

TOWN BOARD MEETING

Town Hall

6/14/72

8:00 PM

Present: Councilmen Niehaus, D'Antoni, Lodico, Pizzutello, Supervisor Vines
Deputy Town Attorney Martin S. Friedman
Town Clerk Anne E. O'Connor

Supervisor Vines called Town Board meeting to order; assemblage saluted the Flag.

(1972-589) Councilman Niehaus offered the following resolution:

RESOLVED, that Town Board meeting be adjourned in order to hold scheduled public hearings.

Seconded by Councilman Lodico.

All voted Aye.

(1972-590) Councilman D'Antoni offered the following resolution:

RESOLVED, that regular Town Board meeting be resumed, public hearings having been held.

Seconded by Councilman Pizzutello.

All voted Aye.

(1972-591) Councilman Niehaus offered the following resolution:

(INSERT RESOLUTION RESERVING DECISION ON PROPOSED AMENDMENT TO THE ZONING ORDINANCE TRANSFERRING SPECIAL PERMIT REQUIREMENTS FROM THE ZONING BOARD OF APPEALS TO THE TOWN BOARD)

Seconded by Councilman D'Antoni.

All voted Aye.

(1972-592) Councilman D'Antoni offered the following resolution:

(INSERT RESOLUTION RESERVING DECISION ON PROPOSED AMENDMENTS TO LOCAL LAW NO. 9-1971 -- VEHICLE AND TRAFFIC LAW)

Seconded by Councilman Pizzutello.

All voted Aye.

(1972-593) Councilman D'Antoni offered the following resolution:
(INSERT RESOLUTION RESERVING DECISION ON PROPOSED AMENDMENT TO THE ZONING
ORDINANCE -- AMEND SEC. 4.32 G (4) -- GAS STATIONS -- 1000')

Seconded by Councilman Pizzutello.

All voted Aye.

(1972-594) Councilman Lodico offered the following resolution:
RESO. ADOPTING
(INSERT/ORDINANCE ENTITLED "PEDDLING AND HAWKING WITHIN THE TOWN OF
CLARKSTOWN)

Seconded by Councilman D'Antoni.

All voted Aye.

Town Board signed ORDER extending Clarkstown Consolidated
Water Supply Dist. #1 to include FERNDALE SUBDIVISION (J. KNUTSEN) --
INSERT ORDER.

(1972-595) Councilman Niehaus offered the following resolution:

WHEREAS, the following has applied to the Town of Clarkstown
for a Certificate of Registration in compliance with Sec. 34-6 of the
Code of the Town of Clarkstown:

Arthur W. Parker d/b/a Willow Grove Septic
Calls Hollow Road
Stony Point, New York

NOW THEREFORE, be it

RESOLVED, that the following Certificate of Registration
be issued:

No. 72-41 to Arthur W. Parker

Seconded by Councilman Lodico.

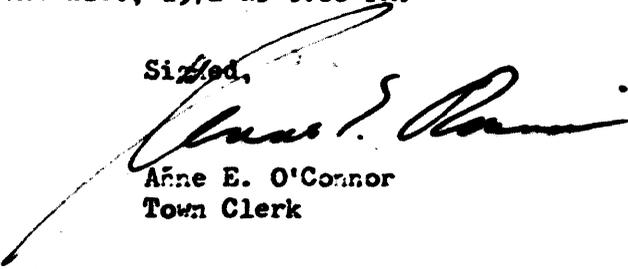
All voted Aye.

EEC855

TBM - 6/14/72
Page 3

On resolution offered by Councilman D'Antoni, seconded by Councilman Niehaus and unanimously adopted, Town Board meeting was adjourned until Wednesday, June 21st, 1972 at 3:00 PM.

Signed,



Aine E. O'Connor
Town Clerk

PUBLIC HEARING

Town Hall

6/14/72

8:00 PM

Present: Councilmen Niehaus, D'Antoni, Lodico, Pizzutello, Supervisor Vines
Deputy Town Attorney Martin S. Friedman
Town Clerk Anne E. O'Connor

RE: PROPOSED AMENDMENT TO LOCAL LAW #9-1971 (VEHICLE & TRAFFIC):

Supervisor called public hearing to order; Town Clerk testified as to proper posting and publication of notice of public hearing.

In letter addressed to the Deputy Town Attorney, John J. Moran, Chairman of the Traffic Advisory Board suggested that an amendment be considered as it concerns "ALL NIGHT PARKING"; the definition as continuous parking between midnight and sunrise to be changed by wording 'No parking 12 midnight to 6:00 AM'.

Deputy Town Attorney Presented proposed amendments as follows:

Amend Sec. 9, Subd. 4B entitled "Procedure" as follows:

B. Within the time specified on the summons, a person may appear personally, or by designated person, or by written power of attorney, in such form as prescribed by the Traffic Violations Bureau, before the Traffic Violations Bureau to answer the violation alleged. Said violation may be satisfied by payment of the prescribed fine and a writing waiving a court hearing. Fulfillment of said conditions shall presumptively be considered a plea of guilty, which plea the Bureau Director shall be authorized to enter. A defense of prior theft of a motor vehicle interposed to a non-moving violation by the owner thereof shall be established to and accepted by the vehicle owner or his agent, by certified mail, return receipt, of a certified record of the report made of said theft of the motor vehicle to any police department, to the attention of said Traffic Violations Bureau.

Amend Sec. 11 entitled "Parking", Subd. 2, as follows:

2. All Night Parking

All night parking on any of the streets, roads and highways of the town is prohibited during the period from November 15 to April 1. All night parking is hereby defined as continuous parking between 12:00 midnight and 6:00 AM.

Amend Sec. 14, entitled "Violations and Penalties" by inserting new paragraph 4 as follows:

4. Notwithstanding any other provision of this local law, any violation hereof which constitutes a misdemeanor under the Vehicle and Traffic Law shall be punished in the manner as provided by the Vehicle and Traffic Law of the State of New York.

(cont)

REC-55

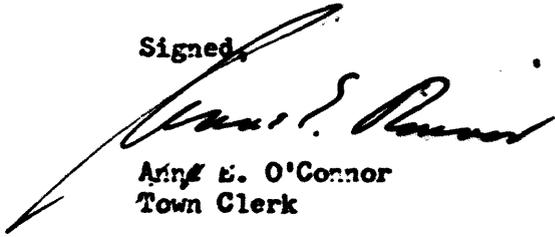
TR - 6/14/72
Page 2

IN FAVOR: No one appeared

OPPOSED" No one appeared.

On resolution offered by Councilman Niehaus, seconded by Councilman Pizzutello and unanimously adopted, public hearing was closed.

Signed,



Aring E. O'Connor
Town Clerk

PUBLIC HEARING

Town Hall

6/14/72

8:05 PM

Present: Councilmen Niehaus, D'Antoni, Lodico, Pizzutello, Supervisor Vines
Deputy Town Attorney
Town Clerk

RE: PROPOSED AMENDMENT TO THE ZONING ORDINANCE (AMEND SEC. 4.32 G (4)):

Supervisor called public hearing to order; Town Clerk testified as to proper posting and publication of notice of hearing.

Communication received from the Town Engineer station that '...since the proposed amendments to the Zoning Ordinance are general in nature, we cannot comment on specific or possible problems related to engineering. In view of this, it is recommended that the Building Inspector's recommendations be considered.'

Communication received from the Building Inspector stated the following:

'I have reviewed the proposed amendment (sic) to Section 4.32(g) (4) and wish to offer the following comments and recommendations as follows:

- (1) Add to existing Section (3) no self service pumps to be permitted.
- (2) Add to Section (4) property line to property line both measurements to be measured in any direction.
- (3) Add to (5) no sales permitted other than from a fully enclosed building.
- (4) Add to the proposed amendment the following after the word existing "or to a location where a special permit has been granted for a"

Theodore Zollendeck, Town Planner, sworn in and testified as follows:

Result of review of proposed amendment; and reasons for proposed amendment:

1. To regulate use of gas stations.
2. To provide for orderly growth.
3. Effect on traffic patterns on highway -- believes that the Town Board should specify a separation factor and should adhere to that; especially on divided highways when station is on opposite side of street. Also, suggested that 1000 feet also restrict existing gas stations. Also, include property on which special permit already exists and upon which gas station has not been already constructed.

Supervisor Vines asked if any period of time be affixed to any existing permit. Mr. Zollendeck replied, no, if existing permit has been issued, but not constructed, it should be considered as existing gas station.

EFC855

Supervisor inquired if it might also incorporate 990' as compared to 1000 feet. Mr. Zollendeck replied, special permit for gas station should meet 1000 feet requirement.

Deputy Town Attorney inquired if town should vary this 1000 feet separation depending on special circumstances. Town Planner replied, yes; in special circumstances, but it should be spelled out.

IN FAVOR:

Bert Strauss, New City, N Y.: It will prevent further gas stations in town; it will prevent increasing traffic hazards, however; clarify. It only says 1000 feet between property lines. This could be interpreted as either straight line distance or highway distance. Highway distance could actually be 1000 feet, but actual borders only a few feet (curve) - specify.

Mr. Glen McCrary, Representing Gasoline Station Dealers of Rockland County: Adhere to 1000 feet without stipulation of malls.

Mr. Bert Kimbark, Congers: Will eliminate unfair competition with all major oil companies.

Mr. George McKenna, Lenox Ave., Congers: Town has enough gas stations.

OPPOSED:

Maurice Phillips, Esq., (Attorney representing Shell Oil Co.): Have application for special permit pending before the Planning Board over a month. Some consideration should be given to this application. No planning reason has been advanced. 1000' has been plucked out of the air. I support the intent of the ordinance, but 1000' is arbitrary. Supports Deputy Town Attorney and Town Planner that profliterations be a matter of legislative judgment. Amendment should provide that one of the criteria this Board must consider is community benefit. Slant proposed ordinance to community benefit.

Everett Johns, Esq., Representing Getty Oil Corp.: Agrees with Mr. Phillips. Questions using its own legislative description. Arbitrary figure of 1000' - there is no reasonable relation to planning or zoning use. It may cause improper land use.

Re zoning ordinance, Mr. Johns continued, North of Thruway, there are approximately three areas zoned RS, which is needed for special permit. Why do we need it in the Town of Clarkstown, the only area along 9W in Congers and Spring Valley; none in New City at all. Getty Oil has seven stations in the county; one of which is in Congers. None in New City. 1000' limitation completely arbitrary. Economic matter of need. \$100,000.00 investment in modern gas station today. If study made of the entire town, you might find that every station in the town, because of this action, be non-conforming. Also, together with 300' limit and plus 1000 feet limit, you might have a problem against a legitimate business of service stations to fill needs.

11 - 6/14/72
Page 3

(Mr. Johns - cont)

There is no record of signs in service station; also insurance rates on Town Hall greater than on service stations.

In conclusion, Mr. Johns stated that in amending ordinance comprehensive plan should be submitted. Also that studies should be made to show effect of 1000' limit; then possibly decision could be made. Until then, he continued the Town Board should not make a decision on creating arbitrary 1000' limitation.

Deputy Town Attorney stated at this point that the Town Board will receive the report of the Traffic Advisory Board concerning the proposed amendment.

On resolution offered by Councilman D'Antoni, seconded by Councilman Niehaus and unanimously adopted. Public Hearing was closed.

Signed


Anne E. O'Connor
Town Clerk

ECC855

PUBLIC HEARING

Town Hall

6/14/72

8:10 PM

Present: Councilmen Niehaus, D'Antoni, Lidice, Pizzutello, Supervisor Vines
Town Clerk Anne E. O'Connor
Deputy Town Attorney Martin S. Friedman

RE: PROPOSED AMENDMENT TO ZONING ORDINANCE (Sec. 3.11 - Table of
Regulations - Auto Laundries):

Supervisor Vines called public hearing to order; Town Clerk testified as to proper posting and publication of notice of public hearing.

Proposed amendment is as follows:

Amend Sec. 3.11, Table of General Use Regulations as follows:
RS Zone, Col. 3, delete Item 6 under A. Board of Appeals and add Item 3 under B. Town Board as follows:

"3. Auto Laundries, subj. to Sec. 4.32 (c).

IO Zone, Col. 3 under B. Town Board, Item 2 to read as follows: "2. Same as Nos. B2 and 3 of RS".

CORRESPONDENCE:

County Planning Board: '....adoption of proposed amendment will probably not adversely affect existing or proposed state or county roads or parks or abutting municipalities.'

Building Inspector: '....no objection to addition of Auto Laundries to RS zone; Col. 3 as proposed. Reference to IO zone should be to the LIO zone as we have no IO zone. Also recommend that consideration be given to the publishing of the entire use regulations under each zone as they are amended so that it will not be necessary to be referenced to another zone.'

Town Planner: '...major purpose is to transfer jurisdiction of granting special permits to Town Board. Has no objection; policy question. Hopes that future amendments, Standards and Regulations could be updated to acceptable zoning practices. Noted that there is apparently a typographical error and that Item 3 should be renumbered to 4, since there are three existing permits in this category.'

Town Engineer: '.....proposed amendments general in nature; cannot comment on specific or possible problems related to engineering. Consider Building Inspector's recommendations.'

Deputy Town Attorney Martin S. Friedman stated that purpose of proposed amendment is to permit jurisdiction re special permits to Town Board, which is more sensitive to wishes of the people. There is no need, he continued, for expert testimony on that account.

IN FAVOR: None
OPPOSED: None

On resolution offered by Councilman D'Antoni, seconded by Councilman Niehaus and unanimously adopted public hearing was closed.

Signed:

Anne E. O'Connor
Town Clerk

PUBLIC HEARING

Town Hall

6/14/72

8:15 PM

Present: Councilmen Nichaus, D'Antoni, Lodico, Pizzutello, Supervisor Vines.
Deputy Town Attorney Martin S. Friedman
Town Clerk Anne E. O'Connor

RE: PROPOSED ORDINANCE PERTAINING TO PEDDLING AND HAWKING IN THE TOWNSHIP:

Supervisor Vines called public hearing to order; Town Clerk testified as to proper posting and publication of Notice of Hearing.

Charles B. McGroddy, Jr., Attorney at Law, Route 9W, Stony Point, New York, appeared before the Town Board, was sworn in, and testified as follows:

He is special counsel to the township. Over the years, litigation involving licenses for peddling and hawking. Collection of fees from itinerant peddlers and hawkers has been declared unconstitutional on the theory that this is tax on interstate commerce.

Also, he continued, bonds, in some cases, were required. This has been stricken by the courts. Nothing had reached the Supreme Court.

License Fee unlawful -- eliminate.

There will be control over hours and days when these people may work. There is requirement that the person applying for license give you the history of his previous experience in this vocation by telling you where he has been licensed.

Proposed ordinance, as presented, will pass the test in the Courts.

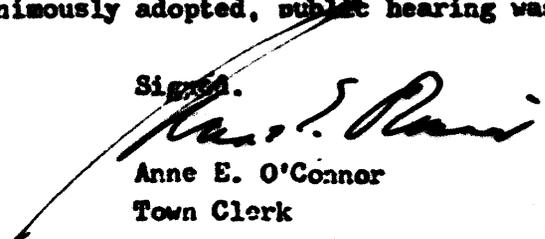
Mr. James Coyle inquired if provision made that person be citizen of the United States. Mr. McGroddy replied 'No; unconstitutional'.

IN FAVOR: No one appeared

OPPOSED: No one appeared.

On resolution offered by Councilman Lodico, seconded by Councilman D'Antoni and unanimously adopted, public hearing was closed.

Signed.


Anne E. O'Connor
Town Clerk

EEC855

PUBLIC HEARING

Town Hall

6/14/72

8:20 PM

Present: Councilmen Niehaus, D'Antoni, Lodico, Pizzutello, Supervisor Vines
Town Clerk Anne E. O'Connor
Deputy Town Attorney Martin S. Friedman

RE: PROPOSED EXTENSION OF THE CLARKSTOWN CONSOLIDATED WATER SUPPLY
DISTRICT NO. 1 TO INCLUDE 'FERNDALE SUBDIVISION':

Supervisor Vines called public hearing to order; Town Clerk testified as to proper posting and publication of Notice of Public Hearing, and also of receipt of certificate from assessor stating that 50% of assessed valuation represented in petition to extend.

Donald S. Tracy, Esq. appeared as attorney for petitioner; John Griffin, 8 Patricia Drive, New City N Y sworn in and testified as follows:

General Counsel and Secretary of Corporation, and as such is familiar with petition, which was signed by John Knutsen, President of Blue Field Homes, Inc.

Proposed extension will benefit all the property owners within the proposed extension. All the property owners who will benefit from this proposed extension are included within the limits of the proposed extension.

Would be in the public interest to grant because it will provide fire protection for the safety and wellbeing of the property and lives and would bring about a reduction in fire insurance rates.

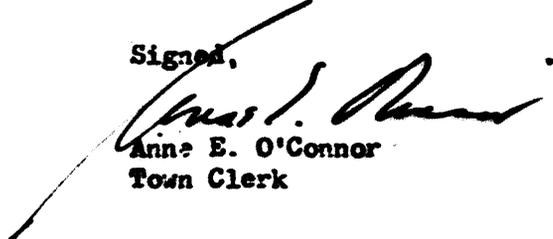
Proposed extension would be at no cost to the town.

IN FAVOR: No one appeared.

OPPOSED: No one appeared.

On resolution offered by Councilman D'Antoni, seconded by Councilman Pizzutello and unanimously adopted. public hearing was closed.

Signed,


Anne E. O'Connor
Town Clerk