



AGENDA
TUESDAY JULY 25, 2023
BOARD OF TRUSTEES
WILLIAM J. VESCIO COMMUNITY CENTER
1 LIBRARY ROAD
WORK SESSION – 6:00 PM

For those members of the public interested in viewing and/or participating in the meeting remotely, visit <https://www.briarcliffmanor.gov/Calendar.aspx?EID=706>

1. Review Agenda Items:
 - a. Swearing in and Appoint of a Police Officer
 - b. Continued Public Hearing Special Use Permit Request – IPPsolar Integration LLC, Chilmark Shopping Center, 1856 Pleasantville Road ***Matter to be adjourned immediately to a date determined by the Board.***
 - c. Continued Public Hearing Special Use Permit Request – 333 South Highland LLC, Skae Power Solutions, 333 South Highland Avenue
 - d. Continued Public Hearing to Amend Chapter 207-6, Vehicles and Traffic, Maximum Speed Limit (School Zone)
 - e. Continued Public Hearing to Amend Chapter 195 of the Village Code to Increase the Income Limits for Real Property Tax Exemptions Available to Senior Citizens
 - f. Authorize Village Manager to Execute Agreements:
 1. Amendment of Access and Utility Easements for Wireless Cellular Agreements
 2. DASNY Grant Disbursement Agreement – Club Trail and Pump Station Decommissioning
 3. DASNY Grant Disbursement Agreement – Purchase of Mini Excavator and Trailer
 - g. Award of Bid - New Parking Lot and Retaining Wall Construction (Cross Access)
 - h. Authorize the Purchase of Equipment for Tri-Village Chlorination Project
 - i. Budget Transfer – Emergency Sewer Repair
2. Discuss: Amending Chapter 186, Streets and Sidewalks, Article V
3. Discuss: Amending Chapter 220-17, Board of Appeals
4. Discuss: Annual Paving Project
5. Advice of Counsel
6. Board of Trustees Concerns

Chapter 186. Streets and Sidewalks

Article I. Street Openings

§ 186-1. Permit required.

No person, firm, company or corporation shall make or cause to be made any opening or excavation by cutting, digging, tunneling or otherwise in or under any street, highway, sidewalk, right-of-way, or public place, whether paved or otherwise, within the Village of Briarcliff Manor, for any purpose whatsoever, except upon compliance with the provisions of this article and the obtaining of a permit to be issued by the Village and the payment of all fees and deposits required as provided herein.

Chapter 186. Streets and Sidewalks

Article V. Installation, Maintenance and Repair of Sidewalks

§ 186-41. Findings.

A pedestrian-friendly environment benefits all residents throughout the Village. The maintenance of existing sidewalks and any newly constructed sidewalks within the Village of Briarcliff Manor in a state of good repair is deemed necessary for the safe passage of pedestrians of the Village of Briarcliff Manor. To further enhance pedestrian accessibility and mobility on existing thoroughfares, local streets, collector streets and other traveled ways, the Village seeks continuity of sidewalks along designated pedestrian routes, and replacement and upkeep of any existing inferior sidewalk infrastructure.

§ 186-42. Definitions.

For the purpose of this article, the following terms shall have the meanings indicated:

APPROVAL AUTHORITY

The approval authority shall be the Planning Board in the instance of any subdivision or site development plan, and the Village Engineer or Superintendent of Highways in all other instances.

CURBLINE

An area marked by the point at which the curbstone of a roadway meets or is adjacent to the sidewalk.

IMPROVED STREET MARGIN

The edge of the traveled street, whether such street is improved by pavement, gravel or some other form of all-weather material.

RIGHT-OF-WAY (ROW)

Generally, the space owned by the Village lying between the improved street margin and the front property line. In the case of a building lot on a local residential road with a twenty-four-foot-wide travel way, this space would typically include a distance of 13 feet from each curblines into the lot, but may include specific lands under an agreement or definition of law.

SIDEWALK

Any area between the curblines and a structure, whether publicly or privately owned, which is used by the public or open to use by the public.

STREET

A thoroughfare which has been placed and designated on the Official Map as a street, and which provides the principal means of access to the abutting property.

§ 186-43. Maintenance requirements.

A.

It shall be the duty of every owner of a parcel of land within the Village of Briarcliff Manor that has an existing sidewalk between that parcel and the improved street margin, or of any parcel on which a sidewalk may be constructed at any time in the future between the parcel and the improved street margin, to maintain that sidewalk in a good, level condition and to repair any broken sections or any unevenness and to maintain that sidewalk to afford safe passage under normal use and weather

conditions. This duty shall apply to the parcel owner irrespective of whether the sidewalk is located on the parcel boundary line or inside the street right-of-way.

B.

It shall be the duty of every owner of a parcel of land within the Village of Briarcliff Manor to maintain that portion of the area located between the parcel boundary and the improved street margin that is not improved by a sidewalk with planted grass kept mowed at a height not greater than four inches.

C.

Any holes or other hazards that may exist in existing sidewalks or future sidewalks shall be filled, and any necessary repairs or replacement shall be performed promptly, weather conditions permitting.

D.

All sidewalks are to be kept free of vehicles, trash, recycling, waste, toys, personal property, signs, obstructions, and any other item that may interfere with, or impede, the safe passage of pedestrians.

§ 186-44. Installation requirements.

Property owners, as applicable below, may be required to install new sidewalks and curbing, or to replace existing sidewalks and curbing, according to Village specifications, at the property owner's sole cost and expense, and at the sole discretion of the approval authority. The determination of the approval authority shall consider the location, use, design, and other attributes of the proposed project, the proximity to bus stops or routes of transportation, the health, safety and welfare of Village residents and passersby, and any other relevant factors. The approval authority's determination hereunder shall include:

A.

Any development subject to § 220-14, Approval of site development plans, Chapter 190, Subdivision of Land, or any other Village approval other than single-family dwellings;

B.

The construction of a new single-family dwelling, where there is an existing sidewalk in the street fronting, adjacent to, or opposite the frontage of the lot of the proposed single-family dwelling;

C.

The alteration of, or addition to, an existing single-family dwelling that affects or increases 50% of the gross floor area of the existing building, as defined in Chapter 220, Zoning, where there is an existing sidewalk in the street fronting, adjacent to, or opposite the frontage of the lot of the proposed single-family dwelling.

§ 186-45. Sidewalk standards.

A.

All new sidewalks and curbing shall meet the design and material standards and requirements of the Village of Briarcliff Manor, as may be amended from time to time, and the Americans with Disabilities Act Accessibility Guidelines and any other relevant state and federal requirements.

B.

All work done pursuant to this section shall be subject to inspection and approval by the Building Department.

§ 186-46. Driveways.

Any driveway area crossing an existing or future sidewalk shall meet the design and material standards of the Village of Briarcliff Manor, and shall blend smoothly with the sidewalk of the abutting or adjacent parcel.

~~§ 186-47. Penalties for offenses; liabilities for injury or damages.~~ § 186-47. Application and approval procedure.

A.

No permit shall be required under this article for any minor maintenance or repair that can be completed without diverting pedestrian traffic or otherwise creating unsafe or hazardous passage within the public right of way.

B.

Application for a permit under this article shall be made to the Superintendent of Public Works in writing, on a form acceptable to the Village, and shall contain the following information:

(1)

The full name, address, phone number, and email address of the applicant.

(2)

The tax lot of the property, and the full name, address, phone number, and email address of the owner or owners of the property on which the operation is to be performed.

(3)

A description of the proposed scope of operation, including the location and duration of any sidewalk closures or anticipated disruptions to pedestrian traffic.

(4)

The anticipated start date and completion date of the proposed operation.

(5)

If requested by the Superintendent of Public Works, a sketch of the proposed operation with dimensions.

(6)

Any additional information which may be reasonably required by the Superintendent of Public Works.

(7)

A signed statement by the applicant that said applicant agrees to perform the proposed operation for which the permit may be granted, in full and strict compliance and in accordance with the conditions of the permit, if issued, and any and all applicable laws, provisions, statutes, and regulations of the Village of Briarcliff Manor, the Department of Public Works, and all relevant state and federal agencies.

C.

(1)

Any permit hereunder shall be issued at the discretion of the Superintendent of Public Works. The granting of such permit shall not be unreasonably withheld.

(2)

Such permit, when issued, shall be effective for a period of time not to exceed seven (7) consecutive calendar days, or, if issued with a building permit for a single-family residential home, for a period not to exceed one year. Such specified period of time may be extended for the completion of the operation, if so requested in writing by the permittee prior to the expiration date thereof, for such additional period

or periods of time authorized by said Superintendent of Public Works, or by a resolution of the Village Board of Trustees. Any extension to the expiration date of a permit shall require payment of an additional permit fee.

§ 186-48. Fees and deposits.

No permit under this article shall be issued by the Superintendent of Public Works until the applicant has first paid all required fees due hereunder, as determined by a resolution of the Village Board of Trustees and as published in the Master Fee Schedule, as may be updated from time to time.

§ 186-49. Penalties for offenses; liabilities for injury or damages.

A.

Any violation of this article shall be punishable by a fine not to exceed the sum of \$500 or by imprisonment for not more the 15 days, or both.

B.

In the event that personal injury or property damage shall result from the failure of any owner or occupant to comply with the provisions of this article, the owner and the occupant shall be liable to all persons injured, or whose property is damaged directly or indirectly thereby, and shall be liable to the Village of Briarcliff Manor to the extent that the Village of Briarcliff Manor is required by law or by any court to respond in damages to any injured party.

§ 186-50. Work by Village employees; collection of costs.

A.

If an owner or occupant of such property fails to maintain sidewalks in accordance with the provisions herein, a Code Enforcement Officer shall serve a written notice of violation upon such owner or occupant by personal delivery, or by posting the violation notice in a conspicuous place upon the premises affected. If a notice of violation is served by posting it upon the premises, a copy thereof shall be mailed to the property owner's last known address.

B.

If an owner or occupant fails, neglects, or refuses to comply with the notice of violation within 30 days of service of the notice of violation as set forth in Subsection **A** above, the Village is hereby authorized and empowered to perform, or have performed, the maintenance so required and pay the cost and expenses of such remediation on behalf of such owner or occupant.

C.

The costs and expenses of any such remediation advanced by the Village under this article, including all penalties, shall be charged against the owner of the property. An itemized memorandum of the costs and expenses incurred by the Village shall be mailed to the persons charged with the violation by certified mail, return receipt requested. The owner or occupant shall pay to the Village all costs and expenses incurred by the Village in curing such violation and all penalties associated with the violation within 30 days of the receipt of the itemized memorandum of costs.

D.

In the event that the amount due to the Village by the owner or occupant is not paid within 30 days following the mailing of the costs and expenses, such costs and expenses shall become and remain

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a lien upon the property that was the subject of the violation and shall be added to and become part of the property taxes to be assessed and levied upon such property by the Village and shall bear interest at the same rate as and be collected and enforced in the same manner as unpaid taxes, until such time as such costs and expenses and interest are fully paid.

Chapter 220. Zoning

§ 220-17. Board of Appeals.

[Amended 5-21-1998 by L.L. No. 2-1998]

The Board of Appeals, as heretofore established pursuant to the Village Law, is hereby continued with all powers and duties prescribed by Village Law and by this chapter, which powers and duties are summarized and more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any of the power of the Board of Appeals that is conferred by §§ 7-712, 7-712-a and 7-712-b of the Village Law. Said Board shall have the power to adopt, from time to time, such rules and procedure not inconsistent with law, as it may determine to be necessary to carry out the provisions of these regulations and to exercise the authority vested in it by the Village Law.

A.

Interpretation. On appeal from an order, requirement, decision or determination made by an administrative official, the Board of Appeals shall decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary line, if uncertainty remains after reference to the rules specified in § **220-3C**, Boundaries.

B.

Variances. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the chapter, the Board of Appeals shall have the power in passing upon appeals to vary or modify the application of any of the regulations or provisions of this chapter relating to the use, construction or alteration of buildings or structures or the use of land, upon application by an appellant, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.

(1)

Use variances. Where because of unnecessary hardship relating to the land an applicant desires to utilize land for a use not allowed in the district in which the land is located, the Board may grant a variance in the application of the provisions of this chapter in the specific case, provided that as a condition to the grant of any such variance the applicant shall demonstrate to the Board, and the Board shall make each and every one of the following findings, that for each and every permitted use under the zoning regulations for the particular district where the property is located:

(a)

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

(b)

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

(c)

The requested use variance, if granted, will not alter the essential character of the neighborhood;

(d)

The alleged unnecessary hardship has not been self-created; and

(e)

That within the intent and purposes of this chapter the variance, if granted, is the minimum variance necessary to afford relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. To this end, the Board may permit a lesser variance than that applied for.

(2)

Area variances. In making its determination, the Board of Appeals shall consider 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 the following factors:

(a)

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.

(b)

Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.

(c)

Whether the requested area variance is substantial in relation to the requirement.

(d)

Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

(e)

Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board but shall not necessarily preclude the granting of the area variance.

(f)

The Board, in the granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate to afford relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. To this end, the Board may permit a lesser variance than that applied for.

(3)

Variances when subdivision, site plan or special permit applications are involved. Where a proposed site plan contains one or more features which do not comply with the zoning regulations, or where a proposed special permit use contains one or more features which do not comply with the zoning regulations, or where a proposed subdivision plat contains one or more lots which do not comply with the zoning regulations, application may be made to the Board of Appeals for an area variance or variances pursuant to Subsection **B(2)**, without the necessity of a decision or determination of an

administrative official charged with the enforcement of this chapter or a referral by an approving agency acting pursuant to this chapter.

C.

Conditions and safeguards. The Board of Appeals, in the granting of both use variances and area variances, may prescribe such reasonable conditions or restrictions applying to the grant of a variance as it may deem necessary in each specific case, in order to minimize the adverse effects of such variance upon the character and property values of the neighborhood or community and to protect the public health, safety and welfare. Such conditions or restrictions shall be directly related to the proposed use of the property. Such conditions or restrictions shall be incorporated in the building permit and certificate of occupancy. Failure to comply with such conditions or restrictions shall constitute a violation of this chapter, and may constitute the basis for denial or revocation of a building permit, certificate of conformance or certificate of occupancy and for all other applicable remedies.

D.

Appeal or application. An appeal shall be taken within 60 days of the order or decision appealed from, by filing with the official or agency from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the ground thereof. The official or agency from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken. A referral to the Board for a variance, or a request for an interpretation, may be made at any time. All such appeals and applications to the Board shall be made by the owner or agent duly authorized, in writing, and shall be on forms prescribed by the Board. Each appeal or application shall fully set forth the circumstances of the case, shall refer to the specific provision of the chapter involved, and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the adjustment that is applied for, and the grounds on which it is claimed that the same should be granted.

E.

Review by other agencies.

~~(1)~~

(1)

Upon receipt of a completed ~~appeal or~~ application, ~~and at least 15 days before the date of any public hearing for review~~, the Secretary of the Board of Appeals shall promptly transmit to ~~the Planning Board of Appeals~~ a copy of the ~~appeal or~~ application and all papers related thereto with a notice of hearing. ~~The Planning Board may, with respect to any such appeal or application, submit a report containing its views and deliberations prior to or at the hearing, copy of which shall be sent to the Planning Board.~~ The Board of Appeals may also forward copies for review and ~~report~~ comments to the Building Inspector, Village Engineer and ~~to other~~ such officials, boards, and agencies of the Village as it deems appropriate.

~~(2)~~

(2)

The Board of Appeals shall refer to the Westchester County Planning Board for its recommendation all matters within the provisions of Article 12B, §§ ~~239-l~~ and 239-m of the General Municipal Law at least 10 days prior to the public hearing.

~~F.~~

(3)

Any interested party may, with respect to any such application, submit comments for consideration prior to or at the public hearing.

F.

Public hearing. The Board of Appeals shall conduct a public hearing on every ~~appeal~~, application or request made pursuant to this chapter. Such public hearing shall be held within a reasonable time ~~from the date an appeal is taken or an application or request is made to the Board, but no earlier than fifteen (15) days from the date the completed application is received by the Board. The Board of Appeals shall meet monthly, quorum permitting. No requirement herein shall mandate that the Board of Appeals meet if no timely, completed application or request is pending before the Board for its consideration.~~

G.

Notice of hearing. Notice of any hearing before the Board of Appeals shall be published by the Village Clerk in the official paper at least five days prior to the date of said hearing. Notice of the hearing shall also be mailed by the Board to any parties having jurisdiction over such appeal, at least five days before such hearing, and shall give any other notice required by law. The applicant shall mail, by certified mail, at least 10 days before such hearing, notice of the hearing to all abutting property owners and to all owners of the property situated directly across a street from the property affected by such appeal, and any other property owners as the Village Clerk or Chairman of the Board of Appeals may determine. Proof of such mailing, in a form acceptable to the Village Clerk, shall be submitted to the Board by the applicant prior to the hearing. The applicant shall be responsible for the cost of publication and mailing of such notice. Such notice shall include a plain-language description of the proposed construction and the variance requested. Further, the applicant shall post a sign, which should be located so that it is visible from the nearest public street, on the property referenced in such application at least 10 days but not more than 20 days prior to the Board of Appeals scheduled hearing on the matter, and for a period of time determined by the Board of Appeals. Such signs shall be issued by the Building Department upon payment by the applicant of an amount to be set forth by resolution by the Village Board of Trustees.

[Amended 10-10-2019 by L.L. No. 5-2019]

H.

Decision. The Board of Appeals shall decide upon the appeal for relief, interpretation or determination within 62 days after the close of said hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board. Every decision of the Board of Appeals shall be by resolution, shall be recorded and shall fully set forth the facts of the case, the findings and the conclusions on which the decision was based. The decision of the Board shall be filed in the office of the Village Clerk within five business days after the day such decision is rendered, and a copy of such resolution shall be mailed to the applicant.

I.

Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reviewed may be made by any member of the Board. A unanimous vote of all members of the Board then present is required for such hearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested by

persons acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.

J.

Fees. Any person or corporation, other than the Village of Briarcliff Manor, making any application to the Board of Appeals under the provisions of this chapter shall pay to the Building Department the sum as set forth in the Schedule of Fees to cover the cost of advertising the notice of hearing, upon each application filed.

K.

Membership.

[Added 5-21-2019 by L.L. No. 1-2019]

(1)

As used in this section, the following terms shall have the meanings indicated:

ALTERNATE MEMBER

An individual appointed by the Village Board of Trustees to serve on the Village of Briarcliff Manor Board of Appeals when a regular member has recused himself or herself or is otherwise precluded from consideration of a matter before such Board or is absent or otherwise unable to participate at a meeting of the Board.

BOARD OF APPEALS

The Board of Appeals of the Village of Briarcliff Manor.

MEMBER

An individual appointed by the Village Board of Trustees to serve on the Village of Briarcliff Manor Board of Appeals.

(2)

Attendance of members at meetings. If a member must miss a meeting, she or he shall provide written notification to the Chair in advance of such missed meeting or as soon thereafter as is reasonably practicable and such member shall be recorded as "excused" for the meeting missed. In the event that a member is absent for three meetings in any one official Village year or without excuse for two consecutive meetings, the Chair shall notify the Board of Trustees in writing and the member may be deemed by the Board of Trustees to have resigned from the Board, and a replacement may be appointed for the balance of the term outstanding.

(3)

Alternate member.

(a)

Purpose. The alternate Board of Appeals member subsection shall apply to appointment, terms, functions and powers of alternate members appointed to serve on the Board of Appeals of the Village of Briarcliff Manor.

(b)

Declaration of policy. As a result of recusals by Board members or other reasons which may keep a member of the Board of Appeals from participating in the consideration of a specific matter before such Board, official business may not always be able to be conducted and may delay or impede adherence to required timelines. The use of alternate members in such instances is hereby authorized pursuant to the provisions of this subsection.

(c)

Authorization. This subsection provides a process for appointing one alternate member to the Board of Appeals to serve when a member has recused himself or herself or is otherwise precluded from consideration of a matter or is absent or otherwise unable to participate at a meeting of the Board.

[1]

The alternate member shall be appointed by the Board of Trustees for a term of one year.

[2]

An alternate member shall have all of the rights, privileges, and responsibilities of a member of the Board of Appeals. When an alternate member is voting or counting toward the calculation or composition of a quorum, that circumstance shall be noted in the minutes of the Board meeting.

[3]

All provisions of state law relating to Board of Appeals member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provision of a local law relating to Board of Appeals members, shall also apply to alternate members.

[4]

An alternate member shall attend meetings of the Board of Appeals, including work sessions, regular meetings, and executive sessions, shall sit with and participate in all deliberations of the Board on all matters, and shall substitute for a member who has recused himself or herself or is otherwise precluded from consideration of a matter or is absent or otherwise unable to participate at a meeting of the Board, but an alternate member shall not vote or count towards the calculation or composition of a quorum unless he or she is substituting for a member.

E.
Review by other agencies.