

November 1, 2023

From: Lyman Planning Board

To: Lyman Town Manager/Select Board

Subject: Revised Planning Board By-Laws

The Town of Lyman Charter, Section 5.1.2, states that Boards shall adopt By-Laws, subject to approval by the Select Board.

The Planning Board has reviewed the By-Laws approved by the Planning Board in August 2023, and revised the By-Laws to conform to comments provided by the Town Manager. The Planning Board voted to approve the revised By-Laws at its November 1, 2023 meeting.

Attached for your review and referral to the Select Board for approval is a copy of the revised By-Laws. Please provide any comments or questions in writing.

Sincerely,

Handwritten signature of Rod Tetu, dated 11/01/2023.

Rod Tetu, Chair

Attachments:

1. Approved Planning Board By-Laws dated November 1, 2023
2. Revised Planning Board By-Laws dated November 1, 2023, showing changes from the By-Laws dated August 16, 2023

Article 1 - General Provisions

- 1.1 The Planning Board (hereafter referred to as The Board) will conduct its business in accordance with Maine Revised Statutes Title 30A and 38; Town of Lyman Zoning Ordinance and Shoreland Zoning Ordinance (hereafter referred to as the LZO's); Town of Lyman Street Acceptance, Design and Construction Standards Ordinance; Planning Board Land Development and Subdivision Standards; the Town of Lyman Municipal Charter; and Roberts Rules of Order.
- 1.2 The Board members are expected to review State and Local regulations to become knowledgeable with the regulations, and with Board Policies and Procedures.
- 1.3 Conflict of Interest. The Board members are required to consider applications and make decisions impartially. Any conflict of interest must be avoided. It is expected that a Board member will recuse him/herself from consideration of an applicant's project if the Board member is aware of a conflict of interest.

Types of conflict of interest may include:

- a. Financial interest in a project.
 - b. Blood/Marital relationship to the applicant within the 6th degree (see Attachment 4, Table of Consanguinity from the Maine Municipal Association Planning Board Manual).
 - c. Board member bias as described in Section 1.4.
- 1.4 Bias. Bias may be indicated by a Board member's behavior or statements such that the Board member is perceived to be unable to make an impartial decision. Also, bias may be indicated by a personal or business relationship between the Board member and the applicant such that the Board member may be perceived as being unable to impartially judge the merits of the applicant's project.

The Board member subject to the bias allegations may choose to recuse him/herself from the discussion of the applicant's project, and an alternate member may be designated by the Chair to be a full member for the consideration of the project.

Burden of Proof/Board Procedure. The burden of proving bias is on the applicant. Any allegations of bias exhibited by a Board member must be accompanied by specific written examples of the alleged bias. The Board member shall be given adequate time, but no less than 24 hours, to review the bias allegations and an opportunity to respond to the allegations. The Board may vote to suspend action on the applicant's project until the alleged bias is adjudicated.

The Board should review allegations of bias in open session. After reviewing the bias allegations and the Board member's response, the Board (without the Board member accused of bias) shall vote on the issue in open session.

- 1.5 Board member discussions/email or other correspondence. To avoid violations of the Freedom of Access Act (FOAA) and the constitutional right to due process, Board members should NOT have discussions with other Board members regarding an application or other substantive Board business outside an advertised Board meeting. Delivery of substantive information between meetings by email may be permissible as long as it is a one-way communication and no discussion of the information occurs outside the meeting by email or otherwise.

Article 2 - Membership

- 2.1 Appointments to The Board are to be made by the Town Manager with the concurrence of the Select Board, and in accordance with the Town of Lyman Municipal Charter.
- 2.2 Appointees must be registered voters, and residents of Lyman.
- 2.3 The Board will consist of five full members and two alternate members.
- 2.4 The term of each member is three years, unless otherwise specified by the Select Board.
- 2.5 Any member of The Board may be removed for just cause in accordance with Title 30A M.R.S.A., Section 2601, the Town of Lyman Municipal Charter and LZO 8.2.5. The term just cause shall include failure to attend three consecutive Board meetings without approval of the Chair.

Article 3 - Officers and their Duties

- 3.1 The officers of The Board shall consist of the Chair, Vice-Chair, and Secretary. The Chair and Vice-Chair are to be full members.
- 3.2 The Chair presides at all meetings and hearings of The Board. The Chair has the authority to appoint all committees and to call all work sessions and to preside over executive sessions.
- 3.3 The Vice-Chair acts for the Chair in the Chair's absence.
- 3.4 The Secretary is responsible to coordinate all minutes and records of The Board, notices of meetings and hearings, and correspondence of The Board.
- 3.5 The election of officers shall take place in July of each year or as soon as possible thereafter.

Town of Lyman, Maine
Planning Board Bylaws – November 2023

- 3.6 Nominations of officers shall be made from full voting members of The Board. The candidates receiving a majority vote are elected. The term of office is one year or until the successor takes office.
- 3.7 Vacancies of officers listed in Article 3.1 will be filled using normal election procedures.

Article 4 - Alternate Members

- 4.1 Alternate Board members are expected to attend all meetings and workshops and may participate in all proceedings but may not vote on a project that is before the Board unless the Chair has designated an alternate to fill a full member's seat for that project. Alternate members may sign plans and use permits on a project when they have been designated by the Chair to fill the seat of a full member.

Article 5 - Planning Board Administration

- 5.1 The Planning Board Clerk provides administrative support to The Board, and, in coordination with the Secretary, is responsible for all minutes and records of The Board, notices of meetings and hearings, and correspondence of The Board. The Planning Board Clerk must keep records of all resolutions, votes, transactions, correspondence, findings and conclusions of The Board. All records are public information and may be inspected during normal business hours of the Planning Board Clerk with proper notice.
- 5.2 The Secretary shall maintain approved copies of the Board By-Laws and Mission Statement.

Article 6 - Powers and Duties of the Board

- 6.1 The Board shall perform such duties and exercise such powers as are provided in Municipal Ordinances and Planning Board Regulations and the laws of the State of Maine.

Article 7 - Meetings

- 7.1 Regular meetings are to be held on the 1st and 3rd Wednesday of each month at a time specified by The Board. Meetings are held at the Town Office or another Town Approved meeting place. Use of the Lyman Elementary School for meetings shall be requested through the Town Manager.

Special meetings may be called by the Chair, or upon request of a majority of The Board, or as requested by the Select Board, provided that notice thereof is given to each Board member at least 24 hours in advance and that no business may be conducted other than as specified in said notice.

Town of Lyman, Maine
Planning Board Bylaws – November 2023

Refer to Attachment 3 for notification requirements.

All meetings of The Board shall be held in accordance with the Maine Freedom of Access Act, Maine Revised Statute Title 1, Chapter 13, Public Records and Proceedings and the requirements of the LZO's

Notice of all Board meetings shall be given as required by law, and all such meetings shall be open to the public except as otherwise provided by law. Notice of meetings shall be posted at the Lyman Town Hall, and on all official Town digital media platforms, at least one working day before the scheduled meeting. Requests to Town employees for posting Board meetings shall be made in a timely manner.

Refer to Attachment 1 for sample Planning Board Meeting Opening Remarks.

- 7.2 All meetings are open to the public with exception of an Executive Session. Normally, with the exception of a public hearing, the public is barred from addressing The Board or applicant during a meeting, unless The Board by a majority vote permits the public to speak.
- 7.3 A Board meeting cannot take place without a quorum present. A quorum will consist of three members without any of the three having a conflict of interest with any of the projects before the Board. The Board may conduct regular business but will not be able to hear anything having to do with the project with the conflict, unless another member arrives that has no conflict of interest.
- 7.4 In the event a quorum is not present for a Board meeting, workshop or site walk, the Board shall reschedule with proper notice by the Clerk.
- 7.5 All comments addressed to The Board must be made through the Chair.
- 7.6 A majority vote of The Board is required to pass any motion. The Chair is a full voting member.
- 7.7 When a motion results in a tie vote the **Motion Fails**.
- 7.8 All project decisions made by The Board are based on the project meeting all Local, State and Federal Laws, Rules and Regulations.

Article 8 - Agendas

- 8.1 All agendas are set by The Board or the Chair.

Town of Lyman, Maine
Planning Board Bylaws – November 2023

- 8.2 Normal meeting agendas are to be posted in accordance with State statute. Special meetings and workshops will be noticed and posted as per section 7.1 of this by-law.
- 8.3 New applications, when deemed complete and in accordance with the regulations by the Code Enforcement Officer and The Board, may be placed on the next available agenda as determined by The Board, subject to Board meeting and public hearing requirements.

Article 9 – Public Hearings

- 9.1 Public hearings of The Board shall be called as required by the LZO's or on such other occasions, as a majority of The Board may deem appropriate. Notice of all such hearings shall be given as required by law and the LZO's, and shall include the date, time and place of the hearing and a general description of the subject matter.

Refer to Attachment 3 for notification requirements.

The Chair shall convene all hearings by describing the purpose of the hearing and the general procedures to be followed. The Board may receive any oral or documentary material but shall exclude irrelevant, immaterial or unduly repetitious material. Every party shall have the right to present its material in the order determined by the Chair and without interruption, provided, however, that the Chair may impose such reasonable time limits as may be necessary to ensure that all parties have an adequate opportunity to be heard.

Refer to Attachment 2 for sample Planning Board Public Hearing Opening Remarks.

Article 10 - Executive Sessions

- 10.1 Upon a majority vote of the Board members present, the Board may call an executive session to discuss a personnel issue with a Board member or to discuss pending or potential litigation with the Town Attorney. Within the executive session the Chair is responsible to ensure that only the matter at hand is discussed and that no official action be taken. No votes shall be taken in executive session.

Article 11 - Amendments

- 11.1 The By-Laws may be amended by a majority vote of The Board at a regularly scheduled meeting, and then submitted to the Select Board for approval in accordance with the Town Charter.

Town of Lyman, Maine
Planning Board Bylaws – November 2023

Article 12 - Severability

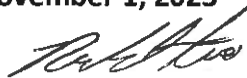
12.1 The invalidity of any section or provision of these By-Laws does not invalidate any other section or provision of these By-Laws.

Attachments:

1. Sample Planning Board Meeting Opening Remarks
2. Sample Planning Board Public Hearing Opening Remarks
3. Notification Requirements for Board Meetings, Site Walks, Public Hearings, and minimum time for Site Walks and Public Hearings
4. Table of Consanguinity
5. Remote Participation Policy

ADOPTED BY VOTE OF THE PLANNING BOARD AT A REGULAR MEETING ON:

November 1, 2023

 11/01/2023

Rod Tetu Chair

Attachment 1

PLANNING BOARD MEETING OPENING REMARKS

Welcome to the (date) meeting of the Lyman Planning Board. This meeting will come to order. This is a public proceeding and unless the Board specifically votes to go into executive session, you have the right to hear everything that is being said and to look at all the exhibits that are offered. If the Board votes to go into executive session, the reason for the same shall be stated. Please notify the Chairman if you are having difficulty seeing or hearing. This meeting is being recorded for YouTube.

In each instance, the burden is upon the applicant to demonstrate compliance with the provisions of the applicable ordinance or ordinances.

After the Board votes on the merits of each project it will prepare a written opinion which will be forwarded within seven (7) days.

The Board works from a prepared agenda and will be considering this meeting's items in the following order:

ROLL CALL

- Determine if PB quorum is present. Designate alternate as voting member if necessary.

REGULAR MEETING NEW BUSINESS

- List applicants
- List other meeting topics

MINUTES

- Review and approve minutes

OLD BUSINESS/MAIL/OPEN ISSUES

- List applicants/status
- Discuss mail
- Discuss any other open issues

Attachment 2

**PLANNING BOARD
PUBLIC HEARING OPENING REMARKS**

Welcome to the (Date) Planning Board Public Hearing

This hearing will come to order.

**The Lyman Planning Board is holding this Public Hearing to review the
applications of:**

This is a public proceeding and you have the right to hear everything that is being said and to look at all the exhibits that are offered. Please notify the Chairman if you are having difficulty seeing or hearing the presentation.

This meeting is being recorded and televised on YouTube.

All persons speaking will be asked to first state their name and address or affiliation. All questions and comments will be directed to and through the Chairman. It is required that you sign the sign in sheet to document your attendance at this hearing.

Thank you in advance for your cooperation.

Attachment 3

Planning Board Notification and Minimum Time Requirements

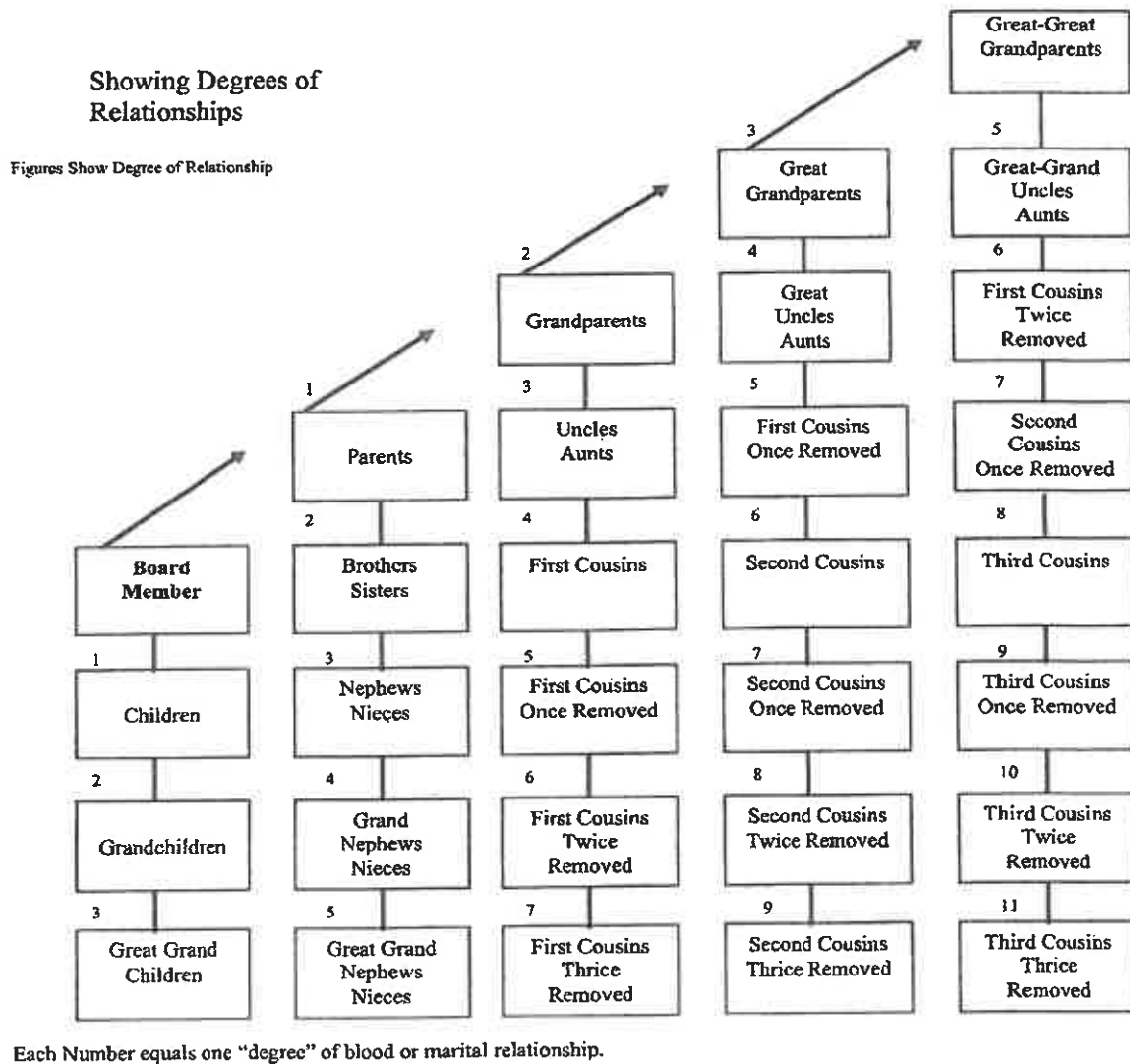
1. PB Meetings and Site Walks – Publish notice **one week** in advance on Town Web/BB/Sign.
2. PB Public Hearings on SPR and Preliminary Subdivision Application – Notify CEO, SB, and ZBA **20 days** in advance; Using list provided by applicant, notify abutters **20 days** in advance by certified mail; Publish notice **two weeks** in advance on Town Web/BB/Sign/Library; Publish notice **once** in newspaper **14 days** in advance.
3. PB Public Hearings on Contract Zoning SPR - Notify CEO, SB, and ZBA **20 days** in advance; Using list provided by applicant, notify abutters **20 days** in advance by certified mail; Publish notice **two weeks** in advance on Town Web/BB/Sign/Library; Publish notice **twice** in newspaper, first notice at least **14 days** in advance, second notice at least **7 days** in advance.
4. PB Public Hearing on LZO Amendments - Notify CEO, SB, and ZBA **20 days** in advance; Using list provided by applicant, notify abutters **20 days** in advance by certified mail; Publish notice **two weeks** in advance on Town Web/BB/Sign/Library; Publish notice **twice** in newspaper, first notice at least **14 days** in advance, second notice at least **7 days** in advance. **NOTE** - refer to **Lyman Charter Section 3.15.4** for additional requirements to place LZO Amendments on Town ballot.
5. **Minimum Time** between PB vote that **SPR application is complete** or **acceptance of Subdivision Preliminary Plan** and **Site Walk/Public Hearing**:
 - a. Site Walk – **10 days** to allow publishing notice on Town Web/BB/sign
 - b. Public Hearing – **four weeks** to allow required notification of CEO, SB and ZBA

Abbreviations/notes:

BB – Bulletin Board in Town Hall	PB – Planning Board
CEO – Code Enforcement Officer	SB – Select Board
Days – calendar days	Sign – Illuminated sign in front of Town Hall
Library – Community Library; 10 John Street	SPR – Site Plan Review per LZO Article 8
LZO – Town of Lyman Zoning Ordinance	Web – Town of Lyman Website; lyman-me.gov
Newspaper – a newspaper of general circulation	ZBA – Zoning Board of Appeals; refer to LZO Article 9

Attachment 4

Table of Consanguinity



Attachment 5

Town of Lyman Planning Board
Remote Participation Policy

Pursuant to 1 M.R.S. § 403-B, and after public notice and hearing, the Town of Lyman Planning Board (PB) adopts the following policy to govern the participation, via remote methods, of PB members and the public in the public proceedings or meetings of the PB.

PB Members are expected to be physically present for meetings except when not practicable, such as in the case of an emergency or urgent issue that requires the PB to meet via remote methods, or an illness or temporary absence of a member that causes significant difficulty traveling to the meeting location. All PB meetings will be accessible by Zoom or other remote platform when possible. A member who is unable to attend a meeting in person will notify the PB chair or presiding officer as far in advance as possible.

Remote methods of participation may include telephonic or video technology allowing simultaneous reception of information and may include other means necessary to accommodate disabled persons. Remote participation will not be by text-only means such as e-mail, text messages, or chat functions.

Applicants appearing before the PB may be allowed to participate via remote methods at the discretion of the PB Chair or designee.

The public will be provided a meaningful opportunity to attend via remote methods when any PB member or applicant participates via remote methods. If public input is allowed or required at the meeting, an effective means of communication between the PB members and the public will also be provided. The PB chairperson may instruct the moderator to force mute members of the public who are disruptive to the proceedings. The public will also be provided an opportunity to attend the meeting in person unless there is an emergency or urgent issue that requires the entire PB to meet using remote methods.

Notice of all meetings will be provided in accordance with 1 M.R.S. § 406 and any applicable charter, ordinance, policy, or bylaw. When the public may attend via remote methods, notice will include the means by which the public may access the meeting remotely and will provide a method for disabled persons to request necessary accommodation to access the meeting. Notice will also identify a location where the public may attend the meeting in person. The PB will not restrict public attendance to remote methods except in the case of an emergency or urgent issue that requires the PB to meet using remote methods of attendance.

The PB will make all documents and materials to be considered by the PB available, electronically or otherwise, to the public who attend remotely to the same extent customarily available to the public who attend in person, provided no additional costs are incurred by the PB.

