**PLANNING BOARD**

**Town of Colton, NY**

**Regular Monthly Meeting**

**October 25, 2016**

**Members Present:** Chair Ed Fuhr, Anne Townsend, Laurie Thornton, Connie Hatch, Kirke Perry, and Harold Granger

**Members Absent:** Martin Avery

**Public Present:** Brett Barbour, Jennifer Cole

**Pledge of Allegiance** was recited

**PUBLIC HEARING:** Chair Ed Fuhr opened the public hearing at 7:01 for the Planning Board to make recommendations to the Board of the Town of Colton in regards to current local outdoor wood boiler laws. Local Law No. 5 of 2010 currently states that operating times for outdoor wood boilers are to be from October 1st – May 31st. Chair E. Fuhr stated that the recommendations to be made are not just stemming from complaints from Colton resident Paul Castor, an outdoor wood boiler owner, but that changes to the local law need to be made due to changes in the state, the DEC and the EPA. K. Perry stated that we (town of Colton) are in line with the DEC in all aspects except for the operation dates. A. Townsend asked about section 3 of Local Law No. 5 that states all outdoor burning devices existing prior to Dec 1, 2010 in the Town of Colton must be registered by the owner with the Code Enforcement Officer on a form furnished by the Code Enforcement Officer. All requirements of this law relative to chimney height, chimney cap, non-combustible floor, exterior building of fire retardant material must meet with the approval of the Code Enforcement Officer. Chair E. Fuhr stated in order to follow Local Law No. 5 section 3 it would have to be a daily check on our Code Enforcement Officers part. Chair E. Fuhr also found a “grandfather clause” from the NYSDEC 6NYCRR Part 247 stating that all OWB’s sold on or after April 15, 2011 must be certified for sale in New York by the NYSDEC. Manufactures of OWB’s must apply for certification for each model they want to sell in New York. A list of models that may be sold in New York will be maintained on the NYSDEC’s website. A used OWB moved from one property to another shall be considered a new OWB at the second property and subject to all provisions applicable to new OWB’s. Therefore, the used OWB must be a model certified for sale in New York and the seller must provide prospective buyers with a Notice to Buyers form. The setback and stack height requirements must also be met. Mr. Castors OWB was put in place at his residence before the April 2011 date. The EPA also has a rule stating that the rule does not affect existing woodstoves and other wood burning heaters currently in use in peoples homes. However, the DEC does have what is called the nuisance clause in summary 247 stating that examples for nuisance would be but not limited to 1) activating smoke detectors in neighboring homes. 2) Impairing visibility on a public highway. 3) Causing a visible plume migrating form an OWB and contacting a building on an adjacent property. The list is non-exhaustive and other conditions may also constitute a nuisance. The NYSDEC nuisance law trumps all other laws pertaining to OWB’s. L. Thornton read aloud an email from Planning Board member M. Avery stating that “the big item of concern seems to be the months of operation allowed in Local Law No. 5.” M. Avery suggests that we make the recommendation to the Town Board that the time of operation usage for OWB’s in Local Law No. 5 of Oct 1st – May 31st be changed to Sept 1st – May 31st which was stated in drafted Local Law No. 3 of 2010. A. Townsend stated that we have to look at both sides. There are health concerns related to the smoke that the OWB’s produce. Have neighbors to owners of outside wood boilers made any complaints? Chair E. Fuhr stated that there are no complaints in writing. Two or more written complaints will constitute as a nuisance under NYSDEC part 247. Chair E. Fuhr read Section 6 of Local Law 5 which states “All OWB’s must be installed in strict accordance with the manufacturers instructions and guidelines. Any deviation from the manufacturers instructions may be allowed at the discretion of the Code Enforcement Officer, if approved in writing by an engineer licensed by the State of New York.” Also Section 8 stating “Chimney height shall be the height of the peak plus 2 feet of any neighboring residence within 200 feet which is not served by the boiler.” Jennifer Cole, L. Thornton, and C. Hatch made the suggestion that instead of putting dates on the local law why can’t we put an “act of God” weather stipulation in the local law. Being that the weather here is so unpredictable. Perhaps a section in the local law that states circumstances with the weather prevail over the dates indicated. L. Thornton also made the suggestion that since the nuisance law is non-exhaustive perhaps we could put that in our local law. Should any complaints or concerns arise the Code Enforcement Officer and the owner of the OWB would then work together to find a solution.

Close of the public hearing at 7:25pm motioned by K. Perry seconded by L. Thornton. All were in favor.

**Minutes:** C. Hatch motioned to accept the minutes of the Sept 2016 Planning Board meeting. L. Thornton seconded. All were in favor.

 **Agenda:** A. Townsend motioned to adopt the agenda. C. Hatch seconded. All were in favor.

**REGULAR MEETING:** Call to order at 7:26pm with quorum present. Action on Local Law No. 5 of 2010, regulation of OWB under town law zoning. Covered much on this subject during the Public Hearing. More to discuss and think about before making suggestions to the Town Board. Table discussion on Local Law No. 5 motioned by L. Thornton, seconded by A. Townsend. All were in favor.

CEO REPORT: Code Enforcement Officer was not present.

ZBA-81-2016: Area variance for the ZBA brought to the PBA for comment. Katherine G. Rowe at 116 Coldbrook drive South Colton currently is at 1.2 acres. Buying another .4 neighboring acres to bring the lot to 1.6 acres total. Mrs. Rowe is wanting to build/add a double wide on the property near the camp that is currently there. Current local laws state that in that area you have to have a full 2 acres to have 2 residences. K. Perry stated that basically it isn’t 2 residences because the camp cannot be winterized. Mrs. Rowe does not want to change the camp as it is a family property and has been for many years. Chair E. Fuhrs concerns are that there are currently 4 buildings on the 1.2 acres. A. Townsend added that the owner has to satisfy the questions on the variance criteria. One of the questions is ”is this a self made problem?” Yes it is. There are 4 buildings on the property. Does this warrant putting another building on this property? L. Thornton, K. Perry, and C. Hatch all agree that this is self created. L. Thornton suggested that the Rowes make the current camp/residence a year round home. Chair E. Fuhr made the suggestion that there be no more than 4 buildings on the lot. So with the new residence, tear down some of the old buildings. Also, that the property can never be subdivided once the .4 acres has been purchased and the new residence in put in, as a subdivision would not be in compliance. ZBA recommendations from the PBA would be to reference question 5 of the Area Variance Test. This is a situation that is self created. All members were in favor of sending this comment to the ZBA.

**CORRESPONDENCE:** PBA to make comments on the Lodge at Sevey’s Point. The Town Planning Board supports the proposal of Mr. DiCacchio to reopen the Lodge for 2016-2017. The property has a rich historical heritage in the town, spanning most of the last century. Reinventing it restores a service provided for decades, much of it under legendary innkeeper Ham Ferry Sr.

Our support is contingent upon Mr. DiCacchio complying with all regulations and requirements as well as passing final inspection by the Town CEO.

Motion to accept correspondence comments made by A. Townsend, seconded by C. Hatch. All were in favor.

**Next meeting will be held November 29, 2016 at 7pm.**

**Adjournment:** With no further business to discuss, K. Perry made the motion to adjourn, seconded by A. Townsend. All were in favor. The meeting adjourned at 8:00pm.

Respectfully Submitted,

Jennifer Cole

Secretary