

ORDINANCE AMENDING SECTIONS 331-4 (SPECIFIC TERMS DEFINED), AND 331-84 (WATER VIEW OVERLAY ZONE) OF THE NEW ROCHELLE ZONING CODE.

BE IT ORDAINED by the City of New Rochelle:

Section 1. Section 331-4, *Specific Terms Defined*, of the New Rochelle Zoning Code is hereby amended to read as follows:

Section 331-4. Specific Terms Defined.

Open Railing: A fence or balustrade made of rails and posts or similar materials that are permanently affixed to a deck, which open railing assembly, when viewed horizontally, is not less than 70 percent clear, unobstructed, and open, and which assembly does not have attached or draped any canvas, plastic, cloth or other temporary material that block views, light, or air in excess of the 70 percent clear, unobstructed and open railing requirement.

Section 2. Section 331-84, *Water View Overlay Zones*, of the New Rochelle Zoning Code is hereby amended to read as follows:

Section 331-84. Water View Overlay Zone.

A. Purpose. The purpose of the Water View Overlay Zone is to minimize the impact of development on water views enjoyed by the public on adjacent rights-of-way and by adjacent and upland property owners, including winter water views. The Water View Overlay Zone imposes dimensional requirements that may be more restrictive than the underlying zoning on sites where water views, including winter water views, are enjoyed by the public on adjacent rights-of-way and by adjacent and upland property owners.

B. Applicability. Any building permit application to construct a new building or to replace or to expand an existing building or to construct any accessory building in the mapped Water View Overlay Zone shall require the prior granting of a special permit by the Planning Board, pursuant to the special permit procedures and standards set forth in §§ 331-88 and 331-89 of this chapter and submission of the proof required under this section, except the following shall not require the granting of a special permit:

(1) Replacement of a portion or all of an existing building within its existing footprint, exclusive of any unenclosed porches, decks and terraces [in its existing dimensions], as permitted by the underlying zoning, provided none of such replacement creates a height of building in excess of [29 feet ] the building's highest existing roof ridge line.

(2) Expansion or replacement of an existing building toward a side lot line, including a side lot line along a street, as permitted by the underlying zoning, which construction does not extend closer to such side lot line than the nearest point of the existing building to such side lot line, provided none of such construction creates a height of building in excess of [29 feet] the building's highest existing roof ridge line.

(3) Expansion or replacement of an existing building toward a front or rear lot line, as permitted by the underlying zoning, provided none of such construction creates a height of building in excess of [29 feet] the building's highest existing roof ridge line.

(4) Construction alongside an existing building of an unscreened patio or deck no higher than three feet in height above the existing underlying ground level.

(5) Construction on an existing or proposed building of an open rooftop deck with O [o]pen R [r]ailings or illuminated posts no higher than 3 1/2 feet in height above such deck, provided the surface of the deck does not create a height of building in excess of [29 feet] six (6) inches above the building's highest existing roof ridge line. No vegetation, barbeques or other cooking equipment shall be allowed on any such open rooftop deck.

(6) New vegetation planted and maintained so as not to exceed a maximum height of 4 feet.

(7) New fencing that does not exceed a maximum height of 4 feet.

C. Procedures, standards, and proof for special permit. An applicant for a special permit required under this section shall submit proof to the Planning Board that the construction of a new building or replacement or expansion of an existing building on the site shall not block any significant existing water views, including winter water views, enjoyed by the public on adjacent rights-of-way and/or by adjacent and/or upland property owners, if such views are commonly and frequently enjoyed and easily accessible, including winter water views or if the loss of such view would negatively affect property values. This proof shall include, without limitation a visual demonstration on the applicant's property, which identifies the height of the proposed construction or proposed planting. If the Planning Board determines that the special permit procedures and/or standards set forth in §§ 331-88 and 331-89 of this chapter have not been met and/or if the Planning Board determines that any significant existing water views, if such views are commonly and frequently enjoyed and easily accessible, enjoyed by the public on adjacent rights-of-way and/or by adjacent and/or upland property owners, including winter water views, [shall be] are blocked, the special permit shall be denied.

Insofar as the protection of winter water views is also required, application for special permit approval shall be made at a time when the applicant can demonstrate that winter water views, due to the lack of leaves on deciduous trees and which are enjoyed by the public or private property owners, are not being significantly blocked.

If petitioned by the applicant, the Planning Board is authorized to grant a waiver to expand an existing building by a maximum distance of five (5) feet beyond the front or rear lot setback line currently required by the underlying zoning district, if the Planning Board determines, after Special Permit public hearing, that such waiver will not significantly block any existing water views.

D. Additional Regulations. Prior to the issuance of a permit for demolition of an existing building or a portion thereof or for any alteration of the existing roof, the applicant shall submit a recent survey conduct by a licensed surveyor or engineer in order to establish the height of the existing roof ridge line.

Matter [bracketed] deleted

Matter underlined added