

Board of Adjustment  
Harrisville, New Hampshire

MAR 06 2003



Rules of Procedure

AUTHORITY

1. 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 Harrisville, New Hampshire.

MEMBERSHIP

1. The Zoning Board of Adjustment shall consist of a Selectman designated by the Board of Selectmen and four (4) other town residents appointed by the Board of Selectmen.

OFFICERS

1. A chairperson shall be elected annually by a majority vote of the board in the month of March. He or she shall preside over all meetings and hearings, appoint such committees as directed by the board and shall affix his or her signature in the name of the board.
2. A vice-chairperson shall be elected annually by a majority vote of the board in the month of March. The vice-chairperson shall preside in the absence of the chairperson and shall have the full powers of the chairperson on matters which come before the board during the absence of the chairperson.
3. A clerk shall be elected annually by a majority vote of the board in the month of March. He or she 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 five alternate members may be appointed, as provided for by the local legislative body pursuant to RSA 673:6, to serve whenever a regular member of the board is unable to fulfill his or her responsibilities.

MEETINGS

1. Regular meetings shall be held at the Town Hall, at 7:00 p.m., on the 3<sup>rd</sup> (day) Wednesday of each month. Other meetings may be held on call of the chairperson provided public notice and notice to each member is given at least 24 hours, excluding Sundays and legal holidays, prior to such meeting.

MEETINGS (continued)

2. Quorum. 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 three 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 himself from sitting on a particular case, the chairperson 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. 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 chairperson as soon as possible so that any alternate may be requested to sit in his or her place. The disqualification shall be announced by either the chairperson or the member disqualifying himself before the beginning of the public hearing on the case. The member disqualifying himself shall absent himself from the board table during the public hearing and during all deliberation on the case.
4. Order of Business. The order of business for regular meetings shall be as follows:
  - a. Roll call by the clerk
  - b. Public hearings
  - c. Minutes of previous meeting
  - d. Unfinished business
  - e. New business
  - f. Communications and miscellaneous
  - g. Adjournment
5. Attendance. The unexcused absence of a member from two (2) consecutive meetings or three (3) meetings in a 12 month period may constitute grounds for removal by the appointing authority.
6. General Sessions. All deliberations on applications shall be held in public.
7. Executive Sessions. Executive sessions may be held in accordance with the provision of RSA 91-A.

APPLICATION/DECISION

1. Applications.

a. All applications for hearings before the board shall be made on forms provided by the board and shall be submitted to the zoning officer not less than thirteen (13) days prior to the scheduled meeting date. Submissions which fail to meet this requirement shall not be considered until the next regular meeting.

b. All Appeals taken under RSA 676:5 shall be filed within 30 days of the decision.

c. The board of adjustment does herewith require a proper petitioner before the board must be:

1. The holder of record to property, or
2. The holder of a valid purchase and sale agreement for the purchase of the subject land, or
3. The holder of a valid option for purchase of the subject land.

If an option holder or holder of a purchase and sale agreement applies for relief, the application must also be signed by the owner of the property or an individual acting as an agent or attorney for the owner.

d. The board may require the holder of record title to submit documentary evidence as to petitioner's title and holders of purchase and sale agreements or options may be required to submit evidence that they are valid holders of such agreements before the board will consider their petition.

e. All applications must be accompanied by adequate plans and exhibits in accordance with the terms of the zoning ordinance.

1. It is the obligation of the applicant to submit to the board through the zoning officer, adequate plans and exhibits, in accordance with the terms of the zoning ordinance.

2. Minimum requirements for adequate plans shall include the following (plans need not be engineered plans):

Lot dimension	Abutter's list & address
Copy of Deed	(within 200 ft. of property Line)
Scale	Abutter's Street(s)
Dimensions of Proposed & existing structures	Yard Dimension
Dimensions of parking space	Title of Petition
Photos when applicable	(i.e. variance/special exception)
District	Name of petitioner(s)

APPLICATION/DECISION (continued)

**ZBA Chairperson is authorized by the board of adjustment to refuse applications to the board which do not meet these minimum requirements.**

- f. In addition, any petitioner who submits plans and exhibits that are deemed inadequate by the board of adjustment, shall have the petition tabled until such time as adequate plans or exhibits are received by the board.
- g. In the case of conversions or renovations to an existing structure, interior floor plans shall be furnished by the petitioner.
- h. Public hearings shall not be scheduled, advertised or held until such time as the submitted application is in full conformity with the board requirements.
- i. All forms and revisions prescribed shall be adopted by resolution of the board and shall become part of these rules of procedure.

2. Basic Fee Schedule

- a. All appeals, variance and special exception applications shall be accompanied by a filing fee as specified on application form.

All applicants shall pay postage costs for abutter notice and proportionate share of legal advertising.

3. Public Notice.

- a. Public notice of public hearings on each application shall be given in the Keene Sentinel and shall be posted at the Post Office and Town Hall (Posting optional). 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, 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 five (5) days before the date of the hearing. Notice shall also be given to the planning board, municipal 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 for this purpose.

APPLICATION/DECISION (continued)

4. Public Hearing. The conduct of public hearings shall be governed by the following rules.
  - a. The chairperson shall call the hearing in session and ask for the clerk's report on the first case.
  - 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 testimony.
  - 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 chairperson, 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 chairperson, but only at the discretion of the chairperson.
  - g. The applicant shall be called to present his appeal.
  - h. The public shall be allowed to speak in support or opposition to the issue with time limit of five (5) minutes. Any rebuttal will be limited to five (5) minutes as well.
  - i. 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 municipal zoning ordinance and state zoning law.
  - j. The hearing on the appeal shall be declared closed and no further testimony will be received from the applicant or any other parties.
5. Decisions. Exceptions in unusual circumstances the board shall decide all cases immediately after the public hearing. The board will approve with conditions, deny the appeal, or defer its decision. The notice of the decision or deferral will be made available within 144 hours as required by RSA 676:3 and be sent in a timely manner to appropriate parties in interest. If the appeal is denied or deferred, the notices shall include the reasons therefor.

## RECORDS

The records of the board shall be kept by the clerk and made available for public inspection at (office of the board or municipal clerk) in accordance with statutory requirements.

1. Final written decisions will be placed on file and available for public inspection within three (3) days after the decision is made. RSA 676:3.
2. 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 six (6) 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 provided that such amendment is read at the meeting immediately preceding the meeting at which the vote is to be taken.

## JOINT MEETINGS

1. RSA 676:2 provides that the board of adjustment may hold joint meetings or hearings with other town "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. If no application is filed for the month or other pertinent business to take care, the board will not meet for that month.
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 chairperson shall chair the joint hearing. If the other board is not the planning board, then the board of adjustment chairperson 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.



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1. In those cases presented to the board of ad adjustment, which have been previously presented to the planning board or an administrative officer, such body or officer will be requested to furnish the board of adjustment with all exhibits, records and history of the case.
2. Petitions shall only be withdrawn by the petitioner, prior to the public hearing of hearing of said petition, unless voted otherwise by the board.

If the petition I withdrawn, the petitioner will be allowed thirty (30) days to resubmit the petition and pay for reasonable costs (mailing, legal, and postage). The petition must be exactly as originally submitted. If the petitioner does not resubmit within thirty (30) days, the petition will then be considered a new petition and costs will be the same as if the petition were being submitted for the first time.

3. Correspondence.

- a. All correspondence shall be directed to the Chairperson of the Board of Adjustment, Selectmen's Office, Town of Harrisville, Harrisville, N.H. 03450.
  - b. All documents or communications from the board shall be signed by the chairperson of the board.
  - c. In the absence of the chairperson, for any reason, the elected vice-chairperson shall act in his place.
  - d. All press and radio releases regarding the appeal of cases are to be made as are recorded within the minutes of the board meeting and shall originate with the chairperson.
4. Annual Report. An annual report shall be prepared by the chairperson and submitted to the governing body.