

**VILLAGE OF THOMASTON
100 EAST SHORE ROAD
GREAT NECK, NY 11023
(516) 482-3110
FAX (516) 829-5011**

AGENDA

BOARD OF TRUSTEES
April 9, 2018 7:30 PM

1. Approve minutes of March 12, 2018
2. Election Results & Oath of Office
3. Annual Organizational Meeting
4. Bill T1801 - Incentive Uses in the OB District
5. Tax Certiorari settlement proposals
6. Public Works Report
7. New Business
8. Vouchers

Bill T1801

A local law to amend the Code of the Village of Thomaston to provide incentive zoning in the OB District.

Section one. Statement of authority. This local law is enacted pursuant to the authority granted to the Village Board of Trustees in New York Village Law §7-703, and in order to provide procedures for the development of property in the OB District which will provide community benefits, and incentives to the property owner to encourage such development.

Section two. Article X of Chapter 203 of the Code of the Village of Thomaston is hereby amended by adding thereto a new section, to be § 203-70.3, to read as follows:

“§ 203-70.3 Additional incentive uses for property located in the OB District.

With an incentive use permit from the Board of Trustees, a property in the OB District, having an area of at least one-half (1/2) acre and having street frontage of at least 200 feet on Northern Boulevard, may be used and developed pursuant to an incentive use permit granted by the Board of Trustees, pursuant to Village Law § 7-703 and in accordance with the terms and conditions of this section.

A. An applicant for an incentive use permit pursuant to this section shall provide to the Board, in addition to any other information customarily required in applications to the Board of Trustees or Board of Appeals for special use permits, a master plan for the entire site where such use or facility is proposed, including a landscaping plan.

B. A building or lot used or developed as authorized by an incentive zoning permit granted pursuant to this section shall not be used for any use other than that use authorized in the incentive use permit.

C. Notwithstanding any other provision of this chapter to the contrary, and notwithstanding any authority vested in any other board of the Village, an incentive use authorized pursuant to this section shall conform in all respects to the regulations applicable to uses in the Office Building OB District, except as otherwise authorized in an incentive use permit granted pursuant to this section. In approving an incentive use permit pursuant to this section, the Board of Trustees may grant incentives for the use and development of the subject property and authorize the use or development of the subject property in a manner other than as provided in such regulations, and subject to such conditions as may be determined by the Board of Trustees in approving an incentive use permit, in the following respects:

- (1) Permission to use the property for the sale and service of new and used (pre-owned) automobiles;
- (2) Approval of design plans (including proposed structures, paving, parking areas, landscaping, screening, signage as set forth in Code Article XIIA, and other features which may be required by the Board of Trustees) by the Board of Trustees, in the place and stead of any such approval otherwise required from any other Village board;
- (3) Waiver, in whole or in part, of the setback, screening and masonry wall requirements pursuant to Code § 203-66(A) when the rear yard abuts property that is not being used for residential purposes;

- (4) Waiver, in whole or in part, of requirements for side yard requirements pursuant to Code § 203-67;
- (5) Waiver, in whole or in part, of the setback requirements from secondary sides streets, and the landscaping and location of the solid masonry wall screening requirements, as provided in Code § 203-69;
- (6) Permission to locate parking, or paving, and associated improvements, in a rear yard;
- (7) The grant of any other necessary approval by the Board of Trustees, in the place and stead of any approval otherwise required from any other Village board, unless the Board of Trustees shall determine that such other board approval is required. In the sole discretion of the Board of Trustees, where a recommendation is required from any other Village board as a condition precedent to any Board of Trustees approval, the Board of Trustees may waive the requirement for such recommendation.

D. Provisions for public amenities. An applicant for an incentive use permit pursuant to this section shall include in any such application a plan or proposal for the provision of community amenities, including facilities for public use, and whether by transfer, gift, lease, easement or otherwise, to the extent that the same may be acceptable to the Board of Trustees and feasible and adequate, or, in the alternative, by payment of a sum to be determined by the Board of Trustees in lieu of such community amenities, pursuant to New York Village Law § 7-703. The determination whether any such plan is acceptable, feasible, adequate, or in a form acceptable to the Village shall rest in the sole and unfettered discretion of the Board of Trustees. The Board of Trustees shall have authority to require other

or different community amenities or payment in lieu thereof, as it may deem appropriate and as permitted by law.

E. In connection with the grant of an application under this section, the Board of Trustees may impose any additional terms and conditions which it finds necessary and appropriate to protect the public health, safety and general welfare.

F. Hearing. No incentive use permit shall be granted pursuant to this section except after a public hearing before the Board of Trustees. The said public hearing shall be held and conducted in the same procedural manner as if it were a public hearing on an application to the Board of Appeals for a use variance, but the determination whether to grant an incentive zoning permit shall be in the sole discretion of the Board of Trustees.

G. Costs. As required by New York Village Law § 7-703(c) any applicant who applies for an incentive use permit pursuant to this section within five years after the approval of any other incentive use permit pursuant to this section shall pay to the Village a proportionate share of the cost of any generic environmental impact statement and other studies prepared in connection with the enactment of this section or in the authorization of any incentive use permit issued pursuant to this section within the five-year period immediately prior to such application. Said costs shall be added to any other site-specific charges authorized to be imposed on said applicant for environmental studies and review. These costs shall be apportioned among applicants according to the number of applicants required to share in such costs. Monies paid by a prior applicant shall be proportionately reimbursed

in the event of a subsequent applicant who may be responsible for, and pays, a portion of these costs.

H. The determination by the Board of Trustees whether to grant an application for an incentive use permit pursuant to this section shall be in the sole discretion of the Board of Trustees. No person or entity shall have any right to such a permit under any circumstances unless and until such a permit is approved by the Board of Trustees. Any such approval by the Board of Trustees may be granted upon reasonable conditions as may be determined by the Board of Trustees.

I. Fees and Reimbursements. An applicant for an incentive use permit pursuant to this section shall be required to pay an application fee in an amount as may be determined by the Board of Trustees by resolution. In addition to such application fee, the applicant shall be required to deposit funds sufficient to reimburse the Village's expenses for engineering, environmental, planning, and other professional services reasonably required for review of the application (including reasonable attorneys' fees), the costs of mailing and publishing legal notices, and stenographic expenses for public hearings. Any such deposit shall be replenished by the applicant from time to time upon written request from the Village Clerk in such manner as to maintain a specified balance in such fund. In the event the applicant fails to maintain any required balance, the Village shall not be obligated to process the application further until such time as the required balance is restored. Upon the conclusion of the application or review process by final determination, or by withdrawal of the application, any remaining balance in such fund after payment

of all such expenses shall be refunded to the applicant upon written request.”

Section 2. Effective date. This local law shall take effect immediately upon adoption and filing pursuant to the Municipal Home Rule Law, and shall expire five months after its effective date. Notwithstanding the expiration of this law, the provisions of this law shall remain in effect with respect to any application for an incentive zoning permit duly filed on or before such expiration date, and the Board of Trustees shall retain jurisdiction pursuant to this law to approve any such application, or thereafter to amend any approval of such application, pursuant to the procedures and other provisions stated in this local law.