TOWN OF FARMINGTON ZONING BOARD OF APPEALS RESOLUTION
2023 RULES OF PROCEDURE

WHEREAS, the Town of Farmington Zoning Board of Appeals (hereinafter referred to as the Board) has given consideration to the need to adopt and maintain Rules of Procedure for conducting the business of the Board during the calendar year 2023; and

WHEREAS, the Board has determined that such Rules of Procedure are in the best interests of the Town; and

WHEREAS, the Board determines the action to adopt Rules of Procedure is a Type II Action, under Part 617.5 (c) (20) of the State Environmental Quality Review (SEQR) Regulations, in that it involves routine agency administration, not including new programs or major re-ordering of priorities that may affect the environment.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby adopt the following Rules of Procedure as amended per this document appended to the minutes of the meeting of Zoning Board of Appeals on February 27, 2023:

1. Order of Business

At each Board Meeting, the following order of business shall be:

a. Call to Order, Pledge of Allegiance and Introduction of Board Members and Town Staff.

b. Information about Emergency Exits and Evacuation Procedures.

c. Reference to Sign-in Sheet and request that everyone in attendance sign in.

d. Review and approval of previous Zoning Board Meeting Minutes.

e. References to Legal Notices—their availability at the meeting and attesting to the date(s) of publication. Posting of property, posting of Legal Notice on bulletin board at Town Hall, and attesting that Legal Notices were made available in compliance with the provisions of New York State Town Law.

f. The Chair shall open each Public Hearing or public meeting on a matter being considered by the Board.

g. The Chair shall recognize the applicant(s) and ask for testimony concerning the matter that is before the Board.

h. All Public Hearings will be conducted and, upon resolution of the Board, each Public Hearing will either be closed or continued. If continued, the Public Hearing will be continued to a specific date and time. If no specific date and time is decided upon, a new public notice

shall be required. If closed, the Board shall have up to 62 days from the date of closing the Public Hearing to take action upon said application.

i. The order of the meeting agenda will be first to conduct any continued Public Hearing(s) before hearing any new applications.

j. If there are no continued Public Hearings, then the Board shall follow the order shown upon the public meeting agenda sheet.

k. Should an applicant (or a designated agent) not be present when his or her application is called, then the application shall be moved to the end of the Public Hearing(s).

l. Should an applicant (or a designated agent) not appear before the Board on the night of the public meeting, then the Board shall table the application and continue the Public Hearing to the next scheduled meeting of the Board. In addition, the Board shall direct the Zoning Enforcement Officer to provide written notification to the applicant of the date and time for the Board's next public meeting and request his or her attendance.

m. A Public Hearing upon an application may be continued by the Board for a longer period of time based upon an applicant's written request setting forth the reasons for such an extended time period.

n. Failure by the applicant to appear before the Board at the next scheduled Public Hearing and/or meeting may result in the Board taking action to deny without prejudice the requested application. In such an event, the applicant shall make a new application and pay a new fee for said application.

o. Only the Town Board may waive an application fee. Any document(s) submitted, either by an applicant, his or her agent, or any person present at the convened Public Hearing, after the opening of the Public Hearing, may result in a tabling of the application and an automatic continuation of the Public Hearing to the next scheduled public meeting. This will enable both the Board members and the general public an opportunity to review the newly submitted material.

p. Following the close of (or the continuation of) a Public Hearing listed upon the public meeting agenda, the Board will then continue on to the next application listed upon the meeting agenda before making their findings and determination(s).

q. All persons desiring to speak at a Public Hearing (or a public meeting) may be allowed to speak either during a Public Hearing, or during the public comment time listed upon the public meeting agenda. In no event may a person direct any question to an applicant, or any town Staff member. All matters to be discussed by the public shall be directed to the Chair of the Zoning Board of Appeals. The Chair is the only one who may recognize someone in attendance at the meeting.

r. Once a Public Hearing has been closed, there shall be no discussion between the members of the Board, an applicant or a member of the public who is in attendance. Any point of concern identified during a Public Hearing that may require clarification will be directed by the Chair to Staff to obtain the information from the applicant. Staff will be directed to provide said information in writing to the Board either at, or prior to, the next public meeting.

s. The Board will follow the guidelines set forth in the attached model forms for making its findings and determinations upon use variances, area variances, temporary use permits and/or interpretations.

t. Following the Board's decisions upon the applications under consideration, the Board will then enter into public comment time. Public comment time is an open forum for discussion of any matter pertaining to the Board that is not listed upon the Board's meeting agenda. Persons wishing to speak on a particular subject are encouraged to submit a written request to the Chair of the Board one week prior to the Board Meeting. All written requests will be addressed first by the Board. In the event a question is raised from the floor, the Chair of the Board reserves the right to have Staff review the matter and make a written report to the Board and to the public prior to the next Board meeting.

u. Following the public comment forum, the Zoning Board will address Other Board Matters that have been brought to their attention by either Board Members or Town Staff.

v. Following Other Board Matters, the Board will hear reports from the Director of Planning and Development and/or the Zoning Enforcement Officer.

w. Following the completion of all of the items listed upon the Board's Meeting Agenda, the Board will give notice of the next tentative meeting date of the Board subject to receipt of application(s). If there are no new applications to be heard, the Chair shall notify the Development Office that the next tentative meeting will be canceled. Notices to this effect shall be posted on the Bulletin Board at the Town Hall and posted on the Town Website.

x. Following the above, the Chair of the Board will then entertain a motion to adjourn the meeting.

2. Official Decision Forms to be Used by the Zoning Board of Appeals

The Board does hereby adopt and make part of these rules of procedure the attached forms as the Official Forms for Making Findings and Decisions upon Use Variances, Area Variances and Temporary Use Permits. Copies of these documents may be obtained from the Town Development Office or viewed on-line at the Town of Farmington's website www.farmingtonny.org. At the time of adoption of these Rules of Procedure, there is no Guideline or Official Form for the Board to use to hear an appeal to an interpretation made by the Code Enforcement Officer and/or Zoning Enforcement Officer.

3. Legal Notices and Meeting Agendas

Copies of all Legal Notices shall be available in the Town Development Office and the Town Clerk's Office not later than five (5) business days prior to the day of the scheduled meeting. In addition, a copy of the legal notice(s) for each meeting shall be posted on the Official Bulletin Board located at the Town Hall and on the Town's Official website www.townoffarmington-ny.com. Draft meeting agendas will be prepared by the Town Zoning Enforcement Officer, in consultation with the Director of Planning and Development, for acceptance by the Board Chair-person. Five (5) business days prior to the scheduled meeting, Board Members and the Clerk of the Board shall be notified of the availability of the Meeting Agenda along with the packets of information. Copies of the Meeting Agenda, draft resolutions and Legal Notices shall be available for the public in the meeting room by 6:45 p.m. on the day of the scheduled meeting, in addition to being posted as a link on the screen for the Zoom Meeting.

4. Public Hearings

All Public Hearings shall commence with the Chair reading the application under consideration by the Board. Then the Chair will call upon the applicant (or his or her agent) to make a formal presentation to the Board. As a matter of policy, the Board will not take action until the applicant or agent has attended the Public Hearing either in person or virtually via Zoom and made a presentation to the Board. If the applicant is not the owner of the property for which the application is made, the applicant must have the owner certify in writing (or attest in public at the meeting) that there are no objections to the application being made on his or her behalf.

Next, Town Staff will be given the opportunity to discuss the application. The Zoning Enforcement Officer (ZEO) will report whether or not the property has been properly posted and whether or not a County Planning Referral has been received. The ZEO shall identify the County Referral Number, the Class of Action as determined by the County and their recommendation. This information shall also be placed upon the Official Decision Form referenced above herein. The Board shall by resolution classify the Type of Action under review, as first defined in the State Environmental Quality Review (SEQR) Regulations.

Once this information has been entered into the Public Hearing record, the Board Chair will then call upon Town Staff present to discuss any draft resolution(s) pertaining to the application which have been posted on the Town's website in accordance with the State's Open Meetings Law. Following this presentation, the Chair will open the meeting to the public. After first providing their names and addresses for the record, all persons speaking shall address the Chair. The Chair may, in turn, redirect the question or concern to another person. In no event, shall the public have the right to demand an answer to a specific question from a member of the Board, ~~or~~ Town Staff, the applicant or a member of the public. The Chair may limit the time each person can speak on a pending application. Once the Chair has determined that everyone has had an opportunity for input, the Chair may recognize a person wishing to speak again on the application.

In the event a petition or other written documentation is submitted as evidence, the material shall be given to the Board's Chair. Upon review by the Chair, the Clerk of the Board shall be instructed to make copies thereof and to distribute them to all Board Members, Town Staff and the Applicant,

within three business days of the date of the Public Hearing. When this occurs, the Board shall continue the Public Hearing to the next regularly scheduled Board meeting, or establish a time, date and location for the continuation of the Public Hearing. Such action will afford anyone present an opportunity to see new information previously not within the public files. Any application for which a Public Hearing is continued requires the applicant to continue to post the Public Notification Sign on the subject property until such time as the Public Hearing has been closed.

All Public Hearings will either be closed or, when appropriate, adjourned until the next scheduled Board Meeting. The Board reserves the right to schedule an additional (or special) public meeting to hear comments at a continued Public Hearing. All public meetings shall be held in accordance with the timeline established in the various sections of the New York State Town Law.

After Town Staff and the public have commented on the application, the Board members shall have the opportunity to discuss the application. The Chair shall recognize each member present and request any comment on the pending application.

5. Motions, When in Order

When a question is under debate/discussion, no motion shall be received except a motion to amend the question, to put the question to a vote, to adjourn it to a day and time certain, to lay it on the table, to commit to Staff or legal counsel, or a motion to adjourn the meeting.

6. Resolutions, Draft Copies

When draft resolutions have been prepared by Town Staff for the Board to review and consider at their public meeting then such documents shall also be made available electronically to the applicant when possible, provided they have submitted an e-mail address as part of the application process. In addition, upon request thereof, draft resolutions shall be made available to the public pursuant to Article Six, Section 103 of the Public Officers law, to the extent determined practicable as determined by the Board prior to the meeting during which the record will be discussed. In addition, every effort shall be made to post such records upon the Town website www.farmingtonny.org. All draft resolutions shall be shadow marked with the word "Draft" across each page of the resolution.

7. Voting

The members of the Board shall be eligible to vote upon the Board meeting minutes when they were present either in person or virtually for the meeting or when a Board member was not in attendance at the Public Hearing, attests in the record that the member has read the Public Hearing record and feels that he or she is prepared to make an informed decision upon the application.

The members of the Board shall, at the outset of any application, give public notice of their financial or other private interests in any application that is pending before the Board. Where such disclosure is made, the Board Member shall comply with Article 18 or any amendments thereto of the General Municipal Law, Relating to Conflicts of Interest as well as the Code of Ethics of the Town of Farmington, contained in Chapter 17 of the Farmington Town Code. In all matters voted

upon by the Board, there must be a majority of the entire membership of the Board voting the same way in order for an action to be approved or modified. Failure of the Board to reach a majority vote on an application result in the application being automatically denied. All Board Members must record their action by a voice vote taken upon any resolution and duly recorded in the Minutes. When a County Planning Board recommendation of modification or denial has been received then a majority plus one vote (4 out of 5) members must vote to override. See Section 9. County Planning Recommendations and Board Voting Requirements below.

8. Votes, When Recorded

The ayes and nays upon a question shall be taken and entered into the minutes of the public record. All votes taken shall be taken by roll call vote of the entire Board membership. Board Members may abstain from voting. When a Board Member exercises this right, it is not necessary for the Board Member to state their reason(s) for abstaining unless there is disclosure of a conflict of interest associated with any application.

The Board may waive the requirement to read into the public record the standard resolutions for all Type 2 Actions under SEQR. When so approved, the Board must still take action to accept a Type 2 classification upon such action by a voice vote.

9. County Planning Recommendations and Board Voting Requirements

In the instance where there is an Ontario County Planning Referral has made, under the provisions of Sections 239-l and -m of the New York State General Municipal Law, a recommendation of modification or denial of an application, the Board, in order to override the County's recommendation, must have a majority plus one vote of the entire membership of the Board (or 4 of the 5 board members voting the same way). Said action must be based upon a separate resolution setting forth the reasons for the Board's intent to override the Ontario County Planning Board's recommendation. All Board Members must record their action by a roll call vote taken upon such matters.

Failure by the Board to override the County's recommendation and approve the application by a majority plus one vote of the entire board results in a denial of the application. In the event the Board does override the County's recommendation, the Board shall by separate resolution set forth its reasons for overriding the County and must file a copy of said resolution with the County within the time frame prescribed in the General Municipal Law.

For any application referred to Ontario County Planning, a certified copy of the final action taken shall be filed by the Clerk of the Board within thirty (30) days after final action is taken.

10. Privilege of the Floor

Any person, upon request made during Public Comment Time on the meeting agenda, may address the Board upon a matter of public concern. The time allotted for addressing the Board shall be limited by the Chair depending upon specific circumstances. In no instance shall the Privilege of the Floor be used to make additional comments on an application pending before the Board.

11. Public Notification

Public notice shall be given in the manner prescribed by New York State Town Law and the posting requirements set forth in the Farmington Town Code. In addition, public notice shall be given by posting the notice upon the Town's website www.townoffarmingtonny.com. at least five (5) business days prior to said meeting.

When an application has been continued by the Board, the posting of the Public Notification Sign shall continue to be displayed upon the subject site.

All applications that are to appear before the Board shall require the posting of the Public Notification Sign on the subject site. Failure to post the Public Notification Sign shall result in the Board taking action to continue its deliberation until the next public meeting date of the Board so as to provide public notification of a pending application.

12. Decision Notification

Within five (5) business days of the Board's decision having been made upon an application, the Clerk of the Board shall file a certified copy of said decision with the Town Clerk and provide copies thereof to the applicant and the Town Development Office.

13. Draft Meeting Minutes

The Board Members shall be mailed electronically draft meeting minutes within ten (10) business days of the date of the subject meeting. Draft meeting minutes shall also be made available to the public within ten (10) business days of the date of the subject meeting.

14. Corrections to Draft Meeting Minutes

The Board Members shall, whenever possible, notify the Clerk of the Board of all corrections to the Meeting Minutes prior to the date of the next Board meeting. Any suggested corrections will be sent to all Board members at the same as notification to the Board Clerk.

15. Approved Meeting Minutes

The Board, after having reviewed the Draft Meeting Minutes, will (as part of the public meeting record) take action to accept the Minutes either with or without corrections. Once the Minutes have been accepted, the Clerk of the Board shall file certified copies with the Town Clerk's Office and the Development Office within five (5) business days.

16. Recordings of Board Meetings

Recordings of the proceedings of the Board meetings shall be maintained by the Clerk of the Board for a period of four (4) months after the transcription and approval of the Minutes and proceedings by the Board. When requested by the Chair of the Board, said tapes shall be maintained by the

Clerk of the Board of a period of time specified by said Chair. Currently, this period is one year. Zoom meetings will also be posted upon the Town of Farmington's YouTube page.

17. Duties and Responsibilities

The duties and responsibilities of the Board are set forth in the New York State Town Law and the Farmington Town Code. Board members shall also be responsible for maintaining their copy of the Town Code Book while serving in office, and upon ending their Term of Office return the Code Book to the Town Clerk's Office. In addition to these responsibilities, all Board Members will attempt to visit each site prior to the Public Hearing. All Board Members shall also be familiar with the provisions of the Town Code pertaining to the application. All Board Members shall follow the criteria listed in New York State Town Law when acting upon an application. Whenever relief is granted by the Board, it shall be the minimum relief deemed necessary.

18. Acting Chair

The Board shall appoint an Acting Chair in the event the Board Chair will be absent at a meeting. For 2023, Tod Ruthven may substitute for Board Chair.

19. Workshop Sessions of the Board

The Board may hold a Workshop Session at 6:30 p.m. (or at such other time as to be determined by the Board) prior to a regularly scheduled board meeting (or on such other date as to be determined by the Board) for the purpose of reviewing the application(s) to come before the Board at the subsequent meeting and to discussion the relevant section(s) of the Town Code that pertain to the application(s). The Workshop Session will be informational only. Town Staff is invited to attend. Specific members of the Town Staff may be requested to attend by the Chairperson. The Workshop Sessions are open to the public, however no questions or comments from the public will be taken until the Public Hearing(s) are officially opened in the subsequent meeting.

20. Training

Board Members shall attend annual training per requirements established by the Farmington Town Board. Currently, the training requirements are as follows:

1. All Board members and the Town's representative on the Ontario County Planning Board, shall be required to complete at least:

    a. Twelve (12) hours of suitable training during the first full calendar year of their term of office; or

    b. Nine (9) hours of suitable training during the remaining nine months, of the first full calendar year, of their term of office; or

    c. Six (6) hours of suitable training during the remaining six months, of the first full calendar year, of their term of office; or

d. Four (4) hours of suitable training during the remaining three months, of the first full calendar year, of their term of office; and then

e. Eight (8) hours of suitable training, each year, for the remaining term of office.

2. The authority to determine suitable training is hereby established by the Town Board and shall consist of training seminars, conferences or courses sponsored by the Ontario County Planning Department, the Monroe County Planning Department, the New York State Department of State, the New York Planning Federation, the Genesee/Finger Lakes Regional Planning Council, the New York State Department of Environmental Conservation, the New York State Department of Health, the New York State Association of Towns, the New York State Department of Transportation, the U.S. Army Corps of Engineers, or any other group or organization, first approved by the Town Board.

3. The training requirement may be satisfied by educational activities substantially devoted to planning, zoning, or other land use issues, such as 1) attending conferences, seminars or workshops; 2) participating in on-line training or tutorials; 3) attending fully accredited New York State colleges; 4) reading journal articles or books; or 5) any other educational activities considered acceptable by the Town Board. Training may be offered by a municipality, regional or county planning office or commission, county, regional or state planning federation, state agency, statewide municipal association, college or university or other similar entity.

4. A record of annual completion of training shall be maintained by the Chairpersons of the Town Planning Board and the Town Zoning Board of Appeals and copies of all Certificates of Attendance shall be provided to the Town Board (send to the Confidential Secretary to the Supervisor, who will provide copies in Town Board Correspondence) and Town Clerk, on or before December 31st of each calendar year. Eligibility for reappointment to these Boards shall be conditioned upon completion of the minimum number of hours for training prior to the end of each calendar year.

5. After the first full year of appointment, suitable training in excess of eight (8) hours per calendar year may be accumulated and carried over into the succeeding calendar year, with the maximum of four (4) hours being credited in the succeeding calendar year for the purpose of satisfying these training requirements. In no event shall excess training be accumulated and carried over into any additional year of the member's remaining term of office.

6. Suitable training for the Town's representative on the Ontario County Planning Board shall be the minimum established by the County and shall be in addition to the eight (8) hours of annual training mandated for Town Planning Board and Town Zoning Board of Appeals members specified above herein.

7. Suitable training, up to a maximum total of twelve (12) hours, for the person that is identified by the Town Board who is to be appointed to serve either on the Town Planning

Board, or the Town Zoning Board of Appeals, may be accumulated during a maximum period of up to twelve (12) months prior to appointment, on either Board, by the Town Board. In the event said person receives less than the maximum of twelve (12) hours, then the total number of hours of suitable training received during the twelve (12) month period prior to appointment may be combined with additional suitable training received during the first year of appointment, up to a maximum of twelve (12) hours, to satisfy the first full calendar year's requirement for training.

8. The respective Chairpersons of the Planning Board and Zoning Board of Appeals shall not exceed the budgeted contractual lines in their respective budgets in paying for the training (when required) without the expressed approval of the Town Board with a budget amendment approved by the Town Board.

21. Submittal Dates

Submittal dates for all new Zoning Board of Appeals applications are approved yearly by the Farmington Town Board. Appendix A represents 2023 approved Zoning Board of Appeals submittal dates.

22. Annual Summary Report

The Chair of the Zoning Board of Appeals shall provide to the Town Board an annual summary report describing the ZBA's conformance to training requirements, significant matters under review during the prior calendar year, key personnel changes, and plans for the coming year. This report shall be submitted to the Town Supervisor not later than first Town Board meeting following the first ZBA meeting of the following year.

23. Amendments

These Rules of Procedure may be amended from time to time by the Board upon resolution to amend.

24. Filing of Rules of Procedure

All adopted Rules of Procedure shall be filed with the Town Clerk's Office and the Town Development Office, posted on the Town website and made available for public inspection upon demand.

25. Effective Date

All adopted Rules of Procedure shall become effective upon their filing in the Office of the Farmington Town Clerk.

26. Distribution

Certified copies of the Board Rules of Procedure shall be filed by the Clerk of the Board with the members of the Zoning Board of Appeals, the Town Clerk, the Town Board, the Town Attorney, the Town Code Enforcement Officers, the Town Development Office Administrator and the Town Director of Planning and Development. An electronic copy shall be provided to all the ZBA members.

27. Conflict with New York State Town Law or Farmington Town Code

If any of these Rules of Procedure conflict with New York State Town Law, or any section of the Farmington Town Code, the text of said Law or Code shall take precedence and that (those) portion(s) of these Rules of Procedure shall be amended accordingly. In any event, only the portion(s) found to be in conflict shall be amended with the remainder of the rules retaining their effectiveness.

28. New Information Received

In the event an applicant submits new information pertaining to a matter under consideration by the Board, and provided the Board has not closed the Public Hearing record, said Board may consider such new information provided the public has been provided the opportunity to review and comment upon the new information. However, once the Board has closed the Public Hearing, no new information may be received or considered by the Board when rendering its decision.

29. Rehearing/Reconsideration of Actions

The Board may not reconsider or recall a decision made upon an application. A new application may be considered by the Board as the result of a majority plus one vote of the Board and based upon the findings set forth in Chapter 165, Section 97.C of the Farmington Town Code.

BE IT FINALLY RESOLVED that the Board does hereby direct the Clerk of the Board to file certified copies of these Rules of Procedure along with the above referenced attachments hereto with all persons listed in #26 above as well as to cause the placement of these Rules of Procedure with the attachments on the Town's Official Website.

■ The above Resolution was offered by MS. BINNIX and seconded by MS. COCHRANE at a regularly scheduled meeting of the Town of Farmington Zoning Board of Appeals held on February 27, 2023.

Following discussion thereon, the following voice vote was taken and recorded:

Jody Binnix	AYE
Tom Lay	AYE
Tod Ruthven	AYE
Kelly Cochrane	AYE
Thomas Yourch	AYE

Motion carried.

I, Sarah Mitchell, Clerk *Pro Tem* of the Board, do hereby certify to the above resolution and to its being acted on by the Zoning Board of Appeals at a meeting held on February 27, 2023.

Sarah Mitchell L.S.

Sarah Mitchell
Clerk *Pro Tem* of the Town of Farmington Zoning Board of Appeals

Zoning Board of Appeals 2023

Application Submittal Deadline 12:00 pm	County Meeting Submittal Deadline 12:00pm	Zoning Board Meeting 7:00 p.m.
December 27, 2022	December 28, 2022	January 23, 2023
January 23, 2023	January 25, 2023	February 27, 2023
February 27, 2023	February 22, 2023	March 27, 2023
March 27, 2023	March 29, 2023	April 24, 2023
April 24, 2023	April 26, 2023	May 22, 2023
May 22, 2023	May 24, 2023	June 26, 2023
June 26, 2023	June 28, 2023	July 24, 2023
July 24, 2023	July 26, 2023	August 28, 2023
August 28, 2023	August 30, 2023	September 25, 2023
September 25, 2023	September 27, 2023	October 23, 2023
October 23, 2023	October 25, 2023	November 27, 2023
November 27, 2023	November 23, 2023	December 18, 2023

***NOTE: Incomplete applications will be pushed to the following application submittal time frame**

Applications requiring variances may be delayed until such time as variance(s) have been granted

Certain applications involve property that is located within distances requiring a referral from the town to the County Planning Board for their review and recommendation report prior to the local board having jurisdiction to take action. These distances are spelled out in Section 239-l of the New York State General Municipal Law. When this affects the property in question additional time is required for the County's review and referral. The local board will not schedule a public hearing upon an action until it knows that these provisions have been complied with.