

View From the Bench:

Meet the Land Use Review Docket

HON. MICHAEL A. KLASS,
ASSOCIATE JUSTICE, NEW HAMPSHIRE SUPERIOR COURT

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Land Use Review Docket:

An Introduction

Established July 1, 2023

Enabled by RSA 491:7-b

What:

- Additional superior court judge
- Newly formed docket in the Superior Court
- Jurisdiction over appeals from decisions of local land use boards (mostly, PBs and ZBAs)
- Presiding justice may be assigned to any other matter within the jurisdiction of the superior court

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Land Use Review Docket:

An Introduction

Process, as directed by **RSA 491:7-b**:

- Within 30 days from receipt of notice of appeal, hold a structuring conference
- At structing conference, Court sets deadline for certified record
- Hearing on the merits to be held within 60 days of receipt of the certified record
- Decision to issue within 60 days from merits hearing

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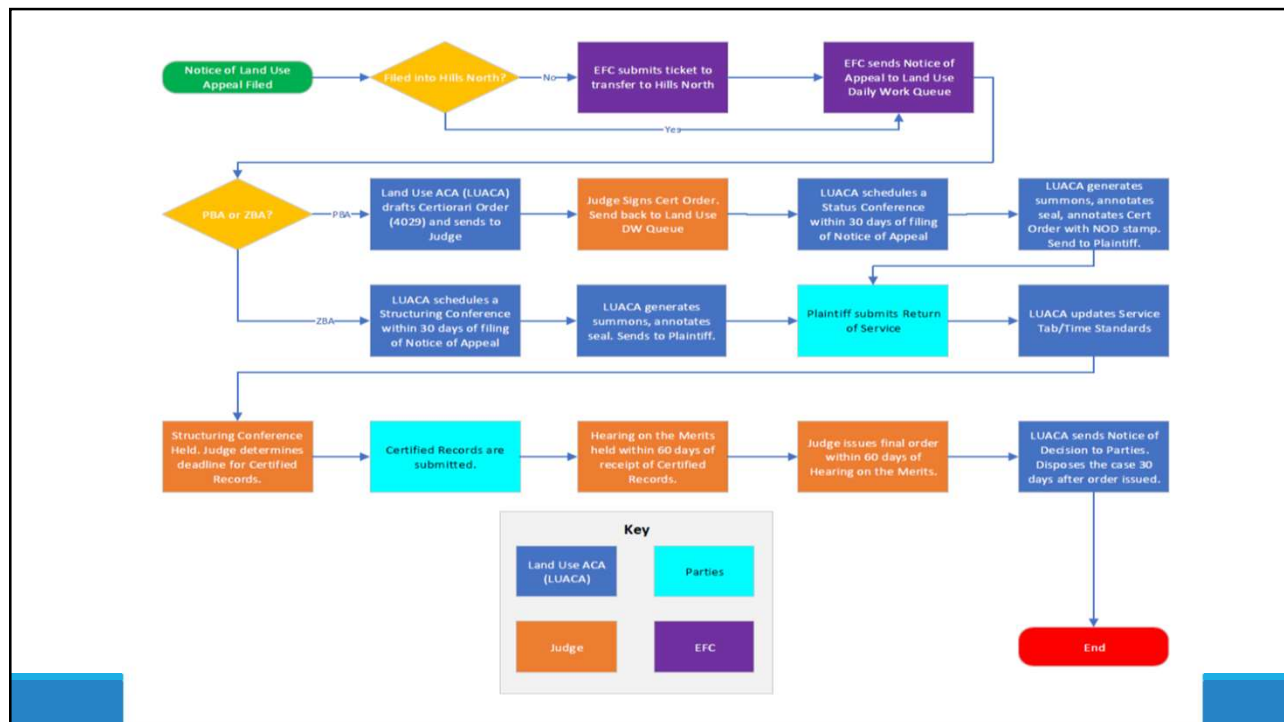
Land Use Review Docket:

An Introduction

Process, as directed by **New Hampshire Superior Court Administrative Order 2023-06**:

- Presiding justice is located in Hillsborough Counter Superior Court – North (a/k/a Manchester)
- Existing land use cases transferred to Land Use Review Docket
- Transferred cases were scheduled for status conferences and hearings scheduled
- Presiding justice may utilize Webex, where appropriate
- Consistent with provisions of RSA 491-7:b

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Land Use Review Docket:

Administrative Order 2013-08

Exempt Case Types – Civil Rules

Several Superior Court civil case types do not follow the answer (Rule 9), case structuring (Rule 5), automatic disclosure (Rule 22), interrogatory and deposition (Rule 23 and 26) and discovery rules (Rule 25) set forth in the civil procedure rules that became effective on October 1, 2013. These exempt case types generally go directly to a hearing or are ruled on without a hearing.

Unless otherwise ordered by the Court, the following case types are exempt from these six rules. If an otherwise exempt case type requires the filing of an answer, the summons issued by the court will expressly state that an answer is required. Similarly, the Court may order, on a case by case basis that parties engage in automatic disclosures and discovery in an otherwise exempt case."

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Land Use Review
Docket:
Examples _____

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Hillsborough Superior Court Northern District
300 Chestnut Street
Manchester NH 03101

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<https://courts.nh.gov>

**SUMMONS
ZONING BOARD APPEAL - RSA 677:4
HEARING SCHEDULED**

Case Name: _____
Case Number: _____
Date Complaint Filed: April 04, 2024
A Complaint has been filed in this Court. A copy of the Complaint is attached.
The Court has scheduled the following: **Scheduling Conference**
Date: May 03, 2024 300 Chestnut Street
Time: 8:45 AM Manchester, NH 03101
Time Allotted: 10 Minutes Location: Hearing to be conducted via Webex - Courtroom 5 -
Hillsborough Superior - North

The Court ORDERS that ON OR BEFORE:
April 23, 2024 _____ shall have this Summons and the
attached Complaint served upon _____ Zoning Board of Adjustment,
_____ in hand.
May 03, 2024 _____ shall electronically file the return of
service with this Court. Failure to do so may result in this action being dismissed
without further notice.
30 days after Service _____, New Hampshire
shall electronically file an Appearance and Answer or other responsive pleading
with this Court. In addition, a certified record of all previous proceedings must be
mailed to this Court. A copy of the Appearance and Answer or other responsive
pleading must be sent electronically to the party/parties listed below.

Pursuant to [Administrative Order No. 2023-06](#), this case has been transferred to the Hillsborough
County Superior Court, Northern District Land Use Review Docket.

Notice to _____ Zoning Board of Adjustment; _____, New Hampshire: If you do not
comply with these requirements, you will be considered in default and the Court may issue orders that affect
you without your input.

If you will need an interpreter or other accommodations for this hearing, please contact the court immediately.
Please be advised (and/or advise clients, witnesses, and others) that it is a Class B felony to carry a firearm or
other deadly weapon as defined in RSA 625:11, V in a courtroom or area used by a court.

Send copies to:

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Land Use Review
Docket:
Examples _____

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Hillsborough Superior Court Northern District
300 Chestnut Street
Manchester NH 03101

Telephone: 1-855-212-1234
TTY/TDD Relay: (800) 735-2964
<http://www.courts.state.nh.us>

CERTIORARI ORDER

Case Name: _____
Case Number: _____
Date Action Filed: **April 09, 2024**

The Court has reviewed the Petition for Writ of Certiorari and makes the following order:

1. A Writ of Certiorari shall issue
2. Proceedings upon the decision appealed from are stayed.
3. The Planning Board shall deliver certified or sworn copies of all papers acted on by the Board to the Superior Court Clerk at Hillsborough Superior Court Northern District.

So Ordered.
April 11, 2024
Date _____



Presiding Justice
Honorable Michael A. Klass

Clerk's Notice of Decision
Document Sent to Parties
on 04/12/2024

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Land Use Review
Docket:
Examples

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT**

Hillsborough Superior Court Northern District
300 Chestnut Street
Manchester NH 03101

Telephone: 1-855-212-1234
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<https://courts.nh.gov>

**SUMMONS
PLANNING BOARD APPEAL - RSA 677:15
HEARING SCHEDULED**

Case Name: [REDACTED]
Case Number: [REDACTED]

Date Complaint Filed: April 09, 2024

A Complaint has been filed in this Court. The Court has granted certiorari on the plaintiff's request that the decision of the planning board be reviewed. A copy of the Complaint is attached.

The Court has scheduled the following: **Scheduling Conference**

Date: May 07, 2024 **300 Chestnut Street**
Time: 8:45 AM **Manchester, NH 03101**
Time Allotted: 10 Minutes **Location: Hearing to be conducted via Webex - Courtroom 5 - Hillsborough Superior - North**

The Court ORDERS that ON OR BEFORE:

April 27, 2024 [REDACTED] shall have this Summons and the attached Complaint served upon [REDACTED] in hand.

May 07, 2024 [REDACTED] shall electronically file the return of service with this Court. Failure to do so may result in this action being dismissed without further notice.

30 days after Service [REDACTED] shall electronically file an Appearance and Answer or other responsive pleading with this Court. In addition, a certified record of all previous proceedings must be mailed to this court. A copy of the Appearance and Answer or other responsive pleading must be sent electronically to the party/parties listed below.

Pursuant to [Administrative Order No. 2023-06](#), this case has been transferred to the Hillsborough County Superior Court, Northern District Land Use Review Docket.

Notice to [REDACTED]: If you do not comply with these requirements, you will be considered in default and the Court may issue orders that affect you without your input.

If you will need an interpreter or other accommodations for this hearing, please contact the court immediately.

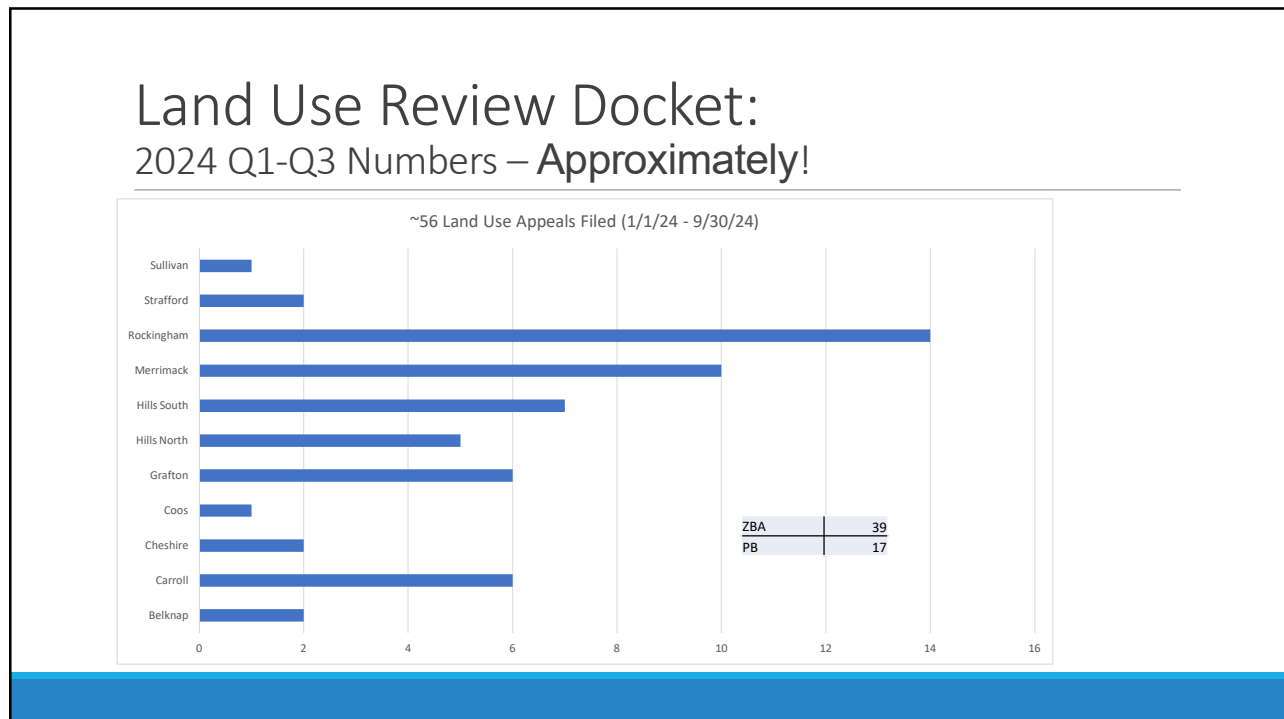
Please be advised (and/or advise clients, witnesses, and others) that it is a Class B felony to carry a firearm or other deadly weapon as defined in RSA 625.11, V in a courtroom or area used by a court.

Send copies to:
[REDACTED]
[REDACTED]

BY ORDER OF THE COURT
W. Michael Scanlon
Clerk of Court

April 12, 2024

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Land Use Review Docket:

Notable Trends and Topics. Subject to standard caveats...

Short Term Rentals

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Land Use Review Docket:

Notable Trends and Topics. Subject to standard caveats...

Land Use Appeal bundled with a 91-A Claim

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Land Use Review Docket:

Notable Trends and Topics. Subject to standard caveats...

Enforcement Action vs.
Appealable Decision of the Administrative Officer

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Land Use Review Docket:

Notable Trends and Topics. Subject to standard caveats...

Board Member Conduct

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Land Use Review Docket:

Notable Trends and Topics. Subject to standard caveats...

RSA 676:3, I – sufficiency of the decision

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Land Use Review Docket:

Notable Trends and Topics. Subject to standard caveats...

Other Interesting Issues/Cases:

- 42 U.S.C. 1983 Claim alongside a land use appeal
- Application of ADA in context of land use cases
- RSA 674:76 – Religious Use of Land and Structures
- Workforce housing
- RSA 36:56 – Review of Developments of Regional Impact (including by zoning boards)

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Thank you

HON. MICHAEL A. KASS,
ASSOCIATE JUSTICE, NEW HAMPSHIRE SUPERIOR COURT