

SECTION 10.

APPEALS FROM THE BOARD

Sec. 10.1. Procedure

An aggrieved party may appeal a decision of the Zoning Board of Review to the Superior Court for the county in which the Town is situated by filing a complaint setting forth the reasons of appeal within 20 days after such decision has been recorded and posted in the office of the Town Clerk. The decision shall 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. The Zoning Board of Review shall file the original documents acted upon by it and constituting the record of the case appealed from, or certified copies thereof, together with such other facts as may be pertinent, with the Clerk of the Court within 30 days after being served with a copy of the complaint. When the complaint is filed by someone other than the original applicant or appellant, such original applicant or appellant and the members of the Zoning Board shall be made parties to such proceedings. The appeal shall not stay proceedings upon the decision appealed from, but the Court may, in its discretion, grant a stay on appropriate terms and make such other orders as it deems necessary for an equitable disposition of the appeal.

If, before the date set for hearing in the Superior Court, application is made to the Court for leave to present additional evidence before the Zoning Board of Review and it is shown to the satisfaction of the Court that the additional evidence is material and that there were good reasons for the failure to present it at the hearing before the Zoning Board of Review, the Court may order that the additional evidence be taken before the Zoning Board of Review upon conditions determined by the Court. The Zoning Board of Review may modify its findings and decision by reason of such additional evidence and shall file that evidence and any new findings or decisions with the Superior Court.

The review shall be conducted by the Superior Court without a jury. The Court shall consider the record of the hearing before the Zoning Board of Review and if it shall appear to the Court that additional evidence is necessary for the proper disposition of the matter, it may allow any part to such appeal to present such evidence in open court, which evidence along with the said report shall constitute the record upon which the determination of the Court shall be made.

The Court shall not substitute its judgment for that of the Zoning Board of Review as to the weight of the evidence on questions of fact. The Court may affirm the decision of the Zoning Board of Review or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions or decisions which are:

- (1) In violation of constitutional, statutory or ordinance provisions;
- (2) In excess of the authority granted to the Zoning Board of Review by statute or ordinance;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;

- (5) Clearly erroneous in view of the reliable, probative and substantial evidence of the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.