

**Resolution of Adoption of a Local Law amending Chapter 300, Zoning, Article XII, Board of Appeals, §300-12.6 Specific Variance Standards, Section B, Nonconforming Uses, Buildings, Structures and Lots**

**WHEREAS**, the Village Board of Trustees is considering a local law to amend Chapter 300, Zoning, Article XII, Board of Appeals, §300-12.6 Specific Variance Standards, Section B, Nonconforming Uses, Buildings, Structures and Lots, to re-establish the 50% limitation on the expansion of pre-existing nonconforming uses and structures in the Village of Sag Harbor; and

**WHEREAS**, a public hearing was held by the Board of Trustees on November 9, 2021, at which time all persons either for or against the proposed local law were heard; and

**WHEREAS**, the Village’s Planning Consultant, Nelson Pope & Voorhis has advised the Village Board that this proposed local law is considered a “Type II Action” under 6 NYCRR Part 617.5, of the New York State Environmental Quality Review Act (“SEQRA”) and Chapter 125 of the Village Code; and now, therefore be it

**RESOLVED**, that that Local Law No. 3 of 2022 is hereby adopted as follows:

LOCAL LAW NO. 3 OF 2022  
INTRODUCTORY NO. OF 2021

A LOCAL LAW amending Chapter 300, Zoning, Article XII, Board of Appeals, §300-12.6 Specific Variance Standards, Section B, Nonconforming Uses, Buildings, Structures and Lots

**Be it enacted, by the Village Board of Trustees of the Village of Sag Harbor as follows:**

**SECTION 1. Legislative Intent.**

On January 11, 2020, the Village Board of Trustees adopted Local Law No. 2 of 2020 repealing the 50% limitation on the expansion of pre-existing nonconforming structures and uses because it was not “uniformly applied to variance applications for non-conforming buildings, uses since its enactment.” Instead of repealing the code provision, which protects against the unlimited expansion of pre-existing, nonconforming uses and structures in the Village of Sag Harbor by providing a cap at 50% if certain standards are met, the Board should have re-codified the provision, providing notice that the provision would be enforced going forward.

Indeed, this Board recognizes that the majority of lots and structures in the Village of Sag Harbor are, in fact, pre-existing nonconforming. Village Code §300-1.2(B)(4) states, “the

Village of Sag Harbor's remaining vacant land resource is limited. The pattern of existing land use is generally well defined. With the increased awareness of the potential impact of development on the marine environment and economic resources of the Village, *the control of development and redevelopment will be critical.*”

The 2008 Planning Strategies for the Village of Sag Harbor study stated, “in the past decade, the real estate activity level in the Village of Sag Harbor has increased, causing a rise in development pressures in the residential, commercial, and waterfront districts. Changes in the size, scale and type of development within the commercial district, if permitted, would threaten to erode the character of this district. If left unchecked, these pressures could change the essence of the Village” Today, the pressure from real estate activity and development impacts the entire Village, not just the commercial district. Thus, the following local law is in furtherance of the purpose of zoning found in Village Code §300-1.3, to promote the health, safety, morals or the general welfare of the Village of Sag Harbor by “protecting the established character and social and economic well-being of both private and public property.”

Moreover, the Board is cognizant of the Village of Sag Harbor’s established Historic District including the contributing structures within the district and the importance of maintaining the established character of these pre-existing, nonconforming structures. Therefore, this Board seeks to re-enact Village Code §300-12.6B to limit the expansion of a pre-existing, nonconforming use and/or structure to 50% of the gross floor area of such building or structure existing on the effective date of the use, building or structure having become nonconforming.

## **SECTION 2. Amendment.**

Please see the following and amend **Village Code §300-12.6B Specific Variance Standards** by deleting those words that are stricken and adding those words that are underlined:  
300-12.6 Specific variance standards.

### **B.**

With respect to nonconforming uses, buildings, structures and lots:

### **(1)**

To grant a permit for the extension of such a nonconforming use on the same lot on which it was located or an increase in the degree of a nonconforming building or structure on the lot occupied by such building or structure, provided that:

(a) In the case of a nonconforming use, such enlargement or extension shall not exceed, in all, 50% of the gross floor area of such building or structure actually devoted to such nonconforming use on the effective date of this use having first become nonconforming. In the case of a nonconforming building or structure, such enlargement or extension shall not exceed, in all, 50% of the gross floor area of such building or structure existing on the effective date of this building or structure having become nonconforming.

(b) All parking and truck-loading requirements of §300-9.6 are complied with.

(c) There shall be no change in the nature or character of such nonconforming use or such building or structure.

(d) The lot coverage and density shall not be greater than would have been permitted by the most restrictive lot coverage and density provisions in the district applicable to a permitted use or special exception use of the same character. The term density includes, among other things, the number of dwelling units allowed based on lot area, and the number of uses allowed based on the lot area.

### **SECTION 3. Authority.**

This Local Law is enacted pursuant to Village Law Section 7-708 and Municipal Home Rule Law Sections §§10(1)(ii)(a)(11), (12), and 10(1)(ii)(e)(3).

### **SECTION 4. Severability.**

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, the 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, section or part of this local law that shall be directly involved in the controversy in which such judgment shall be rendered.

### **SECTION 5. Effective Date.**

This chapter shall take effect immediately upon filing in the office of the Secretary of State pursuant to the Municipal Home Rule Law.