



ZBA Variance Process

The Zoning Board of Adjustment (ZBA) fills several roles related to the administration of the Town Zoning Ordinance. One of the most requested roles is the review of applications for a variance from setbacks, uses, building heights, or other Zoning Ordinance requirements. This fact sheet provides an overview of the ZBA variance process.

1. TALK TO PLANNING DEPARTMENT STAFF

Before you decide to pursue a variance, talk to Planning Department Staff.

- ◇ Staff can help you identify the information you need to support your application.
- ◇ The liaison to the ZBA is Kathleen Ports, Associate Planner, at 603.792.1320, kports@bedfordnh.org.
- ◇ Please call or email us with your questions! Anyone in the Planning Department can assist you.

2. THE APPLICATION AND THE VARIANCE CRITERIA

Applications are available on the Town's website: <https://www.bedfordnh.org/225/Zoning-Board>. On the right side of the screen, select "Downloadable Applications and Forms". A variance may be granted by the ZBA only if the ZBA determines that the application meets all of the following five criteria:

1. The variance will not be contrary to the public interest;
2. The spirit of the ordinance is observed;
3. Granting the Variance would do substantial justice;
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 and special conditions of the properties distinguish it from other properties in the area.

(A) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
- (ii) The proposed use is a reasonable one.

(B) If the criteria in subparagraph (A) are not established, 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 reasonable use of it.

Guidance on addressing the five variance criteria can be found on the backside of the ZBA Variance Application Checklist or on page B-2 of the *Zoning Board of Adjustment in New Hampshire: Handbook for Local Officials*, which is available at: <https://www.nh.gov/osi/planning/resources/documents/zoning-board-handbook.pdf>



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3. SCHEDULING THE HEARING AND NOTIFYING ABUTTERS

ZBA “Meeting Dates and Deadlines” are on the website: <https://www.bedfordnh.org/225/Zoning-Board>.

- ◇ Applications are due 21 days prior to the scheduled meeting.
- ◇ Upon receipt of a complete application, Planning Staff will schedule your request for a public hearing. *The time and date of the hearing will not be set and notices will not be sent out, until the complete application and all supporting documents have been filed with the Planning Department by the deadline.*
- ◇ Planning Staff will notify applicants and abutters by certified mail approximately ten (10) days prior to the hearing, confirming the date and location of the meeting.

4. ATTENDING THE PUBLIC HEARING

Attendance at your scheduled ZBA public hearing is mandatory by either you or your representative.

- ◇ When your case is called, approach the podium, give your name and address for the record, and proceed to explain the proposed project and the reason for the variance.
- ◇ It is important that you explain how your variance request meets each of the five criteria.
- ◇ Members of the public may speak in support or opposition to a variance request. Both parties (applicant and the public) may offer rebuttal to previous testimony prior to concluding the hearing.
- ◇ At the hearing, the ZBA will deliberate and decide each variance request after the application has been presented. The ZBA may include reasonable conditions to the granting of a variance that relate to the land that is the subject of the request.

5. NEXT STEPS

- ◇ Official notification of the ZBA’s decision will be provided by mail.
- ◇ An applicant or person directly affected thereby (RSA 677:2) may request a rehearing for a decision made by the ZBA subject to a time limit of thirty (30) days from the date of such decision.
- ◇ An approved variance shall be null and void two years from the date of approval unless the applicant files a complete application for a building permit, site plan, or subdivision plan for the subject parcel at which point the ZBA approval will run with the administrative time line of the building permit or Planning Board decision.
- ◇ Proceed to the Planning Board, Building Department, or Historic District Commission for additional permits or approvals.