

TOWN OF ACWORTH, NH
Zoning Board of Adjustment Rules of Procedure

AUTHORITY: These Rules of Procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, 1983, Chapter 676.1, and the Zoning Ordinance and map of the Town of Acworth.

A. OFFICERS:

1. A CHAIRMAN shall be elected annually by a majority vote of the Board in the month of April. He shall preside over all meetings and hearings, appoint such committees as directed by the Board and shall affix his signature in the name of the Board.

2. A VICE-CHAIRMAN shall be elected annually by a majority vote of the Board in the month of April. 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 during the absence of the Chairman.

3. A CLERK shall be elected annually by a majority vote of the Board in the month of April. The Clerk shall maintain a record of all meetings, transactions and decisions of the Board and perform such other duties as the Board may direct by resolution.

4. All officers shall serve for one year and shall be eligible for re-election.

5. Up to two alternate members shall be appointed as provided by the local legislative body to serve whenever a regular member of the Board is unable to fulfill his responsibilities.

6. Upon completion of the annual vote and appointment of alternates, the Clerk will file a list of the ZBA members and officers with the Selectmen, the Planning Board and the Conservation Commission. All appeals to the ZBA should be filed through the Clerk.

B. MEETINGS:

1. REGULAR MEETINGS shall be held at the Acworth Town Hall at 7:00pm on the first Wednesday of each month **at the call of the Chair or when new business is to be considered**. Other meetings may be held on call of the Chairman provided public notice and notice to each member is given at least 24 hours, excluding Sundays and legal New Hampshire holidays, prior to such meetings.

2. PUBLIC NOTICE shall be accomplished by the posting of such notice at the Acworth Town Hall and the Acworth and South Acworth Post Offices.

3. QUORUM- A quorum for all meetings of the Board shall be three members, including alternates sitting in place of regular members. NOTE: RSA 674:33.III provides that 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 member is absent from any meeting or hearing, or disqualifies himself from sitting on a particular case, the Chairman 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.

4. VOTING-In order that the Chairman may maintain a measure of impartiality, his vote on any matter shall be the last and will only be required if necessary.

5. DISQUALIFICATION- If any member finds it necessary to disqualify himself from sitting in a particular case, as provided in RSA 673:14, he shall notify the Chairman as soon as possible so that an alternate may be requested to sit in his 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 Chairman or the member disqualifying himself before the beginning of the public hearing on the case. The disqualified member shall absent himself from the Board table during the public hearing and during all deliberations on the case.

6. ORDER OF BUSINESS- The order of business for regular meetings shall include:

- a. Roll call by the Clerk.
- b. Minutes of the previous meeting.
- c. Unfinished business.
- d. Public Hearing when scheduled.
- e. New business.

- f. Communications and miscellaneous.
- g. Adjournment.

NOTE: The Board may decide to hold hearings immediately after Roll Call in order to accommodate the public.

C. APPLICATIONS AND DECISIONS:

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 of the Board who shall record the date of receipt over his signature. Appeals from an administrative decision taken under RSA 676:5 shall be filed with the ZBA within 30 days of the decision being appealed. At each meeting, the Clerk shall present to the Board all applications received by him at least two days before the meeting.

b. 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 given in either the "Keene Sentinel", the Claremont "Eagle Times" or other locally distributed newspaper and shall be posted at the Acworth Town Hall and the Acworth and South Acworth Post Offices not less than five days before the date fixed for the hearing. A Public Notice shall include the name of the applicant, description of the property, including tax map identification, action desired by the applicant, provisions of the Zoning Ordinance concerned, type of appeal being made and date, time and place of the hearing.

b. Personal notice shall be made by certified mail (with return receipt) to the applicant and all abutters not less than five days before the date of the hearing. Notice shall also be given to the Planning Board, Town Clerk or other parties deemed by the Board to have special interest. Said notice shall contain the same information as the Public Notice.

c. Costs of all required notices must be paid by the applicant in advance of the hearing.

3. PUBLIC HEARING- The conduct of public hearings shall be governed by the following rules:

a. The Chairman shall call the hearing into public session and ask for the Clerk's report.

b. The Clerk shall read the application and report on how public notice and personal notice were given.

c. Members of the Board may ask questions at any point during the testimony through the Chairman.

d. Each person who appears shall be required to state his name and address and indicate whether he is a party to the case or an agent or counsel of a party to the case.

e. Any member of the Board, through the Chairman, may request any party to the case to speak a second time.

f. Any party to the case who wants to ask a question of another party to the case must do so through the Chairman.

g. The applicant shall be called to present his appeal and 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 his request in writing to the Chairman not later than three 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 town Zoning Ordinance or State Zoning laws.

m. The Chairman shall present a summary setting forth the facts of the case and the claims made by each side. Opportunity shall be given for correction from the floor.

n. The hearing on the appeal shall be declared closed.

4. DECISIONS- The Board shall endeavor to decide all cases by the close of the next regularly scheduled monthly meeting but in no case later than 90 days from the close of the receipt of the application, unless the applicant agrees to an extension. The Board will review and discuss each criterion or supporting fact in the application and vote after each item. The Board, with final review of the votes, will approve, approve with conditions or deny the appeal. Notice of the decision will be made available for public

inspection within 144 hours, as required by RSA 676:3, and will be sent to all persons notified of the public hearing. The notice shall include the specific written findings of fact to support approval or denial.

D. RECORDS

1. The records of the Board shall be kept by the Clerk and made available for public inspection at the Acworth Town Hall in accordance with statutory requirements.

2. Final written decisions will be placed on file and be available for public inspection within 144 hours 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 144 hours of the public meeting—RSA 91-A:2 II.

E. 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 successive meetings immediately preceding the meeting at which the vote is to be taken.

F. JOINT MEETINGS AND HEARINGS

1. RSA 676:2 provides that the Board of Adjustment may hold joint meetings or hearings with other town land use boards and that each such 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 Chairmen 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 Chairman shall chair the joint meeting. If the other board is not the Planning Board, then the Board of Adjustment Chairman shall chair the joint meeting; 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.

G. 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 practical difficulties and waiver would not be contrary to the spirit and intent of the Rules.

Adopted March 4, 1992

Amended December 3, 2008, November 2012, May 2023