

VILLAGE OF PELHAM BOARD OF TRUSTEES REGULAR MEETING  
TUESDAY, SEPTEMBER 23, 2008 – 7:30 PM  
VILLAGE HALL – 195 SPARKS AVENUE, PELHAM, NY – MINUTES

1. Call To Order
2. Pledge of Allegiance
3. Mayor's Report
4. Trustees' Reports
5. Village Administrator's Report
6. Public Comment

Approximate  
Starting Time  
of Discussion

#	Agenda Items:	
	<b>Human Resources</b>	<b>7:40 p.m.</b>
7.	Resolution authorizing appointment by the Mayor of a new Firefighter, effective Monday, October 6, 2008.	<b>Approved</b>
8.	Resolution authorizing the completion of probation for Police Officer Daniel Reddy.	<b>Approved</b>
9.	Resolution authorizing the appointment by the Mayor of a Laborer to the Special Skills classification.	<b>Approved</b>
	<b>Committee Reports</b>	<b>8:00 p.m.</b>
10.	Open Spaces (Purchase of trash /recycling cans, benches, picnic tables & bike racks; business Façade improvements; Hank White).	<b>Discussed</b>
11.	Website / Telecommunications -- Verizon FIOS .	<b>Discussed</b>
12.	Flooding (Westchester County Flood Action Task Force, Engineer Project Bid, DPW catch-basins mapping, etc.).	<b>Discussed</b>
13.	Environmental – (LED light status report).	<b>Discussed</b>
14.	Development (Site Plan Review Revision, Pelham Medical Group/Lordae, Commercial Zoning Review Committee).	<b>Discussed</b>
15.	Human Resources & Administration, incl. Dept. Risk Assessments.	<b>Discussed</b>
	<b>Site Plan Application</b>	<b>8:30 p.m.</b>
16.	Site Plan application by Vasilotti for the property at 442 First Avenue, for a single family home.	<b>Approved</b>
	<b>Public Hearing – Cable Franchise</b>	<b>8:45 p.m.</b>
17.	Continued Public Hearing on a proposed draft Franchise Agreement between the Village and Verizon for FIOS TV.	<b>Hearing continued.</b>
	<b>Public Hearing – Code Changes</b>	<b>9:00 p.m.</b>
18.	Continued Public Hearing on a Proposed Local Law amending the Site Plan Code Ch. 79 and 98 of the Pelham Village Code to delegate the Planning Board authority to approve certain Site Plan applications.	<b>Hearing continued. Lead agency adopted.</b>
19.	Continued Public Hearing on a proposed amendment to the Village Code Chapter 90-16 B. regarding overnight parking for drivers who have handicapped parking permits.	<b>Hearing continued.</b>
	<b>Emergency and Hazard Preparedness</b>	<b>9:15 p.m.</b>
20.	Adoption of the updated Village of Pelham All-Hazard Pre-Disaster Mitigation Plan, with the requirements and updates recommended by FEMA and SEMO.	<b>Approved</b>
	<b>Business</b>	
21.	Declaring two vehicles surplus and available for sale and auction (1997 Blazer, and 2004 Crown Victoria).	<b>Approved</b>
	<b>Housekeeping</b>	<b>9:30 p.m.</b>
22.	Authorizing the Accounts Payable	<b>Authorized</b>
23.	Other Business	<b>Approved</b>
24.	Minutes: June 3, June 17, July 15, August 5 and September 9, 2008	<b>Tabled</b>
25.	Adjournment	<b>Adjourned</b>

Next Scheduled Board Meetings are October 7, October 21, and Wednesday, November 5, 2008.

\* All meetings start at 7:30 p.m. unless otherwise noted. The Agenda is subject to change.

VILLAGE OF PELHAM BOARD OF TRUSTEES REGULAR MEETING MINUTES  
TUESDAY, SEPTEMBER 23, 2008 – 7:30 P.M.  
VILLAGE HALL – 195 SPARKS AVENUE, PELHAM, NY

Item #1 – Meeting called to order: The meeting of the Board of Trustees was called to order by Mayor Edward Hotchkiss at 7:35 p.m.

The following members of the Board of Trustees were present:

Mayor Edward Hotchkiss, Trustees Lewis, Morris and Potocki. Trustee Breskin arrived at 8:43 pm. Trustees Homan and Weinstein were absent.

Village staff in attendance:

Administrator/Treasurer Richard Slingerland, Administrative Aide Devron Wilson, and Village Attorney Edward Bullock.

Item #2 – Pledge of Allegiance:

The Pledge of Allegiance was led by Mayor Edward Hotchkiss.

Item #3 – Mayor's Report

Mayor Hotchkiss reported that a resident at 45 Harmon Avenue wrote a letter thanking Village Administrator Richard Slingerland for handling the drainage issues surrounding their property. The resident also thanked the Department of Public Works for maintaining the catch basins in that area.

Item #4 – Trustees' Reports:

Trustee Potocki reported that the pedestrian crossing signs have been ordered for the intersections of Boulevard and Corlies Avenue, and the intersection of Nyac and Corlies Avenues. Trustee Potocki thanked the people who use the drop off zones near the middle school. He mentioned Pelham Manor residents have begun dropping students off at Iden Place, Steller Avenue, Corlies Avenue and Colonial Avenue, to use the crossing guard who controls the traffic very well at the intersection of Colonial Avenue and Corlies Avenue.

Trustee Potocki reported there have been incidents at Commerce Bank with cars exiting the bank parking lot the wrong way. The matter has been forwarded to the police department for review. He further reported that police officers Polese and DiBenedetto are currently in tactical team training. They should be done with training on October 3, 2008. Once they've completed the training the Pelham police department will have six tactically trained officers in the unit.

Trustee Lewis had nothing to report that was not included elsewhere in the agenda.

Trustee Morris had nothing to report that was not included elsewhere in the agenda.

Item #5 – Village Administrator's Report:

Village Administrator Richard Slingerland had nothing to report that was not included on the agenda.

Item #6 – Public Comment:

John Cassone of 312 7<sup>th</sup> Avenue asked the village for the names of the two police officers currently in tactical training. Trustee Potocki responded by letting Mr. Cassone know that it is police officer Polese and police officer DiBenedetto.

Item #7 – Resolution authorizing appointment by the Mayor of a new Firefighter, effective Monday, October 6, 2008:

A motion was made by Trustee Morris, with a second by Trustee Lewis to adopt the resolution. The motion was approved unanimously by vote of four in favor, none opposed. Trustees Breskin, Homan, and Weinstein were absent.

RESOLUTION  
AUTHORIZING THE APPOINTMENT BY THE MAYOR  
OF TIMOTHY FRUSCIANTE TO THE POSITION OF FIRE FIGHTER  
IN THE PELHAM FIRE DEPARTMENT

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham authorize the appointment by the Mayor of Timothy Frusciante of Pelham, New York, to the position of Firefighter, attending the Fire Academy starting Monday, October 6, 2008, with salary and effective date of employment determined by collective bargaining agreement with the Pelham Police and subject to the requirements of Civil Service, for a probationary period of one year, conditioned upon the satisfactory completion of a pre-employment medical examination, and authorizes the Mayor, the Village Administrator and the Fire Chief to take the necessary and appropriate actions to effect this offer and for Mr. Frusciante to begin the Fire Academy on Monday, October 6, 2008.

Item #8 – Resolution authorizing the completion of probation for Police Officer Daniel Reddy:

A motion was made by Trustee Potocki, with a second by Trustee Morris to adopt the resolution. The motion was approved unanimously by vote of four in favor, none opposed. Trustees Breskin, Homan, and Weinstein were absent.

RESOLUTION  
AUTHORIZING THE COMPLETION OF PROBATION  
FOR POLICE OFFICER DANIEL REDDY

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham authorize the completion of probation for Police Officer Daniel Reddy, based on the successful completion of his probation and recommendation by the Police Chief, effective July 8, 2008.

Item #9 – Resolution authorizing the appointment by the Mayor of a Laborer to the Special Skills classification:

A motion was made by Trustee Potocki, with a second by Trustee Morris to adopt the resolution. The motion was approved unanimously by vote of four in favor, none opposed. Trustees Breskin, Homan, and Weinstein were absent.

RESOLUTION  
AUTHORIZING THE APPOINTMENT BY THE MAYOR  
OF OMAR SANCHEZ TO THE ADDITIONAL TITLE OF SPECIAL SKILLS  
IN THE PELHAM PUBLIC WORKS DEPARTMENT

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham authorize the appointment by the Mayor of Omar Sanchez to the additional classification and pay scale of "Special Skills" in addition to his title of Laborer, to perform masonry work, starting Monday, September 29, 2008.

Item #10 – Open Spaces (Purchase of trash /recycling cans, benches, picnic tables & bike racks; business Façade improvements; Hank White):

Trustee Laura Morris thanked the Pelham Preservation and Garden Society for donating the trees planted at First Street and Pelhamdale Avenue.

Administrator Slingerland mentioned that Hank White needs a survey of the northern portion of Wolfs Lane Park to use as the basis of his plans to prepare and create a strategic plan for the park. Since no survey is on file for the property, the village would have to hire a surveyor to conduct a survey of the northern portion of Wolfs Lane Park. Mr. Slingerland also mentioned that trash receptacles and benches totaling about \$7,000 have been ordered for the downtown district of the village. Furthermore, the Main Street Grant program is in process with approximately a dozen merchants who have signed up for the program.

Item #11 – Website / Telecommunications -- Verizon FIOS:

The website discussion was tabled, and the board held off discussing Verizon Fios until later.

Item #12 – Flooding (Westchester County Flood Action Task Force, Engineer Project Bid, DPW catch-basins mapping, etc.):

Administrator Slingerland mentioned that money may be available from Westchester County through the Flood Summit Task Force for flooding problems in local municipalities, that have a county benefit provided through the improvements. Mr. Slingerland will look into this further. He also mentioned the village received proposals for engineering services, however the spread of proposal prices was too broad, ranging from \$7,500, to \$75,000. Westchester County is going to provide the village with a copy of an RFP it plans to issue soon, which should help the Village to re-draft a more specific RFP for re-issue.

Item #13 – Environmental – (LED light status report):

Administrator Slingerland and General Foreman Michael Shriman had met with several vendors to discuss L.E.D. lighting for the village. Mr. Slingerland mentioned that he and Administrative Aide Devron Wilson had met with representatives from the New York Power Authority (NYPA) to discuss ways NYPA could help the village in its energy reduction endeavors. The village will continue its research for the project.

Item #14 – Development (Site Plan Review Revision, Pelham Medical Group/Lordae, Commercial Zoning Review Committee):

Mayor Hotchkiss mentioned that it has been almost three (3) years since the rock slide at the Pelham Medical Group property. Pelham Medical Group has been approved for its Phase 2 cliff remediation work, but Lordae Realty has a few issues remaining to deal with before they can move forward with remediation and reconstruction of the collapsed building.

Item #15 – Human Resources & Administration, incl. Dept. Risk Assessments:

Mayor Hotchkiss mentioned that risk assessments have been completed for all village departments. Administrator Slingerland reported that the information gathered from the assessments has to be reviewed and compiled into a comprehensive report.

Item #17 – Continued Public Hearing on a proposed draft Franchise Agreement between the Village and Verizon for FIOS TV:

(THIS TOPIC WAS MOVED UP FROM LATER IN THE AGENDA)

Mayor Hotchkiss reported that the village is still in negotiations with Verizon for FIOS service.

John Cassone of 312 7<sup>th</sup> Avenue asked the board if Verizon was still planning to build out in the village during negotiations to meet the 5 year build out plan. John Butler from Verizon informed everyone that the village is 75% built out already. Mr. Butler went on to mention that Verizon has (2) two more hubs to install, which serves approximately 120 customers. Mac Kerby, Verizon's technical representative, confirmed that the village is approximately 75% built out at this point in time.

Mayor Hotchkiss informed everyone that the hearing will be continued at the October 7<sup>th</sup> Board of Trustee meeting.

HEARING ON A PROPOSED  
DRAFT FRANCHISE AGREEMENT BETWEEN  
THE VILLAGE AND VERIZON FOR FIOS TV

RESOLVED, by the Mayor and Board of Trustees of the Village of Pelham, based on the continuation of negotiations between the Village of Pelham and Verizon for a Franchise agreement to allow Verizon to offer its Verizon FIOS Cable TV service to homes and businesses located within the Village of Pelham, that a public hearing is scheduled to continue on the terms of that negotiated agreement, to be held as follows:

Cable Television Franchise Public Hearing to be held before the Mayor and Board of Trustees of the Village of Pelham as follows:

Subject: Draft Franchise Agreement between Pelham Village and Verizon for FIOS TV

Original Date: Tuesday, August 12, 2008

Continuation Date: Tuesday, September 23, 2008, until Tuesday, October 7, 2008

Time: 7:30 p.m.

Location: Village Hall, 195 Sparks Avenue, Pelham

A copy of the draft proposed Franchise agreement is available for public review. Hard copies are available at Village Hall, 195 Sparks Avenue, Pelham, NY, 10803. Electronic copies can be downloaded at [www.pelhamgov.com](http://www.pelhamgov.com), and requests made by e-mail to the Village Administrator by e-mail at [Richard.slingerland@pelhamgov.com](mailto:Richard.slingerland@pelhamgov.com).

Item #20 – Adoption of the updated Village of Pelham All-Hazard Pre-Disaster Mitigation Plan, with the requirements and updates recommended by FEMA and SEMO:  
(THIS TOPIC WAS MOVED UP FROM LATER IN THE AGENDA)

Administrator Slingerland reported that the village has been working with Environmental Technology Group (ETG) since September of 2006 in order to produce the village's Hazard Mitigation Plan. In September of 2006 a hazard mitigation plan committee was formed to gather information and lend a hand to the plan. Since then the village has worked with ETG to develop the plan to submit to State Emergency Management Office (SEMO) and Federal Emergency Management Administration (FEMA). That plan was completed in September, 2007, and filed with FEMA in late September, early October 2007.

Administrative Aide Devron Wilson reported that FEMA has reviewed the plan and has recommended that the village make some minor changes to the plan, mainly regarding formatting and re-stating information included elsewhere in the plan. The village had their consultants ETG make all of the recommended changes to the plan. The plan has been resubmitted to SEMO and FEMA for final review. Administrator Slingerland thanked Mr. Wilson and ETG for their hard work on the plan.

It was further reported to the Board that although typically, final adoption of these plans is allowed by Boards upon the review and final acceptance by FEMA of the final plans, with all changes made and completed. In this case, although the final, amended plan has not yet been reviewed and accepted by FEMA, the Village had been advised that the plan should be adopted as soon as possible, **so that new regulations going into effect on October 1, 2008, would not apply. [I DON'T UNDERSTAND THIS. OK AS IS?]**

However, it was noted that it was possible that FEMA might require the Village to re-adopt the plan upon FEMA's final review and acceptance, which was still pending.

A motion was made by Trustee Lewis, with a second by Trustee Potocki to adopt the resolution. The motion was approved unanimously by vote of four in favor, none opposed. Trustees Breskin, Homan, and Weinstein were absent.

#### RESOLUTION

RECOMMENDING THE ADOPTION AND ACCEPTANCE AS FINAL  
FOR THE UPDATED VILLAGE OF PELHAM  
ALL-HAZARD PRE-DISASTER MITIGATION PLAN  
BASED ON THE REQUIREMENTS, RECOMMENDATIONS AND  
UPDATES AS PUT FORTH BY THE U.S. FEMA AND NY SEMO.

RESOLVED, that the Mayor and Board of Trustees of the Village of Pelham hereby accept the recommendations for update of the Village Of Pelham, All-Hazard Pre-Disaster Mitigation Plan, originally adopted in draft and sent to FEMA in September, 2007, and

BE IT FURTHER RESOLVED, that the plan is recommended to be put forth as Final, and is hereby recommended for Final Approval by FEMA, based on completion of the requirements, recommendations and updates put forth by the U.S. FEMA and NY SEMO, as amended into the plan by the Village's consultant the Environmental Technology Group (ETG), with such changes having been made in full, and authorizes the Mayor, the Village Administrator, and ETG, to take the necessary and appropriate actions to recommend the submission of this plan for adoption and final acceptance by FEMA.

Item #21 – Declaring two vehicles surplus and available for sale and auction (1997 Blazer, and 2004 Crown Victoria):

(THIS TOPIC WAS MOVED UP FROM LATER IN THE AGENDA)

A motion was made by Trustee Potocki, with a second by Trustee Lewis to adopt the resolution. The motion was approved unanimously by vote of four in favor, none opposed. Trustees Breskin, Homan, and Weinstein were absent.

#### RESOLUTION

DESIGNATING CERTAIN VEHICLES SURPLUS AND AVAILABLE FOR PUBLIC SALE  
1997 CHEVROLET BLAZER (WHITE) and 2004 FORD CROWN VICTORIA

WHEREAS, certain vehicles and equipment of the Village of Pelham are approaching the end of, or have exceeded, their useful life and purpose, and are hereby declared surplus so that they may be advertised and sold to the benefit of the Village of Pelham.

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham hereby declares the following vehicles as surplus and authorizes their disposal at public sale, as follows:

Year	Make	Model and Color	VIN	Miles
1997	Chevrolet	Blazer; White	1GNDDT13W7VK203162	130,347
2004	Ford	Crown Victoria; White	2FAFP71W34X155303	80,170

(former Police Car 75)

BE IT FURTHER RESOLVED, that the disposal of these vehicles is authorized in compliance with the requirements of law, and the Mayor, the Administrator and other appropriate officials are authorized to take the necessary and appropriate actions to dispose of and sell these vehicles.

Item #22 – Authorizing the Accounts Payable:

(THIS TOPIC WAS MOVED UP FROM LATER IN THE AGENDA)

A motion was made by Trustee Lewis, with a second by Trustee Morris to adopt the resolution. The motion was approved unanimously by vote of four in favor, none opposed. Trustees Breskin, Homan, and Weinstein were absent.

RESOLUTION

**WHEREAS**, pursuant to Section 5-524 of the New York State Village Law, the Board of Trustees shall audit all claims against the Village.

**NOW, THEREFORE, BE IT HEREBY RESOLVED**, that the Board of Trustees after audit of the following claims, authorizes payment for services rendered and materials received, for the following items that have been submitted to the Treasurer's Office for payment and authorized by the Village Administrator:

<u>Fund Name:</u>	<u>Amount</u>
General Fund	\$ 265,216.54
Water Fund	\$ 1,970.00
Capital Projects Fund	\$ 0.00
Trust and Agency Fund	\$ 337.50
H3 Fund	<u>\$ 0.00</u>
Grand Total	\$ 267,524.04

**NOW, THEREFORE, BE IT RESOLVED**, that this Board hereby approves payment of the above-mentioned claims and authorizes payment thereof.

Item #16 – Site Plan application by Vassalotti for the property at 442 First Avenue, for a single family home:

Mr. Vassalotti of 446 First Avenue gave a brief presentation about the project. He owns the vacant property located at 442 First Avenue, to which he and his family would like to move.

**[IS THIS NEEDED?]**

Planning Board Chairman Richard Veith reported that the planning board approved the plans with no problem.

Architectural Review Board Chairwoman Barbara Bartlett mentioned that the plan took a while to get approved, but ultimately the best plan was approved in the end.

A motion was made by Trustee Lewis, with a second by Trustee Morris to adopt the resolution. The motion was approved unanimously by vote of four in favor, none opposed. Trustees Breskin, Homan, and Weinstein were absent.

**RESOLUTION**  
**AUTHORIZING THE SITE PLAN FOR PROPOSED NEW HOUSE (VASSALOTTI)**  
**AT 442 FIRST AVENUE**

**RESOLVED**, that the application for a Site Plan to construct a new house is approved, based on the review and recommendations by the Planning Board and the Architectural Review Board; and

**BE IT FURTHER RESOLVED**, that conditions apply as follows:

1. That the new house must be built in accordance with plans received by the Village and approved by the Planning Board in their memo dated September 16, 2008;
2. That the new house must be built in accordance with plans received by the Village and approved by the Architectural Review Board in their memo dated August 25, 2008 ;
3. That the Village tree located in front of the address, 442 First Avenue must be preserved and protected from damage during construction, and replaced with at least two (2) street trees that are acceptable to the Village of Pelham, as determined by the Mayor and Board of Trustees; and;
4. That the Grading and Drainage on the sites shall be as shown on the plans approved by the Planning Board
5. That All construction activity must comply with the Village Noise Ordinance and all construction activity must only take place on the days and times as per Village Noise Ordinance;
6. That any other actions deemed necessary by the Mayor, Village Administrator, Building Inspector, and other officials of the Village of Pelham.
7. That the application and permit shall remain subject to the continued jurisdiction of the Board of Trustees.
8. That at no time may construction commence and not strictly adhere to the construction timeline, and otherwise a change in schedule shall be be considered a violation of the Planning Board approval.

**AND, BE IT FURTHER RESOLVED**, that this application for a site plan by Vassalotti for 442 First Avenue, is subject to the procedures, regulations and requirements of the Pelham Village Code and Pelham Building Department; and

**BE IT FURTHER RESOLVED**, that the Mayor, Village Administrator, Building Inspector and officials of the Village of Pelham are authorized to take the necessary and appropriate actions to effect this site plan approval.

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Planning Board Approval Memo is appended and made a part of this approval, and follows here:

# MEMO

Date: September 16, 2008

To: Village of Pelham Board of Trustees

From: Village of Pelham Planning Board

Re: Applicant: Vassalotti  
Property: 442 First Avenue  
Application for Proposed New Residence

The Village of Pelham Planning Board (PB) recommends that the Village of Pelham Board of Trustees (BOT) approve the application for the Proposed New Residence at 442 First Avenue. The Planning Board unanimously approved the application for the proposed construction of the new residence submitted by the Applicant.

All work relating to the construction of the proposed drainage system shall be performed as shown on Plan Drawings T-1, A-1, A-2, A-3, A-4, A-5 and A-6 dated 8/28/08 by Vassalotti Associates Architects, L.L.P.

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Architectural Review Board Approval Memo is appended and made a part of this approval, and follows here:

## MEMO

Date: August 27, 2008

To: Village of Pelham Board of Trustees

From: Village of Pelham Architectural Review Board

Re: Application for a proposed new House for 442 First Avenue

The Architectural Review Board (ARB) recommends that the Village of Pelham Board of Trustees (BOT) approve the application submitted by James Vassalotti, for a proposed new house for 442 First Avenue.

Work shall be performed as shown on Project Drawings dated August 25, 2008 pages A1, A2, A3, A4, A5, and A6 signed by the ARB on August 27, 2008.

**[CHANGE FONT SIZE BELOW TO 12 POINT! HOWEVER, WHAT FOLLOWS IS ABOUT SEQRA, NOT THE PELHAM VILLAGE CODE, PLANNING BOARD, AND SITE PLAN APPROVALS]**

Item #18 – Continued Public Hearing on a Proposed Local Law amending the Site Plan Code Ch. 79 and 98 of the Pelham Village Code to delegate the Planning Board authority to approve certain Site Plan applications:

**[DELETE SEQRA STUFF:]  
Environmental Findings Resolution:**

A motion was made by Trustee Lewis, with a second by Trustee Potocki to adopt the resolution. The motion was approved unanimously by vote of five in favor, none opposed. Trustees Homan, and Weinstein were absent.

**RESOLUTION  
DECLARING THE BOARD OF TRUSTEES AS LEAD AGENCY UNDER SEQRA  
ON AN UNLISTED ACTION  
AND ADOPTING A NEGATIVE DECLARATION UNDER SEQRA  
BASED ON THE FINDING THAT THE ACTION OF MAKING ZONING TEXT  
AMENDMENTS  
TO KEEP THE ZONING CODE CONSISTENT WITH  
PROPOSED AMENDMENTS TO THE SITE PLAN CODE  
TO DELEGATE SOME SITE PLAN APPROVAL AUTHORITY TO THE PLANNING BOARD  
CREATES NO ADVERSE IMPACTS ON THE ENVIRONMENT**

**RESOLVED**, by the Board of Trustees of the Village of Pelham, that:

- 1. It declares itself Lead Agency under SEQRA, since it is the only agency with authority to amend the Zoning Code of the Village of Pelham;**
- 2. It finds that the action of amending the Zoning Code text to be an Unlisted Action under 6 NYCRR §617.4 and §617.5;**
- 3. It finds a need, as authorized under NYS Village Law, to delegate some authority for final site plan approval to the Planning Board, as generally described as follows:**
  - A. The Mayor and Board will retain approval for all new homes and all commercial site plan reviews, whether for new or amended commercial site plans.**
  - B. The Planning Board will take over the authority to review and approve all applicable residential additions and accessory structures, and will continue in an advisory capacity on all other site plan applications.**

**Taking into account the criteria set forth in 6 NYCRR §617.7 for determining significance of actions, upon review of all pertinent information, including taking a hard look at all the facts and circumstances, the Board of Trustees of the Village of Pelham hereby determines that the Action will not have a significant effect on the environment, adopts this resolution and the accompanying short EAF, and finds there will be no unidentified adverse effects are anticipated with respect thereto.  
(end of resolution.)**

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Village Administrator Slingerland mentioned that he and Planning Board Chairman Richard Veith had a discussion on this legislation with the Village's Counsel Martha Conforti.

Planning Board Chairman Richard Veith gave a brief summary of the type of site plans that they board will continue to approve and the type of site plans that the planning board will now be able to approve. Basically, the Planning Board will take on the responsibility to approve residential accessory buildings and additions, and the Mayor and Board will retain authority to

approve all site plans that include primary residential structures, and any and all changes to commercial properties.

A motion was made by Trustee Potocki, with a second by Trustee Lewis to table the public hearing until further review, to amend and revise the proposed law to make sure it fits the goals and objectives of the Board. The motion was approved unanimously by vote of five in favor, none opposed. Trustees Homan, and Weinstein were absent.

**PUBLIC HEARING  
FOR THE CONSIDERATION OF AMENDMENTS TO  
THE VILLAGE CODE CHAPTERS 79 THE SITE PLAN CODE AND 98 THE ZONING CODE  
AND GRANTING THE PLANNING BOARD THE AUTHORITY TO  
APPROVE CERTAIN SITE PLAN APPLICATIONS**

RESOLVED, The Board of Trustees of the Village of Pelham hereby schedules a public hearing to be continued at 7:30 p.m. on Tuesday, September 23, 2008, and to Tuesday, October 7, 2008, in Village Hall at 195 Sparks Avenue, Pelham, NY, on a draft proposed Local Law that would amend the Code of the Village of Pelham, as follows:

A local law to repeal Chapter 79, to adopt a new Chapter 79 Site Plan and to amend Chapter 98 to make it consistent with the new Chapter 79.

The Mayor and Board will retain approval for all new homes and all commercial site plan reviews, whether for new or amended commercial site plans. The Planning Board will take over the authority to review and approve all applicable residential additions and accessory structures, and will continue in an advisory capacity on all other site plan applications.

A copy of the draft proposed Local Law is on file in the offices of the Village Clerk and may be viewed during normal business hours of 8 a.m. to 5 p.m., or an electronic copy may be obtained from the opening page of the Village's website [www.pelhamgov.com](http://www.pelhamgov.com).

By Order of the Mayor and Board of Trustees

Terri Rouke, Village Clerk

Richard Slingerland, Village Administrator/Deputy Clerk

Note: The revised text of the proposed law is appended below, amended to address the comments and the concerns of Richard Veith, current Planning Board Chairman, and Gwen Tapogna, past Planning Board Chairwoman.

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**A local law to repeal Chapter 79, to adopt a new Chapter 79 Site Plan and to amend Chapter 98 to make it consistent with the new Chapter 79**

**BE ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF PELHAM AS FOLLOWS:**

**SECTION 1**

Chapter 79 of the Code of the Village of Pelham is repealed, and the following new Chapter 79 Site Plan is adopted:

**Chapter 79, SITE PLAN APPROVAL**

**§ 79-1. Title.**

The chapter shall be known as "Chapter 79 Site Plan Approval of the Code of the Village of Pelham."

**§ 79-2. Purpose.**

This chapter is enacted pursuant to the provisions of § 7-725a of the Village Law of the State of New York to ensure that proposed development and land use within the Village of Pelham will be harmonious with the existing or permitted use of contiguous land and of adjacent neighborhoods and that proposed development takes into consideration public health, safety, welfare, comfort and convenience.

**§ 79-3. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**APPROVAL AUTHORITY** – The board with the authority to give final approval of a site plan.

**SITE PLAN** -- A plan which shows a proposed development and/or use of land within the Village of Pelham. Such plan shall consist of a map or maps and supporting documentation as set forth in § 79-9 herein.

**§ 79-4. Applicability.**

The types of development or use set forth below shall require site plan approval by the Village of Pelham as specified in §79-5:

- A. The erection of any building in a non-residential district
- B. The erection of any building for a principal use in a residential district

- C. The erection of any permitted accessory building which is located in a residential district and has a building area of more than 275 square feet.
- D. The enlargement of any residential building that results in the expansion of living space, as defined by the NYS Building Code, by more than 35% or 750 square feet.
- E. The substantial alteration or modification of land from its natural state, whether by regrading or the addition of structures other than buildings.
- F. Any change in the use or intensity of the use of premises which will require a modification of existing means of ingress or egress, parking or loading facilities, drainage, utilities, landscaping, screening or outdoor lighting unless the work performed is pursuant to a previously approved site plan that is still valid. Excluded from review under this Chapter are changes of signs, awnings, canopies, marquees and barber poles and the lighting thereof which are regulated by Chapter 77.
- G. Any alteration or modification of a building in a non-residential district with the following exceptions:
  - 1. Work performed pursuant to a previously approved site plan that is still valid;
  - 2. Repainting a previously painted exterior surface;
  - 3. Replacement of any window or door with one that has the same style, size and location;
  - 4. Maintenance of an exterior surface of brick or stone work, stucco, steps or platforms, wood shingles, trim and other protective finishes, but not the replacement of exterior surface finishes that result in the change of the material of the exterior surface, of the finishes or of the design; and
  - 5. Pointing of brick or stone work and measures to prevent the entry of water into a building that do not require covering any portion of the existing design features or the exterior surface materials.
  - 6. Changes of signs, awnings, canopies, marquees and barber poles and the lighting thereof which must be approved by the Architectural Review Board pursuant to Chapter 77.
- H. Creation of a driveway.
- I. Installation of an in-ground pool

**§ 79-5. Designation of the approval authority for site plans.**

- A. The Planning Board shall be the approval authority for site plans for the types of development described in § 79-4C, D, E, H and I.
- B. The Board of Trustees shall be the approval authority for site plans for the types of development described in § 79-4A, B, F, and G.

**§ 79-6. Standards for review; objectives.**

- A. The Board of Trustees, Planning Board, all other Village Boards and agents, whether considering and approving applications or preparing recommendations and findings, shall take into consideration:
  - (1) Public health, safety and general welfare; and
  - (2) The comfort and convenience of the general public, of the residents or users of the proposed development, and of the immediate neighborhood.
- B. The Board of Trustees, Planning Board, all other Village Boards and agents shall also prescribe appropriate conditions and safeguards consistent with the general purpose and intent of this chapter and Chapter 98 of the Code of the Village of Pelham, and all other applicable law to achieve the following objectives:
  - (1) That all proposed traffic access ways
    - (a) Have sufficient, but not excessive, capacity;
    - (b) Are adequate in width, grade, alignment and visibility;
    - (c) Are not located too near street corners or places of public assembly;
    - (d) Are designed with due regard to other similar safety considerations; and
    - (e) Are provided with all traffic safety devices needed for the protection of motorists, cyclists and pedestrians.
  - (2). That the interior circulation system is adequate to provide safe access to all required off-street parking spaces, loading bays and building services.
  - (3) That the locations of areas for play and other active use take into consideration the users' safety and welfare.
  - (4) That at all seasons of the year all playground, parking and service areas are reasonably screened from the view of adjacent residential lots and streets where such screening is necessary for the protection of such lots and streets and is practical;

- (5) That the general landscaping of the site is consistent with or superior to that of the neighborhood and will enhance the aesthetics of the abutting street or streets;
- (6) That all existing trees over eight inches in diameter, measured three feet above the base of the trunk, are retained to the maximum extent possible.
- (7) That all plazas and other paved areas use decorative pavements and/or plant materials so as to avoid the creation of vast expanses of pavement.
- (8) That all outdoor lighting is designed and placed to:
  - (a). Harmonize with the character of the neighborhood; and
  - (b) Limit, to the extent reasonable, the diffusion of glare onto adjoining properties and streets.
- (9) That the drainage and sewerage systems comply with all applicable law. Such compliance includes, but is not limited to, drainage and sewer systems that are adequate to accommodate any expected loads which include all runoff from the tributary watershed at full development under the existing zoning. This includes, when practical, on-site retention for rains up to 2 inches within a 24 hour period for all the increased impervious surfaces caused by the improvements.
- (10) That the planned development will include no illegal discharges or illicit connections to the village separate storm sewer system and complies with Chapter 57 of the Village of Pelham Code and all other applicable laws.
- (11) That all proposed structures, equipment or materials will be readily accessible for fire protection and will not constitute a fire hazard to adjacent structures.
- (12) That the site plan and building design consider energy conservation.
- (13) That the site layout and overall appearance of buildings on the site will have no reasonably avoidable adverse impact on the established character, desirability, or value of the adjacent properties.
- (14) That the building designed is responsive to the design characteristics of the adjoining lots, other structures within 200 feet of the site or the Village as a whole, whichever is more appropriate.

**§ 79-7. Procedure.**

All applications for site plan approval shall follow the following procedure:

- A. Presubmission conference to determine zoning compliance and contents of site plan and supporting information,

- (1) Prior to submitting a formal site plan, the applicant shall meet in a presubmission conference with the Building Inspector so that the Building Inspector can determine whether the proposed development complies with Chapter 98 of the Code of the Village of Pelham or whether the applicant must apply for a variance from the Zoning Board of Appeals.
- (2) After the Building Inspector determines that proposed development does not require a variance from the Zoning Board of Appeals or after the required variance from the Zoning Board of Appeals has been obtained, the Building Inspector will determine what information listed in § 79-9 must be included in the site plan application
  - (a) If the applicant agrees with the Building Inspector's determination of what information must be supplied to the Planning Board, then the applicant shall prepare the site plan and required supporting information.
  - (b) If the applicant disagrees with the Building Inspector's determination of what information must be provided with the site plan, then the applicant may apply to the Planning Board to review solely what information must be submitted with the site plan.
  - (c) The Building Inspector or Planning Board may revise or waive the provisions of any of the required information listed in § 79-09. Such revisions or waivers may be granted only after a finding that:
    - [1] Such requirement is inappropriate or unnecessary due to the limited nature of the proposed development, special conditions particular to the site or the fact that strict compliance with such requirement will cause such unnecessary work, expense or hardship.
    - [2] The granting of such revisions or waiver does not interfere with the accomplishment of the purposes and intent of this chapter nor have a detrimental effect on the public health, safety or general welfare.

B. Submission. After the scope of the information required for submission of the site plan is determined, the applicant shall submit to the Building Inspector

- (1) A completed declaration of intent to develop form that is provided by the Village;
- (2) One copy of the site plan with related and supporting information;
- (3) The fee set by resolution of the Board of Trustees; and
- (4) Proof of notice to all property owners contiguous to the applicant's property, including those separated by a street. These notices must be hand-delivered or mailed by the applicant at least 10 days prior to the date of the scheduled consideration by the

Planning Board. Proof of the notice will be an affidavit, or other proof of delivery, or proof of mailing, which must be provided by the applicant to the Village Clerk prior to the Planning Board meeting.

- C. Then the Building Inspector shall review the original or amended site plan to determine whether the architect has designed a structure that complies with all applicable laws. The Building Inspector shall also confirm that the application contains all the required elements set forth in § 79-9 which were not specifically waived by the Building Inspector or Planning Board. If the Building Inspector finds that the application is incomplete or fails to comply with all applicable requirements, within 15 working days of its receipt, he shall return the application to the applicant and indicate the specific deficiencies to be remedied.
- D. Once the Building Inspector determines that the application is complete and complies with all applicable laws, an applicant will supply additional copies of the site plan and its supporting documentation. Applicants submitting a site plan for a type of development described in § 79-4C, D, E, H or I must supply the Building Inspector with seven (7) complete copies of the site plan and its supporting documentation. Applicants submitting a site plan for a type of development described in § 79-4A, B, F, or G will supply the Building Inspector with fifteen (15) complete copies of the site plan and its supporting documentation.
- E. Delivery of completed site plans to the approval authority. In cases of site plans for development of the type described in § 79-4C, D, E, H or I, the Building Inspector will forward the copies of the site plan and its supporting documentation to the Planning Board within five (5) working days from the time the Building Inspector receives the required number of completed plans. In cases of site plans for development described in § 79-4A, B, F, or G, the Building Inspector will forward the copies of the completed site plan and its supporting documentation to the Planning Board and the Board of Trustees within five (5) working days from the time the Building Inspector receives the required number of completed plans. The date of submission of the site plan to the Board with approval authority shall be considered the official submission date.
- F. Upon receipt of the copies of the site plan, the Planning Board will forward the application to those Village Boards that it deems appropriate. The Building Inspector and any board to which the site plan is forwarded shall submit its written recommendations and findings to the Planning Board. Such recommendations and findings must consider the standards set forth in § 79-6, and be submitted to the Planning Board no later than 15 working days prior to any public hearing thereon or 60 working days following referral of the application if no public hearing shall be held thereon.
- G. Planning Board Review of Site Plans.
- (1) In cases of site plans for the types of development described in § 79-4C, D, E, H or I, the Planning Board shall approve, approve with conditions or disapprove any such site plan within 30 days following the close of the public hearing or if no hearing is held, within 60 days of the official submission date. These time periods may be extended with the consent of the applicant. In reviewing the application, the Planning Board shall request that the applicant make revisions

which the Planning Board deems necessary to ensure that the proposed development will conform to the intent and requirements of this chapter. If the Planning Board disapproves the application, within 10 days of its decision it shall give the applicant a written decision setting forth the reasons for the disapproval and deliver a copy of the decision to the Building Inspector for the permanent building file.

(2) In cases of site plans for the types of development described in § 79-4A, B, F or G, the Planning Board shall submit its written recommendations and finding as well as the written recommendations and findings of the Building Inspector and any other village boards, to the Board of Trustees. Such recommendations and finding must consider the standards set forth in § 79-6, and be submitted to the Board of Trustees no later than 15 working days prior to any public hearing thereon or 60 working days following referral of the application if no public hearing shall be held thereon.

- H. The Board of Trustees and/or Planning Board may hold a public hearing on the site plan if it determines that the matter is of wide public interest. If held, such a hearing shall be held within 60 days of the official submission date. Notice of such hearing shall be given by the applicant to the owners of the adjacent or surrounding properties within 200 feet and proof of such notice shall be filed with the Board holding the public hearing. Notice of such hearing shall also be published at least five days prior to the date of such hearing in the official newspaper of the Village by the Village Clerk, and the cost of such application shall be paid by the applicant prior to the hearing.
- I. The Board of Trustees shall approve, approve with conditions or disapprove any such site plan within 30 days following the close of the public hearing or if no hearing is held, within 60 days of the official submission date. These time periods may be extended with the consent of the applicant. In reviewing the application, the Board of Trustees shall request that the applicant make revisions which the Board of Trustees deems necessary to ensure that the proposed development will conform to the intent and requirements of this chapter. If the Board of Trustees disapproves the application, within 10 working days of its decision, it shall give the applicant a written decision setting forth the reasons for the disapproval and deliver a copy of the decision to the Building Inspector for the permanent building file and an additional copy to the Planning Board. If, after its review, the Planning Board unanimously recommended disapproval of the submitted plan, to approve the site plan the Board of Trustees must vote by at least a majority plus one to approve the plan.
- J. An application for an amendment to a previously approved site plan shall be acted upon in the same manner as the application for approval of the original site plan.
- K. Performance bond.
- (1) Following approval of the site plan by the approval authority, in addition to any other fees required by the Village of Pelham, the applicant shall file with the Village Clerk a performance bond in which the Village is named as obligee in an amount set by the Building Inspector sufficient to cover the full cost of all required work, planting, and improvements. If the value of the work, planting, and improvements required in the

final site plan approved by the Board of Trustees is less than \$10,000, the Building Inspector, with the concurrence of approval authority, may waive the bonding requirements.

- (2) A performance bond shall be in a form satisfactory to the Village Attorney and may be in the form of surety company bonds. The performance bond may be required to cover any work specified in the site plan, including but not limited to, stormwater drainage systems; streets and lighting; off-street parking and loading areas; means of vehicular access and egress to and from the site onto public streets; recreation areas, including playgrounds; garbage collection stations; fire alarm systems; proposed screening and landscaping; and at the discretion of the approval authority, the planting and maintenance of such screening and landscaping for a minimum of one year and a maximum of three years. Said bonds shall be conditioned upon the property owner or developer completing all the work set forth on the approved site plan in a matter satisfactory to the Building Inspector and upon the proper functioning of all work for a period of one year following its completion.
- (3) In case of default, the performance bond shall be forfeited to the Village, and the Village shall use the proceeds to do any or all of the following: to complete any incomplete portions of the required work, planting and improvements, to make repairs or corrections necessary to ensure the proper functioning of the work and improvements, and to maintain the required plantings. Any moneys in excess of that necessary for completing, repairing, and/or correcting such work and/or maintaining said plantings will be returned to the surety. Said surety bond may be reduced by the Building Inspector upon certification to the approval authority that one or more of the particular items required by the approval authority has been satisfactorily completed, and is functioning properly and that in its reduced amount the bond is sufficient to cover the full cost of the remainder of the required work, planting and improvements.
- (4) The installation of all required improvements shall be under the direct supervision of a registered architect or licensed engineer, unless this requirement is waived in writing by the Building Inspector.

**§ 79-8. Time limit on validity of approval.**

Unless a building permit is obtained within 120 days of the date of approval of the site plan, such approval shall become null and void. Upon application and for good reason shown, the approval authority may extend the validity of the approval by no more than two consecutive one-hundred-twenty-day periods from the date of original approval.

**§ 79-9. Submission requirements.**

The information to be submitted and which, in total, constitutes a site plan, is listed below. All maps must be at a scale of not less than 30 feet to the inch.

- A. Legal data.

- (1) The lot, block, section number, street, street number of the property and the names of all owners of record of adjacent properties located within 200 feet of the extreme limits of the subject property, all as shown on the Village's official assessment maps.
- (2) A current survey of the boundaries of the property tied to at least two permanent monuments not less than 300 feet apart showing all lengths in feet and decimals of a foot and all angles given to the nearest minute or closer if deemed necessary by the surveyor so that the error of closure will not exceed 1:10,000.
- (3) The location of all required building or setback lines and lines of existing streets and lots as shown on the Village's official assessment maps. Any relevant existing deed restrictions or covenants, reservations, easements and areas dedicated to public use, if known, shall be noted.
- (4) A map showing the area within 500 feet from the perimeter of the site, at a scale of not more than 50 feet to the inch, showing:
  - (a) Existing zoning and special district boundaries; and
  - (b) Location of traffic safety devices and directional flow of traffic.
- (5) The location of all existing structures on the subject lot and on all lots having a common boundary therewith.
- (6) A copy of any proposed covenants or deed restrictions that are intended to cover all or any part of the tract.
- (7) Location of existing water mains, culverts and drains on or serving the property, with pipe sizes, grades and direction of flow.

B. Topographic data.

- (1) Existing contours and proposed grade elevations at intervals of two feet or less, referred to a datum satisfactory to the Board, showing retaining walls, if any, and methods to be used to retain, stabilize or replant regraded areas.
- (2) Location of existing watercourses, wetland areas, intermittent streams, wooded areas, rock outcrops, single trees with a diameter of eight inches or more, measured three feet above the base of the trunk, and other significant existing features.

C. Development data.

- (1) Title of development, date, North point, scale, name and address of record owner or owner or of the individuals holding the controlling interest if the owner is a corporation;

and the name and address of the engineer, architect, land planner or surveyor preparing the site plan.

- (2) The proposed use or uses of land and buildings and location, height and design of all existing and proposed buildings. Any proposed subdivision of the property and any division of any building or structure into units of separate occupancy shall also be shown.
- (3) All means of vehicular ingress and egress to and from the site onto public streets and the location of all existing and proposed public and private roads, drives and walkways on the site.
- (4) The location and layout of all proposed off-street parking and loading areas.
- (5) The location and intended use of any proposed outdoor storage area.
- (6) The proposed method of storage and disposal of solid waste.
- (7) The size and location of all proposed waterlines, valves and hydrants and all sewer lines or of alternative means of water supply and sewage disposal and treatment.
- (8) The location, direction, intensity and time of operation of proposed outdoor lighting.
- (9) The location, dimensions and design of all existing and proposed signs.
- (10) A planting plan, prepared by a qualified landscape architect, showing all existing and proposed screening and landscaping, fences or dividers.
- (11) The proposed stormwater drainage system and associated calculations, prepared by a licensed professional engineer and furnished under his seal.
- (12) Any proposed easements and public areas.
- (13) Building materials to be used on all structures and landscaping.
- (14) Current photographs of the site showing adjacent properties.
- (15) Elevation of adjacent properties.
- (16) The construction schedule, staging information, mechanical equipment to be used, and screening for the construction site.

D. Financial data.

- (1) Current taxes on the site.

- (2) Proposed taxes after site improvement.
- (3) Current employment and/or occupancy on the improved site.
- (4) Projected employment and/or occupancy on the improved site.

**§ 79-10. Conflict with other Village laws.**

In the event that this chapter conflicts or is inconsistent with any other Village law, the more comprehensive or strict requirements shall apply.

**§ 79-11. Severability.**

If the provisions of any section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this chapter.

**SECTION 2.**

Section 98-4 of the Code of the Village of Pelham is repealed, and the following new Section 98-4 is adopted:

**§ 98-4. Site plan approval required.**

In addition to complying with all the provisions of this chapter, the types of development or use set forth below shall require site plan approval by the Village of Pelham in accordance with Chapter 79 of the Code of the Village of Pelham:

- A. The erection of any building in a non-residential district.
- B. The erection of any building for a principal use in a residential district
- C. The erection of any permitted accessory building which is located in a residential district and has a building area of more than 275 square feet.
- D. The enlargement of any residential building that results in the expansion of living space, as defined by the NYS Building Code, by more than 35% or 750 square feet..
- E. The substantial alteration or modification of land from its natural state, whether by regrading or the addition of structures other than buildings.
- F. Any change in the use or intensity of the use of premises which will require a modification of existing means of ingress or egress, parking or loading facilities, drainage, utilities, landscaping, screening or outdoor lighting unless the work is performed pursuant to a previously approved site plan that is still valid. Excluded from review under this Chapter are

changes of signs, awnings, canopies, marquees and barber poles and the lighting thereof which are regulated by Chapter 77.

- G. Any alteration or modification of a building in a non-residential district with the following exceptions:
1. Work performed pursuant to a previously approved site plan that is still valid;
  2. Repainting of a previously painted exterior surface;
  3. Replacement of any window or door with one that has the same style, size and location;
  4. Maintenance of an exterior surface of brick or stone work, stucco, steps or platforms, wood shingles, trim and other protective finishes, but not the replacement of exterior surface finishes that result in change of the material of the exterior surface, of the finishes or of the design; and
  5. Pointing of brick or stone work and measures to prevent the entry of water into a building that do not require covering any portion of the existing design features or the exterior surface materials.
  5. Changes of signs, awnings, canopies, marquees and barber poles and the lighting thereof which must be approved by the Architectural Review Board pursuant to Chapter 77.
- H. Creation of a driveway.
- I. Installation of an in-ground pool.

### **SECTION 3. Effective Date**

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

#### Item #19 – Continued Public Hearing on a proposed amendment to the Village Code Chapter 90-16 B. regarding overnight parking for drivers who have handicapped parking permits:

The Mayor opened the Hearing, and asked if there was any public comment.

John Cassone of 312 7<sup>th</sup> Avenue mentioned that the village should form a committee to handle this concept **[FOR WHAT? to handle approvals? I don't remember]**.

A motion was made by Trustee Lewis, with a second by Trustee Breskin to continue the public hearing. The motion was approved unanimously by vote of five in favor, none opposed. Trustees Homan, and Weinstein were absent.

\*\*Continued Public Hearing on a proposed amendment to the Village Code Chapter 90-16 B. regarding overnight parking for drivers who have handicapped parking permits.

**PUBLIC HEARING ON A PROPOSED AMENDMENT  
TO THE VILLAGE CODE CHAPTER 90-16 B. REGARDING OVERNIGHT PARKING  
FOR RESIDENTS WHO HAVE HANDICAPPED PARKING PERMITS.**

The Board of Trustees of the Village of Pelham hereby schedules a public hearing to be continued at 7:30 p.m. on Tuesday, **September 23, 2008 [OK?]**, in Village Hall at 195 Sparks Avenue, Pelham, NY, on a draft proposed Local Law that would amend the Code of the Village of Pelham, as follows:

**[ARE DATES SUPPOSED TO BE UPDATED? OR IS THIS THE BACKGROUND FOR CONTINUING THE HEARING ON SEPT. 23? THERE IS NO RESOLUTION ABOUT CONTINUING THE HEARING IN THE NEXT MEETING, IN OCTOBER. DID WE DO THAT?]**

A LOCAL LAW that amends Section 90-16 of the Code of the Village of Pelham to amend the Code with regard to overnight parking for residents who have handicapped parking permits.

A copy of the draft proposed Local Law is on file in the offices of the Village Clerk and may be viewed during normal business hours of 8 a.m. to 5 p.m., or an electronic copy may be obtained from the opening page of the Village's website [www.pelhamgov.com](http://www.pelhamgov.com).

By Order of the Mayor and Board of Trustees

Terri Rouke, Village Clerk

Richard Slingerland, Village Administrator/Deputy Clerk

Publication date: **August 8, 2008 [OK?]**

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**DRAFT PROPOSED LOCAL LAW  
LOCAL LAW NUMBER    OF 2008**

**A local law to repeal Section 90-16 and  
to adopt a new Section 90-16 regarding  
overnight on-street parking**

**BE ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF PELHAM AS  
FOLLOWS:**

**SECTION 1**

Section 90-16 of the Code of the Village of Pelham is repealed, and the following new Section 90-16 is adopted:

**§ 90-16. Restrictions on parking motor vehicles overnight on the streets.**

A. The Board of Trustees of the Village of Pelham has determined that:

1. Parking motor vehicles overnight on the streets within the Village of Pelham hinders governmental operations, including but not limited to cleaning and sweeping streets, removing snow and ice from the roadways, locating and identifying stolen or abandoned vehicles, and protecting residents and their property.
2. Many buildings located in the Village are old and were constructed without providing adequate off-street parking facilities for the users of the property;
3. The owner of a premises is responsible for providing adequate off-street parking facilities for the users of the premises;
4. The complete and absolute prohibition of overnight parking on the streets within the Village may create an extreme hardship to some owners and/or operators of motor vehicles.
5. A partial prohibition of overnight parking with a narrow exception for hardship will allow the Village to perform its governmental functions and provide relief to those who would otherwise suffer undue hardship.

B. It is prohibited to park motor vehicles on the streets within the Village of Pelham between the hours of 2:00 a.m. and 6:00 a.m. except as set forth below:

1. All-night parking of passenger vehicles is permitted at those locations which the Village Board of Trustees has specifically authorized for that purpose.
2. Parking at the long-term parking meters on First Street east of Wolf's Lane is only prohibited between the hours of 2:00 a.m. and 5:00 a.m.
3. An individual who has been granted a Hardship Overnight Parking Exemption (HOPE) may park on the street overnight.

C. A HOPE will be granted if:

1. No driveway or parking area is provided on the premises, and there is no area on the premises where a driveway or parking area can be constructed by the owner, and

- a. The applicant is disabled, cannot walk to the nearest municipal lot, and either owns a motor vehicle registered pursuant to § 404-a of the Vehicle and Traffic Law of New York State or holds a valid permanent or temporary handicapped parking permit issued by the Town of Pelham pursuant to § 1203-a of the Vehicle and Traffic Law of New York State; or
  - b. The applicant's employer has determined that the applicant is necessary for life-threatening emergencies. Such applicants include but are not limited to police, firefighters, doctors, nurses, emergency medical technicians and ambulance drivers. The applicant must produce written proof from his or her employer that the applicant must be on call for such life-threatening emergencies and must have immediate access to his or her vehicle for such emergencies.
- D. A temporary HOPE is available to the owner or operator of a motor vehicle who has a temporary need to park a motor vehicle at a premises where no parking is provided or available. A temporary HOPE allows the holder to park a passenger motor vehicle overnight on the street at a specific address for a maximum of five consecutive nights, provided that the applicant is not a regular occupant or user of such premises. A temporary HOPE may be obtained from the Police Department, which shall obtain the name and address of the applicant, license plate number of the vehicle to be parked on the street overnight and the address of the premises near which the vehicle will be parked. A temporary HOPE granted pursuant to this subsection shall not be renewable or granted to the same applicant or vehicle for a period of one month from the date of the expiration of the temporary HOPE .
- E. No HOPE shall be granted to:
1. Any vehicle with a gross weight of 5,000 pounds or more;
  2. Any commercial vehicle.
  3. Any tractor or trailer.
  4. Any vehicle used primarily for livery or commercial purposes.
  5. Any vehicle for which there are three or more outstanding unanswered parking summonses issued by the Village of Pelham.
- F. Procedure to apply for a Hardship Overnight Parking Exemption (HOPE)
1. An applicant for a HOPE shall obtain the application form from the Village, submit to the Village Clerk a completed application form and the nonrefundable administrative fee to be set by resolution of the Board of Trustees.
  2. The Village Clerk shall process the HOPE application and investigate whether the applicant meets the requirements for a HOPE. If so, the Village Clerk will issue a HOPE that will be valid until the end of the calendar year. The permit will cover one

vehicle owned or operated by the applicant and is to be parked at a specific address. No more than one HOPE will be issued to any dwelling unit. Any appeals of the Village Clerk's decision will be heard and decided by the Village Administrator.

- G. To renew the HOPE the applicant must submit an updated application form and pay the annual renewal fee set by resolution of the Board of Trustees.
- H. A HOPE will terminate if the updated application form is not submitted, and/or if the renewal fee is not paid, or upon the sale or transfer of the title of such vehicle, the suspension or revocation of the applicant's driver's license or vehicle registration, or the cancellation of insurance for the vehicle. The HOPE will also terminate if any of the facts set forth in the application change materially, and the changed circumstances no longer satisfy the requirements for a HOPE.
- I. Whenever the vehicle is parked on the street overnight, the HOPE permit must be displayed conspicuously in the applicant's vehicle so that it is easily visible through the front windshield.

## **SECTION 2. Effective Date**

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

### **RESOLUTION**

#### **SETTING HANDICAPPED OVERNIGHT PARKING PERMIT RATE AT \$25 PER CALENDAR YEAR**

RESOLVED, by the Board of Trustees of the Village of Pelham, that the handicapped overnight parking permit rate is established at twenty-five dollars (\$25) per calendar year.

#### Item #23 – Other Business:

Trustee Potocki mentioned that the village has received requests for parking regulations to be changed on Monterey Avenue between 2<sup>nd</sup> Street and Boulevard. Trustee Potocki will work with Police Chief Joseph Benefico to review the parking situation on the block.

Trustee Greg Breskin mentioned that he plans to schedule a meeting with the Zoning committee soon.

#### Item #24 – Minutes: June 3, June 17, July 15, August 5 and September 9, 2008:

\* The minutes were tabled until the next scheduled board of trustees meeting on October 7, 2008.

#### Item #25 – Adjournment:

On the motion of Trustee Lewis, seconded by Trustee Morris, the Board voted to adjourn the public portion of the board meeting and go into Executive Session at 9:00 p.m. to discuss

personnel matters and matters of collective bargaining negotiations, after which it would adjourn.

The motion was approved unanimously by vote of five in favor, none opposed. Trustees Homan and Weinstein were absent.

Respectfully submitted,  
Devron Wilson, Administrative Aide  
Richard Slingerland, Administrator/Deputy Clerk