

APPENDIX 1: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 variance is a waiver or relaxation of a particular requirement of the zoning ordinance. The Board of Adjustment shall hear and decide requests for variances from the terms of this Ordinance. No variance may be granted unless ALL of the following criteria are met:

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)*

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.

Rev. 2008

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.

Rev. 1990

Rev. 1992

Rev. 2008

APPENDIX I: A

PROCEDURE: The Board meets and holds public hearings on the fourth Tuesday of every month. To insure 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 fourteen days before the date of the next meeting. If your completed application is received less than fourteen 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 printed in a newspaper of general circulation within the town, posted outside the Selectmen's office and mailed to you and to all abutters by certified mail at least ten 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 one year 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 one year, your variance or special exception will expire.

Rev. 1995
Rev. 2008

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, including the name and the address of the owner if he/she is not the applicant. These 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 form provided by the Board of Adjustment for this purpose).
- _____ Send or bring the completed application and abutters list and all other required additional information to the Land Use Office accompanied by a check made out to the Town of Candia for \$25.00 filing fee plus \$6.59 for each name on the abutters list, and \$100.00 for the cost of the newspaper notice.
- _____ 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 fourteen 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 fourth 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.

Revisions: 1986, 1987, 1991, 1995, 1996, 2008

APPENDIX 1: C

Town of Candia
Zoning Board of Appeals

APPLICATION FOR APPEAL

FEE: \$75.00 plus abutters

OFFICE USE ONLY

CASE # _____
REC'D BY _____ DATE _____
TOTAL FEE PAID _____
HEARING DATE _____

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

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

LOCATION OF PROPERTY: _____
(Tax Map, lot number and street name)

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.

OTHE 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

OFFICE USE ONLY

Abutter: Any person whose property adjoins
Or is directly across the street or
Stream from the land under
Consideration by this board (RSA 672:3).

Case # ____ Lot # ____
Date Rec'd. _____
Fee _____

Abutters List_(type or print)

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

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 insure 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 \$6.59 for each name appearing on this list, including every abutter, the owner of the property and (if different from the owner) the applicant and \$50.00 to cover the cost of the required newspaper notice. I also understand that these fees must be paid in full before the Board can hear my case.

Signature

Date

APPENDIX 1: E

Case # _____

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:

_____, _____, _____ New Hampshire,
Signature of Owner Date City or Town

County of _____. Personally appeared the above named _____

Before me, _____, and acknowledged the foregoing to be his/her
Justice of Peace/Notary Public

voluntary act and deed.