

**ZONING BOARD OF ADJUSTMENT
TOWN OF WEBSTER**

BY-LAWS

AUTHORITY

These by-laws are adopted under the authority of New Hampshire Revised Statutes Annotated 676:1, and the Zoning Ordinance of the Town of Webster.

BOARD MEMBERS AND OFFICERS

1. The Zoning Board of Adjustment shall consist of a Board of nine members – five regular members and four alternates.
2. Those Board members whose term shall expire on March 31st shall be reviewed at the February meeting and recommendations made to the Board of Selectmen.
3. A Chairman shall be elected annually for the ensuing year in February per RSA 673:9 by a majority vote of the Board. Said Chairman shall be eligible for re-election. He/She shall preside over meeting and hearings, appoint such committees as directed by the Board, and shall affix his/her signature in the name of the Board.
4. A Secretary shall be elected annually for the ensuing year in February per RSA 673:9 by a majority vote of the Board. Said Secretary shall be eligible for re-election. He/She shall sign the Notice of Hearing, Notice of Decision, and the minutes of the meetings.

MEETINGS IN GENERAL

1. Regular meetings shall be held at the Selectmen's Office on 945 Battle Street at 7:00 P.M. on the second Tuesday of the month, when there is a public hearing, except March whereby the meeting is scheduled for the third Tuesday because of Town Meeting. Other meetings may be held on call of the Chairman provided notice is given to each member at least 48 hours prior to the time of such meeting.
2. Zoning Board of Adjustment Members and Alternates will be notified by mail.
3. Joint meetings: Any applicant seeking a local permit may petition the zoning board of adjustment and any other local land use board to hold a joint meeting or hearing when the subject matter of the requested permits is within the responsibility of both the zoning board of adjustment and another land use board. The ZBA must adopt rules of procedure relative to joint meetings and hearing. The planning board chair chairs any joint meeting unless the planning board is not involved, in which case the respective boards make the decision as to who the chair will be. When a joint meeting is held, each local land use board is responsible for rendering a decision on the subject matter within its jurisdiction.
4. Quorum. A quorum for regular business shall consist of three members. A quorum for hearing and deciding an appeal shall consist of five members. If a member disqualifies himself/herself or cannot act in a particular case, he/she shall notify the Chairman who shall appoint the next available alternate (the alternates are assigned numbers 1-4) who shall have all 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.

5. Chairman. The Chairman shall preside over all the meetings. In the absence of the Chairman, the next available officer shall preside. If neither officer is available, someone will be appointed to act as Chairman and preside.
6. Order of Business. The order of business for regular meetings shall be as follows:
 - a. Roll call by the Secretary shall be taken.
 - b. Accept minutes of the previous meeting.
 - c. The Secretary will read the application under consideration, noting the three public places and a paper of local circulation where notice was posted. (Concord Monitor, Fire Station, Police Station and Town Hall).
 - d. Hearing of appeals.
 - e. Executive session if applicable.
7. The Board shall reject any petition not properly filled out and will post the time of hearing for all other petitions when received.
8. The Board will decide all cases within the time required by Statute. Notification of the decision shall be made on a form provided by the Board and shall be sent to the applicant, Building Inspector, Selectmen, and filed in the records of the Board.

MEETING PROCEDURES

1. Prior to any acceptance of an application, an administrative officer of the Town of Webster must have denied the applicant.
2. It is the applicant's responsibility to know whether it is a Special Exception or Variance.
3. The application shall be complete and accompanied by a detailed map drawn to scale showing streets, lot lines, structures and other pertinent details. Otherwise the application will be tabled until it is properly completed.
4. The Chairman shall introduce the members of the Zoning Board of Adjustment sitting this evening.
5. The Chairman shall explain the function of the Zoning Board of Adjustment.
6. The applications are taken in the order that they were posted for the meeting and may be limited to three in an evening to be scheduled at 30-minute intervals.
7. Each application will begin with the applicant and his or her authorized representative presenting and explaining his/her application in detail:
 - We would ask that the applicant(s) stand, come forward and address the Board.
 - It is important that the audience hears the applicant, but it is imperative that the Board hears the applicant.
 - The applicant may use a display board for visual displays during his/her presentation.
 - The applicant should present his/her entire case, as this is the opportunity during the hearing that he/she will have to explain the application and convince the Board that he/she qualifies for a Variance or Special Exception, as the case may be.
8. At the conclusion of the applicant's case, the Board Members will have an opportunity to ask any questions of the applicant that they may desire.
9. When the Board has concluded its questions, the Chairman will solicit testimony from abutters in favor of the application followed by those opposed to the application.

10. If you are a non-abutter and wish to address the Board when non-abutter testimony is called for, you will first be required to convince the Board that you are or would be “directly affected,” by the proposal under consideration.
11. Lastly, in regards to public testimony, the Board will hear from any other Town Board, Commission and Department Head of the Town, should they wish to offer testimony.
12. The Board asks that the public testimony be confined to the application that the Board is considering at this particular time. The Board will solicit your comments as to why the application should or should not be granted, as it relates to the Zoning Ordinance and the conditions necessary to be granted a Variance or Special Exception. Simple statements of, “I am in favor,” or “I am opposed,” to the application should be elaborated upon in order to carry any weight with the Board.
13. At the conclusion of all public testimony, the applicant will have one opportunity and one opportunity only to rebut what has been said by any members of the public who has given testimony.
14. At the conclusion of applicant’s rebuttal, the audience will then have an opportunity and one opportunity only to rebut anything that has been said by the applicant during his/her rebuttal.
15. Testimony will then be closed to the applicant and the public and opened to the Board. The Board will discuss the application, set any conditions and upon a motion from a Board Member and a second to the motion there shall be a vote on the application in public unless the hearing is continued.
16. During the Board’s deliberation on each application and subsequent vote in public, the Board would ask that members of the public be quiet and attentive, not only for the Board’s benefit, but more importantly for anyone in the audience who wishes to hear the Board’s deliberation process and subsequent vote.
17. The Board would ask that any one wishing to address the Board this evening please state their complete name and legal address, so that it may be properly recorded in the minutes of the meeting. All of the Board Meetings are tape recorded and while individual members or collectively, the Board may know an abutter or applicant who wishes to testify, the Board would still ask that you state your name and legal address so that it may be recorded on the tape recorder for reference in writing of our minutes, which by law must be kept permanently. Tape recordings will be kept until the written record is approved at a future meeting.
18. Within 30 days after any order or decision of the Zoning Board of Adjustment, the Selectmen, any part to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding or covered or included in the order. This 30-day time limit is counted in calendar days beginning with the date upon which the Board voted to approve or disapprove the application. The Board of adjustment cannot waive the time period for a motion for rehearing even if it desires to do so.
19. Upon the filing of a motion for a rehearing, the Board of Adjustment shall, within 30 days, either grant or deny the application or suspend the order or decision complained of, pending further consideration. The Board need not state any reasons for its decision and it need not hold a public hearing on the motion. If the Board takes no action within 30 days, and does not request an extension of time from the applicant, the applicant could assume that the motion has been denied and proceed with an appeal to the Superior Court. If the Board denies the motion for rehearing, the party making the motion is then free to appeal the decision directly to the Superior Court as a matter of right. If the Board grants the motion for rehearing, an entirely new hearing must be advertised and appropriate notice given to abutters.

FORMS

All forms and revisions thereof shall be adopted by resolution and shall become a part of these by-laws.

PUBLIC NOTICE

1. Public notice of public hearings on each appeal shall be given in the local newspaper and shall be posted at three places in town not less than five days before the date fixed for the hearing of the appeal. This notice must actually appear in the newspaper not later than the seventh day before the meeting since the day of the publication and the day of the public hearing cannot be counted in determining the five-day notice period.
2. Personal notice shall be made by certified mail to abutters of record and property owners across the street. Notice shall also be given to the Planning Board, the Board of Selectmen, and other parties deemed by the Board to have a special interest. Said notice shall contain the same information as the public notice and shall be made on forms provided for this purpose.
3. Administrative fee. An administrative fee for each hearing shall be charged as set from time to time by the Board of Adjustment.

AMENDMENT

These by-laws may be amended by majority vote of the members provided that such amendment is read at two successive meetings.

DATE ADOPTED: November 13, 2002

DATE AMENDED: April 8, 2008