



**TOWN OF ORANGETOWN
REGULAR TOWN BOARD MEETING MINUTES
July 12, 2022**

This meeting was opened at 7:00 pm. Supervisor Teresa M. Kenny presided and Rosanna Sfraga, Town Clerk, called the roll.

Present were:
Councilperson Thomas Diviny
Councilperson Paul Valentine
Councilperson Jerry Bottari
Supervisor Teresa M. Kenny
Councilperson Brian Donohue

Also Present:
Denis Troy, Deputy Supervisor
Allison Kardon, Supervisor's Confidential Assistant
Carmel Reilly, Director of Economic Development & Tourism
Rosanna Sfraga, Town Clerk
Joseph Thomassen, Deputy Clerk
Robert Magrino, Town Attorney
Jeff Bencik, Finance Director
James Dean, Superintendent of Highways
Eamon Reilly, Commissioner of DEME
Bob Urban, Human Resource Coordinator
Anthony Bevelacqua, Director of Automated Systems
Brendon Carton, IT Department
Donald Butterworth, Police Chief

Pledge of Allegiance to the Flag

ANNOUNCEMENTS:

The Comprehensive Plan Committee's Public Hearing on the 2022 Comprehensive Plan will be on August 2, 2022.

PUBLIC HEARINGS

**RESOLUTION NO. 326
CONTINUATION OF PUBLIC HEARING FROM RTBM OF JUNE 28, 2022
PROPOSED CHANGE TO THE TOWN CODE, CHAPTER 43, ADDING ARTICLE
XVIII TO ADDRESS ZONING IN THE HAMLET OF SOUTH NYACK**

RESOLVED, that the public hearing is hereby continued.

Councilperson Jerry Bottari offered the above resolution, which was seconded by Councilperson Thomas Diviny and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

Summary of Public Comments:

Andrew Goodwillie, former S. Nyack Planning Board Member & former Trustee of S. Nyack; Jerry Ilowite, former S. Nyack Planning Board member & Chairman; and Roger Seiler, former member of S. Nyack Planning Board, asked that the Town Board carefully read Mr.

Summary of Public Comments (S. Nyack Zoning) – Continued

Goodwillie's email dated July 10th (Exhibit 07-A-22) and appreciates the Town Board taking another look at the issues in S. Nyack before merging its codes with Orangetown codes. They are willing to be part of any discussions and offered their help.

Jeff Hirsh, former S. Nyack Zoning Board member, is concerned about Critical Environmental issues.

**RESOLUTION NO. 327
CONTINUE PUBLIC HEARING / PROPOSED CHANGE TO THE TOWN CODE,
CHAPTER 43, ADDING ARTICLE XVIII TO ADDRESS ZONING IN THE HAMLET
OF SOUTH NYACK**

RESOLVED, that the public hearing is hereby continued to August 9, 2022 at 7:05 pm.

Councilperson Paul Valentine offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 328
CONTINUATION OF PUBLIC HEARING FROM RTBM OF JUNE 14, 2022
PROPOSED ZONE CHANGE FOR GATTO LANE PROPERTY / TOLL BROTHERS
GATTO LANE, PEARL RIVER / TAX LOT 68.07-2-1**

RESOLVED, that the public hearing is hereby continued.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Jerry Bottari and was Adopted:

Motion: 5 – 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

Brian Quinn, attorney for the applicant, gave a power-point presentation giving an update of the Zone Change Petition; Changing the zoning district from R-40 to R-15 and then making it PAC zoning; reduced the number of units from 40 to 38; and limiting each unit to two bedrooms with office space. He also presented what uses are allowed in R-40 and R-15 zoning.

Summary of Public Comments:

Jane Myron, resident of Gatto Lane, read a letter from Lana Kissel. They are looking forward to and welcome Toll Brothers development. The emergency access road should be permanent. They would rather know what is coming than the "unknown".

Susan Silverman, ZBA member of Chestnut Ridge, is strongly in-favor of this development. Other types of development can have major concerns.

Joan Johnson, Gatto Lane, is highly against this development. Toll Brothers developments are substandard. She is concerned about loss of her property and the units will not sell.

Randolf F Johnson, Gatto Lane, is against this zone change. He is concerned about increase in traffic and drainage problems.

Robert Arturi, Gatto Lane, is against this development for the same reasons as above and it just does not belong in this area.

Eileen Larkin, Palisades, found Brooker Engineering responses confusing. She spoke about spot zoning and setting dangerous precedence.

Carlos Real, buying a house in the area, is concerned about flooding and drainage.

Mary George, Gatto Lane, is against this zone change. She is concerned about health and safety issues.

Summary of Public Comments - Continued:

Jenna Falzone, Gatto Lane, had PAC housing questions and concerns, such as, increase in traffic, their water wells and length of construction.

RESOLUTION NO. 329
ENTER EXECUTIVE SESSION

RESOLVED, at 8:15 pm, the Town Board entered Executive Session to discuss legal matters.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 – 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

RESOLUTION NO. 330
RE-ENTER RTBM

RESOLVED, at 8:30 pm, the Town Board re-entered the Regular Town Board Meeting.

Councilperson Paul Valentine offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 – 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

RESOLUTION NO. 331
CONTINUATION PUBLIC HEARING / PROPOSED ZONE CHANGE FOR GATTO LANE PROPERTY / TOLL BROTHERS, INC. / LOCATION ON GATTO LANE, PEARL RIVER / TAX LOT 68.07-2-1

RESOLVED, that the public hearing is hereby continued to July 26, 2022 at 7:05 pm.

Councilperson Paul Valentine offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 – 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

RESOLUTION NO. 332
DECLARATION OF LEAD AGENCY / SEQRA / GATTO LANE ZONE CHANGE

WHEREAS, the Town Board is considering the adoption of a Local Law, amending Chapter 43, of the Town Code by changing the zoning for the property located on Gatto Lane and identified as SBL 68.07-2-1, from R40 to R15 and thereafter to PAC, as set forth more specifically therein; and

WHEREAS, on or about April 12, 2022 the Town Board circulated amongst various potential interested agencies notice of its intention to assume Lead Agency status for the purpose of the environmental review (SEQRA) of the above referenced action; and

WHEREAS, having received no requests from any other agency, and pursuant to the relevant SEQRA regulations, being the only Involved Agency for environmental review;

RESOLUTION NO. 332 – Continued

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby declares itself to be “Lead Agency” for purposes of SEQRA review and authorizes the Town Supervisor or her designated agent to execute all appropriate documentation for this purpose, and to take such other and further steps as may be necessary to discharge the Town Board’s responsibilities as Lead Agency.

Councilperson Brian Donohue offered the above resolution, which was seconded by Councilperson Jerry Bottari and was Adopted:

Motion: 5 – 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 333
OPEN PUBLIC COMMENT PORTION**

RESOLVED, that the public portion is hereby opened.

Councilperson Jerry Bottari offered the above resolution, which was seconded by Councilperson Thomas Diviny and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

Summary of Public Comments:

Anne Putko, Piermont, thanked the Town Board for Lafayette Proclamation. She requested grant money for a Colonial Orangetown Park site, on the former RPC property, and money to replace the Lafayette marker.

Jeff Hirsch, S. Nyack, thanked the Town Board and the Traffic Advisory Board for the important upgrade in traffic signals and money for the Elizabeth Street Park.

Denis Fox, Palisades, complained about the Building Department’s permitting process. It is too cumbersome for simple interior projects.

Eileen Larkin, Palisades, thanked the Town Board for trying to reduce the speed limit on Route 340. She spoke about a map on the wall saying it needs to be saved and framed.

**RESOLUTION NO. 334
CLOSE PUBLIC COMMENT PORTION**

RESOLVED, that the public portion is hereby closed.

Councilperson Brian Donohue offered the above resolution, which was seconded by Councilperson Paul Valentine and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 335
AUTHORIZE GRANT APPLICATION / ROCKLAND RESILIENT RECREATION
GRANT PROGRAM / ROCKLAND COUNTY ARPA DEPARTMENT / PLAYGROUND
ELIZABETH PLACE PARK / SOUTH NYACK**

WHEREAS, the Town Board has determined that it is desirable and in the public interest to undertake the necessary steps for the submittal of a grant application under the Rockland Resilient Recreation Grant program of the Rockland County ARPA Department for the purchase and installation of a new playground at Elizabeth Place Park in South Nyack; and,

RESOLUTION NO. 335 – Continued

WHEREAS, the Rockland Resilient Recreation Grant request will not exceed the maximum request of \$200,000 to complete the project; and,

WHEREAS, the Town Board hereby finds the Elizabeth Place Park Playground Replacement project is a Type II action under SEQRA which requires no further review with respect to SEQRA; and,

NOW THEREFORE, BE IT RESOLVED, that the Town Board authorizes and directs the Supervisor or her designee to submit an application to the Rockland Resilient Recreation Grant program of the Rockland County ARPA Department for the Elizabeth Place Park Playground Replacement project and to execute any and all documents necessary for the administrative processes of the grant program.

BE IT FURTHER RESOLVED, the Town Board agrees to fund any overages in cost, through fund balance, for the Elizabeth Place Park Playground Replacement project, not to exceed \$20,000.

Supervisor Teresa M. Kenny offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

RESOLUTION NO. 336

AUTHORIZING SUBMISSION OF AN APPLICATION TO APPLY FOR A NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC) 2022 MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) MAPPING GRANT & DEFINING THIS PLANNING ACTIVITY AS SEQRA TYPE II ACTION

WHEREAS the Town of Orangetown has determined it desirable and in the public interest to submit an application to NYSDEC for funding consideration in furtherance of basic elements mapping of current Municipal Separate Storm Sewer System (MS4) infrastructure throughout the Town; and

WHEREAS the Town of Orangetown has remained an active member of the Rockland County Stormwater Consortium since 2019; and

WHEREAS the Town of Orangetown has committed to mapping the entirety of the basic elements of its storm sewer system in order to remain in compliance with SPDES permit regulations; and

WHEREAS the Project shall be titled "Town of Orangetown MS4 Basic Elements Mapping Project" and include a grant narrative, work plan and schedule, and other supporting documents necessary for submission of the application; and

WHEREAS the mapping of the MS4 system and recoding of its physical attributes is an operational activity, which does not provide for potential alteration of the environment because it involves mapping existing infrastructure and features of the community's resource environment; and

WHEREAS the amount of funding being requested under this program shall not exceed the maximum request of \$75,000 for individual municipalities, such funding which is intended to perform requisite storm sewer system mapping; and

WHEREAS the 2022 NYSDEC MS4 Mapping Grant Program requires a minimum 10 percent (10%) local match totaling no less than \$7,500; and

RESOLUTION NO. 336 – Continued

WHEREAS the Town of Orangetown Town Board is hereby committed to a cash match of no less than \$7,500; and

THEREFORE, BE IT RESOLVED the Town of Orangetown defines the proposed MS4 mapping undertaking as a Type II action according 6 NYCRR Part 617, State Environmental Quality Review standards, 617.5(c)(24), and other parts, because the undertaking involves basic data collection on the Town's existing facilities and this recording of information does not commit the Town to undertaking, funding or approving any other Type I or Unlisted actions, and as such no further environmental review is required; and

BE IT FURTHER RESOLVED the Town of Orangetown is hereby committed to using municipal funds to provide a local cash match of at least \$7,500 of the total project cost; and

BE IT FURTHER RESOLVED that the Town Board authorizes and directs the Town Supervisor to submit an application on behalf of the Town of Orangetown for MS4 basic elements mapping activities under the 2022 NYSDEC MS4 Mapping Grant Program, and is authorized to execute all other documents necessary for the implementation of this work, and is authorized to execute all financial and/or administrative processes relating to the grant program.

Councilperson Jerry Bottari offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

RESOLUTION NO. 337**APPROVE STIPULATION OF SETTLEMENT/EMPLOYEE PERSONNEL MATTER**

RESOLVED, that the Town Board hereby approves the Stipulation of Settlement concerning personnel matter with Employee No. 2709 and permit Supervisor Teresa M. Kenny to execute applicable Stipulation of Settlement on behalf of the Town Board.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

RESOLUTION NO. 338**AWARD CONTRACT / TOWN HALL / HVAC MAINTENANCE AND AUTOMATION CONTROL / JOHNSON CONTROLS INC.**

RESOLVED, that upon the recommendation of the Superintendent of Parks and Recreation award the contract for HVAC Mechanical Service and Automation Control to Johnson Controls of Hawthorne, NY as per Sourcewell Contract: 070121 – JHN in the amount of \$28,898.00 for Mechanical Service and \$3,959.00 for Automation Services for a term of one year.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Paul Valentine and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

RESOLUTION NO. 339

ACCEPT WITH REGRET / RESIGNATION / RETIREMENT OF FRANK LUCIANO / CUSTODIAN / PARKS, RECREATION & BUILDING MAINTENANCE / EFFECTIVE JULY 7, 2022

RESOLVED, that upon the recommendation of the Superintendent of Parks, Recreation & Building Maintenance, the Town Board accepts with regret the retirement of Frank Luciano, Custodian, after over 33 years of service to the Town of Orangetown, effective July 7, 2022.

Councilperson Jerry Bottari offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

RESOLUTION NO. 340

APPROVE / INSTALLATION OF STREET LIGHT / ORANGETOWN SOCCER COMPLEX PARKING LOT ENTRANCE ON OLD ORANGEBURG RD / ORANGEBURG

RESOLVED, that upon the recommendation of the Traffic Advisory Board, the installation of a street light at the Orangetown Soccer Complex parking lot entrance on Old Orangeburg Rd in Orangeburg (Utility Pole# 59738/38052) is hereby approved to be paid from the following budget line item B.5182.452.17.

Councilperson Brian Donohue offered the above resolution, which was seconded by Councilperson Jerry Bottari and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

RESOLUTION NO. 341

MEMORIALIZING REQUEST FOR SPEED LIMIT REDUCTION ON ROUTE 340

WHEREAS, a section of New York State Route 340 in the Hamlets of Sparkill and Palisades, between Valentine Avenue and Oak Tree Road, has seen increased development, and has substantial vehicle, commuter, pedestrian, and bicycle traffic; and

WHEREAS, this section of Route 340 passes directly next to multiple residences, a youth baseball field, American Legion Post 1044, Sparkill-Palisades Fire Department, and the site of a planned commuter parking lot; and

WHEREAS, this section of Route 340 from Valentine Avenue to Oak Tree Road has one lane of travel in each direction, intermittent sidewalks, and no crosswalks; and

WHEREAS, this section of Route 340 from Valentine Avenue to Oak Tree Road has a speed limit of 45 miles per hour in both directions; and

WHEREAS, the Orangetown Traffic Advisory Board has considered the recent and planned development along Route 340 in Sparkill and the concerns of residents of Sparkill about the speed limit; and

WHEREAS, it is in the direct interest of the Town of Orangetown to maintain the safety of our residents and visitors in the Hamlets of Sparkill and Palisades; and

NOW, THEREFORE, BE IT RESOLVED, that upon the recommendation of the Traffic Advisory Board, the Town Board of the Town of Orangetown hereby requests that the

RESOLUTION NO. 341 – Continued

New York State Department of Transportation lower the speed limit on Route 340 in both east and west directions from Valentine Avenue in the Hamlet of Sparkill to Oak Tree Road in the Hamlet of Palisades; and

BE IT FURTHER RESOLVED, that the Town Clerk is hereby authorized and directed to send a copy of this resolution to the New York State Department of Transportation, Hudson Valley Region, and to such other persons as the Clerk, in her discretion, may deem proper in order to effectuate the purpose of this resolution.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

RESOLUTION NO. 342**APPROVE / LEND ASSISTANCE / 2022 SONS OF ITALY ROCKLAND LODGE 2176 ITALIAN FEAST /THURSDAY, SEPTEMBER 8th - SUNDAY, SEPTEMBER 11th**

RESOLVED, upon the completion of all necessary paperwork, the Superintendent of Parks & Recreation has forwarded for approval by the Town Board use of the Showmobile at a rental cost of \$500.00 by the Sons of Italy Rockland Lodge 2176 for their Italian Feast, Thursday, September 8th to Sunday, September 11th, 2022, with the organization providing a certificate of insurance listing the Town of Orangetown as additionally insured.

Councilperson Paul Valentine offered the above resolution, which was seconded by Councilperson Jerry Bottari and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

RESOLUTION NO. 343**ACCEPT / RECEIVE / FILE DOCUMENTS/TOWN CLERK'S OFFICE**

RESOLVED that the following documents are accepted, received and filed in the Town Clerk's Office:

- Town Board Meeting minutes: May 10 & June 14, 2022 Police Commission; May 10th & 24th and June 14 & 28, 2022 Regular Town Board Meeting.
- Deed: 90 Depot Place, South Nyack (66.45-2-21)
- Agreement / Contracts:
 - a) DASNY Grant Disbursement Agreement (\$50,000 SAM) for the Fitness Equipment at Veterans Park.
 - b) Rockland County - County reimbursement for police overtime for DWI enforcement.
- Bond Determination Certificate, \$26,255,000 Public Improvement (Serial Bonds, 2022): Bio-Retention & Storm Water Wetlands; Replace Culverts at 400 Rte 303; Traffic Signal Replacement William St & Central Ave; N Middletown Rd Improvements; Reconstruction & Resurface of Roads; Pickleball Court at Veterans Park; Traffic Signals Replacements and Town Hall Addition Construction.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 344
PAY VOUCHERS**

RESOLVED, upon the recommendation of the Director of Finance, Jeffrey Bencik, the Finance Office is hereby authorized to pay vouchers for a total amount of five (5) warrants (attached) for a total of **\$1,858,804.66**.

Councilperson Jerry Bottari offered the above resolution, which was seconded by Councilperson Thomas Diviny and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 345
ENTER EXECUTIVE SESSION**

In attendance, at this Executive Session were Supervisor Kenny, Denis Troy, Deputy Supervisor, Councilpersons Tom Diviny, Paul Valentine, Jerry Bottari and Brian Donohue, Rob Magrino and Jeff Bencik.

RESOLVED, at 9:05 pm, the Town Board entered Executive Session to discuss matters relating to employment and the proposed acquisition/sale/lease of real property when publicity might affect value.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None

**RESOLUTION NO. 346
RE-ENTER RTBM / ADJOURNED / MEMORY**

RESOLVED, at 10:15 pm, the Town Board re-entered the Regular Town Board Meeting and adjourned in memory of: **Joseph Gallagan, Resident of Pearl River** and **Walter J. McLaughlin, Resident of New City**.

Councilperson Thomas Diviny offered the above resolution, which was seconded by Councilperson Brian Donohue and was Adopted:

Motion: 5 - 0

Ayes: Councilperson Thomas Diviny, Councilperson Paul Valentine, Councilperson Jerry Bottari, Supervisor Teresa M. Kenny, Councilperson Brian Donohue

Noes: None


Rosanna Sfraga, Town Clerk



To: Town of Orangetown Town Board

From:

Andrew Goodwillie
28 White Avenue
South Nyack

and

Jerry Ilowite
3C Shadyside Avenue
South Nyack

Re: Comments on "PROPOSED CHANGE TO THE TOWN CODE, CHAPTER 43, ADDING ARTICLE XVIII TO ADDRESS ZONING IN THE HAMLET OF SOUTH NYACK "

Date: July 10, 2022

We are writing to comment on the proposed changes to the Town Code that are intended to incorporate portions of the former Village of South Nyack Zoning Code.

We understand and acknowledge the benefits that are to be gained from reconciling differences between the former Village Zoning Code and the Town Code and we commend the effort dedicated by the Town Planning Department, Town Attorney, and their consultant, Laberge Group. However, we recommend postponing the adoption of the proposed changes until adequate solutions are found for the specific issues that we discuss below.

As background, Mr. Ilowite has been a South Nyack resident for over 30 years. He was a Village of South Nyack Planning Board Member for 19 years, serving as its last Chairperson for more than 10 of those years. Mr. Goodwillie, a resident of the former village for 17 years, has served South Nyack as both a Planning Board Member and as a Village of South Nyack Trustee.

Having had many years of experience working with and applying the South Nyack Zoning Code, we are well aware that the South Nyack Code is relatively strict when compared with the code of some other municipalities. But that is with good reason due to the unique character of this old and established community. We understand that to someone less familiar with our situation, aspects of the code may at first glance appear unusual. While we should always endeavor to reduce unnecessary burdens, we must do so carefully. We ask the Town Board to err on the side of caution in the proposed changes to the Town Code and to do so by retaining the regulations set out below that have helped to preserve the character of South Nyack. We also ask the Town Board to continue to engage with South Nyack residents and with former recent land-use Village officials to evolve the Town regulations to balance efficiency with preservation.

At the public hearing on June 28, 2022, there was an opinion held by some Town officials that the proposed Town Code amendments must be enacted quickly because some property owners in the former Village may be waiting to submit planning applications. This argument to push through changes to the Town Code makes little sense to us since there is nothing that prevents property owners from submitting applications that would be subject to the former Village Zoning Code as administered by the

Town. This would be no more burdensome upon the applicants compared to procedures that existed before dissolution of the Village. It is more important that the proposed changes to the Code be made carefully and with thorough, contextual review to ensure that diminishment of regulations will not negatively impact South Nyack. We encourage sober and careful consideration of impacts before enactment.

It must be noted that the Village of South Nyack is almost entirely residential and was almost fully developed before the advent of modern zoning practices and regulations. Over the decades the Village became an eclectic mix of housing uses, styles, and lot sizes. Petite cottages on small lots are nestled next to large Victorian homes on substantial lots. In contrast, modern zoning approaches tend to work best to promote uniformity in the new development of fresh geographic areas, but uniformity does not apply easily to more historical areas that are already fully developed. We acknowledge the challenge to maintain coherent regulations that strike a good balance for the reasonable modification of existing residences while preserving the unique and eclectic character of South Nyack.

During the Village dissolution process Orangetown elected officials and appointees repeatedly assured South Nyack residents that the character of South Nyack would be maintained, a character that was achieved through the decades-long enactment of local laws and zoning codes that best met the needs of its residents. We now observe that there are several provisions of the South Nyack Zoning Code that are proposed to be eliminated or diminished that we believe would have a detrimental impact on that character and upon the welfare of South Nyack. We aver that many of the rationales that were presented in the Laberge Group memo to justify the omissions are inadequate. In this letter we describe why some of the proposed omissions of code sections and some of the other proposed code changes should be reconsidered for retention in the Town Code.

A number of the provisions of the South Nyack Zoning Code that are proposed to be eliminated regulate activities that are likely to have environmental impacts. It is incumbent upon the Town under SEQRA requirements to carefully assess the potential for significant negative environmental impacts of the proposed changes. The current approach being undertaken by the Town is to lump all the proposed code changes together and evaluate their likely impacts as a whole. But, in reality, the practical application of the zoning regulations slated for elimination or diminishment vary widely and must be evaluated individually.

We know this type of necessary code review requires effort but it also benefits enormously from adequate context and background insights. Thus, before adoption of the proposed code changes, we highly recommend that the Town engage with current South Nyack residents, especially with recent former land-use officials, to benefit from their experience and knowledge of South Nyack issues and zoning regulations.

Following are specific observations and recommendations for certain sections of South Nyack Code, given with their section numbers and titles, and listed in order found within the Code.

§ 330-10 Critical Environmental Areas

The Rockland County Department of Planning in its GML review of the proposed code changes has required the Town to reconsider retention of the Critical Environmental Areas (CEAs) or to justify the CEA reduction or elimination. The rationale for overriding this requirement as proposed in the Laberge Group memo is insufficient.

There has been a Village CEA map maintained in Village records for decades and the three CEAs were filed with the New York State Department of Environmental Conservation (NYSDEC) prior to dissolution of the Village. There are no stated rationales from an environmental perspective of how the proposed complete elimination of CEA-2 ("Run-off" CEA) and the significant reduction in area to CEA-1 ("Hudson River" CEA) will benefit the former Village, the Hudson River, and its environs.

Within South Nyack, the riverfront area is truly unique and dissolution means that the Town now gains full jurisdiction over this special riparian environment. Along parts of Piermont Avenue, the river is just yards away from that relatively busy road. The proposed changes to Town Code would reduce the width of the Hudson River CEA (CEA-1) by eliminating the area of sloping topography lying between South Broadway and Piermont Avenue. North of Voorhis Point, the proposed reduced CEA protection would be just one property lot deep. Having a restrictive CEA on only the east side of Piermont Avenue ignores the fact that properties on the west side of the road - and beyond - also contribute to the environmental impact upon the river, to the architectural and aesthetic character of the area, and to the vistas and viewsheds from the river back towards the shore. This unique aspect of the former Village should be protected by retaining CEA-1 in its entirety.

Articles VI & VII: Supplementary Use and Bulk Regulations

Several sections of Articles VI and VII of the Village Zoning code described below provide valuable regulation but are proposed to be eliminated by the Town. The Rockland County Department of Planning in its review has required a justification for elimination of these sections of code, but the rationale given in the Laberge memo is grossly insufficient. "Streamlining review" is a specious explanation at best and in no way justifies the negative impact of the proposed action. The Town should retain these sections of code unless it can be demonstrated that the provisions are duplicated in other parts of the Town Code or if genuine justifications are articulated as to why the regulations are no longer necessary.

§ 330-12 Schedule of restrictions and controls; interpretation

"C. Any land use not specifically listed for a zoning district shall be deemed to be a prohibited use for that zoning district."

While it may be inferred that only the uses appearing in the bulk table are permitted, this subsection makes it definitive and removes any ambiguity.

This subsection should be retained.

§ 330-16 Fences and retaining walls

The Town Code does not appear to regulate any fence structures with the exception of fences around swimming pools. In South Nyack, which is a fairly compact village, regulating the height and appearance of fences is important to maintain the character of the neighborhoods, for example by preventing property owners from "walling off" their properties.

Review of large retaining walls is necessary to discourage massive walls and, particularly within the critical environments of South Nyack, to ensure that environmental concerns such as erosion and runoff, drainage, and stormwater management, and aesthetic concerns such as appearance and visual harmony are properly addressed.

This section should be retained.

§ 330-19 Business hours of operation

§ 330-20 School hours of operation

The South Nyack limits on commercial hours of operation appear to be a bit stricter than those of the Town. South Nyack has very few commercial operations but those that exist operate within or very close to residences. The Town should retain these hourly limits within South Nyack unless it is demonstrated why expanded operating hours will have no detrimental effect upon the peace of South Nyack residents.

§ 330-22 Discarded materials and graffiti

Town Code Chapter 17C pertains to graffiti and recognizes its unsightly nature but does not require the graffiti to be removed. Graffiti is a blight and a nuisance and could depress property values.

This Village Code section includes the following requirement for removal:

"...nor shall the property owner allow graffiti to remain on any wall, fence or other property for more than 72 hours without being removed or covered by paint the same color as the background area."

This language should be added to Town Code Chapter 17C.

§ 330-23 Solid waste receptacles and garbage cans

This section requires all receptacles for trash and other waste to be screened for all properties except one- and two-family homes. No-one wants to see trash bins or dumpsters from the street. Screening is a simple way to help preserve the attractive character of a neighborhood. The Town Code does not appear to have any similar requirement.

This section should be retained.

§ 330-24 Home occupations

South Nyack does not have a downtown, but there are many residents who work out of their homes. This has apparently increased since the pandemic. In many South Nyack neighborhoods, where homes are close together, operating a business out of one's home has the potential to disturb neighbors. This section of Village Code places reasonable limitations to allow for the business activity while preventing impacts that are detrimental to the neighborhood.

There are regulations on home occupations in the Town Code that are contained in the definition of Home Occupation in Article XI, Section 11.2. However, the regulations provided appear to be quite different from those for South Nyack and apply to only "R" districts of which there are proposed to be none in South Nyack.

This section should be retained until the Town Code and Village Code sections may be reconciled.

§ 330-26 External equipment noise limits

Much of the Town noise code (Chapter 22) relates to loud music, horns, animals barking, and so on and is similar to parallel provisions of the South Nyack noise code (Chapter 208). However, the two codes treat noise from installed mechanical equipment differently.

In South Nyack, many of the houses are closely spaced on small lots. Installation and operation of mechanical equipment such as generators and central air conditioning units can cause unacceptable noise levels in neighboring properties, disturbing the peace of the neighborhood.

This section of Village Code reasonably limits measurable maximum decibel levels at the property lot line. Compliance has generally been easy for homeowners to accomplish by choosing quieter units or by simply providing sound-limiting screening.

This section should be retained.

§ 330-28 Renting of rooms

This section provides for reasonable allowance of the renting of rooms in private residences, as distinguished from rental apartments. It states this reason:

"In order to help residents on fixed incomes bear the costs of keeping their homes, and in order to help provide affordable housing to young people just starting their careers, while at the same time preserving the type of property maintenance and low-density usage generally experienced with owner-occupied homes, the renting of rooms shall be permitted as follows..."

The Town Code does not appear to have similar regulations.

This section should be retained.

§ 330-30 General and professional offices, funeral parlors and sale of arts, crafts and antiques in RG-OA Districts; general and professional offices, bicycle sales/rental businesses, and cafes in RGLSO Districts.

South Nyack does not have a downtown, and the local businesses that do exist are located very close to residences. This section provides reasonable limits, such as limiting business use to two floors and requires parking areas to be placed in a rear yard or one side yard and be adequately screened. It does not appear that the Town Code addresses these issues.

This section should be retained.

§ 330-34 Bulk requirements applicable to R-18, R-12, R-8H/R-12H, RG-6, RG-4, RG-A, RG-OA, and R-O Residence Districts.

F. Cluster development.

These clustering provisions have been important to South Nyack. Clustering is a valuable tool for promoting flexibility in design that can reduce negative impacts of new development. Clustering was employed in the on-going development of the RiverRidge (formerly Dansome) subdivision that lies on the South Nyack hillside.

The Town Code appears to have a provision in "Attachment 43-20 043r Notes to Use and Bulk Table" for clustering of only "attached veteran housing or adult housing residences", but no general provisions for clustering in a new development.

This subsection should be retained.

§ 330-37 Side yard adjustment for lots providing more than minimum required street frontage.

South Nyack neighborhoods often have small and large lots next to each other. This provision prevents the owner of a wide lot from building almost all the way to both side lines, which would tend to make the built structure look out of place. This code provision keeps building sizes somewhat proportional to their lot sizes.

The Laberge memo states that, "Side yard adjustment for lots providing more than minimum required street frontage is considered to be a difficult to regulate standard...". This is surprising and is contrary to its actual application in South Nyack since the provision is governed by a very simple arithmetic formula:

$$\text{Total side yard required} = \text{frontage} \times (\text{total side yard minimum} / \text{total frontage minimum})$$

This section should be retained.

Article VIII Special Permits

Special Permit uses are very sensitive and require careful review. South Nyack Village Code has specific, valuable provisions for Special Permits that do not appear to be adequately covered in the Town Code. We agree with the conclusion in the Rockland County Department of Planning Board GML review (#9)

and respectfully assert that the rationale given in the Laberge memo for overriding this condition does not sufficiently address the issue.

The South Nyack Special Permit regulations should be carefully reviewed so that they may be adequately incorporated in the Town Code.

Article X Off Street Parking and Loading Facilities and Driveways

§ 330-65 Off-street parking requirements

South Nyack prohibits off-street parking in any front yard except on a driveway and requires that off-street parking areas close to lot lines or streets be adequately screened with landscaped vegetation. Vehicles parked in front yards are unsightly and could depress property values. Naturally-screened parking areas preserve the appealing character of a neighborhood.

Neither provision exists in the current or proposed Town Code. Both provisions should be retained for South Nyack.

Article XI Nonconforming Buildings and Uses

South Nyack was built up long before our zoning laws were enacted. This has resulted in many properties having uses and bulk that do not conform with the current Village Code. Article XI permits these non-conformities to continue, but with restrictions

Town Zoning Code Article IX is very similar to the Village Code related to non-conformance, but there are a few notable differences. In the Town Code, a property is considered to be non-conforming relative to the "effective date of this code". A subsection should be added such that the non-conformity of properties in South Nyack is determined relative to the effective date of the former South Nyack Zoning Code.

§ 330-70 Nonconforming use permit

It is important to know whether a property is "grandfathered" due to a non-conforming use pre-dating the zoning code. South Nyack established a "nonconforming use permit" to document this. The relevant section of Village Code states:

"The purpose of the nonconforming use permit is to factually establish and document each nonconforming use that predates the zoning law and that is therefore authorized to continue until abandoned or phased out by legislative action.

This section should be retained.

Consideration of Variances

§ 330-89 Advisory to Zoning Board of Appeals (see also §330-84(E))

Years ago the South Nyack Board of Trustees identified an issue with the semi-judicial role of the Zoning Board of Appeals (ZBA) in the consideration of appeals for variances. Most often the only evidence and testimony were provided by the applicant whom, naturally, favored the granting of the requested

variances. The Board of Trustees recognized that ZBA decisions would be more just if there was comment from an independent official body to present additional observations and recommendations from a village-wide perspective. The Board of Trustees thus established a procedure whereby the South Nyack Planning Board would provide comment to the ZBA on appeals for variances. Since its inception, that procedure worked well to inform the ZBA of considerations that it could not obtain on its own.

We recommend that the Town retain this provision for zones in South Nyack – namely, that the Town Planning Board provides comments and recommendations to the Town Zoning Board of Appeals, and that in the future this additional opportunity for useful input be considered for expansion Town-wide.

Permitted Accessory Uses – Bulk Tables

The entire South Nyack Code was recently reformatted to make it accessible in electronic form via a web interface. As part of that reformatting process a graphical anomaly was introduced erroneously in the South Nyack bulk tables, an error that could lead to confusion and misinterpretation, as follows. Each zone in the bulk tables includes a list of Permitted Accessory Uses. This list is displayed as a column in the bulk tables. There is now a horizontal line shown between rows that make it appear that the specific accessory use might apply only to the corresponding primary use on that row.

The tables should be reformatted to make it clear that all Permitted Accessory Uses shown apply to all primary uses in that zone.

Regulations within definitions

Both the South Nyack Code and the Town Code inadvisably contain regulations within the definition of some terms. For example, in Town Code Article XI §11.2 Definitions, the definition of the term “Home Occupation” contains language that says in part,

“The profession or other occupation shall be carried on wholly within the primary structure on the premises, shall not exceed 15% of the total floor area of the primary structure...”, etc.

This is an unfortunate practice, as these regulations can be easily overlooked by both property owners and land use officials.

The South Nyack definitions that are slated for deletion should be examined carefully to ensure that any regulations therein are either already covered elsewhere in the Town Code or, if not, are relocated to an appropriate part of the Town Code.

Overall, the Town should remove regulations from the definition of terms and should relocate the regulations to relevant sections of the Town Code. We note that there are also regulations present in the Town Code “Notes to Use and Bulk Tables”. These regulations should also be relocated for the same reason.

Respectfully,

Andrew Goodwillie

Jerry Ilowite

Town Of Orangetown

DATE: July 12, 2022

WARRANT

Warrant Reference	Warrant #	Amount
Approved for payment in the amount of		
	061722	\$ 263,456.66 Utilities
	062322	\$ 268,742.40 Medicare
	062922	\$ 5,783.40 Medicare So Nyack
	070522	\$ 113,113.08 Utilities
	071222	\$ 1,207,709.12 Regular Batch
		\$ 1,858,804.66

The above listed claims are approved and ordered paid from the appropriations indicated.

APPROVAL FOR PAYMENT

AUDITING BOARD

Councilman Gerald Bottari

Councilman Paul Valentine

Councilman Thomas Diviny

Councilman Brian Donohue

Supervisor Teresa M. Kenny

TOWN OF ORANGETOWN
FINANCE OFFICE MEMORANDUM

TO: THE TOWN BOARD
FROM: JEFF BENCIK, *DIRECTOR OF FINANCE*
SUBJECT: AUDIT MEMO
DATE: 07/07/2022
CC: DEPARTMENT HEADS



The audit for the Town Board Meeting of 07/12/2022 consists of 5 warrants for a total of \$1,858,804.66.

The first warrant had 78 vouchers for \$263,456.66 and was for utilities, CSEA Employee Benefit Fund (p1) - \$34,139 for dental insurance and Met Life (p5) - \$14,381 for Police dental benefits.

The second warrant had 227 vouchers for \$268,742.40 and was for reimbursement of Medicare Insurance premiums for Town retirees.

The third warrant had 12 vouchers for \$5,783.40 and was for reimbursement of Medicare Insurance premiums for So. Nyack retirees.

The fourth warrant had 30 vouchers for \$113,113.08 and was for utilities.

The fifth warrant had 153 vouchers for \$1,207,709.12 and had the following items of interest.

1. AAA Cooleration Service, Inc (p2) - \$10,192 for HVAC compressor replacement.
2. AKRF Inc (p3) - \$10,472 for drainage escrow release.
3. Dell Marketing LP (p15) - \$17,737 for computer hardware.
4. Eagle Point Gun (p16) - \$19,006 for ammunition.
5. Frank Cyrwus Inc (p20) - \$7,235 for return of retainage held for DEME roof improvement.
6. Joe Lombardo Plumbing & Heating of Rockland Inc (p28) - \$19,812 for new Town Hall plumbing (bonded).
7. Keane & Beane (p29) - \$5,291 for outside legal counsel.
8. Morano Brothers Corp (p32) - \$34,950 for Blue Hill Storage Building project (bonded).
9. NYS Department of Civil Service (p35) - \$827,744 for healthcare benefits.
10. Precision Electric Motor Works (p39) - \$11,342 for pump station repairs.
11. Sport-Tech Acrylics Corp (p46) - \$33,875 for crack repair and resurfacing to tennis courts (park trust).

12. Tek-Sales, Inc (p49) - \$5,040 for pump station repairs.
13. Tilcon New York (p50) - \$44,617 for Highway materials
14. Verde Electric (p52) - \$5,075 traffic signal maintenance.
15. Zarin & Steinmetz (p55) - \$5,062 for Land use review.

Please feel free to contact me with any questions or comments.

Jeffrey W. Bencik, CFA

845-359-5100 x2204

