

What should a town do if its zoning administrator has a conflict of interest with regard to a zoning permit application?

The assistant zoning administrator or acting zoning administrator should administer the zoning permit application.

State law provides towns with two mechanisms for dealing with a conflicted zoning administrator. First, towns may establish the position of an assistant zoning officer to, among other things, serve in the zoning administrator's stead when such conflicts arise. Towns with an assistant zoning administrator must have "clear policies regarding the authority of the administrative officer in relation to the acting or assistant officer." 24 V.S.A. § 4448(b). Such policies should direct the assistant zoning administrator to administer any permit application for which the zoning administrator is conflicted.

For towns without an assistant zoning administrator, state law instructs that "the planning commission may nominate and the legislative body may appoint an acting administrative officer who shall have the same duties and responsibilities as the administrative officer in the administrative officer's absence." 24 V.S.A. § 4448(b). The acting zoning administrator would then serve as the zoning administrator for purposes of the conflicted application only.

The harder question to answer is determining when a zoning administrator is conflicted. Conflicts of interest with respect to zoning administrators can generally be broken down into three categories: those where a zoning administrator has a personal interest in an application; those where a zoning administrator has a financial interest in an application; and those where a zoning administrator has exhibited a bias or prejudice towards an application.

Whether a particular zoning administrator is conflicted can only be answered by examining an individual town's conflict of interest policy. Such a policy can be adopted by the selectboard or the voters at an annual or special town meeting, or can be found embedded within a town's charter or personnel policy.

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