TOWN OF CHESTER ZONING BOARD OF ADJUSTMENT
RULES OF PROCEDURE

AUTHORITY
1. These rules of procedure are adopted under the authority of New Hampshire Revised Statutes annotated, 1983, Chapter 676:1, and the zoning ordinance and map of the Town of Chester.

OFFICERS
1. A chair shall be elected annually by a majority vote of the board in the month of May/June. 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 by a majority vote of the board in the month of May/June. The 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. An administrative assistant shall be hired by the board. The administrative assistant shall maintain a record of all meetings, transactions and decisions of the board, and perform such other duties as the board may direct by resolution.

4. All officers shall serve for one year and shall be eligible for re-election.

MEMBERS AND ALTERNATES
1. Five members shall be appointed by the Board of Selectmen, members must reside in the community and 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 and/or the ZBA office as soon as possible.

2. Up to five alternate members shall be appointed by the Board of Selectmen and should attend all meetings to familiarize themselves with the workings of the board and to stand ready to serve whenever a regular member of the board is unable to fulfill his/her responsibilities. One member may be appointed for one year by the Planning Board to serve as a Representative in the capacity of alternate.

3. The term of board members and alternates is three years. Terms shall be staggered so that no more than two appointments occur annually. Appointments made to fill vacancies on the board will be for the remainder of the term(s) vacated. Members must reside in the community and are expected to attend each meeting of the board to exercise duties and responsibilities. Members, including the chair and all officers, shall participate in the decision-making process and vote to approve or disapprove all motions under consideration.

4. At meetings of the ZBA, 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 un-expired 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, ask questions and interact with other board members, the applicant, abutters and the public. Alternates 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, any alternate not acting in place of another member shall remove themselves from the table and sit with other members of the public. 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.

MEETINGS
1. **Regular meetings/hearings** shall be held at the Town Offices, 84 Chester Street at 7:00 p.m. on the third Tuesday of each month. Other meetings may be held on the call of the chair or requested by at least three members of the board, provided public notice and notice to each member is given in accordance with RSA 91-A:2, II.

2. **Quorum.** A quorum for all meetings of the board shall be three members, including alternates sitting in place of members.
   a. The chair will make every effort to ensure that all five members, and one or two alternates, are present for the consideration of any appeal or application.
   b. 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.
   c. If there are less than five members (including alternates) present, the chair shall give the option to proceed or not to the applicant. Should the applicant choose to proceed with less than five members present that shall not solely constitute grounds for a rehearing should the application fail.

3. **Disqualification.** If any member finds it necessary to disqualify himself/herself from sitting in a particular case, as provided in RSA 673:14, he/she shall notify the chair as soon as possible so that an alternate may be requested to sit in his 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/herself 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 administrative assistant
   c. Action on the minutes
   d. Correspondence
   e. Unfinished business
   f. New business
   g. Public hearing(s)
   h. Other business
   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 administrative assistant of the board of adjustment
      forty-five (45) days prior to the regularly scheduled meeting and who shall record the
      date of receipt over his/her signature. Only the date of receipt by the board of adjustment
      will be accepted. All applicable fees must be paid in full at time of application submittal.
      Application will not be accepted if not complete.
   b. Appeals from an administrative decision taken under RSA 676:5 shall be filed within
      thirty (30) days of the decision.
   c. The administrative assistant shall present to the board all applications received at least 5
      days before the date of the meeting.

2. Forms. All forms and revisions prescribed shall be adopted by resolution of the board and
   shall become part of these rules of procedure.

   a. Public notice of public hearings on each application shall be given in the Tri Town News
      or the Union Leader and shall be posted at the Chester Town Offices and Post Office not
      less than five days (5) before the date fixed for the hearing. Notice shall include the
      name of the applicant and/or agent, 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, return receipt requested to the applicant
     and/or agent and all abutters not less than five (5) days before the date of the hearing.
     Notice shall also be given to the town clerk, building inspector/code enforcement officer,
     planning board and other parties deemed to have special interest.
   c. The applicant shall pay for all the required notice costs at the time of application
      submittal.

4. Public Hearing. The conduct of public hearings shall be governed by the following rules:
   a. The chair shall call the hearing in session and ask for the administrative assistant’s report
      on how public and abutters notice was given and reading of the notice.
   b. The applicant or agent shall be called to present his appeal.
   c. Members of the board may ask questions at any point during the testimony.
   d. Each person who appears shall be required to state his/her name and address and indicate
      whether he is a party to the case or an agent or counsel of a party to the case.
   e. Any member of the board, through the chair, may request any party to the case to speak a
      second time.
   f. Any party to the case who wants to ask a question of another party to the case must do so
      through the chair.
   g. Those appearing in favor of the appeal shall be allowed to speak.
   h. Those in opposition to the appeal shall be allowed to speak.
   i. The applicant and those in favor shall be allowed to speak in rebuttal.
   j. Those in opposition to the appeal shall be allowed to speak in rebuttal.
   k. Any person who wants the board to compel the attendance of a witness shall present his
      request in writing to the chair not later than 3 days prior to the public hearing.
RULES OF PROCEDURE CONTINUED

1. The board of adjustment will hear with interest any evidence that pertains to the facts of the case or how the facts relate to the provisions of the zoning ordinance and state zoning law.

m. The chair shall present a summary setting for the facts of the case and the claims made for each side. Opportunity shall be given for correction from the floor.

n. **No person will be heard when the board enters deliberations.**

o. The hearing on the appeal shall be declared closed and the next case called up.

p. Failure of the applicant to appear for a properly noticed public hearing, without just cause, may result in the application being dismissed without further hearing.”

5. **Decisions.** The board shall decide all cases within 30 days of the close of the public hearing and shall approve, approve with conditions, or deny the appeal. Notice of the decision will be made available for public inspection within 5 business days as required by RSA 676:3, and will be sent to the applicant by certified mail. If the appeal is denied, the notice shall include the reasons therefor. The notice shall also be given to the planning board, building inspector/code enforcement officer, the board of selectmen, town clerk, property tax assessor and other town officials as determined by the board. Granted decisions shall be posted at Town Hall for 30 days and decisions of denial shall be posted for 5 days. Granted conditional decisions will be recorded with the Rockingham County Registry of Deeds. Administrative Assistant shall have authority to sign decisions.

6. **Voting.** The chair may assign the task of drafting a motion to a board member who shall bring a draft motion to the board at the continuation of the deliberative portion of the meeting for the consideration of the board. **Should a motion result in a tie vote or not receive the necessary 3 votes to decide in favor of the applicant, the opposite of the failed motion does not automatically prevail. The board must put forth a new motion to affirmatively set forth a decision.**

7. **Reconsideration by the Board.** The board may reconsider a decision to grant or deny an application or grant or deny a motion for rehearing provided such reconsideration is within the appeal period of thirty (30) days beginning with the date following the date of the board vote (see 74 Cox Street LLC v. City of Nashua, September 21, 2007). Motions for Rehearing can only be received in the office of the board during normal business hours. (See **Cardinal Development v. Winchester, October 2008.**)

8. **Motion for Rehearing.** If the board grants a motion for rehearing, the new public hearing shall be held within 30 days of the decision to grant the rehearing provided all notice fees are paid and an updated abutters list is submitted by the party requesting the rehearing. Notification of the rehearing shall follow the procedures set forth in RSA 676:7 (October 2012).

**RECORDS**

1. The records of the board shall be kept by the administrative assistant and made available for public inspection at the Zoning Board of Adjustment office in Town Hall in accordance with RSA 673:17.

2. Final written decisions will be placed on file and available for public inspection within 5 business days after the decision is made (see RSA 676:3).
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 5 business days of the public meeting (see RSA 91-A:2 II.).

4. The proceedings are not routinely tape recorded for the purpose of preparing minutes. Proceedings will be broadcasted live. If proceedings are tape recorded, the tapes will be destroyed upon the completion of draft minutes.

AMENDMENTS
These rules of procedure may be amended by a majority vote of the members of the board provided that such new rule or amendments are proposed and discussed prior to the meeting at which the vote is to be taken and shall be placed on file with the town clerk and be available for public inspection pursuant to RSA 676:1.

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 provides that the board of adjustment may hold joint meetings or hearings with other “land use boards,” including the planning board, the historic district commission, the building code board of appeals, and the inspector of buildings, and that each board shall have discretion as to whether or not to hold a joint meeting with any other land use board.

2. Joint business meetings with any other land use board may be held at any time when called jointly by the chairmen 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 requires that the planning board chairman shall chair the joint hearing. If the other board is not the planning board, then the board of adjustment chairman 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.

LEGAL
1. The administrative assistant and chair will be the designated persons as primary points of contact with counsel. All inquiries and responses shall be made in writing.

FINANCIAL
1. The Administrative Assistant has the authority to approve for payment all telephone, office equipment and maintenance, office supplies, postage, mileage, recording fees, books/periodicals,
dues/subscriptions/seminars, and public notice advertising. Legal Bills and Time Sheets are to be approved by the Chair.

ASSESSMENT-FEES
RSA 676:5, IV and V(a),(b) provides that the board of adjustment can impose reasonable fees and require an applicant to cover the boards administrative expenses and costs of special investigative studies, the review of documents and other matters which may be required by particular appeals or applications.

These rules of procedure have been adopted on this day 11th the ___ of November in the year of 2019 by the Town of Chester Zoning Board of Adjustment.

Billie Maloney, Chair

Kevin Scott, Vice Chair

Jack Cannon

William Gregsak

Rick Snyder, Alternate

Adam Maciaszczyk, Alternate

REV 6.00 11-2019