

Bill No. ____ of 2016

**INCORPORATED VILLAGE OF GREAT NECK
BOARD OF TRUSTEES**

Local Law No. ____ of 2016

**A LOCAL LAW TO AMEND CHAPTER
575 OF THE VILLAGE CODE
CONCERNING ZONING**

BE IT ENACTED, by the Board of Trustees of the Incorporated Village of Great Neck, as follows:

Section 1. Chapter 575 of the Village Code, entitled “Zoning”, is hereby amended as follows:

§ 575-280 Incentive zoning procedure.

This section shall apply to all new commercial and multiple-family dwelling projects in the Village. It shall further apply to all applications filed under the provisions of the Middle Neck Road Multifamily Incentive Overlay District (MNR-MIO) (Article XXXII), the Steamboat Road Townhome Redevelopment Incentive Overlay (SR-TRIO) (Article XXXIII) and the Residence G or Waterfront Residential District (Article XXXIV).

- A. The Board of Trustees shall have powers set forth in Village Law § 7-703, as may be amended from time to time, with regard to incentive zoning. The Board of Trustees may, at its discretion, award incentives and bonuses to applicants who provide or make provision for specific physical, social, and/or cultural amenities, or cash in lieu thereof, of benefit to the residents of the Village, as from time to time determined by resolution of the Board of Trustees, provided such are in accordance with the Comprehensive Plan established by this chapter.
- B. To evaluate the adequacy of the proposed amenities to be accepted in exchange for the requested development incentives or bonuses, the applicant shall, as part of its initial submission to the Village, submit an application for development incentive bonuses to the Building Department, together with the payment of ~~any~~ the escrow deposit stated below and all applicable fees that shall be set, from time to time, by resolution of the Board of Trustees. The application for a development or incentive bonus shall include the following and such other documentation and information as may be requested by the Building Department or the Board of Trustees:
 - (1) A description of the proposed amenities outlining the benefits that will accrue to the community;
 - (2) The economic value of the proposed amenities to the Village as compared with the economic value of the proposed incentives to the applicant. The analysis shall include

a comparison of the long-term economic impact of the proposed amenities to the Village compared to the long-term economic value of the incentives to the applicant. For purposes of this section "long-term" shall be defined as a term of 10 years or more;

- (3) A preliminary demonstration that there are adequate parking, transportation, and fire-protection facilities serving or proximate to the proposed development to handle the additional demands the increased density or other incentive or bonus may place on such facilities or the Village beyond the demand that would otherwise occur with as-of-right development;
- (4) A description of the effect, if any, on the potential development of affordable housing gained or lost by the provision of the incentive or bonus;
- (5) Demonstration that any additional height would not result in adverse visual impact on the nearby single-family residential areas, open space areas, streetscape, or, if applicable, the historic character, of the proposed building site or nearby properties; and
- (6) ~~Where the applicant is requesting to provide payment in lieu of community amenities, the applicant shall provide a calculation and proposal of an appropriate payment. The Board of Trustees shall consider the proposal for payment by the applicant in determining whether the amenities may be achieved. In addition to any other applicable application fees, payment of a reasonable escrow deposit, as set by the Building Department, to cover costs and expenses incurred by the Village for legal and professional fees in connection with review of the application. The unused portion of the escrow, if any, shall be refunded to the applicant following final determination of the application.~~

C. Authorization for development incentives and bonuses shall be subject to approval by the Board of Trustees. The Board of Trustees shall determine whether the proposed amenity provides sufficient public benefit to provide the requested incentive or bonus. In the event that the Board of Trustees grants the application, it may impose such terms and conditions as it deems reasonable or necessary. ~~If the Board of Trustees determines that a suitable community amenity is not immediately feasible, or otherwise not practical, or not a sufficient amenity for the incentive or bonus requested, the Board of Trustees may require, in lieu thereof or in addition thereto, a payment to the Village of a sum to be determined by the Board of Trustees. If the Board of Trustees determines that a suitable community benefit or amenity is not immediately feasible or is impractical, the applicant shall pay the Village a fee in lieu of such amenities or benefits in an amount set by the Board. The fee shall be equal to [15%] of the difference between:~~

- (a) The fair market value of the project, as proposed and with all bonuses, and the fair market value of the project without the bonuses; or

(b) If a rational valuation under (C)(a) cannot be provided, the fair market value of the project, as proposed and with all bonuses, and the fair market value of the property in its then-current state.

The foregoing calculations shall be based upon analyses acceptable to the Board of Trustees, prepared by a qualified professional or firm, and commissioned by the applicant at their sole cost and expense. The Board of Trustees shall retain authority to commission an independent analysis if the Board finds, in its sole discretion, that an independent study is necessary or prudent to establish reasonable values for calculation of the fee. The fee in lieu of community amenities or benefits shall be paid as follows: (i) for projects constructed in phases, proportionately based on the relative size of each phase, prior to commencement of each phase of development; and (ii) for all other developments, half prior to issuance of the first building permit and half prior to the issuance of the first certificate of occupancy. If ~~cash~~ a fee is accepted in lieu of or in addition to a community amenity or benefit, provision shall be made for such sum to be deposited in a trust fund to be used by the Board of Trustees for ~~specific~~ the creation or improvement of community amenities or for purposes which provide a community benefit, as authorized by the Board of Trustees in the future.

D. If a generic environmental impact statement has been prepared by the Board of Trustees in relation to the establishment of a system of zoning incentives within particular zoning districts, the applicant shall pay a proportionate share of the cost of preparing such impact statement. Such proportionate share shall be determined based upon the total area of the applicant's property for which the incentive or bonus is sought and the total area within the district that was the subject of the impact statement. All other requirements of Article 8 of the Environmental Conservation Law of New York State shall be complied with by the applicant, including preparation of a site-specific environmental assessment form and a supplemental environmental impact statement, if deemed by the Board of Trustees to be necessary.

§ 575-336 Incentive requirements.

A. Incentives.

(1) Density bonus for community benefits or amenities. In recognition of the opportunities to a) provide for physical amenities that benefit the Village, such as a new Village Hall, to accommodate and serve the needs of the influx of new residents who will be residing in the new development; b) revitalize and energize the Middle Neck Road corridor to better provide the residents with local businesses for their daily needs and to provide a more stable tax base; c) revitalize and energize the East Shore Road corridor; and/or d) provide such other community benefits or amenities as the Board of Trustees may, from time to time by resolution, find appropriate, where an applicant proposes significant improvements to the physical amenities of the Village, to revitalize and energize the Middle Neck Road and/or East Shore Road Corridors, and/or other community benefits or amenities as the Board of Trustees

may, from time to time by resolution, find appropriate, that meet the criteria herein, the Board of Trustees may approve:

- (a) A reduction in the minimum lot area per unit to as few as 850 square feet of lot area;
 - (b) An occupied roof terrace;
 - (c) Stairwells and elevator bulkheads serving an occupied roof terrace exceeding 12 feet, but not exceeding 22 feet in vertical distance from base to highest point;
 - (d) A height exceeding 62 feet, but not exceeding 70 feet;
 - (e) An elevation exceeding 68 feet, but not exceeding to 80 feet; and/or
 - (f) One or more other adjustments of the other dimensional standards of the district.
- (2) In determining whether or not to grant the density bonus or adjustment, the Board of Trustees shall consider the following:
- (a) The extent and dollar value of the community benefit or amenity;
 - (b) The public costs that would otherwise be required to effect the same improvements; and
 - (c) The improvement to the Village from the proposed improvements.

B. ~~Payment in lieu of community benefits or amenities.~~

~~(1) At the request of the applicant or on its own determination that the identified amenities and benefits to the Village are not immediately feasible or otherwise not practical for the applicant to provide, the Board of Trustees may require, in lieu of the identified amenities and benefits, a payment to the Village of a sum determined by the Board of Trustees. If cash is accepted in lieu of a community benefit or amenity, provision shall be made for such sum to be deposited in a trust fund to be used by the Board of Trustees exclusively for specific community benefits authorized by the Board of Trustees.~~

~~(2) One-half of any money in lieu of community benefits or amenities must be received by the Village prior to the issuance of any building permit in furtherance of the project, and the remaining one-half balance must be received by the Village prior to the issuance of any certificate of occupancy (whether permanent or temporary).~~

C. Intent and example. As an example of how the incentive provided in this section would be calculated in accordance with the workforce housing provisions of General Municipal Law § 699-b, if the maximum incentives were granted pursuant to this section and § 699-

b, based upon a lot area of 148,000 square feet, the incentives would result in the following:

(1) Lot area: 148,000 square feet.

(2) As of right:

(a) One unit/950 square feet: 155 units.

(b) With General Municipal Law ten-percent workforce housing incentive (~~17~~15 affordable workforce housing units): 170 units.

(3) Section 575-336 incentive:

(a) One unit/850 square feet: 174 units.

(b) With General Municipal Law ten-percent workforce housing incentive (~~20~~17 affordable workforce housing units): 191 units.

D. Incentive procedures. Applications seeking increased density or modification of dimensional standards as part of this district's incentive zoning framework shall comply with the procedural requirements outlined in Article XXXI.

Section 2. This local law shall take effect immediately upon filing with the Office of the Secretary of State.