

January 6, 2015

REGULAR MEETING: A Public Hearing re: Local Law No. 1 of 2015, Restaurants with Drive Thru Services was called to order by Mayor Milne at 7:00 p.m. with the Pledge.

TRUSTEES PRESENT: Trustee Worboys, Trustee Stottler, Trustee Alfieri

TRUSTEE ABSENT: Trustee Pavelsky

ALSO PRESENT: Greg Emerson, Mike Tobin, Muffy Meisenzahl, Leah Dalton, Deb O'Brien, Ray Milne, Ed Szlosek, Mary Szlosek, Danny Bassette, Kylena Payne, Barry Kissack, Sharon Kissack, Gail Worboys, Karin Thack, Trey Stephany, Chris Sequeira, Zachary Sequeira, Dan Harris, Amy Harris, Tristen Ulrop, Paul Kammermeier, Jen Gaylord, Sarah Crisan, Eric Smith, Bethany Webster, Sue Hoh

Mayor Rick Milne welcomed those who attended the
VILLAGE OF HONEOYE FALLS PUBLIC HEARING: PROPOSED CODE CHANGE
and made the following comments to the people attending.

Anyone wishing to address the board needs to sign in for record keeping purposes.

Anyone wishing to speak will be given 3-minutes and may not convey time to others.

Please keep your comments or opinions respectful of others.

THANK YOU FOR ATTENDING

Welcome and Happy New Year to all of you here this evening.

The order of business tonight is to conduct a public hearing regarding a proposed code change to the General Commercial district.

It is important to note that the full Village Board had been previously provided the full detail and documents being reviewed tonight including the SEQR Environmental Assessment form and the proposed Local Law #1, the subject of the Public Hearing and have had ample time to go through all documents

It is important to note for the record, that this proposed code change has been provided to the Village Planning Board for full review. This was completed via a formal letter of request.

It is important to note that the Planning Board has reviewed the proposed code change and has provided formal written response to the Village Board of Trustees. The Village Board of Trustees reviewed the Village Planning Board response in full detail.

It is important to note that the proposed code change with any changes made after Planning Board review was then sent to the County of Monroe Planning and Development team as required.

It is important to note that Monroe County Planning and Development has fully reviewed the proposed code change, has provided the proposed code change to all departments required in review and returned a formal reply with no comment.

If anyone is going to address the Board. Please come down in front to the microphone provided. We would appreciate it if you would state your name and address before speaking even though you have already signed in.

Clerk Joan Johnson, read the Notice of Public Hearing as requested by Mayor Milne.

At this time we will open the public comment part of the meeting. Gina, please call the first person on the sign in sheet.

Danny Bassette
181 Monroe Street

Overall, I think the code change is a good thing. Mr. Bassette had some comments on a few parts of the new law. Mayor Milne answered that these documents are living documents that can be changed. The document is a solid document that has been reviewed multiple times over the last year and a half. He said the Board would take some time to consider the suggestions Mr. Bassette made as necessary.

Kaylena Payne
50 East Street

I just wanted to say again, that this is a bad idea. One of the reasons we moved here was because there were no fast food restaurants. The stipulations of this code change are not going to be able to stop fast food restaurants from coming into the Village. She lived in a small town in California that allowed a Walmart to build in it. Within a few years all of the mom pop businesses had closed. Let us look at local businesses before we look at corporate franchises.

Eric Smith
57 Ontario Street

As a property owner in the Village he is against the proposed code change. Thinks it is the wrong direction that the Village should be moving in. He is afraid we are going to be looking at another vacant building in just a couple of years.

Dan Harris

4 Livingston Street

As a lifelong resident of the Village I don't think this is the direction we should be taking the Village in.

Amy Harris

4 Livingston Street

I want it to be on record that I am very much opposed to this change. Why not put this to a vote of the residents. A referendum for the citizens vote themselves what they think of this code change.

Attorney Mike Tobin responded to Mrs. Harris that New York State Village law does not provide for a permissive or mandatory referendum concerning this type of issue. The Board would not have the authority to have a referendum on this issue. Mayor Milne also stated that the Village Board of Trustees were elected to review such subjects and act upon them one way or another. Taking this responsibility away from the Village Board of Trustees would defeat the purpose of a Board of Trustees.

Paul Kammermeier

55 Ontario Street

Just wanted to mention something I mentioned at another meeting. This decision will have impact on our property values. A lot of the people who moved into the Village from somewhere else like I did decided to move here because it is still a quaint village without drive thru fast food restaurants. We have to have something to make us stand out from all the other places in the area. I went to the Zoning Board meeting on this issue and I know the Zoning Board voted not to allow this. I wonder why that was not considered in this decision.

Bethany Webster

2770 Rush Mendon Road

The number one reason we moved to the area is because Honeoye Falls is a quaint village without drive thru fast food restaurants. Had we known about this discussion maybe we wouldn't have made the decision to move to this area because it completely changes the dynamics of what we were looking for. So my question is: What does opening the door for this one drive thru mean down the road for my three year old and five year old who are my youngest.

Sue Hoh

217 East Street

I am definitely in favor of the proposed code change. If there are people who don't want the drive thru windows; why don't they just not go to the restaurant.

Motion by Trustee Alfieri, seconded by Trustee Worboys to keep the public hearing open until 7:30 pm. Motion carried.

At 7:30 PM Motion by Trustee Alfieri, seconded by Trustee Worboys to close the Public Hearing.

Mayor Milne requested the SEQR be reviewed at this time and the Board by consensus agreed. Mayor Milne asked Paul Chatfield to read the SEQR form.

Paul Chatfield read the Appendix B SEQR Short Environmental Assessment Form, Part 1 Project Information and the Part – Project Sponsor Information Form which he had completed for the Board of Trustees. He noted the proposed change in the Village zoning code would fall under an unlisted action. The Village Board of Trustees is the lead agency which they declared at their November 17, 2014 meeting.

Question 1: (on page 1 of 4)

Mr. Chatfield read Question 1 in Part 1 – Project and Sponsor Information as to whether the Local Law involved adoption of local law.

All Trustees & Mayor responded yes to this question.

Mr. Chatfield proceeded on to Part 2 – Impact Assessment

Mr. Chatfield read each question to the Board and they responded:

To question 1 – all Trustees & Mayor responded “No, or small impact may occur”

To question 2 – all Trustees & Mayor responded “No, or small impact may occur”

To question 3 – all Trustees & Mayor responded “No, or small impact may occur”

To question 4 – all Trustees & Mayor responded “No, or small impact may occur”

To question 5 – Trustee Alfieri – “No, or small impact may occur”

Trustee Stottler – “Moderate to large impact may occur”

Trustee Worboys – “No, or small impact may occur”

Mayor Milne – “No, or small impact may occur”

Because two Trustees and the Mayor responded that “No, or small impact may occur” this question was answered “No, or small impact may occur”

To question 6 – All Trustees & Mayor responded “No, or small impact may occur”

To question 7 – All Trustees & Mayor responded “No, or small impact may occur”

To question 8 – All Trustees & Mayor responded “No, or small impact may occur”

To question 9 – All Trustees & Mayor responded “No, or small impact may occur”

To question 10 – All Trustees & Mayor responded “No, or small impact may occur”

To question 11 – All Trustees & Mayor responded “No, or small impact may occur”

That completed Part 2 of the SEQR form.

The Board discussed which of the two boxes to check at the bottom of page 4 of 4. During the discussion, Trustee Stottler expressed concern about the increase in traffic in the General Commercial District if the drive thru window law is passed. (Question 5 of Part 2)

Mayor Milne proceeded to suggest the Board check the second box on Page 4 which states in part “proposed action will not result in any significant adverse environmental impacts”. Mr. Chatfield concurred.

Motion by Trustee Alfieri, seconded by Trustee Worboys to a approve checking the second box on Page 4 and that the proposed action will not result in any significant adverse environmental impacts.

Trustee Alfieri – aye
Trustee Stottler – nay
Trustee Worboys – aye
Mayor Milne – aye

Motion carried.

Mayor Milne gave Trustee Stottler a copy of a letter from Monroe County Department of Transportation received in October of 2014 that addressed their review of the traffic analysis of on West Main Street and with the potential of a Dunkin Donuts being on that site. The letter states they concluded the proposed development will not result in significant adverse impacts of traffic operations at the site entrances or surrounding County roadway network. Mr. Tobin read the contents of the letter out loud.

Motion by Trustee Worboys, seconded by Trustee Alfieri to accept the SEQR as prepared.

Trustee Alfieri – aye
Trustee Stottler – nay
Trustee Worboys – aye
Mayor Milne – aye

Motion carried.

Mayor Milne signed the SEQR on page 3 and on page 4.

Mayor Milne commented at this point in time we have gone thru the public hearing process, we have gone through the SEQR process

Mayor Milne asked the Board if they would like to move forward and consider voting on the code change:

Trustee Alfieri – aye
Trustee Stottler – nay
Trustee Worboys – aye
Mayor Milne – aye

Mayor Milne asked for any other comments from any of the Trustees regarding the subject, the process or anything of that sort.

Trustee Worboys spoke and said in answer to any of the arguments he would like to point out he has lived in this village since he was six years old...that makes it 65 years and I am very partial to it. When I was a kid we had in the four corner's area; lumberyards, grocery stores, bakeries, butcher shop, two hardware stores and a clothing store and a five and ten and a drug store. On and off there was a jewelry store and a photo shop. The only thing that has survived all these years is the dry cleaners and two of the three bars. And that is in spite of the fact that we have gone to a lot of trouble making zoning regulations to try to protect those businesses. Only it didn't work. They are all gone and the reasons those buildings aren't getting filled up now are the same reasons that they are empty. We are very fortunate to have the development up on West Main Street. There are communities our size that have next to nothing. So I am in favor of things that keep that area vital and keeps our village vibrant. If a specific store wants to come in that area; if somebody wants to develop it, I think it's a positive thing. So, for that reason I haven't changed my opinion, in spite of some of the arguments I have heard. That sums it up. I just don't want it to look like I am not listening to some of the folks out there.

Trustee Stottler said that about a year ago when we first started discussing this topic, her concern at that time was that we were still in the process of creating the Comprehensive Plan and I was not in favor of moving forward with this when we were still working on a planning document but I found as we completed the Comprehensive Plan, I still didn't feel in favor of this proposed change in our code. I do agree with Trustee Worboys that we do need to look at different ways of managing our village. I think I would like to see Honeoye Falls become a destination. A place where people want to come. If you go to Flaherty's on Saturday nights

there are a lot of people that you don't recognize that are from out of town. We need more places like that that will bring in people who want to come and experience our village. In the meantime I think we want to make it a desirable place to live. We want the homes to be sold. We want our property values to stay where they are. So, I had to soul search a little bit. To me, it did not come down to the drive thru windows because as we discussed, there are other businesses in the area that have drive thru windows but it is opening the door to fast food franchises which takes away our uniqueness and makes us look like every other community. I agree that we need to work on development in our community. I am really excited about this tactical urbanism and some other things we could attempt. Looking at ways to fill our empty storefronts. Maybe its not retail any more. Maybe there are other options for our downtown. So for me, I don't feel like this change supports either of the things that are important to me; one making the village a destination and the other is making it a desirable place to live. I am not happy with seeing fast food franchises come to our community. There are lots of other communities that have them but I would like our to stay unique. And finally, I am concerned about the impact on the local businesses that we do have. These are the people that support us. They support our sports teams, our charities, our library. They are always asking what can we do to help out at an event. They give of their time, their services, their facilities and I can't imagine a foreign franchise owner from another community or another state having any interest in those day to day important things for our community. So that's why in this case, I will be voting against the code change.

Trustee Alfieri – No comment

Mayor Milne commented that as Trustee Worboys and Trustee Stottler stated, there have been many very valid points brought up over the last year and a half. He agrees with Trustee Stottler on many points as far as wanting Honeoye Falls to remain somewhat unique and a destination place as well. I do disagree that we cannot have businesses that may be franchise type businesses in certain parts of the community and still not have them tie in very well to small shops and privately owned shops. We do not have a lot of businesses in our community at this time. We have some wonderful businesses, but we do need more and I do believe that this type of development can and will help bring privately owned businesses to our community as well. I have talked to local business owners that are very much in favor of this code change. I have talked to potential business owners that have told me that they have watched this process and they're a little bit worried about coming to Honeoye Falls because they feel the community wouldn't support them. And I am talking about smaller privately owned businesses. We can all say everybody I have talked to is for it or we can say everybody I talked to is against it. I have served this community for many years in many different facets and I believe that two mayors prior to me and boards. We have talked about this almost every single year and I believe that this code change does need to move forward and that we can tie in those types of businesses for a very vibrant downtown as well.

I appreciate everybody's opinions. I thank you for your input and I think we have a great community that we can do a lot more with and I hope that we will work together to do so.

Mayor Milne asked if there were any other comments.

Mayor Milne asked for a motion to consider the Local Law #1 2015.

Motion by Trustee Worboys, seconded by Trustee Alfieri to approve Local Law #1 2015. After discussion and deliberation by the Board the Mayor asked for a roll call vote on the motion. The Trustees voted as follows:

Trustee Alfieri – aye
Trustee Stottler – nay
Trustee Worboys – aye
Mayor Milne – aye

Motion carried and Local Law #1 of 2015 adopted and said Local Law reads as follows:

A LOCAL LAW TO AMEND the Code of the Village of Honeoye Falls, Article VI C of Chapter 190 thereof, entitled General Commercial District, to add a new section providing for Restaurants with drive through services.

Be it enacted by the Board of Trustees of the Village of Honeoye Falls, as follows:

Section 1. Article VI C of Chapter 190 Zoning, of the Code of the Village of Honeoye Falls, is hereby amended to add a new section following § 190-45.11 to be known as § 190-45.12 as follows:

§ 190- 45.12 Restaurants with drive-through or drive-up windows

A. Definitions:

Restaurant, drive-through – a use which, by design of facilities or procedures, encourages or permits customers to purchase food, beverages or ice cream while remaining in their vehicle.

Queuing Lane- A lane or driveway for customers to use to purchase food and beverages.

Exit Lane- A lane or driveway contiguous and parallel to the queuing lane to circulate or exit the site.

B. Restaurant, drive-through requirements.

A restaurant drive-through in the General Commercial District shall be permitted pursuant to the following:

1. A site plan is reviewed and approved in accordance with the provisions of Article XIV, Site Plan Review.
2. All requirements of the General Commercial District, Article VI C shall be complied with except as modified herein for restaurants with drive through services.

C. Lot and Bulk requirements.

- i. The lot area shall be a minimum of 45,000 square feet.
- ii. The lot width at the street or road right of way line and at the front of the building shall be 170 feet.
- iii. **The front setback for the main building on the lot may vary; provided the front setback shall be not less than 25 feet and for building(s) constructed between or next to existing building(s) the setback shall either conform to the setback of the adjacent building(s) or as minimally required to meet the provisions of Section 190-45.12, Chapter 190 of the Village Code.**

D. Service area, queuing lanes and exit lanes.

1. The drive-through service area or window shall not be located in the front yard.
 2. The drive through service shall provide a queuing lane and exit lane.
 3. All service areas, queuing lanes and exit lanes must each be set back a minimum of 10 feet from all lot lines which abut any nonresidential zone and shall be screened as determined necessary by the Planning Board.
 4. Drive-through, queuing lanes and exit lanes shall each be a minimum of 12 feet wide.
 5. A queuing and exit lane shall be at least 120 feet in length for each drive-through service area; and in any event the exit lane shall be the same length as the queuing lane.
 6. All queuing and exit lanes must be designed so that they do not interfere with parking, vehicular and pedestrian circulation on the site.
 7. All queuing and exit lanes must be clearly identified through the use of striping, landscaping and signs.
- E. Ingress and egress
1. Only one point of ingress and one point of egress or one point of combined ingress and egress shall be provided per street frontage for each drive-through restaurant.
 2. **Any point of ingress or egress for a drive-through restaurant shall be set back a minimum of 10 feet from any side lot line.**
 3. A pedestrian walkway shall be provided from the public sidewalk to the building.

F. Miscellaneous

1. All garbage and waste material shall be placed in receptacles which are enclosed and screened as determined by the Planning Board.
2. No more than 2 order or menu boards, no larger than 30 square feet each in size and located at the rear of the building shall be permitted.
3. A circulation lane shall be provided to permit vehicles which have left the queuing lane to circulate around the front of the building to access parking areas on the opposite side of the building and it shall be a one-way lane, in a counterclockwise direction and shall be of the width and setback distances from the building and street as determined by the Planning Board.
4. The Planning Board shall direct the applicant to submit a traffic study which shall demonstrate that the impact of traffic generated by the proposed drive-through restaurant shall not be a significant detriment to the community or to the local road network. The applicant must demonstrate that the proposed restaurant use will not alter levels of service or utilize available traffic capacity to such an extent that it cannot be adequately mitigated or otherwise create unsafe on-site or off-site traffic conditions.
5. No drive-through facility shall be located on a lot directly adjacent to or across the road or street from a property used for residential purposes.
6. Pedestrian walkways or sidewalks shall be provided within the site to facilitate pedestrian movement.

7. **A row of shrubs or other screening material of adequate density, height and width, as determined by the Planning Board, shall be provided and maintained along the outside perimeter of all parking and on-site circulation areas. However, such screening material shall not block site lines within the site.**
8. An outdoor seating area may be provided in conjunction with a drive-through restaurant, which is designated and designed in the Site Plan Review.
9. No outdoor or indoor playgrounds or play lands shall be provided in conjunction with or accessory to a restaurant with drive through services.
10. No drive through restaurant shall be open before 5 o'clock AM and open after 11 o'clock PM.
11. All impervious surfaces, including curbing, shall not be less than 10 feet from any property line.
12. There shall be no more than two sites in the General Commercial District from which a drive through restaurant may be operated.

G. Parking

1. Parking spaces for vehicles shall be designed and provided for pursuant to Article IX of Chapter 190, Zoning; except no parking shall be permitted in the front yard of a drive-through restaurant.

H. Lighting

1. All lighting shall be in accordance with Article XVIII of the Chapter.

When the restaurant is not open, all lighting shall be extinguished except lights required for **security and safety** purposes.

I. Signs

Signs for a drive-through restaurant shall be permitted in accordance with Article X of this Chapter.

Section 2. Subsection S of Section 190–45.4 of Article VI C of Chapter 190, Zoning, of the Code of the Village of Honeoye Falls, is hereby amended to read as follows:

§ Section 190-45.4 Permitted uses

Restaurants and ice cream stores that may include a drive-through or drive-up window for the purchase of food, beverages or ice cream.

Section 3. Effective date.

This local law shall become effective upon filing with the Secretary of State.

After discussion and deliberation of the Board, the Mayor asked for a roll call vote on the motion. The Trustees voted as follows:

Motion by Trustee Worboys, seconded by Trustee Alfieri to approve Local Law #1 2015

Trustee Alfieri – aye
Trustee Stottler – nay
Trustee Worboys – aye
Mayor Milne – aye

Motion carried and Local Law #1 2015 adopted.

Motion by Trustee Alfieri, seconded by Trustee Stottler to closed the meeting at 8:02pm.
Motion carried.

Respectfully submitted

Joan Johnson

Joan Johnson
Clerk Treasurer

Copies of the traffic study letter from Monroe Co. and SEQR are attached.