

SB 435 - AS AMENDED BY THE SENATE

02/19/2026 0499s

2026 SESSION

26-2218

06/08

SENATE BILL **435**

AN ACT relative to the zoning board of adjustment variance criteria.

SPONSORS: Sen. Abbas, Dist 22; Sen. Gannon, Dist 23; Sen. Sullivan, Dist 18; Sen. Birdsell, Dist 19; Sen. Innis, Dist 7; Sen. Murphy, Dist 16

COMMITTEE: Election Law and Municipal Affairs

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AMENDED ANALYSIS

This bill clarifies the zoning board's authority regarding unreasonable restrictions in variance requests.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty-Six*

AN ACT relative to the zoning board of adjustment variance criteria.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Powers of Zoning Board of Adjustment. RSA 674:33, I is repealed and reenacted to read as  
2 follows:

3 I.(a) The zoning board of adjustment shall have the power to:

4 (1) Hear and decide appeals if it is alleged there is error in any order, requirement,  
5 decision, or determination made by an administrative official in the enforcement of any zoning  
6 ordinance adopted pursuant to RSA 674:16; and

7 (2) Authorize, upon appeal in specific cases, a variance from the terms of the zoning  
8 ordinance if:

9 (A) The variance will not be contrary to the public interest;

10 (B) The spirit of the ordinance is observed;

11 (C) Substantial justice is done;

12 (D) The values of surrounding properties are not diminished; and

13 (E) Literal enforcement of the provisions of the ordinance would result in an  
14 unreasonable restriction on the use of the property.

15 (b)(1) For purposes of subparagraph I(a)(2)(E), "unreasonable restriction" means that,  
16 due to special conditions of the property that distinguish it from other properties in the area, either:

17 (A) The proposed use is a reasonable one, and applying the restriction in the  
18 ordinance to the property does not substantially serve the general public purposes of the restriction;

19 or

20 (B) The property cannot reasonably be used in strict compliance with the  
21 ordinance.

22 (2) The definition of "unreasonable restriction" set forth in subparagraph (1) shall  
23 apply whether the provision of the ordinance from which a variance is sought is a restriction on use,  
24 a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

25 (c) The board shall use one voting method consistently for all applications until it  
26 formally votes to change the method. Any change in the board's voting method shall not take effect  
27 until 60 days after the board has voted to adopt such change and shall apply only prospectively, and  
28 not to any application that has been filed and remains pending at the time of the change.

29 2 Effective Date. This act shall take effect 60 days after its passage.