



# TOWN OF OSSIPEE

## Zoning Board of Adjustments

### RULES OF PROCEDURE

#### Authority

Pursuant to RSA 676:1, the Ossipee, New Hampshire Zoning Board of Adjustment adopts the following Rules of Procedure.

These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, 1983, Chapter 676:1, and Zoning Ordinance and Map of the Town of Ossipee.

#### Officers

1. A **Chairperson** shall be elected annually by a majority vote of the Board in the month of April. 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 of the Board in the month of April. 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. The **Non-voting** 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. All officers shall serve for one year and shall be eligible for re-election.
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 **their** responsibilities.

#### Meetings

1. Regular meetings will be held at Ossipee Town Hall Annex a.k.a Freight House at 7:00 PM on the second Tuesday of each month. If necessary, a second meeting would be held on the fourth Tuesday per the call of the **Chairperson** provided public notice and notice to each member is given at least five days prior to the meeting.
2. A quorum for all meetings shall be three members, including alternates sitting in place of members. RSA 674:33 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 any appeal.

If any elected Board member is absent from any meeting or hearing, or disqualifies him/herself from sitting on a particular case, the **Chairperson** shall raise an alternate member to voting status and such alternate shall be in all respects a full member of the Board while so sitting.

3. Disqualification.



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- I. If any member finds it necessary to disqualify him/herself from sitting in a particular case, as provided in RSA 673:14, said member shall notify the **Chairperson** as soon as possible so that an alternate can be raised to voting status in his/her place.
- II. **When uncertainty arises as to the application of paragraph I to a board member in particular circumstances, the board shall, upon the request of that member or another member of the board, vote on the question of whether that member should be disqualified. Any such request and vote shall be made prior to or at the commencement of any required public hearing. Such a vote shall be advisory and non-binding, and may not be requested by persons other than board members, except as provided by local ordinance or by a procedural rule adopted under RSA 676:1.**
- III. The disqualification shall be announced by either the **Chairperson** or the member disqualifying him/herself before the beginning of the public hearing on the particular case. The disqualified member shall step down from the Board table during the public hearing and during the deliberation on the case.

#### **Order of Business:**

The Board regularly follows the following order of business, unless modified by vote:

4. The order of business is as follows:
  - A. **Chairperson** calls Meeting/Public Hearing to order:
  - B. Roll Call by the Secretary:
  - C. Minutes of the previous meeting:
  - D. Financials:
  - E. Public Hearing: – all non-board members will be allowed 3 minutes to speak
  - F. **Unfinished Business:**
  - G. New Business:
  - H. Notices:
  - I. Any Other Business Which May Come Before This Board:
  - J. Adjournment:

Note: Although this is the usual order of business, hearings may be held immediately after roll call to accommodate the public.

#### **Applications/Decisions**

1. Applications
  - A. Each application for a hearing shall be made on a form provided in the Selectman's Office or via the Town website and submitted to Staff in the Selectman's Office or the Secretary for the Zoning Board, who shall record the date of receipt and initial.



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- B. Appeals from an administrative decision taken under RSA 676:5 shall be filed within 30 days of the decision.
- C. The secretary will assign a file number to each case.
- D. All forms and revisions shall be adopted by the Board and shall be part of these Rules of Procedures.

### 2. Public Notice

- A. Public notice for the public hearings on each application shall be given in a local newspaper not less than ten days prior to the hearing. Public Notice is also posted at the Town Hall, the Post Office and the Town website not less than 5 days before the date of the hearing.
  - B. Notice shall include the name of the applicant, location of the property, Tax Map identification, action desired by the applicant, provisions of the Zoning Ordinance concerned, the type of appeal, and the date time and place of the hearing.
  - C. Abutter letters shall be sent via verified mail to the **applicant (property owner), representing agent, all abutters, and all property owners within a 200 ft. radius**, no less than 10 days before the date of the hearing. Notice shall also be given to the Planning Board, town clerk, and any other parties deemed to have special interest. Said notice shall contain the same information as the public notice.
  - D. Fees shall be set by the Zoning Board.
3. Costs of all required notices must be paid for in advance by the applicant.

### Public Hearing

The conduct of public hearings shall be governed by the following rules.

- A. The **Chairperson** shall call the hearing in session.
- B. The applicant shall be called to present their appeal.**
- C. Members of the Board may ask questions at any point during testimony.
- D. Each person who appears shall be required to state his/her name, address and indicate whether he/she is a party to the case, an agent or counsel of a party to the case.
- E. Any member of the Board, through the **Chairperson**, 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 **Chairperson**.
- G. Those appearing in favor or in opposition of the appeal shall be allowed to speak.
- H. The applicant shall be allowed to speak in rebuttal.
- I. Those appearing in favor or in opposition to the appeal shall be allowed to speak in rebuttal.



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- J. Any person who wants the Board to compel the attendance of a witness shall present his request in writing to the **Chairperson**, no later than three days prior to the public hearing.
- K. 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 zoning ordinance and state zoning law.
- L. The **Chairperson** shall present a summary setting forth the facts of the case and the claims made for each side. Opportunity shall be given for correction from the floor.
- M. The discussion on the appeal shall be declared closed to further public input and open to discussion with the Board by the **Chairperson**.
- N. The **Chairperson** shall have the authority to limit the time allowed for discussion.
- O. The **Chairperson** shall have the authority, with a majority vote of the Board, to continue the meeting to a later date.

#### 4. Decisions

The **Board will endeavor to decide all cases immediately after the public hearing. The Board shall approve, disapprove with reasons, approve with conditions, deny the appeal or defer its final decision. The Board's Notice of the decision or deferral, and the meeting minutes shall be made available for public inspection within 5 business days as required by RSA 676:3 II.** 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 secretary and made available for public inspection at the Ossipee Town Hall Annex – Freight House in accordance with statutory requirements.

1. Final written decisions **shall be placed on file and made available for public inspection within 5 business days of such vote**, as required by RSA 676:3 II.
2. Minutes of all meetings including names of all board members, persons appearing before the board and a brief description of the subject matter **shall be made available for public inspection within 5 business days of such vote**, as required by RSA 676:3 II.
3. **The Official meeting minutes will be the signed summarized transcript of the meeting and the electronic recording will be deleted.**

#### Amendments

**Rules of procedure shall be adopted or amended by a majority vote at a regular meeting of the board provided that such new rules or amendments are proposed and discussed prior to the meeting at which the vote is to be taken and shall be placed on file with the city or town clerk and be available for public inspection pursuant to [RSA 676:1](#).**



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### Joint Meetings and Hearings

1. RSA 676:2 provides that the 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 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 **each** 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.
  - 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 board of adjustment **Chairperson** shall chair the joint meeting.
  - 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.