

**VILLAGE OF LAKE PLACID & TOWN OF NORTH ELBA
JOINT BOARD MEETING: AMENDMENTS TO THE LAND USE CODE**

May, 18, 2017

Minutes of the Joint Board meeting held on the above date beginning at 7:00 in the Meeting Room of the North Elba Town Hall, 2693 Main Street, Lake Placid, New York.

Town Board Members Present: Supervisor Politi, Councilman Favro, Councilman Rand, Councilman Miller and Councilman Doty

Village Board of Trustees Present: Mayor Randall, Trustee Devlin, Trustee, Trustee Holderied

Others Present: Attorney Tim Smith, Darci LaFave, Antonio Olivera

Supervisor Politi opened the Joint Board Meeting at 7:00 pm by Public Notice which was properly published and posted.

PLEASE TAKE NOTICE that the Village Board of the Village of Lake Placid and the Town Board of the Town of North Elba, will hold a joint meeting, on Thursday, May 18, 2017 at 4:00 p.m. in the Town Hall, First Floor Meeting Room, 2693 Main Street, Lake Placid, New York to discuss potential changes to the Land Use Code and the Lake Placid Volunteer Fire Department.

Supervisor Politi – The purpose of the review is to decide on the contents of the proposed amendment which has to be agreed upon by Village and Town then it does not get passed, additions to add that are not noted which they Mayor had noted he wanted to add, and then set a public hearing date for any and all approved amendments.

Attorney Smith – That is correct Roby. Let’s go down the amendment one by one.

Mayor Randall – We need to take them in the order they were presented. I have a copy of the Code in case someone questions about where we are now vs. where we would like to be.

ITEMS #1 & #2

Attorney Smith –The new part of Item #1 is the last sentence that begins with the word, “Notwithstanding” and Item #2 is a companion measure. Those people who already have farm animals or chickens or livestock would be permitted to continue because they would be existing uses. Rural Countryside is the outlining areas that are our 5 acre zone; the area where people are far enough from their neighbors to have a lesser impact of this type of activity. It is a judgment call.

Paragraph E of Section 1.7.5 of said local law is amended to read as follows:

E. Agricultural Uses: Agricultural uses shall be exempt uses. Agricultural buildings, while exempt for purposes of permissibility, shall meet all dimensional standard as prescribed by Paragraph D of the applicable District regulations in Section 2 hereof, and shall also be subject to approval under any applicable overlay district review requirement of this Code. Notwithstanding the foregoing, and irrespective of whether a building is involved, no chickens, livestock or other farm animals may be kept in any Planning District other than Rural Countryside (RC).

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Section 4.21 of said local law is amended by adding a new paragraph K, to read as follows:

K. No chickens, livestock or other farm animals may be kept in any Planning District other than Rural Countryside (RC).

Trustee Holderied ask if the Review Board recommended this change and Supervisor Politi responded stating it was most likely initiated from him due to the number of complaints from people in residential areas whose neighbors has roosters. Supervisor Politi recalls the issues the Village had with Bing Hanson and Bobby Chabot and the small in a residential area makes people unhappy.

Attorney Smith – You are not making a decision today as to whether you will adopt these provisions. You are deciding to whether to let these do forward as proposals. If you don't knock them out today, it doesn't mean you can't later.

Councilman Holderied, Mayor Randal and Supervisor Politi discussed the 5 acres are River Road, Averyville, Bear Cub, Adirondack Lodge Road are included.

Trustee Monroe – Is there a work list of who has these right now so that we know who is grandfathered in or not?

Supervisor Politi – I know of one that I hear about it all the time.

Trustee Holderied – That person would be grandfathered. It could be added that if the person no longer has livestock in the future or sells the property then they cannot have it again.

Mayor Randall – What do we do to identify as the distinction of keeping agricultural animals as pets i.e. pigs?

Attorney Smith – We could add language that would say, other than household pets. Does a domestic pet means it lives in your household with you?

Supervisor Politi – There are a few pigs as pets that live in their house.

Trustee Leon – Having chickens to be self-sustaining is trending in this direction. Is this going to be a decision we make as a board that is going box out someone's ability to do that?

Supervisor Politi – We are going to box out somebody's ability to do that in areas that we don't think are appropriate. That is our responsibility to the public.

Attorney Smith – You could say no animals or chickens would be permitted in the village. However, there is not much of a distraction between some village areas and some town areas.

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Supervisor Politi – Do you want chickens and roosters on the Ruisseaumont and Peninsula and Whiteface Inn? Places where people have expensive homes or live right on top of each other. I don't have anything against chickens but I don't want some next door to me. It's only a problem until they are next door to you.

Councilman Doty – I grew up with a neighbor who had chickens. It is not a great experience. It shouldn't be in the Village.

Trustee Leon – I thought the problem wasn't in the Village.

Mayor Randall – Because of the growth of our community, it is not just a Village issue. The sub-divisions outside are neighborhoods.

Supervisor Politi – The Code is designed for areas that permit certain uses and areas that don't. Some are appropriate and some aren't.

Attorney Smith – I think you should let the public be heard on this one.

Trustee Leon – I am concerned about telling people what they can and cannot do on their land.

Supervisor Politi – We all are but that is government.

Mayor Randall – In theory, we try to govern for the benefit of the majority. There is always going to be an element in every community that is going to be doing something that the neighbors don't agree with.

Councilman Doty – This has been hot topic every month in Bloomingdale for well over 5 years and they don't have a Land Use Code.

Mayor Randall – We have to rely on the definitions and the Rural Countryside has a specific recognition that this is permitted use. The proposal clarifies something that probably should be.

Supervisor Politi – That is not in there now. My brother, who lives across the street from Scott Monroe, could put in a cage and have 5 roosters. I don't think you would be happy. That is not an appropriate use in Village neighborhoods.

Attorney Smith – They key of the existing language is the 1st sentence under the existing Code, Agricultural uses shall be exempt uses. Right now, Agricultural uses are permitted in every district. If someone wants to grow corn he can. This would be a carve-out from that general statement; Agricultural uses shall be exempt uses, i.e. permitted. The definitional of Agricultural uses includes farm animals. It is a simple matter of whether to draw the line in this respect.

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They discussed the different places where there are chickens including Otter Way, Spruce St. and Fawn Ridge.

Attorney Smith – The Zoning inherently restricts people. You have to consider the greatest good for the greatest number in your judgment

Supervisor Politi – The Town does not have a problem with this amendment. It is up to you as to leave it on or not.

Trustee Leon – I would like to see the change being confined to the Village limits.

Supervisor Politi – The situation on Hurley Ave caused a lot problems and the Village line is less than 100 yards away. It is not that people can't have them; they have to have them where it is more appropriate.

Mayor Randall – The reason Codes were passed was to increase the density of development. We are increasing the closeness of structures in the Village.

The Town Board and the Village Board agreed to leave #1 and #2 as is for the public hearing.

ITEM #3

Attorney Smith - #3 is a suggestion by supervisor Politi who can describe better than I can.

Section 4.21 of said local law is amended by adding a new paragraph L, to read as follows:

L. All Fireworks displays in the Town of North Elba require a permit approved by the Code Enforcement Office and either the North Elba Town Board.
That only the following fireworks displays shall qualify for a fireworks permit outside of the Village boundaries:

1. A community or ORDA sponsored sporting event
2. Any public celebration which benefits the community as a whole i.e.: Fourth of July, Centennial Celebration or special event endorsed by the Town Board
3. Any corporate event sponsored by ORDA or ROOST which is approved by the Town Board

Fireworks permits shall not be issued for any private event such as weddings, parties, birthdays, anniversaries or fund raisers or for service organizations, neighborhood associations or corporate functions other than noted above.

All fireworks displays will require the necessary permits, licenses and insurance and may only be carried out by a professional fireworks entity.

Supervisor Politi – I know there is an objection as to whether this should be in the Code. It could be an ordinance which can be the town or the village.

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The Town and the Village both have their challenges with fireworks. As a wedding destination, anniversaries, birthdays, many people ask for private fireworks. It was not meant for the wealthy who can afford it. It is also destructive to dogs

Supervisor Politi - I don't care for those that shoot fireworks on the lake. This was an issue that were facing. The Planning Board would rather this not be included in the Code.

Attorney Smith – Their consensus is that it should be in a free standing ordinance.

Supervisor Politi – The Town shall pass an ordinance restricting fireworks and if the Village chooses, they should pass an ordinance as well.

Attorney Smith states the firework language is sensible and Mayor Randall stated he would like to change the language from the first paragraph which refers to “either the Village Board of Trustees or Town Board as the case may be” need to be clarified to depending on who has jurisdiction.

Attorney Smith will make the changes which will be clearer.

Supervisor Politi – Ron Briggs wrote the language because the Codes Offices receives the quest to have fireworks. Using ORDA as an example, they will send a request to Darci who will then send it to me if in the Town or the Mayor if in the Village for approval. That way we know what is going on. What do we do about a person who sends them off on the Lake on a Saturday at 10pm? Law enforcement is not readily available.

The Boards discussed who receives the call when there is a violation of the ordinance. During the day Jim Morganson would receive the call but at night they would have to rely on the State Police.

The two Boards agreed that it was to write the Firework Amendment as an ordinance.

ITEM #4

Attorney Smith – Item #4 adds the verb “shall” in the third line is new. It used to say ‘may’. It was a discrepancy of language between two provisions. This applies to new projects that are subject to the Review Board jurisdiction. The Big Slide is an example who were going to put the dumpster to the side and it was required that they but in the back.

Paragraph A of Section 5.3.7 of said local law is amended to read as follows:

Loading Docks, service areas and trash facilities shall be located at the rear of the building and not visible from the street. A combination of masonry, wood, fences, walls or landscaping shall be used to shield them from view, as necessary. Integration with building or building architecture is recommended.

Darci LaFave said the Planning Board is aware of the change.

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ITEM #5

Attorney Smith - Item #5 is not supported by a majority of the Review Board. It is based on the notion that as presently written the provisions for income based housing are impractical and unfair. Roby, you were one who suggested that this be in the local law.

Section 5.6 of said local law, related to Provisions for Income Based Housing, is deleted and repealed.

Supervisor Politi – I want to see it modified because I felt it was very narrow because it just affect the Town. I do understand the Village’s position that it would likely effects the people in the Village getting it.

Trustee Holderied – Let’s keep it until the Review Board to come up with something better.

Mayor Randall – How much recourse has been received or applied? When it is restricted to land subdivisions, there are relatively few of them in our Township. The intent is to try to help eligible families to own homes in Lake Placid. I am not sure that exists. A recipient could be looking at a \$200,000 - \$280,000 house. I do not know if that is true or not and the public should understand that. To relay a story from 50 years ago, the Chamber of Commerce Board was talking about was to increase business in Lake Placid. A gentleman who passed away said, “Be careful what you wish for. It could happen”. The success of this village is why we are here. Do we really have and do we believe that we can accommodate the people this program is intended to benefit.

Attorney Smith – That is a weakness; it is only applicable to new subdivisions of more than 10 lots. We don’t have many of those. It was applied in the Joe Lamb 20 lot subdivision and has two units dedicated to this program. There is another subdivision that is now pending out at Far Horizons which is the Joe Braille’s property on Cascade Rd. The developer would rather make a payment in lieu. After that, I don’t know when this provision will apply again. The more significant provision is the one you passed a few years ago for accessory apartments which are not for vacation rental but for permanent occupancy. They are allowed in the Village and the Town.

Supervisor Politi – People move in to their apartments and vacation rental their houses.

Attorney Smith – Under assessor Apartments are creating units that are no supposed to be used as such. It was developed in 2008 and adopted in 2010.

Supervisor Politi - I am not voting on this but if the purpose is to generate a pot of money, it may need to be expanded and modified. It was written at a time when none of us focused on it.

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Mayor Randall stated it started with the Otter Way development when it was thought that it would be a special type of housing subdivision and Supervisor Politi noted the houses there are \$450,000 which is not affordable.

Councilman Doty – I was on the board for Habitat for Humanity. Finding qualified people is the biggest problem. The way this is written, you cannot find someone qualified and move them into this type of neighborhood and expect them to be successful. This is a feel good law that makes no sense.

Mayor Randall – the best approach might be to return it to a group in our community to see if there is something else that could be done. There is change taking place in our community and the food vendors have 10-20 employees. I think about it as a problem with parking. What is driving the need for housing and is there a better way to address it. Are we going to develop any program here that is going to work? Maybe I have to eat crow and get some housing built in Wilmington.

Supervisor Politi- I applaud Peter Holderied and the Lussi's for creating employee housing. The Planning Board should add in the Code new commercial development must create employee housing.

Many of the housing on Main Street have become vacation rentals. Peter Holderied was approached to make the apartments after the fire to seasonal rentals however he chose to maintain them as apartments for locals.

The Board discussed that the timing to repeal it is not good and it would be more effective to create something better. Creating a Housing Authority and use this money help. As it is, it is asking for something that is not justified.

Councilman Favro – In all these years, who used it? Joe Lamb is the only one who put into it.

Mayor Randall – We could step in and produce an affordable housing project.

Councilman Miller – If you take more money from a greater number of people, will that make a difference? If only \$20,000 to help them get into the market, why are we doing it?

Trustee Leon – It could make a difference. How would you ever know if don't give it an opportunity.

Councilman Favro – Do the math .With a medium income of \$50,000, I don't think you can afford a \$250,000 house. I agree with Derek to use that money to create a housing authority. We need nice housing for the working class. When the hospital leaves, that could be a good site.

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Attorney Smith – I misspoke stating it is for subdivisions of 10 lots or more. It applies to any development containing 10 or more dwelling units. It would also apply to a new 10 unit condominium or Townhouse project. It does not apply to a hotel.

Mayor Randall – This boils down to housing. I have looked for grant funds to help a landlord improve rental properties to improve the heating system to keep the rents down. I would like to see us get rental property in the Village. Homes are beyond the reach of a working class family. It is similar than when greenwood was built.

Supervisor Politi – We have never do in but you could have a PILOT program solely for people who create affordable housing offering either no taxes or 50% of taxes to encourage people to buy buildings to create dedicated adorable housing.

Supervisor Politi – The law is in place. I know how the Town feels about it. What do you gentlemen want to do?

The Village Board would like to leave it in the Code and hear the input from the community at a public hearing.

Supervisor Politi explained that if you leave it in then you don't bring it to a public hearing. You appeal it and request a rewrite or don't repeal it and you request a rewrite.

The Village decided to leave it and request a rewrite including a PILOT program. .

Tim Smith – This local law will option will be deleted.

ITEM #6

Attorney Smith – Item #6 change is the middle sentence which requires any nonconforming sign be brought into conformance. The example is the HoJo's sign which is a big sign. In a split vote, the Review Board decided to let The 'dack Shack to use that size of sign. This provision says that anytime you alter a nonconforming sign you must bring the sign into conformance in all respects.

Section 6.3.3 of said local law is amended to read as follows:

Non-conforming signs that legally existed prior to adoption of these Regulations, other than prohibited or temporary signs as described in Section 6.3.2 and 6.3.4, shall be permitted to remain as long as the original use is in place. Satisfactory maintenance shall be required. Any proposed alteration of color, dimension or materials shall require that the sign be brought into conformance in all respects, including but not limited to sign size, height and setback. Change of use shall require removal of the non-conforming sign and any replacement sign shall conform these regulations. Signs which legally existed prior to adoption of these Regulations in any district other than Village Center, Gateway Corridor, Old Military Corridor or Rural Countryside may be maintained and replaced in kind, with no increase in size or lighting.

ITEM #7

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Attorney Smith - Item #7; our sign regulations have prohibition against projecting signs on Main Street. This item says, awnings with wording on the side will be treated as a projected sign.

Section 6.5 of said local law is amended by a new paragraph F to read as follows:

F. Wording communicative matter which is located on the sides of an awning sign which are perpendicular or nearly perpendicular to the street shall be treated as projecting signs for purposes hereof.

Mayor Randall – I recommend one addition to that, the awning need to maintained at a minimum elevation above the sidewalk. It allows the street equipment to get under it without ripping them off.

The Boards discussed the minimum open clearance should be 9 ft.

Attorney Smith – We can draft that in. This may be in the Code section that pertains to awnings. We are keeping #7.

ITEMS #8 & #9

Attorney Smith – Items #8 and #9 are companion measures. For example, if the code allows a person to have a principal sign of 48 sq. ft. and an accessory sign of half that size (24 sq ft), and the owner decides to have a 40sq ft primary sign, then he will not be penalized on the accessory sign.

Section 6.6.1 of said local law is amended to read as follows:

Whenever a Maximum Area limit is expressed as a percentage of a principal or accessory sign size, the percentage shall be calculated with regard to the maximum permissible principal or accessory sign size rather than the actual or proposed principal or accessory sign associated with the use in question.

Section 6.6.2 of said local law is amended by adding a new final sentence to read as follows:

Whenever a Maximum Area limit is expressed as a percentage of a principal sign size, the percentage shall be calculated with regard to the maximum permissible principal sign rather than the actual or proposed principal size associated with the use in question.

The Village Board and the Town Board agreed to keep it in.

ITEM # 10

Attorney Smith – Item #10 makes it clear that the Zoning Board of Appeals has to hold a public hearing not only as a variance request but also for a request for interpretation.

Paragraph C Section 8.3.3 is amended to read as follows:

Public Hearing: The Zoning Board of Appeals shall hold a public hearing in consideration of a request for any variance or request for interpretation in accordance with the applicable provisions of law.

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ITEM #11

Attorney Smith - Item #11 is an addition to make contractors to be jointly liable with an owner or lessee for a violation. There have been a couple of cases in which the

Section 9.5.2 of said local law is amended by adding a new paragraph D to read as follows:

Joint and Several Liability of Owner, Lessee and Contractor: in all of the foregoing provision of this Section, the Owner, Lessee and Contractor of and for a property shall be jointly and severally liable for violations of this Code, including compliance with orders and imposition of penalties.

The Town Board and the Village Board both agreed to both item #10 & #11.

ITEM #12

Attorney Smith – Item #12 is a technical matter that would add River Road as a View Corridor. River Road is as scenic as Averyville, Bear Cub or Adk Loj Rd. It would also add to the View Corridors of Route 73 from the Horseshow Grounds to the top of Sentinel Road Hill. It gives the Review Board more power to consider esthetic and view related matters.

The “Planning District – Viewshed Overlay” map in the “Maps” section of said local law is amended is to designate and list as “View Corridors” River Road from its intersection with NYS Route 73 to its intersection with NYS Route 86, and Cascade Road from its intersection with Old Military Road to its intersection with Station Street.

The Town Board and the Village Board both agreed to item #12.

Supervisor Politi asked if there is anything anyone would like to add.

Councilman Doty – Referring back to item #10, I do not understand the distinction between the Joint Review Board giving and the Zoning Board.

Attorney Smith –The Zoning Board is a big question of interpretation. An example the ZBA has under review now is a question whether a pair of house parents and 8-10 girls who are living in a dwelling is a single family dwelling. Are they living in the nature of a family or is it a dormitory? The Review Board makes a certain amount of interpretation in its week to week but the major questions has to go to the ZBA.

Mayor Randall – I do not have Janet here but we spent a lot of time with our Code Officer a year ago on certain uses of the sidewalk on Main Street. I wonder if it were appropriate to insert something into the Land Code that would restrict businesses from putting stuff out on the street. ADA requires a 3ft with passageway for a wheelchair and need 6 ft for opposing wheelchairs. We have a local ordinance in the Village that prohibits the display and sale of retail goods on the sidewalks. Adding tables and chairs restricts the sidewalk quickly become 4 ft. Can we address that in the Land Code? Jim has refused on many occasions to enforce activities on the street including food vendors.

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Attorney Smith asked Darci what the provisions are on sandwich board signs which she noted was 6.3.2 of the Code.

Attorney Smith – The current term of the Code classify sandwich board, A-frame, easel, or equivalent temporary/portable signs as a prohibited sign. You are saying tables and chairs on public property in a place they have no right to do it. I don't know that it is a Land Use Code issue. I think it is an issue of the owner of the property that is being encroached on and preventing the encroacher from doing it.

Trustee Leon – It is the Village property that is being encroached on. Restaurants are putting tables and chairs outside their restraints on the sidewalk.

Attorney Smith asked for an example and Supervisor Politi mentioned 46 Peaks sandwich shop has tables on the sidewalk until they moved up to the museum property. Mayor Randall noted restaurants serve alcohol to tables on the sidewalk with is forbidden.

Attorney Smith noted it was a worthy subject and noted we should come up with a prevision. Mayor Randall noted that it is popular for people wanting to sit outside to eat however noting keeping the sidewalks clean, safe and accessible have been an issue. I am interested in protecting the 6 ft of sidewalk that is public.

Attorney Smith – The first 6ft back from the curb should be in violation?

Mayor Randall - Dean Dietrich has worked on this subject and reminded me that me that this forum would be a good time for that discussion.

Attorney Smith – I with touch base with Dean for his ideas. I understand the concept. There doesn't seem to be any decent to make this regulation.

The Village Board agreed it would be a good topic to come to a public Hearing.

The Town Board and the Village Board thanked Attorney Smith. A Public Hearing will be scheduled mid-June.

FIRE DEPARTMENT

Supervisor Politi – We wanted to talk about the Fire Department. The Town would like to have to have a vote with the Village on the budget. It is reasonable request. We have never done it before. In the past, we have heard about.

Trustee Holderied – What if we buy a new piece of equipment?

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Supervisor Politi - We are already involved with equipment but do not have say on the budget. The Town pays 70% of the budget. We would like to be able to have a vote on the budget. We are not against the budget. Is having a say fare?

Mayor Randall – There has been minimal discussion with some years better than others.

Councilman Favro – People usually come to me disseminating, but I am not going to be here forever. Keep it so that the people will learn.

Mayor Randall – I is a department that is coming under a lot of scrutiny at the moment. I look at it a couple more minds.

Trustee Monroe – You might not be against the budget, but if you are you should have that opportunity to say so.

Supervisor Politi – It is similar to any of our committees. It is better to see both sides of the fence. It's never good to read about it in the paper.

Trustee Leon – What would that look like?

Trustee Leon noted the Village budget is approved at the end of June and Supervisor Politi noted the Town Board should also vote positively on the budget. It requires a vote of both bodies. The Village Committees liaisons and the Town Committee liaisons will work together and bring the budget to the Boards.

ADJOURNMENT

There being no further business to come before the Town Board or the Village Board, Councilman Favro moved and Councilman Rand seconded the motion to adjourn the meeting at 8:08 pm.

Respectfully Submitted,

Laurie Curtis Dudley
Town Clerk