

TOWN BOARD  
TOWN OF OSSINING  
BIRDSALL-FAGAN POLICE/COURT FACILITY  
86-88 SPRING STREET – OSSINING, NEW YORK  
MARCH 27, 2007  
7:30 PM

Supervisor

John Chervokas

Councilmembers

Geoffrey Harter      Northern Wilcher  
David Krieger        Martha Dodge

I. CALL TO ORDER

The Regular Meeting of the Town Board of the Town of Ossining, Westchester County, New York, was held on March 27, 2007 in the Police/Court Facility, 86-88 Spring Street in Ossining. The meeting was called to order at 7:30 p.m. by Supervisor John Chervokas. Other members of the Board present were: Geoffrey Harter, Northern Wilcher and Martha Dodge. Councilmember David Krieger was absent. Also present were Thomas Beirne, Town Attorney; Connie Cerny, Budget Officer and Mary Ann Roberts, Town Clerk.

II. ANNOUNCEMENTS

Supervisor Chervokas announced that the opening of the new Library which was held on Sunday, March 25<sup>th</sup>, was attended by a large number of people.

Councilmember Dodge announced that the 3 on 3 Basketball Tournament has been rescheduled at the Joseph G. Caputo Community Center on Friday, April 20, 2007 and Friday, April 27, 2007. The County will be on hand to educate the public as regards to the new Gun Law.

III. BOARD RESOLUTIONS

A. Approval of Minutes – March 13, 2007

Councilmember Dodge moved and it was seconded by Councilmember Wilcher that the following resolution be approved:

Resolved, that the Town Board of the Town of Ossining hereby approves the Minutes of the March 13, 2007 Regular Meeting as presented.

Motion Carried: Unanimously

B. Approval of Voucher Detail Report

Councilmember Wilcher moved and it was seconded by Councilmember Dodge that the following resolution be approved:

Resolved, that the Town Board of the Town of Ossining hereby approves the Voucher Detail Report dated March 27, 2007 in the amount of \$489,340.35.

Motion Carried: Unanimously

C. Resolution Adopting Local Law No. 1 of 2007

Councilmember Dodge moved and it was seconded by Councilmember Wilcher that the following resolution be approved:

Resolved, that the Town Board of the Town of Ossining hereby adopts Local Law No. 1 of 2007, as follows:

LOCAL LAW NO. 1 OF 2007

A LOCAL LAW AMENDING CHAPTER 200, ZONING,  
OF THE TOWN CODE WITH RESPECT TO AFFORDABLE HOUSING

BE IT ENACTED by the Town Board of the Town of Ossining as follows:

Section 1: Title

This Local Law shall be known and cited as “A Local Law Amending the Chapter 200, Zoning, of the Town Code with Respect to Affordable Housing.”

Section 2: Legislative Intent

The intent of this law is to employ the use of density bonuses to encourage the creation of new or rehabilitated Below Market Rate (BMR) Units within the single-family, Multifamily and General Business zoning districts in the Town.

Section 3: Zoning Amendments

1. Section 200-53.A of the Zoning Law shall be revised by means of adding the following new definitions in their proper alphabetical order:

BELOW MARKET RATE (BMR) UNIT – A new or rehabilitated housing unit which is restricted as to sale or rent to remain affordable to a BMR Unit Eligible Household by generally not exceeding 30% of the aggregate gross income of the household. Said housing unit must be the primary residence of the household and shall not be sublet without the consent of the Town Board or its designee.

BMR UNIT ELIGIBLE HOUSEHOLD – A household whose aggregate gross annual income, including the total of all current annual income of members residing in the household from any source whatsoever at the time of application (excluding the earnings of working household members of 21 years of age or younger who are full-time students), does not exceed 80% of the Westchester County median annual income for its household size (based on the US Census and as updated by the Department of Housing and Urban Development (HUD)). In addition, the net assets of the household at the time prior to purchase or lease may not exceed 50% of the purchase price of the unit, except where such households rely, due to age or disability, on the assets in lieu of income.

For example, for the year 2006, limitations are as follows:

Persons in Household	1	2	3	4	5	6+
Maximum eligible Income (80% of median)	\$54,050	\$61,750	\$69,500	\$77,200	\$83,400	\$89,550
Maximum housing cost (30% of gross income)						
Annually	\$16,215	\$18,525	\$20,850	\$23,160	\$25,020	\$26,865

Monthly	\$1,351	\$1,544	\$1,738	\$1,930	\$2,085	\$2,239
Maximum Sale Price (at 5.8% interest w/ 30 year mortgage)	\$157,920	\$192,500	\$227,235	\$260,900	\$298,550	\$317,120
Eligible Unit Types	Studio or 1 BDR	Studio, 1 BDR, or 2 BDR	2 BDR or 3 BDR	2 BDR, 3 BDR or 4 BDR	3 BDR or 4 BDR	3 BDR or 4 BDR

EFFICIENCY OR STUDIO HOUSING UNIT - A housing unit that combines a single bedroom use with one or more other rooms and uses, such as living and dining rooms. A kitchenette may be in a separate room or as a part of the larger multiple-use room.

2. The following *new* Article VI, Affordable Housing, shall be added to the Zoning Law and shall read as follows:

ARTICLE VI  
Affordable Housing

§ 200-32. Findings.

The Town Board of the Town of Ossining acknowledges the high cost of housing compared to average earnings in the County, and this trend has grown more noticeable as land and housing values have increased in recent years. Maintaining and ensuring a balanced mix of housing types and sizes that are affordable to a range of incomes is essential to ensuring the long-term health of the community. Such balanced housing stock enables a variety of residents to live and work in the Town, maintain family ties, and participate in community services, such as emergency services. Balanced housing is also essential to attracting and maintaining an adequate workforce, a healthy business environment, and a balanced tax base that supports local services and the quality of life. It is therefore important to maintain a mix of housing choices and to encourage and/or require the construction of Below Market Rate (BMR) units in future development.

§ 200-33. Multifamily and General Business districts.

To achieve the purposes above, the approval authority may require that a residential density bonus be granted for multiple, row or attached dwellings constructed or rehabilitated in the MF and GB Districts with one-half of said density bonus consisting of Below Market Rate units as defined and regulated in this article. The maximum permitted density bonus shall be in accordance with the following schedule:

Size of Property	Maximum Permitted Density Bonus
10 acres or more	20%
more than 5 acres but less than 10 acres	30%
less than or equal to 5 acres	40%

§ 200-34. Cluster developments in one-family residence districts.

To achieve the purposes above, in cluster developments pursuant to §200-31 of this chapter, the approval authority may require that a residential density bonus be granted with one-half of said density bonus consisting of Below Market Rate units as

defined and regulated in this article. The maximum permitted density bonus shall be in accordance with the schedule in § 200-33 above.

§ 300-35. Below Market Rate units.

- A. Finishes, amenities, size, distribution and mix. BMR units shall have exterior finishes and general amenities comparable to the market rate units within the development, shall be no less than 80% of the size of said market rate units, and shall be reasonably distributed throughout the project. Further, the BMR units shall be provided in a mix of unit types in the same proportion as all other units in the development unless a different proportion is approved by the Planning Board as being better related to the housing needs, current or projected, of the Town of Ossining.
- B. Minimum gross floor area. Notwithstanding §§ 200-21 and 200-22 of this chapter, the minimum gross floor area per dwelling unit shall not be less than the following:
  - (1) Studio/efficiency unit: 350 square feet
  - (2) One bedroom unit: 600 square feet
  - (3) Two bedroom unit: 800 square feet
  - (4) Three bedroom unit: 1,000 square feet
- C. Occupancy standards. The minimum and maximum occupancy of a BMR unit shall be as follows:

Number of Bedrooms	Minimum Number of Persons	Maximum Number of Persons
Studio/ efficiency	1	2
1	1	2
2	2	4
3	3	6
4	4	8

- D. BMR Unit Eligible Household. Households must meet the criteria established in § 200-53.A, under “BMR Unit Eligible Household.”
- E. Maximum rent and sales price. The monthly rent including utilities for BMR units shall not exceed 30% of the aggregate gross monthly income of an eligible household as defined in § 200-53.A, under “BMR Unit Eligible Household,” for the maximum size household that may occupy such unit as set forth in subsection C above. The maximum gross sales price for a BMR unit shall not exceed a figure based on a maximum household expense of 30% of the aggregate gross monthly income of an eligible household as defined in § 200-53.A for the maximum size household that may occupy such unit as set forth in subsection C above, relating to the sum of principal, interest, taxes, and insurance, based on industry-standard mortgage underwriting guidelines, prevailing interest rates, and a 5% down payment.
- F. Households applying for BMR units shall be selected on the basis of the following categories of priority:
  - (a) Town of Ossining municipal employees.
  - (b) Persons serving as emergency responders for the Town of Ossining.
  - (c) All other residents of the Town of Ossining.
  - (d) Employees of the Ossining School District.

- (e) Other persons employed in the Town of Ossining.
- (f) Relatives of residents of the Town of Ossining.
- (g) Other residents of Westchester County.
- (h) Other persons employed in Westchester County.
- (i) All others.

Within each of the above categories, the following special groups shall receive priority in the following order:

- (a) Households whose head of household or spouse is sixty-two (62) years of age or older.
  - (b) First-time homebuyers.
  - (c) Households whose head of household or spouse is thirty (30) years of age or younger.
- G. The following statement shall be included in the deed, certificate of occupancy and/or rental agreement, as appropriate, for each BMR dwelling unit:
- “This is a Below Market Rate unit as defined in Section 200-53 of the Code of the Town of Ossining, New York, and is subject to all restrictions and limitations as set forth therein.”
- H. Resale. In the case of owner-occupied BMR units, the title to said property shall be restricted so that in the event of any resale by the homeowner or any successor, the resale price shall not exceed the maximum sales price for said unit, as determined in subsection E, plus the depreciated value of capital improvements based on their estimated life for up to 5% of the price of the unit.
- I. Administration. The Town Board shall be responsible for administering these regulations and may designate a board, commission or other organization to monitor compliance.

#### Section 4: Separability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

#### Section 5: Effective Date

This Local Law shall take effect immediately upon adoption and filing with the Secretary of State as provided by the Municipal Home Rule Law.

Voting Yes in a Roll Call:  
Harter, Wilcher, Dodge,  
Chervokas  
Motion Carried: Unanimously

D. Resolution Adopting Local Law No.2 of 2007

Councilmember Harter moved and it was seconded by Councilmember Wilcher that the following local law be adopted:

Resolved, that the Town Board of the Town of Ossining hereby adopts Local Law No. 2 of 2007, as follows:

LOCAL LAW NO. 2 of 2007

DEFACING PUBLIC PROPERTY/GRAFFITI LAW

BE IT ENACTED, by the Town Board of the Town of Ossining, Westchester County, New York, as follows:

Chapter 140: PEACE AND GOOD ORDER

ARTICLE I – Defacing of Public Property

§140-1. Defacing of public property prohibited.

- A. No person shall damage, break, mar, deface, injure or remove any building, fence, sign, fire hydrant, fire alarm box, streetlight, tree, shrubbery or other property owned by the Town of Ossining in any manner whatsoever.
- B. No person shall carry an aerosol can of paint with the seal broken or an open magic marker in any public building or other public place or facility with intent to use same to deface property.

ARTICLE II – Graffiti

§140-2. Findings.

The Town Board of the Town of Ossining hereby finds and declares that graffiti creates a nuisance for the Town's residents and merchants. The proliferation of graffiti is a physical blight upon the landscape of the Town and costs taxpayers, merchants and homeowners substantial monies to remove and repair. When unchecked, graffiti only encourages more graffiti.

§140-3. Definitions.

For purposes of this article, the following words shall have the meaning ascribed to them herein:

GRAFFITI – Any drawing, figure, inscription, mark, message, slogan, symbol or object written, painted, drawn, etched, placed or otherwise made on property.

PROPERTY – Any building, fence, motor vehicle, recreational vehicle, rock, statue, monument, wall, tunnel, sign, structure, tree, utility box, utility pole, waste receptacle and all other articles of personal or real property upon which one can write, draw, paint, etch or otherwise mark.

§140-4. Prohibited Acts.

It is unlawful for any person to apply graffiti to any property without the permission of the owner or occupant of such property.

§140-5. Removal of graffiti; costs.

- A. Requirement to remove graffiti. The occupant, owner, lessee, sublessee, agent and/or landlord of any commercial, personal or residential property located within the Town of Ossining on which any form of graffiti has been written, painted, drawn, etched, or otherwise applied shall remove the graffiti from public view by either moving the property, removing the graffiti, or repainting, restoring, or recovering the surface on which the graffiti has been applied using the same colors and textures as existed previously on the surface, within fifteen days after written notice from the Town. The Town may serve said written notice on the occupant, owner, lessee, sublessee, agent and/or landlord by personal service, in which case the fifteen day curative period shall begin to run from the date of said service, or by certified mail, return receipt requested, to the address at which the property is located, in which case the fifteen day curative period shall run from the date that said notice is received as set forth in that receipt or, if that receipt is not returned, 21 days from the date of mailing.

In cases of economic hardship resulting from the foregoing obligation to remove graffiti, the Town may perform the necessary restorative work and accept reimbursement of its costs from the responsible occupant, owner, lessee, sublessee, agent and/or landlord on such terms as are just, reasonable and consistent with the interest of the public in the prompt removal of graffiti.

- B. Remedy of Town. If any graffiti is not removed from public view within thirty days after notice from the Town as set forth in §5A, then the Town may issue a criminal summons or appearance ticket returnable in the Justice Court of the Town of Ossining charging the occupant, owner, lessee, sublessee, agent and/or landlord of the property involved with violation of the said §5A.

ARTICLE III – Penalties

§140-6. Penalties for offenses.

- A. Any person who is found guilty of damaging property in violation of §140-1(A) shall be punished by a fine of not more than \$500. In addition, such person shall be required to reimburse the Town of Ossining for repair of any damage sustained by said Town.
- B. Any person who is found guilty of carrying an aerosol can of paint or an opened magic marker in violation of §140-1(B) shall be punished by a fine of not more than \$100.
- C. Any person who is found guilty of causing and/or assisting graffiti to be applied in violation of §140-4 shall be punished by a fine of not more than \$250 for each violation thereof. In addition, that person may be required to reimburse the cost of removing said graffiti from the property and restoring the property as part of his or her punishment.
- D. Any occupant, owner, lessee, sublessee, agent and/or landlord of any commercial, personal, or residential property located within the Town of Ossining which has been found guilty of failing to remove any graffiti from public view after the notice and the thirty-day curative period in violation of §140-5A shall be punished by a fine of not more than \$250. Each day the graffiti is permitted to remain in public view after the curative period designated in §140-5A shall constitute a separate and distinct offense and shall be punishable by separate and distinct cumulative amounts of fines.

- E. Any person who is found guilty of violating any provision of this Chapter 140 may be required to perform suitable community services in addition to any penalty imposed for his or her violation under any other provision of this §140-6.

§140-7. Reward.

Under the authority of §91 of the General Municipal Law of the State of New York, any person who shall provide information that leads to the detection, arrest and conviction of any other person of a violation of this chapter shall be entitled to a reward equal to ½ of any fine imposed by the court, but in no event greater than \$1,000.

Voting Yes in a Roll Call:  
Harter, Wilcher, Dodge,  
Chervokas  
Motion Carried: Unanimously

E. Establishment of New Title--Automotive Mechanic Helper/Laborer

Councilmember Dodge moved and it was seconded by Councilmember Wilcher that the following resolution be approved:

Resolved, that the Town Board of the Town of Ossining hereby authorizes the establishment of a new title entitled Automotive Mechanic Helper/Laborer with a starting salary of \$46,843.

Motion Carried: Unanimously

F. New York State Workplace Violence Prevention

Councilmember Harter moved and it was seconded by Councilmember Wilcher that the following resolution be approved:

Whereas, Governor Pataki signed the Workplace Violence Prevention Act into law on June 7, 2006 which requires all state and local governments in New York State to conduct a risk assessment of their worksites, and to identify and address any existing risk factors that may increase the likelihood of workplace violence. Additionally, the Act also requires employers to conduct the following:

- Annual Training for all employees, addressing exposures and hazards that were identified in the risk assessment to safeguard the staff's safety and reduce the likelihood of workplace violence.
- If the employer has more than 19 full-time employees, they must create a written workplace violence prevention program listing risk factors and the methods the employer is using to prevent violence and remediate the hazards and risk factors; and

Whereas, the Town's Labor Attorney has prepared a Workplace Violence Policy and the Town Board wishes to adopt the policy and consult with NYMIR (Insurance Carrier) in order to conduct a risk assessment of Town offices,

Now, therefore be it Resolved, that the Town Board of the Town of Ossining hereby adopts the Injury and Illness Prevention Program for Workplace Violence dated February 23, 2007.

Motion Carried: Unanimously

G. Adopting Negative Declaration

Councilmember Harter moved and it was seconded by Councilmember Wilcher that the following resolution be approved:

Whereas, the Town Board, as Lead Agency, has determined that the proposed action, namely the vegetative restoration of approximately 280 linear feet of the

shoreline and upland shrub plantings along the new riprap stabilization, in Engel Park was an unlisted action under the State Environmental Quality Review Act (“SEQRA”) and has caused the preparation of a long form environmental assessment form (“EAF”) resulting in determination that the vegetative restoration of the shoreline of the Hudson River and installation of shrub plantings (“the Proposed Action”) will not have any significant adverse impacts upon the environment (“Negative Declaration”) and therefore, that no environmental impact statement need be prepared and the process required by SEQRA may be deemed complete;

Now, therefore be it Resolved, that the Town Board of the Town of Ossining hereby finds that the proposed action, namely the vegetative restoration of approximately 280 linear feet of the shoreline and upland shrub plantings along the new riprap stabilization in Engel Park will not directly result in any significant adverse impacts on the environment, but rather will help to foster a healthy habitat and promote the enjoyment of the Hudson River’s waterfront beauty and recreational opportunities through shoreline/wetland plants and a walkway with scenic viewpoints. More specifically,

- The Proposed Action will not have a significant adverse environmental impact on any Critical Environmental Area (CEA).
- The Proposed Action will not have a significant adverse environmental impact on any unique or unusual land forms.
- The Proposed Action will not have a significant adverse environmental impact on any water body designated as protected.
- The Proposed Action will not have a significant adverse environmental impact on any non-protected existing or new body of water.
- The Proposed Action will not have a significant adverse environmental impact on surface or groundwater quality or quantity.
- The Proposed Action will not have a significant adverse environmental impact on or alter drainage flows or patterns, or surface water runoff, but rather will have a positive environmental effect on storm water runoff .
- The Proposed Action will not have a significant adverse environmental impact on air quality.
- The Proposed Action will not have a significant adverse environmental impact on any threatened or endangered species but rather will have a positive environmental effect on threatened or endangered species especially fish, shellfish and wildlife.
- The Proposed Action will not have a significant adverse environmental impact on any non-threatened or non-endangered species.
- The Proposed Action will not have a significant adverse environmental impact on agricultural land resources.
- The Proposed Action will not have a significant adverse environmental impact on aesthetic resources but rather will have a positive environmental effect on aesthetic resources especially on the waterfront beauty of the Hudson River.
- The Proposed Action will not have a significant adverse environmental impact on any site or structure of historic, prehistoric or paleontological importance.
- The Proposed Action will not have a significant adverse environmental impact on the quantity or quality of existing or future open spaces or recreational opportunities but rather will have a positive environmental effect on the quantity or quality of existing or future open spaces and recreational opportunities.

- The Proposed Action will not have a significant adverse environmental impact on existing transportation systems.
- The Proposed Action will not have a significant adverse environmental impact on the community's sources of fuel or energy supply.
- The Proposed Action will not have a significant adverse environmental impact as a result of objectionable odors, noise or vibration.
- The Proposed Action will not have a significant adverse environmental impact on the public health and safety.
- The Proposed Action will not have a significant adverse environmental impact on the character of the existing community.

Motion Carried: Unanimously

#### H. Resolution Calling a Public Hearing on a Proposed Local Law

Councilmember Harter moved and it was seconded by Councilmember Wilcher that the following resolution be approved:

Resolved, that the Town Board of the Town of Ossining hereby calls for a Public Hearing to be held at 7:30 pm on April 10, 2007 in the Police/Court Facility, 86-88 Spring Street in Ossining on a proposed local law to establish fire lanes at the Anne M. Dorner Middle School pursuant to Chapter 96 of the Code of the Town of Ossining.

Motion Carried: Unanimously

#### IV. VISITOR RECOGNITION

Don Debar, Ferris Place, discussed the adoption of the negative declaration as it pertains to the upcoming work at Engel Park along the beach with vegetative restoration being done. In his opinion, further investigation should have gone into this as it does have effects on the environment. He was glad to see that the entire beach was not being removed.

Bobby Williams, Spring Street, encouraged the community to utilize and enjoy the new pool and the new library.

#### VI. ADJOURNMENT

At 8:07 p.m. Councilmember Harter requested that the Board adjourn in memory of Frank Tassini, a life-long resident of the Village of Ossining, who passed away on March 21, 2007 at the age of 90. Mr. Tassini was an active member in the Community and was a 70-year member of the Cataract Hose Company.

Motion Carried: Unanimously

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Mary Ann Roberts, Town Clerk

Approved: