

**History of  
Upper Brookville  
1932 — 1982**

INTRODUCTION  
BY  
ALFRED J. SEAMAN, MAYOR

A number of people felt it would be very suitable to publish a history of the Village of Upper Brookville in celebration of its fiftieth birthday.

I discussed this project with Mrs. Arthur Dean, who has been our Village historian for a number of years. We agreed that it would be wise to retain a trained historian to bring together the various strands of our history--a task which would require a great deal of research and many interviews. John Rawlinson, who is a Professor of History at Hofstra University and who is a resident of Upper Brookville, agreed to take on this assignment.

He has reviewed fifty years of minutes most meticulously. He has had free access to many citizens and officials of the Village, past and present. He has labored long and hard to condense thousands of details--involving people, zoning, police and fire protection, civil defense, economics, roads, budgets, policies and plans--into a brief and interesting history.

Minutes and memos help to keep the facts straight. Interviews with people who played leading roles or who were keen observers of the scene add color and texture--with, of course, no two observers seeing the same things in exactly the same way.

As one who has held office for thirty-two of the Village's fifty official years, I should like to offer a few observations for you to keep in mind as you read our story.

- The people who moved here at one time or another, whether early or late, inherited a remarkable treasure. Nature gave generously to this area--open fields, rolling hills, winding roads and lanes, patches of woodlands, lovely homes--large and small. It must also have planted seeds of appreciation, because many people have worked hard and fought hard to preserve the best, to adjust to the future without sacrificing the past.

The words people use to describe the natural or nearly natural terrain have changed, of course. Professional planners now refer to all this as "open spaces" and "green belts". Fortunately, they also see these patches of preserved beauty as assets for the entire area; indeed, for County, State and Nation. Local residents enjoy it every day. During week-ends and on soft summer evenings, people for miles around drive through, enjoying the woods and plants and scenic vistas, grateful that some relatively untouched countryside remains to be enjoyed by all.

The principle of protecting "what people moved here to enjoy" has been a guiding light for succeeding Boards of the Village. I like to think that principle has grown stronger with each passing year. As you will see in detail in this history, the Village has been at great pains to achieve fair and balanced plans for Village development and management. We have been careful to insure that the needs and wishes of our citizens are incorporated into our laws and policies--and then we have fought vigorously and unfailingly to defend these principles. I hope that fifty years from now people look upon a similarly attractive Village and say it was well worth the fight.

Since this history is a semi-official publication, there are no heroes and no villains, although a fair approximation of each

might--from time to time--be uncovered by closer scrutiny. I would hesitate to make a list of important contributors to this Village's development and success. The list would be too long.

We have had many, many outstanding Boards--Boards of Trustees, Planning Boards, and Boards of Zoning Appeals. I think, because of the growing complexities and challenges to the Village, the present Boards are probably working harder than ever before. In quality, they are second to none--and that's a very high level indeed.

If I were pressed to name three people who have given special tone to the Village during the thirty-three years I have been a resident, I would chose these men:

Arthur Dean: Although I never had the pleasure of working closely with him, I do know that he imparted a feisty quality to our Village government. The same tough thinking and outspoken determination which he demonstrated in defense of our nation when he was Ambassador to South Korea were manifested in support of the Village and its objectives.

Maitland Edey: I was on the Board during his term as Mayor and saw his effectiveness at short range. It was Mait's leadership and foresight which originated the present Village Master Plan and saw it through to completion. That Plan has served us well and made a magnificent difference.

Terry Trachman: Terry was a Trustee of the Village from 1964 to 1975. Prior to that he was probably our most watchful citizen for many years

and gave brilliant support in our local school's fight against centralization. As Trustee, Terry's greatest contribution, I think, was that he preached and practiced--over and over again--the principle that the price of liberty (and good government) is eternal vigilance. And, like a good soldier, he knew there were certain barricades you had to defend to the end.

That heritage, I believe, is at work today and lies behind many of our victories.

If this history is to serve a purpose greater than a few hours of interesting reading, it will be in kindling a renewed determination to keep intact and strong the spirit and beauty of our Village. It is a task for each and every one, because the ultimate--and, indeed, the only--strength of village government is the thoughtful and loyal support of its citizens.

## Former Village Officials

### Mayor

Joseph E. Davis	1932-1936
M.W. Kellogg	1936-1940
V.D. Crisp	1940-1944
R.F. DeGraff	1944-1948
J.N. Stearns	1948-1952
Arthur H. Dean	1952-1958
Maitland A. Edey	1958-1962
J. Burchenal Ault	1962-1966

Trustees (including Mayors, all of whom have been trustees)

J.J. Watson, H.P. Davison, Hope Goddard Iselin, E.G. Sperry,  
H.F. Atherton, S.A. Welldon, H.C. McClintock, Freeman Lewis,  
J.A. Thomas, Randall M. Dubois, H.P. Wickman, H.I. Trachman,  
T.L. Higginson, Edward C. Oelsner, Jr., Ralph Crews

### Village Clerks

V.D. Crisp, Mabel Wood, J.N. Stearns, Arthur H. Dean,  
Mary Marden Dean.

### Village Attorney

W. Shelby Coates

**The History of Upper Brookville  
1932-1982**

**John L. Rawlinson  
Village Historian**

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## Preface

This is a history of a government, or, better, one written from a governmental point of view. The principal source for it is The Minutes of the Incorporated Village of Upper Brookville, in a series of volumes covering 1932 to the present, the first fifty years of incorporation. The Village Archive also contains letters from mayors to voters, portions of the legal record, the Master Plan of 1960, and much beside that. In addition, I have interviewed all the living mayors, covering the last four administrations, 1952 to the present.

However, in a village, the primary American political institution, the government is composed, quite literally, of one's neighbors. It is not remote, preoccupied, alien. Put it in another way: the government is no further away from the daily concerns of the Village than the voter makes it.

To one of the past mayors, Maitland Edey, I owe the basic framework of this study, namely, that the first period may be called "baronial", the second "democratic", and the third, the period of "stability".

There are many others to whom I extend personal thanks for time bestowed. In alphabetical order, they are:

Reed Anthony  
J. Burchenal Ault  
Mr. and Mrs. Thomas Barrea  
Misses Constance and Barbara Brigham  
Charles Capobianco  
W. Shelby Coates  
Mr. and Mrs. Emilio Collado  
Ralph Crews  
Helen S. Dartt  
Mr. and Mrs. Arthur H. Dean  
Maitland A. Edey  
Mr. and Mrs. Henry Fox

Mrs. Harvey McClintock  
Lindley G. Miller  
Mrs. Reginald Rose  
Alfred J. Seaman  
Mrs. Edward K. Straus  
Mr. and Mrs. J. Read Taylor  
Hilbert I. Trachman  
Mr. and Mrs. Henry P. Wickham  
Mr. and Mrs. Colton P. Wagner

Some had time to grant two interviews, or write letters, for which, a particular acknowledgement.

Throughout, I have avoided footnotes, as being essentially pedantic and distracting. By a similar token, I have made dates mostly relative, using exact ones only where it seemed important. Thus we can skirt a thicket of arabic numerals, which can scratch like thorns. However, although once or twice I make a judgment, everything that appears in this account comes from the printed or written or spoken record available to me. Some may wonder at the basic mixture of chronology and topic, which tends, within chapters, to take one, as the musician might say it, da capo time and time again, but I have tried to minimize confusion by the use of headnotes.

Particular thanks are made to Mayor Alfred J. Seaman and the Board of Trustees, for inviting me to write this sketch--and to Helen S. Dartt, whose personal recollections, loans from her archive of clippings, and arranging of interviews, have been indispensable.

John L. Rawlinson  
Professor of History  
Hofstra University

## Chapter I. The Baronial Period, 1932-1952

It might have been Lower Brookville. The heart of the Village after all is Wolf or Wolver Hollow, where Indians once camped, around a spring near what is now the former Brookville School, and no resident need be told that the brook which ultimately gave its name to the whole area is down in a valley, downstream from its source. But someone asked Mrs. Charles Oliver Iselin about naming the new village Lower Brookville. Hope Goddard Iselin, in 1932 recently widowed from her banker-yachtsman husband, was a horsewoman, a famous beauty, and legendary as the only woman ever to sail in defense of the America's Cup, or to humiliate the Grand Duke Michael of Russia--this was in 1900--by beating him at golf. The lady was "quiet, sardonic, and always patrician" (from her obituary at age 102). Mrs. Iselin was also the doyenne of the incorporators, and, when asked, was said to have replied, with suitable hauteur, "Young man, I refuse to live in lower anything. If you must call it something, and I suppose you must, call it Upper Brookville".

Other names were changed too, somewhere along the time-line. Earlier Mill River Road was yclept Mill River Hollow Road, and before that, it was Poverty Hollow, but H.P. Davison and Walter Damrosch, who lived there, would have none of that. Of such was the peerage.

In those days, the Village was the sort of North Shore idyll one read about in F. Scott Fitzgerald. The woods were cut by few roads, and residents could hunt or hack for miles before the metastasis of chain-link, across meadows or on the sylvan network assiduously maintained by the Country Lanes Committee. Those of different mind could walk to the hounds with the Buckram Beagles, and so foster their robust health and mental serenity.

The roster of signatories to the proposition for

incorporation--by law, owners of at least one-third of the real estate to be covered--began with Mrs. Iselin, whose place at the head of Wolver Hollow Road was assessed at \$384,000. If one arbitrarily limits the list to those whose places were valued at \$100,000 or more, we read down through the names of Henry P. Davison, John J. Watson, Nathan L. Miller, Mollie M. Davis, Katharine L. Havemeyer, Ashbel H. Barney, Grace C. Bergquist, Morris W. Kellogg, and Katherine P. Redmond. There were other distinguished names on the list, e.g., that of Van DeVanter Crisp, who was to be the third mayor of the new village.

There were of course many houses rich with historic savor. The Reginald Rose house on Mill River Road was built by stages around a core dating from the 1760's; the residence of Mr. and Mrs. Edward K. Straus, farther north on the same old trail, dates from 1795, to one Ebenezer Silleck. Between these two is the rambling home and erstwhile Village Hall of Arthur H. Dean, and it is of comparable venerability, although its core was moved from an original foundation near the present East Norwich line, and, house-moving being what it was then, a man was killed as it slid back down the steep incline which it now commands. One of the original incorporators was Frederick C. Tanner, who then owned what is now the Charles I. Gallic place, on the south-west corner of Piping Rock and Wolver Hollow Roads, built around an old barn and forge active in colonial times--and much improved by Mr. Tanner, who even caused water-eroded rocks to be trucked in from the Delaware Water Gap to embody his visions. Another charter signer was James Christie Bell, who later built in the French provincial style. Inspiration from across the water moved Ashbel Barney in 1928 to import, stone by stone, an eighteenth-century French chateau, in which, by rumor, Voltaire once slept, to his place on Wolver Hollow Road. The bills of lading evoke reverie--crates containing wood paneling, mantels, weather vanes, dormers, doors

hearthstone, and so much more. In all, this massive shipment on the vessels Mackeesport and Independence Hall, including 265 casks of bricks and 293 of tiles, ran to less than \$10,000. How better to suggest that this antique structure, later owned by Trustee Samuel A. Welldon, moved long ago between two worlds which are both almost equally remote from us today? And, although it was not part of the original village, the 500-acre pleasure of William Robertson Coe centered on a great English manor, built in the 1920's--Coe's father had been a gardener on just such a great country seat, back in England.

Perhaps it will derail this train of wistful thinking, but consider the use to which the parcel bought by Tanner and Bell was put by its previous owner: the raising of sheep, pheasants, and monkeys. The latter were in outdoor cages, and once they escaped, and, it being the cold of the year, at dark sought refuge with the neighbors, with some breaking and entering. This abrupt descent by perhaps fifty shivering simians sufficiently shocked some to bring them to sue. The story made the Daily Mirror--and the now notorious animal lover made a sale, this time of his whole spread.

The complex geographical description of Upper Brookville Village, in what may be the longest unbroken sentence in the English language (two single-space legal pages) takes the determined reader from "a point formed by the intersection of the Northerly line of the Flushing and North Hempstead Turnpike with the Southwesterly line of the Cedar Swamp Road" (Cohen's Corner, that is) through a labyrinth of boundary runs along properties or villages already established--Old Brookville, Matinecock, and Muttontown--and roads, or school districts, and comes back at last to the starting point. The original Village embraced about three square miles and 332 persons, and about fifty houses.

Harry Tappen, Supervisor of the Town of Oyster Bay,

having been apprised of the determination of Upper Brookville to separate from his town, in accordance with long-standing Village Law, called a hearing at the residence of John Watson, Esquire, for June of 1932. In due course, Winslow S. Coates, the attorney in charge of the incorporation proceedings, who had similarly officiated at other recent nearby incorporations, notified residents of an election for village status, set for July 15, 1932, at the home of Mrs. Iselin. Readers were told that only those who had been residents for at least a month and had for at least two months owned property in the Village could vote. Mr. Watson, in his turn acting as Temporary Clerk, called for the first election for officers, on August 9, at the same place. Voters were to choose a mayor and four trustees, for two year--voluntary, unpaid--terms. The "party" created for these purposes was the nonpartisan Citizens Association, a commonly-used designator in village politics, suggested by W. S. Coates, Village Attorney. Eighteen voters responded to the call, and unanimously elected Joseph E. Davies as Upper Brookville's first mayor. The first Trustees were Mrs. Iselin, who was to be the only woman so to serve, Morris W. Kellogg, Henry P. Davison, and Mr. Watson. At the first meeting, Mayor Davies reported receipt of a map of the Village from the Secretary of State, bearing the date July 28, 1932--hence, the legal date of incorporation.

The table of organization, repeatedly re-established with but few changes in organization meetings immediately after the annual elections, included a (paid) Clerk-Treasurer, who was Van Devanter Crisp; a Village Attorney, on retainer, who was Mr. Coates; and a paid Village Auditor, who was Lillian Wardell. The list of appointees also included members of a Zoning Committee, likewise largely drawn from the original incorporators. The Oyster Bay Enterprise and Pilot was chosen as the official paper for announcements, although elec- tices

were also always tacked up. The Board could tax and borrow, and the latter it did at once--\$5,800--to pay the cost of incorporation. For the balance of 1932, the contract with the Nassau County Police was continued, although already some were talking of setting up a special village force. And so, with talk of lighting and maintaining streets, and of fire protection, and assessment rolls, the Village came legally alive. The Board met at the homes of Mayor or members; it never did set up a Village Hall, satisfied that it could carry on just as well without one, and so saving money for the taxpayers. Upper Brookville began life as a Village of the fourth class, i.e., with a population of less than a thousand.

Of single importance in that first year was the annexation of two areas on the northeast and eastern frontier of the Village. First, in December of 1932, came the estates of William R. Coe, Robert DeGraff, Walter Damrosch, and others; in March of 1933 the area now known as Mill River Farms moved over. So the Village grew to its present boundaries, totalling about four and a quarter square miles. The added estates lifted the assessment of all Village-enclosed lands by nearly five millions, so that it stood at 6.2 million, the W. R. Coe place accounting for most of the sudden growth.

#### Why Incorporate?

These last fugitives from the Town of Oyster Bay raised the question: why was incorporation undertaken at all? There were some rumors that a gas company was going to buy property on Northern Boulevard, which should be stopped; others felt the existing tax structure and government were inequitable or corrupt. A Newsday reporter, writing nearly fifty years later, turned up the story that Robert Moses, the enfant terrible of the parkways, "threw a scare" into wealthy landowners with plans to run the Northern State Parkway to a park in Oyster Bay, but had been thwarted by incorporations arranged by "the

wealthiest, most snobbish, and most reactionary community in the United States." Actually, Upper Brookville was the last in its immediate area to take the step; Old Brookville, for example, had gone through the metamorphosis in 1929. In 1930, there were ten incorporated villages in the area, totalling about fifty square miles, and a combined population of about 2,500. Some 40,000 acres were then under estates.

Certainly one of the arguments for incorporation was that Nassau County was too large for village police purposes--response too tardy, courts too far off. As for Upper Brookville, Mayor Crisp put in a mayoral letter of 1941:

The principal reasons for incorporating were to enable the residents to protect themselves and their property by the adoption of reasonable zoning ordinances and to control the cost to them of maintaining roads, police and fire protection and various other municipal functions formerly provided by the County and the Township.

Earlier, Mayor Kellogg had observed that "substantial tax savings have been and continue to be realized through...incorporation..."

#### Zoning

After a public hearing the Board devised a zoning ordinance in January of 1933. At the end of 1937, the Board fortified its zoning laws by adopting an official map--by Arthur W. Leach, C.E.--and filing it with the County Clerk, in keeping with the Village Law of New York. There were some pre-existing businesses along Northern Boulevard--nurseries, a farm stand, and a gas station and garage, the last having grown out of a blacksmith's at Cohen's Corner--which were accepted as nonconforming, but in large part, the ordinance was (again, following Mayor Crisp)

designed to protect the residential character of

the Village and to avoid invasions of a business or industrial type which would be harmful to the serenity of the community. Existing business enterprises were found adequate and no additional areas were set apart for business use.

### The Great Depression

The year 1932 is associated with the coming of deep economic paralysis in the land, and although the Minutes show that the Village collected its statutory share of the State income tax--\$866.04--they do also show something of the spreading malaise. In October, there was a note on the Oyster Bay Unemployment Relief Association. In 1933, after the change in national administration, traffic signs were emplaced by the otherwise unemployed. Village mayors were asked by the Governor to endorse a sales tax increase for unemployment relief to be municipally allocated (the letter was filed). Early in 1934, the Minutes record projects of the Civil Works Administration, an emergency relief program devised by Harry Hopkins in the winter of 1933-34, but the Trustees were not persuaded that their Village needed this federal infusion. In that year, the Village and Muttontown bought a Chevrolet truck for \$875 and a snow plow for \$375, and paid the driver 80¢ an hour by day and \$1.25 by night. The Public Works Administration included in its national net of projects the culverting of the brook running down Wolver Hollow to the Sound, although parts of it, still visible, are liable to flood at times. But there are no stories of ruined fortunes entwined in the recollections of residents of this Village.

### Mill River Road: Problem Then, Problem Now

Truly perennial was the problem the Village faced with Mill River Road, for basically, geography conspired against the engineers. This road lay, and lies, in a much steeper valley than does Wolver Hollow Road; its watershed sweeps over 1,300 acres, and the converging waters

constantly flooded the road, washed away drives, and dampened parochial pride. Resurfacing costs were about as steep as the debouching hills. A special Board meeting in 1941, for example, heard it would cost the Village \$2.15 per lineal foot, with the total for the affected area then eroded coming to about a thousand times that figure--and that was the low bid. Upper Brookville shares this lovely but bedeviled passageway with Muttontown, with our Village having the northern part, from the junction with Remsen's Lane.

#### Fire Protection

A greater potential hazard to all was that the Village had no regular system of fire protection. Individuals contracted with different nearby companies, e.g., the one in Locust Valley; some had no coverage. For example of the latter, James G. Dartt, in the late spring of 1936 took title to the property formerly owned by George Brokaw, at the corner of Ripley Lane and Wolver Hollow Road, and found himself in that perilous situation. He wrote to Mayor Kellogg for information, adding that since he had two children in a wooden house, "I am a bit worried over the matter."

It seems that the Trustees had been testing Village opinion about fire protection for some time, starting in the spring of 1933, when they found little response to the idea of a Village contract. The 1934 poll brought in only eight responses. Just before the Dartt letter, in fact, the East Norwich Fire Company had withdrawn from negotiations, there being too few takers for their coverage, offered at the rate of nine cents per \$100 assessed valuation. By the late fall of 1936, about two-thirds of the residents responded with interest, and a contract was drawn, at a nickel per \$100. So ended that parlous time described by the Village Attorney just before, using italics: "the entire Village is now an unprotected area, and in the event of fire, there is no obligation on the part

of any fire company to respond." Thereafter, the Village budget always included a line for the fire contract, starting with \$3,911 for the 1937-38 fiscal year.

Of course, there could still be disasters. The Minutes for January 8, 1940, record the total destruction by fire of the summer home of J. C. Bell. John Read Taylor, who had lived there since 1932, recalls it vividly. Seven companies finally converged on the blaze, which had started in defective Christmas tree light wiring. But the caretakers panicked and did all the wrong things, including setting themselves on fire, and when the call finally was placed, it was too late. The East Norwich company found the hydrant frozen solid, forcing resort to Wolver Hollow Road. A general alarm went out, but what was saved, in the melee of engines and passersby, was a supply of liquor, which cheered the onlookers mightily. An enterprising hawker of frankfurters--"Swanky Franky," was his trade name--did well that night. A newspaper story placed the loss at \$75,000--and Mr. Taylor now has a swimming pool placed in the old foundation.

Other essential services included garbage disposition. Late in 1937, the Trustees debated contracting with a single carter, who offered a three-day pickup for \$4.00 per month, but the deal did not go through, and the individual system prevailed, as it has to this day, albeit with periodic reconsideration of the alternative by the Board. Lighting of Village Streets was provided by the Long Island Lighting Company--and there is a memorable entry in the Minutes for March 15, 1935, which documents that the company had just reduced its rates, which in these distant years produced a budget line of about \$2,000 annually.

On a par with fire protection was that offered by the police. Although Nassau County covered the villages in these years, there was some joint action among the recipients. Thus, in 1935, the mayors of the five villages

which later formed the Old Brookville Police decided to abandon the Muttontown police booth on the southwest corner of Northern Boulevard and Brookville Road, in favor of the present site, the land for which had been given by Mrs. Iselin. The villages also agreed to pay \$100 a month for a radio car. The County was not happy with the relationship, for annexations reduced the tax base for the county force unless compensation was exacted. During the pre-war years, the Village share of the police bill was fairly steady, hovering between five and six thousand dollars per annum.

#### Taxes

Villagers paid taxes based on County evaluations for buildings and on Village evaluations for the land itself, unless the County assessment was the lower. On this basis, aggregate assessments for the Village hovered around 6.2 millions down to the war. However, in the year 1938, Nassau County revalued its assets, and in mid 1939 fixed the Village's total value at 8.2 millions. The Village resisted the reassessment methodically made by an Ohio firm, which, while more equitable for some, and enhancing values generally, would have unhappy results for inheritance purposes, and would, the Board feared, lead to "increased extravagance due to the increase in bonded debt limitation." It retained its own land evaluations, although the higher one would of course have reduced the tax rate. That rate started in the first year at 38¢, but by 1935--the Village having paid off the cost of incorporation--it dropped to 16¢, and until the war fluctuated around 20¢. The Village budget, after that initial cost, was about \$10,000 in the mid-'30's, changing of course after the fire contract was drawn.

#### "The Baronial Period"

The notion that this first double decade was a time of benign baronial oversight of Village matters is reinforced by the fact that the Board, which actually did not

meet every month, often did so in the New York City homes or clubs of the several mayors, say, 225 Broadway, where Mayor Kellogg had offices, or 555 Park, where Mayor Stearns lived in the winters. Other sessions were seated at the Recess Club (60 Broadway), or the Lunch Club (63 Wall), or the Rockefeller Center Luncheon Club, or the Union League Club. Meetings were shorter than they are now; one eyewitness recalls that Mayor Kellogg, when he convened his conferees at his Wolver Hollow Road home promptly at 5 p.m., arranged that his butler would terminate Village business with a tray of martinis exactly thirty minutes later. The Minutes were encased in massive canvas-covered and marbled tomes, and followed legal locutions going directly back to the minutes of New York's first Village, Lansingburgh, which declaimed in 1798 that the resident freeholders "be, and they hereby are," denominated the electorate, the body politic. Civic sense and noblesse oblige interworked among these leaders to constitute and maintain a largely self-perpetuating organization, the unopposed Civic Association nominating replacements for Trustees and Mayors.

To all of this, the ratepayers made no demur, as the record of annual elections clearly shows. In the first election, all of three people registered, one being A. Chestnut, the supervisor of Mr. Watson's estate. In 1937, the election was by contract crowded, the voter list showing twenty-one names on a roll with fifty blanks prepared. Usually, the slate was unanimously returned, although the elections were prepared and announced with full attention to the legal aspect of them, e.g., notices were tacked up always on the same light poles, four on Wolver Hollow Road, one on Mill River Road, and one on Cedar Swamp Road.

In the large, it was a time of implicit hierarchy. There were no slums, although there was some relative poverty. Across the street from the present home of Elsie

Day, at the junction of Piping Rock and Chicken Valley roads, was a tavern for Polish gardeners, but butlers had their own country club--set up by J.P. Morgan's man--and the Brookville School was, by the same token, established in the 1920's for the children of the help. No one challenged the Old Guard at the polls, certainly.

#### Miscellaneous Concerns

Apart from the organic arrangements noted so far, the Board was seized of a familiar Village variety: stray dogs in mid-1933; the prohibition of outdoor advertising in November of that year; the great hurricane of '38; and, often, damages and drainage on Mill River Road. Of greater import, perhaps, since it trenched a privilege held sacred by holders of large domains, there was a growing concern over shooting. The meeting of January 1939, which surveyed tree damage inflicted by the terrible winds of the preceding fall, was presented with renewed complaints of gunning. Indeed, the Mayor's daughter had almost been struck by a rifle round when riding from school the December just past. An ordinance was called for, and accordingly drawn up, with a hearing for November of 1939--to which no one came. It was thus ordained that only property owners or lessees or guests with written permission could have or carry outside or discharge any firearm, excepting policemen in the line of their duty. There was a \$100 fine for violators, who would be hauled up as disorderly persons.

There were, in these peaceful pre-war years, even some inklings of development. In the spring of 1937, the Minutes told of the wish of one Mollie Stoddart to start a private school, and of her petition to the Board of Zoning Appeals (denied). In the first meeting in 1940, the same board considered a project to build a golf course on the Bergquist property. At the next meeting (it was not until April), the Board took no action on a proposal that the Village join the New York State Federation of Planning

Boards. The Henry Wickhams moved to their two acres on Wolver Hollow Road on Pearl Harbor day, coming to a new home carefully selected because it was near to the school (the help-only rule was soon broken)--fortuitously, as it worked out, for with gas rationed to 2.5 gallons per car per week, children had best walk. As their house went up--Henry and Virginia were among the first to build on two acres--the neighbors were surprised at its small size, obvious enough in that neighborhood of sweeping lawns and rambling mansions. Another new arrival in 1941 was Hilbert I. Trachman, whose ten acres farther down Wolver Hollow Road had been purchased from Gilbert Ottley of McGraw Hill, who in his turn had bought a parcel from Mrs. Iselin, although that had taken connections, and persuasion. Trachman was seen over his threshold, as it were, by the Welcome Wagon. The Village, he recalls, was more "intime" then than a later day, after much more growth, would allow.

#### The War

Eleven days after Pearl Harbor the Board gathered specially to discuss sending a representative to the Nassau County Defense Council. The next meeting, in March of 1942, pondered advice from Albany that a reduction in the State income tax rate would reduce also the village's share of that revenue. Another note appeared in the Minutes for the next meeting, which among other things noted that it was hard to get highway workers, due to war demands; there was talk also of federal priority controls on public works materials. And so on: the May 1942 meeting recorded a reduction in Village police work, linked to gas and tire rationing. Note was also made of the appointment, under the New York War Emergency Act, of a Deputy County Director of Civilian Protection--and of the fact that Muttontown and Upper Brookville had found a man for snow-removal at 62.5¢ per hour. The budget for 1942-43 included a \$1,000 line for "Reserve for Defense"; in

September of 1942, the Board discussed joining in a steel scrap drive; in January of the next year, it approved sending \$15,000 to the Glen Cove War Council, and an equal sum to the rationing board there. It was not until the end of 1943 that the Board turned again to war-related matters: Stephen A. McClellan, owner of The Specialties Company of Locust Valley, desired to convert the Bergquist house and lands into a factory and research center, for military uses. The Trustees, dubious, felt a hearing was called for (the project was withdrawn by the Navy Department in the spring of 1944). The Board was more positive in the matter of setting of a four-village Honor Roll, setting aside \$250 for it, drawing from the Defense Fund.

In this distant retrospect, Village affairs were little affected by the tumult of war, insofar as the Minutes were concerned. Elections were duly called, and in June of 1942, the first wartime occasion of Village politics, when Mayor Crisp was re-elected and Stearns and DeGraff were confirmed as Trustees, there was a fairly large turn-out, fourteen in all. But in the next election, when Kellogg and Dean were made Trustees, there were only four names on the roll, being those of the candidates and their spouses. When Kellogg resigned later that year, his colleagues filled his place with Peter Grimm, who in his turn resigned, moving away, and in mid-1944 the Trustees made another ad interim appointment, naming Edward G. Sperry, moving him up from the Board of Zoning Appeals, where he was replaced by G. Chester Doubleday, moved by the Trustees from the post of Building Inspector, where the vacancy thus made was filled by the drafting of Freeman Lewis.

#### Mill River Road

One reads of the usual floods, smashed or stolen posts and signs, and so on. But in July of 1944, the Board began to ruminate on a novel approach to the intractable problem: turn the road over to the County. Let Mineola cope with keeping it up! In September, men

from Upper Brookville and Muttontown met with the County Supervisor. The County, it developed, was reluctant to move in, unless the two villages would contribute land for a sump. In the meantime, there came other complaints from residents on that thoroughfare, in one case bringing a Trustee on a personal inspection of hurricane damage. But the Mill River Road problem entered a new phase, with many residents resisting any thought of transfer, fearing that the County, in effecting a radical solution, might go so far as to straighten the road, bringing a flood of cars in, not water, and obliterating its undeniable charm.

#### Wartime Budgets

Budgets during these years were steady--in fact, declining a bit down to around \$11,000, with a corresponding dip in the rate (by a penny, down to .20¢). The two villages continued their joint snow-removal operation, with a new 1942 truck, continuing the service of clearing private drives, at cost, at the discretion of the Street Commissioner, and of course only on request.

Interestingly, the Village showed surpluses during the war years. Sometimes actual costs fell short of the estimates, as, for example, in October 1944, when the annual fire contract came to about \$1,000 less than the \$3,686 figure in the budget. In 1943, at the last meeting, the Clerk reported favorable comments on Village affairs from Albany, the chief criticism being "failure to apply the entire unexpended balance at the end of each fiscal year toward the reduction of the following budget." In 1944, the surplus came to \$16,000, but the next budget carried an item for "permanent improvement," \$16,000, a set-by in case the hoped transfer of Mill River Road to the County did not come about.

#### Tremors of Postwar Growth

In mid 1942 came a request from the Lewis Land Corporation to convert the Bergquist mansion into small apartments; the Board decided to submit this to a hearing. One

of the more splendid places on Wolver Hollow Road it had been built in the 1920's by Henry Clews, who lavished over ten million dollars on a Versailles-like palace, with rolling views through the forest. The widowed Mrs. Clews had remarried later to Colonel J. Robertson, who in the war was recalled into service. So the great park came onto the market, and, after neighbor Trachman had refused it, it passed into the hands of the Sisters of St. Joseph, who used it as a convent. Inevitably, the old places were changing hands.

#### Postwar Years

Would there be a building boom? Was the zoning system adequate? Questions like these badgered the Board at a special meeting late in September, 1945. The County expected a boom--the Board soon learned that Mineola had sidestepped the Mill River Road take-over because it probably would be preoccupied with new construction for years. After the election of 1946, which returned Mayor DeGraff for another two years, the Board ruminated about the breakup of the big places, and wondered if a Village planning board should not be put in place. Accordingly, citing the pertinent section of the Village Law--nothing was done off-hand--such an agency was created, and staffed by Van DeVanter Crisp, Henry F. Atherton, Emily Morris, Molly Maxwell Davis, and Lloyd Gilmour. Later in that year, the village attorneys on the North Shore conferred on a building code, to withstand the expected surge. Old Brookville's code was to be the model.

This was none too soon. A Sea Cliff man wanted to buy the James Byrne estate for veterans' housing, with plots of 100' by 60'. And it was not just in the Village itself; in 1947, the Board was apprehensive over the application of Long Island University for a variance from Old Brookville which would clear the way for its use of the Joseph Davies estate for a college. And there was talk of joining the Regional Planning Association.

The building code was aired at a Village hearing in November of 1947. This twenty-nine page book detailed every aspect of acceptability; e.g., that minimum floor plan should be 1500 square feet, that residences should not exceed 35' in height, that no room be smaller than 60 square feet, that churches and schools must not exceed one story, and much, much more. Maitland Edey, just returned from military service, was made Building Inspector ad interim, although he knew nothing about it, nor was there yet any routine whereby building plans would come his way. But the Board soon had recourse to a professional, making Alfred Shaknis of Glen Head the Village Inspector in January of 1948, to be compensated out of fees charged.

Another worrisome question in 1948: what would happen when the 409-acre Coe place was transferred to the State Department of Agriculture, as appeared likely? What about taxes? Open space? As for the former, the Sisters of St. Joseph soon asked to be allowed to conduct a regular school, which would affect their own tax status. This elicited objection from neighbors, and argument over the terms of the deed which they held, and so, the interaction between legality, economics, and interests being activated, the property moved, through a complex of repurchases and offers, into the hands of new owners, including Arthur Ringewald, a developer, the sisters Constance and Barbara Brigham, and Mr. and Mrs. David T. Parsons. But this takes us ahead of our story.

A test of the zoning system came in November of 1949, when Mrs. Katherine S. Havemeyer, one of the incorporators, sought to sell a seven-acre parcel to Mark Eaton, who wanted to conduct a nursery business there, although this was north of the turnpike, in the Wolver Hollow-Ripley-Remsen's Lane quadrant. A public hearing on the petition turned out an unusual crowd, some eight people in addition to the principals. The argument was that the Havemeyer place had before been a nursery, hence, at

the time of incorporation, a non-conforming exception. Cautions were raised by the nursery operators on 25A; others feared the entering wedge of commerce in an area where it had been discontinued. However, the zoning was modified to permit commercial horticulture only, with many restrictions on signs, equipment, and the like.

The complex story of the advent of C. W. Post College resurfaced in the Village affairs in July of 1950, when the Board considered the possibility of annexing unincorporated acreage in the vicinity of the Davies estate to prevent it. Mayor Stearns addressed a letter to villagers urging that all attend a Town hearing in Oyster Bay on the question of amending Town zoning to allow colleges and universities in certain areas by special permit of the Town Board. Long Island University had a questionable reputation at the time, thanks to recent exposes of corruption on its famous basketball squad, and the Mayor made reference to that in this appeal:

The Trustees suggest you familiarize yourself with the history of this University, its athletic policies, its service to the Community, the cost of its educational services, its standing in the educational field and the ability of its graduates to enter graduate schools of recognized reputation and standing. We urge you to inquire what it intends to do with this valuable property if it should obtain no local students and therefore discontinue operations there as an educational institution.

Growth and change led next to the passage of a littering ordinance, most carefully drawn, so that no one might

throw, cast, discard, or lay (or let any servant throw, cast, discard, or lay) any ashes, garbage, dross, cinders, shells, straw, shavings, papers, dirt, filth, tin cans, refuse, or rubbish of any

kind whatsoever...

unless willing to pay \$100 as fine, and to be known as a disorderly person. Shortly thereafter--mid 1951, that is--the Board ordained a painted line down the middle of Mill River Road, and recognized too the need of a parking ordinance. To these were added regulations aimed at "muffler cutouts," trucks, bonfires, picnicking, hawking, and so on.

More immediately portentous was the advent of the sand miner. The land involved was that of the late James Byrne, a 160-acre lot on the northeast frontier with Oyster Bay. Late in 1949 Frank Faraco purchased the lot, seeking to "grade" about fifty acres of it; in 1951, the Lizza Brothers began to mine on this parcel. Here was the start of a round of litigation, which would be followed by others, for the Village was determined not to lose its substance to raw and unsightly sand pits.

In these years, the incidence of litigation starts to increase significantly. There was the gunning matter, for example. In late 1945, the Trustees returned to the gunning ordinance, which must be supplemented with "No Hunting" signs. In due course--it was in January of 1947--there was a prosecution under the gun code at the District Court in Oyster Bay. The following May brought news that the judge had released the shooter on the grounds that the gunning ordinance was unconstitutional, a ruling which the Village set itself to appeal. Arthur Dean, Wall Street Attorney, offered to argue the case without charge, and in June, the Minutes report that other villages would join in the test of constitutionality. A year later (November, 1948), the Trustees heard complaints about "indiscriminate gunning in the Village," and called for strict enforcement of the ordinances, which had not been struck down.

It was not coincidental that the Village Attorney in September of 1950 advised the Board that he would need

more staff, in view of the increase in the load of legal work.

Again and again in these years, the name of Mill River Road surfaces in the Minutes, so often that the reader wonders why it was not reduced to initials--MRR. Late in 1945, there were renewed demarches to Nassau County to take it over, all fruitless.

The residue of war was partly cleared away in late 1947 when the Trustees abandoned the idea of using Village land for a war memorial. But the Civil Defense mechanism remained in place, as part of a four-village cooperative effort, with Upper Brookville contributing about \$300 annually. Early in 1951, Mrs. Dartt was made Director of Civil Defense of Upper Brookville, at a salary of \$50 per month.

#### The Old Brookville Police Department

By far the most far-reaching cooperation between the villages was precipitated by County action, in the matter of police protection. In the postwar years, the five villages had a special County force of seven men, each paid \$3,500 per year, and the Upper Brookville budgets show regular entries of \$6,500 as the Village share. But in the summer of 1948, Nassau County advised that it would not continue the service after the end of the year, which left the villages the choice of entering the regular County system, or forming their own police force. Mayor Stearns advised the taxpayers in his Village that in the latter case the rate must be raised from 21¢ to 31¢. It developed that to enter the County system would bring the Upper Brookville rate to thirty-five cents, and the Village would have no say in the service provided.

But to create a special village force would take special legislation in Albany. Accordingly, Arthur Dean betook himself to that city, where he called on Governor Dewey, who in turn sponsored legislation to the effect that any two or more villages could create such a force.

The arrangement in detail for the five villages--the three Brookvilles, Matinecock, and Muttontown--was that Old Brookville, the largest, would create the force and contract to provide protection to the others, expenses to be divided according to the assessed valuation of each party. The initial costs would of course be higher, since cars and uniforms and headquarters must be provided. For Upper Brookville, starting cost would be just over \$14,000. The new force, which was in place in mid-1949, was housed in a new quarters on the northwest corner of Wolver Hollow Road and Rte. 25A, on a site leased to the force by Upper Brookville for a dollar a year. Mayor Shields of Old Brookville was the first Police Commissioner, and Gordon Hurley, the first Chief. And so the villages entrenched themselves for the coming waves of cars, people, and subdivisions.

#### Political Life

Village politics seemed to be little changed after the war. The Trustees sought to be good stewards. In mid-1946, they created a tax-stabilization fund to ensure that surpluses be applied in the taxpayers' best interest. At about that time, they quit the partnership with Muttontown on snow removal, preferring individual annual contracts for the Village, letting the first of many that year to the lowest bidder. Elections continued to offer the Citizens Association slate each June, to the voters, who once massed fourteen strong at the polls, but in 1950 and 1951 produced no more than three, being drawn from the Stearns and Dean families.

In the fall of 1947, Mayor DeGraff went on record to say that the Minutes should be fuller, so as to give full coverage to all decisions and subsequent actions, rather than being content with recording that such-and-such was talked about. The Board approved, and referred it to the Village Attorney, who prepared them. In mid-1951, the Trustees agreed that there should be a regular date for

meetings, apparently because the fixed periods therefore always specified in the archaic formulae of the annual Organization Meeting were honored more in the breach than in practice.

But it seems that these deliberate Olympian gestures were not enough for all of the voters. A group of younger residents, primarily Alfred J. Seaman, Freeman Lewis, and Henry Wickham, were not satisfied. As Wickham recalls, he only gradually had learned that there was a mayor; there were few mayoral communications, nor were there mailed notices of elections, however faithfully placards were tacked on those six designated poles. The insurgents asked Freeman Lewis if he would stand as a write-in Trustee, leaving the mayoral citadel to the established succession, which slated Arthur Dean. The Lewis "platform," they agreed, was to be simple: there should be a postcard sent to residents before each election; the mayor should write regular letters to his constituency. The determined group did indeed show up at the polling place--the home of the Clerk, Mary Marden Dean--fifteen minutes before the polls were closed on June 17, 1952. Arthur Dean was elected Mayor--there were some forty names on the list, a record-breaking number--but Lewis bypassed John Stearns (who had just stepped down as Mayor) for a Trustee's place. The Deans made a formidable team--Mayor and Clerk, and although the Mayor "ran the government out of his pocket," in the words of his admiring successor to the Village chair, he ushered in a period of greater democracy in the life of the Village of Upper Brookville.

Chapter Two  
The Coming of Democracy  
1952-1960

Undoubtedly, there was a change in the modes and perhaps the ambience of Village government when the Mayor and his Trustees started to work. For one thing, there were annual mayoral letters to the voters, candid and complete, lawyerly and Biblical, and at times avuncular. The new Mayor began his letters, year in and out, with an invocation: "This is a letter about the Village of Upper Brookville, in which we live and have our being, and to which we pay Village taxes." He was pleased to announce a twenty-nine cent rate in August, 1952, but added the caveat that since a change in fiscal year had necessitated a nine-month intercalation, it only seemed to be lower; really, it was thirty-five cents. In 1953, after what was to be a standard thumbnail sketch of the history of the Village for newcomers, he warned that School District #3 in East Norwich sought a parcel on Mill River Road in the Village, which, if used for school purposes, would be lost to the tax rolls, meaning that residents would be paying school taxes twice over, so that this incursion should be resisted. He ran in a complete estimated budget for the coming year, showing income, cash balance, and all expenses, with comparative figures for ten years before, showing how the total to be raised through Village taxes had climbed from about \$12,000 to about twice that sum. In this context, another homily: "If we don't budget, we can't spend. If we budget for snow and the snow doesn't come, then we credit the surplus to next year's budget."

That done, the Mayor moved, paragraph by captioned paragraph, through the principal interests of readers: police, fire protection, zoning, and so on, including always a calendar of Village events. In the appropriate

place, he drew on the good will of all, in that they should not make things difficult for the Clerk in matters taxational, for she was only doing her bounden duty. The Clerk, otherwise Mrs. Dean, recalls that no one ever was nasty, but that some forgot to pay, going here and there on vacation just at tax time.

It is also irrefragable that there was a commensurate increase in the voting population--that is, those who actually came out to vote. In 1953, there were seventeen names, larger than the norm in the old days. (Years later the tally once climbed to 166, an almost extraterrestrial figure, for an election involving a write in for Edward Fucillo and Marce Sola, although the Citizen's Association ticket--Maitland Edey, Alfred Seaman, James Thomas--won handily).

Sometimes Mayor Dean missed the meeting, usually in 1953-54 because he was absent in Korea, involved, as the American Ambassador, in the US attempt to negotiate the terms of settlement for the Korean War. The team lived in a tent (he recalls), and in cold weather--50° below--manure was piled up around it to keep in the warmth (and the rats). Dice were carefully rolled to determine whether a hut at Panmunjom belonged to one side or the other. That settled, there was the problem of the stove, which stood in the hut but on the North Korean side of the 38th parallel. No American could cross the line to stoke it. From this, a man would hurry home!

A minor budget outlay--always under \$1,000--was for Civil Defense. The Village was in the Brookville Civil Defense Area, Unit 302 of the Nassau County system, which was of course linked to ever higher units. At the end of the decade, the Acting Director was Mrs. Dartt, who followed Mrs. Dean as Clerk/Treasurer in 1958, and whose CD headquarters were in a tiny office just off the stage in the Brookville School. In the early years of Mayor Dean's incumbency, CD was evidently largely nominal. However, in

kind whatsoever... unless willing to pay \$100 as fine, and to be known as a disorderly person. Shortly thereafter--mid 1951, that is--the Board ordained a painted line down the middle of Mill River Road, and recognized too the need of a parking ordinance. To these were added regulations aimed at "muffler cutouts," trucks, bonfires, picnicking, hawking, and so on.

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mid-1955--this might be linked to apparent Sino-Soviet cooperation--The Record and Pilot of Glen Cove told of plans in the Brookville CD Welfare Service, which had arranged to receive homeless persons at the Brookville Country Club in the event of enemy attack. By January of 1958, the Locust Valley Leader gave a picture spread to meetings of the Brookville unit, with a shot of the attached seventeen-man Auxiliary Police in new uniforms, and another of Read Taylor, the Chief Warden, explaining "the techniques of home protection." In July of that year, Mrs. Dartt reported plans for an alert brought on by Middle East tensions. There would be a siren emplaced at the school, with Washington footing half the bill. The Acting Director wrote to Mayor Edey:

the siren will be erected on school grounds near Remsen's Lane where three-phase electricity is available at no extra cost. Henry [Wickham] held an emergency meeting and all approved who were here. The siren will sound only on Saturday noon and for CD drills or in the event of an Emergency!

New uniforms for the Auxiliary Police were also partly paid for out of federal funds. In April of 1959, the unit held a test, with traffic direction by the Auxiliaries (and more national funding). At the end of that year, the Board noted that a model fall-out shelter had been built on Mill River Road, with CD endorsement.

#### The Russian UN Mission and Upper Brookville

In September, 1952, the question of what would become of the Mill River Road estate of the late Governor Miller, and its great Norwich House (with indoor and outdoor pool, billiard and sun rooms, etc.) was finally solved: it was sold without fanfare to the Russian delegation to the United Nations, acting through Jacob Malik, its chief, whose government paid \$80,000 for it. It was to be used as a retreat for second-level members of the Russian UN

mission, those in the ambassadorial entourage being quartered in Killenworth, with its 45-room mansion, the former estate of George Dupont Pratt on Dosoris Lane in Glen Cove, purchased at about the same time. Early in 1954, the Village Attorney advised the Board (then otherwise concerned with the depredations of a sand miner) that the USSR was not paying taxes on the estate, then valued at some \$117,000 so that the tax amounted to over \$500. The Russians claimed diplomatic immunity, citing the UN Charter and related agreements between the US and the UN. The Village disagreed, partly on the ground that the Miller place lay outside of the fifteen-mile radius specified in the cited treaties, and decided to hold a tax sale, its first, under New York State real estate law. Accordingly, the sale, duly posted was held on March 9, 1954, at the home of Mayor and Clerk Dean. As a reporter for the Pilot put it:

About the nicest tax sale we have ever attended was that carried on Tuesday morning...The business of the day took place in the big Dean living room, and we all sat in deep arm chairs, there was a roaring fire in the fireplace...'I am not used to this sort of thing,' said the photographer from Newsday, aghast. 'They don't do things like this on the south shore.' There seemed to be some sort of poetic justice in the event, because of course Mr. Dean was the United States truce negotiator, the man who was the subject to all sorts of Russian attacks while he was in Korea. But he wouldn't dwell on that subject, getting right down to business and calling the auction at exactly two minutes after ten. 'I have checked with the phone company and my watch is right,' he explained. 'I don't want the Russians to think we are doing anything illegal.' The only bidder, of course, was Joe Harris of

Baldwin, a likeable little man who appears to buy up these tax liens as something of a hobby...'I sort of get a kick out of this,' said Mr. Harris...

The Russians did not appear--their dealings with the Village at this time and throughout being through the stately mediation of a New York law firm--but they had called the Village Attorney before the tax sale, such sales apparently being unfamiliar to them, to ask if the property itself would actually be under the auctioneer's hammer. Not so, they were advised; they would have two years in which to redeem the lien.

The matter being still outstanding, a second tax sale on the Russian property was held in March of 1955, being almost a clone of the first. Thereafter, for a while, the account was squared, but under protest. Legislation was also introduced into the New York legislature which eliminated the fifteen-mile radius in cases of this sort, but that takes the story into the 1960's.

The matter of tax exemptions became more pressing with the death of W. R. Coe a week after the second Russian sale. What effect would the passage of his great holding to the State have on the tax rate? Would there be a payment for 1955?

#### Miscellaneous Village Concerns

Police Reports for the decade record the first mail box vandal (1953), and a vandalistic episode at the Brookville school, and a brush fire started by young people playing with matches. It also records that two youths were pulled over for racing at 100 miles per hour (and fined \$100, and jailed a month). We learn from the Minutes of a new ordinance at the end of 1953 directed in part at "malicious mischief." More: there was even a youthful suicide on the Coe place in 1954, and a rape there as well two years later. But these laconic reports seldom give ages or addresses, and amid the welter of

traffic summonses, aided-person notes (a woman bitten by a horse, for one), dog bites, lost persons (one was found in his bed, asleep!), and burglaries (perhaps one per year in these halcyon days)--and drunks (hardly as many as the last)--one does not see the youthful profile which later emerges.

Some of the complaints coming to the Board still had to do with gunfire, which shattered the tranquility of many, and so early in the Dean incumbency there was a move to tighten the ordinance yet again. For one thing, as of 1955, no rifles were permitted, although one might use a shotgun on one's own place, under the old terms. But there were misunderstandings about the giving of permission to shoot on home property, and particularly relative to the 500-foot safety-zone around dwellings, rats and crows being notoriously indifferent to such refinements. Hence there was an easement, so that it was to be "reckless firing" that was prohibited, and another in the matter of skeet shooting (although that brought many expostulations from neighbors) so that it was necessary to seek police permits only if there were a dozen shooters, two more than hitherto fixed as the maximum.

Some owners--Edey and Dean, for example--personally flushed out interloping hunters; "the police gave us permission" was the standard prevarication. Edey in fact gave up shooting entirely. But still, when Mayor, he wrote: "The two ordinances which seem most troublesome to residents are those which have to do with gunning and with stray dogs"--a formula which appeared verbatim in mayoral letters, until 1965.

The first notice of the actual change in the status of the Coe place appeared in the mayoral letter of mid-1957, which observed that the estate, assessed at nearly one million dollars, was then being used as a temporary site of a new unit of the State University of New York, which was to be permanently sited at Stony Brook.

In this way the total assessed value of the Village was pulled down to 5.9 millions. The transfer (the Mayor pointed out) would reduce the share of the Village in police and fire protection calculations, based as they were on assessed valuations, but it would increase the tax rate "and raises anew how much exempt property a Village of our size can support." Elsewhere, he listed as exempt areas the Catholic Cemetery, the Brookville School, and the property on which the police station stood. Soon the portion of the Kollsman place taken by the East Norwich School was added, as was the Coe place. For some reason, the Brookville Cemetery did not always appear on these enumerations, but the omission was an oversight.

#### Growth, Development

Although at any time in these years the placid charm of the Village might have seemed to be total--as indeed, it is still, to the casual observer--there were inexorable changes at work. Mayors were at pains to tabulate indicies: in 1943, there were sixty taxpayers; in 1953, 150, and in mid-1955, 172. Two years farther along, the figure stood at 206, and Mayor Dean, departing from an annual formula in these matters, inserted that the total population was 700, adding further:

As open farm land is developed into residential plots and larger parcels of land are subdivided for developments, new roads are added [elsewhere he had added Pine Valley Road, Cedar Ridge Road, and the Knoll to the list which had been unchanged since incorporation], the number of Village residents increases and the problems and expenses of the Village multiply.

Total assessment had been 5.9 millions in 1957; in 1958, it was 6.3 millions. In 1958, 237 people paid taxes to the Village--and in 1960, there were 273 of them, in a total population of 1,000, and the Village was assessed at

6.8 millions.

Development is a word much used, in all sorts of contexts. There are by far more items under this heading in the Dean-Edey Minutes than there are in any other category. As Edey recalls it, there was suddenly "a rash of applications for subdivisions, roads, and the like," for which the Board was unprepared. Thus:

In January, 1954, two entrepreneurs sought to open a golf club, protesting that the existing zoning regulations, which required that at least half of the membership be drawn from the Village itself, was too restrictive. To urge on their case, they threatened the Board that if their proposal were denied, they'd build "as dense a housing development as zoning will permit." A hearing was duly held, at which many villagers opposed the idea, and the Board subsequently denied it.

Early in 1955, another side effect of growth appeared. The police arrested three Chinese peddlers selling magazines to new residents. Mrs. Dean recalls a vendor who came to her door with a plausible patter, trying to sell once he gained admittance. He became "livid with rage" when she remonstrated (she also noted that he had red hair), and it was only with difficulty that she got him off the premises.

At the end of 1955, another developmental problem presented itself: the Board recognized that it must limit truck weights to five tons--and again turned its attention to unauthorized nursery activities on Rte. 25A. These appeared again in the Minutes early in 1956 (see "Litigation", page 43), with the addition of the Cohen's Corner complex of gas station-cum-body shop.

March of 1956 (the Board having just discussed the need to install radar speed devices on Rte. 25A) brought a hearing on a maze of growth-induced problems: fences, setbacks, gun control, minimum house size, commercial activity, display of produce, etc., to which eight taxpayers

came. The Board wondered if a rate increase must be made to accommodate unusual road-maintenance costs and the likelihood of zoning litigation. The increase in Village business necessitated the addition of a deputy Clerk-Treasurer to the roster of appointees (it was Joan Ault) in the spring of 1957. Mrs. Dean, in a wry recollection, told of adding tax bills with a pencil, which sometimes produced mistakes--which were masterfully discovered by her husband, among other things an erstwhile banker. "That just burned me up!" The Village soon supplied an adding machine.

An unusual challenge indeed appears in February of 1958, when a ski-tow materialized on the property of Oscar Summers, in the northeast hilly quadrant; the Board declared a violation. In his mid-year letter, newly-elected Mayor Edey, announcing a 10¢ jump in the tax rate, to 84¢, observed:

The cost of goods and services has risen fairly steadily during the life of the Village, and the continuous decline in the value of the dollar has been reflected in the tax rate. There has also been an increasing demand for services as the community has grown, which is another way of saying that the gap between operating costs and assessed valuation will widen, not shrink, as the Village continues to grow. This tendency is common to all municipalities and explains in part the rise of the Village tax rate since World War II--those are the years during which the Village has experienced its greatest growth.

In particular, there had been a rise in the cost of the police force, and also the State was for the first time demanding an annual tax to the local water district of \$30 on each of the ninety hydrants in the Village. As for burgeoning demand for services, the Mayor might have pointed to the unprecedented item of \$8000 for highway

maintenance in that 1958 budget.

Receiving roads was a complex process, demanding, among other things, careful attention to underlying construction, so that the Village would not be saddled with the cost of rebuilding after shoddy workmen. The Linden Lane residents were anxious for acceptance of their chief artery; Mayor Edey recalls phone calls about snow plowing. It was the pressure of this group, led by John Matz, which moved the Board (Edey went on) to reconsider dedication policy, and to think more on a Master Plan. However, J. Burchenal Ault, the Trustee with responsibility for roads at this time, personally tested Linden Lane with a pickaxe, finding only two inches directly above the sand. To effect rebuilding, however, called for a lengthy action involving the builder (who could not be located) and the bonding company. It is interesting that in the 1960 Mayoral letter, voters read of a new official, the Engineer, who was Sidney B. Bowne. In the meantime, Friendly Road, developed by Arthur Ringewald, was offered and accepted as a Village road, as was Highland Road offered, but not accepted.

#### The Master Plan

Late in the summer of 1958 came word that the Town of Oyster Bay was about to rezone. The villages asked John J. Burns, Town Supervisor, to delay implementation while they hired an expert to look into the ramifications. The Board of Upper Brookville was increasingly inclined to make its own plan. Meanwhile in the late months of that year there was talk of a County Master Plan, and the name of agencies such as the County Planning Commission and the Regional Planning Association obtrude into the Minutes. In passing, note another approach to the County in the Gordian Mill River Road problem, late in 1958.

Other implications of growth were reflected in the fact that in October of 1958, the police attended an FBI institute at the Brookville School, with stress on Topic

One: Burglary Investigation. In that year, the police received over 150 calls about suspicious persons. A different response to growth is seen in the action of the Board early in the decade of 1960's, whereby it increased the membership of the Board of Zoning Appeals from three to five persons. Meanwhile, the applications kept coming in. For example, in February of 1959 there was one to use six acres at the southeast corner of Cedar Swamp and Rte. 25A for a private school. The question of how auxiliary buildings were being used came under discussion. In his mid-1959 letter, the Mayor rued the fact that for the first time, a child was killed in the Village in a highway accident--"through traffic is increasing every year, and parents are urged to keep small children away from highways." In July of that year, a hearing on frontage requirements brought an unusual ten persons out; indeed, there were two hearings in as many weeks, over the controversial plans of the developer Ringewald.

Francis Dodd McHugh, a professional planner from New York City, was retained at a fee of \$5,250 to study the Village and to create on the basis of his conclusions a Master Plan. As the Mayor explained the move to his constituents:

Concerned by the rapid growth of the Village, and aware of the disastrous effects of such growth on other communities, which have been allowed to develop without coordination of plan, your Trustees after long deliberation have decided to retain a professional planning consultant....

The planner was thorough. His assumption, as he put it in his "Comprehensive Master Plan," was that "the desire of virtually all residents is to remain as much of a country community as possible." There were many areal variables. Transportation was a major consideration. The Village depended mainly on the automobile and on the railroad. Stations ranged from nearby (Locust Valley) to

"distant" (Manhasset and Syosset). The projected Long Island Expressway and the Seaford-Oyster Bay Expressway would of course multiply pressures on Upper Brookville. Traffic had indeed already tripled in the post war years, and by 1980--McHugh was told to plan for twenty years--it was expected to double again.

The New York Regional Plan Association saw ample land within New York's commuter area, ample to accommodate future growth in single family homes, so that intensive development of the Village was "neither inevitable nor desirable." Estimates were that the County, growing at two percent, would have 1.4 millions in 1957.

And so, taking account of topographical features of the Village--wooded, steeply sloped, or relatively flat and open--McHugh called for "close development" (two acres) in certain portions, but "open development" by larger "country estates" in others. He found that in 1959, existing land use in the general area showed twelve percent given to residences built on plots of two to five acres, and thirty-five percent to estates of more than five acres, the balance taken up by uses such as farming, schools, and so on. The central idea in the Plan was to give more of the land in the Village to "open development," so that in 1980 the proportions would be forty-two percent so classified, with thirty-eight percent taken up by the "close" two-acre category. McHugh projected 186 single-family dwelling units on "open" estates, and 396 on two-acre parcels, when the Plan was fully mobilized.

The original Plan presented to voters in a hearing on June 3, 1960, actually called for three zones, that is, the "open" category was to embrace some estates with eight acres or more, as well as those with five at least. All of this was outlined to voters before the hearing, by letter from Mayor Edey. Full attendance was urged and, it turned out, the school was crowded by 209 persons. They heard of "severe and growing population pressure," which

had quintupled Village population from 200 in a generation. Its prime asset--open land and trees--could be protected only by a plan, to offset the sale by older estate owners, under pressure of taxation, of all or part of their land. Increases in homes and subdivisions must result in a sharp rise in the tax rate, a vicious cycle. Hence, in areas least amenable to the present two-acre system, the minimum lot size must be increased. In the northeast of the Village, one found the biggest--and the steepest--parcels, and the eight-acre minimum was indicated for this "empty" zone. In the central area, one found heaviest concentrations, where the two-acre standard was suitable. Between these two extremes, there was to be a five-acre intermediate zone. Under this Plan, the population would go to 1,850 persons. About ten people questioned this or that aspect of the report, but in general, the audience was supportive.

A second hearing was set for August 2, and the Board had provided for a stenographic transcript. A spokesman for one of the last large holders, H. P. Davison, with 120 acres, opposed the eight-acre zone, for this would make it more difficult to sell land if need be or would pull down values on the big places while holders of two-acre parcels would benefit. There were tax implications as well as personal ones involved. The Village embraced 2,725 acres; the largest places in the northeast accounted for about 400 of these. Burchenal Ault, chairman of the Planning Board (his colleagues were Randall M. Dubois, Lindley G. Miller, James A. Thomas, Jr., and Henry P. Wickham) felt that the focus should not be on real estate values, but rather on the preservation of beauty and the rural character of the Village. But discussion was concerned with the values. About fourteen villagers delivered opinions at this meeting, which was a warm one, and not only because it was held in mid-summer.

A week later, villagers reassembled, and once again a

verbatim record was kept. At times, the transcript is not clear but the same type of discussion was repeated. There being no apparent consensus, Mr. Trachman, a member of the Board of Zoning Appeals, suggested adjournment of this third hearing, for a later resumption.

In the meantime, the Board of Trustees continued with the usual assortment of agenda items. There was the aftermath of the Bruen fire just after Christmas in 1959 (two old wooden buildings in one; some of the residents had to jump for it; neighbor Dean said there was no way the fire department could have done more). Since the house had been razed, taxes were refunded. Mrs. Coe protested the tax on her life-interest portion of her late husband's estate, and was also accommodated. Locust Lane was accepted as a Village street, but the acceptance of Donna Drive (the names of streets in the Brookville Gate development were, incidentally, those of relatives of Dale Carnegie, an influential friend of the builder) was deferred. And again, the Board refused to permit a convalescent home in the Village.

The reconvened third hearing on the Plan converged on the schoolhouse on September 13. Six people spoke, mostly on technical problems--lot widths, particularly--although one person did question the basic 2-5-8 acre pattern still in place.

These public debates were paralleled by the more private arguments on the Board of Trustees, the Planning Board, and elsewhere. Ideas shoaled in, with proponents of all sorts of acreage combinations. Ault recalls that he had really wanted to start with twenty-five acres, but not so any one else. Mayor Edey felt the larger plots under discussion were uncivic. Positions shifted or were clarified.

Ault persuaded some of the larger owners, starting with a relative, Sidney Z. Mitchell, to support the basic concept of the Plan, although he, Edey and others found

little agreement among the people like Davison, Trachman, Dean Stoothoff, or Iselin.

Meeting through October, 1960, with the Planning Board, the Trustees reconsidered the eight-acre category, which seemed to be the sticking point. McHugh, recalculating, showed that dropping the 8-acre zone would mean a difference of only thirty more houses, and would in no way weaken the Plan.

A final public meeting was called to order on November 28, 1960, and again, it was preserved, word-for-word, for posterity. The eight-acre zone was dropped, and there were also minor changes in the building code, involving split-level structures on slopes. Four people spoke out, some in protest over the residual and unique five-acre minimum concept, or seeking exceptions to it. But, all of this done, the Board at last adopted the Plan which has governed its growth since. The date of official acceptance was December 11, 1960.

J. B. Ault, twenty summers later, recalls of this two-year period of argument and adjustment, and of his predecessor in the Mayoral chair:

All of us who served in those days loved it--mostly because of Mait, who was a great and always interesting and challenging leader. He inherited a strong tradition, made a wise one by Arthur Dean, but it was Mait who pulled together all the separate strands, and inspired us individually and corporately. And it was he who led all the charges and stood up to all the fire.

### Litigation

As Village officials developed the tools to shape and control growth, they also became enmeshed increasingly in litigation.

The sand-miners on the Oyster Bay-Upper Brookville frontier surfaced in the Minutes in December, 1952, with the discovery that they had tunneled under the Village by

640 feet. They were enjoined, and trial set for March of the next year. In his mayoral letter of June 1, 1953, Arthur Dean referred to this "noxious" digging--and to the fact that the court had found for the diggers, so that the Village would appeal. He called attention to the new budget line for litigation--an estimated \$2,000.

But by October, it was clear that that was not enough. By the time the appeal procedure had reversed the lower court, which it did in November of 1953, the cost had come to over seven times the estimate, and contributions were solicited. But in the following February, Faraco determined to appeal himself, taking the case into the Court of Appeals. In the budget for that year, the estimate for legal costs was over three times what it had been twelve months before. And yet, in the June 1955 letter, the legal item had dropped back to a little over \$2,000. Faraco had in the meantime lost his appeal against the Village zoning regulations, and perhaps the thought was that there could be a return to normality.

But in 1956, the legal pendulum had swung back. The disquiet now was found along Rte. 25A, and in July, injunctions were served against violations, as the Village saw it, of existing levels of the so-called non-conforming commercial activities, those which pre-dated all zoning. The Cohen's Corner body shop was scored, in the Minutes of October, for its slovenly appearance. Early in 1957, all the names of south-side nursery operators--Izzo, Dalsimer, Pitrowski--appeared in the context of litigation. In his mid-1957 letter, Mayor Dean, in presenting the matter to the voters, advised that the cases were then pending in the New York Supreme Court, Nassau County, adding, "we are trying, as best we can, to keep...a small rural village on the outskirts of an ever-expanding great metropolitan center". The legal line in the budget--that is, all expenses for the Village Attorney, including litigation itself--had surged back to around \$6,000.

And so it continued. By the end of 1957, the Village itself was defendant in a suit brought by one of the Rte. 25A parties. Although the 1958 budget line for legal matters showed a drop, the litigation dragged on, and Mayor Edey, in his first mid-year letter to his constituents, exactly reproduced the explanatory bulletin which Arthur Dean had sent out the preceding summer.

There were difficulties (to pick up another thread) in the Brympton Woods-Linden Lane road dedication matter. The developer was not to be found, and he continued to elude Village requests for bringing the road up to standard, so that late in 1958, the Village determined to take legal steps against the performance bond. In February of 1959, a settlement was offered which was far short of the actual costs of rebuilding. The line in the 1959 budget for legal work returned to its previous high mark, and for the second time (the 25A cases not yet being concluded), Mayor Edey reproduced the Dean statement of 1957.

In this cat's cradle of actions, one would also find the thrust of another developer, Arthur Ringewald, whose work on the old Clews place off Wolver Hollow Road led him to sue the Village, which refused to grant him a building permit, over technical aspects of access and drainage. This was late in 1959.

By early 1960, Ringewald had lost his suit, and the 200-foot frontage rule upheld. That year, the Mayoral letter gave a separate labeled paragraph to "litigation." In fact, there were two paragraphs, the first referring to the Ringewald case, and to the fact that the loser had filed a notice of appeal. The second faithfully reproduced the original Dean statement on the legal problem of preserving the Village, now in its fourth year.

#### Police and Justice Matters

A highly sensitive barometer in matters of social pressure is of course the police force--its size, and what it is called upon to do. There was always a Trustee

assigned to police matters, and the budget item for police protection was the largest, amounting to nearly \$21,000 in 1952. Mayor Dean announced that the Village must pay its share toward a new headquarters for the force, that located on the present site, and reminded his readers that despite the increase in costs, the five-village Old Brookville Police Department was still "substantially" less expensive than would be protection by the County. In the middle of the decade, the police budget line called for \$26,000. (Step aside to note an item in the police report which tells us that the police, in the midst of routine, worked overtime voluntarily to catch a prowler, who, when caught, admitted to having been on the Woodward place before the shocking murder there in October of 1955.)

However, all was not well within the force. The Board was greatly surprised--Edey recalls--when a group of the officers approached it directly to express dissatisfaction with their own internal government. Trustee Edey was delegated by the Village Board to explore the matter, involving a number of specific and real problems. It was not easy to get to the bottom of the problem for the search for enlightenment took the inquirer into the offices of the officials of other villages, where views were different, strongly. However, in due course there was a change in the force, and Charles Capobianco became the new Chief, late in 1955, and he has held it ever since.

The force had need of better equipment: early in 1959, it was an additional patrol car; later, it was for a change in the radio system from a three-way to a two-way, obviating the mediation of the Mineola broadcasting station. In that year, the Village share of the police budget came to over \$30,000 for a force numbering twenty-two men. Some costs were low enough, we might wistfully interject: early in 1960, the Board recorded that the police purchased gasoline at 11¢ a gallon (it was then

retailed to civilians at 20¢)!

The Board was then seriously talking of setting up its own Police Justice Court, an effort in which Chief Capobianco was the prime mover. In March of 1960, the new court was established. Later, Lindley Miller was appointed to be Police Justice, pending the next regular election (which returned him). As Mayor Edey explained it to the voters in his letter of that year:

The need for Police Justice in the Village has been growing. Heretofore, committers of misdemeanors such as traffic violation, gunning, littering, and the like, have been prosecuted in County Court. This has necessitated many trips to Mineola by the Police, who are often required to sit around all day without a case being heard, and then return the next day in the hope that it will be heard then. In addition, the record of the Village in securing convictions in County Court is extremely poor. The County Court Justices appear to be basically unsympathetic to the efforts of Incorporated Villages to enforce their own ordinances, and the whole matter has been of considerable concern to the Village Officials and to the Police Department for some time.

#### Last, But Not Least

Since so much of this chapter is associated with the extraordinary Village service of the Deans, it is fitting to close with a Board resolution written by Dean's successor, which suggests that more than an unprecedented six-year mayoral incumbency was at stake:

Whereas Mary Marden Dean of the Incorporated Village of Upper Brookville has faithfully served as Clerk and Treasurer for a period of seventeen years, and whereas her husband, Arthur H. Dean, has faithfully served as a Trustee and later as

Mayor of the same Village during a period of seventeen years, and, whereas, during the period of their joint stewardship the aforesaid Village has grown and prospered, straight and true, with the vigor of a fig tree in an oasis, and whereas they have jointly and stoutly endured the machinations of sand and gravel executives, and deviltry of swimming pool vendors, the taunts and ribaldry of delinquent taxpayers, and the simple idleness of their fellow officials, now therefore let it be

Resolved, that the aforesaid Mary Marden Dean and Arthur H. Dean, in recognition of their forbearance, fortitude, and devotion to duty, be elevated to the rank of Neighbors, First Class, with all honors, emoluments, and privileges appertaining thereto.

To which the Great Seal of the Incorporated Village of Upper Brookville being properly affixed, we, the officials of the aforesaid Village, do most heartily append our names.

May, 1958

The former Mayor, after letting the Village Historian copy the framed resolution just cited, added that it had all come about in an irregular fashion. He recalled being the first appointed as Clerk by Mayor Kellogg, although it was (he averred) his wife who got the salary of \$1,000. Then when he was elevated to Trustee, Mary Marden Dean became Clerk (keeping the salary, no doubt) and also getting a police badge--as he finally did himself as Mayor. From tiny acorns....

Chapter Three  
Stability: A Political Component  
1960-1966

Former Mayor Edey, whose tripartite structure informs this sketch, replied to a question about terms as follows: Stability of a kind is certainly a part of the evolutionary process of any community....Once a community gets built up to the point that its zoning laws permit, it is of necessity "stable" thereafter, vulnerable only to very large external pressures. With stability, the priorities become internalized.

If we accept the definition, we may question its aptness to our Village in the last two decades. For Upper Brookville was not entirely built up to the optima established in the Master Plan, nor were its priorities internalized, even in the approximate sense intended. But there was a sort of stability, for all that. Let us test the concept. For convenience, this calls for another three-part system, by periods, the first covered in this present chapter.

In this first period, for example, annual police reports, summarized in five-village terms, show an average of about three automobile fatalities, and there was stability too in the statistics for summonses, aided cases, and other categories. However, by 1965 there was a sharp increase in the incidence of burglary. Indeed as early as October 1962, a card from Mayor Ault passed on a police bulletin on the subject, alluding to professionals being at work, and urging all to call on the slightest suspicion. Chief Capobianco recalls that in the old days, the big places, although usually only summer retreats, were watched over year-round by groundsmen and servants. With the breakup of these haunts of "old money," and the

influx of new-gained affluence into smaller places, this live-in protection disappeared, and even on two acres, well-planted, there is often enough screening to protect the burglar. Though the Village has become much more of a year-round community, people of course still go on vacation. Yet even when they are in residence, and actually at home, they are not invulnerable to the robber who forces them to tell where their valuables are hidden. Of course, the drug culture has contributed, as have the several colleges nearby, which attract outsiders. Add to this the clogging of the court system, the ramifications of which reduce the likelihood of suitable punishment, and one arrives at a situation in which the stability is not expressed as we would wish it to be it appears in a persistently high incidence of certain sorts of crime.

Nevertheless, in the early 1960's there were of course changes for the Village police. The 1963 report adverted to new demands related to C. W. Post Center, and to the establishment of a new Highway Patrol squad--and to the hiring of two civilian employees to release the rota within the twenty-five man force set aside for routine station paper work. The 1966 report was broken down, village by village, and showed no traffic fatalities in any of the five. Upper Brookville was indexed for only ten burglaries of the eighty-nine for the whole. But this was an alarming multiplication of the dozen or so in the early years of the decade.

One fertile source of vandalistic and trespasser trouble was the Bird place, usually entered from the Village side. This fifty-room mansion was redolent with tales of how Bird's widow, after his death in a plane crash in 1940, had crated the wreck and stored it in the basement, left his collection of antique cars exactly as he had, and then left herself for Switzerland, where she had died, in fear for her own life, in 1961. In May of 1962, the cars had been auctioned, drawing a huge crowd

who watched a Duesenberg speedster go for \$10,000, and much besides. But most people on the place had no business there. Lindley Miller's Police Justice Court fined these interlopers in wholesale lots.

But the police did more than is suggested above. Among the letters of appreciation appended to these annual reports are many telling of how patrolmen helped people, say, in changing tires, and if reassurance is related to stability, let the entry be made.

#### The Russians

Although this testing of a concept can lead to contrivance, let it move to another continuity, at least at the level of a problem unsolved but largely unchanged as well. In 1960, the estate, with its thirteen acres, then assessed at about \$116,000, fell into arrears again, and the Village proposed to resort again to the tax-auctioneer's hammer. It felt that its position was legally unassailable, for the new State law exempting such diplomatic holdings beyond the fifteen-mile radius had not become effective until after the Village assessment roll had been made.

However, representations were made by the Department of State in the nation's capital that the sale not be held as scheduled for March, 1961. The Village complied, but when a year passed with no change save for an increase in the Russian tax arrears, the Board resolved to go through with the sale in March of 1962. Intervention this time was mounted by Francis T. P. Plimpton, as a member of Adlai Stevenson's US delegation to the United Nations, who intimated that to hold the sale would give the Russians further arguments in their campaign to show that the United States was no place to host the United Nations. He also suggested that the Village wait until a similar situation in Glen Cove was cleared up. Again, the Village deferred. In January of 1963, the Russian government paid part of the debit, again under protest. And so, with no

satisfaction on either side, matters continued for a couple of years.

Early in 1965, the Village was faced again with an accumulated arrears, and decided to hold the twice-deferred sale. It did so, on March 12, but no one came to buy the lien, so the property was "deemed to have been sold and purchased by the Village," as the brave words of the Minutes put it, with plenary citation of the law.

Still, no settlement being forthcoming, the Village resolved to sell the lien again in 1966. By this time, its argument relative to the continued liability of the Soviet Union was that the Mission had never formally applied, under the terms of the now-effective New York State law, for exemption. Had they done so, the Village would have expected to inspect the premises, to see if they were indeed used entirely for offices or quarters (as one of the correspondents put it, perhaps not entirely in exasperation, the place might be a missile tracking station for all anyone knew--the police had only been there twice, when persons had died there, but no one else had). The arguments involved arguments old and new, with one rebutted from Washington being that since the Village had already acquired title, it need not repeat the action, at least until the two-year period had elapsed in 1967.

In any event, the problem remained: who was right, relative to the status of the former Nathan Miller estate in the tax calculations of Upper Brookville? Certainly the Village was determined not to lose the asset, or to compromise the zoning regulations.

#### Roads

With the acceptance of the Donna Drive complex, the Village had the maintenance of 5.3 miles of roads. Street upkeep budgets began in 1961 at \$10,000. Later in that year, the Board considered an engineer's report on the intractable Mill River Road problem, which did not help.

In 1962, Village administrative machinery was enlarged by the addition of a Street Maintenance Committee, and Mayor Ault in his annual letter spoke thus of dedications:

A road passes from private to public (Village) ownership only after a formal offer of dedication has been made by its owners and accepted by the Board of Trustees. The Board accepts only those roads which it deems to be in the broad public interest to accept, and which have been certified to meet Village engineering standards, at the time of dedication, by the Village Engineer. The acceptance of roads in the past is no guarantee that other private roads will be accepted in the future. Nor is the mere offering of a road in dedication any assurance that such road will be accepted by the Village. Buyers of new homes have often been told by the builders that the new road they live on will automatically be accepted by the Village as soon as the development is completed. This is not accurate. Officials, and new property owners also, have been so plagued by misunderstanding on this point that the Board of Trustees now requires the Building Inspector to stamp each Certificate of Occupancy with a notation plainly stating the facts of Village road policy.

Later in 1962, the Board did accept Hillcrest, Lawn, and Terrace Lanes, bringing mileage up to about seven. Development was filling in the spaces created by the Master Plan.

In the spring of 1963, in response to a special call sent by the Board, a budget hearing drew an unprecedented crowd of thirty taxpayers, for the budget included a ten-year road-maintenance projection, to cost about \$20,000 a year. The total of the moneys to be raised that year came to over \$100,000, so that the rate set at \$1.34.

Should there be a special assessment on Mill River Road residents, which, if it were to be radically improved, would take most of the investment? Should bonds be floated? Such were the questions raised. The Mill River Road problem dominated the May Board meeting, which had before it a \$50,000 program from that strip alone. Trustee Henry Wickham, an engineer himself, opposed the investment on the ground that it would not really do what was needed. Consultation with Sidney Bowne, Village Engineer, confirmed fears that the problem was probably beyond Village means, and in any event, the County would have to approve any plans made. By late summer in '63, that approval was forthcoming, but now the total cost had been elevated to over \$60,000--and actual bidding ranged up to \$90,000.

Of course, a hearing had to be called to air the vexed question yet again. As a compromise, a ten-year plan for resurfacing Mill River Road, Planting Fields Road, and Linden Lane was adopted later in 1963, with a price tag of about \$14,000.

In the post-election Organization Meeting of 1964, Wickham was given the responsibility for street maintenance, among other things. He recalls getting a call from an irate Mill River Roder that winter, who was complaining that his home was inaccessible because of ice (that is, frozen flooding). The Street Committeeman forthwith climbed into his own car, drove to the place, moved without difficulty to the very door itself, and then made his point by quietly asking the caller just what it was he wanted. Some road problems could be handled with aplomb, but most took money. That Mill River Road was one of the latter kind needs little further argumentation.

#### Internalized Priorities

The Board had other concerns, less Himalayan in nature. In mid-1961, it addressed the problem of air and spring guns, noise nuisances employed by farmers for that

very reason, to scare off marauding crows. These devices--principally the Exid "Automatic Scare Away"--banged away at odd internals in the fields all day. A hearing (of the voluntary, governmental variety) drew a handful, although many more than that had been affected. Aware that the courts would require precise definitions for any sort of prohibitory regulation, the Board decided to make a thorough study first. A questionnaire was circulated to all property owners, which produced the conclusion that most of them were against further regulation unless the noise was greatly augmented--the farmers, it seems, had prudently effected a decrescendo. Nothing more was done.

One noteworthy event of these years was the tentative donation by Mrs. Iselin, who had established her principal residence at Aiken, South Carolina, of a portion of her estate to the Village for use as a park. The lease was a complex instrument, granting Mrs. Iselin a say in the future of this valuable twenty-six acre parcel, in that no building, floodlights, jukeboxes, and so on, might be installed without her knowledge. The five-year lease referred to a 1960 State law aimed at the maintenance of open spaces in the face of rapid urban spread. Upper Brookville agreed to pay a nominal \$1.00 per year as rent, and to assume the taxes as well. Later, in January 1962, the benefactress waived that last proviso, restoring the property once again to the tax rolls, for her own account. The Village issued gracefully engraved invitations to a dedication ceremony on Sunday, December 2, 1962, and so it was done.

A Village milestone was reached late in 1962 when W. Shelby Coates, who had been Village Attorney from the very beginning, reached mandatory retirement age. He was given hearty thanks and congratulations by the grateful Board. He did not go far, and indeed frequently appeared at subsequent Board meetings on behalf of the new Village Attorneys, the firm of Humes, Andrews, Botzow & Wagner of

Locust Valley, where he still is in practice--and is hoped, will smile as he reads this note of his "retirement."

#### Civil Defense

The war-born apparatus continued to function, being one of the standard entries in the series of mayoral letters. A nationwide alert was set for April 28, 1961. In July of that year, word was that the Kennedy administration had strong interest in CD, and nation-wide there was another surge of shelter-building and inquiries as to survival of a hostile bombing. Early in 1962, a radiological kit was set up in the Brookville CD region to measure fall-out. In August, Mrs. Dartt reported that some shelters were being built locally, and later in the year--it was November 26--the Board commended its CD Director for good work done by the CD unit during the tension created when President Kennedy announced a serious Cuban situation. Actually, at year's end, there were only two shelters designated for fifty or more persons--one at C.W. Post, the other at the Muttontown Golf and Country Club. In the spring of 1963, the Board learned that Mr. H.B. Pollock had built a sixteen-person shelter himself, at a cost of \$1,000, which was open for inspection. Read Taylor had investigated the best ways to supply shelters, and was at the disposal of the community.

Later that summer, the fourteen-man Auxiliary Police Force participated in a County-wide drill following a simulated attack--radiation was measured, messages sent by ham radio to CD headquarters in Oyster Bay, shelters were supplied from the Federal store at Mitchell Field (biscuits, water, medicines, and sanitation needs). A related note: in January of the next year, the Auxiliary police took an evening course in mob control.

Perhaps one loses the thought of "stability" in recalling these endeavors to cope with the unknown and the indubitably terrible.

## Growth

No doubt, the priorities of growth were not set by the Board, although villagers hoped they were prepared for outside pressures, thanks to the Master Plan.

Early in 1961, there came a change in the use of one of the large estates in the northern part of the Village. The Brothers of St. Francis sought--and after many discussions and compromises, set up a novitiate as a religious organization, on a tax-exempt basis.

Of course, assessed values for the Village continued to mount. In his 1961 letter, Mayor Edey compared the current figure with that of the year before: 7.1 and 6.8 millions, respectively. Not so reassuring was contemporary speculation about County plans to widen Cedar Swamp Road, even to the building of a cloverleaf at Cohen's Corner--such was the official anticipation of traffic growth.

Later in 1961, a cluster of development-related questions assailed the Board: the state of Linden Lane; the Ringewald access-road (now Clews Lane); a drainage survey of the entire Village, which suggested, implicitly, that perhaps the place should have been christened Lower Brookville after all.

In March of 1962, the Village took an unusual step: it joined the New York Conference of Mayors in petitioning the State for an increase in the per-capita aid (a standard if diminutive form of Albany largesse) to the villages. There had been a general advance in costs, e.g., in volunteer firemen's benefits, in retirement benefits payments, workmen's compensation insurance, and material costs. Costs had at least doubled, whereas the State aid formula was unchanged, although its tax take had tripled during the period since the end of the war.

For some, development had a tragic human aspect, not reducible to dollars and cents. In April of 1962, Mrs. Harold White deplored the fact that of late four children had drowned in neighboring swimming pools. The Village in

fact had an unusually high rate of construction of pools--thus, four of nine houses on Cedar Ridge Road would have them. Mrs. White proposed an ordinance for fencing these installations, and the Board moved to discuss the idea.

Mayor Ault, in his Mayoral epistle of mid-1962, observed that the growth of the Village, while not absolutely large--he spoke of the change from sixty taxpayers in 1943 to 323 twenty years later--was, in percentage terms, most significant. "Not surprisingly," he went on, "our tax rate is just five times as great also." As his predecessor had done, he reiterated that the gap between costs and assessed evaluation would widen, indeed, "until the municipality ceases to grow." After noting the drainage survey, in which sister villages were participating, the Mayor took up the swimming pool peril:

In areas where full utilization has been made of the minimum and five acre restrictions, an open, unfenced pool is deemed by many to be a great danger to the lives of small children. In our Village during the last three years, twenty-two new pools have been built, and the trend shows no sign of abatement. Involved in any legislation, of course, are issues concerning not only the safety of small children, but equally important issues of trespass, interference with private property rights, costs, aesthetics, and such purely practical questions as the need for fencing at all in large, relatively isolated areas. The Board feels that legislation giving fair, effective protection to all the fundamental values involved is desirable. You shall be hearing from us soon in more detail, and can expect a public hearing early in the summer.

In passing, the Board recorded the death of three former Village officials in 1962: Henry P. Davison, an

original Trustee; Samuel A. Welldon, a Trustee in the postwar period; and James G. Dartt, a former Chairman of the Board of Zoning Appeals. We also learn that former Mayor Dean was, among other things, Chairman of the American Delegation to the International Disarmament Conference at Geneva.

In the year 1961-62, assessed valuation of the entire Village mounted by \$100,000, and in June the Village was reclassified as a third-class village, based on the 1960 population of 1,045 persons.

Shortly thereafter (although not as soon as the Mayor had promised), the Board called a hearing on the swimming pool fencing matter. Some two dozen citizens assembled for a lengthy discussion, which covered construction costs, emptying problems, fences, and more. The nature of public comments was such that the matter was dropped.

Attention swung back to the County in mid-summer, 1963, thanks to plans to build a "loop" highway linking key roads on the North Shore. The Village Board agreed with colleagues that this must be resisted, for it would bring in the gasoline flood. September brought news almost as ominous for the area: a move to downzone the southwest corner of Rte 25A and Rte 107, to create a shopping mall. Although the land lay in Brookville, Upper Brookville was no less determined to help in stopping this entrenchment. There followed a lengthy court battle, led by Brookville, with amicus curiae support from our Village, which was finally won in 1967.

The parapets seemed to be crowded with developers. In October of 1963 came notice of a bid to buy the H.P. Davison estate for a golf club. There was a problem: it would be difficult to ensure that a full third of the membership was held for Village residents, as required in the zoning laws. There were also disturbing rumors of the Coe place being turned into a State park--visions of hot-dog stands, continental parking lots, litter. And talk of the

Loop Highway would not cease. There came also a request that a hospital be allowed in the Village, which the Board refused.

Old problems were also persistent. Late in 1963, the Mayor caused a special letter to be distributed:

It has come to the attention of the Board...that over much of the Village's unspoiled field and woodland today, hunters trespass freely, shooting at will. This constitutes the double offense of trespass and unauthorized use of firearms...The Brookville police have been instructed to enforce this law strictly.

As for the proposed golf club on Mill River Road, early in 1964, the Board thought it might consider relaxing the one-third rule, enlarging the number of villages from which the list might be drawn. There were so many golf clubs in the area already that to insist on the rule would kill any new club aborning, and the Village would welcome a high-grade club--which would preserve open greenlands, for regulated activities--and also pay taxes, without commensurate demand for services, and, to judge from the experience of the Muttontown, Cedar Brook, and Tam O'Shanter clubs, increase assessed valuations. And so it was allowed that members could be solicited in twelve neighboring villages, as far off as Cold Spring Harbor.

This decided, the Board turned to two other close-pressing problems. As for the Loop Highway, the Mayor sent a special letter to voters in February, 1964. They learned there was a Joint Committee on Community Rights of Way, backed by ten villages including their own, formed to oppose the scheme. Many meetings had been held with officials from State levels on down. A report was attached, which graphically illustrated the irresistible automobile impact to which the villages proposed to oppose their own immovability. The plan called for straightening and widening the following roads: West Shore, Bayville,

Skunk's Misery-Lattingtown, Buckram-Oyster Bay, Duck Pond, Piping Rock, Chicken Valley, Bay Street-Oyster Bay Cove, Forest Avenue, and parts of Rtes. 25A, 106 and 107.

Next would come a turnpike connecting the broadened West Shore Road with the planned terminus of the Seaford-Oyster Bay Expressway, enclosing Mill Pond in its monoxious embrace. Among the counter-arguments of the Joint Committee (they even invoked Robert Moses for their purposes at one point) was that recent population studies by LILCO and the Nassau Planning Commission showed "a distinct leveling off of the rate of growth in this area, with the saturation point (based on present zoning limitations) being reached as early as 1970." The proposed new West Shore Road was to have a traffic capacity (Villagers read) of 20,500 vehicles a day, vastly in excess of the average daily load tabulated by the County, and three times the projected rate of related increase in the Town of Oyster Bay. Indeed, the Long Island Expressway was calibrated to only two times that figure. Voters were urged to attend hearings, and not to be lulled into somnolence by the present inactivity of bulldozers on the roads in question--they would come, sure enough!

Not long after, the mayor distributed copies of correspondence between the Deputy Mayor and Chairman of the Planning Board, Alfred J. Seaman, and John J. Burns, Commissioner of the Office of Local Government in Albany. In regard to the latest proposal for Planting Fields, which was to turn into a teachers' college for about 3,000 students, Seaman wrote:

Putting a large college in the midst of a small, rural village not only violates the character of the Village but immediately sets up a whole new set of unnecessary problems and costs. Increased traffic will be induced, leading to the need for expanded police facilities. Country roads will soon become inadequate. Expenditures for new

roads will tax the County and place a relatively massive burden on the small Village budget. The above does not even take into account the problems created by the insertion of a student body into a Village with a population one-third the size of the college.

The alternative, he went on, was to set the institution on a secluded tract on a major highway. He proposed for Planting Fields that it should be part of a network of intellectual institutions in the County, along the lines of Arden House, where scholars and leaders could meet, study, meditate. The return from the Commissioner was dated in March of 1964, and it stated that the teachers' college idea had been shelved for Planting Fields. No decision had been reached for the old Coe place, but the writer hoped that its use would be in keeping with the Village environment.

At about this time, a hearing on the golf club proposal drew about a dozen villagers, who heard the lengthy history of zoning in this matter, viz., in 1932, clubs could be admitted by variance only; in 1953, a membership limit of 50 percent for locals was established, which had later been eased for the one-third rule. A golf club needed 125 acres; there were three possible acreages left in the Village for such a desirable use. The new relaxation of the rules was approved.

But the pressure was not eased. The April 1964 Board meeting took cognizance of a proposal for cluster housing of the type when being proposed by Norman Blankman for Old Westbury, on the former C.V. Whitney estate. The Trustees next met in a special meeting to consider possible zoning violations in the Village--multiple dwellings, dwelling with more than one cooking unit, etc. And so on. In August, the Board, after recognizing the need for street commissioners from the several contiguous villages to get to know each other, the better to coordinate their

activities, addressed another round of ordinance amendment, so as to make engineering costs clearly chargeable to the account of developers, and also to provide that the cost of stenographic transcripts of important hearings should be borne by the applicants. In November came another special meeting to consider seemingly unrelated things. Increasing costs were first on the agenda, but there was also a report that a Mill River Road resident planned to sell land to a gravel mining concern--and there was no legal way in which this unhappy development could be prevented. As for that, two other mining operators at that time litigiously involved with the Village were talking up the idea that would ultimately give their land to School District No. 6, after they had graded (read "mined") the same.

North Shore mayors met early in March of 1966 to consider the dangerous effect of big places going to tax-exempt uses (The Roman Catholic Church had recently taken title to the Bird place and were planning to demolish the savagely vandalized mansion). Brookville had just over one-quarter of its acreage so pre-empted; Upper Brookville, with a little over two-thirds of the area, was a little better off, since the value of its tax-exemptions came to about 1.1 millions, only about half of that exempted in Brookville. But Mayor Ault argued that more families would add to the tax rate. "Let's be darn sure," the Leader quoted him as saying, "we are not asking for something we don't want."

The next challenge came not from a private developer, but from Robert Moses, who planned to thrust a bridge across Long Island Sound between Bayville (or its environs) and Rye, New York. In March of 1965, the Village Board, although not directly involved, opposed the project. In his letter of that year, the Mayor argued:

Such a bridge could lead to destruction of our rural residential communities, and would

unnecessarily put us under the yoke of the Triboro Bridge and Tunnel Authority. We are working with local committees and nearby municipalities to avoid this unhappy possibility. We believe that a thorough study of Long Island's traffic, commercial, residential and recreational needs should precede any bridge building decision and we very much doubt that such a study would indicate either the advisability of TBT Authority or an Oyster Bay terminal.

Turning to Village roads, the Mayor added:

Once again this year we have budgeted some \$9000 less for roads than our ten year master plan of 1963 indicated would be required. This is not the result of skimping but of continuing careful maintenance and study.

At that, the street maintenance budget line called for \$11,140.

That these annual Mayoral communications were useful, in a Village with a quota of newcomers every year, is suggested by a list of sample telephone calls received by the Village Clerk, drawn up by that person herself at about this time as a guide to the Mayor in preparing the next one:

I'm twenty-one--where do I register?

Does school have absentee voting or balloting?

When are all my taxes due? Who is the mayor?

I've just moved in--who removes the garbage?

I've just bought property in Upper Brookville and received the tax bill--what is it for?

If I buy the two acres next door will my taxes go up?

Who is the Village Attorney?

There is a tree overhanging the telephone wires-- will the Village take care of this? (Clerk called LILCO).



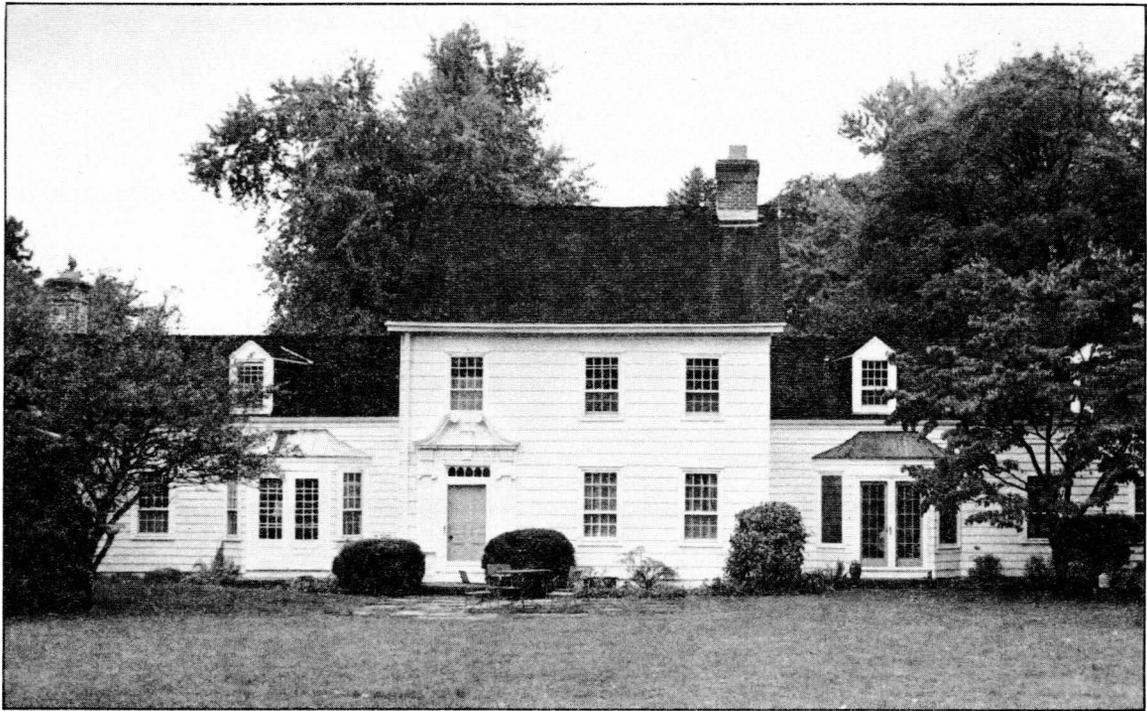
*Early Mill River Road Farmhouse. Oldest portion dates before the Revolution. Major restoration in 1930. Now home of the George Reads.*



*Former C. Oliver Iselin homestead — Wolver Hollow Road*

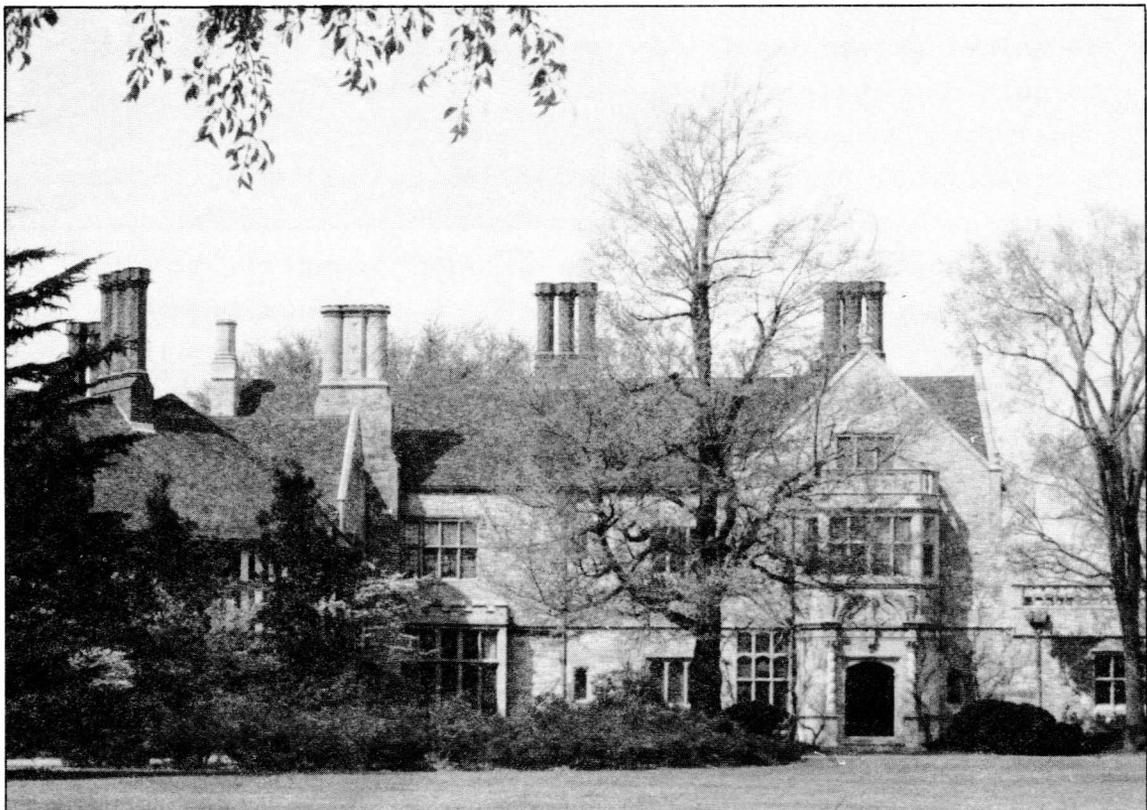
*Mill River Club — former H. P. Davison home*

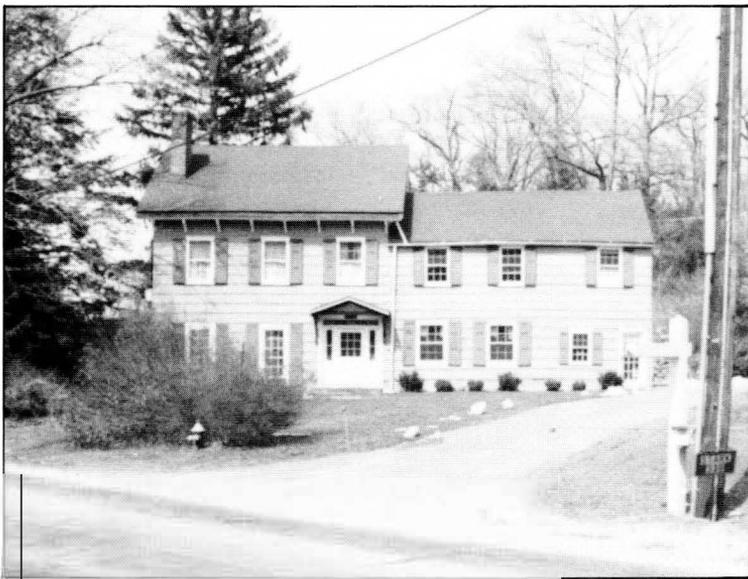




*Robert Cuddeback home — original construction 1770*

*Former W. R. Coe mansion at Planting Fields Arboretum*





*"Tulipdom" former Zandbergen home  
Mill River Road*

*E.L. Watson home, Wolver Hollow Road —  
original construction 1760*



*Helen Dartt Cottage  
— Wolver Hollow Road*

Aren't we entitled to a free library somewhere with all the taxes?

What do I do to partition?

I'm a fourteen-year old student at St. Patrick's in Glen Cove and am writing a paper on where I live. Can you tell me anything about Brookville?

Brookville School principal asked: "Why doesn't the Village have an ordinance about stray dogs?"

As for the last, the Mayor noted yet again in his 1965 report that villagers were particularly interested in ordinances pertaining to shooting and stray dogs, the latter being inadmissible in the Village, thus, "...if a dog is a persistent roamer and makes a nuisance of itself, particularly one in heat, it may be impounded. Owners of bitches are specifically reminded that it is their responsibility to avoid trouble with male dogs when the bitch is in heat."

The Minutes for May, 1965, carried a note on two "urgent cases" of people subdividing without proper Zoning or Planning Board authorization. Sand mining and cluster housing preoccupied the Board at its August gathering. Later, the Trustees felt that heavier fines for littering were needed. November brought a party seeking down-zoning in the northeast portion of the Village to accommodate apartment housing.

#### Police and Fire Protection

Here as elsewhere, costs pressed upwards. The police force still numbered twenty-four men in 1965, with five cars. In 1961, the County had raised the pay of County police by nearly \$1,000 per man; the Trustees in Upper Brookville observed that its compliance in that year did not mean that it intended an automatic matching in years to come. The tax rate in that year jumped from 84¢ to 91¢ to enable the Village to do its share toward meeting the

County lead. However, with all of this, the Board still recognized that the tax rate for police coverage under the five-village scheme was lower than what it would have been under the old dispensation.

Early in 1966, the Board learned that the police were talking of a system of retirement after twenty years of service, with a fifty percent increase in retirement pay. Of this the Board minuted that it would increase the police budget of the Village by about \$20,000 per annum. They opposed it. But a different sort of easement came at about the same time, when C.W. Post agreed to pay a special levy to Old Brookville to offset the extra costs on the police force which the campus and its population imposed upon it, thus easing the shared burden borne by all of the participating villages. And throughout this period, the standard entry in the Mayor's letters, relative to the police, was that the existing arrangement was most satisfactory, bringing "better service at substantial savings." And 1966, it will be recalled, was the year which brought a sharp increase in the incidence of burglary in the area.

The cost of fire protection showed a similar upsweep. The fire line in the budget stood at \$14,700 in 1961; it had gone to \$24,800 in 1965. One of the special problems here was the construction of a new firehouse in 1962, costing about \$300,000. Of course this was reflected in the Village share. In that year, note, the department had nineteen calls from the Village--twelve brush fires, six house fires, and a burning car, and performed efficiently.

#### Lawyers, Litigation

Although these parti-colored threads are woven into the whole fabric of Village growth (and dogs, and guns, and pools, and burning leaves), let them be drawn out here for closer examination. Things were on the move soon enough. In January of 1961, the Village had set up the office of Village Prosecutor for the Police Justice Court,

the latter now making a small contribution to the budget in the form of collected fines and penalties: \$265 in 1961, \$1,000 in 1962, and so on. The Ringewald case moved again in August of 1961, when the Appellate Division ordered the Village to issue a building permit to him. Subsequently, Board meetings were given in part to this reversal. On the highway front, there was threatened litigation involving a small gas station operated by the Brookville Nursery. It was settled amicably out of court. And there was the half-decade-long pursuit of collection under the Linden Lane performance bond. Late in 1961, the continuing differences with builder Ringewald seemed to be settled by discussion.

But comparable problems had by this time developed in the Brookville Gate, the builder having provided no sump, so that flooding was a problem at the lower end of Donna Drive. In the spring of 1962, the Board, after various approaches had not availed, decided it must take the builder to court.

Although Mayor Ault did not make a special entry for "litigation" in his 1962 annual letter, he did follow precedent in printing the budget, which showed a line for \$6,100 for all expenses associated with the Village Attorney's office, \$2,500 of which was earmarked for "possible litigation."

The possibility materialized soon enough. Early 1963, the Board took note of sand-pit encroachments, the Trustees again denied a certificate of occupancy to Ringewald, and authorized a suit against the builder at Brookville Gate. Of course, Ringewald's response was to sue the Village, the question still centering in the adequacy of access roads. In mid-year, it looked as if a settlement would be reached, with the builder undertaking no additional work on Highland (Clews) Drive in return for the crucial certificate. In February of 1965, the Brookville Gate litigation was settled in the courts in

favor of the Village, and, one might add, the residents most directly involved.

The Mayoral letter for 1965 ran a budget line for the Village Attorney of over \$10,000 and carried this special note:

Legal costs, as readers of these letters will notice, have been a heavy burden for several years, and are unlikely to decrease. Analysis will show, however, that a smaller portion of the total is being devoted to fees for special retained counsel in litigation, a larger portion to increased costs for broadened services of the Village Attorney. That is, we are spending more than previously to keep the cows in the barn to avoid spending substantially more rounding them up if they get out.

After this Arcadian figure of speech, Mayor Ault continued to say that the Village had "modified the rigors of earlier ordinances to make the practice of commercial horticulture not only more profitable for the operators but more durable and attractive for the Village, as well."

Inserted between these soothing notices in the 1965 letter was one on "Sand Mining."

The one great legal problem confronting us today is the continuing depredation of sand mining interests. Operated with a selfish disregard for the hard-won values of the residential communities in which they operate, these companies will apparently go to any lengths to get their sand--our present case, the ridge separating Pine Hollow and Mill River Roads. Since 1954, we have been struggling with one group which has persisted in illegal attempts to extend its mining operations from premises on Pine Hollow Road in Oyster Bay westwards into property it owns within the Village limits. Their present intrusion was

stopped 400 feet inside Village boundaries, and our struggle concerns the steps they must take to restore the slopes they had begun to clear. \$5328 was spent in prosecution of this last year, and \$2000 allocated this year. It is an infuriating, yet necessary expense, for it is crystal clear that no property is worth as much as the sand beneath it, and that those of us who wish to live peacefully on the land must carefully guard against those who mine below.

On a happier note, the Mayor noted in this same letter the retirement after twenty years of service on the Board of Zoning Appeals, last as its chairman, of Chester Doubleday, who had left "a strong, experienced board, and we are lucky indeed to have a man of Richard Meyer's ability to assume the chairmanship."

As for the mining case, the Village was heartened by a New York Supreme Court decision late in 1964 which upheld a Muttontown ordinance prohibiting the removal of trees, sand, loam, and the like from that village. But that did not end the matter, which carried on into the next Village administration.

Thus: Mayor Seaman called a special Village meeting at the Brookville School for October 11, 1966, to discuss the sandmining threat. About seventy-five villagers answered the summons to hear the new Mayor outline the complex case. So too did a reporter from the Leader, who on October 20 told the story this way:

Bypassing the zoning board of appeals of the village of Upper Brookville, Whitney Park Homes of which James O'Connell is president, will bring a suit against the village to enable it to use 15 acres in a manner contrary to the requirements of the village zoning ordinance.

This and other information was given to residents of the village and other interested

persons at an information meeting held in October at the Brookville school and presided over by Mayor A.J. Seaman.

Tracing the history of sandmining problems of the village, Mayor Seaman said the first problem arose in 1951 when Lizza Brothers began to mine village property owned by Faraca [sic]. Through court action this sandmining was ended. There was a long period of silence, Seaman said, from 1952 until October 1963, when the village discovered that sandmining was being carried on in property behind the Oyster Bay Town House apartments on land in Upper Brookville owned by Conmar and Arraco. This activity was also stopped in the courts which allowed the village to insist upon grading and planting of the resulting hill. The village said the work must be done without the removal of any sand which Seaman said "is not what the applicant wanted." The court asked for technical proof that the grading could be done without removing sand. The village asked Conmar to supply the information. Conmar has not yet complied. Before being stopped, Conmar took 250,000 cubic yards of sand from the property in the village--at \$2.50 to \$3.00 per yard, said Seaman. "The prize is very rich indeed." The matter now is at a standstill with Conmar, of which James O'Connell is president, refusing to give the requested facts and the village stuck with an ugly high hill of raw sand.

The land in Upper Brookville which is the subject of the pending suit is part of two tracts. One piece of 98 acres was acquired by U.S. Steel in July, 1965 when it bought Certified Industries with its assets. The other, 30 acres, is owned by Whitney Park Homes. The total, said

Seaman, "has been brought together as a single piece." For the present Whitney Park Homes is asking for court action on 15 of the total of 128 acres. The suit will ask the court to agree that the two-acre zoning on this 15-acre parcel is arbitrary, capricious and unconstitutional; that any zoning not permitting apartment houses or industrial or commercial use be declared ineffectual and that the village be enjoined from enacting any zoning ordinance restricting the property to single-family use.

Mr. Seaman and trustee Hilbert Trachman said there is evidence that all sandmining plans in the area on Pine Hollow Road are related. They noted that James O'Connell was involved in the operation across from the subject property where tons of sand were removed and the land used for construction of a movie house, gas station, shopping center and bowling alley. Mr. Trachman said there surely was a connection between sand-mining in Upper Brookville and a recent plan given to the Town of Oyster Bay by a corporation in which the Lizza brothers have an interest. This plan would have permitted garden apartments and industry, and, in an attempt to "sweeten" the plan, 11 acres would have been given to the Town for Park use. Tons of sand would have been removed to bring the high hill to grade. Both Trachman and Seaman noted that the land on which the Oyster Bay Town House apartments were built, was cleared in a similar fashion under a town permit granted when John Burns was Town Supervisor.

Urging "single voice" opposition, Seaman said "now is the time to stop these plans and fight them with all our force." He said Upper Brookville will welcome any supporting action

from surrounding villages or individuals. Mayor Seaman said he expects the case to come to trial in about 60 days.

In the meantime, difficulties persisted in the Brookville Gate matter, the builder having sought in May of 1965 to be released from his bond before he would release the plot required for drainage, and so the Village resorted to legal maneuvers, this time using special counsel from Mineola. In July of 1965, the Village declared both the Brookville Gate and Highland (Clews) Lane builders to be in default on their performance bonds, choosing to "exercise" (collect) them for satisfaction.

On the lighter side, the Cohen's Corner case was ended by action of the plaintiff. But in January, 1966, the Minutes show another resort to the Village Attorney, in the familiar matter of uncollected taxes from the Russian UN delegation: "Resolved that unpaid Village taxes be, and they hereby are, referred to the Attorneys of the Village for appropriate action for collection." And so, with important and long-standing cases pending, the Village moved into the elections of March, 1966.

#### Politics and Stability

The reader may have gotten the impression that the Village of Upper Brookville, beset, resounded with quibbling and shrieking, utterly belying the aim of the Trustees, which was to preserve the leafy or snowy quiet that was the object of those who moved into it. But of course, it was not so. These actions were quiet, more transacted in lengthy conferences and legal persuasions than by confrontations in court. Villagers were largely unaware of what was taking place, unless their opinions were sought by their officials. This is confirmed by the continued quiet of Village elections, dominated as usual by the Citizens Association. Although the 1961 election pulled in the largest crowd yet--over 200--the average settled around sixty persons through 1966.

There were some excitements, to be sure. A voting machine first appeared in 1961, and indeed in that year there was some opposition. A new group, the Village Equity Party, ran Edward A. Fucillo for Trustee, so that three men ran for two places. It had been the expectation of a very heavy vote (recalled Mayor Edey) that decided the Board to rent the machine. The Board of Elections had been instructed to make it possible for voters to select any combination of two Trustees, but, after the polls were closed, it was discovered that an error in setting the machine made it possible for only two combinations to be made, to the disadvantage of the newcomer. Although Fucillo garnered over eighty votes, the winners were J.B. Ault and Randall M. Dubois. The Trustees, disquieted with the thought that some might question the integrity of the electoral process in this case--indeed, the Citizens Association had electioneered, sending out 400 letters (at 4¢ each!) on behalf of its slate--consulted the Attorney to see if there were a legal way to rerun the election, if Mr. Fucillo requested it. The difficult question was made moot when Fucillo informed the Board that "in the general interest" he would not contest the results.

Another anecdote connected with the machine era is recalled by Mrs. Henry Wickham, for many years one of the poll watchers. She recollects that Mrs. Iselin, then infirm, came to vote in a national election, and, since she could not see well, the watchers meticulously sent a Republican and a Democrat behind the curtain with the dowager, to manipulate the little handles as she wished. The poll watchers recall this careful ceremony, as they do hearing Mrs. Iselin's voice, lacking none of the old decisiveness, commanding her helpers, "Vote Republican, straight across!" Machines, indeed!

One can only conclude that the villagers supported their government during these increasingly controversial times. It might be added that the Minutes were no longer

kept in the massive old fustian tomes, with their laconic double-spaced entries. The record was now preserved in smaller post or ring binder covers, single-spaced, with the coverage growing ever more detailed. In time, it was necessary to assign a single volume to a single calendar year, between elections.

Worthy of added remark is the outcome of the election of 1966. Acting Mayor Seaman was elected to be Mayor, succeeding Ault as the Village's eighth executive, and Hilbert Trachman and Richard Meyer joined Randall Dubois and Henry Wickham as Trustees. Since Mr. Seaman has served as mayor continuously from that date to the present, for an unprecedented eight terms to date, we may surely see a form of that stability in alignment with the characterization used by former Mayor Edey at the head of this chapter. Mr. Seaman, who rose to the Mayor's chair from the ranks of the Trustees, as had all of his predecessors save the first, had been in Village government since 1958, serving on committees for fire protection, police, civil defense, and budget, as well as on the Planning Board. Prior to that he had served as a Trustee on the Board of the Brookville School (from 1950) and was the Chairman of the Committee to fight centralization--a fight which involved the unanimous support and interest of the people of Upper Brookville as well as the other villages partly in the school district. For another year he served on the Board of the Central District to help effect a smooth transition. This period overlapped with his service as a Trustee of the Village.

Chapter IV  
Dynamic Tensions  
1966-1974

Of course, nothing seemed to be changed by the 1966 election. There was not only continuity of government since four of the five trustees continued in office, but there was a continuity of problems. The Ringewald and Brookville Gate cases continued, one way or another, to demand attention. It appeared to some toward the end of 1966 that it would take another two or three years, partly because the builder was demanding a jury trial.

However, it seemed that something was being settled. In March of 1967, Mayor Seaman had occasion to send a special bulletin to all, speaking of the Whitney Park lawsuit:

Although the lawsuit was an attempt to down zone a 15 acre parcel from two acre residential use to zoning permitting apartments and light industry, we believe the true purpose was to make sandmining possible. We are pleased to report that the New York Supreme Court, Justice Pittoni presiding, has just rendered a decision dismissing the suit against the Village, thereby sustaining Upper Brookville's two acre residential zoning. We expect that the decision will be appealed. We have won a significant victory, but the struggle to preserve our Village as we all want it is far from over. We shall keep you fully informed of future moves.

The Leader and Glen Cove Record-Pilot both gave coverage to this important decision. The judge, they reported, had not been impressed by loud recordings of local noise introduced into his court, designed to show the unsuitability of the property for residential use; he went to the

site to hear for himself, finding it not so bad. He delivered himself of this somewhat more forceful expression of the underlying problem:

...many of our beautiful Nassau County residential areas are being hard pressed by industrially minded purchasers who will increase the dollar value of their newly purchased properties many, many times over if they can succeed in getting the properties rezoned to commercial or business uses.

Just after the election, the New York Herald Tribune carried a piece entitled "The Brookvilles--Still Anxious to Preserve Their Estates," which touched on the Russians on the old Nathan Miller place, and mentioned that at that moment (April 10), the owners were again in arrears on their Village taxes. "Local betting," continued the writer, "favor the probability that the Russians will repeat their last-minute settlement routine." In fact, in May of 1966, the taxes did come in, something over \$6,000. But in July of that year, Arthur Goldberg, the American ambassador to the United Nations, declared that the Russian property at Glen Cove was definitely tax-exempt. In Upper Brookville, the Trustees continued on the assumption that such rulings did not apply to their Village.

#### Control of Police Service

The year 1967 saw the faltering of a system which had been in effect since the 1930's. Although five villages were involved, the Police Department was controlled by the Village of Old Brookville. A Police Committee, made up of a representative from each of the five villages, had been in operation--always chaired by the Old Brookville member. The committee was advisory only; Old Brookville decided what would be done. The system was never ideal as far as the other villages were concerned, but it was adequate, thanks to the relative simplicity of the community in early years and to the diplomacy of its chairmen, especially

Henry Hay. But both conditions changed. There was no longer real simplicity and the chairman, for other reasons, retired from the post.

By mid-1967, a kind of hornets' nest had developed and Upper Brookville, along with the other three villages, was extremely dissatisfied. For years, village lawyers had maintained that State law would not permit any other system than the one in effect; i.e., one village only could have the police department; the other villages could contract for service.

Trustee Trachman had long challenged this opinion but nobody found a way to sustain his opinion. Under the pressure of events, he took time from his busy law practice to research the subject himself. He discovered--and his opinion was later supported by the Attorney General of the State--that a Police Commission with executive power could be established and that each village could have an equal vote and that the chairmanship could rotate. There was the solution to the problem.

It was then Mayor Seaman's task to meet with the other mayors and persuade them to adopt the new system. Obviously, Old Brookville might be touchy on this subject and Mayor Seaman's letter--presented in person to the other mayors on November 7, 1967--was diplomatic. The letter was addressed to Louis A. Ruckgaber, Mayor of Old Brookville:

Dear Louis:

As we all know the question of the best way to get the kind of police service we all want has been actively before us for the past year and more.

We have made some progress, with your earnest cooperation and the Old Brookville Board. Yet I think it is fair that very few feel that we have yet found a solution worthy of genuine enthusiasm.

During the last eighteen months and especially during the last six months--in which time the work of the new Police Committee has been making itself felt--the Board of Trustees of Upper Brookville has been diligently seeking to find a better way to administer the Police Department. I am sure that all the other Villages have been doing the same.

We have developed a completely new plan of organization which we believe merits the serious consideration of all the Villages. Before presenting it, we did considerable legal research, including getting supporting opinions from the Attorney General's office....

The Mayor outlined a nine-point review of the police operation and then said:

Our proposal is for the new contract to provide that the Board of Trustees of Old Brookville create a five-member Board of Police Commissioners. This Board would consist of one designee from each Village. The Board of Police Commissioners, we believe, would provide equal representation for the five Villages and give us an efficiency beyond anything we could hope for from the presently constituted Police Committee.

He then quoted from the letter which the Village attorneys had sent to the State Department of Law and their response verifying the applicability of the various laws. He concluded by saying:

Speaking for the Board of Trustees of Upper Brookville, I earnestly commend this to you for consideration and consultation with your Trustees and lawyers.

The Mayors, including Mayor Ruckgaber, agreed in principle and also agreed that many details remained to be worked out. Old Brookville scheduled a public hearing on

the subject for January 15, 1968.

On January 8, in response to questions raised by Mayor Pidot of Matinecock, Mayor Seaman wrote again, making appropriate legal references, describing in detail the operation of the proposed Commission, including its executive authority.

But there were still problems. In a letter to Mayor Ruckgaber on January 26, the firmness and determinations of the four other villages shows through in yet another letter from Upper Brookville's Mayor:

Dear Louis:

I received your letter of January 22 (which arrived on the 24th), enclosing a proposed police contract and expressing the hope that we could sign the contract by February 1st. I have several reactions to this, which I want to convey immediately to you and the other Mayors. I am doing it in writing because I think at this stage complete clarity is of the utmost importance.

1. It was my understanding when I talked on the telephone with you earlier this month that you were going to propose an extension of the temporary contract for a few months; a) to let us approach the problem of a new contract without undue time pressure and b) to let the date of the new contract coincide with the fiscal year. I so reported to our Board. I think the postponement is a good idea and a very necessary one. In fact, I can tell you now that there are enough unresolved questions for me to say that February 1st is out of the question for us.
2. As I pointed out in my letter of January 8th to you and the other Mayors, the whole question of the modus operandi of the Board of Police Commissioners is unresolved and

undefined. In our opinion, some of the conditions of operation, together with proper guarantees, must be part of a long-term police contract. So far I have no response to this letter and yet I am sure from my conversations with you and the other Mayors that you all agree the subject is of immeasurable importance and must be handled well both as to scope and detail.

3. I think it has been clear from two letters to the Mayors and from ensuing conversations that this Village does not look upon the Board of Commissioners as just another name for the Police Committee, with everything else remaining the same. The principle of equal representation for the five villages and the concept of a maximum degree of operations independence and authority for the Board of Police Commissioners are vitally essential if this new plan is to work effectively and efficiently.
4. Some of the conditions referred to above are so significant that they should not be left to conversational agreement but should be specified in the contract itself.

I know that you are as anxious as anybody to have the best operation possible and to have all the key conditions of a contractual nature so there will be a minimum of questions and problems down the road. I know, too, that you have given deep thought, a great deal of time and a generous amount of good will to make the progress we have to date...

The plan for a Board of Police Commissioners went into operation on April 1, 1968, thus completing what was one of the most important chapters in the Village's

history. The Village's present representative, Deputy-Mayor Richard Meyer, says "The system has performed effectively and efficiently for the past 15 years. All the villages are very satisfied."

Continuing the story of police, we find that there were other problems as well.

Over the five-year life of the new contract, the basic problem of the force was still not entirely resolved. The matter came up in the Board meeting October, 1972 (which was not obsessed with it, for the Trustees also worked on an ordinance to prohibit the landing of aircraft in the Village; discussed the annual snow-removal contract; and decided, in the matter of garbage pick-up, to adhere to the existing system of individual arrangements, since a Village contract would cost \$50,000 per annum). Frictions there were, still. One of the problems of course had to do with costs. In mid-1973, the Village budget showed \$121,548 on the police line. At least part of that item had to go, as it did from other villages as well, to meet the special burden imposed by the presence in Brookville of C.W. Post Center, with its 11,000 students (1,700 in residence), which, like other campuses in America had in recent years presented some real challenges to the forces of law and order. Since the contribution of each of the five villages was an equal proportion of its taxable assessed valuation, which for Brookville did not include the college (or New York Institute, for that matter), when one looked at the relationship between the contribution of each village and its total assessed valuation, some marked disparities stood out. It was difficult to resolve the question, and there were rumors that two villages might withdraw from the joining system, returning to County protection.

However, it was done, and late in November of 1973, the Board of Police Commissioners wrote the several mayors about renewal of the five-year inter-village contract with

Old Brookville for police service, recommending that it be perpetuated in major outline save for one item, that being the formula for calculating the contributions of each Village, whereby population and police calls would be combined with taxable valuation as a base for calculating the several contributions. And so a difficult exercise in inter-Village cooperation, involving some of the intricacies of development, was mastered.

#### An External Threat to Home Rule

For Upper Brookville and other New York village officials there were fears of a potent assault from Albany, where the State Constitutional Convention met in April of 1967. The last revisions had come in 1938; supposedly, they were to come every twenty years, and there had been discussion of what this one, overdue, might bring. The Leader of October 20, 1966, for example, carried a piece on "Convention Candidates Speak," noting, ominously for some, that while all candidates agreed that "true home rule must be preserved, many special districts must be combined." One of them had told the Leader that each unit of government must justify its existence, adding that he thought there should be a central agency to regulate the 3000-odd law enforcement units state-wide.

Indeed, in December of 1966, formulating a defense, Upper Brookville had joined in a twelve-village North Shore Joint Mayors Survey Committee. Early in 1967, the Oyster Bay Guardian presented this effort, for gathering Bayville, Brookville, Old Brookville, Upper Brookville, Centre Island, Cove Neck, Laurel Hollow, Matinecock, Mill Neck, Muttontown, Oyster Bay Cove, and Lattingtown, a story headlined "Local Communities Battle for Very Survival," and which further characterized the organization as intent on stemming "the Flood Tide of Centralization." It seemed that many delegates to the Albany gathering were intent on doing away with local home rule, hoping to replace it with regional authorities. The twelve-village group sought to

interdict the centralizers. The Mayor of Upper Brookville advised his own constituents of these developments, adding

Let me stress that the activities of the Mayors' Committee will in no way replace or supercede the activities or rights of our Village, but rather supplement them in constructive and important ways to strengthen our Village planning and services.

The Village Board voted to join the New York State Conference of Mayors and also the Nassau County Village Officials Association in the same interest.

After the opening gavel of the Convention, concern mounted. Early in May, the Board worried over Albany reports. They noted in particular the reported intentions of Professor Alan K. Campbell, Chairman of the Political Science Department at Hofstra University, and Chairman of the Local Government Committee at Albany, who was known to be unsympathetic to villages and home rule. In June, while the Convention still sat, the Mayor addressed a letter to residents (Mr. Seaman had discontinued the annual Mayoral letter, preferring communications on individual problems and events). There was, he told them, still

...a serious threat to home rule. Some of the important leaders of the Convention appear to espouse the view that village governments as they currently exist are outmoded because of the growth of cities, the need for more action on a regional basis and a changing political philosophy. Some of the proposals may seek to take away zoning and planning powers from the villages. It is possible that some may attempt to go so far as to eliminate villages by consolidating them into larger political units.

Your Village Board of Trustees has been active on this for some time, primarily through the Mayors' Committee of North Shore Villages. Every avenue

for fighting for home rule and protection of the villages is being explored and developed.

Let all citizens help, the Mayor asked, in the Board's fight against "the band of professional planners who are convinced that their bureaus, however remote, can run the local communities better than the citizens." Requesting them to write to delegates in Albany, the Mayor appended a list, beginning with the name of Professor Campbell. All should urge that there be no substantial change in the present Article IX of the State Constitution, that which guarantees "the existence and rights of villages as they now exist; and that zoning rights "be preserved and guaranteed;" and that home rule "be preserved in the spirit as well as in the letter of the law."

The North Shore Mayors' Committee played a leading role in persuading villages throughout the State to make known their determined opposition to change in Article IX. The wave of protests, along with other organized opposition, had the desired impact.

August brought welcome news from Albany. To be sure, there was one opaquely ambivalent provision that the legislature could make laws for "a reasonable class consisting of not less than five local governments," which might be inimical to home rule but in the main the villages got what they wanted.

There had been a concurrent threat from the County, which sought to revise its own charter. The County had the power to set up regional authorities, e.g., in housing. The Mayor wrote the voters just before the State-wide elections in November of that crucial year. They were thanked for their letter-writing efforts. While carefully eschewing taking a position on the new constitution as a whole, the Board did present thoughts on the ambiguity of the new Article XI, stating without hesitation it held the present Article IX to be "far superior" to it. Although the Mayors' Committee had been

influential in fending off a proposition which would have endowed Mineola with powers to challenge village zoning systems, the proposed new Charter did increase the County's reach. Consciously seeking to avoid the charge of partisan pleading on behalf of one or another of the national parties, the Board articulated its views on these two basic instruments. The letter bore the names of the Mayor and the Trustees.

The election passed, there came, early in 1968, renewed discussion of a twelve-village Master Plan, with the Board having reservations about it. Hilbert Trachman led the argument that it would weaken Village autonomy, and imply a recognition of a need for ever-growing units of local government, and so contribute to the breakdown of low-density zoning. After full discussion (this meeting of January lasted from 8:30 to 12:30), the Board voted unanimously not to join the twelve-village plan. After all of this, the Village election of 1968, which brought over sixty voters to the machine, showed unanimous support for the Board.

In May, the Village dropped its membership in the New York State Conference of Mayors, although it maintained cooperation with the twelve-village Mayors Committee, working to oppose new legislation derogatory to village zoning powers.

#### Student Disturbances

Another systemic threat, of an entirely different sort, came from students. It was not nearly so finely honed as the Albany blade, nor particularly directed at the Village, but rather bluntly aimed at the whole system of which Upper Brookville was a part--and it did affect the Village, through the SUNY unit at Planting Fields, as also at C.W. Post, which was of course no less the responsibility of the Old Brookville Police.

Thus, in June of 1968 came reports of "hippies" at the Planting Fields campus. The student body there at the

time was one which had been temporarily moved in from the fire-damaged SUNY unit at Old Westbury, a special unit. A somewhat unkind characterization of this period was printed in the Smithsonian of August, 1972, in an article on the old Coe place: "...the curriculum tended toward sitting under trees." Another epithet, coined by a disapproving academic traditionalist, was that there students might get credit for self-designed courses, say, in making candles, love, and peace. In any event, the University at Planting Fields had only two watchmen, and so became an added burden to the Old Brookville Police. In August, the Board heard that "hippies" had been cleared out by the OBPD with the help of the Nassau Narcotics Squad. Chief Capobianco recalls the incident, adding that on weekends there might be upwards of five thousand people on the place, skinny-dipping, freely using drugs, and defying Academe and the world. Actually, the raid in August called for about fifty police in all, and sometimes the uniformed men were stoned, in the literal sense, by those to whom the term applied as narcotic slang.

In the summer of 1969, the problem cropped up again, with the police facing massive parking at Planting Fields. They called at least for "No Parking" signs on the Village road. Chief Capobianco met with school officials to seek some way to control disturbances (say, over unisex showering). In October, the Board, in a three-hour meeting whose agenda was crowded with problems--a six-year old killed on his bike on Mill River Road, driver not at fault--heard of student trouble on the opposite frontier, at C.W. Post.

This time there had been no riot, the Police Chief "tactfully" having diverted it. Chief Capobianco--who was commended for his actions--recalls that over a thousand students had determined to block Rte. 25A, to dramatize Vietnam Moratorium Day. Fires had also been started on campus, which was graffiti-scrawled ("Free Bobby Seale,"

for example), and were extinguished by the fire department, whose trucks had not been hindered. The college had sought help from the Nassau Sixth Precinct, but they were not familiar with the campus, and were too few in number, and indeed in some physical danger when students blocked movement of their cars. The OBPD Chief got his own men to detour traffic around the college, ordering them to stay on the perimeter and to avoid any confrontation with the tumultuous young people. He himself went into the crowd, without side arms. After telling the police on the spot to exit by the back way (Wheatley Road), he used his bull horn, despite hoarse threats on his life, to talk: no doubt, war was reprehensible, he reasoned, but just as surely, this was no way to end it. In due course, the mob broke up.

The next challenge, although not similarly animated or sponsored, came in the spring of 1970, when the "Blue Sky, Clear Water Revival" asked to have parking restrictions on Planting Fields Road suspended for an April rally. The Board rejected the request. But in May of that year, after the tragic killings at Kent State in Ohio, campus disturbances swept across the country. The Police Report to the Board was presented in some detail. The problem was, how to control the "many disorderly persons who congregate at the SU campus at Planting Fields." Mayor Seaman had joined Chief Capobianco in a meeting with Gordon Jones, the Ground Superintendent, and full cooperation was agreed upon.

In January of 1971, the Board was informed that the Old Westbury students would soon be leaving Planting Fields, to return to their own refurbished campus--and indeed, in that year, the estate changed "owners" again, becoming part of the State park system, and the Friends of Planting Fields was organized to invite a very different clientele to enjoy the beauties of the place.

The Police Commission and the PBA

But the system of police protection was undergoing other important changes in these years, reflective of growth and national or state-wide trends. In the summer of 1967, the Policeman's Benevolent Association (PBA) was talking of unionizing the five-village force if the villages would not grant the twenty-year non-contributory retirement plan recently put in place in New York State. The villages at the time were still involved in devising a better contractual system among themselves, as we have seen. As for the twenty-year plan, the Trustees in this Village calculated that it would add seven cents to the tax rate (this in a meeting with the usual complex of issues: an application to set up a college on the old Bonney place; a report that the Russians wanted to set up their own school, on their place; an ordinance on the burning of leaves; and good news from Albany and the constitutional convention). However, by early 1968, the Board of Police Commissioners, whose chairman in this year was Trustee Dubois of the Village of Upper Brookville, decided to throw its support behind the twenty-year plan, hoping to include it in the next contract with the police. By the end of 1968, the PBA was negotiating for the OBPD, under the Taylor law. By early 1969, the calculation was that the new contract would add sixteen cents to the tax rate, elevating it eighty-one cents per one hundred dollars--a rapid rise but still less than the County rate.

In January of 1970, negotiations on the current contract were linked by the PBA to developments in the County force. Costs were increased--but it was not until the negotiations of 1971 that the Trustees noted in their May Minutes that there was an "impasse." By the fall of 1971, the impasse had dissolved, and the Board heard a positive playback on the police situation from its representative on the Board of Police Commissioners. Shortly thereafter, the Minutes show an agenda entry for a discussion of the enlargement of police headquarters, which would cost the

villages about \$160,000. No action was taken.

Negotiations in 1973 between the PBA and the Board of Police Commissioners were lengthy and difficult. In March, the PBA presented a multi-paged letter of demands. By mid-year, negotiations between the Commissioners and the PBA moved into the fact-finder stage. But the bargaining moves, of course, were for the Board of Police Commissioners, and on December 5, 1973, that Board wrote the mayors of the five villages on the state of the negotiations, including a careful comparison between the pay of men in the OBPD and those in the County force, which the PBA sought to equal. The "significant difference" between the County contract and that being offered by the Commissioners was (it continued) primarily a matter of certain fringe benefits, and particularly the length of the work week, the villagers preferring to pay overtime rather than match the County exactly in this matter.

The Trustees of Upper Brookville sent their own communication to residents a fortnight later. It would not, it said, involve itself in a public debate over the various positions then current. It did put itself on record, however, in a number of ways. For example:

The Village of Upper Brookville is pleased with the police service we have had, and we are proud of the Department and its personnel. In fact, over the years, we have labored to help in every way we could to create conditions favorable to good operation.

The Board went on to say that it wished to continue with the present police service, and asked its representative on the Board of Police Commissioners, then Trustee Thomas L. Higginson, to act accordingly. Of course, the Village authorities had financial responsibility to its own constituents, and, in presenting the figures, and upholding the position of the Commissioners, it concluded, "It has been a basic position of the Trustees of the five villages

and of the Board of Police Commissioners that a direct, item-by-item comparison with the Nassau County Police Force is not valid." It closed with a wish for an early settlement, and a continuation of the "fine relationship between the police and the Village."

And so the protracted negotiations moved into 1974, with a hearing under the Taylor law a possibility, as noted in a special morning meeting of the Board in February. The question headed the agenda of another forenoon meeting in March (which also addressed the need to update the Master Plan). In a week, the Board convened for its regular meeting, at which it was told that a hearing, under the Taylor law, was indeed necessary. (Shortly thereafter, the Board announced a tax-rate of \$2.13, and stood for election on March 19, being unanimously returned by sixty-eight voters). Although the PBA sued the Commissioners over the composition of the hearing board, in May, the Trustees of this Village approved its findings, and reiterated its confidence in the police--and then, in June, a new two-year contract was approved. Thus a complex and difficult set of negotiations, with strongly held differences, was concluded, with the basic structure intact, perhaps, strengthened. It was in this context that the title of this chapter occurred to this writer.

#### Daily Concerns in the Village

While these determined maneuvers were taking place in camera, life on the byways of Upper Brookville continued in its pleasant routine, as indicated by these excerpts from a memoir of the Village Clerk, dated October 23, 1973:

##### A Day With The Village Clerk

Building Inspector calls, proudly wearing badge given him by Village to show as he goes about his business. He reported advertisement of garage sale in Pennysaver for October 26. Clerk advised police who will stop sale (no permit

issued).

Pat Bagnato, recent purchaser of house on Locust Lane, called asking that street sign be made more visible from Piping Rock Road. Clerk reported to Street Commissioner.

Overdue tax payment received by mail, 3¢ short, which Clerk paid, not worth postage to collect.

New tenant on Hillcrest Lane asked about garbage removal. Clerk suggested asking neighbor--caller didn't know one--so Clerk gave name of neighbor, friend of Clerk.

Resident of Chicken Valley Road reported hole in street near his entrance. Clerk gave County telephone number to call.

L.V. School District asked for papers relating to Recreation Program. School District messenger called for them, and returned them.

Schedule of seminars re Revenue Sharing received by mail--December 4, in Albany, for this area.

OBDP delivered application blanks for alarm permits. Clerk phoned Lt. Maloney asking for list of residents who have alarms...

The prevalent quiet comes through in another way: the Clerk, who was continuing as Director of Civil Defense, helped to raise money for a new car for the Auxiliary Police. Otherwise, the CD front was somnolent.

#### Police Reports

In 1967, the force was glad to report a temporary decline in burglary, and one might say in general that their report of that year is a catalogue of American rural life's inevitable but usual irritations and hazards.

There were no auto fatalities in the Village, although there were dozens of car-related injuries. In most categories--dog bites, speeding violations, trespass--Upper Brookville was second or third to her sister villages, leading only in Stop-sign summonses. The police aided many persons, including five with heart attacks and one who attempted self-destruction. Talk of creating a K-9 branch did not bear fruit--or dogs, if you will.

In 1970, the OBPD set up a Detective Squad, reflecting an increase in crime. In the past, the Village (and others in the five-village system) had relied on Nassau County detectives, but they would not even investigate a petty crime, whereas local men, made up of patrolmen, would do so, and persist. Late in that year, the OBPD reported that more burglaries were motivated by the narcotics habit, well-entrenched on local campuses--and elsewhere. In 1971, there were thirty-two known installations of burglar alarms in Upper Brookville in 370 dwelling places--and 249 dogs. In the next year, the police were experiencing a false alarm rate of about twenty a week in the Village alone. Mid-1972 brought OBPD suggestions for an ordinance on the subject, to control installations so as to obviate false alarms, if possible. The most liable to be tripped accidentally were those with infra-red beams, which could be activated by dogs or birds, let alone prowlers. Police practice being to send a back-up after the departure of the first car in response to an alarm, false alarms--which grew to the point of perhaps ten a day for the villages in 1982--were very bothersome and costly indeed.

Interestingly, the tabulation for 1973 again showed a drop in burglaries--the Village suffering some sixteen, out of seventy-three for all of the five--which, the Chief felt, was a function of a decline in the use of narcotics by young people, although drug abuse still was the subject of one of the special courses available to the OBPD, which

then numbered twenty-eight uniformed men.

Other Trustee Concerns: a Miscellany

In the fall of 1966, Trustee Wickham reported that the roads--he gave a Village mileage of 9.4 although the police patrolled about sixteen miles--were in good condition. The Minutes show the unending concern with this fundamental grid of access. Occasionally, there was an extraordinary entry: March of 1969 brought a bad snow storm, bad enough to force a \$3,000 budget shift into the road line (and the note that CD forces had helped in the emergency). In the fall of 1971, Hurricane Doria struck so savagely that both Nassau and Suffolk Counties were declared disaster areas. In 1973, on the other hand, Nature was kind, the snow was light, and only a portion of the snow-removal budget provision had to be used--which contributed to a \$30,000 surplus, and a reduction of taxes for the next year.

In the course of these copings, the Board took a sad official note to the death of Mrs. C. Oliver Iselin, the Minutes show an extraordinary regard, under the date of April 1, 1970:

On motion duly made and seconded, the Board unanimously adopted the following resolution and requested the Mayor to send copies of it to Mrs. Iselin's daughter, Mrs. Hope Iselin Jones, of Tucson Arizona, and her grandson, Archer Iselin, of Providence, Rhode Island, with appropriate letters:

RESOLVED that the Board of Trustees of the Incorporated Village of Upper Brookville, at a meeting duly called ....here records its sorrow at the death of Mrs. C. Oliver Iselin on April 5, 1970 and notes with gratitude Mrs. Iselin's many acts of kindness to her friends and neighbors in and around the Incorporated Village of Upper Brookville. The Board wishes to express

appreciation for her great interest in and many services to and for the Village of Upper Brookville and its residents, including her service as one of the incorporating trustees of the Village, her leasing a part of her premises to the Village for a park, her permission to the Village to use her premises for a Police Justice Court and other meetings from time to time and her permission for the use of her premises for charitable meetings. By the community at large she is especially remembered for her leadership and devotion to the Red Cross during the Second World War, her interest in Roadside Committees of Garden Clubs both national and local, in the North Country Community Association and in other local groups concerned with the preservation and beauty of the North Shore of Long Island, and be it

FURTHER RESOLVED that the Mayor of the Village, Alfred J. Seaman, be and he hereby is requested to transmit these resolutions to Mrs. Iselin's survivors at his early convenience.

The obituary notice for Mrs. Iselin in The New York Times the day before, which filled two columns, noted that Mrs. Iselin had died at Aiken, her winter home, and, among many other things recounted the love of horses and racing of "this diminutive figure... this dainty woman in pale-colored dresses" (once she went to the races in Ascot as the guest of Queen Elizabeth II and entered the Royal Box wearing the same dress as did the Queen Mother). We learn that her horse Wolver Hollow won the 82nd running of the Eclipse Stakes in London, earning for her gold and royal blue silks a purse of over \$60,000. That news and the Mayor's telegram of congratulations on behalf of the Village came too late for her to know about them.

Later in 1970, in conformity with State law, the

Board enacted a Code of Ethics. Following State law, it regulated investments by Trustees, forbade gifts to them over \$25.00, prohibited the disclosure of confidential data by Trustees, or dealings by a Trustee with his own company for Village account, or private employment in conflict with public duties. A three-man Board of Ethics was created, including the Mayor, but with the balance coming from outside the Board itself.

Certainly appropriate to this catalogue of the unrelated is the appearance in the Minutes of the fact that in 1967, a resident of the Village, caught in some traffic infraction--outside the five-village area--chose to identify himself as the Mayor of Upper Brookville. He even showed the police a gold badge saying "Mayor of Upper Brookville," something the real Mayor did not have. The item was tacked onto the agenda of a marathon three-and-a-half hour meeting almost entirely taken up with current litigation, but the imposter was subsequently fined fifty dollars in Nassau District Court and there was no recurrence of such an incident.

Although this account so far has established that in this period there was no opposition to the decisions of the Board, at least as expressed in elections or Grievance Day forums (to be exact, there was one protest over assessment). The pattern of unopposed elections largely prevailed, incidentally, in village elections in the region.

#### Development and Litigation

It might be well at this point to pull together the threads of growth, development, and conflict of interest. Growth was ineluctable. Action in the courts continued in defense of the Village's zoning ordinance. An old vexation--the cluttered appearance of the automobile service station at Cohen's Corner--reappeared, as did entries in the Minutes on the expansion of non-conforming uses at the Brookville Nursery and the Garden Gate. Later in the

year of 1967, the Brookville Gate and Ringewald matters were settled out of court, and the owners of the Oyster Bay Town House were talking about "stabilizing" the bank behind their property, that is, sand mining in the Village. By the spring of 1968, the Village budget set aside \$17,000 for law-related matters, about half being for litigation alone.

In 1967, the Long Island Sound bridge proposal was exhumed (as the Leader bannered it, March 30, 1967, "ROCKY'S BRIDGE IS BACK," with related headlines given to "Mayors Protest," and "Moses Got His Way"), and Trustee Trachman proposed in mid-year that the Village propose to the Conmar interests that their litigation be suspended until the overriding bridge question was settled, for the approaches to it might cut through the very land in question. By September, in the midst of divers concerns (improper partitioning, e.g.), the Board heard that the City of Rye was suing New York State on the bridge matter, and asking for the help of Long Island villages. The Board agreed.

But in the meantime, the Appellate Division had again found for the Village in the Whitney Park suit, holding firmly to the conclusions that the zoning regulations were constitutional. But the Board heard, in a meeting lasting past midnight, that another appeal in this same area, and for the same basic purposes, now involving U.S. Steel, with its contiguous parcel, would be heard in October of 1968.

That month brought another application for subdivision, this time placed by Robert Kurzius, whose plan it was to make the sixty-acre Stoothoff place, off Piping Rock Road, which he had purchased in May, into a settlement to be called "Colonial Gardens." The Board also heard its attorneys report that the Master Plan of 1960 had been "very useful" in defending the Village in the spate of down-zoning suits.

Early in 1969, the Board closely examined the new land assessments in effect in the County, and decided to use them instead of its own independent land assessment, thus turning to the County for both land and building valuations. The Mayor set forth the reasoning of the Board in a letter of February, 1969. The change would increase the total assessed valuation of the Village by 1.3 million dollars, and would reduce the tax rate per hundred--in the last year, for example, if this County system had been in effect in the Village, the rate would have been \$1.23 instead of the actual \$1.43. Of course, the actual amount of taxes would not be affected, except possibly for "holders of large undeveloped tracts of land not connected with residential use." Individuals might discover for themselves what change had taken place in the valuation of their property by consulting their latest school or county tax bills, and comparing that with the 1968 Village tax bill.

In pursuing its long-established goal, the Village was embroiled in questions both small and large. As for the smaller-scale changes, the Board learned early in 1969 that the Brookville Nursery wanted to add a restroom to the shop on Rte. 25A; the question was raised if this constituted an "expansion" of the business. Nothing could be unexamined. On the other hand, in the meeting following the Trustees pondered the fact that the Whitney Park/U.S. Steel litigation would be costly, viz., about \$25,000. The 1969 budget line for this activity was put in at \$24,000, a great leap from the last year's litigation estimate, and, it happened, about equivalent to the cost of fire protection.

In May of 1969, residents of Juniper Drive sought to have Village acceptance of a road dedication, but the Board's position was that if it did so, there would be no end to the process, which, as one estimate had it, given that the Village developed itself fully to the Plan's

optimum, would add another seven miles to the Village total. Earlier, the Trustees had wondered if they should encourage local private associations, to lift the burden from the generality of taxpayers.

In the middle of 1969, the Board approved the retention by the Mayors Committee of a lawyer in Albany to check on pending legislation that seemed once again to endanger village autonomy. In the same meeting--it was another four-hour session--there was news of difficulties in the Pheasant Hill (Valerie Drive) development on Rte. 107--an unsightly sump being involved, the excavator having quit because he could not remove (sell?) the soil pushed up. The mid-summer meeting was full of reports on the U.S. Steel and Whitney Park litigation, as well as evidence of violations by operators on the other side of the Village, on Rte. 25A. After refusing the Juniper Drive application, the Board--October, now--heard that the developer of the Schumacher place on the north side of Rte. 25A wanted a zoning change to admit cluster housing there. There was no easing of the pressures.

Another unsettling idea in late 1969: would the State build a clover-leaf at the junctions of routes 107 and 25A? There was talk of it. In any event, at the end of 1969, the Mayor recommended legal action against zoning violators on Northern Boulevard.

During the month of May, 1970, the Village received the very good word that the New York Court of Appeals had sustained the decisions of the two lower courts, again vindicating the Master Plan of Upper Brookville. However, some felt the decision was sufficiently vague to allow the plaintiff to return to the attack yet again.

But it was never one thing at a time. In mid-year, another applicant had come forward with plans for the Bonney place, a development by Brookville Homes, Inc., which raised a number of important questions. On another scale, smaller but none the less a cause for vigilance, it

developed that one of the Rte. 25A operators planned to use firecrackers to scare away birds, and was running a farm stand which violated some of the Village Ordinances. The issues were of course not related but the Board insisted that the operator make application for the first--and that it would issue a summons on the second, an infringement. The Cohen's Corner litigation was held up by State condemnation proceedings in connection with a plan to widen Rte. 107. More encouraging was the amenability of the Garden Gate proprietors, in the matter of road signs and their gift shop, to an amicable settlement.

As for the U.S. Steel litigation, with its constitutional torque, Trustee Trachman urged in September 1970 that the issue be squarely faced, and that help be sought from the other villages--the ramifications might, after all, be State-wide. In the next meeting, some Trustees wondered if the constitutional issue had not after all been raised just to complicate things, so as to allow more time for actual sand-mining. Again came the call for aerial photos, to gather intelligence from behind the lines! This monumental dispute was penetrated, during these months, in Board meetings, by distractions coming from one or more of the Rte. 25A operators, each intent on his own interest, and trying to accommodate it as little as was legally possible to the Board's interpretation of the zoning system. There was some agreement, but unexpected shifts in position could occur without warning, as witness the idea of the Garden Gate operators at one point to open a tennis and swimming club, complete with a public restaurant.

Internal pressures there were also. Early in 1971, residents of Dogwood Court, arguing that they paid taxes for the maintenance of all roads, applied for acceptance of their own. The Village did not comply. Back on the north-east sector, word now was that U.S. Steel might settle for a golf course on the entire parcel--which of

course would have to be "suitably graded."

In the summer of 1971, against a background of familiar involvements along Rte. 25A and elsewhere, the Board was advised by the Nassau County Village Officials Association that there was a danger to all in an impending constitutional amendment to be called "Community Development," to be put before the voters in November. A public hearing in September brought out one hundred residents for a report on the general state of affairs for the Village, ranging from current litigation to a prohibition on leaf burning. Late in October, the Board issued a communique to the Village in the matter of two propositions to appear on the ballot in the next month, both of which directly affected the Village or its area, and thus came within the Board's proper scope of admonition. First, the new Article XVIII, with the "selling name" of Community Development, was to be rejected on two grounds. In authorizing any kind of vaguely defined development, recreation included, it gave the State power to take land by condemnation and turn the same over to a public or private corporation to develop, "without regard to local zoning, the wishes of the residents of the area or the effect on the community." (The underscoring was made by the Board.) Secondly, it would encourage fiscal adventurism by means of a sixty-year tax exemption. Then there was to be a proposal for a new transportation bond issue, which it was hoped the villagers would also reject in their capacity as citizens of the State, for, whatever else might be said about it, "there is no question but what an affirmative vote on this would greatly increase the possibility of the Oyster Bay-Rye Bridge."

The spring of 1972 brought news of yet another sale and partitioning, of the Eaton place (and also the word that it might be possible to settle the Rte. 25A cases out of court). As for the sand-miners, the Board now had it that the golf-course idea had evidently been replaced by a

plan to build a home for the elderly--which was also refused, as not suited to the zoning of the area. But now it appeared that the NAACP had instituted suit against Oyster Bay and eleven villages under the Fair Housing Development Fund--with a very different purpose, but with the same immediate target, as far as the Village was concerned: the "close" zoning of the Master Plan, i.e., the two-acre limitation. In another complex meeting, the Trustees were told that the Nature Conservancy had received a most laudable ten-acre gift from the Mitchell place, which would be enlarged to forty acres in a few years--and, of course, the land would be removed from the tax rolls. The Board instructed the Village Attorney to look into the matter. September's meeting learned that the Ault property was to be partitioned, since the former Trustee was leaving the area. And next--a nonsequitur, save that all of these ramifications of development had to be carefully watched--word that the Garden Gate Shop had placed an old-fashioned street car on its front lawn as a quaint attraction for fast-moving passersby, and another of the Rte. 25A operators planned to open a new gas station and maybe a bank as well. Neither of these developments conformed to the non-conforming use pattern which the Trustees were so assiduously guarding, and must be halted.

A change of pace came in November, 1972, when the Village held a hearing--about thirty citizens attended it--on the general ordinances, unchanged since 1958. There were an even two dozen amendments. The Mayor called attention in a general letter to about half of them, e.g., a regulation on dumping which enabled the Village to remove long-accumulated eyesores and charge the owner of the property for the service; a provision that noise which disturbed one's neighbors was unlawful; a prohibition on "the running at large of vicious dogs and other dangerous animals; a ban on the landing of helicopters (it had

occurred) and other aircraft within the Village; and, significantly,

Regulation of Fire and Burglar Alarms--regulates persons and firms which install burglar and fire alarm systems and imposes penalties on residents whose fire and burglar alarm systems make repeated false alarms.

The fight against The Bridge continued into 1973, and various new complexities emerged in the on-going cases on the Northern Boulevard front (the old-fashioned trolley was trundled off, returned, and removed once again). Mayor Seaman, in a letter of late April to his constituents in a brief, general review, made an admonition:

In closing, let us assure you that we are mindful of one continuing problem: i.e., the litter and rubbish on some of the vacant property within the Village. It has proved impossible even with alert police work, to prevent dumping on property which has neither fence nor road block. In the past, we could do more than try to persuade the owners to clean up. The new Article #6...gives the Village authority to act in such cases. When our pleas fail, we shall not hesitate to do so.

The Mayor sought suggestions and criticisms, and was hopeful that "working in concert, we can keep Upper Brookville a community of which we can all be proud."

Due to the increase of building, the intake of fees, it was noted in mid-1973, had about doubled. The Minutes also record another sort of positive news: although just over \$13,000 had been set aside for litigation in the preceding year, something less than half of that had actually been expended, which made for a surplus applicable to the current year.

However, in July it emerged that the Garden Gate Shop no longer operated a nursery, which of course threw into bold relief the question of the non-conforming status of

that establishment. In August, the Balding place on Wheatley Road was put on the market. The Board (then deeply concerned with crucial negotiations with the PBA) continued to cope with the fluid pressures on Rte. 25A, and to carry the Russian place and the Nature Conservancy parcel on the tax rolls--and to discover that the new ordinances did not suffice to keep empty places free of dumping and its associated hazards.

The Iselin place was finally sold, to Franconia Associates, early in 1974, or so the Board learned. However, the new owner's plans--say, to establish a horse farm--did not coincide with the zoning strictures, and were denied after due process of application.

Since 1966, with the election of a new Mayor, there had been very little change in the composition of the Board, some of which was affected by resignation (Dubois, in 1970, replaced by Higginson; Richard Meyer was also a newcomer in the period). There was a greater turnover in the Planning and Zoning Boards, where the career of Trustee usually started.

Early in 1974, the Board drew up what it called a Project Agenda. The most pressing items listed were: the status of private roads, and the uses to which accessory buildings were being put. Later the Trustees added: Update the Master Plan.

So we may follow, from the Board point of view the intricate interactions of irrepressible growth and the determination of the Trustees--volunteers all, let us not forget--to keep the Village as most of its residents wanted it to be.

Chapter V  
Mounting Pressures  
1974-1982

In May of 1974, Robert Kurzius, developer of Colonial Gardens, whose sixty-acre parcel (formerly the Stoothoff place) lay partly in the two-acre and partly in the five-acre zone, applied for a variance that would permit him to subdivide the entire parcel into two-acre plots. The Board of the Village was determined, as the Minutes record it, vigorously to defend the Master Plan as it stood. The developer took the Village to court, and this case, coterminous with most of this last period in this survey of Upper Brookville's half-century as an incorporated Village, epitomizes the accelerating forces at work within the corpus thereof. Let us follow it in context, rather than in isolation.

But first some antecedent isolation, for emphasis, or to wind up other threads. Take a bulletin, unwelcome and fortunately unique: Colton P. Wagner, he of Humes, Andrews, Botzow & Wagner, the Village Attorneys, whose home is on Remsen's Lane, was wounded in the bombing of Fraunces Tavern perpetrated by Puerto Rican liberationists on January 25, 1975. He was one of the fortunate--well enough to walk, and was so pictured, with ambulance people, in The New York Times.

The Brookville School

Another unhappy development was the closing of the Brookville School. The event was bitterly contested by many villagers, who loved the school because it had given their children a good education--indeed, not a few had moved to the Village partly because of it, the present Mayor being one. The Henry Wickhams found the school in operation, housed in the core of the present structure, in 1941 (it had started in a wooden building, complete with

belfry, which Wickham wanted to buy as a nucleus of a house). Young parents joined the PTA and helped to build the school, with the able direction of the principal, Lillian Y. Weatherlow. Some of this building was a matter of hand labor, as for example, that of Francis Nichols, president of the school board, who personally planted azaleas. The three teachers and the Principal shared instructional responsibilities, through the top, which was at Grade Eight. Hilbert Trachman recalls that his introduction to civic life in the Village was through the school board, which could draw a goodly crowd of parents.

An earlier crisis in the history of the school had come in the late 1950's, when it was drawn into the Locust Valley district. This move was bitterly contested by the villagers, who saw in it a political move which would only increase costs and erode the excellence of their school.

The Commissioner, by State Law, is permitted to lay out an area for centralization. The proposition must be approved by the voters of the "district" which he has created. The trick, of course, is to include a high value low density district in with one or more low value/high density districts. Since it is the total vote that counts, the district with the high assessment (large revenue) is automatically outnumbered and outvoted.

The Commissioner's ploy for initiating centralization (they had started as early as 1936) was to deny Locust Valley's application for a high school, threatening to deny accreditation if they ignored the decision. Although many people in Locust Valley were sympathetic to the Brookville school district, they had little choice--and voted approval. So did Bayville. Result: Brookville, with its high assessed valuation and small population, automatically lost.

A delegation was asked to go to Albany to stop the development, a delegation consisting of Alfred Seaman, Chairman of the committee to fight centralization, and

Hilbert Trachman. The latter recalls a heated meeting with the Commissioner of Education, James E. Allen, who, after or despite the arguments advanced on behalf of the people, told his visitors that the change would be effected regardless.

The Brookville District then sued in the State Supreme Court of New York and lost. It then appealed to the Appellate Division. The State Education Department succeeded in changing the venue to Albany (where its headquarters were) and Brookville lost again. At a large and emotional meeting the residents indicated their desire to appeal to the Supreme Court of the United States. That Court refused certiorari and the independent little school was swallowed up. All the predictions and calculations of the Committee to Fight Centralization turned out to be correct. Their only error was that their predictions of tax increases and loss of school identity turned out to be too conservative.

Subsequently, there were other complexities--e.g., an acrimonious dispute over the celebration of Christmas in the Brookville School, coinciding with national unrest over the constitutionality of prayer in schools, although some of the Village parents felt that this festivity was as much concerned with the music program of the school, led by an ingenious teacher, John Gaul, as it was with anything else.

In June of 1977, villagers wanted to hold a flea market at Filasky's farm to raise money for it--and the Board, despite the personal sympathy of its members, had to decline to grant permission, given zoning restrictions.

In August of 1978, the Board called a hearing to discuss the action of Central School District Number Three in closing the school, which drew in about a dozen villagers, who expressed strong feelings about the final result, which would require their children to go to Locust Valley or Bayville. The Mayor himself, a former member of the

school board, had written a letter of expostulation in the matter, recalling the history of the excellent little school. Closing it would have not only educational ramifications; it would also affect real estate values, and leave empty buildings for the play of vandals. He cited personal assurances of the Commissioner of Education. But again, Village protests did not prevail.

With no choice, the community turned in the fall of 1978 to persuasions to the School District to keep the building accessible to community use. It is worth noting here that the Village Board had no control other than rejecting proposed uses which would violate zoning.

The following spring, the Board and villagers were considering alternative uses for the premises: non-profit athletics, a meeting place, children's programs, and so on, for people in the school district only. The Parents Council planned to run a country fair in June to raise money for maintenance--the Board approving.

In due course, Anthony Grandinette, formerly the physical education director of the school, proposed a non-profit athletic or fitness class in the building. The Council also sought to stage a marathon, with perhaps 800 runners; the Board advised them to consult the Village Attorney in the matter of insurance.

In March of 1980, the Brookville Council, Inc., meeting at the school, proposed a program for children, leasing premises there from the school district.

And so it has gone. That summer, the school was setting up for a country fair (all antiques offered had to be from the five villages only, decreed the Board). However, in the fall of 1981, a request by the Parents Council to sell Christmas trees there for the Council's program was denied, for familiar reasons. The Board and its appurtenances, and the Police Justice Court, use the premises for meetings and elections, paying by the occasion.

The Russian Property on Mill River Road

But there was a final solution to the perennial problem of the collection of taxes from the government of the USSR for its premises on Mill River Road. Late in 1977, the officials there asked for permission to erect cottages for a sort of summer camp for the UN delegation. The idea was passed along by the Department of State in Washington for approval by the Village, which was not forthcoming, since the zoning system did not countenance such a use. In the meantime, fortified by treaties and the action of Nassau County, the Russians had once again suspended payment of Village taxes. This time, the Department of State advised the Village that if it persisted in the matter, it might be prosecuted. And so, in October of 1980, the ultimate--or primary--political unit in the matter, the Village of Upper Brookville, accepted the tax-exempt status of the premises involved.

#### The Old Brookville Police Department

Relations with the police continued in the new mode of collective bargaining between the Board of Police Commissioners and the PBA. Three contract negotiations, at approximately biennial intervals, were conducted during this period, and they were not always easy. Late in the 1975, the Commissioners had to accept binding arbitration. Starting in 1976, they retained a special labor counsel to deal with the PBA, but for all of that, the Minutes twice in subsequent years suggest the approach of impasse. Both were surmounted. Police Costs for the Village climbed from about \$146,000 in 1975 to \$209,000 in 1980. The rate followed, moving from \$2.80 to \$3.44 in those years. The force now has thirty-one uniformed men, including the Chief, and a three-man detective division. It operates seven cars, to cover the 130-odd miles in the five-village area.

Villagers, who continued to write in to express appreciation, saw their police in familiar protective and helpful roles.

In the spring of 1976, the report from the police was that there had been an increase in burglaries over the preceding year. In these days, there was increasing irritation in the Village over the false-alarm problem. Burglar alarms and their foibles--and those of their owners--were a continuous theme in the Minutes of late 1976. A hearing--actually, over the fire contract--brought the suggestion that an exception be made for the inadvertent tripping of these devices, and that fines be reduced. In time, this was worked into the regulations, which do allow for the forgiveness of the first three accidental alarms.

Vandals continued their mindless and trackless wanderings wreaking their futility on targets of opportunity--mailboxes, even street signs (in mid-1979, the Board abandoned wing street signs and replaced them with the relatively invulnerable vertical-letter posts). In May of 1980, the police scored a triumph, in the apprehension of the "silver Honda" burglars, a couple of ex-youths from this general area, who, since age fifteen or so, had indulged in about ninety burglaries.

In his 1981 report, Chief Capobianco was happy to report a general decline in crime in the five-village area of about one part in four, with the greatest reduction credited to the category of burglary. The Village had no fatalities of the sort tallied in police reports, although there were over sixty auto-related injuries, usually because the vehicle was operated over speed limits. There were only three fires in dwellings to report. After a careful tabulation of summonses, tickets, and the like, the Chief moved on to reports of burglary, seventeen for this Village, as opposed to twenty-six in the year of the "silver Honda" arrest. Among other investigations entered into the report, there was a relatively new one--"family disturbances"--in which, unaccountably, this Village led the other four.

Complaints were few. One was registered during the Bicentennial, when a loud party produced fifty parked cars, which (said one sufferer) should not have been allowed. The OBPD, to counter the rash of recent charges of "police brutality," has installed a video tape system wherewith all arrests are recorded, a "first" in the County.

The Village Court continues to meet regularly, in the echoing cavern of what was the gymnasium of the school. Those pleading "not guilty" may go to conference with one of the Village Prosecuting Attorneys, or even ask for a jury trial--which can be held in that courtroom. A "guilty" plea takes one before the judge, Lindley Miller (stipend: \$1.00 per month). All fines assessed--a typical session may bring in \$2,000--go to Albany, whence a portion is returned to the Village. Early in April, 1982, there were perhaps fifty first-offenders on the docket, most of whom did not appear, opening themselves to a second call, failing which, they are subject to warrant. Most offenses are for automobile violations; Judge Miller on the April occasion frequently cited a recent study on fatalities. Justice was laced with reason. One offender, for example, who could not speak English, was allowed to leave the court to fetch his spouse, who could. He returned. Village informality does not belie the honoring of Village ordinances.

One of the activities of the OBPD continues to be the training of the Auxiliary Police, in first aid, "civilian use of deadly force," the use of mace, and the like. Civil Defense remains formally in place, and the latest report of the Acting Director (no change in personnel here for the entire period of the CD institution) is worth citing, almost in full. The date is June 1, 1982:

Capt. Paul Feldman's report, enclosed, tells of the activities of the Auxiliary Police. Sgt. Al Wolf of the Old Brookville Police Department

attends their meetings and supervises their training. Car #10 is well maintained and will have the necessary painting.

In the beginning of our Civil Defense activities here, we had many discussions about evacuation in case of necessity. Then we decided any such effort would be useless, as I believe it would be today.

The Minutes record one fatality not of the sort to be found on a police or Civil Defense report. On November 1, 1981, death came to Robert F. DeGraff, former Trustee and Mayor, who had lived in the Village and neighboring Mill Neck for fifty years. The Board made a formal resolution of sympathy and appreciation. Of the many anecdotes which might be presented in the memory of Robert DeGraff, hear one from Mrs. Reginald Rose of Mill River Road. It was at the time when the bridge project of Robert Moses was finally laid to rest. DeGraff had led the fight. On that triumphant afternoon, celebrants were gathered at the Fox Point Beach of the Piping Rock Club, when Bob walked in. As one person, all stood and cheered. Conquering hero!

Mill River Road

The more some things change, the more they are the same. In the late 1970's, the annual budget for this use hovered around \$20,000; in the 1980's, the average had moved up by about \$5,000. The Trustees recorded a drainage survey of the road being made by the County early in 1976. In July, the Village made a pro-forma application to the Federal Safety Program for its legal entitlement. In September of that same year, Hurricane Belle wreaked sufficient havoc to bring in the Army Corps of Engineers, and a similar application for federal aid. In the middle of the next year, a Mayoral letter addressed the old problem. It concluded:

A total solution to all the problems of Mill River Road is not only beyond the resources of the

Village, but would also seriously change the character of the neighborhood.

By September of 1977, the idea emerged that perhaps the County might alleviate some of the conditions causing flooding. After all, it was County land--the Christie and Mackay places in Muttontown--draining down the Mill River Road gully which was largely to blame for it all. But what of drainage from State lands? Water from 25A, a State road, also made a big contribution to the problem. No help was forthcoming here, either.

And so the notations accumulate. Bids were submitted in the late spring of 1981 for relocating the ditch and guide rails in some places, ranging up to \$28,000, and were rejected, in favor of having the work done in stages. And so most of us continue to use this leafy lane, perhaps daily, without a thought--which is as it should be. Truly, a meander--how lovely it is!

#### Development and Litigation

Inexorably, the partition of the old places continued. At the time, the process was more attenuated than it can be in retrospect, and had a different feel. Although not all of his colleagues agreed, Trustee Trachman in May of 1974 held that there was no need to update the Master Plan, because "no significant changes in the Village or the surrounding areas have taken place which warrant an updating"--which anyway would cost in the neighborhood of \$15,000.

The Minutes offer the familiar melange of items touching on growth: a horse farm on Rte. 107, held to be in violation of the zoning; later in 1974, the tripartition of David Grace property. At the end of the year, the Trustees were withholding a certificate of occupancy for the Mill River Club, until the Club, which already had more than 350 members, conformed to Village rules on the makeup of its own managing board.

Attention swung in mid-1975 to the plans of the New

York Department of Transportation to widen Rte. 107, to cut down, it was said, on "hundreds of accidents".

Eventually, after many meetings involving the State, Brookville and Upper Brookville, the present plan was agreed upon. From the Village's point of view it was an imperfect solution to a difficult set of problems but did provide a reasonable balance between local property holders' wishes for minimum disturbance and what the police and State considered important safety considerations, such as reducing the curve and making speed detection by radar more effective.

In the day-to-day sequence of protective moves, the Board early in 1976 sought to strengthen its ordinances by imposing fines up to \$250, per day of violation, and putting violations on a cumulative basis. At the hearing, some questioned whether these changes could be used as a form of harassment. At the end of the hearing, when the matter was properly understood, the overwhelming majority of those present voiced approval. The new Local Law 1-1976 passed unanimously in the Board itself.

Newsday took a different view of the Village in February, 1976, under the title "Old Money, Old Everything". The statistics presented suggested that the title might have been something of a misnomer. It emerged that the average age of the Upper Brookvillian was between 32 and 36, that the median earned income was \$29,878, that the median span of education was 14.2 years. According to the Clerk, in the past decade about 160 families had moved in. Republicans, it was discovered, outnumbered Democrats by five to one.

The State made a requirement in the middle of 1976 which was, in its way, supportive of the conservationist drive of the Board. It was decreed that all villages must adopt a freshwater wetlands ordinance, or lose jurisdiction to the County. Accordingly, a hearing of the residents was called, and in due course Local Law 2-1976 was

adopted, in compliance.

Not long thereafter, a tag sale was held at what purported to be the former home of Huntington Hartford, on Lawn Lane. There was such congestion that the OBPD had to halt the sale--and Mr. Hartford, whose name had been incorrectly used, was, it was said, considering bringing suit. More characteristic of underlying changes in the Village was the subdivision, later in 1976, of the place of former Mayor Ault, who had moved out of the State.

Another sign of the times appeared in the regular meeting of the Trustees in January, 1977 (a meeting otherwise extraordinary in that notice of it was published, following recent legislation requiring open meetings). Cable TV interests were exploring the possibility of franchises in North Shore villages; the Board decided to take no action until a survey of public opinion was made. Village opinion was also consulted in a hearing in March on Local Law 1-1977, "Environmental Quality Review Act." More immediately of interest, perhaps, to some voters was the decision in April that the practice of the distributor of Pennysaver of hanging the paper on mailboxes caused security problems for people on vacation. Thus, permission, in written form, must be gotten from each recipient before the practice could be continued.

In the background of these actions, the Kurzius case was being heard in Supreme Court, Nassau County. On April 19, 1977, that Court handed down its opinion--and the Village was elated to find that the plaintiff had not carried the day. The OP-1 or five-acre zone was upheld, in this nineteen-page document. The Board felt its hand in the concurrent Whitney Park down-zone suit strengthened by this decision which upheld the constitutionality of the zoning system.

Growth, sales, people moving: The turnover of land continued. October brought word of the partitioning of the Karagheusian place on Mill River Road.

But that month brought more portentous news, for the Trustees and the Village: the Kurzius decision was to be appealed.

As for garage sales--this melange of agenda entries was nothing unusual--the decision in March of 1979 was that one might be held only once by an owner who was on the point of moving away (and no sale-salting would be countenanced!) and the seller must hire someone to direct traffic and the parking of cars.

The next month, the Mayor felt it needful to write a letter to the voters, to advise them that the Appellate Division had sustained Mr. Kurzius' appeal, in a decision dated March 26, 1979.

This was the first case in New York against large lot zoning (the NAACP 1971 suit against Oyster Bay and its villages, similar in some ways, had been withdrawn). The Leader, the Guardian, Newsday, the New York Daily News, and The New York Times all covered the story. The last, for example, cited the judge's observation that Village leaders, after consulting large landowners, "decided to use their zoning power to preserve the Village as a citadel of privilege." The court had gone on to say:

No longer may governmental agencies retain or adopt discriminatory, exclusionary or selective zoning ordinances which are designed solely to protect the interest of their more affluent residents by turning a blind eye and a deaf ear to the plight of the less fortunate.

Perhaps the Leader best expressed the pro-zoning view:

The decision...to knock down five acre zoning in the Village of Upper Brookville has put this area into a state of deep shock. Support for retention of the five-acre limit has come not so much from those who live in large houses on large properties as it has come from young

people and those who live on the edge of the five acre villages and enjoy their open beauty. We believe five acre zoning is in keeping with the basic right to zone in order to maintain the health and welfare of the community. Five acre zoning is also a conservation tool, vital to maintain at least a few life sustaining open spaces that benefit all of the communities for miles around....There is nothing in the constitution that makes it mandatory for all of us to live alike. Since we are free to create the kind of community we want we must be free to protect what we create.

An opposing view, not necessarily that of the original plaintiff, was set forth in the New York Daily News, citing an attorney for the Suburban Action Institute, a low-cost housing group. The Appellate Division held the zoning to be "exclusionary," without specifying what a legitimate lot size would be. "Our aim is not so much on what size lot (housing) may be built but to get low-cost, low-income, multiple-family housing into these areas," the spokesman had observed.

The story was even big enough--if this is a valid calibration--to appear on NBC Evening News, whose reporter briefly interviewed Ralph Crews of Locust Lane. The Mayor, in his letter of April 30, 1979, stated:

After careful review of the Appellate Division decision and consultation with counsel, the Board has decided to appeal the matter to the Court of Appeals, the State's highest court.

The decision to appeal is based on the Board of Trustees' firm belief that the existing ordinance is a key factor in the preservation of the environment and the natural resources of the Village, and that the Board must continue its stewardship in protecting the rural character of

our community, which is an asset to the metropolitan area.

Other villages, using the device of amicus curiae, would also join in the appeal (Matinecock and Mill Neck also had five-acre zones).

At a Board meeting at the end of this eventful year there were developments of great significance. North Shore Unitarians were present, seeking to buy the Dalsimer property, the Garden Gate Shop and land. Their intention was to create a retirement complex with approximately one hundred apartments erected in clusters on the twenty-eight acre plot. The Trustees replied that they would consider the matter, although, they cautioned, it did propose "a drastic change" of the sort refused in the past. After further study, the project was rejected. The Unitarians were so advised in April, 1980.

The vigilance of the Trustees covered even nominal matters; later in 1980, they denied a builder the use of the name of the Village for a development that did not lie within its borders. Another challenge of potentially important character arose in a meeting of the Board in June, 1980, incidentally attended by a Newsday reporter. The Trustees had before them a request for downzoning so that a doctor could open an office in his home, located on Rte. 25A between two existing non-conforming enterprises. The answer was that he might not.

At the same meeting there was a report of a plan by the Office of Mental Retardation of the State to open a home for the handicapped, to be run by the AHRC, on the Oyster Bay-Glen Cove Road. The Village planned a hearing--if the owner actually did sell the parcel in question. In the same meeting, the Trustees learned that it would be necessary, given the burden of current litigation, to increase the budgeted sum for that purpose by \$14,000.

Miscellany: the Planning Board considered several

applications, including one to turn the old Filasky farm into a development with homes in the \$400,000 range.

By mid-summer, the State stated that it would insist on creating the projected home for the mentally retarded. Neighbors feared for property values, and urged that the home be more suitably located. By September, the Board had determined to call a hearing with the State, as provided by law.

Everywhere, one saw the lengthening entrenchments of change. It was reported that the Lundy place in Old Brookville was about to be made into the headquarters of a wine importer. The Mayor of Upper Brookville wrote the Mayor of Old Brookville, urging him to resist the commercial encroachment.

But it was in November that the biggest bulletin came down, and most heartening it was: the New York State Court of Appeals had once again upheld the Village in "Kurzius v. the Incorporated Village of Upper Brookville." The documentation of the decision was massive: there has been amici curiae briefs for the plaintiff from the National Association of Home Builders, the New York State Builders Association, and the Long Island Builders Institute; for the Village, one from the North Shore Mayors Joint Municipal Survey Committee and the Village of Cove Neck. But the essence of the matter was the Court's unanimous finding that a five-acre zoning system was a legitimate device to preserve open space, if it met regional needs and was not exclusionary. The developer (the Court continued) had failed to show that the 1960 Master Plan was of this nature.

However, in the midst of this second vindication, the Board cautioned itself that Kurzius might try to take his case to the Supreme Court of the United States, and the Minutes of the Board meeting of February, 1981, established that he had indeed done so.

The following month, the Supreme Court of the United

States rejected the application for certiorari, leaving intact the last ruling in the case, that of the New York Court of Appeals. The five-acre zone was sustained, twenty years after its creation. But in the meantime, the two-acre zone was being challenged. The North Shore Unitarian Society, under date of June 24, 1981, in a pre-trial maneuver, sent letters to Village residents setting forth their case for the development of the old Dalsimer place. The matter had been placed in litigation in the Supreme Court of New York, as a challenge to "the failure of the zoning ordinance of the Village of Upper Brookville to consider and provide for (the retirement home) type of housing as one which was needed not only in the Village but in the region." Trial came in 1982, with no decision yet made.

The force of development continued to erode the old structure. At the start, in 1930, it will be recalled, about 40,000 acres were under estates in the ten-village area of which this Village is a part. Fifty years later, about one-tenth of that acreage could still be so classified. And so it continued: in mid-1981 came applications for acceptance of subdivision plans for the Linden Estates and Overbrooke developments, at the eastern and western ends of the old Filasky farm area. Both were approved. In its fluctuating mix of business, the Board ruled that installers of burglar alarms might not seek free publicity for themselves by posting prominent warning and self-identifying signs visible from the road. In July of 1981, the Board entertained complaints about early morning noises made in the shooting of a TV show. Should there be yet another ordinance? Later, one finds notes on opposition by villagers to the idea of a retirement home, on the weight of trucks, about automatic shut-off devices for burglar alarms, touching on the Venditti class action suit, and on a proposal to hold a decorators' showcase in the old Iselin mansion (rejected as a commercial use).

This account has not attempted to follow in detail the continuing frictions between the Village and some of the operators on Rte. 25A during most of this period. At times, litigation was resorted to; stipulation served in other of these vis-a-vis. Some of these cases were, at last, settled. Perhaps progress, mortality, or shifts in fortunes will settle them all.

Take the familiar gas station-body shop-landscaping complex at Cohen's Corner. In the spring of 1976, the Trustees learned that the owner wanted to expand and modernize his gas station, which would put him afoul of the non-conforming use body of precedent. Behind the owner stood the Exxon Corporation, which had bought the corner lot, and wanted to create a much larger facility there. This grew into "Incorporated Village of Upper Brookville v. Van Wicklen et al." At the end of 1977, while the case was still going on, the Village retained an expert on gas stations. Early the next year, the Exxon people cited the economics of gas stations and location to justify a nine-pump operation, an exponential expansion over the existing cluttered wayside stop. The Board, by late summer of 1978, authorized the Mayor to settle the dispute out of court. Shortly thereafter, the Board approved a drawing of the proposed Exxon installation which the corporation had ordered with the ideas of the Trustees in mind. By mid-1979, this problem, ongoing since about the start of the decade, has been transmuted. The station was approved, although the settlement was highly complex, touching on everything from the uses to which the residual property might be put to the number of vending machines (three only) which would be permitted. As the Mayor put it in a letter to his constituents:

as a result of long negotiations outside court the owners of the property proposed a settlement which involves complete demolition of the buildings on the premises and the installation of a

new, attractive Exxon gasoline station located on the same site but set back further from the road so as to improve the appearance of the area. The Village has accepted this proposal subject to compliance with many conditions which will ensure that the new gasoline station will not adversely affect the area of the Village's zoning laws, and, in particular, will be restricted in size, services and character to conform strictly to the pre-existing rights. The Board of Trustees believes that such a disposition of this lawsuit is in the best interests of the Village and will give the owners of the property an equitable settlement.

Another veteran dispute, across the Village, was also so changed in nature as to be classifiable as "settled." The Whitney Park drive to rezone in the Pine Hollow Road area appeared again in the Minutes in mid-1977. The earlier Appellate Division decision for the Village had left the possibility for renewed litigation, and the new suit attacked the entire zoning system. Litigation continued for months--as late as May of 1981, the Minutes referred to it. In a letter of July, 1981, Mayor Seaman summarized the various challenges to the Village's zoning system being mounted in the courts:

This is a report of several challenges against the Zoning Ordinance in the Village of Upper Brookville. One, with which you are undoubtedly familiar, represents a major victory for the Village and will also have a positive impact on zoning throughout the country. A recent challenge to our zoning was successfully defended when in late 1980 the New York State Court of Appeals rendered a unanimous decision which upheld the Village's 5 acre zoning regulations. The plaintiff's application to appeal

that case to the United States Supreme Court was rejected last April.

The other three cases in this report are all current threats to the zoning laid down in our Master Plan (1961) and our Zoning Ordinance.

We want you all to be familiar with these actions. They seek to break down the Village's zoning for uses which the Board of Trustees believes are contrary to good planning for the Village and the region, and would adversely affect the rural country-like atmosphere of our community.

One case involves the Dalsimer property on the south side of Route 25A, on which is located the Garden Gate Shop. Members of the Dalsimer family and the North Shore Unitarian Society of Plandome, New York, as contract purchaser of the property, seek to have the zoning for that 28 acre parcel of land changed from its present 2 acre zoning to establish multi-family structures at a density of no less than five units per acre. This would represent the construction of large buildings containing over one hundred apartments. Such proposed use would be incompatible with the 2 acre residential subdivisions recently approved by the Village Planning Board for the farmland property located immediately to the north of the Dalsimer property between Linden Lane and Cedar Swamp Road. The Unitarian case is presently in the pre-trial stage and could come to trial within the next year. We intend to fight this case vigorously at whatever level necessary. The proposed project is undesirable and unacceptable in itself and would establish a precedent which could have a devastating effect on the entire North Shore.

The second case involves property located on Pine Hollow Road at the east end of the Village near the hamlet of Oyster Bay. In this case the property owner, Whitney Park Homes, Inc., is also attempting to have the existing 2 acre zoning regulations changed to establish a business use on the property or housing at a greater density. This case is also in the pre-trial state and will be staunchly opposed.

The remaining case involves an attempted "class action" in the Nassau County Supreme Court by ten individuals against the Village of Upper Brookville plus nine other North Shore Villages and the Town of Oyster Bay. In this case, the plaintiffs allege that the Zoning Ordinances of the involved municipalities are unconstitutional and violate their civil rights. They are asking the Court to require high density, low income housing throughout the entire North Shore area. The Village is defending this action in close cooperation with the other defendants.

The purpose of this report is to keep you informed about the continuing challenges facing the Village and to assure you that your Village will vigorously defend its zoning policies which have been a vital factor in preserving the environment and the rural, open space character of our community.

But in January of 1982, the Minutes record that Whitney Park Homes, Inc. property has passed to another party, who had submitted plans for development of Sagamore Woods to the Planning Board. Conmar would install the public improvements on this zone-conforming development--grading, recharge basin and so on.

The Board continued to fill its own vacancies, as when members resigned, as did Trachman and Higginson, who

were replaced ad interim by Innis O'Rourke and Edward C. Oelsner, Jr., and, later Ralph Crews.

Cullings from the Minutes of late 1981 and early 1982: subdivision of Sanford (Barrea) place; need to keep marker posts on Mill River Road from being pulled out by vandals by special anchoring; Cablevision; proposed partitioning of Triangle Nursery; letter to residents on how to prevent burglaries; Jericho Water District discusses the possibility of setting up a pumphouse on Linden Estates land; suggestion for the use of federal revenue sharing funds--about \$6,000; Police Department awards ceremony bestowed on thirteen men; PBA negotiations to commence soon; previously unpaved portion of Linden Lane, connecting Upper Brookville and Old Brookville, finally given to the former by Mr. William Osborn, who paved it at his own expense.

Perhaps the events of the last few years are best summed up by the letter that Mayor Seaman sent to the residents of the Village on February 18, 1983--just past the golden anniversary mark. He wrote:

It has been our custom in recent years to send bulletins on specific events rather than to issue general reports. At this time, however, there is enough business in process to justify a general report. The most important section has to do with the legal defense of our zoning ordinances, but other items are of significance as well.

## DEFENSE OF ZONING

### CASE I

As we have reported from time to time, we have had a continuing problem involving Whitney Park Homes on Pine Hollow Road adjacent to the sand pits. Originally, the owner sought to down-zone the property to allow for commercial

or apartment use. The Village won that case in the Courts, but questions were raised by the Court which could have had a negative impact on zoning for that particular piece of property.

The same developer also had other property to the north, between Mill River Road and Pine Hollow Road, consisting of two-acre and five-acre sections. The Planning Board, through a series of patient but diligent negotiations, took the position that all of this property, including Whitney Park Homes, should be treated as a single piece. This point of view prevailed and the matter was settled out of court. As a result, that entire section will be developed in conformity with our two and five acre ordinances.

The drainage requirements of this development are necessarily severe since nature made the whole Mill River Road valley a very special case. Since there had to be, by County requirements, a sump along Mill River Road, the Planning Board required not only the engineering plans but complete drawings of the sump area, thus assuring a minimum of visual disturbance and a maximum of natural beauty.

This would be a suitable occasion for presenting the Planning Board members: The Mayor is Chairman of the Planning Board; the other members are: Edward Fogarty, who lives on Mill River Road; Mrs. Virginia Kunken, who lives on Linden Lane and Jerald H. Melum, who also lives on Linden Lane.

## CASE II

On July, 7, 1981, we wrote to you about the Dalsimer property on the south side of Route

25A, on which the Garden Gate Shop is located.

We reported that the Dalsimer family and the North Shore Unitarian Universalist Society, Inc. of Plandome, as contract purchaser, were seeking to have the zoning for the 28 acre parcel changed from its present two-acre zoning so as to build a senior citizens' complex of buildings containing over 100 apartments. We said then that: "We intend to fight this case vigorously at whatever level necessary. The proposed project is undesirable and unacceptable in itself and would establish a precedent which could have a devastating effect on the entire North Shore."

The trial, which took place this fall, lasted 29 days. They were not only tedious days, but expensive days--far beyond the usual trial of this type and far beyond what our attorneys, the firm of Sprague, Dwyer, Aspland & Tobin, could have anticipated. In blunderbuss fashion, assertions were made by the Unitarians, which whether founded or not, had to be answered methodically and factually so as to leave no loop holes nor any charge unanswered. The result was the need for many experts preparing and testifying for long periods, which is expensive. Naturally, legal defense fees pile up as well--more than twice what we had budgeted. We believe we have made a staunch defense and that the care, however costly, was necessary and wise.

Post-trial briefs are presently being prepared and will be submitted to the Court in the near future. It is estimated that the Court will render a decision before the end of next summer. We can expect additional expenditures

because the probability is that whoever loses will appeal the decision. Instead of a normal expectation of legal fees for a trial of this type (between twenty and forty thousand dollars), we were forced into expenditures of over \$100,000 in fees--for expert witnesses, and attorneys. Another \$20,000 will be required for briefs, printing, etc. by the time the Supreme Court in Mineola declares its decision.

Since the costs are obviously far beyond the prudent budget for this year, the Village will have to work out special financial arrangements for paying these bills. These costs will necessarily show themselves in Village budgets for the next several years, and we felt we should apprise you of this in advance.

As much as we regret expenditures of this magnitude, the alternative is to fall away before every predator who seeks, for one reason or another, to change the face and nature of our Village.

At this stage of our development, there is relatively little underdeveloped acreage left in our Village--but there is enough so we must be vigilant. We shall continue in the future, as we have in the past, to fight for the preservation of our Village Plan and the character of our community.

### CASE III

This case is an action against ten North Shore villages (including Upper Brookville) and the Town of Oyster Bay. As is so customary in these carefully mounted attacks, nine individuals of otherwise modest pursuits, are involved in an expensive action, suing to have the

present zoning of this part of the North Shore declared unconstitutional.

During the past year, the Village and its co-defendants (the villages in this case are commonly represented by a distinguished New York law firm, Paul, Weiss, Rifkind, Wharton & Garrison, and individually represented by separate counsel) have been engaged in various pre-trial motions which are now being appealed in the Appellate Court. These are always complex and dangerous cases, but we are proceeding on sound grounds and are reasonably sanguine. Fortunately, a village can be insured against the cost of cases of this kind since the plaintiffs are seeking relief under the Federal Civil Rights Statutes. Our Village has carried such insurance and the defense costs of this case will be paid by our insurance company.

#### UPDATE OF MASTER PLAN

In 1960, the Village developed and approved a Master Plan, which set forth in specific details the ways in which we wanted our Village to develop--consistent with its history and intrinsic character. Having such a plan is an important consideration in the Courts whenever zoning is involved. Such a plan is also helpful in the administration of the Village. Our Master Plan has served us well.

After some 20 years, it is our judgement that it is wise and proper to update the plan. We have engaged a firm of planners, McCrosky-Reuter and Associates, with Mr. Reuter in charge of the project. The Village Planning Board has been working for some time now with the planner on the proposed Master Plan.

Preliminary indications are that certain refinements, but no major change in objectives or direction, will be recommended. Public hearings, which are required by law, will probably be held before the summer.

#### BOARD OF ZONING APPEALS

While dealing with matters of zoning, it is most appropriate to take public notice of the work of our Board of Zoning Appeals. It is a quasi-judicial body which adjudicates questions where possible variances in zoning are concerned. The Board must maintain the spirit of the Village's Zoning Ordinances, but it is empowered to grant relief in instances where common sense recommends that minor adjustments be made (to vary setbacks by a few feet because of unusual circumstances, for example, or allow for a swimming pool slightly beyond the prescribed confines). The Board is zoning's safety valve. Our Board has done an exemplary job for many years, and is to be highly commended for it.

The Chairman, who has served with distinction for 19 years, is William H. Osborn, Jr., who lives on Linden Lane. Other members are Mrs. Hermann W. Hertweck, who lives at The Knoll; John W. Lapsley, who lives on Mill River Road and R. Peter Rose, who lives on Mill River Road. Sadly, late last year, Mr. Albin D. Strandberg, Jr.--who had served ably and diligently for 8 years, died of a heart attack. All of his colleagues know how much he contributed to the Village, and how ably he performed his duties. We miss him greatly.

#### POLICE AND FIRE PROTECTION

As you know, Upper Brookville is one of five villages served by the Old Brookville Police Department. A Police Commission representing all five villages determines policies--with each representative being responsible to his own Board of Trustees. Chief Capobianco is the Chief Executive Officer. This arrangement has been very successful for about fifteen years and we have just signed another five year contract with the other villages. We look forward to the continuation of good relations and first-class service we have received from the Department.

We are in the midst of protracted negotiations with the P.B.A. at this time, but I am glad to report that we have evolved into an era when these negotiations are conducted with mutual good-will and with no disturbance of excellent service we receive from the officers and men of our Police Department.

As you know, we contract for fire protection from the East Norwich Volunteer Fire Department. Although the cost of this service, like others, has increased over the years, we have found the Fire Department consistently prudent about expenses and conservative in setting fees. Above all, they have provided us with best of fire protection. We look forward to a long relationship.

#### CABLE TV

Over the last several years, a number of Village residents have expressed an interest in obtaining cable TV service. However, until very recently, no company wanted to service low-density areas such as Upper Brookville because it would be unprofitable.

Last year, Cablevision of Woodbury, New York expressed a willingness to discuss the possibility of operating if enough villages were interested. The North Shore Mayors' Committee, including Upper Brookville, began discussions to work out a reasonable franchise agreement. Last summer, the Village of Mill Neck and Cablevision sought approval from the New York State Cable TV Commission of a proposed contract and rate schedule. Shortly thereafter, Upper Brookville and other North Shore villages also filed preliminary franchising applications. Last fall, the CATV Commission ruled that the rate structure be reduced as a consideration for approval.

As a result of a re-study of its own position and negotiations with Upper Brookville and other villages, Cablevision has now advised our Village that it intends to provide service under a rate schedule that is commensurate with that required by the CATV Commission.

A formal contract proposal is expected by the Village before the end of this month. The law requires that a hearing be held on the franchise proposal before a contract can be executed. You will be so advised.

It is anticipated that Upper Brookville will have cable TV service by next year--and possibly sooner in certain areas of the Village which are in close proximity to existing transmission lines. Each resident will have an individual choice as to whether or not he wants to subscribe to the service. The rate in the near term will not vary with the number of subscribers; in the longer term, the Commission decision requires that the rate be adjusted downward if the degree of development warrants it.

## GENERAL

There are other bright spots on the horizon. The parcels of land on the north side of Route 25A, between Route 107 and Linden Lane, have been approved for development on two-acre plots. There are specific preliminary indicators that proper residential development will also take place in the near future on the south side of Route 25A as well. These moves already take us out from under the old argument for down-zoning; i.e., "Property on 25A is not suitable for residential use." Each such possible move helps make our zoning more secure.

We have mentioned the Planning Board and the Board of Zoning Appeals. There are others who do important work as well--almost all on a voluntary basis. We are grateful to them all--not least, Helen Dartt, who handles many things for us, with ability and enthusiasm. A list of Village officials is on the next page.

We thank you, the citizens of our Village, for your support.

### A Final Look

Some interesting interlinks emerge when one examines the basic statistics over these past fifty years. The population has grown from 332 to 1,248, about four-fold. The tax rate has gone up much more quickly, from a low point of 16¢ to the 1982 rate of \$3.56, augmented by more than twenty times. Although the change in base makes for complications, note still that the total assessed valuation of the Village has gone from about 6.2 millions to 9.8 millions. The sum to be raised by taxes each year has gone from about \$17,000 in 1933 to \$363,423 in 1982. There is almost a Malthusian extrapolation here: the rise in population brings a disproportionately rapid increase

in costs.

But statistics cannot tell very much. There is a quality of life that is of the essence, and is at the heart of the debates about the shape of the next half-century.

VILLAGE OFFICIALS

Mayor

Alfred J. Seaman (1966)

Trustees

Richard W. Meyer (1966)  
Innis O'Rourke (1976)  
Edward M. Fogarty (1978)

Village Justice  
Lindley G. Miller (1960)

Acting Village Justice  
Daniel Ronan (1976)

Village Clerk-Treasurer  
Helen S. Dartt (1958)

Old Brookville Police Department  
Building Inspector  
Engineer  
Attorneys

Chief Charles Capobianco  
Francis P. Bladykas  
Sidney B. Bowne & Son  
Humes, Andrews, Botzow &  
Wagner

Auditor  
Historian  
Court Clerk

Joan E. Stapleton  
John L. Rawlinson  
Barbara C. Miller

Board of Zoning Appeals

Planning Board

William H. Osborn, Jr., Chairman  
Lenice Hertweck  
John W. Lapsley  
R. Peter Rose  
R.M. Geddes

Alfred J. Seaman, Chairman  
Edward M. Fogarty  
Virginia Kunken  
George Sabo

(Date in parenthesis after each name indicates  
year official first assumed office)