

TOWN OF EXETER  
ZONING BOARD OF ADJUSTMENT

Application for  
**USE VARIANCE**

JANUARY 2009

## **ZONING BOARD OF ADJUSTMENT APPLICATION CHECKLIST**

For an application to be considered complete, you must have the following:

- Application Form.
- Complete Abutters List.
- Three (3) pre-printed 1" x 2 5/8" labels for each abutter, the applicant and all consultants.
- Letter of Explanation.
- Vicinity Ownership Map.
- Ten (10) copies of Entire Application. (10 plus original)
- Letter from Owner Authorizing Applicant to file on Owner's behalf.
- Filing Fees: *effective January 1, 2008*
  - \$100.00 Application Fee.
  - \$10.00 Per Abutter
  - Legal Notice Fee: Actual Cost of Advertisement.

*Note: All of the above referenced items must be submitted to the Planning Office on or before deadline dates. See Schedule of Deadlines and Public Hearings for more information.*

# INSTRUCTIONS TO APPLICANTS – UPDATED JANUARY 2009

## *IMPORTANT: READ CAREFULLY BEFORE FILLING OUT ATTACHED APPLICATION*

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

Three types of appeal can be made to the Board of Adjustment:

**VARIANCE:** A variance is 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.  
(Use the Simplex Analysis for a Use Variance. Use the Boccia Analysis for an Area Variance. See applications for details.)
4. Granting the variance would do substantial justice.
5. The proposed use is not contrary to the spirit of the ordinance.

**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 Exeter Zoning Ordinance, and you believe that the decision was made in error under the provisions of the ordinance, you may appeal the decision to the Board of Adjustment. The appeal will be granted if you can show that the decision was indeed made in error.

If you are APPEALING AN ADMINISTRATIVE DECISION, a copy of the decision appealed from must be attached to your application.

**SPECIAL EXCEPTION:** Certain sections of the zoning ordinance provide that a particular use of property in a particular zone will be permitted by special exception if specified conditions are met. The necessary conditions for each special exception are given in the ordinance. Your appeal for a special exception will be granted if you can show that the conditions stated in the ordinance are met.

If you are applying for a SPECIAL EXCEPTION, you will probably also need site plan or subdivision approval, or both, from the Planning Board. Even in those cases where no Planning Board approval is necessary, presenting a site plan to the Planning Board will assist in relating the proposal to the overall zoning. This should be done before you apply for a special exception.

For any appeal, the application form must be filled out properly. The application form is intended to be self-explanatory, but be sure that you show:

**WHO** owns the property? If the applicant is not the owner, this must be explained.

**WHERE** is the property located?

**DESCRIBE** the property. Give area, frontage, side and rear lines, slopes and natural features, etc.

**WHAT** do you propose to do? Attach sketches, plot plans, pictures, construction plans, or whatever may help explain the proposed use. Include copies of any prior applications concerning the property.

**WHY** does your proposed use require an appeal to the Board of Adjustment?

**WHY** should the appeal be granted?

**PREPARATION OF APPLICATION:** Prepare a list of all abutting property owners, having it verified at the Assessor's Office in the Town Office Building, and attach it to your application. If you have any difficulty, consult the Assessor's office, but the accuracy of the list is your responsibility.

Mail or deliver the completed application, with all attachments to the Planning Office. A fee is charged sufficient to cover the cost of preparing and mailing the legally required notices. Make a check payable to the Town of Exeter and remit with your application.

The board will schedule a public hearing within thirty (30) days of receipt of your properly completed application. Public notice of the hearing will be posted and printed in a newspaper, and notice will be mailed to you and all abutters and to other parties whom the Board may deem to have an interest, at least five 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 re-hearing. The motion for a re-hearing may be in the form of a letter to the Board. The motion must be made within thirty (30) days of the Board's decision, and must set forth the grounds on which it is claimed the decision is unlawful or unreasonable. The Board may grant such a re-hearing if, in its opinion, good reason is stated in the motion. The Board will not re-open 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 re-hearing is held, you must have requested one before you can appeal to the courts. When a re-hearing is held, the same procedure is followed as for the first hearing including public notice and notice to abutters. See RSA Chapter 677 for more detail on rehearing and appeal procedures.

### **GUIDELINES FOR PROCESSING APPLICATIONS- Update January 2009.**

The goal of the Zoning Board of Adjustment is to process applications as quickly and efficiently as possible. To this end, we have designed an application procedure which is simple and easy to follow (see attached). If some of the information requested seems irrelevant, please check with the Planning Department Office, it may be that your particular proposal does not warrant such information.

It is strongly recommended that prior to submitting an application you discuss your proposal informally with the Planning Director or Code Enforcement Officer. Your application will be reviewed to insure that it is in conformance with the Town's Zoning Ordinance and you will be advised as to the procedure for obtaining Zoning Board approval. Please contact the Planning Department Office at 778-0591 (x112) to schedule an appointment.

The key to receiving a prompt decision from the Zoning Board of Adjustment is to adhere closely to the Board's procedures. In order to be placed on the Zoning Board's agenda, you must submit your completed application to the Planning Department Office fifteen (15) days prior to the Board of Adjustment meeting at which your application will be heard. Please consult the "Planning Department Schedule of Public Hearings and Deadlines" to determine when the Board is scheduled to meet. The Board of Adjustment meets once a month unless scheduled otherwise.

Copies of the Zoning Ordinance are available for your review or purchase at the Planning Department Office on the second floor of the Town Office Building located at 10 Front Street, Exeter.

## DEFINITIONS – Updated January 2009

### ABUTTER'S LIST

A list of all persons whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the Board. This list is compiled from the Exeter Tax Assessor's records.

### VICINITY OWNERSHIP MAP

Drawn to scale, a map at least 8 ½" x 11", showing all parcels in the vicinity adjacent to and surrounding the property. Each such parcel shall be designated by number to correspond with the abutter's list.

### LETTER OF EXPLANATION

A letter explaining the nature and intent of the proposed development and reasons justifying the request. References to effects produced by the request upon surrounding neighborhoods, and the Town at large, should be included.

Town of Exeter  
APPLICATION FOR A

# USE VARIANCE

Case Number: _____
Date Filed: _____
Application Fee: \$ _____
Abutter Fees: \$ _____
Legal Notice Fee: \$ _____
TOTAL FEES: \$ _____
Date Paid _____ Check # _____

Name of applicant \_\_\_\_\_

Address \_\_\_\_\_

Owner \_\_\_\_\_

Location of Property \_\_\_\_\_  
\_\_\_\_\_

(number, street, zone, map and lot number)

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

## APPLICATION FOR A USE VARIANCE

A variance is requested from article \_\_\_\_\_ section \_\_\_\_\_ of the Exeter zoning ordinance to permit \_\_\_\_\_

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

**FACTS SUPPORTING THIS REQUEST:**

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

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

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

***SIMPLEX ANALYSIS:***

*The land owner can establish unnecessary hardship by satisfying the following three conditions:*

a. The zoning restriction as applied to the applicant's property interferes with the applicant's reasonable use of the property, considering the unique setting of the property in its environment. (explain)

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b. No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restrictions on the property. (explain)

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c. The variance would not injure the public or private rights of others. (explain)

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**4. Granting the variance would do substantial justice because:**

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**5. The use in not contrary to the spirit of the ordinance because:**

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**Applicant Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

ZONING BOARD OF ADJUSTMENT

**APPLICATIONS SKETCH PLAN  
REQUIREMENTS/CHECKLIST**

1. Title Block – descriptive name of project, north arrow (approximate), street address, date and scale (not less than 1" = 40').
2. Location map showing relevant streets and zoning district boundaries.
3. Names and addresses of applicant, record owner and abutting property owners, including those across the street.
4. Existing and proposed streets, driveways, parking areas (with delineation of spaces) and sidewalks.
5. Location of existing and proposed buildings and property lines.
6. Distances on all sides between buildings and property lines.
7. Existing and proposed tree lines, landscape buffers, screening and fences.
8. Location of existing landmarks including streams, brooks, wetlands, rock outcroppings, wooded areas and other significant environmental features.
9. Generalized floor plans showing dimensions and the square footage of areas for proposed uses.

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Plans should be no larger than 11" x 17" in size. They need not be prepared by an architect or land surveyor but they must be legibly drawn with printed labels.

- PLANS MUST CONTAIN ALL OF THE ABOVE INFORMATION IN ORDER FOR THE APPLICATION TO BE PLACED ON THE AGENDA FOR A ZONING BOARD OF ADJUSTMENT HEARING.

ABUTTER LABELS AND LISTS:

Abutter labels and lists must be attached to this application. Please contact the Planning Office if you have any questions.

ADDITIONAL MATERIALS:

If provided with the application, additional submission materials will be sent to the ZBA members in their monthly packet of information. Please contact the Planning Office if you have any questions regarding additional submission materials.