

ZONING BOARD OF ADJUSTMENT

TOWN OF EAST KINGSTON, NEW HAMPSHIRE

RULES OF PROCEDURE

1.0 Authority

The East Kingston Zoning Board of Adjustment (ZBA) first adopted Rules of Procedure on *15 August 1991* by virtue of the authority stated in New Hampshire [RSA 676:1](#), and *subsequently revised*. Revisions are *hereby made and adopted* by the ZBA on *17 May 2007, 21 October 2010, and 29 November 2022*, and are filed with the East Kingston Town Clerk for public inspection.

2.0 Membership

All prospective members and alternate members of the East Kingston ZBA shall be residents of the Town of East Kingston ([RSA 673:3](#)). The East Kingston ZBA shall consist of five (5) regular members unless that number shall be changed by the New Hampshire State Statute, or by the Town of East Kingston legislative body. All five regular members shall be appointed by the Board of Selectmen to staggered three-year terms so no more than two appointments occur annually ([RSA 673:5 II](#)). Not more than five alternate members may be appointed to staggered 3-year terms.

3.0 Voting

Regular Members

All regular ZBA members are entitled a deciding vote for meetings and public hearings, unless they have recused themselves as an abutter to the public hearing or for conflict of interest.

Alternate Members

Alternate members may participate in meeting discussions and public hearings, but are not entitled to a deciding vote unless they have been appointed as a voting member by the Chair in the event of absence or recusal of a regular member.

4.0 Officers, Employees, and their Duties

In accordance with [RSA 673:8](#), the officers of the ZBA shall be a Chair and a Vice Chair, and they shall be elected annually at the regular monthly meeting in April (or the first regular meeting following the March Town Election, so as to accommodate membership cycles. Officers shall be chosen by majority vote of those full members present. All officers may be elected to succeed themselves ([RSA 673:9](#)).

4.1 Chair

The Chair shall conduct meetings and hearings, speak officially for the Board, and designate alternates to replace absent members at meetings and hearings. The Chair shall vote in all cases where he or she does not have a conflict of interest.

The Chair's signature is sufficient for signing plans and relevant Board documents.

4.2 Vice Chair

The Vice Chair shall act in the capacity of the Chair, as and when the need arises. The Vice Chair shall assist in the orderly conduct of ZBA meetings, the execution of monthly agendas, and the tracking of ZBA commitments and responsibilities.

4.3 Land Board Secretary

In accordance with [RSA 673:16](#), a Land Board Secretary may be employed to perform the administrative duties required of the ZBA. The Chair shall direct the Land Board Secretary's performance of the administrative duties, and confer with the Vice Chair to ensure continuity. A complete description of the Land Board Secretary's position is outlined in Attachment A.

The Land Board Secretary shall ensure the safe-keeping of Board records and files, see that proper notice is given, attend to other administrative details, and in accordance with [RSA 91-A:2](#), shall keep minutes of any meeting to include the names of members, s appearing before the public bodies, and a brief description of the subject matter discussed and final decisions. The names of the members who made or seconded each motion shall be recorded in the minutes. Each member's vote on a question shall be recorded when Board unanimity is not obtained.

5.0 Conflict of Interest

No member of the ZBA shall participate in deciding, or shall sit upon the hearing of, any question which the Board is to decide if that member has a direct al or pecuniary interest in the outcome which differs from the interest of other citizens, or if the member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law. Reasons for disqualification do not include exemption from service as a juror or knowledge of the facts involved gained in the performance of the member's official duties ([RSA 673:14](#)).

When uncertainty arises as to the application of the above to a Board member in particular circumstances, the Board shall, upon the request of that member, or another member, vote on the question of whether that member should be disqualified. Any such request and vote shall be made prior to, or at the commencement of any required public hearing. Such a vote shall be advisory and non-binding, and may not be requested by s other that ZBA members ([RSA 763:14 II](#)).

If a member is disqualified or unable to act in a particular case, pending before the board, the Chair shall designate an alternate to act in his or her place. The Chair shall announce any disqualification before discussion in a public hearing begins. The disqualified member

or alternate member shall then remove him/herself from the Board table until discussion or the hearing is completed.

6.0 Quorum

A majority of the membership of the East Kingston ZBA shall constitute a quorum necessary in order to transact routine business at any meeting of the Board. The Chair shall designate an alternate member if any member is absent, or disqualify him/herself from sitting for a particular application, and three (3) members of the present five (5) member Board shall constitute a quorum. If there are less than five members (including alternates) present, the chair shall give the applicant the option to proceed or not. Should the applicant choose to proceed with less than five members present, that shall not solely constitute grounds for a rehearing should the application fail.

If in the event, a quorum of three members/alternate members must constitute the entire board, any action taken regarding its own regulation shall require all three sitting members to vote in the affirmative ([RSA 674:33](#) III).

7.0 Training

[RSA 673:3-a](#) provides for the training of those who are assuming office for the first time. The training is to be made available by the New Hampshire Office of Planning and Development within 12 months of appointment or election, and may be designed in a variety of formats including, but not limited to, web-based, distance learning, traditional classroom style, or self-study. ZBA members are strongly encouraged to avail themselves of this offer of training, and any and all other training opportunities which may arise for their own professional development. Newly appointed members may attend formal training as soon as it is offered by NH Office of Planning and Development, Rockingham Planning Commission, or other similar body.

8.0 Recruitment of Board Members

In order for the board to have a fully constituted ZBA for all public hearings, it is incumbent on the members and alternate members to identify those residents of East Kingston who possess the interest and clear-eyed perspective necessary to participate in his/her civic duty. When such an individual does express an interest, he/she should be encouraged to submit a letter of application to the ZBA. The letter should include the reasons for such interest and any qualifications that might possess. Other strategies for member recruitment may also be considered.

Letters of application shall be presented to the Board by the Chair, and the interested party encouraged to speak with the Board in. The Board shall then discuss the party's suitability, and make a written recommendation to the Board of Selectmen regarding an appointment.

9.0 Scheduling of Meetings and Hearings

In accordance with [RSA 673:10](#), any scheduled ZBA meeting shall be held at 41 Depot Road (unless another venue is deemed appropriate) on the fourth Thursday of the month at 7:00 PM. Should the meeting lack a quorum or need to be rescheduled due to inclement weather, holiday, or other circumstances, the new hearing date will be held as soon as possible, with the new date and time posted at the East Kingston Town Offices, the East Kingston Post Office, and the Town's website. Lengthy meetings will, if necessary, be continued to 7:00 PM of the next evening, or rescheduled as soon as possible should the hour exceed 11:00 PM of the regular meeting date.

Meetings shall be scheduled as needs arise. Meetings not involving public hearings need to have notices posted at least 24 hours in accordance with [RSA 91-A](#); otherwise, [RSA 676:7](#) requires 5 days notice for a public hearing.

The Chair may call special meetings, provided that at least forty-eight (48) hours' notice shall be given to each member before a meeting is held, and providing that each member is not out of town or otherwise unreachable. The Chair shall be required to call a meeting within ten (10) days of receipt of a written request from any two (2) members of the Board.

10.0 Non-Public Sessions

The ZBA may meet in non-public session, provided all the provisions of [RSA 91-A:3](#) are met ([RSA 673:17](#)).

11.0 Order of Business

- 11.1 Call of the meeting to order, statement of time, and roll call
- 11.2 Designation of voting members
- 11.3 The regular scheduled hearing agenda as presented by the Chair
- 11.4 Hearing of new or proposed ordinances, regulations, studies, periodic reviews, etc.
- 11.5 Review and acceptance of minutes from previous meeting.
- 11.6 Board correspondence and other business
- 11.7 Review of the next meeting's proposed agenda and other new business
- 11.8 Adjournment

12.0 Submission of Applications and Notice of Public Hearing

An applicant must submit any application to the Board or its agent at least 21 days prior to the meeting at which the application will first be considered. An application submission calendar shall be developed and posted to the town website to inform the public and applicant(s) of this submission deadline requirement. Applications must be completed in full before they are deemed eligible for placement on the board's agenda. The application will be reviewed by the Land Board Secretary or designee who will contact the applicant about the application's completeness. Upon receipt, and aforementioned determination

of a completed application, the Board shall, at least five (5) days prior to the next regular meeting date, notify the abutters in the applicant by certified mail, return receipt requested, of the date upon which the application will be formally submitted for acceptance. Notice to the general public, shall also be given at the same time by posting in two public places in Town, posting on the town website, and published in a local newspaper of general circulation. ([RSA 676:7](#)).

13.0 Timeline

The Board shall have 90 days to begin consideration and approve or disapprove of an application, unless the applicant agrees to an extension. If the Board determines that it lacks sufficient information to make a final decision on an application and the applicant does not consent to an extension, the Board may deny the application without prejudice, allowing the applicant to reapply for the same relief.

14.0 Finding of Fact

The Board will provide written findings that support an approval or disapproval. The finding of fact may be a checklist indicating how an application meets the regulation or ordinance, or, depending on the controversy associated with the application, a legally prepared finding of fact. In the case of a denial, the finding of fact shall include specifics of how and why an application does not meet the requirements for approval.

15.0 Issuance of Decision

After a duly noticed public hearing, the Board shall issue a final written decision which either approves or disapproves of an application and make a copy of the decision available to the applicant pursuant to [RSA 676:3](#). If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

Whenever a local land use board votes to approve or disapprove an application or deny a motion for rehearing, the minutes of the meeting at which such vote is taken, including the written decision containing the reasons therefor and all conditions of approval, shall be placed on file in the board's office and shall be made available for public inspection within 5 business days of such vote.

Unless otherwise indicated by the Board, written decisions shall be recorded at the Registry of Deeds.

16.0 Records of the Board

The records of the Board shall be kept by the Land Board Secretary and made available for public inspection at the Selectmen's Office (24 Depot Road, East Kingston, NH) in accordance with [RSA 673:17](#). Final written decisions will be placed on file and available for public inspection within five (5) business days after the decision is made. [RSA 676:3](#). Minutes of all meetings shall be open to public inspection within five (5) business days of

the public meeting. Approved minutes must also be posted on the website in a consistent and reasonably accessible location, or a notice must be posted and maintained on the website stating where minutes may be reviewed and copies requested ([RSA 91-A:2 II](#)).

17.0 Amendments

Rules of procedure shall be adopted or amended by a majority vote at a regular meeting of the board provided that such new rules or amendments are proposed and discussed prior to the meeting at which the vote is to be taken and shall be placed on file with the city or town clerk and be available for public inspection pursuant to [RSA 676:1](#).

18.0 Waivers

Any portion of these rules of procedure may be waived in such cases where, in the opinion of the board, strict conformity would pose a practical difficulty to the applicant and a waiver would not be contrary to the spirit and intent of the rules.

APPENDIX A

TOWN OF EAST KINGSTON, NEW HAMPSHIRE

**PLANNING BOARD
AND
ZONING BOARD OF ADJUSTMENT**

TITLE: Land Board Secretary to the Planning Board and Zoning Board of Adjustment

JOB SUMMARY: Responsible for routine clerical tasks in support of the Planning Board and Zoning Board of Adjustment, including keeping all minutes and records for the Boards in accordance with the Rules of Procedure and applicable state laws. It also includes timely processing of applications submitted to the Boards in accordance with state laws, keeping financial records for the Boards, purchasing supplies, and assisting the public.

ACCOUNTABILITY: Reports to respective chairpersons of the Planning Board and Zoning Board of Adjustment.

DUTIES AND RESPONSIBILITIES: The following duties and functions are considered essential to the position:

OPERATIONAL-

- Attend monthly board meetings and by-monthly work meetings when scheduled, call the roll, transcribe the meeting minutes for distribution according the statutory requirements and town practice.
- Provide a regular schedule of hours at the town offices to respond to phone and email inquiries, process paperwork as necessary, manage and archive of paper and electronic files.

ADMINISTRATIVE-

- Process Planning Board and Zoning Board of Adjustment applications including posting of public notices, abutter notifications, and collection of fees and escrow accounts (as required).
- Prepare monthly application and information packets and distribute to Planning Board and Zoning Board of Adjustment members.
- Prepare Planning Board and Zoning Board of Adjustment minutes and agendas.
- Maintain a yearly calendar of meeting dates, submission deadlines, and fee schedules.
- Coordinate with the Board Chairs and Vice Chairs, town staff, and planning consultant on general Board matters and to prepare decisions and other legal paperwork.
- Coordinate with the planning consultant to respond to inquiries and provide technical guidance.
- Maintain Planning Board and Zoning Board of Adjustment documents and forms, and incorporate amendments to the zoning ordinance and land use regulations documents.
- Attend monthly Planning Board meetings on the third Thursday of each month at 7pm and provide draft minutes within 5 business days of each meeting pursuant to RSA 91-A.

- Attend Zoning Board of Adjustment meetings scheduled on an as needed basis on the fourth Thursday of each month at 7pm and provide draft minutes within 5 business days of each meeting pursuant to RSA 91-A.
- Check voicemail and email daily for inquiries, to provide assistance, and forward pertinent requests and cases as appropriate.

PROCEDURAL-

- Assist the Chairpersons in setting monthly agendas.
- Prepare, post, publish, distribute rules and ordinances, board agendas, legal notices, reports, meetings, hearings, decisions, ballot language, and other required items on or before their respective deadlines.
- Receive and give preliminary review to applications for approvals for land use, including the collection of all applicable fees.
- Ensure the registration of documents, subdivision and site plan plats with the Rockingham County Registry of Deeds as necessary.