

Zoning Board



1992



TOWN OF URBANA ZONING BOARD OF APPEALS MEETING
December 16, 1992

PRESENT: Joseph C. Littleton, Chairman
James Bailey, Member
William Doherty, Member
Robert Domras, Member
Roxanne Gaylord, Recording Secretary

PUBLIC Joseph Meade, Sr.
PRESENT: Carol Jenkins

The Zoning Board of Appeals of the Town of Urbana held a Public Hearing on December 16, 1992, commencing at 7:00 P.M.E.S.T. in the Town Hall. Affidavit of Publication is on file.

Chairman Littleton convened the Public Hearing regarding the Variance Application of the Glenn H. Curtiss Museum at 7:01 P.M.E.S.T. The applicants had requested a variance for the purpose of placing a sign along State Route 54. Joseph Meade, Sr. and Carol Jenkins were in attendance, representing the museum. Chairman Littleton outlined the Board's procedures to the public present. He explained that the ZBA must find a basis in the law to either grant or deny a variance or special use permit.

After a brief discussion regarding the size of the sign, Chairman Littleton pointed out that the sign permit had been denied not on the basis of size, but on the basis of location. The Chairman explained that the proposed location is zoned residential, and the proposed sign is properly classified as a "Sign, Advertising," as per Section 105-4: "A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises or only incidentally on the premises." The Chairman further explained that he could find no place in the law which allows an advertising sign to be placed in a residential district.

Carol Jenkins asked whether the consent of the property owner would make a difference. The Chairman stated that it would not. Mr. Meade stated that in his opinion, the sign would serve only to help people find the museum, and should not be considered an advertisement. Chairman Littleton explained that the law does permit municipal signs, such as stop signs or street signs in residential districts, but that the museum sign could not be classified as municipal. James Bailey inquired about the sign recently approved for the Hammondsport Fire District. It was determined that the Fire District is a municipal agency. Mr. Bailey then inquired about the motel sign in the same vicinity. Chairman Littleton replied that, while that sign is not municipal, it pre-existed the zoning laws. Mr. Bailey concurred, but expressed his concerns about fair and equitable use of the land. The Chairman pointed out that the law does not allow the Board to grant a variance which would constitute special privilege not generally available to other property owners similarly zoned. He stated that to his knowledge, there are no advertising signs on the side of the lake referred to in the current application. William Doherty requested that the findings from the

previous meeting, dealing with variance granted to the Hammondsport Fire District, he reviewed. Chairman Littleton read these findings.

Chairman Littleton then reviewed the seven classifications of signs listed in the Town Code to determine whether the proposed sign could be reclassified, i.e., as other than advertising. It was determined that none of the other categories were appropriate. Robert Domras inquired as to the applicability of Section 105-10 D.1.b., which allows signs in residential districts as an accessory use. Chairman Littleton explained that he had requested a legal opinion on this point and had been advised by counsel that this situation did not fit the legal definition of accessory use, i.e., the sign would not be incidental and subordinate to the primary use of the property on which it would be located. The Chairman also pointed out that granting an exception in this case would set a precedent which could be cited by future applicants.

Chairman Littleton inquired about the possibility of moving the sign across the road, an area zoned agricultural. Mr. Meade replied that the sign would then be facing the wrong way. Robert Domras asked if any other locations would be possible. James Bailey noted that the Wayne town line is not far from the proposed sign location and that the sign may not have to meet the same restrictions in Wayne as it would in Urbana.

After a brief discussion, the Chairman asked if there were any other facts which should be considered in this matter. As there were none, the Public Hearing was closed at 7:35 P.M.E.S.T.

The Chairman called the Regular Meeting of the Zoning Board of Appeals into session at 7:35 P.M.E.S.T. Robert Domras made a motion to approve the minutes of the November 12, 1992, meeting, as submitted. James Bailey seconded the motion. All members voted "Aye."

In old business, the Chairman advised the Board that he had received letters from Robert W. Sparkes, 325 West Lake Road, Hammondsport; Emery R. & Gladys D. Breniman, 23 E. Chatfield Place, Painted Post; S. Joseph Muccigrosso, 103 Goff Road, Corning; and Ruth B. & T. Allan Nicol, 775 Larchmont Road, Elmira; concerning the variance granted to Sharon Kelly Sayers, 332 West Lake Road, Hammondsport. The letters stated that Ms. Sayers had exceeded the terms of her variance and requested that action be taken. After reviewing these documents, the Board directed the secretary to place the letters on file and to respond to each person individually, notifying them that their letters had been received and that the Sayers matter has been referred to the Code Enforcement Officer and the Town Attorney for appropriate action.

The Board then turned to the matter of the Glenn H. Curtiss Museum. The Board made the following findings:

1. The sign proposed is properly classified as a "Sign, Advertising" in paragraph 105-4 of the zoning law.
2. The zoning law does not allow the erection of a "Sign, Advertising" in a residential district.

3. The variance is not required to allow reasonable use of the property.
4. Denial of the variance imposes no economic hardship on the landowner.
5. There is no similar advertising along State Route 54 in the residential district. To grant the request would be special privilege not available to other property owners of similarly zoned property.
6. The proposed sign would be a convenience to tourists, but alternate locations are possible.

The Chairman stated that in his opinion, the granting of this variance would establish a harmful precedent, because it could be cited in the future as a basis for extending sign privileges to ordinary business advertisers.

Mr. Meade inquired as to the possibility of replacing an existing Curtiss Museum sign, presently located near Champlain Beach, with the sign described in the current application. The Chairman advised him that the Champlain Beach area is also zoned residential. Mr. Meade asked about the Keuka Maid sign located in that same vicinity. Robert Domras explained that a Special Use Permit had been granted in that case, and that the museum would also have to submit an application for such a permit. At the request of the applicant, the Chairman read the findings made in the Keuka Maid case.

After a brief discussion, James Bailey made a motion to accept the six findings listed above. Robert Domras seconded this motion. Roll call vote was taken:

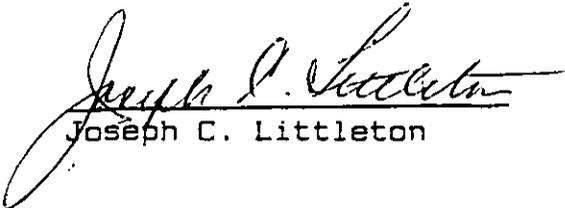
| | |
|--------------------|--------|
| Robert Domras | -- Aye |
| Chairman Littleton | -- Aye |
| William Doherty | -- Aye |
| James Bailey | -- Aye |

James Bailey made a motion to deny the Variance. William Doherty seconded this motion. Roll call vote was taken:

| | |
|--------------------|--------|
| Robert Domras | -- Aye |
| Chairman Littleton | -- Aye |
| William Doherty | -- Aye |
| James Bailey | -- Aye |

As there was no further business before the Board, Robert Domras made a motion to adjourn the meeting at 8:00 P.M.E.S.T. James Bailey seconded this motion. All members voted "Aye."

Approved


Joseph C. Littleton

TOWN OF URBANA ZONING BOARD OF APPEALS MEETING
November 12, 1992

PRESENT: Joseph C. Littleton, Chairman
James Bailey, Member
Robert Cornell, Member
William Doherty, Member
Robert Domras, Member
Brian C. Flynn, Attorney for the Town
David Oliver, Code Enforcement Officer
Roxanne Gaylord, Recording Secretary

PUBLIC Billy Cagel
PRESENT Tim Tompkins
Bill Fries
Don Howard
William Garrison
L. Paul Wood
Dorothy Beers
Barbara Littleton
George Veley

The Zoning Board of Appeals of the Town of Urbana held Public Hearings commencing at 8:00 P.M.E.S.T. in the Town Hall on November 12, 1992. Affidavit of Publication is on file. Chairman Littleton outlined the Board's procedures to the public present. He explained that the ZBA must find a basis in the law to either grant or deny a variance or special use permit.

Chairman Littleton convened the Public Hearing regarding the Variance Application of Billy J. Cagel at 8:05 P.M.E.S.T. The applicant had requested relief from the density requirement for the purpose of placing a double wide mobile home. Mr. Cagel was present to answer questions. The Chairman explained that Mr. Cagel's building permit had been denied, pursuant to Town Code Sections 105-21 B.1. and 105-15 A.1., which require two (2) acres for every dwelling in a agricultural district. The proposed dwelling would be the fourth dwelling to be located on a parcel of 7.24 acres; 8 acres are required by law. The Chairman asked Mr. Cagel to explain why he felt that a variance should be granted. Mr. Cagel explained that a single wide mobile home had been removed from the proposed building site one year ago and that the proposed replacement would be an improvement to the property. The Board then examined a sketch of the 7.24 acre parcel which indicated the location of existing dwellings and the proposed building site. Chairman Littleton pointed out that there were more than 3 structures indicated on the sketch. Mr. Cagel answered that the property currently holds 3 occupied residences and 4 vacant structures (1 house and 3 mobile homes). James Bailey asked Mr. Cagel if he plans to remove or demolish the vacant structures. Mr. Cagel stated that he planned to take such action, eventually. It was his understanding of the Code that a mobile home could be replaced with another mobile home of equal or greater value. Chairman Littleton asked if the new mobile home would be of equal or greater value than the one which had been removed. Mr. Cagel answered affirmatively, stating that the previously existing structure had been a 1965 10' X 60', currently worth approximately

\$3,000; the proposed structure would be a 1993 28' X 48', valued at \$30,000.

The Board studied the sketch of the property and consulted the Code regarding mobile home regulations. The Chairman then asked for comments from the public. On behalf of the applicant, Code Enforcement Officer David Oliver stated that this property has been cleaned up considerably in the past year. As there were no further comments or questions regarding this matter, the Public Hearing was adjourned at 8:20 P.M.E.S.T.

Chairman Littleton convened the Public Hearing regarding the Variance Application of the Hammondsport Fire District at 8:20 P.M.E.S.T. The applicants had requested relief from sign regulations for the purpose of replacing a sign which had rotted. Fire Chief Bill Fries and Assistance Fire Chief Don Howard were present to answer questions. The Chairman explained that law restricts the size of the sign to 30 square feet. He then asked a representative from the Fire District to describe the proposed sign for the Board. Bill Fries stated that the sign, with framework, would measure 4' X 8', or 32 square feet. He stated that the actual sign face measures 3'6" X 8'. James Bailey asked if this is the same size as the previously existing sign. Mr. Fries answered that the new sign would be slightly smaller. Mr. Bailey asked if the new sign is to be placed in the same location. Mr. Fries explained that it would be moved back 10' in order to meet the 40' setback requirement from the highway. The Chairman asked for comments from the public. Don Howard stated that in his opinion, the sign did not actually exceed the limits of the law, as the dimensions specified in the Code, to his understanding, refer to the face area. He also pointed out that the messages to be displayed on this sign will benefit the community. As there were no further comments or questions regarding this matter, the Public Hearing was adjourned at 8:24 P.M.E.S.T.

Chairman Littleton convened the Public Hearing regarding the Special Use Permit for Snug Harbor Marina & Restaurant, Inc. at 8:24 P.M.E.S.T. Property owner Tim Tompkins had applied for a Special Use Permit for the purpose of renting one or more rooms on a daily, weekly or monthly basis. Mr. Tompkins was present to answer questions.

Attorney Flynn directed the secretary to note that he refuses himself from activity in this case. Attorney Flynn explained that he had previously represented Mr. Tompkins in a matter in the Town of Corning and had previously rendered legal services to Mr. Tompkins's mother regarding the sale of certain real property. In addition, Attorney Flynn stated that he had been the recipient of inquiries from the Town governing body regarding the current matter, and had received from the Town Clerk a letter dated October 31, 1992, from certain neighbors. Before leaving the table, Attorney Flynn advised the Board that it was his understanding of the law that privileges granted by Special Use Permit run with the land. The Chairman then read the letter referenced by Attorney Flynn into the record and directed the secretary to file the letter with these minutes.

The Chairman asked Mr. Tompkins to explain why he felt that the Special Use Permit should be granted. Mr. Tompkins stated that he had first looked at this property in 1988, prior to the existence of

zoning laws in the Town of Urbana. During the course of property negotiations, finalized in January 1989, zoning laws were in fact adopted, although Mr. Tompkins stated that he was unaware of this. He stated that in his view, he had purchased a piece a property that had a residential unit in place for 100 years, with a restaurant, and with docks. Mr. Tompkins explained that the property was not in good repair and that he had invested a considerable amount of money in new docks, which immediately became a source of controversy with the neighbors. He felt that he resolved that issue in a cooperative manner, despite his financial investment. He stated that had restored this landmark restaurant and merely wishes to make use of the rental suite which existed at the time of purchase. He did not foresee any adverse impact from rental of the suite on a nightly, as opposed to a monthly basis, e.g. as an apartment.

Chairman Littleton asked if rooms had been rented prior to the zoning laws. Mr. Tompkins answered that originally, the property was a hotel with a bar. Chairman Littleton asked how recently rooms had been rented, prior to Mr. Tompkins's ownership. Mr. Tompkins stated that he did not know the exact date, but that he had spent a summer there, his mother had spent a summer there, and various employees had lived there. James Bailey asked if Mr. Tompkins was referring to the top floor of the building, to which Mr. Tompkins answered affirmatively. He added that he had no intentions of running a boarding house or adding on to the existing structure.

Robert Cornell asked how the proposed use differs from situations in which lake residents offer their cottages as rental property, and asked if any of the neighbors who had signed the aforementioned letter were present; none were. Mr. Cornell asked if any one present could speak to the objections of these neighbors. William Garrison stated that he had spoken with Phil Jones, who had signed the letter, and stated that to his understanding, Mr. Jones's primary concern was that the rental suite had been advertised in the local Shopper, and that Mr. Jones feared that Snug Harbor would turn into a boarding house or a hotel. James Bailey asked Mr. Tompkins if he had any intentions to expand. Mr. Tompkins stated that he only wants to use the existing space. Dorothy Beers commented that previous owners of the property had lived in the third floor suite during their ownership. James Bailey concurred. William Doherty reiterated Mr. Cornell's point about summer rental cottages, which do not require Special Use Permits. Mr. Domras pointed out that these cottages are often offered on a weekly basis and are usually advertised in the newspaper. Barbara Littleton stated that in her conversation with one of the neighbors, the concern seemed to be about expansion and setting a precedent, not about renting the existing rooms. Mr. Tompkins stated that he would be willing to go on record at this Public Hearing as having no desire to expand the rental use of this property beyond the existing space. As there were no further comments or questions regarding this matter, the Public Hearing was adjourned at 8:43 P.M.E.S.T.

The Chairman called the Regular Meeting of the Zoning Board of Appeals into session at 8:43 P.M.E.S.T. William Doherty asked that a correction be made to the minutes of the October 14, 1992, meeting which was duly noted and initialed by the Chairman. The Chairman also noted and initialed one correction of spelling. James Bailey then made a motion to approve the minutes, as revised. William Doherty seconded the motion. All members voted "Aye."

As there was no old business, the Board turned to the application of Billy J. Cagel. The Board made the following findings:

1. No adverse opinion has been received from the Planning Board.
2. The property is zoned agricultural.
3. A mobile home formerly occupied the site of the proposed construction, prior to passage of the zoning laws. It was removed in November of 1991.
4. The proposed home is of much greater value than the mobile home removed. The applicant feels that under section 105-36 B.3., the installation of a replacement mobile home should be allowed.
5. The applicant plans to remove the unused dwellings from the property as soon as practical.

James Bailey made a motion to accept these findings. William Doherty seconded this motion. Roll call vote was taken:

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|--------------------|--------|
| Robert Cornell | -- Aye |
| Robert Domras | -- Aye |
| Chairman Littleton | -- Aye |
| William Doherty | -- Aye |
| James Bailey | -- Aye |

James Bailey made a motion to approve the request for variance. Robert Cornell seconded the motion. Roll call vote was taken:

| | |
|--------------------|--------|
| Robert Cornell | -- Aye |
| Robert Domras | -- Aye |
| Chairman Littleton | -- Aye |
| William Doherty | -- Aye |
| James Bailey | -- Aye |

Chairman Littleton stated that the ZBA has the authority to attach any restrictions or provisions which it may deem necessary to this approval. James Bailey proposed that the unused dwellings be demolished or removed within a period of 3 years. Attorney Flynn advised that the Board should nominate the specific structures to be demolished and/or removed, and specify a date by which this action must be completed. Chairman Littleton and Mr. Cagel identified the structures by number on the sketch provided by Mr. Cagel. Finding #5 was then expanded to read as follows:

5. The applicant plans to remove the unused mobile homes from the property. The applicant has filed a sketch of the property showing four unused structures, and agrees to the removal of all structures as time and funds permit, but not to exceed a period of 3 years, ending November 12, 1995.

James Bailey made a motion to accept the amended findings. Robert Cornell seconded this motion. Roll call vote was taken:

| | |
|--------------------|--------|
| Robert Cornell | -- Aye |
| Robert Domras | -- Aye |
| Chairman Littleton | -- Aye |
| William Doherty | -- Aye |
| James Bailey | -- Aye |

The Chairman directed the secretary to place the sketch on file and to return a copy to Mr. Cagel along with the decision of the Board.

The Board then turned to the matter of the Hammondsport Fire District. The Board made the following findings:

1. No adverse opinion has been received from the Planning Board.
2. The property lies in an area zoned residential but the actual use of the property and all contiguous property is municipal.
3. The proposed sign will be slightly smaller than the pre-existing sign and will be located 40' from the highway.
4. The actual face area of the sign to be constructed is 30 square feet, not including framework.

Robert Domras made a motion to accept these findings. Robert Cornell seconded the motion. Roll call vote was taken:

| | |
|--------------------|--------|
| Robert Cornell | -- Aye |
| Robert Domras | -- Aye |
| Chairman Littleton | -- Aye |
| William Doherty | -- Aye |
| James Bailey | -- Aye |

Robert Cornell made a motion to approve the request for variance. James Bailey seconded this motion. Roll call vote was taken:

| | |
|--------------------|--------|
| Robert Cornell | -- Aye |
| Robert Domras | -- Aye |
| Chairman Littleton | -- Aye |
| William Doherty | -- Aye |
| James Bailey | -- Aye |

The Board then turned to the matter of Snug Harbor Marina & Restaurant, Inc. The Board made the following findings:

1. No adverse opinion has been received from the Planning Board.
2. The property lies in a residential zone. Its use as a restaurant is permitted as a pre-existing, non-conforming use.
3. It appears that previous owners have used the property as a residence in addition to its use as a restaurant. It appears that the residential space on the top floor has been rented at some time in the past, prior to the zoning laws.
4. The applicant states that the rental of space will be limited to the two-bedroom suite on the top floor of the existing building and

further that the rental space will not be expanded, nor will the character of the property be changed in the future.

James Bailey made a motion to accept these findings. Robert Cornell seconded this motion. Roll call vote was taken:

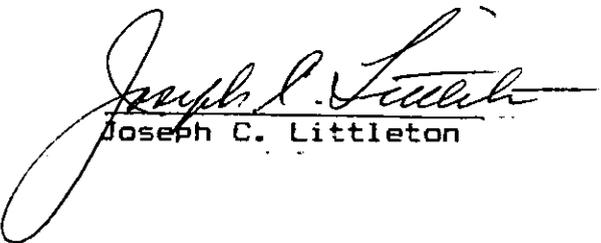
| | |
|--------------------|--------|
| Robert Cornell | -- Aye |
| Robert Domras | -- Aye |
| Chairman Littleton | -- Aye |
| William Doherty | -- Aye |
| James Bailey | -- Aye |

James Bailey made a motion to grant the Special Use Permit, limited to the upper-story two-bedroom suite, and not to include expansion or change in the character of the property. Robert Cornell seconded this motion. Roll call vote was taken:

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|--------------------|--------|
| Robert Cornell | -- Aye |
| Robert Domras | -- Aye |
| Chairman Littleton | -- Aye |
| William Doherty | -- Aye |
| James Bailey | -- Aye |

As there was no further business before the Board, Robert Domras made a motion to adjourn the meeting at 9:15 P.M.E.S.T. Robert Cornell seconded this motion. All members voted "Aye."

Approved


Joseph C. Littleton

October 31, 1992

Mr. Joseph C. Littleton, Chairman
Zoning Board of Appeals
190 East Lake Road
Hammondsport, New York 14840

Dear Mr. Littleton:

The inquiry regarding Snug Harbor Restaurant renting overnight suite accommodations was initiated for two reasons:

1. to enforce the Town's Zoning Laws as they apply to our residential area
2. to ensure that no precedent is established which would allow future expansion of the "Harbor" into a boarding house or hotel.

We, the neighbors, don't want to deny the "Harbor" the opportunity to operate a profitable restaurant. It is in our own best interest that the facility continue to be attractively maintained and operated as a first-rate dining establishment. However, we are concerned that this non-conforming use could lead to an expanding rental business which is totally incompatible with our adjacent properties.

Tim Tompkins violated the Zoning Laws by advertizing and renting the suite throughout the summer. If those laws are to serve their intended purpose, he must be made to comply.

We, therefore, respectfully request the Zoning Board of Appeals to consider the potential adverse impact on this residential district and deny his request for a special use permit.

However, if, contrary to our petition, the Board should decide otherwise, we ask that appropriate safeguards and time limitations be attached including:

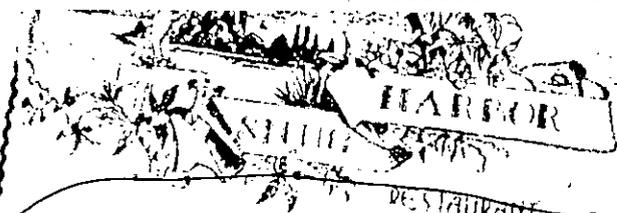
- rental space be limited to the existing two bedroom space,
- the permit be terminated if the present owner, Mr. Tim Tompkins, sells or leases the Restaurant to another party.

Thank you for your consideration.

Respectfully,

Anne Cohn
Tom & Audrey George
Maurice & Martha Hoyt
Phil & Fran Jones
Earl Lewis
Bill Weeks
Fred & Betty White

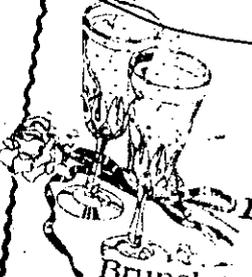
cc: Bill Garrison



144 West Lake Road
Hammondsport, New York
Phone: 607-863-3488

OPEN 7 Days A Week
for Dinner 4 pm-9 pm;
Lunch
Mon. Sat. 11 am-2 pm;

Now Enjoy the Weekend at Snug Harbor!
Deluxe 2 bedroom suite now available for overnite accommodations.
Call for information and reservations.



Join Us For Our Famous...

GRAND BUFFET, CHAMPAGNE BRUNCH

10:00 am - 2:30 pm **\$12.95** (1/2 Price for children under 8)

Brunch Includes: Fresh Fruit Bar, Assorted Salads,
Whole Cold Poached Salmon, Beef Burgundy, Shrimp
Newburg, Quiche, Omelettes Made to Order, Belgian Waffles
to Order, Eggs Benedict and a Sweet Table with Muffins,
Croissants, Bagels, Danish, Cakes, Cookies & Candy.
Unlimited Bloody Marys & Champagne Mimosas
for the adults.

JOIN US FOR LUNCH!
Monday thru Saturday
11:00 am 'til 2:00

EARLY BIRD

DINNER SPECIALS



STATE OF NEW YORK

RECEIVED

SS

OCT 26 1992

COUNTY OF STEUBEN

BRIAN C. FLYNN,
HAMMONDSPORT, NEW YORK

DOUGLAS STABLEY

APPLICATION OF VARIANCES
 PLEASE TAKE NOTICE that a Public Hearing will be held before the Town of Urbana Zoning Board of Appeals, Town of Urbana, Steuben County, Hammondsport, New York at the Town Offices at 41 Lake Street, Hammondsport, New York, November 12, 1992 at 8:00 P.M. to consider the following variances:
 APPEALS NO. 16 of 1992
 Hammondsport Fire District has applied for a variance pursuant to Chapter 105, Section 105-34 A (1) of the Zoning Law No. 1 of 1988 for the purpose to replace rotten sign with new metal sign.
 APPEALS NO. 17 of 1992: Billy J. Cagle has applied for a variance pursuant to Chapter 105, Section 105-21(b) (1) Section 105-15 A(1) of the Zoning Law No. 1 of 1988 for the purpose to place a new double wide on lot where a single wide was removed last November.
 APPEALS NO. 18 of 1992: Snug Harbor Marina and Restaurant Inc. has applied for a variance pursuant to Chapter 105, Section 105-10 S.2 (a) of the Zoning Law No. 1 of 1988 for the purpose to utilize per existing and allow to rent it out on a daily basis, weekly or monthly basis.
 October 16, 1992
 Joseph Littleton, Chairman
 Zoning Board of Appeals
 11/10/92

of Corning, in said County, being duly sworn doth depose and says that he is a billing clerk of *The Leader*, a public newspaper, published in said County, and that the Variances notice of which the annexed is a printed copy, cut from said newspaper, was printed and published in said newspaper 1 times each week for 1 weeks. The first publication being the 23 day of October 1992, and the last publication upon the 23 day of October 1992.

Douglas Stabley

Subscribed and sworn to before me, this 23rd day of October, 1992.

Robin Sweet
Notary Public

ROBIN L. SWEET
Notary Public, State of N.Y.
County of Steuben
11/10/92

TOWN OF URBANA ZONING BOARD OF APPEALS MEETING
October 14, 1992

PRESENT: Joseph C. Littleton, Chairman
James Bailey, Member
Robert Cornell, Member
William Doherty, Member
Robert Domras, Member
Roxanne Gaylord, Recording Secretary

PUBLIC Jack Bishop
PRESENT: Frances Coe
Leonard Martin
Randall Hevner
Douglas Snyder
William Venema, Chairman, Town of Urbana Planning Board
Mardo Doherty, Member, Planning Board
Robert Magee, Member, Planning Board

Chairman Littleton convened the Public Hearing regarding the Variance Application of the Snakes Motorcycle Club, Inc., at 7:04 P.M.E.D.T. The applicants had requested relief from setback requirements for the purpose of building a 24' X 60' pavilion. Present to answer questions were Randall Hevner, Secretary, Snakes Motorcycle Club, Inc., and Douglas Snyder, club member.

Chairman Littleton outlined the Board's procedures to the public present. He explained that the ZBA must find a basis in the law to either grant or deny the variance, and asked the applicants to explain why they felt that a variance should be granted. Mr. Snyder stated that the club wished to place the pavilion 25' from the road, rather than the required 50', because the location of the club's water supply, an artesian well, prevented adherence to the 50' requirement. Mr. Snyder felt that it would not be possible to build the pavilion anywhere other than the proposed location, due to the swampy soil which would cause the structure to constantly settle.

Chairman Littleton stated that while inspecting the site, he had noticed some concrete which appeared to be the remnants of a previously existing foundation. Mr. Snyder replied that the concrete had been recently brought in as fill. Mr. Doherty asked if the proposed structure would have a ~~stone/dirt~~ foundation. Mr. Snyder answered only a stone/dirt foundation. It would have no side walls, only a roof and poles.

Upon examination of the maps submitted with the application, Chairman Littleton asked about alternate locations for the structure. Mr. Snyder stated that none of these areas would hold; they had all been previously filled and continued to settle. Mr. Doherty brought up the possibility of building on pole supports. Mr. Bailey asked if test holes had been dug to locate bedrock.

Mr. Snyder stated that there is no bedrock. He felt that the weight of the roof would cause the structure to settle even if it were built on pole supports.

Mr. Bailey asked if the pavilion could be built over, or next to the water supply, since it would not be an enclosed structure. Mr. Snyder explained that the water comes into a holding tank surrounded by a cement block which protrudes 4' to 5' above the ground. Mr. Bailey pointed out that the Mercury Aircraft Plant, located on similar soil type, had been built using sunken telephone poles as pilings. These pilings supported much more weight than that which would be involved in the proposed structure.

Mr. Cornell asked how many vertical poles would be used to support the roof, to which Mr. Snyder answered six poles, spaced 10' apart. Mr. Cornell pointed out that were the 50' setback met, the given dimensions of the structure would place only the back two poles in the swampy area. He suggested that pilings could be used to support these two poles. Mr. Snyder agreed that this might be possible. Mr. Cornell further pointed out that building on this type of soil is not beyond current engineering techniques. Mr. Snyder expressed his concern about the cost of such methods and stated that the club wanted a structure that would support a good roof. Mr. Doherty inquired as to the type of floor proposed. Mr. Snyder replied that the floor would be crushed stone.

Mr. Domras brought up the possibility of building on a floating slab. He agreed with Mr. Cornell that engineering problems did not preclude construction on this type of soil--that it is only a matter of expense. Mr. Cornell stated that considering the type of use that this structure would receive, parties, etc., the pavilion would be too close to the road from a safety standpoint. Mr. Bailey asked whether an engineer had been consulted to determine whether the front poles could be made to bear the main weight of the roof, to which Mr. Snyder answered negatively. Mr. Bailey commented that the ground seemed fairly substantial when he had inspected the site. Mr. Snyder explained that some work had recently been done for drainage, but that the settling would continue.

At this point, the opinion of the Planning Board was read into the record. The Planning Board had recommended that the variance be denied. The secretary was directed to file the opinion with these minutes.

Chairman Littleton asked how many members belong to the club, to which Mr. Hevner answered twelve. The Chairman asked how many people would use the proposed pavilion, to which Mr. Hevner answered a maximum of fifty. The Chairman inquired as to the provisions for sewage and garbage disposal. Mr. Snyder explained that the club has a leech bed and septic system. Chairman Littleton asked how the soil could take the septic system but not the proposed structure. Mr. Snyder stated that the septic's location actually cut down on possible sites for the pavilion, since the system is located where the soil is sound. The Chairman

explained that these questions concerning septic, garbage, etc. arose from the intensification of use which may occur, should the pavilion be built. Mr. Hevner stated that the club has a garbage disposal service that picks up once a week. The Chairman inquired about the availability of additional parking spaces. Mr. Hevner stated that, as the vehicles would be mostly motorcycles, parking space was adequate.

As there were no further comments or questions in the matter, the Public Hearing was adjourned at 7:31 P.M.E.D.T.

Chairman Littleton convened the Public Hearing regarding the Variance Application of Larry Thibodeau, by his agent, Jack B. Bishop, power of attorney, at 7:31 P.M.E.D.T. The applicant had requested a variance from the lot area requirement for the purpose of subdivision.

The Chairman asked Mr. Bishop to explain why he felt the variance should be granted. Mr. Bishop stated that he had been authorized by Mr. Thibodeau to manage the property in question shortly after its acquisition. He then sold a portion of the lot, with frontage measuring 150', along with the existing house, to Frances Coe. Because the adjacent property owner, Mr. Leonard Martin, had done some work on the house prior to its sale, Mr. Bishop now wished to add the remaining 100' to Mr. Martin's property.

Mr. Martin inquired as to the taxes on the property. Mrs. Coe replied that at the time she purchased her property, she had been advised by the Town Assessor that, as the house was in poor condition, the taxes would be divided 3/5 to 2/5 for the 150' and 100' portions, respectively. She stated that for a time, however, she had paid the taxes for the entire parcel, even though her contract with Mr. Bishop stated that she was purchasing only 150'. Mrs. Coe stated that when she entered into this contract, neither she, her husband, or Mr. Bishop, were aware of the zoning regulations which require a 2 acre minimum area for a legal lot. She stated that she had no use for the 100' and did not wish to purchase it.

Robert Cornell asked if Mr. Martin wanted the 100' added to his property. Mr. Martin said that he did not. Mr. Bishop stated that if Mr. Martin did not want the land, he would be faced with owning 100' of land with which he could do nothing. Robert Dornas asked if at some time, Mr. Martin had indicated that he wanted the property. Mr. Martin replied that he had wanted the entire property, including the house, but that he could not arrange financing. Mr. Martin stated that most of the 100' is so wet that he had no use for it.

The Board was then addressed by Ms. Purdy, a neighboring property owner. (The map supplied with the Bishop application identifies Ms. Purdy's property by the name of her husband, Mr. Bell.) She stated that she was curious about the purpose of the proposed transition. Mr. Bishop stated that nothing about the property would change except for the ownership.

Chairman Littleton asked when the transfer from Thibodeau to Coe was accomplished. Mr. Bishop stated that it has not been recorded; Mrs. Coe is buying the land on contract. The contract dates from 1989. Mr. Bishop further stated that he wants the 100' listed on a separate deed, regardless of whether Mr. Martin accepts the land.

The Board was addressed by Mrs. Coe. She explained that at one time, Mr. Martin believed he was going to buy the Thibodeau property. Mr. Martin then did some work on the house at his own expense. Because the sale did not go through, Mr. Bishop offered to deed 100' of land to Mr. Martin, assuming that Mr. Martin could then sell the property and pay off the debts he had incurred. This being precluded by zoning regulations, Mrs. Coe stated that, should Mr. Martin not accept the 100', she wants to insure that the land will not be used in any way that would disrupt the character of the neighborhood. Mr. Domras asked if Mrs. Coe had considered taking the 100' herself. She said she had considered it, but has no use for the property.

The Board was addressed by Robert Magee. Mr. Magee stated that regardless of any terms and conditions settled upon between the parties involved, the Code of the Town of Urbana does not permit the subdivision of a lot which results in the creation substandard lots. He continued by explaining that in order for the 2.1 acres to be considered as two separate lots with 150' and 100' of frontage, an application for subdivision should have been made. Robert Domras asked if such an application had been submitted. Mr. Magee answered that, to the best of his knowledge, it had not. Mr. Domras stated that in his view, the 2.1 acres should be kept in tact.

Chairman Littleton pointed out that the ZBA does not have the power to grant Mr. Bishop permission to subdivide his property, nor does it have the power to overrule a decision of the Planning Board. The Planning Board, at its meeting of August 5, 1992, denied Mr. Bishop's application for subdivision. Chairman Littleton explained that, after receiving a call from Mr. Bishop regarding his dilemma, and after researching the matter and consulting with ~~some~~ Chairman Littleton had written a letter to Mr. Bishop indicating that he may wish to seek a variance from the subdivision regulations under section 105-44 F.3. (The code citation in the Chairman's letter was mistakenly given as 105-41 F.3. The Chairman made and initialed the necessary correction on his copy of this letter, filed with these minutes). After reading this letter to the Board members and the public present, the Chairman indicated that the ZBA had jurisdiction in this matter only in so far as section 105-44 F.3 may apply. The Board reviewed this section of the Code.

As there were no further comments or questions regarding this matter, the Chairman advised Mr. Bishop of the Board's procedures. Mr. Bishop left the meeting. The Public Hearing was closed at 8:00 P.M.E.D.T.

The Chairman called the Regular Meeting of the Zoning Board of Appeals into session at 8:00 P.M.E.D.T. The Chairman proposed several corrections to the minutes of the October 1, 1992, meeting, which were noted and initialed. Robert Cornell made a motion to approve the minutes of the October 1, 1992, as revised. Robert Domras seconded the motion. All members voted "Aye." The secretary was directed to prepare a corrected copy of the minutes for the Chairman's signature.

As there was no old business, the Board turned to the application of Larry Thibodeau by Jack Bishop. After reviewing the facts of the matter, Chairman Littleton stated that in his opinion, the ZBA had no power to grant a variance in any case other than the annexation of the land to the adjacent property owners. Mr. Domras said that in his opinion, section 105-44 F.3. would not apply in this case, since only one parcel would be annexed to an adjacent property owner, not each and every parcel, as the code states. The Chairman felt that the paragraph did give the ZBA the power to authorize a sale, but as there was to be no sale, the authority should not be given. The Board was addressed by Bill Venema, who pointed out that this proposal would create 2 non conforming lots from 1 conforming lot, even if Mr. Martin wanted the 100'. The Board then made the following findings:

1. The property is zoned agricultural and lies in the flood plain.
2. The proposed subdivision will create a substandard sized lot, less than 2 acres.
3. The applicant wishes to transfer a parcel 100' wide from Thibodeau to Martin.
4. Mr. Martin does not want the 100' lot added to his property.
5. 150' frontage out of 250' of the Thibodeau property is being sold to the Coes by land contract. The transfer has not been recorded.

James Bailey made a motion to accept these findings. William Doherty seconded this motion. Roll call vote was taken:

| | |
|--------------------|--------|
| James Bailey | -- Aye |
| Robert Cornell | -- Aye |
| William Doherty | -- Aye |
| Robert Domras | -- Aye |
| Chairman Littleton | -- Aye |

James Bailey made a motion to deny the request for variance. Robert Cornell seconded this motion. Roll call vote was taken:

| | |
|--------------------|--------|
| James Bailey | -- Aye |
| Robert Cornell | -- Aye |
| William Doherty | -- Aye |
| Robert Domras | -- Aye |
| Chairman Littleton | -- Aye |

The Board then turned to the matter of the Snakes Motorcycle

Club, Inc. Robert Domras stated that in his opinion, engineering capabilities do not preclude the relocation of the structure. More expense would be involved, but cost could not be considered to be a hardship. James Bailey and Robert Cornell agreed, adding that the club had not thoroughly investigated alternative construction methods, nor proven that the soil was unsound for building. Mr. Bailey and Mr. Cornell both felt that the applicants should be made to adhere to the 50' setback requirement for safety reasons. The Board then made the following findings:

1. The property is zoned agricultural.

2. The use of the property requires a special use permit under current law. However, the use of the property as a club pre-exists current law.

3. The property is large enough to accommodate the proposed structure within the setbacks required by Section 105-15 of the law. The club members feel that the soil structure is too soft and wet to allow the structure to be built in any other location.

4. An alternative construction method such as deep piling or a floating concrete pad would support the proposed structure adequately for the proposed use.

5. The granting of this variance would be a grant of special privilege inconsistent with limitations on other properties in the vicinity and district.

6. The denial of this variance will not deny reasonable use of the property in as much as other methods feasible for the applicant to pursue are available.

Robert Cornell made a motion to accept these findings. James Bailey seconded this motion. Roll call vote was taken:

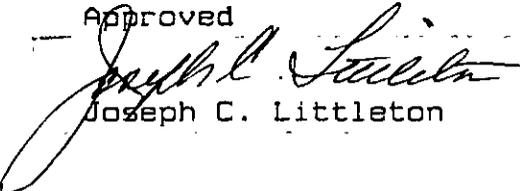
| | |
|--------------------|--------|
| James Bailey | -- Aye |
| Robert Cornell | -- Aye |
| William Doherty | -- Aye |
| Robert Domras | -- Aye |
| Chairman Littleton | -- Aye |

Robert Domras made a motion to deny the request for variance. Robert Cornell seconded this motion. Roll call vote was taken:

| | |
|--------------------|--------|
| James Bailey | -- Aye |
| Robert Cornell | -- Aye |
| William Doherty | -- Aye |
| Robert Domras | -- Aye |
| Chairman Littleton | -- Aye |

As there was no other business before the Board, James Bailey made a motion to adjourn the meeting at 8:23 P.M.E.D.T. Robert Cornell seconded this motion. All members voted "Aye."

Approved


Joseph C. Littleton



Town of Urbana

41 Lake Street
Hammondsport, New York 14840

Supervisor
607-569-3369

Town Clerk
607-569-2708

October 9, 1992

To: Joseph Littleton
Chairman, Zoning Board of Appeals

From: The Planning Board

Re: Variance Hearings scheduled for October 14, 1992

After review and discussion the Planning Board would like to make you aware of its position regarding the following applications for a Variance:

1. Larry Thibodeau. Granting this variance would create two substandard lots. The Planning Board has also been made aware that Mr. Martin is not interested in annexing the portion of the lot in question. Granting this Variance without such an annexation would in fact create a third undersized lot. (Ref. Town Code Section 105-20, paragraph D.)
2. Snakes Motorcycle Club. Visual inspection of the site in question indicates that there is ample space available on the property in question to locate the structure in such a manner as to comply with the Town Code. In absence of an actual hardship the Planning Board recommends that this Variance be denied.

The Planning Board requests the cooperation of the Zoning Board of Appeals in enforcing and upholding the Code of the Town of Urbana. It is especially critical that a variance not be granted simply because it has been requested. It is the responsibility of the applicant to prove that it is impossible to make reasonable use of the property involved without bending the rules.

Respectfully,

The Town of Urbana Planning Board

William Venema, Chairman
Margaret Doherty, Member
Robert Magee, Member
Jim Presley, Member
Randy Robinson, Member

C. B. Flynn
ZBA Members

Copy to: JCC

Joseph C. Littleton
190 East Lake Road
Hammondsport NY 14840

Aug 27. 1992
Mr. Jack B. Bishop
8 East Naples St.
Wayland. NY 14572

Dear Mr. Bishop.

As we discussed by telephone. I have looked into your application for subdivision which was denied by the Town of Urbana Planning Board at its meeting on August 5, 1992.

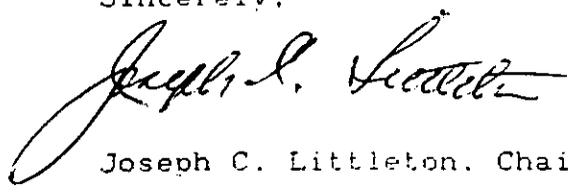
The Planning Board found that the current lot could not be legally subdivided.

The property is zoned Agricultural (A District) and actually lies in an area shown on the zoning map as Flood Plain (F district). The minimum lot size in an A District is two acres and the minimum width is 250 feet (par. 105-15 A(1) and A(2)). In an F district the minimum lot size is one acre and the minimum width is 150 feet(par. 105-19 A and B(1) and B(2)). Residential use is not permitted in an F District.

You may request a variance to the above regulations. While the property is non-conforming to the law. its use was pre-existing the law and may be continued as allowed by par. 105-41 A. You might look to par. 105-41 F (3) as a basis for variance. That paragraph says that a lot of non-conforming size may be subdivided if each and every subdivision is purchased by the owner or owners of the adjoining property to increase the size of said owner's property.

Should you decide to request a variance you should complete the enclosed Application and deliver it to the Town Clerk who will advise you as to the required fees and procedures. I believe a public hearing is necessary. I cannot predict whether there will be any opposition to your application from the public nor can I predict the decision of the Zoning Appeals Board. There may be other avenues of appeal for which you may consult your own attorney.

Sincerely,



Joseph C. Littleton. Chairman Zoning Board of Appeals. Town of Urbana

TOWN OF URBANA ZONING BOARD OF APPEALS MEETING
October 1, 1992

PRESENT: Joseph C. Littleton, Chairman
James Bailey, Member
Robert Cornell, Member
David Oliver, Code Enforcement Officer
Roxanne Gaylord, Recording Secretary

PUBLIC: Gerald L. & Molly Baroody
PRESENT: William C. Fries
Fred DiJohn
Ralph Pierce Baker & Becky Baker
Ralph Baker, Sr.

Chairman Littleton convened the Public Hearing regarding the Variance Application of Gerald L. Baroody at 8:03 P.M.E.D.T. The applicant had requested relief from side and rear setback requirements for the purpose of placing a mobile home.

Chairman Littleton explained that the ZBA must find a basis in the law to either grant or deny the variance, and asked the applicant to explain why he felt that a variance should be granted. Mr. Baroody stated that he had complied with all legal procedures, having had his property assessed, and having applied for a building permit and this variance before setting up the property for the mobile home. He felt that the use described in his application was the most reasonable use of the property as a residence for himself and his wife.

Chairman Littleton addressed the specific problem of the setback requirements. Upon examining the maps provided with the application, a discrepancy in the lot size was noted between the tax map and the site plan sketch provided by the applicant. David Oliver pointed out that the distance indicated on the site plan sketch was taken directly from the deed description. This was confirmed. Chairman Littleton stated that the deed description takes precedent over the tax map.

David Oliver pointed out that the odd shape of the lot and the location of the pre-existing septic system prevented the mobile home from being placed in a manner that would meet all setback requirements. Chairman Littleton asked Mr. Baroody if he intended the use the existing septic system. Mr. Baroody answered affirmatively.

The Board was addressed by Fred DiJohn, a neighboring property owner. He stated that he had no objections to Mr. Baroody's application and was willing to grant him an easement if necessary. Chairman Littleton explained that the Board is bound to consider future property owners, therefore an easement would not provide a solution.

David Oliver pointed out that the only other alternative location would require intensive excavation because of the steepness of the grade. The Board examined the maps to see if any other alternative position could be found.

The Board was addressed by William C. Fries, who was representing his son, William Fries, Jr., an adjacent property owner. William C. advised the Board that his son had no objections to Mr. Baroody's application.

After a brief discussion, Chairman Littleton asked if there were any other members of the public who wished to comment on this matter. As there were no further comments or questions, the Public Hearing was adjourned at 8:20 P.M.E.D.T.

As there were ten minutes until the next Public Hearing was scheduled to begin, the Chairman called the Regular Meeting of the Zoning Board of Appeals into session at 8:20 P.M.E.D.T. James Bailey made a motion to approve the minutes of the September 10, 1992, meeting, as submitted. Robert Cornell seconded this motion. All members voted "Aye."

In old business, Chairman Littleton brought before the Board a letter received from Sharon Kelly Sayers. Also before the Board were copies of two letters written by Code Enforcement Officer David Oliver to Ms. Sayers, notifying her that she had exceeded the dimensions specified in her variance (May 7, 1992) and is therefore in violation. The secretary was directed to place these documents on file.

Also brought before the Board was a memorandum from Greg Heffner, Planning Director, Steuben County, regarding new laws concerning area and use variances. The secretary was directed to copy and distribute this document to all ZBA members.

In the matter of the variance granted to James Pitt (July 15, 1992), Chairman Littleton brought before the Board three letters, two dating from August 11 and 12, 1992, signed by Ronald W. Vang, Florence E. Vang and Helene V. Carr, the third dating from July 27, 1992, signed by Diane C. Kasper. The secretary was directed to place these documents on file and send copies to the members not present.

The Regular Meeting was recessed at 8:28 P.M.E.D.T.

Chairman Littleton convened the Public Hearing regarding the Variance Application of Ralph Pierce Baker at 8:28 P.M.E.D.T. The applicant had requested a variance from the rear setback requirement for the purpose of rebuilding a garage destroyed by high water on May 13, 1992.

Chairman Littleton requested a written statement from the property owner, Ralph Baker, Sr., authorizing the applicant to act on his behalf. Mr. Baker, Sr., agreed to provide such a statement.

In his application for variance, Mr. Ralph Pierce Baker had included a written statement explaining why he felt the variance should be granted. The key points made in this statement were reviewed by Chairman Littleton: The applicant is entitled under the law to rebuild the 11' X 20' garage on the same foundation site, 7' from the property line. The proposed replacement structure would be expanded to 22' X 21', but would be moved 2', thereby increasing the setback to 9', more nearly in keeping with the law than the previous structure. In the applicant's view, the requested relief is the least possible variance to allow reasonable use of the property considering the shallowness of the lot and the position of the cottage. The proposed structure would allow for safe off-street parking and would provide the applicant use of his property similar to that of his neighbors.

Chairman Littleton asked if Mr. Baker wished to make any comments in addition to those provided in his written statement. Ralph Pierce Baker answered that he merely wanted to replace what had been destroyed, and expand the structure to allow himself additional storage space, primarily for boat storage.

Chairman Littleton asked if the only variance required for the proposed structure was that for the rear setback, to which David Oliver answered affirmatively. Chairman Littleton pointed out that a variance on the rear setback requirement would not affect the property from a fire access standpoint, as the property has ideal accessibility from the road.

James Bailey inquired if there were objections from any of the neighbors. Robert Cornell pointed out that there was no one present who had voiced any objections. Mr. and Mrs. Baker stated that they had encountered no opposition and directed the Board's attention to a favorable letter from the Campbells, neighboring property owners, which had been provided with the application.

As there were no further comments or questions on the matter, the Public Hearing was adjourned at 8:36 P.M.E.D.T.

The Regular Meeting was reconvened at 8:36 P.M.E.D.T. The Board immediately addressed the Baker application and made the following findings:

1. The property holds a garage 11' X 20' with 7' setback from the adjacent highway. This is a pre-existing, non-conforming use of the property.
2. The garage was effectively destroyed by high water May 13, 1992.
3. The applicants propose to rebuild near the pre-existing site and to expand the building to 22' X 21', one story.
4. The new structure will increase the 7' setback to 9', more nearly meeting the requirements of the law.

5. The proposed site will be non-conforming but is a reasonable use of the property.

6. Granting a variance will not constitute special privilege in as much as the proposed structure will be similar to other buildings on adjacent or nearby property.

Robert Cornell made a motion to accept these findings. James Bailey seconded this motion. Roll call vote was taken:

James Bailey -- Aye
Robert Cornell -- Aye
Chairman Littleton -- Aye

Robert Cornell made a motion to grant the variance. James Bailey seconded this motion. Roll call vote was taken:

James Bailey -- Aye
Robert Cornell -- Aye
Chairman Littleton -- Aye

Mr. Ralph Baker Sr., offered to countersign the application in lieu of the written statement requested above, to which the Board agreed.

The Board then turned to the Baroody application. Due to the irregular shape of the lot, the site plan sketch was reexamined to determine which side of the proposed mobile home would be considered the front side. It was also determined that the lot itself is pre-existing, non-conforming, being less than two acres in size. After considering possible alternative locations for a dwelling on the lot, the Board made the following findings:

1. The proposed structure will be situated on an odd shaped lot which imposes practical difficulties for the placement of a dwelling.

2. The lot is pre-existing, non-conforming, and previously contained a dwelling. The applicant is entitled to use the property for a dwelling.

3. The proposed location on the lot constitutes reasonable use of the property better than any alternate which might be proposed. The proposed location is as close to the letter of the law as we can visualize.

4. No objections were presented from any adjacent property owner.

James Bailey made a motion to accept these findings. Robert Cornell seconded this motion. Roll call vote was taken:

James Bailey -- Aye
Robert Cornell -- Aye
Chairman Littleton -- Aye

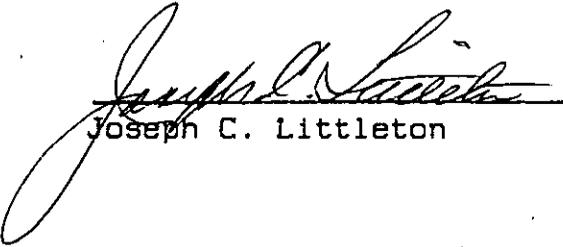
Robert Cornell made a motion to grant the variance. James Bailey seconded this motion. Roll call vote was taken:

James Bailey -- Aye
Robert Cornell -- Aye
Chairman Littleton -- Aye

James Bailey commented that David Oliver's presence at the current meeting had been very helpful and encouraged him to attend future meetings if possible. David Oliver stated that he tries to attend whenever possible.

As there was no further business before the Board, James Bailey made a motion to adjourn the meeting at 9:05 P.M.E.D.T. Robert Cornell seconded this motion. All members voted "Aye."

Approved



Joseph C. Littleton

TOWN OF URBANA ZONING BOARD OF APPEALS MEETING
September 10, 1992

PRESENT: Joseph C. Littleton, Chairman
James Bailey, Member
Robert Cornell, Member
William Doherty, Member
Robert Domras, Member
Roxanne Gaylord, Recording Secretary

PUBLIC: Gregory Gardiner
PRESENT: Richard Gardiner

Chairman Littleton convened the Public Hearing regarding the Variance Application of Gregory and Annie Gardiner at 7:04 P.M.E.D.T. The applicants had requested a variance for the purpose of placing a non-conforming mobile home.

Chairman Littleton pointed out that no one, other than the applicant and his father, was present to comment on the application. The Chairman further explained that the ZBA must find a basis in the law to either grant or deny the variance, and asked the Gardiners to explain why they felt that a variance should be granted. Richard Gardiner stated that the mobile home currently located on the property measures 12' X 60' and is quite antiquated. The proposed replacement mobile home measures 14' X 70' and will conform to all aspects of the Town Code, with the exception of having a domed, rather than a ridged roof. As the replacement mobile home would be more nearly conforming than the existing structure, Mr. Gardiner felt that a variance should be allowed. Regarding the domed roof, Mr. Gardiner explained that it did drop 5 inches in 7 feet.

James Bailey inquired as to the type of roof on the existing mobile home. Richard Gardiner responded that it was flat. Robert Cornell asked whether the new mobile home would be placed on the same spot as the existing structure, and whether the old mobile home, and a shed also located on the property, would be removed. Mr. Gardiner answered affirmatively.

As there were no further comments or questions on this matter, the Public Hearing was adjourned at 7:09 P.M.E.D.T.

Chairman Littleton convened the Regular Meeting of the Zoning Board of Appeals at 7:10 P.M.E.D.T. Robert Domras made a motion to approve the minutes of the July 15, 1992, meeting as submitted. James Bailey seconded this motion. All members voted "Aye."

As there was no old business, the Board turned to the Gardiner application. It was determined that a domed roof with a drop of 5" in 7' did not meet the 3' by 12' pitch required by law (Town of

Urbana Code, Chapter 105, Section 105-36 B.2.). The Board then discussed Chapter 105, Section 105-44 D., which makes provisions for changing a non-conforming use to another non-conforming use, more nearly conforming. Robert Domras inquired as to the interpretation of the word "use." He pointed out that the current application proposed to change the actual structure (mobile home), not the use of the structure. Chairman Littleton stated that it was his understanding that the word "use" referred to the use of the property itself. Robert Domras agreed, noting that 105-44 D., reads in part "nonconforming use of a building, structure or land...". Mr. Domras then referred to previous cases in which non-conforming mobile homes were allowed, subject to the condition that they be brought into compliance within a certain period of time. Chairman Littleton stated that the precedent did not apply in this case, as the current application does not constitute a new placement, but a one-for-one replacement.

The Board then made the following findings:

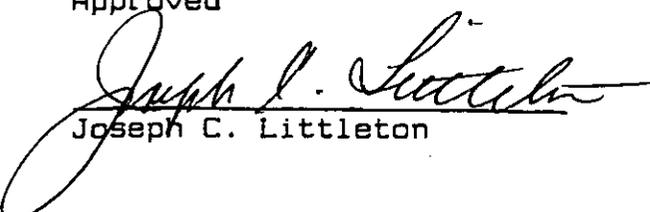
1. There is an existing non-conforming mobile home on the lot which will be removed as soon as a permit is received.
2. The existing mobile home will be replaced by a used 14' X 70' mobile home, complying with the law in all respects except the roof, which will be a domed roof, not a ridged roof.
3. No adverse comment was received from the Planning Board.
4. No adverse comment was received from the public.
5. Section 105-44 D. allows the replacement of a non-conforming use with another more nearly conforming.
6. The grant of a variance does not constitute a special privilege to the applicant compared to similar properties.

James Bailey made a motion to accept these findings and grant the variance. Robert Cornell seconded this motion. Roll call vote was taken:

| | |
|--------------------|--------|
| Robert Domras | -- Aye |
| Robert Cornell | -- Aye |
| James Bailey | -- Aye |
| William Doherty | -- Aye |
| Chairman Littleton | -- Aye |

As there was no further business before the Board, Robert Domras made a motion to adjourn the meeting at 7:28 P.M.E.D.T. James Bailey seconded the motion. All members voted "Aye."

Approved


Joseph C. Littleton

TOWN OF URBANA ZONING BOARD OF APPEALS MEETING
July 15, 1992

PRESENT: Joseph C. Littleton, Chairman
James Bailey, Member
Robert Cornell, Member
William Doherty, Member
Robert Domras, Member
Brian C. Flynn, Attorney
Roxanne Gaylord, Recording Secretary

PUBLIC

PRESENT: James Pitt
William & Helene Carr
Roger Carr
Florence Vang
Phil Prunoske
Diane Kasper

Chairman Littleton convened the Public Hearing regarding the Variance Application of James L. Pitt at 7:02 P.M.E.D.T. Chairman Littleton pointed out that a previous request for variance by Mr. Pitt had been the subject of a Public Hearing (May 7, 1992). When construction at the Pitt property commenced, however, it appeared that the project was not proceeding in the way that it had been presented to the Board. Therefore, the Board would now rehear this matter, based on a revised application.

Chairman Littleton read the portion of the minutes from the May 7, 1992, Public Hearing relevant to this matter and stated the findings that the Board had made at that time. The Chairman then pointed out that Mr. Pitt was issued a building permit, but there had been some confusion on the part of the Code Enforcement Officer as to what the ZBA had actually approved. Mr. Pitt's drawings showed not that he was building on the old foundation, but that he was indeed enlarging the foundation. This became a point of contention when construction commenced. Chairman Littleton then described a meeting which had taken place at the building site. Town Supervisor William Garrison, present at this meeting, asked if the building could be moved on the lot and brought into compliance with the law. It was determined that this was not possible. If the building were moved further back from East Lake Road, however, it would be an improvement to the contiguous properties and would still meet Mr. Pitt's requirements. Therefore, Mr. Pitt was advised to resubmit his application for variance in order to reflect the design change. This new request is the subject of the current Public Hearing.

Chairman Littleton called for questions or comments from the public. Mr. William Carr, 342 East Lake Road, brought before the Board photographs of the original Pitt cottage, now demolished,

which the Board examined. Mr. Carr expressed his concern that a two-story structure built on an enlarged foundation would have the effect of boxing in his property. Mr. Carr also commented that according to the grandfather clause, Mr. Pitt had to stay on the old foundation. Robert Domras pointed out that Mr. Pitt only had to stay on the old foundation if he wished to avoid coming before the Board and requesting a variance.

The Board then heard from Mrs. Helene Carr, 342 East Lake Road, who presented copies of two different site plans of the proposed Pitt construction. The first plan indicated the setback of the cottage from East Lake Road as 14.6'. The second plan indicated the setback as 21.6'. Mrs. Carr stated that both copies were made from plans filed with the Town Clerk. Chairman Littleton stated that the 7' increase in the setback was discussed at the meeting held on the building site. He further stated that although the site plan indicating a 21.6' setback may have been on file with the Town Clerk, it was not part of the Board's record at the May 7, 1992, Public Hearing. In addition, the ZBA did not approve any new foundation at the May 7, 1992, Public Hearing.

In order to clarify the chronology of events, Mr. Pitt stated that according to his records, meetings were held on the building site on June 30 and July 1, 1992. Supervisor Garrison was present at the second meeting. Mr. Pitt also stated that he had prepared his new site plan that same afternoon (July 1, 1992) and filed it with Town Clerk Shirley Para.

The Board then heard from Florence Vang, 340 East Lake Road. She expressed her concerns about moving the cottage closer to the rear property line. She inquired as to the rear setback under Mr. Pitt's new proposal. Chairman Littleton answered that the new rear setback would be 30.4'. Chairman Littleton asked Mr. Pitt if this distance would provide adequate space for the new septic system. Mr. Pitt stated that he had been assured by both the watershed inspector and by his septic contractor that there would be adequate space. Mrs. Vang stated that her son, who owns the property behind Mr. Pitt, did not wish to see the Pitt cottage moved any further toward the rear of the lot. She was advised that according to the law, the rear setback requirement is 10', and that Mr. Pitt was within the law on this point.

Mr. William Carr again addressed the Board. He stated that he had been advised by his attorney that if Mr. Pitt did not remain on the old foundation, the grandfather clause would no longer be in effect, and that Mr. Pitt would have to comply with the existing zoning regulations. Chairman Littleton reminded Mr. Carr that Mr. Pitt still had the right to request a variance. The Chairman explained that the law allows Mr. Pitt to have reasonable use of his property. Reasonable use would be easily determined in this case, since the old house had been used for many years. Mr. Pitt could, under the law, rebuild the old house to a height of 35'. The Chairman then directed the neighbors to think about which situation, the new proposal, or rebuilding on the old foundation, would be more in harmony with the character of the area and more in keeping with the spirit of the zoning law. There

was a general discussion amongst the neighbors while the Board members examined the plans of the proposed building.

The Board was then addressed by Roger Carr. He saw a problem arising from the use of the term "foundation." His measurement of the width of the existing foundation was 20.3', not the 27' indicated by Mr. Pitt's site plan. Mr. R. Carr felt that the width of the kitchen extension (approximately 6') should not be considered, as it was not on the foundation. Robert Domras pointed out that the kitchen extension was not a cantilever structure, and as such, the stone pillars, or whatever it was set upon, did constitute a foundation.

The Board was then addressed by Mr. Phil Prunoske, part owner of the properties located at 344 and 344A East Lake Road. He stated that he was present primarily to observe the proceedings but wished to express his desire to have a cottage built on the Pitt property. In Mr. Prunoske's view, a new cottage would increase the property values in the area and provide additional security to the area, should Mr. Pitt choose to live there year round.

As the Carr's had expressed a concern regarding the precedent that this variance would establish, Chairman Littleton explained that there already exist many precedents involving variance of the setback requirements. In certain cases, the Board had determined that although a conforming building could be placed on a lot, a non-conforming building requiring a setback variance would be more in keeping with the spirit of the zoning law and in the best interest of the neighborhood.

The Chairman then asked if anyone else would like to be heard on this matter. Diane Kasper, daughter of William and Helene Carr, addressed the Board. She stated that she wished to see the construction remain on the existing foundation, without extending the entire north side of the cottage to the width of the kitchen extension.

At this point, Attorney Flynn pointed out that if any of the photographs and diagrams presented to the Board were to be entered into evidence, they should be marked as such. The following items were entered into the record:

Exhibit 1 -- Photograph of the corners of the Carr cottage and the Pitt cottage, prior to demolition, submitted by Wm. Carr.

Exhibit 2 -- Photograph of the full front view of the Pitt cottage, now demolished, submitted by Wm. Carr.

Exhibit 3 -- Copy of the site plan filed by Mr. Pitt; this plan was part of the record supplied to the Zoning Board of Appeals for the current hearing.

Exhibit 4 -- Copy of the site plan discovered by Mrs. Carr in the Town of Urbana offices approximately 3 weeks prior to present hearing.

After the exhibits were marked, Diane Kasper again addressed the Board. She referred to the Public Notice for the May 7, 1992, Public Hearing, the Public Notice for the current Public Hearing, and to the minutes from the May 7, 1992, Public Hearing and regular ZBA meeting. These documents described the proposed construction as not exceeding the original foundation, reconstruction on the same foundation site, utilizing same location on lot, etc. Ms. Kasper stated she was shocked to learn of the current building plans. She reiterated that any drawings or plans submitted to the Board by Mrs. Helene Carr, had been copied from documents filed in the Urbana Town Office. She also stated that the original foundation of the Pitt cottage was 20.3' across the front and that the kitchen kickout was approximately 6'.

The Chairman then described each of the aforementioned exhibits to the Board and to the public. Mr. Pitt also submitted a drawing into evidence, which was labeled Exhibit 5:

Exhibit 5 -- Site Plan presented by Mr. Pitt during the July 15, 1992, Public Hearing for the purpose of clarifying certain dimensions.

Chairman Littleton asked if anyone wished to examine this last exhibit. Mr. Roger Carr did so.

Mr. Pitt then addressed the Board. He read directly from his revised application for variance, submitted July 1, 1992, regarding the nature of the proposed construction: "outhouse to be demolished, septic system to be constructed, new house with same side yard setbacks and new front and rear setbacks to be constructed." Mr. Pitt stated he felt that there was nothing deceptive about his application.

Diane Kasper stated that the Public Notice for the current Hearing did not read as Mr. Pitt had just described, and read directly from said Public Notice.

Chairman Littleton stated that as the Public Notice was technically in error, the Board had no alternative but to adjourn the meeting and refile a Public Notice which would be properly worded. Helene Carr asked if this would require another meeting, to which the Chairman answered affirmatively. Robert Cornell pointed out that this action would merely postpone the decision regarding Mr. Pitt's proposal. Attorney Flynn advised the Board that in his opinion, a defective Notice could not be waived. After examining the Public Notice, Chairman Littleton stated that it was not defective upon a literal reading. Robert Cornell pointed out that the purpose of the Notice is to bring the proposal to the attention of the public so that they may come before the Board and express any objections they may have. That purpose had been accomplished. The Chairman determined that the meeting could proceed, but pointed out the possibility of its being challenged on the legal grounds raised by Counsel. Chairman Littleton also pointed out that a newspaper notice cannot possibly give all the details of any proposed construction project, and

that all of the plans currently before the Board were and still are available to the public at the Town Office.

Chairman Littleton asked if there were any further comments. Diane Kasper commented that her main objection was the widening of the entire cottage to the width of the kitchen kickout. James Bailey asked if that was the main objection of the rest of the public present. Mrs. Vang stated that her concern, expressed on behalf of her son, was moving the cottage further back. Chairman Littleton then polled the public present as to whether they supported or opposed the request for variance. Mr. James Pitt supported the request, Mr. Phil Prunoske neither supported nor opposed the request, Mrs. Vang could not give a definite reply in light of her son's absence, Mrs. Helene Carr, Mr. Roger Carr, Mr. William Carr and Ms. Diane Kasper all opposed the request. As there were no further comments or questions on this matter, the Public Hearing was adjourned at 8:18 P.M.E.D.T.

Chairman Littleton convened the Regular Meeting of the Zoning Board of Appeals at 8:27 P.M.E.D.T. James Bailey made a motion to approve the minutes of the June 25, 1992, meeting, as submitted. William Doherty seconded this motion. All members voted "Aye."

In old business, William Doherty inquired as to the status of the Keuka Maid sign. Robert Domras replied that the applicant had 30 days to construct the permanent sign and remove the existing signs. Robert Cornell suggested that the Board follow up on this matter, as the existing signs had not yet been removed. The Chairman pointed out that the ZBA has no enforcement authority and that any follow up would be the responsibility of the Code Enforcement Officer.

The Board then turned to the matter of Mr. Pitt's current application. Chairman Littleton explained that the Board must find a basis in the law to either grant or deny the request for variance. He further explained that the law made provisions for owners of narrow lake lots to have reasonable use of their property.

The Board then discussed the implications of constructing a conforming building on the Pitt property. Chairman Littleton stated that in his view, such a building would meet the setback requirements, but would not be in keeping with the spirit of the law, which intends to improve the character of neighborhood, fire and emergency vehicle access, waste disposal, and traffic flow. Robert Cornell and James Bailey agreed that it would not be reasonable to require Mr. Pitt to build such a structure. It was also determined that such a building would create severe problems in constructing a new septic system.

Robert Domras pointed out that Mr. Pitt's proposal would not extend the new cottage beyond the furthest boundaries of the original structure. No extension was planned toward the Vang property to the south. The north side of the cottage would be extended to the width of the kitchen kickout. In order to ameliorate the effects of this extension, Mr. Pitt had agreed to set the entire structure 7' further back from the road. Based on

his examination of the drawings and his inspection of the site, Mr. Domras felt that Mr. Pitt's request constituted reasonable use of the property. Mr. Domras further pointed out that many of the lots in that area are long and narrow, and that any practical, reasonable structure would require a side yard setback variance. James Bailey stated that in his view, the proposed construction was in keeping with the spirit of the law, allowed Mr. Pitt reasonable use of his property, and caused no harm to the neighbors.

Attorney Flynn advised the Board that any discretionary act by an administrative agency is, as of July 1, 1992, subject to compliance with the provisions of the State Environmental Quality Review Act (SEQR). Chairman Littleton pointed out that the State Department of Environmental Conservation had been notified of the current hearing and had raised no objections to the proposed construction. It was the opinion of the Board that the proposed construction would have no significant environmental impact, and that the new septic system would actually improve the area. Chairman Littleton proposed that these points be included in the Board's formal findings, and called a brief recess at 9:05 P.M.E.D.T., in order to locate the proper SEQR form.

Chairman Littleton called the meeting back into session at 9:28 P.M.E.D.T. The Board reviewed the completed SEQR Full Environmental Assessment Form. As all items had been answered "no," Robert Domras made a motion that the Zoning Board of Appeals place in its file a Notice of Determination of Non-Significance (Negative Declaration). The motion was seconded by James Bailey. Roll call vote was taken:

| | |
|--------------------|--------|
| Robert Domras | -- Aye |
| William Doherty | -- Aye |
| James Bailey | -- Aye |
| Robert Cornell | -- Aye |
| Chairman Littleton | -- Aye |

The secretary was instructed to place the SEQR Full Environmental Assessment Form on file.

The Board then made the following findings:

1. The applicant, at a Public Hearing on May 7, 1992, stated that he planned to reconstruct an existing building on a non-conforming, pre-existing foundation.
2. The applicant now wishes to enlarge the foundation, but with side yard setbacks no less than the pre-existing building.
3. The design will in other respects conform to the zoning law.
4. It is theoretically possible to build a structure on this lot which requires no variance on setback. Such a structure is possible but not reasonable. It would not be in keeping with the character of nearby properties.

5. The new proposal is more nearly in keeping with the spirit of the law than the pre-existing building.

6. The Board finds no lack of compliance with the provisions of the state environmental conservation law. The proposed structure will have a new septic system; an improvement over the old system. In summary, no significant environmental impact is found, as detailed in the State Environmental Quality Review Full Environmental Assessment Form, on file.

Robert Cornell made a motion to adopt these findings. Robert Domras seconded the motion. Roll call vote was taken:

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|--------------------|--------|
| Robert Domras | -- Aye |
| William Doherty | -- Aye |
| James Bailey | -- Aye |
| Robert Cornell | -- Aye |
| Chairman Littleton | -- Aye |

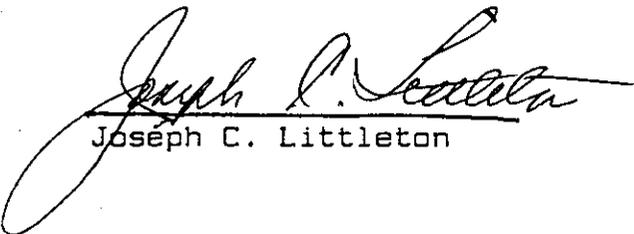
Noting that the objections of some of Mr. Pitt's neighbors would be recorded in the minutes of the Public Hearing, James Bailey moved that the Board grant Mr. Pitt's request for variance.

Robert Cornell seconded this motion. Roll call vote was taken:

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|--------------------|--------|
| Robert Domras | -- Aye |
| William Doherty | -- Aye |
| James Bailey | -- Aye |
| Robert Cornell | -- Aye |
| Chairman Littleton | -- Aye |

As there was no further business before the Board, William Doherty moved to adjourn the meeting at 9:38 P.M.E.D.T. James Bailey seconded this motion. All members voted "Aye."

Approved


Joseph C. Littleton

TOWN OF URBANA ZONING BOARD OF APPEALS MEETING
June 25, 1992

PRESENT: Joseph C. Littleton, Chairman
James Bailey, Member
Robert Cornell, Member
Robert Domras, Member
Roxanne Gaylord, Recording Secretary

PUBLIC

PRESENT: Ed Briggs
Dorothy Beers
William Venema, Chairman, Town of Urbana Planning Board

Chairman Littleton convened the Public Hearing regarding the Variance Application of Keuka Maid Inc. at 7:02 P.M.E.D.T.

Chairman Littleton pointed out that this matter had previously been the subject of a Public Hearing, that the ZBA had approved the application, and that the application was now back before the Board for a minor change in detail, namely the placement of the sign on the east side of the driveway which provides access to the Keuka Maid, rather than the west side. The Chairman further explained that the present hearing should be primarily concerned either with evidence that was not presented at the previous hearing, or with this change in detail. William Venema pointed out that although the placement of the sign had been changed, Mr. Briggs's current sign permit application had been denied only because the proposed sign was bigger than the law allowed. Robert Cornell pointed out that, according to the application, this sign would now be permanent rather than portable.

At this point, Chairman Littleton read the portion of the minutes from the April 9, 1992, Public Hearing relevant to this matter and stated the findings that the Board had made at that time.

As Mr. Briggs was present, Chairman Littleton asked him to explain the difference between his current application and his previous application. Mr. Briggs replied that the sign would now be placed on the east side of the driveway and that, although the sign would be on a trailer for this season, it could be built into a permanent framework next year. William Venema explained that in working with Mr. Briggs, the Planning Board had recommended that he erect one permanent sign, which would require a variance only because of its size. Chairman Littleton pointed out that on the application, Code Enforcement Officer David Oliver had indicated that the applicant would "remove existing non-conforming signs and place the new sign on 4'X4' poles, making a permanent sign," and that Mr. Briggs's signature appeared on the application. Mr. Briggs responded that he had no plans "to take those elaborate steps right off." He further stated that he would remove the

small parking sign immediately, but that he did not intend to finish the permanent sign right away.

Mr. Venema stated that legally, Mr. Briggs was entitled to one sign only and that the question to be addressed was the size of the sign. Chairman Littleton noted that according to the sketch in the application, the reading portion of the sign was to be 6' X 12', and the top portion was to be 3' X 12'.

James Bailey asked Mr. Briggs if he intended to place the above described sign on a trailer for this year. Mr. Briggs responded affirmatively. Mr. Bailey asked if Mr. Briggs would then remove all the other signs, except the one on the trailer. Mr. Briggs responded that he had not intended to remove the square "Keuka Maid" sign until the 3' X 12' portion of the new sign was constructed. He did not plan to complete that construction this season. Robert Cornell urged Mr. Briggs to consider finishing the sign now, in order to finally resolve this matter. Mr. Briggs agreed. As there were no other comments regarding this matter, this Public Hearing was closed at 7:19 P.M.E.D.T.

Chairman Littleton convened the Regular meeting at 7:19 P.M.E.D.T. He then explained that the Board needed to determine whether to confirm its previous findings, change them, or add to them. Robert Domras stated that the previous findings were valid up to a point. He expressed his willingness to approve the current application only if the permanent sign were to be completed within a reasonable time, and the existing signs removed.

Chairman Littleton then raised a point of order. The Board had not yet completed its old business, namely the approval of the minutes of the May 7, 1992, meeting. James Bailey made a motion to accept the minutes as submitted. Robert Domras seconded the motion. All members voted "Aye."

The Board then returned to its discussion of the Keuka Maid's application. Robert Domras stated that a variance should be granted only if it served to clean up the clutter of signs presently in the area. James Bailey concurred. Mr. Domras further pointed out that one, well placed sign would best improve the current traffic flow problems in the area, created in part by multiple signs.

In light of this discussion, Chairman Littleton proposed that the Board's previous findings (April 9, 1992) be revised as follows: Finding #6, which directed the applicant to remove the sign when the Tour Boat is not operating--from November 15 to April 15 each winter, would be deleted; a third Qualification, which directs the applicant to remove all other signs in the area within 30 days of construction of the permanent sign, would be added.

Chairman Littleton asked Mr. Briggs if these conditions were acceptable. Mr. Briggs expressed a concern regarding the Town Board's approval of this permanent sign. William Venema explained that sign permits are issued by CEO David Oliver, as the authorized representative of the Town of Urbana. Once the

variance had been approved by the ZBA, CEO Oliver would issue the sign permit.

Based upon the evidence presented, the Board's findings were as follows:

1. The property of the application is zoned residential.
2. The actual use of the area is municipal, consisting of fire department, school, recreation and water front parks, including the area used by the Keuka Maid Tour Boat for parking, dockage and service. The proposed sign is in harmony with the character of the area.
3. The location of the sign for which a Variance is requested is bounded by State Rt. 54 on one side and by the above properties on all other sides. No loss of natural, scenic, or historic features is proposed. No conflict with adjacent residences exists since there are none.
4. Similar signs are in use by the fire department and the public beach. In addition, a commercial sign (motel) exists in the area.
5. The proposed sign will improve traffic flow in the area by providing information to persons searching for the Keuka Maid Tour Boat.
6. The Town of Urbana has under consideration the erection of a pole sign with many local businesses displayed. This does not meet the needs of the applicant but would instead create confusion and attendant traffic problems.
7. The Keuka Maid is the Lessee of land to the east of their driveway while the fire department is the Lessee of land to the west. The Town Board of the Town of Urbana has jurisdiction over both leases.

As there had been no definitive ruling in the matter of the ZBA's jurisdiction over municipal property, the Board retained the two qualifications imposed at the April 9, 1992, meeting, and added a third qualification as follows:

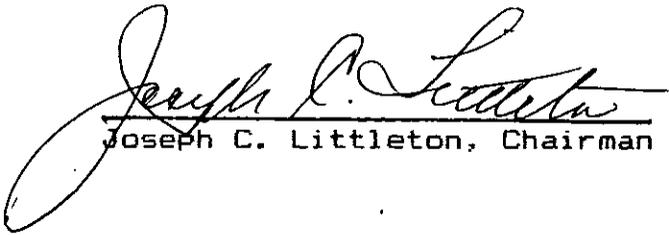
1. The design and placement of any sign in the area is subject to Town approval.
2. All other applicable laws must be met with full compliance.
3. The applicant is directed to remove all other signs in the area within 30 days of the construction of the permanent sign.

James Bailey made a motion to adopt the findings and approve the application, subject to the three qualifications listed above. Robert Cornell seconded this motion. Roll call vote was taken:

James Bailey -- Aye
Robert Cornell -- Aye
Robert Domras -- Aye
Chairman Littleton -- Aye

As there was no further business, James Bailey moved to adjourn the meeting at 7:29 P.M.E.D.T. Robert Domras seconded the motion. All members voted "Aye."

Approved:


Joseph C. Littleton
Joseph C. Littleton, Chairman

TOWN OF URBANA ZONING BOARD OF APPEALS MEETING
May 7, 1992

PRESENT: Joseph C. Littleton, Chairman
James Bailey, Member
William E. Doherty, Member
Robert Domras, Member
Roxanne Gaylord, Recording Secretary
Arthur Chapman, Code Enforcement Officer

PUBLIC

PRESENT: Sharon Kelly Sayers
James L. Pitt
Ralph and Dianne Giancursio
Thomas Bent
Fran Pierce

Chairman Littleton called the meeting to order at 7:00 P.M.E.D.T. It was noted that a quorum was present and Chairman Littleton explained the Board's procedures to the public present.

Chairman Littleton convened the Public Hearing regarding the Variance Application of Sharon Kelly Sayers at 7:02 P.M.E.D.T.

Chairman Littleton asked Ms. Sayers if there were any changes from her original application. Ms. Sayers replied that the proposed deck described in the current application would be only 8' wide, vs. the 10' wide deck specified in her original application, therefore less of a variance would be required. Robert Domras asked to examine the original application and noted that the width had been 8' in both applications. As there were no further questions from the Board or from the public, Chairman Littleton closed the Public Hearing on this matter at 7:10 P.M.E.D.T.

Chairman Littleton convened the Public Hearing regarding the Variance Application of James L. Pitt at 7:10 P.M.E.D.T. Chairman Littleton asked the applicant how tall the proposed structure would be. Mr. Pitt replied that it would be 35' tall. He further explained his intentions to demolish the existing foundation and build the new structure to the same dimensions as the previous structure.

Robert Domras pointed out that the CEO had cited building height (Section 105-16 C.3.b.) as the reason for the variance and asked the applicant from what point the height had been measured to arrive at the aforementioned 35'. At this point, the Board consulted CEO Arthur Chapman. Mr. Chapman explained how building height was measured and questioned the applicant further regarding the proposed structure.

Chairman Littleton asked if there were any buildings in the area above 35' tall. Mr. Pitt replied that there were not, however, Robert Domras said that he thought there may be. Chairman Littleton pointed out that if the proposed structure would indeed be 35' tall, it would just meet code requirements, and asked Mr. Pitt why he was seeking a variance. Mr. Pitt replied that, from his contact with CEO David Oliver in November, 1991, he understood that a variance was required.

At this point, questions from the public were addressed. Mr. William Carr, 342 E. Lake Road, inquired as to who would pay for relocating service lines (telephone, electric, etc.). Chairman Littleton explained that the ZBA had no jurisdiction in these matters and directed the question to Mr. Pitt. Mr. Pitt replied that he anticipated assuming those expenses if the appropriate agencies (NYSEG, etc.) would not do so.

Mr. Roger Carr inquired as to what size building could be constructed on the beach. Chairman Littleton explained the code requirements for that situation. There being no further questions relevant to this matter, the Public Hearing was closed at 7:20 P.M.E.D.T.

Chairman Littleton convened the Public Hearing regarding the Variance Application of Ralph Giancursio at 7:20 P.M.E.D.T. The secretary was instructed to file with these minutes an affidavit from the current property owners, Thomas and Alice Bent, authorizing Mr. Giancursio to apply for a building permit.

The Board then heard from Mr. Spearman, 338 W. Lake Road, who read from a prepared statement. Chairman Littleton asked Mr. Spearman if he opposed this variance, to which Mr. Spearman answered affirmatively. The secretary was instructed to file with these minutes a copy of Mr. Spearman's statement.

Thomas Bent pointed out that a 50' lot lies between the subject property and the Spearman's, i.e., they are not adjoining properties. He also pointed out that the proposed Giancursio structure would be 6 1/2' from the lake only at one point, not for the entire length of the structure. Ralph Giancursio presented a survey map to the Board which showed the portion of the house which did not meet the setback requirement.

Chairman Littleton asked Mr. Giancursio if he had already purchased the subject property, to which Mr. Giancursio responded negatively. Chairman Littleton asked Mr. Giancursio how much land he owned on the other side of the road. Mr. Giancursio answered that he owned 2 acres. Chairman Littleton asked if there were a suitable building site on that property, to which Mr. Giancursio responded that he would not consider building on that site.

Chairman Littleton pointed out that the Bent property had recently been subdivided and inquired as to whether there had ever been a structure on this 50' section. Thomas Bent explained that there had been a concrete structure there at one time, but that it had been demolished in 1989.

Chairman Littleton asked when the sea wall had been built and if it were a DEC approved structure. Thomas Bent replied that to the best of his knowledge, it had been constructed approximately 30 years ago, and was an approved structure. Robert Domras noted that this matter could be confirmed.

There being no further comments or questions from the public, the Board returned to its examination of the survey map. James Bailey asked if the side and rear setback requirements had been met. Mr. Giancursio answered that they had been. A question arose concerning the location of the retaining wall with regard to the DOT right-of-way. Robert Domras pointed out that this was not within the jurisdiction of the ZBA. There being no further questions from the Board, the Public Hearing on this matter was closed at 7:42 P.M.E.D.T.

Chairman Littleton convened the Regular Meeting at 7:42 P.M.E.D.T. In old business, Robert Domras moved to approve the minutes of the April 9, 1992, meeting as submitted. The motion was seconded by James Bailey. All members voted "Aye."

In the matter of the Variance Application of Sharon Kelly Sayers, Chairman Littleton read the Board's previous findings:

1. The proposed installation is compatible with nearby properties.
2. The reasonable use of this property, as on many nearby properties, depends on a sea wall pre-existing.
3. Relative to the sea wall and adjacent properties, the proposed construction will have a setback meeting the spirit of the law.
4. No objections have been received from any neighbors.

As there were no new findings, Robert Domras moved to adopt these findings and approve the application for variance. The motion was seconded by James Bailey. Roll call voted was taken:

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| Chairman Littleton | -- Aye |
| James Bailey | -- Aye |
| William Doherty | -- Aye |
| Robert Domras | -- Aye |

In the matter of the Variance Application of James L. Pitt, Chairman Littleton commented that in his opinion, the application was moot. Robert Domras agreed, stating that since the dimensions of the pre-existing structure were not being exceeded, and the 35' height requirement was met, a variance was not necessary.

It was noted that the key point in this matter is the determination of the actual height of the proposed structure. Chairman Littleton read the definition, "height of building," from Section 105-4 of the Town of Urbana Code.

Chairman Littleton also mentioned that in his discussion of this matter with Attorney Flynn, it was Attorney Flynn's recollection that the building height had been listed in another document as 42'.

At this point, Mr. Pitt presented drawings of the proposed structure for the Board's examination. It was determined that, as currently depicted, the proposed structure was very close to exceeding, and possibly did exceed, the height requirement. Chairman Littleton pointed out that the CEO, not the ZBA, was responsible for approving the design of the house and that the Board could only rule on the current application as cited by the CEO. It was suggested to Mr. Pitt that the pitch of the roof could be altered so that a variance would not be needed. Mr. Pitt expressed his willingness to make this alteration.

The Board then made the following findings:

1. The present building is non-conforming construction, pre-existing the zoning laws.
2. The proposed building is reconstruction of the existing building, i.e. replacement, on the same foundation site as the existing building. Therefore, no setback variance is required. The applicant is entitled under the law to rebuild on the pre-existing foundation.
3. The property has been used for many years. No variance is required to allow reasonable use.
4. The proposed building would require a variance. The applicant has stated that the design can and will be changed to comply with the height requirement of the law. In such event, no variance will be required and the applicant can reapply for the necessary building permits.

A motion was made by William Doherty to adopt these findings and deny the application for variance. The motion was seconded by James Bailey. Roll call vote was taken:

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| Chairman Littleton | -- Aye |
| James Bailey | -- Aye |
| William Doherty | -- Aye |
| Robert Domras | -- Aye |

In the matter of the Variance Application of Ralph Giancursio, it was determined that the front wall of the proposed structure would be situated exactly on the high water mark. The Board discussed the possibility that the pre-existing sea wall could be construed as mean high water level, since all other requirements had been met. James Bailey pointed out that properties to the north and south of the subject property extend further than would this proposed construction, and expressed his opinion that in order to be consistent with other properties, the sea wall could be taken as the point from which the setback would be measured.

Arthur Chapman agreed on this point, and noted that other variances have been granted based upon the location of a pre-existing sea wall.

Chairman Littleton expressed his opinion that the spirit of the zoning law was to exclude this type of building, and asked Mr. Bent if his other 2 lots would be built upon, should they also be sold. Mr. Bent replied that those lots were unbuildable. Chairman Littleton pointed out that the subject property appears to be extremely shallow. Mr. Bent replied that the shallowness of the lot had determined the dimensions of the proposed structure.

Chairman Littleton read from Section 105-59 of the Town of Urbana Code, which states that the ZBA cannot grant variance solely to facilitate financial gain. He inquired as to the value of the property, should the variance be granted. Thomas Bent replied that he and Mr. Giancursio had agreed upon a selling price of \$65,000. Chairman Littleton inquired as to the value of the property, should the variance be denied. Mr. Bent stated that Mr. Giancursio would not buy the property in that case, and estimated that all three of his properties combined were worth approximately \$100,000 at present.

Robert Domras suggested that a quorum should meet at the proposed construction site before a decision on the matter was rendered. Chairman Littleton asked Mr. Giancursio if he could be present at such a meeting. It was agreed that the Board and Mr. Giancursio would meet at the site the next morning, May 8, 1992, at 8:00 A.M.E.D.T.

A motion was made by Robert Domras to recess the meeting on a day-to-day basis. James Bailey seconded this motion. All members voted "Aye." The meeting was recessed at 8:42 P.M.E.D.T.

Subsequent to recess at 8:42 P.M.E.D.T. on May 7, 1992, the Board reconvened at the site of the proposed Giancursio construction at 8:00 A.M.E.D.T. on Friday, May 8, 1992. All members were present except Mr. Cornell. After extensive review of site plans and further discussion, the following findings were made by the Board:

1. The lot is unusually steep and narrow and presents practical difficulties for reasonable use by any owner.
2. The proposed construction is the only reasonable way to utilize the property.
3. The proposed construction meets the letter of the zoning law in all respects except setback from the high water mark.
4. Like many properties in the area, the proposed construction on this lot depends on a pre-existing sea wall. The variance requested relative to setback from the sea wall meets the spirit of the law and does not constitute special privilege relative to neighboring properties.

5. The applicant states that no future construction is planned which might result in further request for variance.

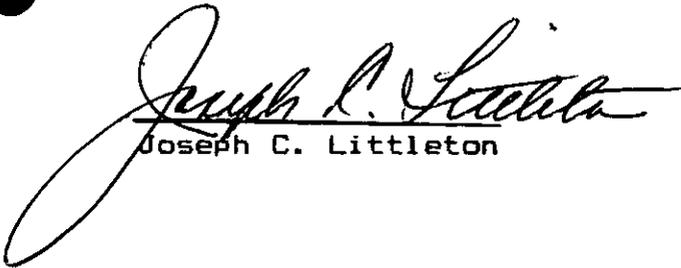
6. The proposed construction will entail removal of supporting soil adjacent to State Route 54A. The applicant will obtain Department of Transportation approval for a retaining wall to support the highway bank before construction of the proposed dwelling. This Zoning Board of Appeals does not have jurisdiction in this matter and cannot approve or disapprove those plans.

A motion was made by James Bailey to adopt these findings and approve the application for variance, subject to approval of highway retaining wall plans by the New York State Department of Transportation, and subject to compliance with all other applicable regulations. The motion was seconded by Robert Domras. Roll call vote was taken:

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|--------------------|----|-----|
| Chairman Littleton | -- | Aye |
| James Bailey | -- | Aye |
| William Doherty | -- | Aye |
| Robert Domras | -- | Aye |

The meeting, by motion duly made, seconded and unanimously agreed, was adjourned at 8:26 A.M.E.D.T.

Approved


Joseph C. Littleton

140 Topsail Lane
Manahawkin, New Jersey 08050
March 22, 1992

Town of Urbana Planning Board
41 Lake Street
Hammondsport, New York 14840

To Whom It May Concern:

Thomas and Alice Bent have given Ralph Giancursio permission to apply for a building permit on Lot #2 of our subdivision. Mr. Giancursio's ability to get a building permit for the house plans he has is a contingency for the sale of this property.

Sincerely,

Thomas Bent

Thomas Bent

Alice Bent

Alice Bent

*Before me, Thomas & Alice Bent, on
March 23, 1992.*

Kimberly D. LaMarche

KIMBERLY D. LEMARCHE
NOTARY PUBLIC
STEBEN COUNTY
NO. 4816896

TERM EXPIRES MARCH 30, 1993

December 31, 1992

MEMORANDUM

RE: RALPH GIANCURSIO
APPEAL NO. 7, 1992

Mr. Giancursio has applied for a variance to allow construction of a cottage up to 8 1/2 feet from the water's edge rather than the required 15 feet.

The board should first consider the statement that the request is for a setback from the water's edge. I am not familiar with the ordinance in this matter but the setback should be referenced either from the low or, preferably, the high water mark of the lake. This should be taken into consideration by the board with reference to the survey that the applicant filed.

The board must also take into consideration the location of the new construction as it may or may not encroach in the flood plain as shown on the Town's flood maps. If the structure to be built is not exempt under the Town's Flood Damage Prevention Local Law then the applicant must also request a variance thereunder and present evidence as required in that local law.

The board has to weigh the benefits of the variance to the applicant and the detriment to the health, safety and welfare of the neighborhood. In this matter, the neighborhood takes in a wide area due to the impact not only on the persons directly affected but to the public at large due to lake population. The variance requested is substantial as it is 6 1/2 feet closer to the lake than would normally be allowed. Such a variance should not be granted lightly. If it appears that the variances such as this have become commonplace in the Town then, perhaps, the situation here is not unique as to require a variance but the zoning ordinance needs amendment.

Other questions become evident in this request that the board should be greatly concerned with in their deliberations:

Will the grant of the variance produce an undesirable change in the neighborhood?

Will a detriment to nearby properties be created by the grant of the variance?

Is the alleged difficulty self created?

Did the applicant by the property with the alleged difficulty causing the request for the variance already in existence and, therefore, the applicant had knowledge or should have had knowledge by reasonable inquiry of the alleged difficulty prior to purchase?

TOWN OF URBANA ZONING BOARD OF APPEALS MEETING
April 9, 1992

PRESENT: Joseph C. Littleton, Chairman
James Bailey, Member
Robert H. Cornell, Member
William E. Doherty, Member
Brian C. Flynn, Attorney to Zoning Board of Appeals
Roxanne Gaylord, Recording Secretary
David Oliver, Code Enforcement Officer

Chairman Littleton opened the Public Hearing regarding the application for a Special Use Permit by the Curtiss Museum at 7:00 p.m.

William Doherty asked if his position on the Curtiss Museum Board posed a conflict of interest with his duties as a ZBA member. Attorney Flynn advised Mr. Doherty that he could participate in the discussion but that he should abstain from voting.

Chairman Littleton asked if the subject property is located on the flood plain. A representative of the Curtiss Museum indicated that the project engineers had certified that the property lies above the flood plain.

The ZBA declared its satisfaction with this application and the Public Hearing on this matter was adjourned.

Chairman Littleton then convened the Public Hearing regarding the application for a Special Use Permit by Fay Faucett and Alex Mislevy.

Chairman Littleton pointed out that the map which had been included with the application was inaccurate in that the entry shown did not exist. The actual entrance is located in the building's new addition.

Mr. Jerry Donahue of West Lake Road (property located near the subject property) expressed his concerns regarding potentially undesirable uses of the property, such as the displaying of vehicles for sale, and the storage or parking of vehicles or boat trailers outside of the building. Mr. Faucett responded that there would be no vehicles for sale on the property and that no outdoor storage would be permitted at the facility.

Chairman Littleton asked Mr. Faucett if he is the legal owner of the property. Mr. Faucett replied that he is managing the property for Mr. Mislevy. Chairman Littleton indicated that Mr. Faucett would need to provide written evidence of his authority to the Board.

James Bailey asked if Mr. Faucett could insure that no parking or outdoor storage would be permitted. Mr. XXXX responded (man seated next to Mr. Faucett--name unknown) that he lives next to the property and had agreed to oversee the area.

CEO David Oliver advised the ZBA that all code enforcements had been addressed.

Chairman Littleton pointed out that the property is zoned agricultural and asked if this building has historically been used for storage purposes. Attorney Flynn replied that the building had served no business purpose under recent prior ownership. Several persons present pointed out, however, that the building has in fact been used for storage purposes for some time.

The question of future plans for a tractor museum on this site was deemed irrelevant to the present application. As there were no further questions concerning this application, the Public Hearing on this matter was adjourned.

Chairman Littleton then convened the Public Hearing on the Variance Application of Douglas Paddock of 89 W. Lake Rd.

Mr. Paddock presented drawings of the proposed deck to be constructed in front of his cottage. He pointed out that the deck would only be 8'9" from the sea wall instead of the 15' required by law.

Chairman Littleton asked if the deck was in harmony with the character of the neighboring cottages. Mr. Paddock replied that all of the neighboring property had similar additions. Chairman Littleton inquired as to the depth of the lot. Mr. Paddock indicated that it was 57' at one point but only 39' at another.

James Bailey asked if the proposed deck would impair the visibility of the neighbors. Mr. Paddock indicated that it would not and said that although his neighbor was not present for the meeting, he was aware of the plans and had no objections. Mr. Bailey asked if the deck would be enclosed. Mr. Paddock replied that it would not be.

CEO David Oliver advised the Board that all code enforcements had been addressed. The Board had no further questions and the Public Hearing on this matter was adjourned.

Chairman Littleton then convened the Public Hearing on the application for a Special Use Permit by Keuka Maid, Inc.

Mr. Ed Briggs, Keuka Maid manager, explained his request to erect a portable sign adjacent to State Rt. 54, to be located in the same position as it had been in previous years. The sign would be lighted only on Friday and Saturday evenings in order to display information such as cruise times and bands scheduled to perform. The sign would be removed at the end of the summer season.

A resident of the property across Rt. 54 asked Mr. Briggs if the sign would be used in the same manner as in previous years. Mr. Briggs responded that it would be.

Chairman Littleton pointed out that the property is zoned residential. This point was questioned by several citizens present at the hearing. In response, Chairman Littleton read directly from the zoning law to confirm the residential status of the property. He further stated that the actual use within this area is municipal and asked Attorney Flynn if the ZBA has jurisdiction over municipal property. Attorney Flynn replied that the area is owned by the Town of Urbana and leased to the Hammondsport Fire District.

There ensued a lengthy discussion regarding jurisdiction. Also brought into the discussion was a proposal under consideration by the Town of Urbana Board to construct a community pole sign in the subject area which would make advertising space available to the Keuka Maid and any other interested local merchants. Attorney Flynn advised Chairman Littleton that in his opinion, the Town action must be resolved before the application before the ZBA could be acted upon.

Also brought out in the course of the discussion was the existence of other similar signs in the area (Fire Hall sign, Champlin Beach, Hammondsport Motel). It was also suggested that a lighted portable sign would serve to indicate and illuminate the entrance to the Keuka Maid Tour Boat. Town Supervisor William Garrison asked if the proposed permanent pole sign would serve the same purpose as the portable sign. Mr. Briggs replied that it would not, since the information on such a sign could not be changed and updated periodically.

Chairman Littleton indicated that any further discussion of jurisdiction would be reserved for the Regular Meeting. Supervisor Garrison commented that the Keuka Maid is a valuable community asset and that perhaps some provision could be made for both a permanent and a portable sign.

William Venema, Chairman of the Town of Urbana Planning Board, placed the Planning Board's recommendation before the ZBA. The Planning Board recommended denial. Chairman Littleton directed the secretary to file the Planning Board's letter with these minutes.

Mr. Briggs stated that the Keuka Maid's lease made provisions for signs to indicate the entrance to the Keuka Maid, and requested a brief pause in the proceedings in order to produce the lease. He was advised that he could bring the lease before the ZBA at the Regular Meeting which would follow the Public Hearing.

Chairman Littleton pointed out that the ZBA's decision on this matter could be made contingent on the decision of the Town Board. The Public Hearing on this matter was adjourned at 8:13 p.m.

Chairman Littleton convened the Regular Meeting at 8:15 p.m. The minutes of the previous meeting were unanimously approved. As there was no old business, the Board proceeded to the application for Special Use Permit by the Curtiss Museum. The Board's findings were as follows:

1. The application is well documented and shows full consideration of ingress and egress, parking, refuse handling, service areas, utility structures, screening and buffers, signs, adequacy of yards and open spaces, and traffic control.
2. The property is certified as being not in the flood plain.
3. No adverse recommendation has been received from the Planning Board.
4. The proposed location will relieve traffic in the village of Hammondsport.
5. No adverse effects on adjoining property and property generally in the neighborhood is evident. The proposed structure and use is in harmony with and indeed an improvement in the character of the area.
6. No adverse environmental effect is evident and no potential damage to scenic, historic or natural features of the area is expected.
7. No findings relative to SEQRA were made with the understanding that the lead agency is the Town Planning Board.

J. Bailey moved to adopt these findings and approve the application. The motion was seconded by R. Cornell. Role call vote was taken:

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| Chairman Littleton | -- Aye |
| James Bailey | -- Aye |
| Robert Cornell | -- Aye |
| William Doherty | -- Abstained |

In the matter of the request for a Special Use Permit by Fay Faucett and Alex Mislevy, the Board's findings were as follows:

1. The property lies in a agricultural district.
2. The buildings have for many years been used for warehousing and storage, including vehicular storage.
3. The proposed use is a continuation of historical use.
4. No vehicles will be stored outdoors or offered for sale at this location.

R. Cornell moved to adopt these findings and approve the application. The motion was seconded by J. Bailey. Roll call vote was taken:

Chairman Littleton -- Aye
James Bailey -- Aye
Robert Cornell -- Aye
William Doherty -- Aye

In the matter of the Variance Application of Douglas Paddock, the Board's findings were as follows:

1. The Paddock lot is exceptionally steep and odd-shaped, severely limiting the owner in reasonable use of the land.
2. Adjacent properties on each side of the Paddock property, and in the general area of 89 W. Lake Road between State Route 54A and the lake, all have similar problems and in many cases have non-conforming buildings.
3. The variance requested contemplates a deck 8'3" in width.
4. No objections have been raised by neighboring landowners.
5. The proposed rehabilitation of this property and the deck addition will enhance the property consistent with the general purpose and intent of the Zoning law, and does not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity.
6. The proposed variance is the minimum required for reasonable use of the property.

R. Cornell moved to adopt these findings and approve the application. J. Bailey seconded the motion. Roll call vote was taken:

James Bailey -- Aye
Robert Cornell -- Aye
William Doherty -- Aye
Chairman Littleton-- Aye

In the matter of the request for a Special Use Permit by Keuka Maid, Inc., the question of jurisdiction was further discussed. Ed Briggs quoted from the portion of the Keuka Maid's lease relevant to signs. The Board then made the following findings:

1. The property of the application is zoned residential.
2. The actual use of the area is municipal, consisting of fire department, school, recreation and waterfront parks, including the area used by the Keuka Maid Tour Boat for parking, dockage and service. The proposed sign is in harmony with the character of the area.
3. The location of the sign for which a Special Use Permit is requested is bounded by State Rt. 54 on one side and by the above properties on all other sides.

No loss of natural, scenic, or historic features is proposed. No conflict with adjacent residences exists since there are none.

4. Similar signs are in use by the fire department and the public beach. In addition, a commercial sign (motel) exists in the area.

5. The proposed sign will improve traffic flow in the area by providing information to persons searching for the Keuka Maid Tour Boat.

6. The applicant is directed to remove the sign when the Tour Boat is not operating--from November 15 to April 15 each winter.

7. The Town of Urbana has under consideration the erection of a pole sign with many local businesses displayed. This does not meet the needs of the applicant but would instead create confusion and attendant traffic problems.

8. The Keuka Maid is the Lessee of land to the east of their driveway while the fire department is the Lessee of land to the west. The Town Board of the Town of Urbana has jurisdiction over both leases.

J. Bailey moved to adopt these findings. R. Cornell seconded the motion. Chairman Littleton amended the motion, calling for the approval of the application, subject to the following qualifications:

1. The design and placement of any sign in the area is subject to Town approval.

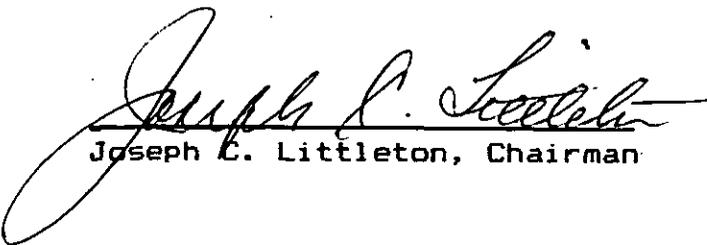
2. All other applicable laws must be met with full compliance.

Roll call vote was taken:

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| James Bailey | -- Aye |
| Robert Cornell | -- Aye |
| William Doherty | -- Aye, with a recommendation to the Town Board that all signs in this area be standardized |
| Chairman Littleton | -- Aye |

The motion to adjourn the meeting was made by J. Bailey and seconded by R. Cornell. All voted Aye. The Regular Meeting was adjourned a 9:21 p.m.

Approved:


Joseph C. Littleton, Chairman

X

April 6, 1992

MEMO TO: Joseph Littleton,
Town of Urbana, Zoning Board of Appeals

FROM: William Venema,
Chairman, Town of Urbana Planning Board

SUBJECT: Keuka Maid, Inc.
Application for a Variance

The Planning Board strongly recommends that this application be DENIED.

Application erroneously states Zoning District as Agricultural. This area is in fact Zoned Residential. (Code 105.6-B (1): All area between Keuka Lake Shoreline and New York State Route 54 and New York State Route 54A.)

The proposed sign belongs to the Town of Urbana. Allowing an advertising "Billboard" to be placed on Town Property would set a precedent that would permit any other businesses to advertise on public property and open the door to "Billboards" in the Town of Urbana.

WJV

TOWN OF URBANA ZONING BOARD OF APPEALS MEETING
MARCH 25, 1992

PRESENT: Joseph Littleton, Chairman
Robert Domras, Member
Robert Cornell, Member
James Bailey, Member

ABSENT: William Doherty, Member

The Public Hearing for Deborah Pierce's Variance Application was opened at 7:05P.M. by Chairman Littleton. It was noted that this hearing was duly advertized in the local newspaper and that there was a quorum present.

Several questions were asked of the Applicant by the Board. It was noted that there was no submission from the Planning Board.

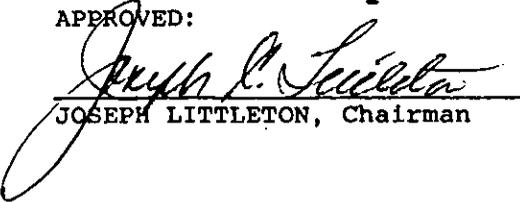
Public Hearing was closed at 7:15 P.M.

Chairman Littleton opened the Regular Meeting at 7:16 P.M. and, after some disucssion on the Variance application from Deborah Pierce, a Motion was made by Robert Domras to adopt the Findings made by the Board. This Motion was seconded by James Bailey. Roll Call Vote was taken: Joseph Littleton - Aye

Robert Domras - Aye
Robert Cornell - Aye
James Bailey - Aye

Robert Cornell made motion to adjourn the meeting at 7:25 P.M. and this was seconded by James Bailey. All Voted AYE.

APPROVED:



JOSEPH LITTLETON, Chairman

FINDINGS REGARDING PIERCE VARIANCE - March 25, 1992

1. The site of the subject mobile home lies in a residential district.
2. The Mobile Home park of the applicant, Debbie Pierce, is a pre-existing non-conforming use of the property in a residential district and the mobile home unit of the applicant is a part of that pre-existing non-conforming use in the residential district.
3. The application for the Variance refers to the replacement of that pre-existing mobile home destroyed by fire in November, 1991.
4. The applicant was refused a building permit and/or zoning permit by the Code Enforcement Officer on December 20, 1991, citing provisions of the Zoning Law relating to mobile home replacement in an Agricultural District, Sec. 105-36 B (3) (a) & (6). This Section is not applicable to this dwelling in a Residential District.
5. Section 105-44 A allows continuation of a non-conforming use; often called the "grandfather clause" and 105-44B allows maintenance and repair.
6. The Board finds that the proposed construction is a contemplated repair of a pre-existing non-conforming use. The new construction on the old foundation will restore the building to its approximate pre-existing condition.
7. The application is moot and no decision on the Variance application is required.