

BY-LAWS OF THE
FRANCONIA ZONING BOARD OF ADJUSTMENT
AMENDED September 29, 2004

ARTICLE I
GENERAL

These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated Chapter 676:1 and are filed with the Franconia Town Clerk for public inspection.

ARTICLE II
MEMBERS, OFFICERS, AND DUTIES

Section 1. Members. As per RSA 673:3, the Franconia Zoning Board of Adjustment shall consist of five (5) members. These members shall be appointed in a manner prescribed by the local legislative body. Each member of the board shall be a resident of the Town in order to be appointed.

Section 2. Chair: A chair shall be elected by the members of the Zoning Board of Adjustment at the regular annual meeting in April. The Chair shall serve a one-year term or until the next annual meeting. If the chair is unable to serve the entire one-year term, the Board shall elect a new chair to complete the term.

The Chair shall decide all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Zoning Board of Adjustment in session at the time. The Chair may appoint one or more committees to investigate and report on matters that come before the Zoning Board of Adjustment.

Section 3. Vice-Chair: A vice-chair shall be elected by the members of the Zoning Board of Adjustment at the regular annual meeting in April. The Vice-chair shall serve a one-year term or until the next annual meeting. If the vice-chair is unable to serve the entire one-year term, the Board shall elect a new vice-chair to complete the term.

The Vice-chair shall serve as Acting Chair in the absence of the Chair. When acting as Chair, the Vice-chair shall have the same powers and duties as the chair. If the Chair and Vice-chair are absent, the Board shall elect an acting chair to run the meeting.

Section 4. Recording Secretary: The Chair of the Zoning Board of Adjustment shall appoint a recording secretary who may be an employee of the governing authority or of the Zoning Board of Adjustment. The recording secretary shall hold office during the term of the chair, or until a successor shall have been appointed. The recording secretary, subject to the direction of the Chair of the Zoning Board of Adjustment, shall keep all records and generally supervise the clerical work of the Zoning Board of Adjustment, including but not limited to, the agenda and minutes of the meeting. Meeting minutes shall indicate subject matter of the discussion, every

resolution acted upon, all votes taken by the members, and those members who are in attendance and who are absent from the meeting.

Section 5. Election of Officers: Members shall be notified in writing of the date, time, and place of the election of officers at least ten (10) days prior to the annual meeting. Each officer shall serve until relieved of his or her duties as herein provided.

Section 6. Attendance: Any member who fails to attend two (2) consecutive regular meetings of the Zoning Board of Adjustment, without an adequate reason for such absences, may become subject to removal from the Zoning Board of Adjustment. The Chair, with the concurrence of not less than three (3) members, per RSA 673:13, may recommend to the Town Selectboard that a vacancy be declared, and that the vacated position be filled.

Section 7. Conflict of Interest: Should any member of the Zoning Board of Adjustment be financially or otherwise closely associated with any issue, through ex-parte contact with an applicant that comes before the Board, said member shall disqualify himself or herself from participating in considering the issue and shall not sit with the Board during such consideration. Said member of the Board may speak as a member of the public concerning the issue during the course of the case. Said member's comments shall be considered by the Board in the same manner as all other comments by members of the public.

A member of the Board may raise the question of conflict of interest of another member regarding a specific issue that is before the Board. A majority vote of those without such conflict shall determine if such a conflict does exist.

Section 8. Planning Board Representative: One of the five regular members shall be a representative of the Franconia Planning Board.

Section 9. Alternates: Per RSA 673:3, up to five (5) alternate members shall be appointed by the Board of Selectmen. An alternate member must be a resident of the Town. If any regular Board member is absent or disqualifies himself or herself from a meeting or hearing, then the Chair shall designate one of the alternates to sit in place of the regular member; the designated alternate member(s) shall have all the powers and responsibilities of regular members. Alternate members are expected to attend every meeting of the Board and are subject to Section 6 of this Article.

ARTICLE III APPLICATIONS TO THE BOARD

Section 1. All applications to the Board shall be received by the secretary no later than fifteen (15) days prior to the hearing, including the day of the hearing, in order that notices may be properly distributed. All applications shall be paid for upon receipt by the secretary or the Selectboard's Administrative Assistant. Any application not paid for shall not be accepted.

Section 2. Per RSA 676:6, All applications for an appeal of an Administrative Decision shall be received no later than THIRTY (30) days from the date of the decision, including the day of the decision.

Section 3. The Board shall determine at the hearing the status of each application as it comes upon the agenda, indicating whether it is complete or incomplete. The application shall not be complete until all information requested by the Board has been provided by the applicant.

ARTICLE IV PUBLIC NOTICE

Section 1. Public notice of public hearings on each appeal shall be given in a public place and be published in a newspaper of general local circulation and shall be posted at the Town Hall at least ten (10) days prior to said hearing. Such notice shall include the name of the applicant, description of property, action desired by the applicant, provision of the zoning ordinance concerned, the type of appeal being made, and the time and place of the hearing.

Section 2. Personal notice shall be made by regular mail to owners of record of property adjacent and/or within 200 feet of the applicant's property. Notice shall also be given to the Planning Board, the Town Clerk, and other parties deemed by the Board to have special interest. Said notice shall contain the same information as the public notice. It shall also contain a checklist of procedures for a public hearing.

Section 3. An abutter shall receive notice, by certified mail, of the case to which he or she is an abutter. Said notice shall be postmarked at least five (5) days prior to the hearing, not including the day of the hearing.

ARTICLE V MEETINGS

Section 1. Meetings of the Zoning Board of Adjustment will be held as needed. Each member shall be notified of each meeting at least two (2) days prior to the meeting by the secretary, via a written tentative agenda prepared by or at the direction of the Chair. All variances, special exceptions, equitable waiver of dimensional requirements, and administrative appeal requests must appear on the agenda in order to be considered by the Board. ✓

Meetings of the Board may be called at any time; however, the 2-day requirement may be waived by action of not less than two (2) members.

An annual meeting will be held in April each year to elect the officers as described in Article II, Sections 1, 2, 3, and 4.

Section 2. A quorum for regular business shall consist of three (3) members. A quorum for hearing and deciding an appeal shall consist of four (4) members. If a member disqualifies himself or herself or cannot act in a particular case, he shall so notify the Chair who shall appoint an alternate who shall have all the powers and duties of a regular member in regard to the appeal(s) under consideration on which the regular member is unable to act. If a quorum can not be reached, the hearing will be rescheduled at the expense of the Town.

Section 3. All meetings shall be open to the public and all records of the Zoning Board of Adjustment shall be a public record, unless provided for otherwise by state statute. The order of business at regular meetings shall be as called for in Article VII.

Section 4. The vote of a majority of those members present shall be sufficient to decide matters that come before the Zoning Board of Adjustment. The concurring vote of three (3) members of the Board shall be necessary to reverse any action of the administrative official or to decide a special exception, variance, or an appeal.

Section 5. The official decision of the Board shall be the motion as made and recorded in the approved minutes of the Board.

ARTICLE VI JOINT MEETINGS

Section 1. The Zoning Board of Adjustment, as provided for under RSA 676:2, may hold joint meetings or hearings with the Planning Board.

ARTICLE VII PUBLIC HEARINGS

Section 1. The conduct of public hearings shall be governed by the following rules:

- A. The Chair shall call the hearing in session and ask for the secretary's report on each case.
- B. The Chair shall read the application and report on how public and personal notice were given. All fees shall be paid prior to the hearing being held. The application shall be deemed complete before any further action is taken.
- C. The Chair shall introduce the members of the Board to the applicant or his agent and determine if any conflicts of interest exist.
- D. Members of the Board may ask questions at any point during testimony.
- E. Each person who appears shall be required to state his name and address and indicate whether he is a party to the case or counsel of a party to the case.
- F. Any member of the Board, through the Chair, may request any party to the case to speak a second time.
- G. Any party to the case who wants to ask a question of another party to the case may do so through the Chair.
- H. The applicant shall be called to present his case.

- I. Abutters in favor of the case shall be allowed to speak.
- J. Abutters opposed to the case shall be allowed to speak.
- K. Other persons present and in favor of the case shall be allowed to speak.
- L. Other persons present and opposed to the case shall be allowed to speak.
- M. Any written correspondence received by the Board concerning the case before them shall be read aloud by the Chair.
- N. The applicant and those in favor shall be allowed to speak in rebuttal.
- O. Those in opposition to the appeal shall be allowed to speak in rebuttal. No individual may speak for more than 5 minutes without permission of the Chair.
- P. The Zoning 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 Town Zoning Ordinance, State zoning law, or other pertinent town or State regulations, including the Master Plan.
- Q. Equal time provisions shall be noted to the petitioner and those in opposition for rebuttal, up to 20 minutes.
- R. Remarks shall be pertinent and factual, avoiding character remarks and redundancy.
- S. The Chair shall present a summary, setting forth the facts of the case and the claims made for each side. Opportunity shall be given for correction from the floor.
- T. The public input on the case shall be declared closed, the case deliberated, and a decision made.
- U. If the applicant or his agent does not attend the meeting, then the hearing may be cancelled and a rehearing scheduled at the applicant's expense.

ARTICLE VIII DECISIONS

Section 1. All decisions of the Zoning Board of Adjustment shall be placed on file with the Selectboard and made available for public inspection.

Section 2. Notice of the decision of the Board regarding an applicant's case shall be sent to the applicant and all abutters by first class mail.


ARTICLE IX
AMENDMENTS AND WAIVERS TO BY-LAWS

Section 1. These By-laws may be amended by majority vote of the members, provided that such amendment is read at two (2) successive meetings.

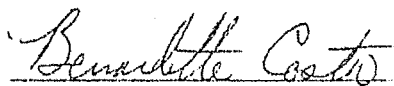
ARTICLE X
BY-LAWS IN FORCE

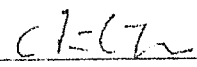
Section 1. These By-laws shall be in full force and effect from and after its passage, approval, and recording, as provided by law. The By-laws of the Zoning Board of Adjustment in effect prior to the date in the following paragraph are hereby rescinded and replaced with this document.

Duly enacted and ordained this 29th day of September, 2004 by the Zoning Board of Adjustment of the Town of Franconia, County of Grafton, State of New Hampshire, at a duly noticed and duly held public meeting.


George Roorbach, Chairman


Mary Fowler, Vice-Chairman


Bernardette Costa, Planning Board Rep.


Tim Brown

Christopher Harris
