

Zoning Board of Adjustment
Sunapee, New Hampshire
Rules of Procedure

- I. Zoning Ordinance:** The Zoning Ordinance (“the Ordinance”) is incorporated by reference into these Rules of Procedure (“the Rules”). In the case of a discrepancy between the Ordinance and the Rules, the Ordinance shall take precedence.
- II. Zoning Administrator:** The Zoning Administrator shall:
- A. Act as the agent to the Board of Selectmen in the administration of the Ordinance as per Article VIII of the Ordinance.
 - B. Receive applications for a Certificate of Zoning Compliance and determine which applications require action by the Zoning Board of Adjustment (“the Board”).
 - C. Receive applications for action by the Board.
 - D. Prepare and distribute to Board members information on cases to be heard by the Board.
 - E. Act as the liaison between the Board and town administration.
 - F. Be responsible for compliance with New Hampshire statutes relating to the Board, including scheduling of meetings, public notice of meetings, minutes of meetings, and notice of decisions.
- III. Applications**
- A. Applications for Board action must be made by the owner of record of the applicable property, except that the holder of a valid purchase and sale agreement or valid option to purchase may make such application with the written approval of the owner of record. If the applicant wishes to designate an agent to present the case to the Board, such agent must be designated to the Board either in person or through signed written communication.
 - B. Adequate plans and exhibits must accompany all applications. It is the obligation of the applicant to supply all relevant information to the Board. Such information includes, but is not limited to, lot dimensions, dimensions of proposed and existing structures, identification of abutting properties and roads, locations of water bodies, wetlands, septic systems, etc.
 - C. A recent survey is strongly recommended for applications that concern setbacks, and may be required by the Zoning Administrator and/or the Board.
 - D. The Zoning Administrator is authorized to delay submission of an application to the Board until such time as adequate plans and exhibits are supplied.
 - E. The Board may vote to continue a case to a future specified meeting date pending receipt of additional relevant information.
 - F. Completed applications with accompanying plans and exhibits shall be made available to Board members not less than five days prior to a scheduled meeting.
 - G. An application for an action by the Board regarding a property for which a previous application was denied, may be submitted only if the application materially differs from the previous application that was denied.
- IV. Appeals of an Administrative Decision:** Appeals from an administrative decision related to the Zoning Ordinance, taken under RSA 676:5, must be filed within thirty (30) days of the decision. Appeals of an Administrative Decision shall be governed as per Section 10.20 of the Zoning Ordinance.

- V. Officers:** A Chairperson and a Vice-Chairperson shall each be an elected member of the Board and shall be elected annually by elected members at the first Board meeting following the town voting day in March. An affirmative vote of at least three elected members of the Board shall be required for election. In the event that there are not at least three elected Board members voting affirmatively, the full Board present (members and alternative members) shall elect an acting Chairperson and Vice-Chairperson to serve until such time as the required number of elected members voting affirmatively is obtained. The Vice-Chairperson shall act as Chair in the absence of the Chairperson. If the Chairperson and Vice-Chairperson are both absent, the longest serving elected Board member shall be the acting Chair.
- VI. Alternate Members:** Alternate members will have all the rights, privileges and responsibilities of regular members except for voting at a public hearing and serving as an officer of the Board. Alternate members may participate and deliberate at a public hearing, but they may not vote unless they are replacing a regular Board member.
- VII. Attendance:** Board members are expected to diligently discharge their responsibilities, including attending meetings of the Board. Members unable to attend a Board meeting should give prior notice to the Zoning Administrator and the Chair as much in advance as possible. Members who fail to diligently discharge their responsibilities may be removed as per Section 10.12 of the Ordinance.
- VIII. Board of Fewer than Five Members:** If the Board has a Quorum (as defined by Section 10.14 of the Ordinance) but fewer than five total voting members (elected and alternate) are present at a meeting, prior to the hearing of each case the Chair shall ask the applicant whether the applicant wishes the case to be heard with fewer than 5 voting members, or to be deferred until the next subsequent meeting. The applicant's decision shall be binding and may not be changed once the case has commenced to be heard.
- IX. Public Hearings:**
- A. All public proceedings shall be open to the public, except that the Board may call a non-public session pursuant to RSA 91-A:3, II.
 - B. The Chair has the authority to order the removal of any person who acts in a manner that disrupts the orderly proceedings of the Board.
 - C. Any person shall be permitted to use recording devices. However, the Chair has the jurisdiction to determine that the recording devices do not impair the proceedings for the applicant, the Board, and others present.
 - D. The order of public hearings shall be as follows:
 - 1. The Chair shall call the hearing in session and call the first case.
 - 2. The Zoning Administrator should present a summary of the case.
 - 3. The applicant or agent shall present the merits of the case.
 - 4. Members of the Board may ask questions of the applicant.

5. The Chair shall ask for any comments or questions from others present. Those wishing to speak must identify themselves by name and address.
6. The Chair will allow the applicant to make a further statement regarding the merits of the case.
7. The Chair will ask the Board members if they have further questions for the applicant.
8. Following all questions from the Board, the Chair will close the meeting to further testimony. At the request of a Board member, the Chair may subsequently re-open the meeting for outside questions or comments.
9. The Board members shall deliberate the case among themselves.
10. Following the Board member discussion, the Chair will request motions on the case. Each motion shall have a seconder. Motions may be amended by a like motion and second.
11. Following discussions among Board members, the Chair will call for a vote on the most recent motion on the table. All votes must be public by a show of hands, and each member's vote will be announced by the Chair.
12. The Chair may place reasonable time limits on all proceedings.
13. Following the last case on the agenda, the Board shall review, amend, and approve the minutes of the prior meeting,
14. The Chair will request any further items to be brought to the attention of the Board.
15. The Board may vote to adjourn the meeting prior to the conclusion of the agenda. In this case, remaining items on the agenda will be continued to a specific date determined and announced by the Board.

X. Continued Cases: If a case is continued to a subsequent meeting, the voting (elected and alternate) members originally present for that case shall continue to be voting members for the continuation. If not all of the original voting members for that case are present at the continuation, the Chair shall appoint other Board members as voting members to constitute a full Board to hear the case.

XI. Communications with Legal Counsel: The Board may vote to instruct the Zoning Administrator to request legal advice from Town Counsel, either in the form of a written opinion or a "non-meeting" conference call. The Board may either pose specific questions or indicate areas of concern. Without prior approval by the Board, the Chairperson may also request the Zoning Administrator to obtain legal advice on matters such as governance, legal risks, or to provide information to the Board when expediency is necessary. In addition, the Zoning Administrator may request legal advice on matters involving the Board. The Zoning Administrator shall provide Board members with all relevant information as soon as is practicable. In accordance with Town policy, the Zoning Administrator shall direct all communications to counsel through the Town Manager.

XII. Joint Meetings with the Planning Board

- A. The Board may request the Planning Board to hold a joint meeting regarding an application. A joint meeting may facilitate the decision on an application and eliminate possible misunderstanding of the application. Each land use board may decide whether or not to hold such a joint meeting. The Planning Board Chairperson shall act as the Chair for such a joint meeting. When a joint meeting is held, each Board is responsible for keeping its own minutes and rendering a decision on matters within the respective jurisdictions.
- B. The Board shall meet at least annually with the Planning Board to propose and discuss changes to the Ordinance.

XIII. Amendments: These Rules may be amended by majority vote of the Board in a meeting at which there is a quorum. Proposed changes to the Rules must be submitted to the Zoning Administrator in writing and distributed to the Board at least five days prior to the meeting at which a vote will be taken.