

§ 220-9.2. Regulation of residential use of dwelling units in accessory buildings.
[Added 11-5-2014 by L.L. No. 2-2014¹]

- A. Statement of purpose. The Village of Briarcliff Manor has several properties with accessory buildings that contain or at one time contained separate dwelling units. The buildings that contain these dwelling units or otherwise separate residences are not specifically addressed in the Code and are simply categorized as a preexisting, nonconforming uses. By recognizing and regulating these existing uses under the Code, the Village will encourage their being modernized in accordance with the Code and New York State building codes. In addition, within the R80A, R60A, R40A, and R40B Single-Family Residence Districts a number of lots currently contain nonresidential accessory buildings that could, under certain circumstances, be converted to accessory residential use and thus provide additional opportunities for housing in the Village in support of the Village Comprehensive Plan goal to "[p]rovide a range of housing styles and alternatives to meet the needs of a varied and diverse population." This section shall be read and construed in furtherance of the foregoing purposes and is enacted under the authority granted by New York State Village Law § 7-700.
- B. Generally applicable standards. All dwelling units in accessory buildings shall be subject to the following requirements to qualify as permitted accessory building dwelling units:
- (1) All permitted accessory building dwelling units shall be in the R80A, R60A, R40A, or R40B Single-Family Residence District.
 - (2) Permitted accessory building dwelling units shall be permitted only in accessory buildings existing on July 1, 2014.
 - (3) Only one permitted accessory building dwelling unit shall be permitted in any one accessory building, except that if more than one dwelling unit currently exist in an accessory building as preexisting, nonconforming uses under § 220-16A(3), then they all may be permitted, subject to compliance with § 220-9.2C(1) below.
 - (4) Only one permitted accessory building dwelling unit shall be permitted on any lot, except that if more than one dwelling unit currently exist on a lot as preexisting, nonconforming uses under § 220-16A(3), then they all may be permitted, subject to compliance with § 220-9.2C(1) below.
 - (5) Every permitted accessory building dwelling unit must meet current requirements for residential occupancy under the Codes of the State of New York identified in Chapter 90.
 - (6) The exterior dimensions of an accessory building may not be or have been materially altered after July 1, 2014, to accommodate a permitted accessory building dwelling unit or a permitted accessory building dwelling unit and

1. Editor's Note: This local law also renumbered former § 220-9.2 as § 220-9.3.

other accessory uses, except that window dormers and similar features may be added to meet any requirement for residential occupancy under the Codes of the State of New York identified in Chapter 90, provided that no such window dormer or other feature materially alters the roof line of the accessory building.

C. Additional standards for existing dwelling units in accessory buildings. Existing dwelling units in accessory buildings shall be subject to the following requirements to qualify as permitted accessory building dwelling units:

- (1) Dwelling units that qualify as preexisting, nonconforming uses under § 220-16A(3) shall be subject to the following requirements:
 - (a) All of the requirements of § 220-9.2B above must be met.
 - (b) Application for a certificate of occupancy or a building permit for improvements to meet current requirements for residential occupancy under the Codes of the State of New York identified in Chapter 90 must be made before December 31, 2016; provided, however, that if the dwelling unit is registered with the Building Department as a preexisting nonconforming use before December 31, 2016, then application for a certificate of occupancy or a building permit may be made anytime thereafter.
 - (c) All improvements necessary to meet current requirements for residential occupancy under the Codes of the State of New York identified in Chapter 90, if any, must be completed and a certificate of occupancy issued within three years of application for a building permit for the same.
- (2) Dwelling units that do not qualify as preexisting, nonconforming uses under § 220-16A(3) shall be subject to the following requirements:
 - (a) All of the requirements of § 220-9.2B above must be met.
 - (b) Application for a certificate of occupancy or a building permit for improvements to meet current requirements for residential occupancy under the Codes of the State of New York identified in Chapter 90 must be made before December 31, 2016.
 - (c) All improvements necessary to meet current requirements for residential occupancy under the Codes of the State of New York identified in Chapter 90, if any, must be completed and a certificate of occupancy issued by December 31, 2019.
 - (d) Any necessary Westchester County Health Department approval of water service and sewer service or septic treatment and system must be obtained.
 - (e) The accessory building in which the permitted accessory building dwelling unit is to be located must meet the requirements applicable to an accessory building on the lot under Schedule 220, Attachment 2,

Schedule Limiting the Use of Buildings and Land and the Location,
Arrangement and Size of Buildings.²

- D. Additional standards for dwelling units to be developed in accessory buildings. Dwelling units to be developed in accessory buildings shall be subject to the following requirements to qualify as permitted accessory building dwelling units:
- (1) All of the requirements of § 220-9.2B above must be met.
 - (2) Application for a building permit for improvements that meet current requirements for residential occupancy under the Codes of the State of New York identified in Chapter 90 must be made before December 31, 2016.
 - (3) All improvements necessary to meet current requirements for residential occupancy under the Codes of the State of New York identified in Chapter 90 must be completed and a certificate of occupancy issued by December 31, 2019.
 - (4) Any necessary Westchester County Health Department approval of water service and sewer service or septic treatment and system must be obtained.
 - (5) The accessory building in which the permitted accessory building dwelling unit is to be located must meet the requirements applicable to an accessory building on the lot under Schedule 220, Attachment 2, Schedule Limiting the Use of Buildings and Land and the Location, Arrangement and Size of Buildings.
- E. Variances.
- (1) Any variance to the requirements of this § 220-9.2 shall be determined by the Zoning Board of Appeals under the standards applicable to:
 - (a) Use variances under § 220-17B(1) if the variance is from the limitation of the permitted accessory building dwelling unit to use by one family only.
 - (b) Area variances under Section 220-17B(2) if the variance is from any other requirement.
 - (2) Notwithstanding the foregoing, nothing contained in this § 220-9.2 shall be construed to expand the jurisdiction or authority of the Zoning Board of Appeals to hear or decide any appeal or other application for a variance or an interpretation.

2. Editor's Note: The Schedule is included as an attachment to this chapter.