

Kennebunkport Zoning Board of Appeals
SPECIAL MEETING
September 14, 2021 @ 6:00 P.M.
32 North Street, Village Fire Station Meeting Room

A meeting of the Kennebunkport Zoning Board of Appeals was held on Tuesday, September 14th, 2021, at the Kennebunkport Village Fire Station. The meeting convened at 6:00 p.m.

Members Present: Mr. Paul Cadigan (Chair), April Dufoe, Jim Fitzgerald, Kevin McDonnell, Karen Schlegel

Others Present: Werner Gilliam

Mr. Cadigan opened the meeting, performed a roll call, and confirmed a quorum.

Mr. Cadigan then read each of the agenda items noting approval of this new policy will allow the Zoning Board of Appeals, under certain circumstances, to hold meetings electronically.

Mr. McDonnell asked what the other Boards in town are doing and if the Board of Selectmen's meetings are still remote. Mr. Cadigan commented the Planning Board has gone through this same process we're doing tonight to adopt a policy to hold remote meetings. Mr. Gilliam explained yes, the Board of Selectmen have made a similar resolution as well as the Planning Board and gone back to meeting remotely. It was Town Counsel's recommendation that all the Boards that serve in a quasi-judicial capacity, in other words, those Board's decisions that carry a certain level of weight according to state law, that those Boards go through this process of reviewing and adopting the same policy each individually. Other Boards that do not hold the same level of governance and authority are subject to the Board of Selectmen's authority and discretion in directing them on how to handle their meetings, Mr. Gilliam added. Groups like the Growth Planning Committee, not a judicial regulatory board, and many of our other committees all fall in the same category so they didn't need to go through this process as outlined in the statute, Mr. Gilliam concluded.

Mr. Cadigan asked other than the Board of Selectmen, Planning Board, and the Zoning Board of Appeals, are there any others? Mr. Gilliam replied there is the Board of Assessment Review, however when an applicant comes to that Board it has gone through a lengthy process so where our assessor has not received any of those applications, we have not pursued having that Board go through this process at this time. Mr. Gilliam added should we get an application that could come before the Board of Assessment Review, and at that point if we are still in the current state we're in, at that point we would pursue having the same type of meeting with that Board.

Mr. Cadigan noted there are no pending applications before this Zoning Board of Appeals at this time. Mr. Gilliam agreed with Mr. Cadigan's statement.

1. Consider Zoning Board of Appeals Remote Meeting Policy and Receive Public Comment – *The Zoning Board will vote on whether they wish to adopt policy allowing remote participation of Board members and the public.*

Mr. Cadigan read the Remote Participation Policy in its entirety; a copy of which is attached to these minutes.

Mr. Fitzgerald made a motion the Remote Participation Policy from the Kennebunkport Zoning Board of Appeals be accepted. Ms. Schlegel seconded the motion, and the vote was unanimous amongst all 5 members of the Board.

Mr. Cadigan asked all members present to sign the copy of the Remote Participation Policy. Mr. Cadigan presented the signed copy of the Zoning Board of Appeals Remote Participation Policy to Mr. Gilliam.

2. Consider Zoning Board Resolution Regarding Urgent Public Health Concerns – *The Zoning Board will vote on whether to resume virtual meetings using the Zoom platform.*

Mr. Cadigan noted he did not ask for public input prior to the last agenda item since there is one member of the public in attendance and he has previously expressed he has no desire to make any input at this meeting.

Mr. Cadigan read the draft Resolution in its entirety; a copy of which is attached to these minutes.

Mr. Cadigan asked the Board members if they had any questions. The Board members had no questions.

Mr. Cadigan again asked if there were any members of the public for comments or questions. There were no questions or comments from the public.

Mr. Fitzgerald made a motion to adopt the Resolution of the Zoning Board of Appeals Remote Participation Policy of September 14th, 2021. Mr. McDonnell seconded the motion, and the vote was unanimous amongst all 5 members of the Board.

Adjournment: A motion was made to adjourn; it was seconded, and the vote was unanimous.

Submitted by: Patricia Saunders, Recording Secretary

REMOTE PARTICIPATION POLICY

(Town of Kennebunkport Zoning Board of Appeals)

Pursuant to 1 M.R.S. §403-B, and after public notice and hearing, the above-named body adopts the following policy to govern the participation, via remote methods, of members of the body and the public in the public proceedings or meetings of the body.

Members of the body 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 body to meet via remote methods, or an illness or temporary absence of a member that causes significant difficulty traveling to the meeting location. The chair or presiding officer of the body, in consultation with other members if appropriate and possible, will make a determination that remote methods of participation are necessary in as timely a manner as possible under the circumstances. A member who is unable to attend a meeting in person will notify the chair or presiding officer of the body 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.

The public will be provided a meaningful opportunity to attend via remote methods when any member of the body participates via remote methods. If public input is allowed or required at the meeting, an effective means of communication between the body and the public will also be provided. 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 body 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 body will not restrict public attendance to remote methods except in the case of an emergency or urgent issue that requires the body to meet using remote methods of attendance.

The body will make all documents and materials to be considered by the body 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 body.

All votes taken during a meeting using remote methods will be by roll call vote that can be seen and heard if using video technology, or heard if using audio technology only, by other members of the body and the public. A member of the body

who participates remotely will be considered present for purposes of a quorum and voting.

This policy will remain in force indefinitely unless amended or rescinded.

Dated: 9/14/2021

Signed:

Resolution

Kennebunkport Zoning Board of Appeals

A recently adopted amendment to the open meetings law permits public meetings to be held remotely provided that the public can attend remotely. The Zoning Board of Appeals adopts the Remote Participation policy dated September 14, 2021, which covers meetings held by the Zoning Board of Appeals. The CDC has recently designated York County as having "substantial" transmission rates of the COVID virus as a result of, among other things, the increasing prevalence of the Delta variant of the virus. As a result of this "emergency or urgent issue," the Zoning Board of Appeals finds that being physically present for board meetings at this time is not practicable, and therefore requires a return to holding public meetings by remote technology/methods. Zoom links for these meetings will be provided on agendas and on the Town website.