



CITY OF BEACON, NEW YORK
ONE MUNICIPAL PLAZA
BEACON, NEW YORK 12508

CITY OF BEACON
ZONING BOARD OF APPEALS
RULES OF PROCEDURE¹
FOR PUBLIC MEETINGS

1. REGULAR MEETINGS: The City of Beacon Zoning Board of Appeals (“Zoning Board”) shall hold its meetings on the third Tuesday of every month at 7:00 p.m., in the courtroom located in the Municipal Center at 1 Municipal Plaza, Beacon, New York, unless otherwise posted and noticed in accordance with lawful requirements.

2. MEMBERSHIP EXPECTATIONS
 - a. Members are expected to attend all duly noticed meetings of the Zoning Board.
 - b. All members shall notify the Zoning Board Secretary and the Zoning Board Chair of any expected absences, as soon as practicable.
 - c. Members shall be familiar with all materials submitted to the Zoning Board in connection with pending matters.
 - d. Members shall be required to complete all training required by law and by the City of Beacon City Council for service as a Zoning Board member.
 - e. Members are expected to be familiar with Chapter 29 (Code of Ethics), Chapter 45 (Planning Board and Zoning Board of Appeals), Chapter 86 (Architectural Design), Chapter 107 (Environmental Quality Review), Chapter 123 (Flood Damage Prevention), Chapter 134 (Historic Preservation), Chapter 183 (Signs), Chapter 223 (Zoning), the Comprehensive Plan and other Plans, Reports and Statutes as are necessary for a Member to responsibly discharge their duties.

¹ These Rules of Procedure are adopted pursuant to Section 45-7 of the City Code and are in addition to any requirements imposed upon the Zoning Board by relevant State or Local Laws. These rules are intended only to provide supplemental guidance regarding Zoning Board Procedures and are not intended to supersede and other adopted law or regulation.

3. THE CHAIRPERSON

- a. The Executive Officer of the Zoning Board is the Chairperson, as designated by the Mayor pursuant to Section 45-5 of the City Code.
- b. The Chairperson shall:
 - 1) Have the responsibilities and authority as specified herein and in the City of Beacon City Code and New York State General City Law;
 - 2) Preside at all meetings and hearings of the Zoning Board;
 - 3) Sign all approved resolutions by the Zoning Board;
 - 4) Sign all instruments made and approved by the Zoning Board;
 - 5) Perform such other duties as may, from time to time be required; and
 - 6) Call special meetings of the Zoning Board, as provided herein.

4. GUIDELINES FOR ZONING BOARD MEMBERS

- a. A Zoning Board member must be recognized by the presiding officer, before speaking and/or making a motion. A member shall address the Chair and shall wait to be recognized.
- b. Conflict of Interest. A member prevented from participating in a matter due to a conflict of interest shall immediately inform the Chairperson, Zoning Board Secretary and Zoning Board Attorney of such conflict and shall not receive materials pertaining to the matter and shall leave the Zoning Board table during discussion of the application, shall not vote on the matter, and shall otherwise comply with the state law and city ordinances concerning conflicts of interest.
- c. Non-Disclosure of Confidential Information. No Zoning Board member may disclose confidential information gained by reason of his or her official position or otherwise use the information for his or her personal gain or benefit or the gain or benefit of another. No Zoning Board member may disclose confidential information to any person not entitled or authorized to receive the information. "Confidential information" means 1. specific information, rather than generalized knowledge, received by a member as a result of his or her position that is not available to the general public on request; or 2. information furnished to a Zoning Board member under circumstances as to suggest the information is confidential, including when the provider of the information identifies the information as confidential; or 3. information made confidential by law, including specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, the nondisclosure of which

is essential to effective law enforcement or for the protection of any person's right to privacy.

5. MEETINGS

a. Open Meetings Law: All meetings of the Zoning Board (except for meetings with its attorneys for the purpose of attorney client communications) will comply with the requirements of the Open Meetings Law, Article 7 of the Public Officers Law. Executive sessions may be held when authorized pursuant to Section 105 of the Public Officers Law or for other lawful purpose, including, without limitation, attorney-client communication.

b. Public Hearings.

1) The Zoning Board may hold public hearings in addition to those required by law, when it deems such hearings to be in the best interest of the public or are required by law.

2) Any matter for which a public hearing or information session is scheduled by the Zoning Board shall be placed on a meeting agenda.

6. SITE VISITS: Site visits may be conducted by the Zoning Board as a group or separately by individual members. The determination of whether a group site visit will be performed shall be made at a regularly scheduled meeting of the Zoning Board. Site visits are limited to touring and obtaining factual information pertaining to the site and application, without substantive discussion concerning the merits of any application or other matter pending before the Board. Members of the public are not allowed to participate in site visits unless it is on public property or the property owner invites the public to attend the site visit.

7. PROCEEDINGS.

a. The Chair shall preside at all meetings of the Zoning Board. In the Chair's absence, the Acting Chair shall preside at the meeting. In the event the Mayor has failed to appoint an Acting Chair, or where such member is absent from the meeting, the Chair shall select another Zoning Board member to preside over that meeting.

b. Under New York State Law, re-noticing a public hearing is not required after the initial public hearing is held and continued to a specified date. However, the Zoning Board or the Zoning Board Attorney may require, in its discretion, the re-noticing of a public hearing, including newspaper publication, mailings and any other required public notice, in the event of a long adjournment or for other reasons, in its sole discretion.

c. Before public comment.

- 1) A formal presentation by the applicant and/or their representative(s), describing the subject proposal, shall be made to the Board and all others in attendance.
- 2) The Chair shall identify all correspondence pertaining to the application previously received from the general public and shall enter such correspondence into the record of the public hearing.
- 3) Written materials submitted by the public during the public hearing shall be given to the Zoning Board Chair and entered into the record of that public hearing. Copies thereof shall be given to all Board Members, City Staff, and the Applicant within three business days of the date of the public hearing.

d. No action shall be taken upon an application that is subject to a public hearing until such time as the public hearing has been closed.

e. Motions

- 1) When a motion has been made and seconded and is under debate or discussion, no motion shall be received except to:
 - a) Amend the motion
 - b) Put the motion to a vote
 - c) Adjourn or table it to a specified day
 - d) Adjourn the meeting, or
 - e) Withdraw the motion.

f. Voting.

- 1) A majority of the whole membership of the Zoning Board, including vacancies, abstentions and any members disqualified, shall constitute a quorum. Therefore, a quorum of the five-member Zoning Board is three (3) members.
- 2) A quorum shall be necessary to take any formal action and to exercise any power, authority or duty of the Zoning Board. No member shall withdraw from a meeting of the Zoning Board without the permission of the Chair.
- 3) The Chair of the Zoning Board shall have the same right to act on matters before the Board as other members, including the right to make and second motions.

- 4) The ayes and nays of all Board members' votes shall be recorded in the minutes.

g. Disqualification

- 1) Each member of the Zoning Board shall vote on all questions before the Board, unless required to abstain in accordance with any applicable law or regulation or other valid reason. A member abstaining shall cite the reason for the abstention.
- 2) Members shall be automatically disqualified based upon a business interest or financial interest in the outcome of an application or other matter before the Board or for reasons specified in the Code of Ethics adopted by the City Council of the City of Beacon, as set forth in Chapter 29 of the Code of the City of Beacon or other governing law.

8. GUIDELINES FOR COMMENT AT A PUBLIC HEARING

- a. Conduct of Speakers: All persons speaking before the Zoning Board shall conform to the following standards of conduct:
 - 1) Speakers must step to the podium to address the Zoning Board.
 - 2) Before addressing the Zoning Board, a speaker must give their name, address and organization (if any) for the record.
 - 3) Speakers shall address all members of the Zoning Board, and shall avoid speaking at any one member directly or to the Applicant or the general public present at the meeting.
 - 4) A speaker's individual time to speak at a public hearing may not exceed five (5) minutes. The Chair may reduce such time to no less than three (3) minutes, if the Chair or the Zoning Board determines that an additional time limitation is appropriate due to the number of items on the agenda or the number of people present who wish to speak.
 - 5) Speakers shall observe commonly accepted rules of courtesy, decorum, dignity and good taste.
 - 6) Any statements, comments or remarks made by a Speaker (1) shall not concern the motives of a member of the Zoning Board and (2) shall not constitute a personal and/or political attack or criticism of any member of the Zoning Board, any officer of the City, any consultant of the City, any employee of the City, or the public.

- 7) The audience shall be respectful of all speakers and shall refrain from comments and gestures (such as clapping, cheering or booing), private discussions, cell phone use or otherwise interfere with the meeting.
 - 8) Any speaker who fails to conform their conduct to the rules provided herein shall be directed by the Chair to cease speaking and yield the floor.
 - 9) The Applicant and Applicant's representatives shall not be bound to the time limits set forth herein, but shall be allowed to speak for such time as permitted in the sole discretion of the Chair.
- b. The Chair shall make all speakers aware of the guidelines for public comment.
 - c. Copies of the guidelines for public comment shall be made available to the audience at the meeting along with a copy of the agenda.
 - d. Members of the general public who are interested parties, or their representatives, who are not in attendance may address the Zoning Board by written submission prior to the close of the public hearing.
 - e. Debate or discussion between audience members and the speaker having the floor shall not be permitted.
 - f. Debate or discussion with the speaker on the part of a member of the Zoning Board, City Attorney, City consultants, a guest at the Zoning Board table, or any other City employee in the audience, who has information pertinent to the discussion shall not be permitted, except in the Chair's discretion.

9. COMMUNICATIONS.

- a. Zoning Board Members shall refrain from initiating or engaging in *ex parte* communication concerning an application or matter pending or likely to be pending before the Board with applicants and their representatives, potential applicants and members of the public.
- b. Should any Zoning Board member communicate with an applicant or its representatives or member of the public outside of a meeting, the member must place on the record, at the next board meeting, the fact that a communication took place, the person(s) with whom such communication was made, and the substance of the communication.
- c. In order to avoid the appearance of impropriety, potential applicants and their representatives shall communicate outside of public meetings with the Zoning Board Secretary, its consultants or attorney, rather than Zoning Board members. Members of the public shall communicate with the Zoning Board Secretary.

10. RECORDING OF PROCEEDINGS OF MEETINGS.

- a. Minutes shall be kept of all Zoning Board meetings and hearings. In addition to any content required by the State Law, minutes shall set forth the names and addresses of persons appearing and addressing the Zoning Board; a summary of statements made at public hearings, actions taken and findings made by the Zoning Board, if any, and the reasons therefore. The minutes shall record, with regard to any matter voted upon by the Zoning Board, the vote of each member upon every question, or if absent or failing to vote, indicating such fact.
- b. The official record of meetings shall be the minutes prepared by the Zoning Secretary. All meeting recordings shall be retained as part of the official record. The minutes shall be filed with the City Clerk's Office and a copy thereof and the recordings shall be kept in the Building Department.

11. AMENDMENTS: The foregoing Rules of Procedure may be amended from time to time by a majority vote of the Zoning Board.

Dated: Beacon, New York
January 17, 2018