

## Chapter 125. Zoning

### Article IVA. Docks

[Added 5-26-1994 by L.L. No. 1-1994<sup>[1]</sup>]

[1] *Editor's Note: This local law also provided for the repeal of former Article IVA, Docks, added 3-9-1992 by L.L. No. 1-1992.*

#### § 125-22.1. Findings; areas affected.

The Village Board of Trustees hereby finds that for ecological, public enjoyment, public navigation, aesthetic, public health, safety and welfare reasons, certain coastal areas within the Village of Asharoken must be protected. Both Northport Bay and Duck Island Harbor have been designated as Significant Coastal Fish and Wildlife Habitats by the State of New York. Furthermore, certain portions of Northport Bay are within the confines of the Village of Asharoken and therefore lie entirely within and are subject to the jurisdiction of the Village of Asharoken. This area is know as the "Ida Smith property" and encompasses an area beginning at the shoreline of Northport Bay in the Village of Asharoken at the eastern end of the Duck Island Corporation property (275 Asharoken Avenue) and runs in an easterly direction approximately 3/4 of one mile to approximately 105 Asharoken Avenue.

#### § 125-22.2. Basis for regulation of docks.

- A. Environmental. Docks tend to impede the tidal and littoral flow of waters, thereby causing the collection of flotsam and decaying marine and plant life on and above shoreline, where insects breed. The mooring of boats on docks results in increased near-shore dumping and oil and gas spillage; erosion of sand occurs between docks and accretes along with seaweed in and around the docks all of which interferes with the environmental quality of the waterfront.
- B. Pollution. The air becomes polluted by increased engine operation from the storing, running, idling and testing of boats alongside of docks. Further air pollution results from rotting seaweed, grass and moss collected by docks, from pier and boat cleaning, from cooking on boats near the shore and from barnacles and mussels under docks and piers stored on the beach off-season. Noise occurs from people walking the pier and partying on boats and piers, and from rattling and banging of docks and floats. Water pollution occurs from gasoline spillage during fueling, from rotting seaweed and debris and from boat maintenance operations of soaping, applying detergents, cleaners, paint and oil.
- C. Swimming. The foregoing referred to proliferation of debris, gas, oil and stagnant water caused by dock interference with water flow is hazardous to the health of those attempting to swim in the area. The approach of boats to the docks can be a hazard to swimmers, as can dock anchors and moorings, including chains and cable tackle positioned just below waterline at various tides. Docks are obstacles to lateral swimming along the beach.
- D. Navigation. Sailboats tacking to and from the beach have their movement controlled by docks, floats anchors and mooring lines. In addition, docks limit the movement of rowboats, canoes and small boats along the shore.

- E. Aesthetics. Docks destroy the open beach vista, and dock sections piled up on the beach (and sometimes abandoned) during off-season are unsightly. Lights on docks shining shoreward at night disturb uplandowners.
- F. General. Unauthorized persons have access to and from waterfront homes by use of docks. Activity from those using docks and mooring boats thereon increases the need for police protection, causes neighbor's complaints and in general results in a higher cost to the Village. Hazards to children are created by the risk of their unattended walking on docks and falling into deep waters. High winds from storms can cause portions of docks to break loose and endanger vessels in the vicinity and structures on the neighboring shore. The potential for a multitude of additional docks in the Village, with many of the properties being less than 60 feet in width at the shoreline, leads the Board of Trustees to find an appropriate balance must be achieved between property owners' desires to access the water and the public enjoyment of water and the foreshore in the Village.

### § 125-22.3. Alternative to private docks.

It is noted that various means already exist for property owners to access their boats, including private rowboats, membership in various nearby yacht clubs, public mooring facilities in Northport, Centerport and Huntington Harbors, commercial marine supply companies providing launch service and moorings and the Village of Northport dock.

### § 125-22.4. Environmental Review Board; permit required.

- A. Creation and organization of an Environmental Review Board. There is hereby created an Environmental Review Board (ERB) for the purpose of reviewing each application for construction or alteration of a dock and recommending approval or disapproval to the Board of Trustees of the issuance of said permit. All such applications shall be made to the Village Clerk and referred thereafter to the ERB. The ERB shall consist of the Chairman of the Planning Board, the Chairman of the Conservation Board, the Superintendents of Buildings, the Harbormaster and three additional members who shall be qualified by reason of experience or training in architecture, land development, City planning, real estate, landscape architecture, environmental analysis or other relevant business or professional experience, or by reason of civic interest and sound judgment, to review the effects of the proposed construction upon surrounding areas. The members of the ERB shall be appointed annually by the Village Board of Trustees. The Mayor shall appoint any member of the ERB as its Chairman.
- B. Meetings; adoption of rules.
  - (1) All meetings of the ERB shall be considered to be public meetings. The ERB shall meet on a regular basis at least one time per month, on the same day and week of each month, provided that there are applications for it to consider. Said date and time shall be set by the ERB on an annual basis. An applicant must file all papers with the Village Clerk not later than two weeks prior to the regular monthly meeting of the ERB in order that his application may be discussed at such meeting.
  - (2) A majority of the ERB shall constitute a quorum for the transaction of business. The ERB shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. The ERB shall have the power to adopt, amend and repeal rules and regulation, not inconsistent with other laws or these provisions, governing its procedure and other transactions of its business and to recommend to the Board of Trustees approval or disapproval of applications for dock permits therefor in accordance with the provisions of this Article.

- (3) Every rule or regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the ERB shall be in writing and filed in the office of the Village Clerk and shall be a public record.
- C. Referral of applications for permits. Every completed application for a building permit for the construction, reconstruction or alteration of a dock shall be referred to the ERB by the Village Clerk. The referral shall be made upon receipt by the Village Clerk of a completed application, provided that such application conforms in all respects to all other applicable laws and ordinances.
  - D. Notice. Notice of every application referred to the ERB pursuant to this Article in connection with a dock permit shall be mailed to each property owner in the area known as the "Ida Smith property," as delineated in § **125-22.5** hereunder, and to each owner whose property borders on Northport Bay and is located within 500 linear feet of such property. The applicant shall be responsible for payment of the cost of such mailing and said cost shall be submitted to Village Clerk with the application. Failure to comply with this subsection shall result in the application being deemed incomplete.
  - E. Requirement of permit.
    - (1) Issuance of permit. No dock shall be maintained or erected in the Village without the issuance of a permit by the Board of Trustees after recommendation by the ERB and issuance of a building permit by the Superintendent of Buildings.
    - (2) Preexisting docks. Every owner of a dock for which no permit has been issued by the Village Board of Trustees prior to the enactment of this Article shall, within one year from the effective date hereof, apply to the Board of Trustees for permission to continue use of such dock.

## § 125-22.5. Description of area to be regulated; regulations applicable.

- A. Property description. The area to be regulated by this Article encompasses an area beginning at the shoreline of Northport Bay in the Village of Asharoken at the eastern end of the Duck Island Corporation property (275 Asharoken Avenue) and runs along the underwater border of the Village in an easterly direction approximately 3/4 of one mile to approximately 105 Asharoken Avenue. Approximately 73 individually owned beachfront lots, bounded on the north by Asharoken Avenue, Carter's Bight, Beach Plum Drive or vicinity and extending out into Northport Bay, on underwater land between 275 and 105 Asharoken Avenue, known as the "Ida Smith property," are located in this area.
- B. Regulations applicable in the "Ida Smith" area.
  - (1) For the reasons specified in §§ **125-22.2** and **125-22.3** above, the ERB shall recommend the issuance of dock permits only when it is determined that such structures will not provide any of the adverse effects enumerated in § **125-22.2** herein, and any such dock shall meet all of the following conditions:
    - (a) In order to minimize visual impact, the dock shall be of the floating variety only and shall only be permitted in those locations where the rising and lowering of such floating dock will not have a significant adverse impact upon vegetation, wildlife or wildlife habitat.
    - (b) The dock shall be designed and constructed of such materials and in such a manner as to minimize any adverse environmental effect on the waters of the area and to allow for adequate flow-through of waters while the dock is resting in the water, and to prevent a major part thereof from contacting the beach when tidal waters recede.
    - (c) The dock shall be of a length, size and height and of sufficient distance from any other docks such that there be no significant adverse impact upon the environment from a

visual perspective or otherwise, shall be of a length which does not impeded the navigation of vessels and shall be of a total length which in no case extends more than 50 linear feet seaward from the mean low water mark, and in no case shall the seaward end of the dock extend beyond the point where the mean low water depth at such point exceeds three feet.

- (d) The width of the dock excluding vertical supports shall not exceed four feet. The center line of the dock shall follow the center line of the property.
  - (e) All docks shall be removed from the water during the months of November through March, including any anchors and moorings therefor.
- (2) No expansion or substantial alteration shall be made to any existing dock unless the owner thereof, upon application, receives approval from the Board of Trustees, after review by the ERB and the issuance of a building permit by the Superintendent of Buildings, under the same conditions provided in Subsection **B(1)** above. The term "substantial alteration" shall include but not be limited to any new installation or addition to the originally permitted configuration of the dock, but shall not be construed to mean the replacement and securing of existing deck boards or sections, or the painting and ordinary maintenance for any such docks.
  - (3) No portion of any dock or its anchors, mooring or ground tackle shall overlap the owner's upland property line, as extended into the water. Every attempt shall be made by the property owner to set such anchor, mooring or ground tackle so that it does not overlap the owners side yard setback line, as extended into the water.
  - (4) Any existing dock whose owner has not been issued all appropriate permits therefor shall be removed.
  - (5) The term "dock" shall include any pier, boat dock, boat ramp, wharf, jetty or any other structure built on floats, columns, open timber, piles or openwork supports, installed separately from any attachment to the uplandowner's beach, or extending from the uplandowner's beach into the waters adjoining the Village, including any such structure located up to 15 feet landward of the uplandowner's beach into the waters adjoining the Village, including any such structure located up to 15 feet landward of the high water mark.  
[Amended 8-2-2004 by L.L. No. 1-2004]

## § 125-22.6. Permit application; fees; referral to ERB.

- A. Procedure. Before commencing work on any dock, the owner of the premises, or his or her authorized representative, shall apply for a permit from the Board of Trustees at the office of the Village Clerk. The application must contain the following information and be accompanied by such of the following or other data and in such form as may reasonably be required:
  - (1) The application must be on a form prescribed by the Village Clerk and must be accompanied by valid permits issued by the United States Army Corps of Engineers and the New York State Department of Environmental Conservation.
  - (2) An appropriate completed environmental assessment form (long form) and information required under the New York State Environmental Quality Review Act<sup>[1]</sup> must accompany each application.  
*[1] Editor's Note: See Article 8 of the Environmental Conservation Law.*
  - (3) A complete description of the proposed work, including a set of detailed plans showing the structure and the materials to be used must be provided; all plans shall be stamped with the

seal of a licensed architect or professional engineer to the extent required by the Education Law of the State of New York.

- (4) The plans must be accompanied by a survey showing location of the dock and dimensions of the affected premises.
  - (5) The application must detail the method to be employed and the length of time required for the performance of the work.
- B. Fees. The fee established by the Board of Trustees shall be payable to the Village upon applying for a permit hereunder. This fee shall be in addition to the costs for the mailing of notices, which shall also be borne by the applicant pursuant to § 125-22.4D hereunder. The Board of Trustees may also impose a fee upon the applicant at the time of making the application or thereafter, commensurate with any expense reasonably incurred or expected to be incurred by the Board in the consideration of such application, including the cost of retaining environmental and other consultants, as deemed necessary by the Board of Trustees.
- C. Recommendation of the ERB. Upon completion of its review of the application, the ERB shall submit its recommendations thereon to the Board of Trustees at its next regularly scheduled meeting. If further information is needed for the ERB to make its recommendations, the Chairman shall request such information directly from the applicant. The application shall be processed by the ERB as promptly as possible.
- D. Determination by the Board of Trustees. The ERB shall make its recommendations to the Board of Trustees. The Village Board shall comply with all the provisions of the State Environmental Quality Review Act prior to the issuance of a permit pursuant to this Article.

## § 125-22.7. Use of docks; rules.

The following rules shall apply with respect to the use and operation of docks within the Village:

- A. No boat other than one belonging to the upland property owner and/or another resident of the Village may be moored at a dock, except that a guest of the owner may use such facility for a period of up to 48 hours. Dock space shall not be rented.
- B. No mooring shall be placed on underwater land such as to cause a hazard to adjacent properties.
- C. No gasoline or diesel fuel shall be stored on any dock.
- D. No floodlights shall be installed on any floating part of a dock.
- E. Docks shall not be stored during off-season on the beach of the uplandowner and, if stored on the upland property, must be stored at least 30 feet upland from the higher of mean high water line or the sea grass.

## § 125-22.8. Supervision by Harbor Masters.

Possession of a permit hereunder for the erection, expansion or substantial alteration of a dock, and the rules regarding use and operation of docks within the Village, shall be subject to supervision by the Harbor Master and the Deputy Harbor Masters, with any violation thereof to be reported to the Village Clerk.

## § 125-22.9. Penalties for offenses.

- A. Any violation of this Article or any part thereof shall be punishable by a fine of not exceeding \$250 for each offense. Each day that a violation continues shall be deemed to be a separate offense.
- B. Appropriate actions or proceedings may be taken at law or in equity to prevent any unlawful actions under this Article, or to restrain, correct or abate a violation thereof; and these remedies shall be in addition to the penalties prescribed in the preceding subsection.