

**CORNISH PLANNING BOARD
MINUTES
OCTOBER 7, 2021**

The Cornish Planning Board met on Thursday, October 7, 2021, at 7:00 PM. Members present were Bill Lipfert, Chair, Everett Cass, Jonathan Glass, Gail McKenzie, and Kellie Patterson Parry; Linda Leone, Alternate; and Dillon Gallagher, Selectman.

Bill Lipfert called the meeting to order at 7:02 PM.

Approval of 9/16/2021 Minutes.

Kellie Patterson Parry made a motion to approved the September 16, 2021, minutes. Dillon Gallagher seconded the motion with one correction, and the vote of the Board was in the affirmative.

Revisions to Rules of Procedure.

The Board reviewed proposed amendments to the Rules of Procedure.

General review of RSA 674:21.V(j).

The Board reviewed RSA 674:21.V(i) and discussed the subdivision application process.

Other Business

Bill Lipfert stated that he had attended the 10/5/2021 ZBA appeal filed by Sandy Carpentier and Al Rossow.

Gail McKenzie made a motion to adjourn. Jonathan Glass seconded the motion, and the vote of the Board was in the affirmative. The meeting was adjourned at 7:58 PM.

Respectfully submitted,
Heidi M. Jaarsma

RULES OF PROCEDURE
PLANNING BOARD
TOWN OF CORNISH, NEW HAMPSHIRE

Adopted by the Cornish Planning Board
Cornish, New Hampshire
May 20, 1993
May 4, 2006

DATE ADOPTED

_____, Chair
_____, Vice Chair
_____, Secretary

RULES OF PROCEDURE
CORNISH PLANNING BOARD
~~May 20, 1993~~ Month Day, 2021

Article 1: Authority and Name

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

The name of the Board shall be the “Town of Cornish, New Hampshire, Planning Board” as created by the Annual Town Meeting of March, 1954.

Article 2: Members

1. The Cornish Planning Board shall consist of six (6) members, hereinafter referred to as regular members, appointed by the Selectmen to serve three (3) year terms. The Board shall also include one (1) Selectman to act as an ex-officio member with full voting powers. (The ex-officio member may not be an officer of the Board).
- ~~2.~~ Alternate members may serve on the Planning Board as authorized by RSA 673:6 and participate as non-voting members.
3. Three alternate members, appointed by the Selectmen, shall serve three (3) year terms and should 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 or her responsibilities.
- ~~2-4.~~ 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 the 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 voing on the application.

3.5 The qualification, term, removal of members, filling of vacancies, organization, holding of meetings, and adoption of rules shall conform with New Hampshire Revised Statutes Annotated Chapters 673:2 through :17.

4.6 Each newly appointed member shall be sworn in and take an oath of office as required by RSA 42:1.

5.7 The Secretary shall forward to the Town Clerk for recording the appointment and expiration dates of the terms of each member of the Board by June 1 each year.

Article 3: Officers

1. The Planning Board, at its first regular meeting following the Annual Town Meeting shall elect a Chair, Vice-Chair, and Secretary by a majority vote of the Board to serve one (1) year. If requested by a majority of those present, voting shall be by written ballot.
2. The officers of the Board and their duties shall be as follows:
 - a. Chairman: The Chairman shall call the meeting to order, preside over deliberations, and see that all proceedings are in accordance with the Town Ordinance and the Laws of the State of New Hampshire. He or she shall present a yearly report, appoint committees of resident citizens as necessary (with one member of the Planning Board on each committee), and perform all other duties normally ascribed to the presiding officer.
 - b. Vice-Chairman: The Vice-Chair shall perform the duties of the Chair in his or her absence.
 - c. Secretary: The Secretary shall keep a full and accurate record of the proceedings of all meetings. He or she shall issue notices of all meetings and notify all committees of their appointment. The Secretary shall notify all abutters of the time and place of public hearings as required by the Subdivision and Site Plan Review Regulations. The Secretary will record all mylars of approved subdivisions at the Sullivan County Registry of Deeds. In the absence of the Secretary, a Secretary protem shall be elected by the members present. The Secretary shall serve as contact person for the Board.

Article 4: Meetings

1. Regular Meetings shall be held the third Thursday of each month during the course of the year, beginning at 7:00 p.m. The time and place of the meeting may be changed at any time by a two-thirds vote of the Board in the affirmative, notification of any absent members, and the giving of Public Notice of the change at least twenty-four (24) hours prior to such meeting, all as provided for in RSA 91-A:2.

2. Regular Work Meetings will be held the first Thursday of each month at 7:00 p.m. No action will be taken at any such meeting on any pending application or matter for review before the Board.
3. Executive Session may be held at any time as required, upon majority vote of the members present (said vote will be taken by call of the roll). No final action on any subdivision plat, site plan review, or other matter before the Board in its judicial capacity shall take place during an Executive Session, though any such matter may be discussed by the Board in the course of an Executive Session. The conduct of all Executive Sessions shall conform to the requirements of RSA 91-A:3. The Secretary shall note the names of all members voting to go into Executive Session and will also note for the record their vote, yea or nay, as it may be.
4. Special Meetings of the Planning Board may be called by the Chair, or, in his or her absence, the Vice-Chair or Secretary, ~~with the concurrence~~ at the request of of three (3) 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. Any meeting, whether regular, executive, or special, may be postponed or cancelled by the Chair, or in his or her absence, the Vice-Chair or Secretary, with the concurrence of three (3) members of the Board so long as all other members are notified and public notice is provided by posting 48 hours prior to the postponed/cancelled meeting. Note – RSA 673:10-11 requires the Planning Board to hold at least one regular meeting in each month.
6. All regular meetings of the Board shall be adjourned by 9:30 p.m. However, action on a matter under consideration may be continued past that time if a majority of the Board members present so vote. Agenda items not yet considered at the time of adjournment shall be deferred to the next scheduled regular meeting, or to a special meeting properly called.
7. In the even that normal meeting dates conflict with State of National holidays, any form of governmental election, or with other Town evens, a new date will be set and public notices thereof given.

Article 5: Quorum

Four (4) voting members of the Board shall constitute a quorum, including alternates sitting in place of regular members. A lesser number may meet, but may not vote on matters before the Board.

If any regular Board member is absent from a meeting or hearing, or disqualifies her/himself from sitting on a particular application, the Chairman 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 members is unable to act. The alternate should continue until the matter is completed; the regular member does not vote on that matter.

Article 6: Conflict of Interest

No member of a Planning Board shall participate in deciding or shall sit upon the hearing of any question which the Board is to decide in a judicial capacity if that member has a direct personal or pecuniary interest in the outcome which differs from the interest 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. Reasons for disqualification do not include exemption from a service as a juror or knowledge of the facts involved gained in the performance of the member’s official duties.

If any member finds it necessary to be disqualified from sitting on a particular case, as provided in RSA 673:14, he/she shall notify the Chairman as soon as possible so that an alternate may be requested to fill the place. The disqualification shall be announced by either the Chairman or the member before the discussion or the public hearing on the application begins. The member disqualified shall leave the Board table during all deliberations and the public hearing on the matter.

When uncertainty arises as to the application of the preceding paragraph to a Board member in particular circumstances, the Board shall, upon request of that member or another member of the Board, vote on the question of whether that member should be disqualified. Any such request and vote shall be made prior to or at the commencement of any required public hearing. Such a vote shall be advisory and non-binding, and may not be requested by persons other than Board members, except as provided by local ordinance or by a procedural rule adopted under RSA 676:1.

If a member is disqualified or unable to act in any particular case pending before the Board, the chairperson shall designate an alternate to act in the member’s place, as provided in RSA 673:11.

In all matters of a borderline interpretation, it should be remembered that the Town of Cornish is a small and neighborly place, and mere knowledge of or friendship with an applicant is not sufficient to constitute a conflict of interest for personal reasons.

Article 7: Meeting Order

1. At each regular meeting, the order of business shall normally be as follows:
 - a. Call to order by Chairman
 - b. Quorum check
 - c. Approval of minutes of previous meeting
 - d. Public Hearings and Board Actions
 - e. Reading of communications to the Board

- f. Report of Committees
- g. Introduction of new proposals and consultations
- h. Old business
- i. New business
- j. Adjournment

2. The order of proceeding set out above may be changed at the discretion of the Chair, or by majority vote of the Board, if efficient consideration of pending matters suggests such a change.

3. 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.

4. If there is a tie vote, then another motion should be discussed and worded in such a way that would not result in a tie vote.

5. If there is a failed motion, the board should try another motion to get a motion to pass.

Agenda

The agenda for regular meeting will be closed five (5) days before the regularly scheduled meeting. It may be closed sooner if, in the opinion of the Secretary, the length of the agenda and the subject matter is such that completion before 9:30 p.m. is unlikely. The agenda, showing the proposed order of the public hearing presentations, shall be posted in a conspicuous place in or near the hearing location.

Article 8: Applications for Subdivision and Site Plan Review

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 Selectmen's secretary who shall sign and record the date of receipt.
2. Notice shall be given as required in RSA 676:4,I(d) 10 days before a completed application is to be submitted to the Board.
3. Completed applications shall be accepted by majority vote of the Board and shall be scheduled for consideration within thirty (30) days of submission.
4. The Board shall reject all applications not properly completed.
5. All forms prescribed herein and revisions thereof shall be adopted by resolution of the Board and shall become part of these rules of procedure.

Notice

1. Public Notice of the submission of and public hearings on each application shall be given in the *Valley New* and the *Eagle Times* or by posting at the Selectmen's Office not less than ten (10) days prior to the date fixed for submission and consideration of the application. Posting requirements cannot count the day of the posting and the day of the meeting in the 10 days prior to the meeting.
2. Personal notice shall be made by certified mail to the applicant, all abutters, and the surveyor (if applicable) not less than ten (10) days prior to the date fixed for submission of the application to the Board.
3. As per RSA 676:4 the notice of submission of the application and the notice of public hearing may be combined 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 to the applicant and abutters by certified mail for submission, public hearing, and each time the application is on the agenda.
4. Public hearings will ordinarily be held at the next regular meeting following that meeting at which the Board finds an application to be "complete." The Board may set a public hearing at an earlier time at its discretion but for the most part a showing of hardship will be required to combine the completeness review and public hearing on the same date. This rule is made so that abutters and members of the public are not unnecessarily inconvenienced by receiving notice of public hearings which are then delayed because an application is incomplete.

Public Hearings

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

1. The Chairman shall call the hearing in session, identify the applicant or agent.
2. The Secretary shall read the application and report on the manner in which public and personal notice was given.
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 Chairman.
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 he/she is a party to the matter or an agent or counsel to a party to the matter.

7. The applicant or agent shall be called to present the proposal and those appearing in favor of the proposal shall be allowed to speak.
8. Those in opposition to the proposal shall be allowed to speak.
9. Those neither in favor nor in opposition may speak.
10. 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.
11. The Chairman 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.
12. On-site Inspections may be made from time to time as required to enable members of the Board to make informed decisions on any matter before the Board. Any person seeking subdivision or site plan review approval from the Board will grant to the Board specific permission to go upon the land for the purposes of making such on-site inspections. In the course of an on-site inspection, the only evidence that may be considered or taken by the members of the Board will be the visual evidence that they received from the process of inspection.
13. Non-appearance. An applicant who does not appear or is not represented at any meeting for which the applicant is listed on the agenda shall not be automatically rescheduled for a later meeting. The non-representation shall constitute automatic denial. It will be necessary for the applicant to take the initiative in requesting a new date and to follow all procedures and pay all costs necessary to do so.

Decisions

1. The Board shall render a written decision within ~~ninety (90) days~~ sixty-five (65) days of the date of submission of a completed application, subject to extension or waiver as provided in RSA 676:4.
2. The Board shall act to approve, conditionally approve, or disapprove.
3. Notice of decision will be made available for public inspection at the Selectmen's Office within ~~seventy two (72) hours~~ five (5) business days after the decision is made, as required in RSA 676:3. If the application is disapproved, the Board shall provide the applicant with written reason for this disapproval.
4. A subdivision or Site Plan application which has been granted conditional approval by vote of the Board shall not be final and may not be recorded until and

unless all conditions required by the Planning Board prior to final approval have been met. A further public hearing is not required when such conditions:

- a. are administrative in nature;
- b. involve no discretionary judgment on the part of the Board, or;
- c. involve the applicant's possession of permits and approvals granted by other boards or agencies, such as the Department of Transportation, the Wetlands Board, or Water Supply and Pollution Control Division.

A further public hearing will be required to demonstrate compliance with the terms of all other conditions pursuant to RSA 676:4, I (i).

Reconsideration, Appeal, and Court Review of Planning Board Decisions

The Planning Board may reconsider any decision to approve or disapprove an application for good cause, provided it is within the statutory appeal period. This may be done through a motion that specifies the reason 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. Should the Board reach a new decision, a new appeal period shall be considered to have begun pursuant to RSA 677:15, et seq.

Records

1. The records of the Board shall be kept by the Secretary and shall be made available for public inspection at the Selectmen's Office as required by RSA ~~676:2,II, 91-A:4.~~
2. 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 ~~144 hours~~ five (5) business days after ~~of~~ the public meeting as required in RSA 91-A:2,II.
3. All signed mylars of final subdivision approvals shall be recorded at the Sullivan County Registry of Deeds by the Secretary.

Joint Meetings and Hearings

1. The Planning Board may hold joint meetings and hearings with other "land use boards" including the Board of Adjustment and the Conservation Commission. Each board shall have discretion whether or not to hold such joint meeting or hearing. (RSA 676:2)
2. Joint business meetings with another local land use board may be held at any time when called jointly by the chairmen of 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 Planning Board chair shall chair all joint meetings and public hearings when the subject matter involves the Planning Board.
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 Chairman.
 - b. Introduction of members of both boards by Chairman.
 - c. Explanation of reason for joint meeting/hearing by Chairman.
 - d. 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.
 - e. Adjournment.
6. Each board involved in a joint public hearing makes its own decision, based on its criteria for the particular matter.

Amendment

These rules of procedure may be amended by a majority 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.~~ The Board shall hold a public hearing prior to adoption of new rules or amendment of existing rules. Notice for the time and place of the hearing shall be as provided in RSA 675:7. The amended procedures shall be filed with the town clerk.

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