



## BELMONT ZONING BOARD OF ADJUSTMENT APPLICATION INSTRUCTIONS - VARIANCE

A Variance is an authorization, which may be granted under unique 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 the proposed use meets all of the criteria of RSA 674:33. Variances are considered for the owner of the property, only. All forms, schedules and Rules of Procedure are available on line and in the Land Use office. Correctness of information is the responsibility of the Applicant. Applications must be complete and legible, either typed or printed in ink. Incomplete or illegible applications will be returned and must be resubmitted. Applicants having questions regarding the application process may contact the Land Use Office.

### Application

Each application for a hearing before the Board shall be made on the most current forms provided by the Land Use Office following the instructions attached thereto. All physical evidence submitted to the Board as part of the application or during the public hearing will be retained by the Board as part of the record of the application. By signing the application the applicant authorizes members of the Board and/or staff to enter onto and view the premises for the purpose of understanding the request being made. The subject property must be clearly marked with the 911 street address to facilitate such views. At a minimum, the following shall be required:

1. Notification List - seven copies of the attached notification list with all names and mailing addresses for everyone who will receive notification of the public hearing:
  - A. Owner of property. In the case of a condominium or when the building is owned by another, the condo/building owner is the applicant and the condo association, etc. is the landowner.
  - B. Applicant (if different from owner).
  - C. Agent(s) (if different from owner & applicant and not already included in #f below).
  - D. Owners of record of all abutting properties (directly abuts the lot in question or is directly across a street or stream from the lot in question) as indicated in the Town Records not more than 5 days before the date of filing, identified by the map and lot numbers as shown on the Belmont Tax Map. Abutting condominiums or associations shall receive notice to the officers of the condominium or association. Abutting manufactured housing parks shall receive notice to the park owner and those tenants who own manufactured housing which adjoins or is directly across the street or stream from the lot in question.
  - E. All individuals or entities holding a mortgage or lien on the subject property as of the date the application is submitted - You must indicate on the application form with a signed statement whether or not there are any lien holders;
  - F. All individuals whose professional seal appears on any plan submitted;
  - G. All holders of conservation, preservation, or agricultural preservation restrictions as defined under NH RSA 477:45.
2. Envelopes
  - A. one 4"x9-1/2" (#10 business-sized) envelope with the name and address for each name on the above notification list, typed or printed legibly on the envelope and a return address to the Belmont Zoning Board, P.O. Box 310, Belmont, NH 03220. Do not put postage on envelopes and do not include any certified or return receipt labels.
  - B. two extra envelopes each (for a total of 3 envelopes) for Owner, Applicant, and Agents.
3. Fees – Fees are non-refundable. Check for filing and notification fees to be made payable to Town of Belmont. Check for Notice of Decision recording fee to be made payable to Belknap County Registry of Deeds.
4. Application Form - Seven copies of the completed most current application form signed by property owner.

In the case of a condominium or building owned by another, signature of both the condo/building owner **and** the landowner. Signature by anyone else or other representation at the meeting must be approved in writing by the land owner.

5. Plan – Seven copies of a survey, plot plan or accurate scaled drawing must be submitted showing the location and dimensions of all structures, property lines and other pertinent data, including adjacent streets and roads.

If the application is for dimensional relief, an “As-built survey” performed to detail the horizontal and vertical positions of the physical improvements of all or part of a tract, parcel or lot of land as defined in the New Hampshire Code of Administrative Rules Lan 503.02 (a) shall be submitted. The survey need only be made with enough detail to clearly delineate the area for which the dimensional relief is being sought.

If the original-scale survey, plot plan or accurate scaled drawing is 11”x17” or smaller, ten copies shall be submitted. If it is larger than 11”x17”, three copies at the original size are required and seven copies of the plan reduced in size to no larger than 11”x17” are also required.

**In the instance where the land owner and the unit/building owner are not the same, submit one copy of the 11”x17” plan to be acted upon by the ZBA, which has been signed by both the unit owner and the landowner. The signatures acknowledge that both owners are aware of the actual plan being reviewed by the ZBA. If someone other than an owner has written authorization to represent that owner, they shall sign in acknowledgement and a copy of their written authorization will be attached to the map.**

6. Photos - Seven copies clearly showing the area of the property for which relief is being sought, including a photo showing the entrance to the property from the main road to facilitate locating the property for inspection purposes. The property street number must be easily seen from the main road.
7. Decision Being Appealed – Seven copies of decision being appealed/denial or the determination by the zoning administrator that ZBA action is required.
8. Other Permits - Seven copies of all required other agency permits (NH DES, NH DOT, etc.)
9. Additional documentation - Seven copies of any other information that the applicant wishes the Board to consider at the public hearing (letters, deeds, etc.).
10. Completed application packets shall be delivered during regular business hours to the Land Use Office where the application shall be date-stamped upon receipt. Completed applications are considered received for the purposes of scheduling on the date so stamped.

**PLEASE NOTE:** In the case of dimensional approvals, **no** expansion or relocation within the setback except as reviewed and approved by the Board is allowed – please be sure the plan you submit is complete and accurate as to what you want to build and is the same as you included with the building permit application. Your completed application along with all other necessary paperwork and fees must be submitted to the Land Use Office by the closing date of the meeting you wish to attend (see meeting and closing date schedule). A date, time and place will be set for the public hearing and notice will be sent to the Applicant and all other necessary individuals. The Town will publish notice of the meeting in a newspaper of general circulation.

In signing the application form, the landowner and condo/building unit owner (if applicable) or authorized applicant authorizes members of the Board and/or staff to enter onto and view the premises for the purposes of understanding the request being made. Board members and/or staff may or may not choose to view the site. The site must be clearly marked with the 911 street address to facilitate inspection. You or your representative must attend the Zoning Board hearing. If no one is present at the meeting to present your application, it will be denied without prejudice and must be resubmitted. Decisions are usually rendered by the Board at the same meeting at which the public hearing is held. In some instances, decisions may be made at a later date. The findings of the Board will be

forwarded to the Applicant.

In the instance where a full five-member voting Board cannot be seated, the chair will offer the applicant the opportunity to proceed with a reduced Board, or to have the hearing postponed until the next regular meeting date, with the understanding that an affirmative vote of three members is required to decide in favor of any appeal and that action by a reduced Board is not, in and of itself, grounds for a rehearing.

The public hearing will be held first, with the Applicant or his representative presenting his petition. Following this, those wishing to speak in favor or in opposition may do so. All comments must be directed to the Chair. Everyone rising to address the Chair shall identify himself or herself, giving his or her name and address.

Reasons are given for all decisions of the Board. If the Board wishes to wait to make a decision, the Applicant will be notified. Decisions will be announced by the Chair at the time they are made, with a copy mailed to the Applicant. For additional information, see ZBA Rules and Regulations. Any party affected by the decision of the Board has the right to appeal. Please refer to the Ordinance, RSA's or contact the Land Use Office for further information on requesting a rehearing and what form that request must take.

Please note: A request for rehearing must be filed no more than 30 days from the date the Board took the action being appealed. You must request a rehearing and the Board must act to grant or deny such request before you can appeal to the courts.

### **SAMPLE ENVELOPE**

#### **SAMPLE OF ENVELOPE THE APPLICANT MUST PROVIDE FOR EACH NOTIFICATION**

Belmont Zoning Board P.O. Box 310 Belmont, NH 03220	<u>Do Not Attach</u> Postage
Notification Name Full Mailing Address	

### **APPLICATION CRITERIA**

The Zoning Board must base its action regarding your application on the following criteria. Address the criteria fully in your application and in your presentation to the Board during the public hearing. If you have any questions regarding the criteria, contact your legal counsel or the Land Use Office. The Board suggests you attend a Zoning Board hearing to become familiar with the process prior to submitting your application if possible. Please refer to the Zoning Ordinance and RSA's for further information on these matters.

#### **VARIANCE CRITERIA:**

1. The variance will not be contrary to the public interest.
2. The spirit of the ordinance is observed.
3. Substantial justice will be done.
4. The variance would not diminish the value of surrounding properties.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:
  - a. no fair and substantial relationship exists between the general public purpose of the ordinance

- provision and the specific application of that provision to the property because;  
and
- b. the proposed use is a reasonable one because.



BELMONT ZONING BOARD OF ADJUSTMENT
APPLICATION FOR VARIANCE

APPLICATION MUST BE TYPED OR PRINTED LEGIBLY IN PEN

Land Owner: \_\_\_\_\_ Contact Person: \_\_\_\_\_

Tele: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ e-mail: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Applicant/Condo/Building Owner (if different): \_\_\_\_\_ Contact Person: \_\_\_\_\_

Tele: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ e-mail: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Agent(If any): \_\_\_\_\_ Contact Person: \_\_\_\_\_

Tele: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ e-mail: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Address of Property: \_\_\_\_\_ Zoning District(s): \_\_\_\_\_ Condominium? Yes or No

Tax Map & Lot #(s): \_\_\_\_\_ Total area: \_\_\_\_\_ (acres)

Describe in detail all existing uses & structures on the subject property: \_\_\_\_\_

Describe in detail all proposed uses, structures, construction or modifications: \_\_\_\_\_

Number of Dwelling Units: Existing- \_\_\_\_\_ Proposed- \_\_\_\_\_

Application is made Under Zoning Article(s) &Section(s): \_\_\_\_\_

List all Variances or Special Exceptions that have been applied for in the past in regards to this property: \_\_\_\_\_

STATEMENT OF ASSURANCE

I hereby certify that to the best of my knowledge this information is valid and that there is no violation of the approved ordinances, codes, and/or regulations of the Town of Belmont. I authorize the Members of the Board or their staff to enter onto my property and take both land and aerial photos for the purposes of this review.

Date Signature of Land Owner or Authorized Individual (w/Auth. letter) Signature of Applicant/Condo/Building Owner or Authorized Individual (w/Auth. letter)

STATEMENT OF LIENS - Check one of the following and sign:

- There are no liens on this property OR There are lien(s) on this property and lienholders have been added to the notification list

Date Signature of Land Owner or Authorized Individual (w/Auth. letter) Signature of Condo/Building Owner (If applicable) or Authorized Individual (w/Auth. letter)

COMPLETE ATTACHED NOTIFICATION LIST AS REQUIRED IN APPLICATION INSTRUCTIONS



**COMPLETE THE FOLLOWING**

(Use additional sheet if necessary)

1. THE VARIANCE WILL NOT BE CONTRARY TO THE PUBLIC INTEREST BECAUSE:

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2. THE SPIRIT OF THE ORDINANCE IS OBSERVED BECAUSE:

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3. SUBSTANTIAL JUSTICE WILL BE DONE BECAUSE:

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4. THE VARIANCE WOULD NOT DIMINISH THE VALUE OF SURROUNDING PROPERTIES BECAUSE:

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5. OWING TO SPECIAL CONDITIONS OF THE PROPERTY THAT DISTINGUISH IT FROM OTHER PROPERTIES IN THE AREA, DENIAL OF THE VARIANCE WOULD RESULT IN UNNECESSARY HARDSHIP BECAUSE OF THE FOLLOWING:

A. NO FAIR AND SUBSTANTIAL RELATIONSHIP EXISTS BETWEEN THE GENERAL PUBLIC PURPOSE OF THE ORDINANCE PROVISION AND THE SPECIFIC APPLICATION OF THAT PROVISION TO THE PROPERTY BECAUSE:

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B. THE PROPOSED USE IS A REASONABLE ONE BECAUSE:

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*NOTE: If the Board determines that the criteria in subparagraph (5) 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.*



