

PERINTON TOWN BOARD MEETING
1350 Turk Hill Road, Fairport, NY 14450
Wednesday, January 12, 2011

PRESENT: James E. Smith Supervisor
Carolyn H. Saum Councilperson
Joseph H. LaFay Councilperson
Peg S. Havens Councilperson

ABSENT: Patricia S. Knapp Councilperson

ALSO PRESENT: Robert Place, Esq., Town Attorney; Thomas C. Beck, Commissioner of Public Works; Jennifer A. West, Town Clerk; Nicholas Morabito, Town Assessor; Michael Doser, Director of Code Enforcement and Development; Carol S. Johnston, Deputy Town Clerk; T.C. Lewis, Planning Board.

Supervisor Smith called the meeting to order at 8:00 pm and introduced the Board and staff present.

Councilperson Saum made a motion, seconded by Councilperson LaFay, that the minutes of the Town Board meeting of December 29, 2010 and the 2011 Organizational Meeting be approved as submitted by the Town Clerk.

Ayes: Smith, Saum, LaFay, Havens
Nays: None
Unanimously Approved

PUBLIC HEARING
SPECIAL USE PERMIT
THE GODDARD SCHOOL

Supervisor Smith opened the Public Hearing and asked the Clerk for proof of publication and affidavit of posting. Proof of publication for the Public Hearing was given in the Fairport East Rochester Post on December 23, 2010; affidavit of posting was also December 23, 2010.

Marshall Cook spoke on behalf of the owners of the Goddard School located at 115-151 Sully's Trail. He introduced the owners of the Goddard School, Steven Friedlander and Bari Wexler. Mr. Cook stated that the owners are requesting an amendment to their existing Special Use Permit to allow for the addition of a 59 foot by 27 foot addition to the west end of the school. The Goddard school is located on the southwest portion of the property. The existing building, which was approved by the Town Board in 2006, is 8,060 sq. ft and accommodates 120 students. The addition would allow the day care operator an additional 16 children.

Attorney Place asked Mr. Cook where the mechanicals would be located for this addition and Mr. Cook stated that there would be one residential style air-conditioning unit mounted on the rear of the building with the others that were approved in 2006. Mr. Cook further stated that these are not visible as they are on the Route 490 side of the building.

Supervisor Smith asked for clarification on the use of the two rooms and Mr. Cook stated that there would be a full day kindergarten (with a capacity for 16 children) in one room and a room in the front used as an auxiliary room or gym (gross motor space) or as a large special activity space. Mr. Friedlander stated that neither Pittsford nor Fairport have full day kindergarten at this point and that this is meeting a need of their existing families, in that they can provide care before and after kindergarten also.

Supervisor Smith asked whether the ten to fifteen percent increase in the business would affect the traffic in the office park. Mr. Cook stated there have been no issues and that the bus turnaround works well with no complaints.

There being no questions, and all those wishing to be heard having been heard, the Public Hearing was closed.

Councilperson Havens made a motion, seconded by Councilperson LaFay, that the granting of a Special Use Permit to the Goddard School be given a Negative Declaration under the New York State Environmental Quality Review Act (SEQR) based upon the fact that this business will in no way negatively impact the environment.

Ayes: Smith, Saum, LaFay, Havens
Nays: None
Unanimously approved

Councilperson LaFay made a motion, seconded by Councilperson Havens, that the Special Use Permit for the addition of two buildings to the Goddard School located at 115-151 Sully's Trail, be approved with the following conditions:

1. The maximum number of children attending will be 140.
2. The hours of operation will be Monday - Friday from 7 am to 6 pm.

Ayes: Smith, Saum, LaFay, Havens
Nays: None
Unanimously approved

ORDER FOR HEARING CONSERVATION EASEMENTS 2011

Nicholas Morabito, Assessor, stated that the Town of Perinton began a Conservation Easement program in 1972 and each year property owners that wish to renew their existing easement as well as others that would like to enter the program must submit an application that is reviewed by the Perinton Conservation Board as well as the Monroe County Planning Department before being presented to the Town Board. This year there are twenty-six (26) easements seeking renewals of their agreement.

Assessor Morabito asked the Board to set a date for a Public Hearing to review the following proposed easements:

<u>Tax Map Acct #</u>	<u>Owner/Property Location</u>	<u>Acres</u>	<u>School/Yrs/Type</u>
139.20-1-4	John & Julie Fitzpatrick 121 Lonesome Road Fairport, NY 14450	9.05	Fairport/8/Conservation
139.20-1-5	John & Doreen Westerman 126 Lonesome Road Fairport, NY 14450	9.53	Fairport/5/Conservation
140.04-1-13.2	Thomas & Julia Jayne 4467 Carter Road Fairport, NY 14450	31.15	Fairport/15/Farming
140.04-1-13.3	Laura Masterson Huber Road Fairport, NY 14450	68.18	Fairport/5/Farming

140.04-1-14	Clinton & Barbara George 2518 Huber Road Fairport, NY 14450	4.00 Fairport/5/Farming
140.04-1-15.11	Clinton & Barbara George Huber Road Fairport, NY 14450	27.24 Fairport/5/Farming
141.03-1-10	Doris Wagner 922 Furman Road Fairport, NY 14450	16.44 Fairport/15/Farming
141.04-1-11.22	Anthony F. Bosso 989 Furman Road Fairport, NY 14450	6.55 Penfield/8/Conservation
153.02-1-59.2	Paul & Shirley Ann Trapani 1575 Whitney Road East Fairport, NY 14450	5.71 Fairport/5/Farming
154.02-1-5	William S. & Ryna Ros DiPoala 631 County Line Road Fairport, NY 14450	7.05 Fairport/5/Conservation
179.13-2-42.11	Christopher A. Lee 6 Oak Grove Pittsford, NY 14534	1.46Pittsford/25/Conservation
179.13-2-42.212	B. Scott & David A. Taylor Jonathan C. & David A. Taylor 7 Oak Grove Pittsford, NY 14534	15.24Pittsford/10/Conservation
180.03-1-7.2	Iginio & Karen M. Masci 2160 Turk Hill Road Fairport, NY 14450	7.10 Fairport/5/Farming
180.04-1-20	Delbert A. & Marion M. Shelhamer Loud Road Fairport, NY 14450	12.8Fairport/25/Conservation
180.04-1-24	Linda Elizabeth DeMuth Richard Edward Haynes & Nancy Jane Haynes Bluhm Road Fairport, NY 14450	6.05Fairport/15/Conservation
180.04-1-51.111	Howard I. & Janet G. Sharp 485 Loud Road Fairport, NY 14450	5.13 Fairport/5/Farming
181.03-1-28	John P. DeSeyn 340 Wilkinson Road Macedon, NY 14502	10.00 Victor/11/Conservation
181.03-1-30.1	Floris A. Lent 270 Wilkinson Road Fairport, NY 14450	23.30 Fairport/10/Farming

181.03-1-30.2	Rufus E. Fulreader	17.00	Fairport/15/Farming
181.03-1-36.2	Daniel G. & Jacquelyn F. Ostrum Wilkinson Road Fairport, NY 14450	24.18	Fairport/15/Conservation
181.03-1-35	David K. Martin Victor Road Fairport, NY 14450	40.30	Fairport/15/Farming
194.01-1-22.1	Pickering Family Partnership	105.98	Fairport/15/Farming
194.02-1-20.21	960 Thayer Road & Thayer Rd Fairport, NY 14450	101.12	Victor/15/Farming
194.01-1-27	Kevin M. & Carol L. Sullivan 124 Lasalle Parkway Victor, NY 14564	19.46	Victor/25/Conservation
195.01-1-1	Linda Elizabeth DeMuth Richard Edward Haynes & Nancy Jane Haynes 568 Victor Road	97.42	Victor/15/Farming
195.01-1-24	Peter E. Ilic 320 Daley Road Fairport, NY 14450	9.80	Victor/10/Conservation

A motion was made by Councilperson Saum, seconded by Councilperson Havens, that February 9, 2011 at 8:00 pm at the Perinton Town Hall, 1350 Turk Hill Road, Fairport, NY be set as the date, time and place for a Public Hearing to review proposed 2011 Conservation Easements.

Ayes: Smith, Saum, LaFay, Havens

Nays: None

Unanimously approved.

**ORDER FOR HEARING
AMENDMENT TO THE CODE OF THE TOWN OF PERINTON
RELATING TO KENNELS**

Director of Code Enforcement and Development Doser stated that the Town of Perinton was recently engaged in a court case involving a resident operating a kennel in a residential neighborhood. An emerging issue from this case was that the Town code pertaining to kennels could be improved.

Mr. Doser explained that the proposed code redefines a kennel to mean any premises on which five or more dogs, at least four months old, are kept. The proposed code also allows for kennels in Residential Sensitive areas, provided that there are five acres of land, no outside storage of animals and a Special Use Permit is obtained from the Town Board. The code allows for kennels in Restricted Business, Industrial, Commercial, and Limited Commercial Districts, if specific provisions (noise and outside storage of animals) are met and a special permit is obtained from the Zoning Board of Appeals (for R.B., Ind. and Comm. Districts) or the Town Board (L.C. district).

The proposed amendment to § Section 208 follows:

Add text

Delete text

§208-8 Definitions

KENNEL -- Any premises on which *four* **five** or more dogs four months old or older are kept.

§208-38 Residential sensitive district.

- A. Purpose and locational criteria. The purposes of this district are to:
- (1) Assure that lands identified in the Comprehensive Plan as having exceptional environmental values are developed with minimal disturbance to the environment.
 - (2) Maintain low density in areas with poor transportation networks and physical constraints to development.
 - (3) Assure compatible types and densities of development.
 - (4) Encourage innovation in subdivision design.
- B. Uses permitted. The following uses are permitted:
- (1) One single-family dwelling per lot which must have a two-car garage.
 - (2) One-story accessory building to single-family dwelling.
 - (3) Customary home occupations.
 - (4) Agriculture and normal accessory buildings for agricultural purposes which meet the standards set forth in § 208-11A.
 - (5) Public buildings and grounds, as defined in this chapter, shall not be permitted, except in accordance with § 208-12 or 208-13.
 - (6) **The following uses, upon obtaining a special permit from the Town Board as provided in Section 208-54.**
 - (a) **Kennels, provided that there is at least 5 acres and that there is no outside keeping of animals.**
- C. [NO CHANGES]
- D. [NO CHANGES]
- E. [NO CHANGES]
- F. [NO CHANGES]
- G. [NO CHANGES]
- H. [NO CHANGES]
- I. [NO CHANGES]

ARTICLE VII, Restricted Business, Industrial and Commercial Districts

§ 208-39 Restricted Business District.

- A. Uses permitted in the Restricted Business District. The following uses shall be permitted when conducted within a completely enclosed building:
- (1) Administrative, banking, professional or executive offices, but not including retail sales, manufacturing or servicing of merchandise upon the premises and not including any use first permitted in any Commercial or Industrial District. Banks are permitted to have drive-in tellers and automated teller machines (ATMs) if at least 10 reservoir spaces are provided for each.
 - (2) The following uses for treatment and care of human beings, including but not limited to medical buildings consisting of offices or clinics for physicians, osteopaths, dentists, chiropractors, chiropodists, podiatrists, opticians and optometrists.
 - (3) Public buildings and grounds. (See § 208-8, Definitions.)

- (4) Meeting rooms for private clubs, lodges or fraternal organizations.
- (5) Fire station and/or ambulance service headquarters.
- (6) Hotels or motels (see § 208-45.)
- (7) As an accessory use to any of the above, a restaurant, newsstand, barbershop, hairdresser, pharmacy, storage or other incidental personal service in connection with a permitted use, but only when conducted and entered from within the building, provided that no exterior display or advertising shall be made of such use.
- (8) As an accessory use to any of the above, a club swimming pool, provided that such pool is located entirely within an enclosed building. Outdoor pools may be granted by the Board of Appeals upon application for a special permit. The Board shall apply the provisions of § 208-54 hereof as well as any other standards deemed necessary or proper to protect neighboring properties.
- (9) Veterinary office **and/or kennels**, provided that there is no outside keeping of animals and adequate soundproofing is provided so that the ambient sound level at the property boundaries is not elevated more than 10 decibels on the **A**-weighted scale as measured at a fast response with an instrument satisfying the requirements of American National Standards Institute (ANSI) S1.2-1983 and a special permit is granted by the Board of Appeals. The Board shall apply the provisions of § 208-54 hereof as well as any other standards deemed necessary or proper to protect the neighboring properties.

B. Regulation of permitted uses shall be as provided in § 208-42 of this chapter.

§ 208-40 Industrial District.

A. Uses permitted. The following uses shall be permitted in the Industrial District:

- (1) Customary and ordinary industrial uses which are conducted wholly within the enclosed walls of a building, including warehousing, are permitted. Those uses of lands, buildings, structures or processes which may or shall be noxious, injurious or in any way harmful to persons or property by reason of the production or emission of dust, smoke, refuse, odor, gas fumes, noise, radiation, vibrations or similar circumstances or conditions are expressly prohibited.
- (2) Hotels or motels. (See § 208-45.)
- (3) All uses first permitted in a Restricted Business District.
- (4) A solid waste facility may be permitted upon obtaining a permit from the Zoning Board of Appeals as provided in § 208-21 of this chapter, provided that it meets the following criteria:
 - (a) The parcel is greater than 100 acres in size.
 - (b) The facility and related improvements are set back greater than 100 feet from any property line.
 - (c) Appropriate measures are taken to minimize the visual impact of any operational activities and equipment and dropoff facilities are provided along adjacent public roads.
- (5) Veterinary office **and/or kennels**, provided that there is no outside keeping of animals and adequate soundproofing is provided so that the ambient sound level at the property boundaries is not elevated more than 10 decibels on the **A**-weighted scale as measured at a fast response with an instrument satisfying the requirements of American National Standards Institute (ANSI) S1.2-1983, **and a special permit is granted by the Board of Appeals. The Board shall apply the provisions of § 208-54 hereof as well as any other standards deemed necessary or proper to protect the neighboring properties.**
- (6) Adult uses.

(7) Miniwarehouses.

- B. Design criteria. The architectural treatment and general appearance of all buildings and grounds shall be of such quality of design as to be a visual asset to the area in which they are located. Such determination shall be made by the Planning Board.
- C. Landscaping. The front yard of all lots and the exterior side yard of a corner lot shall be landscaped and shall include the provision of vegetation of suitable levels of maturity to protect and enhance the overall quality of the environment. In the case of through lots where the rear or side yard is also visible from public highways or residential areas, similar requirements shall be imposed wherever appropriate.

§ 208-41 Commercial District.

- A. Uses permitted. The following uses shall be permitted in the Commercial District:
 - (1) Any use first permitted in a Restricted Business or an Industrial District, except solid waste facilities and adult uses.
 - (2) The following uses when conducted within a completely enclosed building:
 - (a) Stores and shops for the conducting of any retail business, subject to the regulations found in § 208-14A(4)(p) and (q).
 - (b) Personal service establishments, i.e., barbershops, beauty parlor, shoe repair, laundromat, dry cleaning or laundry pickup stations.
 - (c) Restaurants, coffee shops or other places serving food or beverages inside. In addition to site plan approval and any other applicable provisions for special permits, the Board of Appeals may grant a permit for a drive-up window for pick-up of food, provided the applicant prepares a plan that shows the location of at least 10 reservoir spaces and demonstrates the use will not be detrimental to on-site traffic patterns, off-site traffic and adjacent properties. The Board of Appeals may grant a special permit to allow outside dining, subject to the provisions of § 208-54. The Board of Appeals may require a site plan approval from the Planning Board as part of its approval of the special permit. Preparation of food for catering purposes for consumption off the premises is permitted as an incidental use.
 - (d) As an accessory use, shops for the manufacture or processing of articles incidental to the conduct of a retail business lawfully conducted on the premises, provided that:
 - [1] All such articles manufactured or processed are sold at retail on the premises.
 - [2] Not more than four persons are engaged in such manufacturing or processing at any one time in any one establishment.
 - [3] Such activity shall not produce offensive odors, noise, vibration, heat, glare or dust.
 - (e) Vending machines, only when located wholly within the main building, except as listed below:
 - [1] Public telephones and newspaper vending machines may be located outside of a building.
 - [2] Ice dispensing machines may be located outside or next to, but not in front of, the building.
 - (f) Veterinary office **and/or kennels**, provided that there is no outside keeping of animals and adequate soundproofing is provided so that the ambient sound level at the property boundaries is not elevated more than 10 decibels on the A-weighted scale as measured at a fast response with an instrument satisfying the requirements of ANSI S1.2-1983, **and a special permit is granted by the Board of Appeals. The Board shall apply the provisions of § 208-54 hereof as well as any other standards deemed necessary or proper to protect the neighboring properties.**
 - (3) [NO CHANGES]

- (4) [NO CHANGES]
- (5) [NO CHANGES]
- B. [NO CHANGES]

§ 208-42 [NO CHANGES]

§ 208-43 Limited Commercial District.

- A. [NO CHANGES]
- B. Uses permitted. The following uses shall be permitted in the Limited Commercial District:
 - (1) [NO CHANGES]
 - (2) [NO CHANGES]
 - (3) The following uses, upon obtaining a special permit from the Town Board as provided in § 208-54:
 - (a) Veterinary office **and/or kennels**, provided that there is no outside keeping of animals and adequate soundproofing is provided so that the ambient sound level at the property boundaries is not elevated more than 10 decibels on the A-weighted scale as measured at a fast response with an instrument satisfying the requirements of ANSI S1.2-1983.
 - (b) [NO CHANGES]
 - (c) [NO CHANGES]
 - (d) [NO CHANGES]
- C. [NO CHANGES]

§ 78-11. Penalties for offenses.

Any person who violates this article or knowingly permits the violation of this article or any of the provisions thereof shall be deemed to have committed an offense against this article, and any person convicted of any such violation after investigation and hearing shall be punishable *similarly as a violation under § 119, Subdivision 2(a), of the Agriculture and Markets Law of New York State* **(as pursuant to Chapter 115 of the Town Code)**.

Mr. Doser asked that the Board set a date for a Public Hearing to discuss the proposed changes to the Code of the Town of Perinton relating to kennels.

A motion was made by Councilperson Saum, seconded by Councilperson LaFay, that 8:00 pm on February 9, 2011 at the Perinton Town Hall, 1350 Turk Hill Road, Fairport NY be set as the time, date and place for a Public Hearing to discuss proposed changes to the Code of the Town of Perinton relating to kennels.

Ayes: Smith, Saum, LaFay, Havens
Nays: None
Unanimously approved

AUTHORIZE TAX PAYMENTS

Supervisor Smith said that, in a memo dated January 7, 2011, Tax Receiver Karen Heim asked the Board to approve payment of the Town's portion of the 2011 Town & County tax bill for Time Warner Cable and approve payment of the 2011 Town & County property tax bills to the Perinton Receiver and the East Rochester Receiver as follows:

A letter has been received from Time Warner Cable (TWC) advising that, pursuant to a franchise agreement between TWC and the Town of Perinton, TWC pays the Town of Perinton a fee for a special franchise to operate its cable television business in the public right-of-way. Section 626(1) of the Real Property Tax Law of the State of New York provides that the amount paid as a franchise fee (whether it is based upon a percentage of gross earnings or is called a license fee or is some other sum paid on account of a special franchise) is to be deducted from the taxes levied upon a special franchise.

Pursuant to Section 626(2) of the New York Real Property Tax Law, TWC is requiring that the Town pay for the portion of Town taxes, in the amount of \$2,196.36 due on the 2011 County/Town bill.

In addition, the Town has tax payments on town property in the amounts of \$9,192.89 due to Karen L. Heim, Town of Perinton Receiver and \$1 due to Raymond Parrotta, East Rochester Receiver.

A motion was made by Councilperson Saum, seconded by Councilperson LaFay, that the Supervisor be authorized to draw a check in the amount of \$2,196.36 to Karen L. Heim, Receiver, for payment of the Town portion of taxes due on the following Time Warner bills:

644.03-999-701./1882	\$ 140.11
500.00-1-492	\$ 196.95
500.00-5-327./13	\$ 57.51
500.00-5-327./PE1	\$ 64.15
500.00-5-327./PF1	\$ 127.80
500.00-5-327./PR1	\$1028.49
152.07-1-17.1	\$ 581.35

and that the Supervisor be authorized to draw a check in the amount of \$9,192.89, payable to Karen L. Heim, Receiver of Taxes, Town of Perinton and a check for \$1 to Raymond Parrotta, Receiver of Taxes, Town of East Rochester, for 2011 Town and County taxes for properties owned by the Town.

Ayes: Smith, Saum, LaFay, Havens
Nays: None
Unanimously approved

APPROVE APPOINTMENT JUNIOR COURT CLERK

Supervisor Smith reviewed a memo to the Town Board in which he stated that Patti Morrison, Deputy Court Clerk is retiring at the end of January 2011. This has created a vacancy and Judge Klonick and Judge Arnold have been interviewing candidates to fill the vacancy for the last month and a half. They have written a memo to the Town Board recommending that Maureen Nix be appointed to the position and that her starting salary be at the starting salary for the position which is \$[] and that her start date would be January 13, 2011.

Councilperson Saum, made a motion, seconded by Councilperson LaFay, to appoint Maureen Nix as Junior Court Clerk effective January 13, 2011 at a starting salary of \$[].

Ayes: Smith, Saum, LaFay, Havens
Nays: None
Unanimously approved

ACCEPT RESIGNATION
CONSERVATION BOARD

Supervisor Smith stated that Margaret Perrotta has been a member of the Conservation Board and has resigned from this Board effective 1/5/2011.

Councilperson Saum made a motion, seconded by Councilperson LaFay to acknowledge and accept Ms. Perrotta's resignation with the Town Board's appreciation.

Ayes: Smith, LaFay, Havens
Nays: None
Unanimously approved

APPROVE CHANGES TO THE MEMBERSHIP
OF THE BUSHNELL'S BASIN FIRE ASSOCIATION, INC

A motion was made by Councilperson Havens, seconded by Councilperson Saum, that the following change in the membership of the Bushnell's Basin Fire Association, Inc. be approved:

Resignation of	Roland Massaad
Resident Active Firefighter	1 Green Valley Road Fairport, NY 14450

Ayes: Smith, Saum, LaFay, Havens
Nays: None
Unanimously approved

APPROVE CHANGE TO AUTOMOBILE MILEAGE
REIMBURSEMENT RATE

Supervisor Smith stated that the Town has received notification from the Internal Revenue Service that the mileage reimbursement rate be increased effective 1/1/11 from \$.50/mile to \$.51/mile. This needs to be revised in the fee schedule of the Organization Meeting minutes approved on December 29, 2010.

Councilperson Havens made a motion, seconded by Councilperson LaFay to approve the increase in the Town's mileage reimbursement rate to \$.51/mile.

Ayes: Smith, Saum, LaFay, Havens
Nays: None
Unanimously approved.

A motion was made by Councilperson Saum, seconded by Councilperson LaFay, that the reports from the Finance Director, Town Clerk and the Code Enforcement and Development Department for the month of December 2010 be approved.

Ayes: Smith, Saum, LaFay, Havens
Nays: None
Unanimously approved

There being no further business before the Board and no further questions from the audience, the meeting was adjourned at 8:20 pm.

Respectfully submitted,
Jennifer A. West
Town Clerk