

RULES AND REGULATIONS OF THE LEYDEN ZONING BOARD OF APPEALS

[Adopted by the Zoning Board of Appeals 6-26-2018]

A. Organization

A.1 The Zoning Board of Appeals shall consist of five (5) members, appointed by the Board of Selectmen. Said members shall annually elect a Chairperson and a Clerk and notify the Board of Selectmen and the Town Clerk of the results of such action.

A.2 At least three (3) members must be in attendance to establish a quorum for regular meetings, and at least four (4) members in attendance at public hearings, said four (4) members then being required for a subsequent affirmative vote on any application.

A.3 The Chairperson shall vote and be recorded on all matters coming before the Board. Subject to these Rules and Regulations, he/she shall decide on all points of order, unless overruled by a majority of the Board in session at the time.

A.4 The Clerk shall act as Chairperson in the case of the Chairperson being absent or otherwise unable to perform his/her duties. The Clerk shall supervise all the clerical work of the Board, including all correspondence of the Board, sending of all notices required by law, scrutinizing all applications for compliance with the rules of the Board, keeping dockets and minutes of the Board's proceedings, and maintaining all necessary files required by law. If the Clerk is absent, the Chairperson or his designee shall maintain the functions of the Clerk position.

A.5 Meetings of the Zoning Board of Appeals shall be called by the Chairperson as needed and shall be posted at least 48 hours in advance of the meeting, along with a proposed agenda for said meeting. Public hearings shall be posted and held in accordance with MGL Chapter 40A and as detailed elsewhere in these Rules and Regulations.

A.6 On-site meetings to view an Applicant's property for the proposed activity shall be properly posted 48 hours in advance if there will be a quorum present at such meeting.

B. Applications

B.1 Application Form and Filing Requirements shall be obtained from the Leyden Town Clerk, completed by the Applicant, and all Filing Requirements submitted to the Town Clerk, who shall certify the date and time of Application on said form.

B.2 Application for Appeal to an order or decision by a permit-granting authority shall be submitted within 30 days from the date of the order or decision being appealed.

B.3 Leyden Town Clerk shall transmit the completed application documents forthwith to either the Chairman or the Clerk of the Zoning Board of Appeals for processing.

B.4 Upon receipt of a certified Application the Zoning Board of Appeals will, within 65 days of the Application date, advertise, notify, and hold a public hearing on the Application, all in accordance with MGL Chapter 40A, Section 11.

B.4.1 Newspaper advertisement shall be in the Greenfield Recorder once in each of two successive weeks, the first being not fewer than 14 days prior to the public hearing.

B.4.2 Public posting shall be on a 24/7-visible location of the Leyden Town Hall, not fewer than 14 days prior to the public hearing.

B.4.3 Notices to abutters within 300 feet of the Application property lines shall be sent by certified mail per the parties-in-interest list provided in the Filing Requirements, not fewer than 14 days prior to the public hearing.

B.4.4 Notices to the Planning Boards of Leyden and of abutting communities by mail shall include Leyden, Bernardston, Greenfield, Colrain, and Guilford VT, not fewer than 14 days prior to the public hearing.

B.4.5 Notice shall also be mailed to the Applicant and to the Building Inspector, not less than 14 days prior to the public hearing.

B.4.6 An application transmitted to the Zoning Board of Appeals may be withdrawn without prejudice only if requested prior to the publication of the public hearing notice or, if after publication, only by majority vote of the Zoning Board of Appeals at a posted public meeting. Filing fees shall not be refunded.

B.4.7 The required time limits for a public hearing and action thereon may be extended by written agreement between the Applicant and the Zoning Board of Appeals. Said agreement shall be filed with the Town Clerk.

C. Public Hearings

C.1 All hearings are open to the public. No person shall be excluded unless he/she is considered by the Chairperson to be a serious hindrance to the workings of the Board.

C.2 The Chairperson shall, prior to the public hearing, first open the public meeting. As soon as practicable, he/she shall open the public hearing and perform a roll call of members present. At least four (4) members of the Zoning Board of Appeals must be present for the hearing.

C.3 The Chairperson shall explain hearing procedures to attendees, then allow the Applicant to present his/her case.

C.4 The Chairperson shall next allow comments and questions in order from the Zoning Board members, other Town boards and officials, and finally from the abutters and other members of the public.

C.5 The public hearing, if deemed by the Board to require more information, may continue the hearing to a future date set at this time, without repeating formal publications. If the decision-making time limits thus are in jeopardy, the Applicant and the Zoning Board of Appeals have the option of agreeing on an extension.

C.6 The Chairperson, subsequent to satisfaction of sufficient available information, shall close the public hearing, at which time the regular meeting will continue. The Board may, but is not required to, make its decision at this time, however; in the cases of Appeals and Variances, the deadline for making the decision is 100 days from the date of certified Application.

D. Disposition by the Board of Appeals

D.1 The concurring vote of at least four (4) members of the Zoning Board of Appeals in attendance at the public hearing is necessary for affirmative action on the Application.

D.2 The decision and record of proceedings of any hearing of the Board of Appeals shall be filed with the Town Clerk within 14 days of the date of the decision.

D.3 The record shall show the vote of each member of the Board or, if absent or failing to vote, indication of such fact. The Board shall, in addition, set forth clearly the reasons for its decision.

D.4 Notice of the decision shall be mailed to the Applicant, to the parties-in-interest, and to any person present at the hearing who requested notice be sent him/her and provided an address for such mailing. These notices shall specify that appeals, if any, shall be made pursuant to Section 17 of MGL Chapter 40A, and shall be filed within twenty (20) days from the date of filing the decision with the Town Clerk.

D.5 No decision shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision had been filed with the Town Clerk and no appeal to said decision has been filed, or that it (an appeal) has been dismissed or denied, and that said Town Clerk certification has been recorded with the Franklin County Registry of Deeds by the Applicant.