

The Otsego Town Board held two Public Hearings and a Regular Monthly meeting on the 13th day of September 2017 at the Town Building, Fly Creek, NY at 7:00 PM.

Town Board Members Present:

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

Also Present:

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

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

Supervisor Kiernan called the first of two Public Hearings to order. She explained the purpose of the Public Hearing was to hear public comment on the proposed definition changes to the Land Use Law.

John Phillips didn't think a lot of thought went into the proposed definition changes. He expressed the following concerns:

- Porches are described as covered and unenclosed. What most people, including assessors, consider covered and enclosed porches are not considered a porch by the proposed definition.
- The definition of a deck describes it as being made only of wood. Phillips argued that many decks now are made of other materials, which by the proposed definition would no longer be defined as a deck.
- Two Family Dwelling is defined by the State as being two separate living quarters under one roof, divided by a firewall and have two separate electric meters, plumbing and source of heat.

In closing Phillips suggested that the Board talk to County Codes before going any further so their law does not allow something the State does not.

Lester Sittler felt that there is a difference between Two Family Dwellings and a Two Family Dwelling. Currently Two Family Dwellings are allowed which he took to mean a house and guesthouse. The proposed definition is for a Two Family Dwelling, meaning two occupancies under one roof. Single-family homes bring more money when sold and would then have a higher assessment and pay more taxes. He thought the Board could restrict over development on a RA 3 acre parcel by putting in setback requirements so that if there was a guest house on the property it wouldn't over burden that parcel. What the Board is proposing now by changing to a Two Family Dwelling, he felt will cause one of two things to happen. You are going to get people that will create a long corridor connecting one house to another, which he felt was not very attractive or you are going to have legitimate Two Family Dwellings, which he personally would not like to see in the Town of Otsego.

Carl Wenner stated that if we did not have the Land Use Law we would not be wasting our time talking about this kind of crap.

Supervisor Kiernan closed the proposed definition Public Hearing and opened the floor for comments on Section 3.15 of the Land Use Law Heirloom Barns and Buildings.

Rob Bohm has heirloom barns and questioned why the Board is limiting people's options. First the Board took away his ability to rent space for storage. It could have been done very attractively. Green space does not pay taxes. He asked that the Board take their time. Property here is expensive. You buy a house here with a barn. It would be nice if you could do something to generate some extra capital to help offset expenses. Take a look at some of the barns around here. Some people have done some really nice things.

John Phillips stated that Section 3.15 has only been used once. The Black Bird Hollow application, which is the reason for all the controversy concerning this section of the law, was reviewed and approved based on a previous Use Variance that was granted, not Section 3.15. The Black Bird Hollow approval would have happened anyway regardless if Section 3.15 was in effect or not. He did not feel the Board should take this tool away from the Planning Board. He felt the Planning Board does a good job. Vermont encourages the re-purposing of all old buildings. Re-purposing old buildings and barns protect the rural character of the area.

Carl Wenner disagreed with Phillips. He wonders when it became the government's job to tell people what they can or cannot do with their property. He felt that is just absurd.

Sheila Ross stated she has an old barn. Pays taxes on it. Claimed that under the Land Use Law there isn't anything she can do with it. It was Ross's opinion that the Board is not business friendly.

Councilperson Hohensee read a letter submitted by Kathy and Thomas Chase. The Chases felt that the way Section 3.15 in the Land Use Law, addressing Heirloom Barns and Building, is currently written should be revoked. They believe that the original intent of this law was admirable. However the current language which provides an "easy pass" around the Land Use Law allowing residents owning an heirloom building to take advantage of every Permitted and Special Permitted Use allowed in any district, causes those in a residential

neighborhood to fear a commercial use might show up next door. A majority of the homes in the Town of Otsego qualify for Section 3.15. It has been argued in the past, that Site Plan Review will ensure that the law is applied correctly. Site Plan Review of the approved Black Bird Hollow failed. Every requirement of the Heirloom Barn Law was disregarded. There will be no restoration and protection of the external appearance of the Inn. Parking will not be masked from neighbors, and the Planning Board record clearly reflects that the expanded hotel use granted the inn certainly does not ensure minimum impact on the neighbors in this residentially zoned district. Residents in the Town of Otsego deserve a well-written law that supports older buildings and barns while at the same time respects our zoning law. In the mean time there is another way to financially help owners of historic building and barns. The NYS Office of Park, Recreation and Historic Preservation is a resource that owners of historic properties or barns can turn to for tax relief. SHPO provides technical preservation assistance on appropriate methods to preserve and maintain your historic building and qualify for the tax credit. Ellen Pope of Otsego 2000 has offered to facilitate a training session to the Planning Board and/or the Town Board on SHPO.

John Phillips stated that he tried to get assistance from the State to restore an old hop barn he had on his property. They make it nearly impossible to qualify.

Supervisor Kiernan read similar letters from David and Deborah Creedon, Virginia and Douglas Hastings, Patrick and Mary Ann Dietz, Schatzi Hall and Ellen Pope all echoing the same sentiment as Kathy and Tom Chase.

Attorney Lester Sittler questioned how the Board could say they want to abolish the law and have a moratorium on not taking heirloom barns and buildings down. However, you are still required to pay taxes on these buildings. It's unfortunate that the Black Bird Hollow project has colored this discussion. He was not in favor of the Board revoking the law

Carl Wenner pointed out that if the Land Use Law we have now was in effect 100 years ago there would be nothing along the lake. The Village of Cooperstown would look very different. Houses would not be placed on quarter acre lots. The market is the best determiner of what happens. Let the people choose what they want.

Councilperson Sandler stated that the market is what is driving the state of historical and agricultural buildings in our Town.

Supervisor Kiernan closed the Public Hearing.

Councilperson Franck stated that she had met with former Planning Board member Paul Lord who helped write Section 3.15 Heirloom Barns and Buildings. He conveyed to Councilperson Franck his disappointment in how the law has been used and was in favor of the section being re-written, eliminating some of the uses. One thing that might be considered was separating out heirloom barns and buildings and not combining them together as they now are.

After a short discussion it was decided that Councilperson Potrikus, and Councilperson Franck, would meet to work on allowable uses for the Heirloom Barn Law and meet with former Planning Board member Paul Lord in November for his assistance in crafting guidelines and/or wording regarding ensuring restoration and protection of the historic external appearance and minimum impact on neighbors.

Councilperson Potrikus was against the Town Board's decision to take Storage Units out of the Land Use Law, which he felt was a great use for big old barns. He also agreed with Phillips that the Black Bird Project was not approved under Section 3.15 but because of a Use Variance granted many years prior and did not think applying for a grant was an answer to restoring these barns either.

Councilperson Franck corrected both Councilperson Potrikus and Phillips referencing a letter written by former ZEO Hank Schecher dated May 31, 2012 to Young and Summers LLC. The letter addressed Young and Summers LLC's request for an interpretation regarding the Black Bird Hollow application. Schecher explained that they were applying for an eating establishment under a Use Variance that was granted many years ago and a hotel status under Section 3.15 Heirloom Barns and Buildings.

Supervisor Kiernan closed the second Public Hearing allowing comments on Section 3.15 Heirloom Barns and Buildings.

MOTION by Councilperson Potrikus, seconded by Councilperson Franck, to accept the August 9th minutes as presented.

MOTION CARRIED: All were in favor.

MOTION by Councilperson Hohensee, seconded by Councilperson Sandler, to accept the August 22nd minutes as presented.

MOTION CARRIED: All were in favor.

MOTION by Councilperson Hohensee, seconded by Councilperson Franck, to accept the September 11th minutes as presented.

Supervisor Kiernan asked for discussion. Councilperson Potrikus asked that it be noted that he was 20 minutes late. Councilperson Hohensee asked that it be noted that he was 25 minutes late. Councilperson Franck wanted it noted she was 10 minutes early.

MOTION CARRIED: All were in favor.

Supervisor Kiernan read correspondence received since last meeting.

Among the correspondence was a copy letter addressed to Mr. Michael Adams at NYSDOT from Cooperstown Fire Chief James Tallman. Tallman states that at the July Officers Meeting of the Cooperstown Fire Department he was asked to bring three concerns to NYSDOT's attention. They are as follow:

- Due to the increased traffic and businesses on St Hwy 28 south of the Village of Cooperstown, the Cooperstown Fire Department would like to see the speed limit reduced from 40mph to 30mph. They respond to approximately 5 to 6 motor vehicle accidents yearly in the vicinity of Ace Hardware and Church & Scott.
- They would like to see "NO PARKING" signs on the east side of St. Hwy. 28 where they used to be when the Peppermill was operating. There has been one accident at the northern entrance/exit of BOCCA, where the operator of the vehicle pulling out said she could not see past the cars parked on the side of the road.
- On St. Hwy 28 as you are headed south and cross the Oaks Creek Bridge the blacktop has lowered creating a severe bump. Even at the posted Speed Limit it feels like your front-end is going to come off of your car.

Councilperson Potrikus read an e-mail he received from Joe Galati . Galati states that on March 3rd McManus Engineering told the Town of Otsego that the Upstate Bar and Grill, formally known as the Pepper Mill, would remain within the existing footprint. At the March 7th Planning Board meeting Mr. Dennis of MADesign contradicted and/or modified McManus's presentation telling the Planning Board that there would be a 12ft. x 50ft patio. The Planning Board never performed site plan review for the expansion. At that same meeting Planning Board Attorney Ryan Miosek informed the Board he had a conflict of interest. He represented the Planning Board and the party appearing before the Planning Board the (Upstate Bar and Grill). According to the minutes Attorney Miosek gave an interpretation of the town's definition of "building" and "set back" which were, at best, a mistake of law and, at worst, intentionally misleading his Planning Board clients to advance the cause of his other client the Upstate Bar and Grill. This patio is an expansion of the pre-existing use. The expansion brought about a change from 160 seating capacity to 207. An increase of about 23%. Galati felt that this expansion of use at the Upstate Bar and Grill and the failure to perform site plan review is the sole responsibility of the Zoning Enforcement Officer, Planning Board Chairman and the conflicted Planning Board Attorney.

In light of Galati's e-mail pointing out the Planning Board attorney's dual representation to both the applicant and the Planning Board and the letter from the Cooperstown Fire Chief concerned with the parking along St. Hwy. 28 impairing the sight distance of those leaving BOCCA or Upstate Bar and Grill's parking lot, Councilperson Potrikus ask Town Attorney Michelle Kennedy what the exposure to the Town of Otsego is if no action is taken.

Town Attorney Michelle Kennedy stated that a patio is considered landscaping so long as it does not change the nature of the use or bring more people to the property than already approved. If the nature of the use has been increased the seating capacity already approved then that changes the analysis. She felt Planning Board Attorney Miosek was put on the spot by the Planning Board Chairman after already recusing himself and due to the fact there was no formal application on the table she did not feel Planning Board Attorney Miosek did anything wrong.

ZEO Ed Hobbie stated that no site plan was ever done. All that he was told was the roof was going to be raised. There were no prints showing the patio addition. The former ZEO Barbara Monroe approved the project.

Councilperson Potrikus had a problem with the Planning Board not telling Joseph Veza the owner of the Upstate Bar and Grill, that he needed to go through the Site Plan Review process when he came and spoke to them during their regular monthly meeting. Now we have a Fire Chief concerned because there has been an accident caused by excess parking along State Hwy 28, which obstructs visibility. Potrikus asked what happens if a person or persons loose their life because their visibility was obstructed all because a Site Plan was never approved. Parking is only one of many variables that are considered during a Site Plan Review.

Attorney Lester Sittler agreed that Site Plan Review should have been done.

Supervisor Kiernan opened the floor for comments.

Attorney Lester Sittler brought up that FEMA has published new flood plain maps putting a number of properties in the flood plain that were never there before. Those with mortgages now being shown that their property is in the flood plain are being forced to purchase flood insurance, which is very expensive. These properties will decrease in value. He asked that the Board invite FEMA surveyor Tom Blanchard to hold a town meeting and educate residents how to fight this. The Town Board agreed to get something set up end of November.

Sheila Ross mentioned some statements in the August 9th minutes that she felt were inaccurate.

County Representative Andrew Marietta wanted to correct some miss-information that was given at last months meeting concerning the Northern transfer station at the top of Fly Creek Hill. The haulers had all been notified. Even though there is always opportunity for better communication he felt the County did an effective job in getting the word out that the Northern Transfer Station was going to be closed and setting up alternative drop off stations. He reported that currently the completion of the Fly Creek Transfer station is at a stand still until the new scales are delivered. Once they are delivered the cement pad can be poured and the scales calibrated. The estimated re-opening time of the transfer station is uncertain hinging on when the new scales are delivered.

Marietta discussed his concern with a NXG truck normally transporting natural gas that turned over on NYS highway 205. Luckily this one was empty. These trucks can be highly explosive and it was wondered whether they should be limited to what roads they can travel.

As a County Representative his commitment is to the four-committee meetings he sits on which take up a tremendous amount of time. Coming to town meetings is not something he feels is necessary or beneficial.

Joe Bohm felt if the Town Board wants people to retain barns they should offer tax incentives or tax breaks to those that renovate their barn.

Supervisor Kiernan closed the floor for public comments.

Supervisor Kiernan reported that there had been no RFP's submitted for landscaping and one previous RFP for repairs to the Town Barn from M McCoy Construction LLC. It was the consensus of the Board to advertise the RFP's again.

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

General Savings:	\$ 4,695.71	General Checking:	\$ 318,528.08
Highway Savings:	\$ 7,829.71	Hwy Checking:	\$ 544,779.95
Building Reserve Fund:	\$179,833.65	Hwy Equipment Fund:	\$ 298,215.04

MOTION by Councilperson Sandler, seconded by Councilperson Hohensee, to accept the financial report.

MOTION CARRIED: All were in favor.

Supervisor Kiernan suggested that the Town Board consider scheduling a Public Hearing to pass a Local Law allowing them to exceed the 2% cap increase on the 2018 Town Budget as a precautionary measure.

MOTION by Councilperson Potrikus, seconded by Councilperson Franck, to schedule a Public Hearing for October 11th at 7:00PM to hear public comment on the Proposed Local Law# 2 allowing the Town Board to exceed the 2% cap increase on the 2018 Town Budget.

MOTION CARRIED: All were in favor

MOTION by Councilperson Potrikus seconded by Councilperson Sandler to pay the following invoices, as corrected, and make the necessary transfers.

GENERAL:	#144-# 156	\$ 2,511.46
HWY:	#148-#163	\$156,096.72

MOTION CARRIED: All were in favor.

Dog Control Officer Tom Steele reported that he dropped off 1 dog to the animal shelter and answered 3 dogs running at large complaints and 1 barking dog and 1 dog bite.

Planning Board member Chip Jennings reported on applications the Planning Board is currently reviewing.

Attorney Michelle Kennedy stated that she felt it was a good point brought up at the Public Hearing that a preferred use for heirloom barns should be able to be used for storage. She pointed out that storage is allowed. At the time "Storage" was excluded from use it was added under the "Service Trade Establishment" definition, which now reads in part "The maximum building square footage of 3000 square feet shall not apply to any Service Trade Establishment that meets the requirements of Section 3.15, "Heirloom Barn and Buildings."

ZEO report was given by Ed Hobbie. The following permits were issued since last meeting:

Zoning Permits: 2

The Highway Superintendent report was given by William Hribar. He requested that the Town Board pre-approve an upcoming bill from Suite-Kote to get a head start on completing the CHIP's

reimbursement form.

MOTION by Supervisor Kiernan, seconded by Councilperson Sandler, to pay Suit-Kote bill prior to the October monthly meeting.

MOTION CARRIED: All were in favor.

Hribar reported that the highway employees could only find one end of the culvert just below Kegelman's driveway on Tripp Hill Rd. and it is crushed. They cannot tell what size it is so they can upgrade it to a larger one.

MOTION by Supervisor Kiernan, seconded by Councilperson Hohensee, to go into Executive Session to discuss Attorney Client privilege communication.

MOTION CARRIED: All were in favor.

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

MOTION CARRIED: All were in favor.

Councilperson Potrikus submitted proposed amendments to the Engineering Proposal RFP. The Town Board would like to hire an engineer to study the Highway site on Cemetery Road and make recommendations on the placement of a new salt shed, drainage to handle run off and if it is possible to build a new road in the lower wet area on the southern end of the property bordering the Duesnebery's

After a short discussion it was decided that the Town Board would hold another Budget Workshop on October 3rd at 5:30PM.

Supervisor Kiernan announced that there has been a request from David Nenno from Burlington, NJ to be appointed the Town of Otsego's Marriage Officer for one day so he can marry his daughter. His daughters' wedding is September 16th.

MOTION by Councilperson Sandler, seconded by Councilperson Potrikus, to appoint David Nenno from Burlington, NJ as Town of Otsego Marriage Officer, effective on September 16th only.

MOTION CARRIED: All were in favor.

Councilperson Potrikus expressed his concerns with the closing and changes made to the Northern Transfer Station and the County not notifying the Town of Otsego Town Board. He filed a freedom of information request and was told there was a 620-page document and it would cost him \$165.00. His question was how can there be a 620 page document on the subject when no one seemed to know about the upgrades or closing of the transfer station. He was concerned with the County not being transparent and wondered if SEQRA was ever done. Town of Otsego is liable for the old dump and the monitoring wells forever.

Town Attorney Michelle Kennedy volunteered to talk to Planning Director Karen Sullivan who is the ahead of the project.

MOTION by Councilperson Potrikus to adjourn.

MOTION CARRIED: All were in favor.

Meeting ended at 10:37PM.

Respectfully Submitted,
Pamela Deane/Town Clerk