

BY-LAWS OF THE KILLINGLY ZONING BOARD OF APPEALS

ARTICLE I

PURPOSE AND AUTHORIZATION

Section 8-5 of the Connecticut General Statutes (CGS) requires that any Town with a Zoning Commission must have a Zoning Board of Appeals. The Board shall have all powers and duties invested in them by Chapter 124 of the CGS, as amended, and all of its actions and proceedings, all appeals there from shall be subject to and in accordance with the provisions of such chapter 124 as amended.

The objectives and purposes of the Killingly Zoning Board of Appeals are those as set forth by ordinance in Chapter 2 Article VII, Sections 2-125 – 2-130 Reserved of the Killingly Code of Ordinances, by Section 808 of the Charter of the Town of Killingly and those powers and duties delegated to the Killingly Zoning Board of Appeals by the aforementioned ordinance.

ARTICLE II

NAME OF BOARD

The Board shall be known as the Killingly Zoning Board of Appeals.

ARTICLE III

OFFICE OF THE BOARD

The office of the Board shall be the Planning and Development office at the Killingly Town Hall, 172 Main Street, Killingly, CT 06239 where all Board records shall be kept. Copies of all official documents, records, maps, Board minutes, agendas, and legal notices, etc. shall be filed or recorded in the Office of the Town Clerk as required by Connecticut General Statutes.

ARTICLE IV

ORGANIZATION OF THE BOARD

Section 4.1 – Membership

The Zoning Board of Appeals shall consist of 5 regular members and 3 alternates who are;

- A. Must be electors of the town,
- B. Must not be members of any other Boards or Commissions
- C. Must be appointed by the Town Council

Section 4.2 – Terms of Office for Members / Vacancies

Regular members of the Board shall be appointed to serve by the Town Council for terms of five (5) years. Annually the council shall appoint one member to such Board.

Alternate members shall be appointed to serve by the Town Council for terms of five (5) years.

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Section 4.3 – Resignation

Resignations from the Board shall be in written form and submitted to the designated town Staff, who will forward notice of such resignation to the Town Manager, Town Clerk, and the Board members. In the event of a mid-term vacancy, the Town Council shall fill vacancies on the Board for the unexpired portion of the term.

Section 4.4 – Removal of Members

Removal from the Board shall be in accordance with reason and procedures as set forth in Section 811 of the Killingly Town Charter.

ARTICLE V

OFFICERS AND THEIR DUTIES

Section 5.1 – Chair

A chairman shall be elected annually, at the regular meeting in June, by a majority vote of the regular members of the Board, and shall serve for a calendar year or until their successor shall be elected. The chairman shall perform all duties required by law, ordinance and these rules. If there is no duly elected chairman, or in the case of their death, resignation, incapacity or absence, the vice chair shall be acting chairman. The chairman or in their absence the acting chairman, may find cause to administer oaths of those giving testimony.

Section 5.2 – Vice Chair

A vice chair shall be elected annually, at the regular meeting in June, by a majority vote of the regular members of the Board, and shall serve for a calendar year or until their successor shall be elected. The vice chair shall perform all duties required by law, ordinance and these rules. If there is no duly elected chairman, or in the case of their death, resignation, incapacity or absence, the vice chair shall be acting chairman. The chairman or in their absence the acting chairman, may find cause to administer oaths of those giving testimony.

Section 5.3– Zoning Board Power and Duties

Zoning Board of Appeals has the following powers:

1. To hear and decide appeals from decisions of the Zoning Enforcement Officer;
2. To grant variances from the application of the zoning regulations. The variance power is limited to extraordinary situations and must:
 - a. Be in harmony with the general purpose and intent of the zoning regulations;
 - b. Consider the public health, safety, convenience, welfare and property values;
 - c. Be used only with parcels having unusual conditions that cause “exceptional difficulty or unusual hardship;” and
 - d. Must not be used if the regulations provide that certain prohibited uses may not be permitted by variance; (CGS 8-6)

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ARTICLE VI

ELECTION OF OFFICERS

Section 6.1 – Annual Organizational Meeting

An Annual Organizational Meeting of the Zoning Board of Appeals shall be held at the regular meeting in June of each year. At each Annual Organizational Meeting, the Board shall elect officers for a one (1) year term, review by-laws and attend to other organizational business as the Chair deems appropriate.

Section 6.2 – Nomination Procedure

A quorum must be present before the election of officers can take place. Elections of officers shall occur as follows: Nominations shall be made from the floor, beginning with nominations for Chair, and elections shall follow immediately upon the close of nominations for each office. A candidate for each office receiving a majority vote of those present shall be declared elected for one year.

ARTICLE VII

ADMINISTRATIVE STAFF

Section 7.1 – Recording Clerk

A Recording Clerk shall be appointed to keep the minutes of the Board and shall file those minutes in the Boards Office.

Section 7.2 – Staff

The Zoning Enforcement Officer (or his or her designee in his/her absence) shall serve as staff to the Board and shall oversee preparation of the agenda of regular and special meetings under the direction of the Chairman, prepare meeting information, provide notice of all meetings to Board members, arrange proper and legal notice of hearings and other notice requirements, attend to general correspondence of the Board and other administrative actions necessary to assist the Board in the exercise of its power, duties, and functions as prescribed by the Connecticut General Statutes and the Town Code of Ordinances.

ARTICLE VIII

REGULAR MEETINGS

Section 8.1 – Date / Time

Regular meetings shall be held on the second Thursday of each month at 7:00 P.M. at the Killingly Town Hall. An annual schedule of meetings will be posted each year in the Town Clerks Office in accordance with CGS 1-21.

ARTICLE IX

SPECIAL MEETINGS

Section 9.1 – Date / Time

Special meetings of the Board may be called by the Chairman or acting Chairman. At least forty-eight (48) hours' notice before the time set for special meeting shall be given to each member.

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Section 9.2 – Agenda

Only items on the agenda can be discussed during the course of a Special Meeting.

ARTICLE X

NOTICE OF HEARINGS

Section 10.1 – Notice

The Board shall give notice to the public of such, hearing in the manner prescribed herein.

Section 10.2 – Form of Notice

Such notice shall state the location of the building or lot and the general nature of the question involved and shall be given in the following manner:

By the publishing of a notice twice, not less than two (2) days apart; the first not more than fifteen (15) days nor less than ten (10) days before the date of such hearing, and the last not less than two (2) days before the date of such hearing in a newspaper with substantial circulation in the community. (CGS 8-7d)

The applicant shall erect or cause to have erected a sign on the premises affected by the proposed variance application at least ten (10) days prior to the public hearing on such variance.

- Signs shall be provided by the Town for each variance application;
- Sign shall be securely fastened or staked;
- The sign shall be visible from the street closest to the affect property;
- The sign must be maintained as such until the day following the public hearing.

A report from the Zoning Enforcement Officer attesting to whether the above mentioned sign was erected and maintained as required shall be made part of the record at the public hearing. Failure of an applicant to comply with this requirement may be grounds for automatic denial of the variance, with consideration being given to cases where weather conditions or acts of vandalism have destroyed a properly posted sign (Killingly Zoning Regulations 800.2.2).

Section 10.3 – Request for Postponement of Hearing

If a request for postponement of a hearing is made to the Chairman of the Board or Staff after the publication of a public notice in the newspaper, it shall be treated as a new application, including all costs.

ARTICLE XI

QUORUM

A quorum shall consist of four (4) members of the board for transaction of all business.

ARTICLE XII

VOTING

Reversals of decisions of the enforcement officer and decisions on applications for special exceptions and variances in favor of the applicant require a concurring vote of at least four Board members. A total

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of five (5) board members may vote on any application. If only four (4) members of the Board are present prior to the opening of a public hearing the Chairman may extend the courtesy to the application to postpone the public hearing to the extent allowed by CGS 8-7d.

ARTICLE XIII

DISQUALIFICATION / RECUSAL

No Board member shall sit in hearing or vote in passing upon any case in which he/she shall be personally interested, financially or otherwise. If a member shall be disqualified because of interest, such fact shall be noted in the record of the hearing. The Chairman of the Board shall designate an alternate from the panel of alternates, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible.

ARTICLE XIV

INSPECTION / SITE WALK

Whenever the Board deems it necessary to inspect premises involved in an appeal, special exception or variance, it will be treated as a Special Meeting and must adhere to all Connecticut Freedom of Information Act (FOIA) requirements.

ARTICLE XV

ORDER OF BUSINESS

Section 15.1 –Regular Meeting

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

1. Roll Call
2. Reading of Minutes of preceding meeting
3. Report of Committees
4. Public Hearings
5. Unfinished Business
6. New Business

Section 15.2 – Special Meeting

The order of business at special meetings shall be substantially as follows:

1. Roll Call
2. Reading of Minutes of preceding meeting
3. Report of Committees
4. Public Hearings
5. Unfinished Business
6. New Business

*Only items on the agenda can be discussed during the course of a special meeting.

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Section 15.3 – Executive Sessions

Executive Sessions are rare and must be adhere to State Statue. Executive sessions shall be open to select members of the public when so voted by a majority of the members present and voting.

ARTICLE XVI

CONDUCT OF HEARING

1. Any person may appear in person or by agent or attorney at the hearing. (Subject to the Provisions of Section 8-11 of the General Statues)
2. Order of Hearing of Cases. Appeals or applications are heard in the order in which they were filed, and as shown in the call of the meeting.
 - a. The Chairman shall give a statement of the case.
 - b. The applicant or appellant shall present the argument in support of the case.
 - c. The board shall have the opportunity to question the applicant or appellant.
 - d. All those in support of the case shall be heard.
 - e. The board shall have the opportunity to question those in support of the case.
 - f. Those in objection to the case shall be heard.
 - g. The board shall have the opportunity to question those in objection to the case.
 - h. The board shall have the opportunity to question anyone who gave testimony. In the case of parts (d) and (f) of the order of hearing of cases, written communications shall be presented before oral statements are called for. To maintain orderly procedure, each side shall proceed without interruption by the other.
3. Evidentiary exhibits at a public hearing shall be received and cataloged by a Stenographer / Recording Clerk / Staff.
4. Any audio exhibits need to be played during the course of the public hearing.

ARTICLE XVII

DECISIONS

Section 17.1 – Decisions to be made within 65 days of the Public Hearing

The Board shall render its decision either at the termination of the hearing or may reserve decision until later. (State law, however, requires that the decision be announced within sixty five (65) days.)

Section 17.2 – Form of Final Decision

The final decision of the Board on any appeal, petition, or application shall be made by a written order duly entered and signed by the chairman, the acting chairman, secretary, or staff. Such decision shall show the reasons for the determination and may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from. Such decision shall also state, in detail, any exceptional difficulty or unusual hardship upon which the appeal for variance is based.

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Section 17.3 – Notification of Decision

Staff shall transmit to the applicant or appellant a true and exact copy of the written order of the Board setting forth the determination or decision. Staff shall also notify other parties in interest, including the Town Clerk, the Assessor, the Zoning Commission, or Enforcement Officer. Notice of the decision shall be published before the effective date in a newspaper having general circulation in the community.

No such decision is effective until a copy is recorded in the land records of the Town Clerk (CGS 8-3d). The Town Clerk shall index the same in the grantor's index under the name of the then record owner and the record owner shall pay for such recording.

Section 17.4 – Majority Vote

In order to reverse an order or decision of an officer or to grant any variance or to decide an appeal in favor of the applicant, the concurring vote of four members of the Board shall be necessary. The minutes shall indicate the vote of each member on each question. Other matters shall be decided by a majority vote, provided a quorum was present. A member who was not present at the hearing upon any matter may not vote on it, nor may any member cast an absentee vote. A vote once taken shall be final and may not be reconsidered.

Section 17.5 – Actions of the Board are Public Record

Every order, requirement, decision or determination of the Board shall be immediately filed in the office of the Board and shall be public record. Any transcripts and recordings of hearings shall also be filed in the office of the Board and be made public.

ARTICLE XVIII

HEARING TIMING AND REQUIREMENTS

Public hearings must adhere to CGS 8-7d and any other applicable State Statues.

ARTICLE XIX

AMENDING OF REGULATIONS

1. These rules may be waived, amended, or revoked by the Board at any meeting. However, those required by statute or special act may not be waved.
2. Whenever the regulations are or may become inconsistent with the State laws related to zoning, such State laws shall govern.
3. Each regulation or rule and each amendment or repeal thereof and each order of the board shall immediately be filed in the office of the Board and shall be public record.
4. If there are any conflicts in wording between these bylaws and the Zoning Regulations; these bylaws and the Town Charter or these bylaws and the State Statue the latter shall govern.