

# **TOWN OF MASON PLANNING BOARD RULES OF PROCEDURE**

Adopted December 3, 2008

Revised May 27, 2009; December 1, 2010; August 26, 2015, November 28, 2018,  
October 30, 2019, March 30, 2022, June 28, 2023

## **AUTHORITY**

These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated (RSA) 676:1.

## **MEMBERS**

1. **Membership:** The Planning Board shall consist of 5 members. The Selectmen shall designate one selectman as an ex-officio member with power to vote; they will appoint 4 other regular members and an unlimited number of alternates who are residents of the Town.
2. **Terms:** Selection, qualification, term, removal of members, and filling of vacancies shall conform to RSA 673.
3. **Alternate members:** Alternate members may serve on the Planning Board as authorized by RSA 673:6. Alternate members of the Board shall join the regular members in all presentations, public hearings, and discussions except that such alternates may not vote on any proposal or motion before the Board unless so directed by the Chair.
4. **Oath of Office:** Each newly elected or appointed (including re-appointed) member shall be sworn in and take an oath of office as required by RSA 42:1.
5. **Certification:** The Selectmen will sign appointment papers for all new members. The Selectmen's Assistant will then forward the signed appointment papers to the Town Clerk. The Town Clerk or other official authorized by RSA 42:3 will administer the oath to the new Planning Board Member. Three copies of the signed appointment papers shall be kept: one copy for the Selectmen's records, one copy for the Town Clerk's records, and one copy for the new member to keep.
6. **Participation:** Members must reside in the community and are expected to attend each meeting of the board to exercise their duties and responsibilities. Any member unable to attend a meeting shall notify the chairman as soon as possible. Members shall participate in the decision-making process and vote to approve or disapprove all motions under consideration.

## OFFICERS AND OTHER BOARD DUTIES

1. **Chairman:** The Chairman shall preside over all meetings and hearings, prepare an annual budget, develop an annual report and perform other duties customary to the office.

The Chairman shall be elected annually at the first meeting following the Town Meeting by a majority vote of the Board. If requested by a majority of those present, voting shall be by written ballot. Pursuant to RSA 673:9 (II) this position shall not be held by an ex-officio member.

2. **Vice-Chairman:** The Vice Chairman shall act for the Chairman in his/her absence and have the authority to perform the duties prescribed for that office. This position shall not be held by an ex-officio member. If the Chair or Vice Chair are not present and if a quorum is achieved, then a chair pro tem will be selected amongst the full members present, not including the ex-officio.
3. **Secretary pro tem:** The Board shall appoint a secretary pro tem from the members present at each meeting to keep a full and accurate record of the proceedings of the meeting. The record shall contain the names of the members present; names of others present, and a summary of items discussed and actions taken by the Board.
4. **Designated Representative:** The Chairman shall appoint a Designated Representative and may appoint other members of the board to fulfill such duties as the Chairman may specify.

## MEETINGS

1. **Regular meetings** shall be held at least monthly at the Mann House at 16 Darling Hill Road, Mason, NH, or at another designated location, **at** 7:00 pm on the last Wednesday of each month. No new public hearing or business shall commence after 9:30 pm. A hearing in progress may proceed or be continued to another meeting at the board's discretion. The Board may, at its sole discretion, waive this provision by majority vote.
2. **Special meetings** may be called by the Chairman or at the request of three members of the Board. Notice shall be posted in two public places and notice shall be given to each member at least 48 hours in advance of the time of such meeting. The notice shall specify the purpose of the meeting.
3. **Nonpublic Sessions** will comply with RSA 91-A:3.

4. **Quorum:** A majority of the membership of the Board (3 members) shall constitute a quorum, including alternates sitting in place of regular members. If any regular Board member is absent from a meeting or hearing or disqualifies her/himself from sitting on a particular application, the Chairman shall designate one of the alternate members to sit in place of the absent or disqualified member. Such alternate shall have all the powers and duties of a regular member regarding any matter under consideration on which the regular member is unable to act.
5. **Disqualification:** If any member finds it necessary to be disqualified from sitting on a particular case, as provided in RSA 673:14, s/he shall notify the Chairman as soon as possible so that an alternate may be requested to fill the place. The disqualification shall be announced by either the Chairman or the member before the discussion or the public hearing on the application begins. The member disqualified shall leave the Board table during all deliberations and the public hearing on the matter.

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.

6. **Order of Business** shall be as follows:
  - a. Call to order by Chairman
  - b. Roll Call
  - c. Minutes of previous meeting
  - d. Reading of communications directed to the Board
  - e. Public Hearings
  - f. Old Business
  - g. New Business
  - h. Hearings on subdivision/site plans
  - i. Other business
  - j. Adjournment
7. **Motions:** A motion, duly seconded, shall be carried by an affirmative vote of a majority of the members present.

## **APPLICATIONS FOR SUBDIVISION AND SITE PLAN REVIEW**

1. **Applications** for hearings before the Board shall be made on forms provided by the Board. No application shall be placed upon any agenda for acceptance at a regular meeting of the Board unless the application is received by the Planning Board's Designated Representative or Chairman no less than 21 days prior to the meeting date at which it is to be accepted

and/or discussed. No application will be received except in proper form as set forth in the Subdivision or Site Plan Regulations.

The applicant shall send one paper and one electronic copy of the application, ~~fees~~, and plan to the Town's designated representative. The applicant shall submit the original application, fees and one digital copy of the plan to the Selectmen at the Mason Town Office. The applicant shall bring 3 additional copies of the plans to the hearing.

Each application shall be given a case number that corresponds to the year and consecutive application number (example the first case number of the year 2008 would be 08-01) and identified using the tax parcel numbers of the lots affected by the application.

The Town's Designated Representative will send an electronic copy of the application and plan(s) to the Fire Chief, Road Agent, and Police Chief for department review. The representative will compile the application, plan(s), department reviews, and a staff review. The package of information will be provided to the Planning Board, electronically by the representative, prior to the meeting date at which it is to be accepted and/or discussed. To ensure compliance with the letter and spirit of the Right-to-Know Law, RSA 91-A, the Board shall not exchange communication regarding the information package.

All Planning Board files shall be maintained at the Town Offices and/or data storage folders.

2. **Notice** shall be given as required in RSA 676:4,1(d) 10 days before a completed application is submitted to the Board.
3. **Completed applications** shall be accepted by majority vote of the Board and shall be scheduled for consideration within 30 days of acceptance.
4. **Incomplete applications** the board shall reject all applications not properly completed.

## FORMS

All forms prescribed herein, and revisions thereof shall be adopted by resolution of the Board and shall become part of these rules of procedure. Certain application forms, when available, may be downloaded from the Town website and submitted electronically.

## NOTICE

1. **Public notice** of the submission of and public hearings on each application shall be published in the Monadnock Ledger Transcript and posted at the Town Offices and the ot Town Website no less than ten (10) calendar days prior to the date fixed for submission and consideration of the application.
2. **Personal notice** shall be made by certified mail to the applicant, all abutters and any professional whose seal appears on any plat not less than ten (10) calendar days prior to the date fixed for submission of the application to the Board.

## **SITE WALKS**

If the Board conducts a site walk as part of an application review, notice of the site walk shall be posted and minutes of the meeting shall be taken when a quorum of the Board is present. The Board will make no decisions on the site walk.

## **PUBLIC HEARINGS**

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

1. The Chairman, or in his/her absence, the Vice-Chairman shall call the hearing in session, identify the applicant or agent, briefly state the manner in which the hearing shall be conducted, and ask for the Planning Consultant's report as well as other reports as needed from the Town Engineer, Road Agent, Fire Chief and other officials.
2. Call upon the applicant or agent to present the proposal. Following the proposal, the Chairman shall review the application with the Board for compliance with the Planning Ordinance and applicable subdivision regulation(s). The compliance review shall include information from the staff report submitting by the Town's designated representative.
3. Members of the Board may ask questions during the presentation. Board members may also ask questions and/or comment on application checklist items during the compliance review. Following the application review and prior to seeking public comment, the Chair will conduct a roll call vote to accept the application or reject it (citing all compliance deficiencies). The Board will then determine by roll call vote that the application has no regional impact prior to opening the hearing to public comment.
4. The Chair will then solicit comment and questions from the public attending the hearing. Any party to the matter who desires to ask a question of another party must go through the Chairman.

5. Any applicant, any abutter or any person with a direct interest in the matter may testify in person or in writing. Other persons may testify as permitted by the Board at each hearing.
6. Each person who speaks shall be required to state her/his name and address and indicate whether s/he is a party to the matter or an agent or counsel to a party to the matter.
7. Those appearing in favor of the proposal shall be allowed to speak.
8. Those in opposition to the proposal shall be allowed to speak.
9. Those neither in favor nor in opposition may speak.
10. Other parties such as representatives of town departments and other town boards and commissions who have an interest in the proposal shall be allowed to present their comments in person or in writing.
11. The Chairman shall indicate whether the hearing is closed or adjourned pending the submission of additional material or information or the correction of noted deficiencies. In the case of an adjournment, additional notice is not required if the date, time and place of the continuation is made known at the adjournment.

## **DECISIONS**

1. The Board shall render a written decision within 65 days of the date of acceptance of a completed application, subject to extension or waiver as provided in RSA 676:4.
2. The Board shall act to approve, conditionally approve, or disapprove the application, including any waivers requested by the applicant.
3. Notice of decision (NOD) will be made available for public inspection at the Mason Town Office and/or Town Website 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 reason for this disapproval.

## **RECORDS**

1. The records of the Board shall be made available for public inspection at the Mann House/Town Office and/or Town digital storage files as required by RSA 676:3, 11.

2. Minutes of the meetings including the names of Board members, persons appearing before the Board and a brief description of the subject matter shall be open to public inspection within 5 business days of the public meeting as required in RSA 91-A:2, II.

## **JOINT MEETINGS AND HEARINGS**

1. The Planning Board may hold joint meetings and hearings with other “land use boards” including the Zoning Board of adjustment and the Building Inspector. Each entity shall have discretion whether to hold such joint meeting or hearing (RSA 676:2).
2. Joint business meetings with another local land use board may be held at any time when called jointly by the chairmen of the two boards.
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.
4. The Planning Board chair shall chair all joint meetings and public hearings when the subject matter involves the Planning Board.
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:
  - a. Call to order by Chairman
  - b. Introduction of members of both boards by Chairman
  - c. Explanation of reason for joint meeting/hearing by Chairman
  - d. In the case of a public hearing relative to a requested permit or an application for a plat approval, or both, the applicant shall be called to present his proposal.
  - e. Adjournment
6. Each board involved in a joint public hearing makes its own decision, based on its criteria for the particular matter.

## **E-MAIL AND OTHER COMMUNICATIONS BETWEEN MEETINGS**

### **1. PURPOSE**

- A. To ensure compliance with the letter and spirit of the Right-to-Know Law, RSA 91-A, and with the Due Process rights of parties before the Board;
- B. To clarify Board members’ ability, between meetings, to research issues and prepare motions or other potential Board actions, thus

promoting efficient use of meeting time, but only to the extent allowed by law; and,

- C. To clarify the role of electronic media such as E-mail in achieving these goals.

## 2. DEFINITIONS

- A. **Communication** means a transfer of information, objective or subjective, from one person to another. It includes face-to-face or phone conversations, letters, memos, E-mails, web sites, or any other medium, regardless of the location or ownership of any device or equipment used.
- B. **Distribution** is a one-way communication between meetings involving more than one Board member where no between-meeting response (except acknowledgment of receipt) occurs or is expected.
- C. **Exchange** is a communication between meetings, or series of communications, involving more than one Board member which includes a between-meeting response, or expectation of a response.
- D. **Ex Parte Communication** is communication, other than at a legally noticed meeting, between a Board member and a person with an interest in, or affected by, a pending or future case.

## 3. ACTIVITIES BETWEEN MEETINGS OF INDIVIDUAL MEMBERS.

Individual Board members may, between meetings, prepare drafts of motions or other potential Board actions. They may also research or investigate general or specific factual issues. However, if the research pertains to a case, the member shall, at the public hearing, report all findings to the Board, and parties to the case shall be given a meaningful opportunity to respond.

## 4. DISTRIBUTIONS. A Distribution may be made to any number of Board members, so long as it does not become an Exchange. Whenever a member makes a Distribution concerning a pending or future case and it involves a quorum of the Board (counting all senders and recipients):

- A. The member making the Distribution shall report on it, and its contents, at the next public hearing on the case unless the information is exempt from disclosure under RSA 91-A; and,



- B. Parties to the case shall be given a meaningful opportunity to respond to the information in the Distribution.
5. **EXCHANGES.** Exchanges involving a quorum or more of the Board or of any Planning Board Committee are prohibited. Such Exchanges shall be considered deliberations and shall occur only at meetings noticed in accordance with RSA 91-A. An Exchange pertaining to any activity allowed under Subsection 7 is permitted if the number of Board or Committee members involved is less than a quorum; however:
- A. Each member involved shall be responsible for preventing the number of members involved from reaching a quorum;
  - B. Information discussed in, or generated by, an Exchange between members shall not be subject to further Distribution; and
  - C. No Exchange shall include any vote or straw vote, or any Ex Parte Communication.
6. **EX PARTE COMMUNICATIONS.** Board members shall not initiate Ex Parte Communications. If an Ex Parte Communication is initiated by another person, the Board member contacted shall:
- A. Refrain from discussing the substance or merits of a case;
  - B. Inform the person, if necessary, that such a discussion could lead to disqualification;
  - C. Refer the person to the Designated Representative (Planning Consultant) or to a Board meeting, as appropriate; and
  - D. Report on the conversation to the Board at a public meeting.
7. **SCHEDULING AND AGENDA.** Nothing in this policy prevents any Distributions, Exchanges or Ex Parte Communications which pertain solely to:
- A. Scheduling of meetings or hearings;
  - B. The determination or ordering of agenda items or topics to be taken up at meetings or hearings; or
  - C. General procedural requirements pertaining to such scheduling and agenda matters.

## AMENDMENTS

1. 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 successive meetings immediately preceding the meeting at which the vote is to be taken. The amended procedures shall be filed with the Town Clerk and Selectmen's Office

**Superseding all previously adopted Rules of Procedure, these Rules of Procedure were adopted by majority vote at a regular meeting of the Planning Board held on:**

Attest: \_\_\_\_\_

  
Planning Board Chairman

  
date