

**Board of Trustee Public Hearing**  
**July 13, 2010**

The Board of Trustees for the Village of Cold Spring held a public hearing on Tuesday, July 13, 2010 at 7:00 pm at Village Hall, 85 Main Street, Cold Spring, NY to consider and hear comment on a proposed local law that seeks to amend Village Code Chapter 134, Section 134-18, Supplementary Regulations Applying to All Districts, to provide for payment of a fee in lieu of off-street parking in the B-1 and B-2 zoning districts.

Attending: Mayor Seth Gallagher and Trustees Campbell, Hustis and Serradas and Falloon

Also: Stephen Gaba, Village Attorney, Michael Armstrong, Chairman of the Special Board for the Comprehensive Plan

Members of the Public

Mayor Gallagher opened the meeting followed by the Pledge of Allegiance.

He then proceeded to read the public hearing notice and the text of the proposed local law.

The meeting was then opened for public comment.

Michael Mell asked if the board had considered a fee structure or will the fee be set for each case that comes before the board.

Steve Gaba commented that the board will work with the Special Board for the Comprehensive Plan and review the parking needs of the village to determine what extent we need money to go forward with obtaining new parking, maintaining the parking we currently have and parking enforcement. Once this has been determined, then the board will come up with a single per space amount and reserve the right to change that amount. The board discussed a single per space fee that is relatively low.

Michael Armstrong, speaking as private citizen, sees this as a positive change to help business. The existing code constrains owners who want to change the use of the building. This creates a serious problem for business owners and this law will correct that problem. Currently, there are ad hoc solutions to work around the issues. Restricting this law to the B-1 and B-2 districts keeps the change where the impact is significant. There are some issues outside this district that may be handled differently i.e. for accommodations. He thinks this law is appropriate as contemplated and is good for the Village of Cold Spring.

Steve Gaba offered that this is not mandatory but voluntary. If a property owner wants to pay a fee in lieu of off-street parking, they would make a request to the Planning Board for review and report. It is then submitted to the Village Board for consideration, if the property owner prefers to come up with the off-street parking or pursue other means they are free to do that but this offers an additional outlet for property owners to come up with the changes they would like to see for their property.

Peter Henderson stated that he was surprised that none of the Main Street businesses were represented as it was his understanding that this law was to benefit them. Also, none of the Main Street residents were here and they are the ones that are most likely to have any of the negative unintended consequences. But this aside, for the reasons that Mike mentioned, he sees as good for Main Street businesses and if good for business it is good

for the village in general. Less off-street parking should mean less curb cuts which lends itself to more pedestrian friendly sidewalks in the village. He sees this as positive but does question and is not convinced that a fee is necessary. It does seem rather unfair to tax those owners in historic buildings that predate the automobile era and for no reason, based on nothing they have been responsible for, some will have to pay a fee and others will be lucky enough to get off with out paying. That is his concern for the B-1 district.

However, for the B-2 district the shopping plaza which is Foodtown, Drugworld, and a spot on Marion Avenue, and the gas station. The only commercial law in that B-2 zone that is close to compliance with the B-2 lot size requirements is Foodtown itself. As is 40,000 sq. ft. lot size and no one else comes anywhere near close. He does think that a supermarket is a different beast than the kind of businesses we have on Main Street where people walk and go to antique shops and restaurants and this is what we want to foster, a walkable Main Street area. However, when you go to Foodtown you want to park your car and load groceries and he thinks it is very important that you have adequate parking at that site. Therefore, anything that gives property owners the ability to eliminate parking spaces is a bad thing. He listened to the conversations between Attorney Gaba and Chairman MacDonald and there was talk about it being hard to anticipate the unintended consequences. If you change the off-street parking requirements in the B-2 district there could be some significant unintended consequences, specifically about the proposal to expand the Post Office. He could see it going both ways. Mr. Serroukas, the owner of the plaza, could say I don't need to provide as many spaces anymore, so why should I bother to turn that corner lot on Benedict into a parking lot. Also, he could say that this really opens up my options about where I might put a new Post Office on that lot and conceivably put it somewhere further forward on the lot and that may help him in terms of seeking variances for the side and rear yard lots that he is required to provide. On the one hand, that opens up some possibilities but on the other hand, he thinks that if we eliminate any parking spaces we could make a chaotic situation very much worse. There could be people strewn all over the place and could be pandemonium. That would be the unintended consequences and he doesn't think this is appropriate for the B-2.

S. Gaba stated that the law could be changed to B-1. If you look at 7(a) in the Local Law, it states that the village board ultimately makes the decision on whether or not to make the waivers, it is not automatic. The property owner does not have that power in his hand and there isn't a standard prescribed for the Planning Board for their review and report, nor is there a standard prescribed for the Village Board in deciding on whether to grant the waiver. There is a reason for that and the reason is you want unfettered discretion to be left in the hands of the Village Board in making the ultimate decision nor do you want to tie the hands of the Planning Board in making their recommendation. When it comes to the Village Board, they will look at what the Planning Board has to say but it will be completely up to the Village Board as to whether to allow this. So if they feel it will be inappropriate to grant the waiver, they just say no and there's an end to it.

Mr. Henderson acknowledged that would certainly address some of the concerns that he has except that when Chairman MacDonald was looking specifically for what the conditions would be to guide the boards as to whether to grant the waiver or not you said

that you anticipated that not too many would be denied, and they were essentially there for the asking and that put up a red flag for me.

Mayor Gallagher stated you may be thinking about in the B-1 district. One thing we don't want to do is to get rid of parking that exists. So in both cases, the applicant will need to go to the Planning Board. So if you already have parking in the B-1 district, this is not intended to get rid of that so that you can use the space for something else. This is intended to replace the policy of looking for other parking lots to rent spaces from, to satisfy the conditions that way.

Mr. Henderson responded that it was nice to know that is the intent of the law but five years down the road when there is a different set of people in the room and all they have to go on is the language in the Village Code then I would think you would want to make sure that it's clear.

Michael Armstrong stated that there was usefulness to allow adaptive use of the B-2 district as well as the B-1 district. We don't normally think there would be a need for adaptive uses of the newer buildings but over time buildings age, burn down and there is a potential need to change uses. There is a lot of things that could change how one would want to use those building and to have some facility for adaptive use could be potentially as valuable in the foreseeable future as it is the B-1 district with historic buildings.

Peter Henderson argued that within B-1 you are responding to a real condition, a problem that exists, a situation you would like to improve. I don't see that in the B-2. What Michael Armstrong is talking about five or ten, twenty years down the road is the job of the Comprehensive Plan and I think that when the Comprehensive Plan is submitted and approved that will be the basis for zoning amendments.

Mike Armstrong stated that the other usefulness of this change is that you are converting a change of money between businesses, to comply with the law, and turning it into a revenue source for the village. It is a modest revenue source but is something and in these days something is worth considering. In response to Peter's concern that this is long-term for the B-2 district, it depends upon how well we know the future. It could be a year or six months from now where the need arose because of the closing of a business to put in a restaurant. None of us can predict when that need will come up. Although the Comprehensive Plan will address long- term issues, I think there are immediate issues that apply to both of these districts. Changes that will be of value to the business owners and to the village to give business owners some flexibility in how they define their businesses and what businesses they put in that space.

Trustee Serradas asked if anyone has thought about what potential fees would be levied. Mayor Gallagher stated that we have and have mentioned some numbers. We know that right now for someone to purchase a space is anywhere starting from \$65 per month and I think that adds up to \$800 a year. We were talking about less than that. Personally \$250 to \$500.

Stephen Gaba anticipates handling it the same way we handle recreation fees. You have a study to determine what your off-street parking needs are for the village and then based on that you can come up with a number which is fair between what the property owner is going to pay and the additional burden that is placed on you. I have to believe that you are within the ballpark.

Mayor Gallagher stated that the idea is not to make it hard for someone to do it and it could be a huge savings for someone to do it. Because right now the Planning Board

would require a five-year lease and then the applicant is required to renew that indefinitely.

Trustee Serradas asked how this would be broken down. You have restaurants with ten, twenty, thirty seats and if someone opens up a coffee shop/ ice cream stand are they all going to be levied the same fee, just to make it equitable. Has this been discussed or considered?

Mayor Gallagher stated that everyone pays the same fee, it is per space. Each space costs a certain amount. If want one space; you pay that amount times one. If you want two, you pay that amount times two.

Trustee Serradas asked where is the enforcement? If I have a restaurant with thirty tables and someone has a restaurant with one, theoretically all I need is to ask for is one parking spot. There is nothing that forces me to comply with the rest of the law. Is that correct?

Mayor Gallagher stated no. You would need to go to the Planning Board and they would require you to have X number of spaces. The Planning Board may say because you are not able to provide them, we would recommend to the Village Board, if you wish to apply for it, that you would be granted six spaces, six waivers.

S. Gaba explained that the code breaks down how many parking spaces you have to have by use. If you have a restaurant use it doesn't differentiate between having an ice cream shop as opposed to a full service but it goes by seating capacity as to what it is you are required for off-street parking. So you come up with your number based on what is in the code and as Seth said if you need a waiver for a couple then you ask for a waiver for a couple or can come and ask for a waiver of all of them. I don't know whether you will get it or not, but you can certainly ask.

Trustee Serradas: The part of the study that I would like to see with how many actual business parking spots are available.

Mike Armstrong offered that the Comprehensive Plan has counted all the spaces both on-street and off-street along Main. It is in the files.

Trustee Serradas: It has been reported 2,500 spaces. I personally can't see 2,500 spaces.

Michael Armstrong stated that on Main Street it is broken out by street, on-street and off-street parking for each block

Mayor Gallagher pointed out that for restaurants in village, besides Riverview and the Hudson House, I would say zero. I don't think any restaurant provides parking for their customers. A number of businesses have spaces that are being used for employees and those spaces are generally across the street. That's how many spaces are actually allocated to businesses because there's no other place for them to get them.

Trustee Serradas: How is the village going to propose to enforce that?

Mayor Gallagher: They enforce it because the people have to go to the Planning Board.

Trustee Serradas: If you go to the Planning Board and one person gets six spaces and maybe six to ten spaces but the next facility they want another five to six spaces. In theory, the Chinese Restaurant is renting probably 50-100 spaces.

Mayor Gallagher responded no. In theory, they are renting maybe ten spaces, not even.

Trustee Serradas: How are we going to ask a new business to come in and comply when you don't have the spaces available?

Mayor Gallagher explained that we are not actually giving them, we are giving them waivers for spaces. The spaces don't exist. This is a way to get around that aspect of the

code that requires spaces, especially for this area of the village that predates the automobile. So this is a way for those businesses to conform.

Trustee Serradas: Do we have a projection as to how much money should actually be brought in?

Stephen Gaba offered that we don't know what the fee is yet.

Trustee Serradas: Sees the need for a study.

Attorney Gaba agreed. The plan is that you adopt the local law. You have a study, again you get most of the information from the Comprehensive Plan/ Special Board as to parking needs which would take into consideration all the things we have been talking about and then based on that you come up with a figure as to what it is roughly per space that you want to charge. The figure may be higher than what you want to charge and you can charge less than the money that would be required to cover your anticipated future parking needs. You can charge a nominal amount. Say it is going to be \$500 per space and you think that's too much and you are going to half it. You can't charge more than your parking needs but you can certainly charge less. Again, like recreation fees you come up with a number and you will adopt a resolution down the road and may want to hold a public hearing on that. You don't have to but you may want to.

Trustee Serradas: Right now the village is not generating any revenue from this, obviously it is not our place. My thought for everyone to consider, if have not raised any money in the past then wouldn't it be beneficial to promote our businesses without giving them another tax. Let's promote them and get them into a positive mode and find other ways to levy them, more creative ways doing more with less. To levy them to me is just another tax.

Mayor Gallagher: That's something we need to discuss when we do that. But I would say that it reduces the burden on your general taxpayer here so they would pay less with their taxes and this fee would come from businesses who benefit from people being able to come in and park in the village. Be it along on Main Street and it is parking enforcement that frees up Main Street so that customers can park there. Or using municipal parking and it would be money from these fees that would go to repaving and doing maintenance on the village parking lot. Otherwise, the money for the village parking lot would come out of the taxpayer's pocket because the parking lot is not eligible for state highway funds. So that would come from the general fund, basically the resident taxpayers.

Trustee Serradas: One last question how is this going to affect the Hudson House? Their lease expires the 30<sup>th</sup> of 2012. Besides the rental they are also paying twenty-five percent of the taxes, almost \$7,000. They pay school tax, pretty much every other tax school, county and village and that comes out to roughly \$7,000 between rent and taxes. I'm just throwing it out there. How are we going to consider them in the future? Will we continue that type of a lease? Will they be willing to?

Mayor Gallagher stated that will be up to them.

Stephen Gaba pointed out this is a voluntary provision. If a property owner wants to come ask for payments in lieu of off-street parking, they are free to do it or pursue existing avenues whether it is to seek a variance or some other means of relief that the Planning Board has allowed, they are free to do so. No one will be in a worse position because of this local law. All it will do is to give them another alternative to satisfy the code's off-street parking requirements.

With no further comments, Trustee Serradas moved to close the public hearing on the local law to provide for payment of a fee in lieu of off-street parking. Motion seconded by Trustee Campbell.

On roll call vote:

Trustee Hustis voted yes

Trustee Campbell voted yes

Trustee Serradas voted yes

Trustee Falloon voted yes

Mayor Gallagher voted yes.

Respectfully submitted,

Mary Saari, Village Clerk