

**TOWN OF WOLFEBORO, NEW HAMPSHIRE**

**ZONING BOARD OF ADJUSTMENT  
RULES OF PROCEDURE**

**AMENDED 3 JUNE 2013**

**I. AUTHORITY**

1. These rules of procedure are adopted by the Zoning Board of Adjustment ("ZBA" or "Board") under the authority of NH RSA 676:1 and the Wolfeboro Zoning Ordinance.

**II. MEMBERS:**

1. The Wolfeboro ZBA consists of five regular members, who shall be appointed by the Board of Selectmen to serve three year terms.
2. Up to five alternate members may be appointed by the Board of Selectmen, as provided by a vote of the town meeting, to serve whenever one or more regular members of the ZBA are unable to fulfill their responsibilities, or during such time as one or more vacancies exist in the regular membership of the ZBA.

**III. OFFICERS:**

1. A Chair shall be elected by a majority vote of the Board annually at the next meeting of the Board following the town election held on the second Tuesday in March. The Chair shall preside over all meetings and hearings, appoint such committees as directed by the Board, and shall affix the Chair's signature on behalf of the Board on all necessary and proper documents.
2. A Vice-Chair shall be elected by a majority vote of the Board annually at the next meeting of the Board following the town election held on the second Tuesday in March. 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 or incapacity of the Chair.
3. A Clerk shall be elected by a majority vote of the Board annually at the next meeting of the Board following the town election held on the second Tuesday in March.
4. The Board may employ a Secretary who shall maintain a record of all meetings, transactions and decisions of the Board, and shall perform such other duties as the Board or the Chair may direct from time to time.
5. All officers shall serve for one year and shall be eligible for re-election.

**IV. MEETINGS:**

1. Regular Meetings- : Regular meetings of the Board will be held as needed in a suitable meeting place. Meetings shall not be held via email. Meetings will normally commence at 7:00 PM. Other meetings may be held at the call of the Chair provided public notice, and notice to each Board member, is given at least 24 hours prior to any such meeting.
2. Quorum – A quorum for all meetings of the Board shall be three members, including alternates sitting in place of regular members. RSA 674:33, III provides that the concurring vote of three members of the ZBA 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 her/himself from sitting on a particular case, the Chair 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. Alternates, once seated to hear an application as a voting member, shall continue serving as a voting member of the Board on said application until such time final action is taken on the application.

Alternates who are not seated by the chairman to fill the seat of an absent or recused member may participate with the board in a limited capacity. During a public hearing, alternates may sit at the table with the regular members and may participate in the review and deliberation of the application but shall not participate in any vote on the application. The Chairman will announce who is participating in the vote on each application at the beginning of the hearing. During work sessions alternates may fully participate, exclusive of any motions and votes that may be made.

3. Disqualification – If any member finds it necessary to disqualify her/himself from sitting in a particular case, as provided in RSA 673:14, he/she shall notify the Chair 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 a public hearing gets underway, unless the circumstances which potentially disqualify a member are not known before the hearing is convened. The vote shall be advisory and non-binding.

The disqualification shall be announced by either the Chair or the member disqualifying her/himself before the beginning of the public hearing on the case. The disqualified member shall remove her/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. Roll call by the Chair
  - b. Public Hearing(s)
  - c. Unfinished Business
  - d. New Business
  - e. Minutes of Previous Meeting(s)
  - f. Communications & Miscellaneous
  - g. Adjournment
  
5. Attendance – The unexcused absence of a regular member or alternate member from 2 (two) consecutive meetings or 2 (two) meetings in a 12-month period shall provide sufficient reason for the Board to vote to request that the member resign from the Board. All members and alternates are expected to be in attendance at every meeting of the ZBA. Any member or alternate unable to attend a meeting shall notify the Chairman or Town Planner as soon as possible. In the absence of a voluntary resignation, the Board may vote to request the Board of Selectmen to initiate removal proceedings pursuant to RSA 673:13, and the absences shall be sufficient cause for the removal.
  
6. Non-Public Sessions – All deliberations on applications shall be held in public. Non-public sessions may be held only in accordance with RSA 91-A.

#### **V. PUBLIC HEARING**

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

- A. The Chair shall call the hearing in session.
  
- B. The Clerk shall read the notice and report on how public notice and personal notice was given and if a site visit was held the clerk will report such.
  
- C. Members of the Board may ask questions at any time during testimony.
- D. Each person who appears shall be required to state her/his name and address, and indicate whether he/she 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 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 of the case, must do so through the Chair, but only at the discretion of the Chair.
- G. The applicant shall be called to present her or 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 of the appeal shall be allowed to speak in rebuttal.
- J. Those in opposition to the appeal shall be allowed to speak in rebuttal.
- K. When the public portion of the hearing is declared closed, no further testimony will normally be received from the applicant or any other party or interested person. However, to avoid the appearance of injustice, the Chair shall have the authority on a majority vote of the board to reopen the hearing to allow such limited additional testimony as may in the Chair's judgment be thought necessary to clarify one or more questions that may have arisen during the board's deliberations, provided that the applicant(s) and all interested parties are still present and in attendance. The board may continue the public hearing to a subsequent meeting if all interested parties are not still present and in attendance Notice shall be given of the continuance.

The Board has the authority to reopen the hearing at the next board meeting if the board feels that reopening the hearing is necessary because the applicant and/or any interested party has departed. Notice shall be required and the cost of said notice shall be the responsibility of the applicant.

## **VI. DECISIONS**

The Board will endeavor to decide all cases immediately after the public hearing. The Board may approve with conditions, deny the application, or defer its final decision. The Board's Notice of Decision will be made available within 5 business days as required by RSA 676:3, and will be sent in a timely manner to the applicant and other appropriate parties in interest. If the application is denied, the notice shall include the reasons for the denial.

## **VII. RECORDS**

The records of the Board shall be kept by the Board Secretary and made available for public inspection and copying in the Wolfeboro Town Offices in accordance with statutory requirements.

- A. Pursuant to RSA 676:3, written notices of the Board's decisions shall be placed on file and made available for public inspection within 5 business days after the decision is made.
- B. Pursuant to RSA 676:3 and RSA 91-A:2, II, minutes of all meetings, including names of Board members, persons appearing before the Board, a brief description of the subject matters dealt with, and a record of any decisions made by the Board shall be placed on file and made available for public inspection within 5 business days after the public meeting.

#### **VIII. JOINT MEETINGS AND HEARINGS**

- A. Pursuant to RSA 676:2 the Board may hold joint meetings or hearings with other land use boards including but not limited to the Planning Board and Historic District Commission.
- B. A joint business meeting with any other land use board may be held at any time when called jointly by the Chairs of the two boards.
- C. A public hearing on any application to the Board of Adjustment will be held jointly with one or more other boards only under the following conditions:
  - 1. the joint public hearing must relate to an application that is within the jurisdiction of each of the land use boards; and
  - 2. 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
  - 3. the provisions covering the conduct of public hearings set forth in these rules, together with additional provisions as may be required by the other Board, shall be followed; and
  - 4. the other Board shall concur in these conditions.

#### **IX. MISCELLANEOUS**

- A. In those cases presented to the Board which have been previously presented to the Planning Board or an Administrative Officer, such body or officer may be requested to furnish the Board with all exhibits, records and history of the case.
- B. An application to the Board may be withdrawn only by the applicant, and only prior to the opening of the Public Hearing, unless otherwise voted by the Board. If the application is withdrawn, the applicant will be allowed

