

August 10, 2020

A meeting of the Town Board of the Town of Aurora took place on Monday, August 10, 2020 at 7:00 p.m. in the Town Hall Auditorium, 300 Glead Avenue, East Aurora, New York. Although this meeting was held “in-person”, due to the coronavirus/Covid19 pandemic, it was also live-streamed via Zoom and YouTube in accordance with NYS Executive Order 202.1 – *Suspension of law allowing the attendance of meetings telephonically or similar service: Article 7 of the Public Officers Law, to the extent necessary to permit any public body to meet and take such action authorized by the law without permitting public in-person access to meetings and authorizing such meetings to be held remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.*

Present:	Jolene M. Jeffe	Councilwoman
	Susan A. Friess	Councilwoman
	Charles D. Snyder	Councilman
	Luke Wochensky	Councilman
	James J. Bach	Supervisor
Others Present:	Ronald Bennett	Town Attorney
	William Kramer	Code Enforcement Officer
	Chris Musshafen	Recreation/Aquatics Director
	David Gunner	Highway Superintendent
	Bryan Smith	AMC Clerk of the Works
	Tony Rosati	Zoning Board member
	Shane Krieger	Chief of Police

Supervisor Bach opened the meeting at 7:00 p.m.

Councilwoman Friess moved to approve the minutes of the July 27, 2020 Town Board worksession and meeting; seconded by Councilwoman Jeffe. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #229
7/27/2020
minutes
aprvd

AUDIENCE I:

Tony Rosati, Oakwood Ave., asked if there was any consideration to bid jointly with the Village of East Aurora for Human Resources (HR) services. Councilwoman Jeffe stated that there are two different union contracts, two different workers comp entities, and the Town and Village fall under different laws, all of which would make it difficult to do this jointly.

UNFINISHED BUSINESS:

Councilman Snyder moved to adopt the following resolution; seconded by Councilwoman Jeffe:

RESOLUTION APPROVING ODA VARIANCE REQUEST

WHEREAS, Eric and Rachel Brown have applied for an Open Development Area (ODA) permit for property located at 2331 Lapham Road (SBL# 176.00-3-12.1) in the Town of Aurora; and

WHEREAS, the lot where the single family dwelling is proposed to be built is 2.006± acres; and

WHEREAS, the lot width is one hundred ninety eight and eight tenths (198.80) feet; and

WHEREAS, there is a sixty (60) feet wide recorded easement for ingress and egress and utilities; and

WHEREAS, the location of the single family dwelling is proposed to be less than seven fifty hundred (750±) feet from the street right of way in order to no require a sprinkler system and two hundred (200±) feet or more from front yard lot line; and

WHEREAS, Chapter 99-31(A) of the Codes of the Town of Aurora requires the minimum lot size to be three (3) acres exclusive of the “flagpole” portion of the property and the lot width to be two hundred (200) feet; and

WHEREAS, the applicant has requested a lot size variance of one (1)± acre; a lot width variance of one and two tenths (1.20) feet; and a variance to allow the distance between the first required driveway bump-out and the second driveway bump-out to be 300 feet, 150 feet greater than the 150 feet required by Town Code; and

WHEREAS, the lot was split/created in 1994, twenty-three years prior to the 2017 amendment to the Codes of the Town of Aurora which increased the minimum lot size, lot width and setbacks for Open Development Areas; and

WHEREAS, the Chief of the East Aurora Fire Department has reviewed the driveway bump-out plan and approves the proposal to use the driveway at 2333 Lapham Road as the first bump-out and approves the proposed distance of 300 feet between the first and second bump-outs; and

WHEREAS, this Open Development variance requests were reviewed by the Town Planning Board and said Board recommended that the Town Board approve the lot size and lot width variances; and

WHEREAS, §99-37 of Chapter 99 authorizes the Town Board to vary the strict compliance of the regulations it would not cause a concern of public interest.

NOW, THEREFORE, be it

RESOLVED, the Town Board of the Town of Aurora does hereby grant a lot size variance of one (1)± acre; a lot width variance of 1.20 feet; and a bump-out distance variance of 150 feet to permit construction of a single family residence on a lot smaller and narrower than provided for in the Town Code at 2331 Lapham Road (SBL#176.00-3-12.1)

Action #230
Board
approves
variances for
2331 Lapham
ODA

RESOLVED, this Resolution shall be incorporated by reference into the application and approval of the Open Development Area permit.

Upon a vote being taken: ayes – five noes – none Motion carried.

Councilwoman Friess moved to approve the Open Development Area plan for 2331 Lapham Road and to adopt the following resolution; seconded by Councilman Snyder:

**RESOLUTION
APPROVING OPEN DEVELOPMENT AREA PLAN
2331 LAPHAM ROAD
TOWN OF AURORA, NEW YORK**

WHEREAS, Chapter 99 of the Code of The Town of Aurora establishes standards for landowners who wish to develop or subdivide land that lacks adequate public road frontage for standard lot development (known as “Open Development Area”); and

WHEREAS, Eric and Rachel Brown (“the Applicant”) have filed an Open Development Area application for 2331 Lapham Road (SBL#176.00-3-12.1) and seek approval to construct a single family residence on the 2.006± acre parcel; and

WHEREAS, the Applicant has made every reasonable attempt and all necessary effort to comply with specifications of Chapter 99 of the Code of the Town of Aurora; and

WHEREAS, this action is considered a Type II under SEQR and no further review under SEQR is required; and

WHEREAS, the Applicant petitioned the Town Board for a lot size variance; a lot width variance; and a driveway bump-out distance variance to allow the residence to be built on a lot smaller and narrower than allowed by Town code; and

WHEREAS, according to Section 99-37 of the Code, the Town Board may modify the specifications and requirements in any Open Development Area Plan, where in the Board's judgment, such modifications are in the public interest and/or will avoid the imposition of unnecessary hardship on the applicant.

NOW THEREFORE BE IT

RESOLVED, that the Town Board of the Town of Aurora acknowledges that compliance with all other standards, requirements and conditions, including those specified by the Town Board as noted above, is in the public interest and will substantially secure the objectives of the modified standard; and **BE IT FURTHER**

RESOLVED, that approval of this Open Development Area with lot size, lot width and driveway bump-out distance variances as granted by the Town Board of the Town of Aurora, any future development is subject to the standards and requirements of Chapter 99 of the Code of the Town of Aurora without modification, variance or waiver; and **BE IT FURTHER**

Action #231
Board
approves
2331 Lapham
ODA

RESOLVED, that said Open Development Area Plan to construct a single-family residence at 2331 Lapham Road (SBL#176.00-3-12.1) with lot size, lot width and driveway bump-out distance variances, is approved.

Upon a vote being taken: ayes – five noes – none Motion carried.

* * * * *

The Town Board reviewed Part 2 of the SEQR Short Environmental Assessment Form for a Special Use Permit for an outdoor event venue at 1897 Davis Road, West Falls, Town of Aurora, and answered “no” to all eleven questions.

Councilman Wochensky moved to declare that the proposed unlisted action – an outdoor event venue at 1897 Davis Road, West Falls, will not result in any significant adverse environmental impacts and therefore issues a negative declaration. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #232
Negative
Declaration
for 1897
Davis spec
use permit

Councilman Snyder moved to approve the following Special Use Permit and conditions of the permit for 1897 Davis Road, West Falls and to authorize the Supervisor to sign the permit; Councilman Wochensky seconded the motion:

SPECIAL USE PERMIT

Pursuant to Chapter 116 Article III of the Zoning Code of the Town of Aurora, a Special Use Permit is hereby granted by the Town Board of the Town of Aurora in accordance with the following:

APPLICANT: Ricardo and Jyl Rivera
The Blueberry Treehouse Farm
PROPERTY ADDRESS: 1897 Davis Road, PO West Falls; SBL#199.03-1-9.21

PROPERTY

OWNER: Ricardo and Jyl Rivera

CODE: Chapter 116 – Zoning §116-8.7

B2 Business; Paragraph B

USE: Principal Use: U-Pick Blueberry Farm
and treehouse design/construction business
Auxiliary Use: Outdoor Event Center

The Town of Aurora received an application for a Special Use Permit from Applicants on June 2, 2020 . The Town Board referred the Special Use Permit Application to the Planning and Conservation Board on June 8, 2020. On July 1, 2020, the Planning and Conservation Board recommended amendments to the Application after which it recommended to the Town Board to approve the application. On July 27, 2020, the Town Board conducted a public hearing on the Application.

Background. Applicants operate a u-pick blueberry farm and tree house construction business on the Property, which is Zoned Business 2. The Property is also adjacent to the Applicants' primary residence. The Applicants applied for and received a Temporary Retail Permit to sell alcohol at 1897 Davis Road from the New York State Liquor Authority (Permit No. 576543) on July 27, 2020. The temporary permit expires October 24, 2020. In order to increase business, the Applicants wish to hold out-door concerts on Thursdays to attract more berry pickers. In addition, the Applicants wish to sell alcohol to patrons during the months of June-August during blueberry picking season. The Applicants also intend to use the Property as a venue for small weddings and private parties and to provide alcohol for these functions.

Additional conditions and safeguards are deemed necessary by the Town Board to implement the purpose and intent of the Special Use Permit. This permit is contingent and subject to the following:

1. CODE REQUIREMENTS: Full compliance with all sections of the Aurora Code as presently codified or as may be amended from time to time.
2. APPLICATION AND PLANNING BOARD: Subject to all plans and specifications submitted with the application, recommendations of the Planning Board and additional conditions and terms as adopted by the Town Board.
3. VIOLATION: Any violation of the provisions of the Permit or any other applicable law, code, rule or regulation of any government or department shall subject this Permit to suspension or revocation in the discretion of the Town Board.
4. AMENDMENT: This Special Use Permit is subject to amendment or modification by the Town Board at any time in its sole discretion.
5. ATTACHMENT: This permit is subject to any and all special conditions attached hereto.

ACKNOWLEDGEMENT: the undersigned as applicant for this Special Use Permit for an outdoor event center at 1897 Davis Road, PO West Falls, Town of Aurora, NY, does hereby acknowledge receipt of a copy of this Permit, agrees, and accepts the provisions herein. The applicant further acknowledges that a violation or breach of any covenants, provisions or conditions of this Special Use Permit will result in suspension or revocation of this Special Use Permit. The undersigned agrees to all terms and provisions of this Special Use Permit as herein stated or as hereafter may be amended.

SPECIAL CONDITIONS FOR
SPECIAL USE PERMIT GRANTED TO
RICARDO AND JYL RIVERA
FOR
1897 DAVIS ROAD
PO WEST FALLS, TOWN OF AURORA

1. USE: In addition to a treehouse design and construction business and a U-pick blueberry farm, the current uses on the property, the site will be used for an Outdoor Event Center.
2. SIGN(S): Shall be in accordance with Section 116.34 of the Town Code of the Town of Aurora.
3. PARKING: On-site parking is limited to a total of 53 vehicles on the 1987 Davis Road parcel and the adjacent parcel at 1895 Davis Road, also owned by the applicant, as shown on the attached drawing. If off-site parking is necessary, Applicant shall provide transportation to and from off-site parking. Parking is not permitted on Davis Road.
4. ATTENDEES: The maximum number of attendees at any one event is 212 based on the current number of parking spaces (53) and the Town Code of four occupants per vehicle.
5. EVENTS – Applicant shall not hold more than three events per week. Applicant shall not hold events Mon.-Wed. and shall limit the hours of events as follows:
 - Thurs.: 5:00pm – 9:00pm
 - Fri.: 10:00am – 10:00pm
 - Sat.: 10:00am – 10:00pm
 - Sun.: 12:00pm – 7:00pmEvents include, but are not limited to, concerts, weddings, receptions, and private parties.
6. OTHER CONDITIONS:
 - Applicant shall not permit more than two food trucks per event.
 - Sound application systems are not permitted after 9:00pm.
 - There shall be a minimum of two portable toilets. New York State Building and Plumbing code will dictate the number of portable toilets and hand washing/sanitizing stations based on the number of attendees at any particular event.
 - Alcoholic beverages are permitted subject to a license from the New York State Liquor Authority. Alcoholic beverages may only be served within the location marked on the attached drawing.
 - Alcoholic beverages are permitted only within the area marked on the attached drawing.
 - Applicant will ensure adequate lighting for security, safety, and traffic circulation.
 - Applicant shall receive approval of a traffic circulation, signage and safety plan from the East Aurora Police Chief and West Falls Fire Chief.
 - This permit shall be reviewed annually by the Town Board during the month of May, or before, each year beginning in 2021. Town of Aurora may terminate the Special Use Permit at any time.
 - Applicants must be the venue operator and the Property must remain under the Applicants' ownership.
 - Applicant shall at all times comply with applicable regulations, including liquor authority requirements, health department codes, and Town of Aurora Codes.
 - Overnight accommodations of guests are prohibited.

Upon a vote being taken: ayes – five noes – none Motion carried.

Action #233
1897 Davis
spec use
permit aprvd
with
conditions

NEW BUSINESS:

Councilwoman Friess moved to approve the request to extend the Aurora Community Pool season to September 4, 2020 with reduced open

- Contract sum prior to this change order 713,050.83
- Amount of this change order (No. 13) 12,556.78
- New contract sum including this change order \$725,607.61

Councilwoman Jeffe seconded the motion. Upon a vote being taken:
ayes – five noes – none Motion carried.

Action #239
IPL change
order no. 13
for AMC
aprvd

Councilman Wochensky moved to table the proposal from Drescher & Malecki, LLP to extend their audit engagement with the Town. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five
noes – none Motion carried.

Action #240
D&M audit
proposal
tabled

Councilman Snyder moved to forward the Special Use Permit application for 583 Olean Road to the Planning Board for review and recommendation. Councilwoman Friess seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #241
583 Olean
spec use
permit
forwarded to
Plng Brd

Councilwoman Friess moved to adopt the following resolution relating to a Legal Retainer Agreement for services pertaining to an assessment law suit; seconded by Councilman Snyder:

RESOLUTION REGARDING LEGAL RETAINER AGREEMENT

WHEREAS, the Town has been sued in the assessment matter of Keller v. Town of Aurora now pending for three years, and

WHEREAS, the Town previously retained Leonard Berkowitz, Esq. as counsel to defend the Town of Aurora in the above-referenced lawsuit but Mr. Berkowitz is no longer practicing law, and

WHEREAS, the law firm of Attea & Attea, P.C., has agreed to defend the Town of Aurora with submission of a Retainer Agreement, a copy of which is annexed hereto, and

WHEREAS, the Town Attorney has approved and recommended the retention of the law firm of Attea & Attea, P.C.

NOW, THEREFORE, be it

RESOLVED, that the Town of Aurora does hereby agree to retain the law firm of Attea & Attea, P.C. in the defense of the action of Keller v. Town of Aurora, and be it further

RESOLVED, that the Supervisor is authorized to sign the Retainer Agreement, and be it further

RESOLVED, that the Town Clerk is directed to provide a copy of this Resolution to Attea & Attea, P.C. together with the signed Retainer Agreement.

Upon a vote being taken: ayes – five noes – none Motion carried.

Action #242
Attea law
firm retained
for
assessment
law suit
(Keller)

Duly adopted this 10th day of August, 2020.

* * * * *

Councilman Wochensky moved to approve the following budget transfer to prevent an overdrawn appropriation account:

From: A1910 Unallocated Insurance \$19,343.43
To: A1320.404 Financial Services Loans/Bonds \$19,343.43

Councilwoman Jeffe seconded the motion. Upon a vote being taken:
ayes – five noes – none Motion carried.

Action #243
Budget trans
aprvd

Councilman Snyder moved to adopt the following resolution;
seconded by Councilman Wochensky:

Action #244
Justice
Court audit
resolution
adopted

WHEREAS, Section 2019-a of the Uniform Justice Court Act requires every justice of a village or town to submit his records and docket to the auditing board of said village or town; and

WHEREAS, Section 2019-a of the Uniform Justice Court Act requires that Justice Court records shall be examined and audited by said auditing board or a certified public accountant.

NOW, THEREFORE BE IT RESOLVED that the audit and examination of the records of the Aurora Town Justices for the year ended December 31, 2019 was performed by the auditing firm of Drescher & Malecki LLP; and

BE IT FURTHER RESOLVED that the findings of said audit and examination were presented to the Town Board of the Town of Aurora.

Upon a vote being taken: ayes – five noes – none Motion carried.

* * * * *

Councilwoman Friess moved to approve the purchase of bridge railing, off the Erie County bid list, from Pavilion Drainage Supply Co., Pavilion, NY, in the amount of \$9,112.50 for the Whaley Avenue bridge project. Councilman Wochensky seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #245
Whaley
bridge
railing purch
aprvd

Councilwoman Jeffe moved to declare the wooden fence at the south lot line of the Senior Center parking lot as surplus inventory to be scrapped. Councilman Snyder seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #246
Fence at
SrCtr
parking lot
declared
suplus

Councilwoman Friess moved to table the Cyber Security Citizen Notification Policy for further information. Councilman Wochensky seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #247
Cyber
notification
policy tabled

Councilwoman Jeffe moved to table the HR services proposal for more information. Councilman Wochensky seconded the motion. Upon a vote being taken: ayes – five noes – none Motion carried.

Action #248
HR svcs
proposal
tabled

COMMUNICATIONS and REPORTS– The following reports and communications were received by the Board and filed:

- Town Clerk/Tax – July 2020 report
- Water Clerk – July 2020 report
- Senior Center – July 2020 report
- Legislator Lorigo – correspondence re: AIM funding
- Supervisor – July 2020 report

BUSINESS FROM BOARD MEMBERS AND LIAISONS:

Councilwoman Friess stated she received a report from the Main Street nursing home, noting they have not had any new cases of Covid19; 3 staff members out of 400 employees tested positive and are quarantined; and they have sufficient PPE.

Councilman Wochensky stated he met with Colleen Aungst from East Aurora Lacrosse and they will walk around to homes near Warren Drive Park to flush out any issues there may be with the lacrosse organization using the field.

Councilwoman Jeffe met with Kathleen Moffat and they are working on HR. Mrs. Jeffe stated she spoke with Nancy Smith and others on the Open Space Committee regarding Mrs. Smith's planned departure from the committee. Councilman Wochensky stated he knows of two people who want to join the committee.

AUDIENCE II:

Brad Felton, Buffalo Road, spoke to the Board about early voting in the Town and using the new Town Hall versus the Senior Center. Supervisor Bach stated that Donna Bodekor, Senior Center Director, needs to be involved in this discussion. Councilman Snyder noted that the new building may not be ready this year and we might be able to continue this discussion in a few weeks.

STAFF REPORTS:

Highway Superintendent Gunner thanked Councilwomen Jeffe and Friess for their help with next year's highway budget.

Chris Musshafen thanked the Board for extending the pool season and noted that Day Camp and other recreation programs are ending this week.

ABSTRACT OF CLAIMS:

The August 10, 2020 Abstract of Claims, consisting of vouchers numbered 859 to 922 was presented to the Board for audit and authorization of payment from the following funds:

General	\$ 7,473.39
Highway (DB)	8,747.18
Capital/H5	56,077.51
Capital/H7	595.28
Trust/Agency	16.08
Special Districts	<u>13,382.93</u>
Grand Total Abstract	\$86,292.37

Councilwoman Friess moved to approve the August 10, 2020 Abstract of Claims and authorize payment of same. Councilman Wochensky seconded the motion. Upon a vote being taken: ayes – five
noes – none
Motion carried.

Action #249
8/10/2020
abstract aprvd

Councilwoman Jeffe moved to adjourn at 7:50 p.m.; seconded by Councilman Snyder. Upon a vote being taken: ayes – five
noes – none
Motion carried.

Action #250
Meeting
adjourned

Martha L. Librock
Town Clerk