



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 as it may be amended from time to time, and the zoning ordinance and map of the town of Mason, New Hampshire.

Repeal of Prior Rules of Procedure

1. Any and all rules of procedure of the Zoning Board of Adjustment adopted prior to the date of adoption of these rules are repealed as of the effective date of these rules.

Officers

1. The chairman and vice-chairman must be regular members (i.e. not alternate members) of the board. The clerk may be a regular or alternate member of the board.
2. **A chairman** shall be elected annually by a majority vote of the board in the month of April. The chairman shall preside over all meetings and hearings, appoint such committees as directed by the board and shall affix his/her signature in the name of the board.
3. **A vice-chairman** shall be elected annually by a majority vote of the board in the month of April. The vice-chairman shall preside in the absence of the chairman and shall have the full powers of the chairman on matters which come before the board during the absence of the chairman.
4. **A clerk** shall be elected to a one year term by a majority vote of the board in the month of April. 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 shall receive such compensation as the board may recommend, with the approval of the Board of Selectmen.
5. All officers shall serve for one year and shall be eligible for re-election.

Members and Alternate Members

1. The board shall consist of **five (5)** regular members, as required by RSA 673:3 as it may be amended from time to time.
2. Not more than **five** alternate members may be appointed, as provided for by the local legislative body, 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 his/her responsibilities. Refer to RSA 673:6 as it may be amended from time to time.
3. Members must reside in the community 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. Members and alternate Members, including the chairman and all other officers, shall participate in the decision making process and vote to approve or disapprove all motions under consideration. Refer to RSA 673:6 as it may be amended from time to time.

Meetings

1. **Regular meetings** shall be held at the Mann House, at 7:30 p.m. on the third Monday of each month. Other meetings may be held on call of the chairman provided public notice and notice to each member is given at least 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 place of regular members.
RSA 674:33, III as it may be amended from time to time 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. If any regular board member is absent from any meeting or hearing, or disqualifies himself from sitting on a particular case, the chairman 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 shall be selected for service on a rotating basis, so far as possible.

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

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

1. Call to order by the chairman
2. Roll call by the clerk
3. Minutes of previous meeting
4. Unfinished business
5. Public hearing
6. New business
7. Communications and miscellaneous
8. Other business
9. Adjournment

The board may hold the hearings immediately after the roll call in order to accommodate the public, if circumstances so warrant.

Time for Appeal

1. Appeals from an administrative decision taken under **RSA 676:5** as it may be amended from time to time shall be filed within 30 days of the decision.

Application/Decision

1. Applications.

1. 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 (or the regularly employed secretary of the board of selectmen, who shall forward application to the clerk) who shall record the date of receipt over his or her signature.
2. The applicant shall submit with the application a complete list of abutters as defined below. The applicant's address shall be included on the abutters list. The applicant shall include the name and address of the applicant's surveyor, engineer, and/or attorney on the abutters list if they want those persons to receive notice of hearing.
3. The applicant shall provide a properly addressed certified mailing envelope for each address on the abutters list, as specified in Section 2 (B), below, at the time the application is filed.
4. At each meeting, the clerk shall present to the board all applications received by him or her before the date of the meeting.
5. No application shall be presented to the board unless and until the clerk is satisfied that the application form is complete, the application fee has been paid in full and certified mailing envelopes have been provided by the applicant as required by these rules.
6. All fee schedules, forms and revisions prescribed shall be adopted by resolution of the board and shall become part of these rules of procedure.

2. Public Notice.

1. Public notice of public hearings on each application shall be published in the Monadnock Ledger and shall be posted at the Mann House and

- Town Hall not fewer than five days (5) before the date fixed for the hearing per RSA 676:7 as amended from time to time. In any case where a longer notice period is required by statute (such as appeals taken under RSA 674:13 as it may be amended from time to time), the statutory period shall control. See RSA 674:15 as it may be amended from time to time. In all cases, 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.
2. Personal notice shall be made by certified mail, return receipt requested, to the applicant and all abutters not less than 5 days before the date of the hearing. In any case where a longer notice period is required by statute (such as appeals taken under RSA 674:13 as it may be amended from time to time), the statutory period shall control. See RSA 674:15 as it may be amended from time to time. Said notice shall contain the same information as the public notice and shall be made on forms provided for this purpose.
 3. Notice shall also be given to the planning board, town clerk and other parties deemed by the board to have special interest. Notice shall be given to the Conservation Commission of each application requesting a waiver, special exception or variance from any area or use restriction involving wetlands or setback from wetlands. Said notice shall contain the same information as the public notice and shall be made on forms provided for this purpose; however, the clerk may in his or her discretion hand deliver notice under this subsection.
 4. For each person required to receive personal notice (the applicant, abutters as defined below, and any others included on the abutters list submitted with the application) the applicant shall provide the Clerk of the board with an addressed number 10 envelope, with a completed certified mail return receipt (addressed to Mason Board of Adjustment, 16 Darling Hill Road, Mason, New Hampshire, 03048) attached, to be used for personal notice.
 5. "Abutter" shall mean abutter as defined in RSA 672:3 as it may be amended from time to time.
 6. It shall be the responsibility of the clerk of the Zoning Board of Adjustment to effect notification pursuant to these rules; however, it

shall be the sole responsibility of the applicant to provide a complete and accurate abutters list. The Zoning Board of Adjustment is not responsible for verifying or correcting abutter's lists, and shall not be responsible for errors and omissions in the abutters list submitted by the applicant.

3. **Public Hearing.** The conduct of public hearings shall be governed by the following rules:
 1. The chairman shall call the hearing in session and ask for the clerk's report on the first case.
 2. The clerk shall read the application and report on how public notice and personal notice were given.
 3. Members of the board may ask questions at any point during testimony.
 4. 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 a party to the case.
 5. Any member of the board, through the chairman, may request any party to the case to speak a second time.
 6. Any party to the case who wants to ask a question of another party to the case must do so through the chairman.
 7. The applicant shall be called to present the appeal.
 8. Those appearing in favor of the appeal shall be allowed to speak.
 9. Those in opposition to the appeal shall be allowed to speak.
 10. The applicant and those in favor shall be allowed to speak in rebuttal.
 11. Those in opposition to the appeal shall be allowed to speak in rebuttal.
 12. Any person who wants the board to compel the attendance of a witness shall present his request in writing to the chairman not later than 3 days prior to the public hearing.
 13. 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.
 14. The chairman shall present a summary setting forth the facts of the case and the claims made for each side.
 15. The hearing on the appeal shall be declared closed and the next case called up.

4. **Decisions.** The board shall decide all cases within 45 days of the close of the public hearing and shall approve, approve with conditions, or deny the appeal. Notice of the decision will be made available for public inspection within 5 business days, as required by **RSA 676:3** as it may be amended from time to time, and will be sent to the applicant by certified mail. If the appeal is denied, the notice shall include the reasons therefore. The notice shall be filed with the Town Clerk, and may also be given to the planning board, the board of selectmen, property tax assessor and other town officials as determined by the board.

No Advisory Options

No opinion or consensus of the board or its individual members shall be binding on the board or any other town official, board, person or entity unless it is a decision made pursuant to a properly filed [application](#), after proper notice and public hearing as specified above, and subject to timely rehearing/appeal of such decision.

Rehearing

Rehearing of decisions of the board shall be governed by the applicable sections of New Hampshire Revised Statutes Annotated (RSA) Chapter 677 as it may be amended from time to time.

Records

1. The records of the board shall be kept by the clerk and made available for public inspection at the Mann House in accordance with **RSA 673:17** as it may be amended from time to time.
2. Final written decisions will be placed on file and available for public inspection in the Town Clerk's office within 5 business days after the decision is made. **RSA 676:3** as it may be amended from time to time.

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 5 business days of the public meeting. **RSA 91-A:2 II** as it may be amended from time to time.

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.

Waivers

Any portion of these rules of procedure may be waived in such cases where, in the opinion of the board, strict conformity would pose a practical difficulty to the applicant and waiver would not be contrary to the spirit and intent of the rules.

Joint Meetings and Hearings

1. **RSA 676:2** as it may be amended from time to time 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 building code board of appeals, and the inspector of buildings, 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 under the following conditions:
 1. The joint public hearing must be a formal public hearing on appeals to both boards regarding the same subject matter; and
 2. If the other board is the planning board, **RSA 676:2** as it may be

- amended from time to time requires that the planning board chairman shall chair the joint hearing. If the other board is not the planning board, then the board of adjustment chairman shall chair the joint hearing; and
3. 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
 4. The other board shall concur in these conditions.

Schedule A: Application Fee

The Application Fee is \$100.00 plus the current certified mail, return receipt requested, postage for each address on the Abutter's List.