

RULES OF PRACTICE AND PROCEDURE BEFORE THE  
TOWN OF WEST WARWICK  
ZONING BOARD OF REVIEW

**TIME OF FILING**

All applications for Dimensional or Use Variances or Special Use Permits shall be filed with the zoning clerk prior to the 1<sup>st</sup> day of the month in which the application will be heard by the zoning board.

**NOTICE**

Public notice for hearings on Dimensional or Use Variances or Special Use Permits shall be given by the applicant at least 14 days prior to the date of the hearing in a newspaper of general circulation in the Town of West Warwick. Notice of hearing shall be sent by the applicant by certified mail, return receipt requested, to all those who would require notice under Rhode Island General Laws §45 – 24 – 53. In all cases the returned receipts and Affidavit of Compliance MUST be filed with the clerk before any hearing will be held.

**DOCUMENTS TO BE FILED WITH APPLICATION**

In all applications for Dimensional or Use Variances or Special Use Permits the following documents must be filed with the application:

1. A completed application,
2. A 200 foot radius map,
3. An abutters' list,
4. A site plan (a Class I survey may be required by the zoning board),
5. Building plans where applicable,
6. Current zoning certificate,
7. Tax collector report.

**REPRESENTATION**

Any applicant that is a formal business entity registered with the Secretary of State, such as a corporation or LLC must be represented by an attorney.

An applicant that is a partnership may be represented by one of the partners or an attorney.

An applicant that is an individual may represent himself or herself or be represented by an attorney.

Persons not licensed to practice law in the State of Rhode Island, such as architects, builders, engineers, etc. may not represent any applicant.

The Zoning Board of Review, when in its opinion for reasonable cause shown, may, by vote of a majority of the Zoning Board of Review, a quorum be present, waive any of the above representation requirements.

### **FILING OF DOCUMENTS**

All documents in excess of 2 pages that any party wishes to be presented to the Board must be filed with the Board not less than 10 days prior to the hearing date. It shall be in the discretion of the Board, by a vote of the majority of the Board, whether the Board will allow or refuse to allow the filing of any document not timely filed. In the event that the Board shall allow such filing, it shall further be the discretion of the board, by a vote of the majority of the board, to continue the hearing for 1 month to allow time for the Board to review such documents. Any party filing such document shall agree that if the Board shall vote to continue the matter for 1 month to allow the review of the document, the party so filing shall agree to stipulate that he, she or it will waive any time deadlines that will expire as a result of such continuance. Failure of the party to agree will result in the refusal of the Board to permit the filing of the document.

### **MEETING**

The Chairperson shall call the meeting to order. The clerk shall take a roll call. Three members must be present for a quorum but 5 members must be present for a vote on the application. The Chairperson will call the matters to be heard in the order in which they appear on the agenda. The Board, in its discretion, may, by majority vote, change the order in which matters shall be called for hearing.

### **PROCEDURE FOR HEARING**

The applicant shall present testimony and evidence first. The Board may question applicant or witnesses during presentation. Upon completion of applicant's presentation, persons wishing to speak in favor of application will be heard. The Board may question persons speaking.

Upon completion of applicant's and persons speaking in favor, persons opposed to the application will present testimony and evidence. The Board may question witnesses during presentation.

Upon completion of objector's presentation, the applicant will be given opportunity to respond to objector's presentation. The Board may question presenters.

Upon completion of applicant's response, the Chairperson shall request a motion to close the public hearing. A motion will be made and seconded, and upon affirmative vote of a majority of the Board, the public hearing will be closed.

The Board will then discuss the application. During the Board's discussion, any person appearing on the matter, including Town staff, may be questioned by the Board. Only question

by a Board member and discussion will be allowed. Unless requested by the Board, no additional testimony or evidence may be presented.

After discussion, upon motion made and seconded, a roll call vote of the members or alternates sitting on the application will be taken on the approval of the application and any conditions that the Board may attach to an approval, with each voting member stating his or her reason for his or her affirmative or negative vote.

### **TESTIMONY**

All testimony and comments shall be addressed to the chairperson or Board member and shall not be directed to any other individual. To insure a fair and orderly hearing the chairperson shall:

1. Allow only one person to speak at a time,
2. Required testimony and evidence to be relevant to the issues,
3. Not allow any emotional displays or undignified presentations,
4. Require that all cross-examination or rebuttal be within reasonable limits,
5. Prohibit members of the public from debating or arguing with persons offering testimony.

The chairperson may require that testimony duplicating prior testimony be done by making reference to the prior testimony without repetition. The chairperson may set a time limit for each witness.

### **LAY TESTIMONY**

All witnesses shall identify themselves in state their address for the record. All witnesses shall give oath or affirmation regarding his or her testimony.

### **EXPERT TESTIMONY**

All persons presented for the purpose of giving expert testimony shall state the name, business location and their qualifications to be accepted as an expert in a particular field and shall give oath or affirmation regarding his or her testimony. The Board may question the witness regarding his or her expertise. The Board by majority vote may except or reject the witness as an expert in the particular field.

Evidence that is offered as expert testimony in a particular field, such as a land surveyor, engineer, traffic expert, etc must be presented by the professional that did the preparation to respond to questions from the Board members.

For example:

- Surveys will require the preparing surveyor to be present.
- Drainage will require the preparing engineer to be present.
- Compliance with the comprehensive plan will require a real estate expert.

## **EXHIBITS**

During a public hearing, any witness may offer materials to illustrate or substantiate his or her testimony. These materials included writings, maps, charts, articles and the like. Each article shall be marked as an exhibit and made part of the record.

In the event of an objection to the entry of an article as an exhibit the chairperson shall determine, upon advice of legal counsel, if he or she so desires, as to whether or not the article shall be admitted as an exhibit for the record.

## **VOTING PROCEDURE**

After the public hearing has been closed and upon closing of discussion a motion shall be made and seconded to approve the application. Once the motion has been made and seconded a motion to amend and add conditions may be made and seconded.

Discussion is then held on the motion to amend, if any has been made, and a vote is taken on the motion to amend. If the motion to amend is approved the original motion, as amended, is then voted on. If the motion to amend was defeated or if there was no motion to amend the original motion is voted on.

A roll call vote shall be taken on the final motion. As each member cast his or her vote, he or she shall state the reasons for his or her affirmative or negative vote.

A vote to approve the application for relief requires 4 affirmative votes. Failure to obtain 4 affirmative votes is a denial of the application for relief.

## **TIME LIMITS**

Any petition on the agenda that has not been reached for hearing by 9:30 pm shall be continued for hearing to the next regularly schedule Zoning Board meeting. Any petition that has been reached for hearing, but which hearing has not been concluded by 10:00pm, at the conclusion of the testimony being presented at 10:00 pm shall be continued to be concluded at the next regularly scheduled Zoning Board meeting. The Board may, by majority vote, waive any time limit.

## **RECORDING OF DECISION**

The decision of the zoning board shall be recorded in the Town Clerk's Office. The applicant shall pay a recording fee for the recording of the decision.

## **EFFECTIVE DATE**

These RULES OF PRACTICE AND PROCEDURE BEFORE THE TOWN OF WEST WARWICK ZONING BOARD OF REVIEW shall take effect November 1, 2017. All previously enacted Rules of Practice and Procedure before the Town of West Warwick Zoning Board of Review are hereby repealed and of no further force or effect.