

Town of Temple, NH

Application to the Zoning Board of Adjustment

Instructions

You need to complete and file this application at the Temple Municipal Building, provide an abutter list, and pay all fees.

The Temple Zoning Board of Adjustment meets regularly at 7:30 PM on the first Thursday of the month. For this application to be heard at the next monthly ZBA meeting you must submit this application at least 21 days before that meeting.

You or your representative are required to attend the ZBA meeting at which your application is scheduled to be heard.

If you have any questions about how to complete this application, please contact the Zoning Board chairperson or clerk, whose names and phone numbers you can get at the Temple Municipal Building.

We will be happy to help you understand the Zoning Board application process and legal requirements, but we cannot advise you on your personal situation. If you are uncertain about how the zoning laws apply to your case, we recommend that you obtain professional legal advice.

General Instructions

The Temple Zoning Board of Adjustment (ZBA) hears and decides appeals from any order, requirement or decision made by an administrative town official. The ZBA administers special provisions in the town's zoning ordinance. These special provisions are called special exceptions. The ZBA considers applications for a variance to any provision of the town's zoning ordinance. The ZBA hears and decides applications for equitable waivers of dimensional requirements which apply to situations where a good faith error was made in the siting of a building or in some other dimensional layout issue.

Resources

The Temple Zoning Ordinance may be found at:

<http://templenh.info/ZBA/ZoningOrdinance2007.pdf>

The ZBA's Rules of Procedure may be found at:

<http://templenh.info/ZBA/ZBARulesofProcedure2007.pdf>

The Temple Zoning Ordinance and the ZBA's Rules of Procedure may also be gotten at the Temple Municipal Building.

Contents of Your Application

Your complete application must include the "General Information" section included with these instructions and at least one application for an appeal of administrative decision, a special exception, a variance, or an equitable waiver. You may include more than one application section, as long as they are all for the same proposed use.

For example, you might appeal an administrative decision, and also apply for a variance that would permit the same use, in case the appeal is denied; or you might have a proposed use that would require several variances and special exceptions.

When the General Information Section Is Not Required

In the following two types of applications the “General Information” section is not required:

- If the Selectmen, Planning Board, Building Inspector, or any other town board or official has made a decision to allow someone else to do something that you don’t think they should be allowed to do, use the *Third-Party Appeal of Administrative Decision* form.
- To ask the Zoning Board to hold a new hearing to reconsider a decision that it made at a previous meeting, use the *Request for Rehearing* form.

Fee

The fee is \$75 for your application, plus \$6 for each of your abutters to cover the costs of notifying them. Please make out your checks to “The Town of Temple, New Hampshire”

You Must Supply An Abutter List

All the current owners of property that abut your property must be notified about a public hearing concerning your property. The ZBA needs a list of these owners which is called the abutter list.

The abutter list must include the name and mailing address of:

- you, the applicant,
- every person who owns property that touches any lot involved in the application (even at a corner) or is directly or diagonally across a road, stream, river, or railway right-of-way from a lot involved in the application, and
- the holders of any conservation, preservation, or agricultural preservation restrictions on any of the lots involved in the application.

Include the lot numbers of the all the abutting lots.

You must also provide two sets of adhesive mailing labels, no larger than $1\frac{1}{2} \times 3\frac{1}{4}$ inches which each contain the name and address of each abutter.

It is your responsibility to provide an accurate and current abutter list. A Zoning Board decision that is made without notifying all abutters may not be legally valid. An abutter who was not properly notified may be able to have the decision overturned.

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How You Can Create An Abutter List

There are two ways to prepare an abutter list.

1. To be absolutely sure of getting it right:
 - Go to the Hillsborough County Registry of Deeds. Start with the deed, survey, or plot plan for the lot or lots involved in the application, and find the abutting lots.
 - Find the owners of all the abutting lots. Some of these lots might have been subdivided, so you should also check their site plans. You can also check whether there are any conservation, preservation, or agricultural preservation restrictions on any of the abutting lots.
 - Go to the Temple Municipal Building to check whether the town has a record of any of the abutting lots having been sold more recently than when the records in the Registry were updated.
2. The town tax maps are not really designed to be used for abutter information, and there is no guarantee that the abutters shown on the tax maps are correct. However, if you want to take the risk:
 - Find the lots you're interested in and their abutting lots from the tax maps in the Town Municipal Building.
 - Find the owners of those lots from the printed owner lists in the Town Municipal Building.
 - Since the printed owner lists might not be up to date, check the owner information with the Town Tax Collector, who can look up the latest information in the Town's tax database.
 - The Town of Temple only has lot and owner information for lots in Temple, so if the lot you are interested in has abutting lots in a neighboring town, you will have to go to the Town Offices in that town or to the county registry.
 - The Town doesn't have any information about conservation, preservation, or agricultural preservation restrictions (unless they are held by the Town), so you are on your own there.

Your Burden of Proof

The applicant has the burden of proving any historical facts relevant to an appeal before the Board. Such relevant historical facts include, but are not limited to, the date on which a lot, structure, or use came into existence.

Proof that a lot existed as a Lot of Record on a particular date shall require signed certification to that effect by an attorney or licensed land surveyor, accompanied by copies of the deed or deeds from the Hillsborough County Registry of Deeds that support that conclusion.

The existence of a structure or use on a particular date may be established by testimony or by documentary evidence.

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Your Property Information

Describe the lot involved in the application (the lot that you want to build a building on, subdivide, conduct a business or other activity on, etc.). If more than one lot is involved, then describe them all in this space if it is convenient, or attach additional copies of this page.

Tax Map and Lot Number _____ Lot Size _____

Street Address _____

Zoning District (check one):

Village and Historic Preservation Rural Residential and Agricultural Mountain

Property Owner(s)

If the application involves multiple lots with different owners, attach additional copies of this page.

Name(s) _____

Mailing address _____

Mailing address _____

Town, State, ZIP _____

Email _____

Phone(s) _____

This application must be signed by the owners of all lots involved in the application.

I / We approve the submission of this application. If an applicant or representative is named on the next page, the person named there has my permission to represent me before the Temple Zoning Board.

Signature _____ Date _____

Signature _____ Date _____

Signature _____ Date _____

clerk use only	
Date and time received: _____	
Received by: _____	Amount paid: _____
Case #: _____	<input type="checkbox"/> Abutter list and labels included

Town of Temple, NH Application to the Zoning Board of Adjustment General Information

Applicant(s)

The applicant is the person who actually wants to build the building, conduct the business, etc. This is usually the same as the property owner, but might be a tenant, someone who plans to purchase the property, and so forth. If the applicant is the same as the owner, just check "Same as owner" and leave the rest of this section blank.

Same as owner

Name(s) _____

Mailing address _____

Mailing address _____

Town, State, ZIP _____

Email _____

Phone(s) _____

Signature of applicant(s)

I/We certify that to the best of my knowledge and belief, all information provided in this application is accurate.

Signature _____ Date _____

Signature _____ Date _____

Your Representative

Fill out this section if the application is being submitted by a realtor, surveyor, engineer, attorney, etc., on behalf of the actual owner or applicant.

Name _____

Mailing address _____

Mailing address _____

Town, State, ZIP _____

Email _____

Phone(s) _____

I/We authorize the above-named representative to submit this application and to speak before the Zoning Board on my behalf.

Signature of Applicant Owner (Please check one.)

Signature _____ Date _____

Signature _____ Date _____

Primary Contact (check one): Applicant Representative

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Town of Temple, NH Application to the Zoning Board of Adjustment Application for a Variance

When, because of characteristics of your property, the Zoning Ordinance unreasonably restricts your use of your property without a corresponding public benefit, the Zoning Board may grant a Variance, which modifies or sets aside particular requirements of the Ordinance.

A variance is requested from article _____ section _____ of the zoning ordinance to permit:

Facts in support of granting the variance:

1. Granting the variance would not be contrary to the public **interest**:

2. If the variance were granted, the **spirit** of the ordinance would be observed because:

3. Granting the variance would do substantial **justice** because:

(continued on the next page)

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Application for a Variance

4. If the variance were granted, the **values** of the surrounding properties would not be diminished: _____

5. Unnecessary Hardship

A. 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:

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. Explain how, 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.

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Application for an Equitable Waiver

When a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by the Zoning Ordinance, the Zoning Board can grant an "Equitable Waiver" from the requirement. See RSA 674:33-a.

What requirement of the Zoning Ordinance is violated? _____

What section of the Zoning Ordinance is the requirement in? _____

It is your responsibility to prove each of the following, necessary facts to the Zoning Board. Please explain why you believe that each of the following statements is true. (Use additional sheets of paper if necessary.) See the note on **Burden of Proof** in the **General Information** section at the beginning of this application.

This application requires that three criteria are met. Please complete criteria 1(a) or criteria 1(b), but not both. Please note that criteria 1(a) has two parts. In addition please complete criteria 2 and 3 on the next page.

Complete either:

1(a) Part 1. 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: _____

and

1(a) Part 2. 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: _____

Or:

1(b) The violation has existed for 10 years or more, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the municipality or any person directly affected. _____

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Town of Temple, NH

Application to the Zoning Board of Adjustment

Appeal of an Administrative Decision

You may appeal to the Zoning Board of Adjustment (ZBA) any decision made by a town official or board that was based on an interpretation of the Temple Zoning Ordinance. If the decision in question affects your property then use this application for your appeal. If you wish to appeal an administrative decision that affects property not belonging to you, then please use the *Third-Party Appeal of Administrative Decision Form*.

The ZBA decides cases where a claim is made that a town official or board has incorrectly interpreted the terms of the Temple Zoning Ordinance (such as a district boundary or the exact meaning of an article or term.) The ZBA cannot review a decision based on any other law or regulation.

The ZBA cannot review an informal or oral decision. The ZBA does not have any authority to review a discretionary decision to commence formal or informal enforcement proceedings. You may ask for a variance after the ZBA has defined the law, but this must be done by filing an application for a variance which will be considered by the ZBA on the standards required by a variance.

For more information, please refer to RSA 676:5. This statute is available at:

<http://www.gencourt.state.nh.us/rsa/html/LXIV/676/676-5.htm>

or at the Temple Municipal Building.

An appeal of an administrative decision must be filed within 30 days of when the applicant received written notice of the decision.

You must attach a copy of the decision notice with this appeal.

You must submit a copy of this application to the official or board who made the decision that you are appealing.

If the decision was made by a board, you should also attach a copy of the minutes of the meeting at which the decision was made.

What is the decision that you are appealing? _____

What Town official or board made the decision? _____

What sections of the Zoning Ordinance was the decision based on? _____

Why do you believe that the decision was incorrect? You may attach additional pages if you need more space.

