

## **ARTICLE VI**

### **Board of Adjustment**

#### **~ 305-34. Creation and appointment.**

The establishment of a Board of Adjustment is hereby authorized. The members of the Board shall be appointed by the City Council. They shall be residents of the city and shall serve without compensation. In accordance with the laws of the State of New Hampshire, the following provisions shall apply:

- A. The Board of Adjustment shall consist of five regular members and two alternates. Said members shall be appointed for a term of three years, staggered so that appointments of no more than two regular members and one alternate member occur annually. Said members shall be removable by the appointing authority upon written charges and after public hearing.
- B. Municipal officers shall not be members or alternate members of the Board of Adjustment.
- C. When a member is unable to act because of conflict of interest, physical incapacity or absence, an alternate shall be designated by the Chairperson to act in such member's absence. The City Council shall be notified by the Secretary of the Board of Adjustment when any member is absent from three consecutive meetings.
- D. When there is a permanent vacancy, the City Council shall appoint a person to serve for the unexpired term.
- E. The Board of Adjustment shall elect a Chairperson and Secretary from its own membership.

#### **~ 305-35. Powers and duties.**

The Board of Adjustment shall have the following powers and duties, to be exercised only upon written appeal by a party aggrieved by a decision of the Planning and Zoning Administrator:

- A. To determine whether the decisions of the Planning and Zoning Administrator are in conformity with the provisions of this chapter and to interpret the meaning of this chapter in cases of uncertainty.
- B. To grant variances from the strict letter of this chapter in cases of practical difficulty or undue hardship that would deprive the owner of reasonable use of the land or building, provided that there is no substantial departure from the intent of this chapter.
- C. To permit an exception to this chapter only where the terms of the exception have been specifically set forth in this chapter.

### **~ 305-36. Hearings.**

- A. For all appeals from decisions of the Planning and Zoning Administrator for consideration of applications for permits authorized by this chapter, the Board of Adjustment shall hold a public hearing as prescribed herein, and the Clerk of the Board of Adjustment shall notify all abutters. The Board Secretary shall cause to be published and posted a notice which shall indicate the property involved, the nature of the appeal and the time and place of the public hearing.
- B. The Planning and Zoning Administrator, unless prevented by good cause, shall attend all hearings and shall present to the Board of Adjustment all plans, photographs or other factual material which is appropriate to an understanding of the appeal.
- C. The Board of Adjustment shall not continue hearings to a future date except for good cause. Written notice of the decision of the Board shall be sent to the appellant and the Planning and Zoning Administrator forthwith.

### **~ 305-37. Appeals.**

Any person or any municipal department aggrieved by a decision of the Planning and Zoning Administrator may appeal such decision to the Board of Adjustment.

- A. Within 30 days of the date of the decision of the Planning and Zoning Administrator, the appeal shall be entered at the office of the Planning and Zoning Administrator upon forms to be supplied and approved by the Board of Adjustment. The appellant shall set forth on said form the grounds of his or her appeal and shall refer to the specific provisions of this chapter involved. Following the receipt of any appeal, the Planning and Zoning Administrator shall notify forthwith the Chairperson of the Board of Adjustment. The Board of Adjustment shall schedule a public hearing on the appeal in accordance with the provisions of RSA 676:7. The appellant shall accompany this appeal with a fee in accordance with the current fee schedule in effect at the time the appeal is filed.
- B. An aggrieved party may appeal from the decision of the Board of Adjustment to the Superior Court as provided by the laws of the State of New Hampshire.

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<sup>1</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).