

Planning Lunches at Noon (PLAN) Monthly Webinar Series

Welcome to the PLAN Monthly Webinar Series!

“Land Use Administrator 101”

Check out our [Planning and Zoning Training website page](#) for:

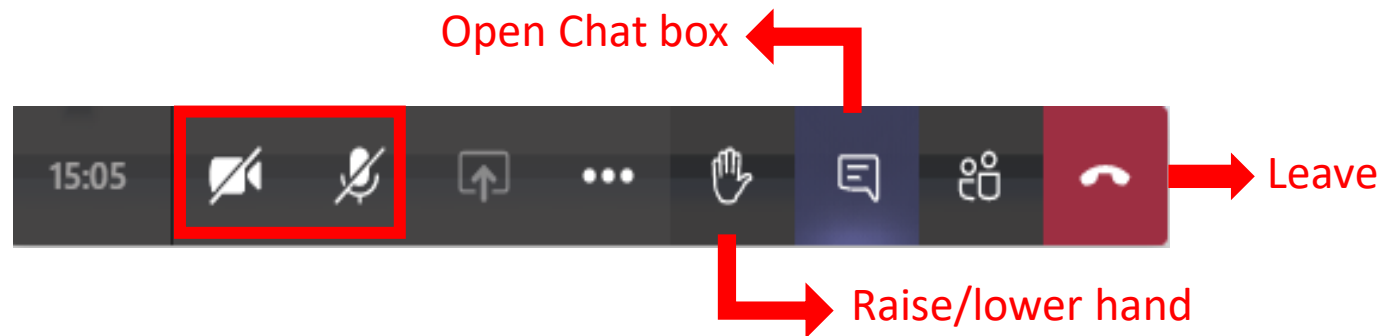
- Slides and recording of all completed PLAN webinars in the
- Schedule for upcoming webinars
- OPD [Planning Board](#) and [Zoning Board](#) Handbooks & Optional Tests and Certificates
- A short, anonymous [online survey](#)

Webinar Logistics

Presentation then Question and Answer session

- ▶ Type questions into Chat box
- ▶ Raise hand

- ▶ We will be **recording** this webinar.



Land Use Administrator 101

Agenda

The Gatekeeper for Planning and Land Use Departments

Different Land Use Boards

Applicable Laws

Application types

Office Management

Meeting Management

Q&A

The Gatekeeper

- Land Use Administrator
- Land Use Clerk
- Land Use Coordinator
- Land Use Administrative Assistant
- Land Use Secretary
- Planning and Zoning Clerk
- Planning Technician
- Planning and Land Use Administrator
- Planning Secretary

Land Use Board Definition

672:7 Local Land Use Board. – " Local land use board " means a planning board, historic district commission, inspector of buildings, building code board of appeals, zoning board of adjustment, or other board or commission authorized under RSA 673 established by a local legislative body.

673:1 Establishment of Local Land Use Boards. –

- I. Any local legislative body may establish a planning board, the members of which shall be residents of the municipality.
- II. Any local legislative body may establish any or all of the following: a heritage commission, a historic district commission, an agricultural commission, and a housing commission.

Wait, is it a Public Hearing or Public Meeting?

Public Hearing vs. Public Meeting

Public Hearing-

- A meeting duly announced and advertised in advance that is open to the public and called by the town council, board, or commission of the town for the purpose of taking formal public comment, both in favor and opposition to a proposed action.

Public Meeting-

- An **informal** meeting, hearing, or workshop of a municipal board, committee, commission or governing body or their representatives where the public may attend and may provide input.

Know these Laws!

- RSA 33-A:3-a - Disposition of Municipal Records
- RSA 36 - Regional Planning Commissions (RPCs)
- RSA 36:56 – Review of Developments of Regional Impact(DRI)
- SA 36:57 – Review of DRI, Procedure
- RSA 36-A – Conservation Commissions
- RSA 155-E – Local Regulation Excavations
- RSA 91-A – Access to Governmental Records and Meetings
- RSA 483-B – Shoreland Water Quality Protection Act
- RSA 672-679 - Planning and Zoning

Know these Laws!

RSA 33-A3-a Disposition of Records “Disposition and Retention Schedule”

I. Abatements: 5 years

VII. Annual reports, town warrants, meeting and deliberative session minutes in towns that have adopted official ballot voting: permanently.

XV. Building permits-applications and approvals: permanently.

XVI. Building permits-lapsed: permanently.

XVII. Building permits-withdrawn or denied: one year.

XVIII. Capital projects and fixed assets that require accountability after completion: life of project or purchase.

XXI. Code enforcement specifications: permanently.

XXII. Complaint log: expiration of appeal period.

XXVIII. Current use applications and maps: until removed from current use plus 3 years.

XXIX. Current use release: permanently.

XXXIII. Dredge and fill permits: 4 years.

XXXIV. Driveway permits and plans: permanently.

XXXV. Easements awarded to municipality: permanently.

LV. Intent to cut trees or bushes: 3 years

LXV. Legal actions against the municipality: permanently

LXXX. Meeting minutes, tape recordings: keep until written record is approved at meeting. As soon as minutes are approved, either reuse the tape or dispose of the tape.

LXXXI. Minutes of boards and committees: permanently.

LXXXII. Minutes of town meeting/council: permanently.

LXXXIII. Minutes, selectmen's: permanently.

Know these Laws! Cont'd

CXVII. Road layouts and discontinuances: permanently.

CXVIII. Scenic roads: permanently

CXX. Septic plan approvals and plans: until replaced or removed.

CXXII. Sign inventory: 7 years.

CXXIII. Site plan review: life of improvement plus 3 years.

CXXIV. Site plan review-lapsed: until notified that planning board action and appeal time has expired plus one year.

CXXV. Site plan review-withdrawn or not approved: appeal period plus one year.

CXXIX. Subdivision applications-lapsed: until notified that planning board action and appeal period has expired plus one year.

CXXX. Subdivision applications-successful and final plan: permanently.

CXXXI. Subdivision applications-withdrawn, or not approved: expiration of appeal period plus one year.

CXXXII. Subdivision applications-working drafts prior to approval: expiration of appeal period.

CXXXIV. Tax maps: permanently.

CLIII. Zoning board of adjustment applications, decisions, and permits-**unsuccessful**: expiration of appeal period.

CLIV. Intent to excavate: completion of reclamation plus 3 years.

Know these Laws! Cont'd

RSA 91-A

Definitions-

Advisory Committee- any committee, council, commission, or other like body whose primary purpose is to consider an issue or issues designated by the appointing authority so as to provide such authority with advice or recommendations concerning the formulation of any public policy or legislation that may be promoted, modified, or opposed by such authority.

Governmental records- any information created, accepted, or obtained by, or on behalf of, any public body, or a quorum or majority thereof, or any public agency in furtherance of its official function.

- the term "governmental records" **includes any written communication or other information**, whether in paper, electronic, or other physical form, received by a quorum or majority of a public body in furtherance of its official function, whether at a meeting or outside a meeting of the body.
- ▶ The term "governmental records" shall also include the term "public records."

Know these laws! 91-A Cont'd

IV. "Information" means knowledge, opinions, facts, or data of any kind and in whatever physical form kept or maintained, including, but not limited to, written, aural, visual, electronic, or other physical form.

V. "Public agency" means any agency, authority, department, or office of the state or of any county, town, municipal corporation, school district, school administrative unit, chartered public school, or other political subdivision.

VI. "Public body" means any of the following:

(a) The general court including executive sessions of committees; and including any advisory committee established by the general court.

(b) The executive council and the governor with the executive council; including any advisory committee established by the governor by executive order or by the executive council.

(c) Any board or commission of any state agency or authority, including the board of trustees of the university system of New Hampshire and any committee, advisory or otherwise, established by such entities.

(d) Any legislative body, governing body, board, commission, committee, agency, or authority of any county, town, municipal corporation, school district, school administrative unit, chartered public school, or other political subdivision, or any committee, subcommittee, or subordinate body thereof, or advisory committee thereto.

(e) Any corporation that has as its sole member the state of New Hampshire, any county, town, municipal corporation, school district, school administrative unit, village district, or other political subdivision, and that is determined by the Internal Revenue Service to be a tax-exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code.

Know these Laws! 91-A Cont'd

91-A:2 Meetings Open to Public

A “meeting”-means the convening of a quorum of the membership of a public body, as defined in RSA 91-A:1-a, VI, or the majority of the members of such public body if the rules of that body define "quorum" as more than a majority of its members.

A “meeting” takes place whether in person, by telephone, electronic communication, or in any other manner such that all participating members are able to communicate with each other contemporaneously, for the purpose of discussing or acting upon a matter or matters over which the public body has supervision, control, jurisdiction, or advisory power.

-NOT A MEETING-

A chance, social, or other encounter not convened for the purpose of discussing or acting upon such matters shall not constitute a meeting if no decisions are made regarding such matters.

Know these Laws! 91-A Cont'd

91-A:2 Meetings Open to Public cont'd

"Meeting" shall also **not include**:

(a) Strategy or negotiations with respect to collective bargaining;

(b) Consultation with legal counsel;

(c) A caucus consisting of elected members of a public body of the same political party who were elected on a partisan basis at a state general election or elected on a partisan basis by a town or city which has adopted a partisan ballot system pursuant to RSA 669:12 or RSA 44:2; or

(d) **Circulation** of draft documents which, when finalized, are intended only to formalize decisions previously made in a meeting; provided, that nothing in this subparagraph shall be construed to alter or affect the application of any other section of RSA 91-A to such documents or related communications.

Review these laws with your town counsel. Come up with a policy for circulating minutes/decisions and review with the boards

Know these Laws! 91-A Cont'd

91-A:2. II MEETINGS

- All meetings, whether held in person, by means of telephone or electronic communication, or in any other manner, shall be open to the public. Except for town meetings, school district meetings, and elections, no vote while in open session may be taken by secret ballot.
- Any person shall be permitted to use recording devices, including, but not limited to, tape recorders, cameras, and videotape equipment, at such meetings.
- Minutes of all such meetings, including nonpublic sessions, shall include the names of members, persons appearing before the public bodies, and a brief description of the subject matter discussed and final decisions. The names of the members who made or seconded each motion shall be recorded in the minutes.
 - **Review with your town attorney**

Know these Laws! 91-A Cont'd

91-A:2. II

- Subject to the provisions of RSA 91-A:3, **minutes shall be promptly recorded and open to public inspection not more than 5 business days after the meeting**, except as provided in RSA 91-A:6, and shall be treated as permanent records of any public body, or any subordinate body thereof, without exception.
- Except in an emergency or when there is a **meeting** of a legislative committee, **a notice of the time and place of each such meeting, including a nonpublic session, shall be posted in 2 appropriate places one of which may be the public body's Internet website, if such exists, or shall be printed in a newspaper of general circulation in the city or town at least 24 hours, excluding Sundays and legal holidays, prior to such meetings**

Know these Laws! 672-676

672:2 Definitions of Words and Phrases-

- ❖ Abutter, 672:3 Abutter-means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term " abutter " shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, **in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII.** For purposes of receipt of notification by a municipality of a local land use board hearing, **in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A:1, II, the term " abutter " includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.**

673: Local Land Use Boards

- ❖ Planning Board, Zoning Board, board member terms, when to hold meetings

673:17 Open Meetings; Records. – Each local land use board shall hold its meetings and maintain its records in accordance with RSA 91-A. (91-A:2).

- ❖ This would include land use board and committee meetings.
- ❖ Public meetings only need an agenda

Know these Laws! 672-676 cont'd

675 Enactment and Adoption Procedures

- ❖ Procedures for notice of public hearing for the amendment of master plans, site plan, subdivision, historic district regulations, and zoning ordinances and maps.

- **675:6 Method of Adoption**
 - Process to amend or adopt master plan, subdivision, site plan and historic district regulations- needs a public hearing.

- **675:7 Notice Requirement for Public Hearing**
 - Amendments for land use regulations

676: Administrative and Enforcement Procedures

- Rules of Procedure **676:1**
- Joint Meetings **676:2**
- Decisions **676:3** (this includes minutes!)
- Third Party Review **676:4-b**

Know these Laws! 672-676 cont'd

676:4 Board's Procedures on Plats (Planning Board)

- 676:4 I. (d)(2) holders of conservation, preservation, or agricultural preservation restrictions, and the public shall be given notice as follows:
- Abutters shall also be identified on any plat submitted to the board. The application shall also include the name and business address of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board.

676:5 Appeals to Board of Adjustment

I. Appeals to the board of adjustment concerning any matter within the board's powers as set forth in RSA 674:33 may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer.

Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

*** Review with Town Attorney what a “reasonable time” means**

Know these Laws! 672-676 cont'd

676:5 Appeals to Board of Adjustment (cont'd)

III. If, in the exercise of subdivision or site plan review, **the planning board makes any decision or determination which is based upon the terms of the zoning ordinance, or upon any construction, interpretation, or application of the zoning ordinance**, which would be appealable to the board of adjustment if it had been made by the administrative officer, then such decision may be appealed to the board of adjustment under this section; provided, however, that if the zoning ordinance contains an innovative land use control adopted pursuant to RSA 674:21 which delegates administration, including the granting of conditional or special use permits, to the planning board, then the planning board's decision made pursuant to that delegation cannot be appealed to the board of adjustment, but may be appealed to the superior court as provided by RSA 677:15.

*** Review with Town Attorney**

Know these Laws! 672-676 cont'd

676:5 Appeals to Board of Adjustment

675.5.1.IV

IV. The board of adjustment may impose reasonable fees to cover its administrative expenses and costs of special investigative studies, review of documents, and other matters which may be required by particular appeals or applications.

V. (a) A board of adjustment reviewing a land use application may require the applicant to reimburse the board for expenses reasonably incurred **by obtaining third party review and consultation during the review process, provided that the review and consultation does not substantially replicate a review and consultation obtained by the planning board.**

(b) A board of adjustment retaining services under subparagraph (a) shall require detailed invoices with reasonable task descriptions for services rendered. Upon request of the applicant, the board of adjustment shall promptly provide a reasonably detailed accounting of expenses, or corresponding escrow deductions, with copies of supporting documentation

Know these Laws! 672-676 cont'd

676:6 Effect of Appeal to Board (ZBA)

The effect of an appeal to the board shall be to maintain the status quo. An appeal of the issuance of any permit or certificate shall be deemed to suspend such permit or certificate, and no construction, alteration, or change of use which is contingent upon it shall be commenced. An appeal of any order or other enforcement action shall stay all proceedings under the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment, after notice of appeal shall have been filed with such officer, that, by reason of facts stated in the certificate, a stay would, in the officer's opinion, cause imminent peril to life, health, safety, property, or the environment. In such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by the superior court on notice to the officer from whom the appeal is taken and cause shown.

***Review with your Town Attorney the process for an appeal**

Know these Laws! 672-676 cont'd

676:7 Public Hearing Notice (ZBA)

I. Prior to exercising its appeals powers, the board of adjustment shall hold a public hearing. Notice of the public hearing shall be given as follows:

(a) The appellant and every abutter and holder of conservation, preservation, or agricultural preservation restrictions shall be notified of the hearing by verified mail, as defined in RSA 21:53, stating the time and place of the hearing, and such notice **shall be given not less than 5 days before the date fixed for the hearing of the appeal.** The board shall hear all abutters and holders of conservation, preservation, or agricultural preservation restrictions desiring to submit testimony and all non abutters who can demonstrate that they are affected directly by the proposal under consideration. The board may hear such other persons as it deems appropriate.

(b) A public notice of the hearing shall be placed in a newspaper of general circulation **in the area not less than 5 days before** the date fixed for the hearing of the appeal.

***Review with Town Attorney on meeting ZBA noticing requirements**

Know these Laws! 672-676 cont'd

676:7 Public Hearing Notice (cont'd) (ZBA)

.II. The public hearing shall be held within 45 days of the receipt of the notice of appeal.

III. Any party may appear in person or by the party's agent or attorney at the hearing of an appeal.

IV. The cost of notice, whether mailed, posted, or published, shall be paid in advance by the applicant. Failure to pay such costs shall constitute valid grounds for the board to terminate further consideration and to deny the appeal without public hearing.

V. If the board of adjustment finds that it cannot conclude the public hearing within the time available, it may vote to continue the hearing to a specified time and place with no additional notice required.

676:4 I.(d)(1) Notice to the applicant..and every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board by verified mail, of the date upon which the application will be formally submitted to the board.....

The notice shall include a general description of the proposal which is the subject of the application and shall identify the applicant and the location of the proposal.

***Review with Town Attorney**

Rehearing and Appeal Procedures

677: Rehearing and Appeal Procedures

Motion for Rehearing

- Within 30 days after any order or decision of the zoning board of adjustment, or any decision of the local legislative body or a board of appeals in regard to its zoning, the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion for rehearing the ground therefor;..... This 30-day time period shall be counted in calendar days beginning with **the date following the date upon which the board voted to approve or disapprove the application**

Rehearing by Board of Adjustment

- A motion for rehearing made under RSA 677:2 shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. No appeal from any order or decision of the zoning board of adjustment...shall be taken unless the appellant shall have made application for rehearing as provided in RSA 677:2;

Know these Laws! 672-676

674:33 Powers of Zoning Board of Adjustment

- Administrative appeals (RSA 674:33 & 676:5)
 - Variances (674:33.I (2))
 - Special Exceptions (674.33.IV.(a))
- RSA 674:33-a: Equitable waivers of dimensional requirements
 - RSA 674:41, II: Special waiver, building on Class VI/private roads
 - RSA 674:32-c, II: Special waiver, agricultural uses
 - Variances for disabled, RSA 674:33, V
 - RSA 236:115: Certificates of approval, junkyards
 - Often serves as building code board of appeals
 - Request for Rehearing

ZBA and PB Application Types

Special Exceptions

(674.33.IV.(a))

- Permission to do something zoning ordinance permits under specific circumstances
- Must be in zoning ordinance!

Variances

- Permission to do something not permitted by zoning ordinance
- Five criteria, RSA 674:33, I

Special Use Permit

- The Special Use Permit [SUP] process is established to allow for some level of oversight of a specific land use to better ensure that the use is properly designed and sited on a property and the use does not create conflicts with and problem for abutting properties
- The authority to grant and administer special use permits shall be vested in the Planning Board.
- Any persons aggrieved by a Planning Board decision on a special use permit may appeal that decision to the Superior Court as provided in the manner provided by RSA 677:15.

Application Management

Process for application acceptance in the office-

1. Set deadlines for applications for Noon on deadline day-
NO 4:29 PM drop offs! Stick to deadlines!
2. Create spreadsheet for tracking applications and escrow accounts-very helpful for Yr. End Reports/Town Reports
3. Consider creating a cover sheet for the application to help with tracking and quick references
4. Do not verify abutters, set an abutter policy based on number of abutters.
5. Do not make copies of applications for applicants

Deadline day-

1. Review application materials for all submission requirements NOT for content requirements e.g., signed application, checklist, waivers, fees, escrow funds, etc.
2. Assign an application number that includes the year, Tax Map and Lot Number and application number.

Application Management cont'd

3. Inform Chair number of application submissions
4. Process fees and escrow funds
5. Create the public notice and abutter notices.
6. Prepare packets for the planning board
7. Circulate packets to the planning board

Meeting Management

Seven Days before meeting-

1. Confirm board members have received their packet.
2. Prepare templates for minutes and templates for decisions for each application.
3. Review agenda with Chair

Day of meeting

1. Confirm there is a Quorum
2. Confirm applicants and agents are attending
3. Inform Chair of any changes or update to applications or agenda items

Meeting Management cont'd

“Clean Up” after meeting

1. Begin completing Notice of Decisions
2. Work on minutes (5 days to complete!)
3. Update all tracking sheets for the status of applications
4. Issue Notice of Decisions
5. Work with applicants on getting conditions of approval completed or submitting more information
6. After final approvals, work with applicant and Chair for final plans and signatures
7. Work on updating escrow accounts
8. Finalize file after approval and conditions of approval are complete

Resources

[New Hampshire Municipal Association](#)

[New Hampshire Regional Planning Commissions](#)

[The Board of Adjustment in New Hampshire](#)

[The Planning Board in New Hampshire](#)

Contact Information

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- [Slides and recordings of all completed webinars](#)
- Schedule for 2023 upcoming webinars
- A short, anonymous online survey to gather feedback and topics for future webinars
- [OPD Planning and Zoning Training page](#)
- [Planning and Zoning Board Tests](#)

Our next PLAN Webinar is scheduled for August 17, 2023, from 12:00PM-1:00PM

“It’s Zoning Amendment Time, Again-2023”

Join OPD Principal Planner, Stephanie N. Verdile and Drummond-Woodsum Attorney, Christine Fillmore Johnston as they review processes and tips to help you through the Zoning Amendment process.

Questions and Answer Section

- If you would like to ask a question, please either raise your hand and unmute yourself or type your question in the Chat box. If on the phone, lines have been unmuted



THANK YOU