

MEETING NOTICE

Village of Scarsdale

A meeting of the Land Use Committee of the Board of Trustees of the Village of Scarsdale has been scheduled for Wednesday, March 20, 2019 at 6:00 PM. The meeting will be held in the Trustees Room located on the 2nd Floor in Village Hall.

Agenda

1. Draft Landmark Preservation Law

JR: 3-6-19

FAX: Scarsdale Inquirer

E-MAIL: Journal News (Lohud)
Scarsdale 10583
Scarsdale Hamlet Hub
The Daily Scarsdale

cc: Lobby Bulletin Board

**INTRODUCTORY LOCAL LAW #__ OF 2019
CREATING A NEW CHAPTER 184 OF THE SCARSDALE VILLAGE CODE ENTITLED
LANDMARK PRESERVATION**

BE IT ENACTED by the Board of Trustees of the Village of Scarsdale, a new Chapter 184 entitled Landmark Preservation, as follows:

§184-1. Findings and intent.

It is hereby declared as a matter of public policy that the designation of public and private property and structures therein for the protection and preservation of historic buildings and structures is desirable to promote the economic, cultural, educational, and general welfare of the residents of the Village. Inasmuch as the identity of a people is founded in its past and inasmuch as the Village has significant historic, architectural and cultural resources which constitutes its heritage, this chapter is intended to:

- A. Protect historic buildings and structures which represent distinctive elements of the Village's historic, architectural and cultural heritage;
- B. Foster civic pride in the accomplishments of the past;
- C. Protect and enhance the attractiveness of the Village to residents, prospective residents and visitors and the support and stimulus to the economy thereby provided; and
- D. Provide an educational role in the Village with respect to historic preservation.

§ 184-2. Definitions.

As used in this chapter, the following terms shall have the meaning indicated:

CERTIFICATE OF APPROPRIATENESS

A certificate issued by the Board of Architectural Review authorizing a material change of appearance of a Protected Site or Structure, subject to other applicable permit requirements.

EXTERIOR BUILDING COMPONENT

Any exterior structural, ornamental or functional element of a structure which shall be open to public view, including but not limited to type, color and texture of building materials, entryways, fenestration, lighting fixtures, roofing, sculpture and carving, steps, rails, fencing, vents and other openings, grillwork, canopies and other attachments.

MATERIAL CHANGE OF APPEARANCE

Includes but is not limited to:

- A. Any treatment to a structure which results in a change in materials, texture, colors, bulk, mass or any treatment by the addition, substitution or deletion of materials or fixtures, including such treatment which results in the covering of existing surfaces of a Protected Site or Structure.
- B. Complete or partial demolition.
- C. Commencement of excavation.
- D. Deposit of refuse, waste or fill on land not already used for the purpose.
- E. Change in design or location of advertising on the exterior of any structure.

ORDINARY MAINTENANCE OR REPAIR

Routine repair, replacement or maintenance of electrical or mechanical installations or of damaged or worn parts or surfaces, including repainting using the same color, landscaping and treatment of flat roof areas not visible to the general public.

PRESERVATION RESTRICTION

An easement or other interest less than a fee interest, in a Protected Site or Structure.

PROTECTED SITE OR STRUCTURE

A parcel of land or a building or structure which meets one or more of the criteria enumerated in §184-5 and is designated as a Protected Site or Structure pursuant to §184-5(E) by the Board of Trustees.

§ 184-3 Historic Preservation Committee.

- A. Jurisdiction and purpose. To effectuate the goals of this chapter, there is hereby established in and for the Village of Scarsdale the Historic Preservation Committee, hereinafter called the "Committee."
- B. Composition and selection.

The Committee shall consist of seven members and one alternate member who may substitute for a member who is unable to participate because of a conflict of interest or unavailability. All members and the alternate member shall serve without compensation. The Village Historian shall serve as an ex officio, non-voting member of the Committee.

All members and alternate member shall be residents of the Village and shall be qualified by reason of training or experience or by reason of civic interest and sound judgment to determine whether a building or structure appears to be of substantial historical importance using the criteria set forth in §184-5 hereof. Notwithstanding this provision and SVC§30-1, the Board of Trustees may appoint a nonresident who has a special interest in historic preservation and is a New York State-registered architect.

C. Appointments; term of office.

1. The Chairman, other members of the Committee, and the alternate member shall be appointed by Board of Trustees. The Chairman shall be appointed for one year; however, this limitation does not prohibit the appointment of the same person to subsequent or consecutive one-year terms. The term of office for each member shall be three years, with a two-term maximum. The appointments shall be staggered in that, initially, three members shall be appointed for three years.
2. In the same manner, vacancies shall be filled for the unexpired term of any member whose place has become vacant.

D. Powers and Duties.

1. The committee shall investigate, document and make annual recommendations, or more frequently at its discretion, to the Board of Trustees for designation of Protected Sites and Structures pursuant to §184-5 herein.
2. In carrying out the aforementioned duties, the Committee shall have the power to:
 - (a) Adopt regulations and procedures pertaining to its duties as it deems necessary to effectuate the purpose of this chapter. Copies of such regulations and/or procedures, if any, shall be filed with the Village Clerk.
 - (b) To the extent that funds are appropriated by the Village Board or Village Manager and available therefor, retain or employ professional consultants, secretaries, clerks or other such personnel as may be necessary to assist it in carrying out its duties.
 - (c) Conduct surveys, in consultation with public or private agencies as appropriate, of buildings for the purpose of determining their historic and/or architectural significance and pertinent facts about them.
 - (d) Formulate and publish recommendations concerning the preparation of maps, brochures and historical markers for selected historic and/or architectural sites and buildings.

- (e) Cooperate with the Mayor and Board of Trustees and other public and private agencies in matters involving historic and/or architectural sites and buildings.
- (f) Advise owners of historic buildings on the benefits and challenges of preservation and restoration.

§184-4. Regulated conduct.

- A. No material change in appearance as hereinabove defined shall be made to a Protected Site or Structure except as hereinafter provided. Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior building component to a Protected Site or Structure which does not involve such a material change in appearance.
- B. This chapter shall apply to all Protected Sites and Structures and to all buildings, structures, outbuildings, walls, fences, steps, topographical features, earthworks, paving and signs; provided, however, that it shall not apply to the construction, alteration or demolition of any property where prior to the date of public notice of any proposed designation:
 - (1) The applicant has in good faith either:
 - (a) Undertaken contractual commitments which require him to do such construction or alteration; or
 - (b) Obtained a permit to do such work and such work has actually commenced, or
 - (c) Has on file a completed application with a land use board, and
 - (2) Failure to proceed with such work will expose the applicant to substantial financial hardship as defined in §184-7 below.
- C. Nothing in this chapter shall be construed to prevent the construction, reconstruction, alteration or demolition of any building component which a duly authorized public official shall order to remove a condition dangerous to life, health or safety, but a certificate of appropriateness pursuant to §184-6 herein shall be obtained prior to commencement of such work unless the delay attendant on obtaining such certificate would prevent timely compliance with said order. Notice of any such order or proposed order shall be given to the Committee as soon as practicable by the official or agency issuing such order.

§184-5. Designations of protected sites and structures.

- A. Designation of exteriors.

Designation of a Protected Site or Structure does not apply to the interior of the building or structure.

- B. In making a determination whether to designate a Protected Site or Structure, the Committee shall consider the level of significance in American History, architecture, archeology, engineering and culture present in the site or structure, as well as the integrity of location, design, setting, materials and workmanship, and
- (1) That the site or structure is associated with events that have made a significant contribution to broad patterns of Village, regional, state or national history; or
 - (2) The site or structure is associated with the life of a person or persons of historical significance; or
 - (3) That the building or structure is the work of a master; or
 - (4) That the site or structure embodies the distinctive characteristics of a type, period or method of construction that possess high artistic value; or
 - (5) That the site or structure has yielded or may be likely to yield information important in prehistory or history.
- C. The Committee may consider if the building is listed on the National Register of Historic Places, New York State Register of Historic Places or Westchester County Inventory of Historic Places. A national, state or county listing alone is not sufficient to warrant preservation herein.
- D. Designation of a Protected Site or Structure shall be deemed a proposed amendment to this chapter and relevant provisions of the Scarsdale Village Code, and shall become effective only after public hearing and approval of such proposed amendment. The Committee may petition the Board of Trustees for adoption of such amendment. In addition to any other notices required by law, the Board of Trustees shall notify the Committee at least ten (10) days prior thereto of any public hearing regarding the petition for designation or any change thereof.
- E. Designation Procedure
- (1) The proposed designation(s) or changes thereof shall be filed by the Committee with the Village Clerk, together with its request that the property owner(s) affected by such proposal and those within a 200 foot radius of the proposed designated property be notified thereof. The Village Clerk shall give public notice of such proposal and shall mail the property owner affected by the proposal a copy thereof.

- (2) The Board of Trustees may refer to the Board of Architectural Review for review and recommendation any proposal or recommendation from the Committee for designation.
- (3) The recommendation from the Board of Architectural Review with respect to any proposed designation or change thereof, if any, together with the recommendation or proposal of the Committee, shall be forwarded to the Village Clerk, who shall transmit copies of the same to the Board of Trustees prior to a public hearing on the Committee's recommendation or proposal. After the close of the public hearing and within forty-five (45) days thereof, the Board of Trustees shall either adopt, modify or reject the recommendation or proposal of the Committee with respect to a proposed designation or change thereof. Designation of a Protected Site or Structure can be rescinded only by the Board of Trustees.
- (4) Within five business days after a designation of a Protected Site or Structure has been adopted, the Village Clerk shall send notice of such designation sent to the affected property owner(s). The designation shall be effective upon service of a copy thereof upon the affected property owner(s). The Village Clerk shall also send notice of such designation to all village departments having power to administer and enforce any law, code or regulation governing real property within the Village of Scarsdale, and a certified copy of this local law as amended, shall be filed by the Village Clerk in the office of the Clerk of Westchester County and indexed against the affected parcel(s) of land.

F. The designated Protected Sites and Structures shall be set forth in this subsection by section, block and lot numbers, street address and/or any other means of identifying the Protected Site of Structure.

§184-6. Procedure for issuance of certificate of appropriateness.

- A. Notwithstanding any inconsistent local law, rule or regulation concerning the issuance of building or other permits, no material change of appearance in any designated feature of a Protected Site or Structure shall be commenced without issuance of a certificate of appropriateness from the Board of Architectural Review, nor shall any building or other permits for such change be issued without such a certificate of appropriateness having first been issued. The certificate of appropriateness required by this section shall be in addition to, and not in lieu of, any building or other permit that may be required by any state or local law or regulation.
- B. Application for a certificate of appropriateness shall be submitted to the Board of Architectural Review in such form and include such information as the Board of Architectural Review may require.
- C. Construction; renovation; alteration; issuance of certificate

- (1) Within a reasonable time after an application is filed and following consultations with the Committee, the Board of Architectural Review shall determine whether the proposed material change to a Protected Site or Structure will be appropriate in view of the purpose of this chapter. In passing upon the appropriateness, the Board of Architectural Review shall consider, in addition to any other pertinent factors, the historical and architectural style, general design arrangement, texture, material and color of the building component involved and the relationship thereof to other structures in the immediate neighborhood.
- (2) With respect to demolition, in whole or in part, of a Protected Site or Structure, the Board of Architectural Review shall consider the following:
 - (a) Whether the Protected Site or Structure is of such architectural or historical interest that its removal, in whole or in part, would be detrimental to the public interest.
 - (b) Whether the Protected Site or Structure is of such interest that it could be made into an historic shrine.
 - (c) Whether the Protected Site or Structure is of such age, unusual or uncommon design, texture and materials that it could not be reproduced or be reproduced only with great difficulty.
 - (d) Whether retention of the Protected Site or Structure would help preserve and protect an historic place or area of historic interest in the Village.
 - (e) Whether retention of the Protected Site or Structure will promote the general welfare by maintaining and increasing real estate values and encourage interest in American history, local history and/or architecture.
- (3) If the Board of Architectural Review approves a material change, the Board of Architectural Review shall issue a certificate of appropriateness, which shall specify the work to be done. In issuing such certificate, the Board of Architectural Review may prescribe any conditions that it deems to be necessary to carry out the intent or purposes of this chapter. In setting such conditions, the Board of Architectural Review is authorized to require compliance with the Secretary of Interior's standards for additions, alterations and new construction as contained in the Secretary of the Interior Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings, as revised from time to time. As to locally landmarked properties which are not listed on the National Register of Historic Places or proposed for such listing by the New York State Board of Historic Preservation, this authorization does not include Secretary of Interior Standard 3 or 10. A certificate issued pursuant to this section shall relate solely to proposed plans accompanying the application. It shall be unlawful to deviate from the plans, including any modifications required as a condition of the issuance of such certificate, unless and until an amended certificate shall be

applied for and issued. The issuance of a certificate of appropriateness is contingent upon and subject to the requirements of the Building Department's rules and regulations, as well as relevant federal, state and local laws.

- (4) If the Board of Architectural Review determines that a certificate should not be issued or that a certificate should be issued only upon specific conditions, the Board of Architectural Review shall notify the applicant in writing of such determination and of the Board's reasons therefor. Such notice shall advise the applicant of his/her right to a hardship hearing to show substantial hardship, pursuant to §184-7 herein, provided that the applicant files written application to the Village Clerk within (10) days of receipt of such notice. The notice shall also advise the applicant of his/her right to appeal pursuant to §184-10, as a result of such determination.
 - (5) Notwithstanding the foregoing, if the Board of Architectural Review fails to issue a certificate or notify the applicant of its determination not to issue a certificate or to issue a certificate with conditions within sixty (60) days after application therefor is filed or within such additional time period as the Board of Architectural Review and applicant agree, such application shall be deemed approved.
- D. Nothing contained in this chapter shall be construed as authorizing the Board of Architectural Review in acting with respect to an application for a certificate of appropriateness or in adopting regulations in relation thereto, to waive any regulation, local law or local zoning code requirement.
 - E. The Board of Architectural Review, in performing its powers, duties or functions under this chapter with respect to any Protected Site or Structure, may imply or impose, conditions that are more restrictive than those prescribed in any other applicable provision or law. All applications to the Board of Architectural Review shall comply with the notice requirements of the Board of Architectural Review specified in §A317-11.
 - F. Removing dangerous conditions. Notwithstanding anything herein to the contrary, in any case where a duly authorized enforcement official shall order or direct the remedying of a condition or conditions determined to be dangerous to life, health or safety, a certificate of appropriateness shall be issued to permit compliance with such order or direction; provided, however, that the work not result in a material change of appearance where the danger to life, health or safety may be abated without such material change of appearance.
 - G. Any certificate of appropriateness and any permit to raze a Protected Site or Structure issued pursuant to these rules and regulations shall expire of its own limitation 12 months from the date of issuance if the work authorized thereby is not commenced by the end of such twelve-month period; and further, and any such certificate and permit shall also expire and become null and void if such authorized work is suspended and abandoned for a period of 12 months after being commenced. Any period or periods of time during

which the right to use any such certificate or permit is stayed pursuant to these rules and regulations or to any statutory or judicial rule or order shall be excluded from the computation of the 12 months.

§184-7 Hardship cases.

- A. Notwithstanding the foregoing, in the event that the Board of Architectural Review's failure to issue a certificate of appropriateness causes a substantial hardship to the applicant, the Board of Architectural Review shall take one or more of the actions enumerated in Subsection B below. For the purposes of this section, substantial hardship shall require a showing, to the satisfaction of the Board of Architectural Review, that
- (1) The land or improvement in question cannot yield a reasonable return or be used for a necessary purpose of the owner if the proposed construction, removal, alteration or demolition is not permitted; and
 - (2) The hardship is not the result of any act or omission by the applicant.
- B. Upon an applicant's showing of substantial hardship, the Board of Architectural Review shall take one or more of the following actions:
- (1) Exercise its powers hereunder and its good offices to assist the owner in developing an economically feasible plan to overcome the Board of Architectural Review's objections to the issuance of a certificate of appropriateness.
 - (2) Reconsider its decision and issue such certificate if it finds that such certificate may be issued without substantial detriment to the public welfare and without deviation from the intent and purpose of this chapter.
 - (3) In the case of demolition in whole or in part, the Board shall consider the issuance of a delayed certificate pursuant to §184-7(D).
- C. Demolition
- (1) With respect to an application to raze a Protected Site or Structure, the Board of Architectural Review shall have the right to issue a delayed certificate of appropriateness. Such certificate shall not permit demolition or razing for a period of up to ten (10) months from the date of application therefor, during which time the Board of Architectural Review, Committee and the applicant shall undertake serious and continuing discussion for the purpose of finding a method to save such property.
 - (2) During such period, the applicant shall cooperate in attempting to avoid demolition of the property. At the end of the ten-month period, if no mutually agreeable method of saving the subject property being a reasonable prospect of eventual success is underway or if no formal application for funds from any governmental unit or nonprofit organization to preserve the subject property is

pending, the Building Inspector may issue the permit to demolish the property without the approval of the Board of Architectural Review. If such mutually agreeable method for saving the subject property is not successful or no such funds to preserve the subject property have been obtained and are available for disbursement within a period of two months following the end of such ten-month period, the Building Inspector may issue the permit to demolish the property without the approval of the Board of Architectural Review.

- (3) If the certificate of appropriateness should not be issued, or that a delayed certificate or a certificate contingent upon specific structural performance should not be issued, the Board of Architectural Review shall notify the applicant in writing of such determination, and the Board of Architectural Review's reasons therefor, and shall file such notice with the Village Clerk. Such notice shall advise the applicant of his/her right to appeal such determination to the Board of Trustees, whom may reverse or affirm the action of the Board of Architectural Review.
- (4) Unless the action of the Board of Architectural Review is reversed by the Board of Trustees or by a court of competent jurisdiction, the Building Inspector shall refuse to grant a building permit or sign a demolition or other permit involving a Protected Site or Structure where a certificate of appropriateness has been denied or where the grant of such permit is not within the terms and conditions of such certificate of appropriateness as have been granted.

§184-8 Maintenance standards.

- A. Every owner or other person in charge of a Protected Site or Structure shall keep in good repair all of the exterior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvements to deteriorate, decay or become damaged or otherwise fall into a state of disrepair.
- B. In addition to any state or local law or regulation governing property maintenance, the following standards of good repair shall include, but is not limited to:
 - (1) Protected Sites or Structures shall be properly secured from vandalism, malicious mischief, and unauthorized use or casualty.
 - (2) Attached parts shall be affixed so they will not fall and injure members of the public or property.
 - (3) Foundations shall be adequate and sound.
 - (4) Flooring or floor supports shall be sufficient size or carry imposed loads with safety.

- (5) Members of walls, partitions or other vertical supports shall be sound and upright so that they are not split and do not lean, list or buckle.
- (6) Members of walls, partitions or other vertical supports shall be of sufficient size to carry imposed loads with safety.
- (7) Members of ceilings, roofs, ceiling and roof supports or other horizontal members shall be sound and stabilized so they do not sag or buckle and are not split.
- (8) Members of ceilings, roofs, ceiling and roof supports or other horizontal members shall be of sufficient size to carry imposed loads with safety.
- (9) Fireplaces or chimneys must be maintained so as not to settle, list or bulge.
- (10) Fireplaces or chimneys are of sufficient size or strength or carry imposed loads with safety.
- (11) Plaster is not cracking or loose.
- (12) Exterior walls, roofs, foundations or floors, including windows or doors, shall be effectively waterproofed.
- (13) Effective weather protection shall be provided for exterior wall coverings, including paint or other protective covering.
- (14) Improvements shall be structurally sound and properly watertight so that interior portions are secure from the elements.
- (15) Improvements shall have sufficient heat source and temperature controls so as to protect the premises (including plumbing, etc.) from excessive deterioration or actual damage due to freezing.
- (16) The Board of Architectural Review may require necessary maintenance and repair work to conform to the Secretary of the Interior's standards for such maintenance and repair.

C. Administration and enforcement.

- (1) Where it is alleged and found that a Protected Site or Structure is not being maintained in good repair, the Board of Architectural Review, upon complaint from the Committee and after hearing with notice shall determine what improvements, betterments, replacements or repairs are required to correct said deficiency.
- (2) If upon written notice of the Board of Architectural Review's decision, the owner or other person in charge of the Protected Site or Structure does not commence

corrective action and complete the same within the time set for by the Board of Architectural Review in its decision, then subsequent enforcement shall be the same as if there had been noncompliance with a notice of violation issued by the Building Inspector.

- (3) Notice to an owner or other person in charge of the Protected Site or Structure shall be sufficiently given upon the date that a copy is mailed to the person at the address shown upon the Town/Village's real estate tax rolls for the premises and also prominently posted on the main entry door of the building or structure, whichever occurs later.

§184-9 Penalties for offenses.

- A. Failure to comply with any of the provisions of this chapter shall be subject to a civil penalty of not more than \$50,000.
- B. Whenever any person has engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of this provisions of this chapter, the Board of Trustees may make application to a court of competent jurisdiction for an order enjoining such act or practice or requiring such person to refrain from such prospective violation. Upon a showing that such person has engaged in or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order or other appropriate order shall be granted without bond. Any action to enforce this chapter shall be brought by the Village Attorney.

§184-10 Appeals

- A. Any property owner who is aggrieved by a decision of the Board of Trustees or Board of Architectural Review with respect to the designation of a Protected Site or Structure, the denial of a certificate of appropriateness or hardship application, may within thirty (30) days after notice of such decision is served on the property owner and filed with the Village Clerk, whichever is later, apply to the State Supreme Court for review pursuant to Article 78 of the Civil Practice Law and Rules.

EFFECTIVE DATE:

This local law shall take effect immediately upon the filing with the Secretary of State.

Underline means addition.

~~Strikethrough means delete.~~