

## TOWN OF BOSCAWEN, NEW HAMPSHIRE

### ZONING BOARD OF ADJUSTMENT

116 North Main Street, Boscawen, NH 03303

(Phone) 603-753-9188 (Fax) 603 753-9184

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

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| <b>IMPORTANT: READ ALL INSTRUCTIONS CAREFULLY BEFORE FILLING OUT<br/>ATTACHED APPLICATION</b> |
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The Board strongly recommends that, before making any appeal, you become familiar with the Zoning Ordinance, and also 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 **variances**, which give relief from the literal restrictions of the Boscawen Zoning Ordinance, State statutes require that a majority of the sitting members find that an application meets all five (5) of the conditions necessary to be granted the variance. Note: requirement number 3 is a key provision and recent legal decision should be reviewed carefully by the applicant. Variances are included in a zoning ordinance to prevent an ordinance from becoming confiscatory or unduly oppressive as applied to individual properties uniquely situated. Variances are designed to afford relief to individual properties peculiarly affected by the provisions of a zoning ordinance. If the majority of property in a particular zoning district are affected in the same way, the appropriate form of relief is a legislative change (zoning amendment) rather than a variance. To determine whether an ordinance is arbitrary and unreasonable, the injury or loss to the landowner must be balanced against the gain to the public. The party(ies) seeking a variance have the burden of establishing each of the requirements for the variance.

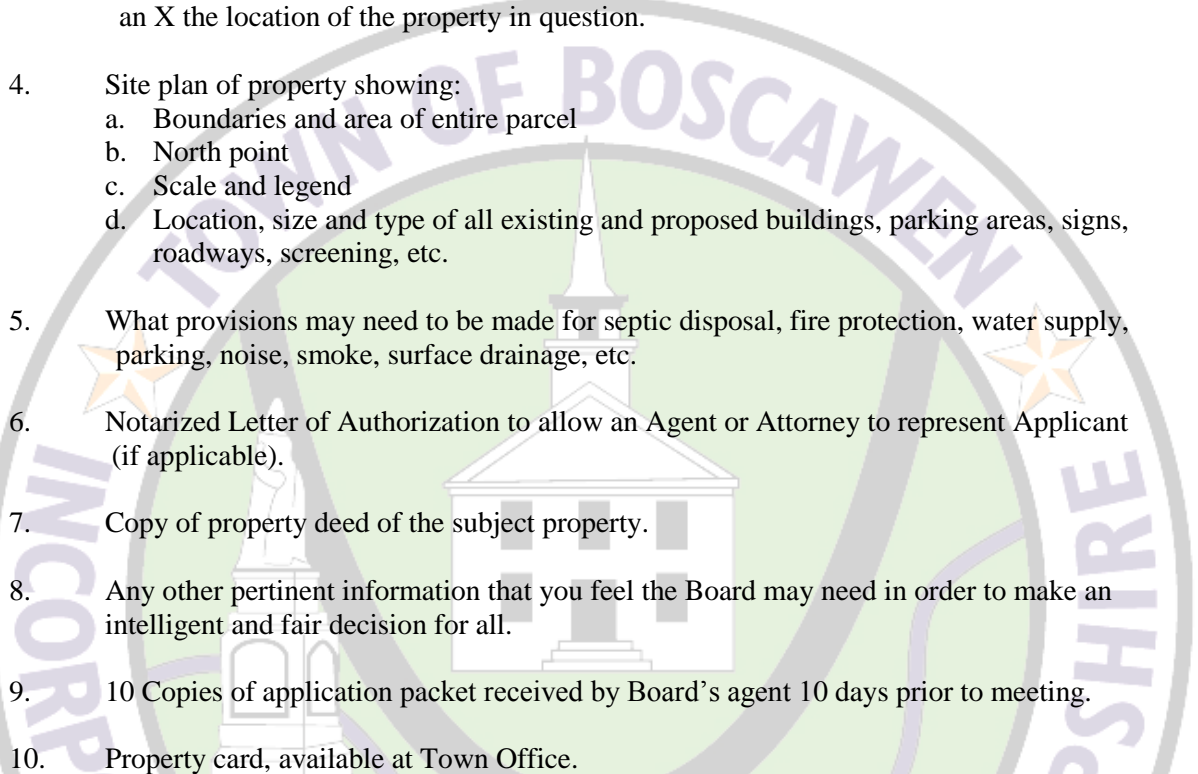
### APPLICATION FOR VARIANCE

A variance is requested from Section/Paragraph/Table: \_\_\_\_\_  
of the Zoning Ordinance to permit: \_\_\_\_\_  
\_\_\_\_\_

If you are applying for a variance, special exception, or administrative appeal, you must first have some form of determination that your proposed use is not permitted without a variance, special exception, or administrative appeal. Most often, this determination is a denial of a building permit. A copy of the determination must be attached to your application.

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

1. Hearing, Abutter, and Notification Fees:  
Variance- \$100.00  
Abutter Notification-\$7.50 per abutter (in all cases).  
Legal Ad-\$130.00

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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
    - 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 Applicant (if applicable).
  7. Copy of property deed of the subject property.
  8. Any other pertinent information that you feel the Board may need in order 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 Planning/Zoning 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 take action 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 Planning/Zoning 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 any and 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 in order 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.

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: \_\_\_\_/\_\_\_\_/\_\_\_\_

**TOWN OF BOSCAWEN, NEW HAMPSHIRE  
ZONING BOARD OF ADJUSTMENT**

116 North Main Street, Boscawen, NH 03303

(Phone) 603-753-9188 (Fax) 603 753-9183

e-mail: keasler@townofboscawen.org

Name of present property owner: \_\_\_\_\_

(and principal officer if business name): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone (days): \_\_\_\_\_

Name of Applicant: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone (days): \_\_\_\_\_

Location of Property: \_\_\_\_\_ Tax Map: \_\_\_\_\_ Lot: \_\_\_\_\_

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

Circle one: AR R1 R2 C I MRD

**VARIANCE**

**(Article X)**

In order to secure a variance, the Zoning Board of Adjustment must determine by law that your variance request satisfies the following criteria of the Zoning Ordinance. Please provide a written response along with any other supporting documentation for each of the following criteria.

Please note that all criteria must be satisfied and supported by the Zoning Board of Adjustment in order for a variance to be granted. Should the space provided be inadequate, please attach additional pages to this application.

1. The variance is not contrary to the public interest: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The spirit of the Ordinance is observed: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Substantial justice is done: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



4. The values of surrounding properties are not diminished:

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5. Literal enforcement of the ordinance would result in unnecessary hardship.

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

- i. 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:

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AND

- ii. The proposed use is a reasonable one because:

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B. Explain how, if criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist 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.

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Applicant's signature: \_\_\_\_\_

Applicant's printed name: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Applicant's Signature: \_\_\_\_\_

Applicant's printed name: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Owner's signature: \_\_\_\_\_

Owner's printed name: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Owner's signature: \_\_\_\_\_

Owner's printed name: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Town of Boscawen prohibits discrimination on the basis of race, color, national origin, sex, sexual orientation, religion, age, disability, marital or family status. Boscawen is an equal opportunity employer.