

RULES OF PROCEDURE OF THE ZONING BOARD OF APPEALS

1. REGULAR MEETINGS. Regular meetings of the Zoning Board of Appeals of the Village of Rye Brook (hereinafter referred to as the “ZBA”) shall be held on the first (1st) Tuesday of each month, except that if such Tuesday is a holiday, the meeting shall be held on another evening determined by the Chair on no less than two weeks’ notice to the other members of the ZBA. Meetings shall be called to order at 8:00 PM.

2. SPECIAL MEETINGS. Special meetings may be called by either the Chair of the ZBA or at the request of at least two (2) other members of the ZBA. The Special Meeting shall be noticed in accordance with the Open Meetings Law and the order of business will conform as clearly as practicable to the order of business at a regular meeting (See No. 6 below).

3. NOTICE OF MEETINGS. Public notices of regular meetings shall be provided by the Building Inspector and Village Clerk in accordance with the applicable laws of the State of New York and the Code of the Village of Rye Brook (“Village Code”). The Applicant shall be responsible for providing public notice in accordance with the applicable provisions of the Village Code.

4. REACHING THE ZBA AGENDA.

a) An Application for a use variance, an area variance or zoning interpretation will reach the ZBA Agenda upon referral by the Village Board of Trustees (referred to as the “Village Board”), or by the Planning Board, or by the Building Inspector, or as otherwise allowed by law, when it complies in every material respect with the applicable submission requirements imposed under the Village Code and/or Building Department procedures for zoning submittals.

b) The submission deadline for a regularly scheduled meeting is the first Wednesday of the month prior to the scheduled meeting (i.e., if an Applicant is seeking to be on a February agenda, the application must be submitted by the first Wednesday in January).

5. SETTING THE AGENDA. The Building Inspector shall prepare the agenda for each meeting of the ZBA, which shall list the matters to be considered at such meeting. The matters to be listed in the agenda shall be determined by the Building Inspector, who may consult with the Chair and/or Village Counsel on such matters. The Building Inspector reserves the right to postpone listing an application on the agenda if all requisite application materials are not submitted in a timely manner so as to permit adequate review prior to the meeting, or if the agenda is full.

6. ORDER OF BUSINESS. The order of business at regular meetings of the ZBA shall be as follows:

- a) Roll Call;
- b) Public Hearings;
- c) Deliberation by the Board after each public hearing is closed;

- d) Resolution, Reserve Decision or Adjournment of the matter;
- e) New Business;
- f) Review of Minutes.

The regular order of business at a stated meeting may at any time be altered by the affirmative vote of the majority of the members present.

7. CONDUCT OF PUBLIC HEARINGS.

a) At any time prior to or after convening a Public Hearing the ZBA may recess or adjourn that hearing and schedule its continuance on another date and time. A motion for continuance may be made by any member of the ZBA on the member's own initiative or by request of the Applicant.

b) A Public Hearing may be adjourned for the purpose of conducting a "Site Visit" as determined by the Chair, or to give the ZBA members an opportunity to visit a property individually, at the invitation of the Applicant. A Site Visit is an opportunity for the ZBA to physically view the property that is the subject of an Application. A Site Visit by the ZBA members shall not be a meeting for conducting the substantive business of the ZBA. ZBA members shall not discuss the merits of an application or any part thereof with each other or the Applicant during the Site Visit.

c) Public Hearings and the Deliberation Period will generally proceed as follows:

- (i) Introduction by the Chair;
- (ii) Applicant (personally, and/or by its representatives and consultants) presentation;
- (iii) Comments by experts employed or retained by the Village;
- (iv) Comments by members of the public;
- (v) Comments and discussion by the members of the ZBA; and
- (vi) Voting on Resolutions, adjournment or reserve decision.

d) All public comments are to be limited to the Application at hand. Persons whose comments are deemed by the Chair to be outside the scope of the Application, may be ruled out of order by the Chair and denied the opportunity for further comment on that Application for the rest of the meeting. The Chair also reserves the right to limit the time of each public commenter to five minutes.

e) Written comments, including all forms of electronic communication, from members of the public must be submitted to the Village Clerk or Building Department prior to the close of the Public Hearing, for consideration by the ZBA. Any electronic communication received by the Village after 4:00pm on the day of the meeting is not guaranteed to be considered by the Board. A copy of these written comments shall also be furnished to the Applicant by the Village Clerk or Building Department. No written

comments from the public will be accepted or considered after the close of the public hearing. All written comments submitted in compliance with this procedure shall be made part of the public record.

f) The ZBA does not intend to interact with the public or Applicants outside of meetings of the ZBA on the subject of pending or proposed Applications, neither personally nor electronically, except to the extent appropriate to conduct an individual site visit. A ZBA member subjected to ex parte communication from any Applicant or representative of an Applicant shall disclose such communication to the other ZBA members and the Chair shall note such disclosure at the relevant public meeting.

8. VOTING.

a) Each member of the ZBA shall have one vote. A majority of the total members of the board is necessary to pass any matter, except as provided in these rules.

b) Every member of the ZBA present at any meeting when a vote occurs, shall vote for or against, unless excused from voting by the Chair or due to a conflict of interest. Roll call votes shall be called in alphabetical order of the last name of the ZBA member, with the Chair the last one to cast a vote. However, a member shall recuse themselves in cases of actual conflict of interest, in which case such permitted recusal shall be recorded as "Excused." Although rulings of the Ethics Board shall be controlling, in the absence of such Board's ruling, the disclosure of a ZBA member's current business dealings with an Applicant, or the residence of a ZBA member within the area that is required to receive personal written notice of the pendency of a particular Application may serve to excuse the member from voting on that Application.

c) All Resolutions to memorialize any action of the ZBA shall be in writing and signed by the Chair when in final form.

9. EXCESSIVE AGENDA FOR ANY ZBA MEETING: If more than ten (10) applications are ready for consideration by the ZBA, the Building Inspector will notify the Chair who will consult with the ZBA members to determine if a special meeting should be held for another day. If no special meeting is held, the applications will be placed on the agenda of the next regular meeting. Matters listed on a ZBA agenda that are not reached by 11:00 PM shall be adjourned to the next regular meeting, unless a majority of the ZBA present shall approve the extension of the current meeting past 11:00pm.

10. ROBERT'S RULES OF ORDER REVISED FOR DELIBERATIVE ASSEMBLIES TO BE USED. All questions of order or procedure of the ZBA not herein provided shall be decided in accordance with Robert's Rules of Order Revised for Deliberative Assemblies.

11. RECORDING OF PROCEEDINGS OF MEETINGS. In order for all members of the public to observe the proceedings of the ZBA without obstruction, members of the public, television or other media who wish to tape record, audio/video record, photograph or otherwise record any aspect of the meeting or hearing shall do so only if they can keep

the aisles in the Village Board Room at 938 King Street (or any other location where a meeting or hearing may be held) free of encumbrances to secure exit or for fire or other emergencies and such recording shall only be made from the seats at the back of the room, so as not to obstruct the public view of the proceedings. Anyone wishing to record a meeting or hearing may do so on the condition that they comply with these rules and submit a form seeking permission to record a meeting or hearing to the Village of Rye Brook Building Department or the Chair prior to commencement of the meeting or hearing to be recorded. Said form may be obtained at the Village of Rye Brook Building Department.

12. CONFLICT WITH LAWS. These rules are not intended to modify the provisions of the Code of the Village Code or any New York State or Federal law and all conflicts with these rules and procedures are to be resolved in favor of the Village Code, laws of the State of New York and laws of the United States.