

# **Town of Loudon, New Hampshire**

## **Zoning Board of Adjustment Rules of Procedure**

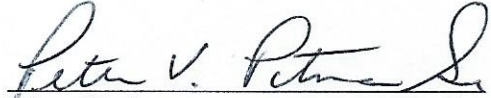
Revisions adopted February 24, 2022  
Revised March 23, 2017  
Revised September 27, 2007

## Certificate of Adoption

Pursuant to the revisions adopted on 2/24/2022, the Loudon Zoning Board of Adjustment hereby certifies that these Rules of Procedure were discussed at two (2) successive meetings preceding the meeting at which a vote to adopt was taken.



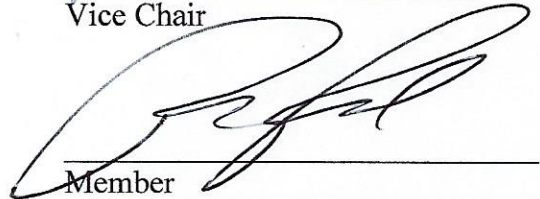
Chairman



Vice Chair



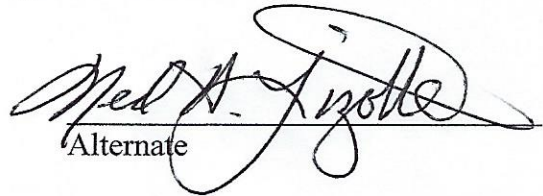
Member



Member



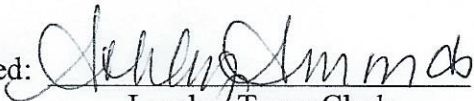
Member



Alternate

\_\_\_\_\_  
Alternate

This document was received and signed by the Town Clerk on MARCH 29th, 2022.

Signed:   
Loudon Town Clerk

Seal:



# **Zoning Board of Adjustment**

## **Town of Loudon**

### **Rules of Procedure**

#### **AUTHORITY**

1. These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, 1983, Chapter 676:1, and the zoning ordinance and map of the town of Loudon.

#### **OFFICERS**

1. A Chairperson shall be elected annually by the Board in the month of March by a majority vote of the Board. Said Chairperson shall serve for one year and shall be eligible for re-election. He/she 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 the Board in the month of March by a majority vote of the Board. Said Vice-Chairperson shall serve for one year and shall be eligible for re-election. Said 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. In the event of a mid-term vacancy of the office of Chairperson or Vice-Chairperson, the Board shall elect a new Officer to fill the remaining term of office.

#### **MEMBERS AND ALTERNATES**

1. The Board of Adjustment shall consist of five (5) members elected by the voters, each to be elected for three (3) years. The terms shall be arranged so that no more than two (2) members are elected annually, pursuant to RSA 673:5, II. No person holding the office of Selectman shall serve on this Board.
2. The Board of Adjustment shall appoint, with consent of the Board of Selectmen, not more than five (5) alternate members for a term of three (3) years each, which shall be staggered in the same manner as elected members pursuant to RSA 673:5, II.
3. The Board of Adjustment shall appoint, with consent of the Board of Selectmen, a replacement member to fill a vacancy until the next town election. In this case, the term to be filled at the town election may be for a term of one (1) or two (2) years.
4. At meetings of the Board of Adjustment, the Chair may appoint an alternate to fill the seat of an absent or recused member. During a public hearing, alternates not so appointed may sit at the table with the regular members and may view documents, listen to testimony, ask questions, and interact with other board members, the applicant, abutters, and the public. Alternates shall not be allowed to make or second motions. Once a motion has been made, alternates shall no longer participate with the board until the motion has

been withdrawn or voted upon. 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. The Chair shall inform the public of the status of any alternate present and identify the members who shall be voting on the application.

5. Whenever a member of the Board is unable to attend a regular or specially called meeting of the Board or to perform other responsibilities, said member will notify the Chair who will select one of the alternates to assume the responsibilities.
6. Members and alternates must reside in the community and are expected to attend each meeting of the board to exercise their duties and responsibilities. Members, including the chairman and all officers, shall participate in the decision making process and vote to approve or disapprove all motions under consideration.

## **STAFF**

1. A clerk shall be hired at the discretion of the Board. He/she shall maintain a record of all meetings, transactions, findings of the Board, and perform such other duties as the Board may direct by resolution.

## **MEETINGS**

Regular and special meetings of the Board shall be held at the call of the Chairperson or of a majority of the members of the Board, at such time as the Chairperson or majority of the members of the Board may determine. The presence of three (3) members shall be necessary for a quorum.

1. Regular meetings shall be held at the Loudon Town Office Building at 7:00 p.m. on the 4<sup>th</sup> Thursday of each month provided public notice and notice to each member is given in accordance with RSA 91-A:2, II.
2. Special meetings may be held on call of the Chairperson or of a majority of the members of the Board provided public notice and notice to each member is given in accordance with RSA 91-A:2, II.
3. Site visits may be held as a continuance of a public hearing with notice given to the members and the public in attendance at the hearing. No other notice need be given.
4. Quorum. A quorum for all meetings of the board shall be three members, including alternates sitting in place of members. The board will make every effort to ensure that a full five-member board is present for the consideration of any appeal. If any regular board member is absent from any meeting or hearing, or disqualifies himself from sitting on a particular case, the chairman shall designate one of the alternate members to sit in place of the absent or disqualified member, and such alternate shall be in all respects a full member of the board while so sitting.
5. Disqualification. If any member finds it necessary to disqualify himself from sitting in a particular case, as provided in RSA 673:14, he shall notify the Chairman as soon as possible so that an alternate may be requested to sit in his place. When there is

uncertainty as to whether a member should be disqualified to act on a particular application, that member or another member of the board may request the board to vote on the question of disqualification. Any such request shall be made before the public hearing gets underway. The vote shall be advisory and non-binding. Either the chairman or the member disqualifying himself before the beginning of the public hearing on the case shall announce the disqualification. The disqualified member shall absent himself from the Board table during the public hearing and during all deliberation on the case.

6. Order of Business for regular meetings shall be as follows:

- a. Call to order by Chairman and Roll call attendance
- b. Approving minutes of previous meeting(s)
- c. Public hearing(s)
  - i. Unfinished business
  - ii. New business
- d. Communications and miscellaneous business
- e. Adjournment

7. Order of Business for special meetings and site visits shall be as follows:

- f. Call to order by Chairman and Roll call attendance
- g. The Chair to declare the purpose and location of the meeting
- h. Conduct the business of the meeting
- i. Adjournment

## **APPLICATION/DECISION**

1. Applications.

- a. 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. At each meeting, the Clerk shall present to the Board all applications received by him/her at least fifteen (15) days prior to the meeting.
- b. The Board shall reject all applications not properly completed. All other applications shall be scheduled for a public hearing to be conducted within 30 days of receipt by the Board.
- c. An appeal of an administrative decision taken under RSA 676:5 must be filed within forty-five (45) days of the decision.
- d. All forms and revisions prescribed shall be adopted by resolution of the Board and shall become part of these Rules of Procedure.

2. Public Notice.

- a. A public notice of the hearing shall be posted at several places in town such as the Town Offices and Post Office; and shall be published in a newspaper of general circulation in Loudon not less than five (5) nor more than thirty (30) days before the date of the hearing. Such notice shall include the name of the applicant, description of property to include tax map identifications, action desired by the applicant, the type of appeal being made, and the date, time, and place of the hearing.

- b. Personal notice shall be made by certified mail, return receipt requested, to the applicant and all abutters to the applicant's property not less than five (5) days before the date of the hearing. Notice shall also be given the Planning Board, Selectmen, Town Clerk and other parties deemed by the Board to have special interest. Said notice shall contain the same information as the public notices and shall be made on forms provided for this purpose.
  - c. The applicant shall pay for all required notice costs in advance.
3. Public Hearing. The conduct of public hearings shall be governed by the following rules:
- a. The Chairperson shall introduce the application and report on the manner in which public notice and personal notice were given.
  - b. The Board shall make a determination as to the regional impact of the application.
  - c. The applicant shall be called to present his/her appeal and those appearing in favor of the appeal shall be allowed to speak.
  - d. Those in opposition to the appeal shall be allowed to speak.
  - e. The applicant and those in favor shall be allowed to speak in rebuttal.
  - f. Those in opposition to the appeal shall be allowed to speak in rebuttal.
  - g. The Board of Adjustment will hear with interest any evidence that pertains to the facts of the case or how the facts related to the provisions of the zoning ordinance and state zoning law.
  - h. Members of the Board may ask questions at any point during the testimony.
  - i. Any member of the Board, through the Chairperson, may request any party to the case to reappear.
  - j. Each person who appears shall be required to state his name and address and indicate whether he is a party to the case or an agent or counsel of a party to the case.
  - k. Any party to the case who desires to ask a question of another party to the case must do so through the Chairperson.
  - l. Any person who desires the Board to compel the attendance of a witness shall present his request in writing to the Chairperson not later than three (3) days prior to the public hearing.
  - m. Upon a motion of the Board, the hearing maybe continued to the next scheduled meeting, or closed to the public and the application taken up for Board deliberation.
4. Decisions. In exercising its powers, the Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order, or decision as ought to be made and, to that end, shall have all the powers of the administrative official from whom the Appeal is taken.
- a. Majority Vote.  
The concurring vote of three (3) members of the Board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant or any matter on which it is required to pass.
  - b. Special Conditions.

In granting any Appeals, Variances, or Special Exceptions, the Board may attach whatever conditions it deems necessary to the approval decision in order to assure compliance with the purposes of the *Zoning Ordinance*.

c. Issuance of Decision.

The board shall decide all cases within forty-five (45) days of the close of the public hearing and shall approve, approve with conditions, or deny the appeal. Notice of the decision will be made available for public inspection within 5 business days, as required by RSA 676:3, and will be sent to the applicant by certified mail. If the appeal is denied, the notice shall include the reason(s) therefore. The notice shall also be given to the Planning Board, the Board of Selectmen, Town Clerk, property tax assessor and other town officials as determined by the Board.

## **RECORDS**

1. The records of the board shall be kept by the clerk and made available for public inspection at the Zoning Office in accordance with RSA 673:17.
2. Final written decisions will be placed on file and available for public inspection within five (5) business days after the decision is made. RSA 676:3.
3. Minutes of all meetings including names of board members, persons appearing before the board, and a brief description of the subject matter shall be open to public inspection within five (5) business days of the public meeting. RSA 91-A:2 II.

## **PERSONAL ELECTRONIC DEVICES**

Use of personal electronic devices by Board members is prohibited. Reasonable accommodations may be made by permission of the Chairman and shall be announced to all in attendance. These instances shall be recorded in the minutes of the meeting.

## **AMENDMENTS**

These Rules of Procedure may be amended by a majority vote of the members of the Board provided that such amendment is discussed by the Board at two successive meetings immediately preceding the meeting at which the vote is to be taken. They shall become effective after certification by a majority of the Board. Certified copies of the adoption shall be kept on file in the Zoning Board office and shall be filed with the Town Clerk.

## **WAIVERS**

Any portion of these rules of procedure may be waived in such cases where, in the opinion of the board, strict conformity would pose a practical difficulty to the applicant and waiver would not be contrary to the spirit and intent of the rules.

## **JOINT MEETINGS AND HEARINGS**

In accordance with NH RSA 676:2, as amended, the Board of Adjustment and the Planning Board may hold joint meetings and hearings when the subject matter of an application is within the responsibilities for both boards. Each board shall be responsible for rendering a decision on the subject matter which is within its jurisdiction.

1. RSA 676:2 provides that the board of adjustment may hold joint meetings or hearings with other “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 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; and
  - b. If the other board is the planning board, RSA 676:2 requires that the planning board chairman shall chair the joint hearing. If the other board is not the planning board, then the board of adjustment chairman shall chair the joint hearing; and
  - 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; and
  - d. The other board shall concur in these conditions.