necessary cooling for the MRI unit in the trailer.

MRI is safe and efficacious and does not impact the environment. The device uses Magnetic and Radiofrequency waves to produce images of the internal organs of the patient. The trailer is fully RF and Magnetically Shielded such that there is no stray RF or Magnetic energy outside the trailer. There are no chemicals used and no odors produced either by the machine or by the procedures performed in the machine and in the trailer.

Scope: This project has far reaching scope in the proper care of animals with Cancer and other diseases that are in the care of the facility – Advanced Veterinary Care. MRI has been proven to be the most advanced and beneficial imaging modality for animal care and as such has become a standard of care issue for animals just as it has been for human patients in human hospitals. To not have this ability is to not be able to compete effectively in the veterinary care marketplace. This is why the need exists for an MRI to be installed in the building which cannot occur until the building can be modified to accommodate an MRI inside. The cost of the new device is in excess of 1,000,000 and its installation will create one and possibly two more jobs in the work place. These technologists can no longer receive their training on the mobile unit that is temporarily parked behind the building out of site of anyone on Hudson Valley Professional parkway and there have been to our knowledge no complaints filed regarding any nascence from the unit being there because it is unobtrusive and quite.

Time line: the time line for the project is projected to be 4 months in duration during which time the space required to install a fixed base MRI inside the existing building can be prepared. In order to do so there is an existing Cobalt 60 Radiation Treatment Unit that must be removed as the MRI will go into that space. In order to remove and dispose of the CO60 sources and the machine currently in the room in the building it requires Federal FDA and NCDRH clearance which will take about 2 months to process. Once the room is cleared it will take 2 months to reconstruct the space inside the building (with no change in exterior building footprint) and to install the permanent MRI unit. The application presented is therefore only for temporary parking permission until the federal approval is granted and the space is reconfigured and the new unit installed.

Violation: There was no belief on the part of the owner of the building or the owner of the mobile unit that there would be any problem in temporarily parking on the site based

on the certificate of occupancy granted for the building when it was acquired by Victor Rendano and Associates and began operations as advanced Veterinary Care. This because the only stated prohibition was against a mobile "with an external power generator system" and the trailer parked on the site does not have one and runs only on power supplied from the building. It was believed that the reason for the prohibition on external generators was related to the noise they produce and there being no generator all presumed that they were within the original CO

Technical questions about MRI and MRI trailers or about the project can be answered by:

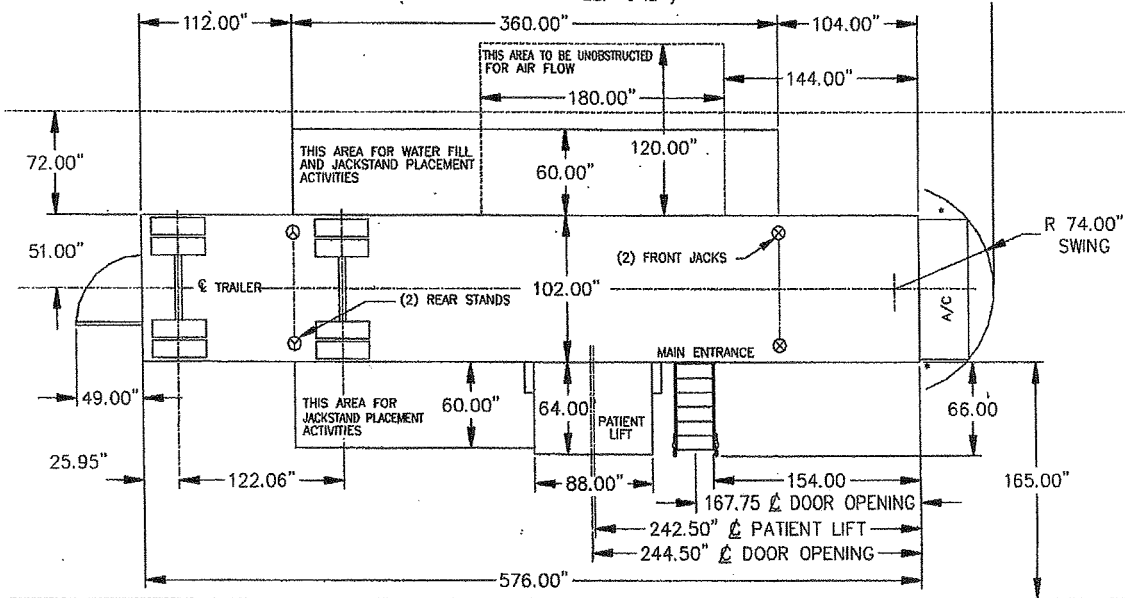
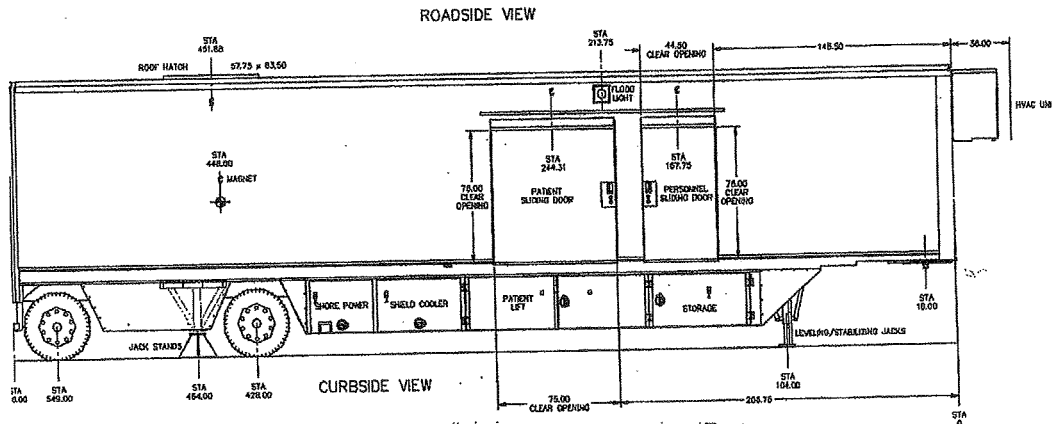
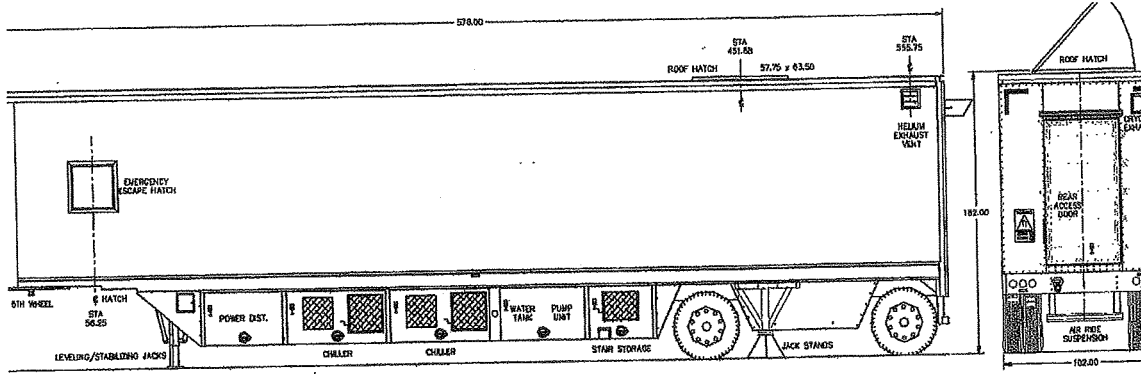
John W. Roberts, Jr., MSc.
238 Chapel Street
Canandaigua, NY 14424
Office 585 394-3577
Cell 585 721-4699
E-mail: jrobert1@rochester.rr.com

Or

Ron Rendano, DVM
Advanced Veterinary Care
21 Hudson Valley Professional Parkway
Newburgh, NY 12550
Office 845 569-3070
E-mail: ronrendano@optonline.net

Exhibit B

Trailer Dimensions



5

BLUE JAY DRIVE

HUDSON VALLEY PROFESSIONAL PLAZA

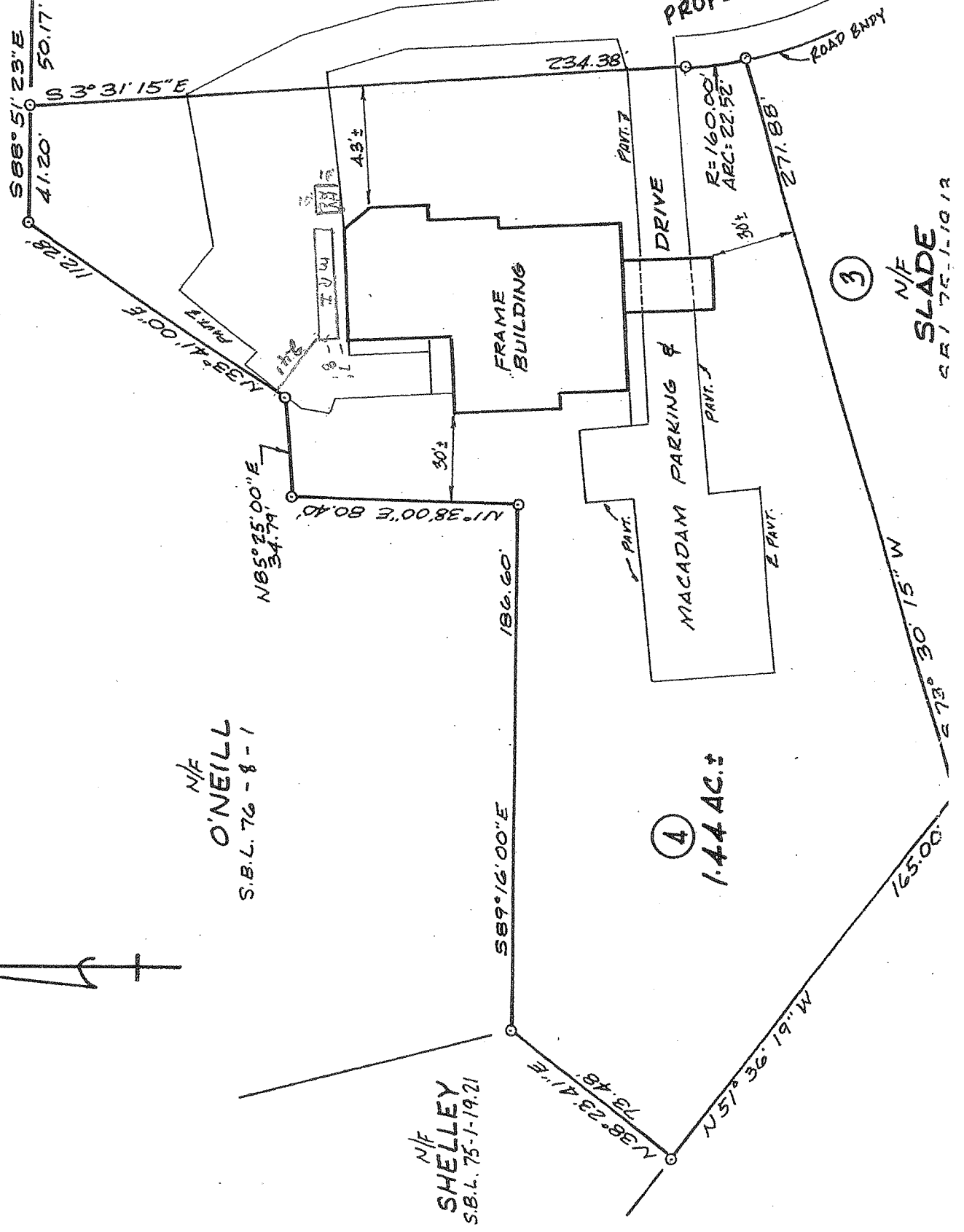
3

N/F SLADE
S.B.L. 75-1-1012

N/F O'NEILL
S.B.L. 76-8-1

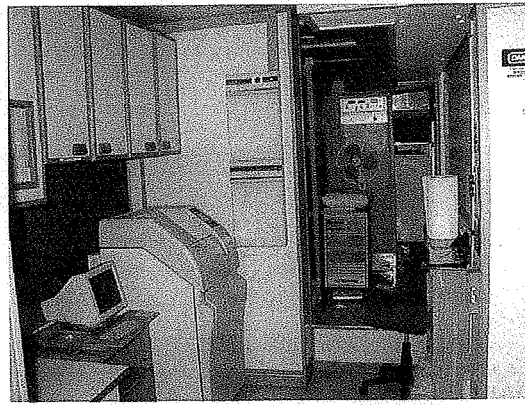
4
1.44 AC.±

N/F SHELLEY
S.B.L. 75-1-1921

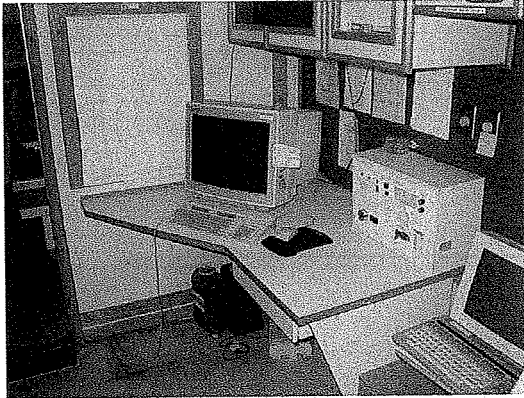




Trailer Form Driver Side



Control Room looking to Computer Room



Control Room looking to Exam Room



Exam Room