



## **NOTICE TO PUBLIC CONCERNING BOARD MEMBER PROCEDURES**

At the public hearing on a variance application or other development proposal, the Board of Adjustment and Planning Board are required to act in a manner characterized by the courts as being "quasi-judicial." In other words, the Board functions in a manner similar to that of a court of law, albeit with some flexibility and a lesser degree of formality. An important aspect of this procedure is that the Board's decision on a given application must be based only on facts developed through testimony and evidence presented during the formal public hearing by the various participants in that process (applicants, neighbors and others). While the courts have recognized that members of municipal boards are expected to be familiar with local conditions and circumstances, such generalized local knowledge is distinguishable from specific potential facts or concerns pertaining to an application that might be conveyed to a Board member outside of the formal hearing process.

Proceedings on development applications before the Planning Board and Board of Adjustment may trigger public debate concerning the merits of the application, and members of the public may have strongly held views. There may be an understandable interest in conveying these views to individual Board members, but the law is clear that it is not appropriate for individual Board members to discuss pending applications outside the public hearing context or even listen to comments concerning pending applications. Thus, members of the public are asked to refrain from contacting Board members in connection with pending applications. Instead, they should attend the public hearing at which they will be given the opportunity to express their views for the benefit of all Board members, applicants and members of the public.

This important principle serves several purposes. First, it ensures that all Board members base their decision on the same body of information and opinion that has been presented in the public forum. Second, it protects the right of both applicants and members of the public to question all witnesses so that the probative value and relevance of all testimony may be tested.

In light of this principle, Board members have been advised to respond to inquiries or attempted comments from friends, neighbors and acquaintances by stating when the next hearing will be held and indicating that any facts or opinions that the person wishes to express should be conveyed to the full Board at the public hearing.

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