

Town of Chesterfield, New Hampshire
Chesterfield Zoning Board of Adjustment (ZBA)
Meeting Minutes – March 17, 2022
Town Offices, Chesterfield, NH

CALL TO ORDER:

The meeting of the Chesterfield Zoning Board of Adjustment (ZBA) was called to order at 6:30 p.m. by Chair Kristin McKeon. Members present: Chair McKeon, John Zannotti, Nate Lachance, Ralph Petti, Joseph Brodbine, and Selectmen's Representative Gary Winn. Also present were ZBA Secretary Beverly Bernard. Joe Hanzalik was present via Zoom.

ABSENT:

None.

Hanzalik recused himself from deliberations due to being an abutter of the applicant. The chair seated Brodbine for Hanzalik.

OTHERS PRESENT:

Jeff Scott, Jim Phippard from Brickstone Land Use Consultants, LLC, Architect Katie Sutherland, James Corliss, Kelly Hanzalik

PUBLIC ACCESS: The public access to the meeting online via www.zoom.us, using the Zoom App on a cell phone or tablet or laptop or using a landline by calling (929) 205-6099 and entering Meeting ID number Zoom: 812 0490 0085 with Passcode: 044571.

MINUTES:

The meeting Minutes of January 20, 2022 were considered. **Motion** was made by Zannotti to approve the meeting Minutes of January 20, 2022 as amended. There was a second to the motion by Petti and no further discussion. All were in favor by roll call. **Motion passed.**

PUBLIC HEARINGS – public hearing opened at 6:45 pm

Angela Damiano & Sam Hoisington are requesting a variance from Article II, Section 503.1 Expansion to Nonconforming Buildings and Structures for property located at 132 North Shore Road in Spofford and shown at Tax Map 5D, Lot B10.

Discussion: Zannotti asked if the application is complete. He said the application is not accurate as written. He said there should be connection between the application and what is being presented. He said the plans are not referenced in the application. The application does not reference the plans. He suggested the application needs to be rewritten to reference two buildings in the plan, including the garage.

There was a brief discussion about whether abutter cards have been returned. McKeon said she knew one came back as incorrect and said that when speaking to the Administrative Assistant, she would have told her if the cards had not been returned. McKeon said she would follow up on that.

Motion was made by Zannotti that the applicant resubmit a revised application with reference to multiple buildings and the plans also be referenced on the application. Second by McKeon. Petti asked if

the ZBA could approve with condition that corrections are made. McKeon said applications are not heard if they are not complete. McKeon noted that, technically, all the boxes were checked in the checklist. She said the application could be continued. McKeon noted the garage is not part of the application title and it is not on the checklist. Zannotti said the verbiage needs to be correct to approve it properly.

Vice Chair Hanzalik spoke about the procedure. He said we are wasting the applicant's time. He asked what can be done in the future to make the process more efficient. He said this is frustrating. Zannotti said he hears Hanzalik and added that his point is that Board members cannot comment on an application outside of a public hearing. Hanzalik said perhaps the Board of Selectmen needs to be consulted about making the process more efficient. McKeon said if it is a procedural and a checklist issue, then perhaps it can be addressed.

Zannotti said he would be open to amending the motion to allow the applicant to continue. McKeon moved to amend the motion. Zannotti moved to second the motion. After a brief discussion Zannotti withdrew his original motion and McKeon withdrew her second to the original motion. **Motion withdrawn.**

Motion was made by McKeon that the applicant resubmit a revised application with reference to multiple buildings and the plans also be referenced on the application. There was a second by Petti. All were in favor by roll call. **Motion passed.**

Phippard said he is confused. He said the garage is an existing structure and he doesn't need a variance for that, they will be turning it 90 degrees toward the east and making it smaller. It is additional information in the background. The Variance is necessary for the cottage on the property. That is all they are providing for. He acknowledged that it is a good idea to reference the plans in the application, but the component for the garage is not required to be in the application.

Brodbine said one of the rationales behind the application is that the coverage is becoming less, and that is because the garage is becoming smaller. Therefore, the garage does get included. It is part of the variance because it justifies the increase in coverage of the building. Phippard insisted that the garage is not included in the application. Zannotti said he wanted to know if there would be any excavation with moving the garage. That was his reasoning for wanting to see the garage included in the application. Zannotti suggested rewording the first paragraph to include "and garage" in the application. McKeon said there were trees near the garage that may have to come down and therefore there may be impact on the surrounding area.

Phippard apologized for the confusion and continued his presentation. He referred to strips of land that are not depicted correctly on the Fieldstone drawing that is out of his control. He said the property is shown at Tax Map 5D, B-10, and is owned by Angela Damiano, and it is a non-conforming lot. They will turn the garage 90 degrees and what was 23 X 24 feet will become a garage of 20 X 20 feet. Proximity to sideline will stay the same and no increase in volume.

Renovation of existing cottage on the property. The reason is to keep the same number of bedrooms, enlarge two existing bedrooms and enlarge the bathroom and the third bedroom will be on the second floor, increasing the height of the building (26 feet in height).

Proposed plan will require removal of trees and extending the driveway to the garage. He noted a bump-out on the cottage that will be removed, which means the building will be a little further back from the lake. The plan also calls for a deck. The volume of both garage and cottage buildings decreases slightly. They are also eliminating a shed on the property. Which provides a bit more room in the existing cottage. Phippard said this is decreasing lot coverage slightly about 1%. Not increasing volume of habitable space of the property and not increasing encroachments. Overall, Phippard said, this variance would make the property less non-conforming.

Zannotti said the property card has a different number for footage. Phippard said he relied on the survey. Surveys tend to be more accurate than the property cards. He said he used the actual footage from the licensed surveyor. Approximately 20,780 cubic feet existing. 20,720 cubic feet with renovation. Phippard addressed the criteria for a Variance:

1. Phippard said it is in the public interest to allow older cottages to be reconstructed to bring them into newer safety and building codes. 2.73 feet rise of height of roof is not a lot and will not interfere with public view of the lake. Not expanding the building coverage and not adding to occupancy.
2. Spirit of the ordinance – Phippard said the idea is to not to let small lake lots get over developed. This project won't add more boats on the lake or more septic flow on the property. Will not negatively impact adjoining properties.
3. Substantial justice – there is no benefit to the public. This will add value for the property owner.
4. Surrounding property value – not increasing number of bedrooms, and by improving the appearance of the property, value will be enhanced. u
5. Special conditions – existing legal non-conforming lot. There is a special condition in itself. Wanting to improve the property for life safety issues, cannot do without a variance.
- 5A. Reasonable use – the project is not changing occupancy, it is clear that it is reasonable.
- 5B. Special conditions – height increase is a very small change.

Phippard showed the interior plan for the building with two bedrooms on the main floor. He also showed the elevation views. He pointed out the dotted lines showing the old roof line as compared to the new roof line with a dormer. He showed a volume plan comparing existing building to renovated building with slightly decreased volume.

McKeon noted the roof is pulled forward and raised. The top roof ridge will project forward toward the lake.

Katie Sutherland clarified for the crawl space. She said the intention is to replace the footings with concrete and adding no additional height or useable space. The existing space is on the lake side. She noted a storage door to access the storage area in the crawl space. The crawl space is about 6 feet height on lakeside, and it is under part of the house. McKeon asked about useable space there now. Sutherland said she did not have the dimensions for the Board. She estimated that it is about 12 feet wide by 20 feet deep. There will be a concrete floor in the crawl space.

McKeon said it looks like a lot more roof on this plan. She asked how much additional roof area and some of it is rather flat. Sutherland said they increased the pitch over the kitchen. She said they are adequate pitches, legally. Sutherland said there is less roof area, and less of the roof pitches toward the lake and they will have site drainage plans to take care of storm water run-off. They eliminated the bump-out which had a roof which means less roof coverage. Phippard said if there is no increase in roof

coverage than there is no increase in rain and what falls will go into the ground away from the lake using infiltration. Sutherland said most of the roof pitches toward the lake with the existing building. But the new plan shows a change of pitch away from the lake at a 3/12 pitch. The ridge is closer to the lake, and this reduces the runoff toward the lake. She said they will be designing a storm water system to mitigate run-off.

McKeon asked Phippard what makes this lot unique from all the other lots on the lake. Phippard said 80% of the lots around the lake are non-conforming due to lot size or due to frontage. He said he thinks all those are unique. They are unique under the ordinance. They are all have unusual condition by there non-conforming status. Unique situation created by the ordinance. Phippard said the unique situation for the owner in that they cannot expand their building without needing a variance. It is a condition on the property that is a burden to the homeowner. McKeon said the property owner buys a cottage knowing the size of the home. Phippard said the zoning has created a hardship. McKeon said anyone can renovate a home just as it is. Sutherland said one purpose of the renovation is making the building energy efficient.

James Corliss said the increase the height of the cottage will not impede the view from the cottage to the west. He said it will be a good thing for the lot and will be an improvement since it is an old cottage that has suffered from lack of maintenance. Both well and septic have been put in place over the past nine years and it is a modern septic system. From a regulatory perspective, he felt the application was complete. He said he felt it meets the spirit of the ordinance.

Jeff Scott said he agrees with Corliss. He said it appears to an improvement to the property and as long as no abutter has a problem with the lines of the roof, he thinks it should be approved.

Kelly Hanzalik said she is in favor of this application. She said the application refers to a renovation of the existing cottage and modify the roofline, but now she thinks it is a complete teardown. Sutherland said the original goal is to maintain the first-floor walls and just change the roofline, but contractors think it might be faster to rebuild it. She said it may make more sense to rebuild completely, which might be an advantage to the neighborhood since it would be done more quickly. K. Hanzalik said that wasn't clear from the application.

McKeon said she would like to visit the property. Brodbine said he doesn't see an advantage to doing that. Zannotti agreed with Brodbine. Petti said you don't have a contractor yet, but you have drawings. Sutherland said they have spoken to two contractors thus far and there would be more detailed drawings once they have chosen a contractor. The plan the ZBA has before them is what is planned to be built.

Winn noted a concern that the abutter across the road would be or not be impacted by the raised roof. Zannotti said he believes there is no obstruction to the people across the street.

There was a brief discussion about stepping-stones on the plan.

McKeon asked if the Board was ready to move forward. Zannotti said the drawings show roof lines at 3/12 pitch. Zoning said that if it is equal or less than 3/12 a plan needs to go to ZBA.

Brodbine said he has no problem with the increase in height. The peak is closer to the lake and therefore

the run-off will be away from the lake. Petti said the owner purchased the lot 7 months ago. He asked if there were any structural defects with the home that might create a need to renovate. Sutherland said the structure was not up to existing building codes. She said the owner wants to increase energy efficiency of the home and make it airtight. McKeon said she has no problem with the plan, but she wants the Board to be aware these folks know what they are getting and then they want to redo the cottages. She said at what point will the lake become overwhelmingly housed to impact the lake negatively. Cumulative effect should be considered as each variance is granted for the lake. Zoning happens in response to previous issues.

LaChance said the application states a renovation versus a rebuild; it is a little misleading to call a rebuild a "renovation". McKeon noted the property owner can rebuild on the exact same footprint with same volume and setbacks without having to get a variance.

The Chair reviewed the **Checklist for Granting a Variance** with the members of the Board:

1. *Would the variances be contrary to the public interest?*

Members said: McKeon said it won't block a view. It won't lower values in the neighborhood. Brodbine said he didn't see any negative. All were in favor.

2. *Would the spirit of the ordinance be observed if the variances were granted?*

Members said: Run-off is a concern and being addressed. Brodbine said they are not increasing non-conformance and septic is new. All were in favor.

3. *Would the granting the variances do substantial justice?*

Members said: Brodbine said if denied would there be a benefit to the town? The benefit to the applicant is not outweighed by any detriment to the public. All were in favor.

4. *Could the variances be granted without diminishing surrounding property values?*

Members said: There will be increased property values. McKeon pointed out taking down too many trees could be a detriment to the neighborhood. Brodbine said the old garage faced the road and it will be better facing away from the street. All were in favor.

5. *Do special conditions of the property exist that distinguish it from other properties in the area?*

A.i. Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?

Members said: McKeon said the only way the neighborhood will be changed will be cutting down of trees. Brodbine said he is okay with the it. All were in favor.

A.ii. Is the proposed use a reasonable one?

Members said: Zannotti said a lower pitch keeps the roof lower. It was a single-family home with three bedrooms and will remain the same. All agreed.

If the criteria in subparagraph a. and b. are not met, an unnecessary hardship will be deemed to exist if, and only if:

B. Owing to the special conditions of the property that distinguish it from other properties in the area the property cannot be reasonably used in strict conformance with the ordinance, and a variance is necessary to enable a reasonable use of the property:

McKeon said the applicant doesn't meet this B. criteria, but does meet criteria A.

Zannotti asked how quickly can the applicant provide the change in the application. Phippard said he would submit it next week. He will add garage into description of the buildings. And he will reference drawings in the application. He will note the abutter's line is incorrect. McKeon said one of the conditions should be that this should be stated as a renovation and not a rebuild/knockdown. Brodbine said to tie the applicant's hand about how to complete the project isn't necessary. The application asks for a renovation. Phippard said he could add "or rebuild" to the application. Petti said he likes "renovation/rebuild" on the application. McKeon said that could be a condition of approval as well as the earlier changes. McKeon asked about the gravel in the driveway and Phippard said it is a minor decrease.

Corliss urged the Board to consider an unconditional approval. He said a conditional approval needs to be monitored as to how the conditions will be met. He said someone needs to make the determination that everything is there. He urged the ZBA to grant an unconditional approval.

Public Hearing closed at 8:41 pm

The Chair entertained a motion to grant the request of based on the responses to the checklist.

Motion was made by Brodbine to grant the request of Angela Damiano & Sam Hoisington for a variance from Article II, Section 503.1 Expansion to Nonconforming Buildings and Structures for property located at 132 North Shore Road in Spofford and shown at Tax Map 5D, Lot B10 based on the responses to the checklist with condition that the application be amended so as to include the garage in the application, to add the words "renovate/rebuild", have the drawings referenced in the application, stated that the boat space be no more than 12 feet wide and the rest to remain as crawl space, reference building ordinance 13.03 in regard to roof pitch, the ZBA is acknowledging some of the roof will be allowed by special exception to a pitch of 3/12. There was a second to the motion by Zannotti and no further discussion. All were in favor by roll call. **Motion passed.**

The Drawings were stamped and signed tonight by the members of the Board.

DISCUSSION & OTHER BUSINESS

Rules of Procedure Suggestions

The Board considered changes to the document recommended by Zannotti.

Motion was made by McKeon for changes in the Rules of Procedure as stated in the Minutes as amended. Second by Petti. **See document attached as Addendum A with changes shown in red.** All were in favor by roll call. **Motion passed.**

Application Review

Zannotti asked if the application can be reviewed by the person receiving it in the office to see if it is complete. McKeon said those folks cannot do any more than check against a checklist since completeness must be done in public hearing by the Board. McKeon said she would speak to Counsel about the completeness of an application, and what can be done if the incompleteness is minor. She also noted that a phone call needs to be done if green abutter cards do not come back. McKeon said she would speak with staff about that.

Chesterfield Zoning Board Adjustment Building Coverage Calculation Sheet

Brodline referred to the Zoning Board calculation sheet. He spoke about how many applications are about cubic volume. He said the guidance sheet doesn't ask for volume and perhaps it should ask for volume information. There was a discussion about amending the calculation sheet.

Next Meeting: April 21, 2022

Motion to adjourn was made by Zannotti. There was a second to the motion by Petti and no further discussion. All were in favor by roll call. **Motion passed.** Adjournment occurred at 9:30 pm.

Respectfully Submitted,



Beverly Bernard
ZBA Secretary

Approved By:

Chair 

Date 4/26/22



ADDENDUM A

Chesterfield Zoning Board of Adjustment

Rules of Procedure

Adopted May 27, 2014

I. Authority

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

II. Title and Adoption

- A.** These rules may be cited as the Chesterfield Zoning Board of Adjustment Rules of Procedure.
- B.** These rules shall be adopted at a regular meeting of the Zoning Board and shall be placed on file in the Town Office for public inspection.
- C.** These rules shall be effective upon adoption by a majority of the Board and when they have been voted on by a majority of the Board and filed with the office of the Town Clerk.

III. Members and Alternates

- A.** Members must be Chesterfield residents and are expected to attend each meeting of the Board to exercise their duties and responsibilities in a professional and impartial manner.

Any member unable to attend a meeting shall notify the Chair or the Zoning Board Administrative Assistant as soon as possible.

- B. Members shall be appointed in staggered three (3) year terms. The membership of the Board shall be appointed in such a manner so that no more than three (3) regular members shall be appointed (or re-appointed) each year.
- C. Vacancies in the membership of the Board occurring other than through the expiration of a term of office shall be filled in the manner provided by RSA 673:12.
- D. Up to five (5) alternate members shall be appointed, as provided for by the Town of Chesterfield Board of Selectmen, 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.
- E. At meetings 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 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, 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 to close the public portion of the meeting and 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 chair shall fully inform the public of the status of any alternate present and identify the members who shall be voting on the application.

IV. Officers

- A. A Chair shall be elected annually by a majority of the Board at a regularly scheduled meeting in the month of January, or as soon thereafter as is practical. The Chair shall preside over all meetings and hearings, appoint such committees as directed by the Board and shall affix his/her signature in the name of the Board.
- B. A Vice-chair shall be elected annually by a majority vote of the Board at a regularly scheduled meeting in the month of January, or as soon thereafter as is practical. The Vice-chair shall preside in the absence of the Chair and shall have the full powers of the Chair on matters which come before the Board during the absence of the Chair.
- C. The Chair and/or Vice-chair are allowed to seek legal advice without prior authorization from the Zoning Board of Adjustment or any other board.

- D.** All officers shall serve for one (1) year and shall be eligible for re-election.
- E.** If the Chair and Vice-chair are both unable to serve due to absence or disqualification, the remaining Board members shall elect a Chair Pro Tem to serve until the Chair or Vice-chair can resume their duties. The Chair Pro Tem shall have the full powers of the Chair on matters which come before the Board during the absence of the Chair and Vice-chair.
- F.** The Zoning Board Administrative Assistant for the Town of Chesterfield 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. All official records shall be located in the Chesterfield Town Office.

V. Meetings

- A.** Regular meetings shall normally be held in the Board of Selectmen's meeting room in the Chesterfield Town Office at 6:30 p.m. on the third Thursday of the month, hearings start no earlier than 6:45 p.m.
- B.** If there is no business to come before the Board on the day of a regularly scheduled meeting, the meeting shall not be held.
- C.** Other meetings, such as site walks and visits, may be held on the call of the Chair, provided public notice and notice to each Board member is given in accordance with RSA 91-A:2, II.

VI. Quorum

- A.** A quorum for all meetings of the Board shall be three (3) members, including alternates sitting in place of regular members. If any Board member is absent from any meeting or disqualifies himself from sitting on a particular case, the Chair shall designate one (1) 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.

- B.** In the event it is not feasible to constitute a five (5) member Board, the Chair shall, prior to the commencement of any hearing, allow the applicant the opportunity to elect to either proceed with the Board then sitting and sign a waiver waiving their rights to a five (5) member Board, or table the application until the next regularly scheduled meeting of the Board. *Waiving their rights shall carry forward to conclusion of case.*
- C.** At any meeting lacking a quorum, the Chair shall:
1. Call the meeting to order;
 2. Announce that the Board lacks a quorum;
 3. Announce all applications before the Board are tabled until the next regularly scheduled meeting of the Board; and
 4. Adjourn the meeting.
- D.** Remote Participation
1. A voting member may participate remotely so long as there is a quorum present at a physical location and the quorum votes to allow the absent voting member to participate.
 2. A non-voting member may participate remotely without a vote of the physical membership. The non-voting member shall communicate their intent to participate remotely to the secretary with as much notice as possible.

VII. Disqualification

If any member finds it necessary to disqualify himself from sitting in a particular case, as provided in RSA 673:14, he/she shall notify the Chair or secretary as soon as possible so that an alternate may be requested to sit in his 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. Either the Chair or the member disqualifying him/herself before the beginning of the public hearing on the case shall announce the disqualification. The disqualified member shall absent himself from the Board table during the public hearing and during all deliberation on the case.

VIII. Ex Parte Communications

- A.** Board members shall avoid ex parte communications with the applicant, abutters, or any other Board members. In the event that ex parte contact occurs, Board members shall disclose the nature and date of the communication at the beginning of the public hearing.

- B. Board members shall not seek input or advice from any source other than consulting with the Local Government Center, or other Town officials for clarification regarding the application outside of the public hearing process.
- C. Applicants and interested parties should direct questions regarding the process to the Zoning Administrative Assistant or designee. If an applicant or interested party contacts a Board member, the member should refer that person to the Zoning Administrative Assistant or designee, or advise the person to submit information to the Board in writing.
- D. All Board members are subject to the Town Conflict of Interest Policy.

IX. Applications

- A. Each application for a hearing before the Board shall be made on forms provided by the Selectmen's office and shall be presented to the Zoning *Board Secretary* who shall record the date of receipt.

X. Public Notice

- A. Public notice of public hearings on each application shall be given in the local publication and shall be posted in two (2) places at the Chesterfield Town Office not less than five (5) days before the date fixed for the hearing.
- B. Notice shall include the name of the applicant, a description of the property including the tax map identification, the action desired by the applicant, the provision of the zoning ordinance concerned, the type of appeal being made, and the date, time, and place of the hearing.
- C. Personal notice shall be made by certified mail to the applicant and all abutters not less than ten (10) days before the date of the hearing. The Zoning Board secretary shall confirm that all abutters certified mail return receipt cards have been received. If not, phone contact will be attempted as appropriate and documented for Zoning Board review.
- D. The applicant shall pay for all required notice costs in advance.

XI. Public Hearing and Meetings

- A. The conduct of public meetings shall be governed by the following rules:
1. The Chair shall call the meeting to order.
 2. The Board shall consider any old business.
 3. The Board shall conduct a public hearing on each application before it as follows:
 - i) The Chair shall read the public notice into the record.
 - ii) The applicant *or agent must appear in person to* present his/her application.
 - iii) Members of the Board may ask questions at any point during testimony.
 - iv) The Chair shall open the meeting to public comment. Those members of the audience who wish to speak must state their name and address.
 - v) The Chair shall control the conduct of the hearing and may impose reasonable limitations upon the number of times and the length of time any given person may speak so long as everyone with a legitimate interest is given a reasonable opportunity to state their views and present evidence. All questions and comments must be directed to the Chair.
 - vi) After all interested parties have been given a reasonable opportunity to present their evidence, the Chair shall declare the public portion of the hearing closed. Any further public input at the current meeting or subsequent meetings will require that the public hearing be formally reopened.
 - vii) Once the public portion of the hearing is closed, the Board shall discuss and act upon the application.
 - viii) The public shall not be permitted to participate in the Board's deliberations, but the Chair may direct questions to members of the public and receive answers during the Board's deliberations.
 - ix) Except as provided in the Right to Know Law (RSA 91-A), the deliberations of the Board shall be held in open meeting where the public can hear.
 4. The Board has the option to end the public meeting or hearing at 10:00 pm. The current case, and any other unheard cases or business, will be tabled until the next regularly scheduled meeting.
 5. The Board shall consider any other business.
 6. If there is a quorum of members present who were sitting at the respective meeting, the minutes of that meeting shall be submitted for approval.
 7. Once all business before the Board has been concluded, the Chair shall adjourn the meeting.

XII. Decision

- A. Except as otherwise provided in these Rules, the Board shall normally decide all cases on the night of the public hearing and shall approve, approve with conditions, or deny the request. The Board may *continue an application* before it to a later date..

- B.** Notice of the decision will be made available for public inspection within five (5) business days, as required by RSA 676:3 and will be sent to the applicant by regular mail.
- C.** All approved plans shall be stamped with a stamp that provides space for all members to sign. The same must be signed by the Chairman or Vice-Chairman and can be signed by any other sitting member.
- D.** If the request is denied, the notice shall include the reasons therefore.
- E.** The Zoning Board secretary shall give notice to the Planning Board, Code Enforcement Officer, and other town officials as determined by the Board.

XIII. Motions for Rehearing

- A.** Any Motion for Rehearing must be filed during normal business hours in the Selectmen's Office within the statutory 30-day appeal period of the original decision as defined in RSA 677:2.
- B.** In considering a Motion for Rehearing, the Board shall determine if the party requesting the rehearing has standing as defined in RSA 677:2.
- C.** A Board meeting to consider a Motion for Rehearing shall be considered a public meeting subject to the minimum posting requirements of the Right to Know Law and no formal notice is required to the applicant, petitioner, or abutters. It shall not be considered a public hearing and no testimony shall be taken. All the Board is acting upon is the motion in front of it (what has been submitted) and shall not involve comments by the applicant, petitioner, or abutters.
- D.** If possible, the same Board members from the original hearing should be present when considering the Motion for Rehearing.
- E.** The Board will make every effort to ensure that a full five (5) member Board is present for the consideration of any Motion for Rehearing.

XIV. Motions for Reconsideration

- A.** Any member of the Board may request that the Board reconsider its decision on any case, provided it is done within the statutory 30-day appeal period of the original decision as defined in RSA 677:2.
- B.** The Motion for Reconsideration shall set forth all reasons for reconsideration and include all necessary supporting evidence.
- C.** The Board member filing a Motion for Reconsideration shall submit the motion to the Board's Administrative Assistant at least four (4) days prior to the meeting at which the motion shall be considered.
- D.** The Zoning Board Administrative Assistant shall distribute the Motion for Reconsideration to the members of the Board.
- E.** A Board meeting to consider a Motion for Reconsideration shall be considered a public meeting subject to the minimum posting requirements of the Right to Know Law and no formal notice is required to the applicant, petitioner, or abutters. It shall not be considered a public hearing and no testimony shall be taken. All the Board is acting upon is the motion in front of it (what has been submitted) and shall not involve comments by the applicant, petitioner, or abutters.
- F.** If both a Motion for Reconsideration and a Motion for Rehearing are filed for the same case, the Motion for Reconsideration shall be considered first.
- G.** The Board will make every effort to ensure that a full five (5) member Board is present for the consideration of any Motion for Reconsideration.

XV. Records

- A.** The records of the Board shall be kept by the Selectmen's Office and made available for public inspection in accordance with RSA 673:17.
- B.** Final written decisions will be placed on file and available for public inspection within five (5) business days after the decision is made in accordance with RSA 676:3.
- C.** 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 in accordance with RSA 91-A:2-II.

- D.** The Board's audio recording of its ZBA meetings shall be retained for a period of 14 days following the date that the written meeting minutes prepared from the audio recording have been reviewed and approved by the Board, after which the audio recordings shall be disposed of in a timely manner. If a member of the public requests to inspect or copy the Board's audio recording of a meeting prior to its disposal, the Board shall retain the audio recording until the requesting party has had an opportunity to inspect and copy the audio recording."

XVI. Joint Meetings and Hearings

- A.** RSA 676:2 provides that the Zoning Board of Adjustment may hold joint meetings or hearings with other land use boards including the Planning Board and the Conservation Commission. Each board shall have discretion as to whether or not to hold a joint meeting with any other land use board.
- B.** Joint business meetings with any other land use board may be held at any time when called jointly by the Chair of the two (2) boards.
- C.** A public hearing on any appeal to the Zoning Board of Adjustment will be held jointly with another board only under the following conditions:
1. The joint public hearing must be a formal public hearing on appeals to both boards regarding the same subject matter;
 2. 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 of Adjustment Chair shall chair the joint hearing;
 3. 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
 4. The other board shall concur in these conditions.

XVII. Amendments

These Rules of Procedure may be amended by a majority vote of the members of the Board provided that such amendment is read at two (2) consecutive meetings preceding the meeting at which the vote is to be taken.

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

XIX. Definitions

- A.** For the purposes of any meeting conducted by the Zoning Board of Adjustment, the term “table” shall mean *postpone to a certain time*.
- B.** The unmodified terms “member”, “Board member”, and “member of the Board” shall include both regular members and alternate members.

These *Rules of Procedure* may be amended by a majority vote of the Board.

Adopted May 27, 2014

Amended September 8, 2015 - Added paragraph C under IV Officers

Amended April 11, 2017 - Section IV Officers – Paragraph A and B to change the word March to January

Amended July 10, 2018 – Section V Meetings – Meeting start time from 7:30 p.m. to 7:00 p.m., added hearing start time 7:15 p.m.

Amended June 10, 2021- Section V Meetings- Meeting start time from 7:00 p.m. to 6:30 p.m., added that hearings will start no earlier than 6:45 p.m. Updated from Tuesday to Thursday.

Section X (C)- added that the ZBA secretary shall attempt to contact abutters by phone if a certified mail return receipt is not received before the meeting.

Amended October 14, 2021 – Section V Meetings – Meeting date updated to third Thursday.

Amended November 18, 2021 – Section XII Decisions – “C” added

Amended December 16, 2021 – Section XV Records – “D” added

Amended January 20, 2022 – Section VI Quorum – “D” added

Chesterfield Zoning Board of Adjustment

Kristin McKeon, Chairman

Joe Hanzalik, Vice-Chairman