

PUBLIC HEARING

November 9, 2009

7:00 p.m.

Amend Town Code

Zoning Chapter 30 Local Law #2-2009

PRESENT: Supervisor Newlin; Councilmembers Bax, Edwards, Johnson and Palmer; Attorney Leone; Deputy Attorney Koryl; 3 Press; 5 residents and Clerk Donna Garfinkel

Supervisor called Public Hearing to order.

Supervisor asked Attorney Leone to speak on the proposed changes.

Leone: The proposed changes will change the number of members of the Zoning Board of Appeals to the same as New York State statute, five (5). The previous local law allowed for seven (7) members although there have not been seven (7) on the Board for quite some time.

The proposed changes will allow for the appointment of an alternate member, not only in the event of a conflict of interest, but also in the event of military obligations, professional obligations, personal or family illness, scheduled vacation or another legitimate reason.

It will mandate training and attendance requirements, although they are already mandated by New York State Law.

Clerk read Public Notice into record:

NOTICE IS HEREBY GIVEN that a Public Hearing will be held before the Town Board of the Town of Lewiston on the 9th day of November, 2009 beginning at 7:00 p.m. at the Lewiston Town Hall, 1375 Ridge Road, on a proposed local law amending Chapter 30 of the Town Code, Zoning: specifically Article XXV, Board of Appeals, § 30-107. A copy of the entire text of the law is on file in the Town Clerk's office where it may be examined during normal business hours. Any persons of interest, for or against, will be given an opportunity to be heard. If adopted, this law will be known as Local Law No. 2, 2009.

By order of the Town Board
October 19, 2009

Supervisor asked if any residents wish to speak. No one spoke on this.

Bax MOVED to close the Public Hearing, Seconded by Johnson and Carried 5 – 0. (7:05 p.m.)

Respectfully Transcribed and Submitted:

Donna Garfinkel
Deputy Town Clerk

Johnson MOVED to enter back into the Town Board Worksession, Seconded by Edwards and Carried 5 – 0. (7:40 p.m.)

Johnson MOVED to adopt Local Law 2, 2009 – Chapter 30 – Zoning – Zoning Board of Appeals, Section 30-107, Seconded by Bax and Carried 5 – 0.

Local Law as approved.

LOCAL LAW NO 2. OF THE YEAR 2009

A local law amending Local Law No. 3 of the year 1975 as the same has been previously amended by Local Law No. 1 of the year 1982 and in particular Article XXV Board of Appeals of the Town of Lewiston, New York.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF LEWISTON, NEW YORK AS FOLLOWS:

1. Article 30, §107, ORGANIZATION (A) and (B), shall be hereby amended as follows:

Article 30, §107, ORGANIZATION (A) - The Board of Appeals shall consist of five (5) members selected and appointed by the Town Board with all the powers and duties given and prescribed by the Town Law. The members of said Board shall be separate and distinct from the Planning Board of the Town. The members of the Board of Appeals as presently constituted shall remain in place for the balance of their respective current terms.

B. TERMS

The members of the Board of Appeals as presently constituted in the Town of Lewiston shall complete the term of office currently held by such respective member and the replacement, therefore, shall be then selected by the Town Board for a term of five (5) years. Any member now holding office for a term which does not expire at the end of a year shall, upon the expiration of their term, hold office until the end of the year and their successors shall then be appointed for terms which shall be equal in years to the number of members of the Board.

Article 30, §107, ORGANIZATION, is hereby amended to include the following:

G. REMOVAL

The Town Board shall have the power to remove, after public hearing, a member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for noncompliance with minimum requirements relating to meeting attendance and training as established by the Town Board or as established by the laws of the State of New York.

H. ALTERNATE

1. The Town Board may establish alternate Zoning Board of Appeals member positions for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest. Alternate members of the Zoning Board of Appeals shall be appointed by resolution of the Town Board for terms established by the Town Board,

2. The Chairperson of the Zoning Board of Appeals may designate an alternate member previously appointed by the Town Board to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made. Such substitution shall occur only with respect to such application or matter before the Board in which the designated member is unable to participate and for no other matters.

3. All provisions relating to Zoning Board of Appeals member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other Boards shall also apply to alternate members.

I No person who is a member of the Town Board shall be eligible for membership on such Board of Appeals.

J. TRAINING AND ATTENDANCE REQUIREMENTS

As provided by the Town Law of the State of New York:

1. Every member of the Board of Appeals shall complete, at a minimum, four (4) hours of training each year designated to enable such members to more effectively carry out their duties. Training received by a member in excess of four (4) hours in any one year may be carried over by the member into succeeding years in order to meet this requirement. Such training shall be approved by the Town Board and may include but not necessarily be limited to training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college, or other similar entity. Training may be provided in a variety of formats which may include but not necessarily be limited to electronic media, video, distance learning and traditional classroom training.
2. Any existing member shall have completed the necessary training in order to be eligible for reappointment to such Board.
3. Unless prevented by the Laws of the State of New York, the Town Board may waive or modify the training when, in the judgment of the Town Board, it is in the best interest of the Town to do so.
4. No decision of the Zoning Board of Appeals shall be deemed void or declared invalid because of a failure to complete this training.

K. VACANCY

1. If a vacancy shall occur other than by expiration of a term, the Town Board shall appoint the new member for the unexpired term of the former member for which a vacancy now exists.
2. If any of the provisions of this Local Law are inconsistent with the provisions of any other Local Law or Act of the Town of Lewiston, New York, the provisions of this Local Law shall be controlling.
3. All other terms and provisions of the existing Local Law as the same may have been heretofore amended, will remain in full force and effect except as specifically amended hereby.
4. This Local Law shall take effect immediately after enactment by the Town Board of the Town of Lewiston, New York after public hearing and filing as otherwise required by statute.