

APPENDIX C: SUGGESTED FORMS

APPLICATION FORMS

- Appeal from an Administrative Decision
- Special Exception
- Variance
- Equitable Waiver of Dimensional Requirements

NEWSPAPER NOTICE

PERSONAL NOTICE

INDIVIDUAL BOARD MEMBER VARIANCE WORKSHEET

FINDINGS OF FACTS

NOTICE OF DECISION: GRANTED

NOTICE OF DECISION: DENIED

APPEAL FROM AN ADMINISTRATIVE DECISION

To: Zoning Board of Adjustment,
City/Town of _____

Do not write in this space.
Case No. _____
Date Filed _____
_____ (signed - ZBA)

Name of Applicant _____
Address _____
Owner _____
(if same as applicant, write "same")
Location of Property _____
(street, number, sub-division and lot number)

NOTE: 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 inadequate.

Appeal from an Administrative Decision

Relating to the interpretation and enforcement of the provisions of the zoning ordinance.

Decision of the enforcement officer to be reviewed _____

_____ number _____ date _____

article _____ section _____ of the zoning ordinance in question: _____

Applicant _____ Date _____
(Signature)

APPLICATION FOR A SPECIAL EXCEPTION

To: Zoning Board of Adjustment,

City/Town of _____

Name of Applicant _____

Address _____

Owner _____

(if same as applicant, write "same")

Location of Property _____

(street, number, sub-division and lot number)

NOTE: 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 inadequate.

Application for a Special Exception

Description of proposed use showing justification for a special exception as specified in the zoning ordinance, article _____ section _____

Explain how the proposal meets the special exception criteria as specified in article _____, section _____ of the zoning ordinance (list all criteria from ordinance).

Criterion 1 - _____

Criterion 2 - _____

Criterion 3 - _____

Criterion 4 - _____

Applicant _____ Date _____

(Signature)

Do not write in this space.
Case No. _____
Date Filed _____
_____ (signed - ZBA)

APPLICATION FOR A VARIANCE

Do not write in this space.
Case No. _____
Date Filed _____
_____ (signed - ZBA)

To: Zoning Board of Adjustment,

City/Town of _____

Name of Applicant _____

Address _____

Owner _____
(if same as applicant, write "same")

Location of Property _____
(street, number, sub-division and lot number)

NOTE: 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 inadequate.

Application for a Variance

A variance is requested from article _____ section _____ of the zoning ordinance to permit _____

Facts in support of granting the variance:

1. Granting the variance would not be contrary to the public **interest** because:

2. If the variance were granted, the **spirit** of the ordinance would be observed because:

3. Granting the variance would do substantial **justice** because:

4. If the variance were granted, the **values** of the surrounding properties would not be diminished because:

5. Unnecessary Hardship

a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in **unnecessary hardship** because:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

- and -

ii. The proposed use is a reasonable one because:

b. Explain how, if the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Applicant _____ Date _____

(Signature)

APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

To: Zoning Board of Adjustment,

City/Town of _____

Name of Applicant _____

Address _____

Owner _____

(if same as applicant, write "same")

Location of Property _____

(street, number, sub-division and lot number)

NOTE: 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 inadequate.

Application for an Equitable Waiver of Dimensional Requirements

An Equitable Waiver of Dimensional Requirements is requested from article _____ section _____ of the zoning ordinance to permit _____

- 1. Does the request involve a dimensional requirement, not a use restriction?
 yes no
- 2. 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.

Do not write in this space.
Case No. _____
Date Filed _____
_____ (signed - ZBA)

- and -

How the violation was not an outcome of ignorance of the law or bad faith but resulted from a good faith error in measurement or calculation. _____

3. Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area. _____

4. Explain how the cost of correction far outweighs any public benefit to be gained. _____

Applicant _____ Date _____
(Signature)

NEWSPAPER NOTICE

Zoning Board of Adjustment,

City/Town of _____

Notice is hereby given that a hearing will be held at:

_____ (time) (date) (location)

concerning a request by _____ (applicant's name)

for _____ (type of appeal)

concerning article _____ section _____ of the zoning ordinance.

Applicant proposes to _____

on the property located at _____

in the _____ zone.

Signed _____
Chairperson, Zoning Board of Adjustment

ABUTTER NOTICE

Zoning Board of Adjustment,

City/Town of _____

Dear _____,

You are hereby notified of a hearing to be held at:

_____ (time) (date) (location)

concerning a request by: _____ (applicant's name)

for: _____ (type of appeal)

concerning article _____ section _____ of the zoning ordinance.

Applicant proposes to _____

_____ on property located at _____

in the _____ zone.

Signed _____
Chairperson, Zoning Board of Adjustment

INDIVIDUAL BOARD MEMBER VARIANCE WORKSHEET

The purpose of this worksheet is to assist individual board members in reviewing all five variance criteria. After reviewing the petition, considering all of the evidence, hearing all of the testimony, and by taking into consideration members' personal knowledge of the property in question, the board should vote on a motion that approves, approves with conditions, or disapproves with reasons, the application under consideration. All five variance criteria must be met to grant a variance.

Petition for a variance of _____

For property located at _____

1. Granting the variance (would/would not) be contrary to the **public interest** because:

2. The **spirit of the ordinance** (would/would not) be observed because:

3. Granting the variance (would/would not) do **substantial justice** because:

4. For the following reasons, the **values of the surrounding properties** (would/would not) be diminished:

5. **Unnecessary Hardship**

a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

(i) There (is/is not) a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property because:

(ii) The proposed use (is/is not) a reasonable one because: _____

a. The criteria in subparagraph (a) having not been established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. The property (can/cannot) be used in strict conformance with the ordinance because:

Practice Pointer - OPD suggests boards review this worksheet with the municipal attorney for what would work best for your board.

FINDINGS OF FACTS

Zoning Board of Adjustment,

City/Town of _____

Hearing held at: _____
(date) (time) (location)

concerning a request by _____
(applicant's name)

for _____
(type of appeal)

concerning article _____ section _____ of the zoning ordinance.

Applicant proposes to:

on the property located at _____
_____ in the _____ zone.

Summary of the facts of the case discussed at the above public hearing:

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

Practice Pointer - OPD suggests boards review this worksheet with the municipal attorney for what would work best for your board.

NOTICE OF DECISION - GRANTED

Zoning Board of Adjustment,

City/Town of _____

Case No: _____

You are hereby notified that the appeal of

for a _____

regarding section _____ of the zoning ordinance has been **GRANTED**, subject to the conditions listed below, by the affirmative vote of at least three members of the Zoning Board of Adjustment.

Findings of fact:

Summary of the facts of the case discussed at the above public hearing:

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

Conditions:

1. _____

2. _____

3. _____

Chairperson, Zoning Board of Adjustment

Date

This approval shall be valid if exercised within (insert 2 years or timeframe as provided by local ordinance) from the date of final approval, and shall not expire within 6 months after the resolution of a planning application filed in reliance upon this decision, as per [RSA 674:33, IV](#).

Note: The selectmen, any party to the action, or any person directly affected has a right to appeal this decision. See New Hampshire Revised Statutes Annotated, [Chapter 677](#), available at (insert location where statutes can be reviewed). This notice has been placed on file and made available for public inspection in the records of the ZBA on (insert day and date). Copies of this notice have been distributed to the applicant, Planning Board, Board of Selectmen, Town Clerk, Property Tax Assessor, (insert any others as required by the board's rules of procedure).

Practice Pointer - OPD suggests boards review this worksheet with the municipal attorney for what would work best for your board.

NOTICE OF DECISION - DENIED

Zoning Board of Adjustment,

City/Town of _____

Case No: _____

You are hereby notified that the appeal of _____

for a _____

regarding section _____ of the zoning ordinance has been **DENIED**, for the reasons/facts listed below, by vote of the Zoning Board of Adjustment.

Reasons/Facts Supporting the Denial:

1. _____
2. _____
3. _____
4. _____
5. _____

Chairperson, Zoning Board of Adjustment

Date

Note: The selectmen, any party to the action, or any person directly affected has a right to appeal this decision. See New Hampshire Revised Statutes Annotated, [Chapter 677](#), available at (insert location where statutes can be reviewed). This notice has been placed on file and made available for public inspection in the records of the ZBA on (insert day and date) and has been published in the (insert newspaper name) on (insert day and date). Copies of this notice have been distributed to the applicant, Planning Board, Board of Selectmen, Town Clerk, Property Tax Assessor, (insert any others as required by the board's rules of procedure).

Practice Pointer - OPD suggests boards review this worksheet with the municipal attorney for what would work best for your board.