

**ZB# 74-4**

**Kanaje Corporation**

**(no SBL given)**

Public Hearing -  
Mar. 18th - 8 p.m.  
(Sec. fee paid only)

OCFD notified on ~~Mar. 8/74~~

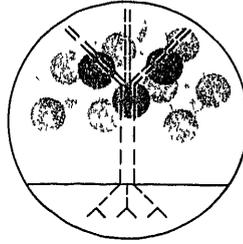
Notice published 3/19/74.

file  
fee sent  
to Julie



# Department of Planning

Peter Garrison, A I P, Commissioner  
Edwin J Garling, A I P, Deputy Commissioner



The County Building  
Goshen, New York 10924  
(914) 294-5151

# County of Orange

Louis V Mills, County Executive

March 27, 1974

Mr. Fred Wygant, Chairman  
Zoning Board of Appeals  
Town of New Windsor  
New York 12550

Re: NWT 74-4-M-Variance  
Oakland Academy (Kanaje)

Dear Mr. Wygant:

In response to your request, this office has reviewed the request for variance by the Kanaje Corporation for lands previously known as The Oakland Academy property. The application is reviewed under the provisions of Section 239-m of the General Municipal Law.

The applicable provision of the Zoning Ordinance cited by the applicant, Section 48-4, Sub D, is incorrect for the problem described by the applicant. This paragraph of the regulation has only to do with the extension of a less restricted district (i.e. business) into a more restricted district (i.e. residential) for a distance of 30 feet. The paragraph says nothing in regard to the extension of a more restricted district (residential) into a less restricted district (business), which is the case here. -- The applicant wishing to extend RC uses into LB and RB districts for much greater distances than 30 feet.

In addition, the use of a variance to accomplish the purposes of the applicant is also totally incorrect. The existing zoning of these areas bring no hardship to the applicant in themselves. The applicant could establish a business in the LB District, as well as he could build One-Family Residences in the RB District. Clearly, the existing zoning ordinance does not deprive the applicant of the reasonable use of his lands.

APPLICANT'S  
COPY

Adopted 12/20/65

APPLICATION FOR VARIANCE

Application No. 74-4  
Date: \_\_\_\_\_

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

I (We) Kanaje Corporation of 323 North Main Street  
(Street & Number)

Spring Valley New York 10977 HEREBY MAKE  
(State)

APPLICATION FOR A VARIANCE:

A. Location of the Property East West of Route 9W RC, LB, RB  
(Street & Number) (Zone)

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.) Section 48-4 Sub D

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: RB & LB portions represent small portions of site, 82% of which lies in an RC Zone, and has been under the same ownership prior to the current rezoning of the property. The configuration and access to the RB & LB portions make it impossible to develop them independently of the RC area. This condition does not exist in neighboring properties, so that a variance given to this parcel will not become a precedent that can be applied to other properties.

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: The LB & RB portions cannot be independently developed. They can only be developed as an extension of the master plan of the RC portion. Without this, the owner is prevented from executing a proper development plan for his property and, therefore, suffering severe hardship.

3. The unique conditions and circumstances are not the result of actions taken of the applicant subsequent to the adoption of the Ordinance because: The property in its present boundaries has been under one ownership since the early part of this century and long before the last rezoning by the Town Board. The current owner did not assemble this property and was not responsible for portions of this being zoned in three different zoning districts. This is clearly not a self-made hardship.

4. Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance because: The 600 units the owner proposes to build on the total property can be built right on the RC portion. This variance will not increase the density of the total project and, therefore, will have no effect on the public good nor on neighboring properties.

5. Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zone because: As stated above, no increase in density is being sought. We are simply asking to be permitted to locate a small number of buildings on the LB and RB portion so as to benefit the overall master plan which has been well received by the Planning Board and other agencies.

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

The master plan proposes to build a self contained condominium community of 600 dwelling units consisting of townhouses and terraced unit. The project will have a high proportion of open space and will retain the most outstanding features of the existing site, including the existing mansion, lawn, trees and landscaping. The best part of the land together with varied recreational amenities will be used by all the residents.

E. Application to be accompanied by two checks, one payable to the Town of New Windsor in the amount decided by the Board and the second check payable to the Secretary for taking the public hearing minutes. Applications to be returned to: Secretary of ZBA.

F. NOTICE OF HEARING: Applicant agrees to send notice of any public hearing via registered or certified mail to all abutting land owners as required by Sec. 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. 239 I&M of the Gen. Municipal Law to see if it applies. If so, notify the Orange County Planning Board by sending them an application.

Dated: March 12, 1974

Steph B  
Signature of Applicant

For Kanaje Corporation

STATE OF NEW YORK) SS.:  
COUNTY OF ORANGE)

Sworn to on this 12th day of March, 19 74. 19 E. 57th St., N.Y., N.Y. 10022  
Address

Janet Groneri

(Notary Public)

JANET GRONERI  
NOTARY PUBLIC, State of New York  
No 22-4501747  
Qualified in Kings County  
Commission Expires March 30, 1975

(212) 421-3712  
Telephone Number

(DO NOT WRITE IN THIS SPACE)

Application No. \_\_\_\_\_  
Date of Hearing \_\_\_\_\_  
Date of Decision \_\_\_\_\_

Date Received \_\_\_\_\_  
Notice Published \_\_\_\_\_

Denied 4/8/74.

DECISION:

# stephenbjacobsassociates

Architects & City Planners  
New York 10022  
19 East 57th Street, (212) 421-3712  
Colorado 80210  
Executive Club, Suite 1002  
1776 S Jackson St., (303) 759-2728  
Stephen B Jacobs, AIA  
J Rolland Ristine, RA

March 21, 1974

Orange County Planning Dept.  
The Orange County Government Center  
Goshen, New York 10924

Attn: Mr. Jack Evans

RE: Oakland Academy, New Windsor

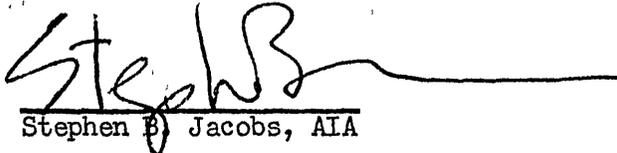
Dear Mr. Evans:

I am enclosing herewith a copy of my letter to Chairman Wygant of the town of New Windsor Zoning Board of Appeals.

This letter enumerates the basis of our request for a variance from the ZBA which is required in order for us to maintain our current proposed land use plan that we have developed for the project. I think that after reading the enclosure, our case will be self-explanatory.

I would appreciate anything you could do in order to expedite this matter.

Sincerely yours,

  
Stephen B. Jacobs, AIA

SBJ/jg

cc/ Chairman Wygant ✓  
Vincent Giffuni

Enclosure

OFFICE OF THE ASSESSOR

TOWN OF NEW WINDSOR



1763

Chairman  
Ellsworth E. Weyant  
555 Union Avenue  
New Windsor, New York 12550  
(914) 565-8808  
March 6, 1974

Kanaje Corporation  
323 North Main Street  
Spring Valley, New York

RE: Property located in New Windsor, New York

Gentlemen:

According to my records, the attached list of property owners are within the five hundred (500) feet of the above mentioned property.

The charge for this service is \$30.00. Please remit same to the Town Clerk, Town of New Windsor.

Very truly yours,

*Ellsworth E. Weyant*  
ELLSWORTH E. WEYANT  
Sole Assessor  
Town of New Windsor

EEW/pk  
att.



1763

OFFICE OF THE ASSESSOR

TOWN OF NEW WINDSOR

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Chairman  
Ellsworth E. Weyant  
555 Union Avenue  
New Windsor, New York 12550  
(914) 565-8808

March 7, 1974

Kanaje Corporation  
323 North Main Street  
Spring Valley, New York 10977

RE: Assessor's List prepared for Kanaje Property  
500' variance

Gentlemen:

Please include the following names and address to  
the list that was submitted to you on March 7, 1974.  
This was omitted from the list in error.

✓ John & Marie Sarcka  
123 Quassaick Avenue  
New Windsor, New York 12550

Thank you for your cooperation in this matter.

Very truly yours,

*E E Weyant*

ELLSWORTH E. WEYANT  
Sole Assessor  
Town of New Windsor

EEW/pk



OFFICE OF THE ASSESSOR

TOWN OF NEW WINDSOR

---

Chairman  
Ellsworth E Weyant  
555 Union Avenue  
New Windsor, New York 12550  
(914) 565-8808

- ✓ 1763 Penny, Paul & Barbara  
169 River Road  
New Windsor, New York 12550
- ✓ Fischer, Ruth E.  
1 Blooming Grove Turnpike  
New Windsor, New York 12550
- ✓ Krom, George R. Jr. & ✓ Donald T.  
C/O Windsor Building Supplies  
P.O. Box 27  
Newburgh, New York 12550
- ✓ Wilson, William T.  
80 Route 9W  
New Windsor, New York 12550
- ✓ Penn Central Railroad  
General Property Tax Manager  
466 Lexington Avenue Room 1041  
New York, New York 10017
- ✓ Cornwall-New Windsor Realty Corp.  
80-88 Route 9W  
New Windsor, New York 12550
- ✓ Dori Associates, Inc.  
P.O. Box 17  
New Windsor, New York 12550
- ✓ Petro, Richard P.  
24 Stori Road  
Newburgh, New York 12550
- ✓ Le Floch, Eugene M. & ✓ Marcel  
Oak Concourse  
Central Valley, New York 10917
- ✓ Di Carlo, Joseph & Virginia M.  
77 Russett Road  
Stamford, Conn.
- ✓ G.E.M.&.B. Investors  
C/O Abraham Meltzer  
48 Scotland Road Spring Valley N.Y.



1763

OFFICE OF THE ASSESSOR

TOWN OF NEW WINDSOR

---

Chairman  
Ellsworth E. Weyant  
555 Union Avenue  
New Windsor, New York 12550  
(914) 565-8808

- ✓ Visconti, Frederick & Marion  
C/O Windsor Motel  
114-124 Route 9W  
New Windsor, New York 12550
- ✓ Ray, David Jr. & ✓ Helen  
23 Lafayette Drive  
New Windsor, New York 12550
- ✓ Crist, Leroy R. Jr. & Phyllis R.  
25 Lafayette drive  
New Windsor, New York 12550
- ✓ Rhodes, Myron L. & Elanor J.  
27 Lafayette Drive  
New Windsor, New York 12550
- ✓ Bonnano, Joseph; ✓ Piazzola, Michael  
✓ Papera, Gabriel L.  
C/O Allstate Can Corp.  
40 Isabella Street  
Clifton, New Jersey 07012
- ✓ Phelen, Diane  
26 Lafayette Drive  
New Windsor, New York 12550
- ✓ Corey, Herbert C. & Caroline J.  
26B Lafayette Drive  
New Windsor, New York 12550
- ✓ Travers, Maurice  
38 Lennox Street  
Middletown, New York
- ✓ Turner, Richard & Diane L.  
2 Lafayette Drive  
New Windsor, New York 12550
- ✓ Belsito, Ralph F. & Grace  
4 Lafayette Drive  
New Windsor, New York 12550



OFFICE OF THE ASSESSOR

TOWN OF NEW WINDSOR

---

Chairman  
Ellsworth E. Weyant  
555 Union Avenue  
New Windsor, New York 12550  
(914) 565-8808

1763

- ✓ Plona, Albert S. & Margaret P.  
305 Hudson Street  
Cornwall On Hudson, New York
- ✓ Forestiere, Jasper A.  
462 River Road  
New Windsor, New York 12550
- ✓ Texaco  
P.O. Box 1722 Tax Department  
Atlanta, Georgia 30301
- ✓ Harris, Benjamin  
P.O. Box 2552  
Newburgh, New York 12550
- ✓ Dittbrenner, Frank H. & Eileen M.  
16 Old Route 9W  
New Windsor, New York 12550
- ✓ Moerman, Richard  
C/O Fontes Motor Court  
Route 9W  
New Windsor, New York 12550
- ✓ Roth, Virginia  
C/O Westinghouse Electric Corp.  
502 River Road  
Newburgh New York 12550
- ✓ Vestrymen of St. Thomas Church  
188 River Road  
New Windsor, New York 12550
- ✓ Steadman, Col. Frank M.  
19 Blooming Grove Turnpike  
New Windsor, New York 12550
- ✓ Yesse, Frederick M.  
25 Blooming Grove Turnpike  
New Windsor, New York 12550

OFFICE OF THE ASSESSOR

TOWN OF NEW WINDSOR



1763

Chairman  
Ellsworth E. Weyant  
555 Union Avenue  
New Windsor, New York 12550  
(914) 565-8808

- ✓ Niedbala, John S. & Betty  
6 Lafayette Drive  
New Windsor, New York 12550
- ✓ Llewellyn, Robert & Amelia  
8 Lafayette Drive  
New Windsor, New York 12550
- ✓ Sparling, Edwin & Edith  
12 Lafayette Drive  
New Windsor, New York 12550
- ✓ Vanasco, Richard & Sharon  
14 Lafayette Drive  
New Windsor, New York 12550
- ✓ Nucifore, Alan & Deborah  
16 Lafayette Drive  
New Windsor, New York 12550
- ✓ Beyers, Edward C. & Marcia K.  
18 Lafayette Drive  
New Windsor, New York 12550
- ✓ Berttlina, Hazel M.  
20 Lafayette Drive  
New Windsor, New York 12550
- ✓ Leone, Vincent J. & Freda  
110 Route 9W  
New Windsor, New York 12550
- ✓ Valicenti, Anthony & Vincent  
82 Courtney Avenue  
Newburgh, New York 12550
- ✓ Lease, John Jr. & Richard F.  
313 Broadway  
Newburgh, New York 12550
- ✓ Gaillard, Everett G.  
6 Chedworth St.  
Scarsdale, New York

Respectfully submitted,

*Ellsworth E. Weyant*  
ELLSWORTH E. WEYANT  
Sole Assessor  
Town of New Windsor

# stephenbjacobsassociates

Architects & City Planners  
New York, New York 10022  
19 East 57th Street, (212) 421-3712  
Denver, Colorado 80210  
Executive Club, Suite 1002  
1776 S Jackson St, (303) 759-2728  
Stephen B Jacobs, A I A.  
J Rolland Ristine, R A

March 18, 1974

Zoning Board of Appeals  
Town of New Windsor  
New Windsor, New York

Attn: Mr. Fred Wygant, Chairman

RE: Oakland Acadmey

Dear Sir:

I wish to apologize to the Board for my inability to make a personal appearance at your Public Hearing on our Variance Application tonight. I have been unexpectedly called out of town on another urgent matter.

I wish to ask the Board's indulgence and permission to have a member of my firm read this letter into the Record as our formal presentation.

At our last appearance before your Board, I made a general presentation of our project which I will briefly summerize.

Our site, which has a total of 50.073 acres, is the old Oakland Academy located to the west of Route 9W in the town of New Windsor. This site is located in three different zoning districts. Eighty-two percent of the site is located in an RC zone, approximately 4.24 acres is located in an LB zone and approximately 6.08 acres is located in an RB zone.

The master plan that we have designed proposes to build a self-contained community of 600 dwelling units, consisting of town house and terrace house units arranged on courtyards which are used for general recreation and contain the pedestrian flow to the major open space and recreational amenities.

All of the unique characteristics of this site have been preserved in the master plan. These include the existing brick mansion which will be restored for community facility uses, and the lawn to the east of the existing building which will be preserved in tact. Thus, the views that are afforded from this lawn will be enjoyed by everyone.

3/18/74

The existing road pattern is being reused so as to preserve the bulk of the existing trees. Along with this, the present landscaping along the old Route 9W frontage is also being preserved.

Our problems stem from a strict enforcement of Section 48-4 Sub D of the Zoning Resolution which only permits a 30' extension of a less restrictive zone into a more restrictive zone. This section, while quite useful in most instances, does not make any provisions for a site which is divided by more than one zoning district, when the bulk of the land is in one zone.

This type of problem has happened before, and many towns have made provisions for this eventuality. Generally, the precedent that has been established within the county allows the owner of a property that is divided by zoning districts to develop the entire property, providing that more than seventy percent of the property is in the zoning district where the proposed use and density is conforming.

In our case, eighty-two percent of the property is located in a district conforming to the proposed use. The configuration of the balance of the land is such that it cannot be independently developed.

The LB portion, comprising 4.24 acres, fronts Route 9W at the southerly portion of the site where old Route 9W intersects new Route 9W. The site is a triangular section approximately 250' deep at its base and running to a point of no depth at its apex. This shape is highly impractical for a shopping center development.

The intersection formed by new Route 9W and old Route 9W is extremely hazardous from a traffic point of view. Any additional ingress or egress that would be generated by increased traffic concentrations at this point would be detrimental and dangerous. It is highly unlikely that the D.O.T. would approve any new curb cuts at this point. Because of this, the owner is unable to use this portion of the site and derive any income from same in strict conformity to the Zoning Resolution, and, therefore, is placed in a position of severe hardship.

The hierarchy of zones established by the town of New Windsor Zoning Resolution, as noted on page 48.05, runs from most restrictive or RA zone to least restrictive or GI zone, and this lists the RC as being more restrictive than LB. Thus, we are within our rights in extending the RC use over the entire LB zone since a business use is clearly less restrictive than a residential use.

The RB zone, which comprises 6.73 acres, is located at the southerly end of the site. The only access to this portion of the site, other than through the RC portion, is Lafayette Drive which is a road that is unpaved and cannot in its present condition accommodate any additional traffic load.

RE: Oakland Acadmey

3/18/74

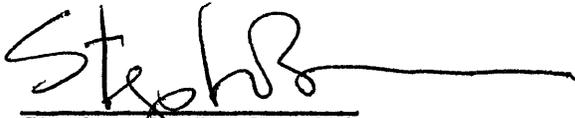
It is not feasible to develop this portion of the site as an independent, single-family lot section since the bulk of the area does not even have any frontage on Lafayette Drive and is only accessible through the RC portion. The land itself has steep slopes and does not have access to utilities. If the owner is unable to extend his development to this portion of the land, he is again made to suffer unduly for circumstances that were not of his creation.

In short, the RB and LB portions of the site, because of their unusual configuration (which together constitute a small minority of the land) cannot be developed except as part of the overall master plan of this property. This condition does not affect any neighboring properties nor will a Variance, if granted, provide the owner with any special advantage, since the proposed density of 600 units can be built by right on the RC portion of the land.

The land has been under one ownership long before the last rezoning of this property, and, therefore, this has not been a self-made hardship. Because no increase in density is being contemplated, this Variance will have no detrimental effect on the public good.

We, therefore, respectfully request that the Zoning Board of Appeals act favorably on this application so that we may continue in developing a plan for this property to everyone's best advantage.

Sincerely yours,



Stephen B. Jacobs, AIA

SBJ/jg

cc/ S. Shechter - Kanaje Corp.  
V. Giffuni - Kanaje Corp.  
A. Winoker - Kanaje Corp.  
F. Busch - Atzl, Scatassa & Busch

NOTICE IS HEREBY GIVEN of a public hearing for a variance application to be held by the New Windsor Zoning Board of Appeals on March 18, 1974 at 8 p.m. in the Town Hall of the Town of New Windsor by KANAJE CORPORATION, owners of a 50.7 acre parcel known as OAKLAND ACADEMY, located on the eastside of Rt. 9W in the Town of New Windsor and generally described on the tax maps Section 37, Block 1, Lot 2, Section 37, Block 1, Lot 59 and Section 48, Block 2, Lot 6.

A variance is being sought for relief caused by Section 48-4 Sub. (d) of the Town of New Windsor Zoning Ordinance. The owner seeks to extend the prevailing RC use of the majority of the site over a small RB and LB portion.

---

FRED WYGANT,  
Chairman

By: Patricia Delio,

# stephenbjacobsassociates

Architects & City Planners  
New York, New York 10022  
19 East 57th Street, (212) 421-3712  
Denver, Colorado 80210  
Executive Club, Suite 1002  
1776 S Jackson St., (303) 759-2728  
Stephen B. Jacobs, A I A.  
J. Rolland Ristine, R.A.

March 11, 1974

New Windsor Zoning Board of Appeals  
7 Franklin Avenue  
New Windsor, New York 12550

Attn: Patricia Delio, Secretary

RE: Oakland Academy

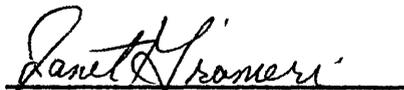
Dear Ms. Delio:

We are forwarding herewith "Application for Variance" for the above project.

The checks are being forwarded to you under separate cover by the Kanaje Corporation.

Thank you.

Very truly yours,



Janet Gronieri  
for S. B. Jacobs & Assoc.

JG/jg

Enclosure

# OAKLAND ACADEMY

The buildings in question are the terraced housing units located on the slope overlooking the Hudson. The question was raised as to how these buildings comply with the New Windsor Zoning Resolution and the New York State Building Code. A full copy of the applicable definitions from the New York State Building Code and New Windsor Zoning Resolution is furnished as a part of this position paper and any reference to these definitions will be made by section number.

1. HEIGHT OF BUILDING New Windsor Zoning Resolution at page 4836.3 permits a maximum building height of 35 feet. There is no definition in the New Windsor Zoning Resolution for building height. Since no definition is given the definition of building height in the New York State Building Code applies. Section B108-3. This definition in short states that the height of a building is the vertical distance measured from curb or grade level at the front of street side of a building to the top of a flat roof or to the midpoint of a sloped or gabled roof. Our drawings indicate a vertical distance of 32 feet from grade to the top of the roof. Therefore, the building height is well within the maximum permitted by the New Windsor Zoning Resolution.

2. CURB LEVEL New Windsor Zoning Resolution has no definition for curb level. Therefore, the New York State Building Code definition of curb level applies. Section B108-3. The code defines the elevation of a curb as being opposite the center of the front of the building; if building fronts on more than one street, then average elevation of the two frontages.

3. GRADE New Windsor Zoning Resolution has no definition for grade. Section B108-3 of the New York State Building Code defines grade as a natural surface of ground after completion of any change in contour, however, Section B203-1 sub.h of the code states that the height in feet of a building shall be determined from a datum established by the average elevation of paved open spaces which are suitable for the approach of fire department equipment.

Clearly in our case, these paved areas are curbed at

only the front side of the building and, therefore, our measurement of building height is correct.

4. STORY New Windsor Zoning Resolution Article 13 Section 48-38 definition of story excludes cellars as stories but includes all other spaces that are not cellars as being stories. The New York State Building Code definition is similar, however, it excludes basements or the ceiling height of less than six feet above grade and, of course, cellars. However, this is not relevant since the New Windsor Zoning Resolution's definition supercedes.

5. CELLAR New Windsor Zoning Resolution Article 13 Section 48-38. It is interesting to note that the New Windsor definition of "cellar" provided in this section defines a cellar as any space in the building where the structural ceiling is less than four feet above the average finished grade "where such grade abuts the exterior wall of such building which fronts on any street". (Here the New Windsor Zoning Resolution sustains our assumption that the measureable grade of a building occurs only at the front of a building as dealt with above). In short, a cellar is a space which is more than 50% below grade assuming that the average ceiling height of the building is eight feet.

In counting the number of stories in our building using the New Windsor Zoning Resolution and New York State Building Code it appears that our building contains three levels that are more than 50% above grade and, therefore, constitutes stories and three levels which are less than 50% above grade and constitutes cellars which cannot be deemed as stories. Therefore, our proposed building must be counted as a three story building in compliance with the zoning resolution.

6. HABITABLE SPACE The New Windsor Zoning Resolution has no definition for habitable space. However, the New York State Building Code Section B108-3 defines habitable space as any space occupied for living purposes other than eating and cooking spaces. In short the New York State Building Code does not prohibit cellars or spaces below grade as being habitable provided that they meet all other requirements

of the Code.

It is our intent to classify the terraced housing as a three story building for zoning compliance only. We are making no attempt to evade any construction requirement which might be contained in the Code that apply to buildings having six levels. As a matter of fact the New York State Building Code has foreseen the development of buildings built on this type of sloped situation and require that the floors below grade which contain habitable space be built of type 1 or type 2 construction (fireproof) page 2-19 New York State Building Code Manual February 2, 1959.

7. TOWNHOUSE The New York State Building Code has no definition for townhouse. However, the New Windsor Zoning Resolution Article 13 Section 48-38 defines the townhouse as a structure containing a series of two or two and one half story dwelling units. Each dwelling unit in separate ownership and on a separate tax lot.

Our proposed project will have a home ownership structure organized under the New York State Condominium law. That law requires that the town send a separate tax bill to each and every condo home owner and, therefore, each unit is separately assessed. This means that two adjacent identical units could conceivably have different tax assessments if one is occupied by an original purchaser and the other sold on a resale.

In common usage the words "zoning lot" and "tax lot" are not synonymous. The former deals with a parcel of land and the latter with an entity that receives a separate tax bill.

The concept of a vertical rather than horizontal townhouse is well established in legal precedent.

In conclusion going back to the requirements for RC Zone New Windsor Zoning Resolution page 4836.3 (townhouse residence) we are allowed to build buildings of a maximum height of 35 feet three stories with buildings a maximum length of 100 feet.

Our proposed buildings comply with all of the above requirements and, therefore, they are in full conformity with the New Windsor Zoning Resolution , and we require no variances from the ordinance.

NEW YORK STATE BUILDING CODE  
DEFINITIONS

BUILDING HEIGHT New York State Building Code Section B108-3 definition -

(Vertical distance measured from curb or grade level to the highest level of a flat or mansard roof, or to the average height of a pitched, gabled, hip or gambrel roof, excluding bulkheads, penthouses and similar constructions enclosing equipment or stairs, providing they are less than 12 feet in height and do not occupy more than 30% of the area of the roof upon which they are located.) The height of a building is expressed in both feet and stories. See Section B203-1 h and B203-1 i.

CURB LEVEL New York State Building Code Section B108-3 -

The elevation of the curb (( opposite of the center of the front of the building. If a building faces on more than one street, the curb level shall be the average of the elevations of the curbs at the center of each side or front of the building. Where no curb level or equivalent has been )) established by the municipal authority. (( , the average elevation of the finished grade immediately adjacent to the front of the building shall be considered as the curb level. If a building faces on more than one street where no curb level has been established, the average of the elevations of the finished grade on each street side of the building shall be considered as the curb level. )) See Section B203-1 h .

GRADE Section B203-1 sub. h New York State Building Code -

The maximum fire area permitted for the highest story of a building determines the maximum fire area for each story in the building.

HABITABLE SPACE New York State Building Code - Section B108-3 -

Spaces occupied by one or more persons for living, sleeping, eating or cooking. Kitchenettes shall not be deemed to be habitable space. See definitions of non-habitable space, public space and exit.

GRADE Section B108-3 New York State Building Code definition -

Grade is a natural surface of ground after completion of any change in contour.

NEW WINDSOR ZONING RESOLUTION  
DEFINITIONS

CELLAR Page 4872 Section 48-38

Any space in a building the structural ceiling of which is less than four (4) feet above the average finished grade where such grade abuts that exterior wall of such building which fronts on any street.

STORY Page 4876 Section 48-38

That part of any building, exclusive of cellars but inclusive of basements, comprised between the level on one (1) finished floor and the level of the next higher finished floor, or if there be no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

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A dwelling structure containing a series of two- or two-and-one-half-story noncommunicating one-family dwelling units having a common wall between each two (2) adjacent sections. Each dwelling unit is in separate ownership on a separate tax lot.