

Final Reading August 2023
PLANNING BOARD, Town of Westmoreland
RULES OF PROCEDURE

1. Authority

1.1. These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated **(RSA) 676:1**. They supersede any and all rules which may have been adopted in the past.

1.2 The duties of the Planning Board shall include (but not be limited to) the Master Plan and update, zoning ordinances, subdivisions and site plans, or any other function in accordance with the laws of the State of New Hampshire, RSA 674.

2. Members

2.1 The Planning Board shall consist of seven members. Six of these shall be residents appointed by the selectman for three-year staggered terms to begin at the first meeting following the town meeting and one selectman or administrative official of the town shall be chosen by the selectboard as an ex officio member with power to vote.

2.2. Selection, qualification, term, removal of members and filling of vacancies shall conform to **RSA 673**.

2.3. Alternate member(s) may serve on the Planning Board as authorized by **RSA 673:6**.

2.4. Each newly appointed (including re-appointed) member shall be sworn in and take an oath of office as required by **RSA 42:1**. ~~The town clerk is authorized to administer the oath.~~ Amended 2023

2.5. The ~~Secretary~~ TOWN ADMINISTRATOR shall maintain the appointment/election and expiration dates of the terms of each member of the Board and forward these to the town clerk/selectman upon request. Amended 2023

2.6 The Planning Board at its discretion may create additional subcommittees WITH THE APPROVAL OF THE SELECTBOARD to work on other board projects such as Master Plan, Zoning updates, subdivision regulation updates, site plan review updates and any other similar projects. Amended 2023

3. Officers

3.1 **Officers.** The Planning Board, at its first regular meeting following the Annual Meeting of the town, shall be called to order by the Chair for the previous year if the Chair is still a member of the Board, otherwise by the most senior regular member present in years of service on the Board. At this meeting, the regular members of the Board shall elect one of its regular members as Chair, and one as Vice Chair. The Ex-Officio member is not qualified for either office. If requested by a majority of those present, voting shall be by written ballot. It shall be incumbent upon each member to serve as an officer of the Board if elected by a majority of the members present at the organizational meeting. All officers shall serve for one year and shall be eligible for re-election. The secretary may or may not be a member of the board and is appointed to the role by the selectboard.

3.2. The duties of the officers of the Board shall be as follows:

3.2.1 Chair: The Chair shall preside over all meetings and hearings; shall sign documents in the name of the Board; and shall perform other duties customary to the office. In addition, the chair shall, with the assistance of the Secretary, prepare an agenda for each meeting, an annual report for the Town Report, and an annual budget for the work of the board.

3.2.2. 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.

3.2.3. Secretary: The Secretary shall: Amended 2023

- Post meeting notices, publish the agenda, distribute draft minutes and other related items to the members and alternates no later than ~~Friday~~ THURSDAY morning prior to the meeting.
- Do a preliminary review of applications for completeness. Those with obvious deficiencies shall be returned with comments. This task may be delegated, with a simple check list, to another person.
- Take notes for minutes and record the names of members present and those speaking at the meeting; type up minutes (Draft copy must be available to the public ~~i.e., placed in the public access book,~~ within 5 business days); correct minutes after draft review by the Board, and file paper copies in the Planning Board File. ~~and in the public access book.~~
- For hearings, collect application and supporting documentation, verify the abutters list, and start a file, copy the application fee check and pass it to the town clerk, have notice ~~published in newspaper~~ PUT ON THE TOWN WEBSITE AND POSTED AT THE TOWN HALL AND POST OFFICE Send notices to abutters by certified mail. ~~(return receipt requested).~~
- At conclusion of subdivisions send notice of decision to applicant and return to applicant a signed copy, and distribute 3 copies:
 - one copy for Planning Board PROPERTY file
 - ~~• one copy to be filed in changes for year file~~
 - one copy to the town FOR TAX MAP CHANGES
- At conclusion of site plan review file plat in Planning Board PROPERTY file, notify applicant of decision, file bonds/letters of credit WITH THE TOWN ADMINISTRATOR. ~~in the case file.~~
- Maintain a complete index of all board discussion hearing notes, Planning Board meeting minutes and correspondence pertaining to each application in a separate PENDING application file. Keep a supply of published regulations, forms, and schedules ready for distribution. Assist potential applicants by supplying forms and answering questions.
- WORK WITH TOWN ADMINISTRATOR TO KEEP TRACK OF STATUS ~~Maintain~~ ~~ticker file~~ of bonds/letters of credit. Inform chair two months before expiration.
- Submit a time report as required by selectboard.
- Other duties the Board may deem necessary AND PREPARE CORRESPONDENCE AND FULFILL DUTIES AS THE CHAIR MAY SPECIFY.

3.3 In the absence of the Secretary, the Chair shall appoint a secretary pro tem to keep records of the meeting.

4. Member Responsibilities.

4.1.1 Members and alternate(s) 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 Chair or Secretary as soon as possible.

4.1.2 Members and alternates will receive material pertaining to application, site plan, boundary adjustment, and subdivision documentation prior to the scheduled meeting at which the application

will be heard. Members ARE ENCOURAGED ~~should make every effort~~ to inspect the site in question before the hearing by making a drive-by. See Section 13.

4.1.3 Members shall participate in the decision making process and vote on all motions except in those cases where the member has a conflict of interest or is disqualified.

4.1.4 Members and alternate(s) shall not respond to any attempt by a non-Board member to review or discuss the merits of a case while it is before the Board, and they shall not respond to invitations for personally guided site visits. Members shall not discuss the substance of a case with other members outside of the public hearing.

4.1.5 Members and alternate(s) shall be familiar with and understand these Rules of Procedure, the Master Plan, Zoning Ordinance, Building Regulations, Site Plan Review Regulations, Subdivision Regulations, Driveway Regulations, and Title LXIV of the New Hampshire Revised Statutes (RSA 671 thru 677). In addition, they should be familiar with the basic principles of land use planning to aid in interpreting the regulations in specific cases.

4.2.1 Alternate members shall attend all regular meetings and stand ready to serve whenever a regular member of the Board is unable to fulfill his/her responsibilities.

4.2.2 *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. 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 any way during the deliberations by the board. Upon the close of the public hearing, alternates must remove themselves from the table and sit with other members of the public unless they are sitting in place of another member. 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. At all times, the chair shall fully inform the public of the status of any alternate present and identify the members who shall be voting on the application.*

Added 2023

4.2.3 When alternates are not serving in place of a member, they may participate in hearings by asking questions, but shall not join in the discussion during deliberations. Alternates may participate and vote in administrative matters such as approving minutes and setting meeting times if they are appointed in that meeting to serve in place of a regular member.

4.3 If a member or alternate indicates by behavior or absenteeism a lack of interest in serving the Board, the Board may, by a majority vote, request his/her resignation. Failure to resign may result in removal by the Board of selectboard under the terms of **RSA 673:13**.

4.4. ~~Board service limitations.~~ No member of the planning board shall represent himself as a spokesperson for the board before any group without prior authorization by the board.

5. Meetings

5.1. Regular meetings shall be held at least monthly in the selectboard's office of the town hall ~~at 7:00 PM on the 2nd Tuesday of each month~~ *at 6:30 PM on the third Monday of each month.*

Amended 2023

5.2. Special meetings may be called by the chair or in her/his absence, by the vice-chair, or at the request of three members of the board provided public notice and notice to each member is given at least 48 hours in advance of the time of such meeting. The notice shall specify the purpose of the meeting.

5.3. Nonpublic Sessions shall be held only in accordance with **RSA 91-A:3**.

5.4. Quorum: A majority of the membership of the Board 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 Chair shall designate the alternate member 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. The alternate should continue until the matter is completed; the regular member does not vote on that matter.

5.5 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 Chair as soon as possible so that an alternate may be requested to fill the place. The disqualification shall be announced by either the Chair or the member before the discussion or the public hearing on the application begins. The member disqualified shall leave the Board table during the public hearing and all deliberations on the matter.

If uncertainty arises as to whether a Board member should disqualify her/himself, on the request of that member or the request of another member of the Board, the Board shall vote on the question of whether that member should be disqualified. Such request and vote shall be made prior to or at the commencement of any required public hearing. A vote on a question of disqualification shall be advisory and non-binding, and may not be requested by persons other than board members.

5.5.1 Conflict of interest:

A. Abutters. Anyone owning or leasing land abutting a piece of property which is the subject of an application before the board is disqualified from acting on that application

B. Conflict of Interest or Prejudgment. In accordance with RSA 673:14, no member shall participate in deciding or shall sit upon the hearing of any question if that member has a direct personal or pecuniary interest in the outcome which differs from the interests of other citizens, or if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law.

6. Rules of order.

6.1. The rules of order for all meetings shall be determined by the chair to maintain order and to allow open, informal discussion in favor of substance rather than procedure. Any ruling of the chair may be challenged by any board member. Upon such challenge, the ruling shall be voted on by the board, with a majority vote of members present required to overrule the chair.

6.2. Excusal during meetings. Any member may leave the board chambers while in regular session after notice to the chair of pressing business while attempting to maintain a quorum (RSA 673:10, III.).

6.3. Order of business. The business of all regular meetings of the planning board shall proceed in the following order: Amended 3-2023

- a. Call to order by chair ~~Roll call by the Secretary~~ and appointment of alternates
- b. Minutes of previous meeting
- c. Old business and related public hearings
- d. New business and related public hearings
- e. Reading of communications directed to the Board
- f. Unfinished business
- g. Other business
- h. Adjournment

(Note: Although this is the usual order of business, the board may make adjustments such as hold the hearings immediately after the roll call in order to accommodate the public). Amended 3-2010

6.4 The chair shall have the discretion to rearrange the agenda should the need to do so arise. Any member may request, and have placed on the agenda, an item for discussion.

6.5 A motion, duly seconded, shall be carried by an affirmative vote of a majority of the members present. ~~Voting shall be by roll call which shall be recorded in the minutes.~~ Every member present when a motion is put to vote shall vote either yes or no. Any abstentions shall not be counted as a "yes" or no vote, but shall be counted to meet quorum requirements. Any member wishing to be excused from voting on a question must prior to the vote briefly state the reason for his request. The decision thereon shall be determined by the chair and shall be made without debate. Unless excused, the Chair shall participate in all votes of the Board. At the decision of the chair, votes shall be recorded in such a manner that the public may know who voted for or against each motion. No member shall vote on any matter in which the member has not been present for any hearing, presentation or deliberation on the matter being put to a vote. Amended 3-2023

6.6 [A tie vote is considered a denial. If there is a tie vote, then another motion should be discussed.](#) Added 2023

6.7. Persons other than members of the board shall not be permitted to address the board except by consent of the chair. Anyone wishing to address the board shall indicate his name, intent and the subject matter to the chair.

7. Applications for Subdivision and Site Plan Review

7.1. Applications for hearings before the Board shall be made on forms provided by the Board and shall be presented to the Secretary of the Board OR THE BOARD'S AGENT at least 21 days prior to the next meeting. The secretary shall initial and record the date of receipt. Amended 3-2023

7.2. Public Notice shall be given as required in **RSA 676:4,1(d)** 10 days before a completed application is submitted to the Board.

7.3. Completed applications shall be accepted by majority vote of the Board and shall be scheduled for consideration within 30 days of acceptance.

7.4. The board shall reject all applications not properly completed.

8. Forms

8.1. All forms, **including but not necessarily limited to application, checklist, and waiver requests** prescribed herein and revisions thereof shall be adopted by resolution of the Board and shall become part of these rules of procedure.

9. Notice

9.1. In accordance with RSA 676:4 & 91-A:2 II-b, public notice of the submission of and public hearings on each application shall be POSTED ON THE TOWN WEBSITE. ~~given in a publication of general circulation~~ and by posting at the Westmoreland Town Hall AND POST OFFICE not less than ten (10) days prior to the date fixed for submission and consideration of the application. Notice shall include the name of the applicant, description of property to include tax map and zone identification, action desired by the applicant, and the date, time and place of the hearing. ^{Amended 2023}

9.2. Personal notice shall be made by certified mail to the applicant, all abutters and any professional whose seal appears on any plat not less than ten (10) days prior to the date fixed for submission of the application to the Board.

(Note: RSA 676:4 permits the planning board to combine the notice of submission with the notice of the public hearing, by stating that, if the application is accepted as complete, it will be on the agenda of each planning board meeting until a decision is made. The date of the public hearing must also be included on the notice. Otherwise, separate notices must be given by certified mail for submission, public hearing, and each time the application is on the agenda.)

9.3. Costs of all required notices must be paid for, in advance, by the applicant.

10. Public Hearings

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

10.1.1 The Chair shall call the hearing in session AND identify the applicant or agent ~~and ask for the Secretary's report on the proposal.~~ ^{Amended 2023}

10.1.2. The Secretary shall CONFIRM REQUIRED PROCEDURES HAVE BEEN COMPLETED. ~~read the application and report on the manner in which public and personal notice was given.~~ ^{Amended 2023}

10.1.3 WITHIN 30 DAYS OF RECEIPT OF APPLICATION, the board considers APPLICATION completeness, waivers (if any) and acceptance. If the application is complete the chair opens the public hearing for the applicant to make their presentation. ^{Added 2023}

10.1.4. Members of the Board may ask questions at any point during the presentation.

10.1.5. 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.

10.1.6 Any party to the matter who desires to ask a question of another party must go through the

Chair.

10.1.7 Any applicant, any abutter or any person with a direct interest in the matter may testify in person or in writing. Such applicant, abutter or person with a direct interest may present written testimony in person directly to the Board at a meeting or a notarized copy may be mailed or hand delivered to the town office, three (3) business days in advance of the meeting. Other persons may testify as permitted by the Board at each hearing. Amended 11-2010

10.2. The applicant or agent shall be called to present the proposal. Amended 01-2010

10.3. Abutters shall be allowed to speak.

10.4. Other parties such as representatives of town departments and other town boards and commissions who have an interest in the proposal shall be allowed to present their comments in person or in writing.

10.5. Others who wish to comment shall be allowed to speak briefly. If necessary, commentators will be limited to 3 minutes.

10.6. The Chair shall indicate whether the hearing is closed or CONTINUED pending the submission of additional material or information or the correction of noted deficiencies. In the case of A CONTINUATION, additional notice is not required if the date, time and place of the continuation is made known at the CONTINUANCE. Amended 2023

11. Decisions

11.1. The Board shall render a written decision within **65** days of the date of acceptance of a completed application (90 IF THE BOARD VOTES IT IS OF REGIONAL IMPACT), subject to extension or waiver as provided in **RSA 676:4**. Amended 2023

11.2. The Board shall act to approve, conditionally approve, or disapprove. RSA 676:4, I(c)(1).

11.3. Notice of decision will be made available for public inspection at the town office **within 5 business days** 72 hours after the decision is made, as required in RSA 676:3. **The notice shall include specific findings of fact supporting that decision** If the application is disapproved, the Board shall provide the applicant with written reason for this disapproval. Amended 2023

12 RECONSIDERATION, APPEAL, AND COURT REVIEW OF PLANNING BOARD DECISIONS (677:15) Added 2023

12.1 The Planning Board may reconsider any decision to approve or disapprove an application, for good cause, provided it is within the statutory appeal period.

12.2 This may be done through a motion that specifies the reasons for reconsideration. Upon successful passage of the motion, the board shall schedule a public hearing, with notice as provided in 676:4, I(d), where they shall consider whether or not to revise or alter their original decision.

12.3 Should the board reach a new decision, a new appeal period shall be considered to have begun pursuant to RSA 677:15, et seq.

13. Records

13.1. The records of the Board shall be kept by the Secretary and shall be made available for public inspection at the Town Office as required by RSA 676:3,11 & 91-A:4. ~~These records shall include the 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 after the public meeting as required in RSA 91-A:2,II. AND SHALL BE GIVEN TO THE TOWN ADMINISTRATOR FOR POSTING ON THE TOWN WEBSITE.~~

Amended 2023

14 SITE VISITS

14.1 A "site visit" is defined as a visit by a **quorum of the board** to a location which is the subject of an application before the Board, and involves going, **in the company of the owner applicant or their agent**, onto the property or visiting areas which are not customarily available for public inspection. Amended 2023

14.2 A "drive-by" is defined as a visit by the Board or a member of the Board to locations which include a view of a site from an adjoining public highway or other observation point that can be made without entering on the property.

14.3 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 shall ask if unaccompanied board visits will be permitted.~~ Amended 2023

14.4 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. ~~Any member not able to make a site visit may make a drive-by.~~ Lack of a quorum does not cancel a site visit. Amended 2023

14.5 Minutes of site visits shall be kept.

15. Joint Meetings and Hearings

15.1. The Planning Board may hold joint meetings and hearings with other "land use boards" including the Board of Adjustment, the Conservation Commission, the Zoning Administrator, and the Building Inspector. Each board shall have discretion whether or not to hold such joint meeting or hearing **(RSA 676:2)**.

15.2. Joint business meetings with another local land use board may be held at any time when called jointly by the chair of the two boards.

15.3. 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.

15.4. The Planning Board chair shall chair all joint meetings and public hearings when the subject matter involves the Planning Board.

15.5. 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 the order of business shall be as follows:

- a. Call to order by Chair
- b. Introduction of members of both boards by Chair

- c. Explanation of reason for joint meeting/hearing by Chair
- d. In the case of a public hearing relative to a requested permit and/or an application for a plat approval the applicant shall be called to present his proposal.
- e. Adjournment

15.6. Each board involved in a joint public hearing makes its own decision, based on its criteria for the particular matter.

15. 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.

17. Amendment

17.1. These rules of procedure may be amended by a majority vote of the members of the Planning Board provided that such amendment is read at two successive meetings immediately preceding the meeting at which the vote is to be taken. The amended procedures shall be filed with the Selectboard.

Adopted 11-2007. Amendments 1-2010 ,3-2010, 11-2010, 2023