



ORDINANCE

REMOVING A PROHIBITION ON THE ZONING BOARD OF ADJUSTMENT'S VOTING REQUIREMENTS

CITY OF NASHUA

In the Year Two Thousand and Eight

The City of Nashua ordains that Part II, General Legislation,” Chapter 190 “Land Use”, Part 7 “Administrative Agencies”, Article XXXIX “Zoning Board of Adjustment”, Section 190-256 “Meetings”, of the Nashua Revised Ordinances, as amended, is hereby further amended by deleting the struck-through language and adding the new underlined language as follows:

“§ 190-256. Meetings.

...

H. ~~—The Zoning Board of Adjustment shall make no rule permitting the applicant to require more members than a quorum to make a decision on its application. The applicant may withdraw his application at any time and refile subject to a refilling fee set by the Board under its rules.~~

I H. The Board shall adopt its own rules of procedure”

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

This ordinance shall take effect following its passage.

LEGISLATIVE YEAR 2008

ORDINANCE: 0-08-55

PURPOSE: Removing a prohibition on the Zoning Board of Adjustment's voting requirements

ENDORSER(S): Alderman-at-Large Steven A. Bolton

**COMMITTEE
ASSIGNMENT:**

FISCAL NOTE: None.

ANALYSIS

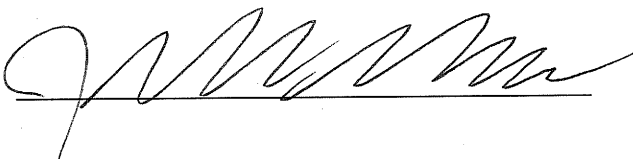
The organization, meetings and rules of the zoning board of adjustment are governed by state statute and city ordinances. *See*, RSA 673 and 676 and NRO §§ 190-255 through 190-257.1. The board is charged with adoption of rules of procedure (RSA 676:1), but the board of aldermen, as the legislative body, may prescribe reasonable procedures by ordinance. *Lavallee v. Britt*, 118 N.H. 131 (1978).

Under RSA 673:10 III "a majority of the membership" of the board constitutes the quorum necessary in order to transact business. However, at least three (3) affirmative votes are required for a decision in favor of an applicant. RSA 674:33 III.

Ordinance O-06-63, which took effect on April 4, 2007, prohibited the zoning board of adjustment's longstanding practice of permitting applicants to require five (5) voting members to decide an application.

The proposed legislation would permit the zoning board of adjustment to resume that practice.

Approved as to form: Office of Corporation Counsel

By: 

Date: 12/17/08

