

Topic:	Open Space Preservation; Conservation Districts & Subdivisions; Natural Resource Protection & Conservation; Scenic Resources
Resource Type:	Regulations
State:	New York
Jurisdiction Type:	Municipal
Municipality:	Village of Briarcliff Manor
Year (adopted, written, etc.):	1998
Community Type - applicable to:	Suburban; Rural
Title:	Village of Briarcliff Manor Conservation Development Ordinance
Document Last Updated in Database:	April 6, 2017

Abstract

This law is designed to protect environmentally sensitive undeveloped areas, within the Village of Briarcliff Manor, from harmful development practices. To this end, the Board of Trustees authorizes the village Planning Board to approve conservation subdivisions, according to procedures outlined in the law.

Resource

Village of Briarcliff Manor NY Conservation Development
Code of the Village of Briarcliff Manor NY
Chapter 220 Zoning
General Code
[http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=1701%2D220%2Ehtm%23Section220%2D7%2E&cn=678&n=\[1\]\[132\]\[678\]](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=1701%2D220%2Ehtm%23Section220%2D7%2E&cn=678&n=[1][132][678])

§ 220-7. Conservation development. [Amended 5-21-1998 by L.L. No. 2-1998; 5-20-1999 by L.L. No. 2-1999]

A. Findings; purpose and intent.

- (1) The Board of Trustees of the Village of Briarcliff Manor hereby finds that a substantial proportion of the remaining vacant land in the Village is environmentally sensitive and topographically difficult. The Board of Trustees further finds that it is to the benefit of all, wherever practicable, to promote the conservation of remaining open space, preserve environmentally sensitive areas in

their natural state and preserve the existing aesthetic qualities of the Village.

- (2) The general purposes and intent of this section are to enable and encourage flexibility and diversity of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, to preserve the natural and scenic qualities of open lands, to protect areas of meaningful ecological, architectural, scenic and historic value and to reserve suitable lands for park and recreation purposes.

B. Authorization to approve conservation subdivisions.

- (1) The Board of Trustees upon application of the owner of the land to be subdivided, or upon the application of the Planning Board, may authorize the Planning Board simultaneously with the approval of a subdivision plat, to modify applicable provisions of this chapter, subject to the procedures, conditions and requirements set forth in this section, in § 190-16F of Chapter 190, Subdivision of Land, and in § 7-738 of the Village Law. This procedure may be followed:
 - (a) When applied for by the owner of the land to be subdivided if, in the judgment and discretion of the Board of Trustees, its application would benefit the Village by satisfying one or more of the purposes set forth in Subsection A; or
 - (b) Where the Planning Board applies to the Board of Trustees for such authorization and where the Planning Board had determined that its application would benefit the Village by satisfying one or more of the purposes set forth in Subsection A and where the Planning Board determines that one or more of the criteria for conservation development, as set forth in § 190-16F of Chapter 190, Subdivision of Land, would be met. In this case, if so authorized by the Board of Trustees, the Planning Board may require the owner of the land to submit a preliminary subdivision plat application which reflects such modifications of applicable provisions of this chapter.
- (2) This authorization shall be applicable in all zoning districts which permit residential development in the Village.
- (3) Except as specified in this section, all development standards and controls of this chapter and Chapter 190, Subdivision of Land, which are otherwise applicable in the district in which the property is located shall also be applicable within any conservation development.

- (4) Except as otherwise provided in Subsection B(6) regarding the type of residential dwelling units permitted, the permitted principal and accessory uses within a conservation development shall be the same as those otherwise permitted in the zoning district in which the property is located.
- (5) The number of building lots or dwelling units permitted within a conservation development shall in no case exceed the number which could have been permitted, in the judgment of the Planning Board, if the land were subdivided into lots conforming to all normally applicable requirements of this chapter, Chapter 190, Subdivision of Land, the Westchester County Department of Health regulations and all other applicable requirements. However, where the plat falls within two or more contiguous districts, the Planning Board may approve a conservation development representing the cumulative density as derived from the summary of all units allowed in all such districts, and may authorize actual construction to take place in all or any portion of one or more of such districts. The basis for these density determinations by the Planning Board shall be a conventional preliminary subdivision plat for the subject property, plus such other information as may be required by said Board.
- (6) The type of residential dwelling units permitted within a conservation subdivision shall be, at the discretion of the Planning Board and subject to the conditions set forth herein, in detached, semidetached and/or attached buildings.
- (7) The plat showing such conservation development may include areas within which structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street and enclosed parking spaces, streets, driveways and any other features required by the Planning Board.
- (8) Within the framework of the limitations set forth in this section, § 190-16F of Chapter 190, Subdivision of Land, and § 7-738 of the Village Law, the Planning Board shall establish, on a case-by-case basis, the appropriate modifications of lots, bulk and parking requirements which said Board has determined are necessary or appropriate to properly accomplish the purposes and intent set forth in Subsection A, and, where applicable, one or more of the specified objectives set forth in § 190-16F of Chapter 190, Subdivision of Land, consistent with the protection of private property values and the preservation of the character of land and buildings on neighboring sites.
- (9) Conservation subdivisions shall result in the preservation of open space areas having meaningful scenic, ecological, environmental and/or recreational characteristics, with such access, shape, size and location as determined appropriate by the Planning Board to satisfy the intended purpose. The permanent preservation of such open space areas shall be legally assured to the satisfaction of

the Planning Board and the Village Attorney by filing of appropriate covenants, deed restrictions, easements or other agreements.

(a) The ownership of conserved land areas shall be divided equally among all owners of building lots within the conservation subdivision, except where all or an appropriate portion of the conserved land areas are deeded to a recognized conservation organization dedicated to the preservation of open space and such dedication is acceptable to the conservation organization and to the Village Planning Board, or offered for dedication to the Village of Briarcliff Manor and the Board of Trustees has voted to accept such offer. Except in those cases where the ownership of the conserved land areas is to be vested in the Village of Briarcliff Manor or an approved conservation organization, the subdivider shall execute and file with the Planning Board such documents as, in the opinion of the Village Attorney, will be sufficient to create a property owners' association responsible for the continued ownership, use and maintenance of all conserved land areas in accordance with the following requirements:

- [1] Membership in the association must be mandatory for each property owner within the subdivision and for any successive property owners.
- [2] All restrictions on the ownership, use and maintenance of conserved land areas must be permanent.
- [3] The association must be responsible for liability insurance, local taxes and the maintenance of the conserved land areas, including any active recreation areas and related facilities.
- [4] Each lot owner within the subdivision shall be made responsible for paying a proportionate share of the association's costs, and the assessment levied by the association shall become a lien on the property if not paid.
- [5] The association shall have the power to adjust assessments to meet changing needs.
- [6] In the event that the maintenance, preservation and/or use of the conserved land area(s) ceases to be in compliance with any of the above requirements or any other requirements specified by the Planning Board when approving the subdivision plat, the Village shall be granted the right to take all necessary action to assure such compliance and to assess against the association and/or each individual property owner within the subdivision, all costs incurred by the Village for such

purposes.

[7] The establishment of such an association shall be required prior to the final approval of the plat.

- (b) Except where otherwise approved by the Planning Board, conserved land areas shall be preserved in their natural state and the use of such areas shall be limited to appropriate conservation, open space and recreation purposes as determined by the Planning Board.
- (c) Notwithstanding anything contained in this law and in the Land Subdivision Regulations to the contrary, conditions on the ownership, use and maintenance of open lands shown on the plat shall be approved by the Board of Trustees before the plat may be approved for filing.