

City of Portsmouth Board of Adjustment Rules and Regulations

I. Meetings

Regular meetings of the Board of Adjustment (Board) will be held at a time and date set by the Board at the City Hall or such place as may be provided by the City Manager and which complies with State Statute.

II. Time and Date

1. The yearly schedule of regular monthly meetings and deadlines for submission is published prior to the first of January each year for the upcoming year.
2. The regular meeting time is 7:00 P.M.
3. A complete application received prior to the published deadline will be scheduled for a Public Hearing at the next regular monthly meeting.
4. The time and date of the regular monthly meeting may be changed by majority vote of those Board members present at a meeting.
5. In the case of a excessively lengthy agenda, the Chair may split the agenda which will be reflected in the published legal notice. The second half of the agenda will be scheduled for the following week. In the case of an unexpected lengthy meeting, the Board may at its discretion, adjourn the meeting to an announced time, date and location to complete the published agenda.

III. Responsibilities of the Code Official¹

1. The Code Official shall inform the applicant as to the requirements of the Zoning Ordinance and procedures concerning appeals.
2. The Code Official shall provide all information submitted with the application to the Board on or before the scheduled Public Hearing.

¹Code Official - Any one of the following City employees involved in the administration or enforcement of the Zoning Ordinance: Chief Building Inspector, Assistant Building Inspector, Planning Director, Chief Planner, Planner I, Associate Planner, Zoning Officer, Plumbing Inspector or Electrical Inspector.

IV. Petitioner's Responsibilities

1. All applications for Variances and Special Exceptions must be submitted to the Code Official prior to the published deadline. Submissions which fail to meet this requirement shall not be considered until the next month's regular meeting. In the case of Appeals from an Administrative Decision, the appeal shall be filed no later than 30 days from the date of the action which is being appealed.
2. A petitioner shall be one of the following:
 - a) The owner of record to the property, or
 - b) The holder of a valid purchase and sales agreement for the purchase of the subject property, or
 - c) The holder of a valid option for the purchase of the subject property.
3. All applications shall be signed by the owner of record to the property.
4. It is the obligation of the Petitioner to submit adequate plans and exhibits in accordance with the terms of the Zoning Ordinance for all applications for Administrative Appeals, Variances and Special Exceptions.
5. Minimum requirements for adequate plans shall include the following:

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| <ul style="list-style-type: none">• Name of Owner(s)• Name of Petitioner(s)• Title of petition (i.e. Variance / Special Exception)• Abutting street(s)• Scale | <ul style="list-style-type: none">• Yard dimensions• Lot dimension• Dimensions of proposed and existing structures• Dimensions of parking spaces |
|---|---|
6. The Code Official is authorized by the Board of Adjustment to refuse applications which do not meet these minimum requirements.
7. Public Hearings shall not be scheduled, advertised or held until such time as the "minimum requirements for adequate plans" have been submitted.
8. Any petitioner who submits plans or exhibits deemed inadequate or requiring more detailed information, may be tabled until such time as adequate plans or exhibits are received by the Board.

9. The Board may table any application requiring more information prior to any action being taken.
10. In the case of conversions or renovations to an existing structure, interior floor plans shall be furnished by the petitioner.

V. Fee Schedule

1. All application fees for appeals for a Variance or a Special Exception are set by the City Council. No application fee will be charged for an Appeal from an Administrative Decision.
2. There is also a fee structure which covers all expenses incurred by the City in processing, reviewing and executing applications submitted to the Board of Adjustment for review. The fees imposed by the City in processing these applications will represent all time spent on a proposal during pre-application, application, and post-application stages.
 - a) The pre-application stage shall include but not be limited to all preliminary meetings and research relating to an application prior to formal submission to the Board of Adjustment.
 - b) The application stage shall include but not be limited to:
 - 1) planning staff review
 - 2) engineering review
 - 3) legal review (if required)
 - 4) special studies (if required)
 - 5) other related meetings, correspondence, etc.
 - c) The post-application stage shall include but not be limited to all City staff utilized with respect to the application after approval by the Board of Adjustment.
3. Each Petitioner will be entitled to a total of three (3) hours of principal (non-clerical) staff time as part of the basic application. Once the review process has utilized in excess of three hours of principal staff time, the applicant will be billed at a flat rate per hour or portion thereof based upon the salary and overhead cost of the staff person. The review staff consists of, City Engineer, City Water Department, Code Official and other City officials as appropriate.
4. All postage costs for abutter notices and a proportionate share of the advertising of the legal notice shall be paid for by the Petitioner.

VI. The Board

1. The membership is comprised of seven regular members and two alternate members. In the absence of a regular member the alternate member shall have all the powers and duties of a regular member as prescribed by the laws of the State of New Hampshire
2. The membership shall annually elect from among its membership a Chair and Vice-Chair (who in the absence of said Chair shall have all the powers and duties of the Chair as prescribed by the laws of the State of New Hampshire). The concurring vote of four members in attendance at a meeting shall be necessary for the election of the Chair and Vice-Chair.
3. Four (4) members of the Board in attendance at a meeting is necessary to form a quorum.
4. An affirmative vote by four (4) members present and voting is necessary to:
 - a) Grant a Variance
 - b) Grant a Special Exception
 - c) Reverse a decision of the Code Official
5. Granting a request for a rehearing of a Variance or Special Exception requires a majority vote of members present and voting or in the case of a tie vote three (3) affirmative votes shall be required.
6. Each application shall be considered and acted upon immediately following the close of the Public Hearing.
7. Procedures and conduct of the Board shall be in accordance with the provisions of State Statutes and the Zoning Ordinance of the City of Portsmouth.
8. Jury standards relative to conflict of interest questions apply to members voting on an application.
9. No member shall leave a meeting without permission if his/her presence is necessary to make a quorum.

VII. Miscellaneous

1. Any application previously presented to the City Council, Planning Board, or Code Official shall include all exhibits, records and history when the application is filed with the Board.
2. The Board may impose reasonable time limits on presentations to the Board. Absent extenuating circumstances, ten (10) minutes per speaker shall be considered a reasonable time limit. This ten (10) minute limitation may be waived upon a vote of the Board.
3. Petitions shall only be withdrawn by the petitioner, prior to the public hearing of said application, unless voted otherwise by the Board.

If the petition is withdrawn, the petitioner will be allowed thirty (30) days to resubmit the petition and they pay for reasonable costs (legal notice and postage). The petition must be exactly as originally submitted. If the petitioner does not resubmit within thirty (30) days, it will then be considered a new petition for the first time.

4. Correspondence
 - a) All correspondence shall be directed to the Chair of the Board of Adjustment, City Hall, 1 Junkins Avenue, Portsmouth, New Hampshire 03801.
 - b) All documents or communications from the Board shall be signed by the Chair.
 - c) In the absence of the Chair, for any reason, the Vice-Chair shall act in his/her place.
 - d) All press and radio releases regarding the applications are to be made as are recorded within the minutes of the Board meeting and shall originate with the Chair.
5. An annual report shall be prepared by the Chair and submitted to the City Manager in conjunction with the Planning Department.

Adopted: 20 August 96, revised 26 April 05 - fee schedule deleted