

A Regular Meeting of the Board of Trustees of the Village of Port Washington North was held on Wednesday, **February 8, 2022** at 7:30 p.m. at the Village Hall, 3 Pleasant Avenue, New York.

Present:	Mayor	-	Robert Weitzner
	Trustees	-	Steven Cohen
		-	Matthew Kepke
		-	Michael Malatino
	Clerk	-	Palma Torrisi
	Attorney	-	Stuart Besen
	Court Reporter	-	Wendy Silas

Excused: Trustee Scheff

1. Public Hearing – Bill 1 of 2022 Amending Zoning Code Definitions & Business District

On motion of Trustee Malatino, seconded by Trustee Cohen, it was unanimously RESOLVED that the public hearing regarding Bill 1 of 2022 be opened.

Whereupon, Mayor Weitzner opened the Public Hearing, duly advertised in the January 28, 2022 *Port Washington Times*, to consider the adoption of Bill 1 of 2022, a proposed local law Amending Zoning Code Definitions and Business District. A stenographic transcript of the hearing was made and is on file with the Village Clerk. All those present wishing to speak having been heard, the Mayor closed the public hearing. On motion of Trustee Kepke, seconded by Trustee Malatino, the following resolution was adopted:

WHEREAS, a public hearing was conducted February 8, 2022 and the public had an opportunity to be heard

WHEREAS, a referral to the Nassau County Planning Commission was made by the Village of Port Washington North pursuant to 239-m of the General Municipal Law and on February 3, 2022 issued a resolution determining that the proposed local laws pertaining to drive through facilities and beverage service establishments were a matter of local determination;

WHEREAS, That the Port Washington North Village Board hereby declares itself lead agency under SEQRA and finds that pursuant to 617.5©(26) and (33) of SEQRA, adoption of regulations, policies, procedures and local legislation is a type II action and therefore requires no further action pursuant to SEQRA.

Now, therefore, be it RESOLVED that Bill 1 of 2022 be and hereby is adopted as Local Law 2 of 2022 to read as follows:

LOCAL LAW 2 of 2022
To amend Chapter 176, Zoning of the Village of Port Washington North Village

ARTICLE I
Definitions and Word Usage

§ 176-1. Definitions and word usage

A. Word usage. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word “lot” includes the word “plot”; and the word “building” includes the word “structure.”

B. Definitions. Certain words in this chapter are defined for the purposes thereof as follows:

ALTERATION-As applied to a building or structure, any change or rearrangement of the structural parts, or any enlargement, whether by extending on any side or by increasing in height, or the moving from one location to another. It does not include ordinary repairs to buildings or structures.

APARTMENTS HOUSE-A residence building accommodating three or more families, living independently of each other, and allowed to do their own cooking on the premises.

BEVERAGE SERVICE ESTABLISHMENT-An establishment that is primarily and significantly engaged in the sale of beverages such as coffee, specialty coffees, teas, espressos, lattes, cappuccinos, juices, and blended beverages and similar like beverages, typically served in disposable cups to patrons who select their orders from posted menus offering a limited number of specialty drink items, which are prepared according to standardized procedures for consumption either on or off premises. The ancillary sale of a limited ready-to-eat food products, promotional branded merchandise, and other related products shall be permitted as a permitted accessory use. Cooking or baking of food shall be prohibited, however on-site warming and assembly of pre-cooked items, which have been prepared off-site shall be permitted. Convenience, fast food and similar type stores are strictly excluded from this definition, except for Beverage Service Establishments as defined herein.

(Everything else in this section remains the same)

ARTICLE VIII
Business District

§ 176-69. Applicability.

The provisions of this article shall apply to the Business District, as hereinafter set forth.

§ 176-70 Permitted uses.

Permitted use. A building may be erected, altered or used and a lot or premises may be used for any of the purposes set forth in this section and for no other.

A. Governmental and municipal purposes.

B. Banks and financial institutions.

C. Offices, including professional offices and professional buildings provided that no part of such office or offices shall be used for the storage, packaging, processing, or selling of products sold at wholesale.

D. Stores and shops for conducting any of the following retail and service businesses: **food establishments, beverage service establishments**, barbershop, beauty parlor, shoe repair, hardware, drug, tobacco, newspaper, and magazines, custom tailoring, dressmaking and millinery, clothing dry goods, furniture, home appliances, decorator goods, paints, stationary, book, fur, toys, florist, floor covering and rugs, health club, spa gymnasium, nail salon, hobby and crafts, sports and sporting goods and audio and video sales and rentals.

D (1) Drive-through facilities for beverage service establishments only shall be permitted in the Business District under this Article and shall conform to the following requirements.

(a) A minimum of ten (10) vehicle standing spaces shall be provided, inclusive of the vehicle being served.

(b) Each vehicle standing space shall be clearly defined on the site plan and shall be in a location that does not conflict or interfere with other traffic entering, using or leaving the site or area.

(c) Vehicles located in a vehicle standing space shall not be permitted to back out into the street or within adjacent parking areas on site.

(d) A vehicle standing space shall be not less than twenty (20) feet in length and no less than nine (9) feet wide. Standing spaces shall be measured from the front of the service position to the rear of the vehicle standing space.

(e) All traffic either entering or exiting the drive through shall be directed to the parking lot and shall not directly enter or exit to a public road.

D (2) Screening requirements for Drive-through facilities. Landscaping shall be used to screen and to minimize the visual impact of reader board signs, directional signs and/or other similar type signs utilized at the drive through facility from the public right-of-way and/or an adjacent residential use or adjacent residentially zoned property. The site plan or development plan shall indicate the type and number of trees and /or shrubs intended to be planted and the location thereof. The perimeter landscaped area shall be designed so as not to obstruct drivers' site lines from the subject property.

D (3) Lighting. A drive-through facility shall be constructed and positioned so as to ensure that the headlights of vehicles awaiting service and exiting from the facility and lighting from other sources on the site are screened from the public right ways and are not visible from any adjacent residential use or residentially zoned property.

D (4) Noise. Any noise associated with a drive through facility, including but not limited to a device used to order from, which is outside of the drive-through building or structure, shall not exceed the maximum sound levels provided for in the Village Code and shall not be audible to any residential property or from the public street or sidewalk. No audio equipment shall be located on the side of the principal structure that is adjacent to a residential or residentially zoned property.

D (5) Pedestrian conflicts. Pedestrian walkways and/or paths shall be designated so as to minimize conflicts with vehicle standing spaces, drive-through lanes, or drive-through aisles.

D (6) Signage. All menu signs, menu boards, or readerboard signs shall be designed so as not to be a nuisance or to interfere with the use of vehicles on adjacent streets or public rights-of -way. All drive-through areas or drive-through aisles shall be indicated with a drive-through entry sign.

**E. Pet store, for the sale of pet food, pet toys, pet supplies and the following enumerated pets only; puppies, kittens, tropical fish, birds, hamsters, gerbils, guinea pigs, rabbits, ferrets, newts, chameleons, turtles, hermit crabs and lizards: subject to Nassau County, New York State and federal restrictions: and pet grooming. No other pets shall be sold without express authorization of the Board of Trustees
[added 6-27-1990 by L.L. No.5-1990]**

F. Sale at retail or repair of jewelry, watches, clocks or optical goods, musical, professional, or scientific instruments, radio, television, record players and recorders. The foregoing permitted uses are intended to be limited to shops and stores for the sale at retail of consumer merchandise and service where the transaction with the consumer and the operation of the business is conducted entirely within a building. The following types of uses are thereof prohibited:

(1) Drive through establishments; **except for beverages service establishments with a floor area of no more than two thousand (2000) square feet, located in an existing multi-tenant shopping center with a minimum lot area per 10 acres. In no event shall there be more than one drive through beverage service establishment per lot, nor any drive through beverage service establishment within 2500 feet of any other drive through beverage service establishment in the Village. Shopping centers that have drive throughs shall be owned by a single owner at the effective date of this law and for purposes of this section, an owner shall include a long-term lessee.**

(The balance of the section remains the same)

§ 176-71 Conditional uses. [Amended 6-14-2004 by L.L. No. 5-2004; 9-13-2004 by L.L. No. 8-2004; 12-15-2005 by L.L. 414-2005]

In addition to the permitted uses set forth in §176-70, a building may be erected altered or used and a lot or premises may be used for any of the purposes set forth in this section, when authorized by:

A. The Board of Appeals, utilizing the general standards for consideration and determination established in Section 176-149, theater, bowling alley; church or other building for religious purposes, school, telephone exchange, funeral home; and ~~food establishments (excluding the consumption of food or beverage on the premises outside a building).~~

B. The Board of Trustees, utilizing the general standards for consideration and determination established for the Board of Appeals in §176-149; shops or stores which make available any facility for , or which permit the consumption of , food or beverage on the premises outside a building; open-front shops or stores; and the outdoor display or storage of merchandise.

§ 176-126. Projection into yards.

No building or part of a building shall be erected in or project into a required rear yard, front yard or side yard with the following exceptions:

A. Cornices, eaves, gutters or chimney's projecting not more than 18 inches.

B. One-story bay windows projecting not more than three feet into any front, side or rear yard and not to exceed six feet in length and the seat and/or sill of said window shall be the entire width of the projection and shall not be less than two feet above the floor of the room that it is attached to. No foundation wall or structure shall be erected under any part of such bay window projecting into any required side yard.

C. Steps may project into a rear or front yard not more than five feet and into a side yard not more than two feet.

D. Commercial awnings and canopies when covering an egress door projecting not more than four feet into any front, side or rear yard.

§ 176-128. Setbacks.

A. No regulation or requirement hereof shall be deemed to require the setback of any building beyond the average setback line observed by the buildings existing at the effective date

of this chapter on the same side of the street within the block, provided there be two or more buildings on such block.

B. The average setback line observed by buildings on the same side of the street within 200 feet on each side of the lot in question shall control in lieu of the average setback line within the block where the block affected has a length of more than 1000 feet between its intersecting streets.

C. No building which is used for any of the uses specified below shall be located in whole or in part within **50** feet of Shore Road and/or **30** feet of Soundview Drive:

[Added 7-12-2004 by L.L. 6-2004; amended 1-22-2007 by L.L. No. 1-2007]

- (1) Fast-food convenience store.
- (2) Fast food restaurant.
- (3) Fast-service store.
- (4) Take-out-food restaurant.
- (5) Beverage Service establishment.**

D. Limitation on delivery vehicles within **50** feet of Shore Road and/or **30** feet of Soundview Drive: [Added 1-23-2007 by L.L. No.1-2007]

- (1) Except as provided in subsection D2no business entity shall have more **than** one delivery vehicle in use at any one time.
- (2) Notwithstanding anything to the contrary in subsection D(2), a business entity may have not more than two delivery vehicles in use at any one time upon the following conditions:
 - (a) The parking lot wherein the delivery vehicles are parked shall have not less than two legal curb cuts to public roads.
 - (b) No vehicular egress shall be permitted from the parking lot to Shore Road except by a legal curb cut with a traffic light controlling egressing traffic from that curb cut.
 - (c) All curb cuts from Shore Road to the parking lot that are not controlled by a traffic light for egressing traffic from the parking lot shall be marked "entrance only" with such signs and pavement markings as are approved by the Village Building Inspector.
- (3) No delivery vehicle shall be parked, stopped, or standing, within the area, even while such vehicle is actually being loaded or unloaded with food or other goods, if such vehicle has any signs, logo, business name, telephone number, address, or other commercial information or designation, unless, at the location where it is so parked, stopped, or standing, while it is actually being loaded or unloaded, it is totally screened from all public streets by fencing or a live screen in a manner approved by the Village Building Inspector.
- (4) All delivery vehicles leaving the area shall only do so by exits controlled by a traffic control signal of not less than three phases (red, yellow, green), when such exits are provided for the particular lot from which the vehicle is exiting.

E. For purposes of this section, the subject **50** foot and **30** foot measurements shall be from the closest point ~~of the curb of the property line adjacent to~~ the subject road to the closest point of the closest exterior wall of the building ~~that provides access to the building, other than access from a door that is used only by the employees at the building and not by the general public.~~

[Added 1-22-2007 by L.L. 1-2007]

§ 176-149 Consideration of applications for conditional uses.

In consideration and determination of applications for conditional uses, the Board of Zoning and Appeals shall consider the following general standards as applied to the specific application:

Deleting Section 176-149 H(1):

~~1. No food establishment shall exceed 4,000 square feet in gross floor area. "Gross floor area" as used in this section shall include the sum of the gross horizontal areas of the several floors of the principal building and all accessory buildings, if any, measured from the exterior face of studs or masonry of outer walls or partitions or from the center line of walls separating two buildings, but not including attic space providing headroom of less than six feet or cellar space used entirely for utility installations or for storage, and the outer dimensions of all outdoor areas used for seating, drinking, or serving of food or beverages or otherwise as part of the eating establishment.~~

This local law shall take effect immediately upon filing in the offices of the Secretary of the State of New York.

Vote was recorded as follows: Trustee Cohen-aye, Trustee Kepke-aye, Trustee Malatino-aye, Mayor Weitzner-aye. Motion carried.

2. Clerk

A. Minutes

On motion of Trustee Cohen, seconded by Trustee Malatino, it was unanimously RESOLVED that the reading of the minutes of the Board of Trustees meeting of December 14, 2021 be waived and that they be and hereby are approved as prepared by Deputy Clerk Kropacek.

B. Tentative Assessment Roll

Clerk Torrissi reported that she, as the Assessor of the Village of Port Washington North, has completed the Assessment Roll of the Village of Port Washington North for the year 2022, and that a copy thereof has been filed with the Village Clerk on February 1, 2022. On motion of Trustee Malatino, seconded by Trustee Cohen, it was unanimously

RESOLVED that the Board of Trustees acting as the Board of Assessors have completed and accepted the Assessment Roll of the Village of Port Washington North for the year 2022, that a copy thereof has been filed with the Village Clerk on February 1, 2022, and that a legal notice shall be published stating that the Assessment Roll may be seen and examined by any person during business hours at the Village Hall, 3 Pleasant Avenue, Port Washington, New York 11050, until the 15th day of February 2022.

2. Treasurer

A. Abstract of Vouchers

On motion of Trustee Kepke, seconded by Trustee Cohen, it was unanimously RESOLVED that the reading of the General Fund Abstract of Vouchers #242, totalling \$68,801.88, and the Trust & Agency Abstract of Vouchers #179, totalling \$103.14, be waived and that they be and hereby are approved as prepared by Treasurer Bella.

B. Budget Report

On motion of Trustee Kepke, seconded by Trustee Malatino, it was unanimously RESOLVED that the Budget Report as of January 31, 2022, showing the General Fund Balance to be \$2,948,251.10 and the Trust & Agency Fund Balance to be \$11,854.80, be and hereby are accepted as prepared by Treasurer Bella.

C. It was reported that Trustee Scheff reviewed the bank statement reconciliations for December 2021.

D. The Board reviewed the Annual Update Document for the fiscal year commencing June 1, 2020 and ending May 31, 2021 that was filed with the New York State Comptroller's Office. On motion of Trustee Malatino, seconded by Trustee Cohen, the following resolution was adopted:

WHEREAS the Board of Trustees has been presented with the Annual Update Document for the fiscal year commencing June 1, 2020 and ending May 31, 2021; NOW, THEREFORE, BE IT RESOLVED that the Annual Update Document for the fiscal year commencing June 1, 2020 and ending May 31, 2021, be and hereby is accepted as filed with the New York State Comptroller's Office.

Vote was recorded as follows: Trustee Cohen-aye, Trustee Kepke-aye, Trustee Malatino-aye, Mayor Weitzner-aye. Motion carried.

The Board reviewed the Audited Financial Statement for the General Fund and the Audited Financial Statement and Management Letter for the Village Justice Court for the fiscal year commencing June 1, 2020 and ending on May 31, 2021, prepared by independent auditors Cullen & Danowski LLP. On motion of Trustee Kepke, seconded by Trustee Malatino, it was RESOLVED that the Audited Financial Statement for the General Fund, and the Audited Financial Statement and Management Letter for the Village Court, for the fiscal year commencing June 1, 2020 and ending on May 31, 2021, prepared by Cullen & Danowski LLP, be and hereby are accepted.

Vote was recorded as follows: Trustee Cohen-aye, Trustee Kepke-aye, Trustee Malatino-aye, Mayor Weitzner-aye. Motion carried.

3. Reports

A. Public Works

On motion of Trustee Cohen, seconded by Trustee Malatino, it was unanimously

RESOLVED that the Public Works Department report for the month of January/February 2022 be and hereby is accepted as submitted by Superintendent Novinski.

B. Building Department

On motion of Trustee Cohen, seconded by Trustee Kepke, it was unanimously RESOLVED that the Building Department report for February 2022 be and hereby is accepted as submitted by Superintendent Barbach.

C. Emergency Management & Traffic Safety

On motion of Trustee Kepke, seconded by Trustee Malatino, it was unanimously RESOLVED that the Emergency Management and Traffic Safety report for the month of February 2022 be and hereby is accepted as presented by Commissioner Kaplan.

D. Beautification

On motion of Trustee Malatino, seconded by Trustee Kepke, it was unanimously RESOLVED that the Beautification report for the month of February 2022 be and hereby is accepted.

E. Justice Court

The Board accepted the Justice Court reports for the months of October 2021, November 2021 and December 2021.

4. Business

A. Conditional Use Extension for Parking & Storage of Motor Vehicles at 101 Winners Circle

On motion of Trustee Cohen, seconded by Trustee Kepke, it was unanimously RESOLVED that the Board of Trustees hereby extends the conditional use permit of Biener Auto Group Inc., 795 Northern Boulevard, Great Neck, New York 11021, to allow the outdoor storage and parking of motor vehicles at 101 Winners Circle, Port Washington, New York 11050 (said premises are designated on the Nassau County Land & Tax Map as Section 4, Block 123, Lots 18, 20, 23, 24, 43 & 50 and are owned by Parvis Farahzad, 101 Channel Drive LLC, 750 Route 25A, East Setauket, New York 11733) for an additional period of three months to May 11, 2022, upon the same terms and conditions as the permit granted on October 12, 2021.

B. Site Plan Review Hearing – Soundview Marketplace

On motion of Trustee Cohen, seconded by Trustee Kepke, it was unanimously RESOLVED that the Board of Trustees of the Village of Port Washington North will hold a public hearing on Tuesday, March 8, 2022 at 7:30 pm at the Village Hall, 3 Pleasant Avenue, Port Washington, New York 11050, to consider the site plan review application of PEBB Soundview LLC, 7900 Glades Road, Suite 600, Boca Raton, FL 33434, and Soundview PW LLC, 100 Jericho Quadrangle, Suite 120, Jericho, NY 11753, for Soundview Marketplace, Shore Road, Port Washington, New York (premises designated on the Nassau County Land & Tax Map as Section 4, Block 129, Lots 1, 10, 12 & 14C).

C. Accessory Dwelling Units

On motion of Trustee Cohen, seconded by Trustee Kepke, it was unanimously RESOLVED that Mayor Weitzner is hereby authorized to sign letters stating the Board of Trustees' opposition to Accessory Dwelling Units to Governor Hochul, State Senator Anna Kaplan and Assemblywoman Gina Sillitti.

D. Park Maintenance Contract

Clerk Torrisi reported that the following bids were received by 12:00 noon on February 3, 2022 for the Park Maintenance 2022/23 to 2024/25 contract:

	<u>2022/23</u>	<u>2023/24</u>	<u>2024/25</u>
Bucky Demelas & Son	45,000.00	45,000.00	45,000.00
Dom's Lawnmaker	82,945.00	87,092.25	91,446.86

On motion of Trustee Cohen, seconded by Trustee Kepke, it was unanimously RESOLVED that Bucky Demelas & Son Landscape Contractors Inc. be and hereby is awarded the contract for Park Maintenance from March 1, 2022 to February 28, 2023 at a cost not to exceed \$45,000.00, in accordance with its proposal dated February 2, 2022.

E. Registrar of Vital Statistics

On motion of Trustee Malatino, seconded by Trustee Cohen, it was unanimously RESOLVED that Ragini Srivastava be appointed as Registrar of Vital Statistics and Margaret Malito as Deputy Registrar of Vital Statistics for the Village of Port Washington North for terms to commence January 1, 2022 and expire December 31, 2025.

F. Concrete Repair & Replacement Contract 2019

On motion of Trustee Kepke, seconded by Trustee Cohen, it was unanimously RESOLVED that the Village of Port Washington North hereby terminates the August 15, 2019 contract with Stasi Industries Inc., pursuant to paragraph 30(c), effective November 20, 2021, for defective workmanship and failure to do the required work.

5. Executive Session

On motion of Trustee Cohen, seconded by Trustee Kepke, it was unanimously RESOLVED that the Board enter into executive session, in contemplation of action, to discuss contract negotiations with the Village Attorney.

On motion of Trustee Malatino, seconded by Trustee Cohen, it was unanimously RESOLVED that the executive meeting be adjourned and the regular meeting reconvened.

The Mayor stated that no action was taken in executive session.

6. Business (continued)

A. New Oasis LLC Contract Amendment

On motion of Trustee Kepke, seconded by Trustee Cohen, it was unanimously RESOLVED that the Board hereby authorizes Mayor Weitzner to execute an agreement amending the contract between the Village of Port Washington North and New Oasis LLC; be it further RESOLVED that the aforementioned amendment supersedes the previous resolution of January 22, 2020, which amendment was never executed by the parties, as to terms and conditions subject to review for form and content by the Village Attorney.

B. 101 Channel Drive LLC Contract Amendment

On motion of Trustee Cohen, seconded by Trustee Kepke, it was unanimously RESOLVED that the Board hereby authorizes Mayor Weitzner to execute a second amendment and easement agreement between the Village of Port Washington North and 101 Channel Drive LLC, originally executed on or about March 18, 2018 and previously amended on or about July 29, 2020, subject to review for form and content by the Village Attorney.

On motion of Trustee Cohen, seconded by Trustee Malatino, it was unanimously RESOLVED that the meeting be and hereby is adjourned at 9:00 p.m.

Palma Torrisi, Village Clerk