

**ORDINANCE NO. 2016-9
(AS AMENDED)**

**AN ORDINANCE
AMENDING CHAPTER 1313, ARCHITECTURAL BOARD OF
REVIEW, OF THE CODIFIED ORDINANCES OF THE
VILLAGE OF WAITE HILL.**

WHEREAS, the Village has been reviewing and revising its zoning and building codes for the purposes of updating the Village's regulations; and

WHEREAS, Council desires to amend Chapter 1313 to update the procedures and standards of review of the Village's Architectural Board of Review; and

WHEREAS, this ordinance has been referred to the Planning and Zoning Commission and the Architectural Board of Review for a report and recommendation.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF WAITE HILL, STATE OF OHIO:

SECTION 1. That existing Chapter 1313, Architectural Board of Review, of the Codified Ordinances of the Village of Waite Hill, Ohio, be and the same hereby is amended to read and provide, in its entirety, as follows:

**“CHAPTER 1313
Architectural Board of Review**

1313.01 SECRETARY.

(a) The Architectural Board of Review shall appoint a Secretary who shall keep the records of such Board, including the minutes of all meetings thereof, record the vote of each member on all matters requiring Board action as required in this Chapter, give notice of meetings to members, applicants and their agents and attorneys, and to the public, including the agenda for each such meeting, and accept on behalf of such Board all applications, plans and accompanying documents necessary or required by the Board for its consideration, approval or disapproval.

(b) The Secretary shall be deemed an employee and not an officer and shall receive such compensation as is fixed from time to time by Council.

1313.02 COMPOSITION; MEETINGS; RULES AND REGULATIONS.

(a) The Architectural Board of Review shall be comprised of five (5) members, one of whom shall be the Mayor, one of whom shall be a member of Council appointed by his fellow Councilmen at the Organizational meeting of Council, and the remaining three (3) members shall be electors appointed by the Mayor, subject to confirmation by a majority of the members of Council.

(b) In addition to the five (5) members of the Architectural Board of Review, there shall be at least two (2) Architect Advisors to the Board. The Mayor shall, subject to confirmation by a majority of the members of Council, appoint at least two (2) Architect

Advisors to advise the members of the Board. Architect Advisors must be licensed and registered architects in the State of Ohio and may reside outside the Village. Architect Advisors have no vote on matters before the Board. Architect Advisors shall, in addition to attending Board meetings, perform inspections as requested by the Village.

(c) The Architect Advisors are independent contractors of the Village and shall serve at the pleasure of the Mayor. The Architect Advisors shall receive such compensation as the Council shall determine by motion of Council, and the Mayor is authorized to enter into an agreement, prepared by the Law Director, with each Architect Advisor.

(d) The Architectural Board of Review shall hold regular monthly meetings at the Council Chambers of the Village of Waite Hill, and such special meetings as the Board may determine or at the call of the Chairman. Notice of all such meetings shall be given according to law. The Board may schedule such site visits as may be necessary. As formal deliberations should be held in a public forum, the Board shall not deliberate about the project while on-site, but Board members may solicit and receive information while on-site.

(e) The Architectural Board of Review shall keep minutes of its proceedings, showing the vote of each member on each question or, if absent or failing to vote, indicate such fact, and shall also keep records of its examinations and other official actions. Approval, conditional approval or disapproval of an application shall be by majority vote of all the members thereof. The Board shall have power from time to time to adopt, amend, and repeal rules and regulations not inconsistent with the laws of the State of Ohio and the Village ordinances governing its procedure under the provisions of this chapter, and for the purpose of carrying into effect the standards outlined in this chapter.

(f) Notice of the first consideration by the Board of a proposed new residence shall be mailed to all abutting property owners and the owner(s) of property across the street from the property upon which the project will be constructed. The notice shall state that a new residence is proposed to be constructed on the property and that plans for the residence may be reviewed at Village Hall during regular business hours, or a digital copy of the submitted materials may be transmitted via email to any person who requests such a copy. The notice shall be mailed at least five (5) days prior to the meeting where the project is first considered, and the Secretary shall maintain proof of such mailing. Persons entitled to notice under this section may request further notice by mail or e-mail of any subsequent consideration of the project, which notice shall be mailed or e-mailed at least five (5) days prior to the subsequent meeting at which the project is considered.

(g) A quorum of the Board shall include at least three (3) members and one Architect Advisor, and the approval of any project shall require the affirmative vote of at least three (3) members.

1313.03 CONFLICTS OF INTEREST.

No voting member of the Board is permitted to have any direct or indirect financial interest in the matters appearing before the Board, provided that if there is such an interest the member may abstain from voting on, and shall not participate in the discussion of, the matter in which there is a financial interest. An Architect Advisor shall not provide advice to the Board on any matter in which the Advisor has any economic interest.

1313.04 PURPOSES.

The purposes of the Architectural Board of Review are the following:

(a) To promote and protect the public health, convenience, comfort, prosperity and general welfare by regulating the exterior design and location of buildings and structures to assure orderly and reasonable harmonious developments in the municipality and in each neighborhood thereof;

(b) To ensure that proposed developments protect and preserve the value, appearance and use of neighboring property on which buildings are constructed or altered, maintain safety, convenience and welfare and protect real estate within the municipality from impairment or destruction of value;

(c) To regulate, according to accepted and recognized architectural principles, the design, use of materials, finished grade lines, dimensions, orientation and location of all main and accessory buildings to be created, moved, altered, remodeled or repaired, subject to the provisions of Zoning Codes and other applicable ordinances of the municipality. In considering building proposals the Architectural Board of Review shall consider and take cognizance of the development of adjacent, contiguous and neighboring buildings and properties for the purpose of achieving safe, harmonious and integrated development of related properties;

(d) To prevent the harmful effects of excessively similar, dissimilar, or inappropriate exterior design and/or location of buildings or structures in relation to the exterior design of buildings prevailing in the municipality. Harmful or adverse effects, immediate or in the future, to be prevented are:

(1) Impairing the benefits of occupancy or causing deterioration of existing residential property; or

(2) Discouraging the most appropriate use of undeveloped land throughout the municipality; or

(3) Lessening the desirability of neighboring areas of the municipality for residential purposes; or

(4) Reducing the stability and values of both improved or unimproved real property in the municipality including the effects of capricious, faddish architecture of transitory public appeal; or

(5) Impairing a proper relationship between the taxable value of real property and the costs of municipal services.

1313.05 BOARD APPROVAL REQUIRED; CHANGES OF AND FROM APPROVED PLANS.

(a) No building permit shall be issued for a project which erects, constructs, reconstructs, moves, extends or enlarges a building in any manner which materially affects the exterior appearance, design, or size of the building or other structure unless the Board has granted "Final Approval," which is a determination by the Board that the design of the building is architecturally appropriate, in accordance with this Chapter, and may be constructed as shown on the approved plans.

(b) No person shall erect, construct, reconstruct, move, extend, enlarge or otherwise alter a building in a fashion which is in any way inconsistent with plans approved by the Board, except as provided

(c) No person shall alter plans which have been approved by the Architectural Board of Review in any manner which materially affects the exterior appearance, design, or size of the

building or other structure which is being erected, constructed, reconstructed, moved, extended, enlarged or otherwise altered except as provided in subsection (d), below.

(d) Changes in plans that have received Final Approval may be authorized by the Board through the same process by which Final Approval is granted, provided that the requested changes meet the standards required by this Chapter.

**1313.06 PROCEDURES: REVIEW AND APPROVAL OF DESIGN;
ENDORSEMENT OF PLANS; APPEAL.**

(a) Submission Requirements.

(1) Documents submitted for Board review shall be submitted to the Secretary no later than noon on the seventh day before the next Board meeting (e.g. if the Board meeting is scheduled for the fourth Monday of a month, the submission shall be filed with the Secretary no later than noon on the third Monday of that month). The submission to the Secretary shall include one copy of such paper documents as the applicant wishes the Board to consider, and one portable document format (pdf) copy of all documents submitted in a paper format. If the failure to submit all documents in a timely fashion prevents the giving of timely notice that is required under this Chapter, the matter shall be placed on the next subsequent Board agenda so that notices that are required by this Chapter may be made in the time required herein.

(2) When an application is made for the Preliminary Review of a new residence, the applicant shall submit photographs from each neighboring residence that will be able to see the new residence (assuming no new screening is installed) so as to provide evidence of the current conditions of the site. If permission cannot be obtained from a neighboring property owner to get a photo of the actual view from the residence of the neighbor, the applicant shall submit a photo of the site from a location which is taken from the direction of the neighboring property owner, which shall be either from the applicant's property or from a public right of way.

(3) The applicant shall be required to submit pdf versions of all documents that receive approval by the Village. If no changes are required as a consequence of Final Approval, the pdf that was submitted at the time of the application for Final Approval shall be sufficient to meet this requirement. In the event a project receives Conditional Approval, no zoning permit shall be issued until the applicant submits a pdf of each of the documents which have been changed pursuant to the Conditional Approval.

(b) Preliminary Review; Suggestions; Preliminary Approval.

(1) Any person who seeks to construct a new residence or construct an addition to a residence which changes the footprint of a residence within the Village shall obtain a preliminary review of the proposed design by the Board before an application for Final Approval is presented to the Board for consideration. Any person seeking to alter a structure within the Village in a manner which materially changes the exterior appearance or size of such structure is encouraged to seek a preliminary review of the proposed design changes. The recommendations of the Board on a preliminary review are intended to assure that high quality of exterior design excellence and landscape harmony are preserved in the Village at a time when the conceptual design of the project is being developed.

(2) Documents supporting a preliminary review shall be submitted in accordance with subsection (g) of this section, and may be made of conceptual sketches and sketch plans which convey: the general nature of the architectural floor plans; the site plan indicating the topography, existing tree cover, and related access roadways; the context and/or visual relationship to adjacent residences and properties; and the visual massing and appearance of all sides of the proposed structure. A new house shall be designed in an established and recognized style, and its exterior size, shape, materials, color and texture should be compatible with existing houses and it shall fit into its site and its scenic surroundings so as to be complementary and unobtrusive.

(3) The Board may make suggestions regarding the proposed design, and indicate any problems the applicant is likely to encounter if final plans are presented in conformance with the preliminary plans.

(4) The Board shall grant "Preliminary Approval" if the Board determines that the proposed design presented in the preliminary plans is sufficient to warrant final plans. If the Board does not grant Preliminary Approval, it shall advise the applicant of the reasons Preliminary Approval was not granted.

(c) Preliminary Approval. Preliminary Approval shall be marked upon the conceptual drawings of the residence or other structure(s). Preliminary Approval shall be evidence that the concepts presented are acceptable to the Architectural Board of Review, and the project should proceed to final drawings.

(d) Final Review. Each application for Final Approval by the Architectural Board of Review shall be submitted in accordance with subsection (g) of this section, and shall have scale drawings including:

- (1) a site plan showing the proposed building location, property boundary lines, topography and any prominent ground or site features;
- (2) floor plans;
- (3) building elevations;
- (4) transverse and longitudinal sections; and written specifications, that, taken together, provide a detailed description of the site placement, size, volume and appearance of the proposed building; and
- (5) a plan of any landscape features to be installed as a part of the proposed project.

(e) Approval; Disapproval. If the Architectural Board of Review finds, upon review of the final plans, that the plot plan and exterior design and accompanying documents conform to the requirements of the standards and criteria set forth in this Chapter, it shall grant Final Approval. If such design and documents do not conform, it may grant "Conditional Approval" by specifying modifications which would make the same acceptable. If the Board finds the exterior design for a building or structure would produce harmful effects within the Village, or otherwise not comply with the standards and criteria of this chapter, the Board shall disapprove the application, design and accompanying documents. In the event the Board fails to act upon the final plans within one hundred eighty (180) days of the filing date of the application, the application will be deemed to be approved.

(f) Final Approval. Final Approval or disapproval of the plot plan and of the exterior design and accompanying documents shall be endorsed thereon by the Board by its Chairman, or by the Clerk-Treasurer in the event of action by the Village Council, as described in Section 1313.06(f). In the event the Board or Council issues Conditional Approval, the

conditions shall be noted in writing upon the appropriate plans to which the conditions apply. The Secretary shall not issue any zoning permit for any application which has not received Final Approval, nor shall any zoning permit be issued for any application which has granted Conditional Approval unless and until the conditions noted on the plans have been satisfied. After Final Approval is granted, any changes which will materially affect the look of the residences shall be submitted to the Board via the same process that Final Approval is considered, and adjudicated on the basis of the same standards applied at the time of Final Approval.

(g) Appeal to Council.

(1) If the Board disapproves any application or makes any determination adverse to the applicant, the applicant shall have twenty (20) days after the meeting at which the announcement of the decision is made to file a notice of appeal to the Village Council of the adverse decision. Such notice shall be filed with the Clerk-Treasurer.

(2) The Village Council shall place the matter for hearing on the agenda for the next regular meeting of the Village Council following the filing of the notice of appeal, provided that the notice of appeal is filed at least fourteen (14) days prior to the next Village Council meeting; otherwise the Village Council shall place the appeal on the agenda of the subsequent regular meeting.

(3) The Village Council shall decide the appeal within ninety (90) days of the filing of the notice of appeal, unless the applicant requests additional time for decision. A failure by the Village Council to decide the matter within ninety (90) days of the notice of appeal shall be deemed to be an affirmance of the decision of the Board. The decision of the Village Council shall be final within the Village. In the event the Village Council reverses or modifies the decision of the Board, the Clerk-Treasurer shall endorse the approval or modification, which was ordered by the Village Council, and issue the appropriate permits.

1313.07 EVALUATION STANDARDS.

(a) Excessive Dissimilarity. The exterior design and size of a building or structure, its orientation on the site, and its landscape treatment shall not be excessively dissimilar to any other existing building, structure, site plan or landscape plan in the neighborhood. For the purposes of this section, a building, structure, site plan or landscape plan shall be deemed to be “existing” if a valid permit has been issued for its construction.

(b) Excessive Similarity. The exterior design and size of a building or structure shall not be excessively similar in relation to any other building or structure, existing or for which a permit has been issued, on a lot located such that the buildings may be viewed simultaneously, particularly any of the following features of exterior design:

(1) Facade. An elevation shall not be apparently identical, including the size and arrangement of either doors, windows, porches, or other openings or breaks in the facade, nor shall there be a directly reverse arrangement;

(2) Other significant features. Architectural features, including but not limited to materials, colors, roofline, or other design elements shall not be apparently identical.

(c) Inappropriate Design. If, based upon evidence in the record, the Board determines that a building, structure, addition, site plan or landscape plan is inconsistent with the

predominant architectural style of another residence or residences in the neighborhood, or is otherwise inconsistent with other elements of the design of the building, structure, site plan or landscape plan, the Board may make a finding that the design is inappropriate. A building that is not a recognized style is an inappropriate design which shall not be approved.

(d) Harmful Effects of Design. In order to prevent the harmful effects of excessively similar, dissimilar, or inappropriate exterior design and/or location of buildings or structures in relation to the exterior design of buildings prevailing in the municipality, the Board must also issue a finding or findings, based upon the evidence in the record, that such similarity, dissimilarity or inappropriateness will produce one or more harmful effects, as set forth in Section 1313.04(d) of this Chapter.

1313.08 EVALUATION CRITERIA.

The following criteria are established to guide the Architectural Review Board in its review of proposals and in applying the evaluation standards set forth in Section 1313.07:

(a) Materials shall be appropriate for the use of the building, and for their relationship to other materials, including those used on adjacent buildings.

(b) The design of any building shall be judged in reference to its site and the character of its surroundings, not as an independent object.

(c) The gross floor area for a residence shall be in character with the surrounding neighborhood and not be excessively large relative to the site or in comparison to adjacent residences;

(d) Colors and textures shall be appropriate for the size and scale of the building, and for their relationship to the site and adjacent buildings. Colors shall be harmonious and shall use only compatible accents.

(e) Architectural details and ornaments shall be meaningful to the overall design and appropriate for the size and scale of the building.

(f) The design must include sufficient details, accents, and appropriate architectural features on each façade of the building so that each elevation is fundamentally sound; such architectural design is commonly referred to as “360° design.” For example, if the front of the building has a stone water table, the stone should be carried around the sides and rear of the building so that the entire building is the product of a unified, coherent, and integrated design.

(g) Buildings should be sited to minimize grade changes and to take advantage of natural features, including mature trees. Buildings shall be set at proper grades and otherwise in proper relation to the proposed surroundings.

(h) Mechanical equipment shall be considered as it affects rooftop appearance, sidewall openings, sound levels, smoke and other nuisance aspects.

(i) Approaches, drives and parking areas shall be considered as they affect the appearance from the street and from the site as well. The relationship of paving to the building shall be appropriately considered factors such as safety, drainage and landscaping.

(j) Landscaping shall be appropriate for the size and use of the area, and for its relationship to the building, street, parking areas, walks and adjacent buildings.

(k) Lighting shall be considered for the appropriateness of nighttime illumination of the grounds, drives, walks, parking areas and the building, and its effect upon surrounding areas.

(l) Signs shall be considered for the appropriateness of size, scale, shape, color and illumination in relation to the building site and neighboring sites.

1313.09 SPECIFIC DESIGN STANDARDS.

The Village has certain existing standards with which new construction should comply, when feasible, so as to not adversely impact the value of existing properties. These standards include:

- (a) There shall be no basement windows on the front elevation of the residence;
- (b) Roofs shall be constructed of high quality materials, and the look of a dimensional shingle is preferred for asphalt shingle roofs;
- (c) Fireplace chimneys, furnace flues, and foundation walls that are above-grade shall be clad with brick or stone;
- (d) Flue pipes and utility services shall, to the extent possible, be blocked from the views of neighbors and from public rights of way by architectural features and/or appropriate landscaping.

1313.99 PENALTY.

(a) Any owner of any building or premises or part thereof, who violates the terms of this chapter, or any architect, builder, or contractor who assists in the commission of any such violation, or any person who fails to comply with an order of the Architectural Board of Review, shall, for each violation or failure to comply, be fined not more than five hundred dollars (\$500.00). Each day such violation or failure to comply exists shall constitute a separate offense.

(b) In lieu of or in addition to the prosecution for any criminal violation authorized by subsection (a) hereof, the Law Director may institute an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful condition; to restrain, correct or abate a violation; to prevent the occupancy of buildings, structures or premises which violates this chapter; or to require compliance with this chapter or other applicable laws, ordinances, rules or regulations, or the orders of the Architectural Board of Review.”

SECTION 2. That existing Chapter 1313, Architectural Board of Review, and any other ordinances or parts thereof in conflict herewith be, and the same hereby are, repealed to the extent of the conflict.

SECTION 3. That the actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements including Chapter 107 of the Codified Ordinances of the Village of Waite Hill.

SECTION 4. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____, 2016

Council Presiding Officer

Submitted to the Mayor for

**ORDINANCE NO. 2016-9
(AS AMENDED)**

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approval on this ____ day of _____, 2016

Approved by the Mayor this
____ day of _____, 2016

ATTEST:

Clerk of Council

Mayor

