

**PUBLIC HEARING**  
Amendments to the Land Use Code  
Construction of Fences and "Lot of Record".

TUESDAY, MAY 10, 2016

Minutes of the Public Hearing held on the above date beginning at 6:45 pm in the Meeting Room of the North Elba Town Hall, 2693 Main Street, Lake Placid, New York.

**Members Present:** Supervisor Politi, Councilman Favro, Councilman Rand

**Members Absent:** Councilman Miller, Councilman Doty

**Others Present:** Laurie Dudley, Attorney Ron Briggs, Superintendent Larry Straight,

Supervisor Politi called the Public Hearing to order at 6:45 pm by reading the Public Hearing notice which he stated was properly published and posted.

Please take Notice, the North Elba Town Board will hold a Public Hearing on May 10, 2016 at 6:45 pm to consider amendments to the Land Use Code relating to the construction of fences and to the definition of "Lot of Record". Copies of the text of the proposed amendments are available for review at the Town Clerk's Office at the Town Hall at 2693 Main Street. All persons wishing to be heard on the amendments should attend the hearing.

Said meeting shall be held at the Town Hall, 2693 Main Street, Lake Placid, NY 12946

**CONSTRUCTION OF FENCES**

At present, the Land Use Code classifies fences as an "exempt use", which "shall not require a permit under this Code but shall otherwise comply with all requirements related thereof" (Section 1.7.5[D]). Under the definition of "front yard", "side yard" and "rear yard", fences are not subject to setbacks either.

Section 4.3.2[D] provides, "No fence, wall or planting more than three feet in height shall be placed within a required front yard that obstructs visibility as to interfere with the safe movement of vehicular traffic." This requirement applies "as a matter of law" notwithstanding the "exempt use" categorization of fences. So, under current law the only fences requiring a permit are those which are associated with projects which are otherwise subject to Review Board jurisdiction as a conditional or site plan review use (for example, the fences at Tractor Supply). High fences in front yard areas, however, can create a "mass" close to the street and be discordant looking. Other fences while not in front yards can serve to block a neighbor's existing views (sometimes deliberately).

To address this situation, I suggest that there be a higher level of regulation over fences, as set forth in the proposed local law, as follows:

1. Any fence higher than 3 feet in height in a front yard setback area, and any other fence higher than 8 feet in height, shall require a permit and shall be subject to site plan review by the Review Board, excepting those fences in side or rear yards which have been agreed to in writing by the landowner proposing the fence and the adjoining property landowner.
2. The criteria for approval of those fences which are subject to Review Board approval shall be (A) that fences shall not have the purpose or effect of blocking distant views enjoyed by neighboring owners, and (B) that fences shall not result in a materially adverse visual impact or a material change in the character of the neighborhood.

The 3-foot and 8-foot height figures above would not be height limits, but rather would be "jurisdictional thresholds".

This proposal was presented to the Review Board which decided it would neither support nor oppose the proposal.

**"LOT OF RECORD"**

The proposed local law would amend the definition of "lot of record" to make explicit what was always implicit -- to be a "lot of record" and enjoy the exemptions related to that classification, a lot has to have been LEGALLY created, under the laws then in force. In addition the clause in Section 4.22(C) which reads that "a permitted building or use may be constructed or located on any lot of record . . ." would be

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amended to read "a building or use which was permissible at the time of creation of a given lot of record may be constructed or located on any lot of record . . . ."

This proposal was presented to the Review Board and was conceptually approved by that Board.

**ADJOURNMENT**

There being no one in attendance, Supervisor Politi closed the Public Hearing at 6:58pm.

Respectfully Submitted,

Laurie C. Dudley, Town Clerk