

**RULES OF PROCEDURE
ZONING BOARD OF ADJUSTMENT
HAMPTON, NEW HAMPSHIRE**

April 17, 2014

I. AUTHORITY

1. These Rules of Procedure are adopted by the Hampton Zoning Board of Adjustment under the authority of N.H. RSA 676:1 and the Zoning Ordinance of the Town of Hampton.

II. OFFICERS

1. A Chairperson shall be elected annually in the month of March by a majority vote of the Board members. Said Chairperson shall serve for one (1) year and shall be eligible for re-election. The Chairperson shall preside over meetings and hearings, appoint such committees as directed by the Board, and shall affix their signature in the name of the Board.
2. A Vice-Chairperson shall be elected annually in the month of March by a majority vote of the Board members. Said Vice-Chairperson shall serve for one (1) year and shall be eligible for re-election. The Vice-Chairperson shall preside in the absence of the Chairperson and shall have the full powers of the Chairperson on matters that come before the Board during the absence of the Chairperson.
3. A Clerk shall be elected annually in the month of March by a majority vote of the Board members. Said Clerk shall serve for one (1) year and shall be eligible for re-election. The Clerk shall ensure a record of all meetings, transactions, and findings of the Board are maintained by the Building Department, who acts as the Board's agent; and performs such other duties as the Board may direct by resolution.

III. ALTERNATES

1. By a majority vote of the Board members, Alternate members of the Board shall be appointed for terms of one (1), two (2), or three (3) years. The Clerk shall ensure a roster is maintained that identifies all Alternates and specifies a primary Alternate for each monthly meeting. Alternate Board members shall have all the powers and duties as a Board member *only* in regard to Petitions for Relief or Appeals under consideration which a Board member is unable to act on. Alternates members may not perform any other duties, such as, election of officers, amending or waiving these Rules of Procedure, etc.

IV. MEETINGS

1. Monthly meetings shall be held at Hampton Town Offices at 7:00 p.m. on the third Thursday of each month. The Chairperson may cancel a monthly meeting if there is no business to come before the Board. A large number of petitions may require some petitions to be heard on the fourth Thursday of the month. In extraordinary circumstances an applicant may request a specially scheduled hearing and such hearing may be granted at the discretion and convenience of a majority of the Board members. Other meetings may be held at the call of the Chairperson, provided notice is given to each member at least forty-eight (48) hours prior to the time of such meeting.
2. A quorum for regular business and for hearing and deciding a petition shall consist of three (3) Board members. If a Board member is absent or cannot act in a particular case, the Chairperson shall designate the primary monthly Alternate as a voting member. If more than one Alternate member is needed, the Chairperson shall then select the next individual from the Alternate's list. In the situation where a Board member cannot act in a particular case, the specified Alternate shall continue as the voting member for that same petition if the case is continued to a subsequent date.
3. Disqualification of a Board member or Alternate member shall be governed by the provisions of N.H. RSA 673:14. Requests for disqualification of Board members or Alternate members may be made via a request to the Board from a fellow member, the Petitioner, the Selectmen, the Building Inspector, or an opponent of a Petition, provided that any such request shall be made prior to or at the commencement of any required public hearing.
4. The Chairperson shall preside over all meetings. In the absence of the Chairperson, the Vice-Chairperson shall preside.
5. The order of activities of regular meetings shall be as follows:
 - a. Conduct of public hearing.
 - b. Conduct of business session.
6. The conduct of the public hearing shall be governed by the following rules:
 - a. Only petitions that are noticed for hearing or continued from an earlier date will be discussed.
 - b. The Chairperson shall call the meeting to order and introduce the Board members and alternate (if any) members in attendance.

- c. The Chairperson shall succinctly explain the hearing process to the public (from paragraphs 6d thru 6o below) and then ask the Clerk to call the first case.
- d. The Clerk shall call the petition and read the petition as publicly posted in the Town Hall and published in the newspaper.
- e. The Petitioner shall state their name and address and indicate whether they are a party to the case, or an agent or counsel of a party to the case; and then present the petition to include an overview of the proposal, discussion of the articles of relief being sought, and presentation of criteria facts that support each requested variance.
- f. After the Board has been afforded the opportunity to question the petitioner, the Chairperson shall close the petitioner presentation portion of the hearing.
- g. The Chairperson shall then open the hearing to public comments.
- h. Each person who appears during the public portion of the hearing (whether in support of or in objection to the petition) shall state their name and address, confine their comments to the articles of relief being sought, and if they desire to ask a question of the petitioner must do so through the Chairperson.
- i. Subsequent to the closing of the public portion of the hearing, the public shall not be allowed to speak without the Board's permission and then only to clarify or ask for an interpretation of a statement made by the petitioner.
- j. Once the Chairperson closes the public comments portion of the hearing, the petitioner shall be allowed to speak in reaction to the input from the public.
- k. After the petitioners comments, the Chairperson shall then convene the Board discussion which is conducted without petitioner or public input, unless requested by the Board.
- l. Members of the Board may ask questions at any point during the hearing, and may request a proponent or opponent of the petition to reappear.
- m. Upon completion of the Board discussion, the Chairperson shall call for a motion (and second) and, when applicable, then poll the members regarding whether the petitioner has or has not satisfied the criteria governing the relief being sought.
- n. The Chairperson shall, subsequent to the above polling, call for a vote. A minimum of three (3) positive votes is required for approval of any motion; otherwise, the motion fails. In the case of a motion to approve a petition as

presented, at least (3) positive votes are required for approval; otherwise, in the absence of such a vote, the petition will be deemed denied.

- o. After said vote, the hearing on the petition shall be declared closed and final, the results shall be indicated on the “ZBA Petition for Relief” form that is signed by the Chairperson and Clerk, and the next case in order on the Agenda shall be called by the Clerk for presentation.
 - p. A petition deemed incomplete can be continued to a later date by a majority vote of the Board.
 - q. The Board’s usual practice is to proceed to a conclusion in the hearing of any petition that has been read by the Clerk or is in the process of being heard by 10:00 p.m. The Board reserves the right to designate a “last petition” after 9:30 p.m. By direction of the Board of Selectmen, the broadcast of meetings by Channel 22 will terminate at 11:00 p.m.
7. The conduct of the business session shall be governed by the following rules:
- a. The Chairperson shall review the previous meeting Minutes, discuss corrections, and call for a vote of approval on the Minutes (as amended, if applicable).
 - b. The Chairperson shall review each Motion for Rehearing, discuss the original disposition by the Board, and call for a vote of approval/disapproval on each Motion for Rehearing request.
 - c. The Chairperson shall then review, discuss, and act upon all correspondence and/or items raised by the Board members or Building Inspector.

V. PETITIONS

- 1. A petitioner shall present to the Building Department, who acts as the Board’s agent, a complete petition along with all filing and abutter notification fees, by the deadline date set forth on a list adopted by the Board and posted in the Building Department, in order to be scheduled for a hearing.
- 2. Each petition shall be documented on the Board’s “Petition for Relief” forms (revised May 2012) and shall include all associated supporting material specified in the “Instructions to Petitioners Seeking Relief from the Zoning Board of Adjustment” pamphlet (dated October 2013). Any petition not filed within the time frame set forth below or completed in accordance with the pamphlet and the Petition for Relief form shall not be considered timely or heard or acted upon by the Board.

3. An option holder on a property in question may seek relief provided that the owner of said property authorizes the option holder in writing to file for such relief; the original signed authorization shall be filed with the Board along with the Petition for Relief.
4. At least five (5) days prior to a monthly meeting, the Building Department shall provide each Board member with a copy of all petitions, appeals, and motions for rehearing scheduled to be heard.
5. The Board shall decide all cases within thirty (30) days of the public hearing. Notification of the decision shall be made on the "ZBA Petition for Relief" form, comply with the requirement of N.H. RSA 676:3, and be sent to the applicant and filed in the records of the Board. Board decisions shall be given as a body and as a whole.

VI. APPEALS / REHEARINGS

1. An Appeal to the Board from any administrative decision or requirement shall be taken within thirty (30) calendar days after the date of such decision or requirement and shall be filed in writing on the application form approved by the Board. All appeals will be heard by the Board during the public hearing session in the same general manner prescribed in paragraph IV.6. In addition, the administrative decision-maker will be afforded the opportunity to speak in defense of the decision.
2. A Motion for Rehearing to the Board from any decision of the Board shall: be taken within thirty (30) calendar days after the date which the Board voted to approve or disapprove a petition; be filed in writing stating, in detail, all grounds for the rehearing; and be in compliance with the requirements of RSA 677:2&3. All rehearings will be decided by the Board during the business session without public input, unless requested by the Board.
3. For a written Administrative Appeal or Motion for Rehearing which is received within the specified time frame but after the monthly ZBA agenda is noticed; the Board may acknowledge receipt of the appeal / motion and schedule it for a decision at the next monthly meeting so as to enable Board members an adequate time period to review the appeal / motion. If the resulting delay in ruling upon a Motion for Rehearing means that the motion is neither granted nor denied within 30 days of its filing, then the Board shall suspend the order or decision complained of pending further consideration in accordance with RSA 677:3.

VII. TIME LIMIT

1. A two (2) year time limit shall be given on all variances. In accordance with Section 1.4.4 of the Hampton Zoning Ordinance, if substantial (i.e., 20%)

construction / alteration / renovation progress is not shown or a use change not granted within said time frame, the variance shall be null and void unless the owner applies for a one (1) year extension in the manner and timeframe specified in said Section.

2. In the case of a variance used in conjunction with a subdivision or site plan approval, that variance shall expire on the expiration of the subdivision or site plan approval.

VIII. FORMS

1. All forms and revisions thereof shall be adopted by resolution and shall become a part of these Rules.

IX. PUBLIC & PERSONAL NOTICE

1. Public notice of public hearings on each petition shall be given in a newspaper of general circulation in the area and shall be posted at the Town Hall at least five (5) days prior to said hearing. Such notice shall include the name of the petitioner; street location of the property; all articles of the zoning ordinance for which relief is sought; description of the action desired by the petitioner; the property's location including the applicable tax map, lot, and zone as indicated in the records of the Hampton tax assessor; and the time and place of the hearing.
2. Personal notice shall be made by certified mail, to the petitioner and to every abutter to, and holder of conservation, preservation, or agricultural preservation restrictions on, the property in question as required by N.H. RSA 676:7 and 672:3 not less than five (5) days before the date of the hearing. Notice shall also be given to the Planning Board, the 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.

X. JOINT MEETINGS AND HEARINGS

1. The foregoing Rules shall apply to the Board's participation in joint meetings with other Town Boards, except as modified by the provisions of N.H. RSA 676:2.

XI. FEES

1. The filing fee to accompany the filing of any Petition to the Board shall be in the amount of \$125.00.
2. The notification fee shall be in the amount of \$8.00 for each mailing required to be made pursuant to N.H. RSA 676:7 and 672:3.

XII. WAIVER

1. By majority vote of the Board and where permitted by law, application of the above rules may be waived for a particular petition.

XIII. AMENDMENT AND RE-ADOPTION

1. These Rules may be amended at any time by a majority vote of the Board members and are subject to re-adoption annually following the election at Town Meeting of new or returning members to the Board.