



Town of Warner
P. O. Box 59
Warner, New Hampshire 03278-0059

General Instructions for an Application for Appeal to the Zoning Board of Adjustment

A. Introduction

1. Instructions apply to:
 - a. Variances
 - b. Special Exceptions
 - c. Equitable Waiver of Dimensional Requirements
 - d. Appeal from an Administrative Decision
2. You must submit an application in writing on forms approved by the Zoning Board of Adjustment (the Board) and all fees before the Board will meet and make a determination.
3. The Board strongly recommends that prior to filing an appeal, the applicant become familiar with the Warner Zoning Ordinance, Site Plan review Regulations, and the Subdivision Regulations (which ever applies), and also with the New Hampshire Statutes Title LXIV, RSA Chapter 672 to 677, covering planning and zoning.
4. Include a copy of any order, notices of violations or other communications received from either the Board of Selectmen or the Planning Board that pertains to the property.
5. If a variance is requested, it must be based on a referral from the Board of Selectmen or the Planning Board.
6. Submit a list of all abutters within 200 feet of the boundaries of the property. Include name, address, town, state, zip code, and Property Map and Lot numbers for all abutters. Accuracy of the list is your responsibility. If the property abuts a street, the Board of Selectmen shall receive a notice of abutter. If the property abuts a State Highway, the State Department of Transportation as well and the Board of Selectmen shall be notices as abutters. If a referral was received from the Planning Board, they shall be noticed as an abutter.
7. The applicant must cover costs as follows:
 - a. Mailing certified notices to each abutter and the property owner at \$6 each
 - b. Each notification to Applicant at \$1 each
 - c. Application fee of \$50 for residential and \$100 for commercial properties
 - d. A check for the correct amount made out to the Town of Warner must be provided at the time of filing.
8. A completed application must be received at least 15 days prior to the next scheduled Zoning Board meeting. Public notice of the hearing will be posted and printed in a newspaper, and notice will be mailed to the applicant, all abutters, and to parties the Board may deem to have interest, at least five days prior to the date of the hearing. The applicant 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.

9. Read and complete the proper application for the type of appeal. If the application is incomplete, it will be returned. This will cause delay in the processing of the application and hearing before the Board.
10. The applicant shall appear at the hearing. If an attorney represents the applicant and the attorney desires to present a written brief in the case, the brief may be delivered with the application.
11. After the public hearing, the Board will reach a decision. The decision could be postponed to a date specified however, to allow for the availability of additional information or to consult with Town Counsel. The applicant and all other parties to the case will be sent a notice of decision.
12. If the applicant, Selectmen, or any party affected who believe the Board's decision is wrong, have a right to appeal. A motion to rehearing shall be in the form of a letter to the Zoning Board. The Board will not reopen a case based on the same set of facts unless it is convinced that injustice would be created by not doing so. Whether or not a rehearing is held, the same procedures will be followed as for the first hearing, including public notice to abutters. See RSA Chapter 677 for more details on rehearing and appeal procedures.

B. The Types of Appeals

1. Variances

- a. A variance is an authorization, which may be granted under a special circumstance, to allow your property to not meet requirements specified in the Zoning Ordinance. For a variance to be legally granted, you must show that your proposed use meets all of the conditions listed in the application. If you are applying for a variance, you must first have some form of determination that you are not permitted to proceed without a variance. Most often this determination is a denial of a building permit, but could be a referral from the Planning Board. A copy of the determination must be attached to your application.

2. Special Exceptions

- a. Certain sections of the Zoning Ordinance provide that uses, buildings or activities 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 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 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.

3. Appeal from an Administrative Decision

- a. If you have been denied a building permit or are affected by some other decision regarding the administration of the Town of Warner Zoning Ordinance, Site Plan review Regulations or Land Subdivision Control Regulations, you may appeal the decision to the Zoning Board of Adjustment. The appeal must be made within 20 days of the decision, according to the Rules of Procedure of the Warner Zoning 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 for must be attached to the application.

4. Equitable Waiver of Dimensional Requirements

- a. If you have found that your structure does not conform to the dimensional requirements for the zone district in which it is located as a result of an error by your builder, yourself or a public official, you may be eligible for an equitable waiver of dimensional requirement. This does not mean that your structure is then a legal non-conforming use but rather recognizes the error and prevents any enforcement action against that error in the future. All subsequent construction at the site must then comply with all dimensional requirements.

Zoning Board of Adjustment

Town of Warner, NH

Authorization from Owner(s)

1. I (We) hereby designate _____ to serve as my (our) agent and to appear and present said application before the Warner Zoning Board of Adjustment [Zoning Board].

2. By submitting this application I (We) hereby authorize and understand that agents of the Town may visit the site without further notice. I (We) further understand the Zoning Board may at some point during the review process schedule a Site Visit, which will be duly posted.

3. I (We) understand that the Zoning Board will review the application/plan and/or may send the application/plan out for review. The applicant shall pay for such a review.

4. To the best of my (our) knowledge, the information provided herein is accurate and is in accordance with the Town of Warner Zoning Ordinance and other land use regulations of the Town and other applicable state and federal regulations which may apply.

Signature of Owner(s): _____ Date: _____

_____ Date: _____

Signature of Applicant(s), if different from Owner:

_____ Date: _____

_____ Date: _____

Printed name of person(s) who signed above: _____

For Zoning Board of Adjustment Use Only

Date Received at Town Office: _____

Received by: _____

Fees Submitted: Amount: _____ Cash: _____ Check # _____ Other: _____

Abutters' List Received: Yes _____ No _____

Date of Review: _____ Date of Hearing: _____ Date Approved: _____

*** ALL APPLICABLE PAGES MUST BE COMPLETED TO BE ACCEPTED ***

The undersigned hereby requests a VARIANCE to the terms of:

Article _____, Section _____ of the Warner Zoning Ordinance.

To grant a Variance, the following conditions must be met.

- The applicant seeking a variance must be prepared to prove the conditions at the Public Hearing.
- **State in writing how the project meets each of the following conditions:** *[Include additional information on a separate sheet. Place applicant name & date on each sheet]* Number of Sheets_

1. Explain why granting the variance will not be contrary to the public interest. _____

2. Explain why granting the variance would not be contrary to the spirit of the ordinance. _____

3. Explain why by granting the variance, substantial justice is done. _____

4. Explain why by granting the variance the values of surrounding properties are not diminished.

5. Explain why Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
 A. For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

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; and

ii. The proposed use is a reasonable one.

B. 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.

The definition of “unnecessary hardship” set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

Name of Applicant: _____
 Signed: _____ Date: _____

ALL COSTS OF MAILING BY CERTIFIED MAIL, FEES, AND LEGAL ADVERTISEMENT IN A NEWSPAPER MUST BE MET BY APPLICANT BEFORE THE HEARING MAY BEGIN.

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APPLICATION for SPECIAL EXCEPTION

**Zoning Board of Adjustment
Town of Warner, NH**

The undersigned hereby requests a SPECIAL EXCEPTION to the terms of:

Article _____, Section _____ of the Warner Zoning Ordinance.

To grant a Special Exception, the following conditions must be met.

The Applicant must be prepared to prove the conditions at the Public Hearing.

State in writing how the project meets each of the following conditions: *[Please feel free to include additional information on a separate sheet. Place applicant name and date on each sheet. Number of attached sheets _____]*

A. The use requested is identified in this ordinance as one which may be approved by the Board in the district for which the application is made.

B. The requested use is essential or desirable to the public convenience or welfare.

C. The requested use will not impair the integrity or character of the district or adjoining district, nor be detrimental to the health, moral, or welfare.

D. OC-1 and OR-1 districts only: Use of structure must conform to road access and availability of all services to that parcel at the time the Special Exception is requested.

Name of Applicant: _____

Signed: _____ Date: _____

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Town of Warner
 P.O. Box 59
 Warner, New Hampshire 03278-0059

APPLICATION

FOR EQUITABLE WAIVER OF DIMENSION REQUIREMENTS

Zoning Board of Adjustment

TELEPHONE (603) 456-2298, ext. 7

FOR OFFICE USE ONLY:

Case Number: _____
 Date Received: _____
 Received by: _____
 Amount Paid: _____

FEES: *

Application Fee: Residential: \$50.00
 Commercial: \$100.00
 Abutter Notification: ** \$6.00 per abutter
 Applicant Notification: \$1.00 per notification

* Fees for publication of the Legal Notice will be invoiced and must be paid for prior to starting the hearing
 ** Submit a list of all abutters within 200 feet of the boundaries of the property. Include name, address, town, state, zip code, and Property Map and Lot numbers for all abutters.

Name of Applicant _____ **Date:** _____

Applicant Mailing Address _____

Town _____ **State** _____ **Zip** _____

Telephone: **Daytime** () ____ - ____ **Nighttime** () ____ - ____

Owner of Property _____

Owner Mailing Address _____

Town _____ **State** _____ **Zip** _____

Location & Description of Property:

Map # _____ **Lot #** _____ **Zoning District** _____

The undersigned hereby requests an Equitable Waiver of Dimensional Requirements to the terms of Article _____, Section _____ of the Warner Zoning Ordinance.

Details of Request:

Please feel free to include additional information on a separate attached pages.

Put Name of applicant and date on each sheet. (Indicate number of sheets attached _____)

*** Complete attached sheet #2 titled Application for Equitable Waiver of Dimensional Requirements ***

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APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

State in writing how the following pertain to the property. The Applicant **must** be prepared to present the conditions at the Public Hearing:

[Please feel free to include additional information on a separate sheet. Place applicant name and date on each sheet. Number of attached sheets _____]

1. Does the request involve a dimensional requirement, not a use restriction? (circle) Yes/ No

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

or

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

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

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:

Name of Applicant: _____

Signed: _____ Date: _____

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Town of Warner
 P.O. Box 59
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APPLICATION FOR APPEAL FROM ADMINISTRATIVE DECISION

Zoning Board of Adjustment

TELEPHONE: (603) 456-2298, ext. 7

FEES: *

Application Fee: Residential: \$50.00

Commercial: \$100.00

Abutter Notification: ** \$6.00 per abutter

Applicant Notification: \$1.00 per notification

FOR OFFICE USE ONLY:

Case Number: _____

Date Received: _____

Received by: _____

Amount Paid: _____

* Fees for publication of the Legal Notice will be invoiced and must be paid for prior to starting the hearing

** Submit a list of all abutters within 200 feet of the boundaries of the property. Include name, address, town, state, zip code, and Property Map and Lot numbers for all abutters.

Name of Applicant _____ **Date:** _____

Applicant Mailing Address _____

Town _____ **State** _____ **Zip** _____

Telephone: **Daytime** () ____ - ____ **Nighttime** () ____ - ____

Owner of Property _____

Owner Mailing Address _____

Town _____ **State** _____ **Zip** _____

Location & Description of Property:

Map # _____ **Lot #** _____ **Zoning District** _____

Relating to the interpretation and enforcement of the provisions of the Zoning Ordinance. Decision of the enforcement officer to be reviewed:

Applicant's requested decision or interpretation:

Article _____ Section _____ of the Zoning ordinance in question

Name of Applicant: _____

Signed: _____ Date: _____

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