

**TOWN OF SEABROOK, NH
ZONING BOARD OF ADJUSTMENT
99 LAFAYETTE ROAD
PO BOX 456
SEABROOK, NH 03874-0456
(603) 474-3311**

AGENDA

Meeting Date: Wednesday, October 24, 2012

Place: Seabrook Town Hall

Time: 7:00 PM

OLD BUSINESS:

Minutes of September 26, 2012 Meeting

NEW BUSINESS:

Case #2012-11 Wal-Mart Real Estate Business Trust, 270 Lafayette Road, Map 9, Lot 49 for Variance to Section 7 to permit a structure with no side setback where 15 feet is required and to permit less than the minimum percentage of open space of 14% where 25% is required in Zone 2

Vote on Rules of Procedure (See Attached)

Any other business that may come before the Zoning Board of Adjustment.

DATE POSTED: October 5, 2012

**Town of Seabrook
Zoning Board of Adjustment
Rules of Procedure**

AUTHORITY

1. These Rules of Procedure are adopted under the Authority of the New Hampshire Revised Statutes Annotated, Chapter 676 and the Zoning Ordinance of the Town of Seabrook.

OFFICERS

1. A Chairman shall be elected annually in the month of May by a majority vote of the Board. Said Chairman shall serve for one (1) year. He/She shall preside over meetings and hearing, appoint such committees as directed by the Board, and shall affix his/her signature in the name of the Board
2. A Vice-Chairman shall be elected annually in the month of May by a majority vote of the Board. Said Vice-Chairman shall serve for one (1) year. Said Vice-Chairman shall preside in the absence of the Chairman and shall have the full powers of the Chairman and shall perform such other duties as the Board may direct by resolution.
3. A Clerk shall be elected annually in the month of May by a majority vote of the Board and shall serve for one (1) year. He/She shall maintain a record of all meetings, transactions and findings of the Board, and perform such other duties as the Board may direct by resolution.

MEETINGS

1. Regular meetings shall be held at the Town Office at 7PM on the fourth (4th) Wednesday of each month. Other meetings may be held on the call of the Chairman provided notice is given to each member seventy-two (72) hours prior to the time of such meeting.
2. The concurring vote of three (3) members of the Board shall be necessary to reverse any action of the administrative office or to decide in favor of the application or any matter on which it is required to pass. If a member disqualifies himself/herself, or cannot act in a particular case, or is going to be absent from a meeting/hearing, he/she shall notify the Chairman who will notify an alternate member to sit in the meeting. Said alternate member will have all the powers and duties of a regular member in regard to the appeal(s) under consideration on which the regular member is unable to act. The Board has requested the Selectmen to appoint five (5) alternates to be available for such duties at the Chairman may deem necessary.
3. The Chairman shall preside over all meetings. In the absence of the Chairman, the Vice-Chairman shall preside.
4. Unless otherwise voted, the order of business for regular meetings shall be as follows:

Chairman will open meeting
Roll call by Clerk or Secretary
Approval/Discussion of minutes of previous meeting
Hearing of appeals
Voting in public session
Adjournment

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

The Chairman shall call the meeting to order and call for the Vice-Chairman to read the first case. The Vice-Chairman shall read the application and report on the manner in which the notice and personal notice were given. If a case is to be postponed for one month remind the abutters present that certified notification will not be sent.

Each person who appears shall be required to state his/her name, address and indicate whether he is a party to the case or an agent/counsel to a party of the case. Witness may be sworn in by the Chairman pursuant to RSA 673:15 to the New Hampshire Planning and Land Use Regulations.

Any party to the case who desires to ask a question of another party must do so through the Chairman. All comments from the public are to be directed to the Board.

The applicant, agent or attorney representing the applicant shall be called to present his/her appeal, and those appearing in favor of the appeal shall be allowed to speak.

Those appearing in opposition to the appeal shall be allowed to speak.

The applicant and those in favor shall be allowed to speak in rebuttal.

Those in opposition to the appeal shall be allowed to speak in rebuttal.

Members of the Board of Adjustment may ask questions at any point during testimony.

Any member of the Board of Adjustment, through the Chairman, may request any party to the case to reappear.

The Chairman shall present a summary setting forth the facts of the case and claims made for each side if he/she deems necessary. Opportunity shall be given for correction from the floor.

The hearing on the appeal shall be declared closed and the matter will be voted on in the public session. The matter will be considered closed and no further formal discussion will be heard.

The votes and statements made on the issues shall constitute the Board of Adjustment's finding of fact. The Board of Adjustment may attach reasonable conditions to the granting of a petition.

PUBLIC HEARING TIMING SEQUENCE

1. By the last working day of the month prior to the meeting 12:00 noon is the deadline to submit a zoning appeal request by the applicant/agent for hearing the following month.
Each application for appeal shall be made on the forms provided by the Board of Adjustment. A completed application shall be presented with payment to the Secretary or Clerk of the Board of Adjustment who shall record the date of receipt over his/her signature.
The cost of the application and notice shall be paid in advance by the applicant in a fixed amount based on costs including newspaper listing, postal fees and application fee.
Applicant may request postponement to the next scheduled meeting. Further postponement will require re-notification of abutters. Re-advertisement fees and costs will be charged to and paid by the applicant prior to the next scheduled meeting.
2. Fifteen (15) days prior to the meeting – notices submitted to the Newburyport News (signed). The notice has to be in the paper twelve (12) days prior to the meeting.
3. Ten (10) days prior to the meeting – “Package” should be in the hands of all of the Board of Adjustment members/alternates, Town Manager/Board of Selectmen, Town Clerk, Building Inspector, Planning Board and Conservation Commission. Agendas in the hands of Police Department, Fire Department, Water Department, Sewer Department, Department of Public Works. The “Package” consists of the following:

Agenda
Signed minutes from previous meeting
Application form including maps
Voting Sheets

4. Seven (7) days prior to the meeting the attendance of witness (special) if desired must be requested in writing to the Chairman. Expense of the witness will be borne by the person making request.
5. Seven (7) days prior to the meeting must notify applicant and abutters concerning time and place of hearing via certified mail receipt requested. "Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street/streets from the land under consideration.
6. Seven (7) days prior to the meeting the agenda must be posted in two (2) public places (Town Hall and Post Office).
7. On the fourth (4th) Wednesday of the month for the Public Hearing the secretary shall bring to the meeting – note pad, pen/pencil, previous minutes and original application in folder with all materials submitted.
8. Within six (6) days/one hundred forty four (144) hours of the public Hearing – Signed Notice of Decision must be sent to: applicant via certified mail, abutters via regular mail, Town Manager/Board of Selectmen, Town Clerk, Planning Board, Conservation Commission, Sewer Department, Water Department, Building Inspector and Assessing Office via interoffice mail.
9. Within six (6) days/one hundred forty four (144) hours of the Public Hearing – Signed minutes shall be delivered to Town Manager/Board of Selectmen, Town Clerk, Planning Board, Conservation Commission, Sewer Department, Water Department, Building Inspector and Assessing Office via interoffice mail.
10. If Public Hearing is to past 10:00 PM the Board of Adjustment may continue the meeting to the next convenient date to arrive at a decision.

REQUEST FOR REHEARING

1. Any Request for Rehearing must be submitted to the Secretary within thirty (30) days. Day one is the day after the Board of Adjustment's decision. The thirty (30) days includes weekends and holidays. Request for Rehearing shall be made under NH RSA 676:5.
2. If the Board of Adjustment decides to re-hear the case, the cost of Application and Notice shall be paid in advance by the Applicant in a fixed amount based on costs including Newspaper Listing, Postal Fees and Application costs.

FORMS

1. All forms and revisions thereof shall be adopted by resolution and shall become part of the Rules of Procedure.

DISQUALIFICATION OF MEMBERS

1. No member of the Board of Adjustment shall sit upon a hearing of any questions which the Board is to decide in a judicial capacity of that member would be disqualified for any cause to act as a juror up the trial of the same matter in any action of law.

NON-PUBLIC SESSION/LEGAL CONSULTATION

1. The Board of Adjustment may meet in non-public session for deliberations only after a majority vote of members present, which shall be recorded into the minutes of the meeting. All sessions at which information, evidence, or testimony in any form is received shall be open to the public. The Board of Adjustment may suspend a public meeting and meet privately with counsel for the purpose of legal consultation at any time.

JOINT MEETINGS/HEARING

- 1. Pursuant to RSA 676:2, the Board of Adjustment may hold joint meeting with other land use boards. Rules of Procedure set forth above shall govern proceedings, except that the Planning Board Chairman shall chair joint meetings.

TELEVISION BROADCAST

- 1. Television recording/broadcast of the meetings will be allowed.

AMENDMENTS

- 1. These Rules of Procedure may be amended by a majority vote of the members following the duly advertised Public Hearing.

Adopted this _____

Signed:

Henry Therriault, Chairman

Robin Fales, Co-Vice-Chairman

Theresa Thurlow

Michael Lowry, Co-Vice-Chairman

Dr. Robert Lebold

Lucille Moulton, Alternate Member