

# Town of Warner, NH

  

## PLANNING BOARD

  

## RULES OF PROCEDURE



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# TOWN OF WARNER – PLANNING BOARD - RULES OF PROCEDURE

## I. PURPOSE AND INTENT

These Rules of Procedure shall govern the operation of meetings and business before the Warner Planning Board (“the Board”) in carrying out its duties and responsibilities as assigned to it by the Ordinances of the Town of Warner and the Laws of the State of New Hampshire. Where there appears any conflict between these Rules and either state laws or the Town Charter, the Law and Charter shall govern.

## II. AUTHORITY

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

## III. MEMBERS AND ALTERNATES

- A. The Board shall consist of seven members. The Select Board\* shall designate one of its members or an administrative official as an ex-officio member with the power to vote. The Select Board shall appoint six other members who are residents of the Town. The Board may recommend to the Select Board suitable candidates to serve as members.
- B. Selection, qualification, term, removal of members, and filling of vacancies shall conform to RSA 673.
- C. Up to three alternate members may serve on the Board as authorized by RSA 673:6, and as appointed by the Select Board. The Board may recommend to the Select Board suitable candidates to serve as alternates.
- D. Each newly appointed (including re-appointed) member and alternate member shall be sworn in and take an oath of office as required by RSA 42:1.
- E. The Select Board shall forward to the Town Clerk for recording the appointment and expiration dates of the terms of each member of the Board.
- F. All members, including alternates, are required to attend all meetings of the Board. More than three (3) unexcused absences in a twelve-month period may be cause for review of that individual’s ability to perform the duties assigned. (re: RSA 673:13)

## IV. OFFICERS

- A. The following officers shall be elected annually in the month of April by majority vote of the Board members present. Alternates and ex-officio members shall not be elected as officers.
  - 1. **Chair:** The Chair shall preside over all Board meetings and hearings; shall prepare, with the assistance of the Land Use Secretary, an annual report, budget and agenda; shall appoint such committees as directed by the Board; and shall perform other duties customary to the office; the Chair or designated representative shall be the sole spokesperson for the Board when dealing with outside entities such as other boards, the press, legal counsel, and a planning consultant outside of Board meetings; when appropriate shall seek the counsel of the Board; the Chair or designated representative shall execute all formal documents on behalf of the Board. A recap of the dealings outside the meetings shall be provided by the Chair to the Board at the next regular meeting.

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\* Board of “Selectmen,” per RSA 41:8

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2. **Vice-Chair:** The Vice-Chair shall preside in the absence of the Chair and shall have the full powers of the Chair on matters that come before the Board in the absence of the Chair.
3. **Temporary Chair:** In the absence or unavailability of the Chair and Vice Chair, the members present shall select a Full Member to exercise the duties of the Chair until the Chair or Vice Chair is available.

B. All officers shall serve for one year and shall be eligible for re-election.

### V. STAFF

A Land Use Secretary shall be hired by the Town to serve the needs of the Board and the Zoning Board of Adjustment. The Town Administrator and Chairs of the respective Boards shall serve as a committee of three to solicit applications, conduct interviews and make a recommendation to the Select Board.

### VI. COMMITTEES

- A. The first regular meeting held in April, or as soon as deemed appropriate by the Board, will be the organizational meeting during which standing committees are appointed, representatives to particular organizations elected and the Board goals and objectives are established for the coming year.
- B. The Chair of a committee is responsible for delegating minutes to be recorded and forwarded to the Land Use Secretary. They are responsible for the public notice being given at least 24 hours in advance of such meeting. All members of the committee shall be allowed to fully participate and vote at committee meetings. Members of a committee (other than Board members) and their charge shall be recommended by the full Board. Committees may consist of Board members and alternates, as well as members of the general public.

### VII. MEETINGS

- A. Regular meetings shall be held at the Warner Town Hall at on the first Monday of each month unless otherwise posted. Other meetings may be held on call of the Chair or Vice-Chair (in the Chair's absence), provided public notice is given at least 24 hours in advance of such meetings. See X.C for Site Visit schedule.
- B. Board meetings will end no later than 10:00 p.m., except for any matters that require immediate action. Any items remaining on the agenda will be heard first at the next scheduled meeting. The Board may vote to extend the meeting ending time to later than 10:00 p.m.
- C. Nonpublic sessions shall be held only in accordance with RSA 91-A:3.
- D. **Quorum:** A majority of the membership of the Board shall constitute a quorum necessary to transact business, including alternates sitting in place of regular members. In accordance with RSA 91-A:2, III, members may participate by remote electronic means, provided a quorum of the Board is physically present at the meeting location.
- E. All votes on any matters to come before the Board shall be taken after the matter has been duly moved, seconded and discussed. Unless otherwise stated, all matters shall be decided by the majority vote of all of those members (both regular and designated alternates) present and voting. In the case of a tie vote the motion fails. A failed motion whether by tie or majority voting in the negative shall be deemed as no action having been taken by the Board.

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- F. **Continuance:** A public hearing on a noticed matter may be continued pending the submission of additional material or information or the correction of noted deficiencies. A motion to continue an application hearing or meeting shall require a date, time, and location for the continued meeting prior to adjournment of the matter.
- G. If any regular Board member is absent from a meeting or hearing or disqualifies him or herself from sitting on a particular application, the Chair shall designate one of the alternate members to sit in place of the absent or disqualified member. If the ex-officio member is absent, only the duly appointed alternate designated by the Select Board may sit in the place of the absent ex-officio 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.
- H. At 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 limited capacity. During a public hearing, alternates may sit at the table with the regular members and may view documents, listen to testimony, and actively participate and interact with other Board members, the applicant, abutters and the public. However, they shall not be allowed to make or second motions and shall not participate in discussions on motions pending a vote. 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.
- I. The Chair shall be allowed to vote on all matters before the Board after the other members have voted first. The Chair may make and second motions.
- J. Board members may use electronics during Board meetings only for purposes sanctioned by the Board.

### VIII. NOTICE OF PUBLIC HEARING

- A. Public notice of applications to be placed on the agenda shall be posted at the Town Hall, the Post Office in Warner, the Pillsbury Free Library, and on the Town of Warner website, not less than 10 days before the date fixed for the hearing. Notice shall include the name of the applicant, description of the property or project, action desired by the applicant, location of the property or project, zone designation, the date, time, and place of the hearing. When there is no quorum of the Board or when the meeting is cancelled by the Chair due to severe weather or other exigent circumstances, the meeting shall be postponed to the next meeting of the Board, subject to posting of notice as required above.
- B. Personal notice shall be made by certified mail to applicants, property owner(s), all abutters, holders of conservation, preservation, or agricultural preservation restrictions, and every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the Board, not less than 10 days before the date fixed for the hearing. Notice shall also be given to other parties deemed by the Board to have special interest. Said notice shall contain the same information as the public notice and shall be made on forms provided for this purpose.
- C. If the Board determines that an application has the potential for regional impact (see Appendix A), it shall notify any affected municipality and the Central New Hampshire Regional Planning Commission in compliance with RSA 36:57, which shall have the right to provide written or oral comment on the application.

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- D. If the Board is considering an application is for development within 1,320 feet of the top of the bank of the Warner River, the Board shall notify the Warner River Local Advisory Committee pursuant to RSA 483:8-a, III-a.
- E. If the Board is considering an application for development of any structure or proposed building site that will be located within 500 feet of the top of the bank of any lake, pond, river, or stream, the Board shall notify the NH Department of Environmental Services by First Class mail pursuant to RSA 676:4, I(d)(2).

### IX. PUBLIC HEARING

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

- A. The Chair shall call the hearing in session and ask for the Land Use Secretary to confirm that all proper notice has been given, and that all fees have been paid.
- B. The applicant or designated representative shall describe the purpose of the application and review the information provided on plats as part of the application.
- C. Members of the Board may ask questions at any point during testimony.
- D. Abutters will be called upon to ask questions or make comments on the application.
- E. Other members of the public will be called upon to ask questions or make comments on the application.
- F. Each person who appears shall be required to state his or her name and address and indicate whether that person is a party to the applicant or an agent or counsel of a party to the applicant.
- G. The Chair shall have discretion to limit the amount of time taken by each speaker and whether a single person shall be permitted to address the Board more than once.
- H. Any member of the public who wants to ask a question of a party to the application must do so through the Chair.
- I. The Board will hear with interest any evidence which pertains to the facts of the application or how the facts relate to the provisions of the Town of Warner Zoning Ordinance, Master Plan, or New Hampshire state statutes or affect abutting land owners.
- J. The hearing on the application, unless continued, shall be declared closed.
- K. In the case of a continuance, additional notice is not required if the date, time and place of the continuation is made known.

### X. SITE VISITS

- A. **Site Visit.** A “site visit” is defined as a visit by the Board or Subcommittee of the Board to a location which is the subject of an application before the Board and involves going onto the property or visiting areas which may not be customarily available for public inspection.
- B. **Request.** When the Board deems it necessary for the adequate consideration of an application, the Chair shall request the applicant to allow a site visit by the Board or Board members. At the same time, the Chair may ask if unaccompanied visits will be permitted.
- C. **Scheduling.** The Chair shall schedule a site visit for Board membership, and it shall be noticed as a meeting of the Board in accordance with RSA 91-A. If unaccompanied visits are permitted, members may visit individually with no public notice required.

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- D. **Minutes.** Minutes of site visits shall be kept whenever there is a quorum of the Board or Subcommittee of the Board conducting the site visit.

### **XI. JOINT MEETINGS AND HEARINGS**

- A. RSA 676:2 provides that the Board may hold joint hearings with other town boards and commissions, including the Zoning Board of Adjustment. Each board shall have discretion as to whether or not to hold a joint meeting with any other board.
- B. Joint business meetings with any other land use board may be held at any time when called jointly by the Chairs of the two boards.
- C. If the other board is the Zoning Board of Adjustment, RSA 676:2 requires that the Planning Board Chair shall chair the joint hearing.
- D. 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; and the other board shall concur in these conditions.
- E. Special Exception or Variance requests shall be presented first.
- F. Any member of either board may ask questions at any time.
- G. No decision shall be made by either board until the Joint Hearing is over.
- H. Each board will discuss and vote on its own decisions after the hearing is closed, or on a date specified before the meeting is adjourned.

### **XII. DISQUALIFICATION**

Any member who finds it necessary to disqualify him or herself from sitting on a particular application shall notify the Chair as soon as possible so that an alternate may be requested to sit in that person's place. The disqualification shall be announced by either the Chair or the disqualified member before the beginning of the public hearing on the application, or as soon as the conflict is discovered during the course of the hearing. The disqualified member shall step away from the Board table during the public hearing and during all deliberations on the application. Any Board member who is an abutter to a property under review by the Board shall not sit for any hearing, review or vote on the application. (re: RSA 673:14)

### **XIII. BUSINESS BEFORE THE BOARD**

Business before the Board, as set forth in a published agenda, shall generally consist of the following:

- A. Roll Call
- B. Minutes of previous meeting
- C. For each application submitted
  - 1) Review of application
  - 2) Determination of the potential for regional impact (see Appendix A)
  - 3) Acceptance, rejection or continuance of application submitted.
  - 4) Hold Public Hearing
  - 5) Board deliberation on application
  - 6) Approve, deny or continue the application.
- D. Unfinished business
- E. New business
- F. Communications and Miscellaneous
- G. Such other business as the Board may deem appropriate
- H. Public Comments

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### I. Adjournment

The Chair has the right to vary the order of business to accommodate the needs of the Board members, the applicants, and the public. If a proposed addition to the agenda is likely to generate significant public interest, discussion will be delayed until the Board's next regular meeting to allow for adequate public notice, unless immediate action by the Board is required.

### XIV. APPLICATION/DECISION

- A. Each application shall be made on forms, provided by the Board and shall be presented to the Land Use Secretary who shall record the date of receipt over his or her signature.
- B. The Thursday before each meeting, the Land Use Secretary shall present to the Board all applications received during regular office hours at least 21 days prior to the meeting at which the application is to be considered for acceptance. Any plans (including modifications) or additional materials must be submitted at least 21 days before the meeting at which the Board may consider them.
- C. Applications completed in accordance with the application checklist shall be submitted to and accepted by the Board only at a public meeting of the Board. The Board shall, at the next regular meeting or within 30 days following the delivery of the application, determine if a submitted application is complete according to the Board's regulation and shall vote upon its acceptance.
- D. 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. The applicant may waive the requirement for Board action within the time period specified and consent to such extension as may be mutually agreeable.
- E. The Board shall act to approve, conditionally approve, or disapprove.
- F. Notice of decision will be made available for public inspection at the Board's office in the Warner Town Hall within 5 business days after the decision is made, as required in RSA 676:3. A copy of the decision will be made available to the applicant. The decision shall include specific written findings of fact that support the decision. If the application is disapproved, the Board shall provide the applicant with written reasons for this disapproval.
- G. Decisions on applications shall conform to the applicable provisions of New Hampshire state law, the Town of Warner Zoning Ordinance, and regulations of the Board.

### XV. ADDITIONAL RULES OF ORDER

- A. The Board will follow the rules of order within these Rules of Procedures or in the absence a specific rule, a ruling as decided by the Chair. In any event, failure to strictly follow standard parliamentary rules of procedure shall not invalidate any action taken by the Board.
- B. The Chair shall call the meeting to order at the time and location noticed.
- C. **Motions:** A member shall not interrupt another who is speaking to make a motion. If there is no second to a motion, the motion fails. There shall only be one motion on the floor at a time, except a motion may be made for an amendment to the initial motion. Only one amendment to a motion may be considered at a time. Friendly suggestions by other members may be made to fine-tune a motion prior to debate. Prior to debate and voting the Chair shall restate the motion. At the request of any member, the motion shall be put into writing.



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- D. **Debate:** Members shall be recognized by the Chair to speak. All voting members shall have equal consideration for speaking. At the discretion of the Chair, debate may be in the form of a general conversation. Members shall be allowed to speak at least twice for up to 5 minutes on a matter. After a reasonable discussion time the Chair or members may request a vote on the question. Two thirds of the voting members may override a request to continue a discussion and require voting on the question.
- E. **Amendments:** An amendment to a motion may strike out words, add words, or strikeout and add words.
- F. Debate shall be allowed on all motions unless forbidden. Debate is not allowed on motions for adjournment or recess.
- G. A majority of the voting members present decides a question, unless a greater percent is required. Two thirds of the voting members present is required to override a request to continue discussions or to override a decision of the Chair.
- H. **Recess:** The Chair may call for a short recess providing a time is stated to reconvene the proceedings. Said recess should normally not exceed 10 minutes. A motion to recess is not debatable.
- I. **Voting:** All voting shall be taken by roll call except on routine administrative matters which may be by voice vote. At the request of any member, the Chair shall direct that the vote be taken by roll-call and entered on the record on any question before the Board. The sequence for taking roll call shall be determined by the Chair. A tie vote or an approval or denial by less than a majority of the voting members constitutes no action.
- J. **Abstaining:** Members shall be allowed to abstain from voting. Members abstaining from voting shall indicate the reason. Such vote shall not be counted as a Yes or No, but shall be considered one of the total voting to determine a total of members voting.
- K. **Vote of Absent Member:** Unless a Member has attended the meetings on a matter or has examined the record and become familiar with the evidence presented from a transcript of the proceedings, he or she shall not cast a vote essential to the decision.
- L. **Reconsideration:** A member voting on the winning side of a question may make a motion to reconsider (1) during the same meeting, or (2) no later than the next regular meeting of the Board or within 30 days, whichever is less.
- M. **Extension of Time:** Any three Board Members may request an extension of time before voting on any proposal before the Board. If such an extension is requested, the Board shall schedule a special meeting not more than two weeks from the date of the request to take action on the proposal. There shall be no new business placed on the agenda of any special meeting.
- N. **Special Meetings** may be called by the Chair or in her/his absence, by the Vice Chair, or at the request of three regular members of the Board provided public notice and notice to each member is given at least 24 hours in advance of the time of such meeting. The notice shall specify the purpose of the meeting. There shall be no new business placed on the agenda of any special meeting.
- O. **Point of Order:** A question to a point of order may be made at any time. The Chair shall immediately rule on the point of order.
- P. **Subcommittee** members as selected by the Chair shall be confirmed by a majority vote of the Board.

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- Q. **Adjournment:** The Board by a majority vote may declare the meeting adjourned if the agenda is completed and there is no further business. A motion to adjourn is not debatable. The Chair may also adjourn the meeting without vote by the Board, provided there is no further business.

### XVI. RECORDS

- A. **The records of the Board shall be kept by the Land Use Secretary and made available for** public inspection in the Board's office in the Warner Town Hall, in accordance with RSA 676:3, II.
- B. Minutes of all meetings, including names of Board members, persons appearing before the Board, a brief description of the subject matter discussed, and all votes taken shall be open to public inspection in accordance with RSA 91-A:2, II.
- C. The Board shall maintain a record of all meeting notices.
- D. Electronic records of the Board including any materials related to applications to the Board shall be posted to the Town's website. Posting shall be made as soon as possible after receipt of materials by the Board.

### XVII. FORMS

All forms not part of a regulation and revisions prescribed shall be adopted by resolution of the Board and shall become part of these rules and procedures.

### XVIII. AMENDMENTS

These Rules of Procedure may be amended by a majority vote of the members of the Board. After adoption of any amendments to these Rules of Procedure, the Board shall file a copy with the Town Clerk certified by the Chair.

All forms not part of a regulation may be amended by a majority vote of the members of the Board having been discussed and read in one meeting and voted on at the next scheduled Board meeting.