

Draft: Thursday, December 10, 2009 — 12:18 PM

LOCAL LAW NO. 1 [INTRODUCTORY] OF THE YEAR 2010

PLACES OF WORSHIP/ GREENWICH AVENUE REZONING

TABLE OF CONTENTS

Section 1.....	2
Findings and Purpose.....	2
Section 2.....	6
Definitions.....	6
Section 3.....	6
Additional Zoning Ordinance Definitions	6
Section 4.....	7
Zoning Ordinance Amendments	7
Section 5.....	14
SEQRA.....	14
Section 6.....	15
General Municipal Law Referral	15
Section 7.....	15
Supersedence.....	15
Section 8.....	15
Severability	15
Section 9.....	15
Effective Date	15

LOCAL LAW NO. 1 [INTRODUCTORY] OF THE YEAR 2010

PLACES OF WORSHIP/ GREENWICH AVENUE REZONING

A local law to allow, and appropriately limit, religious uses in the various zoning districts of the Village of Goshen.

BE IT ENACTED BY THE VILLAGE BOARD OF THE VILLAGE OF GOSHEN AS FOLLOWS:

Section 1.

Findings and Purpose

1.1. The Village Board of the Village of Goshen does hereby make the following findings and does hereby declare the following purposes with regard to the enactment of this local law:

- ⇒ The Village of Goshen has long had the benefit of multiple places of worship located within both residential areas of the village and, in several cases, within nonresidential areas of the village. Mindful that, in the context of zoning regulations, places of worship occupy a different status from mere commercial enterprises and, when the place of worship enters the picture, different considerations apply because such uses are in furtherance of the public morals and general welfare, this local law attempts to require greater flexibility in the evaluation by the land use boards of the village of applications for religious uses in order that every effort is made to accommodate such uses.

- ⇒ The village is also aware that the Religious Land Use and Institutionalized Persons Act ("RLUIPA") prohibits the village from imposing or implementing a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution is in furtherance of a compelling interest and is the least restrictive means of furthering that compelling interest.

- ⇒ By the same token, neither RLUIPA nor New York's common law trump zoning and the village is not, therefore, obliged to stand helpless in the face of proposed uses that are dangerous to the community simply because those uses

LOCAL LAW NO. 1 [INTRODUCTORY] OF THE YEAR 2010

are religious in nature. Therefore, this local law allows religious uses (at appropriate levels of intensity) within various zoning districts of the village while, at the same time, requires such uses to accommodate to factors directly relevant to public health, safety or welfare, inclusive of fire and similar emergency risks, and traffic conditions insofar as they involve public safety—all without imposing a substantial burden on the religious exercise except as necessary in furtherance of a compelling interest, and then, only in the least restrictive manner necessary to further that compelling interest.

- ⇒ The village notes that a religious use of land and buildings is, in most respects, from a planning perspective, like any land use. It generates demand for community services such as police and fire protection and the need for water and disposal of waste and it generates traffic. For new facilities, it places demands on the land and environment and creates the need to control water runoff and protect against erosion and environmental damage. It may have visual impact and may impact its immediate neighbors. Thus, it is important, in accommodating land uses, that the relationship of that use to the community and neighborhood be considered. At the same time, religious uses reflect activities that are fundamental to our communities and, like education, have a special place in our society's value system. As such they are afforded a special consideration in our regulatory system.

- ⇒ In addition to what we think of as traditional religious activities (weekly worship, holiday worship and celebrations, periodic social events and spiritual guidance), religious institutions serve the broader community with a range of uses related to their religious mission such as counseling, day-care for children or adults, soup kitchens, special ministries, thrift shops, job training and life skills, substance abuse counseling, etc. These uses also have their own impacts and may be incorporated with a place of worship or in a separate facility, on or off site. Generally, they can be viewed as accessory to a place of worship.

- ⇒ In order to accommodate religious use at the appropriate level of intensity within the various zoning districts of the village, the village trustees make the following findings regarding the character and purpose of the zoning districts of the village:
 - The Designed Shopping Center District (DS) consists primarily of commercial uses and Industrial (I) and Industrial Park (IP) Zones include a range of industry, office, and some manufacturing uses. There is some vacant or partially vacant land in these districts.

 - The CS and OB Zones include the downtown businesses, generally on small lots with extensive mixed use, and county government and professional office uses, restaurants and drinking establishments. The latter

LOCAL LAW NO. 1 [INTRODUCTORY] OF THE YEAR 2010

uses are essential to the vibrancy and economic health of the small central business district and the zoning should not permit uses that may preclude these uses. The character of this section of the village is that of a typical small downtown, with buildings situated very close to the street and parking primarily on the street. This creates a very pedestrian oriented environment which lets people walk to shops from their places of employment and from their homes in surrounding zones. The pedestrian environment draws people to business into which they normally would not go if they were driving by in a car. This is a powerful draw for the Village in order to maintain a vibrant economy.

- There is also a large park setting situated in the middle of the downtown at the main intersection of Main and Church Streets (where the OB and CS districts meet), which not only provides green-space, but also integrates itself into the business of the village by holding the annual Great American Weekend, a weekly farmers' market in the summer months and varied activities throughout the year. These amenities not only provide the residents and downtown with an aesthetically pleasing environment, they also work together to drive business throughout the village, and should be protected to enhance the organic development of the village.
 - This park and adjoining church and 1887 County Building literally provides a link between the commercially oriented CS zone and the office/institutional OB Zone to the north.
 - For the most part land use patterns in residential sections of the village are well established. There are some areas with available land for new development, but the pattern will not change.
 - Similarly, the land use patterns in the non-residential zones are established and are generally reflective of the village's goals, but there are potential opportunities for uses requiring larger parcels and off street parking.
- ⇒ Places of worship currently exist in various portions of the village. Most of the existing places of worship are located in the R-1 and OB zoning districts, although one house of worship is located within the CS zoning district.
- ⇒ Accommodating land uses for any purpose that require larger parcels or extensive parking is particularly difficult in the CS zoning district with its small lots, lack of parking and its intended role as a business center.

LOCAL LAW NO. 1 [INTRODUCTORY] OF THE YEAR 2010

- ⇒ Given the need and demands of religious uses, particularly where worship and events generating large public gathering take place—public assembly, parking, traffic, varying times of peak activity, evening activity, and/or lighting that can impact adjoining property—the locating of religious uses present different challenges in each area of the village.

- ⇒ In order to further enhance opportunities for religious uses and to discourage outward sprawl of downtown type uses, a portion of Greenwich Avenue, which includes larger parcels and older historic residential and mixed office and residential uses, should be rezoned from Central Shopping (CS) District to Office Business (OB) District.

- ⇒ From these foregoing findings, it is the determination of the Village Board that, in enacting this local law, the village must:
 - Maintain the integrity of residential neighborhoods.

 - Retain the economic viability of the Village's downtown by maintaining its village center as the social, economic and service center of the community.

 - Retain the historic character and function of the village including its role as a government center.

 - Retain the architectural qualities that reflect Goshen's history.

 - Enhance the Village economic base by encouraging a broad array of office, industrial and institutional uses particularly in the southern portion of the Village.

 - Maintain the quality and scale of the Village infrastructure (streets, utilities, etc.) to support the scale and quality of life desired by the community.

 - Allow religious uses at appropriate scales and levels of intensity consistent with various zoning districts of the village.

LOCAL LAW NO. 1 [INTRODUCTORY] OF THE YEAR 2010

Section 2.

Definitions

2.1. For the purpose of this local law, the following terms shall have the meanings indicated:

<i>Village</i>	The Village of Goshen, Orange County, New York.
<i>Village Board</i>	The Village Board of the Village of Goshen.
<i>Planning Board</i>	The Planning Board of the Village of Goshen.
<i>Zoning Board</i>	The Zoning Board of Appeals of the Village of Goshen.
<i>Ordinance</i>	The zoning ordinance of the Village of Goshen and, where indicated, particular provisions of the Code of Ordinances of the Village of Goshen.

Section 3.

Additional Zoning Ordinance Definitions

3.1. Additional definitions of certain terms shall be included within Section 18.1 [Definitions] of the Zoning Ordinance of the Village of Goshen, said new definitions to read as follows:

Sec. 18.1. Definitions.

* * *

Place of Worship: a structure or place in which worship, ceremonies, rituals and education pertaining to a particular system of belief are held. The educational aspect of a religious use as defined here, including classrooms, is an integral and accessory part of the religious use and is not a physically or organizationally separate facility. Place of Worship may include clergy offices, offices of the place of worship, meeting rooms to be utilized for various activities and community services offered or sponsored by the place of worship, social halls, (except that said social hall may not be utilized as a place of business for a commercial caterer), clergy or caretaker residence, day care and recreation areas.

* * *

Parish House: a structure housing the offices and various accessory functions of a church.

* * *

Rectory: the residence of the clergy accessory to a place of worship.

Section 4.

Zoning Ordinance Amendments

4.1. A new Section 5.7. entitled "Places of worship" shall be added to Article V [Supplementary Regulations] of the Village of Goshen Zoning Ordinance, said section to read as follows:

Sec. 5.7. Places of worship

5.7.1. Development coverage shall not exceed that permitted for residential uses in the respective District.

5.7.2. In reviewing all applications for a Place of Worship consideration shall be given to scale and architecture of adjoining uses.

5.7.3 Parking areas shall not be closer to adjoining properties than the required building setbacks for adjoining uses. Further, where a Place of Worship adjoins a residence, screening, acceptable to the Planning Board, shall be provided.

4.2. A new subsection 12.1.20. entitled "Places of worship; special conditions" shall be added to Article XII [Conditional Use Standards] of the Village of Goshen Zoning Ordinance, said subsection to read as follows:

LOCAL LAW NO. 1 [INTRODUCTORY] OF THE YEAR 2010

12.1.20. Places of worship; special conditions:

12.1.20.1. Places of worship may be allowed as set forth in the tables of general use regulations and in compliance with the table of bulk requirements and, further, in accordance with this section and Section 5.7 of this chapter.

12.1.20.2. Where a dormitory is associated with a school of general or religious instruction, the following special conditions shall apply:

- (a) The density of dormitory or married student housing shall have no greater density of bedrooms per acre than the underlying residential zone for dwellings with up to four bedrooms for facilities in a residential zone.
- (b) Dormitory use shall have direct access to a State or County Road.
- (c) The minimum lot size for a school with dormitory facilities shall be 10 acres.
- (d) Maximum height of a dormitory may be 2½ stories, but in no case exceed 35 feet.
- (e) Dormitories shall be equipped with sprinklers and fire alarm systems in accordance with New York State Uniform Fire Prevention and/Building Code.

4.3. The Table of General Use Regulations, Table 1, RR District, shall be supplemented with the following:

A new conditional use numbered 5 shall be added to Column "C" of the table to read as follows:

Place of Worship, including parish house (but excluding a rectory or a parsonage located in a separate structure which shall conform to the requirement of a one family home) and which shall be carried out in accordance with the requirements of Sections 5.7 and 12.1.20.

LOCAL LAW NO. 1 [INTRODUCTORY] OF THE YEAR 2010

Item I, Column C of Table 2 shall be revised to read as above.

A new use group reference relating to conditional use numbered 5 shall be added to Column "C-1" of the table, said reference to read:

K.1

4.4. The Table of General Use Regulations, Table 5, CS District, shall be revised as follows:

Existing use number 6, Theaters, currently permitted by right in the zone and listed under Column "B" shall be deleted and the numbering of the remaining items shall be adjusted accordingly.

4.5 The Table of General Use Regulations, Table 7, DS District, shall be supplemented with the following:

A new conditional use numbered 7 shall be added to Column "C" of the table to read as follows:

Place of Worship, which shall be carried out in accordance with the requirements of Sections 5.7 and 12.1.20.

A new use group reference relating to conditional use numbered 7 shall be added to Column "C-1" of the table, said reference to read:

H

4.6 The Table of General Use Regulations, Table 8, OB District, shall be supplemented with the following:

A new conditional use numbered 5 shall be added to Column "C" of the table to read as follows:

Place of Worship, which shall be carried out in accordance with the require-

LOCAL LAW NO. 1 [INTRODUCTORY] OF THE YEAR 2010

ments of Sections 5.7 and 12.1.20.

A new use group reference relating to conditional use numbered 7 shall be added to Column "C-1" of the table, said reference to read:

H

4.7 The Table of General Use Regulations, Table 9, I District, shall be supplemented with the following:

A new conditional use numbered 5 shall be added to Column "C" of the table to read as follows:

Place of Worship, which shall be carried out in accordance with the requirements of Sections 5.7 and 12.1.20.

A new use group reference relating to conditional use numbered 5 shall be added to Column "C-1" of the table, said reference to read:

N

A new conditional use numbered 6 shall be added to Column "C" of the table to read as follows:

Place of Worship located in a structure utilized for another use permitted by right or as a conditional use, which shall be carried out in accordance with the requirements of Sections 5.7 and 12.1.20.

A new use group reference relating to conditional use numbered 6 shall be added to Column "C-1" of the table, said reference to read:

Use group designation applicable to host permitted or conditional use.

4.8 The Table of General Use Regulations, Table 10, IP District, shall be supplemented with the following:

LOCAL LAW NO. 1 [INTRODUCTORY] OF THE YEAR 2010

A new conditional use numbered 6 shall be added to Column "C" of the table to read as follows:

Place of Worship, which shall be carried out in accordance with the requirements of Sections 5.7 and 12.1.20.

A new use group reference relating to conditional use numbered 6 shall be added to Column "C-1" of the table, said reference to read:

N

A new conditional use numbered 7 shall be added to Column "C" of the table to read as follows:

Place of Worship located in a structure utilized for another use permitted by right or as a conditional use, which shall be carried out in accordance with the requirements of Sections 5.7 and 12.1.20.

A new use group reference relating to conditional use numbered 7 shall be added to Column "C-1" of the table, said reference to read:

Use group designation applicable to host permitted or conditional use.

4.9 The Table of General Use Regulations, Table 12, HCC District, shall be supplemented with the following:

A new conditional use numbered 2 shall be added to Column "C" of the table to read as follows:

Place of Worship, which shall be carried out in accordance with the requirements of Sections 5.7 and 12.1.20.

A new use group reference relating to conditional use numbered 2 shall be added to Column "C-1" of the table, said reference to read:

N

LOCAL LAW NO. 1 [INTRODUCTORY] OF THE YEAR 2010

A new conditional use numbered 3 shall be added to Column "C" of the table to read as follows:

Place of Worship located in a structure utilized for another use permitted by right or as a conditional use, which shall be carried out in accordance with the requirements of Sections 5.7 and 12.1.20.

A new use group reference relating to conditional use numbered 3 shall be added to Column "C-1" of the table, said reference to read:

Use group designation applicable to host permitted or conditional use.

4.10 The Table of General Use Regulations, Table 2, shall be supplemented with the following:

For the R-1 District a revised conditional use numbered 2 shall be added to Column "C" of the table to read as follows:

Schools of General or Religious Instruction and other educational institutions, which shall be carried out in accordance with the requirements of Sections 5.7 and 12.1.20 and provided that there shall not be any residential use upon such lot or lots other than a guard or caretaker dwelling or dormitory subject to Article XII.

Add Use Group for Column C-1 for both the R-2 and R-3 Districts. Same Use Groups as R-1.

4.11 The Table of General Use Regulations, Table 4, R-3 District, column C-1 shall be revised to read as follows: "conditional uses allowed in the R-1 district (Table 2) under Columns C, numbers 1, 2, 3, 4, 5, 6, 7 and 9.

4.12 The Table of General Use Regulations, Table 1, RR District, shall be supplemented with the following:

A new conditional use numbered 6 shall be added to Column "C" of the table to read as follows:

LOCAL LAW NO. 1 [INTRODUCTORY] OF THE YEAR 2010

Schools of General or Religious Instruction and other educational institutions, which shall be carried out in accordance with the requirements of Sections 5.7 and 12.1.20 and provided that there shall not be any residential use upon such lot or lots other than a guard or caretaker dwelling or dormitory subject to Article XII.

A new use group reference relating to conditional use numbered 6 shall be added to Column "C-6" of the table, said reference to read:

M

4.13. The Table of Bulk Requirements, Part II, shall be supplemented with the following:

A new use group designated K.1 shall be added to Column "1" of the table, that row¹ of the table to read as follows:

1	2	3	4	5	6	7	8	9	10	11
Use Group	Minimum Lot Area	Lot Width	Front Yard	Side Yard	Total Side Yard	Rear Yard	Street Frontage	Maximum Height	Maximum Building Coverage	Maximum Development Coverage
K.1	3 acres	200	50	50	100	50	150	35/ _	20	40

4.14. Add to Table 1 Column E Minimum Off-Street Parking Spaces

4. Place of Worship – Minimum one parking space per 200 square feet of floor area, but not less than one space for each 5 seats.

Add the same language to

Table 7, #11

Table 8, #6

Table 9, #5

¹ The first two rows are abbreviated and for reference purposes only. The bottom row is to be added to Part II of the table.

LOCAL LAW NO. 1 [INTRODUCTORY] OF THE YEAR 2010

Table 10, #8

Table 12, #3

4.15. The zoning maps of the Village shall be amended as follows and as illustrated on the attached maps. All parcels along Greenwich Avenue from High Street south to the existing DS Zone on the east side of the street to the rear of the property and Clowes Street on the West side shall be rezoned from CS To OB. This action includes the following tax parcels: 111-21-2, 111-21-3, 111-21-4, 112-12-7, 111-21-5, 112-12-8, 111-21-7, 111-21-8, 112-12-11.1, 111-21-9, 112-12-12, 111-21-10, 111-21-12, 112-12-13, 111-21-11, 111-21-13, 112-12-14, 112-12-15, 112-12-16, 112-12-17.1, 111-21-14.2, 111-21-15.2, 111-21-15.1, 114-4-20, 114-4-18 and 114-4-19.

Section 5.

SEQRA

Type of Action:

5.1. This matter constitutes a Type I action under the State Environmental Quality Review Act.

Lead Agency:

5.2. The Village Board of the Village of Goshen is the lead agency in regard to this action.

Declaration of Significance:

5.3. A negative declaration was issued on _____.

Section 6.

General Municipal Law Referral

6.1. This application has been referred to the Orange County Planning Department for review and report. The Planning Department has reported that this matter is one for local determination, there being no significant inter-municipal or countywide considerations found to exist.

Section 7.

Supersedence

7.1. This law is specifically intended to supersede (to the extent it departs therefrom) the following sections of the Village Law of the State of New York:

◆ [_____?]

◆ [_____?]

Section 8.

Severability

8.1. The invalidity or unenforceability of any particular provision of this local law shall not affect the validity or enforceability of other provisions of this local law, which such provisions shall continue to be both enforceable and valid.

Section 9.

Effective Date

9.1. This local law shall take effect upon the filing of certified copies thereof with the Office

LOCAL LAW NO. 1 [INTRODUCTORY] OF THE YEAR 2010

of the Secretary of State in accordance with the Municipal Home Rule Law.