

October 12<sup>th</sup>, 2017

The regular meeting of the Town Board was held on October 12<sup>th</sup>, 2017 with the following members present: Daniel Pemrick, Supervisor; Daniel Cochran, Walter E. Chandler, MaryAnn Johnson and Rick Capasso, Councilmen. Also present were Mark Schachner, Town Counsel; Walter Barss, Highway Superintendent; Duane Wright, Deputy Highway Supt. and 20 residents.

The Board convened as a Board of Health at 7:20 PM.

Septic Varaince- 260 Daniels Road- Kathryn Jameson - Supervisor Pemrick states that this application for a septic variance at 260 Daniels Road ( Map ID #152.-1-30.12) for Kathryn Jameson has been in front of us for some time. The Town Engineer, Charlie Baker's report finds that it meets engineering approval in his report. He identifies two variances that the Town Board will need to grant Mrs. Jameson, and he suggests two conditions to go with the variances. The first variance required will be a 11 ft. variance of the 100 ft. separation requirement from the nearest high water mark from any body of water. In addition the Town requires septics have a 4 ft. separation from the seasonal high water mark for the leech field. The State requirement is 2 ft. However in this case the changes and construction of this septic system meet the Town's specifications. The two conditions that Mr. Baker, Town Engineer, feels that we should place on this variance is that the system will be installed under the observation of the design Engineer and the Engineer certifies to the Town the system was installed in conformance with the approved plans. Secondly, the Engineer provides an as built drawing of the replacement system along with the certification. The Supervisor also adds that all fees owed to the Town, ex. Engineering fees, application fees be paid before any permit is granted. Johnson, C. states after reading Charlie Baker's report that she is good with issuing the two variances as requested.

**RESOLUTION #119- Approve Septic Variance for 260 Daniels Road –Jameson**

Motion: Johnson, C.

Seconded: Chandler, C.

**RESOLVED**, That the Town Board hereby grants the Septic Variance for 260 Daniels Road, Tax Map # 152.-1-30.12 for Kathryn Jameson based on the following:

- **The Septic System be installed under the supervision of the design engineer who certifies to the Town the system was installed in accordance to the approved plans.**

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- **The engineer provides an as built drawing of the replacement system with the certification.**
- **There is no undesirable change to the neighborhood.**
- **Benefits the Community**
- **It is not a self-created hardship.**
- **All fees must be paid prior to issuance of any permit.**

Vote: Ayes: Pemrick, Cochran, Chandler, Johnson, Capasso

Noes: None

Unsafe Building- 7 Lake Desolation Rd.- Supervisor Pemrick states that Mr. Baugh sent an email where Supreme Court Justice Chauvin signed an ORDER OF REFERENCE. He would like the Town Clerk to send a letter to Mr. Baugh that it has been over 100 days where the building has remained in an unsafe condition. He would like him to know that he is still responsible for the safety and maintenance of the building while he goes through the legal process. Capasso, C. states that he can't do anything as he doesn't own the house. Supervisor Pemrick states that he may be able to post a keep off sign or something similar. Supervisor Pemrick provides Town Counsel with a picture of the building and response. Mark Schachner, Town Counsel states what we think we know is that Supreme Court Judge Chauvin signed an Order among other things giving the Plaintiff judgement in the foreclosure action, what that means is typically whoever holds the Mortgage has foreclosed on the property and judgement in a foreclosure case typically means that they have been awarded the premises. He doesn't know for sure from this very short note it is hard to say. He would need to see the entire Order not just this small note. Supervisor Pemrick asks if we are in our right to send a letter cautioning him about the condition of the building and express our concerns. Town Counsel Schachner agrees.

Unsafe Building 6 Main St.- Supervisor Pemrick asks the Town Clerk if we have anything from the owners of the property. Town Clerk states that she received the Certified it the mail as unclaimed and he had called once where Mr. Warner spoke to her and the Town Supervisor stating that he had an offer on the property. He was told that he needed to contact us before this meeting and inform the Board what happened. Nothing has been received. The only contact information is the mailing address. Supervisor Pemrick asks the Town Clerk to send a letter as he is approaching the limit of days, or the Town will have to take action.

The regular meeting of the Town Board was called to order with a Pledge to the Flag at 7:32PM. On a motion by Capasso, C. and seconded by Cochran, C. the minutes from 9/14/2017 were approved by all members present.

Red Cross, VA Hospital and Guardian House- The Town Clerk states that she has received phone calls from the Red Cross, VA Voluntary Services in Albany and the Guardian House in Ballston Spa thanking the Town for the generous donations from different events that we have had. All the effort was very appreciated by those organizations.

HSA Trunk or Treat- The Home School Association will be having a "Trunk or Treat" event at the Greenfield School on October 29<sup>th</sup> at their Fall Festival. The event will run from 12-5, and the Trunk or Treat will be 3-5. They encourage anyone who would like to participate to decorate the trunks of their cars for Halloween. They will provide candy and other items for the participants. There will also be prizes for the best decorated / scariest trunk.

Planning Board Alternate- Charles Dake submitted an application for the open position of Planning Board Alternate.

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Marianne Pompa- Marianne Pompa states she received a phone call asking about a civil case between her land and another land, she didn't know what it was about. She started looking through minutes and is confused. She hasn't been here since May or June and she sees that this has been going on between the Zoning Board, Planning Board and the Town Board on the Plank Rd. / Ridge issue. She asks if it is online in the Town Code the definitions for Open Development, what's involved in a complete application, how to go about it and what it entails. She asks if she would find information online. Supervisor Pemrick states you would not find the definition for Open Development online, what you will find is the discussion that is taking place in the Zoning and Planning Boards regarding the Open Development Law that guides Open Development for the Town and New York State. It is a new concept for the Town of Greenfield we depend on our Counsel and we have a sub-committee that is reviewing this. It is New York State Law that requires us to follow certain procedures. Supervisor Pemrick asks Mark Schachner, Town Counsel for definitions. Town Counsel States that not all property is developable or there would not be State laws that set up the Open Development approval process. By the same token not all property that is landlocked cannot be developed. So the Open Development process that is set up by State Law in essence creates a process whereby landlocked property, meaning property that does not have frontage on an existing public road, an owner or agent of an owner of such property can seek approval from the Town Boards, this Board, Planning Board has a recommendation authority and the Zoning Board of Appeals has authority to consider a variance, to allow development of landlocked property if it's appropriate. There is such a thing as not developable property. Cochran, C. states that it is a complicated issue. Supervisor Pemrick says that Marianne Pompa is here regarding Mr. Evans case and we are addressing that if she would like to sit through that. It is a process and you can ask questions.

Dave Evans- Plank Road- Open Development –Plank Road-Tax ID #123.-2-21- Supervisor Pemrick reads the recommendation from the Planning Board for Open Development for Dave Evans, Plank Road, Tax Map ID#123.-2-21 into the record:

**The Planning Board hereby recommends that the Town Board approve the Applicant's request for an Open Development for the Property Tax Map ID # 123.2-21 contingent upon:**

**1) That the Driveway and the steel deck bridge be designed and certified by a licensed engineer to hold a 50,000 pound, 30 foot long vehicle. In addition, the driveway shall have facilities for turning around available within 100ft. of any structure and shall comply with Town of Greenfield's driveway specifications. Driveways in excess of 500 ft. in length shall be marked at 500 ft. intervals as provided by the Town of Greenfield Fire Department.**

**2) That the Applicant provide certification for the driveway and the steel deck bridge as previously stated, and in accordance with note #3 of the Town of Greenfield Driveway standards, and to any existing house or houses or proposed locations for houses on the property to the satisfaction of the Town's Fire Department and the Town Engineer.**

**3) That said improvements are to be completed prior to the issuance of a building permit.**

Supervisor Pemrick states that procedurally if we see fit to accept this as it has been recommended, then it is up to the Town Board to send this to the Zoning Board for them to review this case and consider a variance for frontage. Supervisor Pemrick continues that the ownership of the right of way, or access to this property has to be determined. The Supervisor states to Mr. Evans that this is something that he needs to verify before any building permits are granted. He wants to make sure that Mr. Evans understands that going into this. Mr. Evans asks what the Supervisor means when he says he (Mr. Evans) has to verify to whose satisfaction. Supervisor Pemrick asks if he has access to the lot.

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Mr. Evans states that his attorney says yes. Marianne Pompa, asks for clarification on that. They have been the lucky ones to assume that bridge. The Town asked for some land to build a turnaround because they were going to abandon the road. The way it was explained to her was when the Town road is abandoned it goes back to the property owners on both sides, since Pompa owns on both sides it goes back to them. The question was asked who else needs access to the property, and was told Finch & Pryun, but they have access by another road. So there was nobody. She has tried to work with 3 different people who were trying to buy property to build, but when it comes down to it nobody wants the liability, they don't want to pay for the repairs, for the engineering and dealing with DEC and permits. Dealing with that ravine and designing a bridge to replace what's there, finding another way around, the insurance, the increase in taxes because it would be considered an improved road, then the additional road would need to be handled because of the Town's code for a long driveway. She feels that all of that falls back on her. She questions why should she have to pay for this. She's been in the minutes since June. She doesn't know if she will need to hire an attorney. Supervisor Pemrick says what she is telling us is that this is your property. M. Pompa states that is the way it was said to them, they own both sides of it. It comes back to when it was abandoned, what is the law? She found in the minutes Mr. Evans says that he has presumably legal documentation showing that when the road is abandoned one automatically has the right to their property. She just received a call as to what was going on and has not had much time to prepare. She does not have an attorney working on this. Supervisor Pemrick states it appears there is a question of ownership of the property. M. Pompa says she was told it may still be the Town's. Supervisor Pemrick states this may become a legal matter, but it is not the Town's responsibility to decide between the 2 parties who owns the property or has access to it. Until that is determined and the Town has a very clear understanding of that, it would seem unwise for the Board to proceed. He asks Town Counsel to correct him if he is wrong. Mark Schachner, Town Counsel, if you wish to proceed you can but if you are not comfortable proceeding you are not obligated to do so. Supervisor Pemrick states that the reason for not proceeding is there seems to be a lack of clear ownership of the right-of-way. Mark Scachner, Town Counsel, states that he has heard only one party who has asserted ownership of the land, Ms. Pompa, but he has not heard anyone else claim ownership. There may or not be some confusion or question to whether Mr. Evans or his agents have the right to access his property through the Pompa property. That is his understanding of the dilemma. He is not aware of anyone else other than the Pompas who claim ownership. An issue you may consider is if the applicant has lawful access to the property that he is seeking to develop. Johnson, C. states that personally she would like to see the applicant have lawful and legal access to that property. Down the road will be a problem if he doesn't because he sells the property, someone who buys the property would have no way to get over the bridge, no way to get to the property, we would be asking for trouble. Capasso, C. says that we need to see who actually owns the property before we proceed. Chandler, C. states that is what we did with other cases, we did not move forward until they proved ownership. Cochran, C. agrees. M. Pompa states that her concern is the deed. There is access across the Whalen lot, maybe that is not convenient but it provides access, and there is another parcel that runs alongside of Pompas could have an easement to Whalen Lot to give access to the property. She wants to make sure that in the deed language until this is resolved there may not be a right-of-way over that. This has been an ongoing issue. Supervisor Pemrick states that it sounds like this Board is not going to move this forward until it is clear in the Town Board's minds, whether or not Mr. Evans has access. He feels that is the discussion that Mr. Evans and his attorney may have to have with Ms. Pompa and her attorneys. Chandler, C. asks if we officially abandoned that road at the bridge? Johnson, C. states around 2004. She continues that paperwork was filed with the County. Supervisor Pemrick states to

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Mr. Evans that we are not going to move forward with your request until it is clear to this Board that you have access to that property, now you hear that there is someone who claims ownership to that property. Supervisor Pemrick continues that we (Town Board) are not the determining factor. We do not decide who owns that property. That's going to have to happen, perhaps an agreement between the two of you or your attorneys or the courts. We are not prepared to move forward or take action. Mr. Evans asks if he could address some issues that have been raised, not with his opinions but with facts. Supervisor Pemrick responds no because it will not change our minds because the issue is between 2 property owners. Mark Schachner, Town Counsel states that he is not hearing a question of ownership, but of access rights. We also hear that there is another means of access. If that is true, then there is no need for an Open Development consideration. Mr. Evans states that the access is utilities. His attorney has researched this and he says that has not been abandoned in terms of his access. There are court rulings to that issue. Mark Schachner, Town Counsel asks for this specific property? Mr. Evans states no. Supervisor Pemrick states that Ms. Pompa is sitting here stating that she owns that property which includes that access and until that is decided this Board is not prepared to take any action on your Open Development request. Mr. Evans states that the Supervisor is saying that it is not the proper time to make an application for a building permit. Supervisor Pemrick states that if you go to the ZBA, he believes that they will not grant you anything until you provide engineering designs, etc. Whether you are stalled here or at the Zoning Board to determine ownership and access of this property. We prefer it stops here and answer those questions. If they are answered in your favor the Zoning Board action is clear and direct. Mr. Evans asks who is making the decisions? If it is the Supervisor, he would like to discuss it with him. He has talked to members of the Pompa family for a couple years and has not been able to move forward. Ms. Pompa asks if Mr. Evans can present information he has from his attorney to the Town's Attorney. Mr. Evans states that he has turned it over to the Planning Board's attorney. Mark Schachner, Town Counsel, states that he has not been asked to evaluate this issue, so he has not. Anything that the applicant has presented to this Board or Planning Board is public information. Supervisor Pemrick has no problem giving the information that has been presented to the Town to the Town Attorney and have the opportunity to review that. Town Counsel will let us know when he has reviewed that adequately. Mr. Evans states another issue is whether the Town has properly abandoned the bridge. Supervisor Pemrick states that in the process of examining this information we can do that research as well. He asks Mr. Evans for the information he has so the Board can pass that on to Town Counsel. The Supervisor tells Mr. Evans that as soon as we have information on the Town Attorney's findings we will add you to the Agenda and have you come back. Supervisor thanks Mr. Evans and Marianne Pompa for the information they have provided.

Open Development- Fitzgerald-Lake Desolation- Johnson, C. asks if we have recommendation for Ryan Fitzgerald. Supervisor Pemrick states that we do not have a recommendation and we have not heard anything from the applicant. Capasso, C. asks if he is here. Land ownership was in question. Supervisor Pemrick will find out what is happening with this request.

Greenfield Development- Chris Yarsevich- Chris Yarsevich, 31 Greene Road, expresses development concerns in the Town of Greenfield. He would like the Planning and Zoning Boards to be aware of that so years down the road we can steer our Town to maintain it's rural character. He would like the Planning and Zoning Boards to start considering road frontage requirements. He would also like them to consider a green bumper zone so when building a new house some trees will remain. You can't cut down all the trees. He would like them to look at cluster development. He doesn't want Greenfield

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to turn into Clifton Park. Vince Walsh, 300 Greene Rd. states that the Town did a Comprehensive Plan 10 years ago. He doesn't like the development that is pushing into Greenfield. The lot size went from 6 acres to 5. He would like to see 8 or 10 acres. There are new houses on Greene Rd. and Middle Grove Rd. that are next to each other. He asks the Board if the Town is working on a new Comprehensive Plan. Supervisor Pemrick states not a new Comprehensive Plan. Johnson, C. says we are working on Zoning updates, not a full Comprehensive Plan. Supervisor Pemrick states that we are defining codes based on the information the Zoning Board receives from applications and states we have a list of items. Cochran, C. states it is an ongoing process. We don't want a Clifton Park, we want to be smart and the Town Board is doing that. Supervisor Pemrick states the PB and ZBA do not make changes to the Code. It is up to the authority of the Town Board. He asked Mr. Yarsevich and Mr. Walsh to contact the Building Dept. to be on the PB and ZBA agendas. It is appropriate to share your ideas. David Hodgson, 33 King Road, states that he supports the spirit of this conversation. Karen Wadsworth, 235 Locust Grove Rd. She moved back home after 15 years when the Town was completing the Comprehensive Plan. She relishes that Greenfield has stayed rural. She asks where the current plan protects us down the road from development. How so we make decisions for guidelines that affects everyone in our community. It matters a lot that we do not lose rural quality and greenspace for all living things. Supervisor Pemrick thanks everyone for their comments and assures that this discussion will continue.

Budget Workshops - Supervisor Pemrick would like to schedule budget workshops in October. The Board decides October 19<sup>th</sup> at 6:30 and Tuesday October 24<sup>th</sup>, 2017 6:30 at the Town Hall.

Schedule Public Hearing Tax Cap Override- Supervisor Pemrick would like to schedule a Public hearing for the Tax Cap Override Law in case we need it.

**RESOLUTION # 120- Schedule Public Hearing on Proposed Local Law 2-2017- Override Tax Levy**

**Limit**

Motion: Capasso, C.

Seconded: Johnson, C.

**RESOLVED**, That the Town Board hereby schedules a Public Hearing on Proposed Local Law # 2-2017 to be held on November 2<sup>nd</sup>, 2017 at 7:30 at the Town Hall.

Vote: Ayes: Pemrick, Cochran, Chandler, Johnson, Capasso

Noes: None

Andrew Lally – Open Development – Ure Way- Supervisor Pemrick states that we have a referral from the Zoning Board of Appeals for Open Development for Andrew Lally on Ure Way. Mr. Lally wishes to sub-divide his property, there is a road that does not have the right amount of frontage.

**RESOLUTION #121 – Accept Open Development Application for Lally- Tax ID# 126.-1-111**

Motion: Cochran, C.

Seconded: Johnson, C.

**RESOLVED**, That the Town Board hereby accepts the Open Development application for Andrew Lally on Ure Way, Tax Map ID #126.-1-111 and refers it to the Planning Board for their review and recommendation.

Vote: Ayes: Pemrick, Cochran, Chandler, Johnson, Capasso

Noes: None

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Speed Lights for the Highway Dept. – Highway Superintendent Barss would like the Town to consider Solar Powered Speed Signs. He placed 2 battery operated signs on Daniels Road and has not received any speeding complaints. It is \$7340.00 for two signs. Johnson, C. asks if he would like to get these now or if it is for next year’s budget. Superintendent Barss states now if we can, it is under State Contract. We can use the battery operated signs in other locations. The batteries are about \$500.00 and maybe last 2 years. Supervisor Pemrick states to Superintendent Barss’ credit he put those speed lights up and we have not had the speeding and other complaints. Johnson, C. would like to authorize Highway Supt. Barss to purchase these two lights on State contract.

**RESOLUTION #122- Authorize Highway Supt. Barss to purchase 2 Solar Speed Lights**

Motion: Johnson, C  
Seconded: Capasso, C.

**RESOLVED**, That the Town Board hereby authorizes the Highway Superintendent to Purchase 2 Solar Speed Lights for the Sum of \$7340.00 from State Contract. The existing speed lights will be used in other problem areas of the Town.

Vote: Ayes: Pemrick, Cochran, Chandler, Johnson, Capasso  
Noes: None

**RESOLUTION # 123- Transfer of Funds**

Motion: Johnson, C.  
Seconded: Cochran, C.

**RESOLVED**, The the Supervisor be authorized to make the following transfer of funds:

\$ 2617.99	from: DA 5130.4	to: DA 5140.4
\$ 2888.42	from: A 3510.4	to: A 7140.4
\$ 1397.18	from: A 1630.2	to: A 1630.4
\$ 23.31	from: A 8010.2	to: A 8010.4
\$ 6679.37	from: A 1620.4	to: A 8160.4
\$ 693.00	from: A 1010.4	to: A 1310.4
\$ 1331.41	from: A 7020.1	to: A 8020.4
\$ 834.27	from: A 1630.2	to: A 1630.1
\$ 3053.20	from: CR 7180.41	to: CR 7180.4
\$ 1245.60	from: CR 7110.43	to: CR 7110.4
\$ 1975.00	from: CR 7550.4	to: CR 7550.4

Vote: Ayes: Pemrick, Cochran, Chandler, Johnson, Capasso  
Noes: None

**RESOLUTION # 124- Budget Amendment**

Motion: Johnson, C.  
Seconded: Capasso, C.

**RESOLVED**, that the Supervisor be authorized to make the following Budget Amendment, CHIPS to Equipment

\$87,294.95	from: DA 5112.2	to: DA 0599
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Vote: Ayes: Pemrick, Cochran, Chandler, Johnson, Capasso  
Noes: None

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**RESOLUTION # 125- General Bills**

Motion: Cochran, C.

Seconded: Capasso, C.

**RESOLVED**, That the General Bills from # 628-699 in the amount of \$38,584.69 be paid.

Vote: Ayes: Pemrick, Cochran, Chandler, Johnson, Capasso

Noes: None

**RESOLUTION # 126 – Highway Bills**

Motion: Johnson, C.

Seconded: Chandler, C.

**RESOLVED**, That the Highway Bills from #            in the amount of \$96,250.47 be paid.

Vote: Ayes: Pemrick, Cochran, Chandler, Johnson, Capasso

Noes: None

**RESOLUTION # 127- Parks Bills**

Motion: Capasso, C.

Seconded; Cochran, C.

**RESOLVED**, that the Parks Bills from #            in the amount of \$11, 450.62 be paid.

Vote: Ayes: Pemrick, Cochran, Chandler, Johnson, Capasso

Noes: None

On a motion by Chandler, C. and seconded by Capasso, C. the meeting was adjourned at 8:32PM.