

SPECIAL MEETING

June 2, 1954

Town Clerk's Office

8:30 P.M.

Present: Town Board

Zoning Board of Appeals

Mr. Schmersahl

Mr. Koop

Mr. Fibble

Mr. Jacobson

Mr. Welchman

Mr. Johnson

Mr. Burleigh

Mr. Boepple

Mr. Dillon, Supervisor

Mr. Herdman, Chairman

Mr. Dillon called the meeting to order, explaining that it had been called to discuss the complaint of the Zoning Board of Appeals against Building Inspector Lincoln Waldron for the issuance of 19 Building Permits to Congers Realty Co.

Mr. Dillon asked Chairman W. R. Herdman to explain to the Boards just what had taken place.

Mr. Herdman's statement was as follows:

(It has always been the understanding since the organization of the Zoning Board of Appeals, that when the Building Inspector has a problem, he will consult with the Zoning Board of Appeals. On May 3, 1954, the Zoning Board held a meeting and reviewed a number of problems pending with the Building Inspector, and gave their conclusions as to the solution. While travelling on the West Shore Railroad to New York City, I saw a great deal of activity on the Murray Stern property at the south end of Congers Lake. The activity consisted mainly of the erection of a number of buildings and foundations for buildings. On questioning the Building Inspector, I learned that he had granted permits for the storage of the buildings but the plans for future development of the premises were very indefinite and vague. During the week of May 3rd, I noticed construction of a building on the property and on calling Building Inspector Lincoln Waldron, learned that he had given permission for the erection of the building but not for occupancy. Mr. Waldron was very vague in his information but he did admit that no plot plan had been submitted with the application and the building was described as an accessory building, but there was no main building that it could be a part of or accessory to. I informed Mr. Waldron that the matter would be reviewed with him by the Zoning Board of Appeals at their next meeting on May 14. At this meeting Mr. Waldron insisted that his action had been proper and in compliance with the Zoning Ordinance, but he did say that he would give the matter further thought. The Board of Appeals requested Mr. Waldron to withdraw the permits he had issued but he refused; however, the Board of Appeals gave him to understand that he would be given an opportunity to correct the situation before the Board acted. On May 15, the Board met again, and Mr. Waldron informed them that the premises were to be used for a membership club. When he was questioned as to who the members were or if it was a non-profit organization duly licensed by the State he said that he did not know.

But the fact remained that he had issued 19 separate Building Permits without a plot plan and no idea of what the development purposes were. Mr. Waldron admitted that he had not consulted the Town Board, the Zoning Board of Appeals or the Town Attorney, and it was pointed out to him that he should have at least consulted the Zoning Board of Appeals before taking any action. Mr. Waldron was again given an opportunity to withdraw the permits and he again refused. The Board of Appeals then advised Mr. Waldron that he would be brought up on charges before the Town Board. I have noticed recently that 2 buildings are already completed and foundations for 7 or 8 more have been constructed. The matter was not discussed again with Mr. Waldron and it is now being brought to the attention of the Town Board for action.)

Mr. Dillon stated that the Town Board wished only to determine if the Building Inspector had acted properly in issuing the permits. He asked Mr. Herdman if it was his opinion that the permits should not have been issued, or if Mr. Waldron should not have consulted the Zoning Board for permission.

Mr. Herdman said that the Building Inspector definitely should have consulted the Board and the permits should not have been issued until he had done so.

Mr. Roepe asked Mr. Herdman if the Board had assented to the issuance of the permits.

Mr. Herdman said the Board had not assented since they were not aware of the issuance at that time.

6/2/54

Mr. Roepe asked Mr. Waldron if there was any limitation or restriction on the permits.

Mr. Waldron said that the permits had been issued for a "No Allowed Use" for 19 buildings. The permits had been issued on a Survey which did not give the layout of the buildings, but the applicant had assured him that a plot plan would be forthcoming at a later date. He said that he received a letter from Mr. Stern at a later date redesignating the use as a non-profit membership club. Mr. Waldron said that in his opinion the permit issuance was legal.

Mr. Dillon asked Mr. Waldron if building permits are usually issued without plot plans.

Mr. Waldron said no, but in this instance there was plenty of leeway for compliance with the provisions of the ordinance.

Mr. Dillon asked if the property had been checked recently for conformance.

Mr. Waldron said it had not.

Mr. Fibble asked Mr. Waldron if the matter was a business venture.

Mr. Waldron said that the ordinance prohibits business in a residence area, although in this instance an application had been submitted to the Town Board for a change of zoning to business for a later commercial use.

Mr. Fibble asked why the permits were issued before the zoning change.

Mr. Waldron replied that the permits were issued for an allowed use in "Res. A".

Mr. Welchman asked why the permits were issued without a plot plan. He said that other developers must comply with regulations and Murray Stern was no exception.

Mr. Waldron's only answer was that the permits were issued for an allowed use.

Mr. Dillon said that the only question is the legality of the permits. He asked Mr. Waldron how many buildings were permitted for a non profit club and what the purpose of Mr. Stern's buildings was.

Mr. Waldron replied that there was no limit in the ordinance on the number of buildings and they were to be used for recreational purposes.

Mr. Roepe asked who had made application for the permits.

Mr. Waldron produced the application which was made out by the Congers Realty Co., Murray Stern, President. The application was accompanied by a letter from Mr. Stern dated May 15, redesignating as a non profit membership club.

Mr. Fibble said that he had heard that the premises were to be used for a children's camp.

Mr. Waldron stated that such a use was permissible under "Res. A" but he said that a change of zoning had been requested for a later business use.

Mr. Fibble said that if matters are permitted to remain as they are at present, Mr. Stern will rent the buildings for summer resident use as he had done in the past.

Mr. Jacobson said that the permits were issued prior to the Club proposition and the question was what the permits had been issued for.

Mr. Johnson also stated that the permits had been issued before the club was mentioned.

Mr. Burleigh said that Mr. Waldron still feels that the permits were issued legally and he asked how they could be revoked.

6/2/54

Mr. Dillon said that the matter had been handled very badly by Mr. Waldron and he should have worked with the Zoning Board of Appeals and also consulted the Town Attorney before acting. He said that now the Town Attorney must go into Court and Injunction proceeding to revoke the permits. He said that there has been too much discussion by local residents which involves the members of the Town Board and the Zoning Board of Appeals and he wants the matter cleared up. He again said that the matter was badly handled by Mr. Waldron and the permits should never have been issued on such a plot plan.

Mr. Roepe said that he is certain there will be litigation on the matter since Mr. Stern has too much at stake to allow the permits to be revoked. He said that if the permits were issued erroneously, it was not binding on the Town Board, but if an administrative error was made, the Zoning Board of Appeals may reverse the Building Inspector's decision. He said that an appeal should be made in the usual way and a public hearing held by the Zoning Board of Appeals to reverse the decision of Mr. Waldron.

Mr. Herdman asked if a hearing was necessary.

Mr. Roepe replied that a hearing must be held.

Mr. Jacobson asked if Mr. Waldron could not be asked formally to withdraw the permits.

Mr. Roepe said that he did not think Mr. Waldron had the authority to appeal from his own decision. He said that the Zoning Board of Appeals must make the correction. He stated further that an official body or individual must make the appeal from the Building Inspector's decision, and a hearing held on the matter. He stated that all the legal remedies permitted under the Town Law must be exhausted before he goes into the Courts to start an injunction proceeding.

Mr. Dillon said that assuming that there was no indication of a non profit club at the time the permits were issued, was it Mr. Roepe's opinion that the permits should not have been issued.

Mr. Roepe said that the issuance of a permit for a "no allowed use" was unheard of under the zoning ordinance, and he stated further that it was violative of the intent of the zoning ordinance. He said that an individual could build a factory on his property and say that he wasn't going to use it as such.

Mr. Herdman asked if Stern could be stopped until the matter is settled.

Mr. Roepe replied that Stern should be advised to discontinue operations since he is building at his own risk.

Mr. Dillon said that the matter was the most stupid thing he had ever heard of. He said that Mr. Waldron and his predecessors have insisted on elaborate plot plans for individual homes and then Waldron issues 19 permits without plot plans or any idea of their use.

Mr. Roepe suggested that the Town Board adopt a resolution authorizing the Supervisor to take an appeal to the Zoning Board of Appeals.

Mr. Welchman moved the following resolution:

RESOLVED, that Supervisor Irvin F. Dillon be authorized to appeal to the Zoning Board of Appeals of the Town of Clarkstown to reverse the decision of Building

6/2/54

Waldron in regard to the issuance of 19 Building Permits to the Congers Realty Co., Inc. of Congers, New York, under a "No Allowed Use".

Seconded by Mr. Schmersahl.

Carried.

Mr. Roepe said that a personal service and also registered mail service should be made on Stern before the hearing is held.

There being no further business, the meeting was adjourned.

August W. Hanson
Town Clerk of Clarkstown