

EXHIBIT 7

*Town of Greenburgh, NY
Friday, April 22, 2022*

Chapter 285. Zoning

Article IV. Supplementary Regulations

§ 285-40. Exceptions and modifications.

A. Use.

(1) Nothing in this chapter shall be deemed to prohibit the following accessory and incidental uses, in addition to those specified elsewhere in this chapter.

(a) Customary recreational, refreshment and service uses and buildings in any public park, public playground or other public recreational area where such use or buildings are incidental to the recreational use of such area.

(b) The dumping or depositing of earth or rock as fill in quantities measuring less than 100 cubic yards, provided that such activity does not detrimentally impact the drainage on adjacent parcels. Any fill operation involving 100 cubic yards, or more, of new fill consisting of earth or rock, or of other types of fill in any quantity, shall be subject to a permit issued by the Town Engineer upon a showing by the applicant, by competent evidence, that the proposal to deposit fill will not create an adverse environmental or aesthetic impact, after completion of the work, that is inconsistent with the surrounding environment.

[Amended 10-27-1999 by L.L. No. 7-1999]

[1] As a condition of any permit the Town Engineer may require:

[a] Restoration and/or landscaping upon completion.

[b] Completion within a definite, specific time period.

[c] A cash deposit or letter of credit to insure completion and compliance with all applicable laws, rules and regulations.

[d] A description of the type and nature of material proposed to be used.

[e] Documentation regarding the source of the material.

[f] Water sampling.

[g] A topographic map of the site showing both existing and proposed grades.

[h] A plan for rodent, pest and/or insect control.

[i] Any other conditions reasonably related to the proposal and intended to preserve, protect and promote the health, safety and welfare of the community.

[2] In addition to any permit condition, the applicant shall pay an application fee and, if issued a permit, a reasonable inspection fee calculated to reflect the actual cost of monitoring compliance with this section and any other applicable law rule or regulation.

- (c) Permit procedure. When a permit is required to dump or deposit fill pursuant to § **285-40A(1)(b)**, the applicant shall file an application on a form promulgated by the Town Engineer, together with such additional materials, set forth in § 285-40A(1)(b)[a] through [i], as the Town Engineer may require, and any application fee which may be established by the Town Board. When the Town Engineer makes a determination that a fill application has been made and the application is suitable for approval, letters shall be sent to all property owners within 100 feet of the site to be filled and to the Town Board, informing the neighbors of the proposed action and requesting that any comments or objections be forwarded to the Town Engineer within seven calendar days. At the conclusion of this comment period, the Town Engineer will render a decision on the application. If the decision is to issue a permit, such decision may include conditions designed to mitigate concerns expressed by interested parties during the comment period. The Town Engineer may extend the comment period at his discretion if new issues affect the proposal. After a final decision has been made by the Town Engineer regarding a fill permit, notification of such decision will be made to all parties who have commented. If no comments or objections have been received, the decision on the permit shall be effective immediately. If the Town Engineer receives comments or objections from adjacent or nearby property owners, the decision or permit shall not be effective until at least 10 days after the decision has been sent to the parties receiving notice hereunder. Any person aggrieved or affected by the decision of the Town Engineer shall have the right, within 10 calendar days of the decision, to appeal the decision to the Town Board. If no appeal is made within the ten-day period, the decision on the permit shall be effective immediately. If the decision is appealed to the Town Board, the decision shall be stayed until the Town Board has reached a decision.
[Added 10-27-1999 by L.L. No. 7-1999]
- (d) The Town Attorney is hereby authorized to apply for a court order seeking injunctive relief against any dumping or land fill activity, regardless of size, upon showing a violation of any local, state or federal rule, regulation or law.
[Added 10-27-1999 by L.L. No. 7-1999]
- (e) Notwithstanding any other provision of law and regardless of size, where any landfill is located in a residential zone, deliveries to the site and the operation of any machinery in connection with the landfill before 9:00 a.m. are prohibited.
[Added 10-27-1999 by L.L. No. 7-1999]
- (f) Regardless of size, the Town Engineer may require either the property owner or the operator of any fill site to institute a plan for rodent, pest or insect control, as circumstances warrant.
[Added 10-27-1999 by L.L. No. 7-1999]
- (g) In accordance with 6 NYCRR 217-3.2, no diesel engine used to power or operate any machinery used in connection with any land fill operation, regardless of size, shall idle for more than five consecutive minutes when the machinery is not in motion, unless otherwise permitted by law.
[Added 10-27-1999 by L.L. No. 7-1999]
- (2) The following requirements shall apply to each corner lot situated in a nonresidential district when such lot abuts at the street line upon a residence district lying within a distance of 200 feet from the corner of such lot:
- (a) Along the side of such corner lot abutting upon a residence district, there shall be a side yard, the width of which shall be not less than 50% of the depth of the required front yard of the adjoining residence district.
- (b) The rear of any business or industrial building or structure erected on such corner lot shall be not less than 50 feet from its rear lot line separating such lot from the adjoining property in a residence district.

- (3) The Town Board may grant, pursuant to the provisions of § **285-10A(4)** of this chapter, a special permit for the construction of steel towers not in excess of 150 feet in height on any real property owned or leased by a public utility company or over which it has an easement for the purpose of transmission lines of such utility company; provided, however, that no such special permit shall be granted until the Town Board shall have received from the Planning Board a report and recommendation with respect to the size, design, construction and number of such steel towers.
- (4) Where a lot lying in a nonresidential district extends from a street frontage lying in a nonresidential district back to a street the other side of which lies in a one-family residence district (which street shall be hereinafter referred to as a "residential street"), no business or industrial building or structures shall be constructed or erected on such lot so as to front upon such residential street. Within such lot lying in a nonresidential district and fronting along such residential street, there shall be a suitably landscaped strip containing a shrubbery screen, which strip shall be not less than 15 feet in width unless a larger minimum width is specified elsewhere in this chapter. Said buffer shall comply with all the requirements for a landscaped strip and shrubbery screen as set forth in § **285-38** of this chapter. Where the elevation of the residential street is 10 or more feet above that of the other street on which a business or industrial use may front, a dwelling to the rear of or above such permitted business or industrial use, to the extent otherwise permitted under this chapter, may front upon such residential street, provided that:
[Amended 8-13-1996 by L.L. No. 7-1996; 4-29-1997 by L.L. No. 6-1997]
- (a) Such dwelling shall be set back from and thus provide a front yard facing upon such residential street equal in depth to the front yard required for one-family dwellings on the opposite side of such residential street.
- (b) Parking space required for such residential use may be within such required setback area, or in a side yard appurtenant thereto, or within an off-street parking area adjacent to that provided for such business or industrial use, provided that there is a suitably landscaped strip containing a shrubbery screen both along the residential street frontage as required above and along any side lot line as required in § **285-38C(3)** of this chapter.
- (c) The height of any residential portion of any building or structure above the grade of the residential street shall not exceed that permitted for one-family dwellings on the opposite side of such residential street.
- (5) If the side lot line or rear lot line of any lot lying in a business or industrial district adjoins a residence district, such lot shall not be used for any purpose unless there is provided for, along such side lot line or rear lot line, a landscaped strip of at least 10 feet in width containing a shrubbery screen as required in § **285-38** of this chapter.

B. Height.

- (1) Towers, gables, scenery lofts, cupolas, water tanks and similar structures and necessary mechanical appurtenances may be erected on the roof of a building to a height greater than the limit for the district in which such building is located, provided that:
[Amended 11-9-1994 by L.L. No. 9-1994]
- (a) The aggregate of such structures and appurtenances shall not cover at any level more than 15% of the area of the roof on which they are located, except that for offices or agencies for scientific research or technical development, or for laboratories, the aggregate of such structures and appurtenances shall not cover more than 80% of the area of the roof on which they are located.
- (b) No such structures or appurtenances shall be used for sleeping or housekeeping purposes or for any commercial purpose other than such as may be incidental to the permitted use of the principal building or as may be permitted for antenna installations in § **285-37**.
[Amended 8-13-1996 by L.L. No. 7-1996; 4-29-1997 by L.L. No. 6-1997]

- (c) No such structure or appurtenances shall extend more than 15 feet above the roof without the approval of the Zoning Board of Appeals, except that, for offices or agencies for scientific research or technical development or for laboratories, such structures shall not extend more than 30 feet above the roof without the approval of said Board.
 - (d) Such structures or appurtenances shall be arranged on the roof in such manner as to minimize the number of separate locations to the greatest extent practicable and shall be screened from view in such manner as deemed appropriate by the approving board.
- (2) The height limitation of this chapter shall not apply to parapet walls three feet or less, chimneys, church spires, belfries, solar panels, standpipes, water towers, electric and telephone utility poles, flagpoles or monuments. Antenna(s) height shall conform to § **285-37**. [Amended 8-13-1996 by L.L. No. 7-1996; 4-29-1997 by L.L. No. 6-1997]
 - (3) In any district, a public or quasi-public building, school, church, hospital or other institutional building permitted in such district may be erected to a height not exceeding 75 feet, provided that the front, rear and side yards of the lot or parcel on which it is situated shall each be increased one foot for each one foot by which such building exceeds the height limit established in the schedule for such district.
 - (4) Unless otherwise specified, the height of any accessory building or structure shall not be greater than 12 feet. [Amended 7-8-1987 by L.L. No. 3-1987]
 - (5) In the M-6, M-10, M-14, M-22, M-25 and M-174 Multifamily Residence Districts, the Town Board, by special permit, may allow an increase of one additional story above the maximum number of stories otherwise allowed, provided that the following criteria are met:
 - (a) The maximum height of the buildings in feet shall not exceed the maximum height in feet otherwise allowed for the district.
 - (b) The maximum amount of coverage allowed shall be reduced by an amount to be determined by the Town Board and to be made a condition of the special permit.
 - (c) The rooflines, facade and other design elements of the buildings shall be in character with the surroundings and shall emphasize the residential nature of the buildings.
 - (d) The visual impact of the buildings shall not be detrimental to the community, particularly in relation to scenic vistas, ridgelines and hillsides.

C. Lot and yards.

- (1) The following features may extend into any required front yard, not to exceed the distance specified:
 - (a) Cornices, canopies, eaves or any similar features, none of which is less than 10 feet above grade: three feet.
 - (b) A deck with its floor level no higher than that of the entrance to the building: five feet. A railing no higher than three feet may be placed around such deck. [Amended 7-8-1987 by L.L. No. 3-1987]
 - (c) A chimney: two feet.
 - (d) Chimney-mounted and wall-mounted antenna where permitted in § **285-37**: two feet. [Added 8-13-1996 by L.L. No. 7-1996; 4-29-1997 by L.L. No. 6-1997]
- (2) The above-listed features may also extend into any required side or rear yard the same distance that they are herein permitted to extend into any required front yard, and an outside stairway or fire escape may extend into any required side or rear yard, except that no deck or outside stairway or fire escape shall project more than four feet into any required side yard nor be closer than five feet to any side lot line, and an outside stairway or fire escape may extend

into any required side yard only if the same is unroofed and unenclosed above and below the steps thereof.

[Amended 7-8-1987 by L.L. No. 3-1987]

- (3) If there are buildings fronting on the same side of the street between intersecting streets and within 200 feet on either or both sides of the lot for which a building permit for a new building is sought, the depth of the front yard required for such new building shall be the average depth of the front yards of the two buildings nearest to it, except that no front yard need be greater than the applicable front yard in the district in which such new building is situated.
- (4) If any accessory building is attached to the principal building, except by a breezeway or roofed passageway with open or latticed sides, it shall comply in all respects with the requirements of this chapter applicable to the principal building.
- (5) Except as provided elsewhere in this chapter, the yard requirements of this chapter shall not be deemed to prohibit any otherwise lawful fence or wall, provided that in any one-family residence district, no fence or wall shall exceed six feet in height in any front or side yard nor eight feet in height in any rear yard.
[Amended 7-8-1987 by L.L. No. 3-1987]
- (6) Any parcel of land having access to a street shown on the Official Map of the Town and having an area or frontage width less than that prescribed for the district in which such parcel is situated may be used as a lot for any purpose permitted in such district, provided that all of the following requirements are met:
 - (a) Such parcel has an area of at least 50% of the area and a frontage width of at least 50% of the frontage width required for the district.
 - (b) Such parcel was under one ownership at the time of the effective date of this chapter and the owner thereof at that time did not then own and has at no time since then owned any land adjoining such parcel.
 - (c) Each owner of such parcel subsequent to the effective date of this chapter has not, subsequent to said effective date, owned any land adjoining such parcel.
 - (d) Such parcel was not at any time reduced in area or width by any voluntary act of an owner thereof so as to be nonconforming as to size under the then existing Zoning Ordinance of the Town.
 - (e) All requirements of this chapter other than those concerning lot area and yards are fulfilled. Such requirement may be varied or modified by a variance duly applied for and granted by the Board of Appeals pursuant to the provisions of Article **VII** of this chapter on the ground of practical difficulties or unnecessary hardship, in which case all the terms and conditions set forth in such variance shall be complied with. In considering an application for a variance hereunder, the Board of Appeals shall be guided by the following principles for purposes of determining minimum sizes of yards and accessory uses:
 - [1] Front yard depth of such parcel shall approximate the average depth of front yards of lots lying on the same side of the street on which such parcel fronts or should be not less than 20% of the average depth of such parcel.
 - [2] Side yards of the parcel may be reduced proportionately in accordance with the ratio which the actual width of such parcel bears to the minimum lot width required under the schedule, except that in any event one side yard with a minimum width of eight feet shall be provided to afford access to the rear yard, and the other side yard may be reduced accordingly, but it shall not be less than four feet in width.
 - [3] The rear yard of the parcel should approximate 25% of the average depth of such parcel and be not less than 20 feet in any event.

- [4] No accessory buildings shall be permitted on a parcel having less than the required minimum area, but accessory uses may be provided for in the principal building.
- (7) When the rear yard of a corner lot lying in any one-family residence district adjoins the front yard of a lot to the rear thereof lying in a one-family residence district (which rear lot shall be hereafter referred to as the "rear lot"), any accessory building on such corner lot if not attached to the principal building shall not be nearer to the street line on the street which the rear lot faces than twice the minimum distance of the front yard setback in the adjacent residential district.
- (8) A parcel of land existing at the time of the effective date of this chapter and lacking the required lot width as specified for the district in which such parcel is situated may be used for the construction or erection of a one-family dwelling, provided that all of the following requirements are met:
[Amended 7-8-1987 by L.L. No. 3-1987]
- (a) Such parcel is situated in a residence district or a business district, and a one-family dwelling is permitted in the district in which such parcel is situated.
- (b) It shall have access to a street, which access shall not exceed 300 feet in length or be less than 25 feet in width throughout its entire length.
- (c) The area of such parcel, excluding the land lying within any access strip, shall not be less than that specified for the district in which such parcel is situated.
- (d) The maximum coverage of land by buildings, excluding the land lying within any access strip, shall not be more than that specified for the district in which such parcel is situated.
- (e) The minimum width and depth of any front or rear yard and the minimum width of any side yard, measured in every case from the nearest points of such one-family dwelling to the nearest points on any front, side or rear lot line, exclusive of any land lying in any easement of access, shall not be less than the respective minimum yard dimensions set forth in the district in which such parcel is situated.
- (f) The minimum distances from the nearest point of any accessory building or off-street parking area to any principal building and lot line, as set forth in the district in which such parcel is situated, shall be complied with.
- (g) All other requirements set forth in the schedule with respect to such one-family dwelling in such district are complied with.
- (h) Such parcel was not at any time reduced in area or width by any voluntary act of an owner thereof so as to be nonconforming as to size under the then existing Zoning Ordinance of the Town.
- (9) Slope.
- (a) For lots created prior to January 1, 1987, where the natural slope of the ground of a lot, as shown by the contours of a topographic survey submitted with an application for site plan approval or building permit, measured from the front lot line to the midpoint of the lot or to the rear lot line, whichever yields the greater slope, exceeds a grade of one foot in six feet, the required front yard for such lot as set forth in the schedule may be reduced as follows:
[Amended 7-8-1987 by L.L. No. 3-1987]
- [1] Where the slope exceeds one foot in three feet, the required front yard may be reduced to not more than 1/2 thereof.
- [2] Where the slope exceeds one foot in four feet but is less than one foot in three feet, the required front yard may be reduced to not more than 1/3 thereof.

- [3] Where the slope exceeds one foot in five feet but is less than one foot in four feet, the required front yard may be reduced to not more than 1/4 thereof.
- [4] Where the slope exceeds one foot in six feet but is less than one foot in five feet, the required front yard may be reduced to not more than 1/5 thereof.
- (b) Where the natural slope of the ground of a lot, as shown by the contours of a topographical map submitted with an application for site plan approval or building permit, measured from one side lot line to the other or from one side lot line to the midpoint of such lot, whichever yields the greater slope, exceeds a grade of one foot in four feet, one required side yard may be reduced to not more than 1/3 thereof, provided that such reduction shall not impair the minimum angle of light required in § **285-39B** of this chapter, and provided that the other side yard is increased accordingly.
- (10) The Town Board may grant a special permit to property owners who, at the Town's request, transfer land to the New York State Department of Transportation, the Town or any other governmental agency or municipality for highway-widening purposes when such owner has waived all rights to compensation therefor, said special permit providing that specified setback, density and other similar bulk and location zoning requirements shall be calculated as if the transferred land had been retained. This provision shall apply to pending and to previously approved site plans. No special permit shall be granted unless the following findings are made by the Town Board concerning the particular application:
[Added 7-8-1987 by L.L. No. 3-1987]
- (a) That, at the Town's request, the owner has transferred or has offered to transfer land to the New York State Department of Transportation, the Town or any other governmental agency or municipality for highway-widening purposes.
- (b) That such transfer is for a public purpose and is in the public interest.
- (c) That such owner has waived all rights to compensation with respect to the land transferred or to be transferred.