

Proposed Local Law 10-2020

A local law amending Chapter 270 (Zoning), of the Village of Ossining Code by adding a new Article X (Administrative Adjustments).

BE IT ENACTED by the Board of Trustees of the Village of Ossining as follows:

Section 1. Chapter 270 Article X (Zoning, Administrative Adjustments) is added with new matter **underlined**.

Article X Administrative Adjustments

Section 270-50 Purpose

- A. The administrative adjustment procedure is intended to allow for minor modifications or deviations from the dimensional or numeric standards of the Village of Ossining Zoning Code (Chapter 270) and to provide greater flexibility when necessary without requiring a variance.**
- B. The Building Inspector or designee is authorized to issue administrative adjustments in accord with this article.**

Section 270-51 Procedure

- A. An applicant requesting an administrative adjustment shall file with the Building Department the Administrative Adjustment Review Form setting forth the proposed adjustment and the reason for the adjustment. If the applicant is not the property owner, a signed and dated letter from the owner shall be provided with the form acknowledging and consenting to the application.**
- B. Within thirty (30) days of receipt of a completed Administrative Adjustment Review Form, the Building Inspector or designee shall review the application and approve, approve with conditions or deny based upon the criteria set forth below.**
- C. The Building Inspector or designee is authorized to approve an administrative adjustment of up to 10% from any numerical standard set forth in the Bulk Requirements in the appendix of this chapter.**

Section 270-52 Review Criteria

- A. To approve the application for an administrative adjustment, the Building Inspector or designee shall make the following affirmative finding that one or more of the following standards have been met:**

1. The proposed administrative adjustment is consistent with the character of development in the applicable zoning district.
 2. The benefits to the applicant for the approval of the administrative adjustment outweigh and detriments to the health, safety and welfare of the neighboring community by such approval.
 3. There is no means other than the requested administrative adjustment by which the difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the property.
 4. The proposed administrative adjustment is of a technical nature and is needed to: a) compensate for an unusual site condition; b) eliminate for a minor inadvertent failure to comply with a zoning requirement; or c) protect a sensitive resource, natural feature, or community asset.
 5. The proposed administrative adjustment will not result in incompatible development.
- B. Upon reviewing the application for an administrative adjustment, the Building Inspector or designee may decide to refer the application to the Zoning Board of Appeals for issuance of an area variance. The applicant will be notified of the referral and will provide such additional documents as are required by the Zoning Board of Appeals as well as the required filing fee.
- C. Unless construction is commenced, following issuance of a building permit and diligently pursued within twelve (12) months of granting the administrative adjustment, such administrative adjustment shall become null and void, unless renewed upon application to the Building Inspector or designee.

Section 270-53 Appeal of Administrative Adjustment Decision

- A. The applicant or other person aggrieved or adversely affected by a decision of the Building Inspector granting, granting with conditions or denying an application for an administrative adjustment may seek review of the determination from the Zoning Board of Appeals.
- B. The applicant or other person wanting to appeal the Building Inspector or designee's decision shall file an appeal in writing within thirty (30) days of the filing of the Building Inspector's decision with the Village's Building Department. The Building Inspector's written decision shall be filed within five (5) business days of the decision's issuance. The

appeal will be transmitted by the Building Department to the Planning Department for review by the Zoning Board of Appeals.

- C. An appeal shall stay all proceedings in furtherance of the action from which the appeal is taken unless the Building Inspector or designee certifies to the Zoning Board of Appeals, that by reason of the facts detailed in the certificate, a stay would cause imminent peril to life or property. In such case, the proceedings will not be stayed other than by a restraining order which may be granted by the Zoning Board of Appeals or the Supreme Court on notice to the Building Inspector or designee.
- D. The Zoning Board of Appeals, following consideration of the appeal, may affirm, reverse in whole or in part or modify the decision of the Building Inspector or designee and, where deemed appropriate, impose conditions for the approval of the administrative adjustment.
- E. The Zoning Board of Appeals shall decide each appeal applying the same criteria as that used by the Building Inspector or designee.
- F. The Zoning Board of Appeals shall issue its written decision on the appeal within thirty (30) days of receipt of the appeal, unless the Zoning Board of Appeals and the appealing party agree to extend the time.

Section 270-54 Limitations on Administrative Adjustments

The administrative adjustment procedure shall not apply to any proposed modification that results in:

1. An increase in the number of dwelling units or bedroom capacity.
2. A change in a permitted use.
3. Changes to requirements for public roadways, utilities or other public infrastructure or facilities.
4. A change to a Zoning Code requirement which requirement has already been modified through a separate administrative adjustment or variance.

Section 2. Section 270-59 (Zoning, Procedure) is amended with new matter underlined and deleted matter in **[brackets]**.

Section 270-49 Procedure

J. **[Unless construction is commenced and diligently pursued within six months of the date of the granting of a variance, such variance shall become**

null and void, unless renewed upon application to the Zoning Board of Appeals]. Approval of area variances granted by the Zoning Board of Appeals shall be valid for one year from the date thereof for the purposes of obtaining such additional approvals as are required, including but not limited to site plan, conditional use permit, special use permit and Certificate of Appropriateness and to obtain a building permit. Failure to obtain the required approvals or a building permit during the one year period shall cause the granted area variances to become null and void. Upon request of the applicant, the Zoning Board of Appeals may grant an extension of the area variances for a period not to exceed one year. There shall be up to two extensions that may be granted, for a total time period of all extensions taken together, of no more than two years.

Section 3. Effective date.

This local law shall become effective upon filing with the Secretary of State pursuant to the Municipal Home Rule Law.

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