

PRESENT:

Mayor

Richard C. Phillips, Jr.

Trustees

Emilio DaBramo

Daniel S. Natchez

John W. Porter

Village Manager

Armand J. Giamunzio

Village Attorney

Joseph A. Notaro

ABSENT:

Trustee

Henry A. Gruse

Mayor Phillips noted that the Special Meeting was called in order to take action on the public hearing which was held on December 10, 1973 to amend the Zoning Ordinance.

PUBLIC HEARING ZONING ORDINANCE AMEND SECTION 423.6

On motion of Trustee DaBramo, seconded by Trustee Porter:

RESOLVED that the Zoning Ordinance of the Village of Mamaroneck, as adopted by the Board of Trustees on February 14, 1968, and which became effective on April 1, 1968, be changed and amended and the Board of Trustees of the Village of Mamaroneck does hereby enact and ordain as follows:

FIRST: By amending Section 423.6 (Restaurants and Taverns) so that the same shall read as follows:

No restaurant or tavern, or other place serving food or drinks, shall provide outdoor counter, drive-in, or curb service, but it may provide service at tables on a porch or terrace where this is incident and clearly subordinate to the operation conducted within the main building. In a C-1 District, no more than Twenty Percent (20%) of all indoor seats in a restaurant or tavern shall be counter seats. Under no circumstances will any provisions of this Ordinance be construed so as to permit the establishment of a restaurant, tavern, lunch wagon, hot dog stand, diner or similar refreshment or eating stands or fast food operations whose main purpose is the preparation of food for off-premises consumption. This section shall not apply to bakeries or delicatessens.

SECOND: The foregoing amendment to the Zoning Ordinance will take effect immediately upon adoption and due posting.

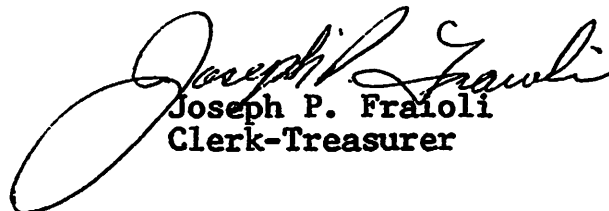
Ayes: Porter, Natchez, DaBramo,
Phillips, Jr.

Nays: None

of the amendment.

ADJOURNMENT

There being no further business to come before the Board,
on motion duly made and seconded, the meeting was adjourned.


Joseph P. Fraioli
Clerk-Treasurer

Memorandum

To: Mamaroneck Village Trustees
From: Frank S. Fish
Subject: Controls on Eateries along Mamaroneck Avenue
Date: October 26, 1995

1. Background: Purpose & Intent

As you know, I have been working with the Mamaroneck Avenue task force since last Spring on potential land use controls for downtown. The task force expressed concerns with both the proliferation of various fast-food eateries and take-out restaurants along Mamaroneck Avenue and with a corresponding problem with trash and debris on the Avenue. The task force was concerned that a healthy mix of retail uses be maintained on the Avenue so that it remain a full service, community shopping center for residences and visitors. The task force has also been concerned with esthetics and cleanliness on the Avenue.

2. Definitions

In order to address the above issues, the task force first asked that I define the differences between the types of eateries on the Avenue. Attached to this cover memo are the four definitions that the task force recommends be put into the zoning code. At first we distinguished between a full service table-cloth restaurant and a fast-food restaurant. However, in order to include some of the coffee houses and other carry-out food establishments we also defined a carry-out restaurant. Then, at the request of Joe DeSalvo and Ernie Pocha we defined a delicatessen. This has now resulted in four definitions that the task force was comfortable with.

3. Standards

The task force then addressed itself to the control of these different types of eateries along Mamaroneck Avenue within the C2 zone. The basis desire of the task force was to separate these different types of uses so that they do not form a predominance on the Avenue and result in a change in the retail mix. The task force felt that a significant change in the retail mix along the Avenue could result in an inability to offer a full range of services and a diminishment of the community shopping center nature of downtown. The task force debated several methods of controlling the number of eateries per block and eventually settled on a distance requirement. There was considerable discussion as to whether this distance should be a radius or a linear footage. The task force settled upon a linear footage on either side of the Avenue as the easiest to measure and control and,

Restaurant

A business engaged in the preparation and sale of food and beverages selected from a full menu by patrons seated at a table or counter, served by a waiter and consumed on the premises. The term "restaurant" does not include a bar, cabaret, carry-out restaurant, delicatessen or fast-food restaurant.

Restaurant, Carry-Out

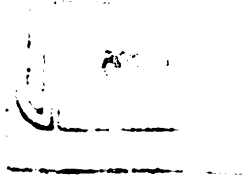
A business enterprise primarily engaged in the retail sale of food or beverages, which may include grocery items, for consumption off the premises, but which also includes the incidental sale of ready-to-consume food and beverages from a counter-type installation for consumption on the premises provided that the area devoted to customer seating is clearly accessory to the main business, and complies with the area requirements of the New York State Uniform Fire Prevention and Building Code.

Delicatessen

A business engaged in the retail sale of food, beverages and grocery items for consumption off premises and where meats, fish, salads, cheese, relishes and delicacy items might be specially prepared as sandwiches and other consumable items for lunch, snacks and other off premises consumption. Such use shall not include tables and seating for on-premises food consumption.

Restaurant, Fast-Food

A business enterprise primarily engaged in the sale of ready-to-consume food and beverages generally served in disposable or prepackaged containers or wrappers and where patrons usually select their orders for a posted menu offering a limited number of specialized items, such as, but not limited to, hamburgers, chicken, fish and chips, pizza, tacos and hot dogs, which are prepared according to standardized procedures for consumption either on or off the premises in a facility where a substantial portion of the sales to the public is by drive-in or stand-up services and clean-up is generally performed by the customer. The term "fast-food restaurant" shall not include a carry-out restaurant or delicatessen.



PROJECT I.D. NUMBER

617.20

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT /SPONSOR Village of Mamaroneck	2. PROJECT NAME Proposed Local Law No. 1-1996
3. PROJECT LOCATION: Municipality <u>Village of Mamaroneck</u> County <u>Westchester</u>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) C-2 District on Mamaroneck Avenue in downtown of the Village of Mamaroneck.	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration <u>Zoning amendment</u>	
6. DESCRIBE PROJECT BRIEFLY: Zoning text amendemnt of definitions for food service establishments (restaurants and delicatessans) and restriction of 200 feet between fast-food restaurants, carry-out restaurants or delicatessans in the C-2 District on Mamaroneck Avenue in the downtown.	
7. AMOUNT OF LAND AFFECTED: Initially <u>Existing C-2 district</u> acres Ultimately <u>Existing C-2 district</u> acres No change in area	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe: Downtown of the Village of Mamaroneck	
10. DOES ACTION INVOLVE A PERMIT APPROVAL OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency(s) and permit/approvals	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/Sponsor name: <u>Joseph Lanza</u>	Date: _____
Signature: _____	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

OVER

1

Joseph Lanza

Print or Type Name of Responsible Officer in Lead Agency

Signature of Responsible Officer in Lead Agency

Mayor

Title of Responsible Officer

Signature of Preparer (if different from responsible officer)

Date

2

PART II—ENVIRONMENTAL ASSESSMENT (To be completed by Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.
☐ Yes ☒ No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.
☐ Yes ☒ No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:
No

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:
No

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:
No

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:
No

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:
No

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly.
No

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly.
None

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CEA?
☐ Yes ☒ No

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?
☐ Yes ☒ No If Yes, explain briefly

PART III—DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination and significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

- ☐ Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- ☒ Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide on attachments as necessary, the reasons supporting this determination:

Village of Mamaroneck

Name of Lead Agency

Joseph Lanza

Print or Type Name of Responsible Officer in Lead Agency

Mayor

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from responsible officer)

1/17/96
Date

VILLAGE OF



MAMARONECK

Village Hall

P.O. Box 369

Mamaroneck, N.Y. 10543

OFFICE OF THE
VILLAGE ATTORNEY

TELEPHONE
914-777-7737

FAX NUMBER
914-777-7787

November 20, 1995

**To: Mayor and Board of Trustees
Interim Village Manager
Clerk-Treasurer
Building Inspector
Code Enforcement Officer
Planning Board
Planning Consultant
Board of Appeals
Special Counsel to Board of Appeals
Board of Architectural Review
Mamaroneck Avenue Task Force**

Re: Controls on Eateries Along Mamaroneck Avenue

Attached, for your review and comments, please find a draft of a proposed local law, which has been prepared by this office in accordance with the recommendations contained in the memorandum dated October 26, 1995 from Frank S. Fish, Planning Consultant.

Since the public hearing has been set for January 22, 1996 to consider the adoption of these provisions, please submit any comments you may have to this office no later than December 15, 1995, in order to give us sufficient time to make any necessary changes and to prepare the final copy of this proposed legislation for the public hearing.

Thank you for your cooperation in this regard.

James J. Nolletti
James J. Nolletti am
Village Attorney

am
att.

PROPOSED LOCAL LAW NO. -1996

DRAFT
NOT OFFICIAL

A Local Law amending Section 342-3B (Terms Defined) and Section 342-45 (Restaurants and Taverns) of Chapter 342 (Zoning) of the Code of the Village of Mamaroneck

Be it enacted by the Board of Trustees of the Village of Mamaroneck as follows:

SECTION 1. Subsection B of Section 342-3 (Terms Defined) of Chapter 342 (Zoning) of the Code of the Village of Mamaroneck is hereby amended by adding the following definitions thereto:

RESTAURANT - A business engaged in the preparation and sale of food and beverages selected from a full menu by patrons seated at a table or counter, served by a waiter and consumed on the premises. The term "restaurant" does not include a bar, cabaret, carry-out restaurant, delicatessen or fast-food restaurant.

RESTAURANT, CARRY-OUT - A business enterprise primarily engaged in the retail sale of food or beverages, which may include grocery items, for consumption off the premises, but which also includes the incidental sale of ready-to-consume food and beverages from a counter-type installation for consumption on the premises, provided that the area devoted to customer seating is clearly accessory to the main business, and complies with the area requirements of the New York State Uniform Fire Prevention and Building Code.

DELICATESSEN - A business engaged in the retail sale of food, beverages and grocery items for consumption off premises and where meats, fish, salads, cheese, relishes and delicacy items might be specially prepared as sandwiches and other consumable items for lunch, snacks and other off-premises consumption. Such use shall not include tables and seating for on-premises food consumption.

RESTAURANT, FAST-FOOD - A business enterprise primarily engaged in the sale of ready-to-consume

food and beverages generally served in disposable or prepackaged containers or wrappers and where patrons usually select their orders from a posted menu offering a limited number of specialized items, such as, but not limited to, hamburgers, chicken, fish and chips, pizza, tacos and hot dogs, which are prepared according to standardized procedures for consumption either on or off the premises in a facility where a substantial portion of the sales to the public is by drive-in or stand-up services and cleanup is generally performed by the customer. The term "fast-food restaurant" shall not include a carry-out restaurant or delicatessen.

SECTION 2. Section 342-45 (Restaurants and Taverns) of Chapter 342 (Zoning) of the Code of the Village of Mamaroneck is hereby amended to read as follows:

Section 342-45. Restaurants and Taverns.

No restaurant or tavern or other place serving food or drinks shall provide outdoor counter, drive-in or curb service, but it may provide service at tables on a porch or terrace where this is incident and clearly subordinate to the operation conducted within the main building. In a C-1 District, no more than twenty percent (20%) of all indoor seats in a restaurant or tavern shall be counter seats. In a C-2 District, no fast-food restaurant, carry-out restaurant or delicatessen shall be permitted on Mamaroneck Avenue closer than two hundred (200) linear feet to another existing fast-food, carry-out restaurant or delicatessen on the same side of the Avenue. Such distance shall be measured from the closest lot line of the respective restaurants.

SECTION 3. This Local Law shall become effective upon filing in the office of the Secretary of State and upon due publication.

(Amendments to text are indicated by underline)

VILLAGE OF



MAMARONECK

Village Hall

P.O. Box 369

Mamaroneck, N.Y. 10543-0369

OFFICE OF THE
VILLAGE ATTORNEY

TELEPHONE
914-777-7737

FAX NUMBER
914-777-7787

January 12, 1996

To: Village Manager
Clerk-Treasurer
Building Inspector
Code Enforcement Officer
Planning Board
Planning Consultant
Board of Appeals
Special Counsel to Board of Appeals
Board of Architectural Review
Mamaroneck Avenue Task Force

Re: Controls on Eateries Along Mamaroneck Avenue

Attached, for your information, is Proposed Local Law No. 1-1996 pertaining to the above-referenced subject. You will note that the draft forwarded to each of you on November 20, 1995 has been modified as a result of comments received.

As you know, a public hearing will be held on January 22, 1996 by the Village Board to consider the adoption of these provisions.

James J. Nollezzi
James J. Nollezzi *am*
Village Attorney

am
att.

cc: Mayor and Board of Trustees

PROPOSED LOCAL LAW NO. 1-1996

A Local Law amending Section 342-3B (Terms Defined) and Section 342-45 (Restaurants and Taverns) of Chapter 342 (Zoning) of the Code of the Village of Mamaroneck

Be it enacted by the Board of Trustees of the Village of Mamaroneck as follows:

SECTION 1. Subsection B of Section 342-3 (Terms Defined) of Chapter 342 (Zoning) of the Code of the Village of Mamaroneck is hereby amended by adding the following definitions thereto:

RESTAURANT - A business engaged in the preparation and sale of food and beverages selected from a full menu by patrons seated at a table or counter, served by a waiter and consumed on the premises. The term "restaurant" does not include a business whose principal operation is as a bar, cabaret, carry-out restaurant, delicatessen or fast-food restaurant.

RESTAURANT, CARRY-OUT - A business enterprise primarily engaged in the retail sale of food or beverages, which may include grocery items, for consumption off the premises, but which also includes the incidental sale of ready-to-consume food and beverages from a counter-type installation for consumption on the premises, provided that the area devoted to customer seating is clearly accessory to the main business, and complies with the area requirements of the New York State Uniform Fire Prevention and Building Code.

DELICATESSEN - A business engaged in the retail sale of food, beverages and grocery items for consumption off premises and where meats, fish, salads, cheese, relishes and delicacy items might be specially prepared as sandwiches and other consumable items for lunch, snacks and other off-premises consumption. Such use shall not include tables and seating for on-premises food consumption.

RESTAURANT, FAST-FOOD - A business enterprise primarily engaged in the sale of ready-to-consume

food and beverages generally served in disposable or prepackaged containers or wrappers and where patrons usually select their orders from a posted menu offering a limited number of specialized items, such as, but not limited to, hamburgers, chicken, fish and chips, pizza, tacos and hot dogs, which are prepared according to standardized procedures for consumption either on or off the premises in a facility where a substantial portion of the sales to the public is by drive-in or stand-up services and cleanup is generally performed by the customer. The term "fast-food restaurant" shall not include a carry-out restaurant or delicatessen.

FOOD SERVICE ESTABLISHMENT - Any use which includes the serving of food and/or beverages that requires an eating place permit, or other food service establishment which is required by either County or State law to be licensed, including, but not limited to, restaurants, carry-out restaurants, delicatessens, and fast-food restaurants.

SECTION 2. Section 342-45 (Restaurants and Taverns) of Chapter 342 (Zoning) of the Code of the Village of Mamaroneck is hereby renamed and shall be known as Section 342-45 (Food Service Establishments and Taverns) and said Section is hereby amended to read as follows:

Section 342-45. Food Service Establishments and Taverns.

No food service establishment or tavern shall provide outdoor counter, drive-in or curbside service, but it may provide service at tables on a porch or terrace where this is incident and clearly subordinate to the operation conducted within the main building. In a C-1 District, no more than twenty percent (20%) of all indoor seats in a food service establishment or tavern shall be counter seats. In a C-2 District, no fast-food restaurant, carry-out restaurant or delicatessen shall be permitted on Mamaroneck Avenue closer than two hundred (200) linear feet to another existing fast-food, carry-out restaurant or delicatessen on the same side of the Avenue. Such distance shall be measured from the closest lot line of the respective food service establishments.

SECTION 3. This Local Law shall become effective upon filing in the office of the Secretary of State and upon due publication.

(Amendments to text are indicated by underline)

14

MINUTES OF A PUBLIC HEARING OF THE BOARD OF TRUSTEES OF THE VILLAGE OF MAMARONECK HELD ON MONDAY, JANUARY 22, 1996 AT 8:00 P.M. AT VILLAGE HALL, MAMARONECK, NEW YORK TO CONSIDER PROPOSED LOCAL LAW NO. 1-1996 (RESTAURANTS & TAVERNS).

PRESENT:	Mayor	Joseph A. Lanza
	Trustees	Walter F. Rogers
		Virginia A. Neumaister
		Todd Knoebel
		Martha Sokol McCarty
	Village Manager	Michael S. Blau
	Village Attorney	James Nollatti
	Police Chief	Edward Flynn
	Clerk-Treasurer	Leonard M. Verrastro
ABSENT:		None

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that a public hearing will be held by the Board of Trustees of the Village of Mamaroneck on the 22nd day of January, 1996, at 8:00 p.m., or as soon thereafter as all parties can be heard, at the Village Hall, municipal building located at 169 Mount Pleasant Avenue, Mamaroneck, New York, to consider PROPOSED LOCAL LAW NO. 1-1996, a local law amending Section 342-3B (Terms Defined) and Section 342-45 (Restaurants and Taverns) of Chapter 342 (Zoning) of the Code of the Village of Mamaroneck.

PLEASE TAKE FURTHER NOTICE that a copy of Proposed Local Law No. 1-1996 is on file with the Clerk-Treasurer of the Village of Mamaroneck.

PLEASE TAKE FURTHER NOTICE that a said public hearing, all persons interested will be given an opportunity to be heard.

BY ORDER OF THE BOARD OF TRUSTEES OF
THE VILLAGE OF MAMARONECK, NEW YORK

Leonard M. Verrastro
Clerk-Treasurer

Mayor Lanza stated that there have been problems with garbage and litter in the Central Business District, due to the number of fast food establishments. The Board previously adopted a resolution placing a moratorium on fast food establishments in the Central Business District.

Trustee McCarty stated that the Mamaroneck Avenue Task Force has worked very diligently on this matter over the past year.

Village Attorney Nollatti stated that the intent of the Board is not to put anyone out of business. Those businesses who presently exist are grandfathered in at their existing location. This will fall into line with the other provisions of the Village

2

Code, that if you cease the use, you have one year to re-establish the use or you lose it.

Trustee McCarty stated that the proposed local law is not punitive. We would like to see diversity and a variety of businesses on the Avenue.

On motion of Trustee Rogers, seconded by Trustee Knoebel:

RESOLVED that the Public Hearing on Proposed Local Law No. 1-1996 is hereby declared closed.

Ayes: McCarty, Knoebel, Neumeister,
Rogers, Lanza

Nays: None

On motion of Trustee Neumeister, seconded by Trustee Knoebel:

WHEREAS, the Village of Mamaronack has previously adopted Subsection B of Section 342-3 (Terms Defined) and Section 342-45 (Restaurants and Taverns) as part of the Zoning Code of the Village; and

WHEREAS, the Village Board has determined that certain modifications with respect to said Sections are necessary; and

WHEREAS, the Village Board has designated itself Lead Agency with respect to said proposed modifications to the Zoning Code; and

WHEREAS, the Village Board has caused there to be prepared a Short Environmental Assessment Form with reference to such proposed action, which is considered to be Unlisted; and

WHEREAS, after having reviewed the Environmental Assessment Form prepared by Planning Consultant Frank Fish dated January 17, 1996, in connection with this action, as well as having taken a hard look at all relevant impacts in connection therewith, it is determined that the action will not have a significant adverse environmental impact;

NOW THEREFORE, on motion of Trustee Neumeister, and seconded by Trustee Knoebel:

BE IT RESOLVED that the Village Board determines that an Environmental Impact Statement will not be prepared with respect to the proposed modifications to the Zoning Code pertaining to Subsection B of Section 342-3 and Section 342-45, and adopts a negative declaration; and

BE IT FURTHER RESOLVED that Proposed Local Law No. 1-1996 be and hereby is enacted as Local Law No. 1-1996 and shall read as follows:

LOCAL LAW NO. 1-1996

A Local Law amending Section 342-3B (Terms Defined) and Section 342-45 (Restaurants and Taverns) of Chapter 342 (Zoning) of the Code of the Village of Mamaroneck

Be it enacted by the Board of Trustees of the Village of Mamaroneck as follows:

SECTION 1. Subsection B of Section 342-3 (Terms Defined) of Chapter 342 (Zoning) of the Code of the Village of Mamaroneck is hereby amended by adding the following definitions thereto:

RESTAURANT - A business engaged in the preparation and sale of food and beverages selected from a full menu by patrons seated at a table or counter, served by a waiter and consumed on the premises. The term "restaurant" does not include a business whose principal operation is as a bar, cabaret, carry-out restaurant, delicatessen or fast-food restaurant.

RESTAURANT, CARRY-OUT - A business enterprise primarily engaged in the retail sale of food or beverages, which may include grocery items, for consumption off the premises, but which also includes the incidental sale of ready-to-consume food and beverages from a counter-type installation for consumption on the premises, provided that the area devoted to customer seating is clearly accessory to the main business, and complies with the area requirements of the New York State Uniform Fire Prevention and Building Code.

DELICATESSEN - A business engaged in the retail sale of food, beverages and grocery items for consumption off premises and where meats, fish, salads, cheese, relishes and delicacy items might be specially prepared as sandwiches and other consumable items for lunch, snacks and other off-premises consumption. Such use shall not include tables and seating for on-premises food consumption.

RESTAURANT, FAST-FOOD - A business enterprise primarily engaged in the sale of ready-to-consume food and beverages generally served in disposable or prepackaged containers or wrappers and where patrons usually select their orders from a posted menu offering a limited number of specialized items, such as, but not limited to, hamburgers, chicken, fish and chips, pizza, tacos and hot dogs, which are prepared according to standardized procedures for consumption either on or off the premises in a facility where a substantial portion of the sales to the public is by drive-in or stand-up services and cleanup is generally performed by the customer. The term "fast-food restaurant" shall not include a carry-out restaurant or delicatessen.

FOOD SERVICE ESTABLISHMENT - Any use which includes the serving of food and/or beverages that requires an eating place permit, or other food service establishment which is required by either County or State law to be licensed, including, but not limited to, restaurants, carry-out restaurants, delicatessens, and fast-food restaurants.

SECTION 2. Section 342-45 (Restaurants and Taverns) of Chapter 342 (Zoning) of the Code of the Village of Mamaroneck is hereby renamed and shall be known as Section 342-45 (Food Service Establishments and Taverns) and said Section is hereby amended to read as follows:

4

Section 342-45. Food Service Establishments and Taverns.

No food service establishment or tavern shall provide outdoor counter, drive-in or curb service, but it may provide service at tables on a porch or terrace where this is incident and clearly subordinate to the operation conducted within the main building. In a C-1 District, no more than twenty percent (20%) of all indoor seats in a food service establishment or tavern shall be counter seats. In a C-2 District, no fast-food restaurant, carry-out restaurant or delicatessen shall be permitted on Mamaroneck Avenue closer than two hundred (200) linear feet to another existing fast-food, carry-out restaurant or delicatessen on the same side of the Avenue. Such distance shall be measured from the closest lot line of the respective food service establishments.

SECTION 3. This Local Law shall become effective upon filing in the office of the Secretary of State and upon due publication.

Ayes: McCarty, Knoebel, Neumeister,
Rogers, Lanza

Nays: None

PREPARED BY:

RESPECTFULLY SUBMITTED BY:

**ROSEANN DENARO,
SECRETARY**

**LEONARD M. VERRASTRO,
CLERK-TREASURER**

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~COUNTY~~

~~CITY~~

~~TOWN~~

Village

of.....MAMARONECK.....

Local Law No.1..... of the year 19..96

A local law ..amending Section 342-3B (Terms Defined) and Section
(Insert Title)
..342-45 (Restaurants and Taverns) of Chapter 342 (Zoning)
..of the Code of the Village of Mamaroneck
.....

Be it enacted by theBoard of Trustees..... of the
(Name of Legislative Body)

~~COUNTY~~

~~CITY~~

~~TOWN~~

Village

of.....Mamaroneck..... as follows:

SECTION 1. Subsection B of Section 342-3 (Terms Defined) of Chapter 342 (Zoning) of the Code of the Village of Mamaroneck is hereby amended by adding the following definitions thereto:

RESTAURANT - A business engaged in the preparation and sale of food and beverages selected from a full menu by patrons seated at a table or counter, served by a waiter and consumed on the premises. The term "restaurant" does not include a business whose principal operation is as a bar, cabaret, carry-out restaurant, delicatessen or fast-food restaurant.

RESTAURANT, CARRY-OUT - A business enterprise primarily engaged in the retail sale of food or beverages, which may include grocery items, for consumption off the premises, but which also includes the incidental sale of ready-to-consume food and beverages from a counter-type installation for consumption on the premises, provided that the area devoted to customer seating is clearly accessory to the main business, and complies with the area requirements of the New York State Uniform Fire Prevention and Building Code.

DELICATESSEN - A business engaged in the retail sale of food, beverages and grocery items for consumption off premises and where meats, fish, salads, cheese,

(If additional space is needed, attach pages the same size as this sheet, and number each.)

relishes and delicacy items might be specially prepared as sandwiches and other consumable items for lunch, snacks and other off-premises consumption. Such use shall not include tables and seating for on-premises food consumption.

RESTAURANT, FAST-FOOD - A business enterprise primarily engaged in the sale of ready-to-consume food and beverages generally served in disposable or prepackaged containers or wrappers and where patrons usually select their orders from a posted menu offering a limited number of specialized items, such as, but not limited to, hamburgers, chicken, fish and chips, pizza, tacos and hot dogs, which are prepared according to standardized procedures for consumption either on or off the premises in a facility where a substantial portion of the sales to the public is by drive-in or stand-up services and cleanup is generally performed by the customer. The term "fast-food restaurant" shall not include a carry-out restaurant or delicatessen.

FOOD SERVICE ESTABLISHMENT - Any use which includes the serving of food and/or beverages that requires an eating place permit, or other food service establishment which is required by either County or State law to be licensed, including, but not limited to, restaurants, carry-out restaurants, delicatessens, and fast-food restaurants.

SECTION 2. Section 342-45 (Restaurants and Taverns) of Chapter 342 (Zoning) of the Code of the Village of Mamaroneck is hereby renamed and shall be known as Section 342-45 (Food Service Establishments and Taverns) and said Section is hereby amended to read as follows:

Section 342-45. Food Service Establishments and Taverns.

No food service establishment or tavern shall provide outdoor counter, drive-in or curb service, but it may provide service at tables on a porch or terrace where this is incident and clearly subordinate to the operation conducted within the main building. In a C-1 District, no more than twenty percent (20%) of all indoor seats in a food service establishment or tavern shall be counter seats. In a C-2 District, no fast-food restaurant, carry-out restaurant or delicatessen shall be permitted on Mamaroneck Avenue closer than two hundred (200) linear feet to another existing fast-food, carry-out restaurant or delicatessen on the same side of the Avenue. Such distance shall be measured from the closest lot line of the respective food service establishments.

SECTION 3. This Local Law shall become effective upon filing in the office of the Secretary of State and upon due publication.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1996 of the ~~(County)(City)(Town)~~(Village) of Mamaroneck was duly passed by the Board of Trustees on Jan 22, 1996, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19 __, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

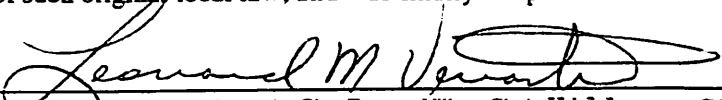
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.



Clerk of the County legislative body, City, Town or Village Clerk Village Clerk
or officer designated by local legislative body

(Seal)

Date: January 25, 1996

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF WESTCHESTER

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature

Title

Village Attorney

~~COUNTY~~

~~CITY~~

~~TOWN~~

Village

of Mamaroneck

Date: January 25, 1996

To: Village of Mamaroneck Attorney Christie Derrico
From: Frank Fish, Susan Favate
Subject: Mamaroneck Zoning Changes - HCZM, FAR and Restaurants
Date: May 3, 2010

We have now completed the short-term zoning work, and have attached a draft of the revised zoning text, with changes shown in bold/strikeout format. The changes can be summarized as follows:

1. Harbor and Coastal Zone Management Commission

Section 240-36 of Chapter 240 (Management of Coastal Zone, Harbor and Watercraft) of the Village Code has been revised to state that the Mayor will appoint the chair of the Harbor and Coastal Zone Management Commission, subject to approval by the Board of Trustees. The current code provides that the Commission appoints its own chair. This change will make the HCZM consistent with the Village's other two land use boards, the Planning Board and Zoning Board of Appeals; for both of these boards, the Mayor appoints the chair with Board of Trustees approval.

2. Gross Floor Area

The definition for gross floor area has been restored to its previous wording to exclude accessory parking areas and structures. The current cap of 400 square feet on the exclusion of these areas and structures in single-family districts remains unchanged. In addition,

2. Allowance of Restaurants with Drive-Throughs in the C-1 Zone

In the C-1 zones, fast-food restaurants with drive-throughs will now be permitted, subject to special use permit, providing that the lot size is at least 50,000 square feet and the site has vehicular access on at least two streets. This change affects the definitions of food service establishment and fast-food restaurant, and Section 342-45 has been revised to allow for fast-food drive-through restaurants subject to the above standards.

We note that the minimum lot size of 50,000 square feet could potentially allow a fast-food drive-through restaurant at the Hess gas station on Mamaroneck Avenue. This standard has been developed as the maximum possible size that could accommodate the existing McDonald's on the Post Road. The Hess station has recently undergone a substantial renovation, and thus we feel it is unlikely that the site would be the subject of a drive-through restaurant application in the near future. It is also good to have more than one potential site within the village for a drive-through fast-food restaurant, so as to avoid the appearance of spot zoning.

cc: Norman Rosenblum, Village Mayor
Richard Slingerland, Village Manager
John Winter, Village Buildings Inspector
Bob Galvin, Planning Board Chairman

To: Village of Mamaroneck Mayor Norman Rosenblum
From: Frank Fish, Susan Favate
Subject: Mamaroneck Zoning Code Changes – Status Report
Date: July 26, 2010

As you are aware, BFJ Planning, in cooperation with Buildings Inspector John Winter, Village Engineer Keith Furey, Village Attorney Christie Derrico and Village Manager Rich Slingerland, has for the past six months undertaken a series of proposed revisions to the Village zoning code. At this time, we wanted to provide a status report, so that you and the Trustees have a sense of where we are in the process.

The following proposed short-term revisions were adopted by the Trustees on May 10, 2010, and were effective as of May 26, 2010:

1. Expansion of uses in the M zone to include indoor recreation centers and home improvement design centers.
2. Increase in allowable fence height from 5 feet to 6 feet, 6 inches, and requirement added that the finished side of the fence must face outward from the property. Provisions regarding fences relocated to Section 342-14 (Building projections), with fences, walls and retaining walls listed as accessory uses within each applicable zoning district.
3. Change to site plan and subdivision noticing requirements requiring notice to property owners within 200 feet. No change to noticing requirements for Zoning Board of Appeals actions or wireless facilities applications. Requirements for posted signage made consistent for Planning Board and ZBA meetings (signs must be posted 10 days prior to meeting).
4. Exterior stairs added as allowable building projections.
5. Deletion of Article I of Chapter 168 (Environmental Quality Review) of the Village Code, to remove confusions or conflicts with SEQRA. Article II of Chapter 168, dealing with critical environmental areas, remains intact, and the chapter is renamed "Critical Environmental Areas."
6. Change to the Schedule of Minimum Requirements for Nonresidential Districts to require that, in C-1 and C-2 zones, the yard requirements for lots abutting or within 45 feet of residential zones will be reduced from 45 feet previously to 25 feet. In the O-1 and C-1 zones, parking and loading in front yards or within 10 feet of a street or lot line is prohibited. Previously, parking and loading in front yards or within 25 feet of a street or lot line was prohibited in O-1 and C-1 zones.
7. Extension of duration of site plan approval from 2 years to 2 ½ years for completion of construction. Site plan approval will continue to expire if construction has not begun in 1 year.

We now suggest addressing the last round of short-term changes below:

1. **Appointment of HCZM Chair:** Revision of Section 240-36 of Chapter 240 (Management of Coastal Zone, Harbor and Watercraft) of the Village Code to stipulate that the Mayor, rather than the commission itself as currently provided, will appoint the chair of the Harbor and Coastal Zone Management Commission, subject to approval by the Board of Trustees. This would make the HCZM consistent with the procedures of the other two land use boards, the Planning Board and the Zoning Board of Appeals.
2. **Drive-Through Fast Food Restaurants:** Allowance of fast-food restaurants with drive-throughs in the C-1 zones, subject to special use permit, providing that the lot size is at least 50,000 square feet and the site has vehicular access on at least two streets. This change would affect the definitions of "food service establishment" and "fast-food restaurant," as well as Section 342-45 (Food service establishments and taverns).
3. **Special Permits:** Addition of a requirement that special permits being sought in connection with site plan review go before the Planning Board, not the ZBA. This would streamline procedures and avoid applications going back and forth between the boards.

We will draft a memo and the proposed language for these three proposed changes and circulate to the Board of Trustees later this week. Once those revisions have been reviewed and adopted, we can revisit the issues of patios and gross floor area which are currently on hold, as well as progress to the other medium- and long-term zoning changes outlined earlier this year.

cc: Village of Mamaroneck Board of Trustees
Richard Slingerland, Village Manager
Christie Derrico, Village Attorney
John Winter, Village Buildings Inspector
Keith Furey, Village Engineer
Bob Galvin, Planning Board Chairman

PROPOSED LOCAL LAW NO. XX-2010

A proposed local law amending Chapter 240 (Management of Coastal Zone, Harbor and Watercraft) of the Code of the Village of Mamaroneck by amending Section 240-36 (Membership and terms; representatives from other official bodies), and amending Chapter 342 (Zoning) by amending Section 342-3 (Terms defined) and Section 342-45 (Food service establishments and taverns)

Be it enacted by the Board of Trustees of the Village of Mamaroneck as follows:

SECTION 1.

The Sections of Chapter 240 (Management of Coastal Zone, Harbor and Watercraft) as indicated above are hereby amended to read as follows: **[CHANGES ARE IN BOLD OR INDICATED BY STRIKEOUT]**

Section 240-36 (Membership and terms; representatives from other official bodies):

- (A) The Harbor and Coastal Zone Management Commission with the Village of Mamaroneck shall consist of seven members, who are residents of the Village and who shall be appointed by the Village Board of Trustees for terms of three years, each term to expire at the end of the official year of the Village, except that, of those first appointed, three shall be appointed to serve for three years, two shall be appointed to serve for two years, and two shall be appointed to serve for one year. The members of the Harbor and Coastal Zone Management Commission shall serve without compensation. Any vacancy on the Harbor and Coastal Zone Management Commission shall be filled for the unexpired term in the same manner in which the original appointment was made. The Chairperson of the Harbor and Coastal Zone Management Commission shall be appointed by the ~~Harbor and Coastal Zone Management Commission~~ **Mayor of the Village of Mamaroneck, subject to approval by the Board of Trustees.**

The Sections of Chapter 342 (Zoning) as indicated above are hereby amended to read as follows:
[CHANGES ARE IN BOLD OR INDICATED BY STRIKEOUT]

Section 342-3 (Terms defined):

FLOOR AREA, GROSS

The sum of gross horizontal areas of the several floors of the building or buildings on a lot, measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings. Any interior space with a floor-to-ceiling height in excess of 12 feet shall be counted 1.5 times, except in the M-1 Zone. The following are excluded:

(1)

Any attic space with a floor-to-ceiling height of less than seven feet.

(2)

Cellar and basement areas where the average height of all exposed exterior wall or walls is less than three feet measured from the existing grade prior to construction.

(3)

Any areas devoted only to accessory off-street parking and loading, except ~~W~~within single-family zones, including R-5, R-6, R7-5, R-10, R-15 and R-20, all accessory parking structures devoted only to accessory off-street parking or loading of 400 square feet or less.

FOOD SERVICE ESTABLISHMENT

Any use which includes the serving of food and/or beverages that requires an eating place permit, or is otherwise required by either county or state law to be licensed, including, but not limited to, restaurants, carry-out restaurants, delicatessens and fast-food restaurants. ~~No **drive-up, drive-through** or car service shall be permitted by special use permit.~~

RESTAURANT, FAST-FOOD

A business enterprise primarily engaged in the sale of food and beverages generally served in disposable or prepackaged containers or wrappers ready for consumption in a facility where most or all of the sales to the public are stand-up services. The term "fast-food restaurant" shall not include a carry-out restaurant or delicatessen. ~~No **drive-up, drive-through** or car service shall be permitted by special use permit.~~ Where a fast-food restaurant contains multiple counters, each serving one or more brands or types of fast food (for example, one counter for pizza and another for hamburgers), parking requirements shall be increased by 10% for each counter in excess of one.

Section 342-45 (Food service establishments and taverns)

No food service establishment or tavern shall provide outdoor counter, ~~drive-in or curb~~ service, but it may provide service at tables on a porch or terrace where this is incident and clearly subordinate to the operation conducted within the main building. In a C-1 District, no more than 20% of all indoor seats in a food service establishment or tavern shall be counter seats. **In a C-1 District, fast-food restaurants with drive-through service are permitted subject to a minimum lot size of 50,000 square feet and vehicular access on at least two streets.** In a C-2 District, no fast-food restaurant, carry-out restaurant or delicatessen shall be permitted on Mamaroneck Avenue closer than 200 linear feet to another existing fast-food restaurant, carry-out restaurant or delicatessen on the same side of the avenue. Such distance shall be measured from the closest lot line of the respective food service establishments.

SECTION 2. If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

SECTION 3. This Local Law shall become effective immediately upon filing in the office of the Secretary of State.

PROPOSED LOCAL LAW NO. XX-2010

A proposed local law amending Chapter 342 (Zoning) of the Code of the Village of Mamaroneck by amending Section 342-3 (Terms defined) and Section 342-45 (Food service establishments and taverns)

Be it enacted by the Board of Trustees of the Village of Mamaroneck as follows:

SECTION 1.

The Sections of Chapter 342 (Zoning) as indicated above are hereby amended to read as follows:
[CHANGES ARE IN BOLD OR INDICATED BY STRIKEOUT]

Section 342-3 (Terms defined):

FLOOR AREA, GROSS

The sum of gross horizontal areas of the several floors of the building or buildings on a lot, measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings. Any interior space with a floor-to-ceiling height in excess of 12 feet shall be counted 1.5 times, except in the M-1 Zone. The following are excluded:

(1)

Any attic space with a floor-to-ceiling height of less than seven feet.

(2)

Cellar and basement areas where the average height of all exposed exterior wall or walls is less than three feet measured from the existing grade prior to construction.

(3)

Within single-family zones, including R-5, R-6, R7-5, R-10, R-15 and R-20, all accessory parking structures devoted only to accessory off-street parking or loading of 400 square feet or less. **Within all other zones, any areas devoted only to accessory off-street parking or loading, including parking structures.**

FOOD SERVICE ESTABLISHMENT

Any use which includes the serving of food and/or beverages that requires an eating place permit, or is otherwise required by either county or state law to be licensed, including, but not limited to, restaurants, carry-out restaurants, delicatessens and fast-food restaurants. ~~No~~**Drive-up, drive-through** or car service shall be permitted **by special use permit.**

RESTAURANT, FAST-FOOD

A business enterprise primarily engaged in the sale of food and beverages generally served in disposable or prepackaged containers or wrappers ready for consumption in a facility where most or all of the sales to the public are stand-up services. The term "fast-food restaurant" shall not include a carry-out restaurant or delicatessen. ~~No-d~~**Drive-up, drive-through** or car service shall be permitted **by special use permit**. Where a fast-food restaurant contains multiple counters, each serving one or more brands or types of fast food (for example, one counter for pizza and another for hamburgers), parking requirements shall be increased by 10% for each counter in excess of one.

Section 342-45 (Food service establishments and taverns)

No food service establishment or tavern shall provide outdoor counter, ~~drive-in or curb~~ service, but it may provide service at tables on a porch or terrace where this is incident and clearly subordinate to the operation conducted within the main building. In a C-1 District, no more than 20% of all indoor seats in a food service establishment or tavern shall be counter seats. **In a C-1 District, restaurants with drive-through service are permitted subject to a minimum lot size of 50,000 square feet and vehicular access from at least two streets.** In a C-2 District, no fast-food restaurant, carry-out restaurant or delicatessen shall be permitted on Mamaroneck Avenue closer than 200 linear feet to another existing fast-food restaurant, carry-out restaurant or delicatessen on the same side of the avenue. Such distance shall be measured from the closest lot line of the respective food service establishments.

SECTION 2. If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

SECTION 3. This Local Law shall become effective immediately upon filing in the office of the Secretary of State.


McDonald's

HARRIS BEACH PLLC
ATTORNEYS AT LAW

MEMORANDUM

July 14, 2017

TO: Robert Yamuder
Village Manager
Village of Mamaroneck, NY

FROM: Darius P. Chafizadeh, Esq. 
Mathew T. Dudley, Esq.

CC: Robert A. Spolzino, Esq.
Village Attorney
Village of Mamaroneck, NY

RE: McDonald's Restaurant Rebuild – Village of Mamaroneck, New York

As you aware, this firm represents McDonald's. Please allow this memorandum to provide a summary of the proposed project, the demolition and rebuilding of the McDonald's Restaurant at 1205 W. Boston Post Road (the "Project") and topics of discussion for the meeting scheduled for July 17, 2017.

As per our initial letter, McDonald's would like to renovate the restaurant on a slightly different footprint. The Project will modernize the restaurant and the site and, we feel, will enhance the property and the Village of Mamaroneck. The following is a background of the property and a summary of the proposed development. Attached hereto is a preliminary site plan for your review.

Property Address: 1205 W. Boston Post Road

Section, Block, Lot: 9-28-221; 9-28-197; 9-28-317.3

Zoning District: C-1 General Commercial Zoning District

A portion of the property was erroneously designated R-7.5 Residential, see "Zoning Map Change" section, below, for more details.

Fast-food restaurants are not currently a permitted use within the C-1 Zone.¹

Total Lot Area: 54,861 square feet (1.26 acres)

Existing Improvements: 4,630 square foot restaurant with drive-through

¹ Based on the zone change years back, the existing restaurant is a legal pre-existing non-conforming use. One of the lots owned by McDonald's was also mistakenly re-zoned from C-1 to R-7.5. See *infra* for a further discussion on this issue.

PROPOSED LOCAL LAW NO. __-2017

A proposed local law amending Chapter 342 (Zoning) by amending Section 342-3 (Terms defined); Section 342-30 (General Commercial Districts); and Section 342-45 (Food service establishments and taverns)

Be it enacted by the Board of Trustees of the Village of Mamaroneck as follows:

SECTION 1.

The Sections of Chapter 342 (Zoning) as indicated above are hereby amended to read as follows:
[INSERTIONS ARE IN BOLD AND DELETIONS ARE INDICATED BY STRIKEOUT]

Section 342-3 (Terms defined):

FOOD SERVICE ESTABLISHMENT

Any use which includes the serving of food and/or beverages that requires an eating place permit, or is otherwise required by either county or state law to be licensed, including, but not limited to, restaurants, carry-out restaurants, delicatessens and fast-food restaurants. ~~No drive-up, drive-through or car service shall be permitted except as provided for in section 342-45.~~

RESTAURANT, FAST-FOOD

A business enterprise primarily engaged in the sale of food and beverages generally served in disposable or prepackaged containers or containers ready for consumption in a facility where most or all of the sales to the public are stand-up services. The term "fast-food restaurant" shall not include a carry-out restaurant or delicatessen. ~~No drive-up, drive-through or car service shall be permitted except as provided in section 342-45.~~ Where a fast-food restaurant contains multiple counters, each serving one or more brands or types of fast food (for example, one counter for pizza and another for hamburgers), parking requirements shall be increased by 10% for each counter in excess of one.

Section 342-30 (General Commercial Districts)

A. Permitted principal uses.

- (1) The following are the only principal uses permitted in the C-1 General Commercial Districts:

* *

- (e) Restaurants **and fast-food restaurants**, subject to § 342-45. (This use is subject to the approval procedure set forth in Article X and shall conform to any additional requirements made in connection with such approval.)

Section 342-45 (Food service establishments and taverns)

No food service establishment or tavern shall provide outdoor counter, ~~drive-in or curb~~ service, but it may provide service at tables on a porch or terrace where this is incident and clearly subordinate to the operation conducted within the main building. In a C-1 District, no more than 20% of all indoor seats in a food service establishment or tavern shall be counter seats. **In a C-1 District, fast-food restaurants with drive-through service are permitted, by special permit issued by the Planning Board in accordance with the requirements as set forth in Article X of this chapter and subject to a minimum lot size of 43,560 square feet and further subject to the site having vehicular ingress, egress or both on at least two streets, one of which shall be a State highway.** In a C-2 District, no fast food restaurant, carry-out restaurant or delicatessen shall be permitted on Mamaroneck Avenue closer than 200 linear feet to another existing fast-food restaurant, carry-out restaurant or delicatessen on the same side of the avenue. Such distance shall be measured from the closest lot line of the respective food service establishments.

SECTION 2. If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

SECTION 3. This Local Law shall become effective immediately upon filing in the office of the Secretary of State.

To: Village of Mamaroneck Attorney Christie Derrico
From: Frank Fish, Susan Favate
Subject: Mamaroneck Zoning Changes
Date: March 22, 2010

Pursuant to our meeting with the Board of Trustees on February 1, we have now completed the short-term zoning work. We have attached a draft of the revised zoning text, with changes shown in bold/strikeout format. The changes can be summarized as follows:

1. Gross Floor Area

The definition for gross floor area has been restored to its previous wording to exclude accessory parking areas and structures. The current cap of 400 square feet on the exclusion of these areas and structures in single-family districts remains unchanged.

2. Allowance of Restaurants with Drive-Throughs in the C-1 Zone

In the C-1 zones, fast-food restaurants with drive-throughs will now be permitted, subject to special use permit, providing that the lot size is at least 50,000 square feet and the site has vehicular access via at least two streets. This change affects the definitions of food service establishment and fast-food restaurant, and Section 342-45 has been revised to allow for fast-food drive-through restaurants subject to the above standards.

We note that the minimum lot size of 50,000 square feet could potentially allow a fast-food drive-through restaurant at the Hess gas station on Mamaroneck Avenue. This standard has been developed as the maximum possible size that could accommodate the existing McDonald's on the Post Road. The Hess station has recently undergone a substantial renovation, and thus we feel it is unlikely that the site would be the subject of a drive-through restaurant application in the near future. It is also good to have more than one potential site within the village for a drive-through fast-food restaurant, so as to avoid the appearance of spot zoning.

cc: Norman Rosenblum, Village Mayor
Richard Slingerland, Village Manager
John Winter, Village Buildings Inspector
Bob Galvin, Planning Board Chairman