BETHLEHEM PLANNING BOARD

RULES OF PROCEDURE

ADOPTED 7/25/2012 REVISED 10/23/2019

**1:** **AUTHORITY**

These rules of procedure are adopted under the authority of New Hampshire

Revised Statutes Annotated (RSA) 676:1.

**2:** **MEMBERS AND ALTERNATES**

I. The Planning Board shall consist of Seven (7) members. The Selectmen

shall designate one selectman as an ex-officio member with power to vote. The ex-officio selectmen member of the Board may only be replaced by the alternate

designated by the Board of Selectmen.

II. Selection, qualification, term, removal of members, and filling of vacancies

shall conform to RSA 673:2 II

III. Alternate members may serve on the Planning Board as authorized by

RSA 673:6 and participate as non-voting members.

a). Up to five alternate members shall be appointed by the sitting Board for 3-year terms staggered in accordance with RSA 673:6 II, as provided for by the local legislative body.

b). Appointment of alternates will be conducted annually. List of eligible alternates is determined from residents who have responded in writing to a Public Notice posted for appointment of alternates to the Planning Board. The list of all eligible alternate nominees will be voted on with each member of the board given the number of votes authorized for the number of vacancies for that given year.

c). Alternates should attend all meetings to familiarize themselves with the workings of the board to stand ready to serve whenever a regular member of the board is unable to fulfill his/her responsibilities. At planning board meetings, alternates who are not activated to fill the seat of an absent or recused member or who have not been appointed by the chair to temporarily fill the unexpired term of a vacancy may participate with the board in a limited capacity.

d). During a public hearing, alternates may sit at the table with the regular members and may view documents listen to testimony, and actively participate and interact with other board members, the applicant, abutters and the public. However, they shall not be allowed to make or second motions and shall not participate in any way during the deliberations by the board.

e). Upon the close of the public hearing, alternates must remove themselves from the table and sit with other members of the public unless they are sitting in place of another.

f). During work sessions or portions of meetings that do not include a public hearing, alternates may fully participate, exclusive of any motions or votes that may be made. At all times, the chair shall fully inform the public of the status of any alternate present and identify the members who shall be voting on the application.

IV. Members must reside in the community and are expected to attend each

meeting of the board to exercise their duties and responsibilities. Any member unable to attend a meeting shall notify the chairman as soon as possible. Members, including the chairman and all officers, shall participate in the decision-making process and vote to approve or disapprove all motions under consideration.

V. Each newly elected or appointed (including re-elected or re-appointed)

member shall be sworn in and take an oath of office as required by RSA

42:1.

VI. The Planning/Zoning Board Clerk shall forward to the municipal clerk for recording the appointment/election and expiration dates of the terms of each member of

the Board.

VII. Vacancies Shall be filled per RSA 673:12

VIII. Any 2 appointed or elected members of the planning board may also serve together on any other municipal board or commission, except that no more than one member of the planning board shall serve on the conservation commission, the board of selectmen, or a local land use board as defined in RSA 672:7. (RSA 673:7, I.)

**3:** **OFFICERS**

I. The officers of the Board shall be as follows per RSA 673:8:

a). Chairman: The Chairman shall preside over all meetings and

hearings; shall prepare, with the assistance of the Planning/Zoning Board Clerk, an

annual report; and shall perform other duties customary to the office.

b). Vice-Chairman: The Vice-Chairman shall preside in the absence of

the Chairman and shall have the full powers of the Chairman on

matters that come before the Board in the absence of the Chairman.

II. The officers of the Board shall be elected annually during the month of

March by a majority vote of the Board. If requested by a majority of those

present, voting shall be by written ballot.

**4:** **MEETINGS**

I. Regular meetings shall be held twice a month on the 2nd & 4th

Wednesdays. The 4th Wednesday meeting will focus on Board business unless a pending application is received. Meetings shall begin at 6pm and conclude no later than 8:00pm at the discretion of the Chairman.

II. Special meetings may be called, or regular meetings may be cancelled

by the Chairman or in her/his absence, by the Vice-Chairman, or at the request of three members of the Board provided public notice and notice to each member is given at least 48 hours in advance of the time of such meeting. The Chairman may cancel a meeting due to inclement weather, or other extenuating circumstances.

III. Nonpublic Sessions shall be held only in accordance with RSA 91-A:3.

IV. Quorum: A majority of the membership of the Board shall constitute a

quorum, including alternates sitting in place of regular members.

V. If any regular Board member is absent from a meeting or hearing, or

disqualifies her/himself from sitting on an application, the Chairman shall designate one of the alternate members to sit in place of the absent or disqualified member. Such alternate shall have all the powers and duties of a regular member regarding any matter under consideration on which the regular member is unable to act.

VI. Order of Business shall be as follows:

* Call to order
* Pledge
* Minutes of previous Meeting
* Hearings (if scheduled time)
* Communication to Board
* Reports of officers and or committees
* Building inspector’s report (if applicable)
* Unfinished business
* Other Board business-public comment
* Order of business can be adjusted at the discretion of the Chair.

VII. Public comment is after board business:

* Set time limit time in advance for duration of each speaker determined by Chair
* One person at a time
* No one speaks until recognized by Chairman
* Must go to microphone and identify themselves
* It is a time for members of the public to “speak” it is not a question and answer session or a court of law

VIII. A motion, duly seconded, shall be carried by an affirmative vote of a

majority of the members present. Vote result shall be recorded in the

minutes. A tie vote will be recorded as a failed motion.

IX. It is incumbent on every regular member of the Board to review agendas in advance of meetings and to advise the Planning/Zoning Board Clerk if: a). they are unable to attend; or b). when they expect to recuse themselves from an agenda item.

**5:** **Disqualification**

I. If any member finds it necessary to be disqualified from sitting on a particular case, as provided in RSA 673:14, s/he shall notify the Chairman as soon as possible so that an alternate may be requested to fill the place. The disqualification shall be announced by either the Chairman, or the member before the discussion or the public hearing on the application begins. The member disqualified shall leave the Board table during all deliberations and the public hearing on the matter. If the meeting or hearing is to be continued at another session the regular member, if present and not disqualified, may take his/her seat at this session.

II. If uncertainty arises as to whether a Board member should disqualify her/himself, on the request of that member or the request of another member of the Board, the Board shall vote on the question of whether that member should be disqualified. Such request and vote shall be made prior to or at the commencement of any required public hearing. A vote on a question of disqualification shall be advisory and non-binding and may not be requested by persons other than board members.

III. **RSA 673:14 Disqualification of Member**.

a). No member of a zoning board of adjustment, building code board of appeals, planning board, heritage commission, historic district commission, agricultural commission, or housing commission shall participate in deciding or shall sit upon the hearing of any question which the board is to decide in a judicial capacity if that member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizens, or if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law. Reasons for disqualification do not include exemption from service as a juror or knowledge of the facts involved gained in the performance of the member's official duties.

b). When uncertainty arises as to the application of paragraph 1 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 RŞA 676:1.

c). If a member is disqualified or unable to act in any particular case pending before the board, the chairperson shall designate an alternate to act in the member's place, as provided in RSA 673:11.(NOTE: Except as may otherwise be provided by local ordinance.)

IV. The board of selectmen may, upon written findings of inefficiency, neglect of duty, or malfeasance in office, remove an elected member of the planning board or an alternate member after a public hearing. (RSA 673:13, II.) Planning Board shall vote to recommend disciplinary action/removal to the Select Board prior to removal.

**6**: **APPLICATIONS FOR SUBDIVISION AND SITE PLAN REVIEW**

I. Applications for hearings before the Board shall be made on forms

provided by the Board and shall be presented to the Planning/Zoning Board Clerk or the Board's agent who shall sign and record the date of receipt.

a) Notice shall be given as required in RSA 676:4,1(d) 10 days before a

completed application is submitted to the Board.

b) Completed applications shall be accepted by majority vote of the Board

and shall be scheduled for consideration within 30 days of acceptance.

c) The board shall reject all applications not properly completed.

d) After the Bethlehem Planning Board has held up to two conceptual reviews with

an applicant, the Planning Board deems Design Review Phase and may proceed further after proper notice and abutter notices per RSA have been given. The Planning Board deems Design Review Phase may proceed further after proper notice and abutter notices per RSA have been given.

II. Applicants are required to provide a conceptual site plan. This will facilitate site plan review and reduce the inconvenience to the board, public and applicant by making sure all the required information is available before a public hearing is held. It will also provide flexibility should the planning board have concerns and it will help the applicant avoid additional costs by being required to submit a new site plan.

III. It is suggested that applicants submit colored site plans. This will make it easier for the board and audience to understand the interaction of the various components.

IV. All conditions set for approval of a site plan review will be listed on the Notice of Site Plan Approval Form. The completed form will be submitted to the Office of the Select Board to be forward to the Town Building Inspector and Select Board for enforcement with the Building Permit application.

**7**: **FORMS**

All forms prescribed herein, and revisions thereof shall be adopted by

resolution of the Board and shall become part of these rules of procedure.

**8**: **NOTICE**

I. Public notice of the submission of and public hearings on each application

shall be given in the local newspaper) or by posting at both the (location) and the location) not less than ten (10) days prior to the date fixed for submission and consideration of the application. (Note: RSA 676:4 requires the public notice of submission to be given by either publication or posting. The Board may do one or the other, or both so long as the rules of procedure are consistent with the subdivision and site plan review regulations.)

II. Personal notice shall be made by certified mail to the applicant, all abutters

and any professional whose seal appears on any plat not less than t (10) days prior to the date fixed for submission of the application to the Board. (Note: RSA 676:4 permits the planning board to combine the notice of submission with the notice of the public hearing, by stating that, if the application is accepted as complete, it will be on the agenda of each planning board meeting until a decision is made. The date of the public hearing must also be included on the notice. Otherwise, separate notices must be given to the applicant and abutters by certified mail for submission, public hearing, and each time the application is on the agenda.)

**9**: **PUBLIC HEARINGS**

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

rules:

a) The Chairman shall call the hearing in session, identify the applicant or

agent.

b) The Chairman shall read the application and report on the manner in

which public and personal notice was made.

c) Members of the Board may ask questions at any point during the

presentation.

d) Any party to the matter who desires to ask a question of another party

must go through the Chairman*.*

e) Any applicant, any abutter or any person with a direct interest in the

matter may testify in person or in writing. Other persons may testify as

permitted by the Board at each hearing.

f) Each person who speaks shall be required to state her/his name and

address and indicate whether s/he are a party to the matter or an agent or counsel to a party to the matter.

g) Chair has the discretion to set the time limit for members of the public to be set before the start of public input.

h) The applicant or agent shall be called to present the proposal and

be allowed to speak.

i) Other parties such as representatives of town departments and other

town boards and commissions who have an interest in the proposal

shall be allowed to present their comments in person or in writing.

j) The Chairman shall indicate whether the hearing is closed, adjourned, or continued

pending the submission of additional material or information or the correction of noted deficiencies. In the case of an adjournment, additional notice is not required if the date, time and place of the continuation is made known at the adjournment.

k) A sign-in roster may be kept at the discretion of the Chair to accurately identify speakers, maintain flow/control.

**10:** **DECISIONS**

I. The Board shall render a written decision within 65 days of the date of

acceptance of a completed application, subject to extension or waiver

as provided in RSA 676:4.

II. The Board shall act to approve, conditionally approve, or disapprove. The board shall not grant conditional approval of an application pending receipt of either information that the subdivision regulations require or studies or reports that the board requires before deciding the application. (See RSA 676:4, I, (e), (2). This information will not include minor updates such as marking the direction “north”.

III. Notice of decision will be made available for public inspection at

(location) within 5 business days after the decision is made, as required in RSA 676:3. If the application is disapproved, the Board shall provide the applicant with written reason for this disapproval.

IV. The board shall determine and vote on whether the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact. (RSA 36:56, I.)

V. If the board determines that the development could be construed as having the potential for regional impact, then the board shall continue the matter to allow time to notify the potentially impacted municipalities and the North Country Council Regional Planning Commission. RSA 36:57, I, II, and III, state the notice procedure and the time required.

11: **RECONSIDERATION**

I. The Planning Board may reconsider any decision to approve or disapprove an application, for good cause, provided it is within the statutory appeal period. This may be done through a motion and that specifies the reasons for reconsideration. Upon successful passage of the motion, the board shall schedule a public hearing, with notice as provided in 676:4, l(d), where they shall consider whether or not to revise or alter their original decision. Should the board reach a new decision, a new appeal period shall be considered to have begun pursuant to RSA 677:15, et seq.

II. A motion to reconsider a previous vote by the Board during the current meeting shall be in order only if made by a member who voted with the prevailing side, or if the member did not vote on the original question. This applies to votes taken at the current meeting only.

12: **RECORDS**

I. The records of the Board shall be kept by the Planning/Zoning Board Clerk and shall be made available for public inspection at the office of the Board, or office of the Town Clerk) as required by RSA 91-A:4.

II. Minutes of the meetings including the names of Board members, persons appearing before the Board and a brief description of the subject matter shall be open to public inspection within 5 business days after the meeting as required in RSA 91-A:2 ,II.

13: **JOINT MEETINGS AND HEARINGS**

I. The Planning Board may hold joint meetings and hearings with the

Select Board or other land use boards" including the board of adjustment, and the Building Inspector. Each board shall have discretion whether to hold such joint meeting or hearing (RSA 676:2).

II. Joint business meetings with another local land use board may be held

at any time when called jointly by the chairmen of the two boards.

III. A joint public hearing must be a formal public hearing when the subject

matter of the hearing is within the responsibilities of the boards

convened.

IV. The Planning Board chair shall chair all joint meetings and public

hearings when the subject matter involves the Planning Board.

V. The rules of procedure for joint meetings and hearings, the subject

matter of which involves the Planning Board, shall be the same as

these rules of procedure except that the order of business shall be as follows:

a). Call to order by Chairman;

b). Introduction of members of both boards by Chairman;

c). Explanation of reason for joint meeting/hearing by Chairman;

d). In the case of a public hearing relative to a requested permit or an application for a plat approval, or both, the applicant shall be called to present his proposal;

VI. Adjournment- Each board involved in a joint public hearing makes its own decision, based on its criteria for the matter.

14: **AMENDMENT**

I. The Board's rules of procedure may be amended by a majority vote of its members. The board shall hold a public hearing prior to adoption of new rules or amendment of existing rules. Notice for the time and place of the hearing shall be as provided in RSA 675:7. The amended procedures shall be filed with the municipal clerk.

Annotations of Adoptions:

Adopted July 25, 2012

Revised October 23, 2019

**Board Members**

Chair Johnathan Stevenson

Vice Chair Michael Bruno

Chris McGrath

Marie Stevenson

Kevin Roy

Kim Koprowski

Chris Jensen (Select Board)

**Alternates**

Anthony Rodrigues

Peter Roy