

Village of Ellenville  
Board Meeting  
Monday, December 10, 2012

The meeting was called to order with the Pledge of Allegiance by Mayor Kaplan at 5:30 p.m.

**ROLL CALL**

Mayor Jeffrey Kaplan	Present
Deputy Mayor Raymond Younger	Present
Trustee Efrain Lopez	Present
Trustee Francisco Oliveras	Present
Trustee Patricia Steinhoff	Present

**ALSO PRESENT**

Mary Sheeley, Village Manager  
Peter Berger, Village Attorney  
Philip Mattracion, Police Chief  
Brian Schug, Building Inspector  
Noreen Dechon, Village Clerk

**APPROVAL OF  
MINUTES  
#121012-1**

Motion by Trustee Steinhoff, seconded by Trustee Oliveras to approve the minutes of November 26, 2012 as presented.  
All in favor – Aye – motion carried

**PRESENTATION**

Mr. Al Wegener, Executive Director of Scenic Resources in the Shawangunk Mountains Region was before the board tonight to present a guide for Planning Boards in our area. Mr. Wegener discussed that scenic resources are public or publicly accessible areas, features, patterns and sites that are recognizable, visited and enjoyed by the public for their visual and aesthetically pleasing qualities and which contribute to a community's distinct character. Mr. Wegener also spoke about landscape patterns as well as planning and design practices. Mayor Kaplan thanked Mr. Wegener and his committee for their work on this project.

**DISCUSSION**

Mayor Kaplan informed board members that earlier this evening the Planning Board gave conditional approval to Auto Zone to build a new structure on Route 209 within the Village. Mayor Kaplan thanked the Planning Board for their efforts in reference to this project.

Special Taxing District – Attorney Berger was not ready to discuss this issue and it will be placed on the next agenda.

**MOTION TO  
CANCEL VILLAGE  
BOARD MEETING  
#121012-2**

Village Board Meeting – December 24, 2012 - Motion by Trustee Steinhoff, seconded by Trustee Lopez to cancel the Village Board meeting that had been scheduled for December 24, 2012.

All in favor – Aye – motion carried

**ENGINEER'S REPORT**

Don Fletcher and Don Schmalzle from Barton & Loguidice were before the board tonight to give an update on the new Wastewater Treatment Plant.

Also discussed was the need to find another water source within the Village, the appeals process to FEMA and the board's concerns with the creek beds and well as Roslyn Street extension.

**PETITIONERS &  
CORRESPONDENCE**

Kathryn Lahl questioned if the Village Board was considering municipal trash pickup, what the water surcharges on resident's bill are for and the status of the Nevele property.

Time Warner Cable – Correspondence received in reference to Time Warner cable raising the rates for customers.

**MOTION TO  
SEND LETTER TO  
TWC IN REFERENCE  
TO RAISE IN CABLE RATES  
#121012-1**

Motion by Deputy Mayor Younger, seconded by Trustee Oliveras to send a letter to Time Warner Cable, with a copy sent to the newspapers, expressing the board's disappointment during this economic hardship to increase the basic rate for our residents.

All in favor – Aye – motion carried

**POLICE DEPARTMENT**

Mayor Kaplan congratulated Chief Mattracion in reference to the recent narcotics arrests and the Chief reviewed with the board what occurred during their investigation.

Chief Mattracion also gave a report for the months of November and December for his department.

**MANAGER'S REPORT**

**MOTION TO  
TABLE EXPENDITURE  
FOR INSTALLATION OF  
RESTROOM  
#121012-3**

Motion by Trustee Steinhoff, seconded by Deputy Mayor Younger to table the expenditure for the installation of a restroom facility at the Water Department upon recommendation of the Village Manager.  
All in favor – Aye – motion carried

**MOTION TO  
TABLE EXPENDITURE  
FOR PRUNING OF  
TREES  
#121012-4**

Motion by Trustee Steinhoff, seconded by Deputy Mayor Younger to table authorizing the expenditure of \$2,400.00 to Landscape Innovators for the pruning of forty seven (47) trees in the Village upon recommendation by the Village Manager Sheeley.  
All in favor – Aye – motion carried

Manager Sheeley reported that she is still awaiting return calls from vendors in reference to Municipal Waste.

**MOTION TO SEND LETTER TO  
CENTRAL HUDSON IN REFERENCE  
TO STREET LIGHT OUTAGES  
#121012-5**

Motion by Deputy Mayor Younger, seconded by Trustee Oliveras to send a letter to Central Hudson, with a copy sent to the newspapers that after several attempts to have street lights that are not working repaired that it is now imperative that this be corrected immediately.  
All in favor – Aye – motion carried

**ATTORNEY'S REPORT**

Attorney Berger reviewed with board members the resolutions listed on tonight's agenda in reference to Time Warner Cable.

**BUILDING DEPARTMENT**

Building Inspector Schug talked about Local Law #6 of 2012 that is amendments to Zoning Ordinance in reference to Assisted Living and definitions of area and use variances.

Also discussed was an update on the Ellen ridge project, the occupancy for the RUPCO Buttermilk Falls townhouses and the Mill Street Park.

Mayor Kaplan disqualified himself from voting on Local Law #6 of 2012 because his law partner represents a potential developer.

**MOTION TO  
ADOPT LOCAL  
LAW #6 OF 2012  
#121012-6**

Motion by Trustee Steinhoff, seconded by Trustee Lopez to that the **Zoning Law of the Village of Ellenville** is hereby amended as follows:

**§227-7, Word Usage and Definitions**, shall be amended by addition of the following definitions:

**ASSISTED LIVING** – An entity which provides housing, on-site monitoring and personal care services to five or more adult residents unrelated to the assisted living provider. Such assisted living facility must be licensed in accordance with the provisions of Article 46-B of the New York State Public Health Law and must provide daily food service, twenty-four hour on-site monitoring, case management services, and the development of an individualized service plan for each resident. An operator of Assisted Living shall provide each resident with considerate and respectful care and promote the resident's dignity, autonomy, independence and privacy in the least restrictive and most home-like setting commensurate with the resident's preferences and physical and mental status.

**VARIANCE** – Authorization by the Board of Appeals to depart from the terms of this chapter in direct regard to conditions peculiar to an individual lot in accordance with the procedures set forth thereto in this chapter.

**A. AREA VARIANCE** – The authorization by the Board for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable regulations of this chapter.

- B. **USE VARIANCE** – The authorization by the Board for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable regulations of this chapter.

**§227-12, Schedule of Use Regulations**, shall be amended by revising the Use Schedule, Part I, Residential Uses, by addition of “assisted living” as a use permitted, subject to a special permit, in the R/O, B-1 and B-2 Districts.

**A new §227-25.5** shall be added under Article II, Use Regulations, as follows:

**§227-25.5, Assisted Living Units**

- A. **Purpose.** The Village Board recognizes that there is a community need to provide housing facilities for senior citizens who do not need skilled nursing care but do require support and assistance with their daily living in a monitored, home-like setting. It is the intent of this section to permit development of assisted living facilities for senior citizens, to ensure that such developments provide the basic services and facilities to accommodate residents’ needs and to minimize detrimental effects on neighboring properties.
- B. **Permitted Uses.** The following uses are permitted within an assisted living housing site, upon approval of a special permit by the Planning Commission:
  - [1] Assisted living units for occupancy by senior citizens, excluding nursing homes, group residences and rooming or boarding houses.
  - [2] No more than one dwelling unit for occupancy by a project superintendent or site manager and his/her family.
  - [3] Accessory structures and uses. The following accessory structures and uses are permitted.
    - (a) Any facilities necessary to meet the proper maintenance, security, storage and utility needs of the development.
    - (b) Ancillary uses providing services or amenities only for site residents, such as but not limited to recreation rooms, lounges, rehabilitation facilities, exercise rooms and similar facilities.
    - (c) Personal services, professional offices or commercial uses which are otherwise permitted in the zoning district. Such uses shall only be located on the ground floor of a structure.

**C. Development Standards.** Assisted Living Units shall be subject to the following standards as well as other applicable standards of this law:

[1] Minimum lot area: 500 square feet of lot area for each assisted living unit.

[2] Minimum yards:

(a) Front: None in B-1 District; 25 feet in R/O and B-2

(b) Side and rear: 20 feet in B-1 Dist. and 25 feet in R/O and B-2

[3] In addition to parking otherwise required for permitted service, office or commercial uses, one parking space shall be provided for every two employees of the assisted living facility during the maximum shift.

**D. Procedures.** Application for a special permit for assisted living units shall be submitted and reviewed in accordance with the procedures set forth in §127-125 through 127-131 hereof.

**§227-119, Variances**, shall be revised and amended to read as follows:

**A.** The board of appeals, on appeal from the decision or determination of the administrative officer charged with enforcement of this local law, shall have the power to grant variances, as set forth in §227-120 below:

**B.** Notwithstanding any provisions of this law to the contrary, where a proposed site plan, special use permit or subdivision contains one or more features which do not comply with these regulations, application may be made to the zoning board of appeals for an area variance pursuant to §227-120.B. below without the necessity of a decision or determination by the administrative official charged with the enforcement of this law.

**§227-120, Criteria for Variances**, shall be revised and amended to read as follows:

**A. Use Variances**

[1] No use variance shall be granted by the board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of

appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- (a) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (b) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- (c) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (d) that the alleged hardship has not been self-created.

[2] The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

**B. Area Variances**

[1] In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

- (a) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- (c) whether the requested area variance is substantial;
- (d) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

(e) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

[2] The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

**§227-121, Conditions on Variances**, shall be revised and amended to read as follows:

The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Roll Call Vote:	Deputy Mayor Younger	Aye
	Trustee Lopez	Aye
	Trustee Oliveras	Aye
	Trustee Steinhoff	Aye

Motion carried

**MOTION AUTHORIZING  
MAYOR KAPLAN TO SIGN  
SUPPLEMENTAL AGREEMENT  
WITH NYSDOT  
#121012-7**

Motion by Trustee Steinhoff, seconded by Trustee Lopez authorizing the Mayor to sign a supplemental agreement with NYS Department of Transportation in reference to project for Hickory Street Bridge, PIN: 8758.01 upon recommendation of the Village Manager.

All in favor – Aye – motion carried

**MOTION AUTHORIZING  
EXPENDITURES TO PJ  
GALLAGHER  
#121012-8**

Motion by Deputy Mayor Younger, seconded by Trustee Olivares to approve the expenditure to PJ Gallagher and Sons for repair work on the sewage pump located at the Wastewater Treatment Plant as recommended by the Sewer Department Foreman.

All in favor – Aye – motion carried

**MOTION AUTHORIZING  
BOND ANTICIPATION NOTE  
UP TO \$35, 00.00 FOR WATER REPAIR  
#121012-9**

Motion by Trustee Steinhoff, seconded by Trustee Lopez authorizing the Village Treasurer to obtain a Bond Anticipation Note up to \$35, 000.00 for the water repair line work done on Tyrone Thomas Lane.  
All in favor – Aye – motion carried

**RESOLUTION AUTHORIZING  
APPROPRIATION TRANSFERS  
#121012-10**

Resolution by Deputy Mayor Younger, seconded by Trustee Oliveras authorizing the attached appropriation transfers in the General Fund upon recommendation of the Village Treasurer.  
All in favor – Aye – motion carried

**MOTION AUTHORIZING  
WATER MINIMUM INCREASE  
RATE BY \$10.00 AND DECREASE  
SEWER MINIMUM RATE  
BY \$10.00  
#121012-11**

Motion by Trustee Lopez, seconded by Trustee Steinhoff to increase water minimum rate by \$10.00 and decrease sewer minimum rate by \$10.00 effective January 1, 2013 upon recommendation of the Water Commission.  
All in favor – Aye – motion carried

**MOTION AUTHORIZING  
EXPENDITURES TO BIONALYTIC  
FOR ACUTE AND CHRONIC  
TESTING  
#121012-12**

Motion by Trustee Steinhoff, seconded by Trustee Lopez authorizing the expenditure of \$7,200.00 to Bionalytic for Acute and Chronic testing upon recommendation of the Sewer Department Foreman and Village Manager.  
All in favor – Aye – motion carried

**RESOLUTION TO RESCIND  
MOTION # 1141112-3**

Resolution by Deputy Mayor Younger, seconded by Trustee Oliveras rescinding #114112-3 – approving Time Warner NY Cable LLC Franchise Agreement.

All in favor – Aye – motion carried

**RESOLUTION AUTHORIZING  
MAYOR KAPLAN TO SIGN  
REVISED TWC AGREEMENT  
#121012-13**

Resolution by Deputy Mayor Younger, seconded by Trustee Oliveras approving Mayor Kaplan to sign a revised Time Warner NY Cable LLC Franchise Agreement dated 12/10/12.

All in favor – Aye – motion carried

**MOTION APPOINTING  
JENNIFER CATALDI AS  
SUBSTITUTE CLERICAL  
#121012-14**

Motion by Deputy Mayor Younger, seconded by Trustee Steinhoff appointing Jennifer Cataldi as substitute clerical at a rate of \$10.50 hourly effective December 17, 2012 upon recommendation of the Village Manager and Building Inspector.

Trustee Lopez recused himself from the vote

All in favor – 4 – motion carried

**MOTION AUTHORIZING  
EXPENDITURES TO ADVANCE  
MICRO  
#121012-15**

Motion by Trustee Steinhoff, seconded by Deputy Mayor Younger authorizing the expenditure of \$2,890.00 to Advance Micro for the purchase of ten (10) Microsoft Office 2010 licenses.

All in favor – Aye – motion carried

**MOTION TO TABLE  
EXPENDITURES TO ESC  
ENVIORMENTAL  
#121012-16**

Motion by Deputy Mayor Younger, seconded by Trustee Oliveras to table the expenditure of ESC Environmental of \$3,686.70 for the purchase of 330 gallons of Zinc Orthophospate upon recommendation of the Wastewater Treatment Plant Foreman.

All in favor –Aye – motion carried

**MOTION TO ADJOURN**

Motion made by Trustee Steinhoff, seconded by Trustee Lopez to adjourn to Executive session at 8:30 p.m. not to reconvene to public session.

All in favor-aye-motion carried

Respectfully Submitted

Noreen Dechon  
Village Clerk