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Rockland Zoning Board of Appeals

Rockland, Massachusetts 02370

MAY 20 1981

RULES OF PROCEDURE

ARTICLE I. DATE AND METHOD OF ADOPTION: DEFINITIONS

Section 1. Date of Adoption

- (a) These Rules of Procedure were adopted May 8, 1980, at a duly posted meeting of the Zoning Board of Appeals. Any and all rules adopted or recorded prior to that date are hereby repealed.

Section 2. Method of Adoption

- (a) Any Rules established by this Board may be amended, repealed or otherwise acted upon by a majority vote of a quorum of members who may be full or associate members.
- (b) A quorum of members under (a) of this Section shall be not less than five (5) members.

Section 3. Definitions

- (a) The definition of the word "meeting" as used in these Rules shall mean any convening of Board members, properly noticed and posted in conformance with the Mass. General Laws, for action upon matters properly the business of the Board, including but not limited to advertised hearings.

ARTICLE II. ORGANIZATION

Section 1. Officers

- (a) At the first meeting of the Board in May, or as soon thereafter as possible, the members of the Board shall choose from among their own number a Chairman and a Secretary.

Section 2. Chairman: Powers and Duties

- (a) The Chairman shall have charge of and conduct all meetings, and in doing so shall be guided by applicable provisions of the Mass. General Laws, local ordinances and by-laws, and these Rules of Procedure. Where these do not apply, he shall be guided by generally accepted parliamentary rules. He shall decide all points of order, unless overruled by a majority of the Board in session at the time.
- (b) In addition to powers granted by the Mass. General Laws and local ordinances and by-laws, and subject to these Rules and further instructions of the Board, the Chairman shall transact the official business of the Board, request necessary help, direct the work of all subordinates, and exercise general supervisory power. He shall, at each meeting, report on all official transactions that have not otherwise come to the attention of the Board.

ARTICLE II. ORGANIZATION (Cont'd.)

Section 2. Chairman: Powers and Duties (Cont'd.)

- (c) If the Chairman is absent or unable to serve at a meeting, the Secretary shall serve as Chairman pro tem. If both the Chairman and Secretary are absent or unable to serve, those members present shall elect a Chairman pro tem by majority vote.
- (d) The Chairman is authorized to employ a stenographer, and may set such compensation for services as may be decided by vote of the Board.
- (e) The Chairman and/or the Secretary is authorized to place, in the Board's name, notices of public hearings with a local newspaper and to make such mailings as are required by rule, by-law or statute.
- (f) The Chairman and/or the Secretary is authorized to purchase such office supplies as may be necessary and for which funds are available.
- (g) The Chairman and/or the Secretary is authorized to approve bills properly chargeable to the Board and submit same to the Town for payment.
- (h) The Chairman may, with the consent of the Board, designate a member or associate member of the Board to act in the Board's name for the purposes of investigation, ascertaining facts, or obtaining any necessary data concerning any petition or matter properly before the Board.

Section 3. Secretary: Powers and Duties

- (a) Subject to the direction of the Board and the Chairman, the Secretary shall supervise all of the clerical work of the Board including: all correspondence of the Board, sending of all notices required by law and the rules and orders of the Board, receive and scrutinize all applications for compliance with the Rules of the Board, keep dockets and minutes of the Board's proceedings, compile all required records, and maintain necessary files and indexes.
- (b) The Secretary shall also have such other authority as is described in Section 2(c)-2(g) above.
- (c) The Secretary shall also have such other authority as is described in Article III below.

Section 4. Associate Members

- (a) In the absence, inability to act, or conflict of interest on the part of one or more full members the Chairman shall designate necessary voting members for each hearing from among any associate members present; and shall rotate such service from hearing to hearing in such a manner that an associate member voting on a hearing shall be followed, at the next hearing on which an associate member will sit, by the next eligible associate member in the alphabetical order of his last name, whether or not said next hearing is held on the same calendar date or at a later date.
- (b) Associate members shall have a full vote at all meetings on matters other than those involving hearings.

ARTICLE II. ORGANIZATION (Cont'd.)

Section 4. Associate Members (Cont'd.)

- (c) Unless otherwise required by rule, by-law or statute any action by this Board shall be decided by a majority vote of all members present and voting on such action.

ARTICLE III. PETITIONS AND NOTIFICATION FOR HEARINGS

Section 1. Form of Petition

- (a) Any person desiring a hearing before the Board shall petition the Board for a public hearing. Such petition shall be on the form prescribed by the Board, obtainable from the Town Clerk.
- (b) The petitioner must then obtain from the Board of Assessors a list, certified by them, of all the parties in interest to the petition, with appropriate zip codes.
- (c) The petitioner must submit to the Town Clerk ten (10) copies of the petition, ten (10) copies of any maps, plans or supporting documentation, ten (10) copies of the certified list of parties in interest, and two (2) #10 business envelopes, pre-addressed and with first class postage affixed, for each name contained in the list of parties in interest; all of the preceding to be accompanied by a fee of thirty-five (35) dollars.
- (d) Each application and petition to the Board shall be accompanied by ten (10) copies of the following described plan:
The size of the plan shall be 8½" x 11" or 11" x 17", drawn to a scale of 1" equals 40 feet; it shall have a north point, names of streets, zoning districts, names of owner(s) of properties within a minimum of three hundred (300) feet of the subject property, property lines and location of buildings on surrounding properties, and shall show the location of the buildings presently on petitioner's property and the location(s) of any proposed construction. The dimensions of the lot, and the percentage of the lot covered by the principal and accessory buildings, and the required parking spaces shall be shown. Entrances, exits, driveways, etc., that are pertinent to the consideration of the petition shall be shown.
- (e) The Board may, at its discretion, also require from the petitioner such other plans, elevations, studies, or other data as it may need to make an informed decision.
- (f) The requirement described in Section 1(d) above, or any part of it, may be waived with the concurrence of the Chairman and Secretary of the Board.

Section 2. Notification

- (a) Upon notification by the Town Clerk of a petition for a public hearing, the petition being in proper form and order, the Secretary shall notify the Chairman who will instruct the Secretary as to the date for the public hearing.

ARTICLE III. PETITIONS AND NOTIFICATION FOR HEARINGS (Cont'd.)

Section 2. Notification (Cont'd.)

- (b) The Secretary will advertise the hearing by public notice printed in a newspaper of local circulation, as required by statute.
- (c) The Secretary will notify the Board members and the Board's stenographer of the time, date and place of the public hearing at least forty-eight (48) hours in advance of the hearing.
- (d) The Secretary will notify the petitioner, the owner(s) of the property, the Planning Boards of all abutting towns, all other parties in interest, and such other parties as from time to time may be required by statute. Such notification will be by written notice mailed, first class postage prepaid, at least four (4) days in advance of the hearing; with the exception that notices mailed to the petitioner and the owner(s) of the property shall be mailed by certified mail, return receipt requested.
- (e) The Secretary shall notify the Chairman of the Planning Board at least four (4) days in advance of the hearing.
- (f) The Zoning Enforcement Officer shall be considered a party to any appeal from a decision made by him, and shall be present or represented at any hearing thereon, with all records and papers relative to the matter. The Zoning Enforcement Officer shall also be notified by the Secretary of all hearings upon matters in which his duties are concerned.
- (g) The Secretary shall keep a record of all parties notified of public hearings.

ARTICLE IV. RULES AND PROCEDURES FOR PUBLIC HEARINGS

Section 1. Hearing Rules and Procedures

- (a) A hearing will proceed in the following order:
 1. The Chairman shall read aloud the petitioner's application.
 2. The petitioner, or his representative(s), will make their presentation.
 3. Those in favor of the petition will be heard.
 4. Members of the Board desiring to question the petitioner will be heard.
 5. Those opposed to the petition will be heard.
 6. General discussion will be allowed under accepted parliamentary rules, at the discretion of the Chairman.
 7. The hearing will be declared closed at the discretion of the Chairman.
- (b) Associate members of the Board shall enjoy all hearing privileges.
- (c) The Chairman may, at his discretion, conduct any hearing under oath. He shall determine the form of said oath to be administered, and to whom it shall be administered.
- (d) The Chairman shall cause to be recorded by the stenographer the names of all counsel appearing for any of the parties at a hearing, together with their addresses; and the names and addresses of the parties they are representing.

ARTICLE IV. RULES AND PROCEDURES FOR PUBLIC HEARINGS (Cont'd.)

Section 1. Hearing Rules and Procedures (Cont'd.)

- (e) Any person desiring to address the Board must first be recognized by the Chairman; and after being so recognized, must first state his name and address for the record.
- (f) After the conclusion of a hearing any member may, on request, inform the petitioner of the decision of the Board, it being understood that such information is subject to confirmation in writing of the full decision to be mailed to petitioner and filed with the Town Clerk.

Section 2. Stenographer

- (a) A stenographer will be present at all hearings.
- (b) The stenographer shall take notes of all pertinent matters of the hearing, including the members present, the members sitting on the hearing, names of persons appearing in favor or in opposition, names of counsel appearing for parties, facts presented to the Board, and the substance of all discussion on the petition. The stenographer shall also record names of members voting, motions made and seconded, votes taken, and the individual votes of each member; and will note any conditions and any restrictions which may be set by the Board in acting upon the petition. These notes shall be transcribed, typed and furnished to the Chairman as soon as reasonably possible.



Rockland Zoning Board of Appeals

Rockland, Massachusetts 02370

ARTICLE V. DECISIONS OF THE BOARD

Section 1. Writing and Filing of Decisions

- (a) The Chairman shall write and file all decisions of the Board; or at his discretion, may assign the writing and filing of any decision to any other member of the Board who shall have participated in and voted on said decision.
- (b) All decisions of the Board shall be written and filed with the Town Clerk not more than fourteen (14) days after the hearing to which the decision pertains; or within such lesser period as from time to time may be required by law.

Section 2. Contents and Distribution of Decisions

- (a) All decisions shall contain the following information: the name(s) and address(es) of the petitioner(s); the name(s) and address(es) of the owner(s) of the property; the street address of the property on which the hearing was held; a brief recapitulation of the petition; a statement regarding which section(s) of the Zoning By-Law are affected; the members of the Board present at the hearing; the members of the Board voting on the decision; the decision itself; the voting on the decision; the reasons for the decision; and such notice of legal facts and rights of appeal as may be required by law.
- (b) In addition to the Town Clerk, the following parties shall receive copies of all decisions: the Planning Board, the Zoning Enforcement Officer, all Full and Associate members of the Board, and the Stenographer to the Board.
- (c) With respect to each individual decision the following shall have copies mailed to them, first class postage prepaid: the petitioner(s), the owner(s) of the property on which the hearing was held, counsel for any of the parties, and all persons or other entities named on the list of "parties in interest" as certified by the Board of Assessors.

Section 3. Adoption of this Article

- (a) This Article of the Rules of Procedure was adopted by vote of the Board on ~~5-12-80~~, 1980.



Rockland Zoning Board of Appeals

Rockland, Massachusetts 02370

ARTICLE VI. CHAPTER 774 HEARINGS PROCEDURE

Section 1. Applications

- (a) The application shall be on such form as may be from time to time prescribed by the Board of Appeals.
- (b) The application, and supporting documentation, shall contain the following information:
 1. The name(s) of the applicant(s).
 2. The names of all parties having a legal or beneficial interest in the application.
 3. Documents sufficient to prove the applicant's status as a non-profit, limited dividend, or public agency.
 4. Documents sufficient to prove applicant's interest in the locus; in the case of a public agency with eminent domain authority, a statement of interest in acquiring the site shall be sufficient to demonstrate interest in the property. Said documents shall give the precise location of the property.
 5. FHA, HUD or MHFA site approval or other documentation showing a funding agency's interest.
 6. Requested exceptions to local codes, ordinances, by-laws and regulations.
 7. A statement of local need for such a development, including any documentation required to substantiate such need.
 8. A description of the proposed development, including but not limited to the following information:
 - a. The acreage of the locus.
 - b. The number of buildings to be built, and the total number of housing units contained therein.
 - c. The type(s) of building(s) to be constructed, and the method of construction to be employed.
 - d. The name(s) of the owner(s) of record, if different from the applicant.
 - e. The name(s) of the designer, engineer, architect, surveyor, and any others providing professional services in connection with the development.
 - f. A general description of the proposed system of drainage and sewerage, including adjacent existing natural waterways.
 - g. The names, locations and widths of adjacent streets.
 - h. A description of the topography of the site.
 - i. The locations and widths of proposed streets, driveways, or other means of vehicular traffic.



Rockland Zoning Board of Appeals

Rockland, Massachusetts 02370

ARTICLE VI. CHAPTER 774 HEARINGS PROCEDURE (Cont'd.)

- j. A floor plan of a typical unit, together with typical elevations and a typical section.
 - 9. A statement of the environmental impact in terms of traffic, public safety, schools, recreation, energy, and the effect of the development on open space and the natural environment.
 - 10. An overall site plan of the development.
- (c) The application shall have attached to it a list containing the names of all abutters, and of owners of land next adjoining abutters, as determined from the most recent tax list and as certified by the Board of Assessors or their designee to be a correct list.
 - (d) The application shall be addressed to the Zoning Board of Appeals, and shall be filed by the applicant with the Town Clerk in the quantities prescribed in Article III, Section 1(c) of these Rules of Procedure.
 - (e) The Board, or its designated representative, may at its discretion require from the applicant such other information, documentation, or other data as it may need to make an informed decision.

Section 2. Hearings

- (a) Timing of the hearing.
 - 1. The hearing shall be held within 30 days of the filing of the application with the Town Clerk.
- (b) Notification.
 - 1. With regard to notification of the public, and of the names contained in the list of parties in interest, the procedure to be used shall be that prescribed in Article III, Section 2(a) through 2(g) of these Rules of Procedure.
 - 2. The Chairman of the Board shall cause to be notified of the hearing all town boards and officers potentially having an interest in the proceedings, including specifically the Board of Selectmen, the Planning Board, the Board of Health, the Conservation Commission, and the Building Inspector; and at their request shall furnish them with a copy of the application and all supporting documentation; and shall invite their testimony at the hearing.
- (c) Testimony and documents.
 - 1. The Board may listen to any testimony and inspect any data or any sites as it may deem necessary, to enable it to render a fair and informed decision.



Rockland Zoning Board of Appeals

Rockland, Massachusetts 02370

ARTICLE VI. CHAPTER 774 HEARINGS PROCEDURE (Cont'd.)

2. The Board must listen to any testimony of any person to whom it is required to give notice; but at the discretion of the Chairman may exclude unnecessary, irrelevant or repetitive testimony.
3. Anyone appearing before the Board may be accompanied by counsel, and counsel may exercise for him any right that he may have in his own person before the Board.
4. All testimony shall be given under oath, and the person testifying shall clearly identify himself, his interest (if any) in the proceedings, and any special credentials that he may have pertaining to the subject matter of his testimony.
5. All documents introduced into evidence shall be clearly identified by name, by exhibit number, or by some other system of designation; and the person(s) introducing them shall also be identified. They shall form a part of the permanent record of the proceedings.
6. A stenographer shall be employed, at the expense of the applicant, to make a stenographic record of the proceedings, and shall provide a transcript of said record to the Board as soon as possible after the conclusion of the hearing.
7. The order of the hearing will be that prescribed in Article IV, Sections 1(a), 1(b) and 1(e) of these Rules of Procedure, except that the Chairman may make such modifications in the above-named sections as may be required to conduct a Chapter 774 hearing.

Section 3. Voting, Decision, and Comprehensive Permit Issuance

(a) Voting.

1. The decision of the Board shall be by a majority vote of five (5) Full and/or Associate Members of the Board.

(b) Decision

1. The Board must render a decision within forty (40) days of the conclusion of the hearing, unless the time is extended by mutual agreement between the Board and the applicant.
2. The contents of the written decision, and its distribution, shall be as prescribed in Article V, Section 2 of these Rules of Procedure.

- (c) If the vote of the Board is affirmative to grant the application, the Board shall issue to the applicant a Comprehensive Permit. Said Permit shall be on the official letterhead of the Board, shall



Rockland Zoning Board of Appeals

Rockland, Massachusetts 02370

ARTICLE VI. CHAPTER 774 HEARINGS PROCEDURE (Cont'd.)

be signed on behalf of the Board by the Chairman and the Secretary, shall make reference to the decision and all supporting documentation, and shall enumerate any conditions attached to the granting of the application. Said Comprehensive Permit shall be mailed to the applicant, first class postage prepaid.

- (d) If the vote of the Board is to deny the application, and the Board's decision is reversed by a federal or state agency or court of competent jurisdiction, and all avenues of appeal have been exhausted, the Board shall issue a Comprehensive Permit as described in (c) above, with the exception that said Permit shall not make reference to the original decision of the Board.

Section 4. Adoption of this Article

- (a) This Article of the Rules of Procedure was adopted by vote of the Board on September 4, 1980.