

**ARTICLE VIII ADMINISTRATION AND ENFORCEMENT**

**SECTION 800 ENFORCEMENT**

The duty of administering and enforcing the provisions of this Local Law is hereby conferred upon the Zoning Enforcement Officer who shall be appointed by the Village Board of Trustees and shall carry out any directives of the Board relative to the duties of the position set forth below. The Zoning Enforcement Officer shall receive such compensation as the Village Board of Trustees shall determine.

**SECTION 801 DUTIES AND PROCEDURES OF THE ZONING ENFORCEMENT OFFICER**

**A. ADMINISTER THE ZONING LAW**

The Zoning Enforcement Officer shall review all applications for zoning permits and, if the minimum requirements of this Local Law are met, the Zoning Enforcement Officer shall issue a permit.

If the applicant's plans do not meet the Zoning requirements, the Zoning Enforcement Officer must deny the permit. The Zoning Enforcement Officer may not use discretionary judgment. The Zoning Enforcement Officer must enforce the "Letter of the Law."

**B. REFERRAL OF APPEALS TO THE ZONING BOARD**

In the event that a applicant for a zoning permit files an appeal from an order, requirement, decision, interpretation or determination issued by the Zoning Enforcement Officer, or an appeal for a variance from the provisions of this Local Law, the Zoning Enforcement Officer shall notify the Chairperson of the Zoning Board of Appeals and shall forward all necessary supporting information and documentation to the Chairperson.

**C. REFERRAL TO VILLAGE PLANNING BOARD**

Any application for a Special Use Permit, change of zoning district or use that requires Site Plan Review shall be forwarded by the Zoning Enforcement Officer to the Chairperson of the Village Planning Board along with all necessary supporting information and documentation.

**D. CITING ZONING VIOLATIONS AND ISSUING APPEARANCE TICKETS**

1. For any plans, construction, building, use of premise found in violation of this Local Law, the Zoning Enforcement Officer shall order the responsible party, in writing, to remedy the violation(s). He shall have the authority to commence proceedings to punish violations pursuant to Section 108 of Article I of this Local Law.
2. The Zoning Enforcement Officer may enter any premise or building during reasonable hours in the course of his duties in accordance with State Law after due written notice has been given.

3. The Zoning Enforcement Officer shall be authorized and empowered to issue appearance tickets pursuant to the New York State Criminal Procedure Law.

**E. REPORT TO VILLAGE BOARD OF TRUSTEES**

The Zoning Enforcement Officer will provide a monthly report to the Village Board of Trustees describing and enumerating actions taken and permits issued shall be given.

**F. PUBLIC RECORD**

1. The Zoning Enforcement Officer shall file all permit actions with the Village Clerk.
2. The Zoning Enforcement Officer shall maintain a current list and a map depicting the location of non-conforming uses to determine if discontinuance or destruction, or change in use or vacancy has taken place.
3. The Zoning Enforcement Officer shall maintain a current list and a map depicting the locations of variances and special use permits to use to determine compliance with the conditions and safeguards placed on variances and special use permits.
4. When a special use permit is required, the Zoning Enforcement Officer shall not issue a zoning permit unless and until the Village Planning Board approves the special use permit and provides the Zoning Enforcement Officer with a written directive to issue such zoning permit. Any special conditions imposed by the Village Planning Board on the special use permit approved shall be enumerate on the zoning permit.
5. When a variance is required, the Zoning Enforcement Officer shall not issue a zoning permit unless and until the Zoning Board of Appeals approves the variance or variances and provides the Zoning Enforcement Officer with a written directive to issue such zoning permit. Any specific conditions imposed by the Zoning Board of Appeals on the variance(s) granted shall be enumerated on the zoning permit.

**SECTION 802 THE VILLAGE PLANNING BOARD**

**A. APPOINTMENT OF VILLAGE PLANNING BOARD**

The Village Board of Trustees authorizes the creation of a five (5) member Village Planning Board pursuant to Section 7-718 of the New York State Village Law. The members of the Village Planning Board shall be appointed by the Mayor, subject to the approval of the Village Board of Trustees, for terms of five (5) years. Terms of all Village Planning Board members shall be staggered as required by law. The Mayor shall also appoint the Chairperson of the Village Planning Board, subject to the approval of the Village Board of Trustees, or on failure to do so, the Village Planning Board shall elect a chairperson from its own members.

Two (2) alternate members of the Village Planning Board shall be appointed by the Mayor, subject to the approval of the Board of Trustees, for terms of five (5) years. All provisions of State Law relating to Village Planning Board member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of any local law or ordinance relating to training, continuing education, compensation and attendance shall also apply to the alternate members of the Village Planning Board.

The Chairperson of the Village Planning Board may designate one or more alternative members of the Village Planning Board to serve when necessary, and only so long as necessary, to obtain or maintain a quorum of such Board. Such designation and its expiration shall be entered into the minutes of the Village Planning Board. When so designated, the alternate member of the Village Planning Board shall possess all the powers and responsibilities of a member of such Board.

**B. VILLAGE PLANNING BOARD RULES, EXPENSES AND TRAINING**

1. The Village Planning Board may adopt rules or bylaws for its operations, and may amend such rules and bylaws from time to time as deemed appropriate and necessary by the Village Planning Board.
2. The Village Board of Trustees shall provide an appropriation to the Village Planning Board to cover necessary expenses including the means for the Village Planning Board to maintain a written record of its meetings and public hearings.
3. The Village Board of Trustees may require Village Planning Board members to complete training and continuing education courses in accordance with any local requirements for the training of such members and may reimburse Village Planning Board members for appropriate expenses incurred in obtaining such training or continuing education.

**C. DUTIES OF THE VILLAGE PLANNING BOARD**

1. To prepare, review and/or recommend revisions to the comprehensive plan for the development of the Village as provided under Section 7-722 of New York State Village Law and/or Village Board of Trustees Resolution.
2. To review and comment on all proposed zoning amendments after before referral to the County Planning Board
3. To conduct Site Plan Review as authorized by Section 7-725-a of New York State Village Law and prescribed in Article X of this Local Law.
4. To review and grant or deny Special Use Permits as authorized by Section 7-725-b of the New York State Village Law and prescribed in Article IX of this Local Law.
5. To review and approve the subdivision of parcels as authorized by Sections 7-728, 7-730, 7-732 and 7-738 of the New York State Village Law.
6. To render assistance to the Village Zoning Board of Appeals at its request.

7. To research and report on any matter referred to it by the Village Board of Trustees.
8. To make investigations, maps, reports, and recommendations in any matter related to Planning and Development as it seems desirable providing expenditures of the Village Planning Board do not exceed the budget appropriations for the Village Planning Board.
9. All such powers and duties as are conferred upon the Village Planning Board and subject to the limitations set forth in Sections 7-718, 7-722, 7-725-a, 7-725-b, 7-728, 7-730, 7-738 and 7-739 of the New York State Village Law, as the same may be amended, modified, or changed from time to time, or any sections subsequently adopted pertaining to Village Planning Boards.

#### **D. VILLAGE PLANNING BOARD MEETINGS**

1. The Village Planning Board shall hold regularly scheduled monthly meetings provided there are meeting agenda items for Board consideration and the Board may hold special meetings, from time to time as needed, at the call of the Chairperson or at the request of three (3) or more members.
2. The presence of three (3) members of the Board shall constitute a quorum which shall be necessary to act on any application for a special use permit, site plan review and to decide upon any other matter brought before the Board, unless otherwise stipulated in this Local Law.
3. All votes of the Village Planning Board shall be taken by roll call. Village Planning Board decisions on matters not referred to the County Planning Board shall be by simple majority vote (three) of the full membership. On a matter referred to the County Planning Board, voting shall be in accord with Section 804 of this Article.
4. In accordance with Section 74.2 of the Public Officers Law, a member of the Village Planning Board having a conflict of interest shall abstain from any discussion or voting on that matter.
5. The Village Planning Board may request and obtain any advice or opinions on the law relating to any matter before the Board from the Village Attorney, and require the Village Attorney to attend its meetings.
6. The Village Planning Board may require the Zoning Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.
7. All meetings of the Village Planning Board shall be open to the public.
8. The Village Planning Board shall make a factual record of all its proceedings including: public hearings, deliberations, voting and decisions. The factual record shall be taken by the secretary to the Board.

**C. COUNTY PLANNING BOARD REPRESENTATIVES**

The Village Board of Trustees shall nominate a member of the Village Planning Board or the Zoning Enforcement Officer to serve on the County Planning Board when vacancies occur. Appointment to the County Planning Board is made by the County Legislature.

**SECTION 803 ZONING BOARD OF APPEALS**

**A. APPOINTMENT OF ZONING BOARD OF APPEALS**

The Village Board of Trustees authorizes the appointment of a five (5) member Zoning Board of Appeals pursuant to Section 7-712 of New York State Village Law. The members of the Zoning Board of Appeals shall be appointed by the Mayor, subject to the approval of the Village Board of Trustees, for terms of five (5) years. Terms of all Zoning Board of Appeals members shall be staggered as required by law. The Mayor shall also appoint the chairperson of the Zoning Board of Appeals, subject to the approval of the Village Board of Trustees, or on failure to do so, the Zoning Board of Appeals shall elect a chairperson from its own members.

Two (2) alternate members of the Zoning Board of Appeals shall be appointed by the Mayor, subject to the approval of the Village Board of Trustees, for terms of five (5) years. All provisions of State Law relating to Zoning Board of Appeals member eligibility, vacancy in office, removal, compatibility in office and service on other boards, as well as any provisions of any local law or ordinance relating to training, continuing education, compensation and attendance shall also apply to the alternate members of the Zoning Board of Appeals.

The Chairperson of the Zoning Board of Appeals may designate an alternate member of the Zoning Board of Appeals to serve when necessary, and only so long as necessary, to obtain or maintain a quorum of such Board. Such designation and its expiration shall be entered into the minutes of the Zoning Board of Appeals. When so designated, the alternate member of the Zoning Board of Appeals shall possess all the powers and responsibilities of a member of such Board.

**B. RULES, EXPENSES AND TRAINING**

1. The Zoning Board of Appeals may adopt rules or bylaws for its operations, and may amend such rules and bylaws from time to time as deemed appropriate and necessary by the Village Planning Board.
2. The Village Board of Trustees shall provide an appropriation to the Zoning Board of Appeals to cover necessary expenses including the means for the Zoning Board of Appeals to maintain a written record of its meetings and public hearings.
3. The Village Board of Trustees may require Zoning Board of Appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members and may reimburse Zoning Board of Appeals members for appropriate expenses incurred in obtaining such training or continuing education.

**C. AUTHORITY AND DUTIES OF THE ZONING BOARD OF APPEALS**

The jurisdiction of the Zoning Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by the Zoning Enforcement Officer. Zoning Board of Appeals shall decide any question involving the interpretation of such provisions as more fully described in this subdivision.

**1. REVERSING OR AFFIRMING ORDERS, REQUIREMENTS, DECISIONS, INTERPRETATIONS AND DETERMINATIONS**

The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify any order, requirement, decision, interpretation, or determination appealed from, and shall make such order, requirement, decision, interpretation, or determination as in its opinion ought to have been made in the matter by the Zoning Enforcement Officer and to that end shall have all the powers of the Zoning Enforcement Officer.

**2. GRANTING AREA OR DIMENSIONAL VARIANCES**

- a. The Zoning Board of Appeals shall have the power, on appeal from a decision or determination of the Zoning Enforcement Officer, to grant area variances as defined herein. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall also consider:
  - (i) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

- (ii) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  - (iii) whether the requested area variance is substantial;
  - (iv) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and,
  - (vi) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- b. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health safety and welfare of the community.
  - c. The Zoning Board of Appeals shall, in the granting of an area variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such condition shall be consistent with the spirit and intent of the Zoning Local Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

### 3. GRANTING USE VARIANCES

- a. The Zoning Board of Appeals, on appeal from the decision or determination of the Zoning Enforcement Officer, shall have the power to grant use variances as defined herein.
- b. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that:
  - (i) under applicable zoning regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
  - (ii) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

- (iii) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - (iv) that the alleged hardship has not been self-created.
- c. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
  - d. The Zoning Board of Appeals shall, in the granting of a use variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such condition shall be consistent with the spirit and intent of the Zoning Regulations contained in this Local Law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

#### **H. PROCEDURES FOR PROCESSING ZONING APPEAL**

- 1. All appeals shall be in writing on forms established by the Zoning Board of Appeals and which shall be available from the Zoning Enforcement Officer.
- 2. Every appeal shall refer to the specific provision of the Zoning Local Law involved and establish the details of why the order, requirement, decision, interpretation and/or determination of the Zoning Enforcement Officer should be reversed or why a variance should be granted and shall address the considerations described in Subdivision C.3 of this Section if the appeal is for a variance.
- 3. Upon receipt of the completed appeal form, the Zoning Board of Appeals shall:
  - a. Schedule a public hearing.
  - b. Arrange for publication of notice of the public hearing as described in Subdivision I of this Section.
  - c. Refer the application to the County Planning Board in accord with Section 239-m of the New York State General Municipal Law, if required
  - d. Determine whether a draft Environmental Impact Statement should be required.
- 4. Within sixty-two (62) days of the public hearing, the Zoning Board of Appeals shall render a decision. If the matter was referred to the County Planning Board, a copy of the Zoning Board of Appeals findings and decision shall be sent to the County Planning Board.

**I. PUBLIC HEARING AND ZONING BOARD OF APPEALS DECISION**

1. Public hearings shall be scheduled within sixty-two (62) days from the date that the Zoning Board of Appeals receives the appeal. Any such appeal shall be deemed received when the appeal is first presented at a duly called meeting of the Zoning Board of Appeals. Notice of the public hearing shall be published in the official newspaper of the Village at least five (5) days prior to the hearing. Such notice shall briefly describe the nature of the appeal and the time and place of the hearing.
2. A copy of the public notice may be sent to adjacent property owners within the Village, but failure to send such notice shall not affect the jurisdiction of the Zoning Board of Appeals or the legality of the decision of the Zoning Board of Appeals.
3. Public records shall be taken by stenographic and/or tape recorder means and shall be transcribed accurately into a narrative form which may or may not be a verbatim transcript.

**J. ZONING BOARD OF APPEALS MEETINGS**

1. The Zoning Board of Appeals shall hold regularly scheduled monthly meetings provided there are meeting agenda items for Board consideration and the Board may hold special meetings, from time to time as needed, at the call of the Chairperson or at the request of three (3) or more members.
2. The presence of three (3) members shall constitute a quorum for the conduct of business before the Zoning Board of Appeals.
3. The presence of three (3) members of the Board shall be necessary to act on the application for any variance or to decide upon any other matter brought before the Board, unless otherwise stipulated in this Local Law.
4. All votes of the Zoning Board of Appeals shall be taken by roll call. Zoning Board of Appeals decisions on matters not referred to the County Planning Board shall be by simple majority vote (three) of the full membership. On a matter referred to the County Planning Board, voting shall be in accord with Section 804 of this Article.
5. In accordance with Section 908 of the General Municipal Law, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
6. The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the Village Attorney, and require the Village Attorney to attend its meetings.
7. The Zoning Board of Appeals may require the Zoning Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.

8. All meetings of the Zoning Board of Appeals shall be open to the public.
9. The Zoning Board of Appeals shall make a factual record of all its proceedings including the reading of the cases, public hearings, deliberations, voting and decisions. These factual records shall be taken by stenographic and/or tape recorder means and shall be accurately transcribed into a narrative form, but not necessarily a verbatim transcript. The factual record shall be taken by the secretary to the Board.

#### **SECTION 804 REQUIRED REFERRALS TO THE COUNTY PLANNING BOARD**

The Zoning Enabling Laws require that any of the following local zoning actions must be referred to the County Planning Board prior to action by any local board. Any proposal for a Special Use Permit, variance, site plan approval, change in the zoning law text or map (rezoning or amending the zoning law) which would affect real property that is within a distance of 500 feet from the boundary of:

- any county
- any town.
- any village.
- any existing or proposed county or state park.
- any right-of-way of any county or state road or parkway,
- any stream or canal owned by the county.
- any existing or proposed county or state owned land on which a public building or institution is situated

must be referred to the County Planning Board which shall have thirty (30) days from the date the County Planning Board receives such referral to take action on the matter. By mutual agreement of the county and the municipality such thirty (30) day period may be extended in special cases.

**A. EFFECT OF COUNTY PLANNING BOARD REVIEW**

1. If the County Planning Board recommends the approval of a matter referred to it, the local board's decision is governed by a simple majority vote.
2. If the County Planning Board recommends disapproval or approval subject to stated conditions or modifications, the local board may override the county opinion only by a majority plus one vote.

**B. REPORT ON FINAL LOCAL ACTION**

Within thirty (30) days following a local board's final decision on a matter referred to the County Planning Board, the local board shall provide a copy of its final decision and reasons for such decision to the County Planning Board.