

Proposed Changes to Zoning 2023

Time Limits

Article VI.E.9. Time Limits.

In accordance with RSA 674:33, I-a (a), variances and special exceptions shall be valid if exercised within two (2) years from the date of the final approval or extended by the Zoning Board of Adjustment for good cause, provided that no such variance or special exception shall expire within six (6) months after the resolution of a planning application filed in reliance on the variance or special exception.

Explanation: This is an addition to our Ordinance to outline the Statute that applies to time limits for variances.

Decisions

Article VI.E.8. Decisions.

- a. Decisions of the Zoning Board of Adjustment shall be made within ninety (90) days of receipt of the application by the Town.
- b. In accordance with RSA 676:3 I, following the public hearing of an appeal, the Board's written decision shall be made available for public inspection within five (5) business days of such vote.
- c. If the application is approved with conditions, the Board shall include in the written decision a detailed description of all conditions necessary to obtain final approval. Additionally, the applicant, owner of the property, Selectmen, Planning Board and Zoning Compliance Officer shall be notified of the decision.
- d. The Board shall include in its written decision, the reason for the denial or approval, including "finding of fact" supporting the Board's decision, as well as any conditions noted during the approval by the Board.

Explanation: This is a NH Legislative change for the 90-Day Decision Deadline for Zoning and Planning Boards, and the need for findings-of-fact in all decisions. This new law attempts to speed up the decision-making process, potentially allowing for more approvals than usual. Zoning boards will now have up to 90 days to decide on an application unless the applicant agrees to an extension. If the Zoning Board doesn't have enough information to decide, the Board may deny that application. That 90-day clock starts upon the Board's receipt of the application. While the above Zoning Ordinance references the ZBA, the Planning Board's responsibility for this will be referred to in the Planning Board's Rules of Procedure.

Mobile Home Replacement on Single Lots of Record

Article III.B.5.d. Mobile Homes.

d. Mobile Homes existing on single lots of record with less than two (2) acres.

- i. Removal of a mobile home on a single lot of record, not to include mobile home parks, when done with the intent of replacing the same, shall not constitute a cessation or termination of the pre-existing use.
- ii. The replacement dwelling can be either a mobile home, modular home, or a home built entirely on-site.
- iii. A replacement dwelling shall not render the property more nonconforming, nor shall it be more than 25% larger than the existing mobile home and any living areas defined in iv below. A Zoning Compliance Permit must be approved before the mobile home is removed to preserve the rights of the protected and vested pre-existing, non-conforming use, and to confirm the size allowable to be replaced.
- iv. The determination of size of the existing mobile home shall not include existing outbuildings or attachments such as, but not limited to, porches or decks, but rather only include the original manufacturer's footprint of the mobile home and any heated living space added to the mobile home.
- v. The mobile home must be replaced with a newer mobile home manufactured no more than ten (10) years from the date of installation.
- vi. No person shall reside in a temporary structure on the premises during replacement of the structure unless the original mobile home is damaged by fire or other disaster. This is permitted per RSA 674:32, II, for which the owner may live in a mobile home while a home is under construction, and the period of such occupancy shall expire in 12 months from the placement of such structure or upon the issuance of a certificate of occupancy, whichever occurs first.

Explanation: This initial proposed change to Article III.B.5 was to have a better explanation of 'substantially similar' as outlined in this existing Ordinance. The existing wording in the Article also conflicts with Article III.B.4. To address this conflict, and define what substantially similar would be, the changes were proposed.

Upon further review it was determined more changes were needed to outline the criteria for determining the size and the age of a MH if that is what it is replaced with. The Board then discussed the Ordinance a step further, and with the need for workforce housing in New Hampshire, decided to propose allowing owners to replace these mobile homes with small stick-built homes if they wish to do so.

Stats: There are a total of 26 mobile homes on their own land of less than two acres to which this Ordinance applies. There are six MH's this applies to under half (.50) an acre, seven between .50 and 1, and thirteen between 1 and 2 acres. The current Epsom Ordinance does not allow mobile homes to be added to single lots of record in Epsom. Any existing mobile home on a single lot of record was grandfathered when that portion of the Ordinance was written or updated.

Short Term Rentals

Article III, U. Short Term Rentals.

1. **Purpose:** The use of short-term rentals is regulated to preserve the traditional character of residential neighborhoods that can be negatively impacted by this type of use and to help preserve the quality and quantity of the housing stock for year-round residential use.
2. **Definition:** Short-Term Rental: A dwelling unit, where transient lodging may be provided for compensation for short stays (no less than two (2) and no more than thirty (30) consecutive nights), and where the dwelling unit would normally be considered a residential living unit not associated with regulated commercial activities such as a hotel, motel, rooming/boarding/lodging house, or a bed-breakfast.
3. **Application for Special Exception:** Short-term rentals are permitted in all zones by special exception as either a primary or accessory use of the property. In addition to the general special exception criteria found in Article VI (D)(5), the following criteria must also be met.
 - a. Prior to submitting an application for a special exception, the owner must arrange for and complete a safety inspection by the Fire Department and shall submit the inspection report as part of the application. The inspection shall be limited to determining that the following minimum safety requirements are met:
 - i. Functional Smoke and CO detectors must be installed in areas defined by the State of New Hampshire's adopted version of the National Fire Protection Association codes and standards.
 - ii. Windows and doors functioning as the primary and secondary means of egress shall conform to the current adopted Life Safety Code requirements for One (1) and Two (2)-Family Dwellings.
 - iii. No basement space shall be used as sleeping areas unless there are properly sized egress windows and/or doors.
 - iv. A functional fire extinguisher shall be visibly installed in any kitchen area.
 - v. Safety concerns reported by lodgers or abutters may require additional inspection(s) by the Fire Department,
 - b. Dwellings must be on a conforming lot (per Town of Epsom Regulations) and on a Class V Road, or better, and
 - c. All short-term rentals shall provide a minimum of one parking space per bedroom plus one extra space. On-street overnight parking shall not be allowed.
4. **General Requirements:** The following regulations shall apply to all short-term rentals:
 - a. If the property is determined to be a seasonal dwelling it may only be available for rental for no more than seven (7) months of the year.

- b. The maximum occupancy of the short-term rental shall be two persons per bedroom. Notice of the occupancy limits shall be prominently displayed in the short-term rental unit.
- c. All owners of short-term rentals shall, by June 1 of each year, submit documentation to the town demonstrating that the septic tank is pumped annually.
- d. All owners of short-term rentals shall provide a place for renters to deposit their trash and shall arrange for trash to be removed from the property at least weekly. Owners shall further assure that all properties be maintained and kept clean of debris.
- e. All owners of short-term rentals shall prominently post notice in the rental that Epsom is a residential town and that respectful behavior by the renters is expected, including complying with all rules established by the town and the owner, and
- f. All owners of short-term rentals shall file a statement with the town clerk that provides the name, address, and telephone number of a person within the state who is authorized to and responsible for addressing issues which arise at the property, and who is authorized to accept service of process for any legal proceeding brought against the owner relating to the short-term rental.

Explanation: The need for a short-term rental Ordinance has been on the planning and zoning radar for a few years. Many other towns throughout New Hampshire have adopted short-term rental ordinances and this is, as it states in the Purpose above, “to preserve the traditional character of residential neighborhoods that can be negatively impacted by this type of use and to help preserve the quality and quantity of the housing stock for year-round residential use.” Not having an Ordinance to regulate the short-term rentals in a municipality can cause several issues due to the absence of the owners, such as lots becoming unmaintained, thereby affecting the property values of the homes around them. These regulations also provide guidance for rental owners to ensure that a few measures are put in place to ensure the safety of their renters, and the Town’s ability to respond to these properties in the event of an emergency.

Manufactured Storage Containers

Definition to be added to the Glossary.

Any structure, such as a cargo container, “POD” container, or truck box trailers, that is reusable and transportable, designed to be rented, leased or purchased for the storage of residential, commercial, or industrial goods.

Article III, U.

Storage Containers:

- A. A storage container shall not be considered living quarters for any period of time, and further, may only be used for storage purposes.
- B. A Zoning Compliance Permit for the storage container must be obtained from the Zoning Compliance Department and the applicable fee shall be paid.
- C. The location of the Storage Unit must meet minimum setbacks. If minimum setbacks cannot be met, the Zoning Compliance Officer may approve a Zoning Compliance Permit for a storage container to be in place for no more than ninety (90) days in a twelve (12) month period.
- D. Any property owner or lessee may have no more than two (2) storage containers at the same time. Should it be determined that more than two (2) containers are required, temporarily, the Zoning Compliance Officer may approve the request for additional containers for up to ninety (90) days.
- E. When the property owner or lessee has a valid Zoning Compliance Permit for construction or demolition work on that property, the container may remain only until the work under that permit has been completed.
- F. Any storage container that is or is intended to be on a property for more than ninety (90) days in any calendar year (other than those, which fall within subsections D or E) is considered a permanent storage container and is permitted only by Special Exception from the Zoning Board of Adjustment.

Explanation: With the continued additions of manufactured storage containers units on residential lots, it was suggested by the Zoning Compliance Department that regulations be adopted for such additions to property, to follow along with other types of storage type buildings and other outbuildings where zoning needs to be met in order to add them. One of the biggest problems with the units popping up on residential properties is the lack of adhering to zoning, such as setbacks. Many towns are even experiencing folks who are attempting to live in these types of storage containers as well.