

Regular Meeting held by the Town Board, Town of Yorktown on January 20, 2015 held at 363 Underhill Avenue, Yorktown Heights, NY.

Present: Michael J. Grace, Supervisor
Vishnu V. Patel, Councilman
Susan Siegel, Councilman

Also Present: Alice E. Roker, Town Clerk
Jeannette Koster, Town Attorney
John Tegeder, Planning Director
Patricia Caporale, Town Comptroller
Margaret Gspurning, Human Resource Specialist

TOWN BOARD MEETING

Supervisor Michael Grace called the meeting to order

PLEDGE OF ALLEGIANCE

Supervisor Grace led the salute to the flag.

MOMENT OF SILENCE

A moment of silence was observed in honor of our men and women serving in the Armed Forces. The Supervisor also asked that Joan Landzberg, President of the John C. Hart Library Board of Directors and a member of the Ethics Committee, and Brad Lewis a former employee of the Yorktown Water Department, both of whom passed away be remembered.

DURING REPORTS FROM TOWN COUNCIL, Councilman Patel spoke about a resident of the Field Home who celebrated her 104th birthday

DURING COURTESY OF THE FLOOR, the following people addressed the Town Board:

Mr. Robert Giordano, President of the Yorktown Small Business Association spoke about the group's accomplishments during its first year in business.

Mr. Alan Koblick made comments concerning Councilwoman Siegel's proposed vote on the application to operate a convalescent home at 482 Underhill.

COURTESY OF THE FLOOR IS CLOSED

Councilwoman Siegel read a statement, a copy of which is on file pertaining to her vote on the proposal.

DECISION

To consider the application received from Tom McCrossan and Mark McGoldrick for a Special Use Permit to operate a Convalescent Home at 482 Underhill Avenue, Yorktown Heights, NY 10598.

Supervisor Grace read the following proposal into the record.

Nature of the Application

The owners of 482 Underhill Avenue, Tom McCrossan and Mark McGoldrick, d/b/a Compass Westchester, have applied for a special use permit to operate a convalescent home pursuant to the Code of the Town of Yorktown, Section 300-3, Section 300-21 C (1) (b) [3] and Sections 300-28 through 300-36. The property is located in a R1-40 residential zone.

The purpose of the convalescent home, hereinafter referred to either as a "Sober Living Residence" or a "SLR," is to provide a temporary, transitional short term residential facility for up to a maximum of fourteen persons recovering from alcohol and/or substance abuse immediately after they have successfully completed an in-patient therapeutic alcohol and/or substance abuse program.

The convalescent home will operate in the three buildings currently located on the approximate three acre site as shown on SP-2 Site and Landscaping Plan (JWC) dated 10/31/14 (Exhibit B) to be updated as per Conditions (Exhibits D) and on two different drawings with the same A101.00 designation (main house, first floor plan and guest cottage and garage existing floor plans) and drawing A102.00 (main house, existing second floor and attic floor plan) also dated February 18, 2014. (Exhibit A)

The convalescent home will not provide any on-site therapeutic care other than peer interaction or treatment for alcohol and/or substance abuse or provide any on-site medical, psychiatric or professional counseling services.

The convalescent home will be a private pay facility and the persons residing in the facility will be accepted based on the admissions criteria enumerated in the Conditions (Exhibit D).

Review

The application has been reviewed by the Town Board subsequent to a Memorandum of the Building Inspector dated January 16, 2014 that the proposed SLR use complies with the definition of a convalescent home found in Section 300-3 and Section 300-21 C (1) (b) [3] of the Zoning Code and that a convalescent home is not a nursing home as defined in Section 300-42 of the Town Code. The Memorandum of the Building Inspector was appealed to the Zoning Board of Appeals (ZBA) on February 10, 2014, "French and Gironda Appeal No. 4/14," for an interpretation.

The ZBA rendered a decision on July 24, 2014 (Exhibit C) upholding the memorandum of the Building Inspector that the proposed SLR is a convalescent home as defined in Section 300-3 and Section 300-21 C (1) (b) [3] of the Zoning Code; that a convalescent home and a nursing home constitute two distinct uses and as such, a convalescent home is not subject to the requirements of Section 300-42 of the Zoning Code; and that in the absence of any specific provisions in the Zoning Code designating the approval authority for special use permits for convalescent homes, it is "reasonable and appropriate" to consider the Town Board the approval authority for special use permits for convalescent homes.

The ZBA also found that there are no "specific or individual special permit requirements" for a convalescent home and as such, the only requirements for a convalescent home that must be met are the very general and minimal standards found in Section 300-36 of the Zoning Code and which apply to all special use permit applications.

On August 25, 2014 an Article 78 proceeding was filed in Supreme Court challenging the ZBA's determination that 1) the SLR is a convalescent home; 2) that the standards in Section 300-42 of the Zoning Code do not apply to a convalescent home; and 3) that the Town Board was legally authorized to be the approval authority for a special use permit for a convalescent home. As of the date of this resolution, the Article 78 proceeding is still pending.

It is an established fact in law that entitlement to a special use permit is not a matter of right and that applications for special use permits must meet applicable standards in the Zoning Code. It is also an established fact in law that approval authorities may impose additional "reasonable conditions" on the special use permit to assure compliance with those standards.

Findings

Pending a ruling on the Article 78 lawsuit, the Town Board is bound by the ZBA's July 24, 2014 decision. As such, the only standards by which the Town Board can review the Compass Westchester application for a special use permit for a convalescent home are those found in Sections 300-28 through 300-35 and the following general minimal standards in Section 300-36, subsection A-D.

- A. The location and size of the use, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation

to it and the location of the site with respect to streets giving access to it shall be such that it will be in harmony with the appropriate and orderly development of the district in which it is located.

B.

The location, nature and height of buildings, walls and fences and the nature and extent of the landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

C.

Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, vibration, excessive light, smoke, gas, fumes, odor or other atmospheric pollutants than would be the operations of any permitted uses.

D.

Parking areas shall be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to prevent traffic hazards and nuisances.

After review of the Compass Westchester application by both the Planning Board and the Town Board; the May 19, 2014 Department of Health approval of the property's septic system for a convalescent home subject to specific required modifications to the system and plumbing facilities in the dwelling units; and after taking into consideration written submissions and input from the general public at a public hearing held on March 4, 2014, April 1, 2014, October 7, 2014, October 21, 2014, and November 18, 2014, and deliberations thereon, the Town Board finds that, subject to the attached Conditions (Exhibit D), the Compass Westchester application meets the standards of Sections 300-28 through 300-35 of the Zoning Code and the general and minimal standards set forth in Section 300-36 of the Zoning Code and that for these reasons the special use permit is granted for a period of three years from the date of this approval resolution and will be subject to renewal as indicated in the Conditions (Exhibit D).

Annexed and made part of this resolution is a determination under the State Environmental Quality Review Act that the herein action is an unlisted action and a finding that the proposed action presents no adverse environmental impacts.

Exhibit D
Permit Conditions

The special use permit to operate a convalescent home at 482 Underhill Avenue, Yorktown Heights, NY, is subject to compliance with the following conditions.

1. The convalescent home shall not be occupied until the following conditions are met:
 - a. The Building Inspector shall assure that the premises are in compliance with the conditions of the Department of Health septic approval requiring the installation of a 2,000 gallon septic tank and the installation of low flow plumbing fixtures throughout the three dwelling units.
 - b. If the Applicants plan to continue use of the indoor swimming pool in the main building, they will provide copies of the Department of Health determination as to what type of pool permit is required and documentation that they have received the necessary permit/s and that they comply with all applicable codes. If the pool use is to be discontinued, it must be closed and protected in a manner approved by the Building Inspector and the Building Inspector shall provide a written report indicating that the pool has been satisfactorily closed.
 - c. The Applicants have submitted revised architectural drawings updating those in Exhibit A showing that the legal number of bedrooms shall not

exceed: 1) in the main house, four bedrooms on the second floor and one bedroom on the third floor; 2) in the garage, three bedrooms on the second floor; and 3) in the guest cottage, one bedroom on the second floor; and that such drawings shall be reviewed by the Building Inspector for compliance with all New York State building and fire codes.

- d. In order to comply with the screening, landscaping, buffering and parking requirements of Section 300-36 of the Zoning Code, the Applicants shall update the 10/31/2014 SP-2 Site and Landscaping Plan (Exhibit B) and combine it with SP-1 (separate Exhibit B) in order to consolidate all the information onto one plan, said plan to be reviewed by the Building Inspector who shall provide written comments to the Town Board for its review and approval. The revised SP-2 Plan shall show the following:
 - i. The privet hedge shown on SP-2, dated 10/31/2014 should be moved to align with the stone wall.
 - ii. The plantings in the northeast corner of the parcel are to be four (4) Norway Spruces, 6-8 feet tall along the rear of the property and two (2) Doublefile Viburnum (VP) shrubs along the east side of the garage.
 - iii. Replacement of the existing chain link fence at the rear of the property with a new 6' stockade fence
 - iv. The location of existing outside lighting from the proposed parking spaces adjacent to French Hill Road to the main house, garage and cottage
 - v. The location of 9 existing parking spaces, drawn to scale, and the location of 6 conservation spaces with the notation whether they are for staff or visitors
 - e. Either the Building Inspector or the Environmental Code Inspector shall have inspected the parking, fencing, buffering and other site plan requirements included on the revised SP-2 as noted above and have issued a written report indicating that the site plan requirements have been satisfactorily complied with.
 - f. The Fire Inspector shall have inspected both the interior of the three dwelling units and the exterior of the property and issued a written report that the buildings and the site have been inspected and meet all applicable requirements of the NYS Fire Code and that the parking layout and traffic flow for emergency vehicles has been reviewed and found to be adequate.
2. Pursuant to Section 300-32 of the Zoning Code, this special use permit shall be considered null and void if all the physical improvements required for this special use permit have not been completed within six months from the date of this resolution, the only exception to the six month period being if the July 24, 2014 Zoning Board of Appeals decision remains the subject of litigation.
 3. Six months after the facility accepts its first residents, and annually thereafter, the Applicants shall meet with the Town Board and/or other designated Town Officials to discuss and review the Applicants' performance and adherence to the conditions of the special permit.
 4. The Applicants shall adhere to their stated operational plans for the convalescent home as set forth below:
 - a. The following conditions shall apply to all persons applying for and accepted as temporary residents in the convalescent home
 - i. Shall be pre-screened by New York State licensed health care professionals
 - ii. Shall be employed, employable and, if not currently employed, actively seeking employment

- iii. Shall be 18 years of age or older
 - iv. Shall have no current alcohol or substance abuse, shall agree to abstain from alcohol and/or illicit drugs while residing in the convalescent home and shall consent to random testing for same
 - v. Shall have no serious psychiatric illness
 - vi. Shall be subject to criminal background checks and have no history of violent behavior or crimes and no history of sexual misconduct or crimes
 - vii. Shall participate in off-site counseling and self-help meetings
 - viii. Shall be required to sign the House Rules (Exhibit E) prior to admission and adhere to the House Rules during their stay at the convalescent home
 - ix. Shall be self-pay with no government funding paying for the cost of their stay in the convalescent home
 - x. Shall not have been mandated for admission by the criminal justice system or any diversion program.
- b. The Applicants will enforce the House Rules (Exhibit E).
 - c. The operation of the convalescent home shall be supervised by a house manager 24 hours a day/7 days a week
 - d. The maximum number of residents at one time shall be 14
 - e. The residents shall not be allowed to bring any motorized vehicles on the property, keep any motorized vehicles off-site, or drive any such vehicles at any time while residing in the convalescent home.
 - f. No changes are to be made in the House Rules without prior notice to the Town Board.
 - g. The Applicants shall perform a criminal background check on all prospective staff members.
 - h. There will be no exterior signage on the premises indicating the name of the facility
 - i. The Applicants will not use commercial vehicles for transporting residents of the convalescent home and there will be no signs on the passenger vans or cars displaying the name of the facility that are used to transport residents.
5. Any changes to the above operational plans shall be subject to prior notice to the Town Board.
6. The applicants shall provide transportation to off-site counseling and self-help sessions and shall provide appropriate transportation to all employed residents and those seeking employment.
7. The Applicants shall provide a staffing plan, indicating the number of type of positions of the people to be hired, on a part time or full time basis, and to provide the names and contact information (phone and email) for the house manager/s so that they can be contacted at any time in the event of an emergency situation. In the event the number of staff persons on premises at any given time exceeds four persons, the applicants will notify the Town Board which will review the existing approved site plan in order to determine if additional parking spaces are needed, and if so, where they should be located.
8. Staff members shall have prior work experience in sober living residences and/or other treatment modalities or other experience relevant to their position.
9. The Applicants shall provide a liaison, initially Thomas McCrossan, to all Town agencies, who will meet as requested to review any issues and concerns.
10. The Applicants shall respond to a request for a meeting with neighbors or town residents within a reasonable time after receiving such request and such meeting shall be held within a reasonable time thereafter. Copies of such requests shall be sent to the Town Clerk and a representative of the Town may attend such meetings. If an emergency condition exists, the neighbors or town residents shall

notify the Town Clerk as soon as practical and a representative of the town shall meet with the Applicants within 48 hours.

11. The Applicants must apply for the renewal of the special permit 90 days prior to the expiration date of issuance of the permit.
12. Pursuant to Section 300-33 of the Town Code, the Town Board may revoke the special permit if the Board finds and determines, after a public hearing held in the manner provided for by law for that Board, that there has been a failure of compliance with the terms, conditions, limitations and requirements imposed by this permit.
13. The Applicants shall maintain adequate liability and other insurance and shall provide evidence of same to the Town Attorney within one month of the facility accepting its first resident.
14. In the event of a resident's failure to comply with the above-referenced House Rules, the Applicants will remove the resident from the premises.
15. The provisions of Section 300-30 of the Zoning Code notwithstanding, in the event there is a change of ownership in the property, or in the operator of the convalescent home such that neither of the Applicants, Thomas McCrossan or Mark McGoldrick, or a company in which at least one of them is a principal, an owner of the property and/or operator of the convalescent home, this permit shall be considered null and void. However, to assure a smooth transition to the new owner or operator, the new owner and/or operator may apply not less than 90 days before assuming ownership and/or operation for a renewal of this special use permit. Any new owner or operator shall be bound by the conditions of this permit and any additional reasonable conditions that the Town Board deems appropriate after the holding of a public hearing. If the new owner or operator fails to obtain a new special use permit, the convalescent home use shall be discontinued within 30 days from the expiration of the original special use permit and the use of the property shall revert to its present single family residential use.
16. Upon any revocation or expiration of the special permit, the use of the property shall revert to its present single family residential use.
17. The Town's Code Enforcement Officer shall be afforded reasonable access to inspect the property, insofar as relevant to the conditions of the special permit, in order to ensure compliance therewith and to check for compliance with other applicable Town codes.
18. During the duration of this special use permit, with the exception of ordinary repair, maintenance and landscaping operations, the grounds and the exterior of the buildings shall not be altered or modified, and the existing conditions shall be maintained in compliance with the plans approved in conjunction with the issuance of this special use permit. Any future interior changes to the buildings shall be subject to receiving all required permits and, in the event any interior changes are made, the Applicants will submit plans that will be attached to and become part of this special use permit.
19. During duration of this special permit, the Applicants will provide a landscaping performance bond, in an amount specified by the Town Engineer and for a period of three (3) years, to insure the survival of any trees or shrubs that are required to be planted pursuant to the above conditions.

List of Exhibits

Exhibit A	Architectural Drawings, 2/18/2014, indicating existing conditions
	<ul style="list-style-type: none">• SP-1.00: Site Plan – Indicating 3 dwelling units• A101.00: Main House Existing First Floor Plan• A102.00 : Main House Existing Second Floor and Attic

Floor Plans

- A101.00 Existing Cottage and Garage plan. (Note: 2 plans have the same number.)

Exhibit B

Exterior Drawings and Site Plans

- SP-2 dated 10/31/14 "Site Layout and Landscaping Plan"
- SP-1 dated 10/31/14 "Existing Site Plan"

Exhibit C

ZBA Determination

Exhibit D

Conditions

Exhibit E

House Rules

Supervisor Grace and Councilwoman Siegel suggested additional changes to the proposed resolution..

Town Attorney Koster asked to be given a few minutes to make the changes to the proposal.

There was further discussion between Board Members.

Councilman Patel stated that he was given this resolution just moments ago. He reiterated his policy concerning voting on items that were not sent to him at least twenty four hours in advance.

Supervisor Grace asked Councilman Patel if he would like additional time to consider the resolution.

REQUEST FOR A SPECIAL PERMIT TO OPERATE A CONVALESCENT HOME
RESOLUTION #36

Upon Motion by Supervisor Grace, seconded by Councilwoman Siegel,

Nature of the Application

The owners of 482 Underhill Avenue, Tom McCrossan and Mark McGoldrick, d/b/a Compass Westchester, have applied for a special use permit to operate a convalescent home pursuant to the Code of the Town of Yorktown, Section 300-3, Section 300-21 C (1) (b) [3] and Sections 300-28 through 300-36. The property is located in a R1-40 residential zone.

The purpose of the convalescent home, hereinafter referred to either as a "Sober Living Residence" or a "SLR," is to provide a temporary, transitional short term residential facility for up to a maximum of fourteen persons recovering from alcohol and/or substance abuse immediately after they have successfully completed an in-patient therapeutic alcohol and/or substance abuse program.

The convalescent home will operate in the three buildings currently located on the approximate three acre site as shown on SP-2 Site and Landscaping Plan (JWC) last revised 1/19/15 (Exhibit B) to be updated as per Conditions (Exhibit D) and on two different drawings with the same A101.00 designation (main house, first floor plan and guest cottage and garage existing floor plans) and drawing A102.00 (main house, existing second floor and attic floor plan) last revised 1/19/15. (Exhibit A)

Deleted: dated 10/31/14

Deleted: also dated February 18, 2014.

The convalescent home will not provide any on-site therapeutic care other than peer interaction or treatment for alcohol and/or substance abuse or provide any on-site medical, psychiatric or professional counseling services.

The convalescent home will be a private pay facility and the persons residing in the facility will be accepted based on the admissions criteria enumerated in the Conditions (Exhibit D).

Review

The application has been reviewed by the Town Board subsequent to a Memorandum of the Building Inspector dated January 16, 2014 that the proposed SLR use complies with the definition of a convalescent home found in Section 300-3 and Section 300-21 C (1) (b) [3] of the Zoning Code and that a convalescent home is not a nursing home as defined in Section 300-42 of the Town Code. The Memorandum of the Building Inspector was appealed to the Zoning Board of Appeals (ZBA) on February 10, 2014, "French and Gironda Appeal No. 4/14," for an interpretation.

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The ZBA also found that there are no "specific or individual special permit requirements" for a convalescent home and as such, the only requirements for a convalescent home that must be met are the very general and minimal standards found in Section 300-36 of the Zoning Code and which apply to all special use permit applications.

On August 25, 2014 an Article 78 proceeding was filed in Supreme Court challenging the ZBA's determination that 1) the SLR is a convalescent home; 2) that the standards in Section 300-42 of the Zoning Code do not apply to a convalescent home; and 3) that the Town Board was legally authorized to be the approval authority for a special use permit for a convalescent home. As of the date of this resolution, the Article 78 proceeding is still pending.

It is an established fact in law that entitlement to a special use permit is not a matter of right and that applications for special use permits must meet applicable standards in the Zoning Code. It is also an established fact in law that approval authorities may impose additional "reasonable conditions" on the special use permit to assure compliance with those standards.

Findings

Pending a ruling on the Article 78 lawsuit, the Town Board is bound by the ZBA's July 24, 2014 decision. As such, the only standards by which the Town Board can review the Compass Westchester application for a special use permit for a convalescent home are those found in Sections 300-28 through 300-35 and the following general minimal standards in Section 300-36, subsection A-D.

A. The location and size of the use, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it shall be such that it will be in harmony with the appropriate and orderly development of the district in which it is located.

B.
The location, nature and height of buildings, walls and fences and the nature and extent of the landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

C.
Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, vibration, excessive light, smoke, gas, fumes, odor or other atmospheric pollutants than would be the operations of any permitted uses.

D.

Parking areas shall be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to prevent traffic hazards and nuisances.

After review of the Compass Westchester application by both the Planning Board and the Town Board; the May 19, 2014 Department of Health approval of the property's septic system for a convalescent home subject to specific required modifications to the system and plumbing facilities in the dwelling units; and after taking into consideration written submissions and input from the general public at a public hearing held on March 4, 2014, April 1, 2014, October 7, 2014, October 21, 2014, and November 18, 2014, and deliberations thereon, the Town Board finds that, subject to the attached Conditions (Exhibit D), the Compass Westchester application meets the standards of Sections 300-28 through 300-35 of the Zoning Code and the general and minimal standards set forth in Section 300-36 of the Zoning Code and that for these reasons the special use permit is granted for a period of three years from the date of this approval resolution and will be subject to renewal as indicated in the Conditions (Exhibit D).

Annexed and made part of this resolution is a determination under the State Environmental Quality Review Act that the herein action is an unlisted action and a finding that the proposed action presents no adverse environmental impacts.

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 - c. The Applicants have submitted revised architectural drawings updating those in Exhibit A showing that the legal number of bedrooms shall not exceed: 1) in the main house, four bedrooms on the second floor and one bedroom on the third floor; 2) in the garage, three bedrooms on the second floor; and 3) in the guest cottage, one bedroom on the second floor; and that such drawings shall be reviewed by the Building Inspector for compliance with all New York State building and fire codes.
 - d. In order to comply with the screening, landscaping, buffering and parking requirements of Section 300-36 of the Zoning Code, the Applicants shall update the 10/31/2014 SP-2 Site and Landscaping Plan (Exhibit B) and combine it with SP-1 (separate Exhibit B) in order to consolidate all the information onto one plan, said plan to be reviewed by the Building Inspector who shall provide written comments to the Town Board for its review and approval. The revised SP-2 Plan shall show the following:

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 - vi. The plantings in the northeast corner of the parcel are to be four (4) Norway Spruces, 6-8 feet tall along the rear of the property and two (2) Doublefile Viburnum (VP) shrubs along the east side of the garage.
 - vii. Replacement of the existing chain link fence at the rear of the property with a new 6' stockade fence
 - viii. The location of existing outside lighting from the proposed parking spaces adjacent to French Hill Road to the main house, garage and cottage
 - v. The location of 9 existing parking spaces, drawn to scale, and the location of 6 conservation spaces with the notation whether they are for staff or visitors
 - e. Either the Building Inspector or the Environmental Code Inspector shall have inspected the parking, fencing, buffering and other site plan requirements included on the revised SP-2 as noted above and have issued a written report indicating that the site plan requirements have been satisfactorily complied with.
 - f. The Fire Inspector shall have inspected both the interior of the three dwelling units and the exterior of the property and issued a written report that the buildings and the site have been inspected and meet all applicable requirements of the NYS Fire Code and that the parking layout and traffic flow for emergency vehicles has been reviewed and found to be adequate.
2. Pursuant to Section 300-32 of the Zoning Code, this special use permit shall be considered null and void if all the physical improvements required for this special use permit have not been completed within six months from the date of this resolution, the only exception to the six month period being if the July 24, 2014 Zoning Board of Appeals decision remains the subject of litigation.
 3. Six months after the facility accepts its first residents, and annually thereafter, the Applicants shall meet with the Town Board and/or other designated Town Officials to discuss and review the Applicants' performance and adherence to the conditions of the special permit.
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 - ii. Shall be employed, employable and, if not currently employed, actively seeking employment
 - iii. Shall be 18 years of age or older
 - iv. Shall have no current alcohol or substance abuse, shall agree to abstain from alcohol and/or illicit drugs while residing in the convalescent home and shall consent to random testing for same
 - v. Shall have no serious psychiatric illness
 - vi. Shall be subject to criminal background checks and have no history of violent behavior or crimes and no history of sexual misconduct or crimes
 - vii. Shall participate in off-site counseling and self-help meetings
 - viii. Shall be required to sign the House Rules (Exhibit E) prior to admission and adhere to the House Rules during their stay at the convalescent home

- ix. Shall be self-pay with no government funding paying for the cost of their stay in the convalescent home
 - x. Shall not have been mandated for admission by the criminal justice system or any diversion program.
- a. The Applicants will enforce the House Rules (Exhibit E).
 - b. The operation of the convalescent home shall be supervised by a house manager 24 hours a day/7 days a week
 - c. The maximum number of residents at one time shall be 14
 - d. The residents shall not be allowed to bring any motorized vehicles on the property, keep any motorized vehicles off-site, or drive any such vehicles at any time while residing in the convalescent home.
 - e. No changes are to be made in the House Rules without prior notice to the Town Board.
 - f. The Applicants shall perform a criminal background check on all prospective staff members.
 - g. There will be no exterior signage on the premises indicating the name of the facility
 - h. The Applicants will not use commercial vehicles for transporting residents of the convalescent home and there will be no signs on the passenger vans or cars displaying the name of the facility that are used to transport residents.
- 5 Any changes to the above operational plans shall be subject to prior notice to the Town Board.
- 6 The applicants shall provide transportation to off-site counseling and self-help sessions and shall provide appropriate transportation to all employed residents and those seeking employment.
- 7 The Applicants shall provide a staffing plan, indicating the number of type of positions of the people to be hired, on a part time or full time basis, and to provide the names and contact information (phone and email) for the house manager/s so that they can be contacted at any time in the event of an emergency situation. In the event the number of staff persons on premises at any given time exceeds four persons, the applicants will notify the Town Board which will review the existing approved site plan in order to determine if additional parking spaces are needed, and if so, where they should be located.
- 8 Staff members shall have prior work experience in sober living residences and/or other treatment modalities or other experience relevant to their position.
- 9 The Applicants shall provide a liaison, initially Thomas McCrossan, to all Town agencies, who will meet as requested to review any issues and concerns.
- 10 The Applicants shall respond to a request for a meeting with neighbors or town residents within a reasonable time after receiving such request and such meeting shall be held within a reasonable time thereafter. Copies of such requests shall be sent to the Town Clerk and a representative of the Town may attend such meetings. If an emergency condition exists, the neighbors or town residents shall notify the Town Clerk as soon as practical and a representative of the town shall meet with the Applicants within 48 hours.
- 11 The Applicants must apply for the renewal of the special permit 90 days prior to the expiration date of issuance of the permit.
- 12 Pursuant to Section 300-33 of the Town Code, the Town Board may revoke the special permit if the Board finds and determines, after a public hearing held in the manner provided for by law for that Board, that there has been a failure of compliance with the terms, conditions, limitations and requirements imposed by this permit.
- 13 The Applicants shall maintain adequate liability and other insurance and shall provide evidence of same to the Town Attorney within one month of the facility accepting its first resident.
- 14 In the event of a resident's failure to comply with the above-referenced House Rules, the Applicants will remove the resident from the premises.
- 15 The provisions of Section 300-30 of the Zoning Code notwithstanding, in the event there

is a change of ownership in the property, or in the operator of the convalescent home such that neither of the Applicants, Thomas McCrossan or Mark McGoldrick, or a company in which at least one of them is a principal, an owner of the property and/or operator of the convalescent home, this permit shall be considered null and void. However, to assure a smooth transition to the new owner or operator, the new owner and/or operator may apply not less than 90 days before assuming ownership and/or operation for a renewal of this special use permit. Any new owner or operator shall be bound by the conditions of this permit and any additional reasonable conditions that the Town Board deems appropriate after the holding of a public hearing. If the new owner or operator fails to obtain a new special use permit, the convalescent home use shall be discontinued within 30 days from the expiration of the original special use permit and the use of the property shall revert to its present single family residential use.

- 16 Upon any revocation or expiration of the special permit, the use of the property shall revert to its present single family residential use.
- 17 The Town's Code Enforcement Officer shall be afforded reasonable access to inspect the property, insofar as relevant to the conditions of the special permit, in order to ensure compliance therewith and to check for compliance with other applicable Town codes.
- 18 During the duration of this special use permit, with the exception of ordinary repair, maintenance and landscaping operations, the grounds and the exterior of the buildings shall not be altered or modified, and the existing conditions shall be maintained in compliance with the plans approved in conjunction with the issuance of this special use permit. Any future interior changes to the buildings shall be subject to receiving all required permits and, in the event any interior changes are made, the Applicants will submit plans that will be attached to and become part of this special use permit.
- 19 During duration of this special permit, the Applicants will provide a landscaping performance bond, in an amount specified by the Town Engineer and for a period of three (3) years, to insure the survival of any trees or shrubs that are required to be planted pursuant to the above conditions.

List of Exhibits

Exhibit A	Architectural Drawings, 2/18/2014, indication existing conditions <ul style="list-style-type: none">• SP-1.00: Site Plan – Indicating 3 dwelling units• A101.00: Main House Existing First Floor Plan• A102.00 : Main House Existing Second Floor and Attic Floor Plans• A101.00 Existing Cottage and Garage plan. (Note: 2 plans have the same number.)
Exhibit B	Exterior Drawings and Site Plans <ul style="list-style-type: none">▪ SP-2 dated 10/31/14 "Site Layout and Landscaping Plan"▪ SP-1 dated 10/31/14 "Existing Site Plan"
Exhibit C	ZBA Determination
Exhibit D	Conditions
Exhibit E	House Rules

Grace, Siegel Voting Aye
Patel Voting Nay
Resolution fails

PUBLIC HEARING

CON EDISON – IN CONNECTION WITH PROPERTY KNOW ON THE TAX ROLLS AS SECTION, PARCEL AND LOTS 69.13-1-5, 69.14-1-2, 69.18-1-1 FOR ROUTINE VEGETATION MANAGMENT

Supervisor Grace convened the Public Hearing to consider the application made by Con Edison for a Wetlands Permit - in connection with property known on the Yorktown Tax Rolls as Section, Parcel and lots 69.13-1-5, 69.14-1-2, 69.18-1-1 for Routine Vegetation Management along overhead electrical transmission Rights-of-Way.

Mr. Michael Amato, representing Con Edison stated that the permit would allow his company to perform routine vegetation management along overhead electrical transmission rights of way.

Supervisor Grace read comments from:

The Tree Conservation Advisory Commission dated December 26, 2014.

The Conservation Board dated January 9, 2015. In its memorandum, the Conservation Board further stated that Con Edison has requested a General Permit. If that type of permit is issued, any alteration to Con Edison's current Management Practices, be brought back to their attention

There was discussion between Mr. Amato and the Supervisor concerning a General Permit.

The Town Board will have a decision on this application at its next meeting.

All those present having been given the opportunity to be heard and there being no further discussion the hearing was Closed. Upon motion made by Supervisor Grace, seconded by Councilman Patel.

PUBLIC HEARING

MANDALAY BUILDERS, LLC IN CONNECTION WITH PROPERTY KNOWN ON THE TAX ROLLS AS SECTION, PARCEL AND LOT: 26.18-1-9, 26.18-1-10, 26.18-1-11, 26.18-1-12, 26.18-1-13, 26.18-1-14, 26.18-1-15, 26.18-1-16 FOR A CHANGE OF ZONE FROM R1-20 TO C2 AND R-3

Supervisor Grace convened the Public Hearing to consider the application made by Mandalay Builders, LLC in connection with property known on the Yorktown Tax Rolls as Section, Parcel and lots 26.18-1-9, 26.18-1-10, 26.18-1-11, 26.18-1-12, 26.18-1-13, 26.18-1-14, 26.18-1-15, 26.18-1-16 for a Change of Zone from R1-20 to C2 and R-3. Affidavits of Posting and Publication were presented by the Town Clerk.

Using a power point presentation, Mrs. Ann Kutter gave an overview of the application saying the area totals 23.61 acres. The development would take place along the north side of the area known as the Bear Mountain Triangle. The parcels are zoned R1-20. The request is to have a mix of residential and commercial properties.

Dan Ciarcia, Engineer for the applicant stated that he will be tasked with looking at potential environmental impacts..

Dr. Philip Greeley, a representative of Mazur Consulting will be studying traffic.

Mr. Fred Wells, a representative of Tim Miller Associates will be looking at the visual impacts of this proposal..

Ms. Ann Cutignola, a representative of Tim Miller Associates will be looking at the fiscal impacts of this proposal. She will be studying costs and taxes to the school district and the local government..

Mr. Gary Ajello is the attorney for Peter Antonaros, who owns property within the proposed rezoning area. This area was proposed for rezoning when he sat on the Town Board. The recommendation at that time was to make the area non-residential.

Mr. Ken Belfer, Chairman of the Yorktown Community Housing Board stated that his committee is pleased to see this type of application. Mr. Belfer asked that affordable units be considered in this development, possibly rental units.

Mr. Steve Otyadas, who is part owner of the property that Mr. Ajello's client owns stated that he has no objections with this proposal.

Mr. Gregory Bernard stated that this application represents an opportunity for the Town Board to insure that improvements are made to the area rather than waiting for the Planning Board.

Supervisor Grace read comments sent in by the following people and or Boards:

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Gary Ajello – dated December 3, 201
Planning Board – dated October 10, 2014
Mr. Alfio Della Vecchia – dated May 27, 2014
Mr. John Bauso – dated June, 2014
Conservation Board to Planning Board dated January 20, 2015
New York City Department of Environmental Protection – January 12, 2015
Westchester County Planning Board – dated December 23, 2014
NYS Department of Transportation – dated January 14, 2015
ABACA – dated December 17, 2014
Yorktown Police Department – December 8, 2014

Supervisor Grace stated that the next step will be to hold a work session with the applicant to decide what type of environmental review is appropriate.

All those present having been given the opportunity to be heard and there being no further discussion the hearing was adjourned. Upon motion made by Supervisor Grace, seconded by Councilman Patel.

AWARD BID FOR THE EMERGENCY GENERATOR AT YCCC
RESOLUTION #37

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

Bids were received on January 20th, 2015 for Plumbing Work to connect Emergency Generator at the YCCC, Bid #14-02, and are summarized as follows:

James Ford Plumbing and Heating	\$49,000.00
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Sun-Dance Energy Contractor's Inc., d/b/a Markley Mechanical	
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	\$30,400.00
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RESOLVED, that the bid for Plumbing Work to connect Emergency Generator at the YCCC, be awarded to Sun-Dance Energy Contractor's Inc., d/b/a Markley Mechanical, at a total bid price of \$30,400.00, and be it further.

RESOLVED, the Town Board authorizes the Town Comptroller to transfer \$30,400.00 from fund balance A909 to Building Maintenance Generator A.1625.0416.003.

Grace, Patel, Siegel Voting Aye
Resolution adopted.

AUTHORIZE COMPTROLLER TO AMEND 2015 BUDGET
RESOLUTION #38

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

Be it resolved, that the Comptroller is hereby authorized to amend the 2015 adopted budget as follows:

General Fund Tax Levy	\$12,798,281
General Fund Appropriated Fund Balance	\$ 921,000

Grace, Patel, Siegel Voting Aye
Resolution adopted.

AUTHORIZE COMPTROLLER TO PAY FREDERICK GAUTHIER CASH VALUE
OF UNUSED TIME
RESOLUTION #39

Upon motion made by Councilman Patel, seconded by Councilman Siegel,

Be it resolved that the Town Board hereby authorizes the Town Comptroller to pay Frederick Gauthier the cash value of unused time and pro-rated longevity as of his retirement date:

Rate of Pay: \$37.3109 hourly

Sick	416.33 hours @	50%	=	208.17 hours
	208.17 hours x	\$37.3109	=	\$ 7,767.01

Vacation	187.50 hours x	\$37.3109	=	\$ 6,995.80
Grandfathered	42.75 hours x	\$26.5100	=	\$ 1,133.31

Personal Days	22.50 hours x	\$37.3109	=	\$ 839.50
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Floating Holiday	15.00 hours x	\$37.3109	=	\$ 559.66
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Longevity

\$1,400 / 261 days = \$5.36 per day

03/05/14 to 01/09/15 = 223 days

223 days x \$ 5.36	=	\$ 1,195.28
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Total \$ 18,490.56

Be it further resolved that the Comptroller is hereby authorized to transfer funds for the purpose of this payout at retirement as follows:

From:
D909.8 Highway Fund Reserve for Employee Accrued Benefits
To:
D.5110.108 Highway Lump Sum Payments
Amount:
\$18,490.56

Grace, Patel, Siegel Voting Aye
Resolution adopted.

AUTHORIZE COMPTROLLER TO PAY RAYMOND GRANATA CASH VALUE OF
UNUSED TIME
RESOLUTION #40

Upon motion made by Councilman Patel, seconded by Councilman Siegel,

Be it resolved that the Town Board hereby authorizes the Town Comptroller to pay Raymond Granata the cash value of unused time and pro-rated longevity as of his retirement date:

Rate of Pay: \$37.3109 hourly

Sick	1293.80 hours @	50%	=	646.90 hours
	646.90 hours x	\$37.3109	=	\$24,136.43

Vacation	180.00 hours x	\$37.3109	=	\$ 6,715.97
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Personal Days	22.50 hours x	\$37.3109	=	\$ 839.50
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Floating Holiday	15.00 hours x	\$37.3109	=	\$ 559.66
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Longevity
 $\$1,400 / 261 \text{ days} = \5.36 per day
 $07/06/14 \text{ to } 01/09/15 = 135 \text{ days}$
 135 days x \$ 5.36 = \$ 723.60
 Total \$ 32,975.16

Be it further resolved that the Comptroller is hereby authorized to transfer funds for the purpose of this payout at retirement as follows:

From:
 D909.8 Highway Fund Reserve for Employee Accrued Benefits
 To:
 D.5110.108 Highway Lump Sum Payments
 Amount:
 \$32,975.16

Grace, Patel, Siegel Voting Aye
 Resolution adopted.

AUTHORIZE COMPTROLLER TO PAY GLEN G. SNEYD CASH VALUE OF UNUSED TIME
RESOLUTION #41

Upon motion made by Councilman Patel, seconded by Councilman Siegel,

Be it resolved that the Town Board hereby authorizes the Town Comptroller to pay Glen G Sneyd the cash value of unused time and pro-rated longevity as of his retirement date:

Rate of Pay: \$47.9573 hourly

Sick	58 hours	@	50%	=	29 hours
	29 hours	x	\$47.9573	=	\$ 1,390.76
Vacation	175 hours	x	\$47.9573	=	\$ 8,392.53
Personal Days	21 hours	x	\$47.9573	=	\$ 1,007.11
Floating Holiday	14 hours	x	\$47.9573	=	\$ 671.41

Longevity
 $\$1,400 / 261 \text{ days} = \5.36 per day
 $07/24/14 \text{ to } 01/02/15 = 116 \text{ days}$
 116 days x \$ 5.36 = \$ 630.00
 Total \$ 12,091.82

Be it further resolved that the Comptroller is hereby authorized to transfer funds for the purpose of this payout at retirement as follows:

From:
 A909.8 General Fund Reserve for Employee Accrued Benefits
 To:
 A.3620.108 Building Department Lump Sum Payments
 Amount:
 \$12,091.82

Grace, Patel, Siegel Voting Aye
 Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN NCOURT LETTER AGREEMENT FOR CREDIT CARD SERVICES

RESOLUTION #42

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

RESOLVED, that the Town Board authorizes the Town Supervisor to sign the Court Letter Agreement for credit card service to the Yorktown Court..

Request from the Engineering Dept.
Hunterbrook Sewer District

Grace, Patel, Siegel Voting Aye
Resolution adopted.

APPROVE STREET LIGHTING TRANSFER

RESOLUTION #43

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

BE IT RESOLVED, that the Comptroller is hereby authorized to transfer \$11,450.00 from the General Fund - Fund Balance to Street Light Maintenance A5182.418 for the replacement and installation of street lights on East Main Street, Jefferson Valley (\$9,650.00) and Foothill Street, Shrub Oak (\$1,800.00)

Grace, Patel, Siegel Voting Aye
Resolution adopted.

APPROVE VACATION CARRYOVER REQUEST

RESOLUTION #44

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

WHEREAS, the following employee has requested to carry 2014 accrued time for use in 2015, and

WHEREAS, the comptroller has confirmed the available balance, now

THEREFORE BE IT RESOLVED, the following employee may carry the time balance listed below

Patricia Barresi – 30 hours

Grace, Patel, Siegel Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN AN AGREEMENT WITH TASER INTERNATIONAL, INC.- POLICE DEPARTMENT

RESOLUTION #45

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

RESOLVED, that the Town Board authorizes the Town Supervisor to sign an agreement with Taser International, Inc. for the purchase of (20) Blackhawk Holsters for the 2X-Tasers and warranties for the Yorktown Police Department, in accordance with the terms of this quote dated 1/12/2015 for a total of \$1,296.91.

Grace, Patel, Siegel Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN AN AGREEMENT WITH METROCOM FOR POLICE DEPARTMENT

RESOLUTION #46

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

RESOLVED, that the Town Board authorizes the Town Supervisor to sign an agreement with Metrocom Wireless, Inc. for a maintenance agreement covering the

Yorktown Police Department's Motorola mobile data devices for the period February 1, 2015 through January 31, 2016. The contract amount is \$4,800.00.

Grace, Patel, Siegel Voting Aye
Resolution adopted.

EXTEND BID CONTRACTS FOR BODYWORK ON TOWN CARS AND TOWN TRUCKS – REFUSE AND RECYCLING
RESOLUTION #47

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

WHEREAS bids were received on Friday, January 31, 2014, for Bodywork on Town of Yorktown Cars and for Bodywork on Town of Yorktown Trucks, and.

WHEREAS, on February 4, 2014, the bid for Bodywork on Town Cars was awarded to the low bidder, Yorktown Auto Body, 1798 Front Street, Yorktown Heights, NY, and the bid Bodywork on Town Trucks was awarded to the low bidder, Luposello's Auto Body, 2030 Albany Post Road, Croton-On-Hudson, NY, and

WHEREAS, the town has the option to extend said bids for two additional years in one-year increments; and

WHEREAS, said bid commenced on February 12, 2014 through February 11, 2015 with additional years of 2016, and 2017; NOW THEREFORE BE IT

RESOLVED, that the Kim Angliss, Coordinator of Refuse and Recycling recommends to the Town Board that the Town exercise its option to renew the contract for one year, per the terms of the bids; and be it

FURTHER RESOLVED, the date of the extension will commence February 12, 2015 through to February 11, 2016.

Grace, Patel, Siegel Voting Aye
Resolution adopted.

EXTEND SERVICES OF CARY VIGILANTE FOR BROADCASTING SERVICES FROM JANUARY 1, 2015 TO DECEMBER 31, 2015
RESOLUTION #48

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

RESOLVED, the Supervisor is authorized to extend services of Cary Vigilante for broadcasting services from January 1, 2015 to December 31, 2015 at a rate of \$500.00 per month.

Grace, Patel, Siegel Voting Aye
Resolution adopted.

APPROVE COMMERCIAL GARBAGE LICENSE FOR R&S WASTE SERVICES
RESOLUTION #49

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

RESOLVED, that R & S Waste Services, LLC. be and is hereby granted renewal of their Garbage License to service commercial properties in the Town of Yorktown for the year 2015.

Grace, Patel, Siegel Voting Aye
Resolution adopted.

APPROVE COMMERCIAL GARBAGE LICENSE FOR FRONTLINE WASTE MANAGEMENT CORP.
RESOLUTION #50

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

RESOLVED, that Frontline Waste Management Corp. be and is hereby granted renewal of their Garbage License to service commercial properties in the Town of Yorktown for the year 2015.

Grace, Patel, Siegel Voting Aye
Resolution adopted.

ACCEPT ROAD WIDENING STRIP – GIONE SUBDIVISION
RESOLUTION #51

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

WHEREAS, an application for subdivision approval was filed with the Planning Board on August 2, 2012, by Gary J. Gione, the owner of a property having approximately 131,000 square feet of area, improved with a one-family dwelling, located at Tax Map Section 27.15 Block 2 Lot 1, at the corner of Loder Road and Quaker Church Road (“the Property”), the plat entitled “Subdivision Prepared for Gary J. Gione”; and

WHEREAS, the Planning Board in 2012 approved a two-lot subdivision, one lot encompassing the existing residence and the other lot for a one-family dwelling to be constructed in the future, conditioning its approval, among other things, on the applicant’s grant of a strip of land along Loder Road for future road widening and a conservation easement covering the existing wetlands on the property; and

WHEREAS, the applicant has offered the Town a road widening strip of 0.102 acres as shown on the proposed plat and proposed improvement plan listed therein, to be deeded to the Town for future road widening purposes; and

WHEREAS, the applicant has offered to grant a Conservation Easement to protect the wetland and wetland buffer areas located on site which will be placed on a portion of both proposed lots totaling 1.650 acres and as delineated on the proposed plat and proposed improvement plan;

NOW, THEREFORE BE IT RESOLVED, the Town Board finds it in the best interest of the Town to accept the aforementioned road widening strip and the aforementioned Conservation Easement, and be it further

RESOLVED, that the Town Board hereby accepts said road widening strip and said Conservation Easement, and authorizes either the Town Supervisor or Town Attorney to execute all conveyance documents and forms required to consummate the transaction.

Grace, Patel, Siegel Voting Aye
Resolution adopted.

APPROVE PURCHASE OF TRANSIT VAN – WATER DEPARTMENT
RESOLUTION #52

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

WHEREAS, the Water Distribution Superintendent and upon recommendation of the Fleet Committee, requests authorization to purchase one (1) 2015 Ford Transit Connect Van (dark blue) as specified in the Westchester County contract #RFB-WC-13408 and,

WHEREAS, monies have been allocated in the 2015 Water Department budget line SW.8340.0201.0002 (Equipment/Vehicle) for this purchase and,

THEREFORE BE IT RESOLVED, the Town Board authorizes the Yorktown Water Department to purchase one (1) 2015 Ford Transit Connect Van (dark blue) as specified in the Westchester County contract #RFB-WC-13408 for Transit Connect Vans

2015 Model Year from Vance Country Ford located in Mamaroneck, NY for a total of \$26,086.60.

Grace, Patel, Siegel Voting Aye
Resolution adopted.

ACCEPT RESIGNATION OF CHERYL ALIMONTI – POLICE DEPARTMENT
RESOLUTION #53

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

RESOLVED, the Town Board accepts the resignation of Cheryl Alimonti.

Grace, Patel, Siegel Voting Aye
Resolution adopted.

REFUND DUPLICATE TAXES
RESOLUTION #54

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

BE IT RESOLVED, that the Town Comptroller is hereby authorized to refund \$3,288.35 for the duplicate Town/County tax payment to

Account Number 4407500

Chase
P.O. Box 961227
Ft. Worth, TX 76161-0227

Grace, Patel, Siegel Voting Aye
Resolution adopted.

ACCEPT MONTHLY REPORTS

The Town Board accepted the reports from Receiver of Taxes (3)

ADJOURN

Upon motion made by Supervisor Grace, seconded by Councilman Patel,
The Town Board meeting was adjourned.

Alice E. Roker, Town Clerk
Town of Yorktown