

TOWN OF CLARKSTOWN  
SPECIAL TOWN BOARD MEETING

Town Hall

7/21/98

7:00 P.M.

Present: Supervisor Charles E. Holbrook  
Council Members Maloney, Mandia and Smith  
Councilman Profenna Absent  
Harold McCartney, Deputy Town Attorney  
Patricia Sheridan, Town Clerk

Supervisor declared the Town Board meeting open. Assemblage saluted the Flag.

On motion of Councilwoman Smith, seconded by Councilman Maloney and unanimously adopted, the public hearing re: Applicability of the Town of Clarkstown Zoning Ordinance dealing with the Nanuet Fire Engine Company No. 1, Inc. Substation was opened, time: 7:04 P.M.

On motion of Councilman Maloney, seconded by Councilman Mandia and unanimously adopted, the public hearing re: Applicability of the Town of Clarkstown Zoning Ordinance dealing with the Nanuet Fire Engine Company No. 1, Inc. Substation was closed, DECISION RESERVED, time: 9:56 P.M.

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On motion of Councilman Maloney, seconded by Councilman Mandia and unanimously adopted, the public hearing re: Petition of New City Fire Engine Company No. 1 and New City Fire District for a Determination of the Applicability of the Town of Clarkstown Zoning Ordinance was opened, time: 10:01 P.M.

On motion of Councilman Maloney, seconded by Councilman Mandia and unanimously adopted, the public hearing re: Petition of New City Fire Engine Company No. 1 and New City Fire District for a Determination of the Applicability of the Town of Clarkstown Zoning Ordinance was closed, DECISION RESERVED, time: 10:15 P.M.

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RESOLUTION NO. (606-1998)

Co. Smith offered and Co. Maloney seconded

WHEREAS, the Town Board of the Town of Clarkstown by resolution duly adopted on July 6, 1998, provided for a public hearing on July 21, 1998 at 7:00 P.M., to determine the applicability of the Zoning Ordinance of the Town of Clarkstown with respect to the Nanuet Fire Engine Co. #1 Inc. substation, and

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

NOW, THEREFORE, be it

RESOLVED, that after all parties in interest and citizens were heard at the public hearing concerning the above matter, the Town Board RESERVED DECISION.

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RESOLUTION NO. (606-1998) Continued

On roll call the vote was as follows:

Councilman Maloney.....Yes  
 Councilman Mandia.....Yes  
 Councilman Profenna.....Absent  
 Councilwoman Smith.....Yes  
 Supervisor Holbrook .....Yes

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RESOLUTION NO. (607-1998)

Co. Maloney offered and Co. Mandia seconded

WHEREAS, the Town Board of the Town of Clarkstown by resolution duly adopted on July 6, 1998, provided for a public hearing on July 21, 1998 at 7:30 P.M., to determine the applicability of the Zoning Ordinance of the Town of Clarkstown with respect to the New City Fire Engine Company No. 1 and the New City Fire District, and

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

NOW, THEREFORE, be it

RESOLVED, that after all parties in interest and citizens were heard at the public hearing concerning the above matter, the Town Board RESERVED DECISION.

On roll call the vote was as follows:

Councilman Maloney.....Yes  
 Councilman Mandia.....Yes  
 Councilman Profenna.....Absent  
 Councilwoman Smith.....Yes  
 Supervisor Holbrook .....Yes

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There being no further business to come before the Town Board and no one further wishing to be heard, on motion of Councilman Maloney, seconded by Councilman Mandia and unanimously adopted, the Town Board Meeting was declared closed, time: 10:15 P.M.

Respectfully submitted,



PATRICIA SHERIDAN  
Town Clerk

TOWN OF CLARKSTOWN  
PUBLIC HEARING

Town Hall

07/21/98

7:04 P.M.

Present: Supervisor Holbrook  
Council Members Maloney, Mandia, & Smith  
Councilman Profenna, absent  
Harold MacCartney, Deputy Town Attorney  
Patricia Sheridan, Town Clerk

Re: Applicability of the Town of Clarkstown Zoning Ordinance dealing with the  
Nanuet Fire Engine Company No. 1, Inc. substation

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On motion of Co. Smith, seconded by Co. 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.

Supervisor Holbrook stated that this hearing relates to the substation in Bardonia. The fire engine company will make a presentation and when they are concluded with their presentation the Board will ask some questions if they have any and then the public will be asked for any specific comments or questions. At the conclusion of that, the applicant will be given an opportunity to make a summation.

Appearance: John F. McAlevey, Esq

I am the attorney for the applicant and will be in charge of presenting their case to the Board. I think what we have to realize here tonight is the pursuit of a really unique inquiry. No other public body in Rockland has heretofore had to do this. This Board took a position without discussion or comment some time ago at the regular meeting on Tuesday, March 24th, which set in motion certain legal actions which have culminated in these proceedings here tonight. The purpose of the proceedings is to spread on the records all the arguments, pro or con, which will enable the Board to answer a single question, to wit, on balancing of the public interest to be served is the determination of the Board of Fire Commissioners of the Nanuet Fire District that a satellite garage is required to be constructed at the intersection of Bardonia Road and Renee Lane for the better protection of the citizens of that area from the hazards of fire more or less important than the purposes other than health and welfare sought to be served with the application of your Zoning Local Law. Yes, I know, that's what we are here for. Heretofore, there was no question but that such a decision by the Board of Fire Commissioners was immune from such review. In the present state of the law, however, we're now told that if a Town has adopted a zoning local law the question must be addressed as to which is of overriding importance, the fire district decision voted to the fire safety or the Town zoning concern for the size of a piece of real estate. I assume that the Board members are with the decisions that were handed down, but I have handed to the Clerk two sets, if you want to look at them during the course of the meeting if you are not familiar with them, of the decisions that are at the basis of what we're doing here tonight as well as a copy of a piece of correspondence that went to Mr. Yacyshyn, Chairman of the Planning Board, which sets forth I think succinctly as an attachment to that, the criteria that are set forth in the statute that we are supposed to be looking at.. Essentially ten items are mentioned in the decision; I've tried to itemize them, they are for the convenience of the Planning Board, I hope that they will be of some value to this Board in making its decision. The first person that we would like to call tonight for purposes of presenting the fire company's case is Mr. Greg Tobin.

Mr. McAlevey asked Mr. Tobin a series of questions as follows:

Q Mr. Tobin, are you a member of the New City Fire Engine Co. #1.

A Nanuet, yes.

Q How many years?

A 24 years.

Q And, do you presently hold any office?

A Yes, I do.

Q Are you familiar with the circumstances of the acquisition of the former Bardonia Men's Club property?

A Yes, I am.

Q Can you tell us for the record what transpired and how you came to have that property.

A That property we acquired back in 1987. The Bardonia Men's Club was active at that time and the founders of the men's club seeing their membership go down knew that the Nanuet Fire Department was looking for a parcel to construct a fire substation. They approached us and asked us if they could donate that property to us as long as we gave them a lease of 99 years on the property that would help relieve them . . .

Q On the property or the structure?

A On the structure itself and that would also relieve them of the burden of paying property tax and we approached the membership of the company, the membership voted to go along with it. We had discussion with the Town prior to taking possession of it to see if a substation could be constructed and we were advised by the Town Attorney at that time that we could.

Q And did the Fire Company or the Fire District have any interest in locating a satellite facility anywhere in that area prior to this?

A Yes

Q How far back did that concern go?

A To my knowledge, this question went back to the 1960's, for protection of the people of Bardonia, and the Fire District was behind us on this project.

Q After the Bardonia Men's Club property was acquired, what transpired, if anything?

A The Supreme Court, Sandra Miller, approved the property to us for the construction of the fire station. We then formed a Bardonia Substation Building Committee. We went through and designed a building.

Q Was there any input from anybody other than your own people in the design of that building?

A Originally, there was not. We were shortly then approached by an organization called the Bardonia Citizen's Association who wished to have input on the redesign of the building of which we invited them to our meeting to design a new substation.

Q And did changes occur as a result of those meetings?

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A Yes, they did.

Q What kind of changes?

A The building was designed to fit the area of the residential houses in that section of Renee Lane.

Q Meaning, particularly, what?

A Peaked roof, brick siding, just to fit the other houses that were in the area.

Q Moving the doors to the side instead of facing the street?

A The doors do not face the side, they are parallel to the street.

Q Now, was there any effort to find other locations, other than the Renee Lane site before you undertook going ahead with this thing?

A On the original application to build, we did not because we were under the understanding from the Town that we were permitted to build the fire station. It was shortly after that when we were invited to a Town Workshop Meeting here at the Town.

Q And what transpired then?

A We had the meeting with the, it was an informal meeting, a workshop meeting, where we were notified by Murray Jacobson, the Town Attorney, that he was rethinking his decision on whether we could construct the fire substation under a recent decision of the County of Monroe, City of Rochester. We attended that workshop meeting and we discovered, or a decision was made I should say, that we could not build a substation under that recent ruling, back in '88.

Q And did there come a time subsequently when you determined that you might not meet the requirements for zoning.

A Yes, there was.

Q What was the occasion for that?

A In June of , in May of 1997, I had occasion to receive information that a sister company was building and I contacted Mr. Jacobson and I told him who I was and I asked him why a sister station could build with a building permit only and not to conform with the local zoning regulations. He again asked me who I was and where I was from and I told him and he told me he would send me his decision of how that transpired.

Q What did he tell you subsequently?

A He wrote me a letter and attached to that letter was the matter of the County of Monroe, City of Rochester and also a decision by the Attorney General stating that fire companies and fire districts were permitted to construct without zoning and so forth.

Q Did the Nanuet Fire Company file a site plan with the Town of Clarkstown.

A Yes, we did.

A And did you have meetings with any of the Town professionals relating to that site plan?

A Yes, I applied for a building permit and part of that building permit was filing a site plan. I was required to attend the Architectural Review Board which we did with our plans. They approved that structure for that area and with Denis Letson from Environmental Department who had some questions and we went over the site plan with Denis, also with Dave McLeod from the Building Department who went over the building plans and the site plans. They were subsequently approved and we received a building permit.

Q Were the plans in the course of this review modified in any way as a result of the Town's comments.

A Yes

Q And you filed building plans as well with the Town?

A Yes, we did.

Q Will this facility have any social functions?

A No.

Q Will this facility have a siren or a horn?

A No.

Q Will this facility be a place where equipment will be serviced or maintained?

A No.

Q Will this facility have any gasoline storage?

A No.

Q Will the doors to this facility open except for the ingress and egress of the fire truck?

A No.

Q How is the construction of this facility being financed?

A Through a loan with the Union State Bank.

Q A loan, or more particularly is it a mortgage.

A Well, it's a mortgage on our present fire substation on Prospect Street.

Q And how much of a mortgage does the company assume for this purpose.

A \$300,000

Q And prior to undertaking the building of this satellite facility, did you have any mortgage on that building?

A No, none at all.

Q When is the company obligated to start the monthly amortization and interest payments on this mortgage?

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A We've started that already.

Q Already. How much a month is it costing the company?

A \$2,888.00

Q And as of this date, July 21, 1998, how much money has been spent already on this undertaking?

A Just short of \$180,000.00.

Q And I'd like to show you a picture, a copy of which I'll give to the Clerk, can you identify that for me?

A Yes, this is the construction that has already taken place on the site on Renee Lane. It's the main slab and floor for the fire truck and also the basement is completed.

Q The building, there's a fence across the front which kind of obscures the foundation; is the building above grade.

A The foundation is above grade, yes.

Q Given the delays occasioned thus far, does the company expect that the amount of money already borrowed is going to be sufficient to finish this project?

A No, no way.

Q Has the fire company done any survey of the residents of the district.

A Yes, we have.

Q And do you have the results of those here and can you tell the Board about them.

A What we originally did after we started the construction, you very well know the opposition that had occurred. We did a mailing for the residents north of Rte. 59 which is the area the substation will be covering. The results of that mailing were 460 were for the project and 141 were against the project. Subsequent to that, knowing we were going to be appearing before councilmen and councilwomen we did a petition where the guys on their own time went to the senior citizens complexes in Bardonia, Village Green Condominiums, Jean Marie Condominiums, the residents of Pine View Avenue. This past Saturday we were down in Pine View Avenue, we had a mutual aid call to West Nyack Fire Department so we couldn't continue our petitions that day. Most of these petitions, not all of them, are from the residents north of Rte 59 and those from the senior citizens meetings that we went to who were not residents, we deleted, crossed their names out so what you will see only from those residents in that area and those are 498. We got those petitions in a matter of a couple of days.

Q I have no further questions. Is there anything I might have missed in terms of what you would like to have put into the record?

A Well, I think maybe I'll save that for closing. I'll answer any questions anyone has.

Co. Smith: Do you have a date that the site plan was filed? ..

A They were submitted with the building permit, I have that, I'll give to you.

Co. Smith: And the Architectural Review Board?

A I have those also. The Architectural Review Board was held December 2, the Environmental Department, I met on, it looks like the 16th. I do have the original building permit with me.

Co. Mandia: I assume that the need for the substation was based upon some studies or expert opinions of fire personnel?

A Yes, that will be brought up during the presentation. My part of the presentation is as the administrator of the fire department, not the fire end of it. But the real estate and the money end.

Co. Mandia: So we are going to cover that later?

A Yes, that will be covered.

Mr. McAlevey asked Mr. Socky Trojahn to make his presentation to the Board. Mr. McAlevey asked him a series of questions as follows:

Q Mr. Trojahn, are you a member of the Nanuet Fire Department?

A Yes, I am.

Q For how long have you been a member?

a I've been a member 34 years.

Q And do you hold any present company office?

A Presently I'm corresponding secretary and I take care of all the company records. Prior to that I've been a line officer from 1966. I was chief in 1988 and 89, continued as a line officer after that and I was second assistant chief when I resigned in 1997. Currently, I'm vice chairman of the Rockland Fire Advisory Board, vice president of the Rockland County Fire Chief's Association and vice chairman of the Rockland County Volunteer Fireman's Association Board of Directors.

Q Thank you. Do you have with you a copy of the petition and the Supreme Court order of 1988 by which the property of the former men's club was turned over to the fire company?

A I have the petition to transfer and I've got the order of transfer.

Q Will you deliver those to the Clerk, please.

A Sure

Q Did those papers specifically mention those specific transfers, all of them?

A Specifically mentions, for the purpose of putting up a substation, yes.

Q And that was approved by the Supreme Court Justice who?

A Judge Sandra Miller.

Q In 1995, were you involved in the site selection process of alternative locations to Renee Lane?

A Yes, I was.

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Q And can you tell us how it came that you went on to search for alternative locations?

A Well, we were having problems. We knew we weren't getting too far with the men's club on dealing with them so we, the Town approached us with a couple of ideas and different property locations and we went out with Mr. Geneslaw looking at some properties. First property was at the end of Demarest Mill Road. This property abutted the Thruway exit ramp leading to the Palisades Parkway. The property dimensions over there was 80 feet by 80 feet. It wasn't large enough to put up a substation that had parking around it and we were only 100 feet from the roadway to the Palisades Parkway and also the roadway going in was only 18 feet wide. It didn't give us enough turning radius to get back into the barn and the Town didn't know if enough property could be acquired from the two car dealerships or from the State to make the property large enough. Wintertime would be a problem also because the road would have to be kept open in order to get to the apparatus out. Another piece of property we looked at abutted the back end of the Clarkstown Highway Garage on Pralle Lane. Once again the Town did not know how much property they could give us and how long we could have it for. The problem there also was if the Town Garage had to be expanded we probably would be asked to move and also the roadway there was only 16 feet wide. Another problem there is a traffic light would have to be installed out on 304 and we are told the cost of that would be about \$120,00 and that the Town would not undertake that cost, we would have to take it on ourselves. Also another problem there would be again a long roadway in wintertime it would have to be plowed and kept open to get the apparatus in and out. That same day, we weren't getting too far, we recommended to the Town, Mr. Geneslaw at the time, we were interested in a piece of property on Ludwig Rd. and 304. He said he would look into it. They came back to us and said it would cost a little over a million dollars to buy. The problem with it would be that there is three lots there we would have to entertain to make the property large enough. One of the lots was owned by the State, right on the corner there, and they wouldn't relinquish that property because if they ever have to make that corner wider, they would need that property. We asked them to look into other properties and the Town never got back to us with anything else.

Q Between 1995 and 1998, I gather the Town did not make any further steps of which you are aware to find a better location.

A Not that we know of.

Q Mr. Trojhan, do these facilities have any impact on fire insurance rates in the vicinity.

A Yes, they do. The insurance service office known as ISO provides the communities and insurance companies with in depth fire protection reports based upon the communities public protection classification. Known as the ISO rating, ISO measures the community's abilities to minimize fire damage to a property once a fire starts. At the present time the Nanuet Fire District has a 4:9 rating. This rating can be greatly reduced thus reducing your fire insurance. By having a substation in Bardonia, it helps the entire fire district. The substation would come under a classification known as distribution. Distribution reviews the percent of the built upon area of the fire district which has a first due engine company within one and one half miles. The substation would bring us in compliance with the distribution rating. A 3 or 2 rating would mean a minimum of at least 5% savings on your insurance. If you pay, for instance, \$500 per year this would be \$25 a year. Multiply this by 6,000 residential homes in this district would be a savings of \$150,000 a year. Over 15 years is when ISO would reevaluate it again, it would be a savings of over \$2,250,000.

Q Were you present at the building site on the morning of Tuesday, April 28th?

A Yes, I was.

Q Can you describe what transpired that morning?

A Well, we had showed up there and the residents started coming out and looking around and see what's going on because we had the contractors there also. Our objective that day was to have a load of block delivered. The Clarkstown PD was there also. Later on, Chief Collins showed up and Dolf Milich. They were talking to the residents. I told Chief Collins what we were there for to have the block delivered. He said he'd be back in a little while. He and Dolf Milich came over here to Town Hall to talk to Mr. Holbrook and Mr. Jacobson. In the meantime, the truck showed up and backed in and the Clarkstown PD came over to me and asked me if we could wait a little while, ten minutes, to unload because the chief of police was in a meeting. I told him I would wait ten minutes. Fifteen minutes transpired, so I went over to the policeman and he said "you got to do what you got to do". So I said, "Well, we're going to unload the truck..". Just before we repositioned the truck to unload it, the policeman came up to me and said he got a phone call from Chief Collins and said it was all right to go ahead and unload the truck. He also told me that Chief Collins and Dolf Milich were on there way back to see us. We were unloading the truck and Chief Collins and Dolf Milich came back and Dolf Milich comes up to me and asks me for my license and issues me a summons and the contractor, Mr. Cook, was issued a summons also.

Q After being served, did Mr. Cook then stop work?

A Yes, he did.

Q Has he declined to resume work since?

A Yes, he has.

Q Subsequent to the decision by Judge Howard Miller, did the Fire Engine Co. then file a site plan approval?

A Yes, we did, within a couple of days.

Q And did there come a time in the normal course of review, that a meeting was scheduled on this resubmission?

A There was a TAC Board meeting scheduled for July 1st at the Clarkstown Town Hall.

Q Were you present at that meeting?

A Yes, I was.

Q What happened when you referred to the agenda item at the TAC Board meeting?

A Well, we went TAC Board meeting and we were told right off the bat that they were not going to be reviewing our plans because the Clarkstown Town Board was proposing a resolution that following Tuesday night at a Board meeting, that they would be the controlling authority and do the balancing act. So nothing got accomplished that day whatsoever.

Q Let the record show that I am also handing up to the Clerk two copies of the minutes of the Technical Advisory Committee meeting of July 1, 1998 with the attendance sheet attached. I have no further questions for Mr. Trojahn.

Mr. McAlevey asked Chief Harold Straut to make a presentation. He asked Mr. Straut a series of questions as follows:

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Q Are you a member of the Nanuet Fire Department?

A Yes, I am.

Q For how many years?

A I've been a member since 1977.

Q And you currently are chief, have you held any other offices?

A I'm currently holding the position of chief of the Nanuet Fire Engine Company since January. The past four years, I've been assistant chief and prior to that, since 1982, I've held either the office of engineer, lieutenant or captain of the Nanuet Fire Company. I've also served as secretary, recording secretary and financial secretary.

Q Is the Nanuet Fire Engine Company #1 the only fire company chartered by the Nanuet Fire Commissioners?

A Yes.

Q So your entity is solely responsible for fire protection in the fire district?

A Correct.

Q How many pieces of apparatus do you operate.

A The Nanuet Fire District operates 6 pieces of apparatus.

Q And how many volunteers are currently active in the work of the company?

A We have approximately 70 active members.

Q And a much larger roster of inactives.

A Total of over 100.

Q How does the responsibility fall between you, the chief, the line officers and the fire commissioners in terms of assessing the firematic needs of the district.

A Well, myself and two assistant chiefs oversee the day to day operations, the fire apparatus and the equipment that we need to provide fire protection to the residents of the district. The other officers report to me and if we see anything that needs upgrading or things that are needed in the district, I report to the commissioners on monthly basis at the regular meeting.

Q Are any of the areas of the district where population growth has raised concerns about the company's continued ability to respond.

A The areas north of Rte 59 have concerned the company. In the last ten years, there has been a tremendous expansion of condominium projects. Right down the Rte 304 corridor everyone can see all the condos going up, L'Ambiance, Village Green, the biggest one lately is Avalon Gardens, which I'm sure you are all familiar with. Half of that is in our district.

Q Has anything occurred in terms of the develop of traffic that have also added to this concern?

A Yes, traffic has increased greatly all throughout the town of Nanuet. Quite a few members that live on the north side of Rte 59 and according to our policy, they must respond to the firehouse; they do not respond to scene in their private cars. We have to get them into the firehouse to get them on the trucks to respond to a fire. If someone has to travel from Vailshire Circle or Lake Shore Drive which is up past Smith Road and come all the way to the firehouse on Prospect Street, it takes quite a while to get there especially if there is heavy traffic.

Q When the satellite facility on Renee Lane would be completed, will you have facilities for directing those firemen in that vicinity to report there instead of the main firehouse?

A If the proposed substation is built, then the men who live on 59 could respond over to the substation and respond a vehicle for fires in the areas. It would greatly reduce response time, the men wouldn't have to travel all the way to the other end of town to get there.

Q How long has the availability of a satellite facility in this area been recognized?

A Its really been a heavy issue the last ten years or so but actually if you go back in the history the first proposed second station for Nanuet was really brought up in the late fifties and early sixties. There were a lot of fires in the northern end of town. Pralle Lane, Germonds Country Club in 1960 had a bad fire, 1959 quite a few barn fires on property called the Sigmund Grounds. There was a fatal oil burner explosion on Germonds Road. Elmwood Manor burned to the ground in 1959. A lot of those big fires did prompt discussion back then.

Q Did the company or the commissioners do anything about this concern?

A An analysis was done, the Board of Fire Commissioners undertook a study of the Nanuet Fire District in the year 1993. In October 1993 the report was given to the district.

Q Is that the report that was done by Mr. Shand of Syracuse.

A Yes, it was.

Q And who is Mr. Shand and how did you come about him?

A Mr. Shand is a resident of Syracuse; he's a well known fire protection engineer. He's been in this business probably all of his life and he completed a through study for the district on traffic patterns, response patterns, equipment for the district.

Q Who financed that study, the district or the company

A The district did.

Q Relative to a new location for a satellite facility, did Shand make recommendations on that

A Yes, he did. (Mr. Straut read from Page 21 of this analysis)

"The moderate to heavy traffic patterns surrounding the fire station can severely impede both apparatus response to the incident as well as members responding to the fire station. The area along Route 304 in the Bardonia area would be the recommended location for a substation. Given the high cost of land acquisition in all areas of the fire district, the ideal location (Route 304 between the Thruway and Bardonia Road) would probably be difficult to obtain and financially beyond

reasonable costs. Consideration should then be given to the utilization of existing property by the district or fire company. The property that has been leased to the Nanuet Fire Engine Company on the east side of Renee Lane, south of Bardonia Road, could be utilized to support the activity of a fire station. This property is approximately .2 of a mile east of the intersection of Bardonia Road and Route 304. While this station may not be in the ideal location, in reality, very few fire stations are placed at the ideal site. The lack of land acquisition costs far outweigh the .2 of a mile response distance to the Bardonia Road/Route 304 intersection."

Q Would you give a copy of that to the Clerk. Did Mr. Shand do any update recently which you would like to acknowledge?

A He did make a comment. I have a letter here that was addressed to Mr. Holbrook.

He then read a letter into the record from Mr. Shand dated July 15, 1998.  
(Letter on file in Town Clerk's Office)

Q How many vehicular accidents has the Nanuet Fire Company had in responding to a fire call.

A In responding to a fire call, since I have been a member, one. That was in 1985 when a motor vehicle failed to yield the right of way to an emergency vehicle responding to a fire. It happened at the intersection of Rte 59 and West Nyack Road by St. Anthony's, a section that is now closed, we were responding to a call that was on the north side of 59.

Q Were there any personal injuries?

A No, just vehicle property damage.

Q To your knowledge, have any of the volunteer firemen in Nanuet ever been involved in accidents in responding to a call.

A Not to my knowledge, no.

Q Can you summarize the importance of the Renee Lane satellite facility?

A As Mr. Shand had mentioned in his letter, I feel that the need for the substation is increasing over the years. This study was done five years ago. Obviously in five years we have grown tremendously in the area. Since 1990, I have gone back through the fire reports, I've taken a lot of time to do it, we responded since 1990 through July 19th of this year, we have responded to 4,012 calls. 1,757 were north of Rte 59, 43.9% of our calls. 56.1% obviously south of 59. We're pretty consistent with our numbers lately in our fire district we have been running over 500 calls a year which is quite a bit. We are the 4th busiest department in the county. So far this year the calls north of 59 are 58.57%, that is up quite a bit. Last year it was 46%, 1996 was 48%, 1995 was 52%. A few years before that it was down and it has now taken a sharp turn up. As you can see by the percentages, our calls are just drastically going up on the north side of 59. We have 22 members that live north of Rt. 59.

Q They would be available to respond to the Renee Lane facility without having to cross traffic on 59?

A Yes, they would and that would greatly reduce response time as I have said in the past.

Q What kind of traffic regulations do firemen have to observe when responding to a call.

A Firemen have to observe all NYS vehicle and traffic laws, the same as anyone else on the road. They only courtesy they have is a blue light which is simply what it is, a courtesy light that lets the motorists know there is a volunteer fireman responding and if they would pull over and let them pass, it's a courtesy.

Q And near a school bus what do you do?

A Stop. School bus and red lights, we stop.

Q Including the fire apparatus?

A Fire apparatus, chief's cars, at school buses, we stop. Safety is our number one goal and that's why we're there to help, not hurt.

Q I have no further questions.

Co. Mandia: Chief, could you tell me if you know if a traffic signal light would have to be put up on Renee and Bardonia Road if the substation is erected.

A I don't believe so, we could probably do without one there. Traffic light there would probably be hard to see coming up the hill but, as they are installed around firehouses around the county, there are warning lights that are put 5 or 6 hundred feet before with flashing lights that fire trucks are entering or leaving.

Co. Mandia: How would you propose then stopping oncoming traffic that will be coming from the east if the visibility isn't good?

A Traffic will be warned or stopping. There could be a light put in. I don't know who would bear that cost. I don't know if it would be the Town or the District.

Co. Mandia: But something would be necessary in your opinion?

A Yes.

Q Is the fire station that many yards from the intersection that a fireman wouldn't be able to be out there to avert traffic?

A The substation location to Bardonia Road is 190 feet from the driveway to the road.

Q Thank you, I have no further questions.

Mr. McAlevey called Mr. Jack Riley up to address the Board and asked him a series of questions as follows:

Q Are you a member of the Nanuet Fire Engine Company.

A Yes. In fact this coming December, I'll have 39 years.

Q Can you tell us what offices you have held in the company?

A When I first came on I was a probbie fireman, as they say, I eventually worked my way up to be a fireman, past the probation stage, became a driver and felt I'd like to go on to being an officer and went to the fire training site, took classes to avail myself to be able to be a lieutenant. I served in that capacity for approximately 6 years. I was then promoted to captain. As captain I was in charge of the complete training under the direction of the chief. I was the assistant chief, first assistant, second assistant for four years and then in 1981 I was appointed chief of the Nanuet Fire Department.

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Q And what is your present association with the fire district?

A I'm still an active member of the Nanuet Fire Company. At the present time, I am a fire commissioner and happen to be the chairman of the board of fire commissioners.

Q How many years have you been a member of the Board of Fire Commissioners.

A 15 years, my first term was in 1983 after getting out of chief, I had the honor of taking the place of Dr. Robert Jacaruso who at that time was sick and was unable to maintain the activities of the Fire Commissioner and I was elected for a two year term.

Q You were here when Chief Straut was testifying. Can you comment on the relationship between the fire districts and volunteer firemen.

A Well, the fire district is a mandated group to oversee and reassure the fire protection of the fire district and what we are obligated to do is to abide by the rules and regulations that are set down from the State of New York pertaining to safety. To make sure that we abide by the OSHA regulations and maintain the stability within the fire service, provide fire protection for the fire district.

Q Is it traditional in most of the County for the fire station to be owned by the volunteer fire company?

A In many cases it is, yes.

Q Is there a policy written for that?

A Being that there were elected officials from the Town we do not really care to be in the realty business, it has been found that if the fire company and the firemen, our main station is owned by the fire company and they have control over the fire house and the fire district communicates with them and we in turn will rent area to store our fire trucks which are owned by the fire district.

Q You rent the garage space, do you assume responsibility for the social functions there?

A No tax moneys whatsoever from the Town of Clarkstown or from the Nanuet Fire District is used on any social activities of the fire company. It is all for fire protection.

Q On the 6th day of July 1998, did you have occasion to communicate with the Town Board?

A Yes, I did.

Q Would you read that letter into the record?

Mr. Reilly read letter from Board of Fire Commissioners to Town Board dated 7/6/98 into the record.

(Letter on file in Town Clerk's Office)

Q This is an item here that I'm not too familiar with, can you tell me what that is.

A This is a letter that the Board of Fire Commissioners wish to present to the Supervisor and the Councilmen.

Q Read that into the record, please.

A In 1993, the Nanuet Fire District commissioned a survey of fire protection responsibilities and capabilities. In that report by an out side consultant, it was stated the moderate to heavy traffic patterns surrounding the existing fire station on Prospect Street can severely impede both the apparatus response to the incident as well as members responding to the fire station. The area along Route 304 and Bardonia would be recommended for a fire substation location. The report further concluded an additional station is warranted in a general area of Route 304 in Bardonia at a point north of the NYS Thruway the building of a new substation in Bardonia area must become a priority for the fire district. The Nanuet Fire Commissioners have as their responsibility the provision of fire protection for the community in the foreseeable future to address this responsibility the commissioners wholeheartedly support the efforts being made by the Nanuet Fire Engine Company to build a substation on Renee Lane in Bardonia. We believe the priorities of fire protection outweigh concerns of local residents, business people who simply do not appreciate the importance of rapid response in the areas to be served by the new station. The Nanuet Board of Fire Commissioners also believe that construction as planned makes suitable allowances for preserving the safety and the serenity of its neighbors. To such the Board of Fire Commissioners of the Nanuet Fire District earnestly request that the Town Board of the Town of Clarkstown fulfill its responsibility to all town residents by approving the reissuance of the building permit for this new substation.

Q Is there anything else you wish to say for the record?

A Does the Board have any questions?

Q Thank you ,. sir.

Mr. McAlevey then called Dominick Giovinazzo to make a presentation and asked him the following questions:

Q Are you a member of the Nanuet Fire Department?

A Yes.

Q And for how long?

A 12-1/2 years.

Q What offices have you held in the fire company.

A Chauffeur, engineering department, lieutenant and as of January, assistant chief.

Q Are you aware of any studies on the proximity of schoolhouses and firehouses?

A Yes.

Q Who conducted that study?

A I conducted it with Socky Trojahn, also three other fireman, Roger Rodin, Paul Sullivan and Gordon Miller.

Q Do you have those results with you?

A Yes, I do.

Q Can you summarize those findings for us please.

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A In Clarkstown alone, out of 8 fire departments, just two fire departments don't have schools around them so 6 out of the 8 schools are right around active firehouses. Overall in Rockland County, there are 18 firehouses out of 26 firehouses that are near schools, that abut right to them and they have no problems.

Q When near do you mean as close as the Renee Lane satellite facility would be to the entrance to the Bardonia Elementary School

A They would be closer than that. They're adjacent right to it, right to the school yard..

Q Can you hand a copy of the results to the Clerk. Does anyone on the Board have any questions for Mr. Giovinazzo?

Mr. McAlevey then asked Joseph Jacaruso to come forward and asked him the following series of questions:

Q Mr. Jacaruso, what fire company do you belong to.

A I belong to the Spring Valley Fire Company, I'm an exchief of the Spring Valley Department and also deputy fire coordinator for Rockland County.

Q As deputy fire coordinator for Rockland County, what does that mean?

A I go to assist any call for mutual aid from the fire service within Rockland County to assist them in any way possible.

Q Does that position of deputy county coordinator give you familiarity with the operations of the various fire companies.

A Yes, it does.

Q Does that position also entail responsibility for the running of the fire training center?

A Yes, I'm also an assistant instructor at the fire training center and in charge of safety.

Q And you are therefore involved with the curriculum of the schools?

A Yes.

Q Does the curriculum of the fire training center cover driver education?

A Yes, it does. Currently they have 3 classes, one national safety council defensive driving course, it's a six hour course. Also SIVO fire, coaching the emergency vehicle operation expressly for the fire apparatus. It's based on three and one half hours on operating large vehicles and also an hour and a half with operating with lights and sirens. They also have a course now, Emergency Vehicle Operation, The Maze. That is you drive your own apparatus through a number of cones and it's done at the fire training center. This one is nationally recognized by the volunteer fireman's insurance service.

Q Were you here earlier when Mr. Giovinazzo presented his report on the proximity of firehouses to schoolhouses?

A Yes, I was.

Q How does that report conform to your own knowledge?

A I agree with it.

Q Are you familiar with the intersection of Bardonia Road and Renee Lane?

A Yes, I am.

Q In your professional opinion, is there anything inherently dangerous about the proposed one truck garage in the southeast corner of Bardonia Road and Renee Lane?

A No, I don't feel that it's very dangerous at all.

Q Thank you, sir

Mr. McAlevey then called Mr. Jack Keogh and asked him the following questions:

Q Mr. Keogh, are you a volunteer fireman?

A No, I am not.

Q What is your area of expertise?

A I have pretty decent knowledge of planning and zoning matters.

Q Can you tell us what your background is in those areas?

A I was the Planning & Zoning Administrator in the Town of Ramapo for 25 years. I retired there in 1991. Since that time, I have been a planning consultant in private practice. I am currently consultant to the Town of Ramapo, I have been the consultant to the Village of Sloatsburg and undertake some private planning practice. I have been a member of the Village of Suffern Planning Board since 1974, I am currently chairman there. I have served in all the various chairs in the lines of succession in the NYS Planning Federation and I am the past president of the NYS Planning Federation. I was one of the founding members of the Rockland Co. Planning Federation a few years ago.

Q And have you been accepted as an expert by any of the Courts in NYS?

A Yes, I have both in the Federal Court and the Appellate Division in New York State.

Q When you were with the Town of Ramapo did your responsibilities include familiarity with the CDRC report.

A Yes, I was involved with the CDRC, Community Design Review Committee.

Q What was the function of that?

A The CDRC was the staff review committee that was responsible for reviewing all planning and zoning applications whether for the Planning Board or the Town Board before they went to those Boards. I was the chairman. Clarkstown's TAC committee was formed by Supervisor Vines as a result of the concept that we developed in Ramapo.

Q And is the site plan review an important aspect of the CDRC.

A Yes, it was.

Q Did you do any survey of the neighborhood known as Bardonia Road, Renee Lane section?

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A Yes, I did. I went out and reviewed the area and had a vicinity map prepared showing the land uses in that area and I present five copies to the Clerk.

Q Can you tell us what the land uses are?

A Land us to the south and east of the proposed facility are single family residential.

Q And what about north and west?

A As you go north and west from the Renee Lane site you come to a variety of commercial and office uses mostly centered around the intersection of Bardonia Road and 304 some of it coming quite a ways east along Bardonia Road actually to within about 250 feet to the intersection of Renee Lane and Bardonia Road.

Q Can you tell us how many residential properties a fire truck would pass from the location in question to Bardonia Road.

A It would pass two, directly across the street from it.

Q Are you aware of any traffic studies that have been done for this vicinity.

A There was a traffic study done some years ago by Robert Geneslaw company for the Clarkstown Town Board.

Q Can you identify that for the record?

A That was the report from Robert Geneslaw Co. dated January 23, 1989 to Clarkstown Supervisor Charles Holbrook and the Town Board and the subject was Bardonia Road Traffic Study.

Q Any mention of how many children walk to the Bardonia Elementary School?

A The study indicates that actually very few walk to the school. It says that "pedestrian volumes crossing the streets are found to be extremely low. At the school driveway the pedestrian count was 3 in the morning and 5 in the afternoon peak hours. A subsequent count made at this crossing location recorded 9 children crossing in a 30 minute period prior to start of school in the morning all in the direction of school crossing guard."

Q Based on that study does the presence of the entry driveway of the Bardonia Elementary School pose any problems.

A Based on this report, it would appear not.

Q Before this evening were your services retained by the Nanuet Fire District?

A Yes, they were.

Q And what was that occasion?

A Some months back the fire company asked me to prepare for them some certain SECA documents. The attorney for the fire company had prepared a short form, environmental assessment form, which I reviewed and prepared a negative declaration for the adoption by the fire company.

Q Did you attend the meeting of the Board of Fire Commissioners?

A Yes, I did.

Q Did they review the application.

A Yes, they discussed same and in the course of business adopted the negative declaration which was prepared.

Q And as an expert in this area are you satisfied with procedure used to fulfill the requirements of the statute.

A Yes, in that the only agency action required was the approval of the Board of Fire Commissioners. That being the only action, they had the only opportunity for anybody to take an action, the negative DEC specifically.

Q When a use is listed in the zoning ordinance of the local laws as "use by right" in a particular district, what does that mean?

A A "use by right" in a zoning ordinance indicates that the legislative body being responsible for the adoption of the zoning ordinance feels that the use is permitted there as a prerogative right rather than a special permit. No special planning concerns have to be involved other than site planning.

Q Do the members of the Board have any questions?

Co. Smith: Mr. Keogh, from that report or from your own knowledge, do you know the approximate width of Bardonia Road?

A Bardonia Road appears to be something narrower than the full 30 feet, I would say something like 26 - 28 feet wide.

At this point Mr. McAlevey said the applicant would rest and allow the Board to hear from other persons pro and con.

Supervisor asked if anyone wished to address the Board with a comment or question.

Appearance: Richard Siddi  
98 Bardonia Road

He lives next door to the proposed fire substation. He stated that we all understand the need for fire protection and the importance of a quick response. The question here is, allowing a municipality, the fire company or the fire district in this instance, coming into a neighborhood and literally tearing it apart and destroying that neighborhood and the quality of life for the people in that neighborhood. That Town Board has enacted zoning laws to help protect us and our community. These laws should be followed. This fire station is being built on a parcel of land that has another use on it, another building and they are planning a fire station on this lot. That is two uses on a lot that is not even an acre in size. That is going to encroach on the neighboring homes to a great extent. They will have, he assumes, lights there to allow firemen to respond to the fire station. That would light up the whole neighborhood because of the proximity of the firehouse to the surrounding homes. He read the following statement. "The need for this fire station at Renee Lane, the location is not desperate. If it were, why then since the 1989 ruling against the building on this site, has the Nanuet Fire Company not pro actively sought alternative site. Surly Renee Lane can't be the only viable location north of Route 59. The sale of this property to purchase another would have been and still is a simple remedy. The desperate need resurrected itself once again only after the New City Fire Company started building on an uncontested commercial site. Why wasn't there a desperate need in 1990, 1991, 1992, 1993, 1994, 1995, 1995? Why wasn't something done at that time? The Nanuet Fire Company was offered and refused Clarkstown town land on two occasions. As the first members mentioned, was on Demerast Mill Road in

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Nanuet. The Fire Company's letter to this Board dated June 17th of this year, the reason given for unacceptability was this lot did not afford enough turning radius for fire apparatus. The second site was off Route 304 near the West Rock Tennis Club. Again quoting from a letter from the Fire Company to the Town Board, the West Rock location was found unacceptable in light of the fact that the Town refused to deed us this property plus the additional expense for the Fire Company of having a light installed on state road Route 304. There will have to be a light installed on Bardonia Road anyway so that is not additional. There has been no further assistance by the Town of Clarkstown in finding another viable location as of this writing. What is the Fire District doing to find other locations over the past ten years? If the need was so desperate, why didn't the Fire Company fight as vigorously as it is now to waive whatever preventative from building on undeeded land. Is adding a traffic light on Route 304 so much more expensive than on Bardonia Road. Most important, the Nanuet Fire Company has been waiting for assistance. It has done nothing on its own to seek alternative sites. It seems this need is desperate only if the Fire Company can build on Renee Lane. The need is desperate only if can destroy a neighborhood. The need is desperate only if can circumvent the zoning laws, only if it can be a unilateral decision of the Fire Company. The Fire Company has complete and apparently arbitrary veto power on any site. Conversely, if the Fire Company has its way, we should have no say whatsoever. Please help us. Insist that the Fire Company comply with the laws of Clarkstown.

Appearance: Eileen Furintino  
Bardonia School Safety Committee

It doesn't make sense that we are looking that we are looking for a place to provide safety for our community when we are looking to give the safety at the expense of a community of children and people who use the community very closely. We all acknowledge that safety is our first priority. We have had efforts back since 1992 to work with the school district, to work with the Town, to work with you, Mr. Holbrook, as the Supervisor to make sure the children of Bardonia were given a safe access to their school. In contradiction to the previous testimony, statistically Bardonia School now is the most highly populated elementary school in our district. It has the highest percent of car poolers and walkers. Because of the nature of the community's streets, there is a lot of traffic congestion at the time of arrival and dismissal at the school. She quoted a paragraph from a letter from Howard Lampert sent to her in 1992 as follows, "I also investigated traffic safety conditions at the school crosswalks. I noticed at the mid block school crossing on Route 304, there are no stop lines, therefore, I have written that they install stop lines. I investigated traffic safety conditions at the school driveway intersection at Bardonia Road. Since the small shopping center driveway also intersects Bardonia Road on the same side at the same location, there is a significant potential for traffic accidents at this location. Unfortunately, there is no easy or inexpensive solution to the existing traffic safety problems at this location". It is not a short term problem that Bardonia Road has traffic problems. Howard Lampert had been involved in helping them. They paved the entire Bardonia parking lot at the expense of the school district with the cooperation of the Town and with Joel Epstein from Lock, Stock and Barrel. The traffic on Bardonia Road has been an issue for a long time. It seems ironic that when we first were involved with helping Bardonia school have a safe access, it was the Nanuet Fire Department themselves that stated that they could not have proper entrance into the school at the time of arrival or dismissal. They were the people who brought to our attention that we were involved in a fire hazard. If the Fire Department deemed Bardonia Road as an improper way to get in if a fire existed at the school, how could they use Bardonia Road as a way of access to get to a fire in a time of need. They cannot time when a fire is going to happen. What happens if they are called at the time between eight and eight thirty or three and three thirty when cars are parked all the way up to 304, backed up to pick up the school children. If we could time problems, we could plan for them, but we can't. We have to give it equal access at all times. Bardonia Road is a four way traffic situation where school traffic merges with shopping center traffic for both entering and exiting situations simultaneously. At this congested traffic area, there are no

officials rules of right-of-way. This promotes challenges between aggressive and passive drivers rather than adherence to traffic safety rules. With in mind, we requested the Town to take a look at the shopping center at the corner of Bardonia Road and 304. Because that road was deemed as a traffic hazard, traffic cannot exit to the left of the shopping center between eight and eight thirty and between three and three thirty. There are signs posted for lack of transportation. How can we put emergency vehicles in that same location and say they are going to have proper access out of the community. She requests that the Town evaluate this situation, think about the issues that have happened in the past to maintain and provide safety for the children and the people of the community and ask the Fire Department to find a more practical safe location to house their fire station.

Appearance: Linda Rones  
5 Gem Court, New City

I became a licensed real-estate broker in Rockland County in 1978 and have made my livelihood in that capacity since that time variously with Realistic Realty, Weichert Realtors, Better Home and Gardens & Rockland Realty. From 1974 to 1996, I resided at 53 Jay Street, Bardonia, The corner house directly south of the entrance to Lock, Stock & Barrel and directly east of the chiropractic home/office at #28 Bardonia Road. As such, I am intimately familiar with the "pulse" of the Bardonia community, it's growth, it's real-estate values, it's traffic and demographic features, the interaction of several different zoning and planning uses, such as, (1) the elementary school (2) a busy restaurant (3) an over-built home-occupation use and (4) an ill placed shopping center & post office, as well as the peculiar zoning anomaly of the Renee Lane site under scrutiny this evening, which has housed the Bardonia Men's Club since the fifties. I have personal knowledge, as well as professional, of the drastic impact and diminution in property values that certain neighborhood projects can have. When I sold my home on Jay street, Bardonia in 1996, my "flight" from the neighborhood due in part to the unenforced over-building of a chiropractic home/occupation use on Bardonia Road, I was forced to reduce my original asking price of \$270,000. (R-22 1/2 acre, 4 bedroom, 2 1/2 bath colonial) to a sale price of \$220,000.00. Needless to say this 20% discount in a 23 year investment in a neighborhood where I raised my children and dedicated much personal time and energy to vital community issues was a bitter pill to swallow! I was personally involved in the Bardonia citizens Association in 1988 and 1989, after the deed was transferred by the Men's Club to the Fire Company. The fire company attempted unsuccessfully to get approvals to build their substation, without any malicious intent. I was at the Town Board workshop meeting in February 1989 when this very board told them that they would have to submit to site plan review and apply for variances at the Board if Appeals. I also was a vocal opponent of the construction of the Bardonia shopping center, although an old zoning change soon after the master plan of 1967 was done and the foothold of the US Post Office in 1971 deemed this a losing battle. I vigorously lobbied for the strict enforcement of this Town Code in regard to the chiropractic home/office on Bardonia Road, and although the request for a zone change to professional office was turned down, the current over-build and illegal use has still not been resolved. I have done a recent survey and appraisal of my neighbor's property value. These are the nine residences that abut or are across from the Nanuet Fire Engine Company's proposed substation. These families were directly aggrieved appellants in the Board of Appeals challenge #2801, where Nanuet's fire building permit was revoked. They were also upheld as petitioner-inventors by the supreme court, the decisions which triggered tonight's hearing. The aggregate home value of these nine homeowners is approximately 2.5 million dollars, based on a very conservative estimate of basic structure and placement, without taking into account specific amenities and improvements. In my personal and professional experience, the impact of a project of the nature of the Nanuet Fire company's substation, coupled with the multi-use of the Men's Club, shoehorned into a lot lacking nearly fifty percent of the required bulk would diminish the home values by at least 25%. This figure is over \$600,000.- in diminished property value, on an aggregate basis. In the next radius of 1000 ft. from this project, there are well over one hundred homes. The nature of the intersection of Bardonia Road and Renee Lane is an access to Barry Lane, Arbor Lane,

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Catalpa Court, Ash Road, Jupiter Court, Grove Court, Saymor Drive, Inwood Drive and Cryatal Court, as well as Tudor Court, Whispering Court and Joseph Lane across Bardonia Road. My opinion is that this second tier of homeowners would experience a 10-15% diminution in property value, due to the nature of this project and the impact on an otherwise quiet built out residential neighborhood. The best use of this property would be it's original R-15 1/3 acre single family residential use. This would serve to increase property values. While fire protection and response time and distance is an important issue, to my own personal knowledge of this matter there have been several viable alternatives that would much better serve the north end of the Nanuet Fire District. This Renee lane site is two blocks from the eastern end of the Nanuet Fire District. The fire company would stand to reap approximately \$250,000.00 in proceeds if this parcel were developed as residential. The Town Board, here tonight, should certainly subject this matter to site plan review and the Board of Appeals. As a further step, the board should use it's municipal authority to convince Nanuet Fire Company of the absolute unviability of this site. Thank you for the opportunity to be heard here this evening.

Appearance: Joan Sanders  
Bardonia

She lives a block south of the Men's Club on the corner of Jay and Renee. When she heard that the construction had started, she went to see what was going on. She then realized that she never leaves her home by using Renee Lane - traffic problem. If you are positioned in your vehicle on Renee Lane getting ready to turn left, you do what your Mama taught you and you look right and left carefully before you turn and you make your turn when it is clear. There is a limited sight distance problem at that intersection coming up the hill from the east. Should the Fire Department wish to be there eventually, she would like that matter dealt with. It is scary. Should the fire folks, who are necessary people, eventually build in that spot, she hopes they can establish some good neighborly relations. She thought she went to this meeting ten years ago and she hasn't heard a thing until tonight about all the work they have been doing. She would have been grateful to hear that before now.

Appearance: James Fitzgerald, Esq.  
Bardonia Citizens Association

Mr. Fitzgerald is the attorney for the Bardonia Citizens Association and Kathleen and Richard Siddi, adjoining property owners all of whom were granted intervention in the litigation that has led to this particular hearing. He submitted correspondence in support of the request by his clients that the Town Board of the Town of Clarkstown deny the application of Nanuet Fire Engine Company No 1 for exemption from the zoning requirements of the Town of Clarkstown. There has already been extensive litigation surrounding the question of whether or not the proposal of the Nanuet Fire Engine Company No 1, Inc. hereinafter referred to as the Fire Company, for construction of a Fire substation on property located at the intersection of Bardonia Road and Renee Lane in the Hamlet of Bardonia should be totally exempt from the requirements of the zoning ordinance of the Town of Clarkstown. On June 11, 1998, the Rockland County Supreme Court per the Hon. Howard Miller rendered a decision directing the Town of Clarkstown to conduct a hearing pursuant to the holdings set forth in Matter of the County of Monroe sited at NY2d pg 338. The holding of Monroe essentially states that this public hearing should be held for the purpose of applying a balancing approach to the public interests involved when on public entity, that is the Fire Company, proposes a public use upon property it owns and the interest of another public entity specifically in this case the Town of Clarkstown in requiring compliance with its zoning ordinance. In this case for the purpose of applying the balancing approach, the Fire Company is the encroaching governmental unit in that it wishes to use its property for clearly public purposes and which property is clearly within the geographical jurisdiction of the Town of Clarkstown. In the matter of the County of Monroe, the Court of Appeals held "this balancing approach subjects the encroaching governmental unit in the first instance. In the absence

of an expression of contrary legislative intent to the zoning requirement of the host governmentally unit where the extra territorial land use would be employed." In this case, it is respectfully submitted that in the first instance there is no absence of contrary legislative intent. In fact, the town code of the Town of Clarkstown in §106-10A specifies and specifically addresses the use of a fire station in the R-15 zone. The ordinance goes on to state that all uses other than a one or two family residence shall obtain site plan approval from the Planning Board of the Town of Clarkstown. Additionally, §106.10B of the zoning ordinance set forth a minimum lot area of 80,000 square feet for non-residential construction in the R-15 zone. It is therefore, respectfully submitted that the Town of Clarkstown, by enacting its zoning ordinance in the first instance chose affirmatively to regulate to some extent the construction of fire stations within the town. Additionally, in determining whether or not the fire company should be immuned from zoning regulations, the balancing of public interest approach set forth in the Matter of Monroe and expressed by the Zoning Board of Appeals by the Town of Clarkstown in its decision dated April 20 this year, requires at least that the following issues be addressed:

1. The nature and scope of the instrumentality seeking immunity
2. The kind or function of land use involved
3. The extent of the public interest to be served
4. The effect of local land use regulation upon the enterprise concerned
5. Alternative location for the facility in less restrictive areas
6. Alternative methods of providing the needed improvement
7. Intergovernmental participation in the project development process  
and an opportunity to be heard

In the present situation, it is clear that the fire company is proceeding as an arm of the Nanuet Fire District and if fact is seeking to provide a fire station for the public purpose of fire protection. However, the Fire District and the fire company can provide fire protection to the district by having fire stations in a myriad of different locations. The scope of the responsibility of the Nanuet Fire District is primarily within the borders of the Nanuet Fire District and therefore primarily totally within the geographical jurisdiction of the Town of Clarkstown. Local land use regulation would have virtually no affect upon the Nanuet Fire District and the Fire Company enterprise if the Fire Company was seeking to construct a fire station on vacant land meeting minimum bulk requirements and allowing for sensible and safe emergency ingress and egress for the private vehicles of fire fighters and fire fighting equipment located within the proposed fire station. In this case, the only effective land use regulation that is respectfully submitted would be to address the concerns obviously considered by the Town of Clarkstown in enacting its zoning ordinance in the first place. Before the proposal of the Fire Company should even be considered for approval, it is respectfully submitted that intergovernmental participation in the development of the new fire station must then be had. Specifically through the site plan approval process and the State Environmental Quality Review process. It is respectfully submitted that it is virtually absurd to exempt new fire station construction from the requirements of the Zoning Ordinance from the Town of Clarkstown generally. In this particular case, the nature of the residential area, the ingress and egress of the subject premises are most certainly facts to be considered in the site plan approval process as well as the sub-standard and multiple use proposed and the proximity of an elementary school to the proposed facility. These factors and other relevant factors most properly are addressed to an appropriate site plan approval process and if variances are needed, the Zoning Board of Appeals of the Town of Clarkstown is quite capable of determining whether or not those variances should be granted. A grant of complete immunity from zoning requirements to the proposal of the Fire District in this case would be tantamount to the Town Board of the Town of Clarkstown stating that the language of its own zoning ordinance should not apply and that Fire Districts and Fire Companies may feel free to construct fire stations on any piece of property within the Town of Clarkstown regardless of size and regardless of the practical traffic and environmental considerations surrounding the location and regardless of existing uses

already on the property. Such a conclusion is palpable absurd. Therefore, this Board is respectfully requested to issue a determination that the proposal of the Nanuet Fire District soon the Nanuet Fire Company No I is and be subject to the zoning ordinance of the Town of Clarkstown on the grounds that the public interest in building a fire substation anywhere are out weighed by the interest in the Town of Clarkstown in properly placing emergency service facilities. He notice Mr. McAlevey calling the Fire Chief to testify. He testified as to whether a light should be installed in the area. That is clearly a question that should come up in the site plan approval process. If anything, it argues for that process to be engaged in. There was some discussion from Mr. Giovinazzo of the proximity of the fire stations to schools. Where are those fire stations? Mr. Fitzgerald can think of three of them with direct access to major roads although the schools are adjacent, they don't cross through any place where the children would be crossing as a general rule. That again would be something appropriately reviewed by the Planning Board and that is not brought here as a reason to ask for an exemption from that approval process. Mr. Keogh was most interesting because in his capacity as Chairman of the Planning Board in Suffern, he is rendering an opinion as to whether or not this particular site is appropriate. That is one decision that is appropriately made by the Planning Board of the Town of Clarkstown especially since area variances and use variances are clearly required that the matter would have to be referred largely to the Zoning Board. It is not to suggest that this project should be turned down. It is not to suggest that it should be approved either. The Fire District knows and should know that it is subject to the zoning laws of the Town of Clarkstown and when applied reasonably and fairly, those laws will benefit the Fire District and the citizens of the Town of Clarkstown.

Appearance: Mary Orange  
Bardonia

The firemen are very careful and deserve a lot of credit. She does not go into Nanuet anymore because she can't get through the Town. She fees for her protection and all the children in Bardonia, they need a fire station right there. That was suppose to be done years ago. A lot of people move into her area and want to change the area. We need a fire station very badly. She is 100% for it and most people should be.

Appearance: Jack Horan  
62 Pineview Ave., Bardonia

He was a volunteer fireman in the Nanuet Fire Company for ten years. He was president and treasurer. During those years he met with Mr. Epstein and Mr. Bailey and some of the other officers of the Bardonia Men's Club who should be recommended for granting the land to the Nanuet Fire Company to build a firehouse in Bardonia. All the talk about children is a little bit vague. He moved here thirty-six years ago and raised five children. Those children walked along Rte. 304 to Bardonia school. They had no problems. There are more accidents on Bardonia Road, Germonds Road and Rte. 304. He feels a lot more should be granted in his area not only for fire wise, but safety on Rte. 304. A shopping center was built right across from where the people are questioning safety. We are here to protect the lives of the children and the people in Bardonia. We are being held back because they are saying, the safety of the children. This is not a factor. The factor is that we have grown so big in Bardonia that fire necessity if there. We have to get the fire trucks to Bardonia for protection. Look at it not from the point of hurting somebody, but from the stand point that we are here to help, not to hinder.

Appearance: Philip Belcastro  
Representing Clarkstown School District

He read the following prepared statement that he submitted to the Town Board:  
"The Clarkstown Central School District as well as the Nanuet Fire Company function to serve our community's interests and in turn have a responsibility to insure the safety and welfare of Clarkstown residents. By design, each concern commands and has

accumulated expertise and experience relevant to this charge. Ideally, individual representative entities that specialize in discrete services and operations to the community via a continuous avenues of communication, consultation, opinion, recommendation and consensus would collectively cooperate to a mass of qualified information to render informed decisions. The proposed Nanuet Fire Company's substation on Renee Drive in Bardonia exemplifies a failure in this regard. In previous testimony before the Zoning Board of Appeals, the Clarkstown Central School District stated that the Nanuet Fire Company substation on Renee Drive in Bardonia was proposed, approved, issued a building permit and commenced construction without any consultation or notification to the nearby elementary school, school district administrators or Board of Education. The school district further stated, 'our initial analysis of the location of the substation suggests that there are several safety hazards that pose an avoidable increased risk to our school children on foot, transported by private vehicles and transported by school buses'. Our experience suggests that the location you selected, that is Renee Drive, will significantly decrease the ability of the substation to respond to an alarm. Without compromising a reasonably safety margin for pedestrians in local traffic during select times of the school day. The Board of Education is aware of the jurisdiction challenge regarding this particular case and rightfully so offers no opinion, however, the Clarkstown Central School Board encourages and in many cases enjoys a working relationship predicated on continuous avenues of communication, consultation, opinion, recommendation and consensus with all constituent parties representing the interest of the Clarkstown community. We submit that there is no disagreement on the legitimate and essential role of the Clarkstown Central School District in actions where there is the potential for an impact on the operations and services of public education within the Clarkstown community. By example, the proposed, construction, modification or removal of properties, buildings barriers and their common structures such as roads, medians, curbs, traffic control systems devices, easeways, sidewalks and alike have the potential to affect the ability be it logistically or economically for the Clarkstown Central School District to provide educational services. In this particular case, it was the School District that requested and was granted a consultant meeting between senior officers of the Nanuet Fire Company and the school district. In terms of timing, this initial meeting followed the granting of a building permit and the actual construction of the substation. At the meeting the school district submitted preliminary recommendations for decreasing the risk liabilities of the substation of which two recommendations were agreed upon by both concerns. There recommendations were a traffic control device at the corner of Renee Drive and Bardonia Road as well as the widening of the sidewalk along the entire length of Bardonia Road. It was and remains the expert opinion of the school district that the Renee Drive substation compromises a reasonable safety margin or pedestrians and local traffic during select times of the school day. For the record, the school district will continue to seek and labor with concerns to maintain and improve the safety of our community. In addition, the school district remains at your service to comment, consult and provide recommendations on all matters relative to the operation and services of public education within the Clarkstown community including proposed building permits such fire substations, residential subdivision, the transferring of roadway rights-of-way, curb cuts and the like. The Board of Education of the Clarkstown Central School District is convinced that the Town Board and the Zoning Board of Appeals and the Nanuet Fire Company share our commitment to the health and safety of our school children as well as the community". On behalf of the school board, I appreciate this opportunity to offer my comments and remain at your service. He just became aware of the educational study of other schools in our district. Many schools although they border on a main thoroughfare, usually it may be a four lane highway or in fact they have several means of egress and ingress into that school. Several of our schools have that. There is more than one way to come out of a school. Where in Bardonia, there is only one way to come into the Bardonia Elementary School and that is off of Bardonia Road. In regards to the study of the number of children crossing at Bardonia and Rte. 304, I don't challenge the study where the comment was made that only three or four children actually cross Rte. 304 proper. That is probably correct. The point that the study missed and probably no one ever visited the site is that most of the children after they exit the school, between 40 and

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60 children per day actually exit east on Bardonia Road. They don't turn to cross 304, they actually turn towards the proposed substation and walk down Bardonia Road. About eighteen months ago, the timing on the light at that corner was asked to be changed because during the times that the school was going into attendance or being dismissed, the bottle neck would actually block up 304. Cars turning from 304 on to Bardonia Road would actually be in a grid lock. The cars wanting to enter Bardonia Road from 304 would actually be backed up for maybe twenty or thirty cars deep. The timing signal was changed to allow for that. There is still that bottle neck. One of the issues that came up during our discussions was the turning radius of the apparatus. In previous testimony before you, you heard that several locations were turned down because they only 16 and 18 feet radius to turn this apparatus. In previous testimony, you heard that the width of Bardonia Road is only 26 feet. If you divide that in half, that is only a 13 foot radius to turn from Bardonia Road on to Renee Drive.

Appearance: Richard Sullinger  
27 Glenn Drive, Bardonia

On Route 304, it is very hazardous. The volume of traffic and the speed with which the automobiles travel has caused injuries and damage. He cannot see any location on Route 304 to be used for a fire station. The distance between the intersection of Route 304 where it intersects with Bardonia Road and Ludvigh Road is two and a half miles to the fire station on Prospect Street in Nanuet. There is a delay in traveling that distance. You have the possibility of traffic delays in and around the Nanuet area. You have the traffic volume on Route 304. This could be hazardous and could be the cause of someone's injury or death or the severe loss of property. For eighty years, the Valley Cottage Fire Department has existed and has been located in the same spot on Lake Road in Valley Cottage next to the Valley Cottage School. In all of those years, he has never known, of any kind of accident that involved children being injured. There are more problems with the parents who use the Valley Cottage Fire District parking spaces to park while they pick up their children. At times, parking in front of the bay doors of the fire house. These are things that should be considered and the longer we delay, the more we are putting people of Bardonia in jeopardy.

Appearance: Arlene Wittacker  
Renee Lane, Bardonia

She and her family have lived in Clarkstown a very short time. They relocated to Bardonia in December of 1997 after several years in West Nyack. Their home is directly opposite the proposed substation. On the morning of March 14, 1998, they awakened to the sound of a backhoe and surmised that the Bardonia Men's was probably making an empty lot into a parking area. She didn't give it much thought because prior to the purchase of her home, she called the Clarkstown Planning Board to inquire regarding the status of the empty lot across the street from her home and was assured that even though it was owned by the Nanuet Fire Company, it was in an R-15 zone residential. On Monday, March 16th, her neighbor, Mr. Gallagher came over and introduced himself. He gave her a brief synopsis of the history of the substation and that the Bardonia Citizen's Association had previously fought construction and won the right not to have a substation built at that location for the main and most obvious obstacle, the lot was of substandard size. Later that same morning Greg Tobin stopped by and introduced himself as President of the Nanuet Fire Company and also a Clarkstown Police Officer. He assured her that the substation would have little impact on the neighborhood. He also advised her that the Bardonia Men's Club is going to be torn down and a park would be placed there. He showed her plans for a colonial substation with doors on the north and south sides of the building assuring her that truck headlights would not be facing her home. Although he did not address that problem to her neighbors with homes on the north and south sides of the building. She suggested to Mr. Tobin that he knock on Mr. Gallagher's door and tell him these plans. If the firehouse is to have such negligible impact on their neighborhood perhaps it would help to show Mr. Gallagher the plans.

Mr. Tobin replied. "Mr. Gallagher didn't know what he was talking about" even though Mr. Gallagher has lived on Renee Lane for thirty-five years. This was the first indication she got that the neighborhood she moved into was not welcoming the Nanuet Fire Company with open arms. Because we live in Bardonia in 1998 and not in Germany in 1940, we are entrusted the right of a participatory democracy and that is why they are here tonight. To let a volunteer fire company decide what is optimal for Bardonia and Nanuet, it is not a democracy. It is bullying them in a way that only makes citizens angry and indigent at the methods by which the Nanuet Fire Company has operated over the last

several months. The name calling has been intense, nimbies, cry babies, volunteer haters. In a sense, many of them that had been involved in stopping the substation have been treated practically juvenile as if we don't feel fire safety is an important issue for our community. In a very personal sense that is similarly ironic for her and her family because their home in West Nyack was nearly destroyed by a fire two years ago. They care about adequate fire protection, but at the proper location. She urged the Board to vote to subject the Nanuet Fire Company to follow the zoning ordinances of Clarkstown. To build a firehouse in a development of private homes is just ridiculous endeavor. Those of us with children riding bikes on Renee Lane need to worry about volunteers responding to a fire call and leaving again in a fire truck. Most people buy a home in an area such as Renee Lane to be assured that commercial use is not even an issue. The cost and energy expended and moneys collected to have our day in court has certainly been worth it, but the Nanuet Fire Company has unfortunately tainted the respect and camaraderie they felt for volunteers. It may be beneficial to have a paid fire department sometime in the future. The benefit of this entire substation issue is that their neighborhood has become unified behind a common goal and their organization has grown rapidly. That is a definition of a community and the definition of a democracy.

Appearance: Joel Epstein  
99 Bardonia Road, Bardonia

I appreciate the opportunity to address you this evening. While this hearing should be a culmination of an extended adjudication process (not to mention over forty years of my own personal experience in this matter), we would be foolish to think that. The strategy of the Nanuet Fire Engine Company in this matter is virtually inexplicable. Since the Men's Club transferred the deed to the subject property in 1988, they have been told and notified time and again by virtually every authority in the town that they are subject to the zoning ordinance, to include site plan review and at least one and possibly more variances. In February of 1989, at a town board workshop at which I was in attendance, the fire company was told that if they wished to proceed they would have to submit to Planning Board review and the Board of Appeals. In 1995, at a T.A.C. meeting, the then president of the Nanuet Fire Engine Company, Richard Sorkow and there attorney, Robert Bring presented a proposal to demolish the Men's Club and build the substation on the entire parcel. This was without knowledge of the Men's Club, the holder of 99 year lease on the existing building and the donor of the property. The answer was that the entire parcel of 43,000 square feet still did not satisfy the bulk requirements of 80,000 feet, even as a single use, and that a large and virtually impossible to obtain area variance would be required. I have been the president of the Bardonia Men's Club since 1993. From that time through 1996, I made every effort to convince the fire company that the best solution to a planning and zoning problem that was no one's particular fault, was for the fire company to sell off the property in concert with the Men's Club forgoing its lease, and reap the considerable proceeds as a construction "war chest", so to speak to build a viable substation of any number of different and better located sites. Please allow me to demonstrate how this would have worked: In a very poorly advised arrangement of which I am in possession of the records, the Men's Club desired to find a tax exempt organization to donate their property. Interest in the club had diminished and many of the original members had died off. The members desired to keep the use of the building, and even in 1988 it was becoming a bit decrepit. The recipient fire company and the Men's Club thought the sub

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station would be a desirable use of the property for the purpose of quicker response time to the north end of the district. The spirit was entirely noble. The contract had no "subject to" and both parties suffered from faulty legal counsel: as it turned out, and as is clearly evident at this very juncture, just because the Men's Club gave it to them and just because they own it doesn't mean that that's where it should be built. Clearly, neither party was adept at municipal planning. In fact this lack of planning enterprise was readily admitted by both parties in a copy of the minutes of meetings between them in April of 1985, during preliminary negotiations, where it was stated that zoning issues would have to be worked out with the town. These same minutes also suggested fifty shared parking spaces, an idea that would have required a multi-level garage! Nonetheless, in 1994 when I initiated a dialogue with Board of Commissioners and the fire company, I had a very focused agenda. Since it was academic that the substation could not be built, and the Men's Club was fading away into history, there seemed to be an alternative that would benefit everyone. The fire company received an asset for nothing in 1988 (the same asset that, by the way, the Men's Club received for nothing in 1955 from farmer Deligny prior to the rezoning of the farm where Renee and Barry Lane are today to R-15). The difference in 1995 was that I had an offer from a builder to purchase this property for \$300,000.- to build at least two and possibly a third residential lot (with a minor area variance of 2,000 sq. ft.). This would have brought three tax lots to the town as ratables and finished off an otherwise strictly residential neighborhood, and not to mention eliminate the pre-existing non-conforming anomalous use of the Men's Club. (By the way, since the deed transfer in 1988 to the present, the property on Renee Lane has improperly been off the town's tax rolls. Not having been used for fire protection and being tenanted excludes it's tax-exempt status.) The Men's Club at the time was willing to take \$10,000.- to give up it's lease and establish an annuity to throw off the modest scholarships that we give every year to students of the Bardonia Elementary School, since we would lose the building and it's source of revenue through rentals. The reasons these negotiations did not proceed was because the fire company had a fixated agenda to build the station on Renee Lane and insisted on the Men's Club making an agreement subject to the town turning down it's application, one of their preliminary schemes to circumvent the zoning ordinance, and pull the carpet out from the club, the donors of the property. I can say with complete candor and have Bardonia Men's Club minutes to back it up that the Men's Club officers were not pleased with a David and Goliath scenario where Goliath was holding a gun to David's head! We subsequently opted for the quiet enjoyment of our lease and metaphorically picked up our marbles, left Prospect St. in Nanuet and headed back to Bardonia. Slates of officers of the fire company came and went. In 1997, Greg Tobin became president and unbeknownst to me or anyone else in Bardonia, the makings of another sneak attack were being cooked up. In the fall of 1997 I made several overtures to Greg to re-open negotiations and attempt to resolve the "problem" on Renee Lane. On October 23<sup>rd</sup>, Greg told me that "as long as the Men's Club would not cooperate, the issue was a subsequently dead issue." Little did I know that the groundwork was laid and the building permit was applied for and almost issued, the fire company and the building department both hanging their hats on some mistakes upstairs in this building. Now, I have maintained from the onset of this nightmare that town officials are allowed to make mistakes and they're not supposed to worry about being sued every minute. The mistakes made here were not malicious. There was no malicious intent in offering assistance to your neighbors across Maple Ave. However, the Nanuet's Clandestine "slam-dunk" on Bardonia, the town and the people they serve to protect was done with malice aforethought, with full knowledge of the controversy that would ensue and with an organized strategy to suppress information, circumvent public input and a closing of the ranks. This is not an honorable way for a public service organization to behave. The adjudication process has made it clearly evident that Nanuet Fire Co. is subject to local zoning. They've lost every step of the way. Why would anyone with no planing and zoning expertise, poor legal counsel, poor engineering and architectural input even want to live with the end product of unexpectable projects?? I don't need a helicopter to look down on Renee Lane, nor do I need eyes in the back of my head to easily fathom that site plan review and the zoning ordinances of the town of Clarkstown should be

invoked to the letter. The Town Board, our elected legislative authority, would be setting a very dangerous precedent by exempting anyone from the zoning ordinances. They are there to protect all of us and were created as a security blanket, to protect our homes, our neighborhoods, our quality of life and everything we believe in. There should be no reward for quasi-criminal, surreptitious behavior, no matter what political divisiveness has been created. The people for whom the zoning ordinance, the fire companies, the fire districts, the planning and zoning agencies were created should not be punished.

Appearance: Nancy Fuchs  
Barry Lane, Bardonia

She is affiliated with the Nanuet Ambulance Corps, but she specifically stated that she does not represent the opinions of the Nanuet Ambulance Corps. She is one of the few people who are in this room right now, that regardless of how you vote on this issue, she wins. She wins if you vote in favor of the Fire Company because the Fire Company is the exact same type of entity as the Ambulance Corps. She has been a member of the Ambulance Corps for 25 years and she is always looking out for their welfare. She is always interested in what would benefit our community from the stand point of emergency medical services. The Ambulance Corps responds to approximately 150 ambulance calls per month. They are stationed on Main Street in Nanuet in the general vicinity of the Nanuet Fire Company. Consequently, they both share the same response problems and capabilities. They have crews on duty. The crews can either respond from home with a beeper as the firemen do or can stay in our facility while they are on duty. They have an opticon system just as the Fire Company does. The opticon system helps the Ambulance Corps respond to calls. We push a button on the dashboard of the ambulance just as the Fire Company pushes the button on the dashboard of the fire truck. We respond to calls. The lights on Main Street turn green in the direction we are traveling when we are north bound on Main Street. It gets them out of the congestion. It helps them to get to the northern area of the territory as well as to the eastern area. Their territory is significantly larger. The Fire Company has come into Bardonia looking to build a substation in a residential area. She lives in that residential area. If you say no, she wins. If you say no, her neighborhood maintains the same characteristics that it has had for the past 40 years that she has resided there. The area has been a residential area. She can walk around her block, down the street and across the street. There are significant traffic problems as soon as you get out to Bardonia Road. There are children in the area. There are crossing guards. There are problems with the shopping center at the end of Barry Lane. They have problems with the commercial area of that particular road. There is a knoll in the road before you come to Renee Lane which sometimes gives limited sight distance when you are pulling out of Renee Lane. The Fire District does not go all the way to the bottom of Bardonia Road according to her information. They are going to put their substation north of 59 which would be valuable to them as it would be for the Ambulance Corps. The Ambulance Corps is looking to relocate to something that is more central to their location. The Fire Company wants to put it in a residential area. Probably not a good idea. You have the Bardonia Men's Club to the north, a house to the south. To the east, to the west and on each of the diagonals, you have residential area. Not a good place for a fire station, which is what we told the Bardonia Men's Club approximately five years before it was ever offered to the Fire Company. The Bardonia Men's Club property was offered to the Nanuet Ambulance Corps. We looked at the situation. We looked at the area and we said, we have people responding to a number of ambulance calls. We have people responding with green lights trying to expedite their response to the building to get the ambulance and trying to get the ambulance out. They felt it was a dangerous situation and the firemen probably realize that they are going to need to use due caution if this is permitted. The Nanuet Ambulance responds to more distant areas and they manage to get there. The Fire Company has always managed to get there. Over the past 40 years there has probably been a fire truck on our block maybe fifteen times. When a fire truck comes on our block, you know it because the house shakes. If a fire truck was backing into the building, you would hear their back-up alarm. They would know that their peaceful area is being involved in something a little bit more

dramatic that would affect the children. She does not agree with this proposal, but either way you vote, someone wins. If the not-for-profit corporation is allowed to do it, then so is every other not-for-profit corporation. They are going to follow on the coat tails of this. You are going to make a decision that is going to affect the zoning in this area and the way land uses are continued in this area for many years. The Nanuet Ambulance is a not-for-profit corporation. Their land is deeded to them. They wanted to expand Nanuet Main Street. They came to the Town and asked for a decision. Mr. Jacobson responded eighteen months later with approximately a twelve line memorandum stating that the Ambulance Corps was not exempt from anything. They were to the point where they were sending out letters to their neighbors announcing their plans to expand Main Street when they became aware of another piece of property. We are holding on that expansion until they find out more about the additional piece of property. If that is the case for the Ambulance Corps which is a not-for-profit corporation as well as a taxing district, then it should also hold through for the Fire Company.

Appearance: Mary Froling  
Smith Street, Nanuet

She is offended about the remark about the false alarms these firemen report to. When they go out on a fire, they do not know it is a false alarm. They have to report to that fire with the same urgency as if it were the real thing. She applauds these men. They deserve all of our appreciation. They are seeking to construct a building. There is not going to be a siren or a major intrusion in the area. They are primarily concerned with safety. They present much less of a hazard to the children and the people in the area that was presented by the people frequenting the drinking establishments in the area. If she were to purchase a home, she would consider having a fire station close by to be a comfort and selling point. These men risk their lives everyday for our protection. We should show them some appreciation for the sacrifice.

Appearance: Ed Duffy  
Nanuet

He has been a resident of Nanuet for over 40 years and feel that the Nanuet Fire Department men are very ~~valuable~~ property values on Prospect Road, Nanuet have decreased with the Nanuet Fire building beside them. In fact, he think the property values have increased. One of the leading opponents of the substation was willing to sell his property to the Fire Department so they could build in that area which is only a couple of hundred yards away from where the substation is now. He wondered what the motive was there. It would be beneficial to Bardonia to have the substation.

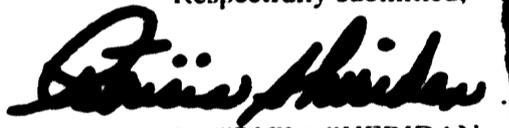
Appearance: John McAlevey, Esq.  
Attorney for Applicant

He was supplied by the Chief with some material that he did not enter before. He gave this material to the Clerk. This is a three page print out of the Rockland County Fire Training report listing the members of the Nanuet Fire Company who have completed the various courses on emergency vehicle operation and defensive driving. He was told that it covers most of the active people in the Company if it doesn't cover everybody. There is also a coaching emergency vehicle operations print out sheet. The ones that are marked in yellow are members of the Nanuet Fire Company. The men would like the Board to understand their very serious concern about vehicle safety, driving well, not causing problems and being able to take care of their vehicles. The obligation of a public body sitting in a quasi judicial manner such as this is to entertain legally sufficient evidence, not people's apprehensions unsupported by evidence, not people's speculations unsupported by evidence. The concerns that the people have articulated because they haven't had perhaps some other good reason for opposing the site. The concerns about school safety and the proximity of the school are pretty much covered. Mr. Fitzgerald did a nice recitation of what was already in the record, but he kept harping on the fact that the

Fire Company should have submitted a site plan. The Nanuet Fire Company did put in a site plan. It was reviewed by our technical people. They made changes as a result thereof. He supplied the Board with recent legal decisions as well as his memorandum to Mr. Yacyshyn which was in anticipation of the fact that the Planning Board would be the one to hold this kind of a hearing in conjunction with a site plan review. Obviously, we are not going to do a site plan review here. The Judge's decision suggested that this hearing should be in conjunction with the site plan review. This may have to be resolved that in another forum unless, of course, the Board becomes sufficiently persuaded that on the balancing of the Monroe criteria, the Fire District and the Fire Company which are identical for this purpose, are exempt from the other strictures of zoning. There were ten items from the Monroe case that Mr. McAlevey referred to and commented on. The Court asked for a public airing. No credible evidence has been produced to negate either the need nor the propriety of the location. The location is immediately off a main road and approximate to commercial uses in an area professionally determined near the facility. You cannot ignore the studies that were done by competent people hired by the Fire Commissioners and paid a good piece of money to come up with recommendations that the Fire District and Fire Company are now trying to implement. There is no professional evidence to support the alleged concerns of danger of an elementary school in the area. He urged the Board to make a finding of zoning exemption as soon as possible. Zoning does not have First Amendment protection. Zoning is something which a community may or may not choose to have. It is not an essential attribute of government. Zoning is subject to strict test of necessity in the public interest. When zoning conflicts with the enhancement of public safety and welfare, it must and should give way. The testimony has demonstrated a long and recognized weakness in the fire protection pattern in this Town.

There being no one further wishing to be heard, on motion of Councilman Maloney, seconded by Councilman Mandia and unanimously adopted, the public hearing was declared closed, DECISION RESERVED, time: 9:56 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,  
Town Clerk

(RESOLUTION NO. (606-1998) ADOPTED)

TOWN OF CLARKSTOWN  
PUBLIC HEARING

Town Hall

7/21/98

10:01 P.M.

Present: Supervisor Charles E. Holbrook  
Council Members Maloney, Mandia and Smith  
Councilman Profenna Absent  
Harold Mac Cartney, Deputy Town Attorney  
Patricia Sheridan, Town Clerk

Re: Petition of New City Fire Engine Company No. 1 and New City Fire District for a Determination of the Applicability of the Town of Clarkstown Zoning Ordinance

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

Supervisor Holbrook asked the applicant to make his presentation.

Appearance: Donald Tracy, Esq.  
Attorney for Applicant

As to some matters that were previously discussed, not pro or con, but several of the speakers said that no one should ever be immune from the Zoning Ordinance, Mr. Tracy respectfully submitted that the Court of Appeals felt differently. Historically, there was the priority vs. governmental function test which presented certain immunities and there are conflicts of necessity between encroaching governmental entities and host governmental entities. We have a situation where it appears to be like apples and pears. Mr. Tracy introduced Mr. Rich Willows and asked him to describe the procedure whereby the New City Fire Engine Company No. 1 was issued a building permit by the Town, commenced construction and continued on until that building permit was revoked by the Building Inspector.

Appearance: Rich Willows  
Trustee, New City Fire Company and  
Chairman of the Building Committee

He has been with the Fire Company a long time. They started off with the building when they were approached by the Fire District in 1993 and started looking forward to building a new and bigger fire house, to bring it up to standards of OSHA and the ever growing population of the Company. They continued to have committee meetings and ventured off into some architects in the fire house field to proceed in the same location to expand the building. In the beginning of 1997, they decided to go with a firm from Voorheesville in the Albany area. At that point, he put some sketches together. With the recommendation of the committee and the trustees, they decided to go to the Town and get their feelings on this matter and how to do it the right way. Supervisor Holbrook guided them in many different directions and they had a lot of things to cover and places to look at. Supervisor directed them to the Building Department, Environmental, ADA, and Fire Inspectors. They were in constant contact with all the departments. After numerous meetings with the architect and the Building Department, they were issued a permit.

Mr. Tracy stated that the rest, of course, is history. Mr. Willows testimony was simply elicited to show that they did come before the Town. They were directed to the Building Department, the Director of Environmental Control. After review of their plans, they were issued a building permit and they commenced construction. As to the points that were set forth in the Monroe case, Mr. Tracy does not interpret those points quite the way in which they were previously interpreted. First, the nature and scope is not in dispute. The nature and scope of the use is a governmental function. What is proposed

Re: Petition of New City Fire Engine Company No. 1 and New City Fire District for a  
Determination of the Applicability of the Town of Clarkstown Zoning Ordinance

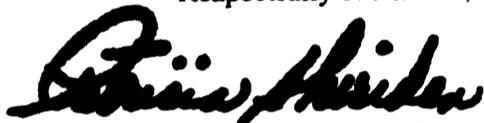
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here is a governmental function. Second, we talk about land use. Although it might be argued that the use of a fire house, police substation and the like are permitted in almost every zone in the Town of Clarkstown, this particular building is located in the heart of a commercial zone without any intrusion whatsoever on residential areas. He was told that it has been in that location for 118 years. The extent of public interest can be interpreted two ways. Whether the public is tremendously interested in the project from the point of view of what's being built or whether or not it is something that is in the public interest. Either way, we win because there has been no public interest against this project. No public input whatsoever. Certainly, fire protection is in the public interest. The effect that local land use would have - at the present time with the stage of construction that this fire house is at and the fact that the Building Inspector has allowed them to close up the work that was done to protect the interior and the trucks. A delay in a stoppage would then require a re-mobilization and perhaps re-negotiation of contracts and perhaps law suits for damages would be disastrous. The applicants' legislative grant - we are aware of the laws which authorize volunteer fire departments and fire districts which set them forth. In addition there has been a legislative grant by this Board's inclusion of these uses in the Zoning Ordinance. Alternative locations - we have not sought an alternative location. This is the location of choice. This location is in the hub of the Town of Clarkstown and Hamlet of New City where it has ready access to Route 304, Congers Road and the main arteries that are required for fire service. This is an expansion that is necessary and required. It is going on and no one has complained. There is intergovernmental participation in that everyone, everyday walking out of this building looks up and sees it. There was participation to the extent that the necessary documents to obtain a building permit were obtained. Environmental Control was checked with. It is an exempt SEQRA action in that the application for a building permit is an administrative action which is exempt. We have zoning to put people on notice of what is going on. To give them an opportunity to be heard. People know what is going on with regards to this fire house and there is no public opposition. It is a needed service. If we apply the Monroe balancing test to the New City Fire Company, he would expect that the Board would find that there was no necessity for them to go through three or four months of site plan activity plus the building as existed consisted of some non-conforming bulk which would require a variance because of the front yard set back.

There being no one further wishing to be heard, on motion of Co. Maloney, seconded by Co. Mandia and unanimously adopted, the public hearing was declared closed, DECISION RESERVED, time: 10:15 P. M.

Respectfully submitted,



PATRICIA SHERIDAN,  
Town Clerk