

**VILLAGE OF EAST AURORA VILLAGE
BOARD MEETING**
January 16, 2024 - 7:03 PM

Present:

Mayor Mercurio
Trustee Cameron
Trustee Viger
Trustee Flynn
Trustee Rabey
Trustee Lazickas

Absent:

Trustee Scheer

Also Present:

Maureen Jerackas, Village Clerk Treasurer
Liz Cassidy, Code Enforcement
Shane Krieger, Police Chief
Melanie Walker, Village Deputy Clerk
17 Members of the public

A Motion by Trustee Cameron to approve the Village Board minutes for December 18, 2023, seconded by Trustee Rabey, and carried with unanimous approval.

Trustee Viger moved to approve the payment of Abstract 2023/2024 fiscal year (1.2.24) for Voucher Nos. 64314-64384 for a total of \$162,710.48, seconded by Trustee Flynn, and carried by unanimous approval.

Trustee Rabey moved to approve the payment of Approval of Payment of Abstract 2023-2024 fiscal year (1.16.24) for Voucher Nos. 64371-64418 for a total of \$57,429.67, seconded by Trustee Flynn, and carried by unanimous approval.

PUBLIC HEARINGS

- A motion by Trustee Cameron to open a Public Hearing at 7:06 p.m. for a Special Use Permit for 49 Knox, Joshua Best, Fiboo Properties – to convert the former print shop building to a multi-family dwelling group, seconded by Trustee Viger and carried with unanimous approval.
 - The applicant did not present but offered to answer any questions.

A motion by Trustee Lazickas to close the public hearing at 7:06 p.m., seconded by Trustee Flynn and carried with unanimous approval.

- A motion by Trustee Cameron to open a Public Hearing at 7:07 p.m. for Site Plan Application 49 Knox, Joshua Best, Fiboo Properties – to convert the former print shop building to a multi-family dwelling group, seconded by Trustee Rabey and carried with unanimous approval.

A motion by Trustee Lazickas to close the public hearing at 7:07 p.m., seconded by Cameron and carried with unanimous approval.

- A motion by Trustee Lazickas to open a Public Hearing at 7:07 p.m. for Amended Special Use Permit for 11 Ernst Place – McDonalds Drive through to accommodate two ordering lanes, seconded by Trustee Rabey and carried with unanimous approval.
 - The applicant reviewed their plan for the second drive through access.

- The applicant states they changed the sign to enter via circle to move traffic flow off Grey Street.
- The applicant also addressed the decibel levels.
- Ellen Moomaw – 423 Oakwood Ave – Wanted to see the drawing. The applicant showed the drawing and explained them.

A motion by Trustee Rabey to close the public hearing at 7:13 p.m., seconded by Lazickas and carried with unanimous approval.

- A motion by Trustee Rabey to open a Public Hearing at 7:13 p.m. for Amended Site Plan Application for 11 Ernst Place – McDonalds to reconfigure the drive-through facilities, seconded by Trustee Cameron and carried with unanimous approval.

A motion by Trustee Viger to close the public hearing at 7:15 p.m., seconded by Rabey and carried with unanimous approval.

- A Motion by Trustee Viger to open a Public Hearing at 7:15 p.m. Local Law 1 of 2024 to authorize a possible property tax levy more than the limit, seconded by Trustee Lazickas and carried with unanimous approval.
 - The Clerk Treasurer reviewed what the law would allow. It doesn't mean that there will be a tax increase, but it allows for it. The budget has yet to be done.
 - Ellen Moomaw-+0-423 Oakwood Ave - Asked what the limit was. The Clerk-Treasurer said this allows the board to increase over the limit. The limit is 2% or an amount calculated yearly which is normally less than 2%.

A motion by Trustee Lazickas to close the public hearing at 7:17 p.m., seconded by Trustee Cameron and carried with unanimous approval.

- A motion by Trustee Lazickas to open a Public Hearing at 7:17 p.m. Local Law 2 of 2024 for 285-30.5 Visibility, seconded by Trustee Flynn and carried with unanimous approval.
 - Mayor Mercurio set a 2-minute talking limit.
 - Code Enforcement gave a brief overview – Between the street and the sidewalk or without a sidewalk 5 feet from paved edge or road for safety.
 - Lynn Chimera - 170 Pine Street opposed 2-foot height and corner restrictions. She questioned mailbox locations.
 - Nancy Smith -195 Sycamore Thanked Village Staff for their helpfulness and opportunity to add information on website about planning. She is opposed to 2-foot height and corner restrictions.
 - Jane Robins - 505 Oakwood – encourages biodiversity and opposes 2-foot height restrictions.
 - Karen Allen - 795 Martin Drive more information on parameters on corner restrictions and opposes 2-foot height restrictions.
 - Jim Clark - 358 South Grove – Go Native – opposes 2-foot height restrictions.
 - Jac Goodrich - 533 Prospect Ave opposes 2-foot height restrictions.
 - Ellen Moomaw - 423 Oakwood more native and opposes 2-foot height restrictions.
 - Scott Coleman - 30 Prospect opposes 2-foot height restrictions.
 - Ellen Neumaier - 284 Mill 20 years on tree board opposes 2-foot height restrictions.
 - Alice Hide - Stonegate opposes 2-foot height restrictions.

A motion by Trustee Lazickas to close the public hearing at 7:44 p.m., seconded by Trustee Flynn and carried with unanimous approval.

OFFICIAL CONSIDERATIONS

- **An Application of a Request for a Special Use Permit, received by the Office of the Village Clerk on November 1, 2023, is hereby:**

APPROVED as submitted, for applicant Joshua Best, to convert the former print shop building to a multi-family dwelling group at 49 Knox, Fiboo Properties

Approve a Negative declaration under SEQRA for the Site Plan Application for 49 Knox, Joshua Best, seconded by Trustee Lazickas and carried with unanimous approval.

The Village Board shall be Lead Agency under the State Environmental Quality Review Act (SEQRA). A Negative Declaration is made under SEQRA and said application is determined to be an Unlisted Action.

1. The following findings and conditions from the Village Planning Commission are incorporated herein:
2. The project will function well as a transition between commercial and residential uses.
3. The project will add needed housing diversity to the Village. It adds density rentals in the Village without changing the existing Village density.
4. The applicant states that it canvased the surrounding neighbors during the rezoning process and has stated that no objections were raised.
5. The applicant has committed to establishing a permanent, irrevocable easement for the existing 10 parking spaces that exist on 19 Grey Street and 25 Grey Street properties.
6. The applicant has stated the project will not include short-term rentals.
 - Fiboo Properties to convert the former print shop building to a multi-family dwelling group seconded by Trustee Cameron and carried with unanimous approval.

A motion by Trustee Flynn to approve Site Plan Application for 49 Knox, Joshua Best, Fiboo Properties to convert the former print shop building to a multi-family dwelling group, seconded by Trustee Lazickas

- **Resolution of the Village of East Aurora of a Determination of Non-Significance pursuant to the State Environmental Quality Review Act (SEQRA) in the matter of the Site Plan Application for 49 Knox, to convert the former print shop building at 49 Knox Rd to a multi-family dwelling.**

WHEREAS, the applicant has filed Part 1 of the Short Environmental Assessment Form (SEAF) with this Board, a copy of which is included by reference and made a part hereof, relating to the proposed project at 49 Knox, East Aurora, New York, wherein the applicant, Joshua S. Best, RA, as agent for Fiboo Properties, LLC; and

WHEREAS, the Village Planning Commission, after carefully and fully reviewing the application, including the Site Plan attached thereto, with any and all amendments and modifications, and considering comments and documentation presented for and against the project, voted in the majority recommending approval, with findings; and

WHEREAS, the Village SEQRA Intake Committee carefully and fully reviewed Part 1 of the SEAF submitted by applicants including the Site Plan attached thereto, and the above-referenced amendments and modifications; and

WHEREAS, the Village SEQRA Intake Committee, after their review of the above, prepared Parts 2 and 3 of the SEAF with a recommendation of the issuance of the Negative Declaration of Environmental Significance for submission to, and consideration by, the Village Board; and

WHEREAS, the Village Board of Trustees, upon taking an independent hard look and reasoned evaluation of the above-referenced information, comments and written documentation, including, but not limited to, Part 1 of the SEAF; comments, recommendations, findings and conditions of the Planning Commission, the Site Plan and the recommendation of the SEQRA Intake Committee and that Committee's completed Parts 2 and 3 of the SEAF concerning the potential environmental impacts of the project; all of which are incorporated by reference herein; and

WHEREAS, the Village Board, upon carefully and fully reviewing all the information, comments, and written documentation in regard to the project, made a finding that there are no significant environmental impacts.

NOW, THEREFORE, BE IT RESOLVED, that the Village Board of East Aurora as Lead Agency has determined that the proposed action described in the SEAF, submitted by the applicants, for the site plan proposed to convert the former print shop building at 49 Knox Rd, as detailed in the Site Plan Application dated November 1, 2023, is classified as an Unlisted Action and therefore issues a Negative Declaration, that this development will not have a significant environmental impact and a Draft Environmental Impact Statement will not be required nor prepared.

The foregoing resolution was duly made by Trustee Rabey and seconded by Trustee Viger and carried with unanimous approval.

- **Resolution of the Village Board of East Aurora Approving the Site Plan for 49 Knox, applicant Fiboo Properties**

to convert the former print shop building at 49 Knox to a multi-family dwelling group

WHEREAS, an application has been submitted for Site Plan Approval at the above referenced property by applicant Benderson Development, represented by: James Boglioli,

WHEREAS, the Village Board referred the site plan to the Planning Commission for review, comment and recommendation, and the Planning Commission resolution, recommending site plan approval, with findings and conditions; and

WHEREAS, the Village's SEQRA Intake Committee considered the application and reviewed Part 1 of the Short Environmental Assessment Form submitted by the applicant and completed Part 2 and Part 3 thereof on behalf of the Village, and it was the recommendation of the SEQRA Committee and approved by the Village Board as a Negative Declaration, including that the proposed development plan is Unlisted Action and would have no significant environmental impact; and

WHEREAS, the Village Board at a public meeting reviewed and considered further the comments and all written materials submitted by the applicant and all other information and recommendations before the Board, including minutes of prior Village Board meetings and the recommendations from the SEQRA Intake Committee and Planning Commission, and the referral and response from the Erie County Division of Planning declaring: No Recommendation; proposed action has been reviewed and determined to be of local concern; and

WHEREAS, the Village Board received and considered the Site Plan, the above referenced upgrades, and any and all amendments thereof; and

WHEREAS, the Village Board has separately considered the environmental impacts of the project, declared itself Lead Agency and issued a Negative Declaration of environmental significance, with the proposal classified as an Unlisted Action.

NOW, THEREFORE, BE IT RESOLVED, by the Village Board as follows:

The Findings of Fact of the SEQRA Intake Committee, the resolution with findings of the Planning Commission, and the site plan application, all information included in the minutes taken in relation to the abovementioned Village Board and Planning Commission meetings are herein incorporated by reference, including the following findings of the Planning Commission:

The proposed project includes a pleasing level of architectural detail.

The project increases green space over existing conditions.

The project will reuse existing foundation and building components and is a good example of adaptive reuse and renovation of a former industrial structure.

The waste storage for the multi-family dwelling will be screened from the street behind the existing building at 25 Grey Street.

The project will conform to the planting plan shown symbolically on the submitted drawing package. The project will remove only the trees necessary for the construction.

Stormwater runoff will be collected on site and conveyed to the existing storm sewers on Grey Street in a manner similar to the existing system.

A permanent parking easement will be established for the project on the 19 and 25 Grey Street properties. Adequate snow storage will be provided in that area.

The applicant will include fencing in the project if so required by the Village Board after the public hearing. The Resolution of the Village Board considering the environmental impacts of the project and the issuance of a Negative Declaration of environmental significance is incorporated herein by reference.

The Site Plan relating to the proposed project at 49 Knox, East Aurora, New York, wherein the applicant proposes to convert the former print shop building at 49 Knox Rd to a multi-family dwelling, as detailed on documents submitted with the application, is hereby approved and is subject to the following additional conditions:

The resolution is effective immediately approving the issuance of a development, construction permit as hereinbefore set forth, subject to compliance with all applicable federal, state and local laws and codes.

The foregoing resolution was duly made by Trustee Viger and seconded by Trustee Lazickas and carried on January 16, 2024

- **An Application of a Request for an Amended Special Use Permit, received by the Office of the Village Clerk on November 15, 2023, is hereby:** A motion by Trustee Lazickas seconded by Trustee Rabey and carried with unanimous approval.

APPROVED, as submitted, for applicant McDonalds, to drive through reconfiguration.

The Village Board shall be Lead Agency under the State Environmental Quality Review Act (SEQRA). A Negative Declaration is made under SEQRA and said application is determined to be an Unlisted Action.

The following findings and conditions from the Village Planning Commission are incorporated herein:

Findings:

1. This project attempts to improve a difficult traffic pattern. The PC anticipates there will be a learning curve with the new traffic pattern, but that in the long run the new pattern will be an improvement.
2. Applicant will utilize a drive-through ordering speaker system that automatically reduces speaker volume in response to background noise levels (and so would be expected to be quieter in the evening hours).

Conditions:

1. The applicant will provide simplified, clearly worded site signage at the Grey Street entrance that directs customers to the Circle entrance for the drive-through lanes.
 - Trustee Flynn said she was happy that there would be less idling cars.
 - Mayor Mercurio was happy this would help traffic as well.
- **Resolution of the Village of East Aurora of a Determination of Non-Significance pursuant to the State Environmental Quality Review Act (SEQRA) in the matter of the Site Plan Application for 11 Ernst Place & 0 Grey Street, Drive-Through Reconfiguration.**

WHEREAS, the applicant has filed Part 1 of the Short Environmental Assessment Form (SEAF) with this Board, a copy of which is included by reference and made a part hereof, relating to the proposed project at 11 Ernst Place & 0 Grey Street, East Aurora, New York, wherein the applicant, Peter Sorgi & Randy Bebout representing McDonald's USA, LLC; and

WHEREAS, the Village Planning Commission, after carefully and fully reviewing the application, including the Site Plan attached thereto, with any and all amendments and modifications, and considering comments and documentation presented for and against the project, voted in the majority recommending approval, with findings; and

WHEREAS, the Village SEQRA Intake Committee carefully and fully reviewed Part 1 of the SEAF submitted by applicants including the Site Plan attached thereto, and the above-referenced amendments and modifications; and

WHEREAS, the Village SEQRA Intake Committee, after their review of the above, prepared Parts 2 and 3 of the SEAF with a recommendation of the issuance of the Negative Declaration of Environmental Significance for submission to, and consideration by, the Village Board; and

WHEREAS, the Village Board of Trustees, upon taking an independent hard look and reasoned evaluation of the above-referenced information, comments and written documentation, including, but not limited to, Part 1 of the SEAF; comments, recommendations, findings and conditions of the Planning Commission, the Site Plan and the recommendation of the SEQRA Intake Committee and that Committee's completed Parts 2 and 3 of the SEAF concerning the potential environmental impacts of the project; all of which are incorporated by reference herein; and

WHEREAS, the Village Board, upon carefully and fully reviewing all the information, comments and written documentation in regard to the project, made a finding that there are no significant environmental impacts.

NOW, THEREFORE, BE IT RESOLVED, that the Village Board of East Aurora as Lead Agency has determined that the proposed action described in the SEAF, submitted by the applicants, for the site plan proposed to convert the Drive-Through Reconfiguration 11 Ernst Place & 0 Grey Street, as detailed in the Site Plan Application dated November 15, 2023, is classified as an Unlisted Action and therefore issues a Negative Declaration, that this development will not have a significant environmental impact and a Draft Environmental Impact Statement will not be required nor prepared.

The foregoing resolution was duly made by Trustee Cameron and seconded by Trustee Lazickas and carried with unanimous approval.

- **Resolution of the Village Board of East Aurora Approving the Site Plan for 11 Ernst Place & 0 Grey Street, applicant Peter Sorgi & Randy Bebout representing McDonald's USA, LLC for Drive-Through Reconfiguration**

WHEREAS, an application has been submitted for Site Plan Approval at the above referenced property by applicant Benderson Development, represented by: James Boglioli,

WHEREAS, the Village Board referred the site plan to the Planning Commission for review, comment and recommendation, and the Planning Commission resolution, recommending site plan approval, with findings and conditions; and

WHEREAS, the Village's SEQRA Intake Committee considered the application and reviewed Part 1 of the Short Environmental Assessment Form submitted by the applicant and completed Part 2 and Part 3 thereof on behalf of the Village, and it was the recommendation of the SEQRA Committee and approved by the Village Board as a Negative Declaration, including that the proposed development plan is a Unlisted Action and would have no significant environmental impact; and

WHEREAS, the Village Board at a public meeting reviewed and considered further the comments and all written materials submitted by the applicant and all other information and recommendations before the Board, including minutes of prior Village Board meetings and the recommendations from the SEQRA Intake Committee and Planning Commission, and the referral and response from the Erie County Division of Planning declaring: No Recommendation; proposed action has been reviewed and determined to be of local concern; and

WHEREAS, the Village Board received and considered the Site Plan, the above referenced upgrades, and any and all amendments thereof; and

WHEREAS, the Village Board has separately considered the environmental impacts of the project, declared itself Lead Agency and issued a Negative Declaration of environmental significance, with the proposal classified as a Unlisted Action.

NOW, THEREFORE, BE IT RESOLVED, by the Village Board as follows:

1. The Findings and Conditions of Fact of the SEQRA Intake Committee, the resolution with findings of the Planning Commission, and the site plan application, all information included in the minutes taken in relation to the abovementioned Village Board and Planning Commission meetings are herein incorporated by reference, including the following findings of the Planning Commission:

Findings:

1. This project attempts to improve a difficult traffic pattern. The PC anticipates there will be a learning curve with the new traffic pattern, but that in the long run the new pattern will be an improvement.
2. Applicant will utilize a drive-through ordering speaker system that automatically reduces speaker volume in response to background noise levels (and so would be expected to be quieter in the evening hours).

Conditions:

1. The applicant will provide simplified, clearly worded site signage at the Grey Street entrance that directs customers to the Circle entrance for the drive-through lanes. The Resolution of the Village Board considering the

environmental impacts of the project and the issuance of a Negative Declaration of environmental significance is incorporated herein by reference.

The Site Plan relating to the proposed project at 11 Ernst Place & 0 Grey Street, East Aurora, New York, wherein the applicant proposes drive - through reconfiguration, as detailed on documents submitted with the application, is hereby approved and is subject to the following additional conditions:

The resolution is effective immediately approving the issuance of a development, construction permit as hereinbefore set forth, subject to compliance with all applicable federal, state and local laws and codes.

The foregoing resolution was duly made by Trustee Flynn and seconded by Trustee Viger and carried on January 16. 2024.

- Local Law 1 of 2024 to authorizing a possible property tax levy more than the limit.

General Municipal Law Section 3-c.

Section 1. Legislative Intent - It is the intent of this local law to allow the Village of East Aurora to adopt a budget for the fiscal year commencing June 1, 2024 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law Section 3-c.

Section 2. Authority - This local law is adopted pursuant to subdivision 5 of General municipal Law Section 3-c, which expressly authorizes a local government's governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

Section 3: Tax Levy Limit Override - The Board of Trustees of the Village of East Aurora, County of Erie, is hereby authorized to adopt a budget for the fiscal year commencing June 1, 2024 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law Section 3-c.

Section 4: Severability - If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5: Effective date - This local law shall take effect immediately upon filing with the Secretary of State.

- The foregoing resolution was duly made by Trustee Rabey and seconded by Trustee Lazickas with Roll Call vote to approve on January 16. 2024

Trustee Cameron - Aye

Trustee Viger - Aye

Trustee Flynn - Aye

Trustee Rabey- Aye

Trustee Lazickas- Aye

Mayor Mercurio - Aye

- **The board discussed the Visibility Law however no motion was made.**

- The board deliberated between 2 feet and 3 feet.
- The Mayor noted that they wanted to make plantings a safe height and enforceable.
- Liz noted the triangle code 30 feet at center of intersection has been on books for a very long time.
- Liz noted mailboxes are predetermined like a utility.
- Trustee Flynn said they want to look into this because they care.
- Research till next meeting

- A motion by Trustee Rabey to refer the planning Commission February 6th, Amended Special Use Permit for 206 Main Street – John Becker -B&P Main, LLC (Mister's) – For the use of an outdoor smoker on the property seconded by Trustee Lazickas and carried with Unanimous approval.
- A motion by Trustee Cameron to refer the planning Commission February 6th, Special Use Permit for 603 Oakwood Ave, Mathan & Chelsea Root – Left Coast Kitchen – For the Oakwood Ave location for a prep kitchen with no seating or music seconded by Trustee Lazickas and carried with Unanimous approval.
- A motion by Trustee Lazickas to refer the planning Commission February 6th, Special Use Permit for 658 Main Street – Highwire – to operate a legal State Licensed dispensary, seconded by Trustee Cameron and carried with Unanimous approval.
- A motion by Trustee Rabey to approve Temporary Use Permit for the Town of Aurora for July 3, 2024, for the July 3rd celebrations seconded by Trustee Lazickas and carried with unanimous approval.
- A motion by Trustee Lazickas to approve Hamlin Park Temporary Use Permit for the Town of Aurora for various dates for Aktion Club Kickball, seconded by Trustee Rabey and carried with unanimous approval.
- I Mayor Mercurio here by appoint Deborah Izatt to the position of Planning Commission Alternate for the remainder of a term ending the first Monday in April 2024. carried with Unanimous approval.
- A motion by Trustee Flynn to approve a mini bid for the purchase of quantity two (2) 2025 Mack MD6 Trucks for a total cost of \$237,188.40 seconded by Trustee Viger and carried with unanimous approval.
- A motion by Trustee Cameron to approve permission for the Mayor to sign an agreement for release of claims with Dave Suttell, seconded by Trustee Flynn and carried with unanimous approval.
- A motion by Trustee Viger to approve the 2024/25 Capital Committee plan as submitted seconded by Trustee Rabey and carried with unanimous approval.
- A motion by Trustee Cameron to Approve Budget Modifications, seconded by Trustee Flynn, and unanimously approved.

Budget Transfers 2023-24					
FROM			TO		
A.5.3120.0420	Police - maintenance service contracts	\$ 3,500.00	A.5.3120.0480	Police - uniforms	\$ 3,500.00

- A motion by Trustee Flynn to approve to change the Webmaster stipend from one assignment stipend at \$3,500 to two assignments stipends at \$2,000 each per fiscal year prorated effective immediately, and further such assignments will be determined by the Village Clerk – Treasurer seconded by Trustee Lazickas and carried with unanimous approval.

NEW BUSINESS

- There was a request for a cross traffic sign on North Street and Hamlin Ave –the DPW put the signs up prior to the board meeting.
- A business owner requested Elm Street no parking here to corner sign by Gingerich Auto Care the Village board referred it to the Safety Committee – Code enforcement noted that there is some need per the site plan.
- Pine Street and Maple Street Water Mains during Erie County Project- The Clerk- Treasurer reported that the DPW Superintendent did not recommended doing this project at this time because there were minimal potential savings as the lines were under sidewalk and the county would not be digging deep in that area. Also, the Mains are newer in that area than most of the Village. She also reported that the water fund doesn't have spare funds available.
- Highwire Farms – Notification to Municipality – The Clerk- Treasurer needed to know if the Village board had any concerns or objections for this notice. None were had.

- A request was made for a 3 way stop at Fillmore and Riley between the Rink and the Blue Eye Baker. The Police Chief reported that most people do not use crosswalks they cross where they park. Also, crosswalks give residents a false sense of security. A Pedestrian bridge over Tannery Brook (drainage) to connect the parking lot and the ice rink was discussed and the Clerk-Treasurer was asked to contact the DEC to see if that was an option. Then they can consider a Stop sign and or sidewalk if the bridge is not an option. The Village Board referred this to the Safety Committee

OLD BUSINESS - none

Department Head and Trustee Reports

Shane Krieger, Chief of Police none

Liz Cassidy, Code Enforcement Officer none

Maureen Jerackas, Village Clerk Treasurer/ Interim Village Administrator –took many emergency calls with county about the storm. Worked with the town to put out a single notice of garbage delay. Worked with Gunner for grant application information and let him know if the Village needs to do anything with these projects, we need a lot of notice. Worked with Town Supervisor discussing shared contracts. Attended a meeting with the Town relative to the Knox Park Eclipse event regarding safety. The Fire dept reported a great job was done by the DPW clearing snow at the fire hall.

Trustee Steve Lazickas - none

Trustee Kristin Cameron - Thanked the Capital Committee for all they did and a good job to the DPW on the snow removal.

Trustee Grace Viger - Attended Town Board Meeting and she asked about the Fillmore bridge. They said they are still waiting for DOT approval to proceed. The town then discussed 2 other bridge projects on Sheer & Oakwood. It is good that the Village is aware of these projects, and we want them to get permits from DOT before they start construction. Speaking to a few people regarding bikes on sidewalks and electric bikes on sidewalks, seems to be learning curve. Would like to possibly hold a class for safety through the Recreation Department. Grace will be talking to Megan from Recreation. Grace asked how filling the Village Administrator position is going. The Mayor said applications are trickling in, and he asked Maureen to put it on Indeed to cast a wider net. Molly asked if the pay is comparable. The Mayor said the pay is within the wheelhouse of other Villages. Kristin noted that it's hard to fill these positions. The Mayor also noted the 1 year term is an issue for people. This may need to be changed, it would be local Law. The Clerk – Treasurer noted that the term can vary and cited a 4-year term in another municipality. Steve asked about changing the duties and making a possible part time position. The clerk-treasurer noted a lot of discussion would need to happen. We would need to work with Civil Service, change the local law and follow the process.

Trustee Molly Flynn- none

Trustee Jeffery Rabey - none

Mayor Pete Mercurio – None

ADJOURNMENT

A Motion was made by Trustee Lazickas to adjourn the meeting at 8:30pm. Seconded by Trustee Viger and unanimously carried.

Respectfully submitted,

Melanie Walker
Village Deputy Clerk

Dear East Aurora Mayor and Village Board,

Greetings from Duluth, MN, the city on the western-most point of Lake Superior! When we moved here from East Aurora in 2014, I somewhat glibly promised EA friends that I would protect their upstream water. It turns out I had no idea what I was promising: threats to Minnesota's water are numerous, with the most alarming being proposed copper-nickel sulfide mining for "green metals"—things like copper and nickel—used for clean energy applications. According to the EPA, metal mining is America's most toxic industry, with water being one of its main culprits.

The more I learned about the threats to the land, air, and water from sulfide mining, the more it became clear that our quest for "green metals" used for clean energy applications, and our singular focus on a number—the level of CO₂ in the atmosphere—meant that we were too often neglecting the enormous threats to our biodiversity. As a physicist (Tom Murphy) from UCSD asks, *"Will it really matter if we reach net-zero by extinguishing the last remnants of biodiversity in the process?"*

My presentations on the dangers of sulfide mining to Minnesota's waters, including Lake Superior, began to focus on ecological overshoot— how much humanity's ecological footprint exceeds what the planet can regenerate. When I heard Doug Tallamy speak about creating a 20 million-acre "Homegrown National Park", simply by converting half of our sterile unproductive lawns to native plantings, it was an epiphany—we need healthy ecosystems everywhere, not just in parks and preserves. Because so much of our land is privately owned, it must be part of the solution, and we *can do this* outside our back and front doors! I hope East Aurora will help lead the way to encourage this conversion, and avoid legislation that might put a damper on the effort. Increasing the height of allowed plantings from two feet to three, could help send the message that these plantings are desirable—and essential. From a purely economic standpoint, Strong Towns <https://www.strongtowns.org/> makes the point that building more beautiful streets are safer and more prosperous streets—they go hand in hand. "Let's do it everywhere!"

Thank you for your time and consideration,

Libby Weberg
2423 E 2nd St
Duluth, MN 55812

Dear Village Board Members,

Regarding the above proposed code, I empathize with the intent of the code and the visibility concerns it addresses. However, I think 3ft is a reasonable height for certain plantings within the field-of-vision criteria as described in the code. I base my opinion on the following:

- **Density** is a key issue in the code revision proposal. For example:
- Hedges should be considered separately from other plantings and be placed in the same category as "walls". Hedges and walls are both *dense*- and that is what creates visibility difficulties. So, the *space between plantings* is just as much a factor as the height. What makes a hedge a hedge? It's how closely together the shrubbery is planted.
- That's the same rationale for allowing **4 ft of fencing** if the vertical board spacing is of the correct density. That's also why a **tree** isn't considered as much of a visibility hazard because of its stand-alone nature.
- Individual shrubs with proper spacing (3ft or more apart?) and the growth habits of perennials and annuals, do not have the same density concerns. Therefore a 3ft height is a reasonable exception for those types of plantings.

Thank you for considering my opinion.

Sue Russell
159 Sycamore St
East Aurora, NY 14052

Ladies and Gentlemen,

I write in regard to the proposed new law regarding visibility.

I hope you will consider some modifications to the proposed law.

As proposed, the law would establish a height restriction of just two feet for plantings in the right-of-way. I believe that height could safely be set at three feet, and perhaps, if necessary, a density limit of 25% could ensure that the intended visibility would still be maintained.

I support our neighbors efforts to offer some diverse plantings in those right-of-ways and I hope you will too.

Thank you for your consideration.

Brad Felton

65 Buffalo Road
East Aurora

Dear Mayor Mercurio and Village Board Members:

Dec 21, 2023

I write to you with a sense of urgency, and because you have a choice: you can enact solutions to a growing problem, or you can embrace its causes. I speak of the biodiversity crises we find ourselves in today. The statistics are numerous and sobering. North America has lost 3 billion breeding birds - 1/3 of all of our birds - in the last 50 years. We are suffering from global insect decline: there are now 45% fewer insects, the little things that run the world (E.O. Wilson 1987) than just a few years ago. The U.N. predicts we will lose 1 million species of our fellow earthlings to extinction in the next 18 years. If we allow that prediction to come to pass, it will be an ecological disaster beyond imagination, since those are the species that run the ecosystems that keep humans alive on Planet Earth. We already are deep into the 6th great extinction event the earth has ever experienced, and exacerbating it is simply not an option.

All of this is happening because we have refused to share our human-dominated spaces - -where we live, work, and farm - - with the natural world. But we *could* share with nature, and you can help.

For now, let's just focus on where we live. There are four things every yard must accomplish if we are to reach a sustainable relationship with the ecosystems that support us. Every landscape must help remove carbon from the atmosphere and thus help mitigate climate change. Every landscape must support a diverse community of native pollinators, not just for our crops but because they pollinate 80% of all plants and 90% of all flowering plants. Every landscape must feature the plants that support a multitrophic food web; without one, we will have no animals and we will face ecosystem collapse. And finally, every landscape must manage the watershed in which it lies. Turf grass does none of these things, and yet the U.S. has 44 million acres of lawn, an area larger than New England.

Across the U.S., homeowners' associations, civic associations, and township ordinances dictate lawn-dominated, ecologically-dead landscapes for the sake of maintaining high status. Fortunately, these regulations are not insurmountable obstacles. First, landscaping regulations were established *by people* and can be updated *by people*.

Most such rules were established decades ago to protect property values. The goal was to keep the neighborhood neat and high-class; broken-down cars and rusted refrigerators in the front yard were frowned upon, and so were landscapes that looked untended and weedy. The message these rules were designed to convey was that everyone who lived within the neighborhood was a good citizen with upper-class values. The visual advertisement of those values included proper land stewardship, which marketing had taught us showcased impeccable lawns dotted with a few Asian ornamentals.

And there we have the argument that can bring landscaping regulations into the 21st century. Today, we *cannot* be good citizens with responsible, community-minded values if we keep our landscapes dead as a rock. We now recognize that the message outdated regulations send their neighbors is destructively self-centered: "We don't care how our rules effect your ecosystem. Your watershed, climate, and pollinators be damned!" Our task, then, is to rewrite landscaping guidelines. We must educate policymakers about the many ecological roles our landscapes have to play: how every landscape must be designed to support diverse food webs that contain both herbivores and their natural enemies; how our yards must support both generalist and specialist pollinators; and how they must manage our watersheds and store as much carbon as possible in their foliage and soils. The only plants that meet these ecological goals well are native plants.

Few existing regulations restrict particular plant species or the abundance of plants we have in our yards. Restrictions are more often applied to how and where we use these plants; that is, how we design our landscapes. Many people equate "native landscaping" with a *lack* of landscaping, where the property is just left to go wild. Nothing could be further from the truth. Formality is a function of *the design*, not of the plants in the design. Our native plants are used tastefully in formal designs in Europe, and Europeans love them. If North American plants can meet the aesthetic criteria of the finest gardens in the world, perhaps we in the U.S. can start to view them as more than weeds.

We can combat this misconception by designing artful landscapes that will differ from traditional landscape designs in three ways. They will have: less lawn; greater numbers of plants; and more of the essential native species that drive food webs and support pollinators. The single required feature of an approved landscape is that it be cared for.

It's easy to put "cues for care" front and center in our yards for all to see. True, there will be less lawn, but the lawn that is retained will be manicured. Nothing better advertises your commitment to neighborhood standards than a well-tended lawn. Our lonely specimen trees will now become the tallest members of a layered landscape, arching over understory species like Florida dogwood, witch-hazel, and silverbells; shrubs like various native viburnums and hazelnuts, and groundcovers of violets, may-apples and native pachysandra. These designed plant communities can be formalized with a neatly-trimmed grass border that clearly defines their intentional nature.

Unfortunately, our yards are not like Las Vegas. We all know that what happens in Vegas stays in Vegas. But what happens in our yards ecologically does *not* stay in our yards. Our landscape choices affect either positively or negatively the ecosystems within which they lie. We can landscape in ways that degrade local ecosystems or we can liberally use plants that support the highest number of pollinators, both specialists and generalists, as well as the caterpillars, grasshoppers, and other insects that feed our hungry birds. We can reduce our lawn to cover only the areas on which we regularly walk or the strips that serve as cues for care, demonstrating to our neighbors that we are not rejecting the culture of landscape beauty and neatness. We can add dense plantings of woody and herbaceous plants that hold rainwater on site and sequester tons of carbon while doing so, and we can control mosquitoes with benign biocontrol of larvae rather than through the widespread carnage wrought by mosquito fogging.

Sustainable landscaping - that is, creating landscapes that sustain life - is the only viable path forward. Thank you for taking this information into consideration while you revise landscaping policies.



Douglas Tallamy

T.A. Baker Professor of Agriculture

University of Delaware

To: Mayor Mercurio and the Village Board of East Aurora

From: Kathy Bieler, West Falls, NY

Re: Proposed Visibility Code

To all concerned:

Thank you for your consideration and recognition of the importance of native plants in our neighborhoods. Many citizens (myself included) have tended to associate native wildflowers with more rural settings, but a shift in this thinking needs to happen. Even the smallest landscapes can be a part of the native plant solution. Decreased use of fertilizers and pesticides, as well as incorporating native plants in our gardens, will support the insects, birds and wildlife we need for thriving biodiversity. Mother Nature can't do it on her own.

Over the years, I have read and learned much about the impact and domino effect of diminished biodiversity on our planet. While I'm not a scientist nor an expert, I have been pleased to see an increase in mainstream media coverage and awareness on this very topic.

I also see the impacts of this in my own landscape. Doug Tallamy's books and talks given here in WNY inspired my desire to learn more and make changes in my own landscaping. We built a pond 20 years ago. We maintained a landscape around it for several years, then decided to let those beds go wild. It has been fascinating to see the emergence of a variety of new plants and the beautiful dragonflies, butterflies and birds that have been attracted to them. Every summer, it gets better.

Easy to do on 40 acres, right? Sure. But by encouraging Village residents to selectively do the same in their own gardens and lawns, you will be amazed at the changes in a short amount of time and the thrill of seeing a cool caterpillar or butterfly that you've maybe not seen in decades, if ever.

As for height and density, of course safety and visibility are paramount in a busy, walkable village like East Aurora. The great thing about native grasses and wildflowers is they have a successional timing in their growth, blossoming and fading away. Height, color and visual interest is ever-changing through the growing season, but would rarely be so dense as to obstruct a driver or pedestrian from view. Native Coneflower, Goldenrods and Monarda (bee balm) are taller (often between 2-3 feet) examples that look beautiful together, are incredibly easy to grow and are deer resistant. In my experience, even these taller examples do not obstruct a view the way a dense shrub might. They fade away for winter and frankly, we have more visibility issues with snow banks than plants.

If you walk through some neighborhoods in Allentown or Elmwood Village, you will see many homes have eliminated lawn from the street to their front doors in favor of low ground covers and shade-loving wildflowers. They are beautiful, interesting and usually slow me down to take a closer look.

This got longer than I intended, and I feel I could go on, but I would encourage you to modify the Visibility Code to allow for a density measure as well as a height restriction. Offering residents a list of recommended as well as perhaps some prohibited plants as examples, as well as resources like Tallamy's books will eliminate confusion and create some consistency throughout the village. Important native plants in greater numbers will give nature the best chance to sustain itself.

Thank you for hearing my thoughts on the issue.

Wishing you all a healthy and prosperous 2024.

Kathy Bieler

Good Morning,

Thank you for embracing the idea of including photos and info about native plants that align with the visibility code (as you craft it) on the village website. This list of plants is perhaps a start; that will require additional research, brief planting info details, and in some cases better photos. (<https://www.dropbox.com/scl/fi/w0l52x8uu5tbalaa96x7o/Plants-for-East-Aurora-tree-lawns.pptx?rlkey=z5m8scj0smmaw3dkwit3vwxo3&dl=0>) If you decide to move forward with this idea, perhaps let me know if this is something that would flow through Liz's department, the Environmental Stewardship Committee or ??

Also, as you are considering height limits for the code tonight, I wanted to address a concern raised by the village attorney. He mentioned that a density component was not recommended because there isn't a way to objectively measure horizontal foliage density. Working with Steven Handell, Distinguished Professor of Ecology Emeritus from Rutgers University, we found a way to accomplish this. Since there have only been two complaints regarding foliage height in the past decade, the village very likely wouldn't need to purchase one of these devices; but it is helpful to know the technology exists if it is needed. The devices include a LI-2200C Plant Canopy Analyzer from Licor and the GRS Densitometer from Forestry Suppliers.

Thanks for delving into the details on this.

Nancy

Nancy Smith (she,her)
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Western New York Land Conservancy
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East Aurora, NY 14052-0471

Royal Fern Nursery LLC

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Fredonia NY 14063

January 15, 2023

Village of East Aurora

585 Oakwood Avenue

East Aurora NY 14052

Maureen.Jerackas@east-aurora.ny.us

(716) 652-6000

RE: Proposed Visibility Code for the Village of East Aurora

Dear Mayor Mercurio and Village Trustees,

Royal Fern Nursery LLC was originally established in 2019 in an effort to provide native plants and assist in restorative plantings. We currently supply customers of all scales, and regularly work with village and city residents on pollinator gardens, ecological restoration, lakeshore buffers and residential landscaping. Our passion is driven by the fact that the loss of native plant species is becoming an increasingly urgent conservation issue. This is particularly true in western New York, where several interstate corridors pass through and create avenues for nonnative invasive species to flourish. Luckily, awareness of this issue has led many landowners, rural and urban alike, to turn to native gardening.

We wanted to reach out regarding the Village of East Aurora's proposed Visibility Code as it pertains to native gardening. In the Code's proposed language, no plants may be planted that would grow in the tree lawn "greater than a height of two feet in any residential district". We well understand the need for visibility as a safety priority, however we feel there may be some nuances that should be considered as it pertains to native plants.

First, a limit of two feet would prohibit many critical native plant species from the tree lawn area. For example, this height limit would prevent species like butterfly milkweed from being planted, hampering monarch butterfly conservation efforts.

Second, many native plant species can have quite variable growth. This is true from garden to garden, as well as seasonally in the same location. Soil quality can vary dramatically from yard to yard, and an unusually dry or wet growing season can result in more limited growth. As a result of this variability,

many native species have growth ranges that can exceed two feet, but that range doesn't necessarily reflect the average height. Some flowers may have a bloom that would exceed two feet, but only marginally so and only during their flowering time.

Finally, some native plant species may grow taller, but can be trimmed once or twice during the summer and still produce striking blooms. Many of the native asters can be trimmed in this way, keeping them shorter and producing an aesthetically pleasing bloom that can resemble mums – a favorite of many. Others, like milkweeds, can also be trimmed in this way. In fact, trimming milkweed can actually create more palatable shoots at a critical larva rearing time for monarch butterflies.

Safety should not come second, but we feel that flexibility in the proposed Code would allow for greater species diversity in tree lawn native plantings without creating added risk. Perhaps a mix of heights would provide greater balance. If the plants are between two and three feet tall, with the taller species are only 25% dense that would still allow for safe visibility while permitting a few taller species that would enhance the ecosystem benefit of residential native tree lawns.

Thank you for the time to share our thoughts on the proposed Visibility Code. Please feel free to reach out with any questions or comments on this topic, we are happy to advise on any native plant related matter.

Sincerely,

Royal Fern Nursery LLC

Village of East Aurora
Village Board
January 13, 2024

Dear Board member,

I am writing the board to comment on the purposed village ordinance concerning plantings in the right of way by homeowners.

Our community has always been ahead of the curve when it comes to “quality of life” issues. From the preservation of historic residences and maintaining the character of our community, to the benefit of having and maintaining a walkable community. Recently “No Mow May” has been promoted to remind all of us to the importance of bees and the benefit they bring. I think homeowners who we expect to maintain their property; that is in the right of way, deserve the freedom to plant flowers and other native plants that increase habitat for pollinating bees and butterflies. I appreciate the safety concerns but hopefully a density measurement can be used to satisfy those concerns. I'll remind the board that 30 years ago the idea of a walkable community was poked fun of. Today it is not only a benefit we enjoy but the standard that other communities strive to attain.

Thank you for taking the time to read my email and for your service to our community.

Go Bills!

Respectfully,
Michael Croft
1745 N. Davis Rd.
East Aurora, NY 14052

Good Morning,

Doug Tallamy is a nationally renowned author of numerous books including; *Bringing Nature Home* and *Nature's Best Hope*. He visited western New York a couple of times in the past decade – speaking at UB's Center for the Arts and the Power Vista on the Niagara River. A professor of Entomology and Wildlife Ecology at the University of Delaware, Doug is also co-founder of Homegrown National Parks, a grassroots call-to-action to generate biodiversity and ecosystem function by planting native plants and creating new ecological networks (<https://homegrownnationalpark.org/about-us/>)

He visited East Aurora on one of his trips to WNY and felt that the East Aurora visibility code we are discussing tonight is important. Doug asked that I share his statement with you (attached).

With gratitude for your consideration of proactive, leadership approach for our village,

Nancy

Nancy Smith (she,her)
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Mayor Mercurio and Village Board Members:

Thank you for giving us the opportunity to speak to the Visibility Code.

Having served on the Tree Board for 20 years, I know the importance of caring and watering newly planted trees. Old trees need this care too! I am always pleased when homeowners take the time to plant flowers and care for them in their "Tree Lawn." When they are watering the flowers, they are watering the trees.

Many native plants and other flowers reach a height of 3 feet and our ordinance should reflect that. We don't want to have to cut them off just before they bloom. Safety is certainly a factor, but these plantings are not that dense and can be seen through, unlike a thick shrub, a solid fence, or even a truck or van parked in the wrong spot.

Encouraging homeowners to plant blooming natives will help our diminishing list of pollinators. I am a grandmother and am concerned about my grandkids, and all other young peoples' future. If we lose our pollinators, we will lose our food system. And who doesn't like to eat?

Thank you for your consideration.

Ellen Neumaier

284 Mill

East Aurora, NY 14052