

SECTION XIII. BOARD OF ADJUSTMENT

The Board of Adjustment shall consist of five (5) regular members and at least three (3) alternate members, all to be appointed by the Moderator after the adoption of this amendment, as the terms of the present members expire.

A. Powers of the Board:

The Board of Adjustment is hereby authorized and empowered to adopt such rules of organization and procedure as are necessary for the efficient administration and enforcement of this Ordinance. In addition, the Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is an error in any decision made by the Building Inspector in the enforcement of this Ordinance.
2. To hear and decide special exceptions to the terms of the Ordinance upon which the Board is required to pass under the Ordinance.
3. To authorize upon appeal in specific cases such variance from the terms of the Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship and so that the spirit of the Ordinance shall be observed and substantial justice done.
4. Any other power authorized to a Board of Adjustment by virtue of Chapter 31, Sections 60 - 89, NH Revised Statutes Annotated, 1955, as amended.

B. Appeals to the Board of Adjustment:

May be taken by any person aggrieved or by an officer, department, board or bureau of the Town affected by any decision of the Building Inspector. Such appeal shall be taken within a reasonable time as provided by the rules of the Board, by filing with the Building Inspector from whom the appeal is taken and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The Building Inspector shall forthwith transmit to the Board all papers constituting the record upon which the action appealed was taken.

C. Notice of Hearing:

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney.

D. Appeals to the Superior Court:

Within twenty (20) days after any decision of the Board of Adjustment, any party to the proceedings or any person directly affected thereby may apply for rehearing. The Board of Adjustment shall grant or deny the same within ten (10) days. Within thirty (30) days after the final decision of the Board of Adjustment, an appeal may be taken to the Superior Court by any person aggrieved by the decision.

E. Conditions:

In hearing all appeals and special exceptions under this Ordinance, the Board of Adjustment shall take into consideration the following:

1. Location, character and natural features.

2. Fencing and screening.
3. Landscaping, topography and natural drainage.
4. Vehicular access, circulation and parking.
5. Pedestrian circulation.
6. Signs and lighting.
7. All potential nuisances.

In granting appeals and special exceptions under this Section, the Board of Adjustment may impose such conditions, as it deems necessary in furtherance of the intent and purpose of this Ordinance.

F. Planning Board Report:

Before granting any special exception or variance, the Board of Adjustment shall refer the application to the Planning Board for a report. The Planning Board's report shall be considered informational in character and may take into consideration the effect of the special exception or variance proposal upon the character of the neighborhood or any other pertinent data in respect to the Master Plan for the Town.

G. Exemption:

All variances and special exceptions granted by the Board of Adjustment shall be valid for a period of two (2) years after the date of the decision of the Board of Adjustment; provided, however, that once substantial compliance with said decision has occurred or substantial completion of the improvements allowed by said decision has occurred, the rights of the owner or his successor in interest shall vest and no subsequent changes in the subdivision regulations or zoning ordinances shall operate to affect such decision. In the event that at the expiration of such two (2) year period, substantial completion of the improvements allowed by that decision have not been undertaken, the decision shall be null and void and the owner must reapply to the Board of Adjustment for the variance or special exception.