

**PB# 71-1**

**Church of Nazarene**

Church of Nazareth  
#71-1

71-2

refer to file at  
Town Clerk's



*Oxford*

STOCK No. 753 $\frac{1}{3}$

MADE IN U. S. A.

BLOOMING GROVE TURNPIKE

N 31-19-10 E 300-00 W 150

To Avenue 9 W  
From NE 1/4 Section 10

35

N 29-9-20 W 891.80

BLACK TOP DRIVEWAY

1/2" WIDE FENCE  
DOG HOLE



Lot 200

Lot 201

Lot 202

5.2 ACRES

50 P.O.W.

N 24-30-00 W 339.16

S 24-30-00 E 323.00  
N 300.00

N 24-30-00 W 125.00

S 65-30-00 W 120.00

N 53-30-00 E 120.00

S 24-30-00 E 673.50

S 24-30-00 E 266.00

0.161 ACRES  
N 70-31 W 110.10

LOT



EXISTING GRADING POST

EXISTING CHANNEL POST

N 54-19-10 E 51.97

N 24-30-00 W 121.75

2588/71

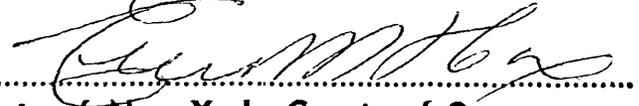
6

State of New York  
County of Orange, ss:

Philip T. Gialanella , being duly sworn deposes and  
says that he is ..... The Publisher ..... of Newburgh-  
Beacon News Co., Inc., Publisher of The Evening News.  
a daily newspaper published and of general circulation in  
the Counties of Orange and Dutchess, and that the notice  
of which the annexed is a true copy was published .....  
One Time

.....  
in said newspaper, commencing on the.....<sup>3rd</sup> day of  
..... July ..... A.D., 19<sup>71</sup> , and ending on  
the .....<sup>3rd</sup> day of ..... July ..... A.D., 19<sup>71</sup>

Subscribed and sworn to before me this  
.....<sup>7th</sup> day of..... July ..... 19.....<sup>71</sup>

}   


.....  
Notary Public of the State of New York, County of Orange.  
MY COMMISSION EXPIRES MARCH 30, 1977

NOV 18 12 14 PM '71

ORANGE COUNTY CLERK  
FILED

PLANNING BOARD TOWN NEW WINDSOR, SUBJECT: CONDITIONAL USE  
CHURCH OF THE NAZARIENE CONTRACT VENDE, 1/2 LOT 201 LOT 202  
ON WINDSOR ACRES MAP

"This" is a rather delicate matter. It is delicate because it concerns the church. We would like to believe that all the people in this area for and against the granting of this (conditional use) are church goers and that they certainly have no strong feelings or any feelings at all against the church, and we would like to also point out that we are all aware of our constitutional guarantees, freedom of worship and that in this particular town of New Windsor, consisting of about 37 square miles of land, we have at least one-half dozen or more of various denominations of churches. Some are situated along Route 94 on the State Highway, some on Route 207, a County Highway. We have some that go back to the days of George Washington long before any residences were built around these churches, and now we are confronted with a delicate proposition. We would like to think that when this ordinance was written by our Zoning Commission, which consisted of citizens of the Town, that they realized and recognized that there would come a day when another church would seek a site, and there would be another church, and then another church, and they carefully considered this in light of the growth of the Town and made provisions for churches to be built anywhere in the Town. Industrial zones, residential zones, etc. In the first article of our Zoning Law, Article I, among the 7 purposes, states, one purpose is the maximum protection of residential areas. It just so happens that this particular church desires to erect a structure in a residential area. There is nothing wrong with that.

At the same time, the authors of the Zoning Ordinance of the Town of New Windsor also said that they will give churches a special permission to locate in these various zoning areas. The Board and the lawyers referred to that special permission as a "conditional use". Now, with respect to this special permission as applied to a residential area, very clearly it requires no interpretation and is written in words of one syllable.

We can appreciate the self-imposed problem. The difficulty that the good Reverend is confronted with. Now the Board finds itself in a situation where it must decide whether the law ignor its duty to provide maximum protection to the homeowner in the residential area in a community which has been established for 30 years or more. We are not about to tell the church or organization where it should build, but we make this observation. In this particular area, there are only 3 to 5 residential lots left. There are 37 square miles of land and this church is not being deprived of an opportunity or privilege under the conditional use to build anywhere in the Town.

The Board should remember that the religious institution has no greater rights than any individual homeowner. We the homeowners feel the condition use should be denied.

*Boe Langart*

*Thomas Langart*

*52 Blawiegs*

*Dr. W*

Patricia Hamernik	1 Allen Pl.	New Windsor NY
Louis Hamernik	" "	" "
Michael Pace	2 Allen Pl.	New Windsor "
Nettie Pace	2 Allen Pl.	New Windsor "
Elizabeth Sloan	3 Allen Pl	New Windsor "
James P. Conroy	6 Allen Pl	New Windsor "
Ernie M. McAllelan	50 Blooming Grove Tpk.	New Windsor "
Ronald M. McAllelan	50 Blooming Grove Tpk	New Windsor "
James Ambrose	41 Blooming Grove Tpk	New Windsor "
Annette Ambrose	41 Blooming Grove Tpk	New Windsor

ORANGE COUNTY CLERK  
FILED

Nov 18 12 14 PM '71

PUBLIC NOTICE OF HEARING BEFORE  
THE PLANNING BOARD OF THE TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Planning Board of the Town of New Windsor, New York will hold a public hearing pursuant to Section 48-35 of the Zoning Ordinance on the following proposition:

Request of The Church of the Nazarene for a conditional use permit, to permit Construction of  
(Describe proposal)

a Church Building, pursuant

to Article III, Section 48-6 A(4)(a),

for property located on Blooming Grove Turnpike  
(Street)

and is bounded as follows ~~located on~~ lands of Bruno & Brangaccio

on south side of Blooming Grove Turnpike, consisting of 50'  
of lot 201 and lot 202 - 2.494 Acres of land.

SAID HEARING will take place on the 26 day of MAY,

197 , at the New Windsor Town Hall, 555 Union Avenue, New Windsor,

New York, beginning at 8:00 o'clock P.M.

\_\_\_\_\_  
Chairman

AM 2/25/77?

WATER, SEWER, HIGHWAY REVIEW FORM:

3588/71

12

The maps and plans for the Site Approval \_\_\_\_\_ Subdivision \_\_\_\_\_

as submitted by Sidney L. Horowitz, Monticello N.Y.

for the building or subdivision of Church of the Nazarene

has been reviewed by me and is approved \_\_\_\_\_ disapproved no

If disapproved, please list reason.

No sewer plans submitted.

\_\_\_\_\_  
HIGHWAY SUPERINTENDENT  
State, County, Town

\_\_\_\_\_  
WATER SUPERINTENDENT

*O. Fred King*  
SANITARY SUPERINTENDENT

ORANGE COUNTY CLERK  
FILED

Nov 18 12 14 PM '71

6. That on the day following the date of the [redacted] in the preceding paragraph of this answer, to wit, the \_\_\_18\_\_\_ day of \_\_\_19\_\_\_, 19\_\_\_21\_\_\_, at \_\_\_21\_\_\_ o'clock, the petitioner duly appeared before the respondent to show cause why he should not be removed and to give any explanation that he might desire in relation to the charges preferred against him that are hereto annexed and marked Exhibit A. The contents thereof, which are herewith reiterated with the same force and effect as if again set forth at length, are a complete and correct copy of the proceedings had before said defendant on the \_\_\_22\_\_\_ day of \_\_\_23\_\_\_, 19\_\_\_24\_\_\_.

7. That as a result of respondent's personal investigation of the condition of the department under the petitioner's charge and upon the testimony taken before him as aforesaid, this respondent determined the charges against the petitioner for failing to carry out instructions in relation to his department, and inefficient conduct of his department were, in all respects, sustained, and respondent removed the petitioner from his position in said department under a formal order of removal delivered to the petitioner and reading as follows: \_\_\_25\_\_\_.

8. That annexed hereto and made a part hereof are the affidavits of \_\_\_26\_\_\_ and \_\_\_27\_\_\_, respectively sworn to the \_\_\_28\_\_\_ day of \_\_\_29\_\_\_, 19\_\_\_30\_\_\_, and the \_\_\_31\_\_\_ day of \_\_\_32\_\_\_, 19\_\_\_33\_\_\_, and the notices and transcript of the proceedings hereinbefore referred to.

WHEREFORE, respondent prays that the proceeding be dismissed and that he be awarded his costs and disbursements.

\_\_\_\_\_  
34  
Attorney for Respondent  
[Office, P.O. Address, and  
Telephone Number]

[Verification]

### Instrument adopting answer of joint respondent.

[Title of court and cause]

I, \_\_\_\_\_, one of the respondents herein, do hereby adopt the answer hereto annexed, of \_\_\_2\_\_\_ a respondent, the \_\_\_3\_\_\_ of the \_\_\_4\_\_\_ court, and rely upon the matter therein contained as sufficient cause why said \_\_\_5\_\_\_ court and the said justice of such court should not be restrained and prohibited as mentioned and specified in the petition herein.

In witness hereof, I have hereunto subscribed my name on the \_\_\_6\_\_\_ day of \_\_\_7\_\_\_, 19\_\_\_8\_\_\_.

[Signature, with name  
printed underneath]

[Verification]

CPLR 7804(e) requires that a certified transcript of the proceedings complained of be filed by the respondent with the clerk of the court either before or with the filing of its answer. It further provides that statements in the answer, transcript or answering affidavit are not conclusive upon the petitioner. The court may order the body or officer to supply any defect or omission in any of those papers.

The answer and supporting affidavits, if any, shall be served at least 5 days before the return date. CPLR 7804(c).

§ 10:272 Answer—Review of Determination of City Comptroller [Form—CPLR 7804]

[Add title of court and cause as in § 10:258]

ANSWER

Index No. \_\_\_\_\_

The respondent, for his verified answer to the petition herein, respectfully:

FIRST: Admits the allegations contained in paragraph "3" of the petition, except denies that the question as stated is the sole question at issue in this proceeding.

SECOND: Denies the allegations contained in paragraph "4" of the petition, except admits that petitioner paid over to the City Collector an amount representing taxes collected by it as alleged, during the period alleged, in substantially the amount stated, the actual amount being \_\_\_\_\_<sup>2</sup> (\$\_\_\_\_\_ ) Dollars.

THIRD: Denies the allegations contained in paragraph "5" of the petition, except admits that on \_\_\_\_\_, 19\_\_<sup>3</sup> petitioner filed with respondent claims for refund of the aforesaid taxes, which claims were rejected as alleged.

FOURTH: Denies the allegations contained in paragraph "6" of the petition, except admits that a hearing was applied for in writing by petitioner on the date alleged.

FIFTH: Admits the allegations contained in paragraph "9" of the petition, except denies that during the period in question petitioner did not maintain any advertising facilities in the City of New York.

SIXTH: Denies the allegations contained in paragraph "11" of the petition.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE RESPONDENT ALLEGES THAT:

SEVENTH: Petitioner collected the taxes in question from its customers on its declaration that its customers were paying tax for transmittal to the City of New York. Petitioner has no interest of its own in such taxes.

EIGHTH: Under the sales and use tax laws no actual refund of moneys may be made to a vendor who has collected the tax from his purchasers until the vendor establishes that he has repaid the tax to such purchasers.

NINTH: Relief should be denied to petitioner herein on the ground that it claims the right to refund of the taxes for itself rather than for its purchasers.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE RESPONDENT FURTHER ALLEGES THAT:

TENTH: The retail sales made by petitioner to customers located in the City of New York, as alleged in paragraphs "3" and "10" of the petition, constituted retail purchases by such customers, which purchases subjected such customers to sales or use tax.

ELEVENTH: The taxes collected by petitioner from such customers, as alleged in paragraphs "3" and "4" of the petition, constituted taxes for which such customers were liable under the sales or use tax laws, and which such customers were required to pay either to petitioner for transmittal to the City or directly to the City.

TWELFTH: Relief should be denied to petitioner herein on the ground that its customers who paid the taxes were subject to, and liable for, the taxes paid.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE, INTERPOSED AS A PARTIAL DEFENSE TO THE PETITION, RESPONDENT FURTHER ALLEGES THAT:

THIRTEENTH: Of the payments of tax alleged in paragraph "2" of the petition to have been made by petitioner to the City Collector, the payment of \_\_\_\_\_<sup>4</sup> (\$\_\_\_\_\_ ) Dollars by check dated \_\_\_\_\_, 19\_\_<sup>5</sup>, covered taxes paid to petitioner by its customers during the period from \_\_\_\_\_, 19\_\_<sup>6</sup> to \_\_\_\_\_, 19\_\_<sup>7</sup>, and the payment of \_\_\_\_\_<sup>8</sup> (\$\_\_\_\_\_ ) Dollars by check dated \_\_\_\_\_, 19\_\_<sup>9</sup>, covered taxes paid to petitioner by its customers during the period \_\_\_\_\_, 19\_\_<sup>10</sup> to \_\_\_\_\_, 19\_\_<sup>11</sup>. Petitioner

71 sent out  
65 rec'd -  
6 ret'd  
unknown

Eugene D. Sloan - Assessor  
M.D.#29 Rte. 207  
New Windsor, N.Y. 12550

Rev. Cecil Jones  
51 Prospect St.  
Newburgh, N.Y.

Dear Rev. Jones:

According to town records, the attached list of property owners are within the five hundred (500) feet of the area you inquired about.

The charge for this service is \$25.00. A remittance for this amount is owed to Sandra L. Sloan for typing and researching of town records on this matter.

Respectfully,

*Eugene D. Sloan*

Eugene D. Sloan  
Board of Assessors  
Town of New Windsor

EDS:sls

Forestiere, Jasper A. ✓	River Road, R.D.#1	New Windsor, N.Y.
Fairbanks, George & Violet ✓	73 Bloomin Grove Tpke.	New Windsor, N.Y.
Canfield, Marvin C. & June ✓	2 Nee Ave.	New Windsor, N.Y.
Gibbs, Walter W. & Carol ✓	4 Nee Ave.	New Windsor, N.Y.
Bontempo, Ralph C. & Elizabeth E. ✓	8 Nee Ave.	New Windsor, N.Y.
Zimmerman, John A. Jr. & Thora ✓	14 Nee Ave.	New Windsor, N.Y.
Zimmerman, John A. Sr. & Alice ✓	160 Fullerton Ave.	Newburgh, N.Y.
Weller, Fred E. & Dorothy ✓	18 Nee Avenue	New Windsor, N.Y.
Lisi, John & Phyllis M. ✓	34 Nee Ave.	New Windsor, N.Y.
Cirigliano, Anthony & Maria ✓	Faye Ave.	New Windsor, N.Y.
Talerico, Louis & Tillie ✓	Faye Ave. M.D.#33	New Windsor, N.Y.
Cirillo, Patrick & Florence ✓	Faye Ave. M.D.#33	New Windsor, N.Y.
Cowton, George & Elsie ✓	Faye Ave.	New Windsor, N.Y.
McNeight, Jacque & Margaret Helen ✓	15 Faye Ave.	New Windsor, N.Y.
Graziano, Joseph R. & Helen ✓	11 Faue Ave.	New Windsor, N.Y.
Sadlo, Charles, L. & Joan M. ✓	9 Faye Ave.	New Windsor, N.Y.
Krasnoborski, Sophia L. ✓	7 Faye Ave.	New Windsor, N.Y.
Gill, Wesley F. & Kathleen H. ✓	Faye Ave. M.D.#33	New Windsor, N.Y.
Krohn, Alfred & Gertrude ✓	79 Blooming Grove Tpke.	New Windsor, N.Y.
Johnson, Hilton J. ✓	75 Blooming Grove Tpke.	New Windsor, N.Y.
Eames, Douglas, Harry, & Grace L. ✓	29 Blooming Grove Tpke.	New Windsor, N.Y.
Markuson, Regina W. ✓	33 Blooming Grove Tpke.	New Windsor, N.Y.
Marasco, Albert A. & Evelyn Ann ✓	37 Blooming Grove Tpke.	New Windsor, N.Y.
Ambrose, James & Annette ✓	41 Blooming Grove Tpke.	New Windsor, N.Y.
Brangaccio, John & Victoria ✓	2 Hideway Lane	Newburgh, N.Y.
Cirigliano, Anthony & Maria ✓	747 Vincent Dr.	Bronx, N.Y.
Jarvis, Robert & Florinda ✓	31 Faye Ave.	New Windsor, N.Y.
Ciarimbali, Alfred ✓	30 Nee Ave.	New Windsor, N.Y.
Salazar, Francisco J. & Louisa M. ✓	22 Nee Ave.	New Windsor, N.Y.
Wilkinson, Donald R. & Delores M. ✓	26 Nee Ave.	New Windsor, N.Y.
Wangner, Philip & Anita ✓	Nee Ave. M.D.#33	New Windsor, N.Y.

Marine, Angelo & Mary ✓	6 Margaret Pl.	New Windsor, N.Y.
Sarinsky, Leonard ✓	10 Margaret Pl.	New Windsor, N.Y.
Kardel, Stanley R. & Vella Mae ✓	5 Margaret Pl.	New Windsor, N.Y.
Paden, Russell A. & Helen ✓	14 Margaret Pl.	New Windsor, N.Y.
Cerone Frank E. & Santi ✓	16 Margaret Pl.	New Windsor, N.Y.
Lahey, Edward A. & Anne V. ✓	Box 321 Blooming Grove Tpke.	New Windsor, N.Y.
Cullen, Mary S. ✓	62 Blooming Grove Tpke.	New Windsor, N.Y.
Hyde, William G. & Mary Ann H. ✓	72 Blooming Grove Tpke.	New Windsor, N.Y.
Hinton, Gertrude E. & Albert ✓ F.	74 Blooming Grove Tpke.	New Windsor, N.Y.
Parts, Karl & Maria ✓	76 Blooming Grove Tpke.	New Windsor, N.Y.
Falco, Angelo & Santa ✓	80 Blooming Grove Tpke.	New Windsor, N.Y.
Reitano, Jos. & Anne ✓	84 Blooming Grove Tpke.	New Windsor, N.Y.
Goff, John W. & Dorothy ✓	88 Blooming Grove Tpke.	New Windsor, N.Y.
Millman, Walter S. ✓	38 Old Blooming Grove Tpke.	New Windsor, N.Y.
Schiffman, Morris W. ✓	300 Dolphin Dr.	Woodmere, N.Y.
Goemann, William H. & Elizabeth M. ✓	46 Blooming Grove Tpke.	New Windsor, N.Y.
McClellan, Donald & Anne ✓	50 Blooming Grove Tpke.	New Windsor, N.Y.
Lampack, Rose ✓	51 Blooming Grove Tpke.	New Windsor, N.Y.
Pace, Michael D. & Nehiel ✓	2 Allen Pl.	New Windsor, N.Y.
Boatman, James W. & Hohanna K. ✓	4 Allen Pl.	New Windsor, N.Y.
McCormick, James E. & Eleanor R. ✓	6 Allen Pl.	New Windsor, N.Y.
Devine, Kenneth & Lillian ✓	5 Allen Pl.	New Windsor, N.Y.
Sloan, Samuel G. Sr. & Elizabeth ✓	3 Allen Pl.	New Windsor, N.Y.
Hamernik, Louis P. & Patricia V. ✓	1 Allen Pl.	New Windsor, N.Y.
Quick, Arthur W. & Dolores M. ✓	13 Margaret Pl.	New Windsor, N.Y.
Dori, Associates Inc. ✓	P.O. Box 17	New Windsor, N.Y.
Petro, Richard P. ✓	Stori Road M.D.29	Newburgh, N.Y.
Muscaralla, Raymond G. ✓	North Rd.	Marlboro, N.Y.
Di Carlo, Joseph & Virginia M. ✓	64 Melrose Ave.	New Windsor, N.Y.
Olympia, Peter M. Jr. ✓	16 Russell Rd.	New Windsor, N.Y.
Miron, Julie	242 Johnson Ave.	N.Y., N.Y.

Bruno, Frank Sr. & Lillian ✓	61 Blooming grove Tpke.	New Windsor, N.Y.
Milich, Louis & Elizabeth ✓	67 Blooming Grove Tpke.	New Windsor, N.Y.
Mazzarelli, Adolph J. & Fannie G. ✓	69 Blooming Grove Tpke.	New Windsor, N.Y.
Smith, George H. & Meta M. ✓	3 Nee Ave.	New Windsor, N.Y.
Fabiano, Frank D. & Mary Ann ✓	9 Nee Ave.	New Windsor, N.Y.
✓ Flannigan, John & Carolyn	11 Nee Ave.	New Windsor, N.Y.
Antonucci, John C. & Anna M. ✓	15 Nee Ave.	New Windsor, N.Y.
Pinckney, Frank L. & Joyce W. ✓	19 Nee Ave.	New Windsor, N.Y.
Slater, Florence May ✓	23 Nee Ave.	New Windsor, N.Y.

1  
Dated 12/20/65

APPLICATION FOR VARIANCE

Application No. 71-2  
Date: April 20, 1971

TO THE ZONING BOARD OF APPEALS OF THE TOWN OF NEW WINDSOR, NEW YORK

I (We) Church of the Nazarene Bloom<sup>ing</sup>Grove Turnpike  
(Street & number)

New Windsor New York HEREBY MAKE  
(State)

APPLICATION FOR A VARIANCE:

A. LOCATION OF THE PROPERTY Bloom<sup>ing</sup>Grove Turnpike  
(Street & number) (Use district on Zoning Map)

B. PROVISION OF THE ZONING ORDINANCE APPLICABLE: (Indicate the article, section, sub-section and paragraph of the Zoning Ordinance applicable, by number. Do not quote the ordinance: Article III, Sec 48-6A  
(4) (a)

C. NOTE: NECESSARY FINDINGS: Before any Variance is granted, the Zoning Board of Appeals must find all of the following conditions to be present:

1. Conditions and circumstances are unique to the applicant's land, structure or building and do not apply to the neighboring lands, structures or buildings in the same zone because: building the Church 25 feet from the side yards will not interfere in any way with the neighboring lands.

2. Strict application of the provisions of this ordinance would deprive the applicant of a reasonable use of the land, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighboring lands, structures or buildings in the same zone because: it would only give 44 feet in the center of our ground to build in and that is not nearly enough.

3. The unique conditions and circumstances are not the result of actions taken of the applicant subsequent to the adoption of the Ordinance because: not applicable

4. Relief, if approved will not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance because: a church and especially a new church

building adds to the public good and will not cause any damage to the Ordinance itself

5. Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zone because: Other property owners have homes

on their lands which have setbacks that are less than the ones we are applying for.

D. Describe in detail how the property is to be used and submit plans or sketches in duplicate.

The existing house is to be used as the home of the Minister of the Church and the parcel of land between the Home and Blooming Grove Turnpike will be used for the purpose of building the New Church.

E. Application to be accompanied by a check, payable to the Town of New Windsor in the amount decided by the Board. Application to be returned to: Secretary of the Zoning Bd. of Appeals.

F. NOTICE OF HEARING: Applicant agrees to send notice of any public hearing via registered mail to all abutting land owners as required by Section 9.4.1 of the Ordinance.

G. If the property in question is located within a radius of 500 ft. of an adjoining municipality, the Board should be notified. Also, have your attorney check Sec. 239m of the General Municipal Law to see if it applies. If so, notify the Orange County Planning Bd.

Dated: April 20, 1971

Rev. Paul Jones  
Signature of Applicant  
Church of the Nazarene

STATE OF NEW YORK )  
COUNTY OF ORANGE ) SS

Sworn to on this 23rd day of April, 1971 51 Prospect Street  
Address

Patricia Delio  
Notary Public

561-3647  
Telephone No.

PATRICIA DELIO  
Notary Public, State of New York  
Appointed in Orange County  
My Commission expires Mar. 30, 1972

DO NOT WRITE IN THIS SPACE

Application No. 76-2  
Date of Hearing 4/23/71  
Date of Decision 4/23/71

Date Received 4/20/71  
Notice Published 4/23/71

DECISION:

Denied.

NOTICE OF HEARING BEFORE THE ZONING BOARD OF APPEALS

PLEASE TAKE NOTICE that the zoning Board of Appeals of the Town of New Windsor, New York will hold a public hearing pursuant to Section 48-33A of the Zoning Ordinance of the following proposition:

Appeal No. 2

Request of Church of the Nazarene for a Variance of the regulations of the Zoning Ordinance, to permit construction of a church with 25 ft. sideyards, being a Variance of Article III Section 48-6A (4) (a), for property owned by Bruno and being purchased by the Church situated as follows: located near lands of Bruno on the south side of Blooming Grove Turnpike. It consists of 50 ft. of Lot No. 201 and Lot 202, which is 2.494 acres of land.

SAID HEARING will take place on the 3rd of May, 1971, at the town Hall, Town of New Windsor, 555 Union Avenue, beginning at 8:30 o'clock P.M.

FRED WYGANT  
Chairman

Forge Hill Rd.  
New Windsor, N. Y.  
May 4, 1971

Rev. Cecil Jones  
Church of the Nazarene  
51 Prospect Street  
Newburgh, N. Y. 12550

Re: Application No. 71-2

Dear Reverend Jones:

I am sorry to inform you that your above  
application for a variance has been denied by the  
Zoning Board of Appeals.

Yours very truly,

FRED WYGANT,  
Chairman

/pd

cc: Howard Collett, Bldg. Inspector  
Theodore F. Marsden, Supervisor

3/9/71

APPLICATION is hereby made for the following:

Agenda: X Service: \_\_\_\_\_

1. Name Church of the Nazarene  
Address 51 Prospect Street, Newburgh, New York 12550  
Telephone Number 561-3647  
Are you the owner of the property? No
2. Briefly describe (or attach) intention and location of property: Blooming Grove Turnpike, Bruno property, variance for setbacks for the purpose of building a church.
3. PLANNING BOARD  
\_\_\_\_\_Site Plan Preliminary Meeting  
\_\_\_\_\_Subdivision Preliminary Meeting  
 Informational Meeting  
AGENDA DATE \_\_\_\_\_
4. ZONING BOARD OF APPEALS



TOWN OF NEW WINDSOR  
ORANGE COUNTY, N. Y.  
OFFICE OF ZONING - BUILDING INSPECTOR

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

File No. .... Date March 31, 1971

To Church of the Nazarene  
Newburgh N.Y.

PLEASE TAKE NOTICE that your application dated March 31, 1971  
for permit to Erect Church  
at the premises located at Blossing Grove Trpk

is returned herewith and disapproved on the following grounds:  
side yard 25 feet - 50 feet required.

Howard R. Gallett  
Building Inspector

APPLICATION FOR CONDITIONAL USE

APPLICATION NO: \_\_\_\_\_  
DATE: \_\_\_\_\_ 19 \_\_\_\_\_

TO THE PLANNING BOARD OF THE TOWN OF NEW WINDSOR, NEW YORK

I (We) Church of the Nazarene of Blooming Grove Turnpike  
(Street & Number)

New Windsor, New York HEREBY MAKE  
(Municipality) (State)

APPLICATION TO THE PLANNING BOARD OF THE TOWN OF NEW WINDSOR FOR THE USE OF:

A. LOCATION OF THE PROPERTY: Blooming Grove Turnpike  
USE DISTRICT OF ZONING MAP RB

B. PROVISIONS OF THE ZONING ORDINANCE APPLICABLE. (Indicate the Article, section, sub-section and paragraph of the Zoning Ordinance applicable. Do not quote the ordinance). 48-6 A(4)(a) page 4809

C. NOTE: NECESSARY FINDINGS: The Planning Board must find all of the following to apply.

1. The requested use will not create conditions different from existing uses in the area because; The minister and family will live in the house and the constructed building will be used for church purposes.

2. Such use will not cause congestion around entrance or exit because; The property will have plenty of space for off street parking. And there will be a well defined entrance and exit onto Blooming Grove Turnpike. At the present Ten to

3. Twenty cars will be involved. Such use will not create traffic hazards because; Blooming Grove Turnpike is a through street so cars coming and going will be able to go either East or west without causing any traffic hazards. Also there is plenty of road visibility both East and west from property.

4. Such use will not be the cause of giving off noxious gases, odors, smoke or soot because; The regular uses of a church does not involve any of the above mentioned conditions.

5. Such use will not cause disturbing emission of electrical discharges, dust, light, vibration noise or radioactivity because of; Electrical Uses  
will be lighting, sound system and probably a range.  
The parking lot will be paved and none of  
The rest of the above apply.

6. Such use will not change the character of the neighborhood because; \_\_\_\_\_  
A new church building tends to blend into  
the neighborhood and make that neighborhood  
more attractive.

D. DESCRIBE IN DETAIL HOW PROPERTY IS TO BE USED: The house is to be  
used as the home of the Minister of the  
Church. The church that will be built will  
fulfill all the normal functions of a Church.

(Use separate sheet of paper if necessary)

E. SUBMIT IN DUPLICATE

1. Plot Plan
2. Description of Building
3. Picture site, including adjacent property.

F. APPLICATION TO BE ACCOMPANIED BY A CHECK - Payable to Town of New Windsor.  
Application to be returned to: New Windsor Planning Board, Town Hall, New Windsor, N. Y. 12550.

STATE OF NEW YORK ) ss:  
COUNTY OF ORANGE )

Rev. Cecil Jones  
(Petitioner (s) Signature)

Sworn to this 12<sup>th</sup> day of May 1971.

Julia M. Tuckosh  
(Notary Public)

JULIA M. TUCKOSH  
Notary Public County of Orange  
Reg. #36-9390700  
Commission Expires 02-10-72

DO NOT WRITE IN THIS SPACE

Application No. 71-1  
Date of Hearing 7-19-71  
Date of Decision 8-11-71  
Decision:

Date Received \_\_\_\_\_  
Notice Published 7-3-71

denied

Date \_\_\_\_\_

Application No. \_\_\_\_\_

TOWN OF NEW WINDSOR PLANNING BOARD

APPLICATION FOR SITE APPROVAL

Name Church of the Nazarene

Address Blooming Grove Turnpike, New Windsor, N.Y.

1. Owner of the property Church of the Nazarene is buying it from Frank Bruno

2. Location of the property The Eastern half of the original Frank Bruno property on Blooming Grove Turnpike.

3. Zone area RB

4. Nature of business Church

5. Lot size: Front 150' Rear 159' Depth \_\_\_\_\_

6. Building setbacks: Front yard 50' Rear yard 500'  
Side yards 50'

7. Dimensions of new building 84' x 42'

Addition \_\_\_\_\_

If addition, state front, side, rear of existing structure:

Compliance with requirements shall be the sole responsibility of the applicant or his representative and it is suggested a copy of the Zoning Ordinance be obtained, with particular attention to Article X to avoid rejection of the plans.

I do hereby affirm that all fees, permits and charges applicable under the laws and ordinances of the State of New York and the Town of New Windsor will be paid and that any expense for advertising of Public Hearing or meetings will be paid. Also, any legal or engineering fees for review of this project. Fees are due and payable upon submission of preliminary plans. All checks are to be made payable to the Town of New Windsor. Seven (7) copies of the plans are required.

Signature of applicant Rev Cecil Jones

STANTON AND STANTON

ATTORNEYS AT LAW  
33 QUASSAICK AVE. (RT 9W)  
NEW WINDSOR, NEW YORK 12550

WILLIAM F. STANTON  
JOHN G. STANTON

NEWBURGH  
POST OFFICE BOX 208  
(914) 562-1221

November 23, 1971

Joseph Tallarico, Chairman  
Town of New Windsor Planning Board  
New Windsor Town Hall  
Union Avenue  
New Windsor, New York 12550

RE: Church of the Nazarene v. Town of  
New Windsor Planning Board

Dear Joe:

I have received a formal decision dated November 11, 1971, from Judge Sweeny informing me that the Planning Board's decision denying the conditional use sought by the Church of the Nazarene has been annulled and that the Board is directed to approve the Church's application. The approval will not have to be given until after the final order is entered which will take a few weeks. I would not recommend that the Board appeal this decision since the position of the Church has ample support in the law of New York (copy of letter dated August 10, 1971 enclosed).

Prior to the formal decision, Judge Sweeny's law secretary had informed me that the Judge was not favorably disposed to the Church's application and thought the Judge would give us a favorable decision; however, his law secretary called me again and informed me that the Church's attorneys had notified him that they would immediately appeal any decision against the Church to the Appellate Division, and that Judge Sweeny did not want to have any opinion in favor of the Planning Board reversed on appeal.

I realize the local residents will be upset; however, the approval was not voluntarily given by the Board and it took Court action to compel approval of the conditional use.

Very truly yours,

STANTON & STANTON

*John G. Stanton*

By: John G. Stanton

JGS:cm

Encs.

cc. Theodore F. Marsden, Supervisor

STANTON AND STANTON

ATTORNEYS AT LAW  
33 QUASSAICK AVE. (RT 9W)  
NEW WINDSOR, NEW YORK 12550

WILLIAM F. STANTON  
JOHN G. STANTON

NEWBURGH  
POST OFFICE BOX 208

(914) 562-1221

August 10, 1971

Mr. Joseph Tallarico, Chairman  
Town of New Windsor Planning Board  
New Windsor, New York 12550

RE: Church of the Nazarene

Gentlemen:

I have checked the relevent law in New York in connection with the Church of the Nazarene's application for site plan approval. Since the proposed site for the church is in a RA district, it is therefore a conditional use which is permitted on approval of the planning board pursuant to the standards set forth in Section 48-35 of the Town of New Windsor code. Section 48-35 sets forth certain conditions that must be met by any one seeking approval of a conditional use; however, these provisions alone are not controlling since they must be consistent with the applicable law in New York.

Any action of the board disapproving the church's application can only be justified on the grounds that the denial bears some substantial relation to the health, safety, and general welfare of the community. The discretion which the board has in considering such applications is not unlimited and cannot be exercised in an arbitrary and unreasonable way.

The New York Court of Appeals, which is the highest court in this state, has decided cases where the facts are quite similar to this question before the board. The New York Court of Appeals is the highest court in the state and its decisions are controlling and must be followed by any lower courts. I will include some pertinent sections from decisions of the court of Appeals relating to questions involving planning and zoning boards. The leading case in New York is Diocese of Rochester v. Planning Board which was decided in 1956. In this decision, the Court stated:

".....it must be borne in mind that churches and schools occupy a different status from mere commercial enterprises and, when the church enters the picture, different considerations apply."

Also, the court held:

"....churches and schools should be allowed in Class A residential areas which are usually the quietest and least congested areas of a town. It is well established in this country that a zoning ordinance may not wholly exclude a church or synagogue from any residential district, Such a provision is stricken on the ground that it bears no substantial relation to the public health, safety, morals, peace or general welfare of the community."

The Court also held that the following were insufficient reasons to deny an application for site plan approval in a residential area:

- (1) No church or school in a built-up area.
- (2) Adverse effect upon property values.
- (3) Loss of potential tax revenue.
- (4) Decreased enjoyment of neighboring property.
- (5) Traffic hazards.

In the Rochester case, although the planning board has based its denial of the church's application partially because of additional traffic and the hazards that such increased traffic might create, the Court held:

"It is arbitrary and unreasonable to deny a permit to a church or parochial school because of possible traffic hazards that may be created."

I have personally examined the area where the church wishes to locate and I am of the impression that the most plausible reason for denying the church's application would be the increased traffic since Bloominggrove Trunpike is a narrow road at this point and there are numerous children in the area. However, the case law in New York seems to be quite clear that even this consideration is not sufficient reason to deny approval to a church seeking site plan approval. In a more recent Court of Appeals case, Westchester Reformed Temple v. Brown, which was decided in 1968, the Court of Appeals stated:

"Nevertheless, we have already decided

in the Rochester case that, where an irreconcilable conflict exists between the right to erect a religious structure and the potential hazards of traffic or diminution in value, the latter must yield to the former."

Also, the New York Courts have applied different standards when churches or schools are involved and have said the following in connection with churches:

"Religious structures enjoy a constitutionally protected status which severely curtails the permissible extent of governmental regulation in the name of the police powers."

In the Rochester case, the Court of Appeals recognized the preferred status of church and school uses in contrast to commercial or industrial uses:

"Thus church and school and accessory uses are, in themselves, clearly in furtherance of the public morals and general welfare. The church is the teacher and guardian of morals."

To summarize: there is nothing in the applicable New York case law which would compel this board to grant approval to a church seeking site plan approval in a residential area where it would be a conditional use; however, if the church is denied approval and then pursues its remedies in the Courts, they will have a very strong legal position based upon the present state of the law in New York. To date, the church and its representatives have given no indication of how determined they are to locate on this property site or how far they would go to challenge any adverse decision of this board.

Very truly yours,

*John G. Stanton*

John G. Stanton

JGS:cm

BLOOMING GROVE TURNPIKE

N 31-19-11 W 300.00' 150' 50'

N 24-29-20 W 391.80'

BLACK TOP DRIVEWAY

LOT 200

LOT 201

LOT 202

LOT



50' R.O.W.

N 24-30-00 W 239.16'

N 22-30-00 W 125.00'

S 53-00-00 W 50.00'

S 65-30-00 W 120.00'

N 05-30-40 E 150.00'

S 24-30-00 E 673.50'

96'

50' 266.00'

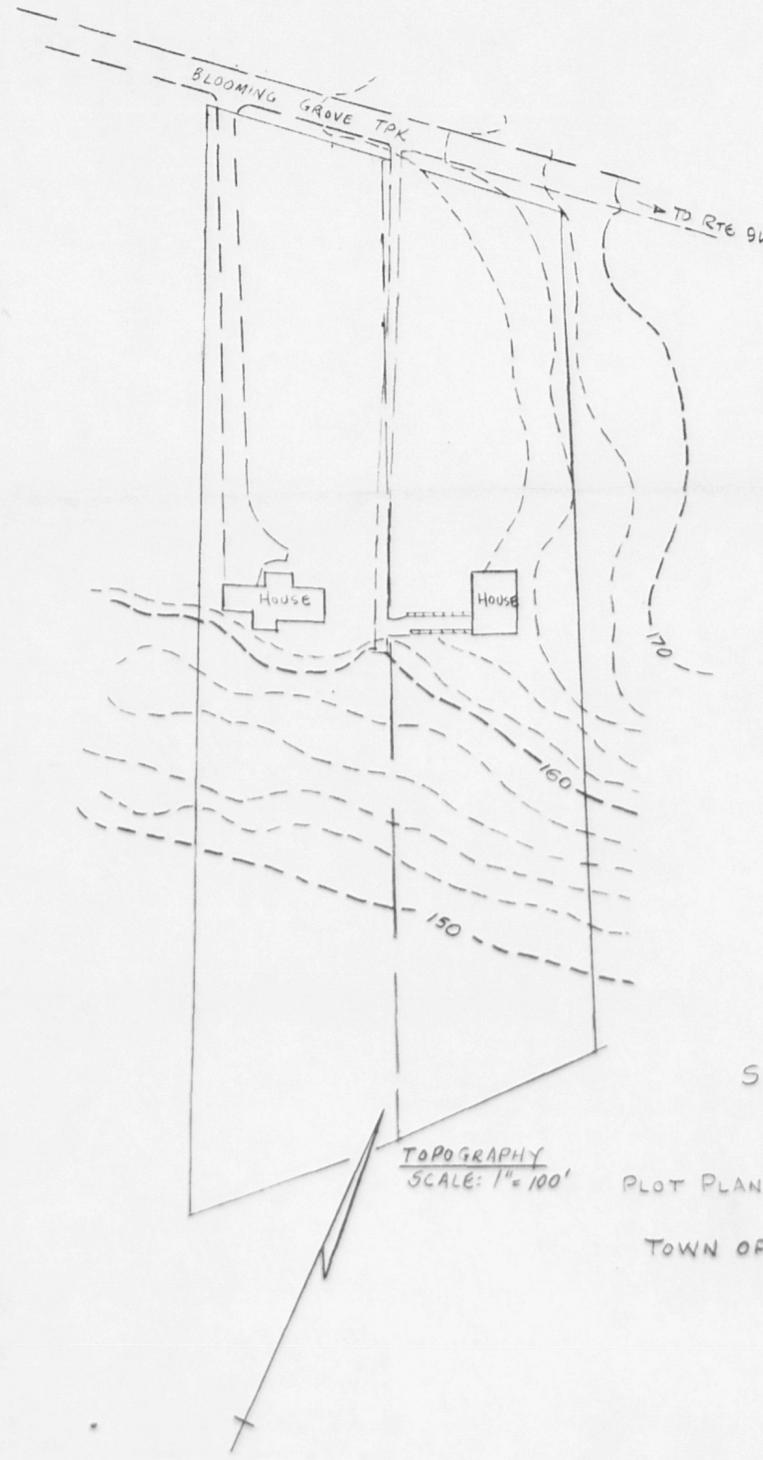
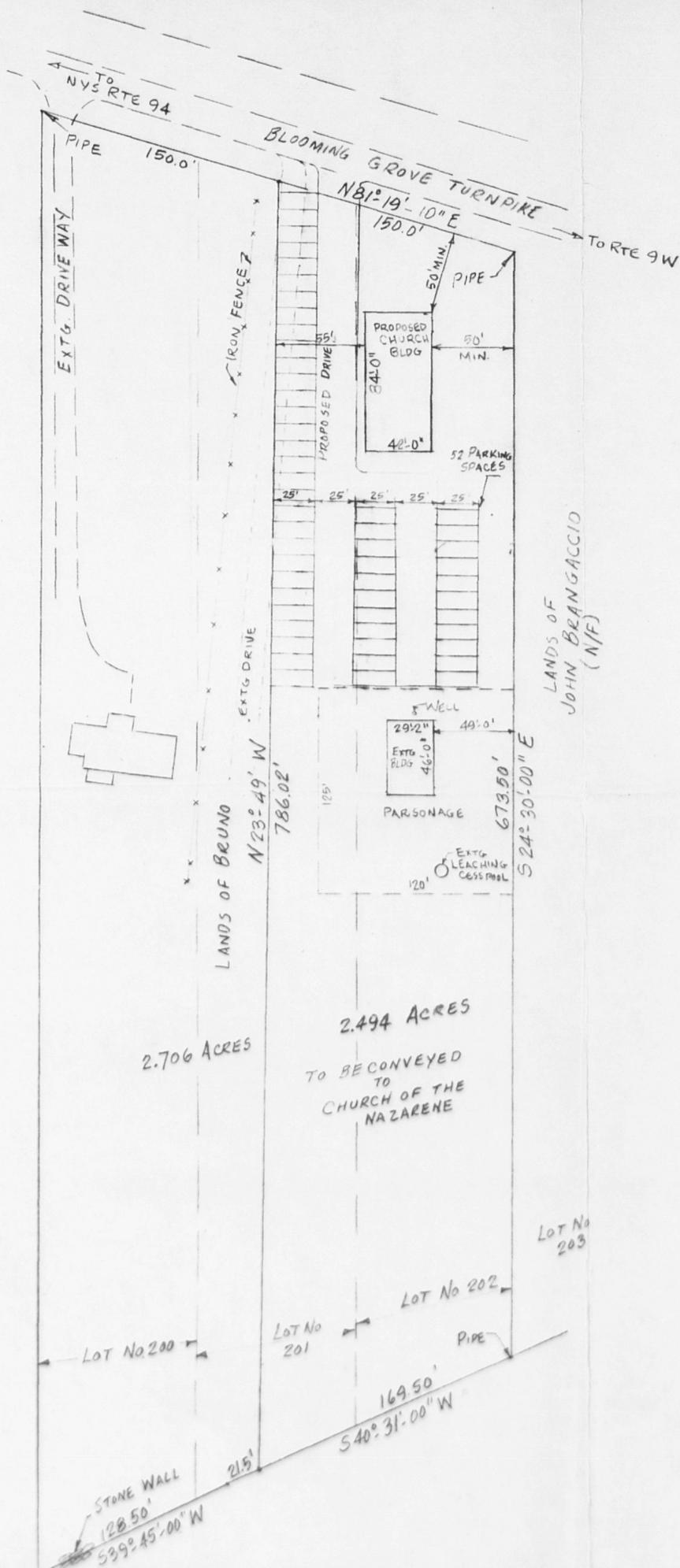
CO. 161 1910

35.2' Hedges

EXISTING CHANNEL ROSS PIPE

EXISTING CHANNEL ROSS PIPE

(2)



NOTE: LOTS Nos. 200, 201, 202 & 203 TAKEN FROM MAP OF WINDSOR ACRES SECTION 2 A.L.N REALTY Co, INC, FILED JULY 1939 ORANGE Co. CLERK'S OFFICE, GOSHEN, N.Y.

RECEIVED. TOWN OF NEW WINDSOR PLANNING BOARD 7-14-71 BY *Merrin Ann Berg*

SUBDIVISION LANDS OF BRUNO PLOT PLAN PROPOSED CHURCH OF THE NAZARENE TOWN OF NEW WINDSOR, ORANGE Co. NEW YORK

CERTIFIED CORRECT:  
*Samuel L. Horowitz C.E.*  
 RE & L.S. 271030  
 MONTICELLO, N.Y. 26 MAR 71  
 SCALE: 1" = 60' REV. 7 JUNE 71  
 OR AS SHOWN REV 12 JULY 71