

Bridgewater Zoning Board of Appeals  
Minutes of Special Meeting, Tuesday, March 27, 2018 at 7:00 p.m.  
Bridgewater Town Hall, 44 Main Street South  
Bridgewater, CT 06752

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Meeting called to order: 7:00 p.m.

Roll Call: Eric Gsell, Chairman, Walter Hatcher, III, Meg Khare, alternate, Stephan Gerhard, Susan Patrick, Absent: Marc Isolda, Susan Branagan, alternate.

Short discussion on the resignation of Edward Bennett, alternate member.  
Chairman Gsell states that will be discussed under new business.

Members received packets on: Member Guide, Applicant Process, By-Laws. Eric explains that all the corrections the members went over last months meeting, he went over them with the town attorney. Attorney, Dolores Schiesel made some suggestions/corrections to each packet.

Marc Isolda arrives – 7:05 p.m.

Walter asks, “What procedure do you go by to change a By-Law?”. Discussion follows.

Motions made: Stephan makes a motion to ratify the Member Guide. Marc Isolda seconds the motion. All in favor.

Susan Patrick makes a motion to ratify the Applicant Process. Stephan seconds the motion. All in favor.

Walter Hatcher makes a motion to ratify the By-Laws. Stephan seconds the motion. All in favor.

**Old Business:**

Review minutes from February 27<sup>th</sup> Special Meeting. Motion to accept the minutes: Stephan Gerhard made a motion to accept the minutes, Marc Isolda seconds the motion. All in favor.

**New Business:**

Open alternate seat is open to fill. Anyone has any suggestions please let First Selectman, his Administrative Assistant or the Town Clerk know.

Chairman Gsell went over Zoning Board of Appeals budget with Lois Gilmore. Lois explained the different details of the line items. Chairman Gsell then explained to this board where the money is used for.

Discussion on future meetings. Because the deadline wasn't met to put in the calendar for this year, all ZBA meetings are "special" meetings.

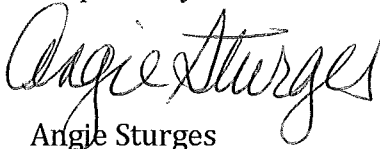
Discussion followed.

Make an agenda for next month: Meeting cancelled, no applicants.

Motion to adjourn meeting: Walter made a motion to adjourn the meeting. Marc seconds the motion. All in favor.

Meeting adjourned: 7:25 p.m.

Respectfully submitted:

A handwritten signature in cursive script that reads "Angie Sturges". The signature is written in dark ink and is positioned above the printed name and title.

Angie Sturges  
ZBA Clerk

Bridgewater Zoning Board of Appeals

Town of Bridgewater

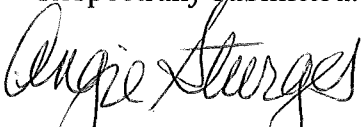
Bridgewater, CT 06752

Agenda for meeting (special) on April 24, 2018 at 7:00 p.m.

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Meeting is cancelled. No applications .

Respectfully submitted:

  
Angie Sturges, Clerk

# **BRIDGEWATER, CONNECTICUT**

## **ZONING BOARD OF APPEALS**

### **BY-LAWS**

**In Effect as of March 27, 2018**

#### **A. ZONING BOARD OF APPEALS ESTABLISHMENT, ELECTION & COMPOSITION**

A Zoning Board of Appeals in Bridgewater, CT, hereinafter called the Board, shall be formed and shall serve as provided by the General Statutes and Special Acts of the State of Connecticut.

The Board shall be composed of five regular members and three alternate members who shall be electors in the town of Bridgewater and shall not be members of the Planning and Zoning Commission.

The members shall be elected to serve terms on the Board according to the relevant Bridgewater Town Ordinances.

Any vacancy on the Board, including any vacancy in the panel of alternates, shall be filled for the unexpired portion of the term by the Board of Selectmen.

Such board by vote of its regular members only shall elect a chairman from among its members who shall serve for the term of 1 year.

All meetings of such board shall be held at the call of the chairman and at such other times as the board determines and shall be open to the public.

The board shall keep minutes of its proceedings showing the vote of each member and each alternate member when seated upon each question or, if absent or failing to vote, indicating such fact; and shall also keep records of its examinations and all other official actions. All records are filed with the town clerk and electronically filed on the town information system

If a regular member of the Board is absent, he may designate an alternate from the panel of alternates to act in his place. If he fails to make such designation or if he is disqualified, the chairman of the board shall designate an alternate from such panel, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.

No member of the Board shall appear for or represent any person, firm, corporation or other entity in any matter pending before the Board. No member of the Board shall participate in the hearing or decision upon any matter in which he is directly or indirectly interested in a personal or financial sense. All members shall declare such conflicts to the Chairman when the

application is made to the Board. In the event of such disqualification, such fact shall be entered on the records of the Board.

## **B. POWERS AND DUTIES OF THE ZONING BOARD OF APPEALS**

The Bridgewater Zoning Board of Appeals is the only Bridgewater Town board that can vary the application of the Bridgewater zoning regulations. The regulations cannot be varied by the Planning & Zoning Commission or the Zoning Enforcement Officer.

The Board shall have the following powers and duties:

1. Adopt such rules and procedures as may be necessary to carry out the regulations relevant to the powers and duties of the Board as described here and in the Connecticut General Statutes.
2. To hear and decide appeals in which it is alleged that there is error in any order, requirement, or decision made by the town official charged with enforcement of Chapter 124 of the Connecticut General Statutes or any bylaw, ordinance, or regulations adopted under provisions of that chapter, including the Zoning Regulations, and any order, requirement, or decision made by the Building Official.
3. To hear and decide all matters including Special Exceptions and Special Exemptions under Connecticut General Statutes Section 8-2g upon which the Board is required to decide by the specific terms of the zoning bylaw, ordinance or regulation.
4. To determine and vary the application of the Zoning Regulations in harmony with their general purpose and intent with due consideration for conserving the public health, safety, convenience, welfare, and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcels but not affecting generally the district in which it is situated, a literal enforcement of such regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured, provided that the zoning regulations may specify the extent to which uses shall not be permitted by variance in districts in which such uses are not otherwise allowed.
5. Requested variance(s) shall not permit on a site any use to exist or to be created which use is not already permitted by right as set forth in the Zoning Regulations for that zone.
6. No variance to the Zoning Regulations shall be granted that is conditioned on an approval by another Board or Commission.
7. No variance shall be granted that will continue or expand a nonconforming use.
8. The Board shall not be required to hear any application for the same variance or substantially the same variance for a period of six months after a decision by the board or by a court on an earlier such application.
9. To issue a certificate of approval per Conn. Gen. Stta. Sec 14-54 for location of motor vehicle dealing or repairing.

The Zoning Board of Appeals shall be guided by the following standards in determining whether a request for variance shall be granted:

- a. The applicant shall demonstrate that exceptional shape, size, topography or unique characteristic of the site requires a variance from a literal enforcement of the Zoning Regulations
- b. The exceptional difficulty or unusual hardship claimed shall not have been created by the owner or the person or persons requesting the variance.
- c. The variance requested shall not adversely affect the neighborhood and shall be in harmony with the purpose and intent of the Zoning Regulations.
- d. The application shall be for the least number of variances possible.
- e. The applicant shall show that there is no reasonable alternative other than to grant the requested variance(s).
- f. The variance must consider public health, safety, convenience, welfare and property values.

### **C. DECISIONS OF THE BOARD OF APPEALS**

In exercising the above mentioned powers, the Board may, so long as such action is in conformity with the terms of these regulations, reverse or affirm, wholly or partly, or may modify the order, requirement or decision appealed from and may make such order, requirement, or decision, or determination as ought to be made, and to that end shall have all the powers of the administrative official from whom the appeal is taken.

In granting the variance, the Board may prescribe appropriate conditions and safeguards. Violation of such conditions and safeguards, when they have been made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations. It shall be the responsibility of the Zoning Enforcement Officer to enforce the specific conditions of the variance.

Any variance granted by the Board shall run with the land and shall not be personal in nature to the person who applied for and received the variance. A variance shall not be extinguished solely because of the transfer of title to the property or the invalidity of any condition attached to the variance that would affect the transfer of the property from the person who initially applied for and received the variance.

### **D. OFFICERS AND DUTIES**

An annual organizational meeting shall be held no sooner than the first meeting after the Town elections at which time a Chairman and Secretary shall be elected from among the regular members of the Board by a majority vote of such members to serve for 1 year.

The Chairman shall:

- a. Issue the call for the organizational meeting.
- b. Preside over all meetings.
- c. Prepare and submit with the help of members all reports required by law.

- d. Appoint all alternates to serve as regular members in the absence of appointment by the absent regular sitting members at any given meeting.
- e. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses at hearings.

The Secretary shall:

- a. Keep and submit minutes of all meetings in accordance with FOI requirements, to be submitted to the Board for review and approval.
- b. Read the call for the Public Hearing.
- c. Keep all records of the Board.
- d. Certify all records.

In the absence of the Chairman, the senior regular member in point of service shall be acting Chairman with all the powers and duties of the Chairman.

In the absence of the Secretary, The Chairman or acting Chairman will appoint a temporary Secretary with all the powers and duties of the Secretary.

#### **E. MEETINGS**

Regular meetings of the Board shall be held at the Town Hall at 7:00 PM on the Fourth Tuesday of each month (depending upon business or applications). The schedule for regular meetings shall be set by member vote in the first meeting of the year. This yearly schedule shall be posted in Town Hall and filed with the Secretary of State or Town Clerk by January 31 of the same year. Agenda items may be added by 2/3 vote of seated members at the meetings. Approved minutes shall be filed with the Town Clerk within 7 calendar days after the meeting.

Special meetings may be called from time to time on such notice as the Chairman shall determine or any other time as may be agreed upon by a majority of the Board, so long as all legal notice requirements are met. Notice for Special meetings shall be sent to all Regular and Alternate members and filed with the Secretary of State or the Town Clerk at least 24 hours before the meeting. The agenda shall be posted in Town Hall and available at least 24 hrs. before the meeting. The agenda for Special meetings shall include the time and place. Approved minutes shall be filed with the Town Clerk within 7 calendar days after the meeting.

All meetings shall be open to the public, unless executive session is moved and voted. Executive session may only be held in accordance with applicable Connecticut General Statutes.

A quorum shall consist of four members of the board. All actions on variances, approvals of applications, and the reversals of any decisions of the Zoning Officer require at least four positive votes for approval of variance so if only four members are present, the application may be tabled at the request of applicant until at least five members are present without detriment to the applicant, so long as the delay does not affect any legislative requirements.

The votes of all Regular and Special meetings must be filed with the Town Clerk within 48 hrs. after the meeting, if the minutes are not yet available.

## **F. APPLICATIONS TO THE BOARD**

1. All applications must be submitted to the Board on the official Zoning Board of Appeals application forms provided through the Town Clerk's office.
2. All information must be complete and all fees must be paid before the application is considered completed.
3. All applications must be submitted to staff **no later than 12 noon on the first Friday of the month** to be considered by the Board for that month's hearing.
5. For the purposes of notification of hearing, Applicant must submit the names and address of all surrounding land owners within 100' feet of all property lines.
6. No rehearing of an application may be held unless six months has passed unless new and pertinent facts are presented.
7. A certified plot plan must accompany the application showing the new building unless a signed waiver is available from the board.

Every application for variance shall be immediately transmitted to the Planning & Zoning Commission, and on or before the public hearing held by the Board on such application for variance, the Planning & Zoning Commission may make a report of their recommendation.

### **Public Hearings**

In all matters wherein a formal petition, application, request or appeal must be submitted to the board, such hearing shall commence within sixty-five days after receipt of such petition, application, request or appeal and shall be completed within thirty-five days after such hearing commences.

Notice of the time and place of all public hearings shall be published in a newspaper having a substantial circulation in the Town of Bridgewater at least twice at intervals of not less than two days, the first not more than fifteen days nor less than 10 days, and the last not less than two days before such hearing.

Notice shall be mailed to persons who own land that is adjacent to the land that is the subject of the hearing. Proof of mailing shall be evidenced by a certificate of mailing, and the person who owns land shall be the owner indicated on the property tax map or on the last-completed grand list as of the date such notice is mailed.

At such hearing, any person or persons may appear and be heard and may be represented by agent or by attorney.

The Board shall notify the clerk of any adjoining town of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which: (1) Any portion of the property affected by a decision of such commission, board or agency is within five hundred feet of the boundary of the adjoining town; (2) a significant portion of the traffic to the completed project on the site will use streets within the adjoining town to enter or exit the site; (3) a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining town; or (4) water runoff from the improved site will impact streets or other town or private property within the adjoining town.



The Board shall call in a competent stenographer to take the evidence, or shall cause the evidence to be recorded by a sound-recording device, in each hearing in which the right of appeal lies to the Superior Court and at each meeting in which such commission or board of appeals deliberates any formal petition, application, request or appeal.

The applicant or his representative must be present at the hearing or the hearing will be continued to the next meeting, if it occurs within 35 days. If applicant not present, a written note of position from party representing the applicant must be submitted to the Board prior to the meeting. Otherwise the hearing shall be closed, unless the Board calls a special meeting. All applications will be heard in order of publication in the paper unless rearranged by the Chairman and voted by the Board.

The Applicant or his representative will present the application to the Board. Regular members of the Board may question all aspects of the application. The Applicant may introduce any exhibits he feels will be helpful to the Board, including, but not limited to photographs, site plans, letters from neighboring property owners, traffic studies or models. After the applicant has made his presentation, all such exhibits will be held by the Secretary until the appeal time lapses.

An applicant may request a postponement of a scheduled hearing if a request is made prior to the date of publication of the first legal notice or may request a continuance of a public hearing after it has been opened.

All members of the public who are in favor of the application may then speak followed by any correspondence in favor.

All members of the public who are opposed to the application will then be asked to speak and then any correspondence in opposition.

Applicant may then respond to any opposition.

No member of the public may be refused time to speak so long as the content is in the interest of the public and the hearing and is not derogatory toward any member or applicant.

In order to prevent long hearings the Chairman may set reasonable time limits for any public statements and limit the speaking to new information.

No meeting may continue past 11:00 pm of any meeting night.

At the end of discussion, the Chairman will close the public hearing. Once the public hearing is closed, there can be no more new information presented or discussion from the public.

### **Reversing the Orders of Officials and Varying Ordinances**

The concurring vote of four members of the zoning board of appeals shall be necessary to reverse any order, requirement or decision of the official charged with the enforcement of the zoning regulations or to decide in favor of the applicant any matter upon which it is required to

pass under any bylaw, ordinance, rule or regulation or to vary the application of the zoning bylaw, ordinance, rule or regulation.

The Chairman, after discussion with the seated members, may choose to move to executive session for discussion of the application before a motion for decision on the application.

### **Board Decisions**

Whenever the Board grants or denies any special exception or variance in the zoning regulations applicable to any property or sustains or reverses wholly or partly any order, requirement or decision appealed from, it shall state upon its records the reason for its decision and the zoning bylaw, ordinance or regulation which is varied in its application or to which an exception is granted and, when a variance is granted, describe specifically the exceptional difficulty or unusual hardship on which its decision is based.

A variance or decision of the Board will not become effective until 15 days after the decision has been published in a newspaper. The applicant is also required to record his Certificate of Decision in the Office of the Town Clerk.

Notice of the decision of the Board shall be published in a newspaper having a substantial circulation in Bridgewater and addressed by certified mail to any person who appeals to the board, by its secretary, under his signature in any written, printed, typewritten or stamped form, within fifteen days after such decision has been rendered.

### **Appeals**

An appeal may be taken by any persons aggrieved by a decision of the Board in accordance with Connecticut General Statutes §8-7, as amended.

### **G. WAIVER OR AMENDMENT OF RULES**

These rules may be waived or amended by a majority vote the entire voting membership of the Board, only after the proposed change has been read and discussed at a previous regular meeting, except that these rules may be amended at any meeting by the unanimous vote of the entire voting membership of the Board.

### **I. CONNECTICUT GENERAL STATUTES**

All applicable Connecticut General Statutes are made part of these rules. Should any amendments or new statutes conflict with these rules, the requirements of the Connecticut General Statutes will take precedence.

**BRIDGEWATER, CONNECTICUT**  
**ZONING BOARD OF APPEALS**

**Applicant Process**

**In Effect as of March 27, 2018**

**A. APPEALS**

The Zoning Board of Appeals (the Board) has the power and duty to hear and decide appeals in which it is alleged that there is error in any order, requirement, or decision made by the town official charged with enforcement of Chapter 124 of the Connecticut General Statutes or any bylaw, ordinance, or regulations adopted under provisions of that chapter, including the Zoning Regulations, and any order, requirement, or decision made by the Building Official.

To bring an appeal that fits the above definition before the Board, the following process shall be used.

**COMPLAINT**

The complainant shall:

1. Write a letter addressed to the Board that (put this right into the Zoning Application?):
  - a. Describes the action or decision made by the town official, including reference to the specific bylaw, ordinance or regulation in question
  - b. Specifies the desired remedy
  - c. Includes the complainant's full name and phone number
  - d. Is signed by the complainant
2. Include any documentation relevant to the error as attachments to the letter that will aid in the Board's understanding of the error.

**ACCEPTANCE OF COMPLAINT**

At the next regularly scheduled meeting not less than 1 week after the receipt of the letter and any relevant documentation, the Board will vote to either accept to reject the appeal based on its merits. The applicant and concerned officials will receive a written reply of the Board's decision within 15 days of the vote.

**PUBLIC HEARING**

A public hearing **may** be opened on accepted applications, at the discretion of the Chairman, the duration of which shall be not be determined in advance, but shall remain open until the Board, in a majority vote, chooses to close the hearing.

During the hearing, all concerned parties may ask to speak before the Board. The Board reserves the right to ask concerned parties to speak before the Board. All members of the public may request to speak before the Board. In order to prevent long hearings, the

Chairman may set reasonable time limits for any public statements and limit the speaking to new information.

#### **DECISION OF THE BOARD**

A vote on the appeal will be held at the next regularly scheduled meeting after the vote to close the hearing.

The concurring vote of four members of the zoning board of appeals shall be necessary to reverse any order, requirement or decision of the official charged with the enforcement of the zoning regulations or to decide in favor of the applicant any matter upon which it is required to pass under any bylaw, ordinance, rule or regulation or to vary the application of the zoning bylaw, ordinance, rule or regulation.

The Chairman, after discussion with the seated members, may choose to move to executive session for discussion of the application before a motion for decision on the application.

A Certificate of Decision shall be sent by certified mail to the applicant and the official(s) concerned within 15 days after the vote.

The decisions of the Board shall be final.

#### **B. SPECIAL EXEPTIONS AND SPECIAL EXEMPTIONS**

The Board has the power and duty to hear and decide all matters, including Special Exceptions and Special Exemptions, under Connecticut General Statutes Section 8-2g, the Special exemption from density limits for construction of affordable housing, which the Board is required to decide by the specific terms of the zoning bylaw, ordinance or regulation.

To bring an appeal that fits the above definition before the Board, the applicant shall file an application according to the same process as described for a variance (see below):

#### **C. VARIANCES TO THE APPLICATION OF THE ZONING REGULATIONS**

The ZBA has the power and duty to determine and vary the application of the Zoning Regulations in harmony with their general purpose and intent with due consideration for conserving the public health, safety, convenience, welfare, and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcels but not affecting generally the district in which it is situated, a literal enforcement of such regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured, provided that the zoning regulations may specify the extent to which uses shall not be permitted by variance in districts in which such uses are not otherwise allowed.

In general, any application that makes the parcel more nonconforming should be rejected until all alternatives are examined to remedy the non-conformity. Only after this analysis which could include a site visit should a variance be considered.

To apply for a variance that fits the above definition before the ZBA, the following process shall be used.

#### **APPLICATION:**

1. The applicant shall file an application for a Variance, Special Exception or Special Exemption on forms provided through the Town Clerk's office or Zoning Enforcement Officer.
  - a. All information must be complete and all fees must be paid before the application is considered completed.
  - b. All applications must be submitted to Town Clerk staff **no later than 12 noon on the first Friday of the month** to be considered by the Board for that month's hearing.
  - c. For the purposes of notification of hearing, Applicant must submit the names and address of all surrounding land owners within 100' feet of all property lines.
  - d. A certified plot plan must accompany the application showing the new building unless a signed waiver is available from the board.
  - e. The Board reserves the right to make recommendations to the applicant regarding possible solutions or approaches that do not require a variance. A site visit may be required for the Board to make these recommendations.
2. Notes:
  - a. No rehearing of an application may be held unless six months has passed unless new and pertinent facts are presented.
  - b. Every application for variance, special exception and special exemption shall be immediately transmitted to the Planning & Zoning Commission, and on or before the public hearing held by the Board on such application for variance, the Planning & Zoning Commission may make a report of their recommendation.

#### **ANNOUNCEMENT OF PUBLIC HEARING**

The Board shall hold a public hearing within sixty-five days after receipt of the petition, application, request or appeal.

1. The Board shall publish the time and place of all public hearings at least 15 days prior to the hearing.
2. The Board shall notify the clerk of any adjoining town of the pendency of any application that abuts their town.
3. The Board shall mail notice of the public hearing to persons who own land that is adjacent to the land that is the subject of the hearing.

#### **PUBLIC HEARING**

1. The applicant or his representative must be present at the hearing or the hearing will be continued to the next meeting

2. There must be a quorum of Board members, or the hearing will be continued to the next meeting
3. The Board shall call in a competent stenographer to take the evidence
4. The Applicant or his representative will present the application to the Board. Regular members of the Board may question all aspects of the application
5. The Applicant may introduce any exhibits he feels will be helpful to the Board, including, but not limited to photographs, site plans, letters from neighboring property owners, traffic studies or models. After the applicant has made his presentation, all such exhibits will be held by the Secretary until the appeal time lapse
6. Any person or persons may appear and be heard and may be represented by agent or by attorney. All members of the public who are in favor of the application may then speak followed by any correspondence in favor. No member of the public may be refused time to speak so long as the content is in the interest of the public and the hearing and is not derogatory toward any member or applicant.
7. Applicant may respond to any opposition
8. An applicant may request a postponement of a scheduled hearing if a request is made prior to the date of publication of the first legal notice or may request a continuance of a public hearing after it has been opened
9. In order to prevent long hearings, the Chairman may set reasonable time limits for any public statements and limit the speaking to new information.
10. No meeting may continue past 11:00 pm of any meeting night.
11. At the end of discussion, the Chairman will close the public hearing. Once the public hearing is closed, there can be no more new information presented or discussion from the public.
12. The public hearing shall be completed within thirty-five days after such hearing commences.

#### **DECISION OF THE BOARD**

1. The Board will vote on applications after the closure of the public hearing by the next scheduled meeting.
2. The vote will be filed with the Town Clerk within 48 hrs. after the meeting
3. A Certificate of Decision will be sent by certified mail to the applicant within 15 days after the vote
4. The applicant is also required to record his Certificate of Decision in the Office of the Town Clerk.
5. A variance or decision of the Board will not become effective until 15 days after the decision has been published in a newspaper.
6. Notice of the decision of the Board shall be published in a local newspaper

# **BRIDGEWATER, CONNECTICUT**

## **ZONING BOARD OF APPEALS**

### **Member Guide**

**In Effect as of March 27, 2018**

The real purpose of The Zoning Board of Appeals, we should all remember, is to serve the individuals who live in this town, people who are our neighbors, people like us. When we treat them the way we want to be treated, we all win.

#### **Governing Documents**

1. The ZBA **Member Guide** to orient new members
2. The ZBA **Bylaws** that determine our specific duties, powers, responsibilities and processes
3. The ZBA **Applicant Process** to serve as a step-by-step guide of how we work

#### **Legal Basis of Authority**

We exist through Section 8-5 of the Connecticut General Statutes, which requires that any town with a Zoning Commission must have a Zoning Board of Appeals.

#### **Membership**

The Zoning Board of Appeals shall consist of 5 regular members and 3 alternates who must

1. Must be electors of the town
2. Must not be members of the Zoning Commission
3. May be either elected or appointed

#### **Terms of Office**

Members are elected for 5 year terms. Mid-term vacancies are filled by the Board of Selectmen, after consultation with the ZBA Chairman.

#### **Alternate Members**

Alternate members serve on the committee with the same rights and responsibilities as regular members except the right to vote. The right to vote is conferred upon an alternate member for any specific meeting when seated by a regular member who will be in absentia for that meeting, or the chairman, to make a quorum.

#### **Officers**

There are two officers on the ZBA. The Chairman and the secretary. They have additional rights and responsibilities in addition to those of regular membership. The bylaws describe these in more detail. The Chairman has the rights and responsibilities:

- To issue the call for meetings and hearings
- To preside over all meetings
- To receive applications for a variance and complaints and bring them before the board
- To prepare and submit all reports
- To appoint alternates

- To administer oaths and compel the attendance of witnesses at hearings
- To ensure the proper working of the committee, the enforcement of its decisions and adherence with the law.
- To move the committee to executive session
- Set reasonable time limits on meetings and hearings

The secretary has the rights and responsibilities:

- To take minutes of each meeting
- To keep records and file them with the Town Clerk
- Create and circulate notices for public hearings at the direction of the chairman
- Learn FOI requirements and keep to them
- To sign and certify all records

In the absence of the secretary, the Chairman will appoint another member to take minutes. In the absence of the Chairman, the senior regular member will serve as temporary chairman.

### **Minutes**

Minutes of meetings and hearings must contain the following:

- Name of the Committee, time, date, place of meeting, members present
- The text of any resolution that is voted on
- How each member voted.

The minutes do not need to record the specifics of any discussion; however, questions and statements made by members and applicants during meetings and hearings may be recorded if deemed by the secretary or any member to be relevant to future proceedings.

**Meetings** – Regular meetings are once a month. The Board files a yearly schedule with Town Clerk by Jan 31<sup>st</sup>. The Chairman makes an agenda available at least 24hrs before each meeting. Agenda items may be added by 2/3 vote of those members present and voting.

### **Election of Officers and Keeping Records**

The board shall:

1. Elect a chairman every year
2. Keep minutes of its proceedings, showing the vote of each member, and
3. Keep records of its official actions.

### **Voting**

The concurring vote of four board members is required to:

1. Reverse any decision of the Zoning Enforcement Officer.
2. Approve any application, or
3. Grant any variances

### **Powers and Duties**

Zoning Board of Appeals has the following powers:

1. To hear and decide appeals from decisions of the Zoning Enforcement Officer;
2. To grant variances from the application of the zoning regulations. The variance power is limited to extraordinary situations and must:
  - Be in harmony with the general purpose and intent of the zoning regulations;
  - Consider the public health safety, convenience, welfare and property values;
  - Be used only with parcels having unusual conditions that cause "exceptional difficulty or unusual hardship;" and
  - Must not be used if the regulations provide that certain prohibited uses may not be permitted by variance



3. To hear and decide on special permits and special exemptions where that power is conferred on the Zoning Board of Appeals by the zoning regulations
4. To issue a certificate of approval per Conn. Gen. Stta. Sec 14-54 for location of motor vehicle dealing or repairing.

### **Variances**

- Applications for variances are the most common matters brought before the Zoning Board of Appeals.
- The Zoning Board of Appeals is the only board that can vary the application of the zoning regulations. The regulations cannot be varied by the Zoning Commission or the Zoning Enforcement Officer.
- The power to grant a variance allows the Zoning Board of Appeals to stand between the public and individual property owners to protect the latter from unnecessary hardship that strict enforcement of the zoning regulations would impose.
- To vary the application of the zoning regulations a parcel of land must have unusual conditions not generally found in the district which would make development in accord with the regulations extremely difficult.
- These unusual conditions must create "exceptional difficulty" or "unusual hardship," however CT courts have found difficulty "too lacking in precision of meaning." the standard commonly used by boards of for granting variances is that of 'unusual hardship.

### **About "Unusual Hardship"**

Numerous court cases have further defined what does or does not constitute "unusual hardship."

Courts have ruled that:

- The hardship must be unique and different in kind from those generally affecting properties in the same zoning district;
- Economic hardship such as financial loss is not a proper basis for granting a variance;
- Where applications of the zoning regulations greatly decrease or practically destroy property value, variances should be granted;
- Variances should only be granted where the general purpose of the zoning plan will not be undermined.
- Variances should be based on the condition of the land not the owner. (In 1993, the CGS was amended to clearly provide that variances run with the land and not the owner or applicant.)

### **Legal Documents**

The Board will keep on hand templates for the following important legal documents, to ensure they're done right:

- Letter to applicant accepting application and setting date for public hearing.
- Letters to neighbors notifying date and reason for public hearing.
- Letter to applicant on ZBA decision.
- Letter to local newspaper announcing ZBA decision. (time limits and defined content will be added later).
- Letter to local newspaper setting public hearing date, time and application details.
  - Must be published 15 days prior to hearing.
- Minutes for Meetings and Public Hearings

## **ONLINE TOOLS AND RESOURCES**

- **Online Academy** -provides online resources for those who want a quick refresher or are unable to attend a training. Visit [clear.uconn.edu/lua/online](http://clear.uconn.edu/lua/online)
- **Community Resource Inventory Online** · provides organized maps, {tutorials and case examples that assist you in developing a basic inventory of your town's natural and cultural resources.
- **Connecticut's Changing Landscape** · provides data about how CT 's landscape has Changed since 1985. Local Land Use officials can use this resource to evaluate the environmental, social and economic impacts of development that guide their decision making.

**To learn more visit [nemo.uconn.edu/tools.htm](http://nemo.uconn.edu/tools.htm) or call: 860- 345-4511 or email : [clear@uconn.edu](mailto:clear@uconn.edu)**

Disclaimer: The materials contained in this fact sheet are a general lay summary of the roles and responsibilities of land use commissioners. They should not be relied on as a valid legal opinion or position. As such, these materials should not be used in place of consulting an attorney about the roles and responsibilities of a local land use commissioner.