

TOWN OF PHILIPSTOWN

238 Main St. P.O. Box 155 Cold Spring, NY 10516

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TOWN CLERK AND TAX COLLECTOR

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JASON ANGELL, COUNCILMAN
ROBERT FLAHERTY, COUNCILMAN
JUDITH FARRELL, COUNCILWOMAN

MEMORANDUM

TO: Neal Zuckerman, Chairman

FROM: Tara K. Percacciolo
Town Clerk

DATE: September 20, 2021

SUBJECT: Referral of Local Law #3-2021

Attached please find a copy of the proposed Local Law to Amend Town of Philipstown Town Code §112-35 And The Open Development Area General Regulations OF Chapter 112, Article VIII, In Regard To Standards For Development Of Private Roads. A public hearing has been scheduled for October 7, 2021 at 7:30 p.m. at the Philipstown Town Hall, 238 Main Street, Cold Spring, NY 10516.

**TOWN OF PHILIPSTOWN
LOCAL LAW NO. 3 OF THE YEAR 2021**

A Local Law entitled "A Local Law To Amend Town of Philipstown Town Code §112-35 And The Open Development Area General Regulations Of Chapter 112, Article VIII, In Regard To Standards For Development Of Private Roads."

Be it enacted by the Town Board of the Town of Philipstown as follows:

Section 1. Purpose:

The purpose of this Local Law is to promote the public health, safety and welfare by amending the Town of Philipstown Zoning Code in regard to private road development standards.

Section 2. Municipal Home Rule Law:

This law is adopted pursuant to Municipal Home Rule Law § 10(1)(ii)(a)(1) that grants local governments the authority to enact local laws regarding the public health, safety and welfare. To the extent the provisions of this Local Law are in conflict with State law, the Town Board hereby asserts its intention to supersede same pursuant to the Municipal Home Rule Law.

Section 3. Amendment of the Town Code.

I. Section 112-35, entitled "Street construction", of Town of Philipstown Town Code Chapter 112, entitled "Land Development" is hereby repealed and reenacted to provide as follows:

"§112-35. Street construction.

- A. Private ways providing access to ten (10) or more lots shall be built to the standards of the Town Road Specifications. Provided, however, that owners or developers on private ways providing access to ten (10) or more lots may apply to the Planning Board for authorization to improve the same to a lesser standard as set forth under the Open Development Area General Regulations of the Town of Philipstown if they are unable to comply with the applicable Town Road Specifications.
- B. Private ways providing access to nine (9) or fewer lots , shall be constructed as follows:
 - (1) Travelway. Private ways shall be provided with at a fourteen-foot travelway constructed with a suitable compacted gravel or crushed stone base eight inches

in depth, meeting the specifications for a foundation course set forth in the Town Road Specifications.

- (2) **Drainage.** The travelway shall be provided with sufficient drainage to protect the stability of the travelway and to prevent water from crossing the travelway surface.
- (3) **The travelway shall have suitable grades and alignment to provide safe and convenient access to cars, fire apparatus and emergency vehicles, as well as for clearing of snow and ice.**

Provided, however, if compliance with the said standards in regard to width of the travelway is not possible, the travelway may be improved to a lesser standard under the Open Development Area General Regulations of the Town of Philipstown if authorized by the Planning Board.

- C. **Road maintenance agreement.** All private ways shall have a legally established private road maintenance agreement as provided in Town Code §112-64(J)(4)."

II. Section 112-54, entitled "Travelways", of Town of Philipstown Town Code Chapter 112, Article VIII, entitled "Open Development Area General Regulations" is hereby repealed and reenacted to provide as follows:

"§112-54 Travelways.

A private right-of-way or easement that is not required to meet Town road standards, either under Code §112-35 or by Open Development Area approval from the Planning Board, shall be improved with a travelway meeting the minimum standards for private ways as specified in the Land Subdivision Regulations. (See Summary of standards in "§112-64). The travelway shall have suitable grades and alignment to provide safe and convenient access to cars, fire apparatus and emergency vehicles, as well as for clearing of snow and ice."

III. Subsection (B)(5) of Code Section 112-56 is repealed.

IV. Section 112-57, entitled "Action by Planning Board", of Town of Philipstown Town Code Chapter 112, Article VIII, entitled "Open Development Area General Regulations" is hereby repealed and reenacted to provide as follows:

"§112-57 Action by Planning Board.

- A. Upon receipt of the application referred by the Building Inspector, the Planning Board shall process the application using the procedure prescribed for major project site plan approval as set forth in Code §175-66.**
- B. In regard to applications for approval of private ways providing access to ten (10) or more lots, the Planning Board shall approve such application only if the applicant demonstrates that it is unable to comply with the applicable Town Road Specifications due to physical limitations on development or other circumstances beyond its control. If such a showing is made, and the travelway meets the summary of standards for private rights-of-way and easement layouts set forth in Code §112-64, the Planning Board shall grant the application, and in doing so may attach reasonable conditions. Further, the Planning Board may waive the development standards set forth in Code §112-64 in the event that applicant demonstrates that compliance with the said standards is not possible, but only if the Planning Board is satisfied, in its discretion, that notwithstanding the waiver the travelway shall still have suitable grades and alignment considering the volume of traffic anticipated and shall provide safe and convenient access to cars, fire apparatus and emergency vehicles, as well as for clearing of snow and ice.**
- C. In regard to applications for approval of private ways providing access to nine (9) or fewer lots, the Planning Board shall approve such application if the travelway meets the summary of standards for private rights-of-way and easement layouts set forth in Code §112-64, provided that the Planning Board may waive compliance with the said standards if it is satisfied, in its discretion, that notwithstanding the waiver the travelway shall still have suitable grades and alignment considering the volume of traffic anticipated and shall provide safe and convenient access to cars, fire apparatus and emergency vehicles, as well as for clearing of snow and ice. The Planning Board may impose reasonable conditions on such approval."**

V. Section 112-58, entitled "Return of application", of Town of Philipstown Town Code Chapter 112, Article VIII, entitled "Open Development Area General Regulations" is hereby repealed and reenacted to provide as follows:

"§112-58 Return of application.

Upon rendering a determination on an application for an Open Development Area approval, the Planning Board shall file the same with the Building Inspector and provide a copy to the applicant by mail."

VI. Section 112-60, entitled "Exceptions for existing right-of-way", of Town of Philipstown Town Code Chapter 112, Article VIII, entitled "Open Development Area General Regulations" is hereby repealed and shall be left blank for possible future use.

VII. Section 112-62, entitled "Appeals", of Town of Philipstown Town Code Chapter 112, Article VIII, entitled "Open Development Area General Regulations" is hereby repealed and reenacted to provide as follows:

"§112-62 Judicial Review.

Any person aggrieved by the action of the Planning Board upon an application for an Open Development Area approval may apply to the Supreme Court of the State of New York for appropriate relief within thirty (30) days after the Planning Board's decision has been filed with the Building Inspector.

VIII. Subsection "H" of Section 112-64, entitled "Summary of standards for private rights-of-way and easements layouts" of Town of Philipstown Town Code Chapter 112, Article IX, entitled "Summary of Standards" is hereby repealed and shall be left blank for possible future use.

Section 4. Severability.

If any clause, sentence, paragraph, word, section or part of this local law shall be judged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which judgment shall have been rendered.

Section 5. Effective Date.

This Local Law shall become effective upon filing with the Secretary of State of the State of New York subsequent to having been duly adopted by the Town Board.

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: Amendment of the Town's private road development standards and Open Development Area regulations			
Project Location (describe, and attach a location map): Town-wide, Town of Philipstown, N.Y.			
Brief Description of Proposed Action: Enactment of a local law amending the Town Code's provisions pertaining to development standards for private roads and to the Town's Open Development Area regulations.			
Name of Applicant or Sponsor: Town of Philipstown Town Board		Telephone: 848-265-5200	
Address: Town Hall, 238 Main Street		E-Mail: supervisor@philipstown.com	
City/PO: Cold Spring		State: New York	Zip Code: 10516
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action? b. Total acreage to be physically disturbed? c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
4. Check all land uses that occur on, are adjoining or near the proposed action:			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			


5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input type="checkbox"/>	<input type="checkbox"/>

18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
_____	<input type="checkbox"/>	<input type="checkbox"/>

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
_____	<input type="checkbox"/>	<input type="checkbox"/>

20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
_____	<input type="checkbox"/>	<input type="checkbox"/>

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: <u>Town of Phillipstown Town Board</u>	Date: <u>September 2, 2021</u>	
Signature: <u></u>	Title: <u>Town Supervisor</u>	

SEAF NARRATIVE DESCRIPTION

The Town of Philipstown is adopting a local law to amend the private road standard provisions of the Town Code (§112-35) and the Open Development Area regulations in the Town Code (Chapter 112) to increase the standards for private road development and the conditions for construction of improvements on lots on private roads within the Town of Philipstown. More particularly, private roads providing access to ten (10) or more lots should be built to Town road standards, unless it is not physically practicable to do so, in which case application may be made to the Planning Board for a permit waiving the unattainable portion of the said development standards. Private roads providing access to nine (9) or fewer lots may be built to a lesser prescribed road standard.

WHEREAS, the Town Board of the Town of Philipstown has a local law before it entitled: A Local Law To Amend Town of Philipstown Town Code §112-35 And The Open Development Area General Regulations Of Chapter 112, Article VIII, In Regard To Standards For Development Of Private Roads.", and

WHEREAS, in order to take action on the said local law, it is necessary to schedule a public hearing and to make specific referrals,

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That the movant of this resolution does hereby introduce the above proposed local law, and
2. That the proposed local law shall be forwarded to the Planning Board of the Town of Philipstown and the Putnam County Department of Planning for review and report, and
3. That a public hearing on the proposed local law is set for October 7, 2021 at 7:30 o'clock p.m. and that due notice of the same is directed to be given by publication and posting.

Councilman Van Tassel presented the foregoing resolution which was seconded by Councilman Angell,

The vote on the foregoing resolution was as follows:

Judith Farrell, Councilwoman, voting _____ AYE _____

John VanTassel, Councilman, voting _____ AYE _____

Robert Flaherty, Councilman, voting _____ AYE _____

Jason Angell, Councilman, voting _____ AYE _____

Richard Shea, Supervisor, voting _____ AYE _____

CERTIFICATION

I, **Tara K. Percacciolo**, the duly qualified and acting Town Clerk of the Town of Philipstown, Putnam County, New York, do hereby certify that attached hereto is a true and correct copy of an extract from the minutes of the Monthly Meeting of the Town Board of the Town of Philipstown, held on September 2, 2021, and that the Resolution set forth herein is a true and correct copy of the Resolution of the Town Board of said Town adopted at said meeting.

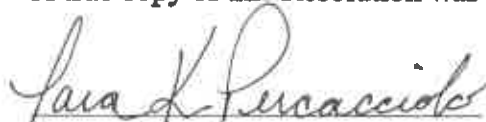
I **FURTHER CERTIFY** that pursuant to section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the said Town, this 2nd day of September, 2021.


Tara K. Percacciolo
TOWN CLERK

(seal)

A true copy of this Resolution was filed in the Office of the Town Clerk on September 2, 2021.


Tara K. Percacciolo
TOWN CLERK

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that a Public Hearing will be held by the Town Board of the Town of Philipstown on October 7, 2021 at 7:30 p.m. at the Philipstown Town Hall, 238 Main Street, Cold Spring, NY 10516. The purpose of the Public Hearing is to hear comments for/against **A PROPOSED LOCAL LAW ENTITLED "A LOCAL LAW TO AMEND TOWN OF PHILIPSTOWN TOWN CODE §112-35 AND THE OPEN DEVELOPMENT AREA GENERAL REGULATIONS OF CHAPTER 112, ARTICLE VIII, IN REGARD TO STANDARDS FOR DEVELOPMENT OF PRIVATE ROADS"**.

A complete copy of the Local Law is available for inspection upon request sent to townclerk@philipstown.com and by appointment in the Town Clerk's Office at the Philipstown Town Hall, 238 Main Street, Cold Spring, NY 10516.

Dated: September 22, 2021

BY ORDER OF THE TOWN BOARD

Tara K. Percacciolo

Town Clerk