

FILE COPY

## **Village of Victory**

# **Zoning Board of Appeals Bylaws and Policies & Procedures**

*Adopted by Zoning Board of Appeals*

- January 24, 2006

*Adopted by Victory Board of Trustees*

- October 3, 2006

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Prepared By  
Village of Victory  
Zoning Board of Appeals

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## **ZONING BOARD OF APPEALS BYLAWS**

### **I Establishment and Purpose**

#### **I A. Zoning Board of Appeals**

The Zoning Board of Appeals created by the Board of Trustees of the Village of Victory and is established pursuant to Article 7 of the Village Law of the State of New York and Village of Victory Local Law No. 1 of 2005.

The Zoning Board of Appeals is established to review and make decision on area/use and interpretation applications and advise and make recommendations to the Village Board, if necessary, regarding matters, which will contribute to the planning and development of the Village of Victory, as it deems desirable. The Zoning Board of Appeals shall perform other duties as mandated by law.

#### **I B. Bylaws**

The Bylaws of the Village of Victory Zoning Board of Appeals are hereby established, effective October 2006. These bylaws may be amended from time to time by an affirmative vote and Resolution of two-thirds of the members of the Zoning Board of Appeals.

### **II Organization**

#### **II A. Membership and Terms**

The membership and terms of office of the Zoning Board of Appeals shall be as specified in Village of Victory Local Law No. 1 of 2005 and as set forth in § 7-718 of the Village Law of the State of New York.

#### **II B. Officers**

The Executive Officers of the Zoning Board of Appeals shall be the Chairperson, the Vice-Chairperson and the Secretary, who shall be chosen as follows:

- (a) **Chairperson.** The Zoning Board of Appeals shall, before its Re-organizational Meeting each year, make a recommendation to the Mayor for the appointment of a member of the Zoning Board of Appeals to the position of Chairperson. The Mayor with the approval of the Board of Trustees may then appoint such person to the position of Chairperson, may appoint another Planning Board member to such position, or may elect not to appoint anyone to the position. Should the Mayor fail or neglect to appoint a Chairperson of the Zoning Board of Appeals, the Zoning Board of Appeals may then elect one of its members to such position pursuant to § 7 – 718 of the Village Law.
- (b) **Vice- Chairperson and Secretary.** The Vice-Chairperson and Secretary shall be elected. The Zoning Board of Appeals shall annually make a recommendation to the Village Board and the Village Board shall annually designate a member of said Zoning Board of Appeals to act as Chairperson thereof. The Zoning Board of Appeals shall annually elect a Vice Chairperson and Secretary from its members, and other officers, as it deems necessary.

## II C. Responsibility of Officers

### 1. Chairperson

The Chairperson shall:

- a. Preside at all meetings and hearings of the Zoning Board of Appeals and shall have the duties normally conferred by parliamentary procedure;
- b. Appoint committees and a chairperson thereof;
- c. Be an ex-officio member of all Planning Board committees;
- d. Sign all contracts, agreements and other instruments made and approved by the Zoning Board of Appeals;
- e. Serve as official spokesperson for the Zoning Board of Appeals. However, written public statements, press releases, etc. shall be approved by the members.
- f. Perform all the duties incidental to the office;
- g. Perform such other duties as may, from time to time, be required, and;
- h. Call emergency meetings of the Zoning Board of Appeals with a consensus of two (2) Zoning Board of Appeals members including the Chairperson, with at least 48 hours notice whenever possible.

2. Vice Chairperson

The Vice Chairperson shall:

- a. Perform all the duties of the Chairperson in case of his or her absence;
- b. Perform such other duties as may, from time to time, be assigned by the Chairperson.

3. Secretary

The Secretary shall, with the assistance of such Staff as is available:

- a. Keep the minutes and records of the Zoning Board of Appeals;
- b. Provide notice of all meetings to Zoning Board of Appeals members;
- c. Ascertain that proper and legal notice of hearings has been provided;
- d. Attend to the correspondence of the Zoning Board of Appeals; and
- e. Read all official correspondence to the Zoning Board of Appeals as part of the minutes of the public hearings

These functions can be divided as needed at the discretion of the Zoning Board of Appeals, the Clerk/Transcriber and elected Secretary of the Zoning Board of Appeals. The person designated to perform these functions need not be a Zoning Board of Appeals member.

In the absence of the Secretary due to illness or personal reasons, the Chairperson shall appoint a temporary Secretary.

4. Other Officers

Other officials shall have such authority and perform such duties as, from time to time, may be assigned by the Zoning Board of Appeals.

#### **II D. Zoning Board of Appeals Committees**

The Chairperson may appoint committees, pertaining to special projects or studies, of any number from the membership. Such committees shall report to the Zoning Board of Appeals and may advise the Zoning Board of Appeals as to actions, which may be taken by the Zoning Board of Appeals as a whole.

Zoning Board of Appeals committees may solicit advice and expertise from outside its membership. If such advice and expertise carries a fee, funds must be approved by the Village Board.

Zoning Board of Appeals committees are distinguished from Village Committees in that Village Committees are appointed by the Village Board. Village Committees may assist the Zoning Board of Appeals in a similar fashion as a Zoning Board of Appeals committee if their purpose is so designated.

#### **II E. Alternate Members**

As per Local Law 1 of 2005, the Village Board shall appoint one (1) alternate member to the Zoning Board of Appeals to serve in the event of a conflict of interest, illness, vacation, or other absence. The Zoning Board of Appeals Chairperson may designate an alternate Zoning Board of Appeals member to serve in a particular matter or matters in the event of an absence, conflict of interest, or scheduling difficulty. Upon designation, the alternate Zoning Board of Appeals member shall have all of the same duties and responsibilities of a regular Zoning Board of Appeals member.

#### **II F. Vacancies**

If a vacancy shall occur other than by term expiration, it shall be filled by the Village Board by appointment for the remainder of the unexpired term.

#### **II G. Terms of Officers**

The officers (Vice Chairman and Secretary) of the Zoning Board of Appeals shall be elected for one year terms.

### **III. Meetings**

#### **III A. Open Meetings Law**

Meetings of the Zoning Board of Appeals shall be convened and held in accordance with the Open Meetings Law of the State of New York.

#### **III B. Public Hearings and Public Information Sessions**

##### **1. As Required by Law**

The Zoning Board of Appeals shall hold public hearings as required by law.

2. As Allowed

The Zoning Board of Appeals may hold public hearings or public information sessions, in addition to those required by law, when it is deemed such hearings or sessions would be in the best interest of the public and other parties concerned.

3. Advertisement

Any matter for which a public hearing or information session is required by law or by determination of the Zoning Board of Appeals shall be advertised for public hearing or information session upon its addition to the meeting agenda.

4. Conduct for all Public Hearings

- a. Any person wishing to comment shall be recognized by the Chairperson and shall give his or her name and address. They will have a five (5) minute time limit, when they address the board. Unless the extension of time is granted, the duration of each persons' remarks to the Zoning Board of Appeals shall not exceed five (5) minutes.
- b. The Chairperson shall assure an orderly hearing and shall take necessary steps to maintain the order and decorum of the hearing at all times. The Chairperson shall reserve the right to terminate or adjourn the hearing in the event the discussion becomes unruly or unmanageable.

### **III C. Schedule**

Regular Zoning Board of Appeals meetings will be held each month on a schedule established by the Zoning Board of Appeals. All meetings shall begin at 6:30 p.m. unless otherwise announced. If any such day should fall on a legal holiday, or for other reasons by which the Zoning Board of Appeals cannot meet, the new meeting date shall be determined by the Zoning Board of Appeals.

All matters on the regularly scheduled Zoning Board of Appeals agenda must be submitted to the Secretary of the Zoning Board of Appeals by the submission deadline for that meeting in order to be placed on the agenda, unless the Zoning Board of Appeals by majority vote allows for extension of the submission deadline.

### 1. Regular Meetings

The Board shall set the dates of its regular meetings.

### 2. Special Meetings

Zoning Board of Appeals members may, at a regular meeting, set a special meeting when deemed necessary. Such meeting shall be noticed in accordance with the provisions of the Open Meetings Law of the State of New York.

### 3. Emergency Meetings

The Chairperson may call an emergency meeting when necessary, and upon concurrence of three (3) members and one (1) alternate member of the Zoning Board of Appeals. All members of the Zoning Board of Appeals shall be notified of such emergency meeting and the date, time, place, and agenda, at least 48 hours prior to the meeting, whenever possible.

### 4. Workshop Sessions

A Workshop Session primarily consists of matters for in-depth discussion or educational purposes. General or specific planning or procedural information, or work updates on particular topics as provided by planning staff or consultants are appropriate matters. Workshop Sessions are not intended to be held to discuss particular applications before the Zoning Board of Appeals. Accordingly, Workshop Sessions may be less formal than Regular, Special, or Emergency Meetings. Public comments may be allowed at the discretion of the Zoning Board of Appeals Chairperson.

The Zoning Board of Appeals may conduct workshop sessions as deemed necessary. Such sessions shall be subject to all provisions of the New York State Open Meetings Law.

### 5. Annual Meeting

The annual organizational meeting of the Board shall be the first regular meeting in the month of June of each year. At such time the Zoning Board of Appeals shall elect officers (Vice Chairman and Secretary), designate the dates of regular meetings for the upcoming year, and conduct such other business as is necessary.

### **III D. Executive Session**

Executive Sessions of the Zoning Board of Appeals shall be conducted only in accordance with the New York State Open Meetings Law. All official actions of the Zoning Board of Appeals shall be taken at an open public meeting.

## **IV Proceedings**

### **IV A. Governing Rules**

Robert's Rules of Order, as revised, shall serve as guidelines for the Zoning Board of Appeals' proceedings, except as specified otherwise by the Zoning Board of Appeals Policies and Procedures.

### **IV B. Quorum**

A quorum shall consist of two (2) members of the Zoning Board of Appeals, or not less than a majority of the members.

### **IV C. Voting**

#### **1. Action**

Action shall be taken only upon the affirmative vote of a necessary number of members as provided by law, i.e. a quorum, which is a majority of the full Zoning Board of Appeals. Each member shall have one vote. A majority vote of those members present but not in sufficient number to constitute a majority of the entire membership of the full Zoning Board of Appeals, shall not constitute any formal action by the Board.

In the event of a tie vote, the proposition being voted has not been acted upon.

The Chairman of the Zoning Board of Appeals shall have the same right to act on matters before the Board as other members, including the right to make and second motions.

#### **2. Disqualification**

Each member of the Zoning Board of Appeals shall vote on all questions before the Board unless required to abstain in accordance with any applicable law or regulations.

The member in question shall cite the categorical reason for abstaining. Examples of such reasons include, but are not limited to, business interest, financial interest, or relationship with the applicant. Indecision is not a valid reason for abstaining from voting.

For reasons of a conflict of interest, bias, prejudice, illness, vacation, or other absence, such member shall contact the Zoning Board of Appeals Secretary so that an Alternate Zoning Board of Appeals member may be designated to substitute for the unavailable Board member.

## **V MINUTES AND RECORDS OF MEETINGS**

### **V A. Records**

Minutes shall be kept of all Zoning Board of Appeals meetings and hearings. At a minimum, minutes shall include the names of persons appearing and addressing the Zoning Board of Appeals; a summary of statements made at public hearings, actions taken; findings made, if any, and reasons therefore.

The official record of meetings shall be the minutes prepared by the Zoning Board of Appeals Secretary. Should such meetings and hearings be recorded for later transcription, such recordings shall be retained for a period of not less than three (3) years and any notes made during any meeting shall be maintained as part of the official record.

The official record shall be kept in the office of the Village Clerk of the Village of Victory.

### **V B. Copies and Distribution**

Copies of meeting minutes shall be sent to all members, including the alternate member, of the Zoning Board of Appeals. Copies shall be available in the Village of Victory Clerks Office

### **V C. Adoption**

Minutes shall not be considered officially adopted until formally approved by the Zoning Board of Appeals.

### **V D. Resolutions**

Resolutions are recorded as a part of all minutes taken, since Resolutions are considered the Zoning Board of Appeals's official actions. Resolutions are also transcribed as separate documents and are provided to the Village Clerk within 5 days, or as prescribed by law. Resolutions are also kept as part of the official files for the corresponding applications and matters to which they pertain.

## **VI PUBLIC INFORMATION**

Access to records and documents of the Planning Board shall be governed by the Freedom of Information Law of the State of New York. The Village of Victory Clerk shall be designated as the Information Officer and shall fill all requests for information as required by the Freedom of Information Law. The Village Clerk shall collect any fees, as established from time to time by the Village Board, for copies made of any such documents requested. Any such fees collected shall be given to the office of the Village Clerk.

## **VII ETHICS**

### **VII A. Village Code**

Rules of ethical conduct for public officers, employees, and administrative Board members of the Village of Victory are governed by the Code of Ethics as adopted by the Village Board of the Village of Victory.

The Code prohibits a Zoning Board of Appeals member from participating in any official action affecting the Board member's own pecuniary or material interests, or that of his or her immediate family or his or her firm, partnership or association; from using the position to obtain an unwarranted privilege; or from acting in a manner that would cause a reasonable person to conclude that the Zoning Board of Appeals member can be improperly influenced or that a person could unduly enjoy the Zoning Board of Appeals member's favor in the performance of his or her official duties.

### **VII B. Disclosure**

Any Zoning Board of Appeals member who believes that he or she should not participate in the discussion and vote on any issue shall recuse himself or herself, and publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest held in such application.

## **VIII Amendments to Bylaws**

These Bylaws may be amended only by the affirmative vote of a two-thirds majority vote of the Zoning Board of Appeals members.