

By-Laws and Rules for Procedure Milton Zoning Board of Adjustment

AUTHORITY

These By-Laws are adopted under the authority of New Hampshire Revised Statutes Annotated, 674:33, 676:1, and the Zoning Ordinance of the Town of Milton.

The Zoning Board of Adjustment is a quasi-judicial board charged with the hearing of Appeals from Administrative Decisions, Variance requests, Special Exception requests, and Waivers of Equitable Dimension Requirements.

OFFICERS: 673:3

1. A Chairperson shall be elected annually at the first meeting following town elections by a majority vote of the Board. He/She shall preside over 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 at the first meeting following town elections by a majority vote of the Board. 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.

MEMBERS

Up to five (5) elected members, per RSA 673:3, who shall be residents of the municipality. Up to five (5) alternates may be appointed by the Board with not more than 3 year terms to be staggered. Alternate members may participate in meetings of the board as a nonvoting member pursuant to rules adopted under RSA 676:1. Alternate members may ask questions of the applicant and interact with the sitting members until the Chair closes the public hearing.

REMOVAL OF MEMBERS: 673:13

After public hearing, select people may remove a member of the Board upon written findings of inefficiency, neglect of duty, or malfeasance in office.

FILLING VACANCIES IN MEMBERSHIP: 673:12

Vacancies in the membership of the Board occurring other than through the expiration of a term of office shall be filled by appointment by the remaining Board members until the next regular municipal election at which time a successor shall be elected to either fill the unexpired term or start a new term, as appropriate.

DISQUALIFICATION OF MEMBER: 673:14

No member of a Board 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 as provided in RSA 673:14.

MEETINGS:

1. The By-Laws and Rules for Procedure shall be adopted or modified at the first meeting following the town elections by a majority vote. The By-Laws and Rules for Procedure can also be amended from time-to-time as necessary with a majority vote by the Board.

2. Regular meetings will be held as needed. Meetings may be called by the Chairperson, provided notice is given to each member at least 48-hours prior to the time of such meeting and allowing for 24-hour public posting as required by RSA 91-A:2 II.

3. A quorum for regular business, public hearing and deciding an appeal shall consist of three (3) members. If a member disqualifies himself/herself or is absent in a particular case, the Chairperson shall appoint an alternate 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.

4. The Chairperson shall preside over all meetings. In the absence of the Chairperson, the Vice-Chairperson shall preside.

5. The order of business for regular meetings shall be as follows.

- a. Public Comment
- b. Disposition of appeals under consideration.
- c. Hearing of appeals.
- d. Executive session.
- e. Minutes of previous meetings.

*(Note) Although this is the usual order of business, the Board may wish to change order of business.

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

- a. The Chairperson shall call the meeting to order and call for the Chairperson's report on the first case.
- b. The Chairperson shall publicly announce the number of sitting/voting members. If a quorum is present but not all the 5 seats are filled, the Chair shall give each applicant the option to continue the hearing at a date and time certain.
- c. The Chair shall also ask the sitting members if any member has any reason to be disqualified for each application before the Board.

- d. The Chairperson shall read the application and report on the manner in which public notice and personal notice were given.
- e. The Chairperson shall ask if all the fees are paid and proceed with the application.
- f. The applicant shall be called to present his/her appeal. The public and town officials will be allowed to speak or provide written comments concerning the application.
- g. The Board will review the application in regard to RSA 36:54-58 "Review of Developments of Regional Impact" to make a determination of the potential for regional impact for all cases that come before the board.
- h. Once the public hearing is closed and a motion to enter deliberative session is made, seconded and (if) passed, no additional input from the applicant nor the public can be heard, unless the Board has questions and requests answers from the applicant.
- i. The Board can discuss the merits of the application and provide the Board members with any additional information, pictures, data etc. concerning the application. Any additional information provided by the members shall become part of the record.
- j. The Board shall pass straw votes on each criterion for the applicant to understand where the concerns may be in case they wish to appeal and then vote on the entire application to pass or fail.

JOINT MEETINGS AND HEARINGS: 676:2

The Board shall follow the procedures for joint meeting and hearings as provided in RSA 676:2.

GENERAL RULES:

1. Members of the Board may ask questions at any point during testimony.
2. Each person who appears shall be required to state his/her name and address and indicate whether he/she is a party to the case.
3. Any party to the case who desires to ask a question of another party to the case must do so through the Chairperson.
4. Any person who desires the Board to compel the attendance of a witness shall present this request in writing to the Chairperson no later than seven (7) days prior to the public hearing.
5. in accordance with RSA 676:7, IV, the Board may impose reasonable fees to cover its administrative expenses and costs of special investigative studies, review of documents, and other matters which may be required by particular appeals or applications.
6. Members of the Board may visit and make observations of a site which is the subject of an application. At no time shall more than one member of the Board be present during a site visit

unless the site visit has been called as a public meeting and proper public notice has been given.

7. At no time shall the members of the board discuss current or past applications with each other or with the applicant or the public outside of a posted meeting. Also, nothing shall be posted in an email or other electronic media concerning a current or past application.

8. If four members vote on an application and there is a two-to-two vote, the approval of that specific criteria fails. No member shall abstain.

9. The Board may attach conditions related to the land, not the applicant. The exceptions to this rule are for granting a variance for the disabled (RSA674:33, V) and waiver for agricultural uses (RSA 674:32-c)

APPEALS:

1. A person directly affected by a decision of the Board may file a written request for reconsideration and/or rehearing with the Board to provide the Board with the opportunity to correct any errors it may have made in its original decision. Grounds for reconsideration and/or rehearing may include, but not limited to, new evidence, additional legal arguments or evidence or law that was misapprehended or overlooked by the Board in its original decision.

2. Each application for an appeal shall be made on forms provided by the Board and shall be presented to the Land Use Clerk, who shall record the date of receipt over his/her signature. At each meeting the Land Use Clerk shall presented to the Board all applications received by him/her prior to the beginning of the meeting.

3. An appeal to the Board on any Administrative Decision or requirement shall be taken within 30-days of the date of such decision or requirement.

4 The Board shall reject any petition not properly filled out and will post the time of hearing for all other petitions when received.

5. The Board shall decide all cases within 30-days of hearing. Notification of the decision shall be made on a form provided by the Board and shall be sent to the applicant, Strafford County Registry of Deeds, and filed in the records of the Board.