



RINDGE BOARD OF ADJUSTMENT

30 PAYSON HILL ROAD, PO BOX 163

RINDGE, NH 03461

Tel. (603) 899-5181 X100 Fax (603) 899-2101 TDD 1-800-735-2964

www.town.rindge.nh.us

ZONING BOARD OF ADJUSTMENT **APPROVED** RULES OF PROCEDURE

Authority

1. These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, 1983, **Chapter 676:1**, and the Rindge Zoning Ordinances and map of the Town of Rindge, NH.

Officers

1. **A Chairman** shall be elected annually by a majority vote of the Board in the month of April. The Chairman 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. *See "Job Description of ZBA Chairperson" (**Appendix A**) approved 8-26-08.
2. **A Vice-Chairman** shall be elected annually by a majority vote of the Board in the month of April. The Vice-Chairman shall preside in the absence of the Chairman and shall have the full powers of the Chairman on matters which come before the Board during the absence of the Chairman.
3. In the absence of both the Chairman and Vice-Chairman, an acting Chairman shall be chosen by a majority vote of the members present.
4. **The Clerk** shall be appointed by the Zoning Board of Adjustment. The Clerk shall maintain all record of all meetings, transactions and decisions of the Board, and perform such other duties as the Board may direct by resolution. The Clerk shall prepare all meeting notices, minutes, and decisions. The Chair and Vice-Chair will affix his/her signature on minutes and decisions. *See "Job Description of ZBA Clerk" (**Appendix B**) approved 8-26-08; See attached "ZBA Application Routing Procedure" (**Appendix C**).
5. The Chairman and Vice-Chairman shall serve for one year and shall be eligible for re-election.

Members and Alternates

1. Pursuant to **NH RSA 673:3**, the Board of Adjustment shall consist of five (5) regular members elected by the Town of Rindge. All members shall be elected for three (3) year terms. The membership of the Board shall be elected in such a manner so that not more than two (2) members shall be elected each year.
2. Up to five (5) alternate members may be appointed by the regular members of the Zoning Board of Adjustment. They shall be appointed in such a manner so not more than two alternate members shall be appointed each year. The alternate members should attend all meetings to familiarize themselves with the workings of the Board and should attend all meetings to stand ready to serve whenever a regular member of the Board is unable to

Revised 8/23/11



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3. fulfill his/her responsibilities. The Alternates will sit at one end of the table, unless appointed by the Chairman to fill in for a regular member of the Board.
4. Whenever a vacancy occurs on the elected Zoning Board of Adjustment, an alternate shall be appointed to be a regular member by the remaining regular members of the Zoning Board until the next municipal election, at which time a successor shall be elected to either fill the unexpired term or start a new term as appropriate pursuant to **NH RSA 673:12-I**.
5. Whenever a vacancy occurs for an Alternate position, that position may be filled by appointment by the original appointing authority for the unexpired term pursuant to **NH RSA 673:12-II**
6. Members must reside in the community and are expected to attend each meeting of the Board to exercise their duties and responsibilities in a professional and impartial manner. Any member unable to attend a meeting shall notify the Chairman or Clerk as soon as possible. Members, including the Chairman and all Officers, shall participate in the decision making process and vote to approve or disapprove all motions under consideration.

Meetings

1. Regular Meetings

Meetings shall be held at Rindge Town Office, at 7p.m. on the 4th Tuesday of each month. Other meetings may be held on call of the Chairman provided Public Notice and notice to each member is given at least 24 hours, excluding Sundays and legal holidays, prior to such meetings. A Public Hearing may be scheduled to reconvene on another date, at the hearing, without the requirement for the 24 hour Public Notice.

2. Quorum

A quorum for all meetings of the Board shall be three members, including alternates sitting in place of members. **RSA 676:33, III** provides that "the concurring vote of three (3) members of the Board shall be necessary to reverse any action of an administrative office or to 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 Board, even with alternates serving, the Chairman will give the applicant the option of postponing the hearing until all members is present. If any regular Board Member is absent from any meeting or hearing, or disqualifies himself from sitting on a particular case, the Chairman shall designate one of the alternate members to sit in place of the absent or disqualified member and such alternate shall be in all respects a full member of the Board while so sitting.

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When an Alternate is appointed by the Chair to sit in place of a Regular Member who is absent (not recusing), if the case takes more than one night, every effort will be to keep that Alternate sitting on the continuation session for reasons of continuity.

3. Disqualification

If any member finds it necessary to disqualify him/her from sitting in a particular case, as provided in **RSA 673:14**, he/she shall notify the Chairman as soon as possible so that an alternate may be requested to sit in his/her 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 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. The disqualification shall be announced by either the Chairman or the member disqualifying himself/herself before the beginning of the Public Hearing on the case. The disqualified member shall absent himself from the Board table during the Public Hearing and during all deliberation on the case.

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(s)
- d. Minutes of previous meeting
- e. Unfinished business
- f. New Business
- g. Communications and miscellaneous
- h. Other business
- i. Adjournment

Applications/Decisions

1. Applications

- a. Each application for a hearing before the Board shall be made on forms provided by the Board and shall be presented to the Clerk of the Board of Adjustment who shall record the date of receipt over his or her signature.
- b. Whenever any application involves the Wetlands Ordinance, it shall be forwarded by the Rindge ZBA Clerk to the Conservation Commission for an advisory opinion prior to the ZBA hearing the case. In addition, both the Conservation Commission and the ZBA shall have the same documentation from which to work.

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- c. Applications must be received at the Selectmen's office no later than 3 weeks before the next scheduled monthly meeting.
 - d. Appeals from an Administrative Decision taken under **RSA 676:5** shall be filed within thirty (30) days of the decision.
 - e. At least five (5) business days before the date of the meeting, the Clerk shall send to the Board all applications received by him or her.
 - f. All forms and revisions prescribed shall be adopted by resolution of the Board and shall become part of these Rules of Procedure.
 - g. Annually in April, after the organizational meeting, the Chairman and Vice Chairman shall review the past year's expenses and bring that information to the Board in order to revise the fees on all applications to reflect realistic costs which shall include but not be limited to postage, advertising, supplies, salaries, etc.
 - h. Each month the Zoning Board of Adjustment will have two Members or one Member and one Alternate review and initial each application, checking for completeness of the ZBA's application requirements. One of these two will continue to review applications for one more month; the other will be replaced by another Member or Alternate. In this way, all Board Members and Alternates will rotate and share the reviewing of the applications.
 - i. The Clerk will notify the members scheduled for reviewing applications upon receipt of any application. Both shall review the application as soon as possible for completeness, and any immediate action that needs to be taken, prior to the application being scheduled for presentation to the Board.
 - j. The Code Enforcement Officer will review applications for technical completeness, and notice the Board of that. Any written report on the merits of the case will be presented with a copy to the applicant 7 days before the meeting.
- 2. Public Notice**
- a. Public notice of Public Hearings on each application shall be given in a local newspaper and shall be posted at Town Offices and the Post Office not less than five (5) days before the date fixed for the hearing. Notice shall include the name of the applicant, description of the property to include tax map 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.

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- b. Personal notice 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, Town Clerk, Code Enforcement Officer and other parties deemed by the Board to have special interest. Said notice shall contain the same information as the Public Notice and shall be made on forms provided for this purpose.
- c. Costs of all required notices must be paid for, in advance, by the applicant. The application fee is \$175.00

3. Public Hearings

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

- a. The Chairman shall call the hearing in session.
- b. The Clerk shall report on how public notice and personal notice were given.
- c. The Chairman shall appoint a Member or Alternate to read the Public Notice and a Member or Alternate to read the Ordinance(s) that are being appealed.
- d. Members of the Board may ask questions at any point during testimony. Alternates may ask questions at any point during the testimony, as well as any member of the audience.
- e. Each person who appears 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.
- f. Any member of the Board, through the Chairman, may request any party to the case to speak a second time.
- g. Any party to the case who wants to ask a question of another party to the case must do so through the Chairman.
- h. The applicant shall be called to present his/her appeal.
- i. Those appearing in favor of the appeal shall be allowed to speak.
- j. Those in opposition to the appeal shall be allowed to speak in rebuttal.
- k. The applicant and those in favor shall be allowed to speak in rebuttal.

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- l. Those in opposition to the appeal shall be allowed to speak in rebuttal
- m. Any person who wants the Board to compel the attendance of a witness shall present this request in writing to the Chairman not later than three (3) days prior to the Public Hearing.
- n. The Board of Adjustment will hear with interest any evidence that pertains to the facts of the case or how the facts relate to the provisions of the Zoning Ordinance and State Zoning Law.
- o. The hearing on the appeal shall be declared closed and either the Board shall go into deliberation and decision on that case, render a decision within thirty (30) days, or have the next case called up.
- p. Legal advice shall be obtained only upon the recommendation of the majority of the Board after polling all sitting members at the Public Hearing. The language of the question to be posed for legal advice shall be decided by the majority of the Board, transcribed by the Clerk of the Board and submitted in writing, by the Clerk or the Chairman of the Board, to the legal counsel requested by the Board, with a time frame for a response.

4. Decisions

If a sitting Board of less than five (5) cannot pass a motion to approve or deny by the majority, the Board shall continue the matter until an additional member familiar with the record and able to vote yea or nay can be present.

The Board shall decide all cases within thirty (30) days of the close of the Public Hearing and shall approve, approve with conditions, or deny the appeal. Notice of the decision will be made available for public inspection within one hundred forty four (144) hours, as required by **RSA 676:3** and will be sent to the applicant by certified mail. **(See Ch.144 [HB1163] – 2000 – with an effective date of 1/01/01.)** If the appeal is denied, the notice shall include the reasons therefore. The notice shall also be given to the Planning Board, Code Enforcement Officer, Town Clerk, Property Tax Assessor and other town officials as determined by the Board. Notice shall be posted in two locations, the Town Offices and the Post Office.

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Records

1. The records of the Board shall be kept by the Clerk and made available for public inspection at Town Offices in accordance with RSA 673:17. Minutes and decisions shall be available on request from the town clerk.
2. Final written decisions will be placed on file and available for public inspection within one hundred forty four (144) hours (**see Ch. 144[HB1163] 2000 with an effective date of 1/1/01**) after the decision is made. **RSA 676:3**
3. Minutes of all meetings including names of the Board Members, persons appearing before the Board, and a brief description of the subject matter shall be open to public inspection within 144 hours of the public meeting. **RSA 91-A: 2 II.**
4. All meeting minutes and decisions shall be signed by the Chair and/or Vice Chair before being posted and they shall contain the official Zoning Board of Adjustment Logo Letterhead.
5. The official record of each Decision, Public Meeting and Public Hearing shall be the approved minutes which have been signed by the Chairman and Vice Chairman. In addition, all Public Meeting and Public Hearing minutes shall be approved by the voting members of the Board. A copy of these shall be on file with the Town Clerk and the Clerk of the Zoning Board of Adjustment.
6. The Clerk shall register all decisions of the Board, with the exception of Appeal of Administrative Decision, with the Register of Deeds.
7. The ZBA is authorized to retain the services of consultants, and to impose reasonable fees upon an applicant for the expense of consultant services or investigative services, review of documents and other matters that may be required by a particular application. Such fees shall be subject to the provision of **RSA 673:16**
8. All closed cases shall be delivered to the building dept. to be filed by map and lot #. The Clerk shall keep a master index by case#, map#, lot#, type of case, decision and date of decision.

Amendments

These rules of procedure may be amended by a majority vote of the members of the board provided that such amendment is read at a meeting immediately preceding the meeting at which the vote is to be taken.

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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 waiver would not be contrary to the spirit of intent of the rules.

Joint Meetings and Hearings

1. **RSA 676:2** provides that the Board of Adjustment may hold joint meetings or hearings with other "Land Use Boards," including the Planning Board, the Historic District Commission, the Building Code Board of Appeals, and the Inspector of Buildings, and that each Board shall have discretion as to whether or not to hold a joint meeting with any other Land Use Board.
2. Joint business meetings with any other Land Use Board may be held at anytime when called jointly by the Chairman of the two Boards.
3. A Public Hearing on any appeal to the Board of Adjustment will be held jointly with another Board only under the following conditions:
 - a. The joint Public Hearing must be a formal Public Hearing on appeals to both Boards regarding the same subject matter; and
 - b. If the other Board is the Planning Board, RSA 676:2 requires that the Planning Board Chairman shall chair the joint hearing. If the other Board is not the Planning Board, then the Board of Adjustment Chairman shall chair the joint hearing; and
 - c. The provisions covering the conduct of the Public Hearings, set forth in these rules, together with such additional provisions as may be required by the other Board, shall be followed; and
 - d. The other Board shall concur in these conditions.

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ATTACHMENT A

JOB DESCRIPTION OF THE ZBA CHAIRPERSON

- To preside at Public Meetings
- To act as the ZBA person of contact in the following areas:
 - The press – this single person of contact eliminates public confusion
 - The budget process committee – this has been the established practice and again provides an efficient method of communication with one person receiving information and bringing budgetary issues to the full board for consideration and any vote.
- Liaison to town Depts. and Clerk between regular ZBA meetings.

Revised 4/2010



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ATTACHMENT B

JOB DESCRIPTION OF ZBA CLERK

The Clerk shall be appointed by the Zoning Board as per NH RSA 673:16

Hours: 10-15 hours per month ** for special assignments the board can vote to approve additional hours.

RESPONSIBILITIES:

- To post notification of all public meetings of the ZBA in designated areas and send "Notice of Public Hearing" to applicant and abutters by certified mail.
- To attend and record all Public Hearing and Meetings and provide written records of these meetings within RSA stated times.
- To gather and hold completed application information so that the designated board members can check the applicant(s) appeal information for accuracy and completion.
- To mail monthly case information to ZBA members at least five (5) business days prior to all monthly or specially called meetings.
- To transcribe any other designated board business as directed by the board in an official vote or consensus.
- To mail draft minutes to Board members for their consideration prior to the next meeting.
- To send "Notice of Decision" to applicant by certified mail and post same.
- To track and report ZBA members hours to payroll on a monthly basis.

Approved 8/26/08



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ATTACHMENT C

ZBA Application Routing Procedure

1. Completed applications to be delivered to the front desk of the Town Office, received and date stamped by the Selectmen's secretary, then put into the ZBA mail folder.
2. Between the end of the business day on the 21st day prior to the monthly ZBA hearing and the end of the 20th day, [Tues 4:15 pm to Wed 4:15pm], the ZBA clerk is to check the ZBA folder for completed applications and assigns those cases a case number in the chronological order in which they were received. The ZBA clerk then notifies the Board case reviewers, forwards a copy to the Code Enforcement Officer for technical review. The ZBA clerk sends a Notice of Receipt to the applicant, [see sample attached].
3. Reviewers will review the application for completeness between the end of the 20th day and the end of the 15th day prior to the monthly hearing, [Wed 4:15 to Mon midnight], and will advise the clerk of the completeness status, via the signed completed checklist.
4. The ZBA clerk will assign complete applications to that month's hearing agenda and applicants with incomplete applications will be notified of their status and advised that any updates need to be received not less than 10 days prior to the hearing, to allow for proper notification. The ZBA clerk will forward complete applications with Wetland Ordinance issues to the Conservation Commission.
5. Applications accepted for that month's hearing, the agenda and the public notice shall be mailed to all Board members at the time of public notification, no less than 5 business days prior to the hearing.
6. Upon the close of the hearing, decisions are written up in the standard Notice of Decision form, signed by the ZBA Chair and Vice-Chair, placed on file and a copy is sent to the applicant as well as any other Town Board or Department deemed appropriate. [i.e. Planning Board, Code Enforcement, Town Clerk, Property Tax Assessor, etc].
7. Variance, Special Exception and Waiver of Dimensional Requirement decisions will be registered with the Cheshire County Registry of Deeds by the ZBA clerk.

Revised 5/24/10



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Application Receipt/Draft

Rindge Board of Adjustment

Payson Hill Rd.

Rindge, NH 03461

Date:

Mr. and Mrs. John Q. Public

Any Street

Rindge, NH 03461

Dear Mr. and Mrs. Public,

The Rindge Board of Adjustment has received your application for a variance to the Wetland Ordinance and it has been assigned case #9991 and is tentatively scheduled for this month's hearing on March 24 xxxx at 7:00pm.

Your application is currently undergoing a technical and completeness review and should there be any issues with the application, you will be notified immediately. Please note that should there be any updates required, the information will need to be received by the Board no less than 10 days prior to the hearing.

Please refer to the above case number in any future correspondence with the Board.

Sincerely,

Clerk, Rindge Board of Adjustment.

Revised 5/24/10