

## **PROCEDURAL RULES FOR the TOWN of NEW DURHAM ZONING BOARD of ADJUSTMENT**

New Hampshire State Law gives the Zoning Board of Adjustment (ZBA) four responsibilities.

1. Consider appeals of Land Use decisions of the Planning Board or Building Inspector;
2. Consider requests for a variance from the requirements of the Zoning Ordinances;
3. Make special exceptions in situations authorized by the Zoning Ordinance; and
4. Consider requests for an equitable waiver of dimensional requirements.

In practice, in New Durham, a significant majority of cases considered by the ZBA are requests for variances. The concept of a variance comes from the longstanding legal understanding that when it comes to uses of the land, — one size does not always fit all. Sometimes it is appropriate to allow a property owner to do something differently than what the Zoning Ordinance allows if literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

### **A. AUTHORITY**

1. These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, Chapter 676:1.

### **B. OFFICERS**

1. A Chair shall be elected annually by a public majority vote of the New Durham Zoning Board of Adjustment (herein called the Board) no later than the April meeting. The Chair shall preside at all meetings and hearings, appoint alternates to sit in place of a regular member and such committeees as directed by the Board and shall affix their signature to official documents in the name of the Board.
2. A Vice Chair shall be elected annually by a majority vote of the Board no later than the April meeting. 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 during the absence of the Chair.
3. If the Chair and the Vice Chair are not present or cannot sit on a case due to a conflict of interest, then the Board shall elect a temporary Chair from its members for that particular case or meeting.
4. The Land Use Administrative Assistant (LUAA), a non-member of the Board, shall maintain a record of all meetings, transactions, and decisions of the Board and perform such duties as the Board may direct.

### **C. MEMBERS AND ALTERNATES**

1. New Durham Zoning Board of Adjustment (ZBA) members are elected by the legislative body in accordance with RSA 673:3 II for a term of three years.
2. All Board Members must be domiciled in the Town and are expected to attend each meeting of the Board to exercise their duties and responsibilities. Any member unable to attend a meeting shall notify the Chair or the LUAA as soon as possible. Members appointed to hear the matters under consideration, to include the Chair and Vice-Chair,

shall participate in the decision-making process and vote on the matters under consideration.

3. Up to five (5) alternate members may be appointed for a term of three years by the Board. After being sworn in by the Chair, the alternate(s) are expected to attend all meetings to familiarize themselves with the workings of the Board and to stand ready to serve whenever a regular member of the Board is unable to fulfill their responsibilities.
4. Alternates shall be appointed to fill a regular Board member's seat whenever a regular Member is absent, is disqualified, or has vacated their position. The alternate shall be considered in all respects a full member of the Board for that particular application.
5. If the appointment is to fill an absent member's seat, the appointment shall be for the full meeting or hearing unless the alternate member has a recusable conflict of interest.
6. Once the Public Hearing has been opened, if the application is continued to another date, the Alternate who was appointed shall continue to sit for the case including deliberations and voting even if the regular member is present at the future meeting(s).
7. Alternates that have not been appointed to sit as a member of the Board for a specific case and do not have a recognized conflict of interest shall:
  - a. Be allowed to sit with the members of the Board and participate in the business of the Board;
  - b. Participate in the questioning of the involved parties, abutters, and other interested individuals during the Public Hearing;
  - c. Be present and participate in any discussions with Town Counsel;
  - d. Review, revise, and vote on Board minutes;
  - e. Review, revise, and vote on changes to the Board's Procedural Rules; and
  - f. Review, revise and vote on changes to the ZBA fee structure.
8. Alternates that have not been appointed to fill a regular Board member seat shall not:
  - a. Participate in the Board's discussion of the merits of the case once the Public Hearing has been closed; or
  - b. Vote on any case before the Board.

#### **D. APPLICATIONS**

1. Applications:
  - a. Each application for a hearing before the Board shall be made on forms prescribed by the Board and contain all the information required below.
  - b. The LUAA, other town employee or official shall record the date of receipt.
  - c. An application package for a Variance, Special Exception under Article VII, or an Equitable Waiver of Dimensional Requirements submitted to the Board shall contain:
    - A completed application form that is signed and dated by the applicant(s) or their representative(s);
    - A completed "Table of Required Information";
    - A copy of the Building Inspector's "Certification of Zoning Compliance";

- A form signed by **all** property owners authorizing their representative(s) to act on their behalf if an applicant's representative(s) signs the application or if the representative will be presenting the case before the Board;
- All required fees;
- A copy of the current Assessing Card;
- A copy of the current Deed;
- A list of all abutters adjacent to the land or property and directly across the street or stream from the land or property under consideration including Map, Lot, and mailing addresses;
- A list of any holder of a conservation, preservation, or agricultural preservation restriction, as defined in RSA 477:45, and their mailing address;
- Written approval from the New Durham Road Agent if the request will affect Town Roads.
- Full size (minimum 22 inches by 34 inches) existing and proposed site plans with a bar scale of one (1) inch = 10 feet;
- Reduced sized (11 inches by 17 inches) site plan;
- Architectural plans depicting the proposed condition shall also include the existing condition as an underlying, shaded layer."
- Existing and proposed plans shall contain, at a minimum:
  - Locus Map with north arrow;
  - Property lines;
  - Title Block containing:
    - Map and Lot;
    - Preparer of the plans;
    - Title of the preparer of the plans;
    - Date (Month/day/year) the plans were originally prepared; and
    - Date (Month/day/year) of all plan revisions;
  - Shoreland reference lines including but not limited to 50, 75, 125, 150 and 300 feet;
  - Rights of Way and easements to include dimensions;
  - Wells and water systems;
  - Location of the septic system;
  - Building envelope;
  - Location of wells and septic systems for all adjacent properties;
  - Amount of road frontage, in feet;
  - Amount of water frontage, in feet, if applicable;
  - Graveyard setbacks:
  - All existing buildings or other structures, with their dimensions and encroachments, indicating "current" on the plans;
  - All proposed buildings, structures, or additions, with dimensions and encroachments, indicating "proposed" on the plan;
  - All buildings or other structures, wells and septic systems on the adjacent properties;
  - Elevations and contours;
  - Dimensions and location of all driveways
  - Hardscape and its material;

- Driveways;
- Walkways;
- Patios;
- Decks and or other water related structures;
- Water-related structures;
- Roadways;
- Walls; and
- Fences.
- Water Bodies and Wetlands;
- Drainage ways and related structures;
- Waterfront Buffer, as defined in RSA 483-B;
- Tree line and individual large and/or important site trees showing the changes in vegetative surfaces and resulting runoff;
- General vegetation areas and groundcovers;
- Septic tank, lines, and leach field to include dimensions;
- All parking spaces;
- All utilities, to include telephone, cable, fiber, conduit, etc., regardless of being underground, above ground or overhead;
- Photographs of the property and all buildings on the property;
- Building and floor plans to include dimensions of any new structures, if applicable;
- Building elevations from all sides, if applicable;
- Legal size envelopes with a return address of New Durham ZBA, PO Box 207, New Durham, NH 03855, and certified mail documents as pictured in Appendix A addressed to:
  - All abutters, as defined by RSA 672:3;
  - Any holder of a conservation, preservation, or agricultural preservation restriction, as defined in RSA 477:45;
  - Identified professionals involved with the application (two envelopes for each professional);
  - All property owners (multiple envelopes for each property owner if not at the same mailing address); and
  - Strafford County Registry of Deeds; and
- Any other materials the applicant(s) feels are relevant to their request, such as other supporting documents which may contain pertinent property details/history.

d. An application for an Appeal from an Administrative Officer's Decision shall contain:

- A completed application form that is signed and dated by the applicant(s) or their representative(s);
- A form signed by all property owners authorizing their representative(s) to act on their behalf if an applicant's representative(s) signs the application or if the representative will be presenting the case before the Board;
- A copy of the current Assessing Card
- A list of all abutters adjacent to the land or property and directly across the street or stream from the land or property under consideration including Map, Lot, and mailing addresses;

- A list of any holders of conservation, preservation, or agricultural preservation restriction as defined in RSA 477:45 and their mailing addresses;
- A copy of all materials submitted to the Administrative Officer(s) that resulted in the decision being appealed;
- A copy of the Administrative Officer's written decision being appealed;
- Any other materials the applicant feels are relevant to their request; and
- Legal size envelopes with a return address of New Durham ZBA, PO Box 207, New Durham, NH 03855, and certified mail documents as pictured in Appendix A addressed to:
  - All abutters, as defined by RSA 672:3;
  - Any holder of a conservation, preservation, or agricultural preservation restriction, as defined in RSA 477:45;
  - Identified professionals involved with the application (two envelopes for each professional);
  - All property owners (multiple envelopes for each property owner if not at the same mailing address); and
  - Strafford County Registry of Deeds.

e. In the case of an Appeal from a Decision of an Administrative Officer(s), as defined in RSA 676:5 II, such officer shall, at least 14 calendar days before the onset of the public hearing, convey:

- All the materials constituting the record of the action being appealed to the Board's LUAA;
- A copy of the decision under appeal; and
- A copy of the ordinance, code, regulation, RSA, or item which the Administrative Order is based on.
- In addition to the above, if the appeal is from a decision of a Board, Committee, or Commission, the minutes of all meetings when the issue was discussed.

2. The applicant shall submit one (1) original copy of the application package for the official file and a sufficient number of additional packages so all elected and alternate members of the Board, and the Building Inspector have a complete application package to the LUAA.

3. In addition to the copies required by 2. above, an electronic copy of the complete application package shall be given to the LUAA.

4. If an abutter or member of the public wishes to submit written testimony and or documentation to the ZBA for consideration by the Board, such testimony or documentation shall be submitted to the LUAA at least seven (7) calendar days before the case is scheduled to be heard. The individual(s) shall submit one (1) original copy of the testimony and or documentation for the official file, a sufficient number of copies so all elected and alternate members of the Board shall have a complete copy and an electronic copy of the materials.

5. At least seven (7) calendar days before each meeting the LUAA shall provide all Board Members and Alternates all applications and supporting documentation that has been received.

6. Deadlines for Submitting any Applications.
  - a. Applications for any variance(s), special exception(s) or equitable waiver(s) of dimensional requirements shall be submitted by 12 noon at least 21 calendar days before the next scheduled meeting of the Board.
  - b. Appeals from an administrative decision under RSA 676:5 shall be filed by 12 noon of business within 30 calendar days of the decision.
  - c. Requests for a rehearing under RSA 677:2 shall be filed by 4PM within 30 calendar days of the decision being made.
  - d. Should additional materials be submitted by the applicant or their representative after the deadline, the ZBA may decide to continue the case to a later date. Added to application.
7. Waivers: The Board may waive any application requirements upon written request of the applicant, except for requirements involving deadlines in section D. 6. above. The waiver request shall stipulate the application requirement which the applicant or their representative wishes to be waived and the reason for the request. The waiver request shall be submitted with the application package. The Board will determine if the waiver request will be granted during the application review process.

## **E. MEETINGS**

1. Meetings. Meetings shall be held at the call of the Chair as needed at the New Durham Town Hall, the New Durham Community Room, or at another location as described in the meeting notice. Should a meeting fall on an election day, the meeting shall be moved to Thursday of the same week. The specific time, date and any change in location shall be posted for all meetings as required by RSA 91-A:2. If a public hearing is being held, the hearing notice shall be posted at least 10 calendar days in advance.
2. Meetings may be broadcast via Zoom or other electronic means. If technology fails, the meeting physically occurring will continue at the specified location. The Town of New Durham offers no security assurances to those connecting via PC to third-party software and hardware not configured or controlled by the Town's IT Service provider.
3. Quorum. A quorum for all meetings of the Board shall be three members, including alternates sitting in place of elected members. A quorum must be physically present at the specified location.
4. If any regular Board member is absent from any meeting or hearing, or disqualifies themselves from sitting on a particular case, the Chair shall designate one of the alternate members to sit in place of the absent or disqualified member. This alternate shall sit for the entire hearing, including deliberations and voting, even if the case is continued to a future meeting and the regular member is present.
5. Disqualification. When determining if a Board Member has a conflict of interest with a pending application before the Board, the following questions should be considered:  
Does the Board Member expect to gain or lose from the outcome of this case?  
Is the Board Member related to any of the interested parties?  
Is the Board Member an abutter?  
Has the Board Member advised or assisted either side in this dispute?

Has the Board Member directly or indirectly voiced an opinion or formed an opinion about the merits of this case before it started?

Is the Board Member employed by any party to the case?

Is the Board member prejudiced to any degree regarding the issues or parties in this case?

Has the Board Member used any of the professionals (ex. lawyers, engineers, architects, surveyors) associated with this case?

If any Board Member determines they have a conflict of interest, they shall notify the Chair as soon as possible. The disqualified Board Member(s) shall not sit at the table with the rest of the Board while the application is being heard and or discussed. They shall not participate in:

- a. The Board's consideration of the application;
- b. Any discussion and or meeting relative to the application with the Board's attorney; or
- c. Any Board vote on the matter before the Board.

The disqualified Board member is permitted to speak to the application as a member of the public. The member must start with a statement stating they are speaking as a member of the public and not as a Board Member.

If the applicant or a member of the public questions whether a sitting member of the Board or an Alternate has a conflict of interest with a pending application, they shall, as soon as possible:

- a. Inform the Chair of their concern that a Board member has a conflict of interest before the public hearing is opened;
- b. Identify the Board or Alternate Member; and
- c. Specify the reason why they believe the Board or Alternate Member has a conflict of interest.
- d. When there is uncertainty as to whether a Board Member or Alternate should be disqualified to act on a particular application, the Board Member or Alternate may request the Board to vote on the question of disqualification. Any such request shall be made before the public hearing commences. The vote shall be advisory and non-binding.

6. Meeting Length.

- a. The Board will not initiate any new business other than to review minutes, close, recess or adjourn a meeting after 9:30 PM.
- b. Public Hearings, application deliberations, or review of minutes shall not continue past 10:00 PM unless the majority of the Board agrees.
- c. If multiple applications are scheduled to be discussed during the same meeting, the Chair may set time frames for each application.
- d. The Board may schedule a Special Meeting if a case(s) needs to be continued due to insufficient time.

7. Consultation with Legal Counsel. The Board may consult with Legal Counsel in a non-meeting at any time during Board proceedings.

8. In accordance with RSA 673:15, the Board may compel the attendance of a witness. All expenses incurred under this section for compelling the attendance of a witness shall be paid by the party or parties requesting a witness be compelled to attend a meeting of the board.

## **F. PUBLIC NOTICE**

1. As required by RSA 676:7 II, the Public Hearing for any appeal shall be held no more than 45 calendar days after receipt of the notice of appeal unless the applicant or their representative(s) waives the 45-day requirement in writing.
2. Notices of required public hearings for each appeal shall be posted at the New Durham Town Hall, on New Durham's website, and in a newspaper of general circulation no less than 10 calendar days before the date scheduled for the public hearing. Notices shall include:
  - The name of the applicant;
  - Description of the property, to include tax map identification and street address;
  - Action desired by the applicant;
  - Article and Section of the Zoning Ordinance involved;
  - The type of appeal being made; and
  - The date, time, and place of the hearing.
3. Notice of the Public Hearing shall be made by certified mail, return receipt requested, to the applicant and all abutters, as defined by RSA 672:3, all identified professionals involved with the application and all holders of conservation, preservation, or agricultural preservation restrictions, as defined by RSA 477:45, no less than 10 calendar days before the date of the hearing. Notice may also be given by the Board to the Planning Board, Town Clerk and other parties, such as the Code Enforcement Officer or Building Inspector, deemed by the Board to have special interest.
4. The applicant shall pay the cost, in advance, for:
  - The notice of the public hearing that shall be published in a newspaper of general circulation;
  - Notifying all abutters, all identified professionals involved with the application and holders of conservation, preservation, or agricultural preservation restrictions, as defined by RSA 477:45, via certified mail; and
  - The ZBA decision being sent to all property owners, the applicant's representative(s), identified professionals involved with the application and the Strafford County Registry of Deeds via certified mail.

## **G. CONDUCT OF HEARING and SUBSEQUENT ACTIONS**

1. Call to Order.
2. Introduction of the members of the Board and alternate member(s).
3. Appointment of alternates to fill any Board seat(s) for the current meeting or hearing. RSA 674:33 III, provides that the concurring vote of three (3) members of the Board is necessary to reverse any action of an administrative official or to grant a variance, special exception, or equitable waiver of dimensional requirements to decide in favor of any

appeal. If a full Board of five members is not present, the Chair will inform the applicant three or more members must vote in favor of their request for it to be successful. The applicant may request the application be continued to the next scheduled meeting.

4. Review of all applications which have been received for the meeting to determine if sufficient information has been submitted so the Board can proceed with its evaluation of the appeal. (See section D. Applications above.).
  - a. Before reviewing an application, the Chair will ask if there is a conflict of interest on the part of any Board member or designated alternate for that specific case (See section E. Meetings above).
  - b. Announcement of how notice was given to the public and the abutters.
  - c. After reviewing an application, the Board shall decide if there is sufficient information to make a decision. If the Board decides it needs additional information, it will identify the materials needed and continue the hearing to allow the applicant to provide the necessary materials as allowed by f. below. A case shall only be continued once due to missing materials.
  - d. If the Board determines there is sufficient information to make a decision, a public hearing may be held or scheduled for a future meeting whose date, time and location will be announced at that meeting.
  - e. In accordance with RSA 674:33 VIII, if the Board cannot approve or disapprove an application within 90 days of the date of receipt and the applicant does not consent to an extension, the Board shall deny the application without prejudice, in which case the applicant may submit a new application and all fees for the same or substantially similar request for relief.
  - f. If the Board determines additional information is necessary, the applicant shall submit all missing materials at least 21 calendar days before the next meeting unless:
    - o A different date, time, and location was announced at the meeting; or
    - o A written request to postpone the hearing has been received at least 24 hours before the scheduled start of the meeting.
  - g. If the additional information contains new variance requests, all abutters and the general public shall be notified in accordance with section F. Public Notice 2., 3., and 4. above.
  - h. Only ZBA members shall speak during the review of applications to determine if sufficient information has been submitted so the Board can make a decision.
    - o Board Members may ask the applicant or their representative(s) clarifying questions without the action being a Public Hearing.
    - o The Board may allow corrections to the application package if the omission is not material and does not require additional public notice.
5. After all applications have been reviewed for completeness, Public Hearings will be conducted on a case-by-case basis.
  - a. The Chair will ask if the rules for conducting Public Hearings need to be read or if those in attendance understand the rules. If necessary, the rules shall be read.
  - b. Reading of the Public Notice. If appropriate public notice (See section F. Public Notice above.) has not been given, the Board will schedule a public hearing at the next regularly scheduled Board meeting.

- c. Announcement that individuals other than the applicant, abutters, and individuals speaking in their official capacity as a Town Official will be limited to three (3) minutes of testimony.
  - o The Chair may limit repetitive comments.
  - o The Chair may extend the time limit.
- d. All individuals shall address the Board. Questions must go through the Chair.
- e. Announcement that the Public Hearing is now 'open'.
- f. Letters or written comments received at least seven days prior to opening the Public Hearing shall be read into the record.
- g. Applicant speaks. Questions by members of the Board.
- h. Individuals speaking in their official capacity as a Town Official. Questions by members of the Board.
- i. Abutters speak. Questions by members of the Board.
- j. Interested public speak. Questions by members of the Board.
- k. Further comments by applicant. Questions by members of the Board.
- l. Further comments by abutters. Questions by members of the Board.
- m. At any time before or during the public hearing, the Board may determine a site visit is necessary before they close the Public Hearing.
- n. At any time before or during the public hearing, the Board may determine the plans need to be reviewed by an outside consultant(s) before they close the Public Hearing. Such review shall be at the applicant's expense.
- o. Public Hearing on the request shall be declared closed or continued to a date, time and location which will be announced at the meeting.
- p. Once the public hearing is closed, no new evidence or requests for postponement from the applicant or public shall be permitted.

6. All members of the public wishing to speak shall:

- a. Sign in (Name/Address).
- b. Be recognized by the Chair before speaking.
- c. Move forward to the microphone.
- d. State their name (spelling it, if requested) and relationship to the case.
- e. Speakers will address the Chair. Any questions by the speaker to other members of the public must go through the Chair.
- f. Any individual that has spoken shall not speak a second (or subsequent time) until all other members of the public have had the opportunity to speak. Subsequent comments may be limited to abutters and other persons of interest.

## **H. DELIBERATIONS AND DECISIONS**

1. The Chair will identify by name those members that will be deliberating and voting on the case.
2. Once the public hearing is closed, no new information will be accepted by the Chair, other than requests for clarification from the Board.
3. The Chair shall present the draft Findings of Fact for review and revisions. The Board may decide to continue the deliberations to a date and time certain so members can draft their own Findings of Fact.

4. The deliberating Board shall then deliberate the applicant's request. They may or may not make a decision during the same meeting as the public hearing.
5. The Board members may ask any party additional clarifying questions of fact or issue, if needed. This questioning does not constitute re-opening the public hearing.
6. If the request involves a variance, each of the conditions specified in RSA 674:33, I(a) shall be considered. All Board Members shall be requested to speak on each variance criteria. The discussion of each condition shall be included in the minutes.
7. If there are requests for two (2) or more variances that deal with substantially the same requirement (ex. no building shall be less than 75 feet from the water.), by consensus the Board may deliberate and vote on them at the same time.
8. Once deliberations are completed, a motion or motions may be presented and voted upon. The Board may decide to continue deliberations and decision making to a date and time certain so members can draft their own motions.
9. The Board shall vote by roll call on the request and will decide whether to grant the request, grant it with conditions, or deny it. The motion must receive three (3) affirmative votes for the request to be granted regardless of the number of Board Members deliberating and voting.
10. A separate vote will be taken for each ordinance section the applicant has requested a variance for unless section H. Deliberations and Decisions 7. above has been agreed to by the Board.
11. Special Exception: If the request involves a special exception, the Board will consider all of the requirements in Article VII, of the Town of New Durham Zoning and Land Use Ordinance before voting on the request.
12. In accordance with RSA 676:3 I, the Notice of Decision which either approves or denies the applicant's request shall include Findings of Fact which support the decision, the reasons for the decisions and all conditions placed on the decision.
13. The Notice of Decision will be signed by the Chair or their designee and will be made available for public inspection within five (5) business days. It will either be sent to the applicant, the applicant's representative(s) and identified professionals involved with the application by certified mail, return receipt requested, or hand delivered to the applicant and their representative(s), who will be requested to sign a receipt.
14. In accordance with RSA 674:33, the notice of decision approving variances and special exceptions shall contain a statement advising the applicant that the approval shall be valid if exercised within two (2) years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such variance shall expire until six (6) months after the resolution of a planning application filed in reliance upon the variance.
15. In accordance with RSA 677:2, if the appeal is denied, a request for rehearing must be filed by close of business within 30 calendar days of the decision.

16. The Notice of Decision shall also be given to the Planning Board, Property Tax Assessor, Building Inspector, and other Town officials, as determined by the Board.

## **I. REHEARINGS**

1. A motion for rehearing must be received by the LUAA or other town official by 4 PM within 30 calendar days of the date of the Board's decision.
2. In accordance with RSA 677:3, the motion for rehearing must specify the grounds upon which the person requesting the rehearing claims the decision was unlawful or unreasonable.

The Board shall either grant or deny the request for rehearing or suspend the order of decision complained of pending further consideration within 30 calendar days of its receipt by the LUAA or other town official, unless the applicant or their representative(s) has waived the 30-day requirement in writing.

3. If the request for rehearing is granted, a rehearing shall be scheduled and the person requesting the rehearing shall be responsible for submitting to the LUAA by 12 noon at least 21 days before the next ZBA meeting:
  - One (1) original copy of the application package for the official file, a sufficient number of additional packages so all elected and alternate members of the Board and the Building Inspector have a complete application package, and an electronic copy of the complete application package.
  - The cost of notifying by certified mail all abutters, all holders of conservation, preservation, or agricultural preservation restrictions and publication of the notice for rehearing; and
  - Providing legal size envelopes with a return address of New Durham ZBA, PO Box 207, New Durham, NH 03855, and certified mail documents as pictured in Appendix A addressed to:
    - All abutters, as defined by RSA 672:3;
    - Any holder of a conservation, preservation, or agricultural preservation restriction, as defined in RSA 477:45;
    - Identified professionals involved with the application (two envelopes for each professional);
    - All property owners (multiple envelopes for each property owner if not at the same mailing address); and
    - Strafford County Registry of Deeds.
4. The rehearing shall be limited to the issues identified in the motion for rehearing. All materials from the original case shall be part of the Rehearing Record.
5. If the Board denies the motion for rehearing, no further requests for rehearing may be submitted.
6. If the Board reaches a different decision or new reasons for the same decision, parties may move for a rehearing on the new decision.

## **J. RECORDS**

1. All records of the Board, including but not limited to agendas, minutes, and case files, shall be kept by the LUAA and made available for public inspection at the New Durham Town Hall in accordance with RSA 91-A.
2. The case file shall include:
  - a. The case number;
  - b. Complete application package as required by section D. APPLICATIONS;
  - c. Description of the property to include tax map identification;
  - d. Street address;
  - e. All materials submitted by the applicant, with each document containing the date they were received;
  - f. All materials submitted by abutters or the general public which shall contain the date and from whom they were received. Said documents shall include, but not be limited to, written testimony or documents, e-mails or other electronic communications, maps, or reports.
  - g. When more than one person submits the same or similar document(s), all submittals shall be retained in the file and shall be identified as required by this section.
  - h. Copies of all agendas and minutes relative to the case.
3. Minutes of all meetings shall include the date, time and place of the meeting, the start and end times of the meeting, names of Board Members and Alternates who are present, persons appearing before the Board, a description of the subject matter, findings of fact, content of deliberations and all votes taken.

## **K. AMENDMENTS**

These rules of procedure may be amended by a majority vote of the members of the Board provided such proposed amendment is given to the Board at least seven (7) calendar days before the meeting where the amendment(s) will be discussed and voted on.

## **L. 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 or the Board and the waiver would not be contrary to the spirit and intent of these procedures. A waiver will not be granted if such procedural action is mandated by Statute or specifically prohibited by these rules.

## **M. JOINT MEETING AND HEARING**

1. RSA 676:2 provides the Zoning Board of Adjustment may hold joint meetings and hearings with other land use boards. Each Board shall have discretion as to whether or not to hold a joint meeting with any other land use board.
2. A joint business meeting with any other land use boards may be held at any time when called jointly by the Chairs 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.

- b. In accordance with RSA 676:2, if the other Board is the Planning Board, the Planning Board Chair shall chair the joint hearing. If the other Board is not the Planning Board, the ZBA Chair shall chair the joint hearing.
- c. The provisions covering the conduct of public hearings set forth in these rules, together with such additional provisions, as may be required by the other Board, shall be followed.
- d. The other Board shall concur in these conditions.

#### **N. REMOVAL of a MEMBER or ALTERNATE**

1. In accordance with RSA 673:13, a Board Member or Alternate may be removed by the Board of Selectmen after a public hearing upon written findings of inefficiency, neglect of duty or malfeasance in office.
2. Three unexcused absences in a 12-month period shall be deemed inefficiency, neglect of duty or malfeasance in office.

Revised to Reflect RSA Changes and General Revisions Throughout – Approved: 10/14/2025

Revised to Reflect RSA Changes and General Revisions Throughout – Approved: 09/12/2023

Revised to Reflect Zoning Ordinance Changes – Approved: 03/10/22

Revised Throughout – Approved: 12/14/2021

Minor Revisions – Approved: 12/8/2020

Revised Throughout – Approved: 10/08/2019

Section D.4.b – Revised: 01/08/2019

Approved by the ZBA: 02/13/2018

**Side 1**

<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>									
<ul style="list-style-type: none"> <li><input type="checkbox"/> Complete items 1, 2, and 3.</li> <li><input type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.</li> <li><input type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<table border="1" style="width: 100%;"> <tr> <td style="width: 50%;">A. Signature  <b>X</b></td> <td style="width: 50%; text-align: center;"> <input type="checkbox"/> Agent  <input type="checkbox"/> Addressee         </td> </tr> <tr> <td>B. Received by (Printed Name)</td> <td>C. Date of Delivery</td> </tr> <tr> <td colspan="2">           D. Is delivery address different from item 1? <input type="checkbox"/> Yes            If YES, enter delivery address below: <input type="checkbox"/> No         </td> </tr> <tr> <td colspan="2" style="text-align: center;">           3. Service Type  <input type="checkbox"/> Adult Signature  <input type="checkbox"/> Adult Signature Restricted Delivery  <input checked="" type="checkbox"/> Certified Mail®  <input type="checkbox"/> Domestic Mail Restricted Delivery  <input type="checkbox"/> Collect on Delivery  <input type="checkbox"/> Collect on Delivery Restricted Delivery  <input type="checkbox"/> Insured Mail  <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)    <input type="checkbox"/> Priority Mail Express®  <input type="checkbox"/> Registered Mail™  <input type="checkbox"/> Registered Mail Restricted Delivery  <input type="checkbox"/> Signature Confirmation™  <input type="checkbox"/> Signature Confirmation Restricted Delivery         </td> </tr> </table>		A. Signature  <b>X</b>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee	B. Received by (Printed Name)	C. Date of Delivery	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No		3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Domestic Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)  <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery	
A. Signature  <b>X</b>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee										
B. Received by (Printed Name)	C. Date of Delivery										
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No											
3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Domestic Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)  <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery											
1. Article Addressed to: Strafford County Registry of Deeds 259 County Farm Road, Suite 202 Dover, NH 03820											
 9590 9402 7975 2305 0403 63											
2. Article Number (Transfer from service label)											
PS Form 3811, July 2020 PSN 7530-02-000-9053      Domestic Return Receipt											

**Side 2**

<b>USPS TRACKING #</b>  9590 9402 7975 2305 0403 70		 <div style="border: 1px solid black; padding: 5px; background-color: white;">           First-Class Mail            Postage &amp; Fees Paid            USPS            Permit No. G-10         </div>	
United States Postal Service			
<div style="border: 1px solid black; padding: 10px; background-color: white;">           • Sender: Please print your name, address, and ZIP+4® in this box*    <b>NEW DURHAM ZONING BOARD of ADJUSTMENT</b>            PO BOX 207            NEW DURHAM, NH 03855         </div>			

