



TOWN OF AVON

23 GENESEE STREET
AVON, NY 14414

585-226-2425
www.avon-ny.org

2024 ZONING BOARD OF APPEALS RULES OF PROCEDURE

1. **Conflicts with other laws and regulations.** These Rules are intended only to provide supplemental guidance regarding Zoning Board of Appeals procedures and are not intended to supersede any other adopted law or regulation.
2. **Amendments.** The Board may, by resolution, amend these Rules at the organizational meeting or when deemed prudent.
3. **Duties and Responsibilities.**
 - A. The duties and responsibilities of the Zoning Board of Appeals are set forth in the various sections of the Avon Town Code (including Chapter 61, Flood Damage Prevention, Chapter 99, Site Design Criteria and Land Development, and Chapter 130, Zoning), the New York State Town Law (including §§ 267, 267-a and 267-b), and the State Environmental Quality Review (SEQR) regulations (NYS Environmental and Conservation Law, Article 8, and 6 NYCRR 617) and the provisions contained in §§ 239-l, 239-m and 239-n of the New York State General Municipal Law (relating to coordination with the county planning agency).
 - B. **Chair. The Chair shall:**
 1. Have the responsibilities and authority as specified herein and in Town Code and New York State Town Law;
 2. Conduct Zoning Board of Appeals meetings;
 3. Be responsible for signing all official documents on behalf of the Board, including, but not limited to, correspondence, SEQR documents, approved subdivisions and site plans, and decision sheets;
 4. Be responsible for attending Planning Review Committee (PRC) meetings as needed to review staff processing of applications made to the Zoning Board of Appeals and ensure said applications are suitable for placement on a Zoning Board of Appeals meeting agenda; and
 5. Perform such other duties as directed by majority vote of the Zoning Board of Appeals.
 - C. **Vice Chair.** The Vice Chair will assume the responsibilities and authority of the Zoning Board of Appeals Chair, as specified in this section, when acting as the Zoning Board of Appeals Chair.
4. **Ethics.** Rules of ethical conduct for Zoning Board of Appeals members are provided in Chapter 13, Code of Ethics, of the Town Code.
5. **Meeting Schedule**



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- A. Board meetings shall be held the third (3rd) Monday of each month except as otherwise noted on the official calendar.
- B. All meetings shall convene at 6:00 p.m.
- C. The foregoing meeting dates and times may be amended, including by cancellation of a meeting, by the Board as needed.
- D. The Chair may call an additional or emergency meeting when necessary with the concurrence of a majority of the Board.
- E. Public notice of all meetings shall be made in accordance with NYS law and Town Code requirements.

6. Meeting Order of Business

- A. Each regularly scheduled Zoning Board of Appeals meetings shall be conducted generally by the Chair in the order listed below:
 - Introduction of the Board and staff
 - Overview of emergency evacuation procedures
 - Privilege of the floor (see Item 6C, below)
 - Attest to the publishing of legal notices
 - Approval of meeting minutes

Application review: within each numbered category below, applications shall be heard in order of agenda

1. Public hearings for variances, SUPs, and others as required
 - a) Continued
 - b) New
 - c) Closed
2. Sketch plans
- Other Board business:
 1. Approval of minutes
 2. Referrals from the Town Board



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3. Recommendations:
 - Planning Board
 - Town Board
 - Code Enforcement Officer
 4. Other business as required
 5. Update on available training sessions
- Upcoming applications; next meeting date
 - Adjournment

B. **Amendments.** The above order of business may be amended at the Chair's discretion and with the consent of the Board, provided that no application is treated unfairly or with prejudice, and that public hearings for which notice has been published are not unreasonably delayed. No requests by applicants or the general public for the exercise of this discretion shall be made during the conduct of the meeting.

C. **Privilege of the Floor.** Any person, upon request, may address the Zoning Board during a meeting on a matter of public concern that does not otherwise appear on the agenda for that meeting. The time allotted for addressing the Board shall be limited to five (5) minutes unless the Chair grants approval for additional time.

7. Distribution of Agendas, Notices and Other Related Documentation

A. Draft agendas, application information, and other pertinent materials for review of an application will be made available to Zoning Board of Appeals Board members by email one (1) week prior to the meeting, unless otherwise notified.

B. Livingston County Planning Board Staff Reports and Comments concerning proposed development in the Town of Avon shall be distributed to each Board member by Town staff in a timely fashion. Draft Town Zoning Board of Appeals minutes will be distributed to the Zoning Board members and staff by the Code Enforcement Clerk to the Board within ten (10) calendar days of the subject meeting. All unapproved minutes shall be marked clearly as "DRAFT" and shall contain a statement that "the draft minutes are subject to change."

C. Copies of meeting agendas and legal notices shall be available in the Town Building & Zoning Office ten (10) days prior to each Zoning Board of Appeals meeting. In addition, copies of the meeting agenda shall be available in the meeting room by 5:45 p.m. on the day of the scheduled meeting.

D. Applications for Zoning Board of Appeals review are due by noon two (2) weeks prior to the meeting date at which they will be on the agenda, and as referenced within the Town of Avon Board Calendar. Applications will be reviewed by staff for completeness and placement on a



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Zoning Board of Appeals agenda. Unless otherwise directed by the Zoning Board Chair, if staff or a duly appointed representative determines that the application is deficient and, therefore, not ready for placement on a Zoning Board agenda, the Building & Zoning Office shall notify the applicant of the specific deficiencies. If staff determines the application to be suitable for placement on a Zoning Board agenda, the applicant will be so notified, and the application will be scheduled for Zoning Board review at a future meeting.

- E. SEQRA. All formal actions taken in compliance with the implementing regulations of the State Environmental Quality Review Act (SEQRA), including classification of the action and determinations of significance, shall be by formal resolution and recorded in the minutes.
- F. In accordance with NYS Town Law, adopted Planning Board resolutions shall be signed by the Code Enforcement Clerk (acting as Board Secretary) and filed with the Town Clerk.
- G. As set forth in Article XIII §130-67 of the Town Code, the applicant shall reimburse the Town for all reasonable and necessary engineering, legal and other reasonable expenses incurred by the Town in connection with the review and consideration of the application for such approval.

8. Public Hearings

- A. A legal notice in the Town official newspaper shall provide public notification of all public hearings which shall be held in accordance with New York State Town Law.
- B. 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, and
 - 2. The Chair shall identify all correspondence pertaining to the application previously received from the general public and from the referenced referral agencies, and shall enter such correspondence into the record of the public hearing. Applications may be referred to the following, included by way of example but not limitation:
 - Avon Code Enforcement Officer
 - Avon DPW Superintendent
 - Avon Fire Department
 - Avon Town Historian
 - East Avon Fire Department
 - Livingston County 911 Center
 - Livingston County Highway Department
 - Livingston County Department of Health
 - Livingston County Planning Board
 - Livingston County Planning Department
 - Livingston County Soil and Water Conservation District



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Livingston County Water & Sewer Authority
MRB Group D.P.C.
National Grid PLC
Neighboring Municipalities
New York State Department of Environmental Conservation
New York State Department of Health
New York State Department of Transportation
New York State Electric & Gas

Rochester Gas & Electric Corporation
United States Army Corps of Engineers

- C. Written materials submitted by the public during the public hearing shall be given to the Zoning Board of Appeals Chair and entered into the record of that public hearing. Copies thereof shall be provided to all Board members, Town staff, and the applicant within three (3) business days of the date of the public hearing.
- D. All persons speaking in person will first provide their names and addresses for the record. Public input will be limited to three (3) minutes for each speaker during the public hearing. Additional time may be granted by the Chair. All comments are to be directed to the Board. The Chair may then redirect any questions or requests to another person. In no event, shall the public have the right to demand an answer to a specific question from a member of the Board, staff, applicant or the applicant's agents. The Chair may restrict redundant comments. Participants in the public hearing shall be instructed of the foregoing by the Chair, or in writing, prior to commencement of the public hearing.
- E. 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 by the Chair.

9. Motions

- A. When a motion has been made and seconded and is under debate or discussion, no motion shall be received except to:
 - 1. Amend the motion;
 - 2. Put the motion to a vote;
 - 3. Adjourn or table it to a specified day;
 - 4. Adjourn the meeting; or
 - 5. Withdraw the motion.

10. Voting



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- A. The ayes and nays for all Board votes shall be recorded in the minutes.
 - B. A Zoning Board of Appeals member may abstain from voting. When a member exercises this right, it is not necessary that the member state reason(s) for abstaining.
 - C. In accordance with the specific requirements of NYS General Municipal Law, Article 18, and Chapter 13, Code of Ethics, of the Town Code, Zoning Board of Appeals members shall recuse themselves from participating in the consideration of any application pending before the Zoning Board of Appeals if a conflict of interest exists.
- 11.** In compliance with NYS General Town Law, § 267-a, Subdivision 13, all actions taken by the Board must be by majority vote of the entire membership (3 of 5). In compliance with NYS General Municipal Law, § 239-m, Subdivision 5, a recommendation of denial or modification from the Livingston County Planning Board may only be overridden with majority vote of the entire membership vote plus one (4 of 5). In the event the planning Board does override the County recommendation, then the Zoning Board of Appeals shall set forth in the public record its reasons for doing so.
- E. A member of the Zoning Board of Appeals shall be eligible to vote upon the Zoning Board of Appeals meeting minutes only when he or she was present for the subject meeting in person, via the Remote Attendance Policy, or as otherwise specified by law.
- 11. Training Requirements.** Training requirements for Zoning Board of Appeals members are established by Town Board resolution in compliance with NYS Town Law, § 267, Subdivision 7-a. Zoning Board of Appeals members shall forward verification of any training received to the Code Enforcement Clerk.
- 12. Organizational Meeting.**
- A. The Zoning Board of Appeals shall convene in the third (3rd) week of January each year to:
 - 1. Review or revise the Rules of Procedure;
 - 2. Review training requirements;
 - 3. Recognize the Code Enforcement Clerk, appointed by the Town Board, acting as Secretary of the Board;
 - 4. Adopt the annual Board meeting calendar;
 - 5. Hire other experts and clerks as needed and as provided by existing statutes;



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6. Discuss any business pertinent to the effective operation of the Zoning Board;
 7. If not already appointed by the Town Board, appoint a Zoning Board of Appeals Chair or Vice Chair to serve until such time as the Town Board appoints a Chair or Vice Chair.
- 13. Applications Requiring Variances.** The Planning Board will not grant any approvals on applications requiring variances until such variances have been granted by the Town of Avon's Zoning Board of Appeals.
- 14. Filing and Distribution**
- A. All adopted Rules of Procedure and amendments thereto shall be filed with the office of the Avon Town Clerk and made available for public inspection upon request.
 - B. A copy of the Rules of Procedure shall be posted on the Town's website and a copy will be on file in the Town Building & Zoning office.
 - C. Copies of these Rules shall be provided to each Board member.
- 15. Effective Date.** All adopted Rules of Procedure shall become effective upon filing in the office of the Avon Town Clerk and shall remain in effect until further amended by the Zoning Board of Appeals.