

Town of Rye Planning Board Rules of Procedure

Enacted April 14, 1998
Revised November 10, 2009

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Charter

The Rye Planning Board, a legally constituted entity, is created under the authority of the laws of the State of New Hampshire by RSA 673. The Rules of Procedure for the Planning Board are adopted under the authority of New Hampshire Revised Statutes Annotated 676 for the purpose of forming the organization, defining its functions, and documenting its procedures.

Section One: Introduction

Bylaws

The Rules of Procedure of the Planning Board, referred to as the "Rules," are composed of eight parts -- Charter, Introduction, Membership, Officers, Meetings, Committees, Parliamentary Authority, and Amendments. Except for the Charter, each of the eight sections is comprised of Bylaws and Standing Instructions. The Bylaws are those rules which define how the Planning Board is organized and how it functions. Standing-Instructions are the procedures used by the Board. The Charter, the Bylaws, and the Standing-Instructions, called the Documents of Authority, are hierarchically arranged: the Charter overrules the Bylaws and the Bylaws overrule the Standing- Instructions. Amending each requires a different approval level as defined in Section Seven.

Section Two: Membership

2.1 MEMBERSHIP QUALIFICATION

Bylaws

- a) The membership of the Board shall consist of six (6) elected members, 1 ex-officio member, called the Selectman's Representative, and a maximum of five (5) alternates. Elected members and alternates must be residents of Rye at the time of their election or appointment. The appointing authority for the Selectmen's Representative is the Board of Selectmen: the appointing authority for the alternates is the Planning Board.
- b) When an elected-member is either disqualified, absent, or on a "leave of absence," the Chair shall ask an alternate to sit for the elected-member. The sitting alternate will function as a full member. In this capacity, sitting-alternates shall participate in deliberations and vote on all motions, except those involving changes to the Charter or Bylaws; however, they may vote on motions which affect the standing-instructions. Only the appointing authority has the power to ask someone to sit for the Selectmen's Representative, referred to as the "Rep".

2.2 TERM OF OFFICE

Bylaws

- a) The six (6) elected members and the alternates shall have staggered 3 year terms. Each must be sworn in by the Town Clerk.

2.3 FILLING VACANCIES

Bylaws

- a) When an elected-member or an alternate-member resigns from office or is removed from office, a vacancy is created. The Board may replace these members. For elected-membership vacancies the Board shall fill by appointment the unexpired term until the next municipal election. For appointed-membership vacancies the original appointing authority shall fill the vacancy by appointment for the unexpired term. [RSA 673:12].
- b) During the time in which an elected-member's position is vacated, an alternate may not be seated for that person.

2.4 LEAVE OF ABSENCE

Bylaw

- a) A leave-of-absence, called a "leave", is a period of time in which a member is relieved of all duties. Any member is entitled to consideration for a "leave" by requesting one from the Chair of the Planning Board. The Chair has the authority to either grant the "leave" without involvement of the Board or to have the Board decide the question. When the Chair decides without the Board, he or she must inform the Board that a leave has been granted and shall assure the minutes of the meeting state that he or she has granted a "leave": stating the name of the person, the length of the leave and a generic reason. The member may exercise his or her right to return early without notice. The "leave" terminates automatically upon resumption of duties. In order to request an extension, the member shall repeat the application process. In granting a leave or extension the Chair and the Board must consider attendance record, length of service, participation on committees, and participation in meetings, training courses taken, and any other factors relevant to quality of service on the Board. If at any time the Chair or the requestor thinks a closed meeting is desirable, it must be arranged.

Standing-Instruction

- a) When the Chair desires to have the Board decide the question, the Chair will bring the matter to the Board. The procedure is to (1) present the request (2) state recommendation of the Chair (3) start discussions confined by the need to know (4) conduct the vote.

2.5 MEETING ATTENDANCE

Bylaws

- a) All absences, without exception, undermine the ability of the Board to render an informed decision: they are irretrievable information-gaps which subvert sound decision making. The Board must measure attendance, establish attendance standards, and enforce these standards in order to fulfill its obligation of providing the most informed Board possible.
- b) The Chair, at its discretion, may remind any member of the attendance requirements of their office when that member has two (2) absences in succession, or has three (3) absences "year to date". The Chair may delegate this specific duty to another officer.
- c) The Chair must give written notice to the member of his or her failure to meet acceptable levels of attendance whenever a member has three (3) or more absences in succession or has four (4) or more absences "year to date". This duty shall not be delegated.
- d) Whenever a member has four (4) or more absences in succession or has five (5) or more absences year to date, the Board must initiate removal from office.

Standing-Instructions

- a) The Clerk must publish the attendance record of all members except the ex-officio member.

2.6 REMOVAL OF MEMBERS FROM OFFICE

Bylaws

- a) Only the Selectmen may remove elected-members or alternates from the Planning Board. The removal process is initiated by a written notice from the Board to the Town Clerk. The notice must provide findings of inefficiency, neglect of duty, or malfeasance in office.

Standing- Instructions

- a) The removal process is initiated by:
 - 1) A member moves to "have the Chair provide written notice to the Town Clerk to remove (name) for (reason) [RSA 673:13].
 - 2) Upon an affirmative vote of 5 members, the Chair shall prepare and forward such a notice.

Section Three: Officers and Duties

3.1 OFFICERS

Bylaws

- a) An officer must be an elected member. At the April Regular Meeting, the elected members of the Board shall elect three (3) officers who will serve one (1) year terms. Every officer shall be eligible for re-election. The officers are the Chairperson, the Vice-chairperson, and the Clerk. The term of the officers start immediately upon election at the April Regular Meeting and continue until the next election. The last act of the Chairperson will be to preside over the April Meeting until the new officers are elected.
- b) The Chair serves as the presiding officer for all Planning Board Meetings. The Vice Chairperson, in the absence of the Chairperson, shall serve as the presiding officer with all authority of the presiding officer. The Clerk, in the absence of the Chairperson and the Vice Chairperson, shall serve as the presiding officer. Also the Clerk shall assure that the minutes are taken, approved, and filed with the Town Clerk in a timely fashion. The Clerk shall keep an attendance record of all members except the Selectmen's Representative. The record shall be published periodically.

Section Four: Meetings

4.1 MEETINGS IN GENERAL

Bylaws

- a) The Board has three (3) types of meetings: Regular Meetings, Special Meetings, and Committee Meetings. All are public meetings, each requires a Public Notice be posted in at least two (2) locations, and each type of meeting requires that all members are notified. The Notice shall include the time, the place, and the agenda. Once "noticed" the agenda is unchangeable until the meeting has been called to order. The Chair may reschedule the meeting, but the minutes must explain why [RSA 91-A: 2 II]. The Chair schedules all Planning Board Meetings; however, when he or she is not available the duty falls to the Vice Chair or the Clerk. The quorum for the Planning Board - the number of members that when properly assembled can transact business of the Board - is a majority of the membership. Committee Meetings may have different requirements [RSA 673:10 III].
- b) At every meeting, minutes must be taken and published. The intent of the minutes is to document the proceedings such that any person not in attendance will be able to understand what was decided and how the decision was made. All motions seconded or not, must appear in the minutes as intended and as approved by the submitting member. Verbatim statements are required for the motions themselves. The description of how decisions were made shall be summary descriptions of the

recording-secretary. For transparency, how each member voted shall be recorded in the minutes. The minutes shall be filed with the Town Clerk within 144 hours (6 days) of the meetings, excluding Saturday, Sunday, and holidays (RSA 91-A:2c) The Chair shall choose the topics and the order of discussion.

- d) Special Meetings are called to address specific topics. As much notice as is appropriate shall be given; however, at least a 24 hour Public Notice is required and all members shall be notified. A Hearing is a type of Special Meeting requiring a 10-day Notice.
- e) Emergency Meetings are another type of Special Meeting. In these cases the Chair shall attempt to provide both a 24-hour Public Notice and a notification to the Board. It may not be possible, but a best-effort is required and the minutes shall clearly document the efforts made.
- f) Unless specified otherwise, all votes will be decided by a majority of affirmative votes of the sitting members i.e. the affirmative votes must be a majority of those voting.

Standing Instruction

- a) The Regular Meeting is held the second Tuesday of every month at 7:00 PM in the Town Hall Courtroom. A 10-day Public Notice is required for these meetings.
- b) The Posting Locations for Public Notices are the Rye Web Site and the Town Hall.

4.2 REGULAR MEETING

Bylaws

- a) The Planning Board shall hold at least one regular in each month [RSA 673:10 II].

Standing Instruction

- a) At the start of a Regular Meeting, any member may propose a change to the "order of business". If no objection is voiced by either the Board members, those scheduled to be heard, or the public, the change may occur. The Chair is obligated to have the minutes describe and explain any change.
- b) A typical agenda for a Regular Meeting may include some or all of the following topics. The Chair at its discretion may add appropriate topics.
 - Call to order ; The Pledge of Allegiance;
 - Designation of sitting alternates; Minutes of prior meeting(s);
 - Public Hearings; Non-Public Hearings (lot lines, conceptual);
 - Committee Reports; Communications/miscellaneous;
 - Public comment; Closure-time for applications; and
 - Closure-time for the Meeting.

- b) A closure-time for applications is a time specified in the agenda at which no new "applications for permits" will be discussed. The application under discussion shall be completed, but it shall be the last application for the meeting. A closure-time for the meeting is a time specified in the agenda at which no new topics will be discussed. The topic under discussion shall be completed, but it will be the last topic of the Meeting.

4.3 HEARINGS

Bylaws

- a) A Public Hearing is a type of Special Meeting and requires a 10-day Notice. It is focused on gathering information from interested parties or members of the public. A Regular Meeting may incorporate a session for "hearing on applications". Both Hearings and "hearings on applications" require detailed procedures with time constraints.
- b) For "hearing on applications", a Notice of Decision, including all conditions of approval, must be prepared, signed by the Chair, and filed with the Town Clerk 144 hours of the decision. (RSA 676:3).

Standing Instruction

- a) A Public Hearing must be conducted in accordance with the following procedure:

Procedure : Public Hearings:	
1	Call the Hearing to Order
2	State the subject and scope of the hearing.
3	State the applicable public and personal notice requirements
4	State if the Board is compliant - if not, explain .
5	Announce the limitations on testimony. (see Note 1)
6	Explain the "Protocol for Speakers at Hearings"
7	Conduct Hearing per Agenda
8	Close the Hearing
	<p>Note 1: The Chair, with Board approval, may limit testimony to applicants, abutters, and persons with a direct interest. [RSA 676:4 (e)]</p> <p>Note 2: The Chair may publish with the Agenda "guideline of times" for the various activities of the procedure.</p>

b) A "hearing on applications" must be conducted in accordance with the following procedure:

Procedure: Hearing On Applications		
		Allotted Time (minutes)
1	Open the "hearing on applications" <ul style="list-style-type: none"> • State the subject and scope of the hearing. • State the applicable public and personal notice requirements • State if the Board is compliant - if not, explain . • Announce the limitations on testimony. (see Note 1) • Explain the "Protocol for Speakers at Hearings" 	2
2	Presentation of Applicant's Plan	10
3	Present the Technical Review Committee Report	3
4	Present the Planning Board Engineer Report	
5	Questions by Members	8
6	Abutter's Testimony	12
7	Rebuttal Testimony starting with the applicant	14
8	Close the "hearing on applications"	---
9	Deliberations and vote by Board	11
Total allotted time : 60 minutes		
Note 1: The Chair, with Board approval, may limit testimony to applicants, abutters, and persons with a direct interest.[RSA 676:4 (e)]		

c) The Chair, in a Public Hearing, must assure all speakers conduct themselves in accordance with "Protocol for Speakers at Hearings".

Protocol for Speakers at Hearings	
1	Each speaker is required to state their name and address
2	Each speaker shall state his interest in the application.
3	All questions or statements, from the public or from the members, shall be addressed through the Chair

4.4 JUDICIAL FUNCTION: DISQUALIFICATION

Bylaws

- a) When acting in a judicial capacity, if a sitting-member "has a direct (interest) or a pecuniary interest in the outcome (of a Board decision) which differs from the interest of other citizens ... " , he or she is disqualified from "deciding or sitting" on the matter and must recuse himself or herself. Similarly, if the sitting-member would be disqualified from acting as a juror in the trial of the same matter, he or she must disqualify himself or herself.
- b) When acting in a judicial capacity a sitting-member is automatically disqualified when the following situations arise:
 - 1) When a sitting-member of the Board owns property which abuts the property of the applicant. (Totty v. Grantham Planning Board 120 NH 390 1980);
 - 2) When a sitting-member of the Board has publicly taken a position, prior to the meeting, on the particular application before the Board. (Winslow v. Holderness Planning Board 125 NH 262 1984);
 - 3) When a sitting-member has or has had a spousal relationship with the applicant. (Chapter 500 A "Juror Standards");
 - 4) When the sitting-member has sued or has been sued by the applicant; and
 - 5) When a sitting-member employs or is employed by the applicant.

Standing-Instructions

- a) For a sitting-member to recuse themselves, the member must: (1) obtain the floor (2) recuse themselves - no reason need be given (3) retire to the public seating section (4) participate as a member of the public, if he or she desires (5) resume duties as sitting-member when appropriate.

4.5 LEGISLATIVE FUNCTION: DISQUALIFICATION

Bylaws

- a) When acting in a legislative capacity, if a sitting-member has a personal interest or a pecuniary interest in the outcome of the board's decision, the sitting-member is disqualified.

Standing-Instructions

- a) The procedure for recusal is the same as Section 4 (Standing-Instruction 4.4a).

4.6 "LINKED-MEETING"

Bylaws

- a) Members who are not physically located in the meeting room specified in the Agenda may be permitted to participate in any Board Meeting, via communication links, provided:
 - The member's participation benefits both the public and the Planning Board - [RSA 91-A:2 III];
 - "Attendance-in-person" by the member is not practical [RSA 91-A:2 III (a)];
 - A quorum of the Board is physically present in the meeting room [RSA 91-A:2 III (b)];
 - Each member, including those participating via communication-links, must be able to simultaneously hear each other, to speak to each other, and to be audible to all present in the meeting room [RSA 91-A:2 III (c)];
 - All votes taken at a linked-meeting shall be by roll call vote [RSA 91-A:2 III (e)];
 - The Chair shall state for the record the reason that attendance is not practical.
- b) Any member participating via a communication-link is deemed to be present and have the same powers he or she would have if physically present in the meeting room.
- c) If the linked-meeting goes into a closed session, the members not physically in attendance must be alone.
- d) Any communication that is linked to points outside the meeting room must 1) be related to Planning Board business 2) be heard contemporaneously by all within the meeting room and by those members "linked" to the meeting, and 3) be requested by the Board. [RSA 91-A: 1 & RSA 91-A: 2 (c).

Section Five: Committees

5.1 ORGANIZATION OF COMMITTEES

Bylaws

- a) The Planning Board shall form all committees necessary to achieve its goals. These committees shall recommend actions, but the final decisions will be made by the Board.
- b) Committee members shall be appointed by the Board for 3 year terms, and shall elect a Chair and a Clerk. The committees must give public notice for all of its meetings, but do not have the authority to schedule public hearings. The minutes of the meeting must be published in the same manner as those of the Board.

Standing Instruction

- a) The Posting Locations for Public Notices are the Rye Web Site and the Town Hall.
- b) The Committee Clerks will take minutes and furnish copies to all interested parties.

5.2 STANDING COMMITTEES

Bylaws

- a) The Rye Planning Board shall form four (4) standing committees - a Technical Review Committee, a Long Range Planning Committee, Rules and Regulations Committee, and a Zoning Committee.
- b) Each Standing Committee will have a minimum of three members and a maximum determined by the chair of the committee. Committee members must be residents of Rye at the time of their appointment.
- c) Each Committee shall elect its own Chair and Clerk. Any Standing Committee may form sub-committees itself but none may last more than 12 months without approval of the Planning Board.
- d) Long Range Planning Committee: This Committee is responsible for periodic updating of the Rye Master Plan, and for soliciting comments and communicating with appropriate groups. The Committee will report periodically to the full Board concerning its activity and will be responsible for conducting public hearings and final formatting and publication of the updated plans and studies.
- e) Rules and Regulations Committee: This Committee is responsible for periodic updating of the Rules of Procedure, the Land Development Regulations, the Flood Plain Regulations, and with the assistance of the Building Inspector, the Building Regulations.. The Committee will seek input from all appropriate groups.
- e) Technical Review Committee: This Committee is responsible for reviewing all "applications" for completeness and compliance with applicable regulations two weeks prior to regular Planning Board monthly meetings. The Committee will report its findings to the Planning Board Chair and Planning Administrator with a recommendation for or against agenda inclusion at the next Regular Board Meeting. This Committee acts as liaison for the Board with the Planning Board Engineer and other technical consultants.
- g) Zoning Committee: This Committee will be responsible for periodic updating of the Zoning Ordinance. The Committee will seek input from all appropriate groups.

Section Six: Parliamentary Authority

6.1 EXCEPTIONS TO PARLIAMENTARY LAW

Bylaws

- a) When questions of Parliamentary Procedure arise, which are either not addressed in this document or require clarification, they are to be resolved by referencing the Parliamentary Authority.
- b) Exception: The Chair of the Rye Planning Board may vote on any issue before the Board and may second motions.
- b) Exception: All motions are debatable.
- c) The "Rules" may never be suspended.
- e) In meetings, any member may introduce topics not on the agenda provided all "new business topics" have been completed or continued. The member has 3 minutes to state the issue without interruption. The Chair may extend the total time to 5 minutes without Board approval. If the discussion time provided is not adequate for the member, the Chair must schedule the appropriate amount of time for discussion at the next Regular Meeting if and only if the member provides in writing a brief statement describing the problem and any possible solution. The statement must be completed and put in each member's documentation package 2 days before the Regular Meeting.

Standing Instructions

- a) The Parliamentary Authority is "The New Robert's Rules of Order (Second Edition) by Mary A. DeVries".

Section Seven: Amendments

7.1 AMENDMENTS IN GENERAL


Bylaws

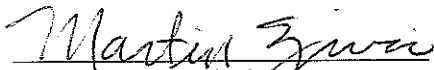
- a) Amendments to the "Rules" must be initiated by the Planning Board.
- b) Amendments to the Charter are to be enacted upon the affirmative vote of five members of the Board. The eligible voters for the Charter are the elected-members and the Selectmen's Representative.


- c) Amendments to the Bylaws are to be enacted upon the affirmative vote of four members of the Board. The eligible voters for the Bylaws are the elected-members and the Selectmen's Representative.
- d) Amendments to the Standing-Instructions are to be enacted upon a majority vote. The eligible voters for changes to the Standing-Instructions are the elected-members, the Selectmen's Representative, and the sitting-alternates.
- e) For amendments to the Charter and Bylaws, the Board may delay the "debate and vote" portion of the motion-approval process to the next Regular Meeting. The eligible voters shall be elected-members and the Selectmen's Representative. The vote to "delay debate and vote" is enacted upon 5 affirmative votes of the eligible voters.

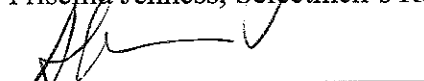
RULES OF PROCEDURE

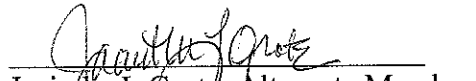
These Rules of Procedure will be enacted (as amended) by affirmation vote of the Rye Planning Board on Tuesday, December 8, 2009.


Donald A. Cavallaro, Chairman


Martin Zivic, Clerk


Priscilla Jenness, Selectmen's Rep

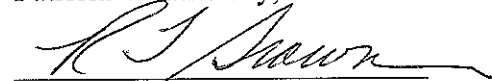

Samuel Winebaum, Member


Jacinthe L. Grote, Alternate Member


Melvin R. Low, Vice Chairman

Mark Galvin, Member


Patricia Weathersby, Member


Robert T. Brown, Alternate Member