

Five Statutory Criteria

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
3. Whether the requested area variance is substantial; within 200 feet of Skaneateles Lake, any area variance that enlarges a building or enables it to encroach into a required lake yard shall be presumed to be substantial because of the cumulative risk of degradation of the lake posed by granting individual variances. This presumption is rebuttable.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; within 200 feet of Skaneateles Lake, any area variance that enlarges a building or enables it to encroach into a required lake yard shall be presumed to have an adverse environmental impact because of the cumulative risk of degradation of the lake posed by granting individual variances. This presumption is rebuttable.
5. Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board but which shall not necessarily preclude the granting of the area variance.

Notes

TOWN OF SKANEATELES

Zoning Board of Appeals Rules and Procedures

Adopted June 5, 2008



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TOWN OF SKANEATELES

Section 8. Order of Business

- A. The order of business for regular meetings shall be:

- Call to order
- Approval of minutes of previous meeting
- New applications (if any)
- Public hearings (if any)
- Old business
- New business
- Adjournment

- B. The order of business need not be followed if the Chair or members determine that it is necessary to deviate. The above order of business may be reviewed periodically and adjusted accordingly.

Section 9. General Rules of Procedure

The Chair shall preside at meetings and shall preserve order and decorum in debate. In the Chair's absence, the Vice Chair shall preside or, if absent, another Board member designated by the Chair or the Board. The presiding officer may debate, move and take other action that may be taken by other members of the ZBA.

Every resolution or motion must be seconded before being put to a vote by the Chair, and all resolutions or motions shall be recorded in their entirety in the official minutes of the ZBA.

The Chair may offer or second a resolution or a motion and need not relinquish the chair for such purpose.

A member, once recognized, shall not be interrupted when speaking unless it is to call the member to order. If a member, while speaking, is called to order, such member shall cease speaking until the question of order is determined, and, if in order, such member shall be permitted to proceed.

There is no limit to the number of times a member may speak on a question.

Motions to close or limit debate may be entertained but shall require a two-thirds majority vote.

Section 10. Guidelines for Public Comment

- A. General Procedures:

The public shall be allowed to speak only during a public hearing or during a public comment period of the meeting or at such other times as a majority of the ZBA shall allow. The presiding officer may limit the time allowed for members of the public to speak.

No member of the public shall engage in any demonstration, booing, hand clapping or otherwise disrupt the formality of a ZBA meeting.

Any persons speaking to the ZBA with the consent of the Chair shall address their remarks to the ZBA, not to other members of the audience in the form of a debate.

Speakers must give their name, address and organization, if any.

Speakers must be recognized by the presiding officer.

ZBA members may, with the permission of the Chair, interrupt a speaker during their remarks, but only for the purpose of clarification or information.

All remarks shall be addressed to the ZBA as a body and not to any member thereof.

Speakers shall observe the commonly accepted rules of courtesy, decorum, dignity and good taste.

Interested parties or their representatives may address the ZBA by written communication. Written communication shall be delivered to the Chair or to his or her designee. Speakers should not read written communication verbatim but should summarize their contents.

Citizens with disabilities who require assistance in attending any meeting, or in furnishing comments and suggestions, should contact the Chair or the Secretary to the ZBA to request such assistance.



B. Public Hearings:

It shall be the duty of the Chair to preside at all general or special business hearings, to instruct all persons addressing the Board to state their names and addresses, to request those in favor of the proposal before the Board to speak first and those in opposition to speak last. The ZBA may hold a matter open for a reasonable period of time to accept written comment. At such hearings the Chair or a majority of the Board may, by special rules, prescribe the time to be allowed to each speaker and the number of times each speaker may speak.

The ZBA may hold a matter open for a reasonable period of time to accept written comment.

C. Individual Zoning Requests

(1) Applicant's Burden.

Individual zoning applicants carry the burden of proof and persuasion. The applicant must satisfy all relevant standards and requirements of the zoning ordinance.

(2) Order of Presentation.

Because of the burden, applicants are entitled to present evidence first and last. The order of presentation shall be the applicant and any supporting evidence, any opposition and, if opposition, a rebuttal by the applicant.

(3) Expert Witnesses.

An expert witness must be qualified by the party using the witness and the other side shall be given an opportunity to explore the witnesses's qualifications through voir dire examination. The ZBA at its discretion may designate a witness as an expert and entitled to give opinion evidence within the expert's field of expertise.

The expert witness will not be permitted to give opinion testimony beyond the designated field of expertise.

(4) Findings Based Upon Record.

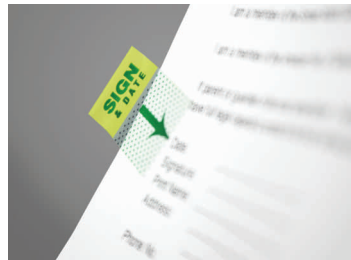
Individual zoning appeals require that the **five statutory criteria** (see last page) are examined by the ZBA. Certain findings be made by the ZBA and these finding must be based on the preponderance of the evidence of record submitted during the hearings and any site visits made by the ZBA. The ZBA may not consider evidence outside the record.

(5) Record.

A hearing may be recessed from time to time until all evidence is submitted. The record may be held open or reopened for good cause and for receipt of specific materials at the discretion of the ZBA.

Section 11. Use of Recording Equipment

All members of the public and all public officials are allowed to tape or videotape public meetings. Recording is not allowed during executive or legal advice sessions. The recording should be done in a manner which does not interfere with the meeting.



Section 12. Adjournment

Meetings shall be adjourned by motion.

Section 13. Conflict with State Law

If the above stated rules are or become at any time in conflict with state law, then state law shall take precedence.

Section 14. Amendments to the Rules of Procedure

The foregoing procedures may be amended by resolution or local law from time to time by a majority vote of the Town Board.

§25.5. Zoning Board of Appeals Rules of Procedure

The Zoning Board of Appeals of the Town of Skaneateles, pursuant to Town Law and Municipal Home Rule Law shall hereby conduct its business according to the following rules of procedure:

Section 1. Regular Meetings

The Zoning Board of Appeals of the Town of Skaneateles (the "ZBA") shall hold regular meetings on the first Tuesday of each month. Such regular meetings shall commence at 7:00 pm and be conducted in the board room at the Town Hall. A calendar is set by the ZBA at the beginning of each calendar year. Most meetings are the 1st Tuesday but because of holidays or elections this may vary.

Section 2. Special Meetings

Special meetings of the ZBA are all those ZBA meetings other than regular meetings. A special meeting may be called by the Chair upon two days' written notice to the entire ZBA or at a regular meeting of the ZBA. Additionally, the Chair must call a special meeting within five days of a written request by any members of the ZBA.

Section 3. Quorum

A quorum shall be required to conduct business. A quorum of the five-member ZBA shall be three. In the absence of a quorum, a lesser number may adjourn and compel the attendance of absent members.

Section 4. Executive Sessions

Executive sessions shall be held in accordance with the N.Y. Public Officers Law section 105. All executive sessions shall be commenced in a public meeting. Attendance shall be permitted to any member of the ZBA and any other persons authorized to attend that executive session by the ZBA.

Section 5. Agendas

The agenda shall be prepared by the ZBA Chair or any ZBA member may have an item placed on the agenda. Public hearings shall be scheduled by the ZBA in accordance with Town Law and the Town Zoning Ordinance.

Section 6. Voting

Pursuant to Town Law, each member of the ZBA shall have one vote. A majority of the totally authorized voting power (i.e. three votes) is necessary to pass a matter unless otherwise specified by State Law.

An abstention, silence or absence shall not be considered either an affirmative or a negative vote for the purposes of determining the final vote on a matter. A vote upon any question shall be taken by "ayes" and "noes", and the names of the members present and their votes shall be entered in the minutes.

The applicant carries the burden of proof and persuasion and must satisfy all relevant standards and requirements of the Zoning Ordinance. The Board must make all required decision on the basis of evidence in the record and must not consider any evidence outside the record.

Section 7. Minutes

The Secretary of the ZBA shall take minutes. Minutes shall consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon.

Minutes shall not contain a summary of the discussion leading to action taken or include verbatim comments unless a majority of the ZBA shall resolve to have the Secretary do so.

Minutes shall also include the following:

- Name of the ZBA;
- Date, place and time of meeting;
- Notation of presence or absence of ZBA members and time of arrival or departure if different from time of call to order and adjournment;
- Name and title of other Town officials and employees present and approximate number of attendees;
- Record of communications presented to the ZBA: copies of written communication will be included in the variance file.
- Record of reports made by ZBA or other Town personnel;
- Time of adjournment;
- Signature of Secretary to the ZBA or person who took the minutes if not the Secretary.

Minutes shall be approved at the next ZBA meeting after they have become available. Amendments to the minutes shall require ZBA approval.

