



**Town of Sanbornton  
17 Meetinghouse Hill Road  
Sanbornton, New Hampshire 03269  
603-286-8303**

## **ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE**

Pursuant to RSA 676:1 and the Zoning Ordinance of the Town of Sanbornton, New Hampshire, the Sanbornton Zoning Board of Adjustment adopts the following Rules of Procedure:

### **Article 1 – Title, Adoption, Amendment**

- 1.1 These rules may be cited as the Sanbornton Zoning Board of Adjustment Rules of Procedure.
- 1.2 These rules may be amended by a majority vote of the Zoning Board of Adjustment (Board) and shall be on file with the Town Clerk for public inspection.

### **Article 2 – Membership, Term of Office, Officers, Vacancies**

- 2.1 Pursuant to RSA 673:3 and 673:6, the Board of Adjustment shall consist of five regular members and five alternate members who shall be residents of the Town and who shall be appointed by the Selectmen. Alternate members shall be named by the Chair to act in a regular member's absence or disqualification.
- 2.2 Pursuant to RSA 673:5, the term of a regular Board member and the term of an alternate member shall be three years. Every effort shall be made so that terms are staggered per RSA 673:5, although member terms shall correspond with vacancies filled at the time.
- 2.3 Pursuant to RSA 673:13, the Chairperson may recommend a member be removed from the Board following four unexcused missed meetings within the period from July 1 to June 30.
- 2.4 Pursuant to RSA 673:8, officers shall be elected annually at the first meeting after July 1. The Board shall elect a Chairperson and a Vice Chairperson by majority vote of the Board. The Chairperson and the Vice Chairperson shall be members of the Board. Any Officer shall be eligible for re-election.
- 2.5 Vacancies in membership shall be filled by appointment by the Selectmen for the expired term.

### **Article 3 – Duties of Officers, Minutes**

- 3.1 The Chairperson shall preside over the meeting and shall be responsible for conduct and decorum of the meeting. The Chairperson shall have the responsibility to ensure that all parties receive a full and fair hearing before the Board.
- 3.2 The Vice Chairperson shall preside over meetings and assume the duties of the Chairperson in the absence of the Chairperson.
- 3.3 The Board's Clerk shall be responsible for the maintenance of Board minutes, recorded meetings, and records that shall be filed at the Town Office.
- 3.4 The Board's Clerk shall take written and recorded minutes of its meetings, and the Board is responsible for keeping records in accordance with the requirements of RSA 91-A. Minutes shall be considered a record of sufficient evidence on which to base its decision.
- 3.5 Written minutes shall be open to public inspection not more than five business days after the meeting as required by RSA 91-A:2, II.

### **Article 4 – Meetings, Special Meetings, Notification**

- 4.1 Meetings shall be held as necessary on the fourth Tuesday of the month.
- 4.2 Special meetings of the Board shall be held at the call of the Chairperson or majority vote of the Board.
- 4.3 All meetings of the Board shall be held at the Sanbornton Town Offices unless the Board votes to meet at some different place.
- 4.4 Regular meetings shall begin at 7:00 p.m. with general business. All Public Hearings shall begin at 7:05 p.m. Following the Public Hearing, decisions shall be made on the appeals and any other business shall be acted upon, prior meeting minutes approved by vote, and the next hearing date fixed.
- 4.5 Notice of Public Hearing shall be published in a newspaper of general circulation in the area not less than 5 days before the fixed hearing date, per RSA 676:7.
- 4.6 Notice of the Public Hearing shall be posted in two (2) public places within the Town of Sanbornton not less than 5 days before the fixed hearing date.
- 4.7 Notice of the Public Hearing shall be filed by the Sanbornton Town Clerk not less than 5 days before the fixed hearing date.
- 4.8 Applicants and all abutters shall be notified of the Public Hearing by certified mail not less than 5 days before the fixed hearing date, per 676:7.

## **Article 5 – Quorum, Voting, Meeting Conduct**

- 5.1 In accordance with RSA 673:10, a majority of the membership shall constitute the quorum necessary in order to transact business.
- 5.2 In the event that less than five members are in attendance, an applicant shall have the right to either proceed with their case or postpone the hearing until such time when the majority of the membership is in attendance. In the case of a postponement, a new public hearing date shall be fixed at the time of postponement and no further notification will be necessary.
- 5.3 The Board shall determine whether to grant a variance by voting separately on each of the criteria that are set forth in RSA 674:33. An affirmative vote of the majority of members on all criteria shall be sufficient for passage of the motion. Should only three voting members be present a unanimous vote by all members shall be necessary to take any action on any matter on which it is required to pass.
- 5.4 When the vote on a motion is evenly divided, the motion shall be deemed to have been defeated.
- 5.5 Unless modified by vote, the general order of the public hearing shall be as follows:
  - a) Call to order, roll call of members.
  - b) Reading of Application, Public Notice, report on public and personal notification.
  - c) Presentation of appeal by applicant or representative.
  - d) Testimony of any favoring appeal.
  - e) Testimony of any opposing appeal.
  - f) Rebuttal by applicant, discussion.
  - g) Close of public hearing.
  - h) Member deliberation, discussion of facts and review of applicable ordinances and laws.
  - i) Summary by Chairperson of the facts of the appeal and facts of decision.
  - j) Member vote on appeal and approval of the meeting record of decision.
  - k) Hearing closed on case.
- 5.6 Pursuant to RSA 673:14, no members shall participate in deciding on any appeal if the member has a direct interest which differs from the interest of the other citizens, or if that member would be disqualified to act as a juror in the trial of the same matter in any legal action. Knowledge of the facts will not disqualify the member.

## **Article 6 – Powers of the Zoning Board of Adjustment**

- 6.1 Pursuant to RSA 674:33, the Zoning Board of Adjustment shall have the power to hear and decide appeals if it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of any zoning ordinance.

- 6.2 Pursuant to RSA 674:33, the Zoning Board of Adjustment shall have the power to authorize such variance from the terms of the zoning ordinance as will A) not be contrary to the public interest, B) the spirit and intent of the ordinance is observed, C) substantial justice is done, D) the values of surrounding properties are not diminished, and, E) literal enforcement of the provisions of the ordinance will result in unnecessary hardship as established in RSA 674:33E(b)(1) (A - B), b(2) or b(3).
- 6.3 Pursuant to RSA 674:33, the Zoning Board of Adjustment shall have the power to, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the zoning ordinance. All such exceptions shall be made in harmony with general purpose and intent of the zoning ordinance and shall be contained in the ordinance.
- 6.4 Pursuant to RSA 674:33-a, when a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by the zoning ordinance, the board shall have the power to grant an Equitable Waiver, in accordance with this statute.

## **Article 7 – Application and Public Hearing**

- 7.1 Any person seeking a hearing before the Board shall submit a complete application on the applicable form provided by the Board. The applicant shall adhere to the application instructions and provide all required documentation and fees to the Board's Clerk or the application will be considered incomplete and returned to the applicant.
- 7.2 The completed application shall be submitted by the first Tuesday of the month in which the applicant wishes their appeal to be heard.
- 7.3 During the hearing, any person who can demonstrate that he is directly affected by the application under consideration shall be heard at the public hearing. The Board may hear any such other persons as it deems appropriate.
- 7.4 Members of the Board may ask questions at any point during testimony, and may request any party to the case to reappear.
- 7.5 Any 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 of a party to the case. Any person who desires to ask a question of another party must do so through the Chairperson.

## **Article 8 – Decision**

- 8.1 The decision of the Board, including the vote of each member, shall appear as part of the written minutes.
- 8.2 A written decision shall be mailed to the applicant and shall be available to the public within five (5) business days (excluding weekends and holidays) after the decision is made, as required by RSA 676:3. Copies of the decision shall be filed with the Town Clerk and provided to the Board of Selectmen and the Planning Board.

- 8.3 Conditions may be attached to the granting of any approval.
- 8.4 If the applicant's request is not approved, the Board shall provide the applicant with written reasons for the denial as part of its decision.

## **Article 9 – Rehearing**

- 9.1 Within 30 days after any order or decision of the Board, any person directly affected thereby may apply for a rehearing, specifying the grounds therefore, per RSA 677:2.
- 9.2 Upon filing of a motion for a rehearing, the Board shall, within 30 days, either grant or deny the application or suspend the decision complained of, pending further consideration, per RSA 677:3.
- 9.3 If a rehearing is granted the person applying therefore shall submit an application per Article 7 herein.
- 9.4 Pursuant to RSA 677:4, any person aggrieved by a decision to grant or deny a motion for rehearing, may petition the Superior Court within 30 days of such decision.

Adopted by the Sanbornton Zoning Board of Adjustment on November 29, 1983.

Amended: December 20, 1983

May 27, 1986

February 10, 1988

November 17, 1993

June 23, 1999

July 23, 2013

August 2015

October 23, 2018

April 23, 2024