

Letter to the Editor published in the Altamont Enterprise 29 September 1961, page 8

## **Zoning**

To: The Town Board, Town of Guilderland

From: The Guilderland Town and School Improvement Association, Inc.

Subject: Zoning

The Guilderland Town and School Improvement Association, Inc. hereby respectfully directs to the attention of the Town Board and the citizens of the Town of Guilderland the following summary of certain statutes, court decisions and court opinion pertaining to the zoning of real property in the State of New York, which in the opinion of this association, fairly represents the law of New York applicable to zoning practices in this state. The Guilderland Town and School Improvement Association, Inc. respectfully requests that this paper be incorporated in the official minutes of this meeting.

1. The power to zone is granted to the town board in order to promote the general welfare of all members of the community.

2. Among others, the purposes of zoning are to promote health, safety, morals, lessen congestion in the streets and conserve the value of buildings.

3. The purpose of zoning is not to aid the individual owner but to promote the welfare of the community as a whole.

4. Reasonable use of the town board's police power requires that the town board consider the general welfare to be of greater importance than the profits of any individual, partnership, corporation or other association.

5. Zoning regulations must be made in accordance with a comprehensive zoning plan.

6. Property owners of 20 per cent or more of the area of land included in a proposed change or property immediately adjacent or opposite thereto may protest a change in zoning. If such protest is made, as provided in the statute, a favorable vote of at least four town board members is required to adopt the change.

7. Spot zoning is defined as the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners. It is an improper use of a town board's police power to engage in spot zoning as defined in the foregoing sentence.

An excellent illustration of the position of the New York State Supreme Court concerning spot zoning is a recent Supreme Court decision in which the court held:

"...This is a residential community of good quality and the intrusion of a business property amidst these residences will have an adverse effect upon their market value. The court finds, further, that this zoning was not in furtherance of any comprehensive zoning plan of the town.....It appears, instead, to be a conference of a special privilege and value upon the owner.....There must be no piecemeal tearing away of the protection of the ordinance. This is spot zoning of a character which cannot be sustained."

Conclusion:

The members of the Guilderland Town and School Improvement Association, Inc. strongly urge that the Town Board use extreme care and caution in making any changes in the zoning ordinance which is not part of a comprehensive plan, which is not in furtherance of the general welfare, and which is to the private benefit of one individual, partnership, corporation or other association and which is detrimental to the common welfare of other members of the community.

Respectfully submitted.

The Guilderland Town and School Improvement Association, Inc.

By Gustave E. Mueller, President.

see the original letter scanned from the printed newspaper > next page

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Guilderland Town and School Improvement Association, Inc.  
By Gustave E. Mueller,  
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