

MINUTES
TOWN OF EAST FISHKILL
TOWN BOARD MEETING
JUNE 22, 2017
7:00 p.m.

REGULAR BOARD MEETING

The Town of East Fishkill's Town Board Meeting on June 22, 2017 was called to order at 7:00 p.m. by Supervisor John Hickman, Jr. with the Pledge of Allegiance to the Flag.

Supervisor's Announcements

Supervisor Hickman thanked the Board members who voted to refinance the town bonds. They have saved almost \$3 million in interest payments over the next 20 years. He also thanked Comptroller Pozniak and Capital Market Advisors.

Supervisor Hickman stated during an internal audit conducted last November/December it was discovered that there were funds missing of a nonmaterial amount. The external auditor was notified and they performed eight departmental reviews in January and February of this year. The external auditors confirmed the findings of the internal audits and in March the independent accounts report was sent to the District Attorney and the case is being reviewed there. The Town is working with the District Attorney to provide additional information. For now they cannot publicly disclose any more information that might interfere with the ongoing review by the DA.

Roll Call: Supervisor Hickman asked Town Clerk Hurray to call the rolls.

Board Members in Attendance were

Peter	Nicolas	Thomas	Emanuele	John
Cassidy	D'Alessandro	Franco	Marinero	Hickman

Also in attendance were:

Tom Wood, Attorney; Scott Bryant, Engineer; and Mark Pozniak, Comptroller.

Approve Minutes:

May 25, 2017

Motion to approve the May 25, 2017 minutes: Board Member Franco Seconded: Board Member Cassidy. All in favor. Motion carried.

Receive and File:

Supervisor Hickman stated there was nothing received.

Public Comments on Agenda Items Only:

Supervisor Hickman asked if there was anyone to speak on the agenda items only. There was no one.

Public Hearing:

1. Open Public Hearing on Miscellaneous Zoning Amendments

Motion to open the Public Hearing on miscellaneous Zoning Amendments: Board Member D'Alessandro. Seconded: Board Member Cassidy. All voted in favor. Motion carried.

Supervisor Hickman stated this is a compilation of zoning changes provided to the Board by the Planning Board, the Zoning Board, the attorney, and various other people that were involved. The Town Board reviewed this approximately 6 weeks ago at the May workshop. There have been no changes since then except for the ones that Supervisor Hickman has recommended. The Planning Department has suggested that under patios it should also include decks. Supervisor Hickman had questions regarding drive-thru's. A stipulation was added that the Planning Board should have to review it, especially in the case of a B1 zone next to a residential zone. The Planning Board would review the type of operation, the hours of operation, and any affect on the residential area. Supervisor Hickman asked if anyone from the Town Board had any questions or comments.

Board Member Marinaro stated his main concern referenced gas stations. He questioned what the intent of the amendment was.

Attorney Wood stated that five or six years ago the Town Board enacted a Special Permit because there were several destinations in the town that were subject of remediation requirements. That enabled the stations to be cleaned up under that Special Permit. The modifications that are proposed is just a modification of the language to make some things clear because most of the contamination is on sites that pre-existed as gas stations. This clarifies that if there is a contamination and it is cleaned up it can be rebuilt in a similar footprint with a similar layout even though it may not generally comply with today's zoning, as long as it is cleaned up pursuant to DEC cleanup.

Board Member Marinaro reviewed Article 9. He stated what Attorney Wood just addressed is not listed in there. He does agree with Attorney Wood regarding the ability to reopen the gas station, but he said he believes what was there was

something else. Attorney Wood stated it was stuff that is already there, they are just cleaning up the process. Board Member Marinaro stated it is not clear in the wording and he respectfully requests that this section get pulled from the proposal. Attorney Wood stated that although this is referred to as an ominous bill all of the amendments go into the Zoning Ordinance. It does not amend 10 different bills at one time. Board Member Marinaro stated he is fine with the rest of them. He stated the wording is regarding stimulating economic development and he doesn't think putting more restrictions on this type of business will support economic development. Attorney Wood stated these are not restrictions. Some of the sites to be cleared have been abandoned for quite some time due to the contamination. This would enable someone who is willing to pay to clean it up, bring it into compliance with DEC laws and reopen it as a thriving facility. This is to enable that to happen not put more restrictions in place. Board Member Marinaro asked if there was a particular site that was being addressed by this issue. Attorney Wood stated there have been two in town that have been done with two or possibly three more that are in need of it. This is to clarify some of the issues that caused back and forth between the Zoning Board and Planning Board and the people who cleaned up the two prior guest stations. Most of them had to do with dimensional issues for setbacks and sizes. Board Member Marinaro was concerned that since it references the B1 zone it would prevent somebody who owns property in a B1 zone to develop it into a gas station. Attorney Wood stated this does not modify the B1 zone. You are permitted to have a gasoline station in B1 zone. This goes with the B1A zone that has less uses, particularly when it is alongside of a residential area. The main differences between the B1 and B1A is the allowance of use for a gas station and some other very intense uses. Board Member Marinaro feels this is doing the exact opposite of supporting economic development. Board Member D'Alessandro stated he understands you don't want to restrict the B1, but the language will allow someone to do the cleanup and it should make it easier for them to do it. Board Member Marinaro asked what is preventing people from doing that now. Supervisor Hickman stated there are dimensional issues. Attorney Wood stated that there are also timeline issues with losing the grandfather issue. He stated the only people interested in coming in and cleaning up contaminated sites would not have been able to rebuild had the Board not enacted this legislation several years ago. The language tonight clears up some ambiguity as far as the dimensional relief that they have. Board Member D'Alessandro stated he does agree that it should not be made more restrictive. Board Member Marinaro stated he would like the wording changed to not reference a form that is acceptable by the Town Attorney. Attorney Wood stated this does not give the town attorney power to approve or disapprove something. It states that when the Town Attorney tells the Planning Board or the Town Board that the certificate that DEC has provided regarding the site being cleaned up is legally sufficient, then the town can issue the Building Permit. Attorney Wood stated he felt that whole sentence could be left out as the Planning Board or Zoning Board are not going to move forward without having those forms from DEC anyway and an attorney has told them that they are legally sufficient. Board Member Marinaro stated if proper documentation is being presented then the

Town Board should not have an objection to it. Supervisor Hickman stated that when DEC sends a certification the town attorney should look it over to make sure it addresses all of the issues. Attorney Wood stated this is common wording.

Supervisor Hickman asked the opinion of the Board regarding removing the portion of the sentence "in a form satisfactory to the Town Attorney". Supervisor Hickman stated he is fine with having the Town Attorney in there. Board Member Franco stated he is fine with keeping it there. Engineer Bryant stated there may be a time where off-site remediation may be needed that is above and beyond what the DEC mandate is, but the Planning Board requests. This way there is a catchall with having the Town Attorney or engineer review the entire document. Board Member Marinaro stated he is fine with having somebody review the documents but to have it written in the document the way it is, it gives authority to somebody to decide whether or not someone else is compliant. Board Member D'Alessandro stated the wording could say "satisfactory to the Town Board." Attorney Wood stated it is probably in the best interest to strike that portion. If they added in "as Town Board" it will trickle down from all easement applications and items that the Planning Board puts forward and resolutions that says "subject to approval by the Town Attorney." Board Member D'Alessandro stated he is fine with it still stating Town Attorney. Board Member Cassidy stated he is fine with it stating Attorney or Town Representative.

Board Member Marinaro questioned the article dealing with guest house/caretaker cottage being permitted on parcels of 10 acres or greater in size and at least 25 feet from the primary residential building or a minimum of 10 feet when connected by a breezeway. He stated he believes a caretaker home was for allowing a temporary home to be put on the property. He asked why it had to have a minimum of 10 acres. Engineer Bryant stated he believes the true intent is that there are larger parcels in the town that are being developed for one large estate home. The terrain doesn't lend itself to subdivision or someone just wants that much area to themselves. People of those means like to have a caretaker stay on the property as it may be a weekend home and they want someone there to keep an eye on the home. They have been getting requests through the Zoning and Planning Boards and they are trying to address that area. Attorney Wood stated the law that Board Member Marinaro addressed deals with an elderly or disabled relative of the caretaker. This is regarding a different type of caretaker. Board Member D'Alessandro asked if 900 ft.² in size was the max or could they go to the Zoning Board. Attorney wood stated they could not go to the Zoning Board. Board Member D'Alessandro stated he believed that number should be raised to 1200 or 1400 ft.². He asked if there were size dimension or restrictions on the accessory residents connected by a breezeway. Attorney Wood stated only if it is an accessory unit with certain specifications. He also suggested changing it from 5 acres in size or greater instead of 10 acres. Supervisor Hickman stated he believed this was a recommendation from the Town Planner. Board Member Franco asked if the accessory building would be proportionate to the existing building. Attorney Wood stated it all goes before the Planning Board. Board

Member Franco stated he is fine with changing it to 1200 ft.². Supervisor Hickman suggested striking the caretaker section until they can sit with the Planner to discuss why that 900 square-foot on a ten acre or more property recommendation was made.

Supervisor Hickman asked if there was anyone in the public to speak for or against this zoning amendment.

Marty asked if this was something that the Planning Board should be deciding. Attorney Wood said no. Supervisor Hickman stated that the Town Board sets the zoning. The Planning Board then applies that to all of the plans that come before them. He stated whatever gets changed now will still get reviewed by the Planning Board.

Motion to close the Public Hearing: Board Member Franco. Seconded: Board Member D'Alessandro. All voted in favor. Motion carried.

a) Adopt Negative Declaration

Motion to adopt the Negative Declaration: Board Member D'Alessandro. Seconded: Board Member Cassidy. Board Member Marinaro voted nay. All others voted in favor. Motion carried.

b) Adopt Local Law without the Caretaker/Cottage Section

Town of East Fishkill, Dutchess County, NY
Local Law No.2 of 2017

A LOCAL LAW entitled: "Omnibus Zoning Amendments"

Be it enacted by the Town Board of the Town of East Fishkill, Dutchess County, New York, as follows:

SECTION 1: LEGISLATIVE INTENT

The Town Board of the Town of East Fishkill, upon recommendation by the Planning Board, proposes to amend the Code of the Town of East Fishkill to clarify certain provisions of the code, to improve efficiency, support economic development, reduce the need for certain area variances and to correct minor errors in the Zoning. These amendments have been combined in an Omnibus Zoning report as a means of efficiently modifying the Zoning.

➤ **Amend Section § 194-98 Walls and fences as follows:**

Retaining Walls.

The yard requirements of this chapter shall not be deemed to prohibit any necessary retaining wall. Retaining walls four feet in height or less do not require a permit. Retaining walls great than four feet in height require engineered drawings approved by the Building Department/Engineer and a Fence/Wall permit from the Building Department. See Table below.

Fences and Walls (not retaining).

On any residential property, the finished side of the fence shall face the adjoining property, and all exposed stands and braces shall face the interior property. All fences or walls exceeding four feet must be decorative. Chain link fences shall not exceed four feet in height in any yard of a residential district. Fence and walls over four feet must be installed two feet in from any lot line. Fences and walls four feet in height or less may be erected in any yard and do not require a permit. Fences and walls greater than four feet in height and less than six feet in height may be erected behind the front line of a house with a fence/wall permit from the Building Department. Fences and walls exceeding four feet in height and located in front of the front line of a house and all fences and walls exceeding six feet in height require a variance from the Zoning Board of Appeals (ZBA) and a wall/fence permit from the Building Department. See Table Below.

ADD Table to § 194-98 Walls and fences

Walls and Fences	Permit(s) Required
Retaining Walls	
Four feet in height or less	<u>No Permit Required</u>
Greater than four feet	1) Engineered drawings approved by the Building Department/Engineer 2) Requires Fence/Wall Permit from the Building Department
Fences and Walls (not retaining walls)	
Fences and Walls (not retaining walls) four feet in height or less	<u>No Permit Required</u>
Fences and Walls (not retaining walls) located behind the front line of the house and exceeding four feet in height but not exceeding six feet in height	1) Requires Fence/Wall Permit from the Building Department
Fences and Walls (not retaining walls) exceeding four	1) Requires variance from ZBA;

feet in height and located in front of the front line of the house	2) Fence/Wall Permit from the Building Department
Fences and Walls (not retaining walls) exceeding six feet in height	1) Requires variance from ZBA; 2) Fence/Wall Permit from the Building Department

➤ **Amend permitted uses in Schedule of Permitted Uses for the B-1A (Transitional) District as follows:**

Permit all uses currently allowed in the B1 district except the following:

- 1) Gas stations

➤ **Amend Part 3. Administrative Provisions Article XIX. Board of Appeals §194-153. Procedure. B. Public Hearing as follows:**

- (1) For the Planning Board, the applicant shall mail by certified mail, return receipt requested, a copy of the notice published in the official newspaper of the Town to all owners of property within 500 feet of the subject property (except in the case of appeals to the Zoning Board of Appeals for dimensional variances, in which case the notice shall be mailed to owners of property within 250 feet of the subject property). Said notice shall be mailed 20 days prior to the public hearing and an affidavit of mailing shall be filed with the Board's Clerk at least 10 business days before the public hearing, except for public hearings for special permits, which shall be subject to the relevant requirements of this chapter.
- (2) For the Zoning Board, the Clerk shall mail by first class, a copy of the notice published in the official newspaper of the Town to all owners of property within 500 feet of the subject property (except in the case of appeals to the Zoning Board of Appeals for dimensional variances, in which case the notice shall be mailed to owners of property within 250 feet of the subject property). Said notice shall be mailed 20 days prior to the public hearing and an affidavit of mailing shall be filed with the Board's Clerk at least 10 business days before the public hearing, except for public hearings for special permits, which shall be subject to the relevant requirements of this chapter.
- (3) The applicant will post the property with a notice advising the public of the public hearing. The posting will be on a sign provided by the Board to the

applicant and the size, shape and color of which shall be approved by the Board. One sign will be posted for each 100 feet of road frontage on all public roads abutting the property. When a property has more than 100 feet of road frontage, then the Board before which the application is pending shall determine the number, size and placement of signs to be posted on the property. The postings will be placed on the property at least 20 days before the public hearing. An affidavit of posting will be filed with the Clerk at least 10 days before the public hearing. If the public hearing is adjourned, the sign will be revised to reflect the adjourned date within five days of the adjournment. An affidavit attesting to the change of the date for purposes of adjournment will be filed with the Clerk at least one day prior to the next hearing date. The notice required herein shall be removed within five days of the close of the public hearing.

- (4) The applicant shall be required to re-notice the public hearing if the actions in the above Subsection B (1) and (2) are not performed.

➤ **Amend Part 3. Administrative Provisions Article XX. Amendments. §194-156.2. Public Notice Requirements. as follows:**

In addition to the publication of notices of public hearing and the posting on the Town Clerk's bulletin board as set forth in the Zoning Ordinance, the additional notice provisions shall be required.

A. The Town Clerk shall mail, by First Class Mail, a copy of the notice published in the official newspaper of the Town to all owners of property within 500 feet of the property which is the subject of the proposed rezoning. Said notice shall be mailed 20 days prior to the public hearing and an affidavit of mailing shall be filed by the Clerk in her file at least 10 days prior to the public hearing; and

B. The Town Board shall cause the applicant to post the property with the notice advising the public of the public hearing. The posting will be on a sign or signs as designated by the Town Board and obtained by the applicant, and the shape, size and color shall be approved by the Town Board. One sign will be posted for each 100 feet of road frontage on all public roads abutting the property. When a property has more than 200 feet of road frontage, then the Town Board shall determine the number, size and placement of the signs to be posted on the property. The postings shall be placed on the property at least 20 days before the public hearing. If the public hearing is adjourned, the sign shall be revised to reflect the adjourned date within five days of the adjournment. An affidavit attesting to the change of date shall be filed with the Town Clerk. The notice required herein shall be removed within five days of the close of the public hearing.

➤ **Article II, “Definitions and Word Usage,” Section §194-3. Definitions is hereby amended, in part, as follows:**

SHED

A simple, single-story structure meeting the New York State Building Code that is no more than 144 square feet in size and 10 feet in height that is used for storage, hobbies, or as a workshop. Sheds shall not be placed in front of the front line of the principal residence. Refer to §194-107 for additional shed requirements.

BUILDING/STRUCTURES, ACCESSORY

A subordinate building, the use of which is customarily incidental to that of the main building on the same lot including garages, utility sheds, storage sheds or any other outbuildings, but not including construction sheds. See §194-107, Accessory structures

GARAGE, PRIVATE

An accessory building or part of a main building used only for the parking and storage of motor vehicles owned and operated by the residents thereof and which is not a separate commercial enterprise available to the general public as an accessory use.

➤ **Amend Section § 194-107. Accessory structures as follows:**

§ 194-107. Accessory buildings/structures.

A. General. No building permit shall be issued for the construction of any detached accessory building, inclusive of garages, utility sheds, storage sheds or any other outbuildings, but not including construction sheds, until such time as the principal building has been substantially completed in all respects, conforming with all applicable provisions of this chapter.

B. Sheds.

(1) Standards. One shed meeting the New York State Building Code and normally considered for utility use in conjunction with an existing residence for the storage of garden or lawn tools, etc., may be erected on a residential lot.

(2) Building Permit. No building permit is required for a shed less than 144 square feet in size and 10 feet in height. Sheds greater than 144 feet in size and/or 10 feet in height must obtain a building permit.

(3) Setbacks. Sheds shall not be erected within 15 feet of a side or rear property line, and shall not be placed in front of the front line of the principal residence.

(4) Any shed containing a garage door must meet the requirements of a detached garage.

(5) Deadline for construction. Sheds must be of completed construction within a six-month period and must meet New York State Uniform Building and Fire Prevention Code requirements with what is considered finishing siding and roofing.

C. Detached garages. Detached garages are allowed by building permit only and shall meet all applicable bulk regulations of the district in which they are located and shall not be located in front of the front line of a house. Detached garages must be permanent and not a fabric-covered structure and may in no event exceed 750 square feet or 60% of the square footage of the footprint of the principal structure, whichever is greater in size and 1.5 stories or 25 feet in height. All detached garages must contain a floor comprised of an approved noncombustible material approved by the Town Engineer. In cluster subdivisions, the Planning Board may authorize detached garages to be placed within the rear yard, so long as the garage is set back at least 10 feet from the rear inside property lines.

D. Other detached accessory structures. One additional detached accessory structure meeting New York State Building Code and all applicable bulk regulations of the district in which it is located is allowed by building permit on a residential lot for uses customarily associated with a primary residence such as a pool cabana, playhouse, and workshop. The structure shall not be located in front of the front line of a house and shall not exceed 350 square feet or 15 feet in height. Application may be made to ZBA to allow for a larger accessory structure, but under no conditions shall the structure exceed 750 square feet or 60% of the footprint of the principal structure, whichever is greater in size and 1.5 stories or 25 feet in height.

➤ **Article XII. Zoning Board Special Permits - Supplementary Use Regulations is hereby amended, in part, as follows:**

§ 194-85. Gasoline filling stations.

In any district where permitted, the Zoning Board of Appeals may grant a special permit for a gasoline filling station, provided that the Board finds that the application meets all the general conditions of Article **IX** and further meets all the applicable conditions set forth in this section.

- A. The area for use by motor vehicles, except access drives thereto, as well as any structures, shall not encroach on any required yard area.

- B. No fuel pump shall be located within 20 feet of any side lot line nor within 15 feet of any street right-of-way line.
- C. No gasoline filling station or access drive leading to a gasoline filling station may be constructed or erected within 200 feet of a school, public library, theater, church or place of worship or other public gathering place, park, playground or firehouse station, whether the same is on the same side of the street or the opposite side.
- D. No gasoline filling station or access drive leading to a gasoline filling station may be hereafter constructed or erected within 1,000 feet of an existing gasoline filling station, as measured in any direction.
- E. Subject to the remediation conditions of this subsection, for purposes of redevelopment of a lot for use by abandoned or distressed gasoline filling stations or other permitted uses, a lot formerly used by gasoline filling stations which has preexisted unremediated contamination or noncompliant fuel storage tanks which inhibits redevelopment of the lot absent remediation, may be reused for gasoline filling stations or other permitted uses with a site layout which does not exceed the bulk (see definition, § 194-3) conditions as existed for the prior use and building on the lot prior to discontinuance of the gasoline filling station instead of having to meet the Schedule of Bulk Regulations stated in this chapter but such prior nonconforming bulk conditions, to the extent they are nonconforming with any bulk regulations, of this chapter, shall not increase except as permitted by Article XV (Nonconforming Uses and Buildings). No special use permit otherwise required by § 194-123A shall be necessary to maintain and preserve the existing nonconforming conditions, but redevelopment of the lot under this subsection shall be subject to site plan review. No certificate of occupancy shall be issued for reuse of the premises as a gas station until the owner has provided, in a form satisfactory to the Town Attorney, that it has completed all mandated site remediation by the governmental agency having jurisdiction and supervision of the same, as well as offsite remediation, including but not limited to regulatory compliant fuel storage tanks; however, the Planning Board is authorized to grant site plan approval with a condition that no certificate of occupancy shall issue absent proof of remediation. A non-conforming gasoline station under this subsection shall include those lots which were used for the sale of gasoline products prior to the creation of separation standards for gasoline stations under this Chapter.

➤ **Amend Section 110-8 (E) as follows:**

The buffers provided herein shall not apply to any individual lot upon which a building is already existing. Nothing herein shall prevent the expansion, repair or replacement of any existing permitted use or accessory activity on an existing lot, nor shall a permit be required for such uses within the defined buffer areas otherwise established by this chapter.

➤ **Add to Section 194-14.1(D) the following:**

2. Redevelopment of a lot which is currently or previously has been improved such be exempt but shall be subject to federal and state regulations.

➤ **Amend Section 194-3 (Definitions) as follows:**

CONGREGATE CARE FACILITY

Residential care facilities that provide housing, and, in addition thereto, provide availability of/access to centralized kitchen/dining with full meal service, personal care and other supportive services such as housekeeping, laundering, private shuttle transportation and organized activities to older persons (55 years and over) and disabled adults who are unable to live independently. Services rendered by such facilities shall not include medical treatment; treatment for Alzheimer's, dementia or memory loss; or treatment for other non-age-related mental illness or drug or alcohol rehabilitation. Centralized kitchen facilities must be licensed/approved by the Dutchess County Department of Health.

➤ **Amend section 194-67.2 of the Code of the Town of East Fishkill as follows:**

1. Change the title from “Assisted living facilities” to “Assisted living and congregate care facilities”.
2. Change subsection A to add the congregate care use to the assisted living use wherever used in such subsection as follows (new language underlined):

“Purpose; authorization for special permit. It is the purpose of this section to encourage the development of well-designed alternative-care housing in the form of assisted living and congregate care facilities for disabled persons and individuals 55 years of age or older. It has been determined that the physical integration of alternative-care/assisted living and congregate care facilities along major state highways in residential areas will provide a more coherent land use pattern while imposing minimal impacts thereby preserving property values. Limiting these facilities to large parcels of property will maintain the visual and aesthetic environment. Further, a properly designed and operated assisted living or congregate care facility will provide area residents with employment opportunities. The Planning Board is therefore hereby authorized to issue a special permit for assisted living and congregate care facilities on sites which meet the eligibility criteria and other requirements set forth below.”

- **Add the phrase “or congregate care” following the phrase “assisted living” in subsections B; B (1); B (2); B (5) (a) and (e).**

- **Add (f) to Section B. (5) Miscellaneous.**

(5) Miscellaneous.

- (a) All assisted living facilities shall be subject to site plan approval.
- (b) Utility service to the site shall be underground.
- (c) Outdoor public address systems or other outdoor amplified noise shall be prohibited.
- (d) The architectural style of the proposed development, exterior materials, finish and color shall be consistent with existing community and neighborhood character, and approved by the Architectural Review Board.
- (e) No building permit shall be issued for an assisted living facility unless connection to municipal or centralized water and sewer services has been approved by the agency or authority having jurisdiction over such connection.
- (f) The minimum rental period shall be one year.

Amend § 194-94 Porches.

§ 194-94 Porches and Decks

No porch or deck may project into any required yard. Any two-story or any enclosed porch or deck, or one having a roof and capable of being enclosed, shall be considered a part of the building in determining the yard requirements, amount of lot coverage or floor area ratio.

Amend § A197-78 Bridge/underpass/overpass.

A. The specific requirements shall be established by the Highway Superintendent and the Town Engineer.

B. In general, the structure shall be designed for an HL-93 design loading. Clearance to another roadway shall be minimum 16 feet. The waterway opening shall be designed to pass a one-hundred-year storm.

ADD Drive-Through Retail and Service Facilities to the Schedule of Permitted Uses.

Drive-Through Retail and Service Facilities are permitted in the B-1 district provided it meets the requirements in § 194-112.3 Drive-Through Retail and Service Facilities.

ADD Drive-Through Retail and Service Facilities to § 194 Part 2 Article VIII Supplementary Bulk Regulations

§ 194-112.3 Drive-Through Retail and Service Facilities

Retail or service uses providing drive through facilities shall be designed and operated to effectively mitigate problems of traffic congestion, excessive pavement, litter, noise, and unsightliness.

- A. Drive-through aisles shall have a minimum 20 foot radius at curves and a minimum width of 12 feet.
- B. Each entrance to an aisle and the direction of traffic flow shall be clearly designated by signs and pavement markings.
- C. Each drive-through aisle shall be separated from the circulation routes necessary for ingress or egress from the property, or access to a parking space.
- D. The adequacy of vehicle queuing capacity of the drive-through facility and the design and location of the ordering and pickup facilities shall be determined by the Planning Board.
- E. Each drive-through aisle shall be appropriately screened with a combination of landscaping, low walls, and/or berms to prevent headlight glare from impacting adjacent streets and parking facilities.
- F. Additional conditions. The Planning Board may, in its discretion, establish additional conditions that it deems necessary and appropriate, based upon circumstances that exist at the time of the granting of site plan approval, including the prohibition of drive-throughs if warranted.

**BY ORDER OF THE TOWN
BOARD OF THE TOWN OF
EAST FISHKILL
CAROL A. HURRAY
TOWN CLERK**

Dated: East Fishkill, NY

June 22, 2017

Vote:	Voting
Councilman Cassidy	Aye
Councilman D’Alessandro	Aye
Councilman Franco	Aye
Councilman Marinaro	No
Supervisor Hickman	Aye

Motion to adopt the Local Law without the Caretaker/Cottage Section: Board Member Franco. Seconded: Board Member D’Alessandro. Board Member Marinaro voted nay. All others voted in favor. Motion carried.

Resolutions:

1. Authorize Police Hiring

RESOLUTION
(APPOINTING POLICE OFFICERS)

WHEREAS, the Town Police Chief has interviewed 1 candidate eligible from the Civil Service list for appointment as a Police Officer in The Town of East Fishkill; and

WHEREAS, the Chief has also interviewed 1 candidate for a transfer from another Police Agency; and

WHEREAS, The Town Board has interviewed the candidates recommended by the Town Police Chief; and

NOW, THEREFORE, BE IT RESOLVED, that David Chiapperino hired at an annual salary of \$\$44,233.00 and Sean Phillips to be hired at an annual salary of \$63,843.00, be and are hereby appointed to the position of Police Officer for the Town of East Fishkill; and

BE IT FURTHER RESOLVED, that the said Officers are authorized to attend the Police Officer Training Program sponsored by the Bureau of Municipal Police or such other program at the direction of the Police Chief.

Motion to authorize the Police Hiring: Board Member Marinaro. Seconded: Board Member D'Alessandro. All voted in favor. Motion carried.

2. Authorize work to Field #5 not to exceed \$7800

RESOLUTION
(AUTHORIZE WORK TO BASEBALL FIELD #5)

WHEREAS, the Recreation Advisory Board has submitted a request to the Town Board for improvements to Baseball Field #5; and

WHEREAS, the Advisory Board has received proposals and the total amount will not exceed \$7,800.00; and

NOW, THEREFORE, BE IT RESOLVED, the Town Board has reviewed the said proposal and hereby authorizes the improvements to the Baseball Field #5.

Motion to authorize work on Field #5 not to exceed \$7800: Board Member Franco. Seconded: Board Member D'Alessandro. All voted in favor. Motion carried.

3. Authorize Sidewalk Snow Removal Bid

RESOLUTION
(AUTHORIZE THE BID FOR PLOWING, SANDING AND SALTING OF SIDEWALKS)

WHEREAS, the Town Supervisor has requested that the sidewalk bid go out for bid; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk be and hereby is authorized to advertise for the sidewalk bid; and

BE IT FURTHER RESOLVED, that following the advertisement receipt of bids, the summary of the bids received shall be filed with Town Board for further consideration and award.

Motion to authorize sidewalk snow removal bid: Board Member Marinaro. Seconded: Board Member Franco. All voted in favor. Motion carried.

4. Authorize Sons of Italy Car Show

RESOLUTION
(AUTHORIZING SONS OF ITALY CAR SHOW)

WHEREAS, the Sons of Italy conduct their annual car show to provide to raise funds for charitable purposes; and

WHEREAS, a written request has been received by the Town for the event to take place on July 30, 2017 from 12:00noon to 4:00pm in the parking lot behind the Community Center; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Police, Town Recreation Department and all other agencies of the Town are authorized and directed to allow the use of the McGrath Parking Lot by the Sons of Italy on July 30, 2017 from 12:00noon to 4:00pm; and

BE IT FURTHER RESOLVED, that this consent is subject to the receipt of a Certificate of Insurance from the Sons of Italy indemnifying the Town for any liability arising out of their use of the McGrath Parking Lot and/or surrounding areas.

Motion to authorize Sons of Italy Car Show: Board Member Franco. Seconded: Board Member Marinaro. All voted in favor. Motion carried.

5. Authorize Historical Society Memo of Understanding

RESOLUTION
(APPROVING HISTORICAL SOCIETY MEMORANDUM OF UNDERSTANDING)

WHEREAS, the East Fishkill Historical Society has restored and preserved the cultural heritage of the Town by maintaining historical buildings and making them available to the public such as the Schoolhouse, Blacksmith Shop, Ice House, and the Brinckerhoff-Pudney-Palen House; and

WHEREAS, the Supervisor and the Town Comptroller have developed a proposal to help the Historical Society offset certain overhead costs; and

WHEREAS, the proposal is within the budgeting amounts set forth; and

NOW, THEREFORE, BE IT RESOLVED, that the annexed Memorandum of Understanding is hereby accepted and approved; and

BE IT FURTHER RESOLVED, that the Supervisor be and hereby is authorized to execute the Memorandum of Understanding with the Historic Society.

Motion to authorize Historical Society Memo of Understanding: Board Member Franco. Seconded: Board Member D'Alessandro. All voted in favor. Motion carried.

6. Authorize appointment of Alternate Member to the Planning Board

RESOLUTION
(APPOINTING A PLANNING BOARD ALTERNATE)

WHEREAS, the Planning Board is made up of seven members and two alternates; and

WHEREAS, the Planning Board Chairperson is requesting the Town Board to fill the second vacant alternate position. It is necessary for the Town Board to appoint an alternate to the Planning Board for a period of four years in accordance with the provisions of Town law; and

NOW, THEREFORE, BE IT RESOLVED, that Edwin Miyoshi be and hereby is appointed as an alternate to the Planning Board for a period of four years.

Motion to authorize the appointment of an Alternate Member to the Planning Board: Board Member D'Alessandro. Seconded: Board Member Cassidy. Board Member Marinaro asked that the board be polled.

- Board Member Cassidy – aye
- Board Member D'Alessandro – aye
- Board Member Franco – aye
- Board Member Marinaro – nay
- Supervisor Hickman – aye

Motion carried. Supervisor Hickman stated that Board Member Marinaro had a project before the Planning Board. Board Member Marinaro stated he believed this comment was made with prejudice and wanted that on the record.

7. Authorize the subsurface investigation for the Cannon Well connection to the Hamlet Water Facility

RESOLUTION
(AWARD BID FOR BORING AND TESTING FOR THE CANNON WELL CONNECTION)

WHEREAS, it is the desire of the Town to connect the Cannon Wells to the public water supply system of the Hopewell Hamlet Water District; and

WHEREAS, the Town Engineer requested bids for boring and testing for the Cannon well connection; and

WHEREAS, the Town Engineer received proposals; and

WHEREAS, it was determined that Aquifer Drilling and Testing, Inc. was the lowest responsible bidder with an original bid sum of \$34,916.00; and

NOW, THEREFORE, BE IT RESOLVED, that the bid be and hereby is awarded to Aquifer Drilling and Testing, Inc. for \$34,916.00; and

BE IT FURTHER RESOLVED, that the Supervisor be and hereby is authorized to execute a contract in regard hereto.

Motion to authorize the subsurface investigation for the Cannon Well connection to the Hamlet Water Facility in the amount of \$34,916 and award the RFP to ADT: Board Member Franco. Seconded: Board Member D'Alessandro. All voted in favor. Motion carried

8. Acknowledge Seasonal Worker

RESOLUTION **(AWARD BID FOR BORING AND TESTING FOR THE CANNON WELL CONNECTION)**

WHEREAS, it is the desire of the Town to connect the Cannon Wells to the public water supply system of the Hopewell Hamlet Water District; and

WHEREAS, the Town Engineer requested bids for boring and testing for the Cannon well connection; and

WHEREAS, the Town Engineer received proposals; and

WHEREAS, it was determined that Aquifer Drilling and Testing, Inc. was the lowest responsible bidder with an original bid sum of \$34,916.00; and

NOW, THEREFORE, BE IT RESOLVED, that the bid be and hereby is awarded to Aquifer Drilling and Testing, Inc. for \$34,916.00; and

BE IT FURTHER RESOLVED, that the Supervisor be and hereby is authorized to execute a contract in regard hereto.

Motion to acknowledge Seasonal Worker: Board Member Marinaro. Seconded: Board Member D'Alessandro. All voted in favor. Motion carried

9. Authorize Additional Camp Counselors

RESOLUTION

(AUTHORIZING THE HIRING OF AN ADDITIONAL CAMP SUBSTITUTE COUNSELOR)

WHEREAS, the Town Board has previously authorized the hiring of Camp Counselors; and

WHEREAS, one previously approved counselor has been removed from the Camp Counselor list. The Camp Directors are requesting the Town Board approve Tom Curran as a Substitute Camp Counselor; and

NOW, THEREFORE, BE IT RESOLVED, that the Camp Directors be and hereby is authorized to hire Tom Curran as a Substitute Camp Counselor paid a rate of \$11.50/per hr.; and

BE IT FURTHER RESOLVED, that said employment shall be Seasonal employment and that upon completion of his task, he will be removed from the payroll.

Motion to authorize additional camp counselors: Board Member Marinaro.
Seconded: Board Member Cassidy. All voted in favor. Motion carried.

10. Authorize a retirement agreement with a Police Officer

RESOLUTION
(AUTHORIZE RETIREMENT AGREEMENT)

WHEREAS, Sergeant Fields of the Police Department has indicated his desire to retire, and;

WHEREAS, a Retirement Agreement attached hereto has been reached, and;

NOW THEREFORE BE IT RESOLVED, that the Supervisor be and hereby is authorized to execute the Retirement Agreement with Eric Fields; and

BE IT FURTHER RESOLVED, that the terms and conditions of said Agreement shall be as contained therein.

Motion to authorize a retirement agreement with Police Sergeant. Fields: Board Member D'Alessandro. Seconded: Board Member Marinaro. All voted in favor. Motion carried.

Budget Transfers:

Supervisor Hickman stated there are no transfers at this time.

Take Public Comments on General Town Issues:

Supervisor Hickman asked if there was anybody in the audience who would like to speak on general Town issues.

Felicia asked about Worley Homes. Supervisor Hickman stated they are in negotiations right now and it is going very positively. Attorney Woods spoke about the legalities of purchasing a water system, the option agreement, the map plan and report, the Public Hearing to develop the water district, and then the design process. The Town needs to own the system before they can do anything to it. There needs to be specific reports and then working with the community on the design. Engineer Bryant explained there are different grants and different requirements and they have to be at certain points in the process to apply. Attorney Wood stated there would be public information regarding the terms and finances at the Public Hearing.

Marty spoke on general town issues.

Resident #1 stated she lives on Monaco Drive and thanked the Police Department for their assistance during an emergency at her residence.

Claudia Heckert spoke about the minutes and inappropriate/derogatory comments. Board Member Marinaro apologized for not being politically correct. Board Member Marinaro stated for the record, that she has made some outrageous comments in public in the past.

Sean Flynn stated safety concerns regarding trucks in town. Attorney Wood stated that all of Mr. Flynn's concerns should be sent to New York State Department of Transportation. The Town cannot regulate any noise emitting from the operation of a vehicle or place any signs on that roadway. Board Member D'Alessandro asked if the conditions have improved and Mr. Flynn said yes. Board Member D'Alessandro asked if the police were to pull over a truck for various reasons, could they recommend not using the Jake brake. Chief Keefe stated they could ask that, as a courtesy, the driver refrain from using the Jake brake. There is only one officer that is certified to do inspections on trucks. Board Member Marinaro asked about the expense for the equipment for noise testing. Chief Keefe stated it is the cost of the training as well as the equipment.

Sue M. spoke on Hillside Lake and the grant issues. Attorney Wood explained the 1991's attorney's opinion regarding the conveyance of the lake from the Home Owner's Association. He stated that 1 – 1½ years ago he consulted with Bond Council and came up with an outline of the process for the dissolution of the Park District. It was shared with the Board and the members of the Park District. The petition that was filed in January was filed under a different section of the law and had a very different process. Supervisor Hickman stated he did mention at the

end of a meeting prior to the vote that there may be a problem with the grant. He received an e-mail stating he was trying to influence the vote. Attorney Wood stated the petition received by the Board in January had the 1991's attorney's opinion regarding the conveyance concerns. Board Member Marinaro read part of the grant paperwork listing some of the serious issues that would require the Supervisor advising the project coordinators of a potential issue. He and Attorney Wood have different interpretations as to what qualifies as "serious issues". Supervisor Hickman stated they had to verify that the Town had rights to the property to receive the grant and that may not be the case after the dissolution is completed. Supervisor Hickman did ask if the grant could be given a two-year extension and feels that there should not be a problem with that. Attorney Wood stated the grant is still viable through January 2018. DEC has never had an issue like this occur, so they are looking into it. Supervisor Hickman said that money was spent on the bid package and that was time consuming. The permits were done in house, so there were not funds spent on that.

Keith Dimaso spoke on Hillside Lake and the grant issues. Supervisor Hickman stated they need to guarantee future maintenance on the property per the outline of the grant. Some of the property some of the components would be on may not be owned by the Town after the dissolution. Attorney Wood stated this is a Reimbursement Grant that requires certification at certain intervals of work. Attorney Wood explained the difference in the process of between the dissolution that he outlined a year ago and the one that was submitted. Mr. Dimaso asked about the DASNY Grant. Supervisor Hickman will inquire about it.

Robert Grasso spoke about general Town issues.

Mary Ellen Smolisky spoke about the Hillside Lake Grant. Supervisor Hickman stated he did not willfully, thoughtfully, or intentionally withhold any information from anyone. He did not think there would be any effect on the grant until he got the letter from DASNY at the end of April. Board Member Marinaro asked if there could be any repercussions from the engineering company. Attorney Wood said no. Board Member D'Alessandro stated they have a two-year extension on the grant and they have 6 months to come up with the plan. They need to move forward from here instead of going back. Attorney Wood stated the project exceeds the property of the two lots that the Town paid \$44,000 for. The whole grant was based on the ownership of the property at the end of the project.

Comments from Town Board Members:

Supervisor Hickman asked if there were any comments from the Town Board.

Motion for Adjournment: Time: Motion to adjourn the regular meeting at 10:05 PM: Board Member D'Alessandro. Seconded: Board Member Cassidy. All voted in favor. Motion carried.

Town Board Regular Meeting:

July 27, 2017

Respectfully Submitted by Julie J. Beyer on behalf of Town Clerk Carol A. Hurray
–July 5, 2017