

INSTRUCTIONS TO APPLICANTS APPEALING TO THE NEW IPSWICH ZONING BOARD OF ADJUSTMENT FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENT

IMPORTANT: READ CAREFULLY BEFORE FILLING OUT ATTACHED APPLICATION

The Zoning Board of Adjustment 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 672-678 covering planning and zoning.

Equitable Waiver of Dimensional Requirements: The board may grant an equitable waiver only for existing dimensional nonconformities, provided the applicant can meet the required standards.

1. 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.
2. The nonconformity was not an outcome of ignorance of the law or bad faith, but was instead caused by a good faith error in measurement or calculation.

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

3. 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
4. The cost of correction would far outweigh any public benefit to be gained.

In lieu of the requirements in paragraphs (1) and (2), the violation has existed for 10 years or more with no enforcement action, including written notice, commenced by the town.

For any appeal, the application form must be properly filled out. 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 the property is 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?

Once the application has been completed, the applicant should submit an application with the Zoning Board of Adjustments' Clerk at the Town Offices. Prepare a list of all abutting property owners and attach it to your application. If you have any difficulty, consult the clerk of the board,

but the accuracy of the list is your responsibility. Mail or deliver the completed application, with all attachments, to the clerk. A fee is charged sufficient to cover the cost of preparing and mailing the legally-required notices. Make check payable to Town of New Ipswich and remit with your application. Failure to pay the required fee will result in denial of your application.

Fee Determination – As of August 2023

Board of Adjustment Fee \$75.00
Newspaper Advertisement 75.00
Certified Mailings at \$ (\$ x # of abutters) **TBD**
Decision letters (\$ x # of abutters) **TBD**
Additional expenses **TBD**
Total payable to Town of New Ipswich **TBD**

The Board will promptly schedule a public hearing upon receipt of your properly completed application. Public notice of the hearing will be posted and printed in the Monadnock Ledger and shall be posted at the New Ipswich Post Office and Town Office no less than five days before the date fixed for the hearing. 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 rehearing. The Motion for Rehearing form can be found on the Town's website. The motion must be made within 30 days of the 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.

APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

To: Zoning Board of Adjustment,
Town of New Ipswich

Do not write in this space.
Case No. _____
Date Filed _____

(signed - ZBA)

Name of Applicant _____

Address _____

Owner _____

(if same as applicant, write "same") Location of Property

(street, number, sub-division and lot number)

Do you own the property? Yes ____ No ____ If you are not the owner of the property, provide duly notarized documentary evidence that you are the owner's authorized agent.

NOTE: Additional information may be supplied on a separate sheet if the space provided is inadequate.

The following information is required for acceptance of your application unless specifically waived by the Board:

1. Copy of tax map showing your property in relation to town/state roads and abutters.
2. List of all abutting property owners and other interested parties including addresses. The Assessors' Office will assist you with the list but the accuracy of the list is your responsibility.
3. A drawing prepared by a licensed land surveyor or registered professional engineer in the State of New Hampshire.

Receiving Deadline:

1. The closing date by which completed equitable waiver of dimensional requirement applications must be submitted to the Land Use Office is 14 calendar days prior to the meeting at which the application is to be addressed.
2. Additional information being submitted in regards to an application already accepted by the board must be received at least 7 calendar days prior to the scheduled date of meeting.

Application for an Equitable Waiver of Dimensional Requirements

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 good faith error in measurement or calculation.

_____.

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.

I certify that all information provided in this application is true and correct to the best of my knowledge.

Applicant _____ Date _____