

938 King Street
Rye Brook, NY 10573



Village of Rye Brook Vision Plan Implementation Task Force Report of Findings

August, 2004

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Executive Summary

The Village of Rye Brook Vision Plan Implementation Task Force (VPITF) has been asked by the Village of Rye Brook Board of Trustees (BOT) to examine whether or not final approval authority should be given to the Village of Rye Brook Planning Board (PB), thus enabling the PB to fully examine projects that are more within their realm of expertise, while potentially freeing up the time of the BOT to address other Village-wide issues.

After holding several meetings to examine this proposal, it is the recommendation of the VPITF that:

- The PB should be granted final approval authority for subdivision and site plan approval for as-of-right applications and the Board of Trustees should retain special use permits and the more problematic uses on projects that are not defined as “major” subdivisions. The Task Force recommends that the Board of Trustees define minor subdivisions, for the purpose of this authority granting, as those that encompass five lots or less, and that Board of Trustees retain discretion to remain as Lead Agency for all major subdivisions of six lots or greater.
- The Board of Trustees reconstitute the entire Planning Board effective prior to the beginning of the April 2005 term, and that the Board of Trustees maintain the discretion to reappoint any, all, or none of the entire seven person Planning Board. However, in the spirit of continuity and competence, the Task Force also recommended that the Board of Trustees should strive to retain an appropriate number of current Planning Board members. Furthermore, the appointment of PB Chairman should be accomplished annually by a majority vote of the entire BOT, and that the Board should carefully weigh the relative merits of continuity and competence versus rotation and fresh approaches.
- The term of PB members should be extended to five years. The essential argument for the longer term was the greater continuity and effectiveness of Board members.
- The Task Force recommends that it take at least four affirmative “ayes” to approve PB resolutions, not just a simple majority of PB members present at a given PB meeting.

- Planning Board members should be subject to compulsory annual education at the spring Westchester Planning Federation / Pace Law School program, that new members be required to attend all four sessions, and that all returning members be required to attend at least two sessions. Furthermore, the Task Force recommends that the Village reimburse Planning Board members for any expenses associated with this compulsory continuing education.

Task Force Members

Vision Plan Implementation Committee Task Force Members

Warren Agatston, Chairman, Planning Board

Paul Feinstein, Former Member, both Planning Board and Vision Plan Committees

John Grzan, Member and former Chairman, Planning Board and Former Vision Plan Member

Richard Lubkin, Former Chairman, both Planning Board and Vision Plan Committees

Paul Rosenberg, Former Rye Brook Trustee and Former Chairman, Coterminous Town/Village Committee

We would like to also thank those who assisted us with our research, both within and outside the Village, most notably Mayor Rand and the Trustee Dean Santon, Trustee Liaison to VPITF as well as the other current Trustees, who gave generously of their time and energy.

Task Force Process/Methodology

Why change the current system?

The Village of Rye Brook is one of only a handful of municipalities in Westchester County in which the BOT has not delegated final approval authority to its Planning Board. As any current or former Trustee can attest to, a large portion of the BOT's workload would be freed up to address other pressing Village-wide issues if the BOT did not have to address projects that the Village Planning Board is more than capable of addressing thoroughly and thoughtfully with a level of expertise that in most cases does not exist in the BOT. Furthermore, with numerous ongoing changes to the Village Code, it is anticipated that the BOT will be further inundated with applications that could be addressed in their entirety by the PB. The current system is time consuming and costly for both the Village and the applicants and provides no added benefits to the community. As PB members are selected for their diverse expertise, the change in the planning process will provide for more effective handling of land use, environmental and socioeconomic issues. This being said, the current Mayor and BOT created this Task Force to examine whether or not the Planning Board should have final approval authority and if so, for what types of projects? Here are a few reasons that the VPITF came up with for giving the Planning Board final approval authority:

- Current system is a disservice to applicants, residents and the Village staff. Applicants frequently need to appear before two boards (PB and BOT) instead of just one.
- PB members would be selected for their expertise relevant to land use/planning issues and potentially bring greater land use planning expertise to the table than the BOT members.
- The BOT would be freed up to consider more important policy and fiscal matters.

The Task Force then debated what type(s) of final approval authority should be granted to the Planning Board?

- Subdivisions?
- Site Plan reviews?
- Special Use permits?

It became apparent that zoning text changes, including re-zoning needed to remain at the BOT level.

The Task Force also gave careful consideration to the thresholds of project scopes to be evaluated to determine what applications under each type of Planning Board application should be retained by the BOT (as Lead Agency). For example, a potential re-development of a large tract of land like the 160-acre Blind Brook Club would be an example of a matter to be retained by the BOT.

The Task Force also retained opinions from the Village Planning Consultant (FP Clark Associates) as well as the Village Attorney. FP Clark's opinion (please see Appendix A) states that "Rye Brook's system is more cumbersome, and I surmise that applicants sometimes feel like they are "working for two different masters." Thus, the rationale for PB final approval authority is described throughout the document.

Future Planning Board Composition and Terms

The Task Force also gave careful consideration to the makeup of any future Planning Board should final approval authority be granted. The length of term and the number of members need to be reviewed. Many communities use the formula of the term length being equal to the number of members (i.e. 7 members for 7-year terms each with staggered terms so that only one member's term expiring in any given year). The notion that a 7-year term might be too long a term was discussed. Especially, since some residents might not want to make a 7-year commitment to the Village. It was discussed that by having longer terms, the political impacts of elected officials (who appoint the PB members) would be lessened as the PB membership might transcend BOT political influences over time and promote planning continuity.

As stated above in the Executive Summary, the Task Force voted to extend the term of Planning Board members to five years. The essential argument for the longer term was the greater continuity and effectiveness of Board members. Several members were concerned, however that extending the terms of the PB members could bring a perceived burden of the longer public service resulting in difficulty in attracting qualified candidates to perceived onerous term lengths.

Given the longer terms, and the Task Force's goal to gradually evolve the make-up of future Planning Boards, the Task Force unanimously agreed to recommend to the Board of Trustees that the newly constituted planning Board should be initially seated with staggered terms. Therefore, the Task Force recommended that two members be appointed with five year terms, one

member with an initial four year term, one member with an initial three year term, two members with an initial two year term and one member with an initial one year term. Thus, in any given year, at least one, and not more than two members would be up for reappointment, and that in any two year period, no more than three members would be up for reappointment.

The prospect of PB members being required to take continuing education/ training courses added to the prospect of potential enhanced expertise and continuity over time with familiarity with Rye Brook planning issues.

How would these changes be implemented and/or codified?

As stated below in Appendix A, the New York State (NYS) Village Law is the enabling legislation for the Village of Rye Brook's Zoning Law. This enabling legislation essentially gives the Village Board and the Zoning Board of Appeals their respective authorities, and allows the Village Board to delegate final approval authority to the Planning Board, as the Village Board sees fit.

The Task Force invited David Stolman of FP Clark Associates to its May 21 meeting to share his expertise regarding giving PB final approval authority. We discussed the relationship of the NYS Village Law and Municipal Law to the Code of the Village of Rye Brook and whether or not Chapter 219 of the Village Code is consistent with the requirements and guidelines of the NYS Village Law. It was felt that perhaps there should be a separate chapter in the Code regarding the Planning Board, rather than having it tucked inside Chapter 219

Regarding the survey of what level of Planning Board authority exists at other Westchester towns/villages, Mr. Stolman offered his belief as a result of his experience of attending 2 to 3 planning board meetings a week for 20+ years, he finds that communities have been doing what their doing because that's the way they always have done it.

Mr. Stolman felt that Rye Brook's bifurcated system tends to be "cumbersome" and that many applicants in Rye Brook feel like they are "working for two different masters." Mr. Stolman added that "specialization of labor is important" and that consideration should be given to the Planning Board being granted final authority for subdivision and site plan approval for as-of-right applications and let the Board of Trustees retain special use permits and the more problematic uses. He added that if desired, thresholds could be developed to decide what magnitude of subdivisions might be retained by the Board of Trustees, as

several Task Force members felt certain (large) sized projects should be retained by the BOT.

Mr. Stolman observed that a planning board gets good at what they do if they keep educated (continuing education/ land use planning courses)... and in most cases are apolitical.

Mr. Stolman points out in his recommendation that Section 7-718, Planning Board; Creation, Appointment, of the NYS Village Law is devoted to the following matters regarding the Planning Board:

1. Authorization.
2. Appropriation for Planning Board.
3. Village Board of Trustees ineligible.
4. Terms of members first appointed.
5. Terms of members now in office.
6. Increasing membership.
7. Decreasing membership.
8. Vacancy in office.
9. Removal of members.
10. Chairperson duties.
11. Appointment of agricultural member.
12. Service on other Planning Boards.
13. Rules and regulations.
14. Report on referred matters; general reports.
15. Planning commission.
16. Alternate members.
17. Voting requirements.

Sections 219-1 through 9 of Chapter 219, Subdivision of Land, of the Rye Brook Village Code pertains to the organization and functions of the Planning Board. FP Clark recommended that that these provisions be made a separate chapter solely regarding the Planning Board and that this new chapter be reviewed against Section 7-718 of the NYS Village Law to make sure that the provisions regarding the Rye Brook Planning Board are complete and appropriate.

The Village Attorney has also rendered an opinion stating that the process to change the PB's authority and member composition is possible.

Recommendations

The Rye Brook Vision Plan Implementation Task Force concluded its research and deliberations On 21 June 2004, on the question of giving Final Approval Authority to the Planning Board.

By unanimous vote of five to zero, the Task Force recommended that the Rye Brook Board of Trustees grant the Planning Board final approval authority for subdivision and site plan approval for as-of-right applications and let the Board of Trustees retain special use permits and the more problematic uses. The VPITF essentially agreed with the attached Frederick P. Clark memorandum of 18 June 2004 (Appendix A), except as follows:

By unanimous vote of five to zero, the Task Force recommended that the Board of Trustees define minor subdivisions, for the purpose of this authority granting, as those that encompass five lots or less, and that Board of Trustees retain discretion to remain as Lead Agency for all major subdivisions of six lots or greater.

Furthermore, by unanimous vote, the Task Force, recommended that the Board of Trustees reconstitute the entire Planning Board effective with the April 2005 term, and that the Board of Trustees maintain the discretion to reappoint any, all, or none of the entire seven person Planning Board. However, in the spirit of continuity and competence, the Task Force also recommended that the Board of Trustees should strive to retain an appropriate number of current Planning Board members.

By a vote of three to two, the Task Force voted to extend the term of Planning Board members to five years. The essential argument for the longer term was the greater continuity and effectiveness of Board members. The essential minority argument to continue terms at three years was the perceived burden of the longer term, and the difficulty in attracting qualified candidates to perceived onerous term lengths.

Given the longer terms, and the Task Force's goal to gradually evolve the make-up of future Planning Boards, the Task Force them unanimously agreed, by a vote of five to zero, to recommend to the Board of Trustees that the newly constituted Planning Board should be initially seated with staggered terms. Therefore, the Task Force recommended that two members be appointed with five year terms, one member with an initial four year term, one member with an initial three year term, two

members with an initial two year term and one member with an initial one year term. Thus, in any given year, at least one, and not more than two members would be up for reappointment, and that in any two year period, no more than three members would be up for reappointment.

Lastly, the Task Force by a unanimous vote of five to zero, recommends to the Board of Trustees, that Planning Board members should be subject to compulsory annual education at the spring Westchester Planning Federation / Pace Law School program, that new members be required to attend all four sessions, and that all returning members be required to attend at least two sessions. Furthermore, the Task Force recommends that the Village reimburse Planning Board members for any expenses associated with this compulsory continuing education.

Appendix A – Opinion of FP Clark Associates

MEMORANDUM

To: Village of Rye Brook Vision Plan Implementation Task Force (VPITF)

Date: June 18, 2004

Subject: Prospect of Giving Final Approval Authority to the Planning Board

As requested, I have prepared this memorandum for the purpose of summarizing my remarks from the discussion at the May 4, 2004 VPITF meeting as to whether and how the Village Board should give final approval authority to the Planning Board.

Historical Rationale

With respect to the rationale behind why the respective Planning Boards in various communities have different levels of approval authority, my conclusion, after having worked with many communities over the last 27 years is:

1. That in most communities things were arranged in a certain way a generation or two ago (the reasoning for which has probably been lost with the passage of time); and
2. The original arrangement has not been questioned and therefore remains unchanged.

I believe this is a classic example of part of Newton's first law of motion which states that, "...an object in motion tends to stay in motion....unless acted upon by.... [a] force."

Comparison to Other Communities

Rye Brook is actually the only community for which I have worked over the last 27 years where the Planning Board is strictly advisory. In comparison to the many other

communities for which I have worked, I believe that Rye Brook's system is more cumbersome, and I surmise that applicants sometimes feel like they are "working for two different masters."

Specialization of Labor

The legislative bodies in most communities have very wide ranging responsibilities. My experience is that many Planning Boards get quite good over time at their development application review responsibilities, especially where good members get their appointments renewed. I believe that specialization of labor is a tried and true concept and applies well in this context.

Restructuring the Village Code

In terms of restructuring the Village's Zoning Law to give the Planning Board final approval authority in certain cases, I recommend that:

1. The Planning Board be given final site plan approval authority with respect to those Permitted Principal Uses (i.e., uses "permitted by right") where site plan approval is required;
2. That the Board of Trustees retain final approval authority over Special Permit Uses (i.e., uses which are potentially more problematic) with the Planning Board maintaining an advisory role; and
3. That the Planning Board be given final approval authority with respect to subdivisions. A second choice with regard to subdivisions would be for the Village Board of Trustees to grant approval to larger subdivisions (with the Planning Board maintaining an advisory role) and for the Planning Board approve subdivisions below a certain threshold.

Enabling Legislation

The New York State (NYS) Village Law is the enabling legislation for the Village of Rye Brook's Zoning Law. This enabling legislation essentially gives the Village Board and the

Zoning Board of Appeals their respective authorities, and allows the Village Board to delegate final approval authority to the Planning Board, as the Village Board sees fit.

Section 7-718, Planning Board; Creation, Appointment, of the NYS Village Law is devoted to the following matters regarding the Planning Board:

1. Authorization.
2. Appropriation for Planning Board.
3. Village Board of Trustees ineligible.
4. Terms of members first appointed.
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15. Planning commission.
16. Alternate members.
17. Voting requirements.

Sections 219-1 through 9 of Chapter 219, Subdivision of Land, of the Rye Brook Village Code pertains to the organization and functions of the Planning Board. We recommend that these provisions be made a separate chapter solely regarding the Planning Board, and that this new chapter be reviewed against Section 7-718 of the NYS Village Law to make sure that the provisions regarding the Rye Brook Planning Board are complete and appropriate.

Ongoing Education

Among other important sections, Section 7-718.1 of the NYS Village Law provides that, "In making such appointments [to the planning board], the village board of trustees may

require planning board members to complete training and continuing education courses in accordance with any local requirements for the training of such members." We believe that this is an appropriate requirement for Planning Board members, whether or not the Planning Board is given final approval authority.

The Westchester Municipal Planning Federation gives very good planning, zoning and SEQRA courses every Spring, and members of my staff and I sometimes participate in giving these courses. My experience is also that Planning Boards tend to be apolitical.

Composition of Planning Board

With respect to the composition of the Planning Board, I believe that it is important to seek out a Village resident who is an architect to be Board member, in order to supplement the services which our office provides (planning, zoning, environmental, traffic engineering and landscape architecture), the services which the Village's consulting engineer provides, and the services which the Village Engineer provides.

* * * *

If you have any questions with respect to the above or would like to discuss this matter further, please let me know and I would be happy to oblige.

David H. Stolman, AICP, PP
President

Appendix B: Opinion of the Village Attorney

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KEANE & BEANE, P.C.

ONE NORTH BROADWAY
WHITE PLAINS, NEW YORK 10601
(914) 946-4777
TELEFAX (914) 946-6868
www.kblaw.com

EDWARD F BEANE
DONNA E FROSCO*†^o
DAVID GLASSER
LANCE H KLEIN^o
RONALD A LONGO
RICHARD L O'ROURKE
PATRICK J O SULLIVAN
LAWRENCE PRAGA
JOEL H SACHS^o
STEVEN A SCHURKMAN^o
JUDSON K SIEBERT

THOMAS F KEANE, JR
(1932-1991)
STEPHANIE L BURNS^o
ERIC L GORDON*^o
MARK D PELLIS
EDWARD J PHILLIPS**
JENNIFER M PORTER**
STEPHANIE M ROEBUCK*
NANCY TAGLIAFIERRO**
NICHOLAS M WARD-WILLIS***^o

MEMORANDUM

*ALSO ADMITTED IN CA
**ALSO ADMITTED IN CT
†ALSO ADMITTED IN DC
‡ALSO ADMITTED IN FL
§ALSO ADMITTED IN MA
°ALSO ADMITTED IN NJ

OF COUNSEL
JAMES W BORKOWSKI^o
PETER A BORROK^o
JOHN F BURKHARDT
FRANCES M PANTALEO

TO: Chris Bradbury
FROM: Nicholas M. Ward-Willis
RE: Village of Rye Brook
DATE: May 17, 2004

I have enclosed herein a memorandum to the Board of Trustees from our office discussing in detail the procedure to be followed to grant the Planning Board approval authority as well as an overview of the type of authority that has been granted to a Planning Board by other municipalities. I have also included a summary chart listing by municipality the type of approval granted to other Planning Boards as well as the proposed Local Law granting the Planning Board approval authority.

All three (3) of these documents should be submitted to the Board of Trustees for their review and consideration. Upon your review do not hesitate to contact me should you have any questions.

cc: Edward F. Beane, Esq.

F

KEANE & BEANE, P.C.
ONE NORTH BROADWAY
WHITE PLAINS, NEW YORK 10601
(914) 946-4777
TELEFAX (914) 946-6868
www.kblaw.com

THOMAS F KEANE, JR
(1932-1991)
STEPHANIE L BURNS^o
ERIC L GORDON^o
MARK D PELLIS
EDWARD J PHILLIPS^{**}
JENNIFER M PORTER^{**}
STEPHANIE M ROEBUCK^{*}
NANCY TAGLIAFIERRO^{**}
NICHOLAS M WARD-WILLIS^{**o}
OF COUNSEL
JAMES W BORKOWSKI^o
PETER A BORROK^o
JOHN F BURKHARDT
FRANCES M PANTALEO

EDWARD F BEANE
DONNA E FROSCO^{*†o}
DAVID GLASSER
LANCE H KLEIN^o
RONALD A LONGO
RICHARD L O'ROURKE
PATRICK J O'SULLIVAN
LAWRENCE PRAGA
JOEL H SACHS^o
STEVEN A SCHURKMAN^o
JUDSON K SIEBERT

MEMORANDUM

^oALSO ADMITTED IN CA
^{**}ALSO ADMITTED IN CT
[†]ALSO ADMITTED IN DC
^oALSO ADMITTED IN FL
^{*}ALSO ADMITTED IN MA
^oALSO ADMITTED IN NJ

TO: Christopher J. Bradbury, Village Administrator
FROM: Keane & Beane, P.C., Village Attorney
RE: Rye Brook Planning Board Authority
DATE: May 4, 2004

The Mayor and Board of Trustees of the Village of Rye Brook are considering granting approval authority to the Planning Board with regard to site plan and subdivision applications. While the draft local legislation has not been enacted, a review for the grant of such authority is now being suggested. This memorandum outlines the policies for providing approval authority to the Planning Board, the requisite Code revisions, and the procedural requirements necessary to instill the Planning Board with approval authority.

I. Policies for Providing Approval Authority to the Planning Board:

a. Overview of Municipal Survey

As of March 2004, thirty-two (32) of forty (40) municipalities surveyed in Westchester provide the Planning Board with exclusive final authority on site plan applications. Two (2) of the eight (8) municipalities which do not provide exclusive final authority to the Planning Board did grant limited site plan approval authority to Planning Board. (see infra **b. Site Plan** for more information). Only six (6) of the forty (40) municipalities surveyed do not provide the Planning Board with any type of site plan approval authority.

Thirty-five (35) of forty (40) municipalities surveyed in Westchester provide the Planning Board with exclusive final authority on subdivisions. Four (4) of the five (5) municipalities which do not provide for Planning Board approval authority on subdivisions do not have a Planning Board. Instead, these four (4) municipalities only have Board of Trustees.

Twenty three (23) of the forty (40) municipalities surveyed granted the Planning Board some type of special permit approval authority. Eight (8) of the forty (40) municipalities surveyed granted exclusive special permit approval authority to the Planning Board.

Four (4) of the forty (40) municipalities gave no approval authority to the Planning Board, but limited the Planning Board's authority to that of an advisory capacity to the Board of Trustees (see attachment 1, Final Authority on Planning Applications).

Generally a planning board is provided with site plan, special permit, and subdivision approval because the planning board is the most experienced entity to hear and deliberate on such matters. Due to the repetitive nature of applications and areas of concern, the planning board becomes knowledgeable in the areas such as building provisions, fire prevention, environmental concerns, and other construction issues. Such knowledge provides the planning board with the requisite knowledge to understand the implications and long reaching effects of approval. However, as the following memorandum will show municipalities do not always delegate such authority, nor does such delegation take place in a consistent manner between municipalities.

b. Site Plan

Site plan review is the assessment of the arrangement, layout and design of a proposed use of a single parcel of land. Generally, site plan review and approval is required for office, retail, multi-family, institutional, industrial and commercial uses. In the Village of Rye Brook, site plan approval is required for all uses "other than one, two, or three-family dwellings and whenever a special permit is sought or a modification of property subject to such special permit use or discretionary use is sought and in all other circumstances where site plan approval is required by the Zoning Law of the Village of Rye Brook." Rye Brook Code §209-1. Currently, the Village of Rye Brook vests site plan approval in the Village Board of Trustees. Similarly, Dobbs Ferry, and Ardsley vest site plan authority in their Board of Trustees. However, the majority of municipalities in Westchester, approximately thirty five (35) out of forty (40) surveyed, vest most if not all of their site plan approval authority in a planning board.

Yorktown, Greenburgh, and the Village of Port Chester, divide site plan approval authority between several municipal boards. There are no other municipalities of the forty surveyed which divide site plan approval authority between municipal boards. Yorktown divides site plan approval authority between the Planning Board, the Zoning Board of Appeals and the Board of Trustees. The Planning Board has the site plan approval authority for nursing homes¹, new and/or used car automobile sales facilities and related accessory facilities in C-2, C-3, and C-4 business districts where such districts are properly related to major highways and have more than local retail service areas², cemeteries³, and self-storage facilities⁴, . The Zoning Board of Appeals has the authority to approve site plans for drive in

¹ Yorktown Code §300-42(c)(5).

² Yorktown Code §300-71(a).

³ Yorktown Code §300-78(a).

⁴ Yorktown Code §300-79(j).

theatres⁵, and volunteer ambulance facilities⁶. In Greenburgh site plan approval is split between the Planning Board and the Board of Trustees. The Planning Board holds site plan approval authority for properties involving less than five (5) acres while the Board of Trustees retains site plan approval authority over properties involving more than five (5) acres.

The Village of Port Chester divides site plan approval authority between the Board of Trustees and the Planning Commission⁷. The Planning Commission is generally vested with site plan approval authority regarding the erection or enlargement of all buildings in all districts other than one- or two-family residences or uses accessory thereto, uses of vacant land, and changes in use or intensity of use which will affect the characteristics of the site in terms of parking, loading, access, drainage, utilities or village service. This includes medical and dental offices⁸. The Board of Trustees has site plan approval authority with regards to special exception use applications and their site plans including such applications made by churches and places of worship, assembly halls, hospitals, membership clubs, automobile body repair garage, cabaret, drive in facilities, automobile service station, hotel, motel, marina, yacht clubs, bars, taverns, catering facilities⁹, and event facilities.¹⁰ Furthermore in Port Chester, the Village has established a method by which both the Planning Commission and the Board of Trustees have concurrent site plan approval authority. In dealing with zoning districts, specifically the residential office overlay district the Village provides the Planning Commission draft an initial recommendation of site plan approval for the Board of Trustees. The Board of Trustees then has the authority to approve or disapprove of the site plan, based in part on the Planning Commissions recommendations. However, if the Board of Trustees fails to render a decision within ninety (90) days, the Planning Commission's recommendation determines approval or disapproval of the site plan application.¹¹

As can be seen through the review of the fore-mentioned municipalities it is clear that the delegation of site plan approval authority is not drawn in any particular manner. Rather, approval authority appears to be generally delegated in such a way as to permit the Board of Trustees or Zoning Board of Appeals to retain authority over larger development projects. The retention of such authority may be due to the political repercussions the Board of Trustees may face if a controversial project is approved. As appointers of the planning board the Board of Trustees may be viewed as responsible for their opinions. Furthermore, it is important to note that once the Board of Trustees delegates certain approval authority to the planning board pursuant to *Village Law* §7-725(a) it no longer retains appellate jurisdiction under that statute.¹² The Village of Port Chester has created an interesting authority structure

⁵ Yorktown Code §300-43(b).

⁶ Yorktown Code §300-74(b)(1).

⁷ Village of Port Chester Code §345-23(2).

⁸ Village of Port Chester Code §345-61(u)(5).

⁹ Village of Port Chester §345-61(v)(7).

¹⁰ Village of Port Chester Code §345-59(1).

¹¹ Village of Port Chester Code §345-64(E).

¹² 1980 Op St. Compt. File #507, If a village board authorizes the village planning board to review and approve site plans pursuant to Village Law, § 7-725, then the village board may not retain appellate jurisdiction under that section. It is not clear whether a village local law is valid which provides that a decision of the village planning board approving or disapproving site plans may be appealed to the village board.

through which the delegation dilemma is evaded and may provide a method of delegation for a hesitant Board of Trustees.

The Village of Port Chester has established overlapping approval authority for residential office overlay districts. The Village provides the Planning Commission with the responsibility of drafting an initial recommendation on a site plan applications. The recommendation is then referred to the Board of Trustees for approval or disapproval. Generally the Board of Trustees renders an opinion. However, if the Board of Trustee fails to, or chooses, not to render a decision within ninety (90) days the Planning Commission's recommendation serves as the determining factor on approval or disapproval. In this manner the Board of Trustee retains the right to review all applications, but can choose to respond to only those on whose Planning Commission recommendation it disagrees or on which it finds more discussion and debate is necessary.

c. Special Permit

Special use permits authorize a particular land use that is permitted as a matter of right by the zoning ordinance but only if certain pre-established requirements are met. The local legislative body is free to designate any administrative body to grant special use permits. As such, special permit approval authority varies between municipalities. Approximately twenty three (23) of the forty (40) municipalities surveyed provide the planning board with some type of special permit approval authority. Only eight (8) municipalities of the forty (40) surveyed limit special permit approval authority to the Planning Board. Generally, the Planning Board shares special permit approval authority with the Zoning Board of Appeals, the Board of Trustees. Where the Planning Board has no special permit approval authority, special permit approval authority is held soley by the Zoning Board of Appeals or the Board of Trustees.

Special permit approval authority is limited to the Zoning Board of Appeals in North Salem, Larchmont, and Hastings. Special permit approval authority is limited to the Board of Trustees in Briarcliff, Croton on Hudson, Elmsford, Pelham Manor, Pleasantville, Port Chester, Pound Ridge, Rye Brook, Sleepy Hollow, Tarrytown and Tuckahoe. (see Final Authority Chart).

The delegation of special permit approval authority is even more diverse and subjective than that of site plan approval authority. Whereas the majority of municipalities surveyed were willing to delegate total *site plan approval authority* to the Planning Board, the majority of municipalities surveyed divide *special permit approval authority* between a variety of municipal bodies. Unlike site plan approval authority, there is no distinguishable method of differentiation in approval authority established through the comparison of the surveyed municipal bodies. Instead, it appears as though approval authority for special permits is established on a subjective basis. Yet, in some municipalities approval authority is delegated based on the specific special use. For example, special permit uses that involve site plan concerns can be assigned to a planning board with site plan approval authority, while those

that focus on neighborhood compatibility involving little new construction can be handled by the zoning board.

d. Subdivision

Subdivision approval authority grants to the appropriate municipal authority the ability to approve of the division of any parcel of land showing lots, blocks or sites, with or without streets or highways, for the purpose, whether immediate or future, of transfers of ownership or building development. (this is a general definition which may be more specifically defined by the appropriate municipalities' code). The power and authority to control the subdivision process has been delegated to municipal governments as a police power through General Village Law. As such, subdivision approval authority must be expressly conferred, it can not be implied.¹³

Subdivision approval authority is expressly conferred on the planning board in thirty-five (35) out of forty (40) municipalities surveyed. The other five (5) municipalities limit subdivision approval to the Board of Trustees. Of those five (5), three (3): Elmsford, Pelham Manor, and Rye Brook, retain all approval authority (site plan, subdivision and special permit) in the Board of Trustees. The other two (2) municipalities distribute approval authority to the Planning Board on different occasions. Ardsley grants approval authority to the Planning Board on site plans and special permits, however retains subdivision approval authority for the Board of Trustees. Port Chester does not have a Planning Board but divides site plan approval authority between its Planning Commission and Board of Trustees. Of the municipalities surveyed, none attempt to divide subdivision approval, but allow it to vest in one body.

The planning board would seem to be the appropriate authority in which to vest subdivision approval if the planning board generally approves site plan, is knowledgeable of the zoning regulations, and is familiar with the overall development of the community. Furthermore, vesting subdivision approval authority and site plan approval authority in one body, the planning board, would seem to encourage a contiguous and harmonious development scheme. The vesting of authority in the planning board would allow the planning board to predict how development could take place. It would diminish the likelihood of conflicting individual and community development plans because one body would be evaluating the development of the community through individual parcels and subdivisions. As such, vesting the planning board with subdivision approval authority, especially where site plan approval authority has been granted, seems to be in the best interest of the community.

II. Code Revision:

Please see attachment 2, revised Code Modifications. The Code Modifications reflect changes necessary to transition approval authority on site plans, subdivisions, and special permits, to the Planning Board.

III. Procedural Requirements:

¹³ E.C. Yokley, ZONING LAW PRACTICE AND PROCEDURE 4th Ed., Lexis Publishing, 2003, Chapt. 17 § 4.

In order to provide the Planning Board with approval authority, the Village of Rye Brook's Code (hereinafter Code) must be revised. The revision of the Code will require extensive changes to the Zoning Chapter, Site Plan Chapter and Wetlands Chapter. These changes are noted in the attached document. Any revision to the Code the Village must be done pursuant to State and local procedural requirements.

The Village of Rye Brook adopted the Village Code pursuant to Municipal Home Rule §20(3). The Village Code is a compilation of local laws and resolutions. Under New York State Municipal Home Rule §10, a Village has the ability to "adopt and amend local laws not inconsistent with the provisions of the constitution or not inconsistent with any general law relating to its property, affairs or government. . .". Under Article 7 of New York State Village Law, the Board of Trustees has the authority to delegate power to municipal boards. The delegation of approval authority to a municipal Planning Board, is therefore exempt from referendum requirements.¹⁴

Besides State law, local procedures must be considered in amending the Village Code. Local legislation addressing the amending of the local code can be found in the Village of Rye Brook Code. Section 1-7 of the Village Code States:

Any and all additions, deletions, amendments or supplements to any of the local laws and resolutions known collectively as the "Code of the Village of Rye Brook," or any new local laws or resolutions, when enacted or adopted in such form as to indicate the intention of the Board of Trustees to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code, as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law or resolution contained herein, and such local laws or resolutions may be amended, deleted or changed from time to time as the Board of Trustees deems desirable

Additionally, the Preface of the Code of the Village of Rye Brook discusses the mechanics of physically adding or deleting section from the Code. In numbering the amended sections the material should not be renumbered but be added at the end of the existing material or inserted between the existing material as decimal numbers since most of the revisions authorizing approval authority do not substantively alter the affected provisions.

¹⁴ Telephone Conversation with the Department of State Legal Department. The only necessary procedural step is a resolution by the Board.

Municipality	Final Authority Distribution		
	Site Plan	Subdivision	Special Permit
1. Ardsley	PB	BOT	PB, ZBA, BOT
2. Bedford	PB	PB	PB, ZBA, TB
3. Briarcliff	PB	PB	BOT final
4. Bronxville	PB	PB	PB
5. Buchanan	PB	PB	PB
6. Cortlandt	PB	PB	PB, ZBA, BOT
7. Croton on Hudson	PB	PB	BOT
8. Dobbs Ferry	BOT	PB	PB & ZBA final
9. Elmsford	BOT	BOT	BOT
10. Greenburgh	PB for -5 acres, BT for +5 acres	PB	ZBA
11. Harrison	PB	PB	PB
12. Hastings	PB	PB	ZBA
13. Irvington	PB	PB	PB
14. Larchmont	PB	PB	ZBA
15. Lewisboro	PB	PB	PB, ZBA, BOT
16. Town of Mamaroneck	PB	PB	PB
17. Village of Mamaroneck	PB	PB	PB, ZBA
18. Mount Kisco	PB	PB	PB
19. Mount Pleasant	PB	PB	PB, ZBA, TB
20. Mount Vernon	PB	PB	PB
21. New Castle	PB	PB	PB, Town Bd. & ZBA
22. New Rochelle	PB	PB	PB, ZBA, COMMON COUNCIL
23. North Castle	PB	PB	PB, Town Bd.
24. North Salem	PB	PB	ZBA
25. Village of Ossining	PB	PB	PB
26. Ossining	PB	PB	BOT & ZBA final
27. Peekskill	PB	PB	PB, COMMON COUNCIL
28. Pelham Manor	BOT	BOT	BOT
29. Pleasantville	PB	PB	BOT for particular matters
30. Port Chester	Planning Commission, BOT	BOT	BOT
31. Pound Ridge	PB	PB	BOT final
32. City of Rye	PB	PB	PB, ZBA & City Council
33. Rye Brook	BOT	BOT	BOT
34. Scarsdale	PB	PB	PB, ZBA
35. Sleepy Hollow	PB	PB	BOT final
36. Somers	PB	PB	BOT & ZBA
37. Tarrytown	PB	PB	BOT
38. Tuckahoe	PB	PB	BOT
39. Yorktown	PB, ZBA and BOT	PB	PB, ZBA, TB
40. Yonkers	Bureau of Housing and Buildings	PB	PB, COMMON COUNCIL

Draft #1

Proposed Local Law Amending Chapters 250, 209, 219 and 245 of the Village Code

A LOCAL LAW to amend Chapters 250, 209, 219 and 245 of the Code of the Village of Rye Brook regarding the delegation of approval authority to the Planning Board with regard to site plan applications, subdivision approval, and special permit approval.

BE IT ENACTED by the Board of Trustees of the Village of Rye Brook as follows:

Please note additions are underscored while retractions are bracketed and highlighted in red.

Section 1: Section §250-6 “General supplementary regulations” of the Code of the Village of Rye Brook is amended to read as follows:

G. Off-street parking and vehicular access.

(1) Off-street parking.

(a) It is the intention of this chapter that all structures and land uses be provided with a sufficient amount of off-street automobile parking to meet the needs of persons employed at or making use of such structures or land uses. No permit for the erection or substantial alteration of a structure or for the development of a land use or for a change of use shall be issued unless off-street parking and loading facilities shall have been laid out in a plan, in accordance with the appropriate requirements for structures and uses set forth in the Schedule of Regulations herewith and approved by the Building Inspector. [~~Amended 1-24-1989 by L.L. No. 1-1989~~]

(b) Structures and land uses in existence or for which building permits have been approved at the time of the adoption of this subsection shall not be subject to the requirements set forth in the Schedule of Regulations, provided that any parking facilities now existing to serve such structures or uses shall not, in the future, be reduced except where they exceed said requirements, in which case they shall not be reduced below said requirements. Required parking facilities for such structures or uses as well as for any enlargement or extension shall be provided as a condition for the issuance of any building permit for such enlargement or extension

in the future. The Planning [Village] Board may, in its discretion, reduce the parking requirements herein set forth upon a showing that the required number of parking spaces would not be necessary at a specific site. Required off-street parking facilities which, after development, are later dedicated to and accepted by the Village shall be deemed to continue to serve the uses or structures for which they were originally provided. [~~Amended 1-24-1989 by L.L. No. 1-1989~~]

(c) [~~Amended 1-24-1989 by L.L. No. 1-1989~~] Off-street automobile parking facilities shall be provided as follows: . . .

[19] Reasonable and appropriate off-street parking requirements for structures and land uses which do not fall within the categories listed above shall be determined in each case by the Planning [Village] Board, which shall consider all factors entering into the parking needs of such use.

[20] Other

(a) Where two or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements for each individual use on the lot; except that the Planning [Village] Board may approve the joint use of parking spaces by two or more establishments on the same or contiguous lots, the total capacity of which space is less than the sum of the spaces required for each, provided that the Board finds that the capacity to be provided will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees among such establishments, and provided that said approval of such joint use shall be automatically terminated upon the termination of the operation of any such establishments.

(d) Layout and location of off-street parking facilities.

[5] In any R District, a parcel of land that lies contiguous to the boundary of a C District and that is contiguous at not more than one property line thereof to a side lot line in an R District may be used for the parking of motor vehicles, but not for any sales or servicing in connection therewith, for a distance of not exceeding 200 feet from the boundary of said C District. A parcel of land shall not be considered contiguous to a C District if it is separated from the C District by a street or alley. The following limitations and requirements shall apply thereto:

[a] There shall be no parking of vehicles nearer to any boundary of such parcel than a distance of five feet, except any part contiguous to the boundary of the C District.

[b] The portion of the parcel that is used for the parking of vehicles shall be bordered on all sides not contiguous to the boundary of said C District by a wall or fence, supplemented by landscaping, and approved by the Planning [Village] Board as being adequate to assure that the use of said parcel for the parking of vehicles will not be detrimental to the use of adjacent land in said R District. Such wall or fence and landscaping shall be adequately maintained at all times.

Section 2: Section §250-6 “General supplementary regulations” of the Code if the Village of Rye Brook is amended to read as follows:

H. Special permits.

(1) General requirements.

(a) The types of uses for which special permits are required by this chapter shall be deemed to be permitted uses in their respective districts, subject, as to each specific use, to the satisfaction of the requirements and standards set forth herein. All such uses are declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual use.

(b) All applications for special use permits shall be subject to the notification requirements as set forth in § 250-40 of the Code. [~~Added 1-14-2003 by L.L. No. 2-2003EN~~]

(c) Application for required special permits shall be made to the Village Board. Each such application shall be referred by the Village Board to the Planning Board for report, which report shall be rendered at least 10 days prior to the date of public hearing on such application. The Village Board may, after public notice and hearing, in the same manner as required by law for zoning amendments, authorize the issuance of said permits, provided that it shall find that:

(5) The lot used for a bowling alley shall be bordered on all sides contiguous to the boundary of a residential district by a strip of land at least 25 feet in depth and not to be used for the parking of vehicles. Within the twenty-five-foot strip, a compact screen of evergreens, of a height and depth approved by the Planning [Village] Board, and other plants and shrubs of such character as may also be approved by the Planning [Village] Board shall be maintained.

Section 3: Section §250-6 “General supplementary regulations” of the Code if the Village of Rye Brook is amended to read as follows:

- I. Modifications in connection with approval of subdivisions.
 - (1) Where the owner of any tract of land presents a plat for the subdivision of such tracts, the Planning [Village] Board, after public notice and hearing pursuant to § 7-728 of the Village Law and consistent with the spirit and intent of this chapter, may authorize the following modifications with respect to not more than 10% of the lots in such plat, provided that all such modifications are necessary to achieve a good subdivision design:
 - (a) In an R-20 District, modifications of required minimum width of lot and of required minimum side yard setbacks correspondingly, provided that no reduction shall exceed 20% of the required minimum for the district in which the lot is located.
 - (b) In an R-12, R-15 or R-20 District, modifications of required minimum depth of lot and of required minimum front and rear yard setbacks correspondingly, provided that no reduction shall exceed 20% of the required minimum for the district in which the lot is located.
 - (2) No modifications of the permitted use regulations or of the minimum required lot area shall be approved. Each approved modification shall be specifically stated on the plat, and before it shall be signed with the approval of the Planning [Village] Board, the Planning [Village] Board shall state in its minutes the reasons for each modification.

Section 4: Section §250-7, “Special Supplementary Regulations” of the Code of the Village of Rye Brook is amended to read as follows:

A. Apartment developments. Within any district where multifamily residence is a permitted use, no building housing 10 or more families and no group of buildings shall be erected on any lot unless a site development plan has been approved by the Planning [Village] Board in the same manner as is prescribed by state law for the approval of subdivisions. Subsequent to the issuance of such approval, no building permit shall be issued except for building in conformity with the approved site development plan. In approval of such plan, the Planning [Village] Board shall determine that all applicable standards are met.

B. Office building developments. In office building and research laboratory developments within any OB-2, OB-3 or OB-S District, where office buildings for business and professional use and research laboratories are permitted, no such building shall be erected on any lot unless a site plan for its development has been approved by the Planning [Village] Board, after public notice and hearing, as being in conformity with the following standards:

- (1) (Reserved)
- (2) For OB-2 District and OB-S Districts.
 - (a) Sites shall be of at least 10 acres and have at least 500 feet of frontage on an existing street or highway, except that the Planning [Village] Board may approve plans to subdivide and develop such sites into sites of not less than five acres and with at least 300 feet of street frontage, except that any lot less than five acres and more than three acres zoned for business as of May 21, 1952, and described as a tax lot on the Tax Assessment Map as of said date and now located in an OB-2 District shall be deemed to meet the acreage requirements, provided that all other standards set forth herein are met and that arrangements are made for common access and service roadways where necessary to avoid traffic hazards or congestion.
 - (b) Further, except that any smaller parcel so zoned and so identified on such Tax Assessment Map as of said date and now in the OB-2 District shall be deemed to meet the lot size requirement, provided that the owner of the lot owned no adjoining property on that date and that the size of said parcel shall not be reduced.

(8) Modifications. The Planning [Village] Board, in acting upon site plans as required by this section, may modify the application of the above standards where necessary in particular situations because of topographical or other site conditions and where the general public interest will be served, provided that the general purpose and intent of the standards is observed. In each such case, however, the Planning [Village] Board must enter upon the record the specific reason(s) for each modification granted.

C. Business developments. Within a C1 or a C1-P District, no business or shopping center buildings or uses shall be erected or established on any lot unless the site plan for its development has been approved by the Planning [Village] Board, after public notice and hearing, as being in conformity with the provisions of this chapter and with the additional requirements that access and service roads from existing streets and highways shall properly relate to the public street and highway system so as to avoid unsafe conditions and traffic congestion. Special permit uses shall be excepted from the procedure of this subsection.

Section 5: Section §250-26, “RA-1 Restricted Multifamily District” of the Code of the Village of Rye Brook is amended to read as follows:

K. Other provisions and requirements:

- (3) Site plan of developments with 10 or more dwelling units or more than one building shall be approved by the Planning [Village] Board, as provided in Article IV, § 250-7A.

Section 6: Section §250-27, “OB-1 Campus/Office Building District” of the Code of the Village of Rye Brook is amended to read as follows:

- F. Minimum yard dimensions:
- (1) On sites of less than 30 acres: 100 feet from street lines and 100 feet from all other property lines. In addition, parking spaces shall be set back from street and side lines of the site at least 75 feet, except that permanent arrangements may be approved in site plan review for a lesser distance between parking areas of adjoining office building developments. Also, parking spaces shall be set back from all property lines of the site by an amount to be set by the Planning [Village] Board during site plan review.
- (3) Where the construction, on a portion of the site, of all or a portion of a state or county highway or major Village road is determined by the Planning [Village] Board to be likely, such Board may set appropriate standards for setbacks from such proposed road during site plan review, by ~~[on recommendation of]~~ the Planning Board.
- K. Other provisions and requirements:
- (5) A detailed sign plan shall be submitted as part of the site plan application to the Planning [Village] Board.
- (7) A detailed, specific planting plan to buffer adjoining properties shall be submitted as a part of the site plan application to the Planning [Village] Board.
- (8) No building permit shall be issued and no structure or use shall be established or changed except in conformity with a site plan approved by the Planning [Village] Board ~~[after review and report by the Planning Board]~~, and no certificate of occupancy for such structure or use shall be issued until all the requirements of such site plan approval and any conditions attached thereto have been met. The continued validity of any certificate of occupancy shall be subject to continued conformance with such approved plan and conditions. Revisions of such plans shall be subject to the same approval procedure.

Section 7: Section §250-28, “OB-2 Office Building District” of the Code of the Village of Rye Brook is amended to read as follows:

- C. ~~[Amended 4-24-1997 by L.L. No. 4-1997]~~ Uses permitted at discretion of Village Board pursuant to the procedure specified in Article IV, § 250-6H(1):
- (3) The conversion of existing residences to limited professional office use, as defined in Article VIII, § 250-19B, except that said professional

office use may be conducted by persons other than the inhabitants thereof and shall not be limited to one nonresidential assistant or employee.

(a) In such special permit approval, site plan approval by the Planning [Village] Board shall be also required and shall include the coordination of one or more elements of site plan review, such as occupancy, traffic circulation, parking and drainage, in the interest of ensuring the ultimate development of a coordinated, safe and convenient system of land use and development at an appropriate density for the site and neighborhood.

(b) The Planning Board shall adopt said plan upon the granting of the special permit by the Village Board and shall require its consideration in future development. In the interest of obtaining safe and unified development in such instances, the Village Board may require the filing of deed restrictions or covenants permitting coordinated access, parking, drainage or other functional activities and uses from one property to others.

Section 8: Section §250-32, “C1 Neighborhood Retail District” of the Code of the Village of Rye Brook is amended to read as follows:

A. Permitted principal uses: all uses permitted in the C1-P District as permitted therein, [~~except that the procedure specified in Article IV, § 250-7C, is not required~~].

Section 9: Section §250-35, “Signs” of the Code of the Village of Rye Brook is amended to read as follows:

M. General permit procedures. The following procedures shall govern the application for and issuance of all sign permits under this section.

(1) Applications. All applications for sign permits of any kind shall be submitted on an application form provided by the Building Inspector.

(2) Fees. Each application for a sign permit shall be accompanied by applicable fees, in accordance with the schedule of fees on file in the Village office.

(3) Completeness. Within five business days of receiving an application for a sign permit, the Building Inspector shall review it for completeness. If the Building Inspector finds that it is complete, the application shall then be processed. If the Building Inspector finds that it is incomplete, the Building Inspector shall, within such five-day period, send to the applicant a notice specifically detailing why the application is deficient. Such notice shall include appropriate references to the applicable provisions of this section, and if applicable, other laws.

(4) Action.

(a) Within seven business days of the submission of a complete application for a sign permit, the Building Inspector shall:

[1] Refer the application to the Village Board of Trustees or the Planning Board, whichever has site plan approval authority, if site plan approval is required under Chapter 209, Site Plan Review, of the Code of the Village of Rye Brook, and if the sign(s) that is the subject of the application conforms in every respect with the requirements of this section;

(b) Where site plan approval was required under Chapter 209, Site Plan Review, of the Code of the Village of Rye Brook and the ~~[Village Board of Trustees has approved]~~ the signage plan has been approved in connection with site plan review, the Building Inspector shall forward the completed application to the Board of Architectural Review within seven business days of receiving the Village Board of Trustees' resolution of site plan approval for the proposed sign plan.

Section 10: Section § 209, “Site Plan Review” of the Code of the Village of Rye Brook is amended to read as follows:

§ 209-1. Review and approval required.

Prior to the issuance of a building permit, site plan review and approval shall be required for all uses other than one- , two- or three-family dwellings and whenever a special permit is sought or a modification of property subject to such special permit use or discretionary use is sought and in all other circumstances where site plan approval is required by the Zoning Law of the Village of Rye Brook. The Building Inspector shall require site plan approval from the Board of Trustees or the Planning Board, as may be required by law in the particular case, pursuant to this article, and the Building Inspector shall notify an applicant for a permit where site plan approval is required that the applicant must comply with the provisions of this chapter. The provisions of this Chapter shall apply to PUD site plans which are subject to approval of the Board of Trustees and in such circumstances the Board of Trustees shall have the powers and duties of the Planning Board under this Chapter.

Section 11: Section § 209-2, “General Procedure” of the Code of the Village of Rye Brook is amended to read as follows:

§ 209-2. General procedure.

Application information; statement and sketch. An application for site plan approval shall be made in writing to the Planning Board ~~[of Trustees]~~ and shall be accompanied by a fee, as determined in the License and Permit Fee Schedule on file in the Village Clerk's Office, and a statement and sketch showing the approximate location and dimensions of principal and accessory structures proposed for the area, parking areas, signs and other

pertinent information, such as topography, drainage and other existing and proposed features and conditions. The sketch shall include a map of the area at a convenient scale which clearly shows the location of the site in respect to nearby streets, rights-of-way, properties, easements and other existing and proposed pertinent features, such as site topography and drainage. The applicant shall supply such information as the Planning Board may require.

Section 12: Section § 209-3, “Preliminary Site Plan” of the Code of the Village of Rye Brook is amended to read as follows:

§ 209-3. Preliminary site plan.

~~[The Board of Trustees may refer the site plan to the Village Planning Board for review and recommendation. In that event,]~~ The Planning Board may conduct the following activities and require the following procedures by the applicant. A sketch plan conference may be held between the Planning Board and the applicant to enable the applicant to prepare a detailed site plan. Thereafter, a preliminary site plan shall be submitted to the Planning Board for its review. The preliminary site plan shall be accompanied by the following:

- A. A statement and site drawing showing the location and dimensions of principal and accessory structures, parking areas, signs (with descriptions), existing and proposed vegetation and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations and other environmental matters.
- B. A sketch map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features.
- C. Site plan checklist:
 - (1) Title of the drawing, including the name and address of the applicant and person responsible for preparation of such drawing.
 - (2) North arrow, scale and date.
 - (3) Boundaries of the property plotted to scale.
 - (4) Existing watercourses.
 - (5) Grading and drainage plan, showing existing and proposed contours.
 - (6) Location, design, type of construction, proposed use and exterior dimensions of all buildings.
 - (7) Location, design and type of construction of all parking and truck loading areas, showing access and egress.
 - (8) Provision for pedestrian access.
 - (9) Location of outdoor storage, if any.

- (10) Location, design and construction material of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
- (11) Description of the method of sewage disposal and location, design and construction material of such facilities.
- (12) Description of the method of securing public water and location, design and construction material of such facilities.
- (13) Location of fire and other emergency zones, including the location of fire hydrants.
- (14) Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.
- (15) Location, size and design and type of construction of all proposed signs.
- (16) Location and proposed development of all buffer areas, including existing vegetative cover.
- (17) Location and design of outdoor lighting facilities.
- (18) Identification of the location and amount of building area proposed for retail sales or similar commercial activity.
- (19) Landscaping plan and planting schedule.
- (20) An estimated project construction schedule.
- (21) Record of application for and approval status of all necessary permits from state and county officials.
- (22) Identification of any federal, state or county permits required for the project's execution, including project referrals, if any, and environmental review procedures mandated by Article 8, Environmental Quality Review, of the Environmental Conservation Law (SEQR).
- (23) Other elements integral to the proposed development as considered necessary by the Planning Board.

Section 13: Section § 209-4, "Planning Board Considerations in Review" of the Code of the Village of Rye Brook is amended to read as follows:

§ 209-4. Planning Board considerations in review.

The Planning Board's review of the site plan shall include, as the Planning Board deems appropriate, but shall not be limited to the following general considerations:

- A. Location, arrangement, size and general site compatibility of buildings, lighting and signs.

- B. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- C. Location, arrangement, appearance and sufficiency of off-street parking and loading.
- D. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- E. Adequacy of storm-water and drainage facilities.
- F. Adequacy of water supply and sewage disposal facilities.
- G. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- H. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- I. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- J. Consultation with Village, county, state and federal officials and other public and private consultants as deemed appropriate.

Section 14: Section § 209-5, “Time Limit for Planning Board Action” of the Code of the Village of Rye Brook is amended to read as follows:

§ 209-5. Time limit for Planning Board action.

~~[The Planning Board shall render a written recommendation to the Board of Trustees]~~ Within 60 days of the receipt of a complete application for site plan approval the Planning Board shall conduct a public hearing. The time for the opening of the public hearing may be extended by mutual consent of the applicant and the Planning Board. ~~[meeting at which the application is considered. The time in which the recommendation must be made may be extended by the Planning Board to receive and review additional information in support of the application.]~~

Section 15: Section § 209-6, “Public Hearing and Notification Sign” of the Code of the Village of Rye Brook is amended to read as follows:

§209-6 Public Hearing and Notification Sign

~~[Upon receipt of the recommendation by the Planning Board to the Board of Trustees, the Board of Trustees shall set a public hearing on the matter. At the public hearing the Board of Trustees shall hear the report of the Planning Board and shall hear all comments of citizens who are interested.]~~

~~Such hearing may be held concurrently with any environmental hearing held pursuant to SEQR requirements noted in § 209-3C(22) hereof.]~~

A. Notice of the public hearing shall be published in the official newspaper at least five(5) days prior to the public hearing. The Planning Board shall cause notice of the public hearing to be mailed to the applicant at least ten (10) days before the hearings. The applicant shall notify all property owners, as shown on the latest assessment roll, within two hundred (200) feet of the perimeter of any portion of the site by sending a copy of the notice of public hearing to the address of the owner by certified mail and furnish proof thereof to the Planning Board.

B. A notification sign shall be posted on the subject property as follows:

a. With respect to any application for site plan approval, the applicant shall post a sign on the subject property at least ten (10) days prior to the first Planning Board meeting for which the application is on the agenda.

b. Such sign shall be at least thirty (30) inches in length by twenty (20) inches in width, consist of sturdy and serviceable material containing a white background and black legible letters of at least two (2) inches in height, and shall be placed in location plainly visible from the most commonly traveled street or highway upon which the property fronts, but in no case more than twenty (20) feet back from the front lot line. Such sign shall be at least six (6) feet above the ground and shall read as follows:

i. A PROPOSED SITE PLAN FOR (DESCRIBE PROPOSED ACTION) IS PROPOSED ON THIS PROPERTY AND IS SCHEDULED TO BE DISCUSSED AT A PLANNING BOARD MEETING ON (FILL IN DATE) AT (FILL IN TIME) AT THE RYE BROOK VILLAGE OFFICES. FOR INFORMATION CALL (FILL IN BUILDING DEPARTMENT TELEPHONE NUMBER).

c. The applicant shall update the sign and post it at least ten (10) days prior to each public hearing (including site plan and State Environmental Quality Review hearings), if any are held. The work "MEETING" shall be similarly updated to "PUBLIC HEARING"

d. At least seven (7) days prior to the meeting or hearing(s) for which the sign is posted, the applicant shall submit to the Planning Board an affidavit stating to the fact and date of the posting.

e. The applicant shall remove the sign within seven (7) days after the meeting or hearing for which the sign is posted.

C. At the public hearing the Planning Board shall hear all comments of citizens who are interested. Such hearing may be held concurrently with any environmental hearing held pursuant to SEQR requirements noted in §209-3(C)(22) hereof.

Section 16: Section § 209-7, “Approval or Disapproval” of the Code of the Village of Rye Brook is amended to read as follows:

§ 209-7. Approval or Disapproval.

- A. The Planning Board [~~of Trustees~~] shall decide whether to approve, modify, or deny the application for site plan based upon the factors listed in § 209-4A through J hereof. Upon completion of the SEQOR process noted in § 209-3C(22) hereof, the Board of Trustees may approve, approve with modifications or disapprove the site plan. Such decision as to approval, disapproval or conditional approval shall be made within sixty-two (62) [~~45~~] days after close of the public hearing. The time within which a decision must be rendered may be extended by mutual consent of the applicant and Planning Board [~~of Trustees~~]. The decision shall be filed in the office of the Village Clerk within five (5) days after such decision is rendered and a copy of the decision shall be mailed to the applicant.
- B. Upon approval of the site plan with or without modifications and payment by the applicant of all fees and reimbursable costs due to the Village, the Planning Board [~~of Trustees~~] shall endorse its approval on a copy of the final site plan and shall forward a copy to the applicant and the Building Inspector and file same with the Village Clerk.
- C. Upon disapproval of a site plan, the Planning Board [~~of Trustees~~] shall so inform the Building Inspector [~~and the Building Inspector shall deny a zoning permit to the applicant~~]. The Planning Board [~~of Trustees~~] shall also notify the applicant in writing of its decision and its reasons for disapproval. Such disapproval shall be filed with the Village Clerk.

Section 17: Section § 209-8, “Reimbursable Costs” of the Code of the Village of Rye Brook is amended to read as follows:

§ 209-8. Reimbursable costs.

- D. Costs incurred by the Planning Board [~~of Trustees~~] for consultation fees, traffic and planning studies and environmental review pursuant to SEQOR or other expenses in connection with the review of a proposed site plan shall be charged to the applicant, in an amount to be determined by resolution of the Planning Board [~~of Trustees~~]. The Planning Board [~~of Trustees~~] may, by resolution, require that an amount sufficient to pay said costs be deposited with the village. The applicant shall also pay to the village the cost of publication of the notice of public hearing. Upon the failure of the applicant to pay such costs, the Director of Public Works shall certify the costs to the Assessors of the village, and thereupon such costs shall become and be a lien upon the land involved and shall be added to and become a part of the taxes next to be assessed and levied upon such land and shall bear interest at the same rate as, and be collected and enforced in the same manner as, taxes. The provisions of this section with respect to costs shall be in addition to any penalty imposed by this Code for violation of or noncompliance with the provisions of this chapter. The

Planning Board may suspend its review of an application for failure to pay costs.

Section 18: Section § 209-9, “Performance Guaranty” of the Code of the Village of Rye Brook is amended to read as follows:

§ 209-9. Performance guaranty.

No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or, at the discretion of the Planning Board [~~of Trustees~~], a sufficient performance guaranty has been posted for improvements not yet completed. The sufficiency of such performance guaranty shall be determined by the Board of Trustees after consultation(s) with the Planning Board, Building Inspector/Village Engineer, Village Attorney and other appropriate parties.

Section 19: Section § 209-11, “Integration of Procedures” of the Code of the Village of Rye Brook is amended to read as follows:

§ 209-11. Integration of procedures.

Whenever the particular circumstances of proposed development require compliance with SEQR provisions or with the special permit procedure in the Zoning Law or other requirements of the Village Law or other mandatory requirements, [~~the Board of Trustees and~~] the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this article with the procedural and submission requirements for such other compliance.

Section 20: Section § 209-14, “Parks Required” of the Code of the Village of Rye Brook is amended to read as follows:

§ 209-14. Parks required.

Before the Planning Board [~~of Trustees~~] grants final site plan approval, such site plan of a proposed development shall also show, in a proper case and when required by the Planning Board [~~of Trustees~~], a park or parks suitably located for recreational purposes.

Section 21: Section § 209-15, “Fees in lieu of Parkland” of the Code of the Village of Rye Brook is amended to read as follows:

§ 209-15. Fees in lieu of parkland.

A. If the Planning Board [~~of Trustees~~] determines that a suitable park or parks of adequate size cannot be properly located on any such site or is otherwise not practical, the Board may require, as a condition to final approval of any such site plan, a payment in a sum to be determined by the Board of Trustees. The current License and Fee Schedule is on file in the Village Clerk's office.

D. To the extent that the provisions of §§209-14 and 209-15 are deemed inconsistent with §7-725-a(6) of the Village Law, it is the intent of §§209-14 and 209-15 to supersede such Section of the Village Law pursuant to the supersession authority conferred by §10(1)(ii)(e)(3) of the Municipal Home Rule Law. The provisions of §§209-14 and 209-15 are intended to provide additional authority for the imposition of recreation fees and shall not be construed as removing or limiting authority that may otherwise exist.

Section 22: Section § 219-2, “Authority Defined” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-2. Authority defined.

~~[A. The Planning Board shall act only in an advisory capacity to the Board of Trustees.~~

~~B. All actions regarding planning, zoning, subdivisions, site plan approvals and conditions shall be made by the Board of Trustees.~~

~~C. The Board of Trustees may, by specific resolution, delegate to the Planning Board the right to make minor modifications of approved subdivisions or site plans.]~~

A. The Planning Board shall have the authority to review and approve, with or without modifications, or disapprove, preliminary and final subdivision plats showing lots, blocks or sites, with or without streets, within the Village of Rye Brook, except that subdivision approval authority in a Planning Unit Development (PUD) under the Zoning Law shall be reserved to the Board of Trustees.

B. The Planning Board shall have the authority to review and approve, with or without modifications, or disapprove site plans for property within the Village of Rye Brook where a site plan is required under the Zoning Law or under the provisions of Chapter 209 of the Code of the Village of Rye Brook, except that site plan approval authority within a Planned Unit Development (PUD) under the Zoning Law shall be reserved to the Board of Trustees.

C. The Clerk of the Village shall file a certificate with the County Clerk under §7-728(3) of the Village Law informing the County Clerk that the Planning Board has been granted subdivision approval authority.

D. The advisory Planning Board heretofore created is abolished.

Section 23: Section § 219-3, “Purpose” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-3. Purpose.

The purpose of this Article is to establish the membership and term of office of members of the Planning Board. [The purpose of this Article is to involve more people on a rotating basis in the government of the Village of Rye Brook.]

Section 24: Section § 219-4, “Members of the Planning Board” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-4. Members of the Planning Board [~~Increase in membership.~~]

The Planning Board shall be composed of five (5) members appointed by the Mayor, subject to the approval of the Board of Trustees [~~The number of members constituting the Planning Board shall increase from five (5) to seven (7) members.~~] The Chairperson of the Planning Board shall be appointed by the Mayor for a one year term as Chairperson.

Section 25: Section § 219-5, “Term of Office” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-5. Term of office [~~ehanged~~].

A. The term of office of members of the Planning Board shall be five (5) years except that the first appointments shall be made as set forth in paragraph B of this Section. [~~All Planning Board members appointed by the Board of Trustees after June 1, 1988, other than those who were previously appointed to fill an unexpired term, shall serve for three year terms of office.~~]

B. The terms of members of the Planning Board first appointed shall be so fixed that the term of one member shall expire at the end of the Village official year in which such members were initially appointed. The terms of the remaining members first appointed shall be so fixed that one term shall expire at the end of each official year thereafter. At the expiration of the term of each member first appointed, his or her successor shall be appointed for a five year term. [~~Upon the expiration of the term of office for each existing Planning Board member, the Board of Trustees shall be authorized to appoint the successor who shall serve for a three-year term of office.~~]

C. If a vacancy shall occur otherwise than by expiration of term, the Mayor shall appoint a new member for the unexpired term, subject to approval by the Board of Trustees.

Section 26: Section § 219-6, “Compensation” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-6. Compensation.

The members of the Planning Board shall serve without compensation.

Section 27: Section § 219-7, “Functions” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-7. Functions.

The Planning Board will have the [advisory] functions as stated in Article I of this Part 1.

Section 28: Section § 219-8, “Removal from Office” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-8. Removal from office.

A. ~~[A member of the Planning Board may be removed from office, without notice and a public hearing, upon said member's failure to attend at least seventy five percent (75%) of the regularly scheduled Planning Board meetings held during any twelve month period or failure to attend the required educational training programs in accordance with mandates set by the Board of Trustees.]~~ The Mayor shall have the authority to remove any member of the Planning Board for [just] cause after notice and a public hearing. A member's failure to attend at least seventy-five (75%) of the regularly scheduled Planning Board meetings held during any twelve (12) month period shall constitute cause for removal, but this shall not be construed as the sole ground for removal.

B. ~~[shall have the authority to remove any member of the Planning Board for just cause after notice and a public hearing]~~

Section 29: Section § 219-9, “Statutory Authority” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-9. Statutory authority.

This Article is enacted pursuant to the provisions of [the Municipal Home Rule Law and supersedes § 7-718 of] the Village Law with respect to terms of office of Planning Board members.

Section 30: Section § 219-10, “Approval Required” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-10. Approval required.

Land within the Village of Rye Brook may be subdivided into lots, blocks or sites, with or without streets or highways, only if approved by the Planning Board [of Trustees] in accordance with the procedures and requirements as set forth in these regulations and only if the approved plat is duly filed in the office of the County Clerk of Westchester County, New York. Construction[s], excavation, filling, re-grading, clearing of vegetation or other similar activities related to a proposed subdivision shall not begin within any area proposed or intended for subdivision until said subdivision shall have been approved by the Planning Board [of Trustees]. The provisions of this Chapter shall apply to subdivisions in a PUD which are subject to approval of the Board of Trustees and in such

circumstances the Board of Trustees shall have the powers and duties of the Planning Board under this Chapter.

Section 31: Section § 219-12, "Statement of Policy" of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-12. Statement of policy.

It is declared to be the policy of the ~~V~~[v]illage to consider land subdivisions as part of a plan for the orderly, efficient and economical development of the village. Land to be subdivided shall be of such character that it can be used safely for building or development purposes without danger to health or peril from fire, flood or other menace and without resulting in significant damage to the ecology of the area in which it is located. Proper provision shall be made for drainage, water, sewerage, electric, telephone, gas and other needed improvements. The proposed streets shall compose a convenient system conforming to the Official Map. Streets shall be of such width, grade and location as to accommodate the prospective traffic, to afford adequate light and air and to facilitate fire and police protection. In proper cases, and when required by the Planning Board [~~of Trustees~~], a park or parks of suitable location, size and character for playground or other recreational purposes shall be shown on the subdivision plat.

Section 32: Section § 219-13, "Issuance of Building Permit" of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-13. Issuance of building permit.

No permit shall be issued for the erection of any building within a proposed subdivision until said subdivision has been duly approved by the Planning Board [~~of Trustees~~] and filed in the office of the County Clerk, except that the Building Inspector may issue a building permit for a [single] building based upon the entire tract of land where the requirements of the Zoning law and all applicable regulations are met. [~~there is no other existing building within the proposed subdivision and where the proposed building is in accordance with an approved preliminary plat.~~]

Section 33: Section § 219-14, "Modifications" of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-14. Modifications. [~~Amended 1-26-1988 by L.L. No. 1-1988]~~

A. Where the Planning Board [~~of Trustees~~] finds that, because of the special circumstances of a particular case, extraordinary hardship may result from strict compliance with these regulations, it may modify the regulations so that substantial justice may be done and the public interest secured, provided that any such modification shall be consistent with the

spirit and intent of these regulations, all village laws and the Official Map, if any.

B. [~~Similarly,~~] Pursuant to the provisions of § 7-738 of the Village Law and for purposes of enabling and encouraging flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provisions of streets and utilities and to preserve the natural and scenic qualities of open lands, the Planning Board [~~of Trustees~~] is hereby authorized to approve or require the modification of applicable provisions of this chapter as well as the provisions of the Village Zoning Law subject to the conditions hereinafter set forth and any such other reasonable conditions as the Board of Trustees may, in its discretion, add thereto.

(1) This procedure may be followed at the discretion of the Board of Trustees if, in said Board's judgment, its application would benefit the Village and the authority for cluster development shall be determined and granted by the Board of Trustees on a subdivision by subdivision basis.

(2) This procedure may be applied in all single-family residential zones to properties equal or greater than three (3) times the minimum lot size of the particular district within which the land is located.

(3) This procedure shall be applicable only to lands zoned for single-family residential purposes, and its application shall result in a permitted number of dwelling units or building plots which shall in no case exceed the number which could be permitted, in the judgment of the Planning Board [~~of Trustees~~], if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning applicable to the district or districts in which said land is situated and conforming to all other applicable requirements. Where the plat falls within two or more districts with differing density requirements, the Planning Board may approve in any one such district a cluster development representing the cumulative density as derived from the summing of all units allowed in all such districts.

(4) The dwelling units permitted may be, at the discretion of the Board of Trustees and subject to the conditions set forth by the Board of Trustees, in detached, semidetached or attached or multistory structures.

(5) In the event that the application of this procedure results in a plat showing lands available for park, recreation, open space or other municipal purposes directly related to the plat, then the Planning Board [~~of Trustees~~], as a condition of plat approval, may establish such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes. [~~The Board of Trustees may~~

~~require that~~] such conditions shall be approved by the Board of Trustees before the plat may be approved for filing.

(6) The proposed site plan, including areas within which structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street open and enclosed parking spaces and streets, driveways and all other physical features as shown on said plan or otherwise described, accompanied by a statement setting forth the nature of such modifications, changes or supplementations of existing zoning provisions as are not shown on said site plan, shall be subject to review at the public hearing held pursuant to the public hearings normally held in the process of subdivision approval.

(7) On the filing of the plat in the office of the County Clerk or register, a copy shall be filed with the Village Clerk and the Village Engineer. The Village Clerk shall make appropriate notations and references thereto in the Village Zoning Law or Map.

(8) In approving ~~[permitting]~~ any such modification, the Planning Board ~~[of Trustees]~~ shall attach such conditions as are, in its judgment, necessary to secure substantially the objectives of the standard or requirement so modified.

Section 34: Section § 219-15, “Amendments” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-15. Amendments.

A. Procedure. The Planning Board may, after public hearing, recommend to the Board of Trustees regulations relating to any subject matter over which the Planning Board has jurisdiction under the Village Law or other statute or under any local law of the Village. These regulations may be amended by the Board of Trustees after public hearing, by the adoption of local law. ~~[Notice of the time, place and purpose of such hearing shall be given by publication in the official village newspaper at least ten (10) days prior to the date on which it is to be held. A copy of the proposed amendment shall be placed on file in the office of the Village Clerk, where it shall be available for public inspection during normal working hours for at least five (5) days before such hearing.]~~

B. Applicability. Amendments adopted by the Board of Trustees shall take effect on the date of filing of the local law in the office of the Secretary of State or on such other date set forth in the local law. ~~[Board of Trustees approval or at such time as provided in the resolution of approval]~~ and shall apply to any preliminary subdivision which has not received conditional approval prior to such date and to any conditionally approved subdivision for which a formal application for final approval is not received within six (6) months of the date of the conditional approval.

Section 35: Section § 219-17, “Terms Defined” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-17. Terms defined.

B. For the purpose of these regulations, certain words and terms used herein are defined as follows:

CONSTRUCTION PLANS -- The maps and engineering drawings, described in §§ 219-39 and 219-41 [~~§ 219-28~~] of these regulations, accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with these regulations.

MAINTENANCE BOND -- A bond to assure the maintenance of required subdivision improvements following dedication of such improvements for such period as required by the Planning Board [~~of Trustees~~].

OFFICIAL MAP -- The map established by the Board of Trustees under § 7-724 of the Village Law showing the streets, highways and parks theretofore laid out, adopted and established by law, and any amendments thereto adopted by the Board of Trustees or additions thereto resulting from the approval of subdivision plats [~~by the Board of Trustees~~] and the subsequent filing of such approved plats.

PERFORMANCE BOND -- A bond, or other authorized and approved security, as required by § 7-730 of the Village Law, to assure the full and satisfactory completion of all required subdivision improvements as specified in the Planning Board [~~of Trustees~~] resolution of approval, such bond to run for a term fixed by the Planning Board [~~of Trustees~~] and with surety approved by the Board of Trustees and also approved by the Village Attorney as to form, sufficiency and manner of execution [~~approved by the Board of Trustees~~].

Section 36: Section § 219-18, “General Procedure” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-18. General procedure.

A. Whenever any subdivision of land is proposed and before any contract for the sale is carried out or title to any part thereof is transferred, the subdividing owner or his duly authorized agent shall proceed to secure approval of the proposed subdivision in accordance with the following steps:

- (1) Initial conference and review (recommended but not required).

- (2) Preparation of preliminary plat.
- (3) Preparation of final plat.

~~[B. If at any time the Board of Trustees desires a recommendation from the Planning Board with respect to a subdivision application, the Board of Trustees shall request same, and the Planning Board shall then be authorized to meet with the applicant or its agents, to visit the site and to make recommendations to the Board of Trustees.]~~

~~[C.]~~ Notwithstanding any provisions of these subdivision regulations or any other village laws or regulations to the contrary, the provisions and requirements of Article 8 of the Environmental Conservation Law, § 8-0113, Part 617 of NYCRR, hereinafter referred to as "SEQR" regulations, shall be complied with.

Section 37: Section § 219-20, "Preliminary Plat" of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-20. Preliminary plat.

A. Application requirements. Prior to requesting approval of a proposed final subdivision plat, the applicant shall file an application for approval of a preliminary plat, in duplicate, on a form available from the Village Clerk. (See Appendix B.) Such application shall be filed with the Village Clerk at least two weeks prior to the regular Planning Board ~~[of Trustees]~~ meeting at which it will be considered and shall:

- (1) Be accompanied by a preliminary application fee, payable to the Village of Rye Brook in the amount shown in the License and Permit Fee Schedule on file in the Village Clerk's office. Such fee may be amended from time to time by resolution of the Board of Trustees. [Amended 8-26-2003 by L.L. No. 13-2003]
- (2) Comply with all requirements of these regulations and the Zoning Law.
- (3) Be accompanied by 10 copies each of the preliminary plat, including all contiguous land of the applicant, and preliminary construction plans, showing all items listed in §§ 219-38 and 219-39 of these regulations.
- (4) Be accompanied by a completed Appendix A, State Environmental Quality Review (SEQR) form, available from the Village Clerk.

B. Field trip. The Planning Board ~~[of Trustees]~~ may schedule a field inspection of the proposed subdivision, as described in § 219-19B.

~~[C. Action on a preliminary plat application. Within 60 days after the receipt of a completed preliminary plat and all accompanying material by the Village Clerk, the Board of Trustees shall approve, with or without modification, or disapprove the preliminary plat application by resolution which shall set forth any conditions to which the approval is subject, or the reasons for disapproval. The time in which the Board of Trustees must take action may be extended by the consent of the property owner and the~~

~~Board of Trustees. Within five days of such action, the resolution shall be certified by the Village Clerk, a copy shall be filed in the Village Office, and a certified copy shall be mailed to the owner.~~

~~D. — Public hearing optional. Within the sixty day period above, the Board of Trustees may hold a public hearing on said application. If a hearing is held, public notice requirements shall be as specified in § 219-21D(1) of these regulations.~~

~~E. — Expiration of approval. Approval of a preliminary plat application expires if the owner has not submitted a proposed plan in final form within six months of the date of approval of the preliminary plat.]~~

C. Coordination with S.E.O.R. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act and its implementing regulations.

D. Receipt of a complete preliminary plat. A preliminary plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the state environmental quality review act. The time periods for review of a preliminary plat shall begin upon filing of such negative declaration or such notice of completion.

E. Planning Board as lead agency under the State environmental quality review act; public hearing; notice; decision:

a. Public hearing on preliminary plats. The time within which the Planning Board shall hold a public hearing on the preliminary plat shall be coordinated with any hearing the Planning Board may schedule pursuant to the state environmental quality review act, as follows:

i. If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the public hearing on such plat shall be held within sixty-two (62) days after the receipt of a complete preliminary plat by the clerk of the Planning Board; of

ii. If the Planning Board determines that an environmental impact statement is required and a public hearing on the preliminary plat and the draft environmental impact statement shall be held jointly within sixty-two (62) days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of the state environmental quality review act. If no public hearing is held on the draft environmental impact statement, the public hearing on the preliminary plat shall be held within sixty-two (62) days of filing the notice of completion.

b. Public hearing; notice, length

i. The hearing on the preliminary plat shall be advertised at least once in a newspaper of general

circulation in the Village at least five (5) days before such hearing if no hearing is held on the draft environmental impact statement, or fourteen days (14) before a hearing held jointly therewith.

ii. The applicant shall notify all property owners, as shown, on the latest assessment roll, within two hundred (200) feet of the perimeter of any portion of the site by sending a copy of the notice of public hearing to the address of the owner by certified mail and furnish proof thereof to the Planning Board

iii. A notification sign shall be posted on the property as follows:

a. With respect to any application for preliminary plat approval, the applicant shall post a sign on the subject property at least ten (10) days prior to the first Planning Board meeting for which the application is on the agenda.

b. Such sign shall be at least thirty (30) inches in length by twenty (20) inches in width, consist of sturdy and serviceable material containing a white background and black legible letters of at least two (2) inches in height, and shall be placed in a location plainly visible from the most commonly traveled street or highway upon which the property fronts, but in no case more than twenty (20) feet back from the front lot line. Such sign shall be at least six (6) feet above the ground and shall read as follows:

i. A PROPOSED SITE PLAN FOR (DESCRIBE PROPOSED ACTION) IS PROPOSED ON THIS PROPERTY AND IS SCHEDULED TO BE DISCUSSED AT A PLANNING BOARD MEETING ON (FILL IN DATE) AT (FILL IN TIME) AT THE RYE BROOK VILLAGE OFFICES. FOR INFORMATION CALL (FILL IN BUILDING DEPARTMENT TELEPHONE NUMBER).

iv. The applicant shall update the sign and post it at least ten (10) days prior to each publish hearing (including site plan and State Environmental Quality Review hearings), if any are held. The work "MEETING" shall be similarly updated to "PUBLIC HEARING"

v. At least seven (7) days prior to the meeting or hearing(s) for which the sign is posted, the applicant shall submit to the Planning Board an affidavit stating to the fact and date of the posting.

vi. The applicant shall remove the sign within seven (7) days after the meeting or hearing for which the sign is posted.

The hearing on the preliminary plat shall be closed upon motion of the Planning Board within one hundred twenty days (120) after it has been opened.

c. Decision. The Planning Board shall approve, with or without modification, or disapprove such preliminary plat as follows:

i. If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plat is not required, such board shall make its decision within sixty-two (62) days after the close of the public hearings; of

ii. If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement, shall be filed within forty-five days (45) following the close of such public hearing in accordance with the provisions of the state environmental quality review act. If no public hearing is held on the draft environmental impact statement the final environmental impact statement shall be filed within forty-five (45) days following the close of such public hearing on the preliminary plat. Within thirty days (30) of the filing of such final environmental impact statement, the Planning Board shall issues findings on the final environmental impact statement and make its decision on the preliminary plat.

d. Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the plat in final form.

F. Planning Board not as lead agency under the state environmental quality review act; public hearing; decision.

1. Public hearing on preliminary plats. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the preliminary plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement, the Planning Board shall hold the public hearing on the preliminary plat within sixty-two (62) days after the receipt of a complete preliminary plat by the clerk of the Planning Board.

2. Public hearing, notice, length

a. The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the Village at least five (5) days before such hearing is held

independently of the hearing on the draft environmental impact statement, or fourteen days (14) before a hearing held jointly therewith.

b. The applicant shall notify all property owners, as shown on the latest assessment roll, within two hundred (200) feet of the perimeter of any portion of the site by sending a copy of the notice of public hearing to the address of the owner by certified mail and furnish proof thereof to the Planning Board.

c. A notification sign shall be posted on the property as follows:

1. With respect to any application for preliminary plat approval, the applicant shall post a sign on the subject property at least ten (10) days prior to the first Planning Board meeting for which the application is on the agenda.

2. Such sign shall be at least thirty (30) inches in length by twenty (20) inches in width, consist of sturdy and serviceable material containing a white background and black legible letters of at least two (2) inches in height, and shall be placed in a location plainly visible from the most commonly traveled street or highway upon which the property fronts, but in no case more than twenty (20) feet back from the front lot line. Such sign shall be at least six (6) feet above the ground and shall read as follows:

A PROPOSED SITE PLAN FOR
(DESCRIBE PROPOSED ACTION) IS
PROPOSED ON THIS PROPERTY AND
IS SCHEDULED TO BE DISCUSSED AT
A PLANNING BOARD MEETING ON
(FILL IN DATE) AT (FILL IN TIME) AT
THE RYE BROOK VILLAGE OFFICES.
FOR INFORMATION CALL (FILL IN
BUILDING DEPARTMENT TELEPHONE
NUMBER).

3. The applicant shall update the sign and post it at least ten (10) days prior to each publish hearing (including site plan and State Environmental Quality Review hearings), if any are held. The work "MEETING" shall be similarly updated to "PUBLIC HEARING"

4. At least seven (7) days prior to the meeting or hearing(s) for which the sign is posted, the applicant

shall submit to the Planning Board an affidavit stating to the fact and date of the posting.

5. The applicant shall remove the sign within seven (7) days after the meeting or hearing for which the sign is posted.

d. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within one hundred twenty days (120) after it has been opened.

3. Decision. The Planning Board shall by Resolution approve with or without modification or disapprove the preliminary plat within sixty-two (62) days after the close of the public hearing on such preliminary plat.

4. Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the plat in final form.

G. Filing of decision on preliminary plat. Within five (5) business days from the date of the adoption of the Resolution approving the preliminary plat, the chairman of other duly authorized member of the Planning Board shall cause a copy of such Resolution to be filed in the office of the Village Clerk.

H. Certification and filing of preliminary plat. Within five (5) business days of the adoption of the Resolution granting approval of such preliminary plat, such plat shall be certified by the Village Clerk as having been granted preliminary approval and, a copy of the plat and Resolution shall be filed in the Village Clerk's office, and a copy of such Resolution shall be mailed to the owner.

I. Revocation of approval of preliminary plat. Within six (6) months of the approval of the preliminary plat the owner of applicant must submit the plat in final complete form and as required by these regulations. If the final plat is not submitted within six (6) months, approval of the preliminary plat may be revoked by the Planning Board.

J. Default approval of preliminary plat. The time periods prescribed herein within which a Planning Board must take action on a preliminary plat are specifically intended, according to the Village law, to provide the Planning Board and the public adequate time for review and to minimize delays in the processing of subdivision applications. Such periods may be extended only by mutual consent of the owner and the Planning Board. In the event a Planning Board fails to take action on a preliminary plat or a final plat within the time prescribed therefore, or within such extended period as may have been established by the mutual consent of the owner and the Planning Board, such preliminary shall be deemed granted

approval. The certificate of the Village Clerk as to the date of submission of the preliminary or final plat and the failure of the Planning Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement of other evidence of approval herein required.

K. Notwithstanding any other provisions of Chapter 219 and §7-728 of the Village Law, the applicant shall be deemed to have consented to extensions of time during all stages of submission and review of the preliminary plat unless the applicant shall advise in writing or unequivocally state on the record at a regular Planning Board meeting that no such consent is given. The Planning Board shall have sixty-two (62) days to act after receipt of such non-consent notice from an applicant provided the application is complete or action on the plat is otherwise required by law. This provision shall supercede any inconsistent provisions of §7-728(5)(b), (c) and (f) of the Village Law pursuant to the supersession authority of §10(1)(ii)(e)(3) of the Municipal Home Rule Law.

Section 38: Section § 219-21, "Final Plat" of the Code of the Village of Rye Brook is amended to read as follows:

§219-21 Final Plat

A. Filing of application; modifications. Application for final subdivision plat approval shall be filed with the Village Clerk. Such application shall comply with the modifications, if any, required by the Board of Trustees at the time of preliminary plat approval and shall be submitted in duplicate on forms available from the Village Clerk. (See Appendix B.)EN

B. Items to accompany application. Application for final plat approval shall be accompanied by the following:

(8) Where there is no park area shown on the proposed plat, a fee in lieu of such recreational land shall be required. The amount of said fee shall be calculated in the manner specified in the License and Permit Fee Schedule on file in the Village Clerk's office adopted by resolution of the Board of Trustees with respect to each said subdivision. This fee shall be paid in its entirety prior to the signing of the final plat by the Chairperson of the Planning Board~~[Mayor]~~ unless a [the final] resolution adopted by the Board of Trustees ~~[granting subdivision approval]~~ specifically modifies this payment schedule. [Amended 12-15-1992 by L.L. No. 2-1992; 8-26-2003 by L.L. No. 13-2003].

(10) A list of any and all waivers of the provisions of these regulations which the applicant requests the Planning Board ~~[of Trustees]~~ to grant in the [his] specific case, with the reasons therefore.

(11) A completed environmental assessment form or draft environmental impact statement, as required [by the Board of Trustees] under the New York State Environmental Quality Review Act (SEQRA). Final plats may require further review under SEQRA.

~~[C. Action by Board of Trustees. Within sixty (60) days of the receipt of the completed final plat and all accompanying material by the Building Inspector, the Board of Trustees shall, by resolution, conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of the plat. The time in which the Board of Trustees must take action may be extended by mutual consent of the property owner and the Board of Trustees. Within five (5) days of such resolution, the plat shall be certified by the Building Inspector as conditionally approved and one (1) copy filed in the Village Office and another copy mailed to the owner by certified mail, including the certified statement of the requirements which, when completed, will authorize the signing of the conditionally approved final plat. Conditional approval of a final plat shall expire within one hundred eighty (180) days after the date of the resolution granting conditional approval unless such requirements have been completed.]~~

C. Final plats which are in substantial agreement with approved preliminary plats. When a complete final plat is submitted which the Planning Board deems to be in substantial agreement with a preliminary plat approved, the Planning Board shall by Resolution conditionally approve with or without modifications, disapprove, or grant final approval and authorize the signing of such plat, within sixty-two (62) days of its receipt by the Village Clerk.

D. Final plats when no preliminary plat is required to be submitted; receipt of complete final plat. When no preliminary plat is required to be submitted, a final plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the state environmental quality review act. The time periods for review of such plat shall begin upon filing of such negative declaration or such notice of completion.

E. Final plats which are not in substantial agreement with approved preliminary plats or when no preliminary plat is required to be submitted. When a final plat is submitted which the Planning Board deems not to be in substantial agreement with a preliminary plat approved or when no preliminary plat is required to be submitted and a final plat clearly marked "final plat" is submitted conforming to the definition thereof, the following shall apply:

1. Planning Board as lead agency; public hearing; notice; decision.
 - a. Public hearing on final plats. The time within which the Planning Board shall hold a public hearing on such final plat shall be coordinated with any hearings the Planning

Board may schedule pursuant to the state environmental quality review act, as follows:

1. If the Planning Board determines that the preparation of an environmental impact statement is not required, the public hearing on a final plat not insubstantial agreement with a preliminary plat, or when no preliminary plat is required to be submitted, shall be held within sixty-two (62) days after the receipt of a complete final plat by the clerk of the Planning Board; of
 2. If the Planning Board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the final plat and the draft environmental impact statement shall be held jointly within sixty-two (62) days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provision of the state environmental quality review act. If no public hearing is held on the draft environmental impact statement, the public hearing on the final plat shall be held within sixty-two (62) days following filing of the notice of completion.
- b. Public hearing; notice, length. The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the Village at least five (5) days before such hearing if no hearing is held on the draft environmental impact statement, or fourteen (14) days before a hearing held jointly therewith. The applicant shall also be required to post a sign in accordance with §219-20(E)(2)(b). The hearing on the final plat shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.
- c. Decision. The Planning Board shall make its decision on the final plat as follows:
1. If the Planning Board determines that the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall by Resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat, within sixty-two (62) days after the date of the public hearing; of
 2. If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental

impact statement, the final environmental impact statement shall be filed within forty-five (45) days following the close of such public hearing in accordance with the provision of the state environmental quality review act. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five (45) days following the close of the public hearing on the final plat. Within thirty (30) days of the filing of the final environmental impact statement, the Planning Board shall issue findings on such final environmental impact statement and shall by Resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat.

- d. Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

2. Planning Board not as lead agency; public hearing; notice; decision.

- a. Public hearing. The Planning Board shall with the agreement of the lead agency, hold the public hearing on the final plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement, the Planning Board shall hold the public hearing on the final plat within sixty-two (62) days after the receipt of a complete final plat by the Planning Board.
- b. Public hearing, notice, length. The hearing on the final plat shall be advertised at least once on a newspaper circulation in the Village at least five (5) days before such hearing if held independently of the hearings on the draft environmental impact statement or fourteen (14) days before a hearing held jointly therewith. The applicant shall also be required to post a sign in accordance with §219-20(E)(2)(b). The hearing on the final plat shall be closed upon motion of the Planning Board within one hundred twenty days (120) after it has been opened.
- c. Decision. The Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat within sixty-two (62) days after the closing of the public hearing on such final plat. The ground for a modification, if any, or the grounds for

disapproval shall be stated upon the records of the Planning Board.

- d. Filing of decision on final plat. Within five (5) business days from the date of the adoption of the Resolution approving the final plat. The chairperson or other duly authorized member of the Planning Board shall cause a copy of such Resolution to be filed in the office of the Village Clerk.

F. Extension of time. Notwithstanding the foregoing provisions of the above paragraph, the time in which a Planning Board must take action on such plat may be extended by mutual consent of the owner/applicant and the Planning Board.

G. Default approval of final plat. The time periods prescribed herein within which a Planning Board must take action on a final plat are specifically intended, according to the Village Law, to provide the Planning Board and the public adequate time for review and to minimize delays in the processing of subdivision applications. Such periods may be extended only by mutual consent of the owner and the planning Board. In the event the Planning Board fails to take action on a final plat within the time prescribed therefore, or within such extended period as may have been established by the mutual consent of the owner and the Planning Board, such final plat shall be deemed granted approval. The certificate of the Village Clerk as to the date of submission of the final plat and the failure of the Planning Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.

Notwithstanding, any provision of Chapter 219 and §7-728 of the Village Law to the contrary, the applicant shall be deemed to have consented to extensions of time during all stages of submission and review of a final plat unless the applicant shall advise in writing or unequivocally state on the record at a regular meeting of the Planning Board that no such consent is given. The Planning Board shall have sixty-two (62) days to act after receipt of such non-consent advice provided the application is complete or action on the plat is otherwise required by law. This provision shall supersede inconsistent provisions of §7-728(6)(b),(c),(e) and (f) of the Village Law pursuant to the supersession authority of §10(1)(ii)(e)(3) of the Municipal Home Rule Law.

~~[D. — Public hearing. Within the sixty day period above and before final action, the Board of Trustees shall hold a public hearing on the final plat. The applicant shall provide notice of the public hearing in accordance with the requirements of § 250-40. The Village Clerk shall: [Amended 1-14-2003 by L.L. No. 2-2003]~~

- ~~(1) — Submit notice to the official Village newspaper for publication and mail copies of the notice to the Clerk of any municipality in accordance with the requirements of § 250-40.~~

~~(2) File a copy of the subdivision plat and construction plans at the Village Clerk's office for public review at least five days prior to the public hearing.~~

~~(3) Submit a copy of the subdivision plat and final construction plans to the County Planning Board where a proposed road within the subdivision intersects with a state or county highway or where drainage lines connect directly into any channel lines established by the county, such plat and construction plans to be received at least 10 days prior to the date of the public hearing.~~

~~E. Authorization for filing plat by sections. Prior to granting its approval, the Board of Trustees may permit the plat to be subdivided into two or more sections and may impose such conditions upon the delineation and filing of the sections as it may deem necessary to assure the orderly development of the plat. Approval of the sections, subject to any conditions imposed by the Board, shall be granted concurrently with approval of the plat. If the owner files only a section of an approved plat within 90 days of the date of approval, such section shall encompass at least 10% of the total number of lots contained in the approved plat. Within 30 days of the filing of a section of an approved plat with the County Clerk, the owner shall file the entire approved plat with the Rye Brook Village Clerk. The Board of Trustees may deny approval of any subsequent section if a prior approved section has not first been satisfactorily completed.]~~

H. Approval of plat in Sections. IN granting conditional or final approval of a plat in final form, the Planning Board may permit the plat to be subdivided and developed in two or more sections and may in its Resolution granting conditional or final approval state that such requirements as it deems necessary to insure the orderly development of the plat be completed before said sections may be signed by the duly authorized officer of the Planning Board. Conditional or final approval of the sections of a final plat may be granted concurrently with conditional or final approval of the entire plat, subject to any requirements imposed by the Planning Board.

~~[F. Action by applicant. Based upon the Board of Trustees resolution, the applicant shall have the final subdivision plat and construction plans revised, if necessary, in accordance with said resolution and submit 10 copies of such revised maps to the Building Inspector. Any performance bond which is to be posted shall be submitted to the Village Attorney. The Village Attorney shall be responsible for determining and certifying to the Board of Trustees whether or not the surety, form, sufficiency and manner of execution of the bond is acceptable.]~~

I. Approval and certification of final plats. Within five business days of the adoption of the Resolution granting conditional final approval of the

final plat, such plat shall be certified by the clerk of the planning board as having been granted conditional or final approval and a copy of such resolution and plat shall be filed in such clerk's office. A copy of the resolution shall be mailed to the owner. In the case of a conditionally approved plat, such resolution shall include a statement of the requirements the plat shall be signed by said duly authorized office of the planning board and a copy of such signed plat shall be filed in the office of the Village Clerk. Conditional approval of a final plat shall expire within one hundred eighty days (180) after the date of the adoption of the resolution granting conditional approval unless such requirements have been certified as completed. The Planning Board may extend by not more than two additional periods of ninety (90) days each the time in which a conditionally approved plat in final form must be submitted for signature if, in its opinion, such extension is warranted by the particular circumstances.

J. [G] Approval of construction plans. The construction plans, revised as necessary to meet the requirements of the Planning Board [of Trustees] resolution, shall be endorsed by the Chairperson [Mayor] or other duly authorized member of the Board as "approved" prior to the signing of the plat or the beginning of any construction work within the proposed subdivision.

K. [H] Final approval of subdivision plat. The Chairperson [Mayor], or other duly authorized member of the Planning Board [of Trustees], shall endorse the Board's final approval on the plat only after all required improvements have been completed in accordance with the Board of Trustees approval of the plat and construction plans or, alternatively, after a bond of the required amount and surety has been filed and after all other required conditions of the resolution of approval, including the payment of all fees, have been complied with. The performance bond shall be approved by the Board of Trustees and also approved by the Village Attorney as to form, sufficiency, and manner of execution. The final subdivision or re-subdivision plat shall include the following designation and legend, which shall appear on the plat: "This Subdivision Plat is subject to all requirements and conditions set forth in the final subdivision resolution of the Village of Rye Brook dated

_____, " Said endorsement shall be by signature and date on the original of the plat (which shall be returned to the applicant for filing) and on a print of the plat (which shall be retained in the record filed in the Village Office). [Amended 12-15-1992 by L.L. No. 2-1992].

L. [I] Filing plat with County Clerk. The approved plat shall be filed with the Westchester County Clerk, Division of Land Records, within

sixty-two (62) [90] days of the date of the Board of Trustees' signing. The approval of any plat not so filed shall expire sixty-two (62) [90] days from the date of signing. The Planning Board [of Trustees] may extend such sixty-two (62) [ninety-] day period, as provided in §7-728 of the Village Law, upon written request by the applicant.

- M. [F] Submission of copies of filed plat. The applicant shall submit five (5) copies of the final plat, showing the endorsement of the County Clerk, to the Building Inspector within thirty (30) days of the date of filing.

~~[K. Submission of copies of subdivision resolution to purchaser. The subdivider shall be obligated to furnish a copy of the final resolution of the Board of Trustees granting subdivision approval or resubdivision to each purchaser of a lot in the subdivision prior to the transfer of title of said lot. The subdivider shall be required to present to the Village Attorney a verification that said notice has been given in the form of a receipt signed by the purchaser. [Added 12-15-1992 by L.L. No. 2-1992]~~

Section 39: Section § 219-22, "Completion of improvements or filing of bond" of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-22. Completion of improvements or filing of bond.

After adoption of a resolution approving a final subdivision plat, and before the plat is endorsed by the Chairperson or other authorize officer of the Planning Board [Board of Trustees], the applicant shall be required to complete, at his expense and without reimbursement by the Village or any special district, all street and other improvements as shown on the approved construction plans or otherwise specified in the resolution or, as an alternative, file with the Village Clerk a bond in an amount fixed by the Planning Board [of Trustees] in its resolution as sufficient to secure to the Village the satisfactory construction, installation and completion of the required improvements. The current License and Fee Schedule is on file in the Village Clerk's office. Such bond shall state the period within which the required improvements must be completed, which period shall be that specified in the resolution of the Planning Board which term shall not exceed three (3) years unless the term of the bond is extended by the Planning Board with the consent of the parties thereto. [Board of Trustees resolution.] All improvements shall be completed to the satisfaction of the Planning Board [of Trustees] in accordance with the approved construction plans and the requirements of these regulations and the Village Construction Standards and Specifications.

A. Failure to complete improvements.

- (1) Where a bond is not filed. If all required improvements are not completed within the period specified in the [Board of Trustees] resolution of approval, such approval shall be deemed to have expired, unless,

upon request of the applicant, the period has been extended by resolution of the Planning Board [~~of Trustees~~].

(2) Where a bond is filed. If all required improvements are not completed within the term specified by the resolution of the Planning Board [~~Board of Trustees~~] and set forth in the filed bond and if no application for the extension of such period and bond has been made by the applicant and approved by the Planning Board [~~of Trustees~~], the Board may thereupon declare said bond to be in default and collect the sum remaining payable there under, and, upon receipt of the proceeds thereof, the Village shall install such improvements as are covered by the bond and are commensurate with the extent of the building development that has taken place in the subdivision but not exceeding, in cost, the amount of such proceeds.

B. Modification of bond.

(1) Extension of period specified in bond. The time period specified for the completion of all required improvements, as set forth in the resolution of the Planning Board and bond, may be extended only by resolution of the Planning Board [~~of Trustees~~] upon request by the applicant setting forth, in detail, the amount of work which has been completed, reasons for failure to complete the remainder of the work within the specified period, the maximum estimated time required to complete the remainder of the work and the time period extension which is requested. A modification of the bond documents shall be subject to the approval of the Board of Trustees.

(2) Reduction of bond. An applicant may request, in writing, that the Board of Trustees authorize a reduction in the amount of the bond. Such request shall itemize the extent of required improvements already completed, the estimated cost of improvements remaining to be completed, and the amount of bond reduction requested. The Planning Board [~~of Trustees~~] may, if it determines that sufficient required improvements have been installed to warrant such action, recommend to the Board of Trustees a reduction in [~~reduce~~] the face amount of the bond by an appropriate amount so that the new amount will cover the cost in full of all required improvements remaining to be completed, and any security deposited with the bond may be reduced proportionately with the approval of the Board of Trustees. [Amended 12-15-1992 by L.L. No. 2-1992]

C. Modification of requirements. If, at any time, either before or during the course of construction of the required improvements,

it is determined by the Planning Board [~~of Trustees~~] that unforeseen conditions make it necessary to modify the location or design of any improvements, the Planning Board may modify the terms and conditions of the approval so as to require such change as may be necessary to comply with the spirit and intent of the Board's original approval and to conform to accepted engineering practices. If such modification affects the scope of work covered by a bond, the Board may require or allow appropriate modification of such bond subject to approval of the Board of Trustees.

Section 40: Section § 219-23, "Inspection of improvements" of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-23. Inspection of improvements.

- A. Inspection required. The Director of Public Works, or his designee, shall be responsible for inspecting required improvements during construction to ensure their satisfactory completion and, upon such completion, shall furnish the Planning Board [~~of Trustees~~] with a statement to that effect. If the Director of Public Works determines that any of the required improvements have not been constructed in accordance with the approved plan, the applicant shall be responsible for properly completing said improvements. Failure of the Director of Public Works to carry out inspections of required improvements during construction shall not in any way relieve the applicant or the bonding company of their responsibilities related to the proper construction of such improvements.
- B. Inspection of stages of construction.
 - (2) The applicant shall not proceed to work on any stage subsequent to the first stage until the work of the previous stage has been inspected and approved by the Director of Public Works or his designee. In the case of any other improvements, the Director of Public Works, or his designee, shall inspect the work at such progressive stages as he shall specify, and he shall certify to the Planning Board [~~of Trustees~~] that the work was inspected by him and was in accordance with the approved plans and specifications.
- C. Certificate of construction. At such time as the applicant has completed construction of all required improvements, he shall furnish to the Director of Public Works three copies of as-built plans and profiles which show the actual location of all paved streets, culverts, headwalls, drains, manholes, catch basins, sidewalks, curbs, utility lines and equipment, monuments, street signs, street trees and all other required improvements, as constructed, and all other pertinent information, such as cross sections of the streets at intervals determined by the Director of Public Works, the culvert and drain grades, sewer grades, sidewalk and curb grades and invert elevations at manholes. Such plans and profiles shall bear a dated certification by a professional engineer or licensed

surveyor to the effect that the data shown thereon was accurately determined by field survey. If the location or accuracy of improvements does not, in the opinion of the Planning Board [~~of Trustees~~], fully comply with the approved construction plans and specifications, the Planning Board and the Board of Trustees shall have the right to refuse to sign the final plat or release the bond until such situation is corrected.

Section 41: Section § 219-25, “Waiver of required improvements” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-25. Waiver of required improvements.

The Planning Board [~~of Trustees~~] may waive, subject to appropriate conditions, the provision of any or all such improvements and requirements as, in its judgment of the special circumstances of a particular plat, are not requisite in the interest of the public health, safety and general welfare or which, in its judgment, are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

Section 42: Section § 219-26, “Certificates of occupancy for structures on bonded streets” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-26. Certificates of occupancy for structures on bonded streets.

A certificate of occupancy shall not be issued for a structure within a subdivision where the improvements are guaranteed by a performance bond unless it is determined by the Board of Trustees that both of the following conditions have been complied with:

A. Status of street improvements. The improvement of the street or streets giving access to the structure has progressed to a stage deemed adequate by the Planning Board [~~of Trustees~~] to render safe all-weather vehicular access for both routine and emergency purposes.

Section 43: Section § 219-27, “Covenants and agreements” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-27. Covenants and agreements.

A. Copies of all covenants or deed restrictions that are intended to apply to all or any part of the proposed subdivision or re-subdivision shall be submitted by the subdivider to the Planning Board [~~of Trustees~~] and the Village Attorney prior to final subdivision approval.

Section 44: Section § 219-29, “Minimum requirements” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-29. Minimum requirements.

The Planning Board [~~of Trustees~~], in considering an application for the subdivision of land, shall be guided by the following considerations and standards, which standards shall be deemed to be the minimum requirements for the convenience, health, safety and welfare of the village.

Section 44: Section § 219-30, “General” of the Code of the Village of Rye Brook is amended to read as follows:

§219-30. General

(B) Preservation of natural features.

(2) Existing natural features which are of ecological, aesthetic or scenic value to residential development or to the village as a whole, such as wetlands, watercourses, water bodies, rock formations, stands of trees, historic spots and similar irreplaceable assets, shall be preserved, insofar as possible, through harmonious design of the subdivision, and, where appropriate, the Planning Board [~~of Trustees~~] may require the inclusion of such features as permanent reservations.

D. Frontage on improved streets. The area proposed to be subdivided shall have frontage on and direct access to a street duly placed on the Official Map, and if such street is private, it shall be improved to the satisfaction of the Planning Board [~~of Trustees~~] or there shall be a bond held by the village to guarantee such improvement.

Section 45: Section § 219-31, “Streets” of the Code of the Village of Rye Brook is amended to read as follows:

§219-31. Streets.

C. Intersections. Cross (four-cornered) street intersections shall be avoided insofar as possible, except at important traffic locations. A distance at least equal to the minimum required lot width, but not less than one hundred fifty (150) feet, shall be maintained between center lines of offset intersecting streets. Within sixty (60) feet of the center of an intersection, streets shall be at approximately right angles, and grades shall be limited to one and five-tenths percent (1.5%). When two (2) streets intersect at an angle of less than seventy-five degrees (75°), special pavement, channelization, right-of-way and/or sight easement restrictions may be required by the Planning Board [~~of Trustees~~].

D. Continuation of streets into adjacent properties.

(1) The arrangement of streets shall provide for their construction between adjacent properties where such continuation

is determined by the Planning Board to be necessary for proper traffic movement, effective fire protection, efficient provision of utilities, snow removal and other services and/or where such continuation is in accordance with the Village Long-Range Development Plan. Alternatively, if a street continuation is not determined to be warranted by the circumstances or would result in unsafe traffic conditions or otherwise jeopardize the public safety and welfare, the Planning Board [~~of Trustees~~] may require such street to be terminated short of the boundary lines of the subdivision.

(2) Where a continuation of a street beyond the boundaries of a subdivision is warranted but the adjacent property is undeveloped and the street must dead-end temporarily, the Planning Board [~~of Trustees~~] may require that the right-of-way and all improvements be extended to the property line. A temporary circular turnaround shall be provided on all temporary dead-end streets in excess of one hundred (100) feet in length, with a notation on the plat that land outside the normal street right-of-way shall revert to abutting property owners upon continuation of the street. The length of temporary dead-end streets shall normally be limited to not more than double the permitted length of permanent dead-end streets.

E. Permanent dead-end streets. Where a street does not extend to the boundary of a subdivision and its future continuation is not required by the Planning Board, it shall be separated from such boundary by a distance not less than the minimum required horizontal circle dimension. The Planning Board [~~of Trustees~~] may require the reservation of an easement to the boundary to accommodate utilities, drainage facilities and/or pedestrian traffic. A circular turnaround shall be provided at the end of a permanent dead-end street. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length, exclusive of the turnaround, to eight times the minimum required horizontal circle dimension for the zoning district in which it is located. [~~Amended 3-24-1998 by L.L. No. 2-1998~~]

F. Solar access considerations. To permit maximum solar access to proposed lots and future buildings, wherever reasonably feasible, consistent with other appropriate design considerations, new streets shall be located on an east-west access. This encourages houses sitting with the maximum exposure of roof and wall area to the sun. The Planning Board shall also consider the slope of the property and the nature and location of existing vegetation as they affect solar access.

H. Design standards for new streets. Streets shall meet the design standards set forth in the table included at the end of this chapter. Street classifications may be indicated on the Village Long-Range Development Plan or may be determined by the Planning Board [~~of Trustees~~]. Standards are not shown for streets which would be built by the state or county.

Section 46: Section § 219-32, “Improvements” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-32. Improvements.

A. Street improvements. Streets shall be graded and improved with pavement, sidewalks, curbs, gutters, street lighting standards, street signs, street trees, water mains, sanitary sewers, storm drains, fire alarm signal devices, fire hydrants and other utilities, except that the Planning Board [~~of Trustees~~] may waive, subject to appropriate conditions, such improvements as it considers are not requisite in the interest of the public health, safety and welfare. The subdivider shall install underground service connections to the property line of each lot before the street is paved. Except where waivers are granted, all such grading and street improvements shall conform in all respects to these regulations and to the Village Construction Standards and Specifications.

B. Drainage improvements.

(1) The subdivider may be required by the Planning Board [~~of Trustees~~] to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible or in perpetual unobstructed easements of appropriate width and shall be constructed in accordance with the Village Construction Standards and Specifications.

(2) Drainage facilities shall, in each case, be large enough to accommodate potential runoff from their entire upstream drainage area, whether inside or outside the subdivision, based on a one-hundred-year storm and assuming conditions of maximum potential development within the watershed as permitted by the Zoning Law. The applicant shall be responsible for submitting such computations to the Director of Public Works in sufficient detail to make possible the ready determination of the adequacy of the proposed drainage installations, and the Director of Public Works shall be responsible for reviewing these and preparing recommendations for the Planning Board [~~of Trustees~~].

(3) The Planning Board [~~of Trustees~~] may also require the subdivider to prepare a study of the effects of the subdivision on existing downstream drainage facilities. Where such study or the Planning Board [~~of Trustees~~] after an independent analysis determines that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Planning Board [~~of Trustees~~] shall notify the owner of such downstream facility of such potential condition and may withhold approval of the subdivision until provision has been made for the correction of said potential condition.

D. Other improvements.

(1) Monuments.

- (a) Monuments shall be required wherever deemed necessary by the Planning Board [~~of Trustees~~] to enable all property lines to be readily reproduced on the ground. In general, monuments shall be located no more than five hundred (500) feet apart on street lines, preferably at street, lot or easement corners or at points of curvature or tangency on curved streets and spaced to be within sight of one another along lines entirely within the street right-of-way.
- (3) Street lighting standards. When required by the Planning Board [~~of Trustees~~], street lighting standards, of a design and location specified in the Village Construction Standards and Specifications, shall be provided and installed by the subdivider.
- (4) Sanitary sewers and sewerage facilities, water mains and water supply facilities and fire hydrants. Where required by the Planning Board [~~of Trustees~~], the subdivider shall install sanitary sewers and sewerage facilities and/or water mains and water supply facilities and fire hydrants of the type and in a manner specified in the Village Construction Standards and Specifications.
- (5) Fire alarm signal devices. Where required by the Planning Board [~~of Trustees~~], the subdivider shall install fire alarm signal devices, including necessary ducts, cable and other connecting facilities, of a type and in a manner and location prescribed by the appropriate fire district or other municipal agency having jurisdiction.
- (6) Street trees. The Planning Board [~~of Trustees~~] may require the planting of street trees. Such trees shall be of a hardwood variety indigenous to the neighborhood and shall be at least five (5) inches caliper at a height of five (5) feet above ground level. Where they are required by the Board of Trustees, such trees shall be planted along both sides of the street, within the street right-of-way, and spaced approximately forty (40) feet on center.
- (7) School bus pickup areas. The Planning Board [~~of Trustees~~] may require that the subdivider reserve, clear, grade, pave and otherwise improve an area of such size and location as will provide a safe and suitable place for the use of children awaiting school buses. In general, the size of such area shall not be less than one hundred (100) square feet, and no dimensions shall be less than eight (8) feet. Such area shall be included within the street right-of-way and shall be maintained by the holder of fee title to the street. The layout and design shall be subject to Planning Board [~~of Trustees~~] approval.

Section 47: Section § 219-33, "Lots" of the Code of the Village of Rye Brook is amended to read as follows:

§219-33. Lots

B. Driveway. Approximate driveway locations shall be shown on the construction plans. The maximum driveway gradient to the building site shall not exceed ten percent (10%), and the intersection of driveways with the road shall be so oriented and graded that vehicles may use the driveways safely. The Planning Board [~~of Trustees~~] may require that the applicant submit necessary topographic and design information to demonstrate that the lot layout will allow driveways that meet these criteria and provide proper drainage.

C. Lot dimensions.

(1) Except as provided elsewhere in these regulations or otherwise permitted by the Board of Trustees, lot area and dimensions shall comply with at least the minimum standards of the Zoning Law for the district in which they are located. Where lots are more than double the minimum required area, the Planning Board [~~of Trustees~~] may require that they be arranged so as to allow for further subdivision and the opening of future streets where necessary to serve such potential lots, all in compliance with the Zoning Law and these regulations. Where, in the opinion of the Planning Board [~~of Trustees~~], lots of larger than minimum size are required for purposes of proper drainage, water supply, waste disposal or the preservation of important ecological features, the Planning Board may require such oversized lots as a condition of plat approval.

(2) Side lot lines shall generally be at right angles to street lines (or radial to curving street lines) unless the Planning Board [~~of Trustees~~] allows a variation from this rule to give a better street or lot arrangement. Dimensions of corner lots shall be large enough to allow for erection of buildings observing the minimum front yard setback from both streets.

(3) Where a proposed subdivision includes an existing residence larger in size than can appropriately be placed on a lot of the minimum size permitted in the zoning district, the Planning Board [~~of Trustees~~] may require that the lot be of such size and relationship to the proposed street system that the structure will be an appropriate and harmonious part of the subdivision.

D. Access from collector streets. Lots shall not, in general, derive access from a collector street but shall front on a minor interior street. Where driveway access from a collector street may be necessary for two (2) or more adjoining lots, the Planning Board [~~of Trustees~~] may require that such lots be served by a combined access drive in order to limit the possible traffic hazard on such street. Any such driveways, where permitted, shall be designed in such a way as to provide adequate and convenient area for the turnaround of vehicles so as to avoid requiring them to back into traffic on such streets.

E. Double frontage lots. Lots fronting on two (2) streets, other than corner lots, shall be avoided except where deemed essential by the Planning Board [~~of Trustees~~] in order to provide separation of residential development from major or collector streets or to overcome problems of topography or orientation. The Planning Board [~~of Trustees~~] may require access limitations and/or buffer landscaping for such double frontage lots where the Planning Board determines that such measures would be appropriate.

F. Water bodies. If a subdivision contains a water body, or portion thereof, lot lines shall be drawn so as to distribute the entire ownership of the water body among the fees of the adjacent lots, unless the Planning Board [~~of Trustees~~] approves an alternate plan whereby the ownership of and responsibility for the safety of the water body is so placed that it will not become a village responsibility. No more than twenty-five percent (25%) of the minimum lot area required under the Zoning Law may be satisfied by land which is under water or defined as a "wetland" by the Wetlands Law.

G. Access across a watercourse. Where a watercourse separates the buildable area of a lot from the street by which it has access, provision shall be made for the installation of a bridge, culvert or other drainage facility, of a design approved by the Planning Board [~~of Trustees~~] based upon, among other considerations, a recommendation of the Director of Public Works, to provide satisfactory access across such watercourse for fire, police and other emergency equipment.

H. Subdivision with land in two (2) or more zoning districts or municipalities.

(1) In general, a lot should not be divided by a zoning district or municipal boundary. If it is, however, necessary for a zoning district boundary to cross a lot, such lot shall be designed so that it can be readily developed in accordance with the standards of the more restrictive zoning district. If it is necessary for a municipal boundary line to cross a lot, the Planning Board [~~of Trustees~~] may require suitable legal agreements to assure that the two (2) portions of the lot will not be separated in the future and that the portion of the lot in the adjoining municipality will not be used for any purpose that would make it nonconforming if the entire lot were located within the Village of Rye Brook.

Section 48: Section § 219-34, "Reservations and easements" of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-34. Reservations and easements.

A. Park reservations.

(1) General standards. The Planning Board [~~of Trustees~~] may require that land be reserved within subdivisions for a park or

parks suitably located for playground or other recreational purposes. Such locations shall be designated on the Village Long-Range Development Plan or Official Map or as otherwise deemed appropriate by the Planning Board [~~of Trustees~~]. Each reservation shall be of suitable size, dimensions, topography and general character and shall have adequate street access for the particular purpose or purposes envisioned by the Planning Board [~~of Trustees~~]. The area shall be shown and marked on the plat as "Reserved for Park Purposes."

(2) Minimum size.

(b) In general, sites reserved for park purposes shall have an area of at least one (1) acre. The Planning Board [~~of Trustees~~] may require the location of such areas along the boundary of a subdivision so that additional land may be added at such time as the adjacent property is subdivided.

(3) Ownership of park area. The ownership of reservations for park purposes shall be clearly indicated on the plat and established in a manner satisfactory to the Planning Board [~~of Trustees~~] so as to assure their proper future continuation and maintenance.

(4) Cash payment in lieu of reservation. Where the Planning Board [~~of Trustees~~] determines that a suitable park or parks of adequate size cannot be properly located in a subdivision, or where such a reservation is otherwise not appropriate or practical, the Planning Board [~~of Trustees~~] may require, as a condition to approval of any such plat, a payment to the village of a sum determined for such cases by the Board of Trustees.

B. Widening or realignment of existing streets. Where a subdivision borders an existing street which is narrower than the recommended right-of-way width as specified for such streets in these regulations or where a subdivision borders an existing street planned for widening or realignment in such a way as to require the use of some land in the subdivision, the Planning Board [~~of Trustees~~] may require the subdivision plat to show such areas which shall be marked "Reserved for Street Realignment (or Widening) Purposes." Land reserved for such purposes may not be counted in satisfying yard or area requirements of the Zoning Law.

D. Slope easements. Where determined appropriate by the Planning Board [~~of Trustees~~], said Planning Board may permit an embankment alongside a proposed street to extend beyond the normal right-of-way of such street, provided that a slope easement is granted, conveying to the holder of fee title of the street the right to enter the premises for the purpose of maintaining such slope. Where the embankment slope is located on private land outside the subdivision, such easement shall be permitted only where the appropriate rights have been secured in a form satisfactory to the Village Attorney and suitable for recording in the office of the County Clerk.

F. Easements for pedestrian access. The Planning Board [~~of Trustees~~] may require, in order to facilitate pedestrian access from streets to schools, parks or neighboring areas, the reservation of perpetual unobstructed easements of at least ten (10) feet in width for such purposes and the construction of walkways thereon.

Section 49: Section § 219-38, “Preliminary Plat” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-38. Preliminary plat.

The location of all existing structures and pertinent features, including railroads, water bodies, watercourses, wetlands, rock outcroppings, wooded areas, major trees and stone walls that may influence the design of the subdivision, plus accurate topography at a vertical contour interval of not more than two (2) feet. The topographic data shall be determined by field survey unless the Planning Board [~~of Trustees~~] specifically waives this requirement and/or permits the substitution of topographic information obtained from other sources determined satisfactory for the particular case.

I. Where the preliminary plat includes only a portion of an applicant's contiguous holding, a sketch at a scale of not less than one (1) inch equals two hundred (200) feet, indicating the probable future street system, lot arrangement and location of park and other reservations for the remaining portion of the tract. Such sketch shall be for the purpose of guiding the Planning Board [~~of Trustees~~] in reviewing the proposed preliminary plat and shall include topographic data with a vertical contour interval of not more than ten (10) feet, plus any other information determined necessary by the Planning Board [~~of Trustees~~].

J. Such additional information as may be required by these regulations, the Zoning Law or the Planning Board [~~of Trustees~~].

Section 50: Section § 219-39, “Preliminary construction plans” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-39. Preliminary construction plans.

D. Such additional information as may be required by these regulations, the Zoning Law or the Planning Board [~~of Trustees~~].

Section 51: Section § 219-40, “Final subdivision plat” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-40. Final subdivision plat.

K. Endorsement of the owner in the form approved by the Planning Board [~~of Trustees~~] of the Village of Rye Brook upon the advice of the Village Attorney.

L. Such additional information as may be required by these regulations, the Zoning Law or the Planning Board [~~of Trustees~~].

Section 52: Section § 219-41, “Final construction plans” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-41. Final construction plans.

Final construction plans and profiles shall be prepared for all proposed streets and other required improvements. Plans shall be drawn at the same scale as the final plat and on the same size sheets, but not on the same sheets. The following information shall be shown:

C. The Planning Board [~~of Trustees~~] may require, where steep slopes exist, cross sections showing existing and proposed elevations of all new streets every one hundred (100) feet at five (5) points on a line at right angles to the center line of the street, said elevation points to be at the center line of the street, each property line and points twenty-five (25) feet inside each property line.

H. Such additional information as may be required by these regulations, the Zoning Law or the Planning Board [~~of Trustees~~].

Section 53: Section § 219-42, “Power of Planning Board to modify zoning standards” of the Code of the Village of Rye Brook is amended to read as follows:

§ 219-42. Power of Planning Board [of Trustees] to modify zoning standards.

Where the Board of Trustees has adopted a specific resolution for a specific parcel to authorize a cluster development pursuant [~~Pursuant~~] to § 7-738 of the Village Law, the Planning Board [~~of Trustees~~] is permitted, simultaneously with the approval of subdivision plats, to modify applicable zoning standards in order to create conservation subdivisions. Such authorizations, if and as they may be adopted, must specify the lands to which they are applicable and shall be subject to the conditions set forth in those regulations as well as any special conditions established by the Board of Trustees.

Section 54: Section §245-3, “Definitions” of the Code of the Village of Rye Brook is amended to read as follows:

§ 245-3. Definitions.

APPROVAL AUTHORITY -- The administrative board or public official empowered to grant or deny permits under this chapter, to require the

posting of bonds as necessary and to revoke or suspend a permit where lack of compliance with the permit is established. The approval authority shall be:

A. The Planning [Village] Board for any wetlands activity requiring a permit as specified in § 245-4B of this chapter. For any regulated activity for which other approvals by the Planning [Village] Board are necessary such as subdivision or site plan approval and for all activities proposed for state-designated wetlands, the approval authority shall be the Planning [Village] Board, notwithstanding that the type of activity may otherwise fall within the scope of an administrative permit.

B. The Village Engineer of the Village of Rye Brook for any wetlands activity requiring an administrative permit as specified in § 245-4C of this chapter, except where such activity is proposed for state-designated wetlands or where the approval authority is the Planning [Village] Board.

C. Notwithstanding the foregoing provisions, the approval authority for a wetlands permit in a PUD shall be the Village Board of Trustees.

DATE OF RECEIPT OF APPLICATION BY APPROVAL

AUTHORITY -- When the approval authority is the Planning Board or the Village Board, an application shall be deemed received by the approval authority on the date of the first regular meeting of the approval authority following the filing of the application and supporting plans pursuant to the provisions of this chapter. When the approval authority is the Village Engineer, the date of receipt shall be the date that a complete application is filed with the Village Engineer pursuant to the provisions of this chapter.

PERMIT -- That form of written authorization by the designated approval authority as required by this chapter for the conduct of a regulated activity within a wetland or wetland/watercourse buffer. A permit will include a wetland permit issued by the Village Board or the Planning Board in accordance with this chapter or an administrative permit issued by the Village Engineer in accordance with this chapter.

Section 55: Section § 245-4, "Permit requirements" of the Code of the Village of Rye Brook is amended to read as follows:

§ 245-4. Permit requirements.

C. Regulated acts which require an administrative permit. The following activities are determined by this chapter to be limited in scope and limited in potential impact. The approval authority for these activities shall be the Village Engineer, who will authorize, if appropriate, the issuance of an administrative permit. The Village Engineer may set reasonable conditions

as part of any such approval or, at his/her discretion, refer any application for an administrative permit to the Planning [Village] Board for its review and action. Activities for which an administrative permit may be applied are:

Section 56: Section § 245-5, “General procedures for permits” of the Code of the Village of Rye Brook is amended to read as follows:

§ 245-5. General procedures for permits.

A. Procedure for permits when the Village Board or the Planning Board is the approval authority.

Section 57: Section § 245-7, “Public hearing and notice” of the Code of the Village of Rye Brook is amended to read as follows:

§ 245-7. Public hearing and notice.

A. Where the Village Board of the Planning Board is the approval authority, the Village Board may hold a public hearing, in its discretion, on the application. Insofar as practicable, any public hearing on the application shall be integrated with any public hearing required or otherwise held pursuant to any other law, including the State Environmental Quality Review Act. Notice of a public hearing shall comply with § 250-40 of the Village Code.

Section 58: Section § 245-18, “Review and appeal” of the Code of the Village of Rye Brook is amended to read as follows:

§ 245-18. Review and appeal.

A. When the approval authority is the Planning Board or the Village Engineer, any applicant may appeal to the Village Board any order or decision of the Village Engineer or any agent or subordinate thereof issued or made pursuant to or within the scope of this chapter. Such appeal must be commenced by filing with the Village Board a notice of appeal within 30 days after service of such order or decision or after notice of such order or decision is given, as the case may be.

B. Judicial review. Any determination, decision or order of the Village Board that is issued or made pursuant to or within the scope of this chapter may be judicially reviewed pursuant to Article 78 of the New York Civil Practice Law and Rules in the Supreme Court for Westchester County, provided that available administrative remedies have been exhausted.