ZONING BOARD OF ADJUSTMENT

RULES OF PROCEDURE

UPDATED NOVEMBER 2019

**AUTHORITY:**

These rules of procedure are adopted under the authority of the New Hampshire Revised Statutes Annotated, Chapter 676: I and the Zoning Ordinance of the Town of Bethlehem, New Hampshire.

**OFFICERS**:

1. A Chair shall be elected during the month of April by a majority vote of the Board. Said Chair shall Serve for one year and shall be eligible for re-election. He/she shall preside over meetings and hearings, appoint such committees as directed by the and shall affix HIS/HER signature in the name of the Board.
2. A Vice-chair shall be elected annually during the month of April by a majority vote of the Board. Said Vice-chair shall serve for one year and be eligible for re-election. He/she shall preside in the absence of the Chair and shall have full powers of the CHAIR on matters which come before the board in the absence of the Chair. 
3. A Clerk shall maintain a record of all meetings, transactions, and decisions of the Board, and perform such other duties as the Board may direct.

**MEETINGS:**

Regular meetings shall be held at the Bethlehem Town Building 6:00 p.m. on the second Tuesday

of the month as necessary but at least quarterly. Other meetings may be held on call of the chair provided public notice and notice to each member is given at least 48 hours in advance of the time of such meeting

**QUARUM.**

A QUORUM FOR ALL MEETING SHALL CONSIST OFF THREE MEMBERS, INCLUDING ALTERNATES SITTING IN PLACE OF REGULAR MEMMBERS. If a quorum cannot be reached within 30 minutes of the scheduled time, then the hearing will be rescheduled at the expense of the town.

RSA 674:33, Ill provides that "...the concurring vote of 3 members of the Board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant on any matter on which it is required to pass." For this reason, the Board will make every effort to insure that a full five-member Board is present for the consideration of any appeal.

1. If any member is absent from any meeting or hearing or disqualifies himself herself from sitting on a particular case, the Chair shall designate one of the alternate members to sit in place of the absent or disqualified member, and such alternate shall have the powers and duties of a regular member in regard to the appeal or appeals under consideration on which the regular member is unable to act.



1. Attendance. Any member who fails to attend three (3) consecutive regular meetings of the Board of Adjustment, without an adequate reason for such absences, may become subject to removal from the Board of Adjustment. The Chair, with the concurrence of not less than three (3) members shall recommend to the Town Select board that action be taken in accordance with RSA 676; 13, the Removal of Members.

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1. Conflict of interest. Should any member of the Board of Adjustment be financially or otherwise closely associated with any issue that comes up before the Board, said member shall disqualify himself or herself from participating in considering the issue and shall not sit with the board during such consideration. A member of the Board may raise the question of conflict of interest of another member regarding a specific issue that is before the Board. A majority vote of those members without such conflict shall determine if such a conflict does exist.
2. Alternates. Up to three (3) alternate members shall be appointed by the ZBA to serve whenever a regular member of the board is unable to fulfill his or her responsibilities.
3. Order of business. The order of business for regular meetings shall be as follows:
   1. Call to order by the Chair.
   2. Roll call by the Clerk.
   3. Minutes of the previous meeting.
   4. Public Hearing.
   5. Communications and miscellaneous.
   6. Unfinished business.
   7. New business.
   8. Adjournment.

APPLICATIONS:

I. Each application for a hearing before the Board 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/her signature.

1. Appeals from an administrative decision taken under RSA 676; 5 shall be filed with the Clerk of the Board and with the officer from where the appeal is taken. Such appeals shall be filed within ten Calendar days of the decision appealed from.
2. At each meeting, the Clerk shall present to the Board all applications received at least ten days before the date of the meeting
3. The Clerk shall reject all applications not properly completed. All other applications shall be scheduled for a hearing to be conducted within thirty (30) days of receipt of the applications by the

Board.

FORMS:

All forms prescribed herein, and revisions thereof shall be adopted by resolutions of the Board and shall become part of these rules of procedure.



NOTICE:

1. Public notice of Public Hearings on each application shall be given in the LITTLETON COURIER OR CALADONIAN RECORD or by posting at the Bethlehem Post Office, Bethlehem Town Building and the website not less than fourteen (14) days before the date fixed for the hearing.
2. Personal notice shall be made by certified mail to the applicant and all abutters not less than fourteen (14) days before the date fixed for the hearing.

by the Board of Adjustment to have a special interest in the case.

1. The published, posted, and personal notice shall include the name of the applicant, description of the property by tax map, lot number and street address; the action desired by the applicant; the provision

of the zoning ordinance concerned; the type of appeal being made; and the date, time and place of the public hearing.

PUBLIC HEARING:

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

1. The Chair shall call the hearing in session and ask for the Clerk's report on the first case.
2. The Chair shall read the application and report on the way public and personal notice was given. 
3. Members of the Board may ask questions at any point during testimony.
4. Any member of the Board, through the Chair, may request any party to the case to reappear.
5. Any party to the case who desires to ask a question of another party to the case must do so through the Chair.
6. Any person who desires the Board to compel the attendance of a witness shall present his/her request in writing to the Chair ten days prior to the Public Hearing.
7. Each person who appears shall be required to state his/her name and address and indicate whether he or she is a party to the case or an agent of counsel of a party to the case.
8. The applicant shall be called to present their appeal and those appearing in favor of the appeal shall be allowed to speak.



1. Those in opposition to the appeal shall be allowed to speak.

10. The applicant and those in favor shall be allowed to speak in rebuttal.

11. Those in opposition to the appeal shall be allowed to speak in rebuttal.

12. The Chair 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. 

DECISIONS:

I. The Board will approve, approve with conditions, deny the appeal, or defer its decision. Notice of the decision will be made available for public inspection within 72 hours after the decision has been made, as required in RSA 676:3. If the application is denied, or if the decision is deferred, the Board shall provide the applicant with written reasons for the denial or deferral.

2. Notification of the decision shall be provided by the Board Secretary and shall be sent to the applicant, the Town Clerk, and Planning Board, and be filed in the records of the Board of Adjustment.

RECORDS:

1. The records of the Board shall be kept by the Clerk and shall be made available for public inspection at the Town Hall as required by RSA
2. Final written decisions will be placed on file and be made available for public inspection within 72 hours after the decision has been made.
3. Minutes of all 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 144 hours of the public hearing as required in RSA 91:A;2,II.

JOINT MEETING AND HEARINGS:

1. RSA 676:2 provides that "An applicant seeking a local permit may petition 2 or more land use boards to hold a joint meeting or hearing when the subject matter of the requested permit is within the  responsibilities of those land use boards. Each board shall adopt rules of procedure relative to joint meetings and hearings, and each board shall have the authority on its own initiative to request a joint meeting. Each land use board shall have the discretion as to whether or not to hold a joint meeting with any other land use board. "
2. Joint business meetings with another local land use board may be held at any time when called jointly by the Chair 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:
4. joint public hearing must be a formal public hearing on appeals to both boards regarding the same subject matter; and
5. If the other board is the Planning Board, RSA 676:2 requires that the Planning Board Chair shall chair the joint hearing. If the other board is not the Planning Board, then the Board of Adjustment

 Chair shall chair the joint hearing; and 

1. 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; and
2. The other board shall concur in these conditions.



AMENDMENT:

These Rules for Procedure may be amended by a majority vote of the members of the Zoning Board of

Adjustment provided that such amendment is read at two successive meetings immediately preceding the meeting at which the vote is to be taken.