

ARTICLE XII. APPEALS

A. Procedure for Appeals to the Planning Board of Appeal

1. Any party aggrieved by a decision of the Planning Board or the Administrative Officer shall have the right to appeal that decision to the Planning Board of Appeal by the following procedure:
 - a. The appeal must be taken within twenty (20) days of the day the decision is recorded and posted in the Town Clerk's Office.
 - b. The appeal shall be in writing, on a form provided by the clerk of the board, and shall state clearly and unambiguously the issue or decision that is being appealed, the reason for the appeal, and the relief sought.
 - c. The appeal shall either be sent by certified mail, with a return receipt requested, or shall be hand-delivered, to the office of the clerk of the Board of Appeal.
 - d. Upon receipt of an appeal, the clerk of the board of appeal shall require the Planning Board or the Administrative Officer to transmit forthwith to the Board of Appeal all papers, documents and plans, or a certified copy thereof, constituting the record of the action that is being appealed.
2. An appeal shall stay all proceedings in furtherance of the action being appealed.

B. Public Hearings on Appeals to the Planning Board of Appeal

1. The Planning Board of Appeal shall conduct a public hearing on each appeal within forty-five (45) days of receipt of the appeal by the board's clerk. The public hearing shall be conducted at a meeting called and advertised especially for that purpose, and shall be conducted separately from any Zoning Board of Review meeting that may be advertised for the same date and place. The Planning Board of Appeal shall maintain a complete record of all its proceedings, including minutes of meetings and records of votes taken, which shall be separate from the minutes and records of the Zoning Board of Review.
2. Notice of the public hearing shall be published in a newspaper of general circulation within the town at least fourteen (14) days prior to the date of the public hearing. Notice shall be sent by first class mail to the parties to the appeal and to those persons required to be notified by Section V(C) of these regulations. The party who filed the appeal shall bear the cost of advertising and notice.
3. At the hearing, any party may appear in person, or may be represented by an agent or attorney.
4. The board shall render a decision on the appeal in the following manner:

- a. The board shall not substitute its own judgment for that of the Planning Board or Administrative Officer, but shall consider the issue upon the findings and record of the Planning Board or Administrative Officer. The board 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.
- b. The concurring votes of three (3) of the five (5) members of the board sitting at the hearing shall be necessary to reverse any decision of the Planning Board or Administrative Officer.
- c. In the instance where the board overturns a decision of the Planning Board or Administrative Officer, the proposed project application shall be remanded to the Planning Board or Administrative Officer, at the stage of processing from which the appeal was taken, for further proceedings before the Planning Board or Administrative Officer and/or for final disposition, which shall be consistent with the board's decision.
- d. The board shall render a decision within ten (10) days of the close of the public hearing. The decision shall be in writing and shall include reasons for the decision.

C. Appeals to the Superior Court

1. Appeals of decisions of the Planning Board of Appeal

- a. An aggrieved party may appeal a decision of the South Kingstown Planning Board of Appeal to the Washington County Superior Court by filing a complaint setting forth the reasons of appeal within twenty (20) days after the decision has been recorded and posted in the Town Clerk's Office. When the complaint is filed by someone other than the original applicant or appellant, the original applicant or appellant and the members of the Planning Board shall be made parties to the proceedings.
- b. Within thirty (30) days after being served with a copy of the complaint, the board shall file the original documents acted upon by it and constituting the record of the case appealed from, or certified copies thereof, together with such other facts as may be pertinent, with the clerk of the court.
- c. The appeal shall not stay proceedings upon the decision appealed from, but the court may, in its discretion, grant a stay on appropriate terms and make such other appropriate orders as it deems necessary for an equitable disposition of the appeal.
- d. The court shall review the appeal pursuant to R.I. Gen. Laws Sec. 45-23-71.

2. Appeals of Enactment or Amendment of Regulations

- a. Any legal resident or landowner of South Kingstown, or any association of residents or landowners of South Kingstown, may appeal an enactment or amendment of these