

**TOWN OF SOUTHEAST
1360 Route 22,
Brewster, New York 10509
Thursday, September 8, 2016
WORK SESSION/REGULAR MEETING 7:00 P.M.**

Pledge of Allegiance

Notation of Exits

Turn Off/Put on Vibrate – All Electronic Devices

Presentation: Putnam County

Public Hearing:

1. Section 131-20 (Town Code) Parking Prohibited Certain Hours

Work Session:

1. Discussion – Barrett Hill
 - A. Town of Southeast Planning Board Report and Recommendation per §138-92 re Barrett Hill
 - B. Putnam County Division of Planning, Development and Public Transportation 39-m Report re: Barrett Hill
 - C. Local Law to establish a "Multifamily Work Force Housing District"
 - D. Local Law to map the "Multifamily Work Force Housing District" to 41 Mt. Ebo Road North, Brewster, NY 10509 (Tax Map Number 46-5-2).
2. Discussion – Brewster Public Library – Expansion Referendum

Regular Meeting:

1. Resolution – Determination of Significance (SEQRA) – Barrett Hill LLC Petition/Project
 - Set Public Hearing on the Local Law to establish "Multifamily Work Force Housing District" – Thursday, September 22, 2016
 - Set Public Hearing on the Local Law to map the "Multifamily Work Force Housing District" to 41 Mt. Ebo Road North, Brewster, New York 10509 (Tax Map # 46-5-2) – Thursday, September 22, 2016

- Set Public Hearing – Special Permit – Guardian Veterinary Management, LLC. – Thursday, September 22, 2016
- 2. Resolution – Intermunicipal Cooperation - Grant Funding Storm Damage Assessment Program
- 3. Resolution – Reappointment of Mr. John Handy to the Board of Assessment Review (10/1/16-09/30/21)
- 4. Resolution – Audit of Justice Court Records

Recognition of Public/Public Comment

Recognition of Town Board/Town Board Comment

**SOUTHEAST TOWN BOARD
PUBLIC HEARING NOTICE**

PLEASE TAKE NOTICE that the Town Board of the Town of Southeast shall hold a Public Hearing on September 8, 2016 at the Town Hall, 1360 Route 22, Brewster, NY, at 7:00 PM or as soon thereafter as interested parties may be heard, pursuant to the Municipal Home Rule Law, to consider a proposed local law which, if adopted, would amend Chapter 131 ("Vehicles & Traffic"), Article IV ("Commuter Parking") Section 131-20 ("Parking Prohibited certain hours") of the Town Code to remove the prohibition on parking in commuter lots between the hours of 3:00 a.m. and 6:00 a.m. All persons having an interest in the foregoing matter will be given an opportunity to be heard at this time.

BY ORDER OF THE TOWN BOARD
Hon. Michele Stancati, Town Clerk

WS#1A

**Town of Southeast
Planning Board
One Main Street
Brewster, NY 10509**

August 22, 2016

Hon. Tony Hay, Supervisor
Town of Southeast
1360 Route 22
Brewster, NY 10509

Re: Multifamily Work Force Housing Floating Zoning District

Dear Mr. Hay:

The Town of Southeast Planning Board has reviewed the draft local laws being considered in support of the Barrett Hill project. The proposed local law has been designed to suite the Barrett Hill project, and while its potential applicability to other properties within the Town is limited due to the lot size and location limitations, it is important to note that as part of the Town Code, it could apply to other properties. As such, it is important that the local law fit within the context of the Town Code, and that it is not so tailored to a specific project that it becomes awkward for the Town to enforce elsewhere.

As such, the Planning Board supports a text amendment to the Zoning Code to permit the creation of new workforce housing subject to the following revisions:

1. In Section H.7, the proposed zoning should more clearly define the marketing requirement in terms of when it is initiated as it relates to the potential sale price of a unit. Furthermore, the Planning Board recommends that no time limit be imposed on the marketing of the priority and affordable priority units, as these should remain subject to the 99 year restriction, and should not revert to standard market rate units for failure to reach the targeted audience. This should be made clear in both the proposed zoning text and the Community Benefits Agreement.
2. It is unclear why non-affordable housing units would have a preference list. The percentage of affordable housing units should be of the total number of housing units, as opposed to a percentage of the preference list units. In addition, a minimum number of affordable housing units should be required.
3. The proposed zoning should include dimensional and occupancy provision consistent with health and safety standards. We suggest the following:
 - A. *Minimum floor area. The minimum gross floor area (living space) per Affordable Housing dwelling unit shall not be less than 80 percent of the average floor area of non-restricted housing units in the development, and no less than the following:*
 - (1) *Studio/efficiency: 450 square feet.*
 - (2) *One-bedroom: 675 square feet.*

(3) Two-bedroom: 750 square feet.

B. *Occupancy standards. The following schedule of occupancy shall apply to all Affordable Housing dwelling units:*

<i>Number of Bedrooms</i>	<i>Maximum Number of Persons</i>
<i>Studio/efficiency</i>	<i>2</i>
<i>1</i>	<i>3</i>
<i>2</i>	<i>5</i>

4. The proposed zoning should more clearly define “bedroom” so that common areas and dens are not converted to bedrooms at a later point in time. We suggest the following:

A. *Bedrooms. No multi-family housing unit shall contain more than two bedrooms. The intended use of each room in a multi-family housing unit shall be specified on the site plan. For the purpose of determining the number of bedrooms in the dwelling unit, any room designed, intended, furnished or occupied for sleeping quarters and any room other than a living room, kitchen or bathroom or a utility room having more than 50 square feet of floor area shall be considered a bedroom. The identification of use of rooms in each dwelling unit shall be a part of the approval of the site plan. The habitable floor area of a dwelling unit shall not exceed 1,800 square feet.*

5. The proposed zoning should require the payment of recreation fees, and we suggest that the following:

A. *Reservation of parkland. Before the Planning Board may approve any site plan containing multi-family residential units, such site plan shall also show, when required by such Board, a park or parks suitably located for playground or other recreational purposes.*

(1) *The Planning Board shall not require land for park, playground or other recreational purposes until it has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town. Such findings shall include an evaluation of the present and future needs for park and recreational facilities in the Town based on projected population growth to which the particular site plan will contribute. Such findings shall provide an individualized determination that such required dedication or reservation is related both in nature and extent to the impact of the proposed site plan.*

(2) *In the event the Planning Board makes a finding pursuant to the preceding subsection that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purpose, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the Planning Board may require a sum of money in lieu thereof. In making such determination of suitability, the Board shall assess the size and suitability of lands shown in the site plan which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate community. Any monies required by the Planning Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited to the Town of*

Southeast to be used by the Town exclusively for park, playground or other recreational purposes, including the acquisition of property. Such payment shall be a condition of site plan approval and shall be assessed in accordance with the site plan recreation fee schedule established by the Town Board per §138-87. No site plan shall be signed by the Chairman of the Planning Board until such payment has been received by the Town and receipt therefor provided to the Planning Board.

6. The following sentence should be added to Section H.2 of the proposed zoning text:

As part of the Special Permit approval process, the Town Board shall have the authority to approve or disapprove of the organization, group, or company that shall manage and ensure compliance with the eligibility requirements for the Project.

The Applicant was present at our meeting on August 22, 2016, and we discussed the proposed revisions with them. The Applicant stated that they have no objections to these revisions, with the exception of item 2. The Planning Board appreciates your consideration in these matters.

Sincerely,

A handwritten signature in cursive script that reads "Thomas LaPerch".

Thomas LaPerch, Chairman
Town of Southeast Planning Board

CC: Town Board
Town Clerk
Town Attorney



Putnam County
Department of Planning, Development,
and Public Transportation

www.putnamcountyny.com

841 Fair Street
Carmel, NY 10512

Phone: (845) 878-3480

Fax: (845) 808-1948

August 17, 2016

Tony Hay, Supervisor, and Members of the Town Board
Town of Southeast
1360 Route 22
Brewster, NY 10509

RE: GML 239 Referral for an amended zoning petition to permit non-age restricted multi-family units in the OP-2 District as part of a Floating Zone, referred to as Multifamily Work Force Housing District

Dear Mr. Hay and Members of the Town Board,

I have reviewed the N.Y. GML §239 referral of an application of Barrett Hill Associates, LLC to the Southeast Town Board for a zoning text change, including the Expanded Environmental Assessment with SEQR Full Environmental Assessment Form (EAF) and Supplemental Studies. The zoning text change is approved but with the following recommended modifications to Exhibit A, Floating Zone Option and Exhibit C, the Community Benefits Agreement for Barrett Hill:

- Section H(7) of the Floating Zone Option text states, "with respect to sale units, such Affordable Priority Units shall be sold to Qualifying Affordable Household at sales prices equal to 90% of the prices set forth in the Sales Offering Plan or Memorandum (*for the first six months of sales or marketing*) or 90% of the sales price of similar housing units in the multi-unit multi-family housing development *in the six months preceding the date of the contract of sale*, adjusted for unit size." The Community Benefits Agreement similarly states "the dwelling units included as part of the multi-unit multi-family housing development shall be subject to the following special marketing and occupancy restrictions: thirty percent (30%) of the dwelling units shall be marketed [with] a reservation period of six (6) months from the time of substantial completion for each phase of construction, for marketing of residential units [as affordable priority units]."

The method for establishing the final number of affordable units should be more defined within the Community Benefits Agreement. It is recommended that this language be modified to state there is a "reservation period of at least 6 months from the time of substantial completion of each phase of construction, for marketing." Additionally, it is recommended that conditions defining the minimum accepted marketing strategies be delineated in the Community Benefits Agreement, i.e., the minimum number of advertisements, locations to be advertised, etc. A minimum threshold should also be established for the total units that must be designated as affordable housing units if the 30% maximum is not reached.

These are recommendations for modification based on my professional opinion, and not required for N.Y. GML §239 approval. The Town Board should decide what is appropriate for this site and any zoning changes to the Town. If you have any questions or comments on the above recommendations, please feel free to call me at 845-878-3480 x 48107.

Sincerely,

A handwritten signature in black ink that reads "Barbara Barosa". The signature is written in a cursive, flowing style.

Barbara Barosa, AICP
Planner



**Putnam County
Department of Planning, Development,
and Public Transportation**

www.putnamcountyny.com

841 Fair Street
Carmel, NY 10512

Phone: (845) 878-3480

Fax: (845) 808-1948

SECTION 239 CASE REFERRAL

Case Received: Report Required: Completed:

Application Name: Referral #:

TOWN: Carmel: Philipstown: VILLAGE: Brewster:
 Kent: Putnam Valley: Cold Spring:
 Patterson: Southeast: Nelsonville:

Referred by: Planning Board: Zoning Board: Town Board:

Location of Project:

Present Zone: Tax Map #:

Type of action: Variance: Zoning Ordinance: Master Plan:
 Subdivision: Special Use Permit: Subdivision Regulations:
 Site Plan: Rezoning: Zoning Amendment:

DECISION BY COUNTY:

Approved as Submitted: Approved with Modification: Disapproved:

Basis for Decision Other than Approval:

See attached letter.

Reviewed by: Barbara Barosa Barbara Barosa, AICP, County Planner
 (Signature) (Title)

OPTION 1 – PER PLANNING BOARD RECOMMENDATION

WS # 1C

Town of Southeast, Putnam County, NY

Local Law No. ___ of 2016

A LOCAL LAW entitled: “A Local Law to Amend the Chapter 138 of the Town Code to create a Multifamily Work Force Housing District.” Be it enacted by the Town Board of the Town of Southeast, Putnam County, New York, as follows:

SECTION 1: LEGISLATIVE INTENT

The Town Board of the Town of Southeast, proposes to amend the Code of the Town of Southeast to permit Multifamily Work Force Housing District to provide suitable opportunities within the Town for the development of housing designed to satisfy the needs of households maintained by the disabled, the young, the elderly, and families earning less than 80% of the county’s annual median income. The district is intended to provide for the construction of multifamily housing on sites determined to be appropriate based on criteria established herein which are designed to promote the public health, safety and general welfare and to develop housing which is responsive to a variety of special needs of present and future residents of the Town.

SECTION 2: AMENDMENTS TO ARTICLE I, “GENERAL PROVISIONS; DEFINITIONS”

Section 138-4.B, “Definitions” is hereby amended in part to add the following definitions:

AFFORDABLE HOUSING UNIT

For-Purchase Housing Unit: A for-purchase housing unit that is affordable to a household whose income does not exceed 80% of the area median income (AMI) for Putnam County as defined by the United States Census Bureau and for which the annual housing cost of a unit including common charges, principal, interest, taxes and insurance (PITI) does not exceed 33% of 80% AMI, adjusted for household size. The housing unit shall be subject to a 99 year deed restriction limiting the sale and resale of the property to qualifying affordable households.

Rental Housing Unit: A rental unit that is affordable to a household whose income does not exceed 80% of the area median income for Putnam County, as defined by the United States Census Bureau. The housing unit shall be subject to a 99 year deed restriction limiting the rental and re-rental of the property qualifying affordable households.

AFFORDABLE PRIORITY UNIT

A Priority Unit which is subject to a 99 year restriction limiting the sale or rental price initially and upon resale or re-rental at a price to be determined for the particular project.

PRIORITY UNIT

A single family or multifamily housing unit that is marketed to and occupied by a household meeting the eligibility requirements defined by the particular project, including but not limited to households within a preference group which may include but are not limited residents and/or workers in the Town of Southeast who are members of the fire and police force, school district employees, veterans residing in Putnam County, persons aged 55 and older, persons with disabilities, Putnam County First Responders, etc.

QUALIFYING AFFORDABLE HOUSEHOLD

A household in which the total household income is equal to or less than 80% of Putnam County Household Income as published by the United States Census Bureau from time to time or as adjusted consistent with increases in the CPI during interim periods, and in which at least one member of the household is a member of one or more of the preference groups identified for the particular project.

SECTION 3: AMENDMENTS TO ARTICLE II, "ESTABLISHMENT OF DISTRICTS; MAP"

Section 138-5, "Districts enumerated" is hereby amended in part to add the following district:

Multifamily Work Force Housing District MWFH

SECTION 4: ESTABLISHMENT OF ARTICLE XIX, "FLOATING ZONING DISTRICTS"

Article XIX, "Floating Zoning Districts," and Section 104, "Multifamily Work Force Housing District," are hereby established.

- A. Purpose and intent. A multifamily workforce housing district is hereby established in order to provide suitable opportunities within the Town for the development of housing designed to satisfy the needs of households maintained by the disabled, the young, the elderly, and families earning less than 80% of the county's annual median income. The district is intended to provide for the construction of multifamily housing on sites determined to be appropriate based on criteria established herein which are designed to promote the public health, safety and general welfare and to develop housing which is responsive to a variety of special needs of present and future residents of the Town. To help assure the achievement of this goal with proper protection for existing and future neighboring development and infrastructure, the multifamily work force housing district shall be established on a floating-zone basis, subject to approval by the Town Board and in accordance with an approved preliminary development concept plan, as described and defined herein.
- B. Eligible property. Any site proposed to be included in the Multifamily Work Force Housing District shall be in the OP2 District and shall meet the following site eligibility requirements, all of which shall be met on the effective date of the Zoning Map amendment:
 - (1) Such site shall be accessed by a State, County, or Town road and shall be adjacent to a residential zone;
 - (2) Such site shall be serviced by an existing central sewage treatment plant, central water supply and central fire protection system;
 - (3) Notwithstanding the minimum lot size requirements for the OP-2 District set forth in the Commercial Zoning Schedule, such site shall have a minimum lot size of 25 acres.
- C. Permitted uses. The following uses shall be permitted in the Multifamily Work Force Housing District, subject to the following restrictions:
 - (1) Multifamily residential housing, subject to the issuance of a special permit from the Town Board and site plan approval from the Planning Board.
 - (2) Single family dwellings (attached or detached), subject to the issuance of a special permit from the Town Board and site plan approval from the Planning Board.
- D. Special permit standards. The issuance of a special permit for single family or multifamily residential housing shall be subject to the following standards:

- (1) A minimum of 30% of the project units shall be designated as Priority Units for occupancy by eligible households.
- (2) In any development of 10 or more dwelling units, at least 10% of the units shall be classified as Affordable Housing as defined by §138-4.B. In computing this number, fractional units of 0.5 or more shall be rounded up.

E. Dimensional and bulk standards.

- (1) The yard, setback, floor area ratio and building coverage standards of the OP-2 Zoning District shall apply.
- (2) A minimum of 1.5 off-street parking spaces per dwelling unit shall be required, plus twenty (20) percent for visitor parking.

F. Development standards. All single family and multifamily residential development in the Multifamily Work Force District shall comply with the following standards:

- (1) Physical integration. Units designated as Priority Units shall be designed to be integrated into the overall project so as not to be immediately identifiable and shall contain the same quality workmanship and materials.
- (2) Dwelling unit size and unit type. Dwelling unit types may include multifamily and single family attached or single family detached types and may include one or two bedroom units.
- (3) Minimum floor area. The minimum gross floor area (living space) per Affordable Housing dwelling unit shall not be less than 80 percent of the average floor area of non-restricted housing units in the development, and no less than the following:
 - a) Studio/efficiency: 450 square feet.
 - b) One-bedroom: 675 square feet.
 - c) Two-bedroom: 750 square feet.
- (4) Occupancy standards. The following schedule of occupancy shall apply to all Affordable Housing Units:

Number of Bedrooms	Maximum Number of Persons
Studio/efficiency	2
1	3
2	5

- (5) Bedrooms. No multi-family housing unit shall contain more than two bedrooms. The intended use of each room in a multi-family housing unit shall be specified on the site plan. For the purpose of determining the number of bedrooms in the dwelling unit, any room designed, intended, furnished or occupied for sleeping quarters and any room other than a living room, kitchen or bathroom or a utility room having more than 50 square feet of floor area shall be considered a bedroom. The identification of use of rooms in each dwelling unit shall be a part of the approval of the site plan. The habitable floor area of a dwelling unit shall not exceed 1,800 square feet.
- (6) Phasing. Each Phase shall include an equal number of Priority Units spread throughout the project.

- (7) Building Size. Total Building Area shall comply with the Floor Area Ratio (FAR) for the OP-2 zone.

G. Selection and affordability standards.

- (1) Each project shall be required to define the selection criteria and process for compliance of the project to this section as part of the Project Marketing Plan or Community Benefits Agreement.
- (2) The Project Marketing Plan or Community Benefits Agreement shall identify the organization, group or company who shall ensure compliance with the eligibility requirements for the project. As part of the Special Permit approval process, the Town Board shall have the authority to approve or disapprove of the organization, group, or company that shall manage and ensure compliance with the eligibility requirements for the Project.
- (3) Each project shall define how the project shall benefit the identified preference groups/population identified in the Project Marketing Plan or Community Benefits Agreement.
- (4) The Project Marketing Plan or Community Benefits Agreement will include the method to ensure the Priority Units serve the preference group/population.
- (5) Typical preference groups could include such residents and/or workers in the Town of Southeast who are members of the fire and police force, school district employees, veterans residing in Putnam County, persons aged 55 and older, persons with disabilities, Putnam County First Responders, etc.
- (6) At least 34% of the Priority Units shall be subject to a 99 year restriction limiting the sale or rental price of such Affordable Priority Units, initially and upon re-rental or resale.
 - a) With respect to rental units, such Affordable Priority Units shall be rented to Qualifying Affordable Households at rates equal to 30% of 80% of the Putnam County Household Income, as published by the United States Census Bureau from time to time or as adjusted consistent with increases in the CPI during interim periods.
 - b) With respect to sale units, such Affordable Priority Units shall be sold to Qualifying Affordable Households at sales prices equal to 90% of the prices set forth in the Sales Offering Plan or Memorandum (for the first six months of sales, as established by the sale of the first unit) or 90% of the sales price of similar housing units in the subject multi-unit multi-family housing development in the 6 months preceding the date of the contract of sale, adjusted for unit size. The sale price of these units shall not exceed the threshold for an Affordable Housing Unit as defined in §138-4.B.

H. Application procedure. The procedure for planning and zoning approval of a proposed multifamily work force housing development in accordance with this section shall involve a three-stage review process, including (1) Town Board approval of a Zoning Map change to designate the subject property as within the Multifamily Work Force Housing District, (2) Town Board approval of a special permit for the single family or multifamily residential development, (3) Planning Board approval of a site plan.

I. Reservation of parkland. Before the Planning Board may approve any site plan containing multi-family residential units, such site plan shall also show, when required by such Board, a park or parks suitably located for playground or other recreational purposes.

- (1) The Planning Board shall not require land for park, playground or other recreational purposes until it has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town. Such findings shall include an evaluation of the present and future needs for park and recreational facilities in the Town based on projected population growth to which the particular site plan will contribute. Such findings shall provide an individualized determination that such required dedication or reservation is related both in nature and extent to the impact of the proposed site plan.
- (2) In the event the Planning Board makes a finding pursuant to the preceding subsection that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purpose, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the Planning Board may require a sum of money in lieu thereof. In making such determination of suitability, the Board shall assess the size and suitability of lands shown in the site plan which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate community. Any monies required by the Planning Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited to the Town of Southeast to be used by the Town exclusively for park, playground or other recreational purposes, including the acquisition of property. Such payment shall be a condition of site plan approval and shall be assessed in accordance with the site plan recreation fee schedule established by the Town Board per §138-87. No site plan shall be signed by the Chairman of the Planning Board until such payment has been received by the Town and receipt therefor provided to the Planning Board.

SECTION 5: VALIDITY

The invalidity of any word, section, clause, paragraph, sentence, part, provision of this Local Law shall not affect the validity of any other part of this Local Law that shall be given effect without such invalid part or parts.

SECTION 6: EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State.

OPTION 2

Town of Southeast, Putnam County, NY

Local Law No. ___ of 2016

A LOCAL LAW entitled: "A Local Law to Amend the Chapter 138 of the Town Code to create a Multifamily Work Force Housing District." Be it enacted by the Town Board of the Town of Southeast, Putnam County, New York, as follows:

SECTION 1: LEGISLATIVE INTENT

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SECTION 2: AMENDMENTS TO ARTICLE I, "GENERAL PROVISIONS; DEFINITIONS"

Section 138-4.B, "Definitions" is hereby amended in part to add the following definitions:

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Rental Housing Unit: A rental unit that is affordable to a household whose income does not exceed 80% of the area median income for Putnam County, as defined by the United States Census Bureau. The housing unit shall be subject to a 99 year deed restriction limiting the rental and re-rental of the property qualifying affordable households.

AFFORDABLE PRIORITY UNIT

A Priority Unit which is subject to a 99 year restriction limiting the sale or rental price initially and upon resale or re-rental at a price to be determined for the particular project.

PRIORITY UNIT

A single family or multifamily housing unit that is marketed to and occupied by a household meeting the eligibility requirements defined by the particular project, including but not limited to households within a preference group which may include but are not limited to residents and/or workers in the Town of Southeast who are members of the fire and police force, school district employees, veterans residing in Putnam County, persons aged 55 and older, persons with disabilities, Putnam County First Responders, etc.

QUALIFYING AFFORDABLE HOUSEHOLD

A household in which the total household income is equal to or less than 80% of Putnam County Household Income as published by the United States Census Bureau from time to time or as adjusted

OPTION 2

consistent with increases in the CPI during interim periods, and in which at least one member of the household is a member of one or more of the preference groups identified for the particular project.

SECTION 3: AMENDMENTS TO ARTICLE II, “ESTABLISHMENT OF DISTRICTS; MAP”

Section 138-5, “Districts enumerated” is hereby amended in part to add the following district:

Multifamily Work Force Housing District MWFH

SECTION 4: ESTABLISHMENT OF ARTICLE XIX, “FLOATING ZONING DISTRICTS”

Article XIX, “Floating Zoning Districts,” and Section 104, “Multifamily Work Force Housing District,” are hereby established.

- A. Purpose and intent. A multifamily workforce housing district is hereby established in order to provide suitable opportunities within the Town for the development of housing designed to satisfy the needs of households maintained by the disabled, the young, the elderly, and families earning less than 80% of the county’s annual median income. The district is intended to provide for the construction of multifamily housing on sites determined to be appropriate based on criteria established herein which are designed to promote the public health, safety and general welfare and to develop housing which is responsive to a variety of special needs of present and future residents of the Town. To help assure the achievement of this goal with proper protection for existing and future neighboring development and infrastructure, the multifamily work force housing district shall be established on a floating-zone basis, subject to approval by the Town Board and in accordance with an approved preliminary development concept plan, as described and defined herein.
- B. Eligible property. Any site proposed to be included in the Multifamily Work Force Housing District shall be in the OP2 District and shall meet the following site eligibility requirements, all of which shall be met on the effective date of the Zoning Map amendment:
 - (1) Such site shall be accessed by a State, County, or Town road and shall be adjacent to a residential zone;
 - (2) Such site shall be serviced by an existing central sewage treatment plant, central water supply and central fire protection system;
 - (3) Notwithstanding the minimum lot size requirements for the OP-2 District set forth in the Commercial Zoning Schedule, such site shall have a minimum lot size of 25 acres.
- C. Permitted uses. The following uses shall be permitted in the Multifamily Work Force Housing District, subject to the following restrictions:
 - (1) Multifamily residential housing, subject to the issuance of a special permit from the Town Board and site plan approval from the Planning Board.
 - (2) Single family dwellings (attached or detached), subject to the issuance of a special permit from the Town Board and site plan approval from the Planning Board.
- D. Special permit standards. The issuance of a special permit for single family or multifamily residential housing shall be subject to the following standards:
 - (1) A minimum of 30% of the project units shall be designated as Priority Units for occupancy by eligible households.

OPTION 2

- (2) In any development of 10 or more dwelling units, at least 10% of the units shall be classified as Affordable Housing as defined by §138-4.B. In computing this number, fractional units of 0.5 or more shall be rounded up.

E. Dimensional and bulk standards.

- (1) The yard, setback, floor area ratio and building coverage standards of the OP-2 Zoning District shall apply.
- (2) A minimum of 1.5 off-street parking spaces per dwelling unit shall be required, plus twenty (20) percent for visitor parking.

F. Development standards. All single family and multifamily residential development in the Multifamily Work Force District shall comply with the following standards:

- (1) Physical integration. Units designated as Priority Units shall be designed to be integrated into the overall project so as not to be immediately identifiable and shall contain the same quality workmanship and materials.
- (2) Dwelling unit size and unit type. Dwelling unit types may include multifamily and single family attached or single family detached types and may include one or two bedroom units.
- (3) Minimum floor area. The minimum gross floor area (living space) per Affordable Housing dwelling unit shall not be less than 80 percent of the average floor area of non-restricted housing units in the development, and no less than the following:
 - a) Studio/efficiency: 450 square feet.
 - b) One-bedroom: 675 square feet.
 - c) Two-bedroom: 750 square feet.
- (4) Occupancy standards. The following schedule of occupancy shall apply to all Affordable Housing Units:

Number of Bedrooms	Maximum Number of Persons
Studio/efficiency	2
1	3
2	5

- (5) Bedrooms. No multi-family housing unit shall contain more than two bedrooms. The intended use of each room in a multi-family housing unit shall be specified on the site plan. For the purpose of determining the number of bedrooms in the dwelling unit, any room designed, intended, furnished or occupied for sleeping quarters and any room other than a living room, kitchen or bathroom or a utility room having more than 50 square feet of floor area shall be considered a bedroom. The identification of use of rooms in each dwelling unit shall be a part of the approval of the site plan. The habitable floor area of a dwelling unit shall not exceed 1,800 square feet.
- (6) Phasing. Each Phase shall include an equal number of Priority Units spread throughout the project.
- (7) Building Size. Total Building Area shall comply with the Floor Area Ratio (FAR) for the OP-2 zone.

G. Selection and affordability standards.

OPTION 2

- (1) Each project shall be required to define the selection criteria and process for compliance of the project to this section as part of the Project Marketing Plan or Community Benefits Agreement.
 - (2) The Project Marketing Plan or Community Benefits Agreement shall identify the organization, group or company who shall ensure compliance with the eligibility requirements for the project. As part of the Special Permit approval process, the Town Board shall have the authority to approve or disapprove of the organization, group, or company that shall manage and ensure compliance with the eligibility requirements for the Project.
 - (3) Each project shall define how the project shall benefit the identified preference groups/population identified in the Project Marketing Plan or Community Benefits Agreement.
 - (4) At least 30% of the project units shall be designated to serve the preference group/population (i.e. Priority Units).
 - (5) The Project Marketing Plan or Community Benefits Agreement will include the method to ensure the Priority Units serve the preference group/population.
 - (6) Typical preference groups could include such residents and/or workers in the Town of Southeast who are members of the fire and police force, school district employees, veterans residing in Putnam County, persons aged 55 and older, persons with disabilities, Putnam County First Responders, etc.
 - (7) At least 34% of the Priority Units shall be subject to a 99 year restriction limiting the sale or rental price of such Affordable Priority Units, initially and upon re-rental or resale.
 - a) With respect to rental units, such Affordable Priority Units shall be rented to Qualifying Affordable Households at rates equal to 30% of 80% of the Putnam County Household Income, as published by the United States Census Bureau from time to time or as adjusted consistent with increases in the CPI during interim periods.
 - b) With respect to sale units, such Affordable Priority Units shall be sold to Qualifying Affordable Households at sales prices equal to 90% of the prices set forth in the Sales Offering Plan or Memorandum (for the first six months of sales, as established by the sale of the first unit) or 90% of the sales price of similar housing units in the subject multi-unit multi-family housing development in the 6 months preceding the date of the contract of sale, adjusted for unit size. The sale price of these units shall not exceed the threshold for an Affordable Housing Unit as defined in §138-4.B.
- H. Application procedure. The procedure for planning and zoning approval of a proposed multifamily work force housing development in accordance with this section shall involve a three-stage review process, including (1) Town Board approval of a Zoning Map change to designate the subject property as within the Multifamily Work Force Housing District, (2) Town Board approval of a special permit for the single family or multifamily residential development, (3) Planning Board approval of a site plan.
- I. Reservation of parkland. Before the Planning Board may approve any site plan containing multi-family residential units, such site plan shall also show, when required by such Board, a park or parks suitably located for playground or other recreational purposes.
- (1) The Planning Board shall not require land for park, playground or other recreational purposes until it has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town. Such findings shall include an evaluation of the present and future needs for park and recreational facilities in the Town based on projected population growth to which the particular site plan will contribute. Such findings shall provide an individualized determination that such required dedication or reservation is related both in nature and extent to the impact of the proposed site plan.

OPTION 2

- (2) In the event the Planning Board makes a finding pursuant to the preceding subsection that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purpose, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the Planning Board may require a sum of money in lieu thereof. In making such determination of suitability, the Board shall assess the size and suitability of lands shown in the site plan which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate community. Any monies required by the Planning Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited to the Town of Southeast to be used by the Town exclusively for park, playground or other recreational purposes, including the acquisition of property. Such payment shall be a condition of site plan approval and shall be assessed in accordance with the site plan recreation fee schedule established by the Town Board per §138-87. No site plan shall be signed by the Chairman of the Planning Board until such payment has been received by the Town and receipt therefor provided to the Planning Board.

SECTION 5: VALIDITY

The invalidity of any word, section, clause, paragraph, sentence, part, provision of this Local Law shall not affect the validity of any other part of this Local Law that shall be given effect without such invalid part or parts.

SECTION 6: EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State.

ZONING MAP AMENDMENT

WS # 1D

Town of Southeast, Putnam County, NY

Local Law No. ___ of 2016

A LOCAL LAW entitled: "A Local Law to Amend the Zoning Map of the Town of Southeast."

Be it enacted by the Town Board of the Town of Southeast, Putnam County, New York, as follows:

SECTION 1: AMENDMENTS TO ARTICLE II, "ESTABLISHMENTS OF DISTRICTS; MAP"

Section 138-6, "Zoning Map" is hereby amended to map the "Multifamily Work Force Housing District" to the following parcel:

Tax Parcel ID	Address	Acres
46-5-2	41 Mt. Ebo Road North, Brewster, NY 10509	+/- 29

SECTION 2: VALIDITY

The invalidity of any word, section, clause, paragraph, sentence, part, provision of this Local Law shall not affect the validity of any other part of this Local Law that shall be given effect without such invalid part or parts.

SECTION 3: EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State.

WS # 2



Tony Hay <tonyhayusmc@gmail.com>

Library [IWOV-ACTIVE.FID29671]

1 message

DeGraff, Garrett E. <GDEGRAFF@barclaydamon.com>

Wed, Sep 7, 2016 at 11:27 AM

To: "wstep68534@aol.com" <wstep68534@aol.com>

Cc: Tony Hay <tonyhayusmc@gmail.com>

FYI, we found an old opinion of the State Comptroller (1973) that concludes that the date on which Town Board acts to submit a bond resolution to referendum on its own motion should be treated the same as the day a valid petition is filed under the permissive referendum process for purposes of starting the 60-75 day clock.

So, again, unless the resolution is approved subject to referendum more than 60 days prior to November 8, a ballot proposition with respect to the resolution can't be on the November 8 ballot.

Garrett E. DeGraff

Partner

BARCLAY DAMON ^{LLP}

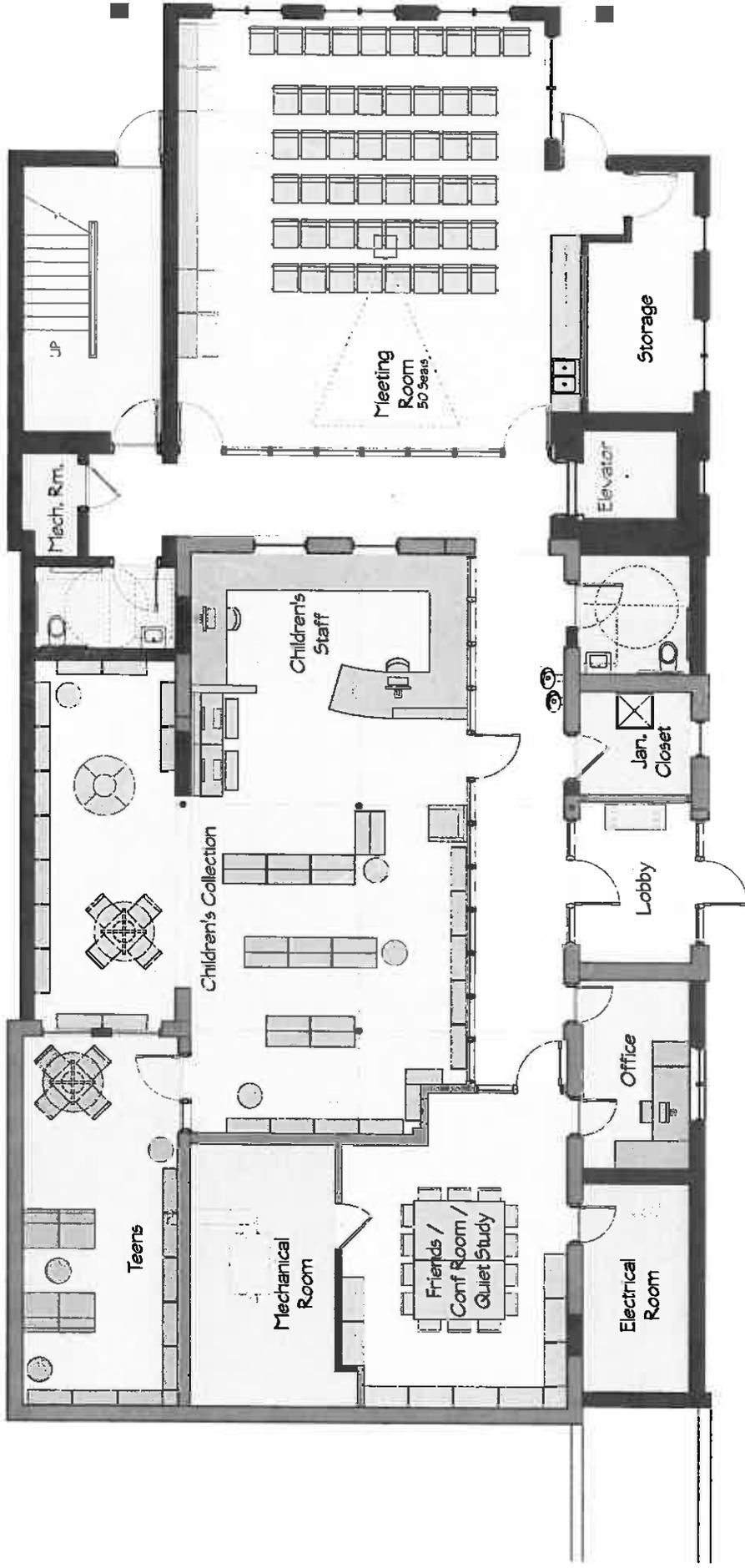
80 State Street • Albany, NY 12207

D: (518) 429-4235 • F: (518) 427-3484 • E: GDEGRAFF@barclaydamon.com

[barclaydamon.com](#) • [vCard](#) • [Profile](#)

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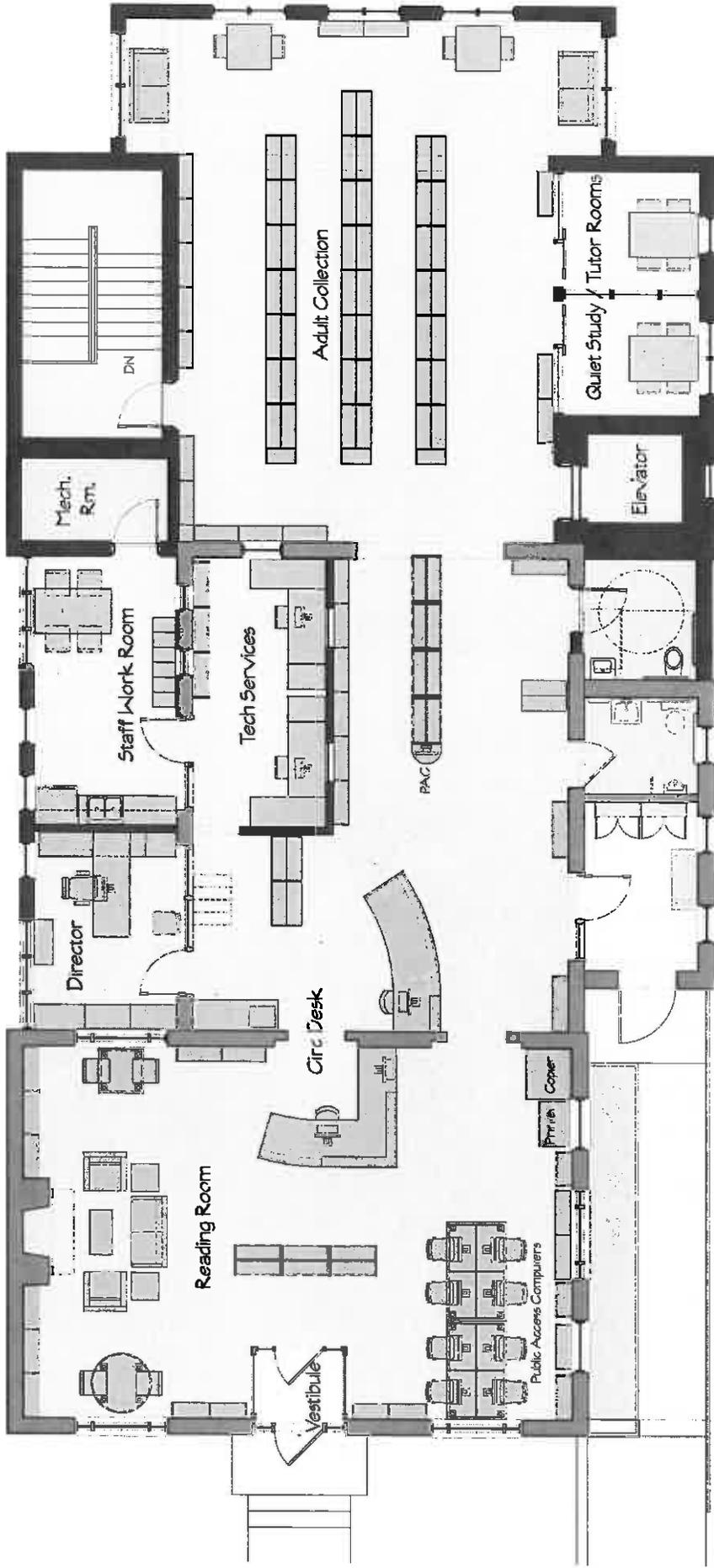
Information provided
by
Brewster Public Library



ADDITIONS AND RENOVATIONS TO THE BREWSTER PUBLIC LIBRARY

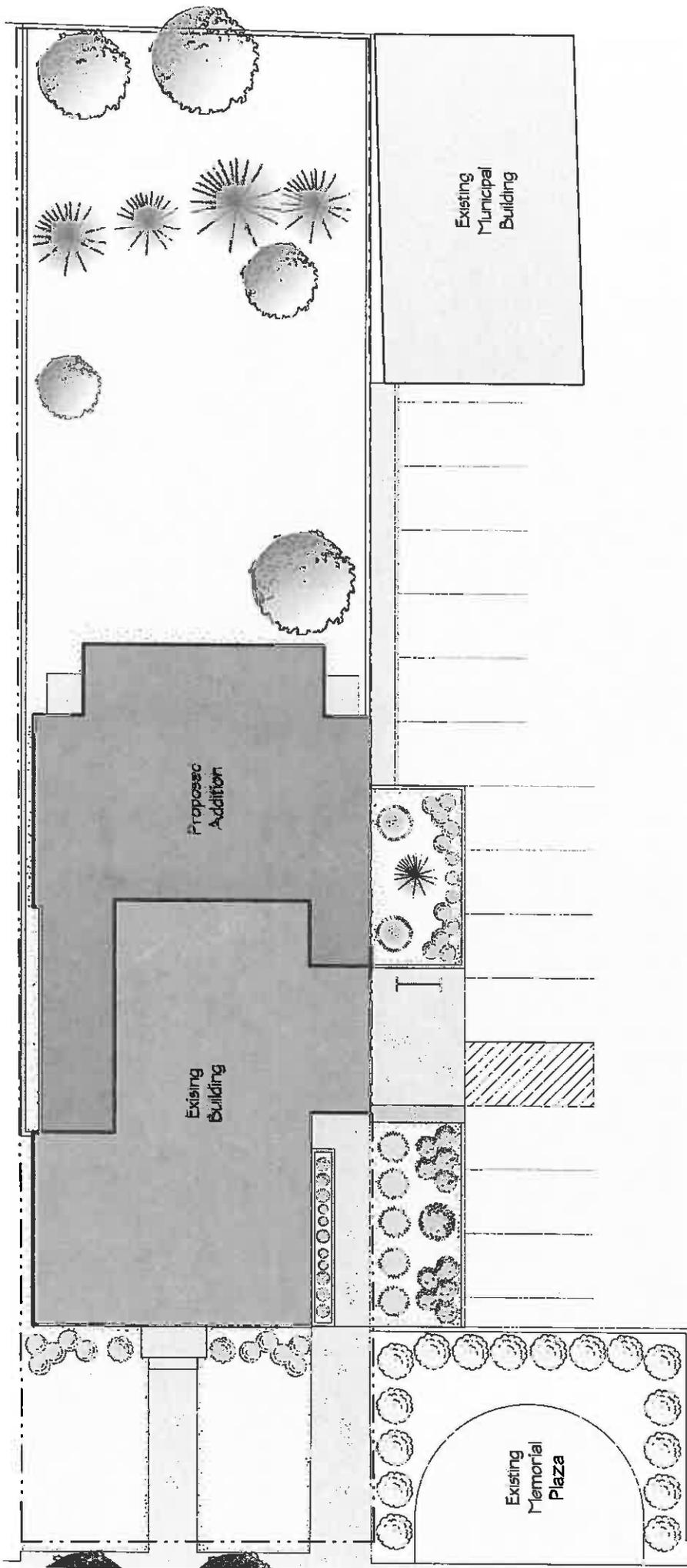
Proposed Lower Level Floor Plan





ADDITIONS AND RENOVATIONS TO THE BREWSTER PUBLIC LIBRARY

Proposed Main Level Floor Plan



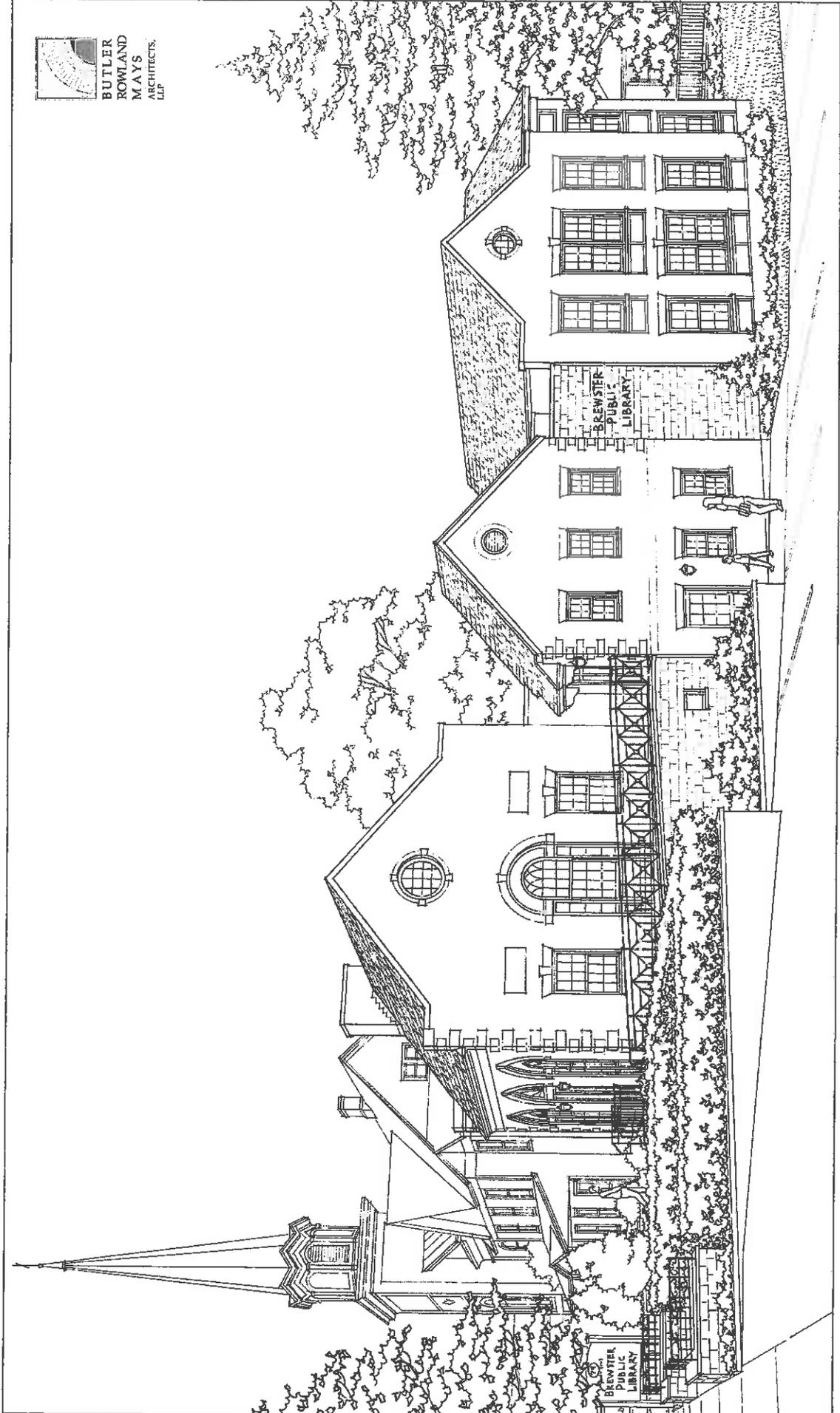
ADDITIONS AND RENOVATIONS TO THE BREWSTER PUBLIC LIBRARY

Proposed Site Plan

Not To Scale



BUTLER
ROWLAND
MAYS
ARCHITECTS,
LLP

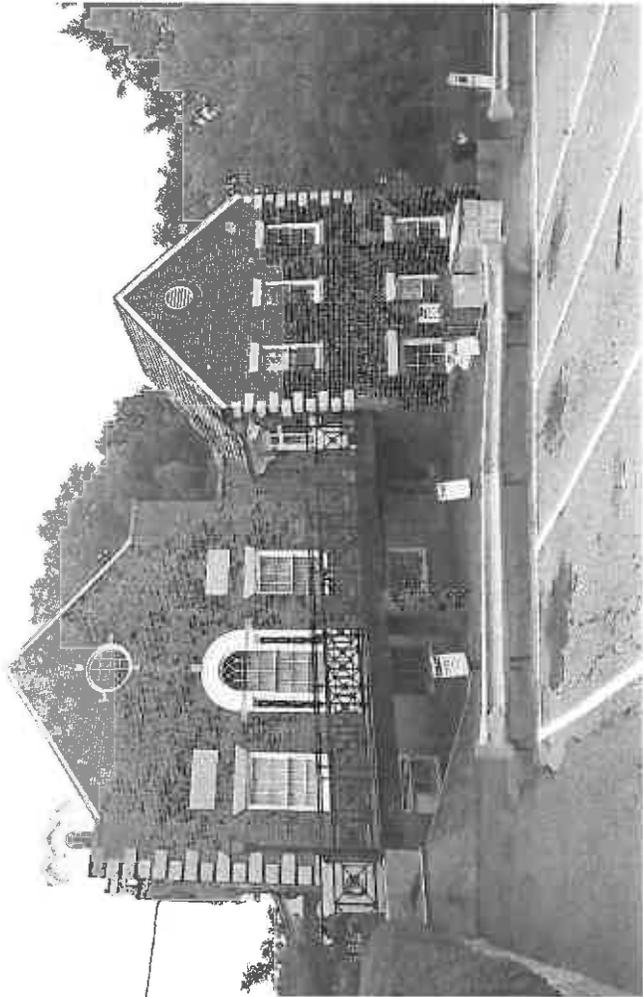


ADDITIONS AND RENOVATIONS TO THE BREWSTER PUBLIC LIBRARY

Artist's Rendering



Brewster Library Site
on 2013 DEC Aerial





Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information				
Name of Action or Project: Construction of Addition to Brewster Public Library				
Project Location (describe, and attach a location map): 79 Main Street, Village of Brewster, Tax Map No. 67.34-2-46.				
Brief Description of Proposed Action: Construction of building addition, on two levels, totalling approximately 4,200 gross square feet of floor area, with no or limited site work. The project will also include renovation to the interior of the existing building, including new mechanical and electrical systems for energy efficiency and new accessible restrooms.				
Name of Applicant or Sponsor: Town of Southeast Town Board		Telephone: 845-279-5345 E-Mail: townboard@southeast-ny.gov		
Address: 1360 Route 22				
City/PO: Brewster		State: NY	Zip Code: 10509	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Village of Brewster Planning Board - site plan approval.			NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		0.25 acres		
b. Total acreage to be physically disturbed?		0.06± acres		
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		0.00 acres		
4. Check all land uses that occur on, adjoining and near the proposed action.				
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)				
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input checked="" type="checkbox"/> Other (specify): <u>Village Main Street</u>				
<input type="checkbox"/> Parkland				

<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?</p> <p>If Yes, explain purpose and size: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/sponsor name: <u>Town of Southeast Town Board</u> Date: _____</p> <p>Signature: _____</p>		

PRINT FORM

EAF Mapper Summary Report

Wednesday, August 03, 2016 8:56 AM

Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.

Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National Register of Historic Places]	Yes
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

Project:

Date:

**Short Environmental Assessment Form
Part 2 - Impact Assessment**

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PRINT FORM

**TOWN OF SOUTHEAST TOWN BOARD
EAF ADDENDUM
PROPOSED LIBRARY BUILDING ADDITION**

The Library Board of Trustees has determined that it is necessary to construct an addition to the Library building that will expand and improve patron reading areas, collection and program spaces, computer and study areas, and public meeting spaces, and improve the Library's delivery of services to the community. The proposed addition, on two levels, will create additional floor area of 4,200 ± square feet to provide new children's collection and program spaces, new teen space, public meeting room, quiet study rooms and new computer stations. The proposed project also includes renovations to the interior of the existing building, primarily new mechanical and electrical systems for energy efficiency and new accessible restrooms. The property is located next to a parking lot and additional public parking spaces are available in the immediate area. The proposed construction project is designated as a Type II action pursuant to §617.5(c)(8) of the SEQR Regulations promulgated pursuant to the State Environmental Quality Review Act. This section states that routine activities of educational institutions, including expansion of existing facilities by less than 10,000 square feet of gross floor area, is a SEQR Type II action. Section 617.5(a) of the SEQR Regulations states that a Type II action is an action that does not have a significant adverse impact on the environment and is not subject to SEQR environmental review.

Although the proposed project is not subject to SEQR environmental review, the Board can evaluate whether the proposed building addition may have a potential significant adverse environmental impact. Review materials include a sketch plan of the property showing existing conditions and the proposed addition; exterior renderings of the existing Library building and the proposed addition; the proposed floor plan of the addition; and a Short Environmental Assessment Form, including the DEC's EAFMapper results.

Although the EAFMapper indicates that the site or land adjoining the site might contain regulated wetlands or other waterbodies, a physical inspection shows that there are no wetlands or other waterbodies on or adjoining the site. In addition, the proposed project will not affect any wetlands or other waterbodies. The EAFMapper also indicates that the site might contain featherfoil and lyreleaf sage, which are threatened or endangered plant species, or associated habitat. The Library retained the land use and environmental consultant firm Tim Miller Associates, and Steven Marino, PWS, a biodiversity specialist with TMA, inspected the site. TMA's report, dated August 31, 2016, concludes that the site is potential habitat for lyreleaf sage, but the site does not contain either of the identified species.

The EAFMapper also indicates that historic buildings are located near the site - the Walter Brewster House, Old Southeast Town Hall and First National Bank of Brewster. The Library building is eligible for inclusion on the Register of Historic Places, although it is not listed on any Register. The design and materials of the proposed building addition will

complement the existing building and restore a historic feature of the existing building.

The proposed addition to the Library will be located at the rear (south) of the building. As recommended by the guidelines published by the U.S. Department of the Interior, the defining characteristics of the original building (gabled roof - pitched toward the street, arch-topped main facade windows, large Palladian gable-end window, ornate wood perimeter roof cornice, rake trim and stone quoins) will remain intact and unobstructed and will be restored using historic preservation standards and techniques as required. The addition will be clad in stone veneer, brick and cementitious trim materials. Where the addition meets the existing building, stone or other non-masonry cladding will be detailed so that the original building brick corners remain defined and easily identifiable, separate from the cladding on the new construction. The massing and scale of the addition is oriented to retain the historic building as the predominate, uninterrupted mass, and the new roof lines fall below the original building gable height. The addition rooflines will not exceed the height of the 1992 entry addition.

Renovations to the interior of the building, specifically the main reading room, will be executed in accordance with the guidelines established by the Department of the Interior. The interior wood and glass vestibule will be maintained, as well as elaborate interior plaster cornice, fireplace, mantle, and landscape painting. Exterior improvements (ramp, stairs, handrails) will allow for the original building entry (facing Main Street) to return to public use.

The Library will consult with the State Historic Preservation Office (SHPO) to assure SHPO's satisfaction with the design. The Library's architect has significant experience in designing renovations and additions to historic buildings, and has consulted with SHPO on the design of other library buildings eligible for inclusion on the National or State Register.

There is no evidence of any significant adverse impact on land, surface water, ground water, geological features, flooding, air, agricultural resources, aesthetic resources, open space and recreation, transportation, energy, noise, odor and light, human health, and the community plan or community character.

No potential significant adverse environmental impacts have been identified.

**TOWN OF SOUTHEAST TOWN BOARD
RESOLUTION AND DETERMINATION OF NO ENVIRONMENTAL IMPACT
PROPOSED LIBRARY BUILDING ADDITION**

WHEREAS: the Library Board of Trustees has determined that it is necessary to construct an addition to the Library building that will expand and improve patron reading areas, collection and program spaces, computer and study areas, and public meeting spaces, and improve the Library's delivery of services to the community. The proposed addition, on two levels, will create additional floor area of 4,200 ± square feet to provide new children's collection and program spaces, new teen space, public meeting room, quiet study rooms and new computer stations. The proposed project also includes renovations to the interior of the existing building, primarily new mechanical and electrical systems for energy efficiency and new accessible restrooms. The property is located next to a parking lot and additional public parking spaces are available in the immediate area. The proposed construction project is designated as a Type II action pursuant to §617.5(c)(8) of the SEQR Regulations promulgated pursuant to the State Environmental Quality Review Act. This section states that routine activities of educational institutions, including expansion of existing facilities by less than 10,000 square feet of gross floor area, is a SEQR Type II action. Section 617.5(a) of the SEQR Regulations states that a Type II action is an action that does not have a significant adverse impact on the environment and is not subject to SEQR environmental review.

Although the proposed project is not subject to SEQR environmental review, the Board evaluated whether the proposed building addition may have a potential significant adverse environmental impact. The Board has reviewed a sketch plan of the property showing existing conditions and the proposed addition; exterior renderings of the existing Library building and the proposed addition; the proposed floor plan of the addition; a Short Environmental Assessment Form, including the DEC's EAFMapper results; and the criteria set forth in §617.7(c) of the SEQR Regulations. The Board is fully familiar with the site and the neighborhood.

THEREFORE, IT IS RESOLVED that the Town Board determines that the proposed construction project is a Type II SEQR action and not subject to SEQR environmental review. If this proposed construction project were considered a SEQR Unlisted action subject to environmental review, then the Town Board determines that this small building addition, with no or limited site work, will not have a significant adverse environmental impact. No potential significant adverse impacts have been identified.

The Board notes that although the EAFMapper indicates that the site or land adjoining the site might contain regulated wetlands or other waterbodies, a physical inspection shows that there are no wetlands or other waterbodies on or adjoining the site. In addition, the proposed project will not affect any wetlands or other waterbodies. The EAFMapper also indicates that

the site might contain featherfoil and lyreleaf sage, which are threatened or endangered plant species, or associated habitat. The Library retained the land use and environmental consultant firm Tim Miller Associates, and Steven Marino, PWS, a biodiversity specialist with TMA, inspected the site. TMA's report, dated August 31, 2016, concludes that the site is potential habitat for lyreleaf sage, but the site does not contain either of the identified species.

The EAFMapper also indicates that historic buildings are located near the site - the Walter Brewster House, Old Southeast Town Hall and First National Bank of Brewster. The Library building is eligible for inclusion on the Register of Historic Places, although it is not listed on any Register. The proposed building addition will not have an adverse effect on the historic buildings in the neighborhood or on the Library building itself, because the design and materials of the proposed building addition will complement the existing building and restore a historic feature of the existing building.

The proposed addition to the Library will be located at the rear (south) of the building. As recommended by the guidelines published by the U.S. Department of the Interior, the defining characteristics of the original building (gabled roof - pitched toward the street, arch-topped main facade windows, large Palladian gable-end window, ornate wood perimeter roof cornice, rake trim and stone quoins) will remain intact and unobstructed and will be restored using historic preservation standards and techniques as required. The addition will be clad in stone veneer, brick and cementitious trim materials. Where the addition meets the existing building, stone or other non-masonry cladding will be detailed so that the original building brick corners remain defined and easily identifiable, separate from the cladding on the new construction. The massing and scale of the addition is oriented to retain the historic building as the predominate, uninterrupted mass, and the new roof lines fall below the original building gable height. The addition rooflines will not exceed the height of the 1992 entry addition.

Renovations to the interior of the building, specifically the main reading room, will be executed in accordance with the guidelines established by the Department of the Interior. The interior wood and glass vestibule will be maintained, as well as elaborate interior plaster cornice, fireplace, mantle, and landscape painting. Exterior improvements (ramp, stairs, handrails) will allow for the original building entry (facing Main Street) to return to public use.

The Library will consult with the State Historic Preservation Office (SHPO) to assure SHPO's satisfaction with the design. The Library's architect has significant experience in designing renovations and additions to historic buildings, and has consulted with SHPO on the design of other library buildings eligible for inclusion on the National or State Register. There will be no adverse impact on historical resources.

The Board has also considered whether there may be a significant adverse impact on land, surface water, ground water, geological features, flooding, air, agricultural resources, aesthetic resources, open space and recreation, transportation, energy, noise, odor and light, human health, and the community plan and community character. No potential significant adverse environmental impacts have been identified. The Board determines that there will be no

significant adverse impact with respect to any of those factors.

Therefore, the Town Board determines that this proposed construction project is not subject to SEQR environmental review. Nevertheless, the Board conducted such review in the interest of the community and the environment, and the Board determines that this proposed construction project will not have a significant adverse impact on the community or the environment.

This resolution was prepared in accordance with Article 8 of the Environmental Conservation Law.

Contact Person: Mr. Tony Hay, Town Supervisor
Town of Southeast
1360 Route 22
Brewster, NY 10509
Phone: 845-279-5345
Email: thay@southeast-ny.gov

A copy of this resolution shall be sent to:

Village of Brewster Planning Board
Village Hall
50 Main Street
Brewster, NY 10509

Putnam County Department of Planning
841 Fair Street
Carmel, NY 10512

On a motion by Member _____, seconded by Member _____,
the foregoing resolution was adopted on a vote of ___ Ayes, ___ Nays.

Dated:

[print page] [close window]

The Coordinates of the point you clicked on are:

NYTM	E : 615621	Longitude/Latitude	W : 73.616
	N : 4583426		N : 41.394

State-Regulated Freshwater Wetlands

Wetland ID	Wetland Class	Wetland Size (Acres)
	0	

Rare Plants and Rare Animals

This location is in the vicinity of one or more :
Rare Animals and/or Rare Plants

Natural Communities Near This Location:

Natural Community Name	Location	Ecological System
	This mapping application does not include all freshwater wetlands in this town. Click above on the title of this table for more information.	

Old or Potential Records (these records are not displayed on the map)

Common Name	Scientific Name	Date Last Documented	Location	Habitat Where Last Seen	Animal, Plant, or other	NYS Protected Status
Featherfoil	Hottonia inflata	no date	North Salem		Rare Plant	Threatened
Lyre-leaf Sage	Salvia lyrata	no date	North Salem		Rare Plant	Endangered

USGS Quadrangle

USGS Quadrangle Name
BREWSTER

If your project or action is within or near an area with a rare animal, a permit may be required if the species is listed as endangered or threatened and the department determines the action may be harmful to the species or its habitat.

If your project or action is within or near an area with rare plants and/or significant natural communities, the environmental impacts may need to be addressed.

The presence of a unique geological feature or landform near a project, unto itself, does not trigger a requirement for a NYS DEC permit. Readers are advised, however, that there is the chance that a unique feature may also show in another data layer (ie. a wetland) and thus be subject to permit jurisdiction.

Please refer to the "Need a Permit?" tab for permit information or other authorizations regarding these natural resources.

Disclaimer: If you are considering a project or action in, or near, a wetland or a stream, a NYS DEC permit may be required. The Environmental Resources Mapper does not show all natural resources which are regulated by NYS DEC, and for which permits from NYS DEC are required. For example, Regulated Tidal Wetlands, and Wild, Scenic, and Recreational Rivers, are currently not included on the maps.

**TIM
MILLER
ASSOCIATES, INC.**

10 North Street, Cold Spring, NY 10516 (845) 265-4400 265-4418 fax www.timmillerassociates.com

August 31, 2016

J. Benjamin Gailey, Esq.
Jacobowitz and Gubits, LLP
158 Orange Avenue, P. O. Box 367
Walden, NY 12586

RE: Threatened/Endangered Species Assessment
 Brewster Public Library
 79 Main Street
 Brewster NY 10509
 Tax Map I.D. 132600-7161-00-540067
 Village of Brewster, Putnam County

Dear Mr. Gailey:

As part of the due diligence for the Library's planned expansion, a review of the DEC's Environmental Resource Mapper indicates that there are two threatened or endangered plant species that were identified in the area of the library at some unknown time in the past. A copy of the printout from the DEC website is attached. One of those species, featherfoil (*Hottonia inflata*), is an aquatic plant found in lakes and streams, and therefore unlikely to be found on the library site which does not contain a water body. The other is lyreleaf sage (*Salvia lyrata*), which can be found in meadows, woods and roadsides. Again, the date of this observation is unknown, but to fully address the SEQRA implications a site reconnaissance was completed.

The purpose of TMA's assessment was to evaluate the suitability of the habitat on the site for these two plant species. The following report summarizes the results of the Phase I habitat assessment conducted by Steve Marino, PWS, a biodiversity specialist.

The Subject Site

The subject property is a 10,000 square foot acre parcel on the south side of Main Street in the Village of Brewster. The property supports the Brewster Library building and a small yard area south of the building (see attached aerial photo). An asphalt parking lot is located to the west of the building on an adjacent parcel. Surrounding parcels are all developed with retail and residential structures in a dense, village style. Expansion of the library with the construction of a new addition off the rear of the building is proposed.

The site is wooded with a variety of tree species of various age classes (See attached photos). The soils are rocky but there was no surface evidence of ledge rock. With the dense tree layer, the canopy on the site is closed and little light gets through during the

6

Mr. Gailey
August 31, 2016

growing season. The shrub layer and groundcovers are largely absent. Leaf litter and dropped evergreen needles are relatively thick on site.

Featherfoil Habitat Assessment

The USDA Forest Service website describes featherfoil and its habitat requirements as follows:

□ Featherfoil is an aquatic herb, annual or perennial, with a submergent stem and fibrous roots. The leaves are submergent to floating; alternate, opposite or whorled; pinnately or bipinnately divided; linear or filiform. The inflorescence stalks are a partially immersed, floating cluster; each stalk spongy-inflated. The inflorescence is a series of whorled, sessile umbels occurring where stalk becomes constricted. Flowers are numerous, white, yellow, or violet. The fruit is a rounded capsule containing numerous, tiny, brown seeds.

□ Featherfoil does best in shallow, stable, ponds, ditches, and swamps. Much of its historical habitat has been lost to development, draining of wetlands, siltation, and the historical unsustainable harvest of beavers throughout its range. With the reestablishment of beavers in the eastern United States and subsequent increase in the number of beaver ponds there is hope that featherfoil will also become reestablished throughout its historic range. Beaver ponds provide the ideal habitat for featherfoil, shallow waters with a steady water level. It is thought that mallards and wood ducks distributed the tiny seeds from one beaver pond to another. Beavers are also thought to be a dispersal mechanism as well by gathering seed-containing mud from their pond to build and repair their dam structures. □

Based on this description, there is no habitat available on or near the Brewster Library site to support featherfoil. The nearest potential location is within the east branch of the Croton River, approximately 600 feet south of the site, or more likely within the shallows of the Diverting Reservoir, south and west of the library site.

Lyreleaf sage Habitat Assessment

The USDA Natural Resources Conservation Service describes lyreleaf sage and its habitat requirements as follows:

□ Lyreleaf sage is a perennial herb with quadrangular flowering stems extending upright from a basal rosette of leaves. The basal leaves are elongated, elliptic, dark green to slightly purplish, and are often lobed or dissected. The light blue to violet flowers are clustered at the top of the stem. Flowering occurs from April to May or June. The seeds are round, dark brown, and held loosely in a cup-like structure. Lyreleaf sage can grow in full sun and light to medium shade. Native stands are found on roadsides, and in fields and open woodlands. It will grow on many types of soil. Lyreleaf sage is distributed primarily throughout the East and lower Midwest. □

Based on this rather vague description of the habitat requirements for this plant, a detailed habitat assessment was conducted on the yard area south of the library building.

Habitat Assessment Methodology

A comprehensive inventory of the site vegetation was conducted on August 17, 2016. The following plant species were identified:

Mr. Gailey
August 31, 2016

Observed Plants - Brewster Public Library			
Winged euonymus	<i>Eunoymus alatus</i>	Choke cherry	<i>Prunus virginiana</i>
Creeping euonymus	<i>Euonymus fortunei</i>	Japanese barberry	<i>Berberis japonica</i>
Norway maple	<i>Acer platanoides</i>	Crabgrass	<i>Digitaria spp.</i>
Norway spruce	<i>Picea abies</i>	Multifloral rose	<i>Rosa multiflora</i>
Broadleaf plantain	<i>Plantago major</i>	Black walnut	<i>Juglans nigra</i>
Flowering dogwood	<i>Cornus florida</i>	Crabapple	<i>Malus spp.</i>
Dandelion	<i>Taraxacum officinale</i>	English ivy	<i>Hedera helix</i>
Pachysandra	<i>Pachysandra terminalis</i>	White clover	<i>Trifolium repens</i>
Privet	<i>Ligustrum vulgaris</i>	Lambs quarters	<i>Chenopodium album</i>
Poison ivy	<i>Toxicodendron radicans</i>	Peppergrass	<i>Lepidium virginicum</i>
Tree of heaven	<i>Ailanthus altissima</i>	Pennsylvania smartweed	<i>Polygonum pennsylvanicum</i>
Oriental bittersweet	<i>Celastrus scandens</i>	False indigo	<i>Baptisia australis</i>
Barren strawberry	<i>Waldsteinia fragrarioides</i>		

No lyreleaf sage was observed on the Brewster Library site.

Habitat Assessment Results

No habitat that is suitable for featherfoil was observed on or near the subject site. Potential habitat for lyreleaf sage was observed, but a detailed inventory did not identify any specimens of this plant on the site.

If you have any questions about this information or the methods that were used to collect it, please contact me.

Sincerely,



Steve Marino, PWS
Vice President/Senior Ecologist
TIM MILLER ASSOCIATES, INC.

C. File

**RESOLUTION
BOARD OF TRUSTEES OF THE BREWSTER PUBLIC LIBRARY
ELECTION ON CONSTRUCTION OF IMPROVEMENTS AND
ADDITION TO LIBRARY BUILDING**

WHEREAS, the Board of Trustees has determined that it is necessary to make certain improvements to the Library building and construct an addition to the Library building that will expand and improve patron reading areas, collection and program spaces, computer and study areas, and public meeting spaces, and improve the Library's delivery of services to the community;

WHEREAS, the proposed improvements and building addition consist generally of renovations to the interior to the existing building, including new mechanical and electrical systems for energy efficiency and new accessible restrooms, and an approximate 4,200 square-foot addition to provide new children's collection and program spaces, new teen space, public meeting room, quiet study rooms and new computer stations;

WHEREAS, the Town Board is empowered to adopt a project authorization and bond resolution, which may be made subject to referendum, to authorize construction of the Library improvements and building addition.

THEREFORE, IT IS RESOLVED that the Board of Trustees requests the Town Board of the Town of Southeast to adopt a resolution, subject to a referendum election to be held on November 8, 2016, to authorize construction of the Library building improvements and addition, including original equipment, machinery, apparatus, furnishings, appurtenances, site work and other improvements, and expenses in connection therewith at an estimated maximum cost of \$2,977,465 and to authorize the Town to issue obligations in the maximum principal amount of \$2,627,465 and raise the amount necessary to annually pay principal, interest and premium, if any, on such obligations by levy of a tax upon the taxable real property within the Town boundaries.

On a motion by Trustee Marrison, seconded by Trustee Blaser, the foregoing resolution was adopted on a vote of 6 Ayes, 0 Nays.

Dated: August 17, 2016

Information provided
by
Bond Counsel

BOND RESOLUTION

A meeting of the Town Board of the Town of Southeast, Putnam County, New York, was convened in public session at the Town of Southeast, New York on the 8th day of September, 2016 at _____ o'clock P.M., Prevailing Time.

The meeting was called to order by Town Supervisor Tony Hay, and upon roll being called, the following were:

PRESENT:

Edwin Alvarez

Robert Cullen

Lynne Eckardt

Elizabeth Hudak

ABSENT:

The following resolution was offered by _____, who moved its adoption, seconded _____, to-wit:

Bond Resolution Dated September 8, 2016

A Resolution Authorizing the Acquisition from the Brewster Public Library of an Interest in Real Property at 79 Main Street in the Village of Brewster, Town of Southeast, Putnam County, New York, and the Construction Thereon of an Addition and Related Renovations to the Current Brewster Public Library Building for the Use of the Brewster Public Library, and Authorizing the Issuance of Serial Bonds of the Town of Southeast, Putnam County, New York, in an Aggregate Principal Amount Not to Exceed \$2,627,465 Pursuant to the Local Finance Law to Finance Said Purpose and Delegating the Power to Issue Bond Anticipation Notes in Anticipation of the Sale of Such Bonds to the Town Supervisor.

BE IT RESOLVED, by the Town Board of the Town of Southeast, Putnam County, New York (the "Town") (by favorable vote of not less than three-fifths of all the members of the Board) as follows:

Section 1. The specific object or purpose (herein referred to as "Purpose") to be financed is the acquisition of an interest in real property at 79 Main Street in the Village of Brewster, Town of Southeast, Putnam County, New York, and the construction of an addition and related renovations to the Brewster Public Library building located on such property for the use of the Brewster Public Library. The estimated maximum cost of said purpose is \$2,977,465.

Section 2. The Town Board plans to finance the total cost of said Purpose by the issuance of serial bonds of the Town in an amount not to exceed \$2,627,465, hereby authorized to be issued therefore pursuant to the Local Finance Law, and by a contribution by the Brewster Public Library of \$350,000.

Section 3. It is hereby determined that said purpose is an object or purpose described in subdivision 12(a)(1) of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 25 years.

Section 4. It is hereby determined that the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

Section 5. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of such bonds by virtue of paragraph 9 of subsection d. of Section 107.00 of the Local Finance Law, with respect to the Purpose authorized to be financed hereby.

Section 6. The faith and credit of said Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the

Library

taxable real property of said Town a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 7. Subject to the terms and contents of this resolution and the Local Finance Law, and pursuant to the provisions of Sections 30.00, 50.00 and 56.00 of said Law, the power to:

(a) authorize bond anticipation notes in anticipation of the issuance of the serial bonds authorized by this resolution and the renewals of said notes,

(b) prescribe the terms, form, content, and the manner of execution of the serial bonds authorized by this resolution and said bond anticipation notes, including the consolidation with other issues,

(c) issue serial bonds with substantially level or declining annual debt service, and

(d) sell and deliver said serial bonds and any bond anticipation notes issued in anticipation of the issuance of such bonds,

is hereby delegated to the Town Supervisor, the Chief Fiscal Officer of the Town.

Section 8. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary (i) to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and (ii) to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof, as "qualified tax-exempt obligations" in accordance with Section 265(b)(3) of the Code.

Section 9. Pending the sale of bonds herein authorized, the temporary use of funds from the Town's general fund, pursuant to the provisions of Section 165.10 of the New York Local Finance Law, is hereby authorized. The Town reasonably expects to reimburse itself from the proceeds of bonds or notes herein authorized for expenditures made for the purpose to be financed by this resolution prior to the issuance of such bonds or notes, and this resolution is intended to constitute a declaration of official intent to reimburse for the purposes of U.S. Treasury § 1.150-2.

Section 10. The Town has determined that the acquisition of an interest in real property at 79 Main Street in the Village of Brewster, Town of Southeast, Putnam County, New York, and the construction thereon of an addition and related renovations to the current Brewster Public Library building for the use of the Brewster Public Library is a Type II action which will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act ("SEQR") is required.

Section 11. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

Library

- (1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- (2) The provisions of law which should be complied with at the date of the publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- (3) Such obligations are authorized in violation of the provisions of the Constitution of New York.

Section 12. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of the Local Finance Law, in the *Putnam County Press*, the official newspaper of said Town.

Section 13. The firm Barclay Damon, LLP is hereby appointed Bond Counsel of the Town in connection with the bonds and notes herein authorized.

Section 14. This resolution is adopted subject to approval by referendum of a ballot proposition in substantially the following form (with changes thereto to be subject to the approval of Bond Counsel):

Shall the Town of Southeast be authorized to acquire an interest in the Brewster Public Library property at 79 Main Street, Brewster, and construct thereon an addition and related renovations to the existing Library building for the use of the Library at a total cost not to exceed \$2,977,465, and to issue up to \$2,627,465 of Town serial bonds (or notes in anticipation of such bonds), with a term of up to 25 years, payable from real property taxes levied on all taxable property in the Town, to finance a portion of such costs, with the \$350,000 balance to be financed by a contribution from the Library, all as conditionally authorized by the Town Board by bond resolution adopted September 8, 2016, subject to voter approval?

Yes
No

And the Town Clerk is hereby authorized and directed to cause a ballot proposition in substantially such form to be prepared and submitted to the County Board of Elections in the manner prescribed by Article 7 of the Town Law. This resolution shall not be effective unless such ballot proposition shall be approved by a majority of voters in the Town voting at the next general election.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Edwin Alvarez	voting	_____
Robert Cullen	voting	_____
Lynne Eckardt	voting	_____

Library

Barclay Damon Draft Dated: September 2, 2016

Elizabeth Hudak voting
Tony Hay voting

The foregoing resolution was thereupon declared duly adopted.

CERTIFICATE OF RECORDING OFFICER

The undersigned hereby certifies that:

(1) She is the duly qualified and acting Clerk of the Town of Southeast, New York (hereinafter the "Town") and the custodian of the records of the Town, including the minutes of the proceedings of the Town Board and is duly authorized to execute this certificate.

(2) Attached hereto is a true and correct copy of a resolution duly adopted at meeting of the Town Board held on September 8, 2016 and entitled

A Resolution Authorizing the Acquisition from the Brewster Public Library of an Interest in Real Property at 79 Main Street in the Village of Brewster, Town of Southeast, Putnam County, New York, and the Construction Thereon of an Addition and Related Renovations to the Current Brewster Public Library Building for the Use of the Brewster Public Library, and Authorizing the Issuance of Serial Bonds of the Town of Southeast, Putnam County, New York, in an Aggregate Principal Amount Not to Exceed \$2,980,000 Pursuant to the Local Finance Law to Finance Said Purpose and Delegating the Power to Issue Bond Anticipation Notes in Anticipation of the Sale of Such Bonds to the Town Supervisor.

(3) Said meeting was duly convened and held and said resolution was duly adopted in all respects in accordance with law and the regulations of the Town. To the extent required by law or said regulations, due and proper notice of said meeting was given. A legal quorum of members of the Town Board was present throughout said meeting, and a legally sufficient number of members (three-fifths of the Town Board) voted in the proper manner for the adopted of the resolution. All other requirements and proceedings under law, said regulations, or otherwise, incident to said meeting and the adoption of the resolution, including any publication, if required by law, have been duly fulfilled, carried out and otherwise observed.

(4) The seal appearing below constitutes the official seal of the Town, and was duly affixed by the undersigned at the time this certificate was signed.

IN WITNESS WHEREOF, the undersigned has hereunto set her hand this ____ day of September, 2016.

(SEAL)

Michele Stancati
Town Clerk

Library

Redline

BOND RESOLUTION

A meeting of the Town Board of the Town of Southeast, Putnam County, New York, was convened in public session at the Town of Southeast, New York on the 8th day of September, 2016 at _____ o'clock P.M., Prevailing Time.

The meeting was called to order by Town Supervisor Tony Hay, and upon roll being called, the following were:

PRESENT:

Edwin Alvarez

Robert Cullen

Lynne Eckardt

Elizabeth Hudak

ABSENT:

The following resolution was offered by _____, who moved its adoption, seconded _____, to-wit:

Bond Resolution Dated September 8, 2016

A Resolution Authorizing the Acquisition from the Brewster Public Library of an Interest in Real Property at 79 Main Street in the Village of Brewster, Town of Southeast, Putnam County, New York, and the Construction Thereon of an Addition and Related Renovations to the Current Brewster Public Library Building for the Use of the Brewster Public Library, and Authorizing the Issuance of Serial Bonds of the Town of Southeast, Putnam County, New York, in an Aggregate Principal Amount Not to Exceed \$2,980,000 2,627,465 Pursuant to the Local Finance Law to Finance Said Purpose and Delegating the Power to Issue Bond Anticipation Notes in Anticipation of the Sale of Such Bonds to the Town Supervisor.

BE IT RESOLVED, by the Town Board of the Town of Southeast, Putnam County, New York (the "Town") (by favorable vote of not less than three-fifths of all the members of the Board) as follows:

Section 1. The specific object or purpose (herein referred to as "Purpose") to be financed is the acquisition of an interest in real property at 79 Main Street in the Village of Brewster, Town of Southeast, Putnam County, New York, and the construction of an addition and related renovations to the Brewster Public Library building located on such property for the use of the Brewster Public Library. The estimated maximum cost of said purpose is \$2,980,000 2,977,465.

Section 2. The Town Board plans to finance the total cost of said Purpose by the issuance of serial bonds of the Town in an amount not to exceed \$2,980,000 2,627,465, hereby authorized to be issued therefore pursuant to the Local Finance Law, and by a contribution by the Brewster Public Library of \$350,000.

Section 3. It is hereby determined that said purpose is an object or purpose described in subdivision 12(a)(1) of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is 25 years.

Section 4. It is hereby determined that the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

Section 5. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of such bonds by virtue of paragraph 9 of subsection d. of Section 107.00 of the Local Finance Law, with respect to the Purpose authorized to be financed hereby.

Section 6. The faith and credit of said Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on

Front Loader
Library

such bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of said Town a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 7. Subject to the terms and contents of this resolution and the Local Finance Law, and pursuant to the provisions of Sections 30.00, 50.00 and 56.00 of said Law, the power to:

- (a) authorize bond anticipation notes in anticipation of the issuance of the serial bonds authorized by this resolution and the renewals of said notes,
- (b) prescribe the terms, form, content, and the manner of execution of the serial bonds authorized by this resolution and said bond anticipation notes, including the consolidation with other issues,
- (c) issue serial bonds with substantially level or declining annual debt service, and
- (d) sell and deliver said serial bonds and any bond anticipation notes issued in anticipation of the issuance of such bonds,

is hereby delegated to the Town Supervisor, the Chief Fiscal Officer of the Town.

Section 8. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary (i) to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and (ii) to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof, as "qualified tax-exempt obligations" in accordance with Section 265(b)(3) of the Code.

Section 9. Pending the sale of bonds herein authorized, the temporary use of funds from the Town's general fund, pursuant to the provisions of Section 165.10 of the New York Local Finance Law, is hereby authorized. The Town reasonably expects to reimburse itself from the proceeds of bonds or notes herein authorized for expenditures made for the purpose to be financed by this resolution prior to the issuance of such bonds or notes, and this resolution is intended to constitute a declaration of official intent to reimburse for the purposes of U.S. Treasury § 1.150-2.

Section 10. The Town has determined that the acquisition of an interest in real property at 79 Main Street in the Village of Brewster, Town of Southeast, Putnam County, New York, and the construction thereon of an addition and related renovations to the current Brewster Public Library building for the use of the Brewster Public Library is a Type II action which will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act ("SEQR") is required.

Library

Section 11. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

- (1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- (2) The provisions of law which should be complied with at the date of the publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or
- (3) Such obligations are authorized in violation of the provisions of the Constitution of New York.

Section 12. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of the Local Finance Law, in the *Putnam County Press*, the official newspaper of said Town.

Section 13. The firm Barclay Damon, LLP is hereby appointed Bond Counsel of the Town in connection with the bonds and notes herein authorized.

Section 14. ~~This resolution is adopted subject to approval by referendum of a ballot proposition in substantially the following form (with changes thereto to be subject to the approval of Bond Counsel):~~

~~*Shall the Town of Southeast be authorized to issue and sell up to \$2,980,000 of Town notes or bonds, with a term of up to 25 years and payable from real property taxes levied by the Town, to provide funds for the construction of an addition and related renovations to the Brewster Public Library's existing building at 79 Main Street in the Village of Brewster for use of the Library, and, in connection with the foregoing, to acquire an ownership interest in the site of the Library, all as conditionally authorized by the Town Board by bond resolution adopted September 8, 2016, subject to this referendum?*~~

~~Yes~~

~~No~~

~~and the Town Clerk is hereby authorized and directed to cause a ballot proposition in substantially such form to be prepared and submitted to the County Board of Elections in the manner prescribed by Article 7 of the Town Law. This resolution shall not be effective unless such ballot proposition shall be approved by a majority of voters in the Town voting at the next general election. This resolution is adopted subject to approval by referendum of a ballot proposition in substantially the following form (with changes thereto to be subject to the approval of Bond Counsel):~~

~~*Shall the Town of Southeast be authorized to acquire an interest in the Brewster Public Library property at 79 Main Street, Brewster, and construct*~~

Library

thereon an addition and related renovations to the existing Library building for the use of the Library at a total cost not to exceed \$2,977,465, and to issue up to \$2,627,465 of Town serial bonds (or notes in anticipation of such bonds), with a term of up to 25 years, payable from real property taxes levied on all taxable property in the Town, to finance a portion of such costs, with the \$350,000 balance to be financed by a contribution from the Library, all as conditionally authorized by the Town Board by bond resolution adopted September 8, 2016, subject to voter approval?

Yes

No

And the Town Clerk is hereby authorized and directed to cause a ballot proposition in substantially such form to be prepared and submitted to the County Board of Elections in the manner prescribed by Article 7 of the Town Law. This resolution shall not be effective unless such ballot proposition shall be approved by a majority of voters in the Town voting at the next general election.

* * * * *

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Edwin Alvarez	voting	_____
Robert Cullen	voting	_____
Lynne Eckardt	voting	_____
Elizabeth Hudak	voting	_____
Tony Hay	voting	_____

The foregoing resolution was thereupon declared duly adopted.

CERTIFICATE OF RECORDING OFFICER

The undersigned hereby ~~certified~~certifies that:

(1) She is the duly qualified and acting Clerk of the Town of Southeast, New York (hereinafter ~~called~~ the "Town") and the custodian of the records of the Town, including the minutes of the proceedings of the Town Board and is duly authorized to execute this certificate.

(2) Attached hereto is a true and correct copy of a resolution duly adopted at meeting of the Town Board held on September 8, 2016 and entitled

A Resolution Authorizing the Acquisition from the Brewster Public Library of an Interest in Real Property at 79 Main Street in the Village of Brewster, Town of Southeast, Putnam County, New York, and the Construction Thereon of an Addition and Related Renovations to the Current Brewster Public Library Building for the Use of the Brewster Public Library, and Authorizing the Issuance of Serial Bonds of the Town of Southeast, Putnam County, New York, in an Aggregate Principal Amount Not to Exceed \$2,980,000 Pursuant to the Local Finance Law to Finance Said Purpose and Delegating the Power to Issue Bond Anticipation Notes in Anticipation of the Sale of Such Bonds to the Town Supervisor.

(3) Said meeting was duly convened and held and said resolution was duly adopted in all respects in accordance with law and the regulations of the Town. To the extent required by law or said regulations, due and proper notice of said meeting was given. A legal quorum of members of the Town Board was present throughout said meeting, and a legally sufficient number of members (three-fifths of the Town Board) voted in the proper manner for the adopted of the resolution. All other requirements and proceedings under law, said regulations, or otherwise, incident to said meeting and the adoption of the resolution, including any publication, if required by law, have been duly fulfilled, carried out and otherwise observed.

(4) The seal appearing below constitutes the official seal of the Town, and was duly affixed by the undersigned at the time this certificate was signed.

IN WITNESS WHEREOF, the undersigned has hereunto set her hand this ____ day of September, 2016.

(SEAL)

Michele Stancati
Town Clerk

Library

Document comparison by Workshare Compare on Friday, September 02, 2016
4:38:07 PM

Input:	
Document 1 ID	interwovenSite://DMS/ACTIVE/12402631/1
Description	#12402631v1<ACTIVE> - SOUTHEAST: Library Addition Bond Reso (target adoption09-08-16)
Document 2 ID	interwovenSite://DMS/ACTIVE/12402631/2
Description	#12402631v2<ACTIVE> - SOUTHEAST: Library Addition Bond Reso (target adoption09-08-16)
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	16
Deletions	13
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	29

**Notice of Bond Resolution
Adopted Subject to Mandatory Referendum**

A bond resolution, a summary of which is published herewith, was adopted by the Town Board of the Town of Southeast, Putnam County, New York, on the 8th day of September, 2016, subject to approval of such resolution by the voters of the Town at the next general election upon submission of a ballot proposition substantially in the following form:

Shall the Town of Southeast be authorized to acquire an interest in the Brewster Public Library property at 79 Main Street, Brewster, and construct thereon an addition and related renovations to the existing Library building for the use of the Library at a total cost not to exceed \$2,977,465, and to issue up to \$2,627,465 of Town serial bonds (or notes in anticipation of such bonds), with a term of up to 25 years, payable from real property taxes levied on all taxable property in the Town, to finance a portion of such costs, with the \$350,000 balance to be financed by a contribution from the Library, all as conditionally authorized by the Town Board by bond resolution adopted September 8, 2016, subject to voter approval?

Yes

No

The following is a summary of such bond resolution:

The purpose to be financed is the acquisition of an interest in real property at 79 Main Street, Brewster, and the construction thereon of an addition and related renovations to the existing Brewster Public Library building for the use of the Library at a cost not to exceed \$2,977,465, with financing of such purpose to be by the issuance of Town serial bonds (or notes in anticipation of such bonds) in an amount not to exceed \$2,627,465, and by a contribution of the \$350,000 balance by the Library. The period probable usefulness of such addition and renovations is 25 years. A complete copy of the resolution summarized above will be available for public inspection during regular business hours at the Office of Town Clerk, 1360 Route 22, Brewster, NY 10509 prior to general election at which the ballot proposition described above is submitted to voters.

**TOWN OF SOUTHEAST TOWN BOARD
RESOLUTION RELATING TO ENVIRONMENTAL IMPACT
OF PROPOSED LIBRARY BUILDING ADDITION**

WHEREAS, the Brewster Public Library (the "Library") Board of Trustees has determined undertake to construct an addition to the Library building and make related renovations that will expand and improve patron reading areas, collection and program spaces, computer and study areas, and public meeting spaces, and improve the Library's delivery of services to the community (collectively, the "Project"); and

WHEREAS, representatives of the Library have requested the assistance of the Town of Southeast (the "Town") in the financing of the Project by the issuance of Town bonds; and

WHEREAS, the Town Board has been advised by the Town's bond counsel that the Town must acquire an ownership interest in the Library's property on which the Project will be undertaken, subject to reversion to the Library at a future date; and

WHEREAS, action by the Town Board to authorize such financing, and the acquisition of the Library property, and the remainder of the Project can only be undertaken by the Town Board after consideration of the environmental impacts of the Project;

WHEREAS, the Town Board has been advised by the Library that

(a) the proposed addition will be on two levels and will create additional floor area of 4,200 ± square feet to provide new children's collection and program spaces, new teen space, public meeting room, quiet study rooms and new computer stations;

(b) the proposed Project also includes renovations to the interior of the existing building, primarily new mechanical and electrical systems for energy efficiency and new accessible restrooms; and

(c) the property is located next to a parking lot and additional public parking spaces are available in the immediate area; and

WHEREAS, Town Board has been advised by the Library that the proposed Project is designated as a Type II action pursuant to 6 CRR-NY §617.5(c)(8), constituting part of the regulations promulgated pursuant to the State Environmental Quality Review Act ("SEQRA"), which states that routine activities of educational institutions, including expansion of existing facilities by less than 10,000 square feet of gross floor area, is a SEQRA Type II action and, therefore, is an action that does not have a significant adverse impact on the environment and is not subject to SEQRA environmental review; and

WHEREAS, the Library has advised that as an institution chartered by the Board of Regents of the University of the State of New York, for and on behalf of the State Education Department, the Library constitutes an "education institution" for purposes of 6 CRR-NY §617.5(c)(8); and

WHEREAS, although the Project is not subject to SEQRA environmental review, the Library has provided the Town Board information to assist the Town Board evaluate whether the proposed Project may have a potential significant adverse environmental impact, such information including:

- (a) a sketch plan of the Library property showing existing conditions and the proposed addition;
- (b) exterior renderings of the existing Library building and the proposed addition;
- (c) the proposed floor plan of the addition; and
- (d) a completed Short Environmental Assessment Form, including the DEC's EAFMapper results; and

WHEREAS, the Town Board has reviewed such information and the criteria set forth in 6 CRR-NY §617.7(c) of the SEQRA Regulations, and is fully familiar with the site and the neighborhood; and

THEREFORE, IT IS RESOLVED that the Town Board determines that the its proposed adoption of a bond resolution authorizing the Town's acquisition of an interest in the Library property and construction of an addition and related renovations to the existing Library building, and the issuance of up to \$2,627,465 of Town notes or bonds to finance the cost thereof is a Type II SEQRA action and not subject to SEQRA environmental review; and

IT IS FURTHER RESOLVED that if this proposed Project were considered a SEQRA Unlisted action subject to environmental review, then the Town Board determines that the Project, consisting primarily of a small addition to an existing building, with limited site work, will not have a significant adverse environmental impact, and that no potential significant adverse impacts have been identified in the materials submitted to the Town Board by the Library; and in support of such determination, the Town Board notes

- (i) although the EAFMapper indicates that the site or land adjoining the site might contain regulated wetlands or other waterbodies, a physical inspection shows that there are no wetlands or other waterbodies on or adjoining the site, and the proposed Project will not affect any wetlands or other waterbodies;
- (ii) although the EAFMapper also indicates that the site might contain featherfoil and lyreleaf sage, which are threatened or endangered plant species, or associated habitat, Steven Marino, PWS, a biodiversity specialist with Tim Miller Associates ("TMA"), a land use and environmental consultant firm engaged by the Library, inspected the site, and TMA's report, dated August 31, 2016, concludes that the site is potential habitat for lyreleaf sage but does not contain either of the identified species; and

(iii) although the EAFMapper also indicates that historic buildings (the Walter Brewster House, Old Southeast Town Hall and First National Bank of Brewster) are located near the site, and the Library building is eligible for inclusion on the Register of Historic Places (but is not listed on any Register), the Library has reported that the proposed building addition will not have an adverse effect on the historic buildings in the neighborhood or on the Library building itself, because the design and materials of the proposed building addition will complement the existing building and restore a historic feature of the existing building;

(iv) the Library reports that

(A) the proposed addition will be located at the rear (south) of the existing building;

(b) as recommended by the guidelines published by the U.S. Department of the Interior, the defining characteristics of the original building (gabled roof - pitched toward the street, arch-topped main facade windows, large Palladian gable-end window, ornate wood perimeter roof cornice, rake trim and stone quoins) will remain intact and unobstructed and will be restored using historic preservation standards and techniques as required;

(c) the addition will be clad in stone veneer, brick and cementitious trim materials, and where the addition meets the existing building, stone or other non-masonry cladding will be detailed so that the original building brick corners remain defined and easily identifiable, separate from the cladding on the new construction;

(d) the massing and scale of the addition is oriented to retain the historic building as the predominate, uninterrupted mass, and the new roof lines fall below the original building gable height, and the addition rooflines will not exceed the height of the 1992 entry addition;

(e) the renovations to the interior of the existing building, specifically the main reading room, will be executed in accordance with the guidelines established by the U.S. Department of the Interior, the interior wood and glass vestibule will be maintained, as well as elaborate interior plaster cornice, fireplace, mantle, and landscape painting, and exterior improvements (ramp, stairs, handrails) will allow for the original building entry (facing Main Street) to return to public use; and

(f) the Library and the Library's architect (who has significant experience in designing renovations and additions to historic buildings, and has consulted with the State Historic Preservation Office (SHPO) on the design of other library buildings eligible for inclusion on the National or State Register) will consult with the SHPO to assure SHPO's satisfaction with the design and that there will be no adverse impact on historical resources; and

(v) the Town Board has also considered whether there may be a significant adverse impact on land, surface water, ground water, geological features, flooding, air, agricultural resources, aesthetic resources, open space and recreation, transportation, energy, noise, odor and light, human health, and the community plan and community character, and no such potential significant adverse environmental impacts have been identified.

Therefore, the Town Board determines that its proposed action is not subject to SEQRA environmental review. Nevertheless, the Town Board conducted such review in the interest of the community and the environment, and the Town Board determines that this proposed construction project will not have a significant adverse impact on the community or the environment.

Contact Person: Mr. Tony Hay, Town Supervisor
Town of Southeast
1360 Route 22
Brewster, NY 10509
Phone: 845-279-5345
Email: thay@southeast-ny.gov

A copy of this resolution shall be sent to:

Village of Brewster Planning Board
Village Hall
50 Main Street
Brewster, NY 10509

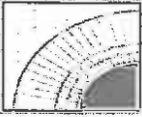
Putnam County Department of Planning
841 Fair Street
Carmel, NY 10512

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Edwin Alvarez	voting	_____
Robert Cullen	voting	_____
Lynne Eckardt	voting	_____
Elizabeth Hudak	voting	_____
Tony Hay	voting	_____

The foregoing resolution was thereupon declared duly adopted.

Dated: September 8, 2016



**BUTLER
ROWLAND
MAYS**
ARCHITECTS,
LLP

Preliminary Opinion of Probable Construction Costs

Additions and Renovations to the Brewster Public Library

Conceptual Scheme - Dated 5/4/2016

TOTAL LOT:	± 0.25 Acres
Existing Building - Main Level:	2,112 sf
Existing Building - Lower Level:	2,112 sf
Proposed Addition - Main Level:	1,980 sf
Proposed Addition - Lower Level:	2,220 sf
Total Building Area:	8,424 sf

CONSTRUCTION HARD COSTS	COST /SF	
SITE PREPARATION & DEVELOPMENT COSTS	ls	\$75,000
BUILDING ENVELOPE IMPROVEMENTS / REPAIRS		
Roof - Slate	ls	\$15,000
Roof - Low Slope (± 800 sf)	ls	\$16,000
Masonry Walls and Chimneys	ls	\$14,000
Historic Windows (Repairs, Repainting, Interior Storms, etc)	ls	\$50,000
Entry Ramp	ls	\$90,000
Entry Door and Hardware	ls	\$10,000
Electrical Service Upgrade	ls	\$20,000
Miscellaneous Repairs	ls	\$15,000
		\$230,000
BUILDING INTERIOR IMPROVEMENTS		
Plaster Repair	ls	\$55,000
		\$55,000
BUILDING SYSTEMS IMPROVEMENTS		
Mechanical Upgrades	ls	\$150,000
Electrical & Lighting Upgrades	ls	\$95,000
		\$245,000
BUILDING CONSTRUCTION		
General Construction - New Construction (Addition)	\$190.00 /sf	\$798,000
General Construction - Renovations & Interior Finishes	\$40.00 /sf	\$168,960
Plumbing (Addition)	\$10.00 /sf	\$42,000
Mechanical (Addition)	\$42.00 /sf	\$176,400
Electrical (Addition)	\$33.00 /sf	\$138,600
Fire Protection (Entire Building)	\$9.00 /sf	\$75,816
SUBTOTAL:		\$1,399,776

SUBTOTAL CONSTRUCTION HARD COSTS:			\$2,004,776
CONTINGENCIES:			
Inflation	2%	\$40,096	
Design	4%	\$80,191.04	
Construction	6%	\$120,286.56	
SUBTOTAL:			\$240,573
FURNISHINGS (Shelving, library furniture, workstations, window treatments, etc.)		\$28 /sf	\$235,872
HAZARDOUS MATERIALS REMEDIATION³		1s	UNKNOWN
SUBTOTAL:			\$476,445
SOFT COSTS		20%	\$496,244
PROJECT DELIVERY SYSTEM / CONSTRUCTION MANAGEMENT⁴			UNKNOWN
TOTAL PROJECT COSTS:			\$2,977,465

1. Opinions of Probable Construction Cost are based upon the Design Team's experience with similar project types, and best judgement as Design Professionals. However, the Design Team has no control over the cost of labor, materials, or equipment, or over competitive bidding or market conditions, now or at such time that the project may be bid. Therefore, the Design Team cannot guarantee that the actual proposals, bids, or construction costs will not vary from the Opinion of Probable Construction Costs.
2. Figures do include some sustainable design concepts in construction and systems. However, the additional costs for LEED documentation and certification are not included.
3. Hazardous materials remediation costs will be based upon testing and analysis performed by a qualified Building Sciences firm.
4. Owner may choose to provide construction supervision through different options, including a Construction Manager or Clerk of the Works. The fee should be adjusted accordingly.
5. Temporary Location and/or moving costs have not been determined, and are not included above.

Short Environmental Assessment Form Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: Construction of Addition to Brewster Public Library			
Project Location (describe, and attach a location map): 79 Main Street, Village of Brewster, Tax Map No. 67.34-2-46.			
Brief Description of Proposed Action: Construction of building addition, on two levels, totaling approximately 4,200 gross square feet of floor area, with no or limited site work. The project will also include renovation to the interior of the existing building, including new mechanical and electrical systems for energy efficiency and new accessible restrooms.			
Name of Applicant or Sponsor: Town of Southeast Town Board		Telephone: 845-278-5345 E-Mail: townboard@southeast-ny.gov	
Address: 1360 Route 22			
City/PO: Brewster		State: NY	Zip Code: 10509
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/> YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Village of Brewster Planning Board - site plan approval.			NO <input type="checkbox"/> YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		_____ 0.25 acres	
b. Total acreage to be physically disturbed?		_____ 0.06± acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		_____ 0.00 acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input checked="" type="checkbox"/> Other (specify): <u>Village Main Street</u> <input type="checkbox"/> Parkland			

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<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?</p> <p>If Yes, explain purpose and size: _____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?</p> <p>If Yes, describe: _____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?</p> <p>If Yes, describe: _____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/sponsor name: <u>Town of Southeast Town Board</u> Date: _____</p> <p>Signature: _____</p>		

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EAF Mapper Summary Report

Wednesday, August 03, 2016 8:56 AM

Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.

Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National Register of Historic Places]	Yes
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

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The Coordinates of the point you clicked on are:

NYTM	E : 615621	Longitude/Latitude	W : 73.616
	N : 4583426		N : 41.394

State-Regulated Freshwater Wetlands

Wetland ID	Wetland Class	Wetland Size (Acres)
	0	

Rare Plants and Rare Animals

This location is in the vicinity of one or more :
Rare Animals and/or Rare Plants

Natural Communities Near This Location:

Natural Community Name	Location	Ecological System
	This mapping application does not include all freshwater wetlands in this town. Click above on the title of this table for more information.	

Old or Potential Records (these records are not displayed on the map)

Common Name	Scientific Name	Date Last Documented	Location	Habitat Where Last Seen	Animal, Plant, or other	NYS Protected Status
Featherfoil	Hottonia inflata	no date	North Salem		Rare Plant	Threatened
Lyre-leaf Sage	Salvia lyrata	no date	North Salem		Rare Plant	Endangered

USGS Quadrangle

USGS Quadrangle Name
BREWSTER

If your project or action is within or near an area with a rare animal, a permit may be required if the species is listed as endangered or threatened and the department determines the action may be harmful to the species or its habitat.

If your project or action is within or near an area with rare plants and/or significant natural communities, the environmental impacts may need to be addressed.

The presence of a unique geological feature or landform near a project, unto itself, does not trigger a requirement for a NYS DEC permit. Readers are advised, however, that there is the chance that a unique feature may also show in another data layer (ie. a wetland) and thus be subject to permit jurisdiction.

Please refer to the "Need a Permit?" tab for permit information or other authorizations regarding these natural resources.

Disclaimer: If you are considering a project or action in, or near, a wetland or a stream, a NYS DEC permit may be required. The Environmental Resources Mapper does not show all natural resources which are regulated by NYS DEC, and for which permits from NYS DEC are required. For example, Regulated Tidal Wetlands, and Wild, Scenic, and Recreational Rivers, are currently not included on the maps.

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Project:

Date:

**Short Environmental Assessment Form
Part 2 - Impact Assessment**

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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Project: _____
 Date: _____

**Short Environmental Assessment Form
 Part 3 Determination of Significance**

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.	
<input checked="" type="checkbox"/> 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.	
Town of Southeast Town Board	
_____ Name of Lead Agency	_____ Date
(Tony Hay Town Supervisor
_____ Print or Type Name of Responsible Officer in Lead Agency	_____ Title of Responsible Officer
_____ Signature of Responsible Officer in Lead Agency	_____ Signature of Preparer (if different from Responsible Officer)

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**TIM
MILLER
ASSOCIATES, INC.**

10 North Street, Cold Spring, NY 10516 (845) 265-4400 265-4418 fax www.timillerassociates.com

August 31, 2016

J. Benjamin Gailey, Esq.
Jacobowitz and Gubits, LLP
158 Orange Avenue, P. O. Box 367
Walden, NY 12586

RE: Threatened/Endangered Species Assessment
 Brewster Public Library
 79 Main Street
 Brewster NY 10509
 Tax Map I.D. 132600-7161-00-540067
 Village of Brewster, Putnam County

Dear Mr. Gailey:

As part of the due diligence for the Library's planned expansion, a review of the DEC's Environmental Resource Mapper indicates that there are two threatened or endangered plant species that were identified in the area of the library at some unknown time in the past. A copy of the printout from the DEC website is attached. One of those species, featherfoil (*Hottonia inflata*), is an aquatic plant found in lakes and streams, and therefore unlikely to be found on the library site which does not contain a water body. The other is lyreleaf sage (*Salvia lyrata*), which can be found in meadows, woods and roadsides. Again, the date of this observation is unknown, but to fully address the SEQRA implications a site reconnaissance was completed.

The purpose of TMA's assessment was to evaluate the suitability of the habitat on the site for these two plant species. The following report summarizes the results of the Phase I habitat assessment conducted by Steve Marino, PWS, a biodiversity specialist.

The Subject Site

The subject property is a 10,000 square foot acre parcel on the south side of Main Street in the Village of Brewster. The property supports the Brewster Library building and a small yard area south of the building (see attached aerial photo). An asphalt parking lot is located to the west of the building on an adjacent parcel. Surrounding parcels are all developed with retail and residential structures in a dense, village style. Expansion of the library with the construction of a new addition off the rear of the building is proposed.

The site is wooded with a variety of tree species of various age classes (See attached photos). The soils are rocky but there was no surface evidence of ledge rock. With the dense tree layer, the canopy on the site is closed and little light gets through during the

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Mr. Gailey
August 31, 2016

growing season. The shrub layer and groundcovers are largely absent. Leaf litter and dropped evergreen needles are relatively thick on site.

Featherfoil Habitat Assessment

The USDA Forest Service website describes featherfoil and its habitat requirements as follows:

"Featherfoil is an aquatic herb, annual or perennial, with a submergent stem and fibrous roots. The leaves are submergent to floating; alternate, opposite or whorled; pinnately or bipinnately divided; linear or filiform. The inflorescence stalks are a partially immersed, floating cluster; each stalk spongy-inflated. The inflorescence is a series of whorled, sessile umbels occurring where stalk becomes constricted. Flowers are numerous, white, yellow, or violet. The fruit is a rounded capsule containing numerous, tiny, brown seeds.

"Featherfoil does best in shallow, stable, ponds, ditches, and swamps. Much of its historical habitat has been lost to development, draining of wetlands, siltation, and the historical unsustainable harvest of beavers throughout its range. With the reestablishment of beavers in the eastern United States and subsequent increase in the number of beaver ponds there is hope that featherfoil will also become reestablished throughout its historic range. Beaver ponds provide the ideal habitat for featherfoil, shallow waters with a steady water level. It is thought that mallards and wood ducks distributed the tiny seeds from one beaver pond to another. Beavers are also thought to be a dispersal mechanism as well by gathering seed-containing mud from their pond to build and repair their dam structures."

Based on this description, there is no habitat available on or near the Brewster Library site to support featherfoil. The nearest potential location is within the east branch of the Croton River, approximately 600 feet south of the site, or more likely within the shallows of the Diverting Reservoir, south and west of the library site.

Lyreleaf sage Habitat Assessment

The USDA Natural Resources Conservation Service describes lyreleaf sage and its habitat requirements as follows:

"Lyreleaf sage is a perennial herb with quadrangular flowering stems extending upright from a basal rosette of leaves. The basal leaves are elongated, elliptic, dark green to slightly purplish, and are often lobed or dissected. The light blue to violet flowers are clustered at the top of the stem. Flowering occurs from April to May or June. The seeds are round, dark brown, and held loosely in a cup-like structure. Lyreleaf sage can grow in full sun and light to medium shade. Native stands are found on roadsides, and in fields and open woodlands. It will grow on many types of soil. Lyreleaf sage is distributed primarily throughout the East and lower Midwest."

Based on this rather vague description of the habitat requirements for this plant, a detailed habitat assessment was conducted on the yard area south of the library building.

Habitat Assessment Methodology

A comprehensive inventory of the site vegetation was conducted on August 17, 2016. The following plant species were identified:

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Mr. Gailey
August 31, 2016

Observed Plants - Brewster Public Library			
Winged euonymus	<i>Eunonymus alatus</i>	Choke cherry	<i>Prunus virginiana</i>
Creeping euonymus	<i>Euonymus fortunei</i>	Japanese barberry	<i>Berberis japonica</i>
Norway maple	<i>Acer platanoides</i>	Crabgrass	<i>Digitaria spp.</i>
Norway spruce	<i>Picea abies</i>	Multifloral rose	<i>Rosa multiflora</i>
Broadleaf plantain	<i>Plantago major</i>	Black walnut	<i>Juglans nigra</i>
Flowering dogwood	<i>Cornus florida</i>	Crabapple	<i>Malus spp.</i>
Dandelion	<i>Taraxacum officinale</i>	English ivy	<i>Hedera helix</i>
Pachysandra	<i>Pachysandra terminalis</i>	White clover	<i>Trifolium repens</i>
Privet	<i>Ligustrum vulgaris</i>	Lambs quarters	<i>Chenopodium album</i>
Poison ivy	<i>Toxicodendron radicans</i>	Peppergrass	<i>Lepidium virginicum</i>
Tree of heaven	<i>Ailanthus altissima</i>	Pennsylvania smartweed	<i>Polygonum pennsylvanicum</i>
Oriental bittersweet	<i>Celastrus scandens</i>	False indigo	<i>Baptisia australis</i>
Barren strawberry	<i>Waldsteinia fragrarioides</i>		

No lyreleaf sage was observed on the Brewster Library site.

Habitat Assessment Results

No habitat that is suitable for featherfoil was observed on or near the subject site. Potential habitat for lyreleaf sage was observed, but a detailed inventory did not identify any specimens of this plant on the site.

If you have any questions about this information or the methods that were used to collect it, please contact me.

Sincerely,



Steve Marino, PWS
Vice President/Senior Ecologist
TIM MILLER ASSOCIATES, INC.

C. File

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of 12

15 I

**TOWN OF SOUTHEAST TOWN BOARD
EAF ADDENDUM
PROPOSED LIBRARY BUILDING ADDITION**

The Library Board of Trustees has determined that it is necessary to construct an addition to the Library building that will expand and improve patron reading areas, collection and program spaces, computer and study areas, and public meeting spaces, and improve the Library's delivery of services to the community. The proposed addition, on two levels, will create additional floor area of 4,200 ± square feet to provide new children's collection and program spaces, new teen space, public meeting room, quiet study rooms and new computer stations. The proposed project also includes renovations to the interior of the existing building, primarily new mechanical and electrical systems for energy efficiency and new accessible restrooms. The property is located next to a parking lot and additional public parking spaces are available in the immediate area. The proposed construction project is designated as a Type II action pursuant to §617.5(c)(8) of the SEQR Regulations promulgated pursuant to the State Environmental Quality Review Act. This section states that routine activities of educational institutions, including expansion of existing facilities by less than 10,000 square feet of gross floor area, is a SEQR Type II action. Section 617.5(a) of the SEQR Regulations states that a Type II action is an action that does not have a significant adverse impact on the environment and is not subject to SEQR environmental review.

Although the proposed project is not subject to SEQR environmental review, the Board can evaluate whether the proposed building addition may have a potential significant adverse environmental impact. Review materials include a sketch plan of the property showing existing conditions and the proposed addition; exterior renderings of the existing Library building and the proposed addition; the proposed floor plan of the addition; and a Short Environmental Assessment Form, including the DEC's EAFMapper results.

Although the EAFMapper indicates that the site or land adjoining the site might contain regulated wetlands or other waterbodies, a physical inspection shows that there are no wetlands or other waterbodies on or adjoining the site. In addition, the proposed project will not affect any wetlands or other waterbodies. The EAFMapper also indicates that the site might contain featherfoil and lyreleaf sage, which are threatened or endangered plant species, or associated habitat. The Library retained the land use and environmental consultant firm Tim Miller Associates, and Steven Marino, PWS, a biodiversity specialist with TMA, inspected the site. TMA's report, dated August 31, 2016, concludes that the site is potential habitat for lyreleaf sage, but the site does not contain either of the identified species.

The EAFMapper also indicates that historic buildings are located near the site - the Walter Brewster House, Old Southeast Town Hall and First National Bank of Brewster. The Library building is eligible for inclusion on the Register of Historic Places, although it is not listed on any Register. The design and materials of the proposed building addition will

complement the existing building and restore a historic feature of the existing building.

The proposed addition to the Library will be located at the rear (south) of the building. As recommended by the guidelines published by the U.S. Department of the Interior, the defining characteristics of the original building (gabled roof - pitched toward the street, arch-topped main facade windows, large Palladian gable-end window, ornate wood perimeter roof cornice, rake trim and stone quoins) will remain intact and unobstructed and will be restored using historic preservation standards and techniques as required. The addition will be clad in stone veneer, brick and cementitious trim materials. Where the addition meets the existing building, stone or other non-masonry cladding will be detailed so that the original building brick corners remain defined and easily identifiable, separate from the cladding on the new construction. The massing and scale of the addition is oriented to retain the historic building as the predominate, uninterrupted mass, and the new roof lines fall below the original building gable height. The addition rooflines will not exceed the height of the 1992 entry addition.

Renovations to the interior of the building, specifically the main reading room, will be executed in accordance with the guidelines established by the Department of the Interior. The interior wood and glass vestibule will be maintained, as well as elaborate interior plaster cornice, fireplace, mantle, and landscape painting. Exterior improvements (ramp, stairs, handrails) will allow for the original building entry (facing Main Street) to return to public use.

The Library will consult with the State Historic Preservation Office (SHPO) to assure SHPO's satisfaction with the design. The Library's architect has significant experience in designing renovations and additions to historic buildings, and has consulted with SHPO on the design of other library buildings eligible for inclusion on the National or State Register.

There is no evidence of any significant adverse impact on land, surface water, ground water, geological features, flooding, air, agricultural resources, aesthetic resources, open space and recreation, transportation, energy, noise, odor and light, human health, and the community plan or community character.

No potential significant adverse environmental impacts have been identified.

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*31 Misc. 3d 1231(A), *; 932 N.Y.S.2d 760, **;
2011 N.Y. Misc. LEXIS 2460, ***; 2011 NY Slip Op 50921(U)*

In the Matter of the Application of the East Hampton Library, a non-profit educational corporation and Institution of the University of the State of New York, Petitioner, against Zoning Board of Appeals of the Village of East Hampton, Respondent.

31117-10

SUPREME COURT OF NEW YORK, SUFFOLK COUNTY

31 Misc. 3d 1231(A); 932 N.Y.S.2d 760; 2011 N.Y. Misc. LEXIS 2460; 2011 NY Slip Op 50921(U)

May 17, 2011, Decided

NOTICE: THIS OPINION IS UNCORRECTED AND WILL NOT BE PUBLISHED IN THE PRINTED OFFICIAL REPORTS.

PUBLISHED IN TABLE FORMAT IN THE NEW YORK SUPPLEMENT.

CORE TERMS: variance, educational institution, zoning, educational, religious, special permit, educational uses, environmental, zoning ordinance, deferential, neighborhood, village, positive declaration, chartered, traffic, expansion project, residential, beneficial, area variance, open space, issuance, parking, zoning board, use permit, irrational, coverage, proposed expansion, adverse effects, arbitrary and capricious, exemption

HEADNOTES

[*1231A] [760]** Municipal Corporations--Zoning--Variance--Library as Educational Use.

COUNSEL: [***1] For Petitioner, ESSEKS, HEFTER & ANGEL, LLP, Riverhead, NY.

For Respondent, LAMB & BARNOSKY, LLP, Melville, NY.

JUDGES: Thomas F. Whelan ◀, J.S.C.

OPINION BY: Thomas F. Whelan ◀

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OPINION

Thomas F. Whelan , J.

The petitioner commenced this Article 78 proceeding for a judgment reversing and annulling two resolutions adopted by the Zoning Board of Appeals of the Village of East Hampton (hereinafter ZBA) on July 23, 2010 relative to the petitioner's application for a special permit and area variance so as to proceed with an expansion of its library. For the reasons set forth below, the petition is granted.

The petitioner, a non-profit corporation and institution of the University of the State of New York, operates a library within the Village of East Hampton. It was founded in 1897 and it erected its building at the present site in 1910-11. The petitioner became a chartered free library association in 1912. Seven additions to the original building were constructed in six of eight decades of the twentieth century that followed construction of the original building in 1910-11. An acre of land donated by a generous patron was used in the construction of two of the seven expansions. One of these expansions was aimed at the construction [***2] of a children's wing which was completed in 1963.

In the late 1990's, the petitioner undertook an evaluation of the ratio of children's books per capita. This evaluation revealed that the petitioner had the second lowest number of children's books per capita out of 15 local libraries. The petitioner thus resolved to increase both the space dedicated to the literacy skills of plaintiff's young patrons and the volume of available books to such population. In 2003, the petitioner first proposed to build a 10,300 sq. ft. children's wing addition to the rear of the existing building. The project also included improvements to other library services, all of which, would be funded by donations from those in the community of East Hampton.

In April of 2003, the petitioner filed two applications with Village officials in connection with its proposal to improve its library building and services. While the first of such applications was presented and ultimately approved by the Village's Design Review Board, the second was filed with the respondent ZBA for issuance of a special permit under the Village Code. By June, 2004, the proposed expansion of 10,300 sq. ft. was reduced by the petitioner by some [***3] 34% to 6,802 sq. ft. In September of 2004, the respondent ZBA issued several determinations under the State Environmental Quality Review Act (ECL Article 8 a/k/a the State Environmental Quality Review Act or "SEQRA"), including the Board's classification of the project as a Type I action and the issuance of a Positive Declaration. As a result of such declaration, the project was classified as one having significant impacts upon the environment and one requiring a full environmental review by the respondent ZBA under SEQRA. The petitioner was thus required to provide a draft environmental impact statement which would serve as a predicate to the ZBA's expansive environmental review of the petitioner's project.

Although the petitioner submitted a draft environmental impact statement ("DEIS") in July of 2008 and revised it in May of 2008, it advised the respondent ZBA that due to the petitioner's voluntary reduction in the square footage of the proposed expansion from 10,300 sq. ft. to 6,802 sq. ft. and the petitioner's status as an educational institution, the expansion project was a Type II action under SEQRA and, as such, was exempt from the environmental review process required of Type [***4] I projects under SEQRA. The petitioner's requests that the respondent ZBA revisit and reverse its Positive Declaration under SEQRA were, however, rejected.

On July 11, 2008, the respondent ZBA adopted a resolution conditionally declaring that the revised DEIS submitted by the petitioner complete. The conditions imposed mandated that the petitioner submit a survey depicting lot coverage calculations the expansion would consume, and

that such calculations include the parking areas as part of the overall lot coverage. The inclusion of parking areas as part of the calculus of the overall lot coverage appears to have been precipitated by recent discussions and memoranda by Town Zoning Officials who therein suggested that, in addition to the special permit requirement, one or more area variances would likely be required in order for the petitioner to proceed with its expansion project.

In July of 2009, the petitioner filed a supplemental application with the respondent ZBA. It therein requested that the ZBA review and interpret the zoning ordinance and conclude that no variances were necessary for approval of the library expansion project. Alternatively, the petitioner applied for any and [***5] all variances that the ZBA determined were necessary.

The first public hearing on the petitioner's pending applications for a special permit and zoning ordinance interpretations and/or variances was held on September 11, 2009. The hearing was closed by the respondent ZBA on March 26, 2010. Rather than vote on the proposal, the respondent ZBA undertook preparation of a Final Environmental Impact Statement ("FEIS") which it adopted on June 25, 2010. On July 23, 2010, the respondent ZBA adopted its SEQRA Findings Statement. It also adopted a resolution wherein it determined that two variances were required by the project, both of which were denied, as was the petitioner's application for a special permit.

The petitioner commenced this Article 78 proceeding in August of 2010 for a judgment reversing and annulling the July 23, 2010 resolutions of the respondent ZBA. Following the recusal of the first two Justices assigned to this proceeding, it was assigned to this Court on December 9, 2010. Pursuant to the Order of this court dated February 23, 2011 and stipulation of the parties, respondent, Village Preservation Society, Inc., was deleted as a party to this proceeding and a conference was [***6] scheduled for March 3, 2011. The respondent ZBA interposed a motion (#004) to have the undersigned recuse himself from presiding over this proceeding. That motion was denied by order dated March 24, 2011. On March 25, 2011, the petition, which had been renumbered motion sequence No. 003 due to the prior recusals, appeared on the motion calendar of this court and was marked submitted on that day.

In support of its petition, the Library advances several grounds for reversal of the ZBA's determinations of July 23, 2010. Three of these grounds revolve around the unique nature of the Library due to its status as an institution chartered by the University of the State of New York. The petitioner claims that, as a matter of state law, it is an educational institution, an educational corporation and member of the University of the State of New York, and as such, it is entitled to special presumptions, rules and standards with respect to its zoning applications that are enjoyed by other educational institutions. The respondent's wrongful refusal to accord this favored status to the petitioner during its review of the petitioner's zoning applications was erroneous and warrants reversal of the [***7] adverse determinations rendered thereon. ¹ The petitioner further claims that the ZBA's determination was illegally premised upon exclusionary and discriminatory motives and was arbitrary, capricious and irrational as it is unsupported by the record. For the reasons set forth below, the petition is granted and the matter remitted to the respondent ZBA for issuance of the special permit and variances.

FOOTNOTES

¹ Joining the petitioner in these claims is the New York Library Association, the Suffolk Cooperative Library System, the Library Trustees Association of New York State and the Long Island Library Resources Council, who jointly have appeared herein, *amicus curiae*.

The Library's Status as an Educational Institution:

Not disputed by the parties is that religious and educational institutions have long "enjoyed special treatment with respect to residential zoning ordinances and have been permitted to

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expand into neighborhoods where nonconforming uses would otherwise not have been allowed" (**Cornell Univ. v Bagnardi**, 68 NY2d 583, 503 N.E.2d 509, 510 NYS2d 861 [1986]; see also **Diocese of Rochester v Planning Bd. of Town of Brighton**, 1 NY2d 508, 136 N.E.2d 827, 154 NYS2d 849 [1956]; **Matter of Concordia Collegiate Inst. v Miller**, 301 NY 189, 93 NE2d 632 [1950]). [***8] The deferential treatment accorded to educational institutions is attributable to their inherently beneficial nature (see **Pine Knolls Alliance Church v Zoning Bd. of Appeals of Town of Moreau**, 5 NY3d 407, 838 N.E.2d 624, 804 NYS2d 708 [2005]; **Trustees of Union Coll. in Town of Schenectady in State of NY v Members of Schenectady City Council**, 91 NY2d 161, 690 N.E.2d 862, 667 NYS2d 978 [1997]). Indeed, it has been established that as a general rule "the total exclusion of [educational] institutions from a residential district serves no end that is reasonably related to the morals, health, welfare and safety of the community * * * [and] is beyond the scope of the localities' zoning authority" (**Cornell Univ. v Bagnardi**, 68 NY2d at 594, *supra*). Even private institutions are entitled to deferential treatment so long as they carry out the educational mission of the State, as they have the same beneficial effect upon the general welfare of the community as public schools (*Id.*, at 68 NY2d 583, 593-594, 503 N.E.2d 509, 510 N.Y.S.2d 861).

That which is in dispute in this Article 78 proceeding is whether the petitioning Library is an educational institution within the contemplation of the above cited case authorities and thus entitled to the deferential treatment. [***9] with respect to zoning requirements that educational and religious institutions have long enjoyed. The court's analysis of this issue begins with a review of the statutory provisions governing the formation and existence of chartered libraries, such as the petitioner.

The University of the State of New York ("the University") is a corporation created by New York State in 1784 and includes all secondary and higher education institutions in the State and certain other libraries, museums, institutions, schools, organizations and agencies for education (see NY Constitution, Art. XI, § 2). Originally created under the name of The Regents of the University of the State of New York, the University was continued under the name of The University of the State of New York and charged with the encouragement and promotion of education through its several institutions and departments (see Education Law § 201). The institutions of the University include all secondary and higher educational institutions which are now or may hereafter be incorporated in this state, and such other *libraries*, museums, institutions, schools, organizations and agencies for education *as may be admitted to or incorporated* [***10] *by the university* (see Education Law § 214). By charter, or other instrument under seal, the Board of Regents may admit and incorporate any university, college, academy, library, museum, or other institution or association for the promotion of science, literature, art, history or other department of knowledge, or of education in any way, associations of teachers, students, graduates of educational institutions, and other associations provided their approved purposes are, in whole or in part, of educational or cultural value and deemed worthy of recognition and encouragement by the university (see Education Law § 216). Once a charter is issued, the institution so chartered is accorded not-for-profit educational corporation status under Education Law § 216-a. Control over libraries admitted to the University is committed to the University's Board of Regents under Education Law § 245, *et seq.*

A precise definition of "school" for zoning purposes has been addressed by few New York courts. Some have held that an institution qualifies as school if it has a curriculum, adequate physical facilities to conduct its educational function and a staff qualified to implement its educational objectives [***11] (see **Incorporated VII. of Brookville v Paulgene Realty Corp.**, 24 Misc 2d 790, 200 NYS2d 126 [Sup Ct, Nassau County, 1960]; *aff'd*, 14 AD2d 575, 218 NYS.2d 264 [2d Dept 1961]; *aff'd*, 11 NY2d 672, 180 N.E.2d 905, 225 NYS2d 750 [1962]; see also **Rorie v Woodmere Academy**, 52 NY2d 200, 418 N.E.2d 659, 437 NYS2d 66 [1981]). Other definitions set forth in case authorities include "a place where instruction is imparted to the young"; "any place or means of discipline, improvement, instruction, or training"; "the union of all elements in the organization, to furnish education in some branch of learning—the arts or sciences or

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literature" (**Schweizer v Board of Zoning Appeals**, 8 Misc 2d 878, 879-80, 167 NYS2d 764, 766 [Sup. Ct. Nassau County, 1957]). An educational institution has also been defined as an organization which has an objective with educational value, performs some educational function and is organized exclusively for that purpose (see **Imbergamo v Barclay**, 77 Misc 2d 188, 191, 352 NYS2d 337, 341 [Sup. Ct. Suffolk County, 1973]). As long ago as 1907, the Fourth Department had occasion to address the educational nature of libraries in another context and held that libraries, which have been admitted to, or incorporated [***12] by the [State] University, are institutions for higher education and within the class of institutions designated broadly as educational (see **In re Francis' Estate**, 121 AD 129, 105 NYS 643 [1907]; *aff'd*, on op below, 189 NY 554, 82 NE 1126 [1907]; see also **Essex v Brooks**, 164 Mass 79, 83, 41 NE 119 [1895], wherein the Supreme Court of Massachusetts found that a free public library was educational and thus entitled to tax exempt status).

It is the position of the respondent ZBA that while the petitioner, a library chartered by the Board of Regents of the University of the State of New York, may well be, for some purposes, defined and treated in the law as an educational institution, it should not be considered as such for zoning purposes nor under SEQRA. Underlying this position are allegations that while religious institutions and schools are constitutionally protected, the deferential zoning treatment afforded to them should not likewise apply to libraries, even one chartered by the Board of Regents such as the petitioner. The court finds, however, that such position is untenable as the University of the State of New York is constitutionally founded (see NY Constitution, Art. XI) and its [***13] educational intents and purposes are secured by the Education Law so as to include all institutions admitted to the University by its Board of Regents (see Education Law §§ 101; 201; 214; 216).

The ZBA's alternative claims that schools alone qualify for the deferential treatment accorded educational institutions under zoning ordinances and statutes such as SEQRA are not supported by the case authorities above cited nor those relied upon by the ZBA (see **Imbergamo v Barclay**, 77 Misc 2d 188, 352 N.Y.S.2d 337, *supra*; **Schweizer v Board of Zoning Appeals**, 8 Misc 2d 878, 167 N.Y.S.2d 764, *supra*). Moreover, this argument ignores the fact that the petitioner is not only chartered by the Board of Regents as an institution of higher education, but in addition to providing traditional library resources, it offers numerous instructional programs, classes, lectures and lessons, all of which are, unequivocally, educational in nature.

Equally unavailing is the claim that zoning ordinances will have little significance if this court were to extend the deferential zoning treatment accorded to schools and religious institutions to libraries and other institutions such as academies and museums that are admitted to the University of the State [***14] of New York. This argument ignores the fact that chartered libraries, such as the petitioner, are, indeed, educational uses and as such, serve the same inherently beneficial effects on the community as do schools. The court is thus left without any rational basis to deny them the deferential treatment under zoning ordinances and like statutes that is enjoyed by schools and other institutions having educational uses that carry out the educational mission of the State.

The respondent's position further ignores the fact that religious and educational institutions are recognized as facilitating the same objectives as zoning ordinances, namely, fostering the public health, safety, morals and general welfare of the community (see **Cornell Univ. v Bagnardi**, 68 N.Y.2d 583, 594, 503 N.E.2d 509, 510 N.Y.S.2d 861; *supra*; **New York Inst. of Tech. v Le Boutillier**, 33 NY2d 125, 305 N.E.2d 754, 350 NYS2d 623 [1973]). Libraries, such as the petitioner, are thus endowed with the presumptions of beneficial use and purposes that underlie the deferential standards applicable to churches and schools with respect to zoning matters that the courts of this state have long recognized, namely, that religious and educational uses are inherently beneficial to the [***15] community. The respondent's claim that an avalanche of adverse affects will occur if this court were to extend deferential zoning treatment to libraries, including, an unparalleled diminution in the applicability of zoning ordinances and the inherently

beneficial effects that zoning restrictions provide to the community at large, is unfounded.

For these reasons, this court finds that the petitioner, a library chartered by and admitted to the University of the State of New York, is an educational institution and/or educational corporation of the State of New York and as such, is entitled to the same deferential treatment in zoning and like matters that are accorded to schools and religious institutions.

The July 23, 2010 SEQRA Findings Statement is Annulled:

The law is well settled that judicial review of a SEQRA determination is limited to determining "whether the challenged determination was affected by an error of law or was arbitrary and capricious, an abuse of discretion, or was the product of a violation of lawful procedure" (**East End Prop. Co. No. 1, LLC v Kessel**, 46 AD3d 817, 851 NYS2d 565 [2d Dept 2007]; **Matter of Vil. of Tarrytown v Planning Bd. of Vil. of Sleepy Hollow**, 292 AD2d 617, 619, 741 NYS2d 44 [2d Dept 2002]). *****16** "An agency determination should be annulled if it is arbitrary, capricious or unsupported by the evidence" (**Matter of Trump on the Ocean, LLC v Cortes-Vasquez**, 76 AD3d 1080, 1083, 908 NYS2d 694 [2d Dept 2010], quoting **Matter of Riverkeeper, Inc. v Planning Bd. of Town of Southeast**, 9 NY3d 219, 232, 881 N.E.2d 172, 851 NYS2d 76 [2007]). A determination is arbitrary if it is made without sound basis in reason and without regard to the facts (see **Merrick Auto Serv., Inc. v Grannis**, 82 AD3d 895, 919 NYS2d 173 [2d Dept 2011]).

The petitioner's claims that the respondent ZBA's SEQRA review and findings are erroneous and should be annulled by a judgment of this court are meritorious. The submissions of the petitioner established that its proposed library addition consisting of 6,802 sq. ft. of additional space constitutes a Type II action under SEQRA and its regulations at 6 NYCRR § 617.5. It is therein provided that routine activities of educational institutions, including the expansion of existing facilities by less than 10,000 sq. ft. of gross floor area, constitute Type II actions which are exempt from the environmental review process required of Type I and unlisted actions (see 6 NYCRR §§ 617.5(c)[8]; *****17** 617.2; 617.3; see also **City Council of the City of Watervliet v Town Bd. of the Town of Colonie**, 3 NY3d 508, 518, 822 N.E.2d 339, 789 NYS2d 88 [2004]). Indeed, the New York State Department of Environmental Conservation, the state agency charged with SEQRA enforcement, issued an opinion letter by its Deputy Commissioner advising unequivocally that the petitioner's planned expansion of its library building in East Hampton, constituted an educational institution within the meaning of the regulation at 6 NYCRR § 617.5(c)(8) and thus was a Type II exempt from SEQRA review (see Petition Exhibit 24). Thereafter, the DEC amended its published Handbook on SEQRA so as to emphatically state that, for purposes of 6 NYCRR § 617.5(c)(8), educational institutions include all schools and libraries chartered and/or registered by the New York State Board of Regents. None of the arguments or contentions advanced by the respondent ZBA rebut the petitioner's prima facie demonstration that the subject project was erroneously and improperly classified by the ZBA as a Type I action when, in fact, it was a Type II action for which no environmental review was required. The July 23, 2010 Findings Statement and the prior Positive Declaration *****18** issued by the respondent, by which the project was classified as a Type I action, were thus affected by errors of law and arbitrary and capricious as they were made without regard to relevant facts.

Rejected as unmeritorious are the respondent's claims that the petitioner's challenges to the Positive Declaration are time barred; thus precluding judicial review thereof and of the Findings Statement and the respondent's environmental review under applicable statutes of limitations or doctrines of laches or mootness. Underlying such claims are allegations that the four month statute of limitations applicable to SEQRA determinations, including the Positive Declaration issued in September of 2004, has long run and thus precludes judicial review of the petitioner's demands for relief with respect thereto.

It is clear, however, upon a reading of the petition that the petitioner is not challenging the

Positive Declaration; it is, instead, challenging the respondent's application of the SEQRA process to its expansion project as erroneous due to the respondent's failure to consider the exemption afforded to petitioner by virtue of its status as an educational institution chartered by the Board [***19] of Regents of the University of the State of New York. This court finds that such a challenge is timely under the test applicable to the measurement of finality by which the applicable statute of limitations are applied in the context of challenges to administrative action.

The Court of Appeals has instructed that in determining when the statute of limitations is triggered, it is imperative for the court to consider what actions the petitioner is seeking to have reviewed (*see Young v Board of Trustees of the Vil. of Blasdell*, 89 NY2d 846, 675 N.E.2d 464, 652 NYS2d 729 [1996]). An action is considered to be final when it represents a definitive position on an issue which "impose[s] an obligation, den[ies] a right or fix[es] some legal relationship," resulting in an actual, concrete injury (*Matter of Gordon v Rush*, 100 NY2d 236, 242, 792 N.E.2d 168, 762 NYS2d 18 [2003], quoting *Matter of Essex County v Zagata*, 91 NY2d 447, 453, 695 N.E.2d 232, 672 NYS2d 281 [1998]). The harm suffered must not be "amenable to further administrative review and corrective action" (*Matter of Eadie v Town Bd. of Town of N. Greenbush*, 7 NY3d 306, 316, 854 N.E.2d 464, 821 NYS2d 142 [2006], quoting *Matter of City of New York [Grand Lafayette Props. LLC]*, 6 NY3d 540, 548, 847 N.E.2d 1166, 814 NYS2d 592 [2006]). [***20] Here, no concrete injury was inflicted until the respondent denied the petitioner's application for the special permit and the variances as such denial was based, in large part, upon the respondent's reliance upon the environmental review that was erroneously applied to the petitioner's expansion project. Until that determination was rendered, and there was an actual rejection of the petitioner's claims of exemption from the SEQRA process, the petitioner's injury was contingent as it would have suffered no injury had the respondent concurred in petitioner's claim that the expansion project, as then finally constituted, was exempt from SEQRA review due to the petitioner's status as an educational institution duly chartered by the Board of Regents of the University of the State of New York.

The respondent's reliance on *Gordon v Rush* (100 NY2d 236, 792 N.E.2d 168, 762 N.Y.S.2d 18, *supra*), is misplaced. In *Rush*, the Court of Appeals declined to adopt the bright line rule recognized by some appellate courts that the issuance of a Positive Declaration under SEQRA is not considered ripe for judicial review until the SEQRA process is completed (*see Brierwood Vil., Inc. v Town of Hamburg Planning Bd.*, 277 AD2d 1051, 715 NYS2d 351 [4th Dept 2000]; [***21] *Matter of Sour Mtn. Realty v New York State Dept. of Env'tl. Conservation*, 260 AD2d 920, 921, 688 NYS2d 842 [3d Dept 1999], *lv. denied* 93 NY2d 815, 719 N.E.2d 923, 697 NYS2d 562 [1999]; *Matter of PVS Chems. v New York State Dept. of Env'tl. Conservation*, 256 AD2d 1241, 682 NYS2d 787 [4th Dept 1998]; *Matter of Rochester Tel. Mobile Communications v Ober*, 251 AD2d 1053, 1054, 674 NYS2d 189 [4th Dept 1998]). It thus allowed the petitioner to challenge the issuance of a positive declaration issued by a non-lead agency who entered the field of environmental review long after it had declined to participate as a non-lead agency. As argued by the petitioner here, *Rush* does not require a zoning applicant to challenge a positive declaration within four months of its issuance to prevent preclusion of challenges to the application or validity of the SEQRA process when faced with a time bar challenge in an action timely commenced following agency determination of the application. *Rush* merely requires that challenges to Positive Declarations, like challenges to any administrative action, must be sufficiently final to qualify for judicial review under CPLR 7801(1).

Judicial review of the validity of the respondent's [***22] SEQRA review and its determinations thereunder are not precluded by any of the legal doctrines of tardiness that are relied upon by the respondent ZBA. The respondent's claims of time bar, laches and mootness are thus rejected as unmeritorious. The July 23, 2010 Findings Statement and the environmental review undertaken by the respondent pursuant to the classification of the project as a Type I action, were affected by errors of law and arbitrary and capricious. They are, therefore, hereby annulled.

The July 23, 2010 Special Permit and Variance Denials are Annulled:

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The deferential standard that the law affords to religious and educational uses for the zoning arena does not afford a full exemption from zoning rules for all such uses; rather the controlling consideration in reviewing the request of a school or church to expand into a residential or other specialty zoned area must always be the over-all impact on the public's welfare (see *Cornell Univ. v Bagnardi*, 68 NY2d 583, *supra*). Rare as they be, some educational uses may be unarguably contrary to the public's health, safety or welfare and thus need not be permitted at all (*Id.*, at 596).

Categorical exclusions are not permitted, as [***23] the decision to restrict a proposed religious or educational use can be properly made only after the intended use is evaluated against other legitimate interests, with primary consideration given to the over-all impact on the public welfare (see *Trustees of Union Coll. in Town of Schenectady in State of NY v Members of Schenectady City Council*, 91 NY2d 161, 690 N.E.2d 862, 667 NYS2d 978 [1997]). A municipality's pursuit of legitimate zoning objectives does not diminish the importance of striking a balance between the important contribution made to society by educational institutions and the inimical consequences of their presence in residential neighborhoods (*Id.*, at 166).

Less obtrusive expansions of existing educational institutions that may be technically inconsistent with either the letter or spirit of a particular zoning ordinance, require a more balanced approach than absolute denial (see *Cornell Univ. v Bagnardi*, 68 NY2d 583, *supra*). Expansions of existing facilities or accessory structures within the confines of property that houses an existing educational use frequently fall within such benign expansions and are thus not likely subject to outright denial (see *Town of Islip v Dowling College*, 275 AD2d 366, 712 NYS2d 160 [2d Dept. 2000]). [***24] The imposition of reasonable, mitigative conditions aimed at reducing any rationally founded, adverse impacts will serve to accommodate the joint beneficial public interests that educational uses and zoning ordinances are deemed to promote (see *Trustees of Union Coll. in Town of Schenectady in State of NY v Members of Schenectady City Council*, 91 NY2d 161, 690 N.E.2d 862, 667 N.Y.S.2d 978, *supra*). Thus, where the negative impacts are not so extreme as to justify the denial of an educational or religious use, it is incumbent on the zoning board to accommodate the educational or religious use while imposing conditions to mitigate any potential adverse effects (see *Pine Knolls Alliance Church v Zoning Bd. of Appeals of Town of Moreau*, 5 NY3d 407, 838 N.E.2d 624, 804 N.Y.S.2d 708, *supra*). Indeed, the denial of a permit has been held to be arbitrary and capricious where "no hard evidence" that "any effort was made to find ways to mitigate ... inconveniences short of outright denial" (*Jewish Reconstructionist Synagogue of N. Shore, Inc. v Incorporated Vil. of Roslyn Harbor*, 38 NY2d 283, 289-90, 342 N.E.2d 534, 539, 379 NYS2d 747, 754 [1975]; *cf.*, *Corporation of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v Zoning Bd. of Appeals of Town/Village of Harrison*, 296 AD2d 460; 745 NYS2d 76 [2d Dept 2002]).

For [***25] these reasons, "a zoning ordinance may properly provide that the granting of a special permit to churches or schools may be conditioned on the effect the use would have on traffic congestion, property values, municipal services, the general plan for development of the community, etc. The requirement of a special permit application, which entails disclosure of site plans, parking facilities, and other features of the institution's proposed use, is beneficial in that it affords zoning boards an opportunity to weigh the proposed use in relation to neighboring land uses and to cushion any adverse effects by the imposition of conditions designed to mitigate them. These conditions, if reasonably designed to counteract the deleterious effects on the public's welfare of a proposed religious or educational use should be upheld by the courts, provided they do not, by their cost, magnitude or volume, operate indirectly to exclude such uses altogether" [citations omitted] (*Cornell Univ. v Bagnardi*, 68 NY2d 583 at 596, *supra*).

A showing of need by a religious or educational use applicant is not required since such uses are presumed consistent with the public health, safety and welfare that zoning [***26] ordinances, themselves, are designed to promote (see *Cornell Univ. v Bagnardi*, 68 NY2d 583, *supra*). The

presumed beneficial effect of an educational use may only be rebutted with evidence of a significant impact on traffic congestion, property values, municipal services and the like (see *Pine Knolls Alliance Church v Zoning Bd. of Appeals of Town of Moreau*, 5 NY3d 407, 838 N.E.2d 624, 804 N.Y.S.2d 708, *supra*).

A special permit application "affords zoning boards an opportunity to weigh the proposed use in relation to neighboring land uses and to cushion any adverse effects by the imposition of conditions designed to mitigate them" (*Cornell Univ. v Bagnardi*, 68 NY2d 583, *supra*). Variance applications are also governed by a balancing test, the five elements of which, are now codified (see Town § 267; Village Law § 7-712-b(3); *Matter of Sasso v Osgood*, 86 NY2d 374, 657 N.E.2d 254, 633 NYS2d 259 [1995]). This court, following recent appellate precedent, has previously held that the balancing tests imposed upon the granting of special permits and/or variances to non-educational and non-religious use applicants should be applied first, leaving resort to the accommodation standard applicable to educational and/or religious use applicants only [***27] if such applicant failed to meet the traditional balancing tests (see *Corporation of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v Zoning Bd. of Appeals of Town/Village of Harrison*, 296 AD2d 460, 745 N.Y.S.2d 76, *supra*; *Matter of the Apostolic Holiness Church v Zoning Bd. of Appeals of Town of Babylon*, 220 AD2d 740, 633 NYS2d 321 [2d Dept 1995]; *Case v Guidera*, 2008 N.Y. Misc. LEXIS 9205, 2008 WL 4103213, 2008 NY Slip Op. 32311[U] [Sup Ct Suffolk County, 2008]; *Lafiteau v Guzewicz*, 13 Misc 3d 1228[A], 831 NYS2d 354, 354, 2006 NY Slip Op. 52046[U] [Sup Ct Suffolk County, 2006]).

It is well established that a special use permit, unlike a variance, authorizes the use of property in a manner expressly permitted by the zoning ordinance under stated conditions (see *Twin County Recycling Corp. v Yevoli*, 90 NY2d 1000, 688 N.E.2d 501, 665 NYS2d 627 [1997]). The significance of the distinction between special permit uses and variances is that the "inclusion of the permitted use in the ordinance is tantamount to a legislative finding that the permitted use is in harmony with the generalized zoning plan and will not adversely affect the neighborhood" (*North Shore Steak House, Inc. v Board of Appeals of Town of Thomaston*, 30 NY2d 238, 282 N.E.2d 606, 331 NYS2d 645 [1972]). [***28] The burden on one seeking a special use permit is thus lighter than one seeking a variance since the issuance of a special permit is a duty enjoined upon zoning officials whenever there is compliance with the statutory conditions (see *Peter Pan Games of Bayside, Ltd. v Board of Estimate of City of New York*, 67 AD2d 925, 413 NYS2d 164 [2d Dept 1967]). Where however, the applicant for a special use permit does not meet the requirements for issuance of special use permit, a variance therefrom is available (see Village Law § 7-725-b[3]; see also *Matter of Real Holding Corp. v Lehigh*, 2 N.Y.3d 297, 810 N.E.2d 890, 778 N.Y.S.2d 438 [2004]).

Rejected as unmeritorious are the petitioner's claims that the ZBA erred in interpreting its zoning ordinance in such a manner that it determined that both a front yard, set back variance and a lot coverage variance were required prior to considering whether the petitioner was entitled to the special use permit. Under the East Hampton Village Code, a library is a permitted special permit use in the residential districts within the Village. As proposed, the new addition to the existing library attaches to the rear of the existing building. However, 588 sq. ft. of the addition [***29] will lie within the 70 ft., front yard setback minimum required under Village Zoning Code at § 278-3(A)(2)(a). Admittedly, subparagraph (b) of § 278-3(A)(2) provides an exemption for residences under these circumstances. The ZBA concluded, however, that since the exemption is applicable to "residences" and the Library is not a "residence" the exemption is not available and a front yard set back variance is required. This interpretation is not irrational since the term "residence" as used in § 278-3(A)(2)(b) is not ambiguous and a similar interpretation has been upheld by at least one appellate case authority (see *Matter of the Apostolic Holiness Church v Zoning Bd. of Appeals of Town of Babylon*, 220 AD2d 740, 633 N.Y.S.2d 321, *supra*). Nor was the ZBA's interpretation of the term "structure" to include a paved parking lot in the calculation of lot "coverage" so as to require a lot coverage area variance erroneous, arbitrary or capricious. The ZBA's departure from prior precedent on this issue was adequately explained and had been

previously applied to at least to other venues in the vicinity of the petitioner's property (see **Nozzelman 60, LLC v Village of Cold Spring Harbor Zoning Bd. of Appeals**, 34 AD3d 682, 825 NYS2d 107 [2d Dept 2006]).

Nevertheless, [***30] the court finds that the denial of the variances were erroneous, arbitrary, capricious, and irrational. The determination of whether or not to grant a variance entails due consideration of the factors set forth in Village Law § 7-712-b(3)(b). In making its determination, the zoning board must consider the benefits to the applicant if the variance is granted as weighed against the determinant to the health, safety and welfare for the neighborhood or community by such grant. The board is also required to consider: 1) whether an undescribable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by such grant; 2) whether the benefit sought by the applicant can be achieved some method feasible for the applicant to pursue other than an area variance; 3) whether the requested variance is substantial; 4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and 5) whether the alleged difficulty was self-created, which consideration shall necessarily preclude the granting of the area variance. While a zoning board is not required to justify a particular [***31] variance determination with supporting evidence of each of the five factors, such determination must balance the relevant considerations in a manner that is rationally related to the record (see **Caspian Realty Inc. v Zoning Bd. of Appeals of Town of Greenburgh**, 68 AD3d 62, 886 NYS2d 442 [2d Dept 2009]).

Here, the respondent ZBA concluded that the proposed library expansion would have undesirable effects upon the character of the Library's neighborhood; that the benefits sought are achievable without a variance and that the relief sought is substantial. However, the ZBA failed to engage in the requisite balancing of the statutory factors and its determination to deny both variances is not supported by evidence in the record. While the petitioning Library is situated within a residential district, the actual character of the neighborhood is a downtown "Main Street" village area wherein commercial, religious, historical, civic, and cultural uses predominate. In its determination to deny the subject variances, the ZBA repeatedly referred to the surrounding neighborhood as "residential" which belies its true character. Indeed, the ZBA found that the front yard variance would have no undesirable [***32] change in the character of the neighborhood or any detriment to nearby properties. Its denial of such a variance is thus irrational and appears to be based on pre-conceived notions of board members and subjective considerations that have no place in determining zoning applications such as the ones at issue here (see **Eddy v Niefer**, 297 AD2d 410, 745 NYS2d 631 [3d Dept 2002]).

The ZBA's denial of the subject area variances rests upon findings of increased vehicular traffic and a perceived nexus to an increase in the risk of accidents as well as purported adverse impacts to open space views and other aesthetic characteristics now enjoyed by those who currently enjoy the character of the surrounding neighborhood. However, the record is replete with evidence that increases in traffic generated by the proposed expansion would have negligible effects upon the surrounding streets including traffic flow on the two state roadways nearby and that such increased traffic could be accommodated by the adjacent road systems and proposed modified driveway plan (see Petition Exhibits 39; 42; 43; 45 and 47). While critical of this analysis, the ZBA points to no evidence in the record to the contrary (see [***33] **Lerner v Town Bd. of Town of Oyster Bay**, 244 AD2d 336, 663 NYS2d 661 [2d Dept 1997]). The ZBA's concerns about the adverse impacts of the proposed expansion would have upon public parking is also highly speculative as it ignores the requirements imposed upon the petitioner to provide parking to accommodate the expansion project and to improve the already existing parking areas that serve the existing library building.

The ZBA's denial of the lot coverage variance because of increased traffic, diminution in open space and quality of life impacts were found to outweigh any benefit to the library is likewise irrational, arbitrary, and capricious. The empirical evidence in the record reflects that half of the

6,802 sq. ft. expansion would be located underground and that 84% of the existing open space around the Library would remain undisturbed. The total loss of open space, including the additional parking areas required by Town officials measures just over one-quarter of an acre. The Village's own expert agreed that the proposed design appropriately preserved swaths of existing open space. The ZBA's reliance upon a previously unidentified "open space plan" as a justification for its findings [***34] of open space diminution, is misplaced and rejected by this court as beyond the record.

Where a zoning board disregards facts in the record and/or predicates its determination to either grant or deny an area variance on irrational speculation, the determination is subject to annulment under CPLR 7803(3) (*see Trump on the Ocean, LLC v Cortes-Vasquez*, 76 AD3d 1080, 908 NYS2d 694 [2d Dept 2010]). Such was the case here, as the respondent ZBA failed to provide a nexus between facts stated in its decision and the perceived adverse effects upon the objectives of the zoning ordinance. Moreover, in light of the petitioner's status as an educational institution, a fact rejected by the respondent here, its determination to deny the variances without considering reasonable conditions was erroneous as the respondent ZBA failed in its duty to suggest reasonable measures to accommodate the proposed expansion of the petitioner's educational use so as to mitigate any real and substantial adverse effects to the surrounding community (*see Capriola v Wright*, 73 AD3d 1043, 900 NYS2d 754 [2d Dept 2010]).

For like reasons, the ZBA's denial of the petitioner's request for a special use permit to allow the [***35] proposed library expansion was irrational, arbitrary, and capricious. There is an insufficient basis in the record to support the ZBA's findings that the proposed expansion project was not compatible with the purpose and objectives of the recently adopted Comprehensive Plan due to the erosion of open space, the increase in traffic with its allegedly concomitant opportunity for accidents and the negative consequences of a use as intensive as the one proposed by the petitioner in its expansion project.

In addition, the respondent's failure to recognize the deferential standard to which the petitioner was entitled due to its status as an educational institution was erroneous and constitutes a separate ground for reversal of the denial of its application for a special permit. While religious and educational uses may certainly bring more traffic and congestion than that which a strictly residential use may bring, any irreconcilable conflicts between the right to erect a religious or educational structure and the potential hazards and other adverse impacts such structure might cause, the latter must yield to the former (*see Apostolic Holiness Church v Zoning Bd. of Appeals of Town of Babylon*, 220 AD2d 740, 633 N.Y.S.2d 321, [***36] *supra*). The respondent ZBA's claims that the court must defer to its determination is rejected under the rule that where a municipality imposes more stringent requirements on a religious [or educational] use than it would on a residential use, such requirements are viewed with suspicion (*see Jewish Reconstructionist Synagogue of N. Shore v Incorporated Vil. of Roslyn Harbor*, 38 NY2d 283, 342 N.E.2d 534, 379 N.Y.S.2d 747, *supra*; *Apostolic Holiness Church v Zoning Bd. of Appeals of Town of Babylon*, 220 AD2d 740, 633 N.Y.S.2d 321, *supra*). Indeed, controlling principles of law provide otherwise. Where, as here, the petitioner is an educational institution seeking to expand its educational use by the construction of an addition to its existing building, application of a heightened sense of judicial scrutiny to the board's decision is appropriate (*see Pine Knolls Alliance Church v Zoning Bd. of Appeals of Town of Moreau*, 5 NY3d 407, 838 N.E.2d 624, 804 N.Y.S.2d 708, *supra*; *Cornell Univ. v Bagnardi*, 68 NY2d 583, *supra*). To sustain its denial of relief to the petitioner, the determination of the respondent ZBA must be grounded in record evidence of a significant impact on traffic congestion, property values, municipal services and the like (*see Jewish Reconstructionist Synagogue of N. Shore v Incorporated Vil. of Roslyn Harbor*, 38 NY2d 283, 342 N.E.2d 534, 379 N.Y.S.2d 747, *supra*). [***37] Review of the record here reveals that the ZBA's determinations which culminated in its decision to deny all relief demanded by the petitioner were not so grounded.

In view of the foregoing, the SEQRA findings statement adopted by the respondent ZBA on July

ile J

23, 2010 is annulled while its determination set forth in the separate resolution of July 23, 2010 to deny the petitioner the two area variances found necessary for the project and the special use permit are reversed, as this court grants both variances and the special permit requested by the petitioner for the reasons set forth above. The proposed expansion of the petitioner's library may proceed subject only to such reasonable conditions that the respondent ZBA may impose thereon within 30 days of hearing at which the petitioner shall have notice and the opportunity to attend that is conducted within 60 days of the date of this decision.

Settle Judgment upon a copy of this order.

Thomas F. Whelan v, J.S.C.

Service: **Get by LEXSEE®**
Citation: **31 misc3d 1231(A)**
View: Full
Date/Time: Friday, September 2, 2016 - 2:37 PM EDT

*** Signal Legend:**

-  - Warning: Negative treatment is indicated
-  - Questioned: Validity questioned by citing refs
-  - Caution: Possible negative treatment
-  - Positive treatment is indicated
-  - Citing Refs. With Analysis Available
-  - Citation Information available

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1612

R#1

SEQR

State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance

Date: _____

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Southeast Planning Board as lead agency has determined that the proposed action described below will not have a significant environmental impact and a Draft Impact Statement will not be prepared.

Name of Action: Barrett Hill

SEQR Status: Type 1
Unlisted

Conditioned Negative Declaration: Yes
 No

Description of Action:

The applicant proposes an amendment to the Town of Southeast Zoning Code to permit the conversion of 168 senior housing units approved in 2006 as "Barrett Hill," located on Mount Ebo Lot 6, a +/- 29 acre parcel in the OP-2 Zoning District, to non-age restricted units. The proposed unit mix includes 64 1-bedroom and 104 2-bedroom units. The total area of disturbance is approximately 11.4 acres. On-site recreational amenities, including a pool and athletic center, and parking for 336 vehicles are also proposed. The population of the proposed project is anticipated to be 349 persons, including 33 school-aged children, of which 26 are projected to be in public school. As part of the proposed action, the applicant proposes a new "Multifamily Work Force Housing District" and associated special permit criteria be established as a floating zoning district that could be mapped to the project site. The proposed action requires the following Town of Southeast approvals: Town Board: Zoning Text and Map Amendment, and Special Permit; Planning Board Amended Site Plan Approval; and Architecture Review Board Report and Recommendation to the Town Board.

Location:

41 Mt. Ebo Road North, Brewster, NY 10509 (Tax Map Number 46-5-2).

Reasons Supporting This Determination:

The following materials have been reviewed:

1. Expanded Environmental Assessment (EAF) and Supplemental Studies, prepared by LADA, PC, and Tim Miller Associates, Inc., dated July 15, 2016;
2. Amended Zoning Petition, prepared by Keane and Beane, P.C., dated July 15, 2016;
3. Limited Traffic Impact and Access Study, prepared by Frederick P. Clark Associates, dated May 6, 2016;
4. Letter from Barbara Barosa, AICP, Putnam County Department of Planning, Development, and Public Transportation, to Supervisor Hay, dated September 23, 2015;
5. Letter from John Tully, Acting Commissioner, Putnam County Department of Planning, Development, and Public Transportation, to Supervisor Hay, dated October 15, 2016;
6. Letter from Barbara Barosa, AICP, Putnam County Department of Planning, Development, and Public Transportation, to Supervisor Hay, dated August 16, 2016;

7. Letter from Cythina Garcia, NYCDEP, dated October 14, 2015;
8. E-mail from Cythina Garcia, NYCDEP, to Supervisor Hay, dated August 18, 2016;
9. Letter from Mary McCullough, NYSDOT, to Supervisor Hay, dated September 22, 2015;
10. Letter from the Town of Southeast Planning Board to the Town Board, dated August 22, 2016;
11. Memorandums from AKRF, Inc. to the Town Board dated April 21, 2015; May 18, 2015; May 20, 2015; August 31, 2015; June 6, 2016; and June 28, 2016;
12. Letter from Nathan L. Jacobson & Associates, Inc. to the Town Board dated August 28, 2015; and
13. Letter from Stephen W. Coleman Environmental Consulting to the Town Board dated August 29, 2015.

The Town of Southeast Town Board declared its Intent to be Lead Agency on September 3, 2015. The Town of Southeast Planning Board contested this declaration and declared its intent to be Lead Agency on September 28, 2015. On February 11, 2016, Basil Seggos, Acting Commissioner, NYSDEC issued a determination of Lead Agency Under Article 8 of the Environmental Conservation Law finding that the Town Board should serve as Lead Agency;

The Town Board held publically noticed meetings on: April 23, 2015; May 21, 2016; October 1, 2015; June 9, 2016; July 7, 2016; and a public hearing on August 18, 2016, at which time members of the public were given the opportunity to comment on the proposed project and zoning petition. The Town Board has considered comments from the Involved and Interested Agencies, and members of the public with regards to this application.

The Town Board has considered the goals and objectives of the Town of Southeast Comprehensive Plan, as well as the surrounding land uses, both adjacent to, and in close proximity to the site.

A Limited Updated Traffic Impact and Access Study (LTIAS) was prepared by the applicant and has been reviewed by the Town Board and its consultants. The LTIAS identified one "notable increase in delay" of 14 seconds from No Build to Build conditions, with a decline in Level of Service (LOS) from E to F for the northbound Mount Ebo Road South left turn/through movement at Doansburg Road during the afternoon peak hour. Although a peak hour warrant analysis shows that traffic volumes at this intersection would not meet the peak hour warrant for a traffic signal, as a condition of Special Permit Approval, the Applicant will be required to deposit \$10,000 in escrow for post-construction monitoring of this intersection to determine if mitigation (e.g., traffic signal) is needed.

In addition to the factors considered above, the Planning Board considered the following guidance from the State Environmental Quality Review Act and its implementing regulations and determined that the Proposed Action would:

- (i) Not result in "a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;" (§617.7(c)(1)(i))
- (ii) Not result in "the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;" (§617.7(c)(1)(iii))
- (iii) Not result in "the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to subdivision 617.14(g) of this Part;" (§617.7(c)(1)(iii))
- (iv) Not result in "the creation of a material conflict with a community's current plans or goals as officially approved or adopted;" (§617.7(c)(1)(iv))

- (v) Not result in "the impairment of the character or quality of important historical, archaeological, architectural, or aesthetic resources or of existing community or neighborhood character;" (§617.7(c)(1)(v))
- (vi) Not result in "a major change in the use of either the quantity or type of energy;" (§617.7(c)(1)(vi))
- (vii) Not result in "the creation of a hazard to human health;" (§617.7(c)(1)(vii))
- (viii) Not result in "a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;" (§617.7(c)(1)(viii))
- (ix) Not result in "the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;" (§617.7(c)(1)(ix))
- (x) Not result in "the creation of a material demand for other actions that would result in one of the above consequences;" (§617.7(c)(1)(x))
- (xi) Not result in "changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or (§617.7(c)(1)(xi))

NOW, THEREFORE BE IT RESOLVED that the Town Board of the Town of Southeast, acting as Lead Agency, and having reviewed the Expanded Environmental Assessment Form and all supplementary information, has determined that the proposed action will not have a significant effect on the environment and a Draft Environmental Impact Statement will not need to be prepared.

For Further Information:

Contact Person: Michele Stancatti, Town Clerk
 Address: Town of Southeast
 1360 NYS Route 22
 Brewster, NY 10509
 Telephone Number: (845) 279-4313

A Copy of this Notice has been filed with:

- Hon. Tony Hay, Supervisor, Town of Southeast, 1360 Route 22, Brewster, NY 10509
- Highway Superintendent, 10 Palmer Road, Brewster, NY 10509
- Town of Southeast Architecture Review Board, 1 Main Street, Brewster, NY 10509
- Town of Southeast Building Inspector, 1 Main Street, Brewster, NY 10509
- Town of Southeast Fire Inspector, 1 Main Street, Brewster, NY 10509
- Town of Southeast Planning Board, 1 Main Street, Brewster, NY 10509
- Town of Southeast Zoning Board of Appeals, 1 Main Street, Brewster, NY 10509
- Brewster Central School District, Timothy J. Conway, Ed.D., Superintendent of Schools, 30 Farm to Market Road, Brewster, NY 10509
- Putnam County Division of Planning and Economic Development, 841 Fair Street, Carmel, NY 10512
- Putnam County Department of Health, 1 Geneva Road, Brewster, New York 10509
- New York City Department of Environmental Protection, Bureau of Water Supply, 465 Columbus Avenue, Valhalla, New York 10595-1336
- SEQR Unit, New York State Department of Transportation, Traffic Engineering & Safety Division, 4 Burnett Blvd., Poughkeepsie, NY 12603
- Commissioner, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-1011

R # 2

**TOWN BOARD
TOWN OF SOUTHEAST, NEW YORK**

**INTERMUNICIPAL COOPERATION – GRANT FUNDING
STORM DAMAGE ASSESSMENT PROGRAM**

RESOLUTION NO. _____ / 2016

September 8, 2016

INTRODUCED BY: _____

SECONDED BY: _____

WHEREAS, it has been recognized that mutual cooperation between municipalities and the utilities that serve them is vital in fostering a timely restoration of services during times of weather related outages; and

WHEREAS, the Town of Pound Ridge has developed, with the assistance of New York State Electric and Gas, Inc. (“NYSEG”), a methodology for assessing damage to electric utility infrastructure caused by extreme weather events and uploading the data directly to NYSEG’s servers; and

WHEREAS, the town of Pound Ridge has secured grant funding through the New York State Legislature to offset the costs of computer hardware, software and data reformulation necessary for the implementation of the Storm Damage Assessment Program; and

WHEREAS, the Town of Southeast wishes to join with the Town of Pound Ridge and other interested communities in the sharing of the grant funding to offset the costs of implementing the Storm Damage Assessment Program; and

WHEREAS, the Town of Southeast acknowledges that the Town of Pound Ridge as recipient of the funding will be the controlling agency in ensuring that the hardware, software and data reformulation to be purchased by Pound Ridge for each participating community will in fact be necessary for the successful implementation of the Storm Damage Assessment Program; now therefore be it

RESOLVED, that the Town Board of the Town of Southeast in its capacity as the governing body of the Town hereby joins with the Town of Pound Ridge in sharing the aforementioned funding under the conditions described; and be it further

RESOLVED, that the foregoing resolution take effect immediately.

UPON A ROLL CALL VOTE:

Councilman Alvarez _____
Councilwoman Eckardt _____
Councilman Cullen _____
Councilwoman Hudak _____
Supervisor Hay _____

VOTE: Resolution passed/failed, by a vote of _____, to _____, _____ abstained.

TOWN CLERK'S CERTIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF PUTNAM)

I, MICHELE STANCATI, Town Clerk of the Town of Southeast, do hereby certify that the above is a true and exact copy of a Resolution adopted by the Town Board of the Town of Southeast at a meeting of said board held the 8th day of September, 2016.

MICHELE STANCATI
Town Clerk

R#3

**TOWN BOARD
TOWN OF SOUTHEAST, NEW YORK**

**BOARD OF ASSESSMENT REVIEW
APPOINTMENT OF JOHN HANDY – FULL TERM**

RESOLUTION NO. _____ / 2016

DATE: September 6, 2016

INTRODUCED BY: _____

SECONDED BY: _____

WHEREAS, John Handy is currently serving the balance of an unexpired term on the Board of Assessment Review (“BAR”) which is set to expire on September 30, 2016; and

WHEREAS, the Town Board is in receipt of a recommendation from the BAR and Assessor recommending that Mr. Handy be re-appointed to a full term on the BAR.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Southeast hereby appoints

JOHN HANDY

to the Town of Southeast Board of Assessment Review, such term to commence October 1, 2016 and expire September 30, 2021; and be it further

RESOLVED, that this appointment shall take effect upon the taking and filing of the appropriate oath of office with the Clerk of the Town of Southeast.

Upon Roll Call Vote:

Councilman Alvarez	_____
Councilman Cullen	_____
Councilwoman Eckardt	_____
Councilwoman Hudak	_____
Supervisor Hay	_____

VOTE: carried / defeated by a vote of _____ in favor, _____ against; _____ abstained.

TOWN CLERK'S CERTIFICATION

STATE OF NEW YORK)
 : ss.:
COUNTY OF PUTNAM)

I, MICHELE STANCATI, Town Clerk of the Town of Southeast, do hereby certify that the above is a true and exact copy of a Resolution adopted by the Town Board of the Town of Southeast at a meeting of said board held the 8th day of September, 2016.

MICHELE STANCATI
Town Clerk

R#4

**TOWN BOARD
TOWN OF SOUTHEAST, NEW YORK**

AUDIT OF JUSTICE COURT RECORDS

RESOLUTION NO. _____ / 2016

DATE: September 8, 2016

INTRODUCED BY:

SECONDED BY:

WHEREAS, Section 2019-A of the Uniform Justice Court Act requires the annual examination and audit of local Justice Court records; and

WHEREAS, the Town Board is in receipt of a report of the Town's independent accountant dated June 20, 2016 and has reviewed such report.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Southeast hereby accepts the report of examination of the Town of Southeast Justice Courts for the period ending December 31, 2015 and certifies that the requirements of Section 2019-A have been fulfilled;

AND BE IT FURTHER

RESOLVED, that the Town Clerk is directed to enter a copy of this resolution into the minutes of this meeting and to forward a certified copy of this resolution together with a copy of the report dated June 20, 2016 to Joan Casazza, Internal Contrl Liaison, NYS Office of Court Administration, 2500 Pond View, Suite LL01, Castleton-on-Hudson, New York 12033.

Upon Roll Call Vote:

Councilman Alvarez _____

Councilman Cullen _____

Councilwoman Eckardt _____

Councilwoman Hudak _____

Supervisor Hay _____

VOTE: carried by a vote of _____ in favor, _____ against; _____ abstained.

TOWN CLERK'S CERTIFICATION

STATE OF NEW YORK)
 : ss.:
COUNTY OF PUTNAM)

I, MICHELE STANCATI, Town Clerk of the Town of Southeast, do hereby certify that the above is a true and exact copy of a Resolution adopted by the Town Board of the Town of Southeast at a meeting of said board held the 18th day of April, 2013.

MICHELE STANCATI
Town Clerk