

## **ZONING BOARD OF ADJUSTMENT**

### **BY-LAWS**

#### **I. AUTHORITY**

These By-Laws are adopted under the Authority of New Hampshire Revised Statutes Annotated, 1983, Chapter 673:1IV- 677, and the Zoning Ordinance of the Town of Center Harbor, NH, as amended.

#### **II. OFFICERS**

1. A Chairperson shall be elected annually at the first meeting on or after April first by a majority vote of the Board. The Chairperson shall serve for one year and shall be eligible for re-election. The Chairperson shall preside over meetings and hearings and shall appoint such committees as directed by the Board.
2. A Vice-Chairperson shall be elected annually at the first meeting on or after April first by a majority vote of the Board. The Vice-Chairperson shall preside in the absence of or when delegated by 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 Clerk shall be appointed by the Chairperson. The Clerk shall maintain a record of all meetings, transactions, and findings of the Board, and perform such other duties as the Board may direct by resolution. The Clerk shall not be a member of the Board.

#### **III. MEETINGS**

1. Meetings may be held on call of the Chairperson provided notice of the time and place is given to each member in accordance with the requirements of New Hampshire statutes.
2. Quorum. A quorum for regular business shall consist of three members. A quorum for continuing a hearing to a later date shall consist of three members. If a member disqualifies himself or otherwise cannot sit on a particular case he shall so notify the Chairperson who shall appoint an alternate to sit who shall have all the powers and duties of the regular member in regard to the appeal.
3. The concurring votes of three members are required to take any action on any matter. All efforts will be made to seat a five-member board for any application, unless the applicant consents on the record to proceed with three or four voting members and agrees not to use the reduced number of voting members as grounds for an appeal.
4. The five regular members will vote on any appeal for which they are seated. Regular members who are absent or unable to sit shall be replaced by alternate members in order of seniority i.e., appointment to the Board. In the case of subsequent proceedings on the same matter before the Board, if at all possible, the members and alternates who were seated on the original proceeding should be the voting members at the subsequent proceeding.
5. **Order of Business.** The order of business for meetings shall include but not be limited to the following:
  - a. Introduction of Members and explanation of procedures;
  - b. Hearing of appeals;
  - c. Deliberative session;
  - d. Minutes of previous meetings;

- e. Other business as may properly come before the Board;
  - f. Non-public session as provided under RSA Chapter 91-A.
6. **Public Hearings.** The conduct of public hearings on applications shall be governed by the following rules:
- a. The Chairperson shall call the hearing to order;
  - b. The clerk shall read the notice for the application and describe the manner in which public notice and personal notice was given;
  - c. The application shall be presented by the applicant, applicant's designee, or the clerk.
  - d. Those appearing in favor of the appeal shall be allowed to speak;
  - e. Those in opposition to the appeal shall be allowed to speak;
  - f. The applicant and those in favor shall be allowed to speak in rebuttal;
  - g. Those in opposition to the appeal shall be allowed to speak in rebuttal;
  - h. The Chairperson shall have the discretion, but not the obligation to allow further rebuttal by any party;
  - i. The Chairperson shall determine that all parties have had adequate opportunity to speak to the appeal;
  - j. The hearing on the appeal shall be declared closed and no further testimony or evidence shall be admitted;
  - k. The Chairperson may reopen the hearing at any time prior to vote for clarification of facts, and in that case shall allow all parties to speak in clarification of the facts.

**7. General Rules**

- a. Members of the Board, when recognized by the chairperson, may ask questions at any point during testimony;
- b. Any member of the Board, through the Chairperson, may request any party or witness to the case to reappear;
- c. Each person who appears shall be required to state his name and address and indicate whether he is a party to the case or an agent or counsel of a party to the case;
- d. Any party to the case who desires to ask a question of another party to the case must do so through the Chairperson;
- e. Any person who desires the board to compel the attendance of a witness shall present his request in writing to the Chairperson not later than three (3) business days prior to the public hearing;
- f. Any written or documentary submissions related to a ZBA case must be received by the ZBA Clerk by the Thursday at noon preceding the scheduled hearing to allow sufficient time for the materials to be distributed and reviewed by the Board before the meeting. All submissions, including photographs, shall be submitted in six (6) copies. The

Chairperson shall have the discretion to waive this requirement for due cause shown. All documentary evidence presented shall be retained in the permanent record of the matter.

- g. The approved written minutes are the official record of the Zoning Board. Digital recordings may be made and retained for 30 calendar days or until the written minutes are approved (whichever is sooner). Anyone may submit a written request for a copy of the digital recording of any hearing if available. A copy will be sent by appropriate means with the cost borne by the requesting party prior to production, and such recording will be retained by the Town until all appeal and court deadlines have been exhausted.

#### **IV. APPEALS**

1. Applications for an appeal 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 or her signature.
2. At each meeting the Clerk shall present to the Board all applications received by the meeting's filing deadline, which is twelve (12) business days prior to the scheduled meeting.
3. An appeal to the Board on any administrative decision or requirement shall be taken within 30 days of the date of such decision or requirement, and not thereafter.
4. The Board may reject without hearing any petition not properly completed with all fees paid.
5. The public hearing shall be held within 45 days of the receipt of the application for appeal.
6. As provided by RSA 676:3, the ZBA shall issue a final written decision which approves or disapproves the application. The decision shall include specific written findings of facts that support the decision as per RSA 676:3. All decisions shall be filed in the office of the ZBA or Town Clerk as required by law. Notification of the decision shall be made on a form provided by the Board and shall be sent to the applicant, and the Town Clerk, and filed in the records of the Board. The Board may, after voting on an application, continue the matter until the next meeting in order to prepare and review the written decision. The vote shall not be final and effective until the written decision is approved by the Board.
7. As per RSA 674:33, VIII, an appeal to the Board shall be decided within 90 days after receipt, unless the applicant agrees to extend this time. If the Board determines it lacks sufficient information to make a final decision and the applicant does not consent to an extension, the Board may, in its discretion, deny the application without prejudice, in which case the applicant may submit a new application for the same or substantially similar request for relief.

#### **V. FORMS**

1. All forms and revisions thereof shall be adopted by resolution of the Board at a regular meeting and shall become a part of these By-Laws.

#### **VI. PUBLIC NOTICE**

1. Public notice of public hearings on each appeal shall be given in the *Meredith News*. In lieu of the *Meredith News* a newspaper of general circulation in the area shall be used. The public notice shall be posted at the Town Hall in accordance with New Hampshire statute. Such notice shall include the name of the applicant, description of property, action desired by the applicant, provision of the zoning or other ordinance concerned, the type of appeal being made, and the time and place of the hearing.

2. Personal notice shall be given by certified mail, return receipt requested, to abutting owners of record as defined by New Hampshire statute in accordance with the pertinent New Hampshire statute. Notice shall also be given to the Planning Board, the Town Clerk, and any other parties deemed by the Chairperson 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.
3. The cost of notice, whether mailed, posted, or published shall be paid in advance by the applicant. The cost shall be determined by the average cost of advertising plus the certified mail postage cost. Failure to pay such costs shall constitute valid grounds for the Board to terminate further consideration and to deny the appeal without public hearing.

## **VII. AMENDMENT**

1. These By-Laws may be amended by majority vote of the Board provided that a quorum of five (5) members and alternates are present.

## **VIII. WAIVERS**

1. Any portion of these rules of procedure may be waived in such cases where, in the opinion of the Board, strict conformity would pose a practical difficulty to the applicant and waiver would not be contrary to the spirit and intent of the rules.

Approved November 19, 2012 by the Center Harbor Zoning Board of Adjustment

Revised July 30, 2020 by Bernard Volz (formatting and recordings – added III, 7 g.)

Revised July 12, 2021 (written submissions deadlines - added III, 7 h.)

Revised February 14, 2022 (amended III, 7h.)

Revised September 26, 2022 (to III, 2 and IV 2 and 6, and add IV 7), January 11, 2023 (to III 7g and IV 2), and January 25 & 26, 2023 (based on review by Attorney Laura Spector-Morgan) and approved May 8, 2023.

Revised December 7, 2023 to add Waivers and approved January 8, 2024.

Clarified III, 6, b & c to match current practice, approved March 11, 2024.