

TOWN OF CLARKTOWN
TOWN BOARD MEETING

Town Hall

7/12/88

8:05 P.M.

Present: Supervisor Holbrook
Council Members Carey, Kunis, Maloney and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

Supervisor Holbrook declared Town Board Meeting open.
Assemblage saluted the Flag.

Supervisor declared the Public Portion of the meeting
open and asked if there was anyone present wishing to speak.

No one appeared.

RESOLUTION NO. (702-1988) ACCEPTING MINUTES OF PUBLIC
HEARINGS OF MAY 25,
CONTINUED ON MAY 31 AND
CONTINUED ON JUNE 21, 1988
AND MINUTES OF REGULAR TOWN
BOARD MEETINGS OF JUNE 14
AND JUNE 28, 1988

Co. Carey offered the following resolution:

RESOLVED, that the minutes of the Public Hearing of May
25, continued on May 31 and continued on June 21, 1988 and the
minutes of the regular Town Board meetings of June 14, 1988 and June
28, 1988 are hereby accepted as submitted by the Town Clerk.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Carey.....Yes
Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (703-1988) AUTHORIZING RENEWAL OF
AGREEMENT WITH NEW YORK
STATE THRUWAY AUTHORITY FOR
USE OF CLARKSTOWN SANITARY
LANDFILL

Co. Maloney offered the following resolution:

WHEREAS, the New York State Thruway Authority has an
agreement with the Town which provides for use of the Clarkstown
Sanitary Landfill for the period beginning May 17, 1988 and ending
on May 16, 1989, and

WHEREAS, the Town Board is willing to renew said
agreement with the provision that the New York State Thruway
Authority pays an additional fee for the disposal of its tires at
the Clarkstown Sanitary Landfill at the rate required by the Town;

NOW, THEREFORE, be it
RESOLVED, that the Supervisor is hereby authorized, on
behalf of the Town of Clarkstown, to enter into an agreement with
the New York State Thruway Authority to provide for the use of the
Clarkstown Sanitary Landfill for a one year period commencing May
17, 1988 and terminating on May 16, 1989, upon payment of the sum of
not less than \$5,000.00, and be it

Continued on Next Page

RESOLUTION NO. (703-1988) Continued

FURTHER RESOLVED, that the New York State Thruway Authority pays an additional fee for the disposal of its tires at the Clarkstown Sanitary Landfill at the rate required by the Town.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (704-1988)

AUTHORIZING TOWN
COMPTROLLER TO AUTHORIZE
PAYMENTS OF LOST COUPONS

Co. Maloney offered the following resolution:

WHEREAS, the Town of Clarkstown has been advised by Chemical Bank as agent for Bonds Number 968, 969 and 970 dated March 15, 1976, due March 15, 1996, that Coupon due March 15, 1987 (i.e., 3 coupons), each with a value of \$212.50 totalling \$637.50 have been lost in bearer form, and

WHEREAS, an Affidavit of Loss, Theft or Destruction and Bond of Indemnity has been tendered by the paying agent and the Seaboard Surety Company;

NOW, THEREFORE, be it

RESOLVED, that the Affidavit and Bond referred to above are hereby accepted and the Town Comptroller is hereby authorized and directed to authorize payment of the three (3) coupons due March 15, 1987, each with a value of \$212.50, and totalling \$637.50, with regard to Bonds Number 968, 969 and 970, without physical presentation of said coupons.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (705-1988)

AUTHORIZING TOWN
COMPTROLLER TO AUTHORIZE
PAYMENT OF A LOST COUPON

Co. Maloney offered the following resolution:

WHEREAS, the Town of Clarkstown has been advised by Citicorp Investment Bank, as the agent for General Sewer Purpose Bond No. 2028, that a Coupon due August 1, 1988 has been lost in bearer form; and

WHEREAS, an Affidavit of Loss and Bond of Indemnity has been tendered by the paying agent and the Federal Insurance Company;

NOW, THEREFORE, be it

RESOLUTION NO. (705-1988) Continued

RESOLVED, that the Affidavit and Bond referred to above are hereby accepted and the Town Comptroller is hereby authorized and directed to authorize payment of a coupon due August 1, 1988 which was detached from 5.80% Various Sewer General Purpose Bond (series of 1971 due February 1, 2000) under Bond No. 2028 to be paid when due, without physical presentation of said coupon.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Carey.....Yes
Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (706-1988)

ASSESSING COSTS FOR BULK
PICKUP BY TOWN HIGHWAY
DEPARTMENT

Co. Maloney offered the following resolution:

WHEREAS, the following properties have been improperly maintained and not kept free of vermin, nuisances, hazards, debris and litter in violation of Chapter 79 of the Code of the Town of Clarkstown, and,

WHEREAS, the removal of such nuisance, hazard, debris and litter has been performed by the Superintendent of Highways;

NOW, THEREFORE, be it

RESOLVED, that the costs of removal shall be charged and assessed against the owners of the property, and said expense so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town charges; and be it

FURTHER RESOLVED, that the following properties are hereby charged and assessed as aforesaid:

- MAP 23, BLOCK A, LOT 18.1, reputedly owned by TIKVAH ELECTRIC CO., INC. - \$334.82;
- MAP 123, BLOCK C, LOT 21, reputedly owned by GARY PARK and JODY SAUNDERS - \$1,040.25;
- MAP 123, BLOCK C, LOT 22, reputedly owned by AZIZ ESHRAGHI - \$1,040.25;
- MAP 141, BLOCK B, LOT 1, reputedly owned by FRED J. CIFUNI - \$804.70;
- MAP 7, BLOCK E, LOT 10, reputedly owned by CLYDE BROWN - \$298.32;
- MAP 126, BLOCK F, LOT 33, reputedly owned by OLIVE M. FERREIRA and MARY E. FERREIRA - \$273.94

Seconded by Co. Carey

Continued on Next Page

RESOLUTION NO. (706-1988) Continued

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (707-1988)

AUTHORIZING SETTLEMENT OF
TAX CERTIORARI (REM
ASSOCIATES V. ASSESSOR,
BOARD OF ASSESSORS AND
BOARD OF ASSESSMENT REVIEW
AND TOWN OF CLARKSTOWN

Co. Maloney offered the following resolution:

WHEREAS, proceedings were commenced in Supreme Court, State of New York, County of Rockland entitled REM ASSOCIATES vs. THE ASSESSOR, THE BOARD OF ASSESSORS AND THE BOARD OF ASSESSMENT REVIEW OF THE TOWN OF CLARKSTOWN AND THE TOWN OF CLARKSTOWN affecting parcels 58 G, Lot 40, 58 G, Lot 40.32 and 58 G, Lot 40.33 for the years 1985/86, 1986/87 and 1987/88, and

WHEREAS, the attorney for the petitioner has proposed to settle the proceedings and discontinue with prejudice and without costs, that the premises owned by the petitioners described on the assessment roll as Map 58, Block G, Lot 40, Map 58, Block G, Lot 40.32 and Map 58, Block G, Lot 40.33 be reduced for the years 1985/86 to \$4,800,600, and

WHEREAS, the attorney for the petitioner has proposed to settle the proceedings and discontinue with prejudice and without costs, that the premises owned by the petitioners described on the assessment roll as Map 58, Block G, Lot 40, Map 58, Block G, Lot 40.32 and Map 58, Block G, Lot 40.33 be reduced for the years 1986/87 to \$5,340,600, and

1. That the parcels designated on the assessment roll as Map 58, Block G, Lot 40, Map 58, Block G, Lot 40.32 and Map 58, Block G, Lot 40.33 be discontinued with prejudice for the years 1987/88

2. That reimbursement for each of the aforesaid years on parcels described as Map 58, Block G, Lot 40, Map 58, Block G, Lot 40.32 and Map 58, Block G, Lot 40.33 be made by the Town of Clarkstown and made payable to Cronin, Cronin & Cronin, P.C., as attorneys.

3. That all municipal officials of the Town of Clarkstown shall be directed to make necessary notations, changes, amendments and/or corrections necessary to implement this stipulation upon service of a true copy of an order to be entered on the stipulation settling the above captioned proceeding on the aforesaid terms.

Seconded by Co. Carey

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (708-1988)

DECREASING APPROPRIATION
ACCOUNT NO. B 8010-313
(ZONING BOARD OF
APPEALS-OFFICE SUPPLIES &
PRINTING) AND INCREASING
APPROPRIATION ACCOUNT NO. B
8010-407 (EQUIPMENT REPAIRS)

Co. Maloney offered the following resolution:

RESOLVED, to decrease Appropriation Account No. B
8010-313 (Zoning Board of Appeals-Office Supplies & Printing) and
increase Appropriation Account No. B 8010-407 (Equipment Repairs) by
\$93.00.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Carey.....Yes
Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (709-1988)

AUTHORIZING ATTENDANCE AT
WORKSHOP HIGHWAY
MAINTENANCE WELDING
TECHNIQUES AND APPLICATION
(WESTERVELT, CAMADECO AND
SMITH) - CHARGE TO ACCOUNT
NO. A 1010-414

Co. Carey offered the following resolution:

RESOLVED, that John Westervelt, Alfred Camadeco and
Edward Smith, are hereby authorized to attend the workshop Highway
Maintenance Welding Techniques and Application sponsored by the
Cornell Local Roads Program, August 18, 1988, in Rockland County,
and be it

FURTHER RESOLVED, that all appropriate charges be
charged against Account No. A 1010-414.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Carey.....Yes
Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (710-1988)

AWARDING BID FOR BID
#71-1988 - REPLACEMENT OF
FMC SEWER JET WATER TANK
(JET-VAC INC.)

Co. Maloney offered the following resolution:

RESOLVED, that based upon the recommendation of the
Assistant Director of Environmental Control and the Director of
Purchasing that

Continued on Next Page

RESOLUTION NO. (710-1988) Continued

BID #71-1988
REPLACEMENT OF FMC SEWER JET WATER TANK

is hereby awarded to

JET-VAC INC.
135 SOUTH STREET
HACKENSACK, NEW JERSEY 07601

as per their proposed cost of \$6,670.00.

Seconded by Co. Kunis

On roll call the vote was as follows:

Councilman Carey.....Yes
Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (711-1988)

AWARDING BID FOR BID
#73-1988 - HELICALLY
CORRUGATED ALUMINUM CULVERT
PIPE ROUND & OBLATE
(CHEMUNG SUPPLY CORP. AND
CAPITOL HIGHWAY MATERIALS)

Co. Maloney offered the following resolution:

RESOLVED, that based upon the recommendation of the
Director of Purchasing that

BID #73-1988
HELICALLY CORRUGATED ALUMINUM CULVERT
PIPE ROUND & OBLATE

is hereby awarded to:

CHEMUNG SUPPLY CORP.
P.O. Box 527
Elmira, New York 14902

CAPITOL HIGHWAY MATERIALS
Route 6
Baldwin Place, New York 10505

as per the attached schedule of items/prices.

(Schedule of items/prices on file in Town Clerk's Office)

Seconded by Co. Kunis

On roll call the vote was as follows:

Councilman Carey.....Yes
Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (712-1988)

AWARDING BID FOR BID
#75-1988 - RIVETED

Continued on Next Page

RESOLUTION NO. (712-1988) Continued

CORRUGATED METAL CULVERT
PIPE (CHEMUNG SUPPLY
CORPORATION)

Co. Maloney offered the following resolution:

RESOLVED, that based upon the recommendation of the
Director of Purchasing that:

BID #75-1988
RIVETED CORRUGATED METAL
CULVERT PIPE

is hereby awarded to:

CHEMUNG SUPPLY CORPORATION
Box 527
Elmira, New York 14902

as per the attached item/price schedule.

(Schedule of items/prices on file in Town Clerk's Office)

Seconded by Co. Kunis

On roll call the vote was as follows:

Councilman Carey.....Yes
Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (713-1988)

AWARDING BID FOR BID
#74-1988 - ROUND HELICALLY
CORRUGATED STEEL PIPE
(CHEMUNG SUPPLY CORP.)

Co. Maloney offered the following resolution:

RESOLVED, that based upon the recommendation of the
Director of Purchasing that:

BID #74-1988
ROUND HELICALLY CORRUGATED STEEL PIPE

is hereby awarded to:

CHEMUNG SUPPLY CORP.
P.O. Box 527
Elmira, New York 14902

as per the attached schedule of items/prices.

(Schedule of items/prices on file in Town Clerk's Office)

Seconded by Co. Kunis

On roll call the vote was as follows:

Councilman Carey.....Yes
Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (714-1988)

AWARDING BID FOR BID
#76-1988 - ALUMINIZED STEEL
TYPE 2 CULVERT PIPE
(CHEMUNG SUPPLY CORP. AND
CAPITOL HIGHWAY MATERIALS)

Co. Maloney offered the following resolution:

RESOLVED, that based upon the recommendation of the
Director of Purchasing that

BID #76-1988
ALUMINIZED STEEL TYPE 2 CULVERT PIPE

is hereby awarded to:

CHEMUNG SUPPLY CORP.
P.O. Box 527
Elmira, N.Y. 14902

CAPITOL HIGHWAY MATERIALS
Route 6
Baldwin Place, N.Y. 10505

as per the attached schedule of itmes/prices.

(Schedule of items/prices on file in Town Clerk's Office)

Seconded by Co. Kunis

On roll call the vote was as follows:

Councilman Carey.....Yes
Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (715-1988)

AWARDING BID FOR BID
#77-1988 - CORRUGATED HIGH
DENSITY POLYETHYLENE
CULVERT PIPE (CHEMUNG
SUPPLY CORP.)

Co. Maloney offered the following resolution:

RESOLVED, that based upon the recommendation of the
Director of Purchasing that:

BID #77-1988
CORRUGATED HIGH DENSITY POLYETHYLENE CULVERT PIPE

is hereby awarded to:

CHEMUNG SUPPLY CORP.
P.O. Box 527
Elmira, N.Y. 14902

as per the attached schedule of items/prices.

(Schedule of Items/Prices on file in Town Clerk's Office)

Seconded by Co. Kunis

On roll call the vote was as follows:

Continued on Next Page

RESOLUTION NO. (715-1988) Continued

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (716-1988)

AWARDING BID FOR HIGH VELOCITY SEWER FLUSHER TRUCK (SCHULTZ FORD) - INCREASING REVENUE ACCOUNT 01-002999 (EXPENDED BALANCE) AND APPROPRIATION ACCOUNT B 8110-219

Co. Maloney offered the following resolution:

WHEREAS, Bid #58-1988 High Velocity Sewer Flusher Truck was advertised, and

WHEREAS, the Department of Environmental Control has determined that only one bidder met specifications;

NOW, THEREFORE, be it

RESOLVED, that based upon the recommendation of the Director of the Department of Environmental Control Bid #58-1988, High Velocity Sewer Flusher Truck is hereby awarded to Schultz Ford for their bid price of \$74,043, and be it

FURTHER RESOLVED, that Revenue Account 01-002999 (expended balance) and Appropriations Account B 8110-219 be increased by \$35,000.

Seconded by Co. Kunis

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (717-1988)

AWARDING BID FOR BID #69 - POOL WORK RENOVATIONS TO THE FILTER SYSTEM AT GERMONDS POOL (HYDROTECH SYSTEMS, LTD.; AUTHORIZING SUPERINTENDENT OF RECREATION AND PARKS TO EXECUTE ANY NECESSARY CHANGE ORDERS TO BE ALLOCATED AGAINST MONEY-IN-LIEU-OF-LAND ACCOUNT; AND AUTHORIZING TOWN COMPTROLLER TO TRANSFER SAID FUNDS TO PARKLANDS AND IMPROVEMENT ACCOUNT

Co. Maloney offered the following resolution:

Continued on Next Page

RESOLUTION NO. (717-1988) Continued

RESOLVED, based upon the recommendations of Gaston L. Raffaelli, P.E. Consulting Engineer; Laurence Kohler, Director of Purchasing; and Edward J. Ghiazza, Superintendent of Recreation and Parks, that

BID #69
POOL WORK
RENOVATIONS TO THE FILTER SYSTEM AT GERMONDS POOL

is hereby awarded to Hydrotech Systems, Ltd., 116 Railroad Avenue Extension, Albany, New York 12205, in the amount of \$182,500.00, and be it

FURTHER RESOLVED, that the Superintendent of Recreation and Parks is hereby authorized to execute any necessary change orders on behalf of the Town of Clarkstown, based upon the recommendation of Gaston L. Raffaelli, P.E., not to exceed \$202,500.00 to be allocated against the Money-in-Lieu-of-Land Account, and

FURTHER RESOLVED, that the Town Comptroller is hereby authorized to transfer said funds to the Parklands and Improvement Account.

Seconded by Co. Kunis

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

With regard to Agenda Item 9b (Awarding of bid #59-1988 - Curbside Residential Collection of Recyclable Materials) Councilwoman Smith asked Town Attorney for an explanation. Councilman Kunis said that wasn't on the workshop last Tuesday. Les Bollman, Director of Environmental Control said we went out to bid for picking up the recyclable materials. This firm met the specifications and have the required trucks which meet our specifications. They pick up in the Town once a week. Councilwoman Smith asked for the complete back-up on this once again for review. She said she did not remember Mr. Bollman talking about anyone in Nyack at all. Supervisor Holbrook asked if this is the Association of Clarkstown Carters? Mr. Bollman said that is correct.

Councilwoman Smith said we are paying \$2.50 per month. Councilman Kunis said that is \$600,000.00 per year. Mr. Bollman said this is for the picking up of the recyclables. Councilman Kunis said then we are responsible for disposing of that once we have it. Mr. Bollman said that is correct and we get any revenue that is derived. Councilman Kunis said or we pay any cost if there is no revenue to be derived? Mr. Bollman said everything we have selected is based on the public hearings that we held. The three items that we chose were newsprint, clear glass and cans and should all derive revenue.

Councilman Kunis asked what if they don't derive revenue? Mr. Bollman said you mean if the market changes? Councilman Kunis said yes, what happens? Mr. Bollman said then the Town Board can make a decision. You can chose not to pick up that item as a recyclable. Councilman Kunis said we have committed ourselves to picking it up and we have to pick it up. The question is does the Town want to be responsible for this or do we want to

Continued on Next Page

have somebody private doing it and taking it away - let them be responsible for it and make the revenue and pay us or what?

Mr. Bollman said at the public hearings which were held regarding the district it was decided that the Town was going to be responsible for it and look into recycling markets. That would be the Town function and to see if they could get the best price.

Councilwoman Smith asked then would this \$2.50 per month would be collected through the district? Town Attorney Murray Jacobson said once the district is in existence. Councilman Maloney said it is not even in existence yet. Town Attorney said for awhile the Town will have to pay. Supervisor said if we start picking up recyclables this year, the Town will have to pay for the balance of the year, but next year it will be a part of the tax bill and part of the sanitation charge.

Mr. Bollman said the way he reads this is that it is subject to the formal agreement being executed between the Town and Cono as approved by the Town Attorney and that cannot happen until the District is in place. It was agreed that it shouldn't happen until the District is in place.

Councilman Kunis asked then why is it so urgent that this be voted on tonight? Supervisor said it is the intention of the Town to start recycling as soon as possible. Councilman Kunis asked Mr. Bollman if he knew this resolution was going to be on? Mr. Bollman said he saw the agenda and he knew this was on. He said it was his understanding that as soon as the vehicles came in we were going to start picking up paper.

Councilwoman Smith said we can pick up papers without this resolution being adopted and Mr. Bollman said you need a vehicle. She said she has noticed the carters picking them up now and putting them on the side of their trucks even though we don't have a definite operation. Mr. Bollman said but we won't get anywhere near the percentage we are talking about without a dedicated vehicle. Councilwoman Smith said she felt it should all be done correctly and she wanted to hold on this resolution until we have the district.

Councilman Maloney asked when are we going to have the district and Supervisor Holbrook said we should have the district by the end of this month.

Councilman Carey said he would move all the items 9a through 9i. Councilman Kunis said he wanted to see what is going to happen with the entire district - the landfill and the revenues coming in from the landfill. He said the whole thing ties together. He said he was prepared to vote but not on 9b tonight. Councilwoman Smith said prior to this any time we wanted to start something we were told we couldn't because we didn't have a district in place. She said would we change it tonight? She said we should wait until we have a district in place. Councilman Maloney said okay then we can hold it off until August as we should have a district in place by the end of July. Supervisor said then we will do all except 9b.

RESOLUTION NO. (718-1988)

AUTHORIZING TOWN ATTORNEY
TO APPEAL A DECISION OF THE
SUPREME COURT (CLASS
CARTING OF CLARKSTOWN, INC.)

Co. Smith offered the following resolution:

WHEREAS, the Supreme Court of Rockland County has rendered a decision in the matter of CLASS CARTING OF CLARKSTOWN, INC. against the Clarkstown Sanitation Commission, and

Continued on Next Page

RESOLUTION NO. (718-1988) Continued

WHEREAS, it is deemed appropriate that the decision be appealed;

NOW, THEREFORE, be it

RESOLVED, that the Town Attorney is hereby authorized to take all necessary steps to appeal said decision.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (719-1988)

AUTHORIZING TOWN ATTORNEY TO DEFEND PROCEEDING (HALDENWANG V. ZONING BOARD OF APPEALS AND DIANIS, SQUILLACE, AMSTER, KRAUSHAAR, FELLA, NIEHAUS AND LEONARD)

Co. Smith offered the following resolution:

WHEREAS, a proceeding has been instituted against the Town of Clarkstown entitled as follows:

In the Matter of the Application of

WILLIAM C. HALDENWANG,

Petitioner,

-against-

THE ZONING BOARD OF APPEALS OF THE TOWN OF CLARKSTOWN, and JOHN M. DIANIS, ELIZABETH J. SQUILLACE, ARNOLD AMSTER, DAVID KRAUSHAAR, JOHN FELLA, WILLIAM NIEHAUS and PENNY LEONARD, constituting the ZONING BOARD OF APPEALS OF THE TOWN OF CLARKSTOWN,

Respondents.

NOW, THEREFORE, be it

RESOLVED, that the Town Attorney is hereby authorized to take all necessary steps to defend said proceeding.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (720-1988)

GRANTING PERMISSION FOR USE
OF TOWN OF CLARKSTOWN
SHOWMOBILE (COLUMBUS DAY
COMMITTEE OF ROCKLAND
COUNTY)

Co. Kunis offered the following resolution:

WHEREAS, the Columbus Day Committee of Rockland County has requested use of the Town of Clarkstown showmobile on Sunday, July 31, 1988, for a Family Picnic in Tallman, New York,

NOW, THEREFORE, be it

RESOLVED, that permission is hereby granted to the Columbus Day Committee of Rockland County to use the Town of Clarkstown showmobile on Sunday, July 31, 1988, for the above purposes and subject to the provisions of the necessary insurance policies.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (721-1988)

ACCEPTING RESIGNATION OF
SECRETARY (PART-TIME)
CONDOMINIUM INFORMATION
BOARD (DENISE DALY)

Co. Smith offered the following resolution:

RESOLVED, that the resignation of Denise Daly, 21 Denver Drive, New City, New York - Secretary (part-time) Condominium Information Board - is hereby accepted - effective and retroactive to July 7, 1988.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (722-1988)

TRANSFERRING FROM POSITION
OF BUS DRIVER - MINI TRANS
DEPARTMENT TO POSITION OF
LABORER - SANITARY LANDFILL
(RAYMUNDO SAMALA, JR.)

Co. Smith offered the following resolution:

RESOLVED, that Raymundo Samala, Jr., 84 Fullerton Avenue, Newburgh, New York, is hereby transferred from the position of Bus Driver - Mini Trans Department - to the position of Laborer - Sanitary Landfill - at the current 1988 annual salary of \$24,582.00, effective and retroactive to July 11, 1988.

RESOLUTION NO. (722-1988) Continued

Seconded by Co. Maloney

(Councilman Carey asked why this particular transfer was occurring and Supervisor Holbrook said it was part of a court stipulation between the CSEA and the Town of Clarkstown.)

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (723-1988)

APPOINTING TO POSITION OF
(PROVISIONAL) - ASSISTANT
DIRECTOR OF MUNICIPAL
COUNSELING SERVICES -
COUNSELING CENTER (EMILY
FEINER)

Co. Smith offered the following resolution:

RESOLVED, that Emily Feiner, 66 South Franklin Street, Nyack, New York, is hereby appointed to the position of (provisional) - Assistant Director of Municipal Counseling Services - Counseling Center - at the current 1988 annual salary of \$24,958.00 (Grade 24, Step A) - effective and retroactive to July 11, 1988.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (724-1988)

RECOGNIZING (TEMPORARY)
APPOINTMENT BY POLICE
COMMISSION OF POLICE RADIO
DISPATCHER - POLICE
DEPARTMENT (JOHN COYLE)

Co. Smith offered the following resolution:

RESOLVED, that the Town Board hereby recognizes the (temporary) appointment by the Police Commission of John Coyle, 112 Red Hill Road, New City, New York as a Police Radio Dispatcher - Police Department - at the current 1988 annual salary of \$18,022.00, effective and retroactive to July 7, 1988.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (725-1988)

RECOGNIZING APPOINTMENT BY
PARKS BOARD AND RECREATION
COMMISSION OF CUSTODIAL
WORKER (MICHAEL KOKOSKI)

Co. Smith offered the following resolution:

RESOLVED, that the Town Board hereby recognizes the appointment by the Parks Board and Recreation Commission of Michael Kokoski, 12 Marcia Lane, New City, New York, as Custodial Worker, at the current 1988 annual salary of \$15,178.00, effective and retroactive to July 5, 1988.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Carey.....Yes
Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (726-1988)

EXTENDING TEMPORARY
APPOINTMENT OF TYPIST -
PLANNING DEPARTMENT (HELEN
OLSEN)

Co. Smith offered the following resolution:

WHEREAS, the Rockland County Personnel office has certified, by letter (June 29, 1988) that the temporary appointment of Helen Olsen can be extended for an additional three (3) months or until a new Transcriber list is issued and canvassed,

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby recognizes the appointment by the Planning Board of Helen Olsen, 21 Old Haverstraw Road, Congers, New York, as a (temporary) Typist - Planning Department - at the current 1988 hourly rate of \$11.00, effective and retroactive to July 5, 1988 for a period not to exceed three (3) months or until a new Transcriber list is issued and canvassed.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Carey.....Yes
Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (727-1988)

GRANTING LEAVE OF ABSENCE,
WITHOUT PAY TO CLERK -
HIGHWAY DEPARTMENT (DONNA
BUTSON)

Co. Smith offered the following resolution:

WHEREAS, Donna Butson has requested a leave of absence, without pay,

Continued on Next Page

TBM - 7/12/88
Page 16

RESOLUTION NO. (727-1988) Continued

WHEREAS, Article XIX, Section I of the Town of Clarkstown Labor Agreement of January 1, 1987 provides for a leave of absence, without pay,

NOW, THEREFORE, be it

RESOLVED, that Donna Butson, 59 Burda Avenue, New City, New York - Clerk - Highway Department - is hereby granted a leave of absence, without pay, effective July 18, 1988 to September 12, 1988.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (728-1988)

GRANTING A SICK LEAVE OF ABSENCE TO MOTOR EQUIPMENT OPERATOR I - HIGHWAY DEPARTMENT (ANDREW BUTLER)

Co. Smith offered the following resolution:

RESOLVED, that in accordance with Article XVIII, Section 3(k) of the Labor Agreement between the Town of Clarkstown and the Clarkstown Unit of the C.S.E.A., Andrew Butler, 57 Shetland Drive, New City, New York, Motor Equipment Operator I - Highway Department - is hereby granted a Sick Leave of Absence - at one half pay - effective July 14, 1988 to August 15, 1988.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (729-1988)

REJECTING BID #69-1988 - AND AUTHORIZING READVERTISING FOR BID #69A-1988 - ELECTRICAL WORK RENOVATIONS TO THE FILTER SYSTEM AT GERMONDS POOL

Co. Maloney offered the following resolution:

RESOLVED, based upon the recommendations of Gaston L. Raffaelli, P.E., Consulting Engineer, Laurence Kohler, Director of Purchasing and Edward J. Ghiazza, Superintendent of Recreation and Parks, that Bid #69 Electrical Work is hereby rejected, and

FURTHER RESOLVED, that the Director of Purchasing is hereby authorized to advertise for rebid for:

Continued on Next Page

RESOLUTION NO. (729-1988) Continued

BID #69A-1988
ELECTRICAL WORK
RENOVATIONS TO THE FILTER SYSTEM
AT GERMONDS POOL

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 2:00 P.M. on Friday, August 12, 1988 at which time bids will be opened and read, and be it

FURTHER RESOLVED, that bid specifications and proposal documents can be obtained at the Office of the Clarkstown Director of Purchasing.

Seconded by Supv. Holbrook

On roll call the vote was as follows:

- Councilman Carey.....Yes
- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

RESOLUTION NO. (730-1988)

REQUESTING CERTIFICATE OF
NECESSITY FROM NEW YORK
STATE DEPARTMENT OF
TRANSPORTATION WITH RESPECT
TO LENOX AVENUE, CONGERS

Co. Carey offered the following resolution:

WHEREAS, the Town Board of the Town of Clarkstown adopted a resolution on the 14th day of June, 1988, as amended on July 12, 1988, for the improvement of a portion of Lenox Avenue, Congers, New York, and

WHEREAS, that portion of Lenox Avenue, Congers, referred to in said resolution is less than three (3) rods in width, having been laid out many years ago, and

WHEREAS, the Superintendent of Highways of the Town of Clarkstown has consented that Lenox Avenue in Congers be laid out as a highway less than three (3) rods in width, and

WHEREAS, pursuant to Section 200 of the Town Law, it is necessary for the Town Board to obtain a Certificate of Necessity from the New York State Department of Transportation authorizing a highway of less than three (3) rods in width;

NOW, THEREFORE, be it

RESOLVED, the Town Board hereby waives the requirement that said road shall be three (3) rods in width, and be it

FURTHER RESOLVED, that upon the consent of the Superintendent of Highways of the Town of Clarkstown, the Town Board hereby requests that the Department of Transportation of the State of New York provide a Certificate of Necessity for that portion of Lenox Avenue, described in the resolution referred to above be laid out as a highway less than three (3) rods, and be it

FURTHER RESOLVED, that said Certificate of Necessity be provided as soon as practicable.

Seconded by Co. Maloney

RESOLUTION NO. (730-1988) Continued

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (731-1988)

AMENDING RESOLUTION NO.
658-1988 RE: "T STRUCTURE
ROAD" FOR LENOX AVENUE,
CONGERS

Co. Maloney offered the following resolution:

RESOLVED, that Resolution No. 658-1988 adopted by the Town Board on June 14, 1988, authorizing the creation and construction of a road improvement for a "T structure road," for Lenox Avenue, Congers, is hereby amended to read as follows:

WHEREAS, by Resolution adopted on April 12, 1988, on Motion of the Town Board of the Town of Clarkstown, the Director of Environmental Control was authorized to make an estimate of expenses to establish a road improvement district for premises fronting on Lenox Avenue, Congers, New York, for a frontage distance of approximately 1,800 lineal feet, as indicated on the attached Schedule "A," and

WHEREAS, by report dated February 18, 1988, the Director of Environmental Control duly presented to the Town Board an estimate of cost of the proposed project, and

WHEREAS, by resolution adopted on April 12, 1988, the Town Board ordered that a public hearing be held on the 24th day of May, 1988 at 8:00 P.M., to consider the creation of such road improvement district, and

WHEREAS, copies of said Order were duly published and posted according to law, and said Town did, at the time and place specified in said Order, duly meet and consider the matter of construction of said improvement, and heard all persons interested in the subject thereof who appeared at such time and place concerning same, and

WHEREAS, the public hearing was held on the 24th day of May, 1988, and the Town Board reserved decision, and

WHEREAS, at the Town Board meeting of June 14, 1988, the Town Board did consider the creation of such road improvement district, and

WHEREAS, the maximum amount proposed to be expended for the improvement as described in the estimate of the Director of Environmental Control is \$147,000.00;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby determines from the evidence offered at the public hearing and all documents made part of the record that it is in the public interest to make the said improvement, and be it

FURTHER RESOLVED, that the Town Board of the Town of Clarkstown, does hereby authorize and approve the improvement of a

Continued on Next Page

RESOLUTION NO. (731-1988) Continued

portion of Lenox Avenue, for a frontage distance of approximately 1,800 lineal feet, as indicated on the attached Schedule "A," and be it

FURTHER RESOLVED, that the maximum amount to be expended for the said improvement is One Hundred Forty-Seven Thousand (\$147,000.00) Dollars, and be it

FURTHER RESOLVED, that the Director of Environmental Control shall survey, or cause to be surveyed, the above described portion of Lenox Avenue, Congers, and establish the lines and grades thereof, and file copies of such survey and a profile of the grade in the office of the Town Clerk of the Town of Clarkstown, and be it

FURTHER RESOLVED, that the Director of Environmental Control is authorized and directed, after completion of the survey work described herein, to prepare the project plans for completion by the Department of Highway personnel, and thereafter to oversee the work required for such improvement, and be it

FURTHER RESOLVED, that the Director of Environmental Control is hereby authorized and directed to apportion the cost of the project for assessment against the benefitted parcels using a per front foot formula so that all parcels having frontage on both Lenox Avenue and any other Town road shall contribute forty (40%) percent of the total cost of said project divided by the number of total feet which fronts on Lenox Avenue and the balance of the project cost sixty (60%) percent shall be apportioned by a front footage formula among those properties which have frontage only on Lenox Avenue, and be it

FURTHER RESOLVED, that pursuant to Section 200 (10) of the Town Law, this resolution shall be subject to Permissive Referendum, and be it

FURTHER RESOLVED, that the Town Clerk of the Town of Clarkstown, shall within ten (10) days after the adoption of this resolution cause a Notice to be published in full in the Journal News, a newspaper published in West Nyack, New York, having a general circulation within said Town and hereby designated the official newspaper of the Town for such publication and posted on the sign board of the Town maintained pursuant to the Town Law.

(Schedule A on file in Town Clerk's Office)

Seconded by Co. Carey

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (732-1988)

REFERRING AMENDMENT TO
ZONING ORDINANCE TO
CLARKSTOWN PLANNING BOARD
AND ROCKLAND COUNTY
COMMISSIONER OF PLANNING
RE: SECTION 29-13 -
ISSUANCE OF CERTIFICATE OF
OCCUPANCY

Co. Kunis offered the following resolution:

Continued on Next Page

RESOLUTION NO. (732-1988) Continued

WHEREAS, a comprehensive amendment to the Zoning Ordinance of the Town of Clarkstown was adopted on June 30, 1967, and further amended from time to time, and

WHEREAS, the Town Board of the Town of Clarkstown is considering to further amend said Zoning Ordinance, and

WHEREAS, the Town Board has determined that there is a need to insure that common elements are completed in condominium, fee simple with homeowner association, cooperative, and rental developments prior to a developer/sponsor closing title of individual units to purchasers.

NOW, THEREFORE, be it

RESOLVED, that the following proposed amendment to the Zoning Ordinance be referred to the Clarkstown Planning Board, the Rockland County Commissioner of Planning, and the Clarkstown Condominium Information Board for their recommendation and report, and be it

FURTHER RESOLVED, for the purposes of the New York State Environmental Quality Review Act (SEQRA), the Town Board determines that it shall act as lead agency and Robert Geneslaw, Planning Consultant, is hereby authorized and directed to act as agent for the Town Board with respect to SEQRA review.

**Amend §29-13. Issuance of Certificate of Occupancy,
by adding Item D to read as follows:**

"§29-13 (D) If the building or structure is to be used for condominium, fee simple with homeowner association, cooperative, or rental developments no certificate of occupancy shall be issued for more than twenty-five (25) percent of the units until all recreation facilities and community facilities are completed."

**Amend §29-14. Temporary Certificate of Occupancy,
by adding the following paragraph:**

"§29-14 - If the building or structure is to be used for condominium, fee simple with homeowner association, cooperative, or rental developments no temporary certificate of occupancy shall be issued for more than twenty-five (25) percent of the units until all recreation facilities and community facilities are completed."

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Carey.....Yes
Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (733-1988)

REFERRING AMENDMENT TO
ZONING ORDINANCE TO
CLARKSTOWN PLANNING BOARD
AND ROCKLAND COUNTY
COMMISSIONER OF PLANNING
RE: SECTION 89-8 -
PRELIMINARY SITE PLAN
APPROVAL DETAILS

Continued on Next Page

RESOLUTION NO. (733-1988) Continued

Co. Kunis offered the following resolution:

WHEREAS, a comprehensive amendment to the Zoning Ordinance of the Town of Clarkstown was adopted on June 30, 1967, and further amended from time to time, and

WHEREAS, the Town Board of the Town of Clarkstown is considering to further amend said Zoning Ordinance, and

WHEREAS, the Town Board has determined that there is a need to insure that common elements are completed in condominium, fee simple with homeowner association, cooperative, and rental developments prior to a developer/sponsor closing title of individual units to purchasers;

NOW, THEREFORE, be it

RESOLVED, that the following proposed amendment to the Zoning Ordinance be referred to the Clarkstown Planning Board, the Rockland County Commissioner of Planning, and the Clarkstown Condominium Information Board for their recommendation and report, and be it

FURTHER RESOLVED, for the purposes of the New York State Environmental Quality Review Act (SEQRA), the Town Board determines that it shall act as lead agency and Robert Geneslaw, Planning Consultant, is hereby authorized and directed to act as agent for the Town Board with respect to SEQRA review.

Amend §89-8. Preliminary site plan approval details, by adding Item No. 38 to read as follows:

"89-8 (38) If the property is to be used for residential condominium, fee simple with homeowner association, cooperative, and rental developments use the site plan shall contain a note indicating that any clubhouse, pool, playground, and any other recreation or community facility shall be completed prior to the issuance of any certificate of occupancy representing more than twenty-five (25) percent of the units."

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (734-1988)

GRANTING CERTIFICATE OF REGISTRATION PURSUANT TO SECTION 83-65 OF CODE OF TOWN OF CLARKSTOWN (VICTOR P. ZUGIBE, INC. - CERTIFICATE NO. 88-23)

Co. Maloney offered the following resolution:

WHEREAS, the following has applied for a Certificate of Registration pursuant to Section 83-65 of the Code of the Town of Clarkstown:

Continued on Next Page

RESOLUTION NO. (734-1988) Continued

VICTOR P. ZUGIBE, INC.
Marie Zugibe, President
Bulsontown Road
Stony Point, New York

NOW, THEREFORE, be it

RESOLVED, that the following Certificate of Registration
be issued:

No. 88-23 issued to VICTOR P. ZUGIBE, INC.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Carey.....Yes
Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

On motion of Councilman Maloney, seconded by
Councilwoman Smith and unanimously adopted, the Public Hearing re:
Extension of Clarkstown Consolidated Water Supply District to
include Alan Miller was opened, time: 8:37 P.M.

On motion of Councilman Maloney, seconded by
Councilwoman Smith and unanimously adopted, the Public Hearing re:
Extension of Clarkstown Consolidated Water Supply District to
include Alan Miller was closed, ORDER SIGNED, time: 8:39 P.M.

On motion of Councilman Maloney, seconded by
Councilwoman Smith and unanimously adopted, the Public Hearing re:
Zone Change from R-22 to PO District (James Miller) was opened,
time: 8:39 P.M.

On motion of Councilman Maloney, seconded by Council-
woman Smith and unanimously adopted, the Public Hearing re: Zone
Change from R-22 to PO District (James Miller) was closed, DECISION
RESERVED, as the petitioner was not present, time: 8:43 P.M.

On motion of Councilman Maloney, seconded by Councilman
Carey and unanimously adopted, the Public Hearing re: Zone Change
from R-15 to PO District (George Culoso) was opened, time: 8:44 P.M.

On motion of Councilman Carey, seconded by Councilman
Maloney and unanimously adopted, the Public Hearing re: Zone Change
from R-15 to PO District was closed, DENIED, time: 9:02 P.M.

RESOLUTION NO. (735-1988)

DENYING APPLICATION TO
AMEND ZONING ORDINANCE OF
TOWN OF CLARKSTOWN R-15 TO
PO (GEORGE CULOSO)

Co. Carey offered the following resolution:

WHEREAS, the Town Board of the Town of Clarkstown by
resolution adopted on the 24th day of May, 1988, provided for a
public hearing on the 12th day of July, 1988, at 8:10 P.M. to
consider the application of GEORGE CULOSO to amend the Zoning

Continued on Next Page

RESOLUTION NO. (735-1988) Continued

Ordinance of the Town of Clarkstown by redistricting the property of the Petitioner from an R-15 District to a PO District, and

WHEREAS, notice of the public hearing was duly published as required by law and the public hearing was duly held at the time and place specified in the notice;

NOW, THEREFORE, be it

RESOLVED, that for reasons of public health, safety and welfare, the application be DENIED.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Carey.....	Yes
Councilman Kunis.....	No
Councilman Maloney.....	Yes
Councilwoman Smith.....	No
Supervisor Holbrook.....	Yes

On motion of Councilman Kunis, seconded by Councilwoman Smith and unanimously adopted, the Public Hearing re: Zone Change R-15 to LS (Joseph Mitlof) was opened, time: 9:04 P.M.

On motion of Councilman Maloney, seconded by Councilman Kunis and unanimously adopted, the Public Hearing re: Zone Change R-15 to LS (Joseph Mitlof) was closed, DENIED, time: 9:26 P.M.

RESOLUTION NO. (736-1988)(FAILED)	AMENDING ZONING ORDINANCE
	RE: ZONE CHANGE R-15 TO LS
	(JOSEPH MITLOF)

Co. Maloney offered the following resolution:

WHEREAS, the Town Board of the Town of Clarkstown by resolution duly adopted on the 24th day of May, 1988, provided for a public hearing on the 12th day of July, 1988, at 8:15 P.M., to consider the application of Joseph Mitlof, to amend the Zoning Ordinance of the Town of Clarkstown by redistricting the property of the Petitioner described on the Clarkstown Tax Map as Map 126, Block A, Lot 24, from an R-15 District to an LS District, and

WHEREAS, notice of public hearing was duly published as required by law and the public hearing was duly held at the time and place specified in the notice;

NOW, THEREFORE, be it

RESOLVED, that based upon the report of Robert Geneslaw, dated July 8, 1988, acting as staff to the Town Board as lead agency, the Town Board hereby determines that the change of zone shall not have any significant impact on the environment and no further processing pursuant to the State Environmental Quality Review Act (SEQRA) is required, and be it

FURTHER RESOLVED, that for reasons of public health, safety and welfare, the Zoning Ordinance of the Town of Clarkstown be and it hereby is amended by redistricting from an R-15 District to an LS District, the following described property in the Hamlet of Congers, New York, in said Town, and

Continued on Next Page

RESOLUTION NO. (736-1988) Continued

FURTHER RESOLVED, that the Town Board has determined to adopt this zone change by a majority plus one vote of the Board in contravention of the recommendation of the Rockland County Department of Planning because it believes that the change of zone will not set a precedent and will not encourage further strip development to occur along Route 303, and the impact of this change shall not be significant, and be it

FURTHER RESOLVED, that the Town Attorney is hereby authorized and directed to prepare notice of this Amendment to the Zoning Ordinance and that the Town Clerk cause the same to be published in the official newspaper of the Town and file proof thereof in the Office of the Town Clerk, as required by law.

(Description on file in Town Clerk's Office.)

(Town Clerk asked if we are adopting this resolution. Supervisor said yes he believed this was the one. Councilwoman Smith asked if it had the covenant?)

Seconded by Co. Kunis

On roll call the vote was as follows:

Councilman Carey.....	No
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	No

Town Clerk asked if this motion passed? Councilman Maloney said no, it failed because you need four yes votes because of the adverse recommendation of the County Planning Board.

Mr. Tracy said for the record he believes the resolution passes because he did not accept that which the County Planning Board has set forth as a valid denial. He said probably they will have to litigate that, but he wanted to state that for the record.

On motion of Councilwoman Smith, seconded by Councilman Maloney and unanimously adopted, the Public Hearing re: Zone Change - R-15 to MF-2 (A.O.R. Developers, Inc. - Rockridge Estates) was opened, time: 9:27 P.M. with a recess declared at 9:35.

On motion of Councilman Maloney, seconded by Councilman Carey and unanimously adopted, the Public Hearing re: Special Permit to Conduct Landfill Operation - Richard Brega - was opened, time: 9:36 P.M.

On motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the Public Hearing re: Special Permit to Conduct Landfill Operation - Richard Brega - was closed, Recessed to August 16, 1988, time: 10:30 P.M.

At this point the A.O.R. Developers Zone Change hearing continued, time: 10:31 P.M. On motion of Councilman Carey, seconded by Councilman Maloney and unanimously adopted, the Public Hearing re: Zone Change - R-15 to MF-2 (A.O.R. Developers, Inc. - Rockridge Estates) was closed, DECISION RESERVED, time: 10:50 P.M.

Continued on Next Page

Supervisor said that the Technical Advisory Committee meets during the day on Wednesday and they preliminarily review plans as they come up before they formally go to the Planning Board. They might come up with some other suggestions which would then formally have to go to the Planning Board.

On motion of Councilwoman Smith, seconded by Councilman Maloney and unanimously adopted, the Public Hearing re: Abandonment of Portion of Franklin Avenue, Nanuet was opened, time: 10:51 P.M.

On motion of Councilman Maloney, seconded by Councilman Carey and unanimously adopted, the Public Hearing re: Abandonment of Portion of Franklin Avenue, Nanuet, was closed, RESOLUTION ADOPTED, time: 11:00 P.M.

RESOLUTION NO. (737-1988)

ABANDONING PORTION OF
FRANKLIN AVENUE, LYING
BETWEEN ROUTE 59 AND OLD
NYACK TURNPIKE, NANUET AND
AMENDING OFFICIAL MAP OF
TOWN OF CLARKSTOWN

Co. Maloney offered the following resolution:

WHEREAS, the Town Board of the Town of Clarkstown by resolution adopted on the 14th day of June, 1988, provided for a public hearing on the 12th day of July, 1988 at 8:30 P.M., or as soon thereafter as possible, to consider the abandonment pursuant to Section 205 of the Highway Law and the deletion from the Official Map of the Town of Clarkstown pursuant to Section 273 of the Town Law of a portion of Franklin Avenue, lying between Route 59 and Old Nyack Turnpike, Nanuet, New York, as shown on a map entitled, "Map of Franklin Park, Nanuet, New York, Harry F. Erny, Owner," filed in the Rockland County Clerk's Office on May 22, 1926 in Liber 5, at Page 18, as Map No. 813, as further described in Schedule "A" attached, and

WHEREAS, notice of said public hearing was duly published and posted as required by law, and said public hearing was duly held at the time and place specified in said notice;

NOW, THEREFORE, be it

RESOLVED, that based upon the report of Robert Geneslaw, dated May 13, 1988, acting as staff to the Town Board as lead agency, the Town Board hereby determines that the change of zone shall not have any significant impact on the environment and no further processing pursuant to the State Environmental Quality Review Act (SEQRA) is required, and be it

RESOLVED, that a portion of Franklin Avenue, lying between Route 59 and Old Nyack Turnpike, Nanuet, New York, as described in the attached Schedule "A" is hereby declared abandoned by the Town of Clarkstown pursuant to Section 205 of the Highway Law, and be it

FURTHER RESOLVED, that the Official Map of the Town of Clarkstown is hereby amended by deleting therefrom a portion of Franklin Avenue, Nanuet, as described in Schedule "A" attached, and be it

FURTHER RESOLVED, that the Recommendation of the Superintendent of Highways of the Town of Clarkstown dated June 24, 1988, that a Highway be Abandoned is hereby ordered to be recorded in the Rockland County Clerk's Office and filed in the Town Clerk's Office.

Continued on Next Page

RESOLUTION NO. (737-1988) Continued

Seconded by Councilman Carey

On roll call the vote was as follows:

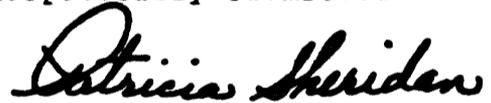
Councilman Carey.....	Yes
Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

Mr. Howard Rosner approached the Town Board and Supervisor said that at the last Town Board Meeting there was an indication that the Board wanted Mr. Rosner's house taken down per violation hearing (Hi-Rock). Town Board members stated that they had given permission for the house to be taken down and a new house of the same size built on the same foundation. There was question regarding the need for variances from the Building Department. After lengthy discussions between the Town Board members, Town Attorney and Mr. Rosner it was decided that Town Attorney would look into this matter in detail and report back to the Town Board.

Mr. James Miller approached the Town Board and asked what had happened to his zone change? Supervisor stated that the public hearing had been held but that the petitioner had not appeared. Mr. Miller said he had been sitting in the audience but had not heard his public hearing being called. It was decided that a decision regarding this petition would be made on August 16th.

On motion of Councilman Kunis, seconded by Councilman Maloney and unanimously adopted, the Town Board Meeting was declared closed, time: 11:05 P.M.

Respectfully submitted



PATRICIA SHERIDAN,
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

7/12/88

8:37 P.M.

Present: Supervisor Holbrook
Council Members Carey, Kunis, Maloney and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

RE: EXTENSION OF CLARKSTOWN CONSOLIDATED WATER
SUPPLY DISTRICT NO. 1 TO INCLUDE ALAN MILLER

On motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the Public Hearing was declared open. Town Clerk read notice calling Public Hearing and testified as to proper posting and publication. Town Clerk stated that there was on file in the Town Clerk's office an affidavit from the Deputy Director of the Department of Environmental Control testifying as to the benefit to surrounding property owners of this proposed extension.

Supervisor asked if there was anyone present wishing to speak in favor of the proposed extension.

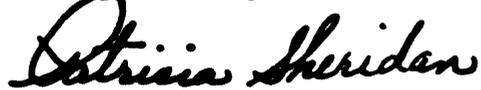
No one appeared.

Supervisor asked if there was anyone present wishing to speak in opposition to the proposed extension.

No one appeared.

On motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the public hearing was declared closed, ORDER SIGNED, time: 8:39 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

145

Town Hall

7/12/88

8:39 P.M.

Present: Supervisor Holbrook
Council Members Carey, Kunis, Maloney and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

RE: ZONE CHANGE FROM R-22 DISTRICT TO PO DISTRICT (JAMES MILLER)

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

Town Attorney stated that there was correspondence from the Town Planning Board recommending approval and from the County Planning Commissioner also recommending approval.

Supervisor asked if the applicant was present. No one appeared.

Murray Jacobson stated that there is a petition signed by James J. Miller for property situated on Mountainview Avenue which joins a PO district and they are seeking designation from R-22 to PO district.

Supervisor asked if there was anyone present wishing to comment either for or against the petition.

Appearance: Mr. John Lodico
2 Birch Lane
New City, New York 10956

Mr. Lodico said he did not know the applicants but he said it was nice to see a professional office use come in from residential. He thought it was probably in the best interest of the Town of Clarkstown and he supported it.

Appearance: Warren Kossin, Esq.
representing Mountainview Condominiums

Mr. Kossin said right now Mountainview Avenue, as well as the surrounding roads, are basically being used as residential property. There is only one piece of property in that area that is being used for anything other than residential and that is a small building directly to the south of the Mountainview East Condominiums which is being used for professional. He was against anything other than residential because it would not fit in with the area. Mr. Kossin said that especially since the applicant did not come before the Board to plead for the necessity of his position he felt the Board should not approve any change of zoning. He did not want the density increased any more than it is. He requested this be denied.

On motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the Public Hearing was closed, DECISION RESERVED, time: 8:43 P.M.

Respectfully submitted,

Patricia Sheridan
PATRICIA SHERIDAN,
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

147

Town Hall

7/12/88

8:44 P.M.

Present: Supervisor Holbrook
Council Members Carey, Kunis, Maloney, and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

RE: ZONE CHANGE FROM R-15 TO PO (GEORGE CULOSO)

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

Town Attorney stated that the Clarkstown Planning Board had no objection to the proposed zone change. The Rockland County Planning Commissioner approved subject to condition and he read:

"Although we do not foresee any problems with this particular zone change application we realize that similar requests can become problematical. Granting a single parcel zone change can pave the way for a similar request which could lead to the detriment of the zoning ordinance and go against the Town's intentions. The Board should consider and develop a plan for handling requests such as this in the future."

Supervisor asked if the applicant was present.

Appearance: Donald S. Tracy, Esq.
Attorney for the applicant

Mr. Tracy said the property in question is a parcel of land consisting of 22,433 feet. It is the last parcel of land zoned R-15 when you enter into a heavily travelled retail area. He handed up to the Board members two exhibits which showed basically what is presently on the property and what is intended to remain on the property. He said the property was originally discussed with the Planning Department which suggested a use variance rather than a zone change. A use variance was applied for before the Zoning Board of Appeals. The ZBA turned down the use variance and in conclusions of law designated No. 8 of their decision said: "If the applicant contends that professional office use is an ideal buffer between residential and commercial use in this particular area perhaps the applicant should request a rezoning of this area."

Mr. Tracy said the area is directly across the street from a gasoline station. To the south is a strip shopping center and the premises which consist of approximately 500 feet on each floor has not been rented or utilized for a period in excess of six years for the simple reason no one wants to rent a residential structure in that proximity to the highway at that particular location.

Mr. Tracy said in 1967 when the PO zone was introduced the preamble to the PO zone said that the PO zone is intended to be the ideal buffer between residential and heavily travelled highways. He said it is Mr. Culoso's intention not to enlarge the building. Supervisor said that is one of the conditions of the Planning Board for approval. Mr. Tracy said in effect it will be used for office use. He said Mr. Culoso is a CPA and the building will be refurbished and rehabilitated and it will be a clean-up of a blight on the area and the ideal buffer between the residential uses and the commercial uses.

Mr. Tracy said as far as the condition attached by the County Planning Department he did not find it to be a condition. He said it was a statement or a conclusion which seems to echo what they refer to as the domino theory. He called the Board's attention to the fact that the Planning Board is in the midst of updating its

Continued on Next Page

PH - Zone Change (Culoso)
Page 2

Master Plan. He cited a previous law case as precedent and said all zoning must be in accordance with a comprehensive plan. The Planning Board has recommended approval. It would therefore be not inconsistent for one to conclude that when they finish the Master Plan they will recommend this site for PO. He said he saw no reason for Mr. Culoso to testify. He said everyone knows that the place has been vacant for the past six years and not able to be used as a residence. Mr. Tracy said he would rest and reserve his right to rebuttal.

Supervisor asked if any Town Board members had any questions of the applicant?

Supervisor asked if anyone present from the public would like to ask a question or make a comment?

Appearance: Mr. Joseph Smith
Palmer Avenue
Nanuet, New York

Mr. Smith said the property in question has not been used for six years because it is a boarded up building. He said it could be a desirable residential property if someone bought the land and fixed it up. Mr. Smith said around the Town right now we have many locations that are not being used for stores or anything else. He said the domino effect, if it did continue down that road, would be a detriment to the residential area right around the corner from it. He said he thought the Board needs to address the problem which was raised by the Rockland County Planning Board. He said he did not think the answer was to zone it PO. He stated he was not in favor of the zone change.

Appearance: Mr. Ed Fuhrman
6 Fenner Lane
Nanuet, New York

Mr. Fuhrman said he lived directly across from this proposed zone change. He said he had serious concerns as a lifelong resident of Fenner Lane. He said he has seen a gradual change in the neighborhood and is very concerned about precedent here. He felt the Board could not, if they granted this request, deny any additional parcels to the north of this property because the rationale would be exactly the same. The character of the neighborhood will be affected. There are three bus stops for small children. There is traffic, of which the Board is well aware, that can only get worse with any continued development.

Mr. Fuhrman said his reading of the record indicates that the property was purchased for \$40,000.00. If that is the case, based on the fact that the property is boarded up right now, quite frankly it is a steal. If improvements were made on the property it could be a viable dwelling that could be occupied by a family. As it exists right now it cannot be. The price of the property does influence his judgment in terms of what the Town Board ought to do in this case. He said it is time to draw the line on North Middletown Road development.

Appearance: Mr. Peter Brennen
Palmer Avenue
Nanuet, New York

Mr. Brennen stated that he has lived on Palmer Avenue for twenty-five years. He stated that he first wanted to make a correction and that the property we are talking about is north of the gas station. It is the most northern potential commercial, other than residential, piece of property. He said think of Route 59 and Middletown Road - south, east and west. It is not too attractive as a residential area. He said he would like to see the northern portion stopped right where it is right now because the

Continued on Next Page

next stop will be New City. He stated we have gone far enough. He stated that he agreed with the other gentlemen who spoke that if that property was developed properly it could become a residence.

Appearance: Mr. William Winder
8 Fenner Lane
Nanuet, New York

Mr. Winder stated that he was against this proposal completely for the reasons already stated by others.

Appearance: Mr. John Lodico
2 Birch Lane
New City, New York

Mr. Lodico stated that he was in favor. He stated that in the 1967 Master Plan it was indicated that this area should be commercial development. He said during the 1970's, when he and Mr. Maloney were on the Board, the recommendation was that the area south of the Thruway, which was a part of the Master Plan consideration in the '60s and then into the '70s, was to be considered south of the New York State Thruway as a multiple development area for professional or business type concept. He said we have south of the Thruway multiple dwelling - our first senior citizen complex which is a large concept. On the other side south of the Thruway is a multiple development complex which was approved to make it consistent with higher density and/or of commercial nature. He said no children would be going to school from that particular building and no services would be required. It would be a tax ratable.

Mr. Donald Tracy spoke in rebuttal stating that it is true that the property was bought nine years ago for \$40,000.00. Taxes on the property are in excess of \$2,000.00 per year. For three years there was an attempt to rent it as residential. For the past five or six years it has been boarded up. The property continues to accrue taxes without benefit.

Mr. Tracy said there is a domino theory which this Board knows does not hold water - that simply because one parcel of land is permitted a particular use that the adjacent parcel of land has to be permitted that use. If that domino theory held water there would be no stopping any change of zone once one parcel was zoned for that particular zone any place in the Town. He reiterated that the intent of the applicant is to take the existing structure, without enlarging it, and to completely renovate it and to make 500 feet of office space on one floor and 500 feet of office space on the second floor as per the plans already shown. He would provide adequate parking in the rear. He said the lot and the house are very near to North Middletown Road. It is also a lot that is only 75 feet wide. It is hardly suitable for residential use. If it was suitable for residential use it would have been utilized for residential use rather than lying fallow for this period of time.

Mr. Tracy said he called attention to the recommendations of both Planning agencies and he stated again the preamble to the Professional Office Zone to the effect that the professional office zone is the ideal buffer between heavy commercial and residential property. He said he respectfully submits that this is an ideal case in which to make this property that buffer.

On motion of Councilman Carey, seconded by Councilman Carey the Public Hearing was closed, DENYING RESOLUTION ADOPTED, with Nos of Councilman Kunis and Councilwoman Smith, time: 9:04 P.M.

Respectfully submitted,

Patricia Sheridan

PATRICIA SHERIDAN,
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

7/12/88

9:04 P.M.

Present: Supervisor Holbrook
Council Members Carey, Kunis, Maloney and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

RE: ZONE CHANGE R-15 DISTRICT TO LS DISTRICT (JOSEPH MITLOF)

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

Town Attorney said the Town Planning Board had approved stating as follows: "...the change be granted as site is not conducive to single family residence, and this is the best use for the site." The Rockland County Planning Board recommended denial and he read from that report as follows: "We do not recommend spot zoning. The proposed zone change to LS will set a precedent and encourage further strip development to occur along the State highway, thus hindering the function of Rte. 303 as a limited access highway."

Supervisor asked if the applicant was present.

Appearance: Donald S. Tracy, Esq.
Attorney for Petitioner

Mr. Tracy handed up some pictures of what presently exists on the property and the surrounding zoning of the property which would seem to dispel the recommendation of the County Planning Department. He also handed up a survey which shows the property and the existing frame garage which presently exists on the property. He said the petitioner is the contract purchaser of the property located in a R-15 zone located on the westerly side of Route 303 in the near proximity of commercial zoning. The property consists of a 9,265 square foot parcel which the petitioner desires to utilize for professional office use. Now in order to comply with bulk regulations the only bulk regulation that it could comply with would be the bulk under an LS zone with covenants. The petitioner alleges that a small professional office building on the site will enhance the area as the property is presently encumbered by an old frame garage which was previously an office and a plumbing supply garage. The petitioner is willing to execute a covenant which would run with the land to the effect that if this property is zoned LS he will covenant that it can only be used for the office use permitted in an LS zone. The desire to go to LS is prompted by the fact that LS permits a 7,500 square foot bulk and this is the only bulk that this particular parcel could fit under. It fronts on Route 303. The commercial uses in the vicinity have been pointed out by the exhibits submitted. He asked Mr. Mitlof to testify as to the covenant he is willing to enter into.

Appearance: Mr. Joseph Mitlof
13 Old Lake Road
Congers, New York

Mr. Tracy: Mr. Mitlof you are the contract-purchaser of this property?

Mr. Mitlof: Yes.

Mr. Tracy: You are aware of the fact that this property consists of 9,265 square feet only?

Mr. Mitlof: Yes.

(At this point Councilman Carey advised that Mr. Mitlof should be sworn in and Supervisor Holbrook did swear him in. It was

PH - Zone Change R-15 to LS (Mitlof)
Page 2

agreed that the swearing in would be retroactive to the beginning of the questioning.)

Mr. Tracy: Mr. Mitlof, will you tell us to what use you propose to put this property if the zone change is granted?

Mr. Mitlof: Professional office, primarily a real estate office.

Mr. Tracy: Would this be a real estate office for yourself?

Mr. Mitlof: Yes, sir.

Mr. Tracy: Are you willing to covenant to the Board and to file a covenant running with the land that if this is changed to LS that the only use permitted on the property will be rather than the professional office, under the LS zone it is called office use?

Mr. Mitlof: Yes.

Mr. Tracy: And that no retail use will be introduced on the site?

Mr. Mitlof: Correct.

Mr. Tracy said he had no further questions of Mr. Mitlof and called the Town Board's attention to the fact that the Planning Board has recommended approval. The Planning Board is in the midst of updating its master plan. It, therefore, would seem logical, as it did in the last case, that the Planning Board might recommend in their master plan that this property be zoned something other than it is. Mr. Tracy said he also wanted to call the Board's attention to the covenant which was sworn to on the record here.

Supervisor asked if the Board members had any questions of the applicant.

Councilman Carey asked if it was possible to build a motel on that property under the existing zoning? Mr. Tracy said if he recalls correctly, a motel can only be built in the Town of Clarkstown in the CS zone by special permit so the answer is no.

Supervisor asked if there was any member of the public wishing to speak?

Appearance: Mr. John Mangan, President
Congers Civic Association

Mr. Mangan said they were opposed to the zone change. He said this is a residential district requiring residential building on property of 15,000 square feet as a minimum. Abutting this property are other residential lots. This is a residential area. There are two lots which are still undeveloped as residential areas in this district to the north. There is a residence directly to the east of this property and there are residences to the south of this property. This is a residential zone. The only thing that does exist is that there appears to be some trucks in a lot to the south of this area and he said he was not sure what the legal implications of parking those trucks are. There are residences all around. If you inspected the site it would be clear to you. By changing the zone from R-15 to LS is essentially as we see it, spot zoning. He referred to Anderson's New York Zoning Law and Practice, 2nd Edition, Section 503. It says the Court of Appeals has defined spot zoning as the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners. It goes on to state that spot zoning is the very antithesis of planned zoning using the case of Rogers v. Tarrytown, 302 N.Y., 115 as the source for that statement of the Court of Appeals.

Continued on Next Page

Mr. Mangan said essentially that is really what is happening here. This is a lot which is residential and if you go ahead and make a precedent of changing the zoning on this particular lot you have other residences around it. You would be essentially spot zoning that particular parcel for a contract purchaser who clearly has a business interest at stake. There is no other LS zone in the immediate area and this is a 9,000 square foot parcel. To build anything else in that residential area you need 15,000 square feet. The character of the neighborhood would be changed if you put an office building there and would disturb the peace of the adjacent residential neighbors. Under the comprehensive master plan as it now exists this parcel is residential. What will happen is that it will lower the property value of the adjacent property owners.

Mr. Mangan said there is a major intersection at Lake Road and Route 303 which is just to the north of this area. This is a heavily trafficked, limited access road and you would be creating additional congestion in the area. He referred to Commissioner Chase's letter which recommended disapproving this saying that he indicates that you would end up hindering the function of Route 303 as a limited access highway.

Mr. Mangan said this particular parcel of land on Lot 8.24 is owned by the same landowners who own Lot 8.22. Both these tax lots were deeded back in 1984, by deed dated April 25, 1984 to the present owners Richard Blum and Stephanie Falconer (husband and wife). Both parcels were deeded together and the intent would seem that it was to be all residential. It was financed that way through Provident Savings. There were not separate deeds. They were deeded together. He handed up as an exhibit the deed to the property.

He said on Tax Lot 8.22 there is presently a residence, 13 Lenox Avenue. If you look at the property and want to determine how the property is used you will find on Lenox Avenue there is no driveway because over the years the access and the parking for the property is in the back. Both properties together (8.22 is 8,000 square feet and 8.24 is a little over 9,000 square feet) come to about 17,000 square feet and just really comply for a residential R-15 District. To break it up would be detrimental to the area.

Mr. Mangan said to change the zoning on Lot 8.24 to LS is clearly spot zoning and would be detrimental to the adjacent landowners and would create unnecessary additional traffic congestion on Route 303 which is at this point just a two lane highway.

Councilman Kunis asked if the ingress and egress was on Route 303 rather than Lenox Avenue? Mr. Mangan said yes. Councilman Kunis said you feel this will be breaking up a residential neighborhood on Route 303? Mr. Mangan said that is correct. Mr. Mangan said if you look at the use of the property, there is a garage and whatever non-conforming use was there ceased to exist many years ago. That garage is built on Lot 8.22. It carries over into the other lot. It was all owned by the same people. It is now all owned by the same people and certainly it is clearly a spot zoning.

Councilman Kunis said as it is zoned, if you were to build a home there and a family were to move in with small children and they would have to pick up the school bus on Route 303, does that present any problem crossing Route 303 and getting the bus? Mr. Mangan said Route 303 does have a lot of residential homes. It is a residential area. Councilman Kunis said he was not on the Board when these residential homes were built but about two months ago he had to stop for a school bus as he was going south on Route 303 and the bus was going north at about 8:15 A.M. The young boy waiting for the school bus was on the east side of the road and someone passed the school bus with the stop sign out and the red

Continued on Next Page

lights on. Councilman Kunis said it frightened him and he has a real fear of putting any more homes on Route 303. Mr. Mangan said you can take that same logic to any street at any time. If someone is going to break the law - people can get run over by school buses in residential areas. These are accidents and we hope they don't happen. Councilman Kunis said but you have a lot more cars travelling on Route 303 than on Lenox Avenue and at a higher rate of speed. Mr. Mangan reiterated that the two parcels (8.22 and 8.24) together would make a nice piece of property and conform to the zone.

Appearance: Mr. Richard Blum
Congers, New York

Mr. Blum said he owns the property right in front of this property and has been living there with his wife for four years. The building in the back is a run down old shack. It looks terrible. He said financially it would not be worth it to him to fix up this old house as he would not benefit from it. To put a house there, with a school bus stopping, is ridiculous as that generates more traffic than an office building ever would in that area. A nice small building with some landscaping could only help to make the area look a little better.

Appearance: Mr. John Lodico
2 Birch Lane
New City, New York

Mr. Lodico said three state highways traverse north and south in the Town of Clarkstown, 9W, 303 and 304. 9W is limited from the standpoint of heavy traffic. The center of our town is covered by the most travelled, commercial and heavy truck area which is Route 303. From the standpoint of maintaining a residential area on the most heavily travelled, commercial state highway, in his opinion, is not the greatest recommendation. He said he hoped the Planning Board would consider making the whole area of Route 303 north and south some form of commercial type zoning, whether you call it spot zoning or circle zoning. We have removed 110 acres of commercial land and reverted it to residential. If you think in terms of spot or circle zoning, previous board members here approved zone changing taking a 110 acre parcel of LIO zone and making it a residential street on Route 303 our most heavily trafficked commercial state highway.

Councilman Carey asked what strip that was. Mr. Lodico said it was the area that was LIO on the west side, up Route 303 all the way back. Councilman Carey said he had voted against that one and he did not want to be implicated.

Mr. Lodico said in the interest of safety, health, welfare and tax benefit, this whole strip on a commercial, heavy travelled state highway should be commercial rather than residential.

Councilwoman Smith asked Mr. Wes Bruckno, Planning Consultant, if he would comment on his decision on the zone change on Route 303. He said they felt a residential use might not be appropriate in that case. However, they had suggested that they wanted to see would could be built on that site before actual recommendation one way or the other. Councilwoman Smith said you made a positive recommendation from the Planning Board. Mr. Bruckno said that was our recommendation to the Planning Board.

Councilman Maloney said would the fact that the applicant has made a covenant that it will only be used for a certain, specific purpose, change your opinion? Mr. Bruckno said their concern was based more on the physical layout of the property not so much on what the land use would be.

Mr. Bruckno was asked if this had been reviewed with the applicant? Mr. Bruckno said at the Planning Board meeting, yes. Councilman Maloney asked if the the Planning Board had approved? Mr. Bruckno said yes.

Continued on Next Page

PH - Zone Change - R-15 to LS (Joseph Mitlof)
Page 5

Supervisor asked if the applicant wished to speak in rebuttal.

Mr. Tracy said that Mr. Mangan had amply given the Court of Appeals decision on what constitutes spot zoning which is a singling out of a small parcel of land for use totally different from surrounding property for the benefit of that property owner and to the detriment of the other property owners. He said if they look at the vicinity map this property touches and is adjacent to a CS zone (Terminello). He said following the very definition quoted from that very famous Court of Appeals case it cannot constitute spot zoning since it is not a use entirely different than the uses of the surrounding property since CS zone as well as LS zone permits office uses.

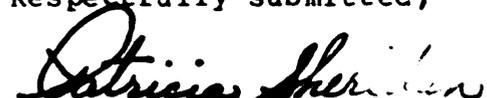
Mr. Tracy said with regard to the allegation that it should be part of a one family house that is in the rear of the property fronting on Lenox Avenue a title search was done on that property when they first undertook this because they were determining whether to go to the Zoning Board of Appeals or whether to come in for a zone change with covenants. They discovered that the property was not in the same ownership on June 30, 1967, which is the sacrosanct date for merger. Therefore, they are, in his opinion, legal, separate lots.

Mr. Tracy said they could have come in asking for PO zone. However, due to the smallness of the lot, which is only one fourth of the bulk required for PO use, they determined that since office use fits under an LS zone and since this lot complies with LS bulk we would come in for LS with a covenant so that office use could be put on it without further variances and further imposition upon the administrative boards of the Town.

Mr. Tracy said they submit that what is there now is an eyesore. He said they fail to see how a small professional office, properly landscaped, fronting on Route 304 can in any way be detrimental to the hamlet of Congers or to the immediate vicinity.

On motion of Councilman Maloney, seconded by Councilman Kunis and unanimously adopted, the Public Hearing was declared closed, DENIED, time 9:26 P.M.

Respectfully submitted,


PATRICIA SHERIDAN,
Town Clerk

(RESOLUTION NO. 736-1988 was offered and seconded with yes votes of Councilmen Kunis and Maloney and Councilwoman Smith and with no votes of Supervisor Holbrook and Councilman Carey. As this needed four votes the resolution failed.)

TOWN OF CLARKSTOWN
PUBLIC HEARING

157

Town Hall

7/12/88

9:27 P.M.

Present: Supervisor Holbrook
Council Members Carey, Kunis, Maloney and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

RE: ZONE CHANGE - R-15 TO MF-2 - A.O.R. DEVELOPERS,
INC. (ROCKRIDGE ESTATES)

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

Town Attorney stated that there was a recommendation from the Town Planning Board to deny and a recommendation from the County Planning Board to disapprove:

"Given the topography of the site any development would be forced to use Route 303 for its public road access. Since Route 303 is a high speed, high volume road we consider the proposed increase in density to be detrimental to traffic safety because it will force even more vehicles to enter the road at an unsignalized access point. In our previous reviews of this site we supported the use of clustering to develop this parcel under R-15 zoning standards. We continue to believe that the design is the best way to develop this parcel."

Town Attorney stated that the Town Planning Board also recommended denial. They say:

a) The uses permitted by the proposed change would not be appropriate in the area, as area immediately abutting is zoned residential,"

Town Attorney said they went on to cite other reasons for disapproval.

Supervisor asked if the applicant was present?

Appearance: John Hekker, Esq.
Attorney for Petitioner

Mr. Hekker stated that he represented A.O.R. Developers. He said he agreed with Mr. Tracy in connection with the recommendations of the County Planning Board. He said there is a problem there as to whether or not an individual can substitute his judgment for what the law calls a County Planning Board recommendation. That and the fact that there was no notice of any review of this matter and no opportunity by the applicant to be heard by that particular agent or planning board. His reaction is the same as Mr. Tracy's and he assumes it is something that will have to be litigated.

Mr. Hekker said as far as this present parcel is concerned this is a 12 acre parcel of land presently zoned R-15. They are requesting that it be changed to an MF-2 with the proviso that an MF-1 density be applied to it, MF-2 being solely for the purpose of side/rear yard requirements in that particular zone. We are asking for 72 units in an MF-2 which is approximately 6 units per acre since this is a 12 acre site. The site was recently approved by the Clarkstown Planning Board for development into 16 single family houses. Under the present zoning the property could yield 21 single family houses under an R-15 zone. Mr. Hekker said the negative reaction of the Town Planning Board is one where this property was first recommended for zoning in its master plan, the Planning Board recommended an R-40 classification for this piece of property and that was rejected by the Town Board. Mr. Hekker said

Continued on Next Page

he did not know how the Planning Board wants this property developed but they do not want it to be developed residentially except on the basis of an R-40.

Councilwoman Smith said the Chairman and the members of the Planning Board have spoken to her and they really do not want to see single family homes on Route 303 at that particular location. They just wanted to know if you want to go back to TAC which is up to you.

Mr. Hekker said he was very willing to go back to TAC but that he would like to continue tonight.

Upon questioning from the applicant Councilwoman Smith said that the Planning Board had said they did not want to see single family homes on Route 303 in that location but they have a problem with an MF-2 designation even though you would only build according to MF-1. Therefore, they would like to discuss it further but the decision is yours.

Supervisor said basically the MF-1 is a lesser density than an MF-2, one is 4 to 8 to an acre, the other is 9 to 12 to an acre. Councilwoman Smith said the number of acres doesn't mean that it is automatically built to its maximum. Councilman Maloney said it could be less than what you are allowed.

Supervisor said we will go on to the next public hearing and come back to this.

Recess was called at 9:35 P.M.

The Public Hearing resumed at 10:31 P.M.

Mr. Hekker stated that he would like to go back to TAC but they would also like to finish the public portion of this hearing and have the Board reserve decision to enable us to go back to TAC and find out what they are talking about.

Councilman Carey said can't we recess this until you go back to TAC and then we can pick it up at that time? Mr. Hekker said you could do that but there are many people who have come here tonight and waited to speak. Councilman Carey said will there be anything coming out of the TAC meeting that would tend to keep the hearing open and that's the point I'm getting at? Councilman Maloney said we could listen to them and then reserve decision. Councilwoman Smith said we could recess. Town Attorney said you can recess. Your proposal may be different next time and the people should be here to hear that.

Mr. Hekker asked if the proposal is different next time does that mean that I have to resubmit an entirely new proposal? Town Attorney said if you are asking for a different zone then you would have to republish but if you are covenanting that you are going to do something else then you would not have to. Councilman Carey said then testimony now might not be relevant. Mr. Hekker said they would proceed and if TAC says that they would like to see something else there then we'll have to file an application and do it all over again so we've accomplished nothing. We're here now and the people are here now. Councilman Maloney said what if you proceed and we decide to vote tonight? Councilman Carey said then you might not have to go back to TAC. Mr. Hekker said he suspected that might be the case and we would have to go back to the drawing board. Councilman Maloney said we could always reserve and keep it open.

Mr. Hekker said we are talking here of an application for R-15 which has received preliminary subdivision approval for the construction of 16 houses as opposed to 21 houses which could go there. He said we are asking for a change from R-15 to MF-2. The

Continued on Next Page

PH - Zone Change - R-15 to MF-2 (A.O.R. Developers/Rockridge Estates)
Page 3

reason they are going for MF-2 is that the density, according to his engineer, because of the amount of units you can get because of the 30% slope would permit construction of 72 units on this site which is a MF-1 classification. Because it is sloped the higher number of units in an MF-2 would reduce it down to 72 and that is what the application is for even though the MF-2 allows more. He said they are agreeable to a restrictive covenant as to that number of units.

Mr. Hekker introduced into evidence an aerial photo of the site so that the Board could see that there are multi-family residences in the neighborhood. He pointed out that there is a commercial shopping strip, a home for the elderly and a pipe plant so it really is not conducive to an R-15 classification. He said the property is located on one of the most travelled roads in Clarkstown. The topography of the land will allow multi-family development where we will be able to preserve approximately 9-1/2 acres of the property and leave it undisturbed. He presented a map showing the area and the amount of land that will actually be disturbed. He said if they developed it on the basis of three story height the amount of land actually being disturbed would be approximately 2 acres of the entire 12 acre site. He said if they developed it on the basis of two story height they would be developing approximately 2-1/2 acres on 12 acre site.

There was reference to maps at this point and discussion as to what the Planning Board has already approved and what may be approved in the future. Mr. Hekker said if the zone change is granted they could provide access into Storms Road. He also mentioned sewers which would be provided to residences on Storms Road in a 50 foot strip on the southerly end of the property.

Mr. Hekker said it is the opinion of the builder that this type of development could be construed as affordable housing. These units if they were condominium units would be sold in the neighborhood of \$125,000.000 whereas the units going in now are probably about \$200,000.00. He said he could not see the development of this site for single family houses. Mr. Hekker said he would be glad to answer any questions and then would rebut.

Supervisor asked if the Board members had any questions at this time. No one did.

Supervisor asked if there was anyone from the public wishing to comment or ask questions?

Appearance: Mr. Bill Lawler
Storms Road
Valley Cottage, New York

Mr. Lawler stated that he had been here before the Planning Board approximately 1-1/2 years ago and at that time after a long procedure they decided that perhaps 16 units could go in there. It was not 16 houses but 16 clustered units - 4 units of 4 houses each. He said Mr. Hekker had suggested that there are stores on Storms Road but there are no stores. It is a completely residential area. There are stores down on Route 303.

Mr. Lawler mentioned the danger of 72 units especially if there are children because they would have to walk along Route 303 as there is no other access there. He mentioned a letter of July 8, 1988 from the Planning Board to the Town Board and urged the Town Board to consider that letter.

Mr. Lawler asked if there was any limit to how many zoning change requests a developer can make? Supervisor said no. Councilman Maloney said he can keep going until he finds the right one. Supervisor said he can ask but it does not have to be granted.

Continued on Next Page

Mr. Lawler asked can a request be made by non-owners for a zoning change? Town Attorney said the Town can do it on its own motion or a landowner can. Mr. Lawler said the Planning Board originally recommended R-40 which would be approximately 6 units on that piece of land.

Appearance: Ms. Pat Peters
Storms Road
Valley Cottage, New York

Ms. Peters said she agreed completely with the Planning Board and was opposed to the present proposal. She was concerned with access to Storms Road and she hoped the Board would vote it down this evening and send it back to the Planning Board.

Appearance: Mr. Kevin McManus
Storms Road
Valley Cottage, New York

Mr. McManus stated that he lives in an R-40 zone and he did not want to see it become nothing. He said suppose he decides to build a house on his property - what will happen to that plan if the zone is changed? He was also concerned with the traffic. He said much construction is under way in the area and who knows what will happen when they are in operation? He spoke about road conditions in the winter. He said who knows what will happen if the mall comes in? He mentioned the mall in Spring Valley and the people who live around there who cannot get around anymore. If the road is widened to a four lane road and you need access to Storms Road, how are you going to get across Route 303 if that road becomes a bottleneck? The traffic will be the biggest problem.

Mr. McManus said they all have septic systems and they do not know what all this work will do to the ground around the surrounding area. People around there also have wells. What will happen to them with all this work?

Mr. Hekker spoke in rebuttal. Mr. Hekker said with regard to the sewers and the wells all construction will be done several hundred feet away from Storms Road practically in the bed of the new street. He said there will be their own access onto and off of Route 303 where the children will be picked up and dropped off entirely on private property and not on any public road. Mr. Hekker said we are talking here of a 12 acre site - a very large site - and we are requesting here 6 units per acre which is extremely low density, the lowest you can get in the Town of Clarkstown. He said if this Board feels there is a need for this type of housing than you should act affirmatively on the application.

On motion of Councilman Carey, seconded by Councilman Carey and unanimously adopted, the Public Hearing was closed, DECISION RESERVED and the applicant is to return to the Technical Advisory Committee, time: 10:50 P.M.

Respectfully submitted,


PATRICIA SHERIDAN,
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

161

Town Hall

7/12/88

9:36 P.M.

Present: Supervisor Holbrook
Council Members Carey, Kunis, Maloney and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

RE: SPECIAL PERMIT TO CONDUCT LANDFILL - RICHARD BREGA

On motion of Councilman Maloney, seconded by Councilman Carey and unanimously adopted, the Public Hearing re: Special Permit to Conduct Landfill - Richard Brega was declared open. Town Clerk read notice calling Public Hearing and testified as to proper posting and publication.

Town Clerk read letter from Robert J. Lazell which is on file in the Town Clerk's Office and made a part of the official record of this Public Hearing.

Supervisor asked if SEQRA had been complied with. Town Attorney said no it had not been completed. Supervisor said then there is no resolution tonight? Town Attorney said that is correct. Town Attorney then stated that we have a letter from the Rockland County Department of Planning which letter is on file in the Town Clerk's Office recommending approval so long as there is approval by the SWCD. Town Attorney stated that the Town Planning Board recommends denial of the requested special permit.

Town Attorney also referred to a letter received from the Rockland County Department of Health listing conditions under which the permit could be granted. This letter is on file in the Town Clerk's office.

Town Attorney said there is also a memo from Luke Kalarickal, Deputy Director of Environmental Control listing his recommendations if the permit is granted.

Appearance: Henry Horowitz, Esq.
Attorney and Engineer for Applicant

Mr. Horowitz said that we have two contradictory statements. This is not a wetland. It had received a wetland designation a number of years ago and has since been removed as a wetlands designation by the New York State Department of Conservation. The County Planning Board is in error and must be working from some old map. The parcel in question consists of approximately 15-1/2 acres. It is owned by the Bregas and has been for some 35 years. It is a low area and has been for the last 35 years. Water that goes in there stays in there because it is low. The Bregas have now decided that they would like to develop their property. They should have that right provided they create no problem on any adjoining property.

There is a parcel above this parcel, Clarkstown Executive Park, which has recently been processed (also had some low land) and is now being developed. Part of the approval of that process was the requirement that a retention basin be installed. It was. The requirement of that basin was not, which is the usual case, to make sure the basin holds back any additional water that you are going to create as the result of your development. They were required to design a retention basin which would be big enough to hold back the water of some 1,000 acres.

Reference and discussion to provided maps was had at this point.

Mr. Horowitz said that the Bregas would like to make sure that they are not responsible for solving all the flooding problems in the area.

Continued on Next Page

Mr. Horowitz said he is aware that there are residences in this area and that they are in a very low area and they would swale down from there. He said we will not fill up to those residences. He said there are two ways to fill a site in the Town of Clarkstown, one is by applying for a fill permit which means a whole process before the Planning Board and the Town Board and after the filling is complete then going and starting the process again of a site plan before the Planning Board. He said they elected to go that way for several reasons and he enumerated them.

He said the reason the Planning Board has turned it down is because the regulations provide that if you have land under water or steep land, only 50% of it can be counted towards the minimum lot area. That has always been a question and never resolved. At what point do we make that determination? As far as this is concerned we have no difficulty at this point. This site will not be built in excess of a floor area ratio of .02. Right now the floor area ratio permitted is .04 - 50% is .02. That will resolve that problem. The Planning Board is now in a much better position to determine what it is we can and cannot do regarding this particular development.

Mr. Horowitz said they did send to the Department of Environmental Control a letter dated July 11, 1988 which set forth the various covenants willing to be undertaken by the Bregas. He went into detail regarding this letter which is on file in the Town Clerk's Office.

Councilwoman Smith asked if putting in a road was a condition of the other site when it was approved? Mr. Horowitz said that is a question and he feels it was approved but not filed. He said he believed that the owners are objecting to it and may even take some action not to be required to put that road in which is why we are in a very precarious situation. He said it was their understanding that the road was going in. If the road, in the wisdom of the Planning Board, is not put it in, that removes all access to our site from Green Avenue, which obviously would be a mistake since the only access to a 15-1/2 acre site, the majority of which is zoned L10, would be a 50 foot strip through an R-15 and there is some ludicrous planning in that. He would hope that some access would be provided. That has been put on the plan and is the subject of extensive discussion with the Planning Board and the owner.

Councilwoman Smith said her memory says access was to be provided but the minutes will have to be checked.

Mr. Horowitz said they will covenant to do nothing until all of this is approved by the agency which has control. They did not want to put all of the effort into this without knowing if they will be approved. He discussed again the retention basin, etc. The study made by a previous agency stopped at the railroad culvert. He went into detail about the several ways he felt the problem could be solved.

Mr. Horowitz again referred to the covenants indicated stating they were relevant to Environmental Control and are the usual requirements.

Supervisor asked if Board members had any questions of the applicant? No one did.

Supervisor asked if there were any members of the public wishing to make a comment?

Appearance: Mr. Milton Chambers
Sequoia Drive
Valley Cottage, New York

Continued on Next Page

PH - Special Permit to Operate Landfill (Brega)
Page 3

Mr. Chambers stated he has lived in the area for twelve years. He said the Planning Board voted unanimously to deny the request for a special permit. He said according to Mr. Horowitz' associates it would require 120,000 square yards of fill to bring the land up 4 to 6 feet. According to the Planning Board it's going to take 6 to 8 feet of fill and will require 180,000 square feet of fill. That would be 18,000 truck loads of 10 cubic yard trucks - 50 trucks a day, 365 days a year, 6 trucks an hour, every 8 hours, 7 days a week. The amount of commotion, dust and disruption that this would cause would be unbearable to the residents. The entire area, except for the Corporate Park, is surrounded by residential areas. He said Green Avenue is a very small road with many children. School buses are on it. If you had 18,000 trucks coming down and back over Green Avenue there would be nothing left of the area because the road is not constructed to take the weight it would have to bear.

Mr. Chambers said there has been no master plan submitted for the area. They propose to fill the area and then worry about a master plan later on. After you truck in 180,000 cubic yards of soil, trying to undo any damage that is already done becomes almost impossible. If you put enough fill into a lowland area it will no longer be a lowland. The regulations of government concerning lowlands would be thwarted. There will be detriment to residents surrounding this area.

Mr. Chambers discussed flooding problems in the area which has occurred over the past 12 years between November and May since he has been there. There is always 3 to 4 feet of water lying in the back area. If 180,000 yards of fill is placed there then there will be no where for that water to go except on to the residents' properties. This development should take place under the auspices of governmental agencies subject to a master plan before damage is done to the environment and before damage is done to the surrounding residents and the area.

He urged the Board to require the appropriate planning before a permit is given so that no one, including the applicant, will be hurt.

Appearance: Mr. Ted Taicner
Green Avenue
Valley Cottage, New York

Mr. Taicner asked Mr. Horowitz to explain the .02 and the .04. Mr. Horowitz explained that the Zoning Ordinance in Clarkstown stated how much of a building you can put on a site by using what is known as floor area ratio. He went into detail on this. He said if any of your lands are under water or subject to flooding you can only count half of your land towards building. In the instant case the major portion of the land is under water. We will assume the entire site is under water and we will concede right now and build only 50% of that site as though it was still under water. The floor area ratio instead of being .04 will be .02 regardless of what is done to the site.

Mr. Taicner said you have 15 acres there. That means 7-1/2 will be used for flood control right? Mr. Horowitz said how much of the site will be built above the flood plain or how much is going to be left below the flood plain will depend upon the Town Engineer's office. What is critical is that total square foot area of building on that particular site cannot exceed more than 50% of what is allowed in that particular zone.

Mr. Taicner said that the late Mr. Peter Brega's intention was to have a water control there. That was one of his concerns. He discussed the problem with using Green Avenue and other access points. He again mentioned flood problems and stated that was the major concern. He asked that they put a basin in there.

Continued on Next Page

Appearance: Ms. McKenzie
Green Avenue
Valley Cottage, New York

She said Green Avenue would not be able to accommodate any heavy trucking. There would be debris falling and she would have to keep her windows closed so that the dust would not come in. The roadway is soft when wet. She asked for special consideration regarding the problem of using Green Avenue to which she was opposed.

Appearance: Mr. Jack Schmidt
767 Birchwood Court
Valley Cottage, New York

He stated he lived right behind the property in question. When it does rain there is no property between them, just water. He said in 9-1/2 years he has been flooded out many times. He passed pictures up to the Town Board showing the problem. He asked where the fill would be placed and what would happen when the floods come? Supervisor said the railroad trestle there acts as a dam in effect? Mr. Schmidt said yes it does and if you put fill in where is the water going to go? Mr. Schmidt said he pays flood insurance but eventually it will get out of hand. Mr. Schmidt said he would like to know what the builder's intentions are?

Appearance: Mrs. Palermo
755 Green Avenue
Valley Cottage, New York

Mrs. Palermo stated that she lived at the end of the block about 500 feet from the property and she was very concerned about the fill. She asked what is going to happen if all these trucks come through on Green Avenue? She said they have been dumping there already for almost two years. She felt it would be a danger to the children there. She urged the Board to consider what they were doing.

Appearance: Mr. Arnie Garelick
Clarkstown Executive Park

Mr. Garelick said as a point of information they did not give Mr. Brega permission to go across their land at this time. Mr. Garelick said they also told him that if it was to haul construction debris across the property which would leach into the retention basins that they have built to aid his property that under no circumstances would they grant that. Mr. Brega had assured them that under no circumstances would he be bringing in construction debris at all.

Appearance: Mr. Joseph Trippi
Green Avenue
Valley Cottage, New York

Mr. Trippi reiterated essentially what the previous speakers had said. He said there are a lot of unanswered questions which need to be addressed, specifically, what is going to happen to the site after it is filled in? How can we assure that further flooding and increased flooding won't occur? He said after 35 years of holding a piece of land he found it interesting that it was attempted to be filled in without any specific design in mind. He felt the public and the Town Board had a right to know just what was going to happen with that land.

Mr. Horowitz spoke in rebuttal. He said he could reiterate certain matters over and over again. The item of 180,000 cubic yards of fill was indicated. It is not 180,000 cubic yards of fill. The approximate yardage would be about 70,000 to 80,000 yards of fill that we are talking about. The paramount concern is for the neighbors. The Bregas live in the area not just own the land. The

Continued on Next Page

railroad is not going to act as a dam or create any problem. He said they did not want to make anything worse. They want to make it better. He said they indicated a swale around all the houses and not filling in within 100 feet of those houses. They would be better off. With 180,000 yards of fill they would be flooded but he was stating that will not be the case.

Mr. Horowitz said the Master Plan is anything which is permitted in that particular zone - what rights are to build - nothing more, nothing less. He said if they were to do everything and get the building permit that does not mean they will get site plan approval. Do you have to know what kind of building goes in there in order to know what kind of grading makes sense? No, we don't. He said they know that they have to stay 100 feet away from the residences and have a swale going down from their residences. He said he knows at the opposite end, where Corporate Park is, whose grading is approved, he is going to have to meet them. He said that he knows where the railroad is, a ditch is going to have to be put along in there.

Mr. Horowitz gave his assurance that the applicant would be in a lot tighter control where you require him to go one step at a time. We, of course, intend to build after we get through filling. But it will be done in an orderly process after talking with the neighbors, obtaining the necessary permits, etc. We are not going to sidestep the Planning Board by saying that after it is filled that we have no floodplain. We will covenant beforehand that we will not do that. It is much safer to do this in stages. He said, finally, the Bregas and anyone working on this project are very sensitive to the people and the homes in that area.

Supervisor Holbrook said the SEQRA has not been complied with. Should we just recess, as that will have to be part of the record at a subsequent meeting? Supervisor asked will it be completed by the 16th of August so that people present here will be able to know in advance? Mr. Bruckno said the time will have run by then. Supervisor said then we will recess until August 16th so that SEQRA can be completed and then the Town Board can contemplate whether or not they want to make a decision then.

On motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the Public Hearing was declared recessed until August 16th.

Respectfully submitted,

Patricia Sheridan

PATRICIA SHERIDAN,
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

7/12/88

10:51 P.M.

Present: Supervisor Holbrook
Council Members Carey, Kunis, Maloney and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

RE: ABANDONMENT OF PORTION OF FRANKLIN AVENUE, NANUET, NEW YORK AND DELETION FROM OFFICIAL MAP (WEINBERG AND JOHNSTON, PETITIONERS)

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

Town Attorney stated that the County Planning Board approved for local determination. The Town Planning Board said they could not recommend in favor of the abandonment of Franklin Avenue until the applicant addresses the proposed use of the road bed.

Supervisor asked if the petitioner was present.

Appearance: Donald S. Tracy, Esq.
Attorney for the Petitioner

Mr. Tracy said he represented the applicants, Michael Weinberg and Eugene Johnston. He said this was an abandonment pursuant to Section 205 of the Highway Law of a road that was laid out as a highway back in 1936 on a subdivision of Franklin Park Estates. Since that period of time it has never been dedicated to the municipality. It has never been maintained by the municipality. It has never been worked by the municipality and the municipality does not own it. Title to the property is in the adjoining landowners and will be determined by deed. He mentioned a letter from an attorney representing one adjoining landowner saying that if the property is sold he would wish to bid on it.

Mr. Tracy said the property is not the Town's to sell. Case law indicates that it is mandatory that where the property has not been worked for this period of time nor dedicated to the Town of Clarkstown that it must be abandoned and removed from the official map. Claims to the property as to who owns the property will be determined by old deeds and by common law principles and probably by negotiation between the parties. There is no useful purpose for this property. It goes nowhere and other public highways adequately service the area.

Appearance: S. Martin Gordon, Esq.
Attorney representing
Matthew Sasso

Mr. Gordon said Mr. Sasso owns land adjoining the property in question. He said in principal Mr. Sasso has no objection to the abandonment. His objection, however, is the confusion that was caused by the petition. The petition requests, by the petitioners, Mr. Weinberg and Mr. Johnston, that the effect of the abandonment on the property and to the owner thereof, would be that Michael Weinberg and Eugene Johnston will obtain the right and interest to the aforesaid property. No where in the petition does it state what interest in any adjoining land Mr. Weinberg and Mr. Johnston have.

Mr. Gordon said his client has a deed that says he owns 20 foot of the 40 foot. He said what he does not want to see is confusion after the Town agrees to the abandonment as to who is entitled to the property. Mr. Gordon stated that it would have been a very simple matter and he had made the request by several letters to the Town Attorney to come up with the survey. The survey would

Continued on Next Page

clearly indicate who the adjoining landowners are. Mr. Gordon said he would ask here that whatever decision the Town Board makes, do not convey or even indicate the conveyance of any interest to any of the adjoining landowners. He said first of all he could not see where the petitioners were adjoining landowners. No where in the petition does it state that. The only problem that he has with this is the technical aspect of the petition which he thought was severely lacking. He said it will do nothing but cause confusion in the future unless this is settled. A survey or a title report would indicate who owns what and that is the only objection that he has.

Appearance: Mr. Bruce Maggin
8 Freedman Avenue
Nanuet, New York

Mr. Maggin said there was general concern in the neighborhood in general as to granting this without knowing what is going to be developed on this. He said right now there is a used car lot on the other side. It seems to be pretty quiet and they are not too concerned about that but they are not anxious to have any more development that might have a negative impact on the neighborhood.

Mr. Tracy said he did have a title report and he has a survey and the adjoining landowners are his clients along with Matthew Sasso and Charles Litwin. Mr. Tracy said he did not prepare the petition but it was not his intention that the Town Board grant title to anyone. It was their intention that the highway be abandoned and let the private interests prove their respective titles which would be the proper way. He said under the present circumstances it is mandatory on the part of the Town Board to so effectuate an abandonment. He said he had no intention of asking the Town Board to grant the property, which the Town Board doesn't own, to his clients or to anyone else.

Supervisor asked Town Attorney if he had any comments with regard to this matter. Town Attorney said we have this quite often where you have a paper street on an old filed map. The filing of the map is an offer of dedication to the municipality. However, the Town has never taken any steps to accept this offer of dedication. We do not have any ownership in the bed of this paper street. If it is abandoned and we remove it from our Official Map that would be our only involvement. Since we don't own the bed of the street we can't give it to anybody. Whoever a title search would show to be the owner would then be the owner. He said we of course have not expended any of our funds to do a survey or a title search because it is not our property and there is no purpose in spending public funds to do a survey for private people.

Supervisor asked if the Board members had any questions. No one did.

On motion of Councilman Maloney, seconded by Councilman Carey and unanimously adopted, the Public Hearing was declared closed, RESOLUTION ADOPTED, time: 11:00 P.M.

Respectfully submitted,
Patricia Sheridan

PATRICIA SHERIDAN,
Town Clerk

RESOLUTION NO. (737-1988) ADOPTED