

**RESOLUTION No. 22 of 2022**

**Enacting Local Law No. 2 of 2022 Amending Chapter 230 of the Village Code Entitled “Zoning” to Add the Requirement that Public Hearings Regarding Land Use Applications be Advertised on Signs Posted on the Property**

At a meeting of the Village Board of Trustees of the Village of Millbrook (“Village Board”), held at the Village Fire House, 20 Front Street, Millbrook, New York on the 14<sup>th</sup> day of December, 2022, at 6:00 p.m., Village Mayor, Tim Collopy called the meeting to order, and Mayor Collopy, seconded by Trustee Arbogast, moved the following resolution, to enact the following local law, to be known as Local Law No. 2 of 2022, entitled “A Local Law Amending Sections 230-43, 230-44 and 230-62 of the Village Code to add the requirement that Public Hearings for land use applications be advertised by posting a sign on the property subject of the application in addition to all other Public Hearing Notice requirements” as follows:

WHEREAS, the following Local Law was introduced as Proposed Local Law No. 2 of 2022, by Resolution adopted at a regular meeting of the Village Board held on October 12<sup>th</sup>, 2022; and

WHEREAS, a properly noticed public hearing was held before the Village Board during the meeting on November 9, 2022, on Local Law No. 2 of 2022; and

WHEREAS, the Village Board determined the enactment of this Local Law will have no adverse environmental impacts and issued a Negative Declaration pursuant to the New York State Environmental Quality Review Act; and

NOW THEREFORE, BE IT ENACTED by the Board of Trustees of the Village of Millbrook (“Village Board”) as follows:

Section 1. Legislative intent: The Village Zoning Law, set forth in Chapter 230 of the Village Code, contains Notice requirements for Public Hearings on certain land use applications before the Town Planning Board and Zoning Board of Appeals. Those Notice requirements currently include publication in the official newspaper of the Village and direct mailings to neighbors within

a certain distance of the property that is the subject of the Public Hearing. The Village Board has determined that public awareness of Public Hearings regarding land use applications would be increased if, in addition to the existing Notice requirements, there was an additional requirement to post a sign on the property that is the subject of the Public Hearing providing Notice of the Public Hearing. The Village Board believes it to be in the best interests of the Village and its residents, to amend Sections 230-43, 230-44 and 230-62 of the Village Code, to include the requirement that applicants on all land use applications before the Town Planning Board and Zoning Board of Appeals be required to post any Notice of Public Hearing on Signs placed on the property subject to the land use application.

Section 2. Section 230-43 of the Village Code entitled “Special permit procedure” is hereby amended by repealing Subsection 230-43(D) and replacing that Subsection with the following language.

“D. Application and referral. Application for a special permit shall be made, in writing, to the Planning Board. The Planning Board shall fix a time within 62 days from the day an application for special permit is made for a public hearing. Public notice shall be given by publication in the newspaper of such hearing at least five days prior to the date of public hearing. The secretary of the Planning Board will record in the minutes of the hearing the names of any of the abutting property owners who qualify under terms of § 230-44D, who object to the granting of the special permit and the reasons why, such information is to be given consideration in arriving at a permit decision. In addition, the Applicant shall post a Sign on the property which is the subject of the application, at the Applicant’s own cost, containing the Notice of Public Hearing at least ten (10) days prior to the date of the Public Hearing. The Planning Board shall determine the number, size and placement of the Sign to be posted on the property which shall be in compliance with the requirements of Section 230-20 of the Village Code. An affidavit of posting shall be filed with the secretary of the Planning Board at least five (5) days before the Public Hearing. Reposting of such Sign shall not be required for adjourned dates. An Applicant shall not be deemed to have violated the requirement to maintain the Notice Sign if the Sign is removed or destroyed by an unrelated party or natural force and replaced within a reasonable period of time. The Sign required herein shall be removed within five (5) days of the close of the Public Hearing. The Planning Board is authorized to develop and revise from time to time policies and procedures regarding the size of Notice Signs, the font size of the lettering appearing thereon, as well as the level of detail announced in the Notice Sign in order to best serve the needs of the Planning Board and the public.

Within 62 days of said hearing, the Planning Board shall approve, approve with modifications or disapprove the special permit. The decision of the Planning Board shall be filed in the office of the Village Clerk within five business days after such decision is rendered, and a copy thereof shall be mailed to the applicant. No building permit shall be issued for special uses until the provision of § 230-43 have been met.”

Section 3. Section 230-44 of the Village Code entitled “Site plan procedure” is hereby amended by repealing Subsection 230-44(D) and replacing that Subsection with the following language.

“D. Public hearing and action by Planning Board.

- (1) The Planning Board shall notify, by certified mail, all adjacent property owners of the date, time, place and subject of the public hearing at which the site plan will be reviewed. Such notice shall not be required for adjourned dates. The records of the Receiver of Taxes of the Village of Millbrook shall be deemed conclusive as to ownership, and the notice shall be deemed complete when deposited in a properly addressed postpaid envelope in the United States Mail. In addition, the Applicant shall post a Sign on the property which is the subject of the application, at the Applicant’s own cost, containing the Notice of Public Hearing at least ten (10) days prior to the date of the Public Hearing. The Planning Board shall determine the number, size and placement of the Sign to be posted on the property which shall be in compliance with the requirements of Section 230-20 of the Village Code. An affidavit of posting shall be filed with the secretary of the Planning Board at least five (5) days before the Public Hearing. Reposting of such Sign shall not be required for adjourned dates. An Applicant shall not be deemed to have violated the requirement to maintain the Notice Sign if the Sign is removed or destroyed by an unrelated party or natural force and replaced within a reasonable period of time. The Sign required herein shall be removed within five (5) days of the close of the Public Hearing. The Planning Board is authorized to develop and revise from time to time policies and procedures regarding the size of Notice Signs, the font size of the lettering appearing thereon, as well as the level of detail announced in the Notice Sign in order to best serve the needs of the Planning Board and the public.
- (2) Within 62 days of the date of the adjournment of public meeting, the Planning Board shall act to approve, approve with modifications or disapprove the proposed site plan. A copy of the Planning Board's decision shall be filed in the offices of the Village Clerk and with the Zoning Enforcement Officer, and a copy thereof shall be mailed to the applicant.

- (3)** Within 60 days of the date of approval or approval with modifications, the applicant shall present to the Planning Board a corrected final site plan in reproducible form, including any modification required by the Planning Board as a condition of its approval. Upon verification by the Planning Board that the plan complies with the requirements of the Planning Board, the plan shall be endorsed by the Planning Board Chairperson and properly filed with the Zoning Enforcement Officer, the Planning Board and the Village Clerk.”

Section 4. Section 230-62 of the Village Code entitled “Public hearings and notice” is hereby repealed in its entirety and that Section replaced with the following language.

**“§ 230-62 Public hearings and notice.**

The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice thereof by the publication in the official paper of a notice of such hearing as provided by the Village Law. In addition, the Applicant shall post a Sign on the property which is the subject of the application, at the Applicant’s own cost, containing the Notice of Public Hearing at least ten (10) days prior to the date of the Public Hearing. The Zoning Board of Appeals shall determine the number, size and placement of the Sign to be posted on the property which shall be in compliance with the requirements of Section 230-20 of the Village Code. An affidavit of posting shall be filed with the secretary of the Zoning Board of Appeals at least five (5) days before the Public Hearing. Reposting of such Sign shall not be required for adjourned dates. An Applicant shall not be deemed to have violated the requirement to maintain the Notice Sign if the Sign is removed or destroyed by an unrelated party or natural force and replaced within a reasonable period of time. The Sign required herein shall be removed within five (5) days of the close of the Public Hearing. The Zoning Board of Appeals is authorized to develop and revise from time to time policies and procedures regarding the size of Notice Signs, the font size of the lettering appearing thereon, as well as the level of detail announced in the Notice Sign in order to best serve the needs of the Zoning Board of Appeals and the public.

- A.** Notice to interested parties. In case of any appeal, all interested parties as designated in the Village Law shall be notified as provided therein.
- B.** Adjournment of hearing. Upon the day for hearing any application or appeal, the Zoning Board of Appeals may adjourn the hearing for a reasonable period for the purpose of causing such further notice as it deems proper to be served

upon such other property owners as it decides may be interested in said application or appeal.

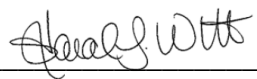
- C.** Required interval for hearing on applications and appeals after denial. Whenever the Board, after hearing all the evidence presented upon an application or appeal, under the provision of this chapter, denies the same, the Zoning Board of Appeals shall refuse to hold further hearings on the same or substantially similar application or appeal by the same applicant, his or her successor or assignee for a period of one year, except and unless the Zoning Board of Appeals shall find and determine from the information supplied by the request for a rehearing that changed conditions have occurred relating to the promotion of the public health, safety, convenience, comfort, prosperity and general welfare and that a reconsideration is justified. Such rehearing would be allowable only upon a motion initiated by a member of the Zoning Board of Appeals and adopted by the unanimous vote of the members present, but not less than a majority of all members.”

Section 5. This local law shall take effect as of the date of filing with the New York Secretary of State.

The foregoing resolution was duly put to a vote which resulted as follows:

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| Mayor Collopy    | Aye |
| Trustee Herzog   | Aye |
| Trustee Contino  | Aye |
| Trustee Arbogast | Aye |
| Trustee Doro     | Aye |

DATED: Millbrook, New York  
December 14, 2022

  
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SARAH J. WITT, VILLAGE CLERK  
Village of Millbrook