

## TOWN OF EAST GREENBUSH

### PROPOSED LOCAL LAW NO. 2 OF THE YEAR 2017

#### A LOCAL LAW AMENDING THE COMPREHENSIVE ZONING LAW OF THE TOWN OF EAST GREENBUSH, TO PROVIDE FOR REVIEW OF SPECIAL PERMITS BY THE PLANNING BOARD INSTEAD OF THE BOARD OF APPEALS

#### BE IT ENACTED BY THE TOWN OF EAST GREENBUSH AS FOLLOWS:

Section 1. The Comprehensive Zoning Law of the Town of East Greenbush is amended as set forth hereafter.

Section 2. Section 3.11.1 of the Comprehensive Zoning Law is repealed, and is replaced as follows:

#### **Section 3.11.1 Review of applications for special permits**

All special permit uses stated in the "Schedule of use Regulations" in Section 2.4 of this Local Law shall be subject to review and approval by the Planning Board in accordance with the standards and procedures included herein. In all cases where this Local Law requires such special use permit authorization by the Planning Board, no Building Permit or Certificate of Occupancy or use shall be issued by the Building Inspector except upon authorization of and in full conformity with any conditions imposed by the Planning Board.

- A. General Standards. In authorizing any special permit use, the Planning Board shall take into consideration the public health safety, and general welfare, the comfort and convenience of the public in general and that of the residents of the immediate neighborhood in particular. In addition to any specific requirements of this code, the Planning Board shall also take into account the following general objectives for any use requiring Planning Board authorization:
01. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the use, and the location of the site with respect to the existing or future streets providing access, shall be in harmony with the orderly development of the district.
  02. The location, nature, and height of the buildings, walls and fences, and the nature and intensity of intended operations, will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
  03. All proposed traffic access ways shall be adequate but not excessive in number; adequate in width, grade, alignment and visibility; be located not less than twenty-five (25) feet from street corners or other places of public assembly; and meet similar safety considerations.
  04. Adequate provision for safe and accessible off-street parking and loading spaces shall be made.
  05. All parking and service areas shall be screened at all seasons of the year from the view of adjacent residential lots and streets and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Such landscaping shall include the preservation of existing

trees over eight (8) inches in diameter to the maximum extent possible.

06. The character and appearance of the proposed use, buildings, structures, and/or outdoor signs shall be in general harmony with the character and appearance of the surrounding neighborhood, shall not be more objectionable to nearby properties by reasons of noise, fumes, vibration, or principal lights, than would be the operations of any permitted use and shall not adversely affect the general welfare of the inhabitants of the Town of East Greenbush.
  07. All proposed buildings, structures, equipment and/or material shall be readily accessible for fire and police protection.
- B. Special Permit Application Procedure. The Planning Board shall review and act on all special permit uses in accordance with the procedure specified herein:
01. Application and Fee. All applications for special permits made to the Board of Appeals shall be in writing, on forms prescribed by the Board, and shall be accompanied by the following:
    - a) A sketch site and/or building plan as applicable, providing sufficient information to permit the Planning Board to review compliance with the general standards discussed in Part (a) of this Article; and
    - b) Payment of the applicable fee in accordance with the fee schedule established and annually reviewed by the Town Board.
  02. Public Notice and Hearing. The Planning Board shall fix reasonable time and place for a public hearing on any such application, of which hearing date the applicant shall be given notice at which hearing he shall appear in person or by agent. The Board shall additionally provide notice as follows:
    - a) By publishing at least ten (10) calendar days prior to the date thereof a legal notice in the official newspaper of the Town.
    - b) By requiring the Secretary of the Planning Board to provide notice of the public hearing and data regarding the substance of the application to the owners of all property within two hundred (200) feet of the land involved in such application. Notice shall be provided by either certified or registered mail at least seven (7) calendar days prior to the hearing, with compliance with this notification procedure certified to by the Secretary.
      - i. The names of owners notified shall be taken as such appear on the last completed tax roll of the Town.
      - ii. Provided that there has been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Board in connection with granting or denying a special permit application.
    - c) If the land involved in the application lies within five hundred (500) feet of the boundary of any other municipality, the Secretary of the Board shall also submit at least five (5) calendar days prior to the public hearing to the municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every application, together with a copy of the official notice of such public hearing.
  03. Required Referral
    - a) A full statement of any application that meets the referral requirements of Section 239 (l) and (m) of the General Municipal Law shall also be

referred prior to the public hearing to the Rensselaer County Bureau of Economic Development and Planning.

No action shall be taken by the Board on such application until an advisory recommendation has been received from said Bureau and thirty (30) calendar days have elapsed since the Bureau received such full statement.

04. Decisions. Every decision of the Board with respect to a special use permit application shall be by resolution, fully stating the decision including any conditions attached thereto. Each such decision shall be filed in the Office of the Town Clerk within ten (10) calendar days thereof.
- C. Reimbursable Costs. Reasonable costs incurred by the Board for private consultation fees or other extraordinary expense in connection with review of an application for special use permit approval shall be charged to the applicant. Such reimbursable costs shall be in addition of the fee required in Part (b) herein. Maximum amounts for such reimbursable costs by project type and size shall be in accordance with the fee schedule established and annually reviewed by the Town Board.
- D. Effect of Special Use Permit Approval.
01. No building permit shall be issued for any structure covered by this Section until such special use permit has received approval by the Planning Board and a copy of a resolution to that effect has been presented to the Building Inspector.
  02. No Certificate of Occupancy or Use shall be issued for any structure or use of and covered by this Section until the structure is completed or the land developed in strict accordance with the Planning Board resolution of special permit approval and other applicable requirements of this Local Law.
  03. Any use for which a special use permit may be granted shall be deemed to be a conforming use in the district in which it is located provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit has been granted.
  04. The Planning Board may require in its resolution of approval that a special use permit be renewed periodically. Such renewal may be withheld only after public hearing and upon determination by the Board that such conditions as may have been prescribed in conjunction with the issuance of the original permit have not been, or are no longer being, complied with. In such cases, a period of sixty (60) days shall be granted for full compliance by the applicant prior to revocation of the special use permit.
- E. Expiration of Special Use Permit. A special use permit shall be deemed to authorize only one particular special use, and shall expire if the special permit use is not commenced and diligently pursued within six (6) months of the date of special use permit issuance or if the use authorized ceases for more than six (6) months for any reason.
- F. Relief from Decisions. Any person or persons, jointly or severally aggrieved by any decision of the Planning Board under this Section may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the civil Practice laws and Regulations of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be initiated as therein provided within thirty (30) days after the filing of the Zoning Board of Appeals' decision in the Office of the Town Clerk.

Section 3. Section 4.2.2 (A) (04) of the Comprehensive Zoning Law is repealed.

Section 4. Section 4.3.3 of the Comprehensive Zoning Law is repealed, and a new Section 4.3.3 is enacted as follows:

**Section 4.3.3 Review of Appeals for Variances**

The Planning Board shall review appeals for variances transmitted to it by the Board of Appeals and shall submit its advisory opinion to said Board of Appeals prior to the date of public hearing set for such applications and appeals. Upon failure to submit its advisory opinion within 45 days, the Planning Board shall be deemed to have approved the appeal.

Section 5. The Comprehensive Zoning Law is amended by adding a new section as follows:

**Section 4.3.6 Special use Permits**

The Planning Board shall have the authority to issue permits for special use in accordance with Section 3.11 and other applicable provisions of this local law.

Section 6. Section 3.3.6 (B) is repealed, and replaced as follows:

3.3.6(B) laser-light, pulsing, flashing or LED (Light Emitting Diode), changing or moving signs are prohibited, except for static LED fuel price signs. Such signs shall not pulse, flash, or have other movement.

Section 7. Section 4.5 of the Comprehensive Zoning Law is amended by adding the following additional definitions, which shall be placed in alphabetical order in said section:

Residential; multi-family residence – See “Dwelling, Multiple”. {6, 19, 21, 23, 25, 71, 116}

Residential; two family residence – See “Dwelling, Two-Family”. {6, 19, 21, 23, 25, 27, 29, 116}

Residential; one family residence – See “Dwelling, One-Family”. {6, 12, 13, 14, 16-19, 21, 23, 25, 27, 29, 115}

Section 8. This local shall take effect immediately, Sections 2, 3, 4, and 5 of this Local Law shall apply to all applications for special permits occurring on or after its effective date.