

BY:\_\_\_\_\_

Signed \_\_\_\_\_

**TOWN OF CUMBERLAND  
BOARD OF ADJUSTMENT AND APPEALS**

**INSTRUCTION SHEET**

Dear Applicant:

The Board of Adjustment and Appeals meetings are held on the second Thursday of every month. **All** forms and information are to be submitted on the **Thursday, two weeks prior to the meeting.**

Please fill out the form completely to expedite processing, and return with the **\$100.00** application fee.

Before filling out the form, please be absolutely sure you understand the applicable sections of the Cumberland Zoning Ordinance. If you have any questions, the Code Enforcement Officer or staff person will be most happy to assist you.

File with your form a plot plan of the property in question, drawn generally to scale, showing EXACT distances from buildings (if any) to all lot lines, on 8 1/2 x 11 inch paper (or larger), and showing location and distances to all public and private rights of way. **Please provide ten (10) copies of your application and plans.** You may wish to present other maps, drawings, etc. to the Board which will support your application.

At your hearing, you will be expected to present as strong an argument for your application as you can. While members of the Board may ask you for information and documentation, it is not our function to make your case for you.

**The format of your hearing will be as follows:**

1. You will be asked to present your position to the Board.
2. Opponents and proponents will be asked for their comments.
3. Board members may wish to ask you, opponents, and proponents for information, documentation and certain other facts.

When the Board is satisfied that all have been adequately heard, they will vote to “close the public portion” of the hearing. This means that the Board will participate in further discussion while you, the other participants in your hearing and the public are entitled to stay and observe our debate and votes.

Finally, we solicit your understanding that as fellow citizens, appointed to the Board by the Cumberland Town Council, we must operate within the strict limitations placed upon us by the Cumberland Zoning Ordinance and the laws of the State of Maine, and do not, therefore, enjoy broad discretionary powers.

Sincerely,

CHAIRMAN  
Board of Adjustment & Appeals

**TOWN OF CUMBERLAND  
BOARD OF ADJUSTMENT AND APPEALS  
RULES OF PROCEDURE**

1. No business may be transacted by the Board without a quorum, consisting of four members. The concurring vote of a majority of those voting, but at least three votes, is necessary to grant any application. If any matter fails to receive a favorable vote of a majority of the Board members voting, the application will be deemed to have been denied.
2. All testimony must be presented at the podium so that it can be recorded. Testimony will be videotaped. The videotape will be available for inspection at the Town Office during regular business hours.
3. Applicants will first state their case and may present testimony and offer evidence. The burden of proof is on the applicant to present all the evidence the Board needs to determine whether the project will comply with every applicable requirement of the Ordinance. Applicants are strongly encouraged to provide with their written submissions all evidence in support of their application.
4. Following the conclusion of the applicant's case, members of the public may present testimony and offer evidence, in the following order: first, those in favor of the application; second, those opposed to the application; and third, those neither for nor against the application.
5. Applicants may then offer rebuttal evidence.
6. Parties, acting through the Chair, may cross-examine witnesses. The Chair may limit irrelevant, immaterial, or unduly repetitious testimony. Members of the Board may ask questions at any time, with the permission of the Chair.
7. At the conclusion of the rebuttal evidence, the public portion of the proceeding will be closed, and the Board will rule on the application pursuant to the applicable provisions of Cumberland's Zoning Ordinance and Maine law. The Chair may reopen the public portion during deliberations if the Chair determines it is necessary to do so in the interests of a full and fair hearing and a complete record.
8. After a decision has been made, the Board will not entertain a new appeal of similar import concerning the same property until one year has elapsed from the date of the decision, unless the Chair believes that an injustice was done because of a mistake of law or misunderstanding of fact or if the Chair believes a change has taken place in some essential aspect of the case sufficient to warrant a reconsideration of the appeal.
9. The Board's procedures also are governed by Maine law (30-A M.R.S.A. §§ 2691 and 4353, or any successor statutes) and Section 603 of Cumberland's Zoning Ordinance.

These rules were adopted on December 12, 2002, pursuant to 30-A M.R.S.A. § 2691(3) (C).