

ZONING BOARD OF APPEALS RULES AND BYLAWS

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- A159-1. Governing provisions.

The Zoning Board of Appeals shall be governed by the provisions of all applicable state statutes, local laws, ordinances and these rules and Bylaws adopted August 16, 1971 and as thereafter amended, by the Town of Poestenkill Zoning Board of Appeals.

- A159-2. Membership.

- A. Number of members. The Zoning Board of Appeals shall consist of five (5) members.
- B. Selection.
 - (1) The members will be appointed by the Town Board pursuant to Town Law.
 - (2) A member of the Board of Appeals shall not at the same time be a member of the Town Board or the Town Planning Board.

- A159-3. Officers and staff; duties.

- A. Chairman. The Chairman of the Board of Appeals shall be appointed from among the members by the Town of Poestenkill Town Board. The Chairman shall preside over all regular and special meetings, decide all points of order or procedure, and may administer oaths and compel the attendance of witnesses. He/she shall appoint from among the members of the Board, the Chairman and members of any committees necessary for investigative or other official work required in support of Board decisions or actions. He/she shall act as the official spokesperson for and representative of the Board and liaison to the Town Board and all other official agencies and organizations.
- B. Vice Chairman. The Board of Appeals shall elect annually from among its members, by a majority vote, a Vice Chairman who may be elected to succeed himself/herself. He/she will, in the absence or incapacity of the Chairman, preside over regular or special meetings, decide all points of order or procedure and may administer oaths and compel the attendance of witnesses.

- (2) Decisions not in accord with required recommendations of the Rensselaer County Bureau of Planning shall require the affirmative vote of a majority plus one (1) of the members (four members). All other matters shall require the affirmative vote of a majority of the Board (three members).
- (3) No member of the Board shall sit in hearing or vote on any matter in which he or she shall be personally or financially interested. No member shall vote on the determination of any matter requiring a public hearing unless he or she has attended the public hearing thereon, except, where such a member has familiarized themselves with such matter by reading the record, they shall be qualified to vote.

F. Conduct of meetings. Meetings will be conducted in accord with Roberts Rules in all cases where no contrary rules are stated in these Bylaws, Town or State Law.

A159-5 Public Hearings.

- A. Matters requiring public hearings. A public hearing shall be required in all matters involving an appeal from any order, requirement, decision or determination by the Code Enforcement Officer arising from the enforcement of the Land Use and Development Code; an appeal for a variance from the terms of the Land Use and Development Code; or a question involving the interpretation of the Land Use and Development Code or such other part of the Town of Poestenkill Code as the Zoning Board of Appeals is authorized by the Town of Poestenkill or State Law to decide.
- B. Time of hearings. Except for unusual circumstances as determined by the Chairman, all required public hearings will be scheduled at a regular meeting of the Board.
- C. Notice of hearings. No appeal shall be decided until after due notice has been given and a public hearing has been held thereon. Due notice of a hearing shall be as follows:
 - (1) By publication of a notice thereof once in one (1) official paper of the town at least five (5) days before the date of hearing.
 - (2) The Board shall mail notice of the hearing to the appellant or applicant or his attorney or agent at least five (5) days before the date of the hearing.
 - (3) Notice of hearing shall also be sent to each member of the Board as well as one (1) copy each to the Town Board, Town Clerk and Town Attorney. Such hearing shall be deemed valid and legal regardless of compliance or noncompliance with this provision.
- D. Conduct of public hearings.
 - (1) Any person may testify in person, by agent or attorney at any public hearing. The order of proceedings in the hearing of each case shall be as follows:

- B. Time limit for decisions. On matters requiring public hearings, the Board of Appeals shall decide the appeal or other matter referred to it within sixty-two (62) days after the final public hearing.
- C. Public hearings. For those appeals prescribed in A159-5A of these Bylaws, a public hearing must be held prior to issuance of a final decision.
- D. State Environmental Quality Review Act. Prior to any decision of the Zoning Board of Appeals all requirements of the New York State Environmental Quality Review Act shall be fulfilled.
- E. Referrals. Every appeal which meets the referral standards of General Municipal Law, Sections 239-1 and 239-m as amended, must be referred to the Rensselaer County Bureau of Planning for review and recommendation prior to issuance of a final decision. All appeals for variances and other matters at the Zoning Board of Appeals discretion shall be referred to the Poestenkill Planning Board for review and recommendation prior to issuance of a final decision.
- F. Expiration of permits. Unless otherwise specified, any order or decision of the Board granting a variance shall expire if a building permit or certificate of occupancy is not obtained by the applicant within ninety (90) calendar days from the date the decision becomes final.
- G. Filing of decision. The determination of the Board shall become final on the date of decision of such order. That determination shall become effective upon filing with the Town Clerk. The Board shall promptly serve written notice and a copy of its decision to the appellant, applicant or his attorney or agent. Copies of this decision shall also be sent to the Town Board, Town Attorney, Town Clerk and Code Enforcement Officer.

A159-8. Public record.

These rules and Bylaws, and every other rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board shall be filed in the office of the Town Clerk within five business days of the action and shall be a public record.

A159-9. Amendments to Bylaws.

These Bylaws may be amended at any regular meeting by an affirmative vote of not less than four (4) voting members of the Board, provided that such amendment has been presented in writing to each member of the Board at least forty-eight (48) hours preceding the meeting at which the vote is taken.

These Zoning Board of Appeals Rules and Bylaws as amended were adopted on October 20, 1994