

The Town of Otsego Town Board held a Public Hearing and Regular Monthly Meeting on the 13th day of June, 2018 at the Town Building, Fly Creek, NY at 7:00PM.

Town Board Members Present:

Meg Kiernan	Supervisor
Thomas Hohensee	Councilperson
Bennett Sandler	Councilperson
Joseph Potrikus	Councilperson
Carina Franck	Councilperson

Also Present:

Michelle Kennedy	Town Attorney
William Hribar Sr.	Highway Superintendent
Pamela Deane	Town Clerk

Supervisor Kiernan called the Public Hearing to order. She explained that the purpose of the Public Hearing was to hear Public Comment on removing Section 3.15 Heirloom Barns and Buildings, from the Town Land Use Law.

Supervisor Kiernan opened the floor for comments.

Cindy Falk a professor at the Cooperstown Graduate Program, felt that the law as it is currently written, has issues with its applications and was in favor of repealing the law. She encouraged the Town Board to sooner rather than later, work towards making the law better. Three things she thought the Board needed to, consider in order for the law to work:

1. Have a better understanding as to what buildings the law applies to.
2. Have a better process for evaluating the proposal.
3. Establish criteria as to what kind of work will take place on the property. So what is an authentic building still looks like an authentic building, at least from the outside, once the project is completed.

Schotzie Hall felt the Heirloom Barn Law has too many flaws and should be eliminated. There is no way to measure minimum impact on neighbors. The language is too vague.

Les Sittler showed pictures of the Fly Creek Trolley Station Property, before he restored to use for his Law Office. The renovation cost hundreds of thousands of dollars. Zoning was not in effect then. Instead he was granted a PDU (Planned Development Unit) from the Planning Board. He argued that if he wanted to restore the old Trolley Station today the current law would not allow it. He was not in favor of the law being repealed.

Ed Hobbie agreed with Les Sittler and thought it a big mistake if the law were repealed.

Ellen Pope commended Sittler on his restoration of the Old Trolley Station. She felt the intent of the law was wonderful but in practice it means that any building turning 110 years old or barn 60 years old is eligible to apply for any Special Permitted Use offered in any district. Instead of referencing the age of a building the law should reference a year (example: 1890 or earlier). The current law has created division between neighbors, needs more definitions. She would like to see business uses appropriate for the neighborhood enlarged.

Barbara Toby stated that she supports Ellen Pope and a rewrite of the current law.

John Phillips did not want to see the baby thrown out with the bathwater. The purpose of site plan review is to tweak the application so it blends in with the neighborhood. When he bought his property there were no restrictions. If he cannot use his barn it is coming down and he wants to be compensated for loss of value. He did not support repealing the law.

Danny Lapin, Environmental Planner for the Otsego County Conservation Association, supports the repeal of the Heirloom Barn and Building Law. The Town Board has consistently vowed to support and assist with the adaptive reuse of historic barns and buildings. The Town Board needs to look at the root of the problem. The issue is this law, as it stands, places the Town at a legal risk of Article 78 Litigation, which tax payer will be left paying for. This law needs to contain specific standards and procedures outlining what the Planning Board needs to review, interpret, apply and administer. It is important that the review process is not deemed as a "yes, you can" or "no, you cannot" but as a way the Planning Board and applicant can come together and brainstorm ideas for a collective solution.

Tom Huntsman, Planning Board Chairman, felt Pope explained it best. Definitions are vague, buildings eligible under this law should be determined by a set year not by age of the building as not to lose a lot of the historic characteristic, and standards that are clear and applicable to everyone should be set. Huntsman liked the idea of saving old barns but was in favor of repealing the current law.

Carl Wenner was against the Planning Board telling people what they can and cannot do. He did not think the Board would ever be able to write a law to keep neighbors from each other's throats. He personally would not do anything to upset his neighbors. If zoning were in place during the days of Natty Bumpo, Cooperstown would not be as it exists today.

Kathy Chase did not think that a majority of residents owning or buying buildings 110 years or older, realize that a Town Law exists allowing a business to invade their residential neighborhood. She argued that when this law was enacted residential neighborhoods became at risk of losing all rights to a peaceful neighborhood. One of the owners of the newest Heirloom Barn application for Longview Allied L.L.C. is Councilperson Joseph Potrikus. It appears that he was talking about himself last month when he spoke of a person who might want to use this law. She thought it a clear conflict of interest for Potrikus to be a part of any of the discussion or vote pertaining to the Heirloom Barn Law.

Chase thought that in order to ensure the provision in the Heirloom Barn Law which states “to ensure restoration and protection of historic external appearance” a review by an actual historic review committee would be needed. She also felt that this law provides an EZ pass around the Town’s Land Use Laws that were intended to create and protect our residential and hamlet districts. She suggested that the Town Board look at creating new business districts or allowing new permitted uses such as craft beverage manufacturing, but to be done properly and on an appropriate parcel of land. Chase thought it most important that the provision in this law which states “ensure minimum impact on neighbors” has had the unintended consequence of pitting neighbor against neighbor. Chase requested the Town Board remove this flawed law.

Chris Hage encouraged the Town Board to repeal Section 3.15 of the Land Use Law. The major theme tonight from the people against repealing the law was they did not have confidence in the Town Board to rewrite this law better and adopt it back into the Land Use Law. He had full confidence in the Town Board to rewrite the law addressing all the flaws and adopt it back into the Land Use Law.

Sheila Ross wanted the Town Board to make what they have worked rather than repeal it. She felt the Town Board, minus one, is against businesses.

Brenda Jeager stated that she has an heirloom barn on her property, and there are three more in close proximity to hers all on Goose Street. If all four residents took advantage of the Heirloom Barns and Building Law it would change the character of the entire neighborhood. She was in favor of the law being rescinded.

Wayne Mellor was in favor of the law being repealed and the Town Board starting over with a clear slate. He felt the process is flawed. He reported seeing at a Town Board meeting two Town Board members that were supposed to be working together on revisions to the law but could not even talk to each other at the meeting. You are not going to make a lot of progress that way.

Later in the meeting Supervisor Kiernan submitted letters from Barbara Tobey, Marcia D’Amico, Maryann & Patrick Dietz, James Bell, Walter Dusenbery, Debra Creedon and Scottie Baker all giving their reasons why they felt Section 3.15 Heirloom Barns and Buildings should be repealed.

MOTION by Councilperson Franck, seconded by Councilperson Hohensee, to close the Public Hearing.

MOTION CARRIED: All were in favor.

Supervisor Kiernan called the Regular Monthly meeting to order and asked everyone to please rise for the Pledge of Allegiance.

MOTION by Councilperson Hohensee, seconded by Councilperson Sandler, to accept the May 9th minutes as presented.

MOTION CARRIED: All were in favor.

MOTION by Councilperson Hohensee, seconded by Councilperson Sandler, to accept the June 9th minutes as presented.

MOTION CARRIED: All were in favor. Councilpersons Franck abstained.

Supervisor Kiernan read correspondence received since the last regular meeting.

Supervisor Kiernan opened the floor for comments.

John Phillips asked the Town Board to consider donating the metal detector in front of the court room door to the Cooperstown School.

Otsego County Representative Danny Lapin reported that the County is currently updating their 2013 “All Hazard Mitigation Plan”. There will be a set of questions that all municipalities will be required to fill out. The questionnaire is difficult but there will be help offered at the County.

Carl Wenner commented that he did not think it appropriate that people from the audience be allowed to chime in during the meeting after the public comments period was closed and yet when the Zoning Enforcement Officer raised his hand to speak he was denied. Either everyone is allowed to chime in during the meeting or no one.

Sheila Ross invited the Town Board to take a ride down Willow Avenue. The road is in need of repair.

Supervisor Kiernan closed the floor for comments.

Supervisor Kiernan gave a financial report. The Board discussed the following balances in the various accounts:

General Savings: \$ 4,700.84	General Checking: \$ 421,842.02
Highway Savings: \$ 7,838.52	Hwy Checking: \$ 512,662.71
Building Reserve Fund: \$176,380.85	Hwy Equipment Fund: \$ 333,562.00

MOTION by Councilperson Sandler seconded, by Councilperson Franck, to accept the financial report as presented.

MOTION CARRIED: All were in favor.

MOTION by Councilperson Sandler, seconded by Councilperson Franck, to pay the bills and make the necessary transfers.

GENERAL: #80-#95	\$ 4,547.63
HWY: #111-#140	\$ 37,374.05

MOTION CARRIED: All were in favor.

Dog Control Officer Tom Steele gave his report. Since last meeting there has been 2 running at large complaints and 1 barking dog complaint.

Zoning Enforcement Officer Edward Hobbie, discussed applications now currently being reviewed and violations he is currently handling.

Councilperson Franck thanked everyone who came to the Public Hearing and made a comment. She was grateful to the Graduate Students that worked very hard on their attempt to rewrite Section 3.15. She herself has spent countless hours on trying to improve the Heirloom Barns and Buildings Law. Currently she has 2 drafts and is looking for input. Councilperson Franck thought the Town Board should look at adding breweries, wineries and wedding venues. One problem she has found is a blanket law does not fit everywhere in the Town and therefore makes rewriting the Heirloom Barns and Buildings Law a difficult task. In closing she would like to see the existing law repealed.

Councilperson Potrikus admitted that he and Councilperson Franck have opposite ideas on how to correct the Heirloom Barns and Buildings Law and to this day have not gotten together as a committee. In addressing Cathy Chase's earlier comment he claimed that it has never been a secret of what buildings he has bought and he did not agree with her thinking that he should recuse himself from voting on the repeal of Section 3.15 Heirloom Barns and Buildings.

Supervisor Kiernan stated that the Planning Board and ZBA struggle with the law. Applicants show up with their attorneys and the board members start to question their interpretation of the law. She felt the idea of the law is a good one but the way it is written it is too vague. It also pits neighbor against neighbor which is not fair.

Councilperson Hohensee disagreed with Sittler who accused the Town Board of taking the easy way out by just repealing the law. Repealing the law has been discussed over and over for the last two or three years. The Board tried a 6 month moratorium and still had no answers on how to improve the law. It is far more complicated than anyone had guessed it would be.

Attorney Michelle Kennedy told the Town Board that SEQRA needs to be completed before they can take action on the repeal.

MOTION by Councilperson Hohensee, seconded by Councilperson Franck, designating the Town Board Lead Agency.

MOTION CARRIED: Supervisor Kiernan, Councilperson Sandler, Franck, and Hohensee, voted yes. Councilperson Potrikus voted no.

MOTION by Councilperson Franck, seconded by Councilperson Sandler, to deem the proposed Local Law #2 the repeal of Section 3.15 Heirloom Barns and Buildings a Type 1 Action under SEQRA.

MOTION CARRIED: All were in favor.

MOTION by Councilperson Potrikus, seconded by Councilperson Sandler, to name SHIPO as an interested agency.

MOTION CARRIED: All were in favor.

MOTION by Councilperson Potrikus, seconded by Councilperson Hohensee, to name the Department of State as

an interested party.

MOTION CARRIED: All were in favor.

MOTION by Councilperson Hohensee, seconded by Councilperson Sandler, to name the Town of Otsego Planning Board and ZBA as interested parties.

MOTION CARRIED: All were in favor.

MOTION by Councilperson Franck, seconded by Councilperson Hohensee, to unanimously adopt a Resolution authorizing electronic delivery of a proposed local law or amendment to a local law

MOTION CARRIED: All were in favor

RESOLUTION ADOPTED: (Resolution Docket #137)

Attorney Kennedy reviewed the adoption of the Local Law process. Public Hearing was held with Public Notice. The Board deemed themselves Lead Agency as well as deemed the proposed Local Law #1 a Type 1 Action, Part 1 of the EAF was completed, interested agencies were designated and the amended law will be sent to them by e-mail, as well as Part 1 of the EAF. Next month it should be on the agenda to complete Part 2 and Part 3 of the EAF. If deemed a negative declaration, the Board will deem the application complete and send it the Otsego County Department at which time they have 30 days to review the application, make recommendations, and return it to the Town Board. The Board can then take a roll call vote on whether or not to adopt the proposed Local Law.

Highway Superintendent William Hribar Sr. gave his report. He informed the Town Board that the 200ft culvert in front of the Pierstown Grange needs to be replaced. Changing out culverts is a great deal more expensive than it used to be. Some culverts now need to be DEC and engineer approved. The Town Board needs to take this into account budget time. Hribar also reported he needs to purchase a grizzly, preparation for the paving of Hoke Road is underway and he needs a salt shed.

Councilperson Sandler plans to talk to Danny Lapin and see if he would not be available to write grant for a new salt shed.

MOTION by Councilperson Franck, seconded by Councilperson Sandler, to go into Executive Session client attorney privilege.

MOTION CARRIED: All in favor. (9:50PM)

MOTION by Councilperson Franck, seconded by Councilperson Hohensee, to come out of Executive Session.

MOTION CARRIED: All were in favor. (9:57PM)

All Town Board members were handed the proposed law change concerning Section 3:15 Heirloom Barns and Buildings.

MOTION by Councilperson Franck, seconded by Councilperson Sandler, to amend the Service Trade definition to be consistent with the possible repeal of Section 3.15 Heirloom Barns and Buildings.

MOTION CARRIED: Supervisor Kiernan, Councilpersons Franck, Hohensee, and Sandler voted yes. Councilperson Potrikus voted no.

MOTION by Councilperson Potrikus to adjourn.

MOTION CARRIED: All were in favor.

Meeting ended at 10:00PM

Respectfully Submitted,
Pamela Deane/Town Clerk