

Town of Nottingham
P.O. Box 114
139 Stage Road
Nottingham NH 03290

Office 603-734-4881
Fax 603-679-1013
plan.zone@nottingham-nh.gov
www.nottingham-nh.gov



FOR OFFICE USE ONLY

Case No. _____
Date Filed _____
Meeting Date _____
Fee Amount _____
Date Paid _____
Outcome _____

APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

Name of Applicant _____

Mailing Address _____

Home Phone _____ Work Phone _____ Cell _____

Name(s) of Owner(s) _____
(if same as applicant, write "same")

Owner(s) Address _____

Location of property _____ Tax Map _____ Lot _____

Lot Dimensions: Front _____ Rear _____ Side _____ Side _____

Lot Area: Acres _____ Square Feet _____

Present Use of Property: _____

NOTE: This application is not acceptable unless all statements below have been completed.
Additional information may be supplied on a separate sheet if the space provided is not adequate.

EQUITABLE WAIVER REQUEST

An Equitable Waiver of Dimensional Requirements is requested from Article _____ Section _____ of the Nottingham Building Code and Zoning Ordinance Regulations to permit:

SUPPORTING INFORMATION

1. Does the request involve a dimensional requirement, not a use of restriction? Yes ☐ No ☐
- 2a. Explain how the violation has existed for 10 years or more with no enforcement action, including written notice, being commenced by the Town:

-OR-

- 2b. 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:

I hereby certify that I am the owner in fee or the authorized agent of the owner in fee of the property upon which this equitable waiver is sought and that all information provided by me is true to the best of my knowledge under penalty of law.

Signature of Property Owner or Authorized Agent

Date

Name of Property Owner (Typed or Printed) _____

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OWNER'S AUTHORIZATION FOR REPRESENTATION

I, the undersigned owner of the property at _____,
hereby verify that I have authorized _____ to
represent me/us and apply for the required approval(s) from the Planning Board in the Town of
Nottingham, New Hampshire for the following:

- | | |
|--|---|
| <input type="checkbox"/> Subdivision/Lot Line Adjustment | <input type="checkbox"/> Site Plan Review |
| <input type="checkbox"/> Backlot Subdivision | <input type="checkbox"/> Design Review |
| <input type="checkbox"/> Other _____ | |

FOR: _____

NAME OF OWNER (Typed or printed) _____
Address of Owner _____
Signature of Owner _____ Date _____

NAME OF OWNER (Typed or printed) _____
Address of Owner _____
Signature of Owner _____ Date _____

NAME OF OWNER (Typed or printed) _____
Address of Owner _____
Signature of Owner _____ Date _____

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AUTHORIZATION TO ENTER UPON SUBJECT PROPERTY

The property owner(s), by the filing of this application, hereby give permission for the members of the Nottingham Planning Board and such agents or employees of the Town as the Nottingham Planning Board may authorize, to enter upon the property which is the subject of this application at any reasonable time for the purpose of such examinations, surveys, tests and/or inspections as may be appropriate to enable this application to be processed.

I/We hereby waive and release any claim or right I/we may now or hereafter possess against any of the above individuals as a result of any examinations, surveys, tests and/or inspections conducted on my/our property in connection with this application. This authorization expires in one year from date of signature

Property Owner(s) _____
Signature Date Signature Date

Property Owner(s) _____
Signature Date Signature Date

Property Owner(s) _____
Signature Date Signature Date

Property Owner(s) _____
Signature Date Signature Date

The Nottingham Zoning Board 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- 677, covering planning and zoning.

CONDITIONS FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance, the Zoning Board of Adjustment shall, upon application by and with the burden of proof on the property owner, grant an equitable waiver from the requirement, if and only if the board makes all of the following findings:

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 legitimate mistake.

In lieu of the findings required under (1) and (2), the owner may demonstrate, to the satisfaction of the Board, that the violation has existed for 10 years or more and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected. 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.
4. The cost of correction would far outweigh any public benefit to be gained.

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

APPLICATION PROCEDURE FOR ZONING BOARD OF ADJUSTMENT HEARING

Clarification of the Zoning Ordinance and assistance in completing the application can be obtained from the Secretary of the Zoning Board. Legal assistance should be obtained from the Applicant's personal attorney. Correctness of information submitted is the responsibility of the Applicant.

The following must be filed with the application:

- ✓ Application fee, public notice fee, and abutter notification fee.
- ✓ Three (3) sets of abutter mailing labels. Abutter mailing labels must include the names and legal addresses of applicant, property owner, all property owners abutting the subject parcel, including those directly across the street or stream, and anyone whose professional seal appears on the plan. Tax Map No. and Lot No. must also appear on the list for the abutting properties. **Important:** Applicant shall certify that the abutters are as indicated in the Town of Nottingham's Assessing Office not more than 5 days prior to day of filing the application with the Zoning Board. (SEE FORM A).
- ✓ Six (6) sets of 11"X17" plans drawn to scale which show lot location, lot size, setbacks, locations and dimensions of all structures and open spaces on the lot in question and on the adjacent lots, and ownership of adjoining lots of land. Plans do not have to be professionally drawn.
- ✓ A signed and notarized Authorization To Enter Upon Said Property form. (SEE FORM B).
- ✓ Copy of the violation notification from either the Nottingham Code Enforcement Officer or the Nottingham Board of Selectmen.
- ✓ If the applicant is not the owner, a signed and notarized Owner's Authorization for Representation form must be submitted. (SEE FORM C)

No application shall be accepted for processing until **all** of the required information is received.

HEARING NOTIFICATION & PROCESS

Your hearing will be held within 30 days after submission of a complete application. You will be notified by certified mail as to time, place, and date of the public hearing. At the time of the hearing, you must present your case to the Board or must authorize a representative to appear for you. (FORM C).

RULES OF PROCEDURE FOR CONDUCT OF MEETINGS

Each applicant is entitled to a hearing by a five-member Board. If, for any reason, five members are not available, the applicant(s) may elect to postpone the hearing and decision until the next meeting of the Board at which five members are present. For the benefit of those in attendance at public hearings, the Chairman will briefly explain the procedure before the hearings begin and introduce the members of the Board. The public hearing will begin with the applicant(s) and/or his/her representative presenting the petition. Then those wishing to speak in favor of the petition may do so, followed by those wishing to speak in opposition to the petition. After this, the applicant(s) and those in favor may speak in rebuttal, followed by the rebuttal of those in opposition. The debate may be closed when the Chairman deems it appropriate. All comments must be addressed to the Chair. Anyone rising to address the Chair should identify him/herself, giving his/her name and address. No one will be allowed to speak twice until all who wish to speak have been heard. Reasons will be given for all decisions of the Board and references made to the appropriate sections of the Zoning Ordinance. In the event the Board wishes to postpone making a decision, the applicant(s) will be so advised. All decisions will be announced by the Chair at the time they are made, and formal written notification will be mailed to the applicant(s) within 144 hours after the decision is rendered. In the event no one is available to present a petition to the Board at the public hearing, the petition will be automatically dismissed on the grounds that no public hearing has been held. A petition may be withdrawn by the applicant(s) by notifying the Clerk of the Board of this intention. All public hearings and Board deliberations are transcribed.

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Abutter(s) List

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****PLEASE PRINT THREE (3) ADDRESS LABELS PER ABUTTER- INCLUDING THE APPLICANT, OWNER AND PROFESSIONAL(S) ****

1. APPLICANT INFORMATION:

Printed Name: _____ Contact Telephone: _____

Address: _____

2. OWNER INFORMATION:

Printed Name: _____

Address: _____

3. PROFESSIONAL(S) INFORMATION:

Printed Name: _____

Address: _____

	Abutter(s) Information			
4.	Map:	Lot:	Name:	Address:
5.	Map:	Lot:	Name:	Address:
6.	Map:	Lot:	Name:	Address:
7.	Map:	Lot:	Name:	Address:
8.	Map:	Lot:	Name:	Address:
9.	Map:	Lot:	Name:	Address:
10.	Map:	Lot:	Name:	Address:
11.	Map:	Lot:	Name:	Address:
12.	Map:	Lot:	Name:	Address:
13.	Map:	Lot:	Name:	Address:

I, _____, the undersigned, certify that to the best of my knowledge, the above is an accurate and complete abutter(s) list and that the information was obtained from the Nottingham Assessing Office no more than five (5) days prior to the date of this application..

Applicant's Signature

Date

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ZONING BOARD OF ADJUSTMENTS FEE SCHEDULE

Fee's collected at time of application:

	TOTAL CHARGE	DATE PAID
APPLICATION FEE \$100.00	_____	_____
ABUTTER NOTIFICATION _____X \$10.00/PER ABUTTER	_____	_____
PUBLIC NOTICE FEE \$75.00	_____	_____
TOTAL	_____	_____