

RULES FOR THE CONDUCT OF PUBLIC HEARINGS
TOWN OF WAYNE, MAINE
BOARD OF APPEALS

These rules govern the practice, procedure and conduct of public hearings held by the Board of Appeals (“Board”) for the Town of Wayne, Maine (“Town”). These rules shall be liberally construed so as to enable the Board to accomplish its duties and responsibilities in a just, speedy and inexpensive manner. Where good cause appears, the Board may permit deviation from these rules insofar as it may find compliance therewith to be impracticable or unnecessary.

1. Notice of Public Hearings. Notice of public hearings shall be given in accordance with the By-Laws – Board of Appeals – Town of Wayne, Maine (“By-Laws”), which can be found on the Town Website (Board of Appeals tab) or may be obtained at the Town Office.

2. Presiding Officer. The Chair shall be the presiding officer at all public hearings, unless another member is selected is elected to preside by a majority of Board members present at the hearing. The Presiding Officer shall have authority to:

- a. Rule upon issues of evidence;
- b. Regulate the course of the hearing;
- c. Rule upon issues of procedure;
- d. Take such other actions as may be ordered by the Board or that are necessary for the efficient and orderly conduct of the hearing, consistent with these rules and applicable statutes and ordinances.

3. General Conduct of the Public Hearing.

a. Opening Remarks. The Presiding Officer shall open the hearing by describing in general terms the purpose of the hearing and the general procedure governing its conduct.

b. Record of Testimony. The Board shall make a record of the hearing by appropriate means. If a sound recording is made, any person shall have the opportunity to listen to the recording at such reasonable times and at such a place as may be designated by the Board.

c. Witnesses. Witnesses shall be required to state for the record their name, residence address, business address, business or professional affiliation, the nature of their interest in the hearing, and whom they represent.

d. Continuance. All hearings conducted pursuant to these rules may be continued for reasonable cause and reconvened from time to time and from place to place as may be determined by a majority of the Board members present. Continuances may be granted

at the request of any person participating in such hearing if it is determined that a continuance is necessary. This provision shall not be interpreted in such a fashion as to cause unreasonable or needless delay in any hearing. All orders for continuance shall specify the time and place at which such hearing shall be reconvened. The Board or the Presiding Officer shall notify interested persons and the public in such manner as is appropriate to insure that reasonable notice will be given of the time and place of such reconvened hearing.

e. Regulation of Filming and Taping. The placement and use of television and video cameras, still cameras, motion picture cameras, microphones, or other sound or video recording devices or equipment at Board hearings for the purpose of recording the proceedings may be regulated by the Presiding Officer so as to avoid interference with the orderly conduct of the hearing.

f. Order of Business and Testimony. The order of business at a public hearing shall be as follows

- i) The Presiding Officer calls the hearing to order.
- ii) The Presiding Officer determines whether there is a quorum.
- iii) The Presiding Officer gives its opening remarks.
- iv) The Board determines whether it has jurisdiction over the appeal.
- v) The Board decides whether the applicant has standing to prosecute the appeal.
- vi) The appellant or his or her representative and witnesses are given the opportunity to present his or her case without interruption.
- vii) The Board and interested parties may ask questions of the appellant through the Presiding Officer or by such process as the Presiding Officer appropriate under the circumstances.
- viii) The interested parties are given the opportunity to present their case. The Board may call its own witnesses, such as the Code Enforcement Officer.
- ix) The appellant may ask questions of the interested parties and Board witnesses through the Presiding Officer or by such process as the Presiding Officer deems appropriate under the circumstances.
- x) All parties are given the opportunity to refute or rebut statements made throughout the hearing.
- xi) The board shall receive comments and questions from all observers and interested citizens who wish to express their views.

xii) The Board shall receive and retain copies of any written statements and documents offered to the Board by the interested parties and by other parties.

xiii) The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued to a later date. All participants should be notified of the date, time and place of the continued hearing.

4. Standards for Review and Evidence Allowed.

a. “Appellant” Reviews. The Board’s jurisdiction regarding administrative appeals of actions by the Planning Board and/or Code Enforcement Officer (“CEO”), as described in paragraphs 1(a) and 1(b) of the By-Laws, is “appellate” in nature - which means, the Board must limit its review on appeal to: (i) the record established by the Planning Board or CEO for the decision being appealed, and (ii) to the arguments of the parties. The Board may reverse or modify a decision of the Planning Board or CEO only upon a finding that the decision is contrary to specific provisions of the Ordinance or is unsupported by substantial evidence in the record. No new evidence shall be accepted at the hearing of such an administrative appeal, except as may directly relate to the accuracy or completeness of the record submitted to the Board regarding the action appealed.

b. “De Novo” Reviews. The Board’s jurisdiction regarding Interpretation Appeals and Variance Applications, as described in paragraphs 1(c) and 1(d) of the By-Laws is “de novo” in nature – which means, the Board: (i) accepts evidence on all matters relative to the subject matter of the hearing, (ii) develops its own evidentiary record, independent of any prior proceedings, and (iii) makes its own, new and independent, decision of the matter before it.

5. Evidence.

a. Relevance. The Board shall provide as a matter of policy for exclusion of irrelevant, immaterial, or unduly repetitious evidence.

b. Judicial Notice. The Board may, at any time, take notice of judicially cognizable fact, generally recognized facts of common knowledge to the general public and physical, technical or scientific facts within the specialized knowledge of the Board.

c. Documents and Exhibits. All documents, materials and objects offered as evidence shall, if accepted, be numbered or otherwise identified. Documentary evidence may be received in the form of copies of excerpts if the original is not readily available. The Board or the Presiding Officer shall require that any party offering any documentary or photographic evidence shall provide the Board with an appropriate number of copies of such documents or photographs, unless such documents or photographs are determined to be of such form, size or character as not to be reasonably susceptible of reproduction. All documents, materials and objects accepted into evidence shall be made available during the course of the hearing for public examination and explanation and shall become part of the record of the proceedings.

d. Objections. All objections to rulings of the Presiding Officer regarding evidence or procedure shall be made during the course of the hearing. If after the close of the hearing and during its deliberations the Board determines that any ruling of the Presiding Officer was in error, it may reopen the hearing or take other action as it deems appropriate to correct the error.

6. Conclusion of Hearing. At the conclusion of the hearing, no further evidence or testimony will be allowed into the record except as provided below.

7. Leaving the Record Open. Upon request of a party or on its own initiative the Board may permit persons participating in any hearing pursuant to these regulations to file proposed findings, determinations, or other written statements with the Board for inclusion in the record after the conclusion of the hearing within such time and upon such notification to the other participants as the Presiding Officer may require.

8. Other. At any time prior to a final decision, the Board may reopen the record for further proceedings consistent with these Rules, provided, however, that notice of such further proceedings shall be given to the participants and the public in such manner as is deemed appropriate.

9. Miscellaneous.

a. Record. The record of the hearing shall consist of the recording of the hearing, all exhibits, all briefs and other documents provided by the parties, proposed findings and rulings thereon, and any proposed findings of fact and conclusions of the Presiding Officer. Such record shall be reported to the Board for its decision.

B. Copies of Records. Any participant or other member of the public may obtain a copy of the record from the Board upon payment of the cost of transcription, reproduction, and postage.

THESE HEARING RULES as set forth above are adopted by vote of the Board of Appeals, Town of Wayne, Maine at a meeting on August 15, 2022.

Teco Brown

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