

LOCAL LAW NO. 2 - 2021

TITLE: “A Local Law to Amend Chapter 128- ZONING- ARTICLE XIII – THE POWERS OF THE PLANNING BOARD”

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE INC. VILLAGE OF BRIGHTWATERS AS FOLLOWS:

FIRST: Replaces in its entirety Chapter 128, Article XIII, Planning Board and replaces it with this new legislation, as follows:

ARTICLE XIII

PLANNING BOARD

Statement of findings; Purpose.

It is the purpose of this chapter to promote the health, safety, comfort and general welfare of the community and to preserve the property values of the village, the attractiveness of whose residential and commercial downtown is the economic mainstay of the community, by providing procedures for architectural review of all structures henceforth erected, reconstructed, altered or remodeled in the Village and thereby:

A. The Planning Board shall not act as an advisory board but shall have the express authority and power to approve or deny applications for all Commercial site plans, subdivision plats, exterior design configurations, special use permits or other developmental approvals. ~~To approve all new residential subdivision, exterior design configurations, developmental approvals and code related (128-73.2) residential renovations.~~

(1) To encourage good qualities of exterior building design and good appearance and to relate such design and appearance to the sites and surroundings of structures.

(2) To foster excellence and resourcefulness in building design and appearances which are appropriate to the sites and surroundings.

B. The Board of Trustees hereby finds that structures which are excessive in similarity or excessive in dissimilarity in relation to their sites or surroundings, mar the appearance of their areas, impair the use, enjoyment, stability and desirability and reduce the values of properties, are detrimental to the character of neighborhoods, prevent the most appropriate utilization of land and, therefore, adversely affect the functioning, economic stability, prosperity, health, safety and general welfare of the entire Village.

Planning Board.

There is hereby created a Planning Board (“Board”) consisting of five (5) members, who shall serve without compensation. The members of said Board shall be residents of the Village of Brightwaters, and all members of said Board shall be persons qualified by reason of training or experience in architecture, land development, community planning, real estate, landscape architecture or other relevant business or profession or by reason of civic interest and sound judgment to determine the effects of a proposed building or structure (including additions or exterior alterations thereto), a group of buildings or structures or plan of building development on the desirability, property values and development of surrounding areas on the development of the Village as a whole. The members of the Board shall be appointed by the Mayor, subject to the approval of the Board of Trustees. The Mayor shall, upon the enactment of this chapter and thereafter at the annual organizational meeting, designate the Chairman and Vice Chairman of the Board, subject to the approval of the Board of Trustees, and the persons so designated shall serve as Chairman and Vice Chairman at the pleasure of the Mayor and Board of Trustees. The terms of members of the board first appointed shall be so fixed that the term of one member shall expire at the end of the village official year in which such members were initially appointed. The terms of the remaining members first appointed shall be so fixed that one term shall expire at the end of each official year thereafter. At the expiration of the term of each member first appointed, his or her successor should be appointed to a full term of five years. The Board of Trustees shall have the power to remove any such member for cause, as defined in relevant sections of the New York State Public Officers Law. Vacancies shall be filled by the Mayor, subject to the approval of the Board of Trustees, for the unexpired term of any member whose place has become vacant. The Building Inspector shall act as Secretary of the Board as part of any Public hearing.

Alternate members.

A. The Board of Trustees may establish alternate member positions for purposes of substitution for a member who is unable to participate because of a conflict of interest or absence. The Mayor may appoint such alternate members, subject to the approval of the Board of Trustees, in a number sufficient to meet the needs of the Village, for terms established by the Board of Trustees.

B. The Chairman of the Planning Board may designate an alternate member to substitute for a member who is unable to participate because of a conflict of interest or absence on an application or matter before the Planning Board. When so designated, the alternate member shall possess all the powers and responsibilities of the member of such Board he or she is replacing, and all the provisions of the Village Law relating to member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members. When a designation is made by the Chairman of the Planning Board, it shall be entered into the minutes of the Planning Board meeting at which the substitution is made.

Meetings and Powers of Board.

Meetings of the Planning Board shall be held at such times as the Board may determine and otherwise at the call of the Chairman or, in his absence, the Vice Chairman. The Chairman or, in his absence, the Vice Chairman may administer oaths and compel the attendance of witnesses. A majority of the members of the Board shall constitute a quorum for the transaction of business. All actions taken by the Board shall be by a majority of the members thereof, constituting a quorum. The Board shall keep minutes of its proceedings, showing the vote of each member on each question, or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. The Board shall have the power, from time to time, to adopt, amend and repeal rules and regulations, not inconsistent with law or the provisions of this chapter, governing its procedure and the transaction of its business and for the purpose of carrying into effect the standards outlined hereinabove which rules and regulations or amendments thereto shall become effective upon ratification by the Board of Trustees. Every rule or regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board shall be filed with the Secretary of the Board and shall be a public record.

Referral procedures

A. The Board shall review and decide and approve on all of the following:

(1) All applications for the construction of any new building or structure, renovation (interior or exterior) or change of use regarding new exterior or interior construction on any parcel located throughout all the commercial, office, business, & multifamily districts. ~~as well as any new residential construction or alteration that falls under code (128-73.2)~~

(2) All changes for commercial applications regarding signage, exterior color in paint, siding, roofing, parking, lighting, landscaping, fencing, windows, ornamental designs, cupola's, weather vanes, or any other exterior elements must be presented to the Building Inspector for review. It shall be at the Building Inspector's discretion to refer said exterior color changes to the Board for approval.

(3) ~~All applications for additions or exterior alterations to any portion of a one family dwelling facing or visible from any street shall conform to the architectural integrity and design of the surrounding community:~~

a- ~~Results in a change in the overall style or appearance of the dwelling which the Building Inspector, in consultation with the Chairman of the Planning Board, deems to be substantial.~~

b- ~~Involves the addition or demolition of an area equal to 70% or less of the existing building coverage of the residence. Notwithstanding the preceding sentence, the following changes to the exterior of a residence, considered alone or two or more together, shall not require Planning Board approval, provided the Planning Board may consider and comment upon~~

~~them in connection with any application properly referred to it for any other reason provided in this section:~~

~~B. If any building in a residence district for which a building permit is sought is one of a group of two or more buildings proposed to be constructed in the same vicinity, none of which buildings is to be situated at a distance of more than 250 feet from some other building of the group, whether or not such buildings are to be constructed on contiguous plots, and whether or not the permits for the other buildings of the group are applied for by the same applicant, said application shall be accompanied by a plan of building development for the entire group, clearly setting forth the entire site layout and the designs of the exterior appearance of all the proposed buildings in the group.~~

C. A preliminary conference may be held between the Board and the applicant prior to the preparation and submission of a formal submission. The intended purpose of such a conference is to enable the applicant to inform the Board of his proposal prior to the preparation of a detailed submission and to provide the Board with an opportunity to review the basic design concept, to advise the applicant as to potential problems and concerns and to generally recommend the information to be required on the formal submission.

D. The Board shall disapprove any application referred to it if the Board finds that the application, would be to dissimilar or to similar to the surrounding area or to the Village as a whole by reason of any of the following:

1-A plan or plans drawn at a scale adequate to indicate clearly the following:

2-The dimensions, orientation and area of the building plot with setback dimensions clearly indicated.

3-The size, shape and location of existing and proposed construction and relationship to adjacent properties, buildings and structures.

4-An explanation of areas of existing or proposed buildings and an indication of their proposed uses.

5-Locations of existing streets, points of entry and egress for motor vehicles and locations and layout of all paved areas.

6-All existing and proposed topography, Utility's & Easements.

7-Locations of existing and proposed plantings, including trees, and screening devices, walls, fences and railings and their height and the materials of their construction.

8-Indication of exterior lighting adequate to determine its character and to enable review of possible hazards and disturbances to the public and adjacent properties.

9-Indication of other potential disturbances to the public and adjacent properties due to noise or odors to be emitted from the proposed use.

10-Photographs of the site and adjacent areas and structures sufficient to provide adequate representation thereof.

11-Samples of exterior building materials and finishes and color palette for painted surfaces.

12-Detailed drawings of decorative elements. Sectional drawings to explain the character of the design.

13-Complete and accurate exterior elevations of all facades, drawn at a scale adequate to show clearly the appearance of all proposed buildings and structures.

The Board may waive any of the requirements of this section where, due to character, size, location or special circumstances, any such requirements are not required in order for the Board to properly perform its review.

Reasons for disapproval of application; approval of application cited under new construction and or code 128-73.2

A. The Board shall disapprove any application referred to it if the Board finds that the application, would be to dissimilar or to similar to the surrounding area or to the Village as a whole by reason of any of the following:

1-Excessive similarity of design in relation to any other structure existing or for which a permit has been issued, or to any other structure included in the same permit application, on a plot abutting on the same street and within 250 feet of the proposed site, in respect to one or more of the following features of exterior design and appearance: apparently identical facade; substantially identical features, such as, but not limited to, doors, windows, porticos or other openings or breaks in the facade facing the street, including reverse arrangement; or other significant identical features, such as, but not limited to, construction material, roof line and height or other design elements, provided that a finding of excessive similarity of design shall include not only that such similarity exists but also that it is of such a nature as to produce harmful effects.

2-Excessive dissimilarity of design or inappropriateness of design or of site plan in relation to any other building or structure existing or for which a permit has been issued, or to any other building or structure included in the same permit application, on a plot abutting on the same street and within 250 feet of the proposed site, or inappropriateness or excessive dissimilarity of design in relation to the characteristics of building design generally prevailing in the Village, in respect to one or more of the following features: cubical contents; gross floor area; height of building or height of roof; other significant design features, such as, but not limited to, construction material or quality or architectural design; or yard dimensions, provided that a finding of excessive dissimilarity or inappropriateness of design shall include not only that such dissimilarity or inappropriateness exists but also visual offensiveness, inappropriateness, inconsistency of design or other lesser qualities of exterior design, including considerations of

the harmony or discord of colors or materials or incompatibility of the proposed building or structure with the terrain on which it is to be located, including but not limited to excessive divergences of the height or levels of any part of the building or structure from the grade of the terrain that are of such a nature as to produce undesirable effects.

3-A finding that the building or structure for which the permit was requested, if erected or altered in accordance with the submitted plan, would not be in harmony with the purpose of this chapter; would be inconsistent by reason of lesser qualities of exterior design or inappropriateness of design of site plan in relation to any other building or structure; would mar the appearance of the area; would impair the use, enjoyment and desirability or reduce the values of properties in the area; would be detrimental to the character of the neighborhood; would prevent the most appropriate development and utilization of the site or of adjacent lands; or would adversely affect the functioning economic stability, prosperity, health, safety and general welfare of the entire community.

B. In disapproving any application, the Board may specify modifications in the design of the buildings or structures or any of them or in requirements as to yard dimensions that will be adequate to render the same acceptable under the provisions of this chapter.

C. In approving any application, the Board may impose appropriate conditions and safeguards designed to prevent harmful effects.

Issuance of building permit

The Building Inspector shall only issue a building permit for which an application has been approved by the Board.

Supplementary provisions

This chapter shall supplement the provisions of § 4-412 and Article 7 of the Village Law of the State of New York, as amended, and shall modify the provisions of the Zoning Chapter, of the Code of the Village of Brightwaters, as amended, to the extent that such provisions conflict with or are contrary to the provisions of such chapter.

Fees

Every application hereunder shall be accompanied by a fee payable to the Village in such amount as determined, from time to time, by resolution of the Board of Trustees.

Outside Consultants

The Board, upon the approval of the Board of Trustees, may retain outside experts or consultants, as deemed needed to assist with an application. All costs associated with the retention of outside experts or consultants shall be the sole responsibility of the applicant.

Expiration of approval

Approval shall automatically terminate one year after the same is granted by the Board, unless a building permit has been issued and there is physical evidence to demonstrate that substantial construction has taken place. Upon application to the Board, approval may be extended for an additional one-year period, upon a showing that the conditions existing at the time of the approval have not changed and that substantial steps to commence the project have been lawfully undertaken and an additional fee has been paid to the Village in such amount as determined, from time to time, by resolution of the Board of Trustees.

Mailing of Legal Notice

Every applicant to the Planning Board shall mail written notice of the date, time and place of the public hearing and a description of the relief requested to all homeowners within a 300 foot radius, the first 100 foot by certified mail, return receipt requested, and the remaining 200 foot of the radius by first class mail.

SECOND: Separability.

If any section, sub-section, sentence, clause or phrase of this local law is for any reason held invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this local law.

THIRD: Effective Date.

This act shall take effect immediately and retroactively upon filing with the Secretary of State as provided by law pursuant to Municipal Home Rule.