

Changes to zoning law by town board

through 12/6/23

Article I Enacting Clause

1.1. Remove final sentence, ~~In enacting this local law, the Town of Caroline supersedes New York State Building Code J 102.5 (1) related to area allowed for use as a Home Occupation. -~~ (accept New York State area of structure allowed for use as a Home Occupation)

Article II Definitions

2.2. Added or amended definitions:

Agricultural or Farm Operation: - revised, as per Section 301 for compost and equine operations

Applicant – The Applicant is any Person, corporation, or other legal entity applying for a building permit, Site Plan Review, Special Use Permit, subdivision approval, **or variance from, or reinterpretation of, this zoning law**, and such term also includes the Person seeking certificates of occupancy, variances, or zoning amendment.

Auction House – A structure operated as a business enterprise at which items or property are offered for sale to **a bidder or bidders**.

Commercial Horse Boarding Operation– An agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this definition be construed to include operations whose primary on-site function is horse racing. Notwithstanding any other provision of AML 25-aa, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation. (In Use Table: P in all Districts.)

Commercial Recreation Facility, Indoor – An indoor place designed and equipped for the conduct of sports and similar recreational activities, which are available to people of all ages, and which are conducted and utilized as a business **or not-for-profit**. A health club, indoor tennis, exercise rooms, handball, ball courts, and similar uses are forms of a commercial recreational facility, indoor. See also Commercial Recreation Facility, Outdoor.

Conservation Easement – A legal agreement in the form of an easement, covenant, restriction or other interest in real property created under and subject to the provisions of Article 49, Title 3, of the New York State Environmental Conservation Law, which limits or restricts the development, management or use of such real property for the purpose of preserving or maintaining the scenic, agricultural, historic, recreational, archeological, architectural or natural condition, character, significance or amenities of the property. **(removed “in perpetuity”)**

Crops, Livestock and Livestock Products: - revised, as per Article 25-AA, Section 301.

Cultural Resources: Add definition from Natural Resources Conservation Service: Evidence of past human activity. These include sites, districts, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture.

Dwelling Unit: - A single “residential” unit

Farmland – Land used in agricultural production.

Economic Impact Assessment: deleted

Farmlands of Statewide Importance: - defined as to soil type

Farm Market – A location or permanent structure used for the seasonal or year-round retail selling of farm products either grown on site or grown at other farm operations in the area. Other non-farm products may also be sold. (See also, Farm Stand) (edited)

Farm Stand – A structure including small Buildings, carts, tents, canopies, wagons or stands for the display and sale of farm products.

Floodplain, 100-year: - added definition

Floodplain, 500-year: - added definitions

Floodway: - added definition

Fuel Station, gasoline - Deleted (redundant)

Glamping/Glamorous Camping/Glamping Site: Glamping, short for "Glamorous Camping," is a form of camping unit that includes, but is not limited to, amenities such as furniture, residential-quality mattresses/bedding, kitchens/kitchenettes, electricity, lights, running water, climate control and full toilet contained in tents, cabins, or other non-motorized structures that include, but are not limited to, safari tents, tree houses, yurts, and other accommodations. A glamping facility contains four or fewer camping sites (five or more shall be considered a campground and regulated pursuant to New York State Health Law).

Greenhouse – A Building or structure designed in which the temperature and humidity can be regulated for the cultivation of plants for subsequent sale. A Greenhouse facility may have a Nursery as part of their operation.

Industrial Use, Heavy: - triggered by meeting any two (instead of three) criteria

Junk, Scrap or Salvage Yard – An area of land with or without Buildings used for or occupied by the storage, keeping, or abandonment of junk, including scrap metals or other scrap, used or salvaged building materials, or the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof. The deposit on a lot of two or more old or secondhand motor vehicles no longer intended or in condition for legal use on the public highways shall be deemed to make the lot a 'junk car yard' pursuant to New York State General Municipal Law 136. A scrap yard is also a facility or area for storing, selling, dismantling, shredding, compressing, or salvaging scrap materials. A salvage yard includes the storing, dismantling, compressing or salvaging of any junk motor vehicles. (*deleted "ferrous metal" scrap materials*).

Lodging: A facility where sleeping accommodations are offered primarily for transient travelers and providing accessory off-street parking facilities. The term includes other similar uses such as motels, tourist courts, motor lodges, auto courts, inns, and hotels.

Mine, Moderate Size – A mine that removes between 250 cubic yards and 750 cubic yards of earth material in twelve (12) consecutive months. (*delete subsequent previous language here*)

Nursery – A location for the growing, cultivation, storage, and sale of garden plants, flowers, trees, shrubs, and fertilizers, as well as garden tools and accessory products to the general public or for wholesale. Nursery facilities may have greenhouses as part of their operation.

Scenic Resources: ...Distinctive “and” Noteworthy Views. Delete last clause, “as well as additional views in the Town that contribute to the quality of life of Town residents and attract visitors to the area.”

Setback: The distance in feet between the building or other use and any lot line or designated point. Where a front setback may be required, such setback shall be measured from the edge of the designated right-of-way established for the road or street.

Short-term Rental – The use of land for: (a) rental for payment of a portion of a Dwelling Unit, entire Dwelling Unit, Accessory Apartment, portion of an Accessory Apartment, free-standing accessory dwelling, or portion of a free-standing accessory dwelling for a period of 30 consecutive days or less, where the owner of the property may or may not be present for a portion or the entirety of the rental. This definition does not apply to an ongoing month-to-month rental of a dwelling or premises by a landowner-landlord to the same tenant(s) where the tenant(s) occupancy of the rented premises is ongoing on a month-to-month basis and the tenant(s) are not transient (**long-term rental**). (edited to recognize Long-term Rentals)

Site – Any tract, block, or parcel of land separated from other parcels or tracts by ownership or title, by description, by natural barriers or geologic or geographic features. (**strike...**, “**or by metes and bounds**”).

Solar Energy Facility - added sentence to clarify when a system is an on-farm Building.

Townhouse – A row of three or more attached Single Family Dwelling Units, in which each **residential** unit has its own front and rear access to the outside, no **residential** unit is located over another **residential** unit, and each **residential** unit is separated from any other **residential** unit by one or more vertical common fire-resistant walls.

Transient Occupancy: Occupancy of a parcel of land or structure on a parcel of land used to accommodate persons passing through or visiting for a brief stay, generally less than a week but not more than 30 days, for example in a hotel, motel, bed and breakfast, or short-term rental.

Non-transient Occupancy: added definition: Occupancy when the intention of the parties is that the occupancy will not be temporary.

Wind Energy Generating System, Large: - added sentence to clarify when a system is an on-farm Building **and not a WEGS, Large (110% of usage).**

Zoning Officer: delete second sentence (that may also be called CEO).

Article IV Uses and Dimensions

4.1 Uses by District (Table 1 Schedule of Uses):

- Multifamily Dwelling with 5+ units: SPR in all districts
- CAFO: P in Ag/Rural; X - all other districts
- Farm Brewery, ...: P - Ag/Rural and Focused Commercial, X - Besemer, W. Slaterville, Center Brooktondale, SPR - Slaterville Spgs., Caroline Center, Caroline, Speedsville, Brooktondale
- Auction House: SPR - Ag/Rural and Focused Commercial; X - all other districts
- Campground, Camping Units: SPR - Ag/Rural and Focused Commercial; X - all other districts

- Cannabis Dispensary: SPR - Ag/Rural, Slaterville Spgs., P - Focused Commercial, X - all others
- Cannabis Lounge: same as for Cannabis Dispensary
- Car Wash: SUP - all districts except Ag/Rural, X - Ag/Rural
- Church or Religious Use: X - Besemer, W. Slaterville, Center Brooktondale; SPR all others
- Brewery, Winery..., not part of farm: P - Ag/Rural and Focused Commercial, X - Besemer, W. Slaterville, Center Brooktondale, SPR - Slaterville Spgs., Caroline Center, Caroline, Speedsville, Brooktondale
- Commercial Horse Boarding Operation: P - all districts
- Commercial Recreation Facility, Outdoor: SPR - Ag/Rural, Slaterville Springs, Caroline Center, Caroline, Speedsville, Focused Commercial; X - all others
- Commercial Kennel: SPR - Ag/Rural, Slaterville Spgs., Caroline Center, Caroline, Speedsville, Focused Commercial; X - all others
- Convenience Store: X - Ag/Rural, Besemer, W. Slaterville; SPR all others
- Day Care Center: P - Focused Commercial; SPR all others
- Event Facility: P - Focused Commercial; SUP - Ag/Rural, Slaterville Spgs., Caroline Center, Caroline, Speedsville, Brooktondale, Center Brooktondale; X - Besemer, W. Slaterville
- Food and Beverage: SPR - all districts
- Fuel - gasoline station: SPR - Slaterville Spgs., Caroline Center, Caroline, Speedsville, Focused Commercial; X - all others
- Fuel - electric vehicle charging: SPR - Slaterville Spgs., Caroline Center, Caroline, Speedsville, Brooktondale, Center Brooktondale, Focused Commercial; X - all others
- Funeral Home: SPR - Slaterville Spgs., Caroline Center, Caroline, Speedsville, Brooktondale, Focused Commercial; X - all others
- Health/Medical Clinic/Lab: X - Besemer, W. Slaterville; SPR all others
- Hunting Preserve: SPR - Ag/Rural; X - all others
- Industrial Use, Light: X - Besemer, W. Slaterville, Center Brooktondale; SUP all others
- Mine, Large: SPR - Ag/Rural; X - all others
- Mixed Use Buildings: SPR all districts
- Nursing Home: SPR all districts
- Offices: X - Ag/Rural, Besemer, W. Slaterville; SPR all others
- School, Private: SPR - all districts
- Self Storage: SPR - Focused Commercial; X - all others
- Slaughterhouse: SPR - Ag/Rural: X - all others
- Solar, Medium: SPR - Ag/Rural, Focused Commercial; X - all others
- Solar, Large: same

- Telecommunications Towers: cite Local Law #1 of 1998 for row
- Vehicle Body Shop: SPR - Slaterville Spgs., Caroline Center, Caroline, Speedsville, Focused Commercial; X - all others
- Vehicle Body Repair...: SPR Slaterville Spgs., Caroline Center, Caroline, Speedsville, Brooktondale, Center Brooktondale, Focused Commercial
- Veterinary Clinic: SPR - all districts

4.2. Dimension Requirements by District (Table 2 Schedule of Area and Dimensions):

Set Maximum Lot Coverage (%): 20% Ag/Rural, 50% all hamlets, 60% Focused Commercial

Next row: "Maximum Total Building Footprint of a Commercial Structure" (single building)

For all districts: 10-ft. front, side, and rear setbacks

Table 2.1. Density of Development

Multifamily Dwelling or Multifamily Development change from four Dwelling Units to **four to six** Dwelling Units and for Additional One Development Unit needed for every two additional Units change to every **3** additional Units; for Multifamily Dwelling or Multifamily Development with Senior or Affordable Housing Units, change six Dwelling Units to **six to eight** Dwelling Units and for every three additional units change to **four** additional units.

Table 2 Change Maximum Total Building Footprint of Commercial Structures (sq ft) in Ag/Rural from 7,500 to **5,000**; in Besemer from 3,000 to **2,000**; in Slaterville from 10,000 to **5,000**; West Slaterville stays at 3,000; in Caroline Center/Speedsville from 4,000 to **2,000**; in Brooktondale from 4,000 to **2,000**; Center Brooktondale stays at 3,000; Focused Commercial stays at 15,000.

4.5.C. Incentives: "development" unit(s) throughout

4.5.C. Reader's Aid. "dwelling" units (due to rounding). (instead of "housing units")

4.5.D.5. Add appropriate notice period (5 days) for public hearing.

Article V Development Standards

5.1.A. No land or Building shall hereafter be used, occupied, erected, moved or altered unless in conformity with the regulations specified for the district in which it is located, **or as permitted by variance**, except as allowed in Article IX for lawful lots, buildings, structures, or uses of premises existing at the time of enactment of this Local Law.

5.1.C.2.e. Whenever an Agricultural Data Statement is part of an application to the Town of Caroline, the Town **may** refer the application to the County Planning Board **as may be** required by Sections 239-m and 239-n of the NYS General Municipal Law.

5.1.E.1.: Lands having slopes greater than 25% have **stronger** development potential...

5.1.E.1.b.: This subsection does not apply to Agricultural Structures. ~~or residential Accessory Structures such as but not limited to fences, garages, decks, pools, storage sheds, or barns.~~

5.1.F. Any expansion of an existing use or occupancy of such use that is 25% or greater **of the existing square footage of the structure or use** shall also require Site Plan Review and approval by the Review Board before being undertaken.

5.2.B.1.: Edit to: “The following Guidelines are recommended for all commercial and residential Uses. They are offered to articulate siting and development design options that support the rural Character in this District.” Delete first item pertaining to farm roads.

5.2.B.1.j. [move this section to 5.2.A. Developmental Standards for the Ag/Rural District]- All major subdivisions and commercial development, except for home occupations, in the Ag/Rural District shall provide for an agricultural Buffer between itself and an adjacent Agricultural Operation that may be present. Buffers may be effective to reduce the exposure of non-farm uses to odors, noise, and other potential nuisances associated with the Agricultural Operation and to protect the Agricultural Operation from potential complaints related to same. Buffers shall meet the following Standards:

- 1 Buffers may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features.
- 2 It is the responsibility of the non-farm applicant, subject to approval by the Review Board, to provide an effective Buffer to the Agricultural Operation.
- 3 When a Buffer is present, no residential structure or residential Accessory Structures shall be placed within it.
- 4 Areas designated as agricultural Buffers may be included in any required open space designation for a Conservation Subdivision.
- 5 Buffers should:
 - a maintain topographic features such as hills that substantially screen and separate the farm and non-farm use.
 - b Ensure for the passage of wildlife when fencing is required.

5.2.C.3. The Review Board may require sidewalks to be installed when there can be a connection to an existing pedestrian walkway (for example, sidewalks, trails, recreational pathways).

5.3. Establish “Stream Corridor Overlay District” that designates a single riparian buffer area along perennial and intermittent streams. Wetlands are protected by state and federal regulations. Flood Zones are established by FEMA and protected pursuant to the Town’s 2021 Flood Damage Prevention Local Law. Revised language of Section 5.3.F for Riparian Buffer dimensions is as follows:

- a. 100-ft buffer for Six Mile Creek in Ag/Rural and Focused Commercial Districts; 75-ft buffer for Six Mile Creek in all hamlets.
- b. 50-ft buffer for all other perennial streams
- c. 25-ft buffer for intermittent streams.
- d. The buffer extent shall be measured from Top of Streambank outward, perpendicularly and horizontally.

*Note that the Zoning Map is for reference, showing approximate geographic extent of the Stream Corridor Overlay District based on best data available at the time it was created. It is not a substitute for the required on-site survey. Separate maps are included for wetlands and flood zones, both separately regulated.

Remove prohibition on tree cutting within 25 feet of stream bank and requirement for a Forest Stewardship Plan. Allow for removal of dead, diseased, or dying trees - "limited tree cutting, forestry, or vegetation management may be done". Add: "tree cutting should retain at a minimum 50% of the tree canopy in the Buffer at all times."

eliminate "decorative" from fourth bullet point.

5.3.G.2: Revise first bullet point: Activities part of a Farm Operation **as defined by New York State and that are within an Agricultural District.**

5.3.G.2: now revised and added to 3d as follows: **Parking or parking lots, except in connection with Activities part of a Farm Operation. It is recommended that lots and driveways be pervious.**

5.3.G.2.c.: added language to allow minor storage sheds in buffer area.

5.3.G.3 (previously 4), b: remove - septic systems as that will be regulated by the Tompkins County Health Department.

5.3.G.4 (previously 6), new language: "The Review Board may require additional data to demonstrate that the proposed activity will mitigate impacts on stream capacity, stream flow, and/or water quality. Delete:

~~The Review Board may require additional data to demonstrate that the proposed activity will not result in any of the following impacts:~~

- ~~a Alteration of Aquifer capacities.~~
- ~~b Reduction of flood-carrying capacities of watercourses or increased hazards associated with flooding.~~
- ~~c Deterioration of water quality or impairment of best usage of waters.~~
- ~~d Alteration of water retention capabilities; increase in siltation of surface water bodies and adjacent areas.~~
- ~~e Significant Disturbance to fish and wildlife populations and natural plant communities.~~
- ~~f Impairment of any natural function of a Wetland or its adjacent Buffer area.~~
- ~~g Alteration of the flow pattern of a watercourse area.~~
- ~~h Increase in the velocity of surface water runoff.~~

Article VI Supplementary Standards

6.1.A. These **Supplementary** Standards are in addition to, **and do not replace**, all requirements of the New York State Uniform Fire Prevention and Building Code. (revised to clarify).

6.2.6: Canopies – add "**portes cocheres**" as synonym for drive through canopies.

6.2.7.B.1: change sign height to **10 ft.** to make consistent with 6.2.7.B.G.

6.2.7.B.3. amend to **unreasonable** glare.

6.2.7.E. The maximum size for any permanent Sign shall be 32 square feet **in total area of one side.**

6.2.11.B. Add "or **equivalent**"

6.2.13 add **suitable**: ...**suitable** for Persons with Disabilities.

6.3.B.1. revised: Formula-Based Architectural Styles. Formula-based businesses shall be allowed only when the use is allowed pursuant to Table 1 of Article IV and only provided it is sized according to Table 2 of Article IV and sited, designed, and of a style fully consistent with Design Standards of Section 6.1 and 6.2 and all other requirements of this Zoning Law.

6.5..2.A.2: in parenthesis, note P for Accessory Structures as Dwelling for Farmworker Housing

6.5.9 Revised: **Junk, Trash, Rubbish, Garbage, Reuse, Debris, and Discarded Materials.** The New York State Department of Environmental Conservation regulates waste streams in New York State. The Tompkins County Department of Recycling and Materials Management administers the recycling, reuse, and disposal of solid waste in Tompkins County.

New York State Municipal Law Section 136 requires that any property with two or more unregistered motor vehicles be licensed as a junk yard (see Town of Caroline 1982 Ordinance Licensing and Regulating Junk Yards).

6.5.10. ...from the premises within “three years” of cessation...

6.5.14.E.9.: add internet as a utility.

6.5.15. last paragraph of Reader’s Aid Box:...The “number of **dwelling units**” allowed...(instead of “structures” allowed)

6.5.15.D.5. **When the subdivision is proposed within a New York State Certified Agricultural District or within 500’ of such district**, Building Setbacks from cropland or pastureland shall be one hundred (100) feet. The Setback from barnyards housing livestock shall be three hundred (300) feet.

6.5.15.H.i. “Views of houses from exterior...” “The layout should minimize disruption of scenic views and vistas, particularly as seen from public thoroughfares.”

6.5.15.K.1. Change “Site plan” to “**subdivision plat**”

6.5.15.L.2. delete, “~~and if unpaid, shall become a tax lien on such property.~~”

Article VII Site Plan Review

7.2A: revise "Article VI" to "Article VII"; add, “..., **which shall be repealed.**”

7.2D: rewording: Except for uses identified in 7.2 (B) and (C) above, all uses identified in Table 1 as requiring Site Plan Review (SPR) or a Special Use Permit (SUP) require review and approval by the Review Board under the procedures and criteria set forth for Site Plan Review (Sections 7.1-7.8).

7.2.F: ...as specified in D above. (add “D”)

7.4.A.3. Water Quality. The following Standards are **intended to avoid and mitigate negative impacts on the quality of water in the Town from new Development.** Water quality is also addressed in these regulations, in part, through sections dealing with erosion and sediment control and storm-water runoff.

7.4.A.15. Scenic Resources. “The design of the Development should mitigate blocking the view of Scenic Resources,...D

7.4.A.19. revise as, ...and adjacent areas of a minimum of 10 feet to minimize...

7.4.A.20. delete (remove references throughout to Economic Impact Study and Economic Information Sheet)

7.4.A.21. delete (escrow funds for site restoration covered by Section 7.7.11)

7.5.C. Revised: **Waiver of Submission Requirements: As part of Sketch Plan submission, upon request from the Applicant or at discretion of the Review Board, the requirement for particular information may be waived by the Review Board.**

7.5.C.2: "Any such waiver by the Review Board...(instead of Planning Board).

7.6.3. Delete the following: **h, k**

7.6.4. Delete the following: **o, q, u, w**

7.7.9. expiration changed from 18 to 36 months. Add following language for an extension:

Any approval shall expire after **thirty six (36) months** from the date of such approval unless the Applicant shall have obtained all other necessary permits and approvals, commenced, and substantially proceeded with construction of the project in full conformity with the approved site plan, **unless granted an extension upon request by the Review Board.**

7.7.11 line 2: revise as "Performance Guaranty..."

7.7.11.A. No certificate of occupancy shall be issued until all **required** improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed.

7.8.A. Purposes. The purpose of this sub-section is to set forth those conditions and circumstances under which the requirements of this Local Law may be modified or waived by the Review Board. Waivers shall be explicitly requested by the Applicant in writing, and expressly granted only by the Review Board. In granting waivers, the Review Board may, in its sole discretion, incorporate such reasonable conditions as will, in its judgment, substantially secure the objectives of the requirements so waived. Any waivers granted by the Review Board shall be the minimum waiver necessary to allow the requested flexibility by the Applicant. The Review Board must state, in writing, its grounds for electing to waive the requirement(s), cite whatever evidence that the Review Board relied upon in making the determination, and file such statement along with the site plan application and supporting documents. ~~In all cases, no waiver shall be granted unless the Review Board finds and records in its minutes that: i) granting the waiver would be keeping with the intent and spirit of this Local Law and is in the best interests of the community; ii) there is no known, potential, or anticipated material adverse effect upon the character, appearance, or welfare of any adjacent neighborhood or the environment; iii) there are special circumstances involved in the particular case; iv) denying the waiver would result in undue hardship, provided that such hardship has not been self imposed; and v) the waiver, if granted, would be the minimum necessary degree of variation from the requirements of this Local Law.~~

7.9.D.8. Retain first sentence only (no provisions for automatic approval): **Extension of Time.** The time period in which the Review Board must render its decision on the abbreviated site plan may be extended only upon mutual consent of the Applicant and the Review Board. ~~Failure of the Review Board to act within the one-meeting time period specified or other time frame agreed upon between the Applicant and Board, shall constitute Review Board approval of the abbreviated site plan as submitted or last amended, and shall be deemed automatic approval. An Appli-~~

~~licant's failure to follow through within the specified time period on submitting application requirements shall not be considered a failure of the Review Board and thus shall not be deemed automatic approval.~~

Article VIII Special Use Permits

Reader's Aid: revise last sentence of first paragraph as follows: **Uses requiring a Special Use Permit also require Site Plan Review. These reviews will typically be performed concurrently by the Review Board.**

8.3.B "Code Enforcement Officer" replaced with "Zoning Officer"

8.4. Revise: Special Use Permits will expire if the Applicant fails to obtain a building permit or fails to comply with the conditions of the Special Use Permit **within thirty six (36) months of approval** unless other provisions are set forth by the Review Board in connection with its approval. A Special Use Permit will expire if the special use or uses cease for more than **36 months** for any reason. If a use subject to an approved Special Use Permit had been in continual operation but has since lapsed in operation for more than three years between Review Board approval and reinitiation of such use, the Review Board shall require a review of such use prior to reinstatement to ensure that all original conditions of the Special Use Permit are still valid. In either case, the Review Board may, after review, reinstate, reinstate with conditions, or **deny** such lapsed use. After lapse or expiration, an updated site plan and approval from the Review Board shall be required. Such review process shall be initiated through application to and initial action by the **Code-Zoning Officer**.

8.9.C.4 and 8.9.C.6. Delete and renumber sections.

Article IX Non-conforming Uses and Structures

9.1.A. add coma: ...this Local Law, may be continued...

9.1.B: added language to allow one accessory structure: ... shall be allowed to have one principal structure **and one accessory structure**...

9.1.C. added language: In any district where residences are permitted, such undersized Non-Conforming Lots may be used for not more than one Single-Family dwelling **and accessory structures**.

Article X Enforcement and Administration

~~Change "Code Enforcement Officer" to "Zoning Officer" throughout, except where specific to enforcement of NYS Code.~~

~~10.A and 10.B.11. ...Local Law 1 of 2023 (Code Enforcement Law and Regulations).~~

~~10.C. Change "shall" to "may." Complaints: The Zoning Code Enforcement Officer may review and investigate complaints that allege or assert the existence of conditions or activities that fail to comply with this Zoning Law. The process for responding to a complaint may include any of the~~**REVISED, as follows.**

ARTICLE X ENFORCEMENT AND ADMINISTRATION

READER AID:

~~Towns are empowered to create any or all of three different enforcement officers. The Zoning Enforcement Officer is authorized to issue zoning permits, inspect, and enforce this zoning law. The Building Inspector is authorized to issue building permits, inspect, and enforce the New York State Uniform Fire Prevention and Building Code and the New York State Energy Conservation Construction Code. The Code Enforcement Officer is similar to the Building Inspector but has broader duties and is tasked with the enforcement of the Building Code of New York State as well as all other local laws, and ordinances dealing with building construction, renovations (interior and exterior), and building demolition and removal. These duties may be held by individual staff or combined into one staff position. This section details how this zoning law will be enforced and by whom.~~ Revised - see draft law

Revised - see draft law ~~A. — This Local Law shall be enforced by the Zoning Officer who shall be appointed by the Town Board. No building permit or certificate of occupancy shall be issued, except where all the provisions of this Zoning Law have been complied with. Enforcement procedures shall include all requirements of Local Law 1 of 2023 (Code Enforcement Law and Regulations).~~

~~B. — The Zoning Officer shall have the following powers and duties related to this Zoning Law:~~

- ~~1. — To receive and review all applications for land uses and building permits including for a Special Use Permit, Site Plan Review or Subdivision Review pursuant to the provisions of this Zoning Law for compliance. If the Zoning Officer determines that the application meets the requirements of the Zoning Law and is a use that requires Review Board approval, the Zoning Officer shall forward the application to the Review Board for further review in accordance with the provisions of the Zoning Law and/or Subdivision Review Law. If the Zoning Officer finds that the application does not comply in one or more respects with the provisions of the Zoning Law, he/she shall deny the application and notify the Applicant that he/she may appeal the Zoning Officer's determination to the Zoning Board of Appeals in accordance with the provisions of Article XI of this Zoning Law.~~
- ~~2. — Upon Review Board approval of any application for a Special Use Permit, Site Plan approval, or for any other change in use requiring the issuance of a building permit, the Code Enforcement Officer is authorized to issue a permit without additional application by the project sponsor. The Code Enforcement Officer shall ensure that all Standards and conditions imposed by the Review Board have been met.~~
- ~~3. — To conduct inspections necessary to investigate complaints and all other inspections required or permitted under any provision of this Zoning Law, and to request and inspect any records or documents authorized pursuant to the provisions of this Zoning Law.~~
- ~~4. — To issue stop work orders, notices of violations and compliance orders, and to revoke permits issued pursuant to Local Law 1 of 2023. The Code Enforcement Officer is authorized to issue stop work orders pursuant to this Article for any work that is determined by the Zoning Officer to be conducted in violation of the Zoning Law, including, but not limited to, work being conducted on land and/or work being conducted on a building or structure for which a Special Use Permit or site plan approval is required but has not been obtained. When a stop work order is issued, the owner of the affected property, the permit holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work that is the subject of the stop work order.~~

~~5. To accept complaints of violations from citizens and public officials related to land uses regulated by this Zoning Law, to document and follow up on violations encountered during the course of inspections or through general observation in the community, to investigate potential violations, and where necessary at the discretion of the Town, to commence enforcement of the Zoning Law.~~

~~6. To issue orders pursuant to this Zoning Law.~~

~~7. To maintain records.~~

~~8. To collect fees set by the Town Board.~~

~~9. To pursue administrative and civil enforcement actions and proceedings and/or criminal proceedings to enforce the provisions of this Zoning Law.~~

~~10. To consult with the Town Attorney about pursuing such legal actions and proceedings as may be necessary to enforce the provisions of the Zoning Law.~~

~~11. To exercise all other powers and fulfill all other duties conferred upon the Zoning Officer by this Zoning Law and Local Law 1 of 2023 (Code Enforcement Law and Regulations)~~

~~C. Complaints. The Zoning Officer may review and investigate complaints that allege or assert the existence of conditions or activities that fail to comply with this Zoning Law. The process for responding to a complaint may include any of the following steps the Zoning Officer may deem to be appropriate:~~

~~1. Performing an inspection of the property, conditions and/or activities alleged to be in violation, and documenting the results of such inspection;~~

~~2. If a violation is found to exist, providing the owner of the affected property, and any other Person who may be responsible for the violation, with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner authorized in Article X, Section F (Violations) of this Zoning Law;~~

~~3. If appropriate, issuing a stop work order and/or compliance order;~~

~~4. If a violation that was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing the report with the complaint; and~~

~~5. Notify the complainant about the outcome of any investigation initiated as a result of their complaint.~~

~~D. Recordkeeping. All records maintained by the Zoning Officer shall be kept in an organized manner calculated to allow easy and efficient review by Town officials or the public. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation. The Zoning Officer shall periodically check all reports and plans to ensure that appropriate action, if needed, is taken.~~

The Zoning Officer shall keep permanent official records of all transactions and activities that he/she conducts and those conducted by members of his/her office, including records of:

- ~~1.—All applications received, reviewed and approved or denied;~~
- ~~2.—All plans, specifications and construction documents approved;~~
- ~~3.—All zoning permits, temporary certificates, stop work orders, and operating permits issued;~~
- ~~4.—All inspections and tests required and performed;~~
- ~~5.—All complaints received;~~
- ~~6.—All investigations conducted;~~
- ~~7.—All other features and activities specified in or contemplated by this Section of the Zoning Law;
and~~
- ~~8.—All fees charged and collected.~~

~~E.—Program Review and Reporting. The Zoning Officer shall annually submit to the Town Board a written report and summary of all business conducted by the Zoning Officer related to this Zoning Law, including a report and summary of all transactions and activities and a summary of all appeals or litigation pending or concluded.~~

~~F.—Violations. The Zoning Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on, or about any building, structure, property or premises in violation of this Zoning Law. Upon finding that any violation exists, the officer shall issue a compliance order. The compliance order shall:~~

- ~~1.—be in writing;~~
- ~~2.—be dated, shall identify the Code Enforcement Officer, and be signed by the Code Enforcement Officer;~~
- ~~3.—specify the condition or activity that violates this Zoning Law;~~
- ~~4.—specify the provision or provisions of this Zoning Law that is/are violated by the specified condition or activity;~~
- ~~5.—specify the period of time the Code Enforcement Officer believes is reasonably necessary for achieving compliance;~~
- ~~6.—direct that compliance be achieved within the specified period of time; and~~
- ~~7.—state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.~~

~~The Zoning Officer shall cause the compliance order, or a copy thereof, to be served to the owner of the affected property personally or by registered or certified mail. The Zoning Officer shall be permitted, but not required, to cause the compliance order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered or certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the compliance order.~~

~~G.—Appearance Tickets. The Zoning Officer is authorized to issue appearance tickets for any violation of the Zoning Law.~~

~~H.—Civil Penalties. In addition to those penalties authorized by State law, any Person who violates any provision of this Zoning Law shall be liable for a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this Subdivision shall be recoverable in an action instituted by the Town of Caroline.~~

~~I.—Criminal Penalties and Enforcement. Any violation of the Zoning Law is hereby declared to be an offense punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six (6) months, or both, for conviction of a first offense; upon conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than \$350, nor more than \$700, or imprisonment for a period not to exceed six (6) months, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five (5) years, punishable by a fine not less than \$700, nor more than \$1,000, or imprisonment for a period not to exceed six (6) months, or both. For the purpose of conferring jurisdiction upon the Courts and judicial officers generally, violations of the Zoning Law shall be deemed misdemeanors and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.~~

~~J.—Injunctive Relief. An action or proceeding may be instituted by the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this Zoning Law. No court action or proceeding shall commence without the appropriate authorization from the Town Board. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of this Zoning Law, or any Stop Work Order, Compliance Order or other order obtained under this Zoning Law, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions.~~

~~K.—Remedies Not Exclusive. No remedy or penalty specified in this Article shall be the exclusive remedy or penalty available to address any violation described in this Article, and each remedy or penalty specified in this Article shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified this Section or in any other applicable law. Any remedy or penalty specified in this Article, including stop work orders, may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Article or any other applicable law.~~

~~In particular, but not by way of limitation, each remedy and penalty specified in this Article, including stop work orders, shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of Section 381 of the New York State Executive Law (Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code and the New York State Energy Conservation and Construction Code), and any remedy or penalty specified in this Article, including stop work orders, may be pursued at any time, whether prior to, or simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of Section 382 of the New York State Executive Law.~~

~~L. Permits.~~

- ~~1. Building permit. For zoning purposes, no new structure shall be built, nor an existing structure enlarged or moved, no use of space shall be changed, unless a building permit for such action has been issued by the Code Enforcement Officer. A building permit shall expire one year from the date of issue.~~
- ~~2. Prior to commencing any use on any property for which a permit or approval is required under this law, the owner of such property shall contact the Code Enforcement Officer to seek the review and issuance of the appropriate permit for permitted uses or referral of the matter to the appropriate Board for review.~~
- ~~3. For new construction requiring sewage treatment and without public sanitary sewers, no building permit shall be issued unless the method of sewage disposal is approved by the Tompkins County Board of Health.~~

~~following steps the Zoning Code Enforcement Officer may deem to be appropriate:-~~

~~10. D. Recordkeeping. All records shall be public records open for public inspection during normal business hours, except for records exempted from disclosure under the New York State Public Officers Law (Freedom of Information Law) or documents which are protected by attorney-client privilege. All records maintained by the Zoning Code Enforcement Officer shall be kept in an organized manner calculated to allow easy and efficient review by Town officials or the public. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation. The Zoning Officer Code Enforcement Officer shall periodically check all reports and plans to ensure that appropriate action, if needed, is taken.~~

~~The Zoning Code Enforcement Officer shall keep permanent official records of all transactions and activities that he/she conducts and those conducted by members of his/her office, including records of:-~~

- ~~1. All applications received, reviewed and approved or denied;-~~
- ~~2. All plans, specifications and construction documents approved;-~~
- ~~3. All zoning permits, temporary certificates, stop work orders, and operating permits, and certificates of use issued;-~~
- ~~4. All inspections and tests, including all third-party inspections and tests, required and performed;-~~
- ~~5. All statements and reports issued and a master list of all reports to be received;-~~

- ~~6. All complaints received;~~
- ~~7. All investigations conducted;~~
- ~~8. All other features and activities specified in or contemplated by this Section of the Zoning Law; and~~
- ~~9. All fees charged and collected.~~
- ~~10.L.2. Prior to commencing any use on any property for which a permit or approval is required under this law, the...~~
- ~~10.L.3. For new construction requiring sewage treatment and without public sanitary sewers, no building permit shall be issued...~~

REVISED

Article XI Zoning Board of Appeals

REVISED, as follows. R

responsibilities and authority of ZBA shall rest solely with the ZBA, 18-mo, expiration period for implementation of variances, public notice requirement at site of variance.

ARTICLE XI ZONING BOARD OF APPEALS

READER'S AID:

~~Every Zoning Law requires an appeals process. This section details what this appeals process is and establishes the criteria for when the Zoning Board of Appeals (ZBA) can grant an area or Use Variance. An appeal to the ZBA may be made by an Applicant after a permit is denied by the Zoning Officer. Two types of variances can be issued by the ZBA — a use or an Area Variance. These variances are only issued by the Zoning Board of Appeals if the application meets specific criteria as established in this Law and in New York State law. Any Person has a right to appeal a Revised zoning decision to the New York State Supreme Court through an Article 78 Proceeding described in this section.~~

~~A. Purpose. A Zoning Board of Appeals shall be maintained and operated in accordance with Article 16 of the New York State Town Law, Sections 267, 267 a and 267 b. The Zoning Board of Appeals shall have all of the authority, jurisdiction and duties granted to such Boards by Sections 267, 267 a, 267 b and any other applicable State law, and shall fulfill its duties in accordance with those grants of authority and in accordance with Article X of this Zoning Law.~~

~~B. Membership. The Board shall consist of three (3) members appointed by the Town Board for staggered terms of three (3) calendar years pursuant to NYS Town Law 267 (Zoning Board of Appeals).~~

~~1. All members and alternate members of the Zoning Board of Appeals shall be residents of the Town of Caroline. No Person who is a member of the Town Board shall be eligible for membership on the Zoning Board of Appeals.~~

~~2. The Town Board shall appoint at least one (1) Person as an Alternate Member of the Zoning Board of Appeals for a term of three calendar years. All provisions of this Zoning Law relating to zoning board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards shall also apply to alternate members. The Chairperson of the Zoning Board of Appeals may designate the alternate member~~

~~to substitute for a member who is unable to act, is not present, is recused, or is deemed to have a conflict of interest on an application or matter before the Board. That designation of the Alternate Member shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board; shall be allowed to participate in discussions of the proceedings; and shall be allowed to vote. At all other times, an Alternate Member may participate in discussions of the proceedings but may not vote except due to the disqualification of a regular member and a designation of substitution by the Chairperson.~~

~~C. Terms of Members Now in Office. Members now holding office for terms which do not expire at the end of a calendar year shall, upon the expiration of their term, hold office until the end of the year and their successors shall then be appointed for terms which shall be equal in years to the number of members of the Board.~~

~~D.—Training and Attendance Requirements.~~

- ~~1.—Each member of the Zoning Board of Appeals and each Alternate Member shall complete, at a minimum, four (4) hours of training each year designed to enable such members to carry out their duties more effectively. Training received by a member in excess of four (4) hours in any one (1) year may be carried over by the member into succeeding years in order to meet this requirement. Such training shall be approved by the Town Board and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to electronic media, video, distance learning and traditional classroom training.~~
- ~~2.—To be eligible for reappointment to the Board, a member or alternate member shall have completed the required training.~~
- ~~3.—No decision of the Zoning Board of Appeals shall be voided or declared invalid because of a failure to comply with this training requirement.~~

~~E.—Vacancy in Office. If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint a new member for the unexpired term.~~

~~F.—Removal of Members. The Town Board may remove, after public hearing, any member or alternate member of the Zoning Board of Appeals for cause. Cause for removal of a member or alternate member may include one or more of the following:~~

- ~~1.—Any undisclosed or unlawful conflict of interest.~~
- ~~2.—Failure to attend 33% of the meetings during the course of one calendar year.~~
- ~~3.—Failure to complete mandatory training requirements.~~

~~G.—Chairperson. The Town Board shall appoint one of the Zoning Board of Appeals members as chairperson to preside at all meetings and hearings and to fulfill the authorized duties of that office. The Chairperson shall annually appoint one of the Zoning Board of Appeals members as Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the powers of the Chairperson. The Vice Chairperson shall have such other powers and duties as may be provided by the rules of the Board. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the board may determine. The Chairperson, or in his or her absence, the Acting Chairperson, may administer oaths to Applicants, witnesses, or others appearing before the board and may compel the attendance of witnesses.~~

~~H.—Zoning Board of Appeals Clerk and Public Record. Upon recommendation by the Zoning Board of Appeals in coordination with the Review Board, the Town Board shall appoint a Zoning Board of Appeals Clerk who shall attend all proceedings of the Zoning Board of Appeals and, upon request, the proceedings of any of its committees.~~

- ~~1. The Clerk shall keep minutes of the proceedings of the Zoning Board of Appeals, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact, and shall also keep record of its examinations and other official actions.~~
- ~~2. The Town Clerk shall provide for keeping a file of all records of the Zoning Board of Appeals.~~

~~I. Board of Appeals Procedure.~~

- ~~1. Meetings, minutes, records. Meetings of the Zoning Board of Appeals shall be open to the public except for records exempted from disclosure under the New York State Public Officers Law (Freedom of Information Law) or documents which are protected by attorney-client privilege. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.~~
- ~~2. Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall be filed in the Office of the Town Clerk within five (5) business days and shall be a public record.~~
- ~~3. Assistance to Zoning Board of Appeals. The Board shall have the authority to call upon any department, agency or employee of the town (e.g., the Building Department) or professional consultants including but not limited to architects, engineers, and attorneys for such assistance as the Board deems necessary. All costs incurred by any department, agency or employee for providing assistance in a particular proceeding shall be borne by the Applicant.~~
- ~~4. Hearing appeals. Unless otherwise provided in this Zoning Law or other local law, generally the jurisdiction of the Zoning Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of any ordinance or local law adopted pursuant to Article 16 of New York State Town Law. For the purposes of this law, the administrative official charged with enforcement shall include the Code Enforcement Officer as applicable pursuant to the provisions of this law and that officer shall be referred to collectively in this Article of the Law as "Enforcement Officer". The Zoning Board of Appeals shall have the power, upon appeal from a decision or determination of the Enforcement Officer, to grant use and Area Variances. Where a proposed Special Use, Site Plan, or Subdivision contains one or more features which do not comply with these zoning regulations, application may be made to the Zoning Board of Appeals for an Area Variance without the necessity of a decision or determination by the Enforcement Officer.~~
- ~~5. Filing of Administrative Decision and Time Of Appeal.
 - ~~a. Each order, requirement, decision, interpretation or determination of the Enforcement Officer charged with the enforcement of the Town of Caroline Zoning Law shall be filed in the Office of such Enforcement Officer, within five (5) business days from the day it is rendered and shall be a public record.~~
 - ~~b. All appeals must be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the Enforcement Officer by filing with the Enforcement Officer and with the Zoning Board of Appeals a notice of appeal. The notice of appeal shall: specify the grounds for such appeal; the relief sought; identify specifically the~~~~

section of the Zoning Law or other code or law involved; describe precisely and in detail either the interpretation claimed or the variance or other relief that is sought and the grounds upon which it is claimed the relief should be granted. The notice of appeal shall be accompanied by a short or full Environmental Assessment Form as required by the State Environmental Quality Review Act (SEQRA), by an Agricultural Data Statement as required by NY AML 25-AA, and by other documents relevant to the appeal specified by the Zoning Board of Appeals. The appellant shall also be required to pay a filing fee at the time of the filing of the appeal in an amount to be established by the Town Board. The cost of sending notices relating to such appeal by certified mail, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Zoning Board of Appeals prior to the hearing of such appeal. Upon receiving a notice of appeal, the Enforcement Officer shall transmit to the Zoning Board of Appeals all papers constituting the record upon which the action appealed from was taken.

6. ~~Stay Upon Appeal. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Enforcement Officer determines and certifies in writing to the Zoning Board of Appeals, after the notice of appeal shall have been filed with the Enforcement Officer, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property. Should such a certification be made, the proceedings shall not be stayed other than by a restraining order granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Enforcement Officer from whom the appeal is taken and on due cause shown.~~
7. ~~Public Hearing. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it. The appellant and any other parties to the appeal shall be given written notice of the hearing date and of the fact that at such hearing he or she may appear in person or be represented by an attorney or other agent. Said notice shall be provided at least ten (10) days in advance of the hearing and shall be provided to the appellant by certified mail. The Zoning Board of Appeals shall additionally provide notice as follows:
 - a. ~~The Zoning Board of Appeals shall give public notice of such public hearing by publication in an official paper of general circulation in the town at least ten (10) days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.~~
 - b. ~~If a New York State Park shall be located within five hundred (500) feet of the property affected by the appeal, at least ten (10) calendar days prior to such public hearing, the Zoning Board of Appeals shall send notices to the regional State Park Commission having jurisdiction over the State Park.~~
 - d. ~~If the land affected by the appeal lies within five hundred (500) feet of the boundary of any other municipality, the Clerk of the Zoning Board of Appeals shall also submit at least ten (10) calendar days prior to the public hearing to the municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every appeal, together with a copy of the official notice of such public hearing.~~
 - e. ~~In any application or appeal for a variance, the Clerk of the Zoning Board of Appeals shall provide written notice of the public hearing, along with the substance of the variance appeal or application, to the owners of all property abutting, or directly opposite, that of the property affected by the appeal; and to all other owners of property within five hundred (500) feet of the property which is the subject of the appeal. Such notice shall be provided by certified mail~~~~

~~at least ten (10) calendar days prior to the date of the hearing. Compliance with this notification procedure shall be certified by the Clerk.~~

~~f. The names and addresses of surrounding property owners to be notified in accordance with the foregoing shall be taken from the last completed tax roll of the Town.~~

~~g. In addition to any other notice required by law, public notices shall be posted by the landowner or applicant upon any building, structure, and property that is the subject of any use or area variance application. Signs shall be posted or placed as follows: (i) upon the primary entrances to any buildings upon the property; (ii) posted conspicuously upon any structures that are the subject of the variance; and (iii) upon the setback or yard lines of the property wherever the same fronts upon any public or private street, road, or highway. If the frontage along any type of roadway exceeds 300', one sign shall be posted for every 200' of frontage and spaced apart by no less than 100' of separation, or as specified by the Zoning Officer. Such signs shall be posted by the landowner or applicant at least 10 days before the date of any public hearing and each sign be at least two feet upon each dimension of width and height, with lettering using at least 90% of the face of the sign, using high visibility and bold lettering or type-facing as promotes readability from distances of 50 or more feet, identifying the type of variance sought and the date of the public hearing upon such variance. In the event that there is more than one public hearing, signs shall be posted for each such hearing. The application for a variance may state more specific or additional requirements, including for the information place or to be placed upon such signs, and such more specific or additional requirements may be changed from time to time by resolution of the Town Board. All signs shall be continuously maintained by the landowner or applicant until final action has been taken by the ZBA or the application is withdrawn, and signs shall be removed within 10 days of the final action or withdrawal of the application. However, the failure to post or maintain the signs shall not be a jurisdictional defect, and any action taken by the ZBA in connection with the application shall not be nullified or voidable by reason of the failure to comply with this section. However, the failure to post or maintain the sign as required by this section or any additional requirements set forth in application materials may be grounds, should the ZBA in its discretion so determine, to deny the application or decline to hear the matter at the scheduled meeting date by reason of the failure to so comply, or to otherwise have the appropriate signs installed or maintained.~~

~~h. The Zoning Officer (or his or her designee) shall have the right to enter upon and inspect any building or property for the purpose of carrying out any requirements of this local law or to verify proper commencement of work, posting of notices, and compliance with approvals, conditions, building permits, ground disturbance permits and stormwater requirements, and like matters and purposes. If permission to enter is denied by any applicant or landowner then access shall be pursued by the Attorney for the Town through proper legal process, including but not limited to administrative and search warrants and, pending obtaining such actual access for required verifications or inspections, no further permits, certificates of occupancy or certificates of compliance, or other approvals shall be granted by the Town or any of its boards, bodies, officers, or employees.~~

~~i. Provided that there has been substantial compliance with this provision, failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Zoning Board of Appeals in either granting or denying a variance from a specific provision of this Zoning Law.~~

~~8. Referrals and Notice to Tompkins County Planning and Sustainability Department and Town of Caroline Review Board.~~

- a. ~~At least ten (10) days before such hearing, the Board of Appeals shall mail notice to the Tompkins County Planning and Sustainability Department as required by Section 239-m of the New York State General Municipal Law. The notice shall be accompanied by a full statement of the proposed action, as defined in subdivision one of Section 239-m of the General Municipal Law. No action shall be taken by the Board of Appeals until an advisory recommendation has been received from the County Planning Board or thirty (30) calendar days have elapsed since the County Planning Board received such full statement. In the event that the Tompkins County Planning and Sustainability Department recommends disapproval of the requested variance or the attachments of conditions thereto within such time period or at a later date prior to final action by the Zoning Board of Appeals, the Board of Appeals shall not act contrary to such recommendation except by a vote of a majority plus one (1) of all the members after the adoption of a resolution fully setting forth the reasons for such contrary action. Within thirty (30) days after such final action, the Board of Appeals shall file a report of the final action it has taken with the Tompkins County Planning and Sustainability Department.~~
- b. ~~The Zoning Board of Appeals shall transmit to the Town of Caroline Review Board a copy of the appeal or application and shall request that the Review Board submit to the Board of Appeals its advisory opinion on said appeal or application. The Review Board shall submit a report of such advisory opinion prior to the date of the public hearing. The failure of the Review Board to submit such report within thirty five (35) days from the date the Zoning Board of Appeals transmitted their request for an advisory opinion with a copy of the appeal or application to the Review Board shall be interpreted as a favorable opinion for the appeal or application.~~

9. ~~Compliance with State Environmental Quality Review Act (SEQRA). The Board of Appeals shall comply with the provisions of SEQRA under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title Six, Part 617 of the New York Codes, Rules and Regulations.~~

10. ~~Time of Decision. The Board of Appeals shall decide upon the appeal within sixty two (62) days after the hearing is completed. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the Applicant and the Board.~~

11. ~~Voting requirements.~~

- a. ~~Decision of the board. Except for the voting requirements for rehearing in Article XI (I) (13) below, every motion or resolution of a Board of Appeals shall require for its adoption the affirmative vote of a majority of all the members of the Board of Appeals as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the county planning agency the voting provisions of Section 239-m of the New York State General Municipal Law shall apply.~~
- b. ~~Default denial of appeal. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the Board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the enforcement official within the time allowed by this Law, the appeal is denied. The board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in Article (I) (13) of this Law.~~

~~12. Filing of Decision and Notice. The decision of the Board of Appeals on the appeal shall be filed in the Office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the Applicant.~~

~~13. The approval of a variance shall not itself authorize the commencement of any work; rather, it merely authorizes the preparation, filing, and processing of applications for any permits and approvals which may be required by Town ordinances, rules, and local laws, as well as like laws, regulations, and permits of Tompkins County, the New York State and, when applicable, the United States or its bureaus and agencies.~~

~~14. The rights to a variance must be exercised within 18 months of the date(s) of the decision or determination of the ZBA by obtaining a Building Permit (or other permit), Certificate of Occupancy, Certificate of Compliance, or otherwise exercising and vesting the rights granted by such variance. If a building or other permit or approval is obtained to permit some work or installation to occur, the applicant or landowner must materially commence such work within 6 months of the date of the issuance of such permit or approval, and thereafter prosecute such work or installation to completion within 12 months thereafter. The Zoning Officer shall determine whether a variance has expired and, in the event any variance so expires, then: (i) any permit or building permit shall also expire and be revoked; and (ii) the permissible uses and construction upon or improvements for the property shall revert to those in effect prior to the granting of any such variance or the requirements applicable to the building, land, project, or improvement under the applicable zoning rules for the same as if no variance, exception, or waiver had been granted. The ZBA may, upon request of the landowner or applicant and after a public hearing duly called for such purpose, extend the above timelines for such period as the ZBA may reasonably determine, but only upon making a finding that the imposition of a time limit as set forth above would create an undue hardship on the landowner or applicant, and such hardship is not in whole or any material part a hardship that has been created or allowed by the action or inaction of such applicant.~~

~~15. Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the board not previously reheard may be made by any member of the Board. A unanimous vote of all members of the board then present is required for such a rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.~~

~~J.—Permitted Action by the Zoning Board of Appeals.~~

~~1.—Orders, requirements, decisions, interpretations, determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the Zoning Officer charged with the enforcement of such zoning law, and to that end, shall have all the powers of such Zoning Officer from whose order, requirement, decision, interpretation or determination the appeal is taken.~~

~~2.—Use Variances.~~

- ~~a. The Zoning Board of Appeals, on appeal from the decision or determination of the Zoning Officer, shall have the power to grant Use Variances.~~
- ~~b. No such Use Variance shall be granted by the Zoning Board of Appeals without a showing by the Applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the Applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,
 - ~~1. the Applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;~~
 - ~~2. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;~~
 - ~~3. that the requested Use Variance, if granted, will not alter the essential character of the neighborhood; and~~
 - ~~4. that the alleged hardship has not been self-created.~~~~
- ~~c. The Zoning Board of Appeals, in the granting of Use Variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the Applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.~~

~~3. Area Variances.~~

- ~~a. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Zoning Enforcement Officer, to grant Area Variances as defined herein. In addition, the Zoning Board of Appeals shall also have the power to grant Area Variances which are necessary in the course of site plan, Special Use Permit and subdivision application for which application for such Area Variance may be made directly to the Zoning Board of Appeals without the necessity of a decision or determination of an administrative official charged with enforcement of the zoning regulations as authorized by Town Law Sections 274-a(3) [site plan], 274-b(3) [Special Use Permits] and 277(6) [Subdivisions].~~
- ~~b. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such a determination the Board shall also consider:
 - ~~1. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance;~~
 - ~~2. whether the benefit sought by the Applicant can be achieved by some method, feasible for the Applicant to pursue, other than an Area Variance;~~
 - ~~3. whether the requested Area Variance is substantial;~~
 - ~~4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and~~
 - ~~5. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the Area Variance.~~~~
- ~~c. The Zoning Board of Appeals, in the granting of Area Variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.~~

~~4.—Imposition of Conditions. The Zoning Board of Appeals shall, in the granting of both Use Variances and Area Variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.~~

~~K.—Relief From Decisions. Any Person or Persons, jointly or severally aggrieved by any final decision of the Zoning Board of Appeals, may apply to the New York State Supreme Court for review by a proceeding under Article 78 of the New York Civil Practice Law and Rules. Such proceeding shall be governed by the specific provisions of CPLR Article 78 except that the action must be commenced as therein provided within thirty (30) days after the filing of the decision of the Zoning Board of Appeals in the Office of the Town Clerk~~

~~L.—Strict Construction. All provisions of this Article pertaining to the Zoning Board of Appeals shall be strictly construed. The Zoning Board of Appeals shall act in strict conformity with all provisions of law and of this Article and in strict compliance with all limitations contained therein, provided however, that if the procedural requirements set forth in this Article have been substantially observed, no Applicant or appellant shall be deemed deprived of the right of application or appeal.~~

~~M.—Other Provisions of New York State Town Law Section 267-a. All other provisions of New York State Town Law Section 267-a with regard to Zoning Board of Appeals procedure not set forth herein, are incorporated herein by reference and shall apply to the Zoning Board of Appeals. - see draft law~~

Revised - see draft law

~~11. Reader's Aid: delete: The ZBA is also authorized to make interpretations of the Law.~~

~~A. Purpose. A Zoning Board of Appeals shall be maintained and operated in accordance with Article 16 of the New York State Town Law, Sections 267, 267-a and 267-b. The Zoning Board of Appeals shall have all of the authority, jurisdiction and duties granted to such Boards by Sections 267, 267-a, 267-b and any other applicable State law, and shall fulfill its duties in accordance with those grants of authority and in accordance with Article XI of this Zoning Law.~~

~~11.B.2. ...revise with: is unable to act, is not present, is recused, or is deemed to have a conflict of interest~~

~~11.H.2. delete final clause: and those records shall be public records open to inspection at reasonable times and upon reasonable notice.~~

~~XI.J.1. replace "ordinance or local law" with "zoning law."~~

REVISED

Article XII Review Board

12.D.5. Delete (leave authority for zoning review solely with the ZBA).

12.K.4. Remove default approval. 4. Failure to Act. All time periods prescribed for Review Board action on a preliminary or final plat, Special Use Permit, or site plan approval are specifically intended to provide the Review Board and the public adequate time for review and to minimize delays in the processing of such applications. Such time periods may be extended only by mutual consent of the owner and the Review Board. ~~If the Review Board fails to take action on a preliminary plat, final plat, Special Use Permit, or site plan within the time prescribed after completion~~

~~of all requirements under the state environmental quality review act, or within such extended period as may have been established by the mutual consent of the owner and the Review Board, such application shall be deemed granted approval.~~ The certificate of the Town Clerk as to the date of submission of the application and the date when such application is deemed complete for review and the failure of the Review Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval as required.

Article XIII Amendments

no changes

General changes:

This Local Law shall be enforced by the Zoning Officer, who shall be appointed by the Town Board. “Code Enforcement Officer” replaced with “Zoning Officer” throughout, where appropriate.

Replace “County Planning Department” with “Tompkins County Planning and Sustainability Department” throughout.