

Can our zoning administrator also be a member of the planning commission?

Yes, so long as the duties of the planning commission are not commingled with those of the zoning board of adjustment (ZBA). In some towns, the planning commission and the ZBA are composed of the same members. The job of the ZBA is to sit in a quasi-judicial capacity and hear appeals of decisions made by the zoning administrator.

If the zoning administrator sat on this board, or even just appeared at its hearings without voting on the issues, it would present a number of problems, beginning with the appearance of impropriety, poor judgment on the part of the officer, and ending up as a violation of the due process clause of the 5th Amendment to the U.S. Constitution.

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Our August 2001 “Ask the League” stated that a zoning administrator (ZA) should not be present at a meeting where an applicant is appealing his or her decision. That is wrong. It would deny zoning administrators the right to justify their decisions if a zoning board of adjustment (ZBA) or a development review board (DRB) prohibited them from attending such a hearing. Allowing the ZA to present his or her reasoning for a decision is *necessary* to shed light on the case. However, it should still be noted that a ZA should not be a voting member of either a ZBA or a DRB, nor should the ZA be present for closed board deliberations of an appeal of his or her decision. The *VLCT News* apologizes for the error. (Printed October 2001)