

October 4, 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 McCulloch, Tom Fox and Eric Riegel, Town Clerk, Donna Karlsen, Bookkeeper, Angela Testa, Attorney for the Town, Frank Fisher, Highway Superintendent, Ben Freier and Planning Board Chair, Linda Mastellar. Absent: Councilman Richard Peterson.

Privilege of the Floor: None.

Abstract: A motion by Eric Riegel, seconded by Richard McCulloch and so carried unanimously to approve Abstract No. 10, Vouchers 280 to 313 in the amount of \$164,796.97.

Highway: Superintendent Ben Freier reported that he was under the misunderstanding that the town board was responsible for giving out raises, but just recently was informed that as Highway Superintendent he can give raises to highway personnel as provided in his annual budget salary expense lines. The authority of the town board is to review his budgetary expenses and set his annual budget. He reported that Kris Karlsen has been with the town for over ten years and has been overlooked over these years regarding pay raises. He reported that some employees in the town who have less years worked have received higher starting pay than what he is currently earning, and recommended Kris Karlsen receive an 8% to 10 % increase this year. This would bring him closer to what surrounding towns and county employees are earning based on experience and years worked.

Mr. Freier reported that they will oil and stone Ogden Road on Thursday, October 6. He stated that Hahnel Road will remain just stone for this year due to timing restraints and will be surfaced next year.

Judge: Mr. Riegel reported he spoke to Judge Hogue and Champion still needs to provide a Certificate of Insurance. The board is going to require the company to carry liability after a year and still is questioning the mileage rate assessment. Mr. Riegel will speak to Judge Hogue further on these matters.

Code Enforcement Officer: Nothing to report

Water/Sewer Operator Report for September 2022

- Marked out Dig Safety's
- Got weekly meter reads
- Did weekly water tests for each district
- Took bac t samples in all 4 districts
- Filled out and submitted monthly water report to health department
- Data logged water usage in each district
- Answered questions dealing with each water district and sewer system
- Called in Dig Tickets for upcoming projects
- Changed meters out on Seneca Lake Water District

- Cleaned shop
- Changed Grinder Pumps out
- Retrieved final reads as needed for closing on properties
- Quoted out new water services
- Fixed broken curb stops
- Inspected 2 new water hookups
- Ordered parts as needed for upcoming jobs
- Met with contractors to discuss locations of water lines
- Read meters
- Hired new Water employee to assist in daily activities
- Started collecting data for new lead law for water services
- Renting a small mini excavator to complete digging for the month of October

Varick Water District No. 1: Mr. Karlsen will be repairing/replacing curb stops in Water District No. 1. These repairs require the use of a smaller mini excavator than what the town currently owns, so one will be rented

Seneca Lake Water District: Repair curb boxes.

Varick Water District No. 3: Repair Hydrant valves.

Varick Water District No 4: Nothing further to report.

Varick Sewer District No. 1: Nothing further to report.

Varick Sewer District No. 2: Nothing further to report.

Supervisor’s Report: A motion by Richard McCulloch, seconded by Eric Riegel and so carried unanimously to approve the written Supervisor’s Report for August 2022

Town Clerk: A motion by Eric Riegel, seconded by Richard McCulloch and so carried unanimously to approve the Town Clerk’s Report: Supervisor: \$247.50, NYS Ag & Markets: \$12, State Health Dept: \$22.50, Total Disbursements: \$282.00.

Minutes: A motion by Eric Riegel, seconded by Richard McCulloch and so carried unanimously to approve the minutes of September 6, 2022.

Local Law No. 4 of 2022:

Resolution 22-21

TOWN OF VARICK ENACTS
 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”

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Varick, New York for a Public Hearing to be held by said Town to hear all interested parties on a proposed Local Law entitled “A LOCAL LAW ESTABLISHING A TEMPORARY MORATORIUM TEMPORARILY PROHIBITING CERTAIN LAND USES AND DEVELOPMENT WITHIN THE LAKESHORE RESIDENTIAL ZONING DISTRICT”; and

WHEREAS, due notice of said public hearing was advertised in the official newspaper of the Town; and

WHEREAS, said public hearing was duly held on September 6, 2022, at 7:00 p.m. at the Town Office Building, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof; and

WHEREAS, the Varick Town Board, after due deliberation, finds it in the best interests of the Town of Varick to adopt said Local Law; now, therefore, be it

RESOLVED, that Local Law No. 4, of 2022 of the Town of Varick, “A LOCAL LAW ESTABLISHING A TEMPORARY MORATORIUM TEMPORARILY PROHIBITING CERTAIN LAND USES AND DEVELOPMENT WITHIN THE LAKESHORE RESIDENTIAL ZONING DISTRICT” is hereby enacted by the Varick Town Board, to read substantially as follows:

**TOWN OF VARICK
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**

Be it enacted by the Town Board of the Town of Varick as follows:

SECTION 1. TITLE.

This Local Law shall be known as the “Moratorium on Development within or through the Lakeshore Residential District” in the Town of Varick (the “Local Law” or “Moratorium”).

SECTION 2. STATUTORY AUTHORITY.

This Local Law is intended to be consistent with and is adopted under the authority granted to the Town Board of the Town of Varick under the New York State Constitution, and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2 (c)(ii)(6), (10); Municipal Home Rule Law § 10(1)(); Municipal

Home Rule Law § 10(1) (ii)(a)(6), (11), (12), and 14; Municipal Home Rule Law § 10(1)(ii)(d)(3); Municipal Home Rule Law § 10(2), (3) and (4)(a) and (b); and the New York State Town Law. It is a temporary land use regulation intended to address matters of local rather than statewide concern.

The Local Law is intended to act as the permissive, temporary control of certain existing zoning and land use laws regarding the planning and physical use of real property within the Town.

SECTION 3. PURPOSE AND INTENT.

This Moratorium is intended to temporarily halt development in certain defined areas in the Town of Varick, in order to preserve the *status quo* while the Town Board considers whether to adopt new permanent protections for the applicable properties, to address the concerns described herein.

Specifically, this Local Law is intended to affect only those tax parcels which are bisected by the boundary between the Lakeshore Residential District (“LR”) and the Agricultural and Rural Residential District (“ARR”). It solely relates to parcels containing both districts.

The Town of Varick is located in a unique setting between Seneca Lake and Cayuga Lake, with beautiful panoramic views of both lakes. The areas near the shore of each lake consist primarily of residences and small businesses that support residential uses, without detracting from the scenic landscape. Such areas attract tourism which is central to the economy of the Town. To protect that atmosphere, the Town established the LR District as a linear zoning district running immediately adjacent to each Lake. Under the Town’s zoning code, the LR District “is intended to retain quiet, open character and attractiveness despite dense development, and to protect the quality of water in the lake [and] commercial development that contributes to the residential experience is encouraged, whereas commercial development that compromises the residential experience is not encouraged in the district”. The LR District is defined as “the area from the mean high-water mark of Seneca Lake...to 500 feet east of the centerline of East Lake Rd., and from the mean high-water mark of Cayuga Lake...to 500 feet west of the centerline of State Route 89.” Therefore, it is identified by location rather than by specific tax parcels.

On the other hand, the Town’s ARR District is defined as “all the parts of the town not included in [Lakeshore Residential and certain other defined districts]. Because the LR District is defined in part based upon its location landward of two roads, many parcels within that district are also partially located within the adjoining ARR District which has traditionally included more visually intrusive development, including but not limited to light manufacturing facilities, retail sales from 3,000 to 30,000 square feet, outdoor storage of supplies and materials for commercial and industrial uses, equipment rentals, gasoline sales, and other commercial or industrial uses not specifically listed in the code, as permitted, special and conditional uses. Because of the nature of those split parcels, the Town Board is concerned because recent development projects have occurred on the ARR portion of bifurcated properties which include access roads, driveways and other features on the LR portion of the property [or which are ancillary to industrial or commercial uses on adjoining ARR parcels. Based upon these recent developments, the Town Board believes that this development pattern will continue and potentially threaten to narrow the transition or

buffer between the LR and ARR districts. As such, it may negatively impact the aesthetic character of the LR District which is an important economic driver to the Town.

As a result, the Town Board has determined that this Moratorium is necessary to temporarily halt the processing and approval of all applications for non-residential uses on or associated with such bifurcated Parcels, while the Town studies the need for further legislation to protect the character of these LR areas.

SECTION 4. DEFINITION.

The term BIFURCATED PARCEL as used herein shall mean any tax parcel in the Town which is divided by a boundary line between the Lakeshore Residential District and the adjacent Agricultural Residential District.

SECTION 5. MORATORIUM.

The Town Board hereby enacts a moratorium (“Moratorium”) prohibiting the acceptance, review, or approval, of any application to the Town’s Planning Board, Zoning Board of Appeals, Zoning Officer, or any other administrative body, officer or official in the Town, for expansion or modification of any prior use, or construction or establishment of any new structure or land use on a BIFURCATED PARCEL during the pendency of this Moratorium, except as provided herein.

SECTION 6. EXCEPTIONS.

This Moratorium is not intended to prohibit the following residential activities on any portion of a BIFURCATED PARCEL:

- a. Any single-family residential structure and all ancillary structures relating to such residential structures, such as driveways, storage sheds, swimming pools and similar ancillary structures supporting single family residential use of the Bifurcated Parcel.
- b. Any use listed as permitted in the LR district in the Use Table at § 308 of the Town Code, and otherwise meeting the Town-wide design standards in § 309.2, and the additional design and development standards in § 309.5 of the Town Code, and all applicable setbacks and requirements.
- c. Any land use for which approval has already been issued by applicable authority in the Town of Varick, and for which construction has already been begun prior to the enactment of this Local Law

SECTION 7. APPEALS/VARIANCE.

The owner of any BIFURCATED PROPERTY which is affected by this Moratorium may apply to the Zoning Board of Appeals for a use variance in accordance with the provisions of the Town of Varick’s Zoning Code and the New York Town Law.

SECTION 8. SUPERSESSSION.

All other laws, local laws and ordinances, or parts thereof, are hereby superseded to the extent they are inconsistent with the provisions of this Local Law.

SECTION 9. STATE ENVIRONMENTAL QUALITY REVIEW ACT.

This Local Law is classified as a Type II action pursuant to 6 NYCRR § 617.5 (36) and therefore, no review prior to its enactment is required under the State Environmental Quality Review Act.

SECTION 10. SEVERABILITY.

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in operation to the clause, sentence, paragraph, section or part hereof directly involved in the controversy in which such determination shall have been rendered.

SECTION 11. EFFECTIVE DATE AND EXPIRATION.

This Moratorium shall become effective immediately upon filing with the Secretary of State of the State of New York. It shall expire on the earlier of: (i) six months from said effective date without further action, unless renewed; or (ii) the enactment by the Town Board indicating that the Town Board is satisfied that the need for the Moratorium no longer exists.

And be it further

RESOLVED, that this Local Law shall take effect upon filing with the Secretary of State as provided under the New York State General Municipal Law.

Moved: Richard McCulloch

Seconded: Tom Fox

Passed: Unanimously

2023 Tentative Budget:

The board discussed town salaries and compared them to surrounding salaries of town and county positions. It was noted that the Town of Romulus and Seneca County Highway departments are raising salaries this budget season in hopes of encouraging their employees to remain in their positions. Mr. Fox felt that based on that theory, everyone should get the same percent of pay increase if the objective of giving raises is to keep them working for the town. It was again noted that Kris Karlsen has been overlooked for salary increases during his years of employment. Mr. Freier reported that Kris Karlsen is the only highway employee for the town and noted his good work ethic and his dependability when it comes to performing his job.

The board went through the General, Highway, Water, Sewer, Lighting, Fire, and Ambulance budgets line by line, reviewing and discussing any changes from the 2021 budget.

General: Mr. Hayssen explained the increase in Planning Board Personal Services and Contractual Expenses are to cover the hiring of a part time secretary, equipment, and office expenses. He went on to explain that the revenue generated from the STR applications will offset this increase in expenses.

Highway: Mr. Freier reviewed his budget and noted the following: Brush & Weeds contractual expense was increased to allow for the rental of a broom mower for mowing roadsides in 2023. Mr. Freier went on to review with the board the years, mileage, and condition of the current highway equipment. He is looking to purchase new equipment and reviewed the costs and estimated delivery of this equipment. Due to the expense, he increased his machinery contractual expense line.

Water & Sewer Districts: Mr. Hayssen reported that there was an increase in the salary lines in all water districts resulting from the hiring of Nate Craig. It was noted that he was hired at \$18 per hour and will be up for review in 90 days, with a pay raise if one is decided to be given across all job positions at the town with approval of the 2023 budget.

It was also noted that in Sewer District No 2, SS2-8120.200 Equipment appropriations was reduced from \$47,474 to \$37,600 as ARPA funding will be used to purchase pumps in 2023.

Further discussion was held regarding pay raises with the following motion:

A motion by Eric Riegel, seconded by Richard McCulloch and so carried to give Kris Karlsen a 10% pay increase with all other employees, elected and appointed officials receiving a 3% increase.

Discussion: Mr. Fox is opposed as he feels the same percentage of increase should be given to all employees, elected and appointed officials. Further discussion was held as to if the board wanted to appropriate fund balances or raise tax rates to cover the salary increases. The motion was amended as follows:

A motion by Eri Riegel, seconded by Richard McCulloch and so carried to approve a 10% pay increase to Kris Karlsen and a 3% pay increase to all employees, elected and appointed officials with a raise in tax rates to balance the General and Highway budgets and to increase appropriated fund balance to cover water and sewer salary increase.

Roll Call:

Robert Hayssen: Yes

Eric Riegel: Yes

Richard McCulloch: Yes

Tom Fox: No

Yes: 3 No: 1

So Carried Absent: Richard Peterson

Mr. Hayssen noted that the 2023 budget exceeded the 2% tax cap limit in general municipal law §3-C and requested the board to introduce a resolution known as Local Law No. 5 of 2022 to Override the tax levy limit.

Resolution No.: 22-22

A resolution to introduce Local Law No. 5 of the Year 2022 to Override The Tax Levy Limit In General Municipal Law §3-C

WHEREAS, THE Varick Town Board has been made aware of passage by the state legislature §3-C of the New York State General Municipal Law (GML), and

WHEREAS, §3-C GML provides for a “tax cap” on tax levies by municipalities without placing a similar “cap” on unfunded mandates imposed upon municipalities by the state, and

WHEREAS, Required Town expenditures, including those for such unfunded mandates continue to rise at a rate in excess of the cap imposed under, §3-C GML,

NOW, therefore, be it

RESOLVED, that Local Law No. 5 of 2022 entitled “A Local Law To Override The Tax Levy Limit Established in General Law §3-C, and the same is hereby introduced before the Town Board of the Town of Varick, New York, to read in substantially the following form:

Section 1. Legislative Intent

It is the intent of this local law to allow the Town of Varick to adopt a budget for the fiscal year commencing January 1, 2023, that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-C.

Section 2. Authority

This local law is adopted pursuant to sub-division 5 of the General Municipal Law § 3-C which expressly authorizes a local government’s governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

Section 3. Tax Levy Limit Override

The Town Board of Varick is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2023, that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-C.

Section 4. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective Date

This law shall take effect immediately upon filing with the Secretary of State.

AND BE IT FURTHER RESOLVED that the copies of the aforesaid proposed local law be laid upon the desks of each member of the Town Board no less than ten days before its enactment by the Board, and be it further

RESOLVED: that the Town Board hold a public hearing on said proposed Local Law at the Varick Town Hall, 4782 Route 96, Romulus, New York in the Town of Varick at or about 7:00 p.m. on the 1st day of November 2022; and be it further resolved

RESOLVED that the Clerk to the Board publish or cause or be published a notice of said public hearing in the official newspaper of the Town of Varick at least five (5) days prior thereto.

Motion by: Eric Riegel

Seconded by: Richard McCulloch

So carried Unanimously

A motion by Richard McCulloch, seconded by Eric Riegel and so carried unanimously to move the 2023 Tentative Budget to the 2023 Preliminary Budget and to hold a public hearing before the Varick Town Board on November 1, 2022 at 7:00 p.m. at the Varick Town Hall, 4782, Route 96, Romulus on the proposed General Fund Budget, Highway Fund Budget, Water District Budgets, Sewer District Budgets, Special District Fund Budgets, and be it further advised that a public hearing will be held immediately following to adopt the following fire protection units: Varick/Romulus, Varick, and Varick/Fayette.

Planning Board: Mrs. Mastellar reported that the board hired Julie Stanley as the Planning and Zoning Board secretary. Representatives from both the Planning Board and Zoning Board will be meeting with her to better define her responsibilities.

Mrs. Mastellar also reported that they met with LaBella who gave them some insight on how to address properties that cross zoning districts. It was recommended that rather than redoing the zoning map, the town board consider revising the zoning code by local law to state if one parcel is located within more than one zoning district and a use is not allowed in one district but is permitted

in the other district, the access to that non-permitted use cannot cross the more restrictive district. (Example, if a business is not allowed in the lakeshore residential area, it may not be operated in the Ag Residential district if the access to the business crosses the Lakeshore Residential district.)

The Planning Board is also suggesting that the number of STRs be limited to a given number in each zone, Ag Residential and Lake Shore Residential. The proposed limit is a number that is approximately 8% to 10% of the number of residences in that district. For example, if there are 450 residences in the Lakeshore residential area, the zoning would allow 45 STR's in that zone. The Planning Board is recommending that a specific number, not a percentage, would be determined since the number of parcels could change slightly from year to year and the Planning Board does not want to be constantly recalculating by 1 or 2 parcels. The Planning Board is suggesting that only STR's allowed above that limit will be STR's that are either owner occupied, or owner supervised. She explained that owner occupied is an apartment within your residence and owner supervised is an STR on your parcel or on an adjacent parcel. The owner will be required to be present at the time of the rental and will be required to be a resident of the area and it has been suggested for more than 7 months of a year. She noted that the exact percentage, number of residences per area, and the residency requirement have not been defined by the Planning Board at this time. The limit of 2 STRs per owner will apply to owner supervised and owner occupied as well as others.

She asked for the Town Board's approval of the recommended revision and reported that there will be some other minor updating that they are working on, such as the time frame for publishing of legal notices, to the current zoning code prior to submitting the proposed Local Law addressing the above topics. The board fully supported the recommendations presented and will anticipate that the proposed local law be presented to them by the Planning Board at the November meeting.

A motion by Eric Riegel, seconded by Richard McCulloch and so carried unanimously to adjourn the meeting at 9:10 p.m.

Respectfully submitted

Donna Karlsen Varick Town Clerk