

ZONING BOARD OF ADJUSTMENT RULES OF PROCEDURE
ADOPTED - APRIL 2, 2018

APPENDIX G - CLAREMONT ZBA RULES OF PROCEDURE

ARTICLE I: AUTHORITY AND PURPOSE

A. Authority

The Zoning Board of Adjustment (ZBA or Board) rules of procedure are adopted pursuant to New Hampshire RSA 676:1 and the Claremont Zoning Ordinance, as may be amended from time to time.

In the event that amendments to state law or regulation or rulings by the New Hampshire Supreme Court may invalidate any provision of these regulations, the invalidated portion of the regulation shall no longer apply and shall be superseded by the applicable law, regulation or Court ruling.

B. Purpose

These regulations are established to provide rules of procedure for the conduct of business to come before the ZBA. They supersede any and all rules which may have been adopted in the past.

ARTICLE II: MEMBERS AND ALTERNATES

A. Composition

The Board shall consist of the following Members appointed by the City Council (RSA 673:3, Claremont City Code (City Code) Sec. 2-27 and Sec. 22-41).

1. Five (5) Regular Members (Members) with power to vote.
2. Up to five (5) Alternate Members (Alternates).

As used herein, "Member" and "Regular Member" shall mean an appointed Board member. "Alternate" and "Alternate Member" shall mean an appointed alternate Board member.

B. Members and Alternates

Selection, qualification, term, removal of Members and Alternates, and filling of vacancies shall conform to RSA 673. Additionally:

1. Board Members and Alternates are appointed to the ZBA in accordance with RSA 673 and City Code Ch. 2, Art. II and Ch. 22, Art. II.
2. All Members and Alternates shall be residents of the City (RSA 673.3, City Code 2-26).
3. Each newly appointed or re-appointed Member or Alternate shall be sworn in and take an oath of office (RSA 42:1, Claremont City Charter Sec. 59).
4. *City Code of Conduct*: All Members and Alternates shall abide in the performance of their duties in accordance with the City's Code of Conduct.
5. No Member or Alternate of the Board shall represent himself/herself as a spokesperson for the Board before any group without prior authorization by the Board.
6. Members and duly appointed Alternates (acting in place of a Member), including the Chair, shall hear all cases presented, participate in the decision-making process, and vote to approve or disapprove all motions under consideration unless a member is absent or disqualified.
7. *Attendance*: Regular attendance by Members and Alternates is important to fully participate in the activities of the Board and carry a fair share of the workload.

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- a. Any Member and Alternate unable to attend a meeting shall notify the Secretary/Chair as soon as possible: If there is no quorum for a meeting then the Secretary shall notify the Chair.
 - b. If a quorum of the Board is physically present at the meeting, then other Members may attend the meeting by teleconference or videoconference, whichever the City can reasonably accommodate. All such remote participation shall comply with the then-effective provisions of RSA 91-A:2, III.
 - c. Continued service on the Board requires attending at least two-thirds (2/3) of scheduled meetings in a calendar year unless excused by the Chair.
 - d. The Secretary shall keep attendance and notify the Chair of any Member or Alternate whose attendance does not meet the above requirement.
 - e. The Secretary, at the direction of the Chair, will notify the Member or Alternate in writing of the failure to attend, said communication to include a statement that failure to attend scheduled meetings may result in a request to the City Council to remove the Member or Alternate due to neglect of duty.
8. *Concurrent Service on Other Boards:* Board Members and Alternates may serve on other municipal Boards and Committees with the following exception:
- a. Only one Member or Alternate may be a member of the Planning Board (RSA 673:7, II).
9. The Secretary shall forward to the municipal clerk for recording the appointment and expiration dates of the terms of each Member and Alternate of the Board.
10. *Removal of Members and Alternates:* Under certain circumstances the Board may vote to petition City Council to remove a Member or Alternate from the Board for just cause, including inefficiency, neglect of duty, and malfeasance in office. If the Board votes to remove a Member or Alternate, then the Chair shall file a written petition with the City Council for removal proceedings in accordance with RSA 673:13. The petition shall state the reasons for removal.
11. *Member Vacancies:* If a vacancy in the Board membership (Regular Members or Alternate Members) occurs other than through the expiration of a term of office, then the office shall be filled as follows:
- a. By appointment under this Article.
 - b. The Chair may designate an Alternate to fill the vacancy temporarily until the office is filled.

C. Alternate Members

Alternate Members (Alternates) shall be appointed to serve on the Board and participate pursuant to the following rules (RSA 673:6).

1. In the absence or disqualification of a regular Member at any meeting of the Board, the Chair shall designate an Alternate to act in the place of the absent regular Member (RSA 673:11). The Chair shall fully inform the public of the status of any Alternate present and identify the Members who shall be voting on the application.
2. At Board meetings, Alternates who are not activated to fill the seat of an absent or disqualified Member or who have not been appointed by the Chair to temporarily fill the unexpired term of a vacancy may participate with the Board in a limited capacity.

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- a. During a public hearing, Alternates may sit at the table with the Members and may view documents, listen to testimony, and actively participate and interact with other Board Members, the applicant, abutters and the public.
- b. Alternates who have not been appointed by the Chair shall not be allowed to make or second motions and shall not vote.
- c. During work sessions or portions of meetings that do not include a public hearing, alternates may fully participate, exclusive of any motions or votes that may be made.
- d. *Exception to voting restriction:* Alternate Members may participate in votes when appointing an Acting Chair.

ARTICLE III: OFFICERS

A. Appointment of Officers

1. The Chair and Vice-Chair of the Board shall be elected annually during the first meeting of the Board each calendar year by a majority vote of the Board (RSA 673:9).
2. In the absence of the Chair and Vice-Chair, the Board will choose one (1) of its Regular Members to act as Chair. If no Members are available to serve as Acting Chair, an Alternate may be appointed.
3. City staff shall serve as the Secretary.

B. Roles and Responsibilities

1. Chair: The role of the Chair is to maintain order throughout the meeting, enforce meeting procedures, and ensure courteous and respectful treatment of all attending the meeting. Additional duties of the Chair include, but are not limited to:
 - a. Coordinate with City staff and the Secretary regarding agendas and business of the Board outside of Board meetings;
 - b. Sign documents in the name of the Board, and;
 - c. Serve as spokesperson for the Board when dealing with outside entities such as the press, other Boards, or consultants. Other Members shall refer inquiries regarding Board business to the Chair or the Planning and Development Office.
2. Vice-Chair: 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 in the absence of the Chair.
3. *Secretary:* City staff from the Planning and Development Office shall serve as Secretary of the Board. It shall be the duty of the non-Board Member secretary to:
 - a. Keep a full and accurate record of the proceedings of each meeting including minutes and other recordings as available;
 - b. Record the names of the Members present and the names of those appearing before the Board;
 - c. Prepare the agenda for the upcoming meeting with input from the Chair, issue notices of all meetings, notify applicants and abutters of hearings, and;
 - d. Prepare such correspondence and fulfill such duties as the Chair may specify.

ARTICLE IV: MEETINGS

A. Meeting Schedule

1. Public meetings and hearings are held at the call of the Chair and at other times as the Board may determine (RSA 673:10). Unless otherwise determined by the Chair, the Board shall meet

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in regular session on the first Monday of each month at 7:00 p.m. at the City Hall, or another location as duly noticed.

2. A full schedule of regular meeting dates shall be prepared by the Secretary for each calendar year. This schedule shall recommend alternate meeting dates when regular meetings fall on holidays. The schedule of meetings shall be approved as presented or as amended by a majority vote of the Board.
3. Public meetings/hearings are subject to public notice in accordance with RSA 91-A, II and RSA 676:7. Public notice of meetings shall be posted in a consistent and reasonably accessible location on the Board's website.

B. General Rules

1. All meetings of the board shall be held in accordance with RSA 91-A.
2. *Rules of Order*: The rules of order for all meetings shall be determined by the Chair to maintain order and to allow open, informal discussion in favor of substance rather than procedure. Any ruling of the Chair may be challenged by any Member. Upon such challenge, the ruling shall be voted on by the Board, with a majority vote of Members present required to overrule the chair.
3. *Order of business*: The business of all regular meetings of the Board shall proceed in the following order:
 - a. Call to order by Chair, appointment of Acting Chair as needed
 - b. Roll call by the Secretary, appointment of Alternates as needed
 - c. Minutes of previous meeting
 - d. Old business and related public hearings
 - e. New business and related public hearings
 - f. Reading of communications directed to the Board
 - g. Other business
 - h. Adjournment

The Chair shall have the discretion to rearrange the agenda should the need to do so arise. Any Member may request, and have placed on the agenda, an item for discussion.

4. *Quorum*: A quorum for all meetings shall be three (3) Members, including Alternates as may be designated to sit in place of an absent or disqualified Member (RSA 673:10 and RSA 673:11). The Chair shall make every reasonable effort to assemble a quorum.
 - a. An appeal may be heard and decided by four (4) or three (3) Members if the applicant and all persons who appear in support of, or opposition to, the appeal agree to be heard by fewer than five (5) members and such agreement shall be recorded in the minutes of the meeting. If there is agreement to proceed with fewer than five (5) Members present, then the number of Members present shall not solely constitute grounds for a rehearing.
 - b. If the applicant opts to continue an appeal due to not having a full board present, then the Board shall announce the time, date, and location of the continued hearing.
5. *Officers and Employees to Attend*: Any employee or agent of the City, when requested by the City Manager or his designee or presiding Chair, shall attend any regular, adjourned or special meeting of the Board in order to confer with the Board on any relevant matters.
6. *Addressing the Board*: All comments to and within the Board shall be made through the Chair.

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- a. Board Members do not have to stand to be recognized to speak or to make a motion. The Chair shall recognize any Member raising his or her hand.
 - b. Any person not on the Board who is recognized by the Chair may speak.
 - c. The Chair shall rule as being out of order any person who is talking about matters not under discussion, who is making a point more than once, or is disruptive, and order them to cease and yield the floor.
 - d. At the discretion of the Chair, persons may be allowed to speak a second time to respond to earlier comments.
 - e. In some cases speaking time may be limited to ensure all those wishing to speak have the opportunity to do so.
7. *Excusal during meetings:* Any Member may leave the Board chambers while in regular session after notice to the Chair of pressing business:
- a. If the excusal results in loss of a quorum, the meeting will enter into a recess if the absence is temporary;
 - b. If the excusal is for the remainder of the meeting and a quorum is lost, then any pending case(s) shall be continued to a date and time certain.
8. *Voting:* Every Member present when a motion is put to vote shall vote either yes or no.
- a. Members are expected to be familiar with the business at hand and may vote on a motion regardless of prior absences.
 - b. A motion, duly seconded, shall be carried by an affirmative vote of at least three (3) of the Members present (RSA 674:33.III.). A tie vote (counting all votes cast) shall mean that the motion fails. Voting may be by roll call, which shall be recorded in the minutes. A motion may not be withdrawn by the mover without the consent of the Member who voiced the second.
9. *Fact Finding and Requesting Information:* Board Members should not feel compelled to make hasty decisions. Everyone should feel comfortable with his/her vote; if not, he/she should obtain whatever additional information is needed before proceeding with the decision. In an effort to avoid the appearance of ex parte communication during public hearings for applications before the Board, Members and Alternates shall abide by the following:
- a. Ask questions during Board meetings.
 - b. If questions arise outside of Board meetings, forward questions to the Chair and the Secretary. The Secretary or City staff shall respond to the question at the next Board meeting.
 - c. The Board may, at its discretion, obtain a third-party review at the applicant's expense on any application coming before the Board as long as it does not duplicate a review obtained by the Planning Board (RSA 676:5).
 - d. The question and findings shall be made available to all parties and all parties shall be given a meaningful opportunity to review and respond.
10. Board Members are encouraged to gain general knowledge about planning and zoning topics and the functioning of the Board. Members may share independent research of non-application topics with the Board.
11. *Non-Public Session:* The ZBA may, by a majority vote, go into non-public session as may be permitted by RSA 91-A.
12. Electronic communication of any kind among two or more Members and/or Alternates and/or non-Members during meetings is prohibited except for emergencies. As required by RSA 91-

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A:2 and RSA 91-A:2-a, all discussions among Members and Alternates regarding matters over which the Board has supervision, control, jurisdiction or advisory power shall occur openly during properly-held public meetings. The purpose of this provision is to prevent violations of RSA Chapter 91-A and to avoid the appearance of such violations in all cases. The Chair shall enforce this provision and may ask that the contents of such communications be disclosed and reflected in the minutes.

C. Disqualification and Conflict of Interest

It is the desire of the City of Claremont to operate in a manner that demonstrates the highest level of professionalism and public service and avoid all circumstances which may create the appearance of impropriety or otherwise undermine its stated objective. Board Member or Alternate participation or disqualification from his/her duties as a full Member (where an Alternate is serving temporarily as a Member) or as a non-voting Alternate shall be in accordance with the following:

1. *Abutters*: Per RSA 672:3, anyone owning or leasing land or buildings abutting a piece of property which is the subject of an application before the Board is disqualified from acting on that application.
2. *Conflict of interest or prejudgment*: No Member or Alternate shall participate in deciding or shall sit upon the hearing of any question if that Member or Alternate has a direct personal or pecuniary interest in the outcome which differs from the interests of other citizens, or if that Member or Alternate would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law (RSA 673:14).
3. Reasons for disqualification include when a Member:
 - a. Is the spouse or close family member of the applicant or any abutter;
 - b. Has assisted or advised the applicant or any abutter; or,
 - c. Is biased or prejudiced in any manner or to any degree which would, in the eyes of a reasonable and prudent person, prevent the Member from acting impartially with respect to the application before the Board.

Reasons for disqualification also includes prejudgment which occurs when a Member has directly or indirectly taken a position, formed a conclusion, or has prejudged the application to be decided by the Board. Prejudgment includes, but is not limited to, a position taken either for or against an application expressed at a public meeting, by letter, by ex parte communication, or by comment made in some public forum. Prejudgment does not include questions or statements made by Members or Alternates in response to the details of the application expressed during the public hearing held on that application or during the Board's deliberations.

4. If any Member finds it necessary to disqualify himself/herself from sitting on a particular case, as provided in RSA 673:14, he/she shall notify the Chair as soon as possible, but no later than when the case is brought before the Board for consideration. The disqualification shall be announced by either the Chair or the Member, who shall remove himself/herself from the Board and sit with the public until such time as the Board has completed its consideration of the application. The Member may then return to the Board. The Chair shall assign an Alternate to fill the vacancy. If as a result of disqualification:
 - a. The Board loses its quorum, then there shall be an adjournment or recess of consideration of the matter until there is a quorum either at the same meeting or the next available meeting, or;

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- b. There is less than a full Board, then the Chair shall ask if the applicant and all persons who appear in opposition agree to be heard by fewer than five (5) members and take action pursuant to "Quorum," in Article IV.B.4., above.
5. When an uncertainty arises as to whether a Member is disqualified in particular circumstances, the Board shall, at the request of that Member or another Board Member, vote on the question, but such vote shall be advisory and non-binding. Any member of the public with a direct interest in the outcome may voice an objection to a Board Member's participation, setting forth specific reasons, and may also request such a vote, but such a request shall be non-binding. Any such request or objection shall be made either prior to or at the commencement of the public hearing, or at such later time as the facts claimed to warrant disqualification first become known. No such vote shall be required if the Member involved steps down voluntarily.

D. Site Visits

A site visit is defined as a visit, in an official capacity, by Members or Alternates to a location that is subject to Board review.

1. Board Members may conduct individual site visits without entering the property in the course of reviewing an active or pending case before the board. Direct contact with the applicant shall be avoided.
2. The Board may determine a site visit is necessary for the adequate consideration of an application during a public hearing. When a site visit is necessary:
 - a. The Board shall schedule the site visit so the applicant and the applicant's agents have the opportunity to attend.
 - b. The site visit shall be posted and conducted as a public meeting. Minutes shall be taken if there is a quorum of Members present.
 - c. The Board shall refrain from discussing the merits of the case during the site visit, except obtaining information about the site. Any testimony, motions, or directives to an applicant or interested parties should be made at the subsequent public hearing for the case.
3. The practice of an applicant directly contacting a Member or Alternate to invite him/her to visit a property without prior approval from the Board is deemed ex parte communication per Article V.C.4., below, and inappropriate conduct.

E. Submission of Supplemental Information

1. An applicant or applicant's agent may submit additional information pertaining to an application either received by the deadline or already on the agenda for a scheduled hearing no less than ten (10) days prior to that hearing. Failure to do so may result in the additional information not being considered at the hearing.
2. No such submission limitations shall be imposed upon an abutter or other party wishing to submit comments or information about the subject application at the public hearing.
3. During the meeting when the subject application is being heard the Board shall consider granting a continuance to the next scheduled Board meeting to permit the City staff, Board, abutters, and other parties time to review the new information.

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ARTICLE V: COMMUNICATIONS BETWEEN MEETINGS

A. Purpose

1. To ensure compliance with the letter and spirit of RSA 91-A and with the due process rights of parties before the Board;
2. To clarify Board Members' ability, between meetings, to research issues and prepare motions or other potential Board actions, thus promoting efficient use of meeting time, but only to the extent allowed by law, and;
3. To clarify the role of electronic media such as e-mail in achieving these goals, Members will abide by the following.

B. Allowable Communications

Nothing in this policy prevents any distributions, communication, or ex parte communications which pertain solely to: scheduling of meetings or hearings, determination or ordering of agenda items or topics to be taken up at meetings or hearings, or general procedural requirements pertaining to such scheduling and agenda matters.

C. Rules Concerning Communications

1. Individual Board Members may, between meetings, prepare drafts of motions or other potential Board actions. Members and Alternates may also research or investigate general information not related to an existing or pending case to be heard by the Board. If a question pertaining to a matter before the Board arises, then the Member or Alternate shall follow "*Fact Finding and Requesting Information*," in Article IV.B.9., above.
2. A distribution may be made to any number of Members or Alternates, so long as it does not request a response or raise an expectation of a response between meetings. Whenever a Member or Alternate makes a distribution concerning a pending or future case and it involves a quorum of the Board (counting all senders and recipients):
 - a. The Member or Alternate making the distribution shall report on it, and its contents, at the public hearing on the case unless the information is exempt from disclosure under RSA 91-A; and,
 - b. Parties to the case shall be given a meaningful opportunity to respond to the information in the distribution.
 - c. All substantive discussions among Board Members and Alternates regarding the contents of a distribution shall occur during a Board meeting.
3. Communication means a transfer of information from one person to another. It includes face-to-face or phone conversations, letters, memos, E-mails, web sites, or any other medium, regardless of the location or ownership of any device or equipment used.

Communications between meetings, or a series of communications, involving more than one Board Member or Alternate, which requests a response or raises an expectation of a response involving a quorum or more of the Board, are prohibited. Such communications shall be considered deliberations, which occur only at meetings noticed in accordance with RSA 91-A.
4. Ex parte communication is communication, other than at a legally-noticed meeting, between a Member or Alternate and a person with an interest in, or affected by, a pending or future case. Members and Alternates shall make every reasonable effort to protect their neutrality by avoiding discussions about actual cases.

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Members and Alternates shall not initiate ex parte communications. If an ex parte communication is initiated by another person, the Member or Alternate contacted shall:

- a. Refrain from discussing the substance or merits of a case;
- b. Inform the person, if necessary, that such a discussion could lead to disqualification;
- c. Refer the person to the Planning Office or to a Board meeting, as appropriate; and
- d. Report on the conversation to the Board at the next public meeting.

ARTICLE VI: APPLICATION AND FORMS

A. Application

1. Each application for appeal before the Board shall be made on forms provided by and available from the City and shall be presented to the Secretary or duly appointed City representative, with any applicable fees. The Secretary shall record the date of receipt of the application for appeal over his/her signature. Failure of the applicant to pay the fees assessed may result in a denial of the appeal without a public hearing (RSA 676:7, IV).
2. All applications shall be submitted pursuant to the application deadline for the hearing date when the applicant wishes to be heard. The hearing schedule and application deadlines shall be available from the City upon request.
3. Applications for appeal from an administrative decision made under RSA 676:5 shall be filed within thirty (30) days of the date of the decision.

B. Forms

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

ARTICLE VII: NOTICE AND SCHEDULING

Notice and scheduling shall be in accordance with RSA 676:7. Since such costs of notice for, and scheduling of, a public hearing are a part of the application, notice will not be sent and the hearing will not be scheduled until the costs are paid in full.

A. Notice

1. Public notice of a public hearing shall be posted in the Planning & Development Department and City Hall and published in a newspaper or other publication of general circulation in Claremont not less than five (5) days prior to the public hearing (not including the day of the posting or the day of the hearing or legal holidays).
2. The notice shall include the name of the applicant, the description of the property, including the tax map identification, the action desired by the applicant, the applicable provisions of the zoning ordinance, the type of appeal being made and the date, time and place of the hearing.
3. The cost of such notice shall be paid in advance by the applicant. Since such costs are a part of the application, failure to pay such costs shall be considered valid grounds not to accept the application.
4. Notice shall be made by certified mail to the applicant, the applicant's agent, and all abutters and holders of conservation, preservation or agricultural preservation restrictions on the subject property not less than five (5) days before the date of the hearing. Such notice shall contain the same information as the public notice.

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B. Scheduling

1. A public hearing shall be held within thirty (30) days of receipt by the Board of the notice of appeal. The appeal shall be scheduled for hearing at the next regular meeting in accordance with the hearing schedule and submission deadline.
2. In the event, for whatever reason, a hearing cannot be held within thirty (30) days of submission of the appeal, the applicant may waive the thirty-day requirement in writing.
 - a. In the event of such a waiver, the appeal shall be scheduled for hearing at the Board's next regular meeting.
 - b. In the event there is no such waiver, the Chair and Secretary shall schedule a special meeting of the Board and the applicant shall be required to pay any additional costs for the special meeting.
3. In the event an applicant, for good cause shown, is unable to attend the scheduled public hearing, he/she may submit a written request prior to the public hearing that the appeal be rescheduled to the next meeting of the Board.
 - a. Such written request shall be considered voluntary waiver from the requirement to hold a hearing within thirty (30) days of receipt of the appeal.
 - b. The applicant may be required to pay any additional costs for the rescheduled public hearing.

ARTICLE VIII: PUBLIC HEARINGS AND JOINT MEETINGS

A. Public Hearings

1. A public hearing shall occur only during a properly held public meeting in compliance with RSA Chapter 91-A.
2. When addressing an application that has been submitted to the Board, the Chair shall first read the public notice.
3. The Chair shall determine that the applicant/agent is present. If neither is present, then the Board may decide to continue with the public hearing or table or continue the public hearing.
 - a. Any party may appear in person or through an agent or attorney. If the applicant does not appear before the Board, written authorization for an agent or attorney to appear on the applicant's behalf must be received by the Board prior to the start of the public hearing.
4. The Chair shall assess if a quorum is present due to absence or disqualification of Members. Alternate Members shall be assigned to fill vacancies as needed to address the application. If a five(5)-Member Board cannot be constituted, confirm a three (3) or four (4)-Member Board is acceptable per Article IV.B.4.
5. Determine whether the appeal is appropriate to the relief sought by the applicant. If the Board determines the relief sought does not require an appeal or requires a different type of appeal, then the Board may dismiss the application with an explanation to the applicant.
6. Staff presents a summary of the application and issues presented. Members and Alternates may ask questions at any point during the presentation.
7. The Board shall decide whether the proposed project qualifies as a development with potential regional impact.

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- a. If the Board determines a project has potential for regional impact, then additional abutters shall be identified and notified of the case per RSA 36:54-:58.
 - b. The Chair shall inform the applicant that the hearing/case will be continued automatically to a later public meeting to accommodate the statutory notice process.
8. The Chair shall read the abutters' list.
9. Subject to the provisions below, any applicant, any abutter, and any person with a direct interest in the matter may testify in person or in writing. Representatives of City departments and other City boards and commissions who have an interest in the application shall be allowed to present their comments in person or in writing. Other persons may testify as permitted by the Board at each hearing.
- Each person who appears before the Board during a hearing shall be required to state his/her name and address and indicate whether he/she is a party to the case or an agent or counsel of a party to the case.
10. The applicant/agent presents the application. Members and Alternates may ask questions at any point during the presentation.
11. Persons in favor of the application are recognized to submit testimony, and correspondence in support of the application is noted for the record.
12. Persons opposed to the application are recognized to submit testimony, and correspondence in opposition to the application is noted for the record.
13. Persons in favor of or opposed to the application may speak for a second time only after everyone present who wishes to speak a first time has been heard.
14. The applicant/agent shall be given an opportunity to respond to testimony presented by others.
15. Members and Alternates may ask questions at any point during presentations by the applicant/agent, other parties, and others who speak.
16. All questions during the hearing from one party to another must go through the Chair.
17. A hearing may be continued to a later session or sessions as required to accommodate all who wish to speak, or for the applicant to provide additional information or correct deficiencies. Additional notice is not required if the date, time and place of the continuation is made known at the time the decision to continue is made.
18. Once all testimony and other information has been submitted to the Board, the Chair shall declare the public hearing closed.
19. The Chair may then commence deliberation by the Board during which the Board is invited to review the facts of the case.
- a. The Chair may reopen the public hearing if the Board agrees additional information from any party is necessary to reach a decision. The Chair shall declare the public hearing closed once additional information is received to the Board's satisfaction.
 - b. After discussion, the Chair may entertain motions to approve, approve with conditions, deny, table, or continue the application.
20. If at any point before reaching a decision on the application the Board reasonably determines that it needs more information to complete its consideration of the application, deliberations

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shall be suspended and the applicant shall provide it at the applicant's expense. Failure to provide the requested information is grounds for denial of the application.

B. Joint Meetings and Hearings

Joint meetings may be held pursuant to RSA 676:2:

1. An applicant may petition two or more Boards to hold a joint meeting when the permit application(s) and/or appeal(s) are within the jurisdictions of those Boards. Boards subject to the petition should honor the request in deference to the applicant.
2. The Board may request joint meetings and hearings with other "land use boards" including the Planning Board, the Historic District Commission, and the Building Code Board of Appeals. Each Board shall have discretion whether or not to hold a joint meeting (RSA 676:2).
 - a. Joint business meetings with another local land use board may be held at any time when called jointly by the chairmen of the two boards.
 - b. A joint public hearing must be a formally-noticed public hearing when the subject matter of the hearing is within the jurisdiction of the boards convened.
3. The Planning Board Chair shall chair all joint meetings and public hearings when the subject matter involves the Planning Board. Otherwise, the Chair of the land use board requesting the joint meeting shall chair the meeting.
4. The rules of procedure for joint meetings and hearings shall be the same as these rules of procedure except that the order of business shall be as follows:
 - a. Call to order by Chair;
 - b. Introduction of Members of all Boards by Chair;
 - c. Explanation of reason for joint meeting/hearing by Chair;
 - d. Conduct of public hearing/meeting agenda shall be according to the agenda and procedure as determined by the Chairs of the participating Boards prior to the joint meeting;
 - e. Adjournment.
5. Each board involved in a joint public hearing makes its own decision, based on its criteria for the particular matter. Deliberations and Board decisions may take place at another time after close of the public hearing if said proceedings are scheduled for a date and time certain.

ARTICLE IX: DECISIONS

The Board shall decide all appeals within forty (40) days after the close of the public hearing and shall approve, approve with conditions, or deny the appeal.

1. All decisions shall be by a vote taken in public session. No appeal shall be granted except by an affirmative vote of at least three (3) members (RSA 674:33.III.).
2. Should a motion not receive the necessary three (3) votes in favor of the appeal, then the motion fails.
3. All decisions by the Board shall include findings of fact on each criterion required by law for the specific appeal. If the appeal is denied, each member who voted for the denial shall state on the record his/her reasons for the denial.
4. If the Board grants an appeal, it may impose such conditions as it determines may be necessary to preserve the spirit of the Zoning Ordinance and to ensure that the public health, safety and welfare will not be endangered.

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5. A written notice of decision, including conditions, if any, shall be given to the applicant and placed on file for public inspection within five (5) business days after the decision is made as required by RSA 676:3. If the appeal is denied, the notice shall include the reasons for the denial.
6. Notices of decisions for variances shall be recorded at the Sullivan County Registry of Deeds.

ARTICLE X: MOTION FOR REHEARING

A person aggrieved by a decision of the Board (appellant) shall submit a motion for rehearing in accordance with RSA 677:

1. *Request for Rehearing:* The appellant shall submit a motion for rehearing to the Secretary within 30 days after the decision has been made (RSA 677:2). The motion shall clearly state every reason why the appellant believes the decision was unlawful or unreasonable (RSA 677:3).
2. *Consideration of the Motion for Rehearing:* The Board shall schedule a public meeting within 30 days after receipt of the motion for rehearing. The Board does not receive testimony when considering whether a rehearing is warranted. The Board shall consider only information in the motion for rehearing. During this public meeting the Board shall determine:
 - a. The motion was filed on time;
 - b. The appellant has standing as an aggrieved party to the decision, and;
 - c. Whether the Board committed a technical error in its procedure and/or there is new information not available at the time of the original decision.

If the Board affirms all three conditions above, then a rehearing is warranted. Otherwise, the original decision remains in effect and the appellant may petition superior court within 30 days after public meeting to consider the motion for rehearing.

3. If the board grants the motion for rehearing, the new public hearing shall be held within 30 days of the decision to grant the rehearing provided all notice and application fees are paid and an updated abutters list is submitted by the party requesting the rehearing. Notification of the rehearing shall follow the procedures set forth in RSA 676:7.

ARTICLE XI: RECORDS

The records of the Board shall be kept by the Secretary and shall be made available for public inspection at the office of the Board as required by RSA 91-A:4.

Minutes of the meetings, including the names of Board Members, persons appearing before the Board and a brief description of the subject matter, shall be open to public inspection in the Planning and Development Department within 5 business days after the meeting as required in RSA 91-A:2, II and RSA 676:3. Additionally, approved minutes shall be posted on the Board's website, in a consistent and reasonably accessible location (RSA 91-A:2, II-b(a)).

ARTICLE XII: AMENDMENT

These rules of procedure may be amended, by an affirmative vote of three (3) members, at a regular meeting of the ZBA, provided that such amendment is submitted in writing for discussion at the meeting prior to the meeting at which the vote to amend is taken.