



## ZONING BOARD OF ADJUSTMENT OPERATING RULES

### Article I. Name

The name of the board is the Dover Zoning Board of Adjustment.

### Article II. Authority and Duties

- A. These Rules of Procedure are adopted under the authority of New Hampshire RSA 676:1 and the Zoning Ordinance of the City of Dover, New Hampshire.

### Article III. Membership

- A. **Membership.** There shall be five (5) regular members and up to three (3) alternate members.
- B. Alternates should attend all meetings to familiarize themselves with the workings of the Board so that they are ready to serve whenever a regular member is unable to fulfill his or her responsibilities. Alternate members shall substitute for regular members on any case when a regular member is absent or disqualified pursuant to RSA 673:14 and the Chair designates them to do so.
- C. Members must reside in Dover, New Hampshire and are expected to attend each meeting of the Board to fulfill their duties and responsibilities. Any member unable to attend a meeting shall notify the Chair or Clerk as soon as possible.
- D. Voting members shall be announced by the Chair prior to the consideration of the agenda item. Alternate members who are not voting may fully participate during the presentation of applications and the public hearing.
- E. **Attendance, Vacancies and Removal.** All appointments to the board shall serve for the terms appointed and until a successor shall have been appointed and qualified. Members who fail to attend four (4) meetings annually without due cause may be recommended by the Board for replacement by the City Council. Such failure to attend shall be deemed sufficient cause for the City Council to remove the member pursuant to RSA 673:13. Appointments made to fill any vacancies shall be for full terms to begin the date of appointment by the appointing authority unless otherwise provided in state statute.

#### Article IV. Officers and Staffing

- A. A **Chair** shall be elected in January on a yearly basis by a majority vote of the Board. The Chair shall preside over all meetings and hearings, appoint such committees as directed by the Board, and shall sign documents on behalf of the Board.
- B. A **Vice-Chair** shall be elected in January on a yearly basis by a majority vote of the Board. The Vice-Chair shall preside in the absence of the Chair and shall have the full powers of the Chair on matters that come before the Board during the absence of the Chair.
- C. If the Chair and the Vice-Chair are not present, or cannot sit on a case due to a conflict of interest, then the Board shall elect a temporary Chair from its members for that particular case or meeting.
- D. The **Clerk** shall be the staff person designated by the Director of Planning and Community Development. If the City does not provide a staff person to perform the duties of the Clerk, then the Board may elect a temporary Clerk by majority vote of the Board in January who shall serve as Clerk until approval and funding can be obtained to hire a dedicated Clerk as an employee of the City pursuant to RSA 673:16,I. The Clerk shall maintain a record of all meetings, transactions, and findings of the Board, as approved by the Board.
- E. All officers shall serve a term that expires in January and shall be eligible for re-election.

#### Article V. Procedures

##### Meetings.

- A. Regular meetings shall be held at the Municipal Building at 7:00 p.m. on the third Thursday of the month. Other meetings may be held on call of the Chair provided public notice and notice to each member is given in accordance with RSA 91-A:2,II.
- B. A maximum of six (6) applicant related items, which includes the combination of new applications and old business, shall be placed on the agenda for each monthly meeting, unless the Chair approves additional items. If no applications have been submitted to the Planning Department and there is no Other Business, the regularly scheduled monthly meeting may be canceled by the Chair.
- C. The order of business for regular meetings of the Board shall be as follows:
  - 1. Call to order by the Chair
  - 2. Roll Call by the Clerk
  - 3. Approval of minutes from the previous meeting
  - 4. Changes to the Agenda/Special Announcements
  - 5. Old Business
  - 6. New Business – Disposition of new applications under consideration
  - 7. Other Board Business
  - 8. Adjournment
- D. **Appeals.** Appeals from an administrative decision taken under New Hampshire RSA 676:5 shall be filed with the City Planning Department within thirty (30) days of the date of the decision. Any appeal made after this deadline will not be considered timely. The Zoning Board of Adjustment reserves the rights to waive this deadline under any special circumstances as it sees fit.
- E. **Quorum.** A quorum for all meetings of the Board shall be three (3) regular members, which would include alternates sitting in place of regular members.
- F. **Parliamentary Authority.** The parliamentary authority for the board is *Robert's Rules of Order Revised, 10<sup>th</sup> ed*, except as provided by these rules or local, state or federal law.

- G. **Minutes.** Minutes shall be kept for all meetings of the board. The minutes shall include the names of the members in attendance, all actions and motions coming before the Board including the votes of the members, and a summary of all discussions. Draft minutes shall be provided to the City Clerk within five (5) business days of each meeting for posting on the city website in draft form. Draft minutes shall be clearly marked "DRAFT". Draft minutes with or without revisions shall be approved by the board at the next meeting of the board, or as soon as possible. Final approved minutes shall be provided to the City Clerk for posting on the city website.
- H. **Recording of Meetings.** The board may arrange for video recording at all meetings. If video is not available, meetings shall be recorded using audio equipment. All recordings shall be provided to the City Clerk within five (5) business days of the meeting.
- I. **E-mail accounts.** Board members may obtain a City of Dover e-mail address to facilitate communications regarding meetings, agendas and the dissemination of information. Board members shall refrain from using e-mail to discuss issues with other members where the e-mail discussion directly or indirectly involves a quorum of the board. In addition, board members shall refrain from conducting the official business of the board outside the view of the public and the press unless permitted by state law.

#### **Member Disqualification**

- A. If any member finds it necessary to disqualify himself/herself from sitting in a particular case, as provided in RSA 673:14, the member shall notify the Chair as soon as possible so that the Chair can designate an alternate to sit in the disqualified member's 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 make a non-binding vote on the question of disqualification; only the member can disqualify himself or herself. Any such request shall be made before the beginning of the public hearing. The Board's vote shall be advisory and non-binding.
- B. A disqualified member shall not sit with the Board during the public hearing and during all deliberations on the case.

#### **Applications and Decisions**

- A. **Applications.** Each application for a hearing shall be made on forms approved by the Board and provided by the Planning Department to the applicant. At each meeting of the Board, the Clerk shall provide the Board with all applications received by the Planning Department which have been received no less than fourteen (14) days before the date of the hearing.
- B. **Public Notice.** Public notice of hearings on each application shall be given in the Foster's Daily Democrat and shall be posted in two (2) public places not less than five (5) days before the date of the hearing. Notice shall include the applicant's name, description of the subject property, action desired by the applicant, provisions of the zoning ordinance concerned, the type of relief being sought and the date, time and place of the hearing. Personal notice of the hearing shall be made by certified 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, City Clerk and other parties deemed by the Board to have special interest in the application. The applicant shall pay in advance for the cost of all required notice.
  - 1. The applicant must post at their property in clear view from the Street, the poster provided to them by the Planning Office. The poster must be posted no later than five (5) days before the hearing at which their application will be presented. If the poster is not posted, the Board may deem that as cause to disqualify the application.

C. **Public Hearing.** The conduct of public hearings shall be governed by the following rules:

1. The Chair shall call the hearing in session by reading the public notice referring to the application. If there are less than five (5) members of the Board sitting on a particular application, the Chair shall give the applicant the option of postponing the hearing until there is a full Board. If the applicant elects to proceed with less than a full Board (less than five (5) members, but not less than a quorum defined as three (3) members), that fact will not be grounds for a rehearing in the event the application is denied.
2. Members of the Board may ask questions at any point during testimony after recognition from the Chair.
3. Any party to the case who wants to ask a question of another party to the case must do so through the Chair.
4. Everyone who speaks and is not a member of the Board or an advisor to the Board, shall be required to state his or her name and address and indicate whether he or she is a party to the case, an abutter or an agent or counsel to a party or an abutter.
5. The applicant (or the applicant's counsel or agent) shall be called by the Chair to present the application to the Board. Thereafter, those in favor of the application shall be allowed to speak. Once those in attendance in favor of the application have spoken, the Board shall hear those in opposition to the application. After those in opposition to the application have spoken, the applicant (or the applicant's counsel or agent) shall be allowed to speak in rebuttal. Once they have spoken in rebuttal, those in opposition shall be allowed to speak in rebuttal. Upon completion of the final rebuttal, the public hearing shall be declared closed and the Board shall deliberate on the application or defer action on the application to a later date, and schedule a date for continuance. After close of the public hearing no further comment from applicant or abutter shall be taken.

D. **Decisions.** Decisions of the Board shall be governed by the following rules:

1. Any decision made by the Board that is in favor of the applicant shall require three (3) votes; this applies to the approval of any conditions that are placed on a variance.
2. All decisions shall be documented on a form that is approved by the ZBA.
3. The application shall be approved or denied based upon a majority vote by the members of the Board. In the event an application is heard by only three (3) members, an affirmative vote shall require all three (3) votes.
4. Notification of the decision shall be sent to the applicant and shall be filed in the records of the Board and shall be available to the public within five (5) business days.

E. **Nonpublic meetings.** If required, the board may conduct nonpublic meetings pursuant to the laws of the State of New Hampshire. The Chair shall conduct nonpublic meetings utilizing the Checklist prepared by General Legal Counsel for nonpublic meetings.

F. **Amendment of Rules.** These Rules of Procedure may be amended by a majority vote of the members provided that such amendment is presented at one (1) meeting immediately preceding the meeting at which the vote is to be taken.