

RESOLUTION

Councilwoman Prisco offered the following resolution which was seconded by Councilman MacDonald, who moved its adoption:

WHEREAS, a local law entitled "Town of Washington Local Law No. 2 of the Year 1994. A Local Law to the Town of Washington Dutchess County, New York, Amending the Town of Washington Zoning Law (Local Law No. 5 of the Year 1989) by adding a new Section 344 entitled Scenic Roads; and

WHEREAS, a public hearing in relation to said local law was held on October 20, 1993 at 7:30 p.m., prevailing time; and

WHEREAS, a public hearing in relation to said local law was held on May 10, 1994 at 7:30 p.m., prevailing time; and

WHEREAS, a public hearing in relation to said local law was held on August 2, 1994 at 7:30 p.m., prevailing time; and

WHEREAS, notice of said public hearings was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of Washington for at least seven (7) days, exclusive of Sunday;

NOW, THEREFORE, BE IT RESOLVED that the following local law is hereby enacted:

TOWN OF WASHINGTON LOCAL LAW NO. 2 OF THE
YEAR 1994.

A LOCAL LAW OF THE TOWN OF WASHINGTON,
DUTCHESS COUNTY, NEW YORK, AMENDING THE
TOWN OF WASHINGTON ZONING LAW (LOCAL LAW
NO. 5 OF THE YEAR 1989) BY ADDING A NEW
SECTION 344 ENTITLED SCENIC ROADS.

Section 1. The Zoning Law of the Town of Washington, Dutchess County, New York, is hereby amended by adding a new Section 344 entitled Scenic Roads, which shall read as follows:

344. SCENIC ROADS

Objectives

The objectives of the Scenic Road Local Law are for the common good and to:

- a. preserve and protect the present quality and character of certain and specific roads of the Town of Washington (the "Town"),
- b. to recognize the contribution the Town's road system has made and will make to the rural character, uniqueness and quality of life in the Town,
- c. to recognize that the Town's road system is an integral part of the diverse environments of the Town and what affects the roads also affects the ecology contiguous to the roads,
- d. to recognize that there are specific unique features which contribute to the beauty and enjoyment of the Town's road system,
- e. to recognize the important role of the Town of Washington Highway Department (the "Town Highway Department") in preserving this critical Town asset and to further strengthen that role by providing an avenue of access and communication for the Town of Washington Highway Superintendent (the "Town Highway Department") with the Town of Washington Town Board (the "Town Board"), the Town of Washington Planning Board (the "Planning Board") and the Town of Washington Conservation Advisory Commission ("CAC"). The value of this access lies in the following: unlike the technical, safety and operational aspects of Town road management; matters pertaining to environmental and aesthetic aspects [and the long term effect on these] are oftentimes judgmental. This Local Law recognizes and respects the fact that the Highway Superintendent, whose powers and authority are governed by New York State Law, will want, use and appreciate the support, direction and counseling pertaining to any particular action regarding the aforementioned characteristics needing to be preserved or impacted,
- f. to recognize that Town roads should continue to provide safe, confident use to residents and transients and at the same time continue to offer the wealth of aesthetic features already in place and there to be enjoyed,
- g. to recognize these many fragile components that are

connected with the Town roads and are presently taken for granted. This Local Law recognizes that fragility. Once eliminated or adversely altered, these resources may be irreplaceable,

h. this Local Law recognizes it is the intent of the Town of Washington that all activities on or along Town roads conform to relevant law

1. Authority

- a. Pursuant to the authority granted by Municipal Home Rule Law, Article Two, Section 10 of the Consolidated Laws of New York and consistent with the goals of the 1987 Master Plan as amended December 27, 1989, the Town of Washington hereby provides for the balancing of traditional matters of common convenience and public safety with designation of Town roads as Scenic Roads. Further, in order to maintain the irreplaceable character and aesthetic and historic features and the scenic nature of roads so designated, the Town of Washington is authorized to regulate, in accordance with this Local Law, the future alterations or improvements of roads so designated, including, but not limited to, widening of the right-of-way or of the traveled portions of the road, paving, changes of grade, straightening, removal of stone walls and removal of mature trees.

2. Role of Town Board

- a. The Town Board of the Town of Washington shall have the authority to designate a Town road as a Scenic Road. Nothing herein shall be construed as limiting the final action or authority now possessed by the Highway Superintendent.

3. Criteria for Designation

- a. No portion of a road shall be designated as a Scenic Road within a H M (hamlet mixed use) district. Prior to designating a road as a Scenic Road, the Town Board must find that at least ONE of the following criteria is met:
- (1) The road is bordered by mature trees or stone walls;
 - (2) The traveled portion of the road is no more than twenty (20) feet in width;
 - (3) The road offers views of near and distant landscape; and
 - (4) The road is compatible with the natural environment and is integrated well with the surrounding terrain.

4. Designation Procedure

- a. The Town Board, after following the designation procedure set forth herein, may consider a road for Scenic Road designation. Not less than three (3) property owners may petition the Town Board for a designation of a road as a Scenic Road if they each own property which abuts that Scenic Road. The petition shall state by name which road is requested to be designated as a Scenic Road and describe the characteristics of the road which qualify it for Scenic Road status, as well as any other characteristics which enhance the scenic character of the road.
- b. An original and one copy of the petition shall be filed with the Town of Washington Town Clerk (the "Town Clerk"), who shall retain the copy and forward the original to the Town Board.
- c. In order to designate a road as a Scenic Road, the Town Board shall first refer any proposal or petition to the Planning Board, the Highway Superintendent, and the CAC for review and comment within 90 calendar days. The Town Board shall then hold a public hearing regarding the designation of such road as a Scenic Road. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the Town of Washington at least 5 calendar days prior to the date of such hearing and by sending notice by mail to the owners of lots fronting the road to be designated as a Scenic Road. The Town Board shall act upon the proposed designation within 45 calendar days after such hearing.

5. Recission and Appeal

- a. The designation of a road as a Scenic Road may be rescinded by the Town Board, using the above procedures as outlined in 4.c.
- b. Any person aggrieved by a designation or refusal to designate a road as a Scenic Road pursuant to this section or by any alteration or improvement of such road may seek appropriate legal remedy.

6. Alterations and Improvements

- a. Pursuant to Section 274 of the Town Law of the State of New York, the Town Board shall grant to the Planning Board of the Town of Washington the power to approve or disapprove of the alteration or

improvement of any Town road designated as a Scenic Road pursuant to this local law.

- b. Alterations and improvements of designated Scenic Roads shall be carried out so as to preserve to the highest degree possible the aesthetic, historic and/or scenic characteristics of the road.
- c. Routine road maintenance, emergency repairs and the issuance of driveway permits undertaken by the Highway Superintendent shall not require public hearing or Planning Board approval. Such maintenance shall include trimming of the tree branches that encroach on the traveled portion of the road below the height needed to allow school buses and emergency vehicles to pass; trimming or removal of brush and removal of boulders or other obstacles that encroach on the traveled portion of the road; necessary trimming for utility lines; trimming of brush to enhance and protect scenic views, stone walls, mature trees and other characteristics of the Scenic Road; correction of drainage problems; and re-treatment and repair of existing roadway surfaces. Such maintenance shall not include widening of the right-of-way or the traveled portion of the road; paving of dirt or gravel roads, or portions of roads; changes of grade; straightening; removal of stone walls or removal of mature trees.
- d. In the case of a natural disaster in which, in the judgment of the Highway Superintendent, a road or a portion thereof becomes impassable or unsafe for public travel and access must be provided, emergency repairs and reconstruction by the Highway Superintendent may be made as needed to restore the road to its pre-emergency condition without public hearing or Planning Board approval.
- e. Any proposal by a public entity or official for alteration or improvement not involving routine road maintenance, emergency repairs or the issuance of a driveway permit, shall be submitted to the Planning Board. The Planning Board shall submit such proposal to the CAC and Highway Superintendent for review and comments and shall hold a public hearing in the manner set out in Section 4, above.

(1) Applications for alteration or improvement not involving routine road maintenance, emergency repairs or the issuance of driveway permits, shall be submitted to the Planning Board with a suitable map showing the location of each proposed improvement or alteration, and when deemed necessary by the Planning Board, a short report discussing the reasons for the

proposed alteration and available alternatives, if any.

(2) In reviewing applications for alteration or improvement not involving routine road maintenance, emergency repairs or the issuance of driveway permits, the Planning Board shall consider the following:

- (a) Any alternatives to the proposed alteration or improvement and evidence that the applicant has chosen the alternative least damaging to the Scenic Road.
 - (b) That the applicant has considered the following, where appropriate:
 - (i) The impact of the alteration or improvement on stone walls within the right of way of the Scenic Road;
 - (ii) The impact of the alteration or improvement upon the speed of vehicular traffic along the Scenic Road;
 - (iii) The preservation of non-hazardous curves in the Scenic Road;
 - (iv) The preservation of non-hazardous hills and valleys by avoidance of unnecessary cuts and fills;
 - (v) The placement of wide by-passes and turn-outs to avoid unnecessary widening of the Scenic Road;
 - (vi) Preservation of views of near and distant landscapes through appropriate landscaping techniques within the right of way only;
 - (vii) Minimize impact on roadside vegetation, including but not limited to trees, shrubs and wild flowers; and
 - (viii) Avoidance of signage, sand, gravel, refuse and salt piles to the extent practicable.
- f. The official Scenic Road will be recorded on the New York State's inventory of the Town of Washington Highways.

Section 2. Definition of Town Road.

As used herein, the term "town road" shall mean all roads within the Town of Washington which are maintained by the Town and shall include the strip of three (3) rods wide measured one and one-half (1 1/2) rods to each side of the center line of the road.

Section 3. This local law shall take effect immediately upon its filing with the Secretary of State, State of New York, pursuant to Section 27 of the Municipal Home Rule Law.

and it is further

RESOLVED that the Town Clerk shall file a certified original of this local law in the Office of the Town Clerk and three (3) certified copies in the Office of the Secretary of State, State of New York, each such certified copy to have attached thereto a certificate executed by the attorney for the Town of Washington that it contains the correct text and that all proper proceedings have been had or taken for the enactment of this local law.

The foregoing resolution was voted upon with all councilman voting as follows:

Supervisor Rotunno	Aye
Councilman MacDonald	Aye
Councilman Briggs	Absent
Councilwoman Prisco	Aye
Councilman Molella	No

DATED: September 8, 1994

Mary E. Alex
MARY ALEX, Town Clerk
Town of Washington

JKG/wavd/174