



**Town of North Topsail Beach
Zoning Board of Adjustment Regular Meeting**

**Tuesday, March 18, 2025, at 6:00 PM
2008 Loggerhead Court, North Topsail Beach, NC 28460
(910) 328-1349 | www.northtopsailbeachnc.gov**

Zoning Board of Adjustment: Hanna McCloud - Chair, Kip Malcolm - Vice Chair, Scott Morse, Lisa Lee Kozlowski, Susan Meyer, Jason Stahr- Alternate.

Staff: Deb Hill - MPA AICP CFM AZO - Planning Director; Kate Winzler - CMC, NCCMC - Clerk to the Zoning Board of Adjustment.

I. CALL TO ORDER

II. ADOPTION OF AGENDA

Specific Action Requested: Chair will request a motion to adopt the agenda.

III. APPROVAL OF MINUTES

A. February 18, 2025, Regular Meeting Minutes

Specific Action Requested: Chair will request a motion to approve the minutes.

IV. OLD BUSINESS

A. #AA24-000003 ORDER

B. #VAR24-000001 ORDER

V. ORGANIZATIONAL

A. Rules of Procedure

VI. ADJOURNMENT

Notice to citizens who wish to speak: As a courtesy to others, a citizen speaking on an agenda item or making a petition is normally limited to three minutes. Persons who are organizing a group presentation and who wish to speak beyond the three minute limit are requested to make prior arrangements through the Planning Director by calling 910-328-1349. If you wish to address the Board this evening, please go to the front right corner of the conference room and sign up with the Recording Secretary. The Board may also change the order in which agenda items are presented.

Attorneys: If you are representing a person with an interest in a quasi-judicial proceeding on this agenda and believe you may wish to cross examine a witness, please identify yourself as such to the Recording Secretary. For the sake of maintaining an accurate public record all speakers must be

prepared to speak into an amplified microphone and must provide their name to the Recording Secretary.



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PRESENT: Scott Morse, Lisa Lee Kozlowski, Susan Meyer, Kip Malcolm

ABSENT: Hanna McCloud - Chair, Jason Stahr- Alternate.

I. CALL TO ORDER

Mr. Malcolm called the meeting to order at 6:02 p.m.

II. ADOPTION OF AGENDA

Ms. Meyer made a motion to remove from the current agenda Item VI. ORGANIZATIONAL A. Rules of Procedure. Mr. Morse seconded the motion. The motion passed unanimously, 4-0.

Ms. Meyer made a motion to add the appointment of a Vice Chair to the Zoning Board of Adjustment on the agenda. Ms. Kozlowski seconded the motion. The motion passed unanimously, 4-0.

Ms. Meyer made a motion to adopt the agenda as amended. Mr. Morse seconded the motion. The motion passed unanimously, 4-0.

III. ELECTION OF VICE CHAIR

Ms. Meyer made a motion to nominate Kip Malcolm as Vice Chair of the Zoning Board of Adjustment. Ms. Kozlowski seconded the motion. The motion passed unanimously, 4-0.

IV. APPROVAL OF MINUTES: DECEMBER 17, 2024, SPECIAL MEETING

Town Attorney Ferguson recommended that the Zoning Board of Adjustment amend the minutes to reflect the intention of the Board by changing the motion to adjourn to a motion to recess to the next scheduled Board of Adjustment meeting.

Ms. Kozlowski made a motion to adopt the correction of adjournment to recess until the next scheduled meeting in the minutes. Ms. Meyer seconded the motion. The motion passed unanimously, 4-0.

Mr. Morse made a motion to adopt the minutes with the amendments as changed. Ms. Kozlowski seconded the motion. The motion passed unanimously, 4-0.

V. OLD BUSINESS: #AA24-000003 Appeal by Aneta Paval of the denial of a fence permit #SB24-000044 at lot 14 Green Oar Street, Rogers Bay Campground located at 4021 Island Drive (continued)

Vice Chair Malcolm introduced the continued appeal AA#24-000003, and recognized the Appellant, Ms. Paval attending via Teams.

Town Attorney Ferguson gave a summary of the appeal and recommended that the Zoning Board ask for the additional evidence and testimony requested at the previous evidentiary hearing, and then entertain any additional questions from the Board to either staff or the appellant. After which they may close the evidentiary hearing and enter into deliberations.

Planning Director Hill presented a letter from Winston C. Soward, Fire Chief of the North Tops Fire Department.

There were no additional questions from the Board or Ms. Paval regarding the letter from the Fire Chief.

Ms. Paval inquired about the pictures she submitted.

Vice Chair Malcolm identified the pictures as pages seven and eight of the staff report, and without objection from the Board or Ms. Paval admitted them into the record.

Ms. Paval answered questions from the Board.

There was discussion between the Board and the Town Attorney.

Planning Director Hill answered a question from the Board.

Ms. Paval provided testimony to the Board.

Mr. Morse made a motion to close the evidentiary hearing part and move to the deliberation. Ms. Kozlowski seconded the motion. The motion passed unanimously, 4-0.

The public hearing was closed at 6:25 p.m.

The Zoning Board of Adjustment deliberated.

Ms. Meyer made a motion to uphold the denial of the fence. Ms. Kozlowski seconded the motion. The motion passed unanimously, 4-0.

Ms. Paval stated her intention to appeal to Onslow County Superior Courts.

Attorney Ferguson explained the process of reviewing the written decision at the next scheduled Board meeting and that appeal rights begin to run at the adoption of the written decision.

VI. NEW BUSINESS: #VAR24-000001 Variance application by Mr. Lincoln "Tad" Scott from the 20-foot Front Yard Setback requirement listed in UDO Table 5-1 for property at 1108, 1112, 1116 New River Inlet Road (R-5 Zoning District) due to 90-foot CAMA setback requirement
Deputy Town Clerk Winzler swore in Lincoln Tadd Scott, and Planning Director Hill.

Town Attorney Ferguson explained the four criteria an applicant is required to prove to grant a variance. Mr. Ferguson allowed the Board to identify any possible conflicts or special knowledge. None were presented.

Vice Chair Malcolm reviewed the order of business for the variance request, opened the public hearing on case #VAR24-000001 at 6:39 p.m. and requested testimony from the staff.

Planning Director Hill presented the staff report and exhibits one through fifteen, and with clarification from the Town Attorney asked that they be entered into the record of the evidentiary hearing without objection from the applicant, Mr. Scott. She answered a question from the Board.

Attorney Ferguson explained that the applicant was seeking a variance from the Town's front yard setback requirements.

Applicant Lincoln Tadd Scott provided testimony. He presented a series of four pictures for the consideration of the Board.

The Board accepted the pictures into the record without objection.

Mr. Scott answered questions from the Board.

Planning Director Hill answered questions from the Board.

Planning Director Hill cross examined Mr. Scott.

Mr. Morse made a motion to close the evidentiary part of the hearing and move to deliberation. Ms. Meyer seconded the motion. The motion passed unanimously, 4-0.

The public hearing was closed at 7:17 p.m.

Town Attorney Ferguson reviewed the four elements required for the granting of a variance.

The Zoning Board of Adjustment deliberated.

Mr. Morse made a motion to deny the variance request. Ms. Kozlowski seconded the motion. The motion passed unanimously, 4-0.

Planning Director Hill raised a procedural question.

Attorney Ferguson provided guidance for the Board to direct the Planning Director to draft a simple variance request denial letter and allow the Vice Chair to sign it for the Applicant before the CRC deadline.

The Board, the Planning Director, and the Town Attorney provided clarification on the determination to the Applicant.

Ms. Meyer made a motion to direct the director to issue a letter indicating the findings of this variance hearing tonight. Ms. Kozlowski seconded the motion. The motion passed unanimously, 4-0.

VII. CLOSED SESSION: Pursuant to NCGS § 143.318.11 (a) (3) Consultation with the attorney Mr. Morse made a motion to enter into closed session. Ms. Kozlowski seconded the motion. The motion passed unanimously, 4-0.

The Zoning Board of Adjustment went into closed session at 7:26 p.m.

No action was taken.

Ms. Kozlowski made a motion to go back into open session. Ms. Meyer seconded the motion. The motion passed unanimously, 4-0.

The Zoning Board of Adjustment came out of closed session at 7:40 p.m.

VIII. ADJOURNMENT

Ms. Meyer made a motion to adjourn. Mr. Morse seconded the motion. The motion passed unanimously, 4-0.

The Zoning Board of Adjustment meeting adjourned at 7:40 p.m.

APPROVED

This 18th Day of March, 2025.

Chair

CERTIFIED

This 18th Day of March, 2025.

Clerk to the Zoning Board of Adjustment

Town of North Topsail Beach Zoning Board of Adjustment Procedural Rules

Part I. Applicability

Rule 1. Applicability of Rules

These rules apply to all meetings of the Town of North Topsail Beach Zoning Board of Adjustment. For purposes of these rules, a meeting of the Zoning Board of Adjustment occurs whenever a majority of the Zoning Board of Adjustment’s members gather, either in person or simultaneously by electronic means, to conduct hearings, deliberate, vote, or otherwise transact public business within the Zoning Board of Adjustment’s real or apparent jurisdiction. The term “majority” as used here and elsewhere in these rules means, unless otherwise specified, a simple majority, that is, more than half.

Part II. Quorum

Rule 2. Quorum

The presence of a quorum is necessary for the Zoning Board of Adjustment to conduct business. A quorum consists of a majority of the Zoning Board of Adjustment’s actual membership [excluding vacant seats]. [A member who withdraws from a meeting of the Zoning Board of Adjustment without being excused by majority vote of the remaining members present shall be counted as present for quorum purposes.]

Part III. Open Meetings

Rule 3. Electronic Zoning Board of Adjustment Meetings

(a) General Provisions. No member who is not physically present may participate in a meeting of the Zoning Board of Adjustment by electronic means except in accordance with this rule.

(b) Electronic Meetings During a State of Emergency Declared by the Governor or General Assembly. During any state of emergency declared by the Governor or General Assembly pursuant to G.S. 166A-19.20, a meeting of the Zoning Board of Adjustment shall comply with the requirements of this paragraph if (1) the Zoning Board of Adjustment falls within the emergency area and (2) at least one Zoning Board of Adjustment member attends the meeting by conference call, conference video, or other electronic means.

- (1) *Notice.* The public notice for any regular, special, emergency, or recessed meeting that is subject to this paragraph shall specify how the public can access the electronic meeting in real time.
- (2) *Member Identification.* Each member who attends by electronic means shall identify himself or herself in each of the following situations:
 - a. a. when roll is taken or the meeting begins;
 - b. b. before taking part in deliberations, including making any motions, proposing any amendments, or raising any points of order; and
 - c. c. before voting.

- (3) *Meeting Materials.* All documents considered during the meeting shall be furnished to each Zoning Board of Adjustment member.
- (4) *Method of Electronic Participation.* Any member who attends electronically shall use a means of communication that enables the member
 - a. a. to hear what is said by other Zoning Board of Adjustment members and any person who addresses the Zoning Board of Adjustment and
 - b. b. to be heard by other Zoning Board of Adjustment members.
- (5) *Quorum.* A member who attends by electronic means counts as present for quorum purposes, but only while the Zoning Board of Adjustment maintains electronic communication with that member.
- (6) *Voting.* The Zoning Board of Adjustment shall conduct all votes by roll call. It may not vote by secret or written ballots. The votes of any member who attends by electronic means shall be counted as if the member were physically present, but only while the Zoning Board of Adjustment maintains electronic communication with that member.
- (6) *Acting by Reference.* The Zoning Board of Adjustment shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document unless copies of the agenda or document are available for public inspection at the meeting and so worded that persons in attendance can understand what is being deliberated or acted upon.
- (7) *Minutes.* The minutes shall indicate that the meeting was conducted by electronic means, which members took part electronically, and when such members joined or left the electronic meeting.
- (8) *Live Streaming.* The meeting shall be streamed live online so that live audio (and video, if any) are available to the public. If the Zoning Board of Adjustment meets by conference call, the public shall have an opportunity to dial in or stream the audio live and listen to the electronic meeting.
- (9) *Public Hearings.* Although it may conduct any public hearing mandated or permitted by law, the Zoning Board of Adjustment shall allow the public to submit written comments on the hearing's subject matter between the publication of any required notice and twenty-four hours after the hearing.

Rule 4. Meetings to Be Open to the Public

Except as permitted by Rule 5, all meetings of the Zoning Board of Adjustment shall be open to the public, and any person may attend its meetings.

Rule 5. Closed Sessions

- (a) *Bases for Closed Session.* The Zoning Board of Adjustment may enter a closed session from which the public is excluded on any of the grounds listed in G.S. 143-318.11(a).
- (b) *Motion to Enter Closed Session.* The Zoning Board of Adjustment may hold a closed session only upon a motion duly made and adopted in open session. The motion to enter closed session shall cite one or more of the permissible bases listed in G.S. 143-318.11(a) for closed sessions. For a closed session held under G.S. 143-318.11(a)(1) (prevent disclosure of privileged or confidential information or information not considered public record), the motion shall name or cite the law that renders the information confidential or privileged. For a closed session called pursuant to G.S. 143-318.11(a)(3) (attorney consultation and preservation of attorney-client privilege), the motion shall name the parties to any pending lawsuit that the Zoning Board of Adjustment's attorney plans to discuss in the closed session.
- (c) *Closed-Session Participants.* Aside from the Zoning Board of Adjustment members themselves,

only those individuals invited by the Zoning Board of Adjustment may participate in a closed session. The Zoning Board of Adjustment will invite only those individuals whose presence is reasonably necessary to aid the Zoning Board of Adjustment in its closed-session deliberations.

(d) Motion to Return to Open Session. Upon completing its closed-session business, the Zoning Board of Adjustment shall return to open session.

Rule 6. Meeting Minutes

(a) Minutes Required for All Meetings. The Zoning Board of Adjustment shall keep full and accurate minutes of its meetings, including any closed sessions. To be “full and accurate,” the minutes must record all actions taken by the Zoning Board of Adjustment, as well as the Zoning Board of Adjustment’s compliance with any applicable procedural requirements. The minutes should set out the precise wording of each motion and make it possible to determine the number of votes cast for and against each motion. The minutes need not record Zoning Board of Adjustment member discussions, though the Zoning Board of Adjustment in its discretion may decide to incorporate such details into the minutes.

(b) Record of “Ayes” and “Noes.” At the request of any member, the minutes shall indicate how each member voted by name on a particular matter.

(c) General Accounts of Closed Sessions. In addition to minutes, the Zoning Board of Adjustment shall keep a general account of each closed session. The general account shall be sufficiently detailed to provide a person not in attendance with a reasonable understanding of what transpired. The Zoning Board of Adjustment may combine the minutes and general account of a closed session into one document, so long as the document contains both a complete record of actions taken and the level of detail required for a general account.

(d) Sealing Closed-Session Records. Minutes and general accounts of closed sessions shall be sealed until unsealed by order of the Zoning Board of Adjustment or in accordance with instructions adopted by a competent authority. The sealed minutes and general account of any closed session may be withheld from public inspection, so long as public inspection would frustrate the purpose(s) of the closed session.

Rule 7. Broadcasting and Recording Meetings

(a) Right to Broadcast and Record. Any person may photograph, film, tape-record, or otherwise reproduce any part of a Zoning Board of Adjustment meeting that must take place in open session. Except as provided in paragraph (c) of this rule, any radio or television station may broadcast any such part of a Zoning Board of Adjustment meeting.

(b) Advance Notice. Any radio or television station that plans to broadcast any portion of a Zoning Board of Adjustment meeting shall notify the Town Clerk no later than [twenty-four hours] before the meeting. The failure to provide notice is not, by itself, grounds for preventing the broadcast of a Zoning Board of Adjustment meeting.

(c) Equipment Placement. The Zoning Board of Adjustment chair or an appropriate staff member may regulate the placement and use of camera or recording equipment in order to prevent undue interference with a Zoning Board of Adjustment meeting, so long as he or she allows the equipment to be placed where it can carry out its intended function. If the Zoning Board of Adjustment chair or staff member determines in good faith that the equipment and personnel necessary to broadcast, photograph, or record the meeting cannot be accommodated without undue interference to the meeting, and an adequate alternative meeting room is not readily available, the chair or staff member may require the pooling of the equipment and the personnel operating it.

(d) Alternative Meeting Site. If the news media request an alternative meeting site to accommodate news coverage, and the Zoning Board of Adjustment grants the request, the news media making the request shall pay the costs incurred by the local government unit in securing an alternative meeting site.

Part IV. Organization of the Zoning Board of Adjustment

Rule 8. Organizational Meeting: Selection of Chair and Vice Chair

On the date and at the time of the first regular meeting in July, all newly appointed and reappointed members of the Zoning Board of Adjustment shall take and subscribe to the oath of office as the first order of new business. As the second order of new business, the Zoning Board of Adjustment shall elect a chair and vice chair.

Part V. Types of Meetings

Rule 9. Regular Meetings

- (a) Regular Meeting Schedule. The Zoning Board of Adjustment shall annually adopt a regular meeting schedule showing the time(s) and place(s) of its regular meetings for the year.
- (b) Notice of Regular Meeting Schedule. The Zoning Board of Adjustment shall ensure that a copy of its current regular meeting schedule, complete with the time and place of each regular meeting, is filed with the Zoning Board of Adjustment’s clerk and posted on the Zoning Board of Adjustment’s webpage.
- (c) Change to Regular Meeting Schedule. The Zoning Board of Adjustment may revise its regular meeting schedule to change the time or place of a particular regular meeting or all regular meetings within a specified period. The Zoning Board of Adjustment shall ensure that the revised regular meeting schedule is filed with the Zoning Board of Adjustment’s clerk at least seven calendar days before the first meeting held pursuant to the revised schedule. The Zoning Board of Adjustment shall also have the revised schedule posted on the Zoning Board of Adjustment’s webpage.

Rule 10. Special Meetings

- (a) Calling Special Meetings. The chair may call a special meeting of the Zoning Board of Adjustment. Alternatively, a special meeting may be called by vote of the Zoning Board of Adjustment in open session during a regular meeting or another duly called special meeting.
- (b) Notice to the Public. At least forty-eight hours before a special meeting, the Zoning Board of Adjustment shall cause written notice of the meeting’s date, time, place, and purpose(s) to be (1) posted on the Town’s message Zoning Board of Adjustment and (2) delivered, emailed, or mailed to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the Zoning Board of Adjustment’s clerk. The Zoning Board of Adjustment shall also have the notice posted on the Zoning Board of Adjustment’s webpage prior to the special meeting.

(c) Notice to Members. If the chair called the special meeting, the chair shall ensure that notice of the meeting's date, time, place, and purpose(s) is mailed, emailed, or delivered to the other members at least forty-eight hours before the meeting. If the special meeting was called at another duly held meeting of the Zoning Board of Adjustment, and one or more members were absent, the chair shall ensure that notice of the meeting's date, time, place, and purpose(s) is mailed, emailed, or delivered to any absent member(s) a minimum of forty-eight hours in advance of the special meeting.

Rule 11. Emergency Meetings

(a) Calling Emergency Meetings. The chair may call an emergency meeting of the Zoning Board of Adjustment, but only when necessary to address generally unexpected circumstances that demand the Zoning Board of Adjustment's immediate attention.

(b) Notice of Emergency Meetings. Reasonable steps shall be taken by the chair to notify other Zoning Board of Adjustment members of an emergency meeting. Additionally, notice of the meeting shall be given to each local newspaper, local wire service, local radio station, and local television station that has filed with the Zoning Board of Adjustment's clerk a written request to be notified of emergency meetings. To be valid, the request must include the newspaper's, wire service's, or station's telephone number. Notice may be given by telephone, email, or the same method used to notify Zoning Board of Adjustment members. Notice shall be provided immediately after members have been notified and at the expense of the media organization notified.

(c) Transaction of Other Business Prohibited. Only business connected with the emergency may be considered at an emergency meeting.

Rule 12. Recessed Meetings

(a) Calling Recessed Meetings. When conducting a properly called regular, special, or emergency meeting, the Zoning Board of Adjustment may recess the meeting to another date, time, or place by a procedural motion made and adopted in open session, as provided in Rule 25 (Motion 3). The motion shall state the time (including the date, if the meeting will resume on a different day) and place at which the meeting will resume.

(b) Notice of Recessed Meetings. Notice of the recessed meeting's date, time, and place shall appear on the Zoning Board of Adjustment's webpage prior to the meeting. No further notice of a properly called recessed meeting is required.

Part VI. Agenda

Rule 13. Agenda

(a) Draft Agenda.

- (1) *Preparation.* The Zoning Board of Adjustment's clerk shall prepare a draft agenda for each meeting of the Zoning Board of Adjustment.
- (2) *Requesting placement of items on draft agenda.* Members may, by timely request, have items placed on the draft agenda for any regular meeting. Members shall submit their requests to the Zoning Board of Adjustment's clerk at least seven working days before the meeting date.
- (3) *Supplemental information/materials.* A copy of all draft orders, policies, regulations, or resolutions shall be attached to the draft agenda. The Zoning Board of Adjustment's clerk shall prepare an agenda packet that includes, for each item of business listed on the draft agenda, as much background information on the topic as is available and feasible to reproduce.

- (4) *Delivery to Zoning Board of Adjustment members.* Each member shall receive an email notification that the draft agenda and the agenda packet is available on the Town’s Meetings webpage. [Except in the case of an emergency meeting, the notice of the draft agenda [and the agenda packet] shall be provided to each member at least [twenty-four hours] before the meeting.]
 - (5) *Public inspection.* The draft agenda [and agenda packet, except for materials not subject to inspection or copying under the public records law,] shall be available to the public when it is ready to be circulated to members.
- (b) Adoption of the Agenda
- (1) *Adoption.* As its first order of business at each meeting, the Zoning Board of Adjustment shall review the draft agenda, make whatever revisions it deems appropriate, and adopt the agenda for the meeting.
 - (2) *Amending the agenda.* Both before and after it adopts the agenda, the Zoning Board of Adjustment may add or subtract agenda items by majority vote of the members present and voting, except when the Zoning Board of Adjustment’s consideration of new agenda items would violate state law or these rules.
 - (3) *Designation of items “For Discussion and Possible Action.”* The Zoning Board of Adjustment may designate an agenda item “For Discussion and Possible Action.” The designation signifies that the Zoning Board of Adjustment intends to discuss the item and may, if it so chooses, take action on the item following the discussion.
- (c) Consent Agenda. The Zoning Board of Adjustment may designate part of an agenda for a regular meeting as the consent agenda. The person(s) charged with preparing the draft agenda may place routine or non-controversial items on the consent agenda. Prior to approving the meeting agenda, the Zoning Board of Adjustment must honor any member’s request to move an item from the consent agenda to new or unfinished business. The Zoning Board of Adjustment may approve all items on the consent agenda through the adoption of a single motion to that effect, but the minutes shall list each item so approved.
- (d) Informal Discussion of Agenda Items. The Zoning Board of Adjustment may informally discuss an agenda item even when no motion regarding that item is pending.

Rule 14. Acting by Reference to Agenda or Other Document

The Zoning Board of Adjustment shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document unless copies of the agenda or document are available for public inspection at the meeting and so worded that persons in attendance can understand what is being deliberated or acted upon.

Rule 15. Agenda Items from Members of the Public

If a member of the public wishes to request that the Zoning Board of Adjustment include an item on its regular-meeting agenda, the individual shall submit the request in writing to the Planning Director at least ten working days before the meeting date. The Zoning Board of Adjustment is not obligated to place an item on the agenda merely because such a request has been received.

Rule 16. Order of Business

Items shall be placed on a regular meeting agenda according to the order of business. The usual order of business for each regular meeting shall be as follows:

- adoption of the agenda,
- approval of the consent agenda,
- approval of the previous meeting minutes,
- public comment,
- unfinished business, and
- new business.
- discussion or training

Without objection, the chair may call agenda items in any order most convenient for the dispatch of business.

Part VII. Role of the Presiding Officer

Rule 17. The Chair

- (a) Presiding Officer. The chair shall preside at meetings of the Zoning Board of Adjustment.
- (b) Voting by the Chair. The chair has the same duty to vote as other members, though in no event may the chair break a tie on a motion on which he or she has already voted.
- (c) Recognition of Members. A member must be recognized by the chair (or other presiding officer) in order to address the Zoning Board of Adjustment, but recognition is not necessary for an appeal pursuant to Rule 25 (Motion 1).
- (d) Powers as Presiding Officer. As presiding officer, the chair is to enforce these rules and maintain order and decorum during Zoning Board of Adjustment meetings. To that end, the chair may
 - (1) rule on points of parliamentary procedure, to include ruling out of order any motion clearly offered for obstructive or dilatory purposes;
 - (2) determine whether a member or other speaker has gone beyond reasonable standards of courtesy in his or her remarks and entertain and rule on objections from other members on this ground;
 - (3) entertain and answer questions of parliamentary procedure;
 - (4) call a brief recess at any time; and
 - (5) adjourn in an emergency.
- (e) Appeals of Procedural Rulings. A member may appeal a decision made or an answer given by the chair under subparagraph (d)(1), (2), or (3) of this rule in accordance with Rule 25 (Motion 1).

Rule 18. Presiding Officer in the Chair’s Absence

If the chair is absent, the vice chair or another member designated by vote of the Zoning Board of Adjustment shall preside. If both the chair and vice chair are absent, the Zoning Board of Adjustment shall designate one of the members present to serve as temporary presiding officer. Any member who presides in place of the chair has the powers listed in Rule 17(d). Service as presiding officer does not relieve a member of the right to vote on all questions except as excused from voting under Rule 29.

Rule 19. When the Presiding Officer Is Active in Debate

If the chair or other presiding officer becomes active in the debate on a matter, he or she may

designate another member to preside over the debate.

Part VIII. Motions and Voting

Rule 20. Action by the Zoning Board of Adjustment

Except as otherwise provided in Rules 28, 30, and 33, the Zoning Board of Adjustment shall act by motion. Any member other than the chair may make a motion.

Rule 21. Second Not Required

No second is required on any motion.

Rule 22. One Motion at a Time

A member may make only one motion at a time.

Rule 23. Withdrawal of Motion

The member who introduces a motion may withdraw the motion unless the motion has been amended or put to a vote.

Rule 24. Substantive (or Main) Motions

A substantive motion is not in order when any other motion is pending. Once the Zoning Board of Adjustment disposes of a substantive motion, it may not take up a motion that presents essentially the same issue at the same meeting unless it first adopts a motion to reconsider pursuant to Rule 25 (Motion 13).

Rule 25. Procedural Motions

(a) Certain Motions Allowed. The Zoning Board of Adjustment may consider only those procedural motions listed in this rule. Unless otherwise noted, each procedural motion may be debated and amended and requires a majority of votes cast, a quorum being present, for adoption.

(b) Priority of Motions. The procedural motions set out in this paragraph are listed in order of priority. A procedural motion is not in order so long as another procedural motion of higher priority is pending, except that

- any procedural motion other than an appeal under Motion 1 is subject to amendment as provided in Motion 11 and
- a motion to call the question (end debate) may be made with regard to any procedural motion in accordance with Motion 8.

When several procedural motions are pending, voting shall begin with the procedural motion highest in priority, except that a motion to amend or end debate on the highest-priority motion shall be voted on first.

Motion 1. To Appeal a Ruling of the Presiding Officer. Any member may appeal the presiding officer’s ruling on whether a motion is in order or on whether a speaker has violated reasonable standards of courtesy. The presiding officer’s response to a question of parliamentary procedure may also be appealed by any member. An appeal is in order immediately after the disputed ruling or parliamentary response and at no other time. The member who moves to appeal need not be recognized by the presiding officer, and if timely made, the motion may not be ruled out of order.

Motion 2. To Adjourn. This motion may be used to close a meeting. It is not in order if the

Zoning Board of Adjustment is in closed session.

Motion 3. To Recess to a Time and Place Certain. This motion may be used to call a recessed meeting as permitted under Rule 12. The motion must state the time (including the date, if the meeting will reconvene on a different day) and place at which the meeting will resume. The motion is not in order if the Zoning Board of Adjustment is in closed session.

Motion 4. To Take a Brief Recess.

Motion 5. To Follow the Agenda. This motion must be made at the time an item of business that deviates from the agenda is considered; otherwise, the motion is out of order as to that item.

Motion 6. To Suspend the Rules. To be adopted, a motion to suspend the rules must receive affirmative votes equal to two-thirds of the Zoning Board of Adjustment’s actual membership, excluding any vacant seats. The Zoning Board of Adjustment may not suspend provisions in these rules that restate state law requirements.

Motion 7. To Defer Consideration. The Zoning Board of Adjustment may defer its consideration of a substantive motion, and any proposed amendments thereto, to an unspecified time. A motion that has been deferred expires unless the Zoning Board of Adjustment votes to revive it pursuant to Motion 12 within 100 days of deferral. A new motion having the same effect as a deferred motion may not be introduced until the latter has expired.

Motion 8. To End Debate (Call the Previous Question). If adopted, this motion terminates debate on a pending motion, thereby bringing it to an immediate vote. This motion is not in order until every member has had an opportunity to speak once on the pending motion.

Motion 9. To Postpone to a Certain Time. This motion may be employed to delay the Zoning Board of Adjustment’s consideration of a substantive motion, and any proposed amendments thereto, until a designated day, meeting, or hour. During the period of postponement, the Zoning Board of Adjustment may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6.

Motion 10. Not applicable.

Motion 11. To Amend

(a) Germaneness. A motion to amend must concern the same subject matter as the motion it seeks to alter.

(b) Limit on Number of Motions to Amend. When a motion to amend is under consideration, a motion to amend the amendment may be made; however, no more than one motion to amend and one motion to amend the amendment may be pending at the same time.

Motion 12. To Revive Consideration. The Zoning Board of Adjustment may vote to revive consideration of any substantive motion that has been deferred pursuant to Motion 7, provided it does so within [100] days of its vote to defer consideration.

Motion 13. To Reconsider. The Zoning Board of Adjustment may vote to reconsider its action on a matter, provided the motion to reconsider is made (1) at the same meeting during which the action to be reconsidered took place and (2) by a member who voted with the prevailing side. For purposes of this motion, “the same meeting” includes any continuation of a meeting through a motion to recess to a certain time and place (Motion 3). The motion is not in order if it interrupts the Zoning Board of Adjustment’s deliberation on a pending matter.

Motion 14. To Rescind. The Zoning Board of Adjustment may vote to rescind an action taken at a prior meeting, provided rescission is not forbidden by law.

Motion 15. To Prevent Reintroduction for [Six] Months. This motion may be used to prevent the reintroduction of a failed substantive motion for a time, but it is in order only when made immediately following the substantive motion’s defeat. To be adopted, this motion must receive affirmative votes equal to at least two-thirds of the Zoning Board of Adjustment’s total membership, excluding vacant seats. If this motion is adopted, the ban on reintroduction remains in effect for [six] months or until the Zoning Board of Adjustment’s next organizational meeting, whichever occurs first.

Rule 26. Debate

The presiding officer shall state the motion and then open the floor to debate, presiding over the debate according to the principles listed below.

- The maker of the motion is entitled to speak first.
- A member who has not spoken on the issue shall be recognized before a member who has already spoken.
- To the extent practicable, debate shall alternate between proponents and opponents of the measure.
- [No member may speak more than twice on the same substantive motion. A member’s first speech on a substantive motion shall be limited to [ten] minutes, and any second speech on the same motion shall be limited to [five] minutes. The same rules apply to debate on a procedural motion, except that a member’s first speech shall not exceed [five] minutes, and any second speech shall be limited to [two] minutes.]

Rule 27. Adoption by Majority Vote

A motion is adopted if supported by a simple majority of the votes cast, a quorum being present, except when a larger majority is required by these rules or state law.

Rule 28. Changing a Vote

A member may change the member’s vote on a motion at any time before the presiding officer announces whether the motion has passed or failed. Once the presiding officer announces the result, a member may not change a vote without the unanimous consent of the remaining members present. A member’s request for unanimous consent to change a vote is not in order unless made immediately following the presiding officer’s announcement of the result.

Rule 29. Duty to Vote

Every member shall vote unless excused by the remaining members of the Zoning Board of Adjustment. A member who wishes to be excused from voting shall so inform the presiding officer, who shall take a vote of the remaining members on whether to grant the request. The Zoning Board of Adjustment may not excuse a member except in cases involving (1) a conflict of interest as defined by law or the Zoning Board of Adjustment or (2) the member’s official conduct or own financial interest.] [The unexcused failure to vote by a member who is physically present in the meeting room, or who has withdrawn without being excused by majority vote of the remaining members present, shall be recorded as [an affirmative vote] [a negative vote]].

Rule 30. Voting by Written Ballot

- (a) Secret Ballots Prohibited. The Zoning Board of Adjustment shall not vote by secret ballot.
- (b) Rules for Written Ballots. The Zoning Board of Adjustment may decide by majority vote or unanimous consent to vote on a motion by written ballot. Each member shall sign his or her ballot, and the minutes shall record how each member voted by name. The ballots shall be made available

for public inspection in the office of the clerk to the Zoning Board of Adjustment immediately following the meeting at which the vote took place and remain there until the minutes of that meeting are approved, at which time the ballots may be destroyed.

Part IX. Public Hearings

Rule 31. Public Hearings

(a) Calling Public Hearings. The Zoning Board of Adjustment may hold public hearings to solicit the public’s input on specific issues. The Zoning Board of Adjustment may schedule its public hearings or delegate that responsibility to staff members, as appropriate.

(b) Public Hearing Locations. The Zoning Board of Adjustment may hold public hearings in the first-floor conference room.

(c) Notice of Public Hearings. Any public hearing attended by a majority of members shall be considered part of a regular or special meeting of the Zoning Board of Adjustment. Consequently, the relevant notice and related requirements of the open meetings law, as set out in Rules 9 through 12, apply to such hearings. If a hearing’s subject matter triggers additional notice requirements under state law or local rules, the Zoning Board of Adjustment shall see that they are also satisfied.

(d) Rules for Public Hearings. The Zoning Board of Adjustment may adopt reasonable rules for public hearings that, among other things,

- fix the maximum time allotted to each speaker;
- provide for the designation of spokespersons for groups supporting or opposing the same positions;
- provide for the selection of delegates from groups supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the meeting room (so long as arrangements are made, in the case of a hearing subject to the open meetings law, for those excluded from the meeting room to listen to the hearing); and
- provide for the maintenance of order and decorum in the conduct of the hearing.

(e) Continuing Public Hearings. The Zoning Board of Adjustment may continue any public hearing without further advertisement, provided the time (including the date, if the hearing will resume on a different day) and place of the continued hearing are announced in open session. Except for hearings conducted pursuant to paragraph (g) of this rule, if a quorum of the Zoning Board of Adjustment is not present for a properly scheduled public hearing, the hearing shall be continued until the Zoning Board of Adjustment’s next regular meeting without further advertisement.

(f) Conduct of Public Hearings. At the time appointed for the hearing, the chair shall call the hearing to order and proceed to allow public input in accordance with any rules adopted by the Zoning Board of Adjustment for the hearing. Unless the Zoning Board of Adjustment votes to extend the hearing, when the time allotted for the hearing expires, or when no one wishes to speak who has not already done so, the chair shall declare the hearing closed, and the Zoning Board of Adjustment shall resume the regular order of business.

(g) Public Hearings by Less Than a Majority of Zoning Board of Adjustment Members. Not applicable.

(h) Public Comment. The Zoning Board of Adjustment may hold a public comment period at any regular meeting or special meeting called, at least in part, for that purpose. During the public comment period, members of the public may speak on any matters within the Zoning Board of

Adjustment’s real or apparent jurisdiction. The provisions in paragraphs (d) and (f) of this rule apply to the Zoning Board of Adjustment’s public comment periods.

Part X. Committees and Appointments

Rule 32. Committees

Not applicable.

Rule 33. Appointments to Public Bodies

Not applicable.

Part XI. Miscellaneous

Rule 34. Amendment of the Rules

The Zoning Board of Adjustment may vote to amend these rules at any regular meeting or at any properly called special meeting for which amendment of the rules is one of the meeting’s stated purposes. Any amendment to these rules must not violate any relevant statutes or generally accepted principles of parliamentary procedure. To be adopted, a motion to amend these rules must be approved by a majority of the Zoning Board of Adjustment’s members.

Rule 35. Reference to *Robert’s Rules of Order Newly Revised*

The Zoning Board of Adjustment shall refer to *Robert’s Rules of Order Newly Revised* for guidance when confronted with a procedural issue not covered by these rules or state law. Having consulted *Robert’s*, the presiding officer shall make a ruling on the issue subject to appeal to the Zoning Board of Adjustment under Rule 25 (Motion 1).

Rule 36. Special Rules of Procedure

The Zoning Board of Adjustment may adopt its own special rules of procedure, to be specified here.

This is to certify that the above rules were adopted by the Zoning Board of Adjustment at its meeting duly held on the 18th day of February, 2025.

Hanna McCloud, Chair

Kate Winzler, Zoning Board of Adjustment Clerk