

ZONING BOARD OF ADJUSTMENT
Town of Atkinson
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Rules of Procedure of the Atkinson Zoning Board of Adjustment

(Adopted under the authority granted by RSA 676:1) ADOPTED 2/14/24

Rules of Procedure:

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 Atkinson.

OFFICERS:

A Chair shall be elected annually by a majority vote of the Board in the month of April. The Chair shall preside over all meetings and hearings, 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.

MEETINGS:

Meetings of the Board shall be held at the Town Hall at 7:00 PM with public hearings starting at 7:30 PM on the 2nd Wednesday of each month. Other meetings may be held on the 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.

All meetings of the Board shall be open to the public except for Non-Public Sessions which shall be held only in accordance with RSA 91-A:3.

The Board's usual practice is to proceed to a conclusion in the hearing of any application that is in process of being heard by 10:00 pm . The Board reserves the right to designate a "last petition" after 9:30 pm. All applications noticed but not

heard will be opened only to continue to a date certain. No further notice will be mailed to applicants or abutters.

QUORUM:

A quorum for all meetings of the Board shall be three (3) members, including alternates sitting in place of members. RSA 674:33 provides that "...the concurring vote of three (3) members of the Board shall be necessary to reverse any action of an administrative official or decide in favor of any appeal..." 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 Landuse Administrator, 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.

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. The Chair may cancel a regular meeting if there are no applications pending for reasons of no filings or request(s) to withdraw.

ORDER OF BUSINESS:

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

- Roll call by the Chair
- Minutes of the previous meeting.
- Unfinished business
- Assign member to record Findings of Fact
- 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 application for a hearing before the Board shall be made on forms provided by the Board and shall be presented to the Landuse Administrator. The application due dates and meeting dates are posted at Town Hall and on the Town of Atkinson Website. Applications will be heard in the order in which they are submitted.

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 addresses of all abutters, property owners and other consultants, including legal counsel, if applicable.
- Any letters of denial or other referral from other boards, committees, commissions or departments. (ie: denied Building Permit Application)
- Any related plans or deeds if required.
- Electronic/Digital copies of all listed items.
- All applicable fees

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

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. (RSA 676:7)

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: \$250.00/application

- Abutter Notification Fee: \$10 for each abutter

PUBLIC HEARING: (General)

The following rules shall govern the hearing of cases before the Board.

The Chair shall read applications in sequence of the agenda. Only petitions that are noticed for hearing or continued from an earlier date will be discussed.

The Chair, with consent of the Board, may change or request a change in sequence from the Board.

The Chair shall call the meeting to order and introduce the Board members and alternate (if any) members in attendance.

The Chair shall succinctly explain the hearing process to the public (from below_ and then call the first case.

NOTE :If any one application includes multiple requests for relief, each will be reviewed individually per the procedures that follow:

Variances will be evaluated first,
followed by Special Exceptions.

PUBLIC HEARING: Appeal Applications – Order of Business

The Chair will read the public notice and invite the applicant and their representative to the table.

The abutters list is read all present are noted in the record.

The Chair shall recognize the applicant (or designated representative) to present their appeal. The applicant's testimony will include an overview of the proposal and discussion of the articles of relief or special exception being sought.

The Chair will open the meeting for public comment. Rules for public comment are:

Each person who appears during the public portion of the hearing shall state their name and address,

Public comments shall be confined to the subject matter

Questions from the public to the applicant must be done through the Chair

The Chair may caution speakers to keep on topic and minimize repetition

The Board's preference is to allow the public to speak in the following order:

- Direct Abutters
- Impacted non abutters (those who can demonstrate they are directly affected by the proposal under consideration)
- Other public comments at the discretion of the Chair

Any persons who wish to speak for a second time may do so at the discretion of the Chair after those wishing to speak for the first time have done so.

The Chair may limit the length of time for testimony in a manner the Board deems appropriate. The Chair will announce any testimony time limits prior to the start of the hearing.

All public testimony ends once the Chair closes the public portion of the case.

- Subsequent to the closing of the public portion of the hearing, the public shall not be allowed to speak without the Board's permission.
- Once the public comments portion of the hearing has been closed, the applicant shall be allowed to speak in reaction to the input from the public
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After the applicant's comments, the Chair shall convene the Board's deliberation of application, which is conducted *without petitioner or public input*, unless requested by the Board.

The Board may, by majority vote, continue the hearing of an application to allow the Board, as a whole, an opportunity to make a site visit which is open to the public. Observations on such site visits may form, in whole or in part, ground for a decision of the Board.

After the completion of the Board's discussion, the board will review and confirm the Finding of Facts.

The plan pertaining to the board's decision, additional documentation deemed necessary to support that plan and all documents submitted for the Board's consideration as exhibits shall be dated and initialed by the Chair and kept as part of the record.

DECISIONS:

Following the Board's deliberations, the Board will vote on each of the applicable criteria, then the Chair will ask for a motion to decide on the application. The Board will vote on the motion and the Chair will reiterate the decision to the applicant.

The board will read and review the Findings of Fact to make certain that they are complete.

If the Board determines additional information or time is required to reach its decision, it may vote to continue to a date certain.

A written Notice of Decision will be sent to the applicant will be available for public inspection within 5 business days of the Board's vote.

