

**TOWN OF COVERT, SENECA COUNTY
REGULAR TOWN BOARD MEETING**

April 10th, 2023

The regular meeting of the Town Board of the Town of Covert was held Monday, April 10, 2023 at 7:00 P.M. at the Town of Covert Municipal Building, 8469 South Main Street, Interlaken, New York.

Roll Call:	Supervisor Michael Reynolds	Present
	Councilwoman Deborah Nottke	Present
	Councilman Bill Bishop	Present
	Councilman Brayton Foster	Present
	Councilman Todd Wyckoff	Present

Others Present: Town Clerk Leslie Adams-Compton, Town Attorney Patrick Morrell, Town Code Enforcement Officer Roger Ward, Deputy Clerk Brian Quan, other interested citizens.

Call to order: Supervisor Reynolds called the meeting to order at 7:00 P.M. All rose for the pledge of allegiance.

Approval of Minutes: Nottke moved, seconded by Wyckoff, to approve the minutes from March 13th, 2023. Aye - Wyckoff, Aye - Nottke, Aye - Bishop and Aye - Foster.

Highway: MacCheyne reported that the Highway Dept. fixed washouts on Little Point Road and added millings, cut trees and cleared pipes on Booth Road, plowed and sanded on all Town roads, cold-patched some, cleaned up shoulders damaged from plowing, cleaned ditch and cut shoulders on Halls Corners, cut trees leaning over West Covert and Arden Roads. They cleaned rusty areas/repainted 2019 10-wheeler, installed new wiper motor on 2010 International and did regular maintenance on all equipment. Also, they installed a new windowed door on the main shop.

Town Clerk: Adams-Compton reported that taxes were returned to the County with about 60 tax bills remaining unpaid. She said that the Interlaken Historical Society would like to use the Town Hall for a program on April 24th at 7 PM.

Committees: Nottke said that last month Foster had recommended Bill Shaw to sit as a Director on the Three Falls LDC Board, and he has willingly decided he would.

She reported that Three Falls had its first meeting on March 30th and have decided to hold regular meetings on the 1st Thursday of each month at 9:30 AM at the Town of Ulysses. There is also a meeting planned for May 25th with NY Parks Commissioner. She said another walk-thru tour of Camp Barton is planned for May 17 @ 10 AM.

Nottke also reported that the lead abatement of Camp Barton has been completed.

Foster questioned whether it was a good idea to get the money needed for the Three Falls Local Development Corp membership from Seneca County, asking if they would want something in return. The money would be from the County's hotel/motel tax. Nottke said it would be a one-time deal. Reynolds said that the County budgets \$150,000 each year for this type of spending. Although Seneca County would like a deal, to be included in the Barton/Three Falls/Park, there is no deal. Reynolds said the Seneca County meeting with a vote from the whole Board would be Tuesday, April 11th.

Supervisor: Reynolds said they got the 2022 AUD back and that the State Comptrollers had a few questions. They were concerned that the money is too tight and want to see more money in Reserves. Nancy suggested that the Budget go to the full allowable tax cap; the 2023 budget was \$10,000 under.

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Reynolds proposed the Town invest in NYCLASS, a municipalities cooperative liquid assets securities system that has high yield interest with minimal time commitment without penalty. The Village of Interlaken uses them for reserve funds.

Foster questioned whether they were FDIC insured. He would be apprehensive if they were not. He said municipal money has to be protected.

Bishop asked where they are investing for such a high interest yield and what if they make a mistake?

Reynolds will get more information.

Reynolds has proposed using ARPA money for a new sign for the Town Hall that can be updated remotely. Interlaken may help finance the new sign for the Town Hall with shared use and the Town had received a S2AY Rural Health grant for \$2500 toward the purchase of a sign. He has received a few quotes from sign companies.

Reynolds said that he met with an electronic sign rep from Toth's Sports from Victor, NY. The company has electronic signs at South Seneca, Trumansburg and Ithaca Schools. He said that the company has had signs last twenty years, although it is warranted for only five. They claim their electronics are sealed better for the weather than other companies' product.

Reynolds has another quote from Stewart Signs out of Florida. They also have a five year warranty but the specs may not be comparable.

Morrell said that the specs for the quotes should be the same and that General Municipal Law requires that bids be advertised and awarded pursuant to a competitive bidding process for purchase contracts in excess of \$20,000, over \$35,000 for public works projects. Because they would be installing the sign, it is considered a public works project, so comparative bids would suffice.

Reynolds said that Rob LaPard from the County's IT Dept. has researched equipment for the Town's need for video conferencing equipment to serve the Court and for Public meetings. The cost would be about \$2,500-3,000 for video recording, tv and stand.

Attorney: Morrell said that the Town was notified within the month by the NY Supreme Court Dept. that the "Findings of Fact" Morrell submitted to the Court in Guttman v. Mikeska/Town of Covert back in July would have to be approved as the Town Board's determination. Morrell reviewed that the case began in 2019 after Mikeska built without a permit, applied for a Variance, withdrew the Application for Variance when it was determined that only a violation ticket needed to be issued, then Guttman sued. The Waterloo Court determined that the issue was whether a bunkhouse with no kitchen, but a bedroom and bathroom, was considered a second dwelling. Code Enforcement Officer Poludniak had determined that the setback had not changed because the footprint did not change and the bunk house was not a dwelling because there was no kitchen, thus no Variance was needed, and the Town Board concurred.

Petitioners: Barry Ford asked if they were widening the Booth Road **c**rossover and **d** if so, how with a gully on one side and creek on the other? MacCheyne said that's why there are engineers.

Resolutions: Nottke moved, seconded by Bishop, to approve the Interlaken Historical Society's use of the Town's Municipal Building for a public program on April 24, 2023 at 7:00 PM. Aye-Nottke, Aye-Foster, Aye-Wyckoff, and Aye-Bishop.

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Foster moved, seconded by Nottke, that the Town of Covert Town Board hereby appoints William Shaw as a Director of the Three Falls Local Development Corporation, to serve until December 31, 2023. Aye-Nottke, Aye-Foster, Aye-Wyckoff, and Aye-Bishop.

RESOLUTION #3 OF 2023

**to Set Forth "Findings of the Facts" of the Town Board of Covert to Grant
the Development Permit #19-2019 for Paul and Heidi Mikeska**

Motion: Brayton Foster, Second: William Bishop

TOWN BOARD
TOWN OF COVERT

In the Matter of the Application of PAUL MIKESKA
and HEIDI MIKESKA For a Variance from the Town
of Covert Land Management Ordinance

FINDINGS OF FACT
of the COVERT TOWN BOARD

RESPONDENT Covert Town Board, in response to the Order of this Court dated March 24, 2023, submits the following Findings of Fact:

1. These Findings of Fact are based upon the minutes of the Covert Town Board meeting held on October 14, 2019; a transcript of the same meeting, and the recollection of the Board Members present at that meeting.
2. On August 23, 2019, Respondent Town received an Application for Development Permit from Respondent Mikeska. That permit was denied by the Respondent Town's Code Enforcement Officer by a Notice of Denial of Development Permit dated August 28, 2019. The reason for the denial as stated in the Notice was "the requested development permit is being applied for after the listed improvements were completed . . ."
3. Respondent Mikeska submitted an application for a variance from the requirement of the Respondent Town Land Management Ordinance that states "a building permit shall be approved prior to construction, erection, alteration, addition to, replacement of, of installation of any building in the Town of Covert."
4. On September 26, 2019 Respondent Town Planning Board conducted a meeting and considered the variance application. The Respondent Land Management Ordinance requires referral of all variance applications to the Planning Board for review and recommendation to the Town Board. After motions to recommend approval of variance and denial of the variance each failed to pass by a majority of the full membership of the Planning Board, a motion to recommend approval of the variance and for the Town Board to strongly consider a fine for violation of the regulations was adopted by the Planning Board.
5. A public hearing was held by the Covert Town Board on October 14, 2019. Code Enforcement Officer John Poludniak introduced the matter and explained the purpose of the variance. Applicant Paul Mikeska spoke in support of his application. The direct neighbor to the north of the applicant's property, Charles Guttman spoke in opposition to the application. Other members of the public spoke both in favor of and against the application.

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6. Specific objections raised by Mr. Guttman included objections to the Code Enforcement Officer's interpretation that conversion of a patio roof to a deck was not vertical expansion within the side set back and that improvements to the shed/bunk house did not constitute a second dwelling structure on the parcel in violation of the Land Management Ordinance. Other objections raised included opposition to granting a variance to the applicant for not complying with the Land Management Ordinance by getting a building permit prior to construction.
7. The Code Enforcement Officer reiterated his position that the new construction did not alter the footprint of the original structure and that a building permit would have been issued had the applicant submitted an application prior to construction.
8. After much discussion and due deliberation thereon, the Town Board adopted the Code Enforcement Officer's interpretation that the construction complied with the Land Management Ordinance. Specifically, that:
 - a) the new construction did not alter the footprint of the original structure within the setback area. The Land Management Ordinance, at Section Three – A(5) requires that "All buildings shall be set back a minimum of 20 feet from each side and rear lot line." Prior to this project the applicants house included a covered patio that extended into the setback area of the north side lot line. This project included converting the roof of the covered porch into a deck. This action did not alter the setback of the building from the north lot line.
 - b) the conversion of the shed to a bunkhouse that did not contain kitchen facilities did not create a second dwelling on the parcel. The Land Management Ordinance, at Section Three - A(9) states "There will be a limit of one dwelling structure per parcel." Section Three-B(1) of the Land Management Ordinance contains the following definitions:
 - a) Dwelling: Building or part thereof used as living quarters for one family. The terms dwelling, one family dwelling, two family dwelling, or multiple family dwelling shall not include a motel, hotel, boarding house, tourist home, single-wide mobile home or similar structure, but shall include modular homes and double-wide mobile homes. A dwelling includes a seasonal dwelling, which is not used, or intended for permanent residence and which is not occupied for more than six (6) months in each year.
 - b) Dwelling, One Family: Detached building designed for or occupied exclusively by one (1) family.
 - c) Dwelling, Two Family: Building designed for or occupied by, two (2) families living independently of each other.
 - d) Dwelling, Multiple Family: Building designed for, or occupied by, three (3) or more families living independently of each other.
 - e) Family: One (1) or more persons living, sleeping, cooking or eating on the same premises as a single housekeeping unit.

The lack of kitchen facilities would preclude a family from living independently in the converted bunkhouse as a separate housekeeping unit, separate and apart from the main structure on the parcel. The Town Board finds that the bunkhouse structure would be similar to the types of structures listed as not included in the definition of a Dwelling in Section Three – B (1)(a) and not a second dwelling on the parcel.

9. The Town Board did not adopt the Code Enforcement Officer's interpretation that a variance was required to address the fact that the applicant completed the work to the property prior to submitting an application. Rather, than the Town Board found that a variance from the requirements of the Land Management Ordinance was not necessary.

10. The Town Board directed the Code Enforcement Officer to issue the building permit and also to initiate a proceeding in local court to find the applicant in violation of the Land Management Ordinance for initiating construction prior to obtains a building permit.

THE FORGOING CONSTITUTES THE FINDINGS OF FACT AND CONCLUSIONS OF LAW OF THE TOWN OF COVERT TOWN BOARD MADE A MEETING HELD OCTOBER 14, 2019.
TOWN BOARD OF THE TOWN OF COVERT

I, Leslie Adams-Compton, Town Clerk of the Town of Covert, in the County of Seneca, State of New York, HEREBY CERTIFY, as follows:

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That the FINDINGS OF FACT OF THE COVERT TOWN BOARD, a copy of which is attached hereto and made a part hereof, was adopted by the Town Board of the Town of Covert on April 10, 2023, by the following vote:

	AYE	NAY
William Bishop	✓	
Brayton Foster	✓	
Deborah Nottke	✓	
Todd Wyckoff	✓	
Michael Reynolds	✓	

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the cooperate seal of said Town the April 21, 2023.



Leslie Adams-Compton
Town Clerk of the Town of Covert

Foster moved, seconded by Nottke, to advertise for proposals for Booth Road FEMA project. Aye-Nottke, Aye-Foster, Aye-Wyckoff, and Aye-Bishop.

Nottke moved, seconded by Bishop, to approve the Supervisor's Income and Expenditure report for the month of March 2023. Aye-Wyckoff, Aye-Nottke, Aye-Bishop, Aye-Foster.

Foster moved, seconded by Nottke, to approve the Highway Superintendent's report for the month of March 2023. Aye-Wyckoff, Aye-Nottke, Aye-Bishop, Aye-Foster.

Nottke moved, seconded by Wyckoff, to approve Town Clerk/Tax Collector report for the month of March 2023. Town Clerk received a total of \$587.00; \$309.42 was remitted to the Deputy Supervisor. Tax Collector received a grand total of \$2,150,300.08 through April 1,2023 with about 60 remaining bills to be paid. Aye-Wyckoff, Aye-Nottke, Aye-Bishop, Aye-Foster.

Nottke moved, seconded by Wyckoff, to approve Code Enforcement Officer's 2023 1st Quarter report. Aye-Wyckoff, Aye- Nottke, Aye-Bishop, Aye-Foster.

Nottke moved, seconded by Foster, that Highway Fund Vouchers #45-59 in the amount of \$12,595.02 and General Fund Vouchers #68 - 91 in the amount of \$18,318.17 be approved for payment. Aye-Wyckoff, Aye-Nottke, Aye-Bishop, Aye-Foster.

Nottke moved, seconded by Wyckoff, to adjourn the meeting at 8:00 P.M.

Respectfully submitted,

Leslie Adams-Compton, Town Clerk