Town of Antrim - Zoning Board of Adjustment Rules of Procedure
(Adopted 1974; Amended November 11 & December 9, 2008)

Section 1 Authority

These Rules of Procedure are adopted under the authority of New Hampshire Revised Statutes Annotated Chapter 676:1.

Section 2 Membership

2.1 The Zoning Board of Adjustment shall consist of ten (10) members: five (5) appointed members with the authority to vote and five (5) alternate members with no authority to vote except when filling in for an absent or disqualified appointed member, excepting that alternate members may vote on administrative and procedural matters.

2.2 Selection, qualification, terms, removal of members, and filling of vacancies shall conform to RSA 673. Per RSA 673:3, I., each member of the Board shall be a resident of the municipality in order to be appointed. Per RSA 673:5, II., the term of an elected or appointed local land use Board member shall be three (3) years. The initial terms of members first appointed or elected to any local land use Board shall be staggered so that no more than two (2) appointments or elections occur annually in the case of a five (5) members board, except when required to fill vacancies.

2.3 Alternate Board members shall be appointed in accordance with RSA 673:6.

2.4 In accordance with RSA 673:3-a., all new members shall complete at least six (6) hours of training for the respective position within six (6) months of assuming office for the first time. The training shall be designed and furnished by the New Hampshire Office of Energy and Planning. The Planning Department staff shall maintain a record of training performed by the members.

Section 3 Officers

3.1 The officers of the Board shall be as follows:

a. Chair. The chair shall preside over all meetings and hearings; shall appoint such committees as directed by the Board; shall affix his signature in the name of the Board; and shall perform other duties customary to the office.

b. Vice-Chair. The Vice-Chair shall preside in the absence of the Chair and shall have the full powers of the Chair on matters which come before the Board during the absence of the Chair.

c. Chair Pro-Tem. In the event that the chair and vice chair are absent, or recused, a chair pro-tem shall be nominated and voted on by the members who are present.

3.2 The officers of the Board shall be elected annually at the first meeting in March following the annual Town meeting, or at the latest, by the first meeting April, as the first order of business, by a majority vote of the Board. If requested by a majority of those present, voting shall be by written ballot. The chair shall serve for one year and shall be eligible for re-election.

3.3 Each newly elected (including re-appointed) member shall be sworn in and take an oath of office as required by RSA 42:1.

3.4 The Planning Department staff shall forward to the municipal clerk for recording the appointment and expiration dates of the terms of each Board member.

3.5 The process for the removal of members from the Board is described in section 6.6.

Section 4 Board Finances

4.1 The Planning Department staff shall receive all funds on behalf of the Board, issue receipts for same, and see that such funds are properly recorded and transmitted to the Town Administrator.

Section 5 Planning Department Staff

5.1 The Planning Department staff shall consist of a Town Planner and planning support personnel whose duties shall be as listed in the job descriptions for those positions on file in the Planning Department office, and as amended by the Planning Board. The Planning Department staff shall set the agenda for the Board's meetings and are responsible for the recording and maintenance of the Board's meeting minutes; issue public notices of all meetings; record the names of the members present at Board meetings; notify applicants and abutters of public hearings; and prepare such correspondences and fulfill such duties as the Chair of the Board may specify.

Section 6 Standards of Conduct

6.1 The primary obligation of the Zoning Board of Adjustment members is to serve the public interest, and to conduct themselves so as to maintain public confidence in the Zoning Board of Adjustment and the conduct of its business.

6.2 Members shall not directly or indirectly solicit any gifts or accept or receive any gift (whether in money, services, loans, travel, entertainment, hospitality, premises or in some other form), under circumstances in which it could be reasonably inferred that the gift was intended to influence them in the performance of their duties or was intended as a reward for any recommendation or decision on their part.

6.3 To avoid conflict of interest or even the appearance of impropriety, any member who may receive a direct personal or financial gain from a public Zoning Board of Adjustment decision on an application must not participate in that decision. In accordance with RSA 673:14,I, no member of the Board shall participate in deciding or shall sit upon the hearing of any question which the Board is to decide in a judicial capacity if that member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizens. The direct private benefit may constitute a material personal gain or provide an advantage to relatives, friends, groups or associations that hold a significant share of the official's loyalty. An official with a conflict of interest must abstain from voting on the matter, and except as specified below, leave the table or podium area when Board members deliberate and vote on a matter. Further, the Board member may not discuss the matter privately with any other Board member voting on the matter, or otherwise communicate directly or indirectly with Board members, outside of a public meeting or hearing, regarding the matter in question so as to attempt to influence the vote on said question. A recused Board member is permitted to attend public meetings and speak as a citizen during a public hearing.

6.4 A Board member must not disclose or improperly use confidential information obtained in the course of his duties for financial gains or to further a personal interest.

6.5 All Board members share a responsibility to enforce adherence to the standards of conduct herein. If a member believes that one or more members, either by intention or inadvertence, is in violation of these standards, that member shall call that fact to the attention of the Board. In the event of a dispute as to whether a member should or should not participate, or when uncertainty arises, the board shall, upon the request of that member or another member of the board, vote on the question of whether that member should be disqualified, in accordance with RSA 673:14, II. Any such request and vote shall be made prior to or at the commencement of any required public hearing. Such a vote shall be advisory and non-binding, and may not be requested by anyone other than Board members.

6.6 In accordance with RSA 673:13, I. (Removal of Members), after a public hearing, appointed members and alternate members of an appointed local land use board may be removed by the appointing authority (Board of Selectmen) upon written findings of inefficiency, neglect of duty, or malfeasance in office.

Section 7 Meetings

7.1 Regular meetings will be held on an as needed basis at the Town Hall Conference Room at 7:00 P.M. on a Tuesday.

7.2 Special Meetings and Work Sessions of the Zoning Board of Adjustment may be called by the Chair, or in their absence, by the Vice-Chair, or at the request of three members of the Board, provided public notice and notice to each member is given at least 24 hours in advance of the time of such meeting. The notice shall specify the purpose of the meeting and be posted in at least two public places.

7.3 Non-Public Sessions shall be held only in accordance with RSA 91-A:3.

7.4 Quorum. The Board membership consists of five (5) appointed members and five (5) alternates. Therefore, a quorum for all meetings shall consist of three (3) members, including alternates sitting in place of regular members. If any regular Board member is absent from a meeting or hearing, or disqualifies himself/ herself from sitting on a particular application-the Chair shall designate one of the alternate members to sit in place of the absent or disqualified member, and such alternate shall have all the powers and duties of a regular member in regards to any matter under consideration on which the regular member is unable to act.

7.5 Disqualification. If any member finds it necessary to disqualify himself/ herself from sitting in a particular case or is unable to act in any particular case pending before the Board, as provided in RSA 673:14, they shall notify the Chair as soon as possible so that an alternate may be designated to sit in their place, as provided in RSA 673:11. The disqualification shall be announced by either the Chair or the member disqualifying himself/ herself before the beginning of the consideration of, or the public hearing on, the application. The member disqualifying himself/ herself shall leave the Board table during all deliberations and the public hearing on the matter. If uncertainty arises as to whether a Board member should disqualify himself/ herself, refer to section 6.5 of these Rules of Procedure.

7.6 Order of Business. The order of business shall be as follows:

7:00 PM
a. Call to order of public meeting by the Chair
b. Roll call and designation of alternates to sit for absent members
c. Minutes of previous meeting
d. Review of documentation in the members' packets

7:15 PM
e. Disposition of appeals under consideration
f. Public Hearing(s) of appeals
g. Executive session – continue with business on the agenda

(NOTE: Although this is the usual order of business the Board may wish to hold the hearings immediately after the roll call in order to accommodate the public.)

7.7 A motion that is duly seconded shall be carried when a simple majority of members present are voting in the affirmative.

7.8 An affirmative vote of a majority of members voting on a question shall be sufficient for adoption of the question. Members of the Board present may be counted to determine whether a quorum is present although they abstain from voting affirmatively or negatively. Persons abstaining shall not be considered "members voting" in determining whether a question has been adopted.

7.9 Alternate members shall only vote on applications when appointed to sit in the place of an absent or disqualified member, excepting that alternate members may vote on administrative and procedural matters.

7.10 A motion to reconsider a previous vote by the Board shall be in order only if made by a member who voted on the original question, or at the discretion of the Chair.

7.11 All meetings of the Board shall be concluded by 10:30 P.M., with any unfinished business being carried forward to the next regularly scheduled meeting unless a majority of the Board votes to extend the closing time of the subject meeting.

Section 8 Applications

8.1 Applications for hearings before the Board shall be made on forms provided by the Planning Department and shall be presented to the *Planning Department staff*, who shall *sign and* record the date of receipt. *A*pplications shall be brought before the Board within 30 days of the date of delivery to the Planning Department Staff and, in accordance with RSA 676:7, a public hearing shall be held within 30 days of the receipt of the notice of appeal.

8.2 At each regular meeting, the Planning Department staff shall present to the Board only applications received at least fifteen (15) days before the date of the meeting and having had proper notice.

8.3 The Board shall reject, or when necessary table, any petition or application not properly completed or partially completed, if it deems there is not sufficient information to allow the Board to begin deliberation on the matter.

Section 9 Agenda Management

9.1 The planning staff shall maintain a file for applications received for Zoning Board of Adjustment consideration, kept in sequence of the time at which an application is received in the office.

9.2 Requests by an applicant to be placed on an agenda, other than a new application, must be received not less than fifteen (15) days prior to the date of the meeting.

9.3 Information regarding an application pending before the Board must be submitted to the planning staff one week prior to the scheduled meeting at which the information is to be considered, unless waived by a majority vote of the Board.

Section 10 Forms

10.1 All forms prescribed herein and revisions thereof shall be adopted by resolution of the Board and shall become ~~a~~ part of these rules of procedure.

Section 11 Public Notice

11.1 In accordance with RSA 676:7, I.(b), a public notice of the submission of and public hearings on each application shall be given in a local paper and shall be posted not less than five (5) days prior to the date fixed for submission and consideration of the application, not including the date of posting or the date of the hearing, at the following locations:

Town Hall Indoor Bulletin Board
Town Hall Outdoor Bulletin Board
US Post Office Bulletin Board
Town web site

11.2 Such notice shall include the name of the applicant, description of the property, action desired by the applicant, provision of the zoning ordinance concerned, the type of appeal being made, and the time and place of the hearing.

11.3 In accordance with RSA 676:7, I.(a), personal notice shall be made by certified mail, return receipt requested, to the applicant, agents of the applicant, all abutters, and holders of conservation, preservation, or agricultural preservation restrictions, not less than five (5) days prior to the date fixed for submission of the application to the Board, not including the date of posting or date of the hearing.

11.4 Notice shall also be given to the Zoning Board of Adjustment, Planning Board, the Town Clerk, the Board of Selectmen, , and other parties deemed by the Board to have special interest. Said notice shall contain the same information as the public notice (Section 11.2) and shall be made on forms provided for this purpose.

Section 12 Public Meetings

12.1 The Chair shall call the meeting into session. He shall introduce the Board, request that applicants, abutters and all parties present sign the attendance sheet, and outline the procedures for conducting the public meeting and public hearings. The following protocol is to be followed:

a. Members of the Board may ask questions through the Chair at any point during the presentation by the applicant or his/ her agent.
b. Any party to the matter who desires to ask a question of another party to the matter must address the question to the Chair.
c. Each person who wishes to speak shall state their name, address, and indicate whether they are a party to the matter or an agent or counsel to a party to the matter.

12.2 The following procedure for a public meeting shall be followed:

a. The Planning Department Staff shall be asked to read the public notice
b. The Planning Department Staff shall state the date of publication, notification to abutters and other parties and their response
c. The applicant will be asked to submit the proposal.
d. The Chair will declare the public hearing on the matter open.
e. Upon completion of the taking of public input, the Chair shall declare the public hearing closed and reconvene the public meeting for the board to deliberate the merits of the application. Additional public input during the public meeting is permitted only at the discretion of the Chair.
f. Upon completion of the deliberation, the board shall take a roll call vote to approve, conditionally approve, or disapprove the application.

Section 13 <u>Public Hearings</u>

13.1 The conduct of public hearings shall be governed by the following rules:

a. The Chair shall call the hearing in session.
b. The Chair shall ask if there are any abutters who wish to speak in favor of the application.
c. . The Chair shall ask if there are any abutters who wish to speak in opposition to the application.
d. The Chair shall ask if there are other interested parties who wish to speak either in favor or in opposition to the application.
e. The Chair shall ask the applicant if he/she wishes to rebut comments of the abutters or other parties.
f. The Chair shall 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.
g. Upon completion of comments from abutters and other parties, the Chair shall close the public hearing and reconvene the public meeting on the application.
h. If the hearing is adjourned pending the submission of additional material or information, or the correction of noted deficiencies, all parties with an interest in the application will be allowed to present their comments on the additional material, information or corrections, in person or in writing, at the date, time, and place of the continuation made known at the time of adjournment, at the discretion of the Chair.
i. If an agent is appearing before the Board and the applicant is not present at the meeting, the Board must have written authorization from the applicant stating that the agent has been appointed to represent the applicant at the hearing. If neither the owner of record,

the applicant, nor a properly authorized agent is present at the hearing, the Board may vote to dismiss the application without prejudice, not to be refiled with the Board for a period of six (6) months.

j. Applications are presented in the order in which they are listed in the public notice for the hearing; however, the Board, in its discretion, may decide by majority vote to hear, and deliberate upon and/or decide applications in a different order.
k. Any member of the Board, through the Chair, may request any party to the case to reappear.
l. Any person who desires the Board to compel the attendance of a witness shall present his/ her request in writing to the Planning Department staff before the meeting or to the Chair at the time he/ she presents his/ her petition.

Section 14 Decisions

14.1 Notice of the final decision in writing will be made available for public inspection within 144 hours after the decision is made, as required in RSA 676:3, with the applicable conditions, if any.

14.2 Written notice of the Board's decision to approve or disapprove the application will be issued to the applicant. If the application is disapproved, the Board shall provide the applicant with written reasons for the disapproval.

14.3 Notification of the Decision shall be made in writing on a form provided by the Planning Department and shall be sent to the applicant, agents of the applicant, and filed in the records of the Board at the Planning Department office at Town Hall and to be filed at the NH Hillsborough County Registry of Deeds in Nashua, NH.

Section 15 Records

15.1 The records of the Board shall be kept at the Planning Department office and shall be made available for public inspection at the Town Hall as required by RSA 91-A:4.

15.2 Minutes of all meetings including the names of Board members, persons appearing before the Board, a brief description of the subject matter, and the Board's decision(s) containing the reasons thereof, shall be placed on file at the Planning Department office and shall be made available for public inspection within 144 hours of the public meeting as required in RSA 676:3 and 91-A:2, II.

Section 16 Joint Meetings and Hearings

16.1 RSA 676:2 provides that the Zoning Board of Adjustment may hold joint meetings and hearings with other "land use boards" including the Planning Board, the Historic District Commission, the Conservation Commission, and the Building Inspector, and each Board shall have the discretion as to whether or not to hold such joint meeting or hearing.

16.2 Joint business meetings with another local land use board may be held at any time when called jointly by the Chair of the respective boards, or by petition of an applicant seeking a local permit as provided in RSA 676:2.

16.3 A joint public hearing must be a formal public hearing when the subject matter of the hearing is within the responsibilities of the boards convened.

16.4 The Planning Board Chair shall chair all joint meetings and public hearings when the subject matter involves the Planning Board. If the Planning Board is not involved with the subject matter of the requested permit, the appropriate agencies which are involved shall determine which board shall be in charge (i.e. Zoning Board of Adjustment for variance and special exception matters).

16.5 The rules of procedure for joint meetings and hearings, the subject matter of which involves the Zoning Board of Adjustment, shall be the same as these rules of procedure except that the order of business shall be as follows:

a. Call to order of public meeting by the Chair
b. Introduction of members of both boards by the Chair;
c. Explanation of reason for joint meeting/hearing by the Chair;
d. In the case of a public hearing relative to a requested permit or an application for a plat approval, or both, the applicant shall be called to present his proposal.
e. Public input
f. Adjournment.

16.6 Each board involved in a joint public hearing shall make its own decision, based upon its criteria for the particular matter, in accordance with RSA 676:2, III.

Section 17 Site Walks

17.1 A "site walk" is defined as a visit by the Board, or a member of the Board, and representatives of Town departments and other Town Boards and Commissions who have an interest in the proposal, to a location which is the subject of an application before the Board, where the visit is in the company of the owner, applicant, and/or their agents or employees and involves going onto the property or visiting areas which are not customarily available for public inspection. (This does not include a view of a site from adjoining public highways or other observations that can be made without entering on the property.)

17.2 When the Board deems it necessary for the adequate consideration of an application; the Board shall request the applicant to allow a site walk by the Board.

17.3 When the Board schedules a site walk for Board membership, it shall be posted as a meeting of the Board in accordance with RSA 91-A, and meeting minutes will be completed.

17.4 Attendance at site walks by members of the general public shall be with the property owner's permission only.

Section 18 Amendment

18.1 These rules of procedure may be amended by *a* majority vote of the members *of the Board* provided that such amendment is adopted at a regular meeting of the Board. Amendments to the Rules of Procedure shall be placed on file with the Town Clerk.

Section 19 Severability Clause

19.1 If any provision herein shall be held to be invalid, for any reason, by a court of law, such holding shall not invalidate any other provisions contained in these Rules of Procedure.

Section 20 Waiver Clause

20.1 The Zoning Board of Adjustment may, by a majority vote of its members present, waive any portion of these rules of procedure.