

VILLAGE OF NEW HEMPSTEAD  
108 OLD SCHOOLHOUSE RD.  
NEW CITY, N.Y. 10956

**PLANNING BOARD**

REGULAR MEETING  
WEDNESDAY, DECEMBER 21, 2016  
7:30 P.M. VILLAGE HALL

PRESENT

CHARLES FRANKEL, CHAIRMAN  
HILLEL KURZMANN  
ANGELA ESPOSITO  
MEL POLIAKOFF  
JENNIFER EISENSTEIN

ABSENT

RACHEL SCHWARTZ

ALSO PRESENT

DENNIS MICHAELS, VILLAGE ATTORNEY  
JOHN LANGE, VILLAGE PLANNER  
LORI BELLO, DEPUTY VILLAGE CLERK-TREASURER

**Recommendation to the Board of Trustees on Local Law Amending Local Law 2 of 2015.**

Attorney Michaels stated the "Place of Assembly Law" is going to supplant Local Law 1 and 2 of 2015. Attorney Michaels also stated Local Law 1 was a Gathering Place. Local Law 2 was a Local House of Worship. Local Law 2 is going to be revamped, Local Law 1 will be replaced.

Chairman Frankel stated we are getting several applicants who wish to propose or open up places of assembly and/or are existing at this time and want to "legalize" those that have fallen under the law, which the applicants have not come forward previously. Chairman Frankel stated one of his concerns is that this does not "address the health and safety of those who will be attending or living in these locations". He feels that the intent of the law is to set a base by which a building code and fire code and other things pertaining to the construction site, will be a safe and healthy environment for those who attend. He feels that the lack of the words "health and safety" in some form in the first paragraph does not address what we are trying to accomplish. If this law was challenged, we are looking at what the benefits are to those constituents in the Village, and those who may be attending as their guests. Chairman Frankel made reference to the tragedy in Oakland, California.

John Lange was asked to make comments on the proposed amendments. "Fixed seating" was discussed. He also discussed fire and building codes. Handicapped access was discussed. Calculations on square footage was also discussed. The calculations are also based on the use.

Chairman Frankel stated there are several applicants waiting for this Local Law to go through.

The Fire Code is more restrictive.

In order to qualify as a place of assembly, the minimum is 50 people.

Attorney Michaels stated it could be called a place of gathering.

Mr. Lange stated the Board of Trustees said they wanted this based on building and fire codes. They want it to be consistent.

Attorney Michaels stated we are not re-writing the State Code, we can make it more restrictive. We are creating zoning legislation; not State, Fire or Building Code legislation. His concern is we do not want to cause confusion. The place of assembly is an old phrase. We are defining it for our own zoning purpose. Whatever we call it, it has to comply with the State Code.

Fire Inspector Ziegler stated that whatever the use is, it has to adhere to that code.

The question arose that if the group meets once a month, does it require a special permit? How often do you have to meet in order to qualify for the "gathering place" or "place of assembly"?

It was suggested that more information be put together and then communicate or meet with the State Code Enforcement Officer.

Mr. Lange suggested that the prospective applicant sit down with the fire inspector and building inspector to go over the codes before we approve the application.

Chairman Frankel stated that, to date, the Board of Trustees has no input from others regarding this Local Law. The Planning Board members have training on land use and are required annually to get that training, whereas the Village Board is not required to have any land use training.

Attorney Michaels stated the Village Board is firm in their position that they do not want the Planning Board involved in this.

Chairman Frankel stated he does not see how the Village Board can look at a set of plans and ask the right questions and think of the ramifications and the precedence they are going to set.

Chairman Frankel stated a suggestion that before the Village Board grants a Special Permit that they appear at least one time for review by the CDC or tech.

Chairman Frankel pointed out the importance of Item #6 of the Proposed Amendments to the Local Law #2 of 2015 where an initial and annual inspection by the Fire Inspector shall be required. He also pointed out that in Item #7 our Code Enforcement Officer was left out and should be included as part of the renewal application.

Chairman Frankel pointed out that in Item #13, should read "the Architectural Review provisions as determined by the Tech committee."

Chairman Frankel pointed to Item #14. The Village Law has a requirement that, at minimum, there shall be one garage space. This item says waive it; no garage space at all is required.

It was suggested that as a reminder, the Village does not allow carports.

There was a unanimous vote saying, in memo, to the Board of Trustees, that the Planning Board recommended to repeal the prohibition against carports.

The next item is "ownership". (Discussion) It was decided to leave Item #7 the way it reads.

Single Family residence and/or an addition – accessory structure – detached accessory structure – This is considered a policy issue. There was a discussion as to whether a Special Permit should be granted to an accessory structure.

Chairman Frankel stated one of the applications that has come before us does not want to comply with the Town's sewer regulations. The code says one principal use on the lot.

Chairman Frankel stated the Village defers, within the Village, to the Town of Ramapo, sewer situations.

Mr. Lange stated we have no control over that and if it is a Special Permit Use, it has to be reviewed by the GML.

It was suggested that our Village get together with other villages in the area to see what could be decided regarding this issue. Chairman Frankel stated there is a Conference of Mayors for Ramapo and that is where the discussion should take place.

Chairman Frankel stated the Village Board was prepared to pass this Local Law as it is written at their last board meeting, however, Mr. Poliakoff, who attended that meeting, stated you cannot approve it without a recommendation from the Planning Board. It was put on hold. Now we are making a recommendation for a meeting that will take place on the 29<sup>th</sup>. They are prepared to vote. We need to express our opinion regarding this issue to the Board of Trustees.

Attorney Michaels suggested a memo.

Chairman Frankel asked the Planning Board members if they wanted to give an affirmative vote on this;

authorizing the preparation of the memo.

Attorney Michaels stated the number of things the Planning Board members wanted changed.

1. In the purpose paragraph you want to include a sentence addressing this is being adopted. Also to address the health, safety and welfare of the occupants.
2. In definition of place of assembly – it is going to read the use the single family residence, that is the abode of a natural person.
3. Also in that paragraph it shall read “consists of either a single-family residence and in addition to a single family residence and/or a detached structure or building that complies with the accessory buildings and structures regulations of Village of New Hempstead Zoning Law 4.4.15 except that the detached structure of the building shall not exceed 2500 sq. ft. in ground floor area nor exceed 20 feet in height.
4. In paragraph 1 it shall read “designated space” in the residence to be used for the assembly.
5. Paragraph 7 “Any change to the use, ownership, characteristics, or occupancy, as presented ... The Special Permit use shall not run with the land.
6. Paragraph 3, New York State Occupant Load Requirements should replace the current wording.
7. Paragraph 11 – Signs may be permitted as approved by as recommended by the Tech Committee.
8. Paragraph 13 - ...subject to the Village’s Architectural Review Local Law provisions.
9. Procedures. – Tech Committee should be added.

Chairman Frankel offered the following motion, which was seconded by Mr. Poliakoff:

Resolution # P.B. 2016-71

Resolved, that the Planning Board of the Village of New Hempstead hereby recommends approval of the latest draft of the proposed amendment to Local Law #2 of 2015 with all of the Village Planner, John Lange’s comments and the modifications as recited into the record this evening. Chairman Frankel called for a roll call vote and the vote was as follows: Member Kurzmann, aye, Member Esposito, aye, Member Poliakoff, aye, Chairman Frankel, aye, Member Eisenstein, aye. The vote was unanimous, 5-0.

Mr. Poliakoff offered the following motion, which was seconded by Mrs. Esposito:

Resolution # P.B. 2016-72

Resolved, that the Planning Board of the Village of New Hempstead hereby agrees to send a draft of the proposed amendment to Local Law #2 of 2015 to the State Code Bureau for approval. Chairman Frankel called for a roll call vote and the vote was as follows: Member Eisenstein, aye, Chairman Frankel, aye, Member Poliakoff, aye, Member Esposito, aye, Mr. Kurzmann, aye. The vote was unanimous, 5-0.

**Discussion on creation of floating zone permitting commercial uses.**

Chairman Frankel asked Mr. Lange for his comments on the creation of the floating zone.

Mr. Lange stated he thinks the floating zone is the appropriate one because you set a criteria that they have to match before their site plan can be considered. He spoke of a report which he has submitted.

Chairman Frankel stated the report has not yet been received.

Mr. Lange’s comments will also be going to the Village Board.

Chairman Frankel asked the Planning Board members whether they preferred the commercial use to be on a State Road or a County Road. 2 members were in favor of State road only; 3 members State or County road.

Mr. Lange brought up maximum bldg. coverage or floor area ratio – recommends going with just floor area ratio.

Other specifications were discussed. These should be covered in Mr. Lang’s report.

Mr. Poliakoff offered the following motion, which was seconded by Mrs. Esposito:

Resolution # P.B. 2016-73

Resolved, that the Planning Board of the Village of New Hempstead concurs with Mr. Lange's recommendations, in substance, regarding the creation of floating zone permitting commercial uses. Chairman Frankel called for a vote and the vote was 5-0. The vote was unanimous.

**Approval of Minutes: September 27, 2016 and October 10, 2016**

Mr. Poliakoff offered the following motion, which was seconded by Mrs. Esposito:

Resolution # P.B. 2016-74

Resolved, that the minutes of the regular meeting of the Planning Board, held on September 27, 2016 are hereby approved as submitted and that the reading of said minutes be waived. Chairman Frankel called for a vote and the vote was 4-0. Mrs. Eisenstein was not at that meeting.

Mr. Kurzmann offered the following motion, which was seconded by Chairman Frankel:

Resolution # P.B. 2016-75

Resolved, that the minutes of the regular meeting of the Planning Board, held on October 10, 2016 are hereby approved as submitted and that the reading of said minutes be waived. Chairman Frankel called for a vote and the vote was 4-0. Mrs. Eisenstein was not at that meeting.

Next meeting will be January 3<sup>rd</sup>. At this time there is nothing to consider at that meeting, it will probably be cancelled. The following meeting is February 6, 2016. Chairman Frankel will not be here. The following meeting will be March 6<sup>th</sup>.

Mr. Kurzmann offered the following motion, which was seconded by Mrs Esposito:

Resolution # P.B. 2016-76

Resolved, that the meeting of the Planning Board, held on December 21, 2016 is hereby adjourned. Chairman Frankel called for a vote and the vote was 5-0. The resolution was adopted.

Respectfully submitted,

Lee Mazza, Secretary