

BOARD OF ADJUSTMENT

TOWN OF NEWINGTON

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 Newington.

OFFICERS

1. A Chairman shall be elected annually by a majority vote of the board in the month of April. He shall preside over all meetings and hearings, appoint such committees as directed by the board and shall affix his signature in the name of the board.
2. A Vice-Chairman shall be elected annually by a majority vote of the board in the month of April. The Vice-Chairman shall preside in the absence of the Chairman and shall have full powers of the Chairman on matters which come before the board during the absence of the Chairman.
3. A clerk shall be elected annually by a majority vote of the board in the month of April. He 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. All officers shall serve for one year and shall be eligible for re-election.
5. Up to five alternative 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.

MEETINGS

1. Meetings will be held at the call of the chair.
2. Quorum. A Quorum for all meetings of the board shall be three members, including alternates sitting in place of members. \*If any regular board member is absent from any meeting or hearing, or disqualifies himself from sitting on a particular case, the chairman shall designate 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 board while so sitting.

RSA 674:33 , III, provides that "...the concurring vote of 3 members of the board shall be necessary to reverse any action of an administrative official or to decide in favor of any appeal..." For this reason, the board will make every effort to ensure that a full five-member board is present for the consideration of the appeal.

\*Deleted Duplication

If any regular board member is absent from any meeting or hearing, or disqualifies himself from sitting in a particular case, the chairman 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 board while so sitting.

3. 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 chairman as soon as possible so that an alternate 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 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 disqualification shall be announced by either the chairman or the member disqualifying himself before the beginning of the public hearing on the case. The disqualified member shall absent himself from the board table during the public hearing and during all deliberation on the case.
4. Order of Business. The order of business for regular meetings shall be as follows: A) Roll call by Clerk. B) Public Hearing. C) Unfinished Business. D) New Business. E) Adjournment.

#### APPLICATION/DECISION

1. Applications.
  - a. Each application for a hearing before the board shall be made on forms provided by the board and shall be presented to the clerk of the board of adjustment who shall record the date of receipt over his signature. Appeals from an administration decision taken under RSA 676:5 shall be filed within 30 days of the decision. At each meeting the clerk shall present to the board all applications received by him at least 10 days before the meeting.
  - b. All forms and revisions prescribed shall be adopted by resolution of the board and shall become part of these rules and procedures.
2. Public Notice.
  - a. Public Notice of hearing on each application shall be given in the Portsmouth Herald and shall be posted at the Town Hall and South Newington Bulletin Board not less than five (5) days before the date fixed for the hearing. Notice shall include the name of the applicant, description of the 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 hearing.
  - b. Personal notices shall be made by certified mail to the applicant and all abutters not less than 5 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.

- c. Costs for all required notices must be paid for, in advance, by the applicant.
3. Public Hearing. The conduct of public hearings shall be governed by the following rules:
  - a. The chairman shall call the hearing in session and ask for clerks report on the case.
  - b. The clerk shall read the application and report on how the public notice and personal notice was given.
  - c. Members of the board may ask questions at any point during testimony.
  - d. Each person who appears shall be required to state his name and indicate whether he is a party to the case or an agent or counsel of a party to the case.
  - e. Any member of the board, through the chairman, 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 another party to the case must do so through the chair.
  - g. The applicant shall be called to present his appeal and those appearing in favor of the appeal shall be allowed to speak.
  - h. Those in opposition to the appeal shall be allowed to speak.
  - i. The applicant and those in favor shall be allowed to speak in rebuttal.
  - j. The opposition to the appeal shall be allowed to speak in rebuttal.
  - k. Any person who wants the board to compel the attendance of a witness shall present his request in writing to the chairman not later than three (3) days prior to the public hearing.
  - l. The board of adjustment will hear with interest any evidence that pertains to the facts of the case or how the facts relate to the provisions of the town ordinance and state zoning law.
  - m. The Chairman shall present a summary setting forth the facts of the case and claims made for each side. Opportunity shall be given for correction from the floor.
  - n. The hearing on the appeal shall be declared closed and the next case called up.
4. Decisions. The Board shall decide all cases within fourteen (14) days. The board will approve, approve with conditions, deny the appeal, or defer its decision. Notice of the decision or deferral will be made available for public inspection with 72 hours, as required by RSA 676:3, and will be sent to all persons notified of the public hearing. If the appeal is denied or deferred, the notice shall include the reasons therefore.

## **RECORDS**

The records of the board shall be kept by the clerk and made available for public inspection at the Office of Selectmen in accordance with statutory requirements.

1. Final written decisions will be place on file and available for public inspection with 72 hours after the decision is mad. RSA 673:3.

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 the public inspection within 144 hours of the public meeting. RSA 91A:2II.

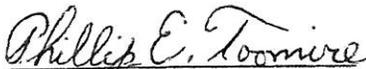
AMENDMENTS

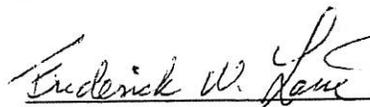
These rules of procedures may be amended by a majority vote of the members of the board provided that such amendment is read at two successive meetings immediately preceding the meeting at which the vote is to be taken.

JOINT MEETINGS AND HEARINGS

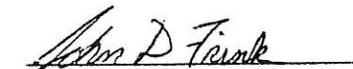
1. RSA 676:2 provides that the board of adjustment may hold meetings or hearings with other town "land use boards", including the planning board, the historic district commission, and building code board of appeals, and the inspector of buildings, and that each board shall have discretion as to whether 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 chairman of the two boards.
3. A public hearing on any appeal to the 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; and
  - b. If the other board is the planning board, RSA 676:2 requires that the planning board chairman shall chair the join hearing. If the other board is not the planning board, then the board of adjustment chairman shall chair the join hearing; and
  - 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; and
  - d. The other board shall concur in these conditions.

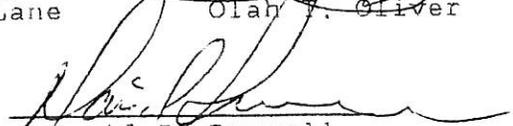
Rules and procedures adopted by the Board of Adjustment at their meeting held May 17, 1989.

  
Phillip E. Toomire

  
Frederick W. Lane

  
Olaf A. Oliver

  
John D. Frink

  
David J. Russell

Alternates:

  
Earl F. Mott

  
Alfonso Cabrera

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Edna Mosher

BOARD OF ADJUSTMENT