

**TOWN OF KINGSTON, NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT
APPLICATION**

Applicant: _____ Telephone: _____

Address: _____

Name of Owner: _____ Telephone: _____

Property Location: _____

Tax Map Reference: _____

Filing Date: _____

Hearing Date: _____

Fees Paid: \$ _____

Filing Fees

- Application Fee: \$50.00 - Review process before the ZBA

- Legal Notice Fee: \$50.00 - Town's cost for placing a legal advertisement in a local paper of general circulation announcing the public hearing as prescribed under NH RSA 676:7, 1(b).

- Abutter Fee: \$11.50 per. - To cover the Town's cost for sending certified, return-receipt requested letters to all property owners who abut the subject parcel undergoing the appeals process by ZBA as prescribed in NH RSA 676:7, I(a). The applicant shall provide three (3) sets of abutter names and addresses on adhesive mailing lables measuring 1" x 2.5/8".

Total Fees Submitted: _____

- Application for Variance
- Application for Appeal from an Administrative Decision
- Application for Special Exception
- Application for Re-hearing
- Application for Equitable Waiver for Demensional Requirement

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APPLICATION FOR VARIANCE

The undersigned hereby requests a variance to the terms of Article _____,
Section _____, of the Town of Kingston Zoning Ordinance, and asks that said
terms be waived to permit _____

I understand that failure to provide any of the information required for the filing
of this application shall be cause for rejection of the application.

Applicant Signature

Date

APPLICATION FOR APPEAL FROM AN ADMINISTRATIVE DECISION

The undersigned alleges that an error has been made in the decision, determination or
requirement, by _____, on or about
_____, to _____ in relation to Article
_____, Section _____, of the Town of Kingston Zoning Ordinance and
hereby appeals that decision.

I understand that failure to provide any of the information required for the filing
of this application shall be cause for rejection of the application.

Applicant Signature

Date

TOWN OF KINGSTON, NEW HAMPSHIRE
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APPLICATION FOR REQUEST FOR A SPECIAL EXCEPTION

The undersigned requests that the Town of Kingston, ZBA, grant a Special Exception from the terms of Article _____, Section _____ of the Zoning Ordinance, Building Codes, Shoreland Protection or Wetlands.

I understand that failure to provide any of the information required for the filing of this application shall be cause for rejection of the application.

Applicant Signature

Date

APPLICATION FOR RE-HEARING

The undersigned requests that the Town of Kingston, ZBA, grant a Re-hearing on a decision made on _____, 20__ . This decision (granted/denied) a(n) (Variance, Special Exception, Appeal from Administrative Decision, Equitable Waiver of Dimensional Requirement) from the terms of Article _____, Section _____ of the Zoning Ordinance, Building Codes, Shoreland Protection or Wetlands.

I understand that failure to provide any of the information required for the filing of this application shall be cause for rejection of the application.

Applicant Signature

Date

TOWN OF KINGSTON, NEW HAMPSHIRE
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APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL
REQUIREMENTS

The undersigned requests that the Town of Kingston, ZBA, grant an Equitable Waiver of Dimensional Requirements from the terms of Article _____, Section _____ of the Zoning Ordinance, Building Codes, Shoreland Protection or Wetlands.

I understand that failure to provide any of the information required for the filing of this application shall be cause for rejection of the application.

Applicant Signature

Date

Please attach all pertinent documents to support your application. Pertinent documents shall include but are not limited to the following;

1. A letter of denial from the appropriate Town agency.
2. Copies of all information previously submitted to the relevant Town agency pertaining to this application. (Applications, Drawings, sketches etc.). **NOT THE ORIGINALS**. The originals remain with the relevant Town agency. It is not the responsibility of the denying authority to provide this information to the ZBA.
3. In the case of a dimensional violation, a certified plot plan showing the deficiency shall also be attached.

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TITLE LXIV
PLANNING AND ZONING

CHAPTER 674
LOCAL LAND USE PLANNING AND REGULATORY
POWERS

Zoning Board of Adjustment and Building Code Board of Appeals

Section 674:33

674:33 Powers of Zoning Board of Adjustment. –

I. The zoning board of adjustment shall have the power to:

(a) Hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance adopted pursuant to RSA 674:16; and

(b) Authorize upon appeal in specific cases such variance from the terms of the zoning ordinance as will not be contrary to the public interest, if, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

II. In exercising its powers under paragraph I, the zoning board of adjustment may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made and, to that end, shall have all the powers of the administrative official from whom the appeal is taken.

III. The concurring vote of 3 members of the board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant on any matter on which it is required to pass.

IV. A local zoning ordinance may provide that the zoning board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance. All special exceptions shall be made in harmony with the general purpose and intent of the zoning ordinance and shall be in accordance with the general or specific rules contained in the ordinance.

V. Notwithstanding subparagraph I(b), any zoning board of adjustment may grant a variance from the terms of a zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:

(a) Any variance granted under this paragraph shall be in harmony with the general purpose and intent of the zoning ordinance.

(b) In granting any variance pursuant to this paragraph, the zoning board of adjustment may provide, in a finding included in the variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises.

Source. 1983, 447:1. 1985, 103:20. 1987, 256:1, eff. July 17, 1987. 1998, 218:1, eff. Aug. 17, 1998.

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CHAPTER 674
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POWERS

Zoning Board of Adjustment and Building Code Board of Appeals

Section 674:33-a

674:33-a Equitable Waiver of Dimensional Requirement. –

I. When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to RSA 674:16, the zoning board of adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the board makes all of the following findings:

(a) That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;

(b) That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;

(c) That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and

(d) That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

II. In lieu of the findings required by the board under subparagraphs I(a) and (b), the owner may demonstrate to the satisfaction of the board that the violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected.

III. Application and hearing procedures for equitable waivers under this section shall be governed by RSA 676:5 through 7. Rehearings and appeals shall be governed by RSA 677:2 through 14.

IV. Waivers shall be granted under this section only from physical layout, mathematical or dimensional requirements, and not from use restrictions. An equitable waiver granted under this section shall not be construed as a nonconforming use, and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the ordinance. This section shall not be construed to alter the principle that owners of land are bound by constructive knowledge of all applicable requirements. This section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or property inspected by them.

Source. 1996, 226:4, eff. Jan. 1, 1997.