WASHINGTON ZONING BOARD OF ADJUSTMENT
TOWN HALL
WASHINGTON, NH 03280
INFORMATION PACKET

This packet contains the background information and forms necessary for filing an application for either a variance, appeal from an administrative decision, or equitable waiver of dimensional requirements. Ordinarily, a building permit must be denied prior to applying for a variance. It is important that the necessary forms are completed accurately.

In addition, the following are necessary before a completed filing can occur:

1. A fee for certified mailings to abutters and the cost of all required notices must be paid in advance of the hearing by the applicant.

2. A complete list of the names and mailing addresses of abutters* must be submitted.

3. An accurate site plan showing property boundaries, locations of existing buildings as applicable, current setbacks from property lines, and proposed changes must be included with the filing (See page 4 for details).

4. Your filing package should be delivered to the Town Office, and it will then be forwarded to the ZBA for consideration at their next monthly meeting (Normally the last Wednesday of the month). They will confirm that it is complete and ready for a public hearing. You are welcome to attend this meeting to explain your application further.

5. Your case will then be heard at the next ZBA monthly meeting. Please do not attempt to contact members of the ZBA directly. All interaction between individuals and the Board should be through the formal meeting process.

Thank you,
Zoning Board of Adjustment

*“Abutter” means any person whose property is within 200 feet at any point of the parcel under consideration. 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.
INSTRUCTIONS TO APPLICANTS APPEALING TO
THE ZONING BOARD OF ADJUSTMENT

Important: Read all instructions carefully before filling out the attached application.

The board strongly recommends that, before making any appeal, you become familiar with the zoning ordinance and also with the New Hampshire Revised Statutes (RSA) Title LXIV, Chapters 672-677, covering planning and zoning.

Three types of appeals can be made to the Board of Adjustment.

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 of the following conditions:

1. The proposed use would not diminish surrounding property values.
2. Granting the variance would not be contrary to the public interest.
3. Denial of the variance would result in unnecessary hardship to the owner.
   Hardship, as the term applies to zoning, results when the following conditions exist:
   a. The restriction, when applied to the applicant’s property, interferes with his or her reasonable use of the property, considering its unique setting in its environment.
   b. No fair and substantial relationship exists between the general purposes of the ordinance and the specific restriction, and
   c. The variance would not injure the public or private rights of others.
4. Granting the variance would do substantial justice.
5. The proposed use is not contrary to the spirit of the ordinance.

If you are applying for a variance, you must first have some form of determination that your proposed use 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.

APPEAL FROM AN ADMINISTRATIVE DECISION: If you have been denied a building permit or are affected by some other decision regarding the administration of the Washington Land Use Ordinance and you believe that the decision was made in error under the provision of the ordinance, you may appeal the decision to the Board of Adjustment within 21 days.

If you are appealing an administrative decision, a copy of the decision appealed from must be attached to your application.

EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS: The board may grant an equitable waiver only for existing dimensional nonconformities provided the applicant can meet the required standards:
a. The nonconformity was not discovered until after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser.
b. The nonconformity was not an outcome of ignorance of the law or bad faith but was instead caused by a legitimate mistake.

c. In lieu of the requirements in paragraphs (a) and (b), the violation has existed for 10 years or more with no enforcement action, including written notice, commenced by the town.

If these conditions are satisfied, the board can move on to the additional findings to grant the waiver:

d. The nonconformity does not constitute a public or private nuisance nor diminish the value or interfere with future uses of other property in the area, and

e. The cost of correction would far outweigh any public benefit to be gained.

FOR ANY APPEAL: The application form must be properly filled out. Be sure you show:

WHO owns the property. WHERE the property is located. A DESCRIPTION of the property showing area, frontage, side and rear lines, slopes and natural features, etc.

WHAT you propose to do, attach plot plans, sketches, pictures, construction plans, etc.

Include any prior applications concerning the property. WHY your proposed use requires an appeal AND HOW your appeal meets the five conditions of a variance or the conditions for a special exception, an equitable waiver, or an appeal of an administrative decision.

Mail or deliver your completed application, with all attachments, to the clerk of the Board of Adjustment or to the office of the Board of Selectmen. A fee is charged to cover the cost of preparing and mailing the legally-required notices. Make check payable to: The Town of Washington.

The board will schedule a public hearing within 30 days of receipt of your properly completed application. Public notice of the hearing will be posted and printed in a local newspaper, and notice will be mailed to you and to all abutters and to other parties whom the board may deem to have an interest, at least 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 public hearing, the board will reach a decision. You will be sent a notice of 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 rehearing may be in the form of a letter to the board. The motion must be made within 30 days after the decision is made and must set forth the grounds on which it is claimed the decision is unlawful or unreasonable.

The board may grant such a hearing 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 abutters and the standard fee schedule shall apply.

See RSA Chapter 677 for more detail on rehearing and appeal procedures.
Instructions for the Plot Plan

Attachment General Notes to Applicants

1. Site/plot plans must be legible with structures (existing and/or planned) dimensionally sized and placed as accurately as possible. Plans should be on paper large enough to show all required details, but no smaller than 8 ½ x 11 inches.

2. If a survey of the site/plot plan has been prepared by a licensed surveyor/engineer, a copy of that signed and sealed survey should be submitted with this application.

3. Submission of photographs that show existing lot conditions and/or other pertinent lot features is encouraged but not mandated.

4. If conditions on abutting lots are relevant to this application, they should be described in writing or shown on the application site/plot plan.

5. Certain items must be provided on all site/plot plans prior to the hearing. These are listed below (required items). In addition, for nonconforming lots and for lots with unusual terrain conditions, the items listed as “Not Required but Recommended” should be given careful consideration. If excluded, they may later be required by the ZBA if it feels they are essential considerations at the fact-finding phase of the hearing. Exclusion could result in a delay of the application review.

Required Items

______ Lot dimensions, including acreage and/or square footage.
______ Bounding streets and rights of way. Driveways and other access ways on the lot, including their dimensions.
______ Easements and encroachments on the lot.
______ Location of septic system, including approved septic plan if available.
______ Location of domestic water well.
______ Dimensions, locations, and distances from lot lines of the proposed buildings, structures, or additions.
______ Proposed changes to lot lines and elevations.
______ Lot identification number and street address as designated by the Town.
______ Arrow indicating North.
______ Date the plot plan was prepared.
______ Signature of the preparer. If professionally prepared, include the signature and official seal of the licensed engineer or surveyor as appropriate.
Not Required but Recommended Items:

______ Total square footage of building coverage on the lot.

______ Dimensions and placement of all existing buildings over 50 square feet, including distances from such buildings to lot lines.

______ Total square footage of manmade lot coverage, i.e. driveways, tennis courts.

______ Location of water bodies and courses, i.e., lakes, ponds, marshes, bogs, rivers, streams, intermittent water flow areas, etc., which are on or abut the property.

______ Storm water drainage flow to and from the lot.

______ Description of prominent lot terrain features, including high and low points and impervious lot surfaces.

______ Changes to impermeable lot surfaces and/or storm water drainage resulting from the construction proposed in this application.

______ Changes to existing natural ground vegetation and trees.
BOARD OF ADJUSTMENT
TOWN OF WASHINGTON
APPLICATION FOR AN APPEAL

This application must be completed (type or print) and returned to the Town Office. It will be forwarded to the Board of Adjustment. You will be notified of the date and time of the public hearing at which you or your authorized agent or attorney must be present in order for the Board to take action on your application. If you designate an agent or attorney to represent you, you must submit a letter authorizing that representation. You are fully responsible for researching and knowing any and all laws that may be applicable and affect the outcome of the Board’s decision on your application request. The Town of Washington assumes no responsibility or liability related to your failure to research and know all applicable laws, including, but not limited to, state, federal, and local laws, codes, and land development regulations.

CONTACT INFORMATION

Applicant’s Name:________________________________________________________

Applicant’s Mailing Address:________________________________________________

City: ____________________ State: _________________ Zip Code: ________________

Home phone number: _______________________

Business phone number: ______________________

Fax number: ______________________ E-mail address:___________________________

Owner of Property:_______________________________________________________

Address of Owner:________________________________________________________

(If same as above, write “same.”)

DESCRIPTION OF THE PROPERTY

Address:________________________________________________________

Tax Map #: ______________________ Lot #: ______________________

Total Acreage of the Property: ______________________

Length of lot lines: Front _________ Side _________ Side _________ Rear _________

Current Use of Property:____________________________________________________ Proposed use
TYPE OF APPEAL REQUESTED

1. Appeal from an Administrative Decision

The undersigned alleges that an error has been made in the decision, determination, or requirement by the building inspector/selectman on date) to __________________ (person requesting permit) in relation to Article____ Section ______ of the Zoning Ordinance, and hereby appeals said decision.

Signature of applicant _______________________________________________
2. Application for an Equitable Waiver of Dimensional Requirements

The undersigned requests an equitable waiver of dimensional requirements from article ___, section _____ of the zoning ordinance to permit:__________________________________

________________________________________________________________________

________________________________________________________________________

A. Does the request involve a dimensional requirement, not a use restriction? ( ) yes ( )no

B. 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:

________________________________________________________

________________________________________________________________________

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:

________________________________________________________________________

________________________________________________________________________

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

________________________________________________________________________

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

________________________________________________________________________

D. Explain how the cost of correction far outweighs any public benefit to be gained:

Signature of applicant ________________________________ Date ________________
3. Application for a Use Variance

In order to secure a variance, the Board must determine by law that your variance request satisfies the following criteria. Please provide a written response along with any other supporting documentation for each of the following statements. This application is not acceptable unless all required statements have been made. (If the space provided for your answers is inadequate, please attach additional pages to this application.)

The undersigned requests a variance to the terms of Article _______, Section _______ of the Zoning Ordinance in order to permit the following:__________________________________
________________________________________________________________________
________________________________________________________________________

Facts supporting this request:

1. The proposed use would not diminish surrounding property values because:___________
________________________________________________________________________
________________________________________________________________________

2. Granting the variance would not be contrary to the public interest because:______________
________________________________________________________________________

3. Denial of the variance would result in unnecessary hardship to the owner because:________

a. The zoning restriction as applied to the property interferes with the reasonable use of the property, considering the unique setting of the property in its environment such that:
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

b. No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restrictions on the property because:____________________
________________________________________________________________________
c. The variance would not injure the public or private rights of others
   because:________
   ________________________________________________________________
   ______

4. Granting the variance would do substantial justice
   because:____________________________
   ________________________________________________________________
   ______

5. The proposed use is not contrary to the spirit and intent of the ordinance
   because:________
   ________________________________________________________________
   ______

Applicant’s signature: ________________________________ Date:________________
4 Application for an Area Variance

In order to secure a variance, the Board must determine by law that your variance request satisfies the following criteria. Please provide a written response along with any other supporting documentation for each of the following statements. This application is not acceptable unless all required statements have been made. (If the space provided for your answers is inadequate, please attach additional pages to this application.)

The undersigned requests the following variance(s) to the terms of Article __, Section _____ of the Land Use Ordinance. Please specify footage requested.

Set Back

____________________________________________________________________

Sideline

____________________________________________________________________

Rear Lot line

____________________________________________________________________

Road Frontage

____________________________________________________________________

Facts supporting this request:

1. The proposed use would not diminish surrounding property values because:___________

________________________________________________________________________

____________________________________________________________________

2. Granting the variance would not be contrary to the public interest because:__________

________________________________________________________________________

____________________________________________________________________

3. Denial of the variance would result in unnecessary hardship to the owner because:________

________________________________________________________________________

____________________________________________________________________

a. The following special conditions of the property make an area variance necessary in order to allow the development as designed________________________________________

________________________________________________________________________

____________________________________________________________________

b. The same benefit cannot be achieved by some other reasonably feasible method that would not impose an undue financial burden because________________________________________
4. Granting the variance would do substantial justice because: __________________________

5. The proposed use is not contrary to the spirit and intent of the ordinance because: __________

Applicant’s signature: __________________________ Date: ________________