

**Board of Trustees  
Village of Baxter Estates  
June 5, 2006  
7:30PM**

Present: Mayor John Maher  
Trustee Charles Comer  
Trustee Raymond Keenan  
Trustee Vivian Schneck  
Trustee Douglas Baldwin  
Village Clerk Yvonne Whitcomb  
Attorney Christopher Prior  
Public Stenographer Jim Gill

Also present: Mato Stanovic, Marilyn Stanovic, Lou Caliendo, Nancy Comer, Margaret Murphy, Brigitte Mueller, Julio Varsi, Stuart Rosen, Barney Rosen, Cornelius O'Reilly, Attorney Robert Kirkland.

**Open Regular Meeting: Mayor Maher called the meeting to order.**

**Open Public Hearing:**

Mayor Maher opened the Public Hearing to consider the adoption of Bill No. 1 of 2006, amending the Village Code of the Village of Baxter Estates to restrict placement of generators and central air-conditioning units in residence districts.

A stenographic transcript of the public hearing was made and is appended to these minutes. All those present wishing to speak having been heard, Mayor Maher closed the public hearing.

On motion of Trustee Comer, seconded by Trustee Keenan, it was unanimously RESOLVED that Bill # 1 of 2006, be, and hereby is, adopted as Local Law 1 of 2006 to restrict the placement of generators and central air conditioning units in residence districts.

**1. Clerk**

A. Minutes

On motion of Mayor Maher, seconded by Trustee Comer, it was unanimously RESOLVED that the reading of the Minutes of the May 1, 2006 meeting of the Board of Trustees be waived and that they be and hereby are approved as presented by Clerk Whitcomb.

**2. Treasurer**

A. General Fund

On the motion of Trustee Comer, seconded by Trustee Keenan, it was unanimously RESOLVED that the Abstract of Vouchers, dated May 1, 2006, for the General Fund, totaling \$32,664.59, be and hereby are approved as prepared by Treasurer Tuck.

**3. New business**

A. Nancy Comer

Baxter's Pond Foundation Director Nancy Comer reported on the condition of Baxter's Pond. She stated that the sedimentary basins have been dredged by Nassau County. Baxter's Pond Foundation will be planting a new tree and grass seed this month. The Village has applied to Nassau County for a \$25,000.00 Community Revitalization Program Grant which can be used for the renovation and maintenance of the Barbara Johnson Park and Preserve at Baxter's Pond. Some projects under consideration are: upgrading the existing shed to an educational building, replacing the existing bridge railings with wrought iron railings, installing educational signage.

B. Cornelius O'Reilly

Cornelius O'Reilly, 28 Locust Avenue, with his counsel, Robert Kirkland, Esq., addressed the Board on the Stop Work Order he received. The Board members discussed the matter with Mr. O'Reilly and his counsel, and obtained input from Village Attorney Christopher Prior.

Following discussion, and upon motion duly made by Trustee Comer, and seconded by Trustee Baldwin, the Board unanimously RESOLVED as follows:

WHEREAS, Building Inspector Joseph Saladino has reported to the Board of Trustees that a tree was removed from the premises known as 28 Locust Avenue, which premises are owned by Cornelius O'Reilly, and which presently are being developed with a new single family home; and

WHEREAS, the construction at the Subject Premises required curb cut approval by this Board, as well as approval of removal and/or pruning of certain trees located at the Subject Premises, which were approved prior to issuance of relevant building permits; and

WHEREAS, at the May 1, 2006 meeting of the Board of Trustees, the Board considered and denied the owner's request for the removal of a tree not previously authorized for removal at the Subject Premises, based upon the Board's determination that said tree could be retained without adversely impacting the objective of the Applicant; and

WHEREAS, subsequently the tree was removed in direct contravention of the decision of the Board of Trustees, and its removal has adversely impacted the street scape on Locust Avenue, to the detriment of neighbors and the Village; and

WHEREAS, pursuant to Chapter 78 of the Code of the Village of Baxter Estates, the Building Inspector when he has reason to believe that work is being performed in violation of applicable laws, ordinances, rules or regulations, or not in conformity with the provisions of an application permit, is authorized to issue a stop work order with respect to ongoing projects, and all work and all building activities are suspended until the stop work order has been rescinded; and

WHEREAS, at the June 5, 2006 meeting of the Board of Trustees, the Board was addressed by Mr. O'Reilly and Robert Kirkland, Esq., counsel for Mr. O'Reilly, expressing their regrets with respect to the incident, and their commitment to remedy the situation to the satisfaction of the Board; and

WHEREAS, the Board desires to ratify and confirm the determination of the Building Inspector to issue a stop work order with respect to the project at the Subject Premises, and to establish the conditions under which the stop work order may be lifted, including the condition that a tree be planted in the location of the tree unlawfully removed,

NOW, THEREFORE, it is hereby DETERMINED as follows:

1. The Board hereby ratifies and confirms the issuance by the Building Inspector of a stop work order with respect to the premises known as 28 Locust Avenue, in response to the unlawful removal from the Subject Premises of a tree, in violation of the Code of the Village of Baxter Estates.
2. The Board hereby authorizes the rescinding of the stop work order by the Village Building Inspector upon submission to the Building Inspector by the property owner of drawings of the front yard of the premises at 28 Locust Avenue, prepared by a licensed design professional reflecting the same curb cut previously authorized by the Board, and the placement of a replacement tree of size and species satisfactory to the Building Inspector.
3. The Board hereby requires that a replacement tree be planted at the Subject Premises, in the location of the tree unlawfully removed, and that such replacement tree shall be satisfactory in all respects, including size and species, to the Building Inspector, and such trees shall be planted within ninety (90) days following reinstatement of the building permit through rescission of the stop work order by the Village Building Inspector. In no event shall the placement of the curb cut at the Subject Premises be modified in any way from that previously approved by the Board, unless application for change or modification is made to and approved by this Board.

C. Barney Rosen

Barney Rosen, 18 Hillside Avenue, addressed the Board to protest the payment of his building permit renewal fee. The Board of Trustees refused request.

D. Mato Stanovic

Mato Stanovic, 31 Central Drive, addressed the Board to request a curb cut.

On the motion of Trustee Baldwin, seconded by Trustee Keenan, it was RESOLVED that the curb cut be approved.

#### E. 115 Main Street Associates Settlement of Tax Certiorari Proceeding

The Village Attorney addressed the proposed settlement of the pending tax certiorari claim.

After discussion, upon motion duly made by Trustee Baldwin and seconded by Trustee Keenan, the Board UNANIMOUSLY RESOLVED as follows:

WHEREAS, 115 Main Street Associates, LLC (“115 Main LLC”), owner of the premises known as 115 Main Street, Port Washington, New York (the “Subject Premises”), has commenced certain tax certiorari proceedings against the Village affecting the Subject Premises, in which 115 Main LLC claims entitlement to refunds of certain Village taxes paid on the alleged grounds that the Village assessments with respect to the Subject Premises for tax years 2001-2002 through 2005-2006 (the “Disputed Tax Years”), and other tax years, were excessive;

WHEREAS, the Village Attorney recommends that the Board accept and approve a settlement negotiated by the Village Attorney and counsel to 115 Main LLC with respect to the Disputed Tax Years, calling for a refund by the Village to 115 Main LLC in an aggregate amount of \$15,000 for all of the Disputed Tax Years,

NOW, THEREFORE, the Board hereby approves a settlement of the pending tax certiorari proceedings brought by 115 Main LLC against the Village with respect to the Disputed Tax Years, and that the aggregate amount of the refund payable in connection therewith shall be \$15,000, conditioned upon 115 Main LLC entering into a stipulation of settlement reflecting such resolution;

AND IT IS FURTHER provided that no resolution with respect to the appropriateness of the Village’s assessment of the Subject Premises for the 2006-2007 tax year shall be made at this time, pending further analysis and advice from counsel.

#### F. July Board of Trustee Meeting

On the motion of Mayor Maher, seconded by Trustee Comer is was unanimously RESOLVED that the date of the Board of Trustee meeting be changed from July 3 to July 6, 2006, due to the July 4<sup>th</sup> holiday.

### **4. Old business**

#### A. Village Attorney Christopher Prior-Village Tree Code

Village Attorney Chris Prior stated that he will prepare for the Board to review a new Local Law to strengthen the Zoning Code for the protection of Village trees.

#### B. Village Attorney Christopher Prior –Building Moratorium

On the motion of Mayor Maher, seconded by Trustee Keenan it was RESOLVED to introduce for consideration Bill No. 2, addressing a building moratorium in the Village, at a Public Hearing on July 6, 2006.

C. Village Attorney Christopher Prior-Halt on Building Permits

On the motion of Mayor Maher, seconded by Trustee Baldwin, it was RESOLVED to introduce for consideration Bill No. 3, addressing the suspension of the processing of applications relating to property for which there are delinquent building department fees or code violations, at a Public Hearing on July 6, 2006.

D. Intermunicipal Agreement: Trustee Keenan attended a meeting /workshop on May 25<sup>th</sup> to discuss and receive more information about the agreement.

E. Frietas

Mr. Freitas of Freitas Landscaping submitted a proposal to the Board for the Parkland renovation and plantings in the vicinity of Overlook Drive and Central Drive in the amount of \$16,384.42. The Board reserved decision.

F. Douglas Baldwin

Building Inspector Liaison Douglas Baldwin gave his report on the Building Department for the month of May. He suggested the Board consider increasing the penalties for work performed without a permit. Contractors working in the Village should hold a valid Nassau County license.

G. Tree Report for the Month of May 2006

John Golder, 24 No. Washington Street, was granted permission, following inspection and approval of the Board of Trustees Resolution on May 1, 2006 at the Board of Trustees Meeting, to remove nine trees under conditions specified.

Vincent and Eileen Spinelli, 18 Hilltop Road, was granted permission, following inspection and approval of Lance Wagner, member of the Tree Committee, to remove two dying trees.

Kathleen Lanzone, 7 Ridgeway Road, was granted permission, following inspection and approval of Lance Wagner, a member of the Tree Committee, to remove a split tree in the rear yard.

Carol Tiktin, 32 Central Drive, was granted permission, following inspection and approval of Lance Wagner, member of the Tree Committee, to remove a dying Maple in the front yard.

Cornelius O'Reilly, 28 Locust Avenue, Greg Panullo, 4 Bayside Avenue, and Richard McCabe, 21 Locust Avenue, were denied tree removal permits as it

was determined on inspection by Lance Wagner, member of the Tree Committee, that the trees in question were healthy trees.

There being no further business before the Board, on motion of Trustee Comer, seconded by Trustee Baldwin, it was unanimously RESOLVED that the meeting be and is hereby adjourned at 10:00 PM.

Yvonne Whitcomb  
Village Clerk