

Town of Varick
Minutes of the Town Board Meeting
July 7, 2015

The regular meeting of the Varick Town Board was called to order by Supervisor Robert Hayssen at 7:00 p.m. Present were council members Todd Horton, John Saeli, Kathy Russo and Richard Peterson, Town Clerk, Donna Karlsen, Bookkeeper, Angela Testa, Attorney for the Town, Stephen Ricci, Code Enforcement Officer, Larry Colton, Planning Board Members, Linda Mastellar, Richard Olsen, Barry Somerville, Thomas Bjorkman, and Hershey Sensenig and David Kidd, Stuart Brown Association, Barbara Johnson, Ovid Gazette reporter, Anita Glover, Dennis Money from the Seneca White Dear organization, and Leslie Mauro from Harter Secrest & Emery, LLP representing Finger Lakes Technologies. Also in attendance were Reuben Stoltzfus, John S. Stoltzfus, Chris Yoder, Henry K. Beiler, Ward Craits, Larry Corter, Chuck Bosman, Daniel B. Esh, and Levi D. Byler.

A motion by Todd Horton, seconded by Richard Peterson and so carried unanimously to open the public hearing on the Proposed Local Law No. 1 of the Year 2015, Town of Varick New York. A local law to amend the Zoning Ordinance and Subdivision Regulations for the Town of Varick, Seneca County at 7:05 p.m.

Barbara Johnson reviewed the proposed changes to the zoning map, and

- Recognized the rezoning portions of the existing Conservation, Recreation and Green Energy Development district to a new Warehouse, Industrial, Transportation, Energy (WITE) district, a new Conservation (C) district and to Agricultural Residential, which permits residences and other uses.
- She also discussed the new and modified definitions and special use permit criteria for uses permitted in the new WITE and Conservation zoning district and in the existing zoning districts within the Depot,
- A new Environmental Restrictions Overlay District within the proposed Conservation District where land uses are restricted as a condition of completed environmental remediation,
- Revisions to Zoning regulations to specify procedures and criteria for Site Plan Review for multi-family residential and non-residential uses, excluding agricultural uses and provisions to accommodate and, in certain instances, require cluster subdivisions on parcels of 10 acres or larger.

Supervisor Hayssen recognized the Planning Board's 2 ½ years of effort and dedication in developing these proposed revisions with the assistance of Barbara Johnson from Stuart Brown.

Ward Craits from the Town of Romulus inquired about the opening of what is currently referred to as County Road 135 that runs through the depot property. Supervisor Hayssen reported that the towns of Romulus and Varick are in favor of opening this road and asked for support from the county. He also reported that the property along the road is currently owned by the IDA and a committee at the county level has been formed to

develop this land and hire a realtor to market it. Steve Ricci reported that Eminent Domain can be used to claim the road and rights to the railroad. Supervisor Hayssen recommended that people write letters, and submit petitions indicating their wishes pertaining to this road and property and forward them to the Seneca County Board, Town boards of Varick and Romulus and the IDA. Mr. Hayssen also reported that a resolution will be put forth in front of the county board to prohibit the hunting and killing of white deer in Seneca County.

Larry Colton expressed his concern that the depot property would be purchased by one large farming entity and he was not in favor of that. Again Supervisor Hayssen recommended that letters and petitions be sent detailing their concerns and thoughts. Mr. Colton indicated that he would develop a petition for signatures requesting that smaller farmers have first right to purchase this land.

Lesslie Mauro from Harter Secrest & Emery LLP who is representing F. L. Technology Group made reference to Article IV, sections 403.1 and 405.1 and the requirement of site plans under this provision. She would like the definition of when a site plan would need to be drawn clarified and questioned if this would be required if there are minor changes in use. The planning board agreed to clarify the site plan term.

Dennis Money would like to see in Article 3, section 308 where it allows canned hunts in agricultural and rural residential areas be removed. The board agreed to remove this permitted use.

Mr. Money also questioned the ability to build complexes within the Conservation area on the depot. The Planning Board stated that they did not permit this as they want the conservation area to remain undeveloped and felt no change to the code was necessary. They did report that buildings are permitted on property around Conservation area.

The question arose as to why sexually oriented businesses were permitted in the Conservation area. It was explained that the town cannot prohibit this type of business to operate in the town according to law, but the town can zone it in an area that would not make it conducive to operate such a business.

Todd Horton reported that the Planning Boards decisions in making the proposed changes to the code were driven by the town's Comprehensive Plan.

Market research is hoped to be completed for the depot property. Supervisor Hayssen recognized the importance of implementing tight zoning rules and regulations allowing the towns to determine what is acceptable and not acceptable. As developers and different entities start expressing interest in this property and questions arise with zoning, the board can review the current code and make future changes if necessary.

Supervisor Hayssen reported that the IDA is currently overseeing the depot property until someone purchases it and although they are not ready to market this property yet, if you

have an interest or thoughts regarding this property, make the IDA aware of them. It was reported that the next IDA meeting will be held August 6th.

A motion by Richard Peterson, seconded by Kathy Russo and so carried unanimously to close the public hearing at 7:50 p.m.

The Steve Ricci, with the assistance from Barbara Johnson, reviewed the Full Environmental Assessment Form Part 1, Project and Setting with the board

A motion by Todd Horton, seconded by Richard Peterson and so carried unanimously to direct Supervisor Hayssen to sign the Full Environmental Assessment Form Part 1 – Project and Setting.

The Varick Town board recommended that the following items be clarified or removed as requested by those in attendance:

1. Clarify the definitions and the necessity of completing a site plan in Section 403.
2. Remove permitted canned hunts.

It was reported that the proposed changes to the code will be reviewed by the Seneca County Planning Board at their August meeting and Mr. Ricci suggested that a copy of the SEQR should accompany the proposed revisions to the Zoning Code and Subdivision Regulations.

Stephen Ricci recommended holding an additional public hearing to include the minor revisions and SEQR.

**RESOLUTION TO SCHEDULE A PUBLIC HEARING TO CONSIDER
ADOPTING LOCAL LAW NO. 1 FOR THE YEAR 2015 ENTITLED “A LOCAL
LAW TO AMEND THE ZONING ORDINANCE AND SUBDIVISION CODE FOR
THE TOWN OF VARICK, SENECA COUNTY, NEW YORK”**

WHEREAS, the Town of Varick, Seneca County, State of New York, has determined that the adoption of this Local Law has been received and recommended by the Varick Town Planning Board of proposed amendments to the Varick Town Zoning Ordinance that include:

- re-zoning portions of the existing Conservation, Recreation and Green Energy Development district to a new Warehouse, Industrial, Transportation, Energy (WITE) district, a new Conservation (C) district and to Agricultural Residential, which permits residences and other uses;
- new and modified definitions and special use permit criteria for uses permitted in the new WITE and Conservation zoning district and in the existing zoning districts within the Depot;

- a new Environmental Restrictions Overlay District within the proposed Conservation District where land uses are restricted as a condition of completed environmental remediation;
- revisions to Zoning regulations to specify procedures and criteria for Site Plan Review for multi-family residential and non-residential uses, excluding agricultural uses; and
- provisions to accommodate and, in certain instances, require cluster subdivisions on parcels of 10 acres or larger; and.

BE IT RESOLVED that copies of the aforesaid proposed Local Law be laid upon the desks of each member of the Town Board for the Town of Varick; and

BE IT FURTHER RESOLVED that the Town Board hold a Public Hearing on said proposed Local Law at the Varick Town Hall on September 1, 2015 at 7:00 p.m.; and

BE IT FURTHER RESOLVED that the Town Board will consider the identification of potential project environmental impacts and the evaluation of the magnitude and importance of the project impacts and a determination of the significance upon completion of, and consider the criteria listed in Section 617.11 of SEQR Regulation and the Environmental Assessment Form and narrative; and

BE IT FURTHER RESOLVED that the Clerk to the Board publish or caused to be published a Notice of said Public Hearing in the official newspaper for the Town of Varick at least five (5) days prior thereto; and

BE IT FURTHER RESOLVED that the Clerk to the Board provide notice of this Resolution to any adjacent municipalities at least ten (10) days prior to the Public Hearing and to the Seneca County Planning Board at the Planning and Community Development Department.

MOVED: Todd Horton

SECONDED: Kathy Russo

PASSED: Unanimously

Petitioners to Address the Board: Chuck Bosman, who is a councilman on the Covert Town Board, but was not speaking at this time on their behalf, would like to see the county distribute a share of the sales tax revenue gained from the Lago project with the towns, villages and school districts within the county. He indicated that 42 out of 52 counties distribute sales tax revenue to their towns and villages. He proposed that the county use 2014 sales tax revenue as a base amount to retain 100% of whatever that amount was that year for the county's use beginning in 2016. He would like to see any amount over that base amount be divided as follows: The county would retain 50% of the excess and the remaining 50% distributed accordingly: 25% distributed to the 10 towns according to weighted formula, 15% to schools in Seneca County and 10% to the villages based on population. He stated that this is just one proposal for distribution, but other options can be considered.

Mr. Hayssen pointed out that those people located in a village within a town are benefiting twice through this proposition. Mr. Bosman noted that those residents are also incurring more expenses. Mr. Hayssen expressed his opinion that it would be more beneficial to allow the Board of Supervisors control the budgeting of these additional funds. Mr. Peterson felt that it is more difficult to oversee a larger entity and control their spending, and was inclined to support the sales tax revenue be disbursed, but would like to do more research in how it should be disbursed.

Chuck Bosman reported that 3 towns and 2 villages have supported this proposal by resolution made by their respective boards. He reported that he made the same presentation to the Board of Supervisors, with those same town and village supervisors present and received no support at that time, even though they were aware their respective boards had supporting resolutions. The board asked that Mr. Bosman provide a pie chart, or other example documentation that might support his recommendations and submit it to the board for further consideration.

Highway: No report.

Code Enforcement Officer: Larry Colton reported that he has some contractors that are repeatedly doing work without obtaining a permit and he would like to see the board adopt a fee to be assessed and collected by him to those who do not get a permit. He is of the opinion that all contractors should know that building permits are required and should not be doing work without one. He is currently putting a stop order on the projects until the permits are obtained, but wants further personal control as to how this issue is handled by assessing an additional fee at that time.

Thomas Bjorkman, Planning Board member, reminded Mr. Colton that there are provision under Article VIII – Violations, Sections 802 and 803 in the Zoning Code that dictates what he can do as Code Enforcement Officer in these situations. Section 802.1 states: The violation of any of the provisions of this Ordinance is a violation and shall subject the person violating the same to a fine not exceeding two hundred fifty (\$250) dollars, or to imprisonment not exceeding fifteen (15) days, or both and Section 803.1 Continued violation shall be considered contempt of court, enforceable by the town justice.

The town attorney pointed out to Mr. Colton that his control comes in issuing an appearance ticket, however, it has always been this town's policy to be cooperative and encouraged him to work with the contractors and those completing work in the town to obtain the required permit rather than issue tickets. He noted that once a ticket is issued on behalf of the town, as attorney for the town, he will have to represent the town's interest which could be an additional cost to the town.

Mr. Colton provided a permit report for the months of April, May, and June 2015.

Varick Water District No. 1: Mr. Hayssen reported that there has been no further discussion regarding how water billing from the county is being done but reported that the next public works meeting is to be held July 9th at 3:00 p.m. if any board member would like to attend.

Seneca Lake Water District: Meters and transponders are being changed in this district.

Varick Water District No. 3: Mr. Ricci reported that he is now holding in escrow \$20,000 which is the funds received in settlement of this districts law suite. As was discussed in the June meeting, the board agreed to distribute \$12,500 of these funds according to the agreed percentages between the Towns of Fayette and Varick. The remaining \$7,500 is to be held for the Drawing of Record expense to be paid once the drawings are completed. The town of Fayette will need to agree to this disbursement and Mr. Ricci will consult with them at the July 2015 board meeting.

A motion by Todd Horton, seconded by Richard Peterson and so carried unanimously to authorize Stephen Ricci to distribute \$12,500 funds being held in escrow according to the agreed breakdown percentages of Fayette: 57.7922078% and Varick: 42.2077922%.

It was reported that Willie's Water submitted payment for water purchased from July 1, 2014 through November 1, 2014 for \$153,000 gallons in the amount of \$918. The bookkeeper will begin billing him on a monthly basis.

Water District No. 4: Mr. Olsen again requested that stone be put back in place so that he can maintain the front of his property. Supervisor Hayssen presented pictures of the landscaping prior to the contractor beginning work and the contractor is not willing to provide a better product than what already existed prior to construction. The contractor has already placed stone in the area in questions, but may be willing to add some more gabion stone, but Mr. Hayssen reminded him again that they will not provide a better product than what existed and they do have pictures to reference. Mr. Olsen again requested that he be contacted when the contractor will be back in town to discuss this matter with him in person.

Supervisor Hayssen reported that Tim Buhl, engineer, will be completing the revised punch list of items to be completed.

Bookkeeper: Mrs. Testa reported that she corrected the balance in the General Fund in May's report to \$109,804.59.

A motion by Kathy Russo, seconded by Todd Horton and so carried unanimously to accept the Bookkeepers report.

Town Clerk's Report: A motion by John Saeli, seconded by Todd Horton and so carried unanimously to approve the Town Clerk's Report: Supervisor: \$470, NYS Ag & Markets: \$28. Total Disbursements: \$498.

