

Land Use and Development Code Amendment: ZBA - Refunds

**Town of Gorham
Planning Board Meeting
March 7, 2022**

ITEM 1 - Land Use and Development Code – Public Hearing: – Zoning Board of Appeals – a proposed amendment to the Land Use & Development Code to allow a refund of Zoning Board of Appeals application fees.

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AMENDMENT TRACKING

DESCRIPTION	COMMENTS	STATUS
Town Council Meeting	The Town Council forwards the item to the Planning Board for a public hearing and recommendations. (6 ayes)	January 4, 2022
Planning Board - Meeting Discussion	Rescheduled from February 7, 2022. Planning Board forward the item on for a public hearing at the next available Planning Board meeting.	February 14, 2022
Planning Board – Public Hearing	The item is on for Public Hearing, so the Planning Board will need to open the item up for public comments.	March 7, 2022

The Planning Board refers to staff notes during the review process; however, it shall be noted that staff recommendations are noncommittal and all final decisions are those of the Planning Board and not Town Staff.

Memo completed by Thomas Poirier, Director of Community Development.

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1. Overview

The Planning Board had the item on for discussion at the February 14 meeting. The Planning Board discussed and concluded that the amendment was straight forward and should be placed on the next available Planning Board meeting for a public hearing. The Planning Board did not have any proposed changes to the Town Council's draft amendment language.

As a reminder that the item was forward by the Town Council to add a provision to the Land Use Code that grants a refund of the application fee to applicants should the Zoning Board of Appeals overturn a decision by the Code Enforcement Officer on an administrative appeal. Administrative appeals are when an applicant alleges there is an error in any order, requirement, decision, determination, and/or permit issued by the Code Enforcement Officer. The public notice fee would not be refunded back to the applicant because that is a cost necessary to post the item in the required print media.

The proposed new language drafted by the Town Council is shown in black and underlined.

Proposed Amendment:

Chapter 1: ZONING REGULATIONS SECTION 1-4 – BOARD OF APPEALS

D. APPEAL PROCEDURE

- 1) In all cases, a person aggrieved by a decision of the Code Enforcement Officer shall commence his appeal within thirty (30) days after issuance of a written decision by the Code Enforcement Officer. The appeal shall be filed with the Town Clerk on forms to be approved by the Board of Appeals, and the aggrieved person shall specifically set forth on said form the grounds for said appeal. A fee in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order shall be paid by the appellant to the Town of Gorham the time of filing his appeal, which shall not be refundable, except as otherwise provided in this subsection. Each appeal shall be filed on a separate form. A separate fee shall be assessed for each appeal except that a single fee shall be assessed for multiple appeals filed by the same appellant, concerning the same property, and scheduled to be heard by the Board of Appeals at the same proceeding.

- 14) Notwithstanding Section 1-4.D.1 above, in the event that the Board of Appeals reverses any order, requirement, decision, or determination made by the Code Enforcement Officer in conjunction with an administrative appeal filed under Section 1-4.B.1, the applicant shall be entitled to a refund of the application fee paid for that appeal within thirty (30) days of the date that the Board of Appeals' decision becomes final and unappealable

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PROPOSED MOTIONS:

Move to recommend adoption of the proposed Zoning Amendments for ZBA Refund under Chapter 1, Section 1-4 Zoning Board of Appeals to the Town Council (as amended by the Planning Board).