

INTRODUCTORY LOCAL LAW No. 11 OF 2021

A LOCAL LAW AMENDING CHAPTER 8 (“ARCHITECTURAL REVIEW BOARD”), CHAPTER 310 (“ZONING”) AND CHAPTER A314 (“ARCHITECTURAL REVIEW BOARD RULES”) OF THE CODE OF THE VILLAGE OF WOODBURY TO REVISE AND CLARIFY THE GUIDELINES AND STANDARDS OF THE ARCHITECTURAL REVIEW BOARD

BE IT ENACTED by the Board of Trustees of the Village of Woodbury, Orange County, New York, as follows:

SECTION 1. PURPOSE

The Board of Trustees of the Village of Woodbury finds that it is reasonable and appropriate to update and amend Chapter 8 (“Architectural Review Board”) and Chapter A314 (“Architectural Review Board Rules”) of the Village of Woodbury Code with respect to the guidelines, standards and procedures that the Architectural Review Board applies and follows. This local law is determined to be an exercise of the police powers of the Village to protect the public health safety and general welfare of its residents.

SECTION 2. CHAPTER 8 (“ARCHITECTURAL REVIEW BOARD”)

Section 8-3 of the Village Code are hereby repealed and replaced with the following:

§8-3. [Reserved.]

Section 8-4 of the Village Code are hereby repealed and replaced with the following:

§8-4. Review by Planning Board.

- A. *The Planning Board, in reviewing subdivisions, planned unit developments, multiple-family dwellings, site plans, special use permits, and all other applications needing Architectural Review Board approval shall require the developer or owner of the project to submit its plans for development of the land, including the type and detail of buildings to be constructed or altered, the location of the buildings on the proposed site and the type and details of architecture. Acting in its role as Architectural Review Board, the Planning Board shall review the plans of the development, attend an on-site inspection, and analyze the design, architecture, and size of all buildings.*
- B. *The Planning Board, in its role as Architectural Review Board, shall also review plans and specifications for the following buildings, and alterations to buildings not previously approved (e.g., options, alternates) that change its outside physical dimension in any respect, as defined in Chapter 310, Zoning, of the Code of the Village of Woodbury:*
 - 1) *Buildings and alterations which require a building permit, pursuant to Chapter 310, Zoning, on any lot that:*
 - a) *Was part of a subdivision approved by the Planning Board on or after January 1, 1990; or*
 - b) *Is otherwise subject to the ridge preservation regulations of § 310-13.*
- C. *Notwithstanding the above, the following shall not require review by the Architectural Review Board:*
 - 1) *Pools, in ground, above ground, and temporary.*
 - 2) *Detached sheds or other residential accessory structures, including but not limited to pool houses, less than 500 gross square feet.*
 - 3) *New decks that are less than 500 gross square feet.*
 - 4) *Deck additions that are less than 10% of the existing gross square footage of the deck.*

- 5) Residential and non-residential roof-mounted solar panels, extending in height no more than 12 inches from the roof surface.
- 6) In-kind replacement of features that do not require more than de minimis modification to the structure, such as windows, doors, and garage doors.
- 7) Retaining walls that do not require design and approval by a professional engineer.
- 8) Signs, other than those subject to Planning Board approval.
- 9) Radio, television and microwave antennas, except for such antennas installed on the roof of a building and extending not more than 15 feet above the highest level of the roof of such building.
- 10) Pergolas.
- 11) Outdoor bins.
- 12) Residential fixed awnings.

Section 8-5 of the Village Code are hereby amended to include “as previously approved” at the end of Subsection B.

Section 8-7 of the Village Code are hereby repealed and replaced with the following:

§8-7. Certificate of occupancy.

The Code Enforcement Officer shall not issue a building permit for, or certificate of occupancy upon completion of, any building or alteration unless he/she finds that such building or alteration is completed in conformance with the plans and specifications approved by the Planning Board.

Section 8-9 of the Village Code are hereby repealed and replaced with the following:

§8-9. Waiver of requirements.

The Planning Board, in its role as Architectural Review Board, may waive or vary any requirements of this chapter regarding similarity of buildings where the layout of the neighborhood, lot patterns, topography, natural features used and the siting of individual structures is such to avoid monotony of appearance despite similarity of buildings.

SECTION 3. CHAPTER 310 (“ZONING”)

Section 310-39.5(E)(3) is hereby repealed and replaced with the following language:

- E. Rooftop-mounted and building-mounted solar collectors. Rooftop-mounted and building-mounted solar collectors are permitted in all zoning districts in the Village, subject to the following conditions. When installation is proposed on a lot that is subject to the provisions of the ridge preservation regulation (§ 310-13), it will be subject to Subsection E(3)(f) below:
 - a) No site plan approval shall be required for the installation of a small-scale rooftop-mounted or building-mounted solar photovoltaic system or solar-thermal system. The Village shall utilize the New York State unified solar permit in addition to or as an alternative to the existing Village law in order to accomplish the stated purposes of the Village Board.
 - b) The Planning Board shall review proposals on lots that are subject to ridge preservation in accordance with § 310-13.
 - c) Site plan approval shall be required for the installation of any large-scale rooftop-mounted or building-mounted solar photovoltaic system or solar-thermal system.
 - d) Building permits shall be required for installation of all small- and large-scale rooftop-mounted and building-mounted solar photovoltaic systems and solar-thermal systems.

- e) *Any height limitations of the Village Code shall be applicable to solar collectors, provided that such structures are erected only to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve and that such structures do not obstruct solar access to neighboring properties.*
- f) *Placement of solar collectors shall be allowed, provided that panels do not extend horizontally past the roofline.*

Section 310-39.5(E)(5)(a) is hereby repealed and replaced with the following language:

- a) *Site plan approval shall be required for the installation of any small-scale ground-mounted or freestanding solar collectors.*

Section 310-45(E) and (F) are hereby repealed and replaced with the following language:

- E. *Procedure. No certificate of occupancy may be issued for any building or use of land within the purview of this section unless the building is constructed or used or the land is developed or used in conformity with an approved site plan.*
 - 1) *Waiver. Upon findings by the Planning Board that, due to special conditions peculiar to a site, certain of the information normally required as part of the site plan is inappropriate or unnecessary or that strict compliance with said requirements may cause extraordinary and unnecessary hardships, the Board may vary or waive the provision of such information, as outlined in § 310-45I, provided that such variance or waiver will not have detrimental effects on the public health, safety or general welfare or have the effect of nullifying the intent and purpose of this chapter or the Official Map or Comprehensive Plan.*
 - 2) *Final submissions. At least 15 days in advance of the Planning Board meeting at which a site plan, or an amendment of it, is to be presented, 10 copies of the information enumerated herein must be submitted to the Secretary of the Planning Board along with a letter of application. The Code Enforcement Officer shall verify that the application is complete before it is ready for review by the Planning Board.*
 - 3) *Public hearing. Where a completed application for review and approval of site plans or where an application for a special permit has been filed, the Planning Board shall fix a time, after the Planning Board has been provided with all information, data and studies it has requested, for the public hearing of such matter and give public notice thereof by publication in the official Village newspaper of such hearing at least five days prior to the date thereof and shall decide the same within 62 days after such hearing, unless:*
 - a) *In connection with an application pursuant to § 310-13 ("Ridge Preservation"), the Board has waived the requirement for a public hearing upon a determination that there is no apparent significant impact to the surrounding neighbors or neighborhood, given the mass and/or architectural features of the proposed project.*
 - b) *In connection with proposed amendments to a site plan and/or special permit: the Planning Board has waived the requirement for a public hearing upon a determination that such proposed amendment is consistent with the terms of any applicable special permit approval (or if no special permit is required) and does not represent a substantial change from the approved site plan.*
 - 4) *Decision. The decision of the Planning Board shall be filed in the office of the Village Clerk as soon as practicable and a copy mailed to the applicant. By mutual consent, the time may be extended within which the decision is to be rendered by the Planning Board.*

- F. *Expiration of site plan approval. Final site plan approval shall expire one year from the date it is granted unless the applicant shall secure a building permit, site work permit and/or begin on-site work. The Planning Board may extend site plan approval for one additional period of one year if such extension is warranted by the particular circumstances. If on-site work ceases for a period of more than six months, then the applicant shall be required to secure a renewal of the site plan approval from the Planning Board. In the event that final site plan approval expires, then the applicant shall be required to file a new application. If a governmental agency has imposed a moratorium that prevents the developer from either starting construction or continuing construction on the project, then the year or that portion of the year remaining as required by this section shall be suspended until the moratorium is removed.*

SECTION 4. CHAPTER A314 (“ARCHITECTURAL REVIEW BOARD RULES”)

Section A314-3 is hereby amended to include the following language at the end of Subsection A: “unless that duty is delegated to others owing to the Chairperson’s unavailability to timely sign a decision or his/her absence or recusal from the deliberations or significant part thereof.”

Section A314-4 is hereby amended to include “, if any,” in Subsection B between “recommendations” and “for new appointments...”

Section A314-5 and A314-6 are hereby repealed and replaced with the following:

§A314-5 Meetings

- A. *Regular meetings. The regular meetings of the Board shall be held as needed and coordinated to coincide to meet at the same time as the Planning Board meetings on the first and third Wednesdays of each month at 7:30 p.m. in the Woodbury Village Hall, Highland Mills, New York, or as otherwise set by motion of the Board.*
- B. *(Reserved)*
- C. *Special meetings.*
- 1) *Special meetings of the Board may be called by the Chairperson in accordance with New York State law.*
 - 2) *The Chairperson shall call a special meeting within 10 days of receipt of a written request from any three members of the Board, which request shall specify the matters to be considered at such special meeting.*
- D. *Proceedings. The order of business at regular meetings shall be as follows, or as determined by the Chairperson:*
- 1) *Reading and approval of minutes of preceding meeting.*
 - 2) *Public hearings.*
 - 3) *Other business.*
 - 4) *Adjournment.*

§A314-6 Voting

- A. *A quorum shall consist of a majority of the members of the Board.*
- B. *No hearing or meeting of the Board shall be held nor any action taken in the absence of a quorum; however, a majority of those members present shall be entitled to request the Chairperson to call a special meeting for a subsequent date. All subsequent hearings shall be readvertised in accordance with the requirements of the applicable law.*
- C. *Decisions on any matter before the Board shall require the affirmative vote of a majority of the entire Board, regardless of absences, vacancies or recusals.*

- D. *No member of the Board shall vote on any matter requiring a public hearing unless such member has attended the public hearing thereon. However, where such member has familiarized themselves with such matter by reading the record, they shall be qualified to vote.*

§A314-7 Procedures

- A. *Filing of applications.*
- 1) *All applicants shall file an application with the Building Department. Such application shall be made on the form provided for that purpose. The Building Department shall be responsible for providing any applicant with the proper forms and for instructing the parties concerned on the proper manner for completing and filing said forms. All information required thereon shall be complete before an application is considered filed.*
 - 2) *There shall be furnished to the Building Department 15 copies of the application, plans and specifications containing the required information and data at least 10 days prior to the scheduled hearing. No hearing shall be scheduled unless the above papers are furnished to the Building Department, unless otherwise authorized by the Board. If a completed record is not so furnished within the time prescribed herein, then the Chairperson may refuse to list the application on an agenda until the application is completed.*
 - 3) *Upon receipt thereof, the Building Department shall distribute the application, plans and specifications to the Board members and consultants of the Board.*
- B. *Site inspection. Prior to a proposed hearing, the Board members shall, if necessary, arrange to visit the site in order to physically acclimate themselves with the situation.*
- C. *Supporting papers. The application shall be supported by the following:*
- 1) *A plot or plan for each lot, with the location of house and driveway shown.*
 - 2) *The front, rear and both side elevations of the proposed building showing existing grade lines at the foundation walls and proposed finished grades. Exterior materials and colors must be indicated on the elevations. All grades shall be indicated by reference to the average street grade in front of the lot, unless elevations are shown on the subdivision map, in which case the grade shall be referenced to such elevations.*
 - 3) *If applicable, the copy of the preliminary or final subdivision map with five-foot contours, including the plot for which the application is made and the street giving access thereto. Each paper shall be drawn in ink or be a photocopy, shall show the name and address of the developer or owner, section, block and lot number, be dated and include space for indication of approval or disapproval by the Board.*
 - 4) *An artist's rendering or photograph of the structure to be constructed on a given lot, required at the discretion of the Board.*
 - 5) *A check made payable to the Village of Woodbury in an amount as set forth in Chapter 143, Fees.*
 - 6) *Any other information deemed necessary for the Board to make an appropriate determination on the application.*
- D. *Waivers. The Board may waive or allow deferred submission of some of the information required in Subsection C above, as it deems appropriate.*
- E. *Notice to applicant. The applicant shall be notified by the Building Department of any failure to complete the application properly.*

§A314-8 Hearings

- A. *No decision by the Board to approve or deny an application shall be made until after either a public hearing has been held or the Board has waived the public hearing upon a determination*

that there is no apparent significant impact to the surrounding neighbors or neighborhood, given the mass and/or architectural features of the proposed project.

B. Notice.

- 1) *Notice of all hearings shall be given at least five days prior to the date thereof by publication in the official Village newspaper. Such notices of the hearings shall be mailed to all parties and all adjacent property owners within 300 feet of each boundary line of the subject property.*
- 2) *Such notice shall state the location of the building or lot and the date, time and place of the hearing.*

C. Proceedings. *The order of business at a hearing shall be as follows, or as determined by the Chairperson:*

- 1) *The Chairperson shall read the relevant parts of the public notice, and may make reference to any correspondence or reports received thereon.*
- 2) *The applicant shall present a description of the application and set forth any rational and support for the application.*
- 3) *Those in favor or opposed may present their arguments.*
- 4) *If necessary, adjournment of the hearing, or closing of the public hearing.*

D. General rules. *Any party may appear in person or by agent or by attorney or, where property is under contract, by the contract vendee.*

Section A314-9(A) is hereby amended to include “, provided it has sufficient information from the Applicant or others to do so” at the end of the sentence.

Section A314-11 is hereby repealed and replaced with the following language:

§A314-11 Appeals

Time limit. Where an applicant disagrees with a decision rendered by the Board, he or she must file an application with the Village Zoning Board of Appeals for a review of the decision within 60 days after the decision has been filed pursuant to § A314-9D of these regulations or forfeit any rights to challenge said decision. The Zoning Board of Appeals shall not review the appeal de novo but shall determine whether or not the Architectural Review Board acted in an arbitrary and capricious manner in making its decision. If the Zoning Board of Appeals determines that the Architectural Review Board acted rationally and not in an arbitrary and capricious manner its decision will be upheld.

SECTION 5 SUPERSEDING PROVISION

To the extent that any State or local laws fail to provide specific authority for this Local Law or the procedures necessary for its adoption, or otherwise appear to be in conflict with this Local Law or the procedures followed for its adoption, then such laws are hereby superseded by this Local Law pursuant to New York Municipal Home Rule Law and the common law.

SECTION 6 SEVERABILITY

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

SECTION 7 EFFECTIVE DATE

This law shall take effect upon the filing of this Local Law with the New York Secretary of State in the manner provided for in the Municipal Home Rule Law.