

CHAPTER 179
SB 49 – FINAL VERSION

02/14/13 0240s
8May2013... 1264h

2013 SESSION

13-0836
03/04

SENATE BILL **49**

AN ACT relative to appeals of planning board decisions.

SPONSORS: Sen. Boutin, Dist 16; Sen. Cataldo, Dist 6; Sen. Fuller Clark, Dist 21; Sen. Odell, Dist 8; Sen. Rausch, Dist 19; Sen. Reagan, Dist 17; Sen. Watters, Dist 4; Rep. Lockwood, Merr 9; Rep. Cooney, Graf 8; Rep. Ferrante, Rock 6

COMMITTEE: Public and Municipal Affairs

ANALYSIS

This bill provides for appeals of planning board decisions concerning a subdivision or site plan to the board of adjustment prior to appeal to the superior court.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to appeals of planning board decisions.

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

1 179:1 New Paragraph; Appeal of Planning Board Decisions. Amend RSA 677:15 by inserting
2 after paragraph I the following new paragraph:

3 I-a.(a) If an aggrieved party desires to appeal a decision of the planning board, and if any of
4 the matters to be appealed are appealable to the board of adjustment under RSA 676:5, III, such
5 matters shall be appealed to the board of adjustment before any appeal is taken to the superior court
6 under this section. If any party appeals any part of the planning board's decision to the superior
7 court before all matters appealed to the board of adjustment have been resolved, the court shall stay
8 the appeal until resolution of such matters. After the final resolution of all such matters appealed to
9 the board of adjustment, any aggrieved party may appeal to the superior court, by petition, any or all
10 matters concerning the subdivision or site plan decided by the planning board or the board of
11 adjustment. The petition shall be presented to the superior court within 30 days after the board of
12 adjustment's denial of a motion for rehearing under RSA 677:3, subject to the provisions of
13 paragraph I.

14 (b) If, upon an appeal to the superior court under this section, the court determines, on
15 its own motion within 30 days after delivery of proof of service of process upon the defendants, or on
16 motion of any party made within the same period, that any matters contained in the appeal should
17 have been appealed to the board of adjustment under RSA 676:5, III, the court shall issue an order to
18 that effect, and shall stay proceedings on any remaining matters until final resolution of all matters
19 before the board of adjustment. Upon such a determination by the superior court, the party who
20 brought the appeal shall have 30 days to present such matters to the board of adjustment under RSA
21 676:5, III. Except as provided in this paragraph, no matter contained in the appeal shall be
22 dismissed on the basis that it should have been appealed to the board of adjustment under RSA
23 676:5, III.

24 179:2 Effective Date. This act shall take effect 60 days after its passage.

25 Approved: July 2, 2013

26 Effective Date: August 31, 2013