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ZONING BOARD OF APPEALS

January 26, 1965

The meeting was called to order, and roll was called with the following members present: Charles Pfenninger, Howard Van Slyke, Robert Hunter, Cornelius Strassner, and Robert Schlueter, Chairman. Also present were Town Attorney Ralph Wickins, and Building Supt. William Davis.

Mr. Schlueter requested anyone who wished to speak from the floor to raise his hand first, then to state his name and address. All questions or comments from the floor to be directed to the Board rather than the applicant.

Application of John Syracuse, 2713 Chili Ave., to erect a for sale or rent sign 4 ft. by 8 ft. at 134 Paul Rd., north side, A zone.

No one appeared at this time. Secretary instructed to proceed to next application and to this later in the evening.

Application of Madeline L. Dintruff, 2771 Chili Ave., to appeal decision, determination and order of the Supt. of Buildings for storage of explosives on property bounded on north by Paul Rd., on west by B & O Railroad, south by New York Central West Shore line, on east by lands owned by County of Monroe, in A zone.

James Hartman, Attorney, appeared to represent Mrs. Dintruff. Also present were Carl and Thomas Dintruff.

Mr. Hartman: This is not an application for a variance, but an appeal to the Zoning Board of Appeals for a reversal of the decision of the Building Inspector as set forth in notice sent to Madeline L. Dintruff stating that the property located as set forth in the application, that is use of property, was in violation of the zoning ordinance. A letter from the Town of Chili signed by William Davis dated Nov. 16, 1964, addressed to Madeline L. Dintruff stated the Supt. of Buildings of Town of Chili made inspection of the property on Paul Rd. and found 5 metal buildings stored closer than 100 ft. from property line on Paul Rd. in violation of Section 19-64 of zoning ordinance, and directing conformity with zoning ordinance within 24 hours from receipt thereof. The setback has been corrected. There are no buildings now in violation of Section 19-64 of zoning law. Letter stated Mrs. Dintruff also in violation of Section 19-61 of zoning ordinance in storage of explosive powder. That is basically the reason we are here tonight. We agree we are not in compliance with zoning ordinance effective Nov. 1947, but this is a permissible nonconforming use by the fact the property had been so used prior to this, continuously used, today also. This is important to bear in mind in seeking any variance or violation in the zoning ordinance of the town. We believe, it is our contention, we need not seek such variance because we have avested right to use the property for the storage of explosives. Since 1939 the property has continuously been used as such, having been a legal use prior to the ordinance, and the zoning ordinance cannot by its terms deprive the owner of the property of the right to continue that use.

Mr. Hartman presented abstract by the Monroe Abstract & Title Corp., labeled Exhibit A, which will be on file in Town Clerk's office. Abstract shows this property conveyed to William La Bar by Hobart Whitmore, receiver in the matter of Rochester Clay Brick & Tile Corp. Deed dated April 18, 1939, Rec. April 19, 1939, Liber 1944 of Deeds, page 114. From that time on the property owned by William La Bar the storage of explosive was commenced. ~~From~~ At that time and thereafter to the present day, explosive storage magazines were placed on the property, and on the very property in question. The first of those magazines was placed right behind the building belonging to the brick yard. In 1946, the property at that time was used by the present owner, Madeline Dintruff, and her husband Carl Dintruff in the business of selling and delivering explosives and storing of same. The use has only changed in name. The business is incorporated into the Genesee Explosive Sales Co., which presently owns and operates there.

Mr. Hartman continued: On February 16, 1946, William LaBar conveyed to Madeline LaBar Dintruff. Rec. March 21, 1946 in Liber 2312 of Deeds, page 111. Thereafter the property has been in continuous ownership of Madeline LaBar Dintruff and is so today, ~~which~~ with the exception of small parcels conveyed out. Conveyed in 1948 to Martin L. and Helen Reis.

In 1957 conveyed to John Syracuse, September 3, 1957. There were certain conveyances to the County of Monroe for easements and in connection with the Sewer Agency, and easement conveyed to Gates-Chili-Ogden Sewer District, last conveyance 1959. Ultimately conveyed to Monroe County in connection with Monroe County Airport, in February 1964.

The property in question this evening is what was left in the hands of Madeline Dintruff after the County acquired land for the airport expansion. The County also acquired other lands acquired by her after this acquisition from William LaBar who got them from receiver. The other land was known as the Andrews Farm. What is left is the original property owned by the brick yard and some small piece of the Andrews farm. The parcel that was part of the Andrews Farm is not being used for explosives. It is used merely as an accessway between parts of the brick yard property.

I know that the word dynamite is an explosive word. People are apprehensive if dynamite is stored or handled indiscriminately by people untrained. The storage of dynamite, with or without zoning, cannot be carried on indiscriminately.

Mr. Wickins: Aren't you getting away from the very purpose of this hearing? The only thing to be considered is whether this is a pre-existing, non-conforming use.

Mr. Hartman: I believe this is relevant. In the storing of dynamite, the State requires for so many hundreds of pounds in a magazine, that magazine has to be set back so many feet from the property line or building. During the years this property has been used for storage of dynamite this had been so done by utilizing portable magazines which can be moved from place to place on the property. This was done to comply with State regulations when and if more storage space was needed. There might be a time when 20,000 lbs. was required, also time during this period when up to 250,000 lbs. Can't take two 20,000 lbs. and say it is 40,000 lbs. I bring this out to show the Board this total property was continuously and from time to time in use for the placement of these magazines, depending on the number and total number of pounds of dynamite stored. There are several kinds of dynamite. A magazine with Type A is not stored with Type B, another magazine is set up. We are dealing with the property such as submitted, how a little of the whole property was from time to time used for magazines. Magazine may be in one spot today, another today. These magazines are not buildings in the sense that we understand. They are portable, movable, not affixed to the real property. There is no foundation put under them, no basement and no footings. They are put on a level spot, do raise them certain regulation from the ground. They are sometimes moved from the property for jobs.

In all the time dynamite was stored on this property there has not been, prior to this notice, any question of whether the former owner or Madeline Dintruff was complying with the ordinance. The notice received Nov. 16, 1964 is the first time my client was advised she was not in compliance with the zoning ordinance. In addition, there were placed on the buildings "stop work" orders.

Maps submitted for the record, marked Exhibit B and Exhibit C. These will be on file in the Town Clerk's office. B is an unofficial map showing property prior to taking by the County of Monroe. C is a map of the same thing, showing conveyances as they came about. Map "D" was presented for the record and will be on file in the Town Clerk's office. This shows properties in relation to Paul Rd. and the neighboring properties.

William Kelly, 17 Brewster Lane: As a point of order. Others here are interested in this explanation. We would like to see this explained so that we can understand it.

Mr. Hartman attached maps to the blackboard and explained the properties to the audience, stating the property in question is a part of the original brick yard property. The Genesee Explosive Sale Company has 200 magazines. These are portable and are sent out from time to time on jobs where explosives are used, and brought back at night. The question before the Board is whether this property is a non-conforming use. Whether the property is exempt from the provision of the ordinance because before the passing of the ordinance it was used for storage of explosives. This was used for the storage of explosives, used continuously throughout these years, 1939 to the present date. I have licenses issued by the State of New York for the storing of explosive magazines on the property, dating from Feb. 25, 1946 to the present date. We had licenses from the State ~~xxxx~~ prior to that time. Assuming that 1946 was the earliest date the property was used for storing explosives, that is prior to the zoning ordinance. We also find some Federal Fire Arms licenses.

Mr. Hartman, cont.

There were no Federal requirements prior to early 1950. These copies are made in chronological order.

A member of the audience asked whether it was proper for the Zoning Board to establish whether this was existing before the ordinance.

Mr. Wickins: This has been before the Town Board. We did as they ruled on it, instructed the Building Inspector to put stop work order on the buildings. Before they appeal that order to the Court of Appeals, they have to exhaust their remedy in the town and appear before the Zoning Board.

Mr. Hartman submitted copies of State and Federal licenses for the record, which will be on file in Town Clerk's office as Exhibit E.

In addition to the licenses which run from 1946 to the present date, we submit 5 affidavits of residents in the area, each of whom is familiar with the property and its continued use over the course of the years.

Mr. Hartman read affidavit as signed by 5 people, each affidavit the same. These affidavits submitted for the record, to be on file in Town Clerk's office as Exhibit F.

Mr. Hartman: Until this notice was served, there has been no attempt by the town or agencies to prohibit the use of this property for the storage of explosives. This was a proper use because it was so used before the zoning ordinance was passed. It is not a question of why the Board changed its mind and decided we are now in violation. We do believe that determination evidenced by the Building Inspector (ordered by the Town Board) was erroneous as a matter of law because you cannot deprive the owner of substantial use of his property where using the property in the same manner continually prior to the zoning prohibiting that use. This is surrounded by industrial property, not bordered by residential, but by two railroads, County property, industrial property, across Paul Rd. is commercial or industrial property. We contend a proper, legal, non-conforming use, not an inappropriate use. Explosives are a necessary evil. Every community uses explosives for various reasons. They all violate the use requiring explosives. The public is served by the use of explosives. They have got to be stored some place.

Mr. Wickins: I think you are getting away from the point. This is a question of nonconforming use.

Mr. Hartman: It is true. I will be happy to answer any questions addressed to me. My client, Mr. Dintruff, is here to answer any questions. I ask the Board to bear in mind we are not asking for an exception to the zoning ordinance. We ask that this determination or decision of the Building Inspector be reversed because it is erroneous. It is our contention we have this right according to law and vested right.

Mr. Wickins: I request the Chairman of the Zoning Board to ask the Building Inspector to state his position.

The Chairman did so.

Mr. Davis: I was ordered by the Town Board to put a stop work notice on this property. Explosives are stored now in the new part. As long as I was Building Inspector there were no roads up there. When magazines were seen I was ordered to put on stop work order.

Mr. Wickins: You were so instructed by the Town Board after discussion at the Town Board meeting:

Mr. Davis: Yes.

Mr. Strassner: When did you put in magazines over on the new property? Has that new property been housing magazines and for how long? What property do you have left?

Mr. Hartman: The very first property was used for storage, part of the first property acquired. There was a road in from the brick yard that was used but not improved. We have improved the present road. There was another road on the other property. There was always a road through the brick yard. We own all the brick yard property, the first place stored. We never stored on what was part of the Andrews farm, always confined to the brick yard.

Mr. Strassner: You now have storage on property bought after the zoning law went into effect?

Mr. Hartman: On property bought in 1939.

Mr. Schlueter: When did you acquire the Andrews property?

Mr. Dintruff: About 1952, after zoning. We have had magazines on it. Not for the storage of explosives. One on the line and one on the corner, empty magazines. We build these magazines.

Martin Wehle, 46 Stottle Rd.: As to why the Town Board didn't take action before, we were advised by the attorney nothing could be done until actual construction moving in took place. Construction of the road making way for the buildings was watched for some time. Aerial maps were taken by the County several years ago. If building was built under variance, building cannot be added to the business in expanding unless there is another variance granted. The zoning went into effect in 1947. Any expansion should have been stopped then. There was no action by town officials. Entirely new property. We contend it had never been used, road never been used to carry dynamite out. This is why the Town Board asked the Building Inspector to put on stop work order.

Mr. Dintruff: Since 1939, the very first storage magazine on the property was placed behind the building belonging to the brick yard, directly on the property. The brick yard building was removed. While the building was still there there was magazine right there, the first one put in. This property as well as other property was used. Regarding a variance, this appeal does not require a variance.

Mr. Wehle: You have expanded since 1947 the storage?

Mr. Dintruff: Yes.

William Kelly, 17 Brewster Lane: As a Town Board member, this hearing tonight came as a surprise. I heard about it this afternoon. In defense of my position on the Town Board, I am appearing here tonight. Mr. Hartman says the Town Board was erroneous in its decision. As such, the Building Inspector carrying through erroneously. If the Town Board had taken action, this material and details presented here tonight should have been presented to the Town Board. It would have helped the Town Board to make decision. When the matter came to the Town Board, I think negotiations and settlement of condemnation action by the County in acquiring of airport land, negotiations involved should be made part of any proceedings concerning this property. One portion was outright taking of ~~the~~ property. Another portion was for relocation of the business. This should be in the record. It would have some consideration by the Town Board.

Mr. Schlueter then requested that copy of minutes of the Town Board meeting at which this decision was arrived be given to the Zoning Board of Appeals.

Mrs. Bernice Wilcox, 516 Paul Rd.: What is the present zoning?

Mr. Wickins: Industrial. Property across the road was not rezoned until recently. This is not a variance, but an appeals. It is just a question of whether they are entitled to this.

William Wilcox, 516 Paul Rd.: I would like to know how long this has been here. They used to have dynamite stored on Buffalo Rd. and used to go over there, and lived down here.

Mr. Dintruff: stated prior to 1932 gotten from Buffalo Fisher Mag. Corp. Hercules Powder Co. 1942. Jacobs let lease run out with Hercules Powder Co. because of development in the area, might want to sell property to be developed. Then looked at Paul Rd. property. Mr. LaBar started putting magazines on immediately after bought it. Later moved two off Buffalo Rd. to Paul Rd. Brought one down from Buffalo area. During the war built road across the swamp.

Mr. Wehle they have been operating since Nov. ~~1941~~ 1942 and expanding business erroneously. Should have applied to store dynamite in excess.

Mr. Strassner said he was paid to move that business.

Mr. Kelly suggested the Board study negotiations between Mrs. Dintruff and the County of Monroe. The Board might ask Mr. Dintruff the nature of the award.

Mr. Schlueter asked if Mr. Dintruff would volunteer in regard to the award made to him by the County for the lands taken for airport expansion, and also the sum allowed for taking from this business of storing of dynamite.

Mr. Dintruff: They bought the land. They paid us what showed on our books. The same applied to the road. They paid some damages then to the remaining property. That was the settlement. Nothing was said about our getting out of business. I owned the property.

Mr. Wehle: At the time of negotiations, Mr. Gray made the statement there was no other place to go. You were given \$250,000 for the property, \$200,00 for hardship. He applied in Scottsville and was defeated and said he was going to move back into Chili. I have been pressing the Town Board to act. I knew after the roads were in his plea would be

that they were there previously. If you study the aerial maps made by the County for the airport, you would know the condition of the land.

No one else appeared to speak on this application.

Application of Sun Oil Co., Kenmore, New York for approval to erect service station on property at northwest corner Chili Center-Coldwater Rd. and Interstate 490 in A zone.

Mr. West appeared to represent Sun Oil Co.

A. W. West: We have conditional contract with Mr. & Mrs. Brown to construct service station at the corner of Interstate 490 and the Chili-Coldwater Rd. We have given the Town Board or the Zoning Board of Appeals the necessary plans and brought plans showing our proposed facilities.

Mr. West presented rendering of building showing no bays in the front of the station. They expect to attract transit and commuter traffic and residents in the area. - Exhibit A, to be on file in Town Clerk's office.

Mr. West: In the past we have negotiated with Howard Johnsons in other areas and they have at times entered into an agreement with us and built a Howard Johnsons restaurant with our station. This is something that could happen. We purchasing from the Browns a parcel of property now zoned industrial as shown on Town maps. zoning changed September 1963.

Mr. Davis reaffirmed this is industrial.

Mr. West: We have checked the town maps. We are purchasing piece of land with frontage of Coldwater Rd. of 320 ft. We are proposing to develop 190 ft. of this land. We realize when the new Interstate is completed and joins New York State Thoroughway it will bring in new traffic to this area. It will be a new way for the residents of getting into Rochester and other areas of the county. This is a growing community. The town is growing as are many communities in New York State. You can expect new type of business to serve the people. We will go along with any restrictions by the Board if it will please the people. Glaring lights, loud speakers, etc., we as a company do not condone.

Mr. Schlueter: How deep is the property?

Mr. West: 638.28 ft.

Mr. Van Slyke: Would you be interested in a situation where you were not allowed any major repairs or storing of autos?

Mr. West: We don't believe in it ourselves. We do not condone or permit major overhauling of cars. We are interested in petroleum products, sale of tires, tire repairs, brake work, tune-up. No heavy repairs.

Mr. Strassner: How far back are the pumps from the road?

Mr. West: That portion of Coldwater Rd. is State. The State requires us to have the pump island back 15 ft. from the right-of-way, unless Greater Motor Ways, then 25 ft. from right-of-way or property line.

Map showed 20 ft. setback and Mr. West said that is probably right.

Mr. Hunter: How will this be lighted?

Mr. West: We do have a type of light now with mercury vapor lens which diffuses the glare. We don't aim right at traffic or windows.

Warren Rogers, Coldwater Rd.: Asked how far this industrial area goes down the west side of Coldwater Rd. from Interstate 490. Discussed 20 ft. setback. People will look at gas pumps. Asked the distance of industrial property north of Interstate 490.

Mr. Davis replied from Interstate 490 to Westside Drive.

Mr. Salisbury asked the setback of the gas station proper.

Mr. Strassner replied 55 ft. from the property line according to map.

Mrs. Salisbury asked if this met zoning. Mr. Strassner replied they can ask for variance.

Mr. West: I believe that when this plot plan was drawn up, they went according to town ordinance. What is the setback?

Mr. Strassner: 100 ft.

Mr. West: If we had to take 100 ft. we would have to consider that.

Mrs. Salisbury: Nothing was mentioned about signs. Our zoning ordinance covers signs. I assume that they follow our zoning ordinance.

Mr. Schlueter: If there are any signs other than on the initial plans, they will have to have a separate variance.

Mrs. Salisbury: The ordinance was established long before that came in. A variance is not necessary.

George Shaw, 875 Coldwater Rd.: They are using 190 ft. frontage. Does this land go back to the railroad?

Mr. Schlueter: It is 638 ft. deep. I don't believe it goes to the railroad.

Hans Strassner, 867 Coldwater Rd.: I have been living there since 1962. Was never notified this was industrial zone. The reason we moved there was because it was residential. Now they want a gas station. There is enough traffic now. There are no side walks. All the citizen traffic comes along Coldwater Rd.

Mr. Schlueter said notices were sent as a matter of courtesy. Advertising is required, but notices are not.

Mr. H. Strassner: Anything we can do to put this back in residential?

Mr. Schlueter: We have nothing to do with that.

Mr. Rogers: Coming home cars get off at Chili Coldwater Rd. out of 11 cars, 1 turns north, 10 turn south. Transient traffic from LeRoy gets gas long before Chili Coldwater Rd. Coming out, they will start with a full tank of gas. I don't know how thorough the survey has been. Should check in the morning between 7:15 and 8:15 A.M. Most traffic gets on from the south, not from the north. They want a station on that north side of the road.

Mr. Biddles, 876 Coldwater Rd. across from this station objected.

Mr. West said he didn't believe the last statement was relevant. Reasons for location he didn't believe were required. Sun Oil Co. or any other oil company doesn't put monies into property or facilities just to spend money. A survey is taken to assure its being fully profitable.

Mrs. Rogers: I have seen plenty of empty gas stations. Surveys do not always work out. What worries me is the connection with Howard Johnsons. If there is a gas station on our road, what is going to keep Howard Johnsons restaurant-motel or anything else from moving in?

Mr. West explained if variance was granted, they would have to come before the board again for Howard Johnsons.

Mr. Rogers: There is not much we can do to stop this except ask that Zoning Board give no variances. Nobody along the road wants a gas station at that corner.

Mr. Strassner: I am the closest residence to that property.

Mr. West: The nearest property would be 320 ft. There is a house across the street.

Mr. Rogers; There are two houses opposite the frontage.

William Thomas, 890 Coldwater Rd. asked regarding drainage in that area.

Mr. West replied it is according to town ordinance.

Mr. Thomas opposed.

No one appeared to speak in favor of this application.

Application of Charles Carbone, 241 Hedgegarth Dr., variance to erect houses on lots R-7 Alfred Ave. and Lot 22, Block O., Chester Ave., lots 50 ft. by 120 ft., houses to be approximately 40 ft. from front lot line in line with existing houses and 8 ft. to side lot line, D zone.

Peter Sulli, attorney, appeared to represent Mr. Carbone, stating lot 22, Block O., 50 ft. wide, is on the north side of Chester Ave. It was existing prior to date of ordinance. It has gone down to them in single separate ownership. Given information to the clerk.

Mr. Sulli: We are basing our application on single, separate ownership. We have attempted to pick up adjoining lots. Been unable to find any heirs. We are building according to plans submitted. The heirs cannot be located. We have kept 8 ft. away on one side, 16 ft. on the other side. The house is in line with existing homes on that side of the street. If necessary, we will submit the abstract of deed.

Mr. Wickins: How long have you owned this?

Mr. Sulli: This was owned by Riverview Gardens. Sold to M. Kane in 1730. He died in 1955, leaving it to his son William Kane. William Kane conveyed to us in November 5, 1964. Kane owned the adjoining lots at that one time.

Mr. Schlueter: Are the lots on either side vacant?

Mr. Sulli: They are not owned by the same people. Haven't fore-closed on them.

Mr. Sulli: R-7 Alfred Ave. is a combination of two 50 ft. lots, making one lot 100 ft. by 120 ft.

No one appeared to speak on these applications.

Application of John Syracuse, 2713 Chili Ave., variance to erect a for sale or rent sign 4 ft. by 8 ft. at 134 Paul Rd., north side, in A zone.

Mr. Syracuse appeared and stated he would like a permit to erect 4 ft. by 8 ft. sign on Paul Rd.

Mr. Strassner: What is the sign for?

Mr. Syracuse: To advertise to put up a building for a tenant. The land is now vacant, about 9 acres, zoned industrial. Sign will say "will build to specifications".

Sen John Syracuse: The sign would be to advertise the property. We want to do something to make it productive. The sign would be about 5 ft. off the ground, overall 9 ft., 100 ft. back from the road.

No one appeared to speak on this application.

DECISIONS OF THE BOARD:

MADELINE DINTRUFF: Decision reserved for the purpose of analyzing the evidence that has been presented, for the purpose of examining the property, for the purpose of obtaining additional evidence as to the use of the particular piece of property in question, and for the purpose of examining the minutes of the Town Board regarding this.

SUN OIL CO.: Denied variance to erect service station on property at northwest corner of Chili Center - Coldwater Rd. and Interstate 490. All members voted in negative. Findings: 1. No hardship has been shown as to the use of the land. 2. The proposed use is a detriment to the general neighborhood.

JOHN SYRACUSA: Granted variance to erect for sale or rent sign on property at 134 Paul Rd., north side, size 4 ft. by 8 ft., subject to instruction of Building Inspector. Variance granted for a period of 2 (two) years. All members voted affirmative.

CHARLES CARBONE: Granted variance to erect house on lot R-7 Alfred Avenue, house to be approximately 40 ft. from front lot line, in line with existing houses, and 8 ft. to side lot line. All members voted affirmative. Decision reserved on application to erect house on Lot 22 Chester Avenue until such time as applicant furnishes adequate evidence as to his efforts to obtain adjoining lots.

RICHARD AURELLI: Denied variance to use existing home at 2651 Chili Avenue for two apartments and beauty salon, said application presented at meeting on Dec. 22, 1964. All members voted negative.

June Yates, Secretary

MINUTES - ZONING BOARD OF APPEALS
Town of Chili, N.Y. February 23, 1965

The meeting of the Zoning Board of Appeals, Town of Chili, N.Y. was called to order at 8:00 P.M. February 23, 1964. The following members were present: Cornelius Strassner, Acting Chairman, Charles Pfenninger, Howard VanSlyke, Robert Hunter. William Davis, was also present.

- #1. Application of Frank Ferrigno, 107 Golden Road, variance to build utility building 10' x 30' on the rear of existing garage at 107 Golden Road in D. Zone.

Mr. Ferrigno appeared. Building to be 10' x 30' back of existing garage. To be used as utility storage for yard equipment, lawn mowers, etc., not for business. Garage back about 80' from front of road. It would be lower than garage roof, would be gabled as garage, would be cement brick same as garage is. Present garage is 30' x 30'. It is now two car garage. There would be two windows on back, entrance from garage. Lot is next to expressway. There is 90' back on lot from present garage. Total depth of lot is 150'.

On question no one in favor; no one against.

DECISION: Application approved unanimously.

- #2. Application of Pic Construction Company, 1251 Weiland Road, variance to erect an unlighted sign 4' x 8' approximately 7' high at the corner of Westside Drive and Golden Road for maximum of two years in E zone.

Picture of sign shown to Board. 20' with a 50' setback on south-east corner is what is wanted. Would be an unlighted sign. Would comply with all restrictions and would be willing to put sign in under supervision of building inspection.

On question no one appeared for or against.

DECISION: Application approved unanimously.

- #3. Application of Charles Harster, 13 Alfred Avenue, variance to build on lots 4 and 6 Alfred Avenue 50' x 120' with front setback 40' and west side setback 8' in D. Zone.

No one appeared as application had been withdrawn.

- #4. Application of John Marchioni, 2070 Lyell Avenue, variance to combine lots 12 and 13 Alfred Avenue and build house with front setback in line with existing homes on the street in D. zone.

Mr. Marchioni appeared. Lots are 12 and 13 in Block G., just before Theron St. Road improved until Lot 13 and stops. Lots are combined. Will build in line with other houses. Will have 100' frontage. Depth 120'.

On question, no one appeared for or against.

DECISION: Approved unanimously.

- #5. Application of Earl R. Howarth & Sons, 9 Yolanda Drive, variance to erect two-story apartment house consisting of five units on lot 90' x 150' between 3216 and 3220 Chili Avenue, parking in the front for nine cars in B zone.

Mr. Howarth appeared with plans which were left with Board. Lot is across street from Trading Post. 90' wide, 150 from center of road. 114' from property line. There will be studio apartment in middle, and 1 bedroom apartment on either side on top floor, two one bedroom apartments and utility room on first floor. There is about 2880 sq. feet for five apartments. 290 sq. ft. for studio apartment, approximately 650 sq. ft. per unit for other four apartments. Utility rooms take place of studio apartment in basement. Two bottom apartments about 575 sq. ft. There is parking for nine cars, but

but could be for more. Corner would be Shrubbed.

On question, all would be 1 bedroom apartments, 3 rooms with exception of studio apartment.

On question no one appeared in favor.

Objection: Richard K. Baade, 15 Hilltop Drive, N.Chili, N.Y.

There is no provision in our zoning law at this time to permit apartments. Do not feel apartment project of any type should be held as variance, should be held under planning and we should work as committee to correct zoning law.

Mr. Strassner: That would have to be taken up with Town Board. Now we have zoning application, now we must take care of it.

Frank R. Heffer, 4422 Buffalo Rd., N. Chili, N.Y.

What is outside footage?

Was told 60' x 25'

Mr. Heffer and Mr. Baade examined map. Questioned parking lot. were told there is 30 ft. and 7 ft. at other corner in back.

Gerald Oesterly, 3 Wills Road, Rochester, N.Y.

Obviously lot is too small for apartment. In addition, residential property owners in immediate area have suffered enough without another unusual traffic problem together with the shopping center.

DECISION: Application denied unanimously.

#6. Application of Edwin Rague, 3390 Chili Avenue, variance to erect cement block building 56' x 28'8" on property at 3390 Chili Avenue to be used as animal hospital in E zone.

John Considine, attorney, appeared with map and sketch of building and presented them to Board. Dr. Rague accompanied him. Hospital would be on property personally owned by him. About five years ago he appeared before Board and asked for permission for animal hospital. This board granted variance limited to five years. He has established this and conducted it for five years. Now desired to improve facilities so as to more adequately serve. Proposes to erect new building on premises. Building will be latest in veterinary practices and will fit in well with character of neighborhood. Mr. Anthony DeGross is here to answer technical questions and Dr. Rague as to conduct of business. His frontage 353' on Chili Avenue, goes back approximately 800' to 1000'. On right hand side, easement for Road. On other side empty lot and three houses. Owns not quite to railroad property, one field in between. Building will be 100 foot back. Cement type affair, will be board and battan designed front. Will not be lighted at night. Everything will be inside. 3 kennel rooms that will hold approximately 10 animals each. Will be maximum of 30. Will be in rear. There will be no runs outside. Only noise in building itself. Refuse cans will be stored in cellar until removed. Barn on property eventually will be removed but not right away, probably will not be done before October, but would be probably within a year.

On question: James Cunliff, 673 Beahan Road. What type of front?

Mr. Strassner: Right on map, wood front designed.

Joseph Gortland, 320 Paul Road. What does Zoning Board of Appeals do to existing variance when approval asked for another?

Mr. Strassner: They have to reapply for new variance then his original is withdrawn and operates under new. He has operated for about 4½ years.

Mr. Gortland asked if he has to ask to withdraw original.

Mr. Strassner advised we automatically make new variance.

On question Mrs. Thesing, 2 Wyncrest Drive spoke in favor of it "We need that hospital".

Mr. Gortland: "He has done very good job".

Mr. Considine submitted petition by neighbors who approve of plans and specifications and conduct of hospital to be incorporated in minutes.

No one appeared in objection.

DECISION: Decision reserved. Dr. Rague to be requested to come in one half hour before next meeting and discuss appearance of front of proposed building with Board and bring plans with new front more up to residential type frontage.

- #7. Application of Joseph A. Taddeo, 310 Wilder Building, Rochester, New York, variance to erect seven apartment buildings consisting of eighty-four apartments on property of Irving Hoffman, south side Buffalo Road, part of Town Lot T 69 consisting of five acres in E zone.

Mr. Taddeo appeared and addressed the Board and others as follows:

Members of the Zoning Board of Appeals and those of you who are gathered here tonight to listen to presentation of our application. I am Mr. Joseph Taddeo, and I represent myself and Mr. Irving Hoffman, the present registered owner of the property involved and I have purchased this property from him by contract of sale contingent on an application for zoning variance being granted. This application is for variance to build 84 apartment units and in 7 separate buildings of 12 units each on approximately 5 acres of land on a point south side of Buffalo Road in 4,000 block area facing Hubbard Drive. This application for a variance is based upon two provisions of the zoning ordinances of the Town of Chili. One provision, Section 19-92 is with regard to those applications for a variance concerning hardship and section 19-103 is with regard to those applications for a variance concerning those situations which would be for the specific benefit and welfare and which would be a credit to the community as a whole. I would like to take up those points in the order in which I have recited them.

With regard to this application based upon hardship. This area as presently situated is three feet or better below the level of Buffalo Road. The frontage is approximately 540' to 550' feet. Were this area to be divided into house lots, one could get five good size house lots from this area. House lots in the Town of Chili by and large average between \$3500 and \$4500 per lot provided the lot is level with the road, requires no fill and has sewers, gas and water on the frontage, in and paid for. To bear out the allegations which I now make with regard to the average price of house lots, I am submitting to the board at this time a letter from a qualified realty service which states in effect; "the Hoffman property can be divided into five good size house lots, said house lots should sell on the prevailing market between \$3,500 and \$4,000 under normal conditions. The conditions of the Hoffman property, however, are not normal in that the land lies below the road. The price of each lot would have to be reduced by the cost of the fill needed to normalize the grade of said lot. I conclude that the Hoffman property cannot economically be sold or used for house lots on today's market." He continues: Attached hereto is a copy of the want ad section of the Rochester Democrat & Chronicle for February 13, 1965, and he further states, please note the circled ad which was that a house lot in the Town of Chili with sewers, gas and water, is offered for sale at \$3,500. And please note, that the lot is advertised as level. He concludes, "All of the aforesaid is based upon the individual observations of the undersigned, who has no personal or business interest in the proposed application." and is signed Michael Christie. Newspaper sheet is attached, ad is circled and it reads: "Chili Paul Road, 1/3 acre level lot, water, gas, sewers, \$3,500."

Gentlemen = I would like to submit this to the Board for its consideration and move that it be made a part of the official record of this hearing.

Now, with regard to the necessary fill that would be needed to normalize the Hoffman property, we have the official estimate of Bannerman & Mykins, licensed engineer, and in this estimate Mr. Bannerman gives his New York State license number and he quotes the

figure of 32,665 cubic yards of fill to bring the Hoffman property to road grade. I would like to offer and do move that this official licensed engineer's estimate for fill be made part of this record.

Now with regard to the cost of the 32,665 cubic yards of fill dirt, we have received an estimate in writing from one of the larger and more reputable excavating corporations and they submit the price of \$34,900. It is a signed estimate and offered to do the job, and gentlemen of the Board, I move at this time the written estimate and signed estimate of Lyell Excavating Corporation be made a part of this application for a variance.

We submit at this time as part of this application, a signed statement directed to the Zoning Board of Appeals by Mr. Irving Hoffman to this effect:

"Gentlemen: I herewith submit to you the following information with regard to the application of Joseph A. Taddeo for a variance to build 84 apartments in 7 buildings on this land:

1. I have owned this land over 10 years.
2. I have not been able to secure a purchase offer for the reasonable value of my land at any time since now.
3. The chief complaint has always been that my land lies low below the road level and that the cost of fill is too prohibitive for house construction.
4. This land is zoned residential but cannot economically be used for residential purposes if I am to be paid the reasonable value thereof.
5. The only alternative is to make the land available for apartments so that the cost of filling the land can be offset by the added living units placed on the land.
6. I have received a fair and reasonable offer for the sale of this land by Mr. Joseph A. Taddeo, contingent upon his being able to secure a variance for apartment construction.

Based upon all of the aforesaid, I respectfully point out to your attention that the same constitutes a real and true hardship sufficient to warrant your granting a variance as requested."

Gentlemen of the Zoning Board of Appeals I move at this time this signed letter to the Board by Mr. Irving Hoffman be made an official part of the record of this application.

In conclusion as to the hardship proposal, I submit to this Board that where an individual is possessed of land which lies in a state that he himself is not responsible for, that he himself has not caused by some physical overt action, that he has the right to expect from that land the reasonable market value of the same, that if it is zoned on this land to the effect that the use permitted will not give him a fair and reasonable return on the property, then he in fact has a hardship and has a right to apply for a variance so that he be permitted to use this land for some other purpose which will then give him a fair and reasonable return on the same. This is the case with Mr. Hoffman. Now, Mr. Hoffman has been a long time resident of this area, he is no novice to the real estate business. It is true he has never bothered to register this land for sale with the Real Estate Board, however, for Mr. Hoffman with his many years of experience in real estate to register this land with the Real Estate Board for sale, would be like a physician going to a pharmacist and having him diagnose his case. He is more knowledgeable in real estate in this area than most registered and licensed real estate people. He never turned down a deal, but in this particular instance was never offered one for fair and reasonable return on his investment until I came along and made my offer. We submit that all of this makes out a true hardship case as encompassed and contended by Zoning Board of Chili and we further submit in keeping with the requirement of this particular section. Granting this will not impose hardship on others or in any way materially change the complexion of the neighborhood where this site is located.

Now for second section with regard to this application which concerns public welfare and welfare of community as a whole. With regard to this part we submit first, three sheets of names containing names, addresses and dates in the handwriting of each of

the the individuals concerned who are wholeheartedly in favor of this application for a variance, the reasons felt by each of them, who has signed this application of their own free will, his interest and who does want to see this apartment project built and there are over sixty names here with the addresses and I suggest that the Board take special notice of the fact that the names are of individuals who live in the immediate vicinity of this intended project and not names of individuals who may be known to applicant who live or work in town and are quite a distance away. All of these people are unknown to me. I do not know their intent and I have never met any of them and asked them to sign these applications. They were prepared and submitted by others who have an interest in this project. I move that petitions and signatures in favor of this project be made an official part of this application and the record.

Mr. Strassner questioned if all these signatures of people in Town of Chili.

Mr. Taddeo answered yes, and continued. Without intent to hurt any one's feelings, but I call them as I see them, I next come to the aesthetic values and conditions that now prevail in general area concerned. I trust you people here and members of Board take it in spirit I give it. With intent of being truthful and factual we have photographs of immediate area both to the north and to the south of Buffalo Road. It is true that only within last few years construction has taken on the new type of beauty that it has and that in past contractors, because of economic limits, intending to economize, have put up what in today's measure turn out to be nothing but blighted buildings which really are a disgrace to American landscape and are subject matter of new society to clean up urban and suburban area by demolition of substandard dwellings and businesses and construction of something new with new type of architecture and new type of material, took tremendous expenditure of those interested in this type of work. On south side of Buffalo Road I submit eight photographs, one shows gasoline station, not too old, one of better looking places in this area, Clover farms simple structure, not expensive, standard type of American structure going up over all country because architecture is cheap. It has to be because volume of business involved does not permit more expensive. That is why when you come to gas stations, you always see better type because they are company that makes money. I submit photographs to Board for consideration and ask they be made part of official record, especially pointing out to them the Plaza across the street from this intended project, the only expensive construction outside of Robert Wesleyen College at the present time in the immediate area. All pictures are within a mile of area. They were all taken within the past week. North side by Union Street, without intending to hurt any ones feelings, this would be first building to come down were I in charge of society. (picture shown to Board) Here is building built right to sidewalk which I am certain was quite adequate 100 years ago when built but possibly thirty years ago should have been torn down. Again, apologies, do not intend to hurt feelings. Another structure due north is substandard, cheap, but because of type of business engaged in, it cannot afford to build more expensive, attractive type of structure. Most expensive and probably best, the shopping plaza. As one takes a ride down Buffalo Road past Robert Wesleyen College and if one is knowledgeable in these matters and has traveled over country, without casting any aspersions on that fine institution of which I am an alumni, first thing will say, this cannot be a college. I say this asthetically. Universities and colleges require first compasses. It gives them the feel for study. It gives them the beauty and quietude that a campus should have. When you pass by Robert Wesleyen you think you are passing a barber shop, sign should come down. Maybe some day someone will give them design for front for structure. Now are constructing some beautiful buildings, expensive, and soon Tobacco Road buildings will come down, and asthetically speaking, will be credit to this general area in which we are involved. While they have future and they can do this, not so with those photographs of constructions and businesses which I have submitted to Board because these people have to get last dollar out of investment heavily mortgaged money here before anything can be done, before

economically feasible. This is point of my argument, one building is built and is mortgaged, it cannot be torn down because person is bound and cannot do it and has to stay back, holds back progress. With age these buildings get ugly. That is position which we find ourselves in, with this entire general area. There is not in terms of houses a truly modern American type home that we could brag to world about and say this is the standard of America, this is type of home we are capable of building. When you drive around here you will find homes, unfortunately with economy in mind, cheap little homes built on mound, none providing for fill, clapboard and shingle. These are not homes which we as Americans can say are epitome of our ability. We can build better and much more beautiful homes. Once we build more of those small homes it is difficult to turn down developer, none come then and pay \$3500. to remove that home if going to put any development of substantial nature on Buffalo Road, down before any more small homes and construction, otherwise this area will be placed out of this modern American station.

What do we have in mind for this particular project? It will be called Campus Arms Apartments. It is designed in the form of a campus, the buildings are laid out, 7 buildings provided maximum.

(map was taped on wall so all could see layout)

On question, the exact numerical location on land is 4425 Buffalo Road or in that neighborhood, Mr. Hoffman said.

Mr. Taddeo continued: If you will note layout we have proposed 7 buildings, are all of the same type. First of all, in keeping with any campus, we propose type of brick, jumbo brick which is one of most expensive in texture and quality. I can say you have not seen this brick on any building on Buffalo Road from Rochester to Batavia. In keeping with economy, everyone wants to buy cheaper. In keeping with our promise to make first class construction, this is brick we propose. Beautiful, usually used on academical buildings because cost is no object, or churches. This will be one of first projects of this type precision engineered and designed, that will have this brick. We have already contracted contingent on approval, to do this whole job. As you drive by now, just low depressed land here, what we propose to do, build this above road level, build these 7 buildings, finished in play area professionally designed to provide safe area as a play ground, all of the toys and games necessary to keep children amused right here, 148 x 70 feet, private play ground for people in this project whose children will put no burden on any other party for recreation. Two entrance ways that are designed with brick and stone walls with driveway, sidewalk, kept completely shrubbed, entire area calls for solid perimeter of Italian Lawn Poplars, green belt all around, parking for 150 cars. Most people who live in apartment, major complaint usually parking for one car for apartment., when have party cars wind up on street. Project engineered so that it is unlikely during lifetime that parking area will be completely used at one particular time. More than adequate for people and any one they choose to entertain. All I can tell you, this to be one of the safer type of buildings, it is a building that is State approved. Most contractors have been building a type of building of grade actually in violation of State code, because not proper fire walls, This is designed to conform to all requirements of State code for safe building. Any technical questions in regard to interior, standard of construction we will discuss with you this evening. We have built this building before will be no problem in asking any technical questions.

As I said before, gentlemen of the Board, that the second part of this application was based on community welfare as a whole. I conclude as the proponent for this project, first, the filling in of this area and the construction of this project, landscaped and proposed as it is, will be a definite contribution to the aesthetic value of this entire area. Second, add source of commerce to all of the business now in this general locality. Third, while we have no final or definite commitment with Robert Wesleyen College, I can say three of these buildings will be designed as far as the basements are concerned with 1 block in depth to provide study in case college pressed for space

sign students for short term leases, but I have already told Dr. Voller and given him my word, if hard pressed will accept students without lease and make available space available to them. Help public welfare as a whole make money, but we seen to that. College makes no promise, I have only heard. As possibility, if dermitoryatspace not adequate in years to come.

In conclusion, this project will be general uplift to entire area as a whole and in long run prove a boon and encouragement to others who come in to keep in line and this type of expansion will be further benefit to community. As far as taxes are concerned, I submit to you, this project will have value in excess of one million dollars. Based upon your base tax of \$69. per \$1,000. with a 23% scale of the taxes, together with sewers, should run approximately \$20,000. per year. I suggest that this will be a boon to the community and in no way place a hardship upon them, whereas the construction of houses, if you can even use as such, of five, a year will bring to town at most \$1500. or \$1600.

That is all I have to say with regard to our application. I wish to thankyou very much and the fine audience for their forbearance and quietude.

Mrs. Strassner requested all questions be addressed to Board, one at a time and questioners to give name and address. He also requested questions be asked before Mr. Egan present the N.Chili Home Owners Associations arguments.

Mr. Baade, 15 Hilltop Dr., N.Chili, N.Y. asked maximum size of apartment. Was told 950 sq. ft., smallest is 800 sq. ft. the 950 sq. ft. would have two bedrooms, the 800 sq. ft. would have one bedroom.

John Sinnott, 110 Hubbard Drive: Are these buildings to be sprinklered? More expensive apartment dwellings are sprinklered by sprinklers throughout so in event of fire will automatically go on.

Mr. Sinnott was answered by Mr. J. Sonorito, General Contractor.

In regard to your question, this is not a commercial building where people are employed. These buildings are built with fire wall to state code, go from basement to attic, consist of 12 in. block from basement to attic. So no sprinkler system required.

Mr. Sinnott: My occupation safety engineer with insurance company so I am fairly familiar with this. How many apartments in each unit? Was told 4. Asked does fire wall extend three feet above roof? Was told went right to roof level. New state law does not require it to go above roof level. Mr. Sinnott asked size of play area. Was told 148 x 70 ft. He answered his back yard is twice that size and he had one child.

Mr. Frank Heffer, 4422 Buffalo Rd., N. Chili, N.Y. Are there going to be any outside lights.

Mr. Taddeo: Yes. Each corner of building will have flood light. Approximately 18 ft. up plus we will hire Gas and Electric to put poles at various spots, we will pay them to light up area. Entrance will be lit from sundown to sunrise.

Mr. Heffer: That side walk you have there, is that part of the plan?

Mr. Sonorito: No we cannot put sidewalks on Buffalo Road..

Mr. Taddeo: When road permits building of sidewalks, we will put them in.

Mr. Kircher, 101 Attridge Road. Mr. Taddeo has very emphatically stated tonight this will entail quite a fill job. In fact 32,665 cubic yards. This is quite a bit of dirt. When dumping this much you are bound to disturb flow of drainage. I understand he says front will be higher than road. That means evidently the rear will be lower. Where will the water go from this project,

the surface water? There are no storm sewers. Where is this water going?

Mr. Taddeo: First I did not say that the front of the project will be higher than the rear. If that is conclusion you drew it is erroneous and if that is the thing you thought I said. No project I have ever constructed is higher in front. As high as it is in front, it is always low. In answer, you have brought up good point. This project if it is permitted is controlled by the town engineer and must be constructed as far as any drainage problem under his direction, supervision and approval and I submit in answer whatever we do in regard to drainage must be done under approval and supervision and he must be responsible if in the long run it is not adequate. He is engineer, he will tell us what he wants and I will do it. It will not entail construction of storm sewer, but adequate means.

Mr. Kircher: I would like to know what you consider adequate means. You must have some specific instance in mind.

Mr. Strassner: That would be up to the Town Engineer and I am sure they would find some method if it went through that would eliminate water. He would still have to do as Town Engineer specifies.

Mr. Heffer: Do you know the prices these apartments would rent for.

Mr. Taddeo: One bedrooms, after we get final cost, we anticipate on past experience, will probably rent between \$125. and \$130 per month and the two bedrooms will rent between \$140. to \$150. per month. We, under these conditions, will furnish heat and hot water, the tenant will furnish his own electricity. Each apartment will be air conditioned and have a garbage disposal, cabinet, stove and refrigerator and a rug.

Mr. Heffer: Has anyone ever estimated how many children will occupy these apartments?

Mr. Taddeo: Not drawing any conclusion, but based upon our experience, we do not anticipate too many children or any more children than any other apartment of this size will bring in. There is nothing different between this project and any other of similar size that has been built. Just one of a lot of other projects.

Mr. Baade: Ratio of two bedrooms to one?

Mr. Taddeo: 28 1 bedroom; 56 two bedroom apartments. With regard to two bedrooms, saying once again that Robert Wesleyen makes no commitment, but we anticipate that the two bedroom apartments will be used by four students. In other words, there will be bunk beds in each of the apartments and that will provide adequately for four students, husband and wife and two children, still four.

Mr. Albert Salerno, 102 Attridge Road. Right now I believe our disposal plant is 20% over capacity. Your plan, take 84 units with people in immediate area, still do not have sewers. I want to know why board will even think of granting variance for 84 units when cannot take care of people already here.

Mr. Strassner: We are here to listen to application. As far as sewers go, control lies up to sewer agency. I do not know whether will be able to or not. Cannot answer.

Mr. Sinnott: What is interior wall construction?

Mr. Sonorito: Dry wall. Mr. Sinnott asked how thick. Was told ceilings 5/8 side walls 1/2 inc.

Mr. Salerno: I still want to bring up this matter of sewers on Attridge Rd. We do not have them, but of course this will dump 84 units which would be same as 84 into this sewer line trunk on Buffalo Road. This will overtax that line. This line not built for that, but overtaxing that line could cause us to fill. We were there first and we come first, this is why I object to that.

Mr. Sinnott: Why did you decide not to sprinkler the building?

Mr. Strassner: He already answered that.

Mr. Taddeo: You are erroneous again. We never said that we ever considered putting a sprinkler and then decided not to. In any construction project we have never put a sprinkler system in an apartment house. I am not aware of any that have them.

Mr. Sinnott: Could it be of economic reasons?

Mr. Strassner: I do not know where you are pointing.

Mr. Sinnott: He is trying to show Board and people gathered here he is putting finest construction with best brick, that no cost will be spared. My point is the lives of individuals would be preserved much better if it was sprinklered building. If cost is reason he is not putting it in, he might be saving in other places. Perhaps statement of putting nothing but best in, not so.

Jim Conner (?) Beahan Rd. They state intention to use 12 in. fire wall between every wall, It is concrete brick, it is cement and sand brick. They sell 250 per thousand

Mr. Strassner: Prices of this brick has nothing to do with it.

Mr. Conner (?) I have been brick layer for better than 40 years, Union brick layer, worked on many apartments, worked on all universities, Strong Memorial, Hospital, etc. I know these brick are very poor.

Helen Stewart, 4460 Buffalo Road. Estimate of fill and square it off and has to dig dirt, wonder if estimate is not a little high?

Mr. Taddeo: All computed by engineer.

Mr. Strassner asked if any in favor of variance.

Mr. Neil Cramer, 79 Hubbard Dr. I am chairman of the Civic Development Committee of the North Chili Men's Civic Association. I realize there has been a lot of statements here tonight that have merit. I think it is good we live in country where we can express our feelings. It is good that investigation is made before something moves into our community so that they can be satisfied with the result. I have made a little investigation of this on my own. I have never met Mr. Taddeo before tonight. I have contacted the superintendent of the Spencerport Village Apartments, they have 32 apartments in that unit, they have eight children in school, one apartment for four school children. I talked to the superintendent of Lee Gardens, they have 132 apartments, they have 63 children of all ages there. The superintendent could not break it down into school age children. Lot of babies. I would think at least half of those children attend a school. If half of them attended, half of 63 is 32 children for 132 apartments. That is very close to 1 child for 4 apartments. Very similar to Spencerport. I contacted sever officials of the Churchville-Chili School District. They told me that it is very close to 2 children per home in the Churchville Chili School District. If these averages go, and I heard tonight that the national average is very similar, a man I talked to tonight saw in the paper, is one school child per 4 apartments in apartment units, if this is the average, this apartment house will take, there is 84 apartments, we would expect to realize somewhere around 21 school children for this apartment. I have also investigated, it was not mentioned but I know this will be assessed for \$230,000. If the equal amount of homes to produce the same amount of such valuation were built and have these homes assessed for \$5,000., of which I do not think any home in North Chili is assessed for, I am using a ratio figure, it would take 45 homes to equal \$230,000. and the 45 homes according to school officials average of 2 school children per home, would be 90 school children from those 45 homes. I do not predict that with the monthly rent of these apartments, the price Mr. Taddeo expressed, I do not predict that we will have too much of a low class of people. I would like to deviate from this a second, to tie it in, I talked to an official, a vice president of a bank in Rochester this morning as the N. Chili Men's Civic Association trying to get a bank in N. Chili. He told me that they applied last year to State Banking Commission and were turned down. He told me this A.M. they

have reapplied to State Banking Commission. The State Banking Commission has been in North Chili to make investigation. Meeting one week from tomorrow and will make their decision. He told me that the State Banking Commission, he feels, to approve this bank in N. Chili hangs on the approval of this application for an apartment. I was a little late getting here tonight, I was at meeting of N. Chili Men's Association, of which as I said, I am the chairman of Civic Development Committee. I gave this report to them and they were very much in favor of it, in fact they were enthusiastic. One man suggested they go down on record as being in favor of this, they took vote, it was unanimous. Over thirty men there in favor of this project. Dr. Voller, our president of Robert Wesleyen very much in favor of this project. Several college officials in favor of it. With these figures I have presented and these facts that I have compiled myself, my conscience tells me I have to be in favor of this project. I think it would be advisable for the Town or official to put teeth in variance, to ensure upkeep of this project for years to come.

Arthur Hauck, 19 Dallas Dr., I am representative of Chili Business Association, newly formed last year, of commercial, industrial businessmen in town of Chili and I am here at the request of Board of Directors to represent them. Consist of 60 men in Town of Chili owning property. We go in favor of this apartment project. I myself in real estate but have no personal interest in making this statement, I am appearing on behalf of our organization only.

Mr. Frank Heffer, 4422 Buffalo Road. Before I speak in any rebuttal to these statements, would like to submit petition of 181 names for record. Would like to state 90% are within 1000 yards of this project. Nobody on petition has any commercial interest in that project or in town of N. Chili. Mr. Egan is representing me as Chairman. As far as names, does not know names on petition.

Mr. Egan: Members of Board, I promise to be brief in my remarks. I have talked the matter of with the Chairman or President of N. Chili Home Owners Association and discussed the matter over with a number of the people who signed this petition. I am here today just to discuss legal end of it. You will receive practical matters from people who will speak in objection. In talking to the people with reference to the problems involved, I have prepared memorandum of law, and much has been aid of hardship this evening, so I have prepared a statement in opposition which I would appreciate being made a part of the minutes and I only have this a part of the minutes to request that the Board take the matter of legal problems involved after you listen to the practical problems from the people (Statement in Opposition and Memorandum of Law given to secretary and made part of minutes, which are on file with the minutes and not repeated in these minutes). (also attached to minutes and not repeated is case cited by Mr. Egan on yellow legal blue lined paper case Ralph Peck Holding Corp. vs Burns 1958 16 Misc 2nd 256, 181 N.Y.S.2nd 737.)

We are here this evening as a result of Supreme Court decision setting aside and annulling past board decision with reference to grant application. Judge Cass Henry in his memorandum stated re decision in minutes of zoning board should clearly indicate factual hearings of such board and the grounds in accordance with provisions, if application for variance is granted. If granted this evening, reason and facts for granting the variance should be in minutes. Judge also mentioned minutes submitted indicated no findings or facts or ground for granting.

(arguments see memorandum of law and statement in opposition)

In conclusion, would like to say that Mr. Hoffman certainly had opportunity to appear before the Town Board which I assume held a public hearing with reference to a master plan and in adopting master plan in zoning where houses, business, etc. should be located I would like to leave this thought with Board, If I felt there

were problems at that time where his property where concerned, I should have appeared before this body and made known those problems and at that time may be board would have zoned it not to be hardship. Thank you members of the Board for listening to position just as to law and would like board to ask certain people to speak with reference to practical problems in objection to application.

Mr. Baade, 15 Hilltop. Mr. Taddeo, I think you have at least admitted the fact that the land had never been multiple listed with Real Estate Board of Rochester. I have for submission, letter from Real Estate Board, to be incorporated in minutes:

Mr. Baade read letter, which is incorporated in minutes:

Last concerns piece of land on opposite from this which was sold.

Would like to point out, as far as records show in Chili, this land has not been subdivided into 5 plots, which Mr. Taddeo refers to in estimating value. Mr. Hoffman when purchased land purchased it as acreage. As acreage is still 5 acres. I wish to submit Democrat & Chronicle, February 1965 ad reads as follows:

Chili: Thirty-four acres ten room house, out buildings, sewers, water, gas, \$1,000. per acre. Listing of February 22.

Also pointed out 5 acres of land, roughly 210 square feet of land. This would allow 50 apartment buildings not 84. He has compressed his unit into about 60% of land required; Also at same time he has reduced the size of one level family dwellings. We require 1050 sq. ft. to his maximum of 750 sq.ft. He talks of large expensive developments. I submit dry wall apartments of any type or this size cannot be construed expensive modern development. In his picture talks about lack of developing town, run down some stores in areas. Super Duper in North Chile has doubled in size in last year and a half. Do not think constitutes any hardship on communitie.

Mr. Strassner: We do not have in our zoning what an apartment should be. We have a house 1 dwelling.

Mr. Baade: Obviously no requirements for apartment. Suggest to constitute single floor dwelling.

Mr. Joseph Kirchner, 101 Attridge: I move that the Zoning Board strike from record statements made by Mr. Cramer. He talked to apartment house superintendents, he talked to official from bank, lends no credence to his statements. Should not be in record. Only thing Dr. Voller said. He is individual. Whole situation should not even be accepted in this type of meeting. Here for facts.

Mr. Pogano, 51 Attridge. I own land south of land in question and if Mr. Taddeo states land will pitch to Buffalo Road, will dump close to 4 ft. of dirt which will give me a dirt wall of 4 feet

Mr. Salerno. I understand property would not be feasible residential development. Evidently people along side that property have converted land very well by filling in and ended up with walk out basements. I can not see why rest could not be still residential area.

Mrs. Sally Heffer: There is one point which no one seems to have brought up. I am the first owner beyond the plaza, west of plaza, would say over 100 families within less than 1/4 mile are within walking distance of plaza. These people customarily have their children go to store, post office. There is everything to attract these children. Mr. Taddeo has evidently reached the businessmen. We have over 100 families within walking distance that patronize these stores. responsible for stores being. They may be able to procure business from these apartments but they could involuntarily set up a boycott over these 100 that have patronized their places and done what they have done for them. The progress as

Mr. Taddeo project will show, is probably business mens. These children will not be allowed to walk to these places. No mother is going to send her children when there is danger of traffic from 150 cars.

Unnamed person: Mr. Hoffman and Mr. Taddeo as being hardship case, I cannot see it. A while back Mr. Hoffman came to see me with another gentlemen and wanted to buy a piece of my land. How hardship when he is out to purchase more?

Mr. Sinnott: I realize choice is difficult one. You cannot please everyone. When Mr. Taddeo came here with original application I spoke against his proposition. I was wrong, not because of what I said but because this was the reason I was trying to give my personal opinion to the Board and you should take it and make newswith it. This is not the way government should be run. We are government of laws and whether one mans opinion is good and another is bad is only secondary naturally. By our law which we have made in this town we have said hardship should be proven and then the good or the contribution to the town considered, but first hardship. Now does Mr. Hoffman have hardship or does Mr. Hoffman want to make fast buck. If he had hardship and this because he had this hardship, would it not be simple to make every effort possible to sell this land? Granted he may know area and he may be wonderful real estate man. I do not know any medical doctor or attorney who does not seek help in difficult position and in difficult position seek help of other real estate man or men in that profession. Therefore, I see his case for hardship pretty small, and I see his case for making fast buck pretty good. Second, Mr. Taddeo has play yard of approximately 148 x 75 ft. This according to Mr. Cramer's estimate obviously would be sufficient for 21 children, assuming Mr. Cramer's figures are correct and I will question that at later time, this would be school age children. According to Mr. Cramer they had more than that at Lee Gardens or where he got his area information. 28 school plus another 28 under age children, 30 to 40 children in area that small. This is not adequate. I spoke before about sprinkling of building. This to me is very important point. Insurance companies never give anything away, if you have sprinklered building give you lower rate, prevent fire and death, but these building will not be sprinklered Fire wall must extend above roof line. If it does not fire can go right across, so obviously not a fire wall. You gentlemen are working under extreme hardship tonight. You are being asked to pass on three variances for multiple dwellings. Town board, which appointed you gentlemen and makes regulations, does not even mention apartments or where they should be loated, do not tell you minimum standards. They fix this board, and say here it is, play withit. This is too much to ask. I think this should be changed. I think it would be most advantageous on your part to deny this variance and request that the Town Board look into the matter of multiple dwellings and find out what Chili is going to do and if we grant variances we have no master plan. Where is our master plan. Let the Town Board assume our responsibility and have a new zoning ordinance. Mr. Taddeo has gone into other towns always before Town Board never before zoning board because they mention it in their zoning ordinance, we do not.

Mr. Baade. I think it would be worth while to point out there are other areas along Buffalo Road in which from time to time road went above or below because State of New York wished to remove some. I wonder whether we can change this to change nature of land on either side of road when not level. I recall we had on end of Hilltop until over a year ago where it came right out level onto Buffalo Road. However State of New York decided to drop it. I wonder if people could come to town and ask for variance because they are up over Buffalo Road. Ride along Buffalo Road and you will see houses below the level of it and above it. What I cannot see what this has to do with it. I cannot see how this constitutes a hardship.

Mrs. Salerno: I am not against Mr. Taddeo, but lets keep it in commercial zone.

Mr. Heffer: On these petitions, what makes a legal signature. Do they have to be taxpayers.

Mr. Strassner: In all cases we prefer the people of the Town of Chili.

Mr. Heffer: Could those signatures be verified?

Petitions submitted by Mr. Taddeo were given to Mr. Heffer for examination, who started questioning names on it, saying some lived in Riga and other places outside of town. Mr. Oliver Perry, who had signed Mr. Taddeo's petition spoke up saying who says I am not supposed to sign that paper. You mean I cannot sign that paper. I am a property owner in the town.

Mr. Strassner advised as long as he owns property he can sign it.

Mr. Heffer returned petition without further comment

Mr. Sinnott: I think Mr. Taddeo presents almost best argument in our favor. He showed pictures of what zoning problems can be, of what can happen to town that does not progress in ordinary fashion and you members of the board are responsible not for past but future and therefore if this town is to progress, let's not do it by visiting firms. Mr. Taddeo came to planning board and requested land be rezoned. Let's not go around granting variances hodge podge way of doing it. I believe Mr. Taddeo will agree, preferable to have land rezoned than granted on variance. I really think you should think this over. It will be more tangible in effect. This is important decision, are we going to be run by law or men. I think we should be run by law.

Mr. Baade: Last comment. - Invite Mr. Taddeo and all of those people who have worked vigorously for or against this apartment to work just as vehemently to see to it that the zoning regulations if they think they should be changed are changed in the town. It is my belief variances should not be brought before zoning board for this type of change, it is too drastic. Something town planners have in the past obviously omitted. If we do, why not let people who laid town out in master plan decide this issue, not here.

Mr. Cramer: Would just like to make one point clear. I agree with Mr. Sinnott. He stated that everybody has the right to their own opinion and it should be a part of the record. I object to anybody stating that anything I said should be stricken from the record. I got my information from the horses mouth for similar apartment project superintendents. You cannot get it any better than they to compare their apartment unit to this project. I object to my words being stricken from the records.

Mr. Kirchner: He may object but I still want it. If he would like to have any credence to his testimony he should have come up with this bank official bit. I do not buy it. I would like to know who this is. Who says its approval of bank in N. Chili hangs on this, I would like to know that.

Mr. Cramer: After this meeting if you wish to ask me I will tell.

Discussion followed as to what Mr. Cramer had said about approval hanging he said could hang, people said he said hang. Minutes referred to and he said hang. He requested that his statement be amended to read COULD HANG on the statement.

Mr. Kirchner insisted it be stricken from record and not amended. Mr. Baade supported Mr. Kirchner's position.

Mr. Cramer: Could I make one statement. I would like to remake the statement the way I mean for it to be received. This vice president of a bank in Rochester informed me that the approval from the State Banking Commission for a branch bank in North Chili could hang on the approval of this apartment unit.

Mr. Baade: I will remake the same request we had before, that this be stricken from the record. It has no credence here nor in a court of law would it hold up.

Mr. Sinnott: Would the minutes be available to the North Chili

Home Owners Association if we so desire?

Mr. Strassner: Minutes will be a public record.

Mr. Sinnott: Could they be thermofaxed?

Mr. Strassner: If you want, ask in the office, they could probably do so.

Mr. Taddeo on rebuttal: Sometimes to be unknowledgable is a pleasure and to be knowlegeable in certain matters, a curse. Unfortunately, I am a lawyer and there are three or four matters on which I am knowledgable. Numerous applications I have made and will continue to make before town boards and before zoning boards of appeals. Before making an application, contrary to what Mr. Sinnott has said, it is my duty and obligation to client and myself to examine laws that control applications. In this particular case, to prove how unknowledgeable you are, the law specifically passed in the Town of Chili so that Zoning Board of Appeals has authority to rule on applications for variance in zoning under certain particular cases, reason we so conveniently find ourselves face to face in this matter because this is board upon which jurisdiction has been placed before law.

2. You said that this matter should be brought before the Town Board. I say to you that the town board does not have jurisdiction in this type of matter for the reason those matters for regard to change in zoning ~~in~~^{not} variance require and encompass constructional matter where law or fact without due process of law, there is case for town board. This is for hardship matter, case for zoning board of appeals.

Another matter, with regard to Mr. Hoffman, when town originally clarified property on Buffalo Road, Mr. Hoffman did appear. I assume error on Mr. Egan's part, Mr. Hoffman did appear and at that time was turned down when he requested that this particular piece of property be zoned commercial.

You said about \$250. a thousand for this jumbo brick. So that you will feel good when you go home, please think of this jumbo brick as most expensive they sell for \$920. per 1000. if you buy in carloads lot. Nothing, nothing in this entire area that has a brick this expensive.

Mr. Sinnott asked for point of order. He was told matter was closed, but upon insistence Mr. Strassner let him speak.

Point is this, when I was speaking of possibility of turning this matter over to the Planning Board I knew full well that the Town Board had no authority to grant variance. All we have said has gone for nought, the point is this, you should if you want this town to be run by law, turn this over to the planning who would look into this matter, make recommendation to town board. I am fully aware of the facts Mr. Taddeo has brought. Thank you very much, worthy adversary.

Mr. Strassner: This case will rest.

DECISION: Reserved decision.

#8. Application of Lawrence Huff, 165 Straub Road, Rochester, New York, variance to erect multiple dwelling for apartment unit on part of Town Lot T 69, 4482 north side Buffalo Road consisting of 1.122 acres in E zone.

Mr. Huff appeared with colored sketch of proposed project. on question, lot is across from the hardware store on Buffalo Road next street beyond Hubbard, Ramblewood Drive. Frontage 180 sq.ft. plus or minus. 260 ft. approximately. Want to put up 7 unit apartment house. Will be parking for 20 cars in back, approximately 650 sq. ft. will be six single and one two bedroom apartment which is about 750 sq. ft. Would comply with zoning ordinance and follow line of house next door. Would start between 20 ft. from

from west side line. Building 68 ft. long x 44 ft. It is two story, it is on order of raised ranch or split level. over 50% of lower half above grade level. Four apartments on top, 1 bedrooms, two one bedroom and 1 two bedroom down. 140 ft. back to edge of lot line.

On question of any one in favor no one appeared.

On question of any one objecting:

Mr. Baade, 15 Hilltop Dr. N. Chili. I can only think we are faced with same repeat of last case. This lot is as high and dry and pretty for a location for residential area. There is a very pretty tract of houses directly behind. Believe land should be kept residential. Can see no hardship, no reason for variance.

DECISION: APPLICATION DENIED UNANIMOUSLY.

#9. Application of Mr. and Mrs. George Havens, 169 Apollo Drive, Rochester, New York, to operate a one-operator beauty shop in existing residence at 2738 Chili Avenue in E zone.

Mr. Havens appeared. Have option to buy house which is contingent upon the operation of a one operator beauty shop. Asking for variance to operate in one room in this house. There will be only one operator, she will hire no help, shop open Tuesday through Saturday, 2 evenings a week. Plenty of parking on lot for 4 cars, any one can get out. Would like permission to have sign about 7 in. by 20 in. which might have design (as shown to board) would be tasteful not lighted. Sign would be on standard in yard where real estate sign is now. There would be no advertising in the window of the one room. Would like name of shop in telephone director and advertise through local papers. Operator would be Mrs. Havens. She would be co-owner of shop and home.

On question of any one in favor, Mrs. Nina Ball at 2736 Chili appeared. In view I am selling house to them. I will be living right next door, I would not object to a beauty shop with a small unlighted sign with owner living in house.

On question of any one opposed:

Frank Talbot, 2750 Chili Avenue. A few years back same type of variance was asked for to operate beauty shop only 150 ft. away at 2744 Chili. That was turned down. I see no reason for changing our mind at this time, plus fact 2 beauty shops within 2000 ft. of property.

Mrs. Thesing, 2 Wyncrest Drive. I have a paper here where there is not supposed to be any kind of business on that property. Supposed to be residential right in our deed no nuisances.

Mrs. Cushman, 3 Wyncrest: That piece of property is on side of hill, double yellow line down hill. Traffic hazard. I doubt 4 cars could get in and I travel that highway, sometimes it worth life to get off highway. Any type of business on that side would be hazardous.

Mr. Menzie, 2744 Chili Avenue. I go along with what other three said.

Mrs. J. Menzie, 2744 Chili: If this variance is granted, I assume I could apply and be given one. I am a licensed operator and live two doors away. I object.

Mr. Haven on rebuttal said according to his attorney nothing in restrictions about a business, understood Menzie application turned down because of no sewers, they have them.

DECISION: DENIED UNANIMOUSLY.

Respectfully submitted
Patricia Slack, Acting
Secretary

MINUTES

Meeting of Zoning Board of Appeals held Tuesday Evening
March 23, 1965, Town of Chili, N.Y.

Meeting was called to order at 8:00 P.M. with the following members present: Cornelius Strassner, Chairman, Charles Pfenninger, Robert Hunter, Howard Van Slyke, Gertrude Tanger. Ralph Wickens, Town Attorney and William Davis, Town Building Inspector were also present:

#1. Application of Mr. and Mrs. Garry Bennett, 3240 Union Street, North Chili, New York, for variance to have dog kennel at 3240 Union Street in E. Zone.

Mrs. Bennett appeared. Did not want to build kennel, just wanted three licenses for three dogs, and was told would have to get kennel license. Does not have to build kennel as dogs kept in house. Dogs are poodles, they do not go outside. Has three dogs because male dog broke leg and could not be sold and after keeping it got attached to it and wanted to keep it. On question answered would limit it to three dogs. Is not engaged in selling poodles.

On question, no one in favor and no one against.

DECISION: Variance approved but limited to three dogs for a period of five years.

#2. Application of Town of Chili variance for land fill operation on approximately ten acres of land at intersection of Humphrey and Chili-Scottsville Road owned by Frank Craig in EE zone.

Town Board Members, Mr. Lusk, Mr. Wehle and Mr. Menihan appeared and Mr. Lusk explained what variance was wanted for and the need for the landfill. On question, one person appeared for and Mr. James Andrews, attorney appeared against representing Chili Manor, Inc., and property owners in vicinity. He presented ten petitions, had some of the land owners testify to what it would do to Black Creek, had a conservation expert testify to pollution it would cause, and Real Estate expert as to how it would lower land values. During his presentation, Mr. Wehle arose and speaking for the Town Board withdrew the application for variance as so many were against it. Mr. Kelly, also a member, had joined the meeting and also went along with other present members of board.

#3. Application of Bernard Entress, 25 Hartom Road, Rochester, New York, variance to erect house and garage on lot #39 Chili Heights Subdivision, house #2 Douglas Drive, front line setback to conform with existing houses on Douglas Drive and 8' to the north side line in E zone.

Mr. Entrees appeared with plans. Recently had acquired lot, was building on lot which has been torn down. Lot is wedge shaped lot. 130 ft. deep, 100 across rear. Asking for variance to build house on undersized lot, has approximately 9,000. square feet. 8' from left side line which abuts rear lots from Chili Avenue. All houses on Douglas Drive are 4' ft. on each side. They are all 50 x 130 ft. lots. Only lot without building on it in tract. There would be 14 ft. between two houses.

On question no one appeared in favor and no one appeared against.

DECISION: Approved unanimously.

#4. Application of Ralph and Mary Romberg, 2789 Chili Avenue, variance to build family room on west side of existing home at 2789 Chili Avenue, 54' from the front lot line in E zone.

Mr. Romberg appeared with sketch. This is family room on west side of house. It will be in back of present building 6½ ft., 33 ft. from side lot line. Will be just addition to house. It is one story addition, rest of house is two story.

On question, no one appeared in favor, no one against.

DECISION: Approved unanimously.

Decisions on previous applications for variances on which decisions had been reserved.

Application of Charles Carbonne, variance to erect houses on lots R-7 Alfred Avenue and Lot 22, Block O, Chester Avenue. 50 x 120 ft. Application at January 25, 1965 meeting.

DECISION: Approved unanimously.

Application of Dr. Rague, Veterinarian to build animal hospital held over from February meeting:

DECISION: Variance approved unanimously as per plans revised February 25, 1965, for the life of the present ownership. Barn now on property to be torn down within two years. Mrs. Tanger abstained.

Application of Madeline L. Dintruff, to appeal decision, determination and order of the Supt. of buildings for storage of explosives on property bounded on north by Paul Rd., on west by B & O Railroad, south by New York Central West Shore line, on east by lands owned by County of Monroe, in A zone, application heard January 26, 1965.

DECISION: The appeal of Madeline L. Dintruff, 2771 Chili Avenue, from the order of the Building Inspector of the Town of Chili that the use of the applicant's property is in violation of the Zoning Ordinance of the Town of Chili is denied. Mrs. Tanger abstained.

Respectfully submitted
Patricia D. Slack
Acting Secretary

At a meeting of the Zoning Board of Appeals held at the Chili Administration Building in the Town of Chili, County of Monroe, and State of New York on the 23rd day of March 1965:

PRESENT: Cornelius Strassner, Chairman; Charles Pfenninger, Robert Hunter, Howard Van Slyke and Gertrude Tanger, members; Ralph E. Wickins, Town Attorney.

WHEREAS, JOSEPH A. TADDEO and others, have made application to this Board for a variance in zoning with regard to five acres of land, more or less, located at, or near, 4470 Buffalo Road in the Town of Chili on the south side and facing Hubbard Drive in order that said persons may be permitted to construct on said property, ordinarily a residential area for single house lots, 84 units in 7 buildings of 12 apartments each and to include thereon a paved parking area for 150 cars and also, a fenced-in play area together with certain other landscaping improvements and,

WHEREAS, upon the order of this Board a public hearing on the application herein was held at the Town Hall on the 23rd day of February 1965, at 8:00 P.M. and all proper measures having been observed with regard to required notices therein and all persons desiring to be heard having been heard in the matter and written evidence and specimens also having been submitted, and the members of the Zoning Board of Appeals have familiarized themselves with the subject property and,

WHEREAS, the Zoning Board of Appeals has duly considered and deliberated upon the application including proofs and exhibit photographs, plot plans and building plans and building plans specifications, as well as, oral testimony proffered by the proponents of the application and from its opponents and,

WHEREAS, the Zoning Board of Appeals has received and considered the following written items with reference to application together with signed petitions presented by

and opponents:

A. Blue print specifications and plot plans entitled CAMPUS ARMS APARTMENTS, INC., as drawn by JOSEPH PORCELLI and engineered by SALVATORE MONTANRELLA, licensed engineer.

B. Photos of the general area.

C. Written estimate of Banerman and Mykens, licensed engineers, with regard to the cubic land fill required to raise the concerned property road grade.

D. Written estimates of Lyell Grading and Excavating Company, of furnishing the estimated cubic yardage as set forth by Banerman and Mykens and,

E. The letter of Christy Realty Service with regard to value of the instant property as it is related to the real estate market and house lots and,

F. The letter of Mr. Irving Hoffman as to his term of ownership of the instant property and his difficulty in obtaining a fair and reasonable offer for the same and,

WHEREAS, full and open presentation and discussion has been had on the matter, the Board, based upon all of the aforesaid makes the following findings of fact:

1. The property involved is located on the south side of Buffalo Road, facing Hubbard Drive, near number 4470, and measures approximately 550 feet on Buffalo Road with depth of 450 feet, being 5 acres on all, more or less.

2. The property involved lies low off the road and requires 32,665 cubic yards of fill to road grade. The cost of filling and grading is estimated at \$1.25 per cubic yard.

3. The present market price for single house lots is \$3,500.00, more or less, and the land involved can be divided into 5 house lots.

4. The cost of the lot together with the cost of the fill dirt needed to bring the lot to road grade will give each

lot a final price in the neighborhood of \$7,000.00, which is twice the prevailing market price for house lots in the neighborhood involved.

5. The land involved has been offered for sale for many years and no purchasers have offered to purchase the same at a fair market value for house construction by reason of the cost for land fill to correct the low grade.

6. The present owner, IRVING HOFFMAN, is 67 years of age and retired and is not in a position to retain the property for a longer period of time.

7. The property is 4/10 of mile west of Roberts Wesleyan College which is also in the Town of Chili, New York.

8. There are gas stations, schools, churches, restaurants and stores in the immediate vicinity of the site involved, but no apartment houses.

9. Apartment houses are part of an integrated construction grouping.

10. The proposed 84 apartment units are low in density and offer the present owner an opportunity to sell his land at a fair and reasonable value.

11. The detailed minutes contain other evidence and testimony with regard to the hardships imposed upon the present owner, the alleged hardships to be imposed upon surrounding land owners if the proposed project is allowed and also evidence to effect that the proposed project would benefit the Town of Chili and the general welfare of its citizens and,

WHEREAS, the Board has made the following conclusions of law:

1. This application is governed in principal by Sections 19-92 and 19-103 of the Zoning Ordinance of the Town of Chili.

NOW THEREFORE, be it resolved of the application of

JOSEPH A. TADDEO and others for a variance to construct 84 apartment units as herein above described, be granted and it is further resolved that this variance be granted by reason of the fact that the present owner of the land, IRVING HOFFMAN, has shown to this Board that the present low level of the land the expenses required to raise the grade to road level make it impossible to sell the land at the reasonable prevailing market rates for single homes, and thus, the land in question cannot yield a reasonable return if used only for the purpose allowed in that zone. The plight of the owner is due to the unique circumstances of its low grade, and be it further

RESOLVED, the building of apartments on the property involved in the low density manner as set forth in the plans approved by this Board will not alter the essential character of Buffalo Road where the site is located, and be it further

RESOLVED, the public and general welfare will be well served by the construction of this project as set forth in the approved laws. The apartment project will serve to complete an integrated construction grouping in an area close to Roberts Wesleyan College, all of said grouping, including the said college, will further the proper growth and progress of the Town of Chili and insure a protectiveness to property values surrounding the same.

The decision of the Zoning Board of Appeals is that the application of Joseph Taddeo and others is granted with the provision that the grading and drainage necessary shall be under the control and direction of the Town Engineer of the Town of Chili, and that the shrubbing and screening shall be done according

to the plans submitted and under the direction of the Building Superintendent.

The vote was as follows:

Cornelius Strassner	<u>aye</u>
Charles Pfenninger	<u>aye</u>
Robert Hunter	<u>aye</u>
Howard Van Slyke	<u>aye</u>
Gertrude Tanger	<u>abstained</u>

ZONING BOARD OF APPEALS

April 27, 1965

The meeting was called to order and roll was called with the following members present: Charles Pfenninger, Robert Hunter, Gertrude Tanger, Howard Van Slyke, and Cornelius Strassner, Chairman. Also present were: Town Attorney Ralph Wickins, Supt. of Buildings William Davis.

Application of Gulf Oil Corp., 755 Brooks Ave., for approval to use existing gas station at 1391 Scottsville Rd. and Weidner Rd. as temporary truck terminal in A zone.

Christopher Yonclas appeared to represent Gulf Oil Corp.

Mr. Yonclas: We would like to use the existing service station at 1391 Scottsville Rd. as a temporary truck terminal. We have two service stations in Gates with not a complaint filed against them. We are asking for this location from May until the end of December when the job is completed. Mr. Sam Marcino is working on a project from Buffalo Rd. to Scottsville Rd. Mr. Marcino keeps things neat and doesn't leave things around.

Mr. Strassner: Is this in use at the present time?

Mr. Yonclas: It is a used auto lot as per variance applied for before. It will be, in the near future, demolished due to a road scheduled to go through there. Gulf Station on the corner, sells gas to the people, and used car lot. He wants to get the use as of May 1, as a temporary truck terminal. There is quite a bit of land, a lot in back, lot in front, large property. He parks now in a space of 70 ft., in a row.

Mr. Strassner: Will the parking be in the back?

Mr. Yonclas: We are willing to park any place convenient for the town. They are only garaged at night. They are off at 8:00 A.M. and not back until 6:00 P.M. Repairs just on the inside. Facilities for storage of gas are already there. All the parts are made in Gates. The trucks are all ready to go and in good shape.

Mr. Strassner: No storage of used parts?

Mr. Yonclas: No used parts lying around.

Mr. Pfenninger: No trucks to take parts off?

Mr. Yonclas: The trucks are fully equipped.

Mr. Hunter: Would this be a 6-dayweek?

Mr. Yonclas: We do not serve the public, not permitted. We would like this from May 1 to the end of the year, or the first of the year. If the project gets held up we would have to re-apply. We would like this as long as the job lasts. A time limit of Jan. 1, 1966 would be sufficient.

No one appeared to speak on this application.

Application of Pitt Orchard Inc. and Sibarco Corp., 692 Bailey Ave., Buffalo, N. Y. for approval to erect service station for Atlantic Refining Co. at southwest corner of Chi-Paul Shopping Center, front setback 64 ft., rear setback 14 ft., in B zone.

William Marks, member of Coyle, Marks & Jordan, attorneys, appeared to represent the applicant, a real estate holding corporation for Loblaw's, located across the street in Chi-Paul Plaza. The corporation joins with Loblaw's in making this application for a variance to construct a gasoline service station on the premises. This would be a modern, two-bay Atlantic Filling Station. Plans and specifications were presented to the Board, also picture showing the type of station to be constructed.

Also present were Mr. Connors, engineer for Atlantic Refining Co., and Mr. Kinney, real estate manager.

Mr. Connors: We are asking for a permit to construct a two-bay modern service station in the shopping plaza across from the Town Hall, adjacent to the present Loblaw store, on the south side of the store, between the store and Chili Avenue, in the west corner of the shopping plaza itself, in the present parking area.

Mr. Marks submitted a group of pictures of the plaza and the surrounding properties. These will be on file in the Town Clerk's office.

Mr. Kinney: When the plaza was laid out, it was with the idea in mind for a service station. Previous application was turned down on a building setback of 32 ft. This will be 64 ft. from the front lot line. Any further back would be too close to the food market.

Mr. Van Slyke: How far off the road are the pumps?

Mr. Connors: The first pump island is 15 ft. back from the property line.

Mr. Strassner inquired regarding protection along the road.

Mr. Kinney: There is protection there now. Buffer guards and railings at the entrances. There is a 66 ft. right-of-way.

Mr. Strassner: The entrance to the gas station would also be the entrance to the parking lot?

Mr. Kinney: We are adding a new approach and leaving the existing one. There will be a free flow of traffic between the service station and the plaza. You can go right around the station.

Mr. Strassner: Would this be used as a cut through into the plaza?

Mr. Connors: The flow would be out around it. The service station in Southtown Plaza works out very well.

Mr. Strassner pointed out that three front pumps had been taken off, and stated the Board wished to avoid accidents. He then asked about hours.

Mr. Kinney: Normal hours are from 7:00 A.M. to 11:00 P.M. Sometimes the hours are 6:00 A.M. to 10:00 P.M. Not likely to exceed midnight. This is leased to a private operator and run as an individual business.

Mr. Van Slyke: What will your policy be?

Mr. Kinney: The general policy is minor tune-up, muffler work, etc., as against heavy repairs. No body work or motor overhauls. If the Board should grant this, would would accept the restriction against collision type work.

Mr. Strassner: What about your refuse from the garage, old tires, etc.?

Mr. Kinney: We have a trash enclosure on the rear. (Pointed this out on the plans).

Mr. Strassner asked if they would be lit all night, and Mr. Kinney replied the dealer turns off the lights. Mr. Kinney then amended the application to include a single 4 ft. by 6 ft. illuminated sign hung on a steel pole back of the guard rails. He explained this lights down onto the approach.

Mr. Hunter asked if there would be any other lighting.

Mr. Connors: A light pole standard on the west side to light the westerly approach, around the perimeter of the building, fluorescent lighting over each of the islands.

Plans showed waste oil tank, ~~and~~ gas storage buried

Mrs. Tanger: How far is this from the Loblaw store?

Plans showed 175 ft. Station is laid out at an angle with Loblaws.

Mr. Kinney introduced Mr. Ferguson of Loblaws.

Mr. Ferguson: We are in favor of this. We had planned on a service station right from the beginning. This is a service that should go with a complete shopping center which we are trying to develop.

In objection:

Gerald Oesterly, 3 Wills Rd.: I live in the immediate area. I do not like the present architecture. We are asked to accept a gas station. Will our insurance rates go up due to the explosion hazard?

Mr. Strassner replied no. Mr. Marks stated gas service station rates are lower than others. They are not considered dangerous.

Mr. Longbine, 3249 Chili Ave.: I live across the road. There is enough traffic in and out there now.

Leon Armer, attorney, appeared at the request of Mr. and Mrs. Samuel Grover, 3250 Chili Avenue, stating their property is zoned for residential use and immediately adjoins the parcel upon which this gas station is proposed to be built.

Mr. Armer: We don't know if the plans show the distance from the accessible portion of the station to their lot line, but it appears to immediately abut it.

Mr. Connors stated there is 67 ft. between.

Mr. Armer: The entrance is how far from the property line?

Mr. Connors: The closest entrance is the one already there.

Mr. Strassner: The map shows 11 ft.

Mr. Armer: According to the ordinance, the setback is 100 ft. The rear area should be 50 ft. to the rear line of the parcel of land on which the building would be located. They are asking for a variance on both of these restrictions. We would like to know if the applicants are the present owners.

Mr. Wickins: One of the applicants is. A real estate holding corp.

Mr. Armer: Have they acquired the property since the zoning laws?

Mr. Wickins: Yes.

Mr. Armer: The objection of Mr. and Mrs. Grover is they are living on adjoining property in compliance with the zoning ordinance of this

April 27, 1965

town. They are entitled to such protection as the ordinance gives ~~it~~ on property adjoining them. There is no showing of hardship in this case, and we particularly register legal objection to the granting of the application.

Melvin Marise, Manager of Marine Midland Trust Co. Chili Center office, spoke in favor of this application.

Also in favor:

Iva Roblin, 28 Alfred Ave.

Ruth Meister, 2260 Chili Avenue.

No one else appeared on this application.

Application of Columbia Avenue Christian Church, 2647 Chili Ave., for approval to erect church on approximately 4 acres of land at 2647 Chili Avenue, with adequate parking for approximately 170 cars, building 50 ft. wide, 110 ft. deep, two stories, 60 ft. from front lot line, E zone.

John Tieffert appeared and stated the architect has not completed these plans. This would have to be put over until the next meeting. Mr. Wickins advised they would have to re-apply. Mr. Strassner stated the next meeting would be held on May 25, 1965.

Application of John D. Friel, 8 Essex Drive, for approval to erect a 1-story restaurant with tavern license located at 1509 Scottsville Rd. with adjacent parking, south side of building to approximately 4 ft. to south side lot line, in A zone.

Jordan Pappas, attorney, of Houghton, Pappas & LaPore, appeared for Mr. Friel.

Mr. Pappas: This is an application by John Friel of 8 Essex Dr. to construct a restaurant with tavern license at 1509 Scottsville Rd. adjoining the 84 Lumber Co., south of Paul Rd. This lot is located on property formerly a refuse dumping area which has been since filled to some extent. The lot size is approximately 96 ft. on Scottsville Rd., 93 ft. on the west end abutting the railroad, 718 ft. on the 84 Lumber Co. side, 772 ft. on the south line bordering Monroe County Water Authority easement.

Mr. Pappas presented maps and plans of proposed building.

Mr. Pappas: This building is 94 ft. long and 52 ft. wide, all steel building with stone front, fully air-conditioned.

Two sets of drawings presented to give an idea of appearance.

Mr. Pappas: Building will be 100 ft. back from the road. We will place the building approximately 36 ft. from the north line, approximately 5 ft. from the sewer easement which runs to the south. It is anticipated parking will be in excess of 150 cars to the rear of the building with the entire 100 ft. front landscaped except for the driveway. This will accommodate approximately 196 people, a construction cost of about \$30,000. This is a partially pre-fab building, similar in construction with the building on 84 Lumber Co. property. The interior improvements in this building will be about \$20,000. A total cost including the land of about a \$50,000 investment. The question was raised this evening on sub-surface conditions, and we don't have the answer. It is anticipated before any construction begins these conditions will be thoroughly examined. The 84 Lumber Co. had to do considerable shoring up and piling to support their building. We have not explored this, but we do intend to do this. The interior of this structure, as indicated in the drawings, will be an attractive rustic atmosphere. There will be an area for dancing, a spacious type building. We will meet the requirements of the State Liquor Authority.

Mr. Strassner: Have you built anywhere else?

Mr. Pappas: No, but the contractor has put several up in the county.

Mr. Friel: Same as Hagadorn Food Market. I couldn't answer for the contractor.

Mr. Pappas: This is all steel construction. Type of construction similar to 84 Lumber Co. The building itself will have the appearance of a board effect, not the appearance of flat steel. This can be painted. Don't believe any color has been decided. The front of the building will have a stone facing, the sides will be painted.

Mr. Strassner: Is this going to be a legal bar-room or a restaurant?

Mr. Pappas: It is laid out with a bar and sitting area with a dance floor in the rear. It is anticipated that food will be served.

Mr. Strassner: Will the parking be black-topped?

Mr. Pappas: I don't believe it is contemplated. Parking will be for 150 cars. The front will not be black-topped, it will be landscaped except for the driveway.

Mr. Friel: The drive will be black-topped. The restaurant will be open 6 days, possibly 5 days, closed on Monday. It will not be open after 2:00 A.M. We anticipate eventually opening at noon-time within a couple of years. I would say now from 8:00 P.M. to 2:00 A.M. Not operated as a party house.

Mr. Strassner: What about refuse?

Mr. Friel: The design is for a septic tank system with a leech field. There are no sewers in that area. I think water and electricity are available.

Mr. Davis to check on the water.

Mr. Van Slyke: Regarding the sewer easement, is this strip leveled off?

Mr. Strassner: Yes.

Mr. Van Slyke: There is no building on the south side? No possibility of acquiring more frontage?

Mr. Strassner: Not unless they get part of 84 Lumber Co. You won't put utilities on any of the sewer easement?

Mr. Friel: We don't own it, have no right to use it.

Mr. Strassner: Also this lot left over. You couldn't acquire any more land?

Mr. Pappas: No. That was the limit of it.

Mr. Friel: We did not buy from the 84 Lumber Co.

No one appeared to speak on this application.

Mr. Davis reported water is available to this property.

Application of Sun Oil Co., Kenmore, N.Y. for approval to erect service station on property at the northwest corner of Interstate Route 490 and Chili Center Coldwater Rd., Town of Chili, said property being approximately 200 ft. along west side of Chili Center Coldwater Rd. and approximately 130 ft. in depth, in A zone.

A. W. West appeared for Sun Oil Co. Maps were presented, having been on file since meeting held on January 26, 1965.

Mr. West: This is the second time we are up here. We were denied our application previously. This area is zoned industrial at the present time. The property has a frontage of 320 ft. of which we anticipate using 200 ft. We have no plans of any kind for using any additional property. There is a buffer zone of approximately 120 ft. between the service station building and any other buildings. This is located directly at the intersection of Chili Coldwater Rd. and the approach ramp of Interstate 490. We anticipate building a modern service station with no bays showing on the front of the station. All located on the side. (Showed pictures) This is the type of construction we are using today on all interstates. Interstate highways today are going to be the main modes of traveling through the country. In traveling north, south, west, east, interstates are becoming more important to motoring people. The reason is that we, along with all other major oil companies, are locating stations on ramps so that the motorist can get off the ramp and back on, also cater to the immediate area. We will build the building according to New York standards of the Dept. of Labor, building codes of the Town of Chili, and accept any minor restrictions you feel necessary to comply with any of your town ordinances. In essence, that is our proposal, pretty much the same as we proposed before, and I will leave it in your hands.

Albert H. Burger, Attorney, appeared for Sun Oil Co.

Mr. Burger: I wasn't here at the last time but I understand there was a great deal of objection. I would like to make an unusual request. I have some friends here tonight. I would like to read the zoning law in reference to A districts to make the people aware as to what can be put in and without a variance.

Mr. Strassner gave his permission and Mr. Burger read from the Zoning Ordinance of the Town of Chili the permitted uses in A districts.

Mr. Burger: We come in and ask for a gas station and you object when there are 31 uses which are much worse than a gas station. The only reason why the Zoning Board hears an application for a gas station is they want to be sure the gas company doesn't come out and send bad fumes in your direction. This station is located in an industrial area near the expressway. It has all modern equipment. All fumes go up

Mr. Burger, cont.: and out. I thought these people should be aware of these facts.

Mr. Strassner: How far back are the pumps from the road?

Mr. West: 36 ft. from the right-of-way.

Mr. Van Slyke asked if this is a 3-rod road and there was some discussion concerning this. Mr. Pfenninger said the state calls it 4-rod, but it is 3-rod.

Mr. Strassner: How far back is the station itself?

Mr. West: As it shows on the map, 66 ft.

Mr. Strassner: How long would the station be operated?

Mr. West: From 7:00 A.M. to 11:00 P.M., lighting definitely on during the dark hours. Lights out when the station is closed.

No recommendation for a sign as yet. Not yet State approval for entrances and exits.

Mr. Strassner: The buffer zone you speak of. Would that be continually used as a buffer zone?

Mr. West: There are no plans at all for it. We have a lot of property in the back, no plans for that either.

Mr. Burger presented map showing the property owned.

Mr. Strassner: What do you propose to do with the natural waterway?

Mr. West: We are not going to touch it. There is a ditch way in the back. A frame dwelling presently there would be pulled down. We have a frontage of 318 ft., using 200 ft., leaving 118 ft. from the station to the property line. The building is 28 ft. wide.

Mr. Huhter: What is the nature of the outside lighting?

Mr. West replied mercury vapor lighting shining in as shown on the map. Sign also shown on map.

Mr. Strassner: An 80 ft. setback on the rear lot line is required in industrial area. You would have to keep enough property in the rear to comply with the zoning ordinance.

Mr. Hunter: You mentioned the possibility of a restaurant the last time. Is that still so?

Mr. West: No, not now. There is nothing planned like that at this location.

No one appeared to speak in favor of this application.

The following people spoke in objection:

Warren Rogers, 880 Coldwater Rd.: This does not concern what Mr. Burger has or has not got to do for a permit. He states any gas station permit will be examined by the Town Board. This gas station is for throughway users. This is within 3 miles of the city line. I have never left the city with gas tank 1/2 full. This should be on the opposite side and 10 miles away. There was an attorney here before and tonight. They then stated they were going to have a beautiful station with a Howard Johnson's on the back end of the lot. They had already contracted on Buffalo Rd. The lighting we don't want. About 3 years ago when this land was zoned industrial, we were told we wouldn't have anything to worry about, there might be tool shops down near the railroad tracks. We should not worry about anything on Coldwater Rd. This is industrial zoning across the street from Class E residential. This is no hardship on the Browns. They get reimbursement from the throughway. This property can sell for residential. We on Coldwater Rd. can see no advantage to the town for any such gas station. We just don't want it.

Mr. Stevens, 874 Chili Coldwater Rd.: Object on same grounds.

Mrs. Biddle, 876 " " " " " " " "

Mrs. Shaw, 875 " " " " " " " "

Hans Strasser, 865 " " " " " " " "

Mr. Strasser thanked the Board for notifying the people so that we can work together.

Frank Salzburg, 902 Chili Coldwater Rd.: I object to the gas station. There is ample property behind it. They want to be on top of the road. There is no idea about the rest of the land. If they put signs like on other stations they will have to come back for another hearing before the Zoning Board of Appeals, have the details first.

William Thomas, 890 Coldwater Rd.: I agree with Mr. Rogers.

Mrs. Frank Salzburg, 902 Chili Coldwater Rd.: We are living across the street from this and feel very strongly against it. We might feel more strongly against some things mentioned by Mr. Burger. I would like to see it back 100 ft.

Mr. West: We would put the station back 100 ft. if necessary.

Mr. Thomas: What about the water drainage? We already have a water problem.

Mr. Strassner: That would be up to the Town Engineer.

Mrs. Warren Rogers, 880 Chili Coldwater Rd.: We had a bog fire which lasted almost a year. A gas station seems dangerous.

Mr. West: There has never been one instance in the country of a gas storage tank blowing up if placed underground.

Mrs. Rogers: I am referring to pavements in gas stations. You can't help but have surface gas. That bog area is combustible.

Mr. West: I don't know where the surface gas would come from.

Mr. Strassner: What would you do about gas spillage?

Mr. West: Naturally, the thing to do would be to wash it away.

Mrs. Rogers: That is exactly what we are worrying about. You know that bog has burned. You will flush away the gas from that area. We think this is a hazard.

No one else appeared to speak on this application.

Application of Charles A. Page, 4357 Buffalo Rd., for approval to erect 3 ft. by 5 ft. sign to be in line with front of building, top of sign to be approximately 12 ft. above ground level, B zone.

Mr. Page presented sketch and explained sign would be erected by the Coca Cola Bottling Co. The pole would be set in line with the building right at the edge of the sidewalk. Sign would be 3 ft. by 5 ft., a plastic sign lit with bulbs, only lit during open hours. The light would be on the Coca Cola sign with his name on the top.

No one appeared to speak on this application.

Application of Robert Gates, 28 Creekview Dr., for approval to add room to house at 28 Creekview Dr. 8 ft. to side lot line, E zone.

Mr. Gates presented sketch.

Mr. Gates: The lot is pie-shaped, 80 ft. frontage, 28 ft. across the rear. I would like this so as to have the same line as the side of the garage. One corner would be 10 ft. 1 in. from the side line, the other corner would be 8 ft. 8 in. from the line, towards the rear of the building. It would not be seen from the road. The front of the present building is 12 ft. 2 in. from the side lot line.

No one appeared to speak on this application.

Application of Oleg Burlakow, 92 Bennett Ave., for approval to build house on 50 ft. lot, lot 14 Block F Harold Ave. with front setback to conform with existing homes, 8 ft. from side lot line, D zone; also for approval to build house on 50 ft. lot, lot 4 Block F Harold Ave. with front setback to conform with existing homes 8 ft. from side lot line in D zone.

Carl Scacchetti, attorney, 609 Wilder Bldg., appeared to represent Mr. Burlakow.

Mr. Scacchetti: Lot 14 is right next to a corner lot which is empty. We have been attempting to get this lot, contacted County of Monroe to get a chance to purchase this lot. In a year or two, we may be able to do it, but they won't promise this. This is a hardship case.

Mr. Strassner: You knew before you bought this it was an under-sized lot.

Mr. Scacchetti: We already had it under contract before coming in. You can search for the owner of lot 15 which we have done, we have a searcher, but we got nothing out of it. If this is purchased by someone they will want a 50 ft. lot. I have been here many times and have gone out of my way whenever I could to meet town requirements whenever possible. I have been unable to get this property. It is not an unreasonable request to build on lot 14 at this time rather than waiting.

Mr. Van Slyke: How long have you had the lot?

Mr. Scacchetti: Probably since 1964 November.

Mr. Strassner: You were turned down the last time for the same reason.

Mr. Scacchetti: But in the meantime we have tried to buy lot 15. An 8 ft. side linesetback would put the houses 16 ft. from each other.

Mr. Strassner: The road is not developed beyond that point?

Mr. Scacchetti: The road is improved up to the water hydrant. The other lot we are considering here is lot #4. This was bought from the Phillips people in October 1964. Lot 3 next door is being built on by Carbone. Lot 5 has a house on it, Mr. Dengal. Lot 4 is in the middle of those two lots.

There was discussion regarding lots bought by Mr. Carbone and Mr. Scachetti in this area. Mr. Scachetti said he would sell his lot for the price he paid. The deed will show he paid \$1100.00.

On the question of lot 14 Harold Ave., no one appeared in favor of this. In objection:

Mr. Ferguson, 32 Chester Ave. stated he has been against 50 ft. lots all along. Mr. Scacchetti explained he has a procedure for searching, but they were unable to locate the present owner of lot 15. Mr. Ferguson said they should keep the minimum of 10 ft. side setback and he is in protest against all these lots.

No one appeared to speak in favor of lot #4 Harold Ave.

In objection:

Ivah Roblin, Alfred Ave.: I object. Mr. Carbone built a house right in back of me. The surveyor says it is just within the limits, 5 ft. from the line.

Mr. Ferguson, 32 Chester Ave.: Same objections as before.

Application of Larry Rinaldis, 76 Elmercroft Rd., for approval to build houses on 50 ft. lots, #2 and #9 Block F Harold Avenue, D zone.

Mr. Scachetti stated Mr. Rinaldis had called him earlier and asked him to appear on this application.

Mr. Scachetti: Mr. Rinaldis would like a variance to construct single frame dwellings on lots #2 and #9 Harold Avenue, same as the previous applications. This is not the same builder. I would like to point out the difficulties in buying lots. I was previously inquiring about lot #2 myself personally, and later found out the property had been sold out underneath me to Mr. Rinaldis. I tried to buy that lot. I had a building contract on #2.

Mr. Strassner said this is a corner lot. Lindy Lane now has a Chili Ogden Sewer District easement. No construction can be had on Lindy Lane due to the sewer bed and water line. This lot 50 ft. is right next to an easement and you can't build on an easement.

In objection:

Ivah Roblin: I object. You could have bought lots 2, 3, 4, and made two 75 ft. lots.

Mr. Ferguson: I object; I don't think 50 ft. lots should be built on.

Lot #9, Harold Avenue, Block F:

According to Mr. Strassner's map, lots 10 and 11 are empty. Lots 11 and 12 are joined property, house on #12.

Some discussion.

Objection:

Ivah Roblin, Mr. Ferguson.

No one else appeared to speak on this application.

Application of Donald Hoppe for approval to erect attached garage at 37 Creekview Dr. 6 ft. from east side lot line, in E zone.

Mr. Hoppe presented sketch.

Mr. Hoppe: The lot is 75 ft. wide, proposed garage 22 ft. wide, 6 ft. from the side lot line. The house sits back 45 ft. from the road. I can't go behind the house because of the grade. We have a walk-out basement.

Mr. Strassner: How close is your neighbor?

Mr. Hoppe: 10 ft. The garage is set back from the front of the house. The other house is in line with my house. This would be back 10 ft. from their house. My neighbor has a variance to 5 ft. to his east line on the other side.

Mrs. Tanger inquired regarding the neighbor's garage.

Mr. Hoppe: He has a much wider house with a single garage. His house is 42 ft., mine is 36 ft. The garage and his house will be 16 ft. apart.

No one appeared to speak on this application.

Application of Floyd Samis for approval to prepare and sell fish food and pizzas in garage located at 883 Coldwater Rd., A zone.

Mr. Samis presented sketch. This is immediately adjacent to the property requested by the Sun Oil Co., part of the Brown property.

Mr. Davis said this is A zone down to Westside Drive, zoned from the throughway right down to Westside Drive.

Mr. Strassner: What is preparing?

Mr. Samis: Fish sold by the pound. Friday and Saturday only. We would close at 9:00 or 10:00 P.M. Fish is cooked to go.

Mr. Strassner: How long would you be open?

Mr. Samis: Open Friday and Saturday at 9:00 A.M., a two-day operation.

Mr. Strassner: What about parking? What is your anticipated Business?

Mr. Samis: I have a circular driveway. No one will be eating. Just coming and going.

Mr. Strassner: About how many cars do you think you could accommodate?

Mr. Samis: Right now 6 or 8. There will be orders called in also. I am going to put in a turn-around. I have a 24 ft. driveway now.

Mr. Van Slyke: What is the total frontage? Depth?

Mr. Samis: 100 ft. by 200 ft. Garage is on the south side, 24 ft. by 24 ft. Will have the garage finished off inside. Can park cars in the driveway, the turn-around, the circle.

Mrs. Tanger: What about odors and refuse?

Mr. Samis: There will be an exhaust. Gates-Chili get the disposal now.

There was some discussion concerning the storage of refuse until pickup. Mr. Samis said he hadn't thought about it, he would have to burn them he guessed. More discussion. He could get someone to pick up on Saturday after business.

Mr. Hunter inquired regarding the hours on Friday and Saturday. Mr. Samis replied hours would be 9:00 A. M. to 9:00 P.M.

Mr. Strassner asked about signs. Mr. Samis replied he would like one over the garage door, but didn't know the size as yet. Mr. Strassner said he would have to amend his application to include a sign. Mr. Samis then amended his application to include a sign 20 ft. by 18 in. over the garage door, with an overhead light, to be lit during business hours. He would have disposal of refuse on Sat. night, covered until collected.

In favor of this application:

Craig Meredith, 881 Chili Coldwater Rd.

Jack Foos, 19 Mercedes Dr.

Mrs. Jack Foos, 19 Mercedes Dr.

In objection:

Warren Rogers, 880 Chili Coldwater Rd.: I object to the whole proposal. We don't want odors. Refuse is not going to be taken away. I know it is impossible to put 12 cars on the front of that property. Kids go tearing around the country today and we don't want additional traffic. They will want pizza after 9:00 P.M. I would like to know, at our end of Coldwater Rd., we were misled at the fire house, what steps we can take to rezone this property to residential and keep industry back where we were told it was going to be.

Mr. Strassner said this would be a legal procedure, to get a petition and petition the Town Board. Zoning Board has no control.

Mrs. Salisbury, 902 Coldwater Rd.: Mrs. Samis approached me a month ago saying she would like to do catering service in her home where people might want 25 lbs. of salad, baked beans, ham, etc., which they would pick up and drive away. The notice says fish and pizzas. I object to this project because of the traffic, because of the odor. Kids want to eat pizza hot, there will soon be pop on sale, the next step will be an application for a beer license.

Hans Strasser: I second Mrs. Salisbury.

Mr. Strevens, 874 Coldwater Rd.: There is nothing wrong with making a living, but this is our home. We moved out here because of the country. These are our homes. I would like it to go on record that I am in full objection to this.

Mr. Riddle, 876 Coldwater Rd.: I agree with Mr. Strevens. We have very much traffic now. The roads are in terrible shape.

Mrs. Rogers said they are being stuffed with agas station and pizzas. There are about 20 small children, grammar school children. They don't want this kind of stuff.

George Ault, 875 Coldwater Rd. asked what action the Town Board would take against him if he violated a variance granted, if there are things specified in a variance but the operator gets away without them, Cunninghams for example. Mr. Strassner said he would have to ask the Town Board that question.

Mrs. Warren Rogers: 2 businesses on Chestnut Ridge Rd. started as garages and then were enlarged. We have this problem before us. I would hate to see it happen. I don't think the businesses are objectionable on Chestnut Ridge Rd., but I would hate to see a pizza or fish fry enlarge.

Mr. Samis: I can put in a bake shop in industry without a variance.

No one else appeared to speak on this application.

Application of Robert Guinan for approval to build house on 75 ft. wide lot #12 Hubbard Dr. with front setback in line with existing homes in D zone.

Mr. Guinan presented sketch, stating there is a house on both sides and he would like to build in line with the other houses. Lot is 75 ft. wide. Garage would be included in the 50 ft.

No one appeared to speak on this application.

Application of Chili Fire Dept., Inc. for approval to build fire station and appurtenances on property at 3231 Chili Ave., B zone.

John Steeves, co-chairman of the building committee, stated they propose a masonry brick type building. There will be an 8 bay apparatus and truck room, an apartment in the back with a meeting room on the east side, 177 ft. from the road, about 20 ft. setback on the side line. The building will be constructed about 36 ft. behind the present fire house. After this is constructed, they will tear down the old fire house. They will match the brick with the Town Hall. There are no problems in the parking area.

There was some discussion regarding a sewer easement under the boyer. Building will be almost in line with the Town Hall.

Robert Schlueter, 24 Hartom Rd., said application should be amended to include meeting hall for firemen, licensed club in the basement, licensed by the State of New York to sell alcoholic beverages.

Clayton Ess, 70 Hubbard Dr., voted in favor of this.

Also in favor:

Robert Schlueter, 24 Hartom Rd.

Mr. Buck, 133 King Rd.: This is a definite asset to the town.

DECISIONS OF THE BOARD:

CHARLES PAGE: = Granted variance to erect 3 ft. by 5 ft. sign at 4357 Buffalo Rd., to be erected under the supervision of the Building Inspector. All members voted affirmative.

ROBERT GATES - Granted variance to add room to house at 28 Creekview Drive 8 ft. to side lot line. All members voted affirmative.

PITT ORCHARD INC. & SIBARCO CORP.: Granted variance to erect service station for Atlantic Refining Co. at southwest corner of Chi-Paul Shopping Center, front setback 64 ft., rear setback 14 ft., with the following restrictions: No major repair work to be done, no cars to stored outside the building for more than 12 hours; station to be open no later than 12:00 midnight; lights to be installed under the approval of the Building Inspector. All members voted affirmative.
Also variance for 4 ft. by 6 ft. illuminated sign to be installed under the supervision of the Building Inspector.

JOHN D. FRIEL: Denied variance to erect 1-story restaurant with tavern license located at 1509 Scottsville Rd. with adjacent parking, south side of building to be approximately 4 ft. to south lot line. Members voted as follows: Mr. Pfenniger yes if gravel put in, and black-topped within 3 years; Mr. Van Slyke yes, with same stipulation; Mr. Hunter no; Mrs. Tanger no; Mr. Strassner no.

COLUMBIA AVENUE CHRISTIAN CHURCH - Applicant will re-apply.

FLOYD SAMIS - Denied variance to prepare and sell fish food and pizzas in garage located at 883 Coldwater Rd. All members voted negative.

ROBERT GUINAN - Granted variance to build house on 75 ft. wide lot #12 Hubbard Dr. with front setback in line with existing houses. All members voted affirmative.

DONALD HOPPE - Granted variance to erect attached garage at 37 Creekview Dr. 6 ft. from east side lot line. All members voted in affirmative.

GULF OIL CORP. - Granted variance to use existing gas station at 1391 Scottsville Rd. and Weidner Rd. as temporary truck terminal until January 31, 1966, with the following restrictions: 1. gas station or garage not to be used for public use. 2. All trucks to be lined up in the rear of the garage. 3. No storage of scrap metals in the area. All members voted affirmative.

CHILI FIRE DEPARTMENT - Granted variance to build fire station and appurtenances on property at 3231 Chili Avenue as per plans presented. All members voted affirmative.

SUN OIL CO. - Denied variance to erect gasoline service station on property at the northwest corner of Interstate Route 490 and Chili Center Coldwater Rd., Town of Chili, said property being approximately 200 ft. along west side of Chili Center Coldwater Rd. and approximately 130 ft. in depth. All members voted negative. Findings: 1. No hardship has been shown as to the use of the land. 2. The proposed use is a detriment to the general neighborhood.

OLEG BURLAKOW - Denied variance to build house on 50 ft. lot #14 Block F Harold Ave. with front setback to conform with existing homes, 8 ft. from side lot line. All members voted negative

Granted variance to build house on 50 ft. lot #4 Block F. Harold Avenue, ~~front setback~~ building to be put on the lot under the jurisdiction of the Building Inspector. Members voted as follows: Mr. Van Slyke yes, Mr. Hunter yes, Mrs. Tanger yes, Mr. Pfenninger yes, Mr. Strassner no.

LARRY RINALDIS granted variance to build house on 50 ft. lot #2 Block F Harold Ave., building to be placed on the lot under the jurisdiction of the Building Inspector. All members voted affirmative.

Denied variance to build house on 50 ft. lot #9 Block F Harold Avenue. All members voted negative.

Cards and letters were received by the Zoning Board of Appeals in objection to proposed Lexington Subdivision. Mr. Strassner instructed Mr. Davis to refer these to the Chili Town Board.

June Yates, Secretary

ZONING BOARD OF APPEALS

May 25, 1965

The meeting was called to order and roll was called with the following members present: Charles Pfenninger, Robert Hunter, Gertrude Tanger, Howard Van Slyke, Cornelius Strassner, Chairman. Also present: Ralph Wickins, Town Attorney; William Davis, Building Inspector.

Application of Fred Metzger and Ronald Mowers for approval to build 30 ft. 6 in. by 80 ft. building between and in line with two existing buildings at 3200 Chili Ave. approximately 5 ft. from property to rear owned by Charles McCall, B zone.

Mr. Metzger and Mr. Mowers appeared and presented map. This will be between two existing buildings. They will put on two walls and a roof. Presented sketch showing property from the front. There is an existing small building and a ~~sm~~ bigger building together with what they intend to build. Presented letter from Charles McCall, 3202 Chili Ave., stating he has no objection to this building which will be approximately 5 ft. from his property line. Board studied the map. Everything will be contained within the building. Right now they have to go out. They pointed out if they grow they will need more space. It would be cheaper to use the walls and enclose it all in. The new structure will be the same type as the others.

Mr. Strassner: Are these fire walls in the back?

Mr. Metzger: Cinder block all the way around. There is 3 ft. between the building and the barn now there which was there when bought. Used to be a gas station.

Mr. Hunter asked how materials would be carried. Mr. Metzger replied it would be foot traffic, pushing material with carts.

(Business is making gas lines for General Motors)

No one appeared to speak on this application.

Application of Alan Lohrmann, 25 Andony Lane, for approval to extend house to 7 ft. from east side lot line, E district.

Mr. Lohrmann presented sketch and stated application should read approval for two-car garage instead of extend house. House is 43 ft wide, garage 23 ft. 6 in. wide. The next door neighbor is 10 ft. from lot line, making 17 ft. between. House next door is vacant. Mr. Lohrmann has spoken to the builder who has no objection. The lot tapers, garage would be 13 ft. from lot line at front corner, 7 ft. from lot line at rear corner.

No one appeared to speak on this application.

Application of Spall Enterprise Corp., 23 Charmwood Rd., Pittsford, N. Y., to place 3 ft. by 3 ft. 6 in. signs on 11 ft. posts on lots 124 and 178 Hillary Hgts. 5 ft. from front lot lines, E district.

Mr. Spall presented map and pictures of the signs which are already there, erected by mistake. On lot 124 there are no existing houses within 10 or 15 lots. On lot 178, the other entrance to the wooded section, there is a house across the street diagonally and houses on up.

Mr. Pfenninger asked how long these signs would be wanted.

Mr. Spall replied sometimes people want to use them as street markers, but whatever time the town permits. These will not be illuminated. The purpose is just for the selling of the houses. It might take approximately 1½ years to settle in there.

No one appeared to speak on this application.

Application of James Cassidy, 8 Jemison Rd., for variance to erect a 30 ft. basketweave fence 6 ft. high at rear entrance of house, D district.

Mr. Cassidy appeared and said this application related to emotions and sanity. He lives next door to two sick people. He would like the fence 6 ft. high so that they can't see him and he can't see them. He has lived there 4½ years and since the third day they have heckled him and made a nervous wreck of his wife and children. He is applying for this variance on the recommendation of the police department. This particular section of fence will give them freedom to enter their home. These neighbors are ill and never go out of the house or yard. The only emotion outlet they have is his family, continually and constantly. His children and wife are afraid. These people stay up all night and flash lights into the house. Mr. Cassidy has a large

Yard requiring a lot of care, but no one wants to go out. This 30 ft. fence will cover the neighbors' doorway and his doorway, then they can walk in and out of the house and the car. The houses are side by side. No one appeared to speak on this application.

Application of James Russell, 542 Paul Rd., for variance to build covered patio 4 ft. to east side lot line, E district.

Mr. Russell appeared and stated the lot is 85 ft. by 200 ft. The lot faces Paul Rd., house faces Adella Circle, a corner lot. The patio would be covered toward the next door neighbor. It would just be screened, not enclosed. The neighbor's house is more than 10 ft. from the lot line. Mr. Davis said it is 14 ft.

No one appeared to speak on this application.

Application of Interim Factors Inc. for variance to erect 4 ft. by 6 ft. sign in front of house on property at 320 Ballantyne Rd. At this time, no one appeared to represent the applicant.

Application of Columbia Avenue Church, 2647 Chili Ave., for variance to build two-story concrete church 50 ft. by 110 ft. with adequate parking for 170 cars on approximately 4 acres of land at 2647 Chili Ave., E district.

This application has been withdrawn.

Application of Howard Fitzsimmons Sr., 69 Golden Rd. for variance to build garage and apartment on part of lot 75 Pultney Tract located off Golden Rd. at rear of property owned by Gordon Hyde and bordering the western expressway, A district.

Mr. Fitzsimmons Jr. appeared and presented plans, stating he wished to put an apartment over the shop.

Mr. Strassner: What is the shop at the present time?

Mr. Fitzsimmons: There is no building there now. Shop would be for construction equipment and the apartment for personal residence. Shop 35 ft. by 75 ft.

Mr. Strassner: What do you operate in this building?

Mr. Fitzsimmons: Repair construction equipment. We just need the variance for an apartment.

Mr. Davis said there is a 60 ft. right-of-way back into the property.

Mr. Fitzsimmons said there are about 8½ acres. Mrs. Tanger asked if he owns the business and does the repair work himself, Mr. Fitzsimmons replied yes. The apartment would just be for his own purpose, single family.

Mr. Strassner asked what would happen if he didn't want to live there any more. Mr. Fitzsimmons replied he would probably move out. Right now he has no plans for renting it.

Allen Komenz, 34 State St., stated he owns the property adjacent to this on Westside Drive, formerly the Johnson property. The application was made in the father's name and he believed he was building this for rental purposes and objected to this variance. They are building a 250 home subdivision there and would like to keep it as clean as possible. Mr. Strassner pointed out the variance was necessary for the apartment only. He asked if Mr. Komenz would have any objection if the apartment was not rented and used by Mr. Fitzsimmons only. Mr. Komenz replied he would object until he knew what was going to be there. Right now it is very slovenly. He would have to think this over.

Mrs. Loretta Johnson, 1901 Westside Dr., objected to the apartment.

Robert Daggar, 80 Golden Rd., spoke in objection for himself and his mother, Mrs. Mildred Daggar.

Gordon Hyde, 79 Golden Rd., objected to construction equipment with small children down through there.

Mr. Strassner pointed out this is permissible in A district, the variance is for the apartment.

No one else appeared to speak on this application.

Application of Donald Slate, 520 Stony Point Rd., for variance to build house on lot 5 east side Attridge Rd., 50 ft. front setback, E district.

Mr. Slate presented sketch showing house on the north side of property with 60 ft. front setback, house on the south side of the property with 40 ft. setback. He explained he is asking for this

variance to present a better appearance along the front. A 50 ft. front setback would look much better between these houses than a 60 ft. setback.

George Lyman, 144 Attridge Rd.: I live on the east side of the property and am back 60 ft. If he goes back 50 ft. it will cut off my view up the road. At one time the neighbor on the other side and I offered to buy that property and split it up.

Mr. Herman, 150 Attridge Rd.: These are all new homes since the zoning laws and everybody kept back 60 ft. My home is 50 ft. back (40 ft.), before the zoning laws.

Mr. Proseus, 140 Attridge Rd. felt the homes should be kept at 60 ft. His is 60 ft.

No one else appeared to speak on this application.

Application of Wilbur Raab for variance to operate Rod & Gun Club on property at 2775 Scottsville Rd., EE district.

Wilbur Raab appeared with Charles Truitt

Mr. Truitt explained this is a trap shoot using a shot gun. It would be facing away from Scottsville Rd. on the property of Mr. Raab 550 ft. deep.

Mr. Strassner stated the law says no shooting within 500 ft. of the road. A variance had been previously granted in error. These gun shots will be carried over to the other property. Mr. Truitt said they don't travel that far. The trap shoot would be at least 150 ft. back of the buildings. The building is about 50 ft. or 60 ft. from the road. There would be two scheduled shoots, possibly three all together.

Mr. Strassner asked if anyone could stop in and shoot. Mr. Truitt said they can't come in any time. The officers have the keys. Everything is under lock and key. No one could open up and go ahead and shoot. Shooting would be from 150 ft. back of the house.

No one appeared in favor of this application.

In objection:

Mr. DiGennar representing Rodney Farms which property is within 1000 ft. of the shooting range. This firing area is relatively close to the highway area which is building up. These farms are close enough so that the noise can be heard constituting a nuisance. This should not be allowed in a populated area. Mr. DiGennar said it is his understanding a variance requires showing a hardship. So far no hardship has been mentioned. No reason why the property can't be used for legitimate purposes. By allowing this sort of thing, the door is opened for everyone else for similar applications. Before long there would be trap shoots in everybody's yard. This is dangerous, especially with children. This type of thing should be permitted a considerable distance from the road and back away from any population and people, very much opposed.

Mr. Quigley, supervisor of the Town of Wheatland, stated this is within ~~600~~ 500 ft. of the Town of Wheatland. They were not aware of any past performance on the property. He referred to a 235 home subdivision on the west side of Scottsville Rd. within 500 ft. or 600 ft. of the property. Horse barn on the east side 500 ft. or 600 ft. Precaution should be taken here. It is and would be of concern if there was continual trap shooting, would be objectionable to the people in the area. According to their Planning Council, if granted within 500 ft. of adjoining municipality would be against #239 Section L of the Municipal Law.

George Smith, 2171 Scottsville Rd., said he lives quite a distance from Mr. Raab but objects because 300 homes are going to be built in that subdivision. The noise would distract the horses on Mr. DiGennaro's farm.

Mr. George Tenny said he is the closest property owner with small children and business, has lived beside this trap shoot which has been in operation for a number of years. It is not offensive or dangerous at this point. The noise is not so offensive as the go-carts there. The smell of manure from the DiGennaro farm is more objectionable. He would like to see this given more consideration than just a flat turn-down.

No one else appeared to speak on this application.

Application of John D. Friel, 8 Essex Drive, for variance to erect restaurant with on-premises sale of alcoholic beverages at 1509 Scottsville Rd. 4 ft. from south side lot line and with adequate parking at rear for approximately 100 cars, A industrial zone.

Jordan Pappas, attorney, appeared with C. DeWolf, architect, and presented plans and map.

Mr. Pappas: Last month we made application for a restaurant. As you can see, the plans being shown to you now are different from before. I would like to make a few remarks about this application which may not before have been clear. Might explain why he made the decision to re-apply within a months time. Certain economic features were not mentioned last time. This area is an industrial area without sewers. Presently on the north side of the property involved here is the 84 Lumber Co. which operates a commercial retail establishment. We are asking permission to erect a restaurant which is not an allowed use in the zoning law. Industry might be thwarted by no sewers. I would like to stress the fact that a considerable expense is involved here in creating a sewage system.

Mr. Pappas spoke regarding the sewer system and the fact there is no sewage disposal in this area. Commercial retail users could lay the ground work for sewers.

Mr. Pappas then spoke of Mr. Friel, who is a radio and television announcer, to give some overtones as to what kind of person comes into the town to erect a restaurant with the sale of alcoholic beverages on the premises. He was with the Gannett Youth House for some 8 years. He has been engaged in restaurants to a limited degree. He recognizes the problems and has taken steps to manage this personally, hiring personnel to operate it. The restaurant will bear the character of Mr. Friel. He does not intend to run a dive on Scottsville Rd. A lot has been said about conditions which exist on Scottsville Rd., and adjacent areas which are not the best. Mr. Pappas said he does not believe the way to correct this is to keep out a legitimate operation which can uplift. This is going to be a restaurant on Scottsville Rd. for young and old. Permission for this would up-grade the area. 1½ yezars ago the New York State legislature passed protective measures on the part of State Liquor Authority, it is not a matter of state policy any more. Competition is allowed. Protective aspect done away with, competitive aspect now.

Mr. Pappas said there will be an expenditure of \$60,000 with food and beverages, which should up-grade the area. This is the kind of place you could go to yourself and not feel afraid of. Mr. Pappas brought out the thought that one day Mr. Friel might sell the property and what would then happen. Would this turn into what some of the others are? The answer is obvious. Mr. Friel is spending a considerable amount of money. These others are interested in places where the requirements are little cash and much mortgage. Mr. Friel cares about the civic character in the town. The large expenditure tends to lend credence to this fact. If the value is there, it is reasonable that a good person will come and buy. The economic factor will tend to keep it up. Perhaps a substandard situation has been created in the town already.

Mr. Pappas: The question of the tax factor is important. This building and the land, all of the project, is in excess of \$60,000. You have an equilization rate of 20%-25% which means there will be about \$15,000-\$17,000 added in assessment. This is important in an area such as this where there are no sewers for industry, where there can be no home sites. This would have a great effect on the pocketbooks of the people in the town. The tax factor is an important one. There is a similar situation at Paul Rd. and Union St., an area zoned industrial with no sewers. There seems to be some difficulty in developing these areas because there are no sewers. The 84 Lumber Co. is a legitimate fine business on the adjoining property. This will be commercial retail, a fine business in industrial area without sewers. You can develop this area by bringing in a fine good quality business, and have users for sewers later on.

Mr. Pappas said precedent is important, of having this place in this particular area, we have this Board. It establishes the tone of the area. The present business located there doesn't detract.

This will not. However, this is an industrial area. There is some question on lot frontage in that area, and general appearance. The aesthetic value of the property will be improved. This will upgrade the area and still give an area to develop industry.

Mr. Pappas then introduced Mr. DeWolff, architect in charge of beautifying of the land, building and layout. Also present were Bob Bay, contractor, Joseph Marx of Cable-Weidmer Co.

Mr. Pappas said he wanted the Board to know everything about this project and not mistake what they are trying to create. The question was raised at the last meeting about the hours of operation. They will be open to serve the public, if it be seven days a week. Food and drink are served on those premises, if necessary 24 hours a day, as far as he is concerned, unless the Board should make conditions.

Mr. DeWolff stated the rendering showed their effort to achieve a rustic atmosphere. This showed the name of "Ale House" The front of the building would be fieldstone with heavy oak ~~siding~~ beams, stained board siding. They would want a small sign 6 ft.-7 ft. high as shown on the scale figure, made of wood, lighted from the front. No neon signs.

Mr. Strassner asked if they wanted to amend the application to include a sign. Mr. Pappas stated they did, and so moved.

Mr. DeWolff explained parking would be to the rear. Septic system designed by Mr. Danford. The building is a component building being used consistently in modern structures, without interior posts or columns. Building will be baked enamel on the sides and rear. Inside insulation, wood panelling, fire proof walls and ceiling. Beams and ceiling exposed to give rustic character. Air conditioned. Heating will be forced air. Test borings are being taken to get the soil. There will be no parking in the front. There will be a fence to screen the side of the building. 10 ft. entrance, 10 ft. exit, 3 ft. grass strip in the middle. The building is 52 ft. by 94 ft. The lot varies at the front on an angle, front 93.67 ft., back 96 ft.

Mr. Hunter asked the total capacity. Mr. DeWolff replied about 180 people, approximately 100 cars. Mr. DeWolff then explained the paving to be used. There is a service area at the back.

Mr. Hunter then asked regarding the lighting of the building. Mr. DeWolff said this was not fluorescent or neon, it would be white letters, soft outside illumination facing the sign and giving a soft appearance to the building. The colors will be browns, warm hues.

Mr. Strassner: How much of this establishment will be bar trade?

Mr. DeWolff figured from floor plan, 22 interior tables, 8 side tables, 17 booths seating 4-6 people, an occupancy of about 180 in the building.

Mr. Strassner: Is there going to be night dancing?

Mr. Pappas: Yes, the facilities are there.

Mr. Hunter: Do I understand the people will park and then walk to the front of the building?

Mr. DeWolff: Yes, there is two-way traffic. We can accommodate a walk if necessary. There is a walk at the front part of the building. No entrance from the back.

Mr. Strassner said Mr. Friel had run the Gannett House nicely, but after Henrietta it is not used any more and asked if this is a carryover of that youth association. Mr. Pappas replied no.

Mr. Strassner said this would be a wonderful thing for the college in Henrietta. Mr. Pappas said he did not say that. He wanted to stress the fact if they made these facilities in this area it is to the advantage of those involved if they are good facilities.

Mr. Strassner asked if they have made any other applications for this type of business, Mr. Pappas replied no.

No one appeared to speak on this application.

Application of Interim Factors Inc. was again called but no one appeared to speak on this.

Bernard Bianchi appeared and asked that correction be made in the minutes of November 24, 1964 at which time he made application for variance to build house on lot 50 ft. by 230 ft. at 29 Jemison Rd., front setback to conform with existing homes and side line setback of 8 ft. on west side. This was granted. The lot number should be number 62.

Application of Francis Haak, 16 Daunton Dr., for approval to build two-car garage 7 ft. 2 in. to south side lot line at 16 Daunton Dr., in E zone.

Mr. Haak appeared and presented map. The house next door is 10 ft.-15 ft. away. Present garage would be extended to 7 ft. 2 in. from the rear corner to side lot line, in line with the regular garage just like the rest of the house.

No one appeared to speak on this application.

DECISIONS OF THE BOARD:

FRED METZGER AND RONALD MOWERS - Granted variance to build 30 ft. 6 in. by 80 ft. building between and in line with two existing buildings at 3200 Chili Avenue approximately 5 ft. from property to rear owned by Charles McCall, All members voted affirmative.

ALAN LOHRMANN - Granted variance to ~~extend~~^{build} garage to 7 ft. from east side lot line at 25 Andony Lane. All members voted affirmative.

SPALL ENTERPRISE CORP. - Granted variance to place 3 ft. by 3 ft. 6 in. signs on 11 ft. posts on lots #124 and #178 Hillary Heights 5 ft. from front lot lines. Variance granted for two years. All members voted affirmative.

JAMES CASSIDY - Granted variance to erect 30 ft. basketweave fence 6 ft. high at rear entrance of house at 8 Jemison Rd. Variance granted for 5 years. Fence to be placed at the discretion of the Building Inspector. All members voted affirmative.

JAMES RUSSELL: Granted variance to build screened covered patio 4 ft. to east side lot line at 542 Paul Rd. All members voted affirmative.

INTERIM FACTORS INC. - Denied variance to erect 4 ft. by 6 ft. sign in front of house on property at 320 Ballantyne Rd. because of non-appearance.

DONALD SLATE: Granted variance to build house on Lot #5 east side Attridge Rd. 50 ft. from front lot line. All members voted affirmative.

COLUMBIA AVENUE CHURCH - Withdrew application for variance to build two-story concrete church at 2647 Chili Avenue.

HOWARD FITZSIMMONS Sr.: Denied variance to build apartment on part of lot 74 Pultney Tract, located off Golden Rd. at rear of property owned by Gordon Hyde. All members voted negative.

WILBUR RABB - Denied variance to operate Rod & Gun Club on property at 2775 Scottsville Rd. All members voted negative.

JOHN FRIEL - Denied variance to erect restaurant with on-premises sale of alcoholic beverages at 1509 Scottsville Rd. 4 ft. from south side lot line. Members voted as follows: Mr. Pfenninger yes, Mr. Van Slyke yes, Mr. Hunter no, Mrs. Tanger no, Mr. Strassner no. *also sign*

FRANCIS HAAK - Granted variance to build two-car garage 7 ft. 2 in. to south side lot line at 16 Daunton Drive. All members voted affirmative.

June Yates, Secretary

ZONING BOARD OF APPEALS

June 22, 1965

The meeting was called to order and roll was called with the following members present: Charles Pfenninger, Robert Hunter, Gertrude Tanger, Howard Van Slyke and the Chairman, Cornelius Strassner. Also present were the Building Inspector, William Davis and the Town Attorney, Ralph Wickins.

Application of Charles Kalmbach, 8 Wyncrest Drive, for variance to erect 12 ft. by 15 ft. porch on east side of garage 8 ft. to north side lot line.

Mr. Kalmbach presented sketch showing proposed garage 8 ft. from side lot line. Mr. Strassner asked if he had the neighbor's approval. Mr. Kalmbach replied as far as he knew.

No one appeared to speak on this application.

Application of Mr. and Mrs. John Cornell, 27 Creekview Drive, for variance to extend kennel license at 27 Creekview Drive.

Mr. Cornell appeared and stated this would be a renewal of a variance granted in 1961. The request will be for the same as the variance granted before. There would be four dogs. Mr. Cornell would like the same restrictions as in the previous variance.

No one appeared to speak on this application.

Application of Howard Young, 687 Marshall Rd., for variance to move existing garage to within 4 ft. of side lot line, in D zone.

Mr. Young presented sketch. The neighbor is approximately 78 ft. away. There is a 30 ft. strip in between the two lots which belongs to Mr. Lusk.

Mr. Davis said this piece of property runs over to Westside Dr.

Mr. Van Slyke: This 30 ft. strip is a right-of-way. A few years back it was going to be used for a road when it was 60 ft.

Mrs. Tanger: How wide is the lot?

Mr. Young: 67½ ft.

Mr. Van Slyke: This 30 ft. strip, why don't you buy it? It is not big enough to build on.

Mr. Young: Some day he may develop back in there and use that as a right-of-way to the trunk line.

Mr. Van Slyke: You could still buy 10 ft. or 20 ft. of it.

No one appeared to speak on this application.

Application of William Whiteman, 424 Paul Rd., for variance to build attached garage 8 ft. from east side lot line in E zone.

Mr. Whiteman presented map of the property. The lot is 60 ft. wide by 305 ft. deep. The neighbor is 300 ft.-500 ft. away. There are a couple of owners of this property. There is a 50 ft. lot on one side. Nothing built. Mr. Whiteman said he would like to build a 14 ft. garage. He has no garage now. There was some discussion regarding location of the property.

Mr. Van Slyke asked if he had tried to purchase land on the east side, Mr. Whiteman replied no. Mr. Van Slyke asked if he didn't think it would be advisable as this is only a 60 ft. lot. Mr. Whiteman replied he didn't know. He has had his house since 1949.

Mr. Davis said this must have been before zoning to have a side setback of 6 ft., 10% of the lot width.

Robert Wells, 428 Paul Rd., spoke in favor of this variance.

No one else appeared to speak.

Application of Kheel and Sundell, 99 Winslow Ave., for variance to place two 8 ft. by 12 ft. temporary signs for approximately one year on east side of 2009 and west side of 1895 Westside Dr., E zone.

James Quarfot, Sales Manager, appeared to represent Kheel and Sundell and presented sketch of proposed signs. This would be a wooden sign put up by two by fours, not illuminated, for Canon Estates. They would like this as close to the road as possible, about 25 ft. or 30 ft.

Mr. Hunter: How high off the ground?

Mr. Quarfot: The sign would be 12 ft. high, 2 ft.-4ft. off the ground. We own the property now, it is all open.

No one appeared to speak on this application.

Application of Columbia Avenue Christian Church of Christ to build one and two story masonry and wood church 140 ft. by 120 ft. 60 ft. from front lot line and with parking area for 70 cars on approximately 4 acres of land at 2647 Chili Ave., E zone.

Robert Clark, architect, appeared and presented plans showing property and proposed building.

Mr. Clark: We are requesting permission to build a church on this four acre parcel. This church basically consists of a sanctuary of 300 people, social room 120, Christian education room, to take care of the present congregation plus the congregation we have in the Town of Chili. The site we have is in E district. We propose to build conforming to all restrictions. The setback would be 60 ft. from the front, approximately 15 ft. from the side. The building will face basically east on Chili Avenue. Parking will be on the west side. This is our arrangement. We hope you like it.

Mr. Wickins asked how many cars their parking is planned for. Mr. Clark replied right now for 70 cars. The auditorium will seat about 300 people. Normally 70 cars will take care of that. At present, they feel 70 cars will be more than sufficient. The area is 180,000 sq. ft., the building 8-9,000 sq. ft., parking for 70 cars 21,000 sq. ft.

Mr. Strassner: What do you have anticipated for the back?

Mr. Clark: We will use the back area for outside recreation for Christian education. In the future they may extend Christian education room back towards the rear.

Mr. Strassner: What is the forecast on the parish in 5 years?

The Pastor replied the membership now is 100 families. This might double in 5 years.

Mrs. Tanger asked if the parking would be used more than Sunday. Mr. Clark replied the church will serve for activities in the community such as Christian education, Girl Scouts, etc. At present there is a Sunday service.

Mr. Strassner: How close to the road is the circular driveway?

Mr. Clark: It comes to the property line right now. There is an existing house back of the buildings about 60 ft. The area in front of the house is a wooded area which they want to keep for outdoor use.

Mr. Clark said it is better from a traffic standpoint to just have the one drive and have a turn-around. There will be parking up to the property line.

Mr. Hunter: Is there any screening planned for the parking area?

Mr. Clark: There is a lot of screening right now. This could be done without any problem. The parking lot would be used very seldom, for a church service or social function.

There is another parking lot around 12 ft. to 15 ft. away with a row of evergreens around the property line. Three sides of the property will stay as is. The four acres includes the present house and garage.

Mr. Strassner asked if they anticipate much growth within 10 years. Mr. Clark replied this church is designed for the 300 people, if increased they will build another church. It would be difficult to expand the sanctuary ~~they~~ the way it is designed. The only thing that might expand would be the Christian Education. They might have to add on a few classrooms as the children come along. The majority of the church will stay as is.

Mr. Strassner: Do you have some idea of when the capacity would be reached?

Mr. Clark: Within a 10 year period.

Mr. Strassner asked if the parking would also expand. Mr. Clark replied if they find one person coming in a car. Normally the families come together. We don't contemplate any change of parking for a number of years. There is a minimum amount of parking right now.

Mr. Strassner said no one walks these days, even for two blocks.

Mr. Van Slyke: This is almost directly across the exit from the expressway. This makes it absolutely mandatory that there will be adequate parking. There is no possibility of parking on that highway. I don't believe right now the parking facilities are adequate. It should be increased to 100 cars. You also have a building and garage on it. I think if you expand in the future you are not going to have too much space. There should be no question of anybody not being able to park.

Mr. Clark: We never intended to let anybody park anywhere but the parking lot. At the present time 70 cars is enough, if needed for 100 cars we would have to do it. Right now we only need for 40 cars. We have a walk along the major drive line. We tried to center the majority of cars used right off the two major walks of the church. The area in the back for future parking will be for families with children, for Christian

Education. The parking in front is more for older people so they don't have to walk so far.

Mrs. Tanger: How far off Chili Avenue is the parking space?

Mr. Clark: 28 ft.

Mr. Hunter: What is the existing home used for?

The Pastor replied the caretaker is living there.

No one appeared to speak on this application.

Application of Madeline L. Dintruff, 2771 Chili Ave., to appeal decision, determination and order of the Supt. of Buildings for storage of explosives on property bounded on north by Paul Rd., west by B & O Railroad, south by New York Central West Shore line, east by lands owned by County of Monroe, in A zone.

Mr. Wickins announced he had received a call from Mr. Hartman, Mrs. Dintruff's attorney, asking for an adjournment of this as he will be out of town.

Application of Joseph Pascarella, 45 Everett Dr., to erect 5 ft. by 5 ft. sign on the roof of barber shop and antique shop at 3193 Chili Ave., in B zone.

Roger Pascarella appeared for applicant and presented sketch. He stated there is now one sign off the road and they want to take it down. This sign will be on top of the building. It will be a 5 ft. by 5 ft. illuminated plastic sign, lighted from inside the sign itself. The roof is a flat sloping roof approximately 12 ft. by 15 ft. The sign would be mounted on the front at the highest point. Sign would be lighted from dusk to 2:00 A.M.

No one appeared to speak on this application.

Application of Joseph Oliver, 1830 Clifford Ave., for variance to erect single dwelling on lot 50 ft. by 100 ft. at the southwest corner of Charles Avenue 14 ft. to east side lot line, front setback to conform with existing homes in D zone.

Mr. Oliver presented map. This is lot #2 Charles Ave.

Mr. Detillo, Attorney, appeared to represent Mr. Oliver. Mr. Detillo presented proposed plans of the house, about 30 ft. in width, leaving 12 ft. on the side that abuts on Theron St. This is a corner lot. Lot #3 is vacant, but lady does not want to sell. House on lot #4. The house set forth in the plans includes garage. The house would be facing Charles Avenue. Length of the house would be 48.9 ft. 40 ft. setback would be in line with the other houses, rear setback 30 ft. The lot is 50 ft. by 120 ft. The rear dimension of the house would be 26 ft. They have entered into a purchase offer contingent upon obtaining this variance. Mr. Detillo called attention to the fact there is a similar situation on lot #26 Block F. Mr. Strassner replied that is a sewer right-of-way, not usable. It is now Sewer Agency property.

No one appeared to speak on this application.

Application of Norman R. Boughton, 268 Stottle Rd., for variance to place temporary sign 31 in. by 31 in. inside curbing at 3225 Chili Avenue, B zone.

Owner of the property is Ronald Downes, who appeared to represent Mr. Boughton. This is the Chili Coin Center, sign would be just to show the place of business. He sells and trades in coins.

Mr. Strassner: How far from the road?

Mr. Downes: In line with existing signs already granted variance.

Mr. Davis said this would be inside the State curbing.

Mr. Downes said eventually they would put up a permanent sign, this is just temporary. Time is indefinite. If the business goes as he anticipates, he will put up a pole sign at that time.

Mr. Strassner asked if this would conform with the signs that we have and Mr. Downes replied yes.

No one appeared to speak on this application.

Application of Larry Rinaldis, 76 Elmeroft Rd., for variance to erect single family dwellings on 50 ft. lots on lots #11 and #14 Block E Morrison Ave., and lot #23 Block E Harold Ave., with front line setback to conform with existing homes on street in D zone.

Peter Sulli, attorney, appeared to represent Mr. Rinaldis.

Mr. Strassner asked if they would want a side line variance and Mr. Sulli replied no.

Mr. Sulli: We have three lots substandard, 6,000 sq. ft., 50 ft. by 120 ft. We are requesting permission to construct three homes. These lots are substandard set up in a subdivision ~~prior~~ in 1927 prior to the date of your zoning ordinance. We contend to come within the protection of the single separate ownership theory. These were owned separately and singly by the applicant and predecessors without owning any adjoined lots at any single time.

Mr. Sulli then presented the following exhibits:

Exhibit A - Abstract & Title Insurance Corporation #2763 dated March 24, 1939, re-dated Nov. 20, 1945

Exhibit B - Monroe Abstract & Title Corp. dated April 28, 1965

Mr. Sulli said lots #14 and #11 were owned by Westwood Manor Inc., foreclosed by County of Monroe in 1961, held and sold to applicant. Lot #23 was not through the County, but through an individual owner, purchased from the heir of the original owner, Chester McKain.

Abstracts were presented to Town Attorney for his study.

Mr. Strassner asked if lots #12 and #13 Block E were empty. Mr. Sulli replied yes.

Mr. Wickins stated Abstract does not show title to the client, just the County of Monroe. Mr. Sulli replied he has this under contract purchase. Plans were drawn to suit these lots. Lot #23 is one between two existing homes.

House would be 26 ft. wide, garage in front, ~~approximately 36 ft. 30 ft.~~, average of 35 ft. setback. 26 ft. includes garage, single car 12 ft. by 18-20 ft. The living area itself would be 1050 sq. ft., ranch type house.

Mr. Strassner pointed out the plans showed house 898 sq. ft. Mr. Sulli said he told the architect at least 1,000 sq. ft. The garage does jog out somewhat. The house proper will be between 1,000 and 1050 sq. ft., with garage area added to it. More than 10 ft. on each side.

No one appeared to speak on this application.

Edward R. Terry, broker, appeared for Towner Enterprise on Scottsville Rd. for discussion with the Board. They would like to erect a sign selling or leasing land for an industrial park, back 150 ft. from the road.

DECISIONS OF THE BOARD:

CHARLES KALMBACH - Granted variance to erect 12 ft. by 15 ft. porch on east side of garage, 8 ft. to north side lot line, at 8 Wyncrest Dr. All members voted affirmative.

JOHN CORNELL - Granted variance to operate dog kennel with following restrictions: limited to 4 adult dogs; not more than 2 females; any puppies to be disposed of by time they reach the age of 3 months; not to be a commercial kennel, only for the use of Mr. and Mrs. Cornell, 27 Creekview Dr. All members voted affirmative.

HOWARD YOUNG - Granted variance to move existing garage to 4 ft. to side lot line at 687 Marshall Rd. All members voted affirmative.

WILLIAM WHITEMAN - Granted variance to build attached garage 8 ft. from east side lot line, 424 Paul Rd. All members voted affirmative.

KHEEL & SUNDELL - Granted variance to place two 8 ft. by 12 ft. signs temporary, on east side of 2009 and west side of 1895 Westside Drive. Variance granted for one (1) year. Signs to be placed at the discretion of the Building Inspector. All members voted affirmative.

JOSEPH OLIVER - Denied application for variance to erect single dwelling on lot 50 ft. by 120 ft. at southwest corner of Charles Ave., 14 ft. to east side lot line, front setback to conform with existing homes. All members voted negative.

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JOSEPH PASCARELLA - Granted variance to erect 5 ft. by 5 ft. illuminated sign on roof of barber shop and antique shop at 3193 Chili Ave. Members voted as follows: Mr. Pfenninger yes, Mr. Hunter yes, Mrs. Tanger yes, Mr. Van Slyke no, Mr. Strassner yes.

COLUMBIA AVENUE CHRISTIAN CHURCH - Decision reserved on variance to erect 1 & 2 story masonry wood church 140 ft. by 120 ft., 60 ft. from front lot line at 2647 Chili Ave.

LARRY RINALDIS - Denied variance to erect single family dwellings on 50 ft. by 120 ft. lots, #11 and #14 Morrison Ave., Block E. All members voted negative. Granted variance to erect single family house on lot #23 Block E Harold Ave., front setback to conform with existing houses. House to include garage. All members voted affirmative.

NORMAN BOUGHTON - Granted variance to place temporary sign 31 in. by 31 in. inside curbing at 3225 Chili Ave. All members voted affirmative.

MADLINE L. DINTRUFF - Adjourned - Request to appeal decision, determination and order of Supt. of Bldgs. for storage of explosives on property bounded on north by Paul Rd., on west by B & O RR, on south by N. Y Central Westshore line, on east lands owned by County of Monroe.

June Yates, Secretary

MINUTES

Meeting of the Zoning Board of Appeals of the Town of Chili, New York held Tuesday evening July 27, 1965. Meeting opened at 8:00 P.M.

Present: Cornelius Strassner, Chairman
 Charles Pfenninger
 Howard VanSlyke
 Mrs. Gertrude Tanger
 Ralph Wickins, Town Attorney
 William Davis, Building Inspector

Mr. Strassner announced that application by Paul Praino, for approval to erect apartment project behind existing farm house on southwest corner Chestnut Ridge Road and Paul Road in E zone had been withdrawn.

#1. Application of Sofia Pikacs, 2 Clifton Road, variance to build 18' x 28' garage approximately 27' from front lot line at 2 Clifton Road in EE zone.

Sofia Pikacs appeared with Mr. Vecchi as her agent. Presented tape survey map of lot. Would be 7' back from edge of porch. Will be 12' from her line. Mr. Strassner explained to those present it would be set back 6' from front of house. House on corner lot and had been there for years. She has approval of her neighbors.

On question, no one appeared for or against.

DECISION: Application approved unanimously.

#2. Application of Bernard Bianchi, 201 Angelus Drive, variance to build house on 50' width corner lot, 46' to front lot line, 8' to east side lot line and 18' to west side lot line on lot 14, Block D, Morrison Avenue in D zone.

Mr. Bianchi appeared with map. Meets specifications of house size - 1056 square feet. Mr. VanSlyke asked if adjoining lot built on and was informed it was. Mr. Bianchi changed it to 45' instead of 46' to front lot line. Would be in line with other houses.

On question, no one appeared for or against.

DECISION: Approved unanimously but he will have to improve road in front of house according to Town specifications and it is to be in line with other houses.

MADeline L. DINTRUFF, 2771 Chili Ave., to appeal decision, determination and order of the Supt. of Buildings for storage of explosives on property bounded on north by Paul Rd., west by B & O Railroad, south by New York Central West Shore line, east by lands owned by County of Monroe, in A zone.

James Hartman, Attorney for Madeline Dintruff the applicant appeared for her. He said: You may recall on January 26, hearing was had in same matter and this Board denied our application thereafter. Article 78 proceeding was brought in Supreme Court Monroe County and the matter was remitted here again to Town Board for re-hearing based on fact proceedings at that time were incomplete and on consent of both counsel for Town and myself, counsel for the applicant, we agreed to the remitter here to Town Board. At the time I do not know, frankly, if there is anything of substance that we can add to original application. Few things I would like to discuss tonight. You ladies and gentlemen are familiar with proceedings at that time. There were minutes made of which I have a copy. The original hearing was had on January 26, 1965. I want to try to refresh you in that this is not application for variance, it is an appeal to this Zoning Board of appeals to review the decision, determination and Order of the Building Superintendent of buildings of Town of Chili. The Order from which we seek review was an order in letter form dated November 16, 1964 in which Wm. A. Davis advised the petitioner Madeline Dintruff that there were metal buildings on the property in question used for the storage of explosives and that

such use was in violation of Section 19-61 of the Zoning Ordinance of the Town of Chili. It was also pointed out in letter of November 16, 1964 that the said metal buildings were stored closer than 100 feet setback from the property line on Paul Road which was in violation of Section 19-64 of the Zoning Ordinance. Now, what the second matter mentioned in the letter, that is the violation of 19-64 concerning 100 ft. setback has been corrected and was corrected after receipt of letter. Do not think issue before Board at this time. Concerning the storage of explosive powder alleged in violation of Section 19-61 of Zoning Law, that is an issue and it is our contention tonight as it was on January 26, 1965 that we are permitted to continue the storage of explosives on the ground that we have a legal preexisting nonconforming use, that is to say that the property in question was used uninterrupted for the storage of explosives for a time prior to the enactment of the Zoning Ordinance prohibiting such use, That is in November 1947 that the property had been used prior to that time continually and to the present date for the storage of explosives.

At the date of the original hearing we put into evidence several exhibits. Mr. Wickens I believe you still have certain of these exhibits. I have here Abstract of Title to this property, which I will ask to be accepted as an exhibit again tonight and in addition I have a deed to property in question including property, some of which no longer is in question here, but it does include this property. Deed dated 16 February 1946 and it is deed from William LeBarr to Madeline DeBarr Dintruff. Point out only one thing, Mr. Wm. LeBarr took title to this property by deed dated April 18, 1939 and which deed was recorded on April 19, 1939 in Monroe County Clerks Office in Liber 1944 of deeds at Page 114, and as we pointed out at the earlier hearing, the property from that date, that is April 19, 1939, had been and has been used continually for the storage of explosives.

To expedite this proceeding and to cut the time down, I would like to ask the Board to incorporate, if it will, all of the matters discussed on January 26, 1965 including the minutes of that proceeding. If that is agreeable with the Board and with the folks here tonight I think we will cut down a lot of time because basically it would be essentially the same thing. I wondered if that is in accord with thinking of Board.

Mr. Wickens: Perfectly agreeable to me and will include all exhibits and testimony of that time.

Mr. Hartman: I have copy of minutes, does the Board have?

Mr. Wickens: They will review them later.

Mr. Hartman: I have just a few matters. At the time of that hearing, had exhibited some maps. (Mr. Wickens said they were here) Actually all I am doing now is the same. I have repeated everything that took place on January 26 and I would like to anticipate certain things that were raised at the time. Mr. Wickens and I have been discussing this matter on phone. As I have understanding to put in certain evidence concerning matter in issue tonight, I would like to add certain matter. At the time of the hearing on January 26, Mr. Wm. Kelly, member of the Town Board stated, and I refer you to last page of transcript of meeting of January 26, 1965 hearing, he stated: that, I refer to my comments--the building inspector had erroneously ruled with respect to how he could to matters--he said: I am appearing here to night. Mr. Hartman says Town Board was erroneous in its decision. As such Building Inspector carrying through erroneously. If the Town Board had taken action, this material and details presented here tonight should have been presented to the Town Board. It would have helped the Town Board to make decision. Now Mrs. Dintroff or Mr. Dintroff had any knowledge of any Town Board meeting in which this matter was discussed or at which any decision was made instructing the Superintendent of Buildings to place the Stop Work Order on the premises. This was in evidence last time, but there was no opportunity given to the owner of the property to present any material to the Town Board and I do not know nor does Mr. of

Mrs. Dintruff know at what meeting of the Town Board action was taken to instruct or direct the Building Inspector to act in the manner he did, nor the nature of the meeting nor if there was any discussion in the matter and to date we do not know the nature of the resolution that must have been passed instructing the Building Inspector so to act. I must say at this time that I can see that the Superintendent of Buildings has the right to act in these matters as the Administrator officer charged with the responsibility of executing Zoning Ordinances as well as any building code that may be in force in Town of Chili. I do not say he had to have any instruction or direction from the Town Board, but this material which was said not to have been presented to Town Board could not have been presented by client not having known about meeting or direction that took place.

Next I think is kind of inference in the thinking of some of people to speak on January 26th and that is this statement found both in Mr. Kellys remark and repeated by Mr. Wehle. Mr. Kelly said: it would have helped when the matter came to Town Board, I think negotiations and settlement of condemnation action by the County in acquiring of airport land, negotiations involved should be made part of any proceedings concerning this property. On portion was outright taking of property. Another portion was for relocation of the business. This should be in the record. It would have some consideration by the Town Board. -- I have just quoted from the minutes of that meeting and in substance I would say that is what Mr. Kelly said and I see he was here, but I will say this, I take exception to each and every conclusion drawn by Mr. Kelly for I do not think any of the negotiations or settlement procedures followed by the County of Monroe under its authority to take property by eminent domain have any relativity to this proceeding nor do I think they should be considered here by this Board or should have been considered by the Town Board in authorizing the issuance of a stop work order by the Superintendent of Buildings. There was and assuming that the Board of Supervisors of the County of Monroe they had considered anything other than value of the real value to be pertinent in the amount or decision to take possession. I do not think it is relative. I not only disagree with Mr. Kellys conclusion but I shall to his statement where he says one portion outright taking or property and another for relocation of business. There was no money, I repeat, there was no money nor consideration nor value placed on any relocation of the business, on anything but the value of the real property taken by the County. Now mind you, I am making this statement at the same time that I say this is irrelevant but if it is to be considered let us set record straight. There was no value placed on anything but real property.

I would like to introduce in evidence Resolution 423 of 1963 of the Board of Supervisors of the County of Monroe, being a resolution concerning acquiring premises for the expansion of the Rochester Monroe County Airport in the Town of Chili and I submit Zerox copy of the notice of the resolution as it was published and I have here a clipping of the published notice and call to the Boards attention that the only thing for which consideration was paid to the owner of the property acquired by the County of Monroe, and that is the same involving Madeline Dintruff who owns property in discussion, the only thing for which consideration paid was real property and no where in that resolution is there any mention of anything except purchase of real property for the purpose of the Rochester Monroe County Airport. (copy of resolution marked Exhibit G and incorporated in minutes)

It might be a little difficult to get thread of what we are doing here tonight, this is sort of add on to what took place on January 26 in anticipation to the same questions raised at that hearing. Quoting from transcript of minutes with regard to statements by Mr. Wehle, member of Town Board, and he is referring again to negotiations with respect to condemnation of part of the land owned by the applicant herein by the County of Monroe, he said: At the time of negotiations, Mr. Gray made the statement there was no other place to go. You were given \$250,000 for the property, \$200,000 for hardship. He applied in Scottsville and was defeated and said he was going to move back into Chili. I have been pressing the Town Board to act. I knew after the roads were in his plea would be that they were there previously. If you study the aerial maps you

would know the condition of the land.-- He was not given anything for hardship, there is no such thing. Only authority that any board had, be it State of New York or County of Monroe or other County under laws of eminent domain is pays for value of real property. Do not pay for bushness or hardship. They pay only for real property. There may be consequential damages to property as reduction in value of what remains as in this proceeding. Property owned by applicant Mrs. Dintruff is worth less than it would have been worth had the County not condemned the contiguous adjacent land for airport purposes, but this consequential damage to remaining property is not paid for hardship or relocation of business, merely payment for reduction in the value of the land. Now I point this out and I am emphasizing this point tonight because seemed to have been. Again I repeat, it is irrelevant as far as I am concerned. However it seems to have been of considerable importance in the minds of those opposing this application.

I am going to say, honestly, it is not untrue, all money received by applicant appears to be sizeable, but I do not think there is one nickel of money paid by County of Monroe for the dislocation of applicants business because all of land on Paul Road near Airport increased in value over the years. No one here does not realize that 1939 when applicants father bought this property one could predict up surge in values for land in and around airport. Those were different times at that time land was purchased and taxes paid and if land owner in or around benefited for appreciation in value of the real property nothing to do with the applicants business of the storage of explosives on land surrounding that were as appreciated in value despite the nature of the use to which that land was put and I might say all of that land I am talking about is zoned industrial.

What we are concerned with here is the right of the applicant to continue to use the land of which she still is possessed after the taking in the same manner and for the same purposes for which it was used we say continuously and continually since 1939. What I say now might be repetition of January 26. We might be playing from weak hand in view of fact we got unfavorable decision from this Board January 26. The point is this, It was a dispute on an issue with regard to what particular land was used for the storage of explosives. Now we know this land, the deed I have introduced and the Abstract the land that was acquired, this land, in 1939 by Wm. LeBarr and thereafter in 1946 Wm. LeBarrs daughter, petitioner Madeline Dintruff was combined in 1952 with other land. It was not combined other than with adjacent land and owned by same person. This land known as Brickyard property land purchased in 1952 adjacent to this land known as Andrews Farm, now the Andrews Farm added to Brickyard property giving great deal more continuous property for applicant, this allowed for an increase in the amount of explosive storage in accordance with the New York State regulations concerning storage of explosives for we know and as I said in January, setback requirements, the land area required by State of New York for the storage of explosives is extensive. State regulations have been enacted and made part of law in order to protect persons and property in area. All safety measures. Now what the Andrews Farm did to the property was to permit an increase in the total poundage or amount of explosives that could be stored. When County came along in 1963, the greater part was taken, but what is left was the original Brickyard property plus little gore of Andrews Farm. We are not discussing our right to store explosives on Andrews Farm because that property was purchased subsequent to enactment of Zoning Ordinance of 1947. Not pertinent tonight. But we do claim that we have the right to continue to store explosives on the Brickyard property which was first property purchased in 1939 on which stored in 1939 and in answer to some of the affidavits you are receiving in evidence in objection, on which there was a road to the brickyard bunkers and magazines located in 1939 and ever since on and of. Now it is the contention of the applicant that these magazines used for the storage of explosives are not builtin structures, have no foundation, no footing, they are portable, made out of iron and steel. They can be moved from place to place. Now the problem exists in that to what extent assuming we have non conforming situation, we cannot alter structure located on piece of property after it is built and on use after Zoning, may continue in its same form provided not changed. We concede and I am sure Mr. Wickens agrees, this is classed non conforming use. He can make any change or

expansion of non conforming use but there are cases in which the land itself, the area is encompassing into the use of the nature of the use of the particular land of the applicant has been from time to time and from occasion to occasion and I refer to matter of one half of nature is portable magazines moving on and off depending upon demands of business sometimes require more or less magazines in addition to actual land not physically occupied by a magazine was encompassed in the use for explosive storage purposes because the State of New York says in order to store so many pounds, setback so many feet from road nearest, or railroad, lot line. I might add there are railroad and public highways all adjacent to this property, so that in order to comply with State regulations if magazine placed on particular spot, placed there considering requirement of State of New York for setbacks for these various items. The land that encompassed setback was as much a part of the use for the storage of explosives as the 8 or 10 square feet occupied by magazines itself. These magazines not large, being relatively small. Say few by few feet because you are not permitted to store so much dynamite in any one place at any one time. All land encompassed in its use and has the type of dynamite for jobs in area. If the demand for dynamite increased or decreased, number of magazines and location would change because when stored more dynamite, as example 40,000 put into permissible setbacks as 20,000, allow double setback or put another magazine up which would permit area unoccupied, not only set back from other building but by magazine itself. All of this had been going on since 1939. Undoubtedly not everybody knows how many magazines were on property at any one time or exactly where placed with exception of my client, who would know from own books and records.

Why am I going through this which seems to be probably boring and not too enlightening? It is because we are dealing here with matters of almost, and there are cases which indicate with respect to non conforming use, maybe trailer park might be more clearly non conforming use, it is not necessary for that nonconforming use there be 100 trailers in exactly same spot as always permit to use for 100 trailers and change location from time to time. Use of that land is in fact fairly flexible use in that they can be moved from place to place constituting use of land as opposed to permanent fixed structure. That is analogous to land where nature of land, use to which land put, in permanent structures, but a use of all that land by their setback requirement and move and relocation of magazines over all of land to comply with State and more recently Federal regulations with respect to storage of explosives. What I said I desire to be added to the record of proceedings on January 26 to complete what may have been incomplete on our part at that time in rebuttal to affidavits submitted on behalf to opponents to our application and in furtherance of our case.

In trying to convince this Board that the determination of the Superintendent of Buildings was in fact erroneous as a matter of law for the reason that although on its face the Zoning Ordinance prohibits the use of this land for the storage of explosives, there is use for that purpose predating the enactment of the Zoning Ordinance, the use never abated or discontinued, land continuously used for that purpose and as a matter of law the owner Madeline Dintruff has a vested right to continue the use of the land for the storage of explosives.

Thank you for your patience. I will try if I can to answer any questions any may have.

Mr. Wickens put in evidence three affidavits, one by George Lusk, one by Wm. Davs, one by Harold Knitter. He received letter from Executive Committee, County Planning Council, County of Monroe in this matter which he will put in evidence, concerning use and advising us to go very carefully and consider very carefully the storage of explosives. This is close to Airport. He will send copy to Mr. Hartman.

Mr. Van Slyke: There were two permanent bunkers on this property. Were they on property which was sold to airport?

Mr. Hartman: Yes. They are abandoned.

Mr. Van Slyke: There was a road past these bunkers. When was the present road built? 5

Mr. Hartman: The present road on Brickyard Property?

Mr. Dintruff: Last summer.

Mr. Van Slyke: New visible stone road which is roughly parallel to the runway?

Mr. Dintruff: Built last summer.

Mr. Van Slyke. What other assets did you have therein in bunkers stored except those I saw last winter which were stored along road? I presume they were empty.

Mr. Dintruff: They were empty.

Mr. Van Slyke: Where was the access to the bunkers which you say were on the railway property?

Mr. Dintruff: That was downthere right across from where Beahan Road went in. That was original road, it was an old road that went in and ran into woods next to railroad.

Mr. Van Slyke: I received permission from late Mr. Wm. LeBarr to seek some bricks which I erroneously believed were from old house I purchased. I went there I assumed those bricks came from there. I received permission from him. I was unable to drive a car in back of the brickyards, past its central plant. There were no tracks no evidence of road. I do not remember you using any horse and wagon to get in and out of there. Mr. Frank Zuber, do you remember seeing bunkers located prior to Zoning on the area that they now own, this strip along railroad track. Can you say you saw bunkers there?

Zuber:

Mr. Dintruff: Bunkers were in permanent position on Andrews. Believe there was some small buildings on the Brickyard property. Storage of caps.

Van Slyke: On Brickyard property that owner holds title to or on property they sold to airport?

Mr. Zuber: No permanent to my recollection but I do think small steel buildings on Brickyard property. I was of opinion they were for storage of dynamite caps so far from storage bunkers.

Mr. Van Slyke: But were they on property sold to airport or adjacent to railroad?

Mr. Zuber. Carl, when you opened road in 1929 to bunker on Andrews to Brickyard, well he had stell buildings on Brickyard property.

Mr. Van Slyke: On present part or part sold to County of Monroe?

Mr. Zuber: Not familiar enough to answer that because do not know where line there ends.

Mr. Hartman: We are not claiming any permanent buildings on Brickyard property.

Mr. Van Slyke: Arguing point whether or not access to present existig property.

Mr. Strassner: Mr. Hartman were you called before Town Board for being in violation of this ordinance?

Mr. Hartman: Only thing we knew was letter on November 16. from the Superintendent of Buildings which said what we read before that they were in violation and receiving the stop work order put on various trees located on property in question.

Mr. Strassner: How many storage bunkers prior to Zoning Ordinance

Mr. Dintroff: Magazines as we call them, owned 150 of them.

Mr. Strassner: Were all located on that property.

Mr. Dintruff: No sir.

Mr. Strassner: I mean how many on that particular property prior to Zoning.

Mr. Dintruff: There were two permanent magazines and 7 portable, I believe. Now I could be wrong, I am right on permant.

Mr. Strassner: How many do you have now?

Mr. Dintruff: Five

Mr. Strassner: How far from railroad

Mr. Dintruff: Nearest one 300 ft. but there is no required distance to be away from railroad.

Mr. Strassner: Airport runway

Mr. Dintruff: From line of runway?

Mr. ~~Strassner~~: Center line extends out over the property?

Mr. Dintruff: We are over half a mile and probably 3/4 to end of runway. Somewhere in neighborhood of 1,000 ft. extended in southway direction from end of runway.

Mr. Strassner: 1,000 to approach?

Mr. Dintruff: Center line probably be 1,000 ft. from that line.

Mr. Strassner: Mr. Pfenninger would like to know if had roadway, why build any?

Mr. Dintruff: Because of layout of magazine and layout of land. Original Brickyard plant, that plant went along railraod track 1,000 ft. Blair Co. is in thee now and rent a yard from us for storage and their buildings right where that was. We were back of that with magazine 1939 that were adjoining in permanent magazines.

Mr. Pfenninger: Only road along brickyard right through the brickyard?

Mr. Strassner. How many acres did you sell.

Mr. Dintruff: 134.9 I believe.

Mr. Pfenninger: On Andrews and part of brickyard.

Mr. Dintruff: Was 54 or 55 only 35 acres left out of original brickyard.

Mr. Strassner: Has less value now than then? What did you get for the airport property.

Mr. Dintruff: \$460,000.

Mr. Strassner: How many acres left?

Mr. Dintruff: Approxinately 35

Mr. Strassner: Do you intend on expanding your business at that point?

Mr. Dintruff: I would certainly like to move magazines in and out but have not because of stop work order.

Mr. Pfenninger: How much at any one time?

Mr. Dintruff: About 100,000 pounds.

Mr. Pfenninger: How many magazines would that entail?

Mr. Dintruff: At least 6 without a cap magazine.

Mr. Pfenninger: Could not store over 100,000 at any one time?

Mr. Dintruff: No sir. Do not believe as hard as I tried could get any in excess

Mr. Pfenninger: What magazine to bring dynamite to make storage to channel it out here?

Mr. Dintruff: Yes. We have lot of traffic over highway with trucks and need to get it into city and towns.

Mr. Strassner: Where is main storage.

Mr. Dintruff: LeRoy - Gulf Road. When we are through there, storage for a million pounds.

Mr. Van Slyke: Do you know about how much the footage you still have and how wide front still is on Paul Road and also would like to know what the width of the strip was.

Map shown to Mr. Van Slyke and Board - 600 ft. roughly on Paul Road.

Mr. Dintruff: Inminutes of last meeting.

Map presented and maked Exhibit H

Mr. Wehle: I did not call Mr. Gray directly, referred to article written in Democrat & Chronicle. Few feet by feet buildings, move back and forth -- would take tractor to move it about. First one installed. Town Board, four of us are here tonight, have been watching piece of property for additions and record, we had instructed Mr. ~~Dintruff~~^{Davis} when we noticed road being built to rear of property to put stop work order. We were instructed by attorney this would be perfect because he could build road but until such time until construct bunker we really had no jurisdiction. Road in now, what it was used for, this in mind, Town Board watched property closely. I know property for great number of years, siding on corner used by some of us before zoning. That piece from aerial map shows that the property, aerial map in 1961, and many photos, these were taken from time to time and they are available, map prior in 1963, shows all bunkers on opposite but none on this piece of property, property 16 or 17 feet below Paul Road, elevation, it was impossible to get down through this. I can remember before zoning low, many fires occurred because piece of property was used for refuse and junk, trash and papers. Mr. LeBarr asked to kindly cover property over. I was on Town Board when checking property in question. If this holds true, these bunkers which are moveable and are not taxed, this is not a point whether on tax rolls, property only assessed for \$100. an acre, but why was \$460,000. given for 118 acres for property \$60. an acre, if it was in some Ways and Means Committee.

Mr. Dintroff: asked for twice this sum and given half. Does not Ways and Means Committee or influence value they put on property most important that the supervisor who was building inspector have not too sure how many years, the present building inspector, I have been back there. None have ever seen bunkers on this piece of property. If bunker is moveable and transportable therefore whole property constituted variance. What about others who have to get variance. Bunkers were never stored back there, perhaps did at one time or another but if it were moved after zoning. Has never put out portion of total acres, but it was sold off and a very good piece of money paid by County of Monroe for piece of property. Whether this was inducement or was given to him because he had to go out of business. He would have to come in and ask for rezoning and Zoning Board of Appeals to make application to store nor got permission for more than originally and out of order. We feel no dynamite ever stored. We as Town Board feel should not be here. We would like to see Zoning Board turn it down.

Inquiry of Wm. Updejohn of Staff of Planning Council: We have copy of regulation of State on storage of explosives. Would like to inquire the specification given in table on page 20 if these regulations do or do not apply to storage of explosives. These magazines think I heard, say no restrictions?

Mr. Dintruff: On railroads, No.

Mr. Menihan. Requested letter read that was received this evening from County Planning Board.

Mr. Strassner then read letter which was incorporated into minutes.

Mr. Kelly: The time although irrelevant, I would like to know if possible to get information whether or not County of Monroe at time of negotiation of this claim was aware of the fact of continuing use of this adjoining property for dynamite purposes.

Mr. Dintruff: County has known this ever since day we knew we intended to use it for light storage for city work and vicinity work. If we had to go out of County to relocate all go over with FHA and Mr. Gray and his department. We have given them permission so go across road so they can get back our road to inspect and truck goes by those magazines every day. We will not hide anything and certainly not from County and FA.

Mr. Kelly: How many acres in remaining property.

Mr. Dintruff: Approximately 35

Mr. Kelly: Why County of Monroe with full knowledge of danger did not acquire additional 35 acres.

Mr. Dintruff: I cannot answer that. Asked me to buy so many acres. That is what I sold them.

Alexander Gray, Director of Public Works: We purchase land 750 ft. each side of runway which is required distance. Federal Government bought 50% of cost of that land. There would be no participation by Federal Government on more land and we did not feel necessary for us to buy it. That is why this 35 acres left unpurchased. My department bought it, I was involved in negotiations.

Mr. ~~Kelly~~ ^{Strassner}: Did you at time expect him to go on with explosives?

Mr. Gray: It was understood to be used as he is, light storage.

Mr. Strassner: At that time you felt would not be dangerous

Mr. Gray: I did not feel it would be dangerous.

Mr. Strassner: Do you now?

Mr. Gray: I do not

Mr. Kelly: Mr. Gray, would you say it was understood or agreed?

Mr. Gray: There was no agreement, in discussion, He might use this for light storage, do not know what made with Federal Aviation Agency. This would not be hazardous to airport.

Mr. Powers: I do have personal knowledge of the property, but the essential thing seems to be whether used or not in use for this dynamite storage as far back as 1939 and whether on or off what was original or total property before you had land sold to County.

Mr. Dintruff: Permanent magazines and bunkers at the height of Niagara project, we had in neighborhood of 270,000 stored there at one time.

Question: How many magazines at one time.

Mr. Dintruff: Probably 10 with permanent bunkers.

Mr. Powers: As I understand you you sold 134.9. You have approximately 35 acres remaining. You now intend 35 acres to upwards of 200,000 at the height of your total Niagara project you had approximately 270,000 - 200,000 would be more toward normal about 1/2 of what you can do now. Point is how often was this present 35 acres in use for any storage, was it two days, week, month year.

Mr. Dintruff: Never in use only prior to 1939.

Mr. Powers: At some time since 1939 one or more magazines on this property?

Mr. Dintruff: Yes, several.

Mr. Powers: This seems to be the gist of affidavits of Mr. Lusk, further stated by Mr. Wehle, this was his knowledge and further stated by building superintendent at one time, did they see a magazine on this property. Do you know why this might be? Including aerial pictures that did not catch this.

Mr. Dintruff: Would like to clear up one point. We are storing 20,000 pounds in magazines which take relative short distance 900 ft. from nearest building to store in when you have 70 or 80 pounds you have to have 3,290 ft. That is why earth fill was put around so you can cut that directly in half. That is why you can store so much on a piece of property 200 or 170 as I had originally, the County asked to buy 16 acres for a disposal plant.

Mr. Powers: My question is this, some years back Superintendent of Buildings George Lusk on a variety of occasions passed area and never saw magazines, present building inspector Davis on variety of occasions did not see magazines, plane taking pictures, pilot and camera did not see magazines. One day each time no magazines there, but applicant claims one or more magazines there at all times. Is there some record to indicate this.

Mr. Dintruff: Were some stored there at all times. Within that particular 35 acres as therein magazines back in 1939 on this particular 35 acres.

Mr. Powers: Seems to be conflict of pictures and 3 people who stated they never saw it. I did see aerial photo. I would ask this question, how could it be there and have camera miss it?

Mr. Strassner asked if Mr. Syracuse in audience. Did not come forth.

Mr. George Smith: If dangerous for airplanes to come in that area what about gas and oil storage tanks along canal?

Mr. Wickens advised had nothing to do with this case and would not go into that now.

Mr. Dintoff, Chili Avenue. I think point is well taken, in that letter from Planning Board makes recommendation that were supposed to be broad and general in connection. Should be for whole area.

Mr. Wehle: Most important thing, were they ~~xx~~ there or not. Evidence by Mr. Lusk and Mr. Davis, myself, have never seen them. Ariel photos never seen where they were. Were they in and shall you permit them to be there and if so given permission to enlarge. Before Mt. Morris Dam that was under water, that property, bridge and all of Paul Road if he had been storing in that are would be under water.

Mr. Dintruff: Mr. Gray will back me up on this. Mt. Morris Dam, I called him of a Sunday Morning, and Al Skinner got him out there. We dug up your county road and where disposal plant to let water out from our place to carry off water. Had 3 feet of water in my dynamite magazine. I know water conditions and I know that was only time I ever had water in those.

Mr. Wehle: On old piece of property or new piece of property? Because map shows elevation 517 and 516 on rear of property and it is 524 on the road behind in 1962.

Mr. Dintruff: Rear of property goes down the old property to 516 to 518 with variance of 2 feet. I know property behind Mr. Bolivars plant was not built, I am wondering if Mr. Wehle was not referring property filled with trash was not property on Scottsville junction where now 84 Lumber.

Mr. Wehle: Property right opposite Fisher Road

Mr. Powers: May I ask this. You had two permanent bunkers which we know on property sold. Was the purpose of portable bunkers to take care of dynamite in excess of holding capacity of two permanent bunkers?

Mr. Dintruff: Yes they were in addition.

Mr. Powers: As long as permanent bunkers could hold fine when you needed had additional portables.

Mr. Powers: Capacity of old bunkers.

Mr. Dintruff: 1, 70, 1 75350. Part of this could be eliminated. Depend much on supply. If shipments of 3 125,000. then obviously portables some place. Then on present property. If dropping below no use for portables and it would not be up. Portable not up when under 125,000.

Mr. Strassner: They can be moved from one spot to another, they do not take building apart.

Mr. Powers: Two permanent buildings which they use first built up until supply exceeded then set up additional magazines. This would certainly fall over 125,000.

Mr. Strassner: Big question, did we have these magazines on existing 35 acres prior to zoning.

Mr. Dintruff: After the original two permanent magazines were there before zoning, Town of Chili gave us two building permits to put up two more on the original property or piece of property. One was for 75 and the other 65.

Mr. Wilcox, 515 Paul Road. I will still go back to what I said in January. You had solid bunkers on Buffalo Road. 1941, 45, 46.

Mr. Dintruff: Not 1946.

Mr. Wilcox: May I ask how much storage over there? We still would have to figure storage on Buffalo.

Mr. Dintruff: I am sorry, I will show you our contract. 50,000 storage on Buffalo and 100,000 caps in two buildings removed from there, I believe in 1942.

Mr. Van Slyke: Mr. Hartman I believe you made statement earlier that when the Andrews Farm was acquired this gave you more scope for storage of explosives because of rules and regulations than when the old space very small storage (2 acres) plus. Do you feel that your storage facilities were depleted by the sale?

Mr. Hartman: No question about that. You see the Andrews farm was, nothing built on Andrews permanent or temporary, what was used for set back requirement. Without it seriously depleted.

Mr. Van Slyke: Therefore presumably you could not store as much as before.

Mr. Hartman: That is right. We do not intend to.

DECISION: Adjourned to next meeting. Decision reserved.

#3. Application of Emmanuel A. Paxhia, 10 Chili Riga Town Line Road, variance to operate private picnic area and camping grounds on portion of property and on approximately 70 acres at 10 Chili Riga Town Line Road in EE zone.

Mr. Paxhia appeared with aerial map of area involved and rough sketch of his intentions. This area is at the intersection of Green Road and Chili Riga. Approximately 115 total acres. Would like to put about 70 acres of it on northmost portion for camping site and private picnic area. Any facilities in full accordance with County or town regulations. There will be a pond. Approximately 1 - 1/4 acre, it will be supervised. When pinned down said would not be for swimming. About 10 acres actually for camping. Would be probably 50 tents. average 4 people to tent. Picnic area separate from camping site, about 10 acres. Feels will accomodate 100 or 200 people. Enough room for parking area, and definitely on property.

Mr. VanSlyke question how close to nearest neighbor. Mr. Paxhia presented signatures of some of neighbors. He has outlined people on map.

Mr. Van Slyke asked what facilities are you going to provide.

Mr. Paxhia said there will be water and sanitary facilities. They will comply with Monroe County Sanitation. Will not be open toilets. There will be drilled wells. Will not go into any expansion unless he knows he can go through with project. There will be flush toilets. On question of how many, did not know.

On question:

Mr. George Smith, 100 Wheatland. Am building house nearly adjacent to Mr. Paxhia establishment. When I bought this lot 2 months ago I was under influence it was strictly EEE zoning. Now this street we all plan to live on is very quiet, cannot be more than 6 or 8 or 10 at most, now if he wants to change it 400 people on land back there. I just cannot see where my property will have any value or we will have peace or quiet.

Mr. Kurtz. Asked to look at map of suggested area.

Mr. Smith: Wondering if Mr. Paxhia realizes fire danger. Seems to me here widely enclosed in trees on 3 sides, as conditions now camping starting fire, how far it could go.

Mr. Paxhia: Same problem no matter who is there.

Mr. Smith: People not there now in that capacity.

Mr. Sagardus. Pointed out a private lane on map, where he lived. How do know he will not go back there. Mr. Paxhia said area there is not suitable for such use. Is a mosquito hole. Mr. Sagardus questioned what to prevent a group of young people renting tents. On question Mr. Paxhia said would not grant permanent camping permits. Would be more or less transient.

Mr. Sagardus objects to using private lane and Mr. Paxhia said not intention to use it.

Mr. Smith. Would like to know how Mr. Paxhia will control noise. Mr. Paxhia said lives between area and Mr. Smith and was sure he would hear any noise before Mr. Smith. He likes to sleep to. Mr. Strassner asked if there would be control of noise to some extent.

Mr. Van Slyke: Do you have a job other wise that would take you away from property. Do you intend to personally supervise the property.

Mr. Paxhia. In part. If I do not someone will be there.

Mr. ~~Kurtz~~ Strassner: Will you have a caretaker. If you are not there there will be always some one who supervises area.

Mr. Paxhia. Yes.

Mr. Segardus: Is there actually any need for this type of recreational ground. Have Letchworth Park and Hamlin and I understand Chili might have one on Stottle Road.

Mr. Geo. Smith: Even if he does have caretaker, will he send him out in night?

Mr. Kurtz: My ~~own~~ Personal view is that this land being now zoned EE one of finest spots in Chili to build and quiet home

area, personally do not think it would be favorable situation with people living there or who will be living there in near future.

Mr. Paxhia: Would like to point out this is on an unimproved road on very edge of Chili in area which is still heavily wooded and very unlikely to be developed in any immediate future.

Mr. Wehle: Is EE. Should be built up with homes and certainly is not a hardship.

DECISION. Application denied unanimously.

#4. Application of George W. Van Der Mark, 1339 Westside Drive, variance to build and operate a coin operating car wash with 4 stalls in the shopping center at the rear of the Super Duper Market located at 4390 Buffalo Road in B zone.

Mr. Wickens: Town Office called and said Mr. Perry owns property, knew nothing about this application and it should not have been put in without his approval.

When Mr. Van Der Mark was called to appear, no one appeared. Application dismissed.

#5. Withdrawn.

#6. Application of Clarence H. Kuehle, 4271 Buffalo Road, variance to erect 67 in. x 72 in. sign on the east side of building at 4271 Buffalo Road in E zone.

Mr. Kuehle appeared. Application to build small sign reading CHICOTEE PONY RANCH on Buffalo Rd. 7 or 8 acres there. A few ponies. About 20 feet from road. It is not a commercial business.

On question no one appeared for or against.

DECISION: Application approved unanimously.

#7. Application of Julia Latone to operate one operator beauty shop at 1007 Coldwater Road in E zone:

Mr. Latone appeared representing his wife. Wished a part time beauty shop, one operator, plan no physical changes to property other than installation of equipment necessary. Wishes it for 3 or 4 years while children small. Appointment only, never more than one or two women in place at time. Would not have sign if objected to. Two car driveway. If 3 people there, driveway has backup portion. Would be about 3 cars including own.

On question of objection Mr. Ray Howard 7 Brasser Road appeared: My objection of sufficient parking. Afraid people on street will want to park cars behind house. Had letter from the people next door stating that they object to it also.

Robert Well, 5 Brasser Road. Lives right behind house. Afraid of parking.

No one appeared in favor.

DECISION: Application denied unanimously.

#8. Application of William H. Kohn, 3700 Union Street, variance to erect two-family dwelling on 92' x 190' lot east side of Union Street at Chili Avenue, being portion of property now owned by Louise Taylor in E zone.

Mr. Kohn appeared with map. 190 x 145, 150,000 square feet.

Mr. Strassner: This is going to be two story house? Renting both sides.

On question in favor or against:

Mr. Ray Arbor, 46 Redbird Rd., Any other double houses in E Zone?

Mr. Strassner: Only if built there prior to zoning.

Mr. Arbor: May point out good for single dwellings because residential.

No more objections raised. No one in favor

DECISION: UNANIMOUSLY DENIED.

#9. Application of Leo P. Collins 29 Adela Circle, variance to erect three two-family houses north side of Buffalo Road west of Ramblewood in E zone.

Mr. Daniel Miller representing Mr. Collins appeared. Request for variance to erect two two-family houses on plot of land 180 ft. in width on Buffalo Road, north side (notice amended to 2 instead of 3) Plot plan shown to board.

Approximately 270 ft. in depth. West line of Ramblewood, 300 feet from town line of Riga. Propose to erect two two-family dwellings on each of these lots providing can have it subdivided, in width and depth short, and will keep residential trend in that these proposed houses will have look of 1-family and two story design. Will be appealing in design and cost approximately \$26,000-\$28,000. Each unit 800 square feet of living area. Each will have two car garage. Only way to exit from homes will be from Buffalo Rd. Point out proposed site directly opposite location appliance dealer. On west at one time poultry farm. Would be advancement of area in that 2 family homes more in keeping with overall scheme of North Chili. More advisable to go in with double homes to hook in sewer. It has city water.

Mr. Strassner: Owned and rented out by owner.

Mr. Miller: That is correct. Mr. Collins lives in Adela Circle. May sell one to some other individual later but plans right now to maintain them both. 14 ft. up front owned by State of New York, on other side empty lot part of chicken farm.

On question any one objecting:

Frank Guberle, 12 Ramblewood Drive requested permission to look at plans. permission given.

Harry Steiner: No particular objection but would like clarification on one thing. Strip of land runs from Ramblewood Drive and butts back of this particular property. Two 90 ft. lots. Wished to know what to prevent variance to build on other smaller strip of land with variance behind this. Residents in are all single dwellings and do not want it. What assurance do they have no more two units will be put up behind it.

Mr. Strassner: First, have not granted any variance yet.

Ray Arber, Redbird: Was land bought for this purpose for erecting double?

Mr. Miller. Not bought yet but purchase contract with contingency clause of getting variance.

Mr. Arbor: No hardship involved. Then I object.

Tom Leader, Ramblewood Dr. I object to variance for that reason:

Mr. Guberle, Mrs. Guberle, Mr. Feeter of Ramblewood Mr. and Mrs. Kaiser, Mrs Steiner all object for same reason.

No one appeared in favor.

DECISION: Application unanimously denied.

#10. Application of Towner Enterprises, Inc. 1900 South Clinton Avenue, variance to erect 8' x 16' sign at 1891 Scottsville Road, 100' setback from front lot line in B. zone.

Applicant appeared - designated industrial, area Dumpling Hill. No one appeared for or against.

DECISION: Application approved unanimously.

#11. Application of Donald Damond, 205 Chestnut Ridge Road, variance to erect 14' x 22' garage 3' from east side lot line in D zone.

Lot is 60'. Want to come within 3'. Neighbor about 15' feet. Approximately 15' between garages. Garage will be actually

in back of house.next door.

On question Mr. Robert Street, 203 Chestnut Ridge Road questioned where garage is going to be built. Was told in back of his house behind existing driveway further towards back of lot and to be raised up with concrete. On explanation Mr. Street had no objection. No one appeared in favor.

DECISION: Application approved unanimously.

Carryover decision from previous hearing on Columbia Avenue Church:

DECISION: Granted as presented in plans.

Respectfully submitted

Patricia D. Slack
Acting Secretary

ZONING BOARD OF APPEALS

August 24, 1965

The meeting was called to order and roll was called with the following members present: Gertrude Tanger, Howard VanSlyke, Charles Pfenninger and Robert Hunter, Acting Chairman. Also present: William Davis, Building Supt.

Application of Arleigh Quimby for approval to erect garage and breezeway 7 ft. to east side lot line at 2191 Westside Dr., E zone.

Mr. Quimby appeared and presented his builder, Mr. Seabrini. Mr. Seabrini presented tape location map. Also three pictures. This would be 14 ft. from adjoining house and would not obstruct windows. Next house is 7 ft. from lot line, plus this 7 ft., making 14 ft. These are 70 ft. lots. The garage would be 16 ft., the breezeway 8 ft. Mr. Hunter asked if this couldn't be made 15 ft. Mr. Seabrini replied the breezeway is built quite high, putting in one step into the garage. A 7 ft. breezeway would really be too small.

Mrs. Tanger asked if the garage would be in front of the house. Mr. Seabrini replied the garage will be 4 ft. back from the front of the house.

No one appeared to speak on this application.

Pictures and tape were returned to builder. Mr. Seabrini stated if approved, he would make further copies of the tape.

Application of William O. Greene, 311 Thurston Rd., for variance to extend one-car garage to two-car garage 15 ft. from side lot line at 3646 Chili Ave., corner Lawnsbury Drive, E zone.

Louis Grossman, attorney, appeared to represent Mr. Greene and presented tape location map and paper signed by three neighbors in favor of this application. These will be on file in the Town Clerk's office.

The presented garage is attached to the house. There is 25 ft. between the street and the side of the garage. Addition would be 10 ft., making this distance 15 ft., minimum required is 20 ft. Applicant talked with immediate neighbors in the area and they are not opposed. This will make a two-car garage from a single garage, in line with the single garage.

No one appeared to speak on this application.

Application of Felix and Rose Taras, 743 Genesee St., for approval to build house at 34 Krenzer Rd. 46 ft. from front line 7 ft. to side lot line, EE zone.

Mr. Taras said no one builds out there. There is a railroad track on one side, a power line, R.G. & E. is putting another line through. He just built the house next to it, sold a couple of years ago. He would like to build another house out there. When Buck Eye got an easement they said they would stay close to the track as possible, but they came right through the middle. This is a triangular lot.

Mr. Davis asked if this is the required 20,000 sq. ft. Mr. Taras said the frontage is 285 ft., but did not know the square footage and did not have a map. Mr. Hunter said the Board would not know whether this meets the required area. It is difficult to make judgement without a plot plan. If a variance was granted on this and the lot is undersized, there would still be a problem. The Board has to know the facts.

Mr. Taras said there was no one out there and would not be and there would be no problem. He explained the location of the property to the Board. He did not know the width of the road, but said two cars can go by, it used to be an old wagon track.

Mr. Taras was instructed to present plot plan and plan of the proposed house to the Building Supt.

No one appeared to speak on this application.

Application of Areher Homes Inc., 2690 Chili Ave., for variance to erect house 5 ft. side setback to north side lot line, 55 Crossbow Rd. E zone.

No one appeared at this time to represent Areher Homes Inc. Application to be called later in the evening.

Application of Greenview Realty, 1830 Clifford Ave., for variance to erect 26 ft. by 40 ft. house on 50 ft. lot, lot 14, Block F, Harold Avenue, D zone.

Mr. Seachetti appeared and stated he had appeared before the Board regarding this previously. In the meantime he has made an attempt to locate the owner of the vacant corner lot. They asked the County to sell to them, but they can't until foreclosure. In the meantime, they are stuck with a 50 ft. lot. The house would be in line with the existing homes. House would be 14 ft. on one side, 10 ft. on the other side. Use the 14 ft. side for a driveway.

Mr. Seachetti amended the application to include the front setback to conform with existing homes on the south side of Harold Ave.

No one appeared to speak on this application.

Application of Joseph Oliver, 1830 Clifford Ave., to erect house on lot 50 ft. by 120 ft., lot 2, Block O, Charles Ave., in line with existing homes, D zone.

Sam Dattilo, attorney, appeared to represent Mr. Oliver.

Jack Kaman, attorney appeared to represent Marie Rudolph.

Mr. Dattilo: (Presented purchase offer) My client, Mr. Oliver, is interested in lot 2, Block O, Riverview Gardens Subdivision, which is a corner lot located on the corner of Theron St. and Charles Ave. This application was before the Board last month and was denied. (Mr. Dattilo presented plan for proposed home) We propose to erect a ranch home, either 26 ft. by 39 ft., ranch, or 24 ft. by 44 ft. Front setback to keep in line with existing homes. This would be about 40 ft. The home would face Charles Ave. We would have a setback requirement of 14 ft. or 16 ft. instead of 20 ft. on corner lot, depending on which size home was built. I don't think we could ever duplicate this purchase offer for a home.

Mr. Kaman: On behalf of Mrs. Rudolph, she bought this in 1952. She and her ~~son~~ son were going to build but didn't. She is an elderly woman who works in the Rochester State Hospital. Riverview Gardens is a headache. Taxes have changed. She owes quite a bit of back taxes. The day will come when this will be foreclosed. It has been listed for well over a year. One previous offer, but the application was turned down. Mr. Oliver came out here and was turned down. The purchase offer is contingent on getting this variance.

Mr. Dattilo: We have attempted to purchase lot 3 from the owner of lot 4. Lot 3 is vacant. He wants to keep it for his protection.

Mr. Pfenninger: Who owns lot 4?

Mr. Dattilo: I am not sure of the owner of lot 4. I have been working on this several months.

Mr. Hunter: Is there a date on the length of time the offer is good for?

Mr. Kaman: The offer actually says August 1.

No one appeared to speak on this application.

Application of Eugene Evangelist for variance to erect 18 apartment buildings, 4 units each, on part of lot 52, consisting of 17.75 acres on Pleasant St., formerly owned by J. F. Bassett, E zone.

Richard Rosenbloom, attorney, appeared to represent Mr. Evangelist. He presented cardboard drawing showing location of proposed apartments which was exhibited to people present. He also presented plans.

Mr. Rosenbloom: This is a variance application from a residential zoning area on Buffalo Rd. to permit erection of garden type apartments. The parcel is 17 acres on Buffalo Rd. in and around the street known as Pleasant St. The proposal is to build garden type apartments, two stories high, air conditioned, 1 bedroom, 2 bedroom, 3 bedroom. On this preliminary plan there are 15 units, each 4 apartments; making a total of 60. We propose to build 12 studio apartments, 20 1-bedroom apartments, 28 2-bedroom. The parking area would have black top surface for 84 cars. There would be a playground area, a swimming pool for the use of the residents. The rents are tentatively set at \$125 and up. The construction of the apartments is all wood with brick veneer. He plans to landscape the project and completely shrub it. We submit the apartment project on Buffalo Rd. is a wise use of the land. There is a large machine shop at the corner of Buffalo Rd. in the immediate vicinity of this project. Across the street is vacant land. Down the street is the college. It would be extremely difficult for a builder to develop

for residential because of the traffic on Buffalo Rd. and because of the busy intersection of Buffalo Rd. and Westside Dr.

Mr. Hunter: Has there been any attempt to develop this land for use as residential?

Mr. Evangelist: It is pretty stoney. It would be costly for house building. There are two or three houses way up high, old homes. I talked with property owners and said I would be glad to buy them out if we get a variance. They agreed. We would clean up the older homes. We would remove all of the existing homes on that street.

Mr. Rosenbloom: Provided they can be acquired by Mr. Evangelist.

Mr. Evangelist: If they sell to me, I may develop more units. If I get two or three, I would get them all out of there. I would offer a good deal. I could take them in trade. A couple of owners were very pleased with the idea. We didn't come to a final agreement.

Mr. Van Slyke: Who presently owns this land?

Mr. Rosenbloom: It is presently owned by the Bassett estate. We have a contract to purchase the land from the estate. It is not contingent on this application.

Mr. Hunter asked how many of each type of apartment there would be.

Mr. Evangelist replied they would be divided about equal. About 20 of each, 1-bedroom, 2-bedroom, 3-bedroom, for the present. Later there would be 12 studio apartments, consisting of one bedroom each. Altogether 72 apartment units. Parking for 82 cars.

Mr. Pfenninger asked if there is any more parking space available.

Mr. Evangelist replied yes, there is some land left to put more parking area.

Mr. Hunter asked if anyone was opposed to this.

Jerry Lewis, 5 Pleasant St.: I am opposed to this program because of the fact it is already a residential section. There are six houses on the street. Most of them are 20-30 years old. If these were built that long ago, with the equipment today new houses could be constructed without any trouble. Is this an actual hardship? Is this his last final resort? Does this committee have the final say?

Mr. Hunter explained the Board approves or disapproves the application. Both sides have recourse to the courts after decision is made.

Mr. Lewis said it was only the last couple of days the people were made aware of what was going on. He asked how people were notified of these things. He wondered who Mr. Evangelist had talked to about homes. He had talked with him and said he was interested, that's all.

Mr. Evangelist said he didn't say he had anyone under his thumb.

Mr. Hunter explained that legally the only requirement of a public hearing was to be published in a newspaper. They try to send notices to property owners adjacent to the property. Perhaps someone was inadvertently overlooked.

Mr. Blowers stated he lives in Florida, but owns property on Pleasant St. and is renting #9 Pleasant St. They have been informed that this would depreciate the value of the property they have. They feel as though they have to oppose it.

Mr. Evangelist stated Pleasant St. has never been dedicated.

Mrs. McMenemy, 4231 Buffalo Rd.: I am opposed. This would make the traffic heavy and raise taxes.

Mrs. Fred Tuttle, 1 Pleasant St.: I am opposed. I like it as it is. No one appeared to speak in favor of this application.

Application of Indian Hills Development Corp., 960 Pinnacle Rd., Henrietta, N. Y., for variance to build homes on lots 46 and 47 Cannon Hill Rd. 60 ft. setback from right of way in lieu of 60 ft. setback from cord of the arc formed by the right of way, E zone.

Eugene Rasch, Development ~~Management~~ Manager for Indian Hills, presented Xerox copies of the map which was approved.

Mr. Rasch explained the setback line showed on the map approved was 60 ft. The regulation setback on the cord forces the setback to 80 ft. on lot 47 and 73 ft. on lot 46. They are asking to be allowed to maintain 60 ft. from the right of way line rather than the cord from the curve. Both lots are on a 4% cross slope. The average rear setback on lot 47 would be 25 ft. The nearest point to the lot line would be 10 ft., farthest point 40 ft. Aspit level may run 38 ft. If 60 ft. from the right of way, the side setback will work out. Now the maximum house including garage would be a total of 52 ft. across the front. If put in two-car garage, will leave 28 ft. for house. They are not

21 6
asking for any side line variance, just to have continuous 60 ft. setback same as all the rest of the subdivision. They might have to ask for a small rear line variance. The frontages are 119 ft. and 145 ft., more than 15,000 sq. ft. Map has been presented to the Planning Board and the Town Board. This is just a technicality.

No one appeared to speak on this application.

Application of Deming Development Co., Deming Rd., Greece, to erect two 2-family houses on future lots 1 and 2 fronting on north side of Buffalo Rd. 184.67 ft. west of Ramblewood Dr., E zone.

Clifford Tomer, attorney, appeared to represent the applicant. He presented a map indicating the general location of this application, together with plot map of property involved.

Mr. Tomer: This is actually a re-application for this variance. We are asking for a variance to put up two 2-family homes at 4480 Buffalo Rd. which at present is one lot with frontage of 180 ft., depth on one side 270 ft., other side 257 ft. This would be subdivided for the purpose of constructing these dwellings. There is no provision in the zoning ordinance at all for any two-family or multiple dwellings.

These particular buildings that are planned would contain between 750-950 square feet of living area for each family. Four or five room apartments. The construction would have to meet with all requirements of the building code. There would be at least a one-car garage for each of the families. The construction would be either ranch type or two-story with full basements. We also would like to indicate there would be only two families living in each of these. There are adequate parking facilities available for each of the families.

As to the general location of the area: it is located on the north side of Buffalo Rd. westerly of the intersection of Buffalo Rd. and Ramblewood Dr., about 187 ft. west of the intersection of Ramblewood Dr. Mr. Fisher owns the property on the corner. At the last hearing of this application there was a misunderstanding about the property to the rear of this facing on Ramblewood. That property has been transferred to Mr. Buttarazzi who has subdivided it into two parcels and single families. There is no possibility of continuing these units around the corner. I don't believe this type of construction would in any way destroy the character of the neighborhood. Also, I don't feel under these circumstances two-family units would destroy the value of the surrounding property.

There would be more square footage in the house of greater cost. These would fit in with the surrounding homes. This is a hardship. There is commercial immediately across the street from this. Hardware and appliance store. 2. This particular lot is in the Gates Chili Ogden Sewer District. The Town requires either single or multiple dwellings to hook up to the sewer. The sewer line is on the opposite side of Buffalo Rd. We estimate putting a line under Buffalo Rd. around \$3,380 for the one line. It is not economically feasible for one single family on each of these lots. It would be more than the value of the lots. There is a \$600 hook-up charge.

For these reasons we request the Board's indulgence on this application. This is in E zone.

Mr. Hunter: The property to the west is vacant?

Mr. Tomer: It is not for sale. North is the land Mr. Fisher presently owns. Beyond that is the Town Line.

Mr. Van Slyke: What is the width of the lots?

Mr. Tomer: One is 89 ft., the other is 90 ft. There would be garages for both of the dwellings. I think an attempt would be made to make them look as much like the other homes as possible.

There was some discussion regarding the location of the garage.

No one appeared to speak on this application.

Application of Flair Homes, 681 English Rd., for variance to build on lot 167 Hitree Lane 58.5ft. from front lot line, and to build on lot 154 Hitree Lane 9 ft. to south side lot line, E zone.

Ronald Earl appeared to represent Flair Homes.

Mr. Davis explained this is in Bright Oaks, Section 3, a new street just started which connects with Archer Acres.

Mr. Earl stated both houses are under construction and a mistake had been made. All the other homes are 60 ft. back.

No one appeared to speak on this application.

Application of Double E Development, 1230 North Clinton Ave., for variance to erect apartment building with 28 units on two parcels of land south side Paul Rd. located between property owned by George Hunt, 361 Paul Rd., and Bausch and Lomb property, in E zone.

Present were James V. Scampole, attorney, 1101 East Main St. and Raymond M. Cortez, President of Double E Development.

Plans were presented.

Mr. Scampole: This variance is for the erection of an apartment house on a parcel of land immediately adjoining Bausch & Lomb on Paul Rd. The project calls for 28 units. 24 two-bedroom apartments, 4 one-bedroom apartments. Each apartment calls for a basic floor area of 864 square feet. Parking facilities will be available for each of the apartments. The premises will be graded and shrubbed. Apartments will be air-conditioned. These will be modern frame structure with brick veneer. It is intended that this project will cater to employees of Bausch & Lomb immediately adjoining. The project will be one of several hundred thousand dollars. They will cater to small family arrangement. This will be adding to the assessment rolls without adding to the school tax. If we are permitted to proceed, the project will be a very attractive proposition. We would like to answer any questions by the people appearing here.

Mr. Hunter: What is the location with respect to Bausch & Lomb?

Mr. Scampole: It is on the east side of Bausch & Lomb. I understand on the other side of this is another property which has already some apartments in it, the Hunt property. We are on the west side of that house. Property is 200 ft. by 200 ft. The plans were made up by Epping & Whitney, architects. They went ahead to design appropriate plans for this location. There will be parking for 29 cars, on the proposal of the architect. We are laying out apartments and parking as recommended. There is a need for housing facilities over there. The plans were submitted by the architect on behalf of the builder. Bausch & Lomb owns to the rear and over to the Hunt property.

Mr. Cortez: This will be all shrubbed on the Hunt side. There are no existing structures now. It is proposed that each of the apartments has a balcony and be grassed and shrubbed and have parking area. This is primarily to accommodate Bausch & Lomb. This is zoned A industrial.

Mr. Davis said this is zoned A Industrial from Bausch & Lomb all the way down.

Mr. Scampole: This is surrounded by Bausch & Lomb and property with apartments.

Mr. Hunter asked who owns across the street, and Mr. Scampole replied it is vacant across the street.

Mr. Rasch, Land Development Manager for Indian Hills Development, stated they own land opposite this and asked to see the plot plan. Several people examined the plot plan.

No one appeared to speak in favor of this application.

Alfred Hollenbeck appeared to represent Bausch & Lomb. He asked if this property is owned by the applicant. Mr. Scampole replied they have a purchase offer subject to the granting of the variance.

Mr. Hollenbeck: You asked about the zoning of this property. It was my impression this was industrial all along Paul Rd. and the whole idea was that everything south of Paul Rd. would be industrial and ultimately considered to be built up as industrial park. I was surprised when the notice read "E zone". (This was an error) As I read the zoning ordinance, in an industrial area as this is there is specific prohibition for residential construction. I don't think the applicant has even mentioned anything for a reason why the variance to change this prohibition should be granted. Bausch & Lomb owns pretty much all around this - back to the ~~xxxx~~ railroad, runs west a good bit. This is one of the small exceptions carved out up along the road, about an acre. I think this is close to the culvert and the sewer that runs down through there. As you go east from the plant, a small culvert runs under Paul Rd. quite near there. I bring this up because there is a problem we have right now with the drainage in that area. There are discussions now with Town engineers, Bausch & Lomb engineers and Toar as to storm water and the use of that culvert and creek to carry storm water from the north and south and east and into Black Creek. It is a very significant problem. The answer has not yet been determined by any of the engineers. There will have to be sooner or later a fair sized drainage easement down there to permit ditching and carrying off a good deal of storm water. I don't think the presence of one or two apartments on Hunt property should influence the Board in 28 units.

Mr. Hollenbeck, cont.: The land to the north on Paul Rd. is residential single family. If you bring in apartments, it does not fit in with the zoning on either the north or south side of Paul Rd. The applicant has not presented any hardship. We urge that you turn the application down.

Mr. Rasch, Development Manager for Indian Hills: Our objection always is against spot zoning without some sort of plan. This is one large lot with apartments. We control the land on the opposite side, both in back and in front for residential use. Our thinking has been to oppose spotting of different things around the subdivision. The drainage problem is very acute. You would get a good bit more drainage from 28 units than with 200 ft. by 200 ft. lot used for some other purpose. Our feeling is there should be no acceleration of drainage on that side of the road until the drainage is solved. Our primary objection is spot zoning.

Mr. Wilcox, 516 Paul Rd.: I feel the same as Mr. Rasch.

Joseph Gartland: The Zoning Board of Appeals of the Town of Chili cannot legally give a variance as the present zoning law prohibits apartment houses. A prohibitive use is illegal. I am not for or against it.

Mrs. Wilcox, 516 Paul Rd.: I am opposed. I supported Bausch & Lomb. I would like to see the south side of Paul Rd. stay industrial. The lot is not large enough to support this many units.

Mr. Scampole: We are informed that the owner of this parcel has been trying to dispose of it for a long time. Bausch & Lomb could have purchased it, but no. You cannot put up a house. Ultimately, this man came along with something to do with the property. No one can put up an industrial plant on an acre of land. The man has the right to use this land for something. This will put it to the best possible use. The man across who owns property has his problems. We in turn are going to use our own facilities. Bausch & Lomb says there is no room. There is room for everybody but someone who has had property for some time. Even Bausch & Lomb have to live some place. There is no place nearby. We thought this would be an appropriate use for this land. If it is spot zoning, it isn't as though it were requesting using it for something totally inappropriate. Nothing has come up in the past. This is a feasible use of the land. He has been trying to dispose of this for a long time. Epping and Whitney are well-known architects. This is what they have designed.

Mr. Van Slyke asked the exact location of the property and it was explained to him. Mr. Cortez said in reference to Indian Hills, they have been developing for years. Mr. Rasch said they control and plan theirs. They have been through the Planning Board.

Mr. Cortez: I want to know if this subdivision (Indian Hills) has been approved or not by the Planning Board.

Mr. Hunter: At least a portion of this has been approved.

Mr. Cortez: They are in the planning stage the same as us.

Mr. Hollenbeck: As to comments which were referred to about the owner. The owner is not here. Anything which the applicant has said is not any opinion. If this is a hardship, the owner would be here to state so. The developer is not under any hardship. You are not allowed to grant this use in this industrial area which was designed for a purpose. To carve out one acre with residential is going to destroy the entire concept. The owner has not appeared. You have no basis for granting this. This is not good from the town planning point of view.

There was some discussion as to the location of this property and the culvert.

Mr. Scampole: As far as I have known of developers of any areas, you have industry, then intermediary, then residential. Between the buildings and residential is a fringe area. Apartment houses are actually known to be a proper use of that area of land between industry and residential. We request permission to submit to the Board a letter from the owner to accompany this application so that the people will be satisfied that the owner is satisfied as to this application. Permission granted.

No one else appeared to speak on this application.

Application of Ballantyne Road Inc., 2525 West Henrietta Rd. for variance to use lots 12, 13, 14 Bauman Farms, 104 Ballantyne Rd., for a tree surgery and landscaping business and to erect one-story addition 100 ft. by 80 ft. to existing garage at 104 Ballantyne Rd., and to erect 30 ft. by 60 ft. storage building on lots 12, 13, 14 Bauman Farms, with remainder for parking trucks, D zone.

John Berman, attorney, appeared to represent the applicant.

Mr. Berman: I am attorney for Ballantyne Rd., Inc. Ballantyne Road, Inc. is a real estate holding corporation for Monroe Tree Surgeons, Inc., and Monroe Landscape Service, Inc., 2525 West Henrietta Rd. If this variance is granted, they intend to move their operation to this site. Ballantyne Road Inc. now owns lots 13 and 14 of the Bauman Farm. It is under contract to purchase lot 12 with C. C. Equipment Corp., to purchase property presently occupied by that corporation at 104 Ballantyne Rd. The latter contract is contingent upon obtaining approval. We feel the hardship of the present owner of C. C. Equipment justifies it. It fits the character of the neighborhood. If our proposed plans materialize, this will be an improvement to the neighborhood. The present use of the property by C. C. Equipment Corp. is a case of absentee ownership or control. Mr. Cummings has an office quite remote from the property. If my client moves his operation to Ballantyne Rd., there will be supervision and control because the offices will be located in the building on the site.

Mr. Allen Macomber is the architect for Ballantyne Road, Inc. He is here and will explain the plot plan and building plan. Harold Grunert, real estate expert, will explain why the surrounding property does not lend itself for residential purposes and why at the present time the most suitable use of the property would be this. Mr. Fink, attorney for C. C. Equipment Corp., is here with his client and will present reasons why this is a hardship on Mr. Cummings unless it is permitted.

Mr. Macomber presented tape location map and explained it.

Mr. Macomber: The entire frontage would be shrubbed with tree farm. The lath house is 9 ft. high. It is proposed, not at this time but in the future, an application might be made requesting 1-story building behind this lath house for an equipment storage area. (Showed where equipment would be parked, about 180 ft. from the road, about 400 ft. from any neighbor, Black Creek to the north). (Presented enlarged plot plan showing existing building which is now Mr. Cummings' building) This building is 60 ft. by 30 ft. The proposed addition to that would be 80 ft. by 100 ft., staying well within the existing residential setback. There is an existing driveway. None on Ballantyne Rd. They intend to fence the entire area. It will be used for employee parking and other vehicles. The entire street frontage will be landscaped and grassed out to the street. Elevation shown at the top of plan. This would be a one-story building with a pitched roof attached to the existing building. General offices facing Ballantyne Rd. (Mr. Macomber pointed out the location of the various rooms inside the building). They will use the existing building as garage. Building will be masonry and aluminum, aluminum windows and panels. This is D zone.

Mr. Pfenninger: How many trucks would you park?

Mr. Macomber: We have about 300 ft., could be 30 trucks. Black Creek is in the back, it is low back there. Don't know how far back we could go.

Mr. Hunter: What equipment?

Mr. Macomber: Monroe Tree Surgeons, Inc. and Monroe Landscape Service, Inc. have equipment trucks going out in the morning and coming back at night. They need a place to park. They are not there during the day. They cut down trees, bring the wood home and cut and stack it. This would be all behind the tree and shrub farm.

He presented Mr. Terry, Vice President of Monroe Tree Surgeons, Inc.

Mr. Hunter: What hours of the day would you be in and out with equipment, and what days of the week?

Mr. Terry: The working hours are from 7:30 A.M. to 4:30 P.M. The trucks leave at 7:45 and they start coming in at 4:15 P.M.-4:30 P.M. On Saturday there are three or four crews out. Small operation. Hardly ever on Sunday except for an emergency or storm.

Mr. Van Slyke: What type of saws do you use to cut?

Mr. Terry: Gas driven saws. Most of the wood is cut up before it gets there.

Mr. Hunter: How many men in the plant?

Mr. Terry: This is usually done during the winter months, Sept. through December, have about three men in the wood yard. Have to keep them busy through the winter months. There is very little power saw. There are automatic wood splitters. The bulk of our wood is brought to

dumps. We just keep the very good wood. We have a circular saw, a regular gas driven chain saw, and splitters. This is way in the back near the creek. Just in the winter we do the wood. The only reason is to keep the excess men busy during the winter months.

Harold F. Grunert, Realtor, appraiser, consultant, 272 Alexander St., said he has acted as consultant and adviser for Mr. Terry for 10 years. He has been in the business 36 years.

Mr. Grunert: In connection with the subject property, I have a number of exhibits I would like to offer in the event they would be helpful to the Board. I would like to present copies of the plot plan showing properties involved in this matter. An effort was made to acquire the intervening property. The owner was unwilling to sell. I would like to point out that although this shows considerable subdivision of properties, very few of the streets are installed with the exception of Riverview Farms east of the railroad. This property, starting with Mr. Cummings fronting on Ballantyne Rd., adjoins right-of-way of R. G. & E and the railroad. North of the property is vacant land, north of which is a large lot on which is an old, small 1-family dwelling. North of those two parcels are the three vacant parcels of land. 2

Mr. Grunert said the Monroe County Planning Council had maps of the land in that immediate area. There is a poor drainage condition, also the land is subject to possible flooding. He submitted portion of map prepared by the same Monroe County Planning Council showing the adjacency of this to the jet runway approach to the airport. This is immediately outside the zone 2 area in zone 3. Mr. Grunert pointed out the description of the various zones. Mr. Grunert presented two pictures showing improvements on the property. He pointed out dwelling not salvageable, not possible to restore to residential. This would be destroyed and removed from the property. Stallman Rd. is a dirt road which extends back to the commencement of 12, 13, 14. Some of the streets shown on the plot plan have never been installed. The same holds true on streets on the opposite side. He pointed out in regard to lots 14, 13, 12 there has never been any sales interest in the acquisition of these properties for any use. The land in back is level and abuts Black Creek. Property on the east side was acquired by Rochester Gas & Electric Corp. for a right-of-way. The large acquisition in that area has been for the erection of a future power plant. This property is adjacent to the creek abutment, to the railroad, and to the Rochester Gas & Electric right-of-way. It would not be good for residential use. The rear lots are 225 ft. wide. It would not be possible to subdivide into smaller parcels to conform with the requirement of 80 ft. width and 12,000 sq. ft. without a complete major overhaul. It has been Mr. Grunert's experience that it is impossible to obtain mortgage loans in this area because of the character of the land and flooding possibilities. They are difficult to obtain.

Thomas Fink, attorney, appeared to represent Cornelius Cummings, and said the use of this property was for Cummings Construction Co. Mr. Cummings purchased the property in 1959 for 6,200.00. Although the property had been used at some time as commercial property, he obtained a variance to use it for the construction company. He constructed the building shown on the pictures submitted at a cost of approximately \$20,000, including filling in of this property. The total cost to the owner was approximately \$26,000. Over the last several years, the construction company has had financial difficulties. Because of this, Mr. Cummings is not able to keep the property in proper condition.

Mr. Fink stated the corporation is presently in a reorganization being supervised by the U. S. Federal Court. He will continue to do business but in a different location. Mr. Cummings has attempted to sell over the last few years. Ads were placed by the owner. He discussed it with brokers, and with several people. One wanted to use it as a truck storage area. He has had no inquiries for residential or other use permitted in this area. The only offer received for the sale is from the applicant. Since that time, no further offers. As far as the owner is concerned, it is a serious hardship if he is not allowed to sell this property for commercial use. It would be impossible to sell this as a residential parcel. The sale price is now below the cost of the property. The use of this property

by the applicant would not change the general conditions of the neighborhood. The owner is the owner of 40 pieces of heavy construction equipment. These are used in the installation of sewer and water mains. Stored on the property is also heavy pipe, etc. The hours of the company are from 6:30 A.M., trucks return about 9:00 P.M. The property now is used for the storage of this equipment, and also for the repair of this equipment. Mr. Fink further said not only will the property not be a detriment to the neighborhood, but considering the plans submitted, they will improve the neighborhood, and the applicant has the financial condition to keep the property in proper condition. Granting this variance would not change the existing condition of the neighborhood. It has been used for a construction company for eight years. He is on order of the Federal Court to sell. If not, the company will be seized with the possibility of bankruptcy which he is trying to avoid.

Mr. Hunter: Over what period of time has this property been offered for sale?

Mr. Fink: The last two years. Intensive efforts have been made to sell this property.

No one appeared to speak on this application.

Application of Joseph Fazio, 26 Tarrytown Dr., for variance to build garage 4 ft. to north side lot line, D zone.

Mr. Fazio appeared and explained he had a variance in 1958. The builder said the house was 22 ft. on one side, 10 ft. on the other side. When he sold his house there was only 21 ft. on the north side, 11 ft. on the other side. This means he has been in violation since he put up the structure. A letter dated Sept. 1958 granted him a variance to put structure 5 ft. to north side lot line. It will be actually 4 ft. instead of 5 ft. Mr. Fazio presented tape location map.

No one appeared to speak on this application.

Application of Archer Homes, Inc., 2690 Chili Ave., for variance to erect house 5 ft. side setback to north side lot line, 55 Crossbow Rd., E zone.

Mr. Simeone appeared to represent Archer Homes and presented tape map, showing easement. A mistake was made in measuring from the easement. The mason took the setback stake instead of the easement stake.

No one appeared to speak on this application.

DECISIONS OF THE BOARD:

MADELINE DINTRUFF - Decision reserved. Adjourned until the next meeting.

ARLEIGH QUIMBY - Granted variance to erect garage and breezeway 7 ft. to east side lot line at 2191 Westside Dr. All members voted affirmative.

WILLIAM O. GREENE - Denied variance to extend one-car garage to two-car garage 15 ft. from side lot line at 3646 Chili Ave., corner Lawnsbury Drive. All members voted negative.

FELIX J. TARAS - Decision reserved on variance to build house at 34 Krenz Rd. 46 ft. from front lot line, 7 ft. to side lot line.

GREENVIEW REALTY CORP. - Decision reserved on variance to erect 26 ft. by 40 ft. house on 50 ft. lot, lot 14, Block F., Harold Ave.

JOSEPH OLIVER - Decision reserved on variance to erect house on lot 50 ft. by 120 ft., lot #2, Block O, Charles Ave., in line with existing homes.

EUGENE EVANGELIST - Denied variance to erect 18 apartment buildings, 4 units each, on part of lot 52, consisting of 17.75 acres on Pleasant St. All members voted negative.

INDIAN HILLS DEVELOPMENT CORP. - Granted variance to build homes on lots 46 and 47 Cannon Hill Rd. with 60 ft. setback from right-of-way in lieu of 60 ft. setback from cord of the arc formed by the right-of-way. All members voted affirmative.

DEMING DEVELOPMENT CO. - Denied variance to erect two 2-family houses on future lots 1 and 2 fronting on north side of Buffalo Rd. 184.67 ft. west of Ramblewood Dr. All members voted negative.

FLAIR HOMES - Granted variance to build on lot 167 Hitree Lane 58.5 ft. from front lot line, and variance to build on lot 154 Hitree Lane 9 ft. to south side lot line. All members voted affirmative.

DOUBLE E DEVELOPMENT CORP. - Denied variance to erect apartment building with 28 units on two parcels of land south side of Paul Rd., located between property owned by George Hunt, 361 Paul Rd. and Bausch & Lomb property. All members voted negative.

BALLANTYNE ROAD INC. - Granted variance to use lots 12, 13, 14 Bauman Farms, 104 Ballantyne Rd., for a tree surgery and landscaping business, as per plans presented, with the following restrictions: 1. The use of power saws on the property to be restricted to Monday through Friday and the hours of 8:00 A.M. to 4:30 P.M. 2. All equipment to be stored in orderly fashion. 3. No accumulated tires or equipment. Members voted as follows: Mr. Van Slyke aye, Mr. Pfenninger aye, Mr. Hunter aye, Mrs. Tanger reserve decision. ~~XXXXXXXXXXXX~~

JOSEPH FAZIO - Granted variance to build garage 4 ft. to north side lot line at 26 Tarrytown Dr. All members voted affirmative.

ARCHER HOMES INC. - Granted variance to erect house 5 ft. from north side lot line at 55 Crossbow Rd. All members voted affirmative.

June Yates, Secretary

MINUTES

Zoning Board of Appeals of the Town of Chili, N.Y.
held September 14, 1965.

Meeting was called to order by Chairman, Cornelius Strassner at 8:00 P.M.

Present: Mr. Strassner
Mr. VanSlyke
Mr. Pfenninger
Mrs. Tanger
Mr. Davis, Building Inspector.

Application of Larry Rinaldis, 76 Elmcroft Road, for variance to erect single family dwellings on 50' lots on lot #11 and #14 Block E, Morrison Avenue, with front line setback to conform with existing homes on street in D Zone.

Mr. Petter C. Sulli, attorney, appeared before the Board: Members of the Board, I guess you all know what the situation here is, two lots each 50' x 12' in dimensions and that these two lots are under contract by the County to sell to my client Mr. Rinaldis. As yet the deal is not closed and Mr. Rinaldis is petitioning for variance in order to build on these lots. If able to build, will consummate deal with County. Situation here is each of these lots is substandard and not conforming to provision of Zoning Ordinance, have been held in single, separate ownership by County of Monroe and its predecessors in title for a time antedating enactment of first zoning ordinance, and in such instance as I have repeatedly said, the law is very clear, that the provision of any zoning ordinance cannot be used to prohibit the building of a home on each of these substandard lots. It is so very clear, there is no room for argument, but I find myself having to propose this and be indisposed practically every time by this Board.

Mr. Van Slyke: I have objection to being threatened by what law is. You make petition, I do not wish to be told what law is and what I have to do.

Mr. Sulli: It is my duty and

Mr. Van Slyke: Not to instruct us in what law is.

Mr. Sulli: It is my duty and instruction is to present the law at this meeting.

Mr. Strassner: This is your version of the law.

Mr. Sulli: As I was about to say, I believe you have a copy of Mr. Anderson's very comprehensive book on zoning in and for New York State and have page marked out as provision pertaining to substandard lot. I believe it is very clear and upon reading of that short two page section, there is no doubt the substandard lot such as lots 11 and 14, enjoy very special priveleges with regard to building and there is no doubt about it and upon your own authority it show. Now again I would like to submit, so that it is in the record, Abstract of Title covering lots 11 and 14, showing the chain of title showing that it has been held in single, separate ownership. I shall leave the same for your study.

Abstract of Title submitted, marked Exhibit A and attached hereto.

Mr. Sulli: Now another part of this thing is that in this particular proceeding, as in others, this Board has made a decision, copy of which has been made available to me, that the decision does not contain the required formal findings of fact that must be contained in the Zoning Board decisions and this is not my own personal legal opinion, but it is the opinion of, I would say, at least five different judges of the Supreme Court before whom I have appeared in these matters, and they all come about to the opinion that this Board does not make legally sufficient findings of fact so that a court could properly review that decision. So that I will not be held to just delivering my own personal opinion, I will read you a copy of statement by Judge

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Gabielli in his decision, which states:

"The decision of the Zoning Board of Appeals of June 27, 1965 attached to return filed by respondents, completely devoid of any findings of fact or any factual basis for reaching such determination.

"The matter is remitted to the Zoning Board of Appeals for a rehearing and at the conclusion of which the respondents shall make findings of fact which are susceptible of review as to the sufficients of any supporting evidence."

I believe this Board will remember another case in which Judge Lambiase ruled a matter had to be sent back to this Board for a rehearing.

Mr. Strassner: Not connected with this case, so

Mr. Sulli: Final statement to be proceeded in all following cases.

Mr. Strassner: Has no bearing in this case.

Mr. Sulli: Judge Lambiase in prior case finds findings of fact not made and not only applies to that case but this case. As to this particular one what I am trying to mean in our petition applications we always say these lots have been held in single, separate ownership. In each case, this Board in its ruling by your attorney, denies that saying we do not hold these lots in single, separate ownership so that we are in conflict on that particular point.

Mr. Strassner: You have not held them prior to our Zoning Laws.

Mr. Sulli: Then you do not understand single, separate ownership. Even though we have not held these lots prior to your ordinance, we stand in shoes of your prior owner.

Mr. Strassner: No you do not. Mr. Wickens will handle our situation.

Mr. Sulli: Judge Lambiase said when there is this conflict where we say it and we show it, you must have special hearing as to point in your findings either we do or we do not. (Mr. Sulli read from Judge Lambiase's decision in prior case, which Mr. Strassner had said was not in question at this time).

Mr. Strassner, your understanding of this law, of this theory is, of course, not in accord with mine.

Mr. Strassner: That is right.

Mr. Sulli: If we get together you would know these lots do hold single, separate ownership.

Mr. Strassner: We can only go by what law reads.

Mr. Sulli: I believe this issue must be decided by Zoning Board and it must be found in their decision and the primary issue to be decided, if you find it is held in single, separate ownership, a permit must be issued. If you find it is not, and you are correct in your findings, then we do not have right to a permit. But in the event you say we do not own these lots in single, separate ownership we do own the lots. You are denying us the right to use these lots and under all the case law, this is an abuse of the Board's discretion in that it is taking of private property not having a public use and not for compensation and therefore not constitutional.

Mr. Strassner: That is your interpretation. Do not say it is the law.

Mr. Sulli: It is a law. I read to you the decision. Last year I brought a volume of the New York Court cases in which it held, that if a zoning board denies right to build on single, separately owned lot, it is unconstitutional and taking of private property without compensation and therefore fraud. I read that and passed book through Board and you all read it.

Mr. Strassner: I will not argue law. We will let Mr. Wickens decide that.

Mr. Pfenninger asked if they build on these lots, would they comply with the zoning laws with set back and sides:

Mr. Sulli: We will comply with everything except to size of lot. Every other provision we will comply with.

Mr. Pfenninger: You cannot stretch out these lots?

Mr. Strassner: We had talk once before on cooperation and you agreed to it. Now there is 11 and 14 on Block E.

Mr. Strassner, Mr. Pfenninger studied map and discussed corner lots.

Mr. Strassner: Did you try to get any more property to go with the lots?

Mr. Pfenninger: Suppose we grant it with the corner lot.

Mr. Sulli: You will penalize us for not owning the corner lot.

Mr. Strassner: Where lot available, why does not ask for this, see if it is for sale?

Mr. Sulli: We made a deal here, said bring in each individual lot such as 11 and 14, that you would grant us permits if we did not bring in corner lots for permits, that if we would stay away and refrain from corner lots, you would grant us individual

Mr. Strassner: So corner would remain 100 ft. lot, but that is stopping us from building on corner.

Mr. Pfenninger. I may be wrong, but in this case, fellow not owner of corner lot and owner fellow does not want to sell lot at his figures and you won't sell him your lot.

Mr. Sulli: And also for a matter of record, as a duly licensed attorney in State of New York, I certify I have searched title to lots 12, and 13, 15 and 10 in this block and find, and this is certification, that there has been no common ownership involved with lots 11 and 14 at any time. I guess that is about all I have to say.

Mr. Strassner: These lots are not owned as yet?

Mr. Sulli: We are a contract vendee. We are legally obliged to buy these lots, but if we cannot build on them, no one is going to buy them and County going to get stuck.

DECISION: Decision reserved on this application until Mr. Wickens is present. Unanimous vote.

Respectfully submitted

Patricia D. Slack, Acting
Secretary

MINUTES
Zoning Board of Appeals
Town of Chili, N.Y.
September 28, 1965

The meeting was called to order by Chairman Cornelius Strassner. Roll call found the following members present:

- Cornelius Strassner, Chairman
- Charles Pfenninger
- Robert Hunter
- Howard Van Slyke
- Gertrude Tanger
- William Davis, Building Inspector

1. Application of Richard M. Wirth, 381 Buell Road, for variance to erect machine shop on property located on Millstead Way being part of lot 117 of the John Smith Allotment situated 312' south of Weidner Road in A zone.

Mr. Jerry R. Greenfield, Attorney, with offices at 58 N. Fitzhugh Street Rochester, N.Y. appeared for applicant. Mr. Greenfield said it was a general application, although it is industrial zone, interest in variance from setbacks as contained in ordinance. Placed before Board architectural drawings and submitted them for the record. He explained the drawings and pointed out road 50' wide and another section which was purchased by Mr. Wirth within last year. They have given great deal of thought to development and had been advised best developed by putting road through middle of property and lots on either side. Lots approximately 205 ft. in depth, and requirement is 250' in depth. This is first variance requirement, they request. He then went on to tell about the sizes and layouts of lots and what future plans were, but at present wanted only variance for first lot. He explained layout of building, appearance, where loading platform would be, set backs, etc. Mr. Strassner asked if they were going to have four lots and road. Mr. Greenfield: they hoped to, that is reason had depth problem. Mr. Strassner explained if contemplated building an area with road in and subdivide property into more than two lots that becomes a Planning Board proposition rather than Board of Appeals and this request should be referred to the Planning Board. Mr. Greenfield advised they planned for only one lot at this time, but was advised to go to Planning Board now due to future plans. He wondered if could be gotten on for next meeting and was advised to contact Town Clerk's office immediately. Mr. Greenfield withdrew with thanks.

- #2. Application of Larry Rinaldis, 76 Elmcroft Road, for variance to build one-family dwelling at 23 Alfred Avenue with front setback in line with existing homes in D zone.

Mr. Petter Sulli, Attorney with offices at 39 State Street appeared representing the applicant. They request a variance or an exception to the Zoning Ordinance to erect a home on a lot 50' x 120' known as Lot 23 Block F on Alfred Avenue. Lot does not conform to Zoning Ordinance. Only reason here for permit is that they feel it is another one of these sub standard lots falling under single, separate ownership so as to allow us to build. Asking for an area variance and the front setback in line with existing homes on the street. Mr. Rinaldis is a contract in deed of this lot under contract to buy on contingent to getting approval for construction. This lot was subdivided pursuant to a plan filed in Monroe County Clerk's office prior to date of Zoning Ordinance and it was owned at that time by Riverview Gardens and was subsequently conveyed prior to 1935 to a Rosaria Pisaturo and Marco Pisaturo. Both these people have died and by operation of law the title is in 6 children and the contract is with the 6 children. If it is necessary Mr. Sulli will reserve the right to introduce Abstract of Title showing chain of title for this lot.

Mr. Strassner questioned if Larry Rinaldis was a part owner of this lot. Mr. Sulli advised no. As attorney Mr. Sulli examined the title to lots adjoining this lot and certified that our predecessor in title never owned the adjoining lots which bring it in the single, separate ownership field.

Mr. Sulli: At last meeting I believe we had misunderstanding as to what lots fall under this category. Mr. Strassner, I believe you were speaking for the Board that the lot must be owned by same person who owned it at the same time Zoning Ordinance went into effect. The right to an exception of a substandard lot must ascend to the one who purchased the land from the person who owned it on the effective date of the restrictive ordinance. And it may be asserted by a contract vendee of the substandard lot which might be one who does not own it but is going to buy it and that is the case. Mr. Sulli read from Mr. Anderson's Zoning Law and Practices in New York State. In the last two weeks court cases have come down specifically on these problems and one case in the neighboring Town of Gates which involved substandard lots, not only substandard but corner lot 44' in width. The Board denied a permit. It was brought up for review in court and Judge Wm. J. Easton overruled the Board and for the first time directed the Zoning Board to issue a permit. Did not even bother sending back for review or rehearing. Mr. Sulli then read parts of the decision of Judge Easton, dated September 21. (When asked to leave the copy of the decision Mr. Sulli advised was his only copy and there was the original on file in Monroe County Clerk's Office). The Judge ordered the Zoning Board of Appeals issue an appropriate variance and the said Zoning Board and Building Bureau of the Town of Gates issue a building permit to the petitioner immediately. Mr. Sulli contended this lot is under the protection of this case and many cases in the past. These are established precedents. Knows they have been continually denied building permits on substandard lots and believes this Board knows what the law is and is deliberately and flagrantly violating the law.

Mrs. Strassner: You are telling us we are violating the law? You are threatening us when you are telling us we are deliberately doing this.

Mr. Sulli: If you are not deliberately doing so, you do not know what the law is. Even your own Zoning Ordinance, I refer to your Section 19, 103 Power of Zoning Board of Appeals as to exceptions. Subdivision 4 permits modification to the yard or land area as may be necessary to secure an appropriate improvement of a parcel of land This is your zoning ordinance. If you do not follow it it is with the understanding that you known about this. Mr. Sulli also quoted from Section 8, or sub division 8 and said lot could not be improved without such modification. Could not see anything more clear than that. Mr. Strassner advised there was more to it than what he read. Mr. Sulli said he only knew what the law is.

Mrs. Tanger asked about dimensions of house and was advised it would be 24 feet x 43 feet. Mr. Rinaldis showed it including garage it would be 56 feet long, 24 ft. wide. In answer to Mr. Strassner there is house built on one lot on one side, No attempt made to buy lot on other side. On question no one appeared in favor, no one against.

DECISION: Four votes to reserve decision.
Mr. Pfenninger voted to approve application.
Decision reserved.

#3. Application of Greenview Realty, 609 Wilder Building, for variance to build house on 80 ft x 120 ft lot, being on lot 7 and 30 ft on lot 6 Harold Avenue, Block F in D. Zone.

Mr. Carl R. Scacchetti, Attorney appeared, for Greenview Realty. Did own lot 4 on this Block F at one time. Were granted variance to build home on that because of fact there was one on either side. Have found part of home on Lot 5 was on Lot 4, slight encroachment made a deal to take 30 ft. on one lot and 50 ft. of another to get 80 ft. Area there is fairly low, have to be built up. We did try to get 80 ft in past, try to get 75 or 80. So as a result would like to have variance to build on that lot now in line with present existing houses. This is 12,000 square ft. Will stock to side lines, no question about side line requirements.

On question no one appeared for or against.

DECISION: Application approved unanimously.

Mr. Sulli: At last meeting I believe we had misunderstanding as to what lots fall under this category. Mr. Strassner, I believe you were speaking for the Board that the lot must be owned by same person who owned it at the same time Zoning Ordinance went into effect. The right to an exception of a substandard lot must ascend to the one who purchased the land from the person who owned it on the effective date of the restrictive ordinance. And it may be asserted by a contract vendee of the substandard lot which might be one who does not own it but is going to buy it and that is the case. Mr. Sulli read from Mr. Anderson's Zoning Law and Practices in New York State. In the last two weeks court cases have come down specifically on these problems and one case in the neighboring Town of Gates which involved substandard lots, not only substandard but corner lot 44' in width. The Board denied a permit. It was brought up for review in court and Judge Wm. J. Easton overruled the Board and for the first time directed the Zoning Board to issue a permit. Did not even bother sending back for review or rehearing. Mr. Sulli then read parts of the decision of Judge Easton, dated September 21. (When asked to leave the copy of the decision Mr. Sulli advised was his only copy and there was the original on file in Monroe County Clerk's Office). The Judge ordered the Zoning Board of Appeals issue an appropriate variance and the said Zoning Board and Building Bureau of the Town of Gates issue a building permit to the petitioner immediately. Mr. Sulli contended this lot is under the protection of this case and many cases in the past. These are established precedents. Knows they have been continually denied building permits on substandard lots and believes this Board knows what the law is and is deliberately and flagrantly violating the law.

Mrs. Strassner: You are telling us we are violating the law? You are threatening us when you are telling us we are deliberately doing this.

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DECISION: Four votes to reserve decision.
Mr. Pfenninger voted to approve application.
Decision reserved.

#3. application of Greenview Realty, 609 Wilder Building, for variance to build house on 80 ft x 120 ft lot, being on lot 7 and 30 ft on lot 6 Harold Avenue, Block F in D. Zone.

Mr. Carl R. Scacchetti, Attorney appeared, for Greenview Realty. Did own lot 4 on this Block F at one time. Were granted variance to build home on that because of fact there was one on either side. Have found part of home on Lot 5 was on Lot 4, slight encroachment made a deal to take 30 ft. on one lot and 50 ft. of another to get 80 ft. Area there is fairly low, have to be built up. We did try to get 80 ft in past, try to get 75 or 80. So as a result would like to have variance to build on that lot now in line with present existing houses. This is 12,000 square ft. Will stock to side lines, no question about side line requirements.

On question no one appeared for or against.

DECISION: Application approved unanimously.

#4. Application of Greenview Realty, 609 Wilder Building for variance to build one-family house on lot 50 ft x 120 ft. lot 14 Block F Harold Avenue in D. Zone.

Mr. Carl R. Scacchetti appeared for Greenview Realty. Had been in here 3 separate occasions on this lot. Talked to Mr. Wickens (it is next to corner lot) That corner lot I have attempted to purchase from County, they refuse to sell, they do not know who owns are. I am still stymied with it. Still have 14 Block F Did talk to Mr. Wickens on it and he told him situation and actually prepared a letter delivered to Mr. Wickens of attempt to secure corner lot and endeavors with Board. Have pointed out where able to buy lot have done so. Have to do something with Lot 14. Do not want to seem vindictive. Zoning law that sticks out is the deprivation of property without due process. This is in evidence where you have situation that was sub standard at time new zoning law went into effect and the right of the person who owned that property at time of law going into effect continue on. We purchased this lot from old lady who owned this from 1932. I could present name at later date. Also in regard to Zoning law, the benefit of the zoning law which runs to any one who acquires it from person who had property at time law went into effect or to who has contract to purchase from the owner when law went into effect. We have purchased it outright from person who owned it at time zoning law went into effect.

Mr. Strassner: Have you not in effect purchased a hardship?

Mr. Scacchetti: That is true statement, however, the hardship is to the property not individual and zoning law where hardship is to property itself then exception or variance will be granted. The property is single separate ownership. Also Mr. Sulli pointed out that property part of subdivision filed in County Clerks Office where it was standard at one time and now becomes sub standard, that property is still subject to be excepted from zoning law if property owner at zoning law change makes application or one who purchased it from that owner if no unbroken chain of title. That is case here purchasing from property owner who owned it at time zoning law went into effect. Hardship to property itself, not to individual. I have no alternative but to resort to some sort of legal action to have court determine the decision. I have followed these cases Mr. Sulli pointed out and what Judge Easton said. Person who now finds himself in position where owns substandard lot is being taxed for that lot and is unable to build because of zoning is being denied use of property without due process. You cannot tax property and find it is substandard lot. Therefore you cannot tax property itself if you cannot build on it. The town itself must purchase property from owner for value of that property for value owner would put to its use. I am pointing them out to you. Mr. Wickens would also point this out to you. He just wanted me to put it in writing as to my position here tonight. This is what I see now. I believe our attempts have been carried out to fullest. We have bought 75 ft. lots where we were able to. This situation we find ourselves unable to, therefore we have to resort to going to zoning exception. Pointed out to the Board they have Thereon Street which is not presently existing street.

Mrs. Strassner: Not dedicated or developed?

Mr. Scacchetti: I think that this should govern the boards attitude.

Mr. Strassner: Is this road developed down to there.

Mr. Scacchetti: Yes it is developed on the other end, there are hydrants to there.

On question no one appeared for or against this application.

DECISION: Decision Reserved unanimously.

DECISION: on August 24, 1965 application of FELIX J. TORAS.

Variance unanimously denied.

Respectfully submitted
Patricia D. Slack, Acting Secretary

ZONING BOARD OF APPEALS

October 26, 1965

The meeting was called to order and roll was called with the following members present: Chairman Mr. Strasner, Charles Pfenninger, Howard Van Slyke, Robert Hunter, Gertrude Tanger. Also present: Ralph Wickins, Town Attorney, William Davis, Building Inspector.

Application of Genesee Construction, 2700 Edgemere Drive, for approval to erect garage 16 ft. by 23 ft. 5 in. from north side lot line at 24 Tarrytown Drive, D Zone.

Mr. Bryce from Genesee Construction, appeared before the Board with tape location map. Wants garage 16" by 23' on 70' lot. Wantw to go 16 ft. of 21 ft. leaving 5 ft. from side lot line. Next house is 10 ft. from line. It will be car and half and will be attached to house. No breezeway. Mr. Van Slyke questioned if house on side has garage. Mr. Levick owner of 24 Tarrytown Drive, advised it did.

On the question, no one appeared for or against variance.

DECISION: Unanimously approved.

Application of Kenneth Packard, 10 Brower Rd., Spencerport, for approval to build garage 16 ft. by 24 ft. 6 ft. to side lot line, D zone.

Mr. Packard appeared. He wants variance to erect garage on 10 Tarrytown Drive. The application stated 12 Tarrytown Drive. Would like address corrected. The lot is 70 ft., wants to build 16 ft. by 24 ft. garage leaving 6 ft. Neighbor is 10 ft.

On question, no one appeared for or against variance.

DECISION: Unanimously approved.

Application of Richard M. Wirth and Morgood Tools Inc., 381 Buell Rd., for approval to erect factory structure 60 ft. from front lot line and 10 ft. from rear lot line and 60 ft. from west side lot line (Millstead Way) on premises known as lot #1 of a seven lot industrial subdivision located on Millstead Way being part of lot 117 of the John Smith Allotment, and in addition approval to erect subsequent structures on remaining six lots 60 ft. from front lot lines and 10 ft. from rear lot lines, A zone.

Mr. Jack Jugehill appeared before Board. Mr. Strassner asked if this industrial area had been approved by Planning Board and was informed it was. Mr. Jugehill advised that Mr. Wirth and Mr. Handler both present and also a partner and associate and would answer any questions. Map showing area as proposed to be laid eventually as subdivision was presented to Board. Wish permission to start construction on area which he pointed out that the Morgood Tools, Inc. would use manufacturing tools for screw machine business. Plans to have area for parking approximately 40 automobiles. Area pointed out for proposed road and building. Future part pointed out which would ultimately be developed commercial and industrial. On question of Mr. Van Slyke, all lots are standard size or bigger. Discussion of building so close to line followed. Zoning law was checked and found it was in order to build as placed on map. Mr. Wirth intends to own area and make a regular development and hopes to have it zoned properly. No loading or unloading passes in back. Mr. Strassner questioned what 10 ft. in rear be used for and was told just bumper zone. Mr. Van Slyke questioned square footage space of building. Was told 12,000 as against 62,500. Room for expansion.

Plans for type of building shown. Layout showing engineering, drafting, rooms, locker rooms, lunch rooms, etc. all facilities right there. Layout of offices shown. Sketch shown of proposed exterior, structural steel, with brock or stone and concrete T beams.

It was hoped this will be start of real development and will see some nice enterprises on road. Mr. Wirth will see those that buy them and see build decent buildings and proper type of one. Would like if possible to start putting in foundation this fall. Do wish to get started so can get into it sometime next summer. All will have uniform setback of 60 ft. Mr. Wickins added which was approved by Planning Board subject to Zoning Board's approval. With the 50 ft. road.

On question, no one appeared for variance. Mr. Frank Breiner questioned 10 ft. to rear lot line, what is zoning of surrounding property, what is Schiano's property, if variance was for property on State Highway, how near to residential.

Was advised property is A which is industrial. All property industrial to Paul Rd. No residential property near site. Has not come up for variance for property on state road. On Millstead Way industrial goes good distance from any residential area.

DECISION: Variance approved. 40 votes for approval.
1 vote against by Mr. Van Slyke

Mr. Fisher appeared for preliminary hearing for greenhouse at 3040 Chili Avenue next to St. Pius Church. Stated no objections from neighbors. Will apply for variance to be heard at next meeting.

340

Mr. Wickins requested Dintruff matter be adjourned to next meeting. He has been endeavoring to secure maps as referred to and should be part of record. Mr. Dungan is getting them for him and he should have them for next meeting. He has been conferring with Mr. Ray Allen on this matter.

RESERVED DECISIONS:

Application of Larry Rinaldis, 76 Elmcroft Road, for variance to erect single family dwellings on 50 ft. lots on lot #11 and #14 Block E Morrison Avenue with front line setback to conform with existing homes on street in D zone. (September 14, 1965)

DECISION: Approved unanimously.

Application of Larry Rinaldis, 76 Elmcroft Road, for variance to build one-family dwelling at 23 Alfred Avenue with front setback in line with existing homes in D zone. (September 28, 1965)

DECISION: Approved unanimously.

Application of Greenview Realty, 609 Wilder Building for variance to build one-family house on lot 50 ft. by 120 ft. lot #14 Harold Avenue, Block F, D zone. (September 28, 1965)

DECISION: Approved unanimously.

Respectfully submitted

Patricia D. Slack, Acting Secretary

MINUTES

ZONING BOARD OF APPEALS
TOWN OF CHILI, N.Y.

Tuesday, November 23, 1965

Present: Mr. Strassner, Chairman
Mr. Pfenninger
Mr. Van Slyke
Mr. Hunter
Mrs. Tanger
Mr. Wickens, Town Attorney
Mr. Davis, Building Inspector.

Meeting was called to order at 8:00 P.M. by Mr. Strassner, Chairman.

#2. Application of Albert J. Fisher, 3040 Chili Avenue, for variance to erect greenhouse on property approximately 200 ft. from Chili Avenue, 10 ft. from property owned by H. Bell and adjoining property owned by St. Pius X Church in E zone.

Mr. Fisher appeared. Greenhouse is 10 ft x 16 ft. going to be used for hobby not for commercial. It is not big enough for that. It is about 200 ft. from Chili Avenue, 15 ft. from neighbor. It is not adjoining house, it is free standing in yard. Will not be used for profit.

On question, no one appeared in favor or with any objection.

DECISION: Application approved unanimously but to be used strictly as a hobby and not as a business. Variance granted for a period of five years.

#3. Application of Joseph Entress, 840 West Side Drive, for variance to erect temporary sign 50 square feet over-all 60 ft. from front lot line and approximately 185 ft. north east of Sequoia Drive on the South side of Chili Avenue in E zone.

Representative appeared for Mr. Entrees. This is temporary sign. Mr. Entress tract which is going to be called Marlin West between Chili and Paul Roads west of Archer. Temporary sign on Chili approximately 185 ft. north east of the junction of Sequoia Drive. Will be wood painted. Temporary sign, two parts, upper part 3-1/2 x 10, lower 1-1/2 x 10 over all square feet 60 feet. Picture of sign shown to board. It is 60 ft from property line. Temporary sign believed required to be taken down in one year. When tract is nearly completed sign will be removed and permanent sign put up. Permanent sign stone and more fancy.

On question no one appeared in favor or with any objection.

DECISION: Application approved unanimously for one year, to be erected under supervision of building inspector.

#7. Application of Joseph Entress, 840 West Side Drive for variance to erect temporary sign 50 square feet overall 60 ft from front lot line on Paul Road north side approximately 510 ft. west of Archer Road in E zone.

This sign will be same type as other in application No. 3 except it will be on Paul Road 60 ft from lot line.

On question no one appeared in favor or with any objection.

DECISION: Application approved unanimously for one year, to be erected under supervision of building inspector.

#6. Application of Black Creek Hotel Inc. 31 Paul Road, for approval to construct trailer part on 7.8 acres of land situate on Paul Road bounded on the west by Millstead Way, on the south by Paul Road and parallel to Scottsville Road on its east boundary line in A zone.

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Representatives of Black Creek Hotel, Inc. (Mr. Schiano and another) appeared. Did not come prepared with plans or artists drawing of proposed site but have both. The proposal is for installation of some 60 trailer sites on project. Would like to point out things in favor of it. Good source of revenue to town, that lot is less than 8 acres and yields nothing. The proposal before Board conservatively would yield \$6,000. taxes annually. To anticipate objection concerning trailer park, would like to point to eight years have been in location at Scottsville and Paul with 32 units, do not at this time send a single child to any school district in area, have not at anytime in eight year sent in excess of four children to schools, this on basis of families totalling anywhere from 24 to 32. Point that out because objection has often been made that trailer parks to not assume fair share of taxes. Concerning that particular plot of ground its limitations are such due to airport nearness and other restrictions that we feel the best use we can put it to ourselves is a trailer park business which are familiar with. Would be kind of park that would be quite different from the past. Only sorry at this point did not think far enough in advance to have brought sketches for artist drawing for basic site. Situate each trailer on its own slab of concrete with its own walk, own carport, own awning own front lighting. Sketch would have shown adequate shrubbing, good placement of trees, lighted walks, paved roads, just about every kind of convenience or a method of planning used in any homesite development. I think that about presents our case.

Mr. Strassner: Any facilities for recreational activities?

Mr. Schiano: We had not made that in our inclusion. I might point out that I have almost excluded the need for it in the fact we do not anticipate any overflow of children. We would like this part to be used for settling of retired people or people past age of raising families.

Mr. Hunter: Will there be plans available?

Mr. Schiano: There are at present and we erred in just not bringing them tonight. We do have plans made up, an artist sketch of proposed unit showing features I have enumerated tonight.

On question Mr. Schiano said the proposed units would be 50 x 75 ft.

Mr. Strassner asked if checked on our trailer zoning ordinances.

Mr. Schiano: The lots are somewhat under size. This is variance hope to obtain.

Mr. Wickens: Have to rule this Board has no power as to change of lot sizes, this would have to be referred to Town Board, it is this board's job to determine if use of land is proper.

Mr. Strassner: Also this board's area in having zoning law made. If there is anything that goes against this should be asked for an application for variance in accordance with zoning laws.

Mr. Schiano: That is really what we were under impression we were doing tonight.

On question those who appeared in favor of application were:

Howard Fitzsimmons, 206 Chester Road
Ralph Cochrane, Millstead way
Loretta Simmons, 240 Paul Road.

On question of objection Mr. Richard Wirth, 272 Meadowdale Dr., Have precision cutting tool plant on Buell. You have just approved our building industrial area just adjacent to this land. Seriously object to the use of land that close to our industrial buildings for trailer park purposes.

In objection Mr. Frank Briener, Fisher Road. As resident and developer of industrial park, objects to this very strenuously. 1. They do not want to comply with 12000 square foot land area which would permit them about 24 trailers in 8 acres of land. No way of maintaining 60 ft. right of way, road 20 ft. side lines and also this would be

a detriment to surrounding industrial land we are trying so hard to develop. This would set us backwards instead of ahead and we feel this is not a hardship case. That they are asking for this variance and this land could be best used for industrial land that it is zoned for now.

Wm. Wilcox, 561 Paul Road. I object on same grounds that Mr. Briener just did.

Mr. Schiano on rebuttal: I might just clear up one point of objection. Have to concede lot size to him, would only permit 24 units. Concerning you specifications and plans would show 60 ft. for road center so proper width of roads. I am certain except for lot size would not be in violation of any other specification that ordinance would call for. I think this goes a very long way and assumes a great deal he cannot back up of telling town how that land is best used. We certainly are not encroaching on the industrial development of that area, think quite reverse is true. That land having laid fallow for hundred of years, We have been there operating successfully, operating for benefit of town and all we are asking for is an expansion of operations that has not hurt town that I am aware of, whereas the condemnation of it by Mr. Breiner seems to be we are spoiling it for development of an industrial park.

DECISION: Board reserved decision until application discussed with Town Board.

#4. Application of Richard Wollover, 22 Chester Avenue for variance to erect a garage at 22 Chester Avenue, 6 ft. from west side lot line and approximately 37 ft. from front lot line in D zone.

Mr. and Mrs. Wollover appeared with a sketch with land marked off. Would be 22 x 10 ft. wide they explained to Board. Houses are 26 ft. apart, where garage is going was pointed out to board. Garage will be 16 ft. from next house, they have 10 ft. to line and Wollovers have 6 ft. These are all 50 ft. lots.

On question, no one appeared in favor or with any objection.

DECISION: Application approved unanimously.

#5. Application of Brite Signs Inc., 287 Webster Avenue, for approval to erect 3 ft x 4 ft sign 9 ft from the ground at the southwest corner of Buffalo Road and Union Street 15 ft. from either corner in B zone.

Application withdrawn before meeting.

#8. Application of Indian Hills Development Corporation, 960 Pinnacle Road, Henrietta, New York, for variance to erect temporary sign double faced 4 ft x 8 ft installed on two posts at the southeast corner of Lexington Parkway and Chili Road, said posts to be located under the direction of Building Inspector in E zone.

Mr. Eugene Rasch of Indian Hills Development Corporation appeared with sketch of sign to show Board. This is a 4 ft x 8 ft sign to be located in 128 ft. frontage stretch. This will eventually be turned over to Town. What want now is to put sign up perpendicular to Chili Road. Have not application for lights, but may put two ground spots to reflect just on sign. Will be temporary and eventually replaced by entrance motif. It is temporary. Problem is weather, have not been able to landscape by the permanent entrance or put it in yet. Distance back from Chili Avenue will be left up to Mr. Davis, Building Inspector.

On question, no one appeared in favor or with any objection.

DECISION: Application approved unanimously for one year.

#1. Application of Clifford W. Tomer, 4390 Buffalo Road, optionee, for approval to construct a gas station on property owned by Merlyn and Janet Brown at 901 Chili-Coldwater Road in A zone.

Mr. Tomer appeared. This is application as was read for variance in connection with 901 Chili-Coldwater Road which is section of property located at intersection of Interstate 490 and Chili-Coldwater Road.

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I am applicant in this case. Appear as agent for undisclosed principal who I will disclose this evening in connection with this property, time contract for sale on which I have an option. Sale price would be \$30,000. and sale is contingent upon granting of this variance. The application is made pursuant to section 1903 and section 19 - 1960 of Chili Zoning Ordinance. Have map of property, survey. Sure board is familiar with since application has been before board on prior occasion. In event would like to have your recollection reviewed, this is property on northwest corner of expressway and the Chili-Coldwater Road. Property has dimensions roughly a little better than 300 ft. on Chili-Coldwater Road beginning 200 ft. square then going back some 500 or 600 ft. and runs across back, roughly 8 acres of land. (Survey submitted into evidence and marked Exhibit A.

Principal involved is Texaco Company. Mr. Tomer has been working with Mr. Ashman Agent and developer for them.

Mockup of Texaco Service Station, marked Exhibit B showing typical Texaco Station and one which will be built on this property or an alternative was admitted into evidence.

Mr. Tomer advised had some other changes as far as building concerned to adapt to particular area, and had another sketch here tonight.

Plot plan of station on location marked Exhibit C showing lights, entrances, two positions of pumps, location and cut and so forth, were admitted into evidence. Mr. Tomer advised had some evidence to put before Board before questions asked on these exhibits.

This property is presently owned by Mr. and Mrs. Brown who have been living on site for sixteen years. They purchased property for a purchase price of \$7,400. some sixteen years ago.

At this time Mr. Tomer called Mr. David Klönick. Mr. Tomer asked if there would be any objections from the Board if he questioned Mr. Klönick. There were no objections. Mr. Tomer read Mr. Klönick's qualifications from paper admitted into evidence and marked Exhibit D.

Mr. Tomer: Mr. Klönick are you familiar with piece of property we are referring to this evening?

Mr. Klönick: Yes I am.

Mr. Tomer: When did you become interested?

Mr. Klönick: Approximately early in September when I talked with Browns. We listed property for sale.

Mr. Tomer: Did you get history of property, etc.?

Mr. Klönick: I was somewhat aware through the efforts of Mr. Fox salesman in my employ who had briefed me on history

Mr. Tomer: To your knowledge had there been occasions prior to your listing when property had been up for sale?

Mr. Klönick: To my knowledge it had been up for sale.

Mr. Tomer: You are familiar with the classification of zoning of this piece of real property?

Mr. Klönick: Yes sir.

Mr. Tomer: It is classed?

Mr. Klönick: Zoned industrial.

Mr. Tomer: Are you familiar with similar property in this particular location immediately surrounding the pertinent property?

Mr. Klönick: Yes, I feel I am quite familiar inasmuch as my office has worked on route 490 expressway property and I have fairly good working knowledge of what property was acquired at the time of building of expressway.

Mr. Tomer: This particular zoned industrial. I am sure Board is familiar with that section zoned industrial. Can you relate it for record.

Mr. Klonick: I have here working map of section of Town of Chili with pen and ink section on here for subject property, I will pass up to you if you like, with the understanding that your present zoning of industrial is an area bounded by expressway and tracks of New York Central railroad running in a generally westerly direction, I believe.

Mr. Tomer: So that this particular industrial area runs for Chili-Coldwater Road in somewhat of pie shape with its north line West Side Drive and New York Central tracks and south line expressway. What is first immediate highway that crosses this industrial property on West. Is that Golden Road.

Mr. Klonick: Yes.

Mr. Tomer: Mr. Klonick, are you familiar with the general appraisal and value of industrial property in Town of Chili and surroundings?

Mr. Klonick: Yes sir, I am quite familiar with that. My firm had an interest in bringing Bausch & Lomb plant to Chili at the time that property was sold.

Mr. Tomer: Are you familiar with any industrial parks and developments or property industrial in this area?

Mr. Klonick: Familiar in a general way, yes.

Mr. Tomer: Do you know of your own knowledge a general value in relation to the property and the going price for industrial property?

Mr. Klonick: Yes, I think so.

Mr. Tomer: On what do you base this?

Mr. Klonick: We have in connection with our appraisals, it is necessary to maintain quite detailed inventory of all transactions and working quite closely with appraisers in areas so that we have maintained records, frequently been on spot interviews with brokers as to what various transactions they are involved in with reference to their property in order to establish some set of values. Now, of course, the value of the land as far as industrial depends on great deal, type, uses, adaptability to industrial uses, etc.

Mr. Tomer: Can you give me a base on reasonable certainty as is expected as to general value or general figure, prices of property per acre for industrial uses.

Mr. Klonick: Are you intested in figure as to what possible transactions have taken place right in Town of Chili?

Mr. Tomer: Yes.

Mr. Klonick: I happen to have two that I could tell you about. First property is located on King Road, north side Chili, N.Y. corner Paul and King Roads, seller George L. Cutarer and wife. Property consisted of approximately 21.32 acres.

Mr. Tomer: And that was sold for industrial purposes?

Mr. Klonick: That was sold for possible future industrial use.

Mr. Tomer: It is zoned industrial?

Mr. Klonick: Yes, I believe it is.

Mr. Tomer: What was price per acre, average price.

Mr. Klonick: The average price was about \$469. per acre. Date of sale was June 8, 1961. This was verified by letter with purchaser.

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Mr. Tomer: Other situation was?

Mr. Klonick: Said seller location East of King Road town of Chili, N.Y. consisted of approximately 32 acres.

Mr. Tomer: What was general price of that.

Mr. Klonick: Selling price of \$20,000. so in very quick calculation, about \$650 - \$660. per acre.

Mr. Tomer: Are you familiar with those particular areas?

Mr. Klonick: In a general way.

Mr. Tomer: As far as use was, are adaptable to industrial?

Mr. Klonick: Reasonably good.

Mr. Tomer: Now you have looked over the property belonging to the Browns. Would you give this Board your expert opinion as to its adaptability at present time for industrial purposes.

Mr. Klonick: My opinion is that this property is seriously deficient on two counts for its general suitability and adaptability for industrial. One count general topography of this area appears to be a bog, low swamp type, fairly undesirable for campus type development in connection with building industrially.

Mr. Tomer: You are talking about fact that it is low, etc.

Mr. Klonick: Yes, the other thing I noticed in connection with my inspection of this property is deficit with regard to accessibility. Very long stretch of land narrowing at top if you know map, fairly long distance Chili Coldwater Road of course crosses under the expressway, Golden Rd. deadends. Therefore I feel suffers serious deficit lack of accessibility.

Mr. Tomer: No access from expressway.

Mr. Klonick: That is correct. Only people who would have access on north would be railroad, homes located along West side of Coldwater-Chili Road with exception of our property

Mr. Tomer: And could you get access from Golden Road into this industrial property.

Mr. Klonick: I do not believe you could. I think there appeared to me to be two properties on Golden Road that would block access into this.

Mr. Tomer: In your opinion then the property is not conducive to industrial at this time? With the property zoned industrial do you have an opinion based on your experience as to whether

Mr. Klonick: this property would be advisable at this time as residential property?

Mr. Klonick: I feel it has a serious deficiency for residential on two counts. 1. Proximity to expressway, like convenience but because of those thinking I have found there is some detriment to living directly on top of it. 2. I think would want to see adequate water and drainage for residential development. With the property now adjoining zoned industrial and property industrial application would have to be made for purposes for residential purposes, would require variance in each instance to place a private dwelling. This also is going to have effect on sale as residential and also fact there is zoned industrial property.

Mr. Pfenniger: Long ways from Golden Road.

Mr. Tome: It is a great ways.

Mr. Van Slyke: Does it go across railroad?

Mr. Tomer: No.

On question of Mr. Van Slyke, Mr. Tomer described property and how bordered, with property being about 8 acres, with no access into this property from express and proximity to Golden Road. Mr. Tomer then asked if the Board was clear he was talking about use of parcel in connection with use of entire parcel as industrial.

Mr. Hunter asked Mr. Klonick if his concern for the lowness of this land is concern for ability to put building on it or water?

Mr. Klonick: I think generally its topography is such that it might require detailed engineering for any large scale building. If it is continued to be industrial area someone would have to come to grips as to what is required to locate building. This particular area, this particular property talking about tonight is generally on higher side. Topography is rolling from there.

Mr. VanSlyke: You made comparison with two other pieces of land. Please tell me what different topography and soil the other two from this?

Mr. Klonick: I have nothing in my data that would indicate that. I would have to see. I did not physically inspect these properties. We were attempting to establish in connection with sale prices of these properties.

Mr. VanSlyke: What date of last sale price?

Mr. Klonick: April 5, 1963. It was verified with sale under date of November 30, 1965.

Mr. Strassner: Would you say putting this gas station in this particular area would bring in some sort of business or that into rear of this area?

Mr. Klonick: I think it is hard to envision use that might develop. I do think the entrance of a gas station into the situation would not be a detriment to any future development that might come before this Board. I do not feel in overall zoning plan that this would seriously effect the development of remainder.

Mr. Strassner: Upon your questions and answers presented to you, nothing very much could go in there could it.

Mr. Klonick: I think it would offer a real challenge if you want my honest opinion. When Mr. Tomer brought it to my attention I looked it over carefully knowing what industry wants. As I say, I happen to represent a real estate firm that works quite closely with industry, that when they go to locate for an industrial area, this area has none of the characteristics I know would be of any interest to them. It is a relatively thin, narrow strip plus the double handicap there of limited accessibility.

Mr. Tomer: Thanks Mr. Klonick.

Map marked Exhibit E and made part of minutes of meeting.

Mr. Tomer called Mr. Ashman and asked him to tell Board full name.

Mr. Ashman: Name Oliver B. Ashman, Service Station Contractor, Address 599 Pinegrove Avenue, Rochester, N.Y. 14617

Mr. Tomer: Is it not fact I have been appearing through you for the Texaco people in connection with the contract to purchase the Brown property?

Mr. Ashman: That is right.

Mr. Tomer: Your business is building and constructing gas service stations. Is that correct?

Mr. Ashman: That is true.

Mr. Tomer: Will you tell board the nature and type of service station

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that will be constructed on this property?

Mr. Ashman: Latest design, entirely of most modern methods.

Mr. Tomer: What is the nature of the material used in actual building?

Mr. Ashman: Porcelain outside and porcelain inside.

Mr. Tomer: And is the nature of this for a particular purpose?

Mr. Ashman: It is to minimize the maintenance. It is practically 1% of painting.

Mr. Tomer: Now in construction of service stations, are you not required to meet certain state requirements?

Mr. Ashman: That is true.

Mr. Tomer: This is particularly true regard to ingress and egress to gas stations.

Mr. Ashman: That is true.

Mr. Tomer: Of course all state requirements would be met in connection with construction of station?

Mr. Ashman: That is right.

Mr. Tomer referred to Exhibit A placed in evidence previously as type of building, and asked Mr. Ashman if this was type of building and Mr. Ashman advised it was.

Mr. Tomer: I have here exhibit in connection with a different type of exterior which is sometimes constructed by Texaco people. Can you describe this.

Mr. Ashman: It is classified as suburban type. It is actually on a ranch style with the entrance to the bays on the side rather than on front.

Mr. Tomer: Could this, if the Board here desires having something different than the porcelain construction, be substituted?

Mr. Ashman: That is right.

Sketch shown to Board and people at hearing.

Mr. Tomer: In connection with construction of service station, it is seeded in area, plants, etc. is this within your province, the grading and seeding, etc. to provide?

Mr. Ashman: That is right, we grade it and seed it.

Mr. Tomer: Now I am sure Board is aware that in connection with service stations there is some gas storage. Do you build these storage tanks or place them?

Mr. Ashman: We place the tanks.

Mr. Tomer: In this particular service station where generally are the tanks located?

Mr. Ashman: They are off to one side generally, in a non-traffic area--car traffic.

Mr. Tomer: What practice is there with respect to your actual construction.

Mr. Ashman: Place 6 inch reinforced concrete mat over entire tops of tanks.

Mrs. Tanger: Is that one of your stations on Buffalo and Pixley roads.

Mr. Ashman: That is a Texaco station, but has nothing to do with my particular operation.

Mrs. Tanger: That has not been well occupied.

Mr. VanSlyke: How much of this 300 ft. frontage on Chili-Coldwater do you mean to use? 25

Mr. Ashman: Approximately 175 ft.

Mr. Van Slyke: Is that adjacent to expressway or other side?

Mr. Ashman: I believe it is adjacent to expressway.

Mr. Van Slyke: Going to use approximately 175 ft. frontage on Chili Coldwater Rd. next to Throughway?

Mr. Strassner: Does this property stop access to rear of other property in back?

Mr. Tomer: I am not sure what one you are talking about.

Mr. Strassner: The property in back.

Mr. Tomer: I assume borders along Expressway and railroad and

Mr. Strassner: How would they get access to that?

Mr. Hunter: Do plans you are leaving with us show lighting?

Mr. Tomer: Yes.

Mr. Hunter: Would you explain situation?

Mr. Ashman: This particular setup. Murray Vapor designed to light station only, do not spill out into surrounding area.

Mr. Strassner: How many pumps?

Mr. Ashman: Four.

Mr. Strassner: How many bays?

Mr. Ashman: Two bays.

Mr. Strassner: Any repair work?

Mr. Ashman: They do not anticipate any major repairs.

Mr. Tomer: No major repairs in this station.

Mr. Ashman: Minor repairs, lubrication, gas, oil, etc., no major repairs.

Mr. Strassner: What about refuse, old tires, etc.

Mr. Ashman: Have enclosed storage are provided for in rear of station.

Mr. Strassner: Would this be kept clean at all times?

Mr. Ashman: Sure.

Mr. Strassner: What hours of opening?

Mr. Tomer: Begging your pardon, I have someone from Texaco who could answer those questions. Could I delay questions to Mr. Gross? Mr. Ashman connection with actual construction.

Mr. Strassner: How far back from road?

Mr. Tomer: Plans we have place building making line of building about 67 ft. 1st pump 15 ft. back from property line, then there is width of island distance 22 ft. between that and next 4 ft. wide but distance of 20 ft. back to line.

Mr. Tomer: Thank you Mr. Ashman.

Mr. Tomer called Mr. Gross and introduced him. Mr. A. J. Gross, 49 Harper Rd. , Snyder, N.Y. Occupation real estate agent for Texaco Inc. Have been with Texaco 22 years. Entirely familiar with their operation in Monroe County and surrounding area.

Mr. Toner: You are familiar with piece of property presently owned by Browns?

Mr. Gross: Yes. Familiar with physical layout etc., yes.

Mr. Toner: In connection with this piece of property, Mr. Gross, I take it you have looked the property over and decided it would make good place for gas station.

Mr. Gross: Yes. There was some question about station located on Buffalo Rd., that is Texaco station in Town of Gates. Presently unoccupied. We have had chance to rent that on several occasions but operators who applied for it did not measure up to our standards. Rent when find someone who does.

Mr. Toner: Are you familiar with fact that closest service station going north from this general location is service station on corner of Buffalo and Chili Coldwater, grocery store with Amico pump located over two miles and next closest would be south of this at Chili Coldwater, I believe 1.2 miles, correct?

Mr. Gross: Yes.

Mr. Toner: After careful consideration of locations, etc., you feel this would be good spot?

Mr. Gross: I feel it would be, putting the property to its highest and best use, adjacent to Interstate Highway 490. We all know government will not permit any service stations on Interstate Highway system, so Texaco have been trying to provide these services as close to them as possible. One under construction now at intersection of 490 and 90 and Route 19 at LeRoy Interchange.

Mr. Toner: Mr. Gross, in connection with this particular service station what would you feel would be the possible number of gallons of gas this particular service station would pump each month?

Mr. Gross: Well we figure about 360,000 gallons a year, about 30,000 a month.

Mr. Toner: This would require approximately how many employees?

Mr. Gross: About four.

Mr. Toner: In this particular service station will there be any repair work outside of light repair work?

Mr. Gross: No repair work because we as a company frown on it. Today under our type of operation, agency plan, these operators are our employees, controlled by us. We choose these operators ourself. Must have four weeks training before going in.

Mr. Toner: Under your predictions, as far as number of gallons of gas per week, what would you say this would be approximately, how many automobiles to get that?

Mr. Gross: Approximately 150.

Mr. Toner: In your experience in service station business, where would these automobiles come from?

Mr. Gross: From the neighborhood and from Interstate 490.

Mr. Toner: Generally speaking, in operation of service stations, the people who stop for gas, is this done on way to and from work?

Mr. Gross: We say from experience on the way home, hurrying in AM.

Mr. Toner: Generally speaking, do not make particular trips to gas station for gas alone?

Mr. Gross: No.

Mr. Toner: You are familiar with location and flow of traffic, in your expert opinion, do you feel this would increase to any degree the traffic flow?

Mr. Gross: Not to any degree.

Mr. Toner: Do you feel any hazard going in and out?

Mr. Gross: No, sir.

Mr. Toner: Do you know there are no sidewalks in that vicinity?

Mr. Gross: That is correct, no traffic on sidewalks.

Mr. Toner: In connection with operation of gas service stations, what if any odors or similar things come from actual pumps?

Mr. Gross: I say practically none, some from gas loaded from unit but all tanks are properly sealed in accordance with fire underwriters.

Mr. Toner: When you say being loaded you referring to when fill up storage tanks?

Mr. Gross: Yes.

Mr. Toner: What size storage?

Mr. Gross: Two 10,000 gallon tanks. Filled about four to five times a month.

Mr. Toner: These are done on particular schedule?

Mr. Gross: No, we fill them at our convenience. Under this agency plan our production so we schedule work at midnight or 2:00 A.M depending on anticipation.

Mr. Toner: Beautification, what does Texaco do in that regard?

Mr. Gross: Right now we have our Chairman of the Board has pledged to Mr. Johnson we would go along with beautification program of U.S. Highways. Every service station we allocate \$1,000 for flowers and shrubs. When Mrs. Johnson was in Buffalo we took one of our stations, spent \$7,000 for shrubbery and flowers and she did not show up. In that station where we did that, the volume increased 75%. Women felt it beautiful.

Mr. Toner: Will the station and construction of station be fire resistant?

Mr. Gross: Yes.

Mr. Toner: In your opinion, what if any fire hazard in respect to this station?

Mr. Gross: I have been in Texaco 22 years. To my knowledge never been a fire in any Texaco station.

Mr. Toner: In your expert opinion, any fire hazard?

Mr. Gross: No.

Mr. Toner: In connection with the service station itself, do you permit the storage of trailers, etc., large trucks, anything of that nature or usually cars laying around?

Mr. Gross: No sir. We provide storage enclosure for rubbish. Operator instructed it to be put in there, picked up when it is full. Do not want it cluttered in front.

Mr. Strassner: Employees. You mention one closed. What if you cannot find one for over here.

Mr. Gross: We have this agency plan. We find them for that. I think he is ready to open the one at Bixley Road.

Mr. Hunter: Would you service trucks on expressway?

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Mr. Gross: No. We do not service trucks, station not made to accommodate that. Just autos. You received question about lighting. I am sorry did not bring picture with me. (picture showed showing lighting, fluorescent tube, no glare)

Mr. Hunter: Would ranch style mentioned by lighted in similar way?

Mr. Gross: Yes. We also have Colonial type that is attractive.

Mr. Toner: If this board would be desirous of seeing colonial type we could get one for them to look at.

Mr. Gross: Could have some colored photos sent if you wish to see them.

Mrs. Tanger: Do you burn any trash?

Mr. Gross: No never.

Mr. Toner thanked Mr. Gross and excused him.

Mr. Toner: Does the board have any other questions of witnesses called? I would like to make my last plea. In connection with this application we are faced with a piece of property approximately 8 acres, particularly interested in that section that fronts on Chili Coldwater Rd. We are asking this board to give us variance pursuant to sections quoted, to build service station in industrial area. We do not feel we are creating by this service station according to the testimony heard tonight any hazards, fire hazard, any detriment as far as the health of the neighborhood is concerned. There are no sidewalks, very little pedestrian traffic, approximately 14 or 15 houses north of expressway on Chili Coldwater Road and their transportation generally I would believe would be via vehicle. I doubt if any walk, possibly some do, any youngster walks to Florence Brasser school to the south, very few I would think. I do not feel that there is any evidence to show that there is problem with public safety, no congestion of service stations in immediate vicinity, closest to south is little over mile, closest to north over two miles, east and west would be further than that. One last factor, that I would like to refer to is hardship. I feel there is reason to consider this case of hardship. Property Browns have up for sale past year and half. There was application some time ago very similar to this one. Property is located now in industrial area, was at one time residential area. Browns had nothing to do with rezoning. I am sure Board is familiar with occasion when attempts have been made to zone in back. This has not been done. It is not Board's concern. Only concern as to what zoning is there at present and it is industrial property. I have shown by testimony was purchased for \$7400. It now can be sold for industrial purposes which it is zoned for. Therefore according to our expert high figure of \$650 an acre, they could get back approximately \$5,000 for property. I doubt if house as residential, knowing zoned industrial. I say this is an absolute hardship not brought about by the Browns. A hardship they have been the butt of. In my last plea, I do not think under the circumstances that we are changing the character of the neighborhood by putting a gas service station in. May sound funny when you think of it it is not, property zoned industrial, character of neighborhood is industrial. Board is familiar with zoning ordinances, they are familiar with various types of construction that would now be permitted on that property without any application to the Board. There could be bottling works, metal yard, cold storage plant, electrical manufacturing, laundry lumber yards, trucking business, motor vehicle repair shops are permitted on that property right now without application in that industrial area, plating works. Board is familiar with these. The law says that where a gas station will have no greater impact upon surrounding land than would be felt if uses permit, then fact gas station will inflict some harm to adjacent property in this case will not support denial of the permit and I can cite for you Supreme Court cases involving this thing. Thank the Board for their kind indulgence. I have nobody further in favor of this application, although I think the Browns are here. Thank you very much.

The meeting recessed for five minutes. Meeting recalled to order by Chairman, Mr. Strassner.

On the question in favor of application: Merwyn Brown, 901 Chili-Coldwater Rd. appeared. Greg Meredith, 881 Chili-Coldwater Rd. appeared.

On question objection to application:

Warren A. Rogers, 801 Chili-Coldwater Road: We have lived here for more years than Browns, at which time total of one half dozen from Westside Dr. to present location. Some years back, town saw fit to zone industrial that property on the west side of Chili-Coldwater. This was explained to the residents of Chili-Coldwater Rd. and we were all opposed and still feel we were misled that zoning of industrial would be in the approximate matter of 300 ft. west of Central Railroad. We moved there for residential purposes as did the Browns and as did the Samises. We came out to two meetings on the Brown property. Fortunately Board saw fit to go along with vast majority of Chili-Coldwater Road in turning down property at Sun Oil Co. Now faced with same thing by Texaco, whose proposition to you put 150 cars per day into 175 ft. frontage area and also by their own testimony propose to do this during after = work hours on way home from work which is from about 4:30 to 6:30. This question to consider quite a traffic situation. Furthermore people coming from city are not about to get off at Chili-Coldwater Road and continue on so is going to put all traffic right around here. It is not a hardship case we feel, on the Browns part, to be able to sell their property industrial, they can sell it residential. They came out some 16 years ago, they came out as residents not as land speculators to make huge amount of money on their property. At the present time after the first two meetings, the question was put to the Board or to some member of the Board, what can we as residents of Chili-Coldwater Rd. do to forestall any more of this industrial business, and we were told that the property on the west side said industrial zoning had been violated, property rezoned from industrial against their wishes back to residential. We were told petition could be put in and if vast majority were in favor of back to residential, this could be effected. At the present time there is before the Planning Board or the Town Board or the Zoning Board, I do not know exactly, some couple of months ago such a petition signed by property holders on West side of Chili-Coldwater Road. Also furnished to Town governing body of Chili, those residents in residential section on east side of Chili-Coldwater Road were not approached for their signatures on present petition. Some 20 houses on both sides of road and probably 90 or 80% of all property owners would be in favor of entire length from expressway to Westside Drive, both east and west, be zoned residential. Thank you.

Hunts Strasser, 867 Chili-Coldwater Rd.: I second the thought and saying of Mr. Rogers and another thing. Chili has few gas stations going good, but if had few more bad gas stations, better have few good and good revenue and good results. Very important for Chili to supervise under basis lighten of traffic lines which would cause many to turn to.

Mrs. Warren A. Rogers, 880 Chili-Coldwater Rd.: Mrs. Tanger mentioned much on land. It is peat bog and he brought it up. Peat bog caused fire and burned for almost year. Hate to think of inflammables in that area when we have already put up with that. Concerning hardship, do not know how much gained. I believe did receive money from New York State when expressway, two lots sold and two houses built on them. That land not completely without income.

Mr. Wickins advised when Mr. Strassner asked people at hearing not to repeat objections, he did not mean should not get up and object if you want to back up Mr. and Mrs. Rogers.

Mr. Strassner: That is right. If there are any be glad to stand up and we will be glad to listen to you.

Mr. Rogers: Inasmuch as there is a petition in front of the Board to rezone from industrial back to residential, will this constitute a postponement? Further, not situation of fact that only those signatures on petition from industrial zoned side of road, would it be to your interest and our advantage to get signatures from east side and bring those along?

Mr. Strassner: At what meeting are you talking about? This Board is not acting on petition to change zoning. We can only act on the application for a variance, the condition for it is now in force.

Mr. Rogers: But there is pending petition to change the zoning.

Mr. Wickins: A gas station is special use under zoning. Whether it is zoned residential, commercial, or industrial, it would have to come before Zoning Board, that is special situation, without variance being granted, so that if it was rezoned back to residential this would not preclude anyone from applying for a gas station.

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DECISION: Decision on application reserved. Secretary to ~~wright~~ write letter to Planning Board requesting information concerning the status of the petition by residents of West side of Chili-Coldwater Rd. which has been submitted to them.

Mr. Wickins placed into evidence on Dintruff matter papers received from Mr. Hartman and also Master Plan Report to be marked Petitioners Exhibit A and map marked Exhibit Y.

DECISION; Application of Joseph Oliver made August 24, 1965, for variance on Lot 2 Block 0 corner Theron St. and Charles Ave. Decision of the Board unanimous application denied because of no sewage.

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MINUTES
ZONING BOARD OF APPEALS TOWN OF CHILI, N.Y.
December 28, 1965

Meeting was called to order at 8:00 P.M. The following were present:

- Cornelius Strassner, Chairman
- Charles Pfenninger
- Robert Hunter
- Howard Van Slyke
- Gertrude Tanger
- Ralph Wickins, Town Attorney
- William Davis, Town Building Inspector.

#1. Application of Mower and Metzger, 3200 Chili Avenue, for variance to operate machine shop at 3200 Chili Avenue in B zone.

Mr. Mower and Mr. Metzger appeared. Are applying for renewal of variance which is running out. Have had two year and are now finishing up five year and are applying for a new one.

Mr. Van Slyke asked if it is going to be operated as in past.

Messrs. Mower and Metzger said feel they are improving place little by little. Said business run as in past just growing, have 10 more employees than had five years ago. Asked for at least five year variance or more, would like to have them become automatic.

Mr. Wickins said would have to go before Planning Board and Town Board for rezoning. Some times where existing business they might consider changing the zoning to allow this, then it would become permanent. Perhaps thing would be to go after this variance, if it is granted, to take it up with town officers and discuss rezoning possibilities.

Messrs. Mower and Metzger said main interest would be how much money they would put in to imprive it on outside. Feel they have put money in it and have a lot of other plans to make it look a lot nicer on Chili.

On question no one appeared for or against this application.

DECISION: Variance approved unanimously for five years.

#2. Application of Sterling Peckham, 9 Miller Drive, for approval to build house on lot 66 ft. x 140 ft, 35ft from front lot line in line with existing homes on street at 9 Miller Drive in D zone.

Mr. Peckham appeared before Board. Lot 9,240 square feet. It is an existing lot. Father owns land on one side, and college owns rest of it. Land between their property and Buffalo Road owned by School. Would abide by existing side lines, 35 ft. in front and would be in line with other houses. There are three houses on street now.

On question of Mr. Hunter if he planned to build garage said one is already there about 100 feet back. House and garage would conform, not connecting, but would conform. There are sewers and water in. College owns property on one side, father on other.

On question, no one appeared for or against this application.

DECISION: Variance approved unanimously.

#3. Application of Frederick and Dorothy Holderle, 24 Grenell Drive, to build two car garage 24 ft. x 24 ft., 3 ft to south side lot line at 24 Grenell Drive in D zone.

Mr. Holderle appeared with map. It is impossible to comform with restrictions now. Peters next door about 17 ft. feet from his line.

There would be 20 ft. in between. His house is in existence. He pointed out where porch is and garage now, he would like to convert that to family room and put bedroom above it, but that needs only permit, variance is for garage. Peters driveway goes out to Paul Road. Mr. Peters has no objection, he said.

On question no one appeared for or against variance.

DECISION: Variance approved unanimously.

#4. Application of Marine Midland Trust Company of Rochester for approval to erect 36 ft. in width by 3ft. 8 in. in height illuminated sign on top of Marine Midland Bank Building at 3230 Chili Avenue in B zone.

Mr. Richard Melvin, branch manager of this Marine Midland Bank Branch appeared. Sign will be on top of building paralleling Chili Avenue, will be plastic type sign with luminous tubes, will be on timer shutoff between 10 and 11 at night. This controls other lights on building other than light guarding night depository. Will be on seven days. Illuminated just in front, visible just from Chili avenue, will not be directly event, will be at sort of angle. Lights are actually inside. White plastic with blue and red lettering. Very similar to small sign now have.

On question, no one appeared for or against this variance.

DECISION: Approved unanimously to be illuminated no later than 11:00 PM, and to be visible only on Chili Avenue side.

In the Matter of the Appeal of Madeline L. Dintruff from the Order of the Chili Superintendent of Buildings concerning the storage of explosives upon her property fronting on Paul Road in said Town of Chili:

DECISION: Denied unanimously upon the grounds of the findings and conclusions of the Board, which findings and conclusions and hereby attached to and made part of these minutes.

Application of Clifford W. Tomer, for approval to construction gas station on property owned by Merlyn and Janet Brown which application came before Board November 23, 1965.

Pictures of colonial type of station were sent to Board by Mr. Tomer and are made part of minutes.

DECISION still reserved unanimously until Town Board makes decision on rezoning of this property.

Application of Black Creek Hotel Inc. to construction trailer park, which application appeared before Board November 23, 1965.

DECISION still reserved unanimously until Board has consultation with Town Board.

Respectfully submitted
Patricia D. Slack
Acting Secretary

BEFORE THE
ZONING BOARD OF APPEALS OF
THE TOWN OF CHILI, MONROE COUNTY, NEW YORK.

IN THE MATTER OF THE APPEAL OF MADELINE L.
DINTRUFF FROM THE ORDER OF THE CHILI SUPER-
INTENDENT OF BUILDINGS CONCERNING THE STORAGE
OF EXPLOSIVES UPON HER PROPERTY FRONTING ON
PAUL ROAD IN SAID TOWN OF CHILI.

Madeline L. Dintruff, the owner of certain property hereinafter described fronting on Paul Road in this Town of Chili, has appealed to this Board for a reversal of the decision and order of Mr. William A. Davis, the Town Superintendent of Buildings, contained in his letter to her, dated November 16, 1964. In that letter Mr. Davis stated, in substance, that upon his inspection of her property he found explosives stored thereon in violation of §19-61 of the Town Zoning Ordinances, and directed her to comply therewith. Upon due notice a public hearing on this appeal was held by and before this Board on January 26, 1965. At this hearing appellant was represented by her attorney, who presented her case, submitted various documentary exhibits, together with the statements, affidavits and testimony of various witnesses in her behalf. Appellant claimed a right to store explosives on her property upon the basis of an alleged continuous non-conforming use pre-existing the Town Zoning Ordinances adopted in 1947. Decision was reserved by this Board, which after further investigation of the matter, on March 23, 1965 by formal resolution denied the appeal. Appellant then brought a proceeding in the Supreme Court to review and annul this determination of this Board, which resulted in an order, entered in the Monroe County

Clerk's Office on June 22, 1965, reversing the determination and remitting this matter to this Board for further proceedings herein upon a further public hearing and for the making of findings of fact and conclusions in respect thereto. Thereupon, on due notice a further public hearing was held by and before this Board on July 27, 1965. Appellant was again represented thereat by her attorney, who again extensively presented her case. Mr. Carl Dintruff (appellant's husband) and others were questioned at some length. Further documentary exhibits and affidavits were submitted. Decision thereon was reserved; and now this matter, upon study and consideration of the entire record, is before this Board for decision pursuant to the Court order mentioned above.

The precise issue to be determined by this Board is whether the property now owned by appellant, Mrs. Madeline L. Dintruff, was used for the storage of explosives in 1947 at the time of the enactment of the Zoning Ordinances of the Town of Chili and has been continuously used for that purpose since that time.

Upon the entire record of the aforesaid hearings, and the affidavits, maps and other documentary exhibits presented this Board hereby makes and states the following findings of fact and conclusions:

1. The property now owned by appellant is located in the Town of Chili (Monroe County, State of New York) and consists of a parcel of vacant, unimproved land, approximately rectangular in shape, containing about 36 acres. Its northerly side fronts on the southerly side of Paul Road for about 581 feet (less a

parcel fronting 75 feet and 150 feet in depth owned by others). Its easterly side, about 2,800 feet in depth from Paul Road, adjoins lands of the Monroe County Airport acquired from appellant in February, 1964. Its southerly side, running in an irregular line about 700 feet, adjoins the lands of the New York Central (West Shore) Railroad; and its westerly side, about 3,000 feet in depth from Paul Road, adjoins the lands of the Baltimore & Ohio Railroad.

2. The property is uncultivated, is generally level and bushy in character with small trees in the northerly and central portions, and particularly in the southern portion is somewhat heavily wooded, with small hills. There are no buildings or structures upon the property, except the unused remains of an old abandoned brick plant located on the westerly edge several hundred feet from Paul Road.

3. Except for a small approximately triangular piece at the southern end, this property (with some additional adjacent property and generally called the brickyard property) was acquired in 1939 by William LaBar, appellant's father, who in 1946 conveyed it to appellant.

4. In January 1955 appellant acquired certain property known as the Andrews farm, consisting of over 100 acres, and located generally easterly and adjacent to the said brickyard property.

5. For the purchase price of \$460,000, on or about February 24, 1964 appellant conveyed to the County of Monroe, from the said Andrews farm and brickyard property theretofore

acquired by her as above, a parcel of land consisting of about 134 acres (excepting certain parcels otherwise conveyed but including certain magazine structures thereon), which said parcel has been and is now used by the County of Monroe as a part of the runway facilities of the Rochester-Monroe County airport.

6. From 1939 until 1946 William LaBar (appellant's father and predecessor in title) used a portion of the northerly part of the brickyard property for the storage of explosives by placing thereon some portable magazines therefor.

7. From 1946, upon her acquisition of title thereto, and until about the year 1955, appellant (with her husband and in connection with the Genesee Explosive Sales Co., Inc. which conducted an explosive sales business) used a small portion of the northerly part of said brickyard property for the storage of explosives by placing some portable magazines thereon.

8. From early in the year 1955 until about February 1964 appellant and the said Genesee Explosive Sales Co., Inc. conducted the business of explosives and the storage thereof exclusively upon the property known as the Andrews farm (acquired by appellant in January 1955 as aforesaid). During this period several permanent magazine structures were constructed thereon and used for this purpose, the access roadway thereto was constructed or improved and many portable magazines therefor were placed thereon.

9. From 1955 until 1964, during the period when the

Andrews farm property was exclusively used therefor, the said brickyard property was not used in whole or in part for the storage of explosives, the unimproved roadway from Paul Road to the old brickyard area (the sole access roadway thereto), was not used and allowed to deteriorate and become overgrown, and the portable magazines, if any, thereon were transferred to, placed upon and used in connection with the storage business conducted upon the said Andrews farm property.

10. The \$460,000 received by appellant as the sale price upon the sale of the Andrews farm property to the County of Monroe included an (unknown) amount to compensate appellant for the diminished value of the brickyard property retained by her.

11. In the summer of 1964, following her sale of the Andrews property, appellant improved, or permitted to be improved and reconstructed, the access roadway from Paul Road to the area of the former brickyard on the brickyard property, has placed thereon a number of portable magazines and has undertaken to use a portion of such property for the storage of explosives.

12. The Zoning Ordinances of the Town of Chili (so far as pertinent in this matter) were enacted and have been in effect since on or about November 1, 1947.

13. Under said Ordinances appellant's property was and is located in zone classification District A (Industrial), in which the storage of explosives is not only not a permitted use, but, by virtue of §19-61, paragraph 37 thereof, is expressly prohibited.

14. The use to which appellant put some small portion of her said brickyard property for storage of explosives prior to 1955 was discontinued by her for many years thereafter.

15. By the enactment of its zoning ordinances the Town of Chili has adopted a general policy of promoting the welfare of the community by regulating the uses to which property therein may properly be put, and by requiring conformity therewith. While a pre-existing non-conforming use of property may be legally valid, if continuous, it is not the policy of this Town to extend or renew it, but rather to terminate it.

16. In its nature the storage of explosives in this Town constitutes a dangerous hazard to life and property, even though done in compliance with other State or Federal regulations; and the storage of explosives on appellant's property is a potential danger to airplanes and passengers therein using the nearby airport runway.

17. Appellant's present use of her said property is a violation of the prohibition of the Zoning Ordinances; and the direction in the letter order of the Superintendent of Buildings requiring her to conform thereto was proper.

Accordingly the appeal is hereby denied.