

INSTRUCTIONS TO APPLICANTS APPEAL TO THE  
BOARD OF ADJUSTMENT

Important: READ CAREFULLY BEFORE FILLING OUT  
ATTACHED APPLICATION

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

Three types of appeal 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 be of benefit 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 if a restriction, when applied to a particular property, becomes arbitrary, confiscatory, or unduly oppressive because of conditions of the property that distinguish it from other properties under similar zoning restrictions. Hardship, under zoning laws, has nothing to do with the physical or economic condition of the owner.
4. Granting the variance would do substantial justice.
5. The proposed use is not contrary to the spirit of the ordinance.

**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 wetlands and flood prone areas zoning ordinance, and you believe that the decision was made in error under the provisions of the ordinance, you may appeal the decision to the board of adjustment. The appeal will be granted if you can show that the decision was indeed made in error.

**SPECIAL EXCEPTION:** Certain sections of the zoning ordinance provide that a particular use of property 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 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.

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

If you are applying for a special exception, you will probably also need site plan or subdivision approval, or both, from the planning board. Even in those cases where no 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.

For any appeal, the application form must be properly filled out. The application form is intended to be self-explanatory, but be sure that you show:

WHO owns the property? If the applicant is not the owner, this must be explained.

WHERE is the property located?

DESCRIBE the property. Give area, frontage, side and rear lines, slopes and natural features, etc.

WHAT do you propose to do? Attach sketches, plot plans, pictures, construction plans, or whatever may help explain the proposed use. Include copies of any prior applications concerning the property.

WHY does your proposed use require an appeal to the board of adjustment?

Why should the appeal be granted?

Prepare a list of all abutting property owners, have it verified at the town office, and attach it to your application. If you have any difficulty, consult the assessor's office, but the accuracy of the list is your responsibility.

Mail or deliver the completed application, with all attachments to the clerk of the board or to the office of the board of selectmen. A fee is charged sufficient to cover the cost of preparing and mailing the legally-required notices. Make check payable to Town of Haverhill and remit with your application.

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 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 five 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 20 days of the board's decision, and must set forth the grounds for which it is claimed the decision is unlawful or unreasonable.

The board may grant such a rehearing 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.

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

APPLICATION FOR APPEAL

DO NOT WRITE IN THIS SPACE

Case No. \_\_\_\_\_  
Date Filed \_\_\_\_\_  
Fee Received \_\_\_\_\_  
Signed \_\_\_\_\_

To: BOARD OF ADJUSTMENT  
TOWN OF HAVERHILL, NH

Name of Applicant \_\_\_\_\_  
Address \_\_\_\_\_  
Owner of Property Concerned \_\_\_\_\_  
(if same as applicant, write same)

Address \_\_\_\_\_  
Location of Property \_\_\_\_\_  
Description of Property \_\_\_\_\_

( give length of frontage, side and rear yards)

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

Fill out section 1, 2, or 3. DO NOT fill out more than one section.

This application is not acceptable unless all required statements have been made. Additional information may be supplied on a separate sheet if the space provided is not sufficient.

Section 1

APPEAL FROM AN ADMINISTRATIVE DECISION

The undersigned alleges that an error has been made in the decision, determination or requirement, by the Zoning Enforcement Officer on \_\_\_\_\_ to \_\_\_\_\_ in relation to  
date person requesting permit  
Article \_\_\_\_\_ Section \_\_\_\_\_ of the Zoning Ordinance and herby appeals said  
decision.

Decision of the Enforcement Officer to be reviewed:

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Section 2

APPLICATION FOR SPECIAL EXCEPTION

The undersigned hereby requests a special exception as provided in Article \_\_\_\_\_  
Section \_\_\_\_\_ of the Zoning Ordinance.

Description of proposed use showing justification for a special exception: \_\_\_\_\_

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The undersigned alleges that the following circumstances exist which prevent the proper enjoyment of his land under the strict terms of the Zoning Ordinance and thus constitutes an unnecessary hardship:

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Section 3

APPLICATION FOR VARIANCE

The undersigned hereby requests a variance to the terms of Article \_\_\_\_\_ Section \_\_\_\_\_  
and asks that said terms be waived to permit:

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Facts supporting this request are as follows:

1. Granting the variance would not diminish the value of surrounding properties because:

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2. Granting the variance would benefit the public interest because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Denial of the variance would result in an unnecessary hardship to the owner because of the following special circumstances of the property that distinguish it from other property similarly zoned: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Granting the variance would result in substantial justice being done because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Section 4

ABUTTING PROPERTY OWNERS

You must list all abutting property owners including their names, mailing addresses and tax map and lot numbers. The term abutter includes any person whose property is located in NH and adjoins or is directly across the street or stream from the land under consideration {RSA 672:3}.

Signed: \_\_\_\_\_ Date \_\_\_\_\_