

Minutes of a Chapter 54 Public Hearing held by the Town Board of the Town of Riverhead at Town Hall, Howell Avenue, Riverhead, New York on Thursday, March 15, 2001, at 11:50 a.m.

Present:

Robert Kozakiewicz,	Supervisor
Edward Densieski,	Councilman
James Lull,	Councilman
Christopher Kent,	Councilman
Philip Cardinale,	Councilman

Leroy Barnes,	Building Inspector
Matthew White	Code Enforcement Officer

Also Present:

Barbara Grattan,	Town Clerk
Dawn Thomas, Esq.,	Town Attorney

Supervisor Kozakiewicz: "Ready? Let the record reflect that the time of 11:50 a.m. has arrived. Today's date is March 15, 2001. We're here to hear a Chapter 54 involving property owned by Mr. Ralph Naso. For the record, we have before us ready to testify Matt White from the Building Department. Leroy, are you going to offer testimony in this matter?"

Leroy Barnes: "No."

Supervisor Kozakiewicz: "Okay. And Mr. Naso, I assume, will be offering testimony."

The Town Attorney will join us. But for purposes of proceeding forward so we won't delay, Mr. White, would you raise your right hand and would you repeat after me. Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?"

Matthew White: "I do."

Supervisor Kozakiewicz: "Okay. Usual questions. Your qualifications with the town; how long you've been employed by the town."

Matthew White: "I've been employed by the town since 1997. I've worked with the Building Department as Code Enforcement Officer,

Housing Inspector, Building Inspector. My qualifications are I have two years building experience; five years fire fighting experience and I am currently taking New York State Building Code and Fire Prevention classes.

On February 9th, 2001 at 10:00 a.m. I inspected a property located at 4600 Middle Country Road, Calverton, designated as Tax Map Section 97, Block 1, Lot 80, property owned by Ralph Naso of 4362 Middle Country Road in Calverton.

This is the second time I've been to the house. The first time I was at the house was- I just have to refer to my notes- September- "

Supervisor Kozakiewicz: "Could you- I'm going to stop you short. This is a single family dwelling or a house? Where are we located on Middle Country Road? Can you give us some benchmarks or landmarks where we are?"

Matthew White: "North side of Middle Country Road, Route 25, just before the beginning of 25A, Parker Road."

Supervisor Kozakiewicz: "All right. So this would be to the east of the service station?"

Matthew White: "Just to the east of the service station."

Supervisor Kozakiewicz: "Okay."

Matthew White: "Yes. The next lot over."

Supervisor Kozakiewicz: "Okay."

Leroy Barnes: "The old (inaudible) Lounge."

Matthew White: "Yes, the old (inaudible) Lounge is- "

Supervisor Kozakiewicz: "Oh, okay, now I know where we are. All right."

Matthew White: "If you look at the property from the road, there is a foundation in the front and a single family residence located to the rear. The single family residence is a rental property owned and operated by Mr. Naso."

The first time I inspected it was back in September 1, 1999.

Still now on February 9, 2001, the conditions that were then still exist now. It's structurally dangerous, inadequate maintenance, it's dilapidated, and it has been abandoned for quite some time.

Basically, it's a foundation, it's wide open. It is deteriorated. It's crumbling in on itself. It's exposed to the elements. There's- if you look at the foundation, there's a six foot cyclone fence placed around it. There's not top on it, the fence is falling in on itself. If you stand at the rear of the fence, you can step right over it. Mr. Naso has made some attempts to fix this fence.

The main concern of the town and the Building Department is there are several small children who do live in area houses- "

Supervisor Kozakiewicz: "I was going to ask the question. This is adjacent to the Timber Park subdivision, isn't it?"

Matthew White: "Yes. There are small children who do live in the area. There's no park per se in that area. The kids play in their yard; they tend to wander. It does post a hazard. Myself, I'm six feet tall. If I were to go in the foundation, I would have a hard time getting out much less a five foot one youngster.

It's requested of the Building Department that this foundation be destroyed and filled in properly. We've spoken to Mr. Naso about this before. He's made the comments that he was going to have an architect look at it. A year or so has gone by- "

Supervisor Kozakiewicz: "Have you been provided with any information from an architect? Is there any correspondence from an architect?"

Matthew White: "None at all. A year- "

Supervisor Kozakiewicz: "You had a chance to search the Building Department files and verify that?"

Matthew White: "I have. A year or so has gone by and nothing has been done. If Mr. Naso is afraid of losing his use for the former foundation there, that is not the case. For the house, that's not the case. Again- "

Supervisor Kozakiewicz: "What is the zoning on the parcel?"

Leroy Barnes: "Industrial A."

Supervisor Kozakiewicz: "Industrial A, okay. Now, has there been a report filed previously with regard to your observations, inspection of this particular property?"

Matthew White: "There was. It was filed under the previous administration when the Chapter 54 hearings were done in the presence of just the Town Attorney."

Supervisor Kozakiewicz: "Okay. And when was that done? What was the date of that hearing, do you know?"

Matthew White: "October 28, 1999 at 1:05 in the p.m."

Supervisor Kozakiewicz: "All right. I ask that the report that was filed as part of that proceeding, be admitted here today and made part of the record. Unless there's any objection from Mr. Naso to the contents of that report coming in."

Ralph Naso: "I mean, I was here, you know, what he says in- "

Supervisor Kozakiewicz: "Where you here at that time with that hearing?"

Ralph Naso: "Yes, I was here."

Supervisor Kozakiewicz: "Okay."

Ralph Naso: "I follow, you needed more fence and you needed more strong. I did everything I'm able to do. I talked with my- "

Supervisor Kozakiewicz: "Well, just- we're not getting into the testimony, Mr. Naso. Are you objecting to the report being made part of the record today? The report previously submitted in 1999."

Ralph Naso: "Yes."

Supervisor Kozakiewicz: "Why are you objecting to it?"

Ralph Naso: "Because- "

Supervisor Kozakiewicz: "Let me phrase this differently."

Ralph Naso: "Go ahead."

Supervisor Kozakiewicz: "Was- "

Ralph Naso: "Over there- (inaudible)."

Supervisor Kozakiewicz: "You can offer evidence as to what you think you've done. The report- the report's been done by Mr. White based upon what he saw at the time and if he did it in accordance with the law, which I didn't ask him the question. You did it this report at or about the time you did the inspection, Officer White?"

Matthew White: "Yes, sir."

Supervisor Kozakiewicz: "And this was done in your usual course and business as an employee of the town of Riverhead?"

Matthew White: "Yes, sir, it was."

Supervisor Kozakiewicz: "Okay."

Ralph Naso: "I was here (inaudible), I don't know the name. I had to put a six foot fence, I put. Have to put some- "

Supervisor Kozakiewicz: "You're missing the point of my question. You're talking about things that you've done on the property in order to rectify the- "

Ralph Naso: "I did- "

Supervisor Kozakiewicz: "Hold it- let me finish, sir. Let me finish. I am asking solely a very small question here. Do you have any legal objections, reasons why the report that Mr. White made previously should not be made part of the record today? Then you can offer evidence as to what you've done. Do you understand the question?"

Ralph Naso: "No."

Supervisor Kozakiewicz: "Okay."

Dawn Thomas: "I was checking the previous- "

Supervisor Kozakiewicz: "I'll make it easy. You did the report; you did it at or about the time that you did the observations, Mr. White?"

Matthew White: "Yes, sir. I did."

Supervisor Kozakiewicz: "Officer White, and it was in your usual and ordinary course to make these types of reports, was it not?"

Matthew White: "It was."

Supervisor Kozakiewicz: "In fact, in this case that was the case. You did it in your ordinary and usual course of business, correct?"

Matthew White: "I did."

Supervisor Kozakiewicz: "Based upon that, I'm going to allow the report to be made evidence today. Now, I know your objection, but I'm going to overrule your objection and make it part of the record. Is there anything else you want to offer to us at this time, Officer White with regard to your recommendations?"

Matthew White: "No, sir. There is not."

Supervisor Kozakiewicz: "All right. Now, Mr. Naso, at this time you can testify. You need to be sworn in by the Town Attorney."

Ralph Naso: "You know- "

Supervisor Kozakiewicz: "You have to be sworn in, sir."

Dawn Thomas: "Do you swear that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?"

Ralph Naso: "Yes."

Supervisor Kozakiewicz: "Also, at the request of a Board member, and I think he's right, for the purpose of decorum here, would you please remove your hat when you testify? Thank you."

Dawn Thomas: "(inaudible) public hearing on this matter for the record, there was some testimony, 10/28/99- "

Supervisor Kozakiewicz: "Yes, I would do that as well. Yes. Okay. Mr. Naso, go ahead."

Ralph Naso: "Okay. Over there is a business zone. They are

talking- my architect is a lawyer. When- "

Supervisor Kozakiewicz: "Did you- have you provided the town with any letters or recommendations from an architect, Mr. Naso?"

Ralph Naso: "I- "

Supervisor Kozakiewicz: "It's a simple question, yes or no. Have you provided us with any information from an architect?"

Ralph Naso: "No, no."

Supervisor Kozakiewicz: "Okay. Go ahead."

Ralph Naso: "The architect told me when it was time with the demolition. (Inaudible) the hole because you're going to lose the business zone."

Supervisor Kozakiewicz: "The property is zoned- is presently zoned Industrial A. You've heard the testimony from Officer White that it's zoned Industrial A. You're allowed the uses that Industrial A would allow you to have on that property. If you haven't- the fact that there's a foundation and it's existed for the time, I guess is another question.

Are you trying to argue that you have a prior non-conforming use by the fact that there's a foundation there that has been there for a continuous period of time?"

Ralph Naso: "Somebody told me."

Supervisor Kozakiewicz: "Well, that's an interesting theory and I guess that's another forum. That's another forum and that's another issue."

Ralph Naso: (Inaudible)

Councilman Kent: "Can I ask you a question? What type of use are you intending to have on the property?"

Ralph Naso: "I want to open a deli."

Councilman Kent: "You want to open a deli?"

Ralph Naso: "Yes."

3/15/2001minutes

Councilman Kent: "Is a deli allowed in Industrial- "

Leroy Barnes: "I don't believe it is."

Supervisor Kozakiewicz: "I don't think it is."

Councilman Kent: "By special permit?"

Ralph Naso: "A (inaudible), a little pizzeria, you know, little fast food."

Leroy Barnes: "By special permit."

Supervisor Kozakiewicz: "But the real issue here, and I think the real issue here, is the concern of safety. A concern about children from the neighborhood walking onto the property, falling into this- "

Ralph Naso: "Only four feet- they've got a four feet fence. I clean everything- clean up (inaudible)-- east, Cooperidge. East (inaudible) more than 15, 20 years, still open. They got a (inaudible) over there, nobody do anything- "

Councilman Kent: "Wait a second. Can I go back to my questions before- "

Supervisor Kozakiewicz: "Yeah."

Councilman Kent: "-- before we get too far away."

Ralph Naso: "I want- "

Supervisor Kozakiewicz: "Yeah, well, yeah. You were asking- "

Councilman Kent: "Your intent- your intent is to use this as a deli? Was there a deli there- "

Ralph Naso: "I said I'd like to open a deli."

Councilman Kent: "A deli. Was there a deli there- was the deli there before?"

Ralph Naso: "It was a rest-- it was a deli at one time"

Councilman Kent: "Was it more than a year since it was a deli?"

Ralph Naso: "The guy that was the seller (inaudible)."

Councilman Kent: "I don't think you have any pre-existing non-conforming use that you have not abandoned at this time, okay? So the keeping of the foundation does not preserve for you any rights to open a deli. If you want to open a deli there, you'd have to come back to the town with an application for a special permit regardless of whether there's a foundation there or not. That foundation is not preserving rights to have a deli on that site without another permit."

Ralph Naso: "I have to bury, bury. You said to me later well, it have to be done. I'm going to bury the hole."

Councilman Kent: "Okay."

Ralph Naso: "I'm going to (inaudible)."

Councilman Kent: "That's good."

Supervisor Kozakiewicz: "No, no, no. I think- "

Ralph Naso: "(inaudible) black and white."

Supervisor Kozakiewicz: "I think the point that Councilman Kent is making is that the foundation wasn't being used within any 12 month period recently for a deli use. You didn't have anybody going in there and buying a sandwich, right? You didn't have anybody- "

a- Ralph Naso: "I don't argue with you people because you have

Supervisor Kozakiewicz: "The issue today is a more narrow one. We're here for a Chapter 54 and the question, I guess, that's being asked or what we're looking to find out is what you intend to do to make the foundation safe so that it doesn't pose a hazard to the neighborhood, a risk, where someone can be injured."

Ralph Naso: "Want to put a six foot fence (inaudible)."

Councilman Kent: "Would a six foot fence secure the property?"

Ralph Naso: "Yeah."

Councilman Kent: "No, I'm asking the Building Inspector."

Councilman Cardinale: "That's a good idea."

Matthew White: "Councilman, there was an existing six foot fence there. It's falling in on itself- "

Ralph Naso: "It's four feet."

Matthew White: "Exactly. The fence has been lowered. It's a safety issue. Mr. Naso was notified about this prior to August 28, 1999. We had numerous conversations on it. He still failed to do anything. The town is at- "

Ralph Naso: "Nobody- "

Matthew White: "Mr. Naso, I'm speaking right now."

Supervisor Kozakiewicz: "Ssh, hold it, hold it."

Matthew White: "He still failed to do anything about it. It's a safety concern. Not only that, it's an eyesore. With Enterprise Park opening up, people coming into the town of Riverhead, I think the last thing they want to look at is an open foundation, for safety reasons as well as aesthetic reasons.

The town- Building Department's desire is to have the foundation filled in."

Councilman Kent: "Okay, do you have a problem with that? Filled in with sand?"

Ralph Naso: "Yes. I was here, you know, last year."

Councilman Kent: "Wait a second. I'm asking the- directing this question to Mr. White. Do you want it to be filled in with sand?"

Matthew White: "We will have the foundation removed and filled in according to the specifications of the Building Inspector."

Councilman Kent: "Oh, remove the foundation."

Supervisor Kozakiewicz: "Because my understanding is the foundation needs to be removed and then backfilled is the way you require it to be done. Okay. Mr. Naso, going back to you, you had testified in October of 1999 when this had been previously heard-- "

Ralph Naso: "Yeah, when I was here October, 1999, was here (inaudible), you want a fence of six feet, you let me know what you want. Say we're going to send you a letter and we explain what we want and nobody send my anything. Nobody send anything. I was ready to put a six foot fence, you know, the things that go inside of the fence, so you see nothing there, it look nice. Nobody send me anything, nobody called me, nobody send any letter. I tell I wait for you to decide. Two young lady."

Matthew White: "(inaudible), the town is not a baby sitting service, Mr. Naso-- "

Supervisor Kozakiewicz: "I was- we don't need to get into this, I don't think. What you are basically trying to do is say it's our fault because we didn't send you a letter. Okay."

Ralph Naso: "(inaudible), it's no commonsense to waste 200,000 pounds."

Supervisor Kozakiewicz: "I think you lost me somewhere."

Councilman Kent: "I missed the- how did you get the 400,000?"

Ralph Naso: "What?"

Councilman Kent: "What did you say?"

Ralph Naso: "To have to bury it, you've got to fill it with sand. You've got to get a machine. You've got to move the foundation out. A lot of people in Riverhead (inaudible) to even move the foundation out like the hotel Osborne Avenue there. Everything is buried like that, see. Only come to me and say you have to take up everything. The other people, nobody take it up. We take over there with a machine and make a hole, got everything in the ground. The hotel, you knock it down."

Councilman Kent: "I can't argue with that."

Supervisor Kozakiewicz: "I think, yeah, I'm having a little trouble following what you are saying."

Ralph Naso: "I say- "

Supervisor Kozakiewicz: "What you're saying, I think- "

Ralph Naso: "Osborne Avenue."

Supervisor Kozakiewicz: "No, I think what-- "

Ralph Naso: "On the corner, Railroad Avenue- "

Supervisor Kozakiewicz: "-- let me- Mr. Naso, do you- so you're saying you do not wish to remove the foundation. You feel that putting up a six foot fence and allowing it to remain is the way to go."

Ralph Naso: "Leave the foundation there, (inaudible), I call the guy and (inaudible)."

Leroy Barnes: "He doesn't want to remove the concrete."

Supervisor Kozakiewicz: "Right."

Councilman Kent: "He's going to put sand inside the foundation is what he's saying."

Ralph Naso: "Yes."

Councilman Kent: "That's what I think, I'm trying to follow it."

Supervisor Kozakiewicz: "Right. I think he's trying to assert that this has been done everywhere else, is what he's arguing."

Ralph Naso: "Yes. You go over there, open the hole, you can see what you've got in there."

Supervisor Kozakiewicz: "All right."

Ralph Naso: "Only force it to me."

Supervisor Kozakiewicz: "I don't think that's true, sir."

Councilman Kent: "How about if he covered the foundation with wood?"

Leroy Barnes: "It would deteriorate."

Councilman Kent: "I know."

Supervisor Kozakiewicz: "Yeah."

Councilman Kent: "When do you plan to start doing something with this foundation?"

Ralph Naso: "What?"

Councilman Kent: "When do you plan on doing something with this foundation?"

Ralph Naso: "The foundation is there, it's going nothing wrong."

Councilman Kent: "It's got what?"

Supervisor Kozakiewicz: "Let me ask another question. How long have you owned the property, Mr. Naso?"

Ralph Naso: "I don't remember, it's hard- "

Supervisor Kozakiewicz: "More than five years? More than 10 years?"

Ralph Naso: "I don't know. Maybe yes more, maybe yes."

Supervisor Kozakiewicz: "More than 20 years?"

Ralph Naso: "No, not 20."

Supervisor Kozakiewicz: "Okay. So somewhere between 10 and 20 years, right?"

Matthew White: "January 28, 1979."

Supervisor Kozakiewicz: "Does that sound right, that date, now that you've heard it, January 29, 1979? Is that about the time you've been owning this property?"

Councilman Kent: "Twenty-one years."

Supervisor Kozakiewicz: "So 21 years you've had this property. How long has it been foundation only? When did the (inaudible) lounge come down?"

Ralph Naso: "I don't remember. Four, five, six, seven, eight

years ago."

Supervisor Kozakiewicz: "Okay."

Councilman Kent: "Eighty-eight."

Supervisor Kozakiewicz: "Do we have- I was going to say, I think it goes into the eighties, I would say."

Councilman Kent: "Yeah."

Supervisor Kozakiewicz: "So for that time period, we've had a foundation out there, the entire time period you've owned the property. Because you agree that you purchased it somewhere around 1979. You haven't done anything with this foundation. What you're asking the town is to continue to wait while you make up your mind what you're going to do with the foundation."

Ralph Naso: "I was busy- I was busy (inaudible). Now I've got the time. I've got a house, I can move myself in the back. I have two children. I can open a little pizzeria, a little (inaudible) to kill time."

Supervisor Kozakiewicz: "One question from the Town Attorney for whom?"

Dawn Thomas: "For Matt or Leroy, whoever."

Supervisor Kozakiewicz: "Well, Matt's the only one sworn."

Dawn Thomas: "The condition of the foundation right now is that (inaudible)."

Matthew White: "I was going to address- I was- "

Dawn Thomas: "Was deteriorated to the point where it's not useful."

Matthew White: "I was about to address the Board on that. My professional opinion based on what I've been taught, what I've seen out in the field. That foundation is not useable. It has severe cracks and severe distress throughout the walls and the bottom of it as well as the top part is not level. There's pieces missing out of it. It's not a useable foundation."

Councilman Kent: "You have to start over."

Ralph Naso: "I talked with the architect today, a couple years ago, he told me (inaudible) use the same foundation- "

Supervisor Kozakiewicz: "Let me ask you a question. I'm going to stop you short. Who was the architect who you spoke with? Could you give us a name?"

Ralph Naso: "It was Frank (inaudible). He's my nephew."

Supervisor Kozakiewicz: "Frank- "

Ralph Naso: "Salerno."

Supervisor Kozakiewicz: "S-A-L-E-R-N-O?"

Ralph Naso: "S-A- "

Supervisor Kozakiewicz: "Salerno?"

Ralph Naso: "Yes."

Supervisor Kozakiewicz: "Salerno, okay."

Councilman Kent: "Where are his offices?"

Supervisor Kozakiewicz: "Where is he located?"

Ralph Naso: "In Massapequa."

Supervisor Kozakiewicz: "Massapequa? Okay."

Councilman Kent: "Can you get a letter from him to tell us that he- you've basically provided us with nothing other than your words- "

Ralph Naso: "I no argue with you. (Inaudible)."

Supervisor Kozakiewicz: "I think that's the critical question. It's been there since- "

Ralph Naso: "Over here left the foundation. Why I can't leave that. The hotel left it there."

Councilman Kent: "Which hotel?"

Ralph Naso: "(inaudible). Everything is done. Only come to me saying you have to do everything."

Supervisor Kozakiewicz: "So you're citing one other property for what you're claiming is (inaudible) treatment. That you are being treated differently than one other property owner?"

Ralph Naso: "Because- "

Supervisor Kozakiewicz: "But you don't have any proof that all the other cases we have asked people to do it the right way?"

Ralph Naso: "I can prove to you; I can prove to you."

Supervisor Kozakiewicz: "You haven't today, that's the issue."

Councilman Kent: "Your opportunity to prove it was today. You were supposed to come here today with proof, with testimony from your architect. You provided nothing to us."

Ralph Naso: "I can prove the other people no take it (inaudible)."

Matthew White: "If I might address the Board? The Chapter 54 Mr. Naso is referring to is that of the Town versus Alfred Koch which has already gone past public hearing and is on the engineer's desk right now."

Councilman Kent: "That's on Twomey Avenue?"

Matthew White: "Yes. All we're waiting for is the insurance certificate and that job will be done."

Supervisor Kozakiewicz: "In that case with the insurance certificate, the foundation walls will be removed and then filled in, is that correct?"

Matthew White: "That is correct."

Supervisor Kozakiewicz: "All right."

Matthew White: "So there are no open foundations in the town that have not been already dealt with."

Councilman Kent: "He's referring to some hotel on Osborne

Avenue. What hotel are you talking about?"

Ralph Naso: "The hotel was the hotel that was knocked down, right. Osborne Avenue and Railroad Avenue between Railroad Avenue and Court Street."

Councilman Kent: "Belford and the Courtland House?"

Ralph Naso: "Yes."

Councilman Kent: "Those were leveled."

Ralph Naso: "Knock it down and bury everything (inaudible). I was right there. I've got proof, too. The other guy told me, say, I bet you (inaudible). I was right there."

Supervisor Kozakiewicz: "All right. Okay. Any other testimony, Mr. Naso, that you have to offer? Anything else you want to say on your behalf?"

Ralph Naso: (Inaudible)

Supervisor Kozakiewicz: "All right. At this point- "

Councilman Cardinale: "You may want to swear him in."

(Unidentified): "He was sworn in."

Councilman Cardinale: "He was sworn in? I'm comforted."

Supervisor Kozakiewicz: "You weren't paying attention, were you Phil?"

Councilman Cardinale: "No, I wasn't."

Supervisor Kozakiewicz: "All right. At this point in time, given this, I think we've heard everything we need to hear to render a determination on this. The time of 12:10 having arrived, I declare this Chapter 54 closed."

Councilman Kent: "I think we can make a decision right now. There's no proof offered in opposition."

Supervisor Kozakiewicz: "I think we've got to do a resolution."

Councilman Kent: "Okay."

Supervisor Kozakiewicz: "I think- "

Meeting adjourned: 12:10 p.m.

Barbara Gutton
Town Clerk