



TOWN OF FITZWILLIAM, NH
ZONING BOARD OF ADJUSTMENT
P. O. Box 725
13 Templeton Turnpike
Fitzwilliam, New Hampshire 03447
Phone: 603-585-9119 Fax: 603-585-7744
fitzlanduse@fitzwilliam-nh.gov

INSTRUCTIONS FOR APPLICATION TO THE ZBA

APPLICATION PROCEDURE

1. The Board strongly recommends that before making any application, you become familiar with the Fitzwilliam Land Usage Bylaws.
2. This form and all required information must be filed with the *Land Use Office* along with appropriate fee. The cover the cost of advertising, mailing the legally-required notices, and filing a Notice of Decision will be billed and must be paid before the Public Hearing. Checks are made payable to the Town of Fitzwilliam.
3. If an application is incomplete or unclear, the applicant will be notified, and a meeting will be set up to discuss the application. Please refer to Page 2 for the requirements for a Completed Application.
4. The completed application will be placed on the agenda for a public hearing within 30 days of filing. Public notice of the hearing will be posted and printed in a newspaper, and notice will be mailed to you and to all abutters and to other parties whom the Board may deem to have an interest, at least ten 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.
5. After the public hearing, the Board will reach a decision. Within five (5) business days of the date of the decision, you will be sent a Notice of Decision and excerpts of the meeting minutes as they pertain to your case. In the event of disapproval, the Notice will include the reasons for the decision.
6. If you believe the Board's decision is wrong, you have the right to appeal. The Selectmen or any party affected has similar rights to appeal the decision in your case. To appeal, you must first ask the Board for a rehearing. The motion for rehearing must be in the form of a letter to the Board. The motion must be made within 30 days of the Board's decision and must set forth the grounds on which it is claimed the decision is unlawful or unreasonable.
7. 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 by 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 RSA Chapter 677 for more detail on rehearing and appeal procedures.

REQUIREMENTS FOR A COMPLETED APPLICATION

Instructions: Complete and sign the application form and applicable sections of the attached instruction sheet and submit these along with any plans or documentation, together with a list of abutters with mailing addresses, and the application fee. For any application, the application form must be properly filled out. The application form is intended to be self-explanatory, but shall include:

1. **WHO** owns the property? If the applicant is not the owner, a letter from the owner must be submitted that authorizes the applicant to act in his/her behalf.
2. **WHERE** is the property located? Include street address, parcel identification number, and zoning district.
3. **WHAT** do you propose to do? Provide written narrative and supporting documentation as necessary to demonstrate that the proposal meets the criteria necessary to obtain the requested relief from the Zoning Ordinance.
4. **ABUTTERS LIST.** Prepare a list of all abutting property owners, verify the names and addresses at the Town Office, and attach it to your application. You may use the "Abutter's List" form provided with the application and/or a separate label form or sheet of paper. An "Abutter" is any person or entity with ownership interest in property that is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration. Also include on the list, the property owners; the applicants, if not owners; any agent(s); and the names and addresses of easement holders. The accuracy of the list is **your** responsibility. Tax Maps are available at the Town Hall to help you determine the lot numbers of your abutters. Once you have established the parcel identification number, you can then obtain your abutters' names and addresses.
5. **OTHER PERTINENT INFORMATION TO PROVIDE (AS APPLICABLE TO CASE).**
 - (a) Provide a plot plan of the lot as shown on the Town Parcel Map which shows the existing and proposed improvements, drawn to scale, along with existing and proposed setback distances.
 - (b) Provide pictures or construction plans showing each elevation (front, side, or rear) to which any improvements are proposed to be made.
 - (c) Applications that involve the Wetlands Protection District shall show the location of the District on the plot plan and provide at a minimum the following additional written information:
 - (i) Written narrative describing the proposed intrusion into the aforementioned districts, why it is necessary, why less alternatives are not available, and what steps will be taken during and after construction to minimize disruption of the Districts.
 - (ii) Applications involving wetlands shall submit a wetland delineation report by a professional, and the wetlands shall be flagged in the field for reference.

If you need assistance with any portion of the application, please contact the Land Use Administrative Assistant by visiting Town Hall or telephone (603)585-9119 or email fitzlanduse@fitzwilliam-nh.gov.

ZONING BOARD OF ADJUSTMENT APPLICATION

DO NOT WRITE IN THIS SPACE
Date Application Received: _____
Date Fees Paid: _____
Case Number: _____
Clerk: _____

Name of Applicant: _____

Applicant Phone Number: _____

Applicant Email Address: _____

Mailing Address of Applicant: _____

Name of Owner(s), if different from Applicant: _____

Mailing address of Owner(s): _____

Owner(s) Phone Number: _____

Physical Address of Property: _____

Parcel Identification Map and Lot Number _____

Zoning District(s): _____

AGENT AUTHORIZATION (if applicable): I authorize _____
as my agent to represent me before the Fitzwilliam Zoning Board of Adjustment.

“I hereby authorize the Fitzwilliam Zoning Board of Adjustment and its agents to access my land, if deemed necessary, in order for the Board to make a properly-informed decision.”

Applicant's Signature

Date

Agent's Signature

Date

Check the section below that applies, and fill in Sections 1-4 as appropriate. **This application is not accepted unless all requirements have been met.** Additional information may be supplied on a separate sheet.

_____ **Section 1: APPEAL FROM AN ADMINISTRATIVE DECISION**

The undersigned alleges that an error has been made in an order, requirement, decision, or determination, by an administrative official, _____, in the enforcement of any zoning ordinance, specifically in relation to Article _____, Section _____ of the Zoning Ordinance and hereby appeals said decision.

_____ **Section 2: APPLICATION FOR SPECIAL EXCEPTION**

The undersigned requests a special exception as provided in Article _____, Section _____ of the Zoning Ordinance to permit _____

_____ **Section 3: APPLICATION FOR VARIANCE**

The undersigned requests a variance from Article _____, Section _____ of the Zoning Ordinance to permit _____

_____ **Section 4: APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS**

The undersigned requests that an Equitable Waiver of Dimensional Requirements from Article _____, Section _____ of the Zoning Ordinance be granted to correct _____

APPEAL FROM AN ADMINISTRATIVE DECISION. If your appeal has to do with the denial of a building permit on a Class VI or private road pursuant to RSA 674:41, you must respond and demonstrate to the Zoning Board that all of the following criteria have been satisfactorily met:

(1) The denial of the building permit would entail practical difficulty or unnecessary hardship because

(2) The circumstances of the case do not require the building, structure or part thereof to be related to existing or proposed streets because _____

(3) The relief sought will not increase the difficulty of carrying out the master plan because

(4) The relief sought will not cause hardship to future purchasers or undue financial impact on the Town because _____

(5) Attach a letter to the application that states the reasons for your appeal.

APPLICATION FOR A SPECIAL EXCEPTION. Criteria to be met to grant this request (use additional sheets if necessary):

- (1) Is the proposed use allowed by Special Exception? If not, **do not proceed.**

- (2) The proposed use may be similar to one or more of the uses already authorized in that district and is in an appropriate location for such a use because: _____

- (3) Such approval would not adversely affect the neighborhood, nor otherwise be injurious, obnoxious or offensive because: _____

- (4) The use will not create excessive traffic congestion, noise, or odors in the neighborhood where it is proposed because: _____

- (5) Such approval would be consistent with the intent of the zoning ordinance, after having given due consideration to recommendations received from the planning board because:

- (6) Adequate and appropriate facilities will be provided for the proper operation of the proposed use, as follows: _____

- (7) Please address the points listed under Article IX, §127-41 E. of the Fitzwilliam Zoning Ordinances:

Please note Article IX, §127-41 F. (Special Exception Conditions) for the proposed Special Exception

APPLICATION FOR A VARIANCE. (Use additional sheets if necessary)

(1) The variance will not be contrary to the public interest because: _____

(2) The variance is consistent with the spirit of the ordinance because: _____

(3) Substantial justice is done by granting the variance because: _____

(4) The values of surrounding properties will not be diminished because: _____

(5) Literal enforcement of the provisions of the ordinance would result in unnecessary hardship.

(A) For the 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 because: _____

AND,

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

(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.

(6) Attach diagram showing boundaries, setbacks, frontage, dimensions, etc. of property

(7) Attach sketch, plot plan, pictures, construction plans, etc. of what you purpose to do.

APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS.

When a lot or structure on a lot is discovered to be in violation of a physical layout or dimensional requirement imposed by the zoning ordinance, the Zoning Board shall grant an equitable waiver from the requirement(s) if and only if the Board makes ALL of the following findings:

- (1) That 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.
- (2) That 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 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.
- (3) That the physical or dimensional violation 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 property.
- (4) 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 corrected.