

Who has the right to present evidence before a local zoning board? Is it limited to “interested persons,” as defined in 24 V.S.A. § 4464, or can other people present evidence?

In contrast to an opinion published in the June 2002 edition of *Opinions*, issued by the Vermont Secretary of State’s Office, VLCT believes that the field of people who can present evidence at local board hearings is broader than simply “interested persons.”

The field of potential presenters **begins** with “interested persons.” According to Vermont law, “An interested person may appeal any decision or act taken, by the administrative officer, in any municipality by filing a notice of appeal with the secretary of the board of adjustment of that municipality or with the clerk of that municipality if no such secretary has been elected.” 24 V.S.A. § 4464 (a). The statute goes on to define “interested person,” as a broad sphere of local people who may or may not have a direct interest in the case: “a person owning title to property, or a municipality or a solid waste management district empowered to condemn it or an interest in it, affected by a bylaw who alleges that such regulation imposes on such property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.” 24 V.S.A. § 4464 (b) (1).

Also included are “the municipality in which the plan or a bylaw of which is at issue in an appeal brought under this chapter or any municipality which adjoins such municipality;” “*a person owning or occupying property in the immediate neighborhood*” of a property which is the subject of any decision or act taken under this chapter; and “*any ten persons owning real property within a municipality.*” 24 V.S.A. § 4464 (b) (2), (3), (4) (Emphasis added).

The statutes are clear that only an interested person may *initiate* the appeal. However, there is no statutory limit on who may *participate* in the appeal. It is VLCT’s position that the zoning board of appeals, development review board or planning commission, when acting in a quasi-judicial capacity (holding a hearing), has the discretion to allow any person to present evidence. The board’s sole focus should be on ensuring due process by running an orderly hearing and by giving weight during its deliberations to only relevant and credible evidence.

Please keep in mind that if your town has adopted Vermont’s Municipal Administrative Procedure Act (MAPA), the pool of potential presenters is far more limited. In such cases, only those “interested persons,” as defined by 24 V.S.A. § 4464 (b), may present evidence. 24 V.S.A. § 1201 (4). Thus, it is clear that if your municipality has not adopted MAPA, there is discretion with regard to who may present evidence at local zoning and planning hearings.

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