

# **SANBORNTON ZONING BOARD OF ADJUSTMENT**

P.O. Box 124

Sanbornton, New Hampshire 03269-0124

## **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 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, the Board of Adjustment shall consist of five regular members who shall be residents of the town and who shall be appointed by the Selectmen.

2.2 Pursuant to RSA 673:6, not more than five regular members who are residents of the town shall be appointed by the Selectmen to serve on the Board. Alternate members shall be named by the chairman to act in a regular member's absence or disqualification.

2.3 Pursuant to RSA 673:5, the term of a regular board member and the term of an alternate member shall be three years.

2.4 Pursuant to RSA 673: 13, the chairman may recommend a member be removed from the board following four unexcused missed meetings within the period from July 1 to June 30.

2.5 Pursuant to RSA 673:8, officers shall be elected annually at the first meeting after July 1. The board shall elect a Chairman and Vice-Chairman by majority vote of the board. The chairman and vice-chairman shall be members of the board. Any officer shall be eligible for re-election.

2.6 Vacancies in membership shall be filled by appointment by the Selectmen for the unexpired term.

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

3.1 The Chairman shall preside over the meeting and shall be responsible for conduct and decorum of the meeting. The Chairman shall have the responsibility to ensure that all parties receive a full and fair hearing before the Board.

3.2 The Vice-Chairman shall preside over meetings and assume the duties of Chairman in the absence of the Chairman.

3.3 The Clerk shall be responsible for the maintenance of board minutes and records which shall be filed in the Town Office.

3.4 The Board of Adjustment shall keep minutes of its meetings; 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 5 business days after the meeting as required by RSA 91-A:2, II.

#### **Article 4 - Meeting, 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 Chairman 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 Public Hearing shall be posted in 2 public places within the town of Sanbornton not less than 5 days before the fixed hearing date.

4.7 Notice of Public Hearing shall be filed with 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 RSA 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 5 members are in attendance, an applicant shall have the right to either proceed with their case or postpone the hearing until such time when a 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 An affirmative vote of three members shall be required for passage of the motion.

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.) Pledge of Allegiance
- c) Notice to the applicant and audience how the meeting will be conducted

1. Board will review and vote on previous meeting minutes

2. Applicant's application will be read followed by applicant's presentation to the Zoning Board. Board will ask questions during and upon completion of applicant's presentation.

3. Abutters will then be permitted to discuss applicant's appeal and concerns, if any, to the Board. Board will ask questions during and after abutter's presentation.

4. Any abutter having questions of the applicant should do so through the ZBA Chair.

5. Any other person in the audience will then be permitted to make a statement and ask questions through the ZBA Chair.

6. When the applicant's public hearing is closed the Board will then vote on the applicant's application.

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 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 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 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 not be contrary to the public interest, if, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

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 ordinance. All such exceptions shall be made in harmony with the general purpose and intent of the zoning ordinance and shall be contained in the ordinance.

6.4 Pursuant to RSA 674:33, the Zoning Board of Adjustment shall have the power to grant an equitable waiver from the physical layout or dimensional requirement imposed by the Zoning Ordinance for a lot or other division of land, or structure thereupon.

## **Article 7 - Application, Public Hearing**

7.1 Any person seeking a hearing before the Board shall submit an application on a form provided by the Board. The completed application shall be submitted by the first business day of the month in which the applicant wishes their appeal to be heard.

7.2 An application fee of \$50.00, payable to the Town of Sanbornton, shall accompany the application.

7.3 The applicant shall provide pertinent plot plan(s) to include:

- a) scale drawing
- b) lot dimensions
- c) any bounding streets and right-of-way widths
- d) all existing buildings with their dimensions and setbacks
- e) all proposed buildings, structures, or additions with dimensions.

7.4 The applicant shall provide envelopes addressed to abutters, completed certified slips for each envelope, and certified postage attached. Two such envelopes shall be provided for the applicant allowing for notice of hearing and notice of decision. Two such envelopes shall be provided for the

property owner if different than the applicant.

7.5 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.

7.6 Members of the board may ask questions at any point during testimony, and may request any party to the case to reappear.

7.7 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 chairman.

### **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 6 days (144 hours) 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 application is not approved, the board shall provide the applicant with written reasons for the disapproval, 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 superior court within 30 days of such decision.

### **Article 10 - Gravel Pit Inspections**

10.1 On-site inspections of town permitted gravel pits shall be conducted semiannually, in early fall and in early spring.

10.2 A quorum, of 3 members of the board shall be present for on-site gravel pit inspections.

10.3 Records of such inspections shall be filed with the corresponding gravel pit permits.

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

Amended:

December 20, 1983

May 27, 1986

February 10, 1988

November 17, 1993

June 23, 1999

July 23, 2013

August 2015