



SECTION 4: Application For Equitable Waiver Of Dimensional Requirements

Instructions to applicants appealing to the Zoning Board of Adjustment. Important: Read carefully before filling out the application on the reverse side. The ZBA strongly recommends that, before making any request, you become familiar with the Chester Zoning Ordinance as it pertains to your request, and also with the New Hampshire Statutes TITLE LXIV, RSA Chapters 672-677, covering planning and zoning and particularly RSA Chapter 677 for more detail on rehearing and appeal procedures. You may view State Statutes on-line at www.state.nh.us, the Chester Zoning Ordinance at www.chesternh.org and both may be viewed at the Chester Town Offices.

Equitable waivers may be granted only form physical layout, mathematical or dimensional requirements and may not be granted from use restrictions. The applicant must meet the required standards.

- (a) The nonconformity was not discovered until after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser;
- (b) The nonconformity was not an outcome of ignorance of the law or bad faith but was instead caused by a legitimate mistake;

If these conditions are satisfied, the Board can move on to the additional findings to grant the waiver:

- (c) The nonconformity does not constitute a public or private nuisance nor diminish the value or interfere with future uses of other property in the area; and
- (d) The cost of correction would far outweigh any public benefit to be gained.

In lieu of the requirements in paragraphs (a) and (b), the violation has existed for ten (10) years or more with no enforcement action, including written notice, commenced by the Town. The burden of proof is your responsibility so, you must bring plot plans, surveyors reports, permits, and any other information to substantiate your application.

This application is not acceptable unless submitted thirty (30) days prior to the meeting, all required statements have been made and all fees are paid. Additional information may be supplied on a separate sheet if the space provided is inadequate and attached to this application form.

If after your hearing has been scheduled, you find it necessary to ask for a **“motion to continue”** you must make this request in writing to the ZBA eight (8) working days prior to the date of the motion will be denied. The ZBA may require, at your cost, additional fees to re-notice the public and abutters.

If your request is continued to the next meeting, the date and time will be announced, it is your responsibility to take note, notice will not be mailed. The only public posting will be at Town Hall and the Post Office.

Once a waiver is granted, the property is not considered to be a nonconforming use and the waiver does not exempt future use, construction, reconstruction or additions on the property from full compliance with the ordinance.

After the public hearing, the Board will reach a decision. You will be sent a written certified **Notice of Decision**.

If you believe the Board’s decision was unlawful or unreasonable; you have the right to motion for a rehearing. Any person or persons jointly or separately aggrieved by a decision of the Board of Adjustment shall have the right to file a **Motion for Rehearing** within thirty (30) days beginning with the date following the date of the board vote in accordance with the provisions of the New Hampshire Statutes Annotated, Chapter 677. Whether or not a rehearing is held, **you must have requested one before you can appeal to the courts**. When a rehearing is granted, the same procedure is followed as for the first hearing, including public notice and notice to the abutters.

PUBLIC HEARING APPLICATION REQUIREMENTS

Attached are applications and all related information concerning a request for a Public Hearing with the Zoning Board of Adjustment. The four requests that can be made are as follows:

- SECTION 1: **Appeal From An Administrative Decision**
- SECTION 2: **Application For A Special Exception**
- SECTION 3: **Application For A Variance, Area or Use**
- SECTION 4: **Application For An Equitable Waiver Of Dimensional Requirements**

The application is intended to be self-explanatory.

1. If the applicant is an agent of the owner, indicate as such, both must sign. Include a letter giving you, the applicant authority by the owner.
2. Include and attach plot plans, sketches, pictures or construction plans giving area, frontage, side and rear lines; describe the property, and the proposed use. Lack of an adequate plan could result in delay or misunderstanding of the written record.
3. Include copies of any prior applications concerning the property and information contained in subdivision or site plan review applications. Any conditions attached to a site plan review or subdivision approval must be attached.
4. **A copy of the building permit denial must be included.**
5. Attach a list of all abutting property owners, including the applicant and/or owner. If you have any difficulty, consult the Assessor's or ZBA office, **but the accuracy of the list is your responsibility.** (Abutter: any persons holding legal title to land, which adjoins or is directly across the street or stream from land under consideration.)

Public Hearings are held on the third (3rd) Tuesday of each month, unless otherwise noticed. Public notice will be posted, printed in the newspaper, certified notice will be mailed to the applicant and/or owner and abutters not less than five (5) days before the date fixed for the hearing of the appeal. The applicant and/or owner will also be mailed a certified notice of decision. A fee is charged to cover the cost of preparing and mailing **the legally required notices.** Make check payable to the **"Town of Chester"**. The **properly completed** signed application with attachments and check must be received **thirty (30) days in advance.** Failure to pay such costs shall constitute valid grounds for denial without a public hearing.

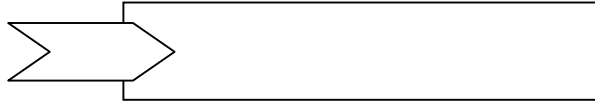
Mail to:	Zoning Board of Adjustment	Deliver to:	Chester Town Offices
	84 Chester Street		84 Chester Street
	Chester, New Hampshire 03036-4305		Tel: 887-4343

Application fees:	Processing and publication of legal notice	\$ 200.00
	Abutters, applicant and/or owner's certified notice	\$ 10.00 each
	Applicant and/or owner's Notice of Decision	\$ 10.00 each
	(overseas additional per current postal rate)	

To: Board of Adjustment

**SECTION 4: Application For Equitable Waiver
Of Dimensional Requirements**

ZBA Office Use Only
Date Filed-Stamp and Initial Here



Applicant:

Owner(s) of record: (indicate if same as applicant)

Mailing Address:

Mailing Address:

Telephone: _____

Telephone: _____

Property Location: Map _____ Lot(s) _____

No & Street _____

An Equitable Waiver of Dimensional Requirements is requested from Article _____ Section _____
of the zoning ordinance to permit: _____

1. Does the request involve a dimensional requirement, not a use restriction? () yes () no

2. Explain how the violation has existed for 10 years or more with no enforcement action, including written notice,
being commenced by the town: _____

-or- 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 legitimate
mistake: _____

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: _____

Applicant Signature/Date

Owner(s) Signature/Date

