

**BOARD OF APPEALS
NEWTON, NEW HAMPSHIRE 03858**

APPLICATION FOR APPEAL

Date_____ Signature of Applicant_____

Phone_____ Mailing Address _____

Date_____ Signature of person filling out form _____

Phone_____ Mailing Address _____

Date_____ Attorney (if any) _____

Phone_____ Mailing Address _____

Date_____ Signature of Land Owner _____

Phone_____ Mailing Address (if other than applicant)_____

Location of Property (Map No.) _____

The following documents must accompany all applications for appeal:

1. Description of property, dimensions of frontage and distances to side and rear lot lines existing and proposed.
2. Description of variance request.
3. A certified plot plan drawn by a NH licensed/certified Surveyor or Civil Engineer (using a NH stamp only) to scale 1"=20' of area must be submitted with variance request. (A certified plot plan of 1"=50' allowable only with pre-approval of the Board.) *** Proposed structure, including foundation, roof overhang, and fascia, must also be shown on plot plan (drawn in by architect, not Applicant). All measurements will be in feet and inches. The variance dimension on the plan should reflect distance from property line to structure as described.
4. A copy of the State Waste Disposal Plan, if applicable.
5. Permit denial of the Building Inspector, Board of Health, appeal of the decision of the Planning Board, or other Town Official or Board, responsible of issuing permits.
6. List of five conditions in which you base your request. (attached)
7. Names and mailing address of all abutters of the property. This to include both sides, the rear, and across the street. (RSA 672:3)
8. Costs to be collected prior to the initiation of the appeals process. Check to be made out to the Newton Board of Appeals. (see next page for costs)

9. Any incomplete application &/or proper attached documents will result in postponing of the Hearing.

Administrative fee: \$100.00, and \$7.50 per abutter to cover notification via certified/return receipt mail and first class correspondence. Administrative cost of \$90.00 for the Legal notice as published by the Board in the Carriage Towne News prior to the Public Hearing.

LIST OF ABUTTERS

Name of Applicant _____ **Date of Application**

As per NH RSA 672:3 a list of abutters must be supplied with the Application for Appeal. List all abutters to the property on this form. If additional space is required, please photocopy and use this format.

1. Abutter's Name: TOWN OF NEWTON
Mailing/Street address: P.O. Box 378
Town, State, Zip: Newton, NH 03858

2. Abutters Name: _____
Mailing/Street address: _____
Town, State, Zip: _____

3. Abutters Name: _____
Mailing/Street address: _____
Town, State, Zip: _____

4. Abutters Name: _____
Mailing/Street address: _____
Town, State, Zip: _____

5. Abutters Name: _____
Mailing/Street address: _____
Town, State, Zip: _____

6. Abutters Name: _____

Mailing/Street address: _____

Town, State, Zip: _____

7. Abutters Name: _____

Mailing/Street address: _____

Town, State, Zip: _____

8. Abutters Name: _____

Mailing/Street address: _____

Town, State, Zip: _____

9. Abutters Name: _____

Mailing/Street address: _____

Town, State, Zip: _____

Certified by: _____ Date: _____

Board of Appeals Office

Attachment to Newton Application for Appeal

VARIANCE STANDARDS
(Also known as CRITERIA)

(New as of January 1, 2010)

Name of Applicant _____ Date of Application _____

When submitting **a complete Application for Appeal**, please have the following Criteria available at the time of the Public Hearing.

The Supreme Court has established that **ALL** of the standards of the variance **MUST BE MET** in order for a variance to be legally granted:

1. The variance is not contrary to the public interest, such that it would alter the essential character of the neighborhood or threaten the public health, safety or welfare.

2. The spirit of the ordinance is observed.
(**Explanation** for 1 & 2: 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 is done.
(**Explanation**: The benefit to the applicant should not be outweighed by harm to the general public or other individuals.)

- 4. **The values of surrounding properties are not diminished.**
(Explanation: Expert testimony on this question is not conclusive, but cannot be ignored. The Board may also consider other evidence of the effect on property values, including personal knowledge of the members themselves.)

- 5. **Literal enforcement of the ordinance would result in unnecessary hardship.**

Unnecessary hardship means:

(Explanation: The applicant must establish that the property is burdened by the zoning restriction in a manner that is distinct from other similarly situated property.)

Because of special conditions of the property that distinguish it from other properties in the area:

- (a) **There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property;**

(Explanation: The applicant must establish that, because of the conditions of the property, the restriction as applied to the property does not serve that purpose in a “fair and substantial” way.)

AND

- (b) **The proposed use is a reasonable one.**

(Explanation: The applicant must establish that the special conditions of the property cause the proposed use to be reasonable.

The use must not alter the essential character of the neighborhood.)

Alternatively, unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in

the area, the property cannot be reasonably used in strict performance with the ordinance.

(Explanation: As an alternative to (a) and (b) above, the applicant can satisfy the unnecessary hardship requirement by establishing 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. If there is a reasonable use (including an existing use) that is permitted under the ordinance, this alternative is not available.)

A variance is a relaxation or a waiver of the strict interpretation of any provision of the ordinance and may be granted by the Board of Adjustment on appeal.

The local ordinance cannot limit or increase the powers of the board to grant variances under this authority, but this power must be exercised within bounds. In several decisions, from 1952 to the present, the Supreme Court has declared that each of these conditions must be met in order for a variance to be legally granted.

(This new format was approved by the Board 12-15-2009. According to the law, this is the format to be used as of January 1, 2010.)