

BY-LAWS
Town of Litchfield, New Hampshire
Zoning Board of Adjustment

1. AUTHORITY

These By-Laws are adopted under the authority of New Hampshire Revised Statutes Annotated (RSA) Chapter 676:1 and the Regulations of the Town of Litchfield.

2. GENERAL

2.1. Members. The terms “board”, “members” and “board members” shall refer to all regular members and any alternate members appointed by the board of selectman.

2.2. Board. The terms "BOARD", "MEMBERS" and "BOARD MEMBERS" shall refer to the five members' delegated powers and duties in regards to an appeal or appeals. The BOARD shall normally consist of the five regular members. Whenever a regular member is absent or disqualifies him or herself the chairperson shall designate an alternate member to act in place of that member [RSA 673:11].

3. OFFICERS

A chairperson and vice-chairperson shall be elected annually the first regular meeting in May by a majority vote of the members. Said officers shall serve for one year and shall be eligible for re-election. A majority vote of the members shall be able to designate an acting chairperson whenever both chairperson and vice-chairperson are unable to fulfill their responsibilities. Vacancies shall be filled by a majority vote of the members at the next regular meeting, for the unexpired term.

3.1. Chairperson. The chairperson shall preside over meetings and hearings, appoint such committees as directed by the members, and shall affix his or her signature in the name of the board. The chairperson shall insure that records of all meetings, transactions, and findings of the board are maintained.

3.2. Vice-Chairperson. The vice-chairperson shall preside in the absence of the chairperson and shall have the full powers of the chairperson on matters which come before the board during the absence of the chairperson.

4.0 MEETINGS

4.1 Regular Meetings. Regular meetings shall be held at the town hall at 7:00 P.M. on the 2nd Wednesday of each month. The order of business for regular meetings shall be as follows:

- a. Roll call.
- b. Public Hearings.
- c. Deliberations.
- d. Communications and miscellaneous business.
- e. Adjournment.

BY-LAWS
Town of Litchfield, New Hampshire
Zoning Board of Adjustment

4.2 Special meetings. Special meetings may be held by a majority vote of the board at regular meetings and special meetings. Special meetings may also be held on call of the chairperson provided notice is given to each member at least 48 hours prior to the time of the meeting. The order of business for special meetings shall be as follows:

- a. Roll call.
- b. Public hearings.
- c. Deliberations.
- d. Communications and miscellaneous business.
- e. Adjournment.

4.3 Joint Meetings and Hearings. Pursuant to RSA 676:2 the board of adjustment may conduct a joint meeting or hearing. The order of business for joint meetings or hearings shall be the same as special meetings.

4.4 Quorum. A quorum for regular meetings and special meetings shall consist of three members. A quorum for public hearings shall be five members. The quorum for public hearings may be reduced by the board to three members in response to a written request by an applicant.

4.5 New Applications. Application forms shall be made available on Litchfield's town web site or from the Building Department located at the Town Hall building. Applicants shall submit all new applications to the Building and Zoning Administrative Officer. As a minimum, complete applications shall include a completed application form, list of abutters, required fees, plot plan, and copy of decision being appealed. The required fee for each application shall be set by the board and attached hereto as a part of these by-laws.

The new application process shall be governed by the following rules:

- a. The application shall be submitted to the Building and Zoning Administrative Officer. The Building and Zoning Administrative Officer shall review the application for completeness. Incomplete or deficient applications will be rejected with an explanation of the corrective action needed.
- b. Once an application has been deemed to be complete the Building and Zoning Administrative Officer shall assign a case number, date, time and location for the public hearing.
- c. The Building and Zoning Administrative Officer shall notify the ZBA of each new complete application.
- d. The ZBA reserves the right to review all applications for completeness. All incomplete or deficient applications must be corrected prior to consideration by the ZBA.

4.6 Public Hearings. The conduct of public hearings shall be governed by the following rules

- a. The chairperson shall call the hearing to order and call for the report on each case.
- b. There shall be a reading of the application and report on the manner in which public notice and personal notice were given.
- c. Members, when recognized by the chairperson, may ask questions of any person testifying before the board.

BY-LAWS
Town of Litchfield, New Hampshire
Zoning Board of Adjustment

- d. Each person who appears shall be required to state his or her name and address and indicate whether he or she is a party to the case or agent or counsel of a party to the case.
- e. The applicant shall be called to present his or her appeal.
- f. Those appearing in favor of the appeal shall be allowed to speak.
- g. Those in opposition to the appeal shall be allowed to speak.
- h. The applicant shall be allowed to speak in rebuttal.
- i. Any member, through the chairperson, may request any party to reappear.
- j. The board is authorized to impose reasonable fees upon an applicant for the expense of consultant services or investigative studies, review of documents and other matters that may be require at the board's sole discretion by a particular application. Any such fees shall be subject to the provisions of RSA 676:5.
- k. The hearing on the appeal shall be declared closed and at its discretion, the board may deliberate the case or call the next.
- l. No new matters will be heard by the board after 10:30 P.M. At such time, the board shall announce when the pending matters will be heard.

4.7 Deliberations. The conduct of deliberations shall be governed by the following rules.

- a. Once the evidentiary portion of the hearing is concluded, the evidence presented and testimony complete, the board may elect to keep the public hearing portion of the meeting open as they begin deliberations.
- b. The board shall close the public hearing only when they feel all the necessary information to reach a decision has been gathered. At that point, the board shall continue deliberations without the possibility of further participation by the applicant, abutters or the public or could recess the deliberations to a future meeting,
- c. All members of the board may participate in the deliberations.
- d. The board shall deliberate, in public, and in a manner such that all discussions can be heard by the public, on the essential facts that the testimony has established.
- e. In the case of multiple appeals by one applicant, deliberation on each appeal may be conducted separately.

4.8 Decisions. The board's decisions shall be governed by the following rules.

- a. A concurring vote of 3 members of the board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant on any matter on which it is required to pass. [RSA 674:33]
- b. The board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. If the application is not approved, the board shall provide the applicant with written reasons for the disapproval.
- c. In exercising its powers the board may attach reasonable conditions to a permit to preserve the spirit of the ordinance if it grants an appeal. 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. [RSA 676:3]
- d. The written decision, along with the minutes of the meeting at which the vote was taken shall be on file for public inspection within 5 business days of such vote.
- e. Notices of written decisions shall be given to the Building and Zoning Administrative Officer and posted at the library and town hall. Additional notices may also be given to

BY-LAWS
Town of Litchfield, New Hampshire
Zoning Board of Adjustment

the planning board, the town clerk and other parties deemed by the board to have special interest. Said notice shall be on forms provided for this purpose.

4.9 Use of Stenographer. An Applicant's use of a stenographer or other clerical person for the purpose of verbatim recording of a hearing shall be permitted provided that the applicant notifies the BOARD at least one (1) week prior to the scheduled hearing. The BOARD shall make reasonable allowances to facilitate the request. A complete unedited copy of the transcript shall be provided to the BOARD within 20 calendar days from the hearing date at no cost to the BOARD.

5.0 APPEALS

1. The BOARD of adjustment shall only accept appeals made in response to written decisions by the Building and Zoning Administrative Officer. This does not apply to requests for Special Exceptions.
2. Appeals to the BOARD from any order, requirement, decision or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to RSA 674:16 must be made within 30 days of the date of such decision.
3. Applications for appeal must be presented to the Building and Zoning Administrative Officer.
4. Any person who desires the BOARD to compel the attendance of a witness shall present the request in writing to the chairperson not later than fifteen (15) days prior to the public hearing. Any expenses associated with compelling a witness to attend will be paid for by the person making the written request.
5. Notification of the decision shall be made on a form provided by the board and shall be sent to the applicant, the town clerk, the Building and Zoning Administrative Officer, and filed in the records of the BOARD.

6.0 FORMS

All forms and revisions thereof shall be adopted by a resolution of the BOARD and shall become a part of these by-laws.

7.0 NOTICES

A notice of the time and place of all meetings shall be posted at the library and town hall at least 24 hours, excluding Sundays and legal holidays, prior to such meetings [RSA 91-A:2]. In addition, notices of public hearings shall be given not less than five days prior to said hearing [RSA 676:7]. Such notices shall include the name of the applicant, provisions of the zoning ordinances concerned, and the time and place of the hearing.

7.1 Public Notice. Public notice on each appeal shall be given in a newspaper of general circulation not less than 5 days before the hearing and shall be posted at the town hall and the library.

BY-LAWS
Town of Litchfield, New Hampshire
Zoning Board of Adjustment

7.2 Personal Notice. Personal notice of an appeal, except for building code appeals, shall be made by certified mail to the applicant and to all abutters and holders of conservation, preservation or agricultural preservation restrictions, and such notice shall be given not less than five days before the date fixed for the hearing of the appeal. Personal notice of building code appeals shall be made by certified mail to the applicant. Additional notices may also be given to the planning Board, the town clerk and other parties deemed by the Board to have special interest. Said notice shall be on forms provided for this purpose.

7.3 Continued Hearings. No further public and/or personal notice shall be necessary for any continued public hearing, except as required by [RSA 91-A:2], if the date, time and place of the adjourned session of the Board was made known at the prior hearing. Provided, however, if because of the passage of time, or because of other notice and due process concerns of the Board, the Board, in its sole discretion, decides that additional public and personal notice of an adjourned session of the Board is necessary, then such notice shall be provided as defined in Section 7.1 and Section 7.2. The expense of such additional notice shall be paid by the applicant.

8.0 AMENDMENT

These By-Laws may be amended by majority vote of the members provided that such amendment is read at the regular meeting immediately preceding the regular meeting at which the vote is taken. Amendments become effective the day following adoption.

9.0 WAIVER

The BOARD reserves the right to waive any portion of its By-laws at its own discretion as circumstances and justice so require.

ADOPTED: October 14, 1987

REVISED: January 13, 1988, April 13, 1988, June 8, 1988, March 8, 1989, April 10, 1991, January 8, 1992, May 9, 2001, July 14, 2004, June 14, 2006, June 11, 2008, January 9, 2013 .