

BILL 13 of 2019

A LOCAL LAW to amend Russell Gardens Code Chapter 60 entitled "Zoning."

Section One. *Russell Gardens Code* §60-41.1 entitled "Special use permit" is hereby amended to read as follows:

- A. Office, service department, showroom, storage and parking facilities for the sale, leasing or rental of new and used automobiles, vans and trucks shall be permitted only when authorized as a special use by the Board of Trustees after the payment of a filing fee ~~of \$1,000~~ as set forth in subsection B and a public hearing at which the following general standards are considered:
- (1) The purpose of zoning, as set forth in the Village Law of the State of New York and uses permitted in the Business District.
  - (2) Whether the proposed use is of such character, size, location, design and site layout as to be appropriate to and in harmony with the surrounding properties.
  - (3) Whether the proposed use will provide a desirable service, facility or convenience to the area or otherwise contribute to the proper growth and development of the community.
  - (4) Whether the proposed use will be hazardous, conflicting or incongruous to the immediate neighborhood by reason of excessive traffic, assembly of persons or vehicles.
  - (5) Whether the proposed use will be of such nature as to be objectionable to nearby residential dwellings by reason of noise, light, vibration, odor, size, color or any other potential impact.
  - (6) Whether use is appropriately located with respect to transportation facilities, water supply, fire and public protection facilities, waste disposal and similar facilities.
  - (7) Whether off-street parking facilities are provided as specified in this article or, if not, that they are adequate to handle expected public attendance so as not to create a neighborhood nuisance.
  - (8) Whether the neighborhood character and surroundings and property values are reasonably safeguarded.

(9) In the interest of preserving the balance of businesses and ensuring the success of the proposed use, the applicant shall prepare a narrative that demonstrates the market potential for the proposed use or uses, and the location of similar type facilities in the general area. This information shall be used to estimate the likelihood of success and potential economic viability for the new development.

(10) The Board of Trustees shall impose appropriate conditions as part of the issuance of a special use permit including, but not limited to, the following:

(a) All work shall be performed within a fully enclosed building.

(b) The use shall comply with all applicable state and local regulations and the failure to obtain all required licenses, permits and approvals or to comply with the requirements of such licenses, permits and approvals shall result in the immediate termination of the special permit.

(c) The maximum number of cars that can be stored as inventory or parked for repairs or service, and the location of such storage or parking areas.

(d) The number and location of off-street parking spaces for employees, customers and visitors.

(e) The expiration of the special permit, which in no event shall exceed five years.

(f) An annual certification by the owner that the automotive use is operating in compliance with the Board of Trustees' decision; such certification shall include the names and addresses of the owner and tenant, if any, of the premises.

B. The filing fee for a special use permit shall be set forth in the Zoning fee schedule established by resolution of the Board of Trustees. Such fee schedule may thereafter be amended from time to time by like resolution. Such fee schedule shall be available in the office of the Village Clerk.

Section Two. *Russell Gardens Code* §60-47 entitled "Landscaped buffer strip; wall" is hereby amended to read as follows:



Upon the erection of a building on a lot in the Business District adjoining a Residence AA, Residence A or Residence B District, there shall be provided on the Business District property, for the full width thereof, a landscaped area of at least six feet in depth, measured from the boundary line between such districts, consisting of trees and/or shrubs so located and of sufficient density as to effectively screen the Business District property from the Residence District property.

A. In addition to said landscaped area, there shall be erected in the rear of said Business District property a ~~brick-wall retaining wall with a brick facade~~ substantially similar to such walls now erected in the rear of office building properties on Northern Boulevard. The said wall shall be ~~at least~~ six feet higher than the level of the adjacent one-family residential property as of the time of its construction. ~~There shall also be erected a retaining wall with a brick facade along the side property line that abuts a street or public sidewalk. The height of said wall shall be six feet.~~

A.B. Any application for a building permit or certificate of occupancy shall designate the trees and/or shrubs to be planted, and the brick wall to be erected, and the location thereof. The plan for such planting and wall and the character and the nature of such trees and/or shrubs and wall shall be subject to the approval of the Building Inspector and the ~~Village Board Design Review Board~~. Such planting and brick wall shall be continuously thereafter maintained so long as such building on the Business District property shall stand.

B.C. Such landscaped area shall not be included as part of the area required for off-street parking facilities by ~~§60-48~~ of this article, but may be considered as part of the rear yard.

D. ~~Walls and fences shall not be permitted in a front yard, on a front property line or between two commercial parcels unless approved by the Design Review Board.~~

C.E. ~~Permit required. No person, firm, association or corporation shall hereafter erect and maintain any wall or fence for any purpose whatsoever without first having obtained a permit from the Building Inspector and having filed an application as set forth in § 60-59.2(B).~~

Section Three. *Russell Gardens Code* §60-59.2 entitled "Fences" is hereby repealed in its entirety and replaced with a new §60-59.2 entitled "Fences" to read as follows:

§60-59.2. Fences.

A. Permit Required.

No person, firm, association or corporation shall hereafter erect and maintain any wall or fence for any purpose whatsoever, without first having obtained a permit from the Building Inspector.

B. Application Requirements.

- (1) No fence shall be erected or altered until the Building Inspector issues a permit ~~certifying that for~~ the proposed fence ~~complies with this chapter~~. All applications for such permits shall be in writing and accompanied by a survey depicting all existing structures at the premises, the dimension of all open spaces, the location and height of the propose fence, and any other information as may be necessary to provide for the enforcement of this chapter and all other applicable New York State and County codes.
- (2) At the time such application is filed, the applicant shall pay to the Village Clerk a filing fee ~~as set forth in Chapter~~ pursuant to §60-68, as set forth in a Zoning fee schedule established by resolution of the Board of Trustees. Such fee schedule may thereafter be amended from time to time by like resolution. Such fee schedule shall be available in the office of the Village Clerk.
- (3) The applicant shall also provide detailed information regarding the type of fence to be erected to include the materials, manufacturer and color of the proposed fence.
- (4) All fence applications shall be approved by the Design Review Board prior to the issuance of a permit.

C. Provisions Applicable to Residential Districts.

- (1) No person shall erect, construct or otherwise maintain within the Village any fence, property divider or other structure in the nature of a barrier between adjoining residential properties, except that a living structure, including, but not limited to, hedges, plants, shrubs and trees shall be permitted. No living structure shall be permitted between single-family residential properties where driveways are abutting or are contiguous.



- (2) Fences and other structures in the nature of a barrier shall be permitted only when a barrier is needed between a single-family residential property and either a commercial property, an apartment property or a boundary of the Village.

Fences, barriers and walls are also permitted to avoid erosion or patently dangerous conditions.

- (3) Height. The maximum permitted height for any fence is six feet.
- (4) Materials. Acceptable fence materials are wood, brick, stone, wrought iron or a combination thereof of said materials as approved by the Design Review Board.
- (5) Location. Fences shall only be located in a rear or side yard. Fences shall not be located in a front yard.
- (6) Exception. These fence regulations shall not apply to public amenities facilities owned by the Russell Gardens Association which are situated within a Residential District.

D. Provisions Applicable to Commercial Districts.

All regulations concerning commercial fences and walls can be found in §§12-27(D), 45-18(E) and 60-47. All fees for commercial fences shall be established by resolution of the Board of Trustees, as set forth in §60-59.2.2.

E. Penalties for Offenses.

Each person who violates any provision of this chapter shall be subject to a fine of \$200 for a first offense; \$500 for a second offense; and \$1,000 for a third offense and each and every subsequent offense.

Section Four. *Russell Gardens Code* §60-68(B) is hereby amended to read as follows:

- (B) Fees Established. All fees are required and shall be paid for the Board of Appeals to hear any application. The fee amounts ~~are established in §65-7.D(1) and (2).~~ shall be set forth in the Zoning fee schedule as established by resolution of the Board of Trustees. Such fee schedule may thereafter be amended from time to time by like resolution. Such fee schedule shall be available in the office of the Village Clerk.

Section Five. *Russell Gardens Code* §60-68(C) is hereby amended to read as follows:

(C) In addition to the payment of the filing fees required under this chapter, deposits shall be established and required to defray the actual costs and expenses listed in §60-68(C)(1) for all applications made under this chapter in ~~the amount of \$1,000 for residential applications and \$2,500 for commercial applications.~~ an amount to be specified in the fee schedule, established by resolution of the Board of Trustees, as set forth in §60-59.2.2 68(B).

Section Six. If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section Seven. This local law shall take effect immediately upon filing with the Secretary of State.