

Gilbert, Jennifer

Chris, Christine and Matt, who will be taking over the slides for me, taking control of the slides there you go. Great.

0:9:45.250 --> 0:9:46.940

Gilbert, Jennifer

Are you ready to go, Christine and?

0:9:47.270 --> 0:9:49.20

DW Manchester Conf Room

We are. Yes. Can you hear us?

0:9:49.520 --> 0:9:50.670

Gilbert, Jennifer

Yep, we can hear you.

0:9:51.870 --> 0:9:52.480

DW Manchester Conf Room

OK.

0:9:54.60 --> 0:10:22.980

DW Manchester Conf Room

Thank you very much. Jennifer, I'm Christine Johnson and getting those map search and the are municipal attorneys who have driving for some and we are going to be talking this morning about the process of what is ZBA does Chris is going to cover in his session the substantive issues of various criteria and what special exception is and all of that we're going to talk about how you do what it is you need to do it.

0:10:30.430 --> 0:10:32.210

DW Manchester Conf Room

Trying to figure out how to advance the slides.

0:10:33.140 --> 0:10:33.630

DW Manchester Conf Room

Formally.

0:10:35.370 --> 0:10:35.980

DW Manchester Conf Room

OK.

0:10:36.230 --> 0:10:36.740

Gilbert, Jennifer

There you go.

0:10:36.420 --> 0:10:36.950

DW Manchester Conf Room

Uh.

0:10:38.920 --> 0:10:39.770

DW Manchester Conf Room

Alright so.

0:10:41.370 --> 0:10:43.30

DW Manchester Conf Room

I'm going to start with some.

0:10:43.450 --> 0:10:49.620

DW Manchester Conf Room

Umm, preliminary information that's useful to help understand all of the rest of what we're going to talk about today.

0:10:50.760 --> 0:10:51.440

DW Manchester Conf Room

So.

0:10:52.230 --> 0:10:55.360

DW Manchester Conf Room

The first thing is what is he being is for?

0:10:56.680 --> 0:10:58.410

DW Manchester Conf Room

Most important community BA.

0:10:59.10 --> 0:11:6.740

DW Manchester Conf Room

A safety valve to prevent zoning restrictions from infringing on people's constitutionally protected property, right.

0:11:7.400 --> 0:11:28.350

DW Manchester Conf Room

Everything in land use is some kind of restriction on how people use their property and it's a balance, really, between the constitutional property rights and property owners and the need of society to control the way that people use their property. And it's important that the the line isn't crossed between.

0:11:29.560 --> 0:11:36.930

DW Manchester Conf Room

Permissible regulation and taking unconstitutional property rights. So that's where the TBA comes in. Most of the time.

0:11:38.570 --> 0:11:41.380

DW Manchester Conf Room

It is also a mechanism for additional relief.

0:11:42.460 --> 0:11:51.260

DW Manchester Conf Room

Or administrative appeals of certain local decisions, and it has original jurisdiction over things like special exceptions and equitable flavors.

0:11:54.20 --> 0:11:54.430

DW Manchester Conf Room

Yes.

0:11:52.980 --> 0:11:59.620

Gilbert, Jennifer

Christine, we're getting some comments that it's kind of hard to hear you guys. I don't know if there's anything.

0:12:0.380 --> 0:12:3.160

Gilbert, Jennifer

I mean, I can hear you, but the quality isn't that great, but.

0:12:4.150 --> 0:12:4.620

DW Manchester Conf Room

Let's move.

0:12:9.760 --> 0:12:10.490

DW Manchester Conf Room

Is that better?

0:12:13.990 --> 0:12:15.740

DW Manchester Conf Room

Is this better? Can you hear us better?

0:12:17.230 --> 0:12:20.30

Gilbert, Jennifer

That's a little bit better for me. OH.

0:12:19.270 --> 0:12:23.900

DW Manchester Conf Room

Yeah, microphone is literally right beneath us, right? You're going to be closer.

0:12:24.920 --> 0:12:25.270

DW Manchester Conf Room

OK.

0:12:24.770 --> 0:12:28.960

Gilbert, Jennifer

Yeah, I think it's just a little echo. You could just based on where your location is, so.

0:12:29.730 --> 0:12:30.880

DW Manchester Conf Room

OK, OK.

0:12:34.400 --> 0:12:36.810

DW Manchester Conf Room
We we'll try to fix that.

0:12:38.980 --> 0:12:42.990

DW Manchester Conf Room
In the meantime, if I speak a little more slowly, is it easier to hear me?

0:12:46.190 --> 0:12:46.590

Gilbert, Jennifer
Yeah.

0:12:47.220 --> 0:12:47.650

DW Manchester Conf Room
OK.

0:12:48.850 --> 0:12:49.620

DW Manchester Conf Room
We'll try this.

0:12:50.700 --> 0:12:51.160

DW Manchester Conf Room
Umm.

0:12:57.340 --> 0:12:57.720

DW Manchester Conf Room
0.

0:12:59.850 --> 0:13:0.400

DW Manchester Conf Room
OK.

0:13:1.90 --> 0:13:17.110

DW Manchester Conf Room
So there's CBA is a judicial body which is important to understand the context in which you are acting.
The CBA is not legislative. It does not create ordinances or regulations and it doesn't amend.

0:13:17.850 --> 0:13:21.780

DW Manchester Conf Room
That's something that the planning board does, and the voters usually.

0:13:22.490 --> 0:13:26.60

DW Manchester Conf Room
It's also not executive if you don't enforce decision.

0:13:26.820 --> 0:13:27.180

DW Manchester Conf Room
Just make.

0:13:28.570 --> 0:13:42.70

DW Manchester Conf Room

But the CBI is quasi judicial. You are somewhat like a court. You interpret the ordinances and regulations in your town or city and you apply that interpretation to the application or appeal that you have in front of.

0:13:43.30 --> 0:13:49.960

DW Manchester Conf Room

And the reason that all of this is important is that someone's property rights are always at issue every time, as India does.

0:13:50.810 --> 0:13:54.60

DW Manchester Conf Room

And that's why the procedural concerns are so important.

0:13:56.710 --> 0:13:59.730

DW Manchester Conf Room

So as we're going through everything we talked about today.

0:14:1.230 --> 0:14:8.80

DW Manchester Conf Room

The most important fundamental things to remember are to read and follow whatever the applicable statute in.

0:14:9.150 --> 0:14:12.780

DW Manchester Conf Room

To read and follow your own ordinance and rules.

0:14:13.770 --> 0:14:17.640

DW Manchester Conf Room

If you're not sure about what you're doing, stop and ask.

0:14:18.290 --> 0:14:20.270

DW Manchester Conf Room

Don't get rushed into making a bad decision.

0:14:21.200 --> 0:14:23.470

DW Manchester Conf Room

And always try to be fair and reason.

0:14:24.200 --> 0:14:35.220

DW Manchester Conf Room

You all of these things, you may still make a mistake, but you will be doing it in good faith most likely, and the results are the repercussions are much lower than that.

0:14:38.230 --> 0:14:44.180

DW Manchester Conf Room

Another thing that is very important to remember is where your authority to act comes.

0:14:45.290 --> 0:14:52.170

DW Manchester Conf Room

In New Hampshire, all municipal authority for every board official employee comes from the legend.

0:14:52.980 --> 0:14:58.170

DW Manchester Conf Room

The Hampshire Constitution gives no authority whatsoever to towns and cities and villages.

0:14:59.110 --> 0:15:6.600

DW Manchester Conf Room

All of that authority comes from statutes. So what that means is you have to find a statute that allows you to do what you're.

0:15:7.530 --> 0:15:12.50

DW Manchester Conf Room

Rather than relying on the fact that there's no statute that says you can't.

0:15:13.790 --> 0:15:22.970

DW Manchester Conf Room

And it also means that you can't have an ordinance or rule or a procedure that isn't authorized or necessarily implied by the state.

0:15:25.360 --> 0:15:34.630

DW Manchester Conf Room

So when you're trying to figure out can we do this or how should we, how should we be proceeding in this appeal? You have to remember that.

0:15:35.330 --> 0:15:45.640

DW Manchester Conf Room

First of all you have to find the status and second of all you have to follow you get to make Rules of Procedure that fill in the gaps in the statutes, but only in a way that is consistent with what the.

0:15:50.850 --> 0:15:55.330

DW Manchester Conf Room

Another important concept is your relationship to the public.

0:15:56.230 --> 0:15:57.200

DW Manchester Conf Room

In New Hampshire.

0:15:58.620 --> 0:16:3.940

DW Manchester Conf Room

I'm going to talk in a minute about procedural due process, but people whose property rights are at stake.

0:16:4.620 --> 0:16:12.540

DW Manchester Conf Room

Or personal rights have the right to notice about what's going on and the opportunity heard by the board of Officials is making that decision.

0:16:13.610 --> 0:16:22.890

DW Manchester Conf Room

And also municipalities and all of their boards have a constitutional obligation to assist citizens with the process of government.

0:16:23.630 --> 0:16:39.220

DW Manchester Conf Room

So what that means is you don't have to tell them how to get something approved, or whether it can be approved. But you do have an obligation to tell them how the process works. Here are the applications. Here is our zoning ordinance. Here are our regulations.

0:16:39.940 --> 0:16:45.550

DW Manchester Conf Room

Here is the timing of when you have the file. Things. These are all the things you need to file with your application.

0:16:46.450 --> 0:16:52.500

DW Manchester Conf Room

So you have to you have to tell them how the game works in order for them to be able to play it in a reasonable way.

0:16:54.680 --> 0:16:55.150

DW Manchester Conf Room

Umm.

0:16:56.260 --> 0:16:57.40

DW Manchester Conf Room

And.

0:16:58.310 --> 0:17:4.750

DW Manchester Conf Room

Recently there's been some discussion about how much help you have to give an applicant.

0:17:5.550 --> 0:17:20.700

DW Manchester Conf Room

And there have been there hasn't been any of Hampshire Supreme Court case, but there have been a few Superior Court decisions and at least one housing appeals board decision, where a zoning board or a planning board's.

0:17:21.460 --> 0:17:32.660

DW Manchester Conf Room

Unwillingness to work with the applicant during the process to try to find a reasonable compromise that everyone can live with has been significantly criticize.

0:17:33.470 --> 0:17:34.980

DW Manchester Conf Room

Uh, so?

0:17:35.900 --> 0:17:50.950

DW Manchester Conf Room

If you're in a position where an applicant is asking for something specific and you think, yeah, I don't think that that's going to work, but maybe if you changed it slightly and had fewer events per month or three fewer parking spaces or you know, something different.

0:17:57.10 --> 0:17:58.640

DW Manchester Conf Room

Around here the process with an app.

0:17:59.530 --> 0:18:3.20

DW Manchester Conf Room

To suggest ways that they might bring their application.

0:18:4.850 --> 0:18:9.90

DW Manchester Conf Room

They might amend their application or change their proposal in a way that could be potentially.

0:18:9.940 --> 0:18:15.430

DW Manchester Conf Room

So that's something to think about. And if you're in that situation, you always recommend that you contact your account attorney and talk.

0:18:19.970 --> 0:18:31.560

DW Manchester Conf Room

So as I mentioned, the ZBA is applying Judicial board. You collect evidence and hear testimony, just like a judge. And from that information you find that.

0:18:32.280 --> 0:18:53.20

DW Manchester Conf Room

You can use your own personal knowledge, but within limits which we're going to talk about. And then you make a decision based on the facts as you find them and you apply the proper legal test to reach a decision on the application and then you can approve, deny or modify what's in front of you and you can impose reasonable conditions on that.

0:18:53.790 --> 0:19:1.980

DW Manchester Conf Room

The burden of proof is on the applicant to show that they satisfy all of whatever the criteria are, or whatever it is they're asking.

0:19:3.320 --> 0:19:3.980

DW Manchester Conf Room

And.

0:19:4.710 --> 0:19:18.970

DW Manchester Conf Room

In doing that, you are going to develop a record for possible court or housing appeals board review and

that's going to consist of your minutes and the application and any other communication or documents that gets submitted.

0:19:23.50 --> 0:19:38.330

DW Manchester Conf Room

Umm, a couple of important points on this. One is just because no one opposes an application, that doesn't mean that you shouldn't follow all of the same procedural steps and make a thorough, reasoned decision that is reflected in your written decide.

0:19:39.280 --> 0:19:50.210

DW Manchester Conf Room

It doesn't matter whether anyone opposes it, the standards are still supposed to be the same, and the applicant is still supposed to prove to you that they satisfy all of the conditions.

0:19:54.120 --> 0:19:54.400

DW Manchester Conf Room

Right.

0:20:0.10 --> 0:20:7.220

DW Manchester Conf Room

One second, we're reading, we understand you're still having trouble hearing us. It's echoing in here and I'm not sure we can do anything about it.

0:20:12.260 --> 0:20:25.340

Gilbert, Jennifer

Yeah, I think we did. I mean, I'm not. I'm still hearing you pretty well, but it is actually. But we do have asked, we did put in the chat about how people can put on closed captions, which seems to be working as well.

0:20:26.630 --> 0:20:27.170

DW Manchester Conf Room

OK.

0:20:26.930 --> 0:20:31.480

Gilbert, Jennifer

I'm and then we also will have a transcription as part of the recording as well.

0:20:32.240 --> 0:20:33.340

DW Manchester Conf Room

OK, great.

0:20:33.420 --> 0:20:47.990

DW Manchester Conf Room

Daughter for this week? Yes, but it's a newer office was supposed to have decent soundproofing. Yes, musically in here. But can I talk comment quickly on the burden of proof issue? Yes. First of all, let me just get rid of this chat box I can get.

0:20:49.480 --> 0:20:51.540

DW Manchester Conf Room

Scrambled with all the problems.

0:20:54.460 --> 0:21:0.550

DW Manchester Conf Room

So on the burden of proof issue, I just want to emphasize that this is easily overlooked. I think we're reports.

0:21:0.730 --> 0:21:9.580

DW Manchester Conf Room

Uh, and I think it's so critical and what we're talking about is the applicant coming in from school. I don't see what they're asking for.

0:21:10.270 --> 0:21:22.0

DW Manchester Conf Room

They have to give the board evidence prepared on each element. For example, variance of the classic example where you can use the board, you will evidence on each element.

0:21:22.680 --> 0:21:49.560

DW Manchester Conf Room

Yeah, it's coming in with an attorney who simply said, well, you know, this particular youth doesn't work or this isn't right. So therefore, we have a really, really going to get in there. And I say that because I'm actually embroiled in a matter right now with what I have for this, which I'm still waiting for decision. And it's interesting because there's real quick story, you original learning working denied this variance.

0:21:51.40 --> 0:21:59.0

DW Manchester Conf Room

We had our hearing before the reversed because BA, I've been asked to reconsider saying that the burden of proof looking satisfied.

0:22:0.30 --> 0:22:11.320

DW Manchester Conf Room

Have you tried literally just need a lot of speculation and conjecture and the board actually granted my motion. In part we had another hearing on it so.

0:22:12.220 --> 0:22:19.170

DW Manchester Conf Room

And I'm waiting for to. So I'm really interested to see what they do with this, because my whole point in that case doesn't burden of proof.

0:22:20.210 --> 0:22:20.790

DW Manchester Conf Room

Satisfied.

0:22:22.150 --> 0:22:42.880

DW Manchester Conf Room

We're waiting to hear back whether you know an applicants attorney simply saying this is the case is not

or not. There are green court cases that suggested otherwise, and I'm hoping that the Housing Bureau for 3:15, of course. But I just want to highlight that because I think again, the burden of proof issue, sometimes it's overlooked.

0:22:43.900 --> 0:22:52.160

DW Manchester Conf Room

And it's never you as the board every year, according to prove they're not entitled something because the applicant for the improve their part.

0:22:54.980 --> 0:23:2.70

DW Manchester Conf Room

We see that new on the single thing. Yeah. So that. Yeah, I don't know how to do that.

0:23:4.70 --> 0:23:4.810

Snegach, Alvina

Christine.

0:23:3.810 --> 0:23:6.20

DW Manchester Conf Room

We may have uncovered the problem, yes.

0:23:6.480 --> 0:23:15.360

Snegach, Alvina

I was wondering if you maybe can move the mic between this is Alvina. I'm just trying to see if maybe moving the mic closer to each one of you when you talk. Maybe that'll help a little bit.

0:23:16.140 --> 0:23:16.850

DW Manchester Conf Room

The starter.

0:23:17.650 --> 0:23:21.620

Snegach, Alvina

Not really, but Matt is really hard to hear. You are a little better. Matt is really hard to hear.

0:23:22.660 --> 0:23:23.150

DW Manchester Conf Room

OK.

0:23:22.650 --> 0:23:23.250

Snegach, Alvina

So maybe.

0:23:24.180 --> 0:23:26.120

Snegach, Alvina

Try whatever you uncovered. Maybe that would be.

0:23:27.440 --> 0:23:30.50

DW Manchester Conf Room

OK. We'll keep at it and we'll keep it moving here.

0:23:30.970 --> 0:23:31.400
DW Manchester Conf Room
Yes.

0:23:33.870 --> 0:23:34.600
Snegach, Alvina
Thank you.

0:23:35.250 --> 0:23:35.730
DW Manchester Conf Room
Welcome.

0:23:38.780 --> 0:23:39.90
DW Manchester Conf Room
Button.

0:23:39.170 --> 0:23:45.160
DW Manchester Conf Room
Tomorrow I will. OK, we see an extra view on our TV screen that's not in this system.

0:23:45.950 --> 0:23:47.260
DW Manchester Conf Room
OK. Is that better?

0:23:48.820 --> 0:23:49.950
Snegach, Alvina
Can Matt say something?

0:23:51.370 --> 0:23:52.0
DW Manchester Conf Room
Something.

0:23:53.340 --> 0:23:57.450
Snegach, Alvina
No, Matt is still very hard to. So Matt, when you speak, can you move the mic right, right next to you?

0:23:57.890 --> 0:23:59.870
DW Manchester Conf Room
It is right next to me. Now. Can you hear me?

0:24:1.590 --> 0:24:6.30
Snegach, Alvina
I can hear you OK, but some people, I guess, still because there's more of an echo.

0:24:6.900 --> 0:24:8.120
DW Manchester Conf Room
Hmm, OK.

0:24:9.280 --> 0:24:16.240
DW Manchester Conf Room

Yeah, we've been in this for many times and haven't had this problem. So we'll keep trying. This has never happened before in this room.

0:24:17.430 --> 0:24:18.30

DW Manchester Conf Room

Uh.

0:24:19.250 --> 0:24:21.50

DW Manchester Conf Room

OK. Well, we're going to have to keep going.

0:24:22.370 --> 0:24:28.770

DW Manchester Conf Room

OK. So when we talk about the process that Hampshire Constitution and the US Constitution.

0:24:29.870 --> 0:24:42.200

DW Manchester Conf Room

Require similar things. They require procedural due process to protect against the unfair loss of a property, right? So those things include notice to people who are affected.

0:24:42.960 --> 0:24:46.50

DW Manchester Conf Room

Of what's going to happen, an opportunity to be heard.

0:24:46.800 --> 0:24:54.690

DW Manchester Conf Room

The ability to appear and speak themselves or through an attorney, a decision made by an impartial tribunal. That's you.

0:24:56.30 --> 0:25:3.120

DW Manchester Conf Room

And deliberation that you do based on the evidence you've received and the fact that you find from that evidence.

0:25:3.800 --> 0:25:13.450

DW Manchester Conf Room

A written decision that you give with reasons for what you did and the ability to appeal your decision to seek any corrections that people might think need to be made.

0:25:14.850 --> 0:25:25.430

DW Manchester Conf Room

And these are the screen. Now are the statutes in New Hampshire that require all of those things. So this is where all of these things come from. And here's the important thing.

0:25:26.760 --> 0:25:35.370

DW Manchester Conf Room

Even if you make a substantively perfect decision, you apply the five variance criteria perfectly to the fact.

0:25:40.620 --> 0:25:53.490

DW Manchester Conf Room

Feel for it is very likely to set it right back to you and make you do it again because of the possibility that you have deprived and the applicant or some of butters of their procedural due process rights.

0:25:54.350 --> 0:25:57.850

DW Manchester Conf Room

So the process is really just as important as the substance.

0:25:59.530 --> 0:26:0.720

DW Manchester Conf Room

Why we're doing this this morning?

0:26:4.30 --> 0:26:18.10

DW Manchester Conf Room

You can work with other boards. Sometimes it makes sense for a zoning board and a planning board to hold a joint hearing. When a when a project requires approval from both boards.

0:26:18.690 --> 0:26:40.710

DW Manchester Conf Room

The thing is that you are going to be applying different standards because each of you are approving different things, so you can have a joint meeting and a joint hearing and that way everybody only needs to give you their presentation once and then each board separately will make their decision.

Deliberating separately and applying their own criteria to the fact.

0:26:41.580 --> 0:26:42.610

DW Manchester Conf Room

It can be efficient.

0:26:43.470 --> 0:26:50.940

DW Manchester Conf Room

It doesn't happen very often. I have never had a board. I've never had a set of words do this, but it's an option that's out there if you're into.

0:26:53.430 --> 0:26:54.240

DW Manchester Conf Room

I never have.

0:26:57.180 --> 0:27:2.620

DW Manchester Conf Room

OK, usually an applicant only gets one opportunity.

0:27:3.360 --> 0:27:7.490

DW Manchester Conf Room

To apply for a product, the same exact project.

0:27:8.530 --> 0:27:20.350

DW Manchester Conf Room

Which is also why the procedure is important. This is their one shot. So if someone is denied, someone comes in with a project and they are seeking a variance and you deny it.

0:27:21.40 --> 0:27:27.890

DW Manchester Conf Room

They are not allowed to come back and apply for the same variance for exactly the same project over and over again.

0:27:29.30 --> 0:27:38.200

DW Manchester Conf Room

They will help you change their project somehow, and the phrase is it has to be materially different from the first application.

0:27:39.40 --> 0:27:46.320

DW Manchester Conf Room

And the way courts have interpreted this is that the second application or the 3rd or the 4th in some cases.

0:27:46.970 --> 0:28:17.0

DW Manchester Conf Room

Needs to either the legal standard has changed, so you've changed your ordinance, and now they're coming back for, say, a special exception. But the criteria are different now, or the application itself is changed in some way that addresses the reasons that it was denied in the 1st place, and that's not a very high bar. They just have to change it enough so that they're doing something different the second time.

0:28:17.180 --> 0:28:32.390

DW Manchester Conf Room

It doesn't mean that it has to be good enough to get approved, it just has to be somehow different from the first one. So if noise was the concern the first time, the second time they come back there needs to be some kind of noise control proposed.

0:28:33.110 --> 0:28:39.620

DW Manchester Conf Room

It may not be good enough, but if they proposed it, they get over that first low hurdle and you can hear the apple.

0:28:41.400 --> 0:28:45.260

DW Manchester Conf Room

This same the same concept applies to playing cards as well.

0:28:46.810 --> 0:28:49.740

DW Manchester Conf Room

OK. And with that, I'm going to turn it over to Matt.

0:28:51.50 --> 0:28:58.860

DW Manchester Conf Room

And we were all I have. I have the microphone literally underneath me and I will even switch down a little so you can hopefully hear me.

0:28:59.800 --> 0:29:2.250

DW Manchester Conf Room

I'm going to start here. Let's see where the slide.

0:29:4.260 --> 0:29:11.480

DW Manchester Conf Room

It is OK. Now we're going to. We're in the and in the process, so I'm going to start with the application where everything kind of starts.

0:29:12.150 --> 0:29:41.760

DW Manchester Conf Room

Umm couple points I want to make right off the bat is uh make sure the application you have first of all as you have them or your various forms of relief special exceptions that rule waivers, variances and also make sure that they're up to date. I don't know. I actually still see occasionally a variance application that is using an old standard and it's been a number of years now since the Statute 674 Colon 33 is kind of been officially our test.

0:29:42.320 --> 0:29:58.50

DW Manchester Conf Room

And in some applications still weren't caught up with that. So definitely double check it and see what's special exceptions. Those can obviously change in your zoning as you go year to year. So it's a good idea just to kind of during a work session each year or whatnot is look at your applications and make sure they're the speed.

0:29:59.240 --> 0:30:15.990

DW Manchester Conf Room

But now getting going forward, the point of the application is literally is the road map of how we're going to run the hearing and what the burden of proof is on the applicant and what needs to be presented to the board to decide whether or not they're entitled to release.

0:30:16.950 --> 0:30:25.450

DW Manchester Conf Room

As the slide indicates here, it's what facts for each element. What does that person or people need to present to you?

0:30:26.80 --> 0:30:26.590

DW Manchester Conf Room

Umm.

0:30:27.610 --> 0:30:58.110

DW Manchester Conf Room

The proposal needs to be explained in some detail, needs to understand what you're dealing with and have to come in different forms depending on the nature of the application, it may be sketches, plans, drawings usually are assistance, but sometimes you may be other pieces of information that are

necessary, whether they are correspondence from professionals such as real estate experts or whatnot. If we're given with variances, for example, so you kind of understand what they want.

0:30:58.210 --> 0:31:1.350

DW Manchester Conf Room

And what do I need to present to you? The board as they go forward?

0:31:2.60 --> 0:31:7.280

DW Manchester Conf Room

And one thing I want to note here too and I see this once in a while. And Christine you maybe you've seen it?

0:31:8.150 --> 0:31:35.50

DW Manchester Conf Room

You know you deal with a lot of different applicants, some who are very sophisticated, either on their own or higher Council to prepare applicant applications. Excuse me. And in fact, some Council I know, bombarding now with the application but then give you some additional narrative memorandums 20 days as long as to why they should get the relief they want. But then the other side of the coin, you have people who really don't understand much of anything.

0:31:35.720 --> 0:31:52.250

DW Manchester Conf Room

Yeah. I think just want to put their new shed 2 feet into the setback and that's the only place they think they can put up and they don't really understand what they're asking for or how to do it. So this this is my first kind of moment in the harken back to something that Christine said earlier, which is the duty to assist.

0:31:53.790 --> 0:31:58.440

DW Manchester Conf Room

There, there it is. A fine line between, you know, writing their application for them.

0:31:59.240 --> 0:32:13.610

DW Manchester Conf Room

And helping them understand what they need to prove to you during hearing. And I guess what I'm getting at is, you know, sometimes I have an application, it's filled out, but it's not really that clear and it's filled with generalities and things like that.

0:32:14.300 --> 0:32:26.340

DW Manchester Conf Room

I have people ask me we just deny it because the applications not so that properly. And I said yeah, you know, I don't think a judge would necessarily appreciate before doing that. I think it's a better course is to go to the hearing.

0:32:27.130 --> 0:32:29.430

DW Manchester Conf Room

That would be gets up you explain.

0:32:30.120 --> 0:33:0.750

DW Manchester Conf Room

Further, in detail, what you're asking for in the application and a lot of the sort of amended on the fly in terms of you know what they need to hear from that and kind of give them a heads up, it was what we need to understand for example, on the necessary hardships standard or you know public interest in spirit of the ordinance, right? We all know there are conjoined to development now and there are two things you need to know or you know one is it going to change the character of the neighborhood or is it going to be a danger to public health?

0:33:0.830 --> 0:33:5.0

DW Manchester Conf Room

Take your welfare. Most people understand those general questions.

0:33:6.320 --> 0:33:16.980

DW Manchester Conf Room

But the person might not understand that when we're doing the application so all I'm saying is to you. You're going to get a lot of different applications, some lots of detail, some of a lot less detail.

0:33:17.950 --> 0:33:45.570

DW Manchester Conf Room

And I think those that are less detail. I just think you know go forward to hearing, trying to work with the applicant as best you can and to get to that end point is I don't encourage or advise forwards to simply reject applications. You know out of hand for not being specific enough or having them refile that kind of thing or something. We'll get an attorney, a lot of people can't afford an attorney.

0:33:46.130 --> 0:33:49.750

DW Manchester Conf Room

Uh, and frankly, a lot of them aren't. You don't need an attorney.

0:33:51.90 --> 0:34:0.720

DW Manchester Conf Room

Of course, maybe security saying that but don't need them for that kind of stuff. It's a small issue, like an area variance called for a shadow.

0:34:1.630 --> 0:34:4.200

DW Manchester Conf Room

Uh, so you got the application?

0:34:5.180 --> 0:34:7.90

DW Manchester Conf Room

One before they get that hearing scheduled.

0:34:8.60 --> 0:34:26.710

DW Manchester Conf Room

676 seven is sort of you, don't you? Statue on this point, 45 days now is when you have to hold your hearing used to be 30, so you can have that extra 15 days buffer which actually I found very helpful in a few instances. So you have a little more time in that regard, which is Nice.

0:34:28.320 --> 0:34:34.790

DW Manchester Conf Room

Uh, important point here. If you don't need the 45 days, then let's say you get 47 days, 48 days yet.

0:34:36.210 --> 0:34:42.530

DW Manchester Conf Room

No case I'm aware of as yet said that because you didn't get scheduled in time, they automatically get their release.

0:34:43.630 --> 0:34:52.700

DW Manchester Conf Room

So I would not, you know, worry about that. But of course, do you ready best to have that hearing from 45 days and generally speaking that should never be a problem.

0:34:54.120 --> 0:34:57.350

DW Manchester Conf Room

In that regard, there is a point here about.

0:34:58.930 --> 0:35:28.670

DW Manchester Conf Room

Particular time, and as I'll talk about, I think I talked about it here later. One of those stuff there is actually a time limit now 90 day time limit on you as a board to make decisions for variances, administrative appeals, etcetera. So that that's important to note that later, but also many of you have built the dreaded cell towers and you understand that there's an overlay from federal law, telecommunications.

0:35:29.350 --> 0:35:46.120

DW Manchester Conf Room

CK, which has what we call a shot clock, and I believe I can't remember now with 120 days or 90 days as well, but there maybe it's both. OK one, there's one for a new cell tower and there's a different one for a modification.

0:35:46.220 --> 0:35:54.640

DW Manchester Conf Room

OK. Thank you. So you do have time limits there. This is the point of this exercise is not to get deep into the cell tower realm, thankfully.

0:36:0.770 --> 0:36:1.570

DW Manchester Conf Room

Sizing on.

0:36:2.360 --> 0:36:13.940

DW Manchester Conf Room

Notices that the hearings again, same statue. You have your certified mail out five base prior to all the parties involved, the Butters and have a newspaper publication.

0:36:14.680 --> 0:36:27.770

DW Manchester Conf Room

Important point unlike zoning changes like I've seen this confusion, which is why I bring this up. I'm like zoning changes the online or website notice is not a substitute for newspaper publication.

0:36:28.520 --> 0:36:37.620

DW Manchester Conf Room

But to do that I know have some board think well, I was closed on the website and I will take care of everything. And then you don't do newspaper. No, it's not correct. But you still need to do that for you.

0:36:38.620 --> 0:36:50.800

DW Manchester Conf Room

Uh, so and finally great point. Always want oversize air on the side of more notice than not less. As a colleague of ours is 70 years, process is cheap.

0:36:51.430 --> 0:37:14.180

DW Manchester Conf Room

And he's very correct on that. The last thing we want is to be brought to court for a due process violation because notice was not provided because guess what that means it gives remanded and I don't know too many words that enjoy getting the cases back after we finally got them off their desk at all because notice wasn't provided. So trying to.

0:37:15.280 --> 0:37:15.450

DW Manchester Conf Room

No.

0:37:20.660 --> 0:37:32.780

DW Manchester Conf Room

Here we got some changes under 67433 which is actually what we were just alluding to earlier and time periods and other fun stuff. So 90 days from the receipt of the application.

0:37:33.560 --> 0:37:48.930

DW Manchester Conf Room

Thinking that I could see more time than the planning board, which still is a 65 day clock, but nevertheless 90 days of 90 days and I know I used to tell CBS all the time I used it. Great. Don't. Don't rush it. You got plenty of time. Well, 90 days goes by quick.

0:37:49.960 --> 0:38:7.920

DW Manchester Conf Room

Basically, it's three months, so you know, be aware of that as you move forward. Obviously you can be waived just like the planning boards and timers can be extended. And I think generally applicants are willing to work with the words in that regard, especially with some VBA. As I know in some communities.

0:38:9.470 --> 0:38:21.960

DW Manchester Conf Room

Having the time of year people go away, you have less than a full board. We'll talk about that in a few minutes as well. So you know, generally there'll be agreeable to extending it reasonably.

0:38:22.970 --> 0:38:24.560

DW Manchester Conf Room
Umm and.

0:38:25.430 --> 0:38:31.810

DW Manchester Conf Room

If you don't have enough information to make that final decision now, you can deny it without prejudice.

0:38:32.610 --> 0:39:2.620

DW Manchester Conf Room

And allow them to come back and refile and that earlier Christina talked about the Fisher beat Dover case, which was again not having two bites at the same apple. But now that Boris has that ability, at least to say we're not satisfied what we got, we're not really ready to. We can't prove it, but we're not kind of died out already. They're going to give you another chance to come back and give us some more. I kind of like that. I'm glad you given that opportunity because sometimes.

0:39:3.240 --> 0:39:34.490

DW Manchester Conf Room

Things can change. Information can change, things come up. You weren't aware of during force every year. And it may be that someone has to go back to the drawing board and try to figure something out. I mean, we all know what the if you have a contentious situation, you'll have a butters involved along with the applicants. Sometimes. In fact, most of the time someone will have an attorney or more than one. And this actually gives you the chance to kind of step aside and sometimes let those folks are kind of figure it out as to what.

0:39:34.580 --> 0:39:44.820

DW Manchester Conf Room

Gonne work with them and then come back to you. And if maybe find a solution that works for everyone so that I like it. So remember you have that now at your.

0:39:45.520 --> 0:40:5.160

DW Manchester Conf Room

Use both remain decisions without prejudice. It's kind of magic language. Yeah, you need to use those two words in the denial so that there's no question later about whether they can come back. That's a great point. That is something. Now that you have in your toolbox. So you definitely want to state that. Don't just save, deny.

0:40:5.840 --> 0:40:11.430

DW Manchester Conf Room

Uh, what's the two different things? Yeah. Denied or denying without prejudice? Very different.

0:40:11.820 --> 0:40:13.420

DW Manchester Conf Room

Umm so.

0:40:14.90 --> 0:40:34.390

DW Manchester Conf Room

Make sure you keep that you got mine and also that this time period did 90 day period the without prejudice. This applies not just to variances. I think some people see 674 colon 33 and think oh that's the variance statute, so it's all hearings not now. Also special exception it's anything it's administrative appeal.

0:40:34.910 --> 0:40:42.180

DW Manchester Conf Room

Uh-huh. What? You name it. You have that ability. So take advantage of it. If it's going to help in that particular case.

0:40:43.760 --> 0:40:51.740

DW Manchester Conf Room

Aha, now the right to the full board. I was just kind of intimidating about this earlier. I know I have some communities where you have five Members, CBA.

0:40:52.380 --> 0:40:56.700

DW Manchester Conf Room

Sometimes no alternates, because people don't want to serve for whatever reason.

0:40:57.400 --> 0:41:7.760

DW Manchester Conf Room

And two of those regular members are away for the winter or. Or maybe one of them. The one step or something. So you have three members available for sometimes more than one month, 3 members.

0:41:8.500 --> 0:41:35.830

DW Manchester Conf Room

And the applicant comes in and it has this quandary. Well, like go forward with three members. Where do I see if I can get five? As we know you need three Members to vote in favor of a particular whatever vote you're tasting. So it's to the applicants advantage. Certainly they have more available. So you know, our position has always been and there's no case on it specifically, but our position has always been.

0:41:36.500 --> 0:41:39.710

DW Manchester Conf Room

That you offer the applicant the chance.

0:41:40.380 --> 0:41:56.420

DW Manchester Conf Room

And you the case again this whole 90 day clock thing. We got to remember that's out there. So that should be on the record that, you know, we're going to continue this. The other side would like A5 member board or maybe at least four members we will reschedule it for the next month.

0:41:57.750 --> 0:42:5.640

DW Manchester Conf Room

That the African understands if the 90 day clock is running and that they're asking for this. So I'm definitely feeling this on the applicant.

0:42:5.790 --> 0:42:7.720

DW Manchester Conf Room

That they're never request.

0:42:8.880 --> 0:42:25.450

DW Manchester Conf Room

And that this could necessarily impact that that 90 day period, which might have to be revisited, but certainly give them the option. I do not recommend, nor does Christine recommend that you sort of force someone to proceed out-of-the-box with less than 5 member board.

0:42:26.650 --> 0:42:43.760

DW Manchester Conf Room

If you know we go forward, they come back and you just can't seem to get five members, but you've got four. I think at some point you do move forward and you can deny that request, but certainly out-of-the-box, if that's where we're starting, give that applicant deputy until we get someone else.

0:42:44.520 --> 0:43:14.370

DW Manchester Conf Room

And a few more questions here about substitution and people deciding cases who weren't there originally, etcetera. I've seen this many times. Sometimes we just got through some. Well actually we're still in town meeting cycle. Technically I got a couple of May actually. But generally speaking we're through town meeting we have elections for those with elected boards and you know you have some Members who are on the board the beginning of this thing and then new members jumped on you know after the elections in the same manner.

0:43:14.630 --> 0:43:41.880

DW Manchester Conf Room

And they participate. Yes, they can. Uh, I think it's important here though. And again, we're always thinking with our lawyer, obviously hats on and litigation court. So I'm thinking make sure that records clear if you're going to have Joe Smith come in and sit on a case that he wasn't present for or involved with previously for whatever reason, it needs to be clear on the record that Mister Smith has reviewed prior materials.

0:43:42.700 --> 0:43:53.330

DW Manchester Conf Room

That he is because of his speed is he can be and has a general understanding of the math that he can perceive and give it due to consideration if.

0:43:54.260 --> 0:44:4.690

DW Manchester Conf Room

Uh, so yeah, substitution is OK with someone, but again, just I would make it very clear in the record that that person is ready to go. And I say that.

0:44:5.770 --> 0:44:11.580

DW Manchester Conf Room

Because I have seen now more and more the court, both superior and supreme.

0:44:12.460 --> 0:44:24.390

DW Manchester Conf Room

Kind of digging into each individual members understanding of a matter when you're discussing and voting and you know when I think both of us, Justine and I were kind of starting out.

0:44:25.710 --> 0:44:54.550

DW Manchester Conf Room

But the idea of law is much more the forward access and entity. We don't really look at each individual subjective understanding of a member. We look at the vote. We look at the evidence and we say whether that was reasonable or not. Well, it seems to be getting a little taking the left turn on that in that way. And I've seen 413 quarts. The housing where the field as well, actually that was a big one. I had where the other lawyer cleverly when after a couple of members who had some trouble understanding if you think and the board.

0:44:54.650 --> 0:44:59.870

DW Manchester Conf Room

Noted that in order that the one of the reasons they represent said, we don't think this these people understood that they were doing.

0:45:1.470 --> 0:45:10.860

DW Manchester Conf Room

So that's why I keep emphasizing the record. If that's in the minutes and make sure the Minutes reflect that the Member who is being who's coming in.

0:45:11.960 --> 0:45:16.490

DW Manchester Conf Room

Off of engine sort of, speed is ready, ready to go. And to me with.

0:45:20.300 --> 0:45:21.550

DW Manchester Conf Room

As for the hearing itself.

0:45:22.790 --> 0:45:31.500

DW Manchester Conf Room

First rule, make sure you follow your Rules of Procedure. You should have them. I hope all of you out there who were can hear this.

0:45:32.220 --> 0:45:39.770

DW Manchester Conf Room

Uh have rules of procedure governing your zoning board. You should follow us in terms of your course of action through here.

0:45:41.140 --> 0:45:44.480

DW Manchester Conf Room

That means that for an introduction, applicants can go first.

0:45:45.260 --> 0:45:58.840

DW Manchester Conf Room

Then you know a butters. Perhaps those in favor those opposed, then perhaps other members of the public. Then there's a rebuttal. I always encourage your rebuttal to be allowed to the applicant at the end of some to sum up and respond to anything that was set.

0:46:0.240 --> 0:46:1.730

DW Manchester Conf Room

And then you know, of course, go from there.

0:46:2.760 --> 0:46:24.240

DW Manchester Conf Room

You can and emphasize should that should have 5 exclamation point should ask questions. Parties don't be shy. This is your moment to gather information and sometimes you can get back to that that duty to assist idea. Some people don't know what they don't know, so you need to be the ones to sort of ask those questions to dig down deeper and understand.

0:46:25.170 --> 0:46:31.80

DW Manchester Conf Room

What's going to happen? How this is going to work? Whatever it is they're asking for, how that's going to feed into the criteria that you're applying.

0:46:31.940 --> 0:46:32.500

DW Manchester Conf Room

Umm.

0:46:33.710 --> 0:46:37.180

DW Manchester Conf Room

Please go ahead. Yes, I'll give you a specific example.

0:46:38.940 --> 0:46:46.370

DW Manchester Conf Room

Uh, CBA that I was working with, have an applicant who did not understand the unreasonable hardship.

0:46:47.40 --> 0:47:18.670

DW Manchester Conf Room

Uh issue for Americans and I coached that BA through that application and one of the things I said was this person does not understand the standard and you have an obligation to at least walk them through the standard. So ask them questions like can you tell me something, some special condition of this property that makes it different from other properties in the area that is a specific part of the standard that hopefully.

0:47:18.770 --> 0:47:24.160

DW Manchester Conf Room

You all know, understand, after you hear Chris talk and hopefully be able to hear them better than you can hear us.

0:47:24.840 --> 0:47:25.370

DW Manchester Conf Room

Uh.

0:47:26.280 --> 0:47:47.140

DW Manchester Conf Room

So if you ask those kinds of questions, you can pull out the information that you need and, but if you don't do that, there is a danger that a judge is going to say you didn't give this applicant a fair shot at you didn't find that there was a special condition of the property because you never asked that question.

0:47:48.190 --> 0:47:56.590

DW Manchester Conf Room

So you don't have to tell them how to get it approved. You don't have to tell them what the special condition is, but I would always advise that you ask.

0:47:57.290 --> 0:47:57.950

DW Manchester Conf Room

Those kinds of.

0:47:59.370 --> 0:48:3.220

DW Manchester Conf Room

Because you may be in a better position to understand the standard than they are.

0:48:5.830 --> 0:48:13.600

DW Manchester Conf Room

Excellent point. Thank you. And I'm looking at the clock. I understand almost 940. So I'm going to try to keep moving and not blab on too much.

0:48:14.590 --> 0:48:44.130

DW Manchester Conf Room

A couple of highlights from this slide then alternates, again, if there, if there's not sitting in, can they participate in the hearing and ask questions? Yes, but make sure you procedural rules allow for that disqualified Members if you're recused from the matter, you still have rights. So we're still remember of the public. So if you're not on the board, you can go out in the gallery, you can speak to an application. Obviously, if you're the applicant, that's a different story. But if you are someone who is against or in favor of something.

0:48:44.230 --> 0:48:46.20

DW Manchester Conf Room

And you're accused of every right to speak.

0:48:46.710 --> 0:48:54.90

DW Manchester Conf Room

On that matter, it's like anyone else does who's in the public. And finally it says here you can hear all parties.

0:48:55.490 --> 0:49:7.180

DW Manchester Conf Room

But, but you can hear such other persons as the appropriate meaning. People who, for example, just general members of the public who don't live maybe anywhere near this project, or perhaps someone who's an organization outside the community.

0:49:8.900 --> 0:49:37.270

DW Manchester Conf Room

You know, I always say the chair runs the meeting. I think the chair can use that fairly judiciously and make decisions as to, you know, how long each person has to talk. Obviously with the potential case, you may have to put a time limit on each person speaking, or else be there for hours and hours. You can limit repeat comments and make sure everyone has a chance. Once before someone else talks again. That kind of thing. So don't forget about that. The chair does have that.

0:49:37.340 --> 0:49:38.530

DW Manchester Conf Room

Story from my meeting.

0:49:39.690 --> 0:49:40.270

DW Manchester Conf Room

Fluidly.

0:49:41.160 --> 0:49:46.270

DW Manchester Conf Room

Continuing to another day, that's fine. Again, remember the 90 days, but you can continue.

0:49:46.730 --> 0:49:53.880

DW Manchester Conf Room

Uh, and again, no additional mail notice. Certified letters. That's not needed as long as you announce time, date, place.

0:49:54.680 --> 0:50:0.460

DW Manchester Conf Room

At the end of that session, if you're already in hearing, hearing just continues. So as long as it's clear, you've got.

0:50:1.550 --> 0:50:16.550

DW Manchester Conf Room

Uh, cannibalizes enough? No contact between parties and board members and interim days try to please avoid all those discussions if the applicant has a question you can have, maybe it's your.

0:50:17.420 --> 0:50:32.490

DW Manchester Conf Room

Secretary, administrator or get planning a planner. I know, like one town we have a planning administrative sort of serves for both boards and helps facilitate, you know, schedules and things. That's fine. But the board members should not be communicating with folks.

0:50:33.460 --> 0:50:36.10

DW Manchester Conf Room

And finally, don't close the hearings too soon.

0:50:37.870 --> 0:50:42.260

DW Manchester Conf Room

Never ever. I'll probably repeat this in another slide. I'm sure. Never hesitate.

0:50:42.980 --> 0:50:52.110

DW Manchester Conf Room

Here to wait and come back the next month or two weeks, whatever your next hearing would be. If you have questions for your legal counsel.

0:50:53.760 --> 0:51:6.750

DW Manchester Conf Room

Do not hesitate to stop and then make sure you understand what you're doing before you vote again. I understand 90 days. I know it's out there, but if you make that case, it's so you're getting close to 90 and you say this is a very.

0:51:7.380 --> 0:51:20.950

DW Manchester Conf Room

Difficult matter. We really feel we need guidance from our Council, so we need to go beyond the 90 days for maybe one cycle. I find it very hard to believe an applicant would reject that. And if they did, I think the judge would be on your side.

0:51:22.70 --> 0:51:34.990

DW Manchester Conf Room

So I'm always going to say, don't hesitate to wait as long as reasonable to delay your decision. You need more information from your Council and one other thing I want to mention real fast is reopening hearings.

0:51:36.140 --> 0:51:46.410

DW Manchester Conf Room

If it gets to the point you close it too soon and all of a sudden someone shows up with more information, whether it's new photographs or a new study or something like that.

0:51:51.610 --> 0:51:56.210

DW Manchester Conf Room

Yeah, you're only kind of deliberative session and include that as the evidence.

0:51:56.930 --> 0:52:2.100

DW Manchester Conf Room

So going to reopen that hearing, which maybe you got to re-mail or mail out notices. Most likely because you're ready.

0:52:3.970 --> 0:52:12.940

DW Manchester Conf Room

You can't. Legal advice just touched on this. You have the right 91. Eight is a couple options. There's non meeting with council, which literally is.

0:52:13.960 --> 0:52:32.90

DW Manchester Conf Room

You know, you know, you know, we have no minutes, no notice, nothing. You just meet with attorney on the phone or in person to discuss a matter the legal issues of the matter, not deliberate during that period. If I'm in your room with you, don't might tell you some of you may be your currency that I don't want to talk about.

0:52:33.10 --> 0:52:45.340

DW Manchester Conf Room

This decision, we're going to talk about the issues, the law. But the cases say what statute? Say. But we're not going to actually sit there and going on cable and start saying what people feel about particular elements of the particular application.

0:52:46.170 --> 0:52:53.260

DW Manchester Conf Room

If you want to review advice if Christine or I were to send a board, a letter or e-mail explaining.

0:52:54.160 --> 0:52:55.170

DW Manchester Conf Room

Particular Stafford.

0:52:55.860 --> 0:53:25.760

DW Manchester Conf Room

For some case law bearing on the topic, you may consider that amongst yourself a non public session. Again nonpublic session, not a non meeting. So you still have to have the hallmarks of the session, the notice and then the roll call vote to go in. And the reason for going in would be giving you here is 9183 room 27L small, another one too light to go in and talk to discuss.

0:53:26.0 --> 0:53:28.380

DW Manchester Conf Room

Comments from your Council, that's OK.

0:53:30.370 --> 0:53:59.670

DW Manchester Conf Room

OK, deliberated. So when you do it well you do it. You close your ear 1st and make sure you do that. I've had some words that don't think they don't remember to close the hearing and just start delivering and again you have some people in the audience who catch that and they're going to get up and wanting to talk and they have because you have a close to you so that's works say the words I'm closing the hearing seriously. Yeah I mean close it it's closed and then that we are now is now entering deliberative session.

0:54:0.460 --> 0:54:2.490

DW Manchester Conf Room

And again, that always has to be in public.

0:54:3.290 --> 0:54:14.980

DW Manchester Conf Room

Their goal is not any of this behind closed doors, some words that occasion have done that, and the courts will always throw it out and send it back.

0:54:15.790 --> 0:54:16.560

DW Manchester Conf Room

So.

0:54:17.470 --> 0:54:30.660

DW Manchester Conf Room

It's that, and again for the public meeting, it's not an hearing, so you don't need to give personal notice to everybody you know, to all certified letters to the body. You don't have to do all that, just a general post of like an online meeting, if that's what you're going to be doing.

0:54:32.460 --> 0:54:35.620

DW Manchester Conf Room

And as far as, I'm not sure if we have this in the next slide or not.

0:54:36.350 --> 0:54:41.880

DW Manchester Conf Room

Yes, only among the board members, no comments from parties or public.

0:54:42.560 --> 0:55:1.940

DW Manchester Conf Room

And then generally 99.99999 from the time the board should not ask any questions during deliberation. I say that percentage because there is the very, very, very tiny moment off and on when there's something there's some really might seem.

0:55:2.840 --> 0:55:4.850

DW Manchester Conf Room

Fully innocuous, but some little question.

0:55:5.550 --> 0:55:11.440

DW Manchester Conf Room

What has that that there couldn't make everything change depending on what the answer because it has been here it right or didn't.

0:55:12.240 --> 0:55:20.700

DW Manchester Conf Room

Uh, I have normally said there's a little bit of play there in the joint sitting do that. You're not opening it up For more information you're not, you're just clarifying some.

0:55:21.770 --> 0:55:38.180

DW Manchester Conf Room

I still don't like it. I still don't encourage towards to do it, but if it means love, we can't unless I know the answer to this particular thing, I can't do anything with this. I won't go forward, but then I might laugh, but it's very minor, very narrow and just clarifying something already.

0:55:39.400 --> 0:55:42.180

DW Manchester Conf Room

That would be OK, but again, generally don't do it.

0:55:42.980 --> 0:56:13.780

DW Manchester Conf Room

And minutes should reflect, frankly, should reflect all the information, the testimony we hearing accurately and in significant detail. I don't say you have verbatim minutes. Very few communities can do that. But please make sure they are detailed enough that you know, if Christy and I have to take

something to court, that's what we that's our, that's what we rely upon. So the judges reliant on when you're going to look at the information that was actually presented to you outside of the documents.

0:56:14.320 --> 0:56:44.150

DW Manchester Conf Room

And sometimes your parents were just like, that's not whether it's a butter testifying to issues that they've experienced on the next week, titular property that's before you or it's in terms of how property has been used or representations that are being made by an applicant as to what he or she or he is going to do. Property that's important. So make sure it's all there in the deliberations as well, obviously make sure that's detailed. And this is a side note kind of practice.

0:56:44.770 --> 0:57:6.900

DW Manchester Conf Room

I've seen a few towns starting to do this, which I really appreciate with variances in particular is they will actually in the Minutes, but sort of a title like for each above each paragraph. For example public interest, and they'll write in the public interest and then they'll have like the discussion and then unnecessary hardship and they'll have the discussion.

0:57:7.990 --> 0:57:35.620

DW Manchester Conf Room

I find it very helpful. It helps Orient me to where, if I know what issues are before the court when we're there, I know where to look and I know where to bring the judge and. And that's been the judge could see that everybody's debating on topics, how you would all have to talk at length on every element. But we definitely want to see discussion among the Members and throughout all of this and more organized this the easier it is for us when we.

0:57:37.40 --> 0:57:44.50

DW Manchester Conf Room

And finally, yeah, look at the relief of thought. What were those standards? And make sure again, as we talked before.

0:57:44.950 --> 0:57:48.700

DW Manchester Conf Room

Make sure that they are clear on what you're looking for.

0:57:50.390 --> 0:57:51.450

DW Manchester Conf Room

And.

0:57:52.610 --> 0:58:8.50

DW Manchester Conf Room

Understands when you're deliberating, discussing how that evidence fits in with those standards, and I go back to public interest and kind of a classic of is this going to disrupt your be out of character with the neighborhood, with the general area, yes or no. And you can look at that and talk about it.

0:58:9.480 --> 0:58:13.900

DW Manchester Conf Room

Is it going to be a danger to public health, safety, welfare for? They're going to be stormwater or some sort of drainage?

0:58:14.920 --> 0:58:16.50

DW Manchester Conf Room

Are they going to be?

0:58:16.130 --> 0:58:24.970

DW Manchester Conf Room

The once they traffic tangency of traffic should come up. I know most people have planning have planning. You can't go in front of them. Well, no, you can still consider that we could ever you want but.

0:58:26.470 --> 0:58:30.720

DW Manchester Conf Room

Obviously lock myself. He's seen in the playbook process. If we're dealing with something that.

0:58:31.480 --> 0:58:32.280

DW Manchester Conf Room

Part of the site plan.

0:58:33.30 --> 0:58:42.400

DW Manchester Conf Room

Umm. But understanding where all those things for them because the more sort of on top of it you are this board member, the Court will have that much more confidence.

0:58:43.170 --> 0:58:45.40

DW Manchester Conf Room

In, in your decisions and frankly.

0:58:45.900 --> 0:58:56.950

DW Manchester Conf Room

And I can say this experience now we've done this long enough that you have some communities that you know, go in front of the court off and on for an application there, you know for a particular.

0:58:57.720 --> 0:59:27.550

DW Manchester Conf Room

Basis, whether it's BA playing more, I have planning board once that just had a I guess a run where the three or four years we kind of go in front of the court in the fields and the judge got to know the board and frankly that board has many, many years ago that the board had wasn't that great minutes Judge got frustrated. So when I come back with that pound, the judge should kind of you know shouldn't roll her eyes but I could tell she's like OK, I've already got my work cut out for me because that judge is already suspect that the minutes aren't going to be good.

0:59:27.630 --> 0:59:42.140

DW Manchester Conf Room

There's nothing to see what's going on, and that just makes the job part for everyone. So again, understanding where you're at, understanding how we're fits in and making that clear and concise, and you deliberation goes for long way.

0:59:44.620 --> 0:59:51.190

DW Manchester Conf Room

Findings of fact and other new item that we have and uh 67631.

0:59:51.950 --> 0:59:59.60

DW Manchester Conf Room

Uh, it used to be denials having include written reasons or the denials. Now all written decisions.

0:59:59.790 --> 1:0:5.220

DW Manchester Conf Room

Under score all caps bold all. I mean grant granting something, denying something.

1:0:5.730 --> 1:0:10.480

DW Manchester Conf Room

Uh, I guess denying without prejudice as well.

1:0:11.560 --> 1:0:33.120

DW Manchester Conf Room

I'm not sure I'm denying without prejudice. I think what you could say is we don't have enough information to make findings of fact and that's why we're denying without prejudice or those are the findings are that's the problem. But I don't know, it's an interesting one. But in any event, let's keep it simple. You grant something now you need to explain the findings of fact that support that decision.

1:0:33.920 --> 1:0:35.610

DW Manchester Conf Room

And it says here if you don't.

1:0:36.570 --> 1:0:54.760

DW Manchester Conf Room

You don't give specific findings supporting the disapproval that's ground, so automatic reversal and remand, right. Supreme Court Superior Court. Excuse me? Or Housing Court of Appeals. I think it would cover both. I got to remember that sort of out there as well. With all we mentioned before. You got to think of the board as well.

1:0:56.220 --> 1:0:58.900

DW Manchester Conf Room

If there are other factors, however, that's supported than.

1:0:59.230 --> 1:1:4.910

DW Manchester Conf Room

Uh, that might like that would be another reason to reverse it and it wouldn't go back to you in an e-mail.

1:1:6.340 --> 1:1:21.890

DW Manchester Conf Room

And finally on that minutes will not be enough anymore. Used to be if your minutes were detail, you can kind of point that and say well fines are really in a minute. It's all there and there are a couple of cases that suggest that that was sufficient. But now that it's likely that is no longer the case.

1:1:22.500 --> 1:1:28.680

DW Manchester Conf Room

So make sure those findings there. Again, see your Council if you need to do on that, that's the guidance. I've had some boards.

1:1:29.760 --> 1:1:31.170

DW Manchester Conf Room

Do that already and big.

1:1:32.220 --> 1:1:33.680

DW Manchester Conf Room

I think it's. I think it's really hard.

1:1:36.210 --> 1:2:2.60

DW Manchester Conf Room

Therefore, I think when we look at the Court finally, for me, expert evidence of something we see off and on these cases, again more of the complex ones, not the more simple shed 2 feet into the setback, but real quick on experts, you're like you're looking, judge Christine said. There's actually additional capacity you can hear from experts. You can weigh opinions, you can accept or reject opinions.

1:2:2.730 --> 1:2:8.450

DW Manchester Conf Room

But if you're going to do that, you got to have reasons. And those reasons have to have some grounds, not just I don't.

1:2:9.160 --> 1:2:17.420

DW Manchester Conf Room

Like that or I don't agree. Just because I don't agree, it doesn't sit with me. You get all the more reason than that to contradict that expert opinion.

1:2:17.970 --> 1:2:39.700

DW Manchester Conf Room

Uh studies and articles. You may pull up from the web again are not going to do it, nor will your general opinion based on your understanding and knowledge of an area that is evidence. But you've probably heard all this. Most of you have been on the board. Know this gospel that you can use your experience as an understanding of an area as evidence. But when you're faced with an expert.

1:2:40.880 --> 1:2:49.980

DW Manchester Conf Room

That's different. That's a fair hurdle. So while what you what you have in front of you and what your experiences are can be considered as an expert says otherwise?

1:2:50.820 --> 1:2:53.830

DW Manchester Conf Room

The other, the expert is probably going to win out on that.

1:2:54.0 --> 1:2:54.450

DW Manchester Conf Room

Uh.

1:2:55.540 --> 1:2:58.530

DW Manchester Conf Room

Try to reject that opinion just on that basis alone.

1:2:59.250 --> 1:3:5.130

DW Manchester Conf Room

Yeah, I know that finally you're going to ask, well, how do we, what do we do then? How do we compete with that one way is.

1:3:5.290 --> 1:3:23.560

DW Manchester Conf Room

UM robotics. You might be bringing in their own information and experts and some do in in in some town by now their cities where these things get really hot, you'll have learned on both sides who get up there and get whether it's appraisals or wetland scientist. So whatever you're dealing with who compete and give you conflicting opinions.

1:3:24.290 --> 1:3:37.140

DW Manchester Conf Room

And you can also get your own things third party if you have trouble with something and you're not sure and you have something peer reviewed or whatnot, you can do that and you have the right to track for them. Again, you have a really good reason to do it. You can't just.

1:3:39.130 --> 1:3:50.840

DW Manchester Conf Room

But you can't, and I think that reports will go a long way, considering that that the applicant. So with that I'm going to pass it back to Christine.

1:3:51.610 --> 1:3:54.430

DW Manchester Conf Room

OK, so uh motions.

1:3:55.220 --> 1:4:11.80

DW Manchester Conf Room

Uh, if you have rules of Procedure that dictate how you make motions and 2nd them and take votes, follow your Rules of Procedure. If you don't remember that the law requires that your minutes include the names of the people who made and seconded every motion.

1:4:12.430 --> 1:4:13.820

DW Manchester Conf Room

You can.

1:4:14.640 --> 1:4:26.970

DW Manchester Conf Room

Someone can come to the meeting where you are deliberating with a draft motion ahead of time

because remember now you are delivering, which is the point at which you're allowed to start thinking about how you're going to decide.

1:4:28.790 --> 1:4:33.40

DW Manchester Conf Room

If a motion is drafted ahead of time, do not circulate it to anyone.

1:4:34.220 --> 1:4:53.820

DW Manchester Conf Room

Bring it to the meeting and then make the motion read it to the board. Then you can circulate copies and the board can discuss it. I have worked with board chairs or one person who's assigned to work with me to draft motions ahead of time. Sometimes we draft them going in both directions.

1:4:54.540 --> 1:5:7.850

DW Manchester Conf Room

Uh, because nobody knows how the board is going to go. The key is anything that's drafted ahead of time does not get circulated to anyone until you are actually in the in the meeting and delivery.

1:5:9.40 --> 1:5:21.820

DW Manchester Conf Room

And just like that town meeting, one motion at a time, somebody makes a motion and then someone says, well, I want. I want to make a different motion. The chair should say no. No, we're on. We're on Bob's motion.

1:5:22.510 --> 1:5:27.760

DW Manchester Conf Room

And we're going to discuss Bobby motion, and unless he withdraws it, we're going to vote on it.

1:5:29.120 --> 1:5:30.950

DW Manchester Conf Room

Motion can be amended. That's fine.

1:5:31.730 --> 1:5:32.670

DW Manchester Conf Room

But one was another.

1:5:34.130 --> 1:5:54.480

DW Manchester Conf Room

Uh, when you're drafting a motion, you want to start, obviously with what is the applicant asking you for? But if you feel that you need to put conditions on it or approve something that is slightly different, they're asking you for a 12 foot variance and you think 11 is the most that you can justify. You can rent an 11 foot pain.

1:5:55.550 --> 1:5:57.990

DW Manchester Conf Room

Uh, you have to include all of your conditions.

1:5:59.640 --> 1:6:3.470

DW Manchester Conf Room

This is where you might need to discuss your motion and then to the motion of that.

1:6:5.650 --> 1:6:17.530

DW Manchester Conf Room

And the text of the motion and the person who made and seconded it, should show up in your minutes. What happens to that motion during the discussion and deliberations in both should also be in your minutes.

1:6:18.200 --> 1:6:22.820

DW Manchester Conf Room

If you have a written copy of your motion, give it to the person who is taking the minutes.

1:6:24.400 --> 1:6:54.170

DW Manchester Conf Room

And I really strongly suggest that your motion include the findings of fact somehow and making yourself go through this exercise can help you remember that you're supposed to have findings of fact. I find my motion is that this the applicant satisfies the property no diminution in property values for a variance because the we received the letter from a realtor, blah blah blah.

1:6:54.290 --> 1:6:54.900

DW Manchester Conf Room

Or something like.

1:6:57.730 --> 1:7:28.630

DW Manchester Conf Room

Uh, conditions of approval. There are two kinds conditions precedent are things that have to be fulfilled before the before any plan gets signed and recorded and before the applicant can start on the project. You have to get away with permit from DES. You have to submit a revised plan to us that shows these five things, stuff like that conditions subsequent are conditions that continue to attach to the use of the property going forward you can have.

1:7:28.730 --> 1:7:35.380

DW Manchester Conf Room

27 events per year. You can operate Monday through Friday. These hours, stuff like that.

1:7:36.810 --> 1:7:46.140

DW Manchester Conf Room

So all of those conditions need to be voted on part of a motion approved by the board, and they need to show up in your written decision.

1:7:47.500 --> 1:7:55.300

DW Manchester Conf Room

One thing you are not allowed to do is attach a condition that says you can. You can use your property this way as long as you own it.

1:7:56.290 --> 1:8:6.670

DW Manchester Conf Room

Condition of variances, special exceptions, all of that run with the length. In general, it doesn't matter if the property is sold if someone else takes over the business, it doesn't.

1:8:7.790 --> 1:8:32.200

DW Manchester Conf Room

There are two very narrow exceptions for people with disabilities who need modifications to allow them to use the property. The law says you can limit those to the amount of time that that person needs to regularly use the property, and there's another exception for agricultural uses for as long as that part of the use is being actively.

1:8:32.880 --> 1:8:34.350

DW Manchester Conf Room

But otherwise they run with going.

1:8:36.460 --> 1:8:38.240

DW Manchester Conf Room

Uh voting on motions?

1:8:39.440 --> 1:8:44.560

DW Manchester Conf Room

Anything that is media does requires at least three yes votes on emotion.

1:8:45.580 --> 1:8:49.180

DW Manchester Conf Room

Anything you want to grant something you want to deny something, anything you're doing.

1:8:50.230 --> 1:9:2.910

DW Manchester Conf Room

Regardless of how many people are sitting, so that gets back to the right to the full board that have talked about earlier. If you have three Members sitting on a case, all three of them have to vote yes on a motion for anything to happen.

1:9:4.760 --> 1:9:9.450

DW Manchester Conf Room

Your Rules of Procedure should explain what happens when a motion fails.

1:9:10.200 --> 1:9:13.420

DW Manchester Conf Room

If you don't get three votes in favor of the motion.

1:9:14.100 --> 1:9:18.510

DW Manchester Conf Room

Does that mean your application is denied? Or does that mean you haven't made a decision?

1:9:19.370 --> 1:9:33.630

DW Manchester Conf Room

Same thing with. If you have four Members sitting and you have a time, there are different theories

about that and how that should work, but what's easiest is if your Rules of Procedure explain how that works for you, and then you follow that.

1:9:36.880 --> 1:9:55.550

DW Manchester Conf Room

Uh, I'm variances. There are two schools of thought about this. One is that the board will vote, take a separate vote on each of the file variance criteria. The other school of thought is you take one up down vote and that's it. Some people think that one way is better.

1:9:56.910 --> 1:10:20.280

DW Manchester Conf Room

Because it's possible that no one on the board will think that the applicant has met all 5 criteria, but everybody thinks that they met at least one of them. And you all think they failed a different one. So, but that would still be a yes vote if you're or, it would still be a no vote. If it's just one up, down vote. If you're voting on each criterion separately.

1:10:20.980 --> 1:10:24.10

DW Manchester Conf Room

Each of those will come out, yes, and they would get approval.

1:10:25.70 --> 1:10:31.910

DW Manchester Conf Room

So I'm not sure there's one right way. What the law requires is that you pick one and you stick with it.

1:10:32.560 --> 1:10:51.630

DW Manchester Conf Room

So again, your Rules of Procedure should explain how you're going to do this, and then you have to follow that method. You can vote to change your method, but the new method will not take effect until 60 days have passed, and it won't affect any case that was pending before you at the time you voted to change your method.

1:10:52.610 --> 1:10:53.270

DW Manchester Conf Room

So.

1:10:54.220 --> 1:11:5.870

DW Manchester Conf Room

So there are some limits on how you should do it. So I guess the homework here is to check and see how you do it. Do your Rules of Procedure actually address that, and if they don't, they probably should.

1:11:8.390 --> 1:11:33.710

DW Manchester Conf Room

But one additional thing on this point though, because now we have to have findings affect in your written decision about why the application is being approved or denied. So that kind of indicates that you need to have a discussion about the findings of fact for each criterion for variances or each factor for a special exception. So that might affect how you want to vote on things.

1:11:35.180 --> 1:11:39.590

DW Manchester Conf Room

Are you written notice of decision? Every decision you make requires a written notice.

1:11:40.400 --> 1:12:5.920

DW Manchester Conf Room

Umm. And it will guide how the property gets used. Remember that you are not drafting the written decision just for the people who are in the room. It is important that you include everything in the written decision that you want to attach to this property going forward so that later on in five years or 10 years when none of you are in are on the board anymore perhaps and you have a new building.

1:12:6.560 --> 1:12:13.350

DW Manchester Conf Room

It's boring for cement officer. And you have a new board of Selectman. Everybody needs to know what was approved.

1:12:14.130 --> 1:12:24.620

DW Manchester Conf Room

So all of that should go into your decision and in an appeal, the judge is going to look at your just your written decision to see doesn't include all the things that it should.

1:12:27.420 --> 1:12:30.590

DW Manchester Conf Room

Uh, it should include the motion that was passed.

1:12:31.350 --> 1:12:35.320

DW Manchester Conf Room

If it's a denial, you must include the reasons it was denied.

1:12:36.410 --> 1:12:43.480

DW Manchester Conf Room

It has to include all of the conditions that you're putting on this approval and explain them in a way that people who are not in the room can understand them.

1:12:44.330 --> 1:12:55.560

DW Manchester Conf Room

It has to include findings of facts that you make which support each factor of your decision, and then you want to include any deadlines or milestones that have to be achieved over time.

1:12:56.320 --> 1:13:8.650

DW Manchester Conf Room

In you if you are a community that has its approvals expire within a certain if. If they are not exercised within a certain amount of time, that should also be.

1:13:11.410 --> 1:13:18.380

DW Manchester Conf Room

The written decision and the meeting minutes have to be publicly available within 5 business days after the vote.

1:13:19.430 --> 1:13:28.150

DW Manchester Conf Room

If you missed that deadline that first of all it's a violation of the right to know law because you're minutes are supposed to be available within 5 business.

1:13:29.70 --> 1:13:37.680

DW Manchester Conf Room

And second, it doesn't extend the deadline for someone to appeal, but it does give them extra time to amend their appeal they want.

1:13:38.600 --> 1:13:47.420

DW Manchester Conf Room

And most importantly, you need to make the written decision and the minutes available to help him within 5 business days after you vote.

1:13:48.270 --> 1:14:7.730

DW Manchester Conf Room

The law does not say how you do that, so you can e-mail them. You can give them a call or send them an e-mail and say it's here in the office to pick it up. You can send it by US mail, whatever method you use, pick one, put it in your own procedure and stick to it so everybody understands what you're going to be doing.

1:14:8.730 --> 1:14:14.310

DW Manchester Conf Room

And if you're going to give the applicant to the option if telling you how they want their notice, put that in your room.

1:14:15.80 --> 1:14:16.90

DW Manchester Conf Room

So that everybody else.

1:14:17.960 --> 1:14:31.680

DW Manchester Conf Room

And I'm going to turn it back over to map to finish up right lightning round. Yeah, that's my maps real quick. Just before you get contrary to some people's belief. Notice that decision don't have to be published.

1:14:32.390 --> 1:14:47.160

DW Manchester Conf Room

I think so. I think some people think I got post my decision may know now you got to get out to the right party to make sure they have it. They represent days. Be honest, post you can't. You can't. You can't. Yeah, sure. You want that some problem you don't have OK motions for rehearing.

1:14:48.260 --> 1:15:8.780

DW Manchester Conf Room

As you probably know, most of you, that is the kind of interim step that a dissatisfied person needs to take before going to court or housing board of appeals. We're going with an appeal of your decision has to be filed within 30 days. Decision generally is obviously the applicant.

1:15:9.650 --> 1:15:18.850

DW Manchester Conf Room

Uh, someone who directly affected, which is only in a butter. Sometimes someone who's not a butter, but usually a butter and the governing body. They also have statutory right to.

1:15:20.290 --> 1:15:27.940

DW Manchester Conf Room

No, I've been retained occasionally by a governing body of the community to challenge the TBA decision because we have that's really right.

1:15:28.850 --> 1:15:53.110

DW Manchester Conf Room

Even without emotion, and this is the not a new case anymore. It's supposed. Wow. The backing on seven more recent. You have the right on your own to revisit a decision within that 30 day period. You think there was a mistake. And occasionally that's happened, remember might say you know, hey, I wrote it on this. I went back and looked at the record that I think I made a mistake and I really want to go back and do this. You got to notice it. Make sure people know you're going to do it.

1:15:54.250 --> 1:16:18.450

DW Manchester Conf Room

And you know, it's a public meeting. You don't do it privately, but you have the right to do that. And if you are going to, if someone does file a motion with you for every year, they need to set for each reason why your original decision was they say unlawful or unreasonable as the legal standard. And the important point to remember with this is that if they don't raise something.

1:16:19.280 --> 1:16:30.950

DW Manchester Conf Room

They can't bring it up later in the quarter. So if you deny the variance and you gave four reasons for me for the elements and they only go after three of them, that fourth one they can't bring that up later.

1:16:32.70 --> 1:16:32.600

DW Manchester Conf Room

Important.

1:16:34.480 --> 1:16:50.180

DW Manchester Conf Room

As the motion itself, it is a 30 day turnaround to grant or deny public meeting, emphasizing it unfolded for reason meeting don't have to have. You can have a hearing, but you don't have to. And normally. And we would advise you not to.

1:16:51.340 --> 1:16:55.390

DW Manchester Conf Room

You're basically looking to see whether the decision you made originally.

1:16:56.500 --> 1:16:58.80

DW Manchester Conf Room

Have some mistake of fact.

1:16:58.870 --> 1:17:3.520

DW Manchester Conf Room

Or in your interpretation of whatever law that what you're looking.

1:17:4.10 --> 1:17:19.520

DW Manchester Conf Room

Umm, you don't want to get a new findings? New reasons don't go there. I mean, unfortunate owner of a of a case called McDonald versus Effingham. It came out now many years ago, where the kind of docking msba.

1:17:20.600 --> 1:17:24.580

DW Manchester Conf Room

Decided on a motion for rehearing to deny it and added new reasons.

1:17:26.720 --> 1:17:45.810

DW Manchester Conf Room

And you know, originally we have tried to argue that that that, that the applicant had the file, yet another motion for rehearing in the court said, no, you make your decision up or down on a rehearing, but you don't have any reasons if you want to add new reasons, then you have a new hearing granted and then have it and deny it. Again, if you don't do that through emotion.

1:17:46.920 --> 1:17:57.360

DW Manchester Conf Room

For this is an exception to the findings of fact thing that we've just been hammering on making a decision on a motion for rehearing does not require findings of fact.

1:17:58.300 --> 1:18:2.0

DW Manchester Conf Room

All you're doing is saying yes, we will repair it or no, we won't repeat it.

1:18:3.320 --> 1:18:4.210

DW Manchester Conf Room

So that's the exception.

1:18:6.170 --> 1:18:35.150

DW Manchester Conf Room

As far as new evidence submitted with emotion, again my rule of thumb is if it's information that someone could have presented to the board originally and didn't do it for whatever reason, that is not sufficient grounds to grant. Maybe hearing normally a judge would not grant for reconsideration if I'm in the civil context for that reason. If something is new, that could not be presented because people weren't aware of it for became the last minute someone discovered after the fact.

1:18:35.900 --> 1:18:41.530

DW Manchester Conf Room

That could be ground to do it and might be worth revisiting. And if you if you do grand jury hearing.

1:18:42.500 --> 1:19:0.950

DW Manchester Conf Room

Might be my next slide. Yep, the case begins again. I guess it literally it's a do over. You are not limited by issues. You are not limited by, by arguments that were made before. It is a new hearing, new notice. The whole thing in doing it again. Now with that said.

1:19:1.860 --> 1:19:19.200

DW Manchester Conf Room

I highly recommend that you incorporate into the record the prior documents, discussions, whatever were made before you can bring that in as part of your record. So it's there. The extent it's relevant and necessary because you don't need to reinvent the wheel.

1:19:20.720 --> 1:19:36.760

DW Manchester Conf Room

But the idea though, is that in terms of people making argument testifying, etcetera, they can, if they can say what they need to say and you ask the questions, you're not foreclosed from, for example, limiting it to only what's referred to in that motion. That's simply gets them in the door for that.

1:19:37.590 --> 1:19:55.860

DW Manchester Conf Room

Uh, and then go forward accordingly. Have you hearing you going to follow all the same processes that we just talked about earlier regarding through the hearing process, deliberation, decision, findings effect, all that happens. It's again it's a dual.

1:19:57.320 --> 1:20:1.170

DW Manchester Conf Room

OK, so after you do your hearing, let's say you just deny it.

1:20:2.860 --> 1:20:8.80

DW Manchester Conf Room

Alright then, that applicant has 30 days to appeal the decision.

1:20:8.690 --> 1:20:19.750

DW Manchester Conf Room

The reading go to Superior Court, but the housing appeals court just personal experience I am seeing still a fair amount of housing appeals board challenges.

1:20:21.30 --> 1:20:34.260

DW Manchester Conf Room

I think one of the reasons for that is the efficiency of the board. Generally speaking, I believe there that the statute and statute provided for you is are they, chapter 679 is the general staff.

1:20:34.910 --> 1:20:48.70

DW Manchester Conf Room

But chapter 90, days from filing the appeal, when you get a hearing and then it's supposed to be a 60 day turnaround, you get the decision. Yeah, that's probably a little quicker than most Superior Court cases take.

1:20:48.710 --> 1:21:6.380

DW Manchester Conf Room

Uh, this damage so you know, little faster and you know, you can ask people you know from the political side of things whether they think that you have a better shot there because of the makeup of or whatever. And that could be reason we see more of that as well. But that's out there and that that comes up.

1:21:7.560 --> 1:21:8.410

DW Manchester Conf Room

More and more, I think.

1:21:9.190 --> 1:21:23.50

DW Manchester Conf Room

And as we said before, governing bodies allowed to appeal that decision not just by the motion for rehearing, but can also challenge group, heal. And as far as the record goes, you know, next slide.

1:21:24.140 --> 1:21:30.500

DW Manchester Conf Room

Is certified record that we are. This is kind of a key for all of us as we go into court on.

1:21:31.400 --> 1:21:42.450

DW Manchester Conf Room

Uh, we're going to. We're going to hear from your Council asking for the record of the case, and that's going to be the soup to nuts. Literally everything that, that, that came into that matter.

1:21:43.430 --> 1:21:55.50

DW Manchester Conf Room

No matter how insignificant, and that's again the application of correspondence. Any reports, photos, letters, emails, all the emails, absolutely. And even if their emails between.

1:21:55.730 --> 1:22:0.700

DW Manchester Conf Room

The applicant may have sense of a town about the case or any of those things.

1:22:1.450 --> 1:22:31.220

DW Manchester Conf Room

If it really involves matter we want, and then we'll go over it. When you're Council will let you know what should and shouldn't be in the record. But I always here on the side of caution and put everything in that record. In fact, I usually ask people for a copy of the tax map and tax card as well for property. Just so you know it's background information. I never get any other side on that and that gives the judge orients the judge to the property where it is and you know some of those specifics about that property so very important.

1:22:31.380 --> 1:22:36.640

DW Manchester Conf Room

Want to get the record assembled as quickly as you can once your app, because they're the timeline to do that.

1:22:37.680 --> 1:22:43.670

DW Manchester Conf Room

And as we know, some of these records can be a little voluminous, so it takes time and finally.

1:22:44.400 --> 1:22:59.810

DW Manchester Conf Room

The more that you on your end can kind of organize the records from the documents and put them together, the less it's going to cost us and our staff to go through it and try to store it all out and put all together. So if you just send us a stack of documents.

1:23:0.500 --> 1:23:29.580

DW Manchester Conf Room

And just say, here's the whole record with a elastic around, but nothing's been collated, organized. We're going to have to go through all that, put it together into some coherent way for the judge to take it in and review it. Yeah. So again, believe it or not. And you heard it here first. We're trying to save you money. So put it in chronological order. Yeah. Attach everything that goes together. It'll cost you so much less. It will. It will help us to work. Finally.

1:23:30.460 --> 1:23:33.450

DW Manchester Conf Room

Yeah. Last slide is concluding suggestions here and.

1:23:34.740 --> 1:23:37.90

DW Manchester Conf Room

You know, if you have anything you want to take this some I don't want to.

1:23:38.490 --> 1:23:51.600

DW Manchester Conf Room

I want to apologize sincerely for the audio problems and we are going to fix it for the Q&A. Yeah, after lunch, but my concluding suggestions are try to be fair and reasonable.

1:23:53.40 --> 1:23:57.930

DW Manchester Conf Room

Learn as much as you can and ask for help when you need it.

1:23:59.650 --> 1:24:6.860

DW Manchester Conf Room

Yes, I echo all that. And finally I like that second bullet, very important stay up to date on those changes because we do see them.

1:24:8.530 --> 1:24:22.500

DW Manchester Conf Room

More, more often than not these days little ones. It's not good ones, so stay up to date and keep in touch with your counsel about that as well and make sure make sure you're legal. Counsel has an up to date copy of your zoning ordinance.

1:24:23.580 --> 1:24:27.370

DW Manchester Conf Room

And impossibly rules of Procedure as well. Very, very helpful.

1:24:28.410 --> 1:24:30.110

DW Manchester Conf Room

And with that, I guess we'll hopefully.

1:24:31.210 --> 1:24:36.740

DW Manchester Conf Room

See or hear from folks at 12:45. Yes, thank you.

1:24:39.400 --> 1:24:50.730

Gilbert, Jennifer

All right. Thank you, Christine and Matt. I think we just had one more. I just took back control on your contact information. And again, we have the slides up on our website.

1:24:52.790 --> 1:25:11.270

Gilbert, Jennifer

So we are going to hold off on the Q&A until 12:45 after lunch when we have a whole session dedicated to questions. I've been tracking all of the questions that I have come in during the session. I think we have up to 8 questions right now. So we will be moving those forward to that 12:45 session.

1:25:12.0 --> 1:25:23.810

Gilbert, Jennifer

And so we thank you for participating. Again, we apologize for the audio. We will get that corrected for the next one and we appreciate your feedback and.

1:25:24.910 --> 1:25:30.720

Gilbert, Jennifer

Thank you for joining us and we will be now on a 15 minute break and we will see you back at 10:30.

1:25:31.980 --> 1:25:32.790

Gilbert, Jennifer

Thank you again.