

PUBLIC HEARING

MAY 28, 1958

Venice Restaurant
Route 9-W, Valley Cottage, N. Y.

5:00 P.M.

Present: Supervisor John W. Coyle,
Councilman John H. Henken, Jr.,
" Alastair Jeffrey,
" Joseph Welchman.

Absent: Councilman Stephen Danko.

Representing the Village of Upper Nyack:- Russel A. Humes, Esq.,
Village Attorney

Mayor Charles Drumm

Supervisor Coyle opened the hearing and read notice of hearing on Petition for the Annexation to the Village of Upper Nyack, New York, of Territory adjoining said Village, in the Town of Clarkstown, Rockland County, State of New York: For Presentation by the Town Board of the Town of Clarkstown, Rockland County, State of New York, to the Board of Trustees of the Village of Upper Nyack, New York which was marked "Exhibit A".

Supervisor Coyle explained that the petition was submitted pursuant to Section 348 of Village Law and that there were four points on which objections could be based, to wit:

A- That a person signing the petition is not qualified therefor, or

B- That the persons signing such petition did not constitute a majority of the persons residing within such territory qualified to vote for town officers, or

C- That the persons signing such petition did not represent the owners of a majority in value of the property within such territory assessed upon the last preceding town Assessment Roll, or

D- That the petition does not otherwise substantially comply in form or content with the provisions of this section.

The Town Attorney stated Subdivision C was not applicable.

Mr. Coyle pointed out that all objections would have to be submitted in writing.

The Town Attorney filed with the Clerk affidavit of posting in five places within the area sought to be annexed, signed by Roger R. Grahn, which was marked "Exhibit B".

Supervisor Coyle inquired how many persons who signed the petition were present at the hearing. Those who answered were Mr. R. W. D. Jewett, Mr. Hyman Bernstein and Mr. Dominick Fasano.

Town Attorney Johns filed with the Clerk original and copy of the petition in conformance with Section 348 of the Village Law, which was marked "Exhibit C". He stated there were a couple of questions he would like to ask in connection with the petition but that Mr. Zwahlen was not present.

Village Attorney Russell A. Humes stated he might be able to answer the questions.

Town Attorney Everett J. Johns stated there was an error in the name of Miss Chillino on the acknowledgment signed by R. W. D. Jewett and notarized by Frank Zwahlen when Frank Chillino signed as petitioner. Mr. Johns then read the names of signers of the petition and asked if they were the actual owners and whether anyone knew if the property was owned singly or severally, and was answered as follows:

Mr. Liscinsky - Not present. Unable to answer.

George Blakeney - Not present. Unable to answer.

Dominick Fasano - Not present at time. Would inquire later.

Mr. Burnweit - Emilie E. Burnweit is spouse.

Margaret Bliss - Not present. Unable to answer.

C. Chillino - Property in Clara Chillino's name.

R. W. D. Jewett - Owns property in own name.

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Elise Jewett Casse - She owns it.

John Badi - Owns property in his name.

Mr. Hyman Bernstein - Mr. Bernstein stated he signed in behalf of partnership and was given consent.

Augusta E. Dolman - Mrs. Dolman owns both properties in her own name.

Mr. Fassno - Not present. When he appears he will be questioned.

The Town Attorney then stated that the petition together with two maps- "Exhibit A" Map of Territory sought to be annexed and "Exhibit B" Map of present existing boundaries of the Village of Upper Nyack, were open for examination by any persons who wished to make objections.

Supervisor Coyle inquired whether anyone wished to look at the maps of petition. No one responded.

He then asked if anyone wished to be heard in respect to Paragraph A of Sect. 348 of Village Law. Mr. Stanley D. Russell, Valley Road, Valley Cottage appeared and was sworn by Supervisor Coyle, after which he presented a letter of objections on behalf of himself and the Valley Cottage Civic Association, Inc., of Valley Cottage, New York, which was filed with the Clerk.

Upon questioning by Town Attorney Everett J. Johns, Mr. Russell testified as follows:

Q: Mr. Russell, where do you reside?

A: Valley Road, Valley Cottage.

Q: Is it in the territory sought to be annexed?

A: It is not. According to Section 348 of the Village Law, I am a resident of the Town of Clarkstown and therefore thought I was in order.

Q: Do you agree, with the testimony being taken here, to subscribe to it is put in form? Do you agree to subscribe to that at the end?

A: I was representing the Civic Association and the information contained in this letter as presented to the Town Board consists of information which we have derived from a study of the assessment roll, Town maps and the actual petition.

Q: Did you make this examination yourself?

A: I did not.

Q: Could you tell me the number of members of the Civic Association you represent?

A: The Valley Cottage Civic Association. I do not know the exact number.

Q: How many members live in the area sought to be annexed?

A: I am afraid I am not able to answer that. We could find the names of the seven persons living in the area to be annexed.

Q: Mr. Russell, you said Exhibit C was missing. Will you explain what you mean by missing?

A: The petition which was presented to the Town Council of Clarkstown did not consist of the Section which is required by Village Law 348, consisting of the names of the area inhabitants of the territory sought to be annexed.

Town Attorney Johns told Mr. Russell that the record would show that the petition and copy filed with the Supervisor contained "Exhibit C" of the petition. He then told Mr. Russell to examine same.

Mr. Russell then addressed Mr. Johns and said "You asked the number of members of the Valley Cottage Civic Association residing in the area. If you want that part of the record, I will answer the question".

Q: How many? There are not any.

A: Mr. & Mrs. Blakeney and Mr. & Mrs. Donnan.

Town Attorney Johns then said "I will finish my thought quoting and reading from law, "All objections must be in writing and signed by one or more resident taxpayers of the Town

in which the territory proposed to be annexed is situated."

Q: Have you anything more to add to what you said?

A: If you are interpreting that to mean my actions are out of order, I would say that I am a resident of the Town of Clarkstown, where the area is situated.

The Town Attorney then stated he had no other questions to ask.

Mr. Henken mentioned the letter of objections and suggested it be referred to the Assessor's office and if in proper order, it will be given due and usual consideration.

Supervisor Coyle asked if anyone else wished to be heard on Paragraph A of Section 348 of Village Law, i. e., "that a person signing the petition is not qualified therefore".

Q: Mr. Russell asked - the three questions I read will be part of Item A?

A: Mr. Coyle - That is correct.

The Supervisor then asked if anyone wished to be heard on Paragraph B of Section 348 of Village Law, i. e., "that persons did not constitute a majority". The Town Attorney stated that this would not be applicable.

The Supervisor then asked if anyone wished to be heard on Paragraph C of Section 348 of Village Law, i. e., "that persons signing such petition did not represent the owners of a majority of value assessed upon the last preceding Town assessment roll". Mr. Russell stated "You may interpret Section 4 of the letter and Section 5 to cover that".

Q: The Town Attorney asked - Mr. Russell, your point is that subdivision C of Section 348, the matter to which you submit to the board, would cover both A and C. Will you answer yes or no?

A: Yes.

Supervisor Coyle asked if anyone wished to be heard on Paragraph D of Section 348 of Village Law.

Q: Mrs. Helen Klein of Storms Road, Valley Cottage, asked the question - Legally, is Upper Nyack considered part of the Town of Clarkstown? Is a resident of Upper Nyack a resident of the Town of Clarkstown?

A: Supervisor Coyle answered "Yes". The whole Village of Upper Nyack are residents of the Town.

Supervisor Coyle then advised those present that that would conclude the formal part of the hearing in accordance with Section 348 of Village Law but that he would like to bring to attention certain matters raised.

Mr. Russell addressed the Supervisor and stated that Mr. Johns had asked a question before about the validity of representing the Civic Association of Valley Cottage. He added that he was the duly elected President of the Association and appeared with full approval of that Association.

Mr. Coyle stated he was then objecting individually and as President of the organization.

Supervisor Coyle stated that one serious matter was involved here. The proposed annexation would be along the center line of Route 9-W which would lead to many complications. He mentioned that both the Town Highway Superintendent and Mayor Drumm of Upper Nyack were present and that both gentlemen could tell that to have a line drawn the center of a highway could eventually be quite an involved affair. Mr. Coyle stated that presently 9-W is a State highway but if at any time the State builds another highway, the old one reverts to whatever area has jurisdiction and to have half in the Town and half in the Village would not be satisfactory. He stated that it also applied to Christian Herald Road where it runs in a long

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angle. Mr. Coyle stated that the Board would like very much that that matter be straightened out and that annexation be on either one side or the other side of the road. He pointed out that the proposed center line would also seriously affect operation of the Police Departments as far as determining whether accidents happened in the Village of Nyack or the Town of Clarkstown. He stated Chief Wiebicke objected as there would be much difficulty with traffic violations but more with accidents or real crime on the highway.

The Supervisor asked if anyone wished to be heard informally to discuss any part of the application, for the information of the Town Board.

Supervisor Coyle stated one consideration to be taken into account was zoning and decide whether the road should be in the Village or out of the Village.

Mr. Coyle adjourned the hearing and stated the Town Attorney would contact the attorney for the petitioners and the matter will be studied by the Board and determination made as to whether the petition complies with statute. He stated the Board wanted the roads proposition decided one way or the other.

Signed,

Mildred F. Magai,
Town Clerk.