

TOWN OF EPPING, NEW HAMPSHIRE

ZONING BOARD OF ADJUSTMENT

APPLICATION PROCEDURES

An application requesting a public hearing of the Epping Zoning Board of Adjustment must be completed, with the property owner’s (Owner of Record) signature, or his/her legal representative (with power of attorney). The completed application, together with a list of abutters, names and addresses, copy of denial and accompanied by any additional information needed by the Board to make an accurate decision, must be received in the Planning Board office i.e., location of existing building(s), septic system(s), wells, boundary description and plans etc. A Letter-of-Intent from the applicant should accompany the application, together with payment of the following:

- 1. Application fee \$ 40.00
- 2. Certified abutter notification 10.00
- 3. Publication of Legal Notice in
 newspaper..... each item 100.00

The Board strongly recommends, before making any appeal, applicants familiarize themselves with all zoning ordinances, site plan and subdivision regulations which may pertain to their application.

The three (3) types of appeal that can be made to the Zoning Board of Adjustment are:

- 1. **VARIANCE**: A variance is a relaxation of the ordinance which may be granted under special circumstances, enabling use of the property in a way which is not permitted under the strictest terms of the zoning ordinance.
- 2. **APPEAL FROM ADMINISTRATIVE DECISION**: A person has the right to appeal to the Zoning Board of Adjustment any decision of an official which relates to land use. The Board has the right to overturn the official’s decision if it feels the decision is contrary to the intent and/or spirit of the zoning ordinance.
- 3. **SPECIAL EXCEPTION**: Certain parts of the zoning ordinance provide for use of the property which by strict interpretation of the ordinance is not allowed. To obtain a special exception from the Zoning Board of Adjustment, the property must meet certain criteria spelled out in the zoning ordinance.

If there are any questions, please contact the Planning Board office at (603) 679-1202, or the Code Enforcement Officer at (603) 679-1224.

ZONING BOARD OF ADJUSTMENT

APPLICATION FOR APPEAL

TO: Board of Adjustment

Do not write in this space:

Case No: _____

Date Filed: _____

(signed)

Name of Applicant: _____

Address: _____

Owner: _____

Location of Property: _____
(street, number, subdivision, tax map and lot number)

IN ADDITION TO THIS APPLICATION, please provide the following:

1. A check for:
 - a. Application fee \$ 40.00
 - b. Certified Notice to Abutters.....each 10.00
 - c. Newspaper (Legal Notice).....each item 100.00
2. Copy of Deed.
3. A sketch (to scale) of the intent.
4. Letter explaining the intent.
5. Copy of tax card (available from Selectman's office).
6. Copy of tax bill or warrant (available from Tax Collector's office)
7. Three sets of labels with abutters name and address.
8. A copy of the denial must accompany the application.

*****IN THE EVENT all expenses associated with this application are not paid within sixty (60) days of billing, the owner/applicant agrees that the amount shall become a lien on the property and the Selectmen are authorized to commit that amount to the Tax Collector for collection pursuant to RSA 80:60.**

Applicant

Owner of Record

NOTE: Complete Sections 1,2, and 3 as appropriate. The application is not acceptable unless all required statements are complete. Any additional information should be supplied on a separate sheet.

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: _____

Section 2 - **APPLICATION FOR A SPECIAL EXCEPTION**

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

Section 3 - **APPLICATION FOR VARIANCE**

A Variance is requested from Article: _____ Section: _____ of the zoning ordinance to permit _____

Facts supporting this request:

1. The proposed use would not diminish 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 of the property that distinguish it from other properties similarly zoned: _____

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

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

Applicant

Date

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APPENDIX B

INSTRUCTIONS TO APPLICANTS APPEALING TO THE ZONING 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 Epping Zoning Ordinance, and also, with the New Hampshire Statutes TITLE LXIV, RSA Chapters 672 - 677, covering planning and zoning.

Three (3) types of appeal can be made to the Zoning Board of Adjustment:

1. **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 (5) of the following criteria:

- a. The proposed use would not diminish surrounding property values.
- b. Granting of the variance would be of benefit to the public interest.
- c. Denial of the variance would result in 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 distinguishes it from other properties under similar zoning restrictions. Hardship, under zoning law, has nothing to do with the physical or financial conditions of the owner or the land/property.
- d. Granting of the variance would do substantial justice.
- e. The proposed use is not contrary to the spirit of the ordinance.

Information to be provided to the board for a public hearing should include the owner's deed, a scaled sketch of the property, a tax card, abutters list, check and application.

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.

An abutter is defined as: "Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. 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. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. (RSA 672:3).

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

The board will schedule a public hearing within thirty (30) days of receipt of the properly completed application. Public Notice of the hearing will be posted and printed in the newspaper, and notice will be

mailed to you and to all abutters and to other parties the board deems to have an interest, at least five (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 hearing, the board will reach a decision. You and all other parties to the case will be sent a notice of the 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 a Rehearing may be in the form of a letter to the board. The motion must be made within thirty (30) days of the board's decision, 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 the abutters (see RSA Chapter 677 for more details on rehearing and appeal procedures).

2. **APPEAL FROM AN ADMINISTRATIVE DECISION** - If you have been denied a building permit or affected by some other decision of the Epping 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 Zoning Board of Adjustment. The appeal will be granted if you can show that the decision was indeed made in error.

3. **SPECIAL EXCEPTION** - Certain sections of the zoning ordinance provide that a particular use of the 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 used 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 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 review 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.

WHO owns the property? If the applicant is not the owner, it must be his legal representative.

WHERE is the property located? Describe the property giving area, frontage, side and rear lines, slopes and natural features.

WHAT do you propose to do? Attach scaled 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?