

RESOLUTION
EXEMPTION OF THE TOWN OF GREENVILLE FROM TOWN SUBDIVISION LAWS
TOWN BOARD OF THE TOWN OF GREENVILLE
February 18, 2019

WHEREAS, the Town Board of the Town Greenville has determined that it is in the best interest of the citizens of the Town to obtain a portion of certain vacant lands located at 51 Wickes Lane on which to construct a new water tank and provide better municipal water service to the residents. The Town proposes to acquire a permanent easement over a portion of the aforementioned parcel in which water mains and infrastructure will be located and fee ownership of approximately 17.54 acres on which the tank will be located; and

WHEREAS, the Town Board recognizes that there is significant case law on point, with regard to the exemption of such a project including In the Matter of the County of Monroe, 72 NY2d 338 (1988), which held that a balancing test must be performed to determine whether a project of a municipality or agency thereof, is exempt from the local land use regulation weighing the following factors: 1) Legislative intent; 2) Nature and scope of the instrumentality seeking immunity; 3) The kind of function or land use involved; 4) The extent of the public interest to be served; 5) The effect local land use regulation would have on the enterprise; 6) Impact on legitimate local interests; 7) Alternative locations for the facility in less restrictive zoning areas; 8) Alternative methods of providing the needed improvement; 9) Intergovernmental participation in the project development process; and 10) Opportunity of the public and others to be heard; and

WHEREAS, the subject matter land proposed to be acquired is a portion of lands currently owned by Brian Wickes. Said parcel is approximately 40 acres in size and the Town proposes to subdivide and purchase approximately 17.54 vacant acres in fee title and an

easement for water mains and infrastructure in order to provide improved municipal water service to the residents of the Town; and

WHEREAS, the subject matter parcel is located in a General Commercial (GC) Zone wherein governmental offices and uses are permitted uses; and

WHEREAS, the Town placed the matter on its public agenda for its' regularly scheduled Town Board meeting of February 18, 2019, thus notifying the public of the matter and allowed the public an opportunity to be heard and there being testimony from several members of the public in favor of the project and no opposition voiced either against the project or against the granting of an exemption pursuant to the County of Monroe case, and

WHEREAS, following a discussion and analysis of the aforementioned issues and testimony, _____ offered a motion which was seconded by _____ and carried:

NOW, THEREFORE, BE IT RESOLVED, that the Board finds that the Legislative intent as it relates to the within matter is found in the Comprehensive Plan of 2008, the Zoning Law and Subdivision Laws of the Town of Greenville. The Comprehensive Plan acknowledges the existence of and the great benefits afforded the citizens of the Town in numerous ways. The Comprehensive Plan also recognizes the need for expansion of the municipal water system, stating in the Goals at page 18 "5. Infrastructure - Greenville will improve and expand municipal infrastructure including public sewer and water systems to support new and existing development

Since the Zoning Law provides that both the use of governmental office/use as a permitted use in the GC zone, there will be no impact by the subdivision and subsequent construction of a water tank and infrastructure, to the laws of the Town.

Further, it is clear that a municipal water tank and infrastructure is a 'Governmental Office/Use' since that term is defined as "Any building or structure where municipal officials or employees carry out the duties relating to local, county, state or federal activities, including post offices." Thus, the legislative intent and actual impact of the Zoning Law was to allow for public facilities to be used in the zone; and

IT IS FURTHER RESOLVED, that the Town Board finds that the nature and scope of the instrumentality seeking immunity, the kind of function or land use involved and the extent of the public interest to be served are as follows: The Town Board of the Town of Greenville is the project applicant/sponsor and is seeking to provide better, more efficient water service and to expand the water service coverage area. This clearly is an important public purpose; and

IT IS FURTHER RESOLVED, that the Town Board finds that the effect local land use regulation would have on the enterprise would be minimal since as discussed above, the proposed use of acquired land is to provide better, more efficient water service and to expand the water service coverage area. Further, the subdivision of the land will not create a substandard size lot. The Zoning Law provides that the minimum lot size in the GC Zone is 0.5 acres. Since after the subdivision the two resulting parcels will be approximately 17.54 and 22.46, both would remain consistent with Zoning.; and

IT IS FURTHER RESOLVED, that the Town Board finds that there will be no impacts on legitimate local interests since the subject parcel is vacant and not used for any purpose but

that the proposed town use will have a very positive impact on the surrounding neighborhood and the water district. Lastly, notwithstanding any grant of exemption from Town Zoning and Subdivision Laws, the Town must still comply with NYSDEC stormwater prevention requirements and SEQRA. Thus, environmental issues that may impact local interests shall be appropriately addressed; and

IT IS FURTHER RESOLVED, that the Town Board finds that there are no viable alternative locations for the water tank. The Town and its' engineers have conducted an exhaustive search of the parking lot in less restrictive zoning areas and that there are no alternative methods of providing the needed improvement. Indeed, as set forth above, the parcels are located in a Hamlet Zone where the existing funeral home and governmental offices are allowed as permitted uses and the action will not result in the creation of a substandard lot size. Further there are no other lands available which are adjacent to or near the Library such that safe access to the building could be provided; and

IT IS FURTHER RESOLVED, that the Town Board finds that there has been and shall continue to be considerable intergovernmental participation in the project development process since the Town has conducted an active search for opportunities to construct a new water tank and has sought the assistance, advice and input of both the Town Water and Sewer Departments; and

IT IS FURTHER RESOLVED, that the Town Board finds that there has been ample opportunity for the public and others to be heard. The topic was placed on the Agenda for the Town Board's regular monthly meeting and the topic was discussed in an open meeting at such

Town Board regular meeting. Further, the public has had and shall continue to have the opportunity to be heard during the SEQRA review process; and

IT IS FURTHER RESOLVED that the Town Board of the Town of Greenville hereby finds that upon the balancing of all factors in relation to its proposed action of subdividing a portion of land from a parcel on Wickes Lane for the purpose of constructing a municipal water tank and infrastructure are exempt from the applicability of the Town of Greenville land use regulations including the Town Zoning and Subdivision Laws; and

BE IT FURTHER RESOLVED, that the Town Clerk is directed to file this Resolution in the appropriate index within five (5) business days.

	<u>Aye</u>	<u>Nay</u>	<u>Absent/Abstain/Other</u>
Paul Macko, Supervisor	_____	_____	_____
John Bensen	_____	_____	_____
Joel Rauf	_____	_____	_____
Richard Bear	_____	_____	_____
Travis Richards	_____	_____	_____

Vote of _____ to _____. The Town Board of the Town of Greenville hereby determines under the County of Monroe “balancing test” that the proposed action of subdividing portion of land from a parcel on Wickes Lane for the purpose of constructing a municipal water tank and infrastructure is exempt from the applicability of the Town of Greenville land use regulations including the Town Zoning and Subdivision Laws.