

**TOWN CLERK MINUTES
SPECIAL MEETING
OCTOBER 14, 2004**

Present: Supervisor John J. Dunford
Councilman Paul P. Johnson
Councilman Richard B. Honeck
Councilwoman Lorraine Mitts

Also: Town Clerk Ruth A. Mazzei
Town Counsel Willis H. Stephens, Jr.
Town Planner Graham Trelstad

And: Approximately 60 persons

Supervisor Dunford made a motion to open the Special Meeting and Councilman Johnson seconded. All in favor.

Salute to the Flag

PUBLIC HEARING - ZONING

Councilman Honeck made a motion to open the Public Hearing and Councilwoman Mitts seconded. All in favor. Town Clerk Mazzei gave a brief summary of the public notice.

Graham Trelstad, the Town Planner, gave an overview of the proposed changes: Page I had various explanations of the Town Boards intent. Objectives that the Comprehensive Plan addressed were identified. The Comprehensive Plan was adopted in 2002. On page 2, the Amendment to Article I defines Motor Vehicle Service Stations. It also revises body shops definitions and adds other definitions of certain establishments. Outside Storage and Warehouse was also addressed. Section 3 identifies all the changes to the zoning map and Mr. Trelstad said it was more consistent with the pattern of use and the watershed protection. Page 5 has the provisions applicable to all districts and Section 5 regards Residential District; Section 6 regards Nonresidential Districts. Permitted principal uses and Special Permit Uses are identified. Page 12 shows the commercial set-backs, maximum heights, etc. Section 7 amends Article 9; with regards to application procedures and compliance with the NYS DEC standards. Section 138-45; site plan approvals, will minimize the burden to small business owners. Also paragraph C, a new addition, addresses alterations to site plane. Outside storage is 5 % of lot area. 138-58 speaks of Motor vehicle service stations and page 15-26 regards all aspects of signs. This Section will get the sign laws to where the Town Board would like them to be. This has been extensively modified since the original draft of this zoning ordinance. Page 26 Article 18 is regarding outdoor lightening. In summary, Mr. Trelstad outlined proposed changes to the Town Zoning Map, and went through the areas proposed to be

rezoned, including the town's intent to preserve town's rural heritage and to protect ground water resources by lowering the intensity of both residential and commercial zones. Construction hours were modified to help mitigate noise nuisances. He reviewed the stone wall protection plan and the limitations on outside storage. He spoke of the new Lake Tonetta Watershed District boundaries, with a purpose to protect Lake Tonetta water quality from over development; by reducing the intensity of development. Farms, nurseries and day care were put into the Special Permit category. Certain setback changes in Residential Zones were reviewed, and also changes to Gateway Commercial zones. He spoke of the changes to the Commercial Zoning Schedule, including building coverage, based on analysis he prepared. The schedule reflects what is actually being approved and built in these areas. Reductions on height were added to protect the Town's vision of protecting rural heritage. Compliance with Town's storm water prevention plans to be part and parcel of site plan review and approval. He mentioned limitations on the disturbance of land while projects are going through the Planning process. Limitations were review on the amount of outside storage which was motivated to eliminate confusion in the planning process. Gas Stations have enhanced setbacks when adjacent to watercourses and reservoirs and design review of "fast food" restaurants by Town ARB. Sign provisions were then reviewed. Changes were made to accommodate business owners to prevent them from being "too burdensome" from the May draft. Discussed how signs are "sized," focusing on the relation of sign dimensions to the size of the store front, and how this is a more fair approach. Introduced sign guidelines, with the intent to make it consistent with Town's community character. Internally illuminated allowed in the HC1 and HC2 only, only if 150 feet or more from road, and if more than 3-businesses. He introduced Outdoor Lighting regulations, including existing contributors to light pollution.

The Supervisor submitted two letters (attached) for the record that were previously received: One from John Lynch of Putnam County Planning Department and one from James P. Lundy

Richard O'Rourke from the Keane and Beane law firm and also a resident of the town was before the board regarding Brewster Ice Arena which is located on Fields Lane. He applauded the Town's efforts to improve the density of development in the Town, including the 75% reduction in residential units. This building is in an OPI district. The residential density is already reduced by 75%. He felt that the board should give careful consideration for the economic impacts that will occur. There is a 35 to 55% increase in open space, which he feels is unnecessary in light of the Comprehensive Plan. He acknowledged the MOA, Army Corp engineers, etc. which have increased review of projects, making the increase of open space unnecessary. He said that commercial development is restricted by the watershed agreement, and that this zoning ordinance will have economic impacts. He said that the city is improving water quality without paying for it by undermining the ability of commercial owners to develop property. The city is not making up lost assessables, therefore there is no economic benefit to increase Open Space. Mr. O'Rourke said he was also appearing for Joe Sisca regarding signs. He stated that all signs on Route 22 will be rendered non-conforming. He asked what will happen to the Red Rooster sign if in 7 years it is considered a historical building? He

also asked a question regarding gas stations. He said that they will all be a pre-existing, nonconforming use. He said that there are some gas stations that are not landscaped and they will never be improved upon. He said that the board should make considerations by Special Permit.

Daniel Hollis from the law firm of Shamberg, Marwell, Hockerman, Davis and Hollis. He was representing Envirostar who has 2 acres on Fields Lane (177 acres). He submitted a petition pursuant to Town Law §265 in opposition to the proposed rezoning of certain real property. He said that petitioners are the owners of at least twenty percent of the property in OP- 1. If he gets the required signatures, then he feels that the zoning ordinance will have to be approved by 3/4 of the board. He said that they need to look at the impacts as it affects the OP-1 zone. He said that the property owner's pay millions of dollars in tax, and that this law makes every parcel a pre-existing non-conforming use. In June 2002, the master plan was adopted, and the law requires that the zoning must follow master plan. He referred to several provisions in the master plan, and said there is no rational basis, it removes storage as a permitted use. He stated that outside storage under the new rules, namely 5%, is too stringent. The definition of warehouse was discussed, and how up-zoning is an expropriation of property rights and how it raises some certain constitutional issues. He is confused on how the zoning follows the comprehensive plan and thinks that it instead contradicts the plan. This ordinance will reduce what the comprehensive plan allows. In the Fields Lane area the shift is towards storage. The focus in the Fields Lane area should be growth. He said that there is no rational basis for up-zoning, there is no change in the circumstance and no warrant for these restrictions. Page 10 regarding gas stations removes the storage in the OP- 1 zone. The coverage is substantially diminished. The sales price drives rateables. Open space is increased by 57%. Page 138-13 regards trailers, shipping containers, etc. Storage is encouraged in comprehensive plan. He said that Envirostar will be put out of business. Prohibiting storage use in that area will negatively affect businesses. Up-zoning will effect everyone but without fair compensation. He urged the board not to consider the changes in the OP- 1 zone. Town Counsel Stephens asked if the OP-1 petition was for all areas or just the Fields Lane section. Mr. Stephens questioned how he is calculating the percentage for Section 265. Mr. Hollis said that 20% of property owners in the petition are in the area to be effected, and this OP-1 area is so isolated.

Tony Hay submitted written comments (attached). He went over point by point concerns that he had with the proposed ordinance. His main emphasis was on the sign portion of the ordinance. He passed around pictures to the board and the audience of what the new signs would look in his particular establishments.

Don Rossi from Hogan & Rossi was before the board regarding Fields Lane. He submitted a letter (attached) to Town Board from John and Kathryn McNamara. They want to develop their parcel for recreational purposes. If bulk requirements are adopted the McNamara's will be knocked out of the box. He said there was no reason for a change because nothing has changed since the comprehensive plan was adopted. Mr. Rossi said that the impacts are dramatic in reducing the building coverage, etc. The

watershed regulations already limit the development in this area of town. The Stormwater Pollution Control Plan complies with the DEC requirements. He said that the restrictions proposed are drastic and would like to know the reason for the up-zoning. He thinks the rug is being pulled out from the McNamara's.

Fred Wells from Tim Miller Associates spoke regarding the UJA land off of Pugsley Road. He submitted a letter dated 10/14/04 (attached) This is in a zone OP-2 district. It was changed to Rural commercial. The piece is 166 acres and is largely vacant. He requests that the town retain the current zoning designation.

Stuart Arbeit from 991-997 Route 6 spoke regarding the sign law. He said that the board needs to address signs that are farther away from the road. He said that the business men were not a part of the planning. He objected to the 150 feet limitation. He thinks that the sign law and the zoning ordinance should be separated and made into 2 separate meetings. Regarding the use of outside storage, no one can move into a store within 24 hours, and trailers cannot be unloaded in less than 2 days. Trailers not seen from the road should be addressed separately and treated differently.

Michael Liguori from Hogan & Rossi (letter submitted and 2 letter sent to other towns.) represented various land owners who operate horse farms. He submitted a letter for the record. He objected to the issue of special permit issuances for farm uses, and suggested that the board carve out those parcels covered by the Agricultural District. He feels that it should not be subject to a special permit. Putnam County adopted a Agricultural District. He spoke of the districts in Westchester County. .A discussion on what parcel is and is not in the Agricultural District ensued with the town counsel. Mr. Stephens said that the law was different in Westchester.

Lyn Eckhardt representing CRSE (letter submitted) has questions regarding differences between March revision and September revision. Asked about automotive uses and why were service stations added to ED2. She said that the Big Box definition was deleted. Asked why the regulated tree definition was removed and if there will be a tree ordinance. She questioned the calculations of Resource Protection Plan. She asked why R60 was re-zoned to R40 at the Tilly Foster mine. Senior Housing law was questioned, and requested a moratorium on Senior Housing in the Town [Letter submitted on behalf of CRSE]

Carmine Pennela purchased property on Fields Lane. He said that when purchased it was fine for his landscaping business. All the changes greatly affect it. He said that the ZEO told him his trailers would be fine. He has many trailers which he won't be able to use. He was upset that he was not notified of these changes.

Charles Acker was there representing Millennium Properties. He asked what is in within the GC I zone? (letter submitted) He asked them to consider moving the R40 line.

Ann Fanizzi from the Coalition of Open Space said she was involved in the Comprehensive Plan; time is needed to update the comprehensive plan and the zoning. She commended the Town for their efforts to protect the historic Tilly Foster property, and the re-zoning of OP2 to RC. She questioned the senior housing laws in the Town of Southeast, and said that that the law is ambiguous and not "clear." Mentioned that Open Space is valuable in itself and should not be minimized. She said that the residents are concerned about the density of commercial business and feel that it needs a really hard look and hope it will continue.

James Lundy from Farrell LLC (letter previously entered into record from the Supervisor) appeared regarding the parcels along Route 6. He suggested changes in the GC2 to allow warehouses and to allow 2S buildings. [photos were handed out].

Family Haircut - 6 and Route 22 - She said she had concerns about the new sign ordinance, and how her clients have issues finding her place of business. She said that people do not know they exist. Her old sign is deteriorating and she needs to replace it. Paper advertisements are not effective, and the sign is critical in order to attract customers.

Jack McNamara owns property on Fields Lane. He was upset with the lack of notification of the property regulations. He was one day from filing the site plan, and he then learned about the pending changes. He asked for the analysis regarding the impacts of the coverage on Fields Lane, and how the new regulations would affect existing properties. He said the DEC and DEP limits are up and that this piles it on.

Jim Hahn from Hahn Engineering and partial Owner of Brewster Ice Arena asked what was the schedule for implementation and SEQR? He also asked about the EIS and how the DEIS was being prepared? Mentioned that there are a lot of businesses at stake, and will have about 20,000 sq. feet of potential expansion. Paid \$1 Million in school and Town taxes. He was very concerned about what the economic impact of the re-zoning will be. Mr. Hahn feels that 100's of millions will be lost in revenue. He asked if the long term economics have been calculated. He said that his 20,000 sq. ft. building would generate a half million in revenue over 20 years.

Josh Porter who represented Gullian Studley - 300 Park Avenue, NYC - 1050 Route 22. It is a 16 acre parcel. He is bound by 684, 84 and railroad tracks. He questioned the change from HC 1 to GC. He said light industrial use is possible, and can work within the aesthetic of the GC zone. He said that he cannot develop the site which he purchased 16 years ago. Few options are available and would like the Town to reconsider.

Stephen Carlson from Arborscape, Inc. owns property on Fields Lane and has site plan approval. The additional rules to OP- 1 is more restrictive. The tax burden would be adversely affected by the laws. He has a 4 acre property, of which 1 acre is usable. The new laws would make the property less profitable, from an investment perspective. He would like a notification system to be put in place.

Mr. Thomas from Tru-Care Pharmacy said the sign changes will be costly. He paid \$8,000 for his sign, which is 130 feet from the road. He will now have to spend another \$5,000 and said that the Town Board needs to help businesses.

The Supervisor said that the Public Hearing will be left open for 10-days and the Town Board will receive written comment during that time.

Supervisor Dunford made a motion to close the hearing and Councilwoman Mitts seconded. All in favor.

PUBLIC HEARING- SUBDIVISIONS

Councilman Johnson made a motion to open the Public Hearing on Sub-divisions. Councilman Honeck seconded and all in favor. Town Clerk Mazzei read the legal notice. There were no comments from the audience or the Board. Councilwoman Mitts made a motion to close the hearing and Councilman Honeck seconded. All in favor.

Supervisor Dunford made a motion to close the special meeting and Councilman Johnson seconded. All in favor.

Respectfully submitted,

Ruth Argo Mazzei
Southeast Town Clerk