

~~U L v. Carter~~

Edison

~~13 Jan - 77~~

3 - Ptb

Order: ~~declaring Edison~~

~~not in compliance with~~

re: zoning ordinance  
compliance

Blue P. i # 2047

pgs = 18

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FRANK J. ...  
CLERK

**FILED**

JAN 13 1977

**DAVID A. FURMAN, J.S.C.**

374

ROLAND A. WINTER, ESQ.  
Attorney for Defendant, Township of Edison  
940 Amboy Avenue, Edison, N.J. 08817 - 201-738-1300

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION: MIDDLESEX COUNTY  
DOCKET NO. C 4122-73 , /

URBAN LEAGUE OF GREATER )  
NEW BRUNSWICK, et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
THE MAYOR AND COUNCIL OF THE )  
BOROUGH OF CARTERET, et al., )  
 )  
Defendants. )

Civil Action

ORDER

This matter having been opened to the Court on motion of defendant, Township of Edison, Roland A. Winter, Esq. appearing for the Township of Edison, Daniel A. Searing, Esq. and his associates, appearing for the plaintiffs, and the Court having had the benefit of<sup>4\*</sup> the moving papers, including defendant's affidavits, and such answering papers as were filed on behalf of the plaintiffs, and the Court having had the benefit of an independent investigation of Edison Township's moving papers and trial exhibits, and it appearing to the Court that Edison's existing Zoning Ordinance does not presently seem to violate the intent and purposes outlined in the decision of this Court filed on May 4, 1976; and as implemented by subsequent Judgments and Orders,

IT IS, on this 13 day of ~~December~~ <sup>January</sup> 1977, 1976 O R D E R E D:

1. That the decision and previous Orders and Judgments of this Court affecting the Township of Edison, and in particular striking down the validity of the Zoning Ordinance of the Township of Edison, be and is hereby stayed until May 1, 1977.

2. That until May 1, 1977 the Township of Edison shall continue to enforce its Zoning Ordinance.

3. That the Township of Edison is not presently in violation of the decision of May 4, 1976 and the Judgment and/or Order implementing that decision.

4. That either the plaintiff or the Township of Edison shall show cause on <sup>June</sup> May 1, 1977, or earlier, upon proper notice and motion before this Court, why the existing Zoning Ordinance of the Township of Edison should not be declared valid and in compliance with the purposes and intent of the Court's decision of May 4, 1976.

5. This Court retains jurisdiction of the subject matter of this litigation to accommodate the objectives hereinabove set forth.

David D. Furman, J.S.C.

.....  
j. s. c.

**NATIONAL COMMITTEE AGAINST DISCRIMINATION IN HOUSING, INC.**

1425 H Street, N.W., Washington, DC 20005 • (202) 783-8150

January 19, 1977

**PRESIDENT**

Robert C. Weaver

**CHAIRMAN**

**BOARD OF DIRECTORS**

Harold C. Fleming

**VICE PRESIDENTS**

LaDonna Harris

D. John Heyman

Cyril Magnin

Sol Rabkin

Ruth Robbins

James S. Robinson

**SECRETARY**

Madison S. Jones

**TREASURER**

Arthur D. Wright

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Ralph S. Rosas

Edward Rutledge

John Slawson

William R. Valentine

Leon N. Weiner

Jean M. Whittet

**EXECUTIVE DIRECTOR**

Edward L. Holmgren

Honorable David D. Furman  
Post Office Box 788  
New Brunswick, New Jersey 08903

Re: Urban League of Greater New Brunswick,  
et al. v. The Mayor and Council of the  
Borough of Carteret, et al.  
Civil Action No. 4122-73

Dear Judge Furman:

This letter is to confirm my telephone conversation yesterday with Ed Byrne.

As I indicated to Mr. Byrne, plaintiffs<sup>1</sup> expert is reviewing the Borough of Jamesburg's amendment to its zoning ordinance. As soon as this review is completed, plaintiffs will submit to the Court their response to that amendment.

Sincerely,

*R. C. Rosenthal*

Roger C. Rosenthal  
Attorney for Plaintiffs

RR/lh

cc: Guido J. Brigiani, Esq.

**FIELD OFFICE:**

NCDH IS A PUBLICLY-SUPPORTED ORGANIZATION, AND CONTRIBUTIONS ARE TAX DEDUCTIBLE.

C-4122-73 ✓

ORDER ON  
MOTIONS/PETITIONS

URBAN LEAGUE OF GRBATER NEW BRUNSWICK, ETC., ET AL

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-33-76  
MOTION NO. M-905-76  
BEFORE PART G

VS

77 FEB

ORIGINAL FILED  
ALU 2Tiq7f  
ELIZABETH McLAUGHUN  
CLERK

THE MAYOR AND COUNCIL OF THE BOROUGH OF CARTERHITTS, ET AL

JUDGES: MATTHEWS  
SEIDKAN  
HORN

MOVING PAPERS FILED DECEMBER 6, 1976  
ANSWERING PAPERS FILED DECEMBER 23, 1976  
DATE SUBMITTED TO COURT JANUARY 25, 1977  
DATE ARGUED J  
DATE DECIDED JANUARY 26, 1977

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS  
HEREBY ORDERED AS FOLLOWS:

MOTION/PETITION FOR  
ORDER DISMISSING APPEAL  
(SOUTH AM30Y)

GRANTED	DENIED	OTHER
X	FILED	

SUPPLEMENTAL: This dismissal is without prejudice to the right of plaintiffs to amend the trial court for such additional relief as may be appropriate to carry out the terms, both in letter and in spirit, of the settlement reached by the parties hereto.

I hereby certify that the foregoing is a true copy of the original on file in my office.

*Elizabeth McLaughlin*  
Clerk

FOR THE COURT:

**SOBER! A. HJJH5E**

P.J.A.D.

WITNESS, THE HONORABLE ROBERT A. MATTHEWS - / PRESIDING  
JUDGE OF PART G, SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION,  
THIS 26th DAY OF JANUARY 1977

*Elizabeth McLaughlin*  
CLERK OF THE APPELLATE DIVISION

ORDER ON  
MOTIONS/PETITIONS

4122-231378

URBAN LEAGUE OF GREATER NEW  
BRUNSWICK, ETC., ET AL

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-33-76  
MOTION NO. M-1080-76  
BEFORE PART G

VS

THE MAYOR AND COUNCIL OF THE  
BOROUGH OF CARTERET, ET AL.  
(METUCIEN)

ORIGINAL FILED  
JAN 27 1977  
ELIZABETH McLAUGHLIN  
clerk

JUDGE 3: MATTHEWS  
SEIDMAN  
HORN

MOVING PAPERS FILED \_\_\_\_\_ DECEMBER 16, 1976  
ANSWERING PAPERS FILED \_\_\_\_\_ DECEMBER 23, 1976  
DATE SUBMITTED TO COURT \_\_\_\_\_ JANUARY 25, 1977  
DATE ARGUED \_\_\_\_\_  
DATE DECIDED \_\_\_\_\_ JANUARY 26, 1977

ORDER

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT, IT IS  
HEREBY ORDERED AS FOLLOWS:

MOTION/PETITION FOR  
TO DISMISS APPEAL  
(METUCIEN)

GRANTED	DENIED	OTHER
X		

SUPPLEMENTAL:

This dismissal is without prejudice to  
the right of plaintiffs to apply to the trial  
court for such additional relief as may be  
appropriate to carry out the terms of the  
letter and in spirit, of the settlement reached  
by the parties hereto.

FILED  
FEB 3 1977  
DAVID D. FURMAN, J.S.C.

I hereby certify, that the foregoing  
is a true copy of the original on file  
in my office.

*Elizabeth McLaughlin*

Clerk

FOR THE COURT:

ROBERT A. MATTHEWS

P.J.A.D.

WITNESS, THE HONORABLE ROBERT A. MATTHEWS - PRESIDING  
JUDGE OF PART G, SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION,  
THIS 26th DAY OF JANUARY 1977.

*Elizabeth McLaughlin*  
CLERK OF THE APPELLATE DIVISION

*Selesky*

*Epstein*

ATTORNEYS AT LAW

22 KIRKPATRICK STREET, P.O. BOX 70

*New Brunswick, N.J. 08903*

GABRIEL KIRZENBAUM.  
PETER J. SELESKY  
RONALD S. KOLSKY  
MARK B. EPSTEIN

(201) 848-8000  
FILE NO.

9107

January 28, 1977

Honorable David D. Furman, Judge  
Superior Court of New Jersey  
Court House, Bayard Street  
New Brunswick, New Jersey

RE: URBAN LEAGUE OF GREATER NEW  
BRUNSWICK, et als v. MAYOR and  
COUNCIL OF CARTERET, et als  
Docket No. C-4122-73

Dear Judge Furman:

Your decision of May 4, 1976, in the above captioned matter dismissed Carteret on condition on adoption of certain ordinances.

By my letter of July 27, 1976, I forwarded to you original and two copies of the Order dismissing the complaint against Carteret.

Plaintiffs' attorney objected.

Thereafter, the matter remained in limbo. My file does not indicate a listing for argument.

I now enclose original and 3 copies of the Order and request your signature thereon to perfect my Motion in the Appellate Division for dismissal.

In the event there is an objection, would you please list the matter for argument.

Thank you for your courtesy and attention to this matter.

Respectful ly,

  
Peter J. Selesky

af  
Ends.

cc: To all attorneys (with copy of Order)

Mr. Lampen, Office of the Clerk of the Appellate Division  
Docket No. A-33-76 (Motion No. M-1018-76)

SELESKY, KOLSKY, KIRZENBAUM & EPSTEIN, ESQS<  
22 Kirkpatrick Street, P.O.Box 70  
New Brunswick, New Jersey 08903  
Telephone (201) 846-8000  
Attorneys for Defendant BOROUGH OF CARTERET

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
MIDDLESEX COUNTY  
DOCKET NO. C-4122-73

URBAN LEAGUE OF GREATER :  
NEW BRUNSWICK, et als, :

Plaintiffs :

v; :

THE MAYOR AND COUNCIL OF :  
THE BOROUGH OF CARTERET, :  
et als, :

Defendants :

..... :

Civil Action

ORDER OF DISMISSAL AS TO  
DEFENDANT BOROUGH OF CARTERET

The Court, having entered an Order for Judgment on July 9, 1976, and the said Judgment providing that certain individual municipalities shall submit separate orders of dismissal upon enactment of a zoning ordinance eliminating certain prima facie exclusionary provisions of their respective zoning ordinances,



and the attorney for the Defendant, BOROUGH OF CARTERET, having presented proof to the Court and to the attorney for the Plaintiffs that the BOROUGH OF CARTERET has amended its zoning ordinance to delete the aforesaid provisions in accordance with the aforesaid judgment;

It is on this \_\_\_\_\_ day of \_\_\_\_\_, 1977,

ORDERED, that all claims against the Defendant, BOROUGH OF CARTERET, based on the Complaint and Pre-Trial Order in the within captioned matter, be and are hereby dismissed,,

---

David Do Furman,

J. S. C.

PETER J.SCHWARTZ  
GARY M.SCHWARTZ  
COUNSELLORS AT LAW  
eg Major v Roff : 34  
EAST BRUNSWICK, N. J. 08816

ABE S. SCHWARTZ  
OP COUNSEL

(201)257-9100  
IN REPLY REFER TO:

January 27, 1977

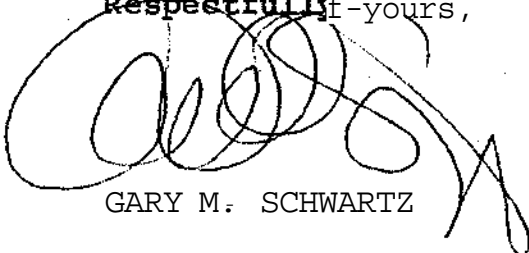
Hon. David D. Furman  
Judge, Superior Court  
Middlesex County Court House  
New Brunswick, New Jersey

Re: Urban League Of Greater New Brunswick, et al  
vs. The Mayor And Council Of The Borough  
Of Carteret, et al  
Docket No. C-4122-73

Dear Judge Furman:

Enclosed herewith please find copy of Notice Of Motion  
returnable February 11, 1977, the original of which has  
been filed with the Clerk of the Superior Court, with  
respect to the above matter.

Respectfully yours,



GARY M. SCHWARTZ

GMS/ez  
Enc.

MTI6NAL COMMITTEE AGAINST DISCRIMINATION IN HOUSING, INC.

1425 H Street, N.W., Washington, DC 20005 © (202) 783-8150

November 11, 1976

PRESIDENT

Robert C. Weaver

CHAIRMAN

BOARD OF DIRECTORS

Harold C. Fleming

VICE PRESIDENTS

LaDonna Harris

D. John Heyman

Cyril Magnin

Sol Rabkin

Ruth Robbins

James S. Robinson

SECRETARY

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John Slav/son

William R. Valentine

Leon N. Weiner

Jean M. Whittel

EXECUTIVE DIRECTOR

Edward L. Holmgren

Honorable David D. Furman  
Middlesex County Courthouse  
New Brunswick, New Jersey 08903

Re: Urban League of Greater New Brunswick, et al.,  
v. The Mayor and Council of the Borough of  
Carteret, et al.,  
Docket No. C-4122-73

Dear Judge Furman:

This letter is to respond to the zoning ordinance provisions presented to the Court by letter dated October 1, 1976 from Mr. Schwartz, in which plaintiffs asked for additional time to respond.

Plaintiffs believe that these amendments are responsive to the majority of our points raised at trial. However, two major questions remain.

First, the elaborate provisions requiring basements under single family houses have been retained. Indeed, it is retained as well in the new R-1 zone which has been created in response to the requirement that lot sizes and floor area requirements be reduced. Since the objective of this zone is to allow modestly-priced homes to be constructed, the presence of this provision (Section IV A. F.) is clearly inconsistent with these objectives (being an unnecessary and cost-increasing provision) and should be removed.

Second, since plaintiffs were not provided with a land use map or data on the amount of vacant land by zone, the impact of the amendments on the map is not clear. The opinion of the Court clearly states that defendant South River is to rezone from single-family to multi-family residential (p. 12, fn. 12). The amendments do permit multi-family dwellings as of right rather than by special exception, but plaintiffs do

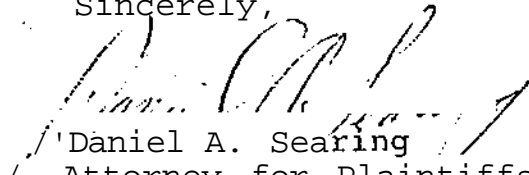
FIELD OFFICE:

NCDH IS A PUBLICLY-SUPPORTED ORGANIZATION, AND CONTRIBUTIONS ARE TAX DEDUCTIBLE.

Honorable, Javid D. Furman  
November 11, 1976  
Page two

not understand this as rezoning from single-family to multi-family. Until it is clear that this requirement has been accomplished, and the basement requirements eliminated, plaintiffs must urge that the proffered order not be signed.

Sincerely,



Daniel A. Searing  
Attorney for Plaintiffs

cc: Gary M. Schwartz, Esq.  
Attorney for South River

DAS:da

**NATIONAL COMMITTEE AGAINST DISCRIMINATION IN HOUSING, INC.**

1425 H Street, N.W., Washington, DC 20005 • (202) 783-8150



February 3, 1977

**PRESIDENT**

Robert C. Weaver

**CHAIRMAN**

**BOARD OF DIRECTORS**

Harold C. Fleming

**VICEPRESIDENTS**

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**D. John Heyman**

**Cyril Magnin**

Sol Rabkin

Ruth Robbins

James S. Robinson

**SECRETARY**

Madison S. Jones

**TREASURER**

Arthur D. Wright

**DIRECTORS**

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**John Slawson**

**William R. Valentine**

Leon N. Weiner

Jean M. Whittet

**EXECUTIVE DIRECTOR**

Edward L. Holmgren

Honorable David D. Furman  
Middlesex County Courthouse  
New Brunswick, New Jersey 08903

Re: Urban League of Greater New Brunswick,  
et al., v. The Mayor and Council of the  
Borough of Carteret, et al.  
Docket No. C-4122-73

Dear Judge Furman:

Plaintiffs wish to record their continuing objections to entry of an Order dismissing the Borough of South River. Defendant South River has done nothing to satisfy the objections plaintiffs raised in the attached **letter to the** Court of November 11, 1976.

Sincerely,

A handwritten signature in cursive script that reads "Martin E. Sloane/da".

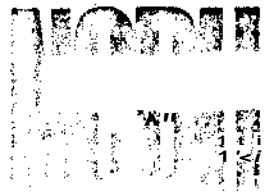
Martin E. Sloane  
General Counsel

cc: Garv M, Schwartz, Esq.

End:

MES:da

0



**NATIONAL COMMITTEE AGAINST DISCRIMINATION IN HOUSING, INC.**

1425 H Street, N.W., Washington, DC 20005 • (202) 783-8150

**PRESIDENT**

Robert C. Weaver

**CHAIRMAN**

**BOARD OF DIRECTORS**

Harold C. Fleming

**VICE PRESIDENTS**

LaDonna Harris

Dj. H. E. Lyman

I. M. Magnin

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**SECRETARY**

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**EXECUTIVE DIRECTOR**

Edward L. Holmgren

Honorable David D. Furman  
Middlesex County Courthouse  
New Brunswick, New Jersey 08903

**February 3, 1977**

Re: Urban League of Greater New Brunswick,  
et al., v. The Mayor and Council of the  
Borough of Carteret, et al.,  
Docket No. C-4122-73.

Dear Judge Furman:

Plaintiffs wish to record their continuing  
objections to entry of an Order dismissing the  
Borough of Carteret for the reason outlined in the attached  
letter to Mr. Selesky dated July 30, 1976.

**Sincerely,**

73 ••1•-1 JI  
/Id4sCc<rL' E-yNC *vanessa*

**Martin E. Sloane**  
General Counsel

cc: Peter J. Selesky, Esq.

Encl:

JULY 30, 1976

Peter J. Selesky, Esq.  
22 Kirkpatrick Street  
P.O. Box 70  
New Brunswick, New Jersey 08903

Re: The Urban League of Greater New Brunswick,  
et al., v. The Mayor and Council of the  
Borough of Carteret, et al.  
Docket No. C-4122-73

Dear Mr. Selesky:

The draft ordinance provision you submitted  
some months ago contained the following provisions

21-12.2 Conditions and Restrictions for  
Multiple Dwellings. Multiple dwelling groups  
shall be permitted in any zone, except Heavy  
Industrial "A" (H.I.A.) and Heavy Industrial  
"B" (H.I.B.) Zone under the following terms  
and conditions?

This provision obviously provided for less restriction on  
multi-family housing than the original provision (which  
prohibited multiple dwellings in the "A" zone as well).

Inexplicably, in the version you recently forwarded  
to us, Section 21.12.2 appears as restrictive as in the  
original, thus again limiting land available for multiple  
dwellings. You never indicated why this change was made.

Plaintiffs would have to object to the signing  
of your order until this provision is returned to the  
less restrictive provision found in the draft. In all  
other respects your ordinance revision is exemplary.

Sincerely,

Daniel A. Searing  
Counsel for Plaintiffs

cc: Honorable David D. Furman  
DAS:da



**NATIONAL COMMITTEE AGAINST DISCRIMINATION IN HOUSING, INC.**

1425 H Street, N.W., Washington, DC 20005 • (202) 783-8150

February 2, 1977

**PRESIDENT**

Robert C. Weaver

**CHAIRMAN**

**BOARD OF DIRECTORS**

Harold C. Fleming

**VICE PRESIDENTS**

LaDonna Harris  
D. John Heyman  
Cyril Magnin  
Sol Rabkin  
Ruth Robbins  
James S. Robinson

Honorable David D. Furman  
Middlesex County Courthouse  
New Brunswick, New Jersey 08903

**SECRETARY**

Madison S. Jones

Re: Urban League of Greater New Brunswick  
et al., v. The Mayor and Council of  
the Borough of Carteret, et al.

**TREASURER**

Arthur D. Wright

Dear Judge Furman:

**DIRECTORS**

Ben Barkin  
Phillip N. Brownstein  
Yvonne Brathwaite Burke  
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Edward Rutledge  
John Slawson  
William R. Valentine  
Leon N. Weiner  
Jean M. Whittet

This is to advise you that plaintiffs do not object to the November 30, 1976 amendment to the Jamesburg zoning ordinance, as presented by Mr. Brigiani,

Sincerely,

Martin E. Sloane  
General Counsel

cc: Guido Brigiani, Esq.  
All Attorneys of record

**EXECUTIVE DIRECTOR**

Edward L. Holmgren



77 JAN 31 P 2: 34

**FILED**

JAN 31 , 97T

**DAVID D. FURMAN, J.S.C.**

GARY M« SCHWARTZ  
65 Milltown road  
Sast Brunswick, Hew Jersey 08816  
(201) 257-9100  
Attorney for Defendant, Borough of South River

SUPERIOR COURT OF NEW J3RSJ5T  
CHAHCERY DIVISION? MIDDLESSX COUimr  
DOCKST NO. C-4122-73

*314, 370, 374* ✓

URBAN L'SAGUS OF GREATER NEW  
I^UIISWICK, ete al,

PlaintiffE,

Civil Action

SOTICS OF MOTION

THE MAYOR AND COUNCIL OP THE  
BOROUGH OF CARTSRBT, et al,

Defendants.

TOs MS. MARILYMT MORHOTSER  
ACLO Of Hew Jersey  
45 Academy Street  
Newark, New Jersey 07102  
Attorney for Plaintiffs

ROGER C. ROSSOTHAL  
MARTIH E. SLOANS  
National Cocroitte® Against  
Discrimination in Housing, Inc.  
1425 H Street, H.W.  
Washington, o. C. 20005  
Attorney for Plaintiffs

All Attorneys Of Record

SIRS:

PL3ASE TAKE NOTICE that the undersigned, counsel for  
defendant. Borough of South River, will apply to the superior

Court of Sew Jersey\* Chancery Division at the Middlesex County Court Bouse, Hew Brunswick, New Jersey on the 11th day of February, 1977 at 9:00 o'clock in the forenoon or as soon thereafter as counsel may be heard for an Order to settle the form of the Order Of Dismissal as to the Borough of South River ia the within captioned matter.

PLSASS TAKE FURTHER NOTICE that the undersigned will rely upon the annexed Affidavit and argument of counsel\*

/e/ GARY H. SCHWARTZ

GAR\* M. SCHWARTZ  
Attorney for Defendant,  
Borough of South River

#### Certification

I hereby certify that a copy of the within Notice of Motion was duly served upon counsel for plaintiffs and all attorneys of record in this action by sending sane by ordinary mail within the tine prescribed by the Rules of Court.

X further certify that the original of this Notice of Motion has been filed with the Clerk of the Superior court, Trenton, New Jersey, and that a true copy of the same has been mailed directly to Hon. David D. Furman, Judge of the Superior court, chancery Division, Middlesex County Court House, New Brunswick, N.J.

/»/ GARY M. SCHWARTZ

GARY M. SCHWARTZ



5. Furthermore, at Page 3 of the transcript of the dismissal of this defendant\* the Court noted that there are merely 92.5 vacant acres available for single-family construction in the Borough and further that a provision in the Borough's ordinance that multi-family housing be permitted as of right would allow the court "to look favorably upon a zoning ordinance" with such an amendment. Inasmuch as the Court did not order, in its conditional dismissal of the Borough, that there be any rezoning from single-family to multi-family residential, it is the contention of the undersigned that the Court's opinion at Page 12, *ln* 12 called for permitting of multi-family dwellings as of right rather than by special exception on areas of two acres or more in order to comply with the conditional dismissal set forth in the transcript.

6. X, therefore\* ask the Court to enter the Order Of Dismissal as proposed since the defendant has complied with the Court's decision for conditional dismissal of defendant.

/e/ GARY M. SCHWARTZ  
GARY M. SCHWARTZ

Sworn and subscribed to  
before *wm* this 27th day  
of January\* 1977.

/s/ ELEANOR ZBNUCH

ELEANOR ZENUCH  
A Notary Public of Kc.v J=rssy  
My Commission Expires April 20, 1981