

**Town Board Workshop Meeting
August 1, 2024**

A regularly scheduled Town Board Workshop meeting was held in person at the Esopus Town Hall, 1 Town Hall Way, Ulster Park, NY. on Thursday August 1, 2024, at 7:00 PM with the following persons in attendance:

**Supervisor Danielle Freer
Councilman Kathie Quick
Councilman Jared Geuss
Councilman Evelyn Clarke
Councilman Laura Robinson**

Recording Administrator Holly A. Netter, Town Clerk, RMC

4 ways to give public comment:

In person at meeting

Phone – 845 331 0676

Email – lreynolds@esopus.com with subject line “Public Comment” and meeting date

Mail – Town of Esopus PO BOX 700 Port Ewen, NY 12466

PLEDGE TO THE FLAG

PUBLIC COMMENT -

Denis Suraci read the following:

I would like to take this opportunity to make the entire Town Board aware of what is happening in two of the Town of Esopus Boards, those being both Planning and Zoning. I realize that there are liaisons on this Town Board which bring back information from meetings of the aforementioned groups. However, I believe sometimes the totality of the impact those meetings have on the Town can be missed and are truly very difficult to report back to this Town Board. I have not attended every Town Board meeting or workshop for a while, so if I repeat something or provide a bit of information you have already addressed and are truly aware of, I would like to apologize up front.

My focus is on the powers each of the Boards have and how they work within Town and State Laws. It is my understanding that the Planning and Zoning Boards are separate entities in the Town but sometimes need to work closely together in the developing and growing progress of our Town. It is also my understanding the building department, i.e., CEO is the Code Enforcement Officer for compliance with Building Codes for the State of New York and he is also an Enforcer of the Zoning laws for the Town of Esopus, also known as the ZEO.

When a local resident or developer files an application for development in the Town of Esopus, the CEO is required to guide the applicant to either the Planning Board or Zoning Board, or in some cases review for compliance with the NYS Building Codes and issue a building permit if that is all that is required for the applicant to move forward. The CEO/ZEO responsibility is to provide guidance because he has the authority to enforce the building and zoning codes, hence the CEO (Code Enforcement Officer)/ZEO (Zoning Enforcement Officer). Once he has accomplished this, it is the responsibility of the Planning and Zoning Boards to carry the project through the municipality process to completion. Beyond this point the only time the CEO/ZEO gets directly involved with the Planning and Zoning Boards is if either board requests his guidance or information for an applicant or if someone questions the CEO/ZEO's decision regarding compliance with the present Zoning Laws.

The following paragraph copied from the "The NYS Zoning Board of Appeals Guidebook for Local Officials.

"The Zoning Board of Appeal (ZBA), otherwise known as the board of appeals or board of adjustment, is an administrative body that acts as a buffer between the property owner, or aggrieved applicant, and decisions made by the zoning enforcement officers (ZEO) and the State Supreme Court. "

If a letter of interpretation from the ZEO (zoning enforcement officer) is questioned by an applicant or a resident of the town as a third party, the Zoning Board may be asked to provide their interpretation of the zoning section in question, a third party can even file an Appeal in regard to the ZEO's letter of determination. It is not the ZEO's job to neither change nor modify the zoning code or laws, he is only to interpret the zoning laws as written, not rewrite the codes. The only board allowed to interpret upon request or change the zoning law by way of a Variance is the Zoning Board. The ZEO does not have the authority, or the power, to change the written and adopted zoning laws in the Town of Esopus.

I have attached some excerpts from the New York State Zoning Board of Appeals.

"A Guidebook for Local Officials" to affirm what I am saying see below.

NEW YORK STATE

ZONING BOARD OF APPEALS

A Guidebook for Local Officials

INTRODUCTION TO THE ZONING BOARD OF APPEALS

The Zoning Board of Appeals (ZBA), otherwise known as the board of appeals or board of adjustment, is an administrative body that acts as a buffer between the property owner, or aggrieved applicant, and decisions made by the zoning enforcement officers (ZEO) and the State Supreme Court. The ZBA is "designed to interpret, to perfect, and to ensure the validity of zoning."² In many ways, the ZBA is a safety valve to prevent oppressive operation of zoning laws in instances, where the zoning regulations are otherwise reasonable.

Copies of state statutes regarding zoning and the board of appeals may be found in the publication "Guide to Planning and Zoning Law of New York State" on the Department of State Website:<http://www.dos>.

POWERS AND DUTIES OF THE ZONING BOARD OF APPEALS

All ZBAs have appellate jurisdiction, which is the "power to hear and decide appeals from decisions of those officials charged with the administration and enforcements of the zoning ordinance or local law."² Simply, appellate jurisdiction allows the board of appeals to interpret zoning regulations and issue or deny appeals for variances. Appellate jurisdiction is the primary duty of the ZBA.

INTERPRETATIONS

The ZBA has the appellate jurisdiction to interpret the municipalities zoning regulations. The ZBA may review decisions made by the ZEO and has the power to reverse, affirm, or modify the decisions appealed to it.² An interpretation is requested by the appellant who believes the ZEO may have wrongly applied the law. Common areas of interpretation include definitions and the method of taking measurements. The ZBA will render its decision as it interprets the law and agrees that is how the ZEO should have made the decision.

The decision should be made based on past decisions, or precedents, on the same regulation of similar facts. These precedents should be found in past meeting minutes, which will include hearing comments, and from other records which reveal the governing boards intention when they adopted the zoning provision. If no precedent exists, the ZBA shall "attempt to determine the governing board's original intent in enacting the provision in question."² The board should come to a consensus on what they think term of regulation means.

(The full Guide can be reviewed online by typing in "NYS Zoning-Board-Appeals)

I have attached three letters from the ZEO with a question I brought before the Planning Board, Zoning Board and directly to our Town Supervisor with a request to Appeal the ZEO's letter of determination over two (2) years ago, "How did the Lighthouse Village project get to where it is today, when it stands in direct violation of our present zoning laws (which was in effect in 8 September 2021) section 123-8. Interpretation of District Boundaries, item F. Lots Divided by Zoning District Lines".

I am not here for you to make a determination regarding the zoning laws, what I do wish to bring to your attention is the CEO/ZEO's ability to interfere with the process of the Appeal for third parties and with the interference of the Zoning and Planning Board process by the CEO/ZEO. As I wrote earlier, the Planning and Zoning Boards are independent bodies separate from the CEO/ZEO, who is an enforcer to the codes of the Town and State. He cannot and should not alter Agendas or interfere with an Appeal process before the Zoning Board by

writing a letter to the ZBA Chairperson (see attached letter dated 12 May 2023) which voided my appeal.

Again, I do not want to get into the weeds of this project, but I want to point out that the letter not only voided my Appeal, which by the way addressed the above referenced zoning section, but it also changed the entire project and would have required a Use Variance for the project, (see first letter of determination by the ZEO dated 1 December 2021). In fact, I did bring this letter up to Jared Guess at the next Town Board meeting that week and gave him a copy and pointed out how the letter would change the project. His response was something to the effect he would investigate this and get back to me. Jared, to date I still await your findings in this matter and still await my appeal to be re-scheduled with the ZBA, especially since I never received my filing fee check back.

Again, the ZEO wrote something to deny my appeal request to the ZBA for their interpretation of the above aforementioned section of the Zoning Code. I find it hard to believe this Board along with the liaisons, allow this type of control by one employee that should be what his title truly is, CEO (Code Enforcement Officer / ZEO (zoning enforcement officer). Both titles are very clear, he is a code enforcer not an individual with the right to change Zoning Laws adopted and in effect in this Town since 8th September 2021, there is a process, and it should be followed. If we as a Town do not follow the process, we inherently take away some of the built-in checks and balances of the processes.

The CEO/ZEO also removed a request from the Planning Board for a Public Hearing regarding the interpretation of the zoning section in question noted above-section 123-8. Interpretation of District

Boundaries, item F. Lots Divided by Zoning District Lines”. This is a direct interference with the process and the independent guidelines for Zoning and Planning Boards. This also takes away the buffer mentioned in the above NYS Guidelines, where if an error is made in an interpretation by a CEO/ZEO, it can be addressed and rectified early in the planning process and not years later.

If the CEO/ZEO is so confident of his letter of determination (26 January 2022 attached) is correct, then why not let the process work through the system. Provide the Planning Board with what they requested from the ZBA and have the ZBA solidify his letter of determination that is in question.

Please accept my gratitude to the entire Town Board for all the hard work they do for the Town and for allowing me to speak on this subject. If you cannot respond to all these questions tonight, I ask that you please delve into what the context of this letter speaks to and address these questions at the next Town Board meeting.

Diane Dintruff, Minturn St. Attended the CHPE informational session at the Best Western, she feels there is not enough advocacy to use resources such as rooftop solar and wind farms. She said we need to look ahead. Small areas are impacted to provide resources for big tech cities. They should be looking at converting saltwater to fresh water.

Ann Suraci 177 Lindorf St.

Good evening. I have some concerns and would appreciate answers from the Board.

On May 4, 2023 at the Town Board Workshop a motion was made and passed to assign new job titles and duties to some employees and that their salaries would remain the same.

One of these employees was Mark Jaffee. He is now the Director of Planning, Zoning and Code Enforcement.

I would greatly appreciate it if I could get a copy of the new duties that Mr. Jaffee was given. I believe a job description is public information and may be filed with the Department of State.

As a resident and taxpayer of this town, I am concerned with the process that I have observed at the Zoning Board and Planning Board.

An applicant or a third-party person should feel comfortable and should be allowed to freely present their case at the Zoning Board. It seems that the ZEO/CEO has been withdrawing people's rights to appeal, withdrawing Planning Board interpretations, Public Hearings, and has taken items off the agenda.

Examples:

1. *Dennis Suraci, third party appeal in May 2023 was denied;*
2. *The Planning Board Request for Determination of Zoning District Lines pursuant to §123-8(f) was removed from the agenda by the ZEO/CEO.*
3. *At the June 18, 2024 Esopus Zoning Board of Appeals Chairman Wick stated that there would be separate public hearings on each item that had been on the Agenda that night and the following month the Public Hearing was removed from the agenda by the ZEO/CEO.*

Does the ZEO/CEO have the authority to remove appeals, public hearings that either the Zoning Board or Planning Board has requested in order to review the application before them?

If so, how can anyone properly appeal a letter of determination from the ZEO/CEO or request an interpretation of a section of zoning if the Director of Planning, ZEO/CEO Enforcer has the right to override and withdraw items from the Zoning and Planning agendas?

I would greatly appreciate it if you could please answer these questions and send me a copy of the job description. Thank you for your time.

Stephanie Lettieri, Clay Rd. At the last meeting the Supervisor advised people to call DEC with questions or concerns about the Millbrook / Plantasia topic. Stephanie has been trying but she is not getting any response from the DEC.

Clay Road paving is being done and she had a few issues (1) with the gully in front of her house (2) needing the stop line back at top of hill.

She went to the Highway Department to talk to them and asked if there was a plan on how the gullies are being taken care of. Her front yard flooded when they first moved there. Each driveway should be dealt with individually; one fix may have an impact on the next.

Stephanie is concerned with the function of the Planning Board; she was not able to attend ZBA. She appreciates an open comment period at the Town Board meeting, and we need more open communication at these other meetings. The other boards need to listen to the residents. She feels the Planning Board and ZBA should allow people to be heard at their meetings not just at public hearings. The public is not able to hear, and they are not even allowed to raise their hand to ask them to repeat what they said, they are shushed.

Stephanie said she found it interesting that although the public cannot make personal comments, there was a comment made by a Planning Board member, she had no idea what was said except “we were a strain” or “they were a strain/estranged?”

SUPERVISOR FREER MADE A MOTION TO CLOSE THE PUBLIC COMMENT. THE MOTION WAS SECONDED BY COUNCILMAN KATHIE QUICK. ALL MEMBERS PRESENT WERE IN FAVOR: MOTION CARRIED.

PLANNING BOARD TOPICS – GEORGE CUNEY REQUEST, CONTINUED FEE DISCUSSION

George Cuney, owner and developer of the Lighthouse Village project came to get clarification from the Town Board. He has been sent to the Town Board by the Planning Board to talk through some issues. At the last Planning Board meeting, the Chairman posed a question in regard to the town’s direction or intent for bus stops within the town. Their feeling was the Town Board was instructing to have the bus stops removed. He was asked to get interpretation from the Town Board and get clarification on the bus stop he has proposed to put in his development.

He was also asked to talk to UCAT regarding the stops. He has spoken with UCAT and they should have a letter that agrees to add a pickup and drop off at the Lighthouse Village property.

He asked the Board, Do you not want bus stops? Supervisor Freer said we do want bus stops. The Planning Boards concern and confusion may have come from the dilapidated and unsafe shelters that posed safety concerns in the past. The Town Board said they are fine with bus stops and shelters providing they are compliant with the code; an example was given of the clear shelter located at Birches bus stop.

UCAT is looking to expand their routes. Supervisor Freer said she is in favor of the expansion; it offers transportation for our residents. There was a discussion of bus stop vs bus shelter. A bus stop does not require Planning Board approval however, guidelines are in our town code for shelters. Private property bus shelters also need to comply with the code. The Town Board reiterated it is not averse to shelters if they are approved and comply with the code.

Recreation Fees were also discussed. The current recreation costs for this development are

\$142, 000. Mr. Cuney currently is researching when and who advised him that on site recreation was required. Recreation constructed could be taken into consideration and offset a portion of the recreation fees that are charged as part of the project cost. He gave the board a copy of the improvements and costs associated with his project that totaled \$121,250.00. The improvements included hiking trails, gazebo, foot bridge and pickleball court. Trails and gazebo will be able to be used by anyone in the community, however the pickleball court will have keyed access for tenants and their invited guests. He said he has been misguided for over a year and he asked the Town Board to consider a reduction in the rec fees. He is still willing to give 50% to the town for park improvements in addition to the \$121,250 recreation plans that have been included in his development.

Councilman Jared Geuss reviewed the terms of the mix zoning use code which allows more density and offsets for inclusion of pocket parks. Mr. Cuney is looking for the minutes where he was guided to the recreation improvements on site. He said he is not here to hurt anyone, he has a beautiful project for the community. He said the assessor has estimated his taxes to be approximately \$486,000 which will offset some costs and help the town.

Supervisor Freer had given the board a copy of Darin's revised Planning Board fees that were previously discussed in several meetings. She asked the board to look at the information over and give feedback so we can move forward with approving the fees.

Farmers Market

Earlier this summer Joanne Dorcent, Jimmy Germain and Marie Mezile attended a board meeting and shared their ideas of hosting a Farmers Market weekly on Fridays at Ross Park. Town Clerk Holly Netter shared research she had compiled relating to the request to hold the Farmers market at Ross Park. She has been dealing with the insurance companies and researching how various Towns handle their events. Holly revised the application as well as the rules and regulations which have been sent to Marshall and Sterling for feedback and approval. If a contract is needed, the cost would have to fall on the applicants that are requesting permission to use the park. It is expected that the first season the group will rent the space, and we will have to tweak and change things that need to be handled better. The Town Board will have to decide on a fee that will be charged for the use of the space to cover the use and trash removal. All vendors will be required to remove their trash at their individual space. Garbage is anticipated from people attending and throwing away trash from items they consume or purchase.

Update: Champlain Hudson Power Express

CHPE came to the Best Western in Kingston, July 30th, to have a public session which was technical in nature on how they were going to construct the actual project. Questions relating to the impact on drinking water and other environmental questions were asked. Supervisor Freer said she would put the materials online for residents to view. The project is expected to be in our area within the next 2 weeks. As a precautionary measure, the water plant will be shut down. Nick Butler, Water Superintendent pushed for additional testing results. Councilman Evelyn Clarke said she would like to see real time information and

communication how it is going. If there is an issue, information will be shared on the town website and social media pages. Third party sampling will be done pre, during and post project at CHPE's expense. Danielle is waiting to hear back from them on an exact schedule. We continue to keep Senator Michelle Hinchey's office and Congressman Pat Ryan's office updated on our concerns. The Town has put a lot of work in to be prepared should an emergency arise.

**Miscellaneous / Liaison Lightening Round:
Supervisor Freer:**

The Highway Department is continuing work on Clay Rd, Riverview Court and Hardenburgh Rd, with the exception of ditches and driveway aprons. Supervisor Freer will follow up with the Highway Department to express the concerns heard earlier. She will also follow up with Highway Superintendent Cafaldo on the status of the stop line at the top of Clay Rd.

The Highway Department will also be assisting in removing "Chester" the water chestnut machine from the water next week. Supervisor Freer thanked Carol Tomasetti and the team for all they have done. The DEC has a public comment period that is open until mid-September regarding wetland regulations. Angela from the DEC, who works with us on the permit, said it could have an effect on our ability to cut the chestnuts. Supervisor Freer will work with our Environmental Counsel to look into the proposed legislation to see what impact it will have on the town. If we are unable to continue cutting it will have a huge impact on our town and our waterfront efforts. This may also relate to some complaints regarding residential wetlands. Supervisor Freer will send the legislation to the Waterfront Advisory Board and Environmental Board as well for feedback.

Town Clerk – Hunting licenses are now on sale. Town Clerk Netter reminded everyone that the DMP probability was based on an algorithm and the probably of getting a permit was the same on day one as it is on October 1st. Also, this year the DEC licenses will be issued on copy paper, the DEC is no longer using valron paper.

Congressman Ryan continues to look into the progress on the Rifton Post Office. The Post Office final determination regarding the facility is due to be made within the next 30 days. There seems to be contradictory information regarding the structural issues to the existing building. Rifton residents are still traveling to Tilson to get their mail.

**Councilman Quick:
Zoning Board of Appeals**

The Zoning Board of Appeals met on July 16. The next meeting will be on August 20 when decisions on terms will be made.

Waterfront Advisory Board

There was not any new business so the meeting was cancelled. Supervisor Freer added the state had just provided a lot of feedback to the LWRP – the WAB will begin to go through this.

Assessor's Office

The Assessor just completed a training session given by the NYS Assessor's Association. This included new information and updates.

Esopus Seniors

The Esopus Seniors will have a meeting on Monday August 5. We will be going on a trip August 13 that includes a full luncheon and a musical tribute to Kenny Rogers and Dolly Parton.

Councilman Clarke:

EDC no meeting, we owe the County EDC Department a list of ideas for what they could support us with in the future.

Councilman Robinson

Cas Landi task force will be meeting to discuss equipment and upgrades at the park. Anyone interested in joining can attend at 5pm.

Parks & Rec Movie Night at Town Hall at 7pm Saturday 8/3/24 Kung Fu Panda 4

KEY UPCOMING DATES

8.3 Movie Night at Town Hall at 7pm (Parks & Rec) Kung Fu Panda 4

8.3 Esopus Repair Café at 10am-2pm at Ascension Church (Environmental Board)

8.15 Next Town Board Meeting

8.16 Congressman Pat Ryan's Social Security and Medicare C.A.R.E.S. Van Event

9.5 Next Town Board Workshop

ADJOURNMENT

A MOTION TO ADJOURN THE MEETING WAS MADE BY SUPERVISOR FREER AT 8:27 PM. THE MOTION WAS SECONDED BY COUNCILMAN LAURA ROBINSON. ALL MEMBERS PRESENT WERE IN FAVOR. MOTION CARRIED.

*Respectively Submitted,
Holly A. Netter
Town Clerk, R.MC*