

TOWN OF STARKSBORO DEVELOPMENT REVIEW BOARD

Rules of Procedure and Conflict of Interest Policy

Section I: Authority.

The Development Review Board (DRB) of the Town of Starksboro hereby adopts the following rules of procedure (hereinafter referred to as these Rules) in accordance with 24 V.S.A. § 4461(a) and 1 V.S.A. §§ 312(e), (f), and (h), and the Starksboro Land Use and Development Regulations, Section 420.C.

Section II: Policy.

These Rules are adopted to ensure consistent and fair treatment of applicants, interested persons, and participants, orderly and efficient public proceedings, and compliance with state and federal law. These Rules shall also ensure that no board member will gain a personal or financial advantage from his or her work for the board, so that the public trust in municipal government will be preserved.

Section III: Definitions.

- A. “Board” means the DRB.
- B. “Board member” means a regular or alternate member of the DRB.
- C. “Conflict of interest” means any one of the following:
 - 1. A direct or indirect personal interest of a board member, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the DRB.
 - 2. A direct or indirect financial interest of a board member, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the DRB.
 - 3. A situation where a board member has publicly displayed a prejudgment of the merits of a particular proceeding before the board. This shall not apply to a member’s particular political views or general opinion on a given issue.
 - 4. A situation where a board member has not disclosed ex parte communications with a

party in a proceeding before the board, pursuant to Section XI of these Rules.

- D. “Deliberative session” means a private session of the board to weigh, examine, and discuss the reasons for and against an act or decision, from which the public is excluded. There shall be no taking of evidence nor submission of testimony, nor shall a deliberative session be publicly noticed.
- E. “Executive session” means a session of a public body from which the public is excluded, pursuant to 1 V.S.A. § 313. Such private session may only be held for one of the reasons permitted by the statute, and no binding action may be taken in executive session.
- F. “Ex parte communication” means direct or indirect communication between a member of the DRB and any party, party’s representative, party’s counsel or any person interested in the outcome of any proceeding before the panel, that occurs outside of a public proceeding, and concerns the substance or merits of the proceeding.
- G. “Official act or action” means any legislative, administrative or quasi-judicial act performed by any board member.
- H. “Public deliberations” means the weighing, examining, and discussing, in a public proceeding, the reasons for and against an act or decision, but expressly excludes the taking of evidence and the arguments of parties.
- I. “Recuse” means to remove oneself from a particular board proceeding because of a real or perceived conflict of interest.
- J. “The bylaws” refers to the currently adopted version of the Starksboro Land Use and Development Regulations.

Section IV: Regular Officers.

Per the bylaws, The DRB shall consist of seven regular members, appointed by the Selectboard. After January 1, but prior to March 1, or at other times throughout the year as needed, the DRB shall hold an organizational meeting and elect by majority vote, a Chair, Vice Chair, and Clerk.

- A. The Chair shall preside at all meetings, hearings, and deliberative sessions, decide all points of order or procedure, and appoint members to any committee of the board. The Chair may administer oaths and may request the attendance of witnesses and the production of material germane to any issue under consideration.
- B. The Vice Chair shall assume the duties of the Chair whenever the Chair is absent, or at the Chair’s request. The Clerk shall assume such duties whenever the Chair and the Vice Chair are absent, or at their request.
- C. It shall be the duty of all members to review the minutes and other official records of DRB meetings and actions, and correct and ratify these when appropriate and necessary.

- D. The Starksboro Zoning Administrator (ZA) shall act as the Staff for the DRB. The ZA shall take minutes of all meetings. In the absence of the ZA, the Clerk shall take the minutes.

Section V: Alternate Members.

Per the bylaws, the Selectboard shall annually, or as needed, appoint up to two alternates who may temporarily serve as DRB members in the event of a recusal or absence of one or more members.

Section VI: Regular and Special Meetings.

Regular meetings shall be held at the Town Offices at 6:30 p.m. on the second and fourth Thursdays of the month, or as warranted. The Chair may cancel meetings at any time.

- A. Regular meeting agendas will be posted a minimum of 48 hours in advance, on the Town website and at the Town Office, the Post Office, and the Jerusalem Store. Special meetings may be called by the Chair, provided at least 24 hours notice is given to each member and the time and place of each special meeting is publicly announced at least 24 hours before the meeting.
- B. A quorum shall consist of a majority of the entire board.
- C. Members may participate by telephone or virtually via the Internet as long as the absent member can hear everything that is occurring at the meeting and everyone present at the meeting can hear the board member.
- D. All meetings shall be open to the public unless the board has entered a deliberative or executive session. The board may only hold an executive session pursuant to the reasons permitted by 1 V.S.A. § 313, and only after a majority vote to enter executive session.
- E. There shall be an agenda for each meeting, with time allotted for each item or group of items to be considered. Those who wish to be added to the agenda shall contact the Zoning Administrator to arrange for a convenient time. The Chair shall determine the content of the agenda after consultation with Zoning Administrator. The agenda will be generally structured as follows:
1. Review Agenda for any changes.
 2. Public comment on issues outside of the warned hearing.
 3. Review/Approval of minutes from previous meeting(s)
 4. Public hearings on applications per Section VII.
 5. Other Business – e.g. future meeting planning, announcements, etc.
 6. Deliberations per Section VII.
- F. All business shall be conducted in the same order as it appears on the agenda, except that by majority vote, the Chair may alter the order of items to be considered and/or the time allotted.

- G. The Chair shall rule on all questions of order or procedure and shall enforce these rules pursuant to 1 V.S.A. § 312(h).
- H. At each meeting, there shall be a ten minute period of time reserved for general public comment not associated with a hearing at the beginning of the meeting. The Chair may extend or reduce this period of time as necessary. Speakers may participate at other times throughout a meeting but only when recognized by the Chair. Such comment shall be limited to three minutes per speaker, unless by majority consent the board sets a different time limit. The board shall apply consistent time limits to all recognized to speak.

Section VII: Public Hearings and Order of Business.

Public hearings shall be conducted as quasi-judicial proceedings pursuant to 1 V.S.A. § 310 (8). Hearings shall be publicly noticed in accordance with 24 V.S.A. §§ 4464(a)(1), (2), as amended, published in the Addison Independent, and posted at the locations noted in Section VI.A. Hearings shall not exceed three hours in length unless approved by a majority of members present.

The Chair shall conduct the hearing in the following manner:

- A. Open the hearing by reading the warning of the hearing.
- B. Review the order of events, remind all present that the proceeding will be conducted in an orderly manner, and make copies of these Rules available.
- C. Request disclosure of conflicts of interest and ex parte communications.
- D. Review the definition of interested persons in 24 V.S.A. § 4465(b), and explain that, pursuant to 24 V.S.A. § 4471(a), only an interested person who has participated in this proceeding may make an appeal of any decision issued in this proceeding. Distribute an information page explaining 24 V.S.A. § 4471(a), along with sign-in sheet for all persons wishing to participate in the meeting, to include mailing information. This sign-in sheet will be used by the ZA to create the service list in Section IX.H. All parties requesting interested party status at the meeting will be treated as such during the hearing, but the Board will not make an official determination of this status at the meeting. The official status of any party will be determined by the DRB prior to accepting an appeal of that party.
- E. Direct the applicant or his/her representative and all interested persons to step forward and take the following oath: *I hereby swear that the evidence I give in the cause under consideration shall be the whole truth and nothing but the truth so help me God (or, under the pains and penalties of perjury).*
- F. Accept written information presented to the board in the Exhibit List prepared by the ZA.

- G. Invite the applicant or applicant's representative to present such application or proposal.
- H. Invite board members to ask questions of the applicant or applicant's representative.
- I. Invite interested persons to present information regarding the application or proposal.
- J. Invite the applicant, applicant's representative, or interested persons to respond to information presented.
- K. Invite more questions or comments from members of the board.
- L. The Chair shall allow other members of the public who are not interested persons to make comments or ask questions regarding the application or proposal. Such comments shall be limited to three minutes per person, unless by majority vote the board sets a different time limit.
- M. Allow final comments or questions from the applicant or applicant's representative.
- N. Upon motion and majority vote, the DRB shall confirm if they accept the application as submitted as meeting the requirements required to conduct the hearing set forth in the bylaw.
- O. Upon motion and majority approval, the Chair shall either adjourn the hearing to a time certain, or close the hearing.
- P. Upon closing of the hearing and completion of any other business to be held in public, the board shall vote by majority to go into closed deliberative session on the hearing, unless the board votes unanimously to hold the deliberations in open session.
- Q. If the deliberation is held in open session, the Board will:
 - 1. Record the results of the vote held per Section IX in the meeting minutes and in the final written decision.
 - 2. Hold any deliberations on the matter adjourned to subsequent meetings in a warned open session.
 - 3. Refrain from discussing the matter outside of the public meeting format until a decision has been made.
- R. If the deliberation is held in closed session, the voting procedure in Section IX will be used to come to a decision by the Board, but will not be recorded in meeting minutes nor the final written decision.

Section VIII: Site Visits.

Site visits are for observation only and are not the place for substantive discussion of the project. They do not constitute a public hearing, and no quorum of DRB members is necessary.

Site visits shall be open to the public; however, no testimony shall be taken and no ex parte communication shall occur. Site visits shall be held pursuant to the following conditions:

- A. If, prior to a hearing, the Chair determines that a site visit will be necessary, the site visit shall be scheduled immediately prior to a public hearing. Such site visits shall be publicly noticed in accordance with 24 V.S.A. §§ 4464(a)(1), (2).
- B. If necessary, the board may recess a hearing and conduct a site visit at a property which is the subject of an application before the board.
- C. If necessary, the board may adjourn a hearing to a time certain to conduct a site visit at a property which is the subject of an application before the board.
- D. The minutes of the proceeding shall reflect that a site visit was held, who was present, and any relevant observations for the record.

Section IX: Decisions.

The board shall make decisions in deliberative session, either closed or open (See Section VII.P.). The public may listen, but does not participate in an open deliberative session. Closed Deliberative sessions are not open to the public and shall not be warned. 1 V.S.A. §§ 312(e), (f). Members of the board who have not heard all testimony and reviewed all evidence submitted for a particular application or proposal shall not participate in that proceeding. Absent board members may participate if they have reviewed an audio recording of the proceedings and any evidence submitted. The following rules shall apply to voting on decisions:

- A. Motions shall be made in the affirmative.
- B. The chair has the same voting rights as other members and can make motions.
- C. No second shall be required for a motion to have the floor.
- D. All members present are expected to vote unless they have recused themselves.
- E. Abstentions are strongly discouraged and shall not count towards either the majority or the minority.
- F. For a motion to pass, it must receive the concurrence of a majority of the entire board, regardless of how many are present. 1 V.S.A. § 172; 24 V.S.A. § 4461(a).
- G. The board shall issue a written decision within 45 days of the final public hearing.

The Chair, Vice Chair, or Clerk shall sign decisions after the decision has been finalized by support staff pursuant to the board deliberation and vote. Similarly, after inspection by support staff for conformance with the decision, approved survey plats/mylars and other approved plans (those required to be recorded with the Town Clerk) shall be signed by the Chair, Vice Chair, or Clerk. The decision shall record if any board member wishes to note their dissent with the board decisions.

- H. All decisions of the board shall be mailed to the parties on the service list. The mailing to the applicant, or any appellate, is to be sent via certified mail, return receipt requested.

Section X: Conflicts of Interest.

Participation, disclosure of conflicts, and recusal shall be governed by the following procedures:

- A. **Participation.** A board member shall not participate in any official action where he or she has a conflict of interest in the matter under consideration. A board member shall not, personally or through any member of his or her household, business associate, employer or employee, represent, appear for, or negotiate in a private capacity on behalf of any person or organization in any proceeding pending before the DRB.
- B. **Disclosure.** At all hearings, the Chair shall request that board members disclose all potential conflicts of interest. When recognized by the Chair, any interested person may request disclosure of potential conflicts of interest.

Nonetheless, after disclosing a conflict or perceived conflict, if a member who believes that he or she is able to act fairly, objectively, and in the public interest, shall disclose the nature of the potential conflict of interest, and the reason(s) why the member believes he or she is able to act in the matter fairly, objectively, and in the public interest. This shall be noted in the minutes of the proceeding.

However, if by a majority vote of the entire board, the board finds that a member has a conflict of interest as defined in Section III(C)(1) or (C)(2) or (C)(3), that member shall be barred from participating in the matter under consideration.

- C. **Recusal.** A board member shall recuse him or herself from any matter in which he or she has a conflict of interest, pursuant to the following:
1. The applicant or any interested person may request that a member recuse him or herself due to a conflict of interest. Such request shall not constitute a requirement that the member recuse him or herself.
 2. A board member who has recused him or herself from a proceeding shall not sit with the board, deliberate with the board, or participate in that proceeding as a board member in any capacity.

3. If a previously unknown conflict is discovered, the board may take evidence pertaining to the conflict, and if appropriate, adjourn to a short deliberative session to address the conflict.
4. The board may adjourn the proceedings to a time certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the board. The board may then resume the proceeding with sufficient members present.

Section XI: Ex Parte Communications.

Ex parte communication is prohibited. Any board member who inadvertently conducts ex parte communication must disclose such communication as required below.

- A. **Disclosure.** At each hearing, the Chair shall request that members disclose any ex parte communications. Board members who have received written ex parte communications shall place on the record copies of all written communications received as well as all written responses to those communications. Members shall relate the substance of all oral communications received, all responses made and the identity of each person making the ex parte communication, which shall become a part of the record of the proceedings.

Section XII: Removal.

Upon majority vote, the board may request that the Selectboard remove a board member from the DRB. Board members may be removed for cause by the Selectboard upon written charges and after public hearing. 24 V.S.A. § 4460(c).

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Section XIII: Amendments.

These rules may be amended at any regular or special meeting by a majority vote, provided that each DRB member has been presented a written copy of the proposed amendment at least 24 hours before the meeting at which the vote is taken.

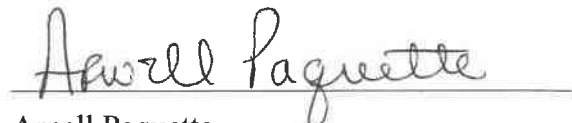
Adopted by Majority Vote on this 12th Day of March, 2026



Ben Campbell, Chair



Tom Perry




Arnell Paquette



Richard Warren



Luke McCarthy



Evelyn Boardman



A. Robert Liotard