

Town of Exeter, N.H.
Zoning Board of Adjustment
Rules of Procedure
(adopted May 17, 2016)

- 1) **Authority:** These procedures are adopted under the authority of the latest edition of the New Hampshire Planning and Land Use Regulation, in accordance with RSA 676:1 and the Zoning Ordinance and map of the Town of Exeter.

- 2) **Members:**
 - i) Membership:
 - (a) The Board shall consist of five regular members appointed by the Select Board
 - (b) In addition, there will be five alternate members appointed by the Select Board
 - (c) Whenever a regular member is absent or is disqualified, the chairman will designate an alternate present to act as a regular member.
 - (d) All attending members (voting and non-voting) can participate fully in the Public Hearings. Only voting members are allowed to deliberate, make a motion and vote on any motion.
 - (e) The Exeter Board of Selectmen's procedures define terms of service, filling of vacancies and removal of members.
 - ii) Disqualification of a Member:
 - (a) In all Board activities members will act in an ethical manner. A member must remove him/herself if he or she cannot be objective about a matter before the Board.
 - (b) Hearings:
 1. In according with RSA 673:14, no member will participate in deciding or will sit upon the hearing of any question which the Board is to decide in a judicial capacity if either 1) that member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizens or 2) that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law
 2. Knowledge of the facts of the case and of the regulations and ordinances related to the case gained in the performance of the member's official duties are not reasons for disqualification.
 3. Whenever uncertainty arises as to a member's status, the Board will, upon the request of the member or another member of the Board, vote on the question of disqualification. Such action will be made at the commencement of any required public hearing involving that case. Such vote will be advisory and non-binding.
 4. If a member is disqualified, the chairman will designate an alternate member to act as a regular member.
Only members of the Board may request the Board's decision on disqualification.

3) **Officers:**

- i) Only regular members of the Board are eligible to be an officer.
- ii) Elections will be held annually in the month of May by a majority vote of the regular members of the Board. Elections will fill the positions of Chairman, Vice-Chairman and Clerk.
- iii) All officers will serve for one year; however, each is eligible for re-election for one more consecutive year.
- iv) Chairman:
 - (a) The chairman is responsible for the effectiveness of the Zoning Board of Adjustment and for ensuring that it carries out its duties in accordance with the New Hampshire Planning and Land Use Regulations.
 - (b) He or she will preside over meetings and hearings, appoint such committees as directed by the Board.
 - (c) He or she shall affix his or her signature in the name of the Board.
- v) Vice-Chairman will preside in the absence of the chairman.
- vi) Clerk will preside in the absence of the chairman and Vice-Chairman. The Clerk is responsible for recording of meeting minutes in the absence of the Planning Department Clerical Supervisor or Office Clerk.

4) **Meetings:**

- i) **Schedule:** Zoning Board of Adjustment meetings are scheduled for the third Tuesday of each month at 7:00 p.m. in the Nowak Room of the Town Office building. The chairman may cancel a meeting if circumstances warrant. Extremely bad weather and lack of business are such circumstances. Other meetings may be held on call of the Chairman provided appropriate public notice is given as stated in Section 9 of these Rules of Procedure.
- ii) **Quorum:** A quorum for regular business shall consist of three members including alternate members sitting in place of regular members. A quorum for deciding an application shall consist of not less than three members provided that three concurring votes shall dispose of an application. If fewer than five 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.
- iii) **Voting:** Any voting member can move that the board proceed to the vote. All five voting members shall vote on each application or appeal. A minimum of three voting members must vote affirmatively on the motion to close deliberations on that application.
- iv) **Order of Business:**
 - (a) The chairman will open the meeting at the appointed time, having ascertained that a quorum is present, by calling the meeting to order. The Chairman will identify voting members and alternate members.
 - (b) The chairman will then announce the sequence of the Board's business. At this point Board members may disqualify themselves and any request for disqualification will be acted on.
 - (c) Tabled business
 - (d) Public Hearings of each application
 - (e) Deliberation and voting of each application

- (f) Meeting Minutes review and approval
- (g) Communications
- (h) Other Business
- (i) Adjournment.

5) Public Hearing, Deliberation and Disposition:

Protocol for the meeting (the order in which the cases are heard and whether the deliberation and disposing of the case will immediately follow each case, or all deliberations and disposing will be done after hearing all cases) will be announced by the Chairman at the beginning of the meeting. At the discretion of the board, the board may elect to not open or hear any new application(s) after 10:00 P.M.

Conduct of the public hearing shall be governed by the following rules:

- i) The Chairman will announce the case number and the name of the case to be considered. He or she will read the application description as presented on the agenda and verify that the required postings and notifications were appropriately completed.
- ii) Applicant's Presentation: The applicant will address the board. Members, through the chairman, may ask questions and express their concerns during the applicants' presentation.
- iii) Public's Presentation and Discussion: The chairman will open the hearing to the public. Members of the public must come to the microphone to address the Board. They will state their name and address and whether they are a party to the case, an agent of a party, counsel of a party or a person of interest in the application.
- iv) Those members of the public who wish to speak in favor of the application will be heard. At this time the chairman will read for the record any written correspondence from the public in favor of the application.
- v) Those members of the public who wish to speak in opposition to the application will be heard. At this time the chairman will read for the record any written correspondence from the public in opposition to the application.
- vi) The applicant shall be allowed to speak in rebuttal.
- vii) The reading of any correspondence may be waived by the Board provided a copy of the correspondence is given each member and the applicant, and time is given for them to comprehend the information.
- viii) The Public hearing on the application shall be declared closed.
- ix) The Board then discusses and disposes of the case. The chairman will guide the Board to act on the case. A member, through the chairman, may request anyone present to address a specific issue and if appropriate, the chairman may reopen the public hearing.

6) General Rules:

- i) Members of the board may ask questions at any point during the hearing.
- ii) Any board member, through the chairman, may request any party to the case, the applicant or from the public, to re-appear.
- iii) Any party to an application who desires to ask a question of another party to the case must do so through the Chairman.
- iv) Any person who desires the board to compel the attendance of a witness shall present

the request in writing to the chairman not later than three days prior to the public hearing.

- v) In accordance with RSA 91-A, the right-to-know-law, decisions of the board will be rendered immediately following deliberations, and a transcript of the minutes made available to the public within 144 hours of the decision on said hearing.
- vi) Any tape relative of a public hearing shall be kept intact for a period of 90 days after said hearing.

7) Applications and Appeals:

- i) Applications shall be filed with the Planning and Building Department of the Town of Exeter and contain all information required. 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 designee, will establish a hearing schedule for completed applications and appeals. The chairman, or designee, shall decide if the appeal or application is in proper order and if the board has jurisdiction.
- ii) Any appeal of an administrative decision shall be filed within 30 (thirty) days of the decision or requirement in question.
- iii) Applications for rehearing of any decision of the Zoning Board of Adjustment shall conform to state law.

8) Notice of Public Hearings:

- i) Public notice of public hearings on each application shall be posted in two public places and advertised in a newspaper of general circulation in the Town of Exeter at least five days prior to said hearing. Such notice shall include the name of the applicant, description of the property, action desired by the applicant, provision of the Zoning Ordinance concerned, the type of appeal being made and the time and place of the hearing.
- ii) Personal notice shall be made by certified mail to all abutters and any others determined to be materially affected.

9) Documentation:

- i) All forms for applications and appeals, and revisions thereof shall be adopted by resolution and shall become part of these procedures.
- ii) All documentation and correspondence to the Zoning Board will be directed to the Chairman of the Zoning Board, Exeter Town Offices, 10 Front Street, Exeter, New Hampshire 03833.
- iii) Board actions and documents will be signed as appropriate by the chairman or, in his or her, absence the vice-chairman or the clerk.

10) Amendments of these procedures:

- i) These procedures may be amended at any regular meeting of the Board by a majority vote, provided that the amendment was submitted in writing at a previous regular meeting and reviewed at the previous meeting.

11) Site Walks.

- i) A site walk is an opportunity for the Board to get a better understanding of the nature

- of a case under consideration. Because it is an educational meeting and does not require a quorum, normal Board business will not be conducted.
- ii) Proposed by any member of the Board or the parties to a case, a site walk must be approved by the Board.
 - iii) As a public meeting, its time and start point are announced at a regularly scheduled meeting so that the public can attend.

12) Training:

- i) Training is primarily an on-the-job duty. The members are expected to study the regulations and come to meetings prepared with an understanding of the material provided by the Planning Department and the appropriate regulations.
- ii) Members appointed to Board subcommittees and to other organizations are expected to learn their duties and seek assistance as necessary.
- iii) Periodically, the Office of State Planning offers specific training opportunities. The Planning Department coordinates this training.
- iv) Web sites available for information:

NH Revised Statutes OnLine:

<http://www.gencourt.state.nh.us/rsa/html/indexes/default.html>

Local Government Center:

<http://www.nhmunicipal.org>

NH State Office of Energy and Planning:

<http://www.nh.gov/oep/index.htm>