

TOWN OF TIVERTON, RHODE ISLAND

ZONING BOARD OF REVIEW

RULES OF PROCEDURE

1. GENERAL

Unless otherwise stipulated in these rules or in the Tiverton Zoning Ordinance, hereinafter referred to as Zoning Ordinance, all hearings will be conducted in accordance with Rules of Procedure, as interpreted by the Chairperson, hereinafter called the Chair. The provisions of the Zoning Ordinance and the Zoning Statute (Chapter 45-24 of the General Laws of Rhode Island, as amended) shall govern all actions of the Tiverton Zoning Board of Review, herein referred to as the Board.

2. APPLICATIONS

- a. All applications submitted to the Board, sitting as the Zoning Board of Review and/or the Board sitting as the Board of Appeals, shall be submitted and signed by persons with knowledge of the facts contained in their respective petitions.
- b. All applications seeking relief from the Zoning Board, whether for a special use, a dimensional variance or appeal to the Zoning Board of Appeals, shall contain the criteria for the form of the relief requested. This requirement is satisfied by the Board Administrator appending a copy of the relevant Zoning provision to the application.
- c. In the event the Zoning Official determines an application to be incomplete, it shall be returned to the applicant and not scheduled for a hearing until the application is deemed complete in all respects by the Zoning Official. The hearing will be assigned to the next available hearing date or a hearing date requested by the applicant so that notice can be given pursuant to the Open Meetings Law.
- d. Applications shall be submitted in electronic format or hard copy. Any electronic filing must be made using Microsoft Word and Adobe PDF.
- e. The application shall contain a copy of the Ordinance for which relief is sought to enable the applicant to address the elements of proof required for the Board to grant the relief requested.

3. OFFICERS

- a. Annually at the July meeting, the Board members will elect officers. These officers shall consist of the Chair, the Vice Chair, and the Secretary, and any additional officers they deem appropriate.
- b. In the event of a vacancy of an officer of the Board, at the first meeting thereafter, such vacancy shall be filled by a vote of the full Board. The newly elected officer shall begin his/her term immediately and serve out the remainder of the term of the replaced officer.

4. STENOGRAPHER/VERBATIM RECORDER

The Board shall designate a certified stenographer/verbatim recorder to record the proceedings of each hearing and to transcribe the recording into written minutes. The transcript of a given matter is available to be ordered by any party, at the expense of the person or entity ordering the preparation of the transcript. The stenographer shall administer oaths at the direction of the Chair.

Minutes of a given hearing shall be prepared by the stenographer or her designee, and may be inspected at the Building/Zoning Department or through the website of the Office of the Secretary of State.

5. DUTIES OF THE CHAIR

- a. The Chair, or in his/her absence, the Vice-Chair, shall preside at all meetings and hearings of the Board, shall decide points of Order and procedure, and may compel the attendance of witnesses, certify all actions in conducting meetings of the Board, call special meetings, and appoint any necessary committees, make any assignments required in discharging the duties of the Board or exercise any general supervisory powers. The Chair shall at each meeting report on any correspondence and other transactions that have not otherwise been brought to the attention of the Board.
- b. No less than four (4) weeks prior to a scheduled hearing, the Building/Zoning Official shall review all listed petitions and supporting documentation for completeness, required number of copies, and compliance with the provisions of these rules and Zoning Ordinance, the requirements of the application and the application instructions.
- c. The Vice-Chair shall act as Chair and shall have the powers and duties of the Chair whenever the Chair is absent, disabled, or unable to perform the duties of the Chair.

7. MEETINGS AND HEARINGS

- a. All hearings and meetings of the Board shall be open to the public as required by R.I.G.L Chapter 42-46 (as amended).
- b. Public notice of all hearings and meetings of the Board shall be made in accordance with the Rhode Island Open Meetings Law and notice requirements set forth in R.I. General Laws Chapter 42-46 (as amended).
- c. A hearing before the Board shall not commence until all fees and advertising costs have been paid in full.
- d. Regular meetings of the Board shall start at 7:00 PM. The Board will cease hearing testimony on Petitions at 10:00 PM. Testimony may be continued behind 10:00 PM by unanimous decision of the Board. All hearings shall be held on regular meeting nights except where a hearing is adjourned to another date as provided in subsection (e), below.
- e. A regular meeting or hearing may be continued to another date by a vote of the majority of the members of the Board and no further notice shall be required, provided the time, place, and date of the resumption of the meeting or hearing is announced at the time of the continuance and is not subsequently changed.
- f. In the event that after public notice of a meeting is made, it is determined that a quorum of the Board is not possible and a continuation is necessary, the Chair, or designated representative of the Board shall be available at the scheduled public meeting to announce to all present the time, place and date of the rescheduled meeting. Or, at the discretion of the Chair, a written notice of the continuance will be posted at Town Hall and will become a part of the record. The rescheduled meeting date, time, and location will be advertised in accordance with the Open Meetings Law. No other further public notice shall be required. In all other cases, rescheduled meetings must be re-advertised.
- g. A quorum shall consist of five (5) participating members. In the absence of a regular member(s), the first and/or second alternate shall sit as a moving member upon invitation of the Chair. Alternate members, unless filling in for a regular member of the Board cannot vote on a petition, but may sit with the Board and may participate in all other respects, including questioning of witnesses, and discussion during the hearing and deliberations. No public hearing or decision on any matter before the Board shall be valid unless a quorum of five is present. Where a matter is continued through two or more meetings, no member or alternate who was absent from one or more of those meetings shall participate in the decision on the matter.

- h. If recused, a Board Member or alternate shall remove themselves from the assembled Board and the public hearing for the duration of the hearing of the matter for which recusal was necessitated. Notice of the recusal must be filed with the Office of the Secretary of State prior to the start of the meeting.
- i. Notice of public hearing shall be given by the Board Administrator, the administrative assistant to the Zoning Board and Building and Zoning Official, in accordance with Article XV of the Zoning Ordinance. The Board Administrator shall establish a deadline for application submittal to insure that proscribed notice of hearing announcement time limits are fulfilled.
- j. Application submittal materials shall include the completed application, abutters list, a scaled drawing reviewed by the Building/Zoning Official prepared by a licensed surveyor (site plan), a Notice of Appearance by counsel or other person authorized to appear on behalf of the applicant, notice of limitation of assistance, acknowledgement of rights to appeal any adverse decision of the Board, and any other documentation as required in the application. Abutters are those property owners wholly or partially within a 200' radius of the property. If the applicant previously appeared before the Planning Board on this matter, a copy of the scaled drawing presented to the Planning Board and initialed by the Chair shall be included in the application. Eleven (11) copies of the scaled drawings and other documents, including but not limited to traffic studies, consultant reports, deeds, letters, OWTS (on site wastewater treatment systems), approvals, photographs, any any or the document intended for submission as evidence during the hearing shall be included in the application at the time of submission, but in any event **NO LATER THAN TEN (10) DAYS BEFORE THE HEARING.**
- k. All applicants who submit documents and evidence less than ten(10) days before the scheduled hearing date will not be heard on the merits and will have their matters continued to the next regular meeting date or as directed by the Chair. An announcement of the reason for the continuance will be made on the record, on the hearing date originally scheduled, so that no further advertising will be required.
- l. Entries of appearances by attorneys or otherwise authorized representatives of an applicant shall include an acknowledgement of his/her knowledge and familiarity with the Rules of Procedure for the Board.
- m. Those persons other than the applicant wishing to submit evidence of a documentary nature are encouraged to submit these documents to the Board as early as practicable to allow time for their review by individual Board members prior to the hearing.
- n. The Zoning Official may waive the requirements for a site plan if the petition before the board is for a use variance where dimensions are not relevant to the matter before the Board. The Board reserves the right to not hear a petition if the approved site plan is not provided to the Board.
- o. The Board Administrator shall collect an Application Fee from the applicant which is due in full at the time of the application, as well as the recording fee of \$50.00 and a Deposit of \$500 which shall be applied to the costs incurred by the Town on the Applicant's behalf (legal advertisement, abutters notices, etc). The Application shall be stamped with the time and date to certify receipt and payment of the Fees and Deposits and to determine the position of the application on the agenda. Petitions are heard in descending order of the filing date or at the discretion of the Chair. The amount of the Application fee is determined from the current fee scheduled as adopted by the Town Council. Prior to the hearing, the Applicant will also reimburse the Town for any additional costs that are not covered by the Deposit.
- p. The Zoning Board shall provide a Stenographer who shall prepare a verbatim recording a the hearing to document the proceedings. After the Hearing, the signed decisions will be recorded with the Town Clerk by the Board Administrator at which time the appeal process shall commence. A certified summary of the minutes shall be provided in hard copy and electronic formats for distribution to the Board members. Certified transcripts may be ordered and obtained from the Stenographer at a cost paid by the applicant and arranged through the Board Administrator.
- q. Public Hearings on an application for a special use permit or variance shall be conducted in the following order:
 1. Announcement by the Chair;

2. Presentation by the applicant or representative;
 - i. after testimony of each witness:
 1. questions by the Board;
 2. Cross examination by opponents;
 3. Questions from the general public through the Board;
 4. Rebuttal
 3. Presentation by opponents;
 - i. After testimony of each witness;
 1. questions by the Board;
 2. Cross-examination of opponents
 - 3 Questions from the general public through the Board;
 4. Rebuttal
 4. Summary by Opponents
 5. Summary by Applicants
- r. The Board, as recognized by the Chair, may question any party, representative, or witness at any time. Any other question of any party, representative or witness must be directed through the Chair, who shall have the discretion whether to ask such question or not.
- s. All witnesses shall be sworn by the Stenographer prior to testifying;
- t. An applicant may appear on this/her own behalf or be represented by an agent or an attorney. If the applicant is represented by an attorney, s/he shall submit a Notice of Entry of Appearance, which represents that counsel has acknowledged familiarity with these Rules of Procedure and the requirements of the application. If not an attorney, the representative must provide written authority from the applicant/owner of his/her authority to act on the applicant/owner's behalf, and an acknowledgement that s/he is familiar for these Rules of Procedure.
- u. When the applicant is a business entity, it must have a representative present who is authorized to accept conditions or changes, to answer questions, or respond to suggestions by the Board. Representatives shall provide a certificate of authorization evidencing their authority to appear on behalf of said business entity.
- v. Evidence to be entered into the record during the course of the hearing must be submitted to the Chair who shall verbally identify the item of evidence on the record, affix a label, and verbally enter it into the record. Opponents shall have the opportunity to examine the document prior to its entry into the record and object to its admission. The Chair shall have final say as to whether the evidence is entered into the record should there be any objection to its admission. All documents intended to be introduced into evidence shall be presented and filed with the Board no less than 10 days prior to admission.
- w. Any written statement received by the Board from the general public will be received and considered. These statements are public record. The weight to be given to given written

submissions by persons not present and available for cross-examination shall be determined by the Board in its discretion.

x. A majority of the Board is required for the acceptance of an expert witness.

y. An applicant may request a continuance from the Chair prior to the commencement of the date first scheduled for the hearing. This request must be in writing, state the reason for the request, and shall be received by the Board Administrator at buildingclerk@Tiverton.ri.gov no later than the Friday before the scheduled hearing. Continuances requested subsequent to the Friday before the hearing may be allowed for good cause shown by the Chair. If the request for a continuance is granted, the Chair shall notify all Members of the Board as soon as possible, and shall so indicate at the hearing, and shall state the date and time and place for the rescheduled application so no additional advertisement is necessary. A second or subsequent request for a continuance shall be made before the full Board in open session, and may be granted for good cause shown. A request for a second or subsequent continuance shall be at the discretion of the majority of the Zoning Board.

z. Once a hearing has commenced, it may be recessed at the request of the applicant or the Board and continued to a subsequent hearing date to be provided at the time of the recess. If the Petitioner is unable to go forward at the subsequent time announced for the resumption of the hearing, the Board may grant a continuance for good cause shown. However once the hearing has commenced, but the petitioner is unable to continue the hearing and a further continuance has been denied, the matter cannot be withdrawn without prejudice.

aa. The Board may request the parties to submit supplemental memorandum at the conclusion of the testimony given before the Board, including a request for findings of fact and conclusions of law. The hearing will remain open pending the submission of these additional filings.

bb. The Board will render a decision after the evidence is closed and after its deliberation. The applicant shall receive a photocopy of the Decision indicating the date and time the decision was recorded, from when the time for appeal is calculated.

8 RECORDING.

Decisions of the Zoning Board or the Zoning Board of Appeals will be filed by the Board Administrator or other agent of the Town of Tiverton

EFFECTIVE DATE:

These rules shall be effective on the 15th day of June, 2022.

Entered:


Lise J. Gescheidt
Chairperson

ZONING BOARD OF REVIEW
TOWN OF TIVERTON

IN THE MATTER OF _____

HEARING DATE: _____

ENTRY OF APPEARANCE

I hereby enter my appearance on behalf of the Petitioner, _____

_____, I acknowledge that I have reviewed and am familiar with the Rules of Procedure for the Zoning Board of Review.

Counsel or Representative

Address: _____

Phone: _____

Email: _____

Date: _____

Questions regarding this application prior to hearing may be addressed to the undersigned at the contact information provided below:

Name

Address

Phone

Email

Relationship to Petitioner (eg. counsel, Petitioner, or other representative)

Entries of Appearances shall accompany each Petition filed with the Zoning Board of Review per the Board's Rules of Procedure.



TOWN OF TIVERTON, RI
ZONING BOARD OF REVIEW
APPEAL APPLICATION

Date received: _____

The undersigned hereby appeals the following action of _____
in the administration and enforcement of the Zoning Ordinance. (check one box only)

- 1. Denial of a Zoning application
- 2. Issuance of a Zoning decision
- 3. Other alleged error in enforcement of the Zoning Ordinance
- 4. Action of the Planning Board

I hereby submit the following information in support of this APPEAL.

Appellant Name (print) _____

Appellant Signature _____

Appellant address _____

Phone number _____

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I. PREMISES INVOLVED IN THE APPEAL

Location: _____

Assessor's Plat location: Map _____ Block _____ Card _____

General Lot Dimensions: Area _____ square feet
 Frontage _____ feet
 Average Depth _____ feet

Zoning District of Premise _____

Existing Structures on Premises Ground Floor _____ square feet
 Number of Floors _____
 Average Depth _____ feet

Current use of structure(s) Residence (), Number of units
 Commercial () Specify _____

Accessory use on premises Parking _____ sqft Spaces _____
 Loading _____ sqft Bays _____
 Other (describe) _____

Ownership: Name _____
Address _____
Name of Lessee _____
Address of Lessee _____

Duration of present ownership _____ years

II. NATURE OF APPEAL

If the APPEAL is of the denial of a zoning application complete the following:

Date of application _____
Date of denial of application _____
Reason for denial (Attach copy of notification)

Basis for Appeal (cite applicable ordinance provisions)

If Appeal is the issuance of a Zoning decision complete the following

Date of Issuance of decision _____
Basis for Appeal (cite applicable provisions of the ordinance)

If Appeal is of another alleged error in enforcement of the Zoning Ordinance complete the following

Date of alleged error _____
Nature of the alleged error (cite applicable ordinance provisions and other data in support of your allegation of error)

III. REQUIRED ACCOMPANYING MATERIAL

A scale drawing of the subject premises with a minimum size of 8 1/2" x 11" and a minimum scale of 1"=100ft. showing all lot lines, street lines and zoning district boundaries within 200' of the subject premises with appropriate dimensions, scale and north arrow. In addition, all existing and proposed buildings and structures on the premises shall be accurately shown on this plan with appropriate dimensions.

**INSTRUCTIONS FOR APPEALS
OTHER REQUIRED MATERIALS**

1. A check for the filing fee of \$115.00 (payable to the Town of Tiverton).
2. A separate check for \$51.50 for the recording of the decision.
3. A separate check for \$500.00 for estimated costs for advertising, abutter notification and stenographer services. Differences between estimated and actual costs will be refunded to petitioner in the case of over-payments or collected from the petitioner in the case of under-payments.
4. A list of all abutters of real property lying wholly or partly within 200' of the subject premises.
5. A plot plan of the subject premises, one original and 10 copies.
6. The zone for which the plot plan applies will appear on the plot plan with names of all streets that apply.
7. Applicants will show location of septic system and wells on their property.
8. Applicants may have access to the code of laws for any information that will aid them in their application.
9. Owners of abutting property should be shown on the plot plan.
10. Plan should show all permanent structures and any structures or physical features which might prevent placement of the proposed structure on the land in some other position for which no variance or exception would be required.
Eg. If slope precludes reasonable location of a garage relative to line requirements, slope should be indicated on the diagram.
11. Applicants must appear in person at the scheduled meeting of the Zoning Board. If they cannot appear in person and desire someone to appear for them, they must send a letter to the Board saying that they are requesting someone to speak for them.