

August 14, 1974

Mr. Carl Walters  
Supervisor of the Town of Guilderland  
Guilderland Town Hall  
McCormack Corners  
Guilderland, New York 12084

Dear Mr. Walters:

At the August 13th public hearing on the rezoning application of August J. Domenico, I spoke on behalf of Mrs. George H. Levens of 4 Elmwood Street, McKownville, and registered her formal opposition to the application. I have taken the liberty of summarizing the points I made at that time in the hope that this will assist you and the other members of the Town Board in your deliberations on the matter. Should the application be approved it would:

- 1.) Alter the predominantly residential character of the neighborhood.
- 2.) Be done in ignorance of Mr. Domenico's previous citations for violations of the zoning law by allowing a real estate business to be conducted on the premises.
- 3.) May allow Mr. Domenico to realize an unconscionable profit upon sale of the premises. Gas stations and fast-food establishments have been known to spend in excess of \$100,000.00 for parcels similarly situated and commercially zoned.
- 4.) Will further jeopardize the easement rights of residents of Elmwood Street who use a driveway located between Elmwood and Fuller Road for garage purposes. Upon information and belief, Mr. Domenico has already made a practice of blocking traffic along the easement.

5.) Be before the improper forum. If it is Mr. Domenico's intent to obtain lawful approval for a presently illegal use, he should apply to the Zoning Board of Appeals for a variance. Such variances are granted only for certain specified uses and if for example, a variance is granted for a real estate office, residents of the neighborhood know that a hamburger stand will not move in should the land be sold. A complete rezoning of the parcel offers no protection to the neighborhood whatsoever. This point is made only to illustrate the patent impropriety of the present proceeding and IS IN NO WAY INTENDED TO ALTER MRS. LEVENS' OPPOSITION TO ANYTHING BUT A RESIDENTIAL USE OF THE PROPERTY.

In conclusion:

The process of rezoning has become the traditional vehicle for real estate speculators to realize immense profits at the expense of the residents of predominantly residential neighborhoods. On behalf of Mrs. Levens, I strongly urge disapproval of this rezoning application.

I might also mention that I considered the drafting of the master plan map "enlightened wisdom" with respect to the parcel at issue rather than a "mistake". As you know, all governmental action bears the presumption of regularity. The arguments asserted at the hearing in favor of the rezoning were in my opinion insufficient to rebut that presumption. Public hearings were held prior to the adoption of the 1971 Zoning Law. Mr. Domenico had an opportunity to object at that time but apparently failed to do so and chose, instead, to operate in apparent violation of the law. By his silence and his past practices, he should be estopped from requesting the relief he now seeks.

Sincerely yours,

POSKANZER, MUFFSON, HESSBERG & BLUMBERG

BY:

Anthony J. Carpinello

AGC:dje

cc: Town Clerk  
Mrs. George H. Levens