

TOWN BOARD SPECIAL MEETING
TOWN HALL, MAHOPAC, N.Y.

A Special Meeting of the Town Board of the Town of Carmel was called to order by Supervisor Kenneth Schmitt on the 12th day of April 2017 at 7:12 p.m. at Town Hall, 60 McAlpin Avenue, Mahopac, New York. Members of the Town Board present by roll call were: Councilman Schneider, Councilman Lupinacci, Councilwoman McDonough, Councilman Lombardi and Supervisor Schmitt.

The Pledge of Allegiance to the Flag was observed prior to the start of official business. A moment of silence was held to honor those serving in the United States Armed Forces.

Supervisor Schmitt announced that the Town Board met with Michael Spain and Kieran Boyle of the Spain Insurance Agency at 6:30 p.m. for a contractual discussion and review of New York Municipal Insurance Reciprocal (NYMIR) claims/litigation.

PUBLIC HEARING HELD - PROPOSED LOCAL LAW AMENDING THE CODE OF THE TOWN OF CARMEL, CHAPTER 156 HEREOF, ENTITLED "ZONING" - COOPS AND ATTACHED RUNS FOR CHICKENS

Supervisor Schmitt asked the Town Clerk to read the following Notice of Public Hearing as published in the Town’s official newspapers:

LEGAL NOTICE
NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Carmel will conduct a Public Hearing at the Town Hall, 60 McAlpin Avenue, Mahopac, New York 10541 on Wednesday, April 12, 2017 at 7:00 p.m. or as soon thereafter that evening as possible on a proposed Local Law amending Chapter 156 of the Code of the Town of Carmel, entitled "Zoning" by the Addition of Section 156-39.5 Entitled "Coops and Attached Runs for Chickens" as follows:
TOWN OF CARMEL
PROPOSED LOCAL LAW
— OF THE YEAR 2017
A LOCAL LAW
AMENDING CHAPTER
156 OF THE CODE OF
THE TOWN OF
CARMEL, ENTITLED
"ZONING"
BE IT ENACTED by the Town Board of the Town of Carmel, County of Putnam, State of New York as follows:
SECTION 1:
PURPOSE
The purpose of this local law is to amend the Town Code to allow the ownership and housing of chickens as a permitted accessory use under Chapter 156 of the Town Code of the Town of Carmel Entitled "Zoning".
SECTION 2:
AUTHORITY
This chapter is adopted pursuant to the authority of Article 2, § 10 of the New York State Municipal Home Rule Law.
SECTION 3:
AMENDMENT OF CHAPTER 156
The Town Code of the Town of Carmel is hereby amended by the amendment of Chapter 156 entitled "Zoning" is hereby amended to add §156-39.5 which shall read as follows:
§ 156-39.5
Coops and Attached Runs for Chickens.
Definitions:
Coop: a cage or pen designed to contain or house chickens and shall contain all of the following components:
Nesting place for each chicken to lay eggs (at least four inches deep)
Elevated Roost or Perch area for chickens to sleep
Ventilation
Insulation to prevent drafts & dampness

Accessibility to eggs and ability to clean out properly
Run: a fenced or fully enclosed area attached to or encompassing a chicken coop in which chickens are allowed to run around and peck.
A. A coop for housing chickens and an attached run shall be permitted as an accessory use. The combined square footage of the coop/run area should allow at least four square feet for each chicken being kept in the area. Roosters are prohibited.
B. No coop or run shall be located on a lot having less than half an acre in area and may only house six chickens per half acre.
C. Coops and runs may not be located in any front yard as defined in this chapter. Coops and runs shall be situated completely in a side or rear yard, at least 15 feet from all rear and side property lines.
D. All coops and runs must be kept clean neat and free of debris and be in compliance with all state and local laws pertaining to animals generally.
E. All coops and any attached run shall be screened from view at ground level from adjacent lots by using 4 ft. to 6 ft. fencing, landscaping, or a combination thereof and the screening must be present throughout the year. i.e. evergreen landscaping.
F. All feed shall be kept in rodent-proof containers.
G. All chickens will be contained in coops and runs unless property size is in excess of three acres.
H. Penalties for offenses.
1. Any complaint received by the building department or police department pursuant to this chapter pertaining to the cleanliness or sanitary condition of the run/coop may be referred to the Putnam County SPCA for investigation and who is hereby empowered to enforce any and all violations of this code.
2. Any person or entity that shall violate any of the provisions of this chapter shall be guilty of a violation and shall be punished as follows:
(1) For a first offense: by a fine not to exceed \$50.
(2) For a second offense: by a fine not to exceed \$100.
(3) For a third offense or any subsequent offenses: by a fine not to exceed \$200 or removal of chickens, coop, and run from said premises, or by both such fine and cessation of use.
(4) Each violation of any provision of this chapter and

each week that each such violation shall continue shall be deemed to be a separate and distinct offense.
(5) In addition to the above provided penalties and punishment, the Town may also maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of this chapter.
SECTION 4 –
HOME RULE
Nothing in this Local Law is intended, or shall be construed (a) to limit the home rule authority of the Town under State Law to limit the Town’s discretion in setting fees and charges in connection with any applications requiring Town approval.
SECTION 5 –
SEVERABILITY
If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Carmel hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.
SECTION 6 –
EFFECTIVE DATE
This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.
At said Public Hearing, all interested persons shall be heard on the subject thereof. The Town Board will make every effort to assure that the Public Hearing is accessible to persons with disabilities. Anyone requiring special assistance and/or reasonable accommodations should contact the Town Clerk.
By Order of
the Town Board
of the Town of Carmel
Ann Spofford, Town Clerk

12 APRIL 2017
TOWN BOARD SPECIAL MEETING

(Cont.)

With no one objecting to the public notice as read, Supervisor Schmitt opened the Public Hearing for public comment at 7:19 p.m. Approximately seventy (70) people were in attendance. Supervisor Schmitt welcomed Putnam County SPCA officers Ken Ross and Ken Ross Jr. to the Public Hearing.

Wolfgang Lawton indicated that he was in favor of the legislation in principle. However, upon its review, he found certain language contained within to be ambiguous for both code enforcement and residents. Mr. Lawton questioned how it would be possible to prevent drafts and dampness in an outdoor chicken coop vented to the outside when the relative humidity on any given day may be ninety percent. Speaking as an owner of chickens, he commented on the importance of residents being afforded the opportunity to raise their own food. Mr. Lawton then went on to express his opposition to prohibiting the raising of roosters. He stated that roosters are an integral part of the flock and only crow during the day. In conclusion, Mr. Lawton offered his services to assist the Town Board in drafting revisions to the proposed Local Law.

Phil Armacida stated that he was in favor of the proposed Local Law and that he agreed with all of Mr. Lawton's comments. Mr. Armacida added that chickens eat ticks and suggested that permitting chickens may assist in reducing the number of ticks in the community.

Joyce Mooney stated her concerns with regard to the risks associated with housing chickens based on what the CDC, realtors, farmers, backyard chicken enthusiasts and Towns who have allowed backyard chickens have to say. Ms. Mooney commented that reducing the required minimum lot size from five acres to one-half acre is drastic and neglects the rights of property owners to enjoy their property as they see fit. She commented that the proposed change will virtually allow the raising of chickens just about everywhere in the Town, affecting all of the residents who live here. Ms. Mooney stated that in her research of eight neighboring towns, two towns require a minimum lot size of 40,000 square feet to raise chickens, two towns require one acre, two towns require five acres and one town requires ten acres. She suggested that a compromise of larger than one half acre and less than 5 acres would be a better solution than the proposed half-acre minimum lot size, or she continued, the same law as Peekskill could be instituted which allows for a limited amount of permits issued by the municipality to residents to house chickens once written and signed consent is given by all adjoining property owners.

Gary Margolis questioned the current zoning regulations with regard to chickens.

Michael Carnazza, Director of Code Enforcement/Building Inspector stated that they are not permitted unless the property owner has a farm with status given by the Planning Board under site plan approval.

Mr. Margolis asked when that zoning requirement went into effect.

Mr. Carnazza estimated that it was 1967.

Mr. Margolis commented that in addition to the health issues associated with chickens, if the Town Board wishes to go from five acres to a half acre, they need to consider why a previous Town Board made the minimum zoning requirement five acres.

Allison Palm Bevilacqua stated that she is in favor of the proposed Local Law and indicated that this legislation addresses the problems that caused a previous Town Board to increase the zoning requirement. Ms. Bevilacqua stated that her one concern with the proposed Local Law is that it would prohibit roosters. She pointed out roosters are an asset to the flock because they act as lookouts to protect the chickens, and that a crow collar is available which when used properly would muffle their sound. She concluded by questioning why certain pets are subjected to being kept on the property while others are pets, such as cats, are not.

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Robert Lena spoke in favor of the proposed Local Law. Mr. Lena stated that he has been raising chickens for the past five years in Mahopac without having any complaints from neighbors. He commented that he raises chickens for organic eggs, pest control, to educate his sons about where food comes from, as well as to teach them responsibility and respect for animals.

Supervisor Schmitt asked Mr. Lena the size of his property.

Mr. Lena responded that it is two acres.

Diane Henry, Senior Avenue resident spoke about how she has had the experience of having neighbors in Mahopac with chickens, roosters, ducks and geese. Noting that her deck was located only 40 feet from their yard, she stated that the smell that came from the animals was disgusting and that even after many of them had left, the smell remained. Ms. Henry commented that the chicken feed attracted rodents, raccoons and skunks. She commented that living next to someone with chickens was very unpleasant and advocated for a minimum lot size of five acres for housing them.

Supervisor Schmitt confirmed with the other residents who spoke in favor of the proposed Local Law that they have at least one acre or more of property.

Kricket Dyckman, Town of Carmel animal control officer and owner of a wildlife business spoke in favor the proposed Local Law. Ms. Dyckman pointed out that the proposed legislation includes a provision that chicken feed must be kept in a rodent-proof container. With slightly more than four acres, she stated that she wants to raise chickens for fresh eggs and to eat chickens that are not full of hormones. Ms. Dyckman commented that residents are fairly responsible about their animals in the Town and those who are not should be addressed individually.

Danielle Lawton explained that if the chickens are maintained properly, there should not be an odor and stressed the importance of educating people on maintaining their coops, runs and surrounding area.

Alexa Teiberg commented with regard to chickens impacting the neighbors' quality of life that other pets do as well, dogs bark and cats roam. Ms. Tieberg commented that in addition to being a good food source and educational resource, chickens can be pets.

Supervisor Schmitt inquired about her chickens.

Ms. Teiberg stated that she is raising six chickens.

Ivy Bloom, whose property is just less than two acres, commented that she is aware of many people in the area who raise chickens without any complaints or issues. Ms. Bloom reiterated that if the chickens are maintained properly, there should not be any problems and suggested to residents who are apprehensive about having neighbors with chickens to give it a chance.

With no one else present wishing to be heard on the subject of the Public Hearing, on motion by Councilman Lombardi, seconded by Councilman Lupinacci, with all members of the Town Board present and in agreement, the Public Hearing was closed at 7:43 p.m. Supervisor Schmitt then opened the floor to the Town Board members for comment.

Councilman Lombardi asserted that a half-acre lot is too small to raise chickens. He commented that it would not be fair to the neighbors on either side of the individual's property line and in addition, would generate code enforcement issues. Citing that the Town of Carmel is most often compared to the Town of Yorktown in size and population, Councilman Lombardi pointed out that their minimum lot size requirement for harboring chickens is five acres.

12 APRIL 2017
TOWN BOARD SPECIAL MEETING

(Cont.)

Councilman Lupinacci indicated that he is in favor of the proposed Local Law. However, emphasized that residents must be serious about the ownership and maintenance of their chickens. Councilman Lupinacci stated that he would not object to increasing the lot size requirement from the proposed half-acre to one full acre, giving half-acre property owners the option of addressing the matter with the Zoning Board.

Councilwoman McDonough stated that when drafting the proposed Local Law, one-half acre and one acre were both considerations. She indicated that she would support either one. Councilwoman McDonough pointed out that the proposed Local Law is written in a way that even if it remains at one-half acre, only residents serious about raising chickens will meet the conditions to do so.

Councilman Schneider spoke in favor of the proposed Local Law. He stated that the legislation alters the Town Code in the least restrictive way while addressing the concerns of the neighbors and protecting the animals. Councilman Schneider pointed out that there are minimum lot size requirements in towns locally; however, there are municipalities further south that contain no reference to a minimum lot size.

Supervisor Schmitt indicated that he is in favor of the proposed Local Law with the exception of the half-acre minimum lot size requirement. Commenting that it would be too small and would trigger disputes between neighbors, Supervisor Schmitt recommended increasing the proposed requirement to one acre.

Ms. Bloom inquired if a resident could combine his/her property with an adjacent neighbor's property to jointly meet the minimum acreage requirement.

Supervisor Schmitt replied that they could not.

Gregory Folchetti explained that amending the lot requirement in the proposed Local Law from a half-acre to one acre would be considered a substantive change that would require holding a new Public Hearing. Mr. Folchetti went on to question if the Town Board's intent was for the minimum lot requirement to be amended to one nominal acre, 40,000 square feet or one true acre, 43,560 square feet.

At the conclusion of further discussion held, Councilman Schneider proposed that the Town Board consider a minimum lot size requirement of 35,000 square feet as opposed to one acre.

**SEQR DETERMINATION OF SIGNIFICANCE - PROPOSED LOCAL LAW
AMENDING THE CODE OF THE TOWN OF CARMEL, CHAPTER 156 HEREOF,
ENTITLED "ZONING" - COOPS AND ATTACHED RUNS FOR CHICKENS - TABLED**

WHEREAS, the Town Board of the Town of Carmel is considering enacting a local law to protect and enhance the public health and welfare of the Town of Carmel by making miscellaneous revisions and amendments to the Town of Carmel Zoning Code, Chapter 156, specifically to amend said Chapter to provide for the addition of §156.39-5 entitled "Coops and Attached Runs for Chickens"; and

WHEREAS, this local law has been developed to promote and enhance the health, safety and general welfare of the persons and property of the Town of Carmel; and

WHEREAS, the project is defined as an Unlisted Action; and

NOW THEREFORE BE IT RESOLVED, that pursuant to Part 617 of the SEQR Regulations, the Town of Carmel Town Board hereby designates its intention to serve as Lead Agency for the SEQR Review of this Unlisted Action, and in this capacity will conduct an Uncoordinated Review.

BE IT FURTHER RESOLVED, that pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law, the Lead Agency has determined that the proposed Unlisted Action will not have a significant effect on the environment for the reasons enumerated in the attached Negative Declaration Form.

(Cont.)

MOTION TO TABLE

Offered by: Supervisor Schmitt
Seconded by: Councilman Schneider

Roll Call Vote	YES	NO
Jonathan Schneider	X	
John Lupinacci	X	
Suzanne McDonough	X	
Frank Lombardi	X	
Kenneth Schmitt	X	

SEQR

617.21
Appendix F
State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance

Project Number N/A Date April 12, 2017

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Carmel, Town Board as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action:
A LOCAL LAW AMENDING CHAPTER 156 ENTITLED “ZONING” and adding §156-39.5 to said Chapter entitled “Coops and Attached Runs for Chickens”

SEQR Status:
Type I Unlisted x
Conditioned Negative Declaration: Yes No x

Description of Action:

The proposed action involves enacting local law designed to a protect and enhance the public health and welfare of the Town of Carmel by making miscellaneous revisions to the Chapter 156 of the Town of Carmel Zoning Code, specifically adding §156.39-5 entitled “Coops and Attached Runs for Chickens”

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

Town of Carmel, Putnam County

REASONS SUPPORTING THIS DETERMINATION:

The action involves enacting a local law to protect and enhance the public health and welfare of the residents Town of Carmel by making miscellaneous revisions to the Town of Carmel Zoning Code, Chapter 156 and permitting the ownership and harboring of chickens within the Town of Carmel subject to specific regulatory requirements and standards relating to the minimum lot size, count per acre, physical location on a permitted property, as well as housing and sheltering standards and for such activity.

This local law has been prepared to protect and enhance the health, safety and welfare of the residents of the Town of Carmel.

As a result, it can be concluded that the proposed action will not result in any significant adverse environmental impacts.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed.

12 APRIL 2017
TOWN BOARD SPECIAL MEETING

(Cont.)

For Further Information:

Contact Person: Kenneth Schmitt, Supervisor
Address: Town Hall, 60 McAlpin Avenue, Mahopac, NY 10541
Telephone Number: 845-628-1500

For Type I Actions and Conditioned Negative declarations, a Copy of the Notice sent to:

Commissioner, Dep't of Environmental Conservation, 50 Wolf Road, Albany, NY 12233-0001
NYSDEC Region 3, 21 South Putt Corners Road, New Paltz, NY 12561
Supervisor, Town of Carmel, Town Hall, 60 McAlpin Avenue, Mahopac, NY 10541

Councilwoman McDonough proposed that the new Public Hearing be scheduled for May 10, 2017.

Margaret Frisch suggested that the 35,000 square feet minimum lot size requirement should be defined in the amended Local Law with a required length and width.

ZONING BOARD OF APPEALS APPOINTMENT MADE - PHILIP AGLIETTI - RETROACTIVE TO 1/1/17 AND EXPIRING 12/31/21

RESOLVED that the Town Board of the Town of Carmel hereby appoints Philip Aglietti to the Town of Carmel Zoning Board of Appeals for a term retroactive to January 1, 2017 and expiring December 31, 2021.

Resolution

Offered by: Councilman Schneider
Seconded by: Councilman Lombardi

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	X	
John Lupinacci	X	
Suzanne McDonough	X	
Frank Lombardi	X	
Kenneth Schmitt	X	

ZONING BOARD OF APPEALS - APPOINTMENT OF VICE-CHAIRMAN MADE FOR 2017 - PHILIP AGLIETTI

RESOLVED that the Town Board of the Town of Carmel hereby appoints Philip Aglietti as Vice-Chairman of the Town of Carmel Zoning Board of Appeals for the year 2017.

Resolution

Offered by: Councilman Lombardi
Seconded by: Councilwoman McDonough

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	X	
John Lupinacci	X	
Suzanne McDonough	X	
Frank Lombardi	X	
Kenneth Schmitt	X	

**TOWN ASSESSOR’S OFFICE - APPOINTMENT OF SEASONAL EMPLOYEE
AUTHORIZED - CHRISTOPHER PALEO**

RESOLVED, that the Town Board of the Town of Carmel hereby appoints Christopher Paleo in the Office of the Town Assessor as a seasonal employee commencing April 10, 2017 at an hourly rate of \$25.00.

BE IT FURTHER RESOLVED, that Town Comptroller Mary Ann Maxwell is hereby authorized to make any and all necessary budget transfers or modifications required to fund the cost of this authorization.

Resolution
Offered by: Councilman Lupinacci
Seconded by: Councilman Lombardi

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	<u>X</u>	<u> </u>
John Lupinacci	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

**TOWN ASSESSOR’S OFFICE - APPOINTMENT OF PART-TIME EMPLOYEE
AUTHORIZED - MICHAEL MARTIN**

RESOLVED, that the Town Board of the Town of Carmel hereby appoints Michael Martin as part-time staff in the Town of Carmel Assessors Office at an hourly rate of \$25.00 per hour and not to exceed 19 (nineteen) hours per week effective April 10, 2017.

BE IT FURTHER RESOLVED, that Town Comptroller Mary Ann Maxwell is hereby authorized to make any and all necessary budget transfers or modifications required to fund the cost of this authorization.

Resolution
Offered by: Councilwoman McDonough
Seconded by: Councilman Lupinacci

<u>Roll Call Vote</u>	<u>YES</u>	<u>NO</u>
Jonathan Schneider	<u>X</u>	<u> </u>
John Lupinacci	<u>X</u>	<u> </u>
Suzanne McDonough	<u>X</u>	<u> </u>
Frank Lombardi	<u>X</u>	<u> </u>
Kenneth Schmitt	<u>X</u>	<u> </u>

ADJOURNMENT

All agenda items having been addressed, on motion by Councilman Lombardi, seconded by Councilman Lupinacci, with all Town Board members present and in agreement, the meeting was adjourned at 8:10 p.m. to the scheduled Work Session.

Respectfully submitted,

Ann Spofford, Town Clerk