

## **RULES OF PROCEDURE OF THE BOARD OF ZONING APPEALS**

### **SECTION I - APPLICATION AND FEES**

#### **1. Form of Appeal**

**An original and twelve copies of every**

**Appeal (e.g. A request to modify or reverse a decision of the Building Inspector and other matters within the Appellate jurisdiction of the Board of Appeals)**

**to the Board of Appeals shall be made on the forms provided or in substantially similar form. The original shall be verified before a Notary Public, and shall include the information required and shall be accompanied by the necessary survey, disclosure affidavit, diagrams, proper mailing address of adjoining property owners, consents, if any, and other supporting matter so as to supply all information necessary for a clear understanding of the facts by the Board.**

#### **2. Filing Fees**

**The filing fees for an appeal is required by this Village's Local Law on Fees and Deposits and must be submitted with each appeal.**

#### **3. Where to File Papers**

**Appeals shall be mailed with required filing fee to the Office of the Attorneys for the Village, Humes & Wagner, LLP at 147 Forest Avenue, P.O. Box 546, Locust Valley, New York 11560. Checks or money orders must be payable to the order of the Village.**

#### **4. Stenographic Minutes**

**In all cases except when waived in advance of the hearing by the Chairman, stenographic minutes will be taken. In cases where the Village may reasonably expect to incur expenses for engineering or other investigative or expert advice chargeable, as herein provided, the Chairman may require the filing of a deposit with the Clerk of the Village of up to Five Hundred (\$500) Dollars prior to the holding of a hearing in order to insure payment of the cost thereof.**

**5. Execution of Appeal**

Every appeal to the Board shall be signed by the owner or with the written consent of the owner by the contract vendee of the premises affected by such appeal or by his duly authorized agent on his behalf before a Notary Public.

**6. Survey Requirements**

An accurate recent survey prepared by a licensed surveyor of the subject property showing all the structures erected or to be erected thereon and their distances from all property lines, as well as a radius map of all properties of separate property owners within 100 feet from the subject property, including properties lying across the street, must be attached to the original and each copy of the Appeal. A current photocopy of the Nassau County Land and Tax Map may be substituted for a radius map, but not a survey.

**7. Proof of Notice**

On appeals, the Village shall mail the "*Notice of Public Hearing*" to the owners of property within 100 feet of the subject premises not less than ten (10) days prior to the date set for said hearing.

**8. Time Limitation**

Every appeal to the Board must be taken within sixty (60) days from the date of the order, requirements, decision or determination of the Building Inspector appealed from, and such appeal.

**9. Effect of Improper Appeals**

Any communication purporting to be an appeal shall be regarded as a mere notice of intention to seek relief and shall be of no force or effect until it is filed as required by this Section. The Village, upon request, shall supply the proper forms for presenting his appeal.

**SECTION II - PROCEDURE AT HEARINGS**

- 1. Regular meetings designated as public hearings of the Board of Appeals and additional meetings of the Board shall be held at the call of the Chairman and at such places and times as such board may determine.**
- 2. Public hearings shall be held on appeals.**

- 3. All meetings, except executive sessions, of the Board shall be open to the public and all decisions of the Board shall be made at a public meeting.**
- 4. A quorum of the Board shall consist of a majority of its membership.**
- 5. The Chairman shall preside at all meetings and subject to these rules shall decide all points of order or procedure, unless otherwise directed by a majority of the Board in session at that time. The Chairman shall report to the Board on all pertinent official transactions that do not otherwise come to the attention of the Board. Should the Chairman be absent at any meeting then the Board or Chairman shall designate a Deputy Chairman to act at such meeting.**
- 6. Stenographic minutes shall be taken at all required public hearings unless waived by the Chairman or Deputy Chairman.**
- 7. At a public hearing of a matter before the Board, the following agenda will generally be followed:**
  - (a) Call hearing to order.**
  - (b) Read notice or entertain motion to dispense with reading of notice.**
  - (c) Presentation of affidavits of publication and mailing of notice.**
  - (d) Presentation of appeal.**
  - (e) Asking of questions first by Board members then by persons in attendance as permitted by Chairman.**
  - (f) Statements by persons in favor of appeal.**
  - (g) Statements by persons in opposition of appeal.**
  - (h) Conclusion of hearing.**

**The Chairman may vary the agenda depending on the subject matter of the public hearing.**

**In order to maintain orderly procedure, speakers shall not be interrupted except by, or with permission of, the Chairman. All appellants, opponents and witnesses shall either be sworn or shall testify as if under oath and under legal liability for full penalties for perjury. Attorneys appearing before the Board shall not be sworn but shall be fully accountable for the accuracy and truth of all their statements to the Board and those present.**

- 8. Every person before the Board shall abide by the order and direction of the Chairman. Discourteous or disorderly conduct shall be regarded as a breach of his privileges and shall be dealt with as the Chairman deems proper.**

9. **On all appeals, the owner of the property affected shall appear before the Board in person or by his duly authorized agent or attorney. In case an owner fails to appear in person or by his duly authorized agent or attorney as aforesaid, the board may dismiss this appeal or adjourn the same to a fixed date.**

### **SECTION III - THE CALENDAR**

**When an appeal is filed with the Chairman, it shall be placed on the calendar and not less than five (5) days before the scheduled hearing thereon each member of the Board shall be notified. Every appellant shall be notified of the date his case will be set for public hearing.**

### **SECTION IV - DISPOSITION OF CASES**

1. **The final decision or determination by the Board on any appeal shall be in writing and shall be signed by the Chairman or Deputy Chairman of the Board after a vote of all Board members present, entitled to vote, either affirming, reversing or modifying, in whole or in part, the order, requirement, decision or determination appealed from or dismissing the appeal for lack of jurisdiction or prosecuting or granting or denying in whole or in part the application for a permit. In denying or dismissing any appeal in whole or in part, the reason shall be indicated, if requested by Appellant. The Board, in reversing or modifying any order, requirements, decision or determination appealed from, may impose such terms and conditions as in its discretion and judgment it deems necessary or proper, including the posting of cash security or bonds to ensure compliance with such terms and conditions.**

**Under present State law, all appeals relating to real property located within 500 feet of a boundary of the Village, the boundary of any existing or proposed county or state park or recreation area, any county or state road or highway, county drainage facility, or state or county building must be referred to the Nassau County Planning Commission for review before the Board of Appeals can take final action on the appeal. The Board of Appeals may not render a decision until it receives the Nassau County Planning Commission's recommendations within thirty (30) days after said Commission receives a full statement of the appeal.**

**The concurring vote of a majority of the Board shall be necessary to any decision or determination. However, a decision or determination which is contrary to the recommendation of the Nassau County Planning Commission on referred appeals requires a concurring vote of a majority plus one of all the members of the Board of Appeals. If there is less than such a majority vote in favor of an appeal, such action shall constitute a denial thereof.**

- 2. Any appellant may withdraw his appeal to the Board at any time prior to action thereon with the consent of the Board.**
- 3. No appeal dismissed or denied, in whole or in part, may be considered again except on a request by the appellant to restore the case to the calendar. No request to grant a rehearing shall be entertained by the Board unless substantial new evidence is submitted to it. If on motion of a member of the Board adopted by the affirmative vote of a majority of the board present the request is granted, the case shall be put on the calendar for rehearing.**

**In every case the request for rehearing shall be made in the same manner and form and for the same fees as an original appeal. The appellant shall recite the reasons for requesting the rehearing and shall provide the necessary supporting data and diagrams with the papers submitted. A date will then be set for the hearing of such request at least ten (10) days after the filing of the same with the Chairman when the request for restoration to the calendar shall be submitted to the Board. The appellant making such request shall be given at least five (5) days notice by mail of the hearing thereon by the Board.**

- 4. No decision or determination of the Board granting any appeal shall remain in force and effect longer than twelve (12) months from the date of such decision or determination unless the appellant shall have in the meantime actually and in good faith commenced substantial work on the erection or alteration of the building or structure or made use of the property affected pursuant to the relief granted unless a longer term is specified in the decision or determination.**

#### **SECTION V - INSPECTIONS AND TECHNICAL ADVICE**

- 1. In any case in which the Chairman or any member of the Board shall deem it necessary, an inspection of the premises in question may be made or ordered by the Board or any member or members thereof who shall report their findings to the Board.**
- 2. In any case where a majority of the Board shall reasonably require it, engineering or other technical expert investigation of and advice on an appeal shall be made and provided to the Board at the cost of the appellant. No decision shall be rendered or become effective on any appeal in which such investigation or advice has been required until the cost thereof has been paid by the appellant.**

#### **SECTION VI - AMENDMENT, MODIFICATION, OR WAIVER OF RULES**

**These rules of procedure may be amended by the Board at any regular or special meeting provided notice of such proposed amendment has been given by the Chairman in writing to each**

**member of the Board not less than five (5) days prior to such meeting; except that if a majority of the Board present at a meeting thereof duly called shall find that the application of any of the foregoing rules shall create a hardship to an appellant, the same may, in such case, upon the affirmative vote of a majority of the board present, be modified or waived.**