LOCAL LAW 1-2007

A local law amending the Zoning Ordinance of the Village of Shoreham by adopting a new Article XVI entitled "Design Review," and repealing the current Article XVI, entitled "Board of Architectural Review."

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

"DESIGN REVIEW"

Section 1. Findings and Purpose.

The Board of Trustees hereby finds that excessive uniformity or similarity, dissimilarity or inappropriateness or poor quality of design of the exterior of buildings or structures in the Village, the improper placement or inadequate screening of buildings or structures, or the excessive disturbance of natural features of a site in relation to the surrounding area, adversely affect the desirability of the immediate and neighboring areas for residential purposes by creating a visual or ecological impairment; discourage the most appropriate use of land throughout the Village; impair the benefits of occupancy of existing property; impair the stability and value of both improved and unimproved real property; and contribute to the diminution of the taxable value of real property in such areas and their ability to support municipal services provided for them; and that these detriments, singly and in combination,

adversely affect the health, safety and welfare of the inhabitants of the Village. It is the purpose of this Article to prevent these and other potentially harmful effects by instituting design review procedures for building permit applications, and thus to promote public health, safety and welfare, to conserve the value of buildings, to encourage the appropriate use of land and to sustain and improve the physical and visual appearance of the Village.

Section 2. Design Review Board: Establishment, Members, Powers and Duties.

(a) There is hereby established a Design Review Board which shall consist of three members who shall be residents of the Village and shall serve without compensation. The members of the Design Review Board shall be persons qualified by special training and experience in architecture, art, landscape architecture, land development, community planning, real estate, engineering, law or other relevant business or profession or by reason of civic interest and sound judgment, to determine the effect of a proposed building or structure or alteration, a group of buildings or structures or a plan of building development on the desirability, property values and development of the surrounding areas and the Village as a whole. In addition, two alternate members with such qualifications may be appointed to the Design Review Board each for a one-year term. Such alternate members shall be entitled to serve and function in the place and instead of a regular member when an alternate's presence is necessary to constitute a quorum of the Design Review Board on account of the absence

or inability of a regular member to serve or function. The members and alternate members of the Design Review Board, one of whom shall be appointed as Chairman, shall be appointed by the Board of Trustees. Of the members first appointed, one shall hold office for a term of one year, one for a term of two years and one for a term of three years from and after their respective appointments. Their successors shall be appointed for a term of three years from and after the expiration of the terms of their predecessors in office. The Board of Trustees shall have the power to remove any member for cause. If a vacancy shall occur otherwise than by the expiration of a term, the Board of Trustees shall appoint another person to fill such vacancy for the unexpired term.

(b) Meetings of the Design Review Board shall be held at the call of the Chairman and at such other times as the Design Review Board may determine, and in accordance with subsection (d) of Section 3 of this Article. A majority of the appointed members of the Design Review Board shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the whole Design Review Board shall be required for the Board to take any action under this Article. The Design Review Board shall keep minutes of its proceedings showing the vote of each member upon every question, or, if any member is absent or fails to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

(c) In the case of review of matters referred to it pursuant to Section 3 of this Article, the Design Review Board shall have the power to approve, approve with conditions or disapprove the grant of a building permit.

(d) The Design Review Board shall have the power, from time to time, to adopt, amend and repeal rules and regulations not inconsistent with law or the provisions of this Article, to govern its procedures and for the purpose of carrying out its duties under this Article and carrying into effect the standards set out in Section 4 of this Article. Such rules and regulations shall take effect upon ratification by the Board of Trustees. Every rule or regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Design Review Board shall be filed with the clerk of the Village and shall be a public record.

(e) The Design Review Board shall have the power, subject to the approval of the Board of Trustees, to retain one of more qualified persons to serve as a consultant to it in carrying out its duties under this Article. In the discretion of such Board, any such consultant may participate in its meetings, provided however that such a consultant shall be without vote in regard to any action taken by the Board.

Section 3. Application and Review Procedures.

(a) All applications for building permits filed with the Building Inspector, including proposed amendments, for the construction of a new structure, or for the alteration of a building or group of buildings involving the exterior appearance thereof,

shall be referred to the Design Review Board within ten business days after (i) a determination by the Building Inspector that the permit applications are complete and either (x) comply in all respects with the Building Code and all applicable provisions of the Zoning Ordinance; or (y) would so comply but for required variances that are noted; and (ii) payment by the applicant of a Design Review Board fee in such amount as may be established by resolution of the Board of Trustees which shall be in addition to such other fees as may be required under the applicable ordinances of the Village.

(b) Prior to the formal submission of an application to the Design Review Board, a preliminary conference may be held between the applicant and the Design Review Board or a subcommittee thereof or a consultant, as the Design Review Board may determine. The purpose of such a conference is to enable the applicant to inform the Design Review Board of the intended proposal, to provide the Board with an opportunity to review the design concept, to inform the applicant as to potential problems and concerns, to assist applicants in complying with this Article, and to inform the applicant as to any additional information that may be required for formal submission. Such conference or any statements or representation made therein shall not be construed as limiting the authority of the Design Review Board under this Article in reviewing a formal submission. The Design Review Board may also adopt such other pre-application review procedures to assist applicants in complying with the provisions of this Article as it may from time to time deem necessary or expedient.

(c) For any matter referred to the Design Review Board by the Building Inspector pursuant to subsection (a) above, the applicant shall submit architectural plans showing the location and dimensions of proposed structures or alterations, as well as exterior elevations and materials to be used. In all cases where the application is for a new building, or where an alteration either affects more than 200 square feet of existing floor area or increases the floor area of an existing structure by more than 200 square feet, or where the proposed construction is deemed by the Design Review Board to be a significant alteration of the land upon which the building is to be located, a site plan in such detail as the Design Review Board may require shall be provided, and the Design Review Board may require such a site plan in any other case in which it deems appropriate. The Design Review Board by regulation may from time to time specify in greater detail the contents of submissions for review, and may, in connection with any application, require that additional plans or information be submitted as it deems appropriate for carrying out its duties under this Article.

(d) The Design Review Board shall meet or hold a preliminary conference within ten business days of the referral of an application by the Building Inspector. The determination of the Design Review Board pursuant to subsection (c) of Section 2 of this Article shall be issued within thirty days of the acknowledgment by the Design Review Board that it is in receipt of complete plans and all information required by the Design Review Board pursuant to subsection (c), above, all in form and substance

satisfactory to the Design Review Board, unless such period is extended by the Design Review Board, prior to the expiration of such thirty-day period, for good cause. Good cause shall include, without limitation, the Design Review Board's need for additional or continued technical analysis that could not reasonably have been completed during such thirty-day period or the Design Review Board's need for additional plans or information from the applicant that could not reasonably have been earlier foreseen.

Section 4. Standards.

In examining plans, the Design Review Board shall disapprove any permit where it finds that the proposed construction, reconstruction or alteration would be detrimental to the surrounding properties as to cause or contribute to one or more of the harmful effects set forth in Section 1 of this Article by reason of:

(a) Excessive similarity to any other structure or structures existing or for which a permit has been issued or to any other structure included in the same permit application, or any structure located on a contiguous lot any portion of which is within 500 feet of any boundary of the subject site, in respect to one or more of the following features of exterior design and appearance: substantially identical facade; substantially identical size and arrangement of either doors, windows, porticos or other openings or breaks in the facade facing the street, including reverse arrangement; or other significant identical features, such as but not limited to material, roofline and height or other design elements.

(b) Excessive dissimilarity in relation to any other existing structure, or structure for which a permit has been issued, or to any other structure included in the same permit application, or any structure located on a contiguous lot any portion of which is within 500 feet of any boundary of the subject site, in respect to one or more of the following features: bulk, mass, dimensions, materials, location of structures on site, quality of construction or architectural design.

(c) Inappropriate relationship to the contours, shape or natural characteristic of the site or inappropriate location of features incorporated into the structure, including but not limited to windows or air-conditioning equipment, or of features ancillary to the structure included but not limited to patios or refuse storage areas.

(d) Inappropriate building site selection or location of improved surfaces including driveways, or excessive site disturbance in relation to the surrounding environmental, ecological, natural, or other features of the subject and neighboring lands, including but not limited to drainage patterns, topography, vistas, existing patterns of tree and shrub growth, property lines, and accessibility or proximity to wetlands, preserves, historic sites and areas.

(e) Positive findings under subsections (a), (b), (c) or (d), above, shall state that the excessive similarity, excessive dissimilarity, inappropriateness or excessive site disturbance is of such a nature as to be expected to provoke one or more of the

harmful effects set forth in Section 1 of this Article and that the finding is not based on personal preference as to taste or choice of an architectural style.

Section 5. Effect of Action by Design Review Board.

The Building Inspector shall not issue any permit with respect to an application referred to the Design Review Board pursuant to this Article unless the application has been approved by the Board. In the event the Design Review Board approves the application with conditions, the Building Inspector shall not issue any permit until all such conditions have been met or complied with to the satisfaction of the Board. The Building Inspector shall issue the permit applied for only if: (a) the application has been approved by the Design Review Board; (b) any applicable conditions have been satisfied; and (c) the application conforms to the provisions of all other applicable laws and ordinances. Any proposed amendments relating to plans and applications previously reviewed and approved hereunder, shall be subject to the procedures set forth herein for the approval of original plans if the proposed amendment affects any of the matters in the original application that were the subject of review and approval or conditional approval by the Design Review Board.

Section 6. Appeals.

Any person aggrieved by any action of the Design Review Board may appeal to the Board of Appeals of the Village in the same manner as is provided for

Zoning Ordinance appeals. The Board of Appeals shall proceed in the same manner as is provided for zoning appeals and with the same power and authority vested in the Board of Appeals when passing upon appeals before it under the provisions of the Village Law, provided however, that such appeal shall be conducted solely upon the record made before the Design Review Board which the Board of Appeals shall not enlarge or vary. The Board of Appeals may reverse, modify, affirm or remand for further consideration the action of the Design Review Board.

Section 7. Applicability.

This Article shall replace Article XVI, entitled "Board of Architectural Review," which is hereby repealed, and shall be effective upon filing with the Secretary of State. This Article shall be applicable to all applications for building permits which are pending on the effective date hereof or which are filed after such date.