

**BY-LAWS OF THE
BOROUGH OF FENWICK
ZONING BOARD OF APPEALS**

ARTICLE I

AUTHORIZATION AND POWERS

The powers and duties of the Borough of Fenwick Zoning Board of Appeals are those set forth in Section 8-5 et. seq. of the Connecticut General Statutes, as amended. The Board in addition shall have all powers and duties delegated by any other section of the general statutes or by any ordinance adopted by the Borough or as described in the Borough of Fenwick Zoning Regulations. The Board was created by ordinance adopted on October 8, 1995.

ARTICLE II

NAME

The Board shall be known as the Borough of Fenwick Zoning Board of Appeals and may hereinafter be referred to as the Board.

ARTICLE III

MEMBERSHIP

The Board shall consist of five (5) regular and three (3) alternate members. The said members and alternates shall be appointed by the Warden for a term of five (5) years expiring July 1.

ARTICLE IV

OFFICERS

Section 1. The officers of the Board shall consist of a Chairperson, Vice Chairperson and a Secretary who shall be members of the Board.

Section 2. The Chairperson shall preside at all meetings and hearings of the Board and shall have the duties normally conferred by parliamentary usage on such officers. He/she shall have the privilege of discussing all matters before the Board and of voting thereon. With the assistance of the staff, he/she shall prepare the agenda of regular and special meetings, provide notice of all meetings to Board members, arrange proper and legal notice of hearings, and attend to correspondence of the Board.

Section 3. The Vice Chairperson shall act for the Chairperson in his/her absence or inability to participate and have the authority to perform the duties prescribed for that office. The Vice Chairperson shall be one of the five regular Board members.

Section 4. The Secretary or Recording Clerk, with the assistance of the staff, shall keep the minutes and records of the Board and perform such other duties as are normally carried out by a secretary. The Secretary shall be one of the five regular Board members.

ARTICLE V

ELECTION OF OFFICERS

Section 1. An annual organization meeting shall be held at the first meeting after July 1 in every calendar year at which time officers will be elected and by-laws reviewed and made a part of the minutes of the meeting.

Section 2. Nominations shall be made from the floor at the annual organization meeting and elections of the officers specified in Section 1 of Article IV shall follow immediately thereafter.

Section 3. A candidate receiving a majority vote from the membership of the Board, including full members but only including alternates who are duly seated for absent or otherwise unavailable regular members, shall be declared elected and shall serve for one year or until his/her successor shall take office.

Section 4. Vacancies in offices of officers shall be filled as soon as convenient by election.

Section 5. An officer may be removed from office by a majority vote of the entire voting membership of the Board, including full members but only including alternates who are duly seated for absent or otherwise unavailable regular members, and vacancies thus created shall be filled pursuant to Section 3 of this Article.

ARTICLE VI

VACANCIES

Section 1. Resignations from the Board shall be in writing, shall state the effective date of the resignation, and shall be transmitted to the Chairperson, the Borough Warden and the Borough Clerk in such manner that said resignation shall be in their hands not later than the effective date set forth therein.

Section 2. Vacancies shall be filled by the Borough Warden for the unexpired portion of the term.

ARTICLE VII

MEETINGS

Section 1. Special meetings shall be called by the Chairperson, or upon the request of any of the members of the Board filed with the Chairperson. The notice of a special meeting shall specify the purpose of such a meeting and no other business may be considered. The Chairperson, with the assistance of staff, shall notify the membership of the time, place, and purpose of any meeting by mail or by email, and shall post a notice of the meeting on the sign post at the juncture of Fenwick Avenue and Agawam Avenue as well as at the Borough office. Notice shall be given and posted not later than 72 hours in advance of the meeting.

Section 2. In order to transact business at any meeting, a quorum of three members must be present. One of those members must be the Chairperson or Vice-Chairperson. Of the two remaining members, at least one must be a regular member of the Board. The affirmative vote of the majority of the quorum shall be necessary to pass any motion unless otherwise required by statute.

Section 3. In case any member of the Board is unable to act because of absence, sickness or self-interest, his or her place shall be taken by an alternate member designated by the Chairperson.

Section 4. All official Board meetings shall be open to the public when in session. Executive Sessions shall be called pursuant to Section 1-18a(e) of the Connecticut General Statutes by a majority vote of the Board members.

Section 5. Unless otherwise specified, "Roberts Rules of Order" shall govern the proceedings of the meetings of the Board.

ARTICLE VIII

DISQUALIFICATION

No member of the Board shall appear for or represent any person, firm or corporation or other entity in any matter pending before the Planning and Zoning Commission or Zoning Board of Appeals in the

Borough of Fenwick. No member of the Board shall participate in the hearing or decision of the Board of which he/she is a member upon any matter in which he/she is directly or indirectly interested in a personal or financial sense. In the event of such disqualification, such fact shall be entered on the records of the Board and replacement shall be made from alternate members of the Board in the hearing and determination of the particular matter or matters in which the disqualification arose.

ARTICLE IX
ORDER OF BUSINESS

Section 1. The Agenda will be as submitted by the Chairperson and/or staff.

Section 2. A motion from the floor must be made and passed in order to dispense with any item on the agenda or change the order of business.

ARTICLE X
APPLICATIONS

Section 1. A complete application shall consist of the application form and fee, together with a Proposed Plan and survey (see Section 2) and a list, keyed to the Proposed Plan, of the names and addresses of the record owners of abutting land, and land directly across any roadway from the land to which the application relates. The record owner(s) shall be deemed to be the person(s) identified as the owner(s) of the relevant property or properties on the records of the Old Saybrook Tax Collector as of the date the list is provided to the Board. The term "person" shall include a corporation, partnership, association, limited liability company, limited liability partnership, and any other legally recognized entity, as well as an individual. An application for a variance shall first have had zoning approval denied by the Zoning Enforcement Officer who shall site the sections and reasons for denial. The application shall contain all information required by this Section, the number of copies required, and said information shall have been prepared by persons possessing the necessary expertise to prepare it. Information shall be presented with adequate clarity and professionalism to permit the Board to understand it and make a determination in accordance with the powers and duties stipulated in the Zoning Regulations. The presentation of a complete application, as described herein, is the obligation of the applicant, and failure to meet this criteria shall be grounds for denial without prejudice to future, complete applications.

Section 2. Each application shall include ten (10) copies of the Proposed Plan as defined in the Borough of Fenwick Zoning Regulations as well as of an A-2 survey by a licensed, registered land surveyor of the State of Connecticut, showing the locations of all above ground structures and their foundations with reference to all front, side, and rear setbacks at the time any new foundation is constructed and, for property within a Special Flood Hazard Area, a completed application and Elevation Certificate prepared by a registered Professional Engineer. All required documentation, such as Plans, As-Builts, and Architectural Drawings, must be sealed with original signatures. If a plan is revised after the original submission, the new plan shall clearly indicate the revisions and the date thereof on each sheet that has been revised. Electronic copies of all maps, plans, surveys, drawings and similar documents shall also be provided. Such copies shall be submitted as pdf (Portable Document Format) files on CD or DVD media unless the Board or its agent agrees to a different electronic format or medium. The Board or its agent may waive any of the above criteria if it deems the information or the quantity to be unnecessary to the review of the application.

Section 3. Whenever a public hearing is required or scheduled, the Board shall provide the applicant with a copy of the legal notice and the applicant shall mail a copy to each of the property owners listed as required above. Proof of mailing shall be evidenced by a certificate of mailing. All certificates shall be provided to the Board at least three (3) days prior to the hearing.

Section 4. All documentary evidence in support of the application shall be filed with the Board and be available for public inspection no less than fifteen (15) days prior to the day of the public hearing or any

reconvening thereof. All other persons wishing to present documentary evidence in the proceeding should file such evidence on or before the date of the hearing. Nothing in this Section shall prohibit the Board, in the exercise of its discretion, from receiving evidence from any person at a later time provided such information is submitted prior to the conclusion of the hearing. The Board may refuse to consider documentary evidence or other information, including but not limited to any proposed modifications to the applicant's plans, that is not submitted sufficiently in advance to provide the Board's members, staff, or consultants a reasonable time to properly review it.

ARTICLE XI

HEARINGS

Section 1. A public hearing shall be required for all appeals and variance applications. The Board may hold public hearings in addition to required hearings, when it decides that such hearings will be in the public interest.

Section 2. Notice of all hearings stating time, place and purpose shall be by posting on the Borough of Fenwick signboard and by publication in a newspaper of general publication in the Borough of Fenwick in the same manner as notice for required hearings set forth in Section 8-7d of the Connecticut General Statutes, as amended.

Section 3. The matter before the Board shall be presented in summary by a member of the Board designated by the Chairperson, or staff member, and parties in interest shall have the privilege of the floor.

Section 4. The evidence shall be recorded by a sound-recording device at each hearing before the Board in which the right to appeal lies to the Superior Court. Proceedings of the hearing shall be incorporated into the minutes of the Board to be a permanent part of that record.

ARTICLE XII

CONDUCTING THE PUBLIC HEARING

Section 1. The Chairperson shall preside at the public hearing. In the event of his/her absence, the Vice-Chairperson, or a duly appointed Board member, shall act as presiding officer.

Section 2. The Secretary shall read the legal advertisement and note the dates and newspapers in which the advertisement appeared.

Section 3. A summary of the question or issue shall be stated by the presiding officer at the opening of the public hearing. Comments shall be limited to the subject advertised for hearing. In any event, the Board shall have the privilege of speaking first. The Chairperson shall describe the method of conduct of the hearing.

Section 4. The Chairperson shall first call for statements from the proponents. The opponents shall be given equal opportunity to comment.

Section 5. It shall be made clear to the hearing that all questions and comments must be directed through the Chair only after being properly recognized by the presiding officer.

Section 6. All persons recognized shall approach the hearing table in order to facilitate proper recording of comments. Before commenting on the matter before the hearing, each person shall give his/her name and address.

Section 7. The presiding officer shall assure an orderly hearing and shall take necessary steps to maintain the order and decorum of the hearing at all times. The presiding officer shall reserve the right to terminate the hearing in the event the discussion becomes unruly and unmanageable.

Section 8. The hearing shall be conducted only for the purpose of taking testimony to be considered in deliberations of the matter before the Board.

ARTICLE XIII

AMENDMENTS

These By-Laws may be amended by a two-thirds vote of the entire membership of the Board including full members but only including alternates who are duly seated for absent or otherwise unavailable regular members at the time of the vote, only after the proposed change has been read and discussed at a previous meeting, except that the By-Laws may be changed at any meeting by the unanimous vote of the entire voting membership of the Board.

ARTICLE XIV

COMMUNICATIONS AND CORRESPONDENCE

It shall be the duty of each member of the Board, or alternate thereof, who shall receive communications or correspondence addressed to the Board, to promptly forward the same or copies thereof, or otherwise notify the Secretary or Clerk so that such communications and correspondence may be brought to the attention of the Board as a whole.

Adopted 1/28/12