

Order of Hearing:

1. Recusal / Party Challenges to Board Members

(Evidentiary Hearing)

Challenges allowed by any party

Board member can recuse himself / herself, then alternate member takes seat

If challenged member does not recuse, then challenged member put under oath

and questioned by challenging party and other parties

Board Attorney may examine board member as well

Challenging party and other parties make closing argument

Board decides if challenge has merit by simple majority vote

Board Attorney reads the following questions:

Has any Board member communicated with other Board members, the Applicant, or Town Staff about this application?

Does any Board member have a fixed opinion that is not susceptible to change?

Does any Board member have a close, familial, business, or associational relationship with the applicant?

Does any Board member have a financial interest in the outcome of this matter?

Ask each member if their answer is yes to any of those questions. If yes, then they have a conflict and can recuse themselves or the Board can vote to recuse them.

2. Preliminary Motions

3. Standing of Appellant

(Evidentiary Hearing)

Appellant presents evidence (Burden)

Town cross-exam

Board Member questions

Town presents evidence

Appellant cross-exam

Board Member questions

“Aggrieved Public” Testimony (if relevant) [Jay—Read comment to public]

Appellant cross-exam

Town cross-exam

Board Member questions

Town closing argument

Appellant closing argument

Board decides; simple majority

If standing is found, the hearing moves to item 3.

4. Motion to Intervene by Owner

(Evidentiary Hearing)

Owner presents evidence (burden)

Town cross-exam

Appellant cross-exam

Board Member questions

Town presents evidence

Appellant cross-exam

Owner cross-exam

Board Member questions

Appellant presents evidence

Town cross-exam

Owner cross-exam

Board Member questions

“Aggrieved Public” Testimony (if relevant)

Town cross-exam

Owner cross-exam

Appellant cross-exam

Board Member questions

Town closing argument

Appellant closing argument

Owner closing argument

Board decides; simple majority

5. Hearing of the Actual Appeal

(Evidentiary Hearing)

Appellant presents evidence (Burden)

Town cross-exam

Owner cross-exam (if intervention allowed)

Town presents evidence

Owner cross-exam (if intervention allowed)

Appellant cross-exam

Owner presents evidence (if intervention allowed)

Town cross-exam

Appellant cross-exam

“Aggrieved Public” Testimony (if relevant)

Town cross-exam

Owner cross-exam

Appellant cross-exam

Board Member questions

Town closing argument

Owner closing argument (if intervention allowed)

Appellant closing argument
Board decides; simple majority

Jay reads: Board Members, you are to make one of the following decisions:

Affirm (in whole or part) the permit;

Reverse (in whole or part) the permit; or

Modify the permit.

You have all the powers of the zoning official who made the decision to issue the permit.

Each decision requires a 3/5ths vote NOT a 4/5ths vote like a variance. A simple majority carries the day.