

PUBLIC HEARING

Town Hall

5/8/74

8:05 PM

Present: Co. D'Antoni, Lodico, Maloney, Pizzutelle,
Supervisor Gerber (Co. Maloney left during hearing)
Deputy Town Attorney David Wagner
Town Clerk Anne E. O'Conner

RE: ZONE CHANGE APPLICATION MADE BY ROBERT L. TIETZ
& HILDEGARD TIETZ (R-22 to IS) FOR PROPERTY LOCATED
AT INTERSECTION OF THE NORTH SIDE OF NEW CITY-CONGERS
ROAD AND THE EAST SIDE OF PINE AVENUE, CONGERS N Y:

Supervisor Gerber called public hearing to order;
Town Clerk testified as to proper posting and publication
of Notice of Public Hearing, and read said notice.

Everett J. Johns, Esq., 123 Park Avenue, New City N Y
appeared before the Town Board as attorney for petitioner.

RECOMMENDATIONS:COUNTY PLANNING BOARD:

".....The applicant has submitted two requests for
the property for use as a funeral home: (1) a zone change
from R-22 to IS to permit the use by right, and (2) maintain
the R-22 zone and allow the subject use. Under both requests,
the Board finds that the use of a funeral home in this area
constitutes (1) a spot zone change that will stimulate
additional commercial change of zone requests along the
County road, or in case number 2 to allow a use not
permitted by right. Therefore, the Board DENIES the
above requests."

TOWN PLANNING BOARD:

".....DENY for the following reasons:

1. The change from residential to local shopping
constitutes a "spot zoning".
2. Granting of the change would precipitate similar
requests.
3. The residential character of the area would be
affected.
4. The land-use proposed is contrary to the 1966 and
1971 Master Plans.

TOWN PLANNER:

".....Petition is in direct conflict with the
purpose of the Zoning Ordinance and the objectives of
the Master Plan with respect to concentric zoning;
that the petitioner encourages a "strip type" of
commercial development along Congers Lake Road and further
that the petitioner creates a "leap frog" zoning pattern
which is not to the best planning interest of the Town."

(continued)

Everett J. Johns, Esq., attorney for the petitioner, appeared before the Town Board and stated the following:

Petitioner contract purchaser of property referred to in petition. Property consists of 38,259 square feet at the intersection of Congers Road and Pine Avenue and is zoned R-22. To the east; R-22 - to the north; R-15 - 250' to the west LS area in vicinity of Congers Road and Kings Highway. 2-1/2 story structure on property with a multiple family use.

Petitioner seeks LS zone use only because of the fact that the LS area permits funeral home as of right.

Existing dwelling is sought to be converted to a facility for reposing rooms and a chapel, primarily due to the fact that Mr. Tietz, who operates White Funeral Home in Congers, finds that facility is inadequate to serve needs of Congers-Valley Cottage community. He also operates White Funeral Home under another name in Pearl River.

Re "spot zoning"; current ordinance adopted in 1967 ten years old. Spot zoning is not illegal. It could be good spot zoning. Spot zoning concept, if it is done for the benefit of a single individual land owner, that would be illegal spot zoning. This application must be decided whether or not it is for the benefit of community, or landowner.

Request is for funeral home; petitioner is willing to covenant to that. It would only be used for funeral home and for no other use.

Would benefit the community of Congers, Rockland Lake and Valley Cottage.

MR. ROBERT L. TIETZ, 43 South Broadway, Nyack N Y sworn in by Supervisor and stated the following:

Is contract purchaser. Occupation: President and owner of the White Funeral Home and the Shankey Funeral Home. Licensed by the State of New York under Department of Health as Funeral Director for over 26 years. Has present operations in Nyack, Congers and Pearl River.

Commenced operation in Congers in March of 1967, which is located at 242 Lake Road, Congers. Structure less than 13,000 square feet with two reposing rooms. Since our acquisition, our area has had 50% growth in population. Demands for our services have been prepartiate. Facility we have cannot be expanded; we would find it impracticable. We are called upon to serve more than one family at a time in a limited space. (Fire Departments, Veterans' Organizations, etc.) We cannot at present accommodate them. Delays in funeral arrangements because of lack of space.

Due to population growth in this area, there will be a further demand for use of these facilities. 16 to 17% annual case-load increase since our acquisition of that facility. We would be unable to serve this area with present facility. We must be able to accommodate more people. Have looked around the Congers area for 16 to 18 months. Looked at property that would permit our use in their zone. Where funeral homes are permitted in LS zone there are gas stations, retail businesses and we feel this not the most desirable area for a funeral home.

(continued)

(Mr. Tietz - cont)

Present facility on the property in question located on Congers Lake Road and Pine Avenue. Is colonial structure (presented photos) -(in Town Clerk's folder.) Photos taken within the last 4-5 hours. Lends itself to the esthetic values so important to a funeral setting.

70% or 80% of funeral homes presently existing are, or were, residential property at one time and have been converted to funeral homes.

Proposed use and conversion of the existing 2-1/2 story dwelling: We would restructure the facility presently there to meet all of the codes of the town. First floor for chapel and reposeing rooms and rest-room facilities. Addition to rear of building, which would not change its frontal appearance or character of residential appearance. Footage proposed, perhaps 2000 square feet on the rear of the building.

Re structural changes to the front, we propose to put a columned porch and change the entrance and egress. (Presented rendering of proposed facility)

Proposed use would not effect character or property values in the area. It will only enhance and improve area.

Re adjacent paper street; there is a proposed egress from Congers Road. There is no intent to open that street for any further development or use. That would be only for the egress from our property and parking area.

Re covenants: Willing to as follows: Funeral Home only.

(End of testimony from Mr. Tietz)

Councilman Lodice ascertained from attorney for petitioner that property 38,259 square feet; a little less than one acre. Re abandonment of other funeral home, Mr. Tietz stated that we would have no reason to complete present facility that we are now operating from.

Re map street, Supervisor Gerber stated that it shows ingress and egress to the funeral home on map. What would preclude it to following through to Endicott Street? Mr. Johns, attorney for petitioner, replied title to 1/2 owned by Mr. & Mrs. Schaffhauser because he abuts that street. Re rights of lot owner to the north; use made by the county and town sewer district who took easments on that old paper street. Re rights of the people to the north; they never did anything. It is only for the limited purpose of either ingress or egress.

Supervisor inquired if petitioner would covenant that this would be subject to Planning Board approval. Reply from Mr. Johns was in the affirmative.

(continued)

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Supervisor Garber, re property to the east that is listed as Rockland Lake Lutheran Church, is that shown on map as parking area? Mr. Johns replied no; that is further east. It is used for Sunday School and church services parking.

Re IS zone being only zone for funeral homes; Building Inspector informed the Town Board that it can also go in PO, but only by special permit and requires 80,000 square feet.

Attorney for petitioner at this time submitted letters from surrounding property owners in favor of proposed zone change as follows:

Mr. George P. Buday, 112 New York Avenue, Congers
Mr. & Mrs. W. Carton, 12 Pine Avenue, Congers
Dennis L. Coyle, 80 Lake Road, Congers
Mr. & Mrs. Kunz (Ambulance Corps), Congers
Rev. Brueckner, Pastor of St. Thomas Lutheran Church
Rev. Dunway, Pastor of The First Presbyterian Church

(Letters in Town Clerk's File)

IN FAVOR:

Mr. Martin Holbrook, 74 Endicott Street, Congers:

Lives right down the street. Would be advantageous change provided covenant restricting the use to funeral home is recommended, and goes with the land. IS too wide a zone. Also, opposed to extension of paper street from Congers Road through to Endicott Street. Residents to the north will not exercise any right to do it, and I would not like to see it done.
Facility required.

Mr. Stegman, 87 North Grant Avenue, Congers:

Representing Board of Trustees of the Congers United Methodist Church:) No objection for this use of property adjoining their church. Requested that all title and interest his church has into the property designated as unnamed street be included in IS zone. To the east, he continued, is church property (4 acres). 400 x 400' divided into three zones - R-15, R-22 and IS. Would appreciate if this parcel could be considered with this application and changed to IS. Tietz place now very crowded. Organizations have funerals there.

Mr. T. Collins, 20 South Congers Avenue, Congers:

Lives in immediate area. Representing Mr. Engel of St. Paul's Church, Congers. He is in favor because facility necessary.

(continued)

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(IN FAVOR - continued):

Mr. J. Davidson, 14 Chauncey Street, Congers:

Assistant Principal of Clarkstown High School North. Wife and he in favor. Will improve character of the area. Sidewalks would be included, which is good for school children. Would create bigger tax base.

Mr. Duby, 19 Garrett Avenue, Congers:

Lives two blocks away. Is professional engineer. Rendering good. Desirable asset to the community. There is need for facility.

OPPOSED:

Mr. Fred Haeger, Valley Cottage:

Planning Board, Town Planner and the County Planning Board opposed. Re Mr. Johns statement that request by individual would be illegal - not so. Re area; traffic should be looked at closely. Congers Road not adequate now. Additional facility such as a funeral home would cause additional traffic problems over the causeway. LS request disturbing. How could you prevent it from becoming something else in the future?

It does not necessarily follow that people in Valley Cottage and Congers do not have access to funeral homes. There are others in the vicinity (New City, Nyack).

Three town bodies turned it down. That is strong argument for the Town Board turning it down.

(At this point in the proceedings, Councilman Maloney left the Board Table.)

OPPOSED - cont:

Mr. Robert Cook, 53 Endicott Street, Congers:

Would bring traffic into the area. Lots of children in area. Streets narrow.

Mr. John Bradley, 124 Congers Road, Congers:

Lives one block away. Not against funeral home because it is nice looking building, but would bring more traffic on Congers Road. Too much now. We have a lot of accidents.

Paper street would have to go through if this granted. There is enough LS zone in Congers now, do not extend. If changed to IS, it would change the residential image. I would also have to apply for zone change. After it is changed, I would get same price for my house.

(cont)

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OPPOSED - continued:

Ms. Agnes Klopchin, 8 Garrett Avenue, Congers:

Concerned about safety. Lived on Garrett Avenue for 12 years. Has witnessed many accidents on Congers Road. Many establishments in county; many other places available for funeral home. Not necessary here.

Mr. Dan Coa, 132 Congers Road, Congers:

People go to funeral homes in distressed condition; Congers Road feature bad. You cannot see car coming up or down hill. Safety features are needed now. People coming and going to this proposed funeral home would make it more dangerous.

Mr. Bonifacio, 55 Endicott St., Congers:

Adjacent to property. This is residential area. Congers Road winding and hilly and narrow. To make turn coming off Congers Road, you have to slow down by 7 to 8 mph. If you have entrance for the funeral home coming off Congers Road, what will happen with someone coming up a hill and seeing someone braking to make a turn. They will crash.

If funeral home built, there will be many accidents. That paper street will be activated as the main street to that funeral home. That paper street abuts my property, and I would not like to see another street there.

Because there will be so many accidents, that paper street will have to be activated, and it abuts my property. I do not want that; would be dangerous to my children.

Supervisor Gerber inquired of attorney for petitioner if they would covenant to giving land to the county on New City-Congers Road for widening between Pine and the map street. Mr. Johns replied in the affirmative. He was also assured that egress or ingress would be limited to Pine Avenue and map street. Also, that any traffic or safety requirements that any state, town or county agency may require would be covenanted by the petitioner.

REBUTTAL: (Everett J. Johns, Attorney for petitioner):

Re Planning Board recommendation, they did not object to use of that property for funeral home. They were primarily objecting to change of zone. They don't advise where a funeral home could be provided in an area which, in of itself, has not been objected to as being inappropriate.

This is needed, vital service required by law of the State of New York. Mr. Tietz testified he can no longer serve needs of community now at his present location.

(continued)

PUBLIC HEARING

Town Hall

5/8/74

8:30 PM

Present: Co. D'Antoni, Lodico, Pizzutelle, Supervisor Garber
Town Clerk Anne E. O'Connor
Deputy Town Attorney David Wagner

Absent: Co. Maloney
Town Attorney Murray N. Jacobson

RE: PROPOSED LOCAL LAW AMENDING LOCAL LAW #8-1967, AS AMENDED
"LOCAL LAW REGULATING GARBAGE REMOVAL IN THE TOWN OF
CLARKSTOWN:

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

Proposed amendment reads as follows: (T/C)

Amend Sec. 50-2 entitled "Definitions" by adding a paragraph
entitled "ENGAGE IN BUSINESS" as follows:

ENGAGE IN BUSINESS -- Solicitation, correspondence,
contracting, furnishing of containers, vehicles,
machinery, appliances, materials or any other items
used for the purpose of collecting, removing or
transporting of garbage.

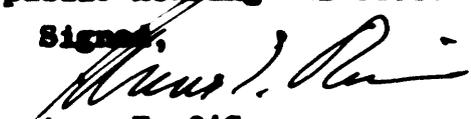
Amend Sec. 50-16 entitled "Powers of the Sanitation
Commission" by deletion of paragraph "A" there-
from so that it reads as follows:

- A. To investigate all violations of this local law and any grievances reported by customers and the garbage and/or grass collectors.
- B. To take testimony concerning violations of this local law, grievances of customers, grievances of the garbage and/or grass collectors and petitions for higher rates.
- C. To hold public hearings on ten (10) days notice by the publication in the official newspaper of the Town of Clarkstown, together with written notice by certified mail to the garbage and/or grass collector involved.
- D. All other powers necessary, incidental or implied to carry out the purposes and proper functions of this local law.

Councilman Lodico stated that it is the intention of the Town Board that the Sanitary Landfill facilities shall be under the exclusive and direct control of the Town Board, to safeguard the town. There is presently concern with people involved in the industry. If adopted, no one may engage in this business to solicit for customers without a license and come before the commission and have their backgrounds investigated thoroughly. He requested that inclusion be made stating that 'sanitary facilities shall be under direct control of the Town Board.'

IN FAVOR: No one appeared.
OPPOSED: No one appeared

On resolution offered by Co. Lodico, seconded by Co. Pizzutelle and unanimously adopted, public hearing was closed.

Signed,

Anne E. O'Connor
Town Clerk

PUBLIC HEARING

Town Hall 5/8/74 8:45 PM

Present: Co. D'Antoni, Lodico, Pizzutello, Supervisor Gerber
Town Clerk Anne E. O'Conner
Deputy Town Attorney David Wagner

Absent: Co. Maloney
Town Attorney

RE: PROPOSED AMENDMENT TO LL #0-1967 AS AMENDED ESTABLISHING
A HISTORICAL REVIEW BOARD WITHIN THE TOWN OF CLARKSTOWN:

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

Supervisor Gerber stated that only purpose
for proposed amendment is to increase membership by
one person.

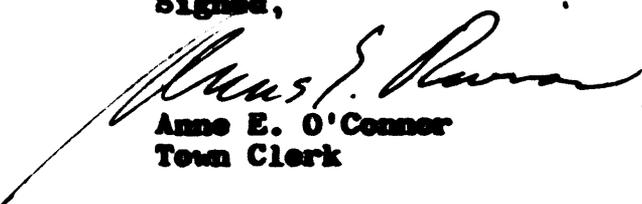
In response to question put by Mr. Mackey
who thought membership on said Board was full, Supervisor
Gerber stated that it is, proposed amendment would only
increase it by one member.

IN FAVOR: No one appeared

OPPOSED: No one appeared

There being no further questions, and no one
further wishing to be heard, on resolution offered by
Councilman D'Antoni, seconded by Councilman Lodico and
unanimously adopted, public hearing was closed.

Signed,


Anne E. O'Conner
Town Clerk

TOWN BOARD MEETING

Town Hall

5/8/74

8:00 PM

Present: Co. D'Antoni, Lodico, Maloney, Pizzutelle
 Supervisor Gerber
 Town Clerk Anne E. O'Connor
 Deputy Town Attorney David Wagner

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

John M. Hekker, Esq., attorney for petitioner for zone change (Breckline Manor, Inc.) appeared before the Town Board in connection with public hearing scheduled for this evening at 8:15 PM stating that error made in newspaper publication that could jeopardize legality of scheduled public hearing. Petitioner, he stated, has requested cancellation and rescheduling of public hearing for future date. (Newspaper printed as RD-2 instead of RG-2) - T/C

(1974-400) Co. D'Antoni offered the following resolution:

WHEREAS, the petition of Breckline Manor, Inc. for a change of zone to RG-2 was noticed for public hearing on 5/8/74, and

WHEREAS, in the newspaper publication of the notice of public hearing, a material error was contained,

NOW THEREFORE, be it

RESOLVED, that the public hearing on Breckline Manor, Inc., scheduled for 5/8/74 is hereby cancelled because of the error in publication of the notice of public hearing, and be it therefore

FURTHER RESOLVED, that said cancellation shall be without prejudice to the re-scheduling of a public hearing at a later date on this matter.

Secended by Co. Pizzutelle

All voted Aye.

(1974-401) Co. Lodico offered the following resolution:

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

Secended by Co. Pizzutelle.

All voted Aye.

(1974-402) Co. Pizzutelle offered the following resolution:

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

Secended by Co. D'Antoni.

All voted Aye.

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(Councilman Maloney left Board Table during TIETZ hearing)

(1974-403) Co. D'Antoni offered the following resolution:

RESOLVED, that decision on zone change application made by ROBERT L. TIETZ (R-22 to IS - for funeral home) on property located on the northeast corner of New City-Congers Road and Pine Avenue, Congers, be RESERVED.

Secoded by Co. Pizzutello. present
All/voted Aye.

(1974-404) Co. D'Antoni offered the following resolution:

RESOLVED, that decision on proposed Local Law amending LL #8-1967, as amended, entitled "Local Law regulating garbage removal in the Town of Clarkstown", be RESERVED.

Secoded by Co. Pizzutello. All present voted Aye.

(1974-405) Co. D'Antoni offered the following resolution:

RESOLVED, that decision on proposed local law amending LL #9-1967, as amended, establishing an Historical Review Board within the Town of Clarkstown, be RESERVED.

Secoded by Co. Pizzutello. All present voted Aye.

(1974-406) Co. D'Antoni offered the following resolution:

WHEREAS, ST. ANTHONY'S CHURCH has petitioned the Town Board of the Town of Clarkstown for a Special Permit to fill and grade a portion of its property, pursuant to the Zoning Ordinance of the Town of Clarkstown;

NOW THEREFORE, be it

RESOLVED, that a public hearing, pursuant to said Ordinance, be had at the Auditorium of the Town Hall of the Town of Clarkstown, 10 Maple Avenue, New City N Y on the 22nd day of May at 8:45 PM to consider the application of St. Anthony's Church relative to said Special Permit; and be it

(continued)

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(1974-406 -- continued)

FURTHER RESOLVED, that the Town Attorney prepare notice of such statutory hearing and that the Town Clerk cause the same to be published in the Journal News, the official paper of the Town of Clarkstown, as aforesaid, and file proof thereof in the office of the said Clerk.

Seconded by Co. Pizzutello. All present voted Aye.

(1974-407) Co. D'Antoni offered the following resolution:

WHEREAS, the following has applied for a Certificate of Registration pursuant to Sec. 83-85 of the Code of the Town of Clarkstown:

Robert H. Watkins
667 South Main St.,
New City N Y

NOW THEREFORE, be it

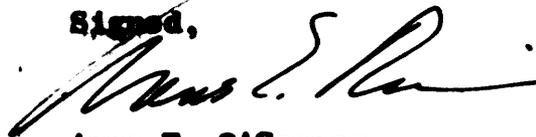
RESOLVED, that the following Certificate of Registration be issued:

No. 74-25 to Robert H. Watkins

Seconded by Co. Lodico. All present voted Aye.

On resolution offered by Co. D'Antoni, seconded by Co. Lodico and unanimously adopted, Town Board meeting was adjourned until Wednesday, May 15, 1974 at 8:00 PM, at which time next regularly scheduled Town Board meeting will be held.

Signed,



Anne E. O'Connor
Town Clerk