



**TOWN OF WELLS  
OFFICE OF PLANNING & DEVELOPMENT  
ZONING BOARD OF APPEALS**

*Phone: 207-646-5187*

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RULES OF PROCEDURE

AUGUST 12, 2003

I. GENERAL PROVISIONS:

- A. Business of the Board shall be conducted in accord with Maine Statutes, Town Ordinances and Robert's Rules of Order Abridged Version.
- B. It shall be the responsibility of the Board to become familiar with all the duly enacted ordinances of the Town which it may be expected to act upon as well as with the applicable state statutes. Board members shall also become familiar with the Wells Code of Ethics, Chapter 230 of the Code of the Town of Wells.
- C. It shall be the responsibility of the Board to become familiar with the community goals, desires and policies as expressed in the Comprehensive Plan, as it relates to the Land Use Ordinance.

II. APPOINTMENTS AND REMOVAL:

- A. Each member of the Board shall be sworn by the Town Clerk or other authorized official after appointment or reappointment and before assuming his/her duties as a Board member.
- B. Any member of the Board may be removed from the Board, for cause, by the Selectmen before expiration of his/her term but only after an advertised public hearing at which the member in question has an opportunity to refute specific charges against him/her.
  1. The term, "for cause" shall include, but is not limited to failure to attend three (3) consecutive Board meetings or hearings without sufficient justification or voting when the member has a "conflict of interest".
- C. When there is a permanent vacancy of either a member or an associate member, the Chairperson shall notify the Board of Selectmen. The Chairperson will recommend to the Board of Selectmen an associate member to fill the permanent member vacancy only.

III. OFFICERS AND DUTIES:

- A. The Officers of the Board shall consist of a Chairperson, Vice Chairperson and Secretary who shall be elected annually by a majority of the Board.
- B. CHAIRPERSON: The Chairperson shall perform all duties required by law and these rules of procedure and preside at all meetings of the Board. The Chairperson shall rule on issues of evidence, order, and procedure and shall take such other actions as are necessary for the efficient and orderly conduct of hearings unless directed otherwise by a majority of the Board. The Chairperson shall appoint any committee found necessary to carry out the business of the Board. The Chairperson's signature shall be the official signature of the Board and shall appear on all decisions as directed by the Board.
- C. ACTING CHAIRPERSON: The acting Chairperson is normally the Vice Chairperson. The acting Chairperson shall serve in the absence of the Chairperson and shall have all the powers of the Chairperson during the Chairperson's absence, disability or disqualification. In the absence of both Chair and Vice Chair, the Secretary will assume these duties.
- D. SECRETARY: In the absence of the Staff Secretary, the Board Secretary shall see that all the Minutes of each meeting or hearing are accurate and introduce said Minutes. The Board Secretary may be asked to fulfill other duties of the secretary under the direction of the Chairperson. All other records such as: correspondence, transactions, findings, posting of legal notices and determinations of the Board are handled by either the Chairperson or the Staff Secretary. The records of the Board of Appeals are filed by the Staff Secretary in the Office of Planning and Code Enforcement for public inspection at reasonable times. Minutes of the Zoning Board of Appeals are filed with the Town Clerk.

IV. CONFLICT OF INTEREST:

- A. It is the responsibility of all members of the Zoning Board of Appeals to inform the Board, if they have a conflict of interest as defined by the Wells Code of Ethics, Chapter 230 of the Code of the Town of Wells.

V. POWER AND LIMITATIONS:

- A. The Board shall have the powers afforded to it by state law and municipal ordinance.

VI. MEETINGS:

- A. Special meetings of the Board may be called by the Chairperson. At least forty eight (48) hours written notice of the time, place and business of the meeting shall be given each member of the Board, the Selectmen, the Planning Office and Code Enforcement Office.

- B. The Chairperson shall call a special meeting within ten (10) days upon receipt of a written request from any three members of the Board: said request shall specify the matters to be considered at such special meeting.
- C. Notice of all Board meetings, including special meetings or emergency meetings, shall be posted and published as required by state law and municipal ordinance.

#### VII. VOTING:

- A. A quorum shall consist of four members and all motions shall require an affirmative vote of at least a majority of the full Board to pass.
  - 1. No hearing or meeting of the Board shall be held in the absence of a quorum. Nor shall any action be taken on an appeal or other agenda item in the absence of a quorum.
- B. If a member has a conflict of interest, said member shall not be counted by the Board in establishing the quorum for such matter.
- C. The Chairperson shall appoint an associate member to act for a regular member who is disqualified from voting, unable to attend the hearing or absent from a substantial portion of the hearing due to late arrival. The associate member will act for the regular member until the case is decided.
- D. No member shall vote on the determination of any matter requiring a public hearing unless he or she has attended the public hearing thereon; however, where such a member has become familiar with the matter by reviewing the record, including a recording of the public hearing, the member shall be qualified to vote. A member shall state for the record that he or she has become familiar with the matter in this manner.

#### VIII. HEARINGS:

- A. As a matter of policy, the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
- B. The order of business at a public hearing shall be as follows:
  - 1. The Chairperson will call the hearing to order.
  - 2. The Chairperson will determine whether there is a quorum.
  - 3. The Chairperson will give a statement of the case and will read or reference as received all correspondence and reports received.
  - 4. The Board will determine whether it has Jurisdiction over the appeal.
  - 5. The Board will decide whether the applicant has the right to appeal before the Board.

6. The Board will determine which individuals attending the hearing are "interested parties". "Interested parties" are those persons who request to offer testimony and evidence and to participate in oral cross-examination. Interested parties are defined by Chapter 145, Article IX of the Wells Town Code. Parties may be required by the Board to consolidate or join their appearance in part or in whole if their interest or contentions are substantially similar and such consolidation would expedite the hearing. Municipal Officers, the Planning Board and the Code Enforcement Officer shall automatically be made parties to the proceeding. Other persons attending the hearing and federal, state, municipal and other governmental agencies shall be permitted to make oral or written statements and to submit oral and written questions through the chair.
7. The appellant is given the opportunity to present his or her case without interruption.
8. The Board and interested parties may ask questions of the appellant through the chair.
9. The interested parties are given the opportunity to present their case.
10. The appellant may ask questions of the interested parties and the Board witnesses through the chair.
11. All parties are given the opportunity to refute or rebut statements made throughout the hearing.
12. The Board shall receive comments and questions from all observers and interested citizens who wish to express their views.
13. The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued to a later date. All participants should be notified of the date, time and place of the continued hearing.

G. The Board may waive any of the above rules at their discretion.

#### IX. DECISIONS:

- A. The final decision on any matter before the Board shall be made by written order signed by the Chairperson. The transcript of testimony, if any, and exhibits together with all papers and requests filed in the proceedings shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings of fact and conclusions as well as the reasons or basis thereon with respect to the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof.
- B. In reviewing an application on any matter, the standards in any applicable local ordinance or state statute shall take precedence over the standards of these rules whenever a conflict occurs.
- C. Written notice of the decision of the Board of Appeals shall be sent to the appellant, his representative or agent, the Code Enforcement Officer, the Maine

Department of Environmental Protection (if the subject property is located within the Shoreland Overlay District or Resource Protection District), the Board of Selectmen and the Planning Board within seven days of the decision.

- D. The decision of the Board shall be filed in the Planning and Code Enforcement Office and shall be made public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.

X. AMENDMENTS:

- A. These rule of procedure may be amended by a majority vote of the Board.
- B. The invalidity of any section or provision of these rules of procedure shall not be held to invalidate any other section or provision of these rules of procedure .

Walter L. Drake  
Chairperson

Richard H. Cardman  
Vice Chairperson

[Signature]  
Secretary

W. J. Chantre  
Member

Member

K. Kenney  
Associate Member

Graig Hutchinson  
Associate Member

Edward J. [Signature]  
Associate Member