

**Board of Trustees Agenda**

**VILLAGE OF MAMARONECK BOARD OF TRUSTEES AGENDA**  
**October 10, 2017 AT 5:30 PM - Work Session - Courtroom At 169 Mt. Pleasant Avenue**  
**NOTICE OF FIRE EXITS AND REQUEST TO TURN OFF ELECTRONIC DEVICES**

**OPEN MEETING**

**1. DISCUSSION ITEMS**

- A. Petitions from Beach Clubs as it Relates to PLL-Q-2017- Clarifying Village Code on Member Clubs and Uses in MR Zone
- B. Non-conforming uses in the C-1 Zoning District
- C. PLL on Attendance of Volunteer members of boards and commissions
- D. Escrow Law
- E. Private Sewer Lateral Law
- F. Taylors Lane- No Attachment
- G. Review of WJWW Recommendation on Rate Increase for Village of Mamaroneck Water Users
- H. DASNY Grant for Old Hook & Ladder Firehouse
- I. Update on Land Use & Building Department Processes Study
- J. Land Use Counsel Contract
- K. Planning Consultant Contract
- L. Wayfinding Signage Update (recommendation from Merje)- No Attachment
- M. Parkmobile Parking App
- N. Request to convert Johnson Lot from Permit to Metered Parking
- O. Parking Regulation in the GPI Lot off Fenimore Road- No Attachment
- P. Stanley Avenue Parking
- Q. Board of Ethics Vacancy
- R. Village Manager Priority List- No Attachment
- S. Village Attorney Priority List- No Attachment

**2. ITEMS FOR NEXT REGULAR MEETING**

- A. Budget Amendment For Police Protective Equipment
- B. Hillside Avenue Bridge (Follow up for Consultant presentation on 10/23/2017)
- C. French American School of New York Presentation- No Attachment

**3. EXECUTIVE SESSION-ADVICE OF COUNSEL**

- A.

**ADJOURN**

ANY HANDICAPPED PERSON NEEDING SPECIAL ASSISTANCE IN ORDER TO  
ATTEND THE MEETING SHOULD CALL THE VILLAGE MANAGER'S OFFICE AT 914-  
777-7703

All Board of Trustee Regular, ZBA, Planning Board, and HCZM Meetings are Broadcast Live on  
LMC-TV:

Verizon FIOS Channels 34, 35 & 36

Cablevision Channels: 75, 76 & 77

And Streamed on the Web: [www.lmc-tv.org](http://www.lmc-tv.org)

## Village of Mamaroneck, NY

---

**Item Title:** Petitions from Beach Clubs as it Relates to PLL-Q-2017- Clarifying Village Code on Member Clubs and Uses in MR Zone

**Item Summary:** Petitions from Beach Clubs as it Relates to PLL-Q-2017- Clarifying Village Code on Member Clubs and Uses in MR Zone

**Fiscal Impact:**

### ATTACHMENTS:

#### Description

#### Type

Orienta

Cover Memo

Beach Point Letter

Cover Memo

Hampshire Petition

Cover Memo

comments on PLL-Q Orienta

Cover Memo

# SHAMBERG MARWELL HOLLIS ANDREYCAK & LAIDLAW, P.C.

ATTORNEYS AT LAW

55 SMITH AVENUE  
MOUNT KISCO, NEW YORK 10549  
(914) 666 - 5600

September 27, 2017

**By Email & Federal Express**

Hon. Norman S. Rosenblum, Mayor [nrosenblum@vomny.org](mailto:nrosenblum@vomny.org)  
and Members of the Village Board of Trustees  
Village of Mamaroneck  
123 Mamaroneck Avenue  
Mamaroneck, New York 10543

Attn: Agostino A. Fusco, Village Clerk/Treasurer [afusco@vomny.org](mailto:afusco@vomny.org)

*Re:   Orienta Beach Club  
      Zoning Amendment/MR Zone*

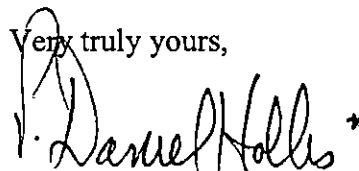
Dear Mayor Rosenblum and Members of the Village Board:

Please be advised that this firm has been retained to represent Orienta Beach Club ("Orienta") with property located at 1054 Walton Avenue, Mamaroneck, New York (the "Property"). The Property is located within the Marine Recreation District.

On September 25, 2017, your Board opened a Public Hearing on a proposed Local Law identified as PLL-Q-2017 which is intended to amend Chapter 342 of the Code of the Village of Mamaroneck (the "Zoning Code") for the purpose of "Clarifying Village Code on Member Clubs and Uses in the MR Zone."

While we will be making a further more comprehensive submission on our client's behalf as to the proposed amendment at a later date, we hereby submit our client's Protest Petition for filing as part of the Record with regard to the consideration of said Proposed Local Law Q-217.

Very truly yours,

  
P. Daniel Hollis, III

PDH:kc  
Enclosure

**SHAMBERG MARWELL HOLLIS ANDREYCAK & LAIDLAW, P.C.**

Mayor Norman S. Rosenblum  
And Members of the Village Board of Trustees  
Village of Mamaroneck  
September 27, 2017  
Page 2

c: Robert A. Spolzino, Esq., Village Attorney (by email)  
Ms. Maggie Lau (by email)  
Mr. Mark Sheehan (by email)  
Russ F. Jellinek, Esq. (by email)  
Adam L. Wekstein, Esq. (by email)  
Steve M. Silverberg, Esq. (by email)  
David J. Cooper, Esq. (by email)

**PROTEST PETITION  
PURSUANT TO VILLAGE LAW § 7-708  
IN OPPOSITION TO PROPOSED LOCAL LAW Q-2017  
TO AMEND THE ZONING CODE CONCERNING  
REAL PROPERTY LOCATED IN THE MARINE RECREATION  
DISTRICT IN THE VILLAGE OF MAMARONECK, NEW YORK**

TO THE BOARD OF TRUSTEES OF THE VILLAGE OF MAMARONECK:

In accordance with Section 7-708 of the Village Law of the State of New York, the undersigned authorized representatives of entities owning club property in the Marine Recreation District in the Village of Mamaroneck do hereby indicate to the Board of Trustees of the Village of Mamaroneck that the entities listed below protest proposed Local Law Q-2017 to amend the Zoning Code of the Village of Mamaroneck concerning land located in the Village of Mamaroneck, Marine Recreation District.

The entities denoted below submitting this Protest Petition own twenty percent or more of the area of land included in the proposed change.

Pursuant to Section 7-708 of the Village Law of the State of New York, the above referenced zoning amendment requires the approval of at least three-fourths of the members of the Board of Trustees of the Village of Mamaroneck as the result of the exercise of our statutory right of protest.

Dated: Mamaroneck, New York  
September 20, 2017

<u>Maggie Law</u>	_____	_____
Signature	Signature	Signature
<u>Maggie Law</u>	_____	_____
Name (printed)	Name (printed)	Name (printed)
<u>President</u>	_____	_____
Title	Title	Title
<u>Oriente Beach Club</u>	_____	_____
Entity Owning Club Property	Entity Owning Club Property	Entity Owning Club Property
<u>Oriente Beach Club</u>	_____	_____
Name of Club	Name of Club	Name of Club
<u>1054 Walton Avenue</u>	_____	_____
Address of Club Property	Address of Club Property	Address of Club Property
<u>Mamaroneck, NY</u>		
<u>10543</u>		



Law Offices  
220 White Plains Road, 5<sup>th</sup> Floor  
Tarrytown, New York 10591  
Tel. (914) 682-0707  
Fax. (914) 682-0708  
[www.szlawfirm.net](http://www.szlawfirm.net)

September 25, 2017

**BY HAND**

Mayor and Board of Trustees  
Village of Mamaroneck  
169 Mt. Pleasant Ave.  
Mamaroneck, New York 10543

Re: Proposed Amendment to MR Zone

Dear Mayor and Board of Trustees:

We represent the Beach Point Club which learned today that you have scheduled a continued hearing on the proposed changes to the MR Zone. As one of the clubs directly impacted by the proposed changes, the Beach Point Club had not been informed of the original hearing on this matter, which apparently occurred on September 11, 2017 and only learned that there was a proposed amendment to the special permit provisions during this past week.

It appears that the draft law eliminates a number of permitted uses allowed under the special permit now held by the Club and is unclear as to what impact the changes will have on the ability of the Club to operate. In addition, at first glance, some of the provisions for continued oversight by the ZBA appear to be onerous.

However, our client has not had an opportunity to fully review the proposed legislation, our office was retained on this matter this morning and learned of the hearing to be held this evening only after calling the Village offices. Under the circumstances, rather than taking a position on what appear to be issues with the proposal, before having had an opportunity to fully review its implications, we request that this matter be held over without a vote. Adjourning this matter will permit the Club's Board to review the

Mayor and Village Board  
September 25, 2017  
Page 2

proposal and hopefully provide constructive comments, rather than merely objecting to the process.

Thank you.

Very truly yours,

SILVERBERG ZALANTIS LLP



Steven M. Silverberg, Partner

SMS:no



September 25, 2017

**By Hand**

Mayor Norman S. Rosenblum and  
Village of Mamaroneck Board of Trustees  
169 Mt. Pleasant Avenue  
Mamaroneck, New York 10543

David J. Cooper  
Jody T. Cross •  
Katelyn E. Ciolino •  
Michael J. Cunningham •  
Marsha Rubin Goldstein  
Helen Collier Mauch •  
Zachary R. Mintz •  
Daniel M. Richmond  
Kate Roberts  
Brad K. Schwartz  
Lisa F. Smith •  
David S. Steinmetz •  
Edward P. Teyber  
Michael D. Zarin

■ Also admitted in D.C.  
• Also admitted in CT  
• Also admitted in NJ

***Re: Village of Mamaroneck ("Village") MR District  
Protest Petition Concerning Proposed Local Law Q-2017***

Dear Mayor Rosenblum and the Members of the Village Board of Trustees:

As you are aware, this firm represents Hampshire Club, Inc. Enclosed please find a Protest Petition, submitted pursuant to Section 7-708 of the Village Law of the State of New York, signed by authorized representatives of entities owning twenty percent or more of the area of land included in the proposed Local Law Q-2017.

Respectfully submitted,

ZARIN & STEINMETZ

By: 

David J. Cooper

Encl.

Cc (via electronic mail):

Hampshire Club, Inc.

Mamaroneck Beach & Yacht Club, Inc.

**PROTEST PETITION  
PURSUANT TO VILLAGE LAW § 7-708  
IN OPPOSITION TO PROPOSED LOCAL LAW Q-2017  
TO AMEND THE ZONING CODE CONCERNING  
REAL PROPERTY LOCATED IN THE MARINE RECREATION  
DISTRICT IN THE VILLAGE OF MAMARONECK, NEW YORK**

TO THE BOARD OF TRUSTEES OF THE VILLAGE OF MAMARONECK:

In accordance with Section 7-708 of the Village Law of the State of New York, the undersigned authorized representatives of entities owning club property in the Marine Recreation District in the Village of Mamaroneck do hereby indicate to the Board of Trustees of the Village of Mamaroneck that the entities listed below protest proposed Local Law Q-2017 to amend the Zoning Code of the Village of Mamaroneck concerning land located in the Village of Mamaroneck, Marine Recreation District.

The entities denoted below submitting this Protest Petition own twenty percent or more of the area of land included in the proposed change.

Pursuant to Section 7-708 of the Village Law of the State of New York, the above referenced zoning amendment requires the approval of at least three-fourths of the members of the Board of Trustees of the Village of Mamaroneck as the result of the exercise of our statutory right of protest.

Dated: Mamaroneck, New York  
September 20, 2017



Signature

Daniel Pfeffer

Name (printed)

Authorized Signatory

Title

Hampshire Recreation, LLC

Entity Owning Club Property

Hampshire Country Club

Name of Club

1025 Cove Road, Mamaroneck

Address of Club Property

Signature

Name (printed)

Title

Entity Owning Club Property

Name of Club

Address of Club Property

Signature

Name (printed)

Title

Entity Owning Club Property

Name of Club

Address of Club Property

**PROTEST PETITION  
PURSUANT TO VILLAGE LAW § 7-708  
IN OPPOSITION TO PROPOSED LOCAL LAW Q-2017  
TO AMEND THE ZONING CODE CONCERNING  
REAL PROPERTY LOCATED IN THE MARINE RECREATION  
DISTRICT IN THE VILLAGE OF MAMARONECK, NEW YORK**

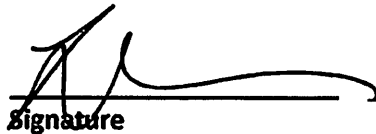
TO THE BOARD OF TRUSTEES OF THE VILLAGE OF MAMARONECK:

In accordance with Section 7-708 of the Village Law of the State of New York, the undersigned authorized representatives of entities owning club property in the Marine Recreation District in the Village of Mamaroneck do hereby indicate to the Board of Trustees of the Village of Mamaroneck that the entities listed below protest proposed Local Law Q-2017 to amend the Zoning Code of the Village of Mamaroneck concerning land located in the Village of Mamaroneck, Marine Recreation District.

The entities denoted below submitting this Protest Petition own twenty percent or more of the area of land included in the proposed change.

Pursuant to Section 7-708 of the Village Law of the State of New York, the above referenced zoning amendment requires the approval of at least three-fourths of the members of the Board of Trustees of the Village of Mamaroneck as the result of the exercise of our statutory right of protest.

Dated: Mamaroneck, New York  
September 20, 2017

  
Signature

Lisa Rosenheim  
Name (printed)

President  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Title

Mamaroneck Beach & Yacht Club Inc.

Entity Owning Club Property

Entity Owning Club Property

Entity Owning Club Property

Mamaroneck Beach & Yacht Club

Name of Club

Name of Club

Name of Club

555-700 S. Barry Avenue

Address of Club Property

Address of Club Property

Address of Club Property

# SHAMBERG MARWELL HOLLIS ANDREYCAK & LAIDLAW, P.C.

ATTORNEYS AT LAW

55 SMITH AVENUE  
MOUNT KISCO, NEW YORK 10549  
(914) 666 - 5600

October 5, 2017

## By Federal Express

Hon. Norman S. Rosenblum, Mayor  
and Members of the Village Board of Trustees  
Village of Mamaroneck  
123 Mamaroneck Avenue  
Mamaroneck, New York 10543

*Re:   Orienta Beach Club  
      Zoning Amendment/MR Zone*

Dear Mayor Rosenblum and Members of the Village Board:

This firm represents Orienta Beach Club ("Orienta"), a not-for-profit membership club that owns real property in the Village of Mamaroneck at the street address of 1054 Walton Avenue (the "Property"). The Property is approximately 8.5 acres in size and is improved with various buildings, including a Club House, Winter Club House, Bathhouses, and a Garage. The Property is located within the existing Marine Recreation ("MR") District, and Orienta operates its beach club at the location and has operated for decades within the parameters of the Village's Zoning Code ("Zoning Code").

In September, your Board opened a Public Hearing on a proposed Local Law identified as PLL-Q-2017 which is intended to amend Chapter 342 of the Zoning Code for the purpose of "Clarifying Village Code on Member Clubs and Uses in the MR Zone." We understand that the Public Hearing was kept open at the September date and is scheduled to be continued on October 10, 2017.

We have had a chance to review the proposed amendments and have some concerns about the intended and unintended impacts of the amendment law on our client and its operations, and submit this letter so as to assist the Village in crafting an amendment that does not negatively impact Orienta, an already legally operating beach club.

In short, the proposed amendments seek to accomplish the following: (1) change the definition of the terms "Membership Club" with reference to the Internal Revenue Code and various State of New York laws, rules, and regulations; (2) change the definition of "coverage" to be more restrictive; (3) change the definition of "seasonal residence"; (4) change the stated

Mayor Norman S. Rosenblum  
and Members of the Village Board of Trustees  
Village of Mamaroneck  
October 5, 2017  
Page 2

“intent” of the District; (5) grant sole discretion to the Zoning Board of Appeals to determine whether a Membership Club is in compliance with the intent of the District; (6) revise the permitted principal use simply to be “not-for-profit membership clubs” and define “recreation facilities of membership clubs” instead as accessory uses; (7) define and limit the use of a clubhouse; (8) define and limit accessory uses; (9) add conditions for maintenance of special permits, and add provisions for automatic revocation/termination of a special permit for failure to comply; (10) require that all membership clubs obtain a 3-year special permit from the Zoning Board of Appeals, including review of non-for-profit status; (11) define non-member events and add definition of who is considered a “member”; (12) prohibit any commercial activity by the club or any other user; (13) limit timing of events or activities and use of speakers/amplification in the evenings.

Initially, our client is concerned that the new law, while seeking to clarify what constitutes a “membership club,” introduces an uncomfortable level of uncertainty. Namely, the revised definition of “membership club” requires that the club adhere to the provisions of Internal Revenue Code 501(c)(7) and the rules and regulations of New York State that govern not-for-profit entities. This is a very broad and overly inclusive definition. In fact, the definition is so broad that the proposed law specifically authorizes the Zoning Board of Appeals to “determine compliance.” Respectfully, a zoning law, or any regulatory law, may not be so vague or broad that a reasonable person is unable to determine whether or not that person complies with the law. There must be adequate notice of prohibited conduct.

We also note that requiring the club to maintain compliance with certain of the proposed amendments is not in any event related to the use of the land, but rather defines the user of the land. This relation of land use regulations to users and not uses of land has long been held to be impermissible. It is also troublesome that this regulation effectively usurps the State granted authority of the tax assessor in determining whether or not there is compliance for tax exemption purposes, possibly placing at odds a determination of the Zoning Board that a membership club does not comply with the Not-for-Profit law despite the Assessor concluding that it does in fact comply.

We respectfully suggest that there are available options for restricting the type of uses permitted or prohibited in the MR Zone without an ongoing inquiry into the tax status and compliance of the membership club. In fact, the proposed law identifies the permitted accessory uses with specificity. We suggest that your Board consider the actual zoning concerns related to the uses in the MR Zone, i.e. traffic, noise, and visual impacts, days and hours of operation and come up with restrictions that specifically deal with those concerns, rather than placing burdensome and vague restrictions on all of the clubs in the MR Zone.

Mayor Norman S. Rosenblum  
and Members of the Village Board of Trustees  
Village of Mamaroneck  
October 5, 2017  
Page 3

In addition, the proposed amendments may be read to require all existing clubs in the MR Zone to obtain and maintain a special permit approval from the Zoning Board, regardless of whether or not the club holds non-member events. This is contradictory to the section of the law that provides that membership clubs are permitted principal uses. The use is either a principal permitted use or a special permit use – it cannot be both. Perhaps the proposed law may be re-written to clarify this point. Furthermore, requiring all existing clubs to obtain and maintain a special permit is impermissible as a form of retroactive legislation. This portion of the law, which does not provide for a time frame to apply for a special permit, implies that any club that does not apply for a special permit will be in violation of the new law. New York courts have long held that legal pre-existing uses, such as Orienta's is, are constitutionally protected and may continue to operate, and that even if the municipality seeks to phase out a use, there must be an amortization period provided to protect the property rights of the affected owners.

Even more concerning is that, even if a club obtains the special permit, it is subject to continuous review by the Zoning Board through permit renewals every three (3) years, and is under a constant threat of revocation of its permit in the event the Zoning Board determines, in its sole discretion, that the club no longer complies with the law. Because of these legal infirmities, these provisions create economic uncertainty for the club and its members as the Club's Board cannot plan for more than 3 years ahead. More importantly, there is no provision made in the law for a public hearing to be held prior to revocation of the special permit, thereby constituting a clear denial of procedural due process rights.

The proposed law also prohibits any "commercial activity" by the club, without defining what that may entail. For example, if a club engages in fundraisers, as it is entitled to do and, in that context, sells various merchandise, such activity may be considered a "commercial activity."

Finally, the restriction on the hours for events and activities is troublesome in that it could severely impact weddings, bar mitzvahs and other events that take place from time to time at Orienta. We would urge the Board to reconsider the restriction, or to extend the permitted hours of operation.

Also, in proceeding with its public hearing, we also urge your Board to consider the economic impacts of this law on the membership clubs, which economic analysis has been held to be a valid environmental concern under the State Environmental Quality Review Act. The proposed law may create a cost-prohibitive situation for the clubs that rely on non-member events and/or fundraisers to off-set the membership dues.

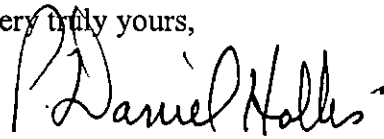
**SHAMBERG MARWELL HOLLIS ANDREYCAK & LAIDLAW, P.C.**

Mayor Norman S. Rosenblum  
and Members of the Village Board of Trustees  
Village of Mamaroneck  
October 5, 2017  
Page 4

Our client would like to work with your Board to move forward and reach a resolution that makes sense for all involved. We are looking forward to discussing this matter with your Board at the next meeting or at such other date and time your Board would suggest.

We urge that the Public Hearing be kept open and that no vote be taken until we can have a full, frank and amicable discussion of our client's concerns with the proposed Law.

Very truly yours,

A handwritten signature in black ink, appearing to read "P. Daniel Hollis, III". The signature is fluid and cursive, with a large initial "P" and "D".

P. Daniel Hollis, III

PDH:kc

c: Robert A. Spolzino, Esq. (Village Attorney)

## Village of Mamaroneck, NY

---

**Item Title:** Non-conforming uses in the C-1 Zoning District

**Item Summary:** Non-conforming uses in the C-1 Zoning District

**Fiscal Impact:**

**ATTACHMENTS:**

**Description**

Proposed Local Law

**Type**

Cover Memo

# Village of Mamaroneck



*Village Hall at the Regatta  
P.O. Box 369*

*123 Mamaroneck Avenue  
Mamaroneck, NY 10543*

*<http://www.villageofmamaroneck.org>*

OFFICE OF  
**ROBERT A. SPOLZINO**  
VILLAGE ATTORNEY

Tel (914) 777-7737  
Fax (914) 777-7769

TO: Mayor Rosenblum and the Board of Trustees  
Robert Yamuder, Village Manager  
Daniel Sarnoff, Assistant Village Manager

FROM: Robert A. Spolzino, Esq.

RE: Proposed Local Law Regarding Non-Conforming Uses (McDonald's)

DATE: October 5, 2017

Attached for your review in connection with the McDonald's application are the original proposed law by McDonald's, a memo regarding the proposed local law and a draft of a revised proposed local law by the Planning Board, and a further revised proposed local law by me. Greg Cutler also sent me an email with the following language regarding this matter (because it was part of another email about an unrelated matter I am excerpting the relevant portion here):

We've been racking our brains trying to come up with an example of a nonconforming accessory use in the C-1 district, or any other district for that matter. I think there is really no way around the appearance of spot zoning issue whether it's done by the special permit for a drive-thru via the initial proposal, or through a special permit by the ZBA to continue a nonconforming accessory use. I honestly think the cleaner route would be to go with the first proposal only modified to allow drive-thrus on state or county roads, which would produce three eligible properties spread throughout the village. The potential unintended consequences of the draft provided by the applicant are too large, and the Planning Department's suggested language is a spot zoning issue.

Normally, I would have spoken with Greg in advance of putting this material back before you. As you know, however, Greg is away and will not return until Tuesday. Since he is already fully conversant with the issue and will be available on Tuesday, I thought it would not be a problem to put the issue back before you for discussion.

## § 342-64. Nonconforming use of buildings.

- A. A building or structure the use of which does not conform to the use regulations for the district in which it is situated shall not be altered, enlarged or extended, unless the use therein is changed to a conforming use. Notwithstanding the above, the Board of Appeals, after public notice and hearing, may grant a special permit to:
- (1) allow a nonconforming use to be extended throughout those parts of a building which were manifestly arranged or designed for such use prior to the time of enactment of the chapter provision that made the use nonconforming, and provided that no structural alterations, other than those required for health or safety, are made therein; or
  - (2) allow the building or structure the use of which does not conform to the use regulations for the district in which it is situated to be renovated or reconstructed so long as the renovated or reconstructed building or structure has the same or lesser square footage than the building or structure to be renovated or reconstructed

Any other alteration, enlargement or new construction shall require a variance to be granted by the Board of Appeals.

- B. A nonconforming use of a building shall not be changed to another nonconforming use, except where approved by the Board of Appeals after a finding that the change will be to a less nonconforming use and one that will be more harmonious with the surrounding area.
- C. If any nonconforming use of a building ceases for any reason for a continuous period of more than six months or is changed to a conforming use or if the building in or on which such use is conducted or maintained is moved for any distance whatever, for any reason, except in accordance with Subsection **A(2)** herein, any future use of such building shall conform and be subject to the prevailing standards specified by this chapter for the district in which such building is located.
- D. If any building in which any nonconforming use is conducted or maintained is hereafter removed, except in accordance with Subsection **A(2)** herein, the subsequent use of the land on which such building was located and the subsequent use of any building thereof shall be in conformity with the standards specified by this chapter for the district in which such land or building is located.



## Village of Mamaroneck Planning Department

### Memo

To: Village Manager, Rob Yamuder  
Cc: Mayor and Board of Trustees, Assistant Village Manager- Dan Sarnoff, Building Inspector- Dan Gray, Village Planning Consultant- Bob Galvin, Village Attorney- Bob Spolzino  
From: Greg Cutler – Village Planner  
Date: 9/22/2017  
Re: McDonalds Drive-Through

---

The Village of Mamaroneck Board of Trustees has been approached with several proposals that would enable the McDonalds at 1205 W Boston Post Road to be renovated without losing the “grandfathered” status of the drive-through. The proposal dated August 9, 2017 proposed a text change that would have allowed drive-throughs on properties in the C-1 zone that are over 43,650 sf and have vehicular ingress, egress or both on at least two streets, one of which must be a State highway. At the August 14<sup>th</sup> Board of Trustees Work Session the BOT directed staff to work with the applicant to find an alternative policy route to meet the goal of permitting the continuation of the drive-through at the property while also allowing the building and site to be substantially improved in terms of aesthetics and circulation.

Since that time the applicant has provided an alternative policy route that would amend section 342-64 of the Code regarding Nonconforming use of buildings to permit “a building or structure the use of which does not conform to the use regulations for the district in which it is situated to be renovated or reconstructed so long as the renovated or reconstructed building or structure has the same or lesser square footage than the building or structure to be renovated or reconstructed” through a special permit by the Zoning Board of Appeals.

As it is presently written any nonconforming use regardless of zoning district would be able to apply for a special permit to reconstruct their building or structure to nonconforming. Allowing this would limit the effectiveness of the zoning regulations in all districts of the Village by encouraging the continuation of nonconforming uses even in cases of complete reconstruction. The Planning and Building Department recommend limiting the provision to accessory uses (ie the drive-through) that are located within the C-1 Zoning District. This would provide additional protections to the Village while also permitting the applicant to improve the site and maintain the drive-through. The suggested revisions are attached to this memo.

PROPOSED LOCAL LAW \_\_ - 2017

A Proposed Local Law to amend Chapter 342 of the Code of the Village of Mamaroneck (Zoning) regarding the schedule of minimum requirements for nonresidential districts

BE IT ENACTED by the Board of Trustees of the Village of Mamaroneck as follows:

*(Language in strike-through ~~abedefghijk~~ to be deleted; language in **bold** is to be added)*

Section 1.

Section 342-~~643~~8 of the Code of the Village of Mamaroneck is amended as follows:

§ 342-~~643~~8 Nonconforming use of buildings.

A. A building or structure the use of which does not conform to the use regulations for the district in which it is situated shall not be altered, enlarged or extended, unless the use therein is changed to a conforming use. Notwithstanding the above, the Board of Appeals, after public notice and hearing, may grant a special permit to allow:

(1) a nonconforming use to be extended throughout those parts of a building which were manifestly arranged or designed for such use prior to the time of enactment of the chapter provision that made the use nonconforming, and provided that no structural alterations, other than those required for health or safety, are made therein; or

(2) ~~allow a building or structure the use of which does not conform to the use regulations for the district in which it is situated to be renovated or reconstructed so long as the renovated or reconstructed building or structure has the same or lesser square footage than the building or structure to be renovated or reconstructed.~~ **allow a building or structure of which the accessory use does not conform to the use regulations for the C-1 district in which it is situated to be renovated or reconstructed so long as the renovated or reconstructed building or structure has the same or lesser square footage than the building or structure to be renovated or reconstructed.**

Any other alteration, enlargement or new construction shall require a variance to be granted by the Board of Appeals.

- B. A nonconforming use of a building shall not be changed to another nonconforming use, except where approved by the Board of Appeals after a finding that the change will be to a less nonconforming use and one that will be more harmonious with the surrounding area.
- C. If any nonconforming use of a building ceases for any reason for a continuous period of more than six months or is changed to a conforming use or if the building in or on which such use is conducted or maintained is moved for any distance whatever, for any reason, **except in accordance with subsection A(2) herein**, any future use of such building shall conform and be subject to the prevailing standards specified by this chapter for the district in which such building is located.
- D. If any building in which any nonconforming use is conducted or maintained is hereafter removed, **except in accordance with subsection A(2) herein**, the subsequent use of the land on which such building was located and the subsequent use of any building thereof shall be

in conformity with the standards specified by this chapter for the district in which such land or building is located.

*Section 2.*

If any section, subsection, clause, phrase or other portion of this local law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, the portion of the law declared to be invalid will be deemed a separate, distinct and independent portion and the declaration will not affect the validity of the remaining portions hereof, which will continue in full force and effect.

*Section 3.*

This law is adopted pursuant to the authority granted by Municipal Home Rule Law § 10(1)(e)(3) and will supersede the provisions of the Village Law to the extent that they are inconsistent with this local law.

*Section 4.*

This local law will take effect immediately upon its filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.

PROPOSED LOCAL LAW \_\_ - 2017

A Proposed Local Law to amend Chapter 342 of the Code of the Village of Mamaroneck (Zoning) regarding the regulation of non-conforming uses.

BE IT ENACTED by the Board of Trustees of the Village of Mamaroneck as follows:

*(Language in strike-through ~~abedefhijk~~ to be deleted; language in **bold** is to be added)*

*Section 1.*

Section 342-64 of the Code of the Village of Mamaroneck is amended as follows:

§ 342-64 Nonconforming use of buildings.

A. A building or structure the use of which does not conform to the use regulations for the district in which it is situated shall not be altered, enlarged or extended, unless the use therein is changed to a conforming use. Notwithstanding the above, the Board of Appeals, after public notice and hearing, may grant a special permit to allow:

(1) a nonconforming use to be extended throughout those parts of a building which were manifestly arranged or designed for such use prior to the time of enactment of the chapter provision that made the use nonconforming, and provided that no structural alterations, other than those required for health or safety, are made therein; or

(2) **a building or structure in the C-1 zoning district, the use of which does not conform to the use regulations for that district solely because an accessory use is not permitted, to be renovated or reconstructed so long as the renovated or reconstructed building or structure is no larger than the building or structure to be renovated or reconstructed.**

Any other alteration, enlargement or new construction shall require a variance to be granted by the Board of Appeals.

B. A nonconforming use of a building shall not be changed to another nonconforming use, except where approved by the Board of Appeals after a finding that the change will be to a less nonconforming use and one that will be more harmonious with the surrounding area.

C. If any nonconforming use of a building ceases for any reason for a continuous period of more than six months or is changed to a conforming use or if the building in or on which such use is conducted or maintained is moved for any distance whatever, for any reason, **except in accordance with subsection A(2) herein**, any future use of such building shall conform and be subject to the prevailing standards specified by this chapter for the district in which such building is located.

D. If any building in which any nonconforming use is conducted or maintained is hereafter removed, **except in accordance with subsection A(2) herein**, the subsequent use of the land on which such building was located and the subsequent use of any building thereof shall be in conformity with the standards specified by this chapter for the district in which such land or building is located.

*Section 2.*

If any section, subsection, clause, phrase or other portion of this local law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, the portion of the law declared to be invalid will be deemed a separate, distinct and independent portion and the declaration will not affect the validity of the remaining portions hereof, which will continue in full force and effect.

*Section 3.*

This law is adopted pursuant to the authority granted by Municipal Home Rule Law § 10(1)(e)(3) and will supersede the provisions of the Village Law to the extent that they are inconsistent with this local law.

*Section 4.*

This local law will take effect immediately upon its filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.

## Village of Mamaroneck, NY

---

**Item Title:** PLL on Attendance of Volunteer members of boards and commissions

**Item Summary:** PLL on Attendance of Volunteer members of boards and commissions

**Fiscal Impact:**

**ATTACHMENTS:**

**Description**

draft PLL re Attendance

**Type**

Cover Memo

PROPOSED LOCAL LAW \_\_ - 2017

A Proposed Local Law to amend Chapter 48 of the Code of the Village of Mamaroneck (Officers and Employees) regarding the removal of members for failure to attend

BE IT ENACTED by the Board of Trustees of the Village of Mamaroneck as follows:

(Language in strike-through ~~abedefhijk~~ to be deleted; language in **bold** is to be added)

*Section 1.*

Section 48-2 of the Code of the Village of Mamaroneck, is amended as follows:

§ 48-2. Removal from office due to absence.

The chair of each ~~Persons appointed to serve on~~ boards, commissions, councils and committees of the Village of Mamaroneck ~~are subject to removal from office by reason of three unexplained absences without prior notification between December 1 of the current year and November 30 of the following year~~ shall report to the Village Manager whenever any member of the board, commission, council or committee fails to attend three meetings in ~~any year~~ **the prior 12 months**. If the Village Manager concludes, after consulting with the chair and the member who has been absent, that ~~there is no reasonable excuse for the absences~~ **it is unlikely that the member's attendance will improve**, the Village Manager shall remove the member from office. The Village Manager shall report any such removal to the Board of Trustees at its next meeting.

*Section 2.*

If any section, subsection, clause, phrase or other portion of this local law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, the portion of the law declared to be invalid will be deemed a separate, distinct and independent portion and the declaration will not affect the validity of the remaining portions hereof, which will continue in full force and effect.

*Section 3.*

This law is adopted pursuant to the authority granted by Municipal Home Rule Law § 10(1)(e)(3) and will supersede the provisions of the Village Law to the extent that they are inconsistent with this local law.

*Section 4.*

This local law will take effect immediately upon its filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.

## Village of Mamaroneck, NY

---

**Item Title:** Escrow Law

**Item Summary:** Escrow Law

**Fiscal Impact:**

**ATTACHMENTS:**

**Description**

Village Attorney Memo

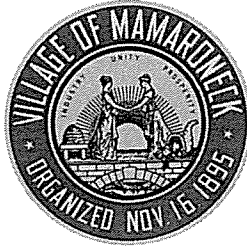
Steinman Whitehead Memos

**Type**

Cover Memo

Cover Memo

# Village of Mamaroneck



*Village Hall at the Regatta  
P.O Box 369*

*123 Mamaroneck Avenue  
Mamaroneck, NY 10543*

*<http://www.villageofmamaroneck.org>*

OFFICE OF  
**ROBERT A. SPOLZINO**  
VILLAGE ATTORNEY

Tel (914) 777-7737  
Fax (914) 777-7769

TO: Mayor Rosenblum and the Board of Trustees  
Robert Yamuder, Village Manager  
Daniel Sarnoff, Assistant Village Manager

FROM: Robert A. Spolzino, Esq.

RE: Escrow Fees and Board Procedures

DATE: October 5, 2017

Attached for the Board's review are a copy of the current chapter of the Village code regarding escrow fees, as well as a proposed revision that was drafted in 2013.

Also attached are copies of draft protocols that were prepared in 2016, memos from the Planning Board and HCZMC with respect to those drafts and a letter from David S. J. Neufeld regarding escrow procedures.

I will email you separately a memorandum from Lester Steinman, Esq. regarding related legal issues.

I conferred with Mr. Steinman this morning. He does not recall any discussions with regard to modifying the procedures of the Planning Board or Zoning Board of Appeals.

I look forward to discussing these issues with you on Tuesday evening and receiving your direction as to how you wish to proceed.

*Village of Mamaroneck, NY  
Monday, September 11, 2017*

## Chapter 176. Fees

[HISTORY: Adopted by the Board of Trustees of the Village of Mamaroneck as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Zoning — See Ch. **342**.

Fees — See Ch. **A347**.

## Article I. Consultant Fees for Land Use Applications

[Adopted 11-25-2002 by L.L. No. 3-2002, effective 11-29-2002]

### § 176-1. Purpose.

The purpose of this article is to allow for reimbursement to the Village for the actual costs of consulting services with respect to the review of applications before its various boards and commissions for approval to utilize any property in the Village. The Village has found that, in many instances where it would otherwise be appropriate, it fails to avail itself of expert consulting services because of the cost to the taxpayers in general. It is felt that it is more appropriate for the individual applicants to bear the cost of the review of their application in a manner which will assist the various boards and commissions of the Village in appropriately evaluating the potential impacts of those applications and how the applications fit within the Village's comprehensive plan and ordinances.

### § 176-2. Escrow deposit required.

[Amended 10-13-2009 by L.L. No. 9-2009, effective 10-14-2009]

- A. Notwithstanding any inconsistent provision of any local code, rule, regulation, law or ordinance, any Village board, entity or commission (reviewing board) where a permit or approval is required by local law, rule, regulation or ordinance shall, before processing or reviewing any application and permitting use of or construction on, under or adjacent to real property, require the applicant to deposit funds with the Village sufficient to reimburse the Village for all reasonable costs of planning, environmental, engineering, legal, architectural, accounting and/or other consultants deemed appropriate by each reviewing board utilized in connection with the review of any application. When an application is filed, the Building Inspector shall fix the amount of the initial deposit (escrow) to be made by the applicant. The Village's consultants shall invoice the Village no less frequently than monthly for services in reviewing each application and performing their duties with respect to such application. If at any time during the review process the amount of the escrow account falls below 50% of the initial escrow (as determined by the Clerk-Treasurer), then the applicant shall be required to submit an additional deposit to bring the total escrow up to the full amount of the initial deposit (as determined by

the Building Inspector) unless the Clerk-Treasurer otherwise waives such requirement. Any failure to replenish the escrow shall be governed by § 176-4.

- B. In the event the amount held in escrow by the Village is more than the amount of the actual billing or invoicing, the difference between such amount and the actual billing or invoicing shall be promptly refunded to the applicant after final action is taken on the application.
- C. In the event the amount of escrow is less than the full amount actually charged by the Village's consultants, the applicant shall promptly pay any remaining balance. If the remaining balance is not paid, the unpaid balance shall be added to the Village tax bill.

### § 176-3. Review and payment of invoices.

All invoices for fees charged to applicants by consultants shall be reviewed and approved by the Village Manager as to reasonableness before payment by the Village and applicant shall be provided with copies of the invoices charged against the Escrow deposit. In the event an applicant believes that the charges invoiced are excessive, the applicant may file a written protest to the Village Manager, within 15 days of receipt of the invoice, questioning such invoice and the Manager shall review the protest by the applicant and provide the applicant with a written response within 15 days of receipt of the protest.

### § 176-4. Failure to pay fees.

In the event an applicant fails to make any escrow payment required and/or fails to pay the full amount billed for consultant fees (as approved by the Village Manager), the reviewing board shall adjourn any pending application and/or withhold final approval until such payment is made. In the event final approval has been granted and an outstanding balance for consulting fees (as approved by the Village Manager) remains unpaid, the Building Inspector shall not grant a building permit and/or certificate of occupancy until payment of approved outstanding consulting fees has been made in full.

### § 176-5. Supersession of other laws.

- A. All laws, ordinances, rules and regulations of the Village of Mamaroneck are modified and superseded by this article with respect to their application to fees which may be charged with respect to applications for land use permitting or approvals, except for § 342-124 of the Zoning Code dealing with retention of experts for wireless telecommunications applications.
- B. This article shall modify and supersede, with respect to the properties covered thereby, the provisions of Article 7 of the Village Law of the State of New York, Executive Law Article 42, and Navigation Law Article 4 of the State of New York.

DRAFT  
0512/0122/131

Formatted: Font: 12 pt

Local Law - 20132

A local law in relation to the  
reimbursement of professional  
consulting fees and Village  
professional staff charges on  
land use applications

BE IT ENACTED by the Board of Trustees of the Village of Mamaroneck as follows:

Section 1. Chapter 176 of the Code of the Village of Mamaroneck is amended to read as follows:

"§176-1 Purpose.

The purpose of this article is to allow for reimbursement to the Village for the actual costs of professional consulting and Village professional staff services with respect to the review of subdivisions, subdivisions, site plans, site plans, special permits, special permits, zoning amendments, comprehensive plan and zoning map amendments, wetland permits, wetland permits, variances, interpretations and appeals, variances, interpretations and appeals, perimeter, construction and reconstruction permits and consistency determinations ("land use applications"), by the Village board, entity or commission having jurisdiction over those applications ("reviewing board"), before its various boards and commissions for approval to utilize any property in the Village. The Village has found that, in many instances where it would otherwise be appropriate, it fails to avail itself of expert consulting services because of the cost to the taxpayers in general, and otherwise bears the cost of professional services provided by Village staff. It is felt that it is more appropriate for the individual applicants to bear the cost of the review of their land use applications in a manner which will assist the various boards and commissions of the Village in appropriately evaluating the potential impacts of those land use applications and how the land use applications fit within the Village's comprehensive plan and ordinances.

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

§176-2 Escrow deposit required.

A. Notwithstanding any inconsistent provision of any local code, rule, regulation, law or ordinance, any reviewing Village board, entity or commission (reviewing board) having jurisdiction over a land use where an application permit or approval is required by or local law, rule, regulation or ordinance shall, before processing

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

DRAFT  
0512/0122/134

or reviewing any such application, ~~and permitting use of or construction on, under or adjacent to real property,~~ require the applicant to deposit funds with the Village sufficient to reimburse the Village for all reasonable costs of planning, environmental, engineering, legal, architectural, accounting and/or other professional consultants and Village professional staff deemed appropriate by each reviewing board utilized by each reviewing board in connection with the review of any land use application. Charges made by such consultants shall be in accord with charges usually made for such services in the metropolitan New York region or pursuant to an existing contractual agreement with the Village and such consultant. Costs for Village professional staff services shall be in accord with hourly rates based upon actual salary and benefits paid by the Village. In the event that a land use application is required to be reviewed by more than one reviewing board, those boards, to the extent practicable, shall use the same professional consultant(s). In the event that an application is required to be reviewed by multiple reviewing boards, those boards, to the extent practicable, shall use the same consultant(s) and Village professional staff members, and wherever possible, duplication of professional consultant(s) or Village professional staff shall be avoided to minimize the cost of such professional consultant(s) or Village professional staff reports to the applicant. ~~and duplication of consultant(s).~~ When an land use application application is filed, the Building Inspector shall fix the amount of the initial deposit (escrow) to be made by the applicant. No land use application shall be considered. No application shall be considered complete for review purposes until said escrow account is properly funded. The Village's professional consultants shall invoice the Village no less frequently than monthly for services in reviewing each land use application and performing their duties with respect to such application. If at any time during the review process the amount of the escrow account falls below 50% of the initial escrow (as determined by the Clerk-Treasurer), then the applicant shall be required to submit an additional deposit to bring the total escrow up to the full amount of the initial deposit (as determined by the Building Inspector) unless the Clerk-Treasurer otherwise waives such requirement. Any failure to replenish the escrow shall be governed by § 176-4.

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

B. In the event ~~the amount held in escrow by the Village is more than the amount of the actual billing or invoicing, the difference between such amount and the actual billing or invoicing shall be promptly refunded to the applicant after final action is taken on the land use application and after all pertinent professional consultant and Village professional staff review fees have been reimbursed to the Village as certified by the Clerk-Treasurer.~~

Formatted: Font: 12 pt

Formatted: Font: 12 pt

DRAFT  
0512/0122/131

C. In the event the amount of escrow is less than the full amount actually charged by the Village's professional consultants and for Village professional staff, the applicant shall promptly pay any remaining balance. If the remaining balance is not paid, the unpaid balance shall be added to the Village tax bill.

Formatted: Font: 12 pt

D. In the event that any land use application before any reviewing board is withdrawn prior to any action being taken, the applicant is nevertheless responsible for any professional consultant and Village professional staff expense incurred by the Village with regard to such land use application prior to such withdrawal.

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

§176-3 Review and payment of invoices.

All invoices for fees charged to applicants by professional consultants shall be reviewed and approved by the Village Manager before payment by the Village and applicants shall be provided with copies of the consultant invoices and Village professional staff costs charged against their escrow deposits. Applicant costs shall be limited to those that are reasonable in amount and necessary to the review and action on the land use application in accordance with law, as to reasonableness before payment by the Village and applicant shall be provided with copies of the invoices charged against the Escrow deposit. In the event an applicant believes that the professional consultant charges invoiced or Village professional staff costs charged are excessive, the applicant may file a written protest to the Village Manager, within 15 days of receipt of the invoice, questioning such invoice and the Manager shall review the protest by the applicant and provide the applicant with a written response within 30 days of receipt of the protest.

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

§176-4 Failure to pay fees.

In the event an applicant fails to make any escrow payment required and/or fails to pay the full amount billed for consultant fees (as approved by the Village Manager) and charged for Village professional staff services, the reviewing board shall adjourn any pending land use application and/or withhold final approval or determination of the land use application until such payment is made. In the event final approval has been granted and an outstanding balance for professional consulting fees (as approved by the Village Manager) and charges for Village professional staff remains unpaid, the Building Inspector shall not grant a building permit and/or certificate of occupancy until payment of approved outstanding professional consulting fees and Village professional staff charges have been made in full.

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

§176-5 Financial hardship waiver.

Where based upon circumstances particular to the income and assets of the applicant, the applicant establishes by clear and convincing proof that

DRAFT  
0512/0122/134

compliance would create a significant financial hardship, the Board of Trustees, in its discretion, may grant a partial or total waiver of the escrow and fee reimbursement requirements of this Chapter.

Formatted: Font: 12 pt

§176-65 Supersession of other laws. ~~A.~~

Formatted: Font: 12 pt

Formatted: Font: 12 pt

~~A.~~ All laws, ordinances, rules and regulations of the Village of MMamaroneck are modified and superseded by this article with respect to their application to fees which may be charged with respect to land use applications, ~~for land use permitting or approvals~~, except for § 342-124 of the Zoning Code dealing with retention of experts for wireless telecommunications applications.

Formatted: Font: 12 pt

Formatted: Font: 12 pt

Formatted: Font: 12 pt

~~B.~~

Formatted: Font: 12 pt

Formatted: Font: 12 pt

~~B.~~ This article shall modify and supersede, with respect to the properties covered thereby, the provisions of Article 7 of the Village Law of the State of New York, Executive Law Article 42, and Navigation Law Article 4 of the State of New York.

Section 2. This local law shall take effect immediately upon its adoption and filing in the office of the Secretary of State.

Formatted: Font: 12 pt

## Establishing Escrow Protocols for Land Use Boards

Chapter 176 of the Village Code recognizes that the Village's land use boards require expert consulting services to assist in evaluating the potential impacts of the applications that come before them and in determining whether those applications are consistent with the Village's comprehensive plan and laws. Chapter 176 further recognizes that it is appropriate for applicants before the land use boards to bear the costs of the land use boards' review of their applications. To this end, Chapter 176 requires applicants to deposit funds into an escrow account with the Village to cover the reasonable costs of the professional consulting services required by the land use boards to review their applications.

To ensure that land use board applicants are informed about the obligations imposed upon them by Chapter 176, the following procedures and protocols are recommended:

### A. Advise Applicants Regarding Land Use Board Use of Consultants

1. All application packages shall clearly apprise land use board applicants that (1) each land use board routinely relies upon land use board counsel and, in certain instances, consultants in connection with its review of applications; and (2) under Chapter 176 of the Village Code, land use board applicants are required to reimburse the Village for the costs of the services provided by counsel and the consultants. Applicants would be advised that for the ZBA, in addition to counsel, there are no consultants typically involved. For the HCZMC, in addition to counsel, consultants provide environmental and engineering review services to the HCZMC. For the Planning Board, in addition to counsel, engineering, environmental, planning and landscape consultants review applications and advise the Planning Board. An overview of the process outlined in B. below for a land use board's retention of an additional consultant, if required by a particular application, would also be included in the application materials.

2. When accepting land use board applications, Building Department staff shall direct applicants' attention to the portions of the application package discussed above. This would be particularly important for applications to the HCZMC and ZBA where no pre-application meetings are routinely held.

3. Pre-application meetings on Planning Board matters shall include a discussion of the services of counsel and consultants that routinely serve the land use boards and the applicant's obligation to reimburse the Village for the expenses of consultant and counsel review and advice to the land use board on their application. The process outlined in B. below for the retention of an additional consultant, if required by a particular application, would also be discussed with the applicant.

### B. Establish a Protocol for the Retention of Additional Consultants

Certain applications present issues requiring independent and/or specialized knowledge or expertise in addition to and/or beyond that possessed by the land use board's staff and its regular consultants. Under those circumstances, when, during the course of an application, a land use board determines that retention of an additional outside consultant is required, the following steps shall be taken:

1. The land use board shall:

(a) Identify the specific area of need for an additional consultant and discuss the need for such retention with the applicant and obtain the applicant's assent to the retention of the additional consultant.

(b) Adopt a resolution memorializing the land use board's intent to retain an additional consultant and the reasons therefore.

(c) Forward that resolution with a request to the Village Manager to retain an additional consultant for the land use board, specifying the scope of the work to be done and the professional expertise required for the work.

2. The Village Manager, in consultation with the Board of Trustees, and with the assistance of counsel, shall prepare a Request for Proposals ("RFP") for the consultant work and advertise, transmit, circulate, publish or otherwise publicize the RFP as circumstances warrant.

3. The Village Manager shall select and be part of a team, typically also to be composed of the Chair of the land use board involved, land use board counsel and other Village staff with appropriate knowledge and expertise, to review the proposals received, interview candidates and make a recommendation or recommendations for the selection of an additional consultant by the Village Manager.

4. Depending upon the magnitude of the project involved, the extensiveness or cost of the work, or as otherwise provided in the Village's Procurement and Purchasing Policy there may be instances where the Board of Trustees will make the selection of the additional consultant and approve the contract. In such case, the interviewing team shall recommend a short list of finalists to be interviewed by the Board of Trustees.

5. Notwithstanding (2), (3) and (4) above, and in lieu of preparing an RFP, for reasons of cost effectiveness, efficiency and time sensitivity, the Village Manager, in consultation with the Board of Trustees, may select a consultant who has previously provided similar services to the Village and demonstrated the capacity and expertise for the required work.

6. Regardless of who selects the additional consultant and awards and/or approves the contract, prior to an award or approval of the consultant contract the cost of the consultant agreement should be reviewed with the applicant and the applicant's assent to the retention obtained. The cost of the additional consultant's work shall be reasonable and appropriate for the subject matter and magnitude of the application.

7. Depending upon the amount remaining in the escrow account for the application, the applicant, prior to the award or approval of the contract, and consistent with Chapter 176 of the Village Code, shall deposit sufficient funds in the escrow account to (1) cover the full cost of the consultant agreement; and (2) maintain an additional balance of greater than 50% of the original escrow amount to cover other reimbursable expenses on the application.

8. In the event that the assent from the applicant provided for in 1(a) and 6 above is not obtained, the land use board, pursuant to Chapter 176, may still retain the additional consultant and the escrow funds deposited by the applicant may be drawn upon to reimburse the Village for the cost of that consultant's services. In such case, the land use board shall document the necessity for the retention of an additional consultant in the record of the application. An applicant may avoid the cost of retaining an additional

consultant by either withdrawing the application or modifying the application so as to obviate the land use board's need for the additional consultant.

## LAND USE BOARD APPLICATION PROCEDURES

### I. Application Submission Procedures and Deadlines

#### A. Planning Board Applications (site plan, subdivision, special permit and wetlands permit)

(1) The Applicant shall submit to the Building Department twelve (12) printed copies and one (1) electronic copy of all application materials.

(2) The Applicant's initial submission of application materials to the Building Department must be made at least twelve (12) days prior to the date of the meeting at which the application will be first heard. All applicable notice and sign posting requirements must also be timely complied with in order for the application to appear on the Planning Board's agenda.

(3) For subsequent meetings, unless otherwise permitted by the Chair and/or the Board, the Applicant's submissions must be made to the Building Department at least seven (7) days prior to the meeting date.

#### B. Zoning Board of Appeals Applications (variance, special permit, appeals and interpretations)

(1) The Applicant shall submit to the Building Department sixteen (16) printed copies and one electronic copy of all application materials. NOTE: The 16 comes from the ZBA Rules of Procedure. The ZBA Rules cite the Village Code as authority. The only reference in the Village Code as to number of copies pertains to special permits.

(2) The Applicant's (or Appellant's) initial application materials must be submitted to the Building Department at least twenty-two (22) days prior to the scheduled hearing/meeting date. Unless otherwise permitted by the Chair and/or Board, Subsequent Applicant submissions, including submissions responsive to the Board's request for additional information, should be made to the Building Department at least fourteen (14) days prior to the next scheduled meeting/hearing date so that Board members have adequate time for review of those submissions. However, submissions by Applicants will be accepted throughout the period in which the public hearing record remains open. All applicable notice and sign posting requirements must be timely complied with in order for the application to appear on the Zoning Board of Appeals' agenda and to be heard.

#### C. Harbor and Coastal Zone Management Commission (marine structures permit, perimeter permit and consistency)

(1) The Applicant shall submit to the Building Department fifteen (15) printed copies and one (1) electronic copy of all application materials.

(2) The Applicant's initial meeting and subsequent meeting submissions must be made to the Building Department at least fourteen (14) days prior to the scheduled meeting date. All applicable notice and sign posting requirements must also be timely complied with in order for the application to appear on the Harbor and Coastal Zone Management Commission's agenda.

D. Unless otherwise permitted by the Chair and/or Board, Applicant submissions not made in accordance with these procedures and deadlines should not be discussed at a land use board meeting.

## II. Submission of Staff and Consultant Memoranda to all Land Use Boards

A. To the maximum extent reasonably practicable under the circumstances, staff and consultant memoranda to the land use boards should be submitted at least forty-eight (48) hours prior to the meeting date at which the memoranda is expected to be discussed.

## III. Posting of Materials on the Village's Web Site in Advance of Meetings

A. Applicant submissions shall be posted on the Village's web site at least forty-eight (48) hours in advance of the meeting at which they are scheduled to be discussed. To the extent practicable in accordance with the Open Meetings Law, staff and consultant memoranda subject to disclosure under FOIL, communications from governmental agencies, and land use board resolutions and policies shall be posted on the Village's web site in advance of the meeting at which they are scheduled to be discussed, or copies thereof shall otherwise be available to the public at the meeting.

## **Memo**

To: Mayor and Board of Trustees

From: Chair and Members of Planning Board

Cc: Richard Slingerland, Village Manager, Dan Gray, Building Inspector, Les Steinman, Land Use Counsel

Date: 11/7/16

Re: Planning Board Referral – Land Use Board Procedures & Escrow

---

At our June 22, 2016 meeting the Village Planning Board voted unanimously to express its approval of the recommendations on Land Use procedures referred to us by a resolution of the Board of Trustees adopted on June 13, 2016.

**Daniel Sarnoff**

---

**From:** Cindy Goldstein  
**Sent:** Tuesday, September 06, 2016 9:39 AM  
**To:** Richard Slingerland  
**Cc:** Anna Georgiou  
**Subject:** HCZMC comments on Escrow and Land Use Policy changes

Rich-

At our August 31, 2016 meeting, HCZMC discussed the draft protocols and are submitting the following comments:

1) As drafted the procedure for identifying and hiring consultants would result in significant delays for the applicant and potentially result in default consistency determinations. HCZMC's strict time constraints preclude this process. And by involving the Board of Trustees puts politics into the land use process which everyone agrees should not be subject to the whims/pressures of elected officials. The Commission unanimously and very strongly objects to having consultants retained in this way. A simple consultation with the applicant and then, working with the Village Manager, an appropriate consultant is identified and hired.

While this process might work well for other boards it would be absolutely unworkable for HCZMC.

With regard to the Application Submission Procedures/Deadlines: HCZMC would request that Item II A. be changed from 48 hours to 5 days. There's no reason that staff and consultant reports can't be prepared the submitted to the Commission members at least 5 days before meetings. Additionally, materials should also be posted at least 5 days before the meeting (Item III).

Respectfully submitted,

Cindy Goldstein

David S.J. Neufeld  
931 Greacen Point Road  
Mamaroneck, New York 10543  
(914) 698-6926

December 15, 2016

Honorable Norman S. Rosenbloom, Mayor &  
Leon Potok, Louis N. Santoro,  
Victor Tafur and Keith Waitt  
Trustees of the Village of Mamaroneck  
123 Mamaroneck Avenue  
Mamaroneck, New York 10543

Re: Escrow Protocols

Dear Mayor Rosenbloom and Members of the Board of Trustees:

I write in response to your request for comments concerning the proposed escrow protocols ("Protocols") regarding the Zoning Board of Appeals ("ZBA"). Since the proposed Protocols are directly related to Chapter 176 of the Village Code ("Code"), both are briefly discussed as appropriate. Please note that the ZBA has not, as a Board, adopted any position with regard to the subject of this letter but that the Chairman of the ZBA, Barry Weprin, has reviewed this letter and is in agreement with this letter.

As proposed, the Protocols should not apply to the ZBA for reasons that include, but are not limited to the following: (1) They are not consistent with Chapter 176 of the Code; (2) they impose "fees" or "expenses" that are contrary to existing legal authorities; (3) they impair the jurisdiction of the ZBA as an independent quasi-judicial board and the procedures governing the ZBA set out in State Law; and (4) the Protocols may give rise to claims, litigation and liability. Please note that payment by an applicant of the costs of sending out public notices as well as for consultants in the review of environmental impact statements are already provided for by New York law, and are therefore not addressed here.

Background:

The imposition of some expenses of the ZBA to an applicant raises significant legal issues. The New York Court of Appeals has recognized that a ZBA is a "quasi-judicial body created by State law (Village Law § 7-712)"<sup>1</sup> and that an application for a variance constitutes a legal right, and not just a "mere benefit." Accordingly, any charges imposed upon an applicant seeking to vindicate their legal rights must be scrutinized:

"At stake are the terms upon which citizens may have access to a governmental function and their rights to have those terms, whether or not they are in the form of fees, fixed by

---

<sup>1</sup> *Jewish Reconstructionist Synagogue v. Village of Roslyn Harbor*, 40 N.Y.2d 158, 162 (1976).

standards which lend assurance that they are not  
'unreasonable, discriminatory nor oppressive.'"<sup>2</sup>

Based upon the foregoing and other decisions decided thereafter, a set of standards has been established to address how and under what circumstances certain expenses of a local board can be passed on to the applicant. This letter is limited to addressing charges that may be imposed by the ZBA, and does not address the fact that under New York State law and regulations, a lead agency (including the ZBA) conducting a SEQRA Review may charge an applicant with reimbursement of actual costs with regard to an environmental impact statement (6 Crr-NY 617.3)

Although Code § 176-2 provides that the ZBA (as the "reviewing board") may elect to require some applicants to reimburse the Village for expenses, during my tenure on the ZBA, no resolution was adopted that required such payment by an applicant.

Applications to Challenge a Permit or for Interpretation:

The ZBA hears applications for special permits, area variances and use variances of which involve applicants seeking to obtain approvals to utility property. Additionally, the ZBA hears applications for interpretations and other appeals, including those from adjoining property owners who challenge a permit issued by the Building Inspector. However, the Code only authorizes reimbursement of expenses from an applicant seeking "approval to utilize any property in the Village." The Code's provisions for "reimbursement" of expenses are by its terms not applicable to applications challenging permits issued to other properties or applications for an interpretation.

The Protocols do distinguish between the type of application, but instead improperly provides that all applicants may be required to pay all expenses. Additionally, it has been determined that an applicant challenging a permit issued to an adjoining property owner may not be charged with any necessary expenses incurred by a board. In *Margolis v. Tully*<sup>3</sup>, the Court held that an applicant charges imposed upon an applicant challenging a permit issued to an adjoining property owner was improper and that such an applicant:

"... should not be compelled to pay an equivalent fee in order to seek redress from the Board of Zoning Appeals.

As citizen taxpayers having standing to present their grievances for administrative consideration, to impose a similar fee schedule upon them will only tend to create both an unfair and unequal burden which would in effect, make such appeals more costly ... and thereby, create an unreasonable impediment to such proceedings on the part of neighboring landowners."

---

<sup>2</sup> *Jewish Reconstructionist Synagogue v. Village of Roslyn Harbor*, 40 N.Y.2d 158, 164 (1976).

<sup>3</sup> 339 NYS 2d. 286 (S.Ct. Nassau Co., 1977)

The Court reasoned that if a municipality wanted to be reimbursed for such expenses it should do so through fees for building permits

"... based on the Municipality's experience concerning the expenses incurred in such matters ... a policy may be adopted under which such average expenses would be reflected in the schedule of fees to be paid by the applicants for building permits."

The imposition of costs upon an applicant seeking to challenge a permit issued by the Village is neither authorized by the Code nor existing authorities, and cannot be separately imposed by escrow protocols. Indeed, this would require a resident to pay in order to vindicate their rights and/or to seek correction of an error by the Village.

Open-Ended Fees and Expenses Are Impermissible:

The fees referred to in the Protocols and Code are open ended, potentially unlimited and seek reimbursement of all expenses (assuming that the ZBA were to make such a request of an applicant). Indeed, an applicant would be unaware of the total amount of exposure for fees and expenses for which the applicant may be responsible.

Open-ended fees are not permissible. Any fees imposed must be established based on reliable factual estimates based on the type of application. The Appellate Division of the Second Department, quoting from the Court of Appeals, made it clear that:

"A fee charged by a municipality in connection with the exercise of powers delegated to it by the Legislature must be 'reasonably necessary to the accomplishment of the statutory command,' may not be 'open-ended' or potentially unlimited and must be 'assessed or estimated on the basis of reliable factual studies or statistics [citing Court of Appeals] [citation omitted]."<sup>4</sup>

The determination that "open-ended and potentially unlimited assessment" are improper has consistently been recognized by the Courts.<sup>5</sup> Fees must be factually based upon studies in order that the average of certain necessary expenses are reflected in the schedule of fees paid by an applicant for the permit or otherwise.

Open-ended fees (such as by requiring an applicant to pay all expenses) would also improperly subject the applicant to unknown future expense based on unknown events,

---

<sup>4</sup> *Kencar Associates LLC v. Kent*, 27 A.D.3d 423 (2d Dep't 2006).

<sup>5</sup> See for example, *Jewish Reconstructionist Synagogue v. Incorporate Village of Roslyn Harbor*, 40 N.Y.2d 158 (1976); *Kencar Associates LLC v. Kent*, 27 A.D.3d 423 (2d Dep't 2006); *Sheri Torah Inc. v. South Blooming Grove*, 2010 WL 2797901 (Sup. Ct. Orange Co. 2010); *Margolis v. Tully*, 292 N.Y.S.2d 286 (Sup.Ct. Nassau Co., 1977).

such as the amount of opposition to the application or the intricacy of the issues presented. Rejecting such an approach, the Court of Appeals wrote that:

It would have disproportionately and impermissibly condition the availability of the board as a tribunal on an applicants' readiness to undertake an obligation delimited by things as indefinite as the vigor and determination of zealous opponents or the happenstance that the points at issue might turn out to be unexpectedly intricate.<sup>6</sup>

The Protocols and Code not only impermissibly require an applicant to be responsible for open-ended fees, but may also require that the applicant deposit additional funds in escrow as well as replenish the escrow from time to time based on future events.

The Code and Protocols Do Not Comply with  
Applicable Standards for Payment of Expenses:

Payment of expenses, where permissible, is limited to those that are "necessary" and not those that are just "reasonable." Additionally, even if expenses may be charged they must be based on a factual analysis that treats all applicants similarly to avoid an arbitrary and open-ended policy of total reimbursement.

Only costs that are necessary can be considered. The costs of counsel, transcripts, room expenses and other items for the convenience of the ZBA are not proper necessary expenses.<sup>7</sup> Yet, the Protocols seek to obtain reimbursements of all expenses absent such limitations.

The setting of fees to cover some of the expenses must be based on study of cases that provide a factual basis for the charges, and cannot be open ended.

"Fee schedules may be established and rational classifications of applicants made in such schedules, and the fees for each class may be based upon an average of the costs generally required in passing upon applications of that class, subject to the limitation that the fees must be reasonably necessary to accomplish the statutory command and must be assessed or estimated on the basis of reliable factual studies or statistics."<sup>8</sup>

Creating classifications of applicants for the ZBA can be readily accomplished. For example, variances sought for improvements that were improperly made without a permit generally require additional scrutiny and effort by the ZBA and the Village employees.

---

<sup>6</sup> *Jewish Reconstructionist Synagogue v. Village of Roslyn Harbor*, 40 N.Y.2d 158,166 (1976).

<sup>7</sup> E.g., *Jewish Reconstructionist Synagogue v. Village of Roslyn Harbor*, 40 N.Y.2d 158,166 (1976).

<sup>8</sup> 12 Am. N.Y. Jur.2d Buildings § 457.

Yet, Special Permit applications generally do not require significant amount of time or expense. An analysis is required to establish proper fees that are based on prior history with the ZBA. However, the Code and Protocols cannot create a blanket open ended reimbursement policy as a substitute for such requisite analysis.

Certain Procedures Are Not Consistent with ZBA procedures:

The Protocol provides for payment of escrow when an application is filed and before the ZBA has even seen the application. Yet, the Code requires that the ZBA first make a determination that its necessary expenses should be paid by the applicant before even seeing the application. That is neither logical nor proper.

The ZBA has the authority to "call upon any department, agency or employee of the village for assistance" subject to the Trustees, and may ask the applicant to submit expert reports or data. The Protocols should not be applied to restrict the ZBA to using experts or consultants designated by others.

The ZBA is a quasi-judicial board established under authority of State law and must comply with procedures contained in State law and appeals from ZBA decisions are taken directly to the New York Courts in an Article 78 Special Proceeding. Implicit in the functioning of the ZBA is its independent decision making authority that is governed by State law and subject to review by the New York Supreme Court. However, the Protocols and Code improperly direct that the ZBA adjourn matters and not take action on an application if payments are not made. Such an approach is improper, unnecessary and in conflict with State and federal law and authority.

No provision is made for applicants who seek to vindicate their rights but do not have the assets to remit the fees or expenses charged.

Conclusion:

Payment of expenses by applicants to the ZBA should be limited to an application fee and the costs of experts and consultants utilized in connection with a SEQRA review process. This does not preclude the Zoning Board from asking an applicant to submit certain information or reports, in which case the applicant should pay for the cost of the same. However, the requirement that an applicant pay all costs incurred by the ZBA in order for it to proceed and hear a resident's application to vindicate their legal rights is improper. As indicated above, the ZBA has never to my knowledge required the payment of its expenses by any applicant.


The amount of fees actually charged to an applicant can certainly be reviewed. It may very well be appropriate for applications to obtain variances for improvements improperly built without permits or variances to be charged an additional fee to reflect the additional costs incurred in connection with such application. Other fees may also be modified, but this should only be done by creating classifications of the applications (for example these may include area variances, use variances, new special permits, renewal of special permits, challenges to permits issued, and interpretations). The necessary costs incurred

Trustees of the Village of Mamaroneck  
December 15, 2016  
Page 6

within each classification can then be reviewed to ensure that they are necessary and within the parameters of legally permissible costs. The ZBA would seem fully able to undertake such a review and recommendation of classifications of applications and a fee structure.

Thank you for your consideration.

Sincerely,



David S.J. Neufeld

cc: Barry Weprin

**Steinman, Lester**

---

**From:** Norman Rosenblum [nsrosenblum@safeflight.com]  
**Sent:** Thursday, June 20, 2013 12:14 PM  
**To:** Steinman, Lester  
**Subject:** RE: BOT Interview

Les,

Thanks .. good basis to consider moving ahead on the local legislation ...

Norman

---

**From:** Steinman, Lester [mailto:lsteinman@wkgj.com]  
**Sent:** Thursday, June 20, 2013 11:53 AM  
**To:** 'Mayor Norman S.. Rosenblum'  
**Cc:** Georgiou, Anna L.; Mayor and Board  
**Subject:** RE: BOT Interview

Norman,

Courts have consistently rejected constitutional challenges to and upheld local legislation assessing to an applicant reasonably necessary fees, subject to audit by the municipality, for the accomplishment of a municipality's land use regulatory program. In its most recent pronouncement on the issue, the State's highest court, the Court of Appeals, rejected a challenge to a Town of Monroe consultant reimbursement provision that required an applicant to reimburse the Town for fees actually expended, provided those fees were reasonably related to the costs attendant to the Town's review of the application and were subject to inspection by the applicant and audit by the Town. *Twin Lakes Development Corp. v. Town of Monroe*, 1 N.Y.3d 98 (2003).

These unsuccessful challenges were brought by applicants seeking various permits from land use boards. I am aware of only one reported, lower court, case in New York where consultant review fee reimbursement legislation was successfully challenged by property owners seeking to overturn a determination by the building inspector to issue a building permit on a neighboring parcel. *Margolis v. Tully* 89 Misc.2d 969 (Sup. Ct Nassau Co. 1977). In that case, however, the amount of the fees were not based upon costs reasonably necessary to carry out the land use regulatory program. Rather, the costs were based on the size of the parcel and the nature of the improvement to be constructed on the parcel, without reference to what costs were customary and reasonable. The court held that such a fee schedule could not be imposed upon adjoining landowners who do not have the same economic interest in the contemplated improvement and which would make appeals more costly as the value of the improvement increased. The court also sought to characterize the neighbors' interest as vindicating a right in contrast to the benefit being sought by the property owner proposing the development, and suggested that the costs sought to be recovered by the municipality be incorporated into the schedule of fees for building permits.

Although more than 35 years old, that case has never been subsequently cited by other courts. A leading commentator has criticized the court's reasoning, opining that one who seeks a variance because a restriction is unconstitutional with respect to his property is also seeking to vindicate a right and is in no less worthy a position than the third-party appellant(s) and may be in no better position financially to pursue the variance application than the third-party appellant(s). Rathkopf's *The Law of Planning and Zoning*, Section 69.22.

Against this background, I do not agree that extending the escrow fee law to third-party appeals would be unconstitutional. Nevertheless, there would be a rational basis, for designating third-party appellants as a separate class of applicants in the legislation and limit or cap the amount of costs required to be reimbursed by members of that class. Other financial safeguards, such as the hardship provision that is already being discussed, would also be appropriate for all applicants.

As to enforcement, provided the escrow account is properly monitored, the few third party appeals should not present a problem.

6/20/2013

Please let me know whether you require further information regarding this matter.

Les

Lester D. Steinman  
Wormser, Kiely, Galef & Jacobs LLP  
399 Knollwood Road, Suite 205  
White Plains, New York 10603  
Tel: (914) 997-0900  
Fax: (914) 997-1039  
Email: [lsteinman@wkgj.com](mailto:lsteinman@wkgj.com)  
Web: [www.wkgj.com](http://www.wkgj.com)

-----  
This e-mail, and any attachments hereto, is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you have received this e-mail in error, please contact the sender and permanently delete the original and any copy of this e-mail from any computer and destroy any printout thereof.

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with Treasury Department regulations, we inform you that any U.S. federal tax advice contained in this correspondence (including any attachments) is not intended or written to be used, and cannot be used for the purpose of (i) avoiding penalties that may be imposed under the U.S. Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

-----  
**From:** Mayor Norman S.. Rosenblum [<mailto:nrosenblum@vomny.org>]  
**Sent:** Wednesday, June 19, 2013 10:18 AM  
**To:** Steinman, Lester  
**Cc:** Georgiou, Anna L.; Mayor and Board  
**Subject:** BOT Interview

Les,

Thanks for the update ...

Also, an interesting point came up last night regarding our proposed local law to charge third party actions before the land use boards. The "constitutionality" or enforcement of such a local law was questioned and the likely appeal of this action would seem a reality. What is your opinion ...?

Thanks,  
Norman

-----  
All,

Anna and I are grateful for the opportunity to have met with you last evening to discuss our firm's proposal to continue to serve as the Village's land use board counsel.

There was considerable discussion last evening regarding third party appeals. As set forth in our proposal, regardless of whether escrows are required from those applicants, we would bill for all our legal services on those applications at the discounted rate regardless of the number of hours involved.

Please let us know if you require further information regarding our proposal.

6/20/2013

Best regards

Les

Lester D. Steinman  
Wormser, Kiely, Galef & Jacobs LLP  
399 Knollwood Road, Suite 205  
White Plains, New York 10603  
Tel: (914) 997-0900  
Fax: (914) 997-1039  
Email: [lsteinman@wkgj.com](mailto:lsteinman@wkgj.com)  
Web: [www.wkgj.com](http://www.wkgj.com)

-----  
This e-mail, and any attachments hereto, is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you have received this e-mail in error, please contact the sender and permanently delete the original and any copy of this e-mail from any computer and destroy any printout thereof.

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with Treasury Department regulations, we inform you that any U.S. federal tax advice contained in this correspondence (including any attachments) is not intended or written to be used, and cannot be used for the purpose of (i) avoiding penalties that may be imposed under the U.S. Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.  
-----

# **McCULLOUGH, GOLDBERGER & STAUDT, LLP**

## **MEMORANDUM**

TO: Mayor and Village of Mamaroneck Board of Trustees

FROM: Linda B. Whitehead

DATE: February 21, 2017

RE: Escrows for ZBA applications and Neufeld letter

---

I have reviewed the letter from David Neufeld and certain provisions of law, as well as the Village of Mamaroneck Code Chapter 176, the retainer agreement with land use counsel, the ZBA application requirements, and other relevant items with regard to reviewing the issue of passing on costs of legal counsel to applicants before the Zoning Board of Appeals.

This memo is intended to provide you with the relevant facts so that the Board can have a discussion of this matter and provide direction for a continued or new policy. I am not aware at this time if any applicant to the ZBA has complained about or challenged escrow charges.

Chapter 176, Fees, authorizes the Village to require reimbursement to the Village for the costs of consulting services with respect to the review of applications before its various boards and commissions for approval to utilize property, rather than have the taxpayers in general bear such costs. The chapter goes on to authorize a reviewing board to require the applicant to deposit escrow funds with the Village sufficient to reimburse the Village for all reasonable costs of consultants, including legal. The process for establishing and replenishing escrow accounts is set forth. I do not know if the Zoning Board specifically has ever formally adopted such requirement, but since the escrow requirement exists in the Board's application package, it would appear to be endorsed by the Board. This Chapter is similar to those adopted by other municipalities. The general idea is that absent a provision to pass the costs of consultants on to the applicant, the Village would have to bear such costs.

As you should be aware, at the direction of the BOT, no escrow has been required for applicants making a third party appeal. This is one of the issues raised in David Neufeld's letter, in that Chapter 176 refers to applicant requesting approval to utilize its property. As Mr. Neufeld states, it would therefore seem that third party applicants, who are not seeking approval to utilize their property, cannot be charged under this Chapter. This has to my knowledge always been the policy of the Village whether permitted under Chapter 176 or not.

In response to the question from a few members of the Board, I have been advised that the total amount of legal fees reimbursed by applicants to the Zoning Board for 2016 was \$21,658.00, which was for a total of 33 applications. This is an average of about \$656 per application,

although I believe that some applicants incurred far less than this cost and some of the more significant and contentious cases (i.e. Ralph's Ices) incurred more. With the average being \$656 per application, and the initial escrow deposit set at \$750, it certainly appears the initial deposit required has a basis in fact and closely relates to the average cost.

Pursuant to the McCarthy Fingar retainer letter, their monthly retainer covers attendance at all land use board meetings (except ARB) and provision of basic support services to those land use boards and staff as well as the BOT on land use applications, "not otherwise billable to land use board applicants...." A review of bills shows that all general support of the land use boards and time for attendance at meetings is included in the retainer. Applicants are billed for time spent reviewing applications and notices, reviewing submissions from opposition or other parties and reviewing any legal issues raised and reviewing and following up on all submissions. For a simple variance application the only time billed is likely for the initial review of the application and notice.

One issue to be reviewed is whether if these legal fees were not passed on to the applicants, would they be covered by the retainer or would land use counsel bill the Village on an hourly basis for these fees. As pointed out in the retainer letter, it is the Village's decision whether to charge applicants for their services, but the Village will be responsible for such payment.

As part of the application submission to the ZBA, the applicant is required to make an initial escrow deposit of \$750 for a special permit or variance application, and \$350 for a special permit renewal. Any portion not used is refunded. The actual application filing fees are low, only \$146 for a variance application for a 1-5 family residential structure, and \$406 for a variance application for any other residential property or commercial property. Other filing fees are similarly low. Since fees should be related to costs, if the Village were to bear some legal fees for these cases, it would be appropriate for the filing fees to be increased to cover at least some of this cost.

The letter from David Neufeld clearly states it is his position, and that Barry Weprin has agreed with it. The Zoning Board has not adopted this position as a Board. He has taken the position that the Zoning Board should not be charging applicants for legal services provided to the Board. The letter cites to some of the cases on the issue of consultant fees and some relating more generically to fees. There are also several other cases where courts have rejected constitutional challenges to and upheld local legislation assessing consultant fees to applicants as reasonably necessary. Therefore, the caselaw is not completely clear on this issue. I am happy to discuss other aspects of the letter with the Board.

I would be happy to discuss the issues with the Board to assist you in setting a policy going forward.

## Village of Mamaroneck, NY

---

**Item Title:** Private Sewer Lateral Law

**Item Summary:** Private Sewer Lateral Law

**Fiscal Impact:**

**ATTACHMENTS:**

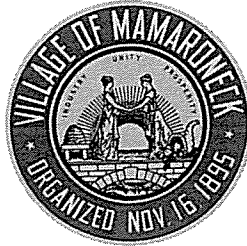
**Description**

Draft Sanitary Sewer Laterals

**Type**

Cover Memo

# Village of Mamaroneck



*Village Hall at the Regatta  
P.O Box 369*

*123 Mamaroneck Avenue  
Mamaroneck, NY 10543*

*<http://www.villageofmamaroneck.org>*

OFFICE OF  
**ROBERT A. SPOLZINO**  
VILLAGE ATTORNEY

Tel (914) 777-7737  
Fax (914) 777-7769

TO: Mayor Rosenblum and the Board of Trustees  
Robert Yamuder, Village Manager  
Daniel Sarnoff, Assistant Village Manager

FROM: Robert A. Spolzino, Esq.

RE: Sanitary Sewer Laterals

DATE: October 5, 2017

As you requested at the last meeting of the Board of Trustees, I have revised the draft sanitary sewer laterals law to add the requirement that the property owners provide receipts reflecting payment for the repair. The revised proposed local law is attached for your consideration. The revision appears in section 282-15(C).

## PROPOSED LOCAL LAW \_\_ - 2017

A Proposed Local Law to amend Chapter 282 of the Code of the Village of Mamaroneck (Sewers) regarding sanitary sewer laterals

BE IT ENACTED by the Board of Trustees of the Village of Mamaroneck as follows:

### *Section 1.*

Article IV of Chapter 282 of the Code of the Village of Mamaroneck (Removal of Illegal Sewer Connections and Elimination of Illegal Discharge of Liquids) is repealed in its entirety and replaced with the following:

### **Article IV. Sanitary Sewer Laterals**

#### **§282-12 Legislative Intent.**

The purpose of this Article is to reduce infiltration and inflow into the sanitary sewer system operated by the Village of Mamaroneck, and exfiltration of sewage into groundwater and waterways, by requiring inspection, testing, repair, replacement and ongoing maintenance of private sewer laterals by property owners in the Village of Mamaroneck.

#### **§282-13 Definitions.**

As used in this article, the following terms are defined as follows:

#### **DISCHARGE COMPLIANCE CERTIFICATE**

A certificate issued by the Building Inspector based upon a Plumber's Certification stating that:

- A. All of the connections leading from the structures on the property to the public stormwater sewer lines and the public sanitary sewer lines comply with the requirements of the New York State Building Code, the Westchester County Sewer Act, the Westchester County Sanitary Code and the Village Code; and
- B. There are no culverts, drains, hoses, leaders, lines, pipes or pumps that discharge liquids into the sanitary sewer; and
- C. The sanitary sewer laterals leading from the structures on the property do not directly or indirectly allow inflow or infiltration into the Village's public sanitary sewer lines.

#### **EXFILTRATION**

Raw sewage that leaks out of laterals into soil, groundwater and waterways

#### **INFILTRATION**

Water other than wastewater that enters a sewer system (including sanitary sewer laterals or sewer service connections) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.

## **INFLOW**

Water other than wastewater that enters a sewer system (including sanitary sewer laterals or sewer service connections) from sources such as, but not limited to, roof leaders, sump pumps, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, stormwaters, surface runoff, street wash waters and drainage. Inflow does not include, and is distinguished from, infiltration.

## **PLUMBER'S CERTIFICATION**

A certification made to the Village by a plumber licensed to do business within the County of Westchester that the plumber:

- A. Has inspected all of the connections leading from the structures on the property to the public stormwater sewer lines and the public sanitary sewer lines and that all such connections comply with the requirements of the New York State Building Code, Westchester County Sewer Act, the Westchester County Sanitary Code and the Village Code;
- B. Has inspected the real property and found that there are no culverts, drains, hoses, leaders, lines, pipes or pumps that discharge liquids into the sanitary sewer; and
- C. Has inspected the sanitary sewer laterals leading from the structures on the property and determined that such laterals do not directly or indirectly allow inflow or infiltration therefrom into the Village's public sanitary sewer lines, which inspection must include either (i) a video record of a closed circuit television (CCTV) inspection of the entire sanitary sewer lateral that has been provided to the Village, or (ii) in the case of a force or pump system, the results of a pressure test of the system, satisfactory, in either case, to the Building Inspector or his designee.

## **RENEWAL EVENT**

Either a transfer of title to the real property, other than a transfer between family members in order to create a joint tenancy or tenancy in common, or an application for a building and/or plumbing permits for construction with a value that exceeds fifty percent (50%) of the assessed value of the property, including improvements.

## **SANITARY SEWER LATERAL OR LATERAL**

The sanitary sewer pipe running from the structures on a property conveying wastewater from the structure and connecting to the public sanitary sewer main.

### **§282-14 Standards for Maintenance of Sanitary Sewer Laterals.**

- A. It is the sole responsibility of the private property owner to perform all required maintenance, repairs and replacements of sanitary sewer laterals in accordance with the requirements of this article and the requirements of the New York State Building Code, the Westchester County Sewer Act, the Westchester County Sanitary Code and the Village Code.
- B. Laterals shall be kept free from roots, grease deposits and other solids which may impede the flow or obstruct the transmission of sewage.
- C. Laterals shall not exhibit any signs of infiltration.

- D. Laterals shall not exhibit any sign of exfiltration or leakage.
- E. Lateral pipe joints shall be tight and all lateral pipes shall be free of any structure defects such as breaks, openings, and voids.

**§282-15. Correction or abatement.**

- A. If at any time any sanitary sewer lateral is found to not be in compliance with the requirements of §282-14, the owner of the property must cause all necessary repairs made to bring the lateral into compliance. Unless the Building Inspector allows additional time for good cause shown, the owner of the property must undertake to complete the required repairs to the satisfaction of the Building Inspector or his designee within 60 days of the sooner of (i) becoming aware of the non-compliance, or (ii) receiving notice from the Village or otherwise, including an inspection by a plumber done in connection with providing a Plumber's Certification, that the lateral is not in compliance.
- B. If the owner fails to complete the repairs and bring the lateral into compliance within the time required, the Village may enter upon the property and complete the required work and the cost of doing so will be billed to the owner of the property, and in the event of nonpayment, will be a lien on the property which can be collected and enforced as part of, and in the same manner as, Village taxes.
- C. Upon completion of the repairs, the owner must provide to the Building Inspector a receipt reflecting payment for the repairs and a Plumber's Certification, and must obtain from the Building Inspector a Discharge Compliance Certificate.
- D. An owner may choose to correct the non-compliance by replacing the sanitary sewer lateral. Any new sanitary sewer lateral, whether installed to correct a non-compliance or otherwise, must be installed in accordance with all applicable codes and regulations, including this article, and must be inspected by the Building Inspector, who will issue a Discharge Compliance Certificate if the new lateral complies with the requirements of this article.

**§282-15.1. Inspection upon Renewal Event.**

- A. Each property owner must obtain Discharge Compliance Certificate prior to any renewal event. Upon making an application for a Discharge Compliance Certificate, the Building Inspector or his designee shall have the right to inspect the property. If the plumber's inspection, the video required to be submitted, or the inspection by the Building Inspector or his designee, indicates the lateral is not in compliance with the requirements set forth in §285-14 above, the owner shall be required to correct the conditions not meeting the requirements and provide a Plumber's Certification and video indicating all conditions have been corrected and that the Lateral is now in compliance with this Article. Upon the Building Inspector's determination that the lateral is in compliance, the Discharge Compliance Certificate will be issued.
- B. If at the time of a renewal event or a required inspection the owner can prove that a Discharge Compliance Certificate has been issued within the preceding ten (10) years, and there has been no significant change in the condition of the property, the Building Inspector may waive the requirement for a new Discharge Compliance Certificate for that particular renewal event.
- C. If the renewal event is a transfer of title, and remedial work or a replacement is required for the issuance of a Discharge Compliance Certificate, the Building Inspector may permit the transfer of

title to proceed without the Discharge Compliance Certificate if the transferor deposits with the Village, in a trust and agency account to be maintained by the Village Treasurer, an amount determined by the Building Inspector to be sufficient to complete the remedial work or replacement, and (ii) the transferor agrees that the work will be completed within six (6) months, and that if the work is not completed within six (6) months, the Village may enter upon the property and complete such work using the escrowed funds. The Village Treasurer will bill to the transferor any cost to complete the work beyond the amount deposited with the Village Treasurer and if the transferor does not pay that amount, the balance due will be a lien on the property which can be collected and enforced as part of, and in the same manner as, the Village taxes.

#### **§282-15.2 Fees.**

The fee for the issuance of a discharge compliance certificate shall be as set forth in Chapter A347, Fees.

#### **§ 285-15.3. Penalties for offenses.**

Any person, firm, association or corporation which violates any of the provisions of this article or fails to complete remediation as required herein, shall be guilty of a violation and, upon conviction, shall be punished by a fine of not more than \$500 or imprisonment for not more than 15 days, or both such fine and imprisonment. Each day the violation exists shall constitute a separate offense.

#### *Section 2.*

If any section, subsection, clause, phrase or other portion of this local law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, the portion of the law declared to be invalid will be deemed a separate, distinct and independent portion and the declaration will not affect the validity of the remaining portions hereof, which will continue in full force and effect.

#### *Section 3.*

This law is adopted pursuant to the authority granted by Municipal Home Rule Law § 10(1)(e)(3) and will supersede the provisions of the Village Law to the extent that they are inconsistent with this local law.

#### *Section 4.*

This local law will take effect immediately upon its filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.

## Village of Mamaroneck, NY

---

**Item Title:** Taylors Lane- No Attachment

**Item Summary:** Taylors Lane- No Attachment

**Fiscal Impact:**

## Village of Mamaroneck, NY

---

**Item Title:** Review of WJWW Recommendation on Rate Increase for Village of Mamaroneck Water Users

**Item Summary:** Review of WJWW Recommendation on Rate Increase for Village of Mamaroneck Water Users

**Fiscal Impact:**

### ATTACHMENTS:

#### Description

2017 WJWW

#### Type

Cover Memo

# Village of Mamaroneck 2017 Proposed Water Rate Increase



Westchester  
Joint Water Works

# WJWW Budget

- The WJWW Budget provides a target level of income distribution, based on “Normal Year” water usage, to meet current WJWW Member Municipality Water Fund budget requirements and provide a balance from which to fund unplanned priority/emergency local water system capital projects and large scale planned local & joint water system projects.



# WJWW Budget Detail

Category	WJWW Budget	Village of Mamaroneck Share (27%)
Revenue:		
Direct Water Revenues	23,000,000	6,300,000
Allocated Revenues	4,300,000	1,160,000
Total Revenue	27,300,000	7,460,000
Expenses:		
Water Purchases	11,400,000	3,100,000
Treatment & Distribution Costs	6,850,000	1,850,000
General Operations	5,800,000	1,560,000
Total Expenses	24,050,000	6,510,000
Water Fund Contribution	3,250,000	950,000

# Proposed Current Year Rate Increase

- Proposed water rate increase is 3.0%:
  - Takes into consideration 0% increase in NYC water rates
  - Provides coverage for 5% growth in WJWW non-water operating costs
  - Maintains current level of contribution to water fund to meet budget requirements and provides an amount to address a nominal increase in debt service costs going forward



# Proposed Current Year Rate Increase

Category	Village of Mamaroneck Share (27%)	% Increase	\$ Increase
Revenue:			
Direct Water Revenues	6,300,000	3.0%	188,000
Allocated Revenues	1,160,000	3.0%	35,000
Total Revenue	7,460,000		223,000
Expenses:			
Water Purchases	3,100,000	0.0%	0
Treatment & Distribution Costs	1,850,000	6.0%	111,000
General Operations	1,560,000	4.0%	62,000
Total Expenses	6,510,000		173,000
Water Fund Contribution	950,000		50,000



# Going Forward...

- Assuming “Normal” year water usage
- Coverage of a projected 6% average annual increase in NYC water rates requires a 3.0% average annual increase in VOM water rates
- Coverage of a projected 5% average annual increase in WJWW non-water operating costs requires a 2.2% average annual increase in VOM water rates
- Without considering debt service costs associated with water infrastructure capital projects, the average annual VOM rate increase required to address projected increases in water and non-water operating costs is 5.2%



Westchester  
Joint Water Works

# Rate Increase with a Change in NYC Rates

Category	Village of Mamaroneck Share (27%)	% Increase	\$ Increase
Revenue:			
Direct Water Revenues	6,300,000	5.2%	325,000
Allocated Revenues	1,160,000	3.0%	35,000
Total Revenue	7,460,000		360,000
Expenses:			
Water Purchases	3,100,000	6.0%	187,000
Treatment & Distribution Costs	1,850,000	6.0%	111,000
General Operations	1,560,000	4.0%	62,000
Total Expenses	6,510,000		360,000
Water Fund Contribution	950,000		0



# Joint Water System Capital Investment

- There are currently \$165 million in water system capital projects planned over the next 9 years of which VOM's 27% share will be approximately \$45 million related to meeting regulatory requirements and current/future water demand (Not included are regularly occurring capital projects involving replacement, upgrade and large scale repairs of local water infrastructure)

- 2018-2020: Planned capital expenditures of \$37 million (VOM 27% share - \$10 million) will require VOM water rate increases of 3.7% per year on average during the 3 year period to cover VOM's share of associated annual debt service levels

- 2021-2023: Planned capital expenditures of \$82 million (VOM 27% share - \$22 million) will require VOM water rate increases of 6.8% per year on average during the 3 year period to cover VOM's share of associated annual debt service levels

- 2024-2026: Planned capital expenditures of \$46 million (VOM 27% share - \$12 million) will require VOM water rate increases of 3.3% per year on average during the 3 year period to cover VOM's share of associated annual debt service levels



Westchester  
Joint Water Works

# Joint Water System Capital Investment

## WJWW Joint Capital Projects (2018-2026):

UV Distribution/Redundancy/Capacity \$ 21,000,000

*Park Lane Booster Station; New 10,000 ft. Transmission Main; Larchmont/Weaver St Plant Upgrade; Macy Rd booster Station; Purchase St UV Treatment Facility; Distribution System Enhancements*

Vulnerability/Maintenance \$ 10,000,000

*Shaft 22 Backflow Preventer Upgrade; PRV Replacements; Storage Tank Rehabs (WF, Purchase 1 & 2); New Kenilworth Storage Tank; Maintenance Garage Improvements; Security Enhancements*

Source Replacement/Redundancy/Capacity \$134,000,000

*Shaft 20 Aqueduct Connection (Shaft 20 Plant, Transmission Pipeline, West Harrison Booster Station)*

Total Project Costs \$165,000,000



Westchester  
Joint Water Works

# Joint Water System Capital Investment

WJWW Joint Capital Projects - VOM Share (2015-2017):     \$    1,700,000

*Kenilworth Booster Station, Rye Lake Turbidity Curtain System, Rye Lake Chlorinators,  
Rye Lake Emergency Generators*



Westchester  
Joint Water Works

# Local Water System Capital Investment

WJWW Local VOM Capital Projects (2015-2017):     \$   3,100,000

*Water Main Replacements (Mamaroneck Avenue, N Barry Avenue Bridge, Hommocks Road, Fairway Green, Westchester Day School Easement, Pirates Cove/Greacen Point, Orchard Street, South Barry Avenue, Claflin Avenue, Constable Drive ); Municipal Paving Program - Replacement of non-functional/vulnerable Water Infrastructure*



Westchester  
Joint Water Works

# Village of Mamaroneck Water Fund

- Current Water Fund balance is approximately \$1.0 million, options for use of this fund balance include:
  - Normalizing VOM water rate increase spikes – Rate increases over the next 9 years could average 9.3% per year to support operations and joint water system capital investment, fund balance could be used to extend the time period over which rate increases would take place and thereby reduce the average annual increase in water rates.
  - Addressing water fund deficits due to WJWW operational income shortfalls resulting from naturally occurring or mandated water use reductions
- Funding any residual filtration plant fines
- Alternative method of funding regularly occurring or emergency local system capital projects



Westchester  
Joint Water Works

# Rate Increase History & Water Bills

Entity	Average Rate Increase (2000-2016)	Proposed/Adopted
New York City (Upstate Rate)	9.3%	0.0%
Town of Mamaroneck	8.3%	3.5%
Village of Mamaroneck	8.8%	<b>3.0%</b>
Town/Village of Harrison	8.1%	TBD

Year	VOM Average Annual Water Bill for Household Consumption of 100,000 Gallons (No Irrigation)
2014	\$718.84
2015	\$757.86
2016	\$757.86
<b>2017</b>	<b>\$780.60</b>
<b>Increase 2017/2016</b>	<b>\$22.74 Annually or \$.0.06 Per Day</b>



Westchester Joint Water Works Rate Increase History				
Year	NYC DEP	Village of Mamaroneck	Town/Village of Harrison	Town of Mamaroneck
2000	8.0%	3.0%	3.0%	3.0%
2001	8.0%	3.4%	2.0%	2.0%
2002	8.0%	2.0%	2.0%	2.0%
2003	12.0%	3.0%	3.0%	3.0%
2004	9.0%	2.5%	28.0%	15.0%
2005	4.0%	1.0%	1.0%	1.0%
2006	12.0%	18.6%	3.0%	3.0%
2007	15.0%	4.0%	4.0%	14.0%
2008	13.0%	4.4%	10.0%	14.5%
2009	2.0%	17.0%	9.0%	9.0%
2010	25.0%	75.0%	28.0%	18.0%
2011	5.6%	3.0%	9.5%	13.0%
2012	9.8%	15.0%	17.0%	15.0%
2013	12.3%	-16.0%	6.5%	8.7%
2014	5.1%	5.0%	0.0%	6.0%
2015	9.9%	8.0%	9.0%	12.0%
2016	0.0%	0.0%	2.0%	2.5%
17 Year Average				
	9.3%	8.8%	8.1%	8.3%
2017 Proposed/Adopted	0.0%	3.0%	TBD	3.5%
Average Annual Water Bill for Household Consumption of 100,000 Gallons (No Irrigation):				
2014	\$718.84	\$689.28	\$720.48	
2015	\$757.86	\$751.32	\$806.34	
2016	\$757.86	\$766.74	\$827.02	
2017	\$780.60	TBD	\$855.97	
Increase 2017 vs. 2016				
	\$22.74/Year (\$0.06/Day)	TBD	\$28.95/Year (\$0.08/Day)	

## Village of Mamaroneck, NY

---

**Item Title:** DASNY Grant for Old Hook & Ladder Firehouse

**Item Summary:** DASNY Grant for Old Hook & Ladder Firehouse

**Fiscal Impact:**

**ATTACHMENTS:**

**Description**

VOM-2017 SAM

**Type**

Cover Memo



CARL E. HEASTIE  
Speaker

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

September 11, 2017

Room 932  
Legislative Office Building  
Albany, New York 12248  
518-455-3791  
FAX: 518-455-5459

1446 East Gun Hill Road  
Bronx, New York 10469  
718-654-6539  
FAX: 718-654-5836

250 Broadway, Suite 2301  
New York, New York 10007  
212-312-1400  
FAX: 212-312-1418

Honorable Steven Otis  
Member of Assembly  
222 Grace Church Street, Suite 305  
Port Chester, NY 10573

Dear Steven:

I am in receipt of your State and Municipal Facilities Program Description & Nomination Form that provides for the Village of Mamaroneck to receive capital funding in the amount of \$500,000 from the State and Municipal Facilities Program (SAM). These funds are for capital costs associated with the renovation of a building to create a multi-use media center.

In order for your designated project to receive funds through SAM, the administering organization must complete a "State and Municipal Facilities Program Preliminary Application." Please provide the enclosed application to the Village of Mamaroneck. The completed application should be returned to Victor Franco, Ways and Means Committee, Capitol Building, Room 409, Albany, New York 12248. Upon receipt, staff from the Ways and Means Committee and Office of Counsel to the Majority will conduct an initial review to determine eligibility.

The application will be formally submitted to the Dormitory Authority of the State of New York (DASNY) for a more intensive review process after the initial review is completed. DASNY may require more detailed information in order for the grant contracting process to proceed. If DASNY requires additional information, they will contact the grant recipient directly. This process is necessary to ensure that the project can be funded with bond proceeds, as that is the source of funds for the State and Municipal Facilities Program.

It is through your efforts and advocacy on behalf of the Village of Mamaroneck that this project will be considered for capital funding through the SAM process. If you have any questions about the process, please do not hesitate to contact me or Victor Franco of the Ways and Means Committee staff at (518) 455-4050.

Sincerely,

CARL E. HEASTIE  
Speaker

Enc.

## STATE AND MUNICIPAL FACILITIES PROGRAM PRELIMINARY APPLICATION

Project Category: ☐ State and Municipal ☐ Economic Development \* ☐ Environmental \*  
*\* projects in these categories may require additional information and approval/certification*

### SECTION 1: DATA SHEET / GENERAL INFORMATION

#### A. Project Name:

Project Location:

#### B. Applicant Organization:

Legally Incorporated Name:

Street (not P.O. Box):

City:

Zip:

County:

Phone:

Ext:

Fax:

E-mail:

Contact Name & Title:

Federal Taxpayer I.D./Charity Reg.# (Non-profits Only):

#### 1. Type of Organization:

☐ Municipality

☐ Local Development Corporation or Industrial Dev. Agency

☐ Not-for-Profit

☐ University/Educational Org.

☐ Business Corporation

☐ Other (please describe) \_\_\_\_\_

#### 2. Is the organization currently seeking or receiving any other New York State assistance for this project? ☐ No ☐ Yes

If your answer is "yes", please provide a detailed explanation on an attached separate sheet.

#### 3. Name of project beneficiary if not applicant:

### SECTION 2: PROJECT DESCRIPTION

#### A. Project Description and Amount

1. Please attach a detailed description of the specific capital project that will be undertaken and funded pursuant to this application.

2. Please list the amount of funding anticipated to be received from the State and Municipal Facilities Program for this project.

\$ \_\_\_\_\_

3. Project Start Date: \_\_\_\_\_ Anticipated Date of Project Completion: \_\_\_\_\_

### SECTION 3: PROJECT BUDGET, DISBURSEMENT SCHEDULE, & OPERATING COSTS

#### A. Use of Funds

Complete the following Project Budget detailing the proposed sources and uses of funds (attach additional sheets if necessary).

<u>USE OF FUNDS</u>	<u>SOURCES</u>			<u>TOTAL</u>
	State	In-Kind/ Equity/Sponsor Contribution	Other sources	
Direct Costs:	\$	\$	\$	\$
Indirect/Soft Costs:				
Total:	\$	\$	\$	\$

B. Please describe other sources of funds and if they have been secured.

C. Does the project require environmental or other regulatory permits? ☐ No ☐ Yes  
Have they been secured? ☐ No ☐ Yes ☐ NA

D. Has any State or local government agency reviewed the project under the State Environmental Quality Review Act (SEQRA) or is such review necessary to obtain any governmental approvals?  
☐ No ☐ Yes ☐ NA

E. Please describe the ongoing operating costs required to maintain the proposed project and the sources of these funds.

#### SECTION 4: ELIGIBILITY FOR TAX-EXEMPT FINANCING

1. Do you believe your project is eligible for tax-exempt financing under the Federal Internal Revenue Service code? ☐ No ☐ Yes

2. Has the applicant or proposed recipient of funds previously received financing from the sale of tax-exempt bonds? If yes, attach a schedule describing the details of such financing. ☐ No ☐ Yes

3. Does the applicant or proposed recipient of funds anticipate applying for financing for this project from the sale of other tax-exempt bonds? ☐ No ☐ Yes

4. Have any funds been expended or obligations incurred to date on that portion of the project for which this application is made? If yes, attach a schedule showing details of such disbursements (date, purpose, payee, etc.). ☐ No ☐ Yes

5. Does the applicant or proposed recipient of funds plan to occupy 100% of the project facility? If no, attach a schedule explaining the planned occupancy. ☐ No ☐ Yes

Signature of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

## Village of Mamaroneck, NY

---

**Item Title:** Building Department Review Study

**Item Summary:** Update on Land Use & Building Department Processes Study

**Fiscal Impact:**

**ATTACHMENTS:**

**Description**

building dept study

**Type**

Cover Memo

# MEMORANDUM

*Village of Mamaroneck*



To: Robert Yamuder, Village Manager

From: Daniel J. Sarnoff, Assistant Village Manager

Re: Land Use Board and Building Department Procedures  
Analysis

Date: October 6, 2017

P 914-777-7703

F 914-777-7760

[www.villageofmamaroneck.org](http://www.villageofmamaroneck.org)

---

In regard to the above captioned matter, Matrix has hit the ground running. We held a kickoff meeting with the group on September 18, 2017. To facilitate this process, a steering committee composed of the Village Manager, Assistant Village Manager, Building Inspector and Village Planner has been established.

Matrix interviewed the staff on the 19<sup>th</sup> and 20<sup>th</sup>. Matrix reports that the staff provided open and honest feedback, and staff commented that Matrix was very professional in working with them. As a follow-up to the interviews, they are working with the Building Inspector to collect relevant data.

They are currently preparing the first two deliverables which include a descriptive profile and customer survey.

As a next step, Matrix will begin interviews with additional stakeholders including elected officials and Land Use Board members.

## Village of Mamaroneck, NY

---

**Item Title:** Land Use Counsel Contract

**Item Summary:** Land Use Counsel Contract

**Fiscal Impact:**

**ATTACHMENTS:**

**Description**

mccarthy

**Type**

Cover Memo

Village of



Mamaroneck

OFFICE OF  
RICHARD SLINGERLAND  
VILLAGE MANAGER

*Village Hall At The Regatta*  
*P.O. Box 369*  
*123 Mamaroneck Avenue*  
*Mamaroneck, N.Y. 10543*

TELEPHONE  
(914) 777-7703  
FAX NUMBER  
(914) 777-7760

November 24, 2014  
**5C AGENDA REGULAR MEETING**

To: Mayor and Board of Trustees

Re: Agreement with McCarthy Fingar LLP for Legal Services

Please be advised that the above mentioned agreement is being filed for the record with the Clerk-Treasurer.

Respectfully submitted,



Richard Slingerland  
Village Manager

att.

RS:sh

cc: Clerk-Treasurer



ORIGINAL

11 Martine Avenue, 12th Floor  
White Plains, NY 10606-1934  
Phone : 914-946-3700 Fax : 914-946-0134  
E-mail : [info@mccarthyfingar.com](mailto:info@mccarthyfingar.com)  
Web : [www.mccarthyfingar.com](http://www.mccarthyfingar.com)

Direct Line: 914-385-1058  
Email: [lsteinman@mccarthyfingar.com](mailto:lsteinman@mccarthyfingar.com)

November 12, 2014

Via Email

Richard Slingerland, Village Manager  
Village of Mamaroneck  
Village Hall at the Regatta  
123 Mamaroneck Avenue  
Mamaroneck, NY 10543

Re: Legal Services: McCarthy Fingar LLP

Dear Mr. Slingerland:

This shall serve to memorialize the prospective agreement between our firm and the Village of Mamaroneck for our continued provision of certain legal services as Special Counsel to the Village's Land Use Boards, including representing their interests and those of the Village under resulting Article 78 proceedings.

We will provide advice and counsel to the Village of Mamaroneck Planning Board, Zoning Board of Appeals, Harbor & Coastal Zone Management Commission, and when requested, the Board of Architectural Review. Our services to the Boards will include among other things, preparation for and attendance at all meetings, providing advice to the Boards and Village staff as necessary, board member training and education, and work performed outside of meetings at the request of the respective Boards and/or Village staff, such as resolution preparation, legal research and the like. We will also provide advice and counsel, when requested, to the Board of Trustees and Village staff on land use related matters.

Accordingly, we propose to charge a retainer of \$5,000.00 per month to cover (1) attendance at all meetings of the Planning Board, Zoning Board of Appeals, and Harbor and Coastal Zone Management Commission; (2) provision of basic support services to those Land Use Boards and their staffs, and to the Mayor and Board of Trustees, on land use applications, not otherwise billable to land use board applicants, including regulatory and statutory compliance advice, response to inquiries from residents and commercial entities, the preparation of resolutions and guidance and training services; and (3) such other related services incidental to the proper functioning of the land use boards.

Additionally, for our services in connection with the review of applications before the Planning Board, Zoning Board of Appeals and Harbor & Coastal Zone Management Commission, we propose to continue to charge for each individual application on a straight hourly basis at the discounted rate of \$245.00 per hour for the first five hours of work and on a straight hourly basis at our standard, non-discounted attorney rates for the balance of the work on such applications. The initial discounted rate allows applicants with the less complex projects to proceed without incurring significant added expense. As we have previously indicated, the larger project applicants need not benefit from our municipal discount. Lester Steinman will continue to be primarily responsible for Planning Board matters and his standard billing rate is currently \$450.00 per hour. Anna Georgiou will continue to be primarily responsible for ZBA matters and matters before the Harbor & Coastal Zone Management Commission and her standard billing rate is currently \$290.00 per hour. Standard rates for other attorneys in our office range from \$300.00 to \$450.00 and their participation will only be on an as needed basis.

The Village has express authority under Chapter 176 of the Village Code to require land use applicants to reimburse the Village's legal fees for the review of applications before its various boards and commissions. In addition, reviews under the State Environmental Quality Review Act are subject to reimbursement by applicants. Of course, fees must be reasonable and necessary and incurred in connection with the Village's examination and action on an applicant's project.

It remains within the Village's purview as to whether it wishes to charge applicants for our services. The Village would be responsible in the first instance for paying such fees and charges whether or not it determines to seek reimbursement from the respective applicants. In other words, payment of our fees is not contingent on collection by the Village under its reimbursement policy. We will continue to assist in developing and implementing the Village's escrow policy as provided by the Village Code. In the case of third party appeals to the ZBA and Village initiated applications to the land use boards, we will bill for all legal services at the discounted \$245.00 per hour blended rate.

Finally, we will provide advice and counsel to the Village of Mamaroneck in connection with all Article 78 proceedings arising in connection with the Village's Planning Board, ZBA and Harbor & Coastal Zone Management Commission, and we will continue to charge for these services on a straight hourly basis at the discounted rate of \$245.00 regardless of the attorney working on the matter. Given the immediacy of response in some cases, authorization for our commencement of

(00570921.DOC.)

work on any particular Article 78 shall come from the Village Manager, or his designee, in coordination with the Board of Trustees. Special projects, such as drafting legislation and amendments to the LWRP and Comprehensive Plan, land use actions initiated by the Board of Trustees and assistance with audits by Federal and State agencies, shall not be included within the scope of the Retainer and shall be billed at the rate of \$245.00 per hour. The scope of services on such special projects shall be subject to the approval of the Board of Trustees.

We will bill each month for work performed in the prior month and provide separate detailed invoices of work performed on each application including reasonable and necessary disbursements. If the Village has a standard voucher for payment, we can include same with each invoice. We would request that all invoices/vouchers as submitted by our firm for work performed be paid within thirty (30) days of delivery to the Village. If the Village so desires, as a courtesy, copies of our billings including the descriptions of services rendered, subject to redaction to maintain attorney client privilege as necessary, will be forwarded to respective applicants or their attorneys, at the same time they are forwarded to the Village, so that the applicants are contemporaneously apprised of our billings. Of course, collection and payment remain the Village's responsibility.

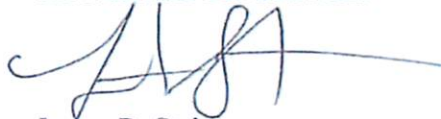
We also must inform you that the Village has a right to arbitration of any fee dispute under Part 137 of Rules of the Chief Administrator of the Courts.

This agreement will take effect as of November 1, 2014 and run through the Village's next Annual Organizational Meeting to be held in December, 2014. This retainer may be extended by mutual agreement of the parties.

We look forward to continuing our work with you, and the Village's Land Use Boards and Village Staff and appreciate your confidence in our firm.

Very truly yours,

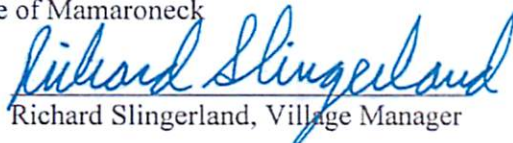
McCARTHY FINGAR LLP



Lester D. Steinman

Agreed to and Accepted by  
Village of Mamaroneck

By:

  
Richard Slingerland, Village Manager

**EXTRACT OF MINUTES OF A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE  
VILLAGE OF MAMARONECK HELD ON OCTOBER 27, 2014, AT 7:30 P.M. IN THE  
COURTROOM AT VILLAGE HALL, MAMARONECK, NEW YORK**

**RESOLUTION RE:  
AUTHORIZATION TO TRANSFER LAND USE COUNSEL CONTRACT TO  
McCARTHY FINGAR, LLP**

WHEREAS, by resolution of December 16, 2013, the Village of Mamaroneck Board of Trustees authorized the execution of a retainer agreement with Wormser, Kiely, Galef & Jacobs, LLP as Attorneys for the Planning Board, Board of Appeals and the Harbor & Coastal Zone Management Commission; and

WHEREAS, the land use counsel services have been provided through attorneys Lester Steinman and Anna Georgiou, both partners in the firm, and the Village has been satisfied with the quality of the work they have provided; and

WHEREAS, the Village was recently made aware that Mr. Steinman and Ms. Georgiou will soon be transferring employment and partnership to the firm of McCarthy Fingar, LLP., and in order to maintain continuity between the Village's Land Use Counsel and its Land Use Boards, it is recommended that the Village authorize the transfer of its Land Use Counsel Contract; now therefore be it

RESOLVED, that the Village of Mamaroneck Board of Trustees herein authorizes the transfer of its Land Use Counsel contract from Wormser, Kiely, Galef & Jacobs LLP., to McCarthy Fingar, LLP. at the same terms and conditions as identified in our existing agreement for a period of November 1, 2014 through the next Annual Organizational meeting; and be it further

RESOLVED, that the Village of Mamaroneck herein authorizes the transfer of its files from Wormser, Kiely, Galef & Jacobs, LLP. to McCarthy Fingar, LLP so that they will remain with Lester Steinman, Esq.; and be it further

RESOLVED, that the Village Manager and Village Attorney are herein authorized to undertake such administrative acts as may be required to effectuate this transfer

Ayes: Bermudez, Potok, Miller, Santoro, Rosenblum  
Nays: None

I, the undersigned Deputy-Clerk of the Village of Mamaroneck, Westchester County, New York,  
DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the Regular Meeting of the Board of Trustees of the Village of Mamaroneck, including the resolution contained therein, held on the 27<sup>th</sup> day of October 2014 with the original thereof on file in my office, and that the same is a true and correct transcript therefrom and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Village this 13<sup>th</sup> day of November, 2014

  
Sally J. Roberts

## Village of Mamaroneck, NY

---

**Item Title:** Planning Consultant Contract

**Item Summary:** Planning Consultant Contract

**Fiscal Impact:**

**ATTACHMENTS:**

**Description**

Monarch Planning

**Type**

Cover Memo

Village of



Mamaroneck

OFFICE OF  
RICHARD SLINGERLAND  
VILLAGE MANAGER

*Village Hall At The Regatta  
P.O. Box 369  
123 Mamaroneck Avenue  
Mamaroneck, N.Y. 10543*

TELEPHONE  
(914) 777-7703  
FAX NUMBER  
(914) 777-7760

5B NOT ON AGENDA  
AGENDA REGULAR MEETING  
November 13, 2012

To: Mayor and Board of Trustees

Re: Retainer Agreement - Monarch Planning

Please be advised that the above mentioned Retainer Agreement is being filed for the record with the Clerk-Treasurer.

Respectfully submitted,

Richard Slingerland  
Village Manager

att.

RS:sh

cc: Clerk-Treasurer

## RETAINER AGREEMENT

The Village of Mamaroneck (the "Village") hereby retains the Monarch Planning ("Monarch") to act as Village Planner in accordance with following terms:

**Personnel:** Robert Galvin, AICP, shall be primarily responsible for the duties set forth herein as covered by the monthly fee.

**Fee:** Monarch shall receive an annual fee of \$75,000 payable in equal monthly installments of \$6,250 payable after the first Village Board meeting of the following month for their services. Monarch shall not be an employee of the Village, but shall be an independent contractor and shall receive no benefits.

**Scope of Services:** The scope of services covered by this retainer agreement ("Scope of Services") shall include: (1) office hours at the Village of Mamaroneck for twenty-four (24) hours per week; (2) attend all meetings of the Planning Board and Harbor & Coastal Zone Management Commission; (3) attending meetings of other boards as may be required/requested (e.g. Board of Trustees, Zoning Board of Appeals, etc.); (5) in conjunction with Village Attorney, draft legislation, resolutions and notices when requested.

The Scope of Services shall also include all e-mail correspondence and telephone calls between Monarch and Village Officials, and Village Staff who need to contact Monarch in the normal course of business, except in the event that the communication is directly related to a litigated matter or a matter covered by Chapter 176 of the Village Code (which shall be billed separately). The Village will provide secretarial or clerical assistance (and will provide a computer in the office) and the collection and forwarding of mail and messages related to Village matters when Monarch is not present during office hours.

It is acknowledged that for special projects, the Village may retain outside planning consulting services. In the event that the project may require such specialized planning services, Monarch shall assist the Village administration in the preparation of Requests for Proposals as well as assist with the review of submissions and recommendation of award.

**Non-Retainer Services:** The Scope of Services shall not include: (1) third-party review of land use applications which shall be billed at a rate of \$65.00 per hour. Monarch shall separately invoice any charges which are subject to billing by the Village to applicants pursuant to Chapter 176 so that the Village may seek reimbursement for such charges from applicants as provided for in Chapter 176.

**Extra Work:** If MONARCH is of the opinion that any Work that MONARCH has been directed to perform is beyond the scope of this AGREEMENT and constitutes Extra Work, MONARCH shall promptly notify the VILLAGE, in writing, of this fact prior to beginning any of the Extra Work. In the event that the VILLAGE determines that such work does constitute Extra Work, the VILLAGE shall provide additional compensation to MONARCH at a rate of \$50.00 per hour

In addition, the Village will be responsible to Monarch for any disbursements and expenses that may be incurred by them in connection with services performed. Such disbursements and expenses may be included on a regular invoice or submitted separately. Such disbursements and expenses may include, but not necessarily be limited to (to the extent they are not provided or paid directly by the Village), filing fees, expert fees, photocopying charges (only for copying exceeding 20-pages), messenger charges, postage, telephone toll calls, and the like. . In certain instances, invoices for such services shall be forwarded for direct payment to the service provider.

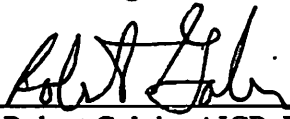
**Term:** It is acknowledged that the appointment of Monarch is not for a fixed term and either the Village Board or Monarch may terminate this agreement, without cause, upon thirty (30) days written notice to the other.

**Insurance:** During the term of this Agreement, Monarch shall maintain insurances as may be prescribed by the Village Attorney.


**Other Clients:** During the term of this agreement Monarch shall not represent any other client before any department, board or commission of the Village.

Dated as of October 12, 2012

Monarch Planning

By:   
Robert Galvin, AICP, Principal

Village of Mamaroneck

By:   
Richard Slingerland, Village Manager

## Village of Mamaroneck, NY

---

**Item Title:** Wayfinding Signage Update (recommendation from Merje)- No Attachment

**Item Summary:** Wayfinding Signage Update (recommendation from Merje)- No Attachment

**Fiscal Impact:**

## Village of Mamaroneck, NY

---

**Item Title:** Parkmobile Parking App

**Item Summary:** Parkmobile Parking App

**Fiscal Impact:**

**ATTACHMENTS:**

**Description**

buisness letter

**Type**

Cover Memo

---

## VILLAGE OF MAMARONECK

DATE: October 6, 2017

TO: Daniel Sarnoff, Assistant Village Manager

FROM: Mary Shiffer, Capital Project Management

RE: Mobile Parking App Recommendation

A parking app requires parking users to allocate smartphone screen space to a third party company and provide them with their credit card payment information. This takes time and effort on the part of the user. It also requires a level of consumer trust with sharing financial payment information and requires a security commitment on the part of the app provider.

There are several parking app providers competing for both this phone screen space as well as representation in local regional territories. From a municipal perspective, a strong parking app adoption rate by a provider is desirable because it supplies the municipality access to an existing user base both among residents and potential visitors. While marketing is still important, the ability for mobile app users to use an app that they have already downloaded on their smartphone is very desirable.

Village staff has met with three mobile parking app providers: Parkmobile, Passport and PayByPhone. All three providers are popular parking app providers. When considering these providers within the regional use patterns near the Village of Mamaroneck, Parkmobile has a strong regional advantage. Because of this, it is recommended that the Village consider the adoption of Parkmobile.

At this time, ParkNYC is currently provided by Parkmobile as a white label application. Parkmobile is also offered in railroad parking lots along the Village's rail corridor. Parkmobile exceeds the local representation of east coast users over those using PayByPhone. Also, the Google download rate of Parkmobile exceeds that of Passport.

Lastly, in my recent consulting work with other local municipalities, I have seen preliminary evidence that the percentage of nearby parking app users who currently have the Parkmobile app exceeds that of the other two providers under consideration.

---

## Village of Mamaroneck, NY

---

**Item Title:** Request to convert Johnson Lot from Permit to Metered Parking

**Item Summary:** Request to convert Johnson Lot from Permit to Metered Parking

**Fiscal Impact:**

**ATTACHMENTS:**

**Description**

**Type**

R. Hendey Letter

Cover Memo

Signed Petition

Cover Memo

James J. Houlihan  
Managing Partner

James G. Houlihan • Howard L. Parnes • Daniel J. Houlihan  
(1923-Retired) (1929-2016) (1920-1998)

Norman Rosenblum  
Mayor  
Village of Mamaroneck  
Village Hall at the Regatta  
123 Mamaroneck Ave  
Mamaroneck, NY 10543

Dear Mr. Mayor:

I am writing this letter to bring your attention to the attached petition that has been signed by 66 people who represent local residents, business owners and patrons of businesses in Mamaroneck.

### **Petition to convert the Library Lane Lot to Meter Parking.**

**With many recent improvements in this area, the lack of transient parking has become even more problematic for local business. The best use of the LIBRARY LANE LOT is metered parking. There are empty spaces in this lot daily. The LIBRARY LANE LOT would be best utilized by local business patrons & merchants. Metered Parking in the LIBRARY LANE LOT would enable more Commerce in the Business District it's located in.**



The above photos of the "Library Lane Lot", taken today at 11:00 am, are an example of a typical day during the week. As you can see the lot is barely half full. The cars and trucks that are occupying this location are parked all day and rarely move. The location of this lot is too valuable to dedicate to the long term storage of vehicles. There is an acute need for short term parking among the local businesses in this area. The current use of this lot is wasteful and inefficient and has resulted in lost revenue to the Village as well as the local businesses.

I hope that you will extend every effort study this condition and at the very least allow for meter parking during business hours.

Thank you for your consideration.

Richard Hendey



*Original Firm Established 1891*

4 West Red Oak Lane, Suite 200  
White Plains, NY 10604  
[www.HoulihanParnes.com](http://www.HoulihanParnes.com)

P: 914.694.6070  
F: 914.694.4040

James J. Houlihan  
Managing Partner

James G. Houlihan • Howard L. Parnes • Daniel J. Houlihan  
(1923-Retired) (1929-2016) (1920-1998)

## Petition to convert the Library Lane Lot to Meter Parking.

With many recent improvements in this area, the lack of transient parking has become even more problematic for local business.

The best use of the LIBRARY LANE LOT is Metered parking. There are empty spaces in this lot daily. The LIBRARY LANE LOT would be best utilized by Local Business Patrons & Merchants. Metered Parking in the LIBRARY LANE LOT would enable more Commerce in the Business District it's located in.

Name	Business Name/Address
Heather Cabot	15 Walker Ave. Rye, NY 10580
Jennifer Gomez	151 Fenimore Rd Mamaroneck NY 10543
Barbara Roque	78 Hickory Grove Dr, W. Larchmont NY 10594
Elizabeth Gibbons	15 Brookside Ln, Harrison, NY 10529
Eileen Nickas	150 Davis Ave White Plains, NY 10606
Melissa Wirth	66 Hutchinson Blvd Scarsdale NY 10583
Leona Newman	68 Sara Ln New Rochelle 10804
Margaret	29 Mountain Ave, Larchmont NY 10594
Laura Corrado	27 Chester Dr, Tappan NY 10950
Michelle Anadiv	610 Oakhurst Rd Manhasset Neck, NY 10550
Jill Miller	1 Avon Rd
Stephanie Gould	725 Stuart Ave Mamaroneck, NY 10543
MARY BETT STAROPOLI	17 Rockridge Rd, Larchmont NY 10594
Leslie General	145 Fenimore Rd Mamaroneck NY 10543
Jackie Beltran	827 Underhill Ave. Apt 2 Mamaroneck, NY 10543
Lesley Baronak	108 Chatsworth Ave Larchmont 10538
CANDIDA CANFIELD	276 Glen Ave PC NY 10573
JENNIFER Spellman	207 N. BARRY, Mamaroneck 10543
Bret Goss	889 Port Dr Mamaroneck

## Petition to convert the Library Lane Lot to Meter Parking.

With many recent improvements in this area, the lack of transient parking has become even more problematic for local business.

The best use of the LIBRARY LANE LOT is Metered parking. There are empty spaces in this lot daily. The LIBRARY LANE LOT would be best utilized by Local Business Patrons & Merchants. Metered Parking in the LIBRARY LANE LOT would enable more Commerce in the Business District it's located in.

**Name**

**Business Name/Address**

Tyler Duncan	C.A.R.D - 126 Library Lane
Manella Lopez	CARD - 126 Library Lane
Ashley Molina	CARD - 126 Library Lane
Noah Cuffith	CARD - 126 Library Lane
Cynthia Assuncao	CARD - 126 Library Lane
Gabby Graziosa	CARD - 126 Library Lane
Nicoletta Sklarounakis	CARD - 126 Library Lane
Maxine Palazzo	CARD - 126 Library Lane
Marquitha Snowball	CARD - 126 Library Lane
Sacia Bentles-Steel	CARD - 126 Library Ln.
Denise Whje (Duffy)	CARD
Caroline Bilal	CARD
Vince Redmond	CARD
Jacqueline Hernandez	CARD
Deidra King	CARD 126 Library Lane
Sabrina Follini	CARD 126 Library Lane
Shranya Patel	CARD - 126 Library Lane
Phil Mancoske	301 W. Main Ave.
Brittany Mahoney	421 Jefferson Ave

## Petition to convert the Library Lane Lot to Meter Parking.

With many recent improvements in this area, the lack of transient parking has become even more problematic for local business.

The best use of the LIBRARY LANE LOT is Metered parking. There are empty spaces in this lot daily. The LIBRARY LANE LOT would be best utilized by Local Business Patrons & Merchants. Metered Parking in the LIBRARY LANE LOT would enable more Commerce in the Business District it's located in.

Name	Business Name/Address
Jeanette Deibel	Artistree Performing Arts
Whitney Capel	Artistree
Michelle Schubert	Artistree
Dawn Gallagher	Artistree
Bianca Reis	Artistree
Bekah Cudim	Artistree
<del>Sharon Fava</del>	
Joe Lee	UISPORTS
Chris Lee	UISPORTS
JD	Dalginer Photo
Lyndi Robbins	Artistree
Jo and Alene	Artistree
an xue	Artistree
Wendy	Artistree
William GATEWALKER	ARTISTREE
Maureen Morris	1956 Palmer Lane
Stephanie Murphy	Artistree Performing Arts

Petition to convert the Library Lane Lot to Meter Parking.

Name

Business Name/Address

Serry Goldberg One City Place, Ph 3204, White Plains, NY 10601

Cathy Bizzard 624C Larchmont Acres Larchmont, NY 10538

Monique Bouckaert 10 Lundy Lane, Larchmont NY 10538

Dane McKeown 239 Melbourne Ave Ham'k 10513

Allison Kern Adler 91 First Street Harrison, NY 10528

JANINE MAYHEW 225 STANLEY AVE, Mamaroneck 10543

Heline Ostrman 32 Charles Ln Scarsdale NY 10583

Alex Alleva 827 Underhill Ave. Mamaroneck

RS Kennedy 490 Bleeker Ave 2C Mamaroneck NY

4 West Red Oak Lane, WP, NY 10604

2 Edgewood Road, Ossining NY

## Village of Mamaroneck, NY

---

**Item Title:** Parking Regulation in the GPI Lot off Fenimore Road- No Attachment

**Item Summary:** Parking Regulation in the GPI Lot off Fenimore Road- No Attachment

**Fiscal Impact:**

## Village of Mamaroneck, NY

---

**Item Title:** Stanley Avenue Parking

**Item Summary:** Stanley Avenue Parking

**Fiscal Impact:**

**ATTACHMENTS:**

<b><u>Description</u></b>	<b><u>Type</u></b>
Stanley Ave	Cover Memo

## Robert Yamuder

---

**From:** Mayor Norman S. Rosenblum  
**Sent:** Monday, October 02, 2017 5:30 PM  
**To:** Mayor and Board; Robert Yamuder; Agostino Fusco; Lauren Gualdino  
**Subject:** Fwd: Permit Parking on Stanley Avenue

Please put on work session agenda for 10th and email Franca for 5:30 time ....thanks,

Norman

Sent from my iPhone

Begin forwarded message:

**From:** Franca Di Maula <[franca46@verizon.net](mailto:franca46@verizon.net)>  
**Date:** October 2, 2017 at 4:31:28 PM EDT  
**To:** <[nrosenblum@vomny.org](mailto:nrosenblum@vomny.org)>, <[franca46@verizon.net](mailto:franca46@verizon.net)>  
**Subject:** Permit Parking on Stanley Avenue

Dear Mr. Rosenblum,

As you requested at our Meeting on September 29, 2017 in regard to Village Plaza  
"Parking Problem"

We wish to discuss the problems on Stanley Avenue and ask for Permits to Park that have been denied to the Owners of Village Plaza.

Thank you for your attention to our Problem.

Regards,

Franca Di Maula  
400 Mount Pleasant Avenue - Apt. 3A  
Mamaroneck, NY 10543  
[franca46@verizon.net](mailto:franca46@verizon.net)

Home Phone: 914-381-1501  
Cell Phone: 914-318-7472

## Village of Mamaroneck, NY

---

**Item Title:** Board of Ethics Vacancy

**Item Summary:** Board of Ethics Vacancy

**Fiscal Impact:**

**ATTACHMENTS:**

**Description**

memo boe

deRose Resig

**Type**

Cover Memo

Cover Memo

## MEMORANDUM

*Village of Mamaroneck*



To: Robert Yamuder, Village Manager

From: Daniel J. Sarnoff, Assistant Village Manager

Re: Board of Ethics Vacancy

Date: October 6, 2017

P 914-777-7703

F 914-777-7760

---

[www.villageofmamaroneck.org](http://www.villageofmamaroneck.org)

With the resignation of Ms. Maria DeRose from the Board of Ethics, there currently exists a vacancy on the committee. Per a prior opinion from the Village Attorney, it was recommended that the Board appoint an individual to fulfil Ms. DeRose's expired term and can make a full appointment at the next Annual Organizational Meeting.

## Daniel Sarnoff

---

**From:** Lauren Gualdino  
**Sent:** Friday, October 06, 2017 9:44 AM  
**To:** Daniel Sarnoff  
**Subject:** FW: Ethics Committee Resignation

---

**From:** Maria DeRose [mailto:MARIAD9@msn.com]  
**Sent:** Monday, July 10, 2017 11:38 AM  
**To:** Mayor Norman S. Rosenblum <nrosenblum@vomny.org>; Louis Santoro <lsantoro@vomny.org>; Victor Tafur <vtafur@vomny.org>; Keith Waitt <kwaitt@vomny.org>; Leon Potok <LPotok@vomny.org>  
**Cc:** Clerk Treasurer <Clerktreasurer@vomny.org>; Mark Ettenger <mdettenger@aol.com>; ctmitchell@hearst.com; Mary Vozza <mpvlaw@yahoo.com>; Norman Steiger <nsmdpc@aol.com>; Robert Spolzino <RSpolzino@sbjlaw.com>  
**Subject:** Ethics Committee Resignation

Dear Mayor Rosenblum and Trustees,

Please accept this e-mail as my resignation, effective immediately, from the Village of Mamaroneck Board of Ethics.

Thank you for your support in this matter.

Warm Regards,

*Maria*

Maria DeRose  
914-584-1955

## Village of Mamaroneck, NY

---

**Item Title:** Village Manager Priority List- No Attachment

**Item Summary:** Village Manager Priority List- No Attachment

**Fiscal Impact:**

## Village of Mamaroneck, NY

---

**Item Title:** Village Attorney Priority List- No Attachment

**Item Summary:** Village Attorney Priority List- No Attachment

**Fiscal Impact:**

**ATTACHMENTS:**

**Description**

Revised Village Priorities

**Type**

Cover Memo

# SMITH, BUSS & JACOBS, LLP

## MEMORANDUM

<b>PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION</b>
----------------------------------------------------------------------

TO: Mayor Rosenblum and the Board of Trustees  
Robert Yamuder, Village Manager  
Daniel Sarnoff, Assistant Village Manager

FROM: Robert A. Spolzino, Esq.

RE: Revised Village Attorney Priorities

DATE: September 5, 2017

Per the discussion at the recent meeting of the Board of Trustees, I have revised the list of Village attorney priorities to include additional items that have been suggested, to categorize the planning and zoning items as either those that should be done as part of the comprehensive plan review and those that can be done independent of that review with the assistance of other Village departments, and to identify the status of those matters where there has been progress. With respect to those items I have begun to work on, more detail is included in my monthly report. I look forward to discussing priorities with the Board of Trustees at its September meeting.

1. Items not related to planning and zoning, to be completed with the assistance of the Village Manager's Office
  - a. Draft LMC-TV lease. Draft discussed with Board of Trustees and forwarded to attorneys for LMC-TV.
  - b. Review village planner contract.
  - c. Review land use counsel contract.
  - d. Review Village Manager's contract with respect to payments by LMC-TV.
  - e. Sportime contract. Jim Staudt is trying to set up meeting with Sportime, Village Manager and Village Attorney.
  - f. Residential parking permit law amendments.
  - g. Residential curbside garbage pickup.
  - h. Draft do not solicit/do not knock registry.

- i. Flager Drive water works project financing. Waiting for information from residents.
  - j. Enforce Waverly Avenue landscaping site plan. Met with Village Manager and Building Inspector on August 28th. Trying to ascertain whether Village received the funds from the bond.
  - k. Draft private sewer lateral law. Presented to the Board in June. I am in the process of reviewing the renewals issue with the Village Manager.
  - l. Address Continental View parking issues.
  - m. Larchmont Shore Club mooring payments.
2. Planning and zoning
- a. Items to be completed as part of comprehensive plan review.
    - i. Review definitions for restaurant and food service uses.
    - ii. Clarify the Village Code with respect to multiple uses on one commercial lot.
    - iii. Revise definition of maximum coverage/maximum building coverage. Revise Village Code so that the Planning Board, in conjunction with an application for site plan or a special permit, may allow parking within 500 feet of property.
    - iv. Update code provisions with respect to home professional offices and customary home occupations.
    - v. Revise and redraft wetlands law.
    - vi. Address hotels and AirBnB.
    - vii. Change definition of half story.
    - viii. Revise and update subdivision regulations.
    - ix. Revise Village Code to clarify whether lot-line revisions require subdivision approval or can be accomplished administratively by the assessor.
    - x. Review lot coverage/impervious surface requirements.
  - b. Items to be completed with the assistance of the Planning Department and Land Use Counsel.
    - i. Revise Village Code provision with regard to ZBA jurisdiction to comply with Village Law.
    - ii. Revise escrow law and land use processes
    - iii. Draft local law imposing automatic moratorium on planning and zoning approvals during pendency of proposed local law

amending the zoning law in a way that would affect the application.

- iv. Draft local law moving all or some special permit approvals from zoning board to planning board.
  - v. Revise Village Code § 342-74 to clarify that site plan approval is not required for one and two family dwellings, to reflect that building inspector's certification of compliance with code must take into account variances and to make Village Engineer's certification of compliance a condition of permit approval, not a requirement for the submission of the application.
- c. Items to be completed with the assistance of the Planning Department.
- i. Revise tree code.
  - ii. LWRP update.
  - iii. Draft local law regarding places of public assembly.
  - iv. Revised procedures for building departments and land use boards.
- d. Items to be completed with the assistance of the Village Engineer.
- i. Chapter 294 stormwater revision. Need comments from Village Engineer.
- e. Other Items
- i. Opinion regarding Village's authority to accept/solicit donations.

## Village of Mamaroneck, NY

---

**Item Title:** Budget Amendment For Police Protective Equipment

**Item Summary:** Budget Amendment For Police Protective Equipment

**Fiscal Impact:**

**ATTACHMENTS:**

**Description**

GRANT AWARD

**Type**

Cover Memo

# Village of Mamaroneck Police Department

## *Office of the Chief of Police*



169 Mt Pleasant Ave Mamaroneck, NY 10543

Rob:

Attached please find the award letter for the DCJS Police Protective Equipment Program grant we applied for. As you can see on page (2) there were only (18) departments that were awarded funds. These funds will be used to replace aging/out-dated tactical equipment.

I am requesting that budget line 3120.0432 (Ammunition and Firearms) be increased by 29,500.00, the amount we were awarded.

Thank You,

A handwritten signature in blue ink, appearing to read "Cleahy".

Christopher Leahy

Chief of Police



Division of Criminal  
Justice Services

ANDREW M. CUOMO  
Governor

MICHAEL C. GREEN  
Executive Deputy Commissioner

January 11, 2017

Mr. Rocco Pozzi  
Commissioner of Probation  
Westchester County  
Richard J. Daronco Courthouse  
111 Dr. Martin Luther King, Jr. Blvd.  
White Plains, NY 10601

Dear Commissioner Pozzi:

I am pleased to advise you that the NYS Division of Criminal Justice Services (DCJS) has awarded your county a Police Protective Equipment Program (PPEP) total award of \$499,720 for the contract period 1/1/2017 to 12/31/2017. As stipulated in the Request for Applications (RFA), these funds are to be used by your partnership to equip local police agencies with protective equipment and DCJS approved patrol rifles to provide the greatest level of protection and effectiveness in your efforts to combat active shooter incidents, terrorist attacks, and other criminal events.

The attached spreadsheet represents your county's entire budget request for PPEP and the amount of funding approved by DCJS for each individual request. Separate contracts will be developed with each listed participating agency. Participating agencies are expected to use the approved budget amount provided in the "Awarded Budget" column, on the attached, when developing their PPEP contract.

A DCJS Office of Program Development and Funding (OPDF) Program Representative assigned to this project, will contact each participating agency to assist in the development of their contract. Please see the attached *Instruction Sheet* which provides additional important information.

Should you have any questions, please contact Joann Tierney-Daniels with the DCJS Office of Program Development and Funding at (518) 457-8404 or e-mail at [Joann.Tierney-Daniels@dcjs.ny.gov](mailto:Joann.Tierney-Daniels@dcjs.ny.gov).

Very truly yours

Michael C. Green  
Executive Deputy Commissioner

MCG:JTD:neb  
Attachments (2):

- Contract Instruction Sheet
- 2016-17 Police Protective Equipment Program Awardees

cc: 2016-17 Police Protective Equipment Program Awardees  
Joann Tierney-Daniels, DCJS

**Westchester County**  
**2016-17 Police Protective Equipment Program (PPEP) Award**

Implementing Agency	Project #	Award
1 Croton-on-Hudson Village Police Department	PP16-1344-D00	\$22,400
2 Dobbs Ferry Village Police Department	PP16-1345-D00	\$13,750
3 Eastchester Town Police Department	PP16-1346-D00	\$23,500
4 Greenburgh Town Police Department	PP16-1347-D00	\$40,500
5 Harrison Town Police Department	PP16-1348-D00	\$4,000
6 Hastings-on-Hudson Police Department	PP16-1349-D00	\$26,250
7 Mamaronak Village Police Department	PP16-1350-D00	\$29,500
8 Mt. Pleasant Town Police Department	PP16-1351-D00	\$9,500
9 New Rochelle City Police Department	PP16-1352-D00	\$82,710
10 North Castle Town Police Department	PP16-1353-D00	\$12,500
11 Peekskill City Police Department	PP16-1354-D00	\$12,150
12 Rye Brook Village Police Department	PP16-1355-D00	\$12,000
13 Rye City Police Department	PP16-1356-D00	\$8,000
14 Tuckahoe Village Police Department	PP16-1357-D00	\$10,000
15 Westchester Department of Public Safety	PP16-1358-D00	\$108,960
16 Yonkers City Police Department	PP16-1359-D00	\$54,750
17 Mt. Vernon City Police Department	PP16-1360-D00	\$18,000
18 Ardsley Village Police Department	PP16-1361-D00	\$11,250
<b>Total:</b>		<b>\$499,720</b>

## Village of Mamaroneck, NY

---

**Item Title:** Hillside Avenue Bridge (Follow up for Consultant presentation on 10/23/2017)

**Item Summary:** Hillside Avenue Bridge (Follow up for Consultant presentation on 10/23/2017)

**Fiscal Impact:**

**ATTACHMENTS:**

**Description**

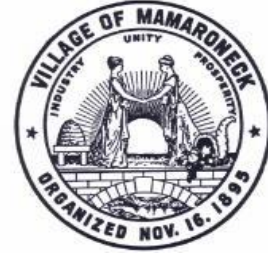
Memo-Hillside

**Type**

Cover Memo

## MEMORANDUM

*Village of Mamaroneck*



To: Robert A. Yamuder, Village Manager

From: Daniel J. Sarnoff, Assistant Village Manager

Re: PIN 8761.65 – Hillside Avenue Bridge Replacement Project

Date: September 21, 2017

P 914-777-7703

F 914-777-7760

[www.villageofmamaroneck.org](http://www.villageofmamaroneck.org)

---

In regard to the above captioned matter, we are making progress with the design and have already completed a number of important tasks. Current tasks being worked on include environmental reviews and cultural resource analyses. Thankfully a lot of this work was already performed by the United States Army Corps of Engineers as part of their General Re-Evaluation Report and can be incorporated into the bridge project.

Given that this is a Locally Administered Federal Aid project, there are several administrative requirements and milestone. A major upcoming milestone will a Public Informational Meeting. We are scheduling this for the October 23, 2017 regular meeting of the Village Board. Based on our conversation with the project staff from HVEA these briefing typically last 30-45 minutes and cover the main issues associated with the project, i.e. What will the project do, who is involved, what are the major issues, etc..

At our most recent meeting with HVEA and our municipal partners (Town of Mamaroneck and Town of Rye), it was suggested that we reach out to the governing bodies of each of the three boards to seek their guidance as to specific project elements they would like the consultant to address.

There is no action required at this time, but I would respectfully request that you place this item on the agenda for the September 25, 2017 work session meeting of the Village Board to initiate a discussion about the Public Informational Meeting and allow them time over the next several weeks to consider specific items they would like to see addressed.

## Village of Mamaroneck, NY

---

**Item Title:** French American School of New York Presentation- No Attachment

**Item Summary:** French American School of New York Presentation- No Attachment

**Fiscal Impact:**

**Village of Mamaroneck, NY**

---

**Item Title:** EXECUTIVE SESSION-ADVICE OF COUNSEL

**Item Summary:**

**Fiscal Impact:**