

RULES OF PROCEDURE
FOR THE HEARING OF APPLICATIONS
BY THE
NOVA SCOTIA BUILDING ADVISORY COMMITTEE

MADE PURSUANT TO SECTION 15(4) OF THE BUILDING CODE ACT S.N.S., 1986, C.3

INTERPRETATION

1. These are Rules of Procedure made by the Nova Scotia Building Advisory Committee (hereinafter referred to as "The Committee") in accordance with Section 15(4) of the Building Code Act (hereinafter referred to as "the Act").

2. In these Rules:

- (1) "Applicant" means the owner of a building or the owner's agent referred to in Section 15 of the Act and includes the Applicant's counsel, designate, or representative.
- (2) "Chair" means the Chair of the Committee designated by the Minister under Section 13(5) of the Act, or in his/her absence, either the Vice-Chair or any Committee member designated by the Chair to preside at the consideration of an Application for a ruling on a dispute.
- (3) "Executive Secretary" means the Executive Secretary to the Nova Scotia Building Code Advisory Committee, appointed by the Minister of Municipal Affairs.
- (4) "Hearing" means a hearing before the Committee for the purpose of obtaining a ruling on the subject matter of a dispute as provided in Section 15 of the Act, and also includes any reconvening and continuation of a hearing by the Committee.
- (5) "Building Official" means the Building Official appointed in accordance with Section 5 of the Act.

APPLICATION

3. An Application to the Committee under Section 15 of the Building Code Act shall be filed with the Committee in the manner prescribed by these Rules.

COMMITTEE COMPOSITION

4. The Chair shall designate those members of the Committee who will consider an Application for a ruling on the subject matter of a dispute.

FORM AND FILING OF APPLICATION

5. (1) An Application is commenced by filing a written Application with the Committee at the following addresses:

Location of Office	Mailing Address
Executive Secretary	Executive Secretary
Nova Scotia Building Advisory Committee	Nova Scotia Building Advisory Committee
250 Baker Drive, Suite 210	PO Box 231, Halifax Central
Dartmouth, Nova Scotia B2W 6L4	Halifax, Nova Scotia B3J 2M4

(2) An Application is deemed to have been filed with the Committee when it is received by the Executive Secretary.

(3) An Application shall:

- a) be in writing, and signed by the applicant;
- b) be in the form prescribed by the Committee from time to time or in similar form;
- c) contain a copy of any written order or decision of the Inspector which is the subject of the appeal;
- d) describe with particularity the Applicant's position on the subject of the appeal;
- e) contain the name and address of the Applicant together with the name and the address of the person to whom Notice of Hearing and Notice of Decision are to be given, if other than the Applicant.
- f) contain any other relevant documentation or information which the Applicant believes the Committee should consider; and,
- g) be provided to the Inspector together with any other material filed with the Committee.

SELECTION OF PROCEDURE

6. (1) The parties may agree that the procedure to be followed in resolving a dispute will be by written submissions, oral submissions, or a combination of written and oral submissions, but if the parties do not agree, the Committee will select the procedure which it believes will best permit the resolution of the dispute in the shortest practical time.

(2) If the parties have not notified the Committee, in writing, within seven (7) calendar days from the date the Application was filed of the procedure they have agreed upon, they will be deemed not to have agreed upon a procedure and the Committee will select a procedure and notify the parties of the procedure that will be followed.

WRITTEN SUBMISSIONS

7. If the procedure is by written submissions:

- (1) The Inspector shall file with the Committee a written Reply to the Application, and forthwith provide a copy of the Reply to the Applicant, within seven (7) calendar days of the date a copy of the Application was received by the Building Official.
- (2) A Reply is deemed to have been filed with the Committee when it is received in the office of the Executive Secretary.
- (3) The Building Official's Reply shall be in the form prescribed by the Committee from time to time, and shall include any relevant information or documentation which the Building Official believes the Committee should consider.
- (4) If the Applicant considers it necessary to respond to the Reply, he/she shall so notify the Executive Secretary and shall file such response by giving the response to the Executive Secretary within seven (7) calendar days from the date the Reply was filed.

(5) If the Committee requests any additional information from the Applicant or the Building Official, the Applicant or Building Official, as the case may be, shall file such information by giving the information to the Executive Secretary within seven (7) calendar days from the date he/she received the request.

ORAL SUBMISSIONS

8. If the procedure is by oral submissions:

- (1) The Chair shall determine a time, place and date for hearing oral submissions and shall notify the parties and such other persons as the Committee deems necessary.
- (2) The Committee shall hear submissions from the Applicant, the Building Official, and any other persons the Committee believes will assist in resolving the dispute.

WRITTEN AND ORAL SUBMISSIONS

9. If the procedure is by written and oral submissions:

- (1) The procedure set out in Rules 7 and 8 shall be followed.
- (2) After hearing from the parties, the Committee may request additional written submissions from the parties if it is of the opinion that such submissions would assist in resolving the dispute, and such submissions shall be filed with the Committee by giving such submissions to the Executive Secretary within seven (7) calendar days from the hearing, or such other period of extended time specified by the Chair.

ABANDONMENT OF APPLICATION

10. Upon written inquiry by the Committee forwarded to an Applicant, by registered mail, concerning the Applicant's intention to proceed with an Application, unless a written reply is received by the Committee from the Applicant within thirty (30) calendar days from the date of the inquiry, the Committee may decide that the Application has been abandoned and shall forward to the Applicant a letter informing him/her of the Committee's decision.

PROCEDURE AT HEARING

11. The Chair shall determine the order in which evidence and arguments shall be presented at the hearing.

12. The Committee may examine witnesses on oath or affirmation.

13. The Chair shall allow the Applicant and the Building Official a reasonable opportunity to state his/her position, and provide to the Committee relevant evidence.

14. If either the Building Official or the Applicant neglects, fails or refuses to attend the hearing, the Committee may proceed with the hearing and make a decision.

15. The Committee shall where possible and practical conduct the hearing in an informal manner, and

shall not be required to adhere to the rules of evidence applicable to a court of civil or criminal jurisdiction.

16. The Committee is not required to keep any written or mechanical record of oral evidence arguments given at any hearing.

ADJOURNMENTS

17. The Committee may adjourn a hearing, and shall reconvene any adjourned hearing at such time and at such place which the Committee considers to be appropriate upon reasonable notice to those parties to the Application before the Committee.

VIEW

18. The Committee may view the site or project which gave rise to the dispute.

EXPERTS

19. The Committee may seek advice from such experts in the matter under consideration as it may deem advisable, and may prescribe a time limit for the preparation and presentation of such advice, and shall provide to the parties a copy of any report prepared by such experts and give the parties an opportunity to respond to the report.

DECISIONS OF THE COMMITTEE

20. (1) At the conclusion of a hearing, the Committee may give an oral decision or reserve its decision.
(2) The Committee's oral or reserved decision shall be put in writing, shall provide reasons for the decision, and shall be provided to the parties within a reasonable period of time not exceeding sixty (60) calendar days of the completion of the hearing.
(3) The decision shall be signed by the Committee member who chaired the hearing or, in his absence, by a member of the Committee who heard the appeal and who participated in the decision.
(4) The Executive Secretary shall keep a copy of each decision rendered by the Committee.

CHANGES TO RULES

21. The Committee may, pursuant to Section 15(4) of the Act, make such recommendations for changes to these Rules as it considers necessary from time to time provided that such changes shall come into force on a date to be prescribed by the Minister.

IN THE MATTER OF: The Building Code Act, Chapter 3, Statutes of Nova Scotia, 1986

- and -

IN THE MATTER OF: An Application to the Nova Scotia Building Advisory Committee

APPLICATION

(Please Print)

This is an Application to the Nova Scotia Building Advisory Committee pursuant to Section 15 of the Building Code

Act for a ruling on a dispute between _____
(owner or owner's agent)

and _____ for the municipality of _____
(Building Official)

_____ respecting:
(Municipality)

Check one of the following:

- the following technical requirement(s) of the Building Code, or
- the sufficiency of compliance with the following requirement(s) of the Building Code, or
- the following order made by the Building Official: (include a copy of any written order or decision of Building Official)

(if additional space is required, attach separate page)

Check procedure agreed upon, (if applicable):

- oral submission written submission oral and written submissions

DATED at _____ this _____ day of _____, 20____.

Municipality

Month

List of Exhibits for a Hearing

(Please Print)

Applicant Name:	
Mailing Address	
	Number & Street or PO Box
	Suite etc
	Municipality, Province, Postal Code
Courier Address	
	Number & Street or PO Box
	Suite etc
	Municipality, Province, Postal Code
Phone:	
Fax:	
E Mail:	

Please indicate what exhibits you have included with your appeal by checking the appropriate boxes. If the exhibit includes several items under one category, please indicate the number of items.

The following items are **required as a minimum** for an appeal hearing to be held.

- copy of building permit, (new construction, renovation, addition)
- copy of application for appeal (owner)
- copy of municipal Building Official's decision that is being appealed.
- change of use permit (if applicable)
- letter detailing the nature of appeal and why the owner feels that the municipal interpretation of the Nova Scotia Building Code is wrong.

The following items will assist the Building Advisory Committee to understand the nature of the appeal and may be required to conduct the hearing.

plans and specifications*

- site plan,
- building plans
- elevations
- sections
- specifications
- survey

*plans should be dated as issued.

photographs**

- site,
- building,
- specific area of appeal

** photographs should be dated when taken.

additional information please list _____

WITHDRAWAL OF APPLICATION
(Please Print)

TO THE: Nova Scotia Building Advisory Committee
PO Box 231, Halifax Central
Halifax, NS
B3J 2M4

I, _____ hereby withdraw my Application to the Nova
(print name of Applicant)
Scotia Building Advisory Committee for a ruling on a dispute respecting

(name and address of project)

which Application was filed on the _____ day of _____, 20__.
(date) (month)

A COPY OF THIS
APPLICATION TO BE
PROVIDED TO THE BUILDING
OFFICIAL BY THE
APPLICANT.

Signature of Applicant

print name

address

Address for Service

Mailing

Nova Scotia Building Advisory Committee
Office of the Fire Marshal
PO Box 231, Halifax Central
Halifax, NS
B3J 2M4

Courier

Nova Scotia Building Advisory Committee
Office of the Fire Marshal
250 Baker Drive
Suite 210
Dartmouth, NS
B2W 6L4

e-mail: ofm@novascotia.ca
website: <http://www.novascotia.ca/buildingcode>
fax: 902-424-3239
phone: 902-424-5721
toll free: 1-800-559-3473 [within Nova Scotia]