

Town of Hudson Zoning Board of Appeals Rules and Regulations

Adopted July 2023



**Hudson Zoning Board of Appeals
78 Main Street
3rd floor- Town Hall
978-562-2989**

1) Organization, Membership, and Officers

In accordance with Chapter 40A Section 12 and Section 8.3.1 of the Hudson Zoning By-laws, the Zoning Board of Appeals shall consist of five (5) members and three (3) associate members to be appointed by the Select Board.

The members shall re-organize annually at the first meeting of each calendar year, which shall be the first order of business. A Chairperson, Vice Chairperson, and Clerk shall be elected. The Chair shall preside over the annual reorganization and election of officers and votes taken during the reorganization shall be roll-call of the membership. Associate Members shall be permitted to participate in the election of officers.

1.1 Chairperson: Powers and Duties

Subject to the rules, the Chair shall decide all points of order, unless overruled by a majority of the Board in session at the time. If neither the Chair nor the Vice-Chair is present at a meeting of the Board, the members present shall elect an acting Chair for the duration of the meeting.

1.2 Vice Chairperson: Powers and Duties

The Vice-Chair shall act as Chairperson in case the Chair is absent, disabled, or otherwise unable to perform his or her duties.

1.3 Clerk: Powers and Duties

Subject to the direction of the Board, the Clerk shall supervise all of the clerical work of the Board including, but not limited to calling the roll at all meetings of the Board; reading the Right of Appeal; and supervising the election of Board officers.

1.4 Planning Department Staff: Responsibilities to the Zoning Board of Appeals

The Department of Planning and Community Development shall provide professional technical staffing and oversight to the Zoning Board of Appeals. Under the supervision of the Chair and/or Clerk, the Department shall be responsible for the following: writing all correspondence on behalf of the Board; sending all notices as required by statute; keeping dockets and minutes of the Board's public hearings and proceedings; compiling all required records and maintaining necessary files and indices.

2) Powers and Duties of the Zoning Board of Appeals

The Zoning Board of Appeals shall carry out the following duties and responsibilities in accordance with the MGL Chapter 40A and Chapter 40B Section 21.

- Hear and decide appeals in accordance with MGL Chapter 40A, Section 8;
- Hear and decide petitions for Special Permits in accordance with MGL Chapter 40A, Section 9, and Section 8.3 of the Town of Hudson Zoning By-laws;
- Hear and decide petitions for variances in accordance with MGL Chapter 40A, Section 10, and Section 8.3.2.2 of the Hudson Zoning By-laws;
- Hear and decide petitions for expansions of nonconforming uses pursuant to MGL Chapter 40A, Section 6, and Sections 5.1.5 and 5.1.6 of the Hudson Zoning By-laws;
- Hear and decided petitions for Comprehensive Permits in accordance with MGL Chapter 40B, Section 21;
- Hear and decide petitions for those uses of which approval of the Board of Appeals is required in accordance with the provisions of the Hudson Zoning Bylaw and for Special Permits when not otherwise specified.

3) Minutes

Minutes of all Zoning Board of Appeals meetings shall be prepared by the Planning Department staff, under the supervision of the Zoning Board of Appeals Clerk, in accordance with the provisions of the Open Meeting Law. Approval of open session and executive session minutes must be by a majority vote of the Zoning Board of Appeals members. Executive Session minutes shall not be released to the public if the disclosure of the minutes would defeat the lawful purposes of the executive session. Once disclosure would no longer defeat the purposes of the executive session, executive session minutes must be disclosed unless they fall within an exemption to the Public Records Law, G.L. c. 4, § 7, cl. 26, or the attorney-client privilege applies. The Clerk shall periodically review executive session minutes to determine whether continued non-disclosure is warranted.

Minutes shall become part of the public record immediately, and minutes shall be marked draft until they are officially approved by the Zoning Board of Appeals. Once the Zoning Board of Appeals approves the minutes, said minutes may be amended to improve clarity, accuracy, and completeness, but shall not be amended to re-open debate on a previously approved item. Amendments shall be made in open session, and revised minutes shall be marked, as amended with the revision date.

4) Submission Deadlines and Procedures

All petitions that require public hearings shall follow the submission deadlines set by the Department of Planning and Community Development to meet the requisite legal noticing requirements set by State statute. All administrative matters that do not require public hearings shall be submitted to the Department of Planning and Community Development by no later than 4 PM on the Thursday before the next regularly scheduled meeting. Any

administrative matters submitted after this deadline will be added to the next available Zoning Board of Appeals agenda.

All petitions that require Site Plan Review pursuant to Section 7.1.7 of the Hudson Zoning By-laws, shall obtain Site Plan approval by the Planning Board before filing with the Zoning Board of Appeals.

5) Open Meetings, Public Hearings, Quorums, Voting, and Decisions

All meetings of the Zoning Board of Appeals shall be held in accordance with the provisions of the Massachusetts Open Meeting Law and shall be managed by the Zoning Board of Appeals Chair.

A quorum of three (3) members of the Zoning Board is required to conduct general business, and four (4) members for public hearings concerning special permits, variances, appeals, and decisions to overturn a ruling of the Building Commissioner. Remote participation may be allowed as permitted by State Statute, by Executive Order of the Governor, and as directed by the Chair. If one member of the Zoning Board of Appeals is remote or if the entire meeting is being held in a fully-remote fashion, all votes shall be a roll call.

An on-site inspection or information-gathering session at a property shall not constitute an open meeting and members shall be prohibited from conducting any deliberations.

All full-time members, and any associate members designated by the Chair who participated in all sessions of the public hearing, are eligible to vote on petitions. The granting of a variance or special permit, a decision to overturn a ruling of the Building Commissioner, shall require the concurring vote of at least four members. Comprehensive permits and all other motions shall require a simple majority.

5.1 Public Hearings

Regular hearings and meetings shall be held on the second Thursday of every month and shall commence at 7 PM at the location specified on the public hearing notice and posted. Special meetings and hearings may be called by the Chairperson or the designated Chairperson in the Chairperson's absence. Notice of special hearings and meetings shall be mailed, posted, and published as required by law.

All public hearings shall be held in accordance with the pertinent governing statutory provisions of Chapter 40A (State Zoning Act) and Chapter 41 Section 81 (Subdivision Control Law) and shall be directed by the Zoning Board of Appeals Chair. Public Hearings should generally follow the following orders of operation:

- Opening of the public hearing, reading of legal notice, introduction of the topic/project, explanation of the process going forward, and outlining the order of operations for the meeting. If a hearing is "re-convened" it shall not be necessary to re-read the legal notice.
- Read the Right of Appeal. If the hearing is "reconvened" it shall not be necessary to re-read the Right of Appeal.
- Invite petitioner/presenter/project team to provide a presentation
- Request comments, questions, clarifications, etc., from members of the Zoning Board of Appeals.
- Invite Planning Department Staff to provide an overview of Departmental comments.
- Invite questions or comments by members of other Town Boards or Town staff.
- Open up the hearing to solicit comments, questions, and points of clarification from abutters and other parties of interest. The Zoning Board of Appeals Chair shall reserve the right to limit presentations or comments that are pertinent and non-repetitive regarding the matter being discussed.
- Invite follow-up and/or closing remarks from the applicants, Zoning Board of Appeals members, and Planning Department Staff.
- If the public hearing requires a continuance, the Zoning Board of Appeals shall vote to continue to a date and time certain.

5.2 Withdrawals

Any petition may be withdrawn, in writing, by the applicant without prejudice prior to the publication of the public hearing notice. After publication, the petition can be requested to be withdrawn, without prejudice, only with the approval of the Zoning Board of Appeals. A memorandum prepared by the Planning Department shall be transmitted to the Town Clerk, which shall provide notification of the withdrawal.

5.3 Rendering Decisions

The Zoning Board of Appeals shall deliberate on the merits of the petition based on compliance with the applicable governing statutes and local by-laws and regulations, the Town Department, direct abutters, and other interested parties. Upon rendering a decision, the Zoning Board of Appeals shall vote to enter a deliberative session, and shall not consider any additional materials once the Board has entered a deliberative session, as this material would not be subject to public review and comments.

6) Executive Session

Executive Session may be scheduled to discuss active litigation involving the Zoning Board of Appeals. Town Counsel shall be present at all Executive Sessions and shall craft the appropriate legal citation to be placed on the agenda and to be read by the Zoning Board of Appeals Chair before voting to enter into Executive Session. All votes to enter and adjourn Executive Session shall be a roll call of the membership.

For an Executive Session occurring before an open session, the Zoning Board of Appeals Chair shall first convene the open session and then read the legal citation verbatim for the Executive Session. The Zoning Board of Appeals Chair shall then call for a vote to enter Executive Session with the intent to return to open session. At the conclusion of the Executive Session, the Zoning Board of Appeals Chair shall call for a vote to adjourn the Executive Session and return to open session.

For an Executive Session occurring after the Open Session, the Zoning Board of Appeals Chair shall read the Executive Session citation. The Zoning Board of Appeals Chair shall then call for a vote to adjourn Open Session and enter in Executive Session with the intent to not return to Open Session.

7) Town Staff, Outside Peer Review, and Legal Services

Applicants are strongly encouraged to contact the Department of Planning and Community Development prior to filing a petition to discuss permitting requirements for planning, zoning, and/or conservation. A staff review meeting may be held in advance of the opening of any public hearing, and the Department of Planning and Community Development shall transmit a summary of this meeting and Departmental comments to the Zoning Board of Appeals.

The Zoning Board of Appeals at its discretion shall determine that a proposed project's size, scale, complexity, or potential impacts warrants the retention of third-party independent peer review consultants, especially for the review of applications for Comprehensive Permits. Third-party consultants shall provide professional guidance to assist the Zoning Board of Appeals with the necessary review and analysis needed to render informed decisions that comply with all pertinent regulations. Consultant review fees shall be based on an estimated review cost and shall be outlined in a scope of work to be approved by the Department of Planning and Community Development. All third-party consultant fees shall be deposited into an account established pursuant to MGL Chapter 44, Section 53G.

The Zoning Board of Appeals at its discretion can request the services of Town Counsel and shall take a vote of the Board to engage Town Counsel on a particular matter, request a legal opinion, and/or request attendance at a meeting. The Director of Planning and

Community shall notify the Executive Assistant of this request and manage the workflow and communication accordingly. Town Counsel shall be present for all Executive Sessions of the Board.

8) Administration

These rules and regulations are hereby adopted by unanimous vote of the Zoning Board of Appeals on July 13, 2023. From time to time, the Zoning Board of Appeals may amend these Rules and Regulations. Such amendments shall be adopted following a majority vote of the Zoning Board of Appeals. Copies of the rules and regulations shall be available online on the Town of Hudson website, the Office of the Town Clerk, and the Department of Planning and Community Development.