

§ 229-5 Minor staff review procedure.

- A. The applicant shall provide two copies of a complete application packet.
- B. The Town Planner shall determine if the application requires Board of Adjustment and Appeals review. If so, approval by the Board of Adjustment and Appeals shall be required prior to continuing the process described below.
- C. Within 10 days of the receipt of a completed application, the Town Planner will approve or deny the application in accordance with the provisions of this chapter.
- D. The Planning Department will mail notices of the action taken to all abutters within 200 500 feet of the site within 10 days of the decision.
- E. Submission requirements are listed in Appendix A.^[1]

§ 229-6 Major staff review procedure.

- A. The applicant shall provide nine copies of a complete application packet.
- B. The Town Planner shall determine if the application requires Board of Adjustment and Appeals review. If so, approval by the Board of Adjustment and Appeals shall be required prior to continuing the process as described below.
- C. A copy of the application shall be provided by the Planning Department to the following members of the Staff Review Committee: the Public Services Director, Police Chief, Fire/EMS Chief, Code Enforcement Officer, Economic Development Director, Town Manager, and Chair of the Planning Board. Comments shall be made on the application, in writing, to the Town Planner within seven days of the date of the application.
- D. The Town shall mail a notice, within three days of the application submission, to all property owners within ~~200~~ 500 feet of the site under review.
- E. Within 10 days following the submission of the completed application, the Town Planner shall review all submitted comments from the Staff Review Committee and residents and, in writing, approve, approve conditionally, or deny the application in accordance with the provisions of this chapter. The written decision of the Town Planner shall be mailed to the applicant and property owners within 200 feet of the site within 10 days of the decision. A copy of the decision shall also be provided to the Town Manager and other members of the Staff Review Committee. Notice of the staff approval will be given to the Planning Board at its next meeting.
- F. Submission requirements are listed in Appendix B.[1]

§ 229-7 Planning Board review procedure.

The Planning Board shall use the following procedures in reviewing applications for site plan review:

- A. Preapplication.
 - (1) Prior to submitting a formal application, the applicant or his/her representative may request a preapplication conference with the Planning Board. The purpose of the preapplication conference is to:
 - (a) Allow the Board to understand the nature of the proposed use and the issues involved in the proposal;
 - (b) Allow the Board to understand the location, size, natural resources and general characteristics of the proposed site;
 - (c) Allow the applicant to understand the development review process and required submissions;
 - (d) Discuss the need for any waivers from the submission requirements;
 - (e) Identify issues that need to be addressed in future submissions; and
 - (f) Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.
 - (2) The preapplication conference shall be informal and informational in nature. There shall be no fee for a preapplication review, and such review shall not cause the plan or any related application to be a pending application or proceeding under 1 M.R.S.A. § 302. No decisions on the substance of the plan shall be made at the preapplication conference.
 - (3) Submission requirements are listed in Appendix C.^[1]
- B. Application procedure. All applications must be received by the Town Planner at least 21 days prior to the date of the next Planning Board meeting. The Town Planner will determine if the application is complete. If the application is not complete, the application will not be placed on the Planning Board agenda. For this reason, it is strongly encouraged that applicants meet with the Town Planner prior to the deadline date to review the application materials.
- C. Public notice procedure.
 - (1) The Town Planner shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the applicant shall be notified in writing of this finding, which shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be reviewed until the additional information is submitted. The applicant shall provide all information prior to the deadline date for a subsequent Planning Board meeting. Failure to submit the additional information within six months shall be deemed an abandonment of the application.
 - (2) Once the application is deemed complete, a notice of the hearing shall be published in a newspaper of general circulation in the community at least once; the date of publication shall be at least seven days

prior to the hearing.

- (3) The Town Planning Department shall mail a written notice of the date, time, and place of the public hearing at which the application will be considered to the applicant and to all property owners within ~~200~~ 500 feet of the parcel on which the proposed development is located.
 - (4) Failure of any property owner to receive notice under this section for any reason shall not necessitate a new hearing and shall not invalidate any action by the Planning Board.
- D. Site walk. The Board may schedule a site walk if deemed necessary. A written notice for such site inspection shall be published at least once in a newspaper of general circulation in the community, and the date of the publication shall be at least seven days prior to the site inspection. Notice shall also be sent by first-class mail to all property owners of record within 200 feet of the parcel on which the proposed development is located.
- E. Public hearing procedure.
- (1) The purpose of the public hearing is to allow the applicant and affected property owners to provide information as part of the record that the Board will use in considering its action on the application. Testimony presented at the hearing should be related to factual information about the application and related submissions and the project's compliance with the review standards and other regulations and requirements of this chapter or other municipal ordinances.
 - (2) The Chair shall provide the applicant or his/her representative with an opportunity to make any statement or presentations at the beginning of the hearing. The Chair shall then allow the members of the Board to ask questions of the applicant and the applicant to answer those questions. Following Board questions, the Chair shall open the public hearing to the public for statements, information submissions, or questions about the project. At the close of the public comment period, the Chair shall afford the applicant an opportunity to answer any questions raised by the public, rebut any statements or information submitted, and cross-examine anyone offering testimony on the application. The Chair may allow the applicant this opportunity after each member of the public testifies if that is deemed to be desirable. At the conclusion of the applicant's response, the hearing shall be closed.
- F. Procedures for final action on an application.
- (1) At the meeting at which final action is requested by the applicant, the Planning Board shall approve, approve with conditions, deny, or table the application. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval and performance standards of this chapter.
 - (2) In issuing its decision, the Board shall make written findings of fact that establish whether the proposed development does or does not meet the standards of approval, design standards, performance standards, and other requirements of this chapter.
 - (3) The Board shall notify the applicant of the action of the Board, including the findings of fact and any conditions of approval.

§ 315-53 Home occupations and home-based occupations.

- A. Home occupations and home-based occupations are permitted in any single- or two-family structure or any structure that is accessory to a single- or two-family structure.
- (1) Notwithstanding any provision of this chapter to the contrary, the Code Enforcement Officer will approve and issue a change of use permit for home occupation and home-based occupation applications that meet the criteria listed below:
 - (a) The occupation is owned or operated by a member of the family residing within the dwelling unit;
 - (b) In the case of a home occupation, no more than two employees who are not members of the family are employed in the occupation;
 - (c) In the case of a home-based occupation, no more than two employees who are not members of the family are present at the dwelling at any one time;
 - (d) Objectionable or unreasonable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare will not be detectable beyond the property limits;
 - (e) No traffic in substantially greater volumes than would be normally expected in the neighborhood will be generated;
 - (f) Off-street parking spaces are provided in an amount to be determined by the Code Enforcement Officer to avoid street congestion;
 - (g) Exterior displays, exterior storage of materials, and exterior indications of the home occupation or home-based occupation, including signs, are inconspicuous;
 - (h) The existence of the home occupation or home-based occupation does not pose any potential threat to public health, safety, or welfare; and
 - (i) There will be no violation of any private deed restrictions affecting the use of the lot.
- (2) A home occupation that does not meet all of the above-listed standards shall require special exception approval from the Board of Adjustment and Appeals.
- B. The granting of a special exception approval or change of use for a home occupation or home-based occupation shall apply to the applicant only while the applicant resides at the property.
- C. Applications for home occupations and home-based occupations under Subsection A shall be approved in writing by the Code Enforcement Officer. The decision of the Code Enforcement Officer shall be mailed to property owners within 300 500 feet from the property boundary line. Notice will be mailed to property owners within two business days of the permit being issued.
- D. Any appeal of the Code Enforcement Officer's decision as to whether a home occupation or home-based business meets the standards in Subsection A must comply with § 315-77C through F of this chapter. Notice of the hearing on the appeal shall be mailed to property owners within 300 feet from the property line.

Code Enforcement Officer may reasonably require for a clear understanding of the case.

- D. Excavation of land and removal of earth products. An application to the Board of Adjustment and Appeals for a permit to excavate land or remove earth products shall be accompanied by a fee as established by order of the Town Council. Outside consulting fees shall be charged in accordance with § 315-81. Upon annual renewal of the application for the excavation of land and the removal of earth products, such application shall be accompanied by an application fee as established by order of the Town Council.
- E. Belated permits. In addition to the cost of a permit, all belated permits will be subject to a fine as established by order of the Town Council.

Commented [1]: Editor's Note: Original Sec. 602.5, Shoreland zoning permits, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See now Ch. 226, Shoreland Zoning.

§ 315-77 Board of Adjustment and Appeals.

- A. There is hereby created a Board of Adjustment and Appeals to assist in the administration of this chapter. Such Board shall serve as a board of appeals pursuant to 30-A M.R.S.A. § 2691 and may perform such other functions as may be delegated to it by other ordinances.
 - (1) The Board shall consist of seven members and one alternate member appointed by the Town Council. They shall be residents of the Town and serve without compensation. Appointments to the Board shall be for terms of three years; provided, however, that initial appointments to the Board shall be as follows: two members shall be appointed for terms of three years each, two members for two-year terms and one member for a one-year term. The initial appointment of the sixth and seventh members of the Board shall be for two-year terms, so that their initial terms shall expire in the same year that the single appointment from the five-member Board would normally occur. The Board shall elect annually a Chairman and Clerk from its membership. The alternate member shall have full voting rights when any of the seven appointed members are absent or excused from any meeting. The alternate member shall not participate as a Board member in any meeting when the full Board is in attendance. When there is a vacancy on the Board, the Town Council shall appoint a person to serve for the balance of the unexpired term.
 - (2) Neither a Town Councilor, a member of the Planning Board, nor his or her spouse may be a member of the Board.
 - (3) Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.
 - (4) Vacancies may occur by reason of resignation, death, removal from the Town and, when certified to the Council by a majority of the members of the Board, by failure to attend at least 75% of the Board meetings, regular or special, during any twelve-month period. A member may also be removed for cause, after notice and hearing, by the Town Council. Vacancies shall be filled by the Council for the unexpired term.
 - (5) Four members of the Board shall constitute a quorum for the hearing of appeals. If less than a quorum is present, the hearing may be adjourned for a period not exceeding two weeks at any one time, and the Clerk to the Board shall in writing notify all members of the next date of the hearing to be rescheduled. Any hearing at which a quorum is present may also be adjourned in like manner by a majority of those

Commented [2]: Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

second at lot boundaries;

- (c) No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by regularly recurring natural causes or forces, and all materials which cause fumes or dust, constitute a fire hazard, or are edible or otherwise attractive to rodents or insects if stored out of doors shall be in closed containers;
- (d) The emission of noxious, odorous matter across lot boundaries in such quantities as to be offensive to persons of ordinary sensibilities is prohibited; and
- (e) No discharge into any private sewage disposal system or stream or into the ground of any materials in such nature or at such temperature as to contaminate any water supply or otherwise cause the emission of dangerous or unhealthful elements is permitted, and no accumulation of solid waste conducive to the breeding of rodents or insects shall be allowed.

C. Hearings.

- (1) For all appeals from decisions of the Code Enforcement Officer, and for the consideration of all applications for variances, special exceptions, or other permits requiring approval of the Board, the Board shall hold a public hearing as prescribed herein. At least seven days before the hearing, the Clerk of the Board of Adjustment and Appeals shall notify by mail the owners of properties located within ~~300~~ 500 feet of the lot line of the property for which the appeal or application shall be made. In addition to the notice by mail, the Clerk to the Board of Adjustment and Appeals shall also cause to be published, at least seven days before the hearing, in a newspaper of general circulation in the Town, a notice summarizing the nature of the appeal and the time and place of the hearing.
- (2) Failure of a property owner to receive notice by mail shall not invalidate actions taken by the Board. Property owners as listed on the Assessor's records shall be deemed to be the persons to whom such notice should be mailed.
- (3) The Code Enforcement Officer, unless prevented by illness or absence from the state, shall attend all hearings and shall present to the Board all plans, photographs, or other factual materials which are appropriate to an understanding of matters before the Board.
- (4) Written notice of the decision of the Board shall be sent to the appellant and to the Code Enforcement Officer within seven days of the date of the hearing in accordance with 30-A M.R.S.A. § 2691.

D. Appeal procedure.

- (1) Any person with standing or equity aggrieved by a decision of the Code Enforcement Officer may appeal such decision to the Board of Adjustment and Appeals within 30 days inclusive of the date of such decision.
- (2) Within 30 days of the date of the decision of the Code Enforcement Officer, the appeal shall be entered at the office of the Town Clerk upon forms to be approved by the Board of Adjustment and Appeals. The appellant shall set forth on said form the ground of his appeal and shall refer to the specific provisions of this chapter, the Maine Uniform Building and Energy Code, state regulation, private or