

TOWN OF CLARKSTOWN
TOWN BOARD MEETING

Town Hall

07/09/2002

8:00 P.M.

Present: Supervisor Holbrook
Council Members Lasker, Maloney, Mandia & Smith
Philip B. Fogel, Deputy Town Attorney
Patricia Sheridan, Town Clerk

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

On motion of Co. Mandia, seconded by Co. Maloney and unanimously adopted the public hearing re: The review of facts and circumstances to determine the extent of tree preservation required by Special Permit granted to Sisters of Charity for Senior Citizen housing project was opened, time: 8:05 pm.

On motion of Supervisor Holbrook, seconded by Co. Maloney and unanimously adopted the public hearing re: The review of facts and circumstances to determine the extent of tree preservation required by Special Permit granted to Sisters of Charity for Senior Citizen housing project was closed, time: 9:10 pm.

Supervisor opened the public portion of the meeting.

Appearance: Patrick Rocco
Congers

He spoke on Item #3 saying that he has been waiting for 3 1/2 years for action to be taken. He would like to see strong action taken to remove the fill.

Appearance: Steven Levine
Congers

He spoke on Item #3 saying that trucks have been coming in to Massachusetts Avenue for three and one half (3 1/2) years. He feels that the fill is a health hazard and he wants strong action taken. He asked if the bids will be part of the public domain.

Appearance: John Lodico
New City

He asked if the Town Board will be the lead agency for the CSX Railroad. He is against giving them a tax reduction.

It was requested that the following letter from Dennis E. A. Lynch, Esq. be read into the record:

Dear Mr. Costa:

This office has been advised that the Town Board tonight will consider a resolution regarding litigation against Mr. Goldberg. As you know, there is currently litigation in Federal Court brought by our office against the responsible party who dumped the material in question on Mr. Goldberg's property. If the resolution tonight is to have the Town join that litigation, this office supports any such resolution. However, if the resolution is to initiate litigation against Mr. Goldberg, we object strenuously to such improper, illegal and frivolous litigation.

It is my request this letter be read into the record tonight and that copies be provided to all Town Board members so they are personally aware of this transmittal to you.

Very truly yours,

Dennis E. A. Lynch

DEAL/sfd

cc: Barry Goldberg

RESOLUTION NO. (589-2002)

On motion of Supervisor Holbrook seconded by Co. Maloney

WHEREAS, by Resolution No. 603-2001, dated July 24, 2001, and correcting resolution No. 682-2001, dated September 25, 2001, the Sisters of Charity were issued a special permit to authorize construction of a senior citizen housing project on Convent Road, Nanuet, New York, and

WHEREAS, the Planning Board, acting pursuant to said permit, approved a site plan which provided for the clearing of a wooded area which may exceed the clearing limit intended to be established by the Town Board, and

WHEREAS, the Town Board of the Town of Clarkstown held a special public meeting on July 9, 2002 to review the circumstances concerning the issuance of a special permit with the particular intent and purpose of reviewing the extent of tree preservation required by said special permit, and

WHEREAS, Councilman Mandia advised the Town Board that, after discussions with the applicant, the applicant agreed that there will be no cutting or removal of trees within 160 feet of the northerly lot line of the Sisters of Charity;

NOW, THEREFORE, be it

RESOLVED and memorialized that, for the purpose of constructing 106 residential units of Senior Citizen Housing pursuant to Section 290-17 O of the Town Code of the Town of Clarkstown, there will be no cutting or removal of trees within 160 feet of the aforesaid northerly lot line of the property owned by the Sisters of Charity.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (590-2002)

Co. Mandia offered and Co. Maloney seconded

RESOLVED, that the Town Board Minutes of June 25, 2002 and June 28, 2002 are hereby accepted as submitted by the Town Clerk.

On roll call the vote was as follows:

Councilwoman Lasker Yes
 Councilman Maloney Yes
 Councilman Mandia Yes
 Councilwoman Smith Yes
 Supervisor Holbrook Yes

RESOLUTION NO. (591-2002)

Co. Mandia offered and Co. Maloney seconded

WHEREAS, Councilwoman Shirley Lasker proposed amendment to Chapter 18 of the Town of Clarkstown Town Code entitled "Ethics in Government Law of the Town of Clarkstown", and

WHEREAS, Councilwoman Lasker worked with the staff of the Town Attorney's Office in drafting the proposed local law referred to herein and was the principal sponsor for its introduction but, due to a scrivener's error, her sponsorship was omitted from Resolution No. 174-2002 adopted on February 12, 2002 setting the public hearing for said local law, and Resolution No. 328-2002 which implemented said local law, adopted on April 9, 2002, incorrectly reported that another member of the Town Board had introduced the proposed local law;

NOW, THEREFORE, be it

RESOLVED, the Town Board hereby authorizes and directs the Town Clerk to correct the minutes of the Town Board to indicate that Councilwoman Shirley Lasker introduced proposed Local Law No. 4 on February 12, 2002, and moved its adoption at the public hearing held on April 9, 2002.

On roll call the vote was as follows:

Councilwoman Lasker Yes
 Councilman Maloney Yes
 Councilman Mandia Yes
 Councilwoman Smith Yes
 Supervisor Holbrook Yes

RESOLUTION NO. (592-2002)

Co. Lasker offered and Co. Maloney seconded

RESOLVED, that the Town Board hereby authorizes the Town Attorney to commence litigation, against Barry Goldberg and Linda Goldberg, et al. on behalf of the Town of Clarkstown to obtain an injunction requiring remediation of premises located at 139 Massachusetts Avenue, Congers, New York which premises have been determined to be in violation of Town Code Chapter 216 of the Town of Clarkstown, and be it

FURTHER RESOLVED, that this resolution is hereby made retroactive to July 3, 2002.

On roll call the vote was as follows:

Councilwoman Lasker Yes
 Councilman Maloney Yes
 Councilman Mandia Yes
 Councilwoman Smith Yes
 Supervisor Holbrook Yes

RESOLUTION NO. (593-2002)

Co. Lasker offered and Co. Maloney seconded

WHEREAS, the Town has requested proposals from engineering firms to provide services with respect to property known as 44.15-3-42 and 42.1, Congers, New York, and

WHEREAS, the Director of Environmental Control has recommended the proposal dated July 2, 2002 from Lawler, Matusky & Skelly Engineers, LLP for preparation of a Phase I Environmental Site Assessment;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes the Supervisor to enter into an agreement with Lawler, Matusky & Skelly Engineers, LLP, to provide engineering services to the Town with respect to property known as 44.15-3-42 and 42.1 Congers, New York, and be it

FURTHER RESOLVED, that the cost for these services shall be \$2,900.00 and said fee shall be charged to Account No. A 1420 409.

On roll call the vote was as follows:

Councilwoman Lasker	Yes
Councilman Maloney	Yes
Councilman Mandia	Yes
Councilwoman Smith	Yes
Supervisor Holbrook	Yes

RESOLUTION NO. (594-2002)

Co. Maloney offered and Co. Mandia seconded

WHEREAS, tax certiorari proceedings were commenced in Supreme Court, State of New York, County of Rockland entitled, STURZ ENTERPRISES LTD., Index No(s). 4084/99, 4097/00, 4070/01, affecting parcel designated as Map 44.7, Block 2, Lot 16, commonly known as and more particularly described as 25 Brenner Drive, Congers, New York for the years 1999, 2000, 2001, and

WHEREAS, the attorney for the petitioner(s) has proposed to settle the proceeding(s) and discontinue with prejudice and without costs on the terms and conditions set forth herein, and

WHEREAS, such settlement has been recommended by the Tax Assessor, the Senior Deputy Town Attorney of the Town of Clarkstown and the attorneys for the Clarkstown School District, who believe the best interests of the Town and the School District are being served;

NOW, THEREFORE, be it

RESOLVED, that:

1. The assessment on the premises owned by the petitioner(s) described on the assessment roll as Map 44.7, Block 2, Lot 16 be reduced for the year 1999 from \$957,500.00 to \$855,300.00 at a cost to the Town of \$1,507.00; for the year 2000 from \$957,500.00 to \$774,700.00 at a cost to the Town of \$2,639.00; and for the year 2001 from \$957,500.00 to \$675,300.00 at a cost to the Town of \$4,073.00.

RESOLUTION NO. (594-2002) continued

2. Reimbursement for the year(s) 1999, 2000, 2001 on the parcel described as Map 44.7, Block 2, Lot 16, as stated above, be made within (60) days, without interest, through the Office of the Commissioner of Finance; and such payment shall be adjusted by the Commissioner of Finance and the Town as a deficiency added to the next county levy;

3. All municipal officials of the Town of Clarkstown shall be directed to make necessary notations, changes, amendments and/or corrections necessary to implement this settlement, and be it

FURTHER RESOLVED, that the settlement of the aforesaid action is authorized upon the terms and conditions herein stated; and the Town Attorney is authorized to sign all documents necessary to effectuate such settlement.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (595-2002)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, the County of Rockland has offered to make available, at no cost to the Town of Clarkstown, digital data to the Town and other municipal and governmental entities through licensing agreements;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes the Supervisor to enter into a license agreement with the County of Rockland, in a form acceptable to the Town Attorney.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (596-2002)

Co. Smith offered and Co. Mandia seconded

WHEREAS, the Town Board is interested in acquiring real property located in Congers, New York (Tax Map 44.11-3-79), for municipal purposes;

NOW, THEREFORE, be it

RESOLUTION NO. (596-2002) continued

RESOLVED, that the Town Board hereby authorizes the Town Attorney to solicit competitive proposals from qualified real property appraisers to obtain an appraisal of the subject premises.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (597-2002)

Co. Mandia offered and Co. Smith seconded

Whereas, the Town Board of the Town of Clarkstown has previously authorized the Director of the Department of Environmental Control to retain the services of GEA Engineering, P.C. of Nanuet, New York to prepare construction plans and specifications for the replacement of an existing drainage culvert located on Phillips Hill Road in the vicinity of the entrance to Candy Mountain Day Camp in New City; and

Whereas, said plans and specifications are in the final stages of development;

Now, Therefore, Be It Resolved that the Director of Purchasing is hereby authorized to advertise for bids for:

Bid # 57-2002;
Phillips Hill Road Culvert Replacement

Bids to be returnable to the office of the Director of Purchasing, 10 Maple Avenue, New City, New York at a date and time to be announced.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (598-2002)

Co. Mandia offered and Co. Smith seconded

Whereas, the Town Board of the Town of Clarkstown has previously authorized the Director of the Department of Environmental Control to retain the services of GEA Engineering, P.C. of Nanuet, New York to prepare construction plans and specifications for the replacement an existing drainage culvert located on South Mountain Road in New City; and

Whereas, said plans and specifications are in the final stages of development;

Now, Therefore, Be It Resolved that the Director of Purchasing is hereby authorized to advertise for bids for:

RESOLUTION NO. (598-2002) continued

Bid # 58-2002;
South Mountain Road Culvert Replacement

Bids to be returnable to the office of the Director of Purchasing, 10 Maple Avenue, New City, New York at a date and time to be announced.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (599-2002)

Co. Mandia offered and Co. Smith seconded

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

BID #59-2002
GROUNDS MAINTENANCE AT SOLID WASTE FACILITY

Bids to be returnable to the office of the Director of Purchasing, 10 Maple Avenue, New City, New York by a time and date to be announced at which time bids will be opened and read, and be it

FURTHER RESOLVED, that bid specifications and proposal documents can be obtained at the office of the Clarkstown Director of Environmental Control.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (600-2002)

Co. Mandia offered and Co. Smith seconded

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

BID #60-2002
LEAF COLLECTION EQUIPMENT FOR HIGHWAY DEPT.

Bids to be returnable to the office of the Director of Purchasing, 10 Maple Avenue, New City, New York by a time and date to be announced at which time bids will be opened and read, and be it

RESOLUTION NO. (600-2002) continued

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

On roll call the vote was as follows:

Councilwoman Lasker Yes
 Councilman Maloney Yes
 Councilman Mandia Yes
 Councilwoman Smith Yes
 Supervisor Holbrook Yes

RESOLUTION NO. (601-2002)

Co. Smith offered and Co. Maloney seconded

WHEREAS, Charles E. Holbrook, Supervisor, has been named individually in an action known as JOHN LODICO, SR. v. CHARLES HOLBROOK, Individually and as Supervisor for the Town Board for the Town of Clarkstown, New York (Complaint Index No. 4035/02), and

WHEREAS, Charles E. Holbrook has requested defense and indemnification as provided in Section 18 of the Public Officers Law;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes this action be defended, and that the individually named public employee/defendant be defended and indemnified as provided in accordance with Section 18 of the Public Officers Law.

On roll call the vote was as follows:

Councilwoman Lasker Yes
 Councilman Maloney Yes
 Councilman Mandia Yes
 Councilwoman Smith Yes
 Supervisor Holbrook Yes

RESOLUTION NO. (602-2002)

Co. Mandia offered and Co. Smith seconded

RESOLVED, that George L. Cebisch, 796 Brookridge Road, Valley Cottage, New York, is hereby appointed to the position of Member – Traffic & Traffic Fire Safety Advisory Board – to fill the un expired term of Louis J. Profenna – at the current 2002 annual salary of \$2,266, term effective July 1, 2002 – and to expire on March 1, 2007.

On roll call the vote was as follows:

Councilwoman Lasker Yes
 Councilman Maloney Yes
 Councilman Mandia Yes
 Councilwoman Smith Yes
 Supervisor Holbrook No

RESOLUTION NO. (603-2002)

Co. Smith offered and Co. Maloney seconded

RESOLVED, that Edward Mistretta, 318 N. Middletown Road, Nanuet, New York, is hereby reappointed to the position of Member -Zoning Board of Appeals at the current 2002 annual salary of \$3,348.00, effective and retroactive to June 19, 2002 and to expire on June 18, 2007.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook No

There being no further business and no one further wishing to be heard, on motion of Co. Maloney, seconded by Co. Lasker and unanimously adopted the Town Board Meeting was closed, time 9:35 p.m.

Respectfully submitted,



Patricia Sheridan
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

7/9/02

8:00 PM

Present: Supervisor Charles Holbrook
Council Members Lasker, Maloney, Mandia, Smith
Town Attorney, Phillip Fogel
Town Clerk, Patricia Sheridan

Re: Special Permit Granted to Sisters of Charity for Construction of Senior Citizen Housing Project

On Motion of Co. Mandia, seconded by Co. Maloney and unanimously adopted, the Public Hearing was declared open. The Town Clerk read the Notice of Hearing.

Supervisor Holbrook announced that this is an additional Town Board Meeting in July specifically for the Sisters of Charity project on Convent Road. Supervisor Holbrook said that there had been controversy over the Buffer Zones surrounding the property. Since this Public Hearing had been scheduled ten (10) days ago, a line of approximately 160 feet has been established with no cutting taking place within that line. Town staff has gone to the site to verify this and moved markers to account for that distance.

Supervisor asked Dennis Letson, Deputy Director of Environment Control, if any cutting has taken place within 160 feet anywhere on the site. Mr. Letson replied that there had not been. Supervisor Holbrook stated that he had been in contact with the Sisters of Charity who are the originators of the project. They seem to be willing to adhere to the 160 foot Buffer Zone. Supervisor Holbrook also asked the staff that in light of the fact that the Planning Board has approved Site Plan, if we establish a 160 feet as a Buffer Zone, is it possible to modify that Plan to accomplish that. Peter Beary replied that it is possible.

Supervisor Holbrook said that he wants to review what has occurred since scheduling tonight's meeting. He said that when the Special Permit was approved at a meeting a year ago, the Town Board was under a different perception of what the ultimate Buffer Zone would be. Reference was made to a specific sheet on a map and there was another grade cutting map that was approved by the Planning Board. The overall purpose of tonight is to try to come up with a resolution that would provide protection for our residents who live in the immediate area so that everyone understands exactly where the Buffer Zone will ultimately be.

Co. Mandia stated that Sr. Gilbride called him back after he had made several attempts to contact her. He said she thanked Mr. Beary and Mr. Letson and she agrees to the 160 feet which has been measured and marked. He said that he has spoken with several of the neighbors and their main concern is for ten (10) or twelve (12) trees which they have been assured will remain. The primary issues have been satisfied and no more trees will be taken down to allow the 160 feet Buffer Zone to remain.

Supervisor opened the meeting to public comment.

Appearance: Nick Zoda
Nanuet

He wants to know who is going to be monitoring the contractor as far as the boundaries of 160 feet. Supervisor Holbrook replied that Mr. Beary and Mr. Letson will do so. Supervisor also emphasized that "cut line" means "tree cut line." Mr. Zoda also said that it was his understanding from attending Planning Board meetings that trees were being cut down were to accommodate the Sr. Senior Citizen Complex. He wanted to know if the Ring Road would run at 160 feet. Supervisor Holbrook replied that in keeping with 160 feet, the Ring Road would have to come a little closer to the Senior Citizen Housing. Mr. Letson interjected that the road is not slated for construction immediately. Mr. Zoda said that he and his neighbors thought that the Sisters would

PH: Special Permit Granted to Sisters of Charity for Construction of Senior Citizen Housing Project

come back to the Planning Board at the time of their project before going forward to remove more trees. This was the biggest disappointment. Supervisor Holbrook replied that when the Special Permit was approved they saw a map that did not show a cut line.

Appearance: Patrick Healy
Nanuet

He wanted to confirm that the tree cut line is now 160 feet. Supervisor Holbrook confirmed that at no point will a home be closer than 160 feet. Mr. Healy also asked if the Town Board will be passing a resolution tonight to that effect. Supervisor Holbrook replied that a resolution will be passed memorializing that.

Mr. Healy asked if the Assisted Living is adopted into the Zoning Ordinance by the Town, will the 160 foot cut line hold for that facility. Supervisor Holbrook said the Town Board has the power to hold it to that because if that were the case, they would have to apply for another Special Permit. If the Town Board were to look favorably on that, we would be able to codify to hold that 160 foot line.

Appearance: Bob Jackson
Nanuet

He understands that the purpose for the cutting back was to use dirt to level off some property and he asked where the dirt would be coming from. Supervisor Holbrook replied that they would be using dirt from the same site.

Co. Mandia referred the question to Mr. Letson that doing the grading properly avoids bringing the dirt in from another location.

Mr. Jackson asked Mr. Letson if there were still plans to do drainage work within that 200 feet to which Mr. Letson replied that there are and that will be reviewed. Mr. Jackson also asked how tall the buildings would be to which Mr. Paris, Chairman of the Planning Board, replied that it will be two (2) stories. Mr. Jackson also asked if neighbors should see trees being cut down on a Saturday or Sunday, could the local authorities be notified. Supervisor Holbrook replied that the police may be called and in turn will notify the Building Department or Supervisor Holbrook.

Mr. Jackson thanked Supervisor Holbrook, Councilwoman Lasker and Peter Beary for all of their help and their time in visiting the site.

Appearance: Donna Healy
Nanuet

Donna Healy read the following statement:

Good Evening Council Members and Supervisor Holbrook. I'm here tonight to speak about many things. The first thing I would like to address is the resolution you are adopting tonight. The nearest building to the Northern boundary of the site is 582 feet away. You are stating that for the 106-unit complex (since many acres of the trees have already been cleared without the Board's intention), that 160 feet of trees will remain on the Northern boundary of the site. Please also keep in mind that 3 council members have also stated when Assisted Living was part of the proposal, which it is no longer, is that the residents deserved a minimum of 160 feet on the Northern boundary. The fact is that 160 feet in some areas of this site when there are large gaps could mean approximately 3-4 trees deep. This is extremely bare. The second thing I would like to say is that numerous acres of trees that would have helped with drainage (in an area that has already experienced flooding problems) were needlessly clear cut for this 106-unit facility and to say "You're sorry" is not good enough. You first must examine what happened here. What was the intent of the engineer for the applicant and how much regard was there for the trees or for the residents near this site? In his August 11, 1998 narrative, Mr. Loch

states "On behalf of the applicant, we request a waiver of requirements for tree locations. There are few trees in the areas proposed for construction and there is no intent to disturb the wooded areas on the perimeter of the site." Next up are the Planning Board meeting minutes dated January 27, 2000, in which Mr. Klein, the consultant, states "Ed Loch and his engineers are presently tagging trees and he thinks they are in excess of a thousand and they are not finished yet. They will continue tagging trees and it will be close to 1500 - 1800 trees that will remain on the property." I didn't realize minutes of a meeting could be changed by just crossing something out. Mr. Loch corrected and crossed out trees that will remain.

On June 25, 2001, an Environmental Assessment Form asks how many acres of trees or shrubs will be removed from the site? The applicant's response is 5 acres. I beg to differ - it is much more. The next question asks will any mature forest over 100 years old be removed? The applicant's response was NO. I also beg to differ. I think I have certainly shown that there was misinformation given and disregard for the trees. Keep in mind also that the question of whether this project is located in a 100 - year flood plain was answered "yes". This is true. I don't think anyone on the Board or even an engineer would disagree that a 100-year old oak tree would have absorbed an awful lot of water. With respect to the Pascack Brook and its' history of flooding problems, the engineer states the applicant is leaving the responsibility for the maintenance and improvement of the brook with the County. In fact, other documentation states the applicant doesn't see the need to address the problems with the Brook but their 106-unit facility should not add to the problem.

Now let us address the actual clear-cutting of trees. What was the reason the applicant gave for removing the trees on the Northern boundary? I believe it was to utilize the landfill underneath in order to level the land. It would take 1,000 dump trucks so-called costly landfill to accomplish this otherwise? That is what was claimed. If you look at the Environmental Assessment form you will see that 95% of the land has a 0-10% slope and 5% has a 10-15% slope. That is certainly not a large slope. I'm quite certain that if the Town or Planning Board had an independent engineer look at the plans, as I did, you would see that in this type of grading the dirt is usually shifted from the high point to the low point. In this case, from East to West. The needless clearing was done on the Northern boundary, not in a clearing line, but in a bell-shaped curve which just so happens to be the area in which they would like to put a second phase (Assisted Living), which has not been applied for or approved. Were there no red flags at the Planning Board by Mr. Paris or others that this didn't seem necessary? I guess the question that should have been asked is: Without bringing in 1,000 dump trucks of landfill, could the leveling be done quite effectively without clearing the Northern boundary? I think so. I'm quite sure that if the proper research was done you would agree. It seems that based upon statements made from the applicant, preliminary site plan approval was given on October 31, 2001. Now I would like to ask the Town Board that if an applicant had come before you and said we would like to clear-cut land for future development you would have said no, right? Therefore, there was no indication that there was any documentation, and not verbally conveyed by the applicant's engineer, that they had any other reason for clear-cutting the trees. If you had looked at the file, you would have seen there was. In the June 24, 2001 SEQRA narrative, (2 days before the Town Board gave its letter of intent to approve the project) Mr. Loch states, "The current proposal is designed to be accommodating to additional development of the site if and when Clarkstown zoning allows for further development of other aspects of an elderly campus." It further goes on to state that the current area being developed will be filled with material from the northerly half of the site. The borrow area will be set up as lawn area, but in the process it will be set up as an area for future development." To me this says it all. It does not state that it is necessary for this area to be cleared, and if it is not cleared, it will take 1,000 dump trucks of landfill to level the property. It does not even state how much fill might be coming from this area. An independent study would have revealed the answer. What it implies is: the applicant has all intentions of additional building on this site in the future, it might as well be cleared now. If anyone on either Board has properly read the file, and did not take what the engineer said at face value, these trees would still be standing.

In fact, this goes even deeper. A resident of this Town after numerous meetings with Mr. Holbrook had assurances that 550 feet of trees would be preserved on the Northern Boundary, and would be included in the covenant, as a condition of the special permit to be issued to the applicant. He also stood before this Board on the night this project was approved (July 24, 2001) to confirm this and other covenant items to be included in the special permit. Keep in mind this was well before an unjustified preliminary site approval was given (approx. 3 months earlier). Due to the fact that the 550 ft. was not included in the covenant, as it was promised, Mr. Holbrook requested that Mr. Healy come to the meeting to accomplish this. Mr. Healy stated numerous times at this meeting that the 550 feet needed to be included in the covenant as it was too vague, referencing the tree preservation to the map of May 7, 2001. Keep in mind, this map that the Town Board voted on, had no clearing line. The Town Board voted on this map and had no intention for these trees to be removed for senior housing, as they have stated. In fact, reference is made to this later on by Mr. Holbrook in a November 7, 2001 letter to Town Attorney Mr. John Costa, stating if the applicant wants to clear any trees on the Northern boundary they need to come before the Town to ask permission at a public hearing. Mr. Costa concurred in writing with Mr. Holbrook's decision on November 8, 2001. Mr. Healy stated that this is the map that is being voted on, held it up to each Board member and Mr. Geneslaw, and they all agreed. Mr. Geneslaw, the Town Planning Consultant, assured Mr. Healy that the actual footage he insisted upon, over and over, was not necessary as the map showed all the trees numbered and remaining up. How can this statement be made when the applicant/and or their representatives along with Mr. Geneslaw, have knowledge of a so called grading map, which shows there is no intention of keeping 550 feet on the Northern Boundary. This is not a mistake. This is an abomination. The Town Board and Mr. Healy were not made aware of any grading map (or any other plans) the night the vote was taken in good faith by the Town Board. Mr. Healy also made subsequent phone calls to Mr. Geneslaw, as he still felt it was important to include the 550 feet in the resolution. However, his last 2 phone messages to Mr. Geneslaw went unreturned. In fact, Mr. Healy was not made aware of this until October 31, 2001, the day the Planning Board gave preliminary site approval that the applicant had no intention of leaving the 550 feet on the Northern boundary. Why was nothing said by the applicant or their representatives the night the Town Board voted to approve the special permit that they had no intention of leaving this 550 feet buffer? I guess the question better to be asked was if there was no harm in putting the 550 feet in the covenant why shouldn't it be? I guess we now know why. The applicant used an unjustified preliminary site plan approval by the Planning Board as justification for not having to come before a public hearing as required by the Town. The applicant was made well aware of the Town Board's intent to keep the trees in place (over 2 months before the actual clearing began), and in fact was also aware that the Town Board said the Planning Board superceded their authority in granting this preliminary approval. Still, the Town did not make the applicant come to a public hearing to ask permission to cut trees. The fact that important information was not divulged the night the Town Board voted on this project was enough reason for them to adhere to the request for such a hearing. If the applicant's engineer had such a valid reason for clear-cutting this area, what would have been the harm in holding the public hearing? **All of this was carefully outlined and stated in a detailed memo to each Board member dated April 23, 2002. A final site plan was approved by the Planning Board in late May 2002. This so-called mistake was never corrected. Tree-clearing began on June 25, 2002.**

Now that I have dealt with the tree issue, I would like to address the nature and scope of the entire project. It all began with a market study conducted by the applicant. It states that there is a definite need for such housing and would benefit the Town of Clarkstown. Aside from a map of Clarkstown in the analysis, I do not believe it holds any statistics for Clarkstown at all. This project was proposed as being beneficial, as the residents of Nanuet/Clarkstown would be given first priority to live there. This is irrelevant. What is not mentioned in the proposal is that most Clarkstown seniors would be ineligible to live there. In fact, I brought that up three years ago at a Planning Board meeting. Low-income guidelines prohibit most Clarkstown seniors due to their income levels. The funding agencies supplying the financing will dictate income levels as well as other criteria, such as age, disability, etc. This project was first posed as strictly elderly but that seems not to be the case. Does anyone on this Board even know what they approved? Who is doing the funding? Letters from these agencies need to be sent

along with the eligibility these agencies dictate. **There is documentation in the file that right before the project was given a letter of intent approval, one Board member was not even clear on the rules for income eligibility for Clarkstown residents, and the applicant was not able to clarify this. Incredibly, despite this, approval was still given!**

This brings me to my next point. There was a resolution adopted as a condition of this special permit and it states that if this property is sold (although the applicant has stated it will run this development in perpetuity) or if a change of use or management is needed, the permit will not run with the land and the new owner will need to get their own permit. I do not think that when a government agency funds a particular project or when it no longer serves its original use, that the government then comes back to the board and asks for their permission to run it as they see fit. **This is an absolute risk to this community.** In addition there were other statements made. **"Based upon our findings this development will not adversely affect the character of or property values in the area". I totally disagree. First of all to say there are findings implies some kind of research was done. It was not. In fact your findings are a cookie-cutter copy of the applicant's petition.** The applicant believes and states, therefore the Town Board finds, seems to be what was done here. How can you also say that granting a special permit to change a strictly single family residential neighborhood into a neighborhood that now has a 106 multi-unit dwelling will not adversely affect the character of the area? People who bought their homes here with hard-earned money should be assured that the character of their neighborhood can't be changed arbitrarily and for what seems to be no logical reason. The Town Board reserves the right to change zoning at their choosing, but I guess the question is: should they have the right and whose interest does it serve? First of all, these buildings were proposed to be similar in height to the existing residents and certainly not out of character with their homes. I heard at other times, as well as tonight, that it would be two stories approx. 25 feet. However, the Environmental Assessment form states 35 feet. Trees have already been clear-cut and I still can't get a straight answer. One thing is for sure, my home, as well as area homes are certainly not 35ft high. This development also has large open green space between the buildings, while existing area residents get the ring roads and parking lots visible to them from their vantage point. Second, if two homes are for sale, everything else being equal, and one is in a strictly single-family residential neighborhood while the other should have been but is not, which one would you choose? Keep in mind the latter is also now in an area in which the Town doesn't decide who gets to live there but rather the agencies who have supplied the money to build it. Maybe the Town should have done a survey on that. In fact, why is a survey being done now to see what is best for the residents of this community for the future and yet a 106-unit facility which is low-income and not afforded to the residents of the community in which it is built, has already been approved? No research was done and yet it was still approved. I can only think of one reason. This seems to be a purely subjective decision. A permit is only valid if the statements made in order to facilitate approval are also valid. Is it true that no section 8 funding was obtained, that the applicant will own and manage the 106-unit facility (similar to Thorpe village)? Thorpe village is not in a single-family residential neighborhood and the Dominican sisters do run it (they live on the grounds). Also, the applicant has stated that it will be run by them in perpetuity. Is this correct? It will be made available to families or residents before being offered elsewhere? Is that binding and do the funding agencies support it? **There are many questions to be answered. The residents of this community deserve answers.** The fact still remains the same. Why would this Board approve a project which serves no benefits to the seniors of this community, creates no yearly tax revenue for the Town, yet needlessly exposes residents to risk in many areas? **We'd like to know.**

The next phase the applicant would like to include on this same site is a 96-unit Assisted Living facility, which operates 24 hours a day, 7 days a week. **Nanuet-area residents are strongly opposed to this also, as it is proposed in an R-15 zone. In 2001, The Rockland County Planning Board called a 106-unit senior facility and a 96-unit Assisted Living facility as an over-utilization of a site, with their disapproval. Nanuet-area residents certainly agree.** This is a 35-acre site surrounded by 13 acres of wetlands/100 year flood plain.

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Decisions need to start being made objectively and doing what's in the best interest of the residents that elected you. Thank you

There being no one further wishing to be heard, on motion of Supervisor Holbrook, seconded by Co. Maloney and unanimously adopted, the Public Hearing was closed at 9:10 pm.

Respectfully Submitted,



Patricia Sheridan
Town Clerk

RESOLUTION NO. 589-2002 ADOPTED