

ZONING

160 Attachment 3

Town of Hague

Appendix C

Rules of Procedure for Planning Board and Zoning Board of Appeals

Planning Board Rules of Procedure [Amended 11-10-1998; 12-14-1999; 2-11-2020]

- A. A Planning Board consisting of five members and one alternate member shall be designated by the Town Board to carry out the duties prescribed for such Board under this code and according to the applicable provisions of law.
- B. Officers and duties.
 - (1) The Chairman shall conduct all meetings of the Board. The agenda for each meeting shall be approved by the Chairman.
 - (2) The Vice Chairman shall serve in the absence of the Chairman.
 - (3) The Secretary shall keep the minutes of the Board in an appropriate book. The minutes shall include the names and addresses of all persons appearing before the Board, a summary of the facts on which a decision is based, the decision rendered and other official actions of the Board.
 - (4) The Clerk or a designee shall sign approved plats.
 - (5) The Zoning Administrator shall be appointed by the Town Board to perform all administrative duties in connection with conduct of the business of the Planning Board.
- C. Meetings.
 - (1) Quorum. A quorum shall consist of three voting members of the Planning Board.
 - (2) Time of meeting.
 - (a) Regular business meetings shall be held on the first Thursday of each month at 7:00 p.m., or at such other hour as the Chairman may designate.
 - (b) Special meetings may be called by the Chairman at any time, provided that at least 48 hours' notice shall be given each member before a special meeting is held. The Chairman shall call a special meeting within 10 days of receipt of a written request from any two members of the Board, Town Board member or Town Board department head.
 - (3) Cancellation of meetings. Whenever there is no business to be considered at a regular meeting, the Chairman may dispense with said meeting by so notifying each member.
 - (4) Order of business. The normal order of business shall be:

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- (a) Public hearing, if any.
 - (b) Approval of minutes.
 - (c) Action on referrals from the Zoning Board of Appeals.
 - (d) Action upon requests for subdivision or site plan approval.
 - (e) Action on rezoning recommendations.
 - (f) Other business.
 - (g) Adjournment.
- (5) Voting and disqualification of members.
- (a) All matters shall be decided by roll call vote.
 - (b) An affirmative vote of a majority of the full membership of the Planning Board shall be required to take Board action.
 - (c) No member of the Board shall vote on any matter in which he shall be personally or financially interested.

D. Public hearings.

- (1) Matters requiring public hearings:
- (a) A public hearing shall be required for:
 - [1] Subdivision plat approval.
 - [2] Land use plan considerations.
 - [3] Rules and regulations to be adopted by the Board.
 - [4] Such other times as directed by higher authority.
 - (b) Public hearings are not required in other cases, except that the Planning Board may voluntarily provide for a public hearing in any other matter deemed appropriate by it, and no Type II site plan review project shall be disapproved except after a public hearing thereon.
- (2) Notice of hearing. No public hearing shall be conducted without publication of a notice thereof once in an official newspaper of the Town at least five days before the date of the hearing.
- (3) Conduct of hearing. Any individual may appear in person, by agent or attorney or written instrument at any public hearing. The order of proceedings in the hearing of each case at a public hearing shall be as follows:
- (a) A reading of the public notice for the hearing by the Chairman or his designee.

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- (b) A statement of matters surrounding the hearing by the Chairman or his designee.
 - (c) Arguments in favor of the hearing matter.
 - (d) Arguments in opposition to the hearing matter.
 - (e) Rebuttals.
- E. Decisions.
 - (1) Form of decisions.
 - (a) All decisions of the Board shall be by motion.
 - (b) The decision shall state any conditions and safeguards required by the Board.
 - (c) A rezoning recommendation shall state the facts and basis on which a recommendation is based.
 - (2) Time for decisions.
 - (a) The Planning Board shall act upon a completed application within 62 days of receipt, when no public hearing is held.
 - (b) If a public hearing is held, the date shall be fixed for the hearing within 62 days of receipt of a completed application. Following the public hearing, final decision shall be made upon the application within another 62 days.
 - (c) The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.
- F. Amendments. Upon compliance with Subsection D(1)(a)(3), these rules may be amended at any regular meeting of the Planning Board by an affirmative vote of not less than four members of the Planning Board, provided that such amendment has been presented, in writing, to each member of the Planning Board at least 48 hours preceding the meeting at which the vote is taken.

Zoning Board of Appeals Rules of Procedure

- A. A Board of Appeals consisting of five members and one alternate member shall be designated by the Town Board to carry out the duties prescribed for such Board under this code and according to the applicable provisions of law.
- B. Powers and duties.
 - (1) The Board of Appeals shall prescribe such rules for the conduct of its affairs as may be necessary to carry out its duties under this code, and all its determinations shall be made in accord herewith. In particular, the Board shall conduct itself according to the following:
 - (a) Meetings. All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as a majority of the members of the full Board may determine. All meetings shall be conducted in accord with the guidelines established by the

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Chairman or, in his absence, the Acting Chairman, and such Chairman may administer oaths and compel the attendance of witnesses.

- (b) Records. The Board shall keep minutes of its proceedings, including its examinations, findings and official actions, and shall record the votes of each member upon every question put to vote or, if absent or failing to vote, indicating such fact. All decisions of the Board shall be recorded in the minutes, which shall fully set forth the reasons for the decision of the Board and the findings of fact on which the decision was based, and an appropriate record of every official determination of the Board shall be on file in the office of the Board, together with all documents pertaining thereto. The Board of Appeals shall notify the applicant, the Town Clerk and the Planning Board of all official actions.
 - (c) Voting requirements. The concurring vote of a majority of the full membership of the Board of Appeals shall be required to constitute an official action by the Board.
 - (d) Eligible applicant or appellee. An application or appeal to the Board of Appeals may be initiated by any person or party aggrieved under, or with a legitimate interest in, this code, including the Town and its official instruments. An appeal for and interpretation or variance may be made only after a determination and notification of action taken by the Zoning Administrator or other body of original jurisdiction, except where such appeal is instituted by an official instrument of the town.
- (2) The Board of Appeals shall have all the powers and duties prescribed by law and by Zoning, Subdivision and Sanitary Codes and may reverse or affirm, wholly or partially, or may modify the order, requirement, decision or determination as in its opinion ought to be made and to that end shall have all the power of the officer or body from whom the appeal is taken. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of these regulations, the Board of Appeals shall have the power in passing upon appeals to vary or modify the application of any of the regulations or provisions of these regulations relating to the use, construction or alterations of buildings or structures, or the use of land, so that the spirit of these regulations shall be observed, public health, safety and welfare secured and substantial justice done. In particular, the powers of the Board of Appeals are as follows:
- (a) Interpretation. To decide any question involving the interpretation of any provision of these regulations, including determination of the exact location of any zoning district boundary if there is uncertainty with respect thereto, or any other determination made in the administration or application of these regulations. Such interpretation shall be considered and rendered by the Board only upon appeal following and based upon a determination made by the Zoning Administrator or other body to whom original jurisdiction has been assigned under these regulations; except as such may be requested by an official instrument of the town.
 - (b) Variance. To vary or adapt the strict application of any of the requirements of these regulations where strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. No variance in the strict application of any provision of these regulations shall be granted by the Board of Appeals unless it finds:
 - [1] That there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or conditions were not created by action of the applicant.

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- [2] That, for reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of the land or buildings; and that the variance as granted by the Board is the minimum variance that will accomplish this purpose.
- [3] That the granting of the variance will be in harmony with the general purpose and intent of the Town Plan, these regulations and will not be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare.

C. Procedure.

- (1) The Board of Appeals shall act in strict accordance with the procedures specified by law and by these regulations, and shall be in accord with the following:
 - (a) Application. All appeals and applications made to the Board of Appeals shall be in writing, in the form prescribed by the Board. Every appeal or application shall refer to the specific provisions of these regulations involved and shall exactly set forth the interpretation that is claimed, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Such appeal shall be taken within 60 days of the date of notification of the determination which is being appealed by filing with the Board of Appeals a notice of application or appeal specifying the grounds thereof. Upon such application, the Zoning Administrator shall transmit to the Board of Appeals all of the papers constituting the record upon which the action appealed from was taken.
 - (b) Stay. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with him that, by reason of acts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.
 - (c) Notification and public hearing. The Board of Appeals shall fix a reasonable time for any public hearing in connection with an appeal or application and shall give public notice thereof by publication in the official paper of a notice of such public hearing at least five days prior to the date thereof; and shall, at least five days before such public hearing, mail notice thereof to the applicant.
 - (d) Referrals. Prior to the date of any public hearing required by law on an application or appeal to the Board of Appeals, the Board shall transmit to the Planning Board a copy of said application or appeal, together with notice of the aforesaid public hearing, and shall request that the Planning Board submit to the Board of Appeals its advisory opinion on said application or appeal; and the Planning Board shall submit a report of such advisory opinion prior to the date of said public hearing. In addition, where an appeal for variance involves lands within 500 feet of an adjoining municipality, state or county property or right-of-way, the appeals shall be referred to the Warren County Planning Board and acted upon in accord with the requirements of the applicable provisions of § 239 of the General Municipal Law. In no case shall final action be taken until said Planning Board and County Planning Agency (if appropriate) have submitted their reports, or until 30 days have passed since the date of the referral, whichever occurs first.

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(e) Decision and notification.

- [1] Within 62 days from the date of any public hearing, the Board shall render a determination with respect to the subject consideration, and the applicant or his authorized agent so notified, in writing, within five days of the date of the determination. Every decision of the Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board on file in the office of the Board, together with all documents pertaining thereto. The Board of Appeals shall notify the Zoning Administrator, Town Clerk and the Planning Board of each interpretation rendered and variance granted under the provisions of these regulations and this chapter. The Adirondack Park Agency shall also be notified. Any variance granted or granted with conditions shall not be effective until 30 days after such notice to the Agency. If, within such thirty-day period, the Agency determines that such variance involves the provisions of the land use and development plan as approved in the local land use program, including any shoreline restriction, and was not based upon the appropriate statutory basis of practical difficulties or unnecessary hardships, the Agency may revise the local determination to grant the variance.
- [2] Within 15 days of receipt of a completed application for a variance, the Zoning Board of Appeals shall give notice of a public hearing to be held on the application not less than 15 nor more than 30 days after the notice. The Adirondack Park Agency shall be a full party in interest, with standing to participate in any and all proceedings under this chapter for which the Agency was required to be sent notice.