

BILL NO. 8 OF 2019

A LOCAL LAW to amend Russell Gardens Code Chapter 16A entitled “Design Review Board.”

Section One. Section 16A-2 entitled “Definitions” is hereby amended by the addition of the following:

ALTERATION

Any structural or nonstructural change or addition to an existing building or structure, ~~excluding~~ including the ordinary repair or replacement ~~of an existing part, which requires the issuance of a permit by the Building Inspector.~~ of exterior facade elements to an existing building or structure with comparable materials of like kind and quality. The addition or removal of any window, or the change in size or shape of an existing window, and the replacement of an entire roof, or section thereof, with a material or color that is different from the existing roof shall be deemed to be an “alteration.” The regrading of property by one foot or more shall be deemed an alteration.

The repair, replacement, alteration or addition to an existing building or structure of 40 percent or more of its floor area shall be considered new construction.

DRIVEWAYS

All spaces for the parking of vehicles must be depicted on a driveway plan and approved by the Board. All spaces for the parking of vehicles must be depicted on a driveway plan and approved by the Board. Circular driveways are prohibited. The parking of vehicles within the first 40 feet of a front yard, measured from the property line that abuts the street, is also prohibited. Only driveways and parking areas depicted on a driveway plan approved by the Board are permitted. Driveways, parking pads and parking areas are prohibited within the first 40 feet of a front yard measured from the property line that abuts the street, unless said driveway and parking areas have been approved by the Board and are depicted on an approved driveway plan.

MAJOR APPLICATION

A major application before the Board shall include all applications that are not deemed minor applications that involve an alteration to the exterior facade of a building or structure.

When like kind materials are not available for facade finishes, the entire facade must be replaced and such application shall constitute a major application.

MINOR APPLICATION

A. Repair or replacement of design elements with like kind materials.

A minor application before the Board shall include the repair or partial replacement or alteration of exterior facade elements to an existing building or structure with comparable materials of like kind and quality which will match the color and design of the existing facade.

The repair or replacement of windows, roof shingles doors, siding and other facade materials or the painting of a facade shall constitute a minor application when like kind materials are used.

The repair or replacement of a walkway or driveway proposed in the same location, with the same dimensions, shall constitute a minor application when like kind materials are used.

The repair or replacement of like kind air conditioning units and other outdoor equipment shall constitute a minor application provided the location of these structures were previously approved by the Board and no significant change is proposed that would impact abutting properties.

B. Repair or replacement of a roof.

The repair or replacement of an entire roof which does not change the existing roof line shall constitute a minor application. Where an entire roof is being repaired or replaced, the applicant may propose different material provided such material is consistent with the architectural style of the building. Where only a part of the roof is repaired or replaced, the applicant must use like kind shingles of the same color and quality. If such material is not available, the applicant must replace the entire roof.

C. Replacement of design elements with different materials:

The replacement of windows, doors, walkways, driveways, landscaping and other similar design elements proposed in the same location, with the same dimensions, may be replaced with

different materials provided that the proposed materials are consistent with the architectural style of the building, including, but not limited to, the color scheme, quality of other materials and massing of the building. The replacement of said design elements shall constitute a minor application if said criteria are satisfied.

If more than one design element is being replaced, the Board may treat the proposed changes as a major application.

Section Two. Section 16A-3 entitled “Board Procedures” Subsection A is hereby amended to read as follows:

- A. ~~The Board shall meet monthly, unless otherwise provided, for the purpose of reviewing applications~~
Meetings shall be held at the call of the Chair of the Board and any two members and All such meetings shall be open to the public in accordance with the Open Meetings Law.

Section Three. Section 16A-3 entitled “Board Procedures” Subsection D is hereby amended to read as follows:

- A.D. The Board shall conduct a public hearing within ~~28~~ 45 days after the referral to it of ~~an~~ a major application ~~for a permit, as required as defined~~ in this chapter. At least 14 days prior to such public hearing, the applicant for such permit shall give written notice of such public hearing to all owners of property within ~~100~~ 200 feet of the property which is the subject of the application, by certified mail, return receipt requested, or personal delivery, as indicated on the most recent assessment roll of the Village. Proof of mailing or personal delivery of such notice shall be filed with the Village Clerk no later than five days prior to such public hearing, and returned certified mail receipts shall be filed with the Village Clerk no later than one day before the public hearing.

Section Four. Section 16A-4 entitled “Referral of permit applications to Board; review” Subsection A is hereby amended to read as follows:

- A. All applications for alterations as defined in this chapter shall require Board approval. Applicants must file building permit and Design Review Board applications and filing fees to begin the review process. Such applications shall first be reviewed and processed for zoning compliance.

Only complete applications that are zoning compliant shall be referred to the Village Clerk. As soon as practicable, and in any event within ~~10~~ 15 business days after the Building Inspector's receipt of an application for a permit involving the

exterior appearance of a new or existing building or structure, ~~or for the purpose of changing the exterior appearance of a building or structure.~~ If the Building Inspector shall refer said application to the Village Clerk, who shall promptly transmit the same to the Chair of the Board or, in the absence of the Chair, to the Deputy Chair of the Board. ~~The Building Inspector shall only refer to the Village Clerk permit applications that are complete and which comply in all respects to Chapter 60, Zoning.~~ The Chair or Deputy Chair shall review the application and determine within a reasonable period of time whether ~~further review by the Board is required or appropriate.~~ the application should be treated as a minor or major application.

Section Five. Section 16A-4 entitled “Referral of permit applications to Board; review” Subsection B is hereby repealed in its entirety and replaced with a new Subsection B to read as follows:

~~Such further review shall be required by the Chair or Deputy if the application is for construction of any new building or structure or for an addition to or reconstruction or alteration of any existing building or structure in such manner as to change the exterior character or appearance of the building or structure. Such further review may be required by the Chair or Deputy Chair in all other instances. Any determination by the Chair or Deputy Chair not to conduct further review shall be communicated to the members of the Board of Trustees, including the Major, any one of whom may, within 20 days after such communication, overrule such determination and required further review.~~

- B. There shall be an administrative review of all minor applications by a majority of the Board members. The Board will render its decision within 30 days of the Applicant filing a complete application package as defined in § 16A-3(D). In the event the Board denies a minor application, the Applicant may request a meeting before the Board. If the Board denies the application after a public meeting, the Applicant may present its application to the Board of Trustees whose decision to approve, deny or modify the application will be final.

Section Six. Section 16A-4 entitled “Referral of permit applications to Board; review” Subsection C is hereby repealed in its entirety and replaced with a new Subsection C to read as follows:

~~Where further review by the Board is to be conducted, such review shall be in accordance with the standards set forth in~~

~~this chapter. Upon completion of such review, the Board may approve, approve with modifications or disapprove any matter referred to it by a concurring vote of a majority of the entire Board.~~

C. There shall be a public hearing scheduled for all major applications in accordance with §16A-3(D).

Section Seven. Section 16A-4 entitled “Referral of permit applications to Board; review” is hereby amended by the addition of a new Subsection D to read as follows:

C.D. The Board’s review of all applications shall be in accordance with the standards set forth in this chapter. Upon completion of such review, the Board may approve, approve with modifications or disapprove any matter referred to it by a concurring vote of a majority of the entire Board.

Section Eight. Section 16A-5 entitled “Plans required with applications” is hereby amended to read as follows:

~~A. In addition to any plans, applications and specifications required by the Building Inspector, applications must be accompanied by plans showing elevations of all proposed new buildings and structures and all affected elevations in the case of additions or alterations to existing buildings or structures. All plans shall be signed and sealed by an architect or engineer. The plans shall identify the colors and types of materials proposed, and, unless waived by the Board, material and color samples shall be brought to the hearing by the applicant.~~

~~B. Where the applicant proposes new construction or where the plans can reasonably be expected to result in new or additional landscaping on the property or where the Board, in its discretion, so requires, the application shall include plans for all new or additional landscaping. Where required by the Building Inspector, or the Board, a site plan shall also be submitted, showing:~~

~~1. Existing and proposed contours at two foot intervals;~~

~~2. All existing trees with a trunk diameter of four inches or more at a point three feet above the ground level and~~

~~an indication of whether such trees are intended to remain or to be removed; and/or~~

~~3. Other topographical features.~~

~~B. The Building Inspector or Board shall be entitled to require the applicant to provide any additional plans deemed necessary for a proper review of the application.~~

~~A. For Major Applications, eight sets of the following plans and materials are required, along with the building permit and Design Review Board applications:~~

~~1. Eight copies of the Elevation plans, signed and sealed by an architect or engineer, showing elevations of all proposed new buildings and structures and all affected elevations in the case of additions or alterations to existing buildings and structures. The elevation shall be from a two-point perspective and shall identify the colors and types of materials proposed, and, where applicable, shall include detailed drawings or other examples in print of the plan's significant features including, but not limited to, windows, front doors, chimneys, pediments, dormers, cornices, quoins, railings, columns and arches.~~

~~2. A survey dated within 30 days of the submission date, prepared by a New York State licensed surveyor, depicting conditions as of the date of the submission of the application.~~

~~3. A plot site plan dated within 30 days of the submission date, prepared by a New York State licensed surveyor, a registered architect or engineer depicting the following:~~

- ~~a. Metes and bounds.~~
- ~~b. All setbacks and street frontage.~~
- ~~c. Curb cuts and driveway location in relation to all relevant street intersections.~~
- ~~d. Location of proposed underground utilities and easements.~~
- ~~e. Front setbacks of the houses within 200 feet of the proposed dwelling.~~
- ~~f. Existing elevations.~~

4. Floor area ratio calculations for all new construction and renovations unless the renovation is only a facade change in which case floor area calculations will not be required.
5. Fee and application form.
6. Driveway plan.
7. A material board with samples of all proposed materials and cut sheets identifying the make and model of each material.
8. Scale Model. Where the applicant proposes to construct a new dwelling or where a proposed enlargement would result in the increase of the gross floor area of an existing dwelling by 5040% or more, the applicant shall be required to prepare a scale model and artist's rendering of the proposed dwelling. The scale model shall include grades at two-foot intervals and shall depict the dwellings on all three sides. The artist's rendering shall depict the dwellings on either side of the dwelling that is the subject of the application.
9. Color photographs of the two houses to each side and all houses within a 150-foot radius, including the front and rear
10. Topographical map prepared by a New York State licensed surveyor depicting proposed grading with finished elevations, mean ground level at the proposed dwelling's perimeter, mean street curb level and first floor elevations, as well as the current topography of the site.
11. Landscape plan. Where the applicant proposes new construction or where the building plans can reasonably be expected to result in new or additional landscaping on the property or where the application is for new construction a separate landscaping application must be filed concurrently with the building permit application and shall include plans for all new or additional landscaping, showing existing trees, trees to be removed and all new plantings of trees and shrubs (including size and location), all grass and ground

cover and all paved areas. The landscaping plan shall also show:

- a. Existing and proposed contours at two-foot intervals;
- a.b. Elevations and grade levels for retaining walls and planters;
- b.c. All existing trees with a trunk diameter of four inches or more at a point three feet above the ground level and an indication of whether such trees are intended to remain or to be removed; and
- e.d. Other topographical features.

- 12. A two-point perspective color rendering, to scale, of the proposed dwelling and the houses on either side.
- 13. The Building Inspector or Board shall be entitled to require the applicant to provide any additional plans deemed necessary for a proper review of the application.

B. For New Construction, additional requirements:

For all new construction or alterations involving the repair, replacement, alteration to an existing building or structure of 5040% or more of its floor area, the following additional requirements shall apply:

- 1. Pre-Application submission. Prior to the filing of an application, the applicant shall submit preliminary schematic plans, a list of materials to be used for the project and the application form and fee.
- 2.1. Pre-Hearing meeting. The Village Clerk shall schedule a Board meeting to be held within 30 days of the applicant's filing of its pre-application submission.
- 3.2. Following the pre-hearing application process, the applicant shall file a complete application package as set forth in §16A-5 and a public hearing will then be scheduled in accordance with §16A-3D.

C. For Minor Applications, the following plans and materials are required:

1. Color photographs of the existing structure or building to be altered depicting current conditions of the structure or building. The photographs should also depict the materials to be altered or replaced.
2. Samples of all materials proposed and cut sheets identifying the make and model of each material.
3. Fee and application form.
4. The Building Inspector or Board shall be entitled to require the applicant to provide any additional plans deemed necessary for a proper review of the application.

Section Nine. Section 16A-4 entitled “Referral of permit applications to Board; review” is hereby amended by the addition of a new Subsection D to read as follows:

- D. The Board’s review of all applications shall be in accordance with the standards set forth in this chapter. Upon completion of such review, the Board may approve, approve with modifications or disapprove any matter referred to it by a concurring vote of a majority of the entire Board.

Section Ten. Section 16A-5 entitled “Plans required with applications” is hereby amended to read as follows:

- E. For Major Applications, eight sets of the following plans and materials are required, along with the building permit and Design Review Board applications:
14. ~~Eight copies of the~~ Elevation plans, signed and sealed by an architect or engineer, showing elevations of all proposed new buildings and structures and all affected elevations in the case of additions or alterations to existing buildings and structures. The elevation shall be from a two-point perspective and shall identify the colors and types of materials proposed, and, where applicable, shall include detailed drawings or other examples in print of the plan’s significant features including, but not limited to, windows,

front doors, chimneys, pediments, dormers, cornices, quoins, railings, columns and arches.

15. A survey dated within 30 days of the submission date, prepared by a New York State licensed surveyor, depicting conditions as of the date of the submission of the application.
16. A ~~plot site~~ plan dated within 30 days of the submission date, prepared by a New York State ~~licensed surveyor, a registered architect or engineer~~ depicting the following:
 - g. Metes and bounds.
 - h. All setbacks and street frontage.
 - i. Curb cuts and driveway location in relation to all relevant street intersections.
 - j. Location of proposed underground utilities and easements.
 - k. Front setbacks of the houses within 200 feet of the proposed dwelling.
 - l. Existing elevations.
17. Floor area ratio calculations for all new construction and renovations unless the renovation is only a facade change in which case floor area calculations will not be required.
18. Fee and application form.
19. Driveway plan.
20. A material board with samples of all proposed materials and cut sheets identifying the make and model of each material.
21. Scale Model. Where the applicant proposes to construct a new dwelling or where a proposed enlargement would result in the increase of the gross floor area of an existing dwelling by ~~50~~40% or more, the applicant shall be required to prepare a scale model and artist's rendering of the proposed dwelling. The scale model shall include grades at two-foot intervals and shall depict the dwellings on all three sides. The artist's rendering shall depict the dwellings on either side of the dwelling that is the subject of the application.

22. Color photographs of the two houses to each side and all houses within a 150-foot radius, including the front and rear
 23. Topographical map prepared by a New York State licensed surveyor depicting proposed grading with finished elevations, mean ground level at the proposed dwelling's perimeter, mean street curb level and first floor elevations, as well as the current topography of the site.
 24. Landscape plan. Where the applicant proposes new construction or where the building plans can reasonably be expected to result in new or additional landscaping on the property or where the application is for new construction a separate landscaping application must be filed concurrently with the building permit application and shall include plans for all new or additional landscaping, showing existing trees, trees to be removed and all new plantings of trees and shrubs (including size and location), all grass and ground cover and all paved areas. The landscaping plan shall also show:
 - e. Existing and proposed contours at two-foot intervals;
 - d.f. Elevations and grade levels for retaining walls and planters;
 - e.g. All existing trees with a trunk diameter of four inches or more at a point three feet above the ground level and an indication of whether such trees are intended to remain or to be removed; and
 - f.h. Other topographical features.
 25. A two-point perspective color rendering, to scale, of the proposed dwelling and the houses on either side.
 26. The Building Inspector or Board shall be entitled to require the applicant to provide any additional plans deemed necessary for a proper review of the application.
- F. For New Construction, additional requirements:

For all new construction or alterations involving the repair, replacement, alteration to an existing building or structure of ~~50~~40% or more of its floor area, the following additional requirements shall apply:

~~4.~~ Pre-Application submission. Prior to the filing of an application, ~~t~~The applicant shall submit preliminary schematic plans, a list of materials to be used for the project and the application form and fee.

~~5.3.~~ Pre-Hearing meeting. The Village Clerk shall schedule a Board meeting to be held within 30 days of the applicant's filing of its pre-application submission.

~~6.4.~~ Following the pre-hearing application process, the applicant shall file a complete application package as set forth in §16A-5 and a public hearing will then be scheduled in accordance with §16A-3D.

G. For Minor Applications, the following plans and materials are required:

5. Color photographs of the existing structure or building to be altered depicting current conditions of the structure or building. The photographs should also depict the materials to be altered or replaced.
6. Samples of all materials proposed and cut sheets identifying the make and model of each material.
7. Fee and application form.
8. The Building Inspector or Board shall be entitled to require the applicant to provide any additional plans deemed necessary for a proper review of the application.

Section Eleven. Section 16A-7 entitled "Purpose of these guidelines" Subsection A is hereby amended to read as follows:

A. Purpose of these guidelines.

These guidelines are intended to facilitate the design review process by encouraging certain design characteristics which are deemed appropriate in achieving the standards set forth in 16A-6. In rendering its judgements, the Board ~~remains at liberty to depart from any and~~ may invoke standards which are not specifically encompassed within guidelines, provided that the standards are consistent with the guidelines.

Section Twelve. Section 16A-7 entitled “Massing” Subsection B is hereby amended to read as follows:

B. Massing.

- (1) Large undifferentiated volumes and/or wall surfaces ~~should be avoided~~ are prohibited.
- (2) Abrupt transitions between volumes of a building ~~should~~ shall be avoided.
- (3) In single-family dwellings, pitched roofs are ~~preferred over flat roofs.~~
- (4) Pitched roofs should consist of at least two sloped surfaces except when adjoining higher vertical surfaces (i.e., shed, roofs). Neither sloped surface should be less than one-third (1/3) the length of the longer side.
- (5) Pitched roofs shall have a minimum pitch of 1:3 except ~~at~~ for dormers and shed roofs.

Section Thirteen. Section 16A-7 entitled “Materials” Subsection C(1) is hereby amended to read as follows:

C. Materials.

- (1) Designs ~~should~~ will rely on a limited palette of materials for the main body of the building. ~~such as brick, stucco, wood, shingle or a combination thereof. These surfaces should be relieved by their trim, trim colors and decorative elements, such as shutters, molding or other decorative ornamentation. These materials will be limited to: (i) brick, brick veneer, cement products with the appearance of brick, (ii) cement stucco, (iii) stone, stone veneer, cement products with the appearance of stone, and (iv) wood shingles or wood clapboard. These materials may be used individually or in combination thereof. When appropriate, these surfaces shall be relieved by trim, molding and other decorative elements such as shutters and other design elements.~~

Section Fourteen. Section 16A-7 entitled “Landscaping” Subsection D is hereby amended to read as follows:

D. Landscaping.

The use of evergreen plant material (e.g. pine, cedar, hemlock, holly, laurel, yew, pachysandra, myrtle, etc.) is ~~encouraged~~ required to ensure that any planned visual buffers function effectively year-round. All applications for the removal of trees shall be governed by the standards set forth in §51A-6.

Section Fifteen. Section 16A-7 entitled “Color” Subsection G is hereby amended to read as follows:

G. Color.

The Board encourages the use of colors, singly or in combination, which are consistent with the visual character of the existing buildings and landscape of the Village. Strident color schemes and or colors which compete with ~~those of the~~ colors of the natural landscape are strongly ~~discouraged~~ prohibited.

Section Sixteen. Section 16A is hereby amended by the addition of a new subsection “I” entitled “Fences” to read as follows:

I. All proposed fences must comply with §60-59.2

Section Seventeen. Section 16A-8 entitled “Failure of Board to act” is hereby amended as follows:

If, within ~~28~~ 90 days after the date on which an application has been duly referred to the Board, or after a revised application has been submitted in accordance with § ~~16A-6(D)(2)~~, or such longer period as may be consented to by the applicant, the Board has not acted on the application, the application shall be deemed approved.

Section Eighteen. Section 16A-12 entitled “Expiration of chapter; annual renewal” is hereby repealed in its entirety and replaced with a new §16A-12 entitled “Fees” to read as follows:

A. A fee schedule shall be established by resolution of the Board of Trustees. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected in connection with applications submitted to the Board.

- B. All fees specified in the fee schedule shall be paid to and collected by the Village Clerk simultaneously with the filing of any application. The particular application shall not be deemed filed until said fees shall be paid and until the other requirements of this chapter have been complied with.
- C. The payment of fees specified in the fee schedule shall not preclude the payment of fees required under other provisions of the Code of the Village of Russell Gardens or Village rules and regulations, or fees required to be paid to any other governmental or quasi-governmental agency or any sewer or water district having jurisdiction in the premises.
- D. The fees specified in the fee schedule shall not be refunded, except when an application has not been processed by the Village and a written request for a refund is submitted to and approved by the Board of Trustees.

Section Nineteen. If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

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