

Town of Bar Harbor

Planning Board Rules of Procedure



Legislative History

8/15/01 Rules of Procedure adopted by Planning Board

03/28/02 Amended

10/06/04 Amended

11/17/04 Amended

09/21/05 Amended

10/21/09 Amended

04/20/11 Planning Board Review

05/04/11 Amended

12/07/11 Amended

12/20/17 Amended

02/06/19 Amended

1. **Terms.** Officers shall serve in one-year terms. **Any member can decline an appointment.**
2. **Liaison to Council.** The Vice-Chair, or other member as assigned by the Board, shall have the added responsibility of liaison with the Town Council and represent the Planning Board at all meetings of the Town Council where Planning Board business is on the agenda.

~~3. The member who is not currently an officer and has the most seniority on the Board may be appointed to Secretary without serving or having since served as an officer.~~

~~4. Any member or officer can decline any appointment.~~

Moved to #1

3. Meetings. Regular meetings will generally be held ~~twice monthly~~ on the first ~~and third~~ Wednesday of the month ~~as necessary~~, beginning at 4:00 p.m. and are to last no longer than four hours. ~~The Board shall vote on the schedule for the next year's meetings in December of each year, and may, at that time, exclude any regular meeting dates deemed necessary by the Board.~~ The Board reserves the right to evaluate its progress after 2 hours in order to consider and/or make any further adjustments in order to adjourn within four hours. No more than one hour will be spent on any one application except with Board approval.

Moved to #4

A. **Project not reviewed because there is enough time.** In the event the Planning Board determines at any point during the meeting and/or at 6:00 p.m. that it will not be able complete the business on hand, the Board will table forward to the next regular meeting, **or at its discretion, to a special meeting called for the purpose of continuing the meeting for;** those applications that the Board believes it will not be able to begin reviewing that night. All efforts will be made by the Planning **Department Director or designee** staff to make applicants aware of this possibility prior to the meeting.

Mirrors language in B

B. **Project review started but not completed because there is not enough time.** whose review must be conIn the event the Planning Board determines at the end of the hour-long review and/or public hearing period that it will be unable to complete the review of and/or public hearing for the application, the Board will continue the review or hearing to the next regular meeting or at its discretion, to a special meeting called for the purpose of continuing the review and/or public hearing.

4. Meeting schedule. In December of each year, the Board shall vote on an 18-month meeting schedule to include Planning Board meeting dates, deadlines to submit application materials/exhibits and follow-up documents for review by the Planning Board at their next meeting, deadlines for Minor Subdivision applications, Technical Review Team (TRT) meeting dates (where the staff from, but not limited to, Planning, Code Enforcement, Water, Wastewater, Police, Fire, and Highway departments meet with applicants to review applications and improve project readiness for review by Planning

Board), and for post-TRT deadlines for the applicant to submit revised and/or additional material.

5. 6. Order of Agenda.

A. The Planning Board agenda shall be organized as follows:

- a. Call to Order
- b. Adoption of the Agenda
- c. Excused Absences
- d. Public Comment Period
- e. Approval of Minutes
- f. Regular Business
- g. Other Business
- h. Board member comments and suggestions for the next agenda
- i. Review of pending Planning Board projects
- j. Adjournment

Matches what we currently do

B. Applications shall be listed in the order received by the Planning Department under “Regular Business.”

C. Public requests, such as for land use ordinance amendments or guidance, shall be discussed under “Other Business.”

D. Public Comment Period – The Planning Board allows at this time up to fifteen minutes of public comment on any subject not on the agenda and not a pending application before the Board, with a maximum of three minutes per person.

6. 7. Request for Continuance

A. From time to time, an applicant may require a project hearing to be continued. In order to substantiate a request for continuance, the applicant is encouraged to submit a brief explanation outlining the purpose/need for the continuance. Whenever possible, such a request for continuance should be made to the Planning Department Director or designee at least ~~five (5)~~ **seven-business** days in advance of the meeting the project is scheduled to be reviewed. Requests for continuance that are submitted **following after** the ~~five (5)~~ **seven-business** day deadline shall be considered under greater scrutiny. Applicants are strongly urged to contact the Planning Department Director or designee as soon as the need for a continuance is known. Upon receipt of a request for continuance, the Planning Department Director or designee shall contact all known interested parties to alert them of the pending request. Applicants shall submit requests for continuance in writing directly to **the Planning Director or designee Department staff.** Such

Five days does not provide sufficient time for us to “contact all known interested parties,” as we would need to do a mailing.

requests may be made by dropping the statement off at the Planning & Code Department or by emailing the request to a the Planning Department staff member Director or designee. The Board shall make a decision regarding such request at the next regularly scheduled meeting.

7. 8. Request for Recusal

- A. Requests for recusal are governed by Section 78-12 of the Town Code. While the Planning Board encourages such requests be made in advance of a meeting, the Town Code permits an applicant to raise the issue at the same meeting the agenda item is to be taken up, provided the member in question is present. The Planning Board reserves the right to table a request for recusal to a subsequent Planning Board meeting, thus allowing the Board Member sufficient time to develop a response to the applicant's request. For further details regarding Requests for Recusal, please refer to Section 78-12 of the Town Code.

9. Form of Submittals

- a. Each application for Site Plan Review or Subdivision approval shall be submitted in a binder so that loose papers are not mislaid.
- b. Numerical tabs in the binder shall mark and separate each exhibit to simplify reference during the meeting. The number of the tab shall be the same as the number for the exhibit listed on the checklist.
- c. The applicant shall submit ten 24"x36" copies of all engineering, architectural, and/or survey related exhibits, unless another size is deemed acceptable by Planning Staff. One plan set shall be used for display during meetings and for use by the public, and one shall be kept as a secure file copy. The Public Works Director, Code Enforcement Officer, and Town Attorney shall each receive a copy, and the remaining five copies shall be distributed to each member of the Planning Board for their review. Any waivers requested shall be numbered as for the corresponding exhibit, tabbed and inserted in the corresponding tab in the application binder.
- d. To clarify the nature and location of existing features, site plans shall include both "before" and "after" drawings.
- e. All submittals and contact with the Planning Board must be made through the Planning Department. Such submittals will subsequently be distributed by the Planning Department to Board Members. No Board Member shall receive plans, phone calls, electronic mail, or any other form of communication that is related to a project directly from an applicant under any circumstance.
- f. The Planning Board, may at its discretion, and with consultation with Town staff, allow applicants to submit digital files of application materials on media suitable for use on personal computers in lieu of copies required under subpart 9.c., above.

As the order was reorganized, it was easier to strikeout the entire section and rewrite - see section #8 Submittals below.

8. Submittals

- A. Applications shall be submitted in binders so that loose papers are not mislaid.
- (1) Numerical tabs in the binder shall mark and separate each exhibit to simplify reference during the meeting.
 - (2) The number of the tab shall be the same as the corresponding number for the exhibit listed on the checklist.
 - (3) Any waivers requested shall be numbered as for the corresponding exhibit, tabbed and inserted in the corresponding tab in the application binder.
 - (4) Follow up documents (revision and/or addition) shall be on three hole-punched paper, dated, with the number of the corresponding exhibit per the checklist.
- B. An electronic copy and ten paper copies in binders of the application and of all documents to be reviewed by the Planning Board shall be submitted to the Planning Director or designee. Copies will be used/distributed as follows:
- (1) Public copy for public use;
 - (2) Master copy for the official record;
 - (3) Staff; and
 - (4) The remaining seven copies for the Planning Board.
- C. The applicant shall submit a minimum of four large-format (24" x 36") copies of all engineering, architectural, and/or survey related exhibits. The Planning Director or designee may request an additional six copies if deemed necessary. Large-format plan sets shall be used as follows:
- (1) Public copy;
 - (2) Master copy;
 - (3) Staff (and used for display during the meeting, if necessary); and
- D. All submittals should be in a font and font size that is or comparable to New Times Roman font size 12 (as used in this document) with the exception of plans that may include smaller font size (see C. above).
- E. To clarify the nature and location of existing features, site plans shall include both "before" and "after" drawings.
- F. The Planning Director or designee will date stamp the first page of all applications and new exhibits when submitted.
- G. The Planning Director or designee shall provide the applicant a written receipt.

H. The Planning Director or designee shall schedule the application for Planning Board review as required by LUO §125-61 if they find the application to be substantially complete.

I. All applicant submittals and contact with the Planning Board must be made through the Planning Director or designee. The Planning Director or designee will subsequently distribute such submittals to Board Members. No Board Member shall receive plans, phone calls, electronic mail, or any other form of communication that is related to a project directly from an applicant under any circumstance.

9. 10. Substantial Completeness

A. “Substantially Complete” means that, in the professional judgment of the Planning Department Director or designee, all of the exhibits required by the LUO Land Use Ordinance are included in the application, and that they it provides the information (including waiver requests) reasonably needed by the Planning Board/and Department to make its decision regarding completeness and for the TRT to submit capacity statements, and if a submittal waiver is requested, that the subject of the waiver is not applicable to this particular application.

(1) i. If upon submittal, an application is found to be incomplete, the Planning Department Director of designee shall inform the applicant of the missing information and shall not place the application on the agenda.

(2) ii. Once an application is found to be substantially complete, i. The Planning Staff Director or designee shall place the application on the agenda.:

I. Return the application to the applicant for use in making the required copies for submittal as outlined below.

II. The applicant will prepare and provide to the Planning Staff ten copies of the full application in binders with tabs, together with ten copies of all large format exhibits.

III. Staff will date stamp the first page of an application when it is first submitted and each new exhibit submitted after the initial submittal. This will enable Staff to determine the last submitted version of an exhibit under review.

IV. The Planning Department shall provide the applicant written receipt by electronic mail and schedule the application for Planning Board review as required by LUO §125-61.

(3) e. Should an applicant disagree with the Planning Director’s or designee’s decision that his/her their application is incomplete the applicant may be heard by the Planning Board to determine the appropriate course of action. If an applicant disagrees with a decision made by the Planning Board, the applicant

Included in section #8 Submittals.

can appeal the decision to the Board of Appeals as provided by LUO §125-103.

10.11. Public Review of the Record

The following procedure is established:

- A. **Public copy** - A full copy of **one of the each** application **binders**, along with any large format exhibits, will be available to the general public for review in the **planning office-Planning & Code Department**.
- B. **Master copy** - ~~Another~~ **A full copy of each** application **binder, along with and one copy of** any large format exhibits, will be maintained in a secure file to which only staff has access.
 - (1) ~~i.~~ Members of the public wishing to review the **secure copy-Master copy** must file a citizen's "Right to Know"**ILaw** request **with the Town Manager as provided by state law** and will be supervised by staff as they review the file.
 - (2) ~~ii.~~ A record of public access requests granted will be maintained in the file.

11.12. Documentation of the approved plans

A. The day after Planning Board approval of **a site plan or subdivision an** application:

- (1) ~~i.~~ **The Planning Staff, Director or designee** will stamp the first page of the **secure file- Master copy** with a date stamp, reading "Approved."
- (2) ~~ii.~~ **All The large format copies of the plans will be placed in the Master copy will be:** a file in the planning office.
 - (a) ~~I.~~ **They will be** Date-stamped "Approved" as outlined above.
~~H.~~ **They will be numbered consecutively and indexed for rapid retrieval.**
 - (b) ~~III.~~ **They will be** Treated as secure.

- ~~A.~~ **Members of the public wishing to review the secure copy will have to file a citizen's "Right to Know" law request as provided by state law.**
- ~~B.~~ **They will be supervised by staff as they review the documents.**
- ~~C.~~ **A record of public access requests granted will be maintained in the file.**

Unnecessary
- repeat from
Public Review
above

12.13. Late submittals

- A. **The Planning Director or designee shall not accept submittals past the established deadlines in the meeting schedule.**

- B. ~~a.~~ The submittal of exhibits during a Planning Board meeting, is strongly discouraged, since it ~~may~~ **does** not allow **sufficient** time **for review by the** Board, **the Planning Director, the TRT, and interested parties** and staff review and confuses the meeting record.
- C. The Planning Board may hear and discuss the ~~plan~~ **new information** submitted at a meeting, however, they are not obliged to act on any matter pertaining to the newly submitted ~~document~~ **information** at that ~~evening's~~ meeting. This is done in order to allow the Board, **the Planning Director, TRT, Staff,** and interested parties ample time to review a project.
- D. ~~b.~~ Any exhibits submitted after **the established deadlines in the meeting schedule the initial substantial completeness determination by the Planning Staff** shall:
- (1) ~~i.~~ **Be dated and C**ontain a statement that they void any previous submittal in conflict therewith;
 - (2) ~~ii.~~ **Be complete as required by the Land Use Ordinance and the Planning Board Rules of Procedure;**
 - (3) ~~e.~~ **Clearly show how they differ from the original submittal.**
- E. When **new** exhibits are accepted by the Board during a meeting, ~~time will be taken to:~~
- (1) ~~i.~~ **A copy shall be provided to all members of the Board (seven) and three copies for the Planning Director or designee, one of which shall be Sstamped the exhibit "Received and Date Stamped" and be inserted in the Master copy** so that the record is clear as to which version was received last and/or ultimately approved.
 - (2) ~~ii.~~ **Time will be taken to R**review the submittal to make sure that it is complete as required by **LUO Land Use Ordinance** and **the Planning Board Rules of Procedure.**
- F. ~~d.~~ If it is determined that a late submittal does not meet requirements of the **LUO Land Use Ordinance** or **the Planning Board Rules of Procedure**, the Board ~~will~~ **shall** pass a motion to that effect which clearly states the reason for the finding.

13.14. Planning Staff Report

- A. The Planning **Staff Director or designee** is required to review each ~~and every~~ development application to assure its substantial compliance with the Land Use Ordinance, **Municipal Code**, Planning Board **Rules of Procedure**, Comprehensive Plan and other adopted Town plans.
- B. The Planning **Staff Director or designee** is to write the Board a report for each development application stating that the application is substantially complete, whether the application meets the requirements of the Land Use Ordinance, **Municipal Code**, Planning Board **Rules of Procedure**, Comprehensive Plan and other adopted Town plans and outlining areas where, in the Director's ~~s~~ **or**

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Yellow Highlights: August 5 and September 2, 2020
Aqua Highlights September 30, 2020

designee's professional opinion, additional information should be requested, waivers could be granted or better planning techniques would be beneficial.

- C. ~~In addition, The~~ Planning Staff ~~Director or designee and members of the TRT,~~ ~~are~~ is encouraged to offer ~~his/her~~ their professional opinions and make recommendations for ways in which the development application can better comply with the Land Use Ordinance, Comprehensive Plan and other adopted Town plans.
- D. It is not the intent of these rules to dilute the role of the Planning Board in any way since:
- (1) ~~i.~~ The Planning Staff's report is only advisory to the Board is advisory;
 - (2) ~~ii.~~ The Land Use Ordinance is very specific in some areas - these are the areas in which the Planning Staff can make preliminary determinations;
 - (3) ~~iii.~~ Other Land Use Ordinance areas are discretionary – these are the areas where staff should clearly defer to the Planning Board;
 - (4) ~~iv.~~ In all instances, the Board is free to override or reverse a staff recommendation of the Planning Staff since the Board is charged by law with making the final decision.

14.15. Effective date

- A. All applications considered by the Planning Board shall meet the requirements of these rules.
- B. Public notice of changes shall be given by:
- (1) ~~i.~~ Advertising the availability of these rules in a newspaper of general circulation, and
 - (2) ~~ii.~~ Posting a copy of these rules for thirty days:
 - (a) ~~I.~~ In the Planning Department office;
 - (b) ~~II.~~ On the bulletin board of the Municipal Building;
 - (c) ~~III.~~ On the Town of Bar Harbor web site; and
 - (d) ~~IV.~~ and ~~Bb~~ by making copies of these rules available for distribution in the office of the Planning & Code Department. office.