



**Office of the Building Official**

**CERTIFICATE OF COMPLETENESS**

APPLICANT \_\_\_\_\_ ADDRESS \_\_\_\_\_ PLAT \_\_\_\_\_ LOT \_\_\_\_\_

**DOCUMENTS SUBMITTED**

	APPLICANT	ZONING OFFICE
Application	_____	_____
Radius map	_____	_____
Abutter's List	_____	_____
Site Plan - Class I Survey	_____	_____
Building Plans (where applicable)	_____	_____
<u>Current Zoning Certificate</u>	_____	_____
Tax Collector report	_____	_____

\_\_\_\_\_  
Zoning Officer Signature

**DISCLAIMER**

**This Certificate of Completeness is given for the purpose of certifying that all required documents are included in the packet presented. It does not in any way confirm or render an opinion as to whether the application is proper or will be approved.**

**WEST WARWICK ZONING BOARD OF REVIEW**  
**APPLICATION FOR VARIANCE OR SPECIAL EXCEPTION**

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Official Use Only In This Block

Petition No: \_\_\_\_\_

Fee: \_\_\_\_\_

Date of Filing: \_\_\_\_\_

Date of Hearing: \_\_\_\_\_

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Proposed Use: \_\_\_\_\_

Present Use: \_\_\_\_\_

1. Applicant: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Owner: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Purchaser/Lessee \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Attorney: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Contact

Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

2. Location of Premises: \_\_\_\_\_

Tax Assessor's Plat(s): \_\_\_\_\_ Lot(s): \_\_\_\_\_ Zone(s): \_\_\_\_\_

Date of Purchase: \_\_\_\_\_

Is purchase subject to zoning relief being granted: Yes \_\_\_\_\_ No: \_\_\_\_\_

3. Dimensions of lot(s): Frontage: \_\_\_\_\_ Width: \_\_\_\_\_ Depth: \_\_\_\_\_ Area:(sf) \_\_\_\_\_

LIST ALL EXISTING BUILDING AND PRESENT USES

	Building Height	Area (sf)	Use	Length of Use
A)	_____			
B)	_____			
C)	_____			

4. Is this and application for:  
 DIMENSIONAL VARIANCE ( ) USE VARIANCE ( ) SPECIAL USE PERMIT ( )  
 APPEAL FROM DECISION OF BUILDING/ZONING OFFICIAL ( )  
 APPEAL FROM DECISION OF PLANNING BOARD ( )

5. If the Application is for a Dimensional or Use Variance, complete the following:

- A) The variance relates to:  
 Principal buildings \_\_\_\_ Accessory buildings\_\_\_\_ Land\_\_\_\_\_

Check all that apply:

- \_\_\_\_ % of Lot coverage      \_\_\_\_ Height      \_\_\_\_ Lot Area      \_\_\_\_  
 Set Backs      \_\_\_\_ Parking      \_\_\_\_ Signs  
 \_\_\_\_ Number of dwelling units      \_\_\_\_ Use      \_\_\_\_ Non-conforming use  
 Other (specify) \_\_\_\_\_

- B) Precise variance(s) sought:  
 List each applicable section of the Zoning Ordinance for which Variance is sought  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- C) 1. Describe the specific Variance sought: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 2. Describe extent of proposed alterations, additions or new building(s): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 3. Number of dwelling units for which building(s) is/are to be used: \_\_\_\_\_  
 \_\_\_\_\_  
 4. Is there public sewerage available? Yes \_\_\_\_ No \_\_\_\_

D) Describe the reason(s) the relief is requested for the specific variance listed above. Include peculiarity, loss of use, effect on surrounding property, alternative safeguards, etc.:

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6. If this is an application for a Special Use Permit, complete the following:

A) The Special Use Permit relates to:

Principal buildings \_\_\_\_ Accessory buildings\_\_\_\_ Land\_\_\_\_\_

B) Precise Special Use Permit sought:

(List specific section of Zoning Ordinance that indicates us is permitted by Special Use Permit)

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C) Summarize the reasons why the Special Use Permit should be granted. Refer to specific sections of the Zoning Ordinance that apply:

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7. If this is an appeal for the decision of the building/zoning official or from a Planning Board decision, state:

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**Note: Plans acted upon by the Board become incorporated as part of the decision and are final.**

I/We the undersigned, swear that all information given above to the best of my/our knowledge is complete and correct.

Applicant signature: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Owner signature: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Purchaser/Lessee \_\_\_\_\_ Date: \_\_\_\_\_  
signature \_\_\_\_\_

TIME TABLE AND FILLING REQUIREMENTS FOR  
VARIANCE AND SPECIAL USE PERMIT APPLICATIONS

HEARING DATES:

Technical Review Committee (TRC) –  
Planning Board (PB) – 6:00 pm, first (1<sup>st</sup>) Monday of every month.  
Zoning Board of Review (ZBR) – 7:00 pm, last Wednesday of every month (except  
January and July, no meeting).

FILING REQUIREMENTS:

ALL APPLICATIONS FOR ZONING MUST BE FILED WITH THE ZONING CLERK BY  
THE FIRST OF THE MONTH PRIOR TO THE MONTH IT WOULD ACTUALLY BE  
HEARD.

(Ex. – for March TRC and April PB and ZBR must be filed by March 1<sup>st</sup>)

DIMENSIONAL OR USE VARIANCE – MUST FILE TEN (10) COMPLETE  
PACKETS.

SPECIAL USE PERMIT – MUST FILE TEN (10) COMPLETE PACKETS.

PACKET CONTENT:

Each packet must include:

1. 26 or 18 Applications – Signed and dated original and 25 or 17 copies.
2. 26 or 18 Radius map – Mapping ALL abutting lots within 200 feet of perimeter of property.
3. 26 or 18 Abutter's list – Name and address of all abutters. (Note if more than one owner ALL must be listed. (Ex. – husband and wife, both must be listed)
4. 26 or 18 Site plans showing exactly what is proposed. (If prepared by a surveyor MUST be Class 1 survey.
5. 26 or 18 copies of CURRENT zoning certificate.
6. AN UP TO DATE STATEMENT FROM THE WEST WARWICK TAX COLLECTER INDICATING THE STATUS OF REAL ESTATE TAXES AND SEWER BILLS AND ASSESSMENTS RELATED TO THE LOT(S) FOR WHICH RELIEF IS REQUESTED. NO APPLICATION WILL BE ACCEPTED UNLESS ALL REAL ESTATE TAXES AND

SEWER BILLS AND ASSESSMENTS ARE PAID IN FULL.

COMPLETION REQUIREMENTS:

NO APPLICATION WILL BE ACCEPTED UNLESS APPLICATION IS COMPLETED IN FULL AND THE REQUIRED NUMBER OF ALL SUPPORTING DOCUMENTS ARE FILED.

HEARING PROCESS:

TRC – All applicants must appear before the TRC.

PB – All applicants for a Dimensional or Use Variance must receive a recommendation from either the PB or the Town Planner to the ZBR prior to appearance before the ZBR.

ZBR – All applicants must appear before the ZBR.

NOTICE REQUIREMENTS:

It is the responsibility of the Applicant to give notice of the ZBR hearing to ALL abutters, at least 14 days before the hearing by REGISTERED MAIL, RETURN RECEIPT REQUESTED, and to file an Affidavit of Notice and the Green Return Cards with the

Zoning Clerk PRIOR to the matter being heard by the ZBR. Every owner must receive his or her or its own notice. (Ex. – both husband and wife joint owners must receive their own notice.

NOTE: NO MATTER WILL BE HEARD UNTIL THE AFFIDAVIT OF NOTICE AND THE GREEN CARDS HAVE BEEN FILED WITH THE ZONING CLERK.

(EXAMPLE OF NOTICE AND AFFIDAVIT ATTACHED)

APPLICABLE LAW:

Applicant must comply with ALL provisions of the Zoning Code of the Town of West Warwick, specifically including, but not limited to, Section 9, Variances and Section 10 Special Use Permits.

EXAMPLE OF NOTICE OF PUBLIC HEARING

(INSERT DATE OF LETTER)

Name and address of abutter

To whom it may concern:

You are hereby notified that (INSERT NAME OF APPLICANT), as applicant and (INSERT NAME OF OWNER), as owner, have filed an application with the West Warwick Zoning Board of Review requesting a (INSERT DIMENSIONAL VARIANCE, USE VARIANCE, SPECIAL USE PERMIT all that apply) for property located at (INSERT ADDRESS OF PROPERTY).

A hearing will be held before the West Warwick Zoning Board of Review in the Town Council Chamber, Town Hall, 1170 Main St., West Warwick, RI, on Wednesday, (INSERT DATE OF MEETING), at 7 o'clock pm. You are invited to be present if you wish.

Yours truly,  
SIGNATURE OF APPLICANT, OWNER  
PRINT NAME BELOW SIGNATURE

EXAMPLE OF AFFIDAVIT OF NOTICE

STATE OF RHODE ISLAND  
COUNTY OF KENT

TOWN OF WEST WARWICK  
ZONING BOARD OF REVIEW

APPLICANT: INSERT NAME OF APPLICANT  
OWNER: INSERT NAME OF OWNER

PETITION NO. INSET PETITION NO.

AFFIDAVIT OF NOTICE

I, INSERT NAME OF PERSON GIVING NOTICE, being duly sworn, under oath depose and say that I caused to be mailed, certified mail, return receipt requested, a copy of the Notice of Hearing, to each of the

owners of property within 200 feet of the perimeter of the subject property on INSERT DATE OF MAILING.  
A copy of said notice and the abutters list is attached hereto and made part herof.

SIGNATURE OF PERSON MAILING  
NOTICE

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 201\_.

MUST ATTACHED A COPY OF NOTICE THAT WAS SENT AND A COPY OF ABUTTER'S LIST.

TOWN OF WEST WARWICK  
ZONING BOARD OF REVIEW

RULES OF PRACTICE AND PROCEDURE BEFORE THE  
TOWN OF WEST WARWICK  
ZONING BOARD OF REVIEW

APPLICATION FOR RELIEF

In all applications for Zoning relief a current zoning certificate from the building official must be filed.

REPRESENTATION

Any applicant that is a formal business entity registered with the Secretary of State, such as a corporation or LLC must be represented by an attorney.

An applicant that is a partnership may be represented by one of the partners or an attorney. An applicant that is an individual may represent himself or herself or an attorney.

Persons not licensed to practice law in the State of Rhode Island, such as architects, builders, engineers, etc. may not represent any applicant.

EXPERT TESTIMONY

Evidence that has been prepared by a professional such as a land surveyor, engineer, traffic expert, etc must be presented by the professional that did the preparation to respond to questions from the Board members.

For example:

Surveys will require the preparing surveyor to be present.  
Drainage will require the preparing engineer to be present.  
Compliance with the comprehensive plan will require a real estate expert.

## NOTICE

In all cases requiring certified notice to abutters the returned receipts AND Affidavit of Notice MUST be filed with the clerk before any hearing will be held.

## RULES OF CONDUCT

**ALL PERSONS WISHING TO ADDRESS THE MEETING MUST BE RECOGNIZED BY THE CHAIRPERSON BEFORE SPEAKING.**

## STANDARDS OF REVIEW

It is the applicant=s burden to satisfy the standards of review required for each type of relief sought. The following are a partial list of types of review and the standards that must be met by the applicant for the relief sought to be granted.

## DIMENSIONAL VARIANCE

The hardship from which relief is sought;

1. Is due to the unique characteristics of the subject land or structure and not the general characteristics of the surrounding area and is NOT due to a physical or economic disability of the applicant.
2. Is not the result of any prior action of the applicant and is not primarily to realize greater financial gain.
3. Will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan.
4. Is the least relief necessary.

5. If not granted the hardship will result in more than a mere inconvenience and that there will be no alternative legally permitted beneficial use of the property.

#### USE VARIANCE

The hardship from which relief is sought:

1. Is due to the unique characteristics of the subject land or structure and not the general characteristics of the surrounding area and is NOT due to a physical or economic disability of the applicant.
2. Is not the result of any prior action of the applicant and is not primarily to realize greater financial gain.
3. Will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan.
4. Is the least relief necessary.
5. The land or structure will not yield any beneficial use if it is required to conform to the zoning ordinance.

#### SPECIAL USE PERMIT

The proposed use:

1. Is compatible with neighboring land uses.
2. Will not create a nuisance in the neighborhood.
3. Will not hinder future development of the Town.
4. Will conform to all applicable sections of the zoning ordinance.
5. Is in conformance with the purposes and intent of the comprehensive plan.
6. The land or structure will not yield any beneficial use if it is required to conform to the zoning ordinance.

#### SPECIAL USE PERMIT ACCESSORY FAMILY DWELLING

1. Valid zoning certificate
2. Primary building only dwelling on lot.
3. Only 1 accessory family dwelling permitted.
4. No nonconformity or violation of town ordinances or codes exist.
5. No more than 2 bedrooms.
6. At least 1 additional parking space, not in minimum required front yard, required.
7. Not permitted if there exists a rooming house, home occupation, pre-existing accessory family dwelling unit, 2 or multiple family dwelling.

## WEST WARWICK ZONING CODE

### Section 9. Variances.

9.1 An application for relief from the literal requirements of the zoning ordinance because of hardship may be made by any person, group, agency, or corporation by filing with the town clerk an application describing the request and supported by such data and evidence as may be required by the zoning board of review or this ordinance. The town clerk shall immediately transmit each application received fully completed to the zoning board of review and shall transmit a copy of each application to the planning board.

9.2 In granting a variance the zoning board of review may apply special conditions as provided for in this ordinance.

9.3 The zoning board of review, immediately upon receipt of an application for a variance in the application of the literal terms of the zoning ordinance shall request that the Planning Board or Town Planner report its findings and recommendations, including a statement on the general consistence of the application with the goals and purposes of the comprehensive plan of the town, in writing to the zoning board of review within 30 days of receipt of the application from that board. The zoning board of review may refer a copy of the application to any other town departments, such as the public works department or fire department, for findings and recommendations on matters related to public health, safety and welfare.

9.4 Ten complete copies of the application must be submitted. The application shall include the following completed data in order to be placed on a hearing agenda.

9.4.1 A completed variance form indicating the variance sought and the grounds for the variance;

9.4.2 Names and addresses of all owners of the property within a 200-foot radius as measured from the perimeter of the subject property and as shown on the current real estate tax assessment records of the town;

9.4.2.1 If the subject property for which the variance is being requested lies within the BP business park zoning district, then the applicant shall also include the names and addresses of all owners of the property within said zoning district;

9.4.3 An accurate site map drawn at a scale of 1" = 20' (or 1" = 40') on a sheet(s) 24 inches by 36 inches showing the following for the subject property:

9.4.3.1 The shape, dimension, area and street number of the subject property;

9.4.3.2 The location, size and use of all existing and proposed conditions;

9.4.3.3 The zoning use district boundaries;

9.4.3.4 North arrow;

9.4.3.5 Title block in the lower right hand corner showing name(s) of the property owners; Assessor's plat and lot number of the subject property; date of plan; and a blank signature space for the Chairperson of the zoning board of review; and

9.4.3.6 Parking areas and all existing and proposed impervious surfaces, groundcover, and topography to a two-foot contour (existing and proposed) if any change in lot coverage, change in topography or impervious surface is proposed.

9.4.3.7 Such other information as may be necessary for the execution and enforcement of this chapter.

9.4.4 An accurate radius map drawn at a scale of 1" = 100' which includes:

9.4.4.1 A title block in the lower right hand corner showing name(s) of the property owner; assessor's plat and lot number of the subject property; and, date of plan;

9.4.4.2 For all property within a 200-foot radius as measured from the perimeter of the subject property:

The shape, dimension and area of the property;

The location of all zoning use district boundary lines; and

The street numbers and assessor's plat and lot numbers;

9.4.4.3 The general location, shape and use of all existing buildings and structures within a 200-foot radius of the subject property; and

9.4.4.4 Such other information as may be necessary for the execution and enforcement of this ordinance.

9.4.4.5 The application fee as set by the town council, to cover the costs associated with review, hearing, notice, and recording fee.

9.5 Variance procedure. The zoning board shall hold a public hearing on any application for variance within 30 days after receipt in proper form of an application and shall give public notice thereof at least 14 days prior to the date of the hearing in a newspaper of general circulation in the town.

9.5.1 Notification, including the date, time, place, purpose of the hearing, and street address of the subject property shall:

9.5.1.1 Be sent by first class mail to the applicant;

9.5.1.2 Be sent registered mail, return receipt requested, to all owners of real

property whose property is located at or within a 200-foot radius of the perimeter of the subject area, as measured from the corners of the subject area; such notice shall be sent to the last known address of such owners as shown on the current real estate tax assessment records of the town;

9.5.1.3 Be sent by first class mail to the city or town council of any city or town which is located at or within 200 feet of the perimeter of the subject area;

9.5.1.4 Be sent first class mail to the city or town council of any city or town where there is a public or quasi-public water source or private water source that is used or is suitable for use as a public water source, at or within 2,000 feet of the subject property, regardless of the municipal boundaries;

9.5.1.5 Be sent to the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource and/or watersheds and parcels of land within 2,000 feet thereof.

9.5.1.6 If the subject property for which the variance is being requested lies within the BP business park zoning district, then the notification is to also be sent registered or certified mail to all owners of real property whose property is located within the BP business park zoning district; such notice shall be sent to the last known address of such owners as shown on the current real estate tax assessment records of the town.

9.5.1.7 The cost of notification shall be borne by the applicant.

9.6 Determination. Any party may appear at the hearing in person, or by attorney. The hearing held by the zoning board of review is a public meeting and all decisions reached by the zoning board of review shall be made and voted upon at a public meeting. The board shall hear all evidence on the variance request, and consider the written reports of town staff when reaching a decision on the findings required.

9.7 Implementation, appeal.

9.7.1 The town clerk, acting in capacity as clerk for the zoning board of review, shall be responsible for the recording in the land evidence records of the town of West Warwick, all decisions on variance applications. The decision shall also be posted in a location visible to the public in the town Hall for a period of 20 days following the recording of the decision.

9.7.2 Any variance granted by the zoning board of review shall expire one year from the date of issuance, unless the applicant shall within that one year period exercise the right granted by the decision. The board may upon application filed within the one year period and for good cause shown, extend the limitation for one additional one year period. The application for an extension need not be advertised.

9.7.3 No application for a variance involving the same parcel and same request, which was denied or withdrawn, with prejudice, may be resubmitted for a variance for a period of 24 months, unless the zoning board of review determines there is substantial change of circumstances, which justifies a variance application.

9.7.4 If the board allows an amendment to an original application which changes the terms under which the application as advertised or which alters the basic facts upon which the application was presented, the amended application shall be readvertised and referred to the planning board.

9.7.5 Any aggrieved party may appeal decision of the zoning board of review to the Superior Court for Kent County.

9.7.6 All work approved by the issuance of a variance shall be carried out only in conformity with the application and any conditions, modifications and restrictions set by the zoning board of review. Minor changes, not exceeding six inches, shall be submitted to the building inspector for approval. Changes exceeding six inches shall be resubmitted to the zoning board of review in the form of a new application. Any work carried out in violation of this provision shall be ordered halted and fully removed.

9.8 Findings required. In granting a variance, the zoning board of review shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

9.8.1 That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant;

9.8.2 That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;

9.8.3 That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based; and

9.8.4 That the relief to be granted is the least relief necessary.

9.9 The zoning board of review shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:

9.9.1 In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and

9.9.2 In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience, which shall mean that there is no other reasonable alternative to enjoy a

legally permitted beneficial use of one=s property. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

9.10 Decisions shall be recorded and filed in the office of the zoning board of review within 30 working days from the date when the decision was rendered, and shall be a public record.

## **Section 10. Special Use Permits**

10.1 The zoning board of review is designated the approval authority for special use permits.

10.2 In granting a special use permit, the zoning board of review shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

10.2.1 The special use permit shall:

- 10.2.1.1 Be compatible with neighboring land uses;
- 10.2.2.2 Not create a nuisance in the neighborhood;
- 10.2.2.3 Not hinder the future development of the town;
- 10.2.2.4 Conform to all applicable sections of this ordinance; and
- 10.2.2.5 Be in conformance with the purposes and intent of the West Warwick comprehensive plan and applicable standards of this ordinance.

10.3 In granting a special use permit, the zoning board of review may apply such special conditions as provided in this ordinance.

10.4 Intent and eligibility. Within the town generally and in particular some zoning districts, certain uses are specified in the table of use regulations as allowed by special use permit only. These uses are of a nature requiring review, in accordance with the General Laws of Rhode Island, to determine whether they should be permitted in specific locations; if they meet special conditions and safeguards; and what additional conditions may be required if permission is granted.

10.5 Application process. Applications for special use permits shall be filed with the town clerk acting in capacity as clerk for the zoning board of review. Eighteen complete copies of the application must be submitted. The application shall include the following completed data in order to be placed on a hearing agenda:

10.5.1 A completed special use permit form indicating the special use permit sought, the grounds for the permit, and information on the scale and size of the proposed use as applicable.

10.5.2 Names and addresses of all owners of property within a 200-foot radius as measured from the perimeter of the subject property, and as shown on the current real estate tax assessment records of the town.

10.5.2.1 If the subject property for which the special use permit is being requested lies within the BP business park zoning district, then the applicant shall also include the names and addresses of all owners of property within said zoning district, and as shown on the current real estate tax assessment records of the town.

10.5.3 An accurate site map drawn at a scale of 1 inch equals 20 feet (or 1 inch equals 40 feet) on a sheet(s) 24 by 36 inches showing for the subject property the same information as is required by subsections 9.4.3 and 9.4.4.

10.5.4 Such other information as may be necessary for the execution and enforcement of this chapter.

10.5.5 The application fee as set by the town council, to cover the costs associated with review, hearing, notice, and recording fee.

10.6 Reserved.

10.7 Review process.

10.7.1 Reserved

10.7.2 Upon receipt of a special use permit application, fully completed, in proper form, the town clerk shall refer a copy to the Technical Review Committee for findings and recommendations on matters related to public safety, health and welfare.

10.7.3 The board shall fix a reasonable time not to exceed 30 days for a public hearing on a special use permit application. Notification including the date, time, place, purpose of the hearing, and street address of the subject property shall:

- 10.7.3.1 Be published at least 14 days prior to the date of such hearing in a newspaper of general circulation in the city;
- 10.7.3.2 Be sent by first class mail to the applicant;

10.7.3.3 Be sent registered mail, return receipt requested, to all owners of real property whose property is located at or within a 200-foot radius of the perimeter of the subject area, as measured from the corners of the subject area; such notice shall be sent to the last known address of such owners as shown on the current real estate tax assessment records of the town;

10.7.3.4 Be sent by first class mail to the city or town council of any city or town which is located at or within 200 feet of the perimeter of the subject area;

10.7.3.5 Be sent first class mail to the city or town council of any city or town where there is a public or quasi-public water source or private water source that is used or is suitable for use as a public water source, at or within 2,000 feet of the subject property, regardless of the municipal boundaries;

10.7.3.6 Be sent to the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource and/or surface watershed that is used or is suitable for use as public water source and that is at or within 2,000 feet of the subject property, provided however, that the governing body of any state or municipal water department or agency, special water district or private water company has filed with the building inspector in the town a map survey which shall be kept as a public record, showing areas of surface water resources and/or watersheds and parcels of land at or within 2,000 feet thereof.

10.7.3.7 If the subject property for which the special use permit is being requested lies within the BP business park zoning district, then the notification is to also be sent registered or certified mail to all owners of real property whose property is located within the BP business park zoning district; such notice shall be sent to the last known address of such owners as shown on the current real estate tax assessment records of the town.

10.7.3.8 The cost of notification shall be borne by the applicant.

#### 10.8 Determination.

10.8.1 Any party may appear at the hearing in person, or by attorney. The hearing held by the zoning board of review is a public meeting and all decisions reached by the board shall be made and voted upon at public meeting. The board shall hear all evidence on the special use permit request; and consider the written reports of town staff when reaching a decision on the findings required.

10.8.2 Decisions shall be recorded and filed in the office of the zoning board of review within 30 working days from the date when the decision was rendered, and shall be a public record.

#### 10.9 Implementation, appeal.

10.9.1 The town clerk, acting in capacity as clerk for the zoning board of review, shall be responsible for the recording in the land evidence records of the town of West Warwick, decisions on special use permits. The decision shall also be posted in a location visible to the public in town hall for a period of 20 days following the recording of the decision.

10.9.2 Any special use permit granted by the zoning board of review shall expire within one year from the date of its issuance, unless the applicant shall within that one year period exercise the right granted by the decision. The board may upon application filed within the one year period and for good cause shown, extend the limitation for one additional one year period. The application for an extension need not be advertised.

10.9.3 No application for special use permit involving the same parcel and same request, which was denied or withdrawn with prejudice, may be resubmitted for a special use permit for a period of 24 months, unless the zoning board of review determines there is a substantial change of circumstances, which justifies a special use permit application.

10.9.4 If the board allows an amendment to an original application which changes the terms under which the application was advertised or which alters the basic facts upon which the application was presented, the amended application shall be readvertised and referred to the planning board.

10.9.5 Any aggrieved party may appeal decisions of the zoning board of review to the superior court for Kent County.

10.9.6 All work approved by the issuance of a special use permit shall be carried out only in conformity with the application and any conditions, modifications and restrictions set by the zoning board of review. Minor changes, not exceeding six inches, shall be submitted to the building inspector for approval. Changes exceeding six inches shall be resubmitted to the zoning board of review in the form of a new application. Any work carried out in violation of this provision shall be ordered halted and fully removed.

RECORDING INSTRUCTIONS FOR ALL MAPS, SURVEYS  
AND CONDOMINIUM PLATS AND PLANS

TWO COPIES OF ALL MYLARS (MAPS, SURVEYS OR CONDOMINIUM DOCUMENTS MUST BE SUBMITTED AT TIME OF RECORDING. EVERY PAGE OF THE MYLARS TO BE RECORDED MUST BE NUMBERED

ALL MAPS AND CONDOMINIUM PLATS AND PLANS ON MYLAR MUST BE 24" X 36" IN SIZE AND MUST STATE THE TYPE OF PLANNING OR ZONING APPROVAL RECEIVED. SURVEYS MAY BE ANY SIZE BUT MUST BE ON MYLAR

ALL SUBDIVISION PLANS OR MYLARS OF ANY TYPE THAT HAVE RECEIVED ZONING AND/OR PLANNING APPROVAL MUST BE SIGNED BY THE TOWN PLANNER

ALL MAPS, SURVEYS OR CONDOMINIUM PLATS AND PLANS PREPARED BY A SURVEYOR, MUST CONTAIN THE SURVEYOR=S STAMP AND SIGNATURE AND STATEMENT THAT IT IS A CLASS 1 SURVEY.

RECORDING OF CONDOMINIUM DOCUMENTS

1. ALL CONDOMINIUM DOCUMENTS TO BE RECORDED, (i.e. Declaration, By-Laws, Rules and Regulation, Plats and Plans, etc.) MUST BE RECORDED SIMULTANEOUSLY. RECORDING OF THE CONDOMINIUM DECLARATION

WITHOUT THE RECORDING OF THE PLATS AND PLANS SIMULTANEOUSLY  
WILL NOT BE PERMITTED. (This does not include initial subdivision of land).

2. CONDOMINIUM PLATS AND PLANS MAY BE RECORDED AS PART OF THE  
DECLARATION OR ON SEPARATE MYLARS.

3. WHETHER PART OF THE DECLARATION OR ON SEPARATE MYLARS:

A. EACH PAGE OF THE PLATS AND PLANS MUST BE NUMBERED  
SEQUENTIALLY,

B. EACH PAGE OF THE PLATS AND PLANS MUST IDENTIFY WHAT  
THAT PAGE IS AND THAT IT IS PART OF THE NAMED CONDOMINIUM  
(ex. Site plan of ABC Condominium, Easements of ABC Condominium, First  
floor plan of ABC Condominium, etc.)

C. EACH PAGE OF THE PLATS AND PLANS MUST INCLUDE THE  
STATEMENT **AI** CERTIFY THAT THESE PLATS AND PLANS CONTAIN  
ALL THE INFORMATION REQUIRED BY R. I. G. L. 34-36.1-2.09" AND  
MUST BE MUST BE SIGNED BY THE APPROPRIATE PARTY  
(SURVEYOR OR ARCHITECT)

**DOCUMENTS THAT DO NOT COMPLY WITH THE ABOVE WILL NOT BE  
ACCEPTED FOR RECORDING.**

## TIME TABLE AND FILING REQUIREMENTS FOR VARIANCE AND SPECIAL USE APPLICATIONS

### HEARING DATES:

Zoning Board of Review (ZBR) - 7:00 pm, last Wednesday of every month (except January and July, no meeting).

### FILING REQUIREMENTS:

ALL APPLICATIONS FOR ZONING MUST BE FILED WITH THE ZONING CLERK BY THE FIRST OF THE MONTH ON WHICH THE APPLICATION WILL BE HEARD.

ALL APPLICATIONS MUST FILE TWELVE (12) **COMPLETE** PACKETS.

### PACKET CONTENT:

Each packet must include:

1. Applications – Signed and dated original application and 11 copies.
2. Radius map – 12 copies of map showing ALL abutting lots within 200 feet of the perimeter of the property.
3. Abutters list – 12 copies of the name and address of all abutters. (Note: if more than one owner, ALL must be listed. – Example: if a husband and wife, both must be notified).
4. Site plans – 12 copies of Site plans showing exactly what is proposed. (If prepared by a surveyor MUST be a Class I survey).
5. Building plans where applicable – 12 copies.
6. CURRENT zoning certificate – 12 copies.
7. AN UP TO DATE STATEMENT FROM THE WEST WARWICK INDICATING THE STATUS OF REAL ESTATE TAXES, SEWER BILLS AND ASSESSMENTS AND MUNICIPAL LIENS RELATED TO THE LOTS FOR WHICH RELIEF IS REQUESTED. **NO APPLICATION WILL BE ACCEPTED UNLESS ALL REAL ESTATE TAXES, SEWER BILL AND ASSESSMENTS AND MUNICIPAL LIENS ARE PAID IN FULL.**

COMPLETION REQUIREMENTS:

NO APPLICATION WILL BE ACCEPTED UNLESS APPLICATION IS COMPLETED IN FULL AND THE REQUIRED NUMBER OF ALL SUPPORTING DOCUMENTS ARE FILED AND ALL FEES ARE PAID.

HEARING PROCESS:

ZBR - All applicants and supporting witnesses must appear before the ZBR.

NOTICE REQUIREMENTS:

It is the responsibility of the Applicant to give Notice of the ZBR hearing to ALL abutters at least 14 days before the hearing by REGISTERED MAIL, RETURN RECEIPT REQUESTED and to file an Affidavit of Notice and the Green Cards with the Zoning Clerk PRIOR to the matter being heard by the ZBR.

Every owner must receive his or her notice. (Ex. – both husband and wife must receive their own Notice).

NOTE: NO MATTER WILL BE HEARD UNTIL THE AFFIDAVIT OF NOTICE AND THE GREEN CARDS HAVE BEEN FILED WITH THE ZONING CLERK.

(EXAMPLE OF NOTICE AND AFFIDAVIT ATTACHED)

APPLICABLE LAW:

Applicant must comply with ALL provisions of the Zoning Code of the Town of West Warwick, **specifically including, but not limited to, Section 9, Variances and Section 10 Special Use Permits and 5.6.16 Accessory Dwelling Units (In-Law Apt.).**

***EXAMPLE OF NOTICE OF PUBLIC HEARING***

(INSERT DATE OF LETTER)

Name and address of abutter

To whom it may concern:

You are hereby notified that {INSERT NAME OF APPLICANT}, as applicant and (INSERT NAME OF OWNER), as owner, have filed an application with the West Warwick Zoning Board of Review requesting a {INSERT DIMENSIONAL VARIANCE, USE VARIANCE, SPECIAL USE PERMIT all that apply) for the purpose of (INSERT WHAT REQUEST IS FOR) for property located at (INSERT ADDRESS OF PROPERTY), further described as (INSERT TAX ASSESSOR'S PLAT AND LOT AND ZONING DISTRICT).

A hearing will be held before the West Warwick Zoning Board of Review in the Town Council Chamber, Town Hall, 1170 Main St., West Warwick, RI, on Wednesday, (INSERT DATE OF MEETING), at 7 o'clock pm. You are invited to be present if you wish.

Yours truly,  
SIGNATURE OF APPLICANT,

SIGNATURE OF OWNER

**EXAMPLE OF AFFIDAVIT OF NOTICE**

STATE OF RHODE ISLAND

TOWN OF WEST WARWICK

COUNTY OF KENT

ZONING BOARD OF REVIEW

APPLICANT: INSERT NAME

PETITION NO. INSERT NUMBER

OWNER: INSERT NAME

**AFFIDAVIT OF NOTICE**

I, INSERT NAME OF PERSON GIVING NOTICE, being duly sworn, under oath depose and say that I caused to be mailed, certified mail, return receipt requested, a copy of the Notice of Hearing, to each of the owners of property within 200 feet of the perimeter of the subject property on INSERT DATE OF MAILING. A copy of said notice and the abutters list is attached hereto and made part hereof.

\_\_\_\_\_  
SIGNATURE OF PERSON

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
My commission expires \_\_\_\_\_

ATTACH COPY OF NOTICE THAT WAS SERVED AND COPY OF ABUTTERS LIST LIST.

RULES OF PRACTICE AND PROCEDURE  
BEFORE THE TOWN OF WEST WARWICK  
ZONING BOARD OF REVIEW

**REPRESENTATION**

Any applicant that is a formal business entity registered with the Secretary of State, such as a corporation or LLC must be represented by an attorney.

An applicant that is a partnership may be represented by one of the partners or an attorney.

An applicant that is an individual may represent himself or herself or be represented by an attorney.

Persons not licensed to practice law in the State of Rhode Island, such as architects, builders, engineers, etc. may not represent any applicant.

The Zoning Board of Review, when in its opinion for reasonable cause shown may by vote of a majority of the Zoning Board of Review, a quorum being present, waive any of the above representation requirements.

**EXPERT TESTIMONY**

Evidence that has been prepared by a professional on behalf of any party to the proceedings such as a land surveyor, engineer, traffic expert, etc must be presented by the professional that did the preparation to respond to questions from the Board members.

For example:

Surveys will require the preparing surveyor to be present.

Drainage will require the preparing engineer to be present.

Compliance with the comprehensive plan will require a real estate

## FILING OF DOCUMENTS

All documents in excess of 2 pages that any party wishes to be presented to the Board must be filed with the Board not less than 10 days prior to the hearing date. It shall be in the discretion of the Board, by a vote of the majority of the Board, whether the Board will allow or refuse the late filing of such document or will continue the hearing for 1 month to allow time for the Board to review such documents. Any party late filing such document shall agree that if the Board shall vote to continue the matter for 1 month to allow the review of the document, the party so filing shall agree to stipulate that he, she or it will waive any time deadlines that will expire as a result of such continuance.

## NOTICE

In all cases requiring certified notice to abutters the returned receipts and Affidavit of Compliance MUST be filed with the clerk before any hearing will be held.

## MEETING

The Chairperson shall call the meeting to order. The clerk shall take a roll call. Three members must be present for a quorum. The Chairperson will call the matters to be heard in the order in which they appear on the agenda. The Board, in its discretion, may, by majority vote, change the order in which matters shall be called for hearing.

## PROCEDURE FOR HEARING

The applicant shall present testimony and evidence first. The Board may question applicant or witnesses during presentation. Upon completion of applicant's presentation, persons wishing to speak in favor of application will be heard. The Board may question persons speaking.

Upon completion of applicant's and persons speaking in favor, persons opposed to the application will present testimony and evidence. The Board may question witnesses during presentation.

Upon completion of objector's presentation, the applicant will be given opportunity to respond to objector's presentation. The Board may question presenters.

Upon completion of applicant's response, the Chairperson shall request a motion to close the public hearing. A motion will be made and seconded, and upon affirmative vote of a majority of the Board, the public hearing will be closed.

The Board will then discuss the application. During the Board's discussion, any person appearing on the matter, including town staff, may be questioned by the Board. Only question and discussion will be allowed. Unless requested by the board, no additional testimony or evidence may be presented.

After discussion, upon motion made and seconded, a roll call vote of the members or alternates sitting on the application will be taken on the approval of the application and any conditions that the Board may attach to an approval.

#### VOTING PROCEDURE

Upon closing of discussion a motion shall be made and seconded to approve the application.

Conditions may be added to the motion either at the time of making of the motion or by amendment to the motion.

After the motion is made and seconded and amended if required, the Board shall discuss the motion with the members stating the reasons for being in favor or opposed to the application.

After discussion a vote will be taken on the motion.

## RULES OF CONDUCT

ALL PERSONS WISHING TO ADDRESS THE MEETING MUST BE RECOGNIZED BY THE CHAIRPERSON BEFORE SPEAKING.

Only one person may speak at one time.

Witnesses shall not give repetitive testimony .but shall refer to the prior witness and shall state that they wish to join in that witness's testimony.

The Chairperson may set time limits on testimony.

## STANDARDS OF REVIEW

It is the applicant's burden to satisfy the standards of review required for each type of relief sought the following are a partial list of types of review and the standards that must be met by the applicant for the relief sought to be granted.

## DIMENSIONAL VARIANCE (SEE ZONING CODE SECTION 9.8 AND 9.9)

The hardship from which relief is sought;

1. Is due to the unique characteristics of the subject land or structure and not the general characteristics of the surrounding area and is NOT due to a physical or economic disability of the applicant.
2. Is not the result of any prior action of the applicant and is not primarily to realize greater financial gain.
3. Will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan.
4. Is the least relief necessary?
5. If not granted the hardship will result in more than a mere inconvenience and that there will be no alternative legally permitted beneficial use of the property.

**USE VARIANCE (SEE ZONING CODE SECTION SETION 9.8 AND 9.9)**

The hardship from which relief is sought:

1. Is due to the unique characteristics of the subject land or structure and not the general characteristics of the surrounding area and is NOT due to a physical or economic disability of the applicant.
2. Is not the result of any prior action of the applicant and is not primarily to realize greater financial gain.
3. Will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan.
4. Is the least relief necessary?
5. The land or structure will not yield any beneficial use if it is required to conform to the zoning ordinance.

**SPECIAL USE PERMIT (SEE ZONING CODE SETION 10.2 AND 10.2.1)**

The proposed use:

1. Is compatible with neighboring land uses.
2. Will not create a nuisance in the neighborhood.
3. Will not hinder future development of the Town.
4. Will conform to all applicable sections of the zoning ordinance.
5. Is in conformance with the purposes and intent of the comprehensive plan.
6. The land or structure will not yield any beneficial use if it is required to conform to the zoning ordinance.

**SPECIAL USE PERMIT ACCESSORY FAMILY DWELLING (IN-LAW APARTMENTS) (SEE ZONING CODE 6.6.16)**

1. Valid zoning certificate
2. Primary building only dwelling on lot.
3. Only t accessory family dwelling permitted.
4. No nonconformity or violation of town ordinances or codes exist.
5. No more than 2 bedrooms.
6. At least 1 additional parking space, not in minimum required front yard, required.
7. Must be constructed in accordance with plans approved by ZBR.

8. Must be within or attached to primary dwelling and no breeze way allowed.
9. Must not be larger than 50% of primary dwelling and must be 400 to 800 square feet.
10. Not allowed above second floor of primary dwelling.
11. Must have direct access for ingress and egress to primary dwelling and separate ingress and egress to outside.
12. Must meet all set back requirements.
13. No separate utility connections to accessory dwelling.
14. Kitchen must be 50 to 75 square feet.
15. No enlargement of primary or accessory dwelling units without prior ZBR approval.
16. Not permitted if there exists a rooming house, home occupation, pre-existing accessory family dwelling unit, 2 or multiple family dwelling.

**APPLICABLE SECTIONS OF THE WEST WARWICK ZONING CODE**

FOR DIMENSIONAL AND USE VARIANCES - SEE SECTION 9 VARIANCES

FOR SPECIAL USE PERMITS - SEE SECTION 10 SPECIAL USE PERMITS

FOR ACCESSORY FAMILY DWELLING UNITS (IN-LAW APARTMENT) - SEE SECTION 5.6.16 ACCESSORY DWELLING UNITS

**RECORDING INSTRUCTIONS FOR ALL MAPS,  
SURVEYS AND CONDOMINIUM PLATS AND  
PLANS**

TWO COPIES OF ALL MYLARS (MAPS, SURVEYS OR CONDOMINIUM DOCUMENTS MUST BE SUBMITTED AT TIME OF RECORDING. EVERY PAGE OF THE MYLARS TO BE RECORDED MUST BE NUMBERED

ALL MAPS AND CONDOMINIUM PLATS AND PLANS ON MYLAR MUST BE 24" X 36" IN SIZE AND MUST STATE THE TYPE OF PLANNING OR ZONING APPROVAL RECEIVED. SURVEYS MAY BE ANY SIZE BUT MUST BE ON MYLAR

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**RECORDING OF CONDOMINIUM DOCUMENTS**

1. ALL CONDOMINIUM DOCUMENTS TO BE RECORDED, (i.e. Declaration, By- laws, Rules and Regulation, Plats and Plans, etc.) MUST BE RECORDED SIMULTANEOUSLY. RECORDING OF THE CONDOMINIUM DECLARATION WITHOUT THE RECORDING OF THE PLATS AND PLANS SIMULTANEOUSLY WILL NOT BE PERMITTED. (This does not include initial subdivision of land).

2. CONDOMINIUM PLATS AND PLANS MAY BE RECORDED AS PART OF THE DECLARATION OR ON SEPARATE MYLARS.

3. WHETHER PART OF THE DECLARATION OR ON SEPARATE MYLARS:
- A. EACH PAGE OF THE PLATS AND PLANS MUST BE NUMBERED SEQUENTIALLY,
  - B. EACH PAGE OF THE PLATS AND PLANS MUST IDENTIFY WHAT THAT PAGE IS AND THAT IT IS PART OF THE NAMED CONDOMINIUM (ex. Site plan of ABC Condominium, Easements of ABC Condominium, First floor plan of ABC Condominium, etc.)
  - C. EACH PAGE OF THE PLATS AND PLANS MUST INCLUDE THE STATEMENT AI CERTIFY THAT THESE PLATS AND PLANS CONTAIN ALL THE INFORMATION REQUIRED BY R. I. G. L. 34-36.1-2.09" AND MUST BE MUST BE SIGNED BY THE APPROPRIATE PARTY (SURVEYOR OR ARCHITECT)

DOCUMENTS THAT DO NOT COMPLY WITH THE ABOVE WILL NOT BE ACCEPTED FOR RECORDING.

RULES OF PRACTICE AND PROCEDURE BEFORE THE  
TOWN OF WEST WARWICK  
ZONING BOARD OF REVIEW

**TIME OF FILING**

All applications for Dimensional or Use Variances or Special Use Permits shall be filed with the zoning clerk prior to the 1<sup>st</sup> day of the month in which the application will be heard by the zoning board.

**NOTICE**

Public notice for hearings on Dimensional or Use Variances or Special Use Permits shall be given by the applicant at least 14 days prior to the date of the hearing in a newspaper of general circulation in the Town of West Warwick. Notice of hearing shall be sent by the applicant by certified mail, return receipt requested, to all those who would require notice under Rhode Island General Laws §45- 24- 53. In all cases the returned receipts and Affidavit of Compliance MUST be filed with the clerk before any hearing will be held.

**DOCUMENTS TO BE FILED WITH APPLICATION**

In all applications for Dimensional or Use Variances or Special Use Permits the following documents must be filed with the application:

1. A completed application,
2. A 200foot radius map,
3. An abutters' list,
4. A site plan (a Class I survey may be required by the zoning board),
5. Building plans where applicable,
6. Current zoning certificate,
7. Tax collector report.

**REPRESENTATION**

Any applicant that is a formal business entity registered with the Secretary of State, such as a corporation or LLC must be represented by an attorney.

An applicant that is a partnership may be represented by one of the partners or an attorney.

An applicant that is an individual may represent himself or herself or be represented by an attorney.

Persons not licensed to practice law in the State of Rhode Island, such as architects, builders, engineers, etc. may not represent any applicant.

The Zoning Board of Review, when in its opinion for reasonable cause shown, may, by vote of a majority of the Zoning Board of Review, a quorum be present, waive any of the above representation requirements.

## **FILING OF DOCUMENTS**

All documents in excess of 2 pages that any party wishes to be presented to the Board must be filed with the Board not less than 10 days prior to the hearing date. It shall be in the discretion of the Board, by a vote of the majority of the Board, whether the Board will allow or refuse to allow the filing of any document not timely filed. In the event that the Board shall allow such filing, it shall further be the discretion of the board, by a vote of the majority of the board, to continue the hearing for 1 month to allow time for the Board to review such documents. Any party filing such document shall agree that if the Board shall vote to continue the matter for 1 month to allow the review of the document, the party so filing shall agree to stipulate that he, she or it will waive any time deadlines that will expire as a result of such continuance. Failure of the party to agree will result in the refusal of the Board to permit the filing of the document.

## **MEETING**

The Chairperson shall call the meeting to order. The clerk shall take a roll call. Three members must be present for a quorum but 5 members must be present for a vote on the application. The Chairperson will call the matters to be heard in the order in which they appear on the agenda. The Board, in its discretion, may, by majority vote, change the order in which matters shall be called for hearing.

## **PROCEDURE FOR HEARING**

The applicant shall present testimony and evidence first. The Board may question applicant or witnesses during presentation. Upon completion of applicant's presentation, persons wishing to speak in favor of application will be heard. The Board may question persons speaking.

Upon completion of applicant's and persons speaking in favor, persons opposed to the application will present testimony and evidence. The Board may question witnesses during presentation.

Upon completion of objector's presentation, the applicant will be given opportunity to respond to objector's presentation. The Board may question presenters.

Upon completion of applicant's response, the Chairperson shall request a motion to close the public hearing. A motion will be and seconded, upon the affirmative vote of a majority of the Board, the public hearing will be closed.

The Board will then discuss the application. During the Board's discussion, any person appearing on the matter, including town staff, may be questioned by the Board. Only questions

by a Board member and discussion will be allowed. Unless requested by the Board, no additional testimony or evidence may be presented.

After discussion, upon motion made and seconded, a roll call vote of the members or alternates sitting on the application will be taken on the approval of the application and any conditions that the Board may attach to an approval, with each voting member stating his or her reason for his or her affirmative or negative vote.

### **TESTIMONY**

All testimony and comments shall be addressed to the chairperson or Board member and shall not be directed to any other individual. To insure a fair and orderly hearing the chairperson shall:

- Allow only one person to speak at a time,
- Required testimony and evidence to be relevant to the issues,
- Not allow any emotional displays or undignified presentations,
- Require that all cross-examination or rebuttal be within reasonable limits,
- Prohibit members of the public from debating or arguing with persons offering testimony.

The chairperson may require that testimony duplicating prior testimony be done by making reference to the prior testimony without repetition. The chairperson may set a time limit for each witness.

### **LAY TESTIMONY**

All witnesses shall identify themselves in state their address for the record. All witnesses shall give oath or affirmation regarding his or her testimony.

### **EXPERT TESTIMONY**

All persons presented for the purpose of giving expert testimony shall state the name, business location and their qualifications to be accepted as an expert in a particular field and shall give oath or affirmation regarding his or her testimony. The Board may question the witness regarding his or her expertise. The Board by majority vote may accept or reject the witness as an expert in the particular field.

Evidence that is offered as expert testimony in a particular field, such as a land surveyor, engineer, traffic expert, etc must be presented by the professional that did the preparation to respond to questions from the Board members.

For example:

Surveys will require the preparing surveyor to be present.

Drainage will require the preparing engineer to be present.

Compliance with the Comprehensive Plan will require a real estate expert.

## **EXHIBITS**

During a public hearing, any witness may offer materials to illustrate or substantiate his or her testimony. These materials included writings, maps, charts, articles and the like. Each article shall be marked as an exhibit and made part of the record.

In the event of an objection to the entry of an article as an exhibit the chairperson shall determine, upon advice of legal counsel, if he or she so desires, as to whether or not the article shall be admitted as an exhibit for the record.

## **VOTING PROCEDURE**

After the public hearing has been closed and upon closing of discussion a motion shall be made and seconded to approve the application. Once the motion has been made and seconded a motion to amend and add conditions may be made and seconded.

Discussion is then held on the motion to amend, if any has been made, and a vote is taken on the motion to amend. If the motion to amend is approved the original motion, as amended, is then voted on. If the motion to amend was defeated or if there was no motion to amend the original motion is voted on.

A roll call vote shall be taken on the final motion. As each member cast his or her vote, he or she shall state the reasons for his or her affirmative or negative vote.

A vote to approve the application for relief requires 4 affirmative votes. Failure to obtain 4 affirmative votes is a denial of the application for relief.

## **TIME LIMITS**

Any petition on the agenda that has not been reached for hearing by 9:30 pm shall be continued for hearing to the next regularly scheduled Zoning Board meeting. Any petition that has been reached for hearing, but which hearing has not been concluded by 10:00pm, at the conclusion of the testimony being presented at 10:00 pm shall be continued to be concluded at the next regularly scheduled Zoning Board meeting. The Board may, by majority vote, waive any time limit.

## **RECORDING OF DECISION**

The decision of the zoning board shall be recorded in the Town Clerk's Office. The applicant shall pay a recording fee for the recording of the decision.