

**DRAFT MINUTES – NOT TO BE USED AS AN OFFICIAL DOCUMENT**

A regular meeting of the Zoning Board of Appeals was held on June 10, 2020. Present: Chairman Peter Hofmann, Bruce Gombos, Jeremy Gutman, Jon Maass, Paul Monte and 1<sup>st</sup> Alternate Joseph Capasso, Ed Manley/Building Inspector and Dan Roemer/Assistant Building Inspector. Excused: Trustee Liaison Vincent Rossillo.

Chairman Hofmann opened the meeting.

**1. 37 Devoe Street** – Public hearing for plans to construct rear yard deck on property

Ms. Laurel Gaffney was present to represent the application.

Ms. Gaffney discussed the proposed application.

Chairman Hofmann said the deck is atop of what will become a storage area underneath. Chairman Hofmann said the house was built before the Zoning Code was in process so it was not set up with ten foot side yard setbacks. Chairman Hofmann said this deck extends the non-conformity a little bit and then is conforming, but it will be a much more pleasing architectural look to build it as proposed with the variance.

No one from the public addressed the Board.

Ms. Gaffney said noticing regarding the proposed application was sent.

Motion by Chairman Hofmann, seconded by Mr. Gombos to close the public hearing for the application of 37 Devoe Street for plans to construct a rear yard deck on property.

<b>CHAIRMAN HOFMANN</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>BRUCE GOMBOS</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>JEREMY GUTMAN</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>JON MAASS</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>PAUL MONTE</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>JOSEPH CAPASSO, 1<sup>ST</sup> ALTERNATE</b>	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>VOTE TOTALS</b>	<input type="text" value="5"/> AYE	<input type="text" value="0"/> NAY	<input type="text" value="0"/> ABSTAIN	<input type="text" value="0"/> RECUSE	<input type="text" value="0"/> ABSENT/EXCUSED
<b>RESULT:</b>	<b>MOTION: PASSES</b>				

Motion by Chairman Hofmann, seconded by Mr. Gutman to approve the application of 37 Devoe Street for plans to construct a rear yard deck on property, based on the plans submitted.

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<b>CHAIRMAN HOFMANN</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>BRUCE GOMBOS</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>JEREMY GUTMAN</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>JON MAASS</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>PAUL MONTE</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>JOSEPH CAPASSO, 1<sup>ST</sup> ALTERNATE</b>	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>VOTE TOTALS</b>	<input type="text" value="5"/> AYE	<input type="text" value="0"/> NAY	<input type="text" value="0"/> ABSTAIN	<input type="text" value="0"/> RECUSE	<input type="text" value="0"/> ABSENT/EXCUSED
<b>RESULT:</b>	<b>MOTION: PASSES</b>				

2. **27 Main Street** – Public hearing to appeal Building Inspector decision and interpretation of the Code and/or Zoning Regulations pursuant to Section 300-52.J(2)

Chairman Hofmann said this is a request for the Zoning Board of Appeals to overturn the decision made by the Building Inspector to require payment of \$10,000 as a recreation fee for the proposed residential unit that will result from the conversion of an existing commercial space to become a one bedroom apartment located in the existing building at 27 Main Street, shown on the assessment map as Sheet 3.80, Block 39, Lot 7.

Ms. Roya Miandoabi was present to represent the application.

Ms. Miandoabi discussed the proposed application. Ms. Miandoabi said the office is being redistributed. Ms. Miandoabi said one of the spaces that used to be an office is being converted to a residential unit.

A discussion was held and Ms. Miandoabi addressed questions from the Board.

Mr. Manley said he sent the Zoning Board members a copy of the resolution establishing the Recreation Fee which was adopted by the Board of Trustees several years ago. Mr. Manley said anytime you create a new dwelling unit, because of the Village's need and the extra impact on Parks and Recreation, the Village requires a \$10,000.00 Recreation Fee to go into a fund that is reserved for building parks and recreational uses, so it's for any time you add a dwelling unit.

The Board asked Mr. Manley to read the Board of Trustees resolution into the record.

Mr. Manley said the resolution says "Anytime a dwelling unit is created that requires a building permit a rec fee should be applied."

Mr. Monte asked if the resolution was made part of the law, and how does it fit into the Code.

Mr. Manley said it was a local law.

The discussion continued.

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Ms. Dorman said she has received a copy of Local Law 7-06 from the Village Clerk. Ms. Dorman displayed Local Law 7-06 as follows; and Mr. Manley read the Local Law into the record:

**NOTICE**

The Board of Trustees having given consideration to the amendment to the Dobbs Ferry Village Code by adopting Local Law 7-06 and public hearing upon said proposed amendment having been held upon due notice thereof on the 27<sup>th</sup> of June 2006. The adoption of Local Law 7-06 was regularly moved by Trustee Miller, and seconded by Deputy Mayor Farrington.

**BE IT ENACTED** that the Board of Trustees of the Village of Dobbs Ferry adopted Local Law 7-06, amending Chapter 127 “Building Construction,” Chapter 175 “Fees” and Chapter 300 “Zoning and Land Use,” to provide regulations requiring park or playground fees as part of issuing certain building permits and site plan approvals, to add a definition of “Dwelling Unit,” and to amend the fee schedule of the Code of the Village of Dobbs Ferry as follows:

**LOCAL LAW NO. 7-06**

A Local Law amending Chapter 127 “Building Construction,” Chapter 175 “Schedule of Code fees,” and Chapter 300 “Zoning and Land Use” to provide regulations requiring park or playground fees as part of issuing building permits and site plan approvals, to add a definition of “Dwelling Unit,” and to amend the fee schedule.

Be it enacted by the Board of Trustees of the Village of Dobbs Ferry as follows:

**Section 1.** Amendment of Building Construction

To add regulations requiring park or playground fees for any new residential development for which a building permit is required, Chapter 127 “Building Construction” of the Dobbs Ferry Village Code is hereby amended by adding subsection (E) to Section 127-6.

Section 127-6.

E. Reservation of parkland.

(1) Findings.

- (a) The provision of adequate park and recreational facilities for both active and passive recreational pursuits by existing and future residents of the Village is necessary and appropriate to their health, safety and well-being.
- (b) New residential development will create an additional demand for both active and passive recreational facilities and areas and new facilities and areas will need to be established to meet the needs of residents occupying dwelling units that will be built after enactment hereof.

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- (c) It is fair and appropriate that the new development be borne substantially or entirely by developers of new residential properties.
- (2) Dedication and reservation of parks and open space. In order to meet the new demand on recreational facilities, land suitable for recreational and park use by the residents of the Village of Dobbs Ferry, or payment in lieu thereof if the Building Inspector finds that no suitable parkland exists on the parcel, shall be required for each new dwelling unit constructed.
- (1) (3) Any monies required by the Building Inspector in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited in a Village trust fund to be used by the Village exclusively for park, playground or other recreational purposes, including the acquisition of property. Such payment shall be a condition of any building permit approval and shall be assessed in accordance with fee schedule established under Chapter 175 “Fees” in the Village Code. No certificate of occupancy shall be granted by the Village until such payment has been received by the Village and receipt therefore provided to the Board of Trustees.
- (4) Notwithstanding the foregoing provisions, if the land included as part of new residential development requiring a building permit was previously assessed a recreation fee under a site plan or subdivision approval, the Building Inspector shall credit the applicant with any land set aside or money donated in lieu thereof under such subdivision approval. In the event of resubdivision of such plat or a major amendment to the site plan, nothing shall preclude the additional reservation of parkland or money donated in lieu thereof. Rebuilding, replacing or expanding residential development which previously existed shall be exempt from any parkland set aside or recreational fee unless the rebuilding, replacing or expansion results in an increase in number of dwelling units.

**Section 2.** Amendment of Fee Schedule

## Section 175-1.

<b><u>Code Section</u></b>	<b><u>Fee Type</u></b>	<b><u>Fee</u></b>
§ 127-6	Building Construction: Park or playground fees (new residential construction)	\$ 10,000 per dwelling unit
§ 300-72	Site Plan: Park or playground fees	\$10,000 per dwelling unit or lot

**Section 3.** Amendment of Dobbs Ferry Village Code Definitions

To add a definition of “dwelling unit” to Chapter 300 “Zoning and Land Use” to the Dobbs Ferry Village Code immediately following “Depth of Lot”:

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DWELLING UNIT- Any room or group of rooms located within a residential building and forming a single habitable unit containing living, cooking, sanitary, and sleeping facilities. Each room in a Rooming House or a Group Home providing sleeping accommodations shall be defined as a dwelling unit. Excepted from this definition are accommodations in hotels or motels.

Section 204-9 of the Dobbs Ferry Village Code is hereby amended by deleting the definition of “DWELLING UNIT.”

Section 4. Amendment of Zoning Code – Site Plan

To add regulations requiring park or playground fees as part of certain site plan approvals in the Village of Dobbs Ferry, Chapter 300 “Zoning and Land Use” of the Dobbs Ferry Village Code is hereby amended by adding subsection (F) to Section 300-72:

Section 300-72.

F. Reservation of parkland.

(1) Findings.

- (a) The provision of adequate park and recreational facilities for both active and passive recreational pursuits by existing and future residents of the Village is necessary and appropriate to their health, safety and well-being.
- (b) New residential development will create an additional demand for both active and passive recreational facilities and areas and new facilities and areas will need to be established to meet the needs of residents occupying dwelling units that will be built after enactment hereof.
- (c) It is fair and appropriate that the new development be borne substantially or entirely by developers of new residential properties.

(2) Dedication and reservation of parks and open space. In order to meet the new demand on recreational facilities, land suitable for recreational and park use by the residents of the Village of Dobbs Ferry, or payment in lieu thereof if the Board of Trustees finds that no suitable parkland exists as part of the site plan, shall be required for each new dwelling unit constructed.

(2) (3) Any monies required by the Board of Trustees in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited in a Village trust fund to be used by the Village exclusively for park, playground or other recreational purposes, including the acquisition of property. Such payment shall be a condition of site plan approval and shall be assessed in accordance with the site plan recreation fee schedule established under Chapter 175 “Fees” in the Village Code. No site plan shall be signed by the Village

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until such payment has been received by the Village and receipt therefore provided to the Board of Trustees.

- (3) (4) Notwithstanding the foregoing provisions, if the land included in a site plan under review is a portion of the subdivision plat which has been reviewed and approved pursuant to §§ 7-728 and 7-730 of the Village Law, the Board of Trustees shall credit the applicant with any land set aside or money donated in lieu thereof under such subdivision approval. In the event of resubdivision of such plat, nothing shall preclude the additional reservation of parkland or money donated in lieu thereof.

Section 5. Separability

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of provision or application directly involved in the controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Village of Dobbs Ferry hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 6. Effective Date

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

**BE IT FURTHER ENACTED** that this local law be entered at length in the minutes of this meeting, that it be published in the Rivertowns Enterprise and that the amendment take effect immediately.

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The discussion continued and Mr. Manley addressed questions from the Board.

Mr. Manley said he can see if he can get this on a Board of Trustees agenda as a request for hardship relief and then they will send their decision back to the Zoning Board.

Mr. Manley said the Board can make a decision tonight that they agree with his interpretation of the law but you believe that the bot would have to power to waive the requirement

Mr. Monte said he does not know if the Board of Trustees has that power and the problem is once we make a decision the applicant's time to go to court starts clicking. Mr. Monte suggested that we leave the application open for a short period of time and see what the Board of Trustees wants to do and the applicant can withdraw if the Board of Trustees agrees, because otherwise our decision will be final.

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Mr. Gutman motioned to adjourn the public hearing for the application of 27 Main Street to appeal Building Inspector decision and interpretation of the Code and/or Zoning Regulations pursuant to Section 300-52.J(2)

The motion was not seconded.

No one from the public addressed the Board.

Ms. Miandoabi asked when the Board of Trustees meets.

Mr. Manley said the Board of Trustees meets on the second and fourth Tuesday of the month, but only have one meeting a month in July and August. Mr. Manley said he will have to see when the Board of Trustees will put this on the agenda and we will notice Ms. Miandoabi.

Ms. Miandoabi thanked everyone for their time.

Motion by Chairman Hofmann, seconded by Mr. Gombos to adjourn the public hearing for the application of 27 Main Street to appeal Building Inspector decision and interpretation of the Code and/or Zoning Regulations pursuant to Section 300-52.J(2); and to adjourn the meeting.

<b>CHAIRMAN HOFMANN</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>BRUCE GOMBOS</b>	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
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<b>JOSEPH CAPASSO, 1<sup>ST</sup> ALTERNATE</b>	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> ABSTAIN	<input type="checkbox"/> RECUSE	<input type="checkbox"/> ABSENT/EXCUSED
<b>VOTE TOTALS</b>	<b>5</b> AYE	<b>0</b> NAY	<b>0</b> ABSTAIN	<b>0</b> RECUSE	<b>0</b> ABSENT/EXCUSED
<b>RESULT:</b>	<b>MOTION: PASSES</b>				

The meeting adjourned at 8:47 p.m.