

TOWN OF CLARKSTOWN
SPECIAL TOWN BOARD MEETING

267

Town Hall

10/7/86

8:05 P.M.

Present: Supervisor Holbrook
Councilman Carey, Lettre, Maloney, Nowicki
John Costa, Town Attorney
Patricia Sheridan, Town Clerk

Supervisor declared the Town Board meeting open.
Assemblage saluted the Flag.

Supervisor explained that tonight there would be a number of public hearings. One would be to Amend the Official Map at 120 North Pascack Road, Spring Valley; Amending the Zoning Ordinance of the Town of Clarkstown 106-10A regarding restaurants; Amending Restrictive Covenants with regard to Village Green in Bardonia; and Amending Table 16 of the General Use Regulations - 106-20(B) in RS.

This evening after the reading of the notice we will hear from anyone present wishing to comment either for or against any proposal. The Board after hearing that information will then possibly make a decision. If no decision is to be made the Board will reserve decision and that will be postponed to another meeting.

On motion of Councilman Maloney, seconded by Councilman Nowicki and unanimously adopted, the Public Hearing re: Amendment to the Official Map of the Town of Clarkstown re: Cul-De-Sac Leading from Proposed Route 45 Tunnel By-Pass Road to Property Owned by Charles R. Pepe, 120 North Pascack Road, Spring Valley, New York, was opened, time: 8:10 P.M.

On motion of Councilman Maloney, seconded by Councilman Nowicki and unanimously adopted, the Public Hearing re: Amendment to the Official Map of the Town of Clarkstown re: Cul-De-Sac Leading from Proposed Route 45 Tunnel By-Pass Road to Property Owned by Charles R. Pepe, 120 North Pascack Road, Spring Valley, New York, was closed, RESOLUTION ADOPTED, time: 8:19 P.M.

RESOLUTION NO. (933-1986)

AMENDING OFFICIAL MAP OF
THE TOWN OF CLARKSTOWN
PLACING A CUL-DE-SAC
LEADING FROM PROPOSED ROUTE
45 TUNNEL BY-PASS ROAD TO
PROPERTY MAP 165, BLOCK A,
LOT 3.2 (CHARLES R. PEPE)

Co. Maloney offered the following resolution:

WHEREAS, the Town Board of the Town of Clarkstown by resolution adopted on the 12th day of August, 1986, provided for a public hearing on the 7th day of October, 1986 at 8:10 P.M., or as soon thereafter as possible, to consider placing on the Official Map of the Town of Clarkstown a cul-de-sac leading from the proposed Route 45 tunnel by-pass road to the property known and designated on the Clarkstown Tax Map as: Map 165, Block A, Lot 3.2, and shown on the attached sketch (Schedule "A"), and

WHEREAS, notice of said public hearing was duly published and posted as required by law, and said public hearing was duly held at the time and place specified in said notice;

NOW, THEREFORE, be it

RESOLVED, that the Official Map of the Town of Clarkstown is hereby amended by placing a cul-de-sac leading from the proposed Route 45 tunnel by-pass road to the property owned by Charles R. Pepe, 120 North Pascack Road, Spring Valley, New York, designated on the Clarkstown Tax Map as: Map 165, Block A, Lot 3.2, and shown on the attached sketch (Schedule "A").

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Seconded by Co. Nowicki

On roll call the vote was as follows:
Councilman Carey.....Yes
Councilman Lettre.....Yes
Councilman Maloney.....Yes
Councilman Nowicki.....Yes
Supervisor Holbrook.....Yes

On motion of Councilman Maloney, seconded by Councilman Nowicki and unanimously adopted, the Public Hearing re: Amendment to the Zoning Ordinance of the Town of Clarkstown - Amend Section 106-10A, Table 14, Column 3-B addition to Item 6 and adding Paragraph "Q" to Section 106-16 re: Restaurants, was opened, time: 8:19 P.M.

On motion of Councilman Maloney, seconded by Councilman Nowicki and unanimously adopted, the Public Hearing re: Amendment to the Zoning Ordinance of the Town of Clarkstown - Amend Section 106-10A, Table 14, Column 3-B adding to Item 6 and adding new paragraph "Q" to Section 106-16 re: Restaurants, was closed, RESOLUTION ADOPTED, time: 8:25 P.M.

RESOLUTION NO. (934-1986)

AMENDING ZONING ORDINANCE OF TOWN OF CLARKSTOWN - SECTION 106-10A, TABLE 14, COLUMN 3-B ADDING ITEM NO. 6 AND SECTION 106-16 ADDING NEW PARAGRAPH "Q"

Co. Maloney offered the following resolution:

WHEREAS, the Town Board of the Town of Clarkstown by resolution adopted on the 12th day of August, 1986, provided for a public hearing on the 7th day of October, 1986 at 8:15 P.M., to consider the adoption of the following proposed amendment(s) to the Zoning Ordinance of the Town of Clarkstown, and

WHEREAS, notice of said public hearing was duly published and posted as required by law, and said public hearing was held at the time and place specified in said notice;

NOW, THEREFORE, be it

RESOLVED, that the Zoning Ordinance of the Town of Clarkstown be and it hereby is amended as follows:

Amend Section 106-10 A, Table 14, Column 3-B by adding to Item 6 as follows:

"6 Restaurant associated with indoor tennis club, office, or industrial use, subject to Section 106-16 Q.

Amend Section 106-16, to add new Paragraph "Q" as follows:

"Q", Restaurant associated with indoor tennis club, office, or industrial use, subject to the following conditions:

- (1) Restaurants associated with offices or industrial uses shall be located on the same site as the primary office or industrial use, and shall be accessory to such uses.
- (2) Restaurants associated with office or industrial uses shall occupy no more than 25% of

the total floor area on the lot or 2500 square feet, whichever is less.

(3) No additional freestanding signs shall be permitted for restaurants associated with office or industrial uses.

(4) No additional curb cuts shall be permitted for restaurants associated with office or industrial uses.

(5) All applicable bulk, lot and parking requirements shall be met.

(6) Restaurants associated with office or industrial uses shall receive site plan approval from the Planning Board.

(7) Restaurants associated with office or industrial uses shall provide at least one on-site parking space per 75 square feet of gross restaurant area. This parking area shall be in addition to the parking provided for the office or industrial use.

Seconded by Co. Nowicki

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Lettre.....	Yes
Councilman Maloney.....	Yes
Councilman Nowicki.....	Yes
Supervisor Holbrook.....	Yes

On motion of Councilman Nowicki, seconded by Councilman Maloney and unanimously adopted, the Public Hearing re: Amending Restrictive Covenant of Degenshein for Village Green Condominiums, was opened, time: 8:25 P.M.

On motion of Councilman Maloney, seconded by Councilman Nowicki and unanimously adopted, the Public Hearing re: Amending Restrictive Covenant of Degenshein for Village Green Condominiums, was declared closed, DECISION RESERVED, time: 8:55 P.M.

On motion of Councilman Maloney, seconded by Councilman Carey and unanimously adopted, the Public Hearing re: Amending Table 16, General Use Regulations, Section 106-10B, "Note No. 3", was opened, time: 8:57 P.M.

On motion of Councilman Carey, seconded by Councilman Nowicki and unanimously adopted, the Public Hearing re: Amending Table 16, General Use Regulations, Section 106-10B, "Note No. 3", was closed, DECISION RESERVED, time: 9:05 P.M.

There being no further business to come before the Town Board and no one further wishing to be heard, on motion of Councilman Carey, seconded by Councilman Maloney and unanimously adopted, the Town Board Meeting was declared closed, time: 9:11 P.M.

Respectfully submitted,
Patricia Sheridan

PATRICIA SHERIDAN,
Town Clerk

ABE633

TOWN OF CLARKSTOWN
PUBLIC HEARING

271

Town Hall

10/7/86

8:10 P.M.

Present: Supervisor Holbrook
Councilmen Carey, Lettre, Maloney, Nowicki
John Costa, Town Attorney
Patricia Sheridan, Town Clerk

RE: AMENDMENT TO OFFICIAL MAP OF THE TOWN OF CLARKSTOWN TO PLACE
ON SAID MAP A CUL-DE-SAC LEADING FROM THE PROPOSED ROUTE 45
TUNNEL BY-PASS ROAD TO THE PROPERTY OWNED BY CHARLES R. PEPE,
120 NORTH PASCACK ROAD, SPRING VALLEY, NEW YORK MAP 165, BLOCK
A, LOT 32

On motion of Councilman Maloney, seconded by Councilman Nowicki and unanimously adopted, the Public Hearing was declared open. Town Clerk read notice calling Public Hearing. Town Attorney testified as to proper posting and publication.

Supervisor asked if there was any correspondence and Town Attorney stated that he had a copy of a letter addressed to the Town Planning Board received in his office on September 26, 1986 which letter was dated September 16, 1986. He said he was not sure if the letter relates directly to the present matter before the Town Board but it is in response to the notice of Public Hearing from a person who is bringing to our attention the fact that there might be some water problems in the area. Town Attorney read the following letter:

"Town Planning Board
Town of Clarkstown
Maple Avenue
New City, New York

Dear Sirs:

I would like to advise you that if any petitions are submitted for the development of area at east end of Olin Drive this area has a high water table and lots 3.12, 10.9 have had water problems - Town Tax Map 165. People owning property 3.12 have had severe water problems in their basements since house was built. In my home, Lot 3.09, my garage floor dropped nine inches. Problem was caused by Town Engineer or Building Inspector not inspecting work done by contractor. Plans call for drainage tiles around footings. They were never placed and the Town gave CO to contractor. My basement walls cracked and I had called Town Building Inspector and Town Engineer to advise me if the foundation was safe after the garage floor dropped. They assured me that the foundation was safe. Your Town tax map 165 3.44 is a natural catch basin for waters from Lot 3.02 and area 3.01. I would like to put the Town on notice of these problems before any new partitions are attempted by Planning or Town Board. I would like to receive a note that this letter was received.

Concerned Citizen Robert Steinman

P.S. I would appreciate your showing this letter to the Town Engineer and the Building Inspector."

Town Attorney said the Town Planning Board initiated the suggestion on this and we do have correspondence from them recommending the Town Board consider this amendment to the Official Map. Town Attorney said this is to amend the Official Map to add, for map purposes only, a proposed cul-de-sac which would connect to a proposed north/south road known as the Tunnel By-Pass Project. The Tunnel By-Pass Project was mapped a number of years ago. It is at this point approaching reality in that the State of New York through its Department of Transportation is shortly expected to approve by license the construction of the road. This particular proposed Amendment to the Official Map would provide access to the parcel

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designated as 3.02 on Map 165. It will not in any way cause the construction of this cul-de-sac but merely show that it would be on the map. It would be up to other planning considerations in the future as to whether it was actually ever built.

Councilman Nowicki said then the appropriate time for Mr. Steinman to come in on this would be at a time when there would be some kind of development suggested for this property and then he could appear before the Planning Board. Town Attorney said yes.

Councilman Maloney said we are not discussing any development of 3.02. What we are doing is talking about a cul-de-sac on the map. There is no question about developing this. There is no subdivision. There is nothing taking place now. He said he agrees with Councilman Nowicki that the time for that would be when and if the owner of the property decides to come in and develop it or do whatever he chooses to do with it. We are just talking about a map change.

Town Attorney said the rationale for the proposal is contained in the memo of the Planning Board dated July 18, 1986 which he read as follows:

"Honorable Town Board
10 Maple Avenue
New City, New York

Re: Access to LIO zoned property from proposed Tunnel By-Pass

Gentlemen:

At a recent Planning Board meeting we became aware that the proposed design of the Tunnel By-Pass Road places it near but not abutting a piece of LIO zoned property owned by Mr. Pepe. The Pepe parcel currently has access from Pascack Road. Since that parcel is zoned LIO and abutting parcels are zoned R-15 it is the consensus of the Planning Board that this parcel should have access to a major road instead of Pascack Road which primarily serves a residential area in this part of Town.

The Planning Board respectfully recommends that the Town Board amend the Official Map to show a cul-de-sac leading from the Tunnel By-Pass to this LIO zoned property as shown on the attached sketch. This will allow commercial property to be served from a major road instead of from Pascack Road as well as improving access to other nearby properties. Upon construction and connection to the Tunnel By-Pass Road the Pascack Road access should be removed.

Very truly yours,

/s/ Richard J. Paris

Richard J. Paris, Chairman"

Supervisor said that basically the Planning Board's rationale is that when the Tunnel By-Pass Road is constructed the access to Pascack Road will be cut off and this property will be accessed from a major road. If there were to be any subdivision of that LIO piece, at that particular point, the drainage would have to be addressed and the residents there would be notified of that and also have an opportunity to have input into whatever drainage pattern would be on that property. Right now, this is simply putting the Board on record to say what we want in the future, when this road is constructed, for this LIO property to be accessed from a major road as opposed to Pascack Road which has enough traffic on it already.

Supervisor asked if there was anyone present who would like to address the Board on any issue connected with this hearing.

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Appearance: Mr. Robert Steinman
19 Olan Drive
Spring Valley, New York

He said relative to this cul-de-sac being placed on the Official Map of the Town, that means that when this road is built that cul-de-sac will be accessible to that property. He said on the existing map which the Town Board has there is shown (in green) an area which gets inundated with water and also where excessive waters have run off onto the properties and what it does is accumulate in a swamp area. Now, if that cul-de-sac is built the Town or the property owner would have to provide such drainage piping as is necessary to the area.

Supervisor said that if and when this road is constructed it will be with full drainage. Our intention is to address a number of the drainage problems that are present right now in that particular area. When the road is constructed, it will collect the water and take it south. Mr. Steinman said they are concerned about the high water table and the Supervisor said he thinks the road should improve the drainage in the area because it will now have a place for it to collect other than adjacent to the homes.

Town Attorney asked if Mr. Steinman wanted the map to which he had referred to be made a part of the record and Mr. Steinman said yes.

Appearance: Mr. John Fioravanti
2 Rusten Lane
Spring Valley, New York 10977

Mr. Fioravanti said the people at Rusten Estates are in favor of this but the only thing they ask is that the Road that he personally uses not be permanently closed, just a chain across it, nothing permanent. The reason for this is that it is the only access they have to the wooded area for the Fire Department as well as the Sewer Department. There is no other way to the wooded area.

Supervisor said in other words we would have to access the road there. Mr. Fioravanti said leave the road as it is but with a chain. In the event of an emergency there could still be access. Any traffic taken off Pascack Road is more than appreciated.

Supervisor said they are presently in the process of removing abandoned vehicles from Pascack Road as he has been down in the area a number of times recently and if they reappear please let the Supervisor's office know.

There being no one further wishing to be heard, on motion of Councilman Maloney, seconded by Councilman Nowicki and unanimously adopted, the Public Hearing was declared closed, RESOLUTION ADOPTED, time: 8:19 P.M.

Respectfully submitted,
Patricia Sheridan

PATRICIA SHERIDAN,
Town Clerk

Resolution No. (933-1986) ADOPTED

ABE633

TOWN OF CLARKSTOWN
PUBLIC HEARING

275

Town Hall

10/7/86

8:19 P.M.

Present: Supervisor Holbrook
Councilmen Carey, Lettre, Maloney, Nowicki
John Costa, Town Attorney
Patricia Sheridan, Town Clerk

RE: AMENDMENT TO ZONING ORDINANCE OF TOWN OF CLARKSTOWN - AMEND SECTION 106-10A, TABLE 14, COLUMN 3-B ADDING TO ITEM NO. 6 AND ADD NEW PARAGRAPH "Q" TO SECTION 106-16

On motion of Councilman Maloney, seconded by Councilman Nowicki and unanimously adopted, the Public Hearing was declared open. Town Clerk read notice calling Public Hearing and Town Attorney testified as to proper posting and publication.

Town Attorney stated that this is the second time that this matter has come before the Town Board. Previously the Town Board held a Public Hearing with respect to this proposed change and certain technical amendments were suggested by members of the Town Board and it was readvertised. This is the second Public Hearing on this.

Supervisor asked if we had advertised to put in what the Planning Board had put in before and if that was now incorporated into this resolution. Town Attorney said he believed it was. He said the essential change recommended by the Planning Board is in Item 2 where the new version before the Board tonight reads as follows:

"(2) Restaurants associated with office or industrial uses shall occupy no more than 25% of the total floor area on the lot or 2500 square feet, whichever is less."

Town Attorney said the first version did not have "whichever is less." Supervisor said a new number 7 has been added. Town Attorney said that is correct. Supervisor read the new item:

"(7) Restaurants associated with office or industrial uses shall provide at least one on-site parking space per 75 square feet of gross restaurant area. This parking area shall be in addition to the parking provided for the office or industrial use."

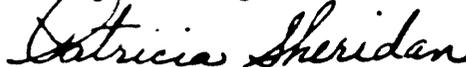
Councilman Carey said it was his recollection that the original also had something to do with "by permit" not "by right." Town Attorney said Column 3 is the Special Permit column so that there is still a special permit required for this use.

Supervisor asked if there was anyone present who wished to speak on this particular issue.

No one appeared.

There being no one wishing to be heard, on motion of Councilman Maloney, seconded by Councilman Nowicki and unanimously adopted, the the Public Hearing was declared closed, RESOLUTION ADOPTED, time: 8:25 P.M.

Respectfully submitted



PATRICIA SHERIDAN,
Town Clerk

Resolution No. (934 ADOPTED)

ABE633

TOWN OF CLARKSTOWN
PUBLIC HEARING

277

Town Hall

10/7/86

8:25 P.M.

Present: Supervisor Holbrook
Councilmen Carey, Lettre, Maloney, Nowicki
John Costa, Town Attorney
Patricia Sheridan, Town Clerk

RE: AMENDING RESTRICTIVE COVENANT MADE BY BEVERLY DEGENSHEIN FOR
VILLAGE GREEN CONDOMINIUMS

On motion of Councilman Nowicki, seconded by Councilman Maloney and unanimously adopted, the Public Hearing was declared open. Town Attorney testified as to proper posting and publication.

Supervisor asked if there was any correspondence relating to this hearing. Town Attorney said he had a memo from the Deputy Director of the Department of Environmental Control indicating that SEQRA review was complied with to the extent required by law.

Town Attorney said the applicant is present and he will present the rationale for the proposal.

Appearance: Mr. Jan Degenshein, Architect
Village Green Properties, Inc.

Mr. Degenshein said the site plan was presented to the Planning Board and approved by them. At that time the patios and decks that were to be placed against the rear of the buildings along the 100 foot buffer at Dustman Lane and the 50 foot buffer along Route 304 were not shown on the plan. The decks are an inherent part of the building and the quality of life to the people who will be living in those particular units. There are some 28 to 30 people who will be living in the units along that area. The decks will extend 8 to 10 feet maximum into the buffer area. They will not cause the removal of any trees from the site.

He further stated that they had asked at the time they started designing the project back in 1979-80 for a reading and interpretation of the buffer zone. The reading that was received from the then Town Attorney, Murray Jacobson, was that the buffer zone could be used for such things as recreational facilities. We had in mind at that time swimming pools, tennis courts, etc., The final site plan did not show swimming pools or tennis courts as they felt that would be invasive to the area. He said they feel 14 decks in the front and 14 decks in the back of the properties will not adversely affect the area. He asked if the Board members had any questions.

Councilman Maloney said he understood that no trees which are a part of the buffer would be disturbed. Mr. Degenshein said that was correct. There were trees which had been removed from the buffer at one time, but that was for drainage purposes. Councilman Maloney said the screening that was to be placed there will still go in and that would be no problem? Mr. Degenshein said that was correct. Councilman Maloney stated that Mr. Degenshein had said that the maximum incursion into the buffer area would be ten feet. Mr. Degenshein again answered in the affirmative. Mr. Degenshein said he would add that during the heavy rain storms and during the course of construction some trees were removed from the area that they felt should not have been removed and the developers have taken it upon themselves to retain a landscape architect to design additional landscaping for that area, which will consist of evergreen and deciduous trees to help fill in the areas where trees have been removed.

Councilman Nowicki asked if the Planning Board had made any comments on this request? Supervisor asked Town Attorney if he had any comments from the Planning Board? Town Attorney said he had

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no correspondence in his folder from the Planning Board. He asked Mr. Degenshein if he was aware of any comments from the Planning Board and Mr. Degenshein said no. Councilman Maloney asked if the Planning Board would normally make comments on a covenant set up by the Town Board?

Councilman Maloney went on to state that if the restrictive covenant was set up by the Town Board as part of this development then it would be up to the Town Board to decide whether they wanted to amend it or not. Would the Planning Board normally have input? Town Attorney said they usually do. He said the Planning Board has looked at the site plan and if he was not mistaken they are not opposed to the decks projecting into the buffer zone. Is that correct? Both Councilman Nowicki and Councilman Maloney said that was their understanding. Councilman Nowicki said she just wondered if they had put anything on the record. Town Attorney said he had no correspondence in his file from the Planning Board. Town Clerk said nothing has been received.

Supervisor asked if anyone present wished to be heard.

Appearance: Mr. Doug Negrin
34 South Cranford Road
Bardonia, New York 10954

Mr. Negrin said the property is basically on the corner of Schweitzer Lane and the property here in question. He said he was at last week's Planning Board Meeting where this issue was discussed and the Planning Board at that point had recommended not to give approval on the decks going into the buffer zone. Supervisor said he was not aware of that but that he would check it out. Town Attorney asked if Mr. Degenshein had been at the Planning Board meeting last week? Mr. Degenshein said no.

Mr. Negrin said as someone living behind that development he thought the 100 foot buffer that was agreed to with the appropriate screening that will be filled in, given the fact that the trees were knocked down during construction, should be maintained. This will maintain the privacy between the condominium lifestyle and the private homes behind it and stay within that 100 foot buffer zone that was agreed to when the building plan was approved. Asking at this time, after the foundation has already been put in, supercedes the whole point of having a buffer zone. If there was a need to have that type of deck, that should have been planned up front. The buildings should have been put in to allow the decks to be built without invading the buffer zone.

Appearance: Mr. Gerald Bierker
131 Ludvig Road
Bardonia, New York

He said his property is essentially on Schweitzer Lane. He said his interest in this matter is somewhat less than some of the other people sitting here by virtue of where he is sited. He said he does have an historical involvement with Village Green. He said he had difficulty with the presumption of the builder to put in his foundations, sited as they were, and then appeal to this Board to grant a variance on something that he knew was in place. He said he joined with Mr. Negrin agreeing that those decks should have been planned for before the foundations were put in place. He said he personally objected to the presumption that the builder now makes that this Board will entertain this motion.

Appearance: Mr. Rosado
50 Dustman Lane
Bardonia, New York

Mr. Rosado said his property was right behind the development in progress. He said they are talking about a 10 foot deck and a patio. He said his area to the buffer zone is only 30 feet. That will only leave 20 feet in which they intend to put in a

PH - Amendments to Restrictive Covenants - Village Green
Page 3

patio and that does not leave much space. There is approximately seven condos going in on that side. In the summertime that is going to encroach on our privacy. They have torn down quite a number of trees. The place is really wide open and they have cut out the privacy that they had. He is really opposed to this request.

Appearance: Ms. Marlene Uris
80 Schweitzer Lane
Bardonia, New York

Ms. Uris said she is the closest neighbor to Village Green. They border her on two sides. She said she has 30 feet on both of these borders so they are very close. She said she feels very hemmed in already and to have the condo dwellers living almost in her back yard is very hard to take.

Councilman Nowicki asked if Mrs. Uris lived there when this development was planned? She said she moved in in November of 1982 so the planning had been going on long before she moved in. Councilman Nowicki said she was very disturbed to hear that the trees are down because she stated that she was on the Planning Board at that time and they went to a great deal of trouble to make sure that those trees would remain and there would be a big buffer between the condominium site and the private homes. Ms. Uris said she went to a lot of Shade Tree Commission meetings where she heard the same words. The beautiful little private lane where the trees formed a tunnel - those trees are down. She said she realized for construction and for drainage a lot of them had to come down. It's painful. She said she has been putting in trees at her own expense at this point to try to create a buffer on her own property again but it is going to take years. It hurts.

Appearance: Mr. Mark Schwartz
120 Schweitzer Lane
Bardonia, New York

Mr. Schwartz said he just purchased his house about two months ago. He did not realize that all of this was going on. One day he woke up and on one whole side of his house the trees were just plowed down and gone. Now, he said if they put up these terraces it will certainly affect his privacy and he is very aggravated about the whole thing. He said he did not realize that this was going to happen when he purchased the house. He thought there was a certain amount of buffer but it doesn't look like the proper amount and it looks as though they cut into some of the trees on his property. He stated he is having a surveyor check into that right now.

Appearance: Ms. Betsy Evans
71 Dustman Lane
Bardonia, New York

Ms. Evans said when they first started with this a long time ago they had gone to a lot of meetings to define what a buffer was and it was discussed a lot. It was her understanding coming away from all those meetings that nothing was to go into the buffer. It wasn't a living area and a deck is a living area. It's an area where people are going to be on a regular basis and she thought it was a little late to turn back and revamp what your position is on a buffer. She said she was unable to quote verbatim what came out of all those meetings but her understanding was that a buffer is a buffer and nothing was to go into it. It was also her understanding that the buffer was to be untouched - all trees and totally untouched. She is concerned and upset over this issue. She would like to see it at the very least remain as it is now.

Supervisor Holbrook said at all those meetings that was what was intended - nothing was to be in the buffer and that's why, for it even to be considered, a public hearing would have to be held such as we are having now. They could not just put it in.

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PH - Amendment to Restrictive Covenants - Village Green
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Councilman Nowicki said she remembered all the meetings and the developer went out of his way at the time to accommodate some of the people whose decks were much higher than the building and new trees were to be brought in.

Appearance: Ms. Marie LaFrancois, representing her
mother, Freida Hobesil
191 Route 304
Bardonia, New York 10954

Her mother's property is right in front of the property in question. She said there are no trees left. They are completely gone. She said the new development is right on top of them. She said with regard to hearings, her mother received one letter for a hearing and this one, the second one. That's it. She never received anything else. Supervisor stated that she had probably received a letter regarding the Planning Board meeting. Ms. LaFrancois said that was quite a few years ago. Councilman Lettre said that was all she should have received.

Appearance: Mr. John Maisey
83 Schweitzer Lane
Bardonia, New York 10954

Mr. Maisey stated that he was a little concerned about the logic. He said to use Mr. Degenshein's own words earlier - he said these decks and patios were an integral part of the buildings which seems to him to preclude them from being put into a buffer zone. It seems to him curious that they should have been omitted from the plans at the time they were submitted. He said this sounded rather like a subterfuge.

Appearance: Ms. Hobesil
Bardonia, New York 10954

She said she had never received any notice regarding this property. Supervisor asked her if it was adjacent to the property? She said she does not live at the property but she has an interest in it. Supervisor said whether you get notice depends on the proximity to the property. She asked doesn't it matter if you are a part owner? Town Attorney told Mrs. Hobesil that she had probably received a letter because her name was on the tax rolls for properties within a specified distance of the affected property. Under the Town zoning ordinance when an action is taken at a public hearing which may affect the zoning classification, and this falls within such type of action, notices are mailed out to property owners within the proximity of the affected property.

Appearance: Mr. Joel Powell
141 Schweitzer Lane
Bardonia, New York 10954

Mr. Powell said his house directly faces the Village Green Condominiums. He said from his house you can see Route 304 and the Palisades Parkway. All the trees, for the most part, have been removed. If the developer knew he was going to need a variance for these decks he could have held off on the foundations pending the meeting. He stated that he felt the developer put the foundations in knowing he would get the variance. That being the case Mr. Powell felt that the developer should not be given the okay. He said he also hoped the trees would be replaced.

Supervisor asked if the applicant wished to make a comment before this hearing is closed pending the Planning Board's report.

Mr. Degenshein said the building permits were already issued for the properties along the west side of the property (those within the 100 foot buffer zone) adjacent to Schweitzer Lane, when

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they felt it would be appropriate to bring to the attention of the Building Inspector that the building permits he had just issued included decks in the buffer zone. Our question to him specifically was not whether we could put decks in the area but whether we could put decks above ground or patios on the ground. It was clear in our minds that, because of previous correspondence with the author of the covenants, who was then Town Attorney, we would be allowed to put decks in the area as long as they were not part of a building.

Mr. Degenshein stated that the specific wording of the covenant is "a buffer zone of 100 feet in which no building shall be constructed." The definition of a building precludes a deck within a foot of the ground and it precludes a patio. Because we could put a swimming pool and a tennis court in the back area, we had no question in our minds that we could also put a patio or a low deck in the back area.

He went on to state that many of the trees which were removed within that 100 foot buffer zone had to be removed because of the constraints placed upon the developer by the Planning Board. The Planning Board required drainage swales which changed the grade of the property to such extent that the trees would have to come down. They would be damaged because of root exposure or because of being buried. Those are the trees within approximately 30 to 50 feet of the buildings.

In addition to that, the Planning Board imposed storm drainage lines underground and they imposed upon the developer sewer lines connecting to Dustman Lane. In one particular instance there was a sewer line that was supposed to go in within 10 feet of the Uris property which is to the south. The developer took it upon himself to take that line northward so that it would not be necessary to remove all the trees that were along that common property line. He said he wanted to remind everyone in the audience that we are not talking about the entire property where the trees were removed. When you have a dense condominium development the trees must be removed to a certain extent but we are talking about the trees within the buffer zone.

Mr. Degenshein further stated that Mrs. Hobesil's property on Route 304 is not the property that is in question. The common property line between us and Mrs. Uris on the east/west border is not the property in question. As a matter of fact the decks will not affect any of the neighbors particularly with respect to their property line or with respect to the trees that will have to be removed. He said he recalled from a meeting when they had a settlement with two aggrieved property owners, one of whom was Mrs. Uris and one was Mr. Stein. (Mr. Stein lived to the north and he is no longer living there. He has sold his property. Mrs. Uris is still living there.) The developer offered to pay them \$2,500.00 each in lieu of landscaping along those property lines. Landscaping was considered because it was very obvious that due to the location of drainage swales that there would be no trees along those property lines and that we had proposed to put in a screening on our property. They felt, Mrs. Uris and Mr. Stein, that it would be better placed on their property to provide privacy to themselves. We agreed to that and that agreement is still in effect.

Mr. Degenshein went on to say that they also feel that the new houses that are on the west side of Dustman Lane actually affect the privacy of the people who are going to be living in his development equally as those from our development affecting the privacy of those people on the other side. He said there were no trees and no buffer left on that development side at all. He said when they went before the Planning Board with a plan for the development of this, there was a footprint for the building - the shape of the buildings on the ground floor. The designs of the buildings had not been completed at that time. They were only in their preliminary stages. They did not know at that time where

decks would be or if the decks would be there but based on the marketing and the needs expressed by prospective purchasers they want to have an outdoor space that is private - that is somewhat disconnected from more common areas, which the buffer zone is, in fact. That is when the design of the decks came into place. This isn't something where we are coming back to request a variance - this is not a variance at all, in fact. We would be before the Zoning Board of Appeals if that were the case. What we are doing is coming back here to request a clarification of an existing covenant. We do not feel that we have broken that covenant or we wouldn't have proposed decks in that place in the first place.

Appearance: Mr. Bernard Spiess

Mr. Spiess said he was Vice President in charge of construction at the site and was more familiar with some of the day to day details that went on than the architect is. In connection with the Hobesil property, he said that is the main entrance and exit from Route 304. The trees that were removed there are all within our property as surveyed by our surveyor. No trees were removed from the Hobesil property. He said they also have extensive landscaping that is going to be restored along that property line on their (the developer's) property but from which Mrs. Hobesil will get the benefit.

He stated that so far as the Uris property is concerned, just north of the Uris property line there is a 15 foot easement for drainage which would have necessitated uprooting trees right against her property. What we did, with the approval of the town, is to move that approximately 125 feet to the north and then enter our own property off Schweitzer Lane just about at the intersection with Cranford which is the street coming out of the Schulson development. At that point it was necessary to remove some trees. He said they came in that way and what they did, in conjunction with the approval of the Town, was to install a storm sewer system not, required of us originally, from the corner of the Uris property back toward Cranford approximately 125 feet and then approximately another 125 feet into our property through this lot we had cut through and tied into our storm drainage system. In effect, we are benefitting the entire Schweitzer Lane by taking the drainage that flowed to the south and usually flooded or collected at the Uris property through our system and piping it out.

He said that in addition, we are going to pave and put an asphalt berm in there and try to further prevent any water which flows in naturally from all of the high properties in the area to try to prevent that water from flooding the Uris property and get it back on to our property and into our retention system.

He went on to say that he objects to the insinuation that there are no trees left. There are a considerable number of trees. Many of the trees that were removed impeded construction because there is a large storm sewer system that runs within the buffer line to the west of our own building line but definitely within this 100 foot buffer. That was imposed on us by the Town. It was necessary not only to cut some trees for the buildings but also to cut trees to get this storm sewer system in. In addition there were trees that were removed which were dead trees. He said there were some good trees removed but unfortunately it is a "dig we must" kind of situation.

He said they have an extensive relandscaping planned for this community. He said they are as interested in preserving the look of the community from Schweitzer Lane because that is really the good side. The other side is a busy street, Route 304. He said we have extensive landscaping going in there too but people kind of whiz by there. Schweitzer Lane is something that is viewed by all of the residents. The landscaping plan is one that even goes beyond

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the one originally approved by the Shade Tree Commission now that we realize the amount of growth and vegetation that did come out. The storm sewer was put in at the developer's cost. The landscaping will be done at the developer's cost. The area has been graded off. They have a sweeper that is sweeping Schweitzer Lane as well as Route 304 and that sweeper is on an every two week basis, or more often, if necessary, because they respect the people to the west and the people to the north and the south of the development. He said they are not a shovel and a wheelbarrow operation by any means and they do not run roughshod over their neighbors. He said they had a meeting with Mr. Stein and Ms. Uris before a shovel was even put in the ground to try to show them the plan and explain to them the things they were up against.

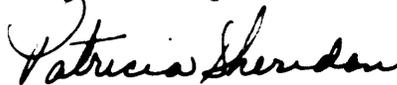
He said he also believes that the people who own these condominiums should have the benefit of going out in their backyard in order to enjoy their own property. You really have to think carefully about what is meant by a buffer. Is it something that is impenetrable? Certainly not by the storm drainage system as it was necessary to get that in. People have the right to step out their back door and be near their house within a reasonable distance of lets say 8 feet to enjoy that approach to their own house and that is really the purpose of our being here tonight.

Supervisor said they should have an answer from the Planning Board by next Tuesday so it will be up for decision on Tuesday, October 14, 1986. Town Attorney said the Planning Board has no meeting before that. Supervisor said they have already discussed this but the Town Attorney said they are not sure of that. Supervisor said one gentlemen, Mr. Negrin, said they have discussed it so we should have their input by then.

Supervisor asked if any members of the Town Board had any other questions?

There being no one further wishing to be heard, on motion of Councilman Maloney, seconded by Councilman Nowicki and unanimously adopted, the Public Hearing was declared closed, DECISION RESERVED, time: 8:55 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

ABE633

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

10/7/86

8:57 P.M.

Present: Supervisor Holbrook
Councilmen Carey, Lettre, Maloney, Nowicki
John Costa, Town Attorney
Patricia Sheridan, Town Clerk

RE: AMENDING TABLE 16, GENERAL USE REGULATIONS, SECTION 106-10B
"NOTE NO. 3"

On motion of Councilman Maloney, seconded by Councilman Carey and unanimously adopted, the Public Hearing was declared open. Town Clerk read notice calling Public Hearing and Town Attorney testified as to proper posting and publication.

Town Attorney stated that he had a short form environmental assessment completed by the Town's Planning Consultant, Mr. Robbert Geneslaw indicating that there is no environmental impact with respect to this proposed change.

Councilman Nowicki asked if the only difference was that the word "use" was left out? Town Attorney said this amendment is a technical correction suggested by the Building Inspector. It would apply to those situations where properties are being redeveloped in areas zoned commercial but the property being redeveloped is adjacent to property presently being used as residential. Under the existing interpretation the side yard would be limited on the redevelopment. Under the new interpretation the side yard would be the side yard required for the zone. Councilman Nowicki said, in other words, the residential use will not affect that side yard under this amendment because it is really commercial. Town Attorney said that is correct - it is a non-conforming use.

Supervisor asked the Town Attorney to please explain this again so that he understood just what the nuances are in all of this. Town Attorney reiterated that Note 3 in Table 16 of the General Use Regulations - Section 106-10B says when you are adjacent to a residential use you have to have a 25 foot side yard. It says use or district. Eliminating the word "use" would allow the property adjacent to a residential use in a commercial zone to develop as far as that zone would normally permit which could be right on the property line in some instances. Supervisor said then you could cover the whole site with a building, is that right? Town Attorney said no you could not cover the whole site with a building because you would not be exempt from the floor area ratio and you must have at least one side yard but in our CS district, for example, you can build right to the property line on one side. However, to give you an example as to how this would work, if there was a residence adjacent to that site then you would have to provide a 25 foot side yard but if that residence was changed to a commercial use then it would no longer be required. Supervisor said then right now the ordinance protects the non-conforming residential use in the commercial zone. Town Attorney said that is correct. Supervisor said then it would be the zone that it is important and not the use. Town Attorney said that is correct. Town Attorney said this is recommended by the Building Inspector. Supervisor said he would like to hear from Mr. Geneslaw on this. Mr. Geneslaw was not available at this time. Supervisor asked Town Attorney if there had been any recommendation from the Planning Board on this. Town Attorney said the only thing he has is the correspondence from Mr. Colucci, the Building Inspector, of July 28, 1986 recommending this language.

Supervisor asked if there was anyone present wishing to make a comment on this amendment?

No one appeared.

Councilman Maloney asked if the memo from Mr. Colucci was dated July 28th and Town Attorney responded in the affirmative. He said he may have written on this before but that was the only one he had in his file at this time. Councilman Maloney said it never

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went to anyone on the Planning Board? Supervisor stated that they are aware of it because he had spoken with Mrs. Schwartz and Mr. Geneslaw about this. Town Attorney said Mr. Geneslaw has submitted a short environmental assessment form which was referred to previously. Councilman Maloney said then what you are saying is that we have no input from the Town Planning Consultant. Supervisor said they will look at it.

On motion of Councilman Carey, seconded by Councilman Nowicki and unanimously adopted, the Public Hearing was declared closed, DECISION RESERVED, time: 9:05 P.M.

Respectfully submitted,



PATRICIA SHERIDAN