

# TOWN OF NEWBURGH

*Crossroads of the Northeast*

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

February 27, 1997

OFFICE OF ZONING BOARD  
(914) 564-7801

RALPH FASCE, JR.  
5277 Route 9W North  
Section 20, Block 2, Lot 40  
Zone B

Applicant is seeking a use variance to convert part of office in laundramat into living space on premises located at 5277 Route 9W North in the Town of Newburgh.

The use of a building or part thereof not specifically listed for use in a B Zone is prohibited.

All mailings were in order.

Mr. Carle told the applicant to tell the Board what he was looking for in the way of a variance.

Mr. Gaba stated that the applicant had to show that without the granting of the variance, he could not get a reasonable return from the property and required proof by competent financial evidence. You may need to put this over for another month. You may want to bring a real estate broker or accountant or someone along those lines.

Applicant asked if he could come before the Board again in a month from now so he could consult an accountant and get figures as to how much it would cost not to have the living space so he could be open 24 hours a day.

Mr. Gaba stated that he could not tell the applicant how to present his case but he could tell him that under the Town Law, he would have to present competent financial evidence to persuade the Board showing that without this use variance he could not get a reasonable return from the property.

Applicant stated that he would like to request a recess until next month.

Mr. Gaba replied that since there are people here interested in this application, perhaps we could hold the public hearing open.

Mr. Carle asked applicant to tell the Board what he was looking for in the way of a variance.

Applicant stated that he had a commercial building on Route 9W that must be monitored 24 hours a day requiring him to be on premises. He would therefore like to continue to maintain the living quarters that now exist on the premises which is zoned commercial. The apartment consists of one bedroom, a bathroom and a living area with a counter and kitchenette. It has one entrance from the

side of the building and another into the building itself. In the rear of the building is a car wash. It is open 24 hours so he had monitors all around the place that allows him to see each corner of the building. He also has a big screen TV to watch the monitors and see what is going on. That is what he does in the living area. It is his office as well.

Mr. Carle stated that it is rather unusual and he did not know of any commercial building in Town that also is a residence. It is not allowed.

Applicant stated he found it much better to be there to avoid thefts. He had thefts several times a year and vandalism outside the building as well.

In response to a question from Mr. Gaba, applicant stated that the square footage of the apartment was 820 sq. ft. and the building itself was 4000 sq. ft.

Mr. Carle asked if he intended to hire staff in the future to monitor the building.

Applicant stated that he wasn't because anyone else living there would have access to all his financial records. He has no intention of doing that. He could rule it out if the variance was granted so that no one else would be allowed to live there. He would never rent it out. It is only for use for business purposes.

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

Linda Gallenia, 591 Route 9W stated that she had no objection to anyone's living there because there are apartments in commercial buildings south of there. However, she didn't believe there was a septic system on the property right now. The water from the washing machines drains onto the property across the street. If you look at the property it is mostly paved and the back grades up so there really doesn't seem to be any clear area for the septic system unless they have it under the pavement which she believes is not permitted. The neighbors don't want this on their property and she didn't want to smell it.

Applicant stated that the discharge from the Laundramat had 100% pollutants and was closed down earlier this summer because the discharge was going down the storm drain which was illegal so they closed him down. There is no discharge from the building or from the bathroom, which goes out to a septic system. A new septic tank and leach field was put in on the north side of the property.

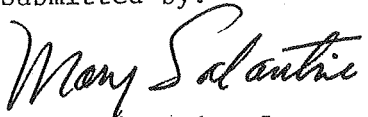
Mrs. Gallenia asked to look at the survey of the property. Mr. Fasce pointed out where the septic tank and leach field were located.

Mr. Carle interrupted to state that he had talked to the Building Inspector and he had been closed down for a while. He has satisfied the Building Inspector with the installation of the new septic tank and leach field.

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

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

Submitted by:

A handwritten signature in cursive script that reads "Mary Salantrie".

Mary Salantrie, Secretary  
Zoning Board of Appeals

/ms

**TOWN OF NEWBURGH:  
ZONING BOARD OF APPEALS**

2/27/1997

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

RALPH FASCE, JR.

**DECISION  
AND  
RESOLUTION**

for variances to Code §185-10 Table of Use and Bulk Requirements (B District) to permit establishment of a dwelling unit in a commercial building presently used as a laundromat.

Tax Map #20-2-40  
B.I. No. 1076-97

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The property which is the subject of this application is a lot of approximately 1.6 acres located at 5277 Route 9W, Newburgh, New York and designated on the tax map as Section 20, Block 2, Lot 40. It is located in the B District.

The subject property is improved by a single story commercial building and a car wash. The applicant operates a laundromat in the commercial building on the property. Allegedly for "security reasons" the applicant has taken to living in the laundromat. He now seeks to convert a portion of the office area of the laundromat into a legal dwelling unit.

The applicant's plan requires a use variance to permit a mixed use in the B district.

A public hearing on the application was scheduled for February 27, 1997 at the Town Hall, 20-26 Union Avenue, 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 February 27, 1997. The applicant, Ralph Fasce, Jr., appeared in person and testified

before the Board. When the Board opened the floor for comments from the public, neighboring property owners spoke in opposition to the application.

The testimony and exhibits at the Public Hearing established that the subject property is located along a commercial section of Route 9W. The applicant has previously had code violation problems with this property, particularly regarding drainage. He claims that 24 hour surveillance of the property is needed to prevent vandalism and that the most cost effective way to obtain such surveillance is for him to reside in the laundromat.

The Board determines that the relief sought by the applicant requires a use variance and that the criteria which the Board must consider in determining whether or not the applicant is eligible for a use variance 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 UNDER APPLICABLE ZONING REGULATIONS THE APPLICANT CANNOT REALIZE A REASONABLE RETURN FROM THE PROPERTY IN QUESTION?**

The applicant has presented absolutely no financial evidence to the Board regarding whether a reasonable return can be realized from his property if the proposed dwelling unit is not allowed.

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

The applicant claims that he has experienced some vandalism. However, there is no proof or testimony that he has been "targeted" by vandals or is somehow more likely to be vandalized than any

other business on Route 9W. It appears that the applicant is absolutely undifferentiated from other property owners in the district.

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

The Board has taken views of the subject property. This is not a case wherein, for example, the Board is requested to permit establishment of an accessory apartment on a second floor over a retail establishment. The single story laundromat building at issue is wholly unsuitable for mixed commercial/residential use. Further, the applicant has not proposed any significant separation of the commercial and residential uses. It is hard to imagine any district of the Town in which the mixed use proposed by the applicant would be acceptable. Certainly it would have a detrimental impact on the B district.

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

Any hardship incurred by the applicant is self-created. He has a simple remedy available in retaining a security guard.

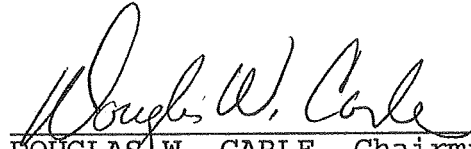
**DECISION**

The Board determines that the applicant has not met the requisites of Town Law §267-b and the requested use variance is hereby denied.

Present and Voting on this decision (motion to disapprove application):

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

Dated: April 25, 1997.  
Newburgh, New York

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