

[11:33 AM] Snegach, Alvina

Good morning everyone. Welcome to our PLAN webinar. The slides for this presentation are posted here: <https://www.nh.gov/osi/planning/documents/20230216-webinar.pdf>

[11:57 AM] Snegach, Alvina

OPD Training Page <https://www.nh.gov/osi/planning/planning-training.htm>

[12:08 PM] Snegach, Alvina

Planning Board Book <https://www.nh.gov/osi/planning/resources/planning-board-handbook.htm>

[12:08 PM] Snegach, Alvina

Zoning Board Book <https://www.nh.gov/osi/planning/resources/zoning-board-handbook.htm>

[12:08 PM] Snegach, Alvina

General OPD Publications book <https://www.nh.gov/osi/planning/resources/publications.htm>

[12:09 PM] Snegach, Alvina

<https://www.nh.gov/osi/planning/resources/documents/planning-zoning-case-law-2022.pdf>  
Planning and Zoning Case Law

[12:16 PM] Don S. (Guest)

Regarding III-14, RSA 676:3, I Written Findings of Fact.

This can be confusing since there is not always the means of finding of fact in various cases. It is my understanding that ZBA members are quasi judges, where judges render opinions, rather than convey (finding of) facts. What exactly is expected of ZBA's? And after so much time without this statute, why is this now being implemented?

[12:18 PM] Verdile, Stephanie

It is being implemented now due to the passage of HB 1661 last session

[12:18 PM] Snegach, Alvina

<https://www.npms.phmsa.dot.gov/>

[12:26 PM] Donna (Guest)

Should you only have finding of fact for only a disapproval or would you need them for an approval as well.

[12:27 PM] Kathy Ellis, ZBA (Guest)

Should the finding of Fact be included in the Decision Notice or can it be on a separate form?

[12:27 PM] Verdile, Stephanie

In addition, we are interpreting determining "Findings of Fact" to mean the board has to clarify how they reached their decision. Hope that helps clarify, if not reach out to us after the webinar. Thanks for your question.

[12:30 PM] Verdile, Stephanie

We are interpreting "Findings of Fact" to be in addition to the Notice of Decision" You could have it as a separate form or highlight them in the Notice of Decision.

[12:32 PM] Verdile, Stephanie responding to "**Donna (Guest)** Should you only have finding of fact for only a disapproval or would you need them for an approval as well."

There should be Findings of Fact for both an approval and disapproval

[12:36 PM] Verdile, Stephanie

Noah gave a good clarification for the differences between a NOD and Findings of Fact. NOD are the conditions attached to the approval. Findings of Fact are how the board determined their decision.

[12:36 PM] Val Shelton (Guest)

If the application has to meet all the regulations prior to being accepted, what would be an example of a finding of fact showing something does not meet the regulation.

[12:57 PM] Verdile, Stephanie

Right thanks Tara. Acceptance of Complete means that the application contains the information that the board needs to make a decision or have granted a waiver. A Findings of Fact for noncompliance of regulations can be what Tara said as an example. If the applicant does not have an approved variance for the road length than that can be noncompliance

[12:57 PM] Val Shelton (Guest)

That was the reason for my question as well.

[12:59 PM] Audrey Cline

Sometimes the PB doesn't realize that there is a variance needed until they are in a hearing with an application that has already been approved as complete

[1:00 PM] George (Guest)

So the needed variance can be a condition of approval?

[1:03 PM] Audrey Cline

Or concurrently

[1:03 PM] Kyle Pimental

i apologize if this was already covered, but can you speak more to stipulations/conditions from a ZBA on a special exception prior to an application going to the Planning Board. our legal counsel has said that neither land use board has authority to bind the other one to take any particular action on an application. is there guidance on what stipulations a ZBA can and cannot make? are those mandatory or suggestions that the Planning Board can accept or ignore (i.e., times of operation, etc.)?

[1:04 PM] Jay Ward (Guest)

Could the 65 days run out while something is sent back to Zoning

[1:04 PM] George (Guest)

Thank you!

[1:05 PM] Don S. (Guest)

Any number of things could make this difficult. These might include, lack of quorum, weather event, power outage, site visit, applicant non-compliance, incomplete application, applicant no-show.

[1:09 PM] George (Guest)

A variance is not the same as a special exception

[1:11 PM] Verdile, Stephanie responding to "**Kyle Pimental** i apologize if this was already covered, but can you speak more to stipulations/conditions from a ZBA on a special exception prior to an application going to the Planning Board. our legal counsel has said that neither land use board has authority to bind the other one to take any particular action ..."

Hey Kyle usually the ZBA is held to the specific criteria of the applications i.e. variances and special exceptions however, they can add conditions of approval in addition to the regular criteria they are

required to address. The planning board can/should be made aware of any conditions of approval made by the ZBA and may include in the NOD

[1:12 PM] Jay Ward (Guest)

If a variance is missing

[1:17 PM] Walker Farrey (Guest)

In contentious hearings, can you set time limits on people giving statements?

[1:17 PM] Don S. (Guest)

Any number of things could make this difficult. These might include, lack of quorum, weather event, power outage, site visit, applicant non-compliance, incomplete application, applicant no-show. What should we do if one of these occur?

[1:17 PM] Walker Farrey (Guest)

Is there a good rule of thumb time limit?

[1:19 PM] Christine Marion

I would think that if a planning board was up against the clock, and did not have enough information or the application did not meet muster, then the board should be able to deny the application without prejudice.

[1:20 PM] Karri Makinen

Does the agreement between the Board and applicant to extend the time limit need to occur at a meeting?