

Town of Canterbury

Zoning Board of Adjustment

Rules of Procedure and Bylaws

Pursuant to the revisions adopted on _____, the Canterbury Zoning Board of Adjustment hereby certifies that these Rules of Procedure were discussed at two (2) successive meetings preceding the meeting at which a vote to adopt was taken.

Chair

Vice-Chair

Member

Member

Member

Member

This document was received and signed by the Town Clerk on _____, 2026

Signed: _____

Canterbury, Town Clerk

Introduction

Authority

These rules of procedure and bylaws are adopted under the authority of RSA 676:1 and the Zoning Ordinance of the Town of Canterbury.

These rules of procedure shall take effect upon their adoption and shall supersede any prior rules of procedure or bylaws. Certified copies shall be kept on file in the Land Use Administration Office and shall be filed with the Town Clerk.

Amendments

These Rules of Procedure may be amended by a majority vote of the members of the Board provided that such amendment is discussed by the Board at two successive meetings immediately preceding the meeting at which the vote is to be taken. They shall become effective after certification by a majority of the Board. Certified copies of the adoption shall be kept on file in the Land Use Administration Office and shall be filed with the Town Clerk.

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 and waiver would not be contrary to the spirit and intent of the rules. If any rule of procedure conflicts with state law, the provision of state law shall govern.

Membership and Organization

Appointment and Terms

1. The Board of Adjustment shall consist of five (5) members appointed by the Board of Selectmen, each to be appointed for three (3) years. The terms shall be arranged so that no more than two (2) members are appointed annually, pursuant to RSA 673:5, II.
2. No person holding the office of the Selectman shall serve on this Board (not required by RSA 669:7).
3. The Board of Selectmen shall appoint not more than five (5) alternate members for a term of three (3) years each, which shall be staggered in the same manner as regular members pursuant to RSA 673:5, II. See below section *Participation of Alternates* for details.
4. The Board of Adjustment should suggest candidates for membership to the Board of Selectmen. The candidate shall attend a meeting of the Board of Adjustment before the suggestion is sent to the Selectboard. At that meeting, the Board of Adjustment shall meet the candidate and determine if they are a good fit for the Board using factors such as availability,

subject matter knowledge, and ability to work well with a team. The Board shall vote on whether or not to recommend the candidate and communicate their decision to the Selectboard.

5. The Board of Selectmen may also appoint members without consultation with the Board of Adjustment.
6. After the Selectboard signs the appointment slip for the member/alternate, the appointee shall be sworn in and take the oath of office at the Town Clerk's Office (RSA 42). They shall also read and agree to follow the Town of Canterbury Code of Conduct.
7. Members and alternates must be residents of Canterbury and are expected to attend each meeting of the Board to exercise their duties and responsibilities. Members, including the Chairperson and all officers, shall participate in the decision-making process and vote to approve or disapprove all motions under consideration.
8. Members and alternates shall comply with the Canterbury Town Officials Resignation Policy when informing the Board of their intent to resign.

Officers

1. A Chair shall be elected annually by the Board in the month of March by a majority vote of the Board. Said Chairperson shall serve for one year and shall be eligible for re-election. They shall preside over all meetings and hearings, appoint such committees as directed by the Board, work with the Secretary and/or Land Use Administrator to create an agenda for each meeting, and shall affix their signature to the name of the Board.
2. A Vice-Chair shall be elected annually by the Board in the month of March by a majority vote of the Board. Said Vice-Chair shall serve for one year and shall be eligible for re-election. Said Vice-Chair shall preside in the absence of the Chair and shall have the full power of the Chair on matters which come before the Board during the absence of the Chair.
3. In the event of a mid-term vacancy of the office of Chair or Vice-Chair, the Board shall elect a new Officer to fill the remaining term of office.

Training

Members shall become educated in the rules and regulations that affect the Board of Adjustment. This includes but is not limited to the Zoning Ordinance, Code of Conduct, these Rules of Procedure, and applicable RSAs (particularly chapters 672-679).

Members shall undergo any training required by the Selectboard provided reasonable accommodations are provided as needed.

Staff

Both the Recording Secretary and the Land Use Administrator shall work with each other and other town office staff to ensure all applicable tasks are accomplished. They may exchange duties as needed to cover absences or accommodate working styles/schedules.

Recording Secretary

A Recording Secretary shall be hired by the Selectboard and have the following duties:

- Attend all meetings
- Notice meetings/hearings as required by law
- Compile agenda for meetings in cooperation with the Chair
- Post minutes and notices of decision as required by law
- Take minutes, create draft minutes, make corrections as voted upon to approved minutes

Land Use Administrator

A Land Use Administrator shall be hired by the Selectboard and have the following duties:

- Attend meetings as needed
- Process applications
- Maintain records for the Board
- Prepare annual report which consists of the list of hearings
- Handle correspondence for the Board
- Assist the Board with all other administrative tasks, research, and tasks requiring land use expertise

Meetings and Conduct of Business

Types of Meetings

Regular meetings shall be held at the Canterbury Meeting House at 7:00 p.m. on the 3rd Wednesday of each month provided public notice and notice to each member is given in accordance with RSA 91-A:2, II.

Special meetings may be held on call of the Chair, Vice-Chair, or of a majority of the members of the Board provided public notice and notice to each member is given in accordance with RSA 91-A:2, II.

Public hearings can be held as part of regular or special meetings and are only held when an application needs to be decided upon. See below sections for noticing requirements.

Site visits may be held as a continuance of a public hearing with notice given to the members and the public in attendance at the hearing. No other notice need be given.

Quorum

A quorum for all meetings of the Board shall be three members, including alternates sitting in place of members. 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 himself from sitting on a particular case, the Chairperson shall designate one 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.

In order to ensure a quorum will be available, members of the Board will notify the Chair and Secretary and/or Land Use Administrator whether or not they will be able to attend each meeting, if they will need to attend remotely, and if they anticipate needing to recuse themselves from any hearings or topics.

Participation of Alternates

At meetings of the Board of Adjustment, the Chair may appoint an alternate to fill the seat of an absent or recused member per RSA 673:11. This shall be noted in the minutes.

Alternates shall be designated based on a rotation: alphabetical by last name. If the next alternate in the rotation is not available to be designated, it will skip to the subsequent alternates until reaching one that is present and able to participate in the discussion.

During a public hearing, alternates not so appointed 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 a motion has been made, alternates shall no longer participate with the Board until the motion has been withdrawn or voted upon.

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.

The Chair shall inform the public of the status of any alternate present and identify the members who shall be voting on the application.

Alternates may serve on subcommittees.

Subcommittees

The Chair may create a subcommittee to review an issue and report back to the Board of Adjustment. The Chair shall create subcommittees and appoint members during a meeting of the Board. Members and Alternates of the Board of Adjustment may be appointed as members of the subcommittee. Meetings of the subcommittee shall be noticed and have minutes taken just as any other Board of Adjustment meeting. A quorum of the subcommittee shall be a simple majority of the total members with a minimum of two people.

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 Chair 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 prior to or at the commencement of any required public hearing. The vote shall be advisory and non-binding. Either the Chair or the member disqualifying themselves before the beginning of the public hearing on the case shall announce the disqualification. The disqualified member shall absent themselves from the Board table during the public hearing and during all deliberation on the case.

Order of Business

Order of Business for regular meetings shall be as follows:

1. Call to order by Chair and roll call attendance
2. Designation of Alternates
3. Public hearing(s)
4. Unfinished business
5. New business
6. Other Business
7. Approve minutes of previous meeting(s)
8. Adjournment

Order of Business for special meetings and site visits shall be as follows:

1. Call to order by Chair and roll call attendance
2. The Chair to declare the purpose and location of the meeting
3. Designation of Alternates
4. Conduct the business of the meeting
5. Adjournment

Agenda

The agenda for a meeting shall be set by collaboration between the Chair and the Secretary and/or Land Use Administrator. If someone else would like an item added, they may contact any of those people.

Unexpected business may be added to the agenda during a meeting as needed.

Notice for public hearings shall be posted as required by law by the Secretary and/or Land Use Administrator.

Agendas for meetings shall be posted by the Secretary and/or Land Use Administrator the Thursday before the meeting on the municipal website and at the Sam Lake House.

Non-public Session

The Board of Adjustment shall use the Non-public Session Checklist provided by NHMA to enter and exit non-public session in accordance with RSA 91-A.

If the Board of Adjustment seals minutes from a non-public session, the Secretary shall deliver the sealed minutes to the Land Use Administrator for storage and recording of date and time.

Streaming and Recording

Regular and special meetings that happen at the Meeting House shall be streamed and recorded using technology provided by the Town Office (e.g. Zoom).

Digital recordings of meetings shall be posted to the Municipal Website. Cassette recordings shall be stored at the Sam Lake House.

If technical problems prevent streaming and/or recording using the technology provided by the Town, the Board shall attempt to create a video or audio using whatever method they can. If technical problems prevent any video/audio recording of a public hearing, the Secretary will attempt to make the minutes as detailed as possible.

Remote Attendance

Members of the public may attend meetings via the streaming equipment provided by the Town Office. Members of the public shall mute themselves unless speaking. When speaking, they shall turn on a camera as additional verification of their identity. All rules regarding hearing conduct (below) apply to those attending remotely as well as in person.

Members of the Board may attend meetings remotely only as allowed by RSA 91-A:2, III. Therefore:

- They shall only attend remotely if in-person attendance is not reasonably practical.
- The reason for remote attendance shall be noted in the minutes.
- A quorum of the Board shall be present in person.
- The Board member must be able to hear what is being said in person, and they must be audible by those in person.

In addition, members of the Board attending remotely shall mute themselves unless speaking. When speaking, they shall turn on a camera as additional verification of their identity.

Applications

1. The Board accepts applications for Special Exceptions (Zoning Ordinance Article 8.2), Variances (Zoning Ordinance Article 8.1), Equitable Waivers (RSA 674:33-a), Short Term Lodging (Zoning Ordinance Article 2.11), Administrative Appeals (RSA 676:5), and Rehearing Requests (RSA 677).
2. Each application for a hearing before the Board shall be made on forms provided by the Board and shall be received at the Town Office and processed by the Land Use

Administrator.

3. The Land Use Administrator shall check the application for completeness and work with the applicant to correct any omissions. The application shall be considered officially submitted once all needed documents have been received and all fees paid.
4. An Administrative Appeal taken under RSA 676:5 or a Rehearing Request under RSA 677 must be filed within thirty (30) calendar days of the decision being contested.

Scheduling Hearings

1. Once an application is deemed complete and fees have been paid, the Secretary and/or Land Use Administrator shall schedule a public hearing.
2. See below section *Rehearing Requests* for scheduling consideration of a motion to rehear.
3. Administrative appeals must be heard within 30 days of receipt of the completed application per RSA 676:5. If the regular monthly meeting of the Board cannot accommodate the 30 day requirement, an additional meeting shall be scheduled.
4. Applications for Special Exceptions, Variances, Equitable Waivers, and Short Term Lodging must be received 21 days prior to the meeting it shall be heard at.
 - a. The hearing shall be scheduled for the next regular monthly meeting of the Board.
 - b. RSA 676:5, I requires appeals be taken within 30 days of filing. If the next regular monthly meeting of the Board is not within 30 days of receipt of the application, the applicant may request an additional meeting be scheduled.
 - c. RSA 674:33, VIII requires that consideration of an application must begin within 90 days of receipt.
5. Once the notices of hearing are sent to abutters, the hearing may not be rescheduled.
6. At least ten (10) days before the hearing, the Secretary and/or Land Use Administrator shall post the application to the municipal website and email it to the Board for review.
7. All forms and revisions prescribed shall be adopted by resolution of the Board and shall become part of these Rules of Procedure.

Public Notice

1. A public notice of the hearing shall be posted at a minimum on the Municipal Website, at the Town Offices, and in the Concord Monitor not less than ten (10) days before the date of the hearing. Such notice shall include the name of the applicant, description of property to include tax map identifications, action desired by the applicant, the type of appeal being made, and the date, time, and place of the hearing.

2. Personal notice shall be made by certified mail, return receipt requested, to the applicant and all abutters to the applicant's property not less than fourteen (14) days before the date of the hearing.
 - a. If the same person/entity is the owner of multiple abutting properties, only one letter shall be sent to that owner.
 - b. If the Town of Canterbury is the owner of an abutting property, notice shall be given to the Selectboard by the Land Use Administrator rather than through certified mail.
 - c. If the person/entity is known to be unable to receive certified mail at any address (e.g. Sherwood Forest Shores Association), the Land Use Administrator may arrange an alternative method of noticing that results in written confirmation that the person/representative of the entity has received the notice. This arrangement must be agreed upon by the person/entity in writing before implementation.
3. Notice shall also be given to the Planning Board, Selectboard, Town Clerk, and other parties deemed by the Land Use Administrator to have special interest. Said notice shall contain the same information as the public notices and shall be made on forms provided for this purpose.
4. The applicant shall pay for all required notice costs in advance. Failure to pay such costs shall constitute valid grounds for the Board to terminate further consideration and to deny the application without public hearing. (RSA 676:7, IV)

Public Hearing

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

1. Copies of all documents presented shall be noted in the minutes and added to the application folder for future reference.
2. If no one present is able to answer a question asked by a member of the Board and the answer is essential for the Board to make a decision, the Board may decide to have the Secretary or a specific Board Member look up the information on the internet. The contents and source of the information shall be documented in the minutes.
3. Members of the Board shall communicate with each other audibly so the public may hear what is being said and the Secretary can record it in the minutes. (i.e. no whispering, passing notes, texting, etc.)
4. Parties may speak after being called upon by the Chair.
5. 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 or counsel of a party to the case. RSA 676:7, I (a) only requires the Board to hear abutters, holders of conservation, preservation, or agricultural preservation restrictions, and non-abutters who can demonstrate that they are affected directly by the proposal under consideration. The Board may hear other persons as it deems appropriate.
6. The Chair may restrict the time allotted for parties to speak for the sake of efficiency and so that everyone may have equal opportunity to be heard. If someone wishes to speak multiple

times, others who have not yet spoken shall be given priority. If the Chair restricts the time to speak for those in favor, then the same limit shall apply to those against and vice versa.

7. Testimony shall be limited to comments that are germane to the facts of the case or how the facts are related to the provisions of the zoning ordinance and state zoning law.
8. Members of the Board may ask questions at any point during the testimony.
9. Any member of the Board, through the Chair, may request any party to the case to reappear.
10. Any party to the case who desires to ask a question of another party to the case must do so through the Chair.
11. Any person who desires the Board to compel the attendance of a witness shall present their request in writing to the Chair not later than three (3) days prior to the public hearing.
12. Written testimony may be submitted not later than 24 hours prior to the public hearing. Written testimony shall be read aloud by the Chair during the applicable section of the hearing.
13. If a hearing is continued so that it lasts for more than one meeting, the Board will make every effort to have the same members present for the entire hearing.
14. If a party violates these rules of procedure, they shall be reminded of the rules and shown a copy of this document. If a party violates these rules three (3) times, the Chair may remove them from the meeting.

Public hearings shall commence in the following order:

1. The Chair shall review the rules of procedure for a public hearing aloud.
2. The Chair shall introduce the application and report on the manner in which public notice and personal notice were given.
3. The Board shall vote on the completeness of the application.
4. The applicant shall be called to present their application.
5. Those appearing in favor of the appeal shall be allowed to speak.
6. Those in opposition to the application shall be allowed to speak.
7. Those neither in favor nor opposition shall be allowed to speak.
8. The applicant and those in favor shall be allowed to speak in rebuttal.
9. Those in opposition to the appeal shall be allowed to speak in rebuttal.
10. The Board may use its discretion to allow further rebuttals as needed.
11. Upon a motion of the Board, the hearing may be continued to a future meeting or closed to the public and the application taken up for Board deliberation.

Decisions

In exercising its powers, the Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order, or decision as ought to be made and, to that end, shall have all the powers of the administrative official from whom the Appeal is taken.

1. Majority Vote. The concurring vote of three (3) members of the Board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant or any matter on which it is required to pass.

2. Special Conditions. In granting any Appeals, Variances, or Special Exceptions, the Board may attach whatever conditions it deems necessary to the approval decision in order to assure compliance with the purposes of the Zoning Ordinance.
3. Issuance of Decision. The Board shall decide all cases prior to the close of the public hearing and shall approve, approve with conditions, or deny the appeal. The notice of the decision will be made available for public inspection within 5 business days, as required by RSA 676:3, and will be sent to the applicant and abutters by mail. If the appeal is denied, the notice shall include the reason(s) therefore. The notice shall also be given to the Planning Board, the Board of Selectmen, Town Clerk, property tax assessor and other town officials as determined by the Board.

Personal Electronic Devices

During a hearing, use of personal electronic devices by Board members (e.g. phones, laptops, tablets) is allowed only to view electronic copies of documents that have been submitted with the application, the applicable version of the Canterbury Zoning Ordinance, and the most recent NH RSAs.

During all meetings, use of personal electronic devices is limited to viewing publicly available documents. Board members shall not communicate with each other using these devices during the meeting.

Reasonable accommodations may be made by permission of the Chairperson and shall be announced to all in attendance. These instances shall be recorded in the minutes of the meeting.

Joint Meetings and Hearings

In accordance with RSA 676:2, the Board of Adjustment and other land use boards may hold joint meetings and hearings when the subject matter of an application is within the responsibilities for both boards.

Joint meetings on any application to the 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 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 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.
4. The other board shall concur with these conditions.
5. Each board shall be responsible for rendering a decision on the subject matter which is within its jurisdiction.

Rehearing Requests

A rehearing request taken under RSA 677 must be filed in writing within thirty (30) calendar days of the decision being contested.

When an appeal is received, the Board shall consider the appeal at a public meeting within thirty (30) calendar days of receipt of the motion. The meeting must be properly noticed, but mailed notices do not need to be sent to abutters.

The Board shall consider only the content of the written motion. No testimony shall be heard.

The Board may consider the following questions when examining the written motion:

- Does the person who submitted the motion have standing under RSA 677:2?
- Does the motion sufficiently show that the decision or order complained of is unlawful or unreasonable as per RSA 677:3?
- Was there a procedural defect that would likely have affected the results of the original ruling? (e.g. it wasn't noticed properly so abutters didn't know to attend)
- Has new information come to light that wasn't known at the original hearing and would likely have affected the results of the original ruling? (e.g. the applicant lied about an important aspect of the property)

If the Board votes to accept the appeal and rehear the case:

- The Board must follow all of the same notification and procedural requirements as a regular hearing.
- The Board shall determine if the need for rehearing was due to a mistake made by the Town. If so, the Town shall pay for all notifications for the rehearing. Otherwise, the person who submitted the rehearing request must pay for the notifications.

Administration

1. The records of the Board shall be kept by the Land Use Administrator and made available for public inspection at the Town Office in accordance with RSA 673:17 and the Town of Canterbury Record Retention Policy.
2. Final written decisions will be placed on file and available for public inspection within five (5) business days after the decision is made. RSA 676:3.
3. 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. RSA 91-A:2 II
4. All Board members shall use the email addresses provided by the Town to conduct official business.
5. The Board may adopt such forms as it deems appropriate to facilitate its work.