

Town of Washington Appeals Board By-Laws

1. Meetings

- A. The regular meeting of the Board shall be held the second Thursday of every odd month or as necessary.
- B. The annual organizational meeting of the Board shall be after the annual town meeting. The election of Chairman, and Vice-Chairman/Secretary shall be for one year with eligibility for re-election.
- C. Special meeting of the Board may be called by the Chairman. At least forty-eight (48) hours written notice of the time, place and business, of the meeting shall be given each member of the Board, the Selectmen, the Planning Board and the Code Enforcement Officer.
- D. The Chairman shall call a special meeting within ten (10) days of receipt of a written request from any three members of the Board, which request shall specify the matters to be considered at such special meeting.
- E. The order of business at regular meetings of the Board shall be as follows : (a) roll call; (b) reading and approval of the minutes of the preceding meeting; (c) action on held cases; (d) public hearing, when scheduled; (e) other business; (f) adjournment.
- F. An associate member may attend all meetings of the Board and participate in its proceeding, but can only vote when he has been designated by the Chairman to sit for a member.
- G. All meetings of the Board shall be open to the public, except executive sessions. No votes may be taken by the Board except in a public meeting. The Board shall not hold executive sessions except as permitted by the "Right to Know-Law."

2. Voting

- A. A quorum of three (3) members of the Board.
- B. No hearing or meeting of the Board shall be held; nor any action taken, in the absence of a quorum; however, those members present shall be entitled to request Chairman to call a special meeting for subsequent data.
- C. The presence of three members of the Board of Appeals shall constitute a quorum. An Appeal may be granted or a decision of the Code Enforcement Officer, Planning Board, or a variance may be overruled only upon an affirmative vote of at least three members of the Board of Appeals.
- D. The Board of Appeals would consider it good cause for a continuance if there were not five voting members present.
- E. If the Board has an associate member to act for a regular member who is disqualified from voting, unable to attend the hearing, or absent from any portion of the hearing, the associate member will act for the regular member on each public hearing or meeting until the case is decided

3. Prehearing Conference

- A. Prior to conducting the public hearing on an administrative appeal or a request for a variance, the Board of Appeals shall conduct a prehearing conference. Unless excused for good cause, each party shall be represented at the prehearing conference, either in person, or by an attorney who is authorized to represent the party in all matters pertaining to the appeal or variance request.

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- B. At the prehearing conference the Board of Appeals shall first determine whether any member of the Board of Appeals, including alternates; must be excused from hearing the appeal or variance request because of a conflict of interest or bias.
- C. When the Board of Appeals is properly constituted it shall determine the following preliminary matters:
- 1) The Board of Appeals shall determine that there is a provision of an Ordinance that gives the Board of Appeals jurisdiction to hear the appeal or Variance request.
 - 2) If an Ordinance gives the Board of Appeals authority over the matter, the Board shall then determine whether the appellant or applicant has met the following requirements:
 - a. That the appellant or applicant has standing to appeal, meaning that the appellant has suffered direct and personal injury from the decision being appealed from; and
 - b. The appellant has filed the an application for an appeal with the Town Clerk, Code Enforcement Officer and Appeals Board Chairmen, within the required deadline
 - c. Except as provided by the Town of Washington, Maine Board of Appeals Ordinance adopted 29 March 2013
 - 3) If it appears that the Board of Appeals may not hear a matter for any of the reasons addressed in the preliminary matters, the appellant or applicant shall be encouraged to voluntarily withdraw the appeal or application. If the appellant or applicant declines to withdraw the matter, the Board of Appeals shall proceed.
- D. The Board shall determine what all the issues are. These shall be recorded and thereafter the parties shall be limited to consideration of these issues. The nature of the appeal or application shall then be, summarized and this summary shall be used in future public hearing notices.
- E. The names and addresses of all persons who must be notified of the public hearing shall be determined by the Code Enforcement Officer
- F. In cases of appeals the Board of Appeals shall determine whether the administrative record is complete. If the Board of Appeals determines that the record is not complete, the Board of Appeals shall request the parties to agree on how the record will be completed. The parties may agree to complete the record by any reasonable means including, but not limited to the following:
- 1) stipulating to facts:
 - 2) by furnishing written statements, publications or other documents:
 - 3) by conducting an evidentiary hearing before the Board of Appeals
- G. If the Board determines that it is necessary to conduct an evidentiary hearing, before the Board of Appeals, it shall determine the estimated length of the hearing and the number of witnesses and exhibits that will be presented at the hearing. The Board shall set a date for the public hearing. It shall require that the parties exchange lists of Witnesses and exhibits not less than 15 days prior to the public hearing.

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H If the Board determines that it is not necessary to conduct an evidentiary hearing it shall determine the estimated length of the hearing and set a date for the public hearing. It shall require the parties to exchange any documents, including legal briefs, and file twelve (12) copies of any such documents with the, Town Clerk, not less than 15 days prior to the public hearing.

4. Public Hearing

The Board of Appeals shall determine if a Public Hearing is required:

- A. For Administrative Appeals: The Board of Appeals Ordinance shall schedule a Public Hearing as required by Section 5.1.2.
- B. For Variance Appeals: The Board of Appeals Ordinance shall schedule a Public Hearing as required by Section 6.1.2.
- C. For all other actions of the board the board may schedule a public hearing should the board determine that it would serve the best interests of the town.

5. Incomplete record

If the Board of Appeals determines that the record is not complete and the parties fail to agree on how the record will be completed, the Board of Appeals may remand the matter to the Code Enforcement Officer or the Planning Board with directions on how the record is to be completed.

6. Reconsideration

- A. The Board may reconsider any decision. The Board must decide to reconsider any decision, notify all interested parties and make any change in its original decision within fifteen (15) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.
- B. Reconsideration should be for one of the following reasons:
 - 1) The record contains significant factual errors due to fraud or mistake regarding facts upon which the decision was based; or
 - 2) The Board misinterpreted the Ordinance, followed improper procedures, or acted beyond its jurisdiction.

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