

Town of Bradford
Zoning Board of Adjustment
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 the town of Bradford.

OFFICERS

1. A chairperson shall be elected annually by a majority vote of the board at the first meeting following Town Meeting in March. She/he shall preside over all meetings and hearings, appoint such committees as directed by the board and shall affix her/his signature in the name of the board.
2. A vice-chairperson shall be elected annually by a majority vote of the board at the above meeting. 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. All officers shall serve for one year and shall be eligible for re-election.

MEMBERS AND ALTERNATES

1. All members must be residents of Bradford and are expected to attend each meeting of the board to exercise their duties and responsibilities. Any member unable to attend a meeting shall notify the chairman as soon as possible.
2. Up to five alternate members shall be appointed, as provided for by the ZBA, and should attend all meetings to familiarize themselves with the workings of the board to stand ready to serve whenever a regular member of the board is unable to fulfill her/his responsibilities. Three consecutive unexcused absences by an alternate member shall be considered a prima facie resignation from the board.
3. Whenever a regular member of a local land use board is absent or whenever a regular member disqualifies himself or herself, the chairperson shall seat an alternate member, if one is present, to act in the place of the absent or recused member. Alternates who are not seated may participate as non-voting members, but shall not participate in deliberations leading to decisions on appeals before the Board.
4. All members or alternates acting in the place of an absent or recused member shall participate in the decision making process and vote to approve or disapprove all motions under consideration.

MEETINGS

1. Regular meetings shall be held at a public facility at 7:00pm on the first WEDNESDAY of each month. Other meetings may be held at the call of the chairperson provided public notice is posted at the Post Office and Town Hall Bulletin Board and notice to each member is given at least forty-eight (48) hours, excluding Sundays and legal holidays, prior to such meetings.
2. Quorum. A quorum for all meetings of the board shall be three members, including alternates sitting

in the place of members.

a. RSA 674:33, III provides that "the concurring vote of three (3) members of the board shall be necessary to reverse any action of an administrative official or to decide in favor of an 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

b. If any regular board member is absent from any meeting or disqualifies her/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.

c. To ensure continuity on any subsequent action/rehearing, the board will attempt to seat the same members as were seated for the original appeal.

3. Disqualification.

a. If any member finds it necessary to disqualify her/himself from sitting in a particular case, as provided in RSA 673:14, she/he shall notify the chairperson as soon as possible so that an alternate may be requested to sit in her/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.

b. The disqualification shall be announced by either the chairperson or the member disqualifying her/himself before the beginning of the public hearing on the case. The disqualified member shall absent her/himself from the board table during the public hearing and during all deliberation of the case.

4. Order of Business. The order of business for regular meetings shall be as follows:

- a. Open
- b. Roll call
- c. Minutes of previous meeting
- d. Receipt of applications
- e. Unfinished business
- f. Public hearing
- g. New Business
- h. Communications and miscellaneous
- i. Adjournment

DEFINITIONS

1. Days: Days shall mean calendar days.

APPLICATIONS/DECISIONS

1. Applications.

a. Each application for a hearing before the board shall be made on forms provided by the board. All owners of property shall be named in the application, and a majority of the owners will sign. In the case of two owners, both must sign. The application shall be presented at the beginning of any regularly scheduled meeting to the secretary of the board of adjustment who shall record the date of receipt over her/his signature. Costs of all required notices and fees must be paid for by the applicant at the time the application is presented.

b. Appeals from an administrative decision taken under RSA 676:5 shall be filed within (30) days of the decision.

c. At each meeting, the secretary shall present to the board all applications received at the beginning of the meeting.

d. All forms and amendments 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 locally distributed newspaper and shall be posted at the Post Office and the Town Hall Bulletin Board no less than five (5) days before the date fixed for the hearing. Notice shall include the name of the applicant, description of 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, code enforcement officer, town clerk and other parties deemed by the board to have a special interest. Said notice shall contain the same information as the public notice and shall be made on forms provided for this purpose.

3. Public Hearing

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

a. The chairperson shall call the hearing into session and present the report of the first case.

b. The applicant shall read the application and the secretary shall 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 her/his name and address and indicate whether she/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.

g. The applicant shall be called to present her/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 (per RSA 673:15) the attendance of a witness shall present her/his request in writing not later than (3) 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 and the applicable zoning sections of state law.

m. The chairperson 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.

n. The hearing on the appeal shall be declared closed and the next case called up.

4. Decision. The board shall decide all cases within twenty-one (21) days. The board will approve with conditions, deny the appeal or defer its decision. Notice of the decision or deferral will be made available for public inspection within five business days of such vote, as required by RSA 676:3, if the appeal is denied, deferred, or approved with conditions, the board shall notify the applicant in writing stating the reasons.

5. Rehearing Procedures (RSA 677:2-3)

Within 30 days after the ZBA has made an initial decision, any person directly affected may appeal the decision by filing an Application for Rehearing.

Within 30 days of receipt of an Application for Rehearing, the ZBA shall either grant or deny the application, or suspend the decision pending further consideration.

The board shall decide whether or not to grant an Application for Rehearing at a regular board meeting (open to the public but not a public hearing). The board shall base its decision on the Application for Rehearing as submitted. Additional testimony will not be permitted until a new hearing, if the motion is granted.

In the interest of justice, the board may grant a motion for rehearing if the board finds:

1. The applicant has standing, and
2. The application presents new evidence not available at the original hearing, or that the board made a technical error in reaching its decision.

If the motion for rehearing is denied, the aggrieved parties may apply to superior court.

If the motion for rehearing is granted, a new public hearing will be held following notice pursuant to RSA 676:7, and a new decision made by the board.

- If, following the rehearing, the previous decision is reversed, the new aggrieved parties may request a rehearing.
- If, following the rehearing, the previous decision is upheld, the aggrieved parties may apply to superior court.

6. Reconsideration of a Decision by the ZBA

In the interest of justice, on its own initiative the ZBA may reconsider and reverse any of its decisions within 30 days after the original decision.

AMENDMENTS

These rules of procedure may be amended by a majority vote of the members of the board provided that notice is made in the published agenda that a proposed amendment will be discussed at that meeting.

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", including the planning board, the historic district commission, the building code board of appeals and the code 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 chairperson of the two (2) 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 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.

Adopted May 1989 by ZBA, Bradford, NH

Amended: September 1989, October 1989, April 1990, May 1990, June 1991, February 1998, 2002, 2009, January 2012, April 2013, August 2013, March 2017