

**TOWN OF ALTON, NH  
Zoning Board of Adjustment  
By-Laws**



**As Amended  
Through  
February 1, 2018**

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**Town of Alton  
Zoning Board of Adjustment (Board)  
By-Laws**

**Section 1. Authority**

- 1.1 These By-Laws are adopted under the authority of RSA 676:1, as amended, and the Zoning Ordinance of the Town of Alton.
- 1.2 These By-Laws shall become effective upon a majority vote of the Board on the date they are voted on.

**Section 2. Amendment**

- 2.1 These By-Laws may be amended by a majority vote of the Board provided that such amendment is read at two (2) successive meetings immediately preceding the meeting at which the vote is to be taken.

**Section 3. Powers of the Zoning Board of Adjustment**

- 3.1 The Board shall have the powers described in RSA 674:33, 674:33-a, 674:34, as amended, and the Town of Alton Zoning Ordinance.
- 3.2 No member of the Board, including officers, shall have any decision-making authority as an individual, and no decision shall have any validity if made outside of a duly posted, public meeting of the Board.

**Section 4. Membership**

- 4.1 Members of the Board shall be elected pursuant to RSA 673:3 and RSA 669, as amended. The terms of Board members shall be three (3) years, in accordance with RSA 673:5, as amended.
- 4.2 An elected Board may appoint five (5) alternate members for a term of three (3) years each, which shall be staggered in the same manner as elected members pursuant to RSA 673:5, II, as amended.
- 4.3 Alternate members of the Board shall be designated by the Board chairman to act in place of an absent regular member, or in place of a regular member who is disqualified to act on a request. Such alternate shall be in all respects a full member of the Board while so sitting.

**Section 5. Officers**

- 5.1 A chairman shall be elected annually in the month of April, or at any other time as may be necessary, upon a majority vote of the Board members. The chairman shall preside over all Board meetings and hearings; affix their signature in the name of

the Board; and appoint duly qualified alternate members to serve in the place of absent or disqualified members.

- 5.2 A vice-chairman shall be elected annually in the month of April, or at any other time as may be necessary, upon a majority vote of the Board members. The vice-chairman shall preside in the absence of the chairman and shall have the full powers of the chairman on matters, which come before the Board during the absence of the chairman.
- 5.3 A clerk shall be elected annually in the month of April, or at any other time as may be necessary, upon a majority vote of the Board members. The clerk shall maintain a record of all meetings, transactions, and decisions of the Board, and shall perform other duties as the Board may direct by resolution. Since the Town provides clerical assistance to the Board, the Board has agreed to delegate any of the clerk's duties to the appointed secretary, as voted by the Board.
- 5.4 All officers shall serve for a one-year term, beginning when elected in April and ending on March 31<sup>st</sup>. Officers elected mid-term to fill vacancies shall serve for the remainder of that term. Both the chairman and the officers shall be eligible for re-election, in accordance with RSA 673:9, as amended.

#### **Section 6. Disqualification of Board Members**

- 6.1 If any Board member finds it necessary to disqualify themselves from participating in a particular request, as provided in RSA 673:14, as amended, they shall notify the chairman as soon as possible so that an alternate may be requested to sit in their place.
- 6.2 When there is uncertainty as to whether a member should be disqualified from a particular request, that member or another member may request the Board to vote on the question of disqualification. Any such request must be made before the public hearing on the request gets underway. The vote shall be advisory and non-binding.
- 6.3 When a Board member is disqualified, it shall be announced by either the chairman or the member disqualifying themselves before the beginning of the public hearing on the request. The disqualified member shall not sit at the Board table during the public hearing or during deliberations on the request.
- 6.4 If a member is disqualified to act on any particular request, the chairman shall designate an alternate member to act in their place, in accordance with RSA 673:11, as amended.

#### **Section 7. Meetings and Hearings**

- 7.1 Schedule: Regular hearings shall be held at the Alton Town Hall at 6:00 p.m. on the first Thursday of each month, or as scheduled by the Board. These hearings shall be noticed, in accordance with RSA 676:7, as amended. Other meetings, such

as workshops, may be scheduled by the chairman or the Board, provided notice has been given to the public in accordance with RSA 91-A:2, as amended.

7.2 Quorum: A quorum for all meetings and hearings of the Board shall be three (3) members, including alternate members designated to serve in place of an absent or disqualified member. A full complement of the Board shall consist of five (5) members.

7.2.1 At any meeting where only a quorum is present, the applicant shall have the option to continue to the next scheduled meeting and such shall not count as a continuance.

7.3 In the absence of the chairman, the vice- chairman shall preside over the meeting. In the absence of both the chairman and the vice-chairman, the clerk of the Board shall preside. In the absence of the chairman, vice-chairman, and the clerk, the most senior member will preside.

7.4 The order of business for regular hearings shall be as follows, except that the Board may amend the agenda of any hearing by a majority vote of the members present.

- Call to Order
- Introduction of Board Members
- Appointment of Alternates
- Statement of the Appeal Process
- Approval of Agenda
- Continued Cases
- Public Hearings — New Applications
- Other Business:
  - Previous Business
  - New Business
- Approval of Meeting Minutes
- Correspondence
- Adjournment

**Section 8. Records**

The minutes and By-Laws of the Board shall be kept by the Town Clerk with assistance from the Planning Department staff, and shall be made available for public inspection in the Town Clerk’s Office, located in Town Hall, in accordance with statutory requirements.

All other records shall be kept by the Planning Department and shall be made available for public inspection, in accordance with statutory requirements.

8.1 Minutes of all meetings shall be placed on file, in accordance with RSA 91-A, as amended.

- 8.2 The Board shall issue a final written decision, in accordance with RSA 676:3, as amended.

### **Section 9. Joint Meetings and Hearings**

- 9.1 The Board may hold joint meetings or hearings with the Planning Board, in accordance with RSA 676:2, as amended.
- 9.2 Joint business meetings may be held at any time when called jointly by the chairmen of the two (2) Boards.
- 9.3 A public hearing on any appeal to the Board will be held jointly with the Planning Board only under the following conditions: the joint public hearing must be a formal public hearing on applications to both Boards regarding the same subject matter; the Planning Board chairman shall chair the joint hearing; the provisions covering the conduct of public hearings as set forth in these By-Laws, together with additional provisions of the Planning Board By-Laws shall be followed; and the Planning Board shall concur in these conditions.

### **Section 10. Application and Decision Process**

All applications to the Board shall be made on forms provided by the Board, and shall be submitted to the Planning Department. Applications received twenty-one (21)-days prior to the next regularly scheduled meeting will be scheduled for that meeting, unless otherwise requested by the applicant. Supplemental application information for a continued hearing shall be submitted fourteen (14)-days prior to the continued hearing date. A schedule of meeting dates and deadlines are available in the Planning Department and online. Applications will be processed according to the Application Guidelines.

#### **10.1 Appeal of an Administrative Decision**

An applicant may appeal an Administrative Decision based on an interpretation of a Zoning Ordinance made by any official or Board of the Town of Alton, provided the application for appeal is submitted within thirty (30)-days of the date of the correspondence detailing the decision. A copy of the Official or Board's written decision must be submitted along with the application. When such an application is submitted, the Official or Board shall furnish a copy of the entire file concerning the matter to the Board for inclusion into the Board's records no later than fourteen (14)-days prior to the scheduled hearing date.

#### **10.2 Special Exception**

An applicant may apply to the Board for a Special Exception as allowed in the Zoning Ordinance. The Board may grant Special Exceptions, only in accordance with Section 520 and any other specific criteria set forth in the Zoning Ordinance. The Board may, upon a majority vote, request additional information and/or a legal opinion on any Special Exception request.

### 10.3 Variance

An applicant may apply to the Board for a Variance to the terms of the Zoning Ordinance. The Board may grant Variances only in accordance with Section 530 and any other specific criteria set forth in the Zoning Ordinance. The Board may, upon a majority vote, request additional information and/or a legal opinion on any Variance request.

### 10.4 Equitable Waiver of Dimensional Requirements

An applicant may apply to the Board for an Equitable Waiver of Dimensional Requirements, and the Board shall grant such Equitable Waivers, only in accordance with RSA 674:33-a, as amended.

### 10.5 Request for Rehearing (RSA 677:2 and 677:3, as amended)

The Selectmen, or any party to the action, or any person directly affected by a decision or order of the Board, may submit a request for a rehearing within thirty (30)-days of the decision, in accordance with RSA 677:2, as amended. The request must include every ground upon which it is complained that the decision or order is unlawful or unreasonable. The Board shall consider the request within thirty (30)-days of receipt of the request for rehearing pursuant to RSA 677:3, as amended. The Board shall only consider requests for rehearing at public hearings, but notification to abutters and the applicant is not required.

The Board may reconsider their decisions, provided it is done within the statutory thirty (30)-day appeal period of the original decision.

In the event that the Board grants the request for rehearing, said rehearing shall be held within thirty (30)-days of granting of the appeal, unless otherwise requested by the applicant. Notice shall be provided in accordance with RSA 676:7, as amended, and these By-Laws. Note: under NH State Law, a request for a rehearing is a pre-requisite for judicial action.

### 10.6 Extension of Decision

An applicant may apply for an Extension of Decision for a Variance or Special Exception granted in accordance with RSA 674:33, paragraph I and IV, as amended.

### 10.7 Notification of Public Hearing

Notification consists of notice to the general public and to those directly affected by an application, and shall be made as follows:

10.7.1 Notice to the general public shall be made by posting in at least two (2) public places, one of which shall be the Town Hall, at least five (5)-days prior to the hearing. In addition, the notice shall be advertised in one (1) newspaper with general circulation in the Town of Alton, at least five (5)-days prior to the hearing.

10.7.2 Notice to abutters as defined in RSA 672:3, as amended, shall be mailed certified mail at least five (5)-days prior to the hearing.

- 10.7.3 The notice shall include the time and place of the hearing, the name of the applicant, what the application is for (including the sections of the Zoning Ordinance that apply), and the location of the property for which the application is being made.
- 10.7.4 The Board may distribute notification of hearings to members of the ZBA, the Planning Board, the Board of Selectmen, Town Counsel, the Code Official, and any other person or Town Official deemed by the Board to have an interest in the proceedings.

## 10.8 Public Hearing

- 10.8.1 Prior to the opening of each hearing, the Board's clerk shall read the notice for the application. In the absence of the clerk, the chairman shall read.
- 10.8.2 The chairman will appoint an alternates to sit in place of any Board member who is disqualified from hearing the particular request. (See Section 6.4 of these By-Laws.)
- 10.8.3 Once the application is accepted as complete, the chairman will open the hearing and call the applicants to present their testimony.
- 10.8.3.1 Each person who testifies shall state their name and address and indicate whether they are a party to the request, an agent, or Counsel of a party to the request.
- 10.8.3.2 Members of the Board may ask questions at any point during testimony.
- 10.8.3.3 Any party to the request who wants to ask a question of another party to the request must do so through the chairman.
- 10.8.4 Once an applicant has completed their testimony, the chairman will open the floor for public comment.
- 10.8.5 Those members of the public appearing in favor of the request shall be allowed to speak.
- 10.8.6 Those members of the public appearing in opposition to the request shall be allowed to speak.
- 10.8.7 The applicant and those appearing in favor shall be allowed to speak in rebuttal.
- 10.8.8 Those in opposition shall be allowed to speak in rebuttal.

- 10.8.9 The chairman will provide an opportunity for any additional testimony from anyone before declaring the public input portion of the hearing closed.

#### 10.9 Deliberations

- 10.9.1 All deliberations shall take place in a duly posted public meeting. A vote to confer with Town Counsel must be done at a duly posted public meeting.
- 10.9.2 There shall be no public participation allowed during the Board's deliberations.
- 10.9.3 The Board may vote to declare a finding of fact on any subject matter, which is cause for dispute.
- 10.9.4 The Board shall deny an application that is found to be incomplete or deficient based on testimony presented during the hearing.
- 10.9.5 Upon a majority vote of the Board, the deliberations may be recessed and the public hearing re-opened.

#### 10.10 Decision

- 10.10.1 All decisions of the Board on Appeals, Special Exceptions, Variances, or Equitable Waivers shall be made during the Board's deliberations upon recognition by the chairman of a motion and duly seconded, then followed by discussion and a vote.
- 10.10.2 A decision to reverse any decision of the Code Official shall require the concurring vote of at least three (3) members of the Board.
- 10.10.3 A decision in favor of the applicant on any matter, on which the Board is required to act upon, shall require the concurring vote of at least three (3) members of the Board.
- 10.10.4 All decisions shall be set forth in writing, in accordance with RSA 676:3, as amended, and shall be placed on file in the Planning Department. If the application is denied, the reasons for denial shall be stated along with the decision.

#### 10.11 Continuances

- 10.11.1 It shall be policy of the Board to permit a maximum of two (2) continuances of an initial hearing for any single application. If a continuance is scheduled and the applicant fails to appear without prior notice, the Board may choose to either reject the application, or continue it to the next regularly scheduled meeting. Should the Board vote to reject

the application, the applicant will be required to resubmit the application as new, which will include bearing the cost of all fees associated with a new application. Should the Board vote to continue the hearing, the applicant will have no more continuances available to them.

10.11.2 Once the hearing is declared closed, the chairman will announce the date upon which the request will be continued, along with the time and place for the hearing, if so voted by the members of the Board.

10.11.3 All continuances shall be set for a date and time specific during the hearing in order to provide the attending members of the public proper notice. If a date and time specific is unable to be set, it shall be the responsibility of the applicant to bear the cost of providing public notice of a continued hearing once it is scheduled.

10.11.4 Should the continuance of hearings beyond the two (2) permitted be necessary, the applicant must file a new application and pay all associated fees. The purpose of this policy is to protect the important rights of applicants, abutters, and other interested parties, and to ensure that expenses incurred by the Town are properly reimbursed.

10.11.5 For good cause shown, the Board may, by majority vote, waive this policy in specific requests.

These By-Laws were read and discussed at the April 10, 1997, and May 8, 1997, Zoning Board of Adjustment meetings, and were adopted by a majority vote on May 8, 1997.

An amendment to Section 10, first paragraph, was read at the June 12, 1997, and July 10, 1997, Zoning Board of Adjustment meetings, and was adopted by majority vote on July 10, 1997.

An amendment to Section 10.9.5, was read at the September 2, 1999, and October 7, 1999, Zoning Board of Adjustment meetings, and was adopted by majority vote on October 7, 1999.

An amendment to Section 10, Application and Decision Process, was read at the April 6, 2000, and the June 1, 2000, Zoning Board of Adjustment meetings, and was adopted by a majority vote on June 1, 2000.

Amendments were read at the September 5, 2002, and October 3, 2002, Zoning Board of Adjustment meetings, and were adopted by a majority vote on October 3, 2002.

Amendments were read at the January 8, 2009, Zoning Board of Adjustment meeting, and were adopted by a unanimous voice vote on January 8, 2009.

Amendments to Sections 4, 6, 7, and 10 were read at the February 3, 2011, and March 3, 2011, Zoning Board of Adjustment meetings, and were adopted by majority vote on April 7, 2011.

Amendments were read at the November 2, 2017, December 7, 2017, and February 1, 2018, Zoning Board of Adjustment meetings, and were adopted by unanimous vote on February 1, 2018.



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Steve Miller, Chairman  
Zoning Board of Adjustment

\*Amended May 8, 1997, July 10, 1997, October 7, 1999, June 1, 2000, October 3, 2002, January 8, 2009, April 7, 2011, and February 1, 2018.

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ALTON TOWN CLERK

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ALMA L. STEIN