

**RULES OF PROCEDURE
ZONING BOARD OF ADJUSTMENT**

Freedom, New Hampshire
Adopted October 25, 1994
Amended January 25, 2011

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 Town of Freedom.

OFFICERS

1. The chairperson shall be elected annually by a majority vote of the board at the first regular meeting following the March annual town meeting. The chair shall preside over all meetings and hearings, appoint such committees as directed by the board, and shall sign in the name of the board.

2. A vice-chairperson shall be elected annually by a majority vote of the board at the first regular meeting following the March annual town meeting. The vice-chair shall preside in the absence of the chair and shall have full powers of the chair on matters which come before the board during the absence of the chair.

3. A clerk shall be elected annually by a majority vote of the board at the first regular meeting following the March annual town meeting. 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. The clerk may be compensated for reasonable out-of-pocket expenses upon approval of same by the board at a regular meeting.

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

5. Up to five alternate members shall be appointed, as provided for by the local legislative body, to serve whenever a regular member of the board is unable to fulfill his or her responsibilities. Regular members are responsible for contacting an alternate to sit in their place. Pursuant to RSA 673:6, V, an alternate member may participate in meetings as a nonvoting member. Unless the alternate member has a conflict which requires disqualification pursuant to these ZBA Rules of Procedure, the alternate member can participate in any meeting and in any public hearing up until the time of the vote. When the hearing is closed and the board begins deliberations to reach its decision, the nonvoting alternate may no longer participate.

MEETINGS

1. Regular meetings shall be held at the Freedom Town Hall, at 7 pm on the fourth Tuesday of each month. Other meetings may be held on call of the chair provided public notice and notice to each member is given at least 48 hours, excluding Sundays and legal holidays, prior to such meetings.

2. 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 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.

3. Disqualification. If any member finds it necessary to disqualify himself from sitting on a particular case, as provided in RSA 673:14, he shall notify the chair as soon as possible so that an alternate maybe 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 chair 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.

4. Order of Business. The order of business for regular meetings shall be as follows:
- a. Announcement of present members by the chair.
 - b. Minutes of the previous meeting.
 - c. Unfinished business.
 - d. Public hearing(s).
 - e. New business.
 - f. Communication and miscellaneous.
 - g. Adjournment.

(The board may rearrange this schedule to accommodate members of the public in attendance of the meeting.)

APPLICATION/DECISION

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 of adjustment who shall record the date of the receipt over his signature. The required fee must accompany the application.

Appeals from an administrative decision taken under RSA 676:5 shall be filed within 20 days of the decision.

At each meeting, the clerk shall present to the board all application received by him at least 14 days before the date of 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 a paper of general circulation in the town and shall be posted at two public places in town not less than five (5) days before the date fixed for the hearing. 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 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 and other parties deemed by the board to have special interest. Said notice shall contain the same information as the public notice.

c. All application fees must be paid, in advance, by the applicant.

3. Public Hearing. The conduct of public hearings shall be governed by the following rules:

a. The chair 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 the 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 the party to the case.

e. Any member of the board, through the chair, 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 chair.

g. The applicant shall be called to present his appeal.

h. Those appearing in favor of the appeal shall be allowed to speak.

i. Those in opposition to the appeal shall be allowed to speak.

- j. The applicant and those in favor shall be allowed to speak in rebuttal.
 - k. Those in opposition to the appeal shall be allowed to speak in rebuttal.
 - l. Any person who wants the board to compel the attendance of a witness shall present his request in writing to the chair not later than five days prior to the public hearing.
 - m. 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 zoning ordinance and state zoning law.
 - n. The hearing on the appeal shall be declared closed and the board shall deliberate and reach a decision, or continue the case to the next regular meeting if necessary.
4. Decisions. The board shall decide each case at the close of the public hearing, unless the case must be continued to receive input from another board or further information from the applicant. The board will approve, approve with conditions, deny the appeal, or defer its decision. Notice of the decision will be made available for public inspection within 5 business days, as required by RSA 676:3. If the appeal is denied the notice shall include the reasons therefore.

RECORDS

- 1. The records of the board shall be kept by the clerk and made available for public inspection at the office of the town clerk in accordance with statutory requirements.
- 2. Final written decisions will be placed on file and available for public inspection within 5 business days 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:2II.

AMENDMENTS

- 1. 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.

JOINT MEETINGS AND HEARINGS

- 1. RSA 676:2 provides that the board of adjustment may hold joint meetings or hearings with other “land use boards,” including, but not limited to, the planning board, the historic district commission, the conservation commission, and the codes enforcement

officer, and that each 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 chairman 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 chair shall chair the joint hearing. If the other board is not the planning board, then the board of adjustment chair 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 with these conditions.