

ARTICLE VI HEARING PROCEDURES FOR APPEALS AND APPLICATIONS

Section 1. Hearing Required on Appeals and Applications

1. Before making a decision on an appeal or an application for a variance, special exception, or a petition from the planning staff to revoke a special exception, the Board of Appeals shall hold a hearing on the appeal or application.
2. Subject to Subsection 3, the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
3. The Board of Appeals may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
4. The Board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. The Board shall announce the date and hour of continuance of such hearing while in session.

Section 2. Notice of Hearing

The Administrator shall give notice of any hearing required by Section 1 of this Article, as follows:

1. Notice shall be given at least fifteen (15) days in advance of public hearing. Notice of such hearings shall be posted on the subject property and at the Town Office, and notice shall be published in a newspaper of general circulation in the Town, at least fifteen (15) days prior to the public hearing.
2. Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice before the hearing.
3. The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

Section 3. Evidence

1. The provisions of this section apply to all hearings for which a notice is required by Section 1 of this Article.
2. All persons who intend to present evidence to the Board, rather than arguments only, shall be sworn.
3. All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

Section 4 Modification of Application at Hearing

1. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Appeals, the applicant may agree to modify his/her application, including the plans and specifications submitted.
2. Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

Section 5. Record

1. A tape recording shall be made of all hearings required by Section 1 of this Article, and such recordings shall be kept for at least two (2) years. Accurate minutes shall also be kept of all such proceedings, and a transcript will be made.
2. Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the Town for at least two (2) years.

Section 6. Written Decision

1. Any decision made by the Board of Appeals regarding an appeal or variance or issuance or revocation of a special exception shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.
2. In addition to a statement of the Board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the Board's findings and conclusions, as well as supporting reasons or facts, whenever this ordinance requires the same as a prerequisite to taking action.

Section 7. Reserved

Section 8. Reserved