

**Ashland Zoning Board of Adjustment
Amended Meeting Minutes
Thursday, March 10, 2022**

CALL TO ORDER: Charlie Bozzello, Chair, called the meeting to order at 6:30 PM.

MEMBERS PRESENT: Mardean Badger, Charlie Bozzello, Alan Cilley (alternate)

OTHERS PRESENT: Paula Hancock

RULES OF PROCEDURE

The Zoning Board of Adjustment reviewed and discussed the Zoning Board of Adjustment Rules of Procedure last updated in 2015. The Board made the following observations and recommendations:

- The ZBA has the authority to create and modify its Rules and Procedures by a majority vote of the Board, at the meeting following the recommendations of changes.

OFFICERS

- The Chair and Vice Chair of the ZBA are elected annually by the Board members. The Vice Chair in the absence of the Chair can replace the Chair and run a regular ZBA meeting.

MEMBERS AND ALTERNATES

- For all ZBA and Planning Boards, members and alternates can be elected or appointed. In the case of Ashland, both the ZBA and Planning Board members and alternates are appointed by the Ashland Selectboard. Both the ZBA and Planning Board are in need of more members.
- The Ashland Zoning Ordinance specifies that the ZBA needs to have no less than 3 alternates on the Board by vote of the Ashland residents. The Rules and the webpage both need to be corrected, from “2 alternates” to “3 alternates”.
- Alternates on the ZBA are able to participate in any discussion of issues that come before the ZBA. Alternates are not permitted to make motions or vote on any issues.
- Alternates who are appointed as regular members for a meeting of the ZBA are permitted to make motions and vote on all issues that come before the Board.
- An Alternate to the ZBA will be able to participate in a meeting even if he/she has not been part of any discussion on the particular issue if he/she can update their knowledge and/or review the previous discussions before the final vote. An Alternate can update their knowledge of the issue by reviewing all available minutes from previous meetings/discussions.
- The applicant can request that the alternate not participate in the decision of the board.
- All members/alternates of the ZBA must be a resident of Ashland to retain his/her appointment to the Board.
- All Building Inspectors/Code Enforcement Officers are considered employees of the Town and do not need to be residents of Ashland.

MEETINGS

- All ZBA meetings will be scheduled for 6:30 PM on the second Thursday of the month. The Rules of Procedure need to be corrected that the location of all ZBA meetings will be the Conference Room of the Utility Building at 6 Collins Street.

SITE VISITS

- All site visits are considered regular meetings and hence all site visits must be posted. No

decisions and discussion are made at the time of the site visit. All minutes/notes are submitted after the conclusion of the site visit.

- If a site visit is being considered by the Board, the decision to go to a particular site for a site visit should be decided at a regularly scheduled meeting before the site visit takes place. The ZBA board members/alternates are not allowed to walk on any private property without permission of the property owner.

RSA 91-A

- For any decision making, the Board must have no less than 3 members' votes in the affirmative in order to pass any motion or make any decision.
- The Ashland ZBA Board currently has 3 members. A full board must have 5 members, according to the Ashland Zoning Ordinance and NH RSA's.
- If there is a ZBA meeting with only 2 members, there can be a thorough discussion but there shall not be a formal vote

DISQUALIFICATION

- The ZBA cannot force any Board member to disqualify him/herself from a meeting.
- A request for disqualification can be brought to the Board by a board member only. The request must be discussed/resolved before the beginning of a public hearing. The vote on disqualification is a non-binding vote. The vote will only be made by members of the Board.
- If a member has a personal interest relative to an issue before the board, he/she can recuse themselves, leave the table and not participate in any discussion/vote on that issue.

APPLICATION

- Application forms are provided to applicants by the Board.
- The ZBA has the authority to create all forms.
- There are also suggested forms (templates) that can be found online
- The ZBA can go online and research other towns' forms and adopt/adapt them to Ashland's needs.
- All relevant applications come to the ZBA.
- After a ZBA Denial, the ZBA can decide to hear the appeal of the denial within 30 calendar days of the denial. A final decision will be made within 30 days.
- The criteria for Variances are determined by State RSA. These criteria can't be altered in any way by the ZBA.
- The criteria for Special Exception is determined by Ashland Zoning Ordinance. Amendments can be made to the Zoning Ordinance. These amendments are discussed by the Planning Board. The amendments are then placed before town voters for a vote.

PUBLIC NOTICE

- All Public Notices timelines are determined by State law.
- All Public Notices of scheduled meetings must be posted 24 hours before the meeting and in at least 2 places: Town website and one other local location, such as the bulletin board outside at the Town Hall and/or at the Post Office.
- All Public Hearings must be posted on the Town website and in a local newspaper: the Record Enterprise published once a week, or the Laconia Daily Sun published five days a week.
- All Public Hearing posts must include information about the hearing agenda item in the posting document.
- All ZBA abutters' notices must be certified and sent out at least 5 days in advance of any Public

Hearing.

- All ZBA Public Hearings must be posted five days before the Public Hearing.
- The Town Clerk is the official recordkeeper for the Town of Ashland. Records include all official minutes from all town boards and departments.
- Minutes are posted on the town website. Boards and departments can keep their own minutes/records internally.
- The ZBA can compel applicant/witnesses for crucial information.
- The Public Hearing will give all participants the chance to hear all pertinent information and all opinions from all participants.
- If the Public Hearing needs to be continued to another meeting in order to hear all pertinent information/opinions of all attendees, the decision for a Continuation must be made during the regularly scheduled meeting and before the regular meeting has been adjourned. The Continuation Decision must include the new date/time/location certain. If the Continuation Decision has been made under the above criteria, abutters' notices do not need to be resent.
- A Public Hearing decision must be made within 30 calendar days of the close of the Public Hearing.
- The minutes and Notice of Decision from a Public Hearing must be available to the public within 5 days.

NOTICE OF DECISION

- All motions in a Notice of Decision must be as clear as possible.
- All conditions set by the ZBA on an issue must be clear and be included in its entirety in both the minutes of the meeting as well as the Notice of Decision.
- The Notice of Decision is the legal document. The minutes of the meeting with all motions and conditions included are a back-up to the Notice of Decision.

QUALIFICATIONS FOR ZBA MEMBERS

- The potential member will learn rules of the Board; participate in training; understand all local/State regulations and can make fair/just decisions on issues before the Board.
- If a full ZBA is needed for a hearing, the Selectboard will make temporary appointments when appropriate; the Selectboard can appoint past Board members; the Selectboard can appoint anyone temporarily for any immediate case.
- Any ZBA vote must be 3 votes in the affirmative; if this vote can't be obtained, additional motions will be made until an affirmative vote can be obtained.

RIGHT TO KNOW LAW

- A response/plan to a Right to Know Law request must be completed within 5 days of receipt of the request.
- The ZBA is responsible for its Rules of Procedure which may be changed by a regular vote of the ZBA Board.
- The ZBA can waive a portion of their Rules of Procedure as long as the particular rules/procedures are not requirements of the State or requirement of an RSA.

JOINT MEETINGS

- Each Board (ZBA and Planning Board) separately decides if that board will approve/deny a request for a joint meeting.
- If a joint meeting includes the Planning Board, the Planning Board controls/chairs the joint meeting.

- Either board may need input/reports from department heads or boards for decision.
- The Planning Board and ZBA need to maintain good relationships with all town department heads and boards.
- Both the ZBA and the Planning Board can individually and separately impose conditions on an applicant or application.
- The ZBA deals narrowly with issues of variances/special exceptions/land use.
- Precedent Condition: defined as a condition that needs to be satisfied by the applicant before anything can begin relative to the project and before final approval can be given.
- Subsequent Condition: defined as a condition that needs to be met by the applicant but can be met before or after final approval.

ADJOURNMENT

Mardean Badger made a motion to adjourn. The motion was seconded. The motion passed. The meeting adjourned at 8:40 PM.

Minutes submitted by Paula Hancock