

**ZONING BOARD OF ADJUSTMENT  
TOWN OF HOLDERNESS  
RULES OF PROCEDURE**

**AUTHORITY**

1. These Rules of Procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, RSA Chapter 673 and the Zoning Ordinance of the Town of Holderness.

**OFFICERS**

1. A Chairman shall be elected annually by the Board in the month of April by a majority vote and shall be eligible for re-election as per RSA 673.9. He/she shall preside over all Meetings and hearings, appoint such committees as directed by the Board and shall affix his/her signature in the name of the Board. The Chairman shall be the Official spokesman for the Board, review Applications in accordance with the provisions of these By-Laws.

2. A Vice Chairman shall be elected annually by the Board in the month of April by a majority vote of the Board. Said Vice Chairman shall serve for a term of one (1) year, and be eligible for re-election. Said 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 during the absence of the Chairman.

3. A Chairman pro-tem may be appointed as needed by the Chairman, to assist the Chairman with correspondence and other duties. The Chairman pro-tem may assume the designated duties of the Vice Chairman, in the absence of the Chairman and Vice Chairman.

**STAFF EMPLOYEES**

Administrative Assistant: This position is administrative in nature to the Board and shall include, but is not limited to, the following duties:

- Assist applicants through the appeal process
- Process appeals which includes determining correct fees, processing fees to the Treasurer for deposit, creating an appeal file, reviewing the appeal and submitting a report to the board, and providing copies of each appeal to board members
- Prepare and post agendas and public hearing notices per statutory requirements
- Send abutter notices by certified mail (return receipt requested)
- Prepare and mail monthly packets to board members one week prior to the meeting
- Attend meetings and prepare and distribute minutes and Notices of Decisions
- Maintain files as needed

Recording Secretary: In the absence of the position of the Administrative Assistant, the Recording Secretary shall assume the duties as listed.

**MEMBERSHIP & ATTENDANCE**

1. Five (5) Members and up to five (5) Alternate Members shall be appointed as provided for by the Local Legislative Body.

2. If any Member is absent from any meeting or hearing or disqualifies himself/herself from sitting on a particular appeal, the Chairman shall designate one (1) of the Alternate Members to sit in place of the absent or disqualified Member, and such Alternate shall be in all respects a full voting Member of the Board.

A. Disqualification - If a Member finds it necessary to disqualify himself/herself from sitting on a particular appeal, as provided in RSA 673:14, he/she shall notify the Chairman 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, the Chairman shall call for a vote on the question of disqualification. The vote shall be advisory and non-binding. The disqualification shall be announced by either the Chairman or the Member disqualifying himself/herself before the beginning of the Public Hearing on the appeal. The disqualified Member shall absent himself/herself from the Board Table during the public hearing and during all deliberations on the appeal.

B. Alternate Participation - Alternate members may participate in discussions on any appeal with the approval of the voting members. Alternate members may not make a motion or vote on any matter unless appointed by the Chairman to serve in the place of any absent or disqualified Regular member. Alternate members should attend all meetings to familiarize themselves with the workings of the board and to stand ready to serve whenever a regular member of the board is unable to fulfill his/her responsibilities.

C. Absence - A Member shall notify (if possible) the Chairman or the Administrative Assistant if he/she will be absent as soon as possible before any scheduled meeting.

3. If a Member does not attend a meeting for three (3) consecutive months without requesting a leave of absence or contacting the Chairman of his/her expected absence, the Selectmen shall be notified so they may request resignation and replacement appointed, if the Member no longer wants to serve.

4. Chairman Voting - The Chairman shall be a voting Member of the Board unless Part 2A of this Section is applicable.

## **MEETINGS**

1. Meetings shall be held at the Town Hall (or another specified location) on call of the Chairman provided Public Notice is given pursuant to noticing requirements of RSA 91-A prior to such Meeting. Meetings will be held on the second Tuesday of each month at 7:00 P.M. as needed.

2. Quorum - A quorum for Regular Business shall consist of three (3) Members. The concurring vote of three members shall be necessary to decide any appeal before the Board pursuant to RSA 674:33, III. An applicant may request continuance of an appeal until such time as a five member Board is available.

3. Order of Business - The Order of Business for meetings shall be as follows:

- a. Chairman calls the meeting to order
- b. Roll call by the Administrative Assistant
- c. Approval of minutes
- d. New Applications
- e. Continued Applications
- f. Other Business
- g. Adjournment

4. Public Hearings - Hearings will be held in the order they appear on the agenda. The conduct of public hearings shall be governed by the following rules:

- a. The Chairman shall call for the Administrative Assistant's report on the appeal. The report shall include, but is not limited to, a written report to the applicant noting any deficiencies in the appeal materials, manner in which public and personal notice was given, and receipt of applicable fees.
- b. The Board shall make determination of the appeal completeness for consideration, regional impact status, and consider waivers from the Rules of Procedure prior to opening the public hearing for any appeal.
- c. Upon acceptance by the Board of the appeal as complete, The Applicant shall be called to present his/her appeal and those appearing in favor of the appeal shall be allowed to speak
- d. Those in opposition to the appeal shall be allowed to speak.
- e. The applicant and those in favor shall be allowed to speak in rebuttal.
- f. Those in opposition to the appeal shall be allowed to speak in rebuttal.
- g. The Chairman may present a summary setting forth the facts of the case and the claims made for each side. Opportunity shall be given for correction from the floor.
- h. The hearing on the appeal shall be declared closed and the Board may enter deliberation or call the next case.
- i. Members of the Board may ask questions at any place in the testimony.
- j. Any member of the board, through the Chairman may request any party to the case to appear.
- k. Each person who appears shall be required to state his/her name and address and indicate whether he/she is a party to the case or Agent or Counsel of the party to the case to appear.
- l. Any party to the case who desires to ask a question of another party to the case must do so through the Chairman.
- m. Any person who desires the Board to compel the attendance of a witness shall present his/her request in writing to the Chairman not later than ten (10) days prior to the public hearing.
- n. Wherever there is a continuation of appeal of or other action concerning an application in the hearing stage the five (5) original voting Members will be designated to sit on the matter whenever possible.

5. Joint Meeting and Hearing with Land Use Board: The Board hereby adopts the following rules under RSA 676:2 to allow joint meetings with other "Land Use Boards" including the Planning Board, the Building code Board of Appeals, the Compliance Officer, and any other Town "Land Use Board".

- a. Joint business meetings with any other land use board may be held at any time when called jointly by the Chairman of the two (2) Boards.
- b. A public hearing on any appeal to the Board of Adjustment will be held jointly with another Board only under the following conditions:
  1. The joint public hearing must be a formal public hearing on appeals to both boards regarding the same subject matter and
  2. If the other Board is the Planning Board, RSA 676:2 requires that the Planning Board Chairman shall chair the joint hearing. If the other Board is not the Planning Board, then the Board of Adjustment's Chairman shall chair the Joint Hearing and
  3. The provisions covering the conduct of public hearings set forth in these Rules of Procedure together with such additional provisions as may be required by the other Board shall be followed; and
  4. The other Board shall concur in these conditions.

#### 6. **APPEALS**

- a. Each appeal for a hearing before the Board shall be made on forms provided by the Board, which shall include the date of receipt. Appeals from an Administrative Decision taken under RSA 676:5 shall be filed with the Zoning Board within thirty (30) days of the decision by the administrative officer.
- b. All appeals shall be scheduled for a Public Hearing to be conducted within thirty (30) days of receipt by the Board, unless waived by the applicant in writing.
- c. The Board may impose reasonable fees upon an applicant for the expense of consultant services or investigative studies, review of documents, and other such matters that may be required by a particular appeal pursuant to RSA 676:4, I (g).

#### 7. **NOTICE OF DECISION- RSA 674:33**

a. The Local land Use Board shall issue a final written decision which either grants or denies an appeal. If the appeal is not granted the Board shall provide the Applicant with written reason for the denial. The thirty (30) day appeal period pursuant to RSA 677.2 shall begin the day after the board has made its decision.

b. Whenever a Local Land Use Board issues a decision, the decision shall be placed on file at Town Hall and shall be made available for public inspection within five (5) working days after the decision is made.

c. An original copy of the decision shall be placed in the applicant's file folder. Notification of the decision shall be mailed to the applicant.

#### **8. MOTION FOR REHEARING**

A Motion for Rehearing shall be filed within thirty (30) days of a decision by the Zoning Board. This thirty day period shall be counted in calendar days beginning with the date following the day upon which the board voted to grant or deny the application. (RSA 677-2) An appeal of a Motion for Rehearing shall be filed with Superior Court within thirty (30) days of the date of denial.

#### **9. RECORDS**

- a. The records of the Board shall be kept by the Administrative Assistant in accordance with the policies of the Board and State RSA's. Said policies will be approved by a majority of the Board and administered by the Chairman and shall become a Part of these Rules of Procedure. The records of the Board will be made available for public inspection at the Town Municipal Offices through the Municipal Secretary during their regular business hours; and
- b. Copies of decisions of the Board and these Rules of Procedure will be on file with the Town Clerk in accordance with Statutory Requirements.
- c. 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 in accordance with RSA 91A: 4.
- d. All forms and their formats prescribed herein and revisions thereof shall be adopted by resolution of the Board and shall become part of these Rules of Procedure.
- e. Any forms and their formats not prescribed herein, but deemed necessary by a resolution of the Board, shall be adopted by a resolution of the Board (said forms and their formats and any revisions thereof) shall become part of these Rules of Procedure.

#### **10. PUBLIC NOTICE**

- a. Public notice of public hearings on each application shall be given in a newspaper of local circulation and shall be posted at the Town Hall and the Holderness Post Office not less than five (5) days before the date fixed for the hearing. Such Notice shall include the name of the Applicant, description of property to include tax map identification, 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, return receipt requested, to the applicant, all abutters to the applicant's property, and all professionals (engineer,

architect, land surveyor, or soil scientist) who may be associated with the appeal, and mailed ten (10) days prior to the meeting. Said notice shall contain the same information as public notice and shall be made on forms and their formats provided for this purpose.

**11. WAIVERS**

Any portion of these Rules of Procedure may be waived in such cases where, in the opinion of the Board, strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the Rules or specific circumstances relative to the appeal indicate that the waiver will properly carry out the spirit and intent of the regulations.

**AMENDMENTS:** These Rules of Procedure may be amended by a majority vote of the members of the Board provided that such Amendment is read at two (2) successive meetings immediately preceding the meeting at which the vote is to be taken.

Amended and accepted July 3, 1986  
Amended and accepted May 15, 1990  
Amended and accepted November 5, 1991  
Amended and accepted September 14, 1994  
Amended and accepted June 13, 1995  
Amended and accepted September 9, 1997  
Amended and accepted April 14, 1998  
Amended and accepted May 10, 2011