



# The Town of Franklin

P.O. Box 209, Route 3, Vermontville, NY 12989 • 518-891-2189 • Fax: 518-891-6389 • [www.townoffranklin.com](http://www.townoffranklin.com)



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## Town of Franklin Board Meetings

### Public Hearing on Proposed Local Law #1 of 2009 Major Subdivision Control June 27, 2009 - 7:00 PM

#### Board members present:

Supervisor Mary Ellen Keith  
Councilman Allen Berg  
Councilwoman Janet Ordway  
Councilman Clifford Smalley  
Councilman Walt Kretser

#### Others Present:

Town Clerk Sandra Oliver, Jack Drury, Richard Jarvis, Frances Oliver, Karen Smalley, Brad Merrill, Don Hamm, Doris Hamm, Nancy Bernstein Sandy Hayes, Edward Martin, Rick Gonyea, Bruce Young, Carol Lavigne, Derek Romeo, Virginia Switzer, Shir Filler, Vince Pagano, Derek Romeo, Harrison Ewing Donald Goff, Todd Goff, Joseph Rupp, Victor Burman, Donna Burman, Richard Brandt, Goldwasser, Don Vossler, Gr Bendell, Thomas Saehrig, Art Willman, Paul Capone, Nancy Tanner, John Alexander - WNBZ Radio News, Nathan Brown - Adirondack Daily Enterprise

#### 1. CALL TO ORDER

Supervisor Keith called the meeting to order at 7:00 pm. The Pledge of Allegiance was recited. The Town Clerk called the roll, introduced guests and stated the full board was present. Supervisor Keith indicated 4 exit doors in event of emergency. She stated each speaker would be permitted 5 minutes within which to deliver his/her remarks and that speakers may not relinquish the remainder of time to another.

#### 2. INTRODUCTION OF JACK DRURY, PRESIDING OFFICER.

Jack Drury, not a resident of the Town of Franklin, and not involved in the development of the draft law on subdivision regulation, was appointed by Supervisor Keith to be presiding officer of the public hearing.

#### 3. REVIEW OF RULES OF PROCEDURE FOR PUBLIC HEARINGS.

Mr. Drury thanked all for their attendance, directed attention to a posted list of requests for courtesy and respect. He requested all those who had signed the sign-in sheet at the door and who wished to address the hearing to do so at the front of the room near the recording devices. He requested speakers address comments to all present and not to enter into a debate.

#### 4. BRIEF REVIEW OF PROPOSED LAW

Richard Jarvis, chair of Citizens Advisory Committee on Subdivisions, presented a brief review of the proposed law:

- (1) (2) (3) wastewater treatment (4) (5) provides for consistent and fair process for resolution of issues and (6) that growth reflects the Town's capacity to provide for Town services.

There are three stages proposed for subdivision approval: The sketch plan conference, Preliminary subdivision review and Final plat approval.

These include onsite review by adjacent property owners, written notice to adjacent property owners, and the public is invited to join the sketch plan review conference. A public hearing will be held on the preliminary subdivision review and an optional public hearing on final plat approval. All meetings will be open to the public. The proposed law also establishes guidelines and standards for application requirements. Important are the required financial guarantees. Regarding enforcement, each component of the law is available to the developer and planning board in the review process. The Town Board is still responsible for appointment of planning board members and the code enforcement officer. The Town Board is also responsible for establishment of fees, the review and approval of the planning board budget and also acceptance of new Town roads. The proposed law has been reviewed by special legal counsel. There are some typographical errors in the draft supplied to the public, so there are still minor edits to be made; however, we thought it important to get copies of the proposed law to the public in adequate time prior to the public hearing.

#### 5. PUBLIC COMMENTS

**Edward Martin:** Opposed to law. It is a duplicate of already-existing laws and it is too similar. It will create future lawsuits. The Board has not listened to the public and haven't completed the job. I am against it. We don't need more laws. You can't handle what you've got. This is a waste of taxpayer dollars. I hope you listen.

**Carol Lavigne:** Resident of Cold Brook Road. Questioned amount of remuneration for Mr. Drury. This is just like zoning. I am totally against it. Speaks for many people who do not want this put in place. The last petition we served on you was cast aside. Years ago a town board tried to get a law like this passed, and they listened to us. They tabled the matter.

**Vince Pagano:** Resident of Loon Lake - the description of the intent of the law was good. What was not addressed was the possibility of overdevelopment. Represents Loon Lake Homeowners Assn., and Loon Lake is a unique hamlet in the Town of Franklin. The draft law seems to provide safeguards. Some think it is duplication. But the cost if the town has subdivision law and costs money. People are concerned. Some of the Loon Lakers are not at this hearing because they are on vacation. The main concern in Loon Lake is the possibility of subdivision and development of the Loon Lake Golf course and we don't want to see overdevelopment. See pg 2, section 120 Applicability (g) "Approve development of plats filed in County Clerk's Office prior to enactment of law." Tony Delia filed a number of plats. Tony was ambitious. Hope the Town takes that into consideration. Please think about the residents of Loon Lake and their concerns. We consulted 3 attorneys who deal in these matters, and they advised us it is better to have something in place than nothing at all.

**Bruce Young:** Resident of Cold Brook Road. Thanks to all. Here as resident who tries to look at long term planning vs. short term. The common theme in this town is how Town needs this or that, and then not do anything about it. This is aggravating for me. Glad the town board did this. There is less land available. If not us, who and if not now, when. We are planning for future. This will only happen again and again and again if this law is not enacted. In favor of this.

**Karen Smalley:** Fletcher Farm Road resident. Favors this law.

**Harrison Ewing:** Resident of Rock Street. Feels it is important to move forward with planning so that people here can have something to say about what happens in the town. I tried to oppose the Stickney Point subdivision, which is 100 ft from my property line. Neighboring property owners wrote 100 letters to the APA all in opposition to the subdivision but because the Town of Franklin had no land use regulations on its books, the APA was not obliged to listen. That subdivision is now wreaking havoc in the area. I am in favor of moving forward with this and I urge adoption of this law.

**Art Willman:** French Road resident. This is an unnecessary expansion of government. It will create another layer. The Town of Franklin has a very low population and a low tax base. Take a look at the expense at repairing the Garage; there is no money to pay for it. If you discourage development, you will discourage development and not have enough money to fund the Town budget. The APA does a good job. If there was no APA, I could see the need for a planning board. This is just more red tape with additional costs and will discourage a tax base. That Stickney Point subdivision has better homes and will bring more business into the town. In opposition. The law will be challenged. Property owner wants to develop, and Board says no and APA says yes, then legal costs. Town and taxpayer will have to bear costs. Could see need if land was in short supply. This creates too much red tape.

**Donald Goff:** Resident of Cold Brook Road. I oppose this. APA governs, DEC governs, DOH governs. I bought my property in 1969. APA created in 1972. Six lots sold at same time - all residential housing. Doesn't agree with the APA but don't need more dollars spent by Town of Franklin. All subdivisions are not bad. Stickney Point is not full of trailers. The Town budget has doubled in the past few years and taxes have been raised. New development will help with the budget. People here divided parcels years ago wonder if they will be able to continue under this new law. This town is not big enough to fight a lawsuit. You've already spent \$1,900 just to draw up a draft of this law.

Is there enough land in the Town to subdivide? The taxpayers will have to pay for this. The town does not have enough money. How can you have affordable housing with this law? Hope the Board does not approve this. We should have a vote on it. APA should do this.

**Rick Gonyea:** Resident of Tyler Road. Haven't read this draft in whole but noticed a section here with respect to regulating generators. Are you going to be that picky? Mr. Jarvis responded that the law does not regulate generator use due to emergencies; rather, the effect on adjacent property owners of continuous use of generators as primary power source.

Mr. Gonyea continued that he is against the law, that it needed more work.

**Barbara Rottier:** Thank you to all for coming. She read into the record her statement: I am a landowner in the Town of Franklin. I support the proposed subdivision law. I am in favor of local zoning and local subdivision regulation. The proposed local subdivision process is very important and gives local people a say in what happens in their community and neighborhood. and also favor zoning as well as subdivision regulations. The process is important. It gives us a say and is intended to provide certainty. I don't feel subdivisions should be at discretion of the landowner. I think some should be reviewed. I don't want houses built on insufficient soils. I want all to honor the landscape. I trust the Town Board and planning committee will not play politics. This is a reasonable law and I am in favor of it.

**Shir Filler:** Resident of Cold Brook Road - and enjoys the peace, quiet and privacy of property. Doesn't want neighboring pieces of property to disturb peace and privacy. Want new houses to conform to the landscape. Believes in long-term rather than short-term plans. We should control our own destiny. Our children are leaving. Do we want a Town, a diverse community? If a neighbor subdivides his 50+acre you might not like your new neighbors. Most of us really like this town, but if random development occurs we won't like it. We have a great town, and we should treasure it. As to duplication, the APA is good, but APA only controls over our lives. Why let APA tell us what do so? We should be able to decide for ourselves. If you don't like this and feel you don't have a voice, then run for Town Board. This law does not discourage sensible development - it discourages insensible development. Look at the long term, not the short. Favors this.

**Richard Brandt:** Resident of Swinyer Road. Owns 100 acres - if his property is subdivided, it would be subject to this proposed law. Favors it. Wants to preserve local rule. Locals would have more impact with a town planning board than with only APA. Doesn't think it will adversely affect business and developments. There are not that many properties - how many are there?

Mr. Jarvis responded he had spoken to the Assessor and there are from 50 to 100 properties owned by people with 50 or more acres.

Mr. Brandt continued, I don't think this is duplicative of APA regulations because APA is not looking out for the Town of Franklin. Big developers may very well give the Town some leverage with incentives. Thanks to all who worked on this. If you don't think this law is needed then review the responses to the survey. Respect Don Goff's suggestion about holding a referendum. Favors enactment of this law.

**Bradley Merrill:** Resides on State Route 3. All covered already by four State agencies, APA, Dec, Dept. of Health and Dept. of State. The State ownership of land in the town is approaching 70%. There is little land left to develop. Route 3 is Resource management. There are already lots of rules. This law is duplicative and offers not benefit to the taxpayers. What is the cost? If a developer decides to sue, he will sue the town, not APA. Look at the town as a whole. Loon Lake is already overdeveloped. I grew up here. There is a very small population. Owns 79 acres, half of which is swamp. Was able to build one house. Rules are very stringent. Opposes this law. The cost to the town is disproportionate to the gain...and there is no gain. What is the estimate cost to enforce this? Mr. Jarvis responded that the planning board would discern this.

Mr. Merrill continued that the cost should have been ascertained prior to the drafting the law. Mr. Jarvis answered that part of the costs will be covered by fees. The Citizens Advisory Committee on Subdivisions is researching the question and has been consulting other communities with land use regulations.

Mr. Merrill continued, stating he opposes the law.

**Eleanor Engel:** Lives in Loon Lake. Over the years she and her have been involved in small subdivisions. The APA is very diligent and stringent in protecting land. Thinks this law is overkill.

**Sandy Hayes:** Not a resident of Town but largest developer and opposes this law. He then read into the record his statement:

"Sandy Hayes Realty  
Sanford C Hayes, III, Licensed Real Estate Broker  
206 River Rd., P O Box 288, Bloomingdale, NY 12913  
July 27, 2009  
Town Board, Town of Franklin  
Town Hall, Vermontville, NY 12989

Dear Board Members:

Today is the date of your public hearing regarding the proposed subdivision law for nay subdivision of property into five or more lots. You have a 37 page document being considered and I feel quite sure that none of you fully understand the contents of that document or the implications of its passing. I have spent nearly five hours reading this document and I still do not understand all of it and I have some experience in dealing with this type of law, having been involved in 26 subdivisions, 15 of which are located in your town, involving 122 individual lots with a total assessed value in excess of twelve million dollars. I also should add that those

properties have never cost the Town of Franklin one dollar for road maintenance, public utilities or anything else. What kind of taxes does that equate to for a zero investment?

Because two neighbors complaint about Stickney Point subdivision, you have reacted with a subdivision law that you don't understand, are not qualified to implement and cannot afford to defend in a lawsuit, which is sure to come, if passed. You have accepted a proposed law from a small group of 5 or 6 people, who apparently were never approved by resolution of your board and who are well known to be anti development, without allowing or soliciting input from the average citizens of your town.

This "no cost to taxpayer law" has already cost several thousands of dollars in legal fees, advertising and mailings and it is still in the proposal stage. You can only imagine what it would cost to implement the law and to defend any lawsuits as a result of its passing.

I should point out that I am not against planning and zoning. I live with it every day in my dealings with the various State agencies who oversee my projects. I certainly do not always agree with them, but I respect them because they are professionals and have great knowledge in their various fields of expertise. My projects are better designed than what you propose in several ways and my deed restrictions control a variety of issues that your town does not address.

However, I could never accept your subdivision law as presented. The people who oversee it are not professionals in the fields necessary to review any proposal and they are a volunteer board, chosen by a town board, subject to change every election year. In your subdivision law, you propose to charge several fees and assessments to hire outside professionals to review submissions which the developer has already had to pay professionals to design. Engineers, surveyors and architects are licensed by New York State to do their job professional and to certain standards. Why should I, as a developer, pay to have someone else review their plans? When those same plans are submitted to a State agency for review, they are accepted as professional documents and approvals are granted with the condition that the work will be done as designed and supervised by the designer. Occasionally, that designer is asked to sign off when the project is completed, but the developer does not pay a third party to confirm the work.

As I read the proposed law in attempt to respond to it, I was struck with the fact that much of it is duplicative of APA, DEC and DOH requirements and I question the reasoning for that? The only reasonable answer I have is that it is meant to slow down and discourage a developer from even attempting to do a subdivision in the Town of Franklin. Generally the State agencies don't start their review until local government gives its approval. That would appear to add another year to the permitting process, not to mention the additional expense. That certainly should help to discourage development if that is the goal of your board.

I will not attempt to respond to all 37 pages of your proposed law in this letter, but would ask that you consider, is this rally what you thought you were getting into back in 2007 when you felt you didn't have the ear of the APA? Are you really getting in way over your head and alienating the local residents, your friends and neighbors who elect you to office to honor their wishes as to how they want their town to run? On every Local Government Notice which is part of an APA application, your Supervisor has the opportunity to check a box next to 'Check here if municipality wishes to discuss this project with Agency staff'. Then, upon receipt by APA of an application, both the Supervisor and Code Enforcement Officer receive a notice, inviting a response to the project, either by phone or in writing. Why not try this route before getting into something that is only going to cost the town, expense, hard feelings with your constituents and probably lawsuits? Yours truly,  
Sanford C. Hayes III"

**Paul Capone:** Agrees with Brad Merrill and Sandy Hayes. Thinks we ought to know the number of property owners affected by this law. There are not that many. Wants an analysis of how the law would affect property values and what the cost will be to the Town. This is not necessary in view of APA and other state agencies. I oppose this.

**Don Hamm:** Opposes this. It is an extra layer of bureaucracy and this draft is verbatim APA regulations. The taxpayers in this Town are poor. There are too many expenses, and it has been costly through the years. If you review the Press Republican you see published notices of reviews of plans. That's a lot of time for the Town Board and the planning committee. You should have spent your time attracting new businesses to the community. The voters of the Town have signed a petition demanding a vote on this new law. It should be put on the ballot.

**Doris Hamm then delivered to the Town Clerk a signed petition at 8:15 PM.**

**Derek Romeo:** My family has lived in this town for 300 years. If APA approves and the planning board disapproves there will be litigation and it will have to be paid for by taxpayers. Three of you on the Town Board are up for a vote this year - do you really want to impose this law on a new town board? I'm not totally against it or totally for it. This should be put to a vote.

## 6. WRITTEN COMMENTS RECEIVED

**Kendall and Elliody Bickford** (Received July 24, 2009 by mail): Opposed to subdivision.

Jill Reymore (Received July 27, 2009 by hand):  
"53 Norman Ridge Road, Vermontville, NY 12989  
July 27, 2009

To the Franklin Town Board Members:

I am a resident of the Town of Franklin living on Norman Ridge Road and I am writing to express my support for the newly proposed land use law. I am not able to attend tonight's hearing.

The Town appointed a Citizen Advisory Committee in May 2008. Since then the CAC members met regularly, reviewed existing subdivision laws, consulted with a local attorney, discussed, collaborated and created a draft

major subdivision law for the Town of Franklin. It took a year of hard work and the proposed draft that has been available to the public for a while now is a respectable piece of regulation designed to help the Town grow while maintaining its unique character.

Last March, the citizens of Franklin spoke clearly when after a 25% public survey return they chose 2 to 1 in favor of the subdivision law to control major subdivisions. I feel that the process to create this new law was handled with the greatest of care and transparency for the public's benefit. The draft law needs to be ratified now and the CAC needs to be commended for their work.

I heartily support the draft law controlling major subdivisions in the Town of Franklin. Please pass it and move forward.

Thank you for the opportunity to express my opinion. Sincerely, Jill Reymore"

## 7. RESPONSES TO COMMENTS AND QUESTIONS POSED.

Mr. Jarvis responded to questions posed by the speakers:

**Generators** - Planning board will not be concerned with emergency outages of power, only if generator is planned to be used full time. It may be a nuisance to neighbors.

**Law is Duplicative** - Other state agencies deal with development and owners must comply but the Town of Franklin is unique; it has hamlets and low intensive use. APA does not review developments in hamlets unless there are 99 or more lots. APA also has limited jurisdiction with respect to low intensity use. An owner could manage a 9-lot subdivision without APA review. NY Dept. of Health rules difficult 5+ acres in size - sold 3 lots not DOH. When a project is subject to AOA review it is part of the process. Supervisor, Codes may not know enough to respond to property owners. So Town review of subdivision would not supersede APA review. The more restrictive law applies.

**Legal costs** - Hard to predict. Yes, Town would be responsible to defend any suit in court. Must look at short term vs long term. How best plan uses on lots subject to subdivision review. This part law not zoning. Not intended to address economic impact of development in town. Trying to provide opportunity for neighbors to identify concerns. These things can be talked over and worked out. As to your neighbors being on the planning board - the Town has an Ethics Law which covers potential conflicts of interest. Possible we will have 5-member planning board with 2 alternates. Planning board will be fair and consistent.

Supervisor Keith then responded to comments by developer Sandy Hayes. She recounted an incident during APA review of the Kushaqua subdivision near Merrillsville when Mr. Hayes asked the Town to take over a road which had not yet been built. The Board refused. That subdivision is still not built, and the Town had no say in whether it was approved by APA or not.

She continued, as to the survey on subdivision regulations mailed to taxpayers in March of this year, no one has ever reviewed the survey results. People are welcome to come and look at it.

Councilman Clifford Smalley stated he had three very strong points to make regarding the draft regulations:

- (1) The process starts with a sketch review conference which includes a meeting with the developer and neighboring property owners.
- (2) There is a requirement of financial guarantees. Right now there are no guarantees. Developer will be required to submit financial guarantees that the subdivision will be completed so that the Town does not get stuck with an incomplete project.
- (3) There will be public hearings on all subdivisions. The public will have the right to ask questions of each developer.

### POLL OF ATTENDEES:

Richard Brandt YES  
 Shir Filler YES  
 Bruce Young YES  
 Karen Smalley YES  
 Frances Oliver YES  
 David Vana YES  
 Nancy Tanner YES  
 Harrison Ewing YES  
 Curran YES  
 Leisa Almekinder YES  
 Edward Korter YES  
 Barbara Rottier YES  
 Eleanor Engel NO  
 Alfred Engel NO  
 T. Corrow UNDECIDED  
 G. Corrow NO  
 D Vossler NO  
 Joseph Rupp YES  
 Sandy Hayes NO  
 James Keith YES  
 Vince Pagano ABSTAIN  
 Virginia Switzer NO  
 Donald Goff NO

Todd Goff NO  
Todd Burman NO  
Donna Burman NO  
Victor Burman NO  
Thomas Saehrig YES  
Bradley Merrill NO  
Art Willman NO  
Don Hamm NO  
Doris Hamm NO  
Edward Martin NO  
Carol Lavigne NO  
Paul Capone NOT AS WRITTEN  
Roger Symonds Jr. NOT AS WRITTEN  
Kendall Bickford NO  
Elliody Bickford NO  
Jill Reymore YES

Edward Martin stated that the petition served contained 150+ signatures of people who opposed the draft law.  
Supv Keith thanked Mr. Drury for his gracious service as Presiding Officer of the Public Hearing

**8. ADJOURNMENT.**

8:40 PM (M.Keith-J.Ordway m/s/p) ALL AYE

Respectfully submitted, Sandra J. Oliver, Town Clerk

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