

LOCAL LAW NO. 3 OF 2022

A LOCAL LAW amending §230-49, §230-64B and §230-65E of the Zoning Code related to demolition of buildings and structures and review standards of the Architectural Review Board amending Article X of the Zoning Law to update and revise the procedures of the Architectural Review Board.

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

SECTION 1. AMENDMENT. Section 230-49 of the Zoning Law (Demolition permit application; fees) is amended by deleting strikethrough words and adding underlined words as follows:

§230-49. Demolition permit application; fees.

A. Demolition permit requirement. No building, structure or portion of any building or structure shall be altered, demolished or removed until a permit for demolition, alteration or removal has been issued by the Building Inspector.

B. Demolition permit application.

(1) Every application for a demolition permit shall be made upon a form issued or approved by the Building Inspector. Such application must be accompanied by any information necessary to such application. Any demolition required for alteration or reconstruction or new construction that requires a building permit shall also require a demolition permit.

(2) No demolition or removal shall be undertaken until the demolition permit has been approved by the Building Inspector, in writing, with notice to the Board of Trustees of such approval.

(3) No demolition or removal shall be undertaken without full and proper notice to all adjoining property owners and any property owners within 250 feet of the property, even if across a paved roadway, where the demolition, removal or alteration will take place. "Proper notice" shall be defined as written notice to property owner at the primary address listed on file with the Village Clerk for the purposes of tax receivership. "Proper notice" is further defined as 10 business days prior to the date of the proposed demolition, removal or alteration. Proof of service of such notices shall be submitted to the Building Inspector before the permit is released to the applicant and the commencement of the demolition. Such proof shall be in the form of an affidavit with postal receipts annexed thereto confirming mailing of said notices.

C. Demolition permit fee. Every application for a demolition permit shall be subject to a fee in an amount set by the Board of Trustees from time to time by resolution.

D. Architectural Review Board Approval required. Prior to the issuance of a demolition permit, the Building Inspector shall refer the application to the Architectural Review Board for its approval or disapproval in accordance with the provisions of Article X of this Chapter.

SECTION 2. AMENDMENT. Section 230-64 B of the Zoning Law is amended by deleting strikethrough words and adding underlined words as follows:

B. As soon as practicable and in any event within five business days after determining that an application for a building permit for the demolition, construction, reconstruction or alteration of any building or structure complies with all provisions of the Zoning Law, other than this article, the Building Inspector shall transmit to the Board of Architectural Review a copy of any such application which the Building Inspector first determines comes within any of the following categories:

- (1) Construction of any new building or structure;
- (2) An addition or reconstruction, demolition or alteration of any existing building or structure, in such a manner as to change substantially the exterior character and appearance of the building or structure. Interior alterations to an existing building or structure and the in-kind replacement of materials of an existing building or structure shall not be considered to be a substantial change requiring review by the Architectural Review Board for the purposes of this section.
- (3) All fences and walls, including fences for pools, tennis courts and gardens.

SECTION 3. AMENDMENT. Section 230-65 E of the Zoning Law is amended by adding a new subsection (7) as underlined words as follows:

§230-65 E. The Architectural Review Board may disapprove any application for a permit, provided that the Board has afforded the applicant a reasonable opportunity to confer upon suggestions for change of the plan, and provided that the Board finds and states that the structure for which the permit was requested would, if erected or altered as indicated, provoke one or more of the harmful effects set forth in §230-60 by reason of:

(7) Any request for demolition of a building or structure, in whole or in part, shall include specific details relating to the demolition and the redevelopment after demolition, demonstrating how the proposed demolition and redevelopment will preserve and enhance the character, history, historical interest, beauty, general welfare and property values of the Village of Dering Harbor.

SECTION 4. AUTHORITY. The proposed local law is enacted pursuant to Village Law §7-712, as well as Municipal Home Rule Law §§10(1)(i), 10(1)(ii)(a)(11), 10(1)(ii)(a)(12), and 10(2).

SECTION 5. 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 6. Effective Date. This local law shall take effect upon filing with the Secretary of State pursuant to Municipal Home Rule Law.