

**NEW DURHAM ZONING BOARD OF ADJUSTMENT  
EQUITABLE WAIVERS of DIMENSIONAL REQUIREMENTS APPLICATION**

Case No. _____
Date Filed _____

Name of Applicant:

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Applicant's Street Address with town and state:

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Mailing Address (If different)

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Preferred Telephone Number \_\_\_\_\_ Email \_\_\_\_\_

Property Owner:

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*(If same as Applicant, write same)*

Property Owner Contact Information:

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*(If same as Applicant, write same)*

Street Address of property:

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Map \_\_\_\_\_ Lot \_\_\_\_\_

The applicant(s) wishes to (be very specific):

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Which Zoning District is the property located in?

- Town Center Mixed Use                       Residential, Agricultural, Recreational

Check all Overlay Districts that Cover Any Part of the Property:

- Aquifer Protection Overlay
- Conservation Focus Area District
- Shore Front Conservation Area
- Steep Slopes Conservation District
- Water Quality Protection
- Wetlands Conservation Overlay

**INSTRUCTIONS FOR INDIVIDUALS APPEALING TO THE ZONING BOARD OF ADJUSTMENT for an EQUITABLE WAIVER of DIMENSIONAL REQUIREMENTS**

Applicants must be familiar with the latest revision of the New Durham Zoning Ordinance and the Procedural Rules for the Town of New Durham Zoning Board of Adjustment. Applicants should be familiar with New Hampshire Statutes RSA Chapters 672 – 677.

**ALL APPLICANTS**

- Speak with the Land Use Administrative Assistant to determine if a review by the Planning Board should be completed prior to appealing to the Zoning Board of Adjustment.
- Ensure all requirements are met by using the appropriate checklist.
- Deliver completed application, attachments, and fees (checks payable to Town of New Durham) to the Land Use office at the Town Hall at least 21 days before the next scheduled ZBA meeting.
- A Public Hearing will be scheduled within 45 days of receiving a completed application.
- Any party affected by a decision has the right to appeal such decision by requesting a rehearing.

**EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS**

An Equitable Waiver of Dimensional Requirements may be granted for existing dimensional nonconformities and will be granted if the Applicant shows that the required standards set forth by the RSAs and listed in the application are met.

**REQUESTING A REHEARING**

A motion for rehearing may be in the form of a letter to the Zoning Board of Adjustment and must set forth the reason the decision is believed to be unlawful or unreasonable. The motion must be made within 30 days of the decision being filed and available for public inspection.

The Zoning Board of Adjustment may grant a requested rehearing if it believes good reason is stated in the motion for rehearing. A case will not be reopened on the same set of facts unless an injustice would be created by not doing so. A rehearing must be requested prior to appealing to the courts. Rehearings follow the same Rules of Procedure as initial hearings.

**Usual Costs**

Administrative Fee	\$100.00
Equitable Waivers of Dimensional Requirements Application Fee	\$150.00
Public Notice in Newspaper	\$150.00 to \$300.00
Public Notice to ALL Abutters, Applicant(s), Applicant(s) Representative, Identified Professionals Involved with the Property and Holders of Easements via Certified Mail	\$ 13.69 per Notice
ZBA Decision sent to Applicant(s), Applicant(s) Representative and Strafford County Registry of Deeds via Certified Mail	\$ 13.69 per Notice
Strafford County Registry of Deeds Notice of Decision	\$ 20.68 (up to 3 pages)

**APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS**

**COMPLETE THE FOLLOWING TABLE**

	<b>ORDINANCE REQUIREMT.</b>	<b>CURRENT</b>	<b>PROPOSED</b>
Size of Property - Acres			
Size of Property – (Square Footage)			
Amt. of Road Frontage (In Feet)			
Amt. of Water Frontage (In Feet)			
Length of Right Side (In Feet)			
Length of Left Side (In Feet)			
Amount of Impervious Coverage (Percent)			
Amount of Impervious Coverage (Square Footage)			
Total Amount of Building Coverage (Percent) Include Rooflines and Overhangs.			
Total Amount of Building Coverage (Square Footage) Include Rooflines and Overhangs.			
Square Footage: House (Include Rooflines and Overhangs)			
Square Footage: Deck			
Square Footage Garage: (Include Rooflines and Overhangs)			
Square Footage: Shed(s) (Include Rooflines and Overhangs)			
Square Footage: Other Buildings (Also Identify What the Building is and Include Rooflines and Overhangs.)			
Building Height: House			
Building Height: Garage			
Building Height: Shed(s)			
Building Height: Other Buildings (Also Identify What the Building is)			
Total Number of Rooms			
Total Number of Bedrooms			
Total Number of 9 Foot X 21 Foot Parking Spots (If in Shorefront Conservation District.)			
Building(s) Setback to Road			
Building(s) Setback to High Water Mark			
Building's Setback to all Lakes, Ponds, Intermittent and Perennial Streams, Rivers and or Vernal Ponds			
Building(s) Setback to Right Side			
Building(s) Setback to Left Side			
Year Septic System Installed			
DES Permit on File in New Durham			
Number of Bedrooms Septic System is Approved For			
Septic Tank to High Water Mark			
Septic Tank to Lakes, Ponds, Intermittent and Perennial Streams, Rivers and or Vernal Ponds (ZO Article VI.C.3.a)			

	<b>ORDINANCE REQUIREMT.</b>	<b>CURRENT</b>	<b>PROPOSED</b>
Septic Tank to Right Property Line			
Septic Tank to Left Property Line			
Septic Tank to Road			
Septic Tank to Abutter's Home			
Septic Tank to Neighbor's Well on Right			
Septic Tank to Neighbor's Well on Left			
Leach Field to High Water Mark			
Leach Field to all Lakes, Ponds, Intermittent and Perennial Streams, Rivers and or Vernal Ponds			
Leach Field to Right Property Line			
Leach Field to Left Property Line			
Leach Field to Road			
Leach Field to Neighbor's Well on Right			
Leach Field to Neighbor's Well on Left			
Steep Slopes: Amt of Disturbance (in Sq Feet) 0 to 14.99%			
Steep Slopes: Amt of Disturbance (in Sq Feet) 15 to 24.99%			
Steep Slopes: Amt of Disturbance (in Sq Feet) 25 to 29.99%			
Steep Slopes: Amt of Disturbance (in Sq Feet) 30% or More			

**NOTE: The Board must find in the affirmative on all 4 questions or the request must be denied.**

An Equitable Waiver of Dimensional Requirement from Article \_\_\_\_\_ Section \_\_\_\_ of the Zoning Ordinance is requested to permit:

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1. Does the request involve a dimensional requirement, not a use restriction? ( ) Yes ( ) No
2. Explain how the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a 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;

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3. Explain how the violation was not an outcome of ignorance of the law or ordinances, 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 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.

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4. Explain how the nonconformity 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 other property.

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5. 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 far outweighs any public benefit to be gained. that it would be inequitable to require the violation to be corrected

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6. Explain how the violation has existed for 10 years or more and that no enforcement action, including written notice of the violation, has been commenced against the violation during that time by the municipality or any person directly affected.

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**CERTIFICATION of APPLICATION and AGREEMENT TO PAY ALL COSTS**

I/We, the undersigned Applicant(s), hereby certify that the information contained within this Equitable Waivers of Dimensional Requirements Application is complete and accurate. I/We agree to pay, in full, all costs incurred by the Town of New Durham for engineering and or other professional services deemed necessary by the ZBA to obtain third party review and consultation during the review process.

Signature of Applicant(s) or Applicant’s Representative (s):

\_\_\_\_\_

Printed Name of Applicant(s) or Applicant’s Representative (s) Representative(s):

\_\_\_\_\_

Date: \_\_\_\_\_

**AUTHORIZATION to ENTER SUBJECT PROPERTY**

I/We, and my successors, hereby authorize members of the New Durham Zoning Board of Adjustment, Building Inspector and or Code Enforcement Officer to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post-approval phase, construction phase and occupancy phase. It is understood that these individuals must use all reasonable care, courtesy, and diligence when on the property.

Signature of Property Owner(s): \_\_\_\_\_

Printed Name of Property Owner(s): \_\_\_\_\_

Date: \_\_\_\_\_

**AUTHORIZATION to SERVE AS APPLICANT(S) REPRESENTATIVE**

I/We \_\_\_\_\_ give \_\_\_\_\_ permission to serve as our representative and to represent us before the New Durham Zoning Board of Adjustment in reference to the attached application. Our agent may present our case and answer any questions for the Board or the public.

Signature of Applicant(s): \_\_\_\_\_

Printed Name of Applicant(s): \_\_\_\_\_

Date: \_\_\_\_\_

**PUBLIC NOTICE LIST**

Please list all abutters on this form. List names and mailing address of all abutters or the holders of conservation, preservation or agricultural easements (pursuant to RSA 676:7). Include street numbers, street names and zip codes; Tax Map and Lots numbers (taken from the town tax records). This list is to be submitted with the application. Include abutters across the street, brook or stream on any lot line.

Map \_\_\_\_\_ Lot \_\_\_\_\_

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Map \_\_\_\_\_ Lot \_\_\_\_\_

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Map \_\_\_\_\_ Lot \_\_\_\_\_

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Map \_\_\_\_\_ Lot \_\_\_\_\_

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Add additional pages if needed.

## **Application Check List for an Equitable Waivers of Dimensional Requirements**

- Each application for a hearing before the Board shall be made on forms prescribed by the Board and contain all the information required below.
- The application shall be received at least 21 days before the next regularly schedule ZBA meeting.
- The LUAA, other town employee or official shall record the date of receipt.
- A completed application form that is signed and dated by the applicant(s) or their representative(s).
- A completed “Table of Required Information”.
- A copy of the Building Inspector’s “Certification of Zoning Compliance”
- A form signed by all property owners authorizing their representative(s) to act on their behalf if an applicant’s representative(s) signs the application or if the representative will be presenting the case before the Board.
- All required fees.
- A copy of the current Assessing Card.
- A copy of the current Deed.
- A list of all abutters adjacent to the land or property, directly across the street or stream from the land or property under considerations including Map, Lot and mailing addresses
- A list of any holder of a conservation, preservation, or agricultural preservation restriction, as defined in RSA 477:45, and their mailing address.
- Full size (minimum 22 inches by 34 inches) existing and proposed site plans with a bar scale of one (1) inch = 20 feet.
- Reduced sized (11 inches by 17 inches) site plan.
- Existing and proposed plans shall contain, at a minimum:
  - Locus Map with north arrow.
  - All buildings on the subject property and adjacent properties.
  - Property lines.
  - Title Block containing:
    - Map and Lot.
    - Preparer of the plans.
    - Title of the preparer of the plans.
    - Date (Month/day/year) the plans were originally prepared.
    - Date (Month/day/year) of all plan revisions.
  - Shoreland reference lines including but not limited to 50, 75, 125, 150 and 300 feet.
  - of Way and easements to include dimensions.
  - Rights Wells and water systems.
  - Building envelope.
  - Location of wells and septic systems for all adjacent properties.
  - Amount of road frontage, in feet.
  - Amount of water frontage, in feet, if applicable.
  - Graveyard setbacks:
  - All existing buildings or other structures with their dimensions and encroachments indicating “current” on the plans.



- All proposed buildings, structures or additions with dimensions and encroachments indicating “proposed” on the plan.
- Elevations and contours.
- Dimensions and location of all driveways.
- Hardscape and its material.
- Driveways.
- Walkways.
- Patios.
- Roadways.
- Walls; and
- Fences.
- Water Bodies and Wetlands.
- Drainage ways and related structures.
- Waterfront Buffer, as defined in RSA 483-B.
- Tree line and individual large and or important site trees showing the changes in vegetative surfaces and resulting runoff.
- General vegetation areas and groundcovers.
- Septic tank, lines and leach field to include dimensions.
- All utilities, to include telephone, cable, fiber, conduit, etc., regardless of being underground, above ground or overhead.
- Photographs of the property and all buildings on the property.
- Building and floor plans to include dimensions of any new structures, if applicable.
- Building elevations from all sides, if applicable.
- Legal size envelopes with a return address of New Durham ZBA, PO Box 207, New Durham, NH and certified mail documents as pictured in Appendix A addressed to:
  - All abutters, as defined by RSA 672:3.
  - Any holder of a conservation, preservation, or agricultural preservation restriction, as defined in RSA 477:45.
  - Identified professionals involved with the application (two envelopes for each professional).
  - All property owners (multiple envelopes for each property owner if not at the same mailing address); and
  - Strafford County Registry of Deeds. and
- Any other materials the applicant(s) feels are relevant to their request, such as other supporting documents which may contain pertinent property details/history.