

**VILLAGE OF MIDDLEVILLE
ZONING BOARD OF APPEALS
BY-LAWS AND RULES OF PROCEDURE**

1. AUTHORITY

These by-laws and rules of procedures (“By-laws”) are adopted by the Village of Middleville Zoning Board of Appeals (hereinafter referred to as the “ZBA”) pursuant to the Michigan Zoning Enabling Act (PA 110 of 2006, as amended), and the Open Meetings Act (PA 267 of 1976, as amended).

2. MEMBERSHIP

- 2.1. *Appointment.* Consistent with Article XI, Chapter 78 of the Village of Middleville Zoning Ordinance (the “Zoning Ordinance”), the ZBA shall consist of five (5) members, appointed by the Village Council. One member shall be a member of the Village Planning Commission. One member may be a member of the Village Council. The remaining members of the ZBA shall be appointed from among the electors residing in the Village, provided that no elected officer or any employee of the Village may serve simultaneously as a member, or as an employee of the ZBA.
- 2.2. *Term.* The members selected from among the electors of the Village shall each serve a term of three years staggered in such a way that the term of at least one member expires each year.
- 2.3. *Meeting Attendance.* If a ZBA member has three (3) unexcused absences from ZBA meetings in a 12-month period, the ZBA may ask the Village Council to replace the absent member.
- 2.4. *Education.* During each 24-month period, each member of the ZBA shall attend not less than one (1) educational workshop providing training for municipal ZBA members. The registration costs will be paid by the Village of Middleville.

3. OFFICERS

- 3.1. *Selection.* During January or at the first ZBA meeting of each year, the ZBA shall select from its membership a Chairperson, Vice-Chairperson and Secretary.
- 3.2. *Duties.* The Chairperson shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein. An elected Village official shall not serve as chairperson. The Vice-Chairperson shall act in the capacity of the Chairperson in the absence of the Chairperson and shall succeed to the office of Chairperson in the event of a vacancy in that office, in which case the ZBA shall select a successor to the office of Vice-Chairperson at the earliest practicable time for the unexpired term. The Secretary shall be responsible for the preparation of meeting minutes. In the event the Secretary is absent at any meeting, the Chairperson shall appoint a temporary recording secretary for that meeting. The ZBA may decide to appoint a recording secretary for the purpose of taking meeting minutes.

- 3.3. *Tenure.* Officers shall take office immediately following their election. They shall hold their office for a term of one year, or until their successors are elected and assume office. Officers shall be eligible for consecutive terms for the same office.

4. MEETINGS

- 4.1. *Meeting Notices.* All meetings shall be posted at the Village Hall in accordance with the Open Meetings Act. The notice shall include the date, time and location of the meeting.
- 4.2. *Regular Meeting.* Regular meetings of the ZBA shall be held semiannually in the Village of Middleville Hall on the third Thursday of January and July, unless other business requires the scheduling of additional meetings. Any change in the date or time of the regular meeting shall be posted and noticed in the same manner as originally established. When a regular meeting date falls on or near a legal holiday, the ZBA shall select suitable alternate dates in the same month, in accordance with the Open Meetings Act.
- 4.3. *Special Meetings.* A special meeting may be called by any two members of the ZBA upon written request to the Village Planner or by the Chairperson. The business which the ZBA may consider shall be conducted at a public meeting in compliance with the Open Meetings Act. Notice of the time, date, and location of the special meeting shall be given in a manner as required by the Open Meetings Act, and the Secretary or designee shall send written notice of a special meeting to ZBA members not less than 18 hours in advance of the meeting.
- 4.4. *Quorum.* In order for the ZBA to conduct business or take any official action, a quorum consisting of the majority of the members of the ZBA shall be present (3 of 5). When a quorum is not present, no official action, except for closing of the meeting, may take place. The members of the ZBA may discuss matters of interest, but can take no action until the next regular or special meeting. If three members are present, no matter of business can be approved or denied unless all three members present cast concurring votes. All public hearings without a quorum shall be scheduled for the next regular or special meeting and no additional public notice is required provided the date, time and place is announced at the meeting.
- 4.5. *Motions.* Motions shall be restated by the Chairperson before a vote is taken. The name of the members making and supporting a motion shall be recorded in the minutes. Factual findings shall be given by the member making a motion as basis for the motion.
- 4.6. *Voting.* An affirmative vote of the majority of the ZBA members shall be required to approve or deny any application for a variance or an appeal of an administrative decision. A non-use variance shall require no less than three concurring votes, and a use variance shall require no less than four concurring votes. Voting shall ordinarily occur by a roll call vote. All members of the ZBA, including the Chairperson, shall vote on all matters, but the Chairperson shall vote last. Any ZBA member may be excused from voting only if that person has a bona fide conflict of interest as recognized by the

majority of the remaining members of the ZBA. Any ZBA member abstaining from a vote shall not participate in the discussion of that item.

4.7. *Agenda.* A written agenda for all regular meetings shall be prepared as follows. The agenda shall be:

- a) Call to Order
- b) Roll Call
- c) Approval of Agenda
- d) Approval of Minutes
- e) Scheduled Public Hearings
- f) Other Matters to be Reviewed by the ZBA
 - i. Public Comments Concerning Items Not on the Agenda
 - ii. Old Business
 - iii. New Business
- g) ZBA Member Comments
- h) Adjournment

4.8. *Rules of Order.* All meetings of the ZBA shall be conducted in accordance with generally accepted parliamentary procedure. "Robert's Rules of Order" may be consulted as a guide.

4.9. *Public Hearing Procedure.* ZBA Public hearings shall be conducted in an orderly and timely fashion. This shall be accomplished by the following procedure:

Meeting Procedure for Each Application for Variance or Appeal:

- a) General description of variance application/appeal by Chairperson
- b) Open Public Hearing
- c) Applicant Presentation
- d) Staff Report
- e) Public Comments
- f) Close Public Hearing

g) ZBA Discussion/Recommendation

4.10. *Notice of Decision.* A written notice containing the decision of the ZBA will be sent to an applicant/petitioner by the ZBA Secretary.

5. MINUTES, CORRESPONDENCE AND NOTICES OF THE ZBA

5.1 *Minutes.* ZBA minutes shall be prepared by the ZBA Secretary. The minutes shall contain a synopsis of the meeting, including a complete restatement of all motions and recording of votes; complete statement of the findings of facts with support of any action; conditions or recommendations made on any action; and recording of attendance. All communications, actions and resolutions shall be attached to the minutes. The official records of the ZBA shall be maintained with the Village records.

5.2 *Correspondence.* The Secretary shall be responsible for issuing formal written correspondence with other groups or persons, as directed by the ZBA. All communications, petitions, reports or other written materials received by the Secretary shall be brought to the attention of the ZBA.

5.3 *Notices.* The Secretary shall issue such notices as may be required by the ZBA.

5.4 *Village Staff.* Village Staff may perform some or all of the correspondence and notice duties assigned to the Secretary on behalf of the Secretary and the ZBA.

6. ABSENCES, REMOVALS, VACANCIES AND ALTERNATES

6.1 *Absences.* To be excused, ZBA members shall notify the Village Zoning Administrator, the ZBA chairperson or the Village Clerk when they intend to be absent from a meeting. Failure to make this notification prior to a meeting shall result in an unexcused absence. Three (3) unexcused absences in a 12-month period shall be considered non-performance of duties.

6.2 *Removal.* Members of the ZBA may be removed by the Village Council, after written charges have been prepared and a hearing conducted, for nonperformance of duties, misconduct in office or upon failure to declare a conflict of interest.

6.3 *Resignation.* A member may resign from the ZBA by sending a letter of resignation to the Village President or the ZBA Chairperson.

6.4 *Vacancies.* Vacancies shall be filled by the Village Council upon resignation or removal of a member of the ZBA. Successors shall serve out the unexpired term of the member being replaced, with exception of the Planning Commission representative, whose term shall run consecutively with the term as Planning Commissioner.

6.5 *Alternates.* The Village Council may appoint not more than two alternates to the ZBA. The alternate member(s) may be called to sit as a regular member as provided by the zoning ordinance.

7. CONFLICT OF INTEREST

7.1 *Declaration.* ZBA members shall declare a conflict of interest and abstain from participating in a hearing or deliberations on a request when:

- a) The ZBA member has a business or financial interest in the property involved in the request, or has business or financial interest in the applicant's company, agency or association;
- b) The ZBA member owns or has a financial interest in neighboring property that will be significantly affected by the proposed request;
- c) The ZBA member has another affiliation, relationship or interest that impairs his or her ability to impartially consider and vote upon the proposed request; or
- d) There is reasonable appearance of a conflict of interest, as determined by the ZBA member declaring such conflict.

7.2 *Abstention.* The ZBA member declaring a conflict of interest should state the nature of the conflict and whether he or she believes he or she could impartially consider the request before the ZBA. He or she should individually decide to abstain from any discussion or votes related to the matter that is the subject of the conflict. If he or she prefers, the member declaring the conflict may ask the other board members to decide if he or she should abstain. The member declaring the conflict may excuse himself or herself from the room in which the discussion takes place, unless doing so would violate his or her constitutionally protected right to participate. He or she may not make any presentations to the ZBA as a representative of the proposal.

8. AMENDMENTS

These rules may be amended by the ZBA by a majority vote pursuant to subsection 4.6, during any regular meeting, provided that all members have received an advanced copy of the proposed amendments at least 3 days prior to the meeting at which such amendments are to be considered.

THESE BY-LAWS WERE ADOPTED BY THE VILLAGE OF MIDDLEVILLE ZONING BOARD OF APPEALS ON THIS 6th of JUNE, 2022.

6/7/2022
Date


Secretary

