

PLAISTOW CODE

ZONING

220 Attachment 1
OF
Town of Plaistow

Zoning Board of Adjustment Bylaws

[Adopted as amended 5-25-2006, Amended 1-24-2019, Amended 3-25-2021, Amended 7-28-2022, Amended 9-28-2023]

AUTHORITY:

These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated (RSA) 1983, Chapter 676:1, and the Zoning Ordinance and Map of the Town of Plaistow.

OFFICERS:

A Chair shall be elected annually by a majority vote of the Board in the month of April. He/She shall preside over all meeting and hearing, appoint such committees as directed by the Board and shall affix their signature in the name of the Board.

A Vice-Chair shall be elected annually by a majority vote of the Board in the month of April. The Vice-Chair shall preside in the absence of the Chair and shall have the full powers of the Chair on matters which come before the Board during the absence of the Chair.

All officers shall serve for one (1) year and shall be eligible for re-election.

Up to five (5) alternate members shall be appointed, as provided for the by the local legislative body, to serve whenever a regular member of the Board is unable to fulfill their responsibilities.

An Administrative Assistant shall be assigned to the Board by the Board of Selectmen or its designee. The Administrative Assistant shall be a paid employee of the Town of Plaistow and shall maintain a record of all meetings, transactions, and decisions of the Board, and perform such other duties as the Board may direct by resolution. The Administrative Assistant has no vote on matters before the Board.

MEETINGS:

Regular meetings shall be held at the Town Hall at 6:30 p.m. A schedule of the meeting dates and application deadlines shall be published annually by December 1st for the next calendar year. Other meetings may be held on call of the Chair, provided public notice, and notice to each member is given at least forty-eight (48) hours, excluding Sundays and legal holidays, prior to such meetings.

TRAINING:

Members of the Board are expected to keep up to date with changes in local ordinances and NH RSAs. Therefore, each member is required to attend at least one (1) approved training session, during each three (3) year term as a member, or an alternate member of the Board, providing that

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approved training is available. The cost, if any, for member training opportunities shall be covered by the Town. Members may seek training on their own but must have it pre-approved by the Board as appropriate training, and by the Town for payment of training. Confirmation of training attendance shall be submitted to the Town for reimbursement. If the Town pre-pays for training, and the member does not attend, the member may have to reimburse the Town for the cost of the training.

PERSONAL ELECTRONIC DEVICES AT MEETINGS

Use of electronic devices is subject to the Right-to-Know Laws as described in RSA 91-A. Therefore, use of any personal electronic devices during board meetings is prohibited.

Exceptions:

- The Recording Secretary may use an electronic device to record the meeting.
- Use of personal electronic devices is permitted for remote meeting access

All personal electronic devices will be placed in silent mode during board meetings.

In the event that a member needs to handle an emergency situation, they may excuse themselves from the table to do so.

QUORUM:

A quorum for all meetings of the Board shall be three (3) members, including alternates sitting in place of members. RSA 674:33.III provides that “The concurring vote of any 3 members of the board shall be necessary to take any action on any matter on which it is required to pass” For this reason, the Board will make every effort to ensure that a full five-member Board is present for the consideration of any appeal.

If there is not a full five-member Board the applicant shall have the right to request a continuance to the next meeting. The date and time of the next meeting shall be announced and considered official notification to all interested parties of the continuance. No additional written notification will be sent.

If any regular Board member is absent from any meeting or hearing or disqualifies him/herself from sitting on a particular case, the Chair shall designate one of the alternate members to sit in the place of the absent or disqualified member, and such alternate shall be in all respects a full member of the Board while sitting.

DISQUALIFICATION:

If any member finds it necessary to disqualify him/herself from sitting in a particular case, as provided in RSA 673:14, he shall notify the Chair, or the Administrative Assistant, as soon as possible so that an alternate may be requested to sit in their place. The disqualification shall be announced by either the Chair or member disqualifying him/herself before the beginning of the public hearing on the case. The member disqualifying him/herself shall remove him/herself from the Board table during the public hearing and during the deliberations on the case.

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CANCELED MEETINGS:

In the event a meeting is canceled by lack of a quorum, severe weather conditions, or other event that is not the fault of the applicant, the costs of renotification of the public hearing shall be borne by the Board.

ORDER OF BUSINESS:

The order of business for regular meetings shall be as follows:

- Roll call by the Administrative Assistant.
- Minutes of the previous meeting.
- Unfinished business.
- Public hearings.
- New Business.
- Communications and miscellaneous.
- Adjournment.

(Note: Although this is the usual order of business, the Board may wish to hold the hearings immediately after roll call in order to accommodate the public.)

APPLICATION/DECISION:

Each applicant for a hearing before the Board shall be made on forms provided by the Board and shall be presented to the Administrative Assistant of the Board of Adjustment, who shall record the date of receipt of over their signature.

Only a completed application, submitted prior to the posted deadline, will be accepted. A complete application shall consist of the following items:

- Completed and signed application form.
- Original signature authorization to proceed letter if applicant is not the property owner.
- Names and mailing addresses of all abutters, property owner(s) and ~~other~~ consultant(s), including legal counsel, if applicable.
- Mailing labels for all abutters, property owners, and other consultants, including legal counsel, if applicable, with each name/address appearing three (3) times. See application form for specific label size.
- If the application is for a variance, then it must include any letter(s) of denial or recommendations from an appropriate board, committees, commissions, or departments, and/or a Zoning Determination document from the Zoning Officer, detailing the specific need for the variance as requested.
- Any related plans or deeds if required for the specific application.
- Electronic/Digital copies of all listed items, except the mailing labels.
- All applicable fees

Appeals from an administrative decision taken under RSA 676:5 shall be filed within thirty (30) days of the decision.

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At each meeting the Administrative Assistant shall present to the Board all applications received at least ten (10) days before the date of the meeting.

All forms and revisions prescribed shall be adopted by resolution of the Board and shall become part of these rules of procedure.

Public notice of public hearings on each shall be pursuant to RSA 91-A. Notice shall include the name of the applicant, description of the property, to include Tax Map/Lot identification, action desired by the applicant, provisions of the Zoning Ordinance concerned, the type of appeal being made and the date, time, and place of the hearing.

Personal notice shall be made by verifiable mail to the applicant and all abutters not less than five (5) days before the date of the hearing. Notice shall also be given to the Planning Board and other properties deemed by the Board to have special interest. Said notice shall contain the same information as the public notice and shall be made on forms provided for this purpose.

APPLICATION FEES:

Application Fees are charged to cover the cost of legal noticing in a newspaper of local circulation as well as staff time involved in preparing notifications and meeting materials.

- Application: \$125.00/application
- Verified Mailing Fee: Current USPS Certified/Return Receipt mailing costs, rounded up to the next whole dollar.

Note: When more than one application (request for relief) is filed at the same time, the application fee shall be multiplied by the number of applications. However, since all applications will be noticed in the same verified mailing, the mailing costs are not multiplied by the number of applications.

PUBLIC HEARING:

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

- The Chair shall call the hearing into session and ask for the Administrative Assistant's report on the first case.
- The Administrative Assistant shall read the legal notice.
- Members of the Board may ask questions at any point during testimony.
- Each person who appears shall be required to state their name and address and indicate whether he is a party to the case or an agent or counsel of a party to the case.
- Any member of the Board, through the Chair, may request any party to the case to speak a second time.
- Any party to the case who wants to ask questions of another party to the case must do so through the Chair.
- The applicant shall be called to present their appeal, and those appearing in favor of the application shall be allowed to speak.
- Those in opposition to the appeal shall be allowed to speak
- The applicant and those in favor shall be allowed to speak in rebuttal.

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- Those in opposition to the appeal shall be allowed to speak in rebuttal.
- Any person who wants the Board to compel the attendance of a witness shall present their request in writing to the Chair not later than three (3) days prior to the public hearing.
- The Board of Adjustment will hear with interest any evidence that pertains to the facts of the case or how the facts relate to the provisions of the Town Zoning Ordinances and state zoning law.
- 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.
- The hearing on the appeal shall be declared closed and the Board will immediately deliberate on that case.
- Once a public hearing has been closed, there shall be no additional input provided to the Board in support of, or opposition to, the application. An application may not be withdrawn once the public hearing has been closed and the Board begins deliberations.

DECISIONS:

All motions for relief will be made in the “to grant” format and shall be passed by at least three (3) votes to the affirmative. Any motion to grant relief that does not pass by at least three (3) votes in the affirmative shall be considered as denied.

The Board shall decide each case within fourteen (14) days; the Board will approve, approve with conditions, deny the appeal, or defer its decision. Notice of the decision or deferral will be made available for public inspection, as required by RSA 676:3. If the appeal is denied or deferred, the notice shall include the reasons therefor.

Per RSA 674:33, 1-a(a) and IV(b) any variance or special exception shall be valid if exercised within two (2) years from the date of final approval, or as further extended by the local ordinance or by the Zoning Board of Adjustment for good cause, provided that no variance or special exception shall expire within six (6) months after the resolution of a planning application filed in reliance upon the variance or special exception.

Requests for extension of time beyond the two (2) year requirement shall be considered as part of a legally noticed public hearing and such requests must be filed prior to the expiration of the two (2) year period. All requests shall be in writing and shall demonstrate good cause as to why the two (2) year period should be extended. The costs of legally noticing the public hearing to consider an extension shall be the responsibility of the applicant.

Variances and special exceptions that are not exercised or extended by the Zoning Board of Adjustment, as noted above, shall be considered as denied with prejudice.

RECORDS:

The records of the Board shall be kept by the Administrative Assistant and made available for public inspection at the Planning Office in accordance with statutory requirements.

Final written decision will be placed on file and available for public inspection after the decision is made public, pursuant to RSA 676:3.

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REQUESTS FOR REHEARINGS:

All requests for re-hearing shall be made in compliance with RSA 677:2 and 677:3, and if granted, must also comply with the following:

- If a re-hearing is granted, it will be scheduled for the next available meeting date
- The fees for any re-hearing request granted by the Board shall be the same as those for the initial application.
- Payment of the fees for any re-hearing are the responsibility of the re-hearing requestor.
- All fee payments shall be submitted before the published application deadline of the next meeting date.
- If payment is not received by the published application deadline date for the next meeting, the request for re-hearing shall be considered abandoned.

Minutes of all meetings, including the names of the Board members, persons appearing before the Board and a brief description of the subject matter, shall be open to public inspection pursuant to RSA 91-A.

AMENDMENTS:

These rules of procedure may be amended by a majority vote of the members of the Board, provided that such amendment is read at two (2) successive meetings immediately preceding the meeting at which the vote is to be taken.