**Minutes**

Town of Persia Board Meeting

8 West Main Street, Gowanda, NY 14070

September 8, 2022

**Workshop 6:00pm to discuss the CFA grant, the solar project and Verizon project.**

**Supervisor John Walgus calls meeting and public hearing for Local Law 2022-2 to order at 7:00pm**

**Labor Day September 5, 2022**

**Remembering September 11, 2022**

**Patriots Day September 11, 2022**

**\*\* Notice of public hearing for Local Law 2022-2 was posted in the Observer on August 13th and August 20th with same being posted on the Persia Website and the Persia Town Hall.**

**All stand for the Pledge of Allegiance**

Roll Call:

Supervisor: John T. Walgus: present

Councilperson: Theresa A. Girome: present

Councilperson: Gloria J. Tomaszewski: present

Councilperson: Robert O. Dingman: present

Councilperson: Seth H. Howard: present

 Others present:

Highway Superintendent: Daniel H. Ackley

Town Clerk: Denise M. Trumpore

Jim Palumbo: Klepper, Hahn & Hyatt

Jack Broyles

**Supervisor John T.** **Walgus:**  \* I would like to open the meeting for public comment on proposed Law 2022-2 – Article XXII Kennel Law. \* Regarding the Proposed Law 2022-1 which would make amendments to Zoning Ordinance on Solar and District Use Regulations, I move to accept the amendments and pass Law 2022-1.

\*I ask for a resolution to accept the financial report for August. \* I also need a resolution for the Supervisor report. \* Miller’s Construction replaced the ceiling in the vestibule. The ceiling was damaged from water leaking from our air conditioning system drain being plugged. We had the a/c installer, B&R HAVC clean the condensation drains on the first floor and in the basement. \* Verizon’s electrical contractors have finished their work bringing power to the cell antenna. We now await the actual installation of the antenna on the roof. \* Wendel’s electrical & environmental engineers have completed their work, and we are awaiting the next phase of the project. \* I remind the board about the budget workshop on the 15th at 6pm. \* I would like to have a workshop at 6pm on October 13th to discuss the many projects we are working on. \* I have not yet received the financial report for August from Bahgat & Laurito Bahgat.

**Highway Superintendent Daniel H. Ackley:** \*Read highway bills. \* DFT will soon be installing a fire monitoring system at the highway garage. \* Helped the village with their road projects. \* Cleaned the trash rack.

**Councilperson Theresa A. Girome:** \* no report

**Councilperson Robert O. Dingman:**  \* I will be working with the village on their policing policies they have.

**Councilperson Seth H. Howard:** \* Read general bills. \* I will be submitting my resignation to the ambulance board as Persia Liaison effective immediately.

**Councilperson Gloria J. Tomaszewski:** \* no report

**Assessor Kate Harrington:** \* by email \* School tax bills were mailed on September 1st. This release of school taxes, the first to be issued from the new tax roll, can make some assessment errors obvious (e.g., missing STAR exemption). If you notice that an error has been made, please notify our office immediately: 716-938-2343. \* **Reassessment Update:** To date, 36% of residential Data Mailers (Property Description Reports) have been returned. Of the 316 returned, 144 provided corrections and 172 confirmed that our data was correct. We are very appreciative of Persia property owners’ cooperation and courtesy, as date mailer return rates in NYS are typically between only 10% and 12%. \* Now that Data Collection is complete, our Real Property Analyst Bob Wright has started the valuation process by reviewing usable sales and creating valuation models. Preliminary values have been calculated, and we are now conducting field reviews. During the field review process, we look at properties from the roadside to make sure the preliminary assessment makes sense. The field review gives us the opportunity to more closely look at properties and adjust for factors that may negatively or positively contribute to value, like topography, condition, or location. \* The assessing Office has corresponded with several property owners about their assessments, tax bills, and exemptions. \* There were six property transfers in July. You can find more information about these sales here: https://www. cattco.org/real-property-and-gis/sales

**Town Clerk Denise M. Trumpore**: \*

Total transactions for August - 94

Total Collected: $ 2,949.00

Towns Portion: $**624.20**

**\***I ask for a resolution to accept the minutes fromAugust 11th.

**RESOLUTION # 81 Audit of Claims**

On a motion of Councilperson Howard

Seconded by Councilperson Girome

The following was

ADOPTED AYES – 5 Howard, Girome, Tomaszewski, Dingman, Walgus

NAYS – 0

**RESOLVED that the bills contained on Abstract #9 for General and Highway have been reviewed by the Town Board and are authorized for payment in the following amounts:**

**Abstract 9– General Vouchers # 154 to #169 Total: $ 5,213.92**

**Abstract 9 - Highway Vouchers # 50 to # 57 Total: $ 8,507.64**

**RESOLUTION #82 Approval of Minutes**

On a motion of Councilperson Dingman

Seconded by Councilperson Tomaszewski

ADOPTED AYES – 5 Dingman, Tomaszewski, Girome, Howard, Walgus

NAYS - 0

**RESOLVED to approve the minutes from August 11th.**

**RESOLUTION # 83 Supervisor’s Report**

On a motion of Councilperson Dingman

Seconded by Councilperson Howard

ADOPTED AYES – 5 Dingman, Howard, Girome, Tomaszewski, Walgus

NAYS –0

**RESOLVED to approve the Supervisors report for August 2022.**

**RESOLUTION #84 Local Law 2022-1**

On a motion by Councilperson Howard

Seconded by Councilperson Girome

ADOPTED AYES – 5 Howard, Girome, Tomaszewski, Dingman, Walgus

NAYS – 0

**RESOLVED to adopt Local Law 2022-1 which is to make amendments to the Zoning Ordinance for Solar and District Use Regulations as follows:**

1. Under Article XXI – Section 6- Large Scale Solar Energy Systems Applicability, **add new** **paragraph VIII** “**Large Scale ground mounted solar systems are permitted as accessory and principal uses in the Town of Persia, subject to the following conditions, ‘unless specifically waived by the Town Board as part of the permit’.**
2. Under Article XXI - Section 7, **STRIKE** paragraph 2.
3. Under Article VII - District Regulations Section 7.2 – District Use Regulations, Schedule A, **STRIKE** “**Zoning Board of Appeals”** and **replace** with the “**Persia Town Board”**
4. Under Article XI– District Regulations - Section 11.2 -Powers and Duties, (d.) **STRIKE** “**approve or disapprove each application for a special use received in compliance with the provisions of this ordinance**” and **replace** with “**recommend or disapprove the application for a special use permit and forward their decision to the Persia Town Board for further action”**
5. Under Article XI – District Regulations – Section 11.4 – Special Use Permit, **STRIKE Board of Zoning Appeals** and **replace** with “**Zoning Board”**
6. Under Article XI – District Regulation – Section 11.4 – Special Use Permit, **STRIKE** “**issue “**and **replace** with “**recommend or disapprove of the findings of their decision and forward it to the Persia Town Board for”**
7. Under Article XI – District Regulations – Section 11.4 – Special Use Permit- (c.), **STRIKE** **“the Board of Appeals”** and **replace** with “**the Persia Town Board”.**

**RESOLUTION # 85 Local Law 2022-2**

On a motion of Councilperson Howard

Seconded by Councilperson Girome

ADOPTED AYES – 5 Howard, Girome, Tomaszewski, Dingman, Walgus

NAYS – 0

**RESOLVED** **to adopt Local Law 2022-2**

**Article XXII KENNEL LAW**

**Section 1 - Purpose**

The Town of Persia desires to set out fair and comprehensive rules and regulations governing kennels and animal boarding. The Town of Persia will also be able to keep records to assure the good health and humane treatment of dogs and cats pursuant to all state and federal laws. This article is intended to preserve the residential character of the Town and minimize conflicts of noise, odor and health hazards created by the raising and boarding of animals.

**Section 2 - Requirement**

The Town of Persia is hereby setting the requirement for kennels. Any person or persons residing at the specific property within the Town of Persia who owns 5 or more dogs and/or more than 6 cats must apply for a kennel permit.

**Section 3 - Definitions**

**Commercial Kennel**

Any use on a lot, whether such use is primary or otherwise, wherein 5 or more dogs, each of which is 4 months of age or older, are kept or maintained for sale, boarding, breeding, grooming, letting for hire, training or any other purpose involving compensation, whether monetary or otherwise, of any kind.

**Animal Boarding**

5 or more dogs over the age of four months or 6 cats over the age of four months kept in a single location where they are boarded for compensation. Allowed in all Zoning Districts with an approved special permit.

**Exotic Pets**

Intriguingly unusual, nonindigenous animals so different as to be excitingly odd and which are considered “NONTRADITIONAL” pets. ( Any pet that is not a dog, cat, fish, horse, rabbit, guinea pig or other commonly domesticated animal).

**Grooming Establishment**

A place where care and service are provided to the exterior of any animal to change its looks or improve its comfort but shall not mean the treatment of physical disease or deformities. Allowed in all Zoning Districts with an approved special permit.

**Kennel**

A facility where dogs or cats are bred and/or raised on a commercial scale for sale as pets, used in hunting, showing, training, field trials or groomed for compensation and exhibition purposes. Allowed in all Zoning Districts with a approved special permit.

**Exempt Kennel**

Any use on a lot for a municipal animal shelter or veterinary facility, unless such use includes activities which would be defined herein as a commercial kennel. An exempt kennel is not required to obtain a kennel permit.

**Non-Commercial Kennel**

Any use on a lot, whether such is primary or otherwise, wherein 5 or more dogs are kept or maintained for a purpose other than compensation of any kind.

**Section 4 - Exceptions**

1. The sale or exchange of one litter of puppies or kennels withing a 12-month period alone does not constitute the operation of a kennel.
2. Exotic pets are not restricted under the purview of this article.
3. Farms are exempted from this article. Farm exemptions are registered by the Town of Persia Assessor.

**Section 5 - Kennel regulations**

1. Kennels shall be limited to the raising, breeding, boarding, and grooming of such dogs and cats.
2. The minimum lot size for kennels shall be an acre.
3. Dogs kept on the premises will not equal more than 15 per acre of land.
4. Cats kept on the premises will not equal more than 25 per acre of land.
5. All runs shall be hard surfaced, compacted fine stone or grasses with drains provided every 10 feet and connected to an approved sanitary facility.
6. No building, other structure or outside dog runs shall be located within 150 feet of an adjacent residential use.
7. If the keeping of such pets become a nuisance and outside the general intent of a residential district, The Town Board may require facilities to adequately control and prevent further nuisance.
8. Dog runs shall not be used between the hours of 8:00pm and 8:00am.
9. The adequacy of the site and buildings to accommodate the animals in question shall meet minimum standards of New York Ste’s Department of Agriculture and Markets for kenneling boarding and keeping of animals.
10. The public health, safety and general welfare concerns posed by the animals in question require all New York State standards be met.
11. Animals may be removed from the kennel site if conditions are found to be in violation of local, state, or federal animal care laws and regulations.
12. Kennels shall require a special use permit and follow the requirements of the Towns’ Special Permit Law.
13. The application must include plans for exercise, socialization, and grooming.
14. The name of a certified veterinarian who will attend to animals must be included in the application.

**Section 6 - Animal Boarding**

1. Domestic animals (dogs and cats) may be boarded in all districts noted in the definitions by a special use permit. Boarding may also be allowed in Zoning Districts as an accessory use to veterinary Clinics, subject to approval of a site plan and compliance with components of this article.
2. Animal boarding establishments shall be subject to the following regulations. In addition to the regulations as set forth within the district in which veterinary clinics are permitted, the following minimum regulations shall apply for animal boarding.
3. The facility shall be set back as far as possible from all residential use property. In no case shall the minimum setback be less than 150 feet.
4. Primary pens, adjacent exercise areas, and outside runs must be a minimum of 100% of USDA standards and include daily exercise to an outside area.
5. Methods shall be used to reduce off-site noise, which may include the use of sound-barrier material such as “bark block” and/or other approved insulation.
6. At least 50% of the flooring must be solid, and plastic covered wire flooring is permitted if the gauge of the opening is small enough to prevent injuries.
7. The animals shall be boarded in appropriate kennel units with insulation to further abate noise.
8. Stacked pens will not be allowed for adult dogs.
9. Flooring in whelping areas shall not allow feet to penetrate the flooring.
10. The facility shall have appropriate flushing drains and other physical elements to properly dispose of cleaning waste from the boarding area.
11. The boarding area must be air-conditioned and heated so that any windows, doors, or other openings can be always closed, except for ingress and egress into the area.
12. The total area designated for boarding within the building shall not exceed 75% of the gross floor area of the facility.
13. Boarding shall be limited to domestic dogs and cats, unless otherwise specifically permitted by the Town.
14. There shall be no outside retaining of animals and no outside service.

**Section 7 – Grooming establishments**

1. Domestic animals may receive services, as defined previously, in all districts by special use permit.
2. All grooming establishments shall be subject to the following regulations.
3. The quarters in which the animals are kept shall be maintained in a clean condition and good state of repair.
4. No nuisance caused by odor, noise, flies, or animals running at large shall be permitted.
5. Ventilation must be provided with an exhaust fan and the general temperature kept below 70 degrees Fahrenheit.
6. A grooming establishment may operate in conjunction with a kennel or animal boarding facility if it is contained within the same building.
7. No overnight boarding of animals is allowed unless approved as a boarding facility.

**Section 8 – Permit applications**

Approval of the special use permit may be issued for an initial period of one year. After the initial year, the permit may be reissued for 3-year periods, given there are no grievances of code violations connected to the subject property or use. In cases where complaints or violations, a review hearing will be held by recommendation regarding the site plan will be required from the Planning Board. A Town Official will visit the kennel at least once a year to access the effectiveness of the regulations.

1. The applicant shall certify that the kennel follows all applicable local, state, and federal laws.
2. The applicant will certify if their kennel has ever been convicted of a crime involving animal cruelty or animal torture or determined to have violated any section of Article 26-A of the Agriculture and Markets Law of the State of New York or any section of Article 35-D of the General Business Law of the State of New York

When reviewing the application for a kennel, the Town of Persia may determine an outside consultant is warranted due to size, scale, or complexity of the project. Whenever possible the Town will work cooperatively with the applicant to identify what scope of work shall require an outside consultant, additionally the cost of the consultant will be paid by the applicant.

**Section 9 – Enforcement; penalties for offenses**

1. Should the enforcement officer find that a kennel or animal boarding facility is being operated on a property without the necessary permit, the enforcement officer is hereby authorized pursuant to Criminal Procedure Law 150.20(3) to issue an appearance ticket to any person who the enforcement officer has reason to believe has violated this article and shall cause such a person to appear before the Town Justice.
2. Any instance of animal neglect, cruelty, violation of animal right or violation of local, state, and federal regulations governing the care and control of animals shall result in the immediate revocation of the permit. Reissuance of the permit will be at the discretion of the Town Board and subject to approval by local, state and federal authorities associated with any violations of laws governing the facility.
3. Any person who shall violate any of the provisions of this article shall be guilty of a violation and subject to the following:
4. A fine not to exceed $100 for the first violation.
5. A penalty of $200 for each week after the first violation, and
6. When the violation fee reaches $400, the violation is to be recovered by the municipality in a civil action.
7. The Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this article.
8. The Town of Persia is required to inspect kennels if a written complaint is received and obtain compliance with all applicable laws. With this in mind, the property owner(s) needs to assure the Town that such kennel is being operated in an approved, clean, and safe manner accordance to all applicable local, state, and federal laws.
9. Any kennel or breeders of dogs, members of species Canis Familiaris, operating prior to the adoption of this article will be exempt from the code that effects their previous privileges or rights to operate a kennel and are grandfathered from this article. If a grandfathered kennel cease operation for 30 days or more, and then reinstate operations, they must abide by and follow the kennel law of the Town.

**RESOLUTION # 86 Workshop**

On a motion of Councilperson Howard

Seconded by Councilperson Dingman

ADOPTED AYES – 5 Howard, Dingman, Girome, Tomaszewski, Walgus

NAYS – 0

**RESOLVED to have a workshop on October 13th at 6pm to discuss the solar project, CFA grant and the Verizon antenna.**

Hearing no objection, Supervisor Walgus closed the public hearing and the meeting with a moment of silence for Richard Timmel, Colton Mallaber, David Farley, Laura Gonzalez, and Cindy Brown Murphy who passed away since our last meeting at 7:53 pm.

 Respectfully submitted,

 Denise M. Trumpore

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Town Clerk