

## Appeals Board Meeting Minutes

5 p.m. Thursday, April 13, 2017

Present: Peter Bickerman, Clif Buuck, Holly Rahmlow, Fran Zambella, Henry Whittemore, Allen Curtis, John Blouin and Town Manager Eric Dyer

The minutes from the December 15, 2016, meeting were read. Clif moved to approve, Henry seconded. All approved except Allen, who abstained.

Peter opened a discussion about a proposed Board of Appeals ordinance, which Eric and the Select Board have been drafting. The ordinance has been circulated, and some people have offered input including Henry.

Peter mentioned that there are two Maine statutes dealing with Boards of Appeal, one of which deals with variances, and that he found several problems.

It was decided to go through the document section by section.

Peter noted that we are not establishing a new board, as is stated in the current draft, but rather are reauthorizing this board, which was established by the 1973 town meeting.

Henry raised questions about 1.C., and Peter expressed concerns about 1.D., responsibilities of the board

After discussion, it was decided that 1.C. will include a reference to 7, Powers and Limitations.

Peter suggested removing "the community goals, desires and policies as expressed in" from 1.D.

In 3.C. it was suggested to change "partner" to "spouse or domestic partner." Some discussion of whether it should include business partners as well, but it was decided that conflict of interest rules would cover that.

Henry suggested that many people wouldn't know what "municipal officer" is. Agreed to change that to Select Board.

Clif suggested changing "question" to "motion" in 4.D. He also questioned the meaning of the section, which is wordy. Peter said that it basically means the secretary is responsible for keeping a record of everything the Appeals Board does.

Clif queried whether a quorum is needed to establish a conflict of interest in 5.A. Conflict of Interest. It was noted that even if a majority establishes a conflict, there wouldn't be a quorum to move ahead anyway.

Peter suggested deleting 6.A. and B., which define de novo and appellate, as they are defined again in C., D., and E.

Henry asked about the interpretation of de novo/appellate. There was some discussion of how appeals work and what recourse residents have if they are unsatisfied with a decision.

Peter questioned 6.E., which covers how the Appeals Board will review Select Board decisions. Henry noted that the Select Board is more political than judicial. He also questioned the fact that 6.E. does not specify any limitations and any resident might think they could bring their complaint to Appeals.

Allen brought up the 1973 town meeting and whether it's limited to Planning Board issues. Peter read the appropriate Maine statute, which says a town can establish an Appeals Board that covers all issues or limit it to specific issues. Allen read the 1973 warrant.

Holly asked about the procedure and whether the ordinance being drafted needs to go to the voters after it's approved by the Select Board. Eric said it does and that if approved it would override the 1973 vote.

At the December 15, 2016, meeting Appeals voted to limit its scope.

Peter suggested 6.E., which addresses the scope of Appeals, should be clarified or deleted. Henry said he's not comfortable with it either. It was decided to move on to other sections and return to the topic later.

Allen asked when the Select Board would vote on this and if it would get in time for the town meeting.

Peter said A. in Section 7, in Powers and Limitations, is redundant and inconsistent, in places putting Appeals above the Select Board.

Peter said with more time he could reorder some of the document and perhaps make it cleaner.

Peter noted that in the disability variance (7.A.3.a) it calls for a two-thirds concurring vote, which would require five instead of the usual four members.

More discussion of variances was held.

Peter noted that the land use ordinance is not related to the Select Board, and also that we cannot reverse a Select Board decision.

Eric agreed that Sections 7.A. and 7.A.1.a. are confusing and should be deleted.

In Section 7.A.3.a. it was agreed to change “two-thirds” to “a concurring vote of at least four members.”

Allen questioned Section 8.D. regarding calling a meeting. Currently says three members needed to call a meeting. It was agreed to change that to four as well.

It was agreed to strike the last sentence in 8.F. regarding the calling of executive sessions.

Peter noted that Section 10 on time limits calls for 45 days from the date of the written decision. Rules currently say the time begins from when the decision was made, not specifying written. It was agreed to strike “written.”

Clif noted that in 9.C. on Voting the ordinance calls for a majority. Once again it was decided to change that to four members.

In Section 12 Record of Case Henry asked about the specific mention of Mass Ordinance but no mention of Amusement. Eric said he couldn't find an Amusement ordinance, which is why it's not mentioned. It was agreed that instead of saying “applicable state statute” it will refer to 28-A MRSA 1054.

Henry suggested that “completed” be changed to “complete” in A. under Section 13, Hearings.

Peter questioned the need for much of 13.D. Eric agreed that 13.D.3. should end after “case” and 4 and 5 should be deleted.

Peter wants 13.D.6 to be rewritten. Abutters have no right to cross examine. Second sentence to end after “testimony.”

In 13.D.8. Peter noted that the appellant has the right to question witnesses.

Some discussion of the time limits for providing the decision. Peter noted that providing a written decision within 10 days could be a problem.

In D. in Section 15, Reconsiderations, Peter said state law requires a decision within 45 days, not 21.

Words are missing in 17.A. Add “An appeal of.”

Peter suggested deleting 17.A.3. Eric concurred.

It was agreed that a new draft will be circulated by email and then we'll meet again to vote on the final draft. We agreed to meet Monday, April 24. Clif moved, Fran seconded to adjourn, all approved. Meeting was adjourned at 7:05 p.m.

Prepared and submitted by Holly Rahmlow