

PB 6/24/2015

Village of Scarsdale

Memo



To: Mayor Mark and Village Board of Trustees

From: Dan Hochvert, Chair and Village Planning Board members *DH (leg)*

CC: Planning Board members
 Stephen Pappalardo, Village Manager
 Wayne Esannason, Village Attorney
 Elizabeth Marrinan, Village Planner
 Frank Balbi, Village Engineer

Date: June 16, 2015

Re: Planning Board Recommendation regarding the Lot Coverage/Impervious Surfaces Study

The Planning Board, at its regular meeting of May 27, 2015, discussed a recommendation to the Village Board of Trustees and unanimously agreed that the Village Code should be amended to include gravel surfaces as lot area coverage for zoning purposes.

The Planning Board recommended the Village Board adopt an amendment to Chapters 310-21, 22 and 23 of the Village Code which maintains the use of the word impervious, changes the definition of impervious surfaces by eliminating the existing "run-off" curve and including gravel surfaces as lot area coverage. The new definition of impervious surfaces will better regulate lot area coverage and attempts to balance the amount of a property devoted to buildings, developed surfaces, and other structures with property maintained as natural. The proposed amendment includes a "grandfathering clause" which would allow all properties made non-conforming by the amendment to maintain that non-conformity.

The attached resolution describes the Planning Board's review of the issue beginning with the referral from the Village Board, the study conducted by Frederick P. Clark Associates, the data compiled, the analysis and findings leading to the recommended amendment. Attached to the resolution is a draft Local Law which amends Chapters 310-21, 22 and 23 of the Village Code. The Planning Board discussed the study and the potential amendment at two public work sessions on March 16 and April 29, 2015 and held a hearing on the matter at its May 27, 2015 meeting before adopting the recommendation.

Thank you for your consideration of the matter.

CASE #3 OF 2014

4. Recommendation to the Village Board

A recommendation to the Village Board of Trustees regarding the amendment of the Village zoning code to regulate gravel surfaces as lot area coverage

The Planning Board, at its regular meeting of May 27, 2015, discussed a recommendation to the Village Board of Trustees regarding a potential amendment to the Village zoning code and unanimously agreed that gravel surfaces should be included in lot area coverage calculations for zoning purposes. Upon motion duly made and seconded, with Ms. Doucette-Ashman, Mr. Longman and Mr. Steinberg in favor and Mr. Blum and Mr. Hochvert opposed, the Board recommended the Village Board adopt an amendment to the Village Code which maintains the use of the word impervious and changes the definition of impervious surfaces, as attached, and adopted the following resolution:

- WHEREAS: the Village Board, in December 2013 requested the Planning Board undertake a study of potential changes to the zoning code with regard to the treatment of gravel as a pervious surface and its exclusion from the coverage requirements for zoning purposes; and
- WHEREAS: in January 2014, the Planning Board considered the issue and supported the retention of a planning consultant to undertake an analysis of the issue including a review of other community's zoning regulations, potential impacts of any proposed changes as well as an understanding of the scale of possible non conformities; and
- WHEREAS: the Village issued a Request for Proposals, reviewed and interviewed several firms and, in November 2014, retained Frederick P. Clark Assoc. to conduct the comprehensive study; and
- WHEREAS: the consultant reviewed other municipal regulatory approaches to lot coverage, analyzed village data including the Driveway Inventory analysis prepared by the Village Engineering Department and Stormwater Management and Erosion Control permit applications from 2013 and 2014 and prepared several reports; and
- WHEREAS: the Planning Board met with the consultant to discuss the study and its results at two work sessions on March 16 and April 29, 2015; and
- WHEREAS: the Board discussed the findings of the consultant including:
- a) most other municipalities consider gravel surfaces as lot coverage and/or an impervious surface; and
 - b) the Driveway Inventory revealed that 10% of the residential properties currently have gravel driveways in whole or in part, but that 25%

of the recent applications utilize gravel and maximize the total lot coverage, a clear trend toward more intensive residential development; and

c) it appears as if this trend for additional lot coverage is driven by a combination of an increase in the size of homes and the desire on the part of residents for site amenities such as pools, pool houses, tennis courts, large patios, parking courts and circular driveways; and

d) the degree of potential nonconformity is less than 10% based on the Driveway Inventory; and

WHEREAS: the Planning Board also discussed the fact that Chapter 245 of the Village Code strictly regulates impervious surfaces with regard to managing stormwater runoff and includes gravel surfaces in that review; and

WHEREAS: the Planning Board reviewed several versions of a proposed amendment to the Village zoning code that would regulate gravel surfaces as lot area coverage; and

WHEREAS: the Planning Board noted the regulation of lot coverage has an aesthetic impact on neighborhood character as it attempts to balance the developed surfaces, buildings and structures with the open space on each property; and

WHEREAS: the Planning Board discussed the potential creation of nonconformities and the proposed amendment includes a "grandfathering" clause which would allow all properties made non-conforming by the change to maintain that non-conformity; and

WHEREAS: the Planning Board considered possible unintended consequences of the proposed change to include gravel as lot coverage including the potential of shifting houses closer to the street and garages to the front to accommodate shorter driveways which might negatively impact the appearance of bulk; and

WHEREAS; the Planning Board also noted there may be a potential increase in variance requests to the Zoning Board of Appeals; and

WHEREAS: the Planning Board members have carefully considered the issue including materials prepared by the consultant dated March 13, 2015, March 16, 2015 and April 16, 2015, correspondence and comments heard during the work session and at the public hearing; and now therefore be it

RESOLVED: that the Planning Board recommends the Village Board consider adopting the proposed amendment to the Village zoning code as attached, which amends the existing definition of impervious surfaces to include gravel surfaces and provides for the protection of properties made nonconforming by the change; and be it further

RESOLVED: that the Planning Board recommends if an amendment to the Village Code is approved, the Village Board consider monitoring the Board of Appeals applications for an increase in variance requests relating to lot area coverage to see if further adjustments to the zoning code might be necessary in the future.

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INTRODUCTORY LOCAL LAW# __ OF 2015
AMENDMENT OF SECTIONS 310-21, 310-22 and 310-23 OF THE ZONING
CHAPTER OF THE VILLAGE OF SCARSDALE CODE REGARDING LOT
COVERAGE IN RESIDENCE A DISTRICTS

BE IT ENACTED by the Board of Trustees of the Village of Scarsdale as follows:

LEGISLATIVE INTENT

Section 1. Pursuant to publicly expressed concerns in regard to the bulk of residential homes and the preservation of neighborhood character, a comprehensive zoning and planning study was undertaken by the Planning Board and its consultants. As a result of the study and based on the recommendations of the Planning Board regarding gravel paving surfaces, the impact of these surfaces on the Village's lot coverage regulations, and the desire to treat gravel surfaces as impervious consistent with the Village's stormwater regulations to amend the definition of "Impervious Surfaces" located in Section 310-21, Definitions to include gravel surfaces to be consistent with the definition of "Impervious" located in Section 254-4, Definitions of the Village's stormwater regulations and other related changes to preserve the character of extant neighborhoods, protect the Village's natural features, establish standards for appropriate development in keeping the image of the "Village in the Park" and promote the health, safety and general welfare of the Village of Scarsdale consistent with the Comprehensive Plan, as follows:

§ 310-20. Findings and purpose.

Excessive coverage of lots with structures and impervious surfaces can limit adequate light and air; cause overcrowding of land; affect the character of the community; and have an adverse impact on neighborhood aesthetics. The following lot area coverage restrictions are designed to limit the above adverse effects in Residence A Districts and to promote the health, safety and the general welfare of the community.

§ 310-21. Definitions.

The words and phrases indicated below have the following meanings when used in this article:

BUILDING

Defined in § 310-2.

IMPERVIOUS SURFACES

Man made or assembled surfaces, such as, but not limited to pavement, walls, patios, terraces, driveways, decks and gravel surfaces.

LOT AREA COVERAGE

The percentage of the total area of a lot which may be covered by structures, buildings and impervious surfaces.

STRUCTURE

Defined in § 310-2 of this chapter, and such definition includes underground structures, swimming pools, tennis courts and other such facilities.

§ 310-22. Permitted coverages.

[Amended 3-14-1989 by L.L. No. 6-1989; 3-12-1991 by L.L. No. 1-1991[1]]

A. The permitted coverage ratios for residential uses in any Residence A Districts shall be as follows:

Lot Area	Maximum Lot Area Coverage Permitted for All Buildings, Structures and Impervious Surfaces on the Lot	Maximum Coverage Permitted for All Buildings on the Lot
More than 1 acre	13,100 square feet, plus 10% of lot area in excess of 1 acre	4,642 square feet, plus 4% of lot area in excess of 1 acre
20,001 square feet to 1 acre	6,000 square feet, plus 30% of lot area in excess of 20,000 square feet	3,700 square feet, plus 4% of lot area in excess of 20,000 square feet
15,001 to 20,000 square feet	5,250 square feet, plus 15% of lot area in excess of 15,000 square feet	3,100 square feet, plus 12% of lot area in excess of 15,000 square feet
10,001 to 15,000 square feet	4,000 square feet, plus 25% of lot area in excess of 10,000 square feet	2,500 square feet, plus 12% of lot area in excess of 10,000 square feet
7,501 to 10,000	3,000 square feet, plus 40% of lot area in excess of 7,500 square feet	2,100 square feet, plus 16% of lot area in excess of

Lot Area square feet	Maximum Lot Area Coverage Permitted for All Buildings, Structures and Impervious Surfaces on the Lot	Maximum Coverage Permitted for All Buildings on the Lot
		7,500 square feet
5,001 to 7,500 square feet	2,250 square feet, plus 30% of lot area in excess of 5,000 square feet	1,500 square feet, plus 24% of lot area in excess of 5,000 square feet

B. The provisions of § 310-22 shall not apply to nonconforming impervious surfaces such as driveways, walks or patios, if such nonconforming surfaces were in existence before **(add the date of the adoption of the local law)**, the effective date of this local law, and the nonconforming impervious surfaces are replaced with other impervious surfaces without expansion.

[1]: Editor's Note: Section 14 of this local law provided as follows: "This local law shall not prevent the issuance of a permit for any new building, building addition or alteration in compliance with the laws in effect prior to the effective date hereof for which a complete application was submitted prior to such date." (This local law became effective April 4, 1991.)

§ 310-23. Permitted lot area coverages in freshwater wetlands and freshwater wetlands controlled areas.

[Amended 3-14-1989 by L.L. No. 6-1989; 3-12-1991 by L.L. No. 1-1991[1]; 2-28-2012 by L.L. No. 2-2012]

A. On any lot in a freshwater wetlands controlled area, as defined in Chapter 171, Freshwater Wetlands, of the Code of the Village of Scarsdale, the maximum coverage ratio permitted for residential purposes in any Residence A Districts shall be as follows:

Lot Area	Maximum Lot Area Coverage Permitted for All Buildings, Structures and Impervious Surfaces on the Lot
More than 1 acre	8,750 square feet, plus 6.7% of lot area in excess of 43,560 square feet
20,001 square feet to 1 acre	4,000 square feet, plus 20% of lot area in excess of 20,000 square feet
15,001 to 20,000 square feet	3,500 square feet, plus 10% of lot area in excess of 15,000 square feet

**Maximum Lot Area Coverage Permitted for All Buildings,
Structures and Impervious Surfaces on the Lot**

Lot Area	
10,001 to 15,000 square feet	2,670 square feet, plus 16.7% of lot area in excess of 10,000 square feet
7,501 to 10,000 square feet	2,250 square feet, plus 16.7% of lot area in excess of 7,500 square feet
5,001 to 7,500 square feet	30%
Up to 5,000 square feet	30%

B. The provisions of § 310-23 shall not apply to nonconforming impervious surfaces such as driveways, walks or patios, if such nonconforming surfaces were in existence before **(add the date of the adoption of the local law)**, the effective date of this local law, and the nonconforming impervious surfaces are replaced with other impervious surfaces without expansion.

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EFFECTIVE DATE

Section 2. This Local Law shall take effect immediately upon filing with the Secretary of State.