



Town of Warner Zoning Board of Adjustment
P. O. Box 265
Warner, New Hampshire 03278-0265

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

A. **The Types of Appeals**

1. **Variance**

- 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 Ordinance.
- b. 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 Exception**

- 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.
- b. 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 of 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, you may appeal the decision to the Zoning Board of Adjustment. The appeal must be made normally within 30 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.
- b. 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**

If you have found that your structure does not conform to the dimensional requirements for the zoning 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 Requirements. 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.

B. **Application Instructions:**

1. 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 Zoning Board.
2. The Zoning Board strongly recommends that prior to filing an appeal, the applicant become familiar with the Warner Zoning Ordinance and also with the New Hampshire Statutes Title LXIV, RSA Chapters 672 to 677 as amended, covering planning and zoning.
3. You must submit an application in writing on forms approved by the Zoning Board of Adjustment and pay all fees before the Board will meet and make a determination.
4. If a variance is requested, it must be based on a referral from the Board of Selectmen or the Planning Board.
5. Please include the following along with your application:
 - a. A list of all abutters within 200 feet of the boundaries of the property on the supplied form. Accuracy of the list is your responsibility.
 - b. 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.
 - c. Plan(s) shall include:
 - 1.) Clearly indicate where the site is located (locus map) and what is proposed drawn to scale.
 - 2.) Show for the "lot of record" the boundary lines with footage on all sides.
 - 3.) A copy of the lot's deed.
 - 4.) Name of the road the lot fronts on.
 - 5.) Include all existing structures on the lot, clearly indicating their dimensions, distance from other structures and distance from abutting property line, drawn to scale.
 - 6.) For a proposed structure, include all of the above and a floor plan with dimensions, (length, width, and height)
 - d. At the hearing, the Zoning Board shall vote whether to accept the application as complete.
6. The applicant must cover costs as follows:
 - a. Mailing certified notices to each abutter and the property owner at \$7 each
 - b. Each notification to Applicant at \$7 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.
 - e. Fees for publication of the Legal Notice will be invoiced and must be paid prior to starting the hearing

7. A completed application must be received at least 15 days prior to the next scheduled Zoning Board of Adjustment 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 Zoning 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.
8. All property owners must sign the application.
9. **Authorization from Owner(s)** must be signed to designate someone to speak on behalf of the property owner(s).
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 Zoning 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. After the Zoning Board reaches a decision, a formal Notice of Decision will be mailed to the applicant and property owner(s), and a copy will be placed in the Zoning Boards files.
12. The applicant, Selectmen, or any party affected who believe the Zoning Board's decision is wrong, has a right to appeal. A motion for rehearing shall be in the form of a letter to the Zoning Board of Adjustment. 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.



Town of Warner Zoning Board of Adjustment
P.O. Box 265
Warner, New Hampshire 03278-0265

APPLICATION FOR VARIANCE

Town of Warner Zoning Board of Adjustment
Telephone: (603) 456-2298, ext. 7

Please note that this application is subject to NH RSA 91-A which affords the public access to this information.

FEES: *

Application Fee: Residential: \$50.00
Commercial: \$100.00

Abutter Notification: ** \$7.00 per abutter
Applicant Notification: \$7.00 per notification

* Fees for publication of the Legal Notice will be invoiced and must be paid prior to starting the hearing
** Please use attached form to list all abutters within 200 feet of the boundaries of the property.

Name of Applicant: _____ **Date:** _____

Applicant Mailing Address: _____

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

Telephone: **Primary** (____) _____ - _____ **Alternate** (____) _____ - _____

Owner of Property: _____

Owner Mailing Address: _____

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

Telephone: **Primary** (____) _____ - _____ **Alternate** (____) _____ - _____

Location & Description of Property:

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

Address: _____

Will a Site Plan Review approval be required by the Planning Board? Yes/No (circle one)

Proposed Use: _____

Details of Request: *Please feel free to include additional information on separate attached pages. Put Name of Applicant and Date on each sheet. (Indicate number of sheets attached _____)*

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.

For a Variance to be granted, the following five conditions must be met:

Explain in writing how your project meets each of the following conditions (on separate paper if needed). The applicant seeking a variance must be prepared to prove these conditions at the Public Hearing. [Note: RSA 674:33 and Zoning Ordinance wording is followed by *[a non-binding informal interpretation]* to assist the applicant in understanding the five conditions which must be met]

1. **Granting the variance will not be contrary to the public interest because:** *[Explain why granting the variance will not be unfavorable to the public interest:]* _____

2. **By granting the variance, the spirit of the ordinance is observed because:** *[Explain why granting the variance is not in conflict with the permitted uses of the land and the goals of the Zoning Ordinance– see Article I]* _____

3. **By granting the variance substantial justice is done because:** *[Explain why the benefit to you does not outweigh any negative impact to the general public or to other individuals:]*

4. **Granting the variance will not diminish the values of surrounding properties because:** *[Explain why the variance will not negatively affect property values in the area]*

5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:**
 - A. Meaning 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 on the property; **and**
 - ii. The proposed use is a reasonable one.
[Explain what is unique about the property that makes the specific zoning restriction unfair and unrelated to the purpose of the provision, and that it is a reasonable use]

 - B. **Or,** if the criteria in ‘A’ are not established, then 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 the property.
[Explain what is unique about the property that makes the specific zoning restriction unreasonable]

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

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

**Town of Warner Zoning Board of Adjustment
Abutter(s) List**

Please list all abutters **within 200 feet** of the boundaries of the property

If the property abuts a street, the Board of Selectmen shall receive notice as an abutter. If the property abuts a State Highway, the State Department of Transportation as well as the Board of Selectmen shall be noticed as abutters. If a referral was received from the Planning Board, they shall be noticed as an abutter.

Map: _____ Lot: _____

Name: _____

Address: _____

Map: _____ Lot: _____

Name: _____

Address: _____

Map: _____ Lot: _____

Name: _____

Address: _____

Map: _____ Lot: _____

Name: _____

Address: _____

Map: _____ Lot: _____

Name: _____

Address: _____

Town of Warner Zoning Board of Adjustment Abutter(s) List (continued)

Map: _____ Lot: _____

Name: _____

Address: _____

Map: _____ Lot: _____

Name: _____

Address: _____

Map: _____ Lot: _____

Name: _____

Address: _____

Map: _____ Lot: _____

Name: _____

Address: _____

Map: _____ Lot: _____

Name: _____

Address: _____
