

Rules of Procedure for the Zoning Board of Appeals

Adopted 6/16/04

General Rules

- Rule 1 Prior to each regular meeting of the Zoning Board of Appeals, (“board”) the village staff shall cause an agenda to be prepared.
- Rule 2 The ayes and nays shall be taken and recorded in the minutes in the case of the passage of all motions. A concurrence of a majority of all members present shall be necessary to the passage of same, unless otherwise required by law. In all cases where a motion is entered into the minutes, the names of the member moving and seconding shall be entered.
- once shall a made by a reconsidered. A vote or question may be reconsidered at any time during the same meeting or at the first regular meeting held thereafter. A motion for reconsideration, having been made and decided in the negative, shall not be renewed, nor motion to reconsider be reconsidered. A motion to reconsider must be made by a member who voted on the prevailing side of the question to be reconsidered.
- Rule 3 Except during the portion of the meeting dedicated to public participation, no person (other than village staff or consultants to the board) may address the board without the consent of a majority of board members then present.
- Rule 4 These rules, except rule 2, may be temporarily suspended by a vote of two-thirds of the members present.
- Rule 5 The chairman shall be the presiding officer. In the absence of the chairman , the board members present shall elect a chairman *pro tem*. The presiding officer shall decide all questions of order.
- Rule 6 Four members shall constitute a quorum. Except as provided in this rule, no motion shall be considered or voted on without a quorum present. A member shall be considered “present” when available and participating in accordance with the rules governing participation by electronic means. A motion to recess to a future specified date may be considered and passed by less than a quorum of members.
- Rule 7 Any party to a hearing may arrange for the proceedings to be recorded and transcribed by a certified shorthand reporter at the party's expense. A copy of any transcript prepared shall be filed with the board. The board, at its discretion, may direct that the proceedings be recorded at the expense of the party initiating the action ("applicant") which is the subject of the hearing and may require the applicant to deposit funds sufficient to defer the cost of such recording.
- Rule 8 At any hearing, the applicant or any interested party may appear on his or her own

behalf or may be represented by an attorney or agent.

- Rule 9 In addition to the applicant, any person having an interest in the action which is the subject the hearing ("interested parties") may appear at the hearing to give testimony. The village shall be deemed an interested party in every case, and need not appear. Every interested party wishing to testify at the hearing shall submit to the Chairman of the Board, in writing, his or her name and address. The Chairman may impose reasonable limitations on evidence or testimony presented by interested parties, such as time limits and banning repetitious, irrelevant or immaterial testimony.

Rules Governing the Taking of Evidence

- Rule 10 All evidence from the applicant and any interested persons shall be taken during the portion of the meeting dedicated to public participation. The order of presentation of evidence shall generally be as follows, but may be modified by the chairman:

- a. Testimony by applicant's witnesses.
- b. Report by staff and consultants.
- c. Board examination of applicant's witnesses.
- d. Cross-examination of applicant's witnesses.
- e. Testimony by interested party witnesses.
- f. Board examination of interested party witnesses
- g. Applicant's cross-examination of interested party witnesses.
- h. In some cases re-examination may be allowed.
1. Summary/rebuttal by applicant.

At the conclusion of the portion of the meeting dedicated to public participation, the board shall begin to deliberate or continue the hearing to a date, time and location certain. During deliberations, the board members may question any person present regarding his/her previous testimony.

- Rule 11 [Cross-examination of witnesses shall be limited to applications for a special use permit - ZBA only] Only the applicant, an interested party entitled to notice pursuant to the Village Zoning Code, member of the board or attorney for the board shall be permitted to cross-examine witnesses. In the event the applicant or any interested party is represented by an attorney, the attorney may conduct any cross-examination.

The chairman may impose reasonable conditions on cross-examination of witnesses, including, but not limited to, requiring persons to register with the

chairman in advance and demonstrate that they fall within the class of persons allowed to cross-examine; restricting the subject matter on which cross-examination will be allowed and identifying those witnesses who may be cross-examined. Any such conditions shall be published in advance of the hearing.

Rule 12 Persons permitted to cross-examine a witness may, at the time indicated by the chairman, direct questions to the witness from a location chosen by the chairman. The opportunity for questioning a witness shall not be used by the questioner to offer testimony or evidence.

Rule 13 All persons offering testimony at a hearing shall testify under oath. An attorney shall be sworn if he or she offers testimony but not if he or she is questioning witnesses, summarizing testimony of witnesses, or addressing the board. Testimony may be given only from a location chosen by the chairman.

Rule 14 The board shall not be bound by strict rules of evidence; however, irrelevant, immaterial, argumentative, or repetitious evidence or questioning shall not be allowed. The chairman shall rule on all questions related to the admissibility of evidence, which ruling may be overruled by a majority of the board members present.

Rule 15 The chairman may take such actions as are required to permit an orderly and civil hearing.

Rules for the Conduct of Meetings by Electronic Means

Rule 16 Whenever possible, members of the board who cannot be physically present at a public meeting and who wish to attend via electronic means shall give notice to the Village Administrator not less than two business days before the meeting date.

Rule 17 When it is known two business days in advance of such meetings that any board member will attend through use of electronic means, a notice shall be posted stating the names of the members of the board who will be attending in that manner, and the type of medium through which they will attend.

Rule 18 When it is not possible for a member of the board to give two business days notice, and the member is unable to be physically present at a meeting, and wishes to attend through the use of electronic means on the date of the meeting, prior to convening the meeting, the presiding officer shall announce such method of attendance to the public and the reason.

Rule 19 If the chairman attends the meeting through the use of electronic means, he or she

Zoning Board of Appeals Rules of Procedure (adopted 6/16/04)

shall vacate the chair and a member who is physically present shall preside.

- Rule 20 When one or more members attend a meeting via electronic means, all votes shall be by roll call.
- Rule 21 No more than two members of the board may attend a meeting through the use of electronic means from the same remote location.
- Rule 22 At least four board members must be physically present to constitute a quorum.
- Rule 23 When speaker phones are used to allow a member of the board to attend a meeting without being physically present, the member using the speaker phone must, each time he or she wishes to speak, identify himself or herself by name and be recognized by the presiding officer before speaking.
- Rule 24 The board, in its sole discretion, by majority vote, may authorize village staff, or consultants, to participate in the proceedings by electronic means.
- Rule 25 All notices sent to interested parties and required by ordinance shall include a copy of these Rules and the following statement: All meetings of the board are held at Village Hall beginning at 7:30 P.M. unless otherwise stated in the attached notice, or announced by the board at the time of any recess.