

July 20th 2015

PUBLIC HEARING

VILLAGE OF GREENWOOD LAKE
PO BOX 7, 18 CHURCH STREET
GREENWOOD LAKE, NY 10925

VILLAGE COURTHOUSE

PRESENT: MAYOR: JESSE DWYER

 TRUSTEES: KATHELEEN HOLDER
 THOMAS HOWLEY
 CHAD SELLIER

 ATTORNEY: JOHN BUCKHEIT

ABSENT: TRUSTEE: KELLI KELM

MAYOR DWYER – THIS PUBLIC HEARING IS ON POSSIBLE CHANGES TO THE VILLAGE CODE 110-3 DISTRICT REGULATIONS IN OUR GENERAL MUNICIPAL LAW. AT OUR LAST VILLAGE BOARD MEETING WE DISCUSSED THE POSSIBILITY OF EXCLUDING RESIDENTIAL PROPERTIES FROM BEING ALLOWED TO HOUSE CELL TOWERS ON THEIR PROPERTY. WE SENT THE PROPOSED CHANGE TO THE ZONING BOARD, PLANNING BOARD AND ATTORNEY’S. THE RESPONSES RECEIVED WERE CONCERNING SEQRA MEASURES AND MORE SPECIFICITY ON ALLOWED USES IN THE ZONES.

SINCE THEN WE HAVE COME UP WITH MORE SPECIFIC WORDING IN THE CODE TO ADDRESS THESE CONCERNS. WE WILL TAKE PUBLIC COMMENT AS WELL. THE CODE CHANGE IS IN CHAPTER 110 WIRELESS TELECOMMUNICATIONS FACILITIES, 110-3A USE REGULATIONS – A WIRELESS TELECOMMUNICATIONS FACILITY SHALL REQUIRE A BUILDING PERMIT IN ALL CASES. WIRELESS TELECOMMUNICATIONS FACILITIES ARE PERMITTED IN PD120, PD200 AND R120 ZONES.

WE WOULD LIKE TO INSERT SOME ADDITIONAL LANGUAGE THERE TO MAKE IT MORE SPECIFIC. WE WOULD LIKE IT TO READ : A WIRELESS TELECOMMUNICATIONS FACILITY SHALL REQUIRE A BUILDING PERMIT IN ALL CASES. WIRELESS TELECOMMUNICATIONS FACILITIES ARE PERMITTED ON MUNICIPAL PROPERTIES IN R120 AND ONLY NON RESIDENTIAL PROPERTIES LOCATED WITHIN PD120, AND PD200. BASICALLY, THAT EXCLUDES ANY RESIDENTIAL PROPERTIES, IT DOES NOT INCLUDE COMMERCIAL PROPERTIES AND LIMITS IT TO THREE PROPERTIES IN THE VILLAGE. WE CANNOT OUTRIGHT BAN CELL TOWERS. IT IS AGAINST THE LAW. THE VILLAGE ATTORNEY HAS DONE EXTENSIVE RESEARCH AND IT IS NOT PERMISSABLE TO BAN THEM. TO INSURE THAT IF A CELL TOWER COMPANY SHOULD COME BACK HERE, WE FEEL THIS IS AS EXTENSIVE OF A LAW THAT WE CAN MAKE.

ATTORNEY BUCKHEIT – FEDERAL LAW PROCLUDES US FROM HAVING AN OUTRIGHT BAN ON CELL TOWERS, AND IT ALSO PROCLUDES YOU FROM BEING SO RESTRICTIVE THAT NO PROPERTY MEETS THE CRITERIA. WE BELIEVE WE HAVE COME UP WITH THE MOST RESTRICTIVE WORDING POSSIBLE TO PRESERVE THE INTERESTS OF THE COMMUNITY. AS LONG AS WE ALLOW IT SOMEWHERE IT IS OKAY. HOWEVER, IF THEY SHOULD BE ABLE TO PROVE THAT THERE IS A GAP IN COVERAGE THAT CANNOT BE ADDRESSED BY ANY OTHER MEANS THAN A VARIANCE FROM THIS LAW, THEY WOULD STILL HAVE GROUNDS TO SET ASIDE THE LAW. A GAP IN COVERAGE DOES NOT HAVE TO EXIST IN OUR VILLAGE. IT CAN EXIST IN NEIGHBORING AREAS AS WELL.

MAYOR DWYER ASKED FOR COMMENTS FROM THE PUBLIC.

RESIDENT DIANE BRAMICH FROM SYLVAN PARK – I AM THE CHAIRMAN OF THE ZBA AS WELL. THE LETTERS YOU RECEIVED FROM THE PLANNING BOARD AND THE ZBA ASKED THAT WE GET A DEFINED WORDING OF THE WORD COMMERCIAL. IT IS NOT SPECIFIC IN OUR CODE.

ATTORNEY BUCKHEIT – A PROPERTY MUST HAVE A C/O. THE C/O WILL STATE WHETHER IT IS FOR COMMERCIAL OR RESIDENTIAL.

DIANE BRAMICH – BOTH BOARDS ARE LOOKING FOR A DEFINITION FOR COMMERCIAL.

MAYOR DWYER – WE CAN DO THAT AT A LATER DATE. THE WORD COMMERCIAL HAS BEEN REMOVED FROM THE PROPOSED WORDING.

DIANE BRAMICH – R120, I BELIEVE BOTH BOARDS ALSO ASKED FOR THAT TO BE REMOVED. I FOUND THAT R120 IS BASICALLY ALL MOUNTAINS, THE LAND BEHIND WAH TA WAH, SYVAN, PARK. ETC.

ATTORNEY BUCKHEIT – THE WAY IT IS WORDED NOW, THE ONLY PROPERTY IN R120 THAT COULD BE USED, IS PROPERTY THAT IS OWNED BY THE VILLAGE.

DIANE BRAMICH – THAT WOULD BE THE WATER TOWER.

MAYOR DWYER – CORRECT. JUST BECAUSE WE ARE SPECIFYING PLACES THAT COULD HAVE A CELL TOWER, DOESN'T MEAN WE ARE ENCOURAGING SOMEONE TO BUILD ONE. WE ARE NOT OUTRIGHT BANNING THEM, WHICH IS NOT ALLOWED. WE ARE LIMITING THEM.

DIANE BRAMICH – ARE YOU GOING TO STOP A USE VARIANCE.

ATTORNEY BUCKHEIT – NO, THAT WOULD BE IMPOSSIBLE AND ILLEGAL. UNDER THE CURRENT CODE THEY ARE ONLY ALLOWED IN PD120, PD200 AND R120.

MAYOR DWYER – THEY WOULD STILL HAVE TO GO TO THE PLANNING AND ZONING BOARDS.

ATTORNEY BUCKHEIT – BASICALLY YOU WOULD BE LIMITED TO PROPERTY OWNED BY THE AMERICAN LEGION, WHERE THERE ALREADY IS A TOWER, FIRE DEPARTMENT OWNED PROPERTY AND VILLAGE OWNED PROPERTY.

MAYOR DWYER – WE WANT A BOARD TO MAKE THE DECISION AFTER LOOKING OUT FOR THE ENTIRE COMMUNITY INSTEAD OF AN INDIVIDUAL PROPERTY OWNER LOOKING OUT FOR THEIR OWN BEST INTEREST.

RESIDENT KATHY GILSON FROM WAH TA WAH – IS THERE ANYTHING THAT WOULD PRECLUDE THE VILLAGE FROM BUYING MORE PROPERTY, IN THESE ZONES, AND WOULD THE VILLAGE HAVE TO GO TO PLANNING AND ZONING.

MAYOR DWYER – NO THERE ISN'T AND WE WOULDN'T HAVE TO GO TO THOSE BOARDS.

RESIDENT SUE LAYDEN FROM STERLING ROAD – I AM CURIOUS ABOUT THE PROPERTY THAT THE MOST RECENT CELL TOWER APPLICANT WAS LOOKING AT. WHAT IS THAT ZONED?

MAYOR DWYER – R120. IT IS A LARGE TRACT OF LAND THAT RUNS AROUND THE OUTSIDE OF THE VILLAGE ALONG BOTH MOUNTAINS.

SUE LAYDEN – WHAT IS ON STERLING ROAD?

MAYOR DWYER – THAT IS R20. WE WILL CONTINUE TO DO A LITTLE MORE RESEARCH AND COME UP WITH A FINAL DETERMINATION HOPEFULLY BY THE NEXT MEETING.

ATTORNEY BUCKHEIT – WE WILL HAVE TO RESEND THE INFORMATION TO THE BOARDS AND HAVE ANOTHER PUBLIC HEARING FIRST.

MAYOR DWYER – LET'S SET A PUBLIC HEARING FOR AUGUST 17TH AT 7:15PM ON THE REVISED CODE CHANGE.

MOTION TO SET THE PUBLIC HEARING.

MOTIONED BY TRUSTEE HOLDER. SECONDED BY TRUSTEE HOWLEY. ALL AYES TO SAID MOTION, ONE ABSENT.

MOTION TO CLOSE THE PUBLIC HEARING.

MOTIONED BY TRUSTEE HOWLEY. SECONDED BY TRUSTEE SELLIER. ALL AYES TO SAID MOTION, ONE ABSENT.

RESPECTFULLY YOURS,

**PATRICIA OLSEN
VILLAGE CLERK/TREASURER**

