

**WASHINGTON ZONING BOARD OF ADJUSTMENT**  
**TOWN HALL**  
**WASHINGTON, NH 03280**  
**INFORMATION PACKET**

This packet contains the background information and forms necessary for filing an application for either a variance, appeal from an administrative decision, or equitable waiver of dimensional requirements. Ordinarily, a building permit must be denied prior to applying for a variance. It is important that the necessary forms are completed accurately.

In addition, the following are necessary before a completed filing can occur:

1. A fee for certified mailings to abutters and the cost of all required notices must be paid in advance of the hearing by the applicant.
2. A complete list of the names and mailing addresses of abutters\* must be submitted.
3. An accurate site plan showing property boundaries, locations of existing buildings as applicable, current setbacks from property lines, and proposed changes must be included with the filing. (See page 4 for details.)
4. Your complete filing package should be delivered to the Town Office, and it will then be forwarded to the ZBA for action. You will be notified of the hearing date as soon as possible. To expedite scheduling, please submit your application before the 10th of the month in which you hope to have the hearing. Please do not attempt to contact members of the ZBA directly. All interaction between individuals and the Board should be through the formal meeting process.

Thank you,

Zoning Board of Adjustment

\*“Abutter” means any person whose property is within 200 feet at any point of the parcel under consideration. For purposes of receiving testimony only, and not for purposes of notification, the term “abutter” shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.

## **INSTRUCTIONS TO APPLICANTS APPEALING TO THE ZONING BOARD OF ADJUSTMENT**

**Important: Read all instructions carefully before filling out the attached application.**

The board strongly recommends that, before making any appeal, you become familiar with the zoning ordinance and also with the New Hampshire Revised Statutes (RSA) Title LXIV, Chapters 672-677, covering planning and zoning.

Three types of appeals can be made to the Board of Adjustment.

**VARIANCE:** A variance is an authorization, which may be granted under special circumstances, to use your property in a way that is not permitted under the strict terms of the zoning ordinance. For a variance to be legally granted, you must show that your proposed use meets **all five** of the following conditions:

1. The proposed use would not diminish surrounding property values.
2. Granting the variance would not be contrary to the public interest.
3. Denial of the variance would result in unnecessary hardship to the owner. Hardship, as the term applies to zoning, results when the following conditions exist:
  - a. The restriction, when applied to the applicant's property, interferes with his or her reasonable use of the property, considering its unique setting in its environment.
  - b. No fair and substantial relationship exists between the general purposes of the ordinance and the specific restriction, and
  - c. The variance would not injure the public or private rights of others.
4. Granting the variance would do substantial justice.
5. The proposed use is not contrary to the spirit of the ordinance.

If you are applying for a variance, you must first have some form of determination that your proposed use is not permitted without a variance. Most often, this determination is a denial of a building permit. A copy of the determination must be attached to your application.

**APPEAL FROM AN ADMINISTRATIVE DECISION:** If you have been denied a building permit or are affected by some other decision regarding the administration of the Washington Land Use Ordinance and you believe that the decision was made in error under the provision of the ordinance, you may appeal the decision to the Board of Adjustment within 21 days.

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

**EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS:** The board may grant an equitable waiver only for existing dimensional nonconformities provided the applicant can meet the required standards:

- a. The nonconformity was not discovered until after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser.

b. The nonconformity was not an outcome of ignorance of the law or bad faith but was instead caused by a legitimate mistake.

c. In lieu of the requirements in paragraphs (a) and (b), the violation has existed for 10 years or more with no enforcement action, including written notice, commenced by the town.

If these conditions are satisfied, the board can move on to the additional findings to grant the waiver:

d. The nonconformity does not constitute a public or private nuisance nor diminish the value or interfere with future uses of other property in the area, and

e. The cost of correction would far outweigh any public benefit to be gained.

**FOR ANY APPEAL:** The application form must be properly filled out. Be sure you show:

WHO owns the property. WHERE the property is located. A DESCRIPTION of the property showing area, frontage, side and rear lines, slopes and natural features, etc. WHAT you propose to do, attach plot plans, sketches, pictures, construction plans, etc. Include any prior applications concerning the property. WHY your proposed use requires an appeal And, HOW your appeal meets the five conditions of a variance or the conditions for a special exception, an equitable waiver, or an appeal of an administrative decision.

Mail or deliver your completed application, with all attachments, to the clerk of the Board of Adjustment or to the office of the Board of Selectmen. A fee is charged to cover the cost of preparing and mailing the legally-required notices. Make check payable to: The Town of Washington.

The board will schedule a public hearing within 30 days of receipt of your properly completed application. Public notice of the hearing will be posted and printed in a local newspaper, and notice will be mailed to you and to all abutters and to other parties whom the board may deem to have an interest, at least 5 days before the date of the hearing. You 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.

After the public hearing, the board will reach a decision. You will be sent a notice of decision.

If you believe the board's decision is wrong, you have the right to appeal. The selectmen, or any party affected, have similar rights to appeal the decision in your case. To appeal, you must first ask the board for a rehearing. The motion for rehearing may be in the form of a letter to the board. The motion must be made within 30 days after the decision is made and must set forth the grounds on which it is claimed the decision is unlawful or unreasonable.

The board may grant such a hearing if, in its opinion, good reason is stated in the motion. The board will not reopen a case based on the same set of facts unless it is convinced that an injustice would be created by not doing so. Whether or not a rehearing is held, you must have requested one before you can appeal to the courts. When a rehearing is held, the same procedure is followed as for the first hearing, including public notice and notice to abutters and the standard fee schedule shall apply.

See RSA Chapter 677 for more detail on rehearing and appeal procedures.

## **Instructions for the Plot Plan Attachment**

### **General Notes to Applicants**

1. Site/plot plans must be legible with structures (existing and/or planned) dimensionally sized and placed as accurately as possible. Plans should be on paper large enough to show all required details, but no smaller than 8 ½ x 11 inches.

2. If a survey of the site/plot plan has been prepared by a licensed surveyor/engineer, a copy of that signed and sealed survey should be submitted with this application.

3. Submission of photographs that show existing lot conditions and/or other pertinent lot features is encouraged but not mandated.

4. If conditions on abutting lots are relevant to this application, they should be described in writing or shown on the application site/plot plan.

5. Certain items must be provided on all site/plot plans prior to the hearing. These are listed below (required items). In addition, for nonconforming lots and for lots with unusual terrain conditions, the items listed as “Not Required but Recommended” should be given careful consideration. If excluded, they may later be required by the ZBA if it feels they are essential considerations at the fact-finding phase of the hearing. Exclusion could result in a delay of the application review.

### **Required Items**

\_\_\_\_\_ Lot dimensions, including acreage and/or square footage.

\_\_\_\_\_ Bounding streets and rights of way. Driveways and other access ways on the lot, including their dimensions.

\_\_\_\_\_ Easements and encroachments on the lot.

\_\_\_\_\_ Location of septic system, including approved septic plan if available.

\_\_\_\_\_ Location of domestic water well.

\_\_\_\_\_ Dimensions, locations, and distances from lot lines of the proposed buildings, structures, or additions.

\_\_\_\_\_ Proposed changes to lot lines and elevations.

\_\_\_\_\_ Lot identification number and street address as designated by the Town.

\_\_\_\_\_ Arrow indicating North.

\_\_\_\_\_ Date the plot plan was prepared.

\_\_\_\_\_ Signature of the preparer. If professionally prepared, include the signature and official seal of the licensed engineer or surveyor as appropriate.

**Not Required but Recommended Items:**

\_\_\_\_\_ Total square footage of building coverage on the lot.

\_\_\_\_\_ Dimensions and placement of all existing buildings over 50 square feet, including distances from such buildings to lot lines.

\_\_\_\_\_ Total square footage of manmade lot coverage, i.e. driveways, tennis courts.

\_\_\_\_\_ Location of water bodies and courses, i.e., lakes, ponds, marshes, bogs, rivers, streams, intermittent water flow areas, etc., which are on or abut the property.

\_\_\_\_\_ Storm water drainage flow to and from the lot.

\_\_\_\_\_ Description of prominent lot terrain features, including high and low points and impervious lot surfaces.

\_\_\_\_\_ Changes to impermeable lot surfaces and/or storm water drainage resulting from the construction proposed in this application.

\_\_\_\_\_ Changes to existing natural ground vegetation and trees.

**BOARD OF ADJUSTMENT  
TOWN OF WASHINGTON  
APPLICATION FOR AN APPEAL**

This application must be completed (type or print) and returned to the Town Office. It will be forwarded to the Board of Adjustment. You will be notified of the date and trifle of the public hearing at which you or your authorized agent or attorney must be present in order for the Board to take action on your application. If you designate an agent or attorney to represent you, you must submit a letter of authorizing that representation. You are fully responsible for researching and knowing any and all laws that may be applicable and affect the outcome of the Board's decision on your application request. The Town of Washington assumes no responsibility or liability related to your failure to research and know all applicable laws, including, but not limited to, state, federal, and local laws, codes, and land development regulations.

**CONTACT INFORMATION**

Applicant's Name: \_\_\_\_\_

Applicant's Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Home phone number: \_\_\_\_\_

Business phone number: \_\_\_\_\_

Fax number: \_\_\_\_\_ E-mail address: \_\_\_\_\_

Owner of Property: \_\_\_\_\_

Address of Owner: \_\_\_\_\_

(If same as above, write "same.")

**DESCRIPTION OF THE PROPERTY**

Address: \_\_\_\_\_

Tax Map #: \_\_\_\_\_ Lot #: \_\_\_\_\_

Total Acreage of the Property: \_\_\_\_\_

Length of lot lines: Front \_\_\_\_\_ Side \_\_\_\_\_ Side \_\_\_\_\_ Rear \_\_\_\_\_

Current Use of Property: \_\_\_\_\_

Proposed use or existing use affected: \_\_\_\_\_

**TYPE OF APPEAL REQUESTED**

**1. Appeal from an Administrative Decision**

The undersigned alleges that an error has been made in the decision, determination, or requirement by the building inspector/selectman on date) to \_\_\_\_\_ (person requesting permit) in relation to Article \_\_\_\_\_ Section \_\_\_\_\_ of the Zoning Ordinance, and hereby appeals said decision.

Signature of applicant \_\_\_\_\_

**2. Application for an Equitable Waiver of Dimensional Requirements**

The undersigned requests an equitable waiver of dimensional requirements from article\_\_\_\_ section \_\_\_\_\_ of the zoning ordinance to permit:\_\_\_\_\_

A. Does the request involve a dimensional requirement, not a use restriction? ( ) yes ( )no

B. Explain how the violation has existed for 10 years or more with no enforcement action, including written notice, being commenced by the town:\_\_\_\_\_

OR Explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser:

And how the violation was not an outcome of ignorance of the law or bad faith but resulted from a legitimate mistake:\_\_\_\_\_

C. Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area:\_\_\_\_\_

D. Explain how the cost of correction far outweighs any public benefit to be gained:

Signature of applicant \_\_\_\_\_ Date \_\_\_\_\_

**3. Application for a Use Variance**

In order to secure a variance, the Board must determine by law that your variance request satisfies the following criteria. Please provide a written response along with any other supporting documentation for each of the following statements. This application is not acceptable unless all required statements have been made. (If the space provided for your answers is inadequate, please attach additional pages to this application.)

The undersigned requests a variance to the terms of Article \_\_\_\_\_, Section \_\_\_\_\_ of the Zoning Ordinance in order to permit the following: \_\_\_\_\_

\_\_\_\_\_

Facts supporting this request:

1. The proposed use would not diminish surrounding property values because: \_\_\_\_\_

\_\_\_\_\_

2. Granting the variance would not be contrary to the public interest because: \_\_\_\_\_

\_\_\_\_\_

3. Denial of the variance would result in unnecessary hardship to the owner because: \_\_\_\_\_

\_\_\_\_\_

a. The zoning restriction as applied to the property interferes with the reasonable use of the property, considering the unique setting of the property in its environment such that:

\_\_\_\_\_

\_\_\_\_\_

b. No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restrictions on the property because: \_\_\_\_\_

\_\_\_\_\_

c. The variance would not injure the public or private rights of others because: \_\_\_\_\_

\_\_\_\_\_

4. Granting the variance would do substantial justice because: \_\_\_\_\_

\_\_\_\_\_

5. The proposed use is not contrary to the spirit and intent of the ordinance because: \_\_\_\_\_

\_\_\_\_\_

Applicant's signature: \_\_\_\_\_ Date: \_\_\_\_\_

**4 Application for an Area Variance**

In order to secure a variance, the Board must determine by law that your variance request satisfies the following criteria. Please provide a written response along with any other supporting documentation for each of the following statements. This application is not acceptable unless all required statements have been made. (If the space provided for your answers is inadequate, please attach additional pages to this application.)

The undersigned requests a variance to the terms of Article \_\_, Section \_\_\_\_\_ of the Zoning Ordinance in order to permit the following:\_\_\_\_\_

\_\_\_\_\_

**Facts supporting this request:**

1. The proposed use would not diminish surrounding property values because:\_\_\_\_\_

\_\_\_\_\_

2. Granting the variance would not be contrary to the public interest because:\_\_\_\_\_

\_\_\_\_\_

3. Denial of the variance would result in unnecessary hardship to the owner because:\_\_\_\_\_

\_\_\_\_\_

a. The following special conditions of the property make an area variance necessary in order to allow the development as designed\_\_\_\_\_;and

\_\_\_\_\_

b. The same benefit cannot be achieved by some other reasonably feasible method that would not impose an undue financial burden because\_\_\_\_\_

\_\_\_\_\_

4. Granting the variance would do substantial justice because:\_\_\_\_\_

\_\_\_\_\_

5. The proposed use is not contrary to the spirit and intent of the ordinance because:\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Applicant's signature: \_\_\_\_\_ Date: \_\_\_\_\_