



# Legal Briefs

## **May a person serve simultaneously on the conservation commission and the zoning board of adjustment?**

There are no restrictions on dual membership on a conservation commission and zoning board of adjustment. RSA 36-A:3 limits planning board membership on the conservation commission to one member, but there is no restriction on dual membership of ZBA members. Likewise, there is no prohibition in RSA 673 on conservation commission members serving simultaneously on a zoning board of adjustment.

Dual membership can, however, result in disqualification in certain cases. Under RSA 673:14 a ZBA member is disqualified from a case if the member would be disqualified to act as a juror in a civil case. That standard requires that the member be impartial; that is, the member must not have formed a firm opinion prior to the case and must be able to decide the case based on the evidence submitted to the ZBA and the standards applicable to the application.

In a case where the conservation commission considers wetlands issues in a variance application and makes recommendations to the ZBA, the person with dual membership might well be disqualified from sitting on the ZBA because they have already reviewed evidence and articulated an opinion on the application outside the ZBA hearing. In such a case, the member could avoid an issue by participating in the matter on one board only.

*David R. Connell, Legal Services Counsel  
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