

1992

APPLICATION TO THE ZONING BOARD OF APPEALS, TOWN OF NEWBURGH

DATED: June 5, 1992

TO: The Zoning Board of Appeals  
The Town of Newburgh, New York 12550

(WE) Fred and Stan Dabroski presently  
residing at number 349 F and G Presler Rd Town of Newburgh  
Telephone number 564 1805 or 1799

Hereby make application to the Zoning Board of Appeals for the following:

- A Use Variance
- An Area Variance
- Interpretation of the Ordinance

1. Location of the property:
  - Sec 4 Bk 3 Lt 4 (Tax Map Designation)
  - Rt 32 at Favino Dr. (Street Address)
  - RR (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 Provision of the Zoning Law Applicable, (indicate the Section and Subsection of the Zoning Law applicable by number; do not quote the law).
 

This is not a permitted use in  
a R-R zone

3. A variance to the Zoning Law is requested.
  1. Appeal is made from disapproval by the Town Building Inspector of Building Permit application. See accompanying Notice dated: \_\_\_\_\_ 19\_\_\_\_ or denial by the Planning Board of the Town of Newburgh of an application to that board. See accompanying Notice dated: \_\_\_\_\_ 19\_\_\_\_
  2. Description of variance sought: Fence Business  
from property described.
  3. Plot Plan, in five (5) copies, is herewith submitted.

4. Strict application of the Zoning Law would produce undue hardship or practical difficulties because:  
Property is located on NY State Highway between 2 existing businesses and is good commercial site
5. The hardship or practical difficulty created is unique in this district because:  
Subdivision was designed for commercial use and is an excellent site for such.
6. The variance would observe the spirit of the Zoning Law and would not change the character of the district because:  
Existing commercial use to North and South of site.
7. Additional reasons (if pertinent):  
Very poor site for residential use.

J. O. L., President as contract for  
 PETITIONER (s) SIGNATURE sale holder.  
Dabroski Bros., INC. vendee.

J. O. L., President  
Dabroski Bros., INC.

STATE OF NEW YORK: COUNTY OF ORANGE:

Sworn to this 9 day of June 1992

**NORMA A. JACOBSEN**  
 Notary Public, State of New York  
 No. 4988690  
 Qualified in Orange County  
 Commission Expires Nov. 18, 1999

Norma Jacobsen  
 NOTARY PUBLIC

PROJECT I.D. NUMBER

617.21  
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>Dabroski Bros. Inc.</i>	2. PROJECT NAME: <i>The Fence Store</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>Rt 32 at Favino Dr., Newburgh.</i>	
5. IS PROPOSED ACTION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <i>Fence Contracting and sales.</i>	
7. AMOUNT OF LAND AFFECTED: Initially <i>1.8</i> acres    Ultimately <i>1.8</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>Need use variance</i>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input checked="" type="checkbox"/> Other Describe: <i>vacant land</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>ZBA use variance Planning Board Site Plan App.</i>	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: <i>J. L. Vendee, President contract Vendee</i>	Date: <i>6/5/92</i>
Signature: _____	

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

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

Yes  No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.

Yes  No

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

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

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

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

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

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

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

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

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

Yes  No If Yes, explain briefly

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

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

- Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide on attachments as necessary, the reasons supporting this determination:

\_\_\_\_\_  
Name of Lead Agency

\_\_\_\_\_  
Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
Title of Responsible Officer

\_\_\_\_\_  
Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
Signature of Preparer (if different from responsible officer)

\_\_\_\_\_  
Date

ENCLOSURES:

- (✓) Receipt issued by the Town Clerk
- (✓) Building Inspector's Disapproval
- (✓) Plot Plan, five (5) copies
- (✓) Deed, or certified copy
- (✓) Assessor's list of property owners
- (✓) Four Photographs

DATE:

June 9, 1992

Debbie Evans



Looking South through lot.  
From Baxter's.



From Favino Dr

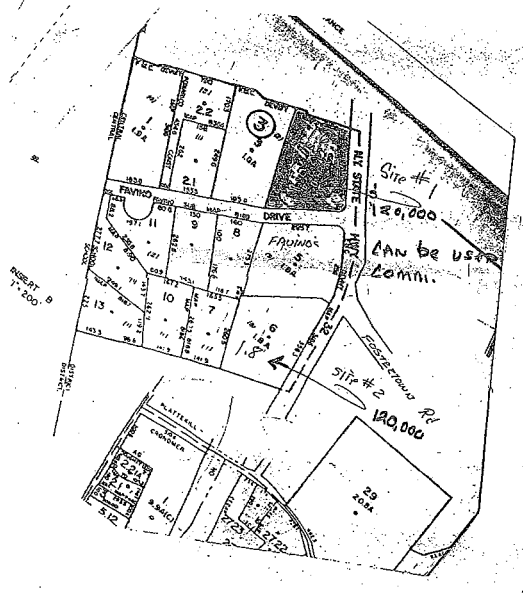


From Favino Dr. looking  
North through lot.



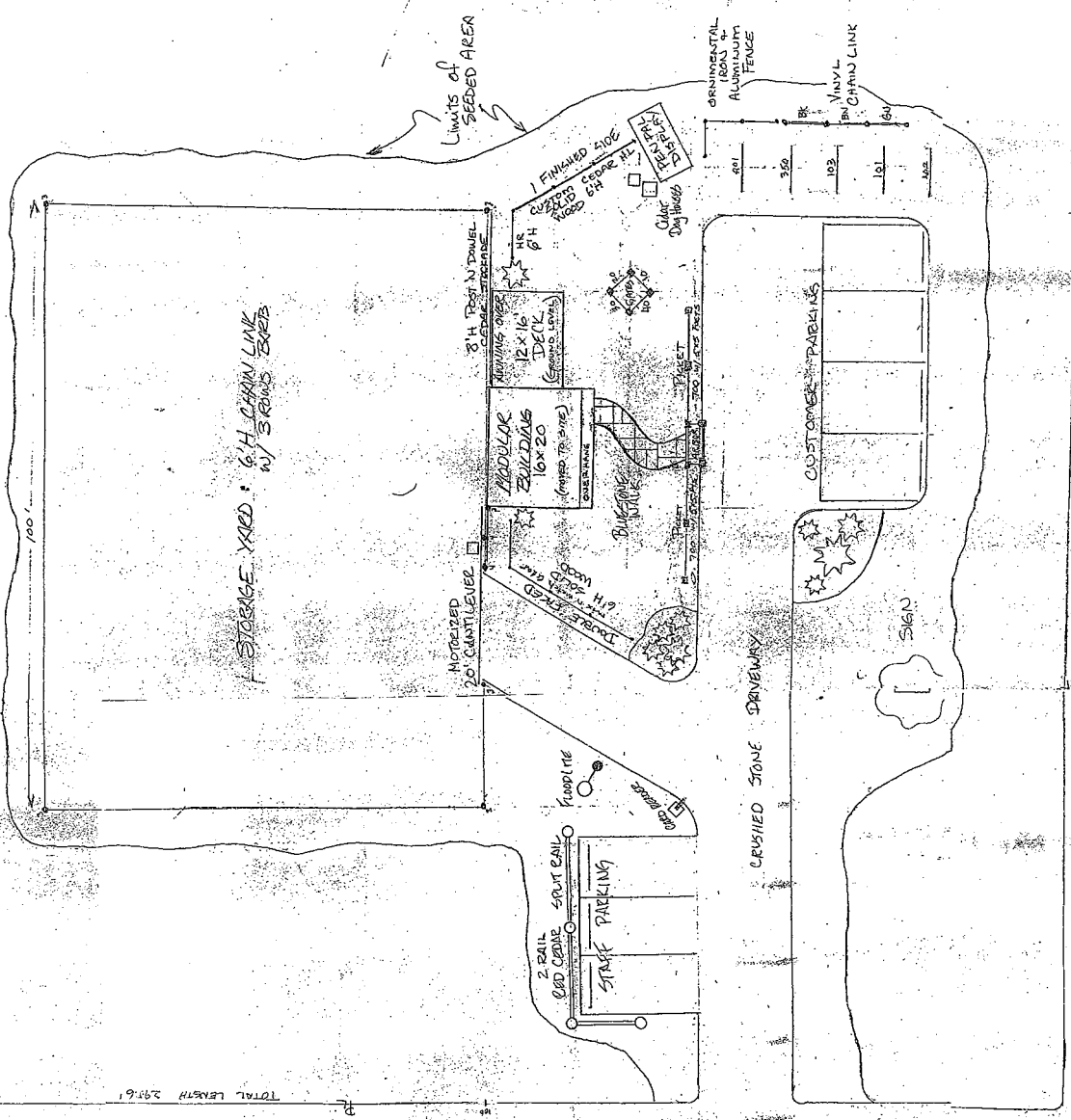
Intersection of Rt 32  
and Favino Dr.

DABROSKI BROS. INC "THE FENCE STORE" SITE PLAN



10/26

DONALD HIRSH SPICE  
F. DABROSKI 12/9/91



NY STATE HWY # 32

FAVINO DRIVE (TOWN ROAD)

TOTAL LENGTH 2437.6'

TOWN OF NEWBURGH  
ORANGE COUNTY, N. Y.  
OFFICE OF BUILDING INSPECTOR

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

File No. 817-92.....

Date..... June 8, 1992

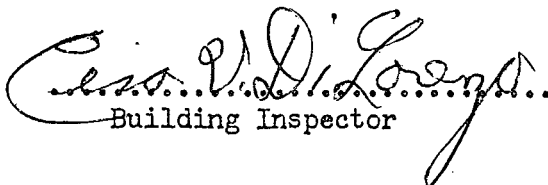
To..... Dabroski Brothers, Inc.  
RD#2 Box 349F Presler Road  
.....  
Wallkill, N.Y. 12589.....

Sect; 4 Blk; 3 Lot; 4  
Zone:

PLEASE TAKE NOTICE that your application dated..... June 5,  
1992 for permit to..... proposed Landscape and Fencing Business  
at the premises located at..... Route 32 at Favino Drive  
.....  
Sect; 4 Blk; 3 Lot; 4  
.....

is returned herewith and disapproved on the following grounds:

This is not a permitted use in a R-R Zoning  
.....  
District.  
.....  
.....

  
.....  
Building Inspector

CC: Town Clerk  
File



Town of Newburgh Zoning Board of Appeals - June 25, 1992

DABROSKI BROTHERS, INC.  
Route 32 and Favino Drive (corner)  
R-R Zone  
Section 4, Block 3, Lot 4

Fred Dabroski and Stan Dabroski appeared before the Zoning Board of Appeals seeking a use variance to operate a fence contracting and sales business from their property located on the corner of NYS Route 32 and Favino Drive. This proposed business is not a permitted use in the R-R Zone.

Applicants stated that the neighboring properties to the north and south of this vacant parcel are existing commercial uses. The Applicants further noted that this parcel would be a poor site for residential use. This proposal is only for a fence business, not for landscaping. The Applicants plan on constructing the fences on the customer's property; no construction takes is done at their place of business. The equipment and trucks would be stored within an enclosed area which would be landscaped with shrubs. The sign would be low, made of wood, and placed close to the ground. The lighting for the sign would be on during early evening hours and would not spill onto neighboring properties.

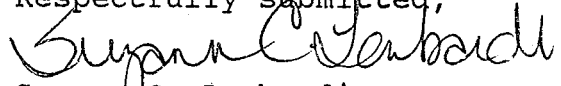
All mailings were in order. Several neighboring property owners, William Pomerico and Joseph Alanzo, were present to question this application. They wanted to be sure that there would not be heavy commercial traffic on this residential road (Favino Drive); and that the screening and lighting would not be intrusive

Dabroski  
ZBA - June 25, 1992  
Page Two

to the area residents. Mr. Pomerico suggested that the entrance to this business be on Route 32. The Applicants and neighboring property owners discussed this situation and resolved that in the interest of public safety the entrance will be on Favino Drive.

This hearing was declared closed.

Respectfully submitted,

  
Suzann C. Lombardi  
Acting Stenographer

7/6/92

6-30-1992

TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS

IN THE APPLICATION OF DABROSKI BROTHERS, INC.

Section 4  
Block 3  
Lot 4

DECISION AND RESOLUTION

The application of DABROSKI BROTHERS, INC. seeks a use variance to operate a landscaping and fencing business upon premises located at the corner of Route 32 and Favino Drive, an RR Zoning District in the Town of Newburgh.

The Applicants, having submitted this application, paid the required fees, provided a true copy of the property description, submitted a plot plan and list of property owners within three hundred feet, the matter having been properly noticed for public hearing and caused to be published by the Chairman of the Board; and the hearing having been conducted, the Board thereupon entered into deliberative session and does find as follows:

1. That the procedural requirements of the General Municipal Law and the Town Law of the State of New York, the Zoning Law of the Town of Newburgh and the regulations of this Board have been complied with in all respects.

2. The Applicants testified that they have contracted to purchase the property as a commercial use from the prior owner.

3. The Applicants testified that the previous owner has attempted, on many occasions, to sell the property for residential use but that given the existence of two other businesses in the area, there are no buyers for this property as a residence.

4. The Applicants testified that they will use this property for storage of fencing equipment and that most business would take place off site.

5. The Applicants testified that this will be a seasonal business operating mainly from the spring to early fall months.

6. Two neighbors testified that they were concerned for lighting and signage upon the proposed business.

7. By reason of the foregoing, the Board finds that the land in question cannot yield a reasonable return if used only for the purpose allowed in the Zone; that the plight of the owner is due to unique circumstances and not to the general conditions of the neighborhood which may reflect the unreasonableness of the Zoning Ordinance itself; that the use to be authorized by the variance will not alter the essential character of the locality.

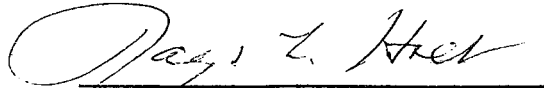
8. It was provided by the Board that special permit be granted concerning lighting and signage upon the property.

THERE BEING NO FURTHER FINDINGS,  
the applicant is granted a use variance to operate the afore-described business together with a special permit stating that such business may operate provided that the applicant

only use the property for the purposes described in the application and must strictly adhere to all requirements of the Zoning Law concerning signs and lighting.

Dated: Newburgh, New York

6/30/92

  
RALPH L. HOLT Chairman

VOTING ON THE APPLICATION OF  
DABROSKI BROTHERS, INC.

MEMBER	VOTE	
	YES	NO
PAUL BLANCHARD	X	
GRACE CARDONE	X	
DOUGLAS W. CARLE	X	
JOHN DELESSIO	X	
RICHARD RASKIN	X	
LOUIS SCALFARI		ABSENT
RALPH L. HOLT	X	

*6/30/92*

*Ralph L. Holt*  
\_\_\_\_\_  
RALPH L. HOLT Chairman

1998

June 2, 1998

TOWN OF NEWBURGH  
Crossroads of the Northeast  
Old Town Hall  
308 Gardnertown Road  
Newburgh, N.Y. 12550

Gerald F. Canfield  
Code Compliance Supervisor  
Telephone (914) 564-7801  
Fax: (914) 564-7802

Town of Newburgh  
County of Orange

ORDER TO REMEDY VIOLATION

Date: JUNE 2, 1998

Location: 611 ROUTE 32

Section: 4 Block: 3 Lot: 4

To: DABROSKI BROS FENCE & LANDSCAPING

PLEASE TAKE NOTICE there exists a violation of:

New York State Fire Prevention & Building Code  
Town of Newburgh Municipal Code XX  
Other Applicable Laws, Ordinances or Regulations

at premises hereinafter described in that:

TRUCK RENTAL BUSINESS IS AN UNPERMITTED USE IN RR  
DISTRICT REQUIRING APPROVAL OF ZONING BORAD OF  
APPEALS TO OPERATE. PRIOR APPROVAL ONLY GIVEN  
FOR FENCE AND LANDSCAPING BUSINESS.

YOU ARE THEREFORE DIRECTED AND ORDERED to comply with the law and  
to remedy the conditions above mentioned forthwith on or before  
the day of IMMEDIATELY \_\_, 19

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.

Thomas Dubetsky  
*Thomas Dubetsky*  
Code Enforcer  
Town of Newburgh

APPLICATION TO THE ZONING BOARD OF APPEALS, TOWN OF NEWBURGH

DATED : Aug 4, 1998

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

(WE) Dabroski Bros. INC. PRESENTLY  
RESIDING AT NUMBER 611 Rt 32N  
TELEPHONE NUMBER 564 9259

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

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

1. LOCATION OF THE PROPERTY :

4-3-4 (TAX MAP DESIGNATION)  
611 Rt 32N (STREET ADDRESS)  
RR (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).

ARTICLE V, SECTION 185-19A(1)



3. IF VARIANCE TO THE ZONING LAW IS REQUESTED :

a). *N/A* APPEAL IS MADE FROM DISAPPROVAL BY THE TOWN BUILDING INSPECTOR OF BUILDING PERMIT APPLICATION. SEE ACCOMPANYING NOTICE DATED : \_\_\_\_\_ 19\_\_\_\_

*N/A* OR DENIAL BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD. SEE ACCOMPANYING NOTICE DATED : \_\_\_\_\_ 19\_\_\_\_

*\* Code Compliance Officer*

4. DESCRIPTION OF VARIANCE SOUGHT : *Enlarge present variance to include rentals.*

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 DEPRIVED OF ALL ECONOMIC USE OR BENEFIT FROM THE PROPERTY IN QUESTION BECAUSE :

(ATTACH WITH THIS APPLICATION COMPETENT FINANCIAL EVIDENCE ESTABLISHING SUCH DEPRIVATION)

b). THE HARDSHIP IS UNIQUE AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE DISTRICT OR NEIGHBORHOOD BECAUSE :

*Two Business Neighbors to South / Business neighbor to North. We are a business operating within the law.*

c). THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE :

*Truck delivery business less than 25' from <sup>our</sup> trucks. Most of U-haul trucks are rented and gone on weekends. Dirt/Dust and garbage is generated by US Delivery - we maintain our property.*

d). THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE :

We are a business operating within the law and are just adding another form of revenue, another product to sell.

6. IF AN AREA VARIANCE IS REQUESTED :

a). THE VARIANCE WILL NOT PRODUCE AN UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES BECAUSE :

.....  
.....  
.....

b). THE BENEFIT SOUGHT BY THE APPLICANT CAN NOT BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE, BECAUSE :

.....  
.....  
.....

c). THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE :

.....  
.....  
.....

d). THE PROPOSED VARIANCE WILL NOT HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT BECAUSE :

.....  
.....  
.....

e). THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE :

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. ADDITIONAL REASONS (IF PERTINENT) :

\_\_\_\_\_  
\_\_\_\_\_

*[Handwritten Signature]*, President  
*[Handwritten Signature]*, President  
\_\_\_\_\_  
PETITIONER(S) SIGNATURE  
*Fred Dabroski*, President

STATE OF NEW YORK : COUNTY OF ORANGE :

SWORN TO THIS 5<sup>th</sup> DAY OF August 1998

NORMA A. JACOBSEN  
Notary Public, State of New York  
No. 4988696  
Qualified in Orange County  
Commission Expires Nov. 18, 1999

*[Handwritten Signature]*  
\_\_\_\_\_  
NOTARY PUBLIC

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>Dabroski Bros. INC.</i>		2. PROJECT NAME	
3. PROJECT LOCATION: Municipality <i>Town of Newburgh</i> County			
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <i>611 Rt 32N Newburgh NY</i> <i>Intersection of 32 and Favino Dr.</i>			
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration			
6. DESCRIBE PROJECT BRIEFLY: <i>Rent U-Haul trucks</i>			
7. AMOUNT OF LAND AFFECTED: Initially _____ acres    Ultimately <i>40' x 100'</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>I don't know why it does not comply. Just another source of revenue for an existing business.</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:			
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If yes, list agency(s) and permit/approvals			
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If yes, list agency name and permit/approval <i>Planning Board and Zoning Board approvals to operate business at this site</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>J. On, President</i>		Date: <i>8/5/98</i>	
Signature: <i>Dabroski Bros. INC.</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

DABROSKI BROS INC.  
611 RT 32 N  
NEWBURGH, NY

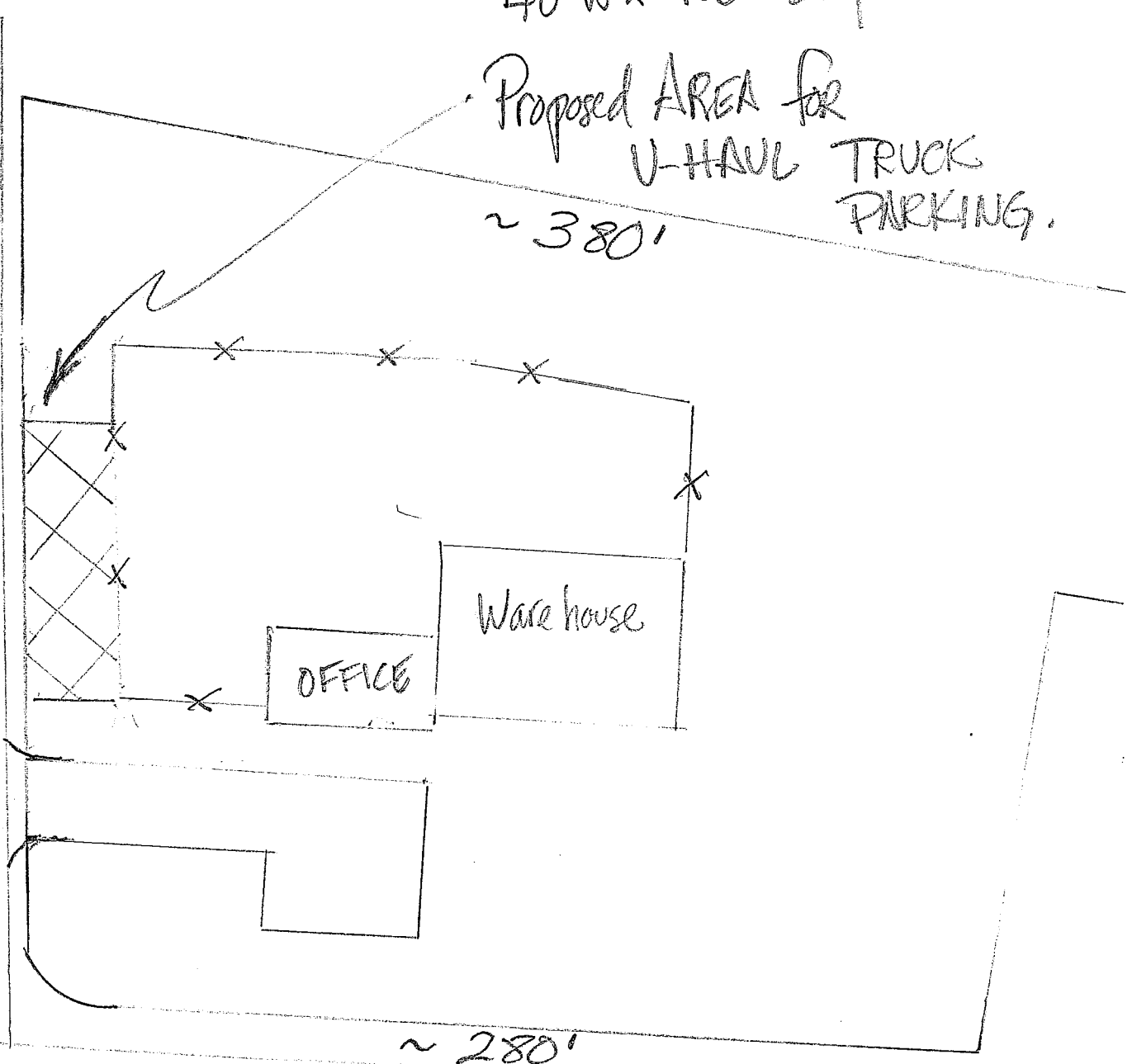
SCALE 1:50

40' W x 100' Deep

Proposed AREA for  
U-HAUL TRUCK  
PARKING.  
~ 380'

FAVINO DRIVE

~260'



~280'

NYS ROUTE 32



From Rt 32 looking West.  
Along Favino Dr.



From Joe Favino's Looking  
North to our Company.



Looking East along Favino  
From nearest property corner.



Looking towards neighboring  
delivery business.

8-27-1998

**TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS**

-----	X	
In the matter of the application of:	:	
	:	
DABROSKI BROTHERS INC.	:	
	:	DECISION
for a use variance from Town Code §185-10	:	AND
and §185-11, Table of Use and Bulk	:	RESOLUTION
Requirements, RR District	:	
-----	X	

The property which is the subject of this application is located at New York State Route 32 at Favino Drive and is designated on the tax map of the Town of Newburgh as Section 4, Block 3, Lot 4. The property is located in the RR Zoning District.

The applicant seeks to add a truck rental business as an ancillary business operation as part of its fencing business being operated at the site.

The applicant's plan requires a variance from Town of Newburgh Town Code §185-10 and §185-11, Table of Use and Bulk Requirements, RR District to allow the addition of a U-Haul truck rental site at the applicant's existing building. The applicant is currently utilizing the site for operation of its fence business pursuant to a variance granted by this Board on June 30, 1992.

A public hearing on the application was scheduled for August 27, 1998 at the Town of Newburgh 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.

The public hearing was held on August 27, 1998. The applicant appeared and presented testimony and exhibits to the Board. Owners of several neighboring parcels of property also provided testimony.

The testimony presented at the public hearing established that the subject property is currently being utilized by the applicant for operation of a landscaping and fencing business. The existing business operation was permitted pursuant to a variance granted by the Town of Newburgh Zoning Board of Appeals on June 30, 1992.

The applicant has operated its landscaping and fencing business at the site since 1992 and now seeks to additionally allow the simultaneous operation of a "U-Haul truck rental business on the property. The applicant received an order to remedy violation from the Town of Newburgh Code Enforcement Officer dated June 2, 1998 for operating a truck rental business which is an unpermitted use in the RR District.

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.

#### **USE VARIANCE**

The criteria which the Board must consider in determining whether or not to grant a use variance are the standards 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 applicant is operating the site pursuant to the Board's 1992 use variance as a fencing business. The applicant testified at the public hearing that the variance is requested solely to raise additional revenue as a supplement to the applicant's fencing business.



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

The applicant did not provide any evidence that the hardship is unique and failed to provide any justification for the use variance other than to operate the U-Haul service to raise additional revenue.

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

Testimony was received at the public hearing from several adjoining property owners complaining of the impact of the U-Haul rental service at this site on their existing residence and the marketability of the vacant residential land adjoining the site.

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

As stated above, this Board granted a variance for the operation of a seasonal fencing business at this site to the applicant in 1992. The applicant's previously granted 1992 use variance was based upon the applicant's statements that the business operation was seasonal and would mostly take place off site. A copy of the Board's 1992 decision and resolution is attached as Exhibit "A".

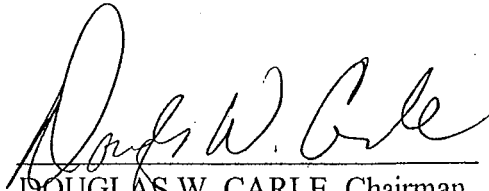
**RESOLUTION**

The Board determines that the requested use variance under Town Law §267-b should be denied. The Board notes that the applicant was permitted to use the property for limited business purposes as defined in this Board's June 30, 1992 decision granting such use variance (Exhibit "A"). The Board finds that the applicant failed to provide any basis to demonstrate that this Board was entitled to grant an expanded use variance pursuant to Town Law §267-B.

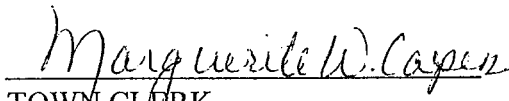
Present and Voting on this decision:

Douglas W. Carle,	NO
Paul Blanchard,	NO
Grace Cardone,	NO
Ruth Eaton,	NO
Michael Maher,	NO
Frank Galli,	NO
John McKelvey	NO

Dated: August 27, 1998  
Newburgh, New York

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

Filed in the Town Clerk's Office this 6<sup>th</sup> day of  
October, 1998.

  
\_\_\_\_\_  
TOWN CLERK

CODE ENFORCEMENT OFFICE

TOWN OF NEWBURGH

308 GARDNERTOWN ROAD  
NEWBURGH, NEW YORK 12550  
(914) 564-7801

Oct 21  
1998

APPEARANCE TICKET

TO: Fred Dabroski  
611 Rte.32  
Wallkill NY 12589

SEC-BLK-LOT: 4-3-4

INCIDENT NO: 98-63

LOCATION: Dabroski Bros. Fence and Landscaping

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 9 Day of November, 1998  
at 5:00 in the afternoon.

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

Failure to remove rental trucks from site.


Which is in violation of:

Town of Newburgh Municipal Code

SEC: Decision And Resolution of 8/27/98

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

Issued on this 21 day of October, 1998

  
Thomas Dubetsky, Code Compliance Department

\*\*\*\*\*

THE PEOPLE OF THE STATE OF NEW YORK

-vs-

**INFORMATION**

Fred Dabroski  
611 Rte.32  
Wallkill NY 12589

Defendant

\*\*\*\*\*

I, Thomas Dubetsky, COMPLAINANT, am the Code Compliance Department  
for the TOWN OF NEWBURGH, with office at:  
308 GARDNERTOWN ROAD, NEWBURGH, NEW YORK 12550

By this INFORMATION make written accusation as follows:

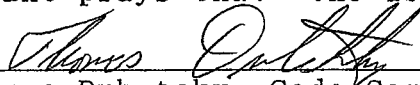
That: Fred Dabroski,  
on the: 2 day of June, 1998, At: 1:00 in the PM  
at: Dabroski Bros. Fence and Landscaping  
in the: TOWN OF NEWBURGH, COUNTY OF ORANCE, State of New York.

Did commit the following offense:  
Failure to remove rental trucks from site.

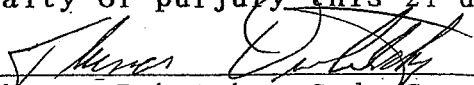
In violation of  
Town of Newburgh Municipal Code  
SEC: Decision And Resolution of 8/27/98

When at the aforesaid time, date and place, I did observe the following,  
which continues to date:  
Truck rental business continued to be operated from site located at  
611 Rte. 32. In violation of Zoning Board Decision and Resolution  
dated 8/27/98.

Wherefore, the Complainant prays that the above mentioned defendant be  
dealt with pursuant to law.

  
Thomas Dubetsky, Code Compliance Department, COMPLAINANT

False statements made in the foregoing instrument are punishable as a Class  
A misdemeanor pursuant to section 210.45 of the Penal Law. Accordingly and  
with notice of the foregoing, I hereby affirm that the foregoing statements of  
facts are true, under penalty of perjury this 21 day of October, 1998.

  
Thomas Dubetsky, Code Compliance Department, COMPLAINANT

Appearance Ticket was issued to Defendant, for Court Appearance on the  
9 day of November, 1998, at 5:00 PM, Justice Court, TOWN OF NEWBURGH, N.Y.

