

SECTION 8.

ZONING BOARD OF REVIEW; ESTABLISHMENT AND PROCEDURE

Sec. 8.1. Membership.

A Zoning Board of Review, otherwise referred to as the Board, is hereby created. The Board shall be appointed by the Town Council and shall consist of five members, each to hold office for the term of five years; provided, however, that the original appointments shall be made for terms of one, two, three, four, and five years, respectively. The Zoning Board of Review shall also include two alternates to be designated as the first (1st) and second (2nd) alternate members, and shall be appointed for a term of one year, sit as active members, and may actively participate in hearings. The first (1st) alternate shall vote if a member of the Board is unable to serve at a hearing and the second (2nd) shall vote if two members of the Board are unable to serve at a hearing. In the absence of the first (1st) alternate member, the second (2nd) alternate member shall serve in the position of the first (1st) alternate. No member or alternate may vote on any matter before the Board unless they have attended all hearings concerning such matter. If a vacancy occurs in the Board, the Town Council shall appoint a new member for the unexpired term. All members of the Board shall be residents of the Town and no member shall be an elected official or salaried employee of the Town. The Board, as constituted at the time of the passage of this ordinance, shall be continued and the original appointments, as specified above, shall be deemed to have been made. Members of the Board may be removed from office for cause by the unanimous vote of the Town Council upon written charges and after a public hearing.

Sec. 8.2. Organization.

Once each year the Board shall organize electing from its membership a chairman and vice chairman. The Board may engage the services of a secretary or recorder within the limit of the funds available to it or may appoint one of its membership as secretary.

Sec. 8.3. Proceedings of the Board.

The Board shall adopt and publish rules necessary to the conduct of its affairs, and in keeping with the provisions of the ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. In conducting hearings and arriving at its decisions, the Board shall consist of only five voting members. The chairman, or in his absence, the vice-chairman, may administer oaths and compel the attendance of witnesses and the submission of evidence. All hearings of the Board shall be open to the public.

The Board shall include in its decision, all findings of fact and conditions, showing the vote of each member participating thereon, and the absence of a member or his or her failure to vote. No member or alternate may vote on any matter before the Board unless they have attended all hearings concerning such matter. Decisions shall be recorded and filed in the office of the Board within 30 days from the date when the decision was rendered, and shall be a public record. The Zoning Board of Review shall keep written minutes of its proceedings, showing the vote of each member, upon each question; or, if absent or failing to vote, indicating such fact, and keep records of its examinations, findings of fact, and other official actions, all of which shall be recorded and filed in the office of the

Board in an expeditious manner upon completion of the proceeding. For any proceeding in which the right of appeal lies to the Superior or Supreme Court, the Zoning Board of Review shall have the minutes taken either by a competent stenographer or recorded by a sound-recording device.

Sec. 8.4. Hearings; appeals; notice.

Appeals to the Board may be taken by any party aggrieved or by any officer, department, board, or bureau affected by any order or decision of the Inspector concerning the provisions of this ordinance. Such appeal shall be taken within 20 days by filing with the Inspector and with the Board a notice of appeal specifying the grounds for the appeal. The Inspector shall make available to the Board all papers constituting the record upon which the action appealed from was taken. In filing for an appeal, the applicant, in addition to filing any plans and specifications supporting the request, shall accompany the request with a list of property owners within 200 feet of the property in question and a filing fee payable to the Town.

Participation in a zoning hearing or other proceeding by a party shall not be a cause for civil action or liability except for acts not in good faith, intentional misconduct, knowing violation of law, transactions where there is an improper personal benefit, or malicious, wanton, or wilful misconduct.

Sec. 8.5. Procedure.

A Zoning Ordinance adopted pursuant to this chapter shall provide that the Zoning Board of Review shall have the following powers and duties:

- (1) To hear and decide appeals in a timely fashion where it is alleged there is error in any order, requirement, decision, or determination made by the Inspector in the enforcement or interpretation of this chapter, or of any ordinance adopted pursuant hereto.
- (2) To hear and decide appeals from a party aggrieved by a decision of an Historic District commission, pursuant to R.I.G.L. 45-24.1-7.1 and 45-24.1-7.2.
- (3) To hear and decide appeals where the Zoning Board of Review is appointed as the Board of Appeals for airport zoning regulations pursuant to section 1-3-19.
- (4) To authorize upon application, in specific cases of hardship, variances in the application of the terms of the Zoning Ordinance, pursuant to R.I.G.L. 45-24-41 of this chapter.
- (5) To authorize upon application, in specific cases, special-use permits, pursuant to subsection (A) of R.I.G.L. 45-24-42 of this chapter, where the Zoning Board of Review is designated as a permit authority for special-use permits.
- (6) To refer matters to the Planning Board, or to other boards of the Town as the Zoning Board of Review may deem appropriate, for findings and recommendations.
- (7) To provide for issuance of conditional zoning approvals where a proposed application would otherwise be approved except that one or more state or federal agency approvals

which are necessary are pending. A conditional zoning approval shall be revoked in the instance where any necessary state or federal agency approvals are not received within a specified time period.

- (8) To hear and decide such other matters, according to the terms of this ordinance or other statutes, and upon which such board may be authorized to pass under such ordinance or other statutes.

Sec. 8.6. Stay of proceedings.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning enforcement officer or agency from whom the appeal is taken certifies to the Zoning Board of Review, after an appeal shall have been duly filed, that by reason of facts stated in the certificate a stay would in the officer's or agency's opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by a court of competent jurisdiction on application thereof and upon notice to the officer or agency from whom the appeal is taken on due cause shown.

Sec. 8.7. Vested rights.

A petition before the Zoning Board for a building permit, special-use permit, variance or appeal shall be considered substantially complete when all required documents, including plans, together with required fees are received by the official designated therein to receive such applications. The Zoning Ordinance of 1973 (as amended to date) will apply, even if at some later date, but prior to the project receiving complete or final approval, the Zoning Ordinance and/or zoning map is changed.