

KEY POINTS ON PROCESSES FOR PB RECOMMENDATIONS TO ZB
AND FOR APPEALS OF PB DECISIONS TO ZBA
(to be confirmed by Town Solicitor)

For recommendations

- When PB makes recommendations to the ZB for DPR applications, the ZB becomes the sole reviewing authority for the DPR. Hence, all materials (documents, drawings, etc.) reviewed by the PB will be forwarded with its recommendation to the ZB.
- Similarly, all materials reviewed by the PB for applications requesting special permits or variances will be forwarded with its recommendation to the ZB.
- When an application is not approved by the PB, the document sent by the PB to the ZB with its recommendations will contain greater detail, including stating explicitly the key reasons and findings why the application was denied.

For appeals

- According to R.I. Gen. Laws § 45-23-70, when a PB decision is appealed to the ZB, the ZB is charged only with answering three questions regarding the actions of the PB.

R.I. Gen. Laws § 45-23-70 states

"... the board of appeal shall not substitute its own judgment for that of the planning board or the administrative officer but must consider the issue upon the findings and record of the planning board or administrative officer. The board of appeal shall not reverse a decision of the planning board or administrative officer except on a finding of prejudicial procedural error, clear error, or lack of support by the weight of the evidence in the record."

Hence, the ZB cannot reevaluate the merits of the application, but rather must focus only on answering these three questions:

- a. Was prejudicial procedural error involved?
- b. Was a clear error made?
- c. Was there lack of support by the weight of the evidence in the record?

- Art 3, para 317 states that "notice of the appeal shall also be transmitted to the Planning Board." This notice has not been happening, i.e., no communication has been made to the PB when a PB decision comes under appeal.