

## PUBLIC HEARING

Town Hall

3/22/77

8:00 PM

Present: Councilmen Niehaus, Lodico, Pizzutello, Supervisor Vines  
 Town Attorney  
 Deputy Town Attorney  
 Town Clerk

Absent: Co. D'Antoni

RE: ZONE CHANGE APPLICATION OF J. KNUTSEN & CO., INC. - R-40 to R-22  
PROPERTY LOCATED ON BREWERY ROAD, NEW CITY, N.Y.:

Supervisor Vines called public hearing to order; Town Clerk testified as to proper publication and posting of notice of public hearing and receipt of affidavit of posting.

Donald S. Tracy, Esq. appeared as the attorney for the petitioner and testified as follows:

Property on Tax Roll as 75A17, which is located on the westerly side of Brewery Road, approximately 250' from the intersection with Parrott Road. Extends along Brewery Road 720'; 1920' deep.

Constituted of 40+ acres. Zoning Map of town shows that first developed property immediately to the north of this parcel is zoned R-22. Property immediately to the south of this property, with the exception of undeveloped 500' parcel, is also zoned R-22. Immediately to the west - R-22. East (other side of Brewery Road), although zoned in R-40, is developed on an average density principle.

Town of Clarkstown French Farms property also borders on the easterly side of the property. So, we have an irregular jog, which comes up on the zoning map with 1/2 acre zoning, excludes this parcel.

Going across, slightly above the boundary line of this parcel, over to the north of this parcel and then back - down to Brewery Road.

There is area therefore, which is zoned R-40, but surrounded on three sides, with the exception of two undeveloped parcels - all developed parcels surrounding it are in R-22 zone.

Purpose for request is to provide for continuity in the Zoning Ordinance and straighten the zone line. R-40 to R-22 - increase of 26 lots during construction phase. Would not introduce a foreign zone in the area. Would develop more consistent zoning pattern. R-40 zone would be east side of Brewery Road. Property presently owned, (all but 7 acres) by J. Knutsen Inc. Remaining 7 acres retained by original owner, J. Calabrese.

Town Attorney stated that petition states all property in name of Calabrese. Mr. Tracy replied that on 12/20/71, status changed. Re 7 acres remaining to Calabrese (shown on map), it is included in the petition; agreements in effect that at the time of subdivision approval and processing, each one agrees to sign necessary papers to effectuate.

No witnesses presented by attorney for petitioner.

IN FAVOR:

Mrs. Feiffer, 213 Valley Road, Valley Cottage N Y: Everything surrounding 1/2 acre - this should comply. We are looking for new houses. One acre costs are too high. On being asked the question, she informed the Town Board that she was not involved in construction or real estate.

OPPOSED:

Mr. Bert Strauss, Linden Court, New City, N Y: Reason for requesting zone change not valid; would have domino effect. Will have effect on town taxes.

Mrs. Margaret Russo, 14 Maple Lane, Manuet, New York: Applicant going from township to township requesting downzoning. Re taxes; same as Mr. Strauss.

COMMUNICATIONS:

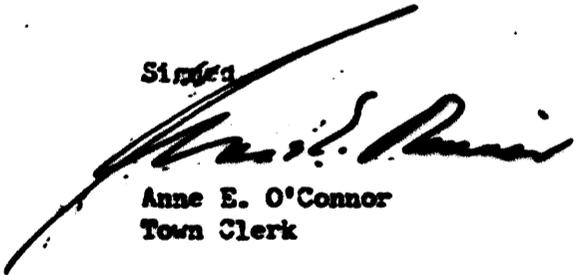
Central School District No. 1: ".....any downzoning which increases the potential number of school children can cause serious overcrowding in our schools. This increase from 40 to 60 homes should be avoided. Development Plan for this area should provide for future internal access to the Laurel Plains Elementary School."

ROCKLAND COUNTY PLANNING BOARD: Not subject to the provision of Art. 12B, Sec. 239 l & m of the General Municipal Law.

CLARKSTOWN PLANNING BOARD: DENY. Would have effect on existing storm drainage system in the vicinity of Brewery Road, which already overloaded. Granting would trigger other requests on the basis of precedent, and therefore bring about further downzonings. Also, proposed rezoning is incompatible with the 1971 Master Plan Map.

On resolution offered by Councilman Niehaus, seconded by Councilman Pizzutello, and unanimously adopted, public hearing was closed.

Signed



Anne E. O'Connor  
Town Clerk

PUBLIC HEARING

Town Hall

3/22/72

8:30 PM

Present: Councilman Niehaus,, Lodico, Pizzutello, Supervisor Vines  
Town Attorney  
Deputy Town Attorney  
Town Clerk

RE: SPECIAL PERMIT APPLICATION MADE BY ALBERT G. LAMBORN (GASOLINE FILLING STATION - CORNER LAKE ROAD AND ROUTE 9W, CONGERS, N.Y.):

Supervisor called Public Hearing to order; Town Clerk testified as to proper posting and publication of notice of hearing and confirmed receipt of Affidavit of Service.

John M. Hekker, Attorney at Law, 53 Burd Street, Nyack N Y appeared before the TownBoard as attorney for petitioner and stated the following:

Property owned by Mr. Albert Lamborn of Congers. (Submitted Site Plan). 28,000 square feet involved, in R5 District. Because of this classification, must apply for a Special Permit for the purpose of developing it as service station or gasoline filling station.

On Site Plan -- broken dotted line -- 10' in from the existing perimeter of the property. Purpose of this line is for future gratuitous dedications to the county as to Lake Road and to State of New York for the proposed widening of Route 9W.

Taking this area out of the site plan, the applicant still comes within the ordinance in that the balance of the property will consist of 23,000 square feet.

Located northwest corner of Route 9W and Lake Road, exactly opposite north entrance to the PIP, known as Rockland Lake.

(Submitted Exhibits to comply with Sec. 4.13 of the Zoning Ordinance)

EXHIBIT I: Letter from Rockland Coaches, Inc. 126 N. Washington Avenue, Sergefield, N.J. stating that they provide service in the area of Route 303 and Lake Road, Congers N Y, which is within walking distance of Route 9W and Lake Road, Congers N Y.

EXHIBIT II: Letter from Spring Valley Water Company, Spring Valley N Y stating that this company has water main installation to the northwest corner of Route 9W and Lake Road in the hamlet of Congers.

EXHIBIT III: Letter from Orange & Rockland Utilities, Inc. stating that on October 26, 1971 the New York State Public Service Commission issued a directive restricting C & R from serving new commercial customers with natural gas. They can, however, supply either 3 phase or single phase electric facilities to this property located on the northeast corner of Lake Road and Route 9W. (Re their 'northeast' - think they are in error - T/C)

EXHIBIT IV: Letter from Clarkstown Police Department ....in their opinion, adequate police protection in this area.

EXHIBIT V: Site Plan submitted.

PH - 3/22/72  
Page 2

(LAMBORN SPECIAL PERMIT APPLICATION)

EXHIBIT VI: Petition containing 65 signatures of Congers residents stating that they 'strongly recommend that a Special Permit be issued to Mr. Lamborn for a gas filling station to be located on property at the northwest corner of Route 9W and Lake Road, Congers, New York.'

Attorney Hekker stated that re Fire Department, will submit to Town Board when received.

WITNESS: (Sworn in by Supervisor): Mr. George Sokolay, 441 Little Tor Road, New City, New York:

Background - real estate and insurance. Resident of county and New City since 1943. Engaged in real estate since 1960, residential and commercial. Familiar with area in question. Area non-congested. Controlling light at this intersection which will control flow of traffic.

Immediate vicinity: East Side - Park; North - factory (lighting fixtures), bus repair and bus storage area, wheel house.

Gas station about 1/2 mile to the north (small). South - 3-4 miles away, nearest gas station to provide service for people coming to the or leaving the park. Development would not cause undue traffic congestion; would not create a traffic hazard, would not adversely affect the character of the area or the property values in the area. Would not otherwise impair the public health, safety or other aspects of the general welfare of the town. Would comply with all other regulations applicable to such use.

Would be tax ratable for township.

WITNESS: (~~Sworn in by Supervisor~~): Mr. Albert Lamborn, 13 Old Lake Road, Congers, New York:

Is owner of premises subject of application. Intends to comply with all rules and regulations applicable to the change of these premises as gas filling station. O & R says that cannot service this property with natural gas, so oil will be used. Other gas stations are presently using oil. Will deed to county and state, if required, approximately 10' from the existing white line of Route 9W and northerly line of Lake Road. Would consent to the submission of the Site Plan to the Clarkstown Planning Board for site plan approval.

Councilman Niehaus stated that map shows 10' wide on 9W. He inquired of Town Planner, if 15' wide were required, would town be bound to what is shown on that map. Mr. Zollendeck replied that 10' as shown is what is required.

Councilman Lodico. (Re landscaped area proposed) If 9W and Lake Road widened, would we then hav: additional 10' for additional shrubbery?

Attorney for petitioner Hekker: If it was a requirement that all landscaping be done on confines of our own property -- this would be the case.

PL = 1/22/72  
Page 3

(LAMEORN)

IN FAVOR:

- Mr. Donald Brown, Lake Road, Congers.
- Mr. Sterling (Owns warehouse) His property within 100' of subject property.
- Mr. Henry Freshin, 30 North 9th, Congers: Owns cabins 500' north of this proposed site.
- Mr. Franz Lang, Massachusetts Ave., Congers: Owns piece of property on 9th just one mile north of subject property.
- Mr. Jos. DePaulis, Congers.

OPPOSED:

Mr. Bert Kimbark, 56 Lake Road, Congers: (Owner and Operator of Gas Station):

Not necessary in this area. Special Permit must show that there is necessity to serve surrounding residential area. Five miles on 9th no new residences can be built on the east side and very few on the west side of 9th because of the present zoning of the property. Re Site Plan: Says in RS District. ~~There were several public meetings for the site plan map; on this map, zoned L3. (Mr. Kimbark had in his possession map included in notice of hearing) T/C. - not map adopted 6/30/67.~~

(Deputy Town Attorney and Town Planner checked official map and stated zoned RS (Adopted 6/30/67)).

As suggested by attorney for petitioner, Mr. Kimbark continued, proposed station would not increase property value in area. Rockland State Park place of assembly, proposed station less than 300' away as proposed.

Mr. Kimbark presented newspaper article as printed in the Sunday News of 3/19/72 (In Town Clerk's File).

On question of name of oil company going in; Mr. Bekker stated he did not know.

OPPOSED: Mr. Arthur Fadrini, 106 Villa Road, Pearl River, New York: Owns Lakeview Service Center located 1/2 mile west of proposed gas station. Presently pumps 50,000 gallons month, not even half of capacity; so sees no need for new station.

OPPOSED: Mr. Len McCrary, Gasoline Dealers Association of Rockland County:

Re Traffic: 125 cars for 1,000 gallon purchase of gas. 40,000 gallon station would be receiving in and out, 5,000 cars in 30 days. 60,000 gallons would mean 7,500 cars coming in and going out in 30-day period.

OPPOSED: Mr. John Marshall, Congers, New York:  
Sees no need.

PH - 3/22/72

Page 4

(LAMPORN)

Mr. Kimbark: His business terrible, 37% loss since Mobil opened.

Mr. Robert Kimbark: Opposed, his brother (Bert Kimbark) lifelong resident.

RECOMMENDATIONS: (Correspondence):

PALISADES INTERSTATE PARK COMMISSION: '.....issuance of special permit for a gasoline service station at this location would seriously depress the aesthetic value of Rockland Lake State Park directly across Route 94 from the proposed installation. Also, because of prevalent practice of permitting advertising structures, they recommend that this application be DENIED. Land Use not compatible with the improvements this Commission has accomplished at Rockland Lake.

NYS DEPT. OF TRANSPORTATION: '....presents problem that motorists exiting from the park will want to cross 94 for gas or other services, resulting in a slowing up of traffic leaving the park and a serious inconvenience to traffic on 94, a two way road without passing or left-turn stacking lanes.

TOWN PLANNING BOARD: Subject to conditions, that Special Permit for Lamborn property gas station on NW corner of 94 and Lake Road, be GRANTED CONDITIONS AS FOLLOWS:

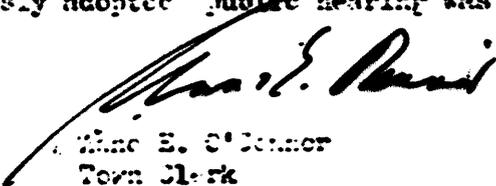
1. Land area to conform to all Zoning Ordinance requirements after compliance with any road widening requirements on 94 and/or Lake Road.
2. Accesses to be substantially in north and west corners of the property.
3. 20-foot landscapings to screen from nearby residential properties, as zoned.
4. All site layout regulations of the Planning Board to be fulfilled. (They enclosed FIP & NYS Dept. of Transp. letters to be considered by Town Board - see above).

Rebuttal: Attorney for Petitioner John M. Hekker:

Competition will eliminate those filling stations, if there are no need for them. We comply with requirements imposed upon us in the application for Special Permit. We are not required to service residents in the area. We are not required to prove a necessity. These are not in your ordinances here. Necessity and servicing its people in the immediate areas are not requirements for a Special Permit by your ordinance.

Re place of assembly; being Rockland Lake recreation area, this might be the case. But, I personally testify from my own experience, that it is at least 1500 feet to the parking area of Rockland Lake and in excess of that of any area of persons using the park area.

On resolution offered by Councilman Nichols, seconded by Councilman Lofico and unanimously adopted public hearing was closed.

  
John E. O'Donnor  
Town Clerk

## PUBLIC HEARING

Town Hall

3/22/72

8:45 PM

Present: Councilmen Niehaus, Lodico, Pizzutello, Supervisor Vines  
Town Attorney  
Deputy Town Attorney  
Town Clerk

RE: APPLICATION FOR ZONE CHANGE MADE BY ARSENIO CARAMATTI (CS to RS & SPECIAL PERMIT - PROPERTY LOCATED ROUTE 303 & LAKE ROAD, CONGERS NY:

Supervisor called public hearing to order; Town Clerk testified as to proper posting and publication of notice of hearing and receipt of affidavit of service from attorney for petitioner.

Joseph F. Romano, Prel Plaza, Orangeburg, New York appeared as attorney for petitioner and stated the following:

Parcel owned by Arsenio Caramatti; located at intersection of west side of 303 with north side of Lake Road, in the southeast side of Heminway Street in Congers.

Purchased in 1948; operated it since. Acquired balance of parcel encompassed by triangular piece. ~~Attorney stated he also represents the contract lessee of the property, the Chevron Oil Company.~~

If developed as gas station, he continued, four present structures on premises would be demolished; entire parcel would be dedicated to gas filling station use.

He stated that Planning Board decision (2-2 basis) also took over 45 days).

Re 300 feet from St. Paul's Church, we are 350' away from that.

EXHIBIT I: Letter from Msgr. Harold S. Engel, Pastor of St. Paul's Church, Congers, stating they have no objection to the property on the northwest corner of Route 303 and Lake Road, Congers being taken over to become a Chevron Gas Station.

EXHIBIT II: Parking and Traffic Consultant Report prepared by Abram Simoff & Associates, 134 Evergreen Place, East Orange, N.J. — presented by Clarence W. Busby, 25 Orten Road, Cladwell, New Jersey. (Sworn in) Mr. Busby is Traffic Engineer (retired) and licensed professional engineer.

Mr. Busby stated he made traffic count: 8AM to 6PM - total volume - 6949 cars for 10 hours; 2358 north on 303, 1710 south on 303, 1734 east on Lake Road, 1147 west on Lake Road. Peak period: 998 between 5PM - 6PM. Moved without congestion in the whole 10 hour period. Would not add to present service station traffic, which is already using road. 303 can handle 600 vehicles per lane per hour, without being jammed.

PH - 3/22/72  
Page 2

(ARSENIC CARAMATTI)

WITNESS: (Sworn in): Mr. Frank I. Brown, Assoc. Planning Consultant, Emanuel S. Emanuel Associates, Inc.:

Automobile service station appropriate for this area. Location appropriate (state highway). Would not generate more traffic. Lake Road serves as connecting link. Has considerable commercial development. New service station will enhance appearance of area. (Copy of his statement marked Exhibit III).

WITNESS: (Sworn in): Mr. Karl Kirchner, 1 Kings Highway, Tappan, New York:

Real estate appraiser and broker. Made analysis. Concludes as follows:

Surrounding area CS. Northerly on 303, on the west side, after you leave CS - PO. East side 303, going north -- R 7.5. West from subject property on Lake Road -- south side Lake Road -- L3 & L10. North side, westerly of subject property -- PO. After that, L3.

Going easterly on Lake Road -- CS for considerable distance. Going southerly on 303 from subject property, on both sides, for approximately 500' on the east -- CS. After leaving CS -- R 7.5

Immediate vicinity of subject property in CS Zone.

Present uses in area residential, commercial and vacant land. Residences considerably less than majority in Congers. In his opinion, present depressed atmosphere of the neighborhood has discouraged re-development of the area. Granting would encourage re-development of the area.

Zoning Code requires Planning Board to make recommendations as to certain specific issues. Many of those are immaterial to this kind of change. Proposed change would have no adverse effect on Master Plan. Proposed change would have no adverse effect on development of other B3 districts in the town.

IN FAVOR: No one appeared.

Mr. Larborn at this point wished to correct statement re Heminway Street. On northwest side of this triangle, this is known as Sec. M. Boston Improvement Co. Going back to the 1800s, railroad track ran through. Next to it, another railroad track taken by condemnation but never used. Another spur came in leading into Swarthout Lake. This particular area 66' wide strip is spur that came in from the RR paralleling lake.

Attorney Romano made statement that Caramatti had acquired railroads. I hold insured title to old railroad spur that came in. In 1941 town built street on railroad, on this map Heminway, 100' wide. Town has never acquired title to this road. Road had never laid down. I hold title to the railroad spur shown on this map as Heminway Street.

PH - 3/22/72  
Page 3

OPPOSED:

Mr. Bert Kimbark (Congers): Re places of assembly, 300' from church, school, etc. We have people and park. Planning Board stated it would not hear this application because it was too close to church parking lot. (45 days gone). Re traffic consultant; accidents 303 and Lake Road -- 10-20 accidents a day going in and out of neighboring gas station. Re Magr. Engel, he said we did not need another gas station. Re repair shop -- in violation of present zoning code. Re Mobil -- in CS zone -- non-conforming use. Re character of area -- it will be affected. Also; chain reaction -- more applications of this nature could come in for CS zone.

Mr. Bert Strauss: (Linden Court, New City): Re improving nearby property; station across the street provided for high assessment, but did not improve neighboring properties. This would not either.

Re nearby -- propose to demolish -- old people will be deprived. Re traffic -- peak traffic during hours of commuting. People stop for gas in the morning on the way to work, or in the evening on the way home. 303 has 55 MPH speed limit. Pulling out of station, driver goes fast and collides. I saw two this month.

OPPOSED: Arthur Pavrini, Dealer-Owner, Opposite proposed station:

His station now doing bad business. Area does not need. 10-20 accidents a day now.

OPPOSED: Mr. Goodman, Lakewood Drive, Congers: Not called for.

OPPOSED: Mr. Rubellini, New City: No more gas stations in Clarkstown

OPPOSED: Glen McCrary, Taxpayer in Town of Clarkstown and Rep. of Gas Dealers Association: Traffic count 7500 per month come in and out. Would double accidents. 300' from church and place of assembly -- in accordance with Building Code, not allowable.

OPPOSED: Mr. Borrell, 500 Strawtown Rd., West Nyack: Gas Station Owner.  
No need.

OPPOSED: Mr. Wally Marshall, Congers (Grocery Store owner):  
Not warranted.

CORRESPONDENCE:

County Planning Board: Granting would not be detrimental to state and county roads provided:

1. The NYSDEP, County Planning Board and Highway Dept. have the opportunity to review the site plan with respect to vehicular access and internal circulation, signs, lighting and drainage and it affects the respective state and county roads, and

2. The applicant agrees to provide to the state and county any necessary road widening strips.

FR-1/22/72  
Page 4

REFERENCE continued:

Town Planning Board: The Planning Board had no alternative but to recommend denial of the requested special permit for reasons stated

( "...proximity of station to place of public assembly, lot line to lot line within the minimum distance required meant that a recommendation one way or another would be pointless: Building & Zoning Inspector had previously explained that the Zoning Board of Appeals did not have authority to make a variance from such mandatory requirement ("site not closer than 300 feet to school, church or similar place of assembly").

NYS Department of Transportation: No comment since it is matter for local authorities to decide. If zone change allowed, a permit for access will be granted based on plot plan by Chevron Oil Company.

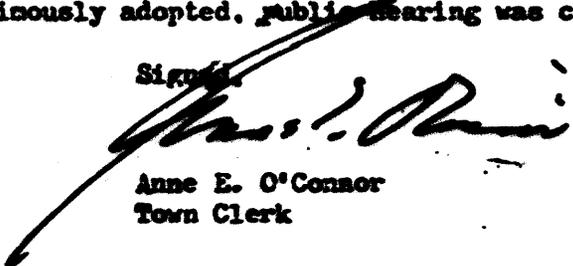
Attorney for petitioner, Joseph Romano, in rebuttal, stated the following:

We will comply. Our site plan will be approved; C3 Zone has all kinds of commercial uses, they would generate traffic. Gas stations do not generate traffic. Any commercial use would generate traffic in the area. Re spot-zoning; cited Tarrytown case --

Councilman Pizzutello asked if number of customers go into stations because of certain favorite brand. Mr. Romano stated that local gas stations with local management generate some customer loyalty. With others -- credit card customers.

On resolution offered by Councilman Lodico, seconded by Councilman Niehaus and unanimously adopted, public hearing was closed.

Signed,

  
Anne E. O'Connor  
Town Clerk

TOWN BOARD MEETING

Town Hall

3/22/72

8:00 PM

Present: Councilmen Niehaus, Lodico, Pizzutello, Supervisor Vines  
 Town Attorney  
 Deputy Town Attorney  
 Town Clerk

Absent: Councilman D'Antoni

Supervisor Vines called Town Board meeting to order; assemblage saluted the Flag.

(1972-309) Councilman Lodico offered the following resolution:

RESOLVED, that Town Board meeting be adjourned in order to hold scheduled public hearings.

Seconded by Councilman Niehaus.

All voted Aye.

(1972-310) Councilman Niehaus offered the following resolution:

RESOLVED, that Town Board meeting be resumed, public hearings having been held.

Seconded by Councilman Pizzutello.

All voted Aye.

(1972-311) Councilman Niehaus offered the following resolution:

(INSERT RESOLUTION RESERVING DECISION ON ZONE CHANGE APPLICATION MADE BY J. KNUTSEN & CO., INC. FOR PROPERTY LOCATED ON BREWERY RD., NEW CITY - R-40 to R-22)

Seconded by Councilman Pizzutello.

All voted Aye.

(1972-311) Councilman Niehaus offered the following resolution:

RESOLVED, that Zone Change Application made by J. Knutsen & Co., Inc. for property located on Brewery Rd., New City - R-40 to R-22 be RESERVED.

Seconded by Councilman Pizzutello.

All voted Aye.

(1972-312) Councilman Niehaus offered the following resolution:

(INSERT RESOLUTION RESERVING DECISION ON SPECIAL PERMIT APPLICATION MADE BY ALBERT G. LANBORN FOR PROPERTY LOCATED CORNER LAKE RD. & ROUTE 9W, CONGERS)

Seconded by Councilman Lodico.

All voted Aye.

(1972-312) Councilman Niehaus offered the following resolution:

RESOLVED, that decision on Special Permit Application made by Albert G. Lanborn for property located corner Lake Rd. & Route 9W, Congers, be RESERVED.

Seconded by Councilman Lodico.

All voted Aye.

TRM - 3/22/72  
Page 2

(1972-313) Councilman Niehaus offered the following resolution:

(INSERT RESOLUTION RESERVING DECISION ON APPLICATION FOR ZONE CHANGE & SPECIAL PERMIT MADE BY ARSENIO CARAMATTI FOR PROPERTY LOCATED ON ROUTE 303 & LAKE ROAD, CONGERS)

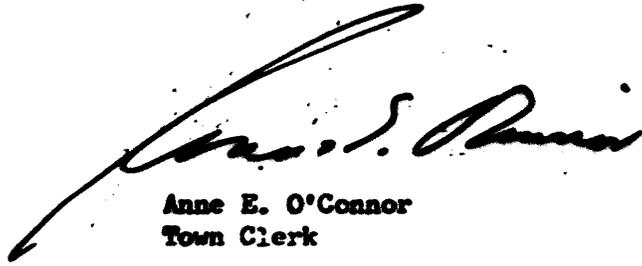
Seconded by Councilman Pizzutello. All voted Aye.  
(1972-313) Councilman Niehaus offered the following resolution:

RESOLVED, that decision on Application for Zone Change & Special Permit made by Arsenio Caramatti for property located on Route 303 & Lake Rd., Congers, be RESERVED.

Seconded by Councilman Pizzutello. All voted Aye.

Public Hearing set for 8:15 PM (Rock Lake Properties, Valley Cottage N Y)  
CANCELLED.

On resolution offered by Councilman Niehaus, seconded by Councilman Lodico and unanimously adopted, Town Board meeting was adjourned until Wednesday, March 29th, 1972 at 8:00 PM, at which time regularly scheduled Town Board meeting will be held.



Anne E. O'Connor  
Town Clerk