

**TOWN OF WOLFEBORO, NEW HAMPSHIRE  
ZONING BOARD OF ADJUSTMENT  
RULES OF PROCEDURE**

**May 20<sup>th</sup>, 2019**

**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 elected by the legislative body to serve staggered three-year terms.
2. Up to five (5) alternate members may be appointed by the Zoning Board of Adjustment 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. {RSA 673:6}

**III. OFFICERS:**

1. A Chair shall be elected by a majority vote of the Board annually at the next meeting following the election of new members to the Board of Adjustment. 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 following the election of new members to the Board of Adjustment. 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 following the election of new members to the Board of Adjustment.
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. RULES FOR PUBLIC MEETINGS:

1. Regular meetings of the Board will be held as needed in a suitable meeting place.-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. The Board will make every effort to ensure that a full five-member Board is present for the consideration of any appeal. {RSA 674:33}
3. Alternate members. 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 an alternate member to sit in place of that regular member; the appointed alternate shall act in all respects as a full member of the Board while so sitting. An alternate, once seated to hear an application as a voting member, shall continue serving as a voting member of the Board on that application until such time as 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.

4. Disqualification. If any member finds it necessary to disqualify her/himself from sitting in a particular case he/she shall notify the Chair as soon as possible so that an alternate may be appointed to sit in her/his place. A member uncertain whether he or she should recuse him or herself may ask for an advisory vote of the Board's opinion on the matter. A member who recuses her/himself shall leave the Board table and shall not participate in any Board review, deliberation or vote on the case at hand. {RSA 673:14}
5. Order of business for regular meetings
  - a. Roll call by the chair
  - b. Public hearing(s)
  - c. Unfinished business
  - d. New business
  - e. Minutes of the previous meeting(s)
  - f. Communications & miscellaneous
  - g. Adjournment

6. Attendance – All members and alternates are expected to attend every meeting of the ZBA, including site visits. Any member or alternate unable to attend a meeting or site visit shall notify the Chairman or Town Planner in advance and as soon as possible. The unexcused absence of a regular or alternate member from two consecutive meetings or two meetings in a 12 month period shall provide sufficient reason for a majority of the Board to vote affirmatively to request that the member resigns from the Board.
7. Non-Public Sessions. Non-public sessions may be held only in accordance with appropriate provisions of RSA 91-A.
8. Conduct of Meetings. The business of the Zoning Board of Adjustment will be transacted in an orderly, professional and courteous manner.

#### **V. RULES FOR PUBLIC HEARINGS**

1. The Chair shall call the hearing in session.
2. The clerk shall read the notice and report on how public notice and personal notice was given. Site visits and their minutes will be reported by the clerk.
3. Members of the Board may ask questions of a witness at the conclusion of his or her testimony.
4. 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.
5. Any member of the Board, through the Chair, may request any party to the case to testify more than once.
6. Cross-examination is not permitted. Inter-party questions may only be posed through, and at the discretion of, the Chair.
7. The applicant shall be called to present her or his appeal and those appearing in favor of the appeal shall be allowed to speak.
8. Those in opposition to the appeal shall be allowed to speak.
9. The applicant and those in favor of the appeal shall be allowed to speak in rebuttal.
10. Those in opposition to the appeal shall be allowed to speak in rebuttal.

11. 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. To avoid the appearance of injustice the Chair shall have the authority by 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 on a date certain if all interested parties are not still present and in attendance. In that case, 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 each case immediately following its public hearing. The Board may approve with conditions, deny the application, or defer its final decision. The Board's written Notice of Decision will be made available within 5 business days of its vote 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. {RSA 676:3}

## **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.

1. A written Notice of each of the Board's decisions shall be available for public inspection within 5 business days after the decision was made. {RSA 676:3}
2. Minutes of Board meetings and site visits shall be available for public inspection within 5 business days after the close of each public meeting. {RSA 91-A:2; RSA 676:3}

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

The Board may hold joint meetings with other "land use boards" when called jointly by the chairman of each board. Provisions of RSA 676:2 governing such joint meetings and hearings shall apply.

## **IX. EXTRAMURAL SERVICES AND CONSULTANTS**

The Board may impose on an applicant reasonable fees to cover the Board's administrative expenses and costs of special investigative studies, review of documents, and other matters which may be required by particular appeals or applications. {RSA 673:16; RSA 676:5}

## **X. ADDITIONAL RULES**

1. Notice of an appeal from a decision taken by an administrative officer concerning a matter within the Board's powers shall be filed with the Board within 30 days of that decision. {RSA 676:5; RSA 674:33}
2. 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 30 days to resubmit the same application and pay any additional reasonable costs required. If the applicant does not resubmit within 30 days, the application will then be considered a new application and costs will be the same as if the application were being submitted for the first time.

## **XI. 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 two successive meetings immediately preceding the meeting at which the vote is to be taken.

Amended by the Wolfeboro Zoning Board of Adjustment this 20<sup>th</sup> day of May 2019.

A true copy, attest:

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Chairman  
Wolfeboro Zoning Board of Adjustment

**ADOPTED: 20 JUNE 1994**  
**AMENDED: JANUARY 2002**  
**AMENDED: 10 DECEMBER 2007**  
**AMENDED 20 SEPTEMBER 2010**  
**AMENDED 6 DECEMBER 2011**  
**AMENDED 3 JUNE 2013**  
**AMENDED 7 MARCH 2016**  
**AMENDED 20 MAY 2019**