

## VI. LAKE FRONT COMMITTEE AND LAKESHORE AREA

The Lakefront SubCommittee and the Land Use SubCommittees were the most active subcommittees formed. They developed a list of legitimate concerns, collected and reviewed pertinent information, and developed reasonable solutions. This section will review each of their recommendations, explain the root of the issue being addressed, and the reasons behind the recommendations made. Many of the issues and recommendations overlapped between these two committees. Rather than be repetitive in discussing such issues twice, such overlap is noted and presented once in this comprehensive plan.

### A. Noise Local Law (issue overlaps with Land Use SubCommittee)

#### 1. Recommendation:

- a. The Town should develop a comprehensive noise local law with different standards throughout the Town that reflect both the density of residential development in that area and the proximity of denser residential areas.
- b. Careful attention should be paid to establishing easily identifiable standards so that violations may be easily identified making enforcement simpler.
- c. Reasonable accommodation must be made for outdoor functions at local wineries and the country club that are in close proximity to high density residential lake front areas, while also protecting local resident's right to peace and quiet.
- d. Construction and agricultural operations should not create elevated noise levels in residential areas between the hours of 9 PM and 7 AM. Any such requirements will not apply to generally acceptable agricultural practices occurring within the limits of a County Agricultural District, as those are defined by the New York State Department of Agriculture and are protected by the state's various right to farm laws.
- e. Within the residential areas of the town, noise levels should not be allowed to exceed reasonable nationally recognized standards. Thus, different standards should be established for day, evening, and night time periods to reflect the normal human activity pattern.

#### 2. Issue generation

- a. The occupancy character of the lakefront residential is changing in two pertinent ways. First, seasonal cottages are being converted for year-round occupancy. Second, lake front residences are being more aggressively marketed for vacation rentals, often resulting in occupancy by groups larger than a typical nuclear family. The former results in more residents looking for the type of peace and quiet that is typical of residential neighborhoods, and the later results in transient populations engaging in recreational activities creating noise levels above what is typical of a normal residential neighborhood, especially during evening and night hours.
- b. The increasing importance of tourism to the local economy is reflected in the increase in the number of local wineries in the town. In order to appeal to tourists, wineries appear to be seeking property in close proximity to the lakefront residential area to take advantage of lake views from their hillside vineyard location. These wineries are typified by a central winery building with a sizeable yard area created to create and lake views from the winery building, which typically includes a sizeable outdoor deck area. The beauty of the physical setting makes the hosting of

live and amplified music events to attract tourists, as well as the hosting of private parties such as weddings and wedding receptions, a logical natural fit for these businesses. Unfortunately, the close proximity of these wineries to the lakefront residential area results in noise levels above what is normally acceptable in residential areas, especially in the later evening hours. This conflict occurs mostly on weekends, when parties are most likely to be hosted and when residential occupancy of the lakefront area is at its highest.

- c. Residents have cited the following sources as the origin of unacceptable noise levels
    - 1) Agricultural operations
    - 2) Construction activities
    - 3) Boats, jet skis
    - 4) Amplified music
  - d. Residents living within other residential areas of the town, including within the Village of Penn Yan, are entitled to peace and quiet as much as lake front area residents.
  - e. The absence of a municipal noise law makes rectification of currently unacceptable disturbances very difficult. There is no clear standard to which to hold parties, which means that enforcement must rely only on the nuisance criteria or general 'disturbing the peace' standards that are ill defined and require a written complaint.
3. Reasoning for Recommendation
- a. Noise levels in residential districts are often affected by noise generated both from within that district (other residential properties), as well as from uses within close proximity. Along with noise from local wineries and the country club, which have been discussed separately, noise generated from construction and agricultural activities were cited by residents as a concern. In close proximity to residential areas, whether the lakefront area, the village of Penn Yan, or the various small hamlets dispersed through the town, noise levels should respect the natural diurnal cycle of humans, namely that elevated levels are acceptable after 7 AM, higher levels are acceptable between 7 AM and 7 PM, somewhat lower levels are desirable between 7 PM and 11 PM, and significantly lower levels should be required between 11 PM and 7 AM.
  - b. A clear, easily definable standard makes enforcement by law enforcement officers simpler. Without such a standard, enforcement becomes very difficult if not impossible as courts and enforcement personnel struggle to come to terms with what constitutes an 'unreasonable noise level.'
  - c. Careful attention should be paid to ensure that noise originating from generally acceptable agricultural practices occurring on property within a County Agricultural District is exempt from any regulation. It should be noted that the New York State Department of Agriculture and Markets has jurisdiction over what is considered a generally acceptable agricultural practice, and state right to farm laws prevent local municipalities from regulating such practices within the boundaries of a County Agricultural District. Any law developed should include mention that there is a process residents and the town may initiate for review by the State Department of Agriculture and Markets.

B. Open Burning/Lawn Debris (shared with Land Use Committee)

1. Recommendations:
  - a. The Town should adopt a local law to prohibit open burning:
    - 1) In and in close proximity to it's densely populated residential areas.
    - 2) In close proximity to the village of Penn Yan
    - 3) In close proximity to the County airport
    - 4) Where it would create a nuisance to vehicular transportation
  - b. The Town should consider working with the County Soil and Water Conservation District to provide residents with locations to deliver leaves and other yard debris to local farmers for plowing into the soil. The Town should cooperate in this endeavor with the village of Penn Yan to provide the village with a new means to dispose of yard debris.
  - c. The Town should regulate detached wood boilers and furnaces.
    - 1) They should be required to be located a reasonable distance, such as 250 feet, from adjacent residences.
    - 2) They should be prohibited in dense residential areas such as the lakefront and in the hamlets of Milo Center and Second Milo.
    - 3) Where outdoor boilers and furnaces are installed with chimneys at least 2 feet higher than the highest point of all buildings within 250 feet, they should be allowed to be closer than 250 feet from adjacent residences.
  - d. Burning of solid waste (garbage) should be prohibited.
  - e. Fuel used in detached, outdoor wood boilers and furnaces must conform to manufacture's recommendations, such as wood, wood pellets, and grain derived products (for example corn).
2. Issue generation
  - a. Many Keuka lakeshore expressed concern over open burning within their neighborhood and in adjacent agricultural areas when smoke would enter and hang in their neighborhood. This concern is present during all seasons, not just in regard to summer bonfires.
  - b. Fires from sources without high chimneys, such as burn barrels, outdoor wood boilers, and ground level bon fires of wood and yard debris, and small portable outdoor fireplaces, creates smoke that cools too quickly and returns to ground level creating unhealthy conditions. Yard debris, especially leaves, can often smolder for days, negatively impacting local air quality.
  - c. The increasing concern of the impact of carbon emissions on global warming requires individuals and local municipalities to review their activities and regulations in order to identify ways to reduce carbon emissions. In this regard, open burning of household garbage and yard debris should be discouraged. These materials need to be blended into the soil to slow tie up carbon instead of having the carbon released into the atmosphere when burned. In this same regard, the use of open burning as a technique to control nuisance vegetation (weeds, vines, and scrub land) should be discouraged for the same reason.
3. Reasoning
  - a. The New York State Department of Environmental Conservation prohibits open burning in towns with more than 20,000 inhabitants (6 NYCRR Part 215). This is a general acknowledgement that open burning needs to be prohibited in densely populated areas due to air quality concerns.

- b. Almost all solid waste contains petroleum byproducts and other chemicals that either are hazardous or create hazardous chemicals when combusted, especially when combustion is incomplete and occurs at relatively low temperatures. Combustion of such material poses a health hazard to anyone in close proximity, as the combustion is incomplete and at too low a temperature to ensure that hazardous materials are not liberated or created and discharged into the air.
  - c. Yard debris, such as leaves, is especially useful in conditioning soil. Providing residents, especially those living in densely populated residential neighborhoods with the opportunity to return that material to the soil where the carbon can be tied up for a much longer period of time than if they were burned.
  - d. Where detached outdoor boilers and furnaces are fitted with chimneys of sufficient height to prevent near surface collection of smoke, they should not be subject to more stringent regulation than indoor solid fuel devices.
- C. Septic System inspection (joint with Land Use)
- 1. Recommendations:
    - a. The Town should adopt local laws requiring inspection of septic systems upon sale.
    - b. The Town should work with the County and Village of Penn Yan to investigate creation of county sewer districts to serve the near shore area around Keuka Lake.
  - 2. Generation of Issue
    - a. Underperforming septic systems are a major concern for water quality and public health. A mechanism is needed to ensure that privately owned and maintained sewage treatment systems operate properly, and that nutrients and contagion are not released into the environment.
    - b. Increasing development in close proximity to Keuka Lake threatens lake water quality in a number of ways. First, the existing lake front properties were subdivided and developed many years ago, mostly as seasonal cottage properties. By current standards, many of these lots are on substandard size lots. The conversion of these seasonal properties to year round residences creates an increase burden on septic disposal systems that are in close proximity to the lake. Second, new development adds additional environmental load to the near shore area.
- D. Site plan review
- 1. Recommendations:
    - a. The town should require site plan review by the Planning Board for new construction and even minor construction in the denser residential areas of the town, near the lakeshore, and in the hamlets.
    - b. Development of commercial and industrial properties should require site plan review by the Planning Board.
  - 2. Issue Development
    - a. Views from adjacent residential properties are very important near the lakefront, and can significantly affect the value of property and the owner's enjoyment of their property.
    - b. Commercial and Industrial property normally involve a large investment and once constructed, constitute buildings that will affect the character of the town for generations to come.

3. Reasoning

- a. Requiring site plan review for new construction and even for small additions and accessory buildings in dense residential areas is important to
  - 1) Trigger soil erosion and sedimentation control requirements.
  - 2) Protect the property values and quality of life of adjacent residents
  - 3) Protect the character of the neighborhood.
  - 4) Provide a forum for negotiation between the board and the applicant for such things as stormwater treatment systems, provision of pervious surface paving treatments, in exchange for lot coverage or other site improvements.
- b. The importance and quality of views and the impact of adjacent development is often a subjective judgment. Subjective judgments are most properly decided by the Planning Board, and should never be left to the judgment of a single town official, such as a building inspector.

E. Keuka Lake Level Control

1. Recommendations

- a. The Town should communicate to KLOC that Keuka Lake levels should more consistently meet the guide curve, especially during the fall. Lower fall lake levels will provide residents with an opportunity to perform maintenance on seawalls, docks, and shorelines.
- b. The Town should communicate with KLOC that its lake level management should more closely follow the guide curve to reduce the threat of a catastrophic flood event.

2. Issue Development

- a. High Lake Levels during the winter increase shore erosion and damage to docks, boathouses, and retaining walls.
- b. The lack of low water levels over a stretch of many years makes maintenance of break walls extremely difficult for property owners.
- c. Spring water levels consistently above the guide curve increases the chances for spring flood events, and the need for higher spring and early summer discharges from Keuka Lake that increases water levels in Seneca Lake.

3. Reasoning

- a. Lake level is controlled locally by the Keuka Lake Outlet Compact (KLOC), a intermunicipal board composed of the town/village supervisors of Penn Yan, Milo, Barrington, Wayne, Urbana, Hammondsport, Urbana and Jerusalem. KLOC is charged with regulating lake level in accordance with the “Reservoir Regulation Manual – Keuka Lake Outlet” as published by the US Army Corps of Engineers.
- b. During 2005-2006 lake level was within 1 ft. of the guide curve only 40% of the time, and was over 1 ft. above the guide curve 60% of the time.
- c. From 1993 through 2007, lake level never reached the November 30 target of 712 ft.
- d. KLOC has consistently kept lake levels higher than the guide curve to ensure high summer levels in support of both recreation and to provide additional summer flow to Seneca Lake in support of electric generation activities on the Seneca River (outlet of Seneca Lake).
- e. Since 1993 the consistency of water levels in Keuka Lake being kept above the guide curve indicates that KLOC appears to over protect against potential droughts vs. potential flooding events caused by large storm events.

## F. Building height, lot coverage, and 'Monster' homes

### 1. Recommendation

- a. Lot coverage standards need to be reduced and the definition of coverage needs to include the entire 'footprint' of the roof area of the principal and all accessory buildings (not just the area inside the foundation of the primary building), and impervious paved areas in the lake front and near lake areas to ensure the area doesn't become too densely developed and impact the lake through increased runoff and the character of the area.
- b. Lot coverage standards need to be applied to all portions of a lot where it is bisected by public or private right-of-ways.
- c. The height of new or remodeled buildings needs to be regulated based upon the size of the lot, especially the width of the lot.
- d. Residents should have the right to rebuild existing homes, even relocating them on the lot, without variances where the size (floor area and height) of the new or reconstructed home does not exceed that of the existing home and where any relocation of the building causes the home to be located more to the center of the lot and improves any existing, non conforming, setbacks.

### 2. Issue Development

- a. The character of the lakefront and near lake area is important to residents and tourists. The construction of larger and often taller homes on lots that are often very small as they were originally created for a small seasonal cottage is beginning to have a negative impact on views to the lake and the character of the area.
- b. Where a lot is bisected by a public or private right of way, all of the building on the lot is often located on the portion of the property adjacent to the lake. This creates a situation where the town's lot coverage requirement is met, but the lakeside portion of the parcel is overburdened with building seriously impacting views from adjacent property and roads. The result is homes and other construction on the small lakefront portion of the lot being out of scale and being nearly fully built upon. This has happened with several new homes being built to replace older small homes in the last two years.
- c. The proportion of new, large homes built on small, narrow lots that originally were created to contain a small seasonal cabin, is a concern. Large homes on narrow lots are out of proportion, and negatively impact the character of the area.
- d. Many homes in the lakefront and near lake area are being remodeled. Many of them also are situated in non-conforming locations on their lots. The

### 3. Reasoning

- a. The inclusion of impervious paved areas and the entire 'footprint' of roof area of all buildings on the property will provide a much more representation of how much of a lot is actually developed. This is very important in establishing and preserving the character of the area. The current zoning requirements would allow a lot to be completely covered with the principal structure, accessory structures, driveway, sidewalks, and deck, and still meet the lot coverage standards because the standard only includes the footprint of the existing building.
- b. Many municipalities with lake or other waterfront property regulate coverage on each portion of a parcel that is bisected by a public or private right-of-way. By requiring each portion of a lot to independently meet the lot coverage standard, no

portion of the lot will be over developed, thus protecting the character of the area. The lakefront committee has filed examples of such regulations with their committee materials at the town hall.

- c. Many municipalities with lake or other waterfront property reduce the allowed height on residences based on the width of the lot. The lakefront committee has filed examples of such regulation with their committee materials at the town hall. The thought here is that many existing lots were established to contain a small, seasonal cottage. Because of their small size, they cannot accommodate a large residence. In other words, these small lots are appropriate only to support small residences. The Town needs to establish zoning standards that ensure that the existing small lots are not overburdened with homes that are out of scale to the lot they are on, thus preserving the character of the neighborhood.
- d. The Town should establish rules that allow owners to improve or replace existing homes and cottages with homes that do not exceed the size of existing homes. In fact, those rules should encourage owners to remodel or replace existing homes that do not exceed the size of existing homes by streamlining the review and approval process. Other recommendations made concerning height and lot coverage will make it more difficult to increase the size of homes on non conforming lots, so it is important to encourage investment by property owners in the type of improvements and new construction that preserves and enhances the character of the neighborhood. To accomplish this, the town should exempt new construction or reconstruction from needing variances where non conforming situations are not increased or where buildings are moved more toward the center of a lot where non conforming side, front, or rear setbacks exist, provided that lot coverage standards are met or not made more non conforming. Where new construction, or expansion of an existing building is involved, site plan review should still be required.