

**VILLAGE OF EAST AURORA
VILLAGE BOARD MEETING
August 1, 2016 – 7 PM**

Present: Mayor Allan Kasprzak

Present Trustees: Raymond Byrnes, Deborah Carr-Hoagland, Alfred McCabe, Ernest Scheer, Patrick Shea

Absent: Trustee Peter Mercurio

Also Present:

Bryan Gazda, Village Administrator

Robert Pierce, Village Attorney

Matthew Hoeh, Department of Public Works Superintendent

William Kramer, Code Enforcement Officer

Catherine Gazda, Deputy Clerk Treasurer

11 members of the public

Mayor Kasprzak opened the meeting at 7:00 pm followed by the Pledge of Allegiance.

Motion by Trustee Byrnes to approve the minutes from July 18, 2016. Seconded by Trustee Shea and unanimously carried.

Trustee Shea moved to approve the payment of vouchers:

#54445 – 54494 in the amount of \$242,226.03

Seconded by Trustee Byrnes and unanimously carried.

PUBLIC HEARINGS

- Motion by Trustee Shea to open a public hearing at 7:02 pm to discuss the proposed Local Law #2 of 2016 for the Village to incorporate a Cold War Veterans Exemption. Motion seconded by Trustee McCabe and unanimously carried.

Administrator Gazda noted that Town Assessor Richard Dean has already presented all of the information regarding the proposed exemption at a previous Village Board meeting. Adoption of this exemption simply brings the Village in line with what is currently being offered by both the Town and County. The Town of Aurora offers a 10% reduction and the County offers 15%. The budget impact on the Village for either amount is minimal.

Don Vidler, 115 Geneva Road, asked what years are associated with the proposed Cold War Veterans Exemption, and Administrator Gazda stated that the dates in effect are September 2, 1945 – December 26, 1991.

Motion to close the public hearing at 7:05 pm by Trustee Byrnes. Motion seconded by Trustee Carr-Hoagland and unanimously carried.

- Motion by Trustee Carr-Hoagland to open a public hearing at 7:05 pm to discuss a Special Use Permit application from Samuel Marabella to do business as Yoshi Sushi Bar and Eatery at 33 Elm Street. Motion seconded by Trustee Shea and unanimously carried.

Don Vidler, 115 Geneva Road, asked if there would be any outdoor seating. Mr. Marabella explained that the entrance is located on the side of the building and that yes, outdoor seating is being requested on the application for the side location.

Nancy Hall, 688 Persons Street, asked if the restaurant and patio will be wheelchair accessible, and Mr. Marabella confirmed that the Eatery will be wheelchair accessible.

Motion to close the public hearing at 7:07 pm by Trustee Byrnes. Motion seconded by Trustee Scheer and unanimously carried.

- Motion by Trustee Shea to open a public hearing at 7:07 pm to discuss an application for permit to keep six chickens at 44 Elmwood Avenue received from Akash and Sarah Desai. Motion seconded by Trustee Byrnes and unanimously carried.

Trustee Carr-Hoagland inquired about the size of the lot at 44 Elmwood Avenue. Ms. Desai noted that the lot size is 241' x 60'. She also confirmed that there are no roosters.

Motion to close the public hearing at 7:08 pm by Trustee Shea. Motion seconded by Trustee Carr-Hoagland and unanimously carried.

- Motion by Trustee Shea to open a public hearing at 7:08 pm to discuss an application for permit to keep three dogs at 688 Persons Street received from Nancy Hall. Motion seconded by Trustee Byrnes and unanimously carried.

Nancy Hall, 688 Persons Street, made the following points to the Board:

- She has a two acre lot.
- Her dogs are acclimated to one acre that is surrounded by an invisible fence.
- Her dogs are very well behaved.
- She lives by a factory and does not have many neighbors.
- She has lived at 688 Persons Street for 14 years.
- Complaints from 2003 / 2004 regarding loose dogs have been since remedied with the installation of an invisible fence.
- She believes that the complaint received from 709 Oakwood is not related to barking from her dogs. She refutes the complaint that her dogs were barking at three am as her dogs are in the house by 10 pm. She also can hear other dogs barking that are not her own.
- One dog wears a bark collar, and the other dog is not a barker.

Motion to close the public hearing at 7:14 pm by Trustee Shea. Motion seconded by Trustee Byrnes and unanimously carried.

SPEAKERS & COMMUNICATIONS (I)

- Mikel Morris, 291 Girard Avenue:

Mr. Morris addressed the Board with a concern regarding 273 Girard Avenue where a fire has happened (actual date of occurrence February 1, 2015) and caused damage to the home. Mr. Morris stated that he recently was visited by Town Inspector Patrick Blizniak requesting that he remove some windsails from his backyard that he placed there to try and shield his view from the unsightly appearances of 273 and 283 Girard Avenue. Mr. Morris noted that 283 Girard also has old TV's and pits from fires that he also does not want to view from his own home. Mr. Morris noted that the inspector's comments regarding his need to remove the windsails are appropriate; however, he is unhappy about the time it is taking for any action to be done regarding the cleanup necessary at 273 Girard Avenue.

Mayor Kasprzak responded that there is nothing more frustrating for municipalities than dealing with property issues. From the standpoint of enforcement, a property owner is given the benefit of the doubt. He has received a lot of calls and complaints about this property. The mayor added that Village Attorney Robert Pierce has recently drafted a letter that will be sent next week to the property owners for them to allow the Village access into the building so that it may be inspected by an engineer for safety. If the structure is deemed as structurally unsound, the Village may be able to pursue further action. The Village DPW has already been out there to cut the grass as well.

OFFICIAL CONSIDERATIONS

- Trustee Byrnes:
 1. Stated that he and Trustee McCabe met with the Fire Department concerning a few items at the new fire hall needing attention. Some of the issues include the electrical system, shrinkage cracks in the floors, and some drainage issues from the rain gutters being too low. The general construction of the fire hall has been completed one year ago. He attained a copy of the spec book and wishes to meet with Craig Thrasher to go over some of the concerns. A final walk through is scheduled for August 12, 2016 at 2:00 pm.

Trustee McCabe stated that in his opinion there are a lot of unfinished items, such as covers not being on junction boxes. He stated that the phone line in the elevator does not even work. Administrator Gazda noted that these are not unfinished items, and that many of the listed items are also maintenance issues such as burned out light bulbs. They are meeting to discuss who is responsible for each item and to take action. The building was very thoroughly inspected at the close of the construction project by both the Architect Engineer and the Construction Manager. The phone line in the elevator works and is a dedicated phone line for the elevator; however, the line was cut by the fire department after the elevator company had already inspected and certified it because the fire department now wishes to tie the phone line into the alarm system. Administrator Gazda noted that Goodwin Electric also came in by request of the fire department after the completion date and inspections, and will be coming out prior to the final walk through on the 12th in order to resolve a few things that they have acknowledged should not have

been done. The gutter system taking on too much water is an issue that Bergmann understands and is on board with correcting. Administrator Gazda stated that the substantial completion date for the fire hall was August 14, 2015 and any items falling into the contract's one year warranty for materials and performance are being addressed accordingly. He noted that he feels the biggest issue to be resolved is the motion sensors and timers for the lighting system that were built in to ensure that the parking lot lights do not stay on all the time. This is an issue that was already turned over to the fire department for them to meet with the electrician and figure out.

2. Noted that he inspected the damage done to the DPW building from the accident with the concrete block, and was amazed at how much damage can be done to a wall from one of those blocks. This is one of the reasons he greatly dislikes concrete buildings.

- Trustee Scheer:

1. Asked if there were any updates regarding the repairs needed on the Roycroft warehouse building owned by Boice Lydell. He noted that the Village has won the court case and that Mr. Lydell has been fined \$25,000. Mr. Lydell has promised that the cement blocks are going to be taken care of this year but nothing has been done as of yet. Code Enforcement Officer William Kramer stated that he saw Mr. Lydell on Friday, July 29, 2016 and that Mr. Lydell informed him he will be working on the building within the next week or two. Trustee Scheer noted that if things continue with nothing being done, he is willing to go back to Court again with a new judge to pursue further action. He commented that this eyesore has been going on for eleven years on a landmark campus that has had millions of dollars invested into it and that the situation is awful and embarrassing.

Trustee Byrnes noted that the Roycroft had some test bores done by SJB, and it looks as though the corner of the building owned by Mr. Lydell, along with one end of the copper shop and a small part of the print shop, is possibly built over a creek bed and with no footers. This may mean that the walls are into some glacial till once they go down a couple of feet. A floor inside of the copper shop is being replaced because it sank four inches. When the Roycroft performed some test bores from inside the copper shop building to try and discover what is causing the sinking, they discovered that there is a void of one inch. In addition, two other factors are contributing: (1) the draught this summer has caused the water table to drop considerably, and (2) the drainage system has been redone with a street drain in the parking lot adjacent to those buildings and the subsoil is now drying up. These factors may be contributing to glacial till drying up and causing the buildings to sink. Trustee Byrnes stated that he feels that fixing the building without fixing the foundation first may just exacerbate the problem.

Code Enforcement Officer Kramer stated that he has inspected the repaired cracks on Mr. Lydell's building, and that they are no longer open the way that they were last year. In addition, Mr. Lydell did dig down in order to install underground cables and Mr. Kramer feels that the foundation is in good shape. A few engineers that have looked at Mr. Lydell's building believe that the problem is that the soil has been built up onto the bottom courses of the block and this soil has visibly deteriorated the block and caused the settling. Trustee Byrnes feels that they must dig deeper, to about 15', in order to see the issue he is referring to that may be causing some settling.

- Trustee Carr-Hoagland:
 1. Requested that the Village Board schedule a work session for 6:30 pm on Monday, August 15, 2016 in order to discuss the current law and the proposed law from 2012 regarding the cost responsibility between the Village and property owners for sidewalk installation and repairs. She commented that sidewalks are vital to any Village and placing more cost responsibility on the Village may be an equitable way to ensure that East Aurora continues to be a walkable village. Mayor Allan Kasprzak confirmed scheduling the work session for Monday, August 15, 2016 at 6:30 pm.

- Trustee McCabe:
 1. Stated he will be unavailable to attend the August 15, 2016 Village Board meeting.
 2. Requested that the meeting for 2:00 pm on August 12, 2016 for the final walk through of the fire station be later in the day due to his out-of-state flight coming in at noon that day.

- Mayor Allan Kasprzak:

Noted that he read an article in the Buffalo News about 6 weeks ago regarding the local problem with the ash borer, and how this is decimating trees throughout New York State. He learned two days ago that 90% of the ash trees at Shoshone Park in North Buffalo need to be taken down due to emerald ash borer infestation. The Mayor thanked and commended everyone involved in the decision two years ago to ensure that the roughly 100 ash trees in the Village were properly inoculated against this threat.

- Bryan Gazda, Village Administrator:

Stated to the Board that he spoke with Clerk-Treasurer Joyce Jezewski regarding the Board's request to create documentation explaining and clarifying the Special Use and Temporary Use necessary permit conditions and process. Unfortunately, Ms. Jezewski does not feel that there is a valid way for her to do so and she noted instead that applicants just need to read the law, particularly the Zoning Chapter. Administrator Gazda agreed that he would email out the current sections of the law which refer to the permit process to Trustee McCabe. Trustee Shea requested some form of a worksheet or a checklist to serve as a guide, and Administrator Gazda stated that he would speak with Clerk-Treasurer Jezewski and ask her again.

UNFINISHED BUSINESS

- Trustee Shea offered the following resolution and moved for its adoption:

LOCAL LAW NO. 1 OF 2016

A LOCAL LAW TO AMEND CHAPTER 285 OF THE CODE OF THE VILLAGE OF EAST AURORA, NEW YORK, ENTITLED "ZONING" AND TO AMEND THE ZONING MAP OF THE VILLAGE OF EAST AURORA, NEW YORK, TO CHANGE THE ZONING CLASSIFICATION OF PREMISES DESCRIBED BELOW AS 45 CHURCH STREET IN THE VILLAGE OF EAST AURORA, NEW YORK FROM THEIR PRESENT ZONING CLASSIFICATION OF COMMERCIAL "C" TO A ZONING CLASSIFICATION OF RESIDENTIAL-GROUP-NEW TOWNHOUSE "RGN", PURSUANT TO SECTION 285-69 OF THE CODE OF THE VILLAGE OF EAST AURORA, NEW YORK.

BE IT ENACTED, by the Village Board of the Village of East Aurora as follows:

1. Chapter 285 of the Code of the Village of East Aurora, New York, "Zoning" is hereby amended to change the zoning classification of the premises described and identified below on in the Village of East Aurora, New York from their present zoning classification of Commercial "C" to Residential- Group – New Townhouse "RGN":

45 Church Street
SBL # 165.17-6-3
2. The "Zoning Map" of the Village of East Aurora, which is part of Chapter 285 of the Code of the Village of East Aurora, is hereby amended to include the premises described and identified above within the district zoning classifications as Residential- Group – New Townhouse "RGN":
3. The Village Administrator is hereby authorized and directed to cause the amendment approved herein, to be incorporated into the adopted Zoning Law.
4. All Local Laws and parts of Local Law in conflict herewith shall be and the same are hereby repealed. If any part of this Local Law conflicts with any other part, it shall be severed and the remainder shall have full force and effect and be liberally construed.
5. If any section, subsection, sentence, clause, phrase or portion of this Local Law, or application hereof, is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.
6. This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Municipal Home Rule Law.

The foregoing resolution was duly seconded by Trustee Carr-Hoagland and unanimously carried.

- Trustee Byrnes offered the following resolution and moved for its adoption:

LOCAL LAW NO. 2 OF 2016

A LOCAL LAW #2 OF 2016 TO AMEND CHAPTER 235, ARTICLE III OF THE CODE OF THE VILLAGE OF EAST AURORA, NEW YORK, ENTITLED "TAXATION" OF THE CODE OF THE VILLAGE OF EAST AURORA, NY

BE IT ENACTED, by the Village Board of the Village of East Aurora as follows:

Chapter 235. TAXATION

Article IIIA. Cold War Veterans Exemption

[Adopted 08-01-2016 by L.L. No. 02-2016]

§ 235-21.1 Purpose.

The purpose of this article is to provide a veterans exemption of real property taxation allowable pursuant to § 458-b of the Real Property Tax Law of the State of New York, and this article shall be known as the "Cold War Veterans Exemption Local Law."

§ 235-21.2. Exemptions.

A.

Qualifying residential real property shall be exempt from taxation to the extent of 10% of the assessed value of such property; provided, however, that such exemption shall not exceed \$8,000 or the product of \$8,000 multiplied by the latest state equalization rate for the Town of Aurora, New York, whichever is less.

B.

In addition to the exemption provided by Subsection **A** of this section, where the Cold War veteran received a compensation rating from the United States Department of Veterans Affairs or from the United States Department of Defense because of a service-connected disability, qualifying residential property shall be exempt from taxation to the extent of the product of the assessed valuation of property, multiplied by 50% of the Cold War veteran disability rating; provided, however, that such exemption shall not exceed \$40,000 or the product of \$40,000 multiplied by the latest equalization rate for the Town of Aurora, New York, whichever is less.

C.

The exemption provided by Subsection **A** of this section shall be granted for a period of 10 years. The commencement of such ten-year period shall be governed by Real Property Tax Law § 458- b.

The foregoing resolution was duly seconded by Trustee Shea and unanimously carried.

- Motion by Trustee Carr-Hoagland to approve the Special Use Permit for Yoshi Sushi Bar and Eatery at 33 Elm Street as follows:

**VILLAGE OF EAST AURORA
SPECIAL PERMIT**

THIS PERMIT MUST BE DISPLAYED AT 33 ELM STREET

Special Permit issued pursuant to §285-51 of the Village Code of the Village of East Aurora

Issued To: Samuel L. Marabella III dba Yoshi Sushi Bar & Eatery

Valid only for days & hours of:

Indoor: Monday – Thursday 11:30 am – 3:00 pm and 4 pm – 9 pm; Friday, Saturday 11:30 am – 10 pm;
Sunday 11:30 am – 6 pm (seasonal/as needed)

Outdoor: same days and times, weather dependent

For the purpose of: Restaurant & Outdoor Dining

Indoor Seating: 40 Outdoor Seating: 8

As per Village Board Approval: August 1, 2016

Special Conditions:

Acoustic/Jazz – 1 - 3 piece, no amplification (1 day per week: Thursday or Friday or Saturday)

The maximum capacity for the indoor dining shall be in accordance with Village Code and NYS Fire Prevention Code.

The permit herein is issued to the applicant and cannot be transferred by such permittee without the written consent of the Village Board of Trustees. Exception is pursuant to §285-51 G (1).

No activities other than the activities specifically set forth in this special Permit shall be carried on. No activities shall be deemed incidental to the activities permitted by this Special Permit unless and until such activities shall be approved as incidental activities by resolution of the Village Board of Trustees.

The Village Board of Trustees hereby reserves the right to revoke approval of this Special Permit in the event the owner of the premises in which the use is permitted is found to be in violation of any of the above stated conditions.

Motion seconded by Trustee Byrnes and unanimously carried.

- Motion by Trustee Scheer to approve the permit application from Akash and Sarah Desai to keep six chickens at 44 Elmwood Avenue.

The Board noted that multiple letters of support from neighbors have been received, with one neighbor against the request.

Motion seconded by Trustee Byrnes and unanimously carried.

- Motion by Trustee Scheer to approve the permit application from Nancy Hall to keep three dogs at her home at 688 Persons Street.

Trustee Shea stated he would grant Ms. Hall the benefit of the doubt that the dog barking in the complaint received from the neighbor at 709 Oakwood Avenue is not her dog. However, he and Trustee McCabe requested from Ms. Hall that she ensure her dogs do not bark during late hours. She agreed and stated she does not want to hear dogs barking during those times either.

Motion seconded by Trustee Byrnes and unanimously carried.

- Mayor Kasprzak stated that the Village Board has received a recommendation from the Historic Preservation Commission regarding the demolition request for 155 Blake Hill Road. It was noted that while the Commission is not aware of any historic significance associated with the property, the home does contribute to the character of the neighborhood and reflect the time period in which it was built. The Commission recommends that if the Village Board approves the demolition application, then any proposed replacement be reviewed for its compatibility with the surrounding neighborhood.

Heather Nemec, 140 Jewett Holmwood Road, addressed the Village Board as the architect for 155 Blake Hill Road and made the following points regarding the tentative new construction plans:

- They plan to use hearty plank siding with some stone and a muted color palette.
- They will not need to apply for any variances.
- The swimming pool will be removed and the house will sit back about 20' further from the road.
- The size and scale of the house will be very similar, although the plans include a large three car garage, which does not seem to appear commonly in the neighborhood.
- The intention of her clients is to build a new home that is thoughtful, sensitive and appropriate to the surrounding neighborhood.
- They are using Straightline General Contracting for the construction.

Trustee Scheer commented that anything he has seen that was built by Ms. Nemec has been of a tasteful design and with respect to the neighbors. He feels this adds credibility to the new build.

Trustee Byrnes and Shea noted that the new home will likely add value to the other homes within the surrounding neighborhood.

Mayor Kasprzak requested that Ms. Nemec leave a full copy of the detailed plans with Village Hall so that the Board may review them.

Motion by Trustee Carr-Hoagland to approve the demolition request for 155 Blake Hill Road.
Motion seconded by Trustee McCabe and unanimously carried.

- Motion by Trustee Shea to approve the application from Joseph A. Albrecht, Jr. granting Historic Landmark designation at 392 Girard Avenue pursuant to §156 of the Village Code. Motion seconded by Trustee Byrnes and unanimously carried.
- With regard to the four Tier 1 Capital Project revisions as discussed in detail at the Board Meeting on July 18, 2016, Administrator Gazda recommended to the Board that they move forward at this point with approving the cost increases for two infrastructure projects: the reconstruction of West Fillmore Avenue and the replacement of the water main on Sycamore Street. The other two Capital Projects for new sidewalk constructions may have later action taken, after scheduled discussions regarding sidewalks on August 15, 2016.

Since the initial project costs have already been bonded, Administrator Gazda explained that the Village Board has two options for funding the increases: (1) bonding through the approval of an additional money bond resolution or (2) using some of the \$1,000,000 that the Board already set aside a couple of years ago into the unassigned fund balance account for situations such as these.

Administrator Gazda also noted that the Village has received a letter from Nancy Smith requesting that the Village send letters to residents whose trees will be bored under in order to ask the homeowners to please water their trees to offset the additional stress during this time of heat and drought.

Motion by Trustee Carr-Hoagland to amend the Capital Plan for the infrastructure projects for West Fillmore Avenue and Sycamore Street to be revised to an amount of up to \$1,235,600 based on the new cost estimates and for authorization to go to bid for these two projects. Motion seconded by Trustee Byrnes and unanimously carried.

NEW BUSINESS

- Motion by Trustee Shea to approve the Temporary Use Permit for the Summer Concert Series at Absolut Care as follows:

VILLAGE OF EAST AURORA TEMPORARY USE PERMIT

Pursuant to Chapter 285-52, of the Code of the Village of East Aurora.

Person in Charge: Kate Walters
Absolut Care at Aurora Park
292 Main Street
East Aurora, NY 14052

(Non-Transferable)

Valid only for days of August 3, 10, 17, 24 and 31, 2016 (Wednesday evenings)

Valid only for hours of 6:00 pm – 9:00 pm

For the purpose of Summer Concert Series

As per Village Board Approval on August 1, 2016

THIS PERMIT MUST BE DISPLAYED AT PLACE OF ACTIVITY

Special Conditions: “Applicant named herein is fully responsible for obtaining any and all licensing with regard to the presentation or playing of music, pursuant to music copyright laws”. “The Village of East Aurora assumes no liability in this regard”.

Restoration: Complete clean up and maintenance of the entire area must immediately follow each activity.

Motion seconded by Trustee Scheer and unanimously carried.

SPEAKERS & COMMUNICATIONS (II) - None

ADJOURNMENT

Motion was made by Trustee Byrnes to adjourn the meeting at 8:08 pm. Motion seconded by Trustee Shea and unanimously carried.

Respectfully submitted,

Catherine E. Gazda

Deputy Clerk-Treasurer