



TOWN OF BOSCAWEN, NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT
APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS
 116 North Main Street, Boscawen, NH 03303 | 603 753-9188x2309 | keasler@boscawennh.gov

**INSTRUCTIONS TO APPLICANTS APPEALING TO
 ZONING BOARD OF ADJUSTMENT**

IMPORTANT: READ ALL INSTRUCTIONS CAREFULLY BEFORE FILLING OUT ATTACHED APPLICATION

The Board strongly recommends that, before making any appeal, you become familiar with the Zoning Ordinance, and with the New Hampshire Statutes Annotated Chapters 672-677, concerning planning and zoning.

Four types of appeals can be made to the Zoning Board of Adjustment:

- Requests for variances,
- Requests for special exceptions,
- Requests for equitable waivers of dimensional requirements, and
- Appeals of zoning administrative decisions made by the Town Officials, the Planning Board, and the Zoning Board of Adjustment.

For **equitable waivers** from existing dimensional requirements of Zoning Ordinance; RSA 674:33-a authorizes the ZBA to grant equitable waivers to the dimensional requirements of the zoning ordinance where the applicant has satisfactorily proven to the board the elements required by the statute. The equitable waiver applies to lots or structures which are in violation of the dimensional requirements (e. g. setbacks, frontage, or area) established by the zoning ordinance. It does not apply to use restrictions. Note: An equitable waiver granted shall not be construed as a non-conforming use, and shall not exempt future use, construction, or additions on the property from full compliance with the ordinance.

APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

An Equitable Waiver of Dimensional Requirements is requested from Section/Paragraph/Table: _____

of the Zoning Ordinance to permit: _____

The following items are required to complete the application and must be attached:

1. Hearing, Abutter, and Notification Fees:
 Equitable Waiver - \$50.00
 Abutter Notification-\$7.50 per abutter (in all cases)
 Legal Ad-\$180.00
2. A complete list of the names and mailing addresses of all abutters to this property, as defined by RSA 672:3. Abutter is any person whose property adjoins or is directly across the street or stream from the land under consideration.
3. 10 clearly drawn maps (17" x 22" minimum size) showing the exact road location of property in relation to at least one prominent landmark (road junction, business, town building, etc.). Put a north arrow on your drawing and label road names, etc. Indicate with an **X** the location of the property in question.
4. Site plan of property showing:
 - a. Boundaries and area of entire parcel
 - b. North point



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- c. Scale and legend
 - d. Location, size and type of all existing and proposed buildings, parking areas, signs, roadways, screening, etc.
5. What provisions may need to be made for septic disposal, fire protection, water supply, parking, noise, smoke, surface drainage, etc.
 6. Notarized Letter of Authorization to allow an Agent or Attorney to represent the Applicant (if applicable).
 7. Copy of property deed of the subject property.
 8. Any other pertinent information that you feel the Board may need to make an intelligent and fair decision for all.
 9. 10 Copies of application packet received by Board's agent 10 days prior to meeting.
 10. Property card, available at Town Office.

The application must be completed and returned with all requirements herein to the Land Use Boards Assistant Coordinator. The application will be forwarded to the Board of Adjustment for their consideration at a public hearing. You must appear at the public hearing or be represented by an authorized agent or attorney for the board to act on your application. The application will be terminated or tabled for failure to appear at a scheduled public hearing, without first providing written notice to the Land Use Boards Assistant Coordinator. If you designate an agent or attorney to represent you in this application, you must submit a notarized Letter of Authorization.

You are fully responsible for researching and knowing all laws which may be applicable and affect the outcome of the Board's decision on your application request. The Town of Boscawen assumes no responsibility or liability relating to your failure to research and know all applicable laws including, but not limited to, state, federal, and local laws, codes, land development regulations and comprehensive plan. The Town of Boscawen strongly recommends that all applicants consider consulting an attorney regarding their application.

You are encouraged to review, or copy, the Quasi-Judicial Rules of Procedures used by the Board of Adjustment at the public hearing.

I/We being duly sworn, depose and say that I am/We are the owner(s)/lessee(s) of land in the application and that the foregoing statement herein contained and attached, and information or attached exhibits thoroughly to the best of my/our ability present the arguments in behalf of the application herewith submitted and that the statements and attached exhibits above referred to are in all respect true and correct to the best of my/our knowledge and belief.

In addition, I/We understand this application must be filed with all pertinent information as it pertains to the requirements of the Town of Boscawen Zoning Ordinance and all other information requested or required by the Zoning Board of Adjustment to be considered complete. I/We understand that this application will not be filed until all required information has been received and do further understand that the Town of Boscawen reserves the right to postpone this request until such time as the requirements are met.

Furthermore, I/We understand that I/We or our representative as stated on the application should appear at the public hearing. If photographs, documents, maps, or other materials are provided to the Board as evidence at the public hearing, said evidence will become the property of the Town of Boscawen and will remain on file for future reference. By law those instruments automatically become part of the public records and cannot be returned.



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Also, I/We recognize and understand that the public hearing before the Board of Adjustment regarding land development is considered quasi-judicial in nature. State and local law strictly prohibits applicants and/or interested parties from participating in ex-parte communications with Board members in person, by phone, e-mail, or in writing before the application is discussed at a public hearing.

Also, I/We by filing this application hereby give permission to the Boscawen Zoning Board of Adjustment, Town Engineers, Road Agent, and such employees or agents of the Town as The ZBA may authorize to enter upon the property, which is the subject of this application, at all reasonable times for the purpose of conducting examinations, surveys, tests, inspections as may be appropriate; to enable release of any claim or right we may now or hereafter possess against any of the above individuals as a result of any examinations, survey tests, or inspections, conducted on my/our property in connection with this application.

Applicant's signature: _____ Applicant's _____ Signature: _____

Applicant's printed name: _____ Applicant's _____ printed _____ name: _____

Date: _____ Date: _____

Owner's signature: _____ Owner's _____ signature: _____

Owner's printed name: _____ Owner's _____ printed _____ name: _____

Date: _____ Date: _____



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Name of present property owner: _____

(and principal officer if business name): _____

Mailing address: _____

Daytime Telephone: _____

Name of Applicant: _____

Mailing Address: _____

Daytime Telephone: _____

Location of Property: _____ Tax Map: _____ Lot: _____

Present zoning of property in question (see zoning map in current ordinance)

Please circle one: AR R1 R2 C MRD Village District

EQUITABLE WAIVERS OF DIMENSIONAL REQUIREMENTS
(RSA 674:33-a)

To grant equitable waivers to the dimensional requirements of the Zoning Ordinance, the applicant must prove to the Zoning Board of Adjustment’s satisfaction each and every element of the following:

- (a) The violation must have been unknown to the owner or the owner’s predecessors or agents or municipal officials until after the structure has been “substantially completed” or a lot has been conveyed “to a bona fide purchase for value” (i.e. an innocent purchaser who had no knowledge or reason to know of any problems and who, in good faith, paid full value).

- (b) The violation was caused by a good faith error in measurement or calculation by owner or agent or an error in interpretation of the ordinance or its applicability by a municipal official “in the process of issuing a permit” while that official was acting within the scope of his/her authority.

- (c) No public or private nuisance may be created by the violation.



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(d) There will be no diminution in the value of other property in the area.

(e) The violation will not interfere with or adversely impact any present or permissible future uses of any property in the area. _____

(f) And, due to the degree of past construction or investment, the cost to correct the violation so far outweighs the public benefit to be gained that it would be inequitable to require correction.

Note: This application is not acceptable unless all required statements have been made. Additional information may be supplied on a separate sheet if the space provided is inadequate.

The statute provides an alternative to elements (a) and (b), above (RSA 674:33-a, I (a) and (b), which permits the owner to prove to the Board's satisfaction that the violation has existed for 10 years or more and no enforcement action, including written notice of violation, has been initiated regarding the violation by the Town or anyone directly affected by the violation.

Note: The equitable waiver applies to lots or structures, which are in violation of the dimensional requirements (e.g. setbacks, frontage, or area) established by the Zoning Ordinance. It does not apply to use restrictions.

Applicant's signature: _____ Applicant's Signature _____

Applicant's printed name: _____ Applicant's printed name: _____

Date: _____ Date: _____

Owner's signature: _____ Owner's signature: _____

Owner's printed name: _____ Owner's printed name: _____

Date: _____ Date: _____