

BARNSTEAD ZONING BOARD OF ADJUSTMENT
RULES OF PROCEDURE
AS AMENDED 2/6/2023

ZONING BOARD OF ADJUSTMENT

P.O. Box 11
CENTER BARNSTEAD, NH 03225
603-269-1057

RULES OF PROCEDURE¹

Authority

These Rules of Procedure are adopted under the authority of New Hampshire Revised Statutes Annotated Chapter 676:1.

Members

The Zoning Board of Adjustment shall consist of five members appointed by the Board of Selectmen. Terms for ZBA Members shall be three years per RSA 673:5. with no more than two Members appointed in any year, except if a successor has yet to be appointed and qualified at the end of an appointed Member's term, the member may remain in office until such time as a successor is appointed. Each newly appointed Member shall be sworn in and take an oath of office, as required by RSA 42:1.

Alternate Members shall be appointed by the Board of Selectmen. As provided in RSA 673:6, the Board of Selectmen shall appoint not more than five (5) Alternate Members to the Zoning Board of Adjustment. Terms of Alternate Members shall be three years per RSA 673:6. With no more than two (2) Alternate Members appointed in any year, except if a successor has yet to be appointed and qualified at the end of an Alternate Member's term, the Alternate Member may remain in office until such time as a successor is appointed. Each newly appointed Alternate Member shall be sworn in and take an oath of office, as required by RSA 42:1.

There are no Ex-Officio Members of the Zoning Board of Adjustment.

If a Member or an Alternate resigns or otherwise leaves the Zoning Board, the person appointed as a replacement will fulfill the unexpired term of the original Member or Alternate per RSA 673:12."

Employee

Recording Secretary – The Recording Secretary shall perform duties to assure that a full and accurate record is kept of the proceedings of each meeting, record the names

¹All terms are defined in the Subdivision Regulations.

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of the Members present; keep a sign-up sheet for each meeting and hearing; and prepare such correspondence and fulfill such duties as the Chairman may specify.

Officers

- (1) The Officers of the Board shall be as follows:

Chairman –The Chairman shall preside over all meetings and hearings; shall prepare, with the assistance of the Recording Secretary, an annual report, and shall perform other duties customary to the office.

Vice-Chairman –The Vice-Chairman shall preside in the absence of the Chairman and shall have the full powers of the Chairman on matters, which come before the Board in the absence of the Chairman.

- (2) The Officers of the Board shall be elected annually during the month of March by a majority vote of the Board. If requested by a majority of those present, voting shall be by written ballot.

Meetings

- (1) Regular Meetings –shall be held at the Barnstead Town Office at 7:00 p.m. on the third Monday of each month, as necessary. January and February meetings will be held on the second Monday of those months.
- (2) Work Session Meetings. -Shall be held as necessary.
- (3) Special Meetings –may be called by the Chairman or, in his/her absence, by the Vice-Chairman, at the request of three (3) Members of the Board, provided public notice and notice to each Member is given at least forty-eight (48) hours in advance of the time of such meeting.
- (4) Non-Public Session –shall be held only in accordance with RSA 91-A: 3.
- (5) Quorum –Three (3) votes are necessary to change any administrative decision or to decide in favor of any matter legally before the Board. If there are less than five (5) Members present, even with Alternates serving, the Chairman shall give the applicant the option of postponing the hearing until a quorum is present. Should the applicant choose to proceed with less than five (5) members present that shall not solely constitute grounds for a rehearing should the application fail.

If any regular Board Member is absent from a meeting or hearing, or disqualifies himself/herself from sitting on a particular application, the Chairman shall designate one (1) of the Alternate Members to sit in place of the absent or disqualified Member.

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Such Alternate shall have all the powers and duties of a regular Member in regards to any matter under consideration on which the regular Member is unable to act. The Alternate should continue until the matter is completed and the regular Member is allowed no vote on that matter.

- (6) Disqualification –if any Member finds it necessary to be disqualified from sitting on a particular case, as provided in RSA 673:14. He/she shall notify the Chairman as soon as possible so that an Alternate may be requested to fill the place. Either the Chairman or the Member, before the beginning of the consideration of or the public hearing on the application, shall announce the disqualification. The Member disqualified shall leave the Board table during all deliberations and the public hearing on the matter.

If uncertainty arises as to whether a Board Member should disqualify himself/herself, on the request of that Member or the request of another Member of the Board, the Board shall vote on the question of whether that Member should be disqualified. Such request and vote shall be made prior to or at the commencement of any required public hearing. A vote on a question of disqualification shall be advisory and non-binding, and may not be requested by persons other than Board Members, except as may otherwise be provided for under local Ordinance.

- (7) Order of Business –the order of business shall be as follows:

- a) Call to order
- b) Roll call
- c) Appointment of Alternates
- d) Application under Consideration (in 30-day period)
- e) Presentation by Applicant
- f) Questions by Board Members
- g) Open Public Hearing
- h) Comments
- i) Questions by the Board
- j) Final comments by the Applicant
- k) Close Public Hearing
- l) Deliberations
- m) Old Business
- n) New Business
- o) Correspondence
- p) Approval of Minutes
- q) Adjournment

- (8) Motion A motion duly made and seconded shall be carried out by an affirmative vote by at least three (3) members and motions may be made to approve or deny the application.

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Applications

- (1) Applications for hearings before the Board shall be made on forms provided by the Board and shall be presented to the Recording Secretary of the Board and the date of receipt is recorded.
- (2) The procedure for checklist review of a submitted application is as follows:
 - (a) All Applications made to the Zoning Board shall be submitted to the Board at least thirty (30) days prior to the date of meeting; at which the Applicant or his Agent wishes to appear.
 - (b) Once an application has been received it is available for review by the Zoning Board members and interested members of the Public.
 - (c) Application and plans will be reviewed by the Recording Secretary for conformance with the requirements of these Regulations. Applicants will be notified of any deficiencies, which must be corrected for Zoning Board acceptance and formal consideration in order to be placed on the Zoning Board agenda; it must be corrected for Zoning Board acceptance and formal consideration.
- (3) Notice shall be given as required in RSA 676:7, no less than five (5) clear days before a completed application is submitted to the Zoning Board.
- (4) The Zoning Board shall reject all applications not properly completed.

Forms

All forms prescribed herein and revisions thereto shall be formally adopted by the Zoning Board and shall become part of these Rules of Procedure.

Notice

- (1) Public notice of the submission of and hearings on each application shall be given in newspapers of local circulation and by posting at the Barnstead Town Hall (inside and outside), the Barnstead Post Office(s), not less than five (5) days prior to the date fixed for submission and consideration of the application.
- (2) Personal notice shall be made by certified mail and return receipt to the applicant and all abutters at least five (5) clear days prior to the date of the meeting at which the application will first be heard.

Procedures on Applications at Public Meetings

The conduct of public meetings shall be governed by the following rules:

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- 1) The Chairman shall call the Board to order and open the public meeting, stating who the applicant or agent is.
- 2) The Applicant or Agent shall be called to present the proposal.
- 3) Members of the Board may ask questions at any point during the presentation.
- 4) The Chair shall immediately open the matter for Public Hearing.
- 5) The applicant, any abutter or any person with a direct interest in the matter may testify in person or in writing. Other persons may testify as permitted by the Board at each hearing.
- 6) Any party to the matter who desires to ask a question of another party to the matter must go through the Chairman.
- 7) Each person who appears shall be required to state his/her name and address and indicate whether he/she as a party to the matter or an agent or counsel to a party to the matter.
- 8) Other parties such as representatives of Town Departments and either Town Boards and/or Commissions who have an interest in the proposal shall be allowed to present their comments either in person or in writing.
- 9) The Chairman shall indicate whether the hearing is closed or recessed pending the submission of additional material or information or the correction of noted deficiencies. In the case of recessed hearings, additional notice is not required if the date, time and place of the continuation is made known at the recess of the hearing.

Decisions

- 1) The Board shall render a decision on all completed applications by vote of the Board of a completed application.
- 2) Notice of decision will be made available for public inspection within one hundred forty four (144) hours after the decision is made, as required in RSA 676:3. If the application is disapproved, the Board shall provide the applicant with written reason for this disapproval.

Records

- 1) The records of the Board shall be kept by the Recording Secretary and shall be made available for public inspection at the Town Office as required by RSA 676:3, II.
- 2) Minutes of the meetings including the names of Board Members, persons appearing before the Board and a brief description of the subject matter shall be open to public inspection within 144 hours of the public meeting as required in RSA 676:3
- 3) Any and all recordings and rough notes taken by the recording secretary at the time of the meeting shall be destroyed after the final minutes have been approved by the Board.

Joint Meetings & Hearings

RSA 676:2 provides that the Planning Board may hold joint meetings and hearings with other "Land Use Boards" such as the Zoning Board of Adjustment.

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Site Visits

- 1) A Site Visit is a visit by the Zoning Board, or by one or more members of the Board, together with the applicant or the applicant's agent, to a location, which is the subject of an application before the Board.
- 2) When the Board schedules a Site Visit for the Board members, it shall be posted as a meeting of the Board in accordance with RSA 91-A. Minutes shall be kept of site visits scheduled by the Board.
- 3) When the Board deems it necessary for the adequate consideration of the application, the Board shall request the applicant's permission to make a Site Visit. If such a request is not granted, the application may be denied by majority vote of the Board without further hearings.
- 4) Per RSA 91-A:2(I), a site visit that convenes the quorum of the membership of the Board is considered a public meeting and is open to attendance by abutters and the general public. If such a request is not granted, the application may be denied by majority vote of the Board without further hearings.

Standards of Conduct

- 1) The primary obligation of the Zoning Board is to serve the public interest, and members should conduct themselves so as to maintain public confidence in the Zoning Board and the conduct of its business.
- 2) To avoid conflict of interest or the appearance of any impropriety, a member having a personal interest, financial or otherwise, in any application before the Board shall be disqualified from participating in the consideration or decision on the application. "Personal interest" shall include, without limitation, being a relative of an applicant or being the owner or lessee of the property abutting the property that is the subject of an application.²
- 3) No discussion regarding a hearing, with exception to the agenda, hearing notice, minutes and decisions, shall be conducted via e-mail. This would be considered a meeting.
- 4) Sharing of communications with counsel via e-mail, while not prohibited, is strongly discouraged. The forwarding to or reading by persons other than Board Members, Alternates and support staff would cause the attorney-client privilege to be waived. .

Amendment

Rules of Procedure shall be adopted at a regular meeting of the Board and shall be placed on file with the city, town, village district clerk or clerk for the county commissioners for public inspection. RSA 676:1

These Rules of Procedure may be amended after one (1) public hearing by a majority vote of the Members of the Board.

See RSA 673:14

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Created and adopted by a majority vote of the Barnstead Zoning Board of Adjustments at their meeting of August 18, 2008 held at Barnstead Town Hall, Barnstead, New Hampshire.

Certified By: _____
Eileen Murley, Chairman, 2013

Richard Duane, Vice-Chair; 2013

Mark Sargent, Member; 2012

Gordon Preston, Member; 2013

David Brown, Member, 2012

Katherine Grillo, Alternate; 2014

Edward Tasker, Alternate; 2014

Mary Clarke, Alternate, 2015

Paul Vince, Alternate, 2015