

VILLAGE OF NEW SQUARE

LOCAL LAW No. 1

[\(Edited for Rockland County GML Comments 11-19-19\)](#)

A local law regulating and restricting the construction and use of buildings and the use of land in the village of New Square, which became a law August 16, 1967 and was amended on June 26, 2007, is hereby repealed and amended in its entirety.

Be it enacted by the Board of Trustees of the Village of New Square as follows:

ARTICLE I

GENERAL PROVISIONS

1.1 Adoption of provisions.

There is hereby established and adopted, pursuant to Article 7 of the Village Law of the State of New York, and for the purposes set forth therein, a Zoning Law in accordance with a comprehensive plan for the development of the Village of New Square in the Town of Ramapo, Rockland County, New York. This chapter implements a comprehensive plan designed for the protection and promotion of the public health, safety, and welfare.

1.2 Findings and purposes.

The purpose of this law is to create a zoning code for the Village of New Square that will guide and control future development in the Village as undeveloped land becomes scarcer while the Village population continues to grow. The provision of this law will help promote the public health, safety and morals and the general welfare of the community as set forth in section one hundred seventy-seven of the Village Law of the state of New York.

ARTICLE II

WORD USAGE AND DEFINITIONS

~~A.~~ 2.1 Word usage. For the purpose of this law, certain words and terms are herein defined as follows:

~~B.A.~~ Words used in the present tense include the future terms; words in the singular number include the plural number and words in the plural number include the singular number; unless the obvious construction of the wording indicated otherwise.

~~C.B.~~ The word "shall" is mandatory, not

directory. Unless otherwise specified, all distances shall be measured horizontally and at right angles to the line in relation to which the distance is specified. The word “building” shall include the word “structure”; the word “lot” shall include the word “plot”; the word “used” shall be deemed also to include “construction”, “reconstructed”, “altered”, “placed” or “moved”.

~~D.C.~~ _____ The terms "land use" and "use of land", shall be deemed also to include "building use" and "use of building." The word "person" includes an individual person, a firm, a corporation, a co-partnership and any other agency of voluntary action. The word "adjacent" means "nearby," and not necessarily "contiguous."

~~E.D.~~ _____ The word “village” means the Village of New Square, Rockland County, New York. The terms "Village Board," "Planning Board," "Board of Appeals," "building inspector," and "health officer," mean the respective boards and officers of said village. The words "County Planning Board", mean the Rockland County Planning Board.

2.2 Definitions. For the purposes of this chapter, certain words and terms used herein are defined as follows:

Alteration.

Any construction or renovation to an existing structure other than a repair ~~or addition~~.

Alteration, structural.

Any change in the supporting member of a building such as bearing walls, columns, beams or girders.

Attic.

The space between the ceiling beams of the top story and the roof rafters. No attic shall be used for habitable living space unless it meets New York State Fire and Building Code standards, and has received a building permit from the Building Inspector.

Basement.

A story partly below curb level but no more than one story below street grade (see “grade, street.”) No basement shall be used for habitable living space unless it meets New York State Fire and Building Code standards, and has received a building permit from the Building Inspector..

Building.

Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattels.

Building, accessory.

A supplemental building, the use of which is incidental to that of a main or principal building and located on the same lot therewith.

Building, area.

___The total of areas taken on a horizontal plane at the main grade level of the principal building and ___all accessory buildings exclusive of uncovered porches, terraces and steps.

Building, detached. A ___building surrounded by open space on the same lot.

Building, frontage.

The extent of a parcel of land along a public or private street, opposite the front of the building.

Building, front line of.

The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches whether enclosed or unenclosed but does not include steps.

Building, height.

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Building, main.

A building in which is conducted the principal use of the lot on which it is located.

Dwelling unit.

A residence providing complete, independent living facilities for one or more persons living as a family, including permanent provisions for living, sleeping, eating, cooking, and sanitation, as defined under the New York State Fire and Building Code.

~~A building designed or used as the living quarters for one or more families.~~

~~**Dwelling, one family.** A detached building designed for or occupied exclusively by one family.~~

~~Dwelling, one family detached. A house accommodating but a single family and having two side yards.~~

~~i. **Dwelling, single family attached plus accessory apartment [townhouse].**~~

~~One owner occupied unit with an attached accessory rental unit separated by a common wall from adjacent units and with a side lot line extending from the front lot line to rear lot line and through the center of the common wall.~~

~~**Dwelling, two family.** A building designed for or occupied exclusively by two families living independently of each other.~~

~~v. **Dwelling, multifamily.** A building or portion thereof used or designed~~

~~as a residence containing three or more dwelling units.~~

Family.

One or more persons occupying the premises and living as a single housekeeping unit.

Floor area ratio (FAR)

The measurement of a building's floor area in relation to the size of the lot/parcel that the building is located on. FAR is expressed as a decimal number, and is derived by dividing the total floor area of the building by the total area of the parcel (building area ÷ lot area). FAR does not include the garage footprint, but may include basement or attic space if occupied for habitable living space.

Garage, private.

An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased for a nonresident of the premises.

Grade, street.

The elevation of the center line of the streets upon which a lot fronts, as officially established by the village authorities. If there is no officially established grade, the existing grade of the street shall be taken as the street grade

Grade, finished.

The completed surface elevations of lawns, walks and roads.

Home occupation.

An occupation or a profession which:

- a. Is customarily carried on in a dwelling unit or a building or other structure accessory to a dwelling unit, and
- b. Is carried on by a member of the family residing in the dwelling unit, and
- c. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and
- d. Which conforms to the following additional conditions:
 1. The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
 2. Not more than one person outside the family shall be employed in the home occupation.
 3. There shall be no exterior display, no exterior sign, no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building.
 4. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.

Hospital.

Unless otherwise specified, the term “hospital” shall be deemed to include any place for the diagnosis, treatment or other care of human ailments.

Line, street.

The dividing line between the street and the lot.

Lot.

A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this law.

Lot, area.

The total area within the property lines excluding external streets.

Lot, corner.

A parcel of land at the junction of and fronting on two or more intersecting streets. The Planning Board shall have the discretion to determine which of these streets will count for frontage requirements.

Lot, coverage.

That percentage of the plot or lot area covered by the building area, including main buildings and accessory buildings (see “Building, area”).

Lot, depth of.

A mean horizontal distance between the front and rear lot line, measured in the general direction of its side lot lines.

Lot, interior.

A lot other than a corner lot.

Lot lines.

The lines bounding a lot as defined herein.

Lot line, zero.

A lot line that occurs when one or more boundary walls of a dwelling or structure is built right against the property line in order to maximize buildable space.

Lot, through.

An interior lot having frontage on two parallel or approximately parallel streets.

Lot, width of.

The width, measured at the building setback line. .

Neighborhood or community center.

A building, including exterior space, used for neighborhood or community gatherings.

Nonconforming use.

Use of a building or land that does not conform to the regulations as to use for the district in which it is situated, which was lawful at the time this chapter, or amendments thereto, became effective.

Nursing or convalescent home.

Any dwelling with less than fifteen sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

Nursery school.

A school designed to provide daytime care or instruction for two or more children from two to five years of age inclusive, and operated on a regular basis.

Open space.

An unoccupied space open to the sky on the same lot with a building.

Parking space.

The area required for parking one automobile, which in this law is held to be an area ~~eight~~nine feet wide and twenty~~two~~ feet long not including passageways.

Poultry processing facility.

Operation of a poultry processing facility is permitted as a Special Permit Use in the C district only. All such uses shall be in strict compliance with all Federal, State, and County Laws for the operation of such facilities and shall comply with regulations set forth in § 5.6.

Sign.

A "sign" is any structure or part thereof, or any device attached to a structure or painted or represented on a structure, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. A "sign" includes any "billboard" but does not include the flag, pennant, or insignia of any nation, or group of nations, or of any state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement, or event. However, a "sign" as defined herein, shall not include a similar structure or device located within a building.

- A. –A "business sign" which directs attention to a business or profession conducted or to products sold upon the same lot. A "FOR SALE" or "TO LET" sign relating to the lot on which it is displayed shall be deemed a "business sign".
- B. An "advertising sign" is a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same lot.

- C. An "illuminated sign" is any sign designed to give forth any artificial light, or designed to reflect such light deriving from any source which is intended to cause such light or reflection.
- D. An "electronic message change sign" is a sign or device that displays a message composed of multiple small lighted points that are or may be controlled by electronic mechanism so as to vary its display, either to vary the text of the message itself or the manner in which the lighted message is displayed (e.g., flashing, appearing to move across a screen).

Special use permit.

An authorization of a particular land use which is permitted in a zoning ordinance or local law, subject to requirements imposed by such zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and will not adversely affect the neighborhood if such requirements are met.

Story.

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

Story, half.

A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

Story, height of.

The vertical distance from the top surface of the floor to the top surface of the floor next above. The height of the topmost story is the distance from the top surface of the floor to the top surface of the ceiling joists.

Street.

A public or private way which affords the principal means of access to abutting properties.

Use.

The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

Use, accessory.

A use customarily incidental and subordinate to the principal use or building and located on the same lot with such Principal use or building.

Variance, area.

The authorization of the Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the application zoning regulations.

Variance, use.

The authorization of the Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

Way.

A street or alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

Yard.

An occupied space open to the sky, on the same lot with a building or structure.

Yard, front.

An open unoccupied space on the same lot with a building situated between the street line and a line connecting the parts of the building setting back from and nearest to such street line, and extending to the side lines of the lot.

Yard, rear.

An open unoccupied space on the same lot with a main building extending the full width of the lot and situated between the rear line of the lot and rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot, or the center line of the alley if there be an alley, and the rear line of the building.

Yard, side.

An open unoccupied space on the same lot with a main building, situated between the side line of the building and adjacent side line of the lot and extending the length of the building.

ARTICLE III
ESTABLISHMENT OF DISTRICTS

3.1. The village of New Square is hereby divided into the following districts:

- R Residential
- P Public
- C Commercial
- NS Neighborhood Shopping

3.2. Said districts are bounded as shown on a map entitled “Zoning Map of the Village of New Square” herewith, and certified by the Clerk of the Village of New Square, which accompanies and

which, with all explanatory matter thereon, is hereby made a part of this law.

3.3 The location of district boundaries as shown on the zoning map shall be interpreted as follows:

- A. Where district boundaries are indicated as following the center line of streets or highways, or the right of way line of streets or highways, such center lines shall be construed to be such boundaries.
- B. Where district boundaries are indicated as following lot lines, such lot lines shall be construed to be said boundaries.

ARTICLE IV APPLICATION OF REGULATIONS

4.1. Prohibitions.

- A. No building or land shall hereafter be used or occupied and no building or any part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
- B. No building shall hereafter be erected or altered to exceed the height, accommodate a greater number of families, occupy a greater percentage of lot area, have narrower or smaller rear yards, front yards, or side yards, than is specified herein for the district in which such building is located.
- C. No part of a yard or the open space about any building required for the purpose of complying with the provisions of this law shall be included as a part of a yard or the open space similarly required for another building.

4.2 Use and Bulk Tables. The general regulations affecting the use of buildings and the bulk and arrangement of buildings, material and/or equipment occupying the land, and the bulk and arrangement of material and/or equipment occupying land in connection with a ~~nonbuilding non-~~building use are hereby established as shown or stated in the annexed tables which are appended and made a part of this law.

- A. The tables of general bulk and use regulations are referred to as the “Bulk Table” and “Use Table,” respectively.
- B. Use restrictions and Use Table. No structure or land shall be used except as provided in the annexed Use Table.
- C. Bulk regulations and Bulk Table. All structures, materials, and equipment shall conform to

the Bulk Table regulations in placement and all dimensions.

- D. The Use and Bulk tables are read from the top down, district by district. A previous district is a district listed earlier in such sequence and a subsequent district is a district listed later in such sequence.

ARTICLE V

SUPPLEMENTARY REGULATIONS

5.1. **Signs.** No sign, billboard, advertising display, poster or other such device, shall be erected except as expressly permitted in this law, and except state, county, town and village signs as are necessary for public purposes. The regulations contained in this section shall apply to all signs and zoning districts, regardless of designation, of the Village of New Square.

- A. A residence and home occupation may have one sign, which sign shall not be over two square feet and shall not be ~~nonilluminated-illuminated~~
- B. Places of worship shall be permitted _____ of signs, and these may be indirectly illuminated.
- C. Premises for sale or rent shall be permitted one non-illuminated sign, not over eight square feet, and shall be no less than fifteen feet from any property line.
- D. One sign is permitted per commercial tenant, provided that such signboard shall not be over forty square feet in area, and shall be parallel to the face of the building or structure and it shall not project more than one foot beyond the building.
- E. No outdoor advertising billboards or signs shall be permitted.
- F. No flashing signs, reflective signs, or any sign device that interferes with, competes for attention with, or may be mistaken for a traffic signal or sign shall be permitted.

5.2. Fences.

- A. Yard requirements of this law will not prohibit any necessary retaining wall, or any fence, wall or hedge provided that such fence, wall or hedge shall not exceed six feet in height in side and rear yards, or four feet in height in any front yard.
- B. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and the line connecting them at a point twenty-five feet from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot line within ten feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to

remain within such distance of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

5.3. **Topsoil.** No person, firm or corporation shall strip, excavate, or otherwise remove top soil for sale, or for use other than on the premises from which the same shall be taken except in connection with the construction or alteration of a building on such premises and excavation or grading incidental thereto.

5.4 **Height exceptions.** The height limitations of this law shall not apply to spires, cupolas, domes and penthouses not used for occupancy; not to chimneys, ventilators, skylights, water tanks and all necessary mechanical appurtenances usually carried on above roof level. Such features shall be erected only to such height as is necessary to accomplish the purpose they are to serve.

5.5. **Yards.**

A. A paved terrace at ground level shall not be considered in the determination of yard sizes or lot coverage, provided that such terrace is unroofed and without walls or other forms of enclosure. Such terrace may have a guard rail, not exceeding four feet in height, and shall not project into any yard at a point closer than six feet from any lot line.

B. An open or enclosed porch shall be considered a part of the building in determination of the size of the yard or lot coverage.

C. Yard regulations of this law shall not prohibit temporary structures used in keeping with religious and historical custom, provided that they are not constructed within ten feet of any lot line.

ARTICLE VI

SPECIAL PERMIT USES

6.1. **Special permit uses.**

A. The special uses for which conformance to additional standards is required shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this ordinance.

B. A plan for the proposed development of a site for a permitted special use shall be submitted with an application for a special permit, and such plan shall show location of all buildings, driveways, landscaping, parking and other pertinent information that may be necessary to determine if the special use meets the requirement of the law.

C. The special permit use shall be such that it will be in harmony with adjacent uses and with the

proposed development of the district and will not discourage the appropriate development and use of adjacent land and buildings. The special permit use must also meet specific criteria delineated below for each use.

D. Operations in connection with any special use shall not be more objectionable to nearby property by reason of traffic congestion, traffic hazard, fumes, noise, vibration, and lighting than would be the operations of any permitted use, and will not otherwise impair the public health, safety, morals, convenience, prosperity and other aspects of the general welfare of the community.

E. Poultry processing facility. All facilities are subject to Special Use Permit approval and must comply with the following:

1. Processing of poultry shall take place inside a closed building in a confined area to prevent transmission of offensive sounds or odors.
2. Off-street parking for customers, employees, trucks, or other transport vehicles must be provided.
- 3.. The main entrance to the facility shall be from a Village street.
4. The site must be served by an approved sanitary sewer connection and an approved oil and grease trap in accordance with all laws, rules, and regulations. This shall include, but not be limited to, all sewage, processed and unprocessed poultry parts, manure, entrails, blood, skin, and bones.
5. The facility shall have all required Federal, State, and County licenses and approvals, and shall comply with all Federal, State, County, and local health and safety regulations.
6. The maximum area for the keeping and processing of poultry shall not exceed the bulk requirements of the “Commercial” district in which it is permitted. The Planning Board shall determine the maximum number of animals to be permitted on site for processing as part of the Special Permit approval, with consideration given to humane caging and slaughter practices.
7. The facility hours shall be determined by the Planning Board as part of the Special Permit review.
8. Exterior storage areas for vehicle and trailer storage shall be fenced and screened from adjacent properties and from the public right of way.
9. Waste processing byproducts shall be disposed of in accordance with all applicable Federal, State, County, and local laws and regulations. At a minimum, waste shall be disposed of within forty-eight (48) hours of being produced. Waste shall be

stored in an airtight, chilled (minimum temperature of 40 degrees Fahrenheit) containers and shall be confined in fully enclosed structures.

10. All buildings and structures shall comply with the setbacks set forth in the Zoning Law.
 11. All loading and unloading shall be screened from view from adjacent properties and streets.
 12. A 20 foot wide buffer shall be maintained between the poultry processing lot and surrounding residential properties. A screened buffer shall also be required between said lot and a State highway.
- F. Neighborhood or community center. All facilities located within the “Residential” district are subject to Special Use Permit approval and shall comply with the following:
1. Each neighborhood or community center shall provide adequate parking for staff.
 2. Deliveries shall be limited to the hours of eight o’clock a.m. to six o’clock p.m.
 3. Each facility shall adhere to the following hours of operation: eight o’clock a.m. to six o’clock p.m.
- G. Nursing or convalescent home. All facilities located within the “Residential” district are subject to Special Use Permit approval and must comply with the following:
1. Each neighborhood or community center must provide adequate parking for staff.
 2. Deliveries must be limited to the hours of eight o’clock a.m. to six o’clock p.m.
 3. Each facility shall adhere to the following hours of operation for public visitation: eight o’clock a.m. to eight o’clock p.m.
 4. Each facility must be bordered on at least one side by an existing or planned multifamily, public, neighborhood shopping, or commercial use.
- H. Multifamily
1. Each ~~facility~~ multifamily building must be bordered on at least one side by an existing or planned multifamily, public, neighborhood shopping, or commercial use.

ARTICLE VII

SITE PLAN REGULATIONS

All permitted principal and special permit uses, with the exception of single and two family homes, shall be subject to site plan review and approval by the Village Planning Board as set forth below.

7.1 Application for site plan review. Application for site plan review shall be made to the Village

Planning Board. The Planning Board shall be authorized to undertake all necessary reviews and make all determinations, including approvals or disapprovals, of such applications. The Planning Board shall, before approving a site plan hereunder, find that all of the following conditions and standards have been met, which shall be in addition to those applicable to certain uses and/or districts as set forth in § 7.7, and such other requirements as are applicable to specific uses and set forth below:

7.2 Required Plans. Plans for a proposed development shall be submitted with a completed site plan application. The plans shall show the location ~~for~~of all existing and proposed buildings, parking areas, traffic access and circulation drives, water supply lines, sanitary sewers, storm drainage facilities, street lighting, open spaces, landscaping, topography, special features, and any other pertinent information about neighboring properties that may be necessary to determine and provide for the enforcement of this chapter.

7.3 The proposed site plan shall show the general layout of roads (if applicable), driveways, parking areas, traffic accesses, water supply lines, sanitary sewers, storm drainage facilities, street lighting, open spaces, landscaping, topography, special features, and any other pertinent information about neighboring properties that may be necessary to determine and provide for the enforcement of this chapter.

7.4 The following drawings will be required for a complete application. [Where appropriate, information required on separately listed drawings below may be combined on one or more drawings.](#) All drawings must be signed and sealed by an architect, engineer, surveyor, or landscape architect, as appropriate.

A. Cover sheet with location map and list of plans.

B. Architectural rendering. Architectural elevation views showing color and materials for all building sides, roof, and decks.

C. Existing conditions survey. Show [north arrow, scale, bulk table, floor area ratio, topography, structures, surface types, property boundaries, adjacent features within 200 feet, utilities.](#)

D. Site plan. Show roads, curbs, sidewalks, walkways, walkway easements, ADA ramps, driveways, buildings, parking, pavement markings, traffic control signs, trash enclosures.

E. Grading plan. Show site plan features with existing and proposed grading.

F. Utility plan. Show water service, sewer, electric connections, hydrants.

G. Lighting plan. Show location of fixtures, light intensity (lumens) across site.

H. Drainage plan. Show stormwater [calculations, retention requirements, pipes and](#)

structures.

I. Landscape plan. Show street trees, lawn, building foundation, and other plantings.

J. Details plan(s). Show all relevant construction details, e.g. pavement, curb and storm inlet details, trash enclosures, light fixtures, etc.

7.5 Planning Board review.

A. All site plan applications will be subject to review in accordance with the regulations of the New York State Environmental Quality Review Act (SEQRA) prior to any site plan decisions.

B. The Planning Board will follow all requirements for site plan review stipulated in New York State Village Law.

C. All site plan applications must be approved by a majority of the Planning Board, except in the case where a county-mandated review under § 239-m of the General Municipal Law recommends modification or disapproval of a proposed action, in which case a vote of a majority plus one will be required.

D. All site plan applications shall require drawings signed and sealed by appropriate professional(s) licensed by the State of New York Department of Education.

E. All site plan approvals will include a resolution specifying what the approval is for, and listing all conditions of approval. All site plan denials will include a resolution specifying the reasons for the denial.

F. A site plan approval is valid for one year, during which time a building permit must be obtained and work progressed. Two six-month extensions may be granted, for cause, on application to the Planning Board. Once work has progressed the site plan approval is valid until work is complete and a certificate of occupancy is issued.

7.6 Site plan hearing. After review of the site plan application materials, the Planning Board shall set a public hearing in accordance with Article 7 of the Village Law. The Planning Board shall thereafter render a report which approves, disapproves, or approves subject to stated modification. An approval shall also constitute special permit approval, and the applicant developer may thereafter apply for all required building permits in accordance with such special permit and may be required to post performance bonds to assure the installation of all necessary roads, utilities, and other required features.

ARTICLE VIII
SUBDIVISION REGULATIONS

- 78.1 Should a lot hereafter be formed from the part of a lot already occupied by a building, such separation shall be affected in such a manner as not to impair conformity with any of the requirements of this chapter with respect to the existing building and all yards and other required spaces in connection therewith, and no permit shall be issued for the erection of a building on the new lot thus created unless it complies with all the provisions of this chapter and any rules and regulations which have been or may be adopted for the subdivision of the land.
- 8.2. The Planning Board shall be authorized and empowered to approve preliminary and final plats of subdivisions showing lots, blocks, or sites, with or without streets or highways, within the Village of New Square, pursuant to § 7-738 of NYS Village Law. It shall do so pursuant to the procedures of said Village Law and according to the standards contained herein. It shall be further authorized, for this purpose, to prepare and adopt additional regulations governing subdivisions for Village Board of Trustees approval.
- 78.3 The Planning Board shall also be authorized and empowered, pursuant to § 7-738 of NYS Village Law and simultaneously with the approval of a plat or plats, to modify applicable provisions of this Zoning Law, subject to the conditions set forth in § 7-738 of the Village Law.
- 78.4 The Planning Board shall also be authorized and empowered to simultaneously grant preliminary and final approvals of those subdivisions not involving the construction of new improvements (minor subdivisions), provided that lots intended for zero lot line development shall not be granted final approval until such time as building foundations are installed and final lot line metes and boundaries are matched to such foundations.
- 78.5 Minor lot line adjustments of no more than 500 square feet shall be exempt from the subdivision procedural requirements contained herein, provided three copies of a plan prepared by a licensed land surveyor or professional engineer have been submitted describing the conveyances involved by metes and bounds and in sufficient detail to determine the situation fits the criteria below. To qualify as a minor lot line adjustment, the action shall:
- (1) Involve the transfer of land between two existing parcels that will:

- (a) Improve the ability of one or both parcels to comply with setback or other building standards; or
- (b) Increase suitability of one or both parcels for building development; or
- (c) Add to the availability of open space; or
- (d) Resolve a boundary line dispute or produce a corrected deed; and

(2) Not reduce the ability of either lot to comply with the applicable standards of this chapter.

78.6 The Planning Board shall, within 30 days of the receipt of the lot line adjustment plans, determine whether they comply with the exemption criteria found above. Should it fail to act in the provided time or find the plans do not meet the criteria, such plans shall be processed in accordance with subdivision requirements. If it finds they do qualify as a lot line adjustment, the Board shall sign the plans with the following notation: "These plans are acknowledged by the Village of New Square, and for recording purposes only, to represent an exempt lot line adjustment in accord with applicable provisions of the Village of New Square Zoning Law. No subdivision approval is required or given." No person shall record plans for any lot line adjustment without so first obtaining the Planning Board's acknowledgement.

8.7 All approved subdivisions shall have deeds filed with the County Clerk.

ARTICLE ~~VIII~~VIV NONCONFORMING USES

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the following provisions shall apply to any conforming uses existing therein:

- 89.1. **Unsafe structures.** Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition as referenced and in accordance with Local Law # 2 of 1968.
- 89.2 **Alterations.** A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate fifty percent (50%) of the assessed value of the building unless said building is converted to a conforming use.

- 89.3 Extension.** A nonconforming use shall not be extended, but the extension of conforming use to any portion of the nonconforming building shall not be deemed an extension of the nonconforming use.
- 89.4 Construction approved prior to the amendment to the law.** Permits granted prior to the change in district boundaries shall be held valid provided that construction of the building shall have been diligently prosecuted within three months of the date of such permit and the entire building shall be completed within a year of such date.
- 89.5 Restoration.** No building damaged by fire or other causes to the extent of more than fifty percent of its assessed value shall be repaired or rebuilt except in conformity with the regulations of this law.
- 89.6 Discontinuance.** Whenever a nonconforming use has been discontinued for a period of one year, regardless of intent, such use shall not thereafter be re-established and any future use shall be in conformity with the regulations of this law.
- 89.7 Reversion prohibited.** Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.
- 89.8 Displacement.** No nonconforming use shall be extended to displace a conforming use.
- 89.9 Amortization.** Notwithstanding any other provision contained herein all nonresidential nonconforming uses (except those permitted as a home occupation as defined) located in any R district within the village shall cease within one year of the effective date of this law.

ARTICLE ~~VIVX~~

ADMINISTRATION AND ENFORCEMENT

- 910.1 Enforcement.** This ordinance shall be enforced by the building inspector or other official, who shall be appointed by the Village Board of Trustees. No building permit or certificate of occupancy shall be issued by him except where all the provisions of this law, and the provisions of the Village Law of the State of New York, have been complied with.
- 910.2 Building permit.** No building or structure shall be erected, added to, or structurally altered until a permit therefor has been issued by the building inspector or proper authority. All applications for such permits shall be in accordance with the provisions of the building code.
- 910.3 Certificate of occupancy.**
A. No land shall be used or occupied and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy has been issued by the building inspector or proper authority in accordance with the provisions of the building code.

B. Under such rules and regulations as may be set by the zoning board of appeals, a temporary certificate of occupancy may be set by the building inspector or proper authority for a period not to exceed thirty days.

109.4 Violations and Penalties.

A violation of this law is an offense punishable by a fine not exceeding fifty dollars or by imprisonment not exceeding sixty days or by both. Any person may file a complaint of a violation of this law. All such complaints must be in writing and shall be filed with the building inspector, who shall record such complaint and immediately investigate and report thereon to the Board of Trustees.

ARTICLE XI
BOARD OF APPEALS

~~10~~11.1 Board of Appeals.

A. Creation of the Board of Appeals.

A Board of Appeals is hereby created. Said board shall consist of five members. The board shall elect a chairman from its membership and shall appoint a secretary and shall prescribe rules for the conduct and procedure. The Board of Appeals shall be appointed by the Village Board of Trustees.

B. Powers and authorities of the Board of Appeals. The Board of Appeals shall have all the power and duties prescribed by Article 7 of the New York State Village Law and by this law, which are more particularly specified as follows:

1. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this law, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
2. To appoint alternative members of the Board of Appeals as needed.

3. Variances.

A. Area variance. To approve an area variance wherein the Board may vary or adapt the strict application for any of the requirements of this law, the Board of Appeals shall, pursuant to Village Law § 7-712-b(3), take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

- (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- (3) whether the requested area variance is substantial;
- (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

B. Use variance. To approve a use variance wherein the Board may vary or adapt the strict application for any of the requirements of this law, the Board of Appeals shall, pursuant

to Village Law § 7-712-b(2), require that all applicants demonstrate that the applicable zoning regulations and restrictions have caused unnecessary hardship by showing that for each and every permitted use under the zoning regulations for the particular district where the property is located:

(1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

(3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and

(4) that the alleged hardship has not been self-created.

4. The Board of Appeals shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

5. The board of appeals shall act in strict accordance with the procedures specified by law and by this law.

C. Applications.

1. All appeals and applications made to the board shall be in writing, on forms prescribed by the board.

2. Every appeal or application shall refer to the specified provision of the law involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Every variance application shall include reference to the factors delineated above pursuant to Village Law § 7-712-b.

3. At least twenty five days before the date of hearing required by law on an application or appeal to the Board of Appeals, the secretary of said board shall transmit to the Planning Board, a copy of said application or appeal, together with a copy of the notice of the aforesaid hearing and shall request that the Planning Board submit to the Board of Appeals its opinion on said application or appeal and that the planning board shall submit a report of such advisory opinion prior to the date of said hearing. Upon failure of the Planning Board to submit such opinion, the Board of Appeals shall nevertheless proceed with the approval or disapproval of such application.

4. Every decision of the board of appeals shall be by resolution, each of which shall contain a full record of the finding of the board in the particular case, and be filed with the Town Clerk.

ARTICLE XII
MISCELLANEOUS PROVISIONS

++12.1 Amendments.

- A. The Board of Trustees may from time to time on motion, or on petition, or on recommendation of the Planning Board, amend, supplement, or repeal regulations and provisions of this law after public notice and hearing.
- B. Every such proposed amendment of change whether initiated by the Board of Trustees, or by petition shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. The board of trustees, by resolution, adopted at a public meeting shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given in accordance with the laws of the State of New York.

++12.2 Interpretation.

In the interpretation and application, the provisions of this law shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety or the general welfare. Whenever the requirements of this law are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

++12.3 Validity. Should any section or provisions of this law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the law as a whole or any part thereof, other than the part so decided to be unconstitutional or invalid.

++12.4 Short title.

This law shall be known and may be cited as “the Village of New Square, New York, Zoning Law.”