



ZBA Decision Making Process

Jonathan Cowal, Municipal Services Counsel

June 12, 2024

1

NHMA's Legal Advisory Services

Open 8:30 a.m. – 4:30 p.m.

- Email: legalinquiries@nhmunicipal.org
- Phone: 603-224-7447

Provide general legal advice

- Not comprehensive legal review of documents
- Not drafting individualized ordinances or charters
- Not reviewing specific applications before local boards
- Not settle intra-municipal disputes

Goal: Response w/in 48 hours



legalinquiries@nhmunicipal.org / 603.224.7447 / www.nhmunicipal.org

2

Agenda

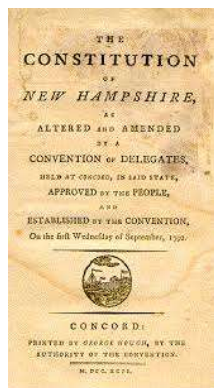
- Right-to-Know Law, Ethics, Conflicts of Interest, Disqualification, Case Studies on Conflicts
- Role of ZBA, ZBA Jurisdiction, Appeals, Procedure, Decisions, Variance Criteria, Special Exceptions, Administrative Appeals, Motions for Rehearing, Appeal



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

3

The Right-to-Know Law RSA Chapter 91-A



PART I, ARTICLE 8 OF THE NH Constitution: Government ... should be open,

SECTION 1 OF RSA 91-A:

The purpose of this chapter is to ensure both the greatest possible public access to the **actions, discussions and records** of all public bodies, and their accountability to the people.



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

4

What is a Public Meeting? RSA 91-A:2

✓ Quorum

🏛️ Of a Public body

👥 Convenes so that they can communicate contemporaneously

🏛️ To discuss or act upon a something over which the public body has supervision, control, jurisdiction, or advisory power



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

5

“Convene”

- ▶ In person gathering
- ▶ Discussions via email, text chains, reply all
- ▶ Emails and text can be considered government records
- ▶ Communications outside of a meeting shall not be used to circumvent the spirit and intent of 91-A
- ▶ All discussions of a public body should take place at a public meeting



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

6

Discussing Board Business

- Chance encounters or social gatherings don't count
- Must be discussing matters the public body has some form of control over
- Multiple members of one public body attending a meeting of another public body could trigger two public meetings if both public bodies were convening a quorum at the same time and place



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

7

What are the requirements of a public meeting?



Public notice



Open to the public



Meeting minutes



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

8



Conflicts of Interest



legalinquiries@nhmunicipal.org / 603.224.7447 / www.nhmunicipal.org

9

It All Begins with “Ethics”

“Ethics” can mean different things to different people, but generally:

- Avoiding conflicts of interest
- Disclosing financial interests
- Respecting confidentiality
- Not abusing authority
- Treating people fairly and equally
- Honesty, integrity, and trustworthiness
- Avoiding the appearance of impropriety



legalinquiries@nhmunicipal.org / 603.224.7447 / www.nhmunicipal.org

10

Land Use Specific Statute

[RSA 673:14, I](#) Disqualification of Member.

No member of a zoning board of adjustment, building code board of appeals, planning board, heritage commission, historic district commission, agricultural commission, or housing commission shall participate in deciding or shall sit upon the hearing of any question which the board is to decide in a judicial capacity if that member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizens, or if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law. Reasons for disqualification do not include exemption from service as a juror or knowledge of the facts involved gained in the performance of the member's official duties.



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

11

Juror Disqualification Standard: RSA 500-A:12

A juror is disqualified if the juror is “not indifferent” because he or she:

- Expects to gain or lose upon the disposition of the case;
- Is related to either party;
- Has advised or assisted either party;
- Has directly or indirectly given his opinion or has formed an opinion;
- Is employed by or employs any party in the case;
- Is prejudiced to any degree regarding the case; or
- Employs any of the counsel appearing in the case in any action then pending in the court.



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

12

Difference Between Legislative vs. Quasi-Judicial

Legislative

- Widely felt
- Policy decisions
- Must act in public's interest, but don't need to be "indifferent"

Quasi-Judicial

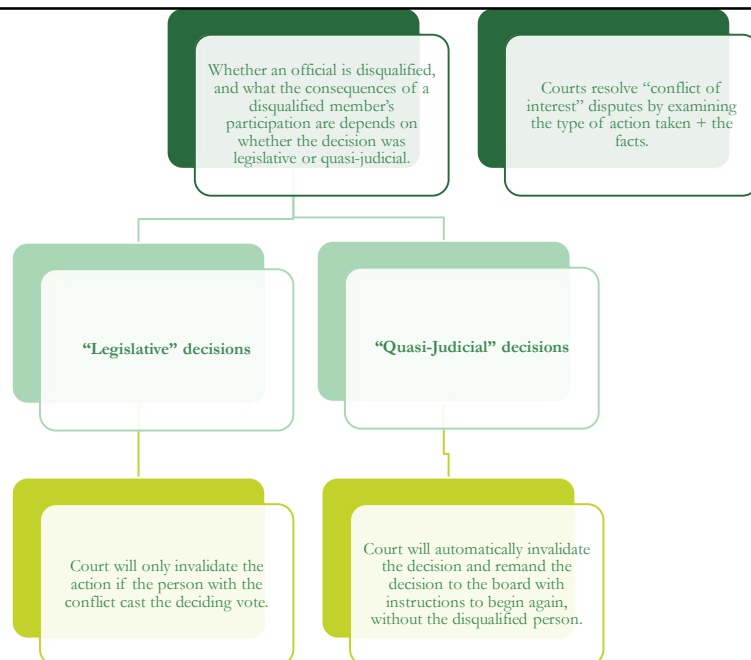
- Affect rights of specific petitioner
- Notify & hear parties
- Weigh evidence
- Must be indifferent



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

13

What if the Official Participates Anyway?



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

14

Recusal vs. Abstaining

Recuse: Immediately
remove from
discussion and
voting

Abstain: does not
vote

Recusing is the
remedy for avoiding
conflict, not
abstaining



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

15

Avoiding Conflicts

- Advisory Vote – RSA 673:14, II.
- Recuse (yes) vs. Abstain (no)
- Avoid Social Media Opinions on Pending Matters
- Disclose and Remove Yourself
- Err on the Side of Caution!



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

16

Case Study: Winslow v. Holderness Planning Board

- Abutter appeal of a PB subdivision approval (with waivers granted)
- Resident (at the time) spoke in favor of the application and subsequently became a member of the board who voted in favor of the proposal (6-1 vote)
- Superior Court reversed PB decision & applicant appealed
- Supreme Court affirmed the lower court:
 - Proper to disqualify PB member as evidence showed he was not indifferent
 - Mere participation by a single DQ'd member can invalidate a board's decision
- Quasi-judicial vs. administrative/ legislative discussion



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

17

Case Study: W. Robert Foley, Trustee v. Enfield

- ZBA chair e-mailed a list serv asking, "Should the board members consider precedents when deciding their position on a case?" The chair received replies from municipal employees and zoning board members in other communities.
- The ZBA denied the rehearing request the day after the chair's e-mail on grounds unrelated to the issue of precedents – whether the variance would violate the spirit of the ordinance by promoting overcrowding.
- Applicant learned of email after he appealed to superior court and argued that the list serv posting was an *ex parte* communication that violated his right to a fair hearing, and he might have asked for a recusal.
- The Court noted that plaintiff failed to appropriately preserve the issue for appeal and concluded that the plaintiff failed to demonstrate prejudice because of the communications.



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

18

Case Study: Z-1 Express v. Manchester

- CUP application before planning board.
- After the public hearing portion, but before deliberations, two members voiced opposition to the project on a social media site established by residents opposing the project.
- One of the members who voiced opposition on social media was asked to recuse himself - he refused and he later voted to deny the application.
- Superior Court remanded the case after finding that the member's failure to enter into and participate in deliberations with an open mind "threaten[ed] the integrity of the deliberative process" undermining public trust in the overall function of the planning board.



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

19

What is the Role of the ZBA?

Safety valve

Quasi-Judicial

No enforcement authority

Obligation to assist public (reasonable)

Rules of procedure

No requirement for monthly meeting



20

What is the ZBA's Jurisdiction?

- RSA 674:33:
 - Administrative appeals (RSA 674:33 & 676:5)
 - Variances
 - Special Exceptions
- RSA 674:33-a: Equitable waivers of dimensional requirements
- RSA 674:41, II: Special waiver, building on Class VI/private roads
- RSA 674:32-c, II: Special waiver, agricultural uses
- Variances for disabled, RSA 674:33, V
- RSA 236:115: Certificates of approval, junkyards
- Often serves as building code board of appeals



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

21

Appeals to the ZBA RSA 676:5

- ▶ ZBA hears appeals, per RSA 674:33
- ▶ Appeal taken within reasonable time, per ZBA rules
- ▶ ZBA may impose reasonable fees
- ▶ ZBA may require applicant to reimburse for third party review & consultation



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

22

What Decisions can be appealed to the ZBA?

- Appeals to the board of adjustment concerning any matter within the powers set forth in RSA 674:33 may be made “by any person aggrieved, or by any officer, department, board or bureau of the municipality affected by any decision of an administrative officer.”
- “Administrative officer” has been defined to mean any municipal official or board responsible for issuing permits or for enforcing the ordinance. It includes the building inspector, or other official or board with such responsibility.
- The term decision of the administrative officer includes any decision involving construction, interpretation, or application of the terms of the ordinance. It does not include discretionary decisions to enforce an ordinance but does include any construction or interpretation of the ordinance being enforced. 15 *Land Use Planning and Zoning* § 21.10 (2021)



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

23

Effect of Appeal to ZBA

- An appeal of the issuance of any permit or certificate has the effect of suspending that permit or certificate and no construction, alteration or change of use which is contingent upon it shall be commenced.
- Likewise, an appeal of any order or other enforcement action stays all proceedings under the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment, after notice of appeal shall have been filed with such officer, that by reason of the facts stated in the certificate, a stay would, in the officer's opinion, cause imminent peril to life, health, safety, property or the environment. 15 *Land Use Planning and Zoning* § 21.12 (2021)



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

24

“One Bite of the Apple” *Fisher v. Dover*

- ▶ Subsequent applications by unsuccessful petitioners are limited.
- ▶ Second application must be materially different in nature and degree from the original application. *Fisher v. Dover*, 120 N.H. 187 (1980)
- ▶ A change in applicable legal standards may be such a change. *Brandt v. Somersworth*, 162 N.H. 553 (2011)
- ▶ If the applicant has addressed/changed things that were reason for denial in original application—could be a material difference



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

25



Appeal to the board within a reasonable time (in your rules, RSA 676:5)



Hearing within 45 days of appeal receipt– RSA 676:7, II



Approval or Disapproval Decision within 90 days - 674:33, VIII



Notice to affected persons, RSA 676:7



Opportunity to be heard, RSA 676:7



Decision based on facts and evidence, RSA 674:33, 91-A



Decision by impartial tribunal, RSA 673:14



Written decision with reasons and findings of fact supporting decision, RSA 676:3

26

Who Has the Right to be Heard? – RSA 676:7, I (a)

- Prior to exercising its appeal powers the ZBA shall hold a public hearing:
 - The ZBA shall hear all abutters and holders of conservation, preservation, or agricultural preservation restrictions desiring to submit testimony and all nonabutters who can demonstrate that they are affected directly by the proposal under consideration. The board may hear such other persons as it deems appropriate.



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

27

Public Hearing Rules

- Should be written as part of the board's rules of procedure adopted under RSA 676:1
- Applicant presentation time limit?
- Abutter/easement holder/directly affected persons time limit is ok (5 minutes?)
- Testimony shall be germane to the plat/plan
- Permit rebuttal by applicant?



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

28

Alternate Participation

- “The rules of procedure shall include when and how an alternate may participate in meetings of the land use board.” RSA 676:1
- Alternates should be permitted to ask questions during public hearing
- Once the public hearing is closed and the application is returned to the board for a decision, the alternate’s participation should end.



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

29

Non-abutters - Affected Directly - Standing

- Standing to appeal does not apply to all persons in the community.
- Standing is a factual determination in each case, considering factors such as:
 - ✓ The proximity of the plaintiff’s property to the site for which approval is sought
 - ✓ The type of change proposed
 - ✓ The immediacy of the injury claimed
 - ✓ Plaintiff’s participation in the administrative hearings.

*15 *Land Use Planning and Zoning* § 25.01 (2022)



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

30

Continuing Public Hearing

• *If the board of adjustment finds that it cannot conclude the public hearing within the time available, it may vote to continue the hearing to a specified time and place with no additional notice required.* RSA 676:7, V

- ✓ This manner of continuing an application requires the board to have commenced the public hearing process
- ✓ When the public hearing does not conclude within the time available then the board can vote to continue to a specified time and place
- ✓ In such circumstances additional abutter and newspaper notification is not required
- ✓ Ordinary notice required by the Right-to-Know Law would still be necessary



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

31

The Evidence

What does the board do during the hearing?

- Collect evidence and determine the facts
- Apply legal tests (e.g., the variance criteria)
- Develop a record for court review

Board has considerable discretion to choose between competing expert opinions:

- General studies and articles may not be enough to contradict specific expert opinion
- Board may question expert's qualifications, methodology, etc.
- Board may rely on personal knowledge of the area
- BUT uncontradicted expert testimony overcomes general member knowledge



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

32

The Decision RSA 674:33 & 676:3

- 3 members must concur
- Must use one consistent voting method, RSA 674:33, I(c)
- Any change in the board's voting method shall not take effect until 60 days after adoption and shall apply only prospectively
- Decision must be in writing
 - (State reasons for approval/ disapproval)
- Conditions of approval?
- Issue decision w/in 5 business days



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

33

ZBA Decisions

MEMBER	HARDSHIP 1 (A)	HARDSHIP 2 (B)	PUBLIC INTEREST	SPIRIT & SUB. JUSTICE	DIMINUTION OF VALUE
Don Burns	Met	Met	Met	Met	Met
Garth Orsmond	Met	Met	Met	Met	Met
June Branscom	Met	Met	Met	Met	Met
Michael O'Neil	Met	Met	Met	Met	Met
Harry Hadaway	Met	Met	Met	Met	Met

A motion was made by Mr. Orsmond and seconded by Ms. Branscom to grant the request for Case #101-23V: Bird's Landing, LLC (Charles Sargent, Applicant)- a variance from Zoning Ordinance Sections 6.02 and 6.07 to allow 147.92' of lot frontage where 200' is required for one of three 2+-acre lots proposed for the subdivision of an existing ~8.9-acre parcel. The vote carried with the unanimous vote of the Board.

A motion was made by Mr. O'Neil and seconded by Ms. Branscom to adopt the following Finding of Fact:

1. *Special conditions of the property that distinguish it from other properties in the area are that it is an 8-acre lot with a proposed 3-lot subdivision with each lot over 2 acres which is consistent with the public purposes of the minimum lot frontage provision.*

The motion carried by unanimous vote of the Board.

34

New Law – Findings of Fact – RSA 676:3, I

- The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant.
- *The decision shall include specific written findings of fact that support the decision.*
- *Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal*, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.
- If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

35

New Law – Time for Decision – RSA 674:33, VIII

- The ZBA shall begin formal consideration and shall approve or disapprove applications within 90 days of the date of receipt
- The applicant may waive this requirement and consent to a mutually agreeable extension
- If the ZBA determines it lacks sufficient information to make a final decision on an application, and the applicant does not consent to an extension, the board may deny the application without prejudice
- If an application is denied without prejudice the applicant may submit a new application for the same or substantially similar request for relief



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

36

ZBA Authority to Rule Zoning Relief is Unnecessary

- Contained in every variance application is the threshold question whether the applicant's proposed use of property requires a variance.
- That the mere filing of a variance application does not limit the ZBA's ability to determine whether the applicant's proposed use of property requires a variance in the first place.

Bartlett v. City of Manchester, 164 N.H. 634, 635 (2013)



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

37

Administrative Appeals

- The board rules on whether the building inspector/code enforcement officer correctly applied regulations when denying a permit
- When interpreting the ordinance in an administrative appeal, the board must confine its review to the language of the ordinance when that language is plain and unambiguous
- The ZBA can substitute its judgment for that of the administrative official and is not required to give deference to the rulings of the administrative official.
- The ZBA's jurisdiction is appellate not original – meaning the board cannot render an advisory opinion on the meaning of the zoning ordinance in the absence of an appeal by an aggrieved property owner.



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

38

Special Exceptions

- Permission to do something zoning ordinance permits under specific circumstances
- Must be in zoning ordinance!

Variances

- Permission to do something not permitted by zoning ordinance
- Five criteria, RSA 674:33, I



legalinquiries@nhmunicipal.org / 603.224.7447 / www.nhmunicipal.org

Variance Criteria 1 & 2

The variance will not be contrary to the public interest

Examine whether the variance would

- (a) alter the essential character of the locality or
- (b) threaten public health, safety or welfare.

The spirit of the ordinance is observed

Examine the effect of the variance in light of the goals of the zoning ordinance, which might begin, or end, with a review of the comprehensive master plan upon which the ordinance is supposed to be based.



legalinquiries@nhmunicipal.org / 603.224.7447 / www.nhmunicipal.org

Variance Criteria 3

Substantial justice is done.

- ▶ Perhaps the only guiding rule is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.
- ▶ The injustice must be capable of relief by the granting of a variance that meets the other qualifications.
- ▶ Courts will also look at whether proposed development is consistent with the area's present use.



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

41

Variance Criteria 4

The values of surrounding properties are not diminished.

In considering whether an application will diminish surrounding property values, consider not only expert testimony from realtors and/or appraisers, but also from residents in the affected neighborhood.

Equally as important, Board members may consider their own experience and knowledge of the physical location when analyzing these criteria.

But be cautious in relying solely on personal experience/knowledge if it contravenes the evidence of professional experts.

Nevertheless it is the board's job to weigh competing evidence.

42

Variance Criteria 5

Literal enforcement of the zoning ordinance would result in an *unnecessary hardship*.

1. "UNNECESSARY HARDSHIP" MEANS THAT, OWING TO SPECIAL CONDITIONS OF THE PROPERTY THAT DISTINGUISH IT FROM OTHER PROPERTIES IN THE AREA:

- ✓ NO FAIR AND SUBSTANTIAL RELATIONSHIP BETWEEN THE GENERAL PUBLIC PURPOSES OF THE ORDINANCE PROVISION AND THE SPECIFIC APPLICATION OF THAT PROVISION TO THE PROPERTY;
- ✓ THE PROPOSED USED IS A REASONABLE ONE.

OR If #1 not satisfied:

2. AN UNNECESSARY HARDSHIP WILL BE DEEMED TO EXIST IF, AND ONLY IF, OWING TO SPECIAL CONDITIONS OF THE PROPERTY THAT DISTINGUISH IT FROM OTHER PROPERTIES IN THE AREA, THE PROPERTY CANNOT BE REASONABLY USED IN STRICT CONFORMANCE WITH THE ORDINANCE AND A VARIANCE IS THEREFORE NECESSARY TO ENABLE A REASONABLE USE OF IT.



43

Special Conditions - Self Created Hardship

- Special conditions can be determined based upon the proposed use itself having "special conditions." Is the subject property itself unique in its environment. *Harborside Assocs. v. Parade Residence Hotel*, 162 N.H. 508, 518 (2011).
- Self-created hardship should be only one factor to be considered when assessing hardship. It should not in and of itself justify denial of a variance. A denial based exclusively on self-created hardship, without more, is not conclusive on the issue of undue hardship. *Kvader v. Town of Chesterfield*, No. 2010-0151, 2011 N.H. LEXIS 45, at *9 (Mar. 21, 2011)



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

44

Status of Variances

- A variance runs with the land and passes with the land to a subsequent purchaser.
- By definition, a variance is granted with respect to a piece of property and not with respect to the personal needs, preferences, and circumstances of a property owner.
- Once granted, a variance can be enjoyed by both present and subsequent owners of the land. 15 *Land Use Planning and Zoning* § 24.05 (2021)



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

45

Special Exceptions

- The review standards for variances does not apply to special exceptions.
- A special exception is a use permitted upon certain conditions as set forth in a town's zoning ordinance.
- If the conditions for granting a special exception are met, the zoning board must grant it, and by so doing, no exception to the application of the ordinance is truly made.
- A special exception is not the equivalent of a nonconforming use. Uses that are permitted as special exceptions are deemed to be permitted so long as they satisfy the special exception provisions in the ordinance.



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

46

Variances from the Terms of a Special Exception?

- When a ZBA is considering whether to grant a special exception, it may not vary or waive any of the requirements set forth in the zoning ordinance.
- While a ZBA may grant a special exception, it cannot decide to waive any of the requirements for a special exception spelled out in the zoning ordinance.
- If a landowner cannot meet the conditions required for granting of a special exception, it may still be possible to obtain similar relief through the granting of a variance
- 15 *Land Use Planning and Zoning* § 23.02, § 23.06 (2021)



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

47

Status of Special Exception

- A special exception is not personal to the applicant, and it cannot be limited to the use only of the applicant.
- A special exception runs with the land and not a particular owner, hence a condition restricting the use to the particular owner would be inappropriate. 15 *Land Use Planning and Zoning* § 23.05 (2021)



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

48

Is Cumulative Impact a Permissible Consideration?

- Generally, no, you must look at each piece of property individually to determine if it meets the 5 criteria without concerning yourselves with what type of “precedent” or standard this decision would set for others.
- The ZBA is not bound by the argument, “You allowed it for them, therefore you must allow it for me”. However, there would need to be some distinguishing factor between the two cases.
- While cumulative impact is not a permissible consideration on its own, it is not one of the 5 factors, it is possible it could play a secondary role in one of the 5 factors.

legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

49

Time for Exercising Variances and Special Exceptions



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,...



2018 amendment allows for termination of variances granted prior to 8/19/13 by zoning amendment



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

50

Rehearings, RSA 677:2

- Motion must be filed within 30 days
- ZBA may even reconsider its own decision within that time period
- Hold meeting to determine whether to grant rehearing
- Grant rehearing when board committed technical error or there is new evidence that was not available at the time of the first hearing
- If rehearing is granted, may consider certain issue(s) or rehear entire case



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

51

Action on Motion for Rehearing

- The N.H. Supreme Court has made it clear that in furtherance of the finality of decisions by zoning boards, rehearings should not be lightly granted.
- Rehearings should only be granted if the petitioner can demonstrate that the board committed technical error or that there is new evidence that was not available at the time of the first hearing.
- Such new evidence should reflect a change in conditions which occurred subsequent to the original hearing or which was unavailable at the time of the original hearing. 15 *Land Use Planning and Zoning* § 21.18 (2021)



legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

52

Beyond the Rehearing

- ▶ Affected party with standing may appeal to Superior Court within 30 days, RSA 677:4, or, if the application involves housing and housing development, to the Housing Appeals Board.
- ▶ Be sure to compile and preserve “the record” as completely as possible.
- ▶ If an appeal is filed, the local governing body will manage the litigation with the municipal attorney.

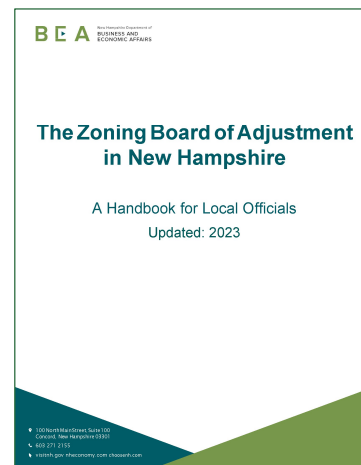


legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

53

Good Resource: ZBA Handbook

- ▶ Downloadable
- ▶ Free digitally
- ▶ Searchable
- ▶ Linked TOC



https://www.nheconomy.com/getmedia/0856bc80-8b19-4021-aff2-0a639c68902c/2023-ZBA-Handbook-FINAL_1.pdf

54

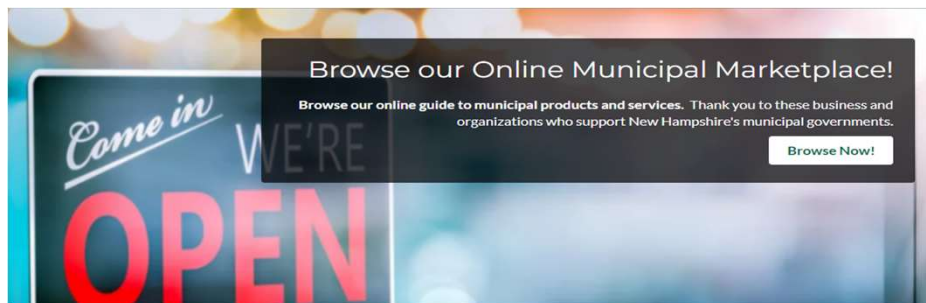
Upcoming Workshops and Complimentary Webinars



info@nhmunicipal.org/603.224.7447/www.nhmunicipal.org



55



info@nhmunicipal.org/603.224.7447/www.nhmunicipal.org



56

If you're not getting it, *you're not getting it.*

Once you are logged into your MC Trade account, click 'edit this profile' and 'newsletter management' in order to sign up for these subscription services below:



info@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

57



For Attending!



NHMA'S MISSION

Through the collective power of cities and towns, NHMA promotes effective municipal government by providing education, training, advocacy and legal services.

legalinquiries@nhmunicipal.org/603.224.7447/www.nhmunicipal.org

58