



vantage point

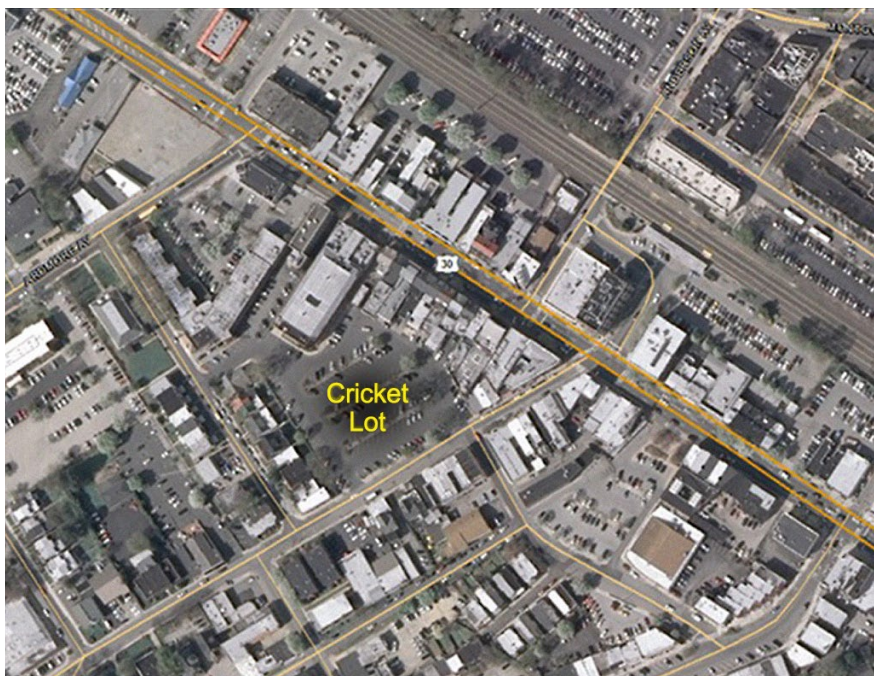
Public Benefit



ngoing local controversies provide a wealth of opportunities to second-guess the governing bodies. The first of today's scenarios raises questions about powers of local governments to take private properties that should have been settled long ago, even with the illogical blip of the US Supreme Court's decision in *Kelo v. New London*. The ultimate tragic irony of that particular case was that the redevelopment for which Suzette Kelo's little pink house was condemned never even started because of the economic downturn.

So, on with the first story. The tiny Borough of Narberth in southeastern Pennsylvania has been coming under scrutiny for its sudden desire to condemn a corner property across from the train station on the main street in town. The potential taking is of a former gas station site, now being renovated and re-purposed as a fitness center. The present owner acquired the property from the estate of his late brother. Claims by Kenneth Corl make the Borough out as the bad guy, after the Borough failed in its bid to buy the property outright in November.

Narberth approved Corl's plans and issued permits to rehab the site, conditioned on Corl's compliance with State requirements regarding the underground gasoline tanks from the site's former use. Then somewhere along the line, Narberth started considering condemning the property without having a clear purpose for its use. On December 28 Narberth did publish a legal notice listing the intended use as "parking and a staging area for public events", but Corl notes that his family and its tenants have always allowed



This aerial image shows no physical evidence of Haws Terrace in Ardmore's Cricket Lot.

the Borough to use the property for such purposes. I can personally attest to that.

Furthermore, public meetings held after Narberth's announcements that it planned to prepare an ordinance for condemnation focused on soliciting possible ideas as to what community members might like to see for the property's use: picnic area, green space, parking lot? We as surveyors are familiar with the notion of eminent domain as taking for a particular stated purpose, rather than taking first and determining the "why" of it later.

There are, of course, two sides to every story. There is discussion about whether or not Corl's removal of the underground gas tanks was in good faith or only

reluctantly undertaken after public scrutiny, and whether his remediation of the site is as complete as it should be.

About two miles further down the road, in Ardmore, another question of public benefit is being raised, this time about closing a public street. It has been a long drawn out process to turn this current parking area into a building lot, related to a long-time-in-the-planning mixed use transit-oriented revitalization project that has both its proponents and its fiery foes. There is no question that the nearby train station and surrounding parking need to be upgraded. The question has always been how to accomplish that and other revitalization development sensitively to support

downtown commerce and Ardmore's characteristic small town feel.

While there is much more to the story (as both sides of the argument will agree), the aspect of today's focus is the proposed official closure of an approximately 200' long stub of Haws Terrace. Physically the full U-shaped "street" is indistinguishable from the rest of the parking area currently called Cricket Lot. This has been its condition since the 1950s when the municipality bought and demolished various residences along Cricket Avenue to create this business district parking area behind the stores on Lancaster Avenue, which is the main street through town. Ardmore's ordinance to vacate this piece of Haws Terrace is intended to remove a potential problem in transferring title of the Cricket Lot to the developer.

Adjoining business owners initiated a lawsuit this week claiming that vacation of this paper street will harm their businesses. Their petition states that the township is "without legal authority to vacate a road for the benefit of a private developer, where the road was conveyed ... and dedicated to the public use." This phrasing sounds like shades of *Kelo*.

One concern is that during construction of the proposed mixed use building on the present parking lot there will be such a shortage of parking that their businesses will suffer; the suit requests assessment of damages or compensation for the duration of construction. Imposed conditions of approval for the proposed building already include more public parking places under that structure than now exist (in addition to the required number of private spaces), so the problem is interim parking. However, the adjoining business owners are further disturbed by the final parking outcome being contingent upon a parking easement from the owner of the proposed structure, considered a less stable arrangement. But is that parking a "public benefit" or a private benefit to those private businesses? Let the court begin its deliberations. ■

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