



TOWN OF  
**PETERBOROUGH**

ZONING BOARD OF ADJUSTMENT  
APPLICATION

**DO NOT WRITE IN THIS SPACE**

Date Application Received: \_\_\_\_\_

Date Fees Paid: \_\_\_\_\_

Clerk: \_\_\_\_\_

**Case Number:** \_\_\_\_\_

**1. Type of Application:** (check all that apply)

\_\_\_ Special Exception \_\_\_ Variance \_\_\_ Appeal of Administrative Decision

\_\_\_ Equitable Waiver of Dimensional Requirement

**2. Applicant:** \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**3. Property Owners Name(s):** \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**4. Primary Contact:** \_\_\_\_\_ Email: \_\_\_\_\_

Applicant  Owner  Attorney  Surveyor/Engineer Phone: \_\_\_\_\_

**5. Project Name:** \_\_\_\_\_ **Street Address:** \_\_\_\_\_

Tax Map: \_\_\_\_\_ Lot: \_\_\_\_\_

**6. Zoning Districts** (check all that apply):

- \_\_\_ Business/Industrial District
- \_\_\_ Commercial District
- \_\_\_ Commerce Park District
- \_\_\_ Downtown Commercial District
- \_\_\_ Family
- \_\_\_ General Residence District
- \_\_\_ Monadnock Community Health Care District
- \_\_\_ Office District
- \_\_\_ Retirement Community District
- \_\_\_ Rural District
- \_\_\_ Village Commercial District
- \_\_\_ West Peterborough District

**5. Overlay Zones and Districts** (check all that apply):

- \_\_\_ Bulk Fuel Storage District
- \_\_\_ Floodplain District
- \_\_\_ Groundwater Protection Overlay Zone
- \_\_\_ Rural Gateway Overlay Zone
- \_\_\_ Shoreland Conservation Zone
- \_\_\_ Traditional Neighborhood Overlay Zone
- \_\_\_ Wetland Protection Overlay Zone

**9. Relief is requested from the provisions of Article:** \_\_\_\_\_, **Section:** \_\_\_\_\_, **Paragraph:** \_\_\_\_\_

**In order that he or she may:** (purpose) \_\_\_\_\_

\_\_\_\_\_

**INSTRUCTIONS FOR SUBMITTING A COMPLETE APPLICATION (Please read carefully)**

For an application to be scheduled on the next available Zoning Board of Adjustment agenda, the following items SHALL be submitted to the Office of Community Development by close of business on the officially posted submittal date:

**1. Completed and signed Zoning Board of Adjustment (ZBA) Application Form.**

The application will not be placed on the ZBA agenda unless all required signatures are on the application. The property owner SHALL sign the application form.

**2. Other pertinent information to provide (If applicable).**

- (a) Provide two (2) copies of a plot plan of the lot as shown on the Town Parcel Map which shows the existing and proposed improvements, drawn to scale, along with existing and proposed setback distances.
- (b) Provide pictures or construction plans showing each elevation (front, side, or rear) to which any improvements are proposed to be made.
- (c) Applications that involve the Groundwater Protection, Wetlands, Shoreland Conservation, or Floodplain Districts shall show the location of the Districts on the plot plan and provide at a minimum the following additional written information:
  - (i) Written narrative describing the proposed intrusion into the aforementioned districts, why it is necessary, why alternatives are not available, and what steps will be taken during and after construction to minimize disruption of the Groundwater Protection, Wetlands, Shoreland Conservation, or Floodplain Districts.
  - (ii) Applications involving wetlands shall be delineated by a wetlands scientist for reference by the Conservation Commission and the Office of Community Development Staff.
  - (iii) Applicants of applications involving wetlands and/or shorelands (per Zoning Ordinance definition) shall meet with the Conservation Commission to discuss the proposal and receive a written report that will be forwarded to the Zoning Board of Adjustment prior to the **FINAL** public hearing.

**3. Abutters Mailing List.**

Prepare a mailing list to include all abutting property owners as defined by RSA 672:3, licensed professionals on plan, owners, and applicants.

**4. Fees.** All fees must be paid in accordance with page 6 of this application.

**AUTHORIZED SIGNATURES**

*I/We certify that this application is correctly and accurately completed in accordance with the Town of Peterborough's Zoning ordinance and the requirements of this application.*

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

\_\_\_\_\_  
Date

As property owners, I/We give the applicant and/or agent, as stated hereon, our authorization to submit this application and represent us on matters relative to the Town's Zoning Board of Adjustment process. I/We also authorize members of the Peterborough Zoning Board of Adjustment and its agent's access to the property described on this application for on-site review of the proposed application if necessary.

\_\_\_\_\_  
Property Owners(s) Signature

\_\_\_\_\_  
Date

## Section 1: **SPECIAL EXCEPTION** Documentation

At the time of application, the applicant shall submit documentation regarding each of the following considerations which, in the judgment of the applicant, are germane. Answers shall be the basis for decisions by the Zoning Board of Adjustment on special exceptions.

**A. SPECIFIC (if applicable):** Explain how your application meets the **specific** special exception criteria (if any) pertinent to the section of the ordinance you are seeking the Special Exception for.

**B. GENERAL (§ 245-41):** Special exceptions shall be granted only if the Zoning Board of Adjustment determines that the proposal's benefits to the Town, neighborhood, and applicant will outweigh any adverse effects for the Town or the neighborhood.

1. Location.
  - (a) Providing adequate water, sewerage, and drainage for this location should pose no special public problems.
  - (b) The site should be able to accommodate the proposal without substantial environmental damage due to wetland loss, habitat disturbance, or damage to valuable trees or other natural assets.
  - (c) The use and location proposed should result in minimal risk to air, land, or water resources because of planned processes or unplanned contingencies.
  - (d) If economically viable alternatives exist, the use should not preempt land having special qualities suiting it for other uses, such as agriculture on prime agricultural soils.
  - (e) Adjoining premises and the general neighborhood should not be negatively affected by impacts, including those cited below.
2. Activity type and mix.
  - (a) Residential proposals should serve housing needs of local residents, or broaden the diversity of housing within the Town.
  - (b) Non-residential proposals which serve a market larger than Peterborough are particularly beneficial if they reflect special qualities of this Town, its character, and its tradition.
3. Visual consequences.
  - (a) Views from public ways and developed properties should be considerably treated in the site arrangement and building design. Views of hillsides and other visual assets should be protected where they exist, and opened where they can be.
  - (b) Visibility of parking and service areas from public streets should be minimized through site arrangement.
  - (c) Departure from the architectural scale of buildings on nearby premises should be minimized, except where the departure would serve some community design purpose.
4. Access.
  - (a) Access to the location should not entail congestion or hazard, taking into consideration any special access provisions committed by the applicant, such as ride-sharing.
  - (b) Pedestrian and vehicular movement to, from, and within the site should be safe and convenient, and arranged so as not to disturb abutting properties.
5. Process.
  - (a) Where possible, the proposal should have been developed in consultation with those likely to be substantially impacted by it.
  - (b) When a proposed use will create negative effects on abutters or other parties, including the Town, then compensatory actions must be taken to lessen the negative consequences of the proposal.

**Section 2: VARIANCE Documentation**

In order for the Board of Adjustment to grant a Variance, the Board must make all of the following findings that apply to the case. At the time of application for a Variance, the applicant shall submit documentation regarding the following considerations which, in the judgment of the applicant, are germane, including information regarding consultative efforts made with any neighborhood groups or other affected parties.

Facts supporting this request for a **variance**:

1. Granting the variance would not be contrary to the public interest because: \_\_\_\_\_  
\_\_\_\_\_

2. The spirit of the ordinance is observed because: \_\_\_\_\_  
\_\_\_\_\_

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

4. The values of surrounding properties are not diminished because: \_\_\_\_\_  
\_\_\_\_\_

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

(a) For purposes of this subparagraph, “unnecessary hardship” means that special conditions of the property distinguish it from other properties in the area; **Please describe these special conditions:**

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

(i) Owing to these special conditions, 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:

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

(ii) And, the proposed use is a reasonable one since:

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

(b) If the criteria in subparagraph (a) 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.

(i) The following special conditions of the property make the variance necessary in order to enable a reasonable use of it:

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

### **Section 3: APPEAL FROM AN ADMINISTRATIVE DECISION PER NH RSA 676:5**

For an **Administrative Appeal** request, please attach a letter with this application explaining:

1. What decision was made by the administrative officer per RSA 676:5, I or 2; or, what zoning interpretation was made by the Planning Board that you are appealing per NH RSA 676:5,III that your are seeking to appeal;
2. Why you believe there was an error in the interpretation of this decision; and,
3. Please state the date that the decision was made that you are appealing from.
4. The appeal period as specified by the Board's Rules of Procedure is 30 days from the date of the administrative decision or interpretation, and not thereafter.

If your appeal has to do with the denial of a building permit, the applicant must demonstrate to the satisfaction of the Board all of the requirements of **RSA 674:41** in order to receive relief.

### **Section 4: APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS**

In order for the Zoning Board of Adjustment to grant an Equitable Waiver of Dimensional Requirements, the Board must make all of the following findings:

1. That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value.
2. That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority.
3. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, not interfere with or adversely affect any present or permissible future uses of any such property; and
4. That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

**- or -**

In lieu of the findings required by the Board under paragraphs 1 through 4, the owner may demonstrate to the satisfaction of the Board that the violation has existed for ten (10) years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected.

## **Application Process**

All applications shall be completed as described in this document and submitted to the Office of Community Development no later than 20 days prior to the next regularly-scheduled meeting. The application and plans will be reviewed by the Code Enforcement Officer to ensure they comply with the Board's Application Policy and applicable zoning regulations.

If an application is incomplete or unclear, the applicant will be notified, and a meeting will be set up to discuss the application. Applications that also involve Planning Board issues will require a meeting with the Code Enforcement Officer, the Director of Community Development, and the applicant.

The completed application will be placed on the agenda for a public hearing. Public notice of the hearing will be posted and printed in a 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 ten 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 copy of the decision and excerpts of the meeting minutes as they pertain to your case.

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 must be in the form of a letter to the Board. The motion must be made within 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 rehearing 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. See RSA Chapter 677 for more detail on rehearing and appeal procedures.

If you have any additional questions, please contact the Office of Community Development at 924-8000 ext. 104 or the Code Office at 924-8000 ext. 118.

## **Board of Adjustment Application Fee**

1. All applications shall be charged a fee of one hundred fifty dollars (\$150) = **\$ 150.00**
  
  2. Abutter notification at \$4.00 per notification. ----- \$4.00 x \_\_\_\_\_ Abutters = **\$ \_\_\_\_\_**
  
  3. Notification of licensed professionals whose professional seal appears on any of the submittal documentation. ----- \$4.00 x \_\_\_\_\_ Professionals = **\$ \_\_\_\_\_**
- Total Application Fee = **\$ \_\_\_\_\_**