

**ZONING ORDINANCE
PRECINCT OF HAVERHILL CORNER
TOWN OF HAVERHILL, NEW HAMPSHIRE**

Revised March 25, 2010

- 4.04 **COMMERCIAL:** Establishments engaged in the purchase and sale of goods or services.
- 4.05 **DWELLING:** A structure designed for residential occupancy by one or more families but excluding hotels, motels, tourist homes, bed and breakfasts or overnight cabins.
- 4.06 **EXISTING ROADS:** Includes all roads in the Precinct of Haverhill Corner, accepted by the town or state as of the date of passage of the ordinance.
- 4.07 **FLOODPLAIN:** See Section 5.03: District 3.
- 4.08 **FRONTAGE:** The length of a lot at its front lot line which borders on public street or a private street that has been approved by the Planning Board in a subdivision.
- 4.09 **HEIGHT:** The vertical distance from the average finished grade surrounding the building to the highest point of the highest roof. Residential television and radio antennas, cupolas, steeples and silos are excluded from the calculation of height.
- 4.10 **HOME OCCUPATION:** A home occupation is a secondary use of a dwelling that constitutes either entirely or partly the livelihood of a person living in the dwelling, subject to the conditions in Section 8.01.
- 4.11 **JUNK YARD:** A place used for storing and keeping, or storing and selling, trading, otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled or wrecked motor vehicles or parts thereof, unregistered semi-trailers, iron, steel, or other old or scrap ferrous or nonferrous material. Does not include any establishment or place of business registered with the Director of NH Motor Vehicles which is primarily engaged in doing auto body repair work, to make repairs, to tow vehicles, or to render a motor vehicle serviceable. As used in this ordinance, the term further includes, but is not limited to all types of junk yards defined in Chapter 236:112.
- 4.12 **LIGHT MANUFACTURING:** A business engaged in the on-site production and/or assembly for sale of goods, having not more than 5 production employees and whose scale and architectural style are compatible with the neighborhood.
- 4.13 **LOT:** A parcel of land of at least sufficient size to meet the minimum requirement of this ordinance for use, area, setback and other open spaces.
- 4.14 **LOT LINE, FRONT:** Any lot line that coincides with a line of a street or a right-of-way.
- 4.15 **LOT LINE, REAR:** The lot line most distant from the front line, except that in the case of a corner lot, the owner shall have the option of choosing which of the lot lines shall be the rear lot line. That choice shall not result in a non-conforming lot.
- 4.16 **LOT LINE, SIDE:** Any lot line not a front or rear lot line.
- 4.17 **MANUFACTURED HOUSING:** A structure, transportable in one or more sections, which exceeds either eight (8) body feet in width or forty (40) body feet in length, built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.
- 4.18 **MOTOR VEHICLE:** means "motor vehicle" as defined by RSA 259:60, I, namely, any self-propelled vehicle not operated exclusively upon stationary tracks including ski area vehicles.
- 4.19 **MULTI-FAMILY HOUSING:** A residential or multi-use building designed for and occupied by three or more families, regardless of the type of ownership, such as, but not limited to, town

**Article V
DISTRICTS**

DISTRICTS: The Precinct shall be divided into the following districts:

- 5.01 **DISTRICT 1** shall consist of the Haverhill Corner Historical District as entered in the National Register of Historic Places on 27 August 1987, excluding the Common District and any flood plain.
- 5.02 **DISTRICT 2** shall consist of all parts of the Precinct not in Districts 1,3 or 4. It shall be rural residential/agricultural.
- 5.03 **DISTRICT 3** shall consist of all land within the Precinct of Haverhill Corner identified as Flood Hazard Areas in the "Flood Insurance Study for the Town of Haverhill, NH as amended" together with associated Flood Insurance Rate Maps of the Town of Haverhill, as amended.
- 5.04 **DISTRICT 4** shall consist of the "Commons", an area of land bordered by Route 10, School Street and Park Street and bisected by Court Street.

**Article VI
AREA REGULATIONS AND HEIGHT**

6.01 **LOT SIZE AND FRONTAGE:** Lots on state or town roads shall be a minimum of one (1) acre in size, depending upon soil and slope conditions. Such lots shall have a minimum road frontage of one hundred fifty (150) feet. Lots not on state or town roads shall be a minimum of three (3) acres in size or larger, depending on soil and slope conditions. In determining lot size, no part of the land that is wetland or has slope greater than twenty-five (25) percent (%) will be counted towards the minimum size. All lots must be suitable to sustain development according to Precinct, town, or state standards, whichever is most restrictive.

6.02 **SETBACKS:**

A. Districts 1 and 2:

FRONT: A minimum distance of fifty (50) feet shall be required between any building or structure and the front lot line.

SIDE: A minimum distance of thirty (30) feet shall be required between any building or structure and a side lot line. Detached accessory buildings may, as a special exception, be approved to within fifteen (15) feet of a side lot line if the Board of Adjustment finds this would not be detrimental to the neighborhood.

REAR: A minimum distance of forty (40) feet shall be required between any building or structure and the rear lot line. Detached accessory buildings may, as a special exception, be approved to within twenty (20) feet of a rear lot line if the Board of Adjustment finds this would not be detrimental to the neighborhood.

B. District I:

For dwellings in District I fronting directly on Route 10, Court Street or the Common, the Board of Adjustment may, by special exception, allow the pre-existing setbacks to apply to the replacement of a destroyed building or discontinued use.

7.02 **DISTRICTS 1 AND 2:**

A. Uses Permitted by Special Exception:

1. Restaurants
2. Antique stores
3. Bed and breakfast and tourist homes
4. Schools
5. Nursery schools and day care
6. Multi-family dwellings
7. Church, parish house or other religious use
8. Community center, museum, hall, lodge, park or playground if each is operated by a non-profit organization
9. Home occupations
10. Multi-use building
11. Cluster development
12. Offices and facilities of non-profit and governmental organizations

B. Conditions may be attached to the special exceptions granted by the Zoning Board of Adjustment consistent with the intent and purpose of this ordinance.

C. Commercial uses, other than those mentioned previously, may be established by the grant of a special exception by the Zoning Board of Adjustment. The special exception may be conditioned upon site plan approval by the Planning Board. The following regulations and restrictions shall be observed:

1. The site design shall make reasonably efficient use of the site topography, existing landscaping and building placement so as to preserve existing trees and natural features, preserve vistas and river views from public ways and minimize intrusion into the character of existing development.
2. No business, commercial, or governmental use shall be permitted which could cause any undue hazard to health, safety or property values or which is offensive to the public because of noise, vibration, excessive traffic, unsanitary conditions, noxious odor, smoke, directional lighting that extends beyond the property line, or other similar reason.
3. Sufficient acreage shall be included to allow the following setbacks:
 - (a) Not less than seventy-five (75) feet from a front lot line to any building or parking lot with grass or beautification in the buffer area.
 - (b) Not less than fifty (50) feet from a building or parking lot to the side or rear lot line.
4. Uses likely to generate more than twenty-five (25) auto trips per hour in total to and from the premises in the busiest hour of the day in the month with the highest average use shall be allowed only if directly served by Routes 10 or 25.

7.03 **DISTRICT 2:**

A. **PERMITTED USES:** In addition to the uses in 7.01, the following uses are permitted in District 2:

1. Agricultural use which includes but is not limited to dairy farming, greenhouses, poultry husbandry, horticultural uses and pasturage as defined in RSA 21:34a.
2. Manufactured housing.

- A. The home occupation is carried out wholly within the dwelling, which is the primary residence of the proprietor of the business.
- B. There are no alterations to a building exterior and no outside storage.
- C. The occupation consumes no more than fifty (50) percent of the total floor space of the existing dwelling.
- D. No objectionable noise, vibration, smoke, dust, odors, heat, light, glare, or electronic or other interference is generated.

8.02 **OFF-STREET PARKING:** A parking space shall be nine (9) feet x twenty (20) feet. The following are requirements for off-street parking.

- A. **RESIDENTIAL:** two spaces for each family unit.
- B. **COMMERCIAL:** one space for each two (2) anticipated patrons or employees on the premises at the same time.
- C. **RESTAURANT:** adequate parking for staff and one space for each four (4) seats.
- D. **TOURIST ACCOMMODATION:** adequate parking for staff and one space for each unit.
- E. **OTHER:** Adequate parking for accessory uses, e.g. tennis court, swimming pool and/or other private or public recreation facilities must be provided.

8.03 **SIGNS:**

- A. All signs must be on-premises and maintained in good condition and repair.
- B. The area of one side of a sign shall be regarded as the total area of the sign. This includes the advertising surface and any framing or molding but excludes the supporting structure.
- C. The maximum number of signs allowable, free standing or attached, is two (2) on-premises signs per lot for commercial purposes and one (1) per lot for residential or home occupation use, not more than one of which shall be freestanding.
- D. For residential use, a sign not exceeding four (4) square feet is allowed which announces the name, address and/or profession of the occupant of the premises on which said sign is located.
- E. For home occupations a sign shall not exceed twelve (12) square feet. No more than one sign may be freestanding.
- F. For all other uses a maximum of thirty (30) square feet for each sign and a maximum of fifty (50) square feet for all signs will be allowed. No more than one sign may be freestanding.
- G. The maximum height for any sign, including a supporting structure, shall be twelve (12) feet. When attached to a building, it shall not extend above the eaves.
- H. Signs shall not interfere with the line of sight for street traffic or public pedestrian walkways.
- I. All freestanding signs shall be set back at least ten (10) feet from the edge of the pavement or traveled portion of any public right-of-way. No sign shall be in the deeded portion of a public right of way.
- J. Only one sign per lot may be lit and then only by white, non-flashing light from an external source, which illuminates only the advertising surface. Sign lighting shall not interfere with the vision of motorists or pedestrians.
- K. For commercial uses all signage shall be subject to site plan approval by the Planning Board.

Article IX ADMINISTRATION

result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

The Zoning Board of Adjustment may, on an appeal, grant a variance from the provisions of the ordinance if the Board of Adjustment finds all the following conditions and such finding is specified in its decision:

- A. No diminution in value of surrounding properties would be suffered;
- B. Granting the permit would be of benefit to the public interest;
- C. Denial of the permit would result in unnecessary hardship to the owner seeking it;
- D. By granting the permit substantial justice would be done; and
- E. The use must not be contrary to the spirit of the ordinance.

In determining whether the applicant meets the above five conditions, the Zoning Board of Adjustment shall consider the following criteria as an aid to its deliberations:

1. There are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the ordinance in the neighborhood or district in which the property is located.
2. Because of such physical circumstance or conditions there is no possibility that the property can be used in strict conformity with the provisions of this ordinance for a permitted use of the applicant's choice and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. If authorized, the variance will not alter the essential character of the neighborhood or district in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.
4. If authorized, the variance will represent the minimum variance that will afford reasonable relief; and
5. The spirit of the ordinance shall be observed and substantial justice done.

In authorizing a variance, the Zoning Board of Adjustment may attach such conditions and safeguards, as it deems necessary to protect the neighborhood and the community, including, but not limited to, a time limit when the variance will expire if not utilized.

- 10.04 **ADDITIONAL INFORMATION:** The Zoning Board of Adjustment may require the applicant to submit other information it deems necessary to its reaching a decision regarding application for a special exception or variance. The Zoning Board of Adjustment may also engage a qualified professional consultant of its choice to provide such additional information and opinion as may assist the Board in its deliberations. The applicant shall pay the cost of obtaining such additional information.
- 10.05 **FEES** will be set by the Zoning Board of Adjustment and shall be sufficient to cover the expenses of the Board.

Article XI AMENDMENTS

This ordinance may be amended according to the provisions of NH RSA 674 as it is, or may be amended.

ZONING BOARD OF ADJUSTMENT

Precinct of Haverhill Corner

Haverhill, NH 03765

INSTRUCTIONS TO APPLICANTS APPEALING TO THE ZONING BOARD OF ADJUSTMENT

IMPORTANT: READ 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 Statutes TITLE LXIV, RSA Chapters 672- 677, covering planning and zoning.

Four 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 must 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 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 law, has nothing to do with the physical or economic condition of the owner. The NH Supreme Court has established a new test for unnecessary hardship consisting of 3 elements:
 - a. that 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;
 - b. that no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property; and
 - c. that the variance would not injure the public or private rights of others.[footnote 19]
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 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. If you are appealing an administrative decision, a copy of the decision appealed from must be attached to your application.

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 special exception, you may also need site plan 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.

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;

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

- c) 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
- d) The cost of correction would far outweigh any public benefit to be gained.

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.

ZONING BOARD OF ADJUSTMENT

Precinct of Haverhill Corner

Haverhill, NH 03765

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 city/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 of \$65.00 for a single family residential application and \$85.00 for other applications plus ~~\$5.00~~ ^{\$5.39} for each abutter (to be notified by certified mail) must accompany each application. Make the check payable to the Precinct of Haverhill Corner.

You should be aware that the Rules of Procedure of the Board allow the Board to waive some of the procedures upon a finding by a majority of the Board

1. That compliance with the provision or provisions will not substantially help the Board in the fulfillment of its duties;
2. That the cost of compliance would substantially exceeds any benefits that might flow from compliance;
3. That the relief requested has a minimal effect upon the public interest to be served.
4. That the provision or provisions to be waived are not materially helpful to the board in making a decision.

If you feel that the above refers to you, you should request a meeting with the Board to determine which, if any, of the provisions will be waived.

The application must be received no later than the last business day of the month. **Within 30 days of receipt of the properly completed application, the Board will hold a public hearing.** The Board routinely requests the applicant to waive the 30 day requirement so that the hearing can be held at its regular meetings.

The board will meet on the second Thursday of the month at 7:00 pm. Generally hearings will be at this time unless the applicant does not waive his right to a hearing within 30 days, in which case the hearing will be held at another time to comply with the law. Applicants and abutters will be notified of the meeting time and location. The presence of the applicant and/or his representative is required at the hearing. If a holiday falls on the meeting date, the meeting will be rescheduled and all parties notified of the change.

After the public hearing, the board will reach a decision. You and all other parties to the case 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 filed** and first becomes available for public inspection in the board's office, and must set forth the grounds on 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.

Footnote 19: "2001 Land Use Law Update", Atty. Tim Bates, NH OSP Annual Planning and Zoning Conference, May 12, 2001, pg. 1

ZONING BOARD OF ADJUSTMENT

Precinct of Haverhill Corner

Haverhill, NH 03765

Application for a Hearing Before the Zoning Board of Adjustment

To the Board of Adjustment

Date: _____

Applicant: _____

Address: _____

Owner _____

(If same as applicant, write "Same".)

Location of Property: _____

(Street, number, lot/subdivision number, etc.)

Attached are:

- Appeal from an Administrative Decision (Section 1)
- Appeal for a Special Exception (Section 2)
- Application for a Variance (section 3)
- Application for a Rehearing (Section 4)
- List of Abutters
- Application Fee
- Copy of the final Exterior Contractor's blue prints complete with dimensions
- Site plan

DO NOT WRITE IN THIS SPACE
Case #
Date Received
Received by

ZONING BOARD OF ADJUSTMENT

Precinct of Haverhill Corner

Haverhill, NH 03765

Section 1

**APPLICATION FOR APPEAL OF AN ADMINISTRATIVE DECISION
RELATING TO THE INTERPRETATION AND ENFORCEMENT
OF THE PROVISIONS OF THE ZONING ORDINANCE**

Applicant Name _____ Case Number _____

Decision of the enforcement officer to be reviewed: _____

Article _____ Section _____ Of the zoning ordinance in question.

Date _____ Owner _____
By _____
Agent if applicable

New Hampshire law requires the Board to hold a hearing within 30 days of application filing unless the applicant agrees to extend the period. The undersigned hereby waives the 30 day time limit with the understanding that this application will be heard within 60 days of filing.

Date _____ Owner _____
By _____
Agent if applicable

ZONING BOARD OF ADJUSTMENT

Precinct of Haverhill Corner

Haverhill, NH 03765

Section 3

APPLICATION FOR A VARIANCE

Applicant Name _____ Case Number _____

A variance is requested from Article _____ Section _____ of the Zoning Ordinance to permit _____

Facts supporting this request:

1. The proposed use would not the surrounding property values because: _____

2. Granting the variance would be of benefit to the public interest because: _____

3. Denial of the variance would result in unnecessary hardship to the owner because of the following special circumstances that distinguish this property from other properties similarly zoned _____

4. Granting the variance would do substantial justice because: _____

5. The proposal is not contrary to the spirit of the ordinance because: _____

Date _____

Owner _____

By _____

Agent if applicable

New Hampshire law requires the Board to hold a hearing within 30 days of application filing unless the applicant agrees to extend the period. The undersigned hereby waives the 30 day time limit with the understanding that this application will be heard within 60 days of filing.

Date _____

Owner _____

By _____

Agent if applicable

