

Alna Planning Board By-Laws

Municipality of Alna, Maine

Adopted August 6, 2020

Article 1 General Provisions

1.1 Business of the Board shall be conducted in accordance with Maine Revised Statutes Annotated and local ordinances, as applicable. The Planning Board may employ Roberts Rules of Order or the Moderators Manual Rules.

1.2 Planning Board members are expected to be knowledgeable of laws, ordinances, regulations, and Board policies and to abide by them.

1.3 While serving on the Board it is reasonably expected for the individual to make a sincere effort to attend all meetings, site visits and hearings. Board business and decision-making is based on having a quorum and having a collective institutional knowledge. Active interaction with other board members and the public is an expectation of the position. Passive and non-contributory behavior is not beneficial. Lack of attendance does not serve the interest of the town and the individual should then take the initiative to resign or be removed upon recommendation to the Selectmen.

1.4 It is the obligation of planning board members in time to develop a familiarity with these Bylaws and the content of various ordinances under the control of the Board.

1.5 While board members typically represent/comprise a spectrum of personal occupations, income levels, interests and membership in outside organizations, all participation in planning board matters should be conducted ethically.

1.5.1 Despite personal preferences, all discussion, decisions and voting should be balanced and reflective as to what is in the overall interest of the town and its citizens vs. advancing private agendas/preferences. Doing otherwise is not in the interest of the town and the individual should then take the initiative to resign or be removed upon recommendation to the Selectmen.

1.5.2 At times situations may arise where board members are put in a position of perceived or actual conflict of interest either professionally or personally. This should be immediately brought to the attention of the Board. If a conflict is found to exist, it should be noted in the meeting minutes and the board member should abstain from voting on the matter.

Article 2 Membership

2.1 Appointments

2.1.1 Initial appointments to the Board shall be made by the Board of Selectmen following adoption of these bylaws by the Board. Appointees shall be legal residents of the Town. The Board shall consist of 5 members and 2 alternate members. The term of each full voting member shall be 5 years except that the initial terms shall be staggered such that 2 members shall be appointed to 3 year terms, 1 member to a 4 year term and 2 members to 5 year terms. The term of alternate members shall be 5 years. Such terms may be extended at the discretion of the Board of Selectmen.

2.1.2 When there is a permanent vacancy, the Board of Selectmen shall appoint a person to fill the vacancy to the current fiscal year end, i.e. January 31. A vacancy shall occur upon the resignation or death of any member, or when a member ceases to be a voting resident of the town, or when a member fails to attend without cause or unexcused absence four (4) consecutive regular meetings, or fails to attend at least 75% of all meetings during the preceding twelve (12) month period. When a vacancy occurs, the Chairperson of the Board shall immediately so advise the Board of Selectmen in writing. The Board may recommend to the Board of Selectmen that the attendance provision be waived for cause, in which case no vacancy will then exist until the Board of Selectmen disapprove the recommendation. The Board of Selectmen may remove members of the Planning Board by unanimous vote, for cause, after notice and hearing.

2.2 Officers and their duties

2.2.1 The officers of the Board shall consist of the Chairperson and a Vice-Chairperson. The Chairperson and Vice-Chairperson shall be full voting members of the Board.

2.2.2 The Chairperson shall preside at all meetings and hearings of the Planning Board. The Chairperson has the authority to appoint all committees, to call all work sessions, designate which alternate member shall serve in place of a regular member, and to preside over executive sessions. The Vice-Chairperson shall act for the Chairperson in his or her absence.

2.2.3 The Secretary shall be a Board member. The Board of Selectmen may contract for preparation of meeting minutes. The Secretary shall be responsible for the minutes and records of the Board, agendas of regular meetings and special meetings with the Chairperson, notice of the meetings and hearings, correspondence of the Board, and other duties that are normally carried out by a secretary. The Secretary shall keep a record of all resolutions, votes, transactions, correspondence, findings, and conclusions of the Board. All records shall be deemed public and may be inspected during normal business hours. The Secretary shall also carry out whatever duties are normally the responsibilities of the Treasurer.

2.3 Election of Officers

2.3.1 Nomination of officers shall be made from among all regular and alternate members of the Board at the annual organizational meeting which shall be held on the first regular Planning Board of the calendar year, and the election shall follow immediately thereafter. The candidate receiving a majority vote shall serve until his or her successor shall take office.

2.3.2 Vacancies of officers shall immediately be filled by regular election procedures.

2.4 Alternate Board Members

2.4.1 An Alternate member may attend all meetings and fully participate in the proceedings but may vote only when designated by the Chairperson to sit for a member except that the Alternate member may vote on housekeeping matters.

2.4.2 When a member is unable to participate because of a conflict of interest, absence or any other reason satisfactory to the Chairperson, the Chairperson shall designate on a rotating basis an alternate member to act for the regular member until the case is decided.

2.5 Employees

2.5.1 The Board may employ such staff and/or experts as provided in local ordinances or regulations within budget limitations and according to municipal contracting and personnel procedures to aid the Board in its work. Appointments shall be made by a majority vote of the entire membership.

Article 3 Powers and Duties

3.1 The Board shall perform such duties and exercise such powers as are provided in the municipal ordinances and the laws of the State of Maine.

3.2 The Board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

Article 4 Meeting Organization

4.1 Regular Meetings

4.1.1 Meetings shall be scheduled at least once monthly at a mutually agreed upon time. Meetings need not be scheduled should there be no business before the Board. The meeting shall be at the Town Office or another venue if the Town Office is not available or insufficient to accommodate expected attendance. The Chairperson may schedule special meetings on 24 hours' notice to the members and the general public. Any such special meetings shall be deemed necessary to address an unexpected occurrence that requires immediate action to

protect the public. Any action taken at an emergency meeting shall be confirmed at the next regular meeting.

4.1.2 All meetings shall be open to the public except Executive sessions.

4.1.3 No official business may be conducted without a quorum present. A quorum shall consist of 3 members. It shall not include anyone who cannot participate due to a conflict of interest. "Conflict of interest" means direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family, to his or her employer, or the employer of any member of the person's immediate family. It shall also include a situation where the Board member by reason of his or her interest is placed in a situation of temptation to serve his or her own personal, occupational or organizational interest instead of the public's interest. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members present except the member who is being challenged.

4.1.4 In the event a quorum is not present the Board members are authorized to request that the Chairperson reschedule the meeting to another date and to adjourn the meeting. If the date is other than a regular meeting date the Secretary shall have the responsibility of providing adequate notice to the Board members, municipal officials and the general public.

4.1.5 All comments addressed to the Board or to applicants before the Board shall be made through the Chairperson.

4.1.6 All matters shall be decided by a vote. A minimum of three affirmative votes is needed to pass any motion. When a motion results in a tie vote the motion fails.

4.1.7 All decisions must be based on whether the applicant has provided sufficient evidence to prove that all applicable law and ordinance requirements have been complied with.

4.2 Agendas

4.2.1 Regular meeting agendas shall follow the following format:

1. Call to order and determine the presence of a quorum.
2. Review and approval of minutes of the previous meeting and correspondence.
3. Old Business
4. New Business
5. Other
6. Adjournment

If a public hearing has been scheduled for an application before the Board, it shall be held after the initial presentation by the applicant to the Board.

4.2.2 Agendas shall be posted in the Town Office and the Post Office and in addition emailed to the Board members and posted to the Town's email distribution list, if any, at least 7 days before the meeting with the exception of Special meetings as provided for in §4.1.1. Agendas shall include pertinent descriptions of each item to be considered by the Board and expected action by the Board.

4.2.3 Each monthly agenda shall have no more than three public hearings. No application, legislative, public hearing or any other major items of business shall exceed one-hour time of that agenda. The applications may consist of a new or in process applications and shall include their respective public hearings. These time slots may be increased in length by majority vote of the Board. If additional time is required the matter may be tabled until all the other agenda items are concluded, at which time the Board may, by majority, vote to reopen the discussion. If the Board decides the agenda item requires further discussion, the item shall be placed on the agenda of the next regular meeting or on the agenda of a Special meeting held at the convenience of the applicant, Board members and Alternate members.

4.2.4 New applications shall be placed on the next Board agenda consistent with the submission deadlines of the applicable ordinances. The Board reserves the right to revise the order of business on the agenda. Advertising, abutter notification and filing fees are payable in full at the time of submission. The applicant shall be notified of the meeting's date and time. At the initial or subsequent meeting unless otherwise provided for by applicable ordinance, the Board shall make written findings as to whether the application is complete and notify the applicant of the Board's determination. If the application is found complete, it shall be made available at the Town office for public inspection.

4.2.5 The Board may by majority vote determine that an application is routine and of such a minor nature as to warrant a decision by the Board rather than posting the application for a future meeting.

4.3 Work Sessions

4.3.1 The Chairperson may, with the approval of the majority of the Board, call work sessions for the purpose of updating the ordinances and bylaws and other work items relating to the Board's activities, providing the public is notified. A quorum shall be present to conduct any business.

4.3.2 Work sessions are open to the public. The general public shall be barred from addressing the Board. If a Board member asks to hear a person, the Chair may allow them to speak.

4.4 Executive Sessions

4.4.1 Upon a vote of at least 3 of the members present and voting, the Board may call for an Executive session to meet with the Town Attorney about pending or potential litigation.

4.4.2 It shall be the Chairperson's responsibility to ensure that only that business for which the session was called will be discussed, and that no official action be taken.

4.5 Site Walks

4.5.1 The purpose of the site walk is for collecting information related to physical factors of a site under consideration by the Board.

4.5.2 Site walks shall be conducted like a regular meeting and decisions shall not be made during the site walk. Notice of a site walk shall be posted at all locations Planning Board meetings are posted.

4.5.3 The public may attend site walks but there will be no public comment or input allowed regarding the application during the site walk to any Board member unless allowed by the Chairperson.

4.5.4 Minutes shall be taken during the site walk and shall be made available to the Board, the applicant and the public prior to the next meeting at which the application will be considered.

4.6 Ex Parte Communications

Ex Parte Communication is "an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given..." and shall be avoided.

4.6.1 All Board members shall refrain from discussing pending or potential applications with each other outside of Board meetings. Communications with the public regarding pending or potential applications shall also be avoided. Where communications take place inadvertently, they must be disclosed completely to the Board in the next scheduled public session. This includes all email communication.

4.6.2 Any gathering of three regular or alternate members outside of scheduled meetings where any Planning Board application matters are discussed shall be avoided as it would likely be considered ex parte communication. Any inadvertent gathering where Planning Board application matters were inadvertently discussed shall be reported publically and completely at the next scheduled public session for purposes of proper disclosure.

4.6.3 No Board member may conduct independent site walks to project locations. All such visits must be conducted as part of a scheduled Planning Board site visit.

Article 5 Hearings

5.1 The Board by majority vote at a regular or special meeting may schedule a public hearing on any application within the time limits established by state law or local ordinances or on any item the Board determines to be of sufficient public interest to warrant a public hearing.

5.2 If a public hearing is held, it shall be conducted prior to the Board rendering a decision on an application. The public hearing shall be advertised in accordance with State Law and Town ordinances and posted in places usually used for public notices, at the expense of the applicant. The notice shall contain a clear and concise statement of the application to be addressed. Notification shall be in accordance with State law and Town ordinances. If the Board holds a public hearing on an application for which a public hearing is not required by Town ordinance, the Board shall notify by mail the Board of Selectmen, abutting property owners and the owners of properties within 500 feet of the project parcel. The owners of properties shall be considered to be those against whom taxes are assessed.

5.3 The Board will strive to conduct public hearings in a fair and efficient manner that permits a thorough exploration of the issues to be considered.

5.4 The order of business.

5.4.1 The Chairperson calls the hearing to order and determines whether there is a quorum.

5.4.2 The Chairperson then describes the purpose of the hearing, the nature of the application before the Board and the general procedures to be followed.

5.4.3 The Board determines whether the applicant has sufficient right, title or interest to appear before the Board.

5.4.4 The Board determines whether it has jurisdiction over the application.

5.4.5 The applicant is given the opportunity to present his or her case without interruption.

5.4.6 The Board may then ask questions of the applicant through the Chair.

5.4.7 The Chairperson opens the public hearing and recognizes individuals requesting to speak, generally beginning with the municipal officers, abutters and ending with any other member of the public. The Chairperson shall provide as a matter of policy for exclusion of irrelevant, immaterial, or unduly repetitious evidence.

5.4.8 During the public hearing, all statements must be made through the Chairperson and all questions and discussion between the public, the applicant and Board members must be made through the Chairperson.

5.4.9 The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued at a later date. All interested parties shall be notified of the date, time and place of the continued hearing, and the reasons for the continuance.

5.4.10 Upon such request made prior to or during the course of the hearing, the Chairperson may permit persons participating in any hearing pursuant to these by-laws to file evidence and written statements with the Board for inclusion in the record after the conclusion of the hearing within such time and upon such notification to the other participants as the Chairperson may require. Any such evidence and written statements must be submitted within 48 hrs. of the beginning of the public hearing.

5.4.11 The Board and its consultants have the right to prepare findings and conclusions at any public meeting prior to the decision being finalized.

5.5 The Board may waive any of the above rules upon good cause shown by majority vote.

Article 6 Decisions

6.1 Decisions by the Board shall be made within the time limits established by the state law and local ordinances and regulations. A minimum of three affirmative votes is needed to pass any motion. When a motion results in a tie vote the motion fails.

6.2 The final decision on any matter before the Board shall be issued as a written order signed by the Chairperson or designee. The transcript or testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, and signed minutes of the meetings/hearings shall constitute the record. All decisions shall become part of the record and shall include a specific statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial therefore. At a minimum, the record should specifically state that the applicant has/ has not met all applicable state statutory requirements, all applicable municipal ordinances, and all applicable municipal regulations and those legal documents shall be specifically referenced.

6.3 The Board in reaching said decision shall be guided by standards specified in the applicable statute, ordinance, or regulation as well as by community goals and policies as specified in a Comprehensive Plan, if any, and by the findings of the Board in each case.

6.4 Notice of any decision, including the findings and conclusions/minutes, shall be sent by mail or hand delivered to the applicant, his representative or agent within 30 days of being rendered.

6.5 Decisions of the Board shall be immediately filed in the Town office and shall be made public record. The date of the filing of each decision shall be entered in the official records and minutes of the Board.

Article 7 Appeals

7.1 Appeal of the decision of the Board is governed by state law and local ordinances.

Article 8 Amendments

8.1 The By-laws may be amended by a majority vote of the Board at a regularly scheduled meeting.

Article 9 Severability

9.1 The invalidity of any section or provision of these by-laws shall not be held to invalidate any other section or provision of these by-laws.

Adopted by vote of the Alna Planning Board at a regular meeting on August 6, 2020.
Chairperson Jeffrey Spinney