



Town of Amherst, New Hampshire
Planning Board

Rules of Procedure

Originally adopted by the Planning Board:

October 23, 1973

As Amended through: July 21, 2021

1. AUTHORITY

- 1.1. These Rules of Procedure are adopted under the authority of New Hampshire Revised Statutes Annotated (RSA) 676:1.
- 1.2. They were adopted in the current form on July 21, 2021, at a regular meeting of the Amherst Planning Board.
- 1.3. These rules may be amended and revised at a regular meeting of the Planning Board when adopted by a majority vote. The amended procedures shall be filed with the Town Clerk.
- 1.4. The provisions of these Rules of Procedure shall be subject to any applicable state or local laws, regulations, or ordinances. All RSA references are "as amended".

2. MEMBERS

- 2.1. The Amherst Planning Board shall consist of seven (7) members, six of whom are elected and the remaining one of whom shall be a designated ex-officio member from the Board of Selectmen to serve as full voting member in accordance with RSA 673:2.II.
- 2.2. Selection, qualification, term, removal, and filling of vacancies shall be in accordance with RSA 673.
- 2.3. Alternate members may serve on the Planning Board as authorized by RSA 673:6.
 - 2.3.1. The Planning Board may appoint up to three alternate members.
 - 2.3.1.1. One alternate may be appointed for a one year term, one alternate for a two-year term, and one alternate for a three year term.
 - 2.3.1.2. A vacancy in an alternate position prior to the expiration of an appointed alternate's term may be filled for the remainder of the vacated term. An appointment to fill a vacancy for an expired term shall be for a three-year

term and may be filled by reappointment of the alternate member whose term has expired or by selection of a new alternate member.

2.3.2. The Board shall announce its intention to fill alternate positions and solicit expressions of interest from interested citizens. The Board may use questionnaires, interviews and similar techniques to assist it in selecting alternates.

2.3.3. Any alternate for the ex-officio member from the Board of Selectmen appointed in accordance with RSA 673:6.III shall be in addition to alternate members selected under section 2.3.1 of these Rules.

2.3.4. Alternate members 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. Alternate members shall participate in all meetings and deliberations of the Board, excluding voting (unless appointed to vote in the place of a regular member by the Chair at the meeting).

2.4. Each elected, re-elected, appointed, or re-appointed member or alternate shall be sworn in and take an oath of office.

If any member or alternate is absent from three consecutive regular meetings without a valid reason, his or her name shall be recommended to the Board of Selectmen for removal from office.

3. ORGANIZATION

3.1. Officers: The officers of the Board shall be a Chair, a Vice-Chair and a Secretary. All officers shall be regular members of the Board. The designated ex-officio member from the Board of Selectmen shall not serve as an officer.

3.2. Chair: The Chair shall preside at all meetings of the Board; shall prepare (with assistance from Staff) an annual report; shall appoint such committees as may be authorized by the Board; and shall perform other duties customary to the office. The Chair is authorized to speak directly with Town Counsel on an as needed basis.

3.3. Vice-Chair: The Vice-Chair shall perform the duties of the Chair in the absence or incapacity of the Chair.

3.4. Secretary: The Secretary (with assistance from Staff) shall keep the records of the Board including the minutes of all meetings, public hearings and proceedings in accordance with RSA 91:A to the extent that such minutes are not prepared by staff.

3.5. Temporary Absence: In the absence of any officer at a regular or special meeting, an officer pro-tempore may be elected by the Board.

3.6. The officers of the Board shall be elected annually at a meeting within 30 days following Town elections, by a majority vote of the Board. Should any office of the Board become vacant, the Board shall elect a successor at the next regular meeting to serve the unexpired term of said officer.

4. MEETINGS

4.1. Regular meetings shall be held at least monthly on the first Wednesday of each month at 7:00 pm in the Town Hall, or at such other time, place and manner (including in person, by video or phone, or any combination thereof) as may be authorized by law.

4.2. Regular meetings designated as Work Session meetings will normally be held monthly on the third Wednesday of each month at 7:00 pm in the Town Hall, or at such other time, place and manner (including in person, by video or phone, or any combination thereof) as may be authorized by law. Items normally considered at other regular meetings may be scheduled to be heard at Work Session meetings at the Board's discretion.

4.3. Special meetings may be called by the Chair or in her/his absence, by the Vice-Chair, or at the request of three regular members of the Board provided notice to each member is given at least 48 hours in advance of the time of such meeting and appropriate public notice is provided. The notices shall specify the purpose of the meeting.

4.4. Nonpublic Sessions shall be held in accordance with RSA 91-A:3.

4.5. Postponements: A meeting may be postponed or eliminated for good cause by the Chair provided all members and the public are notified as promptly as practicable.

4.6. Quorum: Four members of the Board, including any alternates sitting in place of regular members, shall constitute a quorum. A quorum is necessary for the Board to take any action with the exception of tabling an application(s) to a date specific.

4.7. If any regular Board member is absent from a meeting or hearing or disqualifies her/himself from sitting on a particular application, the Chair shall designate one of the alternate members to sit in place of the absent or disqualified member. Both the absence or disqualification and the designation of the alternate shall be noted in the record. If no alternate member is available to be designated the Board shall proceed with a reduced number of members provided a quorum exists.

4.8. If the ex-officio member from the Board of Selectmen is absent from a meeting or hearing, or disqualifies her/himself from sitting on a particular application, the Chair shall designate the alternate member appointed by the Board of Selectmen for the ex-officio member to sit in place of the absent or disqualified ex-officio member. Both the absence or disqualification and the designation of the alternate shall be noted in the record. If no such ex-officio alternate is available to be designated the Board shall

proceed with a reduced number of members provided a quorum exists.

- 4.9. Alternates designated to sit for a member shall have all the powers and duties of the regular member for any matter under consideration on which the regular member is unable to act. The alternate should continue at that meeting until the matter is completed; the regular member does not vote on that matter at that meeting.
- 4.10. Disqualification: If any member finds it necessary to be disqualified from sitting on a particular case, as provided in RSA 673:14, he or she shall notify the Chair as soon as possible so that an alternate may be requested to fill the place. The disqualification shall be announced by either the Chair or the member before the discussion or the public hearing on the application begins. The disqualified member shall leave the Board's table during the public hearing and all deliberations but may remain in the audience as a member of the public. Disqualification shall not affect an individual's right to be heard as an applicant, abutter, or otherwise interested party during public hearings. If uncertainty arises as to whether a Board member should disqualify her/himself, on the request of that member or the request of another member of the Board, the Board shall vote on the question of whether that member should be disqualified. Such request and vote shall be made prior to, or at the commencement of any required public hearing. A vote on a question of disqualification shall be advisory and non-binding and may not be requested by persons other than Board members.
- 4.11. Order of Business at regular meetings shall be as follows (the Chair may modify the order of business and procedure for good cause):
 - 4.11.1. Call to order by Chair
 - 4.11.2. Old business
 - 4.11.3. New business
 - 4.11.4. Other business
 - 4.11.5. Approval of minutes of the previous regular or special meetings.
 - 4.11.6. Adjournment
- 4.12. Order of Business at Work Session meetings shall be as follows (the Chair may modify the order of business and procedure for good cause):
 - 4.12.1. Call to order by Chair
 - 4.12.2. Discussions on Ordinance or Regulation amendments, Master Plan related duties, workshops, and other Planning Board related topics.
 - 4.12.3. Other business
 - 4.12.4. Adjournment

- 4.13. Manner of voting - A motion, duly seconded, shall be carried by an affirmative vote of a majority of the voting members present. The voting on all questions shall be entered upon the minutes, showing the yeas and nays or abstentions on each question.
- 4.14. No new matter shall be taken up for consideration by the Board after 10:00 PM except at the discretion of the Board for good cause. If there are unheard applications to the Board that are not taken up for review by the Board, they shall be tabled until the next available meeting or work session. If deemed desirable, the unheard matters may be scheduled at a special meeting of the Board.

5. APPLICATION REVIEW

- 5.1. All applications shall be in accordance with the applicable Town of Amherst ordinances and regulations.
- 5.2. Applications and supporting materials must be submitted sufficiently in advance of Board meetings at which they are to be considered, as required by the applicable laws, ordinances, and regulations.
- 5.3. The Board expects applications as filed to include all information necessary for Board action. Timely filing of a comprehensive application is necessary for Staff, Board member, and public review in advance of Board consideration of the application, and to permit efficient consideration of all applications. Accordingly, and in the interest of providing opportunity for notice and participation by all interested parties, the Board shall act on the application as it was originally filed unless the submission of changes and supplements to the application is authorized by the Board as follows:
 - 5.3.1. Changes and supplements must be accompanied by an authorized statement that the applicant agrees to a reasonable extension of any and all applicable deadlines. This is necessary to provide time for adequate Board, Staff and public review of the new information, which may require the Board to continue the application to a subsequent meeting.
 - 5.3.2. Changes and supplements must be submitted at least one week before the Board meeting at which the applicant wishes them to be considered. The Board may waive this requirement for minor changes or otherwise for good cause.
 - 5.3.3. The decision on whether to accept the changes and supplements for consideration, decline to consider them and rule on the application as originally submitted, or continue the application to a future meeting to permit time for adequate review of the changes and supplements, is at the

discretion of the Board. Applicants should not expect repeated continuances, particularly if the applicant can file a new application that includes complete information.

5.4. Exhibits shown at meetings must be provided and displayed electronically at meetings and for remote audiences.

6. PUBLIC HEARINGS

6.1. The conduct of public hearings on applications shall be governed by the following rules. Public hearings on matters other than applications shall generally follow these same rules.

6.1.1. The Board shall make a determination of completeness, if required by RSA 674:4 I(b), prior to commencement of the public hearing. In connection with a completeness determination, the Board may consider waiver requests that bear on the question of the completeness of the application. Any waivers granted in the course of determining whether or not an application is complete shall be granted conditionally for purposes of the completeness determination only, shall not restrict the Board from requiring adherence to a conditionally waived provision upon full hearing of the application, and shall not be final unless incorporated in final Board action on the application. This provision ensures that final waivers, if any, are granted with the benefit of complete discussion and understanding of the application, which may not be possible at the time a completeness determination is required to be made.

6.1.2. The Chair shall call the hearing in session and read the application information into the record. The Chair may open and close a public hearing in accordance with these rules; a vote of the Board is not required. The Chair shall announce for the record that the hearing is open.

6.1.3. The applicant, or her/his representative will present the application to the Planning Board.

6.1.4. Members of the Board may ask questions during the presentation. The Chair will control an orderly discussion and questioning. Board members contemplating approval conditions that are not minor, administrative, or relating to issuance of other approvals should raise them to permit them to be considered as part of the public hearing. See RSA 676:4 I(i).

6.1.5. Only one member of the Board shall speak at a time.

6.1.6. Town Staff will present any comments or recommendations to the Board.

6.1.7. Any applicant, abutter or person with an interest in the matter may testify in person or in writing. Written statements should be received by the Community

Development Office at least three business days before the hearing, but the Board may, at its discretion, accept written statements received later. Written statements will not be read into the record except at the discretion of the Chair, but will be considered by Board members. Testimony and statements shall be respectful of all persons and shall be made succinctly. Ordinarily time limits on testimony will not be necessary. However, the Chair may limit equitably the length of testimony and statements if necessary to accommodate a significant number of comments within a reasonable timeframe of the public hearing.

6.1.8. Each person who speaks shall be required to state her/his name and address for the record. Counsel offering statements on behalf of clients shall identify the clients on behalf of whom the statement is offered.

6.1.9. The applicant or any person who desires to ask a question of another person must go through the Chair, who may allow or decline such requests in keeping with the orderly, efficient, and respectful conduct of the hearing.

6.1.10. The Chair shall announce for the record the conclusion of the public hearing. Thereafter, the applicant, abutters and other interested parties shall ordinarily not be heard except, at the Chair's discretion, for minor clarifications or on administrative or scheduling issues. However, the Chair may reopen the public hearing for comments and discussion if deemed necessary or advisable at any time prior to final Board action on the application.

6.1.11. The Board makes any appropriate motions regarding waivers requested.

6.1.12. The Board discusses potential conditions and other matters relevant to the framing of a complete motion.

6.1.13. The Board makes any appropriate motions regarding approval, conditional approval, denial, or continuance of the application.

6.1.14. The Chair shall indicate whether the hearing is closed or continued pending the submission of additional material or information or the correction of noted deficiencies. In the case of a continuance, additional notice is not required if the date, time and place or manner of the continuation is made known prior to adjournment.

7. DECISIONS

7.1. The Board shall render a decision within 65 days of the date of acceptance of a completed application, subject to extension or waiver as provided in RSA 676:4.

7.2. Notice of decision will be made available for public inspection at the Community

Development Office within 5 business days after the decision is made as required in RSA 676:3. If the application is disapproved, the Board shall provide the applicant with written reasons for disapproval.

8. RECORDS

8.1. The records of the Board shall be kept by the Secretary in cooperation with Staff, and shall be made available for public inspection at the Community Development Office as required by RSA 676:3.

8.2. Minutes of the meetings shall include the names of Board and Staff present, persons appearing before the Board, a brief description of the subject matter, all decisions made (including a vote tally for each motion), and draft minutes shall be open to public inspection within 5 business days after the public meeting as required in RSA 91-A:2.II and 676:3.

9. JOINT MEETINGS AND HEARINGS

9.1. The Planning Board may hold joint meetings and hearings with other "land use boards" including the Zoning Board of Adjustment, Conservation Commission, Heritage Commission and Historic District Commission. Each board shall have discretion whether or not to hold such joint meeting or hearing (RSA 676:2).

9.2. Joint business meetings with another local land use board may be held at any time when called jointly by the Chairs of the two boards.

9.3. A joint public hearing must be a formal public hearing when the subject matter of the hearing is within the responsibilities of the boards convened.

9.4. The Planning Board Chair shall chair all joint meetings and public hearings when the subject matter involves the Planning Board in accordance with RSA 676:2. Minutes shall be prepared by the Planning Board.

9.5. The Rules of Procedure for joint meetings and hearings, the subject matter of which involves the Planning Board, shall be the same as these Rules of Procedure except that the order of business shall be as follows:

9.5.1. Call to order by Chair

9.5.2. Introduction of members of both boards by Chair

9.5.3. Explanation of reason for joint meeting/hearing by Chair

9.5.4. In the case of a public hearing relative to a requested permit, a site plan or an application for a subdivision approval, or all three, the applicant shall be called to present his proposal.

9.5.5. Adjournment

9.6. Each board involved in a joint public hearing makes its own decision, based on its criteria for the particular matter.

10. SEVERABILITY

10.1. If any section, subsection, sentence, clause, phrase, or other part of these regulations is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of these regulations.

Adopted 10/23/1973

Amended 8/1/2018

Amended 7/21/2021