

General Instructions for an Application for Appeal to the Zoning Board of Adjustment

A. Introduction

- 1. Instructions apply to:
 - a. Variances
 - b. Special Exceptions
 - c. Equitable Waiver of Dimensional Requirements
 - d. Appeal from an Administrative Decision
- 2. You must submit an application in writing on forms approved by the Zoning Board of Adjustment (the Board) and all fees before the Board will meet and make a determination.
- 3. The Board strongly recommends that prior to filing an appeal, the applicant become familiar with the Warner Zoning Ordinance, Site Plan review Regulations, and the Subdivision Regulations (which ever applies), and also with the New Hampshire Statutes Title LXIV, RSA Chapter 672 to 677, covering planning and zoning.
- 4. Include a copy of any order, notices of violations or other communications received from either the Board of Selectmen or the Planning Board that pertains to the property.
- 5. If a variance is requested, it must be based on a referral from the Board of Selectmen or the Planning Board.
- 6. Submit a list of all abutters within 200 feet of the boundaries of the property. Include name, address, town, state, zip code, and Property Map and Lot numbers for all abutters. Accuracy of the list is your responsibility. If the property abuts a street, the Board of Selectmen shall receive a notice of abutter. If the property abuts a State Highway, the State Department of Transportation as well and the Board of Selectmen shall be notices as abutters. If a referral was received from the Planning Board, they shall be noticed as an abutter.
- 7. The applicant must cover costs as follows:
 - a. Mailing certified notices to each abutter and the property owner at \$6 each
 - b. Each notification to Applicant at \$1 each
 - c. Application fee of \$50 for residential and \$100 for commercial properties
 - d. A check for the correct amount made out to the Town of Warner must be provided at the time of filing.
- 8. A completed application must be received at least 15 days prior to the next scheduled Zoning Board meeting. Public notice of the hearing will be posted and printed in a newspaper, and notice will be mailed to the applicant, all abutters, and to parties the Board may deem to have interest, at least five days prior to the date of the hearing. The applicant and all other parties will be invited to appear in person or by agent or counsel to state reasons why the appeal should or should not be granted.

- 9. Read and complete the proper application for the type of appeal. If the application is incomplete, it will be returned. This will cause delay in the processing of the application and hearing before the Board.
- 10. The applicant shall appear at the hearing. If an attorney represents the applicant and the attorney desires to present a written brief in the case, the brief may be delivered with the application.
- 11. After the public hearing, the Board will reach a decision. The decision could be postponed to a date specified however, to allow for the availability of additional information or to consult with Town Counsel. The applicant and all other parties to the case will be sent a notice of decision.
- 12. If the applicant, Selectmen, or any party affected who believe the Board's decision is wrong, have a right to appeal. A motion to rehearing shall be in the form of a letter to the Zoning Board. The Board will not reopen a case based on the same set of facts unless it is convinced that injustice would be created by not doing so. Whether or not a rehearing is held, the same procedures will be followed as for the first hearing, including public notice to abutters. See RSA Chapter 677 for more details on rehearing and appeal procedures.

B. The Types of Appeals

1. Variances

a. A variance is an authorization, which may be granted under a special circumstance, to allow your property to not meet requirements specified in the Zoning Ordinance. For a variance to be legally granted, you must show that your proposed use meets all of the conditions listed in the application. If you are applying for a variance, you must first have some form of determination that you are not permitted to proceed without a variance. Most often this determination is a denial of a building permit, but could be a referral from the Planning Board. A copy of the determination must be attached to your application.

2. Special Exceptions

a. Certain sections of the Zoning Ordinance provide that uses, buildings or activities in a particular zone will be permitted by special exception if specified conditions are met. The necessary conditions for each special exception are given in the ordinance. Your appeal for a special exception will be granted if you can show that the conditions stated in the ordinance are met.

If you are applying for a special exception, you may also need site plan review or subdivision approval, or both, from the Planning Board. Even in those cases where no Planning Board approval is needed, presenting a site plan to the Planning Board will assist in relating the proposal to the overall zoning. This should be done before you apply for a special exception.

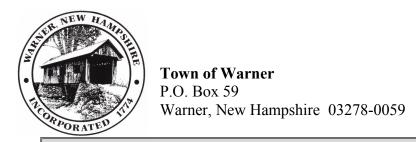
3. Appeal from an Administrative Decision

a. If you have been denied a building permit or are affected by some other decision regarding the administration of the Town of Warner Zoning Ordinance, Site Plan review Regulations or Land Subdivision Control Regulations, you may appeal the decision to the Zoning Board of Adjustment. The appeal must be made within 20 days of the decision, according to the Rules of Procedure of the Warner Zoning Board of Adjustment. The appeal will be granted if you can show that the decision was indeed made in error.

If you are appealing an administrative decision, a copy of the decision appealed for must be attached to the application.

4. Equitable Waiver of Dimensional Requirements

a. If you have found that your structure does not conform to the dimensional requirements for the zone district in which it is located as a result of an error by your builder, yourself or a public official, you may be eligible for an equitable waiver of dimensional requirement. This does not mean that your structure is then a legal non-conforming use but rather recognizes the error and prevents any enforcement action against that error in the future. All subsequent construction at the site must then comply with all dimensional requirements.



APPLICATION FOR VARIANCE & SPECIAL EXCEPTION

FOR OFFICE US Case Number: Date Received:	E ONLY.		Telephone: (603)	3) 456-2298, ext. 7			
Date Received: _			<u>FEES</u> : * Application Fee	: Residential: \$50.00			
				Commercial: \$100.00			
Received by:				Abutter Notification: ** \$6.00 per abutter			
Amount Paid:			Applicant Notifi	cation: \$1.00 per notification			
** Attach a list of a		feet of the bound	aries of the property. Inc	rior to starting the hearing lude name, address, town,			
Name of Applica	nt			Date:			
Applicant Mailir	ng Address			Zip			
	Town		State	Zip			
i eiepnone:	Dayume ()		Nightume ()				
Owner of Proper	ty						
Owner Mailing A	Address		Ct. t				
	lown		State	Zıp			
	ription of Property						
Address	ription of rioperty	Map #	Lot #	Zoning District			
		··r		<u> </u>			
	roval Required? Y						
			nal information on separ (Indicate number of she				

Complete the following sheets that apply to the specific application type

Zoning Board of Adjustment

Town of Warner, NH

Αι	uth	iorizat	tion	from (Own	er(s)	
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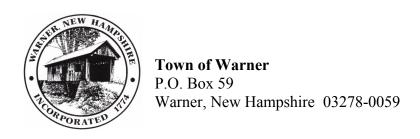
1. I (We) hereby designate agent and to appear and present aboard].	said application before the	to serve as my (on the Warner Zoning Board of Adjustment [Zon	our) iing
	e. I (We) further unders	orize and understand that agents of the Town retand the Zoning Board may at some point dury posted.	•
3. I (We) understand that the application/plan out for review. T	_	eview the application/plan and/or may send r such a review.	the
- · · · · · · · · · · · · · · · · · · ·	Ordinance and other land	n provided herein is accurate and is in accorda I use regulations of the Town and other applica	
Signature of Owner(s):		Date:	
		Date:	
Signature of Applicant(s), if differ	rent from Owner:		
		Date:	
		Date:	
Printed name of person(s) who sig	gned above:		
			_
Fo	r Zoning Board of Adju	ustment Use Only	
Date Received at Town Office:			
Received by:			
Fees Submitted: Amount:	Cash:	Check # Other:	
Abutters' List Received: Yes	No	_	
Date of Review:	_ Date of Hearing:	Date Approved:	_

The u	ndersi	gned hereby	requests a VARIANCI	to the terms of:
	1	Article	, Section	of the Warner Zoning Ordinance.
To gra	ant a V	ariance, the	following conditions m	ust be met.
•	The ap	plicant seekii	ng a variance <u>must</u> be pr	epared to prove the conditions at the Public Hearing.
				ch of the following conditions: [Include additional cant name & date on each sheet] Number of Sheets_
1.	Explai	n why granting t	he variance will not be contra	ary to the public interest
2.	Explai	n why granting t	he variance would not be cor	trary to the spirit of the ordinance
3.	Explai	n why by grantii	ng the variance, substantial ju	stice is done
4.	Explai	n why by grantii	ng the variance the values of	surrounding properties are not diminished.
5.	A. Fo	or purposes of the operty that disting No fair and sub-	is subparagraph, "unnecessar nguish it from other propertie	tween the general public purposes of the ordinance provision
	ii.	The proposed u	ise is a reasonable one.	
	on pr	aly if, owing to soperty cannot be	pecial conditions of the prope	ished, an unnecessary hardship will be deemed to exist if, and erty that distinguish it from other properties in the area, the formance with the ordinance, and a variance is therefore
	ordinan	ce from which a		subparagraph (5) shall apply whether the provision of the tion on use, a dimensional or other limitation on a permitted use,
				Date:

ALL COSTS OF MAILING BY CERTIFIED MAIL, FEES, AND LEGAL ADVERTISEMENT IN A NEWSPAPER MUST BE MET BY APPLICANT BEFORE THE HEARING MAY BEGIN.

	Article	, Section	of the Warner Zoning Ordinance.
<u> Fo gra</u>	ant a Special Except	tion, the following cond	ditions must be met.
	The Applicant must	be prepared to prove the	ne conditions at the Public Hearing.
inc		rmation on a separate sh	of the following conditions: [Please feel free to heet. Place applicant name and date on each sheet.
A.	-	s identified in this ordin h the application is mad	ance as one which may be approved by the Board in le.
В.	The requested use is	s essential or desirable t	o the public convenience or welfare.
C.		vill not impair the integr o the health, moral, or v	rity or character of the district or adjoining district, velfare.
D.		-	ture must conform to road access and availability of ecial Exception is requested.
Name	of Applicant:		
Signed	1.		Date:

ALL COSTS OF MAILING BY CERTIFIED MAIL, FEES, AND LEGAL ADVERTISEMENT IN A NEWSPAPER MUST BE MET BY APPLICANT BEFORE THE HEARING MAY BEGIN.



APPLICATION

FOR EQUITABLE WAIVER OF DIMENSION REQUIREMENTS

Zoning Board of Adjustment

TELEPHONE (603) 456-2298, ext. 7

FOR OFFICE U	SE ONLY.	FEES: *	
Case Number:			ee: Residential: \$50.00
Date Received:		11	Commercial: \$100.00
Received by:		Abutter Notifi	cation: ** \$6.00 per abutter
Amount Paid: _		Applicant Not	eification: \$1.00 per notification
* Fees for public	eation of the Legal Notice will b	be invoiced and must be paid for	prior to starting the hearing
** Submit a list of	f all abutters within 200 feet of	the boundaries of the property.	
state, zip code,	and Property Map and Lot nun	nbers for all abutters.	
Name of Applic	eant		Date:
Applicant Mail	ing Address		
	Town	State	Zip
Telephone:	Daytime ()	StateNighttime ()	
Owner of Prope	ertv		
Owner Mailing	Address		
9	Town	State	Zip
	scription of Property:		
Man #	Lot #Z	Coning District	
The sundensioned	l homohov na gavasta an Egwitchl	a Waissan of Dimensional Da	avinamanta ta tha tamaa af Antial
		f the Warner Zoning Ordinan	quirements to the terms of Article
		- v	
Details of Requ			
		formation on a separate attache	
Put Name	e of applicant and date on each	sheet. (Indicate number o	f sheets attached)

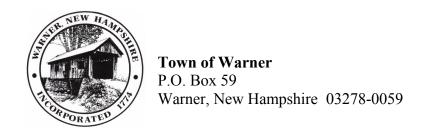
*** Complete attached sheet #2 titled Application for Equitable Waiver of Dimensional Requirements ***

APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

prese [Plea	in writing how the following pertain to the property. The Applicant must be prepared to nt the conditions at the Public Hearing: see feel free to include additional information on a separate sheet. Place applicant name and date ch sheet. Number of attached sheets]
1.	Does the request involve a dimensional requirement, not a use restriction? (circle) Yes/No
2. inclu	Explain how the violation has existed for 10 years or more with no enforcement action, ling written notice, being commence by the town:
	or Explain how the nonconformity was discovered after the structure was substantially complete or after a vacant lot in violation had been transferred to a bona fide purchaser:
	Explain how the violation was not an outcome of ignorance of the law or bad faith but resulted from a legitimate mistake:
3. inter	Explain how the nonconformity does not constitute a nuisance nor diminish the value or ere with future uses of other property in the area:
4.	Explain how the cost of correction far outweighs any public benefit to be gained:
Name	of Applicant:
Signe	d: Date:

ALL COSTS OF MAILING BY CERTIFIED MAIL AND LEGAL ADVERTISEMENT IN A NEWSPAPER MUST BE MET BY APPLICANT BEFORE THE HEARING MAY BEGIN.

 $\underline{\ }^{\underline{*}} \ \underline{ALL} \ \underline{APPLICABLE} \ \underline{PAGES} \ \underline{MUST} \ \underline{BE} \ \underline{COMPLETED} \ \underline{TO} \ \underline{BE} \ \underline{ACCEPTED} \ \underline{\ }^{\underline{*}}$



APPLICATION FOR APPEAL FROM ADMINISTRATIVE DECISION

Zoning Board of Adjustment

			TELEPHON	NE: (603) 456-229	8, ext. 7
FOR OFFICE US	SE ONLY:		<u>FEES</u> : *		
Case Number: _			Application	Fee: Residential:	\$50.00
Date Received: _				Commercial	: \$100.00
Received by: _			Abutter Not	ification: ** \$6.00	per abutter
Amount Paid: _			Applicant N	lotification: \$1.00	per notification
** Submit a list of	tion of the Legal Notic all abutters within 200 and Property Map and	feet of the bour	ndaries of the property		
Name of Applica	ant			Date:	
Applicant Maili	ng Address Town Daytime ()				
	Town		State	Zip	
Telephone:	Daytime ()		_ Nighttime (_)	
Owner of Prope	rty				
Owner Mailing	Aaaress				
	Town		State	Zip	
	cription of Property	•			
Map #	Lot #	Zoning]	District		
of the enforceme	nterpretation and elent officer to be revi	iewed:		the Zoning Ordin	ance. Decision
	Section				
Name of Applica	nt:				
Signed:				Date:	