

VILLAGE OF MONROE
BOARD OF TRUSTEES MEETING
TUESDAY, JUNE 6, 2023
(www.villageofmonroe.org)

PUBLIC HEARING 06.06.23 – 7:00 PM
INTRODUCTORY RESOLUTION #2 of 2023, AMENDMENTS TO THE
COMPREHENSIVE PLAN

A Public Hearing was held on Tuesday, June 6, 2023 in the boardroom of the Village Hall, 7 Stage Road, Monroe, NY at 7:00 PM to review a resolution, “Amendments to the Comprehensive Plan.” This resolution is for public review and input on the Draft Amended Comprehensive Plan.

Present: Mayor Dwyer, Trustees Behringer, Ferraro, Karl, and O’Connor
Also present: Attorney Terhune and Clerk Zahra

On a motion by Trustee Karl, seconded by Trustee Behringer, and carried, the public hearing was opened at 7:00 PM.

There were 23 people from the public present for the public hearing. Written correspondence was received. The public hearing was left open for 7 minutes. This public hearing was closed on May 2, 2023 and comments were accepted for 10 (ten) days. The public hearing has been reopened from the May 2, 2023 meeting. The Board of Trustees felt there had been enough comments to address this further.

Dan Richmond, Zarin & Steinmetz, submitted a letter with comments for the Draft Comprehensive Plan. See attached letter.

Village of Monroe Planning Board submitted comments on the Draft Comprehensive Plan Update and accompanying laws. See attached.

With no further comments or questions this public hearing has been left open until further notice.

PUBLIC HEARING 06.06.23 – 7:00 PM
INTRODUCTORY LOCAL LAW #4 OF 2023 AMENDING CHAPTER 200 (“ZONING”)
TITLED, “VILLAGE OF MONROE LANDMARKS PRESERVATION LOCAL LAW”

A Public Hearing was held on Tuesday, June 6, 2023 in the boardroom of the Village Hall, 7 Stage Road, Monroe, NY at 7:00 PM to review a proposed Local Law “Amending Chapter 200 (“Zoning”) Titled, “Village of Monroe Landmarks Preservation Local Law.” This Local Law promotes the general welfare by providing for the identification, protection, enhancement, perpetuation, and use of buildings, structures, signs, features, improvements, sites, and areas within the Village of Monroe that reflect special elements of the Monroe’s historical, architectural, cultural, economic or aesthetic heritage by creating a Historic Preservation Commission function within the Planning Board. Structures and buildings located within the Village of Monroe’s historic district, or are listed or eligible to be listed on the National and State Register of Historic Places or are designated as local historical landmarks shall require a certificate of appropriateness for alteration, restoration, reconstruction, demolition authorizing such work.

Present: Mayor Dwyer, Trustees Behringer, Ferraro, Karl, and O’Connor
Also present: Attorney Terhune and Clerk Zahra

On a motion by Trustee Behringer, seconded by Trustee Karl, and carried, the public hearing was opened at 7:07 PM.

There were 27 people from the public present for the public hearing. There was no written correspondence received. The public hearing was left open for 10 minutes. This public hearing was closed on May 2, 2023 and comments were accepted for 10 (ten) days. The

public hearing has been reopened from the May 2, 2023 meeting. The Board of Trustees felt there had been enough comments to address this further.

Tim Mitts, 236 High Street, feels the law is good overall. He also commented that he does not agree that the Planning Board should be the Historic Preservation Commission. He says that is too much power on one Board and they have enough on their plates. There are financial hardship programs to help with local historic properties. These historic properties can contact the NYS Department of Taxation & Finance Office of Real Property.

With no further comments or questions this public hearing has been left open until further notice.

**PUBLIC HEARING 06.06.23 – 7:00 PM
INTRODUCTORY LOCAL LAW #5 OF 2023 “VILLAGE OF MONROE PLACE OF
WORSHIP AND SCHOOLS” AMENDING CHAPTER 200 OF THE VILLAGE CODE,
“ZONING.”**

A Public Hearing was held on Tuesday, June 6, 2023 in the boardroom of the Village Hall, 7 Stage Road, Monroe, NY at 7:00 PM to review a proposed Local Law titled “Village of Monroe Place of Worship and Schools” Amending Chapter 200 of the Village Code, “Zoning.” This local law promotes individual constitutional rights to freedom of assembly and free exercise of religion and protects the health, safety, and general welfare of Village of Monroe residents, by amending the zoning law to allow and regulate Residential Gather Places, Neighborhood Places of Worship, Community Places of Worship, and Schools in certain zoning districts and in accordance with standards set forth herein.

Present: Mayor Dwyer, Trustees Behringer, Ferraro, Karl, and O’Connor
Also present: Attorney Terhune and Clerk Zahra

On a motion by Trustee Ferraro, seconded by Trustee Karl, and carried, the public hearing was opened at 7:17 PM.

There were 30 people from the public present for the public hearing. The public hearing was left open for 23 minutes. This public hearing was closed on May 2, 2023 and comments were accepted for 10 (ten) days. The public hearing has been reopened from the May 2, 2023 meeting. The Board of Trustees felt there had been enough comments to address this further.

Dan Richmond, Zarin & Steinmetz, submitted a letter with comments for the Introductory Local Law, “Village of Monroe Place of Worship and Schools” Amending Chapter 200 of the Village Code. See attached letter.

Mordechai Striks, Monroe property owner, spoke of antisemitism and antihasidism. You have to love the hasidum for the things they do. You need to get to know the culture to understand. He would like to host a BBQ so that the hasidum can be seen in different light. You can’t stop them from praying and there is no harm praying in homes. For the good and better of Monroe, let them pray in their homes.

Attorney Terhune noted for the record, these local laws do not prevent prayer, they are not exclusionary laws, they apply to everyone.

With no further comments or questions this public hearing has been left open until further notice.

**PUBLIC HEARING 06.06.23 – 7:00 PM
INTRODUCTORY LOCAL LAW #6 OF 2023 AMENDMENT TO THE VILLAGE OF
MONROE ARCHITECTURAL REVIEW**

A Public Hearing was held on Tuesday, June 6, 2023 in the boardroom of the Village Hall, 7 Stage Road, Monroe, NY at 7:00 PM to review a proposed Local Law titled “Amendment to the Village of Monroe Architectural Review.” This local law expands the existing

architectural review authority of the Planning Board to special permit approval and historic and buildings.

Present: Mayor Dwyer, Trustees Behringer, Ferraro, Karl, and O'Connor
Also present: Attorney Terhune and Clerk Zahra

On a motion by Trustee Behringer, seconded by Trustee Karl, and carried, the public hearing was opened at 7:40 PM.

There were 30 people from the public present for the public hearing. The public hearing was left open for 5 minutes. This public hearing was closed on May 2, 2023 and comments were accepted for 10 (ten) days. The public hearing has been reopened from the May 2, 2023 meeting. The Board of Trustees felt there had been enough comments to address this further.

Dan Richmond, Zarin & Steinmetz, submitted a letter with comments for the Introductory Local Law, Amendment to the Village of Monroe Architectural Review. See attached letter

Tim Mitts, 236 High Street, has a problem with encouraging the Planning Board to take on more responsibility. The Village needs a competent Planning Board Architect, versed in historical architectural review.

With no further comments or questions this public hearing has been left open until further notice.

PUBLIC HEARING 06.06.23 – 7:00 PM
INTRODUCTORY LOCAL LAW 8 OF 2023
AMENDING CHAPTER 43 OF THE VILLAGE CODE “VEHICLES & TRAFFIC” TO
PROVIDE CERTAIN TEMPORARY EXEMPTIONS FROM PROHIBITING PARKING
COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS

A Public Hearing was held on Tuesday, June 6, 2023 in the boardroom of the Village Hall, 7 Stage Road, Monroe, NY at 7:00 PM to review a proposed Local Law entitled, Amending Chapter 43 of the Village Code “Vehicles & Traffic” to Provide Certain Temporary Exemptions from Prohibiting Parking Commercial Vehicles in Residential Districts. The Village Board of Trustees finds and determines that temporary parking of commercial vehicles on Village streets in residential neighborhoods for the purpose of delivering goods, wares, or merchandise or rendering services to premises in the immediate vicinity thereof provides a valuable service to Village residents.

Present: Mayor Dwyer, Trustees Behringer, Ferraro, Karl, and O'Connor
Also present: Attorney Terhune and Clerk Zahra

On a motion by Trustee Karl, seconded by Trustee O'Connor, and carried, the public hearing was opened at 7:45 PM.

There were 30 people from the public present for the public hearing. There was no written correspondence received. The public hearing was left open for 15 minutes.

Aron Scwhartz, 31 Half Hollow Turn, is a school bus driver and has concerns about not being able to park on the street when he comes home to eat dinner and spend time with his family on his break. It was confirmed that he could park in his driveway on his break as long as he did not block the sidewalk.

Zvi Davidson, Windgate Woods, asks that the Village gives permission to his neighbor Mr. Schwartz to park on the street during his break.

Joel Teller, 5 Pearsall Drive, is a school bus driver and wanted to make sure he could park on his driveway to have supper and say hello to his kids. It was confirmed he could park in his driveway on his break as long as he did not block the sidewalk.

Chain Berneath, 5 Hall Court, is a bus driver. He says the police department is doing a great job. He asked if there is ever an emergency, could he have permission to park the bus in his driveway overnight.

Lorraine Loening, 6 Ironworks Road, asked if boats on a trailer are included in this local law.

Chaim Goldberger, asked about commercial vehicles parking in residential driveways.

Attorney Terhune read the Village Code 200-44, Commercial vehicles. Not more than one commercial vehicle in excess of 8,500 pounds gross vehicle weight (GVW) may be parked within a private garage or driveway in any residential district. Under no circumstances shall required or extra parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants or customers of nearby businesses or manufacturing establishments, whether for profit or not. Under no circumstances shall taxis, cars for hire, livery, limousines or the like, be parked or stored overnight at any location in any district other than at an approved taxi business pursuant to § 200-51.2.

[Amended 6-13-2017 by L.L. No. 5-2017]

Mayor Dwyer would like to have hours of operation included in this proposed local law.

With no further comments or questions this public hearing has been left open until further notice.

**VILLAGE OF MONROE
BOARD OF TRUSTEES MEETING
TUESDAY, JUNE 6, 2023
(www.villageofmonroe.org)**

The meeting of the Board of Trustees was held on Tuesday, June 6, 2023 at 7:00 PM in the Boardroom of the Village Hall, 7 Stage Road, Monroe, New York. Mayor Neil Dwyer called the meeting to order and led in the pledge to the flag. Emergency exits were announced.

Present: Mayor Dwyer, Trustees Behringer, Ferraro, Karl and O'Connor
Also present: Attorney Terhune and Clerk Zahra

Mayor Dwyer began the meeting with a moment of silence acknowledging the 79th Anniversary of D-Day in honor of those who fought for our freedoms.

MINUTE APPROVAL: MAY 16, 2023 BOARD MEETING:

On a motion by Trustee Karl, seconded by Trustee O'Connor, the Minutes of the May 16, 2023 Board Meeting were approved.

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor
Nays: None

MINUTE APPROVAL: MAY 22, 2023 SPECIAL BOARD MEETING:

On a motion by Trustee Behringer, seconded by Trustee O'Connor, the Minutes of the May 22, 2023 Special Board Meeting were approved.

Ayes: Trustees Behringer, Ferraro, and O'Connor
Nays: None
Abstain: Karl (fire call)

ADOPTION OF LOCAL LAW #4 OF 2023, RESCINDING LOCAL LAW #2 OF 2023:

For discussion – Trustee Behringer would like to see a policy created allowing for boats with stickers and permits on Lake Mombasha after reviewing the policy for Clarkstown.

Trustee O'Connor feels that the residents at Mombasha Lake are good stewards and the Village should work with them so they can get some enjoyment out of the lake while protecting the Village's drinking water supply.

Trustee Karl says there must be a designated area 1000 feet, NYSDOH regulation, from the water intakes for a boat launch.

WHEREAS, the Village Board of the Village of Monroe, New York ("Village Board") duly noticed a public hearing held on May 16, 2023; and

WHEREAS, the Village Board solicited public comment during said public hearing on May 16, 2023, closed the public hearing and accepted comments for 10 (ten) days; and

WHEREAS, the purpose of this Local Law is Rescinding Local Law 2 of 2023," which prohibited recreational use of Mombasha Lake.

NOW, THEREFORE, BE IT RESOLVED that:

1. The above "WHEREAS" paragraphs are incorporated herein by reference.
2. The Local Law Rescinding Local law #2 of 2023 as attached is adopted as Local Law #4 of 2023 of the Village of Monroe on June 6, 2023.
3. The Village Board hereby directs the Village Clerk to take all steps to process and file said Local Law.
4. This Resolution shall be effective immediately.

**VILLAGE OF MONROE
LOCAL LAW #4 of 2023
RESCINDING LOCAL LAW NO. 2 OF 2023**

BE IT ENACTED by the Village Board of Trustees of the Village of Monroe, County of Orange, State of New York, as follows:

Section 1. Legislative Findings, Purpose and intent.

The Village Board of Trustees finds and determines that until such time as the Village Board adopts regulations related to the issuance of permits for recreational use of Mombasha Lake as authorized pursuant to 10 NYCRR 133.11 or, alternatively, the regulations contained therein are modified to prohibit all use of Mombasha Lake for other than water supply purposes, said access to the lake shall be governed by permit issued by the Village of Monroe.

Section 2. Authority

This local law is enacted by the Village Board of Trustees of the Village of Monroe pursuant to its authority to adopt local laws pursuant to the New York State Constitution and Section 10 of the Municipal Home Rule Law.

Section 3. Local Law No. 2 of 2023 is hereby rescinded.

Section 4. Supersession of Inconsistent Laws, if any.

The Village Board of Trustees hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation and any provision of the state Village Law or other special law that may be declared inconsistent or in conflict with this local law. The courts are specifically requested to take notice of this legislative intent and apply such intent in the event the Village has failed to specify any provision of law that may require supersession. The Village Board

hereby declares that it would have enacted this local law and superseded such provision had it been apparent.

Section 5. Severability.

If any section, part or provision of this local law or the application thereof to any person, property or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, provision or application directly and expressly adjudged invalid and shall not affect or impair the validity of the remainder of this local law or the application thereof.

Section 6. Effective Date.

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

On a motion by Trustee Karl, seconded by Trustee Behringer

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

ADOPTION OF LOCAL LAW #5 OF 2023, AMENDING CHAPTER 43 OF THE VILLAGE CODE "VEHICLES & TRAFFIC" TO PROVIDE CERTAIN TEMPORARY EXEMPTIONS FROM PROHIBITING PARKING COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS:

This topic has been tabled for further review.

BID AWARD – FORSHEE STREET WATER MAIN REPLACEMENT PROJECT:

On Wednesday, May 24, 2023, a bid opening was held at 10am. A total of twelve (12) sets of contract documents were obtained by prospective bidders and a total of nine (9) bids were submitted for the Forshee Street Water Main Replacement project. Regal Utility Services of Hewitt, New Jersey, was the lowest bidder on the project, submitting a bid in the amount of \$369,136.20. Village Engineer, John O'Rourke, P.E. of Lanc & Tully Engineering and Surveying P.C. reviewed all bids and submitted a letter of recommendation to the Board to award the bid to Regal Utility Services, the lowest responsible bidder.

RESOLVED, the Board of Trustees accepts the engineer's recommendation and awards the bid for the Forshee Street Water Main Replacement project to Regal Utility Service, 731 Warwick Turnpike, Hewitt, NJ 07421 in the amount of \$369,136.20.

On a motion by Trustee Karl, seconded by Trustee O'Connor

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

BARTON & LOGUIDICE – STRUCTURAL ENGINEERING SERVICES PROPOSAL – 47 LAKES ROAD:

RESOLVED, the Board of Trustees authorize Mayor Dwyer to sign the proposal with Barton & Loguidice, Engineering for the purposes of a Structural Conditions Assessment for 47 Lakes Road, TM #211-1-1. These services will be allocated from budget line A.1440.450, Engineering Services.

On a motion by Trustee Behringer, seconded by Trustee Ferraro

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

APPOINTMENT – C. BREEN – SUMMER INTERN:

RESOLVED, the Board of Trustees approves the appointment of Christopher Breen, 27 Seals Drive, Monroe, NY 10950, to the position of Summer Intern. Pre-approval has been received from the Orange County Department of Civil Service. Mr. Breen will be paid at an hourly rate of \$18.00/hour, 35 hours a week.

On a motion by Trustee Behringer, seconded by Trustee Ferraro

Ayes: Trustees Behringer, Ferraro, Karl, and O'Connor

Nays: None

POLICE DEPARTMENT – INVENTORY – REQUEST TO DISPOSE:

RESOLVED, the Board of Trustees declares the following Police Department non-working equipment surplus and of no value and authorize its removal from inventory and disposal as junk:

Decatur Genesis II Select Radar, S/N G2S-22069

Decatur Rear Antenna, S/N G2SKD-8107

On a motion by Trustee Behringer, seconded by Trustee Ferraro

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

RESIGNATION – F/T POLICE OFFICER– F. ROWE:

RESOLVED, the Board of Trustees accepts the resignation of Full Time Police Officer Frederick Rowe effective June 5, 2023. The Board of Trustees wishes Fred well in his future endeavors.

On a motion by Trustee Behringer, seconded by Trustee Karl

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

EVENT APPLICATION – VILLAGE OF MONROE COMMUNITY BBQ, AUGUST 19, 2023:

RESOLVED, the Board of Trustees approves the Special Events Permit Application submitted by Mayor Dwyer to host the Village of Monroe's Community BBQ on Saturday August 19, 2023 from 4PM to 8PM in Crane Park at Lake Street and Millpond Parkway including a concert beginning at 5pm. The Building Department, DPW and Police Departments have all reviewed and approved the event application. Emergency Services and the Village's insurance carrier, Marshall & Sterling, will be copied on the approval letter.

On a motion by Trustee Behringer, seconded by Trustee Ferraro

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

EVENT APPLICATION – VILLAGE OF MONROE CHEESE FESTIVAL 2023:

RESOLVED, the Board of Trustees approves the Special Events Permit Application submitted by Mayor Dwyer to host the Village of Monroe Cheese Festival on Sunday, September 10, 2023 from 11 AM to 7 PM. The festival will consist of vendors and music. Set-up for the event will begin at 9Am. The festival will be held throughout the downtown of the Village resulting in street closures in and around Lake Street and Millpond Parkway. This event has been reviewed and approved by the Building Department, DPW, and Police Department. Marshall & Sterling Insurance, Monroe Fire District and Monroe

Volunteer Ambulance Corp will be notified.

On a motion by Trustee O'Connor, seconded by Trustee Ferraro

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

13 LAKES ROAD – TM #212-2-2 – UNSAFE STRUCTURE - PROPOSAL:

RESOLVED, the Board of Trustees accepts a proposal from 5 Star Construction Unlimited LLC. This is the only proposal received from an RFP that went out. The proposal includes the removal of the front and side porch, removal of existing deck, cleaning all debris and cart away in dumpsters, secure all openings that were caused from demo/removal of deck and porch, and close up all first-floor openings with labor and material included for the property located at 13 Lakes Road, TM #212-2-2 with a total cost of \$10,500.00 contingent upon contractor paying prevailing wage. The costs for such remedies shall be charged and assessed, along with such administrative fees applicable to said violations, and unpaid sums shall constitute a lien and charge on the real property and shall be assessed against such property and collected in the same manner as real property taxes.

On a motion by Trustee Karl, seconded by Trustee Behringer

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

INTRO TO LOCAL LAW #9 OF 2023 AND SET PUBLIC HEARING - LOCAL LAW TO EXTEND THE TEMPORARY MORATORIUM ON LAND USE DEVELOPMENT PROCESSING AND APPROVALS:

**VILLAGE OF MONROE
A LOCAL LAW TO EXTEND THE TEMPORARY MORATORIUM ON LAND USE
DEVELOPMENT PROCESSING AND APPROVALS**

BE IT RESOLVED that an introductory Local Law, titled “**LOCAL LAW TO EXTEND THE TEMPORARY MORATORIUM ON LAND USE DEVELOPMENT PROCESSING AND APPROVALS,**” is hereby introduced by Mayor Dwyer before the Board of Trustees of the Village of Monroe, County of Orange, State of New York; and

BE IT FURTHER RESOLVED that copies of the aforesaid proposed Local Law be laid upon the desk of each member of the Board of Trustees; and

BE IT FURTHER RESOLVED that the Board of Trustees shall hold a public hearing on said proposed local law at the Village Hall, 7 Stage Road, Monroe, New York at 7:00 PM on June 20, 2023; and

BE IT FURTHER RESOLVED that the Village Clerk shall publish or cause to be published a public notice in the official newspaper of the Village of Monroe no later than ten (10) days prior thereto.

On a motion by Trustee O'Connor, seconded by Trustee Behringer

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

**AGREEMENT - KIMLEY-HORN ENGINEERING & LANDSCAPE ARCHITECTURE –
ORANGE TURNPIKE AND PINE TREE ROAD / STILL ROAD AND STAGE ROAD:**

RESOLVED, the Board of Trustees authorized Mayor Dwyer to enter into an agreement with Kimley-Horn Engineering and Landscape Architecture of New York, 1 North Lexington Avenue, Suite 505 White Plains, NY 10601 for the purposes of reviewing the traffic study for Orange Turnpike and Pine Tree Road / Still Road and Stage Road. The total cost of the scope of services is to be allocated from budget line A.1440.4500, Engineering Contractual and is not to exceed an amount of \$6,540.00.

On a motion by Trustee Ferraro, seconded by Trustee Karl

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

MAYOR & TRUSTEE'S REPORT:

Mayor Dwyer answered questions raised at prior meetings concerning Mombasha Lake. To hear the entire text, please reference the meeting video on our website at www.villageofmonroe.org.

Trustee Karl reminded the public the Annual Village of Monroe Firework Display will be held on Sunday, July 2, 2023 with a rain date of Monday, July 3, 2023. The Village has gone with a new vendor that promises a bigger than ever show. The street fair vendor applications are being reviewed for the celebration.

ATTORNEY'S REPORT:

Nothing to report.

PUBLIC COMMENT: # PRESENT 14 TIME: 9:00PM

Maryann Bischoff, 60 Water Plant Road, says we have been through a lot together. Working together brings joy to her heart. Thank you to the Village Board!

Larry O'Neill, 8 Reilly Road, thanked the Board for listening to a request with the weed harvester operating hours. He also welcomed Trustee Behringer and Trustee O'Connor to come view Mombasha Lake from his deck.

Tim Mitts, 236 High Street, was interested to see what the results would be for the demolition permit for 47 Lakes Road and the findings from the assessment to be done. He also questioned why nothing has been done about 217 High Street which he feels is in worse condition than 13 Lakes Road.

Attorney Haspel confirmed the resolution for 47 Lakes Road.

Allison Priest, 24 Lakeview Drive, thanked the Board for working together.

Dawn Tauber thanked the Board for their openness and willingness to work with the residents of Mombasha Lake. The residents are a resource and an ally.

Lorraine Loening, 6 Ironworks Road, was upset with the way the Village seeded and topsoiled around her new sidewalk that she didn't ask for. She had pictures of lots of weeds. She would like the Village of Monroe to rectify the situation.

Jim Sussman thanked the Board for hearing the residents of Mombasha Lake. He would like the Village to utilize the residents at the lake.

EXECUTIVE SESSION:

On a motion by Trustee Behringer, seconded by Trustee Karl, and carried, following a 5-

minute recess, the Board convened in Executive Session at 9:10 PM for discussion of Personnel and Attorney / Client.

OPEN SESSION:

On a motion by Trustee Karl, seconded by Trustee O'Connor and carried, the Open Meeting resumed at 10:00 PM.

WATER MAIN EXTENSION – 339 STATE ROUTE 17M (TOWN OF MONROE) – TM# 25-3-8:

RESOLVED, the Board of Trustees deny the request of David Niemoetko Architects to the extension of the existing water main under Route 17M to property address 339 State Route 17M, which is located in the Town of Monroe. The Village of Monroe is near capacity and must serve its residents first.

On a motion by Trustee O'Connor, seconded by Trustee Behringer

Ayes: Trustees Behringer, Ferraro, Karl and O'Connor

Nays: None

ADJOURNMENT:

On a motion by Trustee Karl, seconded by Trustee O'Connor and carried, no further business, the meeting was adjourned at 10:02 PM.

Respectfully submitted,

Kimberly Zahra
Village Clerk

**VILLAGE OF MONROE
P L A N N I N G B O A R D**

7 Stage Road, Monroe, NY 10950

(845) 629-4162

(845) 782-8607 Fax

Jeff Boucher, Chairman
Keith Allen
Paul Hafenecker
Barbara Iannucci
Marilyn Karlich

Fred Kelly
Joe Umberto
Elizabeth Cassidy, Attorney
Rhonda Charles, Secretary

June 1, 2023

Hon. Mayor Dwyer and Village Board of Trustees
Village of Monroe
7 Stage Road
Monroe, NY 10950

Re: Planning Board Comments on the Draft Comprehensive Plan Update and accompanying local laws.

Dear Mayor Dwyer and Trustees:

Please allow this letter to serve as the Planning Board's comment on the Proposed Comprehensive Plan Update, Introductory Local Law # 4 of 2023 Landmarks Preservation Local Law, Introductory Local Law # 5 of 2023 Village of Monroe Place of Worship and Schools Local Law, and Introductory Local Law #6 of 2023 – Amendment to the Village of Monroe Architectural Review. We will address each separately.

In preparation of this letter, the Planning Board reviewed the following documents:

- Comprehensive Plan Update, Second Working Draft dated April 7, 2023
- Introductory Local Law # 4 of 2023 - Village of Monroe Landmarks Preservation, date stamped March 7, 2023
- Introductory Local Law # 5 of 2023 – Village of Monroe Place of Worship and Schools
- Introductory Local Law # 6 of 2023 – Amendment to the Village of Monroe Architectural Review.

The Planning Board met on May 16, 2023, May 23, 2023 and May 30, 2023 to discuss the various documents. The contents of this letter was approved by a vote of 5 in favor, 0 against, and 2 absent at a special meeting held on May 30, 2023.

1. Comprehensive Plan update

We recommend that the Village Board adopt a brief extension of three months of the moratorium currently in place for several reasons. First, it is our understanding that

the Comprehensive Plan and proposed local laws are likely to be revised to reflect public comment. The members of the Planning Board are of the opinion that it is better to extend the moratorium to allow adequate review of the proposed documents. Second, we are concerned that in the event the moratorium is allowed to expire, that projects contrary to the intent of the Comprehensive Plan will be permitted to proceed. One of the purposes of undertaking the Comprehensive Plan update was the large number of applications seeking to tear down historic buildings within our historic district. If these applications are permitted to proceed prior to various local laws being in effect, the Planning Board will lack the legal authority to carry out the goals of the Comprehensive Plan, specifically those goals seeking to preserve and maintain the Village's historic character.

With respect to the Comprehensive Plan update itself, we offer the following comments:

Section	Comment
Table of Contents	Table should be reviewed for consistency with capitalization.
Pg. 17, Existing Land Use and Zoning	Note the highlighted text. The word "non-authorized" in the last paragraph should be amended to "unlawful"
Pg. 21 Zoning	The discussion of the SR 10 and SR 20 zoning district should be modified to reflect that single family housing is as of right and the predominant land use within those two zoning districts. The discussion indicates that single-family homes are permitted subject to site plan review which is not accurate. See § 200-72(C).
Page 25 Overlays	There is a discussion that an environmentally sensitive overlay zone was removed as part of the 2016-2017 zoning amendments. The Planning Board recommends that a discussion be added as to whether overlays will be restored. The Planning Board recommends that environmentally sensitive lands be deducted from land area for purposes of site plan and subdivision review.
Pg 27 Ethnicity	Table 2.3 identifies "White alone", "Black alone" etc. While it appears that this designation is taken directly from the 2020 census data, the Planning Board suggests that a footnote be added explaining the term. This is the first time members of the Planning Board observed ethnicities characterized this way.
Pg. 42 Goal H1	The Planning Board generally agrees that there has been a proliferation of multifamily units and that the previous goals of achieving multifamily housing have been met. The Planning Board recommends that the Comprehensive Plan quantitatively address that multifamily housing needs have been met in light of the State's overall push to develop greater multifamily/affordable units.

	<p>The Planning Board notes the use of the phrase, “except as otherwise recommended hereafter”. The plan should make specific reference to exceptions to the recommendation.</p> <p>The Board further notes that it has observed a trend of applications which seek to demolish historic structures to be replaced by multifamily housing.</p>
Pg. 43 H.1.1.4	The recommendation calls for the consideration of a payment-in-lieu of parking. The Planning Board notes that a payment-in-lieu of parking scheme already exists in the zoning code. See § 200-35(B)(3). The existing scheme should be evaluated to see if it adequately addresses the use of on-street parking in lieu of on-site parking.
Pg. 46 H.2.2.2	This recommendation should contain a discussion as to the existing rental law, Chapter 158 of the Village of Monroe Code.
Pg. 47 H.2.4.1	The recommendation should address the utilization of cluster subdivision as authorized by Village Law § 7-738. The 2016-2017 zoning amendments eliminated the Planning Board’s authority to use cluster subdivision. The Planning Board notes that prior to the implementation of the moratorium, there were applications where the use of cluster subdivision would have resulted in a project more consistent with Village character. We urge the Village Board to address the street specifications contained in the subdivision code which cannot be waived by the Planning Board. The current street specifications result in the creation of oversized and unnecessary cul-de-sacs.
Pg. 48 H.2.4.3	“Observedin” to be corrected.
Pg. 63-64 P.2.2.1	Dark Sky Lighting requirements should account for historical character to ensure the use of lighting fixtures that is harmonious with the historic character of the Village.
Pg. 65 P.3.1.4	Members agreed with the recommendation to preserve the Monroe Country Club to the greatest extent practicable.
Pg. 77 T.1.4.2	The Planning Board recommends that political signs be limited to 30 days prior to an election to 7 days after the election.
Pg. 78 T.1.6.1	With respect to the recommendation that speed limits be reduced, our attorney notes the restrictions set forth in the Vehicle and Traffic Law.
Pg 83. E.1.1.1	<p>The Planning Board is in general agreement with the recommendation for a streamlined process for mere change of use. We encourage the Village Board to evaluate the special permit uses as these uses require a public hearing under State Law. We have had applications which involve relatively de minis changes that have required full special permit/site plan review as a result of being classified as a special permit use.</p> <p>The Planning Board further recommends that changes of use be referred to the Planning Board so that a SEQR consistency analysis can be performed.</p>
Pg 87 E.2.1.1.	The Planning Board <i>strongly disfavors</i> the recommendation to favor heavy commercial uses along NYS Route 208. Given the current traffic

	conditions, emphasis should be placed on alleviating the traffic conditions vs. favoring one specific type of development at that location over another. The Comprehensive Plan should include a recommendation that as a condition of any approval, traffic mitigation must be installed prior to the issuance of further building permits in the vicinity.
Pg. 87 E.2.2.1	The Planning Board assumes “downtown” refers to the Central Business District. The recommendation should clarify.
Pg 88 E.4.1.2.	<p>The discussion recommending the creation of a Technical Advisory Committee (TAC) needs to be more fully developed. Who serves on the TAC? Some suggested that the third paragraph should become the first.</p> <p>Members of the Planning Board also expressed concern that the creation of TAC will only increase potential costs as well as increase the amount of time before the Planning Board. The Planning Board suggests that the existing Informal Appearance be better defined to achieve the same objective. At present, an applicant may come to an informal meeting at which the consultants and planning board members can give preliminary guidance on a proposed application before investing significant resources in engineering and planning.</p>

In addition to the recommendations applicable to specific portions of the Comprehensive Plan set forth above, the Planning Board urges the Village Board to adopt design guidelines so that the Planning Board has clear guidance for purposes of architectural review. Without these design guidelines in place, the Planning Board has little ability to enforce architectural review. The Planning Board strongly believes that appropriate architectural review is critical to maintaining the historic and aesthetic character of the Village of Monroe.

Again, the Planning Board was unanimous in its recommendation that the current moratorium be extended to allow sufficient time for the Comprehensive Plan and accompanying local laws to be adopted in as complete and thoughtful a manner as possible.

2. Local Law # 4 of 2023 - Village of Monroe Landmarks Preservation Local Law.

Attached please find a redline of the proposed local law as recommended by the Planning Board. In addition, we offer the following comments:

Page/Section	Comment
Page 8 § 200-80(A)(2)	The Public Hearing section should replace “reasonable time” with a specific time frame (30-60 days).
Page 8, § 200-81 (E)	It appears the law is attempting to distinguish between standards applicable to landmarked properties versus standards applicable to properties located in the historic district. It appears however that the two standards are intertwined. If there are two separate standards, they should be clearly delineated.

Pg. 18 § 200-80	<p>The Definitions section appears to define many simplistic terms that the Village could simply rely on the dictionary definition. In some cases, the definition may open the door to misinterpretation.</p> <p>For example, the term “Maintain” is defined as “to keep in an existing state of preservation or repair.” If a property is in disrepair, the Village wants the property to be improved, not maintained.</p>
Pg. 23 et seq. Section 5	<p>Please note redline to clarify that both the Historic District and individual landmarks are being designated.</p> <p>Please note 310 Stage Road was recently demolished and no longer a historic structure.</p>

3. Local Law 6 of 2023 – Amendments to Architectural Review Law

The proposed changes to the Architectural Review Law provide a good bridge between the current law and the proposed landmark preservation law. It further improves clarity as to approved materials and renderings, hopefully eliminating future “bait and switch” projects where the approved renderings differ drastically from the actual construction.

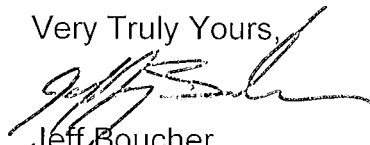
With that said, the current standard within Architectural Review Law (see § 200-73(D)) is often nebulous and difficult to apply. The Planning Board urges the Village Board to work with its planning consultants to create stand-alone design guidelines to provide clear examples of what types of architecture conform to the standard and what types of architecture do not conform to the standard.

4. Local Law # 5 of 2023 – Village of Monroe Place of Worship and Schools Local Law.

It is the Planning Board’s understanding that the Village Board intends to amend the introductory local law. Given that understanding together with the statutory time constraints for our review, the Planning Board is reserving comments until the amendments are introduced so that the Planning Board can provide a more complete review.

We look forward to a continued opportunity to participate in the Comprehensive Planning Process.

Very Truly Yours,



Jeff Boucher

Village of Monroe, Planning Board Chair

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VILLAGE OF MONROE
INTRODUCTORY LOCAL LAW XX of 2023

BE IT ENACTED by the Village Board of the Village of Monroe, Orange County, New York, as follows:

Section 1. Title.

This local law shall be known and may be cited as the Village of Monroe Landmarks Preservation Local Law.

Section 2. Legislative Purpose.

The Board of Trustees of the Village of Monroe (“Village Board”) finds that there exist within the Village buildings and structures that have a special character or special historical or aesthetic interest or value in American history, architecture and culture; that it is feasible to preserve and continue the use of such improvements; and that such improvements face the danger of being uprooted and destroyed without adequate consideration of the irreplaceable loss to the people of the Village of Monroe of the aesthetic, cultural and historical values represented by such improvements. It is the sense of the Village Board that the standing of Monroe as a community steeped in the history and culture of Orange County and the Hudson Valley region requires the maintenance and enhancement of the historical, aesthetic, cultural and architectural heritage of the Village.

Further, the Village Board finds that there exist within the Village of Monroe places, sites, structures and buildings of historic or architectural significance, antiquity, uniqueness of exterior design or construction, which should be conserved, protected and preserved to maintain the architectural character of the Village, to contribute to its aesthetic value and to promote the general good, welfare, health and safety of its residents.

The purpose of this local law is to promote the general welfare by providing for the identification, protection, enhancement, perpetuation, and use of buildings, structures, signs, features, improvements, sites, and areas within the Village of Monroe that reflect special elements of the Monroe’s historical, architectural, cultural, economic or aesthetic heritage for the following reasons:

- (a) To foster public knowledge, understanding, and appreciation in the beauty and character of the Village of Monroe and in the accomplishments of its past;

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- (b) To ensure the harmonious, orderly, and efficient growth and development of the Village Monroe;
- (c) To enhance the visual character of the city by encouraging new design and construction that complements Monroe's historic buildings;
- (d) To protect and promote the economic benefits of historic preservation to the Village of Monroe, its inhabitants and visitors;
- (e) To protect property values;
- (f) To promote and encourage continued private ownership and stewardship of historic structures;
- (g) To identify as early as possible and resolve conflicts between the preservation of historic landmarks/districts and alternative land uses; and
- (h) To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

Section 3. Enabling Authority.

Pursuant to Article 5, § 96-a; Article 5-G, Article 5-J and Article 5-K, § 119-dd of the General Municipal Law; Article 14 of the Parks, Recreation and Historic Preservation Law; and § 10 of the Municipal Home Rule Law; it is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts are necessary to promote the cultural, economic and general welfare of the public.

Section 4. Creation of Article XIX. Historic Preservation Commission; local landmarks and local historic districts.

Chapter 200, Zoning, of the Village of Monroe is hereby amended to add a new Article XIX, as follows:

“Article XIX. Historic Preservation Commission; local landmarks and local historic districts.

§200-79. Historic Preservation Commission.

A. HPC created. There is hereby created a HPC to be known as the Village of Monroe Historic Preservation HPC Commission (HPC). For purposes of this local law, the Planning Board shall be the HPC. Appointments, terms of office, vacancies, reappointments, and terms of membership shall be as set forth for the Planning Board.

B. Organization.

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- (1) Chairperson; designation and duties. The Chairperson shall be the Chairperson of the Planning Board. The chairperson shall have the right to vote in all matters before the HPC. All meetings of the IIPC shall be held at the call of the Chairperson and at such other times as the HPC may determine by affirmative vote.
- (2) Secretary. The Secretary shall be the Secretary of the Planning Board.
- (3) Quorum. A simple majority of the HPC shall constitute a quorum for the transaction of business. An affirmative majority vote of the full HPC is required to approve any resolution, motion or other matter before the HPC.
- (4) Records. The HPC shall be subject to the provisions of the Public Officers Law, including Article 7 related to the Open Meetings Law. The HPC records shall be readily available to the public. The vote or failure to vote of each HPC member shall be recorded. If any HPC member abstains from voting based on a conflict of interest or otherwise, the member must also state his or her reason(s) or ground(s) for doing so on the record.

C. Powers and Duties of the Historic Preservation HPC.

- (1) General and Advisory Powers. The HPC shall, from time to time:
 - (a) Review any local laws or regulations, including existing landmarks or historic preservation laws or regulations in the Village of Monroe, and recommend to the Village Board any changes and amendments thereto;
 - (b) Recommend to the Village Board additional regulations to be adopted by local law that may be necessary for the HPC to conduct its business, consistent with the scope and intent of this local law;
 - (c) Recommend to the Village Board specific criteria for regulations to be adopted by local law that identify and catalogue significant historic landmarks, and from time to time advise it on suggested changes thereto;
 - (d) Recommend to the Village Board landmarks and historic districts to be adopted by local law, and from time to time changes thereto;
 - (e) Maintain an inventory of locally-designated historic resources or districts within the Village of Monroe and publicize the inventory;
 - (f) Recommend to the Village Board additional criteria to be adopted in local law to be used when evaluating applications for a certificate of appropriateness;
 - (g) Recommend to the Village Board proposals for the acquisition of preservation easements or other interests in real property;
 - (h) Conduct investigations, prepare maps, reports and recommendations in connection with its advisory authority relating to the planning, development and administration of the Village of Monroe landmarks preservation policies, regulations and local law as needed, provided the total expenditures of said HPC shall not exceed the appropriation provided by the Village Board together with any public or private grant funding received by the Village for the HPC to undertake its landmarks preservation powers

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and duties.

- (i) Report on matters referred to it by the Village Board. The Village Board may by resolution provide for the referral to the HPC for a report on any matter or class of matters that impact the municipality's landmarks preservation local law, policies, regulations or administrative processes before final action is taken thereon by the Village Board or other office of said Village Board having final authority over said matter. The Village Board may further stipulate that final action thereon shall not be taken until the HPC has submitted its report thereon, or has had a reasonable time, to be fixed by the Village Board in said resolution, to submit the report.

- (b) Administrative Reviews. In accordance with the regulations adopted by the Village of Monroe for landmarks and historic preservation purposes, the HPC shall:

- (1) Evaluate an application for a certificate of appropriateness; approve, approve with modifications, or deny any proposal for exterior changes to a designated individual landmark or property within a designated historic district resulting from any such application;
- (2) Evaluate an application for a certificate of economic hardship; approve, approve with modifications, or deny any such application;
- (3) Evaluate an application for a certificate of appropriateness for demolition, removal or relocation; approve, approve with modifications, or deny any such application;
- (4) Evaluate, without public hearing, an application for ordinary maintenance and repair of historic resources, properties or landmarks; approve, approve with modifications, or deny any such applications;
- (5) Perform other functions that the Village Board may designate by local law.

- D. Cooperation of Village of Monroe Departments. All Village departments shall, upon request of the HPC, assist and furnish available permits, plans, reports, maps and statistical and other information which the HPC may require for its work.

§200-79. Criteria for Designating Landmarks or Historic Districts.

- A. The HPC may delineate landmarks or historic districts and recommend them to the Village Board for designation under local law. Nothing herein shall limit the Village Board from conducting designations under its own initiative.

- (1) Individual landmark: The HPC may delineate an individual property as an individual landmark if it:

- (a) exemplifies or possesses special character, or historic or aesthetic interest of value as part of the political, economic, or social history of the Village of Monroe;
- (b) is identified with persons or events significant in local, state, or national history;
- (c) embodies the distinguishing characteristics of a type, period or method of construction

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- or design style, or is a valuable example of the use of indigenous materials or craftsmanship; or is representative of the work of a designer, architect or builder;
 - (d) represents an established and familiar visual feature of the community by virtue of its unique location or singular physical characteristic, represents an established and familiar visual feature of the community; or
 - (e) has yielded or may be likely to yield information important in prehistory or history.
- (2) Historic district. The HPC may delineate a group of properties within the Village of Monroe as an historic district if a majority of properties therein:
- (a) contain properties which meet one or more of the criteria for designation as a landmark and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district; and
 - (b) constitute a unique section of the Village of Monroe by reason of possessing those qualities that would satisfy such criteria.
- (3) Interior landmark. The HPC may delineate the interior of a property as an interior landmark if such interior has special historical or aesthetic interest or value as part of the development, heritage or cultural characteristics of the village, town, city, state or nation and:
- (a) it is customarily open or accessible to the public; or
 - (b) it is an interior into which the public is customarily invited.
- (4) Scenic landmark. The HPC may delineate a landscape feature or group of features. Recommendations for designation must be accompanied by such historical and architectural information as is required by the HPC to make an informed recommendation concerning the application, together with any fee set by the Village of Monroe Village Board.
- (5) National Register and State Register of Historic Places: The Village Board may designate any properties, structures, buildings or districts which are listed on the National Register of Historic Places, State Register of Historic Places, or eligible for listing on the National or State Register of Historic Places and such designations carry the presumption that they are locally historic.
- B. The boundaries of each landmark, interior landmark, scenic landmark or historic district shall be specified in detail with reference to the tax map identification number and shall be filed, in writing, in the Village of Monroe Clerk's office and there made available for review by the public.

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C. Properties that have achieved significance within the past fifty (50) years are ordinarily not considered eligible for delineation under this landmarks preservation local law or local law adopted by the Village of Monroe Village Board. However, such properties will qualify if they are:

- (1) Integral parts of historic districts that meet the criteria for designation; or
- (2) If they are properties of exceptional importance.

§200-80. Designation process.

A. Notice and Hearing Requirements for Proposed Designation. Individual landmarks or historic districts shall be designated in the following manner:

(1) Initiation of proposed designation.

- (a) Designation of an individual historic landmark or historic district may be proposed by the HPC, by the owner of the property, or by any resident of the Village of Monroe, or by the Village Board on its own initiative.
- (b) Work moratorium. Once the Village Board has issued notice of a proposed designation, it may place a moratorium on the subject property prohibiting any work relating to the individual landmark or district proposed for designation as long as the proposed designation is under active consideration and until the Village Board has made its decision on designation.

(2) Public hearing; general notice.

- (a) Within a reasonable time after receipt of a full application or other matter referred to it, the Village Board shall schedule a public hearing on all proposed resource, individual, landmark or historic district designations. Public notice of any such hearing shall be given by publication in a newspaper of general circulation within the Village of Monroe at least ten (10) days prior to the public hearing date.
- (b) The Village Board, property owners, and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural, or cultural importance of the proposed resource, individual, landmark or historic district.

(3) Notice of public hearing; multiple properties proposed for designation.

- (a) Ten properties or less. Notice of public hearing for a proposed designation involving no more than ten properties shall be sent by certified mail/return receipt requested or courier service with proof of delivery or personal service with proof of delivery to the owners of properties located within the area of the proposed historic district at least ten (10) days prior to the date of the public hearing. Such notice shall include a description of the properties proposed for designation and state the time and place where any public

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hearing to consider such designation will be held by the Village Board.

- (b) More than ten properties. Where the proposed designation of an historic district includes more than ten properties and the Village Board deems individual notice infeasible, notice may instead be published at least once in newspaper of general circulation in the Village of Monroe ten (10) days prior to the date of the public hearing. The notice shall specify the time and place of the public hearing, a brief description of the proposed designation, and the location where the proposal may be reviewed prior the hearing.
- (6) Permits not issued. Once the Village Board has issued notice of a proposed designation, no building or demolition permits may be issued for the property(ie) by any Village of Monroe department or agency until such time that the designation process is complete.
- (7) Record.
 - (a) The Village Board, or HPC when so requested by the Village Board, shall compile a public record in support of its designation of a landmark or historic district. In addition to testimony or documentary evidence received at any public hearing, the record may also contain reports, public comments, expert testimony, or other evidence offered outside of the hearing, but submitted for the Village Board's consideration by the date of the hearing. At a minimum, the record of the designation shall contain the application, HPC and/or staff reports, any comments made on the application at the public hearing, and the Village Board's decision to approve, approve with modifications, or deny the application requesting designation.
 - (b) Where a property is already listed on the National Register of Historic Places or the State Register of Historic Places, or eligible for listing on the National or State Registers, the record for said listing may be deemed the record for designation of a landmark or historic district in accordance with this local law.
- (8) Decision. Within sixty-two (62) days after the close of the public hearing, the Village Board shall by resolution undertake a designation in whole or in part, or shall disapprove in entirety, setting forth in writing the reasons for the decision. Within seven (7) days, the Village Board shall send notice of its designation to the applicants and owners of a designated property by certified mail return receipt requested, or in the case of a designated historic district, the Village Board shall send notice by certified mail return receipt requested to the applicants and owners of all properties within the approved district, as well as to the governing board of the municipality.
- (9) Filing. The Village Board shall forward notice of each property designated as an individual landmark and the boundaries of each designated historic district to the building department and planning department and Village of Monroe Clerk which shall be maintained in the Village's files.
- (10) Failure to Send Notice. Failure to send any notice by mail to any property owners where the address of such owner is not a matter of property tax records shall not invalidate any

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proceedings in connection with the proposed designation.

- (11) Amendment or Rescission. The Village Board may amend or rescind any designation of an individual landmark or historic district in the same manner and using the same procedures as followed for designation.

§200-81. Certificate of Appropriateness for Alteration, Demolition, or New Construction Affecting Individual Landmarks or Historic Districts.

- A. Authority. The HPC is responsible for the approval or disapproval of proposals for exterior changes to a historic property designated under this local law. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or move a designated historic landmark or property within a designated historic district without first obtaining a Certificate of Appropriateness that authorizes such work from the HPC.
- B. All changes to Village of Monroe owned property affecting an individual landmark or within a historic district shall be subject to the provisions of this Article.
- C. The building department shall receive and file all applications issued for any individual landmark, or landmarks or historic district to which this Article applies. The building department shall transmit a copy of any such application to the HPC.
- D. The HPC may require that the application for certificate of appropriateness be supplemented by such additional information or materials as may be necessary for a complete review by the HPC. The HPC may impose such reasonable conditions or restrictions as it deems necessary or appropriate on a case-by-case basis to promote or achieve the purpose of this Article.
- E. Criteria for Issuing a Certificate of Appropriateness.
- (1) Certificate of appropriateness; general criteria. The HPC shall approve the issuance of a certificate of appropriateness only if it determines that the proposed work will not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the individual landmark or if the proposed work is within a historic district, proposed work will not have a substantial adverse effect on the aesthetic, historical, or architectural significance of the property itself, the district or neighboring properties in such district.
- (2) In making this determination, the HPC's decision to approve, approve with modification(s) or deny an application for a certificate of appropriateness **for an individual landmark, interior landmark, scenic landmark** will be guided by the Secretary of the Interior's Standards for Rehabilitation and by the following principles:
- (a) the HPC's decision to approve, approve with modification(s) or deny an application for a certificate of appropriateness **for an improvement to property located within a historic district** shall be based on the following principles:

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- [1] properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;
- [2] any alteration of existing properties shall be compatible with the surrounding historic district; and
- [3] new construction shall be compatible with the historic district in which it is located;

(b) In applying the principle of compatibility set forth in this subsection (2), the HPC shall consider the following factors:

- [1] the general design and character of the proposed alteration or new construction relative to existing features of the property or improvement;
- [2] the scale and visual compatibility of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
- [3] texture and materials, and their relation to similar features of the property and other properties in the neighborhood;
- [4] visual compatibility with surrounding properties, including proportion of the property's facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm of spacing of properties on streets, including setback; and

- [5] the importance of historic physical and visual features to the significance of the property.

(c) In approving an application for a certificate of appropriateness, the HPC shall find that the building or structure for which the permit was requested, if erected or altered in accordance with the submitted plan or with stated modifications, would be consistent with the spirit and intent of this Article, would not be visually offensive or inappropriate by reason of poor quality of exterior design, monotonous similarity or visual discord in relation to the sites or surroundings, would not mar the appearance of the area, would not impair the use, enjoyment and desirability or reduce the values of properties in the area, would not be detrimental to the character of the neighborhood, would not prevent an appropriate development and utilization of the site or of adjacent lands and would not adversely affect the functioning, economic stability, prosperity, health, safety and general welfare of the community.

(3) Where the HPC grants a certificate of appropriateness under circumstances where the permitted activity is likely to uncover or affect archaeological resources, the HPC shall require reasonable efforts to protect and preserve such resources. Where such protection and preservation is not feasible, the HPC shall nonetheless impose appropriate and reasonable conditions to insure that the archaeological resource is made accessible for a reasonable period to qualified persons.

F. Certificate of Appropriateness Application Procedure.

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- (1) Prior to the commencement of any work requiring a certificate of appropriateness, the property owner shall file an application for a building permit with the Village of Monroe Building Official and an application for such certificate with the HPC.
- (2) The application for certificate of appropriateness shall contain:
 - (a) name, address, and telephone number of applicant;
 - (b) building permit application number as assigned by the building department
 - (c) location and photographs of property;
 - (d) elevation drawings of proposed changes, if available;
 - (e) perspective drawings, including relationship to adjacent properties, if available;
 - (f) samples of building materials to be used, including their proposed color;
 - (g) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property; and any other information which the HPC may deem necessary in order to visualize the proposed work.
- (3) Upon receipt of all the information required herein, the HPC shall deem the application complete and shall place the application on the agenda of the next meeting of the HPC.
- (4) Upon submission of a complete application, the HPC shall have the authority to, without public hearing and notice:
 - (a) determine whether the proposed work constitutes ordinary maintenance and repair for which a certificate of appropriateness is not required;
 - (b) approve work which is considered replacement-in-kind;
 - (c) approve work that is of any other type that has been previously determined by the HPC to be appropriate for delegation to staff.
- (5) The HPC is required to report to the Village Board on a monthly basis on all activities for which applications were submitted and decisions were made without any public hearing and notice.

G. Certificate of Appropriateness Public Notice Requirements.

- (1) Upon application for a certificate of appropriateness, public notice of the application shall be posted by the owner or owner's representative on the property for a minimum of ten (10) days. This notice must remain in place until a decision to approve or deny the certificate of appropriateness has been made. The notice shall specify the proposed work, the time and place of the public hearing, and to whom and by when any public comments are to be communicated. The notice must be placed at or near the property line in the front yard so that it will be plainly visible from the street, and, in cases where a property has

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frontage on more than one street, an additional sign must be placed at or near the property line on any additional street frontage so that the sign will be plainly visible from the street on which it has such additional frontage.

- (2) The HPC shall hold a public hearing prior to rendering a decision on any application for a certificate of appropriateness once the application is deemed complete. Notice of the public hearing shall be published in a newspaper of general circulation in the Village of Monroe at least ten (10) calendar days prior to the public hearing date. The notice shall specify the time and place of the public hearing, a brief description of the proposal, and the location where the proposal may be reviewed prior to the hearing. The property owner and any interested party may present testimony or documentary evidence regarding the proposal at the hearing, which will become a part of the record.
- (3) Within sixty-two (62) days after the close of the public hearing, the HPC shall approve, approve with conditions, or deny the certificate of appropriateness.
- (4) All decisions of the HPC shall be in writing. A copy shall be sent to the applicant by certified mail/return receipt, and a copy filed with the Building Inspector and Village Clerk within ten (10) days of the date of the decision. The HPC's decision shall state the reasons for denying or modifying any application.

- H. Other permits and approvals. The certificate of appropriateness required by this Article shall be in addition to and not in lieu of any building permit or other land use approval that may be required by any other local law or regulation of the Village of Monroe.
- I. Expiration of approval; extensions. Certificates of appropriateness shall be valid for 24 months, after which time the owner shall apply for a new certificate if he/she still wishes to undertake work on the property. At least two months prior to expiration of the 24-month period, the owner may apply, in writing, for an extension and shall explain the reasons for the extension request. The HPC may grant up to two (2) extensions of six (6) months each. A written application for an extension of a certificate of appropriateness approval shall not be considered an application for a new certificate of appropriateness.

§200-82. Alteration Hardship Process and Criteria.

- A. An applicant whose certificate of appropriateness for a proposed alteration of a landmark property has been denied may apply for relief on the ground of economic hardship. In order to prove the existence of economic hardship related to a proposed alteration, the applicant shall establish that the denial of a certificate of appropriateness will prevent the property owner from earning a reasonable return on investment, regardless of whether that return represents the most profitable return possible.
- B. As promptly as is practicable after making a preliminary determination of hardship as provided in this Article, the HPC, with the aid of such experts as it deems necessary, shall, in consultation with the applicant, endeavor to develop a plan whereby the improvement may be preserved and perpetuated in such manner as to effectuate the purpose of this Article, and also

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rendered capable of earning a reasonable return.

- C. Consultation; plan development. The applicant shall consult in good faith with the HPC, local preservation groups, and other interested parties in a diligent effort to seek an alternative that will result in appropriate preservation of the property. The consulting parties may include interested purchasers, as well as preservation and other interested organizations, public agencies, developers, real estate agents and individuals who may be instrumental in developing an economically feasible solution.
- D. Economic Hardship; criteria. Following the denial of a certificate of appropriateness, the applicant may request a certificate of economic hardship. In all cases other than a proposed demolition, removal or relocation, the applicant shall prove the existence of economic hardship by demonstrating to the HPC that: (1) the applicant cannot realize a reasonable return if compliance with the HPC's decision is required, provided, however, that the lack of reasonable return is proven by the applicant to be substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested relief, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.
- E. The HPC, in the granting of a certificate of economic hardship, shall grant the minimum terms deemed necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- F. Public hearing.
 - (1) The HPC may hold a public hearing on the hardship application at which an opportunity will be provided for the applicant and public to present their views on the hardship application.
 - (2) If no public hearing is held, the HPC must render a decision on the hardship application within 62 days following its receipt of a complete application.
- G. A complete application includes the conclusion of all activities under subsection C initiated to consult with necessary parties to determine whether the property may be preserved or rehabilitated in a manner that alleviates the hardship that would otherwise result while substantially accomplishing the goals of this Article. A complete application also includes receipt by the HPC of all submissions necessary to meet the applicant's burden of proof. Following the submission of a complete application, the HPC may schedule a public hearing within a reasonable time and determine within 62 days following to the close of any public hearing held on the application whether the applicant has met his or her burden of proof.

II. HPC decision.

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- (1) If the HPC finds that the applicant's burden of proof has not been met, the HPC shall deny the application for a certificate of economic hardship.
- (2) If the HPC finds that the applicant's burden of proof has been met, the HPC shall issue a preliminary determination of landmarks or economic hardship within 62 days of the close of any public hearing held on the application or within 62 days after the HPC has received a complete application.
- (3) Within 62 calendar days following the HPC's preliminary determination of economic hardship the HPC must make a final determination.
- (4) A decision of the HPC on the hardship application shall be in writing and shall state the reasons for granting or denying it. A copy shall be sent to the applicant by certified mail/return receipt and a copy filed with the Village of Monroe Clerk's office.
- (5) No building permit or other land use approvals shall be issued unless the HPC grants the hardship application. If the hardship application is granted, the HPC shall approve only such work as is necessary to alleviate the hardship.

§200-83. Demolition, Removal, or Relocation of Landmark Buildings.

- A. Demolition of an individual landmark or of a structure located in and contributing to the significance of a historic district shall be allowed only in case of economic hardship, unless the building department, upon due deliberation has made an express written finding that the structure presents an imminent threat to the public health, safety and welfare and then only upon further approval of the Village Board.
- B. Any person desiring to demolish a designated historic building shall first file an application for a historic building demolition permit with the building department and an application for such certificate with the HPC. An applicant must submit the following items:
 - (1) Current level of economic return;
 - (2) Amount paid for the property, date of purchase, party from whom purchased, and relationship between the owner of record, the applicant, and person from whom property was purchased;
 - (3) Annual gross and net income from the property for the previous three years; itemized operating and maintenance expenses for the previous three years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;
 - (4) Remaining balance on the mortgage or other financing secured by the property and annual debt-service, if any, during the prior three years;
 - (5) Real estate taxes for the previous four years and assessed value of the property according to the two most recent assessed valuations;
 - (6) All appraisals obtained within the last two years by the owner or applicant in connection with the purchase, financing, or ownership of the property;
 - (7) Form of ownership or operation of the property, whether sole proprietorship, for-profit or

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not-for-profit corporation, limited partnership, joint venture, or other;

- (8) Any state or federal income tax returns relating to the property for the last two years;
- (9) Any listing of property for sale or rent, price asked, and offers received, if any, within the previous two years, including testimony and relevant documents regarding: (a) any real estate broker or firm engaged to sell or lease the property, (b) reasonableness of price or rent sought by the applicant, or (c) any advertisements placed for the sale or rent of the property;
- (10) Feasibility of alternative uses for the property that could earn a reasonable economic return;
- (11) Report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any buildings on the property and their suitability for rehabilitation;
- (12) Cost estimates for the proposed construction, alteration, demolition, or removal, and an estimate of any additional cost that would be incurred to comply with the requirements for a certificate of appropriateness;
- (13) Estimated market value of the property: (a) in its current condition; (b) after completion of the proposed alteration or demolition; and (c) after renovation of the existing property for continued use;
- (14) Expert testimony or opinion on the feasibility of rehabilitation or reuse of the existing structure by an architect, developer, real estate consultant, appraiser, and/or other real estate professional experienced in historic properties and rehabilitation;
- (15) Any evidence of self-created hardship through deliberate neglect or inadequate maintenance of the property; and
- (16) Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.

C. Demolition of any such building may be approved only in connection with approval of a replacement project.

D. The HPC shall hold a public hearing and shall take one of the following actions:

- (1) Approve the demolition permit in conformance with the provisions of this §200-84;
- (2) Approve the demolition hardship permit subject to a waiting period of up to 120 days to consider relocation/documentation;
- (3) Deny the permit.

E. During the continuance period, the HPC may investigate relocation of the building (on site) or modification of the building for future uses in a way which preserves the architectural and historical integrity of the building.

§200-84. Demolition, Removal or Relocation Hardship Criteria.

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- A. Certificate of appropriateness for demolition, removal or relocation. An applicant whose certificate of appropriateness for a proposed demolition, removal or relocation of a landmark, resource or property has been denied may apply for relief on the ground of economic hardship. In order to prove the existence of economic hardship sufficient to justify demolition, removal, or relocation, the applicant shall establish that the denial of a certificate of appropriateness will prevent the property owner from earning a reasonable return on investment, regardless of whether that return represents the most profitable return possible.
- B. Certificate of Appropriateness for demolition. The applicant for a certificate of appropriateness for demolition must establish to the HPC's satisfaction, an imminent plan of reuse or redevelopment of the affected property. The applicant for an income-producing property shall establish that:
- (1) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; and,
 - (2) the property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and,
 - (3) efforts to find a purchaser interested in acquiring the property and preserving it have failed.
 - (4) In deciding upon such application for removal, relocation or demolition, the HPC may consider whether the owner has created his own hardship through waste and neglect, thereby permitting the property to fall into a serious state of disrepair.
- C. Before approving the removal, relocation or demolition of an individual landmark or structure within a historic district, the HPC may suspend the application for up to one hundred and eighty (180) days to allow the applicant to consult in good faith with the HPC, local preservation groups, and the public in a diligent effort to seek a less intrusive alternative to demolition.

§200-85. Affirmative Maintenance and Repair Requirement.

- A. Ordinary maintenance; repair.
- (1) Nothing in this Article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a historic landmark or property within a historic district that does not involve a change in design, building materials, color or outward appearance.
 - (2) The HPC may evaluate and decide, without public hearing, whether or not proposed work constitutes ordinary maintenance and repair or requires a certificate of appropriateness.
- B. No owner or person with an interest in real property designated as an individual landmark or included with an historic district shall permit the property to fall into a serious state of disrepair. Maintenance shall be required, consistent with the Property Maintenance Code of New York State, Uniform Fire Prevention and Building Code and all other applicable local regulations.

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C. Every owner or person in charge of an improvement on a landmark site or in an historic district shall keep in good repair:

- (1) all of the exterior portions of such improvements; and
- (2) all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to deteriorate, decay or become damaged or otherwise to fall into a serious state of disrepair. Examples of types of prohibited disrepair include, but are not limited to:
 - (a) deteriorated or crumbling exterior plasters, mortar or facades;
 - (b) deteriorated or inadequate foundation;
 - (c) defective or deteriorated flooring or floor supports or any structural floor members of insufficient size to carry imposed loads with safety;
 - (d) deteriorated walls or other vertical structural supports that split, lean, list or buckle due to defective material or deterioration;
 - (e) members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration or are of insufficient size to carry imposed loads;
 - (f) ineffective or inadequate waterproofing of exterior walls, exterior chimneys, roofs, foundations or floors, including windows or doors, which may cause or tend to cause deterioration, decay or damage;
 - (g) defective or insufficient weather protection for roofs, foundation or exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering, which may cause or tend to cause deterioration, decay or damage;
 - (h) fireplaces or chimneys which list, bulge or settle due to defective material or deterioration or are of insufficient size or strength to carry imposed loads with safety;
 - (i) any fault or defect in the building or structure which renders it not properly watertight or otherwise compromises the life and character of the building or structure.

D. Interiors. Every owner or person in charge of an improvement to an interior landmark shall keep in good repair:

- (1) all portions of such interior landmark and
- (2) all other portions of the improvement which, if not so maintained, may cause or tend to cause the interior landmark contained in such improvement to deteriorate, decay, or become damaged or otherwise to fall into a serious state of disrepair.

E. Every owner or person in charge of a scenic landmark shall keep in good repair all portions thereof.

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§200-86. Enforcement and Violations; Penalties.

- A. All work performed pursuant to a certificate of appropriateness issued under this Article shall conform to the requirements expressly stated in the certificate or reasonably implied therefrom. It shall be the duty of the Building Inspector to periodically inspect any such work to assure compliance with the certificate and all applicable law. In the event any requirement included in the certificate of appropriateness has not been met, or upon notification of that fact by the HPC, the Building Inspector shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.
- B. Any owner or person in charge of a property who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this Article in the absence of a certificate of appropriateness, a finding of economic hardship, or other approval by the HPC, may be required by the Village Board to restore the property and its site to its appearance prior to the violation.
- C. If, in the judgment of the HPC, a violation of Article exists that will result in a detrimental effect upon the life and character of a designated historic resource, landmark, property or on the character of a historic district as a whole, the HPC shall notify the Building Inspector. If, upon investigation, the Building Inspector finds non-compliance with the requirements of the Property Maintenance Code of the New York State Fire Prevention and Building Code, or any other applicable law or regulation, the Building Inspector shall order such remedies as are necessary and consistent with this Article and shall provide written notice thereof to the secretary of the HPC.
- D. Penalties. A violation of this Article is deemed an offense punishable by a fine, imprisonment or both, as follows:
 - (1) First Offense: A first conviction for violation of this Article may result in a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both;
 - (2) Second Offense: A second conviction for violation of this Article, if the occurrence that leads to conviction began within a period of five years from the date of first conviction, may result in a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both;
 - (3) Third Offense: A conviction for a third or subsequent offense all of which were committed within a period of five years from when the occurrence leading to the first conviction began, shall include a fine of not less than \$700 nor more than \$1000 or imprisonment for a period not to exceed six months, or both.
 - (4) In addition to any penalties imposed under this Article, continuing violations shall be punishable in any other manner provided under other local regulations, and state and

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federal law.

- E. The HPC shall notify the Village Board of an enforcement matter arising under this Article who shall refer it to the Village Attorney. Action to enforce this Article shall be brought by the Village Attorney or other attorney designated by the Village Board. Civil remedies authorized under Article shall be in addition to and not in lieu of any criminal prosecution and penalty.

§200-87. Appeals.

Any person aggrieved by a decision of the HPC relating to a certificate of economic hardship or a certificate of appropriateness may, within fifteen (15) days of the decision, file a written appeal to the Village Board for review of the decision. Appellate review shall be based on the same record that was before the HPC and using the same criteria in this Article.

§200-88. Reimbursement of costs and expenses.

- A. The applicant, for review of any application set forth in this Article, shall reimburse the Village for all of the Village's reasonable and necessary architectural, historic and related fees and expenses incurred by the Village in connection with the review of the application. Said fees and expenses are deemed application fees. Reimbursement shall be made in accordance with this chapter. For the purposes of this chapter, the term "application" shall include, but not be limited to: a certificate of appropriateness; a demolition, removal, or relocation of landmark buildings applications; request to review any application under the hardship criteria; appeals; and compliance with the State Environmental Quality Review Act (SEQRA).

§200-89. Definitions.

As used in this Article, the following words and phrases have the following meaning:

Acquisition: The act or process of acquiring fee title or other interest in real property, including acquisition of development rights or remainder interest.

Addition: Any act or process that changes one or more of the exterior architectural features of a building or structure by adding to, joining with or increasing the size or capacity of the building or structure.

Alteration: Any act or process, other than demolition or preventative maintenance, that changes the exterior appearance of significant historical or architectural features, or the historic context of a designated landmark, including, but not limited to, exterior changes, additions, new construction, erection, reconstruction, or removal of the building or structure, or grading.

Appropriate: Especially suitable or compatible.

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Architectural Significance: The quality of a building or structure based on its date of erection, style and scarcity of same, quality of design, present condition and appearance or other characteristics that embody the distinctive characteristics of a type, period or method of construction.

Building: Any construction created to shelter any form of human use, such as a house, garage or barn, and which is permanently affixed to the land. Building may also refer to a historically related complex, such as a house and a barn.

Building Official: The person, or his or her designee, authorized to grant permits for construction, alteration, and demolition pursuant to the codes adopted by the Village of Monroe.

Building Inspector: The person, or his or her designee, authorized and certified to enforce the New York State Fire Prevention and Building Code. The person, or his or her designee, who is also authorized by the Village of Monroe governing board to enforce this Article, except where another official is expressly authorized.

Certificate of Appropriateness: An official form issued by the Village of Monroe HPC stating that the proposed work on an designated historic landmark is compatible with the historic character of the property and thus in accordance with the provisions of this Article and therefore: (1) the proposed work may be completed as specified in the certificate; and (2) the Village of Monroe's departments may issue any permits needed to do the work specified in the certificate.

Certificate of Economic Hardship: An official form issued by the HPC when the denial of a certificate of appropriateness has deprived, or will deprive, the owner of the property of all reasonable use of, or economic return on, the property.

Change: Any alteration, demolition, removal or construction involving any property subject to the provisions of this Article.

Character: Defined by form, proportion, structure, plan, style or material. General character refers to ideas of design and construction such as basic plan or form. Specific character refers to precise ways of combining particular kinds of materials.

Compatible: In harmony with location, context, setting, and historic character.

HPC: The Village of Monroe Historic Preservation Commission established pursuant to this article.

Construction: The act of constructing an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

Demolish: Any act or process that removes or destroys in whole or in part a building, structure, or resource.

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Demolition Permit: A permit issued by the building official allowing the applicant to demolish a building or structure, after having received a certificate of demolition approval from the HPC for those properties that are designed landmarks or local historic districts.

Evaluation: The process by which the significance and integrity of a building, structure, object, or site is judged by an individual who meets the professional qualification standards published by the National Park Service at 36 CFR Part 61 as determined by the State Historic Preservation Office, using the designation criteria outlined in this Article.

Exterior Architectural Features: The architectural style, design, general arrangement and components of all of the outer surfaces of any building or structure.

Feature: Elements embodying the historical significance or architectural style, design, general arrangement and components of all of the exterior surfaces of any landmark or historic resource, including, but not limited to, the type of building materials, and type and style of windows, doors, or other elements related to such landmark or historic resource.

Historic Context: A unit created for planning purposes that groups information about historic properties based on a shared theme, specific time period and geographical area.

Historic District - Local: An area designated as a historic district by this Article, and which contains within definable geographic boundaries a significant concentration, linkage or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

Historic Fabric: Original or old building materials (masonry, wood, metals, marble) or construction.

Historic Integrity: The retention of sufficient aspects of location, design, setting, workmanship, materials, feeling or association for a property to convey its historic significance.

Historic Landmark: A building, district, site, structure or object significant in American history, architecture, engineering, archeology or culture at the national, State, or local level.

Historic Resource: Any evaluated building, structure, object, or site that potentially meets the designation criteria outlined in this Article.

Historic Preservation HPC: The Historic Preservation HPC appointed by the Village of Monroe Village Board.

Historic Property: A district, site, building, structure, or object significant in American history, architecture, engineering, archeology, or culture at the national, state, or local level.

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Historic Resources Survey: a) the process of systematically identifying, researching, photographing, and documenting historic resources within a defined geographic area, and b) the resulting list of evaluated properties that may be consulted for future designation. For the purpose of this Article, all surveys shall be conducted in accordance with the Secretary of the Interior's Standards and Guidelines for Identification and Evaluation, as may be amended.

Historic Significance: The quality of a place, site, building, district or structure based upon its identification with historic persons or events in the Village of Monroe.

Integrity: The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period.

Interior Landmark: Interior landmarks are noted for the portions of their interior that are open to the public.

Inventory: A list of historic properties determined to meet specified criteria of significance.

Landmark: Any building, structure or site that has been designated as a "landmark" by the Village of Monroe Village Board, pursuant to this Article that is worthy of preservation, restoration or rehabilitation because of its historic or architectural significance.

Landmark Alteration Permit: A permit approving an alteration to or demolition of a landmark, or demolition of a historic resource listed in the heritage resource inventory pursuant to the provisions of this Article.

Maintain: to keep in an existing state of preservation or repair.

Minor work: Any change, modification, restoration, rehabilitation, or renovation of the features of an historic resource that does not materially change the historic characteristics of the property.

Move: Any relocation of a building or structure on its site or to another site.

National Register Criteria: The established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.

National Register of Historic Places: The official inventory of the nation's historic properties, districts, sites, districts, structures, objects and landmarks which are significant in American history, architecture, archaeology, and culture, maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966 (16 USC. 470 et seq., 36 CFR Sections 60, 63, as may be amended).

Non-contributing: A feature, addition or building, structure, object or site which does not add to

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the sense of historical authenticity or evolution of an historic resource or landmark or where the location, design, setting, materials, workmanship, history, and/or association of the feature, addition or building, structure, object or site has been so altered or deteriorated that the overall integrity of that historic resource or landmark has been irretrievably lost.

Object: Constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be moveable by nature or design, an object is associated with a specific setting or environment. Examples include boundary markers, mileposts, fountains, monuments, and sculpture. This term may include landscape features.

Owner: Those individuals, partnerships, corporations, or public agencies holding fee simple title to property, as shown on the property tax records for the Village of Monroe.

Period of Significance: The length of time when a property was associated with important events, activities, or persons, or attained characteristics which qualify it for landmark status. Period of significance usually begins with a date when significant activities or events began giving the property its historic significance; this is often a date of construction.

Preservation: The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

Preventative maintenance: Any work to prevent deterioration or damage to the structural integrity or any exterior feature of a landmark or historic resource that does not involve a change in design, material or exterior appearance. Such work includes, but is not limited to, painting, roof repair, foundation or chimney work, or landscape maintenance.

Rehabilitation: The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features of the property which convey its historical, architectural and cultural values.

Repair: Acts of ordinary maintenance that do not include a change in the design, material, form, or outer appearance of a resource, such as repainting. This includes methods of stabilizing and preventing further decay, and may incorporate replacement- in-kind or refurbishment of materials on a building or structure.

Restoration: The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The

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limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

Retain: The act of keeping an element, detail or structure and continuing the same level of repair to aid in the preservation of elements, sites, and structures.

Reversible: An addition which is made without damage to the project's original condition.

Scenic Landmark: Scenic landmarks encompass structures that are not buildings, such as bridges, piers, parks, cemeteries, sidewalks, clocks, and trees.

Secretary of the Interior's Standards for the Treatment of Historic Properties: Principles developed by the National Park Service (36 CFR 68.3, as may be amended) to help protect historic properties by promoting consistent preservation practices and providing guidance to historic building owners and building managers, preservation consultants, architects, contractors, and project reviewers on how to approach the treatment of historic properties. The Secretary of the Interior Standards for the Treatment of Historic Properties may also be referred to in this Article as "Secretary of the Interior's Standards."

Significant: Having particularly important associations with the contexts of architecture, history and culture.

Site - Historic: The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing buildings, structures or other objects. Examples of a site are a battlefield, designed landscape, trail, or camp site.

Stabilization: The act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

Structure: Any assemblage of materials forming a construction framed of component structural parts for occupancy or use, including buildings.

Style: A type of architecture distinguished by special characteristics of structure or ornament and often related in time; also a general quality of distinctive character.

Undertaking: Any project or other action involving the expansion, modification, development or disposition of the physical plant or any site or building."

Section 5. Landmark and Historic District Designation.

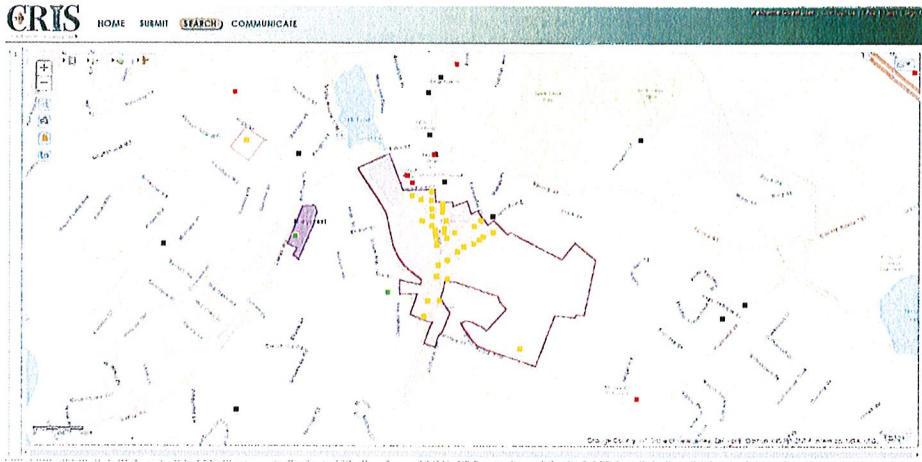
The Village Board of Trustees hereby adopts the following list of buildings, structures and

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historic districts as Landmarks and Historic Districts as these buildings, structures and districts have been found to meet the criteria set forth in §200-79 of this local law. The properties set forth below which are hereby deemed to be Landmarks and Historic Districts shall be added to the Zoning Map of the Village of Monroe for informational purposes, and these properties shall be subject to the provisions set forth in this Local Law. The properties are as follows, as shown on the map and list below.

Historic District:

The Village of Monroe Historic District which is on the National Register of Historic Places, and the Roscoe Smith House and Property which is eligible for listing on the National Register, are explicitly included.



Landmarks :

Name	National Register Status
MF TENEYCK HOUSE (DAVIDSON RESIDENCE) - 127 STAGE RD	Listed
PHINEAS & OSCAR V BROOKS HOUSE (HALL RESIDENCE) - 157 STAGE RD	Listed
52 MAPLE AVE	Listed
403 STAGE RD	Listed
MODERN COMMERCIAL BUILDING - 20 MILL POND PKWY	Listed
MONROE CHEESE COMPANY - 30 MILL POND RD 10950	Listed
Rest Haven - 236 High St 10950	Listed
j. Gregory House - 167 Stage Road 10950	Listed
MC GARRAH/GOFF HOTEL (HULSE RESIDENCE) - 300 STAGE RD	Listed

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Julius Smith-Ryder-Webb House - 310 Stage Road 10950	Listed
METHODIST MANSE - 49 MAPLE AVE	Listed
SS LEWIS HOUSE - 42 MAPLE AVE	Listed
DR SOLOMON EZRAY HOUSE (BUSH RESIDENCE) - 154 STAGE RD	Listed
139 STAGE RD	Listed
Roscoe Smith property - Lakes Rd	Eligible
Residence (1920 - Bungalow) - 207 Oakland Ave	Eligible
ABRAHAM SECOR HOUSE (KOSCA RESIDENCE) - 153 STAGE RD	Listed
SEAMAN TENANT HOUSE (BUSH TENENT HOUSE) - 158 STAGE RD	Listed
JOHN MAPES HOUSE (WHITE RESIDENCE) - 163 STAGE RD	Listed
DAVID SMITH HOUSE (KNIGHT RESIDENCE) - 400 STAGE RD	Listed
20 MAPLE AVE	Listed
32 MAPLE AVE	Listed
METHODIST PARSONAGE - 117 STAGE RD	Listed
CHAPEL OF THE SACRED HEART - 151 STAGE RD	Listed
MONROE THEATER - 34 MILL POND PKWY	Listed
MONROE CEMETERY - NY 17M	Listed
Mill Pond Dam	Listed
MONROE METHODIST CHURCH - 47 MAPLE AVE	Listed
MONROE PRESBYTERIAN CHURCH - 142 STAGE RD	Listed
JUDGE WILLIAM SEAMAN HOUSE (BUSH RESIDENCE) - 160 STAGE RD	Listed
GRIST MILL OPERATOR'S HOUSE (BUSH RESIDENCE) - 315 STAGE RD	Listed
22 MAPLE AVE	Listed
36 MAPLE AVE	Listed
Presbyterian Manse - 131 STAGE RD	Listed
G.T. Smith Farmhouse - 85 Gilbert St	Eligible
SEAMAN CARRIAGE HOUSE (BUSH STORAGE & GARAGE) - 21 MAPLE AVE	Listed
CB KNIGHT HOUSE; OFFICE - 138 STAGE RD	Listed
J GREGORY HARNESS SHOP; HOUSE - 169 STAGE RD	Listed
128 STAGE RD	Listed
132 STAGE RD	Listed
425 STAGE RD	Listed

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Section 6. Severability.

If any section, part or provision of this local law or the application thereof to any person, property or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, provision or application directly and expressly adjudged invalid and shall not affect or impair the validity of the remainder of this local law or the

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application thereof.

Section 10. Effective Date.

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

May 12, 2023

Mayor Neil S. Dwyer,
and the Honorable Board of Trustees of the
Village of Monroe
7 Stage Road
Monroe, New York 10950

**Re: Public Hearing Comments:
Draft Comprehensive Plan Update**

Dear Mayor Dwyer and the Honorable Board of Trustees:

On behalf of multiple residents and property owners, who are listed on the bottom of the page,¹ we respectfully write to object to certain portions of the draft Comprehensive Plan Update, which run afoul of the New York Court of Appeals holding barring exclusionary zoning, and requiring that municipalities must give consideration "to regional needs and requirements." See *Berenson v Town of New Castle*, 38 N.Y.2d 102, 108 & 110-111 (1975) (citation omitted). Moreover, the Village must prepare an environmental impact statement ("EIS") under the State Environmental Quality Review Act ("SEQRA") if it continues to wish to pursue these revisions.

Improper Exclusionary Zoning

Berenson concerned the constitutionality of the Town of New Castle's efforts to exclude multifamily housing, similar to what the draft Comprehensive Plan Update proposes here. In its decision, the Court of Appeals first reiterated that it had previously been "careful to note that

¹ This letter is submitted on behalf of: Avrohom Flohr, 283 Spring Street; Solomon Zwiebel, 254 High Street; Moishe Bernath, 131 Franklin Avenue; Abraham Cohn, 380 Spring Street; Samuel Huss, 325 High Street; Moshe Strulovitch, 82 Lakes Road; Joel Bernath, 133 Franklin Avenue; Shaya Jacobowitz, 9 Pearsall Drive; Chaim Bernath, 5 Hall Court; Abraham Werczberger, 33 Highland Avenue; Ari Weinberger, 98 Gilbert Street; Joel Jacobowitz - 270 Schunnemunk Road; Joel Moskowitz, 42 Midoaks Street; Esther Jacobowitz, 270 Schunnemunk Road; Esther Bernath, 133 Franklin Avenue; Miriam Cohn, 380 Spring Street; Simmy Moskowitz, 42 Midoaks Street; Fraidy Weinberger, 98 Gilbert Street; Zalmen Ganz, 14 Sutherland Drive; Moshe Strulovitch, 82 Lakes Road; Sarah Strulovitch, 82 Lakes Road; Joseph Indig, 12 Rosmini Lane; Toby Indig, 12 Rosmini Lane; Chaim Gluck, 33 Meribeth Lane; Jacob Weberman, 18 Meribeth Lane; Yides Weberman, 18 Meribeth Lane, and; Leah Z Weberman, 18 Meribeth Lane.

‘community efforts at immunization or exclusion’ would not be countenanced.” *See Berenson*, 38 N.Y.2d at 108, *quoting Golden v. Planning Bd. of Town of Ramapo*, 30 N.Y.2d 359, 378 (1972); *Asian Americans for Equality v. Koch*, 72 N.Y.2d 121, 133 (1988) (“Exclusionary zoning may occur either because the municipality has limited the permissible uses within a community to exclude certain groups, or has imposed restrictions so stringent that their practical effect is to prevent all but the wealthy from living there. *It is a form of racial or socioeconomic discrimination which we have repeatedly condemned.*” (emphasis added, citations omitted); *Gernatt Asphalt Products v. Town of Sardinia*, 87 N.Y.2d 668, 683 (1996) (“An ordinance shown to be enacted for an improper purpose or that has an exclusionary effect is invalid. *A community may not use its police power to maintain the status quo by preventing members of lower and middle socioeconomic groups from establishing residency in the municipality*”) (emphasis added); *Land Master Montg I, LLC v. Town of Montgomery*, 54 A.D.3d 408, 410 (2d Dep’t) (declaring that Comprehensive Plan and Local Laws that eliminated multifamily housing districts constituted unconstitutional exclusionary zoning), *appeal dismissed*, 11 N.Y.3d 864 (2008); *Continental Bldg. Co. v Town of North Salem*, 211 A.D.2d 88, 92 (3d Dep’t 1995) (“A municipality may not zone to exclude persons having a need for housing within its boundaries or region.”), *leave to appeal denied*, 86 N.Y.2d 818 (1995).

The *Berenson* Court then held that “in enacting a zoning ordinance, consideration must be given to regional needs and requirements,” particularly with respect to multifamily housing, explaining that:

It may be true, for example, that New Castle already has a sufficient number of multiple-dwelling units to satisfy both its present and future populations. However, residents of Westchester County, as well as the larger New York City metropolitan region, may be searching for multiple-family housing in the area to be near their employment or for a variety of other social and economic reasons.

See Berenson, 38 N.Y.2d at 110; *id.* at 111 (“The second branch of the test is whether the town board, in excluding new multiple housing within its township, considered the needs of the region as well as the town for such housing.”).

Of special relevance here, the Court of Appeals further held, of special relevance here, that “the local desire to maintain the Status quo” must be balanced with “*the greater public interest that regional needs be met,*” holding that:

Although we are aware of the traditional view that zoning acts only upon the property lying within the zoning board's territorial limits, it must be recognized that zoning often has a substantial impact beyond the boundaries of the municipality. Thus, the court in examining an ordinance, should take into consideration not only the general welfare of the residents of the zoning township, but should also consider the effect of the ordinance on the neighboring communities.

See id. at 110-111 (emphasis added).

Here, significant sections of the draft Comprehensive Plan Update violate these principles. First, Recommendation H.1.2.1, which proposes the elimination of the UR-M district from any remaining vacant lands patently contravenes these principles by stating that it was prompted by the “public’s clearly indicat[ing] that townhouses and multifamily housing is not a preferred option” and that “townhouse and multifamily housing outside of the downtown has the potential to encroach on the existing single-family character of most of the Village’s neighborhoods.” *Compare Berenson*, 38 N.Y.2d at 108 & 110-11. For the same reason, Recommendation H.1.2.2, which calls for the “[p]romot[ion of] small-lot single family residential developments as an alternative to townhouses and multifamily development” improperly promotes unconstitutional exclusionary zoning. While the draft Comprehensive Plan Update summarily asserts in connection with this recommendation that “rental multifamily and one- to three-bedroom condominium multifamily are also readily available in the Village and the region,” this assertion contradicts the facts and is unsupported by empirical evidence.

The draft Comprehensive Plan Update, for example, acknowledges that “census data indicates a decline in housing units between 2010 and 2020,” but without apparent empirical support, asserts it is “more likely [that there was] an increase of at least 4%.” (*See* draft Comprehensive Plan Update, at 30). Moreover, beyond its unsupported claim of a housing increase, there is scant analysis of the types of housing available in the area as compared to the type of housing needed in the Village and regionally.

Likewise, Recommendations H.2.1.1 and H.2.2.1, which advocate for “continu[ing] to exclude two-family uses in the SR-20 and SR-10 districts,” and “[d]isallow[ing] multifamily conversions,” respectively, also improperly promote exclusionary zoning and fail to account for the regional needs. *Compare Berenson*, 38 N.Y.2d at 108 & 110-11. Similarly, Recommendation H.2.2.2, which calls for “[r]equir[ing] stricter property maintenance laws for multifamily residential uses,” appears tainted by an improper exclusionary intent. *Compare Berenson*, 38 N.Y.2d at 108 & 110-11.

Finally, Recommendation T.1.1.2, which recommends “[p]rohibit[ing] the construction of any new cul-de-sacs, except for no other arrangement is viable,” appears improperly aimed at preventing the construction of much needed housing in the Village and the region. *Compare Berenson*, 38 N.Y.2d at 108 & 110-11.

Proposed Comprehensive Plan Update Requires An EIS Under SEQRA

“[T]he adoption of a municipality’s land use plan” is a Type I Action under SEQRA, meaning that it presumptively requires an EIS. *See* 6 N.Y.C.R.R. § 617.4(b)(1); *Land Master Montg I*, 54 A.D.3d at 411 (“The adoption of a comprehensive plan and related zoning laws is a ‘Type I Action’ pursuant to SEQRA, thus presumptively having a significant effect on the environment.”). This presumption is particularly weighty here because “the impact that a project

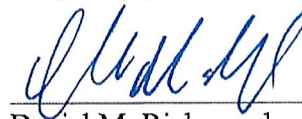
may have on population patterns or existing community character, with or without a separate impact on the physical environment, is a relevant concern in an environmental analysis [under SEQRA]” because the statute “expressly includes [in its definition of ‘environment’] physical conditions such considerations as “existing patterns of population concentration, distribution, or growth, and existing community or neighborhood character.” *See Chinese Staff & Workers Ass’n v. City of N.Y.*, 68 N.Y.2d 359, 366 (1986), *quoting* N.Y. Env’tl. Conserv. L. § 8-105(6). Thus, “the potential displacement of local residents and businesses is an effect on population patterns and neighborhood character which must be considered in determining whether the requirement for an EIS is triggered. *See Chinese Staff & Workers Ass’n*, 68 N.Y.2d at 366-67; *Land Master Montg I*, 54 A.D.3d at 411 (holding that a Town Board’s attempt to avoid preparing an EIS in connection with its Comprehensive Plan and Local Law purporting to eliminate multifamily housing was arbitrary and capricious and affected by an error of law).

Here, so much of the draft Comprehensive Plan Update as recommends measures to exclude or burden the development of multifamily housing in the Village clearly surpasses the established low threshold under SEQRA requiring the preparation of an EIS. *See id.*

We appreciate the Board’s time and consideration, and we are available to answer any questions your Board may have. Please let us know if the Board has any questions or would like us to elaborate on any points(s) raised in this letter.

Very truly yours,

By :



Daniel M. Richmond

May 12, 2023

Mayor Neil S. Dwyer
and the Honorable Board of Trustees
Village of Monroe
7 Stage Road
Monroe, New York 10950

**Re: Public Hearing Comments:
Proposed Local Law 5 of 2023**

Dear Mayor Dwyer and the Honorable Board of Trustees:

On behalf of multiple residents and property owners, who are listed on the bottom of this page,¹ we respectfully write to object to proposed Local Law 5 of 2023, which seeks to create regulations pertaining to residential gathering places, places of worship, and schools ("Proposed Local Law"). The unnecessarily burdensome restrictions in the Proposed Local Law will have the effect of practically excluding such uses altogether, in violation of established principles of both State and Federal law. Moreover, the Village must prepare an environmental impact statement ("EIS") under the State Environmental Quality Review Act ("SEQRA") if it continues to wish to pursue the Proposed Local Law.

**Overview of New York State and Federal Law
Protecting Religious and Educational Uses**

An overview of the applicable State and Federal Law is necessary in order to help your Board understand the serious illegalities in the Proposed Local Law.

¹ This letter is submitted on behalf of: Avrohom Flohr, 283 Spring Street; Solomon Zwiebel, 254 High Street; Moishe Bernath, 131 Franklin Avenue; Abraham Cohn, 380 Spring Street; Samuel Huss, 325 High Street; Moshe Strulovitch, 82 Lakes Road; Joel Bernath, 133 Franklin Avenue; Shaya Jacobowitz, 9 Pearsall Drive; Chaim Bernath, 5 Hall Court; Abraham Werczberger, 33 Highland Avenue; Ari Weinberger, 98 Gilbert Street; Joel Jacobowitz - 270 Schunnemunk Road; Joel Moskowitz, 42 Midoaks Street; Esther Jacobowitz, 270 Schunnemunk Road; Esther Bernath, 133 Franklin Avenue; Miriam Cohn, 380 Spring Street; Simmy Moskowitz, 42 Midoaks Street; Fraidy Weinberger, 98 Gilbert Street; Zalmen Ganz, 14 Sutherland Drive; Moshe Strulovitch, 82 Lakes Road; Sarah Strulovitch, 82 Lakes Road; Joseph Indig, 12 Rosmini Lane; Toby Indig, 12 Rosmini Lane; Chaim Gluck, 33 Meribeth Lane; Jacob Weberman, 18 Meribeth Lane; Yides Weberman, 18 Meribeth Lane, and; Leah Z Weberman, 18 Meribeth Lane.

Under New York law, “it is well established as a matter of public policy that educational or religious uses of land are ‘presumed to have a beneficial effect on the community.’” *Westchester Day School v. Village of Mamaroneck*, 417 F.Supp.2d 477, 562 (S.D.N.Y. 2006), *aff’d*, *Westchester Day School v. Village of Mamaroneck*, 504 F.3d 338, 351 (2d Cir. 2007) (citation omitted); *see also Cornell Univ. v Bagnardi*, 68 N.Y.2d 583, 594 (1986).

As such, since municipalities’ power to regulate land use is derived solely from their police powers to promote the morals, health, welfare and safety of the community, municipalities may not prohibit these uses from *any* zoning districts. *See id.* (holding that religious and educational uses may not be barred from residential districts); *Trustees of Union Coll. in Town of Schenectady in State of N.Y. v. Members of Schenectady City Council*, 91 N.Y.2d 161, 165 (1997) (“With the police power as the predicate for the State’s delegation of municipal zoning authority, a zoning ordinance will be struck down if it bears no substantial relation to the police power objective of promoting the public health, safety, morals or general welfare,” and affirming vacatur as unconstitutional of legislation purporting to prohibit educational uses from historic districts); *Albany Preparatory Charter Sch. v. City of Albany*, 31 A.D.3d 870, 871 (3d Dep’t 2006) (holding that the general principles of *Cornell* and *Trustees of Union College* “apply with equal force to areas zoned commercial as well as those zoned residential,” and holding that provisions of municipal zoning ordinance resulting in a wholesale exclusion of educational uses from certain commercial districts was unconstitutional).

Moreover, under State law, and of special relevance here, municipalities cannot impose conditions on religious or educational uses that “by their cost, magnitude or volume, operate indirectly to exclude such uses altogether.” *Cornell Univ.*, 68 N.Y.2d at 596. Additionally, “under New York law, a municipality may not demand that a religious institution show that ‘no ill effects will result from the proposed [religious or educational] use in order to receive a special permit,’ because such a requirement ‘fails to recognize that educational and religious uses ordinarily have inherent beneficial effects that must be weighed against their potential for harming the community.’” *Westchester Day School*, 504 F.3d at 351, *quoting Cornell Univ.*, 68 N.Y.2d at 338; *see also Westchester Reform Temple v Brown*, 22 N.Y.2d 488, 497 (1968) (holding that even “where an irreconcilable conflict exists between the right to erect a religious structure and the potential hazards of traffic or diminution in value, the latter must yield to the former”); *McGann v Inc. Vill. of Old Westbury*, 186 Misc.2d 661, 662 (Sup. Ct. Nassau Cty. 2000) (“So strong is the presumption of public benefit [for religious institutions] that ordinarily such factors bearing on public health, safety and welfare as neighborhood appearances, adverse effect on property values, loss of tax revenue, decreased enjoyment of neighboring properties and traffic hazards are insufficient to rebut the presumption.”).

In fact, because of their presumed beneficial effect, religious and educational uses must be afforded “special treatment” with respect to zoning ordinances. *See, e.g., Apostolic Holiness Church v. Z.B.A. of Town of Babylon*, 220 A.D.2d 740, 743 (2d Dept. 1995). The requisite “special treatment” for religious and educational institutions means that while they “are not exempt from local zoning laws, ‘greater flexibility is required in evaluating an application for a religious use

than an application for another use and every effort to accommodate the religious use must be made.” *Rosenfeld v. Z.B.A. of Ramapo*, 6 A.D.3d 450, 451 (2d Dep’t 2004).

On the Federal level, the Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”) prohibits land use regulations that impose a “substantial burden” on religious exercise unless a government can show: (i) a “compelling governmental interest,” which is; (ii) implemented in the “least restrictive means” possible. *See* 42 U.S.C. 2000cc(a)(1); *cf. Fortress Bible Church v. Feiner*, 694 F.3d 208, 220 (2d Cir. 2012) (holding that the First Amendment generally prohibits government actions that ‘substantially burden the exercise of sincerely held religious beliefs’ unless those actions are narrowly tailored to advance a compelling government interest. In other words, such actions are subject to strict scrutiny by reviewing courts” (citation omitted)).

Federal Courts adjudicating whether a “substantial burden” has been imposed under RLUIPA and the First Amendment in the Second Circuit are informed by New York State religious land use law, and, in particular, what actions may be deemed “arbitrary and capricious” under New York law. *See Westchester Day School*, 504 F.3d at 351 (“deem[ing] it relevant to the evaluation of [the religious school’s] particular substantial burden claim that the district court expressly found that the zoning board’s denial of the school’s application was ‘arbitrary and capricious under New York law,’” and discussing New York law). Thus, in assessing whether a substantial burden had been imposed, the Second Circuit recognized in *Westchester Day School* that:

uunder New York law, a municipality may not demand that a religious institution show that ‘no ill effects will result from the proposed use in order to receive a special permit,’ because such a requirement ‘fails to recognize that educational and religious uses ordinarily have inherent beneficial effects that must be weighed against their potential for harming the community.’

Id. at 351, *quoting Cornell Univ.*, 68 N.Y.2d at 597.

RLUIPA also prohibits municipalities from adopting land use regulations that treat religious assemblies or institutions on less than equal terms with nonreligious assemblies or institutions. *See* 42 U.S.C. § 2000cc(b)(1); *Third Church of Christ, Scientist, of N.Y.C. v. City of N.Y.*, 626 F.3d 667, 669 (2d Cir. 2010) (holding that determining whether a municipality has treated a religious entity “on less than equal terms” requires comparing its treatment of religious entities as compared to secular ones).

For the reasons set forth below, the Proposed Local Law’s regulation of religious uses is in violation of these principles on multiple bases.

Religious Uses Illegally Excluded From Certain Districts

In the first instance, none of the newly-defined uses are proposed to be permitted in the GB (General Business) or Village Recreation (VR) Districts. Moreover, “residential gathering places” and “schools of general instruction” are not proposed to be included in the CB District. These categorical exclusions are illegal under State Law. *See Trustees of Union Coll.*, 91 N.Y.2d at 165; *Albany Preparatory Charter Sch.*, 31 A.D.3d at 871. Moreover, they violate RLUIPA’s equal terms provision, including in the GB District, which allows comparable and even more impactful uses, such as hotels and motels, shopping centers, offices, restaurants, and in the VR District, which allows indoor recreation facilities. If the Village Board opts to proceed in this ill-advised endeavor, it must at a minimum, redraft the legislation to include the proposed uses in these Districts, including with proposed reasonable bulk requirements, and re-notice the public hearing.

Proposed “Residential Gathering Places” Regulations Are Illegal

The proposed restrictions on “residential gathering places” are illegal, including, but not limited to, because: (i) by their “cost, magnitude, and volume” they will operate to indirectly exclude such uses altogether, in violation of *Cornell*; (ii) they violate RLUIPA by improperly imposing a “substantial burden” on religious exercise without: (a) any “compelling governmental interest,” and; (b) are neither narrowly tailored nor implemented in the “least restrictive means” possible; (iii) they violate RLUIPA’s equal terms provision, and (iv) improperly seek to regulate the internal operations of residences.

First, the proposed “residential gathering places” requirements on their face will operate to indirectly exclude small religious gatherings, including through their “cost, magnitude, and volume,” both because of the restrictions they impose and the processes that they envision. The substantial parking requirements, for example, are onerous, costly, and appear intentionally incapable of implementation on residential lots. As the Village Board is aware, the religious community that these regulations appear to target do not drive on the Sabbath or religious holidays. Moreover, requiring additional parking based on square footage and/or seats, while simultaneously prohibiting parking or loading between the dwelling and any street line, is virtually impossible to satisfy on any typical residential lot.

Similarly, the screening requirements appear solely intended to foist costs on small religious groups, and appear completely contradictory of other requirements that “religious gathering places” “shall not change the architectural character” of the houses they are located within. Likewise, conferring unfettered discretion on the Planning Board to “impose additional restrictions” such as landscaping and fencing “to screen the residential gathering place from adjacent residential properties,” imposes unwarranted and burdensome costs on small religious gatherings, which the Proposed Local Law itself recognizes would be inside a house like any other in the community.²

² This provision is also unconstitutionally vague. *See, e.g., Town of Delaware v. Leifer*, 34 N.Y.3d 234, 247 (2019) (reiterating settled principle that a statute is unconstitutionally vague if “it is written in a manner that permits or encourages arbitrary or discriminatory enforcement.”).

Ultimately, the legislation appears aimed at compelling small religious gatherings to engage in processes (including, but not limited to multiple planning board appearances and inevitable appeals to the zoning board from the legislations onerous and unrealistic conditions) that, standing alone, will by their “cost, magnitude, and volume” improperly operate to indirectly exclude such uses altogether.

Moreover, the Proposed Local Law does not, because it cannot, articulate a compelling governmental interest to justify the substantial burden that would be imposed on “residential gathering places.” As the Second Circuit recognizes, and as the United States Supreme Court has observed, “compelling governmental interests are those that protect public health, safety, or welfare.” *See Fortress Bible Church v. Feiner*, 734 F.Supp.2d 409, 505 (S.D.N.Y., 2010). *aff’d*, 694 F.3d 208, 220 (2d Cir. 2012); *Westchester Day School*, 504 F.3d at 353 (“Compelling state interests are ‘interests of the highest order.’”). The Proposed Local Law does not, because it cannot, explain why this legislation is required to “protect public health, safety, or welfare.”

While the particular restrictions suggest that the legislation is mostly designed to provide screening and address aesthetic considerations, these are not compelling governmental interests. *See Westchester Day School*, 417 F.Supp.2d at 553 (“[T]he visual impact of the Project does not implicate a compelling government interest”); *Westchester Reform Temple*, 22 N.Y.2d at 497; *McGann*, 186 Misc.2d at 662. Even if they were, delegating to the Planning Board the unfettered authority to impose additional restrictions on landscaping and fencing would not be the least restrictive means of accomplishing this objective.

Moreover, the Village has no compelling governmental interest in imposing parking requirements in connection with small religious gatherings of a community that that does not drive on the Sabbath or religious holidays.

In addition, the proposed “residential gathering place” requirements also impermissibly substantially burden religious exercise by its prohibition against gatherings in temporary structures or outside of detached buildings for more than 5 days a year. First, during the Jewish religious Holiday of Sukkot, Jews are required to eat in a sukkah, which is a booth or tent-like structure, for 8 days. Tents also may be required to accommodate Jewish religious congregations on Holidays, including the period from the Jewish New Year (Rosh Hashanah) to the Day of Atonement (Yom Kippur), another period which exceeds 5 days. There also may be other times of the year when religious congregations need to put up tents and take them down, either before or after religious Holidays or the Sabbath, which may require more than 5 days. The Proposed Local Law does not, because it cannot, articulate a compelling governmental interest in preventing these religious practices.

The proposed “residential gathering place” regulation also violates the equal terms provision of RLUIPA. The proposed bulk requirements in the UR-M District, for example, would

only allow a “residential gathering place” to be 30’ high, while a one-family detached dwelling can be 35’ high. In addition, prohibiting homeowners from renting out or utilizing any space within their residential gathering place “for meetings or functions not directly convened or hosted by the residents of the principal one-family detached dwelling” is unreasonable. By treating residential gathering places as *accessory* to residential uses, and then limiting what homeowners can do with spaces inside their own homes, the Village is essentially singling out residential places of worship and treating them differently from other residences.

In addition, the proposed regulations improperly seek to regulate “the manner of the operation of the particular enterprise conducted on the premises.” *See Long Island University v. Board of Appeals of Inc. Village of Old Westbury*, 122 A.D.2d 53, 53 (2d Dept. 1986). The Proposed Local Law provides no justification for its efforts to regulate the internal operations of single-family residences. By way of example, prohibiting the utilization of residences “for meetings or functions not directly convened or hosted by the residents of the principal one-family detached dwelling” would unreasonably prohibit normal life-cycle events, such as weddings (unless initiated by the homeowner) at residences labeled as “residential gathering places.” Notably, there do not appear to be such restrictions prohibiting other residences from allowing people to host a wedding or other gatherings at their property.

Proposed “Neighborhood Place of Worship” Regulations Are Illegal

The proposed restrictions on “neighborhood places of worship” are also illegal, including, but not limited to, because: (i) by their “cost, magnitude, and volume” they will operate to indirectly exclude such uses altogether, in violation of *Cornell*; (ii) they violate RLUIPA by improperly imposing a “substantial burden” on religious exercise without: (a) any “compelling governmental interest,” and; (b) are neither narrowly tailored nor implemented in the “least restrictive means” possible, and; (iii) they violate RLUIPA’s equal terms provision.

To begin with the bulk requirements applicable to “neighborhood places of worship are unreasonably burdensome, are not related to impacts on public health, safety, and welfare, and would by their “cost, magnitude, and volume” improperly operate to indirectly exclude such uses altogether. The Proposed Local Law, for example, provides no justification for doubling the lot area requirements for religious assemblies” in the SR-10 District, tripling it in the SR-20 District, and increasing it more than sixfold in the UR-M District. Indeed, given that the use is the same regardless of the district in which it is located, the varying lot area requirements appear patently arbitrary. Certainly, no compelling interest is proffered for these bulk requirements.

The proposed bulk requirements also violate RLUIPA’s equal terms provision. For example, while the Proposed Local Law would require, in the SR-20 District, that a “neighborhood place of worship” be located on a lot of at least 65,340 square feet, and have lot coverage limited to 25%, the Village Code allows convalescent homes in the same district on lots less than half that size (30,000 square feet) but with lot coverage of up to 60%. Similarly, in the CB District, theaters and cultural centers, as well as many other comparable and more intense uses, appear exempt from bulk requirements.

The Proposed Local Law's requirement that classrooms, social halls, administrative offices, baths and gymnasiums and/or indoor recreation facilities in their "aggregate shall be subordinate to the size and function of the neighborhood place of worship" is unconstitutionally vague, *see Town of Delaware*, 34 N.Y.3d at 247, and appears designed to inhibit the ability of these institutions to serve their communities. *See Lawrence School Corp. v. Lewis*, 174 A.D.2d 42, 46 (2d Dept. 1992) (holding that "educational and religious institutions are generally entitled to locate on their property facilities for such social, recreational, athletic and other accessory uses as are reasonably associated with their educational or religious purposes"). The purported outdoor recreational limitation is outright illegal.

In addition, the Proposed Local Law's requirement that a "school of general instruction" established at the site of a "neighborhood place of worship" be treated as an "additional principal use," and that the "cumulative minimum lot area of each principal use shall be satisfied" is also unreasonable and illegal, including because its "cost, magnitude, and volume" would operate to indirectly exclude the colocation of such uses.

Other requirements relating to "neighborhood places of worship" are also unduly burdensome and illegal, including, but not limited to, the excessive parking requirements, the prohibitions and mandates on the location of parking and loading areas, the mandate for 20'-wide landscaped areas, and the limitation on cooking facilities. The grant of unfettered discretion to the Planning Board is, again, unconstitutionally vague. *See, e.g., Town of Delaware*, 34 N.Y.3d at 247.

Proposed "Community Place of Worship" Regulations Are Illegal

For many of the same reasons the proposed restrictions on "neighborhood places of worship" are illegal, so, too, are the proposed restrictions on "community places of worship," including, but not limited to, because: (i) by their "cost, magnitude, and volume" they will operate to indirectly exclude such uses altogether, in violation of *Cornell*; (ii) they violate RLUIPA by improperly imposing a "substantial burden" on religious exercise without: (a) any "compelling governmental interest," and; (b) are neither narrowly tailored nor implemented in the "least restrictive means" possible, and ; (iii) they violate RLUIPA's equal terms provision.

Initially, the bulk requirements applicable to "community places of worship" are unreasonably burdensome, are not related to impacts on public health, safety, and welfare, and would by their "cost, magnitude, and volume" improperly operate to indirectly exclude such uses altogether. Again, the Proposed Local Law, for example, provides no justification for increasing by sixfold the lot area requirements from "religious assemblies" in the SR-10 and SR-20 Districts, tripling it in the SR-20 District, and increasing it twelvefold in the UR-M District. Again, the arbitrariness of the bulk requirements is evidenced by the fact that while the use is the same regardless of the district in which it is located, the bulk requirements vary wildly. Certainly, again, no compelling interest is proffered for these bulk requirements.

The proposed bulk requirements also, again, violate RLUIPA's equal terms provision. For example, while the Proposed Local Law would require, in the SR-20 District, that a "neighborhood place of worship" be located on a lot of at least 120,000 square feet, and have lot coverage limited to 25%, the Village Code allows convalescent homes in the same district on lots less than a fourth of that size (30,000 square feet) but with lot coverage of up to 60%. Similarly, in the CB District, theaters and cultural centers, as well as many other comparable and more intense uses, appear exempt from bulk requirements.

The Proposed Local Law's requirement that religious schools, social halls, and indoor recreation areas "shall be subordinate in aggregate to the size and function of the community place of worship" is unconstitutionally vague, *see Town of Delaware*, 34 N.Y.3d at 247, and appears designed to inhibit the ability of these institutions to serve their communities. *See Lawrence School Corp.*, 174 A.D.2d at 46 (holding that "educational and religious institutions are generally entitled to locate on their property facilities for such social, recreational, athletic and other accessory uses as are reasonably associated with their educational or religious purposes").

In addition, the Proposed Local Law's requirement that a "school of general instruction" established at the site of a "neighborhood place of worship" be treated as an "additional principal use," and that the "cumulative minimum lot area of each principal use shall be satisfied" is also unreasonable and illegal, including because its "cost, magnitude, and volume" would operate to indirectly exclude the colocation of such uses.

Other requirements relating to "community places of worship" are also unduly burdensome and illegal, including, but not limited to, the excessive parking requirements, the prohibitions and mandates on the location of parking and loading areas, and the mandate for 20'-wide landscaped areas. Again, the grant of unfettered discretion to the Planning Board is unconstitutionally vague. *See, e.g., Town of Delaware*, 34 N.Y.3d at 247.

Proposed "School of General Instruction" Regulations Are Illegal

For many of the same reasons that the previously discussed restrictions are illegal, so, too, are the proposed restrictions on "schools of general instruction," including, but not limited to, because: (i) by their "cost, magnitude, and volume" they will operate to indirectly exclude such uses altogether, in violation of *Cornell*, and; (ii) insofar as they relate to religious schools, they violate RLUIPA by improperly imposing a "substantial burden" on religious exercise without: (a) any "compelling governmental interest," and; (b) are neither narrowly tailored nor implemented in the "least restrictive means" possible.

Initially, the bulk requirements applicable to "schools of general instruction" are unreasonably burdensome, are not related to impacts on public health, safety, and welfare, and would by their "cost, magnitude, and volume" improperly operate to indirectly exclude such uses altogether. The Proposed Local Law, for example, provides no justification for the excessive minimum bulk requirement of 120,000 square feet, or the further requirement that 50,000 square feet be added for each additional increment of 50 students. Moreover, regulations include multiple

unreasonable and unjustifiable requirements, including, but not limited to, requiring that: (i) the appearance of “schools of general instruction” be “of similar design aesthetic in conformity with the scale and character of the neighborhood;” (ii) excessive open space and restrictions on its location; (iii) excessive and impractical landscaping; (iv) unrealistic and onerous parking requirements, particularly insofar as it ties parking requirements to student counts since most children do not drive (indeed, the Law’s assumption that 1 parking space is needed for each 2 enrolled students over 16 years old reflects an unduly entitled perspective and certainly does not reflect the realities of Jewish religious schools), and; (v) delegation to Planning Board of control over faculty and staff arrivals and departure time (and no discussion of how this would relate to students).

Proposed Local Law Requires An EIS Under SEQRA

The Proposed Local Law, which appears particularly geared toward impacting the religious practices of a particular religious community that, by its tenets, much live near its houses of worship, clearly has the potential to impact population patterns, population concentration, distribution, and/or growth, which are critical considerations under SEQRA. *See Chinese Staff & Workers Ass’n v. City of N.Y.*, 68 N.Y.2d 359, 366 (1986), *quoting* N.Y. Env’tl. Conserv. L. § 8-105(6). Indeed, the Proposed Local Law appears aimed at causing significant adverse impacts to one community in this regard. The Proposed Local Law’s potential impacts in this regard clearly surpass the established low threshold under SEQRA requiring the preparation of an EIS. *See id.*

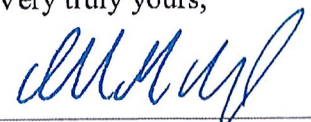
Conclusion

As drafted, the Proposed Local Law violates State and Federal legal and constitutional requirements on multiple counts and, respectfully, appears impermissibly targeted at the Jewish religious community in the area. The Village has not, and cannot, set forth any compelling interest in substantial burdening the religious practices of this community. To the contrary, respectfully, the legislation appears to be motivated by bad faith and discriminatory animus. Should your Board proceed to adopt this flawed legislation, our clients will not hesitate to challenge it in Court, including seeking all appropriate legal costs and fees.

We appreciate the Board’s time and consideration, and we are available to answer any questions your Board may have. Please let us know if the Board has any questions or would like us to elaborate on any points(s) raised in this letter.

Very truly yours,

By :


Daniel M. Richmond



Daniel M. Richmond
dmrichmond@zarin-steinmetz.com

May 12, 2023

Mayor Neil S. Dwyer,
and the Honorable Board of Trustees of the
Village of Monroe
7 Stage Road
Monroe, New York 10950

***Re: Public Hearing Comments:
Introductory Local Law 6 of 2023:
Amendment to Village Architectural Review Laws***

Dear Mayor Dwyer and the Honorable Board of Trustees:

On behalf of Joel Mann, the owner of properties located at 236, 238, 240, and 252 Elm Street (Section, Block and Lot Numbers 203-5-26.1, 26.2, 27 & 28) and Avigdor Waldman, the owner of properties located at 424 and 430 North Main Street and 434 New York Route 208 (Section, Block and Lot Numbers 202-1-1, 2 & 4), we respectfully write to make one specific but critical objection to certain language in the above-referenced proposed Local Law.

In particular, our clients object to so much of the proposed Local Law as would improperly constrain the Building Inspector's authority by preventing it from authorizing field changes. The draft Local Law now states that "[a]ny deviation from the approved architectural renderings or materials shall require an amendment to the approval by the Planning Board." (See Draft Local Law 6 of 2023, § 4(E).) Section 200-5 of the Village of Monroe Zoning Code defines a "field change" as "[a] change or adjustment to an approved site development plan, due to field conditions, that will not substantially alter the intent, layout or design of the approved plan."

It is common in most municipalities to allow the Building Inspector to authorize such routine and minor changes. This is because requiring developers to reappear before the Planning Board anytime minor architectural alterations occur would cause unnecessary time, project delays, and other expenses and to conserve municipal resources.

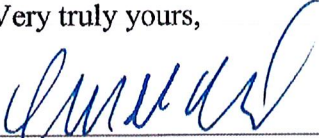
Our clients recognize that Section 200-72(H)(2) of the Village Code sets forth similar language unduly constraining the authority of the Building Inspector, and, for the reasons set forth

herein, we likewise recommend that that Section also be amended in the interest of conserving the time, money, and resources of both the Village and developers.

We appreciate the Board's time and consideration, and we are available to answer any questions your Board may have. Please let us know if the Board has any questions or would like us to elaborate on any points(s) raised in this letter.

Very truly yours,

By :


Daniel M. Richmond

cc: Joel Mann
Avigdor Waldman