

**TOWN OF HARRISON
VILLAGE OF HARRISON
ATTORNEY'S OFFICE**

MEMORANDUM

TO: Supervisor Richard Dionisio
Members of the Town Board

FROM: Jonathan D. Kraut, Village Attorney *AK.*

DATE: June 8, 2023

RE: **Proposed Local Law__ of 2023**
Amending Section 71(B)(1) of Chapter 235, entitled "Zoning"

E-19

Attached herewith is a draft Public Notice, proposing an amendment to the above-referenced Section of the Zoning Code of the Town of Harrison.

In addition, I have attached Planning Board Resolution PB2023/25 in support of this proposed Local Law, pursuant to the ordinance amendment procedure established by Article VIII, Section 235-76, of the Zoning Code.

If acceptable, kindly:

1. Adopt a Resolution to accept, file and publish the attached Negative Declaration; and
2. Scheduled a Public Hearing on the matter to be held at the July 12, 2023 Town Board meeting.

JDK:ld

Attachments

cc: Rocco Germani, Building Inspector
Patrick Cleary, Planning Consultant

PUBLIC NOTICE

**Proposed Local Law No. ____ of 2023
Amending Section 71(B)(1) of Chapter 235, entitled
“Zoning” of the Town Code of the Town of Harrison**

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Harrison, at its meeting to be held at 7:00 P.M., on July 12, 2023, will hold a Public Hearing pursuant to Article 2, Section 10 and Article 3, Section 20 of Municipal Home Rule Law, to amend Section 71(B)(1) of Chapter 235, entitled “Zoning” of the Town Code of the Town of Harrison, by removing subsection (b), requiring prior written notice to property owners within a 500 foot radius, for Building Inspector Change of Use Exceptions in the CBD, MFR, NB and PB Zones. **New material is underlined and deletions are in brackets [].**

§ 235-71. Site plan approval.

B. In all districts, a site plan for all proposed land uses, buildings or structures, other than one- or two-family detached dwellings, shall be approved by the Planning Board. Such approval, including all supporting documents, shall be officially transmitted to the Building Inspector prior to his submission of the project to the Architectural Review Board and before his consideration of an application for a building permit. Any amendment of such a site plan, which requires approval by the Planning Board, shall be subject to this same procedure prior to the issuance of any building permit for buildings or structures affected by the amendment.

(Amended 8-25-2011 by L.L. No. 7-2011; 9-22-2011 by L.L. No. 8-2011)

(1) Exceptions: The Building Inspector may waive the requirement for Planning Board approval of a site plan with the regard to the following: a Change of Use in the CBD, MFR, NB or PB zoning district when the proposed new use is a permitted use not requiring Special Exception approval, and does not require the provision of additional required parking or modify the structure or site plan in any substantive way nor does the use cause any anticipated increase in demand for any municipal service.

(a) In the event that the Building Inspector preliminarily determines to waive the requirement for Planning Board approval of a site plan, the applicant shall post a sign on the property referenced in such application on or before the fifth calendar day following the Building Inspector's preliminary determination. Such sign shall be at least 30 x 20 inches in size, consist of sturdy and serviceable material containing a white background with black letters and be placed in a location plainly visible from the most commonly traveled street or highway upon which the property fronts, but in no case more than 20 feet back from the front lot line. Such sign shall be at least six feet above the ground and shall read as follows, in legible lettering at least two inches high:

"ON THE SITE (DESCRIBE ACTION SET FORTH IN APPLICATION) IS PROPOSED. THIS MATTER HAS BEEN PRELIMINARILY DETERMINED BY THE HARRISON BUILDING INSPECTOR TO BE EXEMPT FROM THE REQUIREMENT TO OBTAIN PLANNING BOARD APPROVAL AND THIS SITE PLAN WILL BE FINALLY APPROVED BY THE BUILDING INSPECTOR ON OR AFTER (GIVE TIME; 1ST BUSINESS DAY THAT IS TWO CALENDAR WEEKS AFTER THE DATE THAT THE SIGN IS FIRST POSTED). INTERESTED PARTIES CAN OBTAIN ADDITIONAL INFORMATION FROM THE HARRISON BUILDING INSPECTOR."

[(b) Any applicant which has submitted an application for site plan approval for which the Building Inspector has preliminarily determined meets the criteria set forth in this § 235-71B(1) shall give adequate prior written notice to property owners within 500 feet of any point of the subject property by certified mail, return receipt requested, mailed not more than five days after the Building Inspector makes his preliminary determination. The notice shall generally describe the application and state the earliest date upon which the Building Inspector's determination will be final.]

This Law shall take effect immediately upon filing with the Secretary of the State of New York.

ALL PERSONS HAVING AN INTEREST IN THE MATTER ARE INVITED TO
ATTEND AND BE HEARD.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF HARRISON.

Jacqueline Greer
Town Clerk

Dated: Harrison, New York
March 22, 2023

PLANNING BOARD RESOLUTION PB2023/25
APRIL 25, 2022

TOWN BOARD REFERRAL RESOLUTION
ELIMINATING BUILDING INSPECTORS CHANGE OF USE
PRIOR WRITTEN NOTICE REQUIREMENTS
ZONING TEXT AMENDMENT

WHEREAS, the Planning Board has received a referral from the Town Board for a recommendation, pursuant to the ordinance amendment procedure established by Article VII, Section 235-76. of the Zoning Code; and

WHEREAS, the Planning Board has reviewed the amendment to Section 71(B)(1) of Chapter 235, Eliminating Building Inspectors Change of Use prior written notice requirements.

NOW THEREFORE BE IT RESOLVED, that the Planning Board hereby offers a positive recommendation regarding the Zoning Text Amendment.

BE IT FINALLY RESOLVED, that this resolution shall have an effective date of April 25, 2023.

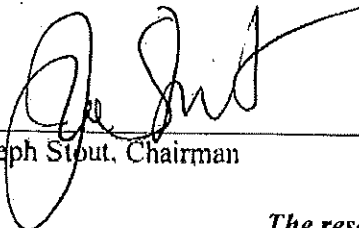
On the motion of Planning Board Member Jeffrey Spano, seconded by Planning Board Member Chip Marrano, it was adopted by the following vote:

AYES: Joseph Stout, Chip Marrano, Jeffrey Spano, Kimberly Burkan and David Gelfarb

NAYES: None

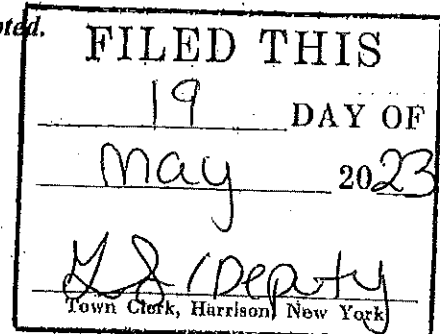
ABSTAINED: None

ABSENT: Nonie Reich and Marshall Donat



Joseph Stout, Chairman

The resolution was thereupon duly adopted.



TOWN/VILLAGE BOARD RESOLUTION

**DETERMINATION OF SIGNIFICANCE
PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT
LOCAL LAW AMENDING SECTION 17 (B) (1) OF CHAPTER 235
BUILDING INSPECTOR CHANGE OF USE**

WHEREAS, the proposed action involves amending Section 17 (B) (1) of Chapter 235 of the Town Code to allow the Building Inspector to waive the requirement for Planning Board approval of a site plan for a change of use in the CBD, MFR, NB or PB zoning districts in instances when the new use is permitted and does not require approval of a Special Exception Use, does not require the provision of additional off-street parking, does not modify the structure or site plan in any substantive way, and does not cause an increase in demand on municipal services (the "Proposed Action"); and

WHEREAS, the Proposed Action will expedite the process to allow businesses to reoccupy existing commercial spaces in the Downtown Harrison and Silver Lake areas, without extensive Planning Board review, in instances no significant concerns would exist.

WHEREAS, the Proposed Action is subject to the provisions of the New York (NY) State Environmental Quality Review Act ("SEQRA") as set forth in Article 8 of the Environmental Conservation Law and the implementing regulations promulgated thereunder at 6 NYCRR Part 617, as amended.

NOW THEREFORE BE IT RESOLVED, that pursuant to 6 NYCRR Part 617, State Environmental Quality Review, the Town /Village Board of the Town/Village of Harrison hereby designates itself Lead Agency for the SEQR Review of this Unlisted Action.

BE IT FURTHER RESOLVED, that pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law, the Lead Agency has determined that the proposed Unlisted Action will not have a significant adverse effect on the environment for the reasons enumerated in the attached Negative Declaration Form.

BE IT FURTHER RESOLVED that this resolution shall have an effective date of May 4, 2023.

On Motion of _____, seconded by _____, this resolution was adopted by the following vote:

AYES:

NAYES:

ABSTAINED:

ABSENT:

Richard Dionisio, Mayor/Supervisor

This resolution was thereupon duly adopted.

617.21
Appendix F
State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance

Project Number _____

Date June 15, 2023

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town/Village Board as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Building Inspector Change of Use

SEQR Status: Type I ☐
Unlisted ☒

Conditioned Negative Declaration: Yes ☐
No ☒

Description of Action:

The proposed action involves amending Section 17 (B) (1) of Chapter 235 of the Town Code to allow the Building Inspector to waive the requirement for Planning Board approval of a site plan for a change of use in the CBD, MFR, NB or PB zoning districts in instances when the new use is permitted and does not require approval of a Special Exception Use, does not require the provision of additional off-street parking, does not modify the structure or site plan in any substantive way, and does not cause an increase in demand on municipal services.

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

The Proposed Action is located within the CBD, MFR, NB or PB zoning districts, Harrison, Westchester County.

REASONS SUPPORTING THIS DETERMINATION:

(See 617.6(g) for requirements of this determination; see 617.6(h) for Conditioned Negative Declaration)

The proposed action involves a procedural modification to the change of use process. It allows the Building Inspector to waive the requirement to obtain Planning Board site plan approval for changes of use that consist of a permitted as-of-right use, that do not require any additional off-street parking, do not substantively modify an existing structure or site plan and do not increase the demand on municipal services.

This procedural modification would not allow for any additional impacts beyond those that already exist for current uses in the Town's two downtown areas. It is intended as a measure to support the business community and facilitate the economic vibrancy of the Town's downtowns.

The proposed action will not result in any significant adverse impacts.

If **Conditioned Negative Declaration**, provide on attachment the specific mitigation measures imposed.

For Further Information:

Contact Person: Jackie Greer, Town Clerk
Address: 1 Heineman Place, Harrison NY 10528
Telephone Number: 914-670-3030

For Type I Actions and Conditioned Negative Declarations, a Copy of this Notice Sent to:

Commissioner, Dep't of Environmental Conservation, 625 Broadway, Albany, NY 12233-0001
NYSDEC Region 3, 21 South Putt Corners Road, New Paltz, NY 12561
Supervisor/Mayor, Town/Village of Harrison, 1 Heineman Place, Harrison NY 10528
Applicant (if any)
Other Involved Agencies (if any)