

TOWN OF
DENMARK, MAINE
"Beautiful by Nature"



PROPOSED

AMENDMENTS TO THE ZONING ORDINANCE
OF THE MUNICIPALITY OF DENMARK, MAINE

SECTIONS 8.8. & 8.9.

8.8. Board of Appeals.

8.8.1. Appointment and Composition.

8.8.1.1. The Board of Appeals shall consist of 7 members appointed by the Municipal Officers. Members shall be Town of Denmark legal residents or State of Maine legal residents paying real estate taxes on property within the Town of Denmark, with appointment preference given to Denmark legal residents. Members shall serve staggered terms of 3 years. A quorum shall consist of 4 members. The Board of Appeals shall elect annually a chairperson from its membership. The secretary shall keep the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board of Appeals shall be public record.

8.8.1.2. Neither a Municipal Officer, Planning Board member, Town Manager, or the Code Enforcement Officer, nor the staff or spouses or significant others of any of the foregoing may serve as a member of the Board of Appeals.

8.8.1.3. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members present and voting, excepting the member whose potential conflict is under consideration.

8.8.1.4. A member of the Board of Appeals may be dismissed for “just cause” by the Municipal Officers after notice and hearing. The term “just cause” shall include, but not be limited to, failure to attend 3 consecutive Board of Appeals meetings or Public Hearings without sufficient justification.

8.8.2. Powers and Duties.

8.8.2.1. Administrative Appeals.

~~8.8.2.1.1. To hear and decide appeals where it is alleged there is an error made in any order, requirement, decision, or determination by the Code Enforcement Officer or the Planning Board in the administration of this Ordinance. The action of the Code Enforcement Officer or the Planning Board may be affirmed, modified with conditions, or reversed by the Board of Appeals, by concurring vote of a majority of those present and voting, but by at least 3 members of the Board of Appeals. Except where explicitly excluded by this Ordinance, the Board of Appeals shall have jurisdiction to hear and decide where it is alleged there is an error made in the administration of this Ordinance. Where it has jurisdiction, the Board of Appeals, by majority vote of those present and voting, but by no fewer than 3 members of the Board of Appeals, may affirm, modify with conditions, or reverse a prior decision.~~

8.8.2.1.1.1. A tie vote or a favorable vote by less than 3 members shall be considered a rejection of the application under consideration.

8.8.2.2. Variance Appeals.

8.8.2.2.1. The Board of Appeals shall grant a variance only by a concurring vote of a majority of those present and voting, but by at least 3 members of the Board of Appeals. In so doing, the Board of Appeals may prescribe conditions and safeguards as are appropriate under this Ordinance.

8.8.2.2.1.1. A tie vote or a favorable vote by less than 3 members shall be considered a rejection of the application under consideration.

8.8.2.2.2. Undue Hardship Variance.

As used in this Ordinance, an Undue Hardship Variance is authorized only for structure height, lot area, setbacks and size of structures or size of yards or open spaces. Establishment or expansion of a structure or use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the Zoning District or uses in adjoining Zoning Districts. The Board of Appeals may grant an Undue Hardship Variance only where strict application of an applicable provision of this Ordinance to the applicant and his or her property would cause Undue Hardship. The Applicant must satisfactorily demonstrate to the Board of Appeals conformance with all four of the following "Undue Hardship" tests:

8.8.2.2.2.1. That the land in question cannot yield a reasonable return unless a variance is granted;

8.8.2.2.2.2. That the need for a variance is due to the unique circumstances of the property and not the general conditions in the neighborhood;

8.8.2.2.2.3. That the granting of a variance will not alter the essential character of the locality; and

8.8.2.2.2.4. That the hardship is not the result of action taken by the applicant or a prior owner.

8.8.2.2.3. Practical Difficulty Variance.

As used in this Ordinance, a Practical Difficulty Variance is authorized only for Dimensional Standards (meaning lot area, lot coverage, frontage, and setbacks) for properties not located in the Shoreland District. Establishment or expansion of a structure or use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the Zoning District or uses in adjoining Zoning Districts. The Board of Appeals may grant a Practical Difficulty Variance only where strict application of an applicable provision of this Ordinance to the Applicant and his or her property would cause a Practical Difficulty. The Applicant must satisfactorily demonstrate to the Board of Appeals conformance with all six of the following Practical Difficulty tests:

8.8.2.2.3.1. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;

8.8.2.2.3.2. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

8.8.2.2.3.3. The practical difficulty is not the result of action taken by the applicant or a prior owner;

8.8.2.2.3.4. No other feasible alternative to a variance is available to the applicant;

8.8.2.2.3.5. The granting of a variance will not unreasonably adversely affect the natural environment; and

8.8.2.2.3.6. The property is not located in whole or in part within a Shoreland District.

8.8.2.2.4. Disability Variance.

The Board of Appeals may grant a Disability Variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board of Appeals shall restrict any Disability Variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board of Appeals may impose conditions on the Disability Variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. For purposes of this subsection, a disability has the same meaning as a physical or mental disability in accordance with the Maine Revised Statutes Annotated. The term “structures necessary for access to or egress from the dwelling” is defined to include railing, wall, or roof systems necessary for the safety or effectiveness of the structure. The Board of Appeals may grant a Disability Variance to an owner of a dwelling who resides in the dwelling and who is a person with a permanent disability for the construction of a residential garage or place of storage and parking for a noncommercial vehicle owned by that person and for no other purpose. The person with the permanent disability shall prove by a preponderance of the evidence that the person's disability is permanent. All medical records submitted to the Board of Appeals and any other documents submitted for the purpose of describing or verifying a person's disability are confidential. The Applicant must satisfactorily demonstrate to the Board of Appeals conformance with all the relevant following Disability Variance – Garage/Storage/Parking tests:

8.8.2.2.4.1. The person with a disability resides in the dwelling;

8.8.2.2.4.2. The installation of equipment or the construction or alteration of structures proposed under the application is/are necessary for access to or egress from the dwelling by the person with the disability;

8.8.2.2.4.3. The person with the permanent disability has satisfactorily proven that the person's disability is permanent;

8.8.2.2.4.4. The proposed garage construction is solely for the purpose of storing and parking a non-commercial vehicle owned by the owner of the dwelling; and

8.8.2.2.4.5. The width and length of the garage structure will not be larger than 2 times the width and length of the non-commercial vehicle;

8.8.2.3. The Town will notify Maine Department of Environmental Protection (DEP) of all variance applications at least 20 days prior to a Board of Appeals hearing.

8.8.3. Conditional Use Appeal.

~~8.8.3.1.1. Conditional Use appeals shall proceed from the Planning Board to the Superior Court. Planning Board decisions regarding Conditional Use Permits are final and are not appealable to the Board of Appeals.~~

8.8.4. Enforcement Appeals.

~~8.8.4.1. Appeals from Code Enforcement Officer enforcement decisions such as Notice of Violations, shall proceed to Superior Court. Notices of violation and enforcement orders issued by the Code Enforcement Officer are not appealable to the Board of Appeals.~~

8.8.5. Appeal Procedure.

8.8.5.1. Any person aggrieved by an action which comes under the jurisdiction of the Board of Appeals must file such application with the Board of Appeals on forms approved by the Board of Appeals, and the applicant shall specifically describe the basis of the appeal. Applications should be filed within 30 days of the granting or denial of a permit.

8.8.5.2. The applicant shall pay the fee for an administrative appeal or a variance set forth on Town of Denmark Fee **Schedule and** shall be responsible for any additional costs to the Board of Appeals for hearing the appeal.

8.8.5.3. Administrative Appeals from actions by the Code Enforcement Officer shall be decided on an "appellate" basis, which means that the Board of Appeals must limit its review to the record established by the official whose decision is the subject of the appeal and to the arguments of the parties. No new review evidence may be accepted.

8.8.5.4. Variance Appeals from actions by the Code Enforcement Officer or Planning Board shall be decided on a "de novo" basis, which means that the Board of Appeals

starts the review process from scratch, holding its own hearing, creating its own record, and making its own independent judgment of whether a project should be approved based on the evidence in the record which the Board of Appeals creates.

8.8.5.5. The Chairperson shall conduct a preliminary review of appeals applications for completeness at which time more information may be requested from the Applicant. If and when the Chairperson finds the necessary information has been provided from the Applicant, **the Applicant shall submit ten complete copies of the application and any supporting documents, and ten 11"X17" copies of the main site plan (if any), and 3 full size copies of all site plans and related drawings to the Board of Appeals Secretary at the Town of Denmark Municipal Building at least ten days prior to the meeting at which they are scheduled to be considered.** The Chairperson will **then** call a regularly scheduled meeting of the Board of Appeals for final review of completeness. Upon the Board of Appeals finding the application complete, a Public Hearing on the application shall be scheduled within 45 days. The Board of Appeals shall cause notice of the date, time and place of Public Hearings including the location of the building or lot, and the general nature of the question(s) involved, to be published in a newspaper of general circulation in the Town of Denmark, at least 7 days prior to the Public Hearing. The Board of Appeals shall also cause notice of the Public Hearing to be given to the Municipal Officers, the Town Manager, the Planning Board, and the Code Enforcement Officer.

8.8.5.5.1.1. At least 10 days prior to the date of the Public Hearing, the Applicant shall cause notice by certified return receipt mailing of the Public Hearing to be given to and received by all Denmark property owners within 500 feet of the subject property. The property owners shall be considered to be those against whom taxes are assessed. The notice shall include at least the following information: (a) The name and contact information of the Applicant appealing; (b) A brief description of the property involved; (c) A brief description of the decision appealed from or the nature of the variance appeal, and: (d) The time and place of the Public Hearing. The Applicant shall timely provide to the Board of Appeals a copy of the notice and proof of the certified mailings. Failure of any property owner within 500 feet of the subject property to receive a notice of any Public Hearing does not necessitate another Public Hearing or change in date of a Public Hearing, or invalidate any action at a Public Hearing taken by the Board of Appeals – all providing the locations of said property owners and their contact information is obtained by the Applicant from Town of Denmark records.

8.8.5.6. If the Board of Appeals schedules a site visit, the Board shall cause notice of the date, time and place of the site visit to be published in a newspaper of general circulation in the Town of Denmark, at least 7 days prior to the site visit. The Board of Appeals shall also cause notice of the site visit to be given to the Municipal Officers, the Town Manager, the Planning Board, and the Code Enforcement Officer.

8.8.5.6.1. At least 7 days prior to the date of the site visit, the Applicant shall cause notice by certified return receipt mailing of the site visit to be given to and

received by all Denmark property owners within 500 feet of the subject property. The notice shall include at least the following information: (a) The name and contact information of the person / entity appealing; (b) A brief description of the property involved; (c) A brief description of the decision appealed from or the nature of variance appeal, and; (d) The time and place of the site visit. The Applicant shall timely provide to the Board of Appeals a copy of the notice and proof of the certified mailings. Failure of any property owner within 500 feet of the subject property to receive a notice of any site visit does not necessitate another site visit or change in date of a site visit – all providing the locations of said property owners and their contact information are obtained by the Applicant from Town of Denmark records.

8.8.5.7. The owners of property shall be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing or a site visit shall not necessitate another hearing or site visit or invalidate any action by the Board of Appeals.

8.8.5.8. At any hearing, a party may be represented by agent or an attorney. Hearings shall not be continued except for good cause.

8.8.5.9. The Code Enforcement Officer or designee shall attend all hearings unless excused by the Board of Appeals and may present to the Board of Appeals all plans, photographs, or other materials deemed appropriate for an understanding of the appeal.

8.8.5.10. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairperson.

8.8.5.11. Within 7 days of reaching a decision on an appeal, the Board of Appeals shall inform, in writing, the applicant, the Code Enforcement Officer, the Planning Board, the Town Manager, and Municipal Officers of its decision and its reasons therefore, as prescribed in accordance with the Maine Revised Statutes Annotated.

8.8.5.12. A variance under the provisions of this Ordinance secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within one year of the date on which the appeal is granted, and if the work or change is not substantially completed within two years.

8.8.5.13. If the Board of Appeals grants a variance, the Board of Appeals shall prepare, and the applicant shall record in the Oxford County Registry of Deeds, Findings of Fact and Conclusions of Law indicating the name of the current property owner, identifying the lot by reference to the last recorded deed in its chain of title, and indicating that a variance was granted, including any conditions imposed by the Board of Appeals and the date on which the variance was granted. The variance shall be invalid until the certificate is recorded and shall be void if the certificate is not recorded within 90 days of the date of the final written approval. A building permit related to the granted variance will be issued by the Code Enforcement Officer in due course after presentation of evidence of such recording and presentation of necessary building plans and specifications.

8.8.5.14. If the Board of Appeals denies an appeal, a second appeal of a similar nature shall not be brought before the Board of Appeals within one year from the date of the

initial denial by the Board of Appeals unless in the opinion of a majority of the Board of Appeals substantial new evidence shall be brought forward or unless the Board of Appeals finds that an error, mistake or misunderstanding of facts occurred at the initial Public Hearing.

8.8.5.15. A copy of all variances granted by the Board of Appeals within the Shoreland District shall be submitted to the Department of Environmental Protection within 14 days of the decision.

8.8.5.16. The Board of Appeals may reconsider any decision within 45 days of its prior decision. A request to the Board of Appeals to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the original decision. The Board of Appeals may conduct additional Public Hearings and receive additional evidence and testimony. Appeal of a reconsidered decision must be made within 15 days after the decision on reconsideration.

8.8.5.17. In evaluating each application, the Board of Appeals may request the assistance of the Southern Maine Planning & Development Commission, the Maine Municipal Association, County Soil and Water Conservation District and any other County, State or Federal agency which can provide technical assistance.

8.8.6. Application Procedure.

8.8.6.1. A person informed by the Code Enforcement Officer that a variance is needed may file an application using the Board of Appeals application form. All applications shall be returned to the Chairperson of the Board of Appeals at least 10 days prior to the next Board of Appeals meeting. The application shall be accompanied by ten complete copies of all applications and any supporting documents, and ten 11"X17" copies of the main site plan (if any), and 3 full size copies of all site plans and related drawings unless the Board of Appeals waives these requirements:

8.8.6.1.1. The name and address of the applicant (and/or the applicant's authorized agent);

8.8.6.1.2. A copy of the deed or other record of right, title or interest in the property;

8.8.6.1.3. The assessor's map and lot number;

8.8.6.1.4. The Section of this Ordinance which the variance request relates to;

8.8.6.1.5. The road or street name;

8.8.6.1.6. A date, scale and north arrow;

8.8.6.1.7. The zoning District where the premises in question is located;

8.8.6.1.8. All existing and proposed setback dimensions;

8.8.6.1.9. All the landscape areas, fencing, and size and type of plant material upon the premises in question;

8.8.6.1.10. The location of all existing and/or proposed buildings, if any, with

dimensions showing finished grade elevations at all corners and entrances, plus all existing or proposed parking areas, driveways and access from a public street;

8.8.6.1.11. Complete building elevation drawings of any proposed structures;

8.8.6.1.12. All existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed.

8.8.7. Board of Appeals Independent Consulting and Peer Review Fees.

8.8.7.1. Notwithstanding any other ordinance provision to the contrary and in addition to such fees as are otherwise required herein, the Board of Appeals shall assess fees to cover 100 percent of its costs related to independent engineering, surveying, , and similar professional consulting services. Such fees shall be subject to the following limitations:

8.8.7.1.1. Such consultation shall be limited to reasonable and necessary review, as allowed by the pertinent ordinance, that exceeds the expertise of Town staff or their ability to review the application materials within the time limits otherwise required by law;

8.8.7.1.2. Such fees shall be assessed only to recover costs directly associated with review of the application submitted by the applicant to whom they are assessed;

8.8.7.1.3. Such fees shall be reasonable in amount, based upon the consulting time involved and the complexity of the review;

8.8.7.1.4. The results of the consultation for which such fees are assessed shall be available for public review, but such results shall be deemed to have been made solely for the benefit of the Town and shall remain its property; and

8.8.7.1.5. Such fees shall be assessed for the privilege of review and shall be payable without regard to consultation results or the outcome of the application.

8.8.7.2. A non-interest-bearing account shall be established with the Town by the applicant to guarantee payment in advance of actual fees assessed pursuant to this Section. The original deposit shall be an amount specific to the application. If the balance in the escrow account shall be drawn down by 75%, the Town shall notify the applicant and require that an additional amount be deposited to cover the cost of remaining work. The Town shall continue to notify the applicant and require that an additional amount be deposited whenever the balance of the account is drawn down by 75% of the original deposit. Any excess amount deposited with the Town in advance shall be promptly refunded to the applicant after final action on the application.

8.8.7.3. This Section shall be administered by a Town employee responsible for administering the ordinance under which review is sought. No building permit shall be issued, nor subdivision plat released until all fees assessed hereunder have been paid in full.

8.8.8. Appeal of Board's Decision.

8.8.8.1. Any decision of the Board of Appeals may be appealed by an aggrieved party who participated in the Board of Appeals proceedings to Superior Court within 45 days after the decision is rendered according to the Maine Rules of Civil Procedure, Rule 80B. Local land use decisions that satisfy the definition of a "significant municipal land use decision" found in the Maine Revised Statutes Annotated may be appealed either by filing a complaint in the general Superior Court docket or the "Business Court" docket.

8.9. Planning Board.

8.9.1. General Permit Application Procedure.

8.9.1.1. The Planning Board is authorized to hear and decide upon applications for permits and approvals in accordance with State law and the provisions of this Ordinance.

8.9.1.2. Applications for permits shall be heard and decided upon by the Planning Board in accordance with the provisions of this Ordinance.

8.9.1.3. All applications for review or approval of the Planning Board shall be based upon a written decision of the Code Enforcement Officer.

8.9.1.4. The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove all applications for permits.

8.9.1.5. Upon submission of an application, the applicant shall pay the fee(s) for review and approval of the Planning Board as set forth on the Town of Denmark Fee Schedule, and shall be responsible for any additional costs to the Planning Board for processing the application.

~~8.9.1.6. Appeals of Planning Board decisions shall proceed from the Planning Board to Superior Court in accordance with State law.~~

~~8.9.1.67. Ten complete copies of all applications and any supporting documents, and ten 11"X17" copies of the main site plan (if any), and 3 full size copies of all site plans and related drawings shall be submitted to the Planning Board Secretary at the Town of Denmark Municipal Building at least ten days prior to the Planning Board meeting at which they are scheduled to be considered.~~

~~8.9.1.78. Types of permits and approvals to be processed by the Planning Board include, but are not limited to:~~

~~8.9.1.78.1. Conditional Use Permits~~

~~8.9.1.78.2. Shoreline District Foundation Permits +, including:~~

~~8.9.1.78.2.1. Place a new, enlarged, or replacement foundation under a non-conforming structure in the 100 foot buffer zone within the Shoreland District.~~

~~8.9.1.78.2.2. Place a foundation under non-conforming new additions or expansions of a non-conforming structure(s) in the 100 foot buffer zone within the Shoreland District.~~

~~8.9.1.78.2.3. Place a foundation under a non-conforming relocated~~

structure in the 100 foot buffer zone within the Shoreland District.

8.9.1.78.2.4. Place a foundation under a non-conforming new structure in the 100 foot buffer zone within the Shoreland District.

8.9.1.78.2.5. place a foundation under other circumstances in the 100 foot buffer zone within the Shoreland District.

~~8.9.1.8.2.6. Place a new residential principal or accessory structure in the Shoreland District.~~

8.9.1. ~~78~~.3. Other permits and approvals – as provided herein.

8.9.1. ~~78~~.4. The above permits and approvals are collectively identified as “Planning Board Permits” for purposes of this Section 8.9.

8.9.2. General Planning Board Permits Procedures.

~~8.9.2.1.~~ A person informed by the Code Enforcement Officer that a Planning Board Permit is required shall file an application for the permit with the Planning Board on forms provided by the Code Enforcement Officer or the Town Clerk’s office for the purpose. The Applicant shall submit ten complete copies of the application and any supporting documents, and ten 11”X17” copies of the main site plan (if any), and 3 full size copies of all site plans and related drawings to the Planning Board Secretary at the Town of Denmark Municipal Building at least ten days prior to the meeting at which they are scheduled to be considered. For Planning Board Permits located within any part of a Shoreland District, a photographic record of preconstruction conditions of the area anticipated to be disturbed and of the vegetation along the entire shorefront shall be submitted with the application. All plans and application materials for Planning Board Permits presented for approval shall show the information noted in the appropriate division of Appendix C, Application Requirements for Planning Board Permits unless the Planning Board waives any of the requirements. Completed applications shall be submitted to the Planning Board Secretary at the Town of Denmark Municipal Building. The Secretary, in coordination with the presiding officer of the Planning Board, shall schedule a Public Meeting to review the application for completeness.

~~8.9.2.2.~~ Within 35 days of determining a complete application has been submitted, and before taking action on any application, the Planning Board shall hold a Public Hearing on the application. The Planning Board shall notify the applicant, Code Enforcement Officer, Municipal Officers, the Town Manager, and the Board of Appeals, at least 10 days in advance of the time and place of the hearing and shall publish notice of the hearing at least 7 days in advance in a newspaper of general circulation in the area.

~~8.9.2.3.~~ In cases when more time, public reaction, and/or information is needed and/or more time for gathering, reviewing, and evaluating new and additional information, materials, and testimony is needed, or due to the lateness of the hour, the application review times shall be appropriately extended and Public Hearings may be suspended or continued, and reconvened at later dates.

~~8.9.2.4.~~ At least 10 days prior to the date of the Public Hearing, the Applicant shall cause notice by certified return receipt mailing of the Public Hearing to be given to and received by all Denmark property owners within 500 feet of the subject property. The property

owners shall be considered to be those against whom taxes are assessed. The notice shall include at least the following information: (a) The name and contact information of the person / entity appealing; (b) A brief description of the property involved; (c) A brief description of the decision appealed from or the nature of s variance appeal, and: (d) The time and place of the Public Hearing. The Applicant shall timely provide to the Planning Board a copy of the notice and proof of the certified mailings. Failure of any property owner within 500 feet of the subject property to receive a notice of any Public Hearing does not necessitate another Public Hearing or change in date of a Public Hearing, or invalidate any action at a Public Hearing taken by the Planning Board – all providing the locations of said property owners and their contact information is obtained by the Applicant from Town of Denmark records.

8.9.2.5. The Planning Board may schedule a site walk for Planning Board members and the public to physically inspect the property or site of the subject permit. If there is a refusal to allow the public onto the site, the Planning Board will cancel the site visit so as not to be in violation of State Statutes. Without a site walk, the Planning Board will not have the ability to view the site firsthand to properly assess the merits of the application.

8.9.2.6. At least 7 days prior to the date of the site visit, the Applicant shall cause notice by certified return receipt mailing of the site visit to be given to and received by all Denmark property owners within 500 feet of the subject property. The notice shall include at least the following information: (a) The name and contact information of the Applicant; (b) A brief description of the property involved; (c) A brief description of the decision appealed from or the nature of s variance appeal, and: (d) The time and place of the site visit. The Applicant shall timely provide to the Planning Board a copy of the notice and proof of the certified mailings. Failure of any property owner within 500 feet of the subject property to receive a notice of any site visit does not necessitate another site visit or change in date of a site visit – all providing the locations of said property owners and their contact information are obtained by the Applicant from Town of Denmark records.

8.9.2.7. At any hearing, a party may be represented by an agent or attorney.

8.9.2.8. The Code Enforcement Officer or designee shall attend all hearings and may present to the Planning Board all plans, photographs, or other materials deemed appropriate for an understanding of the application.

8.9.2.9. The applicant’s case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair.

8.9.2.10. In order to secure information upon which to base its determination, the Planning Board may require the applicant to furnish, in addition to the information required for a Planning Board Permit, the following information:

8.9.2.10.1. A plan of the area showing contours at intervals to be determined by the Planning Board and referred to Mean Sea Level, high water elevation, groundwater conditions, bedrock, slope and vegetative cover.

8.9.2.10.2. A soils report identifying the soils boundaries and names in the proposed development with the soil’s information superimposed upon the plot

plan in accord with the USDA Natural Resources Conservation Service National Cooperative Soil Classification.

8.9.2.10.3. Other pertinent information necessary to determine if the proposed development or use meets the provisions of this Ordinance.

8.9.2.10.4. In evaluating each application, the Planning Board may request the assistance of Town, Regional, County, State, or Federal agency which can provide technical assistance.

8.9.2.10.5 The Planning Board may engage the services of consultants and legal to help with the review of application materials in accordance with provisions included hereinafter.

8.9.2.11. Upon consideration of the factors applicable to Planning Board Permits, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purposes of this Ordinance and to assure that the standards of this Ordinance are met. Violation of any of these conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for; type of vegetation, increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls; professional inspection and maintenance; sureties; deed restrictions, restrictive covenants; locations of piers, docks, parking and sign, type of construction; or any other conditions necessary to fulfill the purposes of this Ordinance.

8.9.2.12. Within 35 days of the closing of the Public Hearing, the Planning Board shall make Findings of Fact and Conclusions of Law and approve, approve with conditions, or deny the permit application. The Planning Board shall inform, in writing, the applicant, the Code Enforcement Officer, the Municipal Officers, the Town Manager, and the Board of Appeals of its decision and its reasons therefore within seven days of making its decision.

~~If the Planning Board grants an approval, the Planning Board shall prepare, and the applicant shall record in the Oxford County Registry of Deeds, Findings of Fact and Conclusions of Law indicating the name of the current property owner, identifying the lot by reference to the last recorded deed in its chain of title, and indicating what approval was granted, including any conditions imposed by the Planning Board and the date on which the approval was granted. The approval shall be invalid until the certificate is recorded and shall be void if the certificate is not recorded within 90 days of the date of the final written approval. If a building permit related to the granted approval is required, the building permit application will be processed by the Code Enforcement Officer in due course after presentation of evidence of such recording and presentation of necessary building plans and specifications.~~

8.9.2.1314. Factors Applicable to Planning Board Permits.

8.9.2.1314.1. Prior to granting approval of an application for a Conditional Use Permit, the Planning Board shall make Findings of Fact and Conclusions of Law in accordance with the provisions of Appendix D

8.9.2.1314.2. Prior to granting approval of an application for a Shoreland District

Foundation Permit +, the Planning Board shall make Findings of Fact and Conclusions of Law in accordance with the provisions of Appendix E.

8.9.2.1314.3. Prior to granting approval of an application for other permits and approvals, the Planning Board shall make Findings of Fact and Conclusions of Law as determined by the Planning Board.

8.9.2.1415. A Planning Board Permit secured under the provisions of this Ordinance by vote of the Planning Board shall expire if the work or change involved is not commenced within one year of the date on which the application is approved, and if the work or change is not substantially completed within two years or if the use is not implemented within two years.

8.9.2.1516. Within 20 days of the completion of any construction within any part of a Shoreland District, the applicant shall submit to the Code Enforcement Officer post construction photographs that document conditions after construction. The photographs shall also include the entire Shoreland vegetation.

8.9.3. Conditional Use Permits – Additional Provisions

8.9.3.1. Conditional Use Permits shall be required for any new use or new structure, addition to or alteration of any existing use or structure identified in the Land Use Control Table as being a Conditional Use, the resumption of any Conditional Use on a continual commercial basis which has been discontinued for at least 5 years, and/or to any substantial increase or expansion in the volume or intensity of usage of a Conditional Use.

8.9.3.2. A Conditional Use Plan meeting the standards of this Ordinance shall be reviewed and approved by the Planning Board before any use may be approved, or before any Building Permit may be issued for any new building or construction.

8.9.3.3. No Conditional Use Permit shall be authorized unless specific provision for such Conditional Use is made in this Ordinance.

8.9.3.4. No changes shall be made in any Conditional Use Plan approved by the Planning Board without approval of that change by the Planning Board.

~~8.9.3.5. Appeals of Planning Board Conditional Use Permit decisions shall proceed from the Planning Board to Superior Court in accordance with State law. Planning Board decisions regarding Conditional Use Permits are final and are not appealable to the Board of Appeals.~~

8.9.3.6. .

8.9.4. Shoreland Permits – Additional Provisions

8.9.4.1. Placing of a foundation under a non-conforming structure in the 100-foot buffer zone within the Shoreland District shall also conform to the requirements of Section 1.4.4.3. of this Ordinance.

8.9.4.2. New structures and the expansion, relocation, reconstruction or replacement of a non-conforming structure in the 100-foot buffer zone within the Shoreland District shall also conform to the requirements of Section 1.4.4.7. and Section 1.4.4.8. of this

Ordinance.

8.9.4.3.

8.9.5. Subdivisions.

8.9.5.1. The application procedure for Subdivisions shall be as specified in the Town of Denmark Subdivision Regulations.

8.9.6. Planning Board Independent Consulting and Peer Review Fees.

8.9.6.1. Notwithstanding any other ordinance provision to the contrary and in addition to such fees as are otherwise required herein, the Planning Board shall assess fees to cover 100 percent of its costs related to independent engineering, surveying, legal, and similar professional consulting services. Such fees shall be the responsibility of the applicant and shall be subject to the following limitations:

8.9.6.1.1. Such consultation shall be limited to reasonable and necessary review, as allowed by the pertinent ordinance, that exceeds the expertise of Town staff or their ability to review the application materials within the time limits otherwise required by law;

8.9.6.1.2. Such fees shall be assessed only to recover costs directly associated with review (including reporting, testimony, and expenses) of the application submitted by the applicant;

8.9.6.1.3. Such fees shall be reasonable in amount, based upon the consulting time involved and the complexity of the review;

8.9.6.1.4. The results of the consultation for which such fees are assessed shall be available for public review, but such results shall be deemed to have been made solely for the benefit of the Town and shall remain its property; and

8.9.6.1.5. Such fees shall be assessed for the privilege of review and shall be payable without regard to consultation results or the outcome of the application.

8.9.6.2. A non-interest-bearing account shall be established with the Town by the applicant to guarantee payment in advance of actual fees assessed pursuant to this Section. The original deposit shall be an amount specific to the application and as estimated by the Planning Board to fund all anticipated and related costs and fees. If the balance in the escrow account shall be drawn down by 75%, the Town shall notify the applicant and require that an additional amount be deposited to cover the cost of remaining work. The Town shall continue to notify the applicant and require that an additional amount be deposited whenever the balance of the account is drawn down by 75% of the original deposit. Any excess amount deposited with the Town in advance shall be promptly refunded to the applicant after final action on the application.

8.9.6.3. Fees and escrow shall be administered by the Town of Denmark. No building permit may be issued, nor subdivision plat be released until all fees assessed hereunder have been paid in full.

ARTICLE 65. Shall the Town vote to enact the proposed revisions and amendments to the **Zoning Ordinance of the Municipality of Denmark, Maine Section 8.8 Board of Appeals.** Synopsis is below.

An attested copy of the full text of this ordinance section, redlined with the proposed revision or amendment is on file at the Town Office and on the Town’s website.

- *Clarifies jurisdiction of the Board of Appeals.*
- *Applicant shall submit with application:*
 - *10 copies of application and supporting document*
 - *10 copies of 11”x17” site plans along with 3 full size copies if applicable*
- *Certified mailing requirements are the responsibility of the applicant.*

Attest: A true copy of a revision/ amendment to the Zoning Ordinance of the Municipality of Denmark, Maine entitled “Section 8.8 Board of Appeals” as certified to me by the municipal officers of Denmark on the 25th day of April 2023.

Signature _____
Town Clerk, Denmark

ARTICLE 66. Shall the Town vote to enact the proposed revisions and amendments to the **Zoning Ordinance of the Municipality of Denmark, Maine Section 8.9 Planning Board.** Synopsis is below.

An attested copy of the full text of this ordinance section, redlined with the proposed revision or amendment is on file at the Town Office and on the Town’s website.

- *The cost associated with review of application shall be added to the application fee.*
- *Applicant shall submit with application:*
 - *10 copies of application and supporting document*
 - *10 copies of 11”x17” site plans along with 3 full size copies if applicable*
 - *Digital copy of application and supporting documents shall be submitted with application.*
- *Certified mailing requirements are the responsibility of the applicant.*
- *Delete: 8.9.1.8.2.6. Place a new residential principal or accessory structure in the Shoreland District.*
- *Delete: 8.9.2.13. If the Planning Board grants an approval, the Planning Board shall prepare, and the applicant shall record in the Oxford County Registry of Deeds, Findings of Fact and Conclusions of Law indicating the name of the current property owner, identifying the lot by reference to the last recorded deed in its chain of title, and indicating what approval was granted, including any conditions imposed by the Planning Board and the date on which the approval was granted. The approval shall be invalid until the certificate is recorded and shall be void if the certificate is not recorded within 90 days of the date of the final written approval. If a building permit related to the granted approval is required, the building permit application will be processed by the Code Enforcement Officer in due course after presentation of evidence of such recording and presentation of necessary building plans and specifications.*

Attest: A true copy of a revision/ amendment to the Zoning Ordinance of the Municipality of Denmark, Maine entitled “Section 8.9 Planning Board” as certified to me by the municipal officers of Denmark on the 25th day of April 2023.

Signature _____
Town Clerk, Denmark