

# **TOWN OF WHITEFIELD PLANNING BOARD**

## **RULES OF PRACTICE**

### **1. SCOPE OF RULES**

These rules are created pursuant to Section 3.E of the Town of Whitefield's ordinance creating the Whitefield Planning Board adopted on Saturday, March 15, 2019, and govern the practice, procedure, and conduct of actions by the Planning Board of the Town of Whitefield (hereinafter referred to as the "Board"). These rules shall be liberally construed so as to enable the Board to accomplish its duties and responsibilities under said Ordinance in a just, speedy and inexpensive manner. Where good cause appears, the Board may permit deviation from these rules insofar as it may find compliance impracticable or unnecessary.

### **2. CONDUCT OF MEETINGS**

2.1. The Board shall meet on the third Wednesday of each month. If warranted by the number of pending or newly submitted applications or by other business of the Board, a second regular meeting for the month may be called, typically for the first Wednesday of the month.

Special meetings may be called by the Chairman or when requested to do so by at least three (3) members of the Board or at the formal request of the Town of Whitefield Board of Selectmen. Written notice of such meetings shall be served in person or left at the residence of each member of the Board at least 72 hours before the time for holding said meeting. Email may substitute for this requirement if all members of the Board sign an agreement to do so. The call for said special meeting shall set forth the matter or matters to be acted upon at said meeting, and nothing else shall be considered at such special meeting. In accordance with State Law, the press shall be notified of any special meetings in the same manner as Board members.

2.2. At its first meeting following the annual town elections, the Board shall elect a chair to preside over meetings and shall appoint a secretary to record minutes and decisions. The secretary may or may not be an elected voting member of the Board.

2.3. Agenda: An agenda shall be prepared by the Chair prior to any meeting of the Board, including site visits. It shall include all items to be discussed at the upcoming meeting. Items may be added to the agenda or the order in which matters are taken up may be altered upon vote of a majority of the Board members present at the meeting.

2.4. Public Notification: Meetings shall be posted in a newspaper which provides coverage for the town and must be published at least 7 days prior to said meeting.

2.5. Quorum: In order for a meeting to be official, there must be at least three elected members of the Board in attendance. Absent a quorum the meeting is cancelled. A smaller number of members may be appointed by a majority of the Board to a particular ad-hoc subcommittee from time to time.

2.6. The Chair shall call the meeting to order and then ask members present if there are any additions or changes to the agenda. The Chair may elect to change the order of business to take advantage of the availability of people key to the discussion of any issues on the agenda.

2.7. Minutes: A written copy of minutes of any meeting of the Board shall be maintained (either electronically or in writing.) Minutes of the Board shall be signed by the Chair following approval by the entire Board. If minutes are maintained electronically, then the copy signed by the Chair must be scanned as the official copy.

2.8. The Board shall review all Notices to Build to ensure that they do not require a permit from the Board. If they do not, then the Code Enforcement Officer's signature is all that is required per the Notice to Build ordinance.

## **TOWN OF WHITEFIELD PLANNING BOARD RULES OF PRACTICE**

- 2.9. Any decisions rendered by the Board shall be documented in writing both in the minutes and via a separate letter, signed by the Chair, and sent to the party(ies) involved in the decision.
- 2.10. The Board may hold informal workshop meetings whenever it deems them necessary. These will generally be held immediately before the regularly scheduled meeting and at the same location as the regularly scheduled meeting. The purpose of this type of meeting is to discuss business which may appear on the agenda of an immediate or future regular meeting of the Board or to discuss matters of Board administration or procedure. All workshop meetings shall be open to the public in accordance with state law and require the same notification requirements.
- 2.11. Site visits may be conducted whenever the Chairman or a majority of Board members deem it necessary to better understand the conditions on site. Such site visits are open to the public. Minutes of the visit shall be maintained. To ensure full and fair disclosure of Board actions to all members of the public, no formal motions shall be made nor votes taken at a site visit. Whenever possible, the time and place of site visit shall be set by the Board at a regular meeting of the Board. Public notice shall be given for all site visits.

### **3. REVIEW OF APPLICATIONS**

- 3.1. The Board shall develop forms for all applications. The Notice to Build form is required for ALL applications received and reviewed by the board. All other applications shall build on that form specifying additional information required for the particular activity being proposed.
- 3.2. Application Forms
- 3.2.1. Notice to Build
  - 3.2.2. Development Permit application
  - 3.2.3. Development Permit Review Checklist
  - 3.2.4. Floodplain Waiver
  - 3.2.5. Junkyard Permit
  - 3.2.6. Minimum Lot Size Waiver
  - 3.2.7. Shoreland Zoning Permit
  - 3.2.8. Subdivision Permit
- 3.3. If desired, an applicant may request a pre-application discussion with the Board for assistance in determining just what the Board needs in the application. To schedule a pre-application discussion, the applicant shall complete the Notice to Build form and submit it to the Chair for inclusion on the Board's next meeting agenda.
- 3.4. Waiver of Requirements: The Board may waive certain requirements for minor applications provided the applicant has made a request for such waiver, with justification, in writing. The Board will not offer such waivers without a written request and justification from the applicant. Should it do so, all waivers must be documented in writing in a formal letter to the applicant.
- 3.5. All applications received by the Board shall first be reviewed for completion. Such a determination must find that:
- 3.5.1. The applicant has standing by sufficient means of right, title or interest in the property upon which the proposal is to occur; and

## **TOWN OF WHITEFIELD PLANNING BOARD RULES OF PRACTICE**

3.5.2. All relevant information required by the governing Ordinance has been submitted, unless waived by the Board at a previous meeting of the Board as provided for above.

### **3.6. Actual Application Review**

3.6.1. The Board shall review the application against each requirement of the applicable ordinance under which the application is filed.

3.6.2. The Board is free to question the applicant about any item under review and to request clarification of what is presented.

3.6.3. If at any time it becomes evident that the information provided in the application is insufficient for the Board to render a positive decision, the Board may request that the applicant provide such information. If it is not readily available, the Board may choose to table its review of the application until its next regularly scheduled meeting. If such additional information is not provided at that next meeting, the Board may choose to either continue the application as tabled (with the consent of the applicant) or choose to deny the application as failing to meet the requirements for approval without said additional information.

### **3.7. Recording of Decision**

3.7.1. All decisions of the Planning Board shall be documented in writing. The document shall include the following:

3.7.1.1. A description of the project as proposed by the applicant. This information shall come from the application, discussions with the applicant at a meeting of the Planning Board and/or from the Public Hearing.

3.7.1.2. Findings of fact to include a statement on each finding from the respective Town of Whitefield Ordinance on whether the proposal is in compliance with that requirement or not,

3.7.1.3. Decision on whether the proposal is approved for a permit or not.

3.7.1.4. Any Conditions the Board may impose as part of its approval.

3.7.1.5. Signed by chair of board.

3.7.2. A copy of all Board decisions shall be mailed to then applicant via certified mail with additional copies retained in a file (either electronic or paper) maintained for the Board's minutes, the respective Map and Lot number file for the property in question.

## **4. PUBLIC HEARINGS**

4.1. The need for a public hearing for any application is at the discretion of the Board. However, the following shall guide the Board in determining whether a public hearing is required or not

4.1.1. Prior to setting a hearing, the Board shall determine that:

4.1.1.1. It has jurisdiction over the application;

4.1.1.2. The application is complete; and

4.1.1.3. The applicant has the right to appear before the Board.

4.1.2. As a general rule, public hearings shall be held whenever one of the following conditions is met:

## **TOWN OF WHITEFIELD PLANNING BOARD RULES OF PRACTICE**

- 4.1.2.1. A request for a hearing is received from at least 5 citizens of Whitefield or at least two abutting property owners.
    - 4.1.2.2. The application in question is deemed a major application.
    - 4.1.2.3. The Board determines that there is sufficient public interest to hold such a hearing.
  - 4.2. Notice of Public Hearings
    - 4.2.1. The Board shall publish notice of all public hearings in the Lincoln County News, the date of publication to be at least 7 days before such hearing and the notice shall be posted in at least three prominent places, one of which shall be at the property location of the proposal, at least 7 days before such hearing. The notice shall set forth the nature of the hearing, the time, date and place of the hearing. The applicant shall cover the cost of all such notices.
    - 4.2.2. Then applicant shall post a notice at the property situated such that it is perpendicular to the road with the words "NOTICE OF PUBLIC HEARING" in letters at least 4 inches high and all other information in Section 4.2.1 on both sides of the notice board.
  - 4.3. Presiding Officer
    - 4.3.1. The Presiding Office shall, at all public hearings, be the Chair of the Board or a member of the Board elected by other members of the board in attendance at the hearing if the Chair is not available to preside. The Presiding Officer shall have the authority to:
      - 4.3.1.1. Rule upon issues of evidence;
      - 4.3.1.2. Regulate the course of the hearing;
      - 4.3.1.3. Rule upon issues of procedure;
      - 4.3.1.4. Take such other actions as may be ordered by the Board or that are necessary for the efficient and orderly conduct of the hearing, consistent with these rules and applicable statutes.
    - 4.3.2. A minimum of three (3) members of the Board shall be present at all public hearings.
  - 4.4. General Conduct of Public Hearing.
    - 4.4.1. Opening Statement: The Presiding Officer shall open the hearing by describing in general terms the purpose of the hearing and the general procedure governing its conduct.
    - 4.4.2. Witnesses: Witnesses shall be required to state for the record their name, residence address, business address, business or professional affiliation, the nature of their interest in the hearing, and whom they represent.
    - 4.4.3. Continuance: All hearings conducted pursuant to these rules may be continued for reasonable cause and reconvened from time to time and from place to place as may be determined by a majority of the Board members present. Continuances may be granted at the request of any person participating in such hearing if it is determined that a continuance is necessary. This provision shall not be interpreted in such a fashion as to cause unreasonably or needless delay in any hearing.

All orders for continuance shall specify the time and place at which such hearing shall be reconvened. The Board or Presiding Officer shall notify interested persons and the public

## **TOWN OF WHITEFIELD PLANNING BOARD RULES OF PRACTICE**

in such manner as is appropriate to insure that reasonable notice will be given of the time and place of such reconvened hearing.

4.4.4. Regulation of Filming or Taping: The placement and use of television and video cameras, still cameras, motion picture cameras, microphones, or other sound or video recording devices or equipment at Board hearings for the purpose of recording the proceedings may be regulated by the Chair or the Presiding Officer so as to avoid interference with the orderly conduct of the hearing.

4.4.5. Order of Business and Testimony: The order of business at a public hearing shall be as follows:

- 4.4.5.1. The Presiding Officer calls the hearing to order.
- 4.4.5.2. The Presiding Officer determines whether there is a quorum.
- 4.4.5.3. The Presiding Officer introduces all members of the Board in attendance at the hearing.
- 4.4.5.4. The Presiding Officer gives the Opening Statement required above.
- 4.4.5.5. The applicant or his/her representative and witnesses are given the opportunity to present his/her case without interruption.
- 4.4.5.6. The Board may ask questions of the applicant and/or witnesses through the Presiding Officer
- 4.4.5.7. Interested parties are given the opportunity to ask questions of the applicant and/or of his/her witnesses through the Presiding Officer.
- 4.4.5.8. The Board may call its own witnesses (such as the Code Enforcement Officer or other specialized witnesses) to present evidence of the case.
- 4.4.5.9. The Board, applicant, and interested parties, in that order, may question the Board's witnesses through the Presiding Officer.
- 4.4.5.10. Interested parties are given the opportunity to present their case.
- 4.4.5.11. The Board, applicant, or interested parties, in that order, may question each interested party that presents testimony through the Presiding Officer.
- 4.4.5.12. The Board shall receive comments and questions from all observers and interested citizens who wish to express their views.
- 4.4.5.13. All parties are given the opportunity to refute or rebut statements made throughout the course of the hearing.
- 4.4.5.14. The Board shall receive and retain copies of any written statements and documents offered to the Board by the interested parties and by other parties.
- 4.4.5.15. The hearing is closed by the Presiding Officer 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.
- 4.4.5.16. The Presiding Officer will make a closing statement that will include:
  - 4.4.5.16.1. Written testimony may be accepted by the Board for seven days after the close of the hearing.

## **TOWN OF WHITEFIELD PLANNING BOARD RULES OF PRACTICE**

4.4.5.16.2. The date and time when the Board will take up for discussion and action on the matter in question.

4.4.5.16.3. If so determined, for how long the record will remain open as outlined below.

4.4.6. The Board may waive any of the above rules if good cause is shown.

### 4.5. Evidence

4.5.1. Generally the Board shall provide as a matter of policy for exclusion of irrelevant, immaterial, or unduly repetitious evidence.

4.5.2. Official Notice: The Board may, at any time, take notice of judicially cognizable facts, generally recognized facts of common knowledge to the general public and physical, technical or scientific facts within then specialized knowledge of the Board.

4.5.3. Documentary and Real Evidence: All documents, materials, and objects offered as evidence shall, if accepted, be numbered or otherwise identified. Documentary evidence may be received in the form of copies of excerpts if the original is not readily available. The Board or the Presiding Officer shall require that any party offering any documentary or photographic evidence shall provide the Board with an appropriate number of copies of such documents or photographs, unless such documents or photographs are determined to be of such form, size or character as not to be reasonably susceptible of reproduction. All documents, materials, and objects accepted into evidence shall be made available during the course of the hearing for public examination and explanation and shall become part of the record of the proceedings.

4.5.4. Objections: All objections to rulings of the Presiding Officer regarding evidence or procedure shall be made during the course of the hearing. If, after the close of the hearing and during deliberations the Board determines that any ruling of the Presiding Officer was in error, it may reopen the hearing or take other action as it deems appropriate to correct the error.

### 4.6. Conclusion of Hearing

At the conclusion of the hearing, no further evidence or testimony will be allowed into the record except as provided below:

4.6.1. Leaving the Record Open: Upon such request made prior to or during the course of the hearing, the Presiding Officer may permit persons participating in any hearing pursuant to these regulations to file proposed findings, determinations, or other written statements with the Board for inclusion in the record after the conclusion of the hearing within such time and upon such notification to the other participants as the Presiding Officer may require.

4.6.2. Other: At any time prior to a final decision, the Board or the Chair may reopen the record for further proceedings consistent with these Rules, provided, however, that the Chair shall give notice of such further proceedings to the participants and the public in such manner as is deemed appropriate.

### 4.7. Miscellaneous

4.7.1. Record: The record of the hearing shall consist of all exhibits, all briefs, written testimony, proposed findings, and rulings thereon, any proposed findings of fact and conclusions of

**TOWN OF WHITEFIELD PLANNING BOARD**  
**RULES OF PRACTICE**

the Presiding Officer and any other information deemed relevant by the Board. Such record shall be reported to the Board for its decision and stored at the Town Office.

4.7.2.Copies of Record: Any participant or other member of the public may obtain a copy of the record from the Board upon payment of the cost of transcription, reproduction, and postage.

**Adopted by the Board on September 18, 2019.**

## TOWN OF WHITEFIELD PLANNING BOARD RULES OF PRACTICE

APPENDIX 1: Examples of Major and Minor Applications.

This listing is not complete but serves as an example of how the Board can determine whether an application is Major or Minor.

Major Application	Minor Application
Telecommunications Tower over 100 feet in height	Telecommunications Tower less than 100 feet in height
Mineral Extraction of over 5 acres in area	Mineral extraction between 1 and 5 acres in area
Structural developments equal to or greater than 5000 square feet	Structural developments less than 5000 square feet
Developments that create one acre or more of impervious covering. <i>(note that 3630 feet of road `12 feet wide equals 1 acre-should this matter if the road is gravel surface?)</i>	Developments that create less than 1 acre of impervious covering.