

# Washington Zoning Board of Adjustment

## Rules of Procedure

### AUTHORITY

1. These rules of procedure are adopted under the authority of [RSA 676:1](#), and the zoning ordinance of the town of Washington.

### OFFICERS

1. A chair shall be elected annually by a majority vote of the board in the month of March. The chair shall preside over all meetings and hearings, appoint such committees as directed by the board, and affix his/her signature in the name of the board.
2. A vice-chair shall be elected annually by a majority vote of the board in the month of March. The vice-chair shall preside in the absence of the chair and shall have the full powers of the chair on matters that come before the board during the absence of the chair.
3. All officers shall serve for one year and shall be eligible for re-election.
4. All officers are eligible to vote, make and second motions, with the same authority as other Board members.

### MEMBERS AND ALTERNATES

1. The board shall consist of five members appointed by the Selectmen. Each member of the board shall be appointed for a term of three years.
2. Up to five alternate members shall be appointed by the selectmen for a term of three years and should attend all meetings, if possible, to familiarize themselves with the workings of the board to stand ready to serve whenever a regular member of the board is unable to fulfill his/her responsibilities.
3. Members must reside in the community and are expected to attend each meeting of the board to exercise their duties and responsibilities. Any member unable to attend a meeting shall notify the chair or secretary as soon as possible. Members shall participate in the decision making process and vote to approve or disapprove all motions under consideration.

## MEETINGS

1. Regular meetings shall be held at the Town Hall at 7pm on the last Wednesday of each month, if necessary. If the meeting includes a public hearing, public notice of at least 5 days, excluding Sundays and legal holidays, must be given. Other meetings may be held on call of the chair provided public notice and notice to each member is given of at least 24 hour, excluding Sundays and legal holidays, prior to such meetings.
2. A quorum for all meetings of the board shall be three members, including alternates sitting in place of members. [RSA 674:33 III](#) provides that " ... the concurring vote of 3 members of the board shall be necessary to reverse any action of an administrative official or to decide in favor of any appeal. .. " For this reason, the board will make every effort to ensure that a full five-member board is present for the consideration of any appeal.

If any regular board member is absent from any meeting or hearing, or disqualifies him/herself from sitting on a particular case, the chair shall designate one of the alternate members to sit in place of the absent or disqualified member, and such alternate shall be in all respects a full member of the board while so sitting.

3. If any member finds it necessary to disqualify himself/herself from sitting in a particular case, as provided in [RSA 673:14](#), he or she shall notify the chair as soon as possible, so that an alternate may be requested to sit in his/her place. When there is uncertainty as to whether a member should be disqualified to act on a particular application, that member or another member of the board may request the board to vote on the question of disqualification. Any such request shall be made before the public hearing gets underway. The vote shall be advisory and non-binding.

The disqualification shall be announced by either the chair or the member disqualifying him/herself before the beginning of the public hearing on the case. The disqualified member shall absent him/herself from the board table during the public hearing and during all deliberation on the case. During that time, the disqualified member may sit with the general public to observe the proceedings.

4. Order of Business. The order of business for regular meetings shall be as follows:
  - Call to order by the chair
  - Roll call by the chair
  - Approval of minutes of previous meeting
  - Unfinished business
  - Public hearing (if applicable)
  - Deliberative session (if applicable)
  - New business, communications, and miscellaneous
5. Site Visits.

- a. Members may visit and make observations of a site which is the subject of an application. Members may make such site visits before the public meeting or the Board, at its discretion, may vote to continue the hearing of an application to allow members an opportunity to perform a site visit. Observations on such site visits may form, in whole or in part, grounds for a decision of the Board.
- b. At no time shall more than two members of the Board be present simultaneously during a site visit unless the site visit has been called as a public meeting and proper public notice as required by New Hampshire statutes has been given.
- c. Other than observations of the site, no evidence shall be taken and there will be no discussions of the evidence or deliberations at such site visits.
- d. If, owing to inadequate or inaccurate marking, measurements necessary to validate an application cannot be made, the Board at its discretion may vote to continue the hearing until such deficiencies found have been remediated.

## APPLICATION/DECISION

1. Applications.
  - a. Each application for a hearing before the board shall be made on forms provided by the board and shall be presented to the clerk/secretary of the board of adjustment who shall record the date of receipt over his/her signature.
  - b. Appeals from an administrative decision taken under [RSA 676:5](#) shall be filed within 30 days of the decision.
  - c. All forms and revisions prescribed shall be adopted by resolution of the board and shall become part of these rules of procedure.
2. Public Notice
  - a. Public notice of public hearings on each application shall be posted at the Town Hall and Post Office not less than 5 days before the date fixed for the hearing. Notice shall include the name of the applicant, description of property to include tax map identification and 911 address, action desired by the applicant, provisions of the zoning ordinance concerned, the type of appeal being made, and the date, time, and place of the hearing.
  - b. Personal notice shall be made by certified mail to the applicant and all abutters not less than 5 days before the date of the hearing. Notice shall also be given to the planning board, town clerk, and other parties deemed by the board to have special interest. Said notice shall contain the same information as the public notice and shall be made on forms provided for this purpose.
  - c. A public notice of the hearing shall be placed in a newspaper of general circulation in the area not less than 5 days before the date fixed for the hearing of the appeal.
  - d. Costs of all required notices must be paid for, in advance, by the applicant.
3. Public Hearing. The conduct of public hearings shall be governed by the following rules:
  - a. The chair shall call the hearing in session and give a summary of the first case.
  - b. Members of the board may ask questions at any point during testimony.

- c. Each person who appeals shall be required to state his/her name and address and indicate whether he or she is a party to the case or an agent or counsel of a party to the case.
  - d. Any member of the board, through the chair, may request any party to the case to speak a second time.
  - e. Any party to the case who wants to ask a question of another party to the case must do so through the chair.
  - f. The applicant shall be called to present his/her appeal.
  - g. Those appearing in favor of the appeal shall be allowed to speak.
  - h. Those in opposition to the appeal shall be allowed to speak.
  - i. The applicant and those in favor shall be allowed to speak in rebuttal.
  - j. Those in opposition to the appeal shall be allowed to speak in rebuttal.
  - k. Any person who wants the board to compel the attendance of a witness shall present this request in writing to the chair no later than 3 days prior to the public hearing.
  - l. The board of adjustment will hear with interest any evidence that pertains to the facts of the case or how the facts relate to the provisions of the zoning ordinance and state zoning law.
  - m. The chair shall present a summary setting forth the facts of the case and the claims made for each side (see Findings of Facts form in appendix C of The Board of Adjustment in New Hampshire: A Handbook for Local Officials). Opportunity shall be given for correction from the floor.
  - n. The hearing on the appeal shall be declared closed and the next case called up.
- Decisions. The Board shall decide all cases during the deliberative session of a noticed public meeting, normally immediately following the public hearing. If there is insufficient time to reach a decision, the Board may continue the meeting to its next scheduled date. The Board will approve, approve with conditions, deny the appeal, or defer its decision. Notice of the decision or deferral will be made available for public inspection within 5 business days, as required by [RSA 676:3](#), and will be sent to the applicant by certified mail. If the appeal is denied or deferred, the notice shall include the reasons therefore.
    - a. If only four voting members are present, a two-two tie vote shall be deemed to defeat the motion.
    - b. In the event of an abstention, provided at least three voting members are present, only a majority of the votes cast is necessary to support a motion.

## RECORDS

1. The records of the board shall be kept by the clerk and made available for public inspection at the Town Hall in accordance with [RSA 673:17](#).
2. Final written decisions will be placed on file and available for public inspection within 5 business days after the decision is made. [RSA 676:3](#).

3. Minutes of all meetings, including names of board members, persons appearing before the board, and a brief description of the subject matter, shall be open to public inspection within 5 business days of the public meeting. [RSA 91-A:2 II](#).

## AMENDMENTS

These rules of procedure may be amended by a majority vote of the members of the board.

## JOINT MEETINGS AND HEARINGS

1. [RSA 676:2](#) provides that the board of adjustment may hold joint meetings or hearings with other "land use boards," including the planning board, the historic district commission, the building code board of appeals, and the inspector of buildings, and that each board shall have discretion as to whether or not to hold a joint meeting with any other land use board.
2. Joint business meetings with any other land use board may be held at any time when called jointly by the chair of the two boards.
3. A public hearing on any appeal to the board of adjustment will be held jointly with another board only under the following conditions:
  - a. The joint public hearing must be a formal public hearing on appeals to both boards regarding the same subject matter; and
  - b. If the other board is the planning board, [RSA 676:2](#) requires that the planning board chair shall chair the joint hearing. If the other board is not the planning board, then the board of adjustment chair shall chair the joint hearing; and
  - c. The provisions covering the conduct of public hearings, set forth in these rules, together with such additional provisions as may be required by the other board, shall be followed; and
  - d. The other board shall concur in these conditions.

Adopted 10/02

Amended 4/2023