

.....VILLAGE OF SHOREHAM.....  
BOX 389  
SHOREHAM, NEW YORK 11786

REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE INCORPORATED  
VILLAGE OF SHOREHAM HELD IN THE VILLAGE HALL, WOODVILLE ROAD,  
SHOREHAM, NY ON DECEMBER 8, 2015 AT 7:30 O’CLOCK PM.

PRESENT:

Edward Weiss	MAYOR
Brian C. Vail	TRUSTEE
Leonard Emma	TRUSTEE
Rosie Connell	TRUSTEE
Cathy Donahue-Spier	CLERK/ TREASURER

Deputies, Commissioners, and Chairs present: L. Kogel, S. Walker, J. Flannery, S. Blum, D. Madigan and various committee members and residents. Anthony Tohill, Village Attorney also present.

OPEN MEETING

***Pledge of Allegiance***

Mayor Weiss opened the Regular Meeting at 7:30 PM. Mayor Weiss asked for a moment of silence in remembrance of long-time Village resident, Tom Morris, who passed away on November 18, 2015. A moment of silence was observed.

MINUTES

Motion to approve minutes from November 10, 2015 Board Meeting with amendments.

***Approved.***

***(Connell - Weiss 4-0)***

LOCAL LAWS – HEARING ON ZONING LAW, COMPREHENSIVE PLAN, AND ZONING MAP.

Motion to close regular meeting and open hearing on proposed zoning law, zoning map, and comprehensive plan.

***Approved.***

***(Connell - Weiss 4-0)***

Attorney Tohill summarized the proposed zoning law, zoning map and comprehensive plan and explained the need for the updated law. Attorney Tohill reported that the Suffolk County Planning Commission met on December 2, 2015. During the meeting, the Commission considered and approved Shoreham Village’s proposed zoning law, zoning map and comprehensive plan by a vote of 12-0.

Attorney Tohill has reviewed all of the submitted comments concerning the proposed law. He indicated that while many of the comments concerned stylistic changes to the proposed law and

were non-substantive. A request was made by some attendees to change the 4 business parcels to residential. Attorney Tohill indicated that was a substantial change that would require further discussion and necessitate that the process to adopt a new zoning law begin all over again. He suggested that this change be considered at a later date after the proposed law was in place noting that the current proposed law was ready for adoption. He made the same recommendation with respect to the request that the building height limit be changed from 32 ft. to 35 ft.

Various residents asked questions about the specifics of the proposed law which Attorney Tohill answered. Attorney Tohill indicated that the law could be amended at a later date and reminded residents that the law was designed not to protect individual property owners, but for the common good.

Motion to close hearing and re-open regular meeting.

*Approved.*

*(Weiss - Connell 4-0)*

ENACTMENT OF LOCAL LAW 5 OF 2015 ZONING LAW, ZONING MAP AND ADOPTION OF COMPREHENSIVE PLAN

WHEREAS, the Board of Trustees pursuant to public notice under Village Law § 7-706, General Municipal Law § 239-m, Municipal Home Rule Law § 20 and 6 NYCRR Part 617 has heretofore and on the 10<sup>th</sup> day of November 2015 conducted a public hearing on a comprehensive plan, an update of the Village Zoning Ordinance of 1951, a Zoning District Map and a Full Environmental Assessment Form, Parts 1 and 2 and Addendums, and

WHEREAS, said public hearing was thereafter continued on December 8, 2015, and WHEREAS, the Board has pursuant to General Municipal Law § 239-m referred the comprehensive plan, the Zoning Code update and Zoning District Map to the Suffolk County Planning Commission and said Commission has on the 2d day of December, 2015 adopted a resolution of approval with comments, and

WHEREAS, on the basis of the Board's review and consideration of the Full Environmental Assessment Form, Parts 1 and 2 and Addendums, as well as all public comment, the Board finds that adoption of the comprehensive plan, enactment of the updated Zoning Code and enactment of the revised Zoning District Map will not result in significant environmental impacts, and WHEREAS, preparation of a negative declaration is appropriate with respect the adoption of the comprehensive plan, the enactment of the updated Zoning Code and the enactment of a Zoning District Map, and

WHEREAS, the Board by adoption of this resolution and pursuant to Municipal Home Rule Law § 10 supersedes any inconsistent law, state or local, including by way of illustration, not limitation, Village Law Article 7, and

WHEREAS, the present text of Village Code Zoning Ordinance of 1951, as amended prior to this date, is upon the effective date of the enactment of the updated Zoning Code pursuant to this resolution repealed, and

WHEREAS, the 1965 Zoning District Map as amended to date is upon the effective date of the filing of this Zoning District Map enacted as a local law hereunder, deemed replaced by this enactment, and

WHEREAS, the Board has considered all public comment heard on November 10, 2015 and December 8, 2015 as well as the written submissions of Barbara Kullen, Esq., Judy Buyar, M.L. Abata, R. Kavanaugh, Donna C. Smith, and Mark Smith, and

WHEREAS, the Board in the exercise of its discretion as well as upon legal advice addressing steps required in addition to those taken already has elected to consider all of the foregoing public comments after this date, and

WHEREAS, the Board finds that all matters on its part to be considered have been addressed, NOW THEREFORE IT IS RESOLVED AS FOLLOWS:

1. The Mayor is authorized and directed to execute a negative declaration under SEQRA.
2. The Village Clerk is authorized and directed to file forthwith the negative declaration executed even date with a) the Village Clerk's office, attn: Mayor Edward Weiss; b) the Planning Board; c) the Zoning Board of Appeals; d) the Design Review Board; e) the Suffolk County Planning Commission; f) the Clerk of the Town of Brookhaven; g) New York State Department of Environmental Conservation at Building 40, SUNY Stony Brook, 50 Circle Road, Stony Brook, New York 11790; h) New York State Department of Environmental Conservation at 625 Broadway, Albany, New York 12233; and i) the Environmental Notice Bulletin (with attached ENB SEQRA Notice Publication Form) at 625 Broadway, Albany, New York 11790.
3. The comprehensive plan is hereby adopted.
4. The updated Zoning Code is hereby enacted, and its entire contents shall be entered into the minutes of this meeting.
5. The Zoning District Map is hereby enacted and a copy attached to the minutes of this meeting.
6. The Village Clerk is authorized and directed to post on the Village Bulletin Board and publish in the official newspaper of the Village an abstract of the Zoning Code as enacted in form annexed and to post on the Village Bulletin Board both said abstract and the Zoning District Map.
7. The Village Clerk is authorized and directed to prepare and file in her office affidavits of said posting and publishing.
8. The Village Clerk is authorized and directed in accordance with General Municipal Law § 239-m(6) to forward within 30 days a copy of this resolution to the Suffolk County Planning Commission, P.O. Box 6100, Hauppauge, New York 11788, attn: Andrew Freleng, Chief Planner.
9. The Village Clerk is authorized and directed to file as a local law with the Secretary of State at State Records and Law Bureau, Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, New York 12231 the text of the Zoning Code with Zoning District Map attached as enacted herewith.

10. The Mayor and Board of Trustees express their gratefulness to the entire community for its contributions to this process: these enactments reflect a community interest that works always for the common good and we thank you for all your assistance.

*Motion – Weiss*

*Second - Vail*

*Weiss – Yeay*

*Vail – Yeay*

*Emma – Yeay*

*Connell – Yeay*

*Local Law adopted 4 – 0.*

**LOCAL LAW NO. [ ] OF 2015  
A LOCAL LAW ENTITLED A ZONING CODE**

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF SHOREHAM,  
AS FOLLOWS:

SECTION 1. PURPOSE.

The purpose of this local law is to enact a zoning code chapter as part of the Village Code, various parts of which were in substance included in the Village Zoning Ordinances of 1951, 1967 and 1989.

SECTION 2. ENACTMENT.

A Chapter [ ] of the Village Code entitled Zoning Code is enacted, as follows:

ARTICLE I

Legislative Findings

**§ [ ]-1. Legislative Intent.**

The purpose of this Chapter [ ], entitled the Village Zoning Code, is to implement the authority granted to the Village under New York Village Law, Article 7 thereof, to protect and promote the public health, safety and welfare and specifically to address the following:

- (1) Efficient and adequate provision of public places and resources.
- (2) Assurance of adequate plots for lawful uses.
- (3) Provision for the privacy of families.
- (4) Prevention of traffic congestion and promotion of public safety.
- (5) Protection of residential and historic places and areas.
- (6) Discouragement of nonconforming uses.
- (7) Enhancement of the appearance of the Village.
- (8) Protection of the Village’s coastal resources and environment.

ARTICLE II

Definitions and Word Usage

**§ [ ]-2. Definitions.**

As used in this Chapter [ ], each of the following defined terms shall have the meaning indicated:

- (1) **accessory building or structure** — a building or structure located on a plot being other than the main building located thereon, including any: air-conditioning

- compressor, generator or other mechanical equipment; arbor; boathouse; built-in barbeque; cabana; detached car garage; deck; gazebo; greenhouse; patio eight (8) inches or more above natural grade; pergola; playground equipment, swing set or other recreational equipment; playhouse; pool heater, filter and similar equipment; recreational structure; shed; storage bin; swimming pool; tennis court, inclusive of any playing area and enclosure, including and fencing or netting being part thereof; terrace; tree house; trellis; veranda; or other such structure.
- (2) **accessory use** — a use subordinate to the use of a main building and customarily incidental to the permitted use thereof, with the understanding that:
- (a) such use shall not include the use of antennae, helicopters or other aircraft, or wind turbines, or permit the installation of any structure related thereto; and
  - (b) no accessory structure shall be used for sleeping or as a habitable space, except as otherwise permitted under § [ ]-14 of this Chapter [ ].
- (3) **attic** — an unfinished, non-habitable space, of a building used for storage purposes only, situated between the top of the uppermost floor of a building and the underside of the roof thereof.
- (4) **basement** — that space of a building partly located below grade, having more than one-half (½) of its height, measured from floor to ceiling, above the average natural grade of the ground abutting the foundation of such building.
- (5) **building** — a structure enclosed with walls and a roof, including any accessory building or main building.
- (6) **cellar** — that space of a building partly located below grade, having one-half (½) or more of its height, measured from floor to ceiling, below the average natural grade of the ground abutting the foundation of such building.
- (7) **Church Plot** — that plot located at the northwest corner of North Country Road and Woodville Road, shown in Village tax records under Section 7, Block 2, Lot 3, No. 4.
- (8) **curb cut** — a connection of a driveway or walkway located on a plot with the surfaced portion of a street abutting such plot, such connection including:
- (a) the connection with the street surface itself, including any break in any curbing required thereby; and
  - (b) any extension of such driveway or walkway over any unsurfaced portion of such street, including any apron or curbing being part thereof.
- (9) **dwelling** — a building designed exclusively for residential purposes and arranged or intended to be occupied by only one (1) family.
- (10) **family** — one or more persons, whether or not related to each other by blood, marriage or adoption, occupying a dwelling as a traditional family or the functional equivalent of a traditional family, having access to and utilizing the whole of such dwelling, including all rooms and housekeeping facilities, in common, the determination of such equivalency being based on the following criteria:
- (a) the occupancy is one that in structure and function resembles a traditional family unit;
  - (b) the occupants share the entire dwelling and live and cook together as a single housekeeping unit, with the understanding that any dwelling in which the various occupants act as separate boarders or roomers, on a transient basis or otherwise, shall not be deemed to reflect a situation satisfying the requirement for functional equivalency of a traditional family;
  - (c) the occupants share expenses for food, rent, ownership costs, utilities and other household expenses;

- (d) the occupancy is permanent, or tantamount to being permanent, and stable, evidence of such permanence and stability including:
    - (i) the presence of minor children regularly residing in the household who are enrolled in local schools;
    - (ii) members of the household:
      - [1] having the same address for purposes of voter registration, drivers' licenses, motor vehicle registration, filing of taxes and delivery of mail;
      - [2] being employed in the geographic area; and
      - [3] having been living together as a unit for one (1) year or more, whether in the current dwelling or in other dwellings; and
    - (iii) common ownership of furniture and appliances among the members of the household; and
  - (e) any other factor reasonably indicating that the occupants are the functional equivalent of a traditional family.
- (11) **fence** — a structure bounding or dividing an area of a plot, designed to limit passage from one (1) area to another, or to screen such areas from view, including recreational structure enclosures.
- (12) **flag lot** — a plot having a street frontage of less than fifty (50) percent of the minimum street frontage set forth in § [ ]-9C of this Chapter [ ], with such frontage being intended to provide the primary ingress and egress to and from such plot, as distinguished from that area of such plot on which to accommodate residency.
- (13) **governmental entity** — a governmental or regulatory body, other than the Village, having purview over a Village matter.
- (14) **height** — the vertical distance from the average natural grade of the ground abutting the foundation of a building, or base of any other structure, to the highest point of the highest roof of such building, or in the case of any other structure, to the highest point thereof.
- (15) **home occupation** — any gainful occupation conducted in a dwelling solely by the residents thereof, licensed by New York State if such licensing is available but not required under New York State Law, or required under said law, that:
- (a) is customarily incidental to the residential use of such dwelling and does not change the character of same.
  - (b) only involves online sales; and
  - (c) does not involve the:
    - (i) use of more than one-third ( $\frac{1}{3}$ ) of the ground floor area of such dwelling or its equivalent area elsewhere therein;
    - (ii) delivery to such dwelling, or storage therein, or on any land of the plot on which such dwelling is located, of any equipment, merchandise or vehicles; and
    - (iii) employment of any person unrelated to such residents; and
  - (d) does not require exterior signage other than that permitted under § [ ]-11I(2)(b)(ii) of this Chapter [ ].
- (16) **home professional office** — the office or studio of a architect, artist, chiropractor, dentist, doctor, engineer, insurance broker or agent, lawyer, musician, physical therapist, psychologist, public accountant, real estate broker or salesperson, teacher, tutor, or other such profession, residing in any dwelling, but only if:

- (a) any such professional is licensed by New York State, if such licensing is available but not required under New York State Law, or required under said law; and
- (b) the operation of such professional:
  - (i) is customarily incidental to the use of such dwelling and does not change the character of same;
  - (ii) involves only professional service on a one-on-one basis, or a family basis, as distinguished from operation of any group-therapy clinic, daycare center, nursery or other school, or other such facility; and
  - (iii) does not:

[1] include the operation of a barbershop, beauty parlor, hairdressing or manicuring establishment, biological or medical laboratory, convalescent home, mortuary establishment, tearoom, tourist home, or other such use; and

[2] involve the purchase or sale of economic goods.

- (17) **main building** — a principal structure located on a plot, as distinguished from an accessory building or structure.
- (18) **main building area** — the area of every story of a main building measured from exterior wall to exterior wall thereof, plus the area of any deck, patio, porch or terrace, adjacent thereto, whether roofed or otherwise, or whether at grade or otherwise.
- (19) **mobile/trailer home** — a prefabricated home built in a factory, rather than on-site, having a permanently attached chassis, and wheels, designed to be used with or without a foundation when connected to required utilities, and capable of being transported by vehicles, any such prefabricated home including caravans, house trailers, static caravans, and other such portable structures.
- (20) **nonconforming structure** — a structure lawfully existing on the effective date of this Chapter [ ], or on the date of any amendment thereto affecting such structure, that does not comply with the dimensional requirements set forth in said chapter, irrespective of the use to which such structure is being put.
- (21) **nonconforming plot** — a plot lawfully existing in single and separate ownership on the effective date of this Chapter [ ], or on the date of any amendment thereto affecting such plot, that does not comply with the dimensional requirements set forth in said chapter.
- (22) **nonconforming use** — a use of a structure or plot, or part thereof, lawfully existing on the effective date of this Chapter [ ], or on the date of any amendment thereto affecting such use, that does not comply with the use requirements set forth in said chapter, with the understanding that any temporary authorization of a permit for a prohibited use granted by the Board of Appeals prior to the adoption of this Chapter [ ] shall not be construed to establish a nonconforming use as defined above in this § [ ]-2(22), and as such any such authorization and its related use shall terminate upon the expiration thereof.
- (23) **permitted use** — a specific use of any part of a building, structure or plot permitted under this Chapter [ ], with the understanding that any use not permitted shall be prohibited.

- (24) **plot** — a parcel of land located in the Village, not owned by the village or a governmental entity, capable of housing structures in accordance with the provisions of this Chapter [\_\_].
- (25) **plot area** — the area of a plot, with the understanding that no such area shall include land located, fully or partially, on any street or any land lying seaward of the mean high-water line of Long Island Sound.
- (26) **plot, width** — the length of all lines crossing a plot being parallel with the front plot line thereof, or in the case where the front plot line is curved, parallel to that line tangent to the midpoint of such curved plot line.
- (27) **plot, corner** — a plot fronting, fully or partially, on two (2) or more intersecting streets having an interior angle at the intersection of the street lines of such streets of less than one hundred thirty-five (135) degrees, with the understanding that any plot having a plot line running along a curved street line shall be considered a corner plot if the tangents to such street line, at the points of intersection of the side plot lines of such plot, intersect at an interior angle of less than one hundred thirty-five (135) degrees.
- (28) **plot, interior** — a plot other than a corner plot or through plot.
- (29) **plot line** — a property line of a plot.
- (30) **plot line, front** — a plot line running along a street line, with the understanding that if a plot is a corner plot, flag lot or through plot, the front plot line thereof shall be that plot line on which the front façade of the main building predominantly faces, or in the case where there are two (2) such façades or more, that plot line thereof designated by the owner of such plot as the front plot line, which designation shall last in perpetuity, with the establishment of the front yard, rear yard and side yards of such plot being based on such front-plot-line determination and the provisions of this Chapter [\_\_].
- (31) **plot line, rear** — a plot line opposite a front plot line, with the understanding that when the subject plot is a through plot, the required rear yard setback for accessory buildings and structures shall be the same as that required for the main building located on such plot as set forth in this Chapter [\_\_].
- (32) **plot line, side** — a plot line other than a rear plot line or front plot line.
- (33) **plot, through** — a plot extending from one street line to another.
- (34) **plot, waterfront** — a plot abutting, or having land being part of, the Coastal Erosion Hazard Area.
- (35) **public place** — real property located in the Village, which real property is leased, owned or otherwise controlled by the Village.
- (36) **recreational structure** — a structure, other than a swimming pool, intended to provide outdoor recreation, including any basketball court, platform tennis court, tennis court, or other such court or recreational facility, and any fencing or netting being part thereof.
- (37) **School Plot** — that plot located between Briarcliff Road and Tower Hill Road, shown in Village tax records under Section 4, Block 2, Lot 1, No. 18.
- (38) **sign** — any kind of billboard, signboard, pennant or other shape or device or display used as an advertisement, announcement or direction, including any text, symbol, lights, marks, letters or figures painted thereon or painted on or incorporated in the composition of an exterior facing of a structure, including the framing and structural elements thereof.



- (39) **story** — that portion of a building located between the surface of any floor and the surface of the floor next above, with the understanding that a basement shall be considered a story, but an attic and a cellar shall not be considered as such.
- (40) **street** — a roadway owned by the Village or any governmental entity, including any surfaced or unsurfaced portion thereof.
- (41) **street frontage** — the length of the longest continuous street line.
- (42) **street line** — a line demarcating the edge of a street where same coincides with a plot line.
- (43) **structure** — anything built, installed or placed on land, whether located aboveground, in-ground or underground, or on another structure, with footing or foundation, or otherwise.
- (44) **swimming pool** — a structure containing water having a depth at any point of more than eighteen (18) inches and a surface area greater than twenty-five (25) square feet, designed or intended for the purpose of bathing or swimming and including all appurtenant equipment.
- (45) **Village Entity** — any Village board, or appointed or elected official, empowered under the Village Code or New York Village Law.
- (46) **Water Utility Plot** — that plot located at the southwest corner of Briarcliff Road and Tower Hill Road, shown in Village tax records under Section 4, Block 4, Lot 5, No. 1.
- (47) **work** — as related to any building, structure or plot, or part thereof, an activity involving any: alteration, whether affecting exterior, interior, mechanical or structural elements; construction; delivery of construction materials; demolition; erection; expansion, whether horizontally or vertically; installation; landscaping; maintenance; painting or staining; rearrangement; reconstruction; relocation, whether on a permanent or temporary basis; renovation; site work; or other such activity.
- (48) **yard, front** — that area located between the front plot line of a plot and the front foundation line of the main building located thereon, with the understanding that as related to corner plots, there shall be two (2) front yards established as set forth in § [ ]-2(30) of this Chapter [ ], the configuration of one (1) front yard being based on the orientation of that façade of such main building facing one (1) street line or both street lines forming such corner plot, and the configuration of the other front yard being based on the orientation of that façade of such main building facing the other street line of such corner plot.
- (49) **yard, rear** — that area located between the rear plot line of a plot and the rear foundation line of the main building located thereon, which area shall extend to that area located between such rear plot line and that line crossing such plot from each end of such foundation line on a course parallel with such rear plot line.
- (50) **yard, side** — those areas located between the side plot lines of a plot and the side foundation lines of the main building located thereon, which area shall extend to that area located between such side plot lines and those lines crossing such plot from each end of such main building foundation lines on a course parallel with such side plot lines.

**§ [ ]-3. Word Usage.**

For purposes of this Chapter [ ]:

- (1) The words “approve”, “authorize”, “disapprove”, “issue”, or words of such nature connoting the disposition of any matter, whether in the form of a verb or noun, shall be deemed to mean that a determination is being made.

- (2) The word “area” is variably used to mean the horizontal size of an area, including any floor or land area, any three (3)-dimensional space located in a structure, or any other place referenced in this Chapter [ ].
- (3) The words “being part of”, or words of such nature, shall be deemed to mean that one (1) structure is attached at any point to another structure, or incorporated with same so as to be viewed with such other structure as a contiguous structure.
- (4) The words “expire on the date”, or words of such nature, shall be deemed to be referring to the expiration of the period running through the end of such date.
- (5) Unless otherwise indicated to the contrary, the concept of including something on a list of things shall be deemed to embody the concept of including those things by way of illustration and not limitation.
- (6) The word “on”, when following the word “structure”, shall be deemed to mean “on, under the surface of, or over” the land on which such structure is located or over which such structure spans.
- (7) The word “shall” shall be mandatory.
- (8) The word “work”, or any type or variation thereof, shall be deemed to be a reference to the performance of same, if appropriate in context.
- (9) Any adjective modifying a defined term, or part of a defined term, including the words, “a”, “any”, “the”, “this”, “said” and “such”, shall not affect the meaning of the defined term it modifies, and any defined term used as an adjective or verb, or reordered but carrying the intent of such defined term, or capitalized or pluralized, or put in the possessive form, shall carry the same meaning as such definition is expressed in § [ ]-2 of this Chapter [ ], with the understanding that any defined term having initial capitalization shall only carry the intended definition if so capitalized, unless otherwise indicated in context.
- (10) Any reference to two (2) or more things, immediately following a reference to two (2) or more correspondingly related things, shall be deemed to be followed by the word “respectively”.
- (11) Wording in the disjunctive form shall be deemed to be preceded or followed by the words “as applicable” or “as the case may be”.
- (12) The present tense shall include the future tense.
- (13) The singular shall include the plural and vice versa.
- (14) Undefined terms shall be interpreted so as to give them the meaning they have in common or lawful usage, so as to give this Chapter [ ] its most reasonable interpretation.
- (15) Captions and headings shall be deemed to be inserted for convenience and reference only, and shall in no way be deemed to define, describe or limit the intent, meaning or scope of this Chapter [ ].

### ARTICLE III

#### Districts and Boundaries

##### § [ ]-4. **Districts.**

The Village shall be divided into the following districts, as shown on the Village Map in Appendix A of this Chapter [ ]:

- (1) Residence “A” District and Residence “B” District.
- (2) Business District.
- (3) Public Utility District.

##### § [ ]-5. **Residence Districts.**

Permitted uses in either Residence District shall only include:

- (1) One family dwelling.
- (2) Practicing of a home occupation.
- (3) Operation of a home professional office.
- (4) Accessory uses customarily incidental to the uses set forth above in this § [ ]-5.

**§ [ ]-6. Business District.**

Permitted uses in the Business District shall only include:

- (1) Any permitted use in either Residence District.
- (2) Practicing of medical arts.
- (3) Sale of antiques.
- (4) Accessory uses customarily incidental to the uses set forth above in this § [ ]-6.

**§ [ ]-7. Public Utility District.**

Permitted uses in the Public Utility District shall only include:

- (1) Any permitted use in the Business District.
- (2) Public utility functions.
- (3) Vehicle servicing center for minor repair and storage of public utility vehicles, servicing of such vehicles with gasoline, motor fuel or oil, and storage of public utility materials.
- (4) Accessory uses customarily incidental to the uses set forth above in this § [ ]-7.

**§ [ ]-8. Prohibited Uses.**

No structure or plot, or part thereof, shall be used, and no structure erected, altered, arranged or designed, so as to be used, in whole or part, except as permitted under this Chapter [ ].

**§ [ ]-9. Minimum Plot Requirements.**

A. Required Plot Area. The minimum plot area located in the indicated district shall be as follows:

- (1) Residence “A” District – forty thousand (40,000) square feet.
- (2) Residence “B” District – thirty thousand (30,000) square feet.
- (3) Business District – twenty thousand (20,000) square feet.
- (4) Public Utility District – one hundred thousand (100,000) square feet.

B. Required Plot Width. The minimum width of a plot shall be as follows:

- (1) Residence “A” District – one hundred and fifty (150) feet.
- (2) Residence “B” District – one hundred (100) feet.
- (3) Business District – one hundred (100) feet.
- (4) Public Utility District – two hundred (200) feet.

C. Required Street Frontage. The minimum street frontage for any plot shall be as follows:

- (1) Residence “A” District – one hundred and fifty (150) feet.
- (2) Residence “B” District – one hundred (100) feet.
- (3) Business District – eighty (80) feet.
- (4) Public Utility District – two hundred (200) feet.

**§ [ ]-10. Height, Area and Yard Regulations.**

Height, area and yard regulations are set forth in the Table of Height, Area and Yard Regulations in Appendix B of this Chapter [ ].

ARTICLE IV

Supplemental Regulations

**§ [ ]-11. Requirements for Certain Structures.**

A. Main Building. The following regulations shall apply to main buildings:

- (1) Only one (1) main building shall be permitted to be located on a plot.
- (2) Mobile/trailer homes shall not be permitted to be located or stored on any plot.

B. Certain Accessory Buildings and Structures. The following regulations shall apply to the indicated accessory buildings and structures:

- (1) Accessory buildings and structures shall:
  - (a) Have a minimum setback from rear plot lines and side plot lines of ten (10) feet, except for recreational structures and swimming pools, which shall have a setback from rear plot lines and side plot lines of at least one hundred and fifty (150) percent of the setbacks for accessory structures.
  - (b) Have a height no greater than fifteen (15) feet or have more than one (1) story, except as otherwise limited under § [ ]-12C of this Chapter [ ].
- (2) Only be located in a rear or side yard.
- (3) The area of all accessory buildings and structures located on a plot shall be no greater than twenty (20) percent of the area of the rear yard of such plot.
- (4) No accessory building or structure shall be located in any part of a front yard or within ten (10) feet of a main building.
- (5) No more than two (2) accessory buildings or structures shall be permitted to be located on plots having a plot area of thirty thousand (30,000) square feet or less.
- (6) On plots having a plot area of more than thirty thousand (30,000) square feet or more, no more than two (2) accessory buildings or structures shall be located for each thirty thousand (30,000) square feet of plot area thereof.
- (7) No accessory building or structure shall contain a kitchen, living room or bedroom, or otherwise be designed or used as habitable space.

C. Car Garages and Storage Structures. The following regulations shall apply to car garages and storage structures:

- (1) No more than one (1) such garage shall be permitted to be located on a plot, and in no event shall the ground floor area of any such garage be greater than one thousand (1,000) square feet measured from exterior wall to exterior wall thereof.
- (2) No such garage shall have more than three (3) bays.
- (3) No more than one (1) shed shall be permitted to be located on a plot, with the understanding that any such shed shall:
  - (a) Not be greater in area than one hundred forty-four (144) square feet.
  - (b) Not have a height greater than ten (10) feet, except as otherwise limited under § [ ]-12C of this Chapter [ ].
  - (c) Only be located in a rear yard, at least ten (10) feet from the rear plot line and side plot lines.

D. Driveways and Parking. The following regulations shall apply to driveways and parking areas:

- (1) No driveway shall be:
  - (a) Located within ten (10) feet of a side plot line.
  - (b) So located as to provide ingress or egress to any land located outside the Village;
  - (c) Wider than twelve (12) feet, except where same is directly contiguous to a car garage door opening, curb cut or parking area.
- (2) No driveway curbing shall be constructed of precast concrete masonry units, railroad ties, or other such material.
- (3) Subject to the provisions of Chapter [ ] of the Village Code, no more than:
  - (a) One (1) driveway and one (1) or two (2) curb cuts shall be permitted to be located on an interior plot.

- (b) One (1) driveway and one (1) curb cut, or two (2) curb cuts, shall be permitted to be located on any through plot, with the understanding that if there are two (2) curb cuts, same shall be located on the same street.
- (c) Two (2) driveways and two (2) curb cuts shall be permitted to be located on any corner plot, one (1) each on any given street or two (2) curb cuts on the same street.
- (4) The area permitted for on-site parking shall not exceed the area required for the parking of three (3) cars and shall be located at least thirty (30) feet from the front plot line, and fifteen (15) feet from the rear or side plot lines, of such plot.
- (5) Driveways shall be so constructed as to maintain stormwater runoff on-site.

E. Fences and Walls. The following regulations shall apply to fences and walls:

- (1) Chain link and stockade fences shall be prohibited, whether any such chain link fence has slats or otherwise, except that a chain link fence without slats, or a stockade fence, shall be permitted to be installed as part of any recreational structure or swimming pool enclosure, or installed on or within ten (10) feet of any boundary so as to separate one (1) plot from another.
- (2) No fence shall be constructed of any reflective material.
- (3) Notwithstanding any provision of § [ ]-12C of this Chapter [ ] to the contrary, any fence or wall:
  - (a) Located within ten (10) feet of a side plot line shall have a height no greater than six (6) feet.
  - (b) Separating a front yard from a side yard shall have a height no greater than six (6) feet.
  - (c) Separating a front yard from a side plot line or street line shall have a height no greater than four (4) feet.
- (4) Notwithstanding any provision of § [ ]-12C of this Chapter [ ] to the contrary, any gate being part of a fence or wall shall have a height no greater than the height of such fence or wall, except for any such gate located at the entrance of any driveway or walkway, which entrance shall have a height no greater than eight (8) feet.
- (5) Any fence or wall on a corner lot shall not interfere with pedestrian or vehicular safety on any street.
- (6) Only the face or finished side of any fence or wall shall face a plot line or street line.
- (7) Walls shall not be constructed of unfinished precast concrete masonry units, or of railroad ties, or other such material, except for walls retaining the bluff running along the north side of the Village generally in an east west orientation, with the understanding that the installation of any bluff retaining walls shall be subject to the approval of any governmental entity having jurisdiction over same.

F. Mechanical Equipment. The following provisions shall apply to mechanical equipment:

- (1) Mechanical equipment, including AC compressors, generators, pool pumps and similar equipment, shall only be located in a rear yard or side yard, with the understanding that same shall be screened by landscaping, and shall maintain setbacks at one hundred and fifty (150) percent of that required for accessory structures.

- (2) No part of any mechanical equipment shall be located on any part of a roof or roof setback of any structure, except as otherwise permitted under § [ ]-11M of this Chapter [ ].
  - (3) All mechanical equipment shall operate within the sound level limitations set forth in Chapter [ ] of the Village Code.
- G. Swimming Pools. The following regulations shall apply to swimming pools:
- (1) Only one (1) such pool shall be permitted to be located on a plot.
  - (2) Any such pool shall be constructed such that the sides thereof shall be located in-ground, or so screened by berms or landscaping, or by being part of another structure, that the sides thereof shall not be visible from any plot other than the plot on which such pool is located, or visible from any public place or street.
- H. Site Lighting. The following regulations shall apply to site lighting:
- (1) No lighting, whether freestanding, or located within a structure or on the exterior thereof, shall be directed at any property, other than the plot on which such lighting is located.
  - (2) The installation or replacement of site lighting shall be governed by the provisions of Chapter [ ] of the Village Code.
- I. Signage. The following regulations shall apply to signage:
- (1) Except as otherwise permitted under § [ ]-11I(2) of this § [ ]-11I:
    - (a) Only one (1) of any sign permitted under this § [ ]-11I shall be permitted to be located on any plot.
    - (b) Signs shall be permitted to be freestanding, or attached to any structure.
    - (c) All signs shall be single-faced.
    - (d) The determination of signage area shall take into account any framing and structural elements being part of the subject signage.
    - (e) No part of any sign shall be located within five (5) feet of the surfaced portion of any street or any unsurfaced portion of a street, unless in either case approved by the Planning Board in writing.
    - (f) No sign shall:
      - (i) Have a signage area greater than two (2) square feet.
      - (ii) Be internally illuminated.
      - (iii) Be located on the roof or setback of any structure, or as related to any structure located in the Residence District, or located in the Business District or Public Utility District if being used solely for residential purposes, located above the first story thereof.
  - (2) No sign shall be located on a plot, except for the following, which shall be permitted to be located on the indicated plot:
    - (a) As related to any plot, one (1) sign displaying any of the following:
      - (i) The street name and number of such plot.
      - (ii) The announcement of the availability of such plot, or structures located thereon, for rent or sale, with the understanding that the signage area shall be no greater than four (4) square feet.
      - (iii) Information related to the use of such plot if same is being used for anything other than residential purposes, including same related to parking, safety, traffic control or miscellaneous information required for the use of such plot, with the understanding that:

[1] There shall be permitted any number of such signs in order to assure the safe use of such plot.

[2] The signage area of any such sign shall be no greater than four (4) square feet.

(b) In lieu, or as part, of any sign displaying a street name and number of a plot as permitted under § [ ]-11I(2)(a)(i) of this § [ ]-11I(2), and only as related to plots located in the Residence District, or located in the Business District or Public Utility District if being used solely for residential purposes, one (1) sign displaying any of the following:

(i) The name of the resident of any structure located on such plot, with the understanding that:

[1] If such plot is a corner plot, no more than two (2) such signs shall be permitted to be located on such plot, one (1) facing one street line and one (1) facing another.

[2] As related to the Water Utility Plot when being used for water utility purposes, no such sign shall be located thereon, except for signs related to the safe use of said plot.

(ii) In lieu, or as part, of any sign displaying a street name and number of a plot as permitted under § [ ]-11I(2)(a)(i) of this § [ ]-11I(2), the names of professionals practicing on such plot, with the understanding that if such professional is practicing a home occupation, an additional sign shall be permitted to be located on such plot, but only if:

[1] Such sign is required by law.

[2] The signage area of such sign is no greater than two (2) feet by three (3) feet.

[3] The location of such sign is approved by the Planning Board in writing.

(iii) The name of any church or nursery school located on the Church Plot, with the understanding that no more than two (2) such signs for the name of the church shall be permitted to be located on said plot, one (1) on North Country Road and one (1) on Woodville Road, and one (1) such sign for the name of the nursery school, on North Country Road.

(iv) The name of any public school located on the School Plot, with the understanding that no more than two (2) such signs shall be located on said plot, one (1) on Briarcliff Road and one (1) on Tower Hill Road.

(c) Only as related to a plot located in the Business District, or the plot constituting the Public Utility District, the name of any business or public utility operating on any plot located in said districts.

(d) The signs displaying the names of the church and nursery school located on the Church Plot, the public school located on the School Plot, a business located in the Business District, or the public utility located in the Public Utility District, shall be permitted to be double-faced or single-faced, and have a signage area no greater than fifty (50) square feet, and the height and width thereof, no greater than eight (8) feet each.

J. Recreational Structures. The following regulations shall apply to recreational structures:

(1) Only one (1) recreational structure shall be permitted to be located on a plot.

- (2) All recreational structures shall be enclosed with fencing or netting to prevent passage of balls from the playing area.
- (3) No recreational structures shall:
  - (a) Be permitted to be located on a plot, unless the plot area of same is at least sixty thousand (60,000) square feet.
  - (b) Be located on any roof or setback of a structure.
  - (c) Be an enclosed structure.
  - (d) Have a surface area greater than one hundred and twenty (120) percent of that area normally prescribed for the area of the playing surface of such structure.
  - (e) Have lights for the purpose of illuminating such structure, except for purposes of general lighting and security of such structure, as distinguished from lighting to allow the intended use thereof.

- K. Satellite Dishes. No more than one (1) satellite dish shall be permitted to be located on any legally inhabited structure, with the understanding that any such satellite dish shall:
  - (1) Have a surface area no greater than ten (10) square feet.
  - (2) Not be freestanding.
  - (3) Be attached to such structure below the eave line thereof, and in a manner such that no part of such dish shall:
    - (a) Extend beyond any wall of such structure by more than three (3) feet.
    - (b) Be located on any wall of such structure facing a street line, if satellite service can be secured with placement of such dish on any such walls not facing a street line.

- L. Solar Panels. Solar panels shall only be permitted to be located on roofs of buildings.

- M. Tent-Like Structures. Any structure in the form of a tent-like structure, whether covered with canvas, plastic, or other type of covering, or whether freestanding, or attached to any other structure, or installed with footing or otherwise, shall be prohibited, except for special occasion tents being used on a temporary basis.

**§ [ ]-12. Other Regulations.**

- A. Waterfront Plots. Notwithstanding any provision of this Chapter [ ] to the contrary, waterfront plots shall be deemed to be interior plots, the rear plot line thereof being that line running along the crest of the bluff running along the north side of the Village generally in an east/west orientation.
- B. Performance of Work. No work shall be performed so as to have an adverse impact on, or damage, any property, including the plot on which such work is being, or has been performed, other plots, public places or streets, with the understanding that any person performing work on a plot, or work permitted to be performed on any street if such work is solely related to such plot, or in any area being part of the Coastal Erosion Hazard Area, shall take the necessary precautions to secure the safety of such property and other property during the performance of such work, appropriately barricading dangerous areas, controlling water runoff, refraining from on-site burning of construction debris, and otherwise ensuring the safe performance of such work.
- C. Structure Height. The Pyramid Rule, attached to this Chapter [ ] as Appendix C, shall be applicable as follows:
  - (1) No structure shall have a height greater than thirty-two (32) feet, except for flagpoles, which shall be permitted to have a height no greater than forty (40) feet, and chimneys being part of any dwelling.
  - (2) Except as set forth in § [ ]-12C(1) of this § [ ]-12C, and as otherwise set forth in this Article IV as related to fences, signage and walls, all structures



located on any plot shall be set back from all plot lines thereof such that the height of any point of such structure shall be no greater than the distance from the nearest plot line of such plot to such structure.

## ARTICLE V

### Nonconforming Uses and Structures

#### § [ ]-13. **Applicability.**

The provisions of this Article V shall apply to all structures, and all uses of structures and plots, lawfully existing on the effective date of this Chapter [ ], which uses, structures or plots do not conform to the provisions of said chapter.

#### § [ ]-14. **Continuance.**

The following provisions shall apply to continuance of use:

- (1) Any lawful use of a structure or plot on the effective date of this Chapter [ ], or on the date of any amendment thereto affecting such use, that does not comply with the provisions of said chapter shall be permitted to be continued in such structure, or upon such plot, except if such use is terminated under § [ ]-18 of this Article V.
- (2) A conforming structure being used for a nonconforming use shall not be altered, reconstructed, repaired or restored, or otherwise renovated, whether structurally or otherwise, to any extent greater than one hundred (100) percent of the area of such structure, unless the use of such structure is changed to a conforming use.
- (3) A nonconforming structure being used for a conforming use shall be permitted to be altered, enlarged, reconstructed, repaired or restored, or otherwise renovated, structurally or otherwise, in whole or part, but only if the degree of nonconformity is not increased.

#### § [ ]-15. **Single and Separate Ownership; Merger; PAL Rule; No Increase in Degree of Nonconformity.**

The following provisions shall apply to nonconforming plots:

- (1) A nonconforming plot shall be permitted to be used, and a structure erected thereon, for use in accordance with the provisions of the Village Code and requirements of any governmental entity, but only if proof is submitted to the Building Commissioner that such plot has been held in continuous single and separate ownership since the date on which such plot became nonconforming, with the understanding that said commissioner shall be permitted to require a single and separate search, which shall be in the usual form, be certified by an attorney or title company regularly doing such work in Suffolk County, and contain a certification that no plot contiguous thereto was ever owned by the owner of such nonconforming plot since the date such plot became nonconforming.
- (2) If at any time a nonconforming plot shall be held in the same ownership as one or more plots abutting such nonconforming plot, such nonconforming plot shall lose its status as such and shall be merged with such abutting plots, with the understanding that:
  - (a) Any plot created by such merger not meeting the provisions of this Chapter [ ] shall remain a nonconforming plot.
  - (b) No such merger shall result, if:
    - (i) The ownership of a nonconforming plot becomes the same as that for any plot abutting such nonconforming plot, through the death of one (1) of the owners

of such plots, except if any such common ownership lasts for more than three (3) years following the date of such death.

(ii) Abutting nonconforming plots, both improved with a dwelling, are held in the same ownership.

(3) If a plot has less than the plot area required under this Chapter [ ], the Proportional Area with Limits Rule (PAL Rule) shall apply, such that the front yard, rear yard and side yard setback requirements set forth in said chapter shall be proportionately reduced based on the plot area of such plot as related to the plot area required, under this Chapter [ ], with the understanding that the rear yard-setback shall be at least fifteen (15) feet, and the side yard-setbacks at least ten (10) feet, except as otherwise required under the PAL Rule.

(4) Any existing structure designed and used for a conforming use, but located on a nonconforming plot, whether such structure be conforming or otherwise, shall be permitted to be altered, enlarged, reconstructed, repaired, restored, or otherwise renovated, structurally or otherwise, in whole or part, but only if the degree of nonconformity is not increased.

#### **§ [ ]-16. Change of Use.**

A nonconforming use shall only be permitted to be changed to a conforming use.

#### **§ [ ]-17. Abandonment of Use.**

A. Abandonment. A nonconforming use shall be deemed to have been abandoned:

- (1) When such use is changed to a conforming use.
- (2) In cases where such nonconformity relates to the use of a structure:
  - (a) When such use has been voluntarily discontinued for twelve (12) consecutive months.
  - (b) When such use has not been used for three (3) years.
- (3) In cases where such nonconformity relates to the use of a structure not designed for such use, or to a plot whereon there is no consequential existing structure related to such use:
  - (a) When such use has been voluntarily discontinued for six (6) months.
  - (b) When such use has not been used for eighteen (18) months.

B. Reinstatement. A nonconforming use that has been abandoned shall not thereafter be reinstated.

#### **§ [ ]-18. Compulsory Termination.**

A. Termination Right. If so elected by the Village Board, a nonconforming use, or nonconforming structure, shall be subject to compulsory termination, when such nonconformity is found to be detrimental to the conservation of the value of any property, or to future development of such property, and therefore tending to deteriorate or blight such property or improvements.

B. Amortization Period. In ordering any compulsory termination of a nonconforming use or nonconforming structure, the Village Board shall establish a definitive and reasonable amortization period during which the nonconforming use shall be permitted to be continued, while the investment value remaining following the date of the termination order is amortized, with the understanding that the determination of the amount to be amortized shall be based on the value of the property and improvements as a nonconforming use, less the value of same as a conforming use, and such other reasonable costs as the termination may cause, all in accordance with reasonable economic practice.

### **ARTICLE VI**

Planning Board/Site-Plan Approval/Other Approvals

#### **§ [ ]-19. Establishment and Power of Planning Board.**

- A. Establishment of Planning Board. The Village Board shall establish a board (the “Planning Board”) in accordance with the provisions of § 7-718 of New York Village Law, by appointing five (5) persons to be regular members thereof, with one (1) such member serving as chairperson. Each member of the Planning Board shall serve for a term as set forth in § 7-718 of New York Village Law, such that the term of only one (1) such member shall expire in a given year, and with the understanding that if a vacancy shall occur, other than by expiration of term, the Village Board shall appoint another person to fill such vacancy for the relevant unexpired term. In addition to the regular membership of the Planning Board, the Village Board shall appoint two (2) persons as alternate members to serve for terms expiring as set forth in § 7-718 of New York Village Law. Each such alternate member shall serve in place of a regular member when required to constitute a quorum because of absence, conflict of interest, or other inability of a regular member to serve. Members of the Planning Board, including alternative members shall be required to satisfy the training and continued education requirements as set forth in § 7-718 of New York Village Law.
- B. Power of Planning Board. As related to any application required to be brought before the Planning Board under this Article VI, said board shall have the power and duty to act under said article and New York Village Law, including the power and duty to:
- (1) Administer and enforce the provisions of this Article VI, and make determinations as set forth therein.
  - (2) Determine whether Planning Board approval will be required for the performance of any proposed work, and whether the application for same will require review by the majority of the regular members of said board, or alternatively, by only two (2) regular members of said board.
  - (3) Request additional copies of any application for Planning Board approval, or other plans, information or items related thereto, including any subdivision mapping information set forth in Chapter [ ] of the Village Code.
  - (4) Request the hiring of consultants by the Village Board, prior to issuance of any Planning Board approval, to assist the Planning Board with the application and approval process, with the understanding that the Planning Board shall be permitted to invite any such consultant to participate in meetings of said board, but only in an advisory capacity.
  - (5) Request information deemed necessary by the Planning Board from other Village Entities, any consultant having been hired by such entities, or any governmental entity or public utility, for the proper disposition of any application.
  - (6) Collect application fees for matters coming under the purview of the Planning Board as established by the Village Board from time-to-time, and any fees incurred by the Village in the hiring of any consultant.
  - (7) Determine whether any Planning Board approval will require a variance.
  - (8) Determine whether approval of any proposed site work will require a public hearing.
  - (9) Approve, approve with conditions, or disapprove any application for any approval or permit brought before the Planning Board under the Village Code, including any such application related to the following matters and provisions of said code:
    - (a) Plot parking and storage approval under Chapter [ ].
    - (b) Signage approval under this Chapter [ ].
    - (c) Site-plan approval under § [ ]-20 of this Article VI, taking the following matters into consideration as set forth in the indicated chapters and local law of the Village Code:
      - (i) Coastal erosion management under Chapter [ ].

- (ii) Floodplain development under Chapter [\_\_].
- (iii) Illicit discharges under Local Law No. 2 of 2006.
- (iv) Preservation of vegetation, changing of terrain and erosion control under Chapter [\_\_].
- (v) Impact on public places other than Village Parkland under Chapter [\_\_].
- (vi) Site lighting under this Chapter [\_\_] and Chapter [\_\_].
- (vii) Stormwater management under Chapter [\_\_].
- (viii) Street parking under Chapter [\_\_].
- (ix) Street work under Chapter [\_\_].
- (d) Subdivision approval under Chapter [\_\_].
- (10) Request the Village Engineer and any consultant involved with the application process to issue certification of satisfactory work completion.
- (11) Maintain records related to all matters coming under the purview of the Planning Board as set forth in this Article VI, including the taking of minutes of all meetings of said board and the recording of all votes taken on any application for site-plan approval.

**§ [ ]-20. Site-Plan Approval.**

- A. Applicability. Site plan approval by the Planning Board shall be required for the following, in accordance with the provisions of this Article VI:
  - (1) Work requiring a building permit under Chapter [\_\_] of the Village Code, but only if such work is to be performed on any plot having a plot area greater than forty thousand (40,000) square feet, and such work will result in the construction or replacement of any structure greater than five hundred (500) square feet as related to such work to be performed on a waterfront plot, or one thousand (1,000) square feet as related to such work to be performed on any plot not being a waterfront plot.
  - (2) Work that will result in any of the following, but only if such work is not directly an element of construction of a structure for which a building permit shall be required:
    - (a) A material change of the natural grade.
    - (b) Any excavating, filling or grading, or cutting or clearing of vegetation, of an area greater than two thousand five hundred (2,500) square feet.
    - (3) Any alteration, construction, demolition or improvement involving any business or public utility use.
    - (4) Signage for any non-residential or nonconforming use.
    - (5) Change of any nonconforming use to another use.
- B. Application Process/Fees. Any person seeking site-plan approval shall file an application for same with the Building Commissioner for review and processing by the Planning Board, and by such other Village Entities as requested by the Planning Board to be involved with the application process under § [\_\_]-19B(5) of this Article VI, which application shall include:
  - (1) A completed site-plan approval application form.
  - (2) As requested by the Planning Board, that number and type of plans and specifications required given the nature of the work being the subject of such application, including a:
    - (a) A scaled site plan as requested by the Planning Board, dated and stamped by an architect, engineer or surveyor licensed in New York State, showing the following:
      - (i) Legal data, including the following: Name and address of the owner of the subject site.

- [1] Name and address of the architect, engineer or surveyor having prepared the subject site plan, which plan shall be sealed with the applicable New York State license seal and signature.
  - [2] Date, north arrow, written and graphic scale, and Suffolk County Tax Map district section, block and lot numbers.
  - [3] Site description, with all distances to be in feet and hundredths (100ths) of a foot, and all angles given to the nearest ten (10) seconds or closer, with error of closure not to exceed one (1) in ten thousand (10,000).
  - [4] Location, name and existing widths of streets and curblines abutting the subject site.
  - [5] As shown in the latest tax records, location and owners of lands abutting the subject site.
  - [6] Location, purpose and widths of all existing and proposed areas for public use, easements and reservations located within or adjoining the subject site.
  - [7] Outline of existing covenants, deed restrictions, easements and filed map restrictions applicable to the subject site, with a copy of each of the foregoing attached to any application.
  - [8] Existing zoning.
- (ii) Natural features, including the following:
- [1] Approximate boundaries of any area being subject to flooding or stormwater overflow, including wetlands.
  - [2] Location of natural features.
  - [3] Location of any existing cultural features.
- (iii) Existing structures and utilities, including the following:
- [1] Outline of all structures and location of all uses of the subject site not requiring structures.
  - [2] Paved areas, including parking areas, driveways connecting the site and streets, and sidewalks.
  - [3] Location, dimensions, grades and flow direction of any existing culverts or waterlines, and other aboveground and underground utilities located within or abutting the subject site.
  - [4] Other existing development, including fences, landscaping and screening.

[5] Location and use of all buildings and structures located within two hundred (200) feet of the boundary of the subject site.

(iv) Proposed development, including the following:

[1] Location of proposed buildings and structures, indicating property lines and setbacks and horizontal distances from existing structures.

[2] Location and design of uses of the subject site not requiring structures, such as off-street parking areas, with parking calculations shown, and pedestrian walkways.

[3] Location, direction, power and time-of-use for any proposed outdoor lighting.

[4] Location and plan for any outdoor signs.

[5] Drainage and grading plans based on a two-inch (2") rainstorm retention, with contours, drainage calculations and spot-grade elevations, to be shown, along with test-hole data as necessary.

[6] Landscaping, including buffering and street-tree plans, including location, material size and quantity, with a list of plantings shown.

[7] Location of cablevision and electrical service, and water service, including water hydrants, mains and valves, or any alternative water service installations.

[8] Indication that all storage areas for equipment, materials, products, supplies or vehicles shall be located in either a rear yard or side yard, and that those areas shall be adequately fenced or screened.

[9] Location of any fire hydrant.

[10] Information deemed by the Planning Board to be necessary or useful in determining conformity of any proposed site plan with the intent and spirit of this Chapter [ ].

(b) Topographical survey of the subject site, prepared by a surveyor licensed in New York State, showing existing and proposed elevations at a contour interval of not more than two (2) feet.

(3) Such additional or other plans, information or items requested by the Planning Board required to enforce the provisions of this Article VI, including any subdivision mapping requirements set forth in Chapter [ ] of the Village Code.

(4) Payment of the required application fee.

C. Application Review/Appeal Process. Upon receipt by the Planning Board of a completed application under § [ ]-20B of this § [ ]-20, and input from any consultant, or other

Village Entity, involved with the application process, said board shall review and process such application in accordance with the provisions of this Article VI, and make a determination thereon, with the understanding that:

- (1) Depending on the scope of the proposed site work, and as determined by the majority of the regular members of the Planning Board, said board shall have the application reviewed by the majority of the regular members of said board, or alternatively, by two (2) regular members of said board, with the understanding that said board shall be required to have such application reviewed by such majority if any one of the conditions set forth in § [ ]-20C(2) of this § [ ]-20 is met.
- (2) A public hearing shall not be required, unless the Planning Board elects to have such hearing given the degree of interest shown by the public or interested agencies, the need for important and informative comment by certain interest groups, or the need by the applicant to present other matters concerning the application, with the understanding that if a public hearing shall be required, notice of same shall be posted at least ten (10) days prior to such hearing.
- (3) No site-plan approval shall be issued without compliance with the requirements of:
  - (a) Any covenants in deeds or on filed maps.
  - (b) The Village Comprehensive Plan.
  - (c) SEQRA as set forth in Chapter [ ] of the Village Code and 6NYCRR Part 617.
- (4) In reviewing any application, said board shall take into consideration how the proposed site work will affect, adversely or otherwise:
  - (a) Any property located in proximity of the subject site.
  - (b) Traffic safety.
  - (c) The beach or bluff running along the north side of the Village generally in an east/west orientation.
  - (d) The waters of Long Island Sound.
  - (e) Stormwater runoff.
  - (f) Property values.
  - (g) The health, safety and welfare of the Village.
- (5) If the applicant is aggrieved by any determination made during the application process, the applicant shall be permitted to appeal same through an Article 78 proceeding.

D. Conditions of Approval. No site-plan approval shall be issued, unless as required under this Article VI:

- (1) The applicant files a completed application for such approval in accordance with the provisions of § [ ]-20B of this § [ ]-20.
- (2) The applicant files with the Planning Board copies of all determinations required under the Village Code related to the proposed site work and pays the application fees therefor, including any such determination required by:
  - (a) Those Village Entities requested, or required, to be involved with the application process.
  - (b) Any governmental entity.
- (3) The proposed site work complies with the provisions of the Village Code.
- (4) The proposed site work complies with the requirements set forth in § [ ]-20(3) of this § [ ]-20.
- (5) In the determination of the Planning Board, the proposed site work on the subject site will:

- (a) Be of such character so as to allow the safe use of such site for dwelling, business or public utility purposes, and other purposes as permitted under the Village Code, without danger to health or peril from fire, flood or other menace.
  - (b) Be configured in conformity with the existing topography of such site in order to minimize grading, cutting and filling, and to retain natural contours, conserve natural cover and soil, and limit stormwater runoff through landscaping and optimal positioning of structures, including bulkheads, retaining walls, permeably surfaced driveways and other stormwater containment installations.
  - (c) Preserve existing natural features that enhance the attractiveness of, and that add value to, the nature of such site and the Village as a whole, by harmonious design and careful development through tree and shrub preservation, limitation of clearing of soil and vegetation, establishment of natural and planted buffers and screening, and clearing envelopes, and retention of vistas.
  - (d) Provide adequate off-street parking and safe vehicular circulation given the intended use of such site.
  - (e) Insure that all site lighting is of such nature and so arranged so as to preclude the projection of direct light and glare onto land abutting the subject site.
  - (f) Comply with the requirements of any public utility serving such site.
- E. Issuance of Approvals. Upon satisfaction of the requirements set forth in § [ ]-20A through § [ ]-20D of this § [ ]-20, the Planning Board shall issue a written approval of the subject application, with conditions, covenants or otherwise, including any such condition or covenant related to the manner or period in which the proposed site work shall be required to be performed, or alternatively, if any of such requirements are not satisfied, disapprove the application for such approval, and said board shall send to the Building Commissioner for transmittal to the applicant a copy of such determination, and all items related thereto, including:
- (1) A copy of such site-plan approval, setting forth:
    - (a) The site work permitted to be performed.
    - (b) Any conditions or covenants related thereto.
    - (c) The expiration date of such approval with indication that same shall be subject to the provisions of Chapter [ ] of the Village Code.
  - (2) A copy of any other written approval or permit issued in connection with issuance of such approval, and any notices, receipts and other papers related thereto.
  - (3) A copy of any disapproval.
- F. Duration of Approvals. Except as otherwise required by any condition under § [ ]-20E of this § [ ]-20, site-plan approvals shall expire on the date two (2) years following the date of issuance thereof, with the understanding that if a corresponding building permit therefor is issued as required under § [ ]-20J of this § [ ]-20, the expiration date of such site-plan approval shall be the same as that for such building permit as set forth in Chapter [ ] of the Village Code.
- G. Certification of Work Completion. Upon satisfactory completion of any permitted site work, and payment of any consulting fees due the Village, the Village Engineer shall send to the Planning Board written certification of completion related thereto, with the understanding that if a consultant is involved with the application process, such consultant shall also provide such a certification.
- H. Certificates of Occupancy. No certificate of occupancy shall be issued respecting the occupancy and use of any structure being constructed on any plot or street, or in any area being part of the Coastal Erosion Hazard Area, interrelated with the performance of



permitted site work on such plot, until the Planning Board certifies satisfactory completion of such work in accordance with the provisions of § [ ]-20G of this § [ ]-20.

I. Distribution of Approvals. The Planning Board shall distribute a copy of those papers referenced in § [ ]-20E of this § [ ]-20, and any certification of work completion as required under § [ ]-20G of this § [ ]-20, to:

- (1) The Building Commissioner as set forth in § [ ]-20E of this § [ ]-20.
- (2) The Village Clerk for retention in the Village files.
- (3) Any other Village Entity having been part of the application process.

J. Building Permit Required. Any site work requiring Planning Board approval shall also require a building permit, as set forth in Chapter [ ] of the Village Code.

## ARTICLE VII

### Board of Appeals

#### § [ ]-21. **Establishment and Power of Board of Appeals.**

A. Establishment of Board of Appeals. The Village Board shall establish a board (the “Board of Appeals”) in accordance with the provisions of § 7-712 of New York Village Law, by appointing five (5) persons to be regular members thereof, with one (1) such member serving as chairperson. Each member of the Planning Board shall serve for a term as set forth in § 7-712 of New York Village Law, such that the term of only one (1) such member shall expire in a given year, and with the understanding that if a vacancy occurs, other than by expiration of term, the Village Board shall appoint another person to fill such vacancy for the relevant unexpired term. In addition to the regular membership of the Board of Appeals, the Village Board shall appoint two (2) persons as alternate members to serve for terms expiring as set forth in § 7-712 of New York Village Law. Each such alternate member shall serve in place of a regular member when required to constitute a quorum because of absence, conflict of interest, or other inability of a regular member to serve. Members of the Board of Appeals, including alternate members, shall be required to satisfy the training and continued education requirements set forth in § 7-712 of New York Village Law.

B. Power of the Board of Appeals. As related to any application to be brought before the Board of Appeals under this Article VII, said board shall have the power and duty to act under this Article VII and § 7-712 of New York Village Law, including the power and duty to:

- (1) Administer and enforce the provisions of this Article VII, and make determinations as set forth therein.
- (2) Affirm or disaffirm the requirement for issuance of any variance.
- (3) Request additional copies of any application for a variance, or other plans, information or items related thereto.
- (4) Request information deemed necessary by the Board of Appeals from other Village Entities, any consultant having been hired by such entities, or any governmental entity, for the proper disposition of any application.
- (5) Collect application fees as established by the Village Board from time-to-time.

- (6) Review any application for an area variance or use variance, as the submittal of such application shall be permitted under the Village Code, whether same involves any alleged misinterpretation of the intent or meaning of a provision of said code, or involves a request for relief pertaining to a matter of fact.
- (7) Approve, approve with conditions, or disapprove any application for a variance brought before the Board of Appeals under the Village Code.
- (8) Maintain records related to all matters coming under the purview of the Board of Appeals as set forth in this Article VII, including the taking of minutes of all meetings of said board and the recording of all votes taken on any application for a variance.

**§ [ ]-22. Zoning Appeals.**

- A. Applicability. No person shall perform any work in a manner otherwise not allowed by dimensional or physical requirements as set forth in this Chapter [ ], or use any property for a purpose not allowed, or prohibited, under said code, unless an area variance or use variance is issued by the Board of Appeals, with the understanding that no such variance shall be issued without satisfaction of the conditions set forth in § [ ]-22D of this § [ ]-22.
- B. Application Process/Fees. Any person seeking a variance shall file an application for same with the Building Commissioner, which application shall be forwarded to the Board of Appeals for review and processing as set forth in § [ ]-22C of this § [ ]-22, and which application shall include:
  - (1) A completed variance application form.
  - (2) All papers submitted under the Village Code giving rise to the appeal for any such variance.
  - (3) Such additional or other information or items requested by the Board of Appeals to enforce the provisions of this Article VII.
  - (4) Payment of the required application fee.
- C. Application Review/Appeal Process. Upon receipt by the Board of Appeals of a completed application under § [ ]-22B of this § [ ]-22, and input from any consultant, or other Village Entities, involved with the application process, said board shall review and process such application in accordance with the provisions of this Article VII and make a determination thereon, with the understanding that:
  - (1) A public hearing shall be held on the application subject to the following notice provisions:
    - (a) Notice of such hearing shall be sent:
      - (i) By the Village Clerk to the official Village newspaper for publication therein at least ten (10) days prior to the scheduled date of such hearing.
      - (ii) By the applicant, by Certified Mail/Return Receipt Requested, at least ten (10) days prior to the scheduled date of such hearing, to the owners of land abutting and directly across the street from land being the subject of such application, with proof of such mailing being sent by the applicant to the Village Clerk at least five (5) days prior to the scheduled date of such hearing.

- (iii) By the Village Clerk, by regular mail or electronic transmission, at least ten (10) days prior to the scheduled date of such hearing, to the clerk of the Town of Brookhaven.
- (iv) By the Village Clerk, by regular mail or electronic transmission to the Suffolk County Planning Commission, if required.
- (b) No action shall be taken on any application referred to the Suffolk County Planning Commission, until the earlier of the date said commissioner's recommendation is received, and the date forty-five (45) days following such commissioner's receipt of such application.
- (2) In reviewing any application for an area variance, said board shall take into consideration the benefit to the applicant if the variance is granted, against the detriment to the health, safety and welfare of the Village that might result from the granting of such variance.
- (3) In reviewing any application for a use variance, said board shall take into consideration whether the enforcement of the provision being the subject of such application will cause unnecessary hardship to the applicant.
- (4) Any application for an area or use variance shall be governed by the standards set forth in § 7-712-b of New York Village Law.
- (5) If the applicant is aggrieved by any determination made by the Board of Appeals, the applicant shall be permitted to appeal same through an Article 78 proceeding.
- D. Conditions of Approval. No Board of Appeals determination shall be issued, unless as required under this Article VII the applicant files with the Building Commissioner a completed application for such determination in accordance with the provisions of § [ ]-22B of this § [ ]-22.
- E. Issuance of Determinations. Upon satisfaction of the requirements set forth in § [ ]-22A through § [ ]-22D of this § [ ]-22, the Board of Appeals shall issue a written determination on the subject appeal, with conditions, covenants or otherwise, or alternatively, if any of said requirements are not satisfied, disapprove the subject appeal, and said board shall send to the Building Commissioner and applicant a copy of such determination and all items related thereto, including:
  - (1) A copy of such determination setting forth:
    - (a) The work permitted to be performed.
    - (b) Any conditions or covenants related thereto.
    - (c) The expiration date of any variance issued pursuant to such determination, with indication that same shall be subject to Chapter [ ] of the Village Code.
  - (2) A copy of any disapproval.
- F. Duration of Determinations. Variances shall expire on the date two (2) years following the date of issuance thereof, with the understanding that if a corresponding building permit therefor is issued as required under Chapter [ ] of this Village Code, the expiration date of such variance shall be the same as that for such building permit as set forth in this Chapter [ ] of the Village Code.
- G. Distribution of Determinations. The Board of Appeals shall distribute a copy of any of those papers set forth in § [ ]-22E of this § [ ]-22 to:
  - (1) The Building Commissioner and applicant as set forth in § [ ]-22E of this § [ ]-22.
  - (2) The Village Clerk for retention in the Village files.
  - (3) Any other Village Entity having been involved with the application process.

## ARTICLE VIII

### Administration and Enforcement

**§ [ ]-23. Administration.**

Work on any plot shall only be permitted to be performed in accordance with the provisions of this Chapter [ ] and only upon issuance of a building permit therefor. The Building Commissioner shall administer the provisions of this Chapter [ ] and issue such permits in accordance with the provisions of Chapter [ ] of the Village Code.

**§ [ ]-24. Enforcement.**

Violation of any provision or requirement of this Chapter [ ] shall be considered a violation pursuant to the Penal Law of New York State, punishable by fine not to exceed \$1,000 or by imprisonment for a term not to exceed fifteen (15) days, or by both such fine and imprisonment. The continuation of a violation of this Chapter [ ] shall constitute, for each day the violation is continued, a separate and distinct violation of this Chapter [ ]. The imposition of penalties set forth in this Chapter [ ] shall not preclude the Village, or any person, from instituting appropriate legal action or proceeding to prevent the performance of unlawful work on, or unlawful use of, any property, or to abate, correct or restrain any actions causing any violation of the provisions of this Chapter [ ], or to prevent the unlawful occupancy of any structure, or plot, or other land, or to seek appropriate civil penalties, including monetary damages.

**§ [ ]-25. Severability.**

If any provision of this Chapter [ ] is ruled unconstitutional or invalid, such ruling shall not affect the validity of any other provision of said code or said code as a whole.