

**TOWN OF DEERPARK
TOWN BOARD MEETING
TOWN BOARD REGULAR MEETING
MONDAY, AUGUST 3, 2015**

Invocation by Arthur Trovei (Participation Optional)

Attendance

Supervisor: Gary Spears

Councilmember's: Arthur Trovei, David Dean, Alan Schock, Ken Smith

Attorney: Glen Plotsky

Engineer: Alfred Fusco, Jr.

Call to Order at 7:34 p.m.

Pledge of Allegiance by Councilman Schock

Supervisor Spears invited the audience to stand in silent tribute to Tar Santini, husband of Town Clerk Flo Santini, who recently passed away. He said he was a great friend to the town and just a great person.

Motion to Add Port Jervis Volunteer Ambulance Corps to the Agenda under Presentations/Communications

Motion by Arthur Trovei, 2nd by Ken Smith to add the Port Jervis Volunteer Ambulance Corps to the Agenda under Presentations/Communications.

VOTE: 5 AYES: Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

Public Hearing Proposed Local Law 1 of 2015 – “A Local Law Amending Section 230-4 of the Zoning Law by Adding Definitions Regarding “Public Utility” and “Public Utility Structures” and Amending Section 230-15 of the Zoning Law to Include HM-U, IB, and I-1 Industrial Zones by Adding “Public Utility Structures” to the Schedule of District Regulations”

Town Clerk, Florence T. Santini read the Public Notice of the proposed Local Law 1 of 2015 and a copy is attached to the official minutes.

Public Comment: Town Attorney Glen Plotsky commented about the Local Law saying it was the same local law adopted approximately a year and a half ago. The purpose of the local law specifically was raised by Orange and Rockland. They own property on 209. Their specific language in terms of definitional purposes of the law and it was requested the town consider modifying the local law so that it was a permitted use, opposed to a special use. The town had a public hearing and the law was adopted. Unfortunately, when the paperwork was sent to Albany for actual inclusion with the actual definitions never got filed, the only thing that got filed was the paperwork that surrounds it. This is basically a reintroduction of the exact same law, except changing the number and the year so they can get it filed correctly this time. This is in keeping with the current proposal in front of the Town of Deerpark Planning Board file. He then answered Mr. Lipman's question stating the subject property is in one of the zones identified in the local law and the Town Board determined it was appropriate to use not just that location, but in fact other zones within the town as potential spots for this type of use. There was no other public comment.

Motion to Close Public Hearing on Local Law 1 of 2015

Motion by David Dean, 2nd by Ken Smith to close the Public Hearing on Local Law 1 of 2015.

VOTE: 5 AYES: Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

Public Hearing Re: Unsafe Structure at 1514 US Route 209, SBL 7-1-169

Town Clerk, Florence T. Santini read the Public Notice of the Unsafe Structure located at 1514 US Route 209, SBL 7-1-169 and a copy is attached to the official minutes.

Town Engineer, Alfred Fusco, Jr. reported the following: They had two letters on 1514 Route 209 dated June 8, 2015 stating the property met the requirement for a dangerous building and that the yard as well as the house was an attractive nuisance and needed to be dealt with immediately. The Building Department issued numerous violations and response was minimal. A letter dated July 6, 2015 to the Supervisor and Town Board was read as well. A copy is on file and Section 119-1, 3 and 4 were all cited. During their inspections on July 2, 2015, they noted no repair and additional deterioration of the structure, meeting the definitions of an unsafe structure and dangerous structure needing to be demolished for the health, safety, morals,

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and general welfare of the public. They recommended the Town Board pass a resolution ordering the demolition of the structure in 30 days, being completed in 60 days, with a public hearing and failure to comply with the order would allow the Town Board to demolish and remove the structure and access all expenses against land. The demolition would take place through a competitive bid, including asbestos removal. Section 119-12 Assessment of expenses requires that all expenses to be assessed to the property and levied and collected in a manner consistent with Article 15 of the Town Code and Article 78-b of the General Municipal Law.

Public Comment: None

Town Attorney Glen Plotsky asked the Board to note that on July 20, 2015 the copy of all documentation contained within the file was sent by certified mail with return receipt requested to Edward Carr, one of the owners of the property. That document was mailed and it appears to have been received and he indicated that prior to the scheduling of the public hearing, they did a last owner search and other than the most recent tax bill, there were no outstanding mortgages, judgements or liens on the property. Therefore, the only individual necessary to serve was in fact, Mr. Carr.

Board Comments: None

Motion to Close Public Hearing-Unsafe Structure, 1514 US Route 209 SBL:7-1-169

Motion by David Dean, 2nd by Ken Smith to close the Public Hearing-Unsafe Structure, 1514 US Route 209 SBL:7-1-169.

VOTE: 5 AYES: Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

Public Hearing Re: Unsafe Structure at 1045 US Route 209, SBL 22-1-43

Town Clerk, Florence T. Santini read the Public Notice of the Unsafe Structure located at 1045 US Route 209, SBL: 22-1-43 and a copy is attached to the official minutes.

Town Engineer, Alfred Fusco, Jr. reported the following: They inspected the premises and reviewed the town code regarding unsafe buildings and said they were at the same point in December last year and they have taken this time to ensure through counsel that they have the proper notifications. Section 119-1, 3 and 4 were all read from the Town Code mentioned in the August 3, 2015 letter to the Supervisor and Town Board, also referring to inspections on July 2, 2015 due to no repair and additional deterioration of the structure. The Building Department is recommending, due to the structure being unsafe and dangerous that it should be demolished for the health, safety, morals, and general welfare of the public. They recommended the Town Board pass a resolution ordering the demolition of the structure in 30 days, being completed in 60 days, with a public hearing and failure to comply with the order would allow the Town Board to demolish and remove the structure and access all expenses against land. The demolition would take place through a competitive bid, including asbestos removal. Section 119-12 Assessment of expenses requires that all expenses to be assessed to the property and levied and collected in a manner consistent with Article 15 of the Town Code and Article 78-b of the General Municipal Law.

Town Attorney, Glen Plotsky said that similarly on July 20, 2015 a full submission was submitted to the Town Clerk, including the Notice of Public Hearing and all of the documents contained within the file, a copy of that notice was sent to the property owner by certified mail/return receipt. He has the certification of mailing. He has not received the return receipt. Prior to the scheduling of the Public Hearing, a last owner and judgment search was conducted and it was determined there were no outstanding mortgages, judgements or liens. One of the issues in the delay was Mr. Fusco correctly identified they had a Public Hearing in August 2014. One of the primary reasons for no action taken was due to the Public Hearing, the property owner's allegation that she had sold the property for cash and in response to that assertion. But, as of July 6th that documentation had not been recorded in Orange County as the owner search revealed it was still in the possession of Ms. Christopherson. There is no basis upon which he could recommend to the board that you not proceed at this time given the one year duration from the original presentation which suggested that the building should be demolished.

Public Comment: Denise Levitz knows the Baker's Store Kathleen Christopherson owns. She said the building is gorgeous inside. If she had money she would buy it and make something out of it. She cleaned the property—she did what she thought she was asked to do. This building is part of the history. The record of her dialogue is on file in the Town Clerk's Office.

Supervisor Spears asked if either the Attorney or Engineer had any contact from the owner and they both said no.

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Public Comment: Dorreth Witt, 25 Black Rock Trail, Port Jervis. She came 25 years ago and she loves that store and thought it should be preserved.

Board Comments: None

Motion to Close Public Hearing-Unsafe Structure, 1045 US Route 209 SBL:22-1-43

Motion by Ken Smith, 2nd by Alan Schock to close the Public Hearing-Unsafe Structure, 1045 US Route 209 SBL:22-1-43.

VOTE: 5 AYES: Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

Public Hearing Re: Unsafe Structure at 2 Piatt Drive SBL:22-1-47

Town Clerk, Florence T. Santini read the Public Notice of the Unsafe Structure located at 2 Piatt Drive, SBL: 22-1-47 and a copy is attached to the official minutes.

Town Engineer, Alfred Fusco, Jr. reported the following: Referring to the letter to the Town Board of June 2, 2015 he said the building was not safe for habitation and this notice has been ignored by the owners and they continue to occupy the home. On May 14, 2015 fire in the chimney was referenced. The owners were completely unwilling or unable to comply with any of the notices given them in regards to repairs or demolition and the Town Board was asked to consider action. The next letter of June 8, 2015 regarding inspection of the property, the property was condemned by the Building Department and they recommended that this be listed as a dangerous building and demolition proceed and proceed with a public hearing. The letter of July 6, 2015 to the board, following inspection Section 119-1, 3 and 4 were cited and the Building Department is recommending, due to the structure being unsafe and dangerous that it should be demolished for the health, safety, morals, and general welfare of the public. They recommended the Town Board pass a resolution ordering the demolition of the structure in 30 days, being completed in 60 days, with a public hearing and failure to comply with the order would allow the Town Board to demolish and remove the structure and access all expenses against land. The demolition would take place through a competitive bid, including asbestos removal. Section 119-12 Assessment of expenses requires that all expenses to be assessed to the property and levied and collected in a manner consistent with Article 15 of the Town Code and Article 78-b of the General Municipal Law.

Town Attorney, Glen Plotsky first stated that on the Notice of Public Hearing did state Lot 48, causing some confusion. However, the owner is here and clearly received the notice. In addition, the searches they performed were relative to the property located on Lot 47 and/or land owned by Denise Levitz. On July 20, 2015, they forwarded copies of documentation contained within the town's file was mailed to the property owner by certified mail/return receipt. He has the certification of mailing. He has not received the return receipt. A set of documents was retrieved by Ms. Levitz on July 27, 2015 and he has the return receipt reflecting that. Prior to the scheduling of the Public Hearing, a last owner and judgment lien search was conducted and it was determined that other than tax bills, there were no outstanding mortgages, judgements or liens. Circumstances bringing them to this point, there were discussion about possibly holding a public hearing a year ago and it was determined to delay it for a period of time. This matter came to a head because of the complaints by the local Fire Department, who was blocked access in response to a fire, by the property owner. It is an unsafe building and with the owner's actions, there is nothing that bars the Town Board from authorizing the demolition.

Public Comment: Denise Levitz said she did not call the Fire Company, there was no fire danger. She put out the fire and didn't want the firemen to come in. She said they lost three incomes and had two bills put upon them. She talked about her financial situation. Eight years ago she had brain surgery. Details of her comments are on file in the Town Clerk's office.

Supervisor Spears said this Town Board does not want to rip down anybody's property. He said they were in a position where they have to take care of all the 8,500 residences. There are safety issues, different issues and they are there to try to help her. They would like her to tell them why they shouldn't tear the building down because of what you are going to do to fix it to make it safe for her, her husband and ambulance/fire/police personnel who have to go there. They are looking out for public safety. They have a dilemma because they have her building they believe is unsafe and they are looking to bring it into compliance, so he asked her to address those things. They are sympathetic to her other problems, but they need to deal with this structure and come to a conclusion to help her and provide public safety. He wanted her to understand.

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Public Comment continued: Denise Levitz went on to state she lived between their two houses. The issue involved a furnace problem.

Councilman Smith asked why they don't consolidate their home and repair one place.

Ms. Levitz continued about her financial distresses.

Councilman Smith asked if she had a choice to live in one house, and use all her efforts to fix up one house.

Ms. Levitz responded no. She attempted to explain. She asked where the help is. She reiterated her financial complications. She reiterated the historical impact. (Refer to audio on file in the Town Clerk's office.)

Supervisor Spears reminded Ms. Levitz that a conclusion needs to be made.

Ms. Levitz asked if the house is so unsafe, what the actual itemized listing was.

Supervisor Spears asked the Town Engineer if there was a specific list or just general deterioration of the building.

Town Engineer, Alfred Fusco, Jr. replied that he had excluded the definitions when he was reading with brevity. To give an idea of what an unsafe building is, is those which exclusive of foundation shows 33% or more damage or deterioration of supporting member or members and 50% damage or deterioration mounts supporting enclosing or outside walls and coverings. Those which have improperly distributed loads upon the floors or roofs in which the same or overloaded or which have insufficient strength to be reasonably safe for the purpose used. Those which have been damaged by fire or other causes or have become dangerous to life most, general welfare, other occupants or people of the town. Those which have been abandoned or have become so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation likely to cause sickness, disease, shall in such work injury to the health, moral safety and general welfare of those living therein. (The entire description was read aloud. Refer to the audio recording in the Town Clerk's Office.) He concluded that it was basically the entire structure, not just the porch. It doesn't have sanitary facilities. It has been noted that it has been condemned and unfit for human habitation and it has been that way for a considerable period of time. The only recourse is a total repair. It would have to be with a licensed engineer or architect in the state of New York. She could come back and say we're going to do this and this, etc. in a timely fashion that would present to the board an alternative. Barring that, they are at the point that it is well beyond repair.

Supervisor Spears asked Ms. Levitz to understand they were trying to help her. They heard from the engineer, there is a problem with the building that is old and in weak disrepair according to his opinion. They need to hear from her comments what steps she was going to take to bring this into compliance. He reminded her they were looking for remedies and a timetable. They will be willing to work with her, but they need to do what is good for everybody.

Ms. Levitz' comments are on record. She said they have paint, they have wood, they have tar paper, they have beams to hold everything up to do the work, but they need the Doctor's okay for her husband to work.

Supervisor Spears asked Ms. Levitz if she could tell the Board she will have the necessary work done by the end of November.

Ms. Levitz said she believes they can do it.

Supervisor Spears asked the attorney if they could give her 90 days to get this done. Mr. Plotsky said they could order demolition as of November 15th, with the condition she makes the repairs by that date so no demolition could commence, but she would need to repair or demolish by that date otherwise the town will send out the bids and do that. He said the Board could reach a determination if they choose to do so.

Councilman Dean asked Ms. Levitz if she had any relatives she could stay with.

Ms. Levitz responded no. She asked what she had to do to bring it to code.

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Supervisor Spears said she would need to bring the building up to current code.

Councilman Trovei asked Ms. Levitz about her water situation and she explained. He then asked if a list could be provided for her and the Town Engineer said he could do that.

Glen Plotsky said that would not be his advice to the Board. The Board already had a Public Hearing. It is the town's obligation to notify her. A notification was in the Times Herald Record and the fact that none of her friends chose not to come out. The fact that she chose to invite two ladies and the fact that no one else showed up here was not the Town of Deerpark's fault, it was not his fault. It is a public hearing.

Councilman Schock asked about the two houses she lives in.

Dorreth Witt offered to auction a painting to help pay for her repairs.

Motion to Take a Recess

Motion by Ken Smith, 2nd by Alan Schock to recess from 9:00 to 9:10 p.m.

VOTE: 5 AYES: Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

Return from recess for public comments only.

Public Comments continued. Denise Levitz made comments about the traffic. Supervisor Spears continued reminding her they needed to hear about her house and the condition of her house. Ms. Levitz agreed to work on the repairs.

Glen Plotsky said what was discussed is that the repairs need to be finished by November.

Supervisor Spears clarified she wants a list from the Building Department of everything she is expected to do. Ms. Levitz agreed. He instructed the Town Engineer to do a list of everything that he feels she needs to do to bring the house back into compliance.

Ms. Levitz asked to take the sign down from her door. She wants to request a grant. She stated she did not request a lawyer for this meeting. She said she was there to comply with the town. She said she was not a person who was not logical. She and her husband are both disabled. She said she needed help.

Motion to Close the Public Hearing

Motion by Ken Smith, 2nd by Alan Schock to close the public hearing.

VOTE: 5 AYES: Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

Presentations/Communications

Councilman Dean (reported for Jack Flynn who had to leave) on the Cannonsville Dam. He said that Jack Flynn, who is the Director of Emergency Management for the Town of Deerpark and attended a meeting and were made aware of a potential problem at the Cannonsville Dam about a reservoir holding 7 billion gallons of water. They were drilling some holes for the dam and had a leak. He and Jack, along with 120 people visited the dam and they saw the erosion and were assured those downstream from there what was happening and that there should be no problems, they were thorough and honest about it. To their credit, they fixed the problem.

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Gorge Ewings of the *Port Jervis Ambulance Corps* gave a report in their attempt to obtain funding. They are looking for a donation from each jurisdiction they serve. He explained their billing in terms of Deerpark residents/calls. He covered calls, collection, insurance, etc. Supervisor Spears said the Board would discuss the information at a later time. Discussion continued.

Motion to Approve July 6, 2015 Town Board Minutes

Motion by Gary Spears, 2nd by Ken Smith to approve the July 6, 2015 Town Board Minutes as presented.

VOTE: 5 AYES: Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

New Business

Motion to Adopt Resolution 14 of 2015 – Port Jervis Ambulance Corps

Motion by David Dean, 2nd by Ken Smith to Adopt Resolution 14 of 2015 – Port Jervis Ambulance Corps identifying both as BLS and ALS provider for the Town of Deerpark.

VOTE: 5 AYES: Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

Motion to Adopt Local Law No. 1 of 2015 – “A Local Law Amending Section 230-4 of the Zoning Law by Adding Definitions Regarding “Public Utility” and “Public Utility Structures” and Amending Section 230-15 of the Zoning Law to Include HM-U, IB, and I-1 Industrial Zones by Adding “Public Utility Structures” to the Schedule of District Regulations”

Motion by David Dean, 2nd by Alan Schock to adopt Local Law No. 1 of 2015 – “A Local Law Amending Section 230-4 of the Zoning Law by Adding Definitions Regarding “Public Utility” and “Public Utility Structures” and Amending Section 230-15 of the Zoning Law to Include HM-U, IB, and I-1 Industrial Zones by Adding “Public Utility Structures” to the Schedule of District Regulations”.

VOTE: 5 AYES (Roll Call): Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

Motion to Demolish Unsafe Structure, 1514 US Route 209 SBL:7-1-169

Motion by Gary Spears, 2nd by Ken Smith to demolish unsafe structure by competitive bids arranged by the Building Department, including asbestos survey at 1514 US Route 209 SBL:7-1-169.

Discussion: Councilman Schock asked if another notification to the property owner would be sent regarding the demolition order and the attorney said they would if the board directs it. They could include the property owner when the Building Department circulates the bids for demolition. They will request a return receipt.

VOTE: 5 AYES: Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

Motion to Demolish Unsafe Structure, 1045 Route 209 SBL:22-1-43

Motion by Ken Smith, 2nd by David Dean to demolish unsafe structure by competitive bids, arranged by the Building Department, including asbestos survey at 1045 Route 209 SBL:22-1-43.

Discussion: Councilman Schock asked if another notification to the property owner would be sent regarding the demolition order and the same procedure will be followed as the previous one. Councilman Trovei asked what would happen if they should come in and say they could comply in 30 days. Supervisor Spears said they would have to approve the bids for the demolition and could hold up at that time.

VOTE: 5 AYES: Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

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Motion to Demolish Unsafe Structure on Condition, 2 Piatt Drive, SBL:22-1-47

Motion by Ken Smith, 2nd by David Dean to demolish unsafe structure on condition by competitive bids arranged by the Building Department, including asbestos survey and set demolition to be conducted if the property owner has not repaired or demolished subject property on or before November 4th, 2015 at 2 Piatt Drive, SBL:22-1-47.

Discussion: Councilman Dean asked to add to the motion, that significant progress on the rehabilitation. He was looking at 40%-60% of what needs fixing is what he means by significant. Supervisor Spears said there would be an itemized list and they'll look for significant progress for the extended period of time until November 4th. Councilman Dean said when they reach the point, they do not want to take her house down, but emphasized to the property owner and the Building Inspector the importance of significant. The stickers cannot be removed from the door. Supervisor Spears added that they will give her a notice stating they have given the property owner until November 4th to repair the property because Ms. Levitz believes it is repairable. He'll have the Building Department will issue it.

VOTE: 5 AYES: Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

Appropriations, Budget, and Payment of Bills – Budget Officer's Report

Motion to Pay Bills

Motion by Ken Smith, 2nd by Arthur Trovei to pay bills that have been signed by three council members and may be viewed in the Town Clerk's Office:

VOTE: 5 AYES: Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

Closing Board Comments

Councilman Schock – None

Councilman Smith – None

Councilman Trovei – He expressed his condolences again to Flo and the great loss of Tar. He said their hearts are with her and if they can help her in any way.

Councilman Dean – None

Supervisor Spears – He also said to Flo they have every one of their warmest wishes. They will be there for her if she needs anything.

Motion to Enter Executive Session for the purpose of Legal Litigation at 10:18 p.m.

Motion by Gary Spears, 2nd by David Dean to enter Executive Session for the purpose of legal litigation and invite in Attorney Glen Plotsky at 10:18 p.m.

VOTE: 5 AYES: Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

Motion to Re-Enter Regular Session at 11:00 p.m.

Motion by David Dean, 2nd by Alan Schock to re-enter Regular Session at 11:00 p.m.

VOTE: 5 AYES: Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

Motion to Adjourn at 11:01 p.m.

Motion by Alan Schock, 2nd by Ken Smith to adjourn at 11:01 p.m.

VOTE: 5 AYES: Arthur Trovei, David Dean, Alan Schock, Ken Smith, Gary Spears

MOTION CARRIED

Respectfully submitted by,

Florence T. Santini. Town Clerk