

**Town of Brookfield
Zoning Board of Appeals
Bylaws**

I. PURPOSE

The Zoning Board of Appeals has the authority to vary the application of the zoning regulations in harmony with their general purpose and intent. The Zoning Board of Appeals base their decisions on considerations for conserving the public health, life safety convenience, general welfare, and property values. A hardship of the land based on the particular conditions of the parcel of land in question must be demonstrated. The Zoning Board of Appeals also considers appeals of decisions of the Zoning Enforcement Officer and location approvals for dealing in or repairing of motor vehicles, location approvals for gas stations and approvals for motor vehicle recycling yards.

II. AUTHORIZATION

The Zoning Board of Appeals (the “Board”) of the Town of Brookfield (the “Town”) is authorized by, and derives its powers primarily from Chapters 124 and 126 of the Connecticut General Statutes, Article C of the Town Charter, Section 74-1 of the Town Code, all as amended from time to time (together with other relevantly laws and regulations passed, promulgated, and/or amended from time to time).

III. NAME

The Board shall be known as the Zoning Board of Appeals of the Town of Brookfield shall be known as such.

IV. OFFICE OF THE BOARD

The office of the Board shall be in the office of the Land Use Department of Town Hall, 100 Pocono Road, Brookfield, Connecticut 06804; (203) 775-7316, where all records shall be kept.

V. MEMBERSHIP

The Brookfield Zoning Board of Appeals shall consist of five (5) regular members and three (3) alternate members who shall be electors of the Town not holding any other elected Town office and who shall be elected biennially at the regular elections on the first Tuesday in November in the odd years. The term of the office for each regular member of said Board shall be four (4) years.

VI. OFFICES AND DUTIES

A. Selection and Duties

The Zoning Board of Appeals (“ZBA”) elects its Offices as follows chairman (“Chairman”), vice-chairman (“Vice-Chairman”), and secretary (“Secretary”) annually in the month of January by a majority vote of at least three (3) out of five (5) of the ZBA’s five regular elected and/or with needed seated alternate board members present and voting, and shall serve for a calendar year or until its successors shall be elected (“Board Members”). The Chairman shall issue the announcement of all meetings and hearings and preside at said meeting, and perform all duties required by law, ordinance, and the ZBA Bylaws. In the event of the Chairman’s death, resignation, incapacity or absence, the Vice-Chairman shall be acting Chairman and shall perform the duties of the Chairman.

See; Connecticut General Statutes §8-5, Brookfield Town Code §74-1 and Brookfield Town Charter §C3-2H and C7-6 (1975); and C-7.1B.

B. Inspection

Board Members can inspect the premises involved in an appeal, special exemption, or variance in the appeal application. It is strongly suggested that all Board Members inspect such premises whenever possible. However, when they do inspect the premises, they may not interact with the applicant regarding any substantive aspect of the application. Board Members may also request an inspection of the applicant's premises by asking the applicant's permission in advance either by telephone, text, or email. All Board Members are welcome to inspect the premises.

VII. MEETINGS

A. Time of Meeting

Except, if otherwise determined by a concurring vote of four (4) regular members, the Chairman or Acting Chairman shall call a Board Members' meeting on the first Monday of each month starting at 7:00 p.m. at Town Hall, 100 Pocono Road, Brookfield, CT. The first regular meeting of the year shall constitute the annual ZBA's meeting of Board Members, and at that meeting, the executive Board Members for that year shall be elected.

Special meetings of the Board Members may be called by the Chairman or Acting Chairman within forty-eight (48) hours' notice given to each Board Member. Additional Board meetings shall be held, when necessary, to hear appeals.

VIII. CONDUCT OF MEETING

A. Hearings Open to the Public

All hearings shall be open to the public.

B. Quorum re: Voting

A quorum shall consist of four (4) Board Members and for all businesses and decisions shall be made by a concurring vote of four (4) Board Members. Reversals of decisions of the ZBA or the Zoning Enforcement Officer and decisions on applications for special exceptions and variances in favor of the applicant require a concurring vote of at least four (4) Board Members.

As applicants are entitled to five (5) Board Members, if there are only four (4) Board Members present at the time of the applicant's hearing, the applicant must be made aware of that fact, and with their permission and/or consent the hearing may proceed or be tabled until the next meeting. If approval and/or consent is given by the applicant, the applicant must have a unanimous decision, four (4) affirmative Board Member votes for approval.

C. Continuing Education

All training provided by the Land Use Office shall be scheduled through the Chairman, and due to time constraints, cannot be done at the ZBA regular meeting.

IX. ADMINISTERING OATHS

The Chairman, or in his absence the Acting Chairman, may administer oaths or compel the attendance of witnesses. *See* Connecticut General Statutes §8-5: Requirement for Oath and §1-25: Oath for a Witness, which states as follows:

“You solemnly swear or solemnly and sincerely affirm, as the case may be, that the evidence you shall give concerning this case shall be the truth, the whole truth and nothing but the truth, so help you God or upon penalty of perjury.”

All Witnesses are hereby notified that any false statement made to a public servant under oath is punishable as a Class A Misdemeanor pursuant to 53a-157b.

X. ORDER OF BUSINESS AT PUBLIC HEARINGS

- Roll call;
- Hearing of case;
- Adjournment of public hearing; and
- Executive deliberations (open to public view and are FOIA compliant).

XI. ORDER OF BUSINESS AT REGULAR MEETINGS

The order of business at Board Members at regular meetings shall be as follows:

- Pledge of allegiance;
- Roll call;
- Review Minutes of prior month’s meeting;
- Review correspondences;
- Public hearings;
- Continued public hearings;
- Board Member deliberations open to public view;
- Tabled items;
- New business;
- Formal/informal discussion; and
- Adjourn.

XII. DESIGNATION OF ALTERNATE MEMBERS TO ACT

Pursuant to Connecticut General Statutes §8-5 and 8-5a, which states as follows:

“If a regular member of a zoning board of appeals is absent, he may designate an alternate from the panel of alternates to act in his place. If he fails to make such designation or if he is disqualified, the chairman of the board shall designate an alternate from such panel, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.”

XIII. CONFLICT OF INTEREST RECUSAL PROCEDURE

When a member has determined in good faith that he or she has a conflict of interest and a recusal is deemed necessary on any application, the Board Member may verbally recuse him or herself from a meeting, or write a recusal letter and forward one executed copy to the Chairman and one copy to the Administration Assistant Secretary of Land Use, who will attach it to the Minutes of the meeting and placed into the Official Town records. A Board Member who recuses him or herself from voting shall relinquish the right to question and/or comment on the application at hand and can either leave the room or join the public seating.

XIV. AMENDMENTS TO BYLAWS

There are times when Amendments to these Bylaws may be necessary, and may be suggested by all regular and alternate Board Members. All changes must be voted on by regular Board Members, and have at least

four (4) affirmative votes to pass, and shall take effect at the next scheduled meeting.

XV. ORDER OF HEARING OF CASES

Appeals or applications are heard in the order in which they are placed on file, and as shown in the announcement of the meeting. The hearing of cases shall proceed as follows:

- a. Chairman shall give a statement of the case;
- b. The applicant and/or appellant shall present the argument in favor of its case;
- c. Any communication in favor or in opposition shall be read into the record;
- d. The Board Members shall have the opportunity to question the applicant and/or appellant
- e. All those in favor or opposed to the case shall be heard without interruption;
- f. Board Members shall have the opportunity to question those who are in favor or opposed; and
- g. The applicant shall have a final opportunity to speak before the public hearing is closed.

LAWS AND REGULATIONS SHALL GOVERN

Connecticut General Statute Title 8, Chapter 124 and 126, all sections and subsections, including, case law citations and the Brookfield Town Charter shall become part of these laws. In the event of a conflict between these Bylaws and any Federal, State or local laws, the Charters and regulations, including the United States Constitution, the Connecticut Constitution, Connecticut General Statutes, Brookfield Town Charter, Federal, State or local laws and regulations shall govern and control.