

SPECIAL TOWN BOARD MEETING

September 24, 1942

Town Clerk's Office

4:00 P. M.

Present: Dr. Gilchrest

Mr. Goebel

Mr. Dickenman

Mr. Blauvelt

Mr. Blauvelt called the meeting to order and explained that it had been called for the purpose of getting the Town Attorney's opinion on the question of the granting of a building permit to the Spring Valley Water Works & Supply Company for the construction of wells and erection of a Pump House in Nanuet.

Mr. Wexler, Attorney, told the Board that the matter had been referred to him by Mrs. Buchenau, Town Clerk, and that he prepared an opinion, which is practically similar to the one submitted to the Zoning Board of Appeals, except for a few changes and additions. He said that as far as the Town Council is concerned there is nothing they can do, as through the Zoning Ordinance the powers of the Town Council were delegated to the Building Inspector and Board of Appeals. He pointed out that an application for a building permit should be made to the Building Inspector. If he denies the application, relief should be sought from the Zoning Board of Appeals by way of an appeal. If the Zoning Board of Appeals denies such a request, action should be through the Supreme Court by way of Certiorari Proceedings. Mr. Wexler told the Board that in his opinion a permit was not necessary in this matter for the following reasons:-

1. The exception granted in Subdivision 9, Section 5 of the Zoning Ordinance of Clarkstown.
2. The Conservation Law governs the rights involved herein and the Water Power and Control Commission of the State of New York has total control and supersedes the Zoning Ordinance.
3. Because of the emergency the Federal Government may itself or may delegate any condemnation powers to procure the necessary water for war purposes.

Mr. Wexler said that if a building permit is sought, the building inspector should grant it. However, the Town Board had no authority to act in this matter.

Mr. Griessman told the Board that they should protect the people of Clarkstown. He also said that in his opinion the war issue was not involved until quite recently. He said he believed that a water district should be created.

Mr. Lexow, attorney for the Water Company, told the Board he wasn't sure how they felt about Mr. Wexler's opinion, but that he agreed with it entirely. He further added that when he dealt with the Building Inspector, Mr. Cary said that the Town Board was his boss and that he would only act if the Board gave him such authority in writing. Mr. Lexow said that is why he came before the Town Board, but that he does not believe the matter should be before the Town Board. In pointing out the necessity for action, Mr. Lexow told the Board that the Government had asked the Spring Valley Water Works & Supply Company to furnish three million gallons of water a day to supply the needs of the new Camp in Orangetown. It is expected there will be between forty and fifty thousand men in this camp. The Government has grant A-1 priorities for these wells, the pumping machinery and the pumphouse, and this is the highest rating outside of the Army and Navy.

Mr. Wexler, speaking as a private citizen, told the Board that we are all in this war, and that there is no getting away from that angle. The community will suffer, but that will only last a small time, and we must put our shoulders to the wheel. If the Spring Valley Water Works & Supply Company has been asked to supply some particular military need, it should be aided. He further pointed out that when the war is over, the Company will have a large plant on their hands, and will seek customers among civilians. It will be a benefit to all then.

In response to a question from Mr. Blauvelt as to whether an application had been filed for a permit, Mr. Lexow said that application was filed about six weeks ago. This application was prepared by people in the company's office at Weehawken, but because it wasn't quite complete, it was withdrawn, and there is no application at present before the Building Inspector.

Mr. Blauvelt suggested that such an application be made as soon as possible, as Mr. Cary might change his mind on the matter.

Mr. Goebel then brought up the question of these wells stealing the water from other residents of Clarkstown.

Mr. Lexow told the Board that an engineer has said that these wells would not affect other wells in the vicinity, since the wells will be

about 200 feet deep. The depth of local wells is about 75 to 80 feet deep.

Mr. Goebel then asked what would happen if the present pumps can't be used, since it is impossible now to get deep well pumps.

Mr. Lexow said that if such a thing happened, people could take action through the courts against the Water Company.

Mr. Lexow then told the Board that they can ask the Building Inspector to issue the permit, although it would have no legal bearing on the matter. He said this might help matters as the Building Inspector has said he won't issue a permit unless the Town Board tells him to do so.

Mr. Griessman told the Board that he understood the Government in 24 hours could establish a water and filtering system. He then read a section of the Conservation Law regarding water.

Mr. Goebel said he hoped that the drilling of these wells would not be an injury to Clarkstown.

Mr. Lexow then asked who had said Clarkstown would be injured.

Mr. Goebel said that if the wells steal the water supply, it will be of great injury to the people of Clarkstown. He said he believed it his duty as Councilman to protect the interests of the people in Clarkstown.

Mr. Lexow then pointed out that no one of authority has said these proposed wells will steal the water supply. If his company is to supply three million gallons of water a day to the new camp, additional water must be found.

Mr. Dickenman said he had expressed his opinion at the last meeting in favor of the Building Inspector issuing a permit and that his opinion was still the same.

Mr. Goebel said he felt the Building Inspector should issue the permit according to Mr. Wexler's opinion as Town Attorney.

Dr. Gilchrest said he felt the Board should be guided by its Attorney's opinion.

Mr. Blauvelt then said that the Board's hands are tied, and that according to Mr. Wexler's opinion they can't tell the Building Inspector what to do.

The Board finally decided that Mr. Wexler, as Town Attorney, should convey to Mr. Cary, Building Inspector, the sentiments of the Town Board regarding the issuance of a permit to the Spring Valley Water Works & Supply Co.

Mr. Dickenman moved the meeting be adjourned.

Seconded by Mr. Goebel

Carried

Meeting adjourned.

K. P. Pouchman
Town Clerk of Clarkstown

ABB 953