

June 4, 2019

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 Ben Freier, Tom Fox, Eric Riegel, and Richard Peterson, Town Clerk, Donna Karlsen, Bookkeeper, Angela Testa, Attorney for the Town, Joe Midiri, Planning Board members, Thomas Bjorkman and Rich Olsen. Also in attendance was Richard L. McCulloch. Absent: Highway Superintendent Richard McCulloch.

Highway: Highway Superintendent was not present at this meeting. It was reported by Mr. Peterson that portions of Ogden Road and Yale Farm Road resurfacing has been completed and looks great.

Supervisor's Report: A motion by Ben Freier, seconded by Eric Riegel and so carried unanimously to approve the Supervisor's Report.

Town Clerk's Report: A motion by Richard Peterson, seconded by Eric Riegel and so carried unanimously to approve the Town Clerk's Report: Supervisor \$230, NYS Ag & Markets; \$41, Total Disbursements; \$271.

Designation of Legal Newspaper: Mrs. Karlsen reported that legal notices were submitted to the Reveille Between the Lakes for publication for the Planning Board and were not published, nor did she receive any responses to her emails or phone calls regarding this matter and this is not the first time this has been an issue since it was purchased from Joe Sicardi. At the recommendation of the Planning Board, it was suggested the town board consider designating a different paper as its legal paper for the town. Mrs. Karlsen spoke with the Town of Romulus, who changed their legal paper from the Reveille to the Ovid Gazette due to the same publication problems. It was also reported that the county as well as other municipalities were experiencing similar issues. Mrs. Karlsen reported that the Ovid Gazette can be obtained through subscription or from local businesses in Ovid. She also spoke to the Seneca County Area Shopper whose papers are distributed, at no charge, to Seneca County residents. The cost for legal ads are comparable to the Reveille for either paper. The Finger Lakes Times does not have standard pricing and will not provide a cost until they receive the legal notice.

Mrs. Karlsen questioned Mr. Midiri if the Seneca Shopper would meet the requirements stipulated by law to be designated as the legal paper for the town. Mr. Midiri reviewed the Seneca Shopper, noted that there were legal notices advertised by the Town of Romulus, and gave his opinion that the board could designate the Seneca Shopper as the town's legal paper. At the request of the board, Mr. Midiri would follow up with Mr. Fisher to confirm this opinion and notify the town clerk within the week if the Seneca Shopper would not be acceptable. The board would then designate the Ovid Gazette as an alternative based on Mr. Midiri's findings. Mrs. Karlsen reported that the mentioned legal notices for the Planning Board needed to be published and requested a response from their offices within the week.

A motion by Eric Riegel, seconded by Ben Freier and so carried unanimously to rescind the motion designating the Reveille Between the Lakes as the legal paper for the town and subsequently

named the Seneca County Area Shopper as the legal paper for the Town of Varick, naming the Ovid Gazette as an alternate paper contingent on Joe Midiri's reported findings.

Minutes: A motion by Eric Riegel, seconded by Richard Peterson and so carried unanimously to approve the minutes of May 7, 2019.

Judge: Mr. Freier met with Court Clerk Andrew Herkovic and Judge Jeff Hogue to complete the review of the Justice Court Records and complete Appendix 10 – Annual Checklist for Review of Justice Court Records to be submitted to Joan Casazza at New York Courts.Gov. He reported that the review focused on April 2018 who provided a spread sheet of permissible information to be reviewed. It was reported that in order to complete an in-depth audit, a representative from the Seventh Judicial would need to be contacted due to the restrictions on public information. As reported and indicated on the sheets provided by the court system, this is an annual review pursuant to Uniform Justice Court Act 2019-a stating that it is the duty of every justice to present his records and docket, at least once a year, to the auditing board of the town who shall examine said records and enter in the minutes of its proceedings the fact that they have been duly examined. Mr. Freier has asked the judge to provide a spreadsheet on a quarterly basis for the boards review and indicated his satisfaction of the information that was provided to him for his review. Mr. Fox felt the records should be reviewed by an auditor or town attorney, and therefore could not vote in favor of accepting this review.

A motion by Ben Freier, seconded by Eric Riegel and so carried acknowledging that the records of the Varick Town Court have been duly examined and that the fines therein collected have been turned over to the proper officials of the Town as required by law based on information provided by Court Clerk Andrew Herkovic and Judge Hogue and Appendix 10-Annual Checklist for Review of Justice Court Records completed.

Roll Call:

Robert Hayssen:	Yes
Ben Freire:	Yes
Tom Fox	No
Eric Riegel:	Yes
Richard Peterson	Yes

4-Yes 1-No

So Carried

Planning Board: Thomas Bjorkman and Rich Olsen presented the following proposed amendment pertaining to Solar Energy Systems for the board's review and approval to present for a public hearing:

The Town of Varick Zoning Code is hereby amended to include the following:

107. Definitions

1. Glare: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

2. Ground-Mounted Solar Energy System: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, which generates electricity for onsite or offsite consumption.
3. Solar farm, or solar collection system, major: An area used for a solar collection system principally used to capture solar energy and convert it to electrical energy for on-site use or to transfer to the public electric grid in order to sell electricity to or receive a credit from a public utility entity Solar farm facilities consist of one or more freestanding ground or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings, including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other structures and facilities.
4. Solar collection system, minor: a solar voltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source or collection, inversion, storage and distribution of solar energy for electricity generation or transfer of stored heat; secondary to the use of the premises for other lawful purposes; with the total surface area of all solar collectors on the lot not to exceed 1,000 square feet and is considered a structure for setback purposes.

308. Use Table

<i>Use</i>	<i>Agricultural and Rural Residential (ARR)</i>	<i>Hamlet Residential (HR)</i>	<i>Lakeshore Residential (LR)</i>	<i>Small Business Park and Institutional (BPI)</i>	<i>Conser- vation (C)</i>	<i>Warehouse, Industrial, Transportation, Energy (WITE)</i>
Residential						
Solar collection system, minor	P	P	P	P	P	P
Commercial						
Solar Farm	S 311.21	N	N	N	N	S 311.22

311.21 Solar Farm or Major Solar Collection System

1. Generates no more than 110% of the electricity consumed on the site over 12 months.
2. All of the requirements of 311.22 apply

311.22 Solar Farm or Major Solar Collection System

Because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, the purpose of this section is to facilitate the development and operation of renewable energy systems based on sunlight. A Solar Energy Production Facility (aka Major Solar Collection System or Solar Farm) shall be permitted under a Special Use Permit when

measures are taken, as provided in this section, to minimize adverse impacts on neighboring properties and protect the public health, safety, and welfare. This section shall pertain *only to major solar collection systems or solar farms*. Where other Sections of the Code conflict with this Section, provisions of this Section shall control.

1. A letter providing proof of feasibility from the local utility company is to be provided as part of the application indicating that utility company can handle the demands of the proposed project.
2. The design of a major collection system or solar farm shall comply with the bulk table (309.1) except that the lot coverage for the solar panels can be 50% if the ground under the panels is vegetated soil with typical water permeation. The lot shall not have more than 30% impermeable surfaces.
3. The design of the solar farm shall adhere to existing setback requirements of the zoning district. If the solar farm will be constructed by the utilization of ground mounting, then a ground mounting plan and process certified by a Licensed Professional Engineer must be submitted during the Special Use Permit application process. The mounting plan shall consist of standard solar manufacturer installation plans and processes for ground mounting or be addressed in the applicant's site plans.
4. Systems and solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways.
5. System shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, balloons, flags, banners, or similar materials, with the exception of the following: Necessary equipment information, warnings, or indication of ownership shall be allowed on any equipment of the System or where required by the New York State Building Code.
6. No System or any of its components shall be illuminated, except to the degree minimally necessary for public safety or maintenance.
7. All mechanical equipment, including any structure for batteries or storage cells, shall be fenced from adjacent properties to restrict unauthorized access and screened.
8. No System shall be used or constructed such that it becomes a private or public nuisance or hazard.
9. Storm water and snowmelt runoff and erosion control shall be managed in a manner consistent with all applicable federal, state, and local regulations and shall not impact neighboring properties.

10. Systems which have not been in active and continuous service for six months shall be removed at the owner's or operator's expense within an additional six months.
11. The site shall be restored to as natural conditions as possible within twelve months of the removal of the system.
12. Removal of trees and other existing vegetation should be minimized or offset with planting elsewhere on the property.
13. The applicant shall post performance security in the form of a letter of credit with the Planning Board in an amount equivalent to 150% of the estimated cost of removal of the equipment as determined by the Planning Board and said letter of credit shall be on terms and conditions satisfactory to the Town Attorney. The letter of credit shall be reviewed every five years from the date of issuance of a special use permit by the Planning Board for the purpose of determining whether or not the letter of credit is at least 150% of the estimated cost of the removal of the equipment. The applicant shall increase the letter of credit to 150% of the estimated cost of removal of the equipment as determined by the Planning Board in the event that the letter of credit is deemed by the Planning Board to be less than 150% of the estimated cost of removal. If the applicant assigns its interest in the equipment or by operation of law no longer owns the equipment, the applicant's successors and/or assigns shall be obligated to post performance security with the Planning Board as provided in this subsection as if it was the applicant at the time the special use permit was granted pursuant to this section. In the event that the applicant leases the site on which the equipment is constructed, the applicant shall obtain an irrevocable consent, to be binding upon the landowner's heirs, distributees, successors and/or assigns permitting the applicant to remove the equipment within six months of the date it ceases to be used for solar-collection purposes and permitting the town to enter onto the landowner's land for the purpose of removing the equipment in the event that the equipment is not removed by the applicant within said six-month period. The consent shall be in a form satisfactory to the Town Attorney and shall, upon approval of the Town Attorney, be recorded in the Seneca County Clerk's office.
14. Vegetation under and around solar panels should be planted and managed to maximize compatible ecosystems services: pollinator habitat, wildlife forage and carbon sequestration.
14. Abandonment
 - a) All applications for a solar farm shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility.
 - b) If the applicant begins but does not complete construction of the project within eighteen months after receiving final site plan approval, this may be deemed abandonment of the project and require implementation of the decommissioning plan to the extent applicable.
 - c) The decommissioning plan signed by a licensed professional engineer must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:

- i. Removal of above ground and below ground equipment, structures and foundations.
- ii. Restoration of the surface grade and soil after removal of equipment.
- iii. Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
- iv. The plan shall include a timeframe for the completion of site restoration work.

The board reviewed the information and mapping of the depot where BQ Energy has proposed placement of solar panels. The board approved the proposed amendments regarding this issue with the additional change to the 308. Use Table to include S311.21 in the Small Business Park and Institutional Area. They are also looking for direction from Frank Fisher as to whether the letter of credit is the right kind of security to protect the town without tying up too much of the company's funds. Mr. Midiri explained that a letter of credit is a guarantee from a bank that they will pay if the company does not. Mr. Midiri will follow up with Mr. Fisher to clarify the accuracy pertaining to the letter of credit, inform the Planning Board of the correct wording to be added to the code prior to its distribution for public review and legal publication. The planning board spoke in favor of permitting BQ Energy to build what has been deemed a small solar farm on the depot property, which is permissible as such with regards to the proposed zoning amendment.

With regards to the Lakeshore Residential District, Mr. Bjorkman reported that the existing codes pertaining to this District were never removed from the currently adopted zoning code. Mr. Riegel recommended and the board approved to add the following to code number 306: A removable seasonal dock only requires a permit initially and may be reinstalled annually as long as it is the same size and meets the setbacks placed in accordance with the constraints of the permit. If the lot is too narrow for a dock to meet the side setbacks, the ZBA may consider granting a variance for a temporary dock and hoist with smaller setback dimensions, if it is installed.

Joe Midiri at the direction of Steve Ricci stated that a public hearing will need to be held to adopt Local Law No. 1 of 2019, "A Local Law to Amend the Zoning Code of the Town of Varick" Their offices will prepare the resolution to adopt said local law, submit the required paperwork and legal notice in order to hold said public hearing at the regular meeting of the Varick Town Board on July 2, 2019 at 7:00 p.m. once motioned by the board.

A motion by Eric Riegel, seconded by Ben Freier and so carried unanimously to hold a public hearing on Local Law No. 1, 2019 "A Local Law to Amend the Zoning Code of the Town of Varick" on Tuesday, July 2, 2019 at 7:00 p.m. at the Varick Town Hall 4782, Route 96, Romulus, NY 14541.

Mr. Bjorkman and Mr. Olsen stated they are still working on vacation rental zoning. Their last meeting included attendance of town residents and a representative from Finger Lakes Premier Properties who provided helpful input. The planning board reported the importance of having a good property manager and the difficulties that are evident when you have absent property owners. They reported that any recommended ordinance pertaining to these rentals need to be upfront and enforceable and their board will continue to work on preparing an ordinance for the town board's review.

Abstract: A motion by Ben Freier, seconded by Tom Fox and so carried unanimously to approve Abstract No. 6, General Fund, Vouchers A0019-93 to A0019-099 in the amount of \$1,888.95, Highway, Vouchers DAO19-36 to DAO19-040 in the amount of \$9,389.31, Varick Water District No. 1, Vouchers VW119-007 in the amount of \$4,275.92, Seneca Lake Water District, SWS19-039 to SWS19-041 in the amount of \$612.39, Varick Water District No. 3, VW319-009 in the amount of \$25, Varick Water District No. 4, VW419-019 to VW419-023 in the amount of \$3,238.60, Varick Sewer District No. 1, VS119-018 to VS119-024 in the amount of \$6,513.67, Varick Sewer District No. 2, SSS19-014 to SSS19-016 in the amount of \$5,810.41

Water Operator Report:

Water Operator Report for May 2019

- Changed Meters
- Marked out Dig Safety's
- Turned on water services as needed
- 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
- Inspected new water services
- Ordered parts to prepare for Spring/Summer jobs
- Fixed broken meters on Seneca Lake
- Cleaned tools
- Installed new water service
- Provided answers to customers who are interested in hooking up to water main
- Repaired yards that resulted from water/sewer leaks
- Repaired broken curb stop
- Was in contact with Town of Romulus regarding their project on Rt 89
- Passed dig safe excavator school online
- Helped change out grinder pumps
- Dropped supplies off for contractors
- Exercised main line valves
- Flushed dead end to bring chlorine residual up
- Met with Jim Bromka to go over upcoming sample due dates
- Serviced weed eater for hydrant cleaning

Formation of a Water Authority: Joe Midiri submitted an outline provided by Frank Fisher of their offices detailing the initial steps that would be required to form a water authority. A copy of this will be attached to these minutes.

Varick Water District No. 1: Nothing to report.

Seneca Lake Water District: It was reported that the master meter at the depot is not working and is in the process of being reviewed for repair. Mr. Hayssen, with the boards consent, stated that until the meter becomes operational again, Seneca County Water District No. 1 water usage

will be estimated by taking the Village of Waterloo master meter readings each quarter, subtracting the Varick consumers usage and then billing the difference of gallons used to Seneca County Water District Number 1.

Varick Water District No. 3: The Fayette and Varick Town Boards received a letter from Stephen Ricci dated May 30, 2019 regarding the funds that were procured through the settlement of litigation surrounding the construction of Fayette Water District No. 5 and Varick Water District No. 3 in the sum of \$7,500 which they continue to hold in escrow on behalf of the Towns. They would like to disburse the funds and are asking for advisement on the mutually agreeable disbursement of the \$7,500. Mr. Hayssen reminded the board that these funds were to be used to develop a detailed map of the district and was to be followed up by the Town of Fayette. Discussion will need to be held with the Town of Fayette on the status of this mapping.

Varick Water District No. 4: It was reported that the Town of Romulus residents, who will be supplied water from this district, will be able to begin connecting to their new district soon.

Varick Sewer District No. 1: Nothing to report.

Varick Sewer District No. 2: A Town of Varick Sewer District Maintenance Agreement for Varick Sewer District No. 2 was submitted for approval from Yaws Environmental. It was noted that the district currently pays \$408 per month for service and to maintain said system. The new contract will increase this cost to \$500 per month for the first year and proceeds to break down the following year's fees. The board commended the past years services provided by Yaws Environmental and after review of the proposed rates agreed to enter into proposed agreement.

A motion by Tom Fox, seconded by Ben Freier and so carried unanimously to enter into an agreement with Yaws Environmental to perform any and all services generally performed by a contractor for maintenance of Varick Sewer District No. 2 as stipulated in said agreement.

Addition to Town Hall Building: Key Homes reported that the foundation is scheduled to be built the middle of June with the delivery of the building the end of June.

Old Business, New Business, Correspondence:

Mr. Midiri received a phone call in response to the letter to Mrs. Hudson for property located at 4901 Route 89. She reported that the building will be taken down and the property cleaned up shortly.

A motion by Eric Riegel, seconded by Richard Peterson and so carried unanimously to adjourn the meeting at 9:05 p.m.

Respectfully submitted:

Donna Karlsen
Varick Town Clerk