



RULES OF PROCEDURE
Town of Wilton Planning Board
Revised and Adopted November 20, 1991
Amended May 17, 2017; December 19, 2018

SECTION 1: AUTHORITY

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

SECTION 2: ORGANIZATION

- A. Wilton Planning Board shall consist of an ex officio selectperson member appointed by the Board of Selectmen and six (6) members elected at the annual town meeting. No more than three (3) members shall be elected in any one year. (NH RSA 673:2, II(b))
- B. Terms: Selection, qualification, term, removal of members, and filling of vacancies shall conform to (NH RSA 673)
- C. 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 (NH RSA 42:1).
- D. At the new board's first meeting after the annual municipal election the board shall choose a Chairperson and Vice Chairperson from the elected members before conducting any other business
- E. The Chairperson and Vice Chairperson shall be elected for terms of one year and either or both may be re-elected; neither shall be the ex officio selectperson member. (NH RSA 673:9, I & II)
- F. 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 chairperson as soon as possible. Members shall participate in the decision-making process and vote to approve or disapprove all motions under consideration.

- G. Alternates: Alternate members may serve on the Planning Board as authorized by RSA 673:6 and participate as non-voting members. Up to five alternate members shall be appointed. Alternates may sit to fill the open seats of regular members at the call of the Chairperson, except for the seat held by the Selectman. Such alternate shall have all the powers and duties of a regular member in regards to any matter under consideration on which the regular member is unable to act. The Board of Selectmen shall appoint one alternate Selectman member who will sit for the ex officio member, as necessary, in accordance with RSA 673:6, III.

- H. Role of Alternates: At planning board meetings, alternates who are not activated to fill the seat of an absent or recused member or who have not been appointed by the chair to temporarily fill the unexpired term of a vacancy, may participate with the board in a limited capacity. Alternates may not vote, make or second motions, but they shall be allowed to participate in meetings, including viewing documents, listening to testimony, and actively participating and interacting with other board members, the applicant, abutters and the public. At all times, the Chairperson shall fully inform the public of the status of any alternate present and identify the members who shall be voting on the application.

SECTION 3: OFFICERS

- A. Chairperson: The Chairperson shall preside over all meetings and hearings, prepare an annual budget, develop an annual report and perform other duties customary to the office. The Chairperson 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 (NH RSA 673:9 (II)) this position shall not be held by an ex-officio member.

- B. Vice-Chairperson: The Vice Chairperson shall act for the Chairperson 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 Chairperson or Vice Chairperson are not present and if a quorum is achieved, then a chairperson pro tem will be selected amongst the full members present, not including the ex-officio.

SECTION 4: MEETINGS

- A. Regular meetings shall be held at least monthly in the Courtroom of the Wilton Town Offices, at 7:00 pm on the third Wednesday of the month. Work Sessions shall be held at least monthly in the Courtroom of the Wilton Town Offices, at

7:00 pm on the first Wednesday of the month. No new public hearing or business shall commence after 9:59 pm. (*Amended December 2018*). The meetings shall last no longer than 10:30 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.

- B. Special meetings may be called by the Chairperson 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.
- C. Nonpublic Sessions shall be held only in accordance with (NH RSA 91-A:3)
- D. Quorum: A majority of the membership of the Board (4 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 Chairperson 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 in regards to any matter under consideration on which the regular member is unable to act.
- E. 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 Chairperson as soon as possible so that an alternate may be requested to fill the place.
- F. Notice: Public notice for meetings and/or hearings of the Board shall be governed by NH RSA 91- A:2 and NH RSA 674:4.
- G. The Order of Business shall be as follows:
 - 1. Call to order by Chairperson
 - 2. Attendance recorded by Secretary
 - 3. Public Hearings
 - 4. Minutes of previous meeting
 - 5. Other business
 - 6. Adjournment
- H. Motions: A motion, duly seconded, shall be carried by an affirmative vote of a majority of the members present.
- I. Public Hearings: The conduct of public hearings shall be governed by the following rules:

1. The Chairperson, or in his/her absence, the Vice Chairperson 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 and other consultants.
 2. Call upon the applicant or agent to present the proposal.
 3. Members of the Board may ask questions at any point during the presentation.
 4. Any party to the matter who desires to ask a question of another party must go through the Chairperson.
 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. The Chairperson 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.
- J. Decisions: 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 (NH RSA 676:4). The Board shall act to approve, conditionally approve, or disapprove the application. Notice of decision will be made available for public inspection at the Wilton Town Office within 5 business days after the decision is made, as required in (NH RSA 676:3). If the application is disapproved, the Board shall provide the applicant with written reason for this disapproval.
- K. Records: The records of the Board shall be made available for public inspection at the Town Office as required by (NH RSA 676:3, II). 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 (NH RSA 91-A:2, II).
- L. 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 or not to hold such joint meeting or hearing (NH RSA 676:2).
 2. Joint meetings with another local land use board may be held at any time when called jointly by the chairperson 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 host Planning Board Chairperson shall chair all joint meetings.
5. Both boards shall sit together.
6. 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 Order of Business shall have these additional items be as follows:
 - a. Call to Order by Chairperson
 - b. Each community is to review the application prior to the joint meeting
 - c. Introduction of members of both boards by Chairperson
 - d. Explanation of reason for joint meeting/hearing by Chairperson
 - e. 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
 - f. Adjournment
7. Each board involved in a joint public hearing makes its own decision, based on its criteria for the particular matter. NOTE: Each board may meet individually for final action upon acceptance and approval, but cannot condition that vote on testimony not given at the joint meeting (See (NH RSA 674:53 VI (a) and (b))).
8. Copies of Minutes are provided by each board within 5 days or less.

M. Cancellations to Meeting Schedule: Members shall be notified by the Chairperson or Vice Chairperson by e-mail at least four hours in advance or by telephone if less than four hours in the event of a cancellation or change to the meeting schedule. The Nashua Regional Planning Commission Representative or Planning Board Clerk shall post a notice of cancellation on the Town website and notify any expected attendees.

N. Site Visits:

1. A “site walk” is defined as a duly noticed continued meeting conducted by a quorum of the Board, at a location which is the subject of an application before the Board, where the visit is in the company of the owner, applicant, their agents or employees and involves going onto the property or visiting areas which are not customarily available for public inspection. Representatives of Town departments and other Town Boards and Commissions who have an interest in the proposal, may participate simultaneously in accordance with the procedures of joint hearings outlined in Section 4.L. This does not include a view of a site from adjoining public highways or other observations that can be made without entering on the property or “walking the bounds” to confirm the placement of monument markers. When the Board deems it necessary for the

adequate consideration of an application, the Board shall request the applicant to allow a site walk by the Board.

- a. When the Board schedules a site walk for Board membership, it shall be posted as a meeting of the Board in accordance with RSA 91-A. Minutes of site walks shall be kept.
 - b. Attendance at site walks by members of the general public shall be with the property owner's permission only. Should permission not be granted, the Board's ability to discharge its duties under RSA 91-A may be compromised and any discussion, questions, or comments will be held until the next public hearing on the application.
 - c. A site walk is an opportunity for the Planning Board and others to visit a site and gather information through viewing the location in conjunction with prepared plans and asking questions of the applicant and/or their agent or representative. A site walk is not the venue for making decisions on an application. Any comments, motions or direction to the applicant should be made at the next hearing on the application.
2. A “drive by” is defined as a visit by member(s) of the Board, to a location which is the subject of an application before the Board and which includes viewing the site from an adjoining public highway or other observation point that can be made without entering on the property. Drive bys are commonplace for items on the Miscellaneous Business agenda and for confirming compliance with administrative conditions not requiring further hearing by the Board. A drive by does not involve entry onto the property or communication with the owner.
 3. “Walking of the Bounds” and other administrative visits are defined as a visit by one or more designated Board members to provide assurance that the submitted plat accurately describes the boundary markers and other significant features of the property. Walking the Bounds is not considered a noticed hearing and does not require minutes to be taken. The member(s) of the Board who walk the bounds must report their findings at the next scheduled hearing for the application.
 4. When either conducting a site walk, doing a drive by, or walking the bounds, members of the Planning Board are acting as agents of the Board and must adhere to the protocol specified in Section 5.

SECTION 5: COMMUNICATIONS BETWEEN MEETINGS

- A. Purpose: To ensure compliance with the letter and spirit of the Right-to-Know Law, (NH RSA 91- A), and with the Due Process rights of parties before the Board; 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, to clarify the role of electronic media such as E-mail in achieving these goals.

B. Definitions:

1. "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.
2. "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.
3. "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.
4. "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.

C. Activities of Meetings between 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.

D. 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):

1. A copy shall be forwarded to the Planning Board Clerk who shall place a hard copy of such communication in the Planning Board "electronic communications" file.
2. 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 (NH RSA 91- A)
3. Parties to the case shall be given a meaningful opportunity to respond to the information in the Distribution

E. 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 (NH RSA 91-A).

1. Each member involved shall be responsible for preventing the number of members involved from reaching a quorum
2. Information discussed in, or generated by, an Exchange between members shall not be subject to further Distribution.
3. No Exchange shall include any vote or straw vote, or any Ex Parte Communication.

- F. 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:
 - 1. Refrain from discussing the substance or merits of a case
 - 2. Inform the person, if necessary, that such a discussion could lead to disqualification
 - 3. Refer the person to the Planning Consultant or to a Board meeting, as appropriate
 - 4. Report on the conversation to the Board at a public meeting.

- G. Scheduling and Agenda: Nothing in this policy prevents any Distributions, Exchanges or Ex Parte Communications which pertain solely to:
 - 1. Scheduling of meetings or hearings
 - 2. The determination or ordering of agenda items or topics to be taken up at meetings or hearings
 - 3. General procedural requirements pertaining to such scheduling and agenda matters.

SECTION 6: AMENDMENTS

- A. These Rules of Procedure or amendments to them shall be adopted at a regular monthly meeting of the Board and shall be placed on file in the town office for public inspection. (NH RSA 676:1)