

TOWN OF MERRIMACK ZONING BOARD OF ADJUSTMENT

Application for an Equitable Waiver of Dimensional Requirements (RSA 674:33-a)

(Effective January 1, 2010)

DATE SUBMITTED: _____

Case #: _____

Tax Map _____ /Lot _____

Zoning District(s): _____

Address of Subject Property: _____

Name of Applicant: _____

Telephone: _____

Address: _____

e-mail: _____

Is Applicant the property owner? ___ Yes ___ No

If no, identify Owner

Name: _____

Telephone: _____

Address: _____

e-mail: _____

Owner's Signature (or attach Letter of Authorization): _____

An Equitable Waiver of Dimensional Requirements is requested from Section(s)
_____ of the Zoning Ordinance to permit _____

Please attach additional sheets, plans, etc. if needed to support request for equitable waiver.

I/We do authorize the Town of Merrimack Zoning Board of Adjustment and staff to enter upon the above referenced property for inspection.

Name of Applicant *(Please Print)*

Name of Property Owner, if Different from Applicant *(Please Print)*

Signature of Applicant

Signature of Property Owner, if Different from Applicant

(*Effective January 1, 2010*)

Where setbacks to property lines are at issue, the Petitioner, at the request of Community Development Staff, shall submit a **current plot plan prepared by a Professional Land Surveyor** duly licensed by the State of New Hampshire. Plans shall identify existing and proposed structures and their respective setbacks to the relevant property lines, as determined by Staff. Plans shall also identify any easements and approximate locations of wells, septic systems, driveways and other existing site improvements that may be relevant to the Variance, Special Exception, or Equitable Waiver being requested. Photocopies and annotated plans are not acceptable. Relevant property lines and corners should be clearly marked in the field in a timely manner to allow for proper inspection of the premises by board members. The Board may waive any part of these requirements for good cause, upon the request of the Petitioner.

The Petitioner is encouraged to **submit photographs** of an area where setback relief is being requested to facilitate review by the Board.

The Board **encourages** the Petitioner to submit relevant supplemental information as early as possible so that the Board and Staff may conduct a reasonable review of materials. The practice of **submitting supplemental information during the public hearing is greatly discouraged** by the Board. The Board may decline to consider such information or may ask the Petitioner to continue the public hearing to allow sufficient time for a proper review of all submitted materials.

Application for an Equitable Waiver of Dimensional Requirements (See also RSA 674:33-a)

1. 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 lot or other division of land in violation had been transferred to a bona fide purchaser.

_____ and how the violation was not an outcome of ignorance of the law, failure to inquire, obfuscation, misrepresentation or bad faith, 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.

2. Explain how the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property.

3. Explain how the cost of correction far outweighs any public benefit to be gained.

ABUTTER NOTIFICATION

Please be advised that, per RSA 676:7 (I), the Zoning Board of Adjustment is required to notify the following parties by certified mail - mailed at least five (5) days prior to the date of the meeting at which an item is to be discussed:

- 1) Applicant;
- 2) Abutters*;
- 3) Holders of conservation, preservation, or agricultural preservation restrictions;
- 4) Every engineer, architect, land surveyor or soil scientist whose professional seal appears on the plan (if applicable).

***Abutters are required to be "as indicated in the town assessing records not more than 5 days before the day of filing", per RSA 676:4 (I)(b)** (Please complete the certification below).

Definition of "Abutter" (RSA 672:3): Any person whose property is located in New Hampshire and **adjoins** or is **directly across the street or stream** from the land under consideration by the local land use board. In the case of an abutting property being under a **condominium** or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. In the case of an abutting property being under a **manufactured housing park** form of ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.

In order for us to properly comply with the statutory requirements for Zoning Board of Adjustment notices, the Applicant needs to provide us with information for all of the above-mentioned parties, and provide payment for us to cover the costs of notice. Failure to do so will constitute sufficient reason for the application to be denied as "Incomplete".

A sample format for compiling/submitting this information is on the reverse.

ABUTTERS TO BE NOTIFIED

Please sign and submit the following certification:

I hereby certify that the attached abutter information is as indicated in the Town of Merrimack Assessor's records as of _____, 20____.
(date)

(Signature)

(Print name)

Please Utilize Below Format for Compiling/Submitting Abutter Information

Abutter 1
Abutter 1 Address
City State Zip

Abutter 2
Abutter 2 Address
City State Zip

Etc.

OTHER PARTIES TO NOTIFY *(include all that apply)*

Applicant
Applicant's Address
City State Zip

Owner (if different from Applicant)
Owner's Address
City State Zip

Engineer
Engineer's Address
City State Zip

Architect
Architect's Address
City State Zip

Land Surveyor
Land Surveyor's Address
City State Zip

Soil Scientist
Soil Scientist's Address
City State Zip

Also list, individually, any holders of any conservation, preservation, or agricultural preservation restrictions that apply to the subject property

IMPORTANT: Attach two (2) sets of mailing labels for all parties identified above.

CHECKLIST REQUIREMENTS

All requests for an Equitable Waiver shall be accompanied by a properly completed, dated and signed Application for an Equitable Waiver of Dimensional Requirements, which shall contain the following:

		<u>Applicant</u> (√)	<u>CDD</u> (√)
1.	Tax Map _____/Lot _____	_____	_____
2.	Name and address of applicant.	_____	_____
3.	Name and address of property owner (if different).	_____	_____
4.	Where setbacks to property lines are at issue, the Petitioner, at the request of Community Development Staff, shall submit a <u>current</u> plot plan prepared by a Professional Land Surveyor duly licensed by the State of New Hampshire.	_____	_____
5.	A list, and two (2) sets of address labels, containing the names & legal addresses of applicant, property owner, and all property owners abutting the subject parcel, including those directly across the street or stream.	_____	_____
6.	Certification by applicant that the abutters are as indicated in the Town of Merrimack Assessor’s records, not more than 5 days prior to day of filing.	_____	_____
7.	Signed authorization for the Zoning Board and staff to enter upon the subject property for inspection.	_____	_____
8.	Application fee(s) and abutter notification fee.	_____	_____