

**INCORPORATED VILLAGE OF OLD BROOKVILLE
LOCAL LAW NO. 5-2007
“ADOPTION OF REGULATIONS FOR
THE SUBDIVISION OF LAND”**

A Local Law to repeal both the “Rules of Procedure of Planning Board” and the “Rules and Regulations for Filing Plats for Approval” both adopted by the Board of Trustees on May 21, 1956 and to adopt new “Regulations for the Subdivision of Land” for the Incorporated Village of Old Brookville.

BE IT ENACTED, by the Board of Trustees of the Incorporated Village of Old Brookville as follows:

SECTION 1. Both the “Rules of Procedure of Planning Board” and the “Rules and Regulations for Filing Plats for Approval” both adopted by the Board of Trustees on May 21, 1956 are hereby repealed and new “Regulations for the Subdivision of Land” for the Incorporated Village of Old Brookville are hereby adopted as follows:

ARTICLE I

Approval Required; Exceptions

§ 31.1 Planning Board approval required.

No person, firm, corporation, partnership or association, as owner, lessee or contract vendee, shall divide any parcel of land in the village into two or more parcels, lots, plots or sites of land by sale, gift, devise, exchange, offer or unconditional contract unless such division of land has been finally approved by the village's Planning Board pursuant to the procedures outlined in these regulations.

§ 31.2 Exceptions.

The foregoing provisions of § 31.1 of this Article I shall not apply to, and there is no prohibition against, transfer of land between owners of contiguous property within the village, provided that:

- A. Such transfer is a transfer by sale, gift, devise, exchange, offer or contract by which the land so transferred becomes part of the identical ownership of land contiguous thereto; and
- B. No new lot is created by such transfer; and
- C. Such transfer does not create any lot sizes, setbacks or uses which do not conform to the requirements of Chapter 30, Zoning, of the Code of the Incorporated Village of

Old Brookville as it then exists, in all respects.

ARTICLE II

General Provisions

§ 31.21 Authority.

By authority of Article 7 of the Village Law, as amended, and the resolution adopted by the Village Board on August 20, 2007 pursuant thereto, the Planning Board and Board of Trustees have adopted these regulations for the subdivision of land within the village and, pursuant to section 1610 of the County Government Law of Nassau County, as amended, of land within 300 feet of the boundaries of the Village of Old Brookville.

§ 31.22 Purpose.

For the purpose of providing for the appropriate growth and development of the village and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population and to promote and preserve the natural character of the village, the Board of Trustees has authorized and empowered the Planning Board to approve plats and the development of plats entirely or partially undeveloped and which have been filed in the office of the Clerk of Nassau County prior to the appointment of the Planning Board and the grant to such Board of the power to approve plats.

§ 31.23 Jurisdiction.

No person, firm or corporation proposing to make or having made a subdivision, as defined herein, within the territorial limits of the Village of Old Brookville shall make any contract for the sale or shall offer to sell such subdivision or any part thereof or shall proceed with any development, as defined herein, until he or it has obtained from the Planning Board of the Village of Old Brookville approval of the proposed subdivision and/or development pursuant to the procedure outlined in these regulations.

§ 31.24 Plats straddling municipal boundaries.

Whenever access to the subdivision can be had only across land in another municipality, the Planning Board may request assurance from the Village Attorney that an access road has been legally established and shall ascertain that such access road is adequately improved or that a performance bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines shall be laid out so as not to cross village boundary lines.

§ 31.25 Resubdivision.

Resubdivision of a lot which has been created and approved under this Chapter shall not be subdivided further, and a covenant to such provision shall be required by all subdivision decisions of the Planning Board, except when the zoning of the lot so subdivided has changed to allow for smaller lots than was permitted at the time of the original subdivision under this Chapter.

§ 31.26 Word usage and definitions.

A. Words in the singular include the plural, and words in the plural include the singular. The word "person" includes a corporation, association and a partnership as well as an individual. The word "building" includes "structure" and shall be construed as if followed by the words "or part thereof." The word "street" includes "road," "highway," "lane," "thoroughfare" and "way." The word "shall" is mandatory and not directive. The word "may" is permissive.

B. Unless otherwise expressly stated, the following terms shall, for the purpose of these regulations, have the meanings indicated:

BOARD — The Planning Board of the Village of Old Brookville, Nassau County, New York.

BOND -- A performance and payment bond or other security described in Subdivision 9 of § 7-730 of the Village Law.

CONSTRUCTION PLAN — The maps and engineering drawings, described in § 31.73 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 the requirements of these regulations.

CONSTRUCTION STANDARDS — The standards and specifications adopted by the Village Board for the construction of new streets and related improvements.

DEVELOPMENT (1) The act of building structures and/or installing site or street improvements and any grading in connection therewith; and
(2) Such structures, improvements and grading.

DRAINAGEWAY — The lands required for the installation of storm areas, drainage ditches or drainage systems, including land required along a stream or watercourse for protecting the channel and providing for the flow of water therein, to safeguard the public against flood and/or to conserve the water supply.

EASEMENT — The authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

ENGINEER — The Engineer of the Village of Old Brookville

ESCROW DEPOSIT — A deposit of funds by an applicant in advance of fees, costs, services, and work required for the completion of the subdivision plans, infrastructure, approvals, inspections, and the like.

LANDSCAPE CONSULTANT -- A landscape architect or designer who consults for the village on landscape matters.

LOT — A parcel of land intended for immediate or future transfer of ownership, improvement or building development.

PARTITIONING — A subdivision which is limited to the subdivision of a lot, tract or parcel, as it existed on the effective date of these regulations, into two lots, plots or sites only, which subdivision does not involve the layout of any new street nor the change in lines, drainage or grade of any existing street nor the installation of any street improvement.

PLAN, SKETCH — A sketch plan, described in § 31.71 of these regulations, of a preliminary layout to enable the subdivider to discuss informally with the Planning Board and village officials the form of the proposed subdivision as related to the objectives and requirements of these regulations.

PLAT, SUBDIVISION — The final map or drawing, described in §31.74 of these regulations, on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, will be submitted by the subdivider to the Clerk of Nassau County for recording in accordance with law.

PRELIMINARY LAYOUT — The preliminary drawing or drawings, described in § 31.72 of these regulations, indicating the proposed manner and/or layout of the subdivision to be submitted to the Planning Board for its consideration.

STREET — A thoroughfare dedicated and accepted by a municipality for public use or legally existing on any map of a subdivision filed in the manner provided by law, including private roads..

STREET, DEAD-END — A street with only one outlet.

STREET, LOCAL — A minor street which serves or will serve primarily

for access to abutting properties.

STREET, MAJOR — A principal thoroughfare of considerable continuity which is or will be primarily a traffic artery for intercommunication between communities or large areas.

STREET PAVEMENT — The wearing or exposed surface of the roadway used by vehicular traffic.

STREET, SECONDARY — A street supplementary to the major highway system and primarily a means of intercommunication between this system and smaller areas or among smaller areas.

STREET WIDTH — The street right-of-way or distance between property lines measured at right angles to the center line of the street.

SUBDIVIDER — Any person, firm, corporation, partnership or association who or which lays out or proposes to lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein.

SUBDIVISION — The division of any parcel of land into three or more lots, plots or sites or other division of land for immediate or future sale or for building development, or into two or more lots, plots or sites or other division of land in such a way as to create one or more new streets or extensions of existing streets or changes in existing street or lot lines. The division and transfer of property between adjacent property owners which does not create a new lot or reduce the size of any existing lot area, dimensions or building setbacks below the minimum requirements for the zoning district in which it is located shall not be considered a subdivision within the meaning of these regulations.

ZONING — Chapter 30, Zoning, of the Code of the Village of Old Brookville, together with any and all amendments thereto.

ARTICLE III

Review and Approval of Plats

§ 31.31 Approval required.

Whenever any subdivision of land is proposed within the territorial jurisdiction of the Board and before any permit for the development of such land or for the erection of a

structure thereon will be granted, the subdividing owner or his authorized agent shall apply for and secure approval of the proposed subdivision in accordance with these regulations. Three principal steps are involved, namely:

- A. Preapplication procedure.
- B. Procedure for conditional approval of preliminary layout.
- C. Procedure for approval of subdivision plat.

§ 31.32 Pre-application procedure.

A. Previous to the filing of an application for conditional approval of the preliminary layout, the subdivider shall meet with the authorized representative of the Board to discuss his sketch plan, which shall comply with the requirements of § 31.71 and the requirements for improvements and public facilities and services. This step does not require formal application, fee or filing of the plat with the Board.

B. The purpose of the pre-application procedure is to afford the subdivider an opportunity to consult early and informally with the Board's representative before preparation of the preliminary layout and before formal application for its approval, in order to save time and unnecessary expense.

C. Before preparing a sketch plan or attending the initial conference, the subdivider should familiarize himself with the regulations, standards and requirements contained herein. It is recommended that the subdivider discuss with the village's authorized representative the requirements as to general layout of streets, lots and reservations and similar matters and, with the Engineer of the village, street improvements, drainage, sewerage, water and like matters, as well as the availability of existing services. In the case of land within 300 feet of village boundaries, the subdivider should also consult with such other planning boards as have jurisdiction under Section 1610 of the County Government Law of Nassau County.

D. The subdivider should also consult with parties potentially interested with him or with the ultimate users of the development with a view to reaching, at this initial stage, firm conclusions regarding the market demand, the suitability of the location of the proposed subdivision, the most advantageous subdivision plan and the arrangement of streets, lots and other features of the proposed development.

§ 31.33 Preliminary layout procedure.

A. Application and fee. If the subdivider shall request the consideration of the Board of a preliminary layout, ten (10) copies of the preliminary layout, which shall in all

respects comply with these regulations, shall be presented to the Village Clerk at least 10 days prior to the meeting of the Board at which it is requested to be considered. The preliminary layout shall be accompanied by a fee, payable to the Village of Old Brookville, in the amount appearing in the fee schedule established by the Village Board. Upon receipt of the preliminary layout and payment of the fee, the Village Clerk shall forthwith deliver the preliminary layout to the Board.

B. Study of preliminary layout. It is recommended that the subdivider or his representative attend the Board meeting when the preliminary layout is considered. The Board will study the practicability of the preliminary layout, taking into consideration the requirements of Article III.

C. Staking of proposed streets and field trip. To facilitate study of the preliminary layout in the field, the Board may require the subdivider to stake certain roads at intervals of 50 feet along their center lines. Each stake shall be marked for ready identification on the preliminary layout and shall show approximate height of proposed cut and fill at that point. The Board may schedule a field trip to the site of the proposed subdivision, which the subdivider should attend.

D. Action on preliminary layout. The Board shall follow the procedures of Village Law § 7-728, subdivision 5, as may be amended from time to time, to approve, approve with conditions or disapprove the preliminary layout.

E. Notation of action. The action of the Board shall be noted on two copies of the preliminary layout, referenced and attached to any changes or conditions required. One copy shall be returned to the subdivider and the other copy retained by the Board.

F. Effect of authorization. Authorization shall be deemed a tentative approval of the design submitted on the preliminary layout as a guide to the subdivider in the preparation of the subdivision plat.

§ 31.34 Subdivision plat procedure.

A. Subdivision plat requirements. The subdivision plat shall conform substantially to the preliminary layout as tentatively approved by the Board and to the requirements of § 31.74. If desired by the subdivider, the subdivision plat may constitute only that portion of the approved preliminary layout which he proposes to record and develop at the time; provided, however, that such portion conforms to all requirements of these regulations and provided, further, that such portion abuts at least one street, which street shall be improved to the satisfaction of the Board.

B. Number of copies and time for submitting application. Ten (10) copies of the subdivision plat, together with 10 copies of the construction plans and all other items required by these regulations, shall be prepared as specified in § 31.74 and shall be submitted to the Board within six months after the date of authorization of preparation of

the subdivision plat. Otherwise such authorization shall expire, unless an extension of time is applied for and granted, in writing, by the Board.

C. Application and submission date. Application for approval of the subdivision plat shall be submitted by the owner or by his duly authorized agent, in writing, to the Board at least ten (10) days prior to the meeting at which it is to be considered. The subdivision plat shall be deemed to be officially submitted on the date of the meeting of the Board at which the subdivider shall have submitted the required application, together with the subdivision plat, construction plans and all other items required by these regulations, including formal offers of cession in form as required by § 31.64(B).

D. Endorsement of State Department of Health and public districts. Proposed water supply and sewerage service facilities in the subdivision shall be approved by the New York State Department of Health, pursuant to § 1116 of the Public Health Law, and by any water, water supply, drainage, improvement or sewer district having jurisdiction. Application for approval of plans for water supply and sewerage facilities may be filed with the Nassau County Department of Health. Endorsement of approval shall be obtained by the subdivider and submitted to the Board with the application for approval of the subdivision plat.

E. Endorsement of Commissioner of Public Works. Pursuant to § 334-a of the Real Property Law, the Board will not consider approval of a subdivision plat unless the Commissioner of Public Works of Nassau County has endorsed on the plat a statement that he has approved the plans for grades of the streets shown on such map and the drainage thereof. In the event that separate and distinct plans for grading and drainage are required by said Commissioner, a copy of such plans shall be submitted to the Board with the application for approval of the subdivision plat.

F. Approval by other planning authorities. Pursuant to Section 1610 of the County Government Law of Nassau County, the planning authority of each incorporated village adjacent to the Village of Old Brookville and the Nassau County Planning Commission, where adjacent territory is unincorporated, have the power and authority to approve plats within the village and within 300 feet of the boundary thereof. When a proposed subdivision lies wholly or partially within 300 feet of the village boundaries, the subdivider shall obtain the approval of the planning authority of the adjacent incorporated village and/or of the unincorporated territory, as the case may be, before the Board approves the subdivision plat.

G. Action on subdivision plat. The Board shall follow the procedures of Village Law § 7-728, subdivision 6, as may be amended from time to time, to approve, approve with conditions or disapprove the subdivision plat.

H. Revision of subdivision plat. The subdivider will be given a copy of the Board's resolution, and, in the event that modifications are required, he shall revise the subdivision plat and construction plans to conform thereto.

§ 31.35 Performance bond; signing and filing of subdivision plat.

A. Performance bond. See §31.54

B. Signing of subdivision plat. After completion of the final subdivision plat for recording and of construction plans in accordance with the Board's resolution, the original tracing and two prints of each shall be submitted to the Board for final review within the time specified in said resolution. Approval of the subdivision plat shall be endorsed thereon as follows:

- (1) When a bond is filed. Approval of the plat shall be endorsed thereon after the bond has been approved and filed and all of the conditions of the Board's resolution pertaining to the plat have been satisfied.
- (2) When no bond is filed. Approval of the plat shall be endorsed thereon after all conditions of the Board's resolution have been satisfied and all required improvements completed to the satisfaction of the Board.

C. Number of copies to be signed. Approval of the Board will be noted on the plat, and the Chairman or, in the absence of the Chairman, the Vice Chairman will sign the tracing cloth original of the subdivision plat, which will be returned to the subdivider, and one print of the plat, which will be retained by the Board.

D. Filing plat with County Clerk. In accordance with the Village Law, the approved subdivision plat shall be filed by the subdivider with the Nassau County Clerk, Division of Land Records, within 62 days of the date of signing. The approval of any plat not so filed shall expire 62 days from the date of signing by the Board.

E. Submission of copies of filed maps. The subdivider shall submit two copies of the subdivision plat, containing the endorsement of the Nassau County Clerk, to the Secretary of the Board within 30 days of the date of filing.

F. Plat void if revised after signature. No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been granted by the Board and endorsed, in writing, on the plat. In the event that any subdivision plat, when recorded, contains any such changes, the plat shall be considered null and void, and the Board shall institute proceedings to have said plat stricken from the records of the County Clerk. Any erasures made on a plat prior to its signing shall be initialed by the Chairman or Vice Chairman of the Board at the time of signing.

G. Escrow Deposit. The Planning Board may require an escrow deposit in lieu of, or in addition to, a bond.

§ 31.36 Partitioning.

A. Application for approval. The procedure for approval of a partitioning and/or the development thereof, as defined herein, shall be the same as that for a subdivision. In cases where the Board finds, after study of the sketch plan, that the proposed lots would each front on a street, which street is improved to the satisfaction of the Board, and would meet the lot size requirements of Chapter 30, Zoning, of the Code of the Incorporated Village of Old Brookville, and the objectives of these regulations and that such lots would not be directly related to a drainageway, as defined in § 31.26, the Board may waive the requirements for submission and approval of a preliminary layout and authorize the subdividing owner to prepare a subdivision plat for approval of the Board and for recording upon fulfillment of the requirements of the applicable sections of these regulations and the conditions stipulated in such waiver and authorization, if any.

B. Waiver of filing. See § 31.81

§ 31.37 Development of previously filed plats.

The procedure for approval of the development, as defined in § 31.26, of a plat entirely or partially undeveloped and which has been filed in the office of the Clerk of Nassau County prior to the appointment of the Board and the grant to such Board of authority to approve plats shall be the same as that for a subdivision, pursuant to § 7-728 of the Village Law.

ARTICLE IV

Design Standards

§ 31.40 General requirements.

A. Considerations. In considering applications for subdivision of land and/or development, the Board shall be guided by the standards set forth herein. Said standards shall be deemed to be minimum requirements for the convenience, health, safety and welfare of the village.

B. Character of land. Land to be subdivided and/or developed shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Land subject to such hazards shall not be subdivided nor developed for residential purposes nor for such other uses as may increase danger to health, life or property or aggravate a flood hazard, but such land may be set aside for such uses as shall not involve such danger nor produce unsatisfactory living conditions.

C. Frontage on improved street. The plat shall include all streets, which are within the site and such other streets as the Board may require. The area proposed to be subdivided and/or developed shall have frontage on and direct access to a street and, if such street is private, it shall be improved to the satisfaction of the Board or there shall be a bond held by the village covering such improvement.

D. Preservation of natural cover. Land to be subdivided and/or developed shall be laid out and improved in reasonable conformity to existing topography, in order to minimize grading, cut and fill and to retain, insofar as possible, the natural contours, limit stormwater runoff and conserve the natural cover and soil. No topsoil, sand or gravel shall be removed from any lots shown on any subdivision plat except for the purpose of improving such lots and for the laying out of streets shown thereon. Topsoil so removed shall be restored to a depth of six inches and properly seeded and fertilized on the areas of such lots not occupied by buildings or structures. No excess topsoil so removed shall be disposed of outside of the boundaries of the village except upon the approval of the Board of Trustees of the village.

E. Preservation of existing natural features. Existing natural features that enhance the attractiveness of the site and which would add value to residential or other development or to the village as a whole, such as trees, watercourses, ponds and similar irreplaceable assets, shall be preserved insofar as possible by harmonious design of the subdivision. The Board may make reasonable modifications in standards for layout of streets to accomplish such purposes as well as the objectives noted in Subsection D.

F. Conservation Easement.

Each subdivision or partitioning plat shall show on the parcel being subdivided a natural conservation easement or easements, satisfactory to the planning board in location and character, and designed to protect the natural character of the village and minimize the impact of the subdivision or partitioning and its development of the neighboring properties, adjacent roadways and the village. The conservation easement or easements areas shall be maintained in their uninterrupted natural state and prohibit within the designated area or areas the cutting, altering, removal or destruction of trees, shrubs, or other natural growth (except for normal and customary maintenance) or the changing of grades or the construction of any buildings or structures of any kind (including fences), and shall provide for the maintenance of such growth and replacement of all dead or destroyed growth. The Board in its sole discretion may designate the area or areas where the conservation easement or easements are most appropriate. Said natural conservation easement or easements shall comprise a minimum of eight percent (8%) of the total land area of the parcel being subdivided or partitioned, and shall not be included as part of any of the lots shown on the subdivision or partitioning plat, nor used in the calculations under either (i) Chapter 30, Zoning, of the Code of the

Incorporated Village of Old Brookville to determine lot area, or under (ii) §31.45, Lot Averaging, of these regulations, to determine lot yield. Furthermore, such conservation easement or easements shall be in addition to, and not included as part of, any required conservation easement or open space area created under §31.45, Lot Averaging, of these regulations.

Where no or minimal natural vegetation exists within such conservation easement or easements, a planting plan shall be required, and such plan shall be designed to provide the easement or easements with a natural appearance, to provide screening, and to require minimal maintenance of the conservation easement or easements. Where natural vegetation exists it shall be left largely undisturbed as stated above, or it may be enhanced by additional screen plantings as required by the Board consistent with a natural appearance.

The portion of such conservation easement or easements adjacent to a subdivision lot shall be deeded to the owner of the adjacent lot.

The Board may impose such conditions as it may deem appropriate to assure that such easement area or areas continue to protect the natural character of the village and minimize the impact of the subdivision or partitioning and its development on neighboring properties, roadways and the village.

The conservation easement or easements and all restrictions and obligations therein, shall be contained in a Declaration of Covenants and Restrictions (DCR) recorded against the property in the Office of the Nassau County Clerk. The DCR shall contain a provision that the restrictions or obligations shall:

- (a) Apply to the applicants, their successors and assigns.
- (b) Be enforceable by the Incorporated Village of Old Brookville, its agents and employees, by an action for injunction or damages or other relief, and the village shall be reimbursed for all costs and expenses, including attorneys fees, incurred in connection therewith, which shall be a lien against the property or properties on which any violation occurs.
- (c) Run with and constitute a servitude upon the land and be binding upon the owner, its heirs, successors and assigns.
- (d) Inure to the benefit of the Incorporated Village of Old Brookville and shall not be modified, amended or terminated without the prior written consent and approval of the Board.

§ 31.41 Streets.

A. General. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to existing topography and natural features, to public convenience and safety and in their appropriate relation to the proposed uses of the land to be served by such streets.

B. Relation to topography. Street layouts and grades shall be related appropriately to the existing topography, and streets shall be arranged to obtain as many as possible of the building sites at or above the grades of the streets. Steep grades shall be avoided, as well as combinations of steep grades and curves.

C. Arrangement. Proposed streets shall be of sufficient width, suitably located and adequately constructed to accommodate the prospective traffic and to facilitate drainage and to afford access for fire-fighting, snow removal and road maintenance equipment. Such streets shall be coordinated so as to compose a convenient system and to cause no undue hardship to adjoining properties.

D. Arrangements. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection or efficient provision of utilities. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary circular turnaround shall be provided on all temporary dead-end streets, with the notation on the plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued.

E. Intersections.

- (1) Street jogs with center-line offsets of less than 125 feet shall not be permitted except with the approval of the Board.
- (2) Intersections of streets shall be at angles as close to 90° as possible. Toward this end, an oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. Where three or more streets intersect, a turning circle or other special treatment may be required by the Board. Wherever two streets intersect at an angle smaller than 75°, the right-of-way returns and the relation of the gutter grades shall be given special treatment, as determined by the Board, and islands to channelize traffic may be required.
- (3) Intersections of major streets by other streets shall be at least 800 feet

apart, if possible. Cross (four-cornered) street intersections shall be avoided insofar as possible, except at important traffic intersections. A distance at least equal to the minimum required lot depth plus 25 feet shall be maintained between center lines of offset intersecting streets. Grades shall be limited to no more than 2% within 50 feet of an intersection.

F. Treatment along major arterial streets.

Where a subdivision abuts or contains an existing or proposed major arterial street, the Board may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

G. Dead-end streets.

- (1) Where a street does not extend to the boundary of the subdivision and its continuation is not required by the Board for access to adjoining property, its terminus shall normally not be nearer to such boundary than 100 feet or the minimum lot depth prescribed by Chapter 30, Zoning, of the Code of the Village of Old Brookville, whichever is greater. However, the Board shall require the reservation of a twenty-foot-wide easement to accommodate drainage facilities, pedestrian traffic or utilities.
- (2) For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited in length to 900 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 80 feet and a street property line diameter of at least 100 feet. Where it is impossible to subdivide a property except by a dead-end road which is longer than 900 feet, the Board may permit a greater length, provided that a divided roadway with center mall is constructed in a seventy-foot right-of-way (or greater width, if required) in such a manner that either side of the roadway could be used, in emergencies, for two-way traffic.

H. Design standards for streets.

Streets shall meet the design standards set forth below and the Board shall determine the type of each street. Standards do not cover major streets which would be built by the state or county

- (1) Widths. Generally, the width shall be not less than the following:
 - (a) Local street: 50 feet.
 - (b) Secondary street: 60 feet.

- (c) Major street: 80 feet.
- (d) Marginal access street: 40 feet.

(2) Grades.

- (a) Grades of all streets shall be the reasonable minimum and, unless warranted by extenuating circumstances, shall be as follows:

- [1] Local and marginal streets: not less than 1.0% or more than 8%.
- [2] Secondary and major streets: not less than 1.0% or more than 5%.

- (b) Gradients shall be used to facilitate surface drainage to proper natural or artificial outlets.

- (c) Changes in grade. All changes in street grades shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance, as approved by the Board.

(3) Tangents.

A tangent at least 100 feet in length shall be introduced between reverse curves on all streets, except where a greater length is required by the Board.

(4) Curves.

When the alignment of the street changes more than 10° , the tangents shall be connected by a curve with a radius of not less than 200 feet, unless a greater radius is required by the Board to ensure a proper sight distance.

I. Reserve strips.

Reserve strips controlling access to streets shall be prohibited except where their control is placed in the village under conditions approved by the Board.

J. Property lines at intersections.

Property lines at intersections shall be established in such a manner as to place within the street right-of-way the triangular area which is formed by the street lines extended and a straight line adjoining points on said street lines 30 feet distant from their point of intersection.

K. Street names.

All streets shall be named, and such names shall be approved by the Board. Names shall be sufficiently different in sound and in spelling from other street names in the village or adjoining municipalities so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name. In general, street names shall conform to the following classifications:

- (1) Road: major or secondary street.
- (2) Drive or lane: local residential street, except as follows:
 - (a) Court or place: permanent dead-end street.
 - (b) Circle: street that returns to its starting point or a street both ends of which intersect another street at different locations.

§ 31.42 Easements.

A. Utilities.

Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least 20 feet wide.

B. Drainageway.

Where a subdivision is traversed by a watercourse, channel or drainageway, as defined herein, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose. The Board may require parallel streets or parkways in connection with such drainageway.

§.31.43 Blocks.

A. Length, width and shape.

The length, width and shape of a block shall be determined with due regard to:

- (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
- (2) Zoning requirements as to lot sizes and dimensions.

(3) Needs for convenient access, circulation, control and safety of street traffic.

(4) Limitations and opportunities of topography and the objectives of these regulations.

B. Dimensions.

Block dimensions shall be at least twice the minimum lot depth and generally not more than 1,200 feet.

C. Crosswalk.

In long blocks the Board may require the establishment of easements or public ways through the block to accommodate utilities, drainage facilities or pedestrian access to community facilities.

§ 31.44 Lots.

A. General.

The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

B. Dimensions and corner lots.

Lot area and dimensions shall conform to the requirements of Chapter 30, Zoning, of the Code of the Village of Old Brookville and Health Department regulations. Corner lots for residential use shall have extra width to permit compliance with the front yard setback from both streets. Where lots are more than double the minimum area required by Chapter 30, Zoning, the Board may require that such lots shall be of such dimensions and arrangement as will allow further subdivision and the opening of future streets where necessary to serve potential lots, all in compliance with Chapter 30, Zoning, and these regulations.

C. Arrangement and access.

(1) The lot arrangement shall be such that there will be no foreseeable difficulty, for reasons of topography or other conditions, in obtaining building permits to build on all lots in compliance with applicable regulations and in providing, by means of a street approved by the Board and upon which each lot fronts, safe driveway access to buildings on such lots from an improved street.

(2) Access across a watercourse.

Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structure of design approved by the Engineer.

D. Lot lines and setbacks.

Side lot lines shall be substantially at right angles to straight streets and radial to curved street lines. Lot lines shall coincide with municipal boundary lines rather than cross them. Where extra width has been dedicated for widening an existing street, lots shall begin at such extra width line, and lot dimensions and setbacks shall be measured from such line. The Board may, whenever it deems such lines desirable or necessary, require the showing on the plat of specific setback lines which may vary from lot to lot, provided that the front setback shall be not less than the zoning requirement nor more than 20% greater than the zoning setback.

E. Double frontage.

Double-frontage lots, other than corner lots, shall be avoided except where deemed essential by the Board in order to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. An easement or reserve strip at least 20 feet in width and across which there shall be no right of access shall be provided along the line of lots abutting such traffic artery or other disadvantageous use, and such easement shall be planted and maintained as may be approved by the Board. Such easement or reserve strip may be included in and part of the conservation easement as set forth in section 31-40(F) of these regulations.

§ 31.45 Lot Averaging.

A Purpose

The Board of Trustees of the Village hereby finds that the preservation of environmentally sensitive areas in their natural state; the trees and existing vegetation; the significant natural topographic and ecological features and the wildlife habitats within the Village will benefit the general health, safety and welfare of the Village and its present and future residents. It is therefore the purpose of this section to enable and encourage the flexibility of design and development of land in the village in such a manner as to preserve such natural, environmental and scenic qualities of open lands in the village.

B. Modification of Zoning

Pursuant to the authority set forth in §7-738 of the Village Law, the Board is hereby authorized, simultaneously with the review and approval of a subdivision plat, to approve and require, where appropriate, modification of the normally applicable zoning requirements regarding lot area and set backs set forth in Chapter 30, Zoning, of the Code of the Incorporated Village of Old Brookville, so as to permit lot averaging. Such authorization shall be granted and required only where the Board determines that such modification would benefit the Village by virtue of improved subdivision design, environmental protection, the protection of significant site features, better buffer screening, the natural and scenic qualities of open lands, and such other similar objectives and purposes of these regulations, Chapter 30, Zoning of the Code of the Incorporated Village of Old Brookville, and §7-738 of the Village Law subject to the limitations, procedures, conditions, criteria and requirements as are hereinafter set forth.

C. Applicability

This authorization shall be applicable only to property lying within the Village's Residence R-3A District.

D. Standards and Requirements

- (1) The number of building lots or dwelling units which may be permitted by the Board on any subdivision proposed for lot averaging shall in no case exceed the number which could be permitted, in the Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of Chapter 30, Zoning, of the Old Brookville Village Code applicable to the Residence R-3A zoning district, conforming to the conservation easement requirements under §31.40(F) of these regulations, and conforming to all provisions of the Village Code, these subdivision regulations, all Local Laws of the Village and all other applicable governmental or municipal requirements including the Nassau County Department of Health Regulations. In all cases, the basis for the Board's density determination shall be a conventional preliminary subdivision plat found acceptable by said Board, plus such other information as may be required by them.
- (2) Only single family detached dwellings shall be permitted in a lot averaged plat. Other permitted accessory uses shall be the same as those otherwise permitted in the Residence R-3A zoning district.

- (3) No individual lot shall be less than two (2) acres in Net Lot Area as defined in Chapter 30, Zoning of the Code of the Incorporated Village of Old Brookville.
- (4) Each lot averaging subdivision plat shall indicate areas within which structures and/or lots may be located; all minimum or maximum dimensional requirements, as appropriate, the proposed height and spacing of buildings; the locations of proposed open spaces; and where appropriate, landscaping, streets, driveways and off-street open or enclosed parking spaces; plus any other such features as may be required by the Board.
- (5) All dimensional standards and requirements of the R-3A district shall apply, except as modified by the Board pursuant to the foregoing authority.
- (6) The permanent preservation of all open space shall be legally assured to the satisfaction of the Board by the filing of appropriate covenants, deed restrictions, easements or other such legal agreements, in such form as may be found acceptable by the Village Attorney.
- (7) Any open space created under lot averaging shall be contained within the individual residential lots and shall be in addition to any area of the conservation easement(s) created under §31.40(F) of these regulations.

E. Procedure.

- (1) Each proposed lot averaged subdivision application shall be accompanied by a written statement specifically describing how it is intended to accomplish the purposes as set forth in this section and a conventional preliminary subdivision plat prepared to a sufficient level of detail as determined necessary by the Board in order to allow them to make the necessary density determination.
- (2) Lot averaged subdivision applications shall be subject to review and public hearing by the Board in accordance with the same procedures otherwise applicable to conventional subdivision plats.

ARTICLE V

Improvements

§ 31.50 Installation or performance bond required.

Pursuant to § 7-730 of the Village Law, before the approval by the Board of a plat or the development of a plat entirely or partially undeveloped, the Board, in its discretion, shall require the subdivider to complete the installation, or alternatively to furnish a performance bond to insure the completion of all necessary improvements stipulated in said law and required by the Board. All required improvements shall be made by the subdivider at his expense, without reimbursement by the village. The subdivider shall give to the village a written agreement, in form satisfactory to the Village Attorney, permitting entrance by the appropriate village officials and employees to the land included within the subdivision for the purposes of inspection and for the purposes of installing the required improvements in the event of the failure or default of the subdivider to make or complete such improvements as required by the Board resolution.

§ 31.51 Construction plans.

A. Approval required before construction. The subdivider shall have prepared at his expense construction plans, described in § 31.73, for all required improvements. No improvements, development or construction work of any kind shall be commenced until after said plans have been approved by the Board in accordance with these regulations and by the appropriate county or state or local agencies having jurisdiction pursuant to law and such approvals have been endorsed on said plans or drawings.

B. Modifications.

If at any time before, during or within one year after completion of the construction of the required improvements, but prior to the release of the bond or security, the Engineer finds or it is demonstrated to his satisfaction that unforeseen conditions make it necessary to modify the location or design of such required improvements or to provide additional improvements, the Engineer may require or authorize such modifications, provided that such modifications are within the spirit and intent of the Board's approval and do not extend to the waiver or substantial alteration of the function of any improvement required by the Board. The Engineer shall issue any authorization under this subsection in writing and shall transmit a copy of such authorization to the Board for its records. In cases where the Engineer requires additional improvements having a value of \$25,000 the subdivider shall be entitled to a hearing before the Board on the propriety of installing such additional improvements whereupon the

Board shall decide the matter.

§ 31.52 Standards and specifications.

All required improvements shall be installed in accordance with approved construction plans and shall conform to the village construction standards and specifications and shall be approved by the Engineer as to design and specifications. A booklet containing the village construction standards and specifications is available at the office of the Village Clerk.

§ 31.53 Requirement improvements.

A. Monuments.

Monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shall be required by the Engineer. The monuments shall be of such material, size and length as may be approved by the Engineer. Monuments shall be set three inches above ground surface.

B. Grading.

All streets shall be graded, within right-of-way lines, in accordance with approved construction plans. The grading of lots shall be done only in accordance with approved construction plans. In all grading work the subdivider shall be required to proceed in such manner as will minimize any disturbance to and preserve undamaged, insofar as possible, existing trees, natural cover and soil.

C. Street paving.

All streets shall be paved in accordance with the village construction standards and specifications heretofore referred to in §31.52.

(1) Underground utilities.

If placed in the street right-of-way, underground utilities required by the Board shall be placed between the paved roadway and street line, where possible, to simplify location and repair. Underground service connections to the property line of each lot shall be installed at the subdivider's expense, where the Board considers such appropriate, before the street is paved.

(2) Public utilities.

Where utilities required by the Board are to be installed by a public

utility company, the Board may accept assurance from said company, in writing, that such installation will be furnished by the company within a specified period of time and in accordance with the approved construction plans. The Board may require that all public utilities in easement areas be provided along rear lot lines.

D. Drainage improvements.

- (1) Spring and surface water. The subdivider may be required by the Board to carry away any spring or surface water that may exist either previous to, or as a result of, the subdivision or development. Such drainage facilities shall be located in street rights-of-way where feasible or in perpetual unobstructed easements.

- (2) Drainage and upstream development.

A drainageway, culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision or development. The Engineer shall determine the design and necessary size of the facility based on runoff anticipated from a ten-year storm under conditions of maximum potential watershed development permitted under existing zoning therein.

- (3) Drainage downstream.

The Engineer shall also determine the effect of each proposed subdivision or development on existing downstream drainage facilities outside the subdivision or development. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a ten-year storm, the Engineer shall notify the Board and the Village Trustees of such potential. In such case, the Board may disapprove such subdivision or development until provision, satisfactory to the Engineer and the Village Trustees, has been made for the improvement of said potential condition.

- (4) Nassau County requirements.

The subdivider will be required to install such facilities for the drainage of streets as may be required by the Commissioner of Public Works of Nassau County. Any storage basins required by the Nassau County Department of Public Works and any other drainage facilities required to be installed shall be constructed and

completed by the subdivider. All such drainage structures shall be maintained by the subdivider in good operating condition until such time as the bond is released.

E. Culverts and bridges.

All required culverts and bridges, if any, shall be constructed in accordance with approved construction plans and shall conform to the standards and specifications of the village or the county or state agency having jurisdiction.

F. Curbs, gutters and sidewalks.

Where deemed necessary and required by the Board, the subdivider shall install curbs, gutters and sidewalks or walkways in accordance with village standards and specifications.

G. Street trees.

The Board may require the planting of new street trees in a subdivision which lacks or is deemed deficient in trees. Such trees shall be of a size and type approved by the Board and shall be planted in a manner and location prescribed by the Board.

H. Street signs.

Street signs of a type approved by the Board shall be provided by the subdivider and placed at all intersections in locations, within street lines, approved by the Engineer.

I. Streetlights and fire alarm devices.

Where required by the Board, streetlighting fixtures, of a design approved by the Board or other municipal agency having jurisdiction, shall be placed in a manner and location approved by the Board. The Board may require the installation of fire alarm signal devices.

J. Water supply and sanitary sewers.

Where required by the Board, the subdivider shall install water mains and fire hydrants and/or sanitary sewers of a type and in a manner prescribed by the regulations of the agency having jurisdiction. In cases where sanitary sewerage is not available to a subdivision or development, the subdivider shall install individual sewage disposal systems in accordance with regulations of the New York State Department of Health.

K. Waiver of required improvements.

The Board may waive, pursuant to § 7-730 of the Village Law, for such period as it may determine, the provision of any or all such improvements as in its judgment of the special circumstances of a particular plat are not requisite in the interests of the public health, safety and general welfare. In the case of any waiver granted, the Board shall enter upon its records the reason or reasons why the particular improvement is not necessary, and it shall attach appropriate conditions or require such guaranties as may be deemed necessary to protect the public interest and achieve the objectives of these regulations.

L. Estimated cost of improvements.

The subdivider shall submit his engineer's estimate of the full cost of all required improvements to be installed by the subdivider, and the Board may request the Engineer to check the cost estimates for accuracy.

§ 31.54 Performance guaranties.

With respect to required improvements, the subdivider shall follow the procedure set forth in either Subsection A or B below, as shall be prescribed by the Board.

A. Completion of improvements.

The subdivider shall complete all required improvements to the satisfaction of the Board before the Board signs the plat and before any building permits will be issued. The subdivider shall file with the village a bond in an amount determined by the Board to be adequate to assure the preservation of existing topographic and natural assets, pursuant to § 31.53(B), as well as the satisfactory condition of the subdivision improvements for a period of one year following their completion. Such bond shall be satisfactory to the Village Attorney as to form, sufficiency and manner of execution and to the Board as to surety. Such bond shall be released only by the Board of Trustees when all requirements have been satisfactorily met.

B. Performance bond.

(1) If the subdivider is required to post a performance bond to insure the completion of required improvements, he shall file with the Village Clerk a performance bond to cover the cost of required improvements in an amount set by the Board. Such bond shall comply with the requirements of § 7-730 of the Village Law and shall be satisfactory to the

Village Attorney as to form, sufficiency and manner of execution and to the Board as to the surety. Where the Board deems necessary, an escrow deposit may be required.

- (2) A period of one year, or such other period as the Board may deem appropriate, not to exceed three years, within which required improvements must be completed shall be set forth in the bond.
- (3) The bond surety may be in cash or partly in cash and partly guaranteed by a surety company acceptable to the Board, but in the latter case not less than 25% shall be in cash. The cash surety shall become immediately available to the village on the date when improvements are required to be completed for application toward the completion of such required improvements as have not been completed on said date. The bond shall provide that an amount in cash, deemed adequate by the Board, shall be retained for a period of one year from the date of completion of the required improvements.
- (4) All required improvements shall be completed to the satisfaction of the Engineer and the Board within the time stipulated in the Board's resolution. The bond shall be released only by the Board of Trustees when all required improvements have been completed to its satisfaction.

C. Subdivider's responsibility.

If the Engineer or other authorized inspector finds, upon inspection, that any of the required improvements have not been constructed in accordance with approved construction plans and the village standards and specifications, the subdivider shall be responsible for the completion of such improvements to the satisfaction of the Board. Wherever the cost of improvements is covered by a performance bond, the subdivider and the bonding company shall be severally and jointly liable for completing said improvements to the satisfaction of the Board.

D. Failure to complete improvements.

For subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the Board in its resolution approving the plat, the approval shall be deemed to have expired. In cases where a performance bond has been posted and required improvements have not been completed within the term of such bond, the Village Trustees may thereupon declare said performance bond to be in default.

§ 31. 55 Inspections.

A. General requirements.

The Board shall provide for the inspection of required improvements during construction to ensure their satisfactory completion. The subdivider shall pay to the village an inspection fee in accordance with a fee schedule fixed by the Board and at such time as may be stated in its resolution. The subdivision plat shall not be signed by the Board until such fee has been paid.

B. Timing of inspection.

In order to facilitate inspection of required improvements during construction, the subdivider shall notify the Engineer at least seven days before he proceeds with each of the following stages of construction:

- (1) Grading of streets and/or lots.
- (2) Before backfilling of underground utilities and/or drainage facilities.
- (3) Before paving or surface treatment.
- (4) After completion of all improvements.

C. Copy of contract specifications.

Prior to the start of construction of any required improvements, the subdivider shall furnish to the Engineer a copy of the specifications included in any contract entered into by the subdivider for such construction.

D. Supervision of construction.

The construction of all required improvements shall be supervised by a registered professional engineer employed by the subdivider. After completion of construction said engineer shall certify to the Board that all required improvements have been constructed as required and approved by the Board or as such requirements have been modified under §31.51(B).

E. Reports.

The Engineer shall make reports to the Board after each inspection. If the Engineer or his authorized inspector finds, upon inspection, that any of the required improvements have not been constructed in accordance with the approved construction plans and/or the village standards and specifications, he shall inform the subdivider and the Board in writing.

F. Responsibility for completion.

The subdivider is solely responsible for completion of required improvements in accordance with the approved plans. See § 31.54(C). In the event that the Engineer or his authorized representative is unable to carry out inspection of required improvements during construction, the subdivider and the bonding company, if any, shall not in any way be relieved of their responsibilities for satisfactory completion of required improvements.

G. Certificates of completion.

The Board shall not give final approval of required improvements, nor recommend to the Board of Trustees the release of a bond, until the Engineer has submitted a report stating that all required improvements have been satisfactorily completed and until the subdivider's engineer or surveyor has furnished to the Engineer a certified set of record drawings, in the same detail required for construction plans described in § 31.73, showing all improvements as constructed and a statement certifying that all improvements conform to such record drawings and the standards and specifications of the agency having jurisdiction.

ARTICLE VI

Reservations and Dedications

§31.60 General requirements.

Pursuant to § 7-730 of the Village Law, before the approval of a plat or plan of development by the Board, such plat or plan shall show, in proper cases and when required by the Board, a park or parks suitably located for playground or other recreation purposes. Reservation and/or dedication of land for street purposes, drainageways and easements also may be required by the Board and by county or state agencies having jurisdiction. Any land offered for dedication or reserved by the owner for a particular purpose and all easements shall be shown and appropriately marked on the plat or plan of development.

§ 31.61 Recreation areas and public uses.

A. Recreation areas

In cases where the Board deems that recreation space would be desirable and appropriate, the Board may require the dedication or reservation of

designated sites for park, playground or other recreation purposes. Such sites shall be of suitable size, dimension, topography, location and general character for the particular purposes envisioned by the Board. In no case shall the Board require that more than 10% of the gross area of the subdivision be dedicated or reserved for recreation purposes. In calculating such percentage, the Board may give due credit for open areas reserved, by covenants in all deeds, for the common use of all property owners in the proposed subdivision.

(1) Minimum size of recreation area.

Land in subdivisions dedicated or reserved for recreation purposes generally shall have an area of at least five acres. When a proposed subdivision is too small to require such an area, the Board may require that the recreation area be located on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than three acres be dedicated or reserved for recreation purposes if the Board deems it unlikely that additional lands can be secured to increase such area.

(2) Recreation sites.

Land offered for dedication or reservation for recreation purposes shall be of a character, shape and location suitable for such purposes. In the case of a play field or playground, the land shall be relatively level and dry, and no dimension of the site shall be less than 200 feet. Generally, a recreation site shall have a frontage of at least 200 feet on one or more streets.

B. Waiver on land for recreation.

In cases where the Board finds that, due to the size, topography or location of the subdivision or for other reasons, a requirement that land be dedicated or reserved for recreation would be unreasonable or undesirable, the Board may waive such requirement, subject to the condition that the subdivider shall, in lieu of such dedication or reservation, pay to the village in cash an amount as provided by the fees and deposits schedule adopted by the Board of Trustees of the Incorporated Village of Old Brookville. Such moneys shall be deposited in a special village recreation site and improvement fund.

C. Public use.

The Board may require that land in a subdivision be temporarily reserved for a public school or other essential community facility, when the Board

deems it desirable and appropriate. In such cases, if the agency having jurisdiction does not acquire such land within two years after the date of the signing of the plat by the Board, the subdivider, upon written notice to the Board, shall, 30 days after such notice, be relieved of the responsibility of further reservation of said land for said public purpose.

§ 31.62 Streets.

A. All streets shown upon the plat may be offered for dedication or reserved for such purposes. When a street is not offered for dedication, the reservation shall ensure to abutting owners a perpetual unobstructed right of access, air and light.

B. Widening or realignment of existing streets.

Where a subdivision borders an existing narrow street, the Board may require the subdivider to offer to dedicate or reserve areas for such widening and/or realignment.

§ 31.63 Storage basins, easements and natural features; other open land uses.

A. Storage basins and easements.

Where land is required by the county or village for storage basins and easements, such land shall be offered for dedication to Nassau County or the village, as the case may be.

B. Easements.

Easements for drainageways, utilities, pedestrian and/or emergency access and for planting strips shall be provided by the subdivider in the location and at the width required by the Board. Generally, easements for drainage and utilities shall be unobstructed and perpetual, and easements for planting strips shall be perpetual.

C. Preservation of natural features.

The subdivider shall reserve and may offer for dedication for open recreational purposes existing natural features when the Board finds that such features, such as large trees, wooded areas, watercourses, ponds, historic sites, vistas or other irreplaceable assets, enhance the attractiveness of the site and will add value to residential or other

development or to the village as a whole. Whatever of such natural features, in the opinion of the Board, should be offered for dedication to public uses shall be offered for dedication to the village or other appropriate authority, except when, after approval of the Board pursuant to § 31.64(A) , such features are deeded to a property owners' association membership running with all of the land in the subdivision and preserving such features.

D. Other open land use.

None of the sections of this Article VI shall be construed as preventing a subdivider or developer from reserving other land for open recreational purposes in addition to the requirements of this article.

§ 31.64 Ownership to be clearly established; offers of cession; acceptance by village.

A. Responsibility for reservations.

In any case where title to streets or other reservations is not offered for dedication to the village, the ownership shall be clearly established in a manner satisfactory to the Board in order to ensure the continued maintenance and responsibility for such reservation.

B. Offers of cession.

Pursuant to § 7-732 of the Village Law, with respect to streets and parks, the subdividing owner may add, as a part of the plat, a notation, if he so desires, to the effect that no offer of dedication of such streets or parks or any of them is made to the public. Formal offer of cession to the village of all streets and parks not so marked with such notation on the plat shall be filed by the owner with the Board prior to approval of the plat by the Board.

C. Acceptance by the village.

Acceptance of any offer of streets, parks, recreation or other land shall rest with the Village Board of Trustees. In the event that the subdivider elects not to file the subdivision plat in the office of the County Clerk within the sixty-two-day period required by law, then such formal offer of cession shall be deemed to be void. The approval by the Board of a plat shall not be deemed to constitute or imply acceptance by the village of any street, park or other open space shown on said plat. The Board may require said plat to be endorsed with appropriate notes to this effect.

§31.65 Restrictions imposed by subdivider.

If the subdivider intends to place restrictions on any of the land contained in a subdivision, such restrictions shall be clearly indicated on the plat. The subdivider shall submit to the Board, for its approval, a copy of any additional restrictions as may be imposed upon the property as a condition to sale, together with a statement of any restrictions previously imposed which may affect title to the land proposed to be subdivided.

ARTICLE VII

Specifications for Maps and Plans

§31.70 General requirements.

The maps and drawings required with an application to the Board for approval of a subdivision plat or plan of development shall be prepared by the subdivider in accordance with these regulations and shall be submitted to the Board together with written application on forms supplied by the Board.

§31.71 Sketch plan.

The sketch plan may be drawn in pencil and shall be at a convenient scale, not less than one inch equals 200 feet, and shall show:

- A. Boundary survey of the property and municipal boundaries, if any, within 300 feet of the property.
- B. Contour lines at intervals of no more than 10 feet (may be obtained from field survey or county topographic maps at contour interval of two feet).
- C. Sketch of:
 - (1) Proposed layout of lots and streets.
 - (2) Existing streets and natural features.
 - (3) Existing permanent buildings and structures.
 - (4) Such other features as the subdivider may deem pertinent or the Board may require.

- D. If the sketch plan covers only a part of the subdividing owner's entire holding, a sketch map of the entire tract (may be shown on the Village Tax Map or on a print of a county topographic map), at a scale of not less than one inch equals 400 feet, showing the platted area with its proposed streets and the probable future street, lot and drainage systems in the entire tract.

§ 31.72 Preliminary layout and topographic map.

A. Preliminary layout.

The preliminary layout may be prepared in pencil, shall be drawn to a convenient scale, not less than one inch equals 100 feet, and shall show or be accompanied by the following information:

- (1) Name or identifying title of subdivision, graphic scale, North point and date.
- (2) Name and address of the record owner of the property and of his authorized agent, if any, and the name of the land planner responsible for the layout and of the engineer responsible for the property survey.
- (3) The property lines of the land to be subdivided and existing permanent buildings thereon, the names of all subdivisions immediately adjacent, if any, and the names of all record owners of all adjacent lands.
- (4) Zoning districts, including exact boundary lines if more than one district, and location of any special district and/or municipal boundaries within 300 feet of the property.
- (5) Topographic map as described in Subsection B and a tentative grading plan.
- (6) The locations and widths of all proposed streets and of all existing streets (noting whether public or private) in and within 200 feet of the proposed subdivision.
- (7) Proposed lot lines with approximate lot dimensions and areas.
- (8) Location and size of all proposed and of any existing water mains, drainage systems, including culverts, drains and sewers, other underground utilities and sanitary sewers, if any. Direction of flow shall be shown for drains and sewers.

- (9) Existing and proposed easements, if any, with designation of the purposes therefor.
- (10) Any land intended to be dedicated for public use or reserved in the deeds for the use of property owners in the subdivision, as well as any land which the owner may propose to reserve, with designation of the purposes therefor.
- (11) Preliminary cross sections and center-line profiles for each proposed street and preliminary designs for all improvements, including any bridges or culverts that may be required.
- (12) Plans for water supply and sewage disposal.
- (13) Preliminary plan for surface drainage of the subdivision.
- (14) Results of test hole borings and percolation or other tests, when required by the Board.
- (15) Where the preliminary layout covers only a part of the owner's entire holding, a sketch of the prospective future street system of the submitted part shall be furnished, and the street system of the submitted part will be considered by the Board in the light of adjustments and connections with future streets in the unsubmitted part.

B. Topographic map.

The subdivider shall prepare and submit to the Board, with his application for conditional approval of the preliminary layout, a map showing the topography for the area covered by the proposed subdivision and such surrounding area as the Engineer may designate as necessary to determine drainage requirements.

(1) Contour interval.

On the topographic map the contour interval shall be not more than five feet for land with a natural slope of 10% or greater and not greater than two feet for less steeply sloping land.

(2) Watercourses and drainage.

The topographic map shall show existing watercourses, drainageways, streams and ponds.

(3) Natural features.

The natural features, if any, mentioned in §31.40(E) and §31.63(C), including single trees with a diameter of eight inches or more, shall be shown on the topographic map.

(4) Streets.

The location of existing and proposed streets shall be shown on the topographic map, and the boundary line of property proposed to be subdivided.

(5) Preparation of map.

(a) The topographic map shall be prepared by a professional engineer or land surveyor duly licensed by the State of New York. The name, address and signature of such engineer or surveyor shall appear upon said map, as well as identifying title of the subdivision, date, North point and graphic scale.

(b) In appropriate cases and when approved by the Engineer as being sufficient for the particular situation, the Board may accept a reproduction, enlarged to the required scale, of the county topographic map in lieu of the above requirements. A map so prepared shall be properly identified, as required above, and shall bear an appropriate description of the method of reproduction. The Board may designate such of the above information as it will require the subdivider to show upon the reproduced map.

C. Aerial photographs.

(1) The subdivider shall provide to the Board at the preliminary hearing an aerial photograph of the proposed subdivision site and its surrounding area unless waived by the Board. The aerial photograph shall be in black and white or color (not a blue-line print, shall have a scale of not less than one inch equals 100 feet and shall have been taken within the past four years of the date of the proposed preliminary hearing.

(2) A tracing, overlay, colored lines or some other means shall be placed or marked on the aerial photograph indicating the outline of the proposed subdivision, lot lines, roads and any other features

(ponds, groves of trees, stream beds, etc.) which are to be addressed or considered for preserving.

§ 31.73 Construction plans.

A. General.

Construction plans shall be prepared for all required improvements and submitted to the Board with application for approval of the subdivision plat. All engineering drawings and designs shall be prepared by a licensed professional engineer, whose name, address and signature shall appear upon such plans and drawings. When feasible, the scale of construction plans shall be the same as that of the plat, and plan sheets shall not exceed 36 inches by 48 inches.

B. Information shown.

The construction plans shall show:

- (1) Typical cross sections and profiles of all proposed streets, showing existing and proposed grades as approved by the Engineer. The cross sections shall show pavements and, where required, gutters, curbs and sidewalks.
- (2) Profiles along the center lines of streets showing existing and proposed elevations. Where a proposed street intersects an existing street, the elevation along the center line of the existing street within 100 feet of the intersection shall be shown. All elevations shall be referred to Nassau County datum.
- (3) A grading plan showing present and proposed contours at intervals as per §31.72(B)(1), referenced to Nassau County datum, together with natural features required to be preserved, if any. The Board may require, where steep slopes exist, that present elevations along all proposed streets shall be shown every 100 feet at five points on a line at right angles to the center line of the street, and said elevation points shall be at the center line of the street, each property line and points 25 feet inside each property line.
- (4) Plans and profiles showing the location and a typical section of street pavements, including manholes and catch basins; the location of street trees, streetlighting standards and street signs; the location, size and invert elevations of existing and proposed sanitary sewers, stormwater drains and fire hydrants; the exact

location and size of all water mains, gas lines or other underground utilities or structures; and detailed description of all other required improvements.

- (5) Location, size, elevation and other appropriate description of any existing facilities and utilities at the point of connection to proposed facilities and utilities within the subdivision.
- (6) All specifications and references required by the village's construction standards and specifications.

§ 31.74 Subdivision plat.

A. General.

The subdivision plat shall be drawn in ink on tracing cloth, on a sheet or sheets which shall not exceed 36 inches by 48 inches, at a convenient scale which shall be not less than one inch equals 100 feet, and oriented with the North point at the top of the map. When more than one sheet is required, an index sheet of the same size shall be prepared at a convenient scale to show the entire subdivision, with lot and block numbers clearly legible.

B. Information to be shown on the plat. The subdivision plat shall show the following:

- (1) Subdivision name, graphic scale, North point and date.
- (2) The location and dimensions of all boundary lines of the property proposed to be subdivided, the name and address of the record owner or owners of the land to be subdivided and the name and address of the subdivider, if other than the owner.
- (3) The location and name of streets surrounding or adjacent to the proposed subdivision, the lines of adjacent properties and the names of the owners of record or the names of existing adjoining developments.
- (4) The location, name and width of all existing and proposed streets.
- (5) The lines, dimensions and areas of all proposed or existing lots and proposed block, lot and section numbers as assigned by the Assessors' office.

- (6) The location, width and purpose of all proposed or existing easements.
- (7) The lines, dimensions and areas of all property intended to be dedicated for public use or reserved in the deeds of property owners in the subdivision, as well as any land which the owner may propose to reserve, with designation of the purposes thereof.
- (8) The location and identification of existing watercourses, bodies of water and natural features (described in §31.40(E) and §31.63(C)) and, subject to the discretion of the Board, contours at such interval as it may require.
- (9) Sufficient data acceptable to the Engineer to determine readily the location, bearing and length of each boundary line, street line and lot line and to reproduce such lines upon the ground. The lengths of all straight lines, the deflection angles, radii, lengths of curves and central angles of all curves, tangent distances and tangent bearings for each street and each lot shall be given. All dimensions shall be shown in feet and hundredths of a foot.
- (10) Permanent reference monuments.
- (11) Name, address and signature of the licensed professional engineer or surveyor making the plat.

C. Notations on the plat. The following notations shall be shown on the subdivision plat:

- (1) Endorsement of approval by the New York State Department of Health.
- (2) Endorsement of approval by the Commissioner of Public Works of Nassau County.
- (3) Endorsement of approval by other planning agencies, if any, having jurisdiction.
- (4) Treasurer of Nassau County as to payment of taxes.
- (5) Town Receiver of Taxes as to payment of taxes.
- (6) Engineer in the Department of Assessment certifying location on Nassau County Land Map.
- (7) Treasurer of village as to payment of taxes.

D. Accompanying material.

When submitted to the Board with application for approval, the subdivision plat shall be accompanied by the following:

- (1) Certificate of title showing the ownership of the land to be vested in the subdivider or other applicant for plat approval.
- (2) A certificate of the licensed engineer or surveyor making such plat survey to the effect that the plat is correct and that the error of closure does not exceed such amount as is required by the Engineer.
- (3) A statement duly acknowledged before an officer authorized to take acknowledgment of deeds and signed by the owner or owners of the property to the effect that the subdivision shown on the plat is made with his or their free consent and in accordance with his or their desires.
- (4) All offers of dedication and covenants governing the maintenance of undedicated open space, which shall bear the certificate of approval of the Village Attorney as to their legal sufficiency.
- (5) A copy of such private deed restrictions, including building setback lines, as may be imposed upon the property as a condition to sale, together with a statement of any restrictions previously imposed which may affect the title to the land being subdivided. Such restrictions shall be satisfactory to the Board and shall provide, in the case of any lot intended for residential use, against further division thereof by the grantee without approval by the Board.
- (6) Such other items or certificates of approval by proper public authorities as may have been required by the Board.
- (7) Stamped envelopes addressed to each of the owners of property abutting or across the street from the subdivision and containing a form letter and a copy of the notice of public hearing (to be published in the official village newspaper) on forms provided by the Board.

ARTICLE VIII

Administration and Enforcement

§31.80. Minimum requirements.

These regulations shall be deemed the minimum requirements for the future growth and development of the village which will provide adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population.

§ 31.81 Variances or waivers.

A. Special circumstances; hardship.

Where the Board finds that, because of special circumstances of a particular plat, extraordinary hardships, not of the owner's or subdivider's making, may result from strict compliance with these regulations, it may vary or waive any of the regulations so that substantial justice may be done and the public interest secured, provided that such variation or waiver shall comply with Chapter 30, Zoning, of the Code of the Incorporated Village of Old Brookville and will not have the effect of nullifying the intent and purpose of these regulations.

B. Partitioning.

In the case of a proposed partitioning, as defined in § 31.26, the Board may waive, in writing, the requirement for filing of a plat, provided that the Board shall find that:

- (1) Such partitioning is not for the purpose of offering the two parcels for sale to the public;
- (2) Such partitioning involves no development nor conflicts with a drainageway, as defined in §31.26.
- (3) Such partitioning complies with Chapter 30, Zoning of the Code of the Incorporated Village of Old Brookville;
- (4) Such partitioning conforms to and will not have the effect of nullifying the intent and purpose of these regulations; and
- (5) Such partitioning and any restrictions which the subdivider intends to place on the land will not adversely affect the use or development of either parcel nor of adjoining property.

B. Conditions.

In granting any variance or waiver, the Board shall set forth such findings

in its resolution of approval and such conditions as will substantially secure the objectives of the standards or requirements so varied or modified.

§ 31.82 Penalties for offenses.

Any person, firm or corporation who violates or fails to perform any duty imposed by any provision of these regulations shall be punishable by a fine of not less than \$500 or more than \$1000 or imprisonment of up to 15 days, or both, for each and every offense, and in addition thereto, each such violation shall constitute and is hereby declared to be an offense against such provision of these regulations. Each day that a violation under any provision of these regulation continues shall be deemed a separate offense after the violator is provided written notice of the violation from the village or enforcement officer. In addition, the village Board of Trustees may enforce obedience to any provision of these regulations by injunction or other civil remedy.

SECTION 2.

Any lot resulting from a subdivision which received final approval from the planning board prior to August 20, 2007 and which planning board approval remained valid and effective on August 20, 2007 and whether or not such lot is held in single and separate ownership from any other lot, shall not be subject to the provisions of these regulations.

SECTION 3.

Severability. If any section, provision or part thereof in these regulations shall be adjudged invalid or unconstitutional by a Court of competent jurisdiction, then such adjudication shall not affect the validity of these regulations as a whole or any section, provision or part thereof not so judged invalid or unconstitutional.

SECTION 4.

These subdivision regulations shall become effective immediately upon filing with the Secretary of State and shall remain in force until modified, amended or rescinded by the Board.