

LOCAL LAW #5 OF 2017

**AMENDING THE VILLAGE CODE TO PROVIDE
THAT APPEALS FROM ARB DECISIONS ARE TO
BE MADE TO THE BOARD OF TRUSTEES**

Be it enacted by the Board of the Trustees of the Village of Irvington that the Code of the Village of Irvington is amended as follows:

Section 1: Section 9-9 (Appeals) of the Board of Architectural Review chapter of the Village Code is hereby amended to read as follows (deleted language ~~stricken~~; new language in *italics*):

- A. Findings of fact. Any person aggrieved by the action of the Board of Architectural Review (ARB) in disapproving a building permit application may request the ARB to make formal findings of fact. Such request shall be filed in the office of the Village Clerk within 20 days after the date of such disapproval. If such request is made, the ARB shall make findings of fact within 30 days after the request is filed, file them in the office of the Village Clerk, and send a copy of them to the requesting person.

- B. Appeal to ~~Zoning Board of Appeals~~ *Board of Trustees*.
 - 1. *Within 30 days after delivery of the ARB decision to the applicant, or within 20 days after the findings of fact are filed, if findings are requested, the aggrieved person may take an appeal from the ARB's disapproval to the ~~duly constituted Board of Zoning Appeals Trustees~~ of the Village of Irvington, in the same manner as is provided for zoning appeals. The standard of review shall be whether the decision of the Board of Architectural Review was arbitrary, capricious or unsupported by substantial evidence of record. The Board of Zoning Appeals may reverse or affirm the action of the Board of Architectural Review. by serving a written notice on the Village Clerk.*

 - 2. *A public hearing shall be held by said Board on every appeal and application made to it. A notice of such hearing and of the substance of the appeal or application shall be given by publication in the official newspaper(s) of the Village at least 10 days before the date of such hearing. The applicant shall be required to notify any property owners within 200 feet of the subject property by a method of mail or a delivery service company providing proof of mailing or delivery or by personal*

service of such notice on the property owners, evidenced by their signature as acknowledgment of receipt of such notice on a form supplied or similar to one supplied by the Village Clerk. Said notice shall describe the substance of the appeal or application; advise the recipient of the date, time and place of the hearing; and shall advise the recipient that copies of the application or appeal and all papers filed with the Board by the applicant or appellant with respect thereto will be furnished to the recipient by the applicant or appellant upon request. On or before the date of the public hearing, the applicant or appellant shall file with the Board a verified statement evidencing compliance with the notice provisions of this subsection. Should the Board deem it advisable, it may require the notification of property owners within a distance of up to 500 feet of the subject property.

- C. Remand to ARB. If the Board of ~~Zoning Appeals~~ *Trustees* reverses the action of the Board of Architectural Review, it shall remand the application to the Board of Architectural Review for approval and the imposition of reasonable conditions, or further action consistent with the decision of the ~~Zoning Board of Appeals~~ *Trustees*. Any such subsequent decision of the ARB shall be appealable to the ~~Zoning Board of Appeals~~ *Trustees*.

Section 2: Section 224-97 (Powers and duties of Zoning Board of Appeals) is hereby amended by deleting paragraph C (Appeals), which reads:

~~C. Appeals. The Board of Appeals shall have the power to review a decision of the Board of Architectural Review in accordance with the procedure and standards set forth in § 9-9 of this Code.~~

Section 3: All ordinances, local laws, and parts thereof inconsistent with this local law are hereby repealed.

Section 4: This local law shall take effect immediately upon filing in the office of the New York Secretary of State.