

TOWN OF THORNTON

Zoning Board of Adjustment Rules of Procedures 2023

AUTHORITY

1. These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, 1983, Chapter 676:1, and the Zoning of the Town of Thornton.

OFFICERS

1. **Chairperson:** A Chairperson shall be elected annually by a majority vote of the Board at the first meeting of the Zoning Board of Adjustment after the Annual Town Meeting. The Chairperson shall preside over all meetings and hearings and appoint such committees as directed by the Board and shall affix their signature in the name of the Board on Board Notices of Decision and correspondence.
2. **Vice Chairperson:** A Vice-Chairperson shall be elected annually by a majority vote of the Board at the first meeting of the Zoning Board of Adjustment after the Annual Town Meeting. The Vice-Chairperson shall preside in the absence of the Chairperson and shall have the full powers of the Chairperson on matters which come before the Board during the absence of the Chairperson.
3. **Clerk:** A Clerk, being a non-Board member, shall be an employee of the Town of Thornton and shall maintain a record of all meetings, transactions and decisions of the Board and perform such other duties as the Board may direct by resolution.
4. **Term:** All officers shall serve for one year and shall be eligible for re-election.

MEMBERS AND ALTERNATES

1. Members must reside 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 should notify the Chairperson and Clerk as soon as possible. Members shall participate in the decision-making process and vote to approve or disapprove all motions under consideration.
2. Up to five alternate members shall be appointed, as provided for by the local legislative body, and alternates 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.
3. At meeting of the ZBA, alternates who are not activated to fill the seat of an absent or recused member or who have not been appointed by the Chairperson 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

TOWN OF THORNTON

Zoning Board of Adjustment Rules of Procedures 2023

regular members and may view documents, listen to testimony, ask questions and interact with other Board members, the applicant, abutters and the public. Alternates shall not be allowed to make or second motions. Once the Board moves into deliberations, alternates shall remove themselves from the table and no longer participate with the Board. 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 Chairperson shall fully inform the public of the status of any alternate present and identify the members who shall be voting on the application.

MEETINGS

1. **Meetings:** The Board shall meet a minimum of two times each year. Any Public Hearing held by the Zoning Board of Adjustment may be counted as a meeting.
 - a. Virtual Attendance
 - i. Meetings may be attended by the public via a virtual meeting platform, with the link to the meeting provided on the meeting agenda. Members of the public may signal any intent to comment or ask questions using the tool(s) on the virtual meeting platform.
 - ii. Board members may attend meetings, participate in the decision-making process, and participate in roll-call votes via a virtual meeting platform in accordance with the provisions of RSA 91-A:2, III; however, a quorum of the Board [three (3)] must be present in person to conduct a meeting.

Board members' participation via a virtual meeting platform should be the exception, and, when possible, members must notify the Chairperson and Clerk 48-hours in advance if participating via a virtual meeting platform.

2. **Quorum:** A quorum for all meetings of the Board shall be three members, including alternates sitting in place of 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. If any regular Board member is absent from any meeting or hearing, or disqualifies themselves from sitting on a particular case, the Chairperson shall designate one of the alternate members to sit in place of the disqualified member and such alternate shall be in all respects a full member of the Board while so sitting.

TOWN OF THORNTON

Zoning Board of Adjustment

Rules of Procedures

2023

3. **Disqualification:** If any member finds it necessary to disqualify themselves from sitting in a particular case, as provided in RSA 673:14, they shall notify the Chairperson as soon as possible so that an alternate may be requested to sit in their place. 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. The vote shall be advisory and non-binding. The disqualification shall be announced by either the Chairperson or the member being disqualified before the beginning of the public hearing on the case. The disqualified member shall absent themselves from the Board table during the public hearing and during all deliberation on the case.

4. **Order of Business:** the order of business for regular meetings shall be as follows:
 - a. Call to Order by Chairperson
 - b. Pledge of Allegiance
 - c. Roll Call by Chairperson/Acting Chairperson
 - d. Review/Approval of Minutes
 - e. Old Business
 - f. Public Hearing
 - g. New Business
 - h. Communications and Miscellaneous
 - i. Other Business
 - j. Adjournment

** Although this is the usual order of business, the Board may wish to hold the Public Hearings immediately after the roll call in order to accommodate the public.

APPLICATION/DECISION

1. Applications:

- a. Each application for a hearing before the Board shall be made on forms provided by the Board and shall be presented to the Clerk of the Board of Adjustment who shall record the date of receipt over their signature.

- b. Appeals from an administrative decision taken under RSA 676 shall be filed within 30 days of the decision being appealed.

- c. Each application for a hearing, with all supporting documents, shall be available at the Thornton Town Hall.

TOWN OF THORNTON

Zoning Board of Adjustment

Rules of Procedures

2023

- d. Each application for a hearing, with all supporting documents, shall be posted on the Zoning Board page of the Town of Thornton website, and shall remain on the site for 30 days following the posting of a notice of decision.
- e. All forms and revisions prescribed shall be adopted by resolution of the Board and shall become part of these rules and procedures.
- f. All applications pertaining to **ARTICLE VI: Dimensional Requirements for lots that have less than 100 feet of frontage on the highway or street** shall be reviewed in the following manner (adopted at the February 9, 2023 ZBA meeting):
 - i. If someone questions whether their parcel has the required frontage, a request will be made to the Zoning Office.
 - ii. Staff will research the parcel and use the Road Determination Checklist.
 - iii. Staff will make an initial determination and confer with the Chairperson, who will review the request and confirm, if applicable, that the parcel meets the criteria.
 - iv. If the parcel meets one of the criteria adopted, a Road Frontage Decision ZBA Letter will be drafted and signed by the Chairperson. This letter indicates that the parcel is in compliance, and the criteria that was met to make this determination.

2. Public Notice:

- a. Public notice of public hearings on each application shall be given in accordance with RSA 676:7. A public notice shall be placed in a newspaper of general circulation and shall be posted in at least two public places which may include the transfer station, Thornton Central School, the Town Office and the Town's website: www.townofthornton.org not less than five days (5) before the date fixed for the hearing. Notice shall include the name of the applicant, location of the property, Tax Map/Lot Identification number, the type of appeal being made and the date, time, and location of the hearing.
- b. Personal notice per RSA 676:7 shall be made by certified mail to the applicant and all abutters to the subject property not less than 5 days before the date of the hearing. Said notice shall contain the same information as the public notice.

TOWN OF THORNTON

Zoning Board of Adjustment Rules of Procedures 2023

- c. Costs of all required notices must be paid for in advance by the applicant.

3. Public Hearing:

a. Ground Rules:

- i. Members of the Board, including alternates, may ask questions at any point during testimony.
- ii. Each person who appears shall be required to state their name and address and indicate whether they are a party to the case or an agent, counsel of a party to the case, an abutter or a non-abutter.
- iii. Any member of the Board, including alternates, through the Chairperson, may request any party to the case to speak a second time.
- iv. Any person who is not a Board member or alternate who wants to ask a question of another person must do so through the Chairperson.

b. Order of Business:

- i. The Chairperson shall call the hearing to order and report on the first case.
- ii. The Chairperson, or their designee, shall read a summary of the application and review how public and personal notice were given for the Public Hearing. The Board may, by majority, vote to dispense with the reading of the summary.
- iii. The applicant shall be called to present their application.
- iv. In the case of Appeal of Administrative Decision, the officer or Board which made the decision being appealed shall be allowed to speak.
- v. Those appearing in favor of the appeal shall be allowed to speak.
- vi. Those appearing in opposition to the appeal shall be allowed to speak.
- vii. The Applicant and those in favor shall be allowed to speak in rebuttal.

TOWN OF THORNTON

Zoning Board of Adjustment Rules of Procedures 2023

- viii. Those in opposition to the appeal shall be allowed to speak in rebuttal.

The Applicant will be given a final opportunity for sur-rebuttal.

- ix. Any person who wants the Board to compel the attendance of a witness shall present his request in writing to the Chairperson not later than seven (7) days prior to the public hearing.
- x. The Board of Adjustment will 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 and State zoning law.
- xi. The hearing on the appeal shall be declared closed.

4. Decisions:

- a. The Board shall decide all cases within a reasonable amount of time after the close of the public hearing and shall approve, approve with conditions, or deny the appeal. Notice of the decision will be made available for public inspection within five (5) business days and will be sent to the applicant by mail per RSA 676:3.

The Board shall make appropriate findings of fact in support of its decision in accordance with the provisions of RSA 673 and RSA 674:33.

- b. The notice may also be given to the Planning Board, the Board of Selectmen, Town Clerk, Property Assessor, and other town officials as determined by the Board.

5. Voting:

- a. Should a motion result in a tie vote or not receive the necessary three (3) votes to decide in favor of the applicant, the opposite of the failed motion does not automatically prevail. The Board must put forth a new motion to affirmatively set forth a decision.

6. Reconsideration by the Board/Motions for Rehearing:

- a. The Board may reconsider a decision to grant or deny an application or grant or deny a motion for rehearing provided such reconsideration is within the statutory 30-day appeal period of the original decision.

TOWN OF THORNTON

Zoning Board of Adjustment

Rules of Procedures

2023

7. Rehearing Procedures:

- a. If the Board grants a motion for rehearing, the new public hearing shall be held within 45 days of the decision to grant the rehearing provided all notice fees are paid and an updated abutters list is submitted by the party requesting the rehearing. Notification of the rehearing shall follow the procedures set forth in RSA 676:7.

8. Records:

- a. The records of the Board shall be kept in the Town Hall and made available for public inspection at 16 Merrill Access Road in accordance with RSA 673:14.
- b. Final written Notice of Decision shall be placed on file and available for public inspection within five (5) business days of the vote of decision per RSA 676:3.
- c. Draft minutes of all meetings, including names of Board members, persons appearing before the Board, and a brief description of the subject matter shall be open to public inspection within five (5) business days of the public meeting per RSA 91-A:2, II.

AMENDMENTS

1. These Rules of Procedures may be amended by a majority vote of the members of the Board provided that such amendment is read at one meeting preceding the meeting at which the vote is to be taken.

WAIVERS

1. 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 and a waiver would not be contrary to the spirit and intent of the rules.

JOINT MEETINGS AND HEARINGS

1. RSA 672:2 provides that the Board may hold joint meetings or hearings with other Boards including the Planning Board and Board of Selectmen and that each Board shall have discretion as to whether or not to hold a joint meeting with any other Board.

TOWN OF THORNTON

Zoning Board of Adjustment

Rules of Procedures

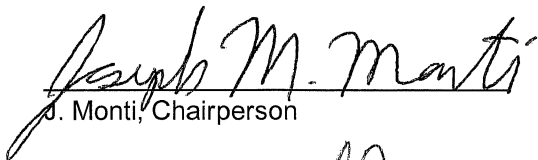
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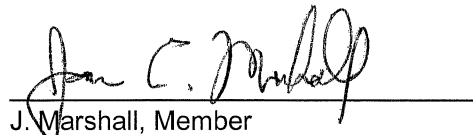
2. Joint business meetings with any other Board may be held at any time when called jointly by the Chairperson of each Board.
3. A public hearing on any appeal to the Board of Adjustment will be held at any time when called jointly with another Board only under the following conditions:
 - a. The joint public meeting 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 Chairperson shall chair the joint hearing. If the other Board is not the Planning Board, then the Board of Adjustment Chairperson 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. The other Board shall concur with these conditions.

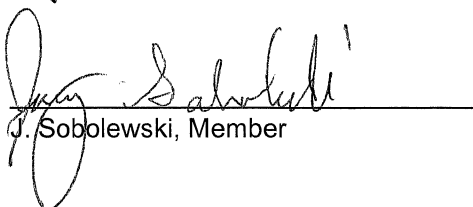
Date of first reading: 03/23/2023

Date of second reading: 05/04/2023

Date of Vote to adopt: 05/25/2023


J. Monti, Chairperson


J. Marshall, Member


J. Sobolewski, Member


M. Patti, Vice-Chairperson


A. Rawson, Member