

APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

FEE: \$75.00 & Mailing Costs

Do not write in this space.
Case No. _____
Date Filed _____
_____ (signed – ZBA)

To the Zoning Board of Adjustment,
Town of Cornish, New Hampshire

Name of Applicant _____

Address _____

Owner _____

(if same as applicant, write “same”)

Phone/Cell _____ Email _____

Location of Property _____

(street, number, map and lot number)

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

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 complete 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 the future uses of the other property in the area. _____

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

Applicant _____ Date _____
(Signature)

INSTRUCTIONS TO APPLICANTS APPEALING TO THE BOARD OF ADJUSTMENT

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 instead was caused by a good faith error in measurement or calculation.

If these conditions are satisfied, the board can move on 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 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 property 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, constructions 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?

Prepare a list of all abutting property owners and attach it to your application. **Under N.H. RSA 672:3, "Abutter" means 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.** If you have difficulty, consult the assessor's office, but the accuracy of the list is your responsibility. Mail or deliver the completed application, with all attachments, to the clerk of the Board or to the office of the Board of Selectmen. A fee is charged sufficient to cover the cost of preparing and mailing the legally required notices. Make check payable to the Town of Cornish. Fees will be collected at the hearing.

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 a newspaper and notice will be mailed to you, to 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 may be in the form of a letter to the Board. The motion must

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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 in 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 NH RSA Chapter 677 for more detail on rehearing and appeal procedures.