

LOCAL LAW NO. 2 OF 2022

A LOCAL LAW §§230-7, 230-8, 230-9 and 230-21 of the Zoning Code related to permitted/prohibited uses, interpretations and accessory driveways and off-street parking areas.

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

SECTION 1. Amendment. Section 230-7 the Zoning Code is amended by deleting strikethrough words and adding underlined words as follows:

§230-7 Uses permitted generally.

The following uses, buildings and structures are permitted in both districts:

- A. Detached single-family dwelling.
- B. Accessory building or structure, including accessory buildings with sleeping and sanitary facilities authorized under §230-23.
- C. Accessory use.
- D. Municipal buildings, structures or uses.
- E. Home occupation.
- F. Golf course.
- G. Accessory driveways and accessory off-street parking areas authorized under §230-21.

SECTION 2. Amendment. Section 230-8 of the Zoning Code is amended by deleting strikethrough words and adding underlined words as follows:

§230-8 Uses prohibited.

The following uses, buildings, and structures are prohibited in both districts:

- A. The breeding of fowl.
- B. The keeping of animals, other than domestic household pets, except as a special exception.
- C. Signs, except a name of family, house name, security monitoring sign or street number sign having an area of not more than 225 square inches, or except as a special exception.

- D. ~~Any other than a permitted use, building or structure.~~ Any other building, structure or use not specifically listed as permitted is prohibited.
- E. Off-premises parking areas or on-street parking. Parking of private vehicles on Village of Dering Harbor streets is prohibited except as authorized by the Board of Trustees of the Village of Dering Harbor. ~~All residences must contain adequate off-street parking for a minimum of four vehicles of an average size.~~ Parking on Village of Dering Harbor property is prohibited except for occasional special events and Village of Dering Harbor purposes as authorized by the Board of Trustees of the Village of Dering Harbor only. Any violations of this provision shall be subject to towing at the expense and sole liability of the owner of the offending vehicle.
- F. Commercial activity, except golf courses.

SECTION 3. Amendment. Section 230-9 of the Zoning Code is amended by deleting strikethrough words and adding underlined words as follows:

§230-9 Application; interpretation; irregular lots.

- A. The regulations set forth in this article shall apply to both districts
- B. In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum requirements necessary for the protection of the public health, morals, safety, comfort, convenience and general welfare of the community.
 - (1) No building or structure shall be erected, moved, altered, rebuilt or enlarged, nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner except in conformity with this chapter and particularly with the specific regulations for the district in which such building or land is located. ~~Any use not specifically permitted is prohibited.~~
 - (2) Every building hereafter erected shall be located on a lot as herein defined.
 - (3) There shall be no more than one principal building and its accessory buildings and structures and not more than one dwelling unit on any such lot.
 - (4) Each principal building ~~will~~ shall have only one dwelling with only one indoor kitchen. A "kitchen" is defined as a space used for preparing meals and containing one or more appliances used for that purpose. Two or more separate kitchen facilities in the principal building are strictly prohibited. Kitchen or kitchen facilities, except for outdoor kitchens, are strictly prohibited in any accessory building either attached or detached to the principal dwelling.
 - (5) ~~No yard or open space provided about any building for the purpose of complying with the provisions of these regulations shall be included as part of the yard or other open~~

~~space for any other building.~~ No yard ~~or other open space~~ on one lot shall be considered as a yard ~~or open space~~ for a building on another lot, and, should a lot hereafter be ~~formed subdivided~~ from the part of a lot ~~already~~ whether occupied by a building or not, such ~~separation subdivision~~ shall not result in the creation of a non-conforming lot, nor be effected in such manner as ~~not~~ to impair conformity with any of the requirements of this chapter with respect to the existing building and all yards and other required spaces in connection therewith, ~~and~~ .

(6) ~~no~~ permit shall be issued for the erection of a building or structure on the new lot thus created unless it complies with all the provisions of this chapter.

(7) All accessory buildings and structures, except fences, shall have the same front yard, side yard, and rear yard setbacks as required for principal buildings on the lot, except such lesser or greater setbacks as may be provided elsewhere in this Chapter and such setbacks for driveways as provided in §230-21.

C. Where a question exists as to the proper application of any of the provisions of this chapter to a particular lot or parcel because of the peculiar or irregular shape or topography thereof, the Board of Appeals shall determine how such regulations shall be applied with the following procedures:

(1) The ~~person~~ owner of the property concerned shall make a written application in accordance with the provisions of Article VIII of this Chapter, signed and sworn to, to the Building Inspector, for an interpretation of the proper application of such regulations or other provisions which shall set forth all the pertinent facts involved and be accompanied by a survey of the premises in question drawn to scale by a licensed land surveyor showing lot dimensions and the setback distances of any existing structures.

(2) The Building Inspector shall make a preliminary determination thereon and refer it to the Board of Appeals for review.

(3) The Board of Appeals, upon such referral, shall call a hearing in accordance with its regular procedure, shall at such hearing review the matter and issue its determination in the form of an opinion and decision by the Board of Appeals.

SECTION 4. Amendment. Section 230-21 of the Zoning Code is amended by deleting strikethrough words and adding underlined words as follows:

§230-21 Driveways ~~construction~~ and Off-Street Parking Areas.

A driveway and an off-street parking area shall be located on a property only as an accessory structure to a principal dwelling on the same lot in accordance with the following conditions and standards:

A. Driveways.

(1) A driveway shall be located on the same lot as the principal dwelling. A driveway created via an easement over another lot is prohibited, except such driveway located in an easement required as a condition of subdivision approval by the Planning Board. A driveway shall not be considered to be an accessory to a waterfront facility.

(2) A driveway shall be located on a lot to provide safe and convenient access to the principal dwelling with adequate sight distance from intersections of streets and/or other existing driveways. Where practicable, a driveway on a corner lot shall be located on a side or minor street.

(3) A driveway may cross through the front yard but shall be setback a minimum of twenty-five (25) feet from the side and rear lot lines in the Residential B District and fifty (50) feet from the side and rear lot lines in the Residential A District, except in the case of a flagpole lot or a pie-shaped lot with limited frontage where the driveway may be located at a lesser setback up to the point the lot widens and can accommodate the required setback from the side lot lines.

(4) Only one driveway entrance/exit shall be allowed on a lot with less than fifty (50) feet of frontage.

(5) Driveways shall not be constructed with visible bituminous asphalt, commonly called "blacktop," and the surface shall be gravel or other loose aggregate. Driveways shall be so constructed to retain such loose aggregate from the public highways of the Village, by utilization of an apron or other appropriate retainer. The location of the curb cut and the apron required in subsection (6) shall be subject to a permit issued by the Building Inspector after review and approval of the Architectural Review Board.

~~B-~~ (6) The driveway entrance and egress of each property to and from the public roadway shall have a surface access apron of a minimum of ~~ten~~ (10) feet long and six (6) feet wide. This area shall be made of a solid material, such as cement, Belgian block or stone, but not visible bituminous asphalt, commonly called "blacktop," as is prohibited above.

(7) A driveway and driveway apron area shall include properly sized drainage structures to retain all stormwater runoff generated by such driveway and apron area from entering the street.

(8) A nonconforming driveway existing prior to the adoption of this section shall not be expanded or altered unless a variance is obtained from the Board of Appeals.

(9) Installation of a new driveway or the expansion, relocation or modification of an existing driveway shall require review by the Architectural Review Board.

B. Off-Street Parking Areas.

(1) All lots containing a dwelling shall contain adequate off-street parking for a minimum of four (4) vehicles of an average size.

(2) An off-street parking area is an improved area designed to accommodate on-site maneuvering and parking of automobiles and vehicles. An off-street parking area is separate from but connected to the driveway and commonly referred to a parking court. Off-street parking may occur on an improved driveway, but a driveway shall not constitute the off-street parking area required herein. Off-street parking shall not occur on a lawn or unimproved dirt areas, except on a temporary basis. Temporary parking on a lawn or unimproved dirt areas shall not grant any rights to permit the improvement or establishment of a parking area without conformance to the provisions of this Section.

(3) An off-street parking area shall be located on the same lot as the principal dwelling. An off-street parking area shall not be considered as an accessory to a waterfront facility.

(4) An off-street parking area shall be located within the building envelope determined by the applicable setbacks of the principal dwelling.

(5) An off-street parking area shall not exceed 2,500 square feet in area.

(6) An off-street parking area shall not be constructed with visible bituminous asphalt, commonly called "blacktop," and the surface shall be gravel or other loose aggregate, or grass pavers.

(7) An off-street parking area shall include properly sized drainage structures to retain all stormwater runoff generated by such parking area on-site.

(8) A nonconforming parking area existing prior to the adoption of this section shall not be expanded or altered unless a variance is obtained from the Board of Appeals.

(9) Installation of a new off-street parking area or the expansion, relocation or modification of an existing off-street parking area shall require review by the Architectural Review Board.

SECTION 5. Applicability. The provisions of this local law shall not apply to a driveway or curb cut authorized by the Board of Trustees, Zoning Board of Appeals, Architectural Review Board or Planning Board prior to the effective date of this Local Law.

SECTION 6. Authority. The proposed local law is enacted pursuant to Village Law §7-712, et. seq. as well as Municipal Home Rule Law §§10(1)(i) and 10(2).

SECTION 7. Severability. If any section or subsection, paragraph, clause, phrase, or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole, or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

SECTION 8. Effective Date. This local law shall take effect upon filing with the Secretary of State pursuant to Municipal Home Rule Law.