

TOWN OF WOLFEBORO
ZONING BOARD OF ADJUSTMENT

VARIANCE

Dear Applicant:

You have applied for a Variance to the Town of Wolfeboro Planning and Zoning Ordinance. When this application is completed and submitted with the necessary information and fees, the secretary of the Zoning Board of Adjustment will schedule a public hearing. You or your representative shall present the information that you feel supports your appeal.

The Board strongly recommends that you become familiar with the Zoning Ordinance.

The Board in acting on the application for a variance shall take into consideration the following conditions:

1. The variance will not be contrary to the public interest.
2. The spirit of the ordinance is observed.
3. That substantial justice is done.
4. The values of surrounding properties will not be diminished.
5. Literal enforcement of the provisions of the ordinance would result in and unnecessary hardship because:
 The Special Conditions of this property that distinguish it from other properties.

(A) Owing to special conditions of the property, set forth above, that distinguishes it from other properties in the area:

- (i) No fair and substantial relationship exists between the purposes of the ordinance applicable to the application and the specific application of that provision to the property.
- (ii) The proposed use is a reasonable one.

(B) Owing to the special conditions, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use.

A majority of the Board must be convinced that ALL Five (5) conditions have been met. It is up to you, the applicant, to present evidence that ALL Five (5) conditions are valid.

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Please find attached the following forms to assist you to you or your authorized representative prepare for your presentation and hearing with the Board of Adjustment:

- NOTICE OF ZONING DECISION -- to be filled out by the Wolfeboro Codes Officer
- APPEAL OF ZONING DECISION OF CODES OFFICER – to be filled out by the applicant
- APPEAL REQUEST -- to be filled out by the applicant.
- APPLICATION REQUIREMENTS AND PLAN CHECKLIST

This information is provided to you so that your presentation to the Board will be complete and the hearing will proceed smoothly. Upon completion of this information please provide a copy to the Board of Adjustment Secretary for a review of completeness and to schedule a hearing.

If you have questions regarding this process you are invited to call the Board Secretary at 569-5970

Sincerely,
Wolfeboro Board of Adjustment

TOWN OF WOLFEBORO
ZONING BOARD OF ADJUSTMENT

NOTICE OF ZONING DECISION OF CODES OFFICER

Section I -- (To be prepared by the Wolfeboro Building Official)

To: Name: _____

Address: _____

Your request for a permit to (specify use): _____

on property located at: _____

is DENIED for the following reason: _____

You have the right to appeal this decision under Article 175.187 of the Wolfeboro Planning and Zoning Ordinance after completing the Section II of this form.

Building Official

Date

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Section II -- (To be prepared by Applicant)

Date: _____

NOTE: Additional information may be supplied on separate sheet if the space provided is not inadequate.

TO: Zoning Board of Adjustment
Town of Wolfeboro
P.O. Box 629
Wolfeboro, New Hampshire 03894-0629

1. Having been denied a permit by the Wolfeboro Building Official for the reason specified in Section I: NOTICE OF ZONING DECISION (Copy Attached). I hereby appeal the decision and request the Board of Adjustment to schedule a public hearing to consider this appeal.
2. I realize that providing the complete information requested below is the responsibility of the undersigned applicant and must be provided before a public hearing can be scheduled by the Board. I understand that it is my responsibility to present this appeal to the Board.

- a. Type of Appeal: Variance _____
- b. Basis for Appeal is Article _____, Section _____ of the Wolfeboro Planning and Zoning Ordinance
- c. Location of property in question: _____

- d. Tax Map number: _____ Lot Number: _____ Sub Lot: _____
- e. Zoning District: _____
- f. Name of Applicant: _____
- g. Mailing Address of Applicant: _____

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h. Phone Number of Applicant: _____

i. E-mail Address: _____

j. Name of Company (if applicable): _____

k. Legal Owner of the Property: _____

l. Mailing Address of Property Owner: _____

m. Proposed use of property or modification of existing use: _____

n. Directions to the property from the Wolfeboro Town Hall: _____

o. Are there any current Zoning Violations on the property other than those that may be listed on this Application? (If Yes, please fully describe below).

I understand that I must appear in person at the public hearing scheduled by the Board of Adjustment to present this appeal. If I cannot appear in person, I will notify the Board in writing of the name of the individual I designate to represent me at the hearing. I also understand that it is my sole responsibility, as the applicant, to provide ALL of the information required to the Secretary of the Board of Adjustment before a hearing can be scheduled.

Applicant's Signature

Date

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VARIANCE REQUEST:

The undersigned hereby requests a Variance from Article _____ Section _____: and asks that said terms of the Zoning Ordinance be waived to permit

The undersigned alleges that the following circumstances exist to support this variance request.

1. The variance will 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 will not be diminished because:

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

The “Special Conditions” of this property that distinguish it from other properties in the area are as follows:

USE (A) or (B):

(A) Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area:

(i) No fair and substantial relationship exists between the purposes of the ordinance applicable to the application and the specific application of that provision to the property because:

(ii) The proposed use is a reasonable one because:

OR, if the criteria in subparagraph (A) are NOT established, an unnecessary hardship will be deemed to exist, if and only if:

(B) Owing to the special conditions, set forth above, 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 because:

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The undersigned acknowledge that to the best of their knowledge all the above information is true and correct. I understand that I must appear in person at the public hearing scheduled by the Board of Adjustment to present this appeal. If I cannot appear in person, I will notify the Board in writing of the name of the individual I designate to represent me at the hearing. I also understand that it is my sole responsibility, as the applicant, to provide the information required to the Secretary of the Board of Adjustment before a hearing can be scheduled.

Applicant: _____ Date: _____

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APPLICATION REQUIREMENT CHECKLIST:

To complete this application, I understand that the following material and information is required and is attached:

- This form completed in full.
- A letter of authorization from the owner of the property if the applicant is different and or will not be in attendance at the meeting.
- A complete list of all abutters of the property involved in this appeal with their current mailing address and tax map numbers. Include the names and addresses of all abutters, including those to the rear, sides, and front of the property, including those across the streets, roads and rights-of -way. (Failure to provide complete information on abutters will result in this application being returned for the necessary information and will delay the scheduling of a hearing.)

For each abutter, owner, applicant and agent you also need to provide:

1. A plain white #10 envelope with the name and address of the abutters, applicant(s), and owner(s) and *current certified postage affixed (no meter date).*

2. 1 set of 1" x 2 1/2" labels with abutter's, applicant(s) and owner's names and addresses. These are to go on the certified mail slips, so must be that size.

-- A scale drawing or plot plan (11" x 17") of the property will be required (see instructions attached) . See or telephone the secretary, (569-5970), to determine which is needed.

-- A check for \$150.00 made out to The Town of Wolfeboro.

Funds to be disbursed as follows:

Newspaper ads: Notice and Notice of Decision	\$100
Board of Adjustment Filing Fee	<u>\$ 50</u>
TOTAL	\$150

NOTE: All forms must be completely filled out and signed by the owner/applicant and his or her agent before they will be accepted by the Board of Adjustment. Completed forms must be returned to the Office of the Board of Adjustment no later than 21 calendar days prior to the Board's scheduled meeting. The applicant of his/her agent is requested to attend the public hearing on the above request. If you have any questions, please call the Planning Office at 569-5970.

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PLAN REQUIREMENTS:

A plot plan OR scale drawing will be required as part of your presentation to the Board of Adjustment. Since a similar plan is usually necessary for a building permit application and or for Planning Board Site Review, the plan can serve both purposes.

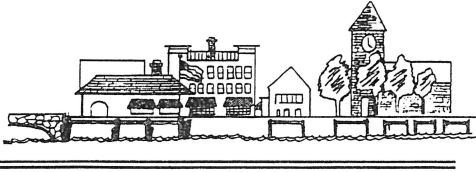
A plot plan or scale drawing (11" x 17") for the purposes of a zoning application should contain the following features:

- a. Be up to date and dated.
- b. Drawn to scale, with drawing number and north arrow.
- c. Signature and name of the plan preparer.
- d. The lot dimensions and bearings and any bounding streets and their right-of-way widths or half sections.
- e. Location and dimensions of existing or required service areas, buffer zones, landscaped areas, recreation areas, safety zones, signs, rights-of-way, streams, drainage, easements, and any other requirements.
- f. All existing buildings or other structures with their dimensions and encroachments.
- g. All proposed buildings, structures or additions with dimensions and encroachments indicating "proposed" on the plan.
- h. "Zoning envelope" made from setbacks required by zoning ordinance. Indicate zone classification, all setback dimensions. Indicate any zone change lines.
- i. Elevations, curb heights and contours.
- j. Location and numbering of parking spaces and lanes with their dimensions. Indicate how required parking spaces are computed.
- k. Dimensions and directions of traffic lanes and exits and entrances.
- l. Any required loading and unloading and trash and snow storage areas.

Requirements for Granting a Variance: A Suggested Approach

THE APPLICANT MUST ESTABLISH ALL OF THE FOLLOWING.

Requirement	Explanation
1. The variance is not contrary to the public interest.	The proposed use must not conflict with the explicit or implicit purpose of the ordinance, and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights."
2. The spirit of the ordinance is observed.	
3. Substantial justice is done.	The benefit to the applicant should not be outweighed by harm to the general public or to other individuals.
4. The values of surrounding properties are not diminished.	Expert testimony on this question is not conclusive, but cannot be ignored. The board may also consider other evidence of the effect on property values, including personal knowledge of the members themselves.
<p>5. Literal enforcement of the ordinance would result in unnecessary hardship. Unnecessary hardship means:</p> <p><i>Because of</i> special conditions of the property that distinguish it from other properties in the area:</p> <p>(a) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property; <i>and</i></p> <p>(b) The proposed use is a reasonable one.</p> <p><i>Alternatively</i>, unnecessary hardship means that, 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.</p>	<p>The applicant must establish that the property is burdened by the zoning restriction in a manner that is distinct from other similarly situated property.</p> <p>(a) Determine the purpose of the zoning restriction in question. The applicant must establish that, because of the special conditions of the property, the restriction as applied to the property does not serve that purpose in a "fair and substantial" way.</p> <p>(b) The applicant must establish that the special conditions of the property cause the proposed use to be reasonable. The use must not alter the essential character of the neighborhood.</p> <p>As an alternative to (a) and (b) above, the applicant can satisfy the unnecessary hardship requirement by establishing that, because of the special conditions of the property, there is no reasonable use that can be made of the property that would be permitted under the ordinance. If there is any reasonable use (including an existing use) that is permitted under the ordinance, this alternative is not available.</p>



Town of
Wolfeboro

Application and Approval Process Zoning Board of Adjustment

Contact: Director of Planning and Development

Applications Include:

- Variance(s)
- Special Exception
- Appeal of an Administrative Decision
- Appeal of BOS Decision re: RSA 674:41 Class VI and Private Roads
Overview Only

