

THE TOWN OF CHENANGO TOWN BOARD MET MONDAY, AUGUST 3, 2015, AT 7:00 P.M. IN THE TOWN OFFICE BUILDING, 1529 N.Y. ROUTE 12, BINGHAMTON, N.Y.

**PRESENT:**

Harold Snopek, Supervisor  
Gene Hulbert, Councilperson  
Terry Kellogg, Councilperson  
Jim DiMascio, Councilperson  
Russell Hemedinger, Councilperson

**ALSO PRESENT:**

Donald G. Walls, Town Attorney  
Rhonda D. Milks, Town Clerk  
Mike Kwartler, Highway Superintendent

**PLEDGE OF ALLEGIANCE TO THE FLAG**

Mr. Snopek requested that all present stand and join in the Pledge of Allegiance to the Flag.

**APPROVAL OF MINUTES**

Mr. DiMascio moved, seconded by Mr. Kellogg, that the minutes of the previous meeting be approved as prepared and presented. Motion carried.

**BID OPENINGS:** None

**PUBLIC HEARINGS-None**

- a. Members of the Town Board and members of the general public shall be permitted to ask questions of sponsor after recognition by chair.

**Open Hearing, General Town Business**

- a. Members of the general public are invited to address the Town Board. Speakers shall address comments to the Town Board and no other members of the audience. Said speakers shall speak in an orderly fashion and are requested to limit remarks to five (5) minutes. At the conclusion of the open hearing for general Town business, public participation in the meeting will be concluded and the Board will resolve itself into session to handle all new and unfinished business without public participation.

Mark Knapp- 8 Alice Street

Mr. Knapp said he was speaking for at least 3 residents on Alice Street that had their water freeze. Their water froze and the Town dug it up a couple of times. Back in the beginning of this problem, about 2 years ago when they put in the line, the guys left large stones left in the street so he cleaned them up. Then the water froze again this winter twice so we had to keep our water running and they took the meter off. In May Tracy came and put the meter back on but the lawn had still not been fixed. Immediately following that he went to the mailbox and received a water bill that was the biggest he had ever had. It was their understanding they would not be paying for the water, but apparently they did. In the Spring they came and did an awful job of repairing the yards. The neighbor did her own lawn but Mr. Knapp let the Town do his. There was a pile of rocks with some grass seed on it. He has pictures of it. Then they came back the other day, knocked over his mailbox and put ruts in his lawn. He couldn't mow it before and now it's even worse. He said even if he tried he couldn't have done a worse job. When he makes mistakes at his job it is his responsibility to fix it. We are under the impression that we will have to run our water in the winter to keep it from freezing. That is not acceptable and if he wanted to sell his house it would become an issue because they would still have to run the water anytime it got real cold and he would have to tell them that.

Mr. Snopek- Town Supervisor

Asked Mr. Knapp for his phone number so the Water Department could contact him after he discussed it with them.

Josette Klein-6 Alice Street

It was really disappointing the job they did. She takes pride in her home and she even counted the number of buckets of rocks she has removed from her lawn. It wasn't topsoil they put on her lawn, it was fill. She even called to ask who gave them permission to dump gravel on her front yard. She was told that it was what was on State bid and so that's what the Town got. It isn't a ballfield, it's her front yard. It just isn't acceptable and she spent all summer trying to make it look right and she is afraid the same thing is going to happen again because the water problem isn't fixed.

Mr. Snopek assured them he would look into it.

Danielle Mahakian -22 Wallace Road

We came to let the Town Board know that we are all very concerned about the Group Home at 39 Wallace Road. We want to know what's going on since the last meeting and the petition we presented to the Board.

Mr. Walls, Town Attorney-

At the last meeting he tried to explain what our options were. The Town was informed by ACHIEVE that they planned to put a Group Home at 39 Wallace Rd. The Town has forty (40) days to respond. After that the Board asked Mr. Walls if he would research to see if the Town could do anything.

At the last meeting the vast majority of the people objected to the Group Home being in their neighborhood. The question was, can we object and if we did would we be successful?

New York State has a policy favoring the establishment of small residential homes. By Statute they have taken over completely the operation and registration of the Group Homes. The Town Zoning Regulations are void and preempted by the State. That being said, if the Town were to object we would go to a hearing before a Commission favoring the establishment of Residential Group Homes.

The grounds for objection are very specific. There are only two reasons we can object. We would have to prove, by substantial evidence, that there is a concentration of these homes in the area and that the concentration will result in the change of character of that area. It's a fact that there is no concentration in this area. The closest home of this type is three (3) miles away in the Town of Chenango and four (4) miles away in the Town of Dickinson. As far as the character of the area, you cannot forecast the activity of mental health patients and you can't have expressed fear. That is pure speculation.

Our practical experience is that we have five (5) such Group Homes in the Town of Chenango and I guarantee nobody knows where they are. We have had no formal complaints to our Ordinance Department from any of them.

Danielle Mahakian-

Are the other homes housing people who are coming from Broome Developmental?

Mr. Walls-

They probably have had some come from Broome Developmental.

Let me give you an example. Vestal tried to stop a Home for recovering Drug Addicts. The Town said no and objected to it. The Group Home sued the Town of Vestal and won. The Federal Commission determined that the Town of Vestal had discriminated against these people and under the FHA, Federal Disability Act and the Padavan Law. Not only that, but it cost the Town of Vestal taxpayers over ½ million dollars to defend that case

It is Mr. Walls legal opinion that the Town does not have sufficient grounds to successfully object to the Group Home located at 39 Wallace Road. I know this isn't what all the people in the neighborhood want to hear, but I don't see spending that kind of money to object when I don't feel we have the grounds.

Unknown Resident-

If it comes in does that mean we can't do anything? If the Sheriffs have to come week after week because of people running down the street then do we have a case or after the forty (40) days pass that is it?

Mr. Walls-

Obviously if it's a crime the Sheriff's Department would handle it. The Town would not have any control over taking corrective action.

Matt Rossi- 13 Wallace Road

I understand what you're saying and I respect the law and that there is nothing the Town can do. I think the reason there are no formal complaints at the other homes is because when they have problems they call the people from their Agency to handle them. He works for the SUNY System and knows that a lot of things are kept from the press and public view. He knows this is part of Cuomo's Democratic Social Program and its being forced on us. Part of his concern is what happens in those homes with people who don't come from Broome Developmental that become victimized by residents that do come from Broome Developmental who have victimized other people in the past.

He asked that if the neighbors come in with problems that the Town listen and give them good guidance on where to go for help. These can be difficult situations to handle and with the governor's policies it can be a useless fight.

We are not here to attack the Town Board. We just have concerns. We are not against group homes like the Press reported and are more than happy to have some of the people who are going to be living there. Hopefully, we will not have any problems but we just hope the Town will help direct us if we need it.

Mr. Snopek-

We certainly will and the Town Board sympathizes with you.

Gail Bielefedt- 37 Wallace Road

She lives right next door to the Group Home. She would like to know when they are allowed to start the workday. The construction workers are working Monday – Saturday and have started as early as 6:00 am. Building, hammering and running equipment.

Mr. Hulbert-Town Councilperson

He didn't know the hours off the top of his head, but commercial work is Monday-Saturday. Just from memory he thinks it's from 7:00 am – 6:00 pm, but it's in the Town Ordinances and he will check.

Gail Bielefedt-

She does not believe Mary Jo from ACHIEVE. She has already called IAN, the Residential Director for over parked cars in front of her house. Her mail cannot even be delivered. She has had to call him numerous times already about the cars.

Ian, Residential Director at ACHIEVE, gave her his card but she just doesn't trust him. She was assured that the employees would be parking in the driveway.

She wondered where they will go to take their cigarette breaks. She hopes not in the middle of the road. It's very dark and she works swing shift and comes home early in the morning. Her daughters work evenings. She doesn't want them smoking on her property.

Mr. Snopek-

He will call ACHIEVE and try to straighten out the parking problem and will call her back.

Gail Bielefedt-

She also wonders what type of people they are going to be hiring. She just read in the paper about an employee working with Broome Developmental was brought up on charges. It's concerning. She used to live next to a Group Home thirty (30) years ago and there was no problem but the clients they allow in these homes now is different than it used to be.

Mr. Hulbert-

The ordinance reads that commercial work must stop at 9:00 pm on Saturday until 7:00 am on Monday.

Rhonda Milks-Town Clerk

We all sympathize with all of you and your concerns. One thing that Gail just said about who they are going to hire because of what she read in the paper made me want to comment. It doesn't matter where we work or where we live today there could be less than desirable people. We read about it every day in the paper and it includes people we are supposed to trust in every type of business and our

government agencies. Unfortunately a lot of us don't even know who are neighbors are or anything about them.

Gail Bielefedt-

Years ago we had a problem with an open lot across the road from her that was very dark. People were in and out of the area all hours of the night and so the Sheriff's Department was call. They believed there were drug deals going on there. NYSEG put a brighter light there and it took care of the problem. Is there any way we could have that street light brighter.

Steve Parmeter- 735 Brotzman Road

He doesn't have an interest in the Group Home on Wallace Road but part of his job is to deliver to these types of Group Homes. I would never even know they were any different than any other resident that he delivers to. He thinks most of them have a place for deliveries.

Mr. Snopek-

He hopes everything goes well for all of the residents. If you have any problems please feel free to call him and he will try to help.

## **TOWN BOARD IN SESSION WITHOUT PUBLIC PARTICIPATION**

### **COMMUNICATIONS – Rhonda D. Milks, Town Clerk**

1. I received notification that an application has been submitted to NYS, for a liquor license, from Magic City Hall, LLC., located at 1240 Front Street.
2. Mr. Snopek received a letter requesting a 30 day waiver from Mike Rogers, the new owners of the Chenango Ice Rink. They have submitted an application to the NYS liquor authority and the Town Board approved that waiver at the July 22, 2015 work session.
3. The Summer Social is scheduled for Friday, August 14, 2015. We will serve food beginning at 6:00 and the music will be from 7:00-10:00 pm.

### **COMMITTEE REPORTS**

#### **Mr. Hemedinger-Insurance and Safety/Community Events**

Music in the Parks has been going on for four (4) week and only one had to be cancelled due to weather. The people seem to be enjoying the entertainment and hopefully the weather will cooperate for the rest of the performances.

#### **Mr. DiMascio - Planning Board and Zoning Boards**

Planning Board Meeting - July 13, 2015

New Business:

- First Ukrainian Pentecostal Church- Jerry Karnauch – 143 Castle Creek Road- TM#111.12-4-3, Application for site plan updates- foyer addition to existing church. Site plan was approved.

Advisory Opinion/Referrals

- Anna Rusnak- 1953 NYS Rte. 12 – TM# 078.19-2-212 – Application for an area variance to place an accessory building (carport) with less than required side yard setback from 10' to 4.5'.
- Variance was forward to the ZBA with a favorable advisory.

Update Old Business & Advisory Opinions

- Auto Zone Inc. – 1359 Upper Front St. – TM# 111.12-2-8, 111.12-2-7, 111.12-2-5.2, 111.12-2-4, Application for a site plan update review for new commercial.
- Auto Zone Inc. – Kevin Murphy – 1359 Upper Front St. – TM# 111.12-2-8, 111.12-2-7, 111.12-2-5.2 and 111.12-2-4. Application for Parcel A use & area variance to allow commercial business and rear yard setback from 25' to 15' in a residential area.
- Auto Zone Inc. – (Parcel A) advisory on EAF Short Form.
- Jeremy Hiltz – 1359 Upper Front St. – TM# 111.12-2-8, 111.12-2-7, 111.12-2-5.2 and 111.12-2-4 – Application for site plan review for relocation of the tour bus parking lot.

- Jeremy Hilts – 1359 Upper Front St. – TM# 111.12-2-8, 111.12-2-7, 111.12-2-5.2 and 111.12-2-4 – Application for Parcel B use & area variance to allow commercial use (bus tour parking) minimum lot width from 100’ to 75’ in Commercial Development zone.
- Jeremy Hilts – (Parcel B) advisory on EAF Short Form.
- Variances were forwarded with recommended changes to site plan with a favorable Advisory.

Zoning Board of Appeals Meeting - July 28, 2015

Public Hearings

- Anna Rusnak – 1953 NYS Rte. 12 – TM# 078.19-2-12 – Application for an area variance to place an accessory building (carport) with less than required side yard setback from 10’ to 4.5’. Variance was approved.
- Auto Zone Inc. – Kevin Murphy – 1359 Upper Front St. – TM# 111.12-2-8, 111.12-2-7, 111.12-2-5.2 and 111.12-2-4 – Application for Parcel A use & area variance to allow commercial business & rear yard setback from 25’ to 15’ in a residential area.
- Jeremy Hilts – (Parcel B) – 1359 Upper Front St. TM# 111.12+2-8, 111.12-2-7, 111.12-2-5.2 and 111.12-2-4 – Application for Parcel B use & area variance to all commercial use (bus tour parking) minimum lot width from 100’ to 75’ in Commercial Development zone.
- Jeremy Hilts – (Parcel B) Assume “Lead Agency” & Environmental Assessment Review.
- The above variance requests were tabled till next meeting.

Interpretation

- Town of Chenango – 1529 NYS Rte. 12 – Zoning Interpretation are flags considered signage.
- Promotional signs were determined to be signage and fall under sign regulations.

New Business

- UPS Store – Michael Belt/Mark Nagle – 1235 Upper Front Street – TM# 111.20-2-1 – Application for a use variance to utilize additional 3 flags as ground signs and an area variance to exceed the maximum allowed from 30’ to 65.55’.
- James Potenziano- 52 Overbrook Dr.-TM# 095.19-1-47 – Application for triple area variances to allow a driveway setback from 10’ to 2.6’, detached garage with less than required side yard setback from 10’ to 7.5’ and exceeding the garage height allowed from 16’ to 19’. Application was found to be complete and forwarded to PB for their advisory.
- Arthur J. Griswold – 5 S. Frederick Road – TN# 112.07-2-34 – Application for area variance to expand a driveway with less than required side yard setback from 10’ to 1.5’ and use variance to allow a recreation vehicle (RV) forward of the front building line. Application was found to be complete and forwarded to PB for their advisory.

**Terry Kellogg – Highway Department**

The tops of catch basins were cleaned off on July 1, 2015. Catch basins were rebuilt on Overbrook and Wightman Drive.

The unnamed creek that runs near the intersection of Poplar Hill Road and Airport Road was cleaned out.

The shoulders were cut on Saddlebrook Drive. Ditches were cleaned on Bishop Road, Clarendon Drive, Grant Road, Norton Drive and Trafford Road. The ditches were dug on Saddlebrook, Stacy and Wilson Hill Road.

The full length of Overbrook Drive was milled and paved.

Saddlebrook Drive and Poplar Hill Road from Hemlock Lane to Van Kuren Drive were paved.

Lawn repairs from drainage projects were completed on Mill Road and Trafford Road.

Asbury and Everett had water breaks patched and pothole patching continued throughout the month. Portions of Dorman Road, Fox Road, Meadowood Lane, Stacy Drive and Swift Road were strip patched with the Leeboy pave.

Yard waste and chipping continued on Mondays.

**Gene Hulbert - Public Works Department**

Fire Hydrant was replaced on Prescott Road.

Water main leak was repaired on Everett Road.

A large tree had to be cut in the Maple Grove Cemetery after a large limb broke off and the tree was found to be rotting in the center.

Cut several limbs and branches at all the cemeteries after storms moved through.

Repair Service leak on water service at 8 Alice Street.

There were 12 water and sewer after hour call-outs.

**Mr. Snopek- Supervisors Report**

For all of you on Wallace Road we do have some good news that should make you all happy. We heard from New York State and we will be going through with the infrastructure on the Smith Hill Creek/Wallace Road area. We are in the process of getting proposals for the engineering of the project. We expect we will be ready to begin in 2016.

The Town has had Chase Bank for all of our Town accounts for many, many years. Just recently they informed us they would be raising the fees we have to pay on our accounts about \$15,000. beginning in November of this year. The Town is currently looking into changing to another bank with lower charges. We have contacted some bank right on Front Street and will be meeting with them to discuss it.

**RESOLUTIONS:**

RESOLUTION FOR BOND TO ACQUIRE MACHINERY AND APPARATUS (2016 or newer 4700SF with Plow-Highway Department) was offered by Gene Hulbert, seconded by Jim DiMascio and carried by the following roll call: 5 ayes, no nays, absent none.

RESOLUTION FOR NEW YORK RISING COMMUNITY RECONSTRUCTION CDBG-DR PROGRAM, SMITH HILL CREEK STORM WATER MANAGEMENT SYSTEM AUTHORIZATION TO ADVERTISE REQUEST FOR PROPOSALS FOR ENGINEERING SERVICES was offered by Russell Hemedinger, seconded by Jim DiMascio and carried by the following roll call: 5 ayes, no nays, absent none.

RESOLUTION AUTHORIZING ADVERTISING FOR SEALED BIDS (Sewer Department Portable Pumping Station) was offered by Jim DiMascio, seconded by Terry Kellogg and carried by the following roll call: 5 ayes, no nays, absent none.

RESOLUTION AUTHORIZING AUCTION OF VEHICLES NO LONGER IN USE (1999 Chevrolet Pickup, 2002 Blue Dodge Ram Pickup, 2006 Blue Dodge Caravan, was offered by Terry Kellogg, seconded by Gene Hulbert and carried by the following roll call: 5 ayes, no nays, absent none

RESOLUTION OF NOTICE TO ESTABLISH A GROUP HOME AT 39 WALLACE ROAD, TOWN OF CHENANGO,

Town Board Discussion:

Terry Kellogg-

As Councilperson and a resident of the Morningside Heights neighborhood, I wish to express my formal Opposition to this resolution not to object to the placement of a group Home on Wallace Road.

The reasons for my opposition are as follows:

1. The circumstances surrounding the lack of transparency by the applicant (Achieve) concerns me. The fact that they applied for a Building Permit on March 19, 2015 which was granted on April

8<sup>th</sup>, 2015 to make modifications to the proposed property without any formal discussion with the Town Board and the residents of this neighborhood is very troubling to me.

2. The fact that the applicant, who is best qualified to know when they are or are not governed by Padavan's Law, unilaterally determined that they were not, in this instance, subject to this law intended to provide a forum for public review and comment is troubling to me. They claimed that they did not believe that this situation required notification to the Town nor any of the other provisions of this Law. As you may recall, Town Council Don Walls clarified this requirement at our meeting on July 8<sup>th</sup> and requested that Achieve honor the provisions of the Mental Hygiene Law which included providing specific details of the Group Home, including the number of planned residents, the proximity to other group homes within the Town, etc. Since that meeting, the Town is in receipt of additional information; however, that information has not been formally shared with the public as of yet.
3. The fact that the Town Board and neighboring residents have no guarantees that civilly-confined clients of the Mental Health community, who could be guilty of sexually-related offenses but never charged criminally because of their diminished mental capacity, may be placed at this residence – in the presence of over twenty children under the age of ten years old within a few hundred yards is troubling to me. Verbal assurances made during the July 8<sup>th</sup> meeting are insufficient to this Board member.

As a member of this community and neighborhood, I believe that it is my duty to hold all potential businesses coming into the Town of Chenango to all requirements as prescribed by law. In this case, I am opposed to this resolution based on the reasons above and I respectfully request my fellow Board members support in opposing this Resolution. Should the process under which applicants may appeal a Town's denial of the siting of a group home at this locations determine that it is, in fact, an appropriate location, then I will accept the finding of the Agency whose laws supersede those powers of the Town Board

Mr. Hemedinger-Councilperson

He hears what Mr. Kellogg is saying and he agrees with a lot of it. He thanked Mr. Walls for the research he did and the good explanation of the law. Mr. Hemedingers was very happy to see such a good turn out at this meeting and the one before. It's important for residents to hear the information first hand instead of through rumors, second hand information or in an anonymous letter like he received at his home. There was a lot of misinformation that was spread before the last meeting and that was unfortunate. He feels that the Representative from ACHIEVE, Mary Jo, did her best to make it clear that their will not be sexual offenders moving into the Group Home. That's what ACHIEVE told us and that's what he has to go by. Knowing that and knowing the reasons the law would allow us to oppose and stop the home from going there. We have no reason legally to oppose it. He hopes that as time goes by the stress level between ACHIEVE and the residents in the neighborhood will subside and everyone will get along really well.

Resolution was offered by Gene Hulbert, seconded by Russell Hemedinger and carried by the following roll call: 4 ayes, 1 nay, absent none.

**UNFINISHED BUSINESS – None**

Being that there was no further business to discuss, Mr. DiMascio moved, seconded by Mr. Kellogg, to adjourn the meeting. Motion carried and the meeting was adjourned at 7:55 pm.

Respectfully submitted,

RHONDA D MILKS, TOWN CLERK

