

September 6, 2022

The regular meeting of the Varick Town Board was called to order by Supervisor Robert Hayssen at 7:00 p.m. Present at this meeting were Councilmen Richard Peterson, Tom Fox and Eric Riegel, Town Clerk, Donna Karlsen, Bookkeeper, Angela Testa, Planning Board Chairwoman, Linda Mastellar, Code Enforcement Officer, Tim Dorn, Highway Superintendent, Ben Freier, and Attorney for the Town, Frank Fisher. Also present were Town of Fayette Supervisor Jeff Trout, Fayette Deputy Supervisor, Coreen Lowry, Jessica B. Serrett, Esq, Calvin Ruthven, Allen Cantonz, Sharon and Peter Cheney, Ken Depew, Mark & Stacey Depew, Ken and Joyce Sanford, Neil and Lisa Olver. Absent: Richard McCulloch

**Public Hearing on Local Law No. 4 of 2022:** A motion by Eric Riegel, seconded by Tom Fox and so carried unanimously to open the public hearing on Local Law No. 4 of 2022; A Local Law Establishing A Temporary Moratorium Temporarily Prohibiting Certain Land Uses And Development Within The Lakeshore Residential Zoning District at 7:00 p.m.

Supervisor Hayssen opened the floor for comment. There was none and asked for a motion to close the public hearing.

A motion was made by Tom Fox, seconded by Eric Riegel and so carried unanimously to close the public hearing on Local Law No. 4 of 2022; A Local Law Establishing A Temporary Moratorium Temporarily Prohibiting Certain Land Uses And Development Within The Lakeshore Residential Zoning District at 7:03 p.m.

**Privilege of the Floor:** Mark, Stacey and Ken Depew reported that they have STR properties on both sides of them and asked that the town reconsider permitting STR's in the town. Mark Depew read a statement he prepared citing issues they have had pertaining to the STR's in their neighborhood. He questioned the board as to what plan they have implemented to protect public safety and enforce the Zoning Code.

Calvin Ruthven reported that he owns an STR, that he attends this meeting with his attorney, Jessica B. Serrett and is a neighbor of the Depew's and Cheney's. He also reported that he had emailed the board members a short bio prior to this meeting and has hosted short term rentals for the past ten years. He shared that he takes complaints seriously and has a passion for the neighborhood and community.

A discussion with all parties in attendance was held pertaining to Local Law No. 3 of 22; "A Local Law to Further Amend the Zoning Code of the Town of Varick". Linda Mastellar spoke to the STR portion of the zoning code and noted that action has been defined by the law and recently approved by the Secretary of State but not fully implemented as of this date. It is a work in progress and asked that neighbors be reasonable, prudent and work together to resolve issues before contacting officials. She also stated that many regulations noted in the zoning pertaining to STR's are addressed by ordinances that apply to all properties in the town and referred them to the county ordinances and gave the town's Noise and Dog Ordinances as examples.

Supervisor Jeff Trout informed the board their town has applied for the NY Forward Grant for the Hamlet of Fayette. They are seeking as much as 5 million dollars in grant funds to help leverage both public and private efforts to improve the Hamlet and transform it into a vibrant and growing showcase of agri-tourism, family friendly activities as well as basic amenities. They are working with Hunt Engineering, MRB and Cornell University Design Connect Team. The Varick town board agreed to Supervisor Trout's request to provide a letter of support for this project and will have MRB draft a letter for Supervisor Hayssen's review and signature.

Supervisor Trout spoke to the equalization rate in the town of Varick but noted that this is not the time to do a re-evaluation in the town due to the inflated sales. Supervisor Hayssen informed Supervisor Trout the board has discussed a reval with the town assessor, Anne Morgan, who recommended that a reval not be done at this time for that reason.

**Code Enforcement Officer:** A discussion was held regarding a fence that was installed between the properties of Calvin Ruthven and Cheney's property at 4936 East Lake Road. Tim Dorn reported that he has had multiple interaction with Cheney's and Mr. Ruthven. He reported that he spoke to Sharon Cheney, the listed owner of the property, who approved the installation of the fence on the boundary line which is permissible under the zoning code with the approval of the neighbor. Subsequent to this original conversation, he was contacted by relatives of Sharon Cheney redacting her approval and asked that the fence be taken down. Calvin Ruthven reported that he has taken a portion of the fence down and after clarification at this meeting agreed to take the remaining section of fencing down by the end of the September.

Mr. Dorn provided a Zoning Code Report listing building permits that have been issued from January 7, 2022, to September 4, 2022.

**STR:** Mr. Dorn reported that he received a STR complaint pertaining to property owned by Catherine McCracken and issued a courtesy "Notice of Violation". Mr. Dorn asked for some direction on how to write a charging instrument and noted that he would not be responsible for delivering court appearances. Mr. Fisher indicated that these charging instruments can be delivered either by the sheriff's department or by certified mail and he can instruct him how to prepare a charging instrument. He requested a check list to follow when completing inspections of STRS. The Planning Board agreed to prepare a check list for inspections and procedure documentation.

**Abstract:** A motion by Eric Riegel, seconded by Tom Fox and so carried unanimously to approve Abstract No. 9, Vouchers 247 to 279 in the amount of \$61,774.47.

**Highway:** Highway Superintendent Ben Freier reported as follows:

1. Marking out for installation of the guard rail is being completed
2. Oil and Stone Ogden Road the middle of September
3. Patch Hahnel Road prior to winter with money remaining from budget
4. Purchased new tires for the Western Star at an approximate cost of \$5,000
5. Superintendent's pick-up is currently in the shop for repair.

**Judge:** Mr. Riegel provided a copy of the Independent Contractor Service Proposal Agreement between Champion Security Services, Inc. and Varick Town Court. Attorney Fisher noted the indemnifying language was acceptable, but there were some other language questions that need to be tightened up and a question regarding the mileage to be paid and a Certificate of Insurance needs to be provided. Champion can contact Mr. Fisher regarding the board's questions and Mr. Riegel will ask the judge to attend the next board meeting.

**Supervisor's Report:** A motion by Eric Riegel, seconded by Tom Fox and so carried unanimously to approve the Supervisor's July 2022 written report.

**Town Clerk's Report:** A motion by Eric Riegel, seconded by Tom Fox and so carried unanimously to approve the Town Clerk's Report: Supervisor: \$405, NYS Ag & Markets: \$6, total disbursements; \$411.

**Minutes:** A motion by Eric Riegel, seconded by Tom Fox and so carried unanimously to approve the minutes of August 2, 2022.

**Water/Sewer:** Mr. Karlsen was absent from this meeting, but Tim Dorn reported that interviews were completed for the open, full time laborer position and Nate Craig was hired and will begin on September 26<sup>th</sup>.

No further reports were made for water and sewer districts.

**Planning Board:** Mrs. Mastellar presented a drawn map of property that the Olver's have submitted a major subdivision application for. Mrs. Mastellar stated that the Planning Board is in the process of following the steps as documented in the Varick Code to complete the review and come to a determination on their application and asked that they be allowed to complete this process. She reported that two of the seven proposed sub-divisions conform to the code's directives. The other four sub-divisions, as outlined on the drawing provided, are in question as outlined in the code pertaining to the character and conformity of the neighborhood and how the lots can be developed as they are intersected by Route 89. Tim Dorn looked at the drawing presented and stated that the lots, as they are drawn in this example, would not be conforming lots. The Olver's continued through this discussion to interject their questions, opinions and thoughts regarding this project and the process of the review by the Planning Board. Attorney Fisher informed the Olver's that the Planning Board is bound by the code and must be allowed to complete their review as outlined in this code. If they do not agree with the outcome of the Planning Board's review, they can appeal it to the Zoning Board of Appeals and if they are still dissatisfied, they can bring it to court where he will represent the town.

Mrs. Mastellar reported they received several applications for clerk for the Planning/Zoning Boards and would like to have Donna Karlsen sit in on the interview process once the date and times are set.

**Local Law No. 4 of 2022 A Local Law Establishing A Temporary Moratorium Temporarily Prohibiting Certain Land Uses And Development Within The Lakeshore Residential Zoning District:** The board tabled any action on this law until the Seneca County Planning Board is able

to review and approve this proposed law at their meeting on September 8, 2022. The board put this on their October 4<sup>th</sup> agenda for further consideration.

Mr. Fisher informed the board that because there is a proposed law addressing special use permits on the board table for further consideration, stops any decisions being made on applications submitted currently.

**New Business/ Old Business:**

Tom Fox felt the town board should write a letter to those parties involved pertaining to the “tent city’ and the resulting activities and arrests due to actions by the Cayuga Indians who own this land on County Road 124. Supervisor Hayssen reported that the county has been dealing with these issues for over 40 years with large sums of money spent and expressed the county board’s frustration with the lack of action taken by the state and federal government. Mr. Fisher went on to explain that the US Supreme Court has stated unequivocally that regardless of whether any Federal Indian reservation existed in Seneca or Cayuga Counties, the passage of time and their centuries long acquiescence in non-tribal title to these properties render any claim of sovereign authority by the tribe over this land null and void. He went on to say the problem is the refusal of State and Federal authority to enforce the Supreme Court decision of City of Sherrill Vs Oneida Indian Nation which has resulted in the towns and counties the inability to collect the taxes due and allowed the establishment of their “police” force within these counties. He felt that if the town attempted to enforce Town Zoning regulations on these people, the town would undoubtedly get themselves bogged down in expensive litigation without any reimbursement and find in the end the courts will continue to ignore the supreme court’s decision.

**Correspondence:** Mrs. Karlsen reported that the board received a letter from Beverly Animal Shelter thanking the Varick/Romulus Summer Recreation Program for their donation from funds earned during a penny carnival that was held by the program.

A motion by Eric Riegel, seconded by Tom Fox and so carried unanimously to adjourn the meeting at 8:45 p.m.

Respectfully submitted,

Donna Karlsen  
Varick Town Clerk