



**MEMORANDUM**

TO: HON. ROSARIO PRESTI, MAYOR  
HON. MEMBERS, VILLAGE OF CHESTNUT RIDGE BOARD OF TRUSTEES

FROM: MAXIMILIAN STACH, AICP  
JONATHAN LOCKMAN, AICP

SUBJECT: AMENDMENTS TO ZONING LAW ARTICLE XIII, INDOOR PARKING ACCESSORY TO SINGLE FAMILY RESIDENCES

DATE: AUGUST 29, 2018

CC: WALTER SEVASTIAN, ESQ., VILLAGE ATTORNEY

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At its workshop held on August 8, 2018 at 8 pm, the Village Board of Trustees requested that we prepare amendments to the Zoning Law to improve the Village’s ability to enforce the requirement for indoor parking (two-car garages) to be constructed at nonconforming one-family residences, when such residences are significantly enlarged, rebuilt or renovated.

The requirement for at least two indoor parking spaces to be provided at a one-family residence was adopted by Local Law 3 of 2006. This local law added this parking requirement to Column F “Minimum Off-Street Parking Spaces,” in the Table of General Use requirements in all residential zoning districts. The minimum size of the parking spaces in a garage was added to Article VII, Parking and Loading Requirements. However, no specific provisions were added requiring nonconforming buildings to comply with indoor parking requirements if enlarged, expanded, renovated or demolished and rebuilt.

The following proposed amendments would add clear language to the requirements in Article XIII (Nonconforming Uses, Building or Lots) requiring indoor parking when existing, nonconforming residences are expanded or renovated. As requested, the requirement is proposed to be triggered if the construction cost of a proposed building permit application or the total construction cost for all building permits within any five-year period (to avoid piecemealing as a loophole) exceeds 50% of the current assessed value of improvements (structures) on the lot. The construction of a new two-car garage would not be required for lesser expansions or renovations.

We do not believe this local law amendment constitutes an action pursuant to SEQR as it will not result in a physical change and only deals with how the zoning local law is administered. Additionally, our understanding is that no change in land use policy is proposed here. Rather, these amendments would clarify and improve enforcement of the existing policy that has been in place since 2006, when Local Law 3 was adopted.

Please let us know if you have any questions.

Amend Article XIII of the Zoning Law of the Village of Chestnut Ridge as shown below. Proposed additions to language are shown as underlined in red. Proposed deletions are shown ~~struck through~~ in red. All other language is proposed to remain unchanged.

## ARTICLE XIII

### Nonconforming Uses, Buildings or Lots

#### 1. Applicability of Article.

This Article applies to lots, buildings, structures and nonbuilding uses lawfully in existence on the effective date of this local law. The lawful use of any such premises, ~~or uses~~ or structures existing on the effective date of this local law may be continued although neither such use or structure conforms, nor the bulk or parking requirements of the same complies with the requirements, except as hereinafter follows.

#### 2. Nonconforming buildings, structures, parking or lots.

A. Residential buildings or structures. Any existing one or two-family residential building or structure, or building accessory thereto, made noncomplying as to bulk by this local law or any amendment thereof, shall be permitted to comply with the yard setback requirements as specified for the highest residential district having the same or less lot width. In no event, however, shall the yard and setback requirements of any lot be less than the requirements for the R-15 District. No front setback may in any event be closer to the designated street line than the existing established setback. For any existing building or structure on a lot having less than a one hundred-foot lot width, the minimum standards will be the same as those specified in paragraph ~~D-E~~ of this section.

B. Residential indoor parking. Where construction, enlargement, expansion, renovation or reconstruction of principal or accessory structures is proposed on a one-family lot, and where the cost of construction exceeds 50% of the last full value as shown in the records located in the Town Assessor's office, excluding the assessed valuation of the land thereof, the lot shall comply with the indoor parking requirements as described in the Table of General Use Requirements for the zoning district in which it is located. In order to preclude the possibility of homeowners segmenting construction to avoid compliance, the construction cost shall include the value of current proposed construction or renovation as stated in the building permit application, as well as the value of any other building permits issued for improvements on the lot within the previous five years.

~~BC.~~ Nonresidential buildings ~~or~~ structures or lots. Normal maintenance and repair, structural alteration in, or reconstruction or enlargement of, a building or structure with noncomplying bulk or parking requirements is permitted if the same does not increase the degree of or create any new noncomplying bulk or parking in such building or structure or lot.

~~CD.~~ Two (2) or more adjoining noncomplying subdivision lots, regardless of ownership, in a subdivision approved by the Chestnut Ridge (or previously Town of Ramapo) Planning Board shall have three (3) years from the date of filing with the office of the County Clerk to obtain a building permit. Two (2) or more adjoining noncomplying lots in a subdivision approved by the Planning Board and filed with the office of the County Clerk more than three (3) years prior to the effective date of this local law, or meeting the equivalent requirement of the Town of Ramapo for the three year period prior to the

enactment of this local law, and in the same ownership, shall not be eligible to receive a building permit. Said subdivision or part thereof shall be resubmitted to the Village Planning Board for approval in accordance with the applicable provisions of this local law. Any lot in a subdivision approved by the Village Planning Board after the effective date of this local law, but which is made noncomplying as to bulk by any future amendments of this local law, shall have three (3) years from the date of filing to obtain a building permit.

~~D~~E. Noncomplying lots.

(1) A residential lot, separated from any other land in the same ownership and noncomplying as to bulk, whether or not located in and part of a subdivision plat approved by the Planning Board and filed in the office of the County Clerk, and which has a minimum lot width of one hundred (100) feet, may be used for a one-family detached residence, provided that such use shall comply with the bulk and parking requirements as specified in the highest residential district having the same or less lot width. For all residential lots having less than one hundred (100) feet of lot width, the following minimum requirements shall apply:

(a) The minimum width of one (1) required side setback shall be twenty (20) feet for lots in the RR-50, R-40 and R-35 Districts; fifteen (15) feet for lots in the R-25 District; and ten (10) feet for lots in the R-15 District.

(b) The total width of both required side setbacks may be reduced nine (9) inches for each foot that the lot width is less than that specified in the Bulk Table.

(c) The minimum front and rear setbacks shall be thirty (30) feet.

(d) The minimum lot width and lot frontage shall be seventy-five (75) feet.

(e) The maximum building height shall be twenty-five (25) feet.

(2) For all nonresidential lots having less than one hundred (100) feet of lot width, the following minimum requirements shall apply:

(a) The minimum width of each required side setback shall be twenty (20) feet in the LO and PI Districts and ten (10) feet in the PO and NS Districts, except that where any setback abuts a residential district, the normal requirements for setbacks, yards and buffers shall apply.

(b) The total width of both required side setbacks may be reduced nine (9) inches for each foot that the lot width is less than that specified for the Table of Bulk Requirements.

(c) The minimum front and rear setbacks shall be thirty (30) feet for lots in the PO and NS Districts and fifty (50) feet for lots in LO and PI Districts.

(d) The minimum lot width and lot frontage shall be seventy-five (75) feet.

(e) The maximum building height shall be thirty-five (35) feet.

~~E~~F. A lot shall not be considered noncomplying with respect to the front setback or front yard requirements of this local law if said condition is the result of a street right-of-way widening reservation or dedication, whether in fee or easement, required by the Planning Board at the time of subdivision or site development plan approval.

3. Additional considerations. (Amended August 18, 2011, Local Law No. 1 of 2011)

A. Repair and alterations. Normal maintenance ~~and~~, repair or alteration of a building or structure occupied by a nonconforming use is permitted if it does not extend the nonconforming use. No extension, alteration or enlargement shall be made in a building or structure occupied by a nonconforming use, nor in a nonconforming nonbuilding use except:

- (1) When required pursuant to an order of a court of competent jurisdiction.
- (2) To adapt the building or structure to a conforming use.

B. Change of use. Any nonconforming use may be changed to any conforming use or, on application to and with the approval of the Board of Appeals, to any use which the Board of Appeals deems to be more similar in character with the uses permitted in the district in which said change of use is proposed. Any nonconforming building, structure or nonbuilding use may be changed to a conforming use, regardless of whether the newly created conforming use is noncomplying as to bulk, subject to approval by the Board of Appeals, subject to the same general considerations applicable to the granting of special permits and subject to site development plan approval.

C. Cessation of use. If active and continuous operations are not carried on in a nonconforming use during a continuous period of one (1) year, the building or land where such nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing. The time period set forth herein shall be tolled for any cessation of use pursuant to a court order.

~~ED.~~ Damage and destruction or demolition. A building or structure occupied by a nonconforming use or noncomplying as to bulk or parking requirements, damaged by fire or other causes including demolition, to the extent of ~~seventy-five~~ seventy-five percent (~~75~~75%) or greater of ~~the~~ last full value as shown in the records located in the Town Assessor's office, excluding the assessed valuation of the land thereof, shall not be repaired or rebuilt except in conformity with the requirements of this local law, including parking requirements. Any building, structure or any part thereof occupied by a nonconforming use or noncomplying as to bulk or parking requirements, which is damaged to an extent less than ~~seventy-five~~ seventy-five percent (~~75~~75%) of last full value as shown in the records located in the Town Assessor's office, excluding the assessed valuation of the land, may be repaired, provided that a building permit is obtained within one (1) year after such damage; otherwise such building, structure or part thereof shall thereafter be occupied only by a conforming use and shall comply with the bulk and parking requirements of this local law.

~~FE.~~ Nonconforming open storage yards, outdoor display. Any nonconforming open storage yard or any outdoor display or storage of merchandise which is nonconforming may be continued for one (1) year after the effective date of this local law.

~~GF.~~ Nonconforming industrial uses. In any residential district, any nonconforming industrial use which is permitted in the PI District may be continued for eight (8) years after the effective date of this provision of the Ramapo Zoning Law (the preceding effective zoning control) or twenty-eight (28) years after the initial establishment of such use or an addition thereto that adds fifty percent (50%) or more to the real value of such use, whichever is the longer period, provided that, after the expiration of that period, such nonconforming use shall then be terminated.

~~H.G.~~ Modification by Board of Appeals. If an application is made at least six (6) months before the expiration of the period prescribed for termination of a nonconforming use or noncomplying bulk, and the Board of Appeals shall find that the period prescribed is unreasonable or inadequate for the amortization of the special value of the property resulting from such nonconforming use or noncomplying bulk, then the Board of Appeals may grant such an extension of the period prescribed as it shall deem to be reasonable and adequate for such amortization, provided that no such period of extension shall exceed one hundred percent (100%) of the period prescribed and that such extension may be granted only once for any use.

~~H.~~ Continued use after termination date is a violation. The continuation of a nonconforming use or noncomplying bulk after the termination date fixed for the same shall constitute a violation of this local law.