

**TOWN OF NEWFIELDS, NH**  
**RULES OF PROCEDURE FOR LOCAL BOARDS OF ADJUSTMENT**

**Section 1: Authority**

These rules of procedure are adopted for the Newfields Zoning Board of Adjustment (the “Board”) under the authority of New Hampshire Revised Statutes Annotated, Chapter 676:1, and the Zoning Ordinance and Zoning Map of the Town of Newfields.

**Section 2: Officers**

**(a) Chairperson**

A Chairperson shall be elected annually by a majority vote of the board in the month of December. The Chairperson shall preside over all meetings and hearings and shall affix his/her signature in the name of the Board.

**(b) Vice-Chairperson**

A Vice-Chairperson shall be elected annually by a majority vote of the board in the month of December. The Vice-Chairperson shall preside in the absence of the Chairperson and shall have the full powers of the Chairperson on matters which come before the board during the absence of the Chairperson.

**(c) Term of Officers**

All officers shall serve for one (3) year term and shall be eligible for re-election.

**Section 3: Members**

The Board shall consist of five (5) Members that shall be appointed by the Board of Selectmen.

The 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 Chairperson as soon as possible. Members, including the Chairperson and all Officers, shall participate in the decision-making process and vote to approve or disapprove all motions under consideration.

**Section 4: Alternates**

Up to three (3) Alternate Members shall be appointed by the Newfields Board of Selectmen 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.

The Chairperson shall designate which Alternate Member shall fill the seat of an absent or recused Member or fill the unexpired term of a Member's vacancy.

At meetings of the ZBA, Alternate Members who are not activated to fill the seat of an absent or recused Member or who have not been appointed by the Chairperson to temporarily fill the unexpired term of a vacancy, 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 view documents, listen to testimony, ask questions and interact with other board Members, the applicant, abutters and the public. Alternate Members shall not be allowed to make or second motions, however.

During work sessions or portions of meetings that do not include a public hearing, Alternate Members may fully participate, exclusive of any motions or votes that may be made. At all times, the Chairperson shall fully inform the public of the status of any Alternative Members present and identify the Alternate Members who shall be voting on the application.

## **Section 5:     Application Process**

### **(a)     Applications**

All applications before the Board shall be made on forms provided by the Board and shall be submitted to the Town Clerk, or a designee chosen by the Town Clerk, prior to the published deadline, if any. Submissions which fail to meet the requirements shall not be considered until the next month's regularly scheduled meeting.

### **(b)     Substance of Applications**

All forms and the materials required for a completed Application, and any subsequent revisions thereto, shall be adopted by majority vote of the Board and shall become part of the Rules of Procedure.

### **(c)     Public Notice**

The Public Notice for an Application shall be given in the manner prescribed in RSA 676:7.

### **(d)     Application Fees**

The Applicant shall pay all required fees before an Application may be considered complete, including all postage costs for abutter notices and advertising fees for the publication of the legal notice. All application fees are set by the Board of Selectmen.

## **Section 6: Meetings**

Regular meetings shall be held at a time and date set by the Board at the Town Hall or such other place as may be determined by the Board Chairperson in compliance with state statute. Other meetings may be held on the call of the Chairperson provided public notice and notice to each Member is given in accordance with RSA 91-A:2, II.

### **(a) Quorum**

A quorum for all meetings of the Board shall be three (3) Members, including Alternate Members sitting in place of Members.

The Chairperson shall make every effort to ensure that all five (5) Members, and one (1) or two (2) Alternate Members, are present for the consideration of any appeal or application. If any Member is absent from any meeting or hearing, or disqualifies himself from sitting on a particular case, the Chairperson shall designate one of the Alternate Members to sit in place of the absent or disqualified Member, and such Alternate Member shall be in all respects a full Member of the Board while so sitting.

### **(b) Less than Full Board**

If there are less than five (5) Members (including Alternate Members) present for a Meeting, the Chairperson shall give the Applicant the option whether to proceed or not. Should the applicant choose to proceed with less than five (5) Members present, that shall not by itself constitute grounds for a rehearing should the application fail.

If the applicant opts to postpone due to less than a full Board present, the Board shall announce the time, date, and location of the continued hearing. If the board cannot determine the time, date, and location of the continued hearing, the board shall provide new notice to all parties pursuant to RSA 676:7.

### **(c) Disqualification**

If any Member finds it necessary to disqualify himself from sitting in a particular case, as provided in RSA 673:14, he shall notify the Chairperson as soon as possible so that an Alternate Member 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 jury standards set forth in RSA 500-A:12 relative to conflicts of interest shall apply to all Members voting on an application. The Member shall ask themselves if he/she:

1. Expects to gain or lose upon the disposition of the case;
3. Is related to either party;
4. Has advised or assisted either party;

5. Has directly or indirectly given his opinion or has formed an opinion;
6. Is employed by or employs any party in the case;
7. Is prejudiced to any degree regarding the case; or
8. Employs any of the counsel appearing in the case in any action then pending in the Court;

If it appears that any Member is not indifferent in the case, he /she shall disqualify himself/herself from the case.

The disqualified Member shall exit the meeting room during the public hearing and during all deliberation on the case.

Any Member that has a business or familial relationship with an Applicant shall disclose the same to the Board before that Applicant's application is heard by the Board.

#### **(d) Order of Business of Meetings**

The order of business for regular meetings of the Board shall be as follows:

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

By motion and majority vote of the Board, the Board may change the order of business for a particular meeting.

#### **(e) Public Hearing Procedure**

Public hearings shall follow the order set forth below:

1. The Chairperson shall call the hearing in session.
2. The Chairperson shall read the Application into the record.
3. The Applicant and/or their authorized representative shall present the Application and address each of the criteria for granting the relief requested. Time will be limited to 10 minutes. More time may be granted if necessary, at the discretion of the chair.

4. The Board shall ask any questions it has concerning the Application, which it may also do at any time during the Applicant's presentation.
5. Once the Applicant has completed their presentation, the Chairperson shall allow for Members of the public to speak "to", "for", or "against" the Application, with a time limit of 2 minutes.
6. Those who spoke to the Application, including the Applicant and their authorized representative(s) shall be given one (1) additional opportunity to speak.
7. The Chairperson shall close the public hearing.
8. A motion shall be made by a Member of the Board relative to the Application or any portion thereof (if taken in separate parts), which motion shall be seconded by a different Member of the Board before the motion may be considered.
9. The Member that made the motion shall address all of the criteria relevant to the motion followed by additional comment by the Member that seconded the motion.
10. The Board shall deliberate on the motion without accepting any further comment from the public or additional presentation of materials unless the public hearing is re-opened by motion of a Member of the Board, which motion shall be seconded by a separate Member of the Board.
11. The Board shall vote on the motion before it.
12. The Chairperson shall announce whether the motion has been approved or denied.
13. If there are any additional matters to be resolved concerning the Application, the Board shall follow the same motion, deliberation and voting procedure set forth herein.

**(f) Additional Procedures**

1. Each person who presents an Application shall state their name and address for the record and indicate whether they are the Applicant or an authorized representative for the Applicant.
2. Members of the public may not address questions directly to the Applicant. Any questions of the Applicant shall be made through the Chairperson.

3. All presentations, questions and comments made to the Board shall be relevant to the relief being requested and the criteria being applied.
4. The Chairperson may impose time limits on speakers and shall reserve the right to end testimony from any speaker if their testimony is off-topic or redundant.
5. The Board may attach reasonable conditions to its decision on an Application so long as they are part of a valid motion that has been presented, seconded and approved by the Board.
6. All representations made by the Applicant in their application and presentation to the Board shall be binding upon the Applicant and shall be incorporated into the decision of the Board.

#### **Section 7: Written Decision & Meeting Minutes**

The minutes of the meeting at which such vote is taken, including the written decision containing the reasons therefor and all conditions of approval, shall be placed on file in the Town Clerk's Office and shall be made available for public inspection within five (5) business days of such vote unless RSA 676:3 provides otherwise in which case the statute shall govern.

#### **Section 8: Voting**

Three (3) positive votes are required to approve any seconded motion being deliberated on by the Board. Should a motion result in a tie vote or not receive the three (3) votes necessary to approve it, the motion shall fail. The Board shall consider a new motion to affirmatively forth its decision.

#### **Section 9: Appeal of Administrative Decision**

An appeal of an administrative decision concerning any matter within the Board's powers as set forth in RSA 674:33 may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Absent good cause shown, the administrative appeal shall be filed within thirty (30) calendar days of the date that the administrative decision was rendered, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

#### **Section 10: Rehearing Procedure**

Any person directly affected by a decision of the Board may file a Motion for Rehearing with the Board within thirty (30) calendar days from the date that the decision was rendered specifying the specific grounds for the request. The Motion for Rehearing shall comply with the

requirements of RSA 677:2. A Motion for Rehearing that is filed outside of the thirty (30) day appeal period shall not be considered by the Board.

Upon the filing of a Motion for Rehearing, the Board shall within thirty (30) days either grant or deny the application, or suspend the order or decision complained of pending further consideration.

The meeting held to consider the Motion for Rehearing shall be a public meeting as opposed to a public hearing and no testimony shall be taken at the meeting from the Applicant or public absent good cause.

If the Board grants the rehearing request, a new public hearing shall be held by the Board provided the requesting party has paid all fees due to the Board, if any, and an updated abutter list has been provided to the Town Clerk.

The notification of any rehearing that is granted shall follow the procedures set forth in RSA 676:7. The minutes of the meeting at which such vote is taken, including the written decision containing the reasons therefor and all conditions of approval, shall be placed on file with the Town Clerk and shall be made available for public inspection within five (5) business days of such vote unless RSA 676:3 provides otherwise in which case the statute shall govern.

## **Section 11: Rules of Procedure**

### **(a) Amendment/Re-Adoption Procedures**

The Board's Rules of Procedure may be amended or re-adopted by majority vote of the Board Members at a regular meeting of the Board. The amended rules shall be placed on file with the Town Clerk and be made available for public inspection pursuant to RSA 676:1.

### **(b) Waiver of Rules**

Any Rule(s) of Procedure adopted hereunder may be waived in such cases where, in the opinion of the Board, strict conformity would pose a practical difficulty to the Applicant and a waiver would not be contrary to the spirit and intent thereof.

## **Section 7: Joint Meeting Procedure**

Pursuant to RSA 676:2, an Applicant seeking a local permit may petition the Board of Adjustment and any other land use board(s) to hold a joint meeting or hearing when the subject matter of the requested permit is within the responsibilities of those land use boards. Each board shall have the authority on its own initiative to request a joint meeting. The procedures followed by the land use boards at a joint meeting or hearing shall be consistent with the Rules of Procedure adopted by the individual boards. Each land use board involved shall render its own decision on the subject matter that is within its jurisdiction.