

LOCAL LAW NO. 8 OF 2024

A LOCAL LAW amending Article V (Fences, Walls and Bulkheads) of Chapter 196 (Zoning) of the Village Code to authorize exceptions to the height limitations for non-residential districts, railroad screening, sports courts, septic systems, outdoor storage and utilities, temporary garden fences and deer fences.

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

SECTION 1. Amendment. Article V (Fences, Walls and Bulkheads) of Chapter 196 (Zoning) of the Village Code is amended to delete strikethrough words and add underlined words as follows:

ARTICLE V FENCES, WALLS AND BULKHEADS

§196-22. Height and density restricted.

A. ~~Except in the Light Industry LI District, Height of fences and walls. No fence or wall in a required front, side or rear yard shall have a height greater than four (4) feet, except as follows:~~

(1) In the Light Industry LI-1 District and Light Industry LI-2 District, the Planning Board in connection with the approval of a site plan, may approve a fence or wall not exceeding six (6) feet in a front yard or a fence or wall not exceeding eight (8) feet in height in a rear or side yard.

(2) In the Business B-1 District and Business B-2 District, the Planning Board in connection with the approval of a site plan, may approve a fence or wall not exceeding four (4) feet in a front yard or a fence or wall not exceeding six (6) feet in height in a rear or side yard.

(3) In the Workforce Housing District (WHD) and Planned Retirement Community District (PRCD), the Planning Board in connection with the approval of a site plan, may approve a fence or wall not exceeding four (4) feet in a front yard or a fence or wall not exceeding six (6) feet in height in a rear or side yard.

(4) Yards Distinguished. For the purposes of this subsection A, the front, side or rear yards referenced herein are the areas described in the definition of such yards set forth in §196-2, which is distinguished from the “required yards” referenced in subsection B, which are established by the dimensional setbacks set forth on the Table of Dimensional Regulations.

(5) Railroad Screening Fence or Wall. In all Districts, the Planning Board in connection with the approval of a site plan in a non-residential district or the Building Inspector in all residential districts may approve a fence or wall abutting the boundary line of the L.I.R.R. right-

of-way not exceeding six (6) feet. The required yard and visibility (open space) limitations set forth in subsection B shall not apply to a fence or wall abutting the L.I.R.R. right-of-way.

(6) Sports Courts. In all Districts, the height limitations for a fence or wall shall not apply to a fence or wall associated with a tennis court, paddle tennis court, pickleball court or other sports court approved by the Design Review Board and/or Building Inspector.

(7) Septic System Wall: In all Districts, the height limitations of this subsection A and the required yard and the visibility (open space) limitations set forth in subsection B shall not apply to a wall associated with a sanitary septic system approved by the Suffolk County Department of Health Services (SCDHS) provided said wall is setback at least four (4) feet from a property line and the space between the property line and the wall is vegetated with a hedge or screen plantings at the height of the wall. Spread footing associated with walls shall not extend beyond the property line into a street right-of-way or adjoining property.

(8) Outdoor storage, utility, generator and refuse fence and walls. In all Districts, the height limitations of this subsection A and the required yard and the visibility (open space) limitations set forth in subsection B shall not apply to a fence or wall associated with an outdoor storage, utility, generator and/or refuse area approved by Design Review Board, provided the following conditions are met:

(a) The fence or wall shall not exceed four (4) feet in the required front yard and six (6) feet in height in all other yards.

(b) The fence or wall shall be associated with and located in close proximity to the primary building or an accessory structure.

(9) Temporary Garden Fence. In all Districts, the Building Inspector may approve a garden fence to protect the foliage of garden vegetation from being eaten by wildlife or damage from winter weather conditions, which may be erected and maintained on a temporary seasonal basis as follows:

(a) A temporary fence to protect the foliage of garden vegetation from being eaten by wildlife shall be fabricated of welded wire mesh with forest green or black PVC coating or forest green or black fabric mesh. Fence posts shall also be forest green or black in color. Such temporary fence shall not exceed the height of the hedge, shrub or plant to be protected or six (6) feet above the grade level, whichever is less. Such temporary fence shall be placed in such a manner that it is immediately surrounding or adjacent to the hedge, shrub or plant to be protected so that it visually blends into the hedge, shrub or plant.

(b) A temporary fence to protect the foliage of garden vegetation from winter weather conditions may be fabricated of burlap or equivalent natural material with natural wood or metal fence posts of similar color. Such temporary fence shall not exceed the height of the hedge, shrub or plant to be protected or six (6) feet above the grade level, whichever is less. Such temporary fence shall be placed in such a manner that it is immediately surrounding or adjacent to the hedge, shrub or plant to be protected.

(c) All such temporary fences shall not be erected before October 1 and shall be removed no later than April 30.

(10) Deer Fence. In all Districts, the Building Inspector may approve a deer fence not exceeding eight (8) feet in height, provided the following conditions are met.

(a) The surface color or finish of a deer fence, including all parts thereof, to the maximum extent feasible shall be black, green or natural.

(b) A deer fence shall be installed on the interior side of hedging and/or screen plantings and not on the exterior facing a street or adjacent properties.

(c) Where the existing conditions do not provide adequate screening of the deer fence from the street or adjoining properties, the Building Inspector shall condition a permit for a deer fence on the installation of hedging and/or plantings to conceal the fencing and/or diminish its visual impacts to the street and/or adjoining properties. Hedging and/or screen plantings shall be installed simultaneously with any deer fence and shall comply with the specifications approved by the Building Inspector. All such hedging and/or screen plantings shall be at the height of the deer fence upon installation. Maintenance of such hedging and/or plantings in accordance with the approved specifications shall be a continuing condition for the allowance of a deer fence.

(d) The deer fence shall not cause or promote any safety risks to traffic, including vehicular and/or pedestrian thoroughfares, on any nearby or adjacent traveled roadway.

(e) To minimize impacts to adjoining properties, the Building Inspector may require a minimum setback as a condition of approval. In no case shall the Building Inspector have authority to approve a deer fence and/or associated plantings on an adjoining property or street right-of-way.

(f) A deer fence shall not include the use of unnecessarily large or visually unattractive components. By way of illustration, not limitation, the fencing material shall be high strength wire like mesh (1.75 inch) made of UV stable polypropylene, black, green or natural clad. Posts of a size greater than four (4") inches by four (4") inches, barbed wire, chain link and any elevation of grade or change of grade at or near the point of installation of the proposed fence, are prohibited. All posts shall be polyester-coated black, green or natural galvanized steel or wood spaced fifteen (15) or more feet apart excepting as circumstances require and the Building Inspector approves otherwise. Corner and/or gate posts may be four (4") inches by four (4") inches but all other posts shall not exceed a profile of 1.625 inches. Bracing is not allowed except at corner and gates within four (4) feet above natural grade. Use of CCA or other chemically treated wood material is prohibited.

(g) A deer fence constructed prior to the adoption of this subsection shall be deemed prohibited and shall continue to be nonconforming unless and until a permit is obtained under this subsection.

- B. In all Districts, a A fence or wall four (4) feet or less in height shall be permitted within a required yard, provided that the visibility (open space) through said fence or wall equals a minimum of 40% of the area. A wall which does not exceed two (2) feet in height need not comply with such visibility (open space) requirement. The Planning Board in connection with the approval of a site plan in a non-residential district, the Workforce Housing District or Planned Retirement Community District, may waive the required yard and visibility (open space) limitations set forth herein, where for example the fence or wall is necessary to provide screening from adjoining properties.
- C. A bulkhead shall be permitted, subject to the requirements of Chapter 77, Bulkheads and Docks. The yard, height and visibility (open space) limitations set forth above shall not apply to a bulkhead.
- D. The height of a fence or wall shall be measured from the natural ground level at the base of the fence or wall. Where a fence is constructed on a retaining wall, the height shall be measured from the base of the ~~fence~~ retaining wall.
- E. A gate and/or gatepost at a driveway entrance or exit may exceed the height limitation set forth in Subsection A, provided that:
- (1) Such gate shall not exceed six feet in height.
 - ~~(2) Such gate shall not exceed four feet in height for more than an aggregate width of 16 feet.~~
 - ~~(3)~~ (3) Such gatepost shall not exceed eight feet in height, inclusive of any decorative trim or lighting.
 - ~~(4)~~ (3) The cross-section area of such gatepost shall not exceed four square feet.
- F. A gate and/or gatepost at a walkway entrance or exit may exceed the height limitation set forth in Subsection A, provided that:
- (1) Such gatepost shall not exceed six feet in height, inclusive of any decorative trim or lighting.
 - (2) The cross-section area of such gatepost shall not exceed one square foot.

(3) The gate at such entrance or exit shall not exceed ~~four~~ six feet in height.

(4) Such gate exceeding the width of four feet shall comply with the visibility (open space) requirement set forth in Subsection B.

G. A gate at a driveway entrance or exit shall have a minimum width of 12 feet.

H. A gate at a driveway entrance or exit need not comply with the visibility (open space) requirement set forth in Subsection B, provided that the aggregate width of such gate shall not exceed 16 feet.

I. Where a gate and gatepost at a driveway entrance or exit exceed the height limitation set forth in Subsection A (pursuant to Subsection E) and a fence is attached to the gatepost, such fence may exceed the height limitation set forth in Subsection A, provided that:

(1) Such fence shall not exceed six feet in height.

(2) Such fence shall not exceed four feet in height for a distance of more than 10 feet (measured from the gatepost).

(3) Such fence shall comply with the visibility (open space) requirement set forth in Subsection B.

§196-23 Building permit required; review and approval of permit.

A. A building permit shall be required before any fence, wall or bulkhead is erected.

B. ~~If, at the time application is made for a building permit for a fence or wall, there is in existence in the Village of Quogue a Board of Architectural Review, T~~ the Zoning Administrator Building Inspector shall refer all applications for fence or wall building permits to the Design Review Board of Architectural Review. Said Board shall disapprove an application for construction of a fence or wall where it finds it would be detrimental to the character, property values, enjoyment or development of the surrounding residential area by reason of excessive dissimilarity or inappropriateness of design or would be inconsistent with the preservation of public safety and health.

§196-24 Finished side to face adjoining property.

Any such fence or wall constructed within a required front, side or rear yard shall have the face or finished side thereof facing the property line of the adjacent owner or adjacent street. The

~~Zoning Administrator~~ Building Inspector shall designate which side is the finished or face side of the fence or wall.

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.