

APPENDIX I: A

INSTRUCTIONS TO APPLICANTS APPEALING TO THE BOARD OF ADJUSTMENT

IMPORTANT: READ CAREFULLY BEFORE FILLING OUT ATTACHED APPLICATIONS

*The Board strongly recommends that, before making any appeal, you become familiar with the Zoning Ordinance, and also with the New Hampshire Statutes, Title LXIV, RSA Chapters 672 – 677, covering planning and zoning. Three types of appeal can be made to the Zoning Board of Adjustment:

VARIANCE -A WAIVER OR RELAXATION OF A PARTICULAR REQUIREMENT OF THE ZONING ORDINANCE.

1. The variance will not be contrary to the public interest.
2. The spirit of the ordinance is observed.
3. Substantial justice is done.
4. The values of surrounding properties are not diminished; and
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

**(Criteria 1 through 5 replaced with new version RSA 674:33 -2010)*

APPEAL FROM AN ADMINISTRATIVE DECISION:

If you have been denied a building permit or are affected by some other decision regarding the administration of the Candia Zoning Ordinance, and you believe that the decision was made in error under the provisions of the ordinance, you may appeal the decision to the Zoning Board of Adjustment. The appeal will be granted if you can show that the decision was indeed made in error.

Appeals to the Zoning Board of Adjustment from administrative decisions pertaining to the Zoning Ordinance must be made within 30 days of the date of the decision, and a copy of that decision appealed from must be attached to your application.

SPECIAL EXCEPTION:

Certain sections of the Zoning Ordinance provide that a particular use of property in a particular zone will be permitted by special exception if specified conditions are met. The necessary conditions for each special exception are given in the Ordinance. Your appeal will be granted if you can show that all the conditions stated in the Ordinance are met.

If you are applying for a Special Exception, you will probably also need a site plan or subdivision approval, or both, from the Planning Board. However, even if no Planning Board approval is needed, you must still include a plot plan with your application. Plans shall be drawn to scale, showing the location and dimensions of the lot, existing and proposed buildings and other structures and parking spaces, traffic access and circulation drives, open space, landscaping and other such information as may be necessary in order for the Board to make a decision.

APPENDIX I: A

PROCEDURE:

The Board meets and holds public hearings on the second Tuesday of every month. To ensure that your appeal may be heard by the Board at its next regularly scheduled meeting, your completed application (including all exhibits and lists of abutters) must be received at least 30 days before the date of the next meeting. If your completed application is received less than 30 days before the Board's next meeting, the hearing on your appeal may be delayed until the following month's regularly scheduled meeting.

After you have submitted your application, accompanied by all other forms and paid the necessary fees, a public hearing will be scheduled. Public notice of the hearing will be posted on the Town's website, outside the Town offices, at the Post Office, and mailed to you and to all abutters by certified mail at least 10 days before the date of the scheduled hearing. You and all other parties will be invited to appear in person or by agent or counsel to state reasons why the appeal should or should not be granted.

After the public hearing, the Board will reach a decision. You and all other parties to the case will be sent a notice of decision.

If you believe the Board's decision is wrong, you have the right to appeal. The motion for rehearing must be received within 30 days of the Board's decision. The motion for rehearing made in the form of a letter must set forth all the grounds by which you claim the decision is unlawful or unreasonable. The Board may grant such a rehearing if, in its opinion, good reason is stated in the motion. Whether or not a rehearing is held, you must have first requested one before you can appeal to the courts. When a rehearing is held, the same procedure is followed as for the first hearing, including public notice and notice to the abutters. See RSA Chapter 677 for more detail on rehearing and appeal procedures.

If your appeal is approved by the Board, you will have 2 years to implement the use permitted by your variance or special exception. If you have not undertaken the use granted by a variance or special exception within 2 years, your variance or special exception will expire.

*If you are applying for a variance, you must first have some form of determination that your proposed use is not permitted without a variance. Most often, this determination is a denial of a building permit. A copy of the determination or denial must be attached to your application.

APPENDIX 1: B

CHECKLIST FOR APPLYING TO THE BOARD OF ADJUSTMENT TOWN OF CANDIA, NEW HAMPSHIRE

- _____ Decide if you need a variance or special exception and exact Article and Section of the Zoning Ordinance from which you seek relief. See attached instructions.
- _____ Fill out the application form completely. Be sure that you list the owner's name, what you propose to do, and why the Board should allow it.
- _____ On the form provided, list the names, and addresses of all abutters (w/in 200 feet of property), including the owner(s) and any name and the address of representative(s) such as engineers, surveyors, etc. Abutter names can be obtained from the Selectmen's Office, but the accuracy of the list is your responsibility.
- _____ Provide a copy of the denial which forms that the basis of your application (this will usually be the Building Inspector's denial of your recent request for a building permit or the Planning Board's denial letter of your request for subdivision or site plan approval).
- _____ Provide a plot plan drawn to scale that will clearly show what you propose to do.
- _____ If the applicant is not the owner, you must provide a notarized written statement of all owners authorizing you to act on the owner's behalf (it is requested that you use the Affidavit provided by the Board of Adjustment for this purpose).
- _____ Send or bring the completed application and abutters list (typed on address labels 3 across) and all other required additional information to the Land Use Office accompanied by a check made payable to the Town of Candia for a filing fee of \$150 (Residential) or \$250 (Commercial, Industrial, Subdivisions), \$12.44* for each name on the abutters list. Note: (\$12.44 includes \$10.44 for postage and a \$2.00 processing fee-*subject to change with postal rates)
- _____ If you have not fully completed the application, including all the necessary exhibits and plot plans, or if you have not paid in full the required fees, your case will not be scheduled until all information is received, and all fees paid.
- _____ Your completed application must be in the Land Use Office not later than 30 days before the next monthly meeting if your appeal is to be scheduled for that meeting. Meetings are regularly scheduled to be held on the 2nd Tuesday of every month.
- _____ Attend the hearing prepared to state your case. If you or someone authorized to speak for you does not appear, your case will not be heard, and your appeal will not be considered.

APPENDIX 1: C

**TOWN OF CANDIA
ZONING BOARD OF ADJUSTMENT**

APPLICATION FOR APPEAL

OFFICE USE ONLY

FEES: \$150 (Residential) plus abutters
\$250 (Commercial, Industrial, Subdivisions) plus abutters

CASE # _____

Abutters fees: \$12.44 per abutter*

MAP _____ LOT _____

*subject to change with postal rates

TOTAL FEES PAID _____

HEARING DATE _____

REC'D BY _____ DATE _____

APPLICANT: _____
(name) (address) (phone)

EMAIL: _____

OWNER: _____
(name) (address) (phone)

LOCATION OF PROPERTY: _____
(Tax Map/Lot number & address)

HAS THIS PROPERTY BEEN BEFORE A LAND USE BOARD PREVIOUSLY? Yes ___ No ___
If yes, identify which Land Use Board(s), Case No. (s) of decision.

THE UNDERSIGNED HEREBY REQUESTS:

ARTICLE

SECTION

[] Appeal from an administrative decision from

[] A special exception as provided in

[] A variance to waive terms as stated in

[] Other _____

TO PERMIT THE FOLLOWING: _____

Signature

Date

APPENDIX 1: D

**TOWN OF CANDIA
ZONING BOARD OF ADJUSTMENT**

Abutters List (attach typed address labels -3 across)

*** Include property owner(s), abutters (within 200 feet), agent and surveyor/engineer on the abutters list***

Fees: \$ _____ x _____ = \$ _____

<u>Map/Lot #</u>	<u>Name</u>	<u>Address</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____
11. _____	_____	_____
12. _____	_____	_____
13. _____	_____	_____

I, the undersigned, hereby certify that the names listed as abutters are accurate and correct and include all persons who are abutters pursuant to New Hampshire RSA 672:3. I acknowledge that it is my responsibility to ensure that the names of all persons entitled to notice as abutters are included on the above list. I understand that while the town may assist me in preparing this list, its accuracy and completeness are solely my responsibility. I understand that I must pay a fee of \$12.44 (*\$10.44 for postage and \$2.00 processing fee-subject to change with postal rates), for each name appearing on this list including every abutter, the owner of the property and (if different from the owner) the applicant and any representatives of the applicant or owner and the application fee of \$150 (Residential) or \$250 (Commercial, Industrial, Subdivisions). I also understand that these fees must be paid in full before the Board can hear my case.

Signature

Date

APPENDIX 1: E
TOWN OF CANDIA
ZONING BOARD OF ADJUSTMENT
OWNER'S AFFIDAVIT

I, the undersigned owner of property located at _____

Do hereby authorize _____

To make the following request with respect to the above described property:

Signature of owner

Date

City or Town

New Hampshire, County of _____

Personally appeared the above named _____

Before me, _____, and acknowledged
(Justice of Peace/Notary Public)

the foregoing to be his/her voluntary act and deed.

APPENDIX 1: F

TOWN OF CANDIA
ZONING BOARD OF ADJUSTMENT

APPLICATION FOR EXTENSION OF VARIANCE

FEES: \$150 (Residential) plus abutters
\$250 (Commercial, Industrial, Subdivisions) plus abutters

Abutters fees: \$12.44 per abutter*

OFFICE USE ONLY

CASE # _____
MAP _____ LOT _____
TOTAL FEES PAID _____
HEARING DATE _____
REC'D BY _____ DATE _____

APPLICANT: _____
(name) (address) (phone)

EMAIL: _____

OWNER: _____
(name) (address) (phone)

LOCATION OF PROPERTY: _____
(Tax Map/Lot number & address)

WHEN WAS THE ORIGINAL GRANTED?
Please identify which Land Use Board(s), Case No. (s) of decision.

REASON FOR EXTENSION REQUEST?

Signature _____

Date _____

2022 New Hampshire Revised Statutes
Title LXIV - Planning and Zoning
Title 674 - Local Land Use Planning and Regulatory Powers
Section 674:33 - Powers of Zoning Board of Adjustment.

I-a. (a) Variances authorized under paragraph I shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.