

BYLAWS

BOARD OF APPEALS TOWN OF BUXTON

I. General Provisions:

Business of the Board shall be conducted in accord with Maine Statutes, Town Ordinances and Robert's Rule of Order.

II. Appointments:

- A. The Board shall consist of five (5) members, all of whom shall be legal residents of the Town, appointed by the municipal officers for staggered terms of at least three (3) years and not more than five (5) years.
- B. Neither a municipal officer nor his spouse may be a member of the Board.
- C. Any member of the Board may be removed from the Board, for cause, by the Municipal Officers before expiration of his/her term, but only after an advertised public hearing at which the member in question has an opportunity to refute specific charges against him/her. The term, "for cause" shall include failure to attend three (3) consecutive Board meetings or hearings without sufficient justification, or voting when the member has a "conflict of interest". At the request of the member in question the Board shall discuss the matter in executive session.
- D. When there is a permanent vacancy of a member, the Chairperson shall immediately notify the Town Clerk. The municipal officers shall within forty-five (45) days appoint a person to serve for the unexpired term.

III. Officers and Duties:

- A. The officers of the Board shall consist of a Chairperson and Vice Chairperson, who shall be elected by a majority of the Board.
- B. CHAIRPERSON: The Chairperson shall perform all duties required by law and these by-laws and preside at all meetings of the Board. The Chairperson shall rule on issues of evidence, order, and procedure, and shall take such other actions that are necessary for the efficient and orderly conduct of hearings, unless directed otherwise by a majority of the Board. The Chairperson shall appoint any committees found necessary to carry out the business of the Board. The Chairperson's signature shall be the official signature of the Board and shall appear on all decisions made by the Board.
- C. VICE CHAIRPERSON: The Vice Chairperson shall act in the absence of the Chairperson, assuming all the powers and responsibilities of the Chairperson during periods of absence, disability, or disqualification.
- D. The officers of the Board shall provide the Selectmen annually with an accounting of all expenditures made by the Board during the previous year.
- E. ALL MEMBERS: Shall be responsible for:
 - 1. Knowledge of the laws that pertain to judgments they make.
 - 2. Thorough knowledge of the local zoning ordinance.
 - 3. Familiarity with related local ordinances, such as regulations concerning subdivisions and the municipal codes. Members should also be familiar with the Comprehensive Plan and State Statutes relating to their activities.
 - 4. Regular attendance at meetings and hearings.

IV. Conflict of Interest:

- A. Any question of whether a particular issue involves a "conflict of interest" sufficient to disqualify a member from voting thereon, shall be decided by a majority vote of the members, except the member whose potential conflict is under consideration.
- B. The term "conflict of interest" shall be construed to mean direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family (grandfather, father, wife, son, grandson, e.g.) or to his employer or the employer of any member of the person's immediate family. It shall also include a situation where the Board member by reason of his interest is placed in a situation of temptation to serve his own personal interest instead of the public's interest.

V. Powers and Limitations:

- A. The Board shall have the following powers to be exercised only upon receipt of a written appeal by an aggrieved party:
 - 1. The Board may interpret the provisions of any applicable municipal ordinance it has been given jurisdiction to hear.
 - 2. The Board may hear and decide administrative appeals as set forth in Section 6.2 of the Zoning Ordinance, including where any aggrieved party affected by a decision, order, rule or failure to act alleges there is an error in procedure followed by either the Code Enforcement Officer or the Planning Board or in the interpretation of the ordinance by the Code Enforcement Officer or the Planning Board. Interpretive and administrative procedural errors may be modified or reversed by the Board by concurring vote of at least a majority of the Board members present and eligible to vote.
 - 3. The Board shall grant a variance by concurring vote of at least the majority of the Board members present and eligible in compliance with all of the following criteria:
 - a. The land in question cannot yield a reasonable return under the requirements of the Buxton Zoning Ordinance;
 - b. The need for a variance is due to the unique circumstances of the property and not the general conditions in the neighborhood;
 - c. The granting of a variance will not alter the essential character of the locality; and
 - d. These conditions are not the result of action taken by the applicant for a variance or a prior owner.

A variance is not justified unless all elements above are present, except as described in section 6.2.B.2. The burden of proof rests with the landowner to prove the above conditions exist. A financial disadvantage or personal hardship is not sufficient to grant a variance, as all variances must relate to a unique feature of the land.

- B. The issuance of a variance is subject to any specific conditions contained in the applicable Town Ordinance/Regulation.
- C. In granting a variance, the Board may prescribe such conditions and safeguards as they deem advisable in order to protect public interest, health, safety and general welfare and the purpose of the ordinance.

VI. Meetings:

- A. The regular meeting of the Board shall be held on the first Thursday of the month and the third Thursday if needed.
- B. The annual organization meeting of the Board shall be the first regular meeting of the year.
- C. The Chairperson shall call a special meeting within ten (10) days of written request from the majority of the Board or from the Municipal Officers, which request shall specify the matters to be considered at such special meeting. At least seventy-two hours written notice of the time, place, and business of the meeting shall be given to each member of the Board, the Municipal Officers, the Planning Board, the Code Enforcement Officer and the applicant if any is involved.
- D. The order of business at regular meetings of the Board shall be as follows:
 - 1. Call to Order
 - 2. Action on held cases
 - 3. Public hearing (when scheduled)
 - 4. Code Enforcement Officers report
 - 5. Reading and approval of the minutes of the preceding meeting
 - 6. Approval of Bills
 - 5. Other business
 - 6. Adjournment
- E. All meetings of the Board shall be open to the public, except executive sessions. No votes may be taken by the Board except in Public Meeting. The Board shall not hold executive sessions except for consultation between the Board and its legal counsel concerning litigation or other legal matters where premature general public knowledge would clearly place the town or Board at a substantial disadvantage.

VII. Voting:

- A. A quorum shall consist of three members of the Board. If a member has a conflict of interest, said member shall not be counted by the Board in establishing the quorum for such matter.
- B. No hearing or meeting of the Board shall be held, nor any action taken, in the absence of a quorum; however, those members present shall be entitled to request the Chairperson to call a special meeting for a subsequent date.
- C. All matters shall be decided by a roll call vote. Decisions on any matter before the Board shall require the affirmative vote of a majority of those members present and voting.
- D. No member of the Board shall vote on the determination of any matter requiring public hearing unless he/she has attended the public hearing thereon or has familiarized him/herself with such matter by reading the record.

VIII. Appeal Procedure:

- A. Any person aggrieved by an action which comes under the jurisdiction of the Board pursuant to Section V must file such application for appeal, in writing on forms provided, within thirty (30) days of the granting or denial of a permit. The applicant shall file this appeal at the office of the Municipal Clerk, setting forth the grounds for his/her appeal. Upon receiving the application for appeal, the Clerk shall notify the Chairperson of the Board.

- B. The fee to accompany applications for appeals shall be a hundred (\$100.00) dollars plus all costs above \$100.00. Checks are to be made payable to the Town of Buxton.

IX. Hearings:

- A. The Board shall schedule a public hearing on all appeals applications within thirty (30) days of the acceptance of a completed appeal application.
- B. The Board shall cause notice of the date, time and place of such hearing, the location of the building or lot, and the general nature of the question involved, to be given to the person making the application and to be published in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing. The Board shall also cause reasonable notice of the hearing to be given to the municipal officers, the Planning Board and the Code Enforcement Officer. The owners of property abutting that property for which the appeal is taken shall be notified by certified mail prior to the date of the hearing.
- C. The Board shall provide as a matter of policy for exclusion of irrelevant, immaterial or unduly repetitious evidence.
- D. The order of business at a public hearing shall be as follows:
1. The Chairperson calls the hearing to order and determines whether there is a quorum.
 2. The Chairperson then describes the purpose of the hearing, the nature of the case, and the general procedures to be followed:
No meeting shall go past 10:00pm. Each person wanting to comment on the subject of the meeting will have five minutes at the podium. Witnesses will be required to state for the record their name, residence, business or professional affiliation, the nature of their interest in the hearing and whether or not they represent another individual, firm, association, organization, partnership, trust, company, corporation, state agency or other legal entity for the purpose of the hearing.
 3. The Board decides whether the applicant has the right, title or interest to appear before the Board.
 4. The Board determines whether it has jurisdiction over the appeal.
 5. The Board determines which individuals attending the hearing are "interested parties". "Interested Parties" are those persons who request to offer testimony and evidence and to participate in oral cross-examination. They would include abutting property owners and those who might be adversely affected by the Board's decision. Parties may be required by the Board to consolidate or join their appearances in part or in whole if their interests or contentions are substantially similar and such consolidation would expedite the hearing. Municipal officers, the Planning Board, the Code Enforcement Officer shall automatically be made parties to the proceeding.
 6. The Chairperson gives a statement of the case and incorporates into the record correspondence and reports filed with the Board prior to the hearing. This material shall be available for public inspection.
 7. The appellant is given the opportunity to present his or her case without interruption.
 8. The Board and interested parties may ask questions of the appellant through the Chairperson.
 9. The interested parties are given the opportunity to present their case. The Board may call its own witnesses, such as the Code Enforcement Officer.
 10. The appellant may ask questions of the interested parties and Board witnesses through the Chairperson.

11. All parties are given the opportunity to refute or rebut statements made throughout the hearing.
12. The Board shall receive comments and questions from all observers and interested citizens who wish to express their views.
13. The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued to a later date. All participants shall be notified of the date, time and place of the continued hearing, and the reasons for the continuance.
14. Written testimony may be accepted by the Board for seven (7) days after the close of the hearing if a decision has not been reached. All written testimony shall be available for public inspection at the municipal offices during normal business hours.
15. Board members and its consultants have the right to submit proposed findings and conclusions at any public meeting prior to the decision being finalized.

E. The Board may waive any of the above rules upon good cause shown. For example, if the Board is reviewing a Planning Board decision for which a hearing was held and a complete record was made, a re-hearing of all the evidence presented at the first hearing is not required, because the record of the first hearing can be incorporated into the Appeals Board record.

X. Decisions:

- A. Decisions by the Board shall be made no later than thirty (30) days from the date of the final hearing.
- B. The final decision on any matter before the Board shall be made by written order signed by the Chairperson. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial therefore.
- C. The Board, in reaching said decision, shall be guided by standards specified in the applicable ordinance as well as by community goals and policies as specified in a comprehensive plan, if any, and by the findings of the Board in each case.
- D. In reviewing an application on any matter, the standards in any applicable local ordinance or state statute shall take precedence over the standards of these rules whenever a conflict occurs. In all other instances, the more restrictive rule shall apply.
- E. Notice of any decision shall be sent by mail or hand delivered to the applicant, his representative or agent, the Planning Board, the Code Enforcement Officer, and the municipal officers within seven (7) days of the decision.
- F. Decisions of the Board shall be immediately filed in the office of the Town Clerk and shall be made public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.

XI. Reconsiderations:

- A. Any party aggrieved by a decision or order of the Board or a Board member may petition the Board to reconsider a decision. The Board may reconsider a decision only if:
 1. The record contains significant factual errors due to fraud or mistake, regarding facts upon which the decision was based;

2. The Board misinterpreted the ordinance, followed improper procedures, or acted beyond its jurisdiction;; or
3. If a second application for a variance on property where a variance was previously denied is substantially different from the previous one.

X11. Appeals to Superior Court:

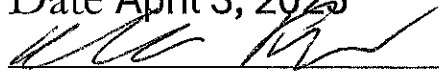
The decision of the Board of Appeals may be taken, within thirty (30) days after the decision is rendered, by any party to Superior Court in accordance with the Maine Rules of Civil Procedure.

X111. Amendments:

- A. These By-Laws may be amended by a majority vote of the Board.
- B. The invalidity of any section or provision of these By-Laws shall not be held to invalidate any other section or provision of these By-Laws.

ADOPTED BY VOTE OF THE BOARD OF APPEALS at a regular meeting

Date April 3, 2025



Chairperson, Michael Pettis