

SPECIAL TOWN OF CLARKSTOWN
TOWN BOARD MEETING

Town Hall

4/15/85

8:27 P.M.

Present: Eugene Grogan, Deputy Supv. (Non-voting)
Councilmen Carey, Holbrook
Councilman Maloney arrived 8:35 P.M.
John Costa, Town Attorney
Patricia Sheridan, Town Clerk

Deputy Supervisor Eugene Grogan opened the Town Board Meeting. Assemblage saluted the Flag. Deputy Supervisor Grogan announced that Supervisor Dusanenko was at the hospital with his mother, who was having emergency surgery and had asked the Deputy Supervisor to chair the meeting.

On motion of Councilman Holbrook, seconded by Councilman Carey and unanimously adopted, the Public Hearing re: Proposed Local Law entitled, "AMENDMENT TO LOCAL LAW NO. 7-1981, as AMENDED, ENTITLED, 'A LOCAL LAW CONCERNING AMUSEMENT DEVICES'", was opened, time: 8:27 P.M.

On motion of Councilman Carey, seconded by Councilman Holbrook and unanimously adopted the Public Hearing re: Proposed Local Law entitled, "AMENDMENT TO LOCAL LAW NO. 7-1981, as AMENDED, ENTITLED, 'A LOCAL LAW CONCERNING AMUSEMENT DEVICES'", was closed, time: 8:29 P.M.

At this point Deputy Supv. announced that he had been advised by legal counsel that they could not continue with these public hearings until Councilman Maloney arrived as there was not a quorum present. He was told that Councilman Maloney was due to arrive at 8:30 P.M.

Robert Granik, Esq., stated that if there was not a quorum present there should not be a meeting and it was not proper to wait for someone to arrive. He reiterated that a meeting could not be convened without a quorum. Town Attorney said there would be no lack of due process if the Board waits a reasonable time to see if a quorum can be achieved. A few minutes wait would not jeopardize the validity of the proceedings.

Mr. Granik said that he had an appointment elsewhere. He said that to him this was unreasonable since this public hearing had been scheduled for 8:00 P.M. Town Attorney said that Mr. Granik had been patient and waited for public hearings for many hours on other evenings. Mr. Granik said when others were going on in a properly constituted meeting - this was not a properly constituted meeting. There is no quorum.

Deputy Supv. Grogan requested a recess for approximately ten minutes until the arrival of Councilman Maloney. Recess took place.

On motion of Councilman Holbrook, seconded by Councilman Maloney and unanimously adopted, the Public Hearing re: Proposed Amendment to the Zoning Ordinance to change from an RS zoning district to an R-40 zoning district property to the east side of Route 9W, Congers, New York was opened, time: 8:35 P.M..

On motion of Councilman Maloney, seconded by Councilman Holbrook and unanimously adopted, the public hearing re: Amendment to the Zoning Ordinance to change from an RS zoning district to an R-40 zoning district property to the east side of Route 9W, Congers, New York, was closed, DECISION RESERVED, time: 9:10 P.M.

Mr. Granik said he respectfully brings to the attention of this board that they cannot act now and they cannot act later and

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you cannot approve it. Counsel has advised the Board that the County Planning Board recommended adversely. That requires a majority plus one. You have three members who have heard the hearing and who can vote. There is no way you can have four affirmative votes and by reserving decision you cannot open it up to any other members who may attend at any subsequent meeting and if counsel does not agree with that he would like to hear the justification. The matter falls by its own weight. He stated that that would hold for any other meeting tonight which would call for a majority plus one vote.

On motion of Councilman Carey, seconded by Councilman Maloney and unanimously adopted, the Public Hearing re: Proposed Acquisition of Property owned by American Cyanamid Company (Map 13, Block D, Lot 23.01) for Commuter Parking, was opened, time: 9:14 P.M.

On motion of Councilman Holbrook, seconded by Councilman Maloney and unanimously adopted the Public Hearing re: Proposed Acquisition of Property owned by American Cyanamid Company (Map 13, Block D, Lot 23.01) for Commuter Parking, was closed, DECISION RESERVED, time: 9:40 P.M.

Councilman Maloney spoke regarding the above public hearing and said that he wanted it noted that, after the meeting held a week or so ago in which they listened to proposal No. 4., we said we would not be having a formal meeting until April 23rd. He said it had been mentioned that we were going to have a Workshop Meeting this Thursday and get some input from Mr. Geneslaw and as far as he was concerned, this is still a very negotiable item. We wanted to see what impact it would have if we gave commuter parking by right into that particular LIO zone. He said he was still ready to negotiate.

On motion of Councilman Maloney, seconded by Councilman Holbrook and unanimously adopted, the Public Hearing re: Proposed Amendment to the Zoning Ordinance to change from an RS zoning district to an M zoning district property located at the southwest corner of the intersection of Route 59 and Route 303 in West Nyack New York, designated on the Clarkstown Tax Map as Map 105, Block A, Lot 34, was opened, time: 9:41 P.M.

On motion of Councilman Holbrook, seconded by Councilman Carey and unanimously adopted, the Public Hearing re: Proposed Amendment to the Zoning Ordinance to change from an RS zoning district to an M zoning district property located at the southwest corner of the intersection of Route 59 and Route 303 in West Nyack, New York, designated on the Clarkstown Tax Map as Map 105, Block A, Lot 34, was closed, time: 10:30 P.M. DECISION RESERVED.

Deputy Supervisor mentioned that when the Local Law was discussed earlier in the evening Councilman Maloney was not present. Now that Councilman Maloney is present would they like to take a vote.

It was agreed and the following resolution was presented:

RESOLUTION NO. (329-1985)

ADOPTING LOCAL LAW NO.
4-1985 (CONCERNING
AMUSEMENT DEVICES)

Co. Holbrook offered the following resolution:

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WHEREAS, a proposed local law entitled: "AMENDMENT TO LOCAL LAW NO. 7-1981, AS AMENDED, ENTITLED, 'A LOCAL LAW CONCERNING AMUSEMENT DEVICES'" was introduced by Councilman Holbrook at a Town Board Meeting held on March 12, 1985, and

WHEREAS, the Town Board of the Town of Clarkstown by resolution adopted on the 12th day of March, 1985, directed that a public hearing be held on the 9th day of April, 1985, at 9:30 P.M., and

WHEREAS, a resolution was adopted on the 26th day of March, 1985, rescheduling the public hearing to April 15, 1985, at 8:05 P.M., and

WHEREAS, a notice of said hearing was duly prepared and published in the Journal News on April 1, 1985, and

WHEREAS, a copy of the proposed local law in final form was placed on the desks of the Supervisor and Councilmen at their office at 10 Maple Avenue, New City, New York, on March 21, 1985, and

WHEREAS, a public hearing was held by the Town Board of the Town of Clarkstown on April 15, 1985;

NOW, THEREFORE, be it

RESOLVED, that Local Law No. 4-1985, entitled: AMENDMENT TO LOCAL LAW NO. 7-1981, AS AMENDED, ENTITLED, 'A LOCAL LAW CONCERNING AMUSEMENT DEVICES'" is hereby ADOPTED and passed by an affirmative vote of the Town Board of the Town of Clarkstown, the vote for adoption being as follows:

Hon. Theodore R. Dusanenko, Supervisor.....	Absent
Councilman William J. Carey.....	Yes
Councilman Edward J. Lettre.....	Absent
Councilman John R. Maloney.....	Yes
Councilman Charles E. Holbrook.....	Yes

The Clerk of the Town of Clarkstown was directed to file the local law pursuant to Section 27 of the Municipal Home Rule Law.

Seconded by Co. Carey

All voted Aye.

There being no one further wishing to be heard and no further business to come before the Town Board Meeting, on motion of Councilman Maloney, seconded by Councilman Carey and unanimously adopted, the Town Board Meeting was adjourned.

Respectfully submitted,

Patricia Sheridan

PATRICIA SHERIDAN,
Town Clerk

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TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

4/15/85

8:27 P.M.

Present: Deputy Supv. Eugene Grogan (Non-voting)
Councilmen Carey, Holbrook,
Councilmen Lettre and Maloney absent
John Costa, Town Attorney
Patricia Sheridan, Town Clerk

RE: LOCAL LAW #4, 1985 AMUSEMENT DEVICES

On motion of Councilman Holbrook, seconded by Councilman Carey and unanimously adopted, the Public Hearing was declared open.

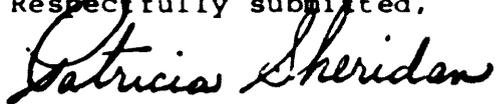
Town Clerk read notice calling Public Hearing and Town Attorney testified as to proper posting and publication.

Deputy Supervisor Grogan asked if there was anyone wishing to be heard either for or against the proposed local law.

Appearance: No one appeared.

There being no one wishing to be heard, on motion of Councilman Carey, seconded by Councilman Holbrook and unanimously adopted, the Public Hearing was declared closed.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

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TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

4/15/85

8:35 P.M.

Present: Deputy Supv. Eugene Grogan (Non-voting)
Councilmen Carey, Holbrook, Maloney
Councilman Lettre absent
John Costa, Town Attorney
Patricia Sheridan, Town Clerk

RE: PROPOSED AMENDMENT TO THE ZONING ORDINANCE TO CHANGE FROM AN RS ZONING DISTRICT TO AN R-40 ZONING DISTRICT PROPERTY TO THE EAST SIDE OF ROUTE 9W, CONGERS, NEW YORK

On motion of Councilman Holbrook, seconded by Councilman Maloney and unanimously adopted, the public hearing was declared open. Town Clerk read notice calling Public Hearing and Town Attorney testified as to proper posting and publication.

Town Clerk read the following letter into the record:

"Clarkstown Town Board
10 Maple Avenue
New City, N.Y. 10956

Proposed Zone Change Map 141 Lots 6.01 and parts of
6.07 and 6.08

Gentlemen:

Ordinarily I speak on behalf of the west branches of the Hackensack River. The captioned property is located on an eastern branch of that river, but I believe the same conservation principles should apply there and I want you to know my concerns.

As now zoned, the parcels allow for regional shopping, a commercial use amidst two park holdings. The land is shown on the town's Environmentally Sensitive Areas Map as being about half within the flood plane(sic) of a 100-year storm. A site plan for the same property shows even more extensive potential flooding. Although the more expensive development likely with most commercial uses could make "engineering" of the Kill van Beeste (sic) economically feasible, such topographic changes entail larger costs that I think are too great.

I believe the most important cost is that taking drastic measures with any significant stream slights its values to the community as a whole. This is a planning consideration. The Kill van Beeste (sic) is associated with the county sole surface water supply. In addition, it, its banks, wetlands and even its flood-prone areas, which serve as storage, are part of a larger eco-system: "management" of such streams diminishes their value to such systems.

As an environmentalist, I urge you to consider that it is almost always better not to meddle with watercourses.

Redistricted for R-40, low density residential use produces a much lower likely intensity of use of this land. As a practical matter, because it is impossible to get mortgage guarantees for residences in the flood plain, no houses are likely to be built there. Short of high-priced contour changing, the most likely future use of this land with R-40 zoning would be under TL 281, with the built density placed on less vulnerable land, perhaps on adjacent parcels to which this might be assembled.

I endorse the proposed zone change.

/s/ Martus Granirer
Martus Granirer

15 April 1985"

Town Attorney read the following correspondence:

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(Letterhead of Rockland County Planning Board)

"Date April 3, 1985

Agency

Clarkstown Board of Trustees
10 Maple Avenue
New City, New York 10956

Re: GENERAL MUNICIPAL LAW (GML) REVIEW: 239(k) 239(l&m) X 239(n)

Map Dated: _____
Item: _____

Zone Change: Map 141, Block A: 6.08, 6.01 & 6.07 partial -RS to R40
(C-1283) E. side of 9W app. 1,100' N. of Lake Road

The Rockland County Planning Board reviewed the above item at its meeting of 4/1/85 and

- *approves _____
- **approves subject to conditions below _____
- **disapproves X
requests extension of time _____

Lack of information

cc: Supv. Dusanenko
R. Lombardi, RCPB
.Clarkstown Planning Board

Very truly yours,
ROCKLAND COUNTY PLANNING BOARD

By _____
Aaron D. Fried, Planning Director

*The proposed action is deemed by the Board to have no significant negative impact on nearby municipalities, County or State roads or facilities and, therefore, the ACTION IS FOR LOCAL DETERMINATION. Approval does not necessarily mean the Board endorses the subject action as desirable from the viewpoint of your municipality.
 **The GML requires a vote of "two-thirds of all the members" or "majority plus one" of your agency to act contrary to the above findings."

Town Attorney read the following correspondence from the Clarkstown Planning Board:

(TOWN OF CLARKSTOWN PLANNING BOARD)

"March 25, 1985

The Honorable Town Board
Town of Clarkstown
10 Maple Avenue
New City, New York 10956

Gentlemen: TOWN BOARD REFERRAL: ZONE CHANGE FROM RS TO R-40: PROPERTY TO E. SIDE ROUTE 9W, MORE PARTICULARLY SHOWN ON THE TOWN OF CLARKSTOWN TAX MAP AS 141A6.01, 6.07 & 6.08, CONGERS.

At the Planning Board meeting of March 20, 1985 Member Nowicki made a motion which was seconded by Smith, csrried 5:0 with Ayes of Centra, Cunningham and Paris, approving the following...

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RECOMMENDATION TO THE HONORABLE TOWN BOARD: The Planning Board has reviewed the referral for change of zone from RS to R-40 for properties shown on the Clarkstown tax maps as 141A6.01, 6.07 and 6.08 in relation to the surrounding area, the site topography, the Comprehensive Plan and the statutory requirements and fully agrees that the area be zoned R-40 for the following reasons:

1. The area directly to the north, south and east is zoned R-40/R-80 and the proposed change would be more compatible with the residential neighborhood,
2. There is a stream that runs along and through some of the parcels which should remain undisturbed: the Town's environmentally sensitive area maps indicate this area as flood hazard area, and the proposed change would allow for protection of the stream and the park environs.
3. The Comprehensive Plan shows the area along Route 9W as regional shopping with the interior parcels farm land and public land; therefore uses as permitted in the intensive RS zone would not be appropriate on these parcels."

Town Attorney said the above coupled with the statutory requirements was the sum and substance of the resolution which was carried at the meeting of March 20, 1985 of the Planning Board.

Deputy Supv. asked if there was anyone wishing to be heard in favor of the proposed zone change:

IN FAVOR

Appearance: Mr. Doug Eichele, President
Congers Civic Association

Mr. Eichele read the following statement:

(Letterhead of Congers Civic Association)

Undated

"Honorable Town Board;

As President of the Congers Civic Association, I represent over 500 Congers residents. At our last general meeting, this zone change was discussed and a vote on the issue was taken. The membership at thue meeting voted unanimously to support the proposed zone change. They requested that I draft this letter, and speak to you this evening regarding this change.

The membership felt that this property was not properly zoned in the first place, since it protrudes into an area that is already a zoned residential area. This property is on a narrow access road not made for large trucks or heavy vehicles. The property in question is adjacent to a state park where many of us take our recreation. The Kill Von Beaste flows through the lower portion of this property. This stream flows directly into our water supply. Everyone was deeply concerned about the effect that a commercial use or misuse might have on our water supply. Since we may be facing drought conditions this summer, we certainly cannot rish the possible pollution of any portion of our water supply.

For the above reasons as well a many others, our members feel that this property is not properly zoned, and urge you to vote tonight to change it to a residential zone. We hope that you will agree with us, and show that agreement by voting in favor of this zone change.

Sincerely,

/s/ Doug Eichele, President
Congers Civic Association"

Appearance: Mr. Alan Gussow
121 New York Avenue
Congers, New York

Mr. Gussow stated that he was in favor of the change and felt that the property was improperly zoned. He said it stands in the flood plain condition and is part of our water supply. He said it is visible from much of the Palisades Parklands. He said to put commercial use there would provide a very bad image. He urged the Town Board to endorse the change and not interfere with a water course. The most important in his opinion was not the visual but the impact on the public water supply.

Appearance: Mr. Nash Castor
Executive Director
Palisades Interstate Park Commission

Mr. Castro said there is an enormous investment by the people of the State of New York in Rockland Lake State Park. He mentioned all of the resources of the Park. He felt that it would be most compromising for the park as they have a common boundary if the zoning there were not changed to R-40. He recommended that the zoning be changed to R-40.

Appearance: Mr. Joseph Raso
Upper Nyack, New York

Mr. Raso stated that he owns 9 acres directly across from the particular parcel in question. He said he was in favor of the zoning change on this and would like it kept the way it is.

Appearance: Mr. Alec Rosensweig
Medway Avenue
Congers, New Yorks

Mr. Rosensweig said there was enough commercial property in the area and he was in favor of the zone change to R40.

Deputy Supv. asked if there was anyone wishing to be heard in opposition to the proposed zone change.

IN OPPOSITION:

Appearance: Robert R. Granik, Esq.
New City, New York 10956

Mr. Granik said he represented the owner of the property in question which the Town Board seeks to rezone. He said we have here the Town Board and everyone who lives in the neighborhood prepared to say what his client should give for his township. He said none of those people are coming forward to give anything. In effect what this Town Board is proposing by this zone change is the taking of property or the right to use the property without fair compensation. If you want it for public benefit, for the drainage, for the park, for beauty or for anything else - take it and pay the man. To simply come in after all these years that it has been zoned RS and now engage in what has become a common practice in this Town that I have called crisis zoning is really unconscionable.

This property has been zoned RS and it is not just one piece. It is part of an RS zone which was originally intended as a buffer between the other properties that we heard about and Route 9W. At what point does it cease to be a buffer between that and 9W? Does this additional piece now become residential and the rest of it the buffer? Does it move up another square two weeks from now? He said he thought that this piece had been RS since the 1967 ordinance. The whole Town underwent the complete updating of the Master Plan. It took over two years for the Planning Board to plan and almost as long for the Town Board to adopt it. Hearings and meetings were held in every hamlet and very definitely in Congers and this property remained RS. He stated that two years ago his client, who works very hard to make a living, contracted to buy this

property for what was to him a very substantial sum of money. When he contracted to buy it, it was zoned RS. The Planning Board had granted final approval to a site plan for a building to be built under that zoning. This was all in accordance with the law and nobody argued about it. For years this property has been taxed RS and taxes were paid on that zoning which is probably the highest zoning designation for taxable property in the Town. Everybody liked that part of it. Now, he has no alternative but to proceed with the closing of title, which he finally did because there was a written opinion that the site plan lapsed by virtue of the fact that it hadn't been acted upon in three years.

Mr. Granik went on to say that counsel is very capable and therefore he is very well aware that that is not the law of the State of New York. The provision of the town ordinance is taken from a portion of the Town law which deals with subdivision planning and there to paraphrase it, it says that if you change the zone of a parcel of land for which a subdivision plan has been approved and duly filed the change of zone cannot affect that land once so subdivided for a period of three years and the law has been held by the courts that if development of that property at any time in that three years is commenced and proceeds the owner has a vested right in that subdivision plan and the change of zone does not affect it. If nothing is built in those three years and you change the zone then three years after you change the zone the plan has no further force and effect.

Mr. Granik said he wrote the opinion first before the proposed change of zone. We discussed this representing our clients. Shortly after Mr. Granik had made known his views to the Town Attorney there is a proposal for a change of zone which we both understand, and trust that everybody else will understand, that by the change of zone since nothing has been built there yet, now the site plan will be vitiated. First, stop the man from using his site plan by rendering an opinion which tells the Building Inspector he can't build that site plan so put a notice of violation on his property which becomes a criminal violation in the Justice Court. I file an appeal to the Zoning Board of Appeals on behalf of my client which automatically stays that criminal action - stays all proceedings until the interpretation of the zoning ordinance can be made by the Zoning Board of Appeals. But now to make the cheese more binding change the zone and that will finish it once and for all.

Mr. Granik said he does not understand what is going on in this Town, in particular. Every town has its own *modus operandi*. In Ramapo if three people get together and scream they form a village and very shortly there will be no more unincorporated Town of Ramapo. We'll be paying a great deal of money for a supervisor more than Clarkstown pays and for councilmen and for nine town attorneys including eight deputies (and he remembered when two men did it all). We will have an unincorporated town and we will have no more town. We'll have twelve villages. Monsey, Airmont, Tallman and South Spring Valley will become villages.

This town is a little smarter. You don't have to form a village. The Town Board, if three people complain or maybe even if one person complains, they will rezone the property. It was done in Bardonia after an applicant not only had the right to do it but got final approval from the Planning Board, had a building permit and then everything was stopped and the Town Board changed the zone. He said he was given multi-family as a sop which is supposed to have economic value. We have a similar situation coming up in Nanuet. Mr. Granik stated that he was not saying the zoning is wrong but we have a group of men wanting to build a small shopping center. For years it has been zoned for that right until somebody comes along and wants to use it. Now we again have crisis zoning. Town Board says we're going to change it, it is referred to the Planning Board and lo and behold the Planning Board agrees with the Town Board for

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a change on all these directed rezonings and they come back immediately with a recommendation for change despite the fact they just finished over two years of considering the whole Master Plan - holding community hearings and not changing it because no one wanted to use it. After all that massive planning effort suddenly they are prepared to change their mind and say, in Nanuet, it should be multi-family. He said though it may seem that he is ranging afield this is all part and parcel of the same thing.

In this case Mr. Schettino buys the property and gives evidence of his intention to use it for that which he has a right - to build a building for which there is a finally approved site plan. One person, the neighbor across the street makes a complaint and rallies the friends he has in the community. Before you know it the Planning Board which had considered this since 1967 several times suddenly is prepared to say that it doesn't belong in that area. It's part of the RS and some place the RS must end. It had ended at the R-40 line. Now it is going to be pushed back a couple of hundred feet in width and that is going to change this whole problem? He said it is not a world shaking problem but what the Town Board is doing is proposing to take away from a man who earns his living the hard way - with his hands - and you're going to say no, you can't use this. Mr. Granik said the best answer of all was Martus Granirer's who said if you zone it R-40 it is in effect unusable. Therefore, by simply rezoning it the Town Board suddenly becomes the beneficiary for the whole town.

Mr. Granik said Mr. Schettino's property should go to the Town so that the whole Town can enjoy it, Mr. Castro's park can benefit from it, Mr. Gusso can be pleased walking along it. Mr. Granik said he didn't deny these things. If you want it, take it and pay for it like gentlemen. Don't steal it from the man who had to break his back most of his life to earn the money to buy it to use it. If you want to give him a sop, do what you did in Bardonia - rezone it for multi-family. Mr. Granik stated that he did not know if that would be any good for Mr. Schettino but at least he would get his economic return from it. Here you are taking the bread out of the man's mouth and saying we are going to make your land useless. That leaves a man no alternative and he is backed into a corner and he must fight. Mr. Granik said if he has to fight for this man he will and every man who votes for this does so knowing that what he is doing is a violation of the Civil Rights Act of the United States. He said they are laying themselves open for personal liability for the damages this man will suffer. There is no question but that this man will suffer because you are taking away his land.

Appearance: Mr. William Nest
Planning Board Member
Town of Clarkstown

Mr. Nest stated that the Master Plan is ever changing. There are many statements made that are not correct. We look at various areas for a long period of time. We recommend to the Town Board what they should be. The Town Board in their wisdom many times does not take the recommendation of the Planning Board at a particular time. For instance the zone change which is coming on Middletown Road - the Town Board perpetually for years recommended that area for residential zoning and not for RS. That does not mean that the Planning Board in the future will not express their thoughts again.

Mr. Nest said he could understand Mr. Granirer speaking but that Mr. Granirer is not a planner. The Planning Consultant for this Town did not state that the land would become useless and you would take it away from the applicant. There is six acres of land plus there. If that site plan comes before the Planning Board it was thought that three lots could be developed and it could be a buffer between the RS zone and we could put some buffer to protect

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that R-40 land from the RS zone there and we could still have a nice green area that would face the park. Mr. Nest said he could not see anyone saying that the land would be totally useless or there would be only one house. The recommendation from our Planning Consultant was that he thought that three houses could be built there.

Mr. Granik said Mr. Nest was wrong and that there were only three acres of land there and if you take away half of that for the flood plain you can't build more than one house. Mr. Nest stated that he was wrong and there are three acres but given the zoning for that area you still could build three houses on three acres.

Appearance: Hershah Greenbaum, Esq.
1 Blue Hill Plaza
Pearl River, New York 10965

Mr. Greenbaum said he was appearing as attorney for Mr. and Mrs. Deal, Mr. and Mrs. Murray and Mrs. and Mrs. Davies in favor of the zone change. He said he would like to assume that the petition here was not for a zone change from RS to R-40 but rather from R-40 to an RS and given the facts that were given by the Planning Board as well as the previous speakers in favor he was certain that the Board would never consider zoning this property RS. Given the creek which runs through there, given the flood plain, given the limited access road - regardless of what the Master Plan had or what it now is that you certainly would not have planned it for RS at this point in time despite what may have occurred several years ago. For that reason he asked that the Town Board favorably entertain a petition to change the zone to R-40.

Mr. Greenbaum went on to say that when a petition is made to change the zone regardless of who the petitioner is, one of the criteria to be considered is of what benefit the zone change will have to the municipality which is entertaining the application. This has been graphically demonstrated specifically with regard to the creek which runs along and through this property which eventually runs into the reservoir and serves as drinking water for this community. To maintain that is certainly beneficial to the community but that would not be assured were the property to retain its RS zone.

Mr. Granik spoke again and said if this property were R-40 he would not be here seeking a change of zone to RS because he learned a long time ago never to undertake a useless act and he said he knew that would be the height of stupidity - to come before a Town Board and ask for a piece of property to be zoned R-40. In denying it you would not be taking anything away. This is zoned RS and if you change it to R-40 you are taking away and there is a vast difference.

There being no one further wishing to be heard on motion of Councilman Maloney, seconded by Councilman Holbrook and unanimously adopted, the Public Hearing was declared closed, DECISION RESERVED, time: 9:10 P.M.

Respectfully submitted,

Patricia Sheridan

PATRICIA SHERIDAN,
Town Clerk

AAG517

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

4/15/85

9:14 P.M.

Present: Deputy Supv. Eugene Grogan
Councilmen Carey, Holbrook, Maloney
Councilman Lettre absent
John Costa, Town Attorney
Patricia Sheridan, Town Clerk

RE: PROPOSED ACQUISITION OF PROPERTY OWNED BY AMERICAN
CYANAMID COMPANY DESIGNATED ON THE CLARKSTOWN TAX MAP AS
MAP 13, BLOCK D, LOT 23.01, FOR COMMUTER PARKING

On motion of Councilman Carey, seconded by Councilman Maloney and unanimously adopted, the Public Hearing was declared open. Town Clerk read notice calling Public Hearing and Town Attorney testified as to proper posting and publication.

Town Attorney stated for the record that this Public Hearing was called for the consideration of pros and cons regarding the possible acquisition of exercise of the right of eminent domain of property located in Nanuet in the vicinity of the Nanuet Railroad Station. The Town of Clarkstown has been fortunate to participate in a project which will add a railroad station or an enclosed platform type station at that location and as part of the participation in the project the Town is responsible to provide sufficient property on a permanent basis for parking of commuter vehicles. The minimum term that the Town needs to accomplish its obligation is a twenty year lease or it could acquire land in fee. The property is owned by Lederle Laboratories - American Cyanamid Company - and has been used by the Town of Clarkstown on a license basis for commuter parking for a number of years.

Town Attorney referred to a drawing of the survey of the property and stated that it had been prepared by Henry Horowitz.

Deputy Supv. asked if there was anyone wishing to speak in favor of or in opposition to the proposed acquisition.

Appearance: Mr. Frank Young
34 Jerrys Avenue
Nanuet, New York 10954

Mr. Young said his property is constantly flooded by storm water and is adjacent to the Lederle property and the railroad property. He detailed past and present problems which he and his neighbors and the firehouse have with drainage. He expressed his concern about the proposed parking area to be paved and stated that it would only add greatly to the already existing problems in the area.

Appearance: Michael J. Trainor, Esq.
representing Lederle Labs

Mr. Trainor presented the following letter to the Town Board:

(Letterhead of Bleakley & Schmidt, Esqs.)

"April 15, 1985

Town Board
Town of Clarkstown
Town Hall
10 Maple Avenue
New City, New York 10956

Re: Proposal to Acquire Property
Owned by Lederle Laboratories

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Gentlemen:

In connection with the proposal that the Town of Clarkstown acquire, through its power of eminent domain, the approximately 10 acres owned by Lederle which are adjacent to the Nanuet Railroad Station, we would like to advise the board members and the public of matters we consider to be relevant.

As you know, Lederle has been permitting free parking on its property under an arrangement with the Town. Lederle has, as far as we know, received no recognition from the Town nor has the public been advised that Lederle has donated the use of its property.

We are advised that it is now necessary that the Town acquire a formal right to use Lederle's property for a minimum of 20 years for parking in order to satisfy requirements imposed by the MTA which is refurbishing the station. In order to minimize the cost to the Town and alleviate certain conditions at Lederle, we have suggested a number of ways in which the required parking could be provided at no cost to the Town. Since it is our understanding that a majority of the commuters using the lot do not reside in the Town of Clarkstown, it was our anticipation that these proposals would be favorably received.

These proposals included the following:

1. Lederle proposed that the Town accept compost generated at Lederle for use as cover for the Clarkstown landfill. The material would be trucked to the landfill by Lederle. Lederle would permit the use of its property under a 20 year lease at no cost to the Town other than forgiveness of taxes. We understand that the Town presently pays approximately \$100,000 for cover at the landfill which is of a lesser quality. (Lederle's compost has been used for, among other things, gardens and recreation fields in the area).

At a hearing on this matter, a number of individuals who live near the landfill appeared and protested this proposal. Although we believe it was demonstrated to any objective observer's satisfaction that the compost is environmentally safe and, indeed, substantially more so than the cover now being used, the Town Board decided not to accept the compost. At a meeting with the members of this group after the hearing, it was explained by them what was already painfully apparent and that is that the problem was not with the compost, the problem was that they were afraid that its use would extend the life of the landfill.*

Although this proposal would save the taxpayers the \$100,000 currently paid for fill and result in free use of the 10 acres, the Town Board rejected it.

2. Lederle proposed that it operate the parking facility and charge a monthly fee to be approved by the Town Board. This proposal would have resulted in no cost to the Town, a nominal charge to the residents and non-residents who use the parking lot and continued use and control of the parking lot by Lederle; which Lederle, of course, prefers. As you know, there are substantial underground facilities which must be available on a 24 hour basis to Lederle. Any disruption in these services could have enormous consequences to the operation of the plant.

Continued on Next Page

*Although invited for a tour of Lederle so they could observe the process which generates the fill, none of these residents have availed themselves of the opportunity.

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For reasons I do not understand and which have never been explained, the Town has rejected the proposal that Lederle operate the lot, although I am advised that the MTA would approve such an arrangement.

3. We have submitted to the Town an appraisal by the Albert Appraisal Company demonstrating that the present fair market value of this property used for its highest and best use, a parking lot, is \$710,000. Lederle requested, based on this figure, a yearly rental of \$75,000. It was pointed out to the Town that by charging a nominal rate of \$1.00 a day the Town could realize a profit of \$20,000 a year. We don't think that charging a dollar a day for parking would be objectionable; particularly since the majority of the commuters do not live in Clarkstown and the taxpayers in Clarkstown presumably have no interest in subsidizing commutation costs of non-residents.

This proposal was rejected by the Town.

4. Lederle proposed that the Town lease 4 acres at a rental of \$17,000 a year with \$5,000 increments every 5 years and that the Town forgive taxes for the entire 10 acre parcel. In addition, we requested that the Town take action to permit parking on this site since that is the use which would be dictated by the Town's lease.

We believe that such an extremely favorable rental to the Town entitled Lederle to the protection that a declaration of permitted use would give. Of course, as long as the Town operated under its lease, the lot would be under municipal control.

This proposal has, at least as of this evening, not been accepted by the Town.

The final proposal, and the one which is the subject of this hearing, is that the Town Board authorize the acquisition of this property by condemnation. Lederle will fight such an attempt. We believe that it represents the worse(sic) possible solution. We question whether it is really "public use" for the Town of Clarkstown to provide parking for a nominal charge for non-residents or, for that matter, for the Town to subsidize the commutation costs for a small segment of its own population by providing parking at a cost to all taxpayers of the Town.

We also believe the Town would be undertaking a proceeding which may well result in substantial damages. Lederle believes that a condemnation award based upon the present fair market value of the land, excluding consequential damages, would be in excess of \$700,000. If and to the extent the underground facilities are disturbed, we believe that the consequential damages to Lederle will exceed \$1,000,000. Further, we are given to understand by the State of New York that required drainage for a full utilization of this site would be approximately \$300,000.

Lederle remains unable to understand why the Town Board would expose its taxpayers to such enormous consequential damages in order to acquire land which could be utilized at no cost to the Town and under circumstances in which the Town could actually realize a profit in excess of \$100,000 a year. To ask the taxpayers to approve such a condemnation, at enormous monetary risk, to provide services which are largely intended for non-residents is, we believe, both unnecessary and unwise.

Respectfully,

/s/ Michael J. Trainor

Michael J. Trainor

PH - ACQUISITION OF PROPERTY OWNED BY AMERICAN CYANAMID - COMMUTER
PARKING

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Appearance:

Mr. Philip Bosco
2 Short Street
West Nyack, New York 10994

Mr. Bosco asked the Town Board for an explanation of why they are going this way when it appears it will cost more money. He said as a taxpayer he is looking for the cheapest way to accommodate the residents of the Town of Clarkstown. He said he had heard that there will be parking permits issued in the future and he hoped that non-residents would be charged a fee to use the parking lots. He voiced his concerns as to whether he would be able to afford to retire in this Town the way things are going.

Councilman Holbrook said that he felt the cheapest way to go would be to accept their compost but that the people in West Nyack had rejected that because of the landfill. Sometimes the cheapest is not always the best. He said he did not think the Board was prepared to make a decision on this condemnation proceeding tonight.

Town Attorney said that he wanted to clarify one or two points. The Town has paid property taxes to Lederle as part of the license agreement and the fact that phrase "not paying any rent" is not 100% accurate. The Town has reimbursed fully for the taxes on the property and the property owner does derive substantial economic benefits from the land because it has certain installations on the land that aid in its manufacturing process. Those were alluded to by Mr. Trainor in terms of his comments concerning potential consequential damages. He said the Town Engineer and others have considered the needs with respect to having a parking lot but not wanting to interfere with the use of the surface which contains a substantial well that provides a lot of water to American Cyanamid. He said it was also important to note for the record that the project that is going ahead with New Jersey Transit, Rockland County and the MTA involves the expenditure of \$1,000,000.00 to construct an all-weather type train platform. The Town's participation in this project is 8% of the total cost plus the acquisition of the property. Without the property the project would not go forward. The contractors are anxious to proceed and the Town has to make a decision within a reasonably short period of time whether it will accept a combination of American Cyanamid's proposals or have to proceed to acquire the property. The issue before the Board tonight is not so much the propriety or of how the property is to be paid for but whether there is a public need to acquire it. Under the Eminent Domain Procedure Law the property owner is entitled to just compensation for the loss of the property and if the parties could not agree that would have to be determined by a separate judicial proceeding.

There being no one further wishing to be heard, on motion of Councilman Holbrook, seconded by Councilman Maloney and unanimously adopted, the Public Hearing was closed, DECISION RESERVED, time: 9:10 P.M.

Respectfully submitted,

Patricia Sheridan

PATRICIA SHERIDAN,
Town Clerk

AAG517

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

4/15/85

9:41 P.M.

Present: Dep. Supv. Eugene Grogan
Councilman Carey, Holbrook, Maloney
Councilman Lettre absent
John Costa, Town Attorney
Patricia Sheridan, Town Clerk

RE: PROPOSED AMENDMENT TO THE ZONING ORDINANCE TO CHANGE FROM AN RS ZONING DISTRICT TO AN M ZONING DISTRICT PROPERTY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF ROUTE 59 AND ROUTE 303 IN WEST NYACK, NEW YORK, DESIGNATED ON THE CLARKSTOWN TAX MAP AS MAP 105, BLOCK A, LOT 34

On motion of Councilman Maloney, seconded by Councilman Holbrook and unanimously adopted, the Public Hearing was declared open. Town Clerk read notice calling Public Hearing and Town Attorney testified as to proper posting and publication.

Town Attorney read the following letter:

(Letterhead of Rockland County Planning Board)

April 3, 1985

Clarkstown Board of Trustees
10 Maple Avenue
New City, New York 10956

Re: GENERAL MUNICIPAL LAW (GFML) REVIEW: 239(k) 239(1&m)X 239(n)

Map Dated: _____
Item: _____

Zone Change: Map 105, Block A, Lot 34 - S.W. corner of intersection of Routes 59 and 303. RS & M to M (C-1284)

The Rockland County Planning Board reviewed the above item at its meeting of 4/1/85 and

*approves _____
**approves subject to conditions below _____
**disapproves X
requests extension of time _____

Regional shopping is proper for area. Noe - previous board decision that entire parcel be zoned RS.

cc: Supv. Dusanenko
R. Lombardi, RCPB
Clarkstown Planning Board

Very truly yours,
Rockland County Planning Bd.

By /s/ Aaron D. Fried

Aaron D. Fried, Planning Director

*The proposed action is deemed by the Board to have no significant negative impact on nearby municipalities, County or State roads or facilities and, therefore, the ACTION IS FOR LOCAL DETERMINATION. Approval does not necessarily mean the Board endorses the subject action as desirable from the viewpoint of your municipality.
**The GML requires a vote of two-thirds of all the members" or "majority plus one" of your agency to act contrary to the above findings."

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Town Attorney said he also had minutes of the March 20th, 1985 Town of Clarkstown Planning Board which includes the following recommendation:

"The Planning Board has consistently recommended that the area shown on the Town of Clarkstown Tax Map as 105A34 be changed to M, and the PB therefore reaffirms such recommendation, pointing out the serious traffic concerns if the property is developed as RS; limited sight distance for Route 303 traffic travelling south because of the Rt. 59 overpass; the proximity of this property to the landfill, which does lend itself more to M uses than shopping uses."

The rest of the minutes indicate that statutory requirements were considered by the Planning Board.

Town Attorney said that the Clarkstown Planning Board had recommended that the property be rezoned to M from RS which was on a motion which carried 4-0 with one abstention.

Appearance: Mr. William Nest, Member
Clarkstown Planning Board

Mr. Nest said the Planning Board has consistently recommended that this parcel be rezoned completely M. The consultant to the Planning Board, Mr. Geneslaw, made a deep study of the whole area on Routes 59 and 303 and you will recognize that the RS zone had tried to be restricted to both sides of Route 59. All of 303 other than a slight portion which was RS is zoned M or LIO and the Planning Board would like that to be continued that way on Route 303 and restrict the RS zone to Route 59.

He said as the property is zoned now, the building would have to be constructed so that as you leave the building and you walk across the parking lot to your car you would be looking right into the landfill. It is a concern of the Planning Board that that does not seem the right kind of atmosphere for a shopping center with food.

He said they were so much concerned that they wrote to the Rockland County Department of Health. He read from a memo from the Associate Public Health Engineer. They had questioned him on the rodent infestation there and possible odor problems. He read from the letter which stated that a report containing the recommendations of the Public Health Engineer was attached. If all of his recommendations were strictly adhered to prior, during and after construction there should be no problem. However, the concern regarding odor problems had no solution. Under atmospheric inverse inversion conditions the odor of decomposing garbage will linger in the area of the proposed shopping center. This will continue as long as the landfill is in operation.

Mr. Nest said under the Engineer's restrictions what he is asking be done there the one that Mr. Nest was concerned with was when the Engineer stated that after the center is completed it was his strong recommendation that a professional exterminator be retained on a full time basis to ensure that the area is kept rodent free at all times. Mr. Nest said when you read this you must question whether it is beneficial to have an RS zone under conditions like that.

Mr. Nest said he was very familiar with the drainage area and the roads in this particular area because he worked in Rockland County for the last forty years. The drainage comes down Route 59 and it heads right for this property. When they discussed possible building on this property they called for a enclosed drainage culvert would be placed through the center of this property. It is the concern of the Planning Board and the

PH - AMENDMENT TO ZONING ORDINANCE - ROUTE 303 AND ROUTE 59 - WEST
 NYACK - TERRA EQUITIES
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Environmental Control Department of this Town that nothing ever be built on top of an enclosed culvert because you never know what is going to happen - floods, etc. - and it must be cleaned out. He said he would assume that the engineers will say there is another means of diverting the water. There probably will be and new plans may be accepted but at the present time that is what we are looking at.

Mr. Nest said as far as the roads are concerned the DOT has stated that they will put a light on Route 303. Without a light there it would be a physical impossibility to use that land. He spoke about the problems regarding sight distance, entrance and exits, change of cloverleaf in the area, etc.

Mr. Nest concluded by stating that the Planning Board believes this land should be all rezoned to M so that it would fit in with everything else on Route 303 and be less intense in that area.

Councilman Holbrook asked how could our Planning Board have such a positive view regarding this change and the County Planning Board continually comes up with disapproval and he wondered if the County Planning Board had put in as much time and thought as the Town Planning Board regarding this issue. Mr. Nest said he wondered about that and wished that our Planning Board could meet with the County Planning Board on many of these matters before they are presented to the Town Board. Deputy Supervisor suggested that perhaps Mrs. Schwartz of our Planning Department could contact Mr. Fried of the County Planning Board with a view to just such a meeting.

Appearance:

Mr. Philip Bosco
 2 Short Street
 West Nyack, New York 10994

Mr. Bosco stated that he operated a retail beverage store on Route 59 in the general area in question. He stated that he believed that the the Rockland County Planning Board should meet at night in order that their meetings would be available to the citizens in Rockland County. He questioned the validity of many items which the Rockland County Planning Board had voted on in the past. He also questioned the make-up of the County Planning Board. He urged a memorializing resolution from the Town requesting them to meet at night. He stated that he had heard that the Rockland County Planning Board was nothing more than a "builders' and lawyers' club."

With regard to the subject at hand he said what we don't need is any more expansion of our retail areas. We should be looking at our LS, RS and CS zones for the purpose of the multi-family we are proposing. The area is not conducive to it and we should be spreading the shopping out. There will be tremendous traffic problems if anything other than a passive type operation is placed in that area.

He stated we have lost in the neighborhood of some 600 jobs in that area. He said he had appeared at the meeting of the Industrial Development Commission (at which only 3 of 11 members appeared so there was no quorum) and requested that they try to develop the 93 acre parcel owned by Mr. Dexter. Now that drainage seems to be under control we should be working on the biggest parcel of land to be developed industrially.

He urged that this be an M zone and that our Industrial Development Commission be given the teeth to function on behalf of this Town to bring in as many ratables as we can.

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 NYACK - TERRA EQUITIES
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Appearance: Miss Stephanie Bosco
 2 Short Street
 West Nyack, New York

Stephanie Bosco said that she had a letter from
 Rosemarie Seery:

"R.R.E.P.
 15 Flitt Street
 West Nyack, New York 10994
 April 15, 1985

Clarkstown Town Board
 Town Hall
 New City, New York

Dear Gentlemen:

I will unfortunately be unable to attend the meeting this evening pertaining to the proposed Pathmark Super Center due to a previous commitment. But I will voice my opinion on this so that you will know how I stand.

I, along with my fellow group members, feel that this area is extremely sensitive to major construction in that any digging or landfilling seems to create a serious change in the watershed below. There has notd always been an immediate change but through the years a slow and constant one. We must be extremely careful when dealingf with this area because of the environmental poroblems which surround it, such as: the flood plain below, the surface and subsurface of the land quality due to the water table and landfilling which has taken place here for over fifty years, the (landfill) rodent problem, the flooding of Rt. 59 and the Pine View Well area (both border the landfill), thue air quality of this valley area, the increasing traffic problems, etc.

I have hope that this area will prosper and grow, but we must be careful not to over-burden this site with the improper planning which has been the problem of past administrations. I feel that an Environmental Impact Study should be requested of any potential builders for this site.

This section of West Nyack has much potential for commercial, as well as, residential use, but we must use careful planning. Here sits a hundred acres just three miles from the Tappan Zee Bridge and what value is it as a DUMP?

In closing may I repeat that it is of utmost importance that an E.I.S. be done to determine the best use of this land for all concerned, keeping in mind that the residents and businesses here should all be included in such a study, for we are all part of the environment.

Sincerely yours,

/s/ Rosemarie Seery

Rosemarie Seery
 Rockland Residents for
 Environmental Protection"

Miss Bosco said on behalf of the resident business people in the area she had encountered opposition to the proposed Pathmark Center and they do not want the rodents. There is a problem now and the proposed shopping center will be that much closer to the landfill and hence to the rodent population than existing businesses are now. There is also a dust problem and people will be buying products covered with dust. She also

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 NYACK - TERRA EQUITIES

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mentioned the problems with mold and mildew which will cause allergies or aggravate existing allergy problems.

Appearance: Patricia and Ed Hoenig
 45 South Route 303 (Garage)
 6 Greenbush Road (Bookstore)
 West Nyack, New York

Mrs. Hoenig said she wished it noted that they were definitely against the zone change. Their property is zoned RS and it is RS all the way down to the town line at Orangetown. Mrs. Hoenig said if you can change the zoning on this property what is to stop you next year from changing the zoning on their property or if they decide to sell and you decide the business that may be buying their property is not what you want there what is to stop you from changing their zoning from RS to M? She said that is mainly what they are here for and what they would like to express tonight.

She said they are not definitely supporting the shopping center but they would like to see that property developed. Now that someone wants to develop it you want a zone change so that property cannot be developed for what they want to put in there. They think it would be 100% improvement to what is over there now which is nothing but the dump.

Mr. Hoenig said he has been in that location for twenty-one years and the piece of property in question has never been flooded. Route 59 has been flooded and closed down a number of times. He did not see any big problem so far as drainage was concerned. He said traffic on Route 303 is safer than on Route 59.

They discussed stores which had been opened recently in the area. It should not be a concern of this Board to decide what type of business a person puts on their property. Pathmark is adjacent to the dump right now and there does not appear to be a problem and they failed to see where there would be a problem with the new one.

Mrs. Hoenig said that somewhere along the line the Planning Board had stated that there could be a potential health hazard. They have lived there for twenty-one years. Many years the Health Department was contacted because of the odor. Their children would not go out and play because the odor was so terrible. The Health Department checked it out and they have letters stating that it is definitely not a health hazard. Now, all of a sudden it has become a health hazard because they want to develop the property across the street. We were told that we could live with it but now it is a health hazard.

Mr. Hoenig said he hated to think that they would change the zoning and knock down a chance for the area to improve. Mrs. Hoenig said they have never been notified before regarding a change of zoning in the area.

Appearance: Robert Granik, Esq
 New City, New York

Mr. Granik said he represents Terra Equities, the contract purchaser of the property in question. Mr. Granik said the County Planning Board is composed of representatives from each of the five towns and the Superintendent of Highways who does have a vote. He said the Superintendent of Highways does sit in and knows more about what is going on than perhaps all of the other members together. He said to say that it is a "builders' and lawyers' club" is erroneous. It is very difficult to practice before them and the Superintendent of Highways is also very difficult. If Joe Hornik recommends something or votes for it, it is going to be pretty close to perfect as far as highway or county related activities are

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concerned. The reason they don't hold meetings at night is because they simply do what is called a municipal law review and they are only involved in matters which relate to state highways, state streams, state parks, county highways, etc. They are not a body supposed to hold public hearings such as our Town Planning Board or our Town Board. They determine from a "professional" point of view.

With respect to the present situation Mr. Granik discussed the supposed traffic impact and stated that it was so small that the Rockland County Planning Board said that the increase that could come about from the proposed use would be so small it would have no impact on the highway traffic system. New York State DOT reviewed this application and had no comment except that they were willing to approve a traffic light in the area. They redesigned the access from Route 59 heading east onto Route 303 heading south. The only design change they made was instead of all traffic flowing straight up the ramp traffic would come out on a perpendicular Route 59, stop at a stop sign so they could see traffic in both directions and then make the turn to the right.

The Rockland County Planning Board said the same thing regarding the impact on traffic of the proposed use. No one in the County is better qualified to make a recommendation on that system than Joe Hornik. Mr. Hornik agreed completely with the state. When a layman is going to conflict with a professional he is wrong. The professionals are right.

Mr. Granik said in this case his client is a very substantial building developer/contractor who can well afford to do whatever he has to do to protect his rights. All four corners of Route 59 where it meets Route 303 are zoned RS. You cannot say that you are going to take one corner because a few people who own shops in the neighborhood don't want additional competition which is what it is all about. The Planning Board is supposed to be an autonomous body but because they are local people they are subject to local pressures and in recent instances they have buckled to local pressure - and this happens all the time.

All of the talk you have heard is layman talk and all of it is concerned because they are worried about their own competition but competition is the life blood of this nation. It has made everything grow. If you don't want anything there extend the landfill to Route 59 and take everything away. Part of that is under consideration for a sludge facility anyway according to hearsay. What is the difference of the odor from the landfill to shoppers going there as against people who live there or to those who will go into the M type of manufacturing facility which you think should go in there. It has been mentioned that industry has left the area. Who is going to want to go in there if you make it industrial? What is the big deal for industry if industry is moving out of there? By creating 10 or 11 more acres of industrial land is not going to bring anybody in.

The economic need dictates the use of the property. When the economics are there for the property to be developed for a particular use you will start getting applications, one after the other, to change the zone to this, that or the other thing. Are you really telling me that you and the community are going to be happier if this becomes M and that 11 acres becomes a truck transfer terminal because that is what is permitted in an M zone, among other things? Will a manufacturing facility that has 300,000 square feet be better for traffic than the incidental shoppers who come all day and leave all day and don't give you a concentrated traffic at 8:30 to 9:30 in the morning and from 4:30 to 5:30 in the afternoon? Shopping centers are probably the best traffic and industrial trucking maybe the worst.

There is no flooding in the area and the drainage is now controlled in the southeasterly corner by a drainage retention basin

by State DOT. The plan is being designed by Raymond Keyes, Engineers, probably the finest firm in the entire country for this type of work and they have designed a drainage system which will take the flow from the state retention system which is very bad (and they acknowledge that it is) and it will do the Town a \$1,000,000.00 benefit in picking up that drainage, allowing it to go through the property and go back into the Hackensack River where it ultimately should go. Now it is doing it in spread fashion and this will be a controlled culvert fashion.

Mr. Granik said it was true when Mr. Nest stated that at the time we presented a preliminary site plan we showed a culvert under a portion of the building but that was because time was of the essence and we had to get a plan in. Mr. Granik said he had mentioned to the Planning Board that they were thinking of dividing the super market building from the satellite stores by a brook. There would be a walkway over it but there was never any intention of having a running stream in an enclosed box culvert underneath a main building. It would either go between buildings which would be separated or it would be channelled around the building to develop the best engineering flow.

The original plan which was submitted to the Planning Board and which came before this Board for a change of zone to change the M to RS was the intelligent plan and that was the plan that the County Planning Board recommended favorably. They recommended denial to the plan we submitted recently not because it was a bad plan but because they preferred the other plan and they said so. They asked the Planning Board and the Town Board to reconsider denial of the change of zone for the M piece to RS because you can't look at the site and the plan and say that the proper use of that thing isn't for the shopping center to be in the back of the property in the southwest corner rather than up in the northeast corner of the same property. That's what they thought was best and that's what the State DOT thought was best for traffic. Everyone thought it was best but because some people didn't want more shopping as it was competition for them it was opposed and we are here tonight. This is another crisis zone change.

Mr. Granik said Pathmark is one of the three top names in the food field in the country today. They want to build a super store here. They are not planning that kind of a multimillion dollar operation without having decided and analyzed that this was the site for it and that people would come to it. They determine the economic trends for themselves before they go into that kind of investment.

Mr. Granik referred to the report from the Health Department which said if they follow our directives there will be no problem. As for coming out of the shopping center and looking into the landfill - that will be fenced and landscaped. Everything will be landscaped. We must start doing things not just for one or two people but for the whole community of 82,000. The one or two people here do not represent the whole town. The Board represents the whole town. You are talking about millions of dollars of ratables. How many million dollar ratables can we throw out of this town? We lost \$6,000,000.00 at the theater property. Despite all the talk and the ads welcoming industry to this town it still takes a year to eighteen months to get a simple site plan approved even when you have the zoning as a right. How many industries and commercial developers are going to want to come here if that's the way it's going to be?

Mr. Granik said you have three voting members present this evening who have heard this argument. You have an adverse decision from the County Planning Board. You need four votes to carry and there is no way you can do it. It has got to be denied. It's a matter of law.

Appearance:

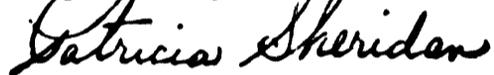
Mr. Joseph Centra
Clarkstown Planning Board

Mr. Centra said that Mr. Nest did not say that the odor was a health hazard but a concern. The State DOT did approve the White Castle and made an error in judgment. Maybe that will calm down but right now it stands as an error in judgment. Mr. Centra said in his own layman's opinion he felt that what was supposed to be twenty or thirty years ago the advent of the cloverleaf at major intersections was the best thing since canned beer and now DOT is promoting a right angle entrance and exit from Route 59 onto Route 303. The line of sight looking north with the overpass of Route 59 you cannot see cars coming down Route 303 even if it is 40 miles per hour. We have a sight problem.

Mr. Centra said his main concern was the line of sight and if that intersection were moved further south maybe he would change his mind on development but in the present location and trying to have egress from Route 59, cars coming down Route 303 whether it is a right angle or not, he thought was a major problem which is his main concern at that particular intersection. The telephone company is not permitted to make a left turn crossing traffic onto Route 303 but must route around because of the traffic problem.

There being no one further wishing to be heard, on motion of Councilman Holbrook, seconded by Councilman Carey and unanimously adopted, the Public Hearing was declared closed, time: 10:30 P.M. DECISION RESERVED.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk