

July 15, 1963

A meeting of the Zoning Board of Adjustment was held on the above date with Chairman Williams presiding. The following members were present, Messrs, Williams, Warner, Pellet, Magnus, Honeyman.

The hearing was continued for the case of the Roxbury Auto Wreckers for the use of a plot of land for a junkyard and auto dismantling, disposing of motor vehicles and selling of parts.

The Chairman read Section 901 of the Zoning Ordinance which prohibits any use other than single family residential use, except public buildings, accessory use, such as a private garage, offices of doctors, dentist and studios, etc. Any other use is specifically prohibited by the Ordinance.

Mr. Irving Youngelson representing the Roxbury Auto Wreckers, Inc. submitted an enlarged survey of the property in question stating that it was more accurate than the one previously submitted.

Mr. Williams asked that the Board be shown evidence of agreement, or the lease.

Mr. Youngelson submitted a copy of the lease from the owners of the land, Mr. and Mrs. John Clark and a certified copy of the Certificate of Incorporation.

Mr. Williams read a letter from the applicant which stated the reasons for the application for recommendation to the Township Committee for a use variance: Partly: "All vehicles involved in a motor vehicle accident or stolen or abandoned were moved to our business properties at the request of the Police, in some cases identification was difficult to trace and many months would elapse before these cars or trucks could be disposed of. Recently Sam's Auto Service was given a summons for operating a junk yard and if we cannot find a way to handle the storage and disposition of these wrecks etc. it will put Lee's Body Shop and Sam's Auto Service in a very dangerous financial predicament. We have been providing these services day and night for the past six years and were never warned that any legal problems would result. There is one ideal location at the edge of our Township on Hillside Avenue owned by Mr. John Clark. This huge quarry has been abandoned for the last fifty years and remains unused. All vehicles towed in by Lee's and Sam's, both at the request of the Township Police and in the normal course of business could be brought into this pit and stored, dismantled and finally disposed of without causing any eyesore to the residents of the Township. It would be impossible for anyone to see this location of storage and dismantling as the pit is huge and far off the road."

Mr. Youngelson: "This letter I think explains the reason for the application for this variance, it is based upon the fact that with wrecks accuring on the highway the Police have the obligation to see that they are removed from the highway as a safety measure. Several of these autos for the past five or six years have been towed by and to Sam's garage because there is no other place to dispose of them. He did this at the request of the police and for the benefit of the Township, he was told his station has become an eyesore and that he would have to dispose of them or he would be fined, that it was a violation of the zoning ordinance. There is a need, a very great need

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for a place to dismantel these vehicles that have been damaged but I realize there is a great deal of opposition to this application.

Back in 1956, the Beechwood Heights development was undertaken and completed about then inspite of the fact that the site of this sand pit was zoned for industry. Now, it could have been used up until 1959 for industry, heavy industry, and Beechwood would have no cause for complaints because it was zoned for Industrial use. Perhaps the nature of the business is not understood. The purpose of this sand pit for which a variance is asked will be a place to which Roxbury Auto Wreckers will tow the vehicles that are damaged, at the request of the police who are acting for the Citizens of Roxbury Township. A local newspaper printed and approved the Site.

I think the word "junkyard" or as Major Kopia tried to say a graveyard is a mis-nomer, but our statutes use that word because it is for the purpose of dismanteling cars. A car that is wrecked will be brought to the edge of this place and dumped, well that is a prejudiced idea and it can't be done that way. Our lease provides with the owner that there can be no storage or wrecking on ground level, the pit is 80' deep and cannot be seen from Eyland Avenue or Hillside Avenue or Route 206 or the main Road, Route 10. It is covered with a great many trees along the border, one must walk in some distance to see into the pit. But it is not the intention to junk cars by leaving them there. This business is a highly specialized business, the owners will take these cars down a roadway into the pit and they will be dismanteled. During the day only, there will be no night work, there will be no more noise than that of an ordinary gargee. The cars will be dismanteled the parts taken and sold, these are parts that cannot be obtained from the manufacturer. Every once in a while when a number of bodies have accumulated a tow truck will come into the premises and tow out all parts which cannot be used, and sold for scrap iron, so there will never be a tremendous amount of cars in this pit at any given time. The owner of this tract have about 125 acres along this section and have no objection whatever to the use of this pit. If he could sell it for housing, he would be very foolish to permit the dismanteling of cars.

The Site will occupy about 6 1/2<sup>Acres</sup> down in the pit along Hillside Avenue, it cannot be seen from Hillside unless you get out of your car and walk over to it. There will be no operation on ground level, the lease forbids it. The cars will have to be towed into the pit, there will be no odors, no burning, other then acetylene torch used in dismantaling, there will be no garbage dumped, refrigerators and the like, much garbage has already been dumped into the pit. There are other factors which are important to call to your attention, a former sand pit, 80' in depth zones as residential -- who would ever live in this sand pit? It is lost to the owner, it is not assessed by the Township as residential zone. If we use it, it will produce an income for the owner and the Township will collect tax benefits. This present sand pit is a hazard to children and other people who may fall into it. Mr. Clark realizes this and has required us to fence it in on the ground level to prevent accidents. We have two roads in and out which will be used for access. There is nothing to detract from the beauty of the property. No one will even know the cars are there, the parts will be taken off and sold and the big parts of these autos will from time to time be towed away and sold for the scrap metal which the bodies will bring. The nearest home from the yard coming from Route 10 is 850' from the entrance and from Ashley's Auto Body Repair Shop to the driveway is 710' toward Route 206 on Hillside Avenue, we are not talking about Eyland Avenue."

Mr. Youngelson presented the Board with photographs of the condition that exists in the sand pit at the present time.

"There have been arguments made in public that Hillside Avenue will become an auto graveyard with tow trucks towing wrecks in and out of the property. Hillside Avenue has been and is still being used by heavy trucks, an occasional tow truck would make no more difference, it would not increase juvenile traffic, or hot roders, I don't see the merit to excite the public."

Mr. Youngelson presented a petition with approximately 150 names who favor the use of this site as an auto dismanteling yard.

Mr. Williams asked how many names on this list were property owners in the area of the pit?

Mr. Youngelson said that he did not know.

Mr. Williams stated that the recitation which was presented in evidence before the Board, left out the fact that you are planning to buy, sell at retail or wholesale, and trade in service, dismantel, and store new and used motor vehicles and any ~~and other kinds~~ of vehicles and parts and buying and selling scrap iron, scrap metals, new and used rubber, to deal in and with, store and repair motor vehicles of all descriptions and to buy and sell parts and accessories and supplies. This is made known to the people present as they have not had opportunity to read the agreement or certificate. The hours of the business were not formally established, day could start at 4:00 in the morning and end at 9:00 at night.

Mr. Youngelson stated, "that was all he had to present at this time. "

Mr. Stewart Pollock said he was an attorney and represented many of the people present but did not want others who might be present on their own behalf to feel they could not be heard.

Mr. Pollock said that certain members of the area have petitions and then called on Mr. Mark Peters of Beechwood Heights, Mr. Peters read the petition and said there were 187 signatures. The petition reads in part: ---- Any granting of a varaince in this area would reverse the intended favorable growth pattern. It is contrary to the Township's commitments for the erection of two schools, it is noted that two religious groups have bought property in the immediate area. This type of operation results in expansion beyond the intended limits, is accompanied by physical deterioration of surrounding properties and gives refuge for rodents and other vermin, the transplanting of ~~this~~ operation to an established residential area would create an objectionable eyesore. It is recommended that the matter be brought to the attention of the Planning Board for consideration as to a suitable site.

Mr. John Wimler of 210 Hillside Avenue said he was one of the eleven people who received registered letters, he presented a petition to the Board with 391 signatures including all of the eleven people who own adjoining properties.

It was determined that the petitions represented residential areas only.

Mr. Kone presented the Board with a booklet of photographs taken of homes in the neighborhood.

Mr. Pollock continued. "This is an application for a use variance, to use the property in question in a manner that varies from the specifications for the prime residential area in the Township. There are certain other points; there is no testimony from a qualified expert concerning the value

put on the surrounding home owners. Section 902 prohibits junkyards as they are also prohibited in the Industrial Zone. What is actually going to take place on the property, -- they intend to take cars and dismantle them, store them on the property. A case in point from the Courts states that the term junkyard has often been given to mean dismantling autos. The Board must consider two things, will the variance upset the ordinance and are there special reasons for the zone plan and zoning ordinance. Section 902 says that all other uses are prohibited and it has been stated, 'who wants to live in a sand pit?' We should not go from one extreme and use it for the worst possible purpose.

Let us assume that this is a good junkyard, kept clean and orderly, it would be analogous to a well kept slaughter house. As Mr. Youngelson pointed out one of the reasons they want to use this property is because their present locations have become an eyesore, he also mentioned a 'dangerous financial condition'. These people are in business for profit. They don't take autos away for nothing, you must balance the interest of the people involved, they are not being forced to take the wrecked cars and should bear the risks involved. The owners have no objection as they are being compensated with, I assume, adequate rental.

We do not need expert real estate people to say that a junk yard would decrease property values, the ordinance contains specific prohibition against junk yards. The Board should be reluctant to grant a variance, --- they should uphold the ordinance and not permit any other use in a residential zone."

Mr. Youngelson said, "Nothing that Mr. Pollock has said or any of these people have shown can substantiate that there will be any change in the neighborhood one itoa. The fact that there is a sand pit makes it completely worthless. We are making it a property which will pay taxes, and I may say to the Board that I have had two real-estate people up here, they did not want to testify as they felt it would hurt them personally.

Mr. Honeyman asked if there were to be buildings on this site?

Mr. Mino said no, not immediately but perhaps in the future. He further stated that they will erect a steel fence entirely around the land to be used, there will be two gates for entrance and exit. The hours of the business will be from 7:00 A. M. to 5:30 P. M. five days a week, and from 7:00 A. M. to 1:00 P. M. on Saturdays and closed all day Sunday. There will be no burning of any kind. He said that they would be willing to use Hillside Avenue at any named time, they would cooperate with the people in the area.

Mr. Pellet asked how many abandoned vehicles are generally in Roxbury during a given period of time.

Mr. Youngelson stated that there were approximately 400 wrecked and abandoned vehicles in Roxbury during a year.

Mr. Pellet said that the application reads, "The vehicles which are now being stored," could this be explained?

Mr. Youngelson said, "First of all there are some cars that are not so damaged that they cannot be redeemed. Insurance Adjusters do not always examine cars promptly and they must be stored temporarily. Cars that are damaged beyond orderly repair will be dismantled and parts taken that can be useful and stored. The stripped bodies are kept until such time as

sufficient quantities accumulate to be towed to junk dealers.

Mr. Pellet: "You mean it wouldn't pay to take one car at a time?"

Mr. Youngelson: "No."

Mr. Warner: "The agreement says in part, 'and any other kind of scrap metal', what does this mean?"

Mr. Youngelson: "I am an attorney and I try to draw an agreement as broad as possible to permit all facilities to be used."

Mr. Mino: "Scrap metal can be gotten by taking copper off wires and selling it."

Mr. Youngelson: "We have nothing more to offer that has not already been heard."

Mr. Henry Krause of Emmans Road said, "I represent six home owners on Emmans Road. First of all, for facts, Mr. Clark is going to fence the pit because the children might fall into it, the pit is there now without a fence, Secondly; this is going to be a place where there will be selling of parts, instead of having wreckers, we'll have people who want to buy the parts. Third; Chief May said 1000 abandoned cars, but Mr. Youngelson said 400. Fourth: the two gentlemen are not out of business yet, they seem to be thriving. Fifth; there is not supposed to be any open burning, but how about an incinerator like other junk yards have. Sixth; all other business in the Township have complied with the ordinance and I never see a lot of vehicles near them. Also, Friday's Dover Advance says Lee's Body Shop will be given a summons if he doesn't clean up his garage of the cars he has around. I'd rather have a dump."

Mr. Eugene Gourley said he wanted to go on record as being against the application.

Mr. Ed Locker of Beechwood said, "The area was industrial but the Town Fathers saw a need to change from industrial to R-1 and also made a Master Plan. As for the heavy traffic on Hillside, the trucks start about 5:00 and shake the house. There have been complaints made, but we have been given to understand that it is a temporary route through to 206, while many roads are being built. We can put up with something which will stop eventually but this could get worse.

Mr. Greengrass said he owned adjacent property. He further stated that this property would be policed by Mr. Clark, he is practically behind the scenes of this whole thing, he wants this lease. There will be a nice steel fence, yes, a corrugated hideous looking thing. I am bitterly opposed to it as an eyesore.

Mr. Philip Erickson, adjoining property owner said he was against the granting of this variance. He stated that he owned 460' of land adjoining the pit, that he would rather have a child fall into the pit in its present condition than on jagged steel. He has also complained of the increased traffic on Hillside Avenue. He was the last house in this area and never thought for one minute that anything would come up like this application. The houses in the area, he said are worth 20,000 to 40,000 dollars.

Mr. Zadewitz stated that from the experience he had for five years

living in Newark the junked cars can come from all over the State of New Jersey.

Mr. John Darnicle asked if the number and size of signs had been established.

The Chairman said, No, this had not been established.

Major Kopia protested the granting of a variance and read a letter from Anna May and Raymond Johnson which stated that the request is beneficial to a very few financially and a detriment to the majority.

Mr. Kone of Hillside Avenue said that he had purchased his property in the area because of it being R-1 residential, he had no idea that a proposal of this kind would ever come up.

There was no further testimony and the hearing was closed.

Motion was made by Mr. Pellet that in view of the copious supply of information that the Board give more time to consider this matter. There was no second to the motion and it was lost.

Motion was made by Mr. Warner and seconded by Mr. Honeyman that the application for recommendation to the Township Committee for the granting of a variance to Section 901 of the Zoning Ordinance be denied as such relief cannot be granted without substantial detriment to the public good and would substantially impair the intent and purpose of the zone plan and zoning ordinance. R. S. 40:55-39.

Roll call vote was as follows:

Warner: Yes	Magnus: Yes
Pellet: Not Voting	Honeyman: Yes
Williams: Yes, as there has been no expert testimony that the land cannot be reclaimed, no evidence that the business will be conducted and staffed, nor how the material will be taken care of.	

As a result of the above roll call the motion was carried.

The next meeting of the Zoning Board of Adjustment will be held on August 14, 1963.

There was no further business and the meeting was adjourned at 10:30 P.M.

Respectfully submitted,

*Ruth H. Thiele*

Ruth H. Thiele, Clerk