

## Guidance Document for ZBA Chair or Chair *Pro Tem* Order of the Public Hearing (Chapter 40B)

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- Announce the opening of the public hearing for X case (identify the case).<sup>1</sup>
- Read (or as the clerk to read) the public hearing notice.
- Briefly explain how the board will proceed and the 180-day rule, and identify the date by which the Board must close the hearing.
- Name the Board members who will hear and vote on the case. If associate members are also seated, explain that they are present as backup (Mullin Rule).
- Refer attendees to the “Hearing Process” poster or handout. If the Chair decides to limit time for presentation and comments, state the time limits at the outset (e.g., 1/2 hour for the applicant, 15-30 minutes for Board questions; 1/2 hour for public comment – may vary based on complexity of the case).
- Read the correspondence received prior to the opening of the hearing. Very long correspondence can be summarized.
- Ask the applicant to present the proposal, beginning with how the project meets the minimum eligibility requirements for a comprehensive permit.
- Allow Board members to ask questions and allow the applicant to respond. **\*If the Board plans to exercise a “safe harbor” denial, inform the applicant and give the applicant written notice of the same at the hearing.**<sup>2</sup>
- After Board members have asked their questions, allow attendees to ask questions through the chair. (If Town staff attend, consider allowing them to ask their questions first.) Allow the applicant to respond.
- Identify the Board’s need for consultants to review aspects of the project (e.g., traffic, site civil, design review, environmental). Set timeline for hiring consultants and when applicant has to provide funds for the escrow account (if Town has adopted G.L. c. 44, § 53G).
- If the hearing needs to continue, determine the continuance date. State what the Board needs to receive from the applicant before the next hearing, and set a reasonable deadline for receipt of the additional documents or plans.
- Tell attendees they can submit written comments before the close of the public hearing.
- Have applicant sign agreement to continue and **file with the Town Clerk!**
- Close the hearing.

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<sup>1</sup> Some boards take 15 minutes at the outset of the hearing to provide a “primer” on Chapter 40B for the benefit of interested parties attending the hearing – that is, an abbreviated version of training the Board may have received beforehand. The MHP consultant can assist with this.

<sup>2</sup> Some boards do this at the outset of the hearing. However, it seems best to let the applicant present the permit request first so the Board and public have the benefit of getting information about the project. The Board **MUST** notify the applicant of a “safe harbor” determination within 15 days of opening the hearing.