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News
Front Page
Bulletin Board
Letters
Editorials
Obituaries
Schools
Sports

## Front Page September 7, 2005

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Community Guide
Full Home

### Town will abandon plan to take property for road BY FRAIDY REISS Correspondent

FREEHOLD TOWNSHIP — To Edward Wall, his sprawling lawn means more than a two-day mowing job.

“It shows you can fight city hall and win sometimes,” he said.

Wall was referring to the Township Committee’s decision to kill an ordinance that would have taken a piece of his property through eminent domain proceedings. That decision followed an Aug. 23 public hearing on the matter at which several opponents of the ordinance railed against it and a civil rights attorney vowed to represent Wall for free.

The committee had introduced the ordinance in July after Wall and his wife, Kathleen, refused to sell 767 square feet of their 3.1-acre property to a nationwide builder. Their neighbor, Carlos Catao, refused to sell 129 square feet of his 1-acre property.

Centex Homes plans to build an 11-unit subdivision on Maher Road and needed the combined 896 square feet to widen the road and have it meet the township’s 50-foot standard width.

So the committee introduced an ordinance that would have exercised the municipality’s right to condemn private property and take it for a project that is in the public interest. The Walls and the Cataos would have been paid fair market value, as determined by an appraiser, for the land they lost; additionally, the Walls would have received 9,193 square feet of land from Centex Homes and 7,873 square feet from the township – a total gain of slightly less than a half-acre, which the Walls said they did not want.

Mayor David M. Salkin said the township was not trying to use its right of eminent domain to benefit a developer. The subdivision and the road would be built with or without the 896 square feet of property, he said at the Aug. 23 hearing, but without it the road would not conform to “optimum engineering standards.”

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“It’s a public safety issue,” he told the Walls. “You’ll be compensated.”

His words did little to quell the anger of some of those attending the meeting. David Krenkel, who described himself as a civil rights attorney from Ocean Township, declared he would represent the Walls for free in their fight against the township’s use of eminent domain.

“Abuse of that power will not be tolerated,” he said.

The Walls and Carlos Catao demanded to know why the township was not taking property from the other side of Maher Road, where Centex Homes and the township each own land, to widen the road without resorting to eminent domain.

The committee members could not answer the question. They proposed tabling the ordinance until the Walls and Catao could meet with Township Engineer Joseph Mavuro to discuss it.

Attorney John Giunco, representing Centex Homes, urged against the delay, which he said would “inconvenience” a developer that has put \$35,000 in escrow to pursue condemnation.

Besides, he said, the Walls and Catao would be compensated for the property like the other Maher Road families who did sell to Centex Homes, and he said the square footage to be taken was a minimal amount.

“Seven hundred square feet is smaller than a lot of closets in this town,” Giunco said.

Despite his protest, the committee voted unanimously to table the ordinance until Sept. 13.

Salkin later told the News Transcript that, partly in response to the heated testimony at the hearing, the committee and the engineer found a way to build a safe road without taking anyone’s property.

The township’s 50-foot roads include 28 feet of street and an additional 11-foot right of way along each side in case the road ever has to be widened. The township now will forgo the right of way in front of the Walls’ and the Cataos’ property.

Giunco said his client had been prepared to build a safe road without using condemnation, but had modified its plans at the township’s request.

“It’s entirely up to the Township Committee to decide what they’d like to do,” Giunco said, adding that Centex Homes wants only a “speedy decision” so it can proceed with the development.

Per protocol, the eminent domain ordinance will be brought up at the Sept. 13 committee meeting, Township Administrator Thomas Antus said, but it will “die for lack of motion.”

The decision to forgo the right of way was a compromise, Antus said.

“This is probably a good way to end it,” he added.



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