

TOWN OF DEERPARK
TOWN BOARD SPECIAL MEETING
MONDAY, DECEMBER 17, 2012
Meeting was held at Town Hall 420 Route 209, Huguenot, NY 12746

Attendance:

Supervisor: Karl Brabenec

Councilmember's: Arthur Trovei, Gary Spears, David Dean, David Hoovler

Attorney: Glen Plotsky

Engineer: Alfred Fusco

Invocation: Arthur Trovei, who provided a nice tribute regarding the Sandy Hook Elementary School in Newtown, Connecticut with a moment of silence for those massacred and also for the son of Delores and Corby Case, who died unexpectedly over the weekend.

Call to order at 7: 36 p.m.

Pledge of Allegiance: Gary Spears

Additions or Changes to Agenda - None

Supervisor Brabenec opened the meeting by stating it was a special meeting to discuss the proposed amendments to the zoning law. They have one piece of business they need to do for the Tax Collector in 2013, which is a bond done annually required by Orange County to be submitted to the County Clerk's Office.

Motion to Approve and Forward Certificate of Insurance for 2013 – Tax Collector

Motion by Karl Brabenec, 2nd by Gary Spears to approve and forward a Certificate of Insurance for 2013 for the Town of Deerpark Tax Collector to the Orange County Clerk's Office.

VOTE: 5 AYES: Arthur Trovei, Gary Spears, David Dean, David Hoovler, Karl Brabenec

MOTION CARRIED

Supervisor Brabenec stated they had a copy of the proposed map on the table and he thanked the members of the Planning and Zoning Board for coming out and join in the discussion. He asked the Town Engineer to go over some of the particulars of what they've been going through. Some residents made comments that were appreciated; they have copies and are reviewing. They will most likely not take a vote at this meeting to change the law or to have a vote on Local Law No. 2, which will most likely happen in the new year.

Alfred Fusco, Town Engineer thanked the board for their patience as they put this together. He went on to say that based on the public hearing and the written comments and verbal comments, they have included some new changes. Everything is black-lined except for the changes that were made since the last meeting. There is also a sheet showing the pages included in their packages. The map was changed slightly with pen and he needs to establish a new copy of their meeting. On page 8 of the document, they added a line that is a definition for public water system. A public water system is serving 25 or more persons and public sewer is a sanitary disposal system designed and approved for multiple units and/or properties. The next change is a definition for a shared sewer on page 9, for properties adjacent to each other and they share a common sanitary disposal system. The system is to be conventional and deeded rights with maintenance agreements by all parties. Also included in page 9 was an addition to the definition for storm water and will read that rain water surface runoffs snow melt and drainage that does not soak into the ground but runs off into water ways. On page 11, the definition for wetlands is a lowland area such as a marsh or swamp that is saturated with moisture, especially when regarded as a natural wildlife habitat. On page 12, they added to that the zoning officer; and on page 10, they added districts to the sentence 'Fences erected in front yards in RR, RRC, and RS Districts shall be a maximum of four (4) feet in height where six (6) feet in fences may be permitted. The next page has a chart for HMU and Trucking Business was left in Special Use. The other change was in the Maximum Building Coverage for the smaller lots, reduced to 20%, which is what it was originally. That made sense. The next chart is the RR District which had errors in the chart, they changed them accordingly to allow the front yards on the smaller lots to be 35 feet, the rear yards to be 35 feet, and the side yards to be 20 feet, and there was an error in the maximum building height to 35 feet. Also, the maximum building coverage is all 20's in that zone. On the next chart, there was no change to the RRC. The NR has been changed because there were some errors in the first one and there are double numbers on these—in some cases you're allowed 100 feet and others you're allowed 200 feet on the average width and depth. The minimum average

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lot width/depth is now 100/200 feet; minimum yards: front 20/50 feet, the sides are both 35 and the rear is 20/50. The maximum building coverage would be 20%. Going to the I District, under the smaller lots, they reduced the front yard and rear yard both to 20 feet for the smaller ones. Going on to the IB District, they did the same thing for the smaller lots. They have the front and rear yards at 20 feet. On page 40, they clarified the minimum lot size standards according to what is in the charts. Under the RR Zone, if there's public water and sewer, it is 10,000 square feet; with public sewer only, it is 15,000; with shared sewer only, it is 25,000 and with no public sewer water, it is 40,000 square feet. The other change was in the HMU Zone—it was not included but with public water and sewer and combined, it is 10,000 square feet; public sewer only is 15,000; shared sewer only is 25,000 and no public sewer water is 40,000. The next changes are page 58 – PRRC relating to a planned residential retirement community, the ordinance dictates that the age is 55. They wanted clarification for the event there would be an emergency situation in a family where grandparents may have to take over as caregiver for a child and he read the exception section. Some discussion about the children allowing 19 and over and in extreme cases, children up to six months until other living conditions can be provided. Councilman Spears asked for clarification as to whether that meant no children under age of 19. Mr. Fusco said yes, and would also check the wording of that. Supervisor Brabenec brought up the litigation from the early 90's on this and saw something about those provisions and wondered if that went with litigation and settlement. Mr. Fusco was not familiar with that, but said there was a need in odd situations for an appeal and they thought the Zoning Board of Appeals was the proper way to go. Councilman Dean asked if the community itself has a series of bylaws and rules, and if they contradict this do they trump the town code. Mr. Fusco didn't believe so. Glen Plotsky, Attorney thought their code would need to be as restricted as the town code. Councilman Dean asked if there was a state code that would apply to something like this. Discussion followed.

Mr. Fusco continued with page 75, they included IB – HMU as they were not listed, though they were listed in the charts. Under that, they added a new section 5 that the Planning Board may require up to a 200 foot buffer area around the mining operation. That means a buffer screen, specific for that purpose. Councilman Dean asked if they had a mine that encompassed a considerable amount of property, would that include all the acres or the active area. Mr. Fusco said it involved the area the Planning Board believes needs to be screened, like the roadside area, then the operation should expand no closer than 500 feet to any existing residence, institution or public water supply. He continued saying there could be a buffer zone inside that with a berm, pine trees blocking noise, dust, etc. He said it would be up to the Planning Board. Lastly, on page 97 they clarified the Town Board may issue a junkyard license as temporary conditional but for any period of length that they consider appropriate.

Supervisor Brabenec said that according to the Settlement about the age requirement, he read “any person of age 55 years or over, a husband or wife regardless of age residing with his or her spouse, provided that the spouse of such person is of the age of 55 years or over. The child or children residing with the permissible occupant or owner provided that the child or children is/or are of the age of 19 years or over. Adults under 55 years of age where it can be shown that the presence of such person is essential to the physical care of such older person or qualifying individual/s by reason of their medical condition.” Mr. Fusco said all they were doing was allowing an exception to that one case. This concluded Mr. Fusco's remarks.

Supervisor Brabenec said they wanted everyone's comments or suggestions in what should be put in or taken out of the Zoning changes so they should come up and give their name. They would try to do 3 or 4 minutes a person and asked they come up once, not multiple times.

George Lombardi – Thanked the board for the opportunity to speak because he knew it was a work session. He stated there was one mistake with the flag lots where Al Fusco quoted from Chapter 200. He pointed out that Chapter 200 were the sub-laws from 1993 and the ones they are using now are from 2005 and pointed it out to them on page 41, 4.6 3b. He acknowledged missing the Public Hearing but stated there was a map at the Public Hearing—and the book was taken off the website. However, he said the zoning change map was not included on the website until 5 or 6 days later. That map is the simplest thing for people to see if they can compare one map with another. He thought the map should have been in the back of the book everybody has. Supervisor Brabenec thought they could pin up the map and he asked Al Fusco if he could quickly explain what changes were occurring and he agreed. He also added there was a subdivision book that needs to be codified and changed and made the same so there are no conflicts. They are getting a grant from the UDC to do the Subdivision Booklet next year, which is the next step in the process. Mr. Lombardi appreciated them looking at some changes because they haven't had any development, they were standing still. He agreed with Mr. Hoover's comments at the last meeting.

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Motion to Form Committee to Revise Town of Deerpark Comprehensive Plan

Motion by David Hoovler, 2nd by Arthur Trovei to form a committee to revise the Comprehensive Plan for the Town of Deerpark and authorize the Engineer and the Town Board to form a committee to upgrade the Comprehensive Plan.

Discussion: Councilman Hoovler said if they are redoing the zoning, they'll have to redo the Comprehensive Plan. They were advised to do the zoning changes first, then conform the master plan to go along with the new zoning. The master plan as it exists today, presents Deerpark as a tourism hub, or a tourism draw. Other than the Delaware River, which is inaccessible for 4.5 miles from Wilson Road down, is virtually inaccessible. A few walking trails and nice parks don't drive the zoning. They just need to make some subtle changes to it. The committee should add necessary people to devise the plan. Councilman Trovei remembered when that was put in and the impetus was for tourism. They outlawed amusement parks and he thought if they want tourism and they expect it to be a base for ratables and jobs, it didn't mesh back then and hasn't since. The other drawback with tourism is with the seasons changing three or four times a year, the jobs are short term. Supervisor Brabenec added that the tourism is a good thing to an extent, but it needs other facets to it. If the Whitewater Park comes to Port Jervis, that would be fantastic. The surrounding areas would provide places for tourists, which would need to be looked at down the line if this ever comes about. He thought a portion of it should be tourism, but they need to focus on other things. Councilman Hoovler said the county had a plan that conforms more consistently with the realities of our town. Councilman Trovei said they also need to contend with the 17-18% advantage to go across the river making it hard to draw what they hope to have here one day to keep the taxes at a level they can afford. Councilman Dean said that in the new zoning they have allowed uses in the IB District (Interchange Business) including motels. You can't survive on tourism alone.

VOTE: 5 AYES: Arthur Trovei, Gary Spears, David Dean, David Hoovler, Karl Brabenec

MOTION CARRIED

Dennis Smith on the Zoning Board of Appeals – asked about the flag lots and said he was not in favor of them at all. He asked if they were re-introducing private roads in the town. Mr. Fusco said there were no private roads included in the zoning, flag lots off of town roads. Mr. Smith said that you would be able to have three driveways alongside each other to deeper lots. Mr. Fusco explained there could be multiple driveways, but they would need to be 50 feet ... and still can't take away from the conforming lot, so one of the lots of the original parcel would have the minimum width 150 feet. You could take one or two feet off and it is up to the Planning Board approval. He also thought they should keep the soils to fit in the lot size. He thought half acre lots with wells and septic's don't make much sense. He thought some lot sizes were reduced in certain areas. In regards to junkyards, he thought DEC requires a concrete pad to dismantle vehicles, etc. His observation was that when something spilled on the pad, it gets swept off into the dirt and he thought they should be catching this stuff into a sump and that water should be treated. To keep the rain water from inundating the sump, you need a roof over it. Nothing fancy, but thought they should quit sweeping the antifreeze and oil off the pad into the dirt. He thought this was what was happening and has seen this happen in junkyards he has seen. One junkyard is close to the Bashakill, which goes into the Neversink, which goes into the Delaware. Supervisor Brabenec asked Mr. Fusco if they had anything in their changes addressing this. Mr. Fusco said the DEC does that part of the regulations, but they have the wrecking process to take place in a covered area. One of the things DEC requires, is that the oils and antifreeze, etc. be taken out before they begin the demolition process. That doesn't mean that some doesn't still leak out, but that is covered by the DEC and Building Inspector visits. They are looking to avoid that. They don't regulate the vehicle getting ready to be dismembered. When one is, it should be in a covered facility. Councilman Dean asked if the DEC provides the Town's Building Inspector's Office with their report on each junkyard and Mr. Fusco said they do, but usually through the Supervisor's Office, but the town is always notified. Councilman Dean then asked if there were currently violations in regard to that specific part of the inspection and Mr. Fusco replied not that he is aware of right now. There was one about six months ago and that was corrected. Councilman Trovei added, that if they are doing it right, they are supposed to have a storm water runoff plan, which is tested twice a year for water. Everyplace is supposed to be doing a fluid report once a year reporting to DEC anything that is coming in. There are controls and manifests in place of how every year is supposed to be run. Councilman Dean asked if DEC tested that water and Councilman Trovei replied it is done by an Engineer and sent away for sampling by law. Councilman Dean then asked if that information have to be provided to the DEC and Councilman Trovei said he thought it was actually Federal. The details were discussed. Supervisor Brabenec said the license can be revoked at any time if there are a certain amount of violations. The Board will consistently get an annual report on all the facilities.

Supervisor Brabenec asked Al Fusco to explain from the map, the proposed changes as they are now. Mr. Fusco pointed out the IB Zone on Route 6 where it has been expanded; he showed the Route 209 corridor as HMU District and pretty much all of the Route 209 is HMU. Councilman Dean explained that HMU meant Hamlet Mixed Use, including residential and business.

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Derek Wilson mentioned the Comprehensive Plan was developed six years ago and they were trying to promote tourism as one aspect of this. The scenic quality of the community is also what draws people to buying houses here. He said that in 1990 they detailed all the uses, it is a bedroom community and their efforts to bring in businesses were a tremendous hurdle because of the state tax policies. He thought communities next to an area with lower businesses tax policies, should have preferential areas. More discussion followed. He thought they should be careful when looking at the minimum of lot sizes. He expressed concern that the zoning map changed and thought they may need another Public Hearing because of people not knowing about the changes. He thought posting it on the website would be a courtesy for those affected and interested. He thought legally people should be contacted when zoning changes were made. The County needs to be contacted legally when changes are made within 500 feet of any property. Councilman Spears said that notifying people on one issue and not notifying them on another, causes a slippery slope for the board. Mr. Wilson said he disagreed. Supervisor Brabenec said that in all fairness, they have been advertising through Public Notice, on Facebook, on websites and all over the place. This isn't something that is being done in the dark. Mr. Wilson just thought as a courtesy, they should have posted the map. Mr. Fusco stated there always was a copy on file in the Clerk's Office for review. Discussion continued. Supervisor Brabenec stated that reference was made regarding the zoning changes in the proposed Local Law. Councilman Hoover said the whole idea was to increase the property values of the people on 209. Supervisor Brabenec said these are all positive changes that have the potential of increasing property values for the homeowners. The biggest barrier is New York State. There is a lot of potential. Derek Wilson commented he had been in favor of a Floating Manufacturing Zone. Councilman Dean said he and Councilman Spears both worked many agonizing hours and years to redo zoning and they turned it over to the Town Board and the Town Board changed it back to what they wanted in the dark of night. Now, they are fixing what they were shanghaied on. He said to Mr. Wilson they had work hard, compromised, and they came up with what they all believe to be a reasonable set of rules. When it got to the prior Town Board it got changed. Councilman Spears agreed with his statement. Councilman Dean said it cost a lot of people in this town a lot of income and a lot of potential to develop their land. Supervisor Brabenec stated he puts a lot of stuff on the website because in the past you would have to buy the book, foil the maps, foil the information and go through everything—he now puts it on the website. There have been a lot of changes over the past six months. This is a work in progress. They went through a lot of drafts, which they were not ready to release until they were ready with this Local Law about a month ago. That's when they put out the information and posted the Public Notice for the meeting. Once these changes are incorporated into this book and they have a final copy ready to vote on, everyone will be able to access it. He then said they need to clear up a couple questions and will probably vote on it in January. There will be a reorganization meeting the beginning of January, which is a really busy meeting, but perhaps the second meeting in January they will do something then. More discussion followed. Councilman Hoover explained their theory for doing what they were doing, since they took office they looked at the inherited town's financial problems that for the most part was staggering. The revenue stream has basically been stagnant, or gone down in some circumstances. They talked to the State Comptroller's Office, Accountants, and everybody they could to see what they could do to make the town better. They determined that by fixing spending and taking care of some budgetary things, they can make the town a lot better by increasing the cash flow. This town has never had the cash coming in to keep up. They fixed that. During a meeting with local businesses, they encountered a gentleman who brought up the fact they had an Interchange Business Zone that had a no permitted uses. The gentleman that came from the New York Development Corp basically looked at the zoning that day and told them it's not consistent with what your town is. They anticipate in the future, revenues will continue to decline and they have a school district that eats up 72% - 76% of the taxes and will be putting in increasing demands. There is a 13% tax increase for those living in Port Jervis. The County is going up 8.5% and Port Jervis put their taxes up 3.9% and the school hasn't come yet. They don't know what that will be. Deerpark is trying to increase some property values and they understand that when you change some zoning, some people's property will go up and some people's property will go down. They come up with this idea to try to increase the ratables and tax base of this town for stabilization in the future. Supervisor Brabenec said the only thing followed on the Comprehensive Plan was the website. Councilman Dean quoted his father saying "everyone is for progress, but nobody's for change." That's what they were dealing with. They were not making changes in the dark, they were trying to make the changes positive and in the open. This is the next phase.

Supervisor Brabenec asked for any other input and with none, he mentioned a question at the Public Hearing regarding the Local Law passed in the mid 2000's regarding Hunting Clubs. Councilman Dean mentioned there are several Hunting Clubs in the town that hold vast acreage and were typically in areas that were pretty pristine. There were seven that encompass thousands and thousands of acres. They gathered the club members and told them they were worried about development encroaching on the ability of the hunt clubs to be able to use their property, not the surrounding property but the property they own to hunt. The reason they were concerned was that the State said you may not hunt within 500 feet of an occupied dwelling—this is bow hunt, rifle hunt, muzzle loader hunt, hunt period. He clarified that you cannot discharge your weapon

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within 500 feet. The reason for the law was that encroaching development would in fact make great vast areas of these hunting clubs unusable. They approached the Town Board and Supervisor and asked them to pass a local law that said that hunt clubs could use their land and adjacent properties that were to be developed had to be aware of the laws and grant permission to the hunt clubs to use the hunt clubs land. It was a local law. It was passed. Nobody is taking away land from anybody who lives or wants to develop next to a hunting club, they are only asking for permission to use their own land. The local law protects both parties. These hunting clubs preserve huge amounts of open space for the people of this town and they pay taxes. None of these are tax free.

Town Board Comments

Councilman Spears said he had 10 letters submitted and needs to digest all of them, plus the comments he heard tonight. He was not ready to render an opinion.

Councilman Trovei said he too is taking everything in and he likes what's been done. He thought Al Fusco had done a great job helping them through this ordeal. He's seen it done in the past when there were some terrible engineers who basically took books from other communities and put somebody's else's name on it and put it into Deerpark and it didn't fit. He thought Al did a very good job on it. He also thanked Glen Plotsky and his firm for their watch over it.

Councilman Dean thanked everyone for coming out to the meeting. They would like to see more people at the meetings, but they don't come. He mentioned how George commented people don't come out because things are okay. He thanked Al Fusco and Glen Plotsky and his firm, and encouraged those interested to come to the meetings. He seriously doubted they would be notifying everyone affected by the zoning change. It has not been done in the past and he didn't see the need. It's on line and anyone can go on line and look at it.

Councilman Hoovler said he thought as they discuss the zoning going into the future, people should keep their eye on the agenda and they'll have an opportunity to comment on it some more. It is still a work in progress. He has the three most recent books in front of him; he has about 4 more at home, that's why it doesn't make sense to distribute them to the public before they are final. They'll continue to hear people's comments on this and personally, he was thankful for those who came out. They'll take under advisement what was said.

Supervisor Brabenec said they want to hear comments before they take votes, and had changed the comment period at Board Meetings to Agenda Items only two years ago. They will put the Public Hearing before the meeting so they can hear what people have to say. The information is either in his office or online.

Motion to Enter Executive Session for Purpose of Tax Certiorari Proceeding Report at 9:07 p.m.

Motion by Karl Brabenec, 2nd by Gary Spears to enter Executive Session for the purpose of Tax Certiorari Proceeding Report at 9:07 p.m. and invite in Attorney Glen Plotsky.

VOTE: 5 AYES: Arthur Trovei, Gary Spears, David Dean, David Hoovler, Karl Brabenec

MOTION CARRIED

Motion to Re-Enter Regular Session at 10:25 p.m.

Motion by Gary Spears, 2nd by David Hoovler to re-enter Regular Session at 10:25 p.m.

VOTE: 5 AYES: Arthur Trovei, Gary Spears, David Dean, David Hoovler, Karl Brabenec

MOTION CARRIED

Motion to Approve Site Plan for the Highway/Senior Building

Motion by David Hoovler, 2nd by Gary Spears to approve the site plan for the new Highway and Senior Building for a maximum of \$825,000, bonded over 20 years or more if the new grant for \$225,000 pays down the debt to pay down bond, or cost construction if cost is more than \$825,000, the board reserves the right to cancel the Town Bond is waiving the Building Permit fee.

VOTE: 5 AYES: Arthur Trovei, Gary Spears, David Dean, David Hoovler, Karl Brabenec

MOTION CARRIED

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Motion to Authorize Paying the Labor Department Fine

Motion by Gary Spears, 2nd by David Hoovler to authorize the Supervisor to pay the Labor Department fine.

VOTE: 5 AYES: Arthur Trovei, Gary Spears, David Dean, David Hoovler, Karl Brabenec

MOTION CARRIED

Motion to Authorize the Supervisor to Sign the Contract for Sale of Myers Grove Beach

Motion by David Dean, 2nd by Gary Spears to authorize the Supervisor to sign the contract for sale of Myers Grove Beach.

VOTE: 5 AYES: Arthur Trovei, Gary Spears, David Dean, David Hoovler, Karl Brabenec

MOTION CARRIED

Motion to Adjourn the Meeting at 10:32 p.m.

Motion by Gary Spears, 2nd by Arthur Trovei to adjourn the meeting at 10:32 p.m.

VOTE: 5 AYES: Arthur Trovei, Gary Spears, David Dean, David Hoovler, Karl Brabenec

MOTION CARRIED

Respectfully submitted by,

Florence T. Santini
Town Clerk