

Board of Adjustment

Town of Hollis, New Hampshire

Rules of Procedure

Adopted May 2007
Revised August 2011
Adopted September 2011
Amended January 2014

I. AUTHORITY

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 Hollis, New Hampshire.

II. MEMBERSHIP / ORGANIZATION

- A. The ZBA shall be guided by the following rules unless they are inconsistent with state law.
- B. The zoning board of adjustment shall consist of five **regular members**. The members of the board shall be appointed by the board of selectmen. The term of each member shall be three (3) years, staggered so that no more than two (2) appointments occur annually, except when required to fill vacancies.
- C. Up to five **alternate members** shall be appointed by the board of selectman to serve whenever a regular member of the board is unable to attend a meeting. The term of each alternate member shall be three (3) years, staggered so that no more than two (2) appointments occur annually, except when required to fill vacancies.
- D. A **chairman** shall be elected annually by a majority vote of both the regular and the alternate members of the board, at the first meeting following town meeting. The chairman shall preside over all meetings and hearings, appoint such committees as directed by the board, and shall affix his or her signature in the name of the board.
- E. A **vice-chairman** shall be elected annually by a majority vote of regular and alternate members of the board, at the first meeting following town meeting. 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.
- F. All **officers** shall be regular members, serve for one (1) year, and be eligible for re-election.
- G. A **clerk** shall be provided by the board of selectmen. The clerk shall maintain a record of all meetings, transactions, and findings of the board, and perform such other duties as the board may direct by resolution.

III. MEETINGS

- A. **Meetings.** Regular meetings shall be held at Hollis Town Hall, at 07:00 P.M. on the fourth Thursday of each month with an additional meeting on the fourth (4) Thursday of each month, as required. Other meetings may be held on call of the chairman provided public notice and notice to each member is given at least forty-eight (48) hours prior to such meetings, excluding Sundays and legal holidays.
- B. **Quorum.** Unless other wise provided by applicable state law, a quorum for regular business shall consist of three (3) members, including alternate members sitting in place of regular members. If fewer than five (5) regular or alternate members are present, the applicant will be given the option of proceeding with the case or deferring it to another scheduled meeting of the board. If any regular board member is absent from any meeting or hearing, or disqualifies himself or herself 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.
- C. **Voting.** Any voting member can move that the board proceed to the vote. A majority of those appointed to vote on a case is needed to close deliberations on that case. Three voting members must vote affirmatively to grant any appeal or application. In order to vote affirmatively on any application, the voting member **MUST** vote in the **AFFIRMATIVE** on all questions or criteria required to grant the application.
- D. **Chairman.** The chairman shall preside over all meetings. In the absence or at the request of the chairman, the vice-chairman shall preside. If neither officer can be present for a scheduled meeting or serve on a specific case, a temporary chairman shall be selected by a majority of the members and alternates present, prior to and for that meeting or case.
- E. **Disqualification.** If any member finds it necessary to disqualify himself or herself from sitting on a particular case, as provided in RSA 673:14, that member shall notify the chairman as soon as possible so that an alternate may be requested to sit in that member's 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, or a member of the public, may request the board to vote on the question of disqualification. Any such request shall be made before the hearing gets under way. The vote shall be advisory and non-binding. The member who determines that they will disqualify themselves, shall absent himself or herself from the board table during the public hearing and during the deliberation on the case.
- F. **Order of Business.** The general order of business for regular meetings shall be as follows:
1. Call to order
 2. Roll call of the board
 3. Designation of voting members
 4. Explanation of procedures
 5. Public hearing portion of each case
 6. Deliberation and voting of each case
 7. Other business
 8. Review of minutes and approval vote

9. Adjournment

G. **Public Hearing.** Conduct of public hearing shall be governed by the following rules:

1. The chairman shall open the hearing portion of the meeting.
2. The chairman shall call the application.
3. If the applicant or the applicant's representative does not appear then the board will delay hearing the case to a later date and time, unless the applicant requested that the board proceed without the applicant's presence.
4. The applicant shall be called to present the case, and those appearing in favor shall be allowed to speak.
5. Those in opposition shall be allowed to speak.
6. The applicant and those in favor shall be allowed to speak in rebuttal.
7. Those in opposition shall be allowed to speak in rebuttal.
8. The chairman shall introduce into the record any additional evidence.
9. The chairman shall close the hearing portion of each application, and no additional evidence or testimony shall be taken.

H. **General Rules**

1. Regular members and alternates of the board may ask questions at any point during testimony.
2. All persons who appear shall be required to state their names and addresses, and indicate whether they are a party to the case or an agent or counsel of a party to the case.
3. Any party to the case who desires to ask a question of another party to the case must do so through the chairman.
4. Any person who desires the board to compel the attendance of a witness shall present a request in writing to the chairman or a designee not later than ten (10) days prior to the hearing, as provided in RSA 673:15.
5. The chairman shall have the power to limit testimony that is redundant or does not address the questions required for developing the board's decision on an application.
6. Alternates not named as voting members are allowed to participate fully in the hearing and the deliberation of a case, but they are not allowed to make or vote on any motions that pertain to an application.

I. **Meeting Cancellations**

1. If all applicants with cases scheduled to be heard by the ZBA shall notify the ZBA secretary, in writing (no email), at least 24 hours prior to the scheduled meeting that they wish to postpone their scheduled hearing, or, in the event of an emergency that the chair believes may require postponement, the chair may, up to 2 hours prior to the scheduled meeting, postpone and reschedule the meeting to another reasonable date, place and time certain.
2. The chair shall employ reasonable means, including the posting of an appropriate notice at the usual entrance to the scheduled meeting place, to inform scheduled participants and the general public of the postponement and the date, place and time of the rescheduled meeting.
3. The date originally scheduled shall continue to be deemed the official meeting date for purposes of satisfying statutory meeting date requirements.
4. Such postponement action shall not invalidate official notices and shall not require new notice to abutters.

IV. APPLICATIONS AND APPEALS

- A. Each application for appeal shall be made on forms provided by the clerk and shall include all information requested in the instructions. Prior to preparation of notices, the chairman, or a designee, will review all applications received for completeness. Incomplete applications shall be returned to the applicant. The chairman, or a designee, will establish a hearing schedule for properly completed applications and appeals. The chairman or designee shall decide if the appeal is in proper order and if the board has jurisdiction.
- B. Any appeal by the applicant from an administrative decision shall be filed within thirty (30) days of the date of adverse decision or requirement.
- C. Notification of the decision shall be made on a form provided by the board and shall be sent to the applicant, the planning board, the board of selectman, and filed in the records of the board.
- D. Motions for rehearing of any decision of the zoning board of adjustment shall conform to state law. Such applications for rehearing shall be accompanied by the currently appropriate fee, payable to the Town of Hollis, and refundable in the event that the rehearing is not held. To the extent that member attendance permits, motions for rehearing shall be heard by the same members who heard the original application. Following a favorable vote on motion for a rehearing, the chairman, or a designee, can assign any members to rehear that application. Motions for rehearing shall be considered by the board on the written application without receiving testimony from the public nor the applicant and/or his/her agent(s) or representative(s). A board member may ask the applicant a question if needed but any reply will be strictly germane to the question.
- E. Appeals of Historic District Commission (HDC) decisions shall be governed in the following manner:
 1. Section IV, sub-sections B, and C of this document shall apply.
 2. All findings on all questions of fact of the HDC are deemed to be prima facie lawful and reasonable.

3. All pertinent HDC minutes, correspondence, notices, documents, and or plans shall accompany the application in order that the board of adjustment can reasonably review the record being appealed.
4. The board of adjustment shall hold a preliminary hearing the purpose of which shall be to determine if further hearing is necessary and if so the scope and nature of the hearing.
5. All parties will be notified as required by the determination of the preliminary hearing.

V. FORMS

- A. All forms and revisions thereof shall be adopted by resolution and shall become a part of these Rules of Procedure.
- B. A document titled Zoning Board of Adjustment Meeting Procedures (as appended to this document), as well as an instruction sheet, shall be provided to all applicants at the time an application is received.

VI. NOTICE OF HEARING

Notice shall be given in the manner prescribed by law.

VII. AMENDMENT

These Rules of Procedure may be amended by a majority vote of the all members provided that such amendment is read at two successive regular meetings of the Hollis Zoning Board of Adjustment

Hollis Zoning Board of Adjustment - Meeting Procedures

The meeting is called to order and all the board members introduce themselves.

Chairman selects the board members that will be voting for each case.

Chairman announces:

- All evidence or testimony presented is considered to be under oath
- Asks that everyone please mute all cell phones and or pagers

General overview of how the meeting will proceed.

- Hearing Portion of Case
 - Each case is normally heard in sequence posted. All persons who speak are asked to state names and addresses.
 - Please Take Note - ALL questions or comments should be addressed to the board, and not to other meeting participants.**
 - Applicant or their representative presents information
 - Or the written application is used at this time
 - Members of board question the applicant or their representative

- Persons in favor of the case are allowed to speak to the board
 - Persons in opposition are allowed to speak to the board
 - There may be some rebuttal, by the applicant or their representative, or by the prior speakers
- A brief (optional) recess may be taken
- Deliberation Portion
 - Each case is normally heard in sequence posted.
 - > Deliberation portion is a public meeting with **NO** public participation
 - > Interested parties not attending deliberation may contact the Town Hall for results
- Other considerations
 - Meetings normally end by 11:00 P.M.
 - Should the need arise; a continuation of the meeting may be scheduled. The meeting may be recessed or tabled to a date and time specified by the chairman or a designee, at this time.

NO OTHER NOTICE WILL BE GIVEN IF THE CASE IS SO CONTINUED