



Zoning Board
of Adjustment
and
Building Code
Board of Appeals
Belmont, New Hampshire

Rules of
Administrative Procedure

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SECTION 1: DEFINITIONS

Clear Calendar Days – The number of calendar days between, but not including:

- A. the day an application is received during regular business hours in the Belmont Land Use Office and the date of the Board meeting; or
- B. the day a decision is rendered or an application is acted upon and the date that a completed application for appeal is received during regular business hours in the Belmont Land Use Office.

Closing Date – The date by which applications must be submitted to be placed on the Board’s next meeting date agenda.

Members – Unless otherwise stated, or unless otherwise required by the context, any reference to “Member” shall include “Alternate member”.

Reasonable Time - Applications for Appeal of Administrative Decision taken under RSA 676:5 shall be filed within 20 clear calendar days of the decision.

Zoning Board of Adjustment – Zoning Board of Adjustment and Building Code Board of Appeals of the Town of Belmont; also referred to as the Zoning Board or Board.

Zoning Board of Adjustment and Building Code Board of Appeals Rules of Administrative Procedure – Rules of procedure, adopted under RSA 676:1; also referred to as Rules.

SECTION 2: AUTHORITY

These rules of procedure are adopted under the authority of RSA 676:1 and shall be known as the Zoning Board Rules of Administrative Procedures or “Rules”.

Unless otherwise stated, or unless otherwise required by the context, any reference to a statute, law, regulation or ordinance in these Rules shall be deemed to include any future amendments made to such statute, law, regulation or ordinance.

SECTION 3: PURPOSES

The purposes of these Rules are:

- A.** To meet the requirements of RSA 676:1;
- B.** To highlight the multiple procedural requirements of the Zoning Board outlined in RSA 673 and to ensure that related Board operational requirements (e.g. RSA 676) are generally highlighted and properly implemented;
- C.** To ensure, for the benefit of Belmont's citizens, officials, the Zoning Board and other Town Boards and Commissions, as well as development applicants, representatives, and all other interested persons or organizations, that Zoning Board operations are commonly known and understood.

SECTION 4: AMENDMENTS and WAIVERS.

- A.** These rules of procedure may be amended by a majority vote of the members of the Board at a regular meeting of the Board.

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- B.** The basis for any waiver granted by the Board shall be recorded in the minutes of the Board. The Board may only grant a waiver if the Board finds, by majority vote, that:

- 1.** Strict conformity would pose an unnecessary hardship to the applicant and granting the waiver would not be contrary to the spirit and intent of the Rules.

SECTION 5: ROLE

The Zoning Board's role is usually quasi-judicial in that it generally reviews decisions made by another municipal agent or body or evaluates whether an applicant merits a particular waiver, exception or variance from the ordinary application of the municipal ordinances.

SECTION 6: MEMBERS

- A. Elected Members.** Under the provisions of RSA 673:3 and RSA 673:5 and Article 13 of the Belmont Zoning Ordinance members of the Zoning Board shall be elected by ballot at the annual town elections and shall serve three-year terms. Members must reside in Belmont.
- B. Appointed Alternate Members.** In accordance with RSA 673:6 and Article 13 of the Belmont Zoning Ordinance the Zoning Board shall also include up to five alternate members who shall serve staggered three-year terms and who shall be appointed by the Board. Terms shall expire on March 31st of the applicable year. Alternate members must reside in Belmont. Alternates should attend all meetings to familiarize themselves with the workings of the Board to stand ready to serve.
- C. Vacancies.** Vacancies for members, which occur other than at the expiration of a term shall be filled by appointment by the Zoning Board until the next regular municipal election, at which time a successor shall be elected to complete the unexpired term or to start a new term, whichever is appropriate.
- D. Oath.** Each new (including re-elected or re-appointed) member shall be sworn in and take an oath of office as required by RSA 42:1. The moderator, town clerk, one of the selectmen or a justice of the peace is authorized to administer the oath.
- E. Membership Record.** The Land Use Office shall forward to the Town Clerk for recording the appointment and expiration dates of the terms of each member appointed by the Board.
- F. Attendance.** In order to best serve the needs of the applicant and to fulfill the obligations of the appointed position, members 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 Land Use Office as soon as possible.

The minutes of the Board shall record the names of all members attending each meeting and shall include the designation of excused (E) or unexcused (U) for absences. Excused absences are those for which prior notice has been given.

- G. Removal of Members.** Pursuant to RSA 673:13, the Board of Selectmen, after a public hearing, and upon written findings of inefficiency, neglect of duty or malfeasance in office may remove from office an elected member; and the Zoning Board after a public hearing and upon the same written findings may remove from office an appointed alternate member.

Neglect of duty may consist of, but is not limited to repeated unexcused meeting absences. If three consecutive regular meetings; or a total of four regular meetings in one calendar year are missed as unexcused by a member, the Land Use office shall notify the member in writing that s/he is subject to removal from the Board. Upon continued unexcused absence of an elected member the chairman shall forward to the Selectmen the recommendation to hold a public hearing regarding the removal of said member from the Board. In the case of an appointed

alternate member, the Zoning Board may hold a public hearing regarding the removal of said alternate member from the Board.

The Selectmen, or the Zoning Board, as appropriate, shall file with the Town Clerk a written statement of reasons for removal under this section.

- H. Conduct.** All members shall conduct themselves in accordance with their statutory obligations and the Town of Belmont Code of Ethics.
- I. Service on Other Boards.** Members may serve on other municipal Boards or Commissions as qualified.
- J. Preparation.** Members shall make every effort to review materials provided to them in preparation of scheduled meetings and may also view subject sites prior to the meeting. At least three members shall view the subject area before acting on a Special Exception application.
- K. Voting.** Members shall participate in the decision making process and vote on all matters for which they are part of the voting body except in those cases where the member has a conflict of interest or is disqualified. Motions, seconds and votes may be made by any member or officer of the Board appointed as part of the voting body for that action. Once seconded the motion may be discussed and questioned as the Chair allows. Tie votes shall be taken as no action. An affirmative vote of three voting members is required to reverse any action of an administrative official or to decide in favor of the applicant on any matter on which it is required to pass.

Abstaining is a refusal to vote and thus is discouraged. It is a member's duty to help make a decision. If a member does not have enough information about the issue, or disagrees with the reasoning of the motion, the member should vote "no" or find another avenue to reach a decision. Members abstaining shall explain their reason(s) for abstaining. However abstaining does not invalidate an action by the Board when there is a quorum present. One or more members abstaining shall not effect whether or not a quorum is present.

- L. Training.** It is strongly recommended that members attend training seminars sponsored by the NH Office of Energy and Planning, the Local Government Center and other such opportunities. Expenses will be reimbursed by the Board. New members are encouraged to ask questions of the Land Use Staff and Board about matters they do not understand.

SECTION 7: OFFICERS

Officers shall be elected annually, in April, by a majority vote of those present and voting. Once elected Officers shall serve until her/his successor shall take office. Written ballots shall be used at the request of a voting member of the board.

- A. Chair.** The chair shall preside over all meetings and hearings, shall affix his/her signature in the name of the Board and perform other duties customary to the office. The Chair or by her/his designation, the Town Planner shall serve as the Board's liaison with outside entities such as other boards, the press, consultants and legal counsel.
- B. 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 during the absence of the chair.
- C. Temporary Chair.** In the event that both the Chair and Vice-chair are absent or otherwise unable to serve on an application the most senior member in attendance shall assume the duties of Chair for that application/meeting and shall have the full powers of the chair on matters that come before the Board during the absence of the chair and vice-chair.
- D. Term.** All officers shall serve for one year and shall be eligible for re-election.

SECTION 8: POWERS AND DUTIES

- A. Appeal of Administrative Decision.** Pursuant to RSA 674:33,I(a), RSA 676:5, and Article 13 of the Belmont Zoning Ordinance, hear an appeal taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer regarding the zoning ordinance.
- B. Appeal to Building Code Board of Appeals.** Pursuant to RSA 674:34, hear appeals from a decision of the Code Enforcement Officer/Building Inspector based on the provisions of the Town's building code.
- C. Special Exceptions.** Pursuant to RSA 674:33,IV and Article 13 of the Belmont Zoning Ordinance, make special exceptions to the terms of the zoning ordinance in accordance with the general or specific rules contained in the ordinance.
- D. Variance.** Pursuant to RSA 674:33,I(b) and Article 13 of the Belmont Zoning Ordinance, grant a variance from the terms of the zoning ordinance as will not be contrary to the public interest, if, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.
- E. Equitable Waivers.** Pursuant to RSA 674:33-a and Article 13 of the Belmont Zoning Ordinance grant equitable waivers of dimensional requirements for existing violations.
- F. Appeal of Decision of the Board – Request for Rehearing.** Pursuant to RSA 677:2 grant a rehearing on a prior action of the Board,
- G. Adoption of Rules of Administrative Procedure.** Adopt Rules pursuant to RSA 676:1.
- H. Building on Class VI and (Some) Private Roads.** Pursuant to RSA 674:41 hear appeals from an administrative officer's decision regarding issues involving building on and the issuance of building permits on Class VI and some private roads.

The Board, directly and through their staff has a duty to act reasonably and provide assistance to applicants in understanding the technical and substantive procedures required by land use rules, ordinances and regulations leading to the making of ultimate decisions in an efficient, evenhanded and meaningful fashion. Such assistance will be given as best as is reasonable while fulfilling its obligation to treat fairly and equally both the applicant and abutters throughout the application review process. However the Board shall not render advisory opinions to citizens.

SECTION 9: STAFF AND FINANCES

The Board may hire employees and consultants and manage its finances as provided by RSA 673:16. The Town Planner and Land Use Staff shall provide secretarial and administrative staff support functions for the Board including but not limited to:

- A.** Town Planner shall serve as Zoning Administrator for the purpose of interpreting the Ordinance and Regulations of the community;
- B.** Provide assistance to and guide applicants and their representatives through the application and permitting process;
- C.** Application review and reporting;
- D.** Produce all required noticing;
- E.** Attend meetings;
- F.** Take notes and prepare minutes;
- G.** Produce notice of decision for applicant and for recording purposes;
- H.** Maintain an application case index;
- I.** Provide information and guidance to the Board as requested both during and outside of meetings and hearings;
- J.** Follow up on conditions of approval imposed by the Board;
- K.** Prepare annual and other reports for the Board's review;
- L.** Act as liaison for the Board to outside agencies and legal counsel;
- M.** Establish and maintain all necessary records, instructions, applications, forms and processes related to the duties of the Board and in compliance with these Rules and other applicable Statutes, Regulations and Ordinances;
- N.** Prepare proposed joint annual Land Use Budget proposal jointly for the Planning and Zoning Boards;
- O.** Provide recommended amendments for these Rules and Fee Schedules;
- P.** Provide notice of educational opportunities to members;
- Q.** Provide educational materials and information to members;

- R.** Provide updates to members on case and legislative law, industry standards, science and technology as applicable;
- S.** Administer income and expense accounts;
- T.** Maintain access to all applicable documents on the Town's website.

SECTION 10: RECORDS

The records of the Board shall be kept by the Land Use Staff and made available for public inspection at the Belmont Town Hall, in accordance with RSA 673:17 and 91-A.

- A Minutes.** Pursuant to RSA 91-A:2.II, minutes shall be taken of all meetings. Minutes shall include names of Board members and show the vote of each member upon every question, or if absent, disqualified, or failing to vote so indicate. Minutes shall include names of persons appearing before the Board and a brief description of the subject matter. Minutes shall be open to public inspection within 5 business days of the meeting. Minutes are considered to be in Draft form and shall be so stamped until accepted by the Board at a subsequent meeting. Minutes so accepted are considered the official record of the meeting. Only members present at a meeting can vote on a motion to accept the minutes of that meeting.
- B. Decisions.** Pursuant to RSA 676:3, final written decisions will be placed on file and available for public inspection within 5 business days of such decision. Upon close of the final appeal period related to an action by the Board to approve or deny an application, a Notice of Decision shall be signed by the Chair and recorded in the Belknap County Registry of Deeds.

SECTION 11: MEETINGS

- A. Schedule.** Regular meetings shall be held on a schedule determined by the Board at the Corner Meeting House in the downstairs meeting room unless otherwise noticed. Schedules shall be posted annually, and adjustments may be made in the schedule as necessary. Other meetings may be held at the call of the chair. Public notice for meetings shall be in accordance with RSA 91-A:2,II. Additionally, notice shall be made to each member at least 24 hours in advance excluding Sundays and legal holidays. The chair may cancel or postpone a meeting as a result of weather, lack of applications, or other good reason.
- B. Quorum.** A quorum for all meetings of the Board shall be three members. RSA 674:33(III) provides that "...the concurring vote of 3 members of the Board shall be necessary to reverse any action of an administrative official 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. When less than five-voting members are seated, applicants shall be given the option of postponing their hearing until five voting members are present.
- C. Alternate Members.** If any regular Board member is absent from any meeting or hearing, or disqualifies himself/herself from sitting on a particular issue, the chair 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.
- At meetings where an alternate member is not required to sit in place of an elected member, said alternate shall join the Board at the table and participate in the public hearing portion, but may not participate in the deliberative or voting portion of the meeting.
- D. Continuations.** The Chair shall attempt, when possible, to see that the same combination of members who initially serve on an application sit on any continued consideration of the application. However, when that is not possible, other members may be appointed as necessary when they have sufficient knowledge of the application based on prior attendance and/or a review of the prior record.
- E. Recess.** The chair may order a temporary halt to the proceedings of the meeting. Said recess should normally not exceed 30 minutes. Upon ordering the recess, the Chair shall state the time and place for reconvening.
- F. Disqualification.** Members shall not participate in deciding or sit upon the hearing of any question where the Board is to function in its quasi-judicial capacity where such member:
1. is not indifferent to the outcome of the application; or
 2. has a direct personal or pecuniary interest in the outcome of such decision or hearing different from the interest of other citizens; or
 3. could not meet the "juror" standard ((RSA 673:14,(I)); or
 4. is an abutter to a property under review

If any member finds it appropriate to disqualify himself/herself from sitting in a particular case, as provided in RSA 673:14, he/she shall notify the chair as soon as possible so that an alternate may be requested to sit in his/her place. The disqualification shall be announced by either the chair or the member disqualifying himself/herself before the beginning of the public hearing on the case where possible, otherwise as soon as such disqualification is known. The disqualified member shall absent himself/herself from the Board table during the public hearing and during all deliberation on the case.

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 where possible, otherwise as soon as such disqualification is known. The vote shall be advisory and non-binding.

Applicants who believe a conflict exists for any member or alternate member shall also disclose such belief before the beginning of the public hearing where possible, otherwise as soon as such disqualification is known.

In relation to RSA 673:14 and RSA 91-A:2-a, members must exercise discretion in regards to “ex-parte” communication. Specifically, members should avoid conferring with project applicants or their representatives, and with proponents, opponents, other members or any other party with an interest in any application outside of prescribed regular or special meeting times. Any such contact or discussion, such as that which may occur during a site visit, shall be disclosed by the member during the Board meeting immediately following at which such application is to be discussed.

Communication between members on matters over which the Board has control shall also occur only in meetings held pursuant to RSA 91-A:2, II or III.

Members may discuss applications and other matters with Land Use and other Town Department Staff and staff consultants pursuant to project review duties outside of noticed meetings and hearings.

- G. Meeting Process.** The Board’s meeting process is not subject to Roberts Rules of Order. Normally no new public hearing or business shall commence after 10pm but will be continued until the next scheduled Board meeting. The Board may, at its sole discretion, waive this provision by majority vote.

Video and/or audio recordings of Board meetings may occur as long as they do not disrupt or interfere with the normal proceedings.

- H. Order of Business.** The order of business for regular meetings shall, whenever possible, be as follows:

1. Welcome by chair, appointment of voting body as necessary, explanation of meeting process.

2. First public hearing, Board deliberation and action;
3. Subsequent public hearings, Board deliberation and action;
4. Minutes of previous meeting(s) to be adopted;
5. Land use staff report
6. New business
7. Adjournment

The Board reserves the right to modify the order or content of the agenda as appropriate and legal.

I. Nonpublic sessions shall be held only in accordance with RSA 91-A:3.

J. Joint Meetings and Hearings

1. Pursuant to RSA 676:2, the Zoning Board may hold joint meetings or hearings with other town "land use boards", including the Planning Board, Building Official, and Heritage Commission, at the request of an applicant or upon the initiative of one or more of the 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. The Board may hold joint business meetings with any other land use board at any time when called jointly by the chair of the boards involved.
3. A public hearing on any appeal to the Board 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 chair shall chair the joint hearing. If the other board is not the Planning Board, then the Zoning Board chair shall chair the joint hearing; and
 - 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; and
 - d. Notice of a joint hearing shall be consistent with the rules of each land use board. The boards may require only one combined notice for abutters; and
 - e. The filing of decisions shall be done separately by each board according to its procedures and responsibilities; and
 - f. The other board shall concur in these conditions.

SECTION 12: APPLICATIONS and NOTICE**A. Applications**

- 1.** Each application for a hearing before the Board shall be made on the most current forms provided by the Land Use Office following the instructions attached thereto. All physical evidence submitted to the Board will be retained by the Board as part of the record of the application. By signing the application the applicant authorizes members of the Board and/or staff to enter onto and view the premises for the purpose of understanding the request being made. The subject property must be clearly marked with the 911 street address to facilitate such views. At a minimum, the following shall be required:

- a.** all required notification documents;
- b.** filing, notification and Notice of Decision recording fees;

Additionally, and except as noted below, copies of all other required documents shall be submitted as part of a completed application package. The number of copies required shall be as noted on the application form.

- c.** Completed most current application form.
- d.** A survey, plot plan or accurate scaled drawing must be submitted showing the location and dimensions of all structures, property lines and other pertinent data, including adjacent streets and roads.

If the application is for dimensional relief, an “As-built survey” performed to detail the horizontal and vertical positions of the physical improvements of all or part of a tract, parcel or lot of land as defined in the New Hampshire Code of Administrative Rules Lan 503.02 (a) shall be submitted. The survey need only be made with enough detail to clearly delineate the area for which the dimensional relief is being sought.

If the original-scale survey, plot plan or accurate scaled drawing is larger than 11”x17” both original-scale and reduced size copies (11x17) are required.

- e.** Photos clearly showing the area of the property for which relief is being sought, including a photo showing the entrance to the property from the main road to facilitate locating the property for inspection purposes. The property street number must be easily seen from the main road.
- f.** Copy of decision being appealed/denial or the determination by the zoning administrator that ZBA action is required.
- g.** Copies of all required other agency permits (NH DES, NH DOT, etc.)

2. Certified Mail Notice shall be made not less than 5 clear calendar days before the date of the hearing to abutters and other entities identified in RSA 676:7 and RSA 672:3 as well as individuals or entities holding a mortgage or lien on the subject property and other entities included in the notification mailing instructions.
3. Notification shall also be made to applicable Town Boards, Commissions, Officials, Departments and other parties deemed by the Land Use Staff to have special interest.
4. The costs of all required notices must be paid for, in advance, by the applicant. Fees shall be indicated on the Town of Belmont non-refundable fee schedule.
5. Subsequent public notice is not required in the instance that a meeting or hearing is continued when the time and place of such continued meeting or hearing is announced at the time of continuance.

SECTION 13: SITE VIEWS and PUBLIC HEARINGS**A. Site Views**

By their signature on the application, applicants authorize the Board and/or their staff to view the site for the purpose of evaluating the proposal. Members may view the site individually or together, however public notice must be given in accordance with RSA 676:7 for any view at which a quorum of the Board will be present. Site views with a quorum of the Board are considered public meetings and the applicant and the public have a right to attend. Refusal by the applicant to allow entry of the Board and/or its staff or the entry of the public when the site view is a public meeting is grounds for the Board to deny the application without prejudice.

B. Public Hearing

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

1. Any person who wants the Board to compel the attendance of a witness shall present his/her request in writing to the chair not later than 3 days prior to the public hearing.
2. The chair shall call the meeting in session, appoint alternate members for the entire evening as necessary and explain the meeting procedures.
3. The chair shall read the notice of each hearing, inquire if any member or alternate requests to be disqualified, or if the applicant believes any conflict exists and make replacement alternate appointments for this hearing as necessary.
4. In the instance of a reapplication, when the Board determines that a material change of circumstances affecting the merits of the applications has not occurred, or the application is not for a use that materially differs in nature and degree from its predecessor, or the application is not an attempt to deal with Board concerns raised in a previous application the Board may not lawfully reach the merits of the petition.
5. In the instance where a full five-member voting Board cannot be seated, the chair will offer the applicant the opportunity to proceed with a reduced Board, or to have the hearing postponed until the next regular meeting date, with the understanding that an affirmative vote of three members is required to decide in favor of any appeal and that action by a reduced Board is not, in and of itself, grounds for a rehearing.
6. The Board shall vote to determine if the development being the subject of the appeal has potential regional impact. If so the Board must follow the statutory notice procedures set forth in RSA 36:57. Additionally, any point during the public hearing the Board may act to change that determination if additional pertinent facts become known.
7. In the instance of a special exception, the chair shall confirm that at least three participating members have viewed the site. In the instance where three members have not viewed the site, the public hearing will be postponed until such viewing occurs. Time certain for the continued hearing shall be given at this time.

8. The public hearing will be held first. The applicant or his/her representative (authorized in writing) must attend the public hearing to present the application. If no one is present at the meeting to present the application, at the Board's discretion it may be tabled until the following meeting or may be denied without prejudice requiring the Applicant to reapply.
9. The initial presentation is followed by questions by the Board, although members may ask questions at any point during the hearing.
10. The Chairman will next open the hearing to other comment and questions.
11. All comments and questions will be addressed to the chair. Each person who speaks shall be required to state his/her name and address and indicate whether he/she is a party to the case, an agent or counsel of a party to the case, an abutter, a non-abutter with evidence that the proposal will have impact on his/her property, or interested citizen.
12. The Chair shall recognize alternately those in favor and opposed to the application to speak as well as for an opportunity to rebut.
13. To allow for the orderly function of the Board, the Chair may move that a time limit be set on individual speakers or when all debate shall end. Any motion to limit debate shall require a majority vote of the Board. The Board shall use the goal of ensuring that all who wish to be heard on an application are able to speak before the Board as their guide in determining whether to limit any debate.
14. 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 anytime during the Board's consideration of an application.
15. Absent members may provide written comments for Board consideration during the public hearing portion of the meeting. Such comments shall be forwarded to the Land Use Staff for transmittal to the Board.
16. The Board may also receive advice from their Counsel. Unless such advice is disclosed, wholly or in part, during the public hearing, it is considered privileged and not subject to disclosure under RSA 91-A unless so voted by the Board.
17. Written evidence related to any matter to come before the Board may also be submitted to the Land Use Office prior to the meeting by an abutter, a non-abutter with evidence that the proposal will have impact on his/her property, or interested citizen. Such evidence shall be submitted no later than the close of business hours on the meeting date and will be considered by the Board during the public hearing process.

- 18.** The Board shall 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.
- 19.** All additional physical evidence submitted by any party during the public hearing in the form of plans, drawings, pictures, correspondence, etc. shall be kept by the Board as part of the permanent record of the application.
- 20.** Public hearings may be tabled for additional information. Public hearings tabled to time certain do not require additional noticing.
- 21.** As authorized by RSA 673:16, the Board may contract with outside review services or technical assistance at the cost of the applicant.
- 22.** The Chair may close a public hearing when there is no further testimony from the public, when the public is out of order, or when testimony has become unduly repetitive.

SECTION 14: DECISIONS and REQUEST FOR REHEARING**A. Decision**

The Board may begin deliberation on the merits of the application at the close of the public hearing and act to approve, approve with conditions, deny the application, or defer its decision.

Members may draw upon their own knowledge of certain factors in making ultimate decisions on proposals that come before them. Such factors may include, but not be limited to traffic conditions, surrounding uses, and their opinion of the probable impact of the proposed development on the surrounding neighborhood. However, Board members may not rely on factually unsupported conclusions in the face of uncontradicted contrary expert testimony.

Decisions are usually rendered by the Board at the same meeting at which the public hearing is completed. In some instances, decisions may be made at a later date. Decisions will be announced by the Chair at the time they are made.

Notice of the decision or deferral will be made available for public inspection within 5 business days of the vote, as required by RSA 676:3, and will be sent to the applicant and other parties deemed by the Board to have special interest. If the application is granted the notice shall include all conditions of approval; if denied or deferred, the notice shall include the reasons therefore.

Within 30 days of a decision of the Board, the Board, by motion of a person in the majority, may vote for reconsideration of that decision.

Decisions of the Board continue in effect even when the land changes ownership. Approvals are subject to expiration and can be abandoned. The Board is entitled to attach conditions to its grant of relief and any failure to comply with the same may constitute a violation.

B. Appeal of Decision of the Board – Request for Rehearing

Pursuant to RSA 677:2, the Board of Selectmen, any party to the action or proceedings or any person directly affected by an order or decision of the Board may apply for a rehearing within 30 calendar days of the order or decision, exclusive of the day of the order or decision.

A completed Request for Rehearing application shall be made on forms provided by the Land Use Office and at a minimum, the following shall be required:

1. all required notification documents (to be returned if a Rehearing is not granted);
2. filing, notification and Notice of Decision recording fees (to be returned if a Rehearing is not granted) ;

Additionally, and except as noted below, multiple copies of all other required documents shall be submitted as part of a completed Request for Rehearing application (see application instructions).

3. a motion for rehearing setting forth fully all the grounds upon which it is claimed that the decision or order complained of is unlawful or unreasonable;
4. any supporting plans, pictures, documents or other evidence.

Within 30 days of receipt of a completed application for rehearing the Board shall:

1. grant the application; or
2. deny the application; or
3. request an extension of time to act on the application; or
4. suspend the decision complained of pending further consideration by the Board.

If the Board takes no action within the 30-day period, does not request an extension of time, and does not suspend the decision complained of pending further consideration by the Board it may be assumed that the motion has been denied.

Action by the Board on a Request for Rehearing shall occur at a public meeting but a public hearing is not required. New evidence is not a requirement for a rehearing. The Board may grant a rehearing motion if in its opinion good reason therefore is stated in the motion or to correct an error.

If granted, a public hearing will be held in accordance with the notice and procedural requirements set forth in these Rules.

The Zoning Board may expand the scope of the public hearing beyond that specified in the request for rehearing. The Board may consider the evidence provided in the application and during the public hearing. The Board has an opportunity to correct its own mistakes and is entitled to reconsider its prior ruling and make the same or a different decision for the same or different reasons. When the Board identifies new grounds for its initial decision, changes its initial decision and/or makes new findings and rulings in response to the motion for rehearing, any party aggrieved by the new action must file a new motion for rehearing on all issues ruled upon to preserve them for appellate review.

If the request for rehearing is denied or the Board takes no action, the applicant may bring suit in the Belknap County Superior Court within 30 days of the date upon which the Board voted to deny the motion for rehearing.