

**INSTRUCTIONS TO APPLICANTS APPEALING TO THE
HOLDERNESS ZONING BOARD OF ADJUSTMENT**

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, Board Rules of Procedure, and applicable New Hampshire Statutes.

THE FOLLOWING APPEALS TO THE BOARD MAY BE MADE:

VARIANCE – Fill out Forms A-1, 2, 3 – if applicable, 4, 5, and refer to 9 for submission documents. A variance may be granted for relief from the zoning ordinance to use property or place structures in a manner that would otherwise violate the ordinance. For a variance to be granted, you must show that your request meets ALL FIVE of the criteria specified in the application for a variance.

You must have some form of determination that your request is not permitted without a variance. A copy of the determination must be attached to your application.

SPECIAL EXCEPTION – Fill out Forms A-1, 2, 3 – if applicable, 4, 6, and refer to 9 for submission documents.

A special exception is an allowed use that must meet specified criteria.

You must have some form of determination that your proposed use is not permitted without a Special Exception. A copy of the determination must be attached to your application.

APPEAL OF AN ADMINISTRATIVE DECISION – Fill out Forms A-1, 2, 3 – if applicable, 4, 7, and refer to 9 for submission documents.

An appeal of an administrative decision is a claim that an administrative officer has incorrectly interpreted the terms of the zoning ordinance. An administrative officer is any official or board who has responsibility for issuing permits or certificates under the ordinance or for enforcing the ordinance, and may include, but is not limited to, the Board of Selectmen and the Compliance Officer.

Appeals of administrative decisions must be filed with the Board within thirty (30) calendar days of the decision made by the administrative officer. A copy of the decision being appealed and all related documents must be attached.

EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS – Fill out Forms A-1, 2, 3 – if applicable, 4, 8, and refer to 9 for submission documents.

When lot or other division of land, or structure on the property, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance, RSA 674:33-a provides two alternatives to grant an equitable waiver from the zoning requirement.

DISTRICT BOUNDARY DETERMINATION – In any instance where there is doubt as to the location of a Zoning District Boundary, the Board of Adjustment shall determine the location of such Boundary pursuant to Zoning Ordinance Article 300.3.

No form is supplied by the Board. A written request is required and must be attached to the Application.

CONVERSION OF A SEASONAL SWELLING– See Article 400.14.

No form is supplied by the Board. A written request is required and the following must be provided:

1. A copy of New Hampshire Energy Code Compliance Certificate.
2. Evidence that the septic system is in compliance with state regulations.
3. A copy of the Holderness Compliance Officer's report on the water supply and septic system.

MOTION FOR REHEARING

If your appeal is denied by the Zoning Board, you may appeal for a rehearing on the Board's decision. No form is supplied for an appeal for a rehearing. The Selectmen, or any party affected, have similar rights to appeal the Board's decision. To appeal the decision, you must first ask the Zoning Board for a rehearing. The Motion for Rehearing may be in the form of a letter to the Board attached to the application. This motion must be made within thirty (30) calendar days from the day of the Board's decision, and must set forth fully and in detail all the grounds on which it is claimed the decision is unlawful or unreasonable. The Board may grant such a rehearing only, if in its opinion, good reason is stated and substantiated in the motion. "Good Reason" might be a claim by the petitioner that a technical error has been made or if new evidence can be produced which was not available at the time of the first hearing. 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. When a rehearing is held, the same procedure as in the first hearing will be followed, including public notice and notice to abutters.

Following the Board's final decision after a Rehearing or if the Motion for Rehearing is denied, you have thirty (30) days in which to appeal to the Superior Court. However, no such Appeal may be taken unless you have first applied for a Rehearing to the Zoning Board. The only grounds for appeal the Court will hear are those set forth in your Motion for Rehearing.

APPLICATION SUBMITTAL

Mail or deliver your completed original application, attachments, and 6 copies to:

Town of Holderness
Zoning Board of Adjustment
PO Box 203 (1089 US Route 3)
Holderness, NH 03245-0203

Fees are determined by the Board of Selectmen. (See Form A-2, Fee Schedule) Your check must be included with your application and made payable to the Town of Holderness.

When your properly completed application is received, the Board will review and accept, or return improperly filled out applications. If your application is accepted, the Board will schedule a public hearing within thirty (30) days of receipt of the application. Public notice will be mailed to you and to all abutters and other parties whom the Board may deem to have an interest, and will be posted and published in a local newspaper at least five (5) days prior to 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. BEAR IN MIND THAT IT IS UP TO YOU TO SHOW THAT YOU DO MEET THE REQUIREMENTS for your Appeal to be granted.

Following the public hearing, the Board will reach a decision and a Notice of Decision will be mailed to you. If your Appeal is denied, the denial will be sent to you by Certified Mail.

Town of Holderness
Zoning Board of Adjustment
 PO Box 203
 Holderness, NH 03245-0203
 Phone: (603) 968-2145 Fax: (603) 968-9954

APPLICATION FOR APPEAL

Applicant: _____

Mailing Address: _____

Phone: _____

Email Address: _____

Owner (if different from applicant): _____

Mailing Address: _____

Phone: _____

Board Use Only

Date Filed:

Amt. Rec'd:

Rec'd By:

Case #:

Hearing Date:

If the Applicant is different from the Owner, please complete the Agent Form (A-3)

Physical Address of Property: _____

District _____ Tax Map # _____ Lot # _____ Lot Size _____

Shore Frontage _____ Road Frontage _____

Provide all required documents as listed in the Application Requirements (Form A-9) or request a waiver as applicable. The Board may require further documentation as a part of this application in special situations.

Provide a brief description of the project:

(Check One) THE PROPERTY IS FOR SEASONAL USE _____
 THE PROPERTY IS YEAR ROUND RESIDENTIAL USE _____

Type of Request:

- | | |
|---|----------------------------------|
| <input type="checkbox"/> Application for Variance | (Form A-5) |
| <input type="checkbox"/> Application for Special Exception | (Form A-6) |
| <input type="checkbox"/> Appeal of Administrative Decision | (Form A-7) |
| <input type="checkbox"/> Equitable Waiver of Dimensional Requirements | (Form A-8) |
| <input type="checkbox"/> Zoning District Boundary Determination | (No Form, use a written request) |
| <input type="checkbox"/> Application for Rehearing of ZBA Decision | (No Form) |

NOTE: IT IS YOUR RESPONSIBILITY TO SUPPLY ALL REQUIRED INFORMATION AND TO PRESENT AND PROVE YOUR CASE.

The undersigned applicant(s) hereby submit this appeal under penalties of perjury and represent, that to the best of my/our knowledge, the data and information submitted as part of this appeal are true and correct.

The undersigned applicant hereby authorizes the Zoning Board of Adjustment members and/or town staff to inspect the subject property for the purpose of evaluating this application.

Signature of Applicant _____

Date _____

Signature of Owner _____

Date _____

ZBA APPLICATION FEES

Variance: Number of Variances _____ x \$75.00 = _____

Special Exception: \$75.00 _____

Appeal of Administrative Decision: \$75.00 _____

Motion for Rehearing: \$40.00 _____

Zoning District Boundary Defined: \$40.00 _____

Abutter Notification: Number of Abutters _____ x \$10.00 = _____
(owner, applicant, and abutters as defined in RSA 672:3)

Public Hearing Advertisement: \$65.00 _____

Total Fee: _____

AGENT FORM

AGENT FORM: Complete this form if Applicant is other than the Owner of the property.

Agent's Name (please print) _____ Phone _____

Mailing Address _____

Give a statement of your vested interest: (You may supply this statement on a separate sheet if additional space is necessary.)

Signature of Agent: _____ Date _____

The undersigned Owner hereby authorizes the above named agent to present this Appeal and furnish all required information and for Holderness Zoning Board of Adjustment members and/or town staff to inspect the subject property for the purpose of evaluating this Appeal.

Signature of Owner _____ Date _____

ABUTTERS LISTTo be attached to and submitted with all applications

Name of Applicant: _____ Tax Map # _____

Address: _____ Lot # _____
(Location of property)Address: _____ Zoning District _____
(Mailing)

ABUTTER means any person whose property adjoins or is directly across the street or stream from the land under consideration by the Zoning Board of Adjustment. (RSA 672:3)

1. Name: _____ Tax Map No. _____ Lot No. _____

2. Address: _____

3. Name: _____ Tax Map No. _____ Lot No. _____

4. Address: _____

5. Name: _____ Tax Map No. _____ Lot No. _____

6. Address: _____

7. Name: _____ Tax Map No. _____ Lot No. _____

8. Address: _____

9. Name: _____ Tax Map No. _____ Lot No. _____

10. Address: _____

11. Name: _____ Tax Map No. _____ Lot No. _____

12. Address: _____

13. Name: _____ Tax Map No. _____ Lot No. _____

14. Address: _____

15. Name: _____ Tax Map No. _____ Lot No. _____

16. Address: _____

17. Name: _____ Tax Map No. _____ Lot No. _____

18. Address: _____

10. List the names and mailing addresses of any surveyor, engineer, wetland scientist, and any other professional listed on a plan:

This Board is not responsible for the information supplied above. The most current property information is available at the County Registry's office.

APPLICATION FOR VARIANCE

(RSA 674:33 & Holderness Zoning Ordinance, Article 800.3)

A variance is requested from Article ____ Section ____ of the Town of Holderness Zoning Ordinance to permit:

FACTS SUPPORTING THIS REQUEST in accordance with RSA 674:33 I(b)

(1) The variance will not be contrary to the public interest;

(2) The spirit of the ordinance is observed;

(3) Substantial justice is done;

(4) The value of surrounding properties are not diminished; and

(5) Literal enforcement of the provisions of the ordinances would result in an *unnecessary hardship*.

(A) For purposes of this subparagraph, "*unnecessary hardship*" means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (i) 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; and
- (ii) The proposed use is a reasonable one.

(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.

The definition of "*unnecessary hardship*" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

APPLICATION FOR A SPECIAL EXCEPTION
(RSA 674:33 & Holderness Zoning Article 900)

Describe the proposed use showing justification for a Special Exception as specified in the Holderness Zoning Ordinance Article 900 and all other conditions enumerated in the Ordinance:

1 The specific site is an appropriate location for the use or structure because:

2. The use will be compatible with neighboring land uses because:

3. Show that the property values in the District will not be reduced by your use:

4. There will not be any nuisance or serious hazard to vehicles or pedestrians because:

5 That adequate and appropriate facilities are proposed for the proper operation of the proposed use because:

6 The proposed use complies with the minimum land space requirements set forth in the General and Special provisions of the Ordinance because:

7 The capacity of existing roads and highways to carry additional traffic is adequate because:

APPLICATION FOR APPEAL OF ADMINISTRATIVE DECISION
(RSA 674:33 & Holderness Zoning Ordinance 800.2)

Relating to the interpretation and enforcement of the provisions of the Zoning Ordinance
RSA 676:5, II (a): The "administrative officer" means any Official or Board who, in that Municipality, has
responsibility for issuing Permits or Certificates under the Ordinance, or for Enforcing the Ordinance, and
may include a Compliance Officer, Board of Selectmen, or other Official or Board with such responsibility.

ADMINISTRATIVE OFFICER making decision appealed from: _____

Decision to be reviewed:

In reference to Zoning Ordinance Article _____. List and describe fully all the reasons the
Board should grant this Appeal:

The date of decision was made for which you are appealing: _____

NOTICE: APPEALS FROM AN ADMINISTRATIVE DECISION TAKEN UNDER RSA 676:5
SHALL BE FILED WITHIN 30 CALENDAR DAYS OF THE DECISION ACCORDING TO
RSA677.

APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS
(RSA 674-33a)

An Equitable Waiver of Dimensional Requirements is requested from Zoning Ordinance Article _____
to permit _____

Does the request involve a dimensional requirement, not a use restriction? Yes _____ No _____
Explain how the violation has existed for 10 years or more with no enforcement action, including written
notice, being commenced by the town:

OR provide information for the following four criteria:

1. Explain how the nonconformity was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after the 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. Explain how 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 ordinance 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. Explain how the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of the property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property:

4. Explain how 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 remedied:

APPLICATION REQUIREMENTS

The following items shall be provided with the application and appeal form in order to be considered a complete application unless a waiver is requested. Failure to provide all of the documents listed without a waiver request and payment of fees may prevent the Board from hearing your appeal.

1. Properly completed Application. Be sure to list the Zone that your property is located in and show the amount of Variance requested. Example: If you wish to build 20 ft. from a side line and the Ordinance requires a 35 ft. setback, then you need a Variance of 15 ft.
2. Abutters List
3. Applicable fees.
4. Agent Form if the applicant is other than the owner or the owner wishes someone to represent him/her in the process.
5. Condominium Association's By-Laws if relevant.
6. Copies of any prior Applications and Decisions on the property (State and/or Town Decisions).
7. Copy of Tax/Appraisal Card.
8. A clearly drawn to scale map of the property giving all boundary dimensions and showing location and dimensions of all existing and proposed buildings, structures, etc. Provide one full size plan and ten (10) 11" x 17" plans. If the variance is for a septic design, 5 copies of the full-size plan are required.
 - Map should reflect the current conditions of the lot.
 - Map should be drawn to scale with drawing number and north arrow.
 - Name of Preparer & Official Seal of Licensed Engineer/Surveyor as necessary.
 - Lot dimensions, bearings, and any bounding streets and their right-of-way width or half sections.
 - Location and dimensions of existing or required service areas, buffer zones, landscaped areas, recreation areas, safety zones, signs, rights-of-way, streams, drainage, and easements.
 - Any other information which may be pertinent to the Board's decision for granting the appeal.
 - "Zoning Envelope" made from setbacks required by Zoning Ordinance. Indicate Zone classification, and setbacks dimensions, including front yard for corner lots if a choice is allowed. Indicate any zone lines or boundaries.
 - Computed lot and building areas and percentages of lot coverage.
 - Elevations, curb heights and contours, if required or relevant.
 - Location and numbering of parking spaces and lanes with their dimensions. Indicate how required parking spaces are computed.
 - Dimensions and directions of traffic lanes, exits, and entrances.
 - Any required loading and unloading and trash storage areas.
 - Septic tank size and location, leach field size and location, and well location.
 - Any building(s), wells, septic located within setbacks of adjoining property (if known).
 - Your appeal may require a site-walk before final decision.