

**Zoning Board of Adjustment
GOSHEN NH
Rules of Procedure**

AUTHORITY

1. 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 Goshen.
2. Reference to the **Zoning Board of Adjustment** in this document shall be made hereafter as the **ZBA**.

OFFICERS

1. A chairperson shall be elected annually from among the ZBA members by a majority vote of the ZBA after Town elections. The chairperson shall preside over all meetings and hearings, appoint such committees as directed by the ZBA and shall affix their signature in the name of the ZBA.
2. A vice-chairperson shall be elected annually from among the ZBA members by a majority vote of the ZBA after Town elections. 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 ZBA during the absence of the chairperson.
3. A clerk shall be elected annually by a majority vote of the board after Town elections; or in the alternative, the clerk may be a paid employee and not be required to reside in town. The clerk shall maintain a record of all meetings, transactions and decisions of the ZBA, and perform such other duties as the ZBA may direct by resolution.
4. All officers elected by the ZBA shall serve for one year and shall be eligible for re-election.

MEMBERS AND ALTERNATES

1. Up to five alternate members shall be appointed, as provided for by the local legislative body, and should attend all meetings to familiarize themselves with the workings of the ZBA to stand ready to serve whenever a regular member of the ZBA is unable to fulfill their responsibilities. The ZBA may include a planning board member and one conservation commission member.
2. At meetings of the ZBA, alternates 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 from a vacancy may participate with the ZBA 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 ZBA members, the applicant, abutters and the public. Alternates shall not be allowed to make or second motions and shall not participate in any way during the deliberations of the ZBA. Upon the close of the public hearing, any alternate not acting in place of another member shall remove themselves from the table and sit with the members of the public. During work sessions or portions of meetings that do not include a public hearing, alternates may fully participate, exclusive of any motions or votes that may be made. At all times, the chair shall fully inform the public of the status of any alternate present and identify the members who shall be voting on the application.
[October, 2010]
3. Members and alternates must reside in the community and are expected to attend each meeting of the ZBA 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. Alternates will be appointed by the chairperson to sit in the absence of acting members and will be appointed in a rotating fashion.

MEETINGS

1. **Regular meetings.** Regular meetings shall be scheduled at the Goshen Town Hall at 7:00 p.m. on the second Wednesday of each month as needed and will be called or canceled by the chairperson. 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.
2. **Quorum.** A quorum for all meetings of the ZBA shall be three members, including alternates sitting in place of members.
 - a. The chairperson shall make every effort to ensure that all five members, and one or two alternates, are present for the consideration of any appeal or application.
 - b. If any regular board member is absent from any meeting or hearing, or disqualifies themselves 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 shall be in all respects a full member of the ZBA while so sitting.
 - c. If there are fewer than five members (including alternates) present, the chairperson shall give the option to proceed or not to the applicant. Should the applicant choose to proceed with less than five members present, that shall not solely constitute grounds for a rehearing should the application fail. [October, 2010]
3. **Disqualification.** If any member finds it necessary to disqualify themselves from sitting in a particular case, as provided in RSA 673:14, they shall notify the chairperson as soon as possible so that an alternate may be requested to sit in their place. Where there is uncertainty as to whether a member should be disqualified to act on a particular application, that member or another member of the ZBA may request the ZBA 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.
 - a. Either the chairperson or the member disqualifying themselves before the beginning of the public hearing on the case shall announce the

disqualification. The disqualified member shall absent themselves from the ZBA table during the public hearing and during all deliberation and vote on the case.

4. **Order of Business.** The order of business for regular meetings shall be as follows:
- a. Call to order by the chairperson.
 - b. Roll call by the clerk.
 - c. Minutes of previous meeting.
 - d. Unfinished business.
 - e. Public hearing.
 - f. New Business.
 - g. Communications and miscellaneous.
 - h. Other business.
 - i. Adjournment.

APPLICATION/DECISION

1. Applications

- a. Each application for a hearing before the ZBA shall be made on forms provided by the ZBA and shall notify the chairperson of the nature of said application.

Appeals from an administrative decision taken under RSA 676:5 shall be filed within 30 days of the decision or when such decision becomes known or reasonably could have been known by the petitioner as determined by the ZBA. [October, 2010]

- b. All forms and revisions prescribed shall be adopted by resolution of the ZBA and shall become part of these rules of procedure.

2. Public Notice

- a. Public notice of public hearings on each application shall be given in the local paper and shall be posted at the post office and the town hall not less than five (5) days before the date fixed for the hearing, excluding the date of the hearing and the date of posting. 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.

- b. Personal notice shall be made according to RSA 676:7 by certified mail to the applicant and all abutters not less than five (5) days before the date of hearing, excluding the date of the hearing and the date of posting. Notice may also be given to the planning board, town clerk and other parties deemed by the ZBA to have special interest. Said notice shall contain the same information as the public notice and shall be made on forms provided for this purpose.
- c. The applicant shall pay for all required notice costs in advance. No final decision shall be rendered by the ZBA until all final notice costs are paid.

3. Public Hearing. The conduct of the public hearings shall be governed by the following rules:

- a. The chairperson shall call the hearing in session and ask for a member's report on the first case.
- b. The chairperson shall designate a member to read the application and report on how public notice and personal notice were given.
- c. Members of the ZBA may ask questions at any point during testimony.
- d. Each person who appears shall be required to 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.
- e. Any member of the ZBA, through the chairperson, may request any party to the case to speak a second time.
- f. Any party to the case who wants to ask a question of any other party to the case must do so through the chairperson.
- g. The applicant shall be called to present their appeal.
- h. Those appearing in favor of the appeal shall be allowed to speak.
- i. Those in opposition to the appeal shall be allowed to speak.
- j. The applicant and those in favor shall be allowed to speak in rebuttal.
- k. Those in opposition to the appeal shall be allowed to speak in rebuttal.

- l. Any person who wants the ZBA to request the attendance of a witness shall present their request in writing to the chairperson not later than 3 (three) days prior to the public hearing.
 - m. The ZBA 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.
 - n. The chairperson shall present a summary setting forth the facts of the case and the claims made for each side. Opportunity shall be given for correction from the floor.
 - o. The hearing on the appeal shall be declared closed and the next case called up.
4. **Voting.** After the conclusion of the public comment, the chairperson may assign the task of drafting a motion to a ZBA member who shall bring a draft motion to the ZBA at the continuation of the deliberative portion of the meeting for the consideration of the ZBA. Should a motion result in a tie vote or not receive the necessary 3 (three) votes to decide in favor of the applicant, the opposite of the failed motion does not automatically prevail. The ZBA must put forth a new motion to affirmatively set forth a decision.
5. **Decisions.** The ZBA shall decide all cases within 30 (thirty) 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 with 5 (five) business days, as required by RSA 676:3, 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 posted in two public locations; the town hall and the post office.
6. **Reconsideration by the ZBA.** The ZBA may reconsider a decision to grant or deny an application or grant or deny a motion for rehearing provided such reconsideration is within the appeal period of the original decision as per 74 Cox Street LLC v. City of Nashua, September 21, 2007. Motions for Rehearing can only be received in the office of the ZBA during normal business hours.

RECORDS

1. The records of the ZBA shall be kept by the clerk and made available for public inspection at the town hall during regular office hours in accordance with RSA 673:17.
2. Final written decisions will be placed on file and available for public inspection within 5 (five) business days after the decision is made. RSA 676:3.
3. Draft minutes of all meetings including names of board members, persons appearing before the ZBA, and a brief description of the subject matter shall be open to public inspection within 5 (five) business days of the public meeting. RSA 91-A:2 II. Draft minutes shall be posted at the town hall and post office.

AMENDMENTS

1. These rules of procedure may be amended by a majority vote of the members of the ZBA provided that such amendment is read at two successive meetings immediately preceding the meeting at which the vote is to be taken.

WAIVERS

1. Any portion of these rules of procedure may be waived in such cases where, to the extent the ZBA is not mandated by the NH RSA's and in the opinion of the ZBA, 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 provides that the ZBA may hold joint meetings or hearings with other "land use boards". 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 chairpersons of the two boards.

3. A public hearing on any appeal to the ZBA will be held jointly with another board only under the following conditions:
 - a. The joint public hearing must be a formal public hearing on appeals to both boards regarding the same subject matter; and
 - b. If the other board is the planning board, RSA 676:2 requires that the planning board chairperson shall chair the joint hearing. If the other board is not the planning board, then the ZBA chairperson shall chair the joint hearing; and
 - c. The provisions covering the conduct of the public hearings, set forth in these rules, together with such additional provisions as may be required by the other board, shall be followed; and
 - d. The other board shall concur in these conditions.

Adopted : August 8, 2012