

Board of Adjustment

Town of Middleton, New Hampshire

Rules of Procedure

Adopted April 2001

I. AUTHORITY

These rules of procedure are adopted under the authority of New Hampshire revised Statutes Annotated 1983, Chapter 676:1 and the zoning ordinance and map of the Town of Middleton, New Hampshire.

II. OFFICERS

1. A chairperson shall be elected annually by a majority vote of the board at the first meeting following Town meeting. The chairperson shall preside over all meetings and hearings, appoint such committees as directed by the board, and shall affix his/her signature in the name of the board.
2. A vice-chairperson shall be elected annually by a majority vote of the board at the first meeting following Town Meeting. The vice-chairperson shall preside in the absence of the chairperson and shall have the full powers of the chairperson on matters that come before the board during the absence of the chairperson.
3. A clerk shall be elected annually by a majority vote of the board at the first meeting following Town Meeting. The clerk 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.
4. All officers shall serve for one year and shall be eligible for re-election.

III. MEETINGS

1. **Meetings** shall be held at the Middleton Municipal Building at the call of the Chairperson, provided public notice and notice to each member is given at least 24 hours in advance excluding Sundays and Holidays.
2. **Quorum:** A quorum for all meeting of the board shall be three members, including alternates sitting in a place of members. If any regular board member is absent from any meeting or hearing, or disqualifies him or herself from sitting on a particular case, the chairperson shall designate one of the alternate members to sit in place of the absent or disqualified member and such alternate shall be in respects a full member of the board while so sitting.
3. **Disqualification:** If any member finds it necessary to disqualify himself while sitting in a particular case, as provided in RSA 673:14, he shall notify the chairman as soon as possible so that an alternate may be requested to sit in his 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 vote on the question of disqualification. Any such request shall be made before the public hearing gets underway. The vote shall be advisory and non-binding.

4. **Order of Business:** The order of business for regular meetings shall be as follows:
 - a) Call to order by the Chairman
 - b) Roll call by the clerk
 - c) Public hearing (if applicable)
 - d) Minutes of the previous meeting
 - e) Unfinished business
 - f) New business
 - g) Communications or miscellaneous
 - h) Other business
 - i) Adjournment

IV. APPLICATION/DECISION

1. Applications

- a) Each application for a hearing before the board shall be made on forms provided by the board and shall all information included in the instructions. Prior to the preparation of notices, the chairman, or a designee, will review all applications for completeness. Incomplete applications shall be returned to the applicant. The chairman, or a designee, will establish a hearing schedule for properly completed applications.
- b) Each application for a hearing shall be accompanied by a payment of \$50, plus \$35 to cover the cost of advertising the public hearing requires by law.
- c) All forms and revisions prescribed shall be adopted by resolution of the board and become part of procedure.

2. Public Notice

- a) Public notice of the public hearings on each application shall be placed in a local newspaper and shall be posted at the Municipal Building as well as the Old Town Hall not less than (5) days before the date fixed for the hearing. Notice shall include the name of the applicant, provisions of the zoning ordinance concerned, the type of appeal being made, and the date, time, and place of the hearing.
- b) Personal notice shall be made by certified mail to the applicant and all abutters not less than (5) days before the date of the hearing. Notice may also be given to the planning board, city/town clerk deemed by the board to have special interest. Said notice shall contain the same information as the public notice.
- c) Cost of all required notices must be paid for, in advance, by the applicant, as provide above.

3. Public Hearing

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

- a) The chairman shall call the hearing in session and announce the first case.
- b) The chairman shall read the application and report on how public notice and personal notice were given.
- c) Members of the board may ask questions at any time during the testimony.
- d) Each person who appears shall be required to state his name and address and indicate whether he is party to the case or agent or counsel of a party to the case.
- e) Any member of the board, through the chairman, may request any party to the case to speak a second time.

- f) Any party to the case who wants to ask a question of another party to the case must do so through the chairman.
- g) The applicant shall be called to present his appeal.
- h) Those appearing in favor of the appeal shall be allowed to speak.
- i) Those in opposition to the appeal shall be allowed to speak.
- j) The applicant and those in favor shall be allowed to speak in rebuttal.
- k) Those in opposition to the appeal shall be allowed to speak in rebuttal.
- l) Any person wants the board to compel the attendance of a witness shall present his request in writing to the chairman not later than (3) days prior to the public hearing.
- m) The board of adjustment will hear with interest any evidence that pertains to the facts of the case or how the acts relate to the provisions of the zoning ordinance and the state zoning law.
- n) The chairman 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.
- o) The hearing on the appeal shall be declared closed.

4. Decisions

The board will approve, approve with conditions, deny the appeal, or defer its decision. Notice of this decision or deferral will be made available for public inspection within 144 hours, and will be sent to all persons notified of the public hearing. If the appeal is denied or deferred, the notice shall include the reasons therefor.

V. RECORDS

- 1. The records of the board shall be kept by the clerk and made available for public inspection at the Middleton Municipal Building in accordance with RSA 673:17
- 2. Final written decision will be placed on file and available for public inspection within 144 hours after the decision is made.
- 3. 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 the public with 144 hours of the public meeting.

VI. AMENDMENTS

These rules of procedure may be amended by a majority vote of the members of the board provided that such an amendment is read at two successive meetings of the board