

TOWN OF HINSDALE
HINSDALE, NH
BOARD OF ADJUSTMENT

**INSTRUCTIONS TO APPLICANTS APPEALING TO THE
BOARD OF ADJUSTMENT**

IMPORTANT: Please read carefully before filling out the attached application.

The board strongly recommends that, before making any appeal, you become familiar with the Zoning Ordinance, and also with the NH Statutes Title LXIV, RSA chapters 672-677, covering planning and zoning.

An application to the Board of Adjustment concerning an Appeal from an Administrative Decision relating to the interpretation and enforcement of the provisions of the Zoning Ordinance, or an Application for a Variance, shall be taken within 30 days by filing with the officer from whom the appeal is taken and with the board an application for appeal specifying the grounds for the appeal.

Three types of appeal can be made to the Board of Adjustment:

Variance: A variance is an authorization, which may be granted under special circumstances, to use your property in a way that is not permitted under the strict terms of the Zoning Ordinance. For a variance to be legally granted, you must show that your proposed use meets all five of the following conditions:

1. The proposed use would not diminish surrounding property values.
2. Granting the variance must not be contrary to the public interest.
3. Denial of the variance would result in unnecessary hardship to the owner. *Hardship, as the term applies to zoning, results if a restriction, when applied to a particular property, becomes arbitrary, confiscatory, or unduly oppressive because of conditions of the property that distinguish it from other properties under similar zoning restrictions. Hardship, under zoning law, has nothing to do with the physical or economic condition of the owner.*

The NH Supreme Court has established a new test for unnecessary hardship consisting of 3 elements:

- a) that the zoning restriction as applied to the property interferes with the reasonable use of the property, considering the unique setting of the property in its environment;
 - b) that no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property; and
 - c) that the variance would not injure the public or private rights of others.
4. Granting the variance would do substantial justice.
 5. The proposed use is not contrary to the spirit of the Ordinance.

Appeal from an Administrative Decision: If you have been denied a building permit or are affected by some other decision regarding the administration of the Hinsdale Zoning Ordinance, and you believe that the decision was made in error under the provisions of the Ordinance, you may appeal the decision to the Board of Adjustment. The appeal will be granted if you can show that the decision was indeed made in error.

If you are applying for a variance, you must first have some form of determination that your proposed use is not permitted without a variance. Most often, this determination is a denial of a building permit. A copy of the determination must be attached to your application.

If you are appealing any other type of administrative decision, a copy of the decision appealed from must be attached to your application.

For any appeal, the application form 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 owner, this must be explained.

WHERE is the property located? Indicate the tax map number and lot number also.

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, construction 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, verify it at the town office, and attach it to your application. If you have any difficulty, consult the assessor's office, but the accuracy of the list is your responsibility.

Mail or deliver the completed application with all attachments and sufficient fees to cover the cost of the hearing to: Town of Hinsdale, POB 13, Hinsdale, NH 03451. Make checks payable to *Town of Hinsdale*.

The board meets the second Tuesday of the month if a case is scheduled. The application deadline is 15 days prior, not counting the day of the hearing.

The board will schedule a public hearing within 30 days of 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 and to all abutters and to other parties who 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 and all other parties to the case will be sent a notice of decision.

RSA 677:2 Motion for Rehearing of Board of Adjustment, Board of Appeals, and Local Legislative Body Decisions.

Within 30 days after any order or decision of the zoning board of adjustment, or any decision of the local legislative body or a board of appeals in regard to its zoning, the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order; specifying in the motion for rehearing the ground therefor; and the board of adjustment, a board of appeals, or the local legislative body, may grant such rehearing if in its opinion good reason therefor is stated in the motion. This 30-day time period shall be counted in calendar days beginning with the date upon which the board voted to approve or disapprove the application; provided however, that if the moving party shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 144 hours of the vote pursuant to RSA 676:3, II, the person applying for the rehearing shall have the right to amend the motion for rehearing, including the grounds therefor, within 30 days after the date on which the written decision was actually filed.

HINSDALE BOARD OF ADJUSTMENT
APPLICATION FOR APPEAL

To: Board of Adjustment
Town of Hinsdale

(Do not write in this space)
Case # _____
Date filed _____
Signed _____ (ZBA)

Name of applicant _____

Address _____ Phone# _____

Owner of property _____

Location of property _____ Map/lot _____

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NOTE: Application instructions are attached. This application is not acceptable unless all required statements have been made. Additional information may be supplied on separate sheets if the space provided is inadequate.

APPLICATION FOR A USE VARIANCE

A variance is requested from Article _____ Section _____

of the zoning ordinance to permit _____

FACTS supporting this request:

1. The proposed use would not diminish surrounding property values because: _____

2. Granting the variance would not be contrary to the public interest because: _____

3. Denial of the variance would result in unnecessary hardship to the owner because:

a) the zoning restriction as applied to the property interferes with the reasonable use of the property, considering the unique setting of the property in its environment, such that:

b) that no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property because: _____

c) the variance would not injure the public or private rights of others since: _____

4. Granting the variance would do substantial justice because: _____

5. The use is not contrary to the spirit of the ordinance because: _____

Applicant signature _____ **Date** _____

A list of abutters must be attached to this application.

