

## LOCAL LAW 1 OF 2019

### A LOCAL AMENDING CHAPTER 305 OF THE CODE OF THE VILLAGE OF WALDEN ENTITLED "ZONING" TO THE EXTENT OF AMENDING THE REQUIRED PUBLIC NOTICE PROVISIONS OF CODE SECTION'S 305-50(B)(2), 260-5(C) and 305-60(I)

**BE IT ENACTED** by the Village Board of the Village of Walden as follows:

#### SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending Chapter 305 of the Code of the Village of Walden entitled "Zoning" to the extent of amending the required public notice provisions of Code Sections 305-50(B)(2), 260-5(C) and 305-60(I). "

#### SECTION 2 – PURPOSE & INTENT

The purpose of this Local Law is to amend the public hearing notice procedure set forth in the Village Code for both the Village Planning Board and the Village Zoning Board of Appeals.

The Village Code currently requires applicants before the Zoning Board to mail notice of the substance of every appeal for a variance to the owners of certain designated properties by *Certified Mail, Return Receipt Requested*. This mailing is required in addition to the publication of the notice in the official newspaper of the Village. Historically, it appears that this requirement set forth in the Village Code dates back at least until 1996 and perhaps as early as 1975. What is clear is that the cost of sending Certified Mail, Return Receipt Requested, has increased significantly over the course of the years. It now stands at \$6.70 per letter. It is the determination of the Village Board that this is both an exorbitant and unnecessary expense and is an undue burden on applicants before the Zoning Board of Appeals. The purpose of the mailing in the first instance is to ensure that nearby property owners are aware of the pending request before the Village Zoning Board of Appeals and that they are further aware that they have the opportunity, at a duly scheduled public hearing, to voice their opinion and/or make comment on the application prior to a determination being made by the Zoning Board. This objective can be simply accomplished by mailing a notice to neighboring property owners by first-class mail. This mailing may be accomplished at a fraction of the cost of mailing a certified letter, return receipt requested, while at the same time achieving the desired objective. It also merits mention that the New York State Legislature, in adopting the applicable notice provisions regarding hearings before the Zoning Board of Appeals, does not even require mailed notices and only requires publication in the official newspaper of the Village. Nevertheless, the Board deems it appropriate that the surrounding neighborhood receive the additional notice by mail of the pending application before the Zoning Board and further deems it in the overall interest of the Village to allow that objective to be

accomplished by a much less expensive means, i.e., the mailing by first-class as opposed to a certified mail, return receipt requested.

Applicants for subdivision approval before the Village Planning Board are currently compelled to follow the same public notice procedures as applicants before the Zoning Board and thus are currently forced to bear the same expense detailed above. For the reasons summarized above relative to this cost, the Village Board deems it appropriate that applicants for subdivision approval should also receive the benefit of being able to satisfy the notice requirement simply by first-class mail in addition to the required publication in the official newspaper of the Village.

Lastly, it bears noting that the Public Notice Procedure for Special Exception Uses before the Planning Board references the Public Notice Procedure for the Zoning Board of Appeals. Accordingly, modification of the notification procedure for the Zoning Board of Appeals results in the same modification to the Special Exception Use notification process.

#### SECTION 3 – AMENDMENT TO TEXT OF CODE SECTION 305-50(B)(2)

Existing Code Section 305-50(B)(2) is hereby repealed and replaced with the following language:

- (2) By requiring the applicant to give notice of the substance of every appeal for a variance, together with notice of the hearing thereof, by causing notices to be mailed at least fifteen days before the date of said hearing to the owners of all property abutting that held by the applicant in the immediate area and all other owners within 300 feet, or such additional distance as the Board of Appeals may deem advisable, from the exterior boundaries of the land involving such appeal, as the name of said owners appear in the last completed assessment roll. Such notice shall be prepared, addressed and mailed by first-class mail by the Board Secretary or other employee or Officer of the Village who shall complete and file an affidavit of mailing with the Board certifying the date of the mailing and the address to which the notice was sent. All costs associated with the mailing shall be set forth in the Village Fee Schedule, as may be amended from time to time, and shall be borne by the applicant.

#### SECTION 4 – AMENDMENT TO TEXT OF CODE SECTION 260-5(C)

Existing Code Section 260-5(C) is hereby repealed and replaced with the following language:

- (C) The applicant shall cause notice of the public hearing, stating the date, place and substance of the hearing, to be given to all owners of property abutting the proposed subdivision and directly across any adjoining street, as the names of said owners appear on the last complete assessment roll in the Town of Montgomery. Such notice shall be prepared, addressed and mailed by first-class mail by the Board Secretary or other employee or Officer of the Village who shall complete and file an affidavit of mailing with the Board certifying the date of the mailing and the address to which the notice was sent. All costs associated with the mailing shall be set forth in the Village Fee Schedule, as may be amended from time to time, and shall be borne by the applicant. Said notice is to be mailed not less than fifteen days prior to the hearing and notice of same shall also be given by the planning board by publication in the official newspaper of the Village. Notice of the hearing shall be posted in four (4) conspicuous places not less than fifteen days prior to the public hearing. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within 120 days after it has been opened in accordance with New York State Village Law, as may be amended from time to time.

SECTION 5 – AMENDMENT TO TEXT OF CODE SECTION 305-60(I)

Existing Code Section 305-60(I) is hereby repealed and replaced with the following language:

- (I) Site plan approval procedures. Upon receipt of a completed application, the Planning Board shall review and approve, approve with modifications or disapprove the site plan. In appropriate cases, the Planning Board may, in its discretion, require a public hearing on the proposed site plan, which hearing shall be held within 62 days from the date the complete application is received by the Board. If a public hearing is held, notice of such hearing shall be prepared, addressed and mailed by first-class mail by the Board Secretary or other employee or Officer of the Village who shall complete and file an affidavit of mailing with the Board certifying the date of the mailing and the address to which the notice was sent. All costs associated with the mailing shall be set forth in the Village Fee Schedule, as may be amended from time to time, and shall be borne by the applicant. Said notice is to be mailed to all property owners within 200 feet of the boundaries of the property to be developed according to the proposed site plan not less than fifteen days prior to the hearing and notice of same shall also be given by the planning board by publication in the official newspaper of the Village. The Planning Board shall make a decision on the application within 62 days of the close of said public hearing, unless the applicant and the Board mutually consent to the extension of such time. The decision of the Planning Board shall immediately be filed in the office of the Village Clerk and a copy thereof mailed to the applicant.

## SECTION 5 - VALIDITY

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

## SECTION 6- EFFECTIVE DATE

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.