

May 23, 2011
Alexander Town Board Special Meeting
Alexander Town Hall 7:00 p.m.

Present: Supervisor Ruth Hulshoff
Town Board: Emma Jean Grant, William Schmieder, Joseph Higley
H'way. Supt. Tom Lowe
Town Clerk: Laura Schmieder
Absent: William Hirsch

Supervisor Hulshoff called the meeting to order at 7:00 p.m.

RES. NO. 29: LATERAL RESTRICTIONS RESOLUTION

On motion by Councilperson Higley, seconded by Councilperson Schmieder, and carried, the following resolution was adopted:

WHEREAS, the Town Board of the Town of Alexander has created the Town of Alexander Water District No. 2 pursuant to Town Law for the express purpose of providing public water supply to residents along a portion of NYS Route 98; and

WHEREAS, part of the land area within Water District No. 2 is also within Genesee County Agricultural District No. 1; and

WHEREAS, the Town Board has filed a Notice of Intent to Undertake an Action Within an Agricultural District to evaluate the impact of providing a source of public water supply within this area on lands within Agricultural District No. 1; and

WHEREAS, the New York State Department of Agriculture and Markets ("Department") has expressed concern about the potential adverse impact that said public water supply is likely to have on agriculture within the Agricultural District,

NOW THEREFORE BE IT RESOLVED, that the Town Board, in recognition of the concerns that have been raised, hereby resolves to adopt the "Lateral Restriction – Conditions on Future Service" specified by the New York State Department of Agriculture and Markets as follows:

Lateral Restriction – Condition of Future Service

The Town of Alexander imposes the following conditions, as warranted or recommended on the management of water/sewer lines located along the portion of NYS Route 98 between the Batavia/Alexander Town line south to the Village of Alexander's municipal boundary which is included in Water District No. 2, within an agricultural district:

- (1) The only land and/or structures which will be allowed to connect to the proposed waterline or sewer within an agricultural district will be existing structures at the time of construction, further agricultural structures, and land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality.

Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval (e.g., subdivision, site plan, and special permit) is needed to move forward with project plans and the governing body has approved the action. If no local approval is required for the subdivision of land and/or the construction of structures, the municipality accepts the limitation under Public Health Law §1115 that defines a "subdivision," in part, as "any tract of land which is divided into five or more parcels." Water and/or sewer service will not be extended to the fifth and subsequent parcels where no local approval is required and the land is located within a county adopted, State certified agricultural district.

- (2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident's property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrates the need for public water or sewer service. The municipality shall develop a hardship application to be filed with the municipality, approved by the County Department of Health, and agreed to by the Department of Agriculture and Markets.
- (3) If it can be demonstrated to the Department's satisfaction that the landowner requested the county to remove his or her land from an agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.
- (4) If land is removed from a county adopted, State certified agricultural district and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural district.
- (5) Hydrants and valve boxes must not be placed directly in agricultural fields.

4 – Yes Hulshoff, Grant, Schmieder, Higley 0 – No Motion carried

On motion by Councilperson Higley, seconded by Councilperson Schmieder, and carried, the meeting adjourned at 7:15 p.m.

Respectfully submitted,

Laura Schmieder, Town Clerk