

## ZONING BOARD OF APPEALS

January 5, 1960

The meeting was called to order, and roll was called with the following members present: Donald Slate, Warren Beeman, Charles Pfenninger, Frank Bubel, and the Chairman, Cornelius Strassner. Also present was the Building Superintendent, Bernard Entress.

Application of Fred J. L. Jensen for variance to erect house at 4 Jensen Dr., 50 ft. from front lot line and 8 ft. to south side lot line.

Mr. Jensen's son appeared for him and presented a map.

Mr. Strassner asked if the other houses were set back 50 ft., and Mr. Jensen replied they are the same down through there. This is just the one house and would be in line with the others. This is an 80 ft. wide lot, like the others there.

No one appeared to speak on this application.

Application of Joseph J. Battaglia for variance to erect two houses on lots 355, 356, and 357 Greyson rd., 61½ ft. in width for each lot, in D residential zone.

Vincent Assini, attorney, appeared to represent Mr. Battaglia, and presented a map. He stated Mr. Battaglia is the owner of the three lots located on the south side of Greyson rd. Each one of the lots is 41 ft. wide. This is already on file as an approved subdivision. He feels these are too small to build a home on, and he can't get any land on either side. Therefore, he is asking to be allowed to build two homes on the three lots, giving ½ of lot 356 to lot 355, and ½ of lot 356 to lot 357. This way, he would end up with two reasonably good sized lots comparable to the others. All of these lots were very small when it was subdivided. If he used two lots to comply with the 80 ft. requirement, this would leave a useless lot. This way, the two lots will be 61½ ft. wide, with a good depth. The houses would conform with the zoning regulations, with a 60 ft. front setback and 10 ft. side line setback. The houses in there now are mostly of the 1½ or 2 story type, ranging in the \$12,000 bracket. He can't put too expensive a home in there.

Mr. Battaglia said there is water out there now, and all the facilities are in.

No one appeared to speak on this application.

Application of Ralph Lutz, 78 Ballantyne rd. for variance to convert part of commercial building into living quarters located in D residential zone.

Mr. Lutz presented a map, and said this would be the east side of the garage. Mr. Strassner asked about toilet facilities, and Mr. Lutz replied they are on the same septic tank as the house on the adjoining lot. There is about 30 ft. or 40 ft. between the garage and the house.

Mr. Strassner asked if this was completed, and Mr. Lutz replied no, not quite.

Mr. Bubel asked the width of the lot, and Mr. Lutz said 72 ft. 6 in. wide by 300 ft. deep.

Mr. Strassner asked if anyone was in favor of this application. Mrs. Frank Heintzelman, 85 Ballantyne rd., stated this is a very big improvement. They live directly across from this, and it seems good to see drapes and lights from a home over there. They looked at the garage for 15 years. ~~xxxxxx~~ This year, they saw Christmas lights and a tree, and it was much nicer.

No one appeared to speak in opposition to this.

Application of Cornelius Cummings for variance to erect a two-way radio tower, height approximately 55 ft. on premises at 1791 Scottsville rd.

Mr. Cummings stated he has a contracting business at that location. The tower would be on the roof of the house, 55 ft. above the house. It would be a 100 watt unit tower, like a television ariel.

Mr. Strassner asked the distance of the nearest house. Mr. Cummings replied that would be Baker's, a distance of about 90 ft. away. Everything would be on the roof, nothing on the ground.

Mr. Entress stated he would speak for Mr. Walls, 1803 Scottsville Rd., who could not attend the meeting. Mr. Walls lives a couple of doors from this property, and wants to go on the record as being in favor of this application.

No one else appeared to speak on this application.

## DECISIONS OF THE BOARD:

FRED J. L. JENSEN granted a variance to erect a house at 4 Jensen Dr. 50 ft. from front lot line, 8 ft. to south side lot line. All members voted in the affirmative.

JOSEPH BATTAGLIA was granted a variance to erect two houses on lots #355, 356, and 357 Greyson Rd.,  $61\frac{1}{2}$  ft. in width for each lot. All members voted in the affirmative.

RALPH LUTZ was granted a variance to convert part of commercial building into living quarters at 78 Ballantyne Rd. An individual leech field and septic tank is to be installed on the property where the dwelling is located to be approved by the Monroe County Health Dept. All members voted in the affirmative.

CORNELIUS CUMMINGS was granted a variance to erect a two-way radio tower, height 55 ft., on roof of property at 1791 Scottsville Rd. All members voted in the affirmative.

June Yates, Secretary

ZONING BOARD OF APPEALS

February 2, 1960

The meeting was called to order, and roll was called with the following members present: Charles Pfenninger, Warren Beeman, Frank Bubel, and the Chairman, Cornelius Strassner. Also present were the Town Attorney, Ralph Wickins, and the Building Inspector, William Davis.

Application of Hudson T. Marsden, 645 Seahan Rd., for variance to operate lawn mower and small engine repair shop, located in E residential zone.

Mr. Marsden appeared and stated he wished to withdraw his petition in favor of a new location. Mr. Wickins said that, in that case, his application would have to be re-adversided. Mr. Marsden replied that the new location will not be in the Town of Chili. Mr. Wickins then announced to the persons present that this application had been withdrawn.

Application of Charles Robinson, 1173 Westside Dr., for variance to operate a dog kennel, located in D residential zone.

Mr. Robinson stated he would like to have a kennel. He had one before, but it was taken away from him. He has been raising dogs for five years. He is 78 years old and needs this for support. The dogs are kept in the house. If they are out in the yard, someone is always with them. He needs this income for his support, what with the sewers going in and everything else.

Mr. Wickins asked how many dogs he would have.

Mr. Robinson replied 6. These are Toy Manchesters, and the pups are sold. They are valued at \$100. They are kept in the house in the winter. In the summer we take them out in the yard. There is a brooder house on the property where they can be kept. There is no noise.

Mr. Strassner asked if anyone was in favor of this application, and no one appeared. He then asked if anyone was in objection.

George Jewell, 1161 Westside Dr., stated he objected to the proximity of this kennel to his home. They are about 50 ft. apart. Mr. Robinson corrected him and said it was 70 ft. Mr. Jewell said the dogs create a nuisance with their noise. The six dogs sound like 56. The dirt part of it is another objectionable feature. As I stated last year, all the soiled papers were thrown out in the back yard. That has been corrected, but the potential is there for that. My main objection is the nearness to our house and the noise.

Mr. Strassner: Did they have dogs there when you moved there?

Mr. Jewell: I don't know.

Mr. Robinson: I have had dogs for 38 years.

Mr. Jewell: I believe they had one dog, which is still there. Each of us has one dog. There is no objection to that, but I do object to the kennel.

Joseph Murant, 1441 Westside Dr.: I live so far away I don't think this would do any harm. However, Mr. Jewell lives right next door. What are the measurements of that kennel?

Mr. Wickins: He is not asking to build a kennel. He is going to keep the dogs in the house.

Mr. Murant: I don't know that a kennel would do any harm. Mr. Jewell says papers blow over in his yard. I am just a neighbor. I don't object to the kennel as I live so far away it doesn't bother me.

Mr. Robinson: Jewell and I have been on the outs for two years. He has a dog over there at the present time. A little girl came to my house. The dog knocked her down and cut her hand. His dog comes over and pulls paper out of my can. If you won't grant this variance, give me an extension to give me time to get rid of them. I don't see why an old neighbor like I can't be allowed this kennel. The dogs never run loose. They are out only when we are with them in the summer. They are never in his yard. I am going to build a fence there very shortly. This will keep his dog from my yard and my dogs from his yard. I would like to be congenial. I have a farm there too, and am entitled to a little something. There are about 40 acres. I have about 6 dogs there now. I am going to get rid of some of the old ones.

Outside of the little ones, I will only have two or three at a time. I have applications for the pups immediately. There would not be any more than six.

Daughter, Mary Robinson: I tried to get rid of one last week. I was offered \$100 by another breeder, but I had to take it back because it was so homesick. I would like to state that at the present time Mr. Jewell has a dog. Last year he went on vacation and the dog howled all the time. He still howls at night, and he talks about noise.

Mr. Jewell: I would like to differ on the point about the dogs being in our yard. When they say they are not in my yard, they are mistaken. They have sent a girl over after them on several occasions. I have no objection to single dogs.

Mr. Wickins then said their personal feelings had nothing to do with this application.

Mr. Robinson: If I need to, I will put a fence up in there.

Mr. Strassner: We will now close this and notify you by mail of our decision.

Mr. Robinson: I would like to ask for an extension anyway, even if not a permanent one.

Mr. Strassner: We will consider it.

No one else appeared on this application.

#### DECISIONS OF THE BOARD:

HUDSON MARSDEN withdraw application.

CHARLES ROBINSON, 1173 Westside Dr., was granted a variance to operate a dog kennel for a period of one year. They are to be kept in an area enclosed by a tight wire fence 4 ft. high, to be located on the west side of the property, to be built under the direction of the Building Superintendent. There are not to be more than six adult dogs at any one time. All members voted in the affirmative.

June Yates, Secretary

## ZONING BOARD OF APPEALS

MARCH 1, 1960

The meeting was called to order, and roll was called, with the following members present: Charles Pfenninger, Warren Beeman, Frank Bubel, Donald Slate, and the Chairman, Cornelius Strassner. Also present were the Building Supt., William Davis, and the Town Attorney, Ralph Wickins.

Application of Cornelius Cummings for variance to use premises at 104 Ballantyne Rd. as storage area for trucks and other equipment, and to construct a block building to be used for storage and maintenance shop, located in E residential zone.

Jerry R. Greenfield, attorney, 1025 Times Square Bldg., appeared to represent Mr. Cummings.

Mr. Greenfield: Mr. Cummings is under contract to purchase property at 104 Ballantyne Rd. This property is at the corner of Ballantyne Rd. and Stallman Dr. He is also under contract to purchase approximately one acre directly behind and adjacent to the first parcel. There is an existing house on the parcel of land facing Ballantyne Rd. This house was lived in by Mr. Brusac, who moved. Mr. Cummings plans to remodel the existing house and build a block building 30 ft. by 60 ft. on the rear acre. I would like to present the Board with two copies of the proposed layout. The proposed building would be placed in the corner of the property. Mr. Cummings will go along with provisions as to distances from the back lines, etc. The only restrictions on the tract are that a building must face Stallman Ave. or Ballantyne Rd. We are placing the building approximately in the area we would like it, but will go along with any suggestions of the Board. The area facing any road will be lawn. It will only be in the back that there will be any paving, and any section used for parking of equipment. The building will be used as a maintenance and storage building. Mr. Cummings is operating the Cummings Construction Co. at 1731 Scottsville Rd., which is fairly close to these premises. Mr. Cummings plans on a 30 ft. by 60 ft. building, but I would like to point out he may ask an addition to same at a later date. At no time will it be any greater than 50 ft. by 100 ft., nor any closer to the back lot line. He will comply with any restrictions. The building will be a block building. Final plans will be determined pending the decision of the Board this evening. Mr. Cummings will probably be able to take deed in the immediate future. He is at present in the hospital, which is why he is not present this evening.

Mr. Wickins: What type of repair work will be done?

Mr. Greenfield: Just for general maintenance. Mr. Cummings is a construction man. There are trucks, shovels, loaders, etc. These would be brought in out of the weather.

Mr. Wickins then inquired about the parking.

Mr. Greenfield: There would be parking in the area in front of the building. Part of the equipment would be at Scottsville Rd. The house will remain on Ballantyne Rd., and the back area used for equipment. The house will be remodeled and used for living quarters. This property is on the east side of Ballantyne Rd., and the R. G. & E. adjoins it on the east. There will be no connecting drive from the house back to the storage area.

Mr. Strassner: Would you mind having the stipulation of having it shrubbed?

Mr. Greenfield: We have no objection. The house in front will be rented, and this might be a good thing. It would have to be within reasonable bounds for cost. We would just as soon shrub it.

Mr. Strassner: What would be the hours for this repair shop?

Mr. Greenfield: This is really a maintenance shop for equipment, not a repair shop. It would be used for changing oil, tires, etc. There would be no noise in the evenings, as they would hardly be using the machines then. I doubt if there will be much noise at all except for driving the equipment in.

Mr. Strassner asked if anyone wished to speak on objection to this application.

Mr. Shaw, 130 Ballantyne Rd.: Thinking this was a residential area, not commercial, I did my house over last summer. I think this would drop the value considerably. You can't work on trucks and large equipment

without making a lot of noise. They would be parking vehicles outside and would need 10 ft. to 15 ft. tall shrubs.

Mrs. Mulligan, 142 Ballantyne Rd.: I object for the same reasons as Mr. Shaw. Also, I have three small children. Stallman Ave. hasn't had too much traffic outside of residential. The children can't ride their bicycles on Ballantyne Rd. with all the trucks. I would just as soon not have any more large equipment around there now. The children have used Stallman Ave. for riding bicycles, etc.

Jean Phillips, 80 Ballantyne Rd.: This is zoned strictly residential. What good is residential zoning when people keep coming in and doing things like this. We have been trying to get rid of Lutz's garage for some time. Why allow this? I am opposed to this. There will be trucks running up and down the road all day long just a man can move his trucks down there.

Mr. Greenfield: I would like to point out that the work trucks would be there only at momentary times. They won't be there during the day to hamper the children. They will be back off Ballantyne Rd. in the rear recesses of the land, as far away as possible from any road. Mr. Cummings is also a resident of the town.

No one else appeared to speak on this application, and Mr. Strassner informed Mr. Greenfield he would be notified the decision of the Board.

Application of Raymond B. Stuart, 861 Stuart Rd., for variance that extension be granted to the YMCA to conduct a day camp on a portion of farm located on south side of Black Creek located in E residential zone.

Jerry Greenfield, attorney, appeared to represent Mr. Stuart, who was also present, together with Mr. Huntington and Mr. Shrawn to represent the YMCA.

Mr. Greenfield: Mr. Stuart owns this property which is on Route 33 A. It has been used for approximately 5 years for this purpose by the Arnett Branch of the YMCA. Between 80 and 90 boys are driven from the YMCA by buses, and the same buses return with some children from the Chili area. The city boys come to the country, and the country boys go to the city. Mr. Stuart is here this evening, also representatives of the Arnett YMCA. They are requesting a temporary permit for a least one year, hoping for a longer period, to use as they have been with the same restrictions and conditions. I am authorized to say they would like to get this permit for 3 or 5 years. They are trying to purchase property within the area to run this camp. The boys have been very happy with the location, and Mr. Stuart has been glad to be of service. This takes the boys off the street. They are there during the months of July and August, and are well supervised, with at least 9 or 10 adults on the premises at all times. Any questions as far as what is going to be done there can be answered by Mr. Stuart, Mr. Huntington, or Mr. Shrawn. A good share of the boys are residents of the Town.

Mr. Strassner asked if there were any objections.

Harvey Rose: I live right next door. I am not particularly objecting. I would like to say there could be a little better supervision. The noise sometimes bothers considerably. One other suggestion. I would prefer not to have any extension more than one year. One other thing, which might be of value to the YMCA camp. They could have better supervision as to noise and control of the boys. Living as close as we do, it has been a bit of a nuisance at times. I am also concerned with the safety of the boys themselves when being loaded on the bus. I have observed several times this is a pretty bad hazard as far as the boys lives are concerned, as the bus parks on the curve in the road. They could load and unload on the inner property on the side of the road.

Mr. Wickins: I think your point is very good as to loading and unloading off the road.

Mr. Greenfield: I am sure that can be done. The gentlemen from the YMCA are here. Mr. Stuart spoke in favor of the request.

No one <sup>else</sup> spoke in favor of this application, and there were no further comments. by the people present.

Mr. Greenfield: As far as the loading, I am sure that can be taken care of by the YMCA. As to noise and supervision, I am sure that will be looked into. If it is necessary to have more supervision, I am sure they will have it next year. It has been run successfully the last five years.

Mr. Strassner said they would be notified the decision of the Board.

Application of Lee Halperin, 935 Main Street East for variance to erect on property located at corner of Westside Dr. and Chili Ave., 7 2-story apartment buildings, with a total of 222 units, floor area of each apartment 704 sq. ft., and swimming pool. Set-back from front lot line, 50 ft. from Chili Ave., 50 ft. from Westside Dr., located in E residential zone.

Leo Meyer, attorney, 935 East Main St., appeared to represent Mr. Halperin.

Mr. Meyer: This is an application for Leon Halperin, pursuant to Section 10 of the zoning law for a special permit to erect a 7 unit apartment building, located Between Chili Ave. and Westside Dr., in the Town of Chili. Section 10 provides that before an apartment can be erected, a special permit be obtained. The permit shall be granted upon a showing of adequate offstreet parking, and adequate land for the project. In other words, the building not out of proportion to the land. That is defined in Section 12 of the zoning ordinance, which says no building shall cover more than 25% of the horizontal surface of the land. We intend to show both factors existing, and we have a right to this permit. Incidental to the application is a request to vary the setback from Chili Ave. and Westside Dr. from 60 ft. to 50 ft. We do not believe, under the zoning ordinance as it exists, any variance is required for the apartments. We are merely requiring a special permit. If a variance is required for the apartment project, we intend to establish hardship of the applicant, show the circumstances of his plight, and that unless this is granted, he cannot obtain reasonable use of his property. Mr. Halperin, 935 East Main St., is the owner of the property. Before we go into direct testimony, I have some comments which may indirectly bear on this. 1. As residents of the Town, you should realize that with sewers and water coming in, a boom is going to begin in Chili. A good number of 1-family residences are built in the Town now. You all realize the taxes in the Town have steadily risen because of the good number of schools required with new subdivisions. For this reason most of the towns of the county, the state, and the country are now in the process of trying to get properties in the towns to help taxes. How can an apartment house help the town? Simply by looking at it from this angle. Statistics show an average 200 unit apartment house will bring approximately 20 students into the school system. Normally, a family lives in an apartment until their children reach school age, and then they buy a home. These facts can be proven. The point I am making is, if this were subdivided into single unit lots, you would probably get 15 lots with an assessed valuation of \$100,000. In these 15 houses, you would get from 30 to 40 school children. This apartment house will bring in assessed valuation to the town in excess of \$5000,000 and add only approximately 20 children to the school district. One further fact. As you all know, the government is now getting into the multiple dwelling apartments by way of subsidies. They have a middle income house unit whereby the government subsidizes the town and cities to erect these apartments. These subsidies are coming from the taxpayer. They are paying the subsidies for these people to move into these apartments at a low rental. This is an instance here of an individual building an apartment house without any help of subsidies. It will carry its full tax burden in the town, and be an asset. The next point: This comes from the New York State Builders group in Albany. One problem they are hearing about is the rising cost of land development and the rising cost of erecting family homes. There are two groups being discriminated against. One is the young married couples who are unable to raise a down payment to buy a new home and are compelled to move into an apartment. The second group discriminated against are the elderly people. There are a lot of them who need a place to live who don't want to own or maintain a house, and we are not providing facilities for these groups.

Mr. Meyer then called Mr. Halperin forward for testimony as follows:

Mr. Meyer: Tell us your occupation.

Mr. Halperin: I am a builder and realtor.

Mr. Meyer: How long have you done this?

Mr. Halperin: For 13 years.

Mr. Meyer: Tell us your experience as a builder.

Mr. Halperin: I have been building in the Rochester area for the past 13 years. Have built several hundred homes in the county, and five different subdivisions through this area.



Mr. Meyer: Tell us about your work as a realtor.

Mr. Halperin: I have been engaging in appraisal work for house sales, commercial appraisals, industrial appraisals.

Mr. Meyer: Do you belong to any organizations?

Mr. Halperin: The Rochester Real Estate Board, the New York State Real Estate Board, the National Real Estate Board. As a builder I belong to the New York State Home Builders Assoc., and the National Home Builders Association.

Mr. Meyer: Are you the owner of the property in question?

Mr. Halperin: Yes.

Mr. Meyer: Describe this property.

Mr. Halperin: The property starts about 300 or 400 ft. west of the intersection of Chili Ave. and westside Dr. It has a frontage of 540 ft. on Chili Ave. and 700 ft. on westside Dr. It has a depth on the westerly side of 690 ft., and about 350 ft. on the easterly portion. It is approximately 8 acres.

Mr. Meyer: Describe the adjacent property.

Mr. Halperin: The land to the north is in the Town of Gates. The land to the south consists of several residences and a beauty parlor; going west is a group of streets about 2000 ft. up the road. East we have a commercial zone about the same distance east. It is commercial to the west and east on the Chili Ave. portion.

Mr. Meyer: Explain the nature of the proposed operation.

Mr. Halperin: This is a group of seven modern type apartments consisting of 222 apartments, two-bedroom homes. In conjunction with this, there will be a swimming pool. There will be more than adequate offstreet parking. We have provided parking for 302 cars. This does not include any driveways.

Mr. Meyer: What are the means of egress and ingress?

Mr. Halperin: I discussed this with several people, and we decided two exits on Chili Ave. and one on westside Dr. I discussed this with the Chili Police Dept. and they assured me there would be no congestion there.

Mr. Meyer: Tell about the swimming pool.

Mr. Halperin: That will be approximately as shown on the plot plan, and will be for the use of the apartment house. During the summer months, we will engage a life guard to take care of the swimming pool; there will be fencing, adequate protection, and insurance.

Mr. Meyer: Are there other play areas?

Mr. Halperin: Yes, as shown on the plot plan.

Mr. Meyer: What proportion of land will this building occupy?

Mr. Halperin: A little less than 25% of the square foot area. The square foot of the building is 59,000 sq. ft. The land occupies about 270,000 sq. ft.

Mr. Meyer: You are familiar with real estate values. In your opinion, what effect would this have on other properties in the area?

Mr. Halperin: It would not effect the value in any way. I can cite apartments, such as in Browncroft. It has not depreciated any of the zoned residential property.

Mr. Meyer: If you were to develop this as a subdivision of one-family homes, could you retain a reasonable return?

Mr. Halperin: I built two houses on Chili Ave. When I first started this group, I originally intended to build the frontage on Chili Ave. and then go on westside Dr. when I built on Chili Ave., I couldn't sell the houses for over two years. I've got statistics to show that lot #1 sold for \$17,500. It cost me \$17,00 to build.

For the final sale, I had to take property in Palmyra in trade. Lot #2 on Chili Ave. sold for \$17,000. The cost on that house ran about \$16,500 due to the upkeep during the long time it took to sell it. In order to make the sale, I took back a \$1500 second mortgage. Property built four or five years ago has appreciated. This particular house was sold two months ago after the cost of landscaping, grading, etc. I took a loss of about \$1200 on the transaction.

To sell property, you need to add a reasonable return. I have been turned down on a request for a commercial use of the property.

Mr. Meyer then called on Otto Bruno, 16 Mildorf St.

Mr. Meyer: What is your occupation?

Mr. Bruno: I am a real estate broker.

Mr. Meyer: How long have you had this occupation?

Mr. Bruno: Five years.

Mr. Meyer: Did you have any real estate activities before you became a broker?

Mr. Bruno: Yes, I was a salesman for five years. I have been ten years in the real estate field.

Mr. Meyer: Will you tell us the type of real estate.

Mr. Bruno: The sale of existing property, commercial property, businesses, and in the past three years in developing subdivisions and sales of new homes.



Mr. Meyer: Are you familiar with the property in this application?

Mr. Bruno: Yes.

Mr. Meyer: Have you examined the proposed plans?

Mr. Bruno: Yes.

Mr. Meyer: State your opinion as to whether this proposed use is compatible with the site.

Mr. Bruno: Absolutely. You can take any apartment house in Rochester or in the county. There are several new ones on East Avenue and \$40,000 and \$50,000 homes surrounding them continue to be built in the same neighborhood.

Mr. Meyer: Would this project be harmful?

Mr. Bruno: Definitely not.

Mr. Meyer: Do you feel there would be a reasonable return if the property were used for one-family residences?

Mr. Bruno: No, I don't think so. There are 15 lots in there. It took Mr. Halperin a long time to sell the two houses he did build. It just isn't feasible to sell them. Across the street is commercial land. There is a beauty parlor right across the street.

Mr. Meyer: What about the traffic on Westside Dr. and Chili Ave.?

Mr. Bruno: As a family man, I wouldn't want to build on land that front on a highway or near a highway. There is quite a bit of traffic on Westside Dr. No one with children would want to buy there.

Mr. Meyer: Has it been your experience that real estate prospects feel the same way about this?

Mr. Bruno: Absolutely.

Mr. Meyer then called on Jerry Serafine, 4230 Dewey Avenue.

Mr. Meyer: Tell us if you have had occasion to be employed as a real estate salesman by Mr. Halperin.

Mr. Serafine: Yes, in connection with his attempt to sell lots 1 and 2 on Chili Ave.

Mr. Meyer: Tell the people assembled here and the Board your experience in this attempt.

Mr. Serafine: I tried to sell these homes for approximately two years. I was an employee of Mr. Halperin's at the time. The objections were predominantly because the houses were facing on Chili Avenue which has a tremendous amount of traffic. That was the main objection. At the time sewers and water were not in.

This concluded Mr. Serafine's testimony.

Mr. Meyer: On the testimony given here, I have definitely proved that a hardship exists here. Mr. Halperin cannot realize a reasonable return on the property if it is used as permitted. This project can exist without any harmful effects on any other property and is compatible with the neighborhood. This would be of benefit to the town.

Mr. Strassner then asked if there were any objections to the application.

Patrick Egan, 411 Hinchey Rd.: I am an attorney appearing for 60 people I present you with a signed petition against this to be filed with the Zoning Board, together with a memorandum.

Mr. Meyer: I would like to examine the petition.

Mr. Wickins allowed Mr. Meyer to examine the petition.

Mr. Meyer: Many of the signatures on this petition are in the Town of Gates. I object and ask that any Gates signatures be stricken from the petition as they are not property owners and taxpayers in the Town of Chili. I object for that reason.

Mr. Wickins: I overrule your objection and accept the petition as it is.

Mr. Meyer: I take exception to your ruling.

Mr. Egan: Mr. Halperin stated certain statistics. These should be disregarded. He told us nothing in regard to evaluating the statistics or how they were arrived at. He stated there are apartments in Rochester with residences nearby. The Town of Chili should not use the city as a criterion. Mr. Halperin also stated he couldn't sell residential property on this land, as he found out. Maybe his prices were too high. Just because he might have made a poor deal is no basis for a variance or a permit. I will mention many reasons why this should not be granted. Some may be trivial at the moment, but not in the future. I am not an engineer. With this great number of people in this small area, it might effect the water pressure, maybe the sewers. Maybe the pipes might not be adequate. I have found in my private practice as a lawyer there is a rat problem where there are apartments. This may create a health problem.

Traffic has been mentioned as one of the biggest problems. Mr. Bruno and Mr. Serafine gave testimony and under their own admission mention that Westside Dr. and Chili Ave. have a great traffic problem now. They are going to increase this with 302 cars. This will really add to the problem. I formerly lived on Howard Rd. which is very bad as far as traffic is concerned, especially with children. Also these people purchased homes in Chili, and some in Gates, and relied on the zoning law as it existed

when they moved in. I think that the spirit of the zoning ordinance is to protect the health, welfare and morals of the people.

In regard to hardship. They have not proved hardship. They have got to show this property cannot be used for any other purpose. It can be used for residential purposes. I think he can build houses and they can be sold. Also, they must show the character of the neighborhood would not change. It certainly will be changed if any apartment is allowed. They have not proved otherwise. They haven't proved any unique circumstances. I object on the basis the zoning ordinance is to protect the public health and safety of the people, and to preserve the character of the neighborhood.

Mr. Egan then read the following memorandum, which will be on file in the town clerk's office:

MEMORANDUM

The object of the zoning ordinance is to protect public health and safety and to preserve the character of the neighborhoods by uniform and limited use thereof in the interest of the public generally. The purpose of variance from the zoning ordinance is to afford a safety valve, so that carrying out the strict letter of the zoning ordinance may not occasion unnecessary hardship to particular property owners, but the necessity of observing the spirit of an ordinance and maintaining public welfare and safety persist even where the variance is granted.

It was said in *nice v. Van Vranken*, 132 Misc. Rep. 82, 229 N. Y. Supp. 32, at page 37:

"It is not unreasonable to say that the health and general physical and mental welfare of society would be promoted by single family residences. Increase in fresh air, freedom for the play of children, and recreation of adults are all thereby advanced. These features of family life are equally essential, equally advantageous, for all individuals whatever be their social standing or material prosperity. The development of detached houses is retarded by apartments. They detract from the value of neighboring property for home building. Their height and bulk interfere with the circulation of air, and bring, as their necessary accompaniments, the disturbing noises incident to increased traffic and business."

*Matter of Wulfsohn against Burden*, 241 N.Y.288.

"In support of such a regulation we think the zoning authorities could assume and the courts below could have found that the orderly and advantageous development of the City of Mount Vernon and the welfare of its citizens would be promoted by a fundamental division of the city into districts devoted respectively to business and residential purposes under which its dwellers might establish homes in the latter districts where they would be free from disturbing conditions and risks and deprivation of health conditions, such as abundant light and air, ordinarily incident to congested business districts; that in the residential districts of Mount Vernon municipal facilities for sewage and water were liable to be overtaxed if the erection of large apartment houses was permitted; that through the construction of apartment houses whereby there would be gathered a large number of people in the space ordinarily occupied by a single family there would result a congestion of population increasing the dangers of traffic, especially to children, and multiplying the chances that through the carelessness of some individual fire and conflagration might be started or disease communicated and epidemics set on their way; that the advantages and value of property devoted to private residences would be impaired.

In *Marjen Realty Co. v. Reynolds*, 261 App. Div. 1098, 26 N.Y. Supp. (2) 988, it was held that the applicant must show that if the ordinance is enforced the consequent restrictions upon his property preclude its use for any purpose to which it is reasonably adapted.

The applicant for relief from the provisions of the zoning ordinance or zoning regulation must show that "practical difficulties or unnecessary hardship" exists. That the general restrictions contained in the ordinance creates a special hardship upon the applicant for relief from the strict letter of the restrictions contained in the ordinance or regulations. Even then the board may act only when the variance granted is in harmony with the general intent of the restrictions in the ordinance or regulations so that "the public health, safety and general welfare of the public be secured and substantial justice be done."

(Conclusion of memorandum.)

Mr. Egan: Just a few more remarks in summing up. As you know, the distribution of population is very important. If permission is granted to construct an apartment, the distribution of population will be upset in that area. There are other disadvantages. Noise and confusion caused by increased street traffic. The children have less opportunity for play. The danger of fire is increased. As I mentioned in the first instance, you have the health, welfare and morals of the public as a prime factor to start with. Each one of them would be diminished in some manner if this apartment is granted.

Mr. Strassner asked if anyone else had any objections.

Robert Hart, 142 Westside Dr.: We bought from Mr. Halperin with the promise that across the street he was going to build other homes. I object to this apartment. I live in the Town of Gates.

Thomas Stuart, 90 Westside Dr., Gates: As I recall, the two pieces of property mentioned were not for sale for two years. As far as the property is concerned, it is very good residential property. I object to the variance.

Catherine Hart, 142 Westside Dr., Gates: The traffic would be a bad hazard. It is almost impossible to get out of our driveway now. 222 more cars would make it that much worse. Mr. Halperin told us when we bought he was building colonial homes across the street. The main reason he couldn't sell his two homes was the style of them. I object to this apartment.

Ernest Aslett, 165 Westside Dr., Chili: We bought out here with the same idea about colonial homes. One of the reasons we came out here was because of the location. This should be definitely kept residential. The traffic hazard would be terrible.

Angelo Francesca, 154 Westside Dr., Gates: I object on the traffic problem also.

Mr. Meinhardt, 2652 Chili Ave., Chili: If we had known there would be changes in the zoning in the surrounding neighborhood, we never would have bought our property. If these zones can be changed just like that, the property owner has no protection.

Arthur Buelte, 2647 Chili Ave., Chili: Mr. Halperin bought his property to build homes there. We have turned him down three times on requests for other uses. It is time for him to quit.

Virginia Dale, 2654 Chili Ave., Chili: I object because of more confusion, more traffic, it will be a fire hazard, and I can think of a hundred other reasons.

Mr. Egan: Why don't we have everyone in objection stand up?

Mr. Wickins: Will anybody objecting to this variance whose name is not on the petition opposing it please stand and give your name and address to the secretary.

Donald Korn, 22 Virginia Lane: I object. My wife signed the petition, but I was not at home at the time.

Mr. Halperin requested that the Gates and Chili people stand separately.

Mr. Wickins requested everyone in objection to stand, and then asked the Gates people to sit down.

Mr. Wickins: I would like to make one statement just to clarify the record. Although this property is zoned residential, there are certain other allowed uses, one of which is an apartment house. The applicant has to come before the Zoning Board of Appeals and meet certain requirements in order to get that allowed use.

Mr. Strassner then read from the zoning ordinance the following uses subject to this special provision:

School or college, Public Library, Fire Station, Police Station, Town Hall, Town Garage, Church, Convent or Church, Greenhouse, Park Building, Passenger Station, Apartment House, Two-family dwelling.

Mr. Hart then inquired as to whether the Board had received a letter from Robert Morgan concerning this application. Mr. Strassner produced this letter signed by W. Robert Morgan, 2687 Chili Ave., in objection to this application. The letter was read by attorneys Leo Meyer and Patrick Egan, and will be on file in the Town Clerk's office. Letter was read aloud by the Chairman, Cornelius Strassner.

Mr. Egan: I have nothing further to say.

Mr. Meyer: For the record, I voice my objection to the statements made by residents of Gates and any consideration being given to those signatures on the petition. These individuals neither reside in or are property owners in the Town of Chili. Therefore, they have no standing. I realize it is a natural thing that most residents do in opposing when any property nearby is requested to be changed from its originally intended use. In connection with the change, the applicant has introduced expert testimony that the change will not be detrimental. There has also been expert testimony that this would be an ideal speculation. Mr. Egan stated you should not look to Rochester or other areas with regard to your decision. It is the job of the Board of Appeals as set forth in Section 267 of the Town Law to act when circumstances show a hardship exists. This falls within that. This is not harming any neighbors. This change will be beneficial. Other apartments have existing residential areas without harming them. On that basis, you can make your decision as to the neighbors. As to rats, once this project is in, it is in the control of the town and the state health authorities. There is nothing in the talk of objections to this project that militate against your granting this.

Mr. Egan: I would like to point out I don't think this should be granted as the applicant has not proven hardship at all. He can go out and build houses on this property.

Mr. Hart: There have been certain statements that the people in Gates should not have a voice in this. These people are paying the Gates Chili School district tax.

Mr. Francesca: I object the same as Mr. Hart.

Mr. Strassner asked if anyone would like to speak in favor of this application.

Bernard Lusk, 2794 Chili Ave.: People do not realize that if Chili does not get some industry in the next 10-12 year period, it faces bankruptcy. The application for a medical building on this property was turned down, and this was built in Gates, adding \$100,000 to their assessment. This building for 200 families would net \$500,000 for the assessment in a year. Chili has no industry other than on Scottsville rd. My school tax is \$54 per \$1,000. Some are as high as \$69. per \$1,000. This will be increased unless we allow something such as this gentleman is requesting.

Mr. Egan: I certainly believe in industry and commercial enterprise. However, they have their place in the town. Plans should be set up whereby commercial and industrial is in certain sections, other sections residential. An apartment house is very nice if put in its proper place. There is also a hazard where the traffic is concerned over there.

William Wark, 27 Sequoia Dr.: I follow along with Mr. Lusk. Mr. Egan mentioned an additional fire problem. Where there is more population there is better fire protection. I wish we had as low a fire rate as those apartment houses will have when built. The zoning laws are to cover the interest of the public generally, not speaking of specific cases. Where there are several thousand families, we are not looking out for the interest of a few dozen. Also concerning the traffic problem. There are 70 million cars throughout the state. Eliminating an apartment project in one town isn't going to help the traffic. In 10 years Chili Ave. will be a four lane highway. You can't fight progress. As to the water and sewer problem. I am not an engineer, but I am sure I heard testimony that these sewers are geared to the population expectancy in 15 years. They are being put in for an exploding population. I am in favor of this request for the public in general and for the taxpayers.

Casimer Fintak, Chestnut ridge Rd., voted in favor.

Frank Daley, 2797 Chili Ave.: I am in favor of anything for the growth of Chili.

John Thompson, 28 Sequoia Dr.: Building is going to boom with water and sewers. They keep raising taxes. We have got to have something to help the taxes.

Vern Smith, 688 Marshall Rd.: Some of the objections are specified to a certain group. This should be put in to help the community.

Verna Smith, 688 Marshall Rd.: I am in favor.

Edmund Fraser, 29 Sequoia Dr.: I am president of Pool Service, Inc. Noise has been mentioned. Last year in our tract we had our own pool. We threw it open to the Red Cross for children's swimming instruction. There were 50 children in the morning and 50 children in the afternoon. There was a great deal of noise. I don't think the town received any complaints. I am in favor of this.

James Minara, 44 Hubbard Dr.: The sewers and water are quite adequate for the project. I know as I worked for the firm that designed them.

Bill Lucas, 48 Everett Dr.: I am in favor.

Mr. Everett, 116 Chestnut ridge Rd., voted in favor.

Archie Everett, 989 Westside Dr., voted in favor, stating it would be detrimental to build houses on the property.

John and Margaret Horn, 690 Marshall Rd., voted in favor because of the taxes.

No one else appeared to speak on this application.

DECISIONS OF THE BOARD:

CORNELIUS CUMMINGS was granted a variance to use premises at 104 Ballantyne Rd. as storage area for trucks and other equipment, and to construct a block building to be used for storage and maintenance shop, with the following restrictions: Parking area to be screened by shrubbery or trees at least 10 ft. in height, the plantings to be at least 3 ft. in height at the time of planting. Stallman Avenue must be maintained to the satisfaction of the Highway Superintendent. All members voted in the affirmative.

RAYMOND B. STUART, 61 Stuart Rd., was granted a variance to operate a day camp on a portion of his farm by the Arnett Branch of the YMCA for a period of three years, from June 15th to Sept. 1st. This is limited to 100 registrants. In addition, all loading and unloading of children must be off the highway. All members voted in the affirmative.

LEE HALPERIN was granted a variance to erect two-story apartments on property located at the corner of Westside Dr. and Chili Ave., with the following stipulations: The number of apartment units is restricted to 150. Apartments to be constructed according to the application submitted, not to exceed 704 sq. ft. for each apartment. Egress and ingress to be provided under the direction of the Building Inspector. Parking area to be provided for a minimum of 300 cars. Members voted as follows: Charles Pfenninger - yes; Warren Beeman - yes, Donald Slate - yes; Frank Bubel - yes, Cornelius Strassner - yes.

A variance for a 50 ft. setback was denied, and a 60 ft. setback must be maintained on the apartment buildings on westside Drive and on Chili Ave. Members voted as follows: Charles Pfenninger - no; Warren Beeman - no; Donald Slate - no, Frank Bubel - no, Cornelius Strassner - no.

June Yates, Secretary

## Zoning Board of Appeals

April 5, 1960

The meeting was called to order and roll was called with the following members present: Frank Bubel, Warren Beeman, and the Chairman, Cornelius Strassner. Also present were the Town Attorney, Ralph Wickins, and the Building Supt., William Davis.

Application of F. W. Moffett Jr., 2234 Chili Ave., for variance to erect 6 signs 3 ft. by 4 ft. east side of Archer Rd., and 8 signs, 3 ft. by 4 ft., on the west side of Archer Rd., 50 ft. from the front lot lines, in B residential zone.

Mr. Moffett appeared and presented maps showing the location of the proposed signs. Mr. Moffett stated he owns this property and wishes to sell it. These would be for sale signs.

Mr. Wickins asked if the signs would be lighted, and Mr. Moffett replied no. Mr. Strassner asked how long the signs would be there. Mr. Moffett said until he sells the property. Mr. Wickins said he should ask for a certain period of time, and Mr. Moffett asked what would be recommended. Mr. Strassner said one year.

Mr. Moffett: A year would be o. k. I could come back and re-apply if necessary.

Mr. Strassner: Do you need all these signs?

Mr. Moffett: I would like to sell the property, and I have found out that this is the best way to do it. This is a lot of property and covers about 1½ miles of road frontage. There would be 14 signs all told.

Mr. Strassner: Does anyone here have any objection to this application?

No one appeared either in objection or in favor.

Mr. Strassner: We will notify you of our decision.

Application of Adzislav Zakrzewski, 6 Hilltop Dr., for variance to erect garage and breezeway 12 ft. to cornerside lot line, in B residential zone.

No one appeared at this time to speak on this application, and the secretary was instructed to call the application later.

Application of Phillip Poghen, 4472 Buffalo Rd., for variance to erect breezeway and garage 2 ft. 5 in. from side lot line.

No one appeared to speak on this application, and the secretary was instructed to call the application again later.

Application of Roy O. Vonhof, 31 Madera Dr., for variance to install 16 ft. by 32 ft. swimming pool, 10 ft. from side and rear lot lines, in B residential zone.

Alan Ford appeared and stated he is the owner of the property. Mr. Vonhof is a representative of the Vonhof Pool Sales. Mr. Ford presented a map showing lot and location of house and garage on the property. The pool would be located in the rear of the lot, 10 ft. from the rear lot line, and 10 ft. from the side lot line. He proposed a 4 ft. fence.

Mr. Wickins: What would the fence be made of?

Mr. Ford: It would be a wire mesh fence.

Mr. Wickins: You know there have been certain restrictions when the Board has granted variances for swimming pools before, such as ladders, etc.

Mr. Ford: There is provision for two ladders. The pool will be fenced in. Other than that, I don't know of any other restrictions.

Mr. Wickins: That is generally it.

No one appeared to speak in favor of or in objection to this application.

Application of Joseph Battaglia, 32 Chester Ave., for variance to erect house on lots #23 and 24, 45 ft. from front lot line and 50 ft. from the rear lot line, in D residential zone.

Mr. Battaglia presented a sketch of the lots, which are two 40 ft. lots. They are 120 ft. deep. He will comply with the side line restrictions, but because of the shortness of the lot, he can't have a 60 ft. setback.

The setback would be 45 ft. from the front lot line, and 50 ft. from the rear lot line.

Mr. Strassner: Is water up in there?

Mr. Battaglia: Yes.

No one appeared to speak on this application, either for or against.

Application of Walter Liebenguth, 112 Morgan Rd., for variance to operate welding repair shop on property, located in E residential zone.

Mr. Wickins: Where do you plan to have the repair shop?

Mr. Liebenguth: In the garage.

Mr. Strassner: What type of welding would this be?

Mr. Liebenguth: Just for myself, trailers and farm equipment. It is not exactly like a commercial activity.

Mr. Wickins: You would technically call it that.

Mr. Liebenguth: I would repair for people like my neighbors. There would be no sign. I would have to get my expenses from it, but there would be no advertising. No one but myself is going to work there.

Mr. Strassner: What type of equipment would you have?

Mr. Liebenguth: I have got an electric welder, a transformer, acetalyne. I would repair just for a friend of mine down the road, repairing his farm equipment, to get it welded up and move it up as he uses it. His name is Mr. Davids.

Mr. Wickins: All work will be done in the garage?

Mr. Liebenguth: Yes.

Mr. Strassner: What about late activity?

Mr. Liebenguth: There would not be much of that. A little once in a while, but not very often. Mostly the activity would be on Saturday and Sunday, when I get a chance to get at it.

Mr. Strassner: Are there any objection to this application?

Mr. Thirtle, 200 Morgan Rd.: Do you own the property?

Mr. Liebenguth: No.

Mr. Thirtle: Do you have permission from the owner?

Mr. Liebenguth: Yes.

Mr. Thirtle: Is the owner here?

Mr. Liebenguth: No. I have a letter.

Mr. Thirtle: He should be.

Mr. Wickins: Please direct your questions to the Board. State your case to the Board. That way there are no arguments.

Mr. Thirtle: I am raising the question whether he has permission to conduct such an enterprise.

Mr. Wickins: We will take care of that.

Mr. Thirtle: If so, does he have him here tonight? I don't think a letter to this Board would be permissable. We came here once before. People objected to an application, but they were overruled. The man got property commercially zoned. How much of this property does Mr. Liebenguth want to zone?

Mr. Wickins: This request is for a variance.

Mr. Thirtle: For how much property? This is a 10 acre lot with 1000 ft. frontage on Morgan Rd. I don't think Mr. David's work would keep 1/2 a man busy.

Mr. Wickins: Do you object to this?

Mr. Thirtle: Yes. Also, in another way. This welding was done before in a shed right next to my lot line. His barn was used before this was classed as residential. He used to be there until ten, eleven, and twelve o'clock at night on weekends, right next to my house.

Richard Burch, 183 Morgan Rd.: If this variance is granted to him, does this mean that this whole section from Scottsville Rd. down to Krenzer Rd., which is across from my property, does this mean that someone else can come in and do the same thing?

Mr. Strassner: If we grant this, it would be only to the area around the garage.

Mr. Wickins: And the past experience of the Board is that it would be granted only for a limited time.

Mr. Burch: I would object very strongly if it was made industrial across the road. We are in a residential section. We moved out here in August to live in the country.

George Oprim, 161 Morgan Rd.: This is a more commercial endeavor than a part-time hobby. Tractors would be welded. Trailers would be built for commercial sale. This is just a type of thing which is on weekends. If equipment is welded, he can't help but keep equipment outside the shed. It must be near the roadway. I object.



Orville Kelly, 135 Morgan Rd.: I agree with what the other people have said and have the same objection. We will have a commercial enterprise there. We can't object to his doing some welding in the garage, but if it gets out of hand and grows, it becomes commercial. I object to his doing it commercially. I owe Mr. Liebenruth an explanation. When he first mentioned this, it sounded like a back-yard hobby sort of thing.

David Rogers, 155 Morgan Rd.: I feel the same way and have the same objections. Would this set a precedent of any kind for other variances?

Mr. Wickins: Each variance is considered separately on its own merits.

Mr. Rogers: It could set a precedent though. A person could always say "he got it".

Mr. Wickins: In a way it does. When variances are started to be granted in a residential section for commercial enterprises, it does tend to commercialize and industrialize that section. However, each variance has to be considered separately and on its own merits.

Howard Green, Reed Rd.: I own property on Morgan Rd. This thing is becoming commercial more each year. A variance was granted one year ago. Here is another case. I object to this as a commercial operation. I can't see it as a part-time project.

Mr. Goodell, 175 Morgan Rd.: I very definitely object to this. I have been around where there is welding and shops, and there is always a great deal of noise going on. I don't see why we have to have that. When he did work in Davis's garage, it was a nuisance. I would be right across from it.

Mr. Shannon, 165 Morgan Rd.: I object to it definitely as commercial. What is the zone?

Mr. Strassner: E residential, the highest class of residential zoning.

Mr. Faber: I live on Reed Rd. I object to a commercial enterprise in that vicinity. There was a similar objection last year on Reed Rd.

No one appeared to speak in favor of this application.

Mr. Liebenruth: I rent the property. I have a letter from the owner, Eldon Blowers in favor of this. If he had thought it was necessary, he would have been here. I thought it wouldn't be necessary because of the letter requesting the variance signed by him. Actually, the application should have read by Mr. Blowers.

Mr. Oprim: In a welding type of shop, isn't there a requirement as to the type of construction, such as cinder block, in case of fire?

Mr. Wickins: There is not any such requirement in the zoning. If there was an application to build a building in a commercial or industrial zone, they might have to meet such a requirement. Do you feel if this was granted, the operation would be dangerous?

Mr. Oprim: Yes, as this is a frame building. This would also take 220 wiring. Is it necessary for an individual to have a permit to do welding for his own purposes?

Mr. Wickins: If he did some welding on his own property, he would have the right to do so. It is a commercial enterprise Mr. Liebenruth is applying for.

No one else appeared to speak on this application.

Application of Phillip Pughen, 4472 Buffalo Rd., for variance to erect breezeway and garage 2 ft. 5 in. from side lot line.

Carlton Cadle appeared to represent Mr. Pughen and presented a map of the property, showing lot 80 ft. wide, with 8 ft. wide breezeway and 16 ft. wide garage. The 2 ft. 5 in. comes at the rear corner of the garage, which is at an angle to the side lot line.

Mr. Strassner: How close is the adjoining neighbor?

Mr. Cadle: I would judge that house to be 5 ft. or 6 ft. from the lot line. This is a peculiar shaped lot. The house adjoining must be 10 ft. from the lot line, as it is a new house and was not built before zoning.

Mr. Wickins: We are informed by Mr. Cadle that the garage and breezeway on the house to the right is on the other side.

No one appeared to speak on this application.

Application of Zdzislaw Zakrzewski, 6 Hilltop Dr., for variance to erect garage and breezeway 12 ft. to the corner side lot line, in E residential zone.

Carlton Cable appeared to represent Mr. Zakrzewski, and presented map. This lot is on the corner of Hilltop Dr. and Ramblewood Dr. The breezeway would be 10 ft. wide, the garage 22 ft. deep. The house is back 60 ft. The garage would be located at least 70 ft. from Hilltop Dr.

No one appeared to speak on this application.

## DECISIONS OF THE BOARD:

F. W. MOFFETT JR., 2234 Chili Ave., was granted a variance to erect signs according to maps presented as follows: Six signs 3 ft. by 4 ft. on the east side of Archer Rd., eight signs 3 ft. by 4 ft. on the west side of Archer Rd., 50 ft. from the front lot lines. Variance granted for a period of one year. All members voted in the affirmative.

ALAN FORD, 31 Madera Dr., was granted a variance to erect private swimming pool, 16 ft. by 32 ft., with the following stipulations: Swimming pool is to be enclosed with a 4 ft. tight fence. Ladders are to be installed on both ends of the pool, and to be permanently attached to the walls of the pool. Pool and end ladders are subject to the approval of the Building Inspector. All members voted in the affirmative.

JOSEPH BATTAGLIA, was granted a variance to erect house on lots #23 and #24 on Chester Avenue, 45 ft. from the front lot line and 50 ft. from the rear lot line. All members voted in the affirmative.

WALTER LEIBENGUTH, 112 Morgan Rd., was denied a variance to operate a welding repair shop. All members voted in the negative.

PHILLIP POGHEN, 4472 Buffalo Rd., granted a variance to erect breezeway and garage on his property 2 ft. 5 in. from the side lot line, as per map presented. All members voted in the affirmative.

ZDZISLAW ZAKRZEWSKI, 6 Hilltop Dr., granted a variance to erect garage and breezeway 12 ft. to the corner side lot line. All members voted in the affirmative.

June Yates, Secretary

ZONING BOARD OF APPEALS

May 3, 1960

The meeting was called to order, and roll was called with the following members present: Charles Pfenninger, Warren Beeman, Frank Bubel, Donald Slate, and the chairman, Cornelius Strassner. Also present were the Building Inspector, William Davis, and the Town Attorney, Ralph Wickins.

Application of Katherine P. Davis, 2027 Westside Dr., for variance to erect garage 7 ft. to west side lot line.

Mr. Davis presented a map.

Mr. Davis: I understand the legal limit is 10 ft. to the side lot line. We wanted a variance to go within 7 ft. of the lot line. The lot is 70 ft. in width.

Mr. Strassner: How far away is the house on the west side?

Mr. Davis: 15 ft. They are 8 ft. from the lot line, and we are 7 ft. from the lot line.

Mr. Wickins: Have you talked with your next door neighbor?

Mr. Davis: Yes, and they have no objection. They said we could build on the lot line as far as they are concerned. There will be a 7 ft. breezeway.

No one appeared to speak on this application, either in favor or in objection.

Application of Rocco Testa, 10 Ramblewood Dr., for variance to erect garage and breezeway 6 in. from south side lot line.

Frank DiSchiera appeared to represent his son-in-law, Rocco Testa, and presented a map, showing one side lot line to be at an angle.

Mr. Strassner: How wide is the breezeway?

Mr. DiSchiera: 8 ft.

Mr. Pfenninger: Is there a breezeway there now?

Mr. DiSchiera: No, just a platform to go into the house. The garage would be 5 ft. from the side lot line on the front corner.

Mr. Strassner: How far away is the next door neighbor?

Mr. DiSchiera: Between 80 ft. and 90 ft. The houses on the adjoining property face on Buffalo Rd. The garage would be 7 inches from the lot line on the rear corner.

Mr. Strassner asked if anyone was in objection to this. No one appeared. He then asked if anyone was in favor.

Phillip Poghen, 4472 Buffalo Rd.: I am in favor. I am right in back of it, and I have no objections to it.

No one else appeared to speak on this application.

Letter on file in favor of this signed Mr. Poghen, Nicholas Pascarell.

Application of Eugene Orbaker, 10 Lonran Dr., for variance to erect garage and breezeway 8 ft. from side lot line.

Mr. Orbaker presented a sketch of proposed building, and stated there will be a 7 ft. breezeway with a 19 ft. two-car garage. The lot is 82½ ft. wide. He is asking for a two foot variance. The neighbor adjoining is 8 ft. from the side lot line, which would make a total of 16 ft. between them.

No one appeared to speak on this application.

Application of John N. Probert, 45 Yolanda Dr., for variance to erect garage 7 ft. from north side lot line.

Mr. Probert presented a map showing lot 80 ft. wide. He would be 16 ft. or 17 ft. from the next door neighbor.

No one appeared to speak on this application.

Application of Ward Roder and Forstopon Corp. for variance to erect and operate concrete products plant on property consisting of approximately 22 acres located on Weidner Rd., adjacent to Genesee River, to manufacture concrete blocks, pipes and planks.

Irving L. Brooks, Realtor, appeared to represent Forstopon Corp. and presented a map of the property.

Mr. Brooks: This corporation will manufacture blocks, pipes, planks, etc. The property is already zoned industrial, but they want to be sure to have the right setup.

Mr. Strassner: What type of equipment would they use? Would there be a lot of dust?

Mr. Brooks: They have the same type of equipment as Mr. Cardella, who is right in front of that. They use the same thing exactly as he is using. The dust is contained in the building.

Mr. Strassner: What about the river bank? Would that be used for dumping or anything like that?

Mr. Brooks: No, there would be nothing like that. The State could stop that.

Mr. Wickins: Will they furnish off-street parking and comply with the setback regulations?

Mr. Brooks: Of course. There is a pipe line through the property which will limit them also.

Mr. Strassner: What about storage?

Mr. Brooks: They have to have storage. That is one of the reasons why they need 22 acres. They sometimes have larger storage than other times. This is a regular plant, just the same as Mr. Cardella's. I don't know what else could go in there. I would like to ask when you will be giving an answer to this request?

Mr. Strassner: We hope to tonight. We may or may not.

Mr. Brooks: This deal is in the making. The land has got to be approved for this use or else we have no deal. The quicker we know, the better off we will be.

No one appeared to speak on this application.

#### DECISIONS OF THE BOARD:

KATHERINE P. DAVIS, 2027 Westside Dr., granted a variance to erect garage 7 ft. to west side lot line. All members voted in the affirmative.

ROCCO TESTA, 10 Ramblewood Dr., granted a variance to erect garage and breezeway 6 in. from south side lot line. All members voted in the affirmative.

EUGENE ORBAKER, 10 Lonran Dr., granted a variance to erect garage and breezeway 8 ft. from side lot line. All members voted in affirmative.

JOHN H. PROBERT, 45 Yolanda Dr., granted a variance to erect garage 7 ft. from north side lot line.

WARD RODER granted a variance to erect and operate concrete products plant on property consisting of approximately 22 acres, located on Weidner Rd., adjacent to Genesee River, to manufacture concrete blocks, pipes, and planks. This variance granted subject to any rules or regulations laid down by the Building Inspector in the construction of said plant, and the layout of the grounds. All members voted in the affirmative.

June Yates, Secretary

## Zoning Board of Appeals

June 14, 1960

The meeting was called to order, and roll was called with the following members present: Frank Bubel, Charles Pfenninger, and the Chairman, Cornelius Strassner. Also present were the Town Attorney, Ralph Wickins, and the Building Inspector, William Davis.

Mr. Wickins: Because last Tuesday was Primary Day, we did not hold our regular Zoning Board meeting. It became necessary for us, in order to get the Town business done, this month, to have the Planning Board meeting and the Zoning Board meeting on the same night. The Planning Board meeting will be held in the Town Clerk's office, and the Zoning Board meeting here.

Application of Michael Cerretto, lot 6, Block 2 H, Charles Avenue, for variance to erect 25 ft. by 60 ft. commercial building 62 ft. from rear, 70 ft. from front and 5 ft. from south side lot line, located in commercial zone.

Mr. Cerretto presented a map showing proposed buildings. Property is on the corner of Scottsville Rd. and Charles Ave.

Mr. Cerretto: There would be three stores. The lot is 49 ft. wide by 225 ft. deep. The buildings would be 70 ft. from the front lot line and 5 ft. from the south side lot line, and would be of cement blocks.

Mr. Strassner: Is there a parking area in front?

Mr. Cerretto: Yes. I could also use area in the rear for parking.

Mr. Strassner: Would you make a parking area in the rear, and how many cars could be parked there?

Mr. Cerretto: I could park 20 cars in the back.

Mr. Strassner: With parking area in front for 10 cars, that would make a total parking area of approximately 30 cars.

There was some question as to the actual width of the lot at the building line.

Mr. Davis: The width shows 49.2 ft., but I can check it later.

Mr. Cerretto: This would be a one story building with three stores, grocery store, barber shop and dry cleaners.

Mr. Strassner asked if anyone objected to this.

Jesse Packard, 1775 Scottsville Rd.: I object.

No one appeared to speak in favor of this application.

Application of George Hunt, 361 Paul Rd., for variance to house rubbish truck and materials consisting of mattresses, iron, etc., located in A zone.

Mr. Hunt: I did not make this request myself. It was made for me. I would like a variance to allow a truck to be parked in the driveway of the barn which I rent to Mr. Huff, who makes refuse collections for the town. This is not a request to create a dump. Mr. Huff collects iron and other materials which cannot be readily disposed of in the type of truck he uses. He brings things such as bed springs behind the barn where they are not visible from the highway nor from the complainant's house. A complaint has been made about this. He does this for charity purposes, such as the Salvation Army. He calls the Salvation Army from Scottsville who cart it away. I am definitely not asking for a dump. I am just asking for the privilege of Mr. Huff being able to store materials such as these for a few days or a week, and also to park his truck in the driveway. The truck is parked behind the barn at the side. The barn is on a knoll. The truck is absolutely not visible from the neighbor's house who is making the complaint. I am asking for this variance because Mr. Huff is a man of fine integrity.

Mr. Strassner: Is this truck filled with refuse while it is parked there?

Mr. Hunt: I don't know. I am an accountant by trade and I keep Mr. Huff's books.

Mr. Strassner: Is there any room in the barn for the truck?

Mr. Hunt: I have no idea, but I would welcome any inspections at any time. Mr. Huff cannot be here tonight. The truck is parked at least 100 ft. to 150 ft. back from the road.

Elwin Huff, 32 Bowen Rd.: I feel responsible for this. I asked my brother if he would take some of the furniture I was collecting for the Masonic Lodge in Scottsville, also for other charitable purposes. I picked this up about May 10 and borrowed the truck to take a load out and put it up in the barn. These things are of use to a lot of people. As far as the truck goes, there is never any garbage left in the truck. It has to be emptied. The truck is parked behind the barn out of sight.



It is not untidy, and there is no smell.

Mr. Strassner: Is there room in the barn for the truck?

Mr. Huff: The barn floor won't hold the truck. He made a place outside to park it out of sight.

Joseph Gartland, 320 Paul Rd.: I am presenting a petition signed by 20 people in the area. There is rubbish dumped on the property. I have seen it actually dumped. We live across the street from it. One week ago you approved industrializing property for Bausch & Lomb. Mr. Hunt said he would not ask for a variance providing that went through. Now he is asking for this. What has happened?

Mr. Wickins: That has nothing to do with this. I announced at the start that Primary Day fell last week.

Mr. Gartland: Will the Town Attorney tell us why a variance has been asked.

Mr. Gartland: Is it because this is in violation of zoning?

Mr. Wickins: I don't know so.

Mr. Gartland: We live very close to the area. The Town Board has cautioned dumping on the property. If this is allowed to go through, there will be dumping. As far as charity works go, let them pick up their material. Let the Huff's use the city to park their truck. I object to this application.

Mrs. Leo Pudup, 330 Paul Rd.: I would like to present this petition to the Board signed by the residents opposed to this; 64 in all. 40 are residents on Paul Rd., the others are on Adele Dr. Mr. Huff said the truck has been parked always in the back or on the side. I submit a picture taken of the truck parked near the road. You could smell it. Smelling garbage on a warm day is not very pleasant. Another picture shows the truck parked in the same vicinity. Another picture shows it parked in front of the barn. All these pictures are dated. Here are two more pictures. I had a lot to say before I came here. I guess I won't have to say too much. Other people feel as I do. If someone wants to sell his property, and the buyer asks what is that across the road, the answer has to be "that is a garbage place and a place to house a garbage truck." Mr. Hunt said there was never any garbage. Mr. Lusk called Don Huff down at the Saratoga Race Tracks and told him to get that garbage out. Mr. Lusk asked this gentleman to park the truck below. We had to look at that truck all winter. Mr. Hunt cleaned everybody's driveway except his own. If that is allowed to exist there, properties are not worth a damned nickel.

Mr. Pudup: I can verify what my wife says. Mr. Lusk called Mr. Huff in Florida. People come up there on Sunday afternoons and dump garbage.

Mr. Lamb, 338 Paul Rd.: Some people should clean up their own yards.

Mr. Klingler, 532 Paul Rd.: We just moved in about two months ago, and I object to this application.

Bernice Wilcox, 516 Paul Rd.: My husband and I are agents for property on Paul Rd. We would not like the variance.

Mr. Huff: I would like to state that Mr. Lusk did not make a call to Saratoga for any reason. The garbage truck is a 1960 Packard. There is no better and no cleaner. As far as people dumping on Sunday, it is probably people who can't afford us. The truck is used every day except Saturday, and if there is an extra load, we are called on it. As far as people coming and dumping, we cannot afford a guard.

Mr. Hunt: Mr. Huff is charged with running a dump. I would like to fill the Board in on the background of this. When I first moved here 20 years ago, the neighbors were wonderful. Those people couldn't do enough. Then the first of the new neighbors arrived. This is the first time I have been called to a meeting of this type. Mr. Gartland objected to horses. Mrs. Pudup made complaints about me. Malice is her reason for making this complaint. Everything she says is untrue.

Mr. Strassner: We are interested only in the application.

Mr. Huff: My brother owns a rubbish truck. A lot of times he picks up things that are usable that charitable organizations would like to have. A Scottsville group asked for some of these. My brother, Don, took it out to them. This is all that happens. There is no truth in that garbage is being dumped. We have no feelings against anybody. Some of those pictures taken with the truck parked in front were taken when the snow was so deep it couldn't be parked in the back. We have no idea of making a junk yard. We are saving the town money by getting this extra junk, instead of having a town truck pick it up.

No one else appeared to speak on this application. Pictures and petitions will be on file in the Town Clerk's office.

Application of Willis C. Morse, 755 Marshall Rd., for variance to build garage 3 ft. to north side lot line, in a zone.

Mr. Morse presented map of the property, showing location of house and proposed garage.

Mr. Strassner: How far is garage from the road?

Mr. Morse; 130 ft. from the road. There is no other building in the back, and the neighbors do not object.

Mr. Strassner: Would you object to a 5 ft. setback?

Mr. Morse: No, but I would like to have it 3 ft. if I could. This will be a double car garage built of cinder block. All the houses are even in that area.

Mr. Pfenninger: How far is it from the house to the garage?

Mr. Morse: About 15 ft. There is a house next door with a garage on the other side.

No one appeared to speak on this application.

Application of Anthony J. Zaremba, 956 Coldwater Rd., for variance to build garage 4 ft. to south side lot line, in D zone.

Mr. Zaremba presented a map and stated he had talked with the neighbors, who have no objections.

Mr. Strassner: How close would this be to the neighbor's house?

Mr. Zaremba: There would be about 14 ft. between them.

No one appeared to speak on this application.

Application of Thomas M. Davis, 17 Tarrytown Rd., for variance to erect garage and breezeway 3 ft. to north side lot line, in D zone.

Mr. Davis presented a map.

Mr. Davis: These lots are 70 ft. wide. It is 22 ft. from the house to the lot line. There would be a 4 ft. walkway between the garage and the house. The building would be 13 ft. from the neighbor's house.

No one appeared to speak on this application.

Application of Clayton B. Waterman, 49 Sunny Side Lane, for variance to build 32 ft. by 22 ft. garage and 15 ft. by 14.6 ft. breezeway to be used for home work shop and storage, in E zone.

Mr. Waterman presented a map and a petition signed by the neighbors in favor of this application. Mr. Waterman pointed out a mistake in the advertisement. The size of the breezeway would be 15 ft. by 20 ft.

Mr. Waterman: The garage would be 22 ft. by 32 ft., a two-car garage. I would have a work bench in the back.

Mr. Wickins: Would you be doing anything commercial?

Mr. Waterman: No, there would be nothing commercial. It would just be used to store my lawn mower, etc. There would be no outside storage. The whole thing is for my personal use.

No one appeared to speak on this application.

Application of B. R. DeWitt, Inc. of Pavilion, New York, for variance to construct a temporary cement mixing plant on north side of Scottsville Rd. 300 ft. west of Barge Canal, in a industrial zone.

Daniel G. Kennedy, attorney, appeared to represent B.R. DeWitt, Inc. and presented maps of the property.

Mr. Kennedy: This application is by B. R. DeWitt, Inc., a contracting firm of Pavilion, New York, to have a temporary permit to construct and operate a cement mixing plant on Scottsville Rd. in A district. The premises where this would be built are owned by the New York State Dept. of Public Works, west of the canal. The DeWitt company is in agreement with the State of New York to lease the premises on a year to year basis. It is the understanding that sooner or later the State will take the property for the outer loop. The plant will be located about 175 ft. back from Scottsville Rd., about 400 ft. west of the Barge Canal. It is shielded from the highway by bushes and trees, and on the west by woods. They need this plant because of large contracts they have and hope to get in and about the City of Rochester. The plant itself is a portable job, a modern type with no dust or noise. The whole thing is covered, from the loading into the mixing truck and taken away. The Zoning Ordinance states it is necessary to have a permit for a cement mixing plant in A district. There is no more noise or dust involved in this than in a railroad roundhouse. There are no residents in the immediate vicinity or across the road. I bring to your attention the suggestion of the Town Attorney, as to checking with the County Engineer as to airport regulations. The height of the building will be 32 ft. 9 in. There is a question as to whether the extension of the runway for jet planes will have an effect on the maximum height in that vicinity. I would like you to consider all other advices tonight, and leave the County to the engineer. I have brought Mr. DeWitt and Mr. Eastman with me.



Mr. Wickins: A temporary permit would be for a period of time. What period of time do you desire?

Mr. Kennedy: Originally it was for two years. This Board has the power to grant up to five years. We don't know about the State of New York. We would like to stay there until the State needs the property. Therefore, we would like to have the maximum time.

Mr. Wickins: Can you provide off-street parking?

Mr. Kennedy: There will be no trucks parked near the road. There is plenty of room for parking.

Mr. Wickins: Might I suggest that you screen it from Scottsville Rd.

Mr. Kennedy: It is already screened.

Mr. Strassner: This is a temporary outfit. How can it be moved at the termination of this period?

Mr. Kennedy: This is a portable job on wheels and can be easily be knocked down and taken away.

Mr. DeWitt: The whole thing can be taken out in a day.

Mr. Kennedy: We will get a letter to you from the Monroe County Airport as soon as possible.

No one else appeared to speak on this application.

Application of David Ouweleen, 245 Stottle Rd., for variance to build 20 ft. by 40 ft. swimming pool 65 ft. from front, 30 ft. from rear, and 38 ft. from north side lot line, in E zone.

Mr. Ouweleen presented a map showing location of pool on property.

Mr. Wickins: Do you know the requirements as to fencing etc. that have been done in the past?

Mr. Ouweleen: I didn't know there were any definite rules. I thought you just adopted the State rules.

Mr. Strassner: We set up our own rules, such as ladders at each end, etc.

No one appeared to speak on this application.

Application of Kenneth and Madeline Gallipeau, 3662 Chili Ave., for variance to use utility building now located on premises for the purpose of repairing and renovating furniture in E zone.

Mr. Gallipeau said this is next door to the Bierbrauer property.

Mr. Strassner: What is the utility building?

Mr. Gallipeau: It is a two-car garage with a workshop on the back. The man that built it had it zoned for cabinet-making. He had a variance to use it. He would use it to remodel furniture, davenport, chairs, etc. Just work on the side. The people going to buy the house will be doing it. He would just use a small tack hammer. There would be no loud equipment.

Herbert Kuhn, attorney, Times Square Building: I am representing Mr. Dann, the buyer. The property at 3662 has a large garage to house two cars with an attached store room with a wooden floor, closed in. This is 130 ft. from the front lot line, 20 ft. from the Gleichauf west line. Across the street is a narrow strip of land. There was a former little restaurant not now in operation. Not too far away, it is quite thickly populated. Mr. Dann has full time work. However, he would like to have permission to do upholstering and renovating of furniture on this site. The forms come set up. He would make no installations. As for equipment, he might need a sewing machine, but the length of it is really a tack hammer.

Mr. Wickins: How late would you be operating?

Mr. Dann: I would still be working full time. I would do this part time work no later than 10:00 P.M.

Mr. Strassner: Does anyone have any objections to this?

George Gleichauf, 3660 Chili Ave.: I live next door. This would jeopardize my property by changing it to commercial. Mr. Bierbrauer had a shop. A man wanted to buy his property for that purpose, but the variance was denied. I don't see how you can grant a variance in this case.

Don Yawman, 3668 Chili Ave.: I have the same objections as Mr. Gleichauf. What starts out to be quiet doesn't always end up that way.

Margaret Darrow, 3686 Chili Ave.: I also voice an objection. There is no commercial in the neighborhood. I would like to know how you could allow that restaurant which was on the property.

Mr. Parkhurst, 30 Brookview Dr.: I went through the same thing a year ago. I have the same objections on this.

Mr. Steinhof, 3657 Chili Ave.: I also object for the same reasons.

Roy Brierly: I have the same objections. This used to be a beautiful tract. I object to this very much.

Mr. Darrow, 3686 Chili Ave.: I have the same objections.  
 Emery Elmore, 3682 Chili Ave.: I have the same objections.  
 No one else appeared to speak on this application.

Application of William C. Heuer, 809 Morgan Rd. for variance to build 16 ft. by 22 ft. swimming pool located 20 ft. from rear lot line and 20 ft. from side lot line, in E zone.

An error was made in the advertising of this application. Size of the swimming pool should read 16 ft. by 32 ft.

Mr. Heuer presented a map showing proposed location of the pool on his property.

Mr. Wickins: Do you know the requirements laid down?

Mr. Heuer: Yes.

No one appeared to speak on this application.

Application of Michael Truisi, 3270 Chili Ave., for variance to remodel two-family apartment into three-family apartment, located in E zone.

Mr. Truisi: I would like to remodel my home into a three-family dwelling. I would remodel one side into a two-family apartment and live in the other side myself. It would be an up and down on one side.

Mr. Strassner: How much room would be in one apartment?

Mr. Truisi: About 900 - 950 square feet in one apartment.

Mr. Strassner: Have you spoken to your neighbors?

Mr. Truisi: Yes. It is the same as before. Mrs. Cortess, who lives right next door, is in favor of it.

Angelo Golisano, 3304 Chili Ave.: I am in favor of this.

Robert Loomey, 3260 Chili Ave.: I live in the first house to the east of this. I object to this variance on the grounds that the property is E residentially zoned. Mr. Truisi has already been granted a variance to build a two-family home. Now he wants a three-family home in an E residential zone. This is multiple housing. One of the reasons a great many people move out here is to get away from this. This is the first step in tearing an area down. What would happen in the event he is no longer owner, but sells the home?

Mr. Groover, 3250 Chili Ave.: Last August, I understood this was a two-family house but there were three families living in it. If we are going to have this, we are going to have to sell our home. He knew what he was doing when he did it.

Mr. Loomey: This would require an exterior fire escape, which is detrimental to a residential home.

Mr. Truisi: The law states that I can rent this as a rooming house, which would be worse than a three-family house. You are at least 1000 ft. away.

No one else appeared to speak on this application.

Application of Henry Stevens, 21 Hartom Rd., for variance to erect 12 ft. by 20 ft. addition to garage 5 ft. 5 in. to the corner side lot line, in D zone.

Mr. Stevens presented a map.

Mr. Stevens: I would like to use my present garage as a breezeway, and use this addition as a single garage. This would exactly match the house.

No one appeared to speak on this application.

Application of Harry G. Robinson for variance to operate veterinary hospital at 3390 Chili Avenue in E zone.

F. Lamont McNally, attorney, appeared to represent Dr. E. Rague, purchaser of property, and presented a map.

Mr. McNally: A purchase offer has been accepted on this property. Dr. Rague is a graduate of Cornell Veterinary School. This request is for him to live in the home with his wife and children and use the garage and barn for a veterinary hospital and office for treating small animals. It is his intention to have an operating room where the present garage is which will be soundproof. I present a petition signed by the neighbors in favor of this. Mr. Robinson and Dr. Rague are present if you want to ask any questions.

Mr. Strassner: Would there be any kennels?

Dr. Rague: Just to exercise the animals. This is not to board animals, but merely for treatment.

Mr. Strassner: How about parking facilities?

Dr. Rague: There is a circular drive around the front of the house. There is a frontage of about 300 ft. I intend to buy property not shown on the map to the rear of the Robinson property. This would include about 10 acres in all. This is just additional property I am buying.

Mr. Peach, 3373 Chili Ave.: Would the animals be entirely within the housed property?

Dr. Rague: They will be all enclosed except for exercising. I will not be boarding animals, just treating them.

Mr. Strassner: Will there be any burial ground?

Dr. Rague: No.

Mr. Strassner: What would be the duration of their stay?

Mr. McNall: Just for treatment, and only of small animals.

Any treatment of large animals would be done at the barn or wherever needed. Dr. Rague intends to live in the home.

Mr. Peach: What change does this make in the area?

Mr. Wickins: The Zoning Board has the right to grant a variance. It doesn't change the zoning in the territory.

Mr. Peach: I am concerned about something like Evergreen Kennels.

Mr. Wickins: Dr. Rague stated they would be kept in a soundproof building. They would only be exercised and would not be out at night.

Mr. Pfenninger: How about dogs you might have for a week or two?

Dr. Rague: In that respect, they would be sick animals. I would not be running a boarding kennel. I could keep some dogs in the barn if the business expands. However, this will serve my purposes for a long while.

Mr. Peach: Does the Board have a controlling factor? What changes can take place?

Mr. Strassner: If the business expands and he needs an addition, he would have to get a variance for that addition.

Mr. Peach: What about exercise yards?

Mr. Strassner: He could put them in, but could not use this as a boarding kennel. He would still have to house the animals in a soundproof building and come back here if he wanted to expand that use.

Mr. Pfenninger: He is asking to use that garage at present. He wants to put an exercise run in the bottom of the barn.

Mr. Peach: Does this building have to conform with any rules?

Mr. Wickins: The Zoning Board can put any restrictions they deem necessary on this variance. The person has to live up to them.

No one else appeared to speak on this application.

Application of Ralph Dibble for variance to operate Go-Cart course at 242 Chili-Scottsville Rd. in E zone.

Bernard Gastell presented map, and represented Harry Lortz, lessee, and Ralph Dibble, owner of 9 acres of land at 242 Chili-Scottsville Rd. We hope you will grant us a variance to conduct on these grounds a Go-Cart course. As you can see, the plans speak for themselves. You have probably seen in Time and Life magazines articles about this growing trend that is sweeping the nation. This sport entertains children from 14 years up. This will promote, not only safety, but family and group participation. Trial runs for stock cars have been conducted on this same land in the past. These carts are 2 ft. high and have mufflers. There are not more than 1/2 dozen so the noise factor is held down. In addition, it is intended to have a spectator stand in built up stadium of earth 15 ft. high, so that again there is a sound barrier. I understand the area where the Go-Carts would be operating is approximately 400 ft. from the nearest dwelling. To the south, we have farm land, to the east dense woods, to the west across the way, we have marshes and farm lands and woods, to the north dwellings and farm land and a creek. There is approximately 9 acres of land. This course will be divided, as the plans indicate, one course to accommodate older persons interested, and a smaller course for youngsters from 14 years. It is also intended to have ample parking facilities, having 9 acres. The course area itself will be paved so that any question of dust will be minimized. In our view from similar communities, this recreation indicates an interest that persons all ages have shown in this. Drag racing has been a problem to the citizens, also

to the law enforcement agencies, the State Police, etc., who have been faced with this problem. Also, persons interested in things of this nature have been using roads and parking areas of shopping centers, etc., which has not met well with the people responsible for these areas. In this instance, they would be confined to one area with adequate supervision. There is also a delinquency problem as well caused by people with idle hands and idle time. The crime rate of the young would be minimized with recreations such as this. I am trying to have you see the whole picture. The physical area of this course is not too crowded, there is ample land which we hope to use, and also the safety factors mentioned. I believe this will be a boon and not a detriment to this community if this application is granted.

Mr. Strassner: Would this be commercialized?

Mr. Dibble: Just enough to take care of the entry fee for insurance, etc.

Mr. Strassner: What if someone wanted to bring a car?

Mr. Dibble: There would be a \$2.00 entry fee. This is for protection in the case of injury.

Mr. Strassner: Are you going to rent cars?

Mr. Dibble: It is not our plan at this time. We might, and if they wished to run one, we might let them run one.

Mr. Strassner: How late would this be operated?

Mr. Dibble: Not later than 5:00 on Saturday or Sunday. There would be no week day or evening operations.

Mr. Strassner: How many cars?

Mr. Dibble: About six.

Mr. Strassner: What size engine?

Mr. Dibble: Lawn mower size engine.

Robert Oss, 260 Chili-Scottsville Rd.: We will be the closest to this and will barely be able to hear it. You can hardly hear them from 90 ft.

Alexander Plough: My property adjoins Dibbles. I had the opportunity for a preview about three weeks ago and you could hardly hear yourself think, mufflers or not. You wouldn't want that next to your property.

Mrs. Westlake, 240 Chili-Scottsville Rd.: You can't hear yourself think with one Go-Cart. I have to take the washing down because of the dirt. My husband is a trick worker and he has to go away to sleep. We have three small children, and this is a traffic hazard.

Ronald Dunlap, 146 Chili-Scottsville Rd.: I signed in favor of this before I understood the facts. This would be a detriment to the neighborhood. We lately purchased our home for \$25,000. If this is passed, we will be all off on the deal. I think this should go farther out, and I object to it.

Mrs. Frank Winter, 236 Chili-Scottsville Rd.: I couldn't tell you how much I am against this. For two years we have heard the noise. The dust is higher than my house. This is a residential area. My grandchildren come there. Cars will be invited out there.

Ed Gould: If this is a commercial and entertainment situation, would it come under a license fee?

Mr. Wickins: I wouldn't say so. We would have to look into that.

Mr. Gould: Any financial gain would increase the valuation of the property, and hence the taxes.

Mr. Wickins: That would be up to the assessor. He is an independent person not controlled by this board or any other board. I don't feel that he could very much.

Mr. Gould: Is there no admission fee?

Mr. Dibble: A \$2.00 entry fee.

Mr. Gould: Do the spectators look free?

Mr. Dibble: There would probably be a hat passed.

Mr. Gould: This is getting into commercial.

Thomas Winter, 232 Chili-Scottsville Rd.: I am a trick worker. Mr. Dibble has had stock cars around for two years. Being neighbors, we let it go. This we can't stand.

Mrs. Lillian Plough, 296 Chili-Scottsville Rd.: We heard the trial runs. Our land backs on to the proposed race track. We couldn't believe the noise. If that is one, I don't know what the whole race track would be. There is one angle. Consider the amount put into that property and it would give you an idea of the commercialization, which would make our property useless.

Mr. Grover: We came out here to live. This will be just the beginning. Race tracks, etc., are against all the residential rules of this town.

Elmore Huff, 32 Bowen Rd.: I live within hearing distance of this, and I would like to know the horse power of these carts. Small go-carts have up to 3 - 3½ horsepower.

Mr. Dibble: There would be 3 horsepower maximum per engine at any time.

Mr. Huff: How big is the track?

Mr. Dibble: 415 ft. by 490 ft. square.

Mr. Huff: I would have to object.

Mr. Routier, 311 Chili-Scottsville Rd.: I understood this was for little children, and I signed the petition. I know find they are for children 14 years up.

Mrs. Winter: I would like to voice objection because of depreciation.

Frank Reiss: I signed the application. Since then there have been three different neighbors who came and objected because of the noise. I don't want to live outside the area where I can't hear the noise, and agree to this and inflict it on my neighbors. I just want to cancel my vote in favor of this, and have my name removed from the petition.

Mrs. Barbare Redmore, 142 Chili-Scottsville rd.: I object.

Mr. Gastell: As attorney, I would like to point out that these people may have heard some noise, but they didn't have the benefit of two factors which will eliminate considerable noise. Mufflers and ~~an earth~~ a pit surrounded by an earth mound with people sitting 15 ft. high. The present area will be moved closer to the woods, which will be further away from the people. The Winters have gone to the other people to voice their objections. They haven't given the applicants a chance to demonstrate what they are going to do. This will be of monetary value to the town. I present a photostatic copy of petition signed by 34 names in favor of this. There have been some withdrawals. I hope the Board will weigh the positive against the negative. They have all the factors I have raised on behalf of the applicants.

Mr. Winter: How much will my property depreciate?

Mr. Strassner: I can't answer that.

Mr. Winter: From \$5,000 to \$10,000. We want to keep this residential. we can't have it commercial. As to the safety factor and idle hands being kept busy, give them work to do. If you can't control your children, you'd better quit.

Mrs. Ploughright: There are a number of names on that petition who didn't know what they were signing. They think it is an amusement park.

Mr. Gastell: I have just been informed that the town is contemplating purchasing land across the street from this property for a playground or recreational purposes.

Mr. Wickins: That is not true.

A paper was presented to the Board signed by Frank S. Craig and Donald Dunlap stating they object to this application, and withdrawing their names from the petition in favor.

No one else appeared to speak on this application.

#### DECISIONS OF THE BOARD:

MICHAEL CERRETO granted a variance to erect 25 ft. by 60 ft. commercial building 62 ft. from rear lot line, 70 ft. from front lot line, 5 ft. from south side lot line, on property located on lot 6, Block 2 E, Charles Avenue, as per map presented. Ample parking for 30 cars must be provided on the property. All members voted in the affirmative.

GEORGE HUNT was granted a variance to keep rubbish truck on premises at 361 Paul Rd. if said truck is properly housed. The request to store materials consisting of mattresses, iron, etc., was denied. All members voted in the affirmative.

WILLIS C. MORSE granted a variance to erect garage 3 ft. to north side lot line at 755 Marshall Rd. All members voted in the affirmative.

ANTHONY J. ZAREMBA, 956, Coldwater Rd., was granted a variance to build garage 4 ft. to south side lot line. All members voted in the affirmative.

THOMAS H. DAVIS, 17 Tarrytown Dr., granted a variance to erect garage and breezeway 3 ft. from north side lot line. All members voted in the affirmative.

CLAYTON E. WATERMAN, 49 Sunnyside Lane, granted a variance to erect 32 ft. by 22 ft. garage and 15 ft. by 20 ft. breezeway, to be used as home workshop and for storage. Variance granted with the understanding that no commercial use is to be made of this. All members voted in the affirmative.

B. R. DEWITT INC, Pavilion, N.Y.: Decision was reserved on application for variance to construct a temporary cement mixing plant on north side of Scottsville Rd., 300 ft. west of the Barge Canal.

DAVID OUWEELEN, 245 Stottle Rd. granted a variance to erect a private swimming pool 20 ft. by 40 ft., 65 ft. from front lot line, 30 ft. from rear lot line, 38 ft. from north side lot line, with the following stipulations: Swimming pool is to be enclosed with a 4 ft. tight fence. Ladders are to be installed on both ends of the pool, and to be permanently attached to the walls of the pool. Pool and end ladders are subject to approval of the Building Inspector. All members voted in the affirmative.

KENNETH GALLIPEAU, 3662 Chili Ave., was denied a variance to use utility building now located on premises for the purpose of repairing and renovating furniture. All members voted in the negative.

WILLIAM C. HEUER, 807 Morgan Rd., granted a variance to erect a private swimming pool 16 ft. by 32 ft., 20 ft. from rear lot line, 20 ft. from side lot line, with the following stipulations: Swimming is to be enclosed with a 4 ft. tight fence. Ladders are to be installed on both ends of the pool, and to be permanently attached to the walls of the pool. Pool and end ladders are subject to approval of the Building Inspector. All members voted in the affirmative.

MICHAEL TRUISI, 3270 Chili Ave., denied a variance to remodel two-family apartment into three-family apartment, at 3270 Chili Avenue. All members voted in the negative.

HENRY STEVENS, 21 Hartom Rd., granted a variance to erect 12 ft. by 20 ft. addition to garage 5 ft. 5 in. from the north side lot line. All members voted in the affirmative.

HELEN M. ROBINSON, 3390 Chili Ave, granted a variance to operate a veterinary hospital at 3390 Chili Avenue for a period of five years. Animals are to be housed in a soundproof building, runways to be in the basement of the barn, and to be used only for exercise purposes. All members voted in the affirmative.

RALPH M. DIBBLE, 242 Chili-Scottsville Rd., denied a variance to operate Go-Cart course at 242 Chili-Scottsville Rd. All members voted in the negative.

June Yates, Secretary



## ZONING BOARD OF APPEALS

July 5, 1960

The meeting was called to order, and roll was called with the following members present: Frank Bubel, Charles Pfenninger, Donald Slate, and the Chairman, Cornelius Strassner. Also present was the Building Inspector, William Davis.

Application of Rochester Gas and Electric Corp., 89 East Ave., for variance to burn trees on property approximately 700 ft. south side Ballantyne Road, former Schnur farm, located in E residential zone.

Robert I. McCutchan appeared for R. G. & E. and presented a map of the property, also the signatures of six of the nearest neighbors giving their consent to this application. These will be on file in the Town Clerk's office.

Mr. McCutchan: Due to the recent hard winter, the trees suffered a lot of broken limbs and much damage in the ice storms. This plus the fast growing season has plagued us in keeping up with our tree trimming. Monroe Tree Surgeons do most of our tree trimming, and they have been unable to find a place to burn. They were using a strip of R. G. & E. property near the airport. Because of objections from the airport, this has been closed. We are petitioning the Board tonight to use part of 425 acres, a parcel between Ballantyne Rd. and Brook Rd. The Monroe Tree Surgeons are primarily the ones doing the burning. The trees are brought in from the city and from the town to be burned on the premises. They will be the only ones burning. There will be no refuse and no dump. They are asking only for space to burn trees and brush.

Mr. Strassner: What type of protection is there back there? Is there any fire equipment?

Mr. McCutchan: We don't plan to maintain fire equipment. There will be a leveled area which will be covered with fly ash and the underbrush removed. There will be a man there whenever there is any burning. I believe Monroe Tree Surgeons intend to have a man full time to live on the premises to restrict outside dumping and take care of the fire.

Mr. Strassner: This is quite a bit of area.

Mr. McCutchan: The area is out in the open. It has been cultivated in the past.

Mr. Pfenninger: Is there any way to keep this ploughed up?

Mr. McCutchan: It will be kept bare for an area around it.

Mr. Strassner: How big an area of fire?

Mr. McCutchan: A week's deposit will be burned at a time. These will be in small piles. I had hoped a man from Monroe Tree Surgeon's would be here. In the past in back of the airport, they trimmed the trees, put the logs in one pile and the limbs in another, then burned them in small piles.

Mr. Strassner: Is there any objection to doing this under the supervision of the fire marshal?

Mr. McCutchan: It would depend on the times he is available.

Mr. Strassner: I do know there is quite a wooded area here. If it ever got going, there could be quite a fire.

George Fiedler, Rochester Gas & Electric Corp.: We expect to notify the Fire Dept. any time we burn, and there will be a water wagon there every time we burn.

No one appeared to speak on this application.

Application of Harry Albrecht, 17 Jamison Rd., for variance to remodel existing barn into two-family residence in D residential zone.

Robert Miller, Attorney, appeared to represent Mr. Albrecht. He presented a plot plan of part of Riverdale Tract in the Town of Chili, also plan of the upstairs of proposed house.

Mr. Miller: This is an existing barn now being remodeled into a house. The barn meets all the requirements of the zoning ordinance to be transformed into a house. I present the signed consent of 16 adjoining property owners. This will be an improvement in the neighborhood. The premises will be cleaned up and there will be modern plumbing. It will be a nice looking house. From looking at the map, you can see that each and every adjoining home owner is consenting to this. It meets all the requirements of erecting a home on the premises. This will be a double house.



Mr. Strassner: How close is this to the side lines?

Mr. Albrecht: 30 ft. to the closest side line, approximately 40 ft. to the other side line. We are going to get water.

Mr. Miller: This will be shingled on the outside and be a real looking house when through. He has 1200 square feet, 40 ft. by 30 ft. on each floor. He wants it for a daughter to live in. She was married a week ago Saturday.

Mr. Strassner: Is anyone in favor of this?

No one appeared.

Mr. Strassner: Is anyone in objection?

George TerHaar, 12 Greyson Rd.: I live directly back of this. I have one question. If zoning is in effect, this was a barn to begin with. How can you turn a barn into a house without completely demolishing it?

Mr. Strassner: The Board doesn't answer questions like that. They are interested only in the application. It would have to come under our building code.

Mr. TerHaar: Is this a 50 ft. lot?

Mr. Strassner: He has more room than he needs.

Gerald DeGroot, 16 Jemison Rd.: I object to the extent that it is a barn.

Mrs. DeGroot: I object. This is still a barn. If you can't have a trailer, how can you have that?

Mr. Miller: It is easy to transform a barn into a house. There will be new plumbing, it will be shingled on the outside. The only thing left as when it was started will be just the bare four walls. We invite you all to see it.

Mr. TerHaar: How about the Board of Health?

Mr. Miller: This has been approved.

Mr. TerHaar: The septic tank is 55 ft. from my well. I put in a complaint.

Mr. Strassner: Any questions should be placed to the Board.

Mr. TerHaar: When the first man bought that property, his name was Diegle, he was supposed to use it just for storage and a work shop. He started to put in a septic tank with leeching bed in back of the barn, within 55 ft. of my well. I called up the Monroe County Board of Health. They came out and said as long as this was only used occasionally, it would be all right. They took a sample, and said if anything turned up, they would stop it. I am in the water district, but still using the well.

Mr. Miller: All we can say is it has been approved.

Mr. TerHaar: How about these other people around there?

Mr. Miller: I have 16 signatures in favor of this.

Mr. TerHaar: How about Mr. Crawford?

Mr. Crawford: Any interest I have here is wholly in the neighborhood. I would like to see it bettered. I was not notified of this hearing, but heard about it through the grapevine. I am one property to the west of Mr. TerHaar. It is true about the septic tank. As a surveyor, I know they should not be within 100 ft. of anybody's well. There is a septic tank built there for a couple of people to use occasionally. Now there are a couple of families going to use it. If the Board grants this permit, then a new septic tank system should be put in the front where there is ample room. Any objections are mainly not those of remodeling the barn into a house, but just for the general betterment of the neighborhood. I came along to learn a little.

Mr. Strassner: Any specifications to the septic outfit would have to pass the Monroe County Health Dept. if he got a permit. They certainly wouldn't let him put one in unless it conformed to specifications.

Mr. DeGroot: Does this meet the zoning as to a double house?

Mr. Strassner: Yes. Any building, no matter where, has to come under the building code of the Town of Chili. There can be no alterations or any new structures that don't come under these specifications.

Mr. DeGroot: This property would be reassessed?

Mr. Miller: With improvements on any property, it is reassessed. I will leave this petition with the board.

No one else appeared to speak on this application.

Application of Louis D. Young, Hynes Tract, Scottsville Road, for variance to erect garage 20 ft. from front lot line in E residential zone.

Mr. Young presented a sketch of the property, which is down in towards the river. There is a road that runs off Scottsville Rd., a small private road, up by the overhead.

Mr. Young: I bought 30 ft. by 90 ft. lot adjoining in order to build. The land runs across the road. I measured from the edge of the road up to where I want the garage, which was 26 ft. The house is about 30 ft. from the road.

Mr. Young: I am just guessing at that. The land runs across the road.

Mr. Strassner: What would be your objection to putting the garage parallel to the house?

Mr. Young: This map is not drawn right. It will be parallel. My drawing is pretty bad. My house is closer to the road than some. When I built the porch, that made it out beyond the others. It is 26 ft. to the road there now. I don't want to dig too much snow.

Mr. Strassner: You don't object to putting the garage parallel?

Mr. Young: I will. I can do that. I have here a letter from a neighbor, Mr. Ely, which he thought he had to write in favor of this. All the neighbors told me they would not come, but they had no objection. I thought if anyone had objections, they would come out tonight and make them.

No one appeared to speak on this application.

Application of Enrico Ferrari, Chiville Realty Co., for variance ~~to~~ of west half of Section #4 of Large Lot #22 Chili, property of Rose L. Karges and Anna Tobin to construct and operate part of 18 hole golf course, to construct golf club and pro shop in E residential zone.

Anthony LaBue, attorney, appeared to represent Enrico Ferrari.

Mr. LaBue: I would like to state when I made up this request for a variance I think I used some unnecessary and unfortunate words. The variance states to construct and operate an 18 hole golf course, construct golf club and pro shop. This Board will remember about November 10, 1959, we made application at that time regarding property which was immediately to the west of the property now concerned with. The property this board passed on in November is to the west and is bounded by Humphrey Rd., Chili-Scottsville Rd., and Morgan Rd. All we are really asking for tonight is that we be allowed to use property immediately to the east of this 133 acres, to be used in conjunction with this property merely to have a more beautiful and safer golf course. It is safer because we don't have to crowd 18 holes into 133 acres, with golf club, pro shop, and parking. The property concerned with now is shown here (using map) on your right and marked in red, approximately 50 acres, and the only change from our previous application is to place four fairways, tee to green, on the 50 acres instead of 18 holes on the original. We are planning to construct around the suggestions and requirements set forth by the Zoning Board, and are building our pro shop and golf club exactly where we had proposed to do it when here last.

Mr. Strassner: This is just adding a piece of property to increase the size of the original?

Mr. LaBue: Yes. In connection with this application, there will be absolutely no entrance or exit at all from Humphrey Rd., which the Karges property abounds. The only ingress and egress will be on the formerly purchased property and just to go in and out as the golfers play a game. The only exception to this property is 1 1/4 acres which the seller is retaining around her residence. We have submitted an offer which was accepted subject to the approval of this application. If necessary, I hereby amend the application to read as I have stated.

No one appeared to speak on this application.

Application of Sun Oil Co. for variance to construct gas station on property of George L. Switzer and Raymond Abbott near intersection of Beahan and Scottsville Roads 45 ft. to front lot line, island 15 ft. from front lot line, locate a 11.6 by 4 ft. sign 5 ft. from front lot line, and 5 ft. from side lot line, located in commercial zone.

Jerry R. Greenfield, attorney, appeared for the owners.

Mr. Greenfield: Mr. Switzer and Mr. Abbott are under contract to sell this property subject to your decision. I have obtained the signatures of 10 surrounding land owners in favor of this which I submit for your examination. I have also obtained the approval of the Monroe County division as to the land, the sign to be erected, for the Airport District. This has been submitted to the board by them. I have a copy here, also copies of the plot plans, which were submitted to the Board with the original application.

Mr. Strassner: Next time please get the addresses on the petition.

Mr. Greenfield: There is one correction. The size of the sign should read 11 ft. 6 in. in height and 45 ft. in square area. We also request a variance for an island with gas pumps 15 ft. from the front lot line, 45 ft. from the edge of Scottsville Rd. This is a two-bay gas station, larger than the others. It is proposed to be of porcelain construction. These are the latest plans of the Sun Oil Co. There will be a trash area. The building will be located back into the lot. The septic system is indicated on the plan. I present a plan of the proposed sign. This sign is indicated 15 ft. back, and I will amend the request if the Board requires it. I have brought with me a representative of Sun Oil Co. and also the owner of the property.

Mr. Strassner: Which side of Beahan Rd. is this on?

Mr. Greenfield: It is on the southwest side about 200 ft. down. There is a Texaco station 400 ft. down on the other side. The lot is 150 square feet. The pumps will be 45 ft. back from the right-of-way.

Carl Bobst, Sun Oil Co., Syracuse, N.Y.: We have investigated with the Monroe County Highway system and there is no indication that that road will be further widened. The traffic study is projected into 1970, and there will not be that heavy anticipated traffic. We started out with a 30 ft. setback. The island is actually 45 ft. from the edge of the road, but only 15 ft. from the property line. In checking this thing with Monroe County, they informed our people there is no projection into 1970 for any traffic increase. The building is back 45 ft. from the property line, 75 ft. from the pavement.

Mr. Strassner: How far are the signs from the road, are they behind utility poles?

Mr. Bobst: There is a telephone pole and the sign is behind it, approximately 5 ft. from the front and 5 ft. from the side.

Mr. Greenfield: About 15 ft. back from the telephone pole.

Mr. Strassner: How late will the station be open? Will the sign be illuminated?

Mr. Bobst: This is not lit like a normal standard sign. It is internally lit. We have had complaints about spot lights. This will just light the sign itself. There is no reflection. This is our greatest sign and our great pride. We have other signs.

Mr. Pfenninger: How late will the station be open?

Mr. Bobst: It will be open when the public demands. We will have the experience after we have been open a short time, and if the demand is there, we would like to furnish those services. In the Rochester district which includes 6 counties we have 87 stations, none of which is open 24 hours. It would probably be open until around 10:00 or 11:00 at night. There will be two of the new custom blending pumps, one island, two pumps.

Mr. Strassner: How about the trash area?

Mr. Bobst: This will have cinder block construction and any garbage or trash will be put there. It will be about 6 ft. high. No one driving down Beahan Rd. or Scottsville Rd. will be able to see this disposal area. I am assuming there is a weekly pickup on disposals.

Mr. Strassner: Not furnished by the town. It will be up to you to arrange this with one of the disposal operators in the town.

Mr. Bobst: This area will be to the rear of the station. I would like to point out we aren't going to get 50 ft. curb cuts. It will probably be reduced to 35 ft. This is in the new State Code. There will be a fence in the middle zone so that cars can't park there. We insist on keeping the cars back.

Mr. Greenfield: We would like to amend the application for the sign to read 15 ft. in height, 43 cubic feet over all, and 11 ft. 3 in. across the top.

Mr. Strassner: Will the sign affect the people on Paul Rd.?

Mr. Bobst: I don't think it will affect anything on Paul Rd. We were more concerned with Beahan Rd. We think it is advantageous to the people driving by to get it as high as possible.

Mr. Greenfield: We will be glad to make any modifications.

Mr. Strassner: Is anyone in favor of this application?

George Cardella: I have signed a petition in favor of this.

Mr. Strassner: Is anyone in objection?

No one appeared.

Mr. Greenfield: If you require anything further, please call on me and we will deliver any plans.

No one else appeared to speak on this application.

Application of Marjorie Hunt, 361 Paul Rd., for variance to erect 20 ft. by 40 ft. swimming pool 225 ft. from front lot line in A zone.

Mrs. Hunt presented plans of the pool.

Mrs. Hunt: We would like a permit to have a pool at 361 Paul Rd. It will be directly behind the house, not seen from Paul Rd.

Mrs. Strassner: How far from the side line?

Mrs. Hunt: The railroad is one side and the Zuber farm on the other.

Mr. Strassner: We have requirements, such as ladders on both ends of the pool, a 4 ft. tight fence.

Mrs. Hunt: If the pool is behind the house, could we use the house as part of the fence enclosure?

Mr. Strassner: So long as it is enclosed.

No one appeared to speak on this application.

Application of Robert H. Panneitz, 131 Scottsville Rd., for variance to erect 11 ft. by 21 ft. garage 47 ft. from front lot line, located in a residential zone.

Mr. Panneitz presented sketch.

Mr. Strassner: How far is the house from the road?

Mr. Panneitz: From the center of the road about 80 ft. The lot drops way down in the back. I would have quite a job getting out in the winter. I made the old garage into a room for an uncle who came to live with us. That was over two years ago.

Mr. Strassner: Did you come up before the town to get that?

Mr. Panneitz: No.

Mr. Strassner: You'd better check into that. How far out in front of the neighbor's would the proposed garage be?

Mr. Panneitz: I would say about 17 ft. I am going back into the original garage about 5 ft. or 6 ft. now. This would make the garage 22 ft. long. It is 8 ft. to the other side lot line. It was originally 10 ft., but 2 ft. were sold to a neighbor which brought it down to 8 ft. There is only 11 ft. on the other side.

Mr. Strassner: If you built a room on the side, you could turn the present room into a garage.

Mr. Eubel: How about the neighbors on both sides?

Mr. Panneitz: Mr. Goeltz and Mr. Widener have no objections. I thought they were coming tonight. The old breezeway is still there.

Mr. Strassner: The room still could be used for a garage.

Mr. Panneitz: I made it into such a nice room, I don't want to break it up.

No one appeared to speak on this application.

#### DECISIONS OF THE BOARD:

ROCHESTER GAS & ELECTRIC CORP. granted a variance to burn trees on property approximately 700 ft. south side of Ballantyne road, on the former Schnur farm, to be attended at all times while a fire is going and to have adequate fire protection under the supervision of the fire marshal. All members voted in the affirmative.

HARRY ALBRECHT granted a variance to remodel existing barn at 17 Jemison Rd. into two-family residence, subject to the approval of the Building Dept. All members voted in the affirmative.

LOUIS YOUNG, Hynes Tract, Scottsville Rd., granted a variance to erect garage parallel with present house. All members voted in the affirmative.

ENRICO FERRARI granted a variance to use west half of Section #4 of Large Lot #22 Town of Chili, property of Rose L. Karges and Anna Tobin as addition property to be used for extension of proposed golf course. All members voted in the affirmative.

SUN OIL CO. was denied a variance to construct gas station on property of George L. Switzer and Raymond Abbott near intersection of Beahan and Scottsville Rds. All members voted in the negative.

MARJORIE HUNT: granted a variance to erect private swimming pool 20 ft. by 40 ft., 225 ft. from front lot line, with the following stipulations: Swimming pool is to be enclosed with a 4 ft. tight fence. Ladders are to be installed on both ends of the pool, and to be permanently attached to the walls of the pool. Pool and end ladders are subject to approval of the Building Inspector. All members voted in the affirmative.

CALL

ROBERT H. PANNEITZ, 131 Scottsville Rd., denied a variance to erect 11 ft. by 21 ft. garage 47 ft. from front lot line. All members voted in the negative.

June Yates, Secretary

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## MINUTES OF ZONING BOARD OF APPEALS

Public Hearing held August 2, 1960 at 8:00 P.M. held in the  
Chili Town Office, 3235 Chili Avenue, Town of Chili, N. Y.

Mr. Cornelius Strassner, Chairman of the Zoning Board of Appeals called the meeting to order.

## Roll Call: Present:

Cornelius Strassner, Chairman  
Charles Pfenninger  
Warren Beeman  
Frank Bubel

## Also Present:

Town Attorney, Ralph Wickens  
Building Inspector, William Davis

1. Application George L. Switzer and Raymond Abbott for variance to erect a gas station on property located near the intersection of Beahan and Scottsville Roads, locate gas island 45 ft. and service building 75 ft. from front lot line, and a 45 ft. square sign 5 ft. from front and 5 ft. to side lot line located in Commercial zone.

Mr. Jack G. Lubelle: My name is Jack G. Lubelle. At last hearing on this matter, Mr. Jerry R. Greenfield represented Mr. Witzer and Mr. Abbott. Not here tonight because with Armed Forces at Camp Dix. This is application for rehearing for variance to build gas station on property of Mr. Switzer and Mr. Abbott. I would like at this time to request all previous information filed for original application be made part of this hearing and the consent of the adjoining land owners who signed a consent that Mr. Switzer and Mr. Abbott could have this variance. I understand that the statutes for the zoning law of the Town of Chili states that a variance must be granted before a permit can be obtained by owners to erect station. It is my understanding that the reasons that gas station permit would not be granted if some people come and reasonably object and give some good reasons for not having station in location requested. As far as I know, no objection to the granting of this variance. I do not know whether there is anyone here tonight who is objecting. I do not know of anything in any zoning law or statute of laws of State of New York in this location which prevents variance. Variances have been granted in Town of Chili and Scottsville Road for gas stations. I believe I heard at last meeting and this meeting this property is zoned commercial. It is industrial. It should be clarified if it is commercial or industrial. If it is industrial you could get a lot of things worse in that location than a gas station. Therefore that is possible reason why no citizen has come and objected to granting of this variance. After last hearing everybody who was interested in the granting of this variance left feeling because no objection and because property zoned industrial and because men owned property, there was no doubt that this was going to be granted, surprised it was denied. One of the purposes of being here is to renew application for variance and, second, to have spread on this record the reason for its denial. I do not believe you can deny this application for variance where property is zoned and no one objects. Men have property rights and have right to reasonable and property use. Do not have money to go into court and seek out any further appeals for denial of it. Nothing in your zoning law, in my judgment, for anyone to deny this variance. Purpose for application to make certain all specifications properly carried out. If they are, I see nothing in your law to have this denied, nothing saying there shall be no gas stations in Town of Chili. I feel my clients have right to have this variance and right to sell their property for the erection of this gas station. I should like to know the reasons and if they are legal.

Mr. Wickens: Mr. Lubelle, at this time I would like to have on record statement by me as Town Attorney, there are numerous cases holding that the Zoning Board of Appeals has the right to use their own knowledge of the property and the circumstances involved whether there are objections or not, and I was not here at last meeting and I assume perhaps that was the reason. I do agree with you if that is the reason it should be so stated on record.

Mr. Lubelle. I believe it should be stated so that my clients may appeal. I do not think it should be denied. They would like to know reasons so they can go to court and make appeal. We repeat, they are poor men and if have to go to courts, every dollar they have to spend means they are going to get less from property both invested and paid taxes for. If gas station built would be good one and would bring taxes to Town of Chili.

I cannot see any reason why they should say no more gas stations. I do not believe Town or Board have authority to say no more gas stations, that is what courts are for, however, but I think the reasons for it should be spread. So far we have no reason from you gentlemen, why denied. Should be on record and I think it should be required.

Mr. Strassner: Any objectors to this application? Anyone in favor of it?

No one appeared.

A representative from Sun Oil spoke and said any questions the Board would like to ask as to specifications, etc. he would be glad to answer. Mr. Strassner told him all had been very well stated last time. Mr. Lubelle asked that whatever decision, reasons be spread on record this time, and was told they would be.

Mr. Strassner told him he would be notified as to decisions.

DECISION: By the following vote the variance was granted:

Mr. Pfenninger, yes

Mr. Beeman, yes

Mr. Bubel, yes

Mr. Strassner, No.

NOTE: After checking area is zoned "Commercial"

2. Application of W. B. Hendrickson, 260 Golden Road, for renewal of variance to operate a 200 by 1,365 ft. airstrip, 100 ft. from front lot line located in E. Res. zone.

Mr. Hendrickson appeared before Board and requested to have variance restated to grant variance for longer than one year.

Mr. Wickens asked if any objections by neighbors, and was told not that was known, there had been no complaints. Was told running according to the agreement he had and had no complaints, did not know about Town having any.

Mr. Strassner asked if any objection to application.

Mr. & Mrs. Franke, 1895 Westside Drive, asked how long this renewal was for.

Mr. Hendrickson said the last variance was granted for one year, that he got for nothing. This one cost \$7.50 and he would like to have it extended a lot longer. He would like, if it is agreeable to have it extended for an indefinite period. Mr. Wickens informed him that cannot be done, has to be stated period of time.

Mr. Strassner asked Mr. & Mrs. Franke if they were in favor of application. They said they had no objection to what Mr. Hendrickson has been doing, but would not want to see it made a permanent thing. It has been for his convenience and they had no objection to another renewal for a period of time. They said Mr. Hendrickson had been very very careful with application of plane. He and his son had been careful and no complaints about flying over house. Arrangements have been very satisfactory, they just wanted to know how long it was going to be.

Mr. Strassner informed Mr. Hendrickson he would be notified as to decision.

DECISION: By unanimous vote variance granted for a period of two years.

3. Application Automatic Combustion Equipment Co., 1185 Scottsville Road, variance to install two fuel oil tanks 45 ft. from front lot line located in Commercial Zone.

Representative appeared before Board and advised these tanks were for their own purpose, the reason have to have tanks, have tank in yard now, been in their seven years and eaten out. Have approval of Mr. Gray, Superintendent of County and Public Works. Two boilers involved, one burns light and one heavy oil. Mr. Strassner asked if would have them within same enclosure, taking old tank out and putting in new ones. Was told present tank buried. Representative submitted basic print of layout showing building and tanks and explaining it.

Mr. Wickens asked if Zoning Board did decide to grant variance would there be any objection to tanks being installed under supervision of Town's own Fire Marshal. Was told most absolutely not, they would recommend that and comply with any request.



Mr. Strassner asked if any objections to application--any in favor?

No one appeared.

Informed could call Town Office in morning for decision.

DECISION: By unanimous vote, variance granted with tanks to be installed under direction and control of Town Fire Marshal.

4. Application Bernard P. Delehanty, 22 Loran Drive, for variance to erect garage 13 ft. from east corner side lot line. Located in D. Res. Zone.

Mr. Delehanty appeared before Board, showed sketch and specifications.

Mr. Strassner told him he would be notified of decision. He thanked Board and left.

DECISION: Variance granted by unanimous vote.

Respectfully submitted

Patricia D. Slack  
Acting Secretary.

ZONING BOARD OF APPEALS  
September 6, 1960

The only member of the Zoning Board of Appeals present at this meeting was Charles Pfenninger. Also present were the Town Attorney, Ralph Wickins, and the Building Inspector, William Davis.

Mr. Wickins: I would like to inform you that through some error only one member of the Zoning Board of Appeals is here. Some time ago, I appeared in Court on this question as to whether it is legal to hold the meeting and take the minutes when a majority of the Board is not present. The decision of the Court was that it is legal. However, if anyone wants to withdraw his application, it will be re-advertised. Otherwise, the minutes will be taken and decisions will be delivered as soon as a majority of the Board meets. It is up to each one of you whether you want to present your application now or to wait. I am the Town Attorney, and the member of the Board present is Mr. Pfenninger.

It was the decision of the applicants to present their requests.

Application of Stanley Paul for variance to erect a house at 738 Paul Rd., 30 ft. from front lot line, located in a residential zone.

Francis Donovan, Attorney, 45 Exchange St., appeared to represent Mr. Paul and presented a map to the Board.

Mr. Donovan: This application is for a variance to construct a dwelling 30 ft. from Paul Rd. Some time ago, the applicant made application to the Planning Board for permission to divide this 150 ft. by 90 ft. lot into two lots. This was denied. However, it was suggested by the Planning Board that the lot be turned around, making a 90 ft. frontage on the new street to be created. I present a map approved by the Chili Planning Board dated July 30, 1960. This lot might sometimes be referred to as Lot 3 E of the Pultney Tract. On the east of the proposed street is a dwelling which was there when the applicant purchased his property. This dwelling sits back 30 ft. The dwelling Mr. Paul proposes to construct will be 60 ft. in from the new road, 30 ft. from the Paul Rd. If the new road was in, he wouldn't have to ask for a variance. He will be 30 ft. in from Paul Rd., and the only requirement is 20 ft. He would still be within the zoning ordinance. This was done at the suggestion of the Planning Board so that the frontage will be on the proposed street. This street will be placed as shown on the map. The application for a variance would be almost academic. However, he would like to start construction of the house and would like a variance for that reason. It won't be a variance when the new road is put in.

Mr. Wickins: Being located 30 ft. from Paul Rd., would the house be located in the center of the lot?

Mr. Donovan: Yes. The house will be 24 ft. on the north side by 36 ft. He is complying with side line requirements. This is just east of Grenell Drive.

No one appeared to speak on this application.

Application of N. L. Loveless, 4352 Buffalo Rd., for variance to erect a 1 1/2 ft. by 3 ft. sign 1 ft. from front lot line, located in B zone.

Mr. Loveless: I found I had to submit an application. I have drawn up an approximate sketch. The Blacksmith Shop is rented. The sign will be at least 1 ft. back of the lot line, 34 ft. from the center of the road. I propose to erect an old fashioned sign.

Mr. Wickins: Will this be lighted?

Mr. Loveless: Not lighted, unless it would be with an old-fashioned lantern.

Mr. Wickins: The Zoning Board will want to know whether this will be lighted or not, and what the hours will be.

Mr. Loveless: From 9:00 A.M. to 10:00 P.M. weekends only. It won't be advertised.

Mr. Wickins: Have you talked with the neighbors?

Mr. Loveless: There are no complaints at all.

No one appeared to speak on this application.

Application of Logan's, 1420 Scottsville Rd., for variance to erect a 14 ft. high 8 ft. 4 in. by 5 ft. 10 in. neon sign 5 ft. from front lot line, located in A zone.

John E. Wilson of Empire Neon Lights, Inc., appeared on this application, and submitted a plot plan and a drawing of the proposed sign.

Mr. Wilson: We want to move the present sign to the other side of the driveway. The former sign was on the State right-of-way. The other sign was out on the State easement.

Mr. Pfenninger: How far from the bottom of the sign?

Mr. Wilson: 6 ft. from the ground level to the bottom panel. It would light automatically, and go off I imagine at midnight.

No one appeared to speak on this application.

Application of Louis Pound for variance to erect a house on lots 12 and 13, Block N, on Alfred Ave., 40 ft. from front and 44 ft. from rear lot lines, located in D residential zone.

Mr. Pound: The only sketch I have is on the back of the application. These are two lots together making a lot 100 ft. by 120 ft. we want to build one house on the two lots. A lot 50 ft. by 120 ft. is too small. The house would be 40 ft. from the front lot line and 44 ft. from the rear lot line. A lot of other houses are built on the smaller lot.

Mr. Wickins: How about the adjoining houses?

Mr. Pound: Some of them are only back about 15 ft. or 20 ft. from the road. I would like to conform with the ordinance as much as I can.

No one appeared to speak on this application.

Application of Interstate Bakeries Corp., 1284 Scottsville Rd., for variance to erect 9 ft. high 3 by 5 ft. sign 1 ft. from front lot line, located in A zone.

Mr. Boswell of Interstate Bakeries: The sign will be set on a standard, and there will be 4 ft. between the ground and the bottom of the sign.

Mr. Wickins: The Zoning Board is interested in having signs high enough so that a car can be seen under them. In your operation, there would be trucks going in and coming out. I have been Town Attorney for the Zoning Board for quite a while, and I think they might feel this sign to be a little to close. The sign should be up higher when it is that close to the road.

Mr. Boswell: We probably could put the sign up higher.

Mr. Wickins: Perhaps you could withdraw your application for this evening and the Zoning Board could take the matter up. They might feel the sign should be higher.

Mr. Boswell: That isn't really necessary. We would like to have it as close as possible within the legal limits.

Mr. Pfenninger: How high is the sign?

Mr. Boswell: It is 9 ft. high, not lit. It would be on two 9 ft. pillars.

No one appeared to speak on this application.

Application of Chili Center Baptist Church for variance to erect a church 32 ft. from front lot line on Chili Avenue, located in E residential zone.

Donald Walzer, Architect, 300 Genesee St., presented plot plan and plans for the church.

The setback is 32 ft. from the lot line. On the drawing it is shown as 40 ft. for a 3-rod road. Lozier's said this is a 4-rod road, which would make the setback 32 ft. We are asking for 32 ft. as the shape of the lot at the intersection of Paul Rd. and Chili Ave. doesn't give much of a lot with a 60 ft. setback. This building is a first unit and will be a Sunday School wing, which will be added to later. This setback will be the same as the adjoining house and farther back than the gas station. The Henderson house will come out. In the meantime, we would like to use this for the Sunday School. We hope that the other house will come out.

Mr. Wickins: Where do you plan for off-street parking?

Mr. Walzer: On the Paul Rd. between the actual street and the building.

Mr. Wickins: Do you have permission to use the adjacent property for parking? Couldn't you provide for more than 80 cars?

Mr. Walzer: We could now, but when the Sunday School is built, it will take up some of that room. We have permission to use the property west of this for parking. *Option on some property in the back*

Mr. Wickins: The problem of parking is quite a one. Churches in the city aren't growing like the country churches. You will very probably need a lot more parking space.

Mr. Walzer: We also have the property where the present church is. That could be used for parking.

Mr. Wickins: You provide a road shown on the map. That could be taken out and have just a turn-around there. You would have to close it periodically for the town to go in and clean it out. That was done one day this year. In the future, you would probably have to close that if it became necessary.

No one appeared to speak on this application.

Application of Ellis A. Fitzpatrick, 3225 Chili Ave., for variance to erect addition to present building 70 ft. from front lot line, located in B commercial zone.

Mr. Fitzpatrick presented blueprints.

Mr. Fitzpatrick: This is the present barbecue place next to Wehle's. I would like to build an addition to the present building. There will be a basement in the new building, and one-story construction above the ground. It will be even with the present building. I have had it surveyed since the blueprints were made. It shows 70 ft. setback, which is why I have to be here. I will maintain the new part along with the old part. This will also save the expense of new leech fields in the back. The new building will run along side of the existing building.

Mr. Wickins: You have 10 ft. on each side. Could that be made into parking space?

Mr. Fitzpatrick: Yes. You could go around the building.

Mr. Wickins: Will this be a frame building?

Mr. Fitzpatrick: It will be frame construction with aluminum siding. The new part will be a delicatessen. The total overall frontage of the two buildings will be 100 ft.

No one appeared to speak on this application.

Application of Franklin S. Meyers, 15 Charmaine Rd., for variance to erect garage and breezeway 7 ft. from the west side lot line, in D residential zone.

Mr. Meyers presented a map and stated the lot is 73 ft. wide and 170 ft. deep.

Mr. Meyers: The only way I can get a garage and breezeway on the property is to ask for a variance.

Mr. Wickins: How close is the house on the adjoining lot?

Mr. Meyers: There would be about 15 ft. between us if I got the variance.

Mr. Wickins: Have you talked to your neighbor?

Mr. Meyers: Yes. It is o.k. with him.

No one appeared to speak on this application.

Application of Clarence C. Staub, 108 Hubbard Dr., for variance to erect garage 5 ft. from south side lot line, in D residential zone.

Mr. Staub stated the lot is 75 ft. wide. The garage would be 14 ft. by 22 ft., not attached. There would be a sidewalk in between the garage and the house.

Mr. Wickins: How close is the house next door?

Mr. Staub: About 23 ft.

Mr. Wickins: Have you talked with your next door neighbor?

Mr. Staub: No. I didn't know where she was. The other lady on the north said it was o.k.

Mrs. Betteridge, 110 Hubbard Dr.: I have no objection except that I don't want it stuck next to my dining room window. Is the garage up even with the house?

Mr. Staub: Yes. It would be in line with the front of my house.

Mrs. Betteridge: Then it would be opposite my dining room window.

Mr. Wickins: How close is it to your house?

Mrs. Betteridge: Not over 3 ft.

Mr. Staub: It must be over 12 ft.

Mr. Wickins: Would you oppose having it set back? I imagine if it were set back about 1/2 way it would clear your window.

Mr. Staub: I only have about 140 ft.

Mr. Wickins: In this particular case, we can't make a decision tonight. We can ask the Building Inspector to go over there and take a look at it so that we have a better picture.

Mrs. Betteridge: The garage would darken my rooms.

Mr. Wickins: You discuss it in the meantime. The Building Inspector will look at the property before a decision is made.

Application of John Syracuse, 2713 Chili Ave., for variance to erect ready mix concrete and asphalt plant located north side of 148 Paul Rd. in A Industrial zone.

I made an announcement at the start of the meeting. There is not a majority here tonight. Anybody has the right to withdraw and be re-advertised, or you can present your application, minutes will be taken, and a decision made when the Zoning Board can meet.

Mr. Syracuse: I don't feel this is necessary in an industrial zone as it is not in violation.

Mr. Wickins: Your application is for a ready mix concrete plant?

Mr. Syracuse: It is for an asphalt plant and a concrete plant, two plants. One is a ready mix concrete, the same as DeWitt only not portable. It would be up on eye beams.

Mr. Wickins: In the plant itself, would these beams and runs be covered?

Mr. Syracuse: There is no dust with the concrete at all. There is no dust in stone or cement. When we throw the cement in, it is all concealed. I presented plans on a previous application. I invite everybody to visit the Leonard Baughtman plant on Jefferson Rd. This is a concrete plant on the same order.

Mr. Wickins: Would the operation be enclosed with no dust?

Mr. Syracuse: There are 20,000 tons of sand and stone, and we've got to dump it there, then pick it up and transport it to the batch plant. The setback is much further than necessary because we are not asking for a variance. There is an asphalt plant on University Ave. and Winton rd. There is no odor. They had one on Scottsville Rd. which the County owned. You might get a white smoke from the oil burner.

Mr. Wickins: I have looked in the Zoning Ordinance. An asphalt plant is a prohibited use. Therefore, the Zoning Board does not have the right to grant a variance.

Mr. Syracuse: I was given a variance one year ago.

Mr. Wickins: An asphalt plant is stated as a prohibited use.

John Syracuse: The previous board at one time has given him an asphalt plant right across the road.

Mr. Syracuse: The records will show this if you will look into the records. The lot was 800 ft. deep adjacent to the railroad property. The County stepped in, and they would take it away from me anyway. I don't see why I can't have this plant.

Mr. Wickins: Because it would be an invalid and illegal act. Even if it was done at one time, it was illegal. The Town Board has the right to change the zoning law. They could change the qualifications in a district. The Zoning Board can't do that. The Zoning Board would have the right to grant a variance for a ready mix cement plant. This is two different problems. Under the zoning ordinance, there are 15 allowed uses, or "Any industrial process emitting dust, odor, gas, fumes, noise, or vibration when comparable in character to or not in aggregate amount exceeding that of any use specified above in this subdivision". There are 17 absolutely prohibited uses.

Mr. Syracuse: The minutes will show what was granted.

Mr. Wickins: If the Board once acts invalidly or illegally, it doesn't give them the right to do it again.

Mr. Syracuse: Is there a Board which has the right to grant me permission for this?

Mr. Wickins: No. You would have to go before the Town Board and ask for a change in the zoning. The whole zoning law is in the process of being revamped, including A industrial uses.

June Yates, Secretary

## ZONING BOARD OF APPEALS

September 13, 1960

The meeting was called to order and roll was called with the following members present: Donald Slate, Frank Bubel, Warren Beeman, Charles Pfenninger, and the Chairman, Cornelius Strassner. Also present was the Building Inspector, William Davis.

Bernard Delehanty, 22 Lonran Dr., appeared and said that at the meeting of August 2, 1960, he had been granted a variance to erect a garage 13 ft. from the east corner side lot line. The day of the closing at the bank when he showed his sketch of the house, he noticed he was 35 ft. from the lot line, instead of 37 ft., which made his variance 2 ft. short. He should have asked for a variance of 11 ft. instead of 13 ft. He asked if there was some way legally to have it changed to 11 ft.

Mr. Strassner: I don't know any way of changing the minutes of the meeting to rectify this. We have our minutes all written up and they have become fact. Whether we could change the application to read 11 ft., I don't know. I would have to ask our attorney.

Mr. Delehanty: Mr. Ouwelen said the attorney would have to pass on it or advise you. If there is an additional charge, I will be glad to pay it. I don't think letters would have to be sent out again. The neighbors said they wouldn't have known the difference, and it wouldn't make much difference anyway.

Mr. Strassner: The only thing I can do is check with our attorney.

Mr. Pfenninger: You probably want this now?

Mr. Delehanty: I would not like to be held up, but if you can't do it, you can't.

Mr. Strassner: We have never run into a condition like this before, asking for a change in the application. I can call the attorney tonight.

It was the vote of the Board to approve the additional 2 ft.

Mr. Delehanty: Whatever the attorney says is all right. You clear it up legally. Do you have to have a permit before the carpenter work?

Mr. Davis: You can build the wall up to the grade level without a permit.

Mr. Martin Whele, 3229 Chili Ave., then appeared regarding the application of Mr. Fitzpatrick on September 6, 1960.

Mr. Wehle: I didn't know about the meeting last week. Being next door to Mr. Fitzpatrick, I was wondering what kind of building he is putting up.

Mr. Davis showed Mr. Wehle the map showing proposed building.

Mr. Wehle: The only question I have is I don't know where the man is going to park cars. Ever since he has been there, he has been over on my land. The edge of his front line is almost even with the door on his hot dog stand. This noon when I came back I couldn't even get in because of the trucks. I had to wait to deliver a furnace. If he has two or three other businesses, where is he going to park them?

Mr. Strassner: How many cars is there room to park?

Mr. Wehle: This noon when they blocked my door they were over further than the width of his whole lot. There were four trucks and 6 cars.

Mr. Strassner: Could the trailer trucks park in the rear?

Mr. Wehle: But is he going to develop it? It gets so muddy in the back, they won't want to park there. Another question is what if the State decides this is a 66 ft. road. That means the State will take 8½ ft. That would mean less room for parking. They are going to be parking three deep. There is 20 ft. 6 in. between him and me.

(It was noted by the Board that the maps and the minutes showed 10 ft. on each side of the building.)

Mr. Wehle: The only thing I will be compelled to do, they have rooted up the whole driveway, is to run a fence down. Maybe if the fellow knows that, he might plan a little better. I was talking with Joe in the hot dog stand and he said Mr. Fitzpatrick is going to run a delicatessen and restaurant and someone else is going to run something else. He is not going to use 3500 sq. ft. for a delicatessen in this location where there is no travel. The big trucks go by too close to my door and ruin the black top.

The secretary then read the minutes on this application. The overall frontage of the building would be 100 ft.

Mr. Wehle: He has got 21 ft. on the side from his building to mine.

Mr. Strassner: Not according to the map. It shows 10 ft. on each side.



Mr. Wehle: I had Smith and Fitzpatrick survey my land, and Mr. Fitzpatrick took a string and ran it along even with my stakes. If you allow 10 ft. for a car, it is only 10 cars wide at the street, which is where he has got to go. Behind his property is fire house property. Nobody would build a building 3500 sq. ft. for a delicatessen. It is bigger than mine. Mine is 50 ft. by 68 ft. I hate to put a fence up because it would block the fire house, and they use it quite often. They pull up in the front. I just wanted to find out about this and speak on it.

(The secretary made note Mr. Wehle had been sent a notice of last meeting).

This meeting was a special meeting called for the purpose of making decisions on the applications presented September 6, 1960, at which time a majority of the Board was not present. The secretary read the minutes of the applications and presented the maps to the Board. The following decisions were made:

ELLIS A. FITZPATRICK denied variance to erect addition to present building 70 ft. from front lot line at 3225 Chili Ave. because of insufficient parking. All members voted in the negative.

R. L. LOVELESS granted a variance to erect  $1\frac{1}{2}$  ft. by 3 ft. sign 1 ft. from front lot line at 4325 Buffalo Rd. All members voted in the affirmative.

LOGAN'S, 1420 Scottsville Rd., granted a variance to erect a 14 ft. high 8 ft. 4 in. by 5 ft. 10 in. sign, neon, 5 ft. from front lot line, to replace present sign. All members voted in the affirmative.

LOUIS POUND granted a variance to erect a house on lots 12 and 13 Block N Alfred Ave., 40 ft. from front lot line, 44 ft. from rear lot line. All members voted in the affirmative.

INTERSTATE BAKERIES CORP. 1284 Scottsville Rd., granted a variance to erect a 3 ft. by 5 ft. sign 11 ft. high, 6 ft. between the bottom of the sign and the ground, 1 ft. from front lot line. All members voted in the affirmative.

CHILL CENTER BAPTIST CHURCH denied a variance to erect a church 32 ft. from front lot line on Chili Ave. because of not enough future parking space. All members voted in the negative except Mr. Beeman, who voted in favor of granting the variance.

FRANKLIN S. MEYERS, 15 Charmaine rd., granted a variance to erect garage and breezeway 7 ft. from west side line. All members voted in affirmative.

CLARENCE G. STAUB, 108 Hubbard Dr., granted a variance to erect garage 5 ft. from south side lot line. All members voted in the affirmative.

STANLEY PAUL granted a variance to erect a house at 738 Paul Rd., 40 ft. from front lot line. All members voted in the affirmative.

JOHN SYRACUSE denied a variance to erect ready mix concrete and asphalt plant located on the north side of 148 Paul Rd. All members voted in the negative.

After Consulting the town attorney, Ralph Wickins, the Board advised the secretary to write Mr. Delehanty to advise him to re-apply for a variance to erect garage 11 ft. from east side lot line at 22 Lonran Dr.

June Yates, Secretary

## ZONING BOARD OF APPEALS

October 4, 1960

The meeting was called to order, and roll was called, with the following members present: Frank Bubel, Charles Pfenninger, Warren Beeman, and the Chairman, Cornelius Strassner. Also present were the Town Attorney, Ralph Wickins, and the Building Inspector, William Davis.

Application of Clarence Staub, 108 Hubbard Dr., for variance to erect 14 ft. by 22 ft. garage, 5 ft. from south side lot line. This application was presented at the meeting on Sept. 6, 1960, and granted on Sept. 13, 1960.

Application of Donald McAvoy, 31 David Dr., for variance to erect garage and breezeway 10 ft. to corner side lot line in E zone.

Mr. McAvoy presented a map.

Mr. McAvoy: When I first purchased my home, I was under the impression, according to the contractor, the only thing required by the town was to build 15 ft. from the lot line. When I submitted my application, I thought I would only have to ask for a variance of 5 ft. The Town Clerk said the requirement was 10 ft. from a side lot line, but on a corner lot the requirement was 20 ft. By adding 32 ft. on the home, I would have approximately 10 ft. to Keith Terr. The garage would face on David Dr.

Mr. Strassner: How far back is the house in back of this?

Mr. McAvoy: I don't know. I assume approximately 5 ft. - 8 ft. beyond where the edge of the garage is to go. This would be a 22 ft. garage with a 10 ft. breezeway. This has changed since I applied for this application. I have two cars, but am going to sell one of them as I no longer have any need for it. I could cut the garage down to 16 ft.

Mr. Wickins: The side line restriction is for the purpose of not blocking the sight on a corner lot. The Board is much more reluctant to grant a variance on a corner lot because blocking the view causes accidents.

Mr. McAvoy: My brother-in-law lives in the back. From the back of our home to his garage line it is about 100 ft. - 130 ft.

Mr. Strassner: Moving this to 16 ft. would give you enough garage?

Mr. McAvoy: Yes.

Mr. Strassner: Would you like to amend your application to read 16 ft.?

Mr. McAvoy: Yes, I would. (Application so amended)

No one appeared to speak on this application.

Application of Thomas Buttarazzi, 560 Paul Rd., for variance to erect garage and breezeway 8 ft. to east side lot line in E zone.

Mr. Buttarazzi appeared as builder to represent the owner of the property, Mr. Albert J. Argentiera, who also appeared. A map was presented.

Mr. Strassner: How wide is the lot?

Mr. Buttarazzi: 80 ft. This will be 8 ft. from the east side lot line, with a setback of 65 ft. I own a 40 ft. lot on the other side. This does not go with this property.

Mr. Strassner: How long ago was this laid out?

Mr. Buttarazzi: A long time ago, 7 or 8 years. Everybody else there has got a variance.

Mr. Davis: Everybody there has an 8 ft. variance.

The owner of the property spoke in favor of this application. No one else appeared.

Application of Bernard Delehanty, 22 Lonran Dr., for variance to erect garage 11 ft. to east corner lot line in D zone.

Mr. Delehanty: I have already obtained a variance for 13 ft. I found after closing the deal I am 2 ft. closer to the lot line than I applied for, so I am applying for an additional 2 ft., which brings me 11 ft. instead of 13 ft. from the lot line. This is at the corner of Lonran Dr. and Kuebler Dr. The garage is 84 ft. from Lonran Dr. and 11 ft. from Kuebler Dr. The next house is 80 ft. from the back of my lot.

No one appeared to speak on this application.

Application of Frank Kissell, 125 Wickins Rd., for variance to erect 20 ft. by 40 ft. swimming pool in E zone.

Mr. Kissell presented a map.

Mr. Wickins: Do you know the restrictions the Board puts around swimming pools, such as 4 ft. fence, two ladders, etc.?

Mr. Matz, Allied Building Enterprises: This one will have one ladder and a recessed stairway. There will be an exit at each end of the pool.

Mr. Wickins: That would be all right.

Mr. Kissell: How come some of the pools don't have fences?

Mr. Wickins: They were done before these regulations went into effect.

Mr. Matz: He has a fence on his property. It would probably be sufficient just to go from his house to the fence. He could use his existing fence and existing garage if that is all right.

Mr. Wickins: The Board is interested in the pool being enclosed so that kids can't get in there. That would probably be all right if the fence is high enough.

No one appeared to speak on this application.

Application of Chili Center Baptist Church for variance to erect church 32 ft. from front lot line on Chili Avenue.

Donald Walzer, architect, appeared with map. Also present was George Jewell.

Mr. Walzer: We were here a few weeks ago and submitted our application for a 32 ft. setback. I had a letter saying this was denied because of lack of parking. I have prepared a further map which shows ~~76~~ parking for 76 cars, plus room for 60 cars on the old church property, that is the present church. We are going to pull the old church down as soon as we build the new church. There is room for 76 cars right on the proposed property as shown on the map. The church will seat 300, which gives us 1 car for four people. A survey was made in 1959 on three different Sundays which will attest the accuracy of this ratio. 1st Sunday - 55 cars, attendance 180, 2nd Sunday - 51 cars, attendance 170; 3rd Sunday - 57 cars, attendance 195. I talked to the Town Clerk, also Mr. Lusk, and they say there is no definite rule as to how many cars you have to have. We have based this on the City of Rochester. In their new zoning code they require one car parking space for four persons. We have one space for four people with 76 parking spaces.

Mr. Strassner: What was the average attendance a few years ago compared to what it is now?

Mr. Jewell: In 1950 it was 160; in 1960 it was 240. We have gained 80. If it goes to 600, the congregation would go into two services. We have studied this for about two years. We didn't know whether to go down the road and buy some property, but decided to stay with this property. The land in the triangle belongs to the church. It can never be sold because of a restriction in the deed.

Mr. Pfenninger: This presents a much clearer picture than the other map.

Mr. Walzer: It is actually the same setup as before, but we didn't show the car spaces.

Mr. Strassner: How much room do you allow for a car?

Mr. Jewell: 8 ft. 55 ft. across for 2 rows and an aisle. Eventually, there will be a Sunday School wing on the church, then the old Henderson House will come down.

No one appeared to speak on this application.

Application of Ellis A. Fitzpatrick for variance to erect a building 70 ft. from front lot line at 3225 Chili Ave. to be used as retail store in commercial zone.

Mr. Fitzpatrick presented a map.

Mr. Fitzpatrick: This is the barbecue stand. I was here at the last meeting. The difference between the last application and this one is that I have agreed to take out the present building completely. I will move the new building over, which will give me a 20 ft. driveway on the east.

Mr. Pfenninger: Will this be lit up?

Mr. Fitzpatrick: There are plans for a spotlight on the building shooting up. I also intend to use the same sign we now have. The lights will be focussed on the parking area.

Mr. Strassner: Do you have any objections to blacktopping?

Mr. Fitzpatrick: Eventually, it will be blacktopped.

Mr. Strassner: Any objections to doing it right away?

Mr. Fitzpatrick: Not before the building is built.

Mr. Strassner: After that. Would you blacktop the front right away?

Mr. Fitzpatrick: I have no objection. I want it that way. Within a year, let's put it that way.

Mr. Pfenninger: What type of business will this be?

Mr. Fitzpatrick: A grocery store and short order restaurant. It will have a 70 ft. setback, the same as the present building. It will be in line with Wehle's.

No one appeared to speak on this application.

Application of D. D. Davis to operate garage and used car lot at 3780 Chili Avenue in commercial zone.

Mr. Davis introduced Mr. Carver as his attorney and secretary of D. D. Davis & Co., Inc.

Mr. Carver: Mr. Davis's application is to operate a garage and used car sales business at 3780 Chili Ave. This is a building which was originally designed and built for a garage and necessarily the sale of used cars in 1930. Prior to the 1947 ordinance, it was used continuously for that purpose until the 1938 economic situation brought about changes in business. It has been used at different times for other purposes, one of them a grocery store, also garage and gas station, also occupied and run as a farm equipment sales agency. For the past two years it has been operated for the sale and handling of used equipment and cars. Mr. Wickins, is there any clause in this ordinance, or provision as to a change of use of a property? I cannot find any.

Mr. Wickins: Any non-conforming use that was in existence before the zoning, if it is discontinued, the right to that use is discontinued. This is part of the State law.

Mr. Carver: This comes under B district.

Mr. Davis: It is definitely commercial. Always has been.

Mr. Strassner: I thought it was E district. What size is that lot? Also the size of the building?

Mr. Davis: I own the adjoining lot to the west. I have about 166 ft. frontage on Chili Ave.

Mr. Wickins: Are you asking for a variance to operate this business on the whole property of 166 ft. or on just one lot? All we want to know is the size of that lot.

Mr. Davis: I believe the whole thing is commercial.

Mr. Wickins: What is the size of the lot on which you are asking to operate?

Mr. Davis: I would include the whole thing of 166 ft.

Mr. Wickins: The depth?

Mr. Davis: 250 ft. deep on part of it. It is L shaped there. There is about 150 ft. on Union St. I own the house there also.

Wm. Davis (after looking at Town map): This is in a commercial district.

Mr. Strassner: Due to the fact that we haven't enough to go on here, you should bring this back at the next meeting.

Mr. Wickins: You should bring a plot plan of the parcel of land. There is a question of distances, parking, etc. The Board can't act intelligently unless something is brought before them.

D. Davis: We weren't advised when we made application what was wanted.

Mr. Wickins: Not a regular engineer's plot.

Mr. Pfenninger: Do I understand this right? You intend to use this next lot on Chili Ave. for parking?

D. Davis: Don't intend to do that.

Mr. Pfenninger: Going west there is a fence. About how far from that fence to Union St.?

D. Davis: About 92 ft. It is longer on the west side of the garage lot than on the east side. We go north on Union St. about 150 ft.

Mr. Wickins: You could bring in a plot plan. Draw it yourself. It doesn't have to be accurate to the foot, but it would be a lot closer than this is. As attorney, This is a valid hearing. We could adjourn this to the next hearing. By making a public announcement now, it won't have to be re-advertised. Do the people here understand? It is going to be adjourned to the second Tuesday in November. At that time, Mr. Davis will have a plot plan showing the size of the parcel of land, where his endeavor is to be located on the lot, distances, etc.

It was then realized this date is election day. Mr. Wickins suggested the first Tuesday in December. Mr. Davis said he would be away hunting, how about January? Mr. Wickins then stated it had better be the first Tuesday in December, and Mr. Davis agreed.

Mr. Wickins then addressed the people: This application has been adjourned to December 6. There won't be any further notice in the paper. It is up to you to remember that.

DECISIONS OF THE BOARD:

DONALD MC AVOY, 31 David Dr., granted a variance to erect a garage and breezeway 16 ft. to corner side lot line. All members voted in the affirmative.

ALBERT J. ARGENTIERA, 560 Paul Rd., granted a variance to erect garage and breezeway 8 ft. to east side lot line. All members voted in the affirmative.

BERNARD DELEHANTY, 22 Lonran Dr., granted a variance to erect garage 11 ft. to east corner lot line. All members voted in the affirmative.

FRANK KISSELL, 125 Wickins Rd., granted a variance to erect a private swimming pool, 20 ft. by 40 ft., as per plans presented. Pool to be enclosed by 4 ft. high tight fence. Ladders are to be installed on both ends of the pool, and to be permanently attached to the walls of the pool. Pool and end ladders are subject to approval of the Building Inspector. All members voted in the affirmative.

CHILI CENTER BAPTIST CHURCH granted a variance to erect church 32 ft. from the front lot line on Chili Ave., as per plans presented. Parking area to be defined according to the plans and specifications submitted, and to be maintained for all-weather parking. All members voted in the affirmative.

ELLIS FITZPATRICK granted a variance to erect a building 70 ft. from front lot line at 3225 Chili Avenue to be used as retail store. Variance granted with the condition that the area in front of said building be blacktopped for parking, also that a 20 ft. driveway, surrounding the building completely, be blacktopped. Said blacktopping to be completed within 3 months of the completion of the building. All members voted in the affirmative.

D. D. DAVIS, 3780 Chili Ave., application to operate garage and used car sales adjourned to meeting of December 6, 1960.

June Yates, Secretary

ZONING BOARD OF APPEALS  
November 1, 1960

The meeting was called to order, and roll was called with the following members present: Charles Pfenninger, Clifford Tomer, and the Chairman, Cornelius Strassner. Also present was the Town Attorney, Rabph Wickins.

Application of Lawrence Lenhardt, 202 Chestnut Ridge Rd., for variance to erect 25 ft. by 44 ft. addition to present building, to be used for machine shop, located in D residential zone.

Mr. Lenhardt: This will be a building with 3 sides added on to the buildings there and made of steel.

Mr. Wickins: Where is it located on the property?

Mr. Lenhardt: I left figures and a sketch in the office here.

Mr. Wickins: We don't have those tonight. Give us a general idea.

Mr. Lenhardt: The building is 300 ft. from the center of the road. The present building is 24 ft. wide, this will be added on towards the center of the lot, not towards any of the boundaries of the lot. There is 23 ft. or 24 ft. between the building and the other lot line.

Mr. Strassner: Is the present building used as a machine shop?

Mr. Lenhardt: Yes. It was there before zoning. This is an enlargement. It will be a steel building. We will use one wall of the old building. There will be two doors in it.

Mr. Wickins: How many men do you hire?

Mr. Lenhardt: Right now I hire about 5. I used to have up to 15.

Mr. Strassner: Do you have parking facilities?

Mr. Lenhardt: The lot is 115½ ft. wide and over 700 ft. deep. I don't know exactly how far it is from the back, but it is quite a ways. There is no parking near the road. This can't even be seen from the road.

Mr. Tomer: Do you plan on more people now that you are going to expand?

Mr. Lenhardt: I will in time, not right away. It used to be a tool shop when I hired 15 men. We have now gotten into the manufacturing of dental equipment.

Mr. Tomey: Would you put more machines in?

Mr. Lenhardt: This will be mostly for steel storage. There will be some machines, but very few.

Mr. Strassner: Will this add to the noise situation?

Mr. Lenhardt: No. People don't know we are back there. There is no noise connected with it, we are so far back from the Coldwater Rd. and Chestnut Ridge Rd.

Mr. Strassner: What type of equipment?

Mr. Lenhardt: Dental stools that we designed and patented. We intend doing more later, but the designs are not on the market yet.

Mr. Strassner: Is anyone in favor of this application?

The following people voted in favor:

Mrs. Fred Ebertz - 963 Coldwater Rd.

Miss Anna Ebertz - 196 Chestnut Ridge Rd.

Miss Lois Ebertz - " " " "

John Ebertz - 963 Coldwater Rd.

Mr. Strassner: Any objections?

Mr. Palmer - 884 Marshall Rd.: There is a certain point of limitations. I don't think you should go too far with industry in a residential area. This can go on and on. I have no objections to what he is asking for now.

Mr. Wickins: This was in existence before zoning. For any enlargement, he has to ask for a variance, which is what he is doing tonight.

No one else appeared to speak on this application.

Application of D. D. Davis, 3760 Chili Ave., for variance to erect two 10 ft. by 3 ft. signs on building on northwest corner of Union St. and Chili Ave., located in B zone.

Mr. Davis: This is on signs I have go up there. I didn't know I had to have a permit to put any on the building up there.

Mr. Wickins: Are these signs advertising the business that you intend going into?

Mr. Davis: It would be the name of the fellow running the place. The same business that was up last time when the meeting was adjourned until next month.

Mr. Wickins: I will advise the Board the signs should be considered at the same hearing. I don't see how one can be considered without the other. The Board can reserve decision tonight.

Mr. Davis: Is this necessary?

Mr. Wickins: Yes. Where do you want the signs?



Mr. Davis: On the side of the wall, the east and south wall. They face on Union St. and Chili Ave., and are fastened to the building. One is painted on the window. I don't know why I can't get a permit on the signs. It would just be the name of the automobile concern.

Mr. Strassner: As the other one hasn't been passed, I don't know how we can act on the signs until the next meeting.

Mr. Davis: Would these signs be permitted regardless of the business? If I just got a permit for signs, would that permit be good?

Mr. Wickins: Yes, but you said these signs were advertising this business.

Mr. Davis: If I didn't get a permit to have the business, I wouldn't want the signs, obviously.

Mr. Wickins: You can let the whole thing come up next month. You won't have to re-apply.

Mr. Davis: I would like to keep them separated. one thing at a meeting is enough.

Mr. Wickins: Do you want the signs whether the business is granted or not?

Mr. Davis: Yes.

Mr. Wickins: In that case, they can act tonight.

Mr. Davis: This is a commercial location, been in business since 1930. These are not neon signs, not lighted, there would be lights on the building. There is an auto business there now. I will want the signs to advertise whatever business is there. The signs are already there, painted on the building. The business was operated since 1930, long before zoning. I have had signs up from time to time.

Mr. Strassner: Are there any objections?

Mr. Kendall Wilson, 3661 Union St.: I don't see why you should grant the signs until the car business is granted.

Mr. Davis: If the auto business doesn't continue there at the next meeting, auto advertising wouldn't be on the signs any more. I still want the signs anyway, because it is in a commercial zone.

No one appeared to speak on this application.

Application of Page Airways, Inc., for variance to erect building 60 ft. from front lot line, 1 ft. to side lot line.

Mr. Thomas Brien appeared to represent Page Airways, Inc.

Mr. Brien: With this application, you should have received a copy of this letter from the County of Monroe. (Presented letter)

Mr. Brien then presented a map to the Board.

Mr. Brien: This is actually not a variance. There has been a misconception. This will be about 73 ft. from the side lot line, back about 10 ft. behind the existing building, about 15 ft. below the height of the existing building.

Mr. Brien then pointed out these locations on the map, also the location of the present hangar and present addition.

Mr. Brien: That 1 ft. in the application actually should be 73 ft.

No one appeared to speak on this application.

Application of John Syracuse, 2713 Chili Ave., for variance to erect a ready-mix batch plant on property situated on the south side of Paul Rd., No. 148, in A zone.

Mr. Syracuse: We are planning to put up a concrete batch ready-mix plant. This is the same area as the asphalt plant, across the street from the disposal plant, nearly 200 ft. from the road. It is 400 ft. east of my west lot line, about 150 ft. - 200 ft. back from the front lot line.

Mr. Wickins: Is there dust connected with this?

Mr. Syracuse: No, not with concrete.

Mr. Strassner: How about off-street parking.

Mr. Syracuse: There is no reason for anyone to park other than employees. They would park on private property. There would be trucks going in and out. This is the same as Boughtman's plant.

Mr. Wickins: There would be dust created by the trucks.

Mr. Syracuse: I would only have to oil the private road. There wouldn't be any dust connected with the fact that we are going to build the road. we will have the new dust-proof equipment. It comes out of the tank truck and is blown into the plant and into the bin. It is all totally enclosed, The latest equipment.

Mr. Tomer: How large is the lot?

Mr. Syracuse: Approximately 13 acres. There is plenty of room. At no time will there be any obstruction of traffic. The property goes to the middle of the creek, runs the same way as the creek.

Mr. Wickins: Is there much noise with this operation?

Mr. Syracuse: No noise. The biggest noise is when the truck drives in and out.

Mr. Strassner: Are you ever going to have that plant for repairing machinery which you were granted?

Mr. Syracuse: Yes. The State of New York has to have a certified check to cut in on any property. I have the check here. (Showed check) This will be on the same property, the machinery will be further west, the next 200 ft. west. East of the house. I don't own any property west of the house.

Mr. Strassner: Are there any objections?

Mr. Palmer, 884 Marshall Rd.: We should hold firm. We set up zoning here whereby part of Chili is residential and the other part is commercial. We should draw the line.

Mr. Wickins: This is industrial property. The only reason for this application is it is not one of the designated uses of industrial.

Mr. Breiner, 431 Fisher Rd.: I present a petition with 33 names of property owners surrounding this plant. The people who signed this petition feel that they do not want this plant. He claims there is no noise or dust. I have to disagree. I am in the building business myself. I buy concrete. I do know there is dust. Most of all the people feel they will pick up a lot of traffic due to the new Bausch & Lomb plant, which we do want. We have got a more or less unsightly plant with the disposal plant. We don't feel we want another, with 25 ton trucks on our road, which is bad enough now. If there is more, we don't know what will happen. Speaking for myself and the majority of people on this petition, this is what they told me when I got this petition together.

Henry Goodlein - 438 Fisher Rd.: I understand he plans to build this plant on the north side of Paul Rd., with the building line 200 ft. from the road.

Mr. Wickins: He said about 150 ft. to 200 ft. back.

Mr. Goodlein: There isn't that much land there to build on, unless he builds in the creek. If he moves in there back 150 ft. - 200 ft., he will go right into the creek.

Mr. Strassner: That is his problem.

Mr. Goodlein: We have had plenty of sewer problems. Now we will have an asphalt problem.

Mr. Syracuse: This is not an asphalt plant.

Mr. Goodlein: There is a certain amount of noise to it. I am talking for myself, as I am practically right in back of it. I object to it. I wouldn't like to have the plant there.

Mr. Breiner: If Mr. Syracuse would put himself in our position, he would understand. The Town needs industry for school taxes, etc. It should go in the right direction, like Bausch & Lomb. Why should we get all the unsightly businesses?

Mr. Pfenninger: How long have you lived there?

Mr. Breiner: I have lived there 6 years. Lived in the Town 25-30 yrs.

John Syracuse, Jr. - 2713 Chili Ave.: I take issue with the neighbor of 30 years. I was born and raised here. Everybody in here has paid for an unsightly sewer plant of 7 million dollars. Also, this project is part of the growth of any community. I don't know what else could be in front of a disposal plant. There couldn't be \$35,000 homes across the street. We have dust control and noise control. We have to meet those requirements. To build the Bausch & Lomb plant, the concrete has to come from somewhere. I would not want a concrete plant next to Mr. Breiner, nor on Janice Dr., nor Hubbard Dr. If the plant was to be built, as far as noise and dust, there would be none. As far as the road problem, if it was covered with oil, that would take care of the dust. The road in front is a State highway, the State maintains it. If it has ripples in it, the people should call the State. This plant would be situated in the area across from the disposal plant. Next to the U. of R. Women's dormitory, there is an asphalt plant. They put a million dollar building next to it. Also next to the baby food factory on Buffalo Rd., there is one. Also on Winton Rd., and on Buffalo Rd., etc. We are asking for a plant in the same area and under the same conditions as one granted ~~south of here~~, DeWitt's plant on State property next to the Barge Canal.

Mr. Wickins: This is a portable plant working under a temporary permit. A 2-year variance was given.

Mr. Breiner: This is a permanent plant. I have 50 acres of property to develop there myself when the water comes. I can't sell homes with this in the back yard to look at.

Mr. Lenhardt: In the last 10-15 years, the contractors have thought that Chili is nothing but a residential town. I don't know how far homes are away from this plant. If they are far enough away, I can't see where it does any harm.

Mr. Syracuse: Where would the \$25,000 homes be the gentleman claims he is going to build on Fisher Rd.?

Mr. Breiner: On the Fisher farm, where I live.

John Syracuse, Jr.: I don't know how far into the future it will be, but the Monroe County Rochester Airport is due to come this side of the B & O railroad to Paul Rd. and will take out a whole flock of homes and a portion of my father's property. This is also something that should be noted.

Mr. Goodlein: Is that one of the reasons for putting the plant up? I didn't object when he sold a piece of property to the Town for the disposal plant. He has boilers and tanks there. It was a sore eye in the spring.

Mr. Strassner: That has no bearing on this situation.

No one else appeared to speak on this application.

#### DECISIONS OF THE BOARD:

LAWRENCE LENHARDT, 202 Chestnut Ridge Rd., granted variance to erect 25 ft. by 44 ft. addition to present building to be used for machine shop, as per plans presented. Members voted as follows: Mr. Tomer - no; Mr. Pfenninger - yes, Mr. Strassner - yes.

D. D. DAVIS, 3760 Chili Ave., granted variance to erect two 10 ft. by 3 ft. signs on building on northwest corner of Union St. and Chili Ave. All members voted in the affirmative.

PAGE AIRWAYS, INC. granted variance to erect building 60 ft. from front lot line, 73 ft. to side lot line, as per plans presented. All members voted in the affirmative.

JOHN SYRACUSE, 2713 Chili Ave., denied variance to erect ready-mix concrete batch plant on property at 148 Paul Rd. All members voted in negative.

June Yates, Secretary

## ZONING BOARD OF APPEALS

December 6, 1960

The meeting was called to order, and roll was called with the following members present: Charles Pfenniger, Clifford Romer, and the Chairman, Cornelius Strassner. Also present were the Town attorney, Ralph Wickins, and the Building Supt., William Davis.

Application of Howard B. Whelpton, 3187 Chili Ave., for variance to erect 3 ft. by 8 ft. illuminated sign on front lot line, and 2 ft. by 15 ft. sign on building.

Mr. Whelpton presented drawings of the proposed signs.

Mr. Whelpton: The signs would read "Chili Carpet Center". The one sign would actually be 30 ft. from the center of the road, right on the front lot line.

Mr. Wickins: You would have to have it on the lot line in order for it to be seen.

Mr. Whelpton: Yes. It would be illuminated. Sign is 8 ft. high.

Mr. Wickins: Are there any houses there the light would bother, either adjacent or across?

Mr. Whelpton: The church property is across the street. The light would be off after 10:00 P.M. The nearest house would be Mr. Kirber, who can't see the sign. There is another sign up there that sticks out farther than that which is lit.

Mr. Whelpton presented plan of the building showing proposed sign reading "Chili Carpet Center", which would also be illuminated. There would be a light shining back on the sign, which would be off at 10:00 P.M. also. I would be open evenings until 9:00 P. M., 10:00 P.M. would be the deadline. My house is on one side and the beer joint is on the other side.

No one appeared to speak on this application.

Application of Rev. W.J. Parmeter, 57 Springbrook Dr., for variance to erect house 50 ft. from front lot line.

Rev. Parmeter: I didn't bring any maps. I didn't know just what was required. I am simply asking for the privilege of erecting a house on the same lines that the other houses are on on Springbrook Dr. They all have the same setback.

No one appeared on this application.

Application of Spotton Construction Co. for variance to erect house on irregular corner lot #71 Hilltop Dr., 40 ft. from front lot line.

Mr. Spotton presented a map.

Mr. Spotton: Lot #71 is on the corner, but has a Hilltop Dr. number. In order to get the house in proportion to the lot, we will have to put the house horizontal, parallel to the back lot line. After we had measured 70 ft. setback from the rear, we came out 34 ft. from the side lot line, the same on each side of the house, which is centered. The houses facing Hilltop are 60 ft. back. The square footage is sufficient, and we won't be obstructing the view of traffic. It would be approximately 80 ft. from the house next door, and would have an attached garage, which is included in the figuring.

Mr. Wickins: You may at this time amend your application to read setback of 34 ft. from each side lot line. Do you so desire?

Mr. Spotton: Yes, I hereby amend the application.

In favor of the application:

James A. & May H. Barnard. Mr. Barnard: I own the property next door, lot #72. I have studied it from my house from several angles, and I am in favor of this.

No one appeared in objection.

Application of Salvatore Latgrana, 3196 Chili Ave., for variance to operate machine shop in a zone.

Mr. Latgrana: There is a machine shop there already with a variance, and they want to take over where the gas station is because they want more room. They would move over there and use the other building for a garage instead of a machine shop. They talked of keeping the gas pumps for their own use, but not to sell gas. This will be the same operation as before, but they need more room.

Mr. Wickins: We have in the minutes your operation from the variance granted before. Is there any change whatever?

Jos. Wyand, 327 Peart Ave., operator: We need a loading platform mainly. We would like to take over the gas station and get the truck in back of the garage out of sight.

Mr. Strassner: Would you increase the size of your equipment in there?

Mr. Wyand: There would be no more machine work, just more production. I would hire more workers; hope to have about 100. We can park our cars between the two buildings; no cars out in front.

Mr. Wickins: If the Board sees fit to grant this request, would you have any objection to the restriction that these gas pumps must be removed?

Mr. Wyand: I had thought of keeping a gas pump for myself and employees, but it would be more trouble than it would be worth. We would take them out.

Mr. Latragna: We would like to get this for five years, if possible. I can't afford to remodel for 1 or 2 yrs.

Mr. Wyand: It also costs me money to move.

Mr. Strassner: Looking ahead, how is the room for parking facilities in case you do enlarge?

Mr. Wyand: We have an acre of land which runs through to Paul Rd.

Mr. Latragna: This should work out for both parties, and eliminate traffic in the street.

No one appeared to speak on this application.

Application of Melvin D. Bushor, 30 Indian Hill Dr., for variance to erect garage 8 ft. from south side lot line.

Herbert Orwig, 30 Indian Hill Dr., appeared to speak for Mr. Bushor.

Mr. Orwig: I bought the property last weekend from Mr. Bushor. The garage in question was erected in 1956, as my attorney told me, in violation of the zoning ordinance. The lot is 80 ft. wide.

Mr. Strassner: That would be 10% of the width of the lot, the requirement of the old ordinance.

Mr. Davis: I know Mr. Bushor. He told me there was a question at the time he built it, and somebody told him he didn't have to have a variance, that 8 ft. was all right, somebody here in the office.

Mr. Orwig: The ordinance was changed in 1954.

Mr. Wickins: Someone was going by the old ordinance of 10%.

Mr. Davis: Now he wants to sell it.

Mr. Strassner: This is an 80 ft. lot, and the garage is already there.

Mr. Orwig: This is just a matter of making it square. I have bought it. I considered the risks involved, and decided to go ahead with it, having deed insurance.

No one appeared to speak on this application.

The Board noted at this time that the application of D. D. Davis has been adjourned to the next meeting, at the request of Mr. Davis.

#### DECISIONS OF THE BOARD:

SALVATORE LATRAGNA granted variance to operate machine shop at 3196 Chili Ave. for a period of 5 years, with the following restrictions: Gas pumps must be removed; no parking in front of said building. All members voted in the affirmative.

HOWARD B. WHELPTON, 3187 Chili Ave., granted variance to erect 3 ft. by 8 ft. illuminated sign on front lot line, and 2 ft. by 15 ft. sign on building. All illumination to be turned off at 10:00 P.M. All members voted in the affirmative.

REV. W. J. PARMETER, 57 Springbrook Dr., granted variance to erect house 50 ft. from front lot line. All members voted in the affirmative.

SPOTTON CONSTRUCTION CO. granted variance to erect house on irregular corner lot #71 Hilltop Dr. House and garage are to be centered in the lot and located 70 ft. south of the north lot line, and no closer than 34 ft. to either east or west line. All members voted in the affirmative.

MELVIN D. BUSHOR, 30 Indian Hill Dr., granted variance to erect garage 8 ft. from south side lot line. All members voted in the affirmative.

June Yates, Secretary