

# **Town of Fitzwilliam Planning Board**

## **Rules of Procedures**

### **AUTHORITY**

These Rules of Procedure are adopted under the authority of New Hampshire Revised Statutes Annotated (RSA) 676:1.

### **MEMBERS AND ALTERNATES**

1. The Planning Board shall consist of seven (7) members. Six (6) members shall be elected by the Town, and the Selectmen shall designate one selectman as an ex-officio representative and alternate ex-officio representative with power to vote.
2. Selection, qualification, term, removal of members, and filling of vacancies shall conform to RSA 673.
3. Alternate members may serve on the Planning Board as authorized by RSA 673:6 and participate as non-voting members.
4. Up to five (5) alternate members shall be appointed, as provided for by the local legislative body, and should attend all meetings to familiarize themselves with the workings of the Board to stand ready to serve whenever a regular member of the Board is unable to fulfill his/her responsibilities. Each alternate will have a term of one year, which can be renewed.
5. At Planning Board meetings, alternates who are not activated to fill the seat of an absent or recused member or who have not been appointed by the Chair to temporarily fill the unexpired term of a vacancy, may participate with the Board in a limited capacity.

During a public hearing, alternates may sit at the table with the regular members and may view documents, listen to testimony, and actively participate and interact with other Board members, the applicant, abutters and the public. However, they shall not be allowed to make or second motions and shall not participate in any way during the deliberations by the Board. Upon the close of the public hearing, alternates must remove themselves from the table and sit with other members of the public unless they are sitting in place of another member.

During work sessions or portions of meetings that do not include a public hearing, alternates may fully participate, exclusive of any motions or votes that may be made.

At all times, the Chair shall fully inform the public of the status of any alternate present and identify the members who shall be voting on the application.

6. All members, regardless if elected or appointed, must be a resident of the Town of Fitzwilliam and are expected to attend each meeting of the Board to exercise their duties and responsibilities.
7. Any member unable to attend a meeting shall notify the Chair and/or the Land Use Coordinator as soon as possible.
8. Each newly elected or appointed (including re-elected or re-appointed) member shall take an oath of office as required by RSA 42:1.

## OFFICERS

1. The officers of the Board shall be as follows:
  - Chair: The Chair shall preside over all meetings and hearings; appoint such committees as directed by the Board, affix his/her signature in the name of the Board, and shall perform other duties customary to the office.
  - Vice-Chair: 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 in the absence of the Chair.
  - Secretary: The Secretary shall sign all subdivision plats with the Chair, and notices of decisions in the absence of the Chair, and shall take the minutes during site walks, for the Board. When necessary, these functions may be handled by the Vice-Chair.
2. The officers of the Board shall be elected annually at the first meeting in April by a majority vote of the Board. If requested by a majority of those present, voting shall be by written ballot.

## MEETINGS

1. Regular meetings shall be held on the first and third Tuesday of each month at 7:00pm at the Fitzwilliam Town Hall. There shall be at least one meeting per month in accordance with RSA 673:10-II.
2. Special meetings may be called by the Chair or, in his/her absence, by the Vice-Chair, or at the request of three members of the Board, provided public notice and notice to each member is posted in two (2) public places at least 48 hours in advance of the time of such meeting. The notice shall specify the purpose of the meeting.
3. Nonpublic sessions shall be held only in accordance with RSA 91-A:3.
4. Quorum: A majority, four (4), of the membership of the Board shall constitute a quorum, including alternates sitting in place of regular members, necessary to transact business at any meeting of the Board.
5. Remote Attendance: One or more members of the Board can attend a meeting through the remote options, in accordance with RSA 91-A:2, as long as:
  - a. In-person participation is not reasonably practical.
  - b. A quorum is reached at the physical location.
  - c. Each part of the meeting is audible “or otherwise discernable” to the public at the location of the meeting.
  - d. Any member participating remotely must identify the persons present in the location from which the member is participating.
  - e. All votes must be by roll call.
6. Designation of Alternate Members: If any regular Board member is absent from a meeting or hearing, or disqualifies him/herself from sitting on a particular application, the Chair shall designate one of the alternate members, if one is present, to act in place of the absent or disqualified member. Such alternate shall have all the powers and duties of a regular member in regards to any matter under consideration on which the regular member is unable to act. The alternate should continue as the voting member until the matter is completed; the regular member does not vote on that matter. The alternate designated for the Board of Selectmen shall only serve in place of that member in accordance with RSA 673:11.
7. Disqualification: If any member finds it necessary to be disqualified from sitting on a particular case, as provided in RSA 673:14, s/he shall notify the Chair as soon as possible so that an alternate may be requested to fill the place. The disqualification shall be announced by either the Chair or the member

before the discussion or the public hearing on the application begins. The member disqualified shall leave the Board table during all deliberations and the public hearing on the matter.

If uncertainty arises as to whether a Board member should disqualify him/herself, on the request of that member or the request of another member of the Board, the Board shall vote on the question of whether that member should be disqualified. Such request and vote shall be made prior to or at the commencement of any required public hearing. A vote on a question of disqualification shall be advisory and non-binding, and may not be requested by persons other than Board members.

8. Order of Business shall be as follows:
  - a. Call to order by Chair
  - b. Roll call by the Chair
  - c. Consider completeness and acceptance of applications
  - d. Hearings on subdivision/site plans
  - e. Other business - public comment
  - f. Minutes of previous meeting
  - g. Reading of communications directed to the Board
  - h. Unfinished business
9. A motion, duly seconded, shall be carried by an affirmative vote of a majority of the members present.
10. If there is a tie vote, then another motion should be discussed and worded in a way that would not result in a tie vote.
11. If there is a failed motion, the Board could try another motion to get a motion to pass.

## **APPLICATIONS FOR PUBLIC HEARING**

1. Applications for hearings before the Board shall be made on forms provided by the Board and obtained at the Land Use office or Board of Selectmen's office within the Fitzwilliam Town Hall.
2. The application shall be presented to the Land Use office at the Town Hall who shall sign and record the date of receipt.
3. Notice of public hearings shall be given as required in RSA 676:4, I(d) 10 days before a completed application is submitted to the Board.
4. Completed applications shall be accepted by majority vote of the Board and shall be scheduled for consideration within 30 days of acceptance. The determination of completeness and acceptance can be done at one public hearing, if appropriate.
5. The Board shall reject all applications not properly completed.

## **FORMS**

All forms, including but not necessarily limited to application, checklist, and waiver requests, prescribed herein and revisions thereof shall be adopted by resolution of the Board and shall become part of these rules of procedure.

## **NOTICE**

1. Public notice of public hearings on each application shall be given in the Keene Sentinel or Town's website and by posting in at least two public places, not less than ten (10) days prior to the date fixed for submission and consideration of the application. Posting requirements do not include the day of the posting and the day of the meeting in the 10 days prior to the meeting.
2. Personal notice shall be made by verified mail to the applicant, all abutters, and any professional whose seal appears on any plat not less than ten (10) days prior to the date fixed for submission of the application to the Board.

## **PUBLIC HEARINGS**

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

1. The Chair shall call the hearing in session, identify the applicant or agent, read the application, and report on the manner in which public and personal notice was given.
2. The Board considers completeness, waivers (if any), and acceptance. If the application is complete, the Chair opens the public hearing for the applicant to make their presentation.
3. Members of the Board may ask questions at any point during the presentation.
4. Any party to the matter who desires to ask a question of another party must go through the Chair.
5. Any applicant, any abutter or any person with a direct interest in the matter may testify in person or in writing. Other persons may testify as permitted by the Board at each hearing.
6. Each person who speaks shall be required to state his/her name and address and indicate whether s/he is a party to the matter or an agent or counsel to a party to the matter.
7. The applicant or agent shall be called to present the proposal, and those appearing in favor of the proposal shall be allowed to speak.
8. Those in opposition to the proposal shall be allowed to speak.
9. Other members of the public may speak.
10. Other parties, such as representatives of town departments and other town boards and commissions who have an interest in the proposal, shall be allowed to present their comments in person or in writing.
11. The Chair shall indicate whether the hearing is closed.
12. Once the hearing is closed, the Board will deliberate and make a decision or continue the application pending the submission of additional material or information or the correction of noted deficiencies. In the case of a continuance, additional notice is not required if the date, time and place of the continuation is made known to the public at the adjournment.

## **OTHER HEARINGS**

Preliminary Consultation: The Board shall meet with any applicant for a required, non-binding consultation to discuss a pending application in conceptual and general terms. During the discussion, the Board shall describe the procedures to be followed and any potential local regulation problems with the application.

Post Approval Consultation: The Board shall meet with any applicant in a non-binding consultation to review an approved decision to determine if conditions are being met or if any actions following an approved decision require new application for public hearing.

## **DECISIONS**

1. The Board shall render a written decision within 65 days of the date of acceptance of a completed application, subject to extension or waiver as provided in RSA 676:4. If the Planning Board does not act on the application within that 65-day time period (unless the Board has determined that the application is a development of regional impact, which gives the Board an additional 30 days), then the Board of Selectmen is required to approve the application.
2. The Board shall act to approve, conditionally approve, or disapprove.
3. Notice of decision will be made available for public inspection at the Land Use office within 5 business days after the decision is made, as required in RSA 676:3.
4. The decision shall include specific written findings of fact that support the decision. Failure of the Board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.

## **RECONSIDERATION, APPEAL, AND COURT REVIEW OF PLANNING BOARD DECISIONS (RSA 677:15)**

The Planning Board may reconsider any decision to approve or disapprove an application, for good cause, provided it is within the statutory appeal period. This may be done through a motion that specifies the reasons for reconsideration. Upon successful passage of the motion, the Board shall schedule a public hearing, with notice as provided in RSA 676:4, I(d), where they shall consider whether or not to revise or alter their original decision. Should the Board reach a new decision, a new appeal period shall be considered to have begun pursuant to RSA 677:15, et seq.

## **RECORDS**

1. The records of the Board shall be kept by the Land Use Coordinator and shall be made available for public inspection at the Land Use office as required by RSA 91-A:4.
2. Minutes of the meetings, including the names of Board members, persons appearing before the Board and a brief description of the subject matter, shall be open to public inspection within 5 business days after the meeting as required in RSA 91-A:2, II.
3. If a website is maintained, RSA 91-A:2, II-b requires that 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.

## **JOINT MEETINGS AND HEARINGS WITH LAND USE BOARDS**

1. The Planning Board may hold joint meetings and hearings with other “land use boards” including the Zoning Board of Adjustment, the Historic District Commission, and the Code Enforcement Officer. Each board shall have discretion whether or not to hold such joint meeting or hearing (RSA 676:2).
2. Joint business meetings with another local land use board may be held at any time when called jointly by the chairs of the two boards.
3. A joint public hearing must be a formal public hearing when the subject matter of the hearing is within the responsibilities of the boards convened.
4. The Planning Board Chair shall chair all joint meetings and public hearings when the subject matter involves the Planning Board.
5. The rules of procedure for joint meetings and hearings, the subject matter of which involves the Planning Board, shall be the same as these rules of procedure except that the order of business shall be as follows:
  - a. Call to order by Chair;
  - b. Introduction of members of both boards by Chair;
  - c. Explanation of reason for joint meeting/hearing by Chair;
  - d. In the case of a public hearing relative to a requested permit or an application for a plat approval, or both, the applicant shall be called to present his/her proposal;
  - e. Adjournment.
6. Each board involved in a joint public hearing makes its own decision, based on its criteria for the particular matter.

## **AMENDMENT**

The Board’s rules of procedure may be amended by a majority vote of its members. The Board shall hold a public hearing prior to adoption of new rules or amendment of existing rules. Notice for the time and place of the hearing shall be as provided as in RSA 675:7. The amended procedures shall be filed with the municipal clerk.