

RESOLUTION NO. ____ (2011)

Councilperson _____ offered the following resolution and asked for its adoption:

RESOLUTION PROPOSING A LOCAL LAW ENACTING
A NINE-MONTH MORATORIUM ON NEW DEVELOPMENT PROJECTS IN
THE VARNA AREA.

WHEREAS, the Town has been involved in revising the zoning regulations of the entire Town in light of the recommendations in the 2005 Comprehensive Plan, and

WHEREAS, through various public presentations of the proposed zoning regulations and in many work sessions held by the Town Board, it has become apparent that more study of the existing and proposed zoning regulations in the Varna area is desirable, and

WHEREAS, the Town has entered into an agreement with Behan Planning Associates to assist the Town Planning Department and a Study Advisory Committee (to be formed) to make recommendations for the future of Varna in the form of a study report to aid the Town Board in its consideration of possible amendments to the Town's 2005 Comprehensive Plan and updated land use regulations (including design standards/guidelines) in Varna, and

WHEREAS, the Town has received notice of possibly significant development proposals in Varna from two developers which if approved might thwart the planning goals associated with the Behan Planning Associates study, and

WHEREAS, it is desirable to maintain the *status quo* of current undeveloped or underdeveloped areas in Varna pending the receipt of the Behan Planning Associates study report, consideration of amendments to the 2005 Comprehensive Plan, and consideration of the adoption of new land use regulations (including design standards/guidelines),

NOW, THEREFORE, BE IT ENACTED by the Town Board of the Town of Dryden as follows:

A local law establishing a nine (9) month moratorium on accepting applications for development in the Varna area.

Section 1. Findings. The Town Board, in adopting this local law, finds as follows:

1. The Town of Dryden (the "Town") last updated its Comprehensive Plan in 2005.
2. The Town, through its Planning Board and Town Board had been involved in revising the zoning regulations of the Town, in light of the recommendations of the 2005 Comprehensive Plan.
3. There have been several public presentations of the proposed zoning regulations.

4. In many of those presentations, and in town board meetings to review the proposed zoning regulations, it has become apparent that more study of the existing and proposed zoning regulations in the Varna area is desirable.

5. The Town has appropriated \$40,000 to fund the costs of a study of the Varna area in light of the public interest expressed for this area of the Town.

6. The Town has entered into an agreement with Behan Planning Associates to assist the Town Planning Department and a Study Advisory Committee to make recommendations for the future of Varna in the form of a study report.

7. Such study report will be for the Town Board's use to consider amendments to the 2005 Comprehensive Plan and revisions to the existing or proposed land use regulations (including design standards/guidelines).

8. The Town has received notice of significant development proposals in Varna from two developers which if approved might thwart the planning goals associated with the Behan Planning Associates study.

9. The Behan Planning Associates study will:

- develop an inventory and analysis of existing conditions in the hamlet of Varna, and
- engage the Varna community in a dialogue about the future of the hamlet, and
- prepare initial recommendations (text, maps, and illustrations) concerning land use, density, community design, and transportation, and
- provide recommendations to form the basis for proposed comprehensive plan amendments and updated land use regulations (including design standards/guidelines).

10. The project description of the Behan Planning Associates study is set forth in a six-page Memorandum dated March 17, 2011, which Memorandum is incorporated herein by reference.

11. It is desirable to temporarily suspend new development projects and maintain the *status quo* of undeveloped or underdeveloped areas in Varna pending the receipt of the Behan Planning Associates study report.

12. After receipt of the study report, time is needed to consider possible amendments to the 2005 Comprehensive Plan, and consider the possible adoption of new land use regulations (including design standards/guidelines).

13. The enactment of a moratorium is an exercise of the police powers of the Town to protect the public health, safety and welfare of its citizens and property owners pending the formulation of development strategies for Varna.

14. The enactment of a moratorium will prevent inefficient and ill-conceived growth in a

limited geographic area which is currently subject to development pressure under the 1969 Zoning Ordinance.

15. There are no Town approvals in place which will be affected by a moratorium.

16. A nine (9) month moratorium is the minimum amount of time needed for completion of the study report, review and consideration of its recommendations by the Planning Board and Town Board, introduction of any proposed amendments to the 2005 Comprehensive Plan, introduction of any proposed zoning regulations, referral of the same to the Tompkins County Department of Planning, holding public hearings and acting on such proposals.

Section 2. Definition of Varna. For the purposes of this local law only, Varna is defined as follows:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Dryden, County of Tompkins and State of New York, bounded and described as follows:

BEGINNING at a point marking the intersection of NYS Route 366 and the former Lehigh Valley Railroad trestle over Route 366 (the F.H. Fox trestle); proceeding thence north to Fall Creek; proceeding thence westerly along Fall Creek to the west line of the Town; proceeding thence south along the town line and along Game Farm Road to its intersection with Stevenson Road; proceeding thence easterly along Stevenson Road to the former Lehigh Valley Railroad property; proceeding thence northeasterly along the former Lehigh Valley Railroad property to the point or place of beginning.

Section 3. Nine (9) Month Moratorium. (a) There is hereby enacted a nine (9) month moratorium on the acceptance, review or approval of any application for a building permit, demolition permit, special use permit, subdivision or planned unit development in Varna.

(b) During the period of the moratorium, the Code Enforcement Officer, Planning Department, Town Board, Zoning Board of Appeals and Planning Board shall not accept, review, hold public hearings on, refer, or approve any building permit, demolition permit, special use permit, subdivision or planned unit development for any parcels located in the area defined herein as Varna.

Section 4. Superseding Provisions. (a) Pursuant to the powers granted by the Municipal Home Rule Law, this local law supersedes and suspends the provisions of Article 16 of the Town Law, including specifically the following sections of the Town Law insofar as they are inconsistent with this local law: Sections 267, 267-a, 267-b, 267-c in that the zoning board of appeals may not grant any variances or approvals in Varna during the moratorium; Section 274-b in that the town board may not grant any special use permits in Varna during the moratorium; Sections 276, 277, 278 in that the Planning Board may not grant any preliminary or any final plat approvals in Varna during the moratorium and the default approval periods for such plats are hereby tolled; and Section 280-a in that no permit for any building not on an improved mapped town highway may be issued.

(b) All ordinances, local laws and regulations of the Town of Dryden in conflict with the provisions of this local law are hereby superseded to the extent necessary to give this local law full

force and effect.

Section 5. Appeals. (a) The Town Board may grant a variance from the restrictions of this local law in the case of an application for a building permit for a single family home on an existing lot not involving an area variance, or for an addition to a single family home on an existing lot not involving an area variance, or for a replacement of a single family home in kind on the same or substantially the same foundation, or for repairs which, except for the restrictions of this local law, would be permitted upon the issuance of a building permit.

(b) Before granting such a variance, the Town Board shall hold a public hearing on the variance request. Notice of such public hearing shall be given as required by the Town Law Section 267-a.

(c) In deciding an appeal, the Town Board shall have the power to vary or modify the application of any of the restrictions of this local law as they pertain to the applicant.

(d) In every instance of granting a variance, there must be the showing by the applicant that:

(1) The strict application of the provisions of this local law would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of this local law.

(2) There are exceptional or extraordinary circumstances or conditions applicable to the applicant that do not apply generally to other property owners in Varna.

(3) The granting of such variance will not result in a substantial detriment to the public interest or to the neighborhood and Varna.

(e) Any relief granted shall be limited to the minimum necessary for substantial justice and shall not materially impair the general purpose and intent of this local law. In granting any variance, the Town Board may prescribe any conditions that it deems necessary or desirable.

Section 6. Effective Date. This local law shall take effect immediately upon filing in the office of the Secretary of State.

Section 7. Term. This local law shall be in effect for a period of nine (9) months from its effective date, unless sooner repealed.

Section 8. Validity. The invalidity of any provision of this local law shall not affect the validity of any other provision which can be given effect without such invalid provision.

SECOND: Councilperson _____.