

MEETINGS: 4
NO. OF REGULAR: 4

VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF DEPEW
May 9, 2022 7:06 PM

ROLL CALL: Trustee Adolf - PR
Trustee Ziemba - ABS
Trustee Kucewicz - PR
Deputy Mayor Hamernik - PR
Mayor Peterson – PR -

ON A MOTION BY, Trustee Adolf and seconded by Trustee Kucewicz the April 25, 2022 board meeting minutes were approved.

ON A MOTION BY, Trustee Kucewicz and seconded by Trustee Adolf the April 14, 2022 Zoning Board Minutes were accepted.

1. Joseph Divissich for property located at 50 Autumn Lea Rd of Chapter 260, §260-14B(1)(h) to seek relief of the 3ft required exterior side yard setback to widen driveway. Granted
2. A rehearing of the tabled October 14, 2021 for Tim Bunch for property located at 6321 Transit Rd of Chapter 260, §260-26(A)(2) to permit him to erect a fence within the required 30ft setback. Denied.

ON A MOTION BY, Trustee Adolf and seconded by Deputy Mayor Hamernik the May 5, 2022 Planning Board Minutes were approved.

1. DiDonato Associates, P.E., P.C. on behalf of the Village of Depew for property located at 90 Gould Avenue. The following matters to be reviewed: Seeking site plan approval for demolition of existing 2,780sqft pavilion structure and construction of new 5,940sqft pavilion and associated parking. Approved with recommendation to Village Board to accept the SEQR Type 2.

Public Comment Agenda Items Only:

Paul Sprada 58 Argus – Asked the board when the public hearing on the Non-Domestic Animal law was held. The board responded that it was held in March on the 28th and told him that he was at the hearing. There was not another public hearing on this topic.

ADOPT LOCAL LAW #1 OF 2022 – NON-DOMESTIC ANIMAL LAW

Trustee Kucewicz, offered the following resolution and moved for its adoption:

WHEREAS, the Board of Trustees of the Village of Depew, New York held a public hearing on March 28, 2022, at 7:00 pm in the Council Chambers of the Municipal Building, 85 Manitou St, Depew, NY to consider the adoption of a local law for Non-Domestic Animals.

WHEREAS, all persons were given an opportunity to speak for or against this local law;

NOW THEREFORE, BE IT RESOLVED, this local law is hereby adopted.
If adopted, the proposed local law shall read as follows:

VILLAGE OF DEPEW LAW

§ 68-1 Permit required.

A.

No person shall breed, raise, harbor or maintain any bees, poultry, chickens, turkeys, ducks, geese or any other fowl or reptiles, or any swine, horses, cows, mules, goats, or any other animals or reptiles except domesticated pets within the Village, without a **Special Use Permit subject to the approval of the Village of Depew Zoning**

Board of Appeals in compliance with the following minimum regulations: ~~permit subject to the approval of the Village Board.~~

1. No person shall keep, maintain, house or possess more than six (6) chickens or ducks or any combination thereof on any premises. Breeding of chickens on-site shall not be allowed;
2. All pens, coops or houses maintained for the keeping of chickens or ducks in all zoning districts shall comply with the setback and side yard requirements set forth at § 260-14 pertaining to the keeping of household pets. However, in every case chicken coops shall be located at least 15 feet from any property line.
3. The pens, coops or houses in which such chickens or ducks are kept must be cleaned once each day and maintained in a sanitary condition, free of refuse, debris and any other dirt or excess food, so as not to endanger the public health and safety.
4. Chicken or duck refuse and feed must be stored in metal containers and securely covered with metal covers.
5. There shall be no less than two (2) square feet of floor space per chicken or duck in any pen, coop or house in which such chickens or ducks are kept. The pen, coop or house shall be large enough to provide adequate access for cleaning and egg collecting.
6. Pens, coops or houses shall be suitably screened from the view of surrounding residences and surrounding streets by a fence or by shrubs, unless said pen, coop or house is located in such a manner as not to be visible from the surrounding residences and streets.
7. Chickens and ducks shall be confined at all times to the property on which they are kept, possessed or maintained.
8. Any chickens or ducks maintained, housed or possessed and all eggs produced from said chickens or ducks shall be for the sole use and consumption of the homeowner or tenant in possession and shall not be offered for resale.
9. In no instance will roosters, geese or any other fowl or any swine, horses, cows, mules, goats, bees or any other animals or reptiles except domesticated pets be permitted within the Village, without a permit subject to the recommendation of a Special Use Permit from the Village of Depew Zoning Board of Appeals and final approval from the Village of Depew Board of Trustees
10. The applicant shall provide proof that he or she has notified, in person or in writing, all property owners within 100 feet of the applicant's property that the applicant has

applied for a special use permit to maintain a chicken coop and informing such property owners of the date and time of the public hearing on the application.

11. The Special Use Permit shall be limited to the applicant and shall not be transferable;
12. The raising of the chickens shall be subject to all applicable sanitary, noise and property maintenance regulations, ordinances and laws. Chicken waste shall not be composted or mulched on-site. Chicken waste shall be stored in appropriate containers that do not create any nuisance;
13. The Special Use Permit shall be valid for a maximum of two years. The ZBA may grant approval of the Special Use Permit for a period less than two years. Additional consecutive or non-consecutive Special Use Permits may granted by the ZBA upon the filing of each new application.
14. The costs and application fees will be set by the Village of Depew Fee schedule.
15. The ZBA may require screening of the chicken coop or chicken run as deemed appropriate.
16. The ZBA shall solicit input from all property owners within 100 feet of the applicant's property and shall evaluate any complaints that have been received relative to the raising of chickens on the property.
17. Prior to the ZBA hearing for the temporary Special Use Permit, the Code Enforcement Officer shall conduct an inspection of the premises associated with application for the Special Use Permit. The inspection shall note any property maintenance issues and shall include an inspection of the proposed chicken coop (if it exists). The Code Enforcement Officer will provide a report of their findings to the ZBA.

B. "Domesticated pets" are hereby defined to mean any animals, birds, reptiles or fish customarily kept in the home or place of residence which are not vicious, dangerous, or otherwise obnoxious, objectionable or offensive.

C. Pre-Existing

1. Chickens and Ducks. Any chicken coop and/or run existing prior to the effective date of this local law shall be considered pre-existing (or "Grandfathered") and permitted to remain in place with the 1/2 acre minimum lot size requirement set forth in Section 4(D)(3) waived for a period of 2 ("TWO") years, provided the following conditions are satisfied:

- A. No person shall keep, maintain, house or possess more than six (6) chickens or ducks or any combination thereof on any premises. Breeding of chickens on-site shall not be allowed;
- B. All pens, coops or houses maintained for the keeping of chickens or ducks in all zoning districts shall comply with the setback and side yard requirements set forth at § 260-14 pertaining to the keeping of household pets. However, in every case chicken coops shall be located at least 15 feet from any property line. Any pre-existing coop which is non-compliant with the zoning requirements must be brought into compliance within six months of the enactment of this local law;
- C. The pens, coops or houses in which such chickens or ducks are kept must be cleaned once each day and maintained in a sanitary condition, free of refuse, debris and any other dirt or excess food, so as not to endanger the public health and safety;
- D. Chicken or duck refuse and feed must be stored in metal containers and securely covered with metal covers;
- E. There shall be no less than two (2) square feet of floor space per chicken or duck in any pen, coop or house in which such chickens or ducks are kept. The pen, coop or house shall be large enough to provide adequate access for cleaning and egg collecting;
- F. Pens, coops or houses shall be suitably screened from the view of surrounding residences and surrounding streets by a fence or by shrubs, unless said pen, coop or house is located in such a manner as not to be visible from the surrounding residences and streets;
- G. Chickens and ducks shall be confined at all times to the property on which they are kept, possessed or maintained;
- H. Any chickens or ducks maintained, housed or possessed and all eggs produced from said chickens or ducks shall be for the sole use and consumption of the homeowner or tenant in possession and shall not be offered for resale;
- I. In the event there is a dispute as to whether or not an applicant has been "Grandfathered," the applicant must present clear and convincing evidence to the Zoning Board of Appeals or Village of Depew Justice Court that the applicant possessed the animals (1) prior to the date of the enactment of this local law; and (2) received permission to possess the animals as required by the prior version of the local law;

J. Upon expiration of the 2 (“TWO”) year pre-existing duration the applicant will be required to apply for renewal of the special use permit pursuant to subdivision

2. Other Non-Domestic Animals. Any bees, poultry, chickens, turkeys, ducks, geese or any other fowl or reptiles, or any swine, horses, cows, mules, goats, or any other animals or reptiles permitted by the Village of Depew prior to the effective date of this local law shall be grandfathered and permitted to remain as a pre-existing non-conforming use for a period of 2 (“TWO”) years provided the following conditions are satisfied:

- A. All pens, coops or houses maintained for the keeping of bees, poultry, chickens, turkeys, ducks, geese or any other fowl or reptiles, or any swine, horses, cows, mules, goats, or any other animals in all zoning districts shall comply with the setback and side yard requirements set forth at § 260-14 pertaining to the keeping of household pets. However, in every case all pens, coops or houses shall be located at least 15 feet from any property line. Any pre-existing coop which is non-compliant with the zoning requirements must be brought into compliance within six months of the enactment of this local law.
- B. The pens, coops or houses in which bees, poultry, chickens, turkeys, ducks, geese or any other fowl or reptiles, or any swine, horses, cows, mules, goats, or any other animals or reptiles are kept must be cleaned once each day and maintained in a sanitary condition, free of refuse, debris and any other dirt or excess food, so as not to endanger the public health and safety.
- C. Bees, poultry, chickens, turkeys, ducks, geese or any other fowl or reptiles, or any swine, horses, cows, mules, goats, or any other animals or reptiles’ refuse and feed must be stored in metal containers and securely covered with metal covers.
- D. Pens, coops or houses shall be suitably screened from the view of surrounding residences and surrounding streets by a fence or by shrubs, unless said pen, coop or house is located in such a manner as not to be visible from the surrounding residences and streets.
- E. Bees, poultry, chickens, turkeys, ducks, geese or any other fowl or reptiles, or any swine, horses, cows, mules, goats, or any other animals or reptiles shall be confined at all times to the property on which they are kept, possessed or maintained.
- F. Any bees, poultry, chickens, turkeys, ducks, geese or any other fowl or reptiles, or any swine, horses, cows, mules, goats, or any other animals or reptiles maintained, housed or possessed and all eggs, honey, milk, or other product produced from said chickens or ducks shall be for the sole

use and consumption of the homeowner or tenant in possession and shall not be offered for resale.

G. In the event there is a dispute as to whether or not an applicant has been “Grandfathered,” the applicant must present clear and convincing evidence to the Zoning Board of Appeals or Village of Depew Justice Court that the applicant possessed the animals (1) prior to the date of the enactment of this local law; and (2) received permission to possess the animals as required by the prior version of the local law.

H. Upon expiration of the 2 (“TWO”) year grandfathering duration the applicant will be required to apply for renewal of the special use permit pursuant to subdivision

D. INSPECTION AND REVOCATION

1. An inspection by the Code Enforcement Officer finds that the coop and/or run conforms with, or can be brought into conformance with the requirements of this local law within forty-five (45) days of inspection. If the coop and/or run remains noncompliant for more than forty-five (45) days the special use permit will be temporarily suspended pending hearing before the ZBA on final determination of whether or not the special use permit should be permanently revoked. The final hearing must be requested to the Village of Depew, Code Enforcement Officer, in writing, within seven (7) days of the temporary suspension and must occur within thirty (30) days of the date of request for hearing.

2. Any person aggrieved by the issuance, denial or revocation of a permit granted hereunder may appeal such determination or action by the Code Enforcement Officer to the Zoning Board of Appeals as provided for and governed by New York Village Law §§ 7-712-a and 7-712-b(1). In deciding such appeal, the Board of Appeals shall consider the requirements and intent of this subsection and shall set forth the basis for its determination in writing. Any person aggrieved by the decision of the Board of Appeals may seek judicial review of such determination as provided for and governed by New York Village Law § 7-712-c; and

3. Any applicant who has previously had an animal special use permit revoked will be banned from applying for a subsequent animal special use permit for a period of five (5) years for the associated address.

D. FINES.

(1) Any person, firm or corporation violating any provision of this article shall be guilty of an offense punishable by a fine not to exceed \$250 for each week that said article is violated or imprisonment for a period not to exceed 15 days, or both in violation of said article.

(2) Any person, firm or corporation taking part in or assisting in any violation of this article shall also be subject to the penalties herein provided.

The following resolution was seconded by Deputy Mayor Hamernik, and duly put to a roll call vote which resulted in the following

Trustee Adolf - Y

Trustee Ziemba - ABS
Trustee Kucewicz -Y
Deputy Mayor Hamernik -Y
Mayor Peterson -Y

AUTHORIZE MAYOR TO SIGN SUCCESSOR AGREEMENT – BLUE COLLAR

Deputy Mayor Hamernik, offered the following resolution and moved for its adoption:

BE IT RESOLVED, Mayor Kevin Peterson is authorized to sign a successor agreement between the Village of Depew and CSEA Local 1000, AFSCME, AFL-CIO, Erie County Local 815, Village of Depew Unit #6717-00 for the period of June 1, 2022 to May 31, 2026 and authorizes the Mayor to execute the same.

The foregoing resolution was seconded by Trustee Adolf and duly put to a roll call vote which resulted in the following:

Trustee Adolf - Y
Trustee Ziemba - ABS
Trustee Kucewicz - Y
Deputy Mayor Hamernik - Y
Mayor Peterson - Y

APPOINT PT SUMMER RECREATION PROGRAM

Pursuant to Section 4-400 of Village Law, I Mayor Kevin Peterson do hereby appoint the following to the summer recreation program

Cashier:

J. Rosa-Mutighani, Depew
D. Woods, Lancaster
M. Dellaneve, Depew
B. Kurtowicz, Depew

Lifeguard:

M. Clemens, Elma
L. Pyc, Depew
A. Koedel, Depew
M. Steffens, Lancaster
T. Steffens, Lancaster
T. Kaus, Depew
M. Huber, Lancaster
K. Kwiatkowski, Lancaster
M. Massaro, Lancaster
H. Leach, Cheektowaga
B. Paul, Depew
L. Marlowe, Lancaster

Summer Help:

N. Ziemba, Cheektowaga
E. Bak, Lancaster

The forgoing nomination was acted upon in the following manner by the Board of Trustees:

Trustee Adolf –Y
Trustee Ziemba -ABS
Trustee Kucewicz - Y
Deputy Mayor Hamernik - Y
Mayor Peterson - Y

SEQR- NEGATIVE DECLARATION -90 GOULD AVENUE

Trustee Adolf, offered the following resolution and moved for its adoption:

WHEREAS, The Depew Village Board has considered the Environmental Record prepared for this action, including any comments received from the public and Interested Agencies, and the proposed Negative Declaration.

WHEREAS, the Village of Depew Village Board, as lead agency, has reviewed the minutes of the Planning Board meeting held on May 5, 2022, in which the Planning Board recommended to the Village Board, as lead agency, that the proposed action involving the demolition of existing 2,780sqft pavilion structure and construction of new 5,940sqft pavilion and associated parking at the above referenced property is consistent with an unlisted SEQR action and furthermore, that the proposed action will not have a significant adverse impact on the environment and that a negative declaration should be issued; and

WHEREAS, the Village Board, as lead agency, has applied the criteria listed in 6 NYCRR 617.4(b) to this action and considering all the relevant documentation and information submitted, determines that this action will not have a significant adverse impact on the environment; and

WHEREAS, the Village Board of the Village of Depew, as lead agency, concurs with the recommendation of the Planning Board;

NOW, THEREFORE, BE IT RESOLVED, that the Village Board of the Village of Depew, as lead agency, for the SEQRA review of the proposed action hereby issues a negative declaration in connection with this unlisted activity; and

BE IT FURTHER RESOLVED, that the Mayor is authorized to execute any necessary documents relating to an issuance of a negative declaration.

The foregoing resolution was seconded by Deputy Mayor Hamernik and duly put to a roll call vote which resulted in the following:

Trustee Adolf – Y
Trustee Ziemba- ABS
Trustee Kucewicz - Y
Deputy Mayor Hamernik - Y
Mayor Peterson - Y

PERMISSION CHICKEN BBQ

Deputy Mayor Hamernik offered the following resolution and moved for its adoption:

BE IT RESOLVED, permission is hereby granted to Depew West End Hose Co. #6 to utilize the West End Fire Hall, 2325 George Urban Blvd, Depew, NY on Sunday May 21, 2022 for their company's Chicken BBQ from 11:00 AM until 5 PM.

The forgoing resolution was seconded by Trustee Kucewicz and **CARRIED**.

PERMISSION TO HOLD MEMORIAL DAY PARADE

Trustee Kucewicz, offered the following resolution and moved for its adoption:

BE IT RESOLVED, permission is hereby granted to the Depew Joint Veterans Committee to hold their annual Memorial Day Parade and Services on Monday, May 30, 2022 beginning at 10:30 AM. The Police Department who will provide necessary traffic enforcement has approved the parade route. The Electrical Department will set up the speaker system. The South Side Fire Hall will be used for refreshments.

The forgoing resolution was seconded by Trustee Adolf and **CARRIED**.

PERMISSION TRAINING

Trustee Adolf, offered the following resolution and moved for its adoption:

BE IT RESOLVED, permission is hereby granted to Police Officer Alex Wojciechowicz to attend the Drug Recognition Expert (DRE) Certification Training Phase 2 from May 15 to May 22 in Philadelphia, PA. Use of a village vehicle is authorized.

The foregoing resolution was seconded by Deputy Mayor Hamernik and **CARRIED**.

EMPLOYMENT APPLICATIONS – DPW Christopher Kobis, Ryan Len, Tyler Arndt
REC Haley Leach, Liam Marlowe, Samantha
Garry, Ethan Bak

DEPARTMENT HEAD REPORTS –

PUBLIC COMMENTS OR CONCERNS –

Lia Brinkworth: Assembly member Monica Wallace has a busy week in Albany representing her district and advocating for state resources.

AM Wallace seedling. It's alive and healthy.

AM Wallace has the following committee meetings this week: governmental operations, local governments, science and technology, judiciary, and transportation.

This past Friday, AM Wallace awarded several WOD nominees at her district office.

The Women of Distinction award winners include:

Jamie Acoff, an outreach coordinator at the Cheektowaga Senior Center in the Public Service field.

Adele Battaglia, a lead pharmacist at Sisters of Charity Hospital, St. Joseph Campus, in the Medical field.

Senior Master Sergeant Jennifer Blamowski, a 20-year veteran of the U.S. Air Force, in the Military field.

Village of Depew Trustee Audrey Hamernik, a volunteer with Depew Community Action Team and numerous other organizations, in the Volunteer field.

Talisa King, a Youth Services Planning Coordinator at the Erie County Youth Bureau, in the Civic Engagement field.

Brittany Leighbody, co-owner of The 716 Dance Studio, in the Business field.

Kate Lockhart, of the Western New York Law Center, in the Non-profit field.

Anne Reed, a pre-school teacher at The Cantalician Center, in the Education field.

Pastor Deborah Turley, of the Lord of Life Lutheran Church in Depew, in the Humanitarian field.

In addition, this past weekend AM Wallace attended I Love My Park Day at Reinstein Woods, The Bengal Celebrations of 150 years at Buffalo State College, and the Depew Lancaster Boys and Girls Club Fundraiser.

I attend the Depew Fire Department Installation dinner on behalf of AM Wallace

Other legislative updates:

Assembly member Monica Wallace's two hospice bills: A8880-A establishes a statewide advanced care planning campaign to promote public awareness of hospice and palliative care services – has been reported and referred to rules AND A8881-A established the office of hospice and palliative care access and quality has been reported and referred to ways and means today.

As always if you need any assistance on the state level. Please contact our office.

Bob Brandon told the board that Senator Kennedy held a press conference to explain the infrastructure project on the Humboldt Parkway. They are trying to right a wrong from many years ago.

He also said that the Senator speaks at local schools to educate the students on government business to try and get them interested in this area. Mayor Peterson discussed the funds that are being spent on things such as Humboldt Parkway have not upset residents as much as the discussions on the proposed new Bills Stadium. He and Trustee Adolf were in NYCOM last week and that was the over-all result of asking them their opinion.

Captain Curr thanked the Board for the training motion that was approved tonight. Report on file for the month of April.

Chief Gauthier thanked the board for allowing him to serve as the new Chief and also to all the fire department officers that voted for him. Report on file for April

Kevin Ferguson relayed all of the activities going on at Fireman's Park which are now underway. Little League baseball, Pony Tail softball. Fire Department softball league, kickball, floor hockey, horseshoes, volleyball, basketball. He has a tentative agreement with an area swimming team to have access to the pool for their use. They will in turn supply life guards for swimming lessons. He will advise the board on the final outcome.

Ken Pyc informed the board that his department has planted some trees in the Village and is ordering more in July. If anyone is interested in receiving one, please contact the DPW. All of the equipment is in and they are now waiting on the soft surface. The concrete will be laid prior to it arriving.

CEO Don told the board that construction season is getting quite busy. Contractors are turning in plans and beginning to work. He also reminded everyone to Call before you dig. Keep your lawn neatly mowed and trimmed to avoid the DPW having to cut them.

Attorney Alba said that for some reason there have been a lot of FOIL requests lately. He will be working with the Building Department to script a new Zombie Home Law. There is also a tax on a property that has to be looked at further as they are going down in assessment. Shouldn't be a large amount of money.

Deputy Mayor Hamernik told everyone that this Saturday is Food Truck at 9am. The food pantry will be open from 11-1pm on Saturday and they are looking for volunteers to help pick up donations from homes that could not drop off the items they collected. Watch for the new transformation in the front of Village Hall. The work to make it beautiful will begin on the 27th and it's very exciting!!!

Trustee Kucewicz congratulated Audrey on her award and thanked Gina and Trustee Adolf for their hard work on Arbor Day that made it successful.

Trustee Adolf congratulated newly elected Chief Gauthier and thanked him for his invitation to the installation dinner. Regarding Arbor Day, we did have residents attend who were given trees to plant and that it was a very nice time. Assembly Member Wallace attended as well!!

Dave Burkhart 5 Autumn Lea asked the board about the long shed in Fireman's Park and Mayor Peterson told him it is beginning to be stripped so it can be demolished. He asked how the board will do so, by bidding the work out? Mayor Peterson said that Didonato will be in charge of that. He did not understand why the board had to go to the Planning Board and file the SEQR when they knew you wanted to do it!! Attorney Alba explained that it is the law, and the laws must be followed even if the municipality is making the request. Dave just didn't understand why. There are water lines, sewer lines, electric issues and gas lines that have to be noted as not to disturb them. GHD had to do some background on this. Mayor Peterson added that it was important enough to take to the Planning Board and that he had to ZOOM in to "attend" the meeting virtually. He then asked Sam to read the new local law that was just adopted. Sam gave him a copy of the law to read himself. The new law creates a mechanism to control what types of animals will be allowed in the Village as pets.

Paul Sprada wanted to discuss the funding behind the work on Transit Road and the Kensington. Why wasn't some of that money given to Depew to take care of our

problems with the viaducts on Transit Road??? We’ve been waiting for the stadium was another subject discussed.

CLAIMS AND ACCOUNTS

ON A MOTION BY Deputy Mayor Hamernik and seconded by Trustee Kucewicz, the following claims are to be paid: \$86,405.71 General, \$1,727.01 Community Development, \$88,132.72 Capital was **CARRIED**.

ADJOURNMENT

ON A MOTION BY Trustee Adolf and seconded by Deputy Mayor Hamernik the meeting was adjourned with a moment of silence for Betty Urbanski, mom of Greg in DPW, wife of past Trustee and for Eugene Molinaro, former Trustee at 8:09 **PM**. The motion was **CARRIED**.

Respectfully submitted,

Teresa Wachowiak
Village Administrator