

TOWN OF HUDSON, NH

NOTICE TO APPLICANTS

The following requirements pertain to all Town of Hudson, NH, Zoning Board of Adjustment applications, as applicable:

- I.** The applicant must provide one original plus twelve copies of the filled-out application form (this entire packet), together with the required attachments listed in this notice.
- II.** A separate application, signed by the owner(s) of the property, shall be submitted for each request, with a separate application fee for each request, but only one abutter notification fee will be charged for multiple requests. If paying by check, make the check payable to the Town of Hudson.
- III.** If the applicant is not the property owner(s), the applicant must provide to the Town written authorization, signed and dated by the property owner(s), to allow the applicant or any representative to apply on the behalf of the property owner(s). (**NOTE:** if such an authorization is required, the Community Development Office will not process the application until this document has been supplied.)
- IV.** The abutter notification lists (Pages 4 & 5), with the proper mailing addresses, must be dated within (30) thirty days of submittal of the application. The abutter lists can be obtained from the assessor's office. (**NOTE:** the Community Development Department cannot process your application without the abutter lists. It is the applicant's responsibility to ensure that the abutter lists are complete and correct. If at the time of the hearing any applicable property owner is found not to have been notified because the lists are incomplete or incorrect, the Zoning Board will defer the hearing to a later date, following notification of such abutters.)
- V.** A copy of both sides of the assessor's card shall be provided. (**NOTE:** these copies are available from the Assessor's Office)
- VI.** A copy of the Zoning Administrator's correspondence confirming either that the requested use is not permitted or that action by the Zoning Board of Adjustment is required must be attached to your application.
- VII.** Except for requests pertaining to above-ground pools, sheds, and decks, the application must include a copy of a certified plot plan from a licensed land surveyor. The plot plan shall include all of the items listed below. Pictures and construction plans also will be helpful. (**NOTE:** it is the responsibility of the applicant to make sure that all of the requirements are satisfied. The application may be deferred if all items are not satisfactorily submitted)
 - A.** The plot plan shall be drawn to scale on an 8 ½" x 11" or 11" x 17" sheet with a North-pointing arrow shown on the plan.
 - B.** The plot plan shall be up-to date-and dated, and shall be no more than three years old.
 - C.** The plot plan shall have the signature and the name of the preparer, with his/her/their seal.
 - D.** The plot plan shall include lot dimensions and bearings, with any bounding streets and with any rights-of-way and their widths as a minimum, and shall be accompanied by a copy of the GIS map of the property. (**NOTE:** copies of the GIS map can be obtained at the Community Development Department.)
 - E.** The plot plan shall include the location and dimensions of existing or required services, the area (total square footage), all buffer zones, natural features, any landscaped areas, any recreation areas, any safety zones, all signs, streams or other wetland bodies, and any drainage easements.
 - F.** The plot plan shall include all existing buildings or other structures, together with their dimensions and the distances from the lot lines, as well as any encroachments.

G. The plot plan shall include all proposed buildings, structures, or additions, marked as “PROPOSED,” together with all applicable dimensions and encroachments.

H. The plot plan shall show the building envelope as defined from all the setbacks required by the zoning ordinance.

I. The plot plan shall indicate all parking spaces and lanes, with dimensions.

VIII. For a Wetland Special Exception, a letter or a copy of the relevant decision from the Hudson Conservation Commission shall be attached to the application for existing single-family and duplex residential uses. All other Wetland Special Exceptions (multifamily, commercial, or industrial uses) must have letters both from the Conservation Commission and from the Planning Board.

The applicant should sign and date this form to show his/her awareness of these requirements.

Signature of Applicant(s) Date

The Community Development Department will schedule a public hearing at the next available meeting of the Hudson Zoning Board of Adjustment for your properly-completed application. Applications are scheduled on a first-come, first-served basis. Public notice of the hearing will be posted on public bulletin boards in the Town Hall, the Post Office, and the Rogers Library and also printed in a newspaper, and a notice will be mailed to the applicant, all abutters, and any other parties whom the Board may deem to have an interest.

After the public hearing, the Board will deliberate and then reach a decision either to grant the request (perhaps with stipulations to make it palatable) or to deny the request—or to defer final action to another meeting, or perhaps to accept a request for withdrawal. You will be sent a Notice of Decision during the following week.

If you believe that the Board’s decision is wrong, you have the right to appeal. In addition, any third party/parties affected by the decision also has/have the right to appeal the decision of your case. To appeal, you must first ask the Board for a rehearing; this motion for rehearing may be in the form of a letter to the Board. The rehearing request must be made in writing within thirty (30) days following the Board’s 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 the Board’s opinion, good reason is stated in the motion. In general, the Board will not allow a rehearing unless a majority of its sitting members conclude either that the protested decision was illegal or unreasonable or that the request for rehearing demonstrates the availability of new evidence that was not available at the original hearing. 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 the decision to the Court(s). 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.

APPLICATION FOR A VARIANCE

To: Zoning Board of Adjustment
Town of Hudson

Entries in this box are to be filled out by
Community Development Office personnel
Case No. _____
Date Filed _____

Name of Applicant _____ Map: _____ Lot: _____

Telephone Number (Home) _____ (Work) _____

Mailing Address _____

Owner _____

Location of Property _____
(Street Address)

Signature of Property-Owner(s) _____ Date _____

NOTE: Fill in all portions of the Application Form(s) as appropriate. This application is not acceptable unless all required statements have been made. Additional information may be supplied on a separate sheet if space provided is inadequate. If you are not the property owner, you must provide written documentation signed by the property owner(s) to confirm that the property owner(s) are allowing you to speak on his/her/their behalf or that you have permission to seek the described variance.

Items in this box are to be filled out by Community Development Office personnel
COST: Application fee is \$100.00, plus \$3.56 for each abutter.
_____ Abutters x \$3.56 + \$100.00 application fee
Amount due: \$ _____ Amount received:” \$ _____
Date received: _____ Receipt No.: _____
Received by: _____ Zoning District: _____
By determination of the Zoning Administrator or Building Inspector, the following Departmental review is required:
_____ Engineering _____ Fire Department _____ Health Officer

APPLICATION FOR A VARIANCE

This form constitutes a request for a variance from the literal provisions of the Hudson Zoning Ordinance Article _____ of HTC Section(s) _____ in order to permit the following change or use:

You must attach to this application a copy of some form of determination that the proposed change or use is not permitted without a variance, consisting of a denial in writing of a building permit or use authorization by the Zoning Office, with the reasons for the denial being cited thereon.

FACTS SUPPORTING THIS REQUEST:

The power to grant variances from the local zoning ordinances is established in NH RSA 674:33 I (b), as follows:

- I. "The Zoning Board of Adjustment shall have the power to:
(b) Authorize upon appeal in specific cases a variance from the terms of the zoning ordinance if:
(1) The variance will not be contrary to the public interest;
(2) The spirit of the ordinance is observed;
(3) Substantial justice is done;
(4) The values of surrounding properties are not diminished; and
(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
(A) For 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; and
(ii) The proposed use is a reasonable one.
(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.

The definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction of use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

New Hampshire case law has established, on the basis of the preceding statute and/or its precedent versions, that all of the following requirements must be satisfied in order for a Zoning Board of Adjustment to grant a variance. You must demonstrate by your answers in the following blanks that you do or will meet each and every requirement; do not presume or say that a requirement does not apply, or your request will be disqualified. Note that your answers here can be summary in nature, and you can provide additional testimony at the time of your hearing.

1. Granting of the requested variance will not be contrary to the public interest, because:
(Explain why you feel this to be true—keeping in mind that the proposed use must not conflict with the explicit or implicit purpose of the ordinance and that it must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure “public rights.”)

2. The proposed use will observe the spirit of the ordinance, because:
(Explain why you feel this to be true—keeping in mind that, as detailed above, 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.”)

3. Substantial justice would be done to the property-owner by granting the variance, because:
(Explain why you believe this to be true—keeping in mind that the benefits to the applicant must not be outweighed by harm to the general public or to other individuals.)

4. The proposed use will not diminish the values of surrounding properties, because:
(Explain why you believe this to be true—keeping in mind that the Board will consider expert testimony but also may consider other evidence of the effect on property values, including personal knowledge of the members themselves.)

5. Special conditions exist such that literal enforcement of the ordinance results in **unnecessary hardship**, because:

(Explain why you believe this to be true—keeping in mind that you must establish that, because of the special conditions of the property in question, the restriction applied to the property by the ordinance does not serve the purpose of the restriction in a “fair and reasonable” way *and also* that you must establish that the special conditions of the property cause the proposed use to be reasonable. Alternatively, you can establish 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.)

Requests before the Zoning Board of Adjustment may require connection to the municipal sewer system. Please contact the Town Engineer’s Office prior to submittal of this application to determine if connection is required or will be allowed, together with the procedure for such application.