

**Town of Winchester
Zoning Board of Adjustment (ZBA)
Application for:**

Special Exception Variance Rehearing
Equitable Waiver of Dimensional Requirements
Appeal from an Administrative Decision or Building/Fire Code

Instructions to the Applicant

Please read carefully before completing the application. The board strongly recommends you become familiar with the Town of Winchester Zoning Ordinance and New Hampshire Land Use Statutes chapters RSA 672-678 available on line or in the Land Use office. All requests shall be submitted on the board's applications and shall only be accepted in person in the Land Use Office during regular business days and hours.

Five requests that may be presented to the Zoning Board of Adjustment:

Special Exception-The ZBA, in appropriate cases and subject to appropriate conditions and safeguards, grants special exceptions to the terms of the ordinance. All special exceptions shall be consistent with the purpose and intent of the zoning ordinance and shall be in accordance with rules specified in the ordinance. Refer to Article XVI of the Winchester Zoning Ordinance.

Variance- Under special circumstances, approval may be granted to use your property in a way that is not permitted by the zoning ordinance. To qualify for a variance, your proposal must meet ALL FIVE criteria listed in RSA 674:33 (I) (b).

Equitable waiver of dimensional requirements- When a lot or other division of land, or structure there upon, 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 may, 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: (see RSA: 674:33-a.)

Appeal from an Administrative Decision- If you have been denied a building permit or are affected by some other decision of a Town official regarding the administration of the Winchester Zoning Ordinance, or the interpretation of the state building code or state fire code, and you believe that the decision was made in error under the provisions of the ordinance or code you may appeal the decision to the ZBA. (Refer to 674:33 or RSA 674:34)

Rehearing- Per RSA 677:2, within 30 days after any order or decision of the ZBA, or any decision of the local legislative body or a board of appeals in regard to its zoning, the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion for rehearing the ground therefore; and the board of adjustment, board of appeals, or the local legislative body, may grant such rehearing if in its opinion good reason therefor is stated in the motion.

General Information

Application for: _____ Date: _____

Map# _____ Lot# _____

Name & address of applicant: _____

Email: _____ Phone: _____

Name & address of owner: _____

Email: _____ Phone: _____

Location of property: _____ Zoning District: _____

Description of property (include a plot plan, frontage, side & rear lines, water, structures, etc.) _____

Proposed use/existing use: _____

Fill out the attached abutters list and submit the non refundable fee of \$150 with the completed application and other necessary forms at least 21 days prior to the review by the ZBA. The ZBA generally meets on the second Thursday of each month if there is business. A complete application will be reviewed for acceptance before a public hearing is held within 30 days. You or your representative must be present at the hearing. All owners NOT representing themselves must submit a letter of representation for the applicant with the application.

Please complete and submit the following appropriate page(s) for the request of a variance, a special exception, an equitable waiver of dimensional requirements, an appeal from an administrative decision or a rehearing. Attach all other supporting documentation to the application.

After the public hearing, the board will typically render a decision within 30 days. You will be sent notice of this decision. If you believe the board's decision is wrong, you have the right to appeal. The Selectboard or any party with standing has similar rights of appeal. With an appeal, you must first ask the board for a rehearing. All requests shall be submitted on the appropriate ZBA forms and include the required fee. The motion must be made within 30 days of the decision and must set forth the grounds on which the claimed the decision is unlawful or unreasonable. The board may grant a rehearing if it is determined there were errors of law or new information is stated in the motion. Notice to the public and abutters are required for a rehearing. Refer to RSA 677:2 and RSA 676:7 for details.

Special Exception:

The undersigned hereby requests a special exception as provided in Article _____,
Section _____, subparagraph _____, of the Winchester Zoning Ordinance.

Signature of applicant and date

Signature of owner and date

Please respond to the following:

A) The proposed use shall be permitted in the district _____

B) The specific site is in an appropriate location for such use _____

C) The use as developed will not adversely affect the adjacent area _____

D) There will be no nuisance or serious hazard to vehicles or pedestrians _____

E) Adequate and appropriate facilities will be provided for the proper operation
and use _____

F) The proposed use shall comply with all frontage, setbacks, minimum land area,
sanitary protection, sign, parking requirements for itself or its most similar use, except
where specifically named by the board, the reasons for such waiver to be set forth in
writing by the board _____

G) See Article XVI, 2.(i) (g) in the Town of Winchester Zoning Ordinance for the
validity of a special exception.

Variance:

The undersigned hereby requests a variance to the terms of Article _____, section _____, subparagraph _____, of the Winchester zoning ordinance.

Signature of applicant and date

Signature of owner and date

Facts supporting the variance request:

1. Granting of the variance ***will not be*** contrary to the public interest because:

2. The ***spirit of the ordinance is observed*** because:

3. By granting the variance substantial justice would be done because:

4. The ***value of surrounding properties are not diminished*** because:

5. ***Literal enforcement of the provisions of the ordinance*** would result in unnecessary hardship; owing to special conditions of the property that distinguish it from other properties in the area, because:

a) 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 because:

and b) the proposed use is a reasonable one because:

Or: explain how if the criteria of (a)&(b) 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.

Equitable Waiver of Dimensional Requirements:

The undersigned hereby requests an equitable waiver from the requirements of Article ____, section _____. (Describe the waiver request) _____

Signature of applicant and date

Signature of owner and date

1. Explain how the violation has existed for 10 years or more with no enforcement action and including action being commenced by the town now.

OR

2. 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 good faith error in measurement or calculation.

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.

Appeal from Administrative Decision:

The undersigned alleges that an error has been made in the decision, determination, or requirement, by the _____ on (date) _____ regarding granting or disapproving the request submitted by _____ of _____

The description or reasons for the appeal are:

Please attach a copy of said decision and any supporting documentation.

Signature of applicant and date

Signature of owner and date

Request for a Rehearing:

The undersigned alleges that an error has been made in the decision made by the ZBA granted on _____ for the application of _____

I hereby request a rehearing and the reasons are:

Please attach any supporting documentation

Signature of applicant and date

Signature of owner and date

