

## APPENDIX I: 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:

A variance is a waiver or relaxation of a particular requirement of the zoning ordinance.

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.

## 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.

## APPENDIX I: A

**PROCEDURE:** The Board meets and holds public hearings on the fourth Tuesday of every month. To ensure 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 30 days before the date of the next meeting. If your completed application is received less than 30 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 10 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 2 years 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 2 years, your variance or special exception will expire.

## 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 (w/in 200 feet of property), 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 (typed on address labels 3 across) and all other required additional information to the Land Use Office accompanied by a check made out to the Town of Candia for \$75.00 filing fee, \$7.80 for each name on the abutters list and \$100.00 for the cost of the newspaper notice. Note: (\$7.80 includes \$6.80 for postage and a \$1.00 processing fee)
- \_\_\_\_\_ 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 30 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 4<sup>th</sup> 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.

APPENDIX 1: C  
TOWN OF CANDIA  
ZONING BOARD OF ADJUSTMENT

**APPLICATION FOR APPEAL**

FEES: \$75.00-filing +\$100-public notice +abutters  
Abutters fees: \$7.80 per abutter\*

OFFICE USE ONLY

CASE # \_\_\_\_\_  
MAP \_\_\_\_\_ LOT \_\_\_\_\_  
TOTAL FEES PAID \_\_\_\_\_  
HEARING DATE \_\_\_\_\_  
REC'D BY \_\_\_\_\_ DATE \_\_\_\_\_

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APPLICANT: \_\_\_\_\_  
(name) (address) (phone)

EMAIL: \_\_\_\_\_

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.

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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: \_\_\_\_\_

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\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

APPENDIX 1: D  
TOWN OF CANDIA  
ZONING BOARD OF ADJUSTMENT

**Abutters List (attach typed address labels -3 across)**

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).  
**\* (anyone within 200 feet of the property)**

OFFICE USE ONLY  
Case # \_\_\_\_\_  
Map \_\_\_\_ Lot # \_\_\_\_  
Date Rec'd. \_\_\_\_\_  
Fee \$ \_\_\_\_\_

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

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 \$7.80 (\*\$6.80 for postage and \$1.00 processing fee), for each name appearing on this list including every abutter, the owner of the property and (if different from the owner) the applicant, a \$75 application fee and \$100.00 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  
TOWN OF CANDIA  
ZONING BOARD OF ADJUSTMENT

**OWNER'S AFFIDAVIT**

OFFICE USE ONLY

Case # \_\_\_\_\_

Map \_\_\_\_ Lot # \_\_\_\_

Date Rec'd. \_\_\_\_\_

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.