

TOWN OF CLARKSTOWN  
SPECIAL TOWN BOARD MEETING

Town Hall

8/3/98

8:30 P.M.

Present: Supervisor Charles E. Holbrook  
Council Members Maloney, Mandia Profenna and Smith  
Murray Jacobson, Town Attorney  
Patricia Sheridan, Town Clerk

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

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Supervisor opened the public portion of the meeting. No one appeared.

RESOLUTION NO. (608-1998)

Co. Mandia offered and Co. Smith seconded

WHEREAS, a declaratory judgment action entitled, NEW CITY FIRE ENGINE COMPANY NO. 1 and NEW CITY FIRE DISTRICT, Plaintiffs against ADOLPH MILICH, as Building Inspector of the Town of Clarkstown, County of Rockland, New York, Defendant under Index Number 2392/98 was commenced by service of an order to show cause and a summons and complaint for a declaratory judgment that plaintiffs were not subject to the zoning code or site plan regulations and for a permanent injunction restraining the defendant from enforcing a violation notice and a stop work order in connection with the construction of an addition to the New City firehouse and

WHEREAS, a short form order dated June 12, 1998 was issued by the Hon. William A. Sherwood, JSC denying the application of a temporary restraining order pending the implementation of proper and expeditious procedures to determine whether a zoning exemption should be issued and

WHEREAS, a public hearing has been held before the Town Board of the Town of Clarkstown on July 21, 1998 with respect to said issues.

NOW, THEREFORE, the Town Board of the Town of Clarkstown hereby renders the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The New City Fire Engine Company No. 1 is a not for profit corporation which consists of approximately 150 members who are volunteer firefighters. Its offices are located at 15 Maple Avenue, New City, New York. The New City Fire District is a municipal corporation charged with providing fire protection services to the northern and western portion of the Town of Clarkstown within the Fire District. Its offices are also located at 15 Maple Avenue, New City, New York.
2. The land use involved is an addition to an existing fire station which houses fire trucks and equipment owned by the New City Fire District and which serves as the headquarters for New City Fire Engine Company No. 1 and the New City Fire District.

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## RESOLUTION NO. (608-1998) CONTINUED

3. The proposed addition is to a fire station which has been in existence since 1888, over 110 years.
4. The fire station and proposed addition consisting of approximately 12,200 square feet will be the headquarters for the New City Fire Engine Company No. 1 and the New City Fire District.
5. Fire stations are permitted as of right in the CS District.
6. The fire station and proposed addition are located across the street from the Town Hall and near the Town of Clarkstown Police headquarters.
7. The fire station and its proposed addition are located in an area surrounded by commercial uses including buildings which are higher in elevation than the subject building.
8. The fire station in question is located in the heart of a commercial zone without any intrusion whatsoever on residential areas and is located where it has readily available access to Route 304, Congers Road and the main arteries that are required for a fire service.
9. There are no suitable alternative locations for this facility in less restricted zoning areas.
10. The extent of the public interest served is substantial in that the fire station and the proposed addition will house the trucks and equipment required for fire protection services to the portions of the Town of Clarkstown within the Fire District as well as other areas of the Town in the event the New City Fire Engine Company No. 1 is required to respond to mutual aid calls.
11. The effect of local land use regulations upon the enterprise to be served are negligible as the proposed addition will not have any significant impact on traffic conditions, will not create traffic hazards, will not create any of the dangerous and objectionable elements referred to in §290-13 of the Code of the Town of Clarkstown, will not adversely affect the character of property values in the area, will not otherwise impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the Town.
12. There are no feasible alternative locations for the facility presently available for the relocation of the fire house to a less restrictive zoning areas.
13. There are no feasible alternative methods providing the needed improvement.
14. Inter-governmental participation in the project has occurred to the extent that the Building Inspector has reviewed the plans for the proposed addition and has found them acceptable. New City Fire Engine Company No. 1 also consulted with the Building Department and the department of Environmental Control with respect to the project. Interested parties and the public have been given an opportunity to be heard at a public hearing conducted on July 21, 1998.
15. Although compliance with the requirements of the Zoning Ordinance of the Town of Clarkstown have not been substantially fulfilled, the public interest in

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RESOLUTION NO. (608-1998) CONTINUED

the construction of the addition to the existing fire house substantially outweighs the public interest in requiring strict adherence to the Zoning Ordinance provided the New City Fire Engine Company No. 1 complies with the following conditions:

- a. New City Fire Engine Company No. 1 shall file copies of its building plans and specifications for the construction of the addition to its fire house with the Building Inspector of the Town of Clarkstown.

CONCLUSIONS OF LAW

Applying the balancing test to the New City Fire Engine Company No. 1 and the New City Fire District, the Town Board finds that the proposed addition providing for an expansion of the fire station located at 15 Maple Avenue, New City, New York is subject to the limited immunity from zoning regulation and applying the balancing test outlined in Matter of Monroe, the public interest in the erection of the proposed addition to the existing fire station is consistent with the public interest so that the proposed addition may be constructed without further compliance with the planning or zoning requirements of the Code of the Town of Clarkstown and the Building Inspector is authorized to issue a building permit to the New City Fire Engine Company No. 1 to construct the addition to its fire station subject to the following condition:

- a. New City Fire Engine Company No. 1 shall file copies of its building plans and specifications for the construction of the addition to its fire house with the Building Inspector of the Town of Clarkstown.

On roll call the vote was as follows:

Co. Maloney ..... Yes  
 Co. Mandia ..... Yes  
 Co. Profenna ..... Yes  
 Co. Smith ..... Yes  
 Supervisor Holbrook ..... Yes

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RESOLUTION NO. (609-1998)

Co. Mandia offered and Co. Profenna seconded

WHEREAS, an Article 78 proceeding entitled, NANUET FIRE ENGINE COMPANY #1, INC. Petitioner, against ARNOLD AMSTER, NICHOLAS DE SANTIS, MARYBETH BAISLEY, JOSEPH HIRSCHFIELD, JOHN FELLA, and EDWARD MISTRETTA, constituting the chairmen and members of the ZONING BOARD OF APPEALS OF THE TOWN OF CLARKSTOWN, ROCKLAND COUNTY, NEW YORK, Respondents under Index Number 2847/98 was commenced by order to show cause and service of a petition to declare null and void a decision of the Board of Appeals of the Town of Clarkstown dated April 20, 1998 which vacated and annulled a building permit previously issued to the petitioner for the construction of a fire sub-station to be located at 1 Renee Lane, Bardonia, New York and

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## RESOLUTION NO. (609-1998) CONTINUED

WHEREAS, an order dated June 11, 1998 was issued by the Hon. Howard Miller, JSC denying and dismissing the petition except to the extent that the Town of Clarkstown shall, after petitioner files a site plan, expeditiously determine whether petitioner is subject to the zoning regulations of the Town of Clarkstown based upon the factor set forth in Matter of County of Monroe, 72 NY2d338 and

WHEREAS, a public hearing has been held before the Town Board of the Town of Clarkstown on July 21, 1998 with respect to said issues.

NOW, THEREFORE, the Town Board of the Town of Clarkstown hereby renders the following findings of fact and conclusions of law:

## FINDINGS OF FACT

1. Nanuet Fire Engine co. No. 1, Inc. is a district corporation charged with providing fire protection services within the Nanuet Fire District and has its principal office at 7 Prospect Street, Nanuet, New York. Nanuet Engine Co. No. 1 is the only fire company within the District.
2. The land use involved is the construction of a fire sub-station to house one fire truck and its equipment owned by the Nanuet Fire Engine Co. No. 1, Inc. on premises located at 1 Renee Lane, Bardonia, New York.
3. No fire sub-station exists on the premises at the present time.
4. The proposed fire sub-station would be located in a residential area in which schools are located.
5. Fire stations are permitted as of right in the R15 District on lots of not less than 80,000 square feet subject to site plan approval by the Planning Board of the Town of Clarkstown.
6. The Nanuet Fire Engine Co. No. 1 has indicated that the reasons that it wishes to erect the fire sub-station on the subject premises are that it already owns said premises and the erection of the proposed of sub-station will reduce response time in responding to fires and other emergencies in the surrounding area within the District which it serves.
7. There are no alternative locations for the facility presently available in less restrictive zoning areas and potential alternative sites which were examined where found to be unsuitable.
8. There are no feasible alternative methods providing the needed improvement.
9. The extent of the public interest served is substantial in that the proposed fire sub-station will house a truck and equipment required for fire protection services to the portions of the Town of Clarkstown within the Fire District where past experience has shown there is a substantial delay in arriving at the scene of fires due to traffic conditions.
10. The construction of the proposed fire sub-station will enable volunteer firemen to locate equipment closer to an area where it will be needed and less subject to delay because of heavy traffic conditions between the Prospect Street firehouse and other portions of the Nanuet Fire Engine Company No. 1's territory.

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## RESOLUTION NO. (609-1998) CONTINUED

11. The proposed fire sub-station will not be used for servicing or maintenance of any truck or its equipment, will not be equipped with a siren or horn, will not be used as a facility for the storage of gasoline and will not be used for social activities.

12. The effect of local land use regulations upon the enterprise to be served are negligible as the proposed addition will not have any significant impact on traffic conditions, will not create traffic hazards so long as the Nanuet Fire Engine Co. No. 1, Inc. complies with the recommendations of the Town's Traffic Engineer, Howard Lampert, P.E., with respect to signalization of Bardonia Road, will not create any of the dangerous and objectionable elements referred to in §290-13 of the Code of the Town of Clarkstown, will not adversely affect the character of property values in the area, will not otherwise impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the Town.

13. Inter-governmental participation in the project has occurred to the extent that the Building Inspector has reviewed the plans for the proposed addition and has found them to be acceptable. A site plan has been submitted to the Planning Board of the Town of Clarkstown. Interested parties and the public have been given an opportunity to be heard at a public hearing conducted on July 21, 1998.

14. Although compliance with the requirements of the Zoning Ordinance of the Town of Clarkstown have not substantially been fulfilled, the public interest in the construction of the fire sub-station substantially outweighs the public interest in requiring strict adherence to the Zoning Ordinance provided the Nanuet Fire Engine Company No. 1 complies with the following conditions:

- a. Nanuet Fire Engine Company No. 1 shall file copies of its building plans and specifications with the Building Inspector of the Town of Clarkstown;
- b. Nanuet Fire Engine Company No. 1 shall install a traffic signal on Bardonia Road at its own expense in accordance with recommendations of the Town's Traffic Engineer, Howard Lampert, P.E.; and
- c. Nanuet Fire Engine Company No. 1 shall not operate any fire truck from said fire sub-station until the above mentioned conditions are complied with.

## CONCLUSIONS OF LAW

Applying the balancing test to the Nanuet Fire Engine Company No. 1, Inc., the Town Board finds that the proposed construction of a fire sub-station to be located at 1 Renee Lane, Bardonia, New York is subject to the limited immunity from zoning regulation and applying the balancing test outlined in Matter of Monroe, the public interest in the erection of the proposed fire sub-station is consistent with the public interest so that the proposed fire sub-station may be constructed without further compliance with the planning or zoning requirements of the Code of the Town of Clarkstown and the Building Inspector is authorized to issue a building permit to the Nanuet Fire Engine Company No. 1, Inc. to construct the fire sub-station subject to the following conditions:

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RESOLUTION NO. (609-1998) CONTINUED

- a. Nanuet Fire Engine Company No. 1 shall file copies of its building plans and specifications with the Building Inspector of the Town of Clarkstown;
- b. Nanuet Fire Engine Company No. 1 shall install a traffic signal on Bardonia Road at its own expense in accordance with recommendations of the Town's Traffic Engineer, Howard Lampert, P.E.; and
- c. Nanuet Fire Engine Company No. 1 shall not operate any fire truck from said fire sub-station until the above mentioned conditions are complied with.

On roll call the vote was as follows:

Co. Maloney ..... Yes  
 Co. Mandia ..... Yes  
 Co. Profenna ..... Yes  
 Co. Smith ..... Yes  
 Supervisor Holbrook ..... No

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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 Co. Maloney, seconded by Co. Mandia and unanimously adopted, the Special Town Board Meeting was declared closed, time: 8:47 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,  
Town Clerk