

Town of Stoddard
Zoning Board of Adjustment
Rules of Procedure
As Amended January 19, 2023
Effective as of March 01, 2023

Authority

1. These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, 2018/2019, Chapter 676:1, and the zoning ordinance and map of the Town of Stoddard.

Officers & Board Members

1. A Chairperson shall be elected annually by a majority vote of the board in the Month of July. Members are encouraged to take their turn. The Chairperson shall preside over all meetings and hearings, appoint such committees as directed by the board and shall affix his/her signature in the name of the board.
2. A Vice-Chairperson shall be elected annually by a majority vote of the board in the month of July. Members are encouraged to take their turn. 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.
3. A Secretary shall be hired and remain in the position until resigning or otherwise being removed. The Secretary shall maintain a record of all meetings, transactions and decisions of the board, and perform such other duties as the board may direct by resolution.
4. Board will consist of 5 members who shall serve for three years and shall be eligible for re-appointment.
5. Up to five alternate members shall be appointed as provided for by the local legislative body, to serve whenever a regular member of the board is unable to fulfill his responsibilities. Alternates may sit at the table with board members and participate in discussion but leave the table for votes when not filling in for a board member.

Meetings

1. Regular meetings shall be held at the Stoddard Town Hall, at 7:30 PM on the third Thursday of the month or calendar quarter as necessary. Other meetings may be held on call of the Chairperson provided public notice and notice to each member is given at least 48 hours excluding Sundays and legal holidays prior to such meetings.
2. Quorum A quorum for all meetings of the board shall be three members, including alternates sitting in place of members. RSA 674:33, III provides that "...the concurring vote of 3 members of the board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant..." For this reason, the board will make every effort to ensure that a full five-member board is present for the consideration of any appeal.
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 board member while so sitting.
3. Disqualification If any member finds it necessary to disqualify themselves from sitting in a particular case, as provided in RSA 673:14, he/she shall notify the chairperson as soon as possible so that an alternate may be requested to sit in his/her place. The disqualified member and such alternate shall be in all respects a full member of the board while sitting.
4. Order of business The order of business for regular meetings shall be as follows:

- a) Roll call by the secretary
- b) Communications and miscellaneous
- c) Minutes of previous meeting
- d) Old Business
- e) New business
- f) Application for a public hearing (Variance, Special Exception, Administrative Decision Appeal)
- g) Public comment on non-posted business
- h) Adjournment.

Note:

1. The public is welcome to comment on posted agenda items, with recognition through the Chairperson
 2. When a public hearing is scheduled as part of a regular meeting, the hearing and resolution of the appeal shall occur immediately after the roll call in accordance with the posted time for the hearing and to accommodate the public, and shall follow the public hearing procedure described below.
5. Billable contact or communication with any legal entity relating to town business shall be by the ZBA Chairperson or through the Selectperson. (added 8/21/14)

Applications/Decisions

1. Timelines (per RSA 676:7 and 674:33.VIII)
Upon receipt of a complete application for appeal as defined in Section 2 below:
 - a) The Board shall conduct a Public Hearing within 45 days of receipt of the application for appeal.
 - b) The Board shall have 90 days to consider and approve or disapprove of the application for appeal, unless the applicant agrees to an extension.
2. Applications
 - a) Each application for appeal before the board shall be made on forms provided by the board and shall be presented to the secretary of the Zoning Board of Adjustment who shall record the date of receipt over his/her signature. Appeals from an administrative decision taken under RSA 676:5 shall be filed with the ZBA within 30 days of the decision. A complete application shall include all requested information on the forms and shall include fee payment. The secretary shall notify the applicant if the application is deemed incomplete with explanation and request re-submission. At each meeting, the secretary shall present to the board all applications received.
 - b) Any written materials must be provided to the ZBA at least five (5) business days prior to any hearings.
 - c) All forms and revisions prescribed shall be adopted by resolution of the Board and shall become part of these Rules of Procedure.
3. Public Notice
 - a) Public notice of public hearings on each application shall be given in the Keene Sentinel and shall be posted at the Stoddard Town Hall, Stoddard Town Clerk's Office and The Stoddard Web Site not less than five (5) business days before the date fixed for the hearing. Notice shall include the name of the applicant, description of property to include tax map identification, general description of the action desired by applicant, the type of appeal being made and the date, time and place of the hearing and site visit.
 - b) Personal notice shall be made by certified mail return receipt requested, to the applicant and all abutters not less than five (5) business days before the date of the hearing, notice shall be

given to the planning board, town clerk and other parties deemed by the board 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.

4. Public Hearing. The conduct of public hearing shall be governed by the following rules:
 - a) All meetings shall be called to order by the Chairperson at the time stated in the Notice posted by the Recording Secretary in the required locations.
 - b) All members of the Board shall respond to a roll call, which will be entered into the minutes of each meeting.
 - c) The secretary shall read the application and report on how public notice and personal notice was given
 - d) Petitions submitted and posted prior to the meeting shall be resolved in order before any non-posted business shall be conducted.
 - e) The applicant will present the proposal.
 - f) Members of the Board may ask questions at any point during the presentation.
 - g) Each person who appears shall be required to state his or her name and address and indicate whether he/she is a party to the case or agent or council of the party of the case.
 - h) Any party to the matter who desires to ask a question of another party must do so through the Chairperson.
 - i) Those in favor of the application who have a direct interest shall be allowed to speak.
 - j) Those in opposition of the application who have a direct interest shall be allowed to speak.
 - k) All written correspondence submitted by an abutter for consideration on the application shall be read.
 - l) Other boards, commissions, or department comments shall be read or heard.
 - m) Questions and comments will be brief and non-repetitive.
 - n) The Chairperson shall only allow comments or questions in regards to the application.
 - o) The Chairperson shall maintain decorum of the meeting at all times. Any person who becomes disruptive to the procedure, either by words or actions, shall be asked to leave the proceedings by the Chairperson. If the person refuses to leave, further action may be taken.
 - p) Rebuttals will be allowed.
 - q) No speaker may speak in debate more than two (2) times on the same question for no longer than four (4) minutes without permission of the Chairperson and/or majority vote of the Board without debate.
 - r) The Chairperson may summarize the facts in the application and the claims made from each side. Opportunity shall be given for corrections from the board or the floor.
 - s) The board shall decide whether to close or continue the hearing. If additional material is needed to render a decision then a continuance would be necessary. Additional notice would not be required if the date, time and location is announced at this time.

5. Site Visits:
 - a.) A site visit is defined as a visit by a quorum of the board, a board member or the board's representative to a location which is the subject of an application before the board, where the visit is in the company of the owner applicant or their agents and involves going onto the property.
 - b.) When the board deems it necessary for the adequate consideration of an application, the board shall request the applicant to allow a site visit by the board.
 - c.) Site visits shall be posted and conducted as a regular meeting. Minutes shall be taken if a quorum of the board is present.
 - d.) If the board's designee or individual board member is the sole site visitor, this person shall report findings to the board at the next meeting in regards to the application.
 - e.) The practice of an applicant directly contacting a member to invite that member to visit the

property without prior approval from the board shall be discouraged as an inappropriate course of conduct.

- f.) The board shall refrain from making decisions on an application while on a site visit. Any comments, motions or direction to an applicant should be made at the subsequent public hearing.
- g.) Pictures will be taken at the time of the site visit and will be printed to be part of the project file. (added 4/16/15)
- h.) A follow up site visit may be scheduled and pictures capturing the changes may be taken. The printed pictures will be made to be part of the projects file and inserted next to the pre-work pictures. (added 4/16/15)

6. Deliberations and Decisions

- a. Following the closing of the hearing, the appeal will be deliberated by discussion amongst the board members and alternates.
 - i) If the appeal is a request for Variance, as part of the deliberation process the board members and alternates will have a discussion of each of the five criteria established by RSA 674:3. Each member inclusive of any alternate sitting for a member then records their answers onto the variance worksheet, which becomes part of the variance case file.
- b. Appeal decisions are result of voting by roll call of each board member inclusive of any alternate sitting for a member. At least three (3) members inclusive of sitting alternates must concur for a decision (see description of Meetings, item 2. Quorum).
 - i) For a variance, a special exception, or appeal of an administrative decision, a vote to approve may be conditioned.
 - ii) If the appeal is a request for a variance, each votes the appeal as a whole matter.
 - iii) If a vote fails to approve, a separate vote to deny shall be taken.
 - iv) The Board may, as a result of deliberations, instead vote to continue the hearing, or to refer the appeal to another municipal body with authority to decide the appeal. However, if the Board cannot render a decision for lack of sufficient information within the period provided in 1.b above, and the applicant does not consent to an extension, the Board may deny the application without prejudice, allowing the applicant to reapply for the same relief.
- c. The board will approve, approve with conditions, deny the appeal, or refer its decision. Notice of the decision will be made available for public inspection within five (5) business days, as required by RSA 676:3. If the appeal is denied or referred, the notice shall include the reasons therefore.

Records

The records of the board shall be kept by the secretary and made available for public inspection at the Stoddard Town Hall in accordance with statutory requirements.

1. Final written decisions will be placed on file and available for public inspection within five (5) business days after the decision is made. RSA 676:3
2. Minutes of all meetings including names of board members, persons appearing before the board, and a brief description of the subject matter shall be open to public inspection within five (5) business days of the public meeting. RSA 91-A: 2 II.
3. It is acceptable to record minutes to ensure accurate minute reports. The recording shall be held until after the approved minutes are posted then the recording shall be erased.

Joint meetings and hearings

1. RSA 676:2 provides that the Zoning Board of Adjustment may hold joint meetings or hearings with other town "land use boards", including the planning board, the historic district commission, the building code board of appeals, and the inspector of buildings, and that 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 chairperson of the two boards.
3. A public hearing on any appeal to the Zoning Board of Adjustment 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.
 - 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 Zoning Board of Adjustment chairperson shall chair the joint hearing.
 - c) The provisions covering the conduct of public hearings, set forth in these rules, together with such additional provisions as may be required by the other board, shall be followed.
 - d) The other board shall concur in these conditions.

Waiver

Any portion of the rules of procedure may be waived in such cases, in the opinion of the Board, stricter conformity would pose practical difficulty to the applicant or the Board and the waiver would not be contrary to the spirit and intent of the rules. In the event of any question of procedure, Roberts Rules will be used. (Amended 11/20/14)

Amendments

These Rules of Procedure may be amended by a majority vote of the members of the Board.

Created December 1987

Revision History

- Revision 1: Amended 09/20/2012.
- Revision 2: Amended 11/20/2014.
- Revision 3: Amended 04/16/2015.
- Revision 4: Amended 2019.
- Reviewed without change 01/2020.
- Revision 5: Amended 10/21/2021.
- Revision 6: Amended 01/19/2023.

Revision 5 changes:

1. Cleanup throughout document: changed “chairman” to “chairperson” and made other similar changes to reflect appropriate references to officers, members, alternates and the public.
2. Section “Meetings”, subsection 4 “Order of Business”: added item (g) to welcome public comment on non-agenda items.
3. Section: “Meetings”: changed “Notes” to add items (1) welcome public comments on agenda items: and (2) reflect order of business when hearings occur as part of regularly scheduled meetings. Note 2 replaced previous existing note reflecting option of changing order of business to accommodate hearings.
4. Section “Applications /Decisions”, Subsection 4. “Site Visits”: changed item (h) words “will” to “may” to reflect optionality for follow-up visits and pictures.
5. Section “Applications/Decisions”: added new subsection 5 titled “Deliberations and Decisions”, added new items (a) and (b) reflecting deliberation and voting procedures, and moved the previous separate section titled “Decisions” into the new subsection 5 as

subparagraph (c).

Revision 6 changes: Revised primarily to reflect new 674:33.VIII Statute effective 2022 re new timeline for ZBA's to render final decisions per RSA; and other changes:

1. Section "Applications/Decisions": Added new subsection 1 Titled "Timelines", and renumbered all remaining subsections
 - a. Moved timeline rule for Public Hearing from previous section 3 to new section "Timelines", sub-section (a)
 - b. Added new rule (b) to incorporate new Statute.
2. Section "Applications/Decisions": Under "Applications, subsection (a)", substituted "appeal" for "public hearing" in description of application; substituted "his/her" for "his" in reference to secretary; added clarification "with the ZBA" re filing of administrative appeals; added definition of a "complete application" of appeal; and added duty of secretary to notify applicant of an incomplete application.
3. Section "Applications/Decisions": Under "Deliberations and Decisions, subsection (b)(iv)", added language to reflect provision of new Statute 674:33.VIII regarding timeline for decision process due to insufficient information.
4. Section Revision History: corrected numbering; added Revision 6 changes.