

Board of Adjustment
Harrisville, New Hampshire

Rules of Procedure
(Adopted March 2008; Amended October 2022)

AUTHORITY

1. These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, 1983, Chapter 676:1, and the zoning ordinances and map of Harrisville, New Hampshire.

MEMBERSHIP

1. The Zoning Board of Adjustment shall consist of a Select Board member designated by the Select Board and four (4) other town residents appointed by the Select Board.
2. 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.

OFFICERS

1. A chairperson shall be elected annually in the month of March, following Town Meeting, by a majority of the board. 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 in the month of March, following Town Meeting, by a majority vote of the board. 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 recording secretary shall be present at all meetings and shall maintain a record of all meetings, transactions, and decisions of the board, shall distribute copies of such records as required by RSA 91-A, 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.

MEETINGS

1. Regular meetings shall be held at the Town Hall, at 7:00 pm on the 3rd Wednesday of each month. Other meetings may be held on call of the chairperson provided such

public notice and notice to each member is given at least 24 hours, excluding Sundays and legal holidays, prior to such meeting.

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/Recusal. 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 an alternate may be requested to sit in his 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 chairperson.
 - b. Public hearings
 - c. Minutes of previous meeting
 - d. Unfinished business
 - e. New business
 - f. Communications and miscellaneous
 - g. Adjournment

At the discretion of the chairperson and upon agreement by the board, the order of business may be adjusted.

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 (non-public) sessions may be held in accordance with the provisions of RSA 91-A.

8. If no application is filed for the month, or there is no other pertinent business to take care of, the board will not meet for that month.

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 requires that a proper petitioner before the board is:
 - i. The holder of record to property; or
 - ii. The holder of a valid purchase and sale agreement for the purchase of the subject land; or
 - iii. The holder of a valid option for purchase of the subject land; or
 - iv. An authorized agent of the property owner, as documented in writing by the property owner and submitted to the board with the application.

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

- d. The board may require the holder of record title to submit documentary evidence as to the petitioner's title and holders of purchase and sales 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. Minimum requirements for adequate plans shall include the following (plans need not be engineered plans):

- Lot dimension	- List of abutters within 200 feet of property line
- Copy of deed	- Abutters' street(s)
- Scale	- Petitioner's name
- Dimensions of existing and proposed structures	- Photos when applicable
- Dimensions of parking area	- Zoning district
	- Relief sought (special exception, variance, appeal) and narrative putting forth justification for relief

The 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 application submitted with plans and exhibits deemed inadequate by the board of adjustment shall be tabled until such time as adequate plans or exhibits are received by the board.
- g. In 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, noticed 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 the application form.

All applicants shall pay certified mail costs for abutter notices and proportionate share of legal advertising.

3. Public Notice.

- a. Public notice of public hearings on each application shall be given not less than five (5) days before the date of the hearing, in accordance with RSA 676:7, in the Keene Sentinel and shall be posted on the town website and at Town Hall. Notice shall include the name of the applicant, location of the property, proposed project, relevant provisions of the zoning ordinance, 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 in the public notice.

- 4. **Public Hearing.** The public hearing shall be held within 45 days of receipt of the complete notice of appeal. The conduct of public hearings shall be governed by the following rules:

- a. A chairperson shall call the hearing in session.
 - b. The chair shall explain the matter before the board and confirm that public notice was given in accordance with statutes and the board's rules of procedure.
 - 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 of, or opposition to, the issue with a 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. Under state statute, the board of adjustment has ninety (90) days to begin consideration and approve or disapprove of an application, unless the applicant agrees to an extension. If the ZBA determines that it lacks sufficient information to make a final decision on an application, and the applicant does not consent to an extension, the board may deny the application without prejudice, allowing the applicant to reapply for the same relief.

Except in unusual circumstances the board shall deliberate and decide all cases immediately after the public hearing. The board will approve, approve with conditions, deny the appeal, or defer its decision. The notice of decision or deferral will be made available, and sent to the applicant, within 5 business days as required by RSA 676:3. If the appeal is denied or deferred, the Notice of Decision shall include the reasons

therefor.

RECORDS/WRITTEN FINDINGS

The records, minutes and final decisions of the board shall be kept in the town offices and made available for public inspection in accordance with statutory requirements within five (5) business days of the public meeting.

The board of adjustment shall provide complete and legally sound written findings of fact that support an approval or disapproval. The board shall identify how the application meets, or does not meet, regulations and checklist requirements, and, when applicable, shall specify conditions of approval.

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, and the building inspector when the subject matter of the requested permit is within the responsibilities of those land use boards or officials. Each board shall have the discretion as to whether or not to hold a joint meeting with any other land use board.
2. 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, or by statute, shall be followed; and

- d. The other board shall concur with these conditions.

MISCELLANEOUS

1. Cases reviewed previously by other boards. In those cases presented to the board of 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. Withdrawal of petitions. Petitions shall only be withdrawn by the petitioner, prior to the public hearing of said petition, unless voted otherwise by the board.

If the petition is 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. All correspondence shall be directed to the Chairperson of the Board of Adjustment, Town of Harrisville, 705 Chesham Road, Harrisville, NH 03450.

All documents or communications from the board shall be signed by the chairperson of the board. In the absence of the chairperson, for any reason, the elected vice-chair shall act in place of the chair.

4. Media inquiries. All media communication regarding cases before the ZBA shall be directed to the chairperson.
5. Annual Report. An annual report shall be prepared by the chairperson and submitted to the governing body for publication in the town's Annual Report.

Adopted as amended by the Harrisville Board of Adjustment,



Charles Sorenson, Chair

October 19, 2022