

**PLANNING BOARD
RULES OF PROCEDURE**

(Revised 9/30/21)

A. GENERAL RULES OF PROCEDURE

1. REGULAR MEETINGS. Unless the Chair, in consultation with the Planning Board of the Village of Rye Brook (the “Planning Board”) determines otherwise, regular meetings of the Planning Board shall be held on the second (2nd) Thursday of each month, except that if any such day is a holiday on which Village offices are closed, that regular meeting may be held as scheduled by the Chair. Regular meetings shall be called to order at 6:30 P.M.
2. SPECIAL MEETINGS. Special meetings may be called by the Chair by a written notice which shall contain a statement of the purpose for which the special meeting shall be called, and shall also state the date, time and place for the holding of such meeting.
 - a) Notice. The Chair shall cause written notice of a special meeting to be left at the residence or place of business of each member of the Planning Board, or sent to each member by email, at least seventy-two hours before the time for which such special meeting is called. Notice requirements may be waived by the written acknowledgment of a Planning Board Member that actual notice of the Special Meeting had been received.
 - b) Transaction of Business. At special meetings the business to be transacted thereat shall be only that stated in the notice of such meeting.
 - c) Order of Business. The order of business at special meetings of the Planning Board shall conform as closely as practicable to the order of business at a Regular Meeting.
3. REACHING THE PLANNING BOARD AGENDA.
 - a) An Application will be accepted for the Planning Board Agenda upon the referral to the Planning Board by the Village Board of Trustees (referred to below as “Village Board”), or by the Village Engineer, or another authorized member of the Building Department, for administrative consideration only when the Applicant complies in every material respect with the applicable submission requirements imposed under the Village Code and/or Building Department Checklist for conceptual review or formal site plan review, as the case may be. Applications reaching the Planning Board that are deemed by a majority of the Board to be materially incomplete shall be adjourned.
 - b) An Applicant shall comply in full with the public notice requirements mandated under Village Code §250-40 or its application shall be adjourned,

provided that for good cause shown, under appropriate circumstances, a majority of the Planning Board may waive a failure to comply with any portion of the public notice requirements that is not also required by New York State Law. Notification requirements apply to regular planning board meetings as well as public hearings.

c) An Application referred to the Planning Board will be reviewed by the Planning Board at a regularly scheduled meeting. To reach a Planning Board agenda, a complete initial application package must be received by the Building Department at least twenty-one (21) calendar days prior to a scheduled meeting. If the Application is complete, as determined by the Building Department/Village Engineer in consultation with the Planning Board Chair, the Application will be placed on the next available Planning Board agenda that is at least twenty-one (21) calendar days after the Application is accepted as complete by the Building Department/Village Engineer. The Application shall be provided to the Planning Board's planning consultant, the Village Engineer and the Planning Board's legal counsel for review as expeditiously as possible following receipt of a complete Application. Planning Board members shall be provided Application documents and amendments to submitted documents as expeditiously as possible to afford board members a reasonable opportunity for review in advance of a board meeting. Any revisions to pending applications must be submitted to Village staff at least two (2) weeks prior to the date the application is scheduled to be heard. Applications and revisions to pending Applications submitted after the applicable deadline shall not be considered by the Planning Board in connection with that month's meeting. However, the Chair, for good cause shown, and in the interest of fairness and efficient administration, may, in consultation with Village staff and consultants, allow late-filed documents to be considered.

d) An Application may also reach the Planning Board Agenda for a conceptual review (Sketch Plan Conference) prior to its submission for review as a formal site plan, subdivision, or other land use application, upon the recommendation of the Village Engineer and the approval of the Planning Board Chair and payment of an initial escrow fee to reimburse professional fees incurred by the Village. A Sketch Plan Conference is solely for conceptual review, to allow an applicant to present a concept plan to the Planning Board for discussion and feedback and to pose questions and request guidance from the Planning Board prior to submitting a formal application. It also allows the Planning Board to identify concerns, requirements or regulations pertinent to the application. A Sketch Plan Conference is generally confined to one meeting, and no vote of approval or disapproval shall be taken on the subject application. The Village's requirements regarding notification of an application to neighbors shall not apply to a Sketch Plan Conference. Comments and opinions made by Planning Board members during a Sketch Plan Conference shall not be construed as being in any way binding on the Planning Board in connection with subsequent proceedings involving the prospective Application.

e) Should the Planning Board direct that an Applicant meet-and-confer with Village staff and/or consultants to facilitate the Board's review of an Application by addressing technical issues raised by an Application, it is incumbent upon the Applicant – not Village Staff or consultants – to arrange for such a meeting in advance of the next scheduled regular meeting of the Planning Board or Special Meeting, as the case may be. Should an Applicant fail to engage in a meet-and-confer by the applicable submission deadline, the Applicant shall be adjourned automatically to the next regularly scheduled meeting, provided that this section shall not apply if an Applicant can show reasonable diligence in attempting to schedule a meet-and-confer within the time frame set forth herein.

4. SETTING THE AGENDA.

a) The Village Engineer, at the direction of the Chair, shall prepare an agenda for each Regular Meeting of the Planning Board, which shall list the matters to be considered by the Planning Board at such meeting. An agenda for a Regular Meeting shall list the matters to be considered by the Planning Board insofar as is possible in the order set forth in these Rules.

b) The Village Engineer shall arrange for the delivery of a copy of the agenda of each meeting of the Planning Board to each member of the Planning Board not later than the morning of the sixth day preceding the date of the meeting.

c) Items not listed on the agenda of a regular meeting may be considered by the Planning Board as new matters only upon the unanimous consent of all members of the Planning Board present at the regular meeting or by the Chair when deemed by the Chair to be a matter of public importance.

5. ORDER OF BUSINESS. The order of business at regular meetings of the Planning Board shall be as follows:

a) Roll Call and Pledge;

b) Review of Minutes;

c) Applications Proposing Fair and Affordable Housing;

d) Public Hearings;

e) Resolutions;

f) Old/Unfinished Business;

g) New Business; and

h) Local Law Referrals

However, the regular order of business at a stated meeting may at any time be suspended by the affirmative vote of the majority of the members of the Planning Board.

6. CONDUCT OF PUBLIC HEARINGS.

a) If the Planning Board is the approval authority for an Application, after no more than two appearances on the Planning Board Agenda of a completed Application, the Planning Board shall set the date to open a Public Hearing on the completed Application before it. The date for the Public Hearing shall be determined with due regard to the schedules of the Applicant and the Planning Board consultants, and the number of items already on upcoming Planning Board agendas.

b) Though the Planning Board will endeavor to process Applications before it with reasonable dispatch, at any time after convening a public hearing the Planning Board 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 Planning Board on the member's own initiative or by a member upon request or recommendation of the Building Department, or upon the request of the Applicant. In order to be considered, such motion must receive a second by another member and then be approved by a majority of the members of the Planning Board.

c) A public hearing may be adjourned for the purpose of conducting a "Site Visit."

d) Presentations at Public Hearings will generally be made in the following order (provided that each presenter shall accept pertinent questions from the Chair, and other members of the Planning Board):

(i) Introduction by the Chair;

(ii) Applicant (personally, and/or by its representatives and consultants);

(iii) Experts employed or retained by the Village;

(iv) Members of the public;

(v) Comments and discussion by the members of the Planning Board.

e) All speakers at Planning Board Hearings are informed that 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, the SEQR process or land use review generally 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 a speaker's presentation as the Chair determines in its sole discretion.

f) Written comments from members of the public may be submitted to the Village of Rye Brook Building Department at least one day in advance of the public hearing. The Planning Board will also give a copy of these written comments to the Applicant upon receipt. No written comments from the public will be accepted or considered after the close of the public hearing.

g) The Planning Board does not intend to interact with the public or Applicants outside of meetings of the Planning Board on the subject of pending or proposed Applications. Planning Board members shall not engage in debates on the merits of pending or proposed Applications with Applicants or the public, outside of Planning Board meetings. A Planning Board member subjected to ex parte communication shall disclose such communication to the other Planning Board members.

7. CONDUCTING OTHER BUSINESS AT MEETINGS. Advisory reviews, workshops and Sketch Plan Conferences shall be conducted so as to follow the order of presentations provided for Public Hearings, except that comments by members of the public shall be heard at the discretion of the Chair, and that questions from the Planning Board are acceptable at any time.

8. SITE VISITS. The following shall apply to Site Visits.

a) A "Site Visit" is a visit by one or more members of the Planning Board to a location which is the subject of an Application pending before the Planning Board, in the company of the Applicant (or their agents or employees) and involves entering onto the property or visiting areas not customarily available for public access. (This does not include a view of a site from adjoining public streets or other observations that can be made without entering on the property.)

b) When the Planning Board deems it appropriate for the adequate consideration of an Application, the Planning Board shall ask the Applicant to allow a Site Visit by the Planning Board.

c) A Site Visit is an opportunity for the Planning Board to physically view the property that is the subject of an Application. A Site Visit by Planning Board members shall not be a meeting for conducting the substantive business of the Planning Board. Planning Board members shall not discuss the merits of an application or any part thereof with each other or the Applicant during the site visit. Individual visits by Planning Board members to a property without prior notice to the Applicant are discouraged.

d). A list of attendees and the date of at the Site Visit shall be provided to the Secretary and made a part of the Planning Board's file.

9. VOTING.

a) Each member of the Planning Board shall have one vote. A majority of the total authorized voting power is necessary to pass any matter, except as provided herein.

b) Every member of the Planning Board present at any meeting thereof, when a vote is taken, shall vote for or against. However, a member may be recused by the Chair only in cases of actual conflict of interest, in which case such permitted abstention shall be recorded as "Excused." In all other cases an abstention or silence shall be considered a positive vote in favor of the proposed resolution for purposes of determining the final vote on a matter. Although rulings of the Ethics Board shall be controlling, in the absence of such Board's ruling, the disclosure of a Planning Board member's business dealings with an Applicant shall serve to excuse the member from voting on that Application.

c) A vote upon any question shall be taken by a "yes" or a "no", and the names of the members present and their votes shall be entered in the minutes, except that in minor matters the Chair may ask for a general consensus of the Board.

d) Roll call votes shall be called in alphabetical order of the last name of the Member. The Chair shall be the last one to cast a vote.

e) Resolutions of the Planning Board.

(i) All Resolutions to memorialize any action of the Planning Board shall be in writing.

(ii) The Resolution as to an Application that has been the subject of a Public Hearing that has been closed shall be presented for a vote at the next regular meeting of the Planning Board after the close of the Public Hearing, provided, however, that upon agreement of at least 4 members of the Planning Board who are present when the Public Hearing is closed, the vote on a resolution may be accelerated to occur at the meeting in which the Public Hearing is closed.

(iii) The business of adopting a Resolution does not re-open the record of proceedings. No comment or testimony of the parties is in order for the adoption of a Resolution. This does not preclude discussions between the Planning Board and its professionals as to the text (and intentions) set forth in any proposed Resolution, which shall not be deemed to reopen the record.

10. WITHDRAWAL OF MEMBER FROM MEETING. No member shall withdraw from a meeting of the Planning Board without the permission of the Chair, except as set forth in rule 9(b), above.

11. COMMENTS BY MEMBERS OF THE PUBLIC.

a) The Chair shall entertain comments from members of the public as to the merits of any item set forth on the agenda for a Public Hearing. Such comments shall be limited to statements not to exceed three minutes in length, and shall adhere to rule 6 (e), above.

b) Members of the public may also be heard on other items set forth on the Agenda at the discretion of the Chair. The Chair shall have the discretion to withhold recognition of members of the public on such items until the agenda has been completed.

d) Any member of the public may be granted additional speaking time at the discretion of the Chair.

12. RECORDING OF PROCEEDINGS OF MEETINGS. In order for all members of the public to observe the proceedings of the Planning Board 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.

13. EXECUTIVE SESSIONS. Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, the Planning Board may conduct an executive session for matters which federal, state, or local law permits an executive session.

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

15. CONFLICT WITH LAWS. These rules are not intended to modify the provisions of the Code of the Village of Rye Brook 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.

B. SPECIAL RULES GOVERNING WETLANDS APPLICATIONS

1. Applicants with site plan applications proposing to disturb a Wetland or Wetland Buffer shall adhere to the following provisions and may request the scheduling of a Sketch Plan Conference as provided under Part A, Section 3(c) of these Rules.
2. A “Wetlands Application” implicates the disturbance of a wetland and/or wetland buffer (altogether, hereinafter, referred to as a “Wetland”) and covers an activity that would be considered a “regulated activity” as defined in Chapter 245 of the Code of the Village of Rye Brook (“Wetland Law”). On the first meeting of the Planning Board at which a Wetlands Application is reviewed (the “Initial Meeting”), the Wetlands Application shall be assessed in terms of its (i) complying with the requirements of the Village’s Wetlands Law, (ii) advancing the public policy interest of the Village in preserving and enhancing environmentally important Wetlands consistent with the purpose and findings set forth at Section 245-1 of the Wetlands Law, and (iii) impacting other factors that may be relevant to assessing a site plan application, such as storm water impacts and other factors as outlined in Chapter 209 of the Village Code. At the Initial Meeting, the Applicant should be prepared to discuss the following items:
 - a) The quality and extent of the Wetland that would be disturbed by way of the proposed construction project with the view to determining whether the Wetland is an environmentally important Wetland.
 - b) The options that may be available to eliminate or reduce the disturbance to the Wetland.
 - c) Measures to be taken to preserve important features of the Wetland during construction.
 - d) How the Applicant expects to mitigate Wetland disturbance via on-site and/or off-site mitigation.
3. Rules Governing Onsite/Offsite Mitigation
 - a) To the extent reasonably possible, an Applicant should provide 100% on-site mitigation of Wetland disturbance.

- b) Should it be found by the Planning Board that it is not feasible to locate 100% of the required mitigation onsite, the Planning Board may consider a proposal by the Applicant to provide a portion of the required mitigation off-site, but such off-site mitigation should not exceed 50% of the total mitigation required, i.e., at least 50% of all mitigation must occur on-site (the “50% Mitigation Requirement”), except if the Planning Board finds that there are compelling reasons to waive the 50% Mitigation Requirement and allow a greater proportion of the required mitigation to be located off-site. Among the factors the Planning Board may consider in finding compelling reasons to waive the 50% Mitigation Requirement are the following:
 - (i) The Wetland is not environmentally important.
 - (ii) The proposed project would not materially impact the Wetland.
 - (iii) Compelling public policy-related concerns, such as promoting good land-use practices, health, and/or safety.
- c) Should the Applicant be required to provide off-site mitigation, the location of such mitigation shall be determined by the Village and, in collaboration with Village staff, Applicant shall develop and provide to the Planning Board an Off-site Mitigation Plan detailing the specific location and manner of off-site mitigation.

4. Manner of Mitigation

- a) Mitigation, regardless of the type employed, shall include the removal from the affected Wetland area of all manmade contaminants such as bottles, paper, cardboard, and other such waste materials. While mitigation by way of waste removal is considered a necessary component of mitigation, it shall not be counted toward meeting the mitigation requirement unless otherwise determined by the Planning Board for good cause shown.
- b) The planting of native species to enhance the Wetland environment is the most preferred method of mitigation.
- c) If adding plantings is found, in whole or in part, to be an unfeasible method of mitigation, the Planning Board may require the Applicant to eliminate invasive species to preserve the integrity of existing plantings.
- d) The Board may consider other methods of mitigation if it is found that plantings and the clearing of invasive species are not feasible methods of mitigation under the circumstances.