

DRAFT MINUTES
LEWIS COUNTY PLANNING BOARD
DECEMBER 15, 2022

- (1) **Call to Order:** Chairman Petersen called the regular meeting of the Lewis County Planning Board to order at 2:33 PM in the conference room on the 2nd floor at the Lewis County Court House, Lowville, New York. Roll call was requested by Mr. Petersen.
- (2) **Roll Call:** Board Members Present: Tim Petersen, Sarah Metott, Tim Hunt, John Lehman, Eric Virkler and Don Cook. Staff Present: Casandra Buell, Director of Planning and Community Development as well as Megan Krokowski, Community Development Specialist.
- (3) **Reading and Approval of Minutes:** The draft November 17, 2022 meeting minutes were received and reviewed prior to the meeting. Mr. Cook motioned to approve the minutes; Mr. Lehman seconded the motion, which carried unanimously.
- (4) **Correspondence and Communication:** Ms. Krokowski reviewed the following communications received from the Adirondack Park Agency:
 - **APA Project No. 2022-0185 Application Completed**
Jeffrey Shambo, Four-lot subdivision with a single-family dwelling proposed for each lot, Partridgeville Road, Town of Greig
 - **APA General Permit No. 2022-0282 State Land Jurisdictional Inquiry/Application for Wetlands - Permit 2005G-1R**
Pine Lake Trail – access via Partridgeville Road, Town of Greig
- (5) **Report of Officers:** None
- (6) **Report of Special Committees:**

239-M Review

Ms. Krokowski read the following review:

TOWN OF WATSON TOWN BOARD

Proposed local land use law that would define regulations associated with telecommunication towers.

Town of Watson – Applicant

The proposed local law, General Municipal Referral Form, and signed FEAF were submitted by Michelle Ward, Town Clerk for Town of Watson Town Board.

Proposed Telecommunication Tower Law of the Town of Watson

A summary of the proposed local law is as follows:

In summary, the purpose of this telecommunication tower law is to create regulation and provide guidance on *“the establishment and/or expansion of wireless telecommunication services within the Town of Watson while protecting neighborhoods and minimizing the adverse visual and operational effects of wireless telecommunications facilities through careful design, siting and screening. More specifically this regulation has been developed in order to:*

- *Maximize use of existing and approved towers and other structures to accommodate new antennas and transmitters in order to reduce the number of communication towers needed to serve the town:*
- *Encourage providers to co-locate their facilities on a single tower”*

The proposed law includes various definitions for telecommunication related terms, equipment, and acronyms. The law further details the specific process for siting of tower structures and antenna arrays and states what is required on the report provided by the applicant. Within the proposed report requirements in Section 3(A), criteria 5-7 should further define where the measurements should be taken from. For example, for criteria number 6, the proposed report should include the “*Location of nearest residential structure measured in feet*”. To ensure that the intent of the Town is met, further clarification as to where the measurement is expected to begin and end should be added (i.e. this measurement should be taken from the property lot lines or from the proposed project location).

Section 5(B) states “*All proposed telecommunication tower and accessory structures shall be located on a single parcel and set back from abutting residential parcels, public property or street lines a distance sufficient to contain on site substantially all ice-fall or debris from tower failure and preserve the privacy of the adjoining residential properties.*” Consider specifying the setback footage requirement for abutting residential parcels, public property, or street lines if different than 1 and a half times the tower height.

Section 5(D.4) states that “*The board may request review of the application by a qualified engineer for the evaluation of need for the design of any new tower.*” Consider specifying whose responsibility, discretion, and expense this evaluation will be and if this adds additional time to the application timeline.

Section 5(D.6) states that “*Screening, deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas.*” Consider supplying additional information or where to find mapping of “*public site known to include important views or vistas*” to ensure that the Town’s intent is met. Additionally, consider adding the word ‘*native*’ before deciduous or evergreen tree plantings, to prevent an increase of invasive species, and replacing ‘*evergreen*’ with ‘*coniferous*’ or add a definition to Section 2 defining ‘*evergreen*’ and detailing the allowable tree species. It would also be beneficial for the Town to further define what would be appropriate for the referenced “*screening*” to avoid misinterpretation of the Town’s intent.

Section 5(l) states that “*Section 704 of the Federal Telecommunications Act of 1996 allows localities to regulate wireless facilities on the basis of environmental or health effects. The tower company may be required to pay for regular inspections (annually) if such a structure is located within 1000 feet of a residence or occupied structure and provide the local governments with a copy of the inspection report to assure continued compliance with FCC emissions standards.*” Expanding on this statement, consider if the Town of Watson’s intention is to require annual inspection documentation, who will be responsible for and who and how will the compliance of such data will occur.

Section 5(J) states that “Applicants must notify landowners within a half mile to include all abutting property owners of proposed towers and/or antennas.” Consider including “in writing” to this statement as it is a standard form of acceptable notification. If the Town of Watson’s intention is to make this a verifiable step, for example, the Town could also require certified mail receipts.

In review of the documents provided, it appears that the proposed Telecommunication Tower Law of the Town of Watson would comprehensively outline the regulations for telecommunication towers, if minor adjustments are made prior to enactment.

Recommendation: Approve with modifications

1. Within the proposed report requirements in Section 3(A), criteria 5-7 should further define where the measurements should be taken from. For example, for criteria number 6, the proposed report should include the “Location of nearest residential structure measured in feet”. To ensure that the intent of the Town is met, further clarification as to where the measurement is expected to begin and end should be added (i.e. this measurement should be taken from the property lot lines or from the proposed project location).
2. In Section 5(B), specific setback footage requirements for abutting residential parcels, public property, or street lines, if different than 1 and a half times the tower height, should be added to the proposed law.
3. In Section 5(D.6), the Town should reference where to find mapping of “public site known to include important views or vistas” to ensure that the Town’s intent is met.
4. In Section 5(D.6), add the word ‘native’ before deciduous or evergreen tree plantings, to prevent an increase of invasive species, and replacing ‘evergreen’ with ‘coniferous’ or add a definition to Section 2 defining ‘evergreen’ and detailing the allowable tree species. Furthermore, the Town should further define what would be appropriate for the referenced “screening” to avoid misinterpretation of the Town’s intent.
5. In Section 5(I), the Town should define, specifically, who the inspection report should be submitted to, who will be responsible for ensuring compliance, and how it will be verified/recorded.
6. In Section 5(J), include “in writing” to this statement as it is a standard form of acceptable notification. If the Town of Watson’s intention is to make this a verifiable step, for example, the Town could also require certified mail receipts.

NOTE: It is recommended that the following grammatical errors are corrected before adoption:

Section 2 Definitions:

EAF ~~AEF~~: Environmental Assessment Form

Section 3(A) - For consistency, add a line spacing between number 13 and number 14 on page 5.

Section 4(B) Shared **u** usage of site with new tower (clustering)

Section 5(B) Lot **S**ize and **S**etbacks for **N**ew **T**owers - Consider capitalizing for formatting consistencies since A is capitalized.

Section 5(C) Visual Impact Assessment - Consider capitalizing for formatting consistencies since A is capitalized.

Section 5(D) New Tower Design - Consider capitalizing for formatting consistencies since A is capitalized.

A general discussion took place that questioned why local laws have to be so long. Ms. Buell explained that some municipalities make these laws separate from their master zoning document; however, they need to have the same comprehensive inclusions as their general zoning document.

It was concluded that the County Planning Board would like to add a modification that discussed the specific absence of definition and location of scenic and historic sites as referenced in Section 5(H.1). Additionally, attention was brought to EAF being inaccurately utilized (AEF) again later in the document, outside of the definition section, and we should encourage correction prior to filing with DOS.

With no further discussion, Mr. Hunt made a motion to approve with the added condition and notes discussed; Mr. Cook seconded the motion; the motion was carried unanimously.

Ms. Krokowski read the following review:

VILLAGE OF LOWVILLE BOARD OF TRUSTEES

Proposed local law to add a new Chapter 138 to the Code of the Village of Lowville, under General Legislation, to regulate garage sales.

Village of Lowville – Applicant

The proposed local law and General Municipal Referral Form were submitted by Danielle St. Louis on behalf of Mayor Joseph Beagle.

While an FEAF was requested for a full statement, as of Monday, December 12th, it had not been received.

Village of Lowville Chapter 138 - Garage Sale Law

In summary, the purpose of the proposed law is to regulate garage sales taking place in any residential zones (as defined in Chapter 201 Zoning).

Upon reviewing the submitted proposed law, as part of General Legislation, the following areas are of interest:

§ 138-3 Zoning Officer. “This chapter shall be enforced by the Zoning Officer, who shall be appointed by the Village Board, as outlined in § 201-1345 of Article XIII Administration and Enforcement.” Given the legislation is not included in the Zoning section of the Village of Lowville Code, this may not be an appropriate use of a Zoning Officer. If the law is to be housed under Village of Lowville’s Code 201, then the Zoning Officer enforcement would be appropriate. If it is not housed under the Village of Lowville’s Code 201, then a different entity should be responsible for the enforcement of this proposed law.

§ 138-7 Number of Sales. “No more than two garage sales may be conducted on the property of any one residence and/or family household during any calendar year. Nothing in this section shall be deemed to preclude members of more than one residence from joining in a garage sale to be conducted by the residence of one of the participants.” We suggest adding a defined process and delegated roles for who is to be tracking the garage sales to ensure the number of sales are not exceeded.

Please consider reviewing and incorporating language, where applicable, from the City of Utica’s Article XIII Garage/ Yard Sales Law as well as the Town of New Hartford’s Chapter 72 entitled Garage Sales. Both aforementioned regulations appear to have a well-defined and enforceable policy to regulate garage sales that could be incorporated into your proposed legislation where lacking.

Consider receiving input from the proposed enforcement officers on the proposed local law to ensure enforceability, compliance and understanding.

§ 138-8 Hours and Days of Operation. “Garage sales shall be limited in time to no more than the daylight hours of three consecutive days.” Consider having set times as daylight hours change depending on the day and this could cause issues with enforcement unless a schedule is provided defining the daylight hours for each day.

§ 138-9(B) Penalties for Offenses. “Each sale of property other than personal property and the conduct of a sale in violation of the term limitations contained in this chapter shall constitute a separate offense.” Please clarify if the intention of this statement is to punish for each item sold as a separate offense and how that will be regulated and enforced justly.

Recommendation: Matter of Local Concern

This proposed local law does not have significant county-wide impacts; therefore, the County Planning Board believes that the Village of Lowville should come to a decision based on its findings alone. A technical review of the law will be attached to the decision for the Village Board to consider during its deliberations.

A general discussion ensued about the practicality and enforcement of the proposed legislation as well as inquiries of what prompted this legislation (i.e. traffic accidents or complaints).

The Board discussed whether its recommendation should be to “Deny” or deem as a “Matter of Local Concern.” It was decided that the recommendation would remain a “Matter of Local Concern.”

It was discussed that the response should incorporate various comments and to update the summary to include the following:

- This law seems to impede on resident’s rights
- Referrals should include more context as to the reason for the proposed law so that proper recommendations can be made.
- The Village should review any proposed legislation to ensure alignment with the updated Comprehensive Plan.
- Remove reference to New Hartford and Utica’s garage sale legislation

With no further discussion, Mr. Hunt made a motion to recommend that this be a Matter of Local Concern as presented with the additional notes submitted; Mr. Lehman seconded the motion; the motion was carried unanimously.

(7) **Report of County Planner:**

- Responses from municipalities regarding previously submitted/reviewed projects:

Project Description	Final Action
T/Leyden – Solar Energy Systems Law	Approved w/some Conditions

Ms. Krokowski shared the Town of Leyden approved with the formatting recommendations but rejected all other conditions.

Ms. Buell discussed the pilot agreement for the solar development on prime agricultural land in the Town of Leyden.

(8) **Unfinished Business:**

4-Hour Annual Land Use Training, required by 12/31/2022

Ms. Krokowski updated the Board members on the hours of training that some of them still needed to submit to her before 12/31/2022. Her notes reflected that Tim Petersen still needed to complete his training; however, he attended the Solar Training Series facilitated by ANCA. Upon verification from ANCA’s Zoom register, Ms. Buell will follow up with Sue to have certificates made for Mr. Petersen and will file them accordingly.

(9) **New Business:**

Mr. Hunt discussed an informational development at Miller’s Meat Market (Miller’s). According to Mr. Hunt, Miller’s have acquired the adjacent apartment building and plans are set to demolish the structure and expand their parking area. The fill from this demolition will be used as fill across the road at the pocket park. This raises a few environmental concerns as there may be hazardous waste in the fill and the intended location of said fill is abutting the Black River.

(10) **Adjournment:** There being no other business, a motion to adjourn the meeting was made by Mr. Cook, seconded by Ms. Metott which carried unanimously. Mr. Petersen adjourned the meeting at 3:12 PM.

Respectfully submitted,

Megan Krokowski
Community Development Specialist