



SPECIAL MEETING

TOWN BOARD
TOWN OF OSSINING
MUNICIPAL BUILDING
16 CROTON AVENUE-1ST FLOOR BOARD ROOM
OSSINING, NEW YORK

FEBRUARY 7, 2017
7:30 P.M.

SUPERVISOR
Dana Levenberg

COUNCILMEMBERS

Karen M. D'Attore Elizabeth R. Feldman
Kim L. Jeffrey Northern Wilcher, Jr.

I. CALL TO ORDER – PLEDGE OF ALLEGIANCE – ROLL CALL

The Special Meeting of the Town Board of the Town of Ossining was held on February 7, 2017 at the Ossining Municipal Building, 16 Croton Avenue-1st Floor Board Room, Ossining, NY. The meeting was called to order at 7:30 p.m. by Supervisor Dana Levenberg. Members of the Board present were: Councilmembers Kim Jeffrey, Northern Wilcher, Elizabeth R. Feldman and Karen D'Attore. Also present was Town Counsel Christie Tom Addona and Budget Officer Madeline Zachacz.

II. PUBLIC HEARINGS *Visitors shall be accorded one (1) three (3) minute opportunity to address this topic.*

Supervisor Levenberg: This evening, we will be holding four Public hearings, the first of which will be on Local Law #1 of 2017, which we opened for the first time several weeks ago. Last week, we got an updated version of the proposed law, which has been shared with the Board and posted on our website. We also have Mr. Stolman here, who will walk us through the changes made since we last met once we get into the Work Session portion of our meeting. Without any further ado, let's get started.

At 7:31 P.M., Councilmember Jeffrey made motion to open the Public Hearing and it was seconded by Councilmember Wilcher.

- Public Hearing in the Matter of Local Law #1-2017 for the Purpose of Amending the Zoning and Cabaret Chapters of the Town Code"

Donna Sharrett read the following statement:

2017_02_07 Town Board Public Hearing comments re: Proposed Local Law # 1-2017

Note: Comments not stated at the public hearing are listed below as [additional notes]. Thank you for considering these comments also.

Thank you for the many changes in this latest revision to LL#1.

Re: Section 200-18.D.

1. Setbacks for GB structures adjacent to residential zoning districts should be increased to 35 ft to correspond to the 5 ft increase for the screening area. These screening area requirements should not be limited to nonresidential structures in the GB zoning district. (Not sure why the word "nonresidential" is used in the code?)

[Additional note: Currently, the wetlands and streams are not protected by the wetland code, when their protection limits the anticipated financial potential of a developer. Streams and wetlands existed throughout what is now the GB district. The few remaining streams and wetlands should be vigilantly protected. These are our tax-free stormwater management resources.]

2. A 6 foot fence or wall alone will never screen a 35ft structure and should not be an option

(unless used in conjunction with vegetative screening).

3. Plant materials should be native to the Northeastern US, and not invasive.

Re: GB-1 and NC [proposed Section 200.18.1.C(2) & Section 200.17.8.A (8)(g) & 11(e)]

The language for the screening requirements should follow suit with the proposed 200.18 GB screening regs.

Re: SECTION 7: CHAPTER 183, TREE PROTECTION, AMENDMENTS

1. REGULATED BUFFER ZONE – defined as any area of vegetative screening.

A 3 or 5 ft wide area is inadequate to provide vegetative screening.

All the proposed buffer areas are inadequate in relation to the lot sizes. EX: a 2-acre lot can absolutely accommodate a buffer area wider than 15 ft, to allow for the mature width of large trees.

2. Re: Code Regs for replacement of removed trees: (not included in the proposed LL#1 but should be) (ref: 183.11.B.3.: <http://www.ecode360.com/14664158>; 183.12.E:

<http://www.ecode360.com/14664179> ; 183.13.C. <http://www.ecode360.com/8410469>)

1. Compensation should be for loss of biomass & eco-service, not just for the number of trees.

2. Replacement trees species should be suited to the cultural conditions of the replacement site (i.e. wetland/upland, sun/shade and wet/dry.)

3. Plant materials should be native to the Northeastern US, and not invasive.

4. Naturally occurring native trees should remain whenever possible, especially in wetlands and streams and their buffer areas.

[Additional note: during the review of the Artis proposal I requested that a Black Birch (*Betula lenta*) tree within the wetland buffer be preserved. A Planning Board member stated that keeping the tree might interfere with the developer's landscape plan, as one of the objections. The landscape plan includes River Birch (*Betula nigra*) which is not naturally occurring in this wetland or in this immediate area, but is currently fashionable in the landscaping industry. Wetland buffer plants have evolved with the wetland wildlife species. Nursery stock most likely are propagated and grown in the south or mid-west, and do not hold within their DNA the adaptation to this unique place. We need to bring logic back into the planning review process when it comes to the issue of plant materials in and near wetlands and their buffer areas, and leave fashion out of the equation. The Black birch in question will be removed. Fear not, I have propagated several seedlings from the Black birch on my property. Preservation of native plant species should not be left up to the hope that residents know how or desire to do so. We need codes that protect our natural heritage and education for decision makers as to the importance of this preservation. We are in serious jeopardy of losing our Town's natural heritage.]

Our town's dedication to environmental stewardship requires the active, rigorous, and vigilant protection of our wetlands, streams, trees, and their respective wildlife habitats – now more than ever.

Re: Bed-and-breakfast establishments:

1. Food and beverage service should be limited to the guests staying at the bed-and-breakfast, not the number of guests.

2. Food and beverage service should be limited to a morning meal only. Some of you expressed how lovely it would be to have a restaurant available to the public in the B & B, a B & B and a restaurant are two different things. If you are looking to have a restaurant, then change the allowed zoning usage to include a restaurant. A B & B, as the name implies, is an establishment which provides a bed & breakfast. B & Bs have much lower impacts to the surrounding area specifically because they are only providing breakfast. Restaurants have a great parking impact, greater traffic impact, greater noise impact, greater cooking odor impact.

Re: Artists Live/Work usage

How would the proposed language prevent the creation of high-end loft spaces as have resulted in Beacon with this exact language? Artist live/work spaces in Crotonville would be more suitable than a development of the high-end loft spaces which are cost prohibitive to the artists for whom this zoning change is supposed to attract.

Thank you for considering my comments, and for your work towards these code changes, and again, thank you for the changes already made. -Donna Sharrett

Mr. Bruce Fiorito explained that he would like it to remain this property to remain GB1. Mr. Fiorito asked if there was ever a comprehensive study of the different rateables and values? We do have one of the tax rates in the county.

At 7:41 P.M., Councilmember Wilcher made motion to adjourn the Public Hearing until February 28th, 2017 and it was seconded by Councilmember Feldman.

- **Public Hearing in the Matter of Local Law #2 of 2017- Extending A Moratorium on Construction within the Town of Ossining**

At 7:42 P.M., Councilmember Wilcher made motion to open the Public Hearing and it was seconded by Councilmember Jeffrey.

Supervisor Levenberg: Now, we will move into the Public Hearing for Local law #2 of 2017, which is necessitated by the material in proposed Local Law #1 of 2017. The Board had passed a Local Law in June of 2016 to impose a development moratorium within the Town of Ossining until such time as the material in Local Law #1 of 2017, making changes to our Town's Zoning code, had been resolved. We were informed by Counsel that the moratorium would lapse without passing an additional extension, so this Local Law proposes extending the moratorium for 2 additional months from today.

While this is a bit unusual, due to the conditions I mentioned earlier about the potential lapse of the moratorium, I would like to make a motion to close this Public Hearing tonight and adopt this local law. We will read the resolution adopting the local law into the record once we are done with tonight's Public Hearings.

At 7:43 P.M., Councilmember Jeffrey made motion to close the Public Hearing and it was seconded by Councilmember Feldman.

- **Public Hearing in the matter of the 2017 Cabaret License Renewal for Maya Riviera**

At 7:43 P.M., Councilmember Jeffrey made motion to open the Public Hearing and it was seconded by Councilmember Feldman.

Now, let's move into our third Public Hearing of the evening, which is a renewal of the Cabaret License for Maya Riviera at 518 North State Road.

Supervisor Levenberg: Unless anyone has any objections, I'd like a motion to close this Public Hearing.

We will consult with our Town Clerk and, if everything is in place, we will have a resolution to accept this Cabaret renewal at our February 14th meeting.

At 7:44 P.M., Councilmember Jeffrey made motion to close the Public Hearing and it was seconded by Councilmember Feldman.

- **Public Hearing in the matter of the 2017 Cabaret License Renewal for Ballroom Studio of Westchester**

At 7:45 P.M., Councilmember Feldman made motion to open the Public Hearing and it was seconded by Councilmember Wilcher.

Supervisor Levenberg: Finally, we have another request for a Cabaret License renewal, this one is for Ballroom Studio of Westchester on 565 North State Road.

Councilmember Jeffrey recused herself from this public hearing.

We have been informed by the applicant that due to extenuating circumstances, she would not be available to attend tonight's hearing.

Mark Hoeflich Morningside Drive-read the Town code pertaining to Noise Chapter 68 Cabarets Section B and C.

For the past six months has been hearing music and noticed that it was coming out of the dance hall. Mr. Hoeflich has call the Ossining Police about 10 times over the past couple of months. Here is an establishment that is close proximity to residential and there are no sound barriers on this building. Mr. Hoeflich feels that this establishment is in violation and respectfully asks that the Board deny this cabaret license until they correct their issues.

Building Inspector John Hamilton explained that the Building Department does not address noise issues and that residents should contact the Police Department.

Fred Suckle Morningside Drive explained that he is tired of calling the Police about this issue. Mr. Suckle stated that he has called the Ballroom Studio and has never received a call back and does not feel that they are showing respect to their neighbors. The Board should consider denying their cabaret license.

May I have a motion to adjourn this Public Hearing until February 28th, 2017?

At 7:44 P.M., Councilmember Jeffrey made motion to close the Public Hearing and it was seconded by Councilmember Feldman.

III. BOARD RESOLUTIONS

A. Personnel: Town Court- Appointment

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

Resolved, that the Town Board of the Town of Ossining hereby appoints Corey Dawkins of Irvington, NY to the probationary position of Court Attendant in the Town Court, at an hourly rate of \$20 per hour, effective February 8th, 2017.

We have been waiting for this day for many months—we interviewed several candidates for this position back in October, and due to a variety of delays beyond our control, we have been waiting to fill this position. We are excited to welcome Corey to the Town of Ossining, and I know our Court staff is eagerly awaiting this appointment.

Motion Carried: Unanimously

B. Adoption of Local Law #1 of 2017- Amendment to Extend Interim Development Moratorium within the Unincorporated Town of Ossining

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

WHEREAS, the Town Board of the Town of Ossining has been considering the adoption of a proposed local law entitled “Amendment to Extend Interim Development Moratorium within the Unincorporated Town of Ossining”, which means to impose a temporary moratorium on development within the Town of Ossining to allow for a planning and zoning analysis consistent with the Town’s Comprehensive Plan; and

WHEREAS, in accordance with New York State Law, and after having provided all requisite notice thereunder, the Town Board conducted a Public Hearing on Introductory Local Law No. 2-2017 entitled “Amendment to Extend Interim Development Moratorium within the Unincorporated Town of Ossining” on February 7th, 2017 at 7:35 p.m.at 16 Croton Avenue, Ossining, New York during which the public had the opportunity to be heard on such proposed local law; and

WHEREAS, the proposed Local Law is a Type II action and does not require environmental review;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Ossining hereby adopts Local Law No. 2-2017, entitled “Amendment to Extend Interim Development Moratorium within the Unincorporated Town of Ossining” with such adoption to take effect as set forth in said Local Law and as otherwise required by law; and

BE IT FURTHER RESOLVED, that the Town Board directs said Local Law #2 of 2017 to be filed and/or distributed in accordance with applicable law.

**Roll Call Vote 5-0-0
Ayes: Feldman, Wilcher,
D'Attore, Jeffrey & Levenberg**

IV.ADJOURNMENT-WORK SESSION

At 7:58 P.M., Councilmember Jeffrey moved and it was seconded by Councilmember Wilcher to adjourn into Work Session.

At 11:00 P.M. Councilmember Jeffrey moved and it was seconded by Councilmember Feldman to adjourn into Executive Session.

At 11:13 P.M. Councilmember Wilcher moved and it was seconded by Councilmember Feldman to leave Executive Session.

At 11:14 P.M. Councilmember Feldman moved and it was seconded by Councilmember D'Attore to adjourn Executive Session.

Approved:

Mary Ann Roberts Village Clerk