

**INC. VILLAGE OF MANORHAVEN
BOARD OF TRUSTEES PUBLIC HEARING
FEBRUARY 28, 2019 – 7 p.m. - MINUTES**

CALL TO ORDER: 7:25 p.m.

Pledge of Allegiance: Sharon Abramski

Attendance: *Trustee Rita Di Lucia - excused, Trustee Ken Kraft - excused, Trustee John Popeleski, Deputy Mayor Priscilla von Roeschlaub, Mayor Jim Avena, Sharon Abramski, Village Clerk-Treasurer, Jonathan Fielding, Village Attorney.*

ATTORNEYS COMMENTS REGARDING SEQRA RESOLUTION:

- Motion to designate tonight's proposed local law #3 as SEQRA Type II action and designate the Village Board of Trustees as the lead agency and to designate tonight's proposed local law #4 as an unlisted action under SEQRA by Jim Avena; seconded by John Popeleski; motion unanimously carried.

LOCAL LAW CHANGES BEFORE THE BOARD:

Local Law 3 of 2019 - Village Attorney Fielding discussed the proposed law.

A local law amending Village Code Chapter 155 (Zoning) by enacting a Moratorium temporarily prohibiting any use involving the sale of marijuana.

BE IT ENACTED, by the Board of Trustees of the Inc. Village of Manorhaven as follows:

Section 1. Purpose, intent, and findings.

The Board of Trustees of the Village of Manorhaven recognizes that the Governor of the State of New York and leaders of the Legislature of the State of New York have publicly stated that they plan on enacting legislation that will legalize the recreational use of marijuana within the State. The Board further recognizes that the current state of such proposed legislation is undecided and may include the creation of a state regulatory authority controlling businesses that will engage in the sale of recreational marijuana and further that it may include a provision under which certain counties within the State may opt in or out of such legalization. Given the high level of uncertainty surrounding such proposed legislation and the form which it may take, the Board finds that the most sensible course of action is to impose a temporary moratorium on the establishment of any use within the Village that involves the sale of marijuana or marijuana products, or the dispensing or distribution of medical marijuana. Such a moratorium will temporarily prevent the establishment of any such use until the state legislation is enacted in its final form, the County of Nassau takes whatever lawful action in response thereto it deems appropriate, and the Village has the opportunity to analyze the legal effects of such legislation and craft appropriate zoning regulations concerning such uses.

Section 2. Authority.

The Board of Trustees of the Village of Manorhaven is authorized to adopt this local law pursuant to Article IX of the New York State Constitution, the Municipal Home Rule Law, the relevant provisions of the Village Law of the State of New York, and the general police power vested with the Village of Manorhaven to promote the health, safety, and welfare of all of the residents and property owners in the Village.

Section 3. Definitions.

For the purpose of this local law, unless specified below, all terms shall be as defined in the Zoning Code of the Village of Manorhaven, New York (Chapter 155 of the Village Code). The following definitions shall be added to Section 155-6 of the Zoning Code:

MARIJUANA

Shall have the same definition ascribed to "marijuana" in §3302 of the New York Public Health Law.

MARIJUANA PRODUCT

Marijuana and/or any material, substance or other thing derived (in any manner) from marijuana or which contains marijuana as a component part in any amount or concentration.

MARIJUANA RETAIL STORE

A building, structure or premises engaged in the sale, use or distribution of marijuana and/or marijuana products for nonmedical use. A building, structure or premises shall be considered a marijuana retail store regardless of whether products in addition to marijuana products are offered for sale, use or distribution at the building, structure or premises and regardless of the amount of marijuana or marijuana products available for sale, use or distribution at the building, structure or premises in comparison to other products offered for sale, use or distribution at the building, structure or premises.

MEDICAL MARIJUANA

Shall have the same definition ascribed to medical marijuana in § 3360 of the New York Public Health Law.

MEDICAL MARIJUANA DISPENSARY

A building, structure or premises authorized by the New York State Department of Health to dispense or distribute medical marijuana in accordance with Article 33 of the Public Health Law and Part 1004 of Title 10 of the New York Codes, Rules and Regulations.

Section 4. Affected Zoning Districts.

This local law is applicable to the following zoning districts only:

C-1 Commercial Marine District

C-2 Commercial Offices and Services District
C-3 Commercial Retail and Sales Stores District

BOLD Business Overlay District
E-1 Enterprise District
MP-1 Marine Preservation District
MR Marine Recreational District

Section 5. Duration.

The provisions of this local law shall be in effect for a period of six (6) months from the effective date hereof unless earlier repealed, modified, extended, or supplemented by further local law of the Village of Manorhaven.

Section 6. Moratorium.

No board, commission, agency, department, officer, employee, consultant, or agent of the Village of Manorhaven shall accept for review, continue review, hold a hearing, or make any decision upon any application for a building permit, an application for a variance, an application for site plan approval, or an application for a special use permit, seeking to establish a use involving the sale of marijuana or marijuana products or the dispensing or distribution of medical marijuana, whether said application was submitted prior to or after the effective date of this local law. The state statutory and locally-enacted time periods for processing and making decisions on all aspects of applications for a variance(s) from any state or local land use law as indicated are suspended and stayed while this local law is in effect.

No existing approved use within the Village shall be permitted to begin the sale, dispensing, or distribution of marijuana or medical marijuana, regardless of the comparative amount of activity involving such sale, dispensing or distribution with other activities already permitted therein.

Section 7. Exceptions.

This local law shall not apply to:

1. An existing valid building permit and substantial construction having commenced in reliance thereon.
2. The issuance of a building permit required in connection with the ordinary repairs, maintenance, and/or interior renovations of a structure, and minor exterior changes such as a replacement of windows.
3. The issuance of a certificate of occupancy in connection with the completion of a project that obtained prior site plan approval or subdivision approval and for which building permits were issued and substantial construction commenced.

Section 8. Appeal Procedure.

1. The Board of Trustees shall have the authority to vary or waive the application of any provision of this local law, in its legislative discretion, upon its determination that such variance or waiver is required to alleviate an unnecessary hardship affecting a lot. To grant such a request, the Board of Trustees must find that a variance or waiver will not adversely affect the purpose of this local law, the health, safety, or welfare of the Village of Manorhaven, nor will it substantially undermine the land use planning and potential revision process under review. The Board of Trustees shall take into account the existing land use in the immediate vicinity of the property and the impact of the variance or waiver on infrastructure, neighborhood and community character, natural resources, government services, and other environmental issues. The development application must comply with all other applicable provisions of the Village's local laws and Village Code.
2. Any application for a variance or waiver shall be filed with the Village Clerk and shall include a fee of five hundred (\$500) dollars for the processing of such application. An application for a variance or waiver shall contain the complete details of the proposed improvement project. To the extent that the Board of Trustees requires a consultant to assist it in reviewing such application, it may also require the applicant to pay the reasonable costs of such consultant. Any consultant shall be selected in the sole discretion of the Board of Trustees.
3. In the sole discretion of the Board of Trustees, the Board may refer any application for a variance or waiver of this local law to any official, department, and/or land use board. The Board of Trustees shall not be bound by any recommendation of any official, department, or land use board and shall conduct a public hearing and make a final decision on the application, with or without conditions. The Board of Trustees shall render a decision on an application for a variance or waiver of this local law within sixty (60) calendar days of the Village Clerk's receipt of a complete application.
4. The Board of Trustees shall notify the applicant of the Board's decision to approve, approve with conditions, or deny an application to vary or waive the application of any provision of this local law. In the event that the Board of Trustees determines to approve such application, the applicant may seek approvals from the relevant officials and/or land use boards under the terms set forth within the Board of Trustees' decision.

Section 9. Conflicts with State Statutes and Local Laws and Authority to Supersede.

To the extent that any provisions of this local law are in conflict with or are construed as inconsistent with the provisions of the New York State Village Law or any local ordinance, law, or regulation, this local law supersedes, amends, and takes precedence over the Village Law and such local ordinances, laws or regulations, including but not limited to: the receipt, consideration of, and action on variance applications (§§ 7-712-a and 7-712-b of the Village Law, Article X of Chapter 155 of the Code of the Village of Manorhaven), site plan applications (§ 7-725-a of the Village Law, Chapter 155 of the Code of the Village of Manorhaven), special use permit applications (§ 7-725-b of the Village Law, Chapter 155 of the Code of the Village of Manorhaven), subdivision applications (§§ 7-728, 7-730, 7-732, 7-738 of the Village Law, Chapter 133 of the Code of the Village of Manorhaven), and Building Department permit applications (New York State Uniform Fire Prevention and Building Code and Chapter 38 of the Code of the Village of Manorhaven), pursuant to the Village's municipal home rule powers pursuant to Municipal Home Rule Law § 10 and § 22 to supersede any inconsistent authority. Pursuant to the same powers, and without limiting the generality of the foregoing, this local law supersedes the provisions contained in Article 8 of the Environmental Conservation Law (known as the State Environmental Quality Review Act) and the regulations thereunder to the extent that such provisions require that an agency determine the environmental significance of an application within certain specified timeframes.

Section 10. Severability.

If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section 11. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.

PUBLIC COMMENTS:

- Dorit Zeevi-Farrington asked if it was necessary for the Board to justify zoning changes or uses.
- Attorney Fielding noted that LL3 is just moratorium and the Board will address a decision once it knows the NYS decision for marijuana.

- Motion to close public comment by Jim Avena; seconded by Priscilla von Roeschlaub; motion unanimously carried.

Local Law 4 of 2019 - Village Attorney Fielding discussed the proposed law.

A local law amending Village Code Chapter 155 (Zoning) to limit the number and size of permitted curb cuts in new residential construction.

BE IT ENACTED by the Board of Trustees of the Inc. Village of Manorhaven as follows:

Chapter 155 (Zoning), Article VIII (Accessory Uses), Section 155-45 Parking and loading space subsection (K) is repealed in its entirety and replaced with the following:

Article VIII: Accessory Uses

155-45 Parking and loading space

K. Curb cuts in residential districts.

- (1) In residential districts, each parking space shall not be less than 10 feet by 20 feet. There shall be adequate ingress and egress to all parking spaces. There shall be provided an access drive not less than 10 feet in width. Curb cuts shall not be more than two and shall not exceed an aggregate amount of 16 feet in width. No single curb cut shall be less than eight feet in width.
- (2) Notwithstanding the provisions of subdivision (1) above, for any construction of a new one-family or two-family dwelling, including the conversion of an existing one-family dwelling to a two-family dwelling, only one curb cut shall be permitted. Such curb cut shall be limited to 16 feet in width. The curb cut shall be situated in such a manner as to maximize the amount of available on-street parking, taking into account all circumstances affecting on-street parking in the vicinity, including but not limited to any curb cuts on the adjoining properties, any fire hydrants on the subject property or adjoining properties, and parking regulations on the subject street. Where no on-street parking is permitted on the street frontage of the subject property, the restriction contained within subdivision (2) shall not apply.

[Amended 3-23-1988 by L.L. No. 2-1988; 4-24-1997 by L.L. No. 4-1997; 2-28-19 by L.L. No. 4-2019]

PUBLIC COMMENTS: None

- May I have a motion to close public comment by Priscilla von Roeschlaub; seconded by John Popeleski; motion unanimously carried.

ADJOURNMENT: 7:46 p.m.

Motion to close the public hearing and move into the Board of Trustees General Meeting by John Popeleski; seconded by Priscilla von Roeschlaub; motion unanimously carried.

Manorhaven, NY
Sharon Natalie Abramski, RMC, CMC
Village Clerk-Treasurer
February 28, 2019

**VILLAGE OF MANORHAVEN
BOARD OF TRUSTEES MEETING
February 28, 2019 – 7 p.m. - MINUTES**

CALL TO ORDER: 7:47 p.m.

REPORTS:

- Justice Court
- Police Department
- Building Department

Motion to accept reports by Priscilla von Roeschlaub; seconded by John Popelseki; motion unanimously carried.

MINUTES:

- Draft Minutes of the January 31, 2019 Hearing/BOT Meeting
- Draft Minutes of the February 8 Special Session
- Draft Minutes of the February 21, 2019 Work Session

Motion to accept minutes by Jim Avena; seconded by John Popeleski; motion unanimously carried.

ABSTRACT OF CLAIMS:

- Abstract of Claims dated 2/1/2019 through 2/26/2019.

Motion to accept the abstract by Jim Avena; seconded by John Popeleski; motion unanimously carried

RESOLUTIONS:

RESOLUTION # 13 - 2018 – 2019 – RESOLUTION AWARDING THE CONTRACT OF PHASE III-B OF THE HISTORIC RESTORATION OF MORGAN’S DOCK

WHEREAS, the Board of Trustees has previously authorized and directed the Village Clerk to advertise and solicit bids in connection with certain public work known as Phase III-B of the Renovation of Historic Morgan’s Dock, pursuant to section 103 of the General Municipal Law; and

WHEREAS, the final date and time for submission of bids was February 5, 2019 at 10 a.m.; and

WHEREAS, the Village received seven bids in response to said solicitation; and

WHEREAS, the Village’s associated project engineer, Cashin Associates, P.C., reviewed the bids received by the Village and has made a written recommendation to the Village as to the award of the contract for such public work;

NOW, THEREFORE, BE IT RESOLVED that after consideration by the Village Board of Trustees, and upon the recommendation of the Village Engineer, that Coastal Contracting Corp. of 152 Railroad Street, Huntington Station, NY 11746 is hereby awarded the contract for Phase III-B of the Historic Renovation of Morgan’s Dock, representing the lowest responsible bid in the amount of \$550,000; and

BE IT FURTHER RESOLVED that the provisions of this Resolution shall take effect immediately.

Motion to accept by Jim Avena; seconded by John Popeleski; motion unanimously carried.

RESOLUTION #14 – 2018-2019 - RESOLUTION AUTHORIZING AND DIRECTING THE VILLAGE CLERK TO ADVERTISE FOR COMPETITIVE BIDS FOR THE COLLECTION, REMOVAL AND DISPOSAL OF SOLID WASTES AND RECYCLABLES

WHEREAS, the Inc. Village of Manorhaven previously entered into a contract for the collection, removal and disposal of solid wastes and recyclable within the Village and this agreement expires by its terms on May 31, 2019; and

WHEREAS, it is an essential function of the Village to provide for the orderly collection, removal and disposal of solid waste within the Village;

NOW, THEREFORE, BE IT RESOLVED, that the Village Clerk be and hereby is authorized and directed to advertise and solicit competitive bids, pursuant to section 103 of the General Municipal Law, for the collection, removal and disposal of solid waste and recyclables within the Village, for the period June 1, 2019 through May 31, 2020, and for four (4) additional one (1) year periods, at the sole option and discretion of the Village; and

BE IT FURTHER RESOLVED, that the final date and time for the submission of bids will be 11:00 a.m. on Thursday, March 28, 2019; and

BE IT FURTHER RESOLVED, that the provisions of this Resolution shall take effect immediately.

Motion to accept by Priscilla Von Roeschlaub; seconded by John Popeleski; motion unanimously carried.

MOTION #11-2019:

- A motion to accept the Salerno Brokerage Corp.'s annual renewal for 2019 -2020 with a 4% increase in the amount of \$76,679.30 (was \$77,683.02)
Motion to accept by John Popeleski; seconded by Priscilla Von Roeschlaub; motion unanimously carried.

PUBLIC COMMENT:

- Gary Maynard discussed his unhappiness with the last several BZA meetings and how they were handled. He discussed his preferences for future housing in Manhasset Isle. He also complained that Executive Sessions should be listed in the legal notices so people are not waiting around for the regular portion of the meeting to begin.
- Nick Marra noted that laws do not state that BZA should only give variances based on hardship. He commented on former Deputy Mayor Steele's comments in the papers and on social media and questioned most of her comments and accusations. He feels comments have been fabricated by her and M Carline Dubois. He discussed Caroline Dubois's accusations against BZA members that were dismissed by the Ethics Board due to lack of any evidence.
- Mayor Avena concurred that the Ethics Board wrote a letter to him stating there was no basis for BZA member recusals.
- John Orr asked if hardship still is considered for BZA applicants.
- Attorney Fielding explained that different standards were used prior to 2008, and that variances are considered today. He reviewed the four types of hardships that are considered today.
- Dorit Zeevi Farrington asked the Mayor when he would hold the overcrowding discussion for a Town Hall style meeting.
- Mayor Avena assured her that he did not forget and would try to plan something soon.
- Frank Ottaviani likes the idea of the new curb cut local law. He'd like to see more "no parking to corner" signs if possible.
- Jenns Rumenapp asked what options are left for MAC regarding the approved Dejana property application. He reiterated his concerns regarding overcrowding and traffic on Manhasset Isle.
- Dorit Zeevi -Farrington asked about road repairs.

UPCOMING MEETINGS/EVENTS:

- Work Session – Budget Review - Tuesday, 3/5 at 4 p.m.

ADJOURNMENT:

Motion to adjourn tonight's meeting by Priscilla Von Roeschlaub; seconded by John Popeleski; motion unanimously carried.

Manorhaven, NY
Sharon Natalie Abramski, RMC, CMC
Village Clerk-Treasurer
February 28, 2019