



Town of Sanbornton  
17 Meetinghouse Hill Road  
Sanbornton, New Hampshire 03269  
603-286-8303

## Zoning Board of Adjustment

### Application Types, Hearings, Appeals, and Application Instructions

#### **INTRODUCTION**

As an applicant, it is your responsibility to provide all evidence necessary to support your case. The success of your case depends upon the information that you submit with your application, as such it is in the applicants best interest to present a comprehensive and well-informed justification to the Zoning Board of Adjustment (Zoning Board of Adjustment will be used interchangeably throughout this document with “the Board”).

Please refer to the provided instructions, the Town of Sanbornton Zoning Ordinance, State laws, and other applicable/available information to ensure that you understand the requirements and laws in order to ensure that your application is accurate and complete.

Please note that the Board shall not review incomplete applications. It is not up to the Board to guide the applicant in the completion of the application or to grant a hearing in the event information is missing. In the event that the Board is unable to make a fair and equitable decision resultant of an incomplete application, the Board has the right to request additional information or to “deny without prejudice.” This will result in delays and rescheduling of another hearing, the cost of which will be borne by the applicant.

Per RSA 674:33, the Board is authorized to hear and decide upon appeals in the following matters.

#### **1) Variance:**

Prior to applying for a variance from the Board the applicant must first receive a written denial – including, but not limited to, being denied a specific use of property, the inability to meet dimensional, area, or setback limits, or any other requirements set forth by the Zoning Ordinance - from a town official. The Board’s authorization of a variance is based on the applicant’s ability to prove that use of the property is inhibited due to special circumstances, and therefore requires permission from the Board to utilize the property in a manner otherwise not permitted under the strict terms of the Zoning Ordinance. For the Board to legally grant a variance, the applicant must show that their proposed use meets all five of the following conditions (RSA 674:33):

1. The variance will not be contrary to the public interest;
2. The spirit of the ordinance is observed;
3. The proposed use would not diminish surrounding property values;
4. Substantial justice is done; and,
5. Literal enforcement of the provision of the ordinance would result in an unnecessary hardship.

***Please refer to the “Guidance Document –Understanding and Answering Questions on Your Variance Application” provided with the Variance Application. The document provides guidance for an applicant that is intended to cultivate understanding with regard to the meaning and intent of these five criteria.***

## **2) Special Exception:**

Certain sections of the Zoning Ordinance provide that a particular use of property in a particular zone will be permitted by a Special Exception (as identified in Article 18 of the Zoning Ordinance) if specified conditions are met. An appeal for a Special Exception will be granted if the applicant demonstrates that the conditions stated in in Article 18 of the Zoning Ordinance are met. Please note that often the Special Exception may need a site plan or subdivision approval, or both, from the Planning Board or other approvals that must be included with your application for a Special Exception.

## **3) Appeal from an Administrative Decision:**

If a Town Official has made an Administrative Decision that you believe is in error regarding your project you can appeal that decision to the Board. In the event that you can prove that the decision was made in error, the Board will grant a hearing. A copy of the Administrative Decision that is being appealed must be attached to your application.

## **4) Equitable Waiver of Dimensional Requirements:**

The Board may grant an equitable waiver only for existing dimensional nonconformities provided the applicant meet the following required standards:

- a) The nonconformity was not discovered until after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser; and,
- b) The nonconformity was not an outcome of ignorance of the law or bad faith but was instead caused by a legitimate mistake.

If these two conditions are satisfied, the Board can move on to the additional findings to grant the waiver:

- c) The nonconformity does not constitute a public or private nuisance nor diminish the value or interfere with future uses of other property in the area; and,
- d) The cost of correction would far outweigh any public benefit to be gained.

Please note that if the violation has existed for 10 years or more with no enforcement action, including written notice, initiated by the Town this detail can be used by the applicant in lieu of the requirements in paragraphs (a) and (b).

## **HEARING SCHEDULING, ATTENDANCE AND NOTICE OF DECISIONS**

### **Scheduling:**

Hearings are held the fourth Tuesday of each month, excluding holidays, voting, or Town Meeting. You must submit a completed application to the Board by the first Tuesday of the month for which you would like your hearing scheduled. This is necessary to allow the Board's Clerk sufficient time for processing

and legal notifications. Onus is on the applicant to confirm hearing dates with the Clerk. The Clerk can be reached via email at [abarriault@sanborntonnh.org](mailto:abarriault@sanborntonnh.org).

### **Attendance:**

The Applicant and all other parties are encouraged to appear in person or by agent of counsel to state reasons why the appeal should or should not be granted. After the public hearing, the Board will reach a decision to: approve, approve with conditions, continue, deny, or deny without prejudice.

### **Decisions:**

A Notice of Decision and the meeting minutes will be made available to you and the public within five business days of the Board's decision per RSA 21:35. In addition, the Notice of Decision will be mailed to the applicant.

### **Appeal of Decisions and Rehearings:**

As the applicant, if you disagree with the Board's decision you have the right to appeal and ask for a rehearing (RSA 677). Additionally, the selectmen, or any party affected, have similar rights to appeal the decision.

To appeal, you must first ask the Board for a rehearing within 30 calendar days after the notice of decision is filed, or first becomes available for public inspection. The appeal for rehearing may be in the form of a letter to the Board, and must set forth the grounds on which it is claimed the decision is unlawful or unreasonable.

The Board will review the appeal and may grant a rehearing if, in its opinion, good reason is stated in the appeal and the Board is convinced that an injustice would be created by not doing so. If granted, you must provide the Board with a new application follow the same procedures utilized in the initial hearing, including public notice and notice to abutters. See RSA Chapter 677 for more detail on rehearing and appeal procedures. New evidence can only be submitted if that evidence was unavailable to you at the first hearing (i.e., was not a result of neglect). Whether or not a rehearing is held, a request for one must be made before an applicant can appeal to the courts.

## VARIANCE

### APPLICATION INSTRUCTIONS

Please note that failure to fully prepare an application will result in a hearing delay. Copies of the Town of Sanbornton Zoning Ordinance are available for a fee at the Town Office or online at [www.sanborntonnh.org](http://www.sanborntonnh.org). If further assistance is needed with the application, please contact the Board's Clerk. The Clerk can be reached via email at [abarriault@sanborntonnh.org](mailto:abarriault@sanborntonnh.org).

Completed applications must be submitted to the Town Office c/o Zoning Board of Adjustment by the first Tuesday of the month for which you would like your hearing scheduled to allow sufficient time for legal notification. The Board meetings are scheduled for the fourth Tuesday of the month. However, applicants should confirm the date of the next meeting with the Board's Clerk.

All applicants are required to include the following items with their application:

1. Documentation from the Town Zoning department or other Town department that clearly identifies the denial of either the use, dimensional, or area setback requirements of your property as it relates to your application.
2. A copy of the tax map indicating location of the property. This can be obtained at the Town Office or the Town's website at [www.sanborntonnh.org](http://www.sanborntonnh.org)
3. A freehand or professionally draw plot plan of your property, such as your septic system design plan or a surveyor's plan (8 ½" x 11" but no larger than 8 ½" x 14") of the property, with dimensions, setbacks, and any other details pertinent to the application. In addition, photos of the area are recommended if you believe they may be beneficial to your case.
4. A list of all abutters to the property including all property owners that adjoin, are directly or diagonally across the street or stream, or are associated with any abutting common land to your property. To avoid problems, please check with the Town's Zoning Enforcement Officer for current property owners and addresses.
5. The following fee payments are required and shall be made payable to the "Town of Sanbornton":
  - a. A \$50.00 dollar application fee, and;
  - b. A \$20.00 mailing fee plus \$10.00 for each abutter. If the property owner is someone other than the applicant, include an additional \$20 for the mailing.

## **SPECIAL EXCEPTION APPLICATION INSTRUCTIONS**

Please note that failure to fully prepare an application will result in a hearing delay. Copies of the Town of Sanbornton Zoning Ordinance are available for a fee at the Town Office or online at [www.sanborntonnh.org](http://www.sanborntonnh.org). If further assistance is needed with the application, please contact the Board's Clerk. The Clerk can be reached via email at [abarriault@sanborntonnh.org](mailto:abarriault@sanborntonnh.org).

Completed applications must be submitted to the Town Office c/o Zoning Board of Adjustment by the first Tuesday of the month for which you would like your hearing scheduled to allow sufficient time for legal notification. The Board meetings are scheduled for the fourth Tuesday of the month. However, applicants should confirm the date of the next meeting with the Board's Clerk.

All applicants are required to furnish the following items with their application:

1. All documentation specific to support the Special Exception as identified in the Town of Sanbornton Zoning Ordinance Article 18.
2. A copy of the tax map indicating location of the property. This can be obtained at the Town Office or the Town's website at [www.sanborntonnh.org](http://www.sanborntonnh.org)
3. Please note that often the Special Exception may need a site plan or subdivision approval, or both, from the Planning Board or other approvals that must be included with your application for a Special Exception. Please refer to Article 18 of the Town's Zoning Ordinance for all specified and required information. If not specified in Article 18, at a minimum, please include freehand or professionally draw plot plan of your property, such as your septic system design plan or a surveyor's plan (8 ½" x 11" but no larger than 8 ½" x 14") of the property, with dimensions, setbacks, and any other details pertinent to the application.
4. A list of all abutters to the property including all property owners that adjoin, are directly or diagonally across the street or stream, or are associated with any abutting common land to your property. To avoid problems, please check with the Zoning Enforcement Officer for current property owners and addresses.
5. The following fee payments are required and shall be made payable to the "Town of Sanbornton":
  - a. A \$50.00 dollar application fee, and;
  - b. A \$20.00 mailing fee plus \$10.00 for each abutter. If the property owner is someone other than the applicant, include an additional \$20 for the mailing.

## **APPEAL FROM AN ADMINISTRATIVE DECISION**

### **APPLICATION INSTRUCTIONS**

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Completed applications must be submitted to the Town Office c/o Zoning Board of Adjustment by the first Tuesday of the month for which you would like your hearing scheduled to allow sufficient time for legal notification. The Board meetings are scheduled for the fourth Tuesday of the month. However, applicants should confirm the date of the next meeting with the Board's Clerk.

1. A copy of the administrative decision you are appealing, such as documentation from the Town Zoning Department or other Town Department that clearly identifies the denial.
2. Documentation specific to support your appeal.
3. A copy of the tax map indicating location of the property. This can be obtained at the Town Office or the Town's website at [www.sanborntonnh.org](http://www.sanborntonnh.org)
4. A freehand or professionally draw plot plan of your property, such as your septic system design plan or a surveyor's plan (8 ½" x 11" but no larger than 8 ½" x 14") of the property, with dimensions, setbacks, and any other details pertinent to the application. In addition, photos of the area are recommended if you believe they may be beneficial to your case.
5. A list of all abutters to the property including all property owners that adjoin, are directly or diagonally across the street or stream, or are associated with any abutting common land to your property. To avoid problems, please check with the Zoning Enforcement Officer for current property owners and addresses.
6. The following fee payments are required and shall be made payable to the "Town of Sanbornton":
  - a. A \$50.00 dollar application fee, and;
  - b. A \$20.00 mailing fee plus \$10.00 for each abutter. If the property owner is someone other than the applicant, include an additional \$20 for the mailing.

# **EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS**

## **APPLICATION INSTRUCTIONS**

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Completed applications must be submitted to the Town Office c/o Zoning Board of Adjustment by the first Tuesday of the month for which you would like your hearing scheduled to allow sufficient time for legal notification. The Board meetings are scheduled for the fourth Tuesday of the month. However, applicants should confirm the date of the next meeting with the Board's Clerk.

All applicants are required to furnish the following items with their application:

1. All documentation specific to support your Equitable Waiver for the existing dimensional nonconformity from the conditions of the Town of Sanbornton Zoning Ordinance.
2. A copy of the tax map indicating location of the property. This can be obtained at the Town Office or the Town's website at [www.sanborntonnh.org](http://www.sanborntonnh.org)
3. A freehand or professionally draw plot plan of your property, such as your septic system design plan or a surveyor's plan (8 ½" x 11" but no larger than 8 ½" x 14") of the property, with dimensions, setbacks, and any other details pertinent to the application. In addition, photos of the area are recommended if you believe they may be beneficial to your case.
4. A list of all abutters to the property including all property owners that adjoin, are directly or diagonally across the street or stream, or are associated with any abutting common land to your property. To avoid problems, please check with the Zoning Enforcement Officer for current property owners and addresses.
5. The following fee payments are required and shall be made payable to the "Town of Sanbornton":
  - a. A \$50.00 dollar application fee, and;
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