

Article 13
Hearing Procedures for Appeals and Applications

Section 13-1 Hearing Required on Appeals and Applications

- (A) Before making a decision on an appeal or an application for a variance, the Board of Adjustment shall hold a hearing on the appeal. The Town Board shall conduct a hearing on a conditional-use permit, or petition from the administrator to revoke a conditional-use permit.
- (B) The hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
- (C) The Town Board or Board of Adjustment, whichever is applicable, may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
- (D) The hearing board may continue the hearing until a subsequent meeting to take additional information. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

Section 13-2 Notice of Hearing on Appeals and Applications

- (A) Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice not later than 10 days before the hearing.
- (B) Notice shall be given to abutting property owners by mailing a written notice not later than 10 days before the hearing to those persons who have listed for taxation real property.
- (C) A notice shall be published in a newspaper circulated in the area stating the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

Section 13-3 Evidence

- (A) The provisions of this section apply to all hearings for which a notice is required by Section 13-1.

- (B) All persons who intend to present evidence to the permit-issuing board, rather than arguments only, shall be sworn.
- (C) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available.

Section 13-4 Modification of Application at Hearing

- (A) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Town Board or the Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.
- (B) Unless such modifications are so substantial or extensive that the board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the administrator.

Section 13-5 Record

- (A) A tape recording should be made of all hearings required by Section 13-1 and such recordings shall be kept for at least 30 days. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.
- (B) Whenever practical, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept for at least two years.

Section 13-6 Written Decision

- (A) Any decision made by the Board of Adjustment regarding an appeal or variance or the Town Board regarding issuance or revocation of a conditional-use permit shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.
- (B) In addition to a statement of the board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the board's findings and conclusions, as well as supporting reasons or facts, whenever this ordinance requires the same as a prerequisite to taking action.