

**TOWN OF DRYDEN  
TOWN BOARD MEETING  
Via Zoom  
June 18, 2020**

Present: Supervisor Jason Leifer, Cl Daniel Lamb, Cl James Skaley,  
Cl Kathrin Servoss, Cl Loren Sparling

Elected Officials: Bambi L. Avery, Town Clerk  
Rick Young, Highway/DPW Superintendent

Other Town Staff: Ray Burger, Planning Director  
Khandi Sokoni, Town Attorney  
Marty Conger, Recreation Director

Supv Leifer opened the meeting at 6:02 p.m.

**RESOLUTION #74 (2020) – APPROVE MINUTES**

Supv Leifer offered the following resolution and asked for its approval:

RESOLVED, that this Town Board hereby approves the meeting minutes of May 14 and May 21, 2020.  
2<sup>nd</sup> Cl Lamb

Roll Call Vote	Cl Sparling	Yes
	Cl Skaley	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

**Varna Water/Sewer Projects**

Cl Skaley explained that tonight the board would vote on resolutions to allow the town to issue bonds. That is part of the requirement for the application to the Environmental Facilities Corporation. The board will also have to pass SEQR resolutions that will go to the DEC and EFC. He discussed other funding opportunities with the EFC this week, including the USDA Rural Development funding and Office of Community Renewal Funding. He would like to apply for a hardship grant through the EFC. That would require an income survey and he has received a proposal for consideration from a firm near Rochester to do that. If we meet the criteria for a hardship grant depending on the median income and percentage of poverty, it could mean up to \$2,000,000 in funding for the project. The cost of the survey is a little over \$8,000.

**PUBLIC HEARING  
IMPROVEMENT OF TOWN OF DRYDEN  
CONSOLIDATED SEWER DISTRICT FACILITIES**

Supv Leifer opened the public hearing at 6:23 p.m. Cl Skaley reviewed the documents being considered tonight. Total cost of the sewer project is \$5,358,570. There were no public comments and no comment from board members and the public hearing was left open at 6:27 p.m.

Supv Leifer closed the public hearing on sewer improvements at 6:37 p.m.

**PUBLIC HEARING  
IMPROVEMENT OF TOWN OF DRYDEN  
CONSOLIDATED WATER DISTRICT FACILITIES**

Supv Leifer opened the public hearing at 6:28 p.m. Cl Skaley reviewed the documents being considered tonight. Total cost of the water project is \$3,021,956. There were no public comments and no comment from board members and the public hearing was left open at 6:36 p.m.

**RESOLUTION #75 (2020) - RESOLUTION DETERMINING THAT PROPOSED ACTIONS  
ARE TYPE II ACTIONS FOR PURPOSES OF  
THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT**

Cl Skaley offered the following resolution and asked for its adoption:

WHEREAS, the Town Board of the Town of Dryden, Tompkins County, New York (the “Town”) is considering undertaking the acquisition, construction and installation of improvements to the Town of Dryden Consolidated Sewer District sanitary sewer system (the “Project”); and

WHEREAS, pursuant to the New York State Environmental Quality Review Act (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations”), the Town desires to comply with the SEQR Act and the Regulations with respect to the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN BOARD OF THE TOWN OF DRYDEN, NEW YORK AS FOLLOWS:

1. The Project constitutes a “Type II Action” under 6 NYCRR § 617.5C(2), and no further action under the SEQR Act and the Regulations is required.

2. This Resolution shall take effect immediately.  
2nd Cl Leifer

Roll Call Vote	Cl Sparling	Yes
	Cl Skaley	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

**RESOLUTION #76 (2020) - APPROVING THE ACQUISITION,  
CONSTRUCTION AND INSTALLATION OF IMPROVEMENTS TO  
THE TOWN OF DRYDEN CONSOLIDATED SEWER DISTRICT  
FACILITIES**

Cl Skaley offered the following resolution and asked for its adoption:

WHEREAS, pursuant to Town Law Section 202-b, the Town Board of the Town of Dryden (the "Town") proposes to undertake the acquisition, construction and installation of improvements to the Town of Dryden Consolidated Sewer District (the "District") sanitary sewer system including, but not limited to, the replacement or rehabilitation of sewer mains, manholes, pump stations and other facilities, and the acquisition of machinery, equipment or apparatus required in connection therewith (the "Improvements"); and

WHEREAS, the total estimated maximum cost of the Improvements is \$5,358,570; and

WHEREAS, on June 18, 2020 the Town Board held a public hearing regarding the Improvements, as required by Town Law Section 202-b.

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby determines it is in the public interest to acquire, construct and install the Improvements; and be it further

RESOLVED, that the Town Board hereby authorizes the Town Supervisor and other proper officers of the Town to proceed with the Improvements provided, however, that the financing of the Improvements shall not occur until the Town Board has adopted a Bond Resolution in accordance with the New York Local Finance Law.

2<sup>nd</sup> Supv Leifer

Roll Call Vote	Cl Sparling	Yes
	Cl Skaley	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

**RESOLUTION #77 (2020) - AUTHORIZING THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF IMPROVEMENTS TO THE TOWN OF DRYDEN CONSOLIDATED SEWER DISTRICT FACILITIES, AT A MAXIMUM ESTIMATED COST OF \$5,358,570 AND AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$5,358,570 SERIAL BONDS TO PAY THE COST THEREOF.**

Cl Skaley offered the following resolution and asked for its adoption:

BE IT RESOLVED by the Town Board of the Town of Dryden, Tompkins County, New York, as follows:

Section 1. The acquisition, construction and installation of improvements to the Town of Dryden Consolidated Sewer District (the "District") sanitary sewer system in the Town of Dryden, Tompkins County, New York (the "Town") including, but not limited to, the replacement or rehabilitation of sewer mains, manholes, pump stations and other facilities, and the acquisition of machinery, equipment or apparatus required in connection therewith, is hereby authorized at an estimated maximum cost of \$5,358,570.

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid specific objects or purposes is \$5,358,570, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of the issuance of \$5,358,570 in serial bonds (the "Bonds") of the Town authorized to be issued pursuant to this resolution.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is forty (40) years, pursuant to Section 11.00(a)(4) of the Local Finance Law. The proposed maturity of the Bonds will be in excess of five years.

Section 4. Pursuant to Section 107.00(d)(3)(l) of the Local Finance Law, current funds are not required to be provided prior to issuance of the Bonds or any bond anticipation notes issued in anticipation of issuance of the Bonds.

Section 5. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the capital purposes described in Section 1 of this resolution.

Section 6. The Bonds and any bond anticipation notes issued in anticipation of the Bonds, shall contain the recital of validity prescribed by Section 52.00 of the Local Finance Law and the Bonds, and any bond anticipation notes issued in anticipation of the Bonds, shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the real property within the Town without legal or constitutional limitation as to rate or amount. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. There shall annually be apportioned and assessed upon the several lots and parcels of land within the Town of Dryden Consolidated Sewer District, which the Town Board shall determine to be especially benefited by the improvement, an amount sufficient to pay the principal of and interest on such obligations as the same becomes due and payable, but if not paid from such source, all the taxable real property in the Town shall be subject to the levy of ad valorem taxes without limitation as to rate or amount sufficient to pay the principal of and interest on such obligations when due.

Section 7. Subject to the provisions of this resolution and of the Local Finance Law, and pursuant to the provisions of Sections 21.00, 30.00, 50.00 and 56.00 to 63.00 inclusive of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the Bonds herein authorized, including renewals of such notes, and the power to prescribe the terms, form and contents of the Bonds, and any bond anticipation notes, and the power to sell and deliver the Bonds and any bond anticipation notes issued in anticipation of the issuance of the Bonds, and the power to sell and deliver the Bonds and any bond anticipation notes providing for substantially level or declining annual debt service, is hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

Section 8. The reasonably expected source of funds to be used to initially pay for the expenditures authorized by Section 1 of this resolution shall be from the Town's General Fund. It is intended that the Town shall then reimburse such expenditures with the proceeds of the Bonds and bond anticipation notes authorized by this resolution and that the interest payable on the Bonds and any bond anticipation notes issued in anticipation of the Bonds shall be excludable from gross income for federal income tax purposes. This resolution is intended to constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by this resolution with the proceeds of the Bonds and bond anticipation notes authorized herein, as required by Regulation Section 1.150-2.

Section 9. The Town Supervisor, as Chief Fiscal Officer of the Town, is further authorized to sell all or a portion of the Bonds, and any bond anticipation notes issued in anticipation of the Bonds, to the New York State Environmental Facilities Corporation (the "EFC") in the form prescribed in one or more agreements (the "Agreements") between the Town and EFC; to execute and deliver on behalf of the Town all Agreements and other documents, and take such other actions, as are necessary or appropriate to obtain a loan or loans from EFC for all or a portion of the costs of the expenditures authorized by this resolution, and perform the Town's obligations under its Bonds or bond anticipation notes delivered to EFC and all Agreements.

Section 10. The serial bonds and bond anticipation notes authorized to be issued by this resolution are hereby authorized to be consolidated, at the option of the Town Supervisor, the Chief Fiscal Officer, with the serial bonds and bond anticipation notes authorized by other bond resolutions previously or hereafter adopted by the Town Board for purposes of sale in to one or more bond or note issues aggregating an amount not to exceed the amount authorized in such resolutions. All matters regarding the sale of the bonds, including the dated date of the bonds, the consolidation of the serial bonds and the bond anticipation notes with other issues of the Town and the serial maturities of the bonds are hereby delegated to the Town Supervisor, the Chief Fiscal Officer of the Town.

Section 11. The Town Supervisor, as Chief Fiscal Officer of the Town, is hereby authorized to file an application with the New York State Comptroller pursuant to Section 124.10 of the Local Finance Law to exclude the proposed indebtedness authorized herein from the constitutional and statutory debt limits of the Town.

Section 12. The validity of the Bonds authorized by this resolution and of any bond anticipation notes issued in anticipation of the Bonds may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or

(b) the provisions of law which should be complied with at the date of the publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or

(c) such obligations are authorized in violation of the provisions of the Constitution.

Section 13. This resolution, or a summary hereof, shall be published in the official newspapers of the Town for such purpose, together with a notice of the Clerk of the Town in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 14. This resolution is not subject to a referendum on petition in accordance with Section 35.00(b)(2) of the Local Finance Law.

Section 15. The Town Supervisor, as chief fiscal officer of the Town, is hereby authorized to enter into an undertaking for the benefit of the holders of the Bonds from time to time, and any bond anticipation notes issued in anticipation of the sale of the Bonds, requiring the Town to provide secondary market disclosure as required by Securities and Exchange Commission Rule 15c2-12.

Section 16. The Town Board hereby determines that the provisions of the State Environmental Quality Review Act and the regulations thereunder have previously been satisfied with respect to the expenditures authorized by this resolution.

Section 17. This resolution shall take effect immediately.  
2nd Cl Leifer

Roll Call Vote	Cl Sparling	Yes
	Cl Skaley	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

## **VARNA ZONING PROPOSAL**

Atty Sokoni explained that this originated with a proposal from the Planning Board. The Town Board discussed it at the May meeting and sent some comments to the Planning Board. She has been working with Cl Skaley and R Burger and this is the resulting draft. Changes since the board last saw it include:

- A new section that will do some cleanup in Article 9. This removes the reference to a former “H” district and makes replacements with the three different Varna hamlet districts.
- Section 702 – Design Guidelines & Standards – the words “to the extent practicable” were added. This was not a recommendation by the Planning Board, but recommended by the attorney because these are not hard and fast rules, but guidelines. She wanted to bring this to the board’s attention.
- Density Table – “Rental” was removed from the dwelling type column. Making a distinction based on the type of ownership is problematic. For example, if you allow apartments in a particular district, it shouldn’t matter whether they are owned, or they are rented.

Atty Sokoni said the board has the option to decide the effect of this local law on pending applications. The new law could apply to pending applications, not apply to pending applications, or not apply to applications that have passed the sketch plan stage of review. A decision would take any guesswork out of whether it applies to a specific application or not. Tonight the board should adopt the language on which a public hearing will be held. Any substantial changes at public hearing would lengthen the adoption process.

The board reviewed the language with Atty Sokoni.

Comments during discussion:

- “Multi-Family Rental Detached Units” is still in the density table. These would be the same as single family homes. They are X’d out in the chart. It is a broad definition.
- The Varna Plan envisioned multi-family detached units in the Trail Side development (about 100 different little houses) either individually owned or rented.
- People are renting more and owning less – due to a lot of factors.
- The Varna Plan tried to provide some balance between homeownership and rental.
- See attached statement by James Skaley.
- The zoning law does not comply with the Varna Comp Plan under state law.
- Not allowing multi-family homes is not a good idea for the town.
- Zoning cannot be used to determine the manner of ownership.
- The Comp Plan sets goals and can state a desired type of housing, but the zoning law is not the place to set the type of ownership. Whether a home is owned or rented is not a zoning issue.
- What is the distinction between condominium and apartments and why the difference in number allowed in the Residential and Traditional zones? After discussion this was changed for each to be 4 in Residential and 3 in Traditional.
- That table should be clear that it represents dwelling units per acre.
- Condominiums come closer to home ownership than apartments and that is why they are in different places.
- Condominium is a form of ownership.
- In the zoning condominiums and apartments should be treated the same because zoning power is not a police power. It is a statutory power. You cannot use the zoning to exclude a certain type of ownership. For example, you cannot say that a traditional district would have single-family, owner-occupied homes. That is crossing a line.

- Zoning is about layout and making sure your town is orderly. It is about height and density. It’s not about how people own.
- Are owned apartments considered single family homes?

Supv Leifer closed the public hearing on water improvements at 7:30 p.m.

**RESOLUTION #78 (2020) - RESOLUTION DETERMINING THAT PROPOSED ACTIONS ARE TYPE II ACTIONS FOR PURPOSES OF THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT**

Cl Skaley offered the following resolution and asked for its adoption:

WHEREAS, the Town Board of the Town of Dryden, Tompkins County, New York (the "Town") is considering undertaking the acquisition, construction and installation of improvements to the Town of Dryden Consolidated Water District water system (the "Project"); and

WHEREAS, pursuant to the New York State Environmental Quality Review Act (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the "Regulations"), the Town desires to comply with the SEQR Act and the Regulations with respect to the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN BOARD OF THE TOWN OF DRYDEN, NEW YORK AS FOLLOWS:

1. The Project constitutes a "Type II Action" under 6 NYCRR § 617.5(c)(2), and no further action under the SEQR Act and the Regulations is required.

2. This Resolution shall take effect immediately.  
2<sup>nd</sup> Supv Leifer

Roll Call Vote	Cl Sparling	Yes
	Cl Skaley	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

**RESOLUTION #79 (2020) - APPROVING THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF IMPROVEMENTS TO THE TOWN OF DRYDEN CONSOLIDATED WATER DISTRICT FACILITIES**

Cl Skaley offered the following resolution and asked for its adoption:

WHEREAS, pursuant to Town Law Section 202-b, the Town Board of the Town of Dryden (the "Town") proposes to undertake the acquisition, construction and installation of improvements to the Town of Dryden Consolidated Water District (the "District") water distribution system including, but not limited to, the replacement of water mains, valves, hydrants and other facilities, and the acquisition of machinery, equipment or apparatus required in connection therewith (the "Improvements"); and

WHEREAS, the total estimated maximum cost of the Improvements is \$3,021,956; and

WHEREAS, on June 18, 2020 the Town Board held a public hearing regarding the Improvements, as required by Town Law Section 202-b.

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby determines it is in the public interest to acquire, construct and install the Improvements; and be it further

RESOLVED, that the Town Board hereby authorizes the Town Supervisor and other proper officers of the Town to proceed with the Improvements provided, however, that the financing of the Improvements shall not occur until the Town Board has adopted a Bond Resolution in accordance with the New York Local Finance Law.

2<sup>nd</sup> Supv Leifer

Roll Call Vote	Cl Sparling	Yes
	Cl Skaley	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

**RESOLUTION #80 (2020) - AUTHORIZING THE ACQUISITION, CONSTRUCTION AND INSTALLATION OF IMPROVEMENTS TO THE TOWN OF DRYDEN CONSOLIDATED WATER DISTRICT FACILITIES, AT A MAXIMUM ESTIMATED COST OF \$3,021,956 AND AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$3,021,956 SERIAL BONDS TO PAY THE COST THEREOF**

Cl Skaley offered the following resolution and asked for its adoption:

BE IT RESOLVED by the Town Board of the Town of Dryden, Tompkins County, New York, as follows:

Section 1. The acquisition, construction and installation of improvements to the Town of Dryden Consolidated Water District (the "District") water distribution system in the Town of Dryden, Tompkins County, New York (the "Town") including, but not limited to, the replacement of water mains, valves, hydrants and other facilities, and the acquisition of machinery, equipment or apparatus required in connection therewith, is hereby authorized at an estimated maximum cost of \$3,021,956.

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid specific objects or purposes is \$3,021,956, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of the issuance of \$3,021,956 in serial bonds (the "Bonds") of the Town authorized to be issued pursuant to this resolution.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is forty (40) years, pursuant to Section 11.00(a)(1) of the Local Finance Law. The proposed maturity of the Bonds will be in excess of five years.

Section 4. Pursuant to Section 107.00(d)(3)(a) of the Local Finance Law, current funds are not required to be provided prior to issuance of the Bonds or any bond anticipation notes issued in anticipation of issuance of the Bonds.

Section 5. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is



hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the capital purposes described in Section 1 of this resolution.

Section 6. The Bonds and any bond anticipation notes issued in anticipation of the Bonds, shall contain the recital of validity prescribed by Section 52.00 of the Local Finance Law and the Bonds, and any bond anticipation notes issued in anticipation of the Bonds, shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the real property within the Town without legal or constitutional limitation as to rate or amount. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year. There shall annually be apportioned and assessed upon the several lots and parcels of land within the Town of Dryden Consolidated Water District, which the Town Board shall determine to be especially benefited by the improvement, an amount sufficient to pay the principal of and interest on such obligations as the same becomes due and payable, but if not paid from such source, all the taxable real property in the Town shall be subject to the levy of ad valorem taxes without limitation as to rate or amount sufficient to pay the principal of and interest on such obligations when due.

Section 7. Subject to the provisions of this resolution and of the Local Finance Law, and pursuant to the provisions of Sections 21.00, 30.00, 50.00 and 56.00 to 63.00 inclusive of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the Bonds herein authorized, including renewals of such notes, and the power to prescribe the terms, form and contents of the Bonds, and any bond anticipation notes, and the power to sell and deliver the Bonds and any bond anticipation notes issued in anticipation of the issuance of the Bonds, and the power to sell and deliver the Bonds and any bond anticipation notes providing for substantially level or declining annual debt service, is hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

Section 8. The reasonably expected source of funds to be used to initially pay for the expenditures authorized by Section 1 of this resolution shall be from the Town's General Fund. It is intended that the Town shall then reimburse such expenditures with the proceeds of the Bonds and bond anticipation notes authorized by this resolution and that the interest payable on the Bonds and any bond anticipation notes issued in anticipation of the Bonds shall be excludable from gross income for federal income tax purposes. This resolution is intended to constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by this resolution with the proceeds of the Bonds and bond anticipation notes authorized herein, as required by Regulation Section 1.150-2.

Section 9. The Town Supervisor, as Chief Fiscal Officer of the Town, is further authorized to sell all or a portion of the Bonds, and any bond anticipation notes issued in anticipation of the Bonds, to the New York State Environmental Facilities Corporation (the "EFC") in the form prescribed in one or more agreements (the "Agreements") between the Town and EFC; to execute and deliver on behalf of the Town all Agreements, and other documents, and to take such other actions, as are necessary or appropriate to obtain a loan or loans from the EFC for all or a portion of the costs of the expenditures authorized by this resolution, and perform the Town's obligations under its Bonds or bond anticipation notes delivered to EFC and all Agreements.

Section 10. The serial bonds and bond anticipation notes authorized to be issued by this resolution are hereby authorized to be consolidated, at the option of the Town's Supervisor, the Chief Fiscal Officer, with the serial bonds and bond anticipation notes authorized by other bond resolutions previously or hereafter adopted by the Town Board for purposes of sale in to one or more bond or note issues aggregating an amount not to exceed the amount authorized in such resolutions. All matters regarding the sale of the bonds, including the dated date of the bonds, the consolidation of the serial bonds and the bond anticipation notes with other issues of the Town and the serial maturities of the bonds are hereby delegated to the Town Supervisor, the Chief Fiscal Officer of the Town.

Section 11. The validity of the Bonds authorized by this resolution and of any bond anticipation notes issued in anticipation of the Bonds may be contested only if:

(a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or

(b) the provisions of law which should be complied with at the date of the publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or

(c) such obligations are authorized in violation of the provisions of the Constitution.

Section 12. This resolution, or a summary hereof, shall be published in the official newspapers of the Town for such purpose, together with a notice of the Clerk of the Town in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 13. This resolution is not subject to a referendum on petition in accordance with Section 35.00(b)(2) of the Local Finance Law.

Section 14. The Town Supervisor, as chief fiscal officer of the Town, is hereby authorized to enter into an undertaking for the benefit of the holders of the Bonds from time to time, and any bond anticipation notes issued in anticipation of the sale of the Bonds, requiring the Town to provide secondary market disclosure as required by Securities and Exchange Commission Rule 15c2-12.

Section 15. The Town Board hereby determines that the provisions of the State Environmental Quality Review Act and the regulations thereunder have previously been satisfied with respect to the expenditures authorized by this resolution.

Section 16. This resolution shall take effect immediately.  
2<sup>nd</sup> Supv Leifer

Roll Call Vote	Cl Sparling	Yes
	Cl Skaley	Yes
	Cl Servoss	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

**HIGHWAY/DPW DEPARTMENT**

Highway Superintendent Rick Young has requested the board pass a resolution authorizing the purchase of the Onondaga County bid of a 2021 Freightliner 108SD Cab and Chassis at a cost not to exceed \$198,000. This truck will replace the chipper truck to be sold and will be large enough to haul the new chipper and be outfitted with a plow for use in the winter. The old chipper and truck will be put up for auction when the new ones have been delivered.

**RESOLUTION #81 (2020) – AUTHORIZE PURCHASE OF TRUCK**

Supv Leifer offered the following resolution and asked for its adoption:

WHEREAS, the Highway Superintendent has determined the need to purchase a new truck that will be used for multiple purposes including snow plowing, and

WHEREAS, the Town’s existing truck is inadequate to move the new chipper that has been authorized and ordered, and

WHEREAS, the Onondaga County purchase contract met bid requirements, and

WHEREAS, the 2008 GMC medium duty dump truck being replaced will be sold at public auction, now, therefore, be it

RESOLVED, that this Town Board hereby authorizes the purchase of a 2021 Freightliner 108SD Cab and Chassis per spec, including plow and body package per Onondaga County contract, using funds from Highway Equipment DA5130.2, at a cost not to exceed the sum of \$198,000.

2<sup>nd</sup> Cl Lamb

Roll Call Vote	Cl Sparling	Yes
	Cl Servoss	Yes
	Cl Skaley	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

R Young requested approval of budget modifications moving 2019 year-end balances to cover 2020 equipment purchases. There is also a request to move insurance recovery money to cover repairs.

**RESOLUTION #82 (2020) – APPROVE BUDGET MODIFICATIONS**

Supv Leifer offered the following resolution and asked for its adoption:

RESOLVED, that this Town Board hereby approves the following budget modifications:

From		To		
A599	Fund Balance	A1490.2	Public Works - Equipment	22,316.67
DA599	Machinery Equipment	DA5130.2	Machinery - Equipment	20,208.15
To		To		
DA2680	Misc. Insurance Recoveries	DA5130.4	Machinery - Contractual	4,275.00

2<sup>nd</sup> Cl Servoss

Roll Call Vote	Cl Sparling	Yes
	Cl Servoss	Yes
	Cl Skaley	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

R Young asked for a resolution to move funds from the Trust & Agency account to his equipment/machinery line. This represents a second payment for work done in Buffalo after a snowstorm in 2015. There was initially some concern about it being a double payment, but there has been no response to inquiries, so he is requesting it be made available to him.

**RESOLUTION #83 (2020) – MOVE FUNDS FROM TRUST & AGENCY ACCOUNT**

Supv Leifer offered the following resolution and asked for its adoption:

WHEREAS, the Town Highway Department assisted the City of Buffalo after a snowstorm in 2015, and

WHEREAS, the Highway Superintendent applied for reimbursement for Town costs related to the assistance provided, and

WHEREAS, the Town received \$34,545.44 on January 19, 2016 from the City of Buffalo, and

WHEREAS, the Town then received a second payment of \$34,553.42 from New York State on March 13, 2017, and

WHEREAS, the second payment was moved to the Trust & Agency fund in 2018 per resolution #71, and

WHEREAS, the Highway Superintendent has now done his due diligence to investigate the double payment and has not received an explanation or a directive from New York State to return the funds, be it

RESOLVED, that the Bookkeeper is authorized to move the amount of \$34,553.42 from the Town’s Trust & Agency fund (account TA85 – Other Liabilities) back to the DA fund (account DA5130.2 – Machinery - Equipment).  
2<sup>nd</sup> Cl Servoss

Roll Call Vote	Cl Sparling	Yes
	Cl Servoss	Yes
	Cl Skaley	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

R Young reported electrical service has been installed to the recreation shed and for the EV charging station and it has been inspected. The charging station should have been shipped, so it’s expected that will be up and running in a couple of weeks.

Stevenson Road and Dodge Road have been paved. They are currently milling and shimming on Mott Road. They have received a letter from CHIPS and believe they have all their money, but they expect the amount will be reduced by 20% and will plan accordingly. R Young said he expects the 284 will be amended and will be sending a letter with recommendations to board members.

**Varna Zoning Discussion continued**

- The Varna plan was incorporated into the Town’s comp plan.
- There is dispute that home ownership is no longer a preferred choice for millennials.
- It is a question of affordability and availability.
- Home ownership acquires equity and equity builds wealth for individual families; that is missing in an all rental equation.
- Home ownership promotes more stable communities and character of a community.

- The objective in the traditional zone relates to the character of community.
- Developers aren't building single family homes because they feel they can make more money building apartment units for rental.
- The plan promotes a diversity of opportunities, home ownership being one.
- The comp plan describes the type of housing desired in Varna (pp 27-30 of the Varna Plan).
- The latest SEQR Workbook tells boards to look at the comp plan for consistency with proposed actions by developers, paying attention to both verbiage, diagrams and maps.
- The 2016 county housing survey shows 70% of people contemplating moving into the county in the next five years all want to buy rather than rent.
- People want to buy if it's affordable; the market doesn't allow that.
- Zoning can't dictate ownership of property.
- The form of the building can be addressed.
- More ownership opportunities are needed in the county.
- Equating ownership with character of the community makes assumptions about people who cannot afford to buy a house.
- To be welcoming you need a mixture of housing in different places.
- Be sensible to environmental issues like Fall Creek.
- If you can have 6 condominiums, you should be able to have the same number of apartments.
- Zoning can say as much about your values as anything else.
- We need to be inclusive in this community.
- There's a need to maintain character and form.
- The goal is to protect and enhance hamlet character.
- INHS will provide support for affordable housing within the community and are interested in pursuing development within the hamlet of Varna.
- Structures can be built as single-family homes and leased out. Cornell can do that on their land.
- Condominiums and apartments should be the same across the districts.
- The hamlet districts are designed so they don't all look the same.

After discussion, the board decided to make Condominium and Apartments the same across the Mixed Use, Residential and Traditional units at 6, 4 and 3 respectively.

The last sentence in the definition of Varna Hamlet Traditional District was changed to read: The purpose of this district is aimed at achieving a traditional neighborhood with lower density and including a conservation buffer from the banks of Fall Creek (See Article VII, Section 706(B)).

Varna Hamlet Mixed Use District – second sentence: add Law after Article III of the Dryden Zoning.

Section 701: add “the” before Varna Hamlet Residential District.

Section 702: Change re-development to redevelopment in all places where used.

Section 702(D): use “cyclist paths” consistently.

## **COUNTY REPORT**

Martha Robertson reported that the DMV is currently open by appointment and only commercial driver license tests are being conducted. Follow the County Clerk's Facebook page for updates on available services.

The county will be working on a coordinated law enforcement review plan. This will be a collaborative process and include village and city police forces as well as campus police and security.

She thanked the Planning Board for encouraging a community Zoom meeting with folks from the west side of town. Alice Green and Joe Wilson did a presentation on the comp plan update process and what people would like to see.

Supv Leifer asked if there were plans to increase Covid testing when the students come back. M Robertson said Cayuga Medical runs the testing sites. She understands that the City was going to ask for a second testing site to be set up downtown. Cornell has started testing faculty and staff and are getting their processes ready for when students come back to town and have capacity. Cornell is probably going to exceed any guidance that the state would expect.

### **Varna Zoning Discussion continued**

The reference in Density table for Green Development Bonus was changed to Section 707.

Section 705 should read “amount of Green Space” not the.

Section 707 – the section reference should be 704.

- Development is recommended in the Varna Hamlet Residential District. The current definition calls for predominantly single-family unattached dwelling units.
- The Varna plan recommended consideration of form-based zoning.
- The Varna plan points to the certain properties that should be developed.
- With respect to home ownership, is there a gap in what we wish to happen and what the people can actually spend their money on?
- We’ve been working harder to get single family homes built, but it doesn’t happen that way.
- It’s financially impossible for developers to do projects like that.
- The current definition of the zone restricts the type of development and should match the density table.
- Location is important; there are clever ways of rethinking this whole thing.
- If we give up because we haven’t seen much action in eight years, we’ve given away the possibility of having a whole new and more exciting community happen.
- Nothing is stopping a developer from proposing 75 individual units.
- If we don’t have sites available for individual detached houses because they’ve been used up for apartments, we won’t get it.
- If INHS can do something with this site, why haven’t they come to the board with a plan?
- The site at the corner of Freese Road and Route 366 is not very appealing.
- The Varna Plan contemplates multi-family housing where Tiny Timbers was going.
- The property toward the creek in the Varna plan is designated as open space, recreation area.
- Both sides of 366 at that intersection was supposed to be mixed use.
- There needs to be a good amount of open space in a development and room for sidewalks and bus stop.
- There needs to be sufficient parking; 2 spaces per residence is more appealing and would be less dense.
- The trail side in the Varna Plan calls for 10 units per acre.
- Population ultimately makes the difference in the different zones.
- The master plan should be guiding the zoning and the density tables.

- The Varna area will be part of the review in the Comp Plan update process. The survey will apply to the entire community, including Varna.
- We don't know if the updated comp plan will dictate substantial changes in the zoning.
- The object of this proposal is to bring the Varna zoning in line with the current comprehensive plan.
- It is difficult for a board when reviewing a project to see major discrepancies between the comprehensive plan and the zoning. The developer in good faith wants to follow the zoning and you in good faith have to judge that by the comprehensive plan. We need to fix that if we can.

In the definition for the Varna Hamlet Residential District the words “and accommodate existing neighborhoods with predominantly single-family unattached dwelling units, but” were removed and “as outlined in the table at Section 704” were added at the end of the sentence.

In the definition for the Varna Hamlet Traditional District the words “single-family and two-family dwelling units” were removed and “lower density and” were added.

There was discussion about increasing the number in Residential over Commercial in the Mixed-use District. That could be done in the comp plan update.

- Green development bonus is not available in the Varna Hamlet Traditional Zone under Section 707.
- It is difficult to apply.
- Green bonuses could be excluded entirely.
- It may not be necessary with the incentives for green building.
- You could change how green development is administered.
- Generally, the board decides whether they have met the LEED requirements and certification would establish that.
- LEED is part of the current zoning.
- Green development bonuses could be removed from the density table entirely.
- In 2012 there was no incentive for green building and that's why it was put in.
- We want something that reflects climate change and energy use and need to be consistent.
- There is concern for maintaining the traditional zone in a less dense form and adding bonuses that will likely be green development anyway, it will work against that goal.
- It would be a mistake to take LEED out of zoning. The standards are a well-considered set of green development initiatives.
- We need to focus on the number of units in an environmentally sensitive zone.
- The non-green bonus number of houses per acre allowed should then be reduced.
- Relying on actual LEED certification is a better process instead of taking the developer's word for a point count on a table.
- For clarification we are talking about the LEED Neighborhood Development Standard, not the LEED building standard. So, it is not at all addressing the energy use of the building, which is the LEED building standard.
- There are pieces of the Neighborhood Development LEED that there are not many places in the town that can meet those standards. That is the reason for allowing the board to excuse non-compliance.
- It's fine to say to the developer that it be designed for LEED, but certification can't happen until after it is built.
- Both LEED protocols should be included.
- Removing it from the VHTD doesn't make sense if we want to protect the creek.

**RESOLUTION #84 (2020) – APPROVE LANGUAGE FOR SECTION 707 AMENDMENT**

Cl Lamb offered the following resolution and asked for its adoption:

RESOLVED, that this Town Board agrees to amend Section 707 of the proposed zoning law amendment to read:

In addition to the density permitted in the Varna Density Table in Section 704 a density bonus may be awarded if a Neighborhood Development Proposal achieves at least basic LEED certification according to the most current LEED Neighborhood Development (LEED ND) and LEED Building Design and Construction (LEED BD&C) Protocols. The board shall have the discretion to excuse non-compliance with LEED prerequisites which cannot be reasonably attained within the Town of Dryden.

2<sup>nd</sup> Supv Leifer

Roll Call Vote	Cl Sparling	Yes
	Cl Servoss	Yes
	Cl Skaley	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

There was discussion about the effect of this local law on existing applications. The status of the Trinitas and Maifly applications was given by R Burger. A timeline was suggested by Atty Sokoni. It was decided that for any application that is beyond the sketch plan stage, the applicant will have the option to proceed under the version of the law that was in place prior to this amendment as long as they submit a complete application within two months of the effective date of the law.

**RESOLUTION #85 – ESTABLISH SUNSET PROVISION IN PROPOSED LOCAL LAW**

Supv Leifer offered the following resolution and asked for its adoption:

RESOLVED, that the proposed local law amendment to the Town of Dryden Zoning Law will contain a provision that any projects that have proceeded beyond the sketch plan phase of review shall have the option to proceed under the version of the law that was in place prior to this amendment as long as they submit a complete application within two months of the effective date of the law.

2<sup>nd</sup> Cl Lamb

Roll Call Vote	Cl Sparling	Yes
	Cl Servoss	Yes
	Cl Skaley	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

**RESOLUTION #86 (2020) - ADOPTION OF DRAFT LOCAL LAW LANGUAGE FOR PROPOSED REVISIONS TO THE DRYDEN ZONING LAW REGARDING VARNA AND SCHEDULING OF PUBLIC HEARING.**

Supv Leifer offered the following resolution and asked for its adoption:



WHEREAS, the Planning Board of the Town of Dryden, by Resolution Number 26 of 2019 proposed to the Town Board for its consideration, certain revisions to the Dryden Zoning Law; and

WHEREAS, the Dryden Town Board, in consultation with Counsel for the Town and Planning Department staff has considered, reviewed and revised the proposed zoning amendments; and

WHEREAS, Municipal Home Rule Law §20(5) requires that a public hearing be held before a local law is adopted by the Town Board, which public hearing must be held upon the publication of at least ten days' notice in the Town's official newspaper; and

WHEREAS, Town Law §264(4) also requires that a public hearing be held prior to adopting (or amending) zoning regulations, and

WHEREAS, Town Law §265(2) requires that amendments made to any zoning law(excluding any map incorporated therein) shall be entered in the minutes of the town board; such minutes shall describe and refer to any map adopted in connection with such change, amendment or supplement and a copy, summary or abstract thereof (exclusive of any map incorporated therein) shall be published once in a newspaper published in the town, if any, or in such newspaper published in the county in which such town may be located having a circulation in such town, as the town board may designate, and affidavits of the publication thereof shall be filed with the town clerk, and

WHEREAS, due to the Corona Virus/COVID-19 pandemic, the Governor of the State of New York has authorized municipalities to conduct certain public hearings and meetings by virtual means in order to ensure the public health and safety,

NOW THEREFORE, BE IT RESOLVED, that the attached draft local law, the full text of which the Town Clerk is hereby directed to reproduce in the full in the minutes hereof, is adopted as the draft upon which a public hearing shall be held to consider whether or not to adopt the proposed amendments, and be it further

RESOLVED, that the Town Board hereby schedules a public hearing for July 16, 2020, at 6:05 PM in person and/or via Zoom. Access details for the Zoom meeting shall be posted on the Town of Dryden website at [www.dryden.ny.us](http://www.dryden.ny.us) 24 hours prior to the date of the hearing. The purpose of the public hearing is for all persons wishing to comment in favor or against the proposed amendments to have an opportunity to provide their comments thereon, and be it further

RESOLVED, that in addition to participation in the public hearing via Zoom, all members of the public wishing to submit written comments on the proposed local law may do so in writing addressed to the Town Clerk at 93 East Main Street, Dryden, NY 13053 or by email to [townclerk@dryden.ny.us](mailto:townclerk@dryden.ny.us), and be it further

RESOLVED, that the Town Clerk is directed to publish notice of said hearing in the Ithaca Journal as required by law, to mail notices to all persons and agencies entitled to notice, to file in the office of the Town Clerk affidavits of publication, and the Town Board authorizes payment of expenses associated with said publications and mailings.

2<sup>nd</sup> Cl Skaley

Roll Call Vote	Cl Sparling	Yes
	Cl Servoss	Yes
	Cl Skaley	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

## **Planning Department**

R Burger reviewed his department's monthly report (attached). Dominion Energy has submitted an application to amend their special use permit and propose to replace two turbines with more efficient units. The project will be introduced in July and hopefully a hearing will be scheduled for August.

First Light is proposing to put a couple of equipment sheds on Route 13 near the old Book Barn to support their new fiber network in town. It requires a special use permit and they will introduce their project in July.

There is an application for a contractor yard on Hanshaw Road across from 84 Lumber, just off Route 13. It is in a rural residential district and requires a special use permit. They propose to put up a couple of pole barns to store materials for their business. This is a simple application and a hearing will be scheduled for the July 16 meeting.

## **Freese Road Bridge**

Cl Lamb reported that the findings document has been sent to the state. They asked if the town wanted to have a public information meeting to discuss the final design. The board decided because of all the public discussion it was not necessary to hold another meeting.

## **Census**

Supv Leifer noted a recent newspaper article. The response rate does seem to be a bit lower than in the past. People should be encouraged to visit the website and report.

## **Bookkeeper Position**

Supv Leifer reported the position has been posted and he has been in contact with someone who may be able to help in the interim.

## **Future Meetings**

If the executive order expires that allows for virtual meetings and we need to start meeting in person, we will likely have to social distance and have an option for the public to attend virtually.

## **Citizens Privilege**

None.

## **Anti-racism Statement**

Supv Leifer reviewed a statement he has prepared and asked the board to consider adopting it. He said the town should have more diversity on its boards.

## **RESOLUTION #87 (2020) – STATEMENT ON RACISM, INJUSTICE AND VIOLENCE AND THE ROLL OF LOCAL GOVERNMENT**

Supv Leifer offered the following resolution and asked for its adoption:

RESOLVED, that this Town Board hereby adopts the following statement:

#### Town of Dryden Statement on Racism, Injustice, and Violence and the Role of Local Government

The Town Board of the Town of Dryden is committed to building a community free of discrimination by race, religion, gender and/or sexual orientation. We feel that this falls under our duty to protect the health, safety, and well-being of our residents and to serve all members of the public with equal respect and compassion. The events of the past few weeks where government agents in several states, in this case police officers, used excessive force that caused the deaths of citizens are merely the most recent tragedies. There have been many others before both George Floyd and Breonna Taylor. The deaths of George Floyd and Breonna Taylor only illustrate one part of the problem of institutional racism and discrimination in our society. We are hopeful that the recent reforms passed by the New York State legislature will address the problems of policing in our society.

While the recent protests were triggered by the actions of police in other jurisdictions the protests have opened up yet another opportunity for all of us to look hard at ourselves and our society and how we must address racism, sexism, and discrimination that go beyond policing. These things all reach into education, healthcare, housing, pay equity and so much more. I hope that our community will use this opportunity to look at ourselves and do better.

Along with many other municipalities the Town of Dryden will commit itself to being more proactive in addressing institutional discrimination and anti-racism. We recognize that merely having anti-discrimination policies in place are not enough to expand diversity and fight institutional discrimination that may be driven by unconscious bias. Inaction and silence are not acceptable. In order to succeed, we will need residents to step up and help.

Going forward, we commit to the following actions:

We commit to becoming a more welcoming place for black, indigenous and other people of color, whether they are visitors, students, renters, homeowners, and current or future residents.

We commit to learning more about our own unconscious biases and institutional racism.

We will strive to recognize and undo any unintentional racism in our Town policies, practices, and norms and reduce the damaging effects by having a zero-tolerance policy for discrimination in our workplace and funded programs.

We further commit to urging the law enforcement agencies charged with protecting and serving our town residents to implement the 8 Can't Wait initiative, based on the Obama Task Force findings by banning chokeholds, requiring de-escalation, requiring alternatives and warnings before shooting, requiring fellow officers to intervene to prevent abuse, limiting the use of force, and requiring comprehensive reporting and accountability.

We further commit to seeing the value and potential in each and all of our community members, communicating respectfully across our differences, and creating more opportunities for diversity and inclusion to improve our governance and services.

We will be more proactive to develop diversity on our advisory boards and in our local government.

2<sup>nd</sup> Cl Skaley

Roll Call Vote	Cl Sparling	Yes
	Cl Servoss	Yes
	Cl Skaley	Yes
	Cl Lamb	Yes
	Supv Leifer	Yes

There being no further business, on motion made, seconded and unanimously carried, the meeting was adjourned at 11:06 p.m.

Respectfully submitted,

Bambi L. Avery  
Town Clerk

My Statement to the Town Board,

There are two separate concerns regarding the adoption of the local law to amend the Varna zoning. I will address each first separately for purposes of the public record.

1). The Varna Community Development Plan (VCDP) was adopted in 2012 and incorporated into the Town of Dryden's Comprehensive Plan after considerable input from residents starting in 2010. The Town hired a consultant to work with the planning staff and the community to develop a plan. Prior to that the planning board chair appointed a citizen's advisory committee to work with planning staff to assist in reviewing drafts and to provide guidance regarding community interests.

A community survey was mailed to all Varna residents and property owners and the feedback helped to establish a rationale, vision, goals and objectives for the Plan. In addition, a hands-on Charette workshop provided residents another way to visualize what types of structures and density the community felt would best address their needs and comfort level as future development was considered. Even before 2010 before any new development, residents were concerned that there would be "too much development too fast . . . changing the character of the hamlet . . . to a transient strip development corridor with significant traffic." Community members indicated that "Varna is a good place to raise a family and it is a safe community to live/work. . . because it is in close proximity to Cornell and Ithaca." [source: VCDP-Community Survey]

These actions led to the development of three goals with specific objectives—Protect and Enhance Hamlet Character; Develop a Transportation System that is Balanced, Safe, Equitable for Pedestrians, Cyclists and Motorists; and Protect and Improve the quality of Life in the Hamlet. The adopted Plan received two awards as a model for how small communities can develop in a sustainable way.

Because there has been and continues to be a strong sense of community in Varna, when needs arose, the community has come together on their own to build a community center in the 1950s and later to establish the Varna Fire Department initially housed within the community center. In addition in more recent years the community remodeled and expanded the community center and established a community playground at no expense to the Town. The Center now serves as an area for civic activities including voting and also now provides an after school program for grades K-5 Ithaca school students.

When the Town completed the revised zoning following the adoption of the Varna Plan, the Hamlet was divided into three distinct Districts—Traditional Neighborhood, Residential with a mix of housing opportunities and a Mixed Use Area to promote some commercial opportunities and a denser development. Unfortunately despite protests from the community the density table adopted for the Hamlet allowed for much higher density than was described in the Plan.

The Planning Board over a period, recognized this problem and has recommended to this Board changes that would bring the zoning more in conformance with the Varna Plan and Town Comprehensive Plan as dictated per State Law where zoning needs to follow from the guidance of the Comprehensive Plan.

2). This leads to the second concern: what to do with pending development applications that are in early stages of consideration and have not been completed? This then goes to the question of whether these applications have "Vested Rights". Town zoning stipulates that it is up to the determination of the Planning Director to determine whether an application has been completed in accordance with and as dictated by our zoning law. Currently two applications have been filed: one that is over two years old having not had any attempt by the developer to complete the application and the other more recently filed after the Planning Board had transmitted to Town Board their recommendations for changes in the Varna zoning. Presumably this applicant was aware of the Planning Board's advisement to this Board several months before the applicant filed.

In the Matter of Exeter Bldg. Corp. v Town of Newburgh the Court of Appeals ruled in 2016 that:

*An owner of real property can acquire a common law vested right to develop the property in accordance with prior zoning regulations when, in reliance on a "legally issued [\*2]permit," the landowner "effect[s] substantial changes and incur[s] substantial expenses to further the development" and "[t]he landowner's actions relying on [the] valid permit [are] so substantial that the municipal action results in serious loss rendering the improvements essentially valueless" (Town of Orangetown v Magee , 88 NY2d 41, 47-48 [1996]; see generally 4 Rathkopf's The Law of Zoning and Planning § 70:20 [4th ed]).*

In that case it was the opinion of the Court the developer did not meet the criteria of having acquired a building permit and invested “substantial” changes to the site and incurred “substantial expense” to further the development. [my emphasis]

I would contend that neither applicant has met the conditions of this Court ruling, but I defer to the opinion of our Attorney for a clear determination. Nevertheless, it is the power of this Board, should we adopt the proposed Varna zoning amendment, to assert that the current applicants, should they pursue their application, **shall** come into conformance with the new zoning amendment.

**LOCAL LAW No. \_\_\_\_\_ of 2020**

**A LOCAL LAW AMENDING TOWN OF DRYDEN ZONING LAW ARTICLE III (DEFINITIONS); ARTICLE IV (ZONING DISTRICTS), ARTICLE VII AND ARTICLE IX (SECTION 909(B)) REGARDING THE VARNA HAMLET**

**SECTION 1. AUTHORITY.** This Local Law is enacted pursuant to the statutory authority conferred on the Town of Dryden by Municipal Home Rule Law Section 10, and New York Town Law Section 264.

**SECTION 2.** Article III, Article IV and Article VII of the Town of Dryden Zoning Law are hereby amended as follows:

**“ARTICLE III: DEFINITIONS.**

**Dwelling- Condominium** – The term condominium refers to a system of ownership and administration of property with three main features. A portion of the property is divided into individually owned units, the balance of the property is owned in common by all the individual owners and a vehicle for managing the property, known as the condominium corporation, is established.

**Dwelling – Townhouse or townhome** – A single-family dwelling that shares one or more walls but no ceiling-floor connection with other dwelling unit or units.

**Green Space** – Areas of vegetated and permeable surfaces of a development not occupied by Structures or Paved areas for vehicles and including formal stormwater management facilities (no more than 20% of total Lot Area) as well as green infrastructure stormwater facilities (Open Space set aside, swales and 60% of the area of a green roof if not accessible by or visible to the public), and including parks, dedicated open space, landscaped areas, plantings, lawns, parking lot islands, green roofs, and sidewalks or trails used exclusively to access these areas, including Accessory Structures (e.g. gazebos or similar structures) accessible to the public and intended to enhance the Green Space.

**Lot Consolidation** – A Lot Consolidation is used to combine two or more existing parcels. Lot Consolidations erase parcel lines so that fewer parcels remain.

**Lot Line Adjustment** – The adjustment of one or more Lot Lines between two or more existing and adjoining Lots which does not result in the creation of one or more new Lots.

**Story** – Any story having its finished floor surface entirely above grade plane, or in which the finished surface of the next floor above is

1. more than 6 feet above grade plane, or
2. more than 12 feet above the finished ground level at any point.

**VHMUD – Varna Hamlet Mixed Use District**

The purpose of the Varna Hamlet Mixed Use District (VHMUD) is to foster new and redevelopment of existing properties while retaining the traditional character of buildings, as well as the hamlet character found in Varna and described in the Varna Community Development Plan. The purpose includes Traditional Neighborhood Design as defined in Article III of the Dryden Zoning Law, and commercial development of vacant lots, including the combining of lots and rehabilitation of existing buildings.

#### **VHRD – Varna Hamlet Residential District.**

The purpose of the Varna Hamlet Residential District (VHRD) is to foster development of new residential neighborhoods including a variety of dwelling units as outlined in the density table at Section 704.

#### **VHTD – Varna Hamlet Traditional District**

The purpose of the Varna Hamlet Traditional District (VHTD) is to foster development that is deeply attentive to the environmentally sensitive areas of the district, and is intended to have lot sizes and a limited amount of development that is sensitive to these resources. The purpose of this district is aimed at achieving a traditional neighborhood with lower density and including a conservation buffer from the banks of Fall Creek (see Article VII, Section 706(B)).

### **ARTICLE IV: ZONING DISTRICTS**

#### **Section 402: Boundary Determinations**

- H. Special Condition of one Parcel that is situated in Two Zones. Except in the VHMUD, VHRD, and VHTD, when a parcel is divided by a zoning district boundary, the regulations and requirements of the least restrictive zone may be extended for a distance of 100 feet into the more restrictive zone.

### **ARTICLE VII: VARNA**

#### **Section 700: Purpose**

The purpose of Article VII of this zoning law is to provide the structure and rules for development in accordance with the Varna Community Development Plan (VCDP) as adopted. This Article creates distinct zones and a Traditional Neighborhood Overlay within the hamlet of Varna in an effort to implement the goals set forth in the Varna Community Development Plan.

#### **Section 701: Applicability**

This Article applies only to the three zoning districts that are within the Hamlet of Varna: the Varna Hamlet Mixed Use District (VHMUD), the Varna Hamlet Residential District (VHRD), and the Varna Hamlet Traditional District (VHTD). Development within these zones is based on the descriptions in the Varna Community Development Plan as adopted as an amendment to the Town Comprehensive Plan. Refer to the purpose and goals listed for each district in Article IV.



## Section 702: Design Guidelines and Standards

All development and redevelopment of Lots and property in Varna shall to the maximum extent practicable comply with the Varna Design Guidelines and Landscape Standards, including:

- A. Landscape Design. Any proposed development or redevelopment subject to a building permit or review under this Law shall include a landscape and planting plan that includes:
  1. A map or sketch of existing vegetation to be retained or removed.
  2. A detailed landscape plan that includes a list of the number, type and location of proposed vegetation.
  3. A narrative or drawing demonstrating how the development or redevelopment will preserve open space and existing natural features including mature trees, tree canopies, land forms, existing topography and vegetation.
- B. Streetscape and Sidewalk Design. Any proposed development or redevelopment subject to a building permit or review under this Law shall include plans for sidewalks or pedestrian paths that contribute to the goal of a unified pedestrian network in Varna. Any such proposed development or redevelopment shall include a streetscape and sidewalk plan that includes:
  1. A map or sketch and list of dimensions of proposed pedestrian paths, sidewalks, and trails.
  2. A map and sketch detailing streetscape amenities including lighting, sidewalk furniture (such as benches and refuse containers), signage, and a maintenance plan for such amenities, including provisions for snow removal.
  3. Any proposed development or redevelopment along Route 366 requires sidewalks.
- C. Building and Architectural Detail.
  1. No proposed Building shall exceed 40 feet in height.
  2. Any proposed development shall be designed to preserve, as much as practicable, the existing views and line of sight of existing buildings and neighboring properties.
- D. Streets and Parking.
  1. Any proposed development shall provide a circulation plan in and around the development for pedestrians, vehicles, and cyclists which includes a detailed map showing:

- a. Proposed roads, trails and cyclist paths.
  - b. The connection of proposed roads, trails and cyclists paths to existing public highways.
  - c. Circulation patterns including points of ingress and egress.
  - d. The dimensions of any proposed roads, trails and cyclist paths.
  - e. The location of any proposed curbcuts to Route 366.
  - f. The location and number of proposed parking spaces.
2. New roads should be designed and located to preserve existing topography, as much as practicable.

### **Section 703: Varna Use Regulations**

All uses in Varna shall comply, to the maximum extent practicable, with the Varna Design Guidelines and Landscape Standards.

- A. Planning Department Report. No application shall be deemed complete without a written report by the Planning Department detailing the extent to which the application complies with the Varna Design Guidelines and Landscape Standards.
  1. For applications which require either Town Board approval or Planning Board approval, such report shall be considered part of the application and subject to review by the respective Boards.
  2. For applications which require only a Building Permit, such report shall be completed prior to issuance of a Building Permit.
- B. No structure or land in Varna shall be used except as provided in the Allowable Use Groups Chart in subsection D below. Uses which are not explicitly permitted are prohibited, unless specifically stated elsewhere in this Law.
- C. Building Sizes and Exemptions:
  1. Building Sizes: In the Varna districts, no use shall include a Structure larger than 5,000 square feet without a Special Use Permit.
  2. All exemptions in Section 603 shall also apply in Varna.
- D. Allowable Use Groups Chart. In the following Allowable Use Groups Chart:

“P” means the use is allowed as of right, but in many cases requires Site Plan Review;  
 “SPR” means this use requires Site Plan Review;  
 “Special Use Permit” or “SUP” means the use requires a Special Use Permit;  
 “X” means the use is not allowed in that particular district.

<b>Allowed Principal Uses</b>	<b>Varna Hamlet Mixed Use District (VHMUD)</b>	<b>Varna Hamlet Residential District (VHRD)</b>	<b>Varna Hamlet Traditional District (VHTD)</b>	<b>Minimum Lot Size</b>
Agricultural Use	P	P	P	None
Farmstand	P	P	P	None
Artist Studio/Craft Workshop	SPR	X	SPR	1/8 Acre
Automotive Repair Garage	SPR	X	X	1 Acre
Bed and Breakfast Establishment	SPR	SPR	SPR	None
Boarding House	SPR	SPR	SPR	¼ Acre
Day Care Center	SPR	SPR	X	1 Acre
Gasoline Station	SPR	X	X	2 Acres
General Office Building	SPR	SPR	X	1 Acre
Hotel/Motel	SPR	X	X	1 Acre
Industry, Light	SUP/SPR	SUP/SPR	X	2 Acres
Inn	SPR	SPR	SPR	½ Acre
Nursery/Greenhouse, Retail	SPR	SPR	X	1 Acre
Professional Office	SPR	SPR	SPR	None
Restaurant	SPR	X	X	None
Retail Business	SPR	X	X	None
Retail Shopping Center/Plaza	SPR	X	X	2 Acres
Retreat/Conference Center	SPR	SPR	X	2 Acres
Service Business	SPR	X	X	None
<b>Allowed Principal Uses</b>	<b>Varna Hamlet Mixed Use District (VHMUD)</b>	<b>Varna Hamlet Residential District (VHRD)</b>	<b>Varna Hamlet Traditional District (VHTD)</b>	<b>Minimum Lot Size</b>
Theatre	SPR	SPR	X	1 Acre
Bed and Breakfast, Home	SPR	SPR	SPR	None

Congregate Care Facility	SPR	SPR	X	1 Acre
Daycare Home, Family	SPR	SPR	SPR	None
Daycare, Family Group	SPR	SPR	SPR	None
Dwelling, accessory unit (See §1311)	SPR	SPR	SPR	None
Dwelling, multi-family	SPR	SUP	SUP	1 Acre
Dwelling, single-family	P	P	P	None
Dwelling, two-family	SPR	SPR	SPR	10,000 square feet
Dwelling, upper-floor apartments	SPR	SPR	SPR	None
Elder Cottages	See Section 1305	See Section 1305	See Section 1305	None
Home Occupation: Level 1	P	P	P	None
Home Occupation: Level 2	P	SPR	SPR	None
Manufactured Home	X	X	X	None
Manufactured Home Park	X	PUD	X	5 Acres
Senior Housing	SPR	SPR	SPR	1 Acre
Senior Care Facility	SPR	SPR	X	2 Acres
Workshop/Garage – Non-commercial	P	P	P	None
Educational Use	SPR	SPR	X	None
Library	SPR	SPR	X	1 Acre
Lodge or Club	SPR	SPR	SUP	2 Acres
Municipal Use	SPR	SPR	X	None
Public Safety	SPR	SPR	X	½ Acre
Public Utility	SUP	SUP	SUP	½ Acre
Religious Institution	SPR	SPR	SUP	None
Recreation, Active	SPR	SPR	X	1 Acre
<b>Allowed Principal Uses</b>	<b>Varna Hamlet Mixed Use strict (VHMUD)</b>	<b>Varna Hamlet Residential District (VHRD)</b>	<b>Varna Hamlet Traditional District (VHTD)</b>	<b>Minimum Lot Size</b>
Recreation, Passive	SPR	SPR	SPR	None
Recreation Facility, Amusement	SPR	SPR	X	2 Acres

Recreation Facility, Athletic	SPR	SPR	X	2 Acres
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**Section 704: Varna Density Table**

All residential uses in Varna are subject to the maximum number of Dwelling Units per acre set forth in the following Varna Density Table. All numbers are in Dwelling Units per one acre (du/ac)

Dwelling type	Mixed Use (requires commercial) <sup>1</sup>	Residential <sup>2</sup>	Traditional <sup>3</sup>	Green development bonus (see section 707)
Single Family Home	6	6	4	2
Duplex	6	4	2	X
Townhouse	6	4	X	2
Condominium	6	4	3	2
Apartments	6	4	3	2
Senior Housing	8	6	X	2
Residential over Commercial	6	X	X	2
Multi Family – Detached Units	X	X	X	
	1 – Developments with > 9 units must have 2000 sq. ft. of commercial for each 10 units. These may be	2 – Multi-family units limited to covering no more than 40% of the acreage remaining after removing the open space land.	3 – No bonuses will be granted in the Traditional district.	

	phased in over time.			
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**Section 705: Required Green Space Table**

All uses in Varna shall incorporate the amount of the Green Space set forth in the following table.

<b>Varna District</b>	<b>Required Green Space</b>
Varna Hamlet Mixed Use District (VHMUD)	40% of Lot
Varna Hamlet Residential District (VHRD)	60% of Lot
Varna Hamlet Traditional District (VHTD)	70% of Lot

**Section 706: Area and Bulk Table**

The following table includes the minimum requirements for a building lot. Unless otherwise indicated this table does not indicate the number of lots that can be created from a parcel.

	VHMUD, VHRD and VHTD
Minimum front yard setback	10 feet
Minimum side yard setback	None or 7.5 feet if buildings are not attached
Accessory Building with less than 15 feet Building Height and 200 square feet or less	1 foot
Minimum rear yard setback	25 feet
Accessory Building with less than 15 feet Building Height and 200 square feet or less	1 foot
Minimum Lot Frontage	45 feet

A. Multi-family units in VHRD are limited to covering no more than 40% of the acreage remaining after removing the open space land from consideration.

B. A conservation zone buffer shall be established of a 100 ft buffer from the normal high-water bank of Fall Creek in which no landscape alteration or construction shall occur. The width of this buffer shall be extended to include the current FEMA (Federal Emergency Management Agency)

designated 100-year flood plain. The importance of a buffer to protect Fall Creek is described in the Dryden Natural Resource Plan, and the Dryden Open Space Inventory, along with the importance of protecting the Designated Scenic Recreation River section of Fall Creek which begins a short distance downstream. Buffers shall be considered to be established for other environmentally sensitive areas within the hamlet districts.

### **Section 707: Green Neighborhood Development**

In addition to the density permitted in the Varna Density Table in Section 704 a density bonus may be awarded if a Neighborhood Development Proposal achieves at least basic LEED certification according to the most current LEED Neighborhood Development (LEED ND) and LEED Building Design and Construction (LEED BD&C) Protocols. The board shall have the discretion to excuse non-compliance with LEED prerequisites which cannot be reasonably attained within the Town of Dryden.

### **Section 708: Planned Unit Development**

A Planned Unit Development (PUD) shall be developed in accordance with the provisions in Article X.”

**SECTION 3.** Article IX, Section 909(B) is hereby amended to correct a reference to the no-longer existing “H” (Hamlet) District in Varna and replace it with references to the Varna Districts, namely, VHMUD, VHRD and VHTD, so that Section 909(B) now reads as follows:

“Section 909: Landscaped Buffer Requirements for Multi-Family and Non-Residential Uses,

B. Multi-Family or non-residential uses abutting or directly across a Highway from any residential property in a CV, VHMUD, VHRD, VHTD, NR, RA, RR or TNDO District, shall have a Buffer Strip along or facing any common property lines. Such Buffer Strip shall comply with the following minimum standards:

1. It shall be a planting of such type, height, spacing and arrangement as, in the judgment of the Board, will effectively screen the activity on the Lot from the neighboring residential area. In the case of industrial uses, plantings shall be at least six (6) feet high at planting and at least 12 feet high at maturity.
2. It shall be at least 20 feet in width, except in conjunction with industrial uses, in which case the buffer strip shall be at least 30 feet in width.
3. No site improvements, including parking areas, shall be allowed within 15 feet of the inside edge of any buffer strip.
4. A wall or fence of location, height, design and materials approved by the Board may be substituted for part or all of the required planting and buffer area.
5. Where the existing topography and/or landscaping provide adequate screening, the board may waive or modify the planting and/or buffer area requirements”.

**SECTION 4. SEVERABILITY.** If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances. Any prior inconsistent Local Law is hereby repealed and superseded.

**SECTION 5. EFFECTIVE DATE.** This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law, provided that for any site plan application that is beyond the Sketch Plan stage, the applicant will have the option to proceed under the version of this law that was in place immediately prior to the enactment of this law as long as the applicant submits a complete site plan application within 60 days from the effective date of this law.



## Chat from 6/18/20 Zoom meeting

00:42:06 ryanmchugh: I have video

01:20:13 Martha Robertson: Also - what is the distinction between condos and apartments, that leads to the difference in numbers allowed in residential and traditional?

01:25:58 David Weinstein: It says it at the top.

01:26:52 David Weinstein: We wanted to encourage ownership, particularly in the sensitive zone next to Fall Creek.

01:28:20 David Weinstein: The City of Ithaca allows a definition of ownership. It is not correct to say that the concept of ownership cannot be used in the zoning.

01:30:18 Martha Robertson: Exactly.

01:31:42 David Weinstein: A town has the right to determine that a certain percentage of the housing is owner occupied. Suppose a very wealthy person wanted to buy up all Varna buildings and rent them all. You can't tell me that a town is prevented from stopping that from happening.

01:32:42 David Weinstein: Varna specifically did not want to be completely covered by rental apartments.

01:34:51 David Weinstein: Again, the idea was that owner-occupied housing is more likely to take special care of the key resource, Fall Creek.

01:38:47 David Weinstein: If the zoning does not help meet the goals that were set, the zoning is not appropriate as per NY Town Law.

01:40:31 Martha Robertson: Could you show the table again?

01:41:50 David Weinstein: The argument for changing the allowable densities is that we cannot achieve the goals of the Varna Plan without reductions.

01:44:28 Martha Robertson: So if condominiums had been proposed as OK in the Traditional Zone, why not apartments?

01:55:06 Joe Wilson: Pages 27-30 describe the nature of the development desired in 4 sections of Varna. Owner occupied does not seem to be mentioned but the kinds of housing including single, two-family, and multi-person housing seem adequately described.

01:56:12 Joe Wilson: I am referring to pages in the

Varna Plan and the location of the types of the housing within Varna is also demonstrated. .

01:56:51 David Weinstein: Here is what it says on page 40: The basic goals for development in the Comprehensive Plan include increasing the attractiveness of the area by offering a diversity of development options, including townhouses, duplexes, small multi-unit complexes, and

mixed residential and commercial; encouraging home ownership; and regulating hamlet transformations so that the character of the community is maintained or shifts slowly, not in dramatic steps.

01:58:20 David Weinstein: So, it explicitly says one of the goals is to encourage home ownership. Proposals that take away our ability to separate home ownership from rentals explicitly prevent us from encouraging this.

02:00:40 Joe Wilson: Further regarding pages 27-30, the latest SEQR Workbook advises Boards to review comprehensive plans including maps, diagrams, etc. in Comprehensive Plans to understand what the community desires. That is what makes these pages relevant to Dan's question of what in the Varna Plan supports the types of buildings sought in the proposed Amendments.

02:05:24 Dan Lamb: Page 40 refers to the 2005 comp plan.

02:06:44 David Weinstein: OK, so why would that not apply to Varna as well?

02:15:33 Dan Lamb: By extension it does, but attitudes on home ownership have changed quite a bit since 2005. At that time it was a national priority of the Bush administration, then the housing bubble and recession... and now now another. Millennials don't buy houses and nearly the rate as their predecessors.

02:15:38 David Weinstein: The Plan describes the Traditional area in Varna as "reflecting the characteristics of a traditional neighborhood. There are a diverse number of residential homes that were a standard in the United States from colonial times until the 1940s." Maintaining this character does not envision a bunch of apartments or apartment like creatures (condominiums) that we were trying to allow to be flexible with different housing options even though we worried that the character would take a hit. However, if you want to take away that flexibility and eliminate condominiums, that's OK.

02:19:20 Joe Wilson: The 2016 County Housing survey shows that about 70% of the commuters contemplating moving into this County preferred to own not rent.

02:19:52 David Weinstein: The 2016 T.C. housing survey documents that if people were to move to Tompkins County (from Groton for example) the vast majority of them would only do so if they could own a house here. I can send that except from the survey if anyone wants it.

02:25:15 David Weinstein: Home ownership is still a priority. We need to find ways to make it easier to happen, not make zoning so its easier for developers to build apartments, because that's what they will do since they can make more money that way.

02:26:24 Joe Wilson: I agree the form of ownership is moot according to Khandi. The form of the buildings is made clear in the Varna Plan and that is what this discussion should focus on.

02:27:58 Joe Wilson: The Varna Plan diagrams/maps make clear that the area adjacent to Fall Creek is to be open space/recreation area and not apartments/condominiums regardless of ownership.

02:29:10 Joe Wilson: The Varna Plan maps/diagrams shows multi-family housing on the plot adjacent to Rt 366 but not the lower lot adjacent to the Creek.

02:35:32 David Weinstein: Remember that every place you add allowable units gets us farther away the stated goal of 450 bedrooms. This proposal already was allowing an increase of 1200 bedrooms.

02:39:12 David Weinstein: The intent was to find devices that would encourage a mix of different housing options, including home ownership. Currently, our zoning just encourages apartment complexes.

02:41:52 Martha Robertson: Could you review the numbers as now proposed?

02:41:58 David Weinstein: The Varna Community Center has been supported by and large by home owners, with a small scattering of renters (and I salute them). That is some local evidence that home owners are more willing to invest in building community that are renters.

02:45:58 Mason: It seems to me that removing single-family and two-family from the wording, and adding apartments and condos in the district completely defeats the purpose of the zone

02:46:32 David Weinstein: Again, there is no reason we can't encourage home ownership.

02:48:12 David Weinstein: There are benefits to having a mix of home owners and renters in the community. If we don't find ways of encouraging (and possibly subsidizing) home ownership, we will exclude that option from Varna, as we have seen over the last 8 years.

02:49:39 lauriessnyder: I want the Varna Plan to encourage a sense of community. In my experience of the Varna Community Center, we have trouble attracting people who are renters.

02:57:37 David Weinstein: Cornell tested over 600 of their employees (including me) today.

03:15:26 David Weinstein: In residential, we wanted to encourage a mix of single family homes and other types, and if we don't encourage new ideas of making single family homes available, they won't happen, and we'll just get a huge suite of apartments, like we have been.

03:28:34 Joe Wilson: I agree that multi family housing consistent with the Hamlet description in the Comp Plan per se makes sense.

03:30:31 David Weinstein: Yes, but I like the fact that you keep reminding us that open space was supposed to be next to that commercial/retail with housing above on a second floor.

04:08:46 Joe Wilson: Just reiterating for the record; My reasoning is that regarding the Green Building Bonus is that our law requires literal LEED certification but that is not what we require of developers. That should change. In addition, we should adopt the NYS Energy Stretch Code ASAP using the resources of the State which are currently on offer as a substitute for our current approach.

04:57:03 David Weinstein: The law requires a vesting in order to be grandfathered in, which means a substantial investment in the project. Lawyers I have talked to in town disagree with Khandi's notion that the town can grant vesting arbitrarily. They say there has to be a large amount of money invested (not just creation of plans), and usually requires some activity on the site. Cases have been adjudicated that confirm this. Taking this action as advised by Khandi could easily set up the town for a lawsuit with case law against the town.