TOWN OF BOSCAWEN, NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT
RULES OF PROCEDURE

AUTHORITY

These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, Chapter 676:1, as amended, the Zoning Ordinance and map of the Town of Boscawen.

OFFICERS

1. A **Chair** shall be elected annually, at the first meeting after Town Meeting, by a majority vote of the Board. The Chair shall preside over all meetings and hearings, appoint such committees as directed by the Board and shall affix his/her signature in the name of the board.

2. A **Vice-Chair** shall be elected annually, at the first meeting after Town Meeting, by a majority vote of the Board. Said Vice-Chair shall preside in the absence of the Chair and shall have the full powers of the Chair on matters which come before the Board during the absence of the Chair.

3. If the Chair and Vice-Chair are unavailable, then the Board member with the most seniority present will act as Chair for that meeting.

TERMS, MEMBERS AND ALTERNATES

1. **Terms of Members and Alternate Members** shall take the oath of office for a term of three years. Appointments made to fill vacancies on the Board shall be for the remainder of the terms in accordance with RSA 673:12, as amended.

2. **Members** 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 Zoning Board Staff as soon as possible. Members, including the Chair and all officers, shall participate in the decision making process.

3. **Alternate Members** shall be appointed, as provided for by the local legislative body, and will attend all meetings to familiarize themselves with the workings of the board to stand ready to serve whenever a regular member of the board is unable to fulfill his/her responsibilities.

MEETINGS

1. **Regular meetings** shall be held at the Boscawen Town Office, at 7:00 PM on the fourth Tuesday of each month. Other meetings may be held at the call of the Chair provided public notice and notice to each member is given not less than five (5) days prior to such meetings. Every effort will be made to complete the board's business no later than 9:00 PM.

2. **Quorum.** A quorum for all meetings of the Board shall be three (3) members, including alternates sitting in place of members.

   RSA 674:33 III, as amended, provides that "The concurring vote of 3 members of the board shall be necessary to reverse any action of an administrative official or to decide in favor of the applicant on any matter on which it is required to pass." For this reason, the Board will make every effort to ensure that a full five (5)-member board is present for the consideration of any appeal.

   If any regular Board member is absent from any meeting or hearing, or disqualifies himself/herself from sitting on a particular case, the Chair shall designate one of the alternate members to sit in place of the absent or disqualified member, and such alternate shall be in all respects a full member of the Board while so sitting.

3. **Disqualification.** If any member finds it necessary to disqualify himself/herself from sitting in a particular case, as provided in RSA 673:14, as amended, he or she shall notify the Chair as soon as possible so that an alternate may be requested to sit in his or her place. When there is uncertainty as to whether a member should be disqualified to act on a particular application, that member or another member of the Board may request the Board to vote on the question of disqualification. Any such request shall be made before the public hearing gets underway. The vote shall be advisory and non-binding. Either the Chair, or the member disqualifying himself/herself before the beginning of the public hearing on the case shall announce the disqualification. The disqualified member shall absent himself from the board table during the public hearing and during all deliberation on the case.

4. **Order of Business.** The order of business for regular meetings shall be as follows:
   a. Call to order by the Chair
   b. Roll call by the Secretary
   c. Open the public meeting
   d. Minutes of previous meeting
   e. Unfinished business
   f. New business
   g. Other business
   h. Communications and miscellaneous
   i. Adjournment

APPLICATION DECISION

1. **Applications.**
   (a) Each application for a hearing before the Board shall be made on forms provided by the Board and shall be presented to the Planning & Community Development Staff.
   (b) Appeals from an administrative decision taken under RSA 676:5, as amended, shall be filed within thirty (30) days of the decision.
   (c) All applications shall be filed at least twenty (15) days before the date of the meeting. See schedule of meeting dates.
   (d) All forms and revisions prescribed shall be adopted by resolution of the Board and

shall become part of these rules of procedure.

2. **Public Notice.**
   (a) Public notice of public hearings on each application shall be posted in the Concord Monitor, Town Office , Town Library and Town Website, not less than five days *(5)* before the date fixed for the hearing. Notice shall include the name of the applicant, description of property to include tax map identification, action desired by the applicant, provisions of the zoning ordinance concerned, the type of appeal being made and the date, time and place of the hearing.

   (b) Personal notice shall be made by certified mail to the applicant and all abutters not less than five (5) days before the date of the hearing. Notice shall also be given to the Planning Board, Town Clerk and other parties deemed by the Board to have special interest. Said notice shall contain the same information as the public.

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

3. **Public Hearing.** The conduct of public hearings shall be governed by the following rules:

   (a) The function of the Zoning Board of Adjustment is to hear appeals from decisions or determinations made by an administrative official of the Town of Boscawen in administrating provisions found in the Boscawen Zoning Ordinance.

   (b) The applications are taken in the order that they were posted for the meeting; however, they can be taken out of order if the Board desires to do so for good cause.

   (c) Each application will begin with the applicant and his or her authorized representative presenting and explaining his or her application in detail.

   - The Board would ask that the applicants stand, come forward and address the Board.
   - It is important that the audience hears the applicant, but it is imperative that the Board hears the applicant.
   - The applicant may use a display board for visual displays during his or her presentation.
   - The applicant should present his or her entire case, as this will be the only opportunity during the hearing that he or she will have to explain the application and convince the Board that he or she qualifies for a Variance or Special Exception, as the case may be.

   (d) At the conclusion of the applicant's case, the Board members will have an opportunity to ask any questions of the applicant that they may desire.

   (e) When the Board has concluded its questions, the Board will solicit testimony from abutters to the application and then members of the public.

(f) Anyone wishing to address the Board will state their complete name and legal address of residence, so that it may be properly recorded in the minutes of the meeting.

(h) Lastly, in regards to public testimony, the Board will hear from any other Town Board, Commission or Town Official, should they wish to offer testimony.

(i) The Board requests that the public testimony be confined to the application that the Board is considering at this particular time. The Board will solicit comments as to why the application should or should not be granted, as it relates to the Zoning Ordinance and the conditions necessary to be granted a Variance, Special Exception, Appeal from Administrative Decision, or Equitable Waiver of Dimensional Requirements. Simple statements of, "I am in favor, " OR "I am opposed," to the application should not be used, as the Board tends to put very little weight on "straw polls".

(j) At the conclusion of all public testimony, the applicant will have one opportunity and one opportunity only to rebut what has been said by any members of the public who has given testimony.

(k) At the conclusion of the applicant's rebuttal, the audience will then have an opportunity and one opportunity only to rebut any thing that has been said by the applicant in his rebuttal.

(l) All testimony from the applicant and the public having been received, the Board will discuss the application at its conclusion and vote to approve, deny or continue the application.

(m) During the Board's deliberations on each application and subsequent vote in public, The Board requests that members of the public be quiet and attentive, not only for the Board's benefit, but more importantly for anyone in the audience who wishes to hear the Board's deliberation process and subsequent vote.

(n) Any party to the action or proceedings, or any person directly affected thereby, may apply for a rehearing under the provisions of RSA 677:2, as amended. Application, in writing, must be submitted to the Zoning Board of Adjustment within 30-calendar days commencing tomorrow. Such a request must include the reason or reasons for the appeal as the Board, "...may grant such rehearing if in its opinion good reason therefore is stated in the motion" (RSA 677:2). A simple statement entitled, "Request for Rehearing," is not sufficient. All rehearing requests much be acted upon within 30-days from receipt.

4. **Decisions.** The Board shall decide all cases within 30-days of the close of the public hearing to approve, approve with conditions, or deny the appeal, unless the Board continues the application. Notice of the decision will be made available for public inspection within five business days, as required by RSA 676:3 II, as amended and will

be sent to the applicant. If the appeal is denied, the notice shall include the reasons therefore. The notice shall also be given to the Planning Board, the Board of Selectmen, Town Clerk, Tax Assessor and other Town officials as determined by the Board. Notice shall be posted at the Town Office , Town Library and the Town Website .

RECORDS

1. The records of the Board shall be kept by the Planning and Community Development Staff and made available for public inspection at the Board's office in accordance with RSA 673:17.

2. Final written decisions will be placed on file and available for public inspection within five business days after the decision is made in accordance with RSA 676:3 II, as amended.

3. Minutes of all meetings including names of Board members, persons appearing before the Board, and a brief description of the subject matter shall be open to public inspection within five business days of the public meeting in accordance with RSA 91-A:2 II, as amended.

AMENDMENTS

These Rules of Procedure may be amended by a majority vote of the members of the Board provided that such amendment is read at two successive meetings immediately preceding the meeting at which the vote is to be taken. Public notice of meetings shall be posted in the Concord Monitor, the Town Office, Town Library and the Town Website not less than five days *(5)* before the date fixed for the hearing.

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.

JOINT MEETINGS AND HEARINGS

1. RSA 676:2, as amended, provides that the Board of Adjustment may hold joint meetings or hearings with other boards and that each board shall have discretion as to whether or not to hold a joint meeting.

2. 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.

3. A public hearing on any appeal to the Board of Adjustment will be held jointly with another board only under the following conditions:

   (a) The joint public hearing must be a formal public hearing on appeals to both boards

regarding the same subject matter; and

(b) If the other board is the Planning Board, RSA 676:2, as amended, requires that the Planning Board Chair shall chair the joint hearing. If the other board is not the Planning Board, then the Board of Adjustment Chair shall chair the joint hearing; and

(c) 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

(d) The other board shall concur in these conditions.

Effective Date: July 25, 2017

Dr. Gail Devoid, Chair Gail Devoid, Chair
Edward Cherian, Vice-Chair
Tracy Jo Bartlett, Member
Roger W. Sanborn, Ex-Officio
Doug Supry, Member
Ann Dominquez, Alternate

Board of Adjustment
Boscawen, NH

Date Signed: July 25, 2017