

PERINTON TOWN BOARD MEETING
1350 Turk Hill Road, Fairport, NY 14450
Wednesday, February 9, 2011

PRESENT:	James E. Smith	Supervisor
	Patricia S. Knapp	Councilperson
	Carolyn H. Saum	Councilperson
	Joseph H. LaFay	Councilperson
	Peg S. Havens	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; T.C. Lewis, Planning Board.

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

Councilperson Havens made a motion, seconded by Councilperson LaFay, that the minutes of the Town Board meeting of January 26, 2011 be approved as submitted by the Town Clerk.

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

PUBLIC HEARING
CONSERVATION EASEMENTS 2011

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 January 20, 2011; affidavit of posting was January 19, 2011.

Nicholas Morabito, Assessor, reported that open space preservation has been an objective of Perinton Town government for many years. In the 1970's the town developed a Conservation Easement program that assisted in retention of open space. The easement program allows property owners to enter into a legal agreement or easement with the Town. In return for entering into this agreement, the Town grants a tax abatement to the parcel under easement. The agreement states that the property owner agrees to retain the present use of their land for a term of at least five years. Longer terms are available and encouraged and provide a greater tax incentive for the property owner. In the event that an easement is broken, or requested to be cancelled, before the term expires, the property owner is required to pay back up to five years of tax benefits they received as well as a penalty. The penalty monies are placed in a reserve fund for the acquisition of open space.

These funds have assisted the Town in acquiring close to 800 acres of open space land over past years. There are two types of easements, the Conservation Easement previously described and a Conservation Easement for farming purposes. The conservation with farming easement carries the same conditions as well as the requirement that the property be actively farmed.

There are thirty-six easements due to expire on March 1, 2011. Twenty-six of these easements are before the Town Board. The remaining ten parcels are not being renewed, for different reasons such as the purchase of development rights by the Town, estate planning potential sale, or the parcel may no longer meet the minimum requirements to be in the program. No new applications were received this year. Assessor Morabito said that all of the proposed easements have received favorable recommendations by the Perinton Conservation Board as well as the Monroe County

Planning Department. He pointed to a Town map which highlights properties currently involved in the conservation easement program. The parcels in dark green are current conservation easements and those in light green areas are existing farming easements. The parcels in purple are up for renewal in 2011.

Assessor Morabito stated that with the Town Board approval, there will be 105 easements on record totally 2,920 acres.

Judith McNulty, 647 Thayer Road, asked whether the landowner gets more of a tax break for farming than a regular conservation easement and Assessor Morabito stated that they do.

Darren Miller, 1 Mill Valley Road, asked about the extent of the tax abatement. Mr. Morabito addressed his question and referred to a brochure on the program. The program has been in place since 1975 in the Town, is fairly unique in NYS and has been very effective in slowing down development and making development more orderly in Perinton.

Assessor Morabito asked the Board to accept 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	24.18Fairport/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	19.46Victor/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	9.80Victor/10/Conservation

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

A motion was made by Councilperson LaFay, seconded by Councilperson Knapp, that the acceptance of the above 2011 Conservation Easements be granted a Negative Declaration under the New York State Environmental Quality Review Act (SEQR) because granting the easements preserves open space, limits development and therefore creates no adverse environmental impacts.

Ayes: Smith, Knapp, Saum, LaFay, Havens

Nays: None

Unanimously approved

Councilperson Knapp offered the following resolution, seconded by Councilperson Saum:

RESOLVED: that the Town Board of the Town of Perinton does hereby accept, and authorize the Supervisor to sign on behalf of the Town of Perinton, the Conservation Easements as presented by Assessor Morabito.

Ayes: Smith, Knapp, Saum, LaFay, Havens

Nays: None

Unanimously approved

PUBLIC HEARING
AMENDMENT TO THE CODE OF THE TOWN OF PERINTON
RELATING TO KENNELS

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 January 27, 2011; affidavit of posting was January 19, 2011.

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 and clarified.

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 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)**.

Judith McNulty, 647 Thayer Road, asked for clarification regarding the definition of a kennel. Commissioner Beck stated that there are no permitted kennels currently in the Town of Perinton.

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

Councilperson Saum made a motion, seconded by Councilperson Havens to refer the modification to Section 208 of the Code of the Town of Perinton, Kennels to the Planning Board.

Ayes: Smith, Knapp, Saum, LaFay, Havens

Nays: None

Unanimously approved.

DISCUSSION OF POTENTIAL IMPLEMENTATION OF NO PARKING ZONE

Commissioner Beck stated the Fairport Central School District has requested that the Town of Perinton investigate the possibility of creating a No Parking Zone on Ayrault Road in the vicinity of the Fairport High School. The request was made based upon the “heavy volume of participants at Open Houses, musical concerts, theatre presentations and evening basketball games. During these events, there is typically significant parking along the shoulder of the roadway that causes traffic flow problems. Also, with the possibility of installation of field lights...we hope that No Parking restrictions on Ayrault Road would be an effective addition to our parking safety plan.”

Ayrault Road is owned and maintained by Monroe County and therefore this request was passed along to Terrence Rice, Director of Transportation for Monroe County. Commissioner Beck asked that they provide feedback for consideration by the Town Board, which they have done.

In addition, Mr. Beck stated that Town Staff and the Town Engineer have reviewed the concept and believes that implementation of a "No Parking Anytime" zone would be an appropriate action to take. Commissioner Beck showed the proposed "No Parking Anytime" zone on a map which includes the north side of Ayrault Road from approximately opposite Mason Road to Turk Hill Road and on the South side of Ayrault Road from Mason Road to Hogan Road.

Commissioner Beck stated that on January 14, 2011, a letter was sent to all of the owners of property fronting Ayrault Road that would potentially be impacted by the "No Parking Anytime" proposal. As of February 9, 2011, the Town has received three inquiries regarding the proposal. The first resident has not had any parking issues along her property frontage and was ambivalent regarding the "No Parking Anytime" zone. The second wondered why the no parking zone was not extended on the south side of Ayrault down as far as Havenwood Hollow. The third was concerned about parking but also concerned about being a homeowner in the zone and unable to park his guests that might overflow his driveway.

Mr. Beck also stated that Town staff recommends that if this proposal moves forward, the school district, in their parking safety plan, needs to identify other areas that will hold the displaced parking. In the past, they have approached the Town to use the two Center Park parking areas and then shuttle people to the school.

Jennifer Campbell, 1520 Ayrault Road, suggested that the "No Parking Anytime" zone be implemented only during the school year.

A gentleman in the audience asked about the logic in making the south side of Ayrault free of restriction west of Hogan Road. Commissioner Beck stated that this has historically not been used for football parking due to distance from the High School and there is a six foot shoulder and therefore not a significant safety issue. Supervisor Smith stated that this could be looked at in the future.

Ted Zajac, 1438 Ayrault Road, stated that he has talked to both Supervisor Smith and Commissioner Beck regarding his concerns. He is opposed to the "No Parking Anytime" zone as there are sidewalks on his (north) side of the road. He is, however, concerned about parking on the South side of the Ayrault Road due to the culvert, no sidewalks and the fact that the people would need to cross the road to get to the high school. He also stated that he is not in favor of the shuttle bus suggestion as it would mean more school bus drivers and higher taxes. Mr. Zajac stated that he believes that the no parking zone should be extended to Jefferson Avenue as Martha Brown has the same issue with parking on Ayrault Road during many of their events.

Supervisor Smith reiterated that the Town's role is to address safety and have minimum impact on the Town residents and is pleased to have the input of concerned residents.

A gentleman in the audience asked who would be responsible for enforcing the "No Parking Anytime" zone and Supervisor Smith stated that it would be the Monroe County Sheriff's department.

Judith McNulty, 647 Thayer, asked whether there is room in the high school parking lot to park most cars. Commissioner Beck stated that it depends on attendance.

T.C. Lewis, 14 Southcross Trail, asked whether this request came from the School District.

Supervisor Smith stated that all comments will be taken under advisement and that the Town Board will come back at a later time to make a decision regarding the “No Parking Anytime” zone.

APPROVE APPOINTMENT
PART-TIME CLERK
CODE ENFORCEMENT AND DEVELOPMENT

Code Enforcement and Development Director Doser stated that his department has had a vacancy for its part-time administrative clerk since July.

Mr. Doser is recommending that the Town Board appoint Ms. Lucy Reeder to fill the part-time administrative clerk position at a rate of \$12 per hour effective February 28, 2011.

Councilperson Saum, made a motion, seconded by Councilperson Havens, to appoint Lucy Reeder as part-time administrative clerk effective February 28, 2011 at a starting rate of \$12 per hour.

Ayes: Smith, Knapp, Saum, LaFay, Havens

Nays: None

Unanimously approved

APPROVE PERMANENT APPOINTMENT
CODE ENFORCEMENT AND DEVELOPMENT DIRECTOR

Supervisor Smith stated that Michael Doser has been working for the Town with a provisional appointment under the Civil Service system awaiting the opportunity to take the Civil Service exam for his position. Mr. Doser took the exam at the end of 2010, satisfactorily passed the exam and is reachable on the Civil Service list.

Councilperson LaFay made a motion, seconded by Councilperson Knapp to appoint Michael Doser to the Permanent position of Code Enforcement and Development Director effective February 10, 2011.

Ayes: Smith, Knapp, 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 January 2011 be approved.

Ayes: Smith, Knapp, 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 8:40 pm.

Respectfully submitted,
Jennifer A. West
Town Clerk